

## ABSTRACT

**Title of Dissertation:** **INSTRUMENTAL AND INDUCED  
COOPERATION: ENVIRONMENTAL POLITICS  
IN THE SOUTH CHINA SEA**

Sulan Chen, Doctor of Philosophy, 2005

**Dissertation Directed by:** Professor Ken Conca, Department of  
Government and Politics  
Professor Miranda Schreurs, Department of  
Government and Politics

This dissertation examines the development of environmental cooperation in the South China Sea from the late 1970s when the first modest cooperative activities emerged among the small number of members of the Association of Southeast Asian Nations (ASEAN). Since the 1990s, the membership of the community has broadened and its efforts have become more focused and energetic. Through a study of the interactions among the three main actors engaged in regional seas cooperation, namely the United Nations Environment Programme (UNEP), ASEAN, and China, this dissertation seeks to explain the evolution of cooperation in the highly contentious South China Sea; the changing motivations, strategies and roles of the main actors; and the level of success with environmental politics in the region.

The study is driven by an intriguing puzzle. While the South China Sea remains one of the most volatile, dangerous and intractable areas, environmental cooperation has developed rapidly since 1990s. This is particularly puzzling when

the geopolitical context, the large number of littoral states with a history of hostility among them, the domestic priorities these countries place on development, and their diplomatic preferences are taken into account. The key to the puzzle lies in UNEP's strategizing. UNEP utilized the United Nation's potential power of legitimization, independence and knowledge in areas that were not limited to the environment *per se* to induce cooperation among the littoral countries of this highly contentious region.

UNEP has played both *inductive* and *instrumental* roles in promoting environmental cooperation in the South China Sea. On the one hand, by framing environmental protection as a neutral, non-political and "low politics issue", UNEP has been able to draw the littoral countries to the negotiating table. This has internationalized environmental protection in the South China Sea, making non-participation in these cooperative efforts problematic since it could reduce the international prominence of a country's territorial claims. In this sense, UNEP has been able to induce cooperation. On the other hand, UNEP has played an instrumental role in promoting regional cooperation by helping countries to address common marine environmental problems and promoting confidence building measures between ASEAN countries and China.

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POLITICS IN THE SOUTH CHINA SEA**

by

Sulan Chen

Dissertation submitted to the Faculty of the Graduate School of the  
University of Maryland, College Park in partial fulfillment  
of the requirements for the degree of  
Doctor in Philosophy  
2005

Advisory Committee:

Professor Ken Conca, Chair  
Professor Miranda Schreurs, Co-chair  
Professor Margaret Pearson  
Professor George Quester  
Professor Kurt Finsterbusch

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*For my family*

## ACKNOWLEDGEMENTS

Throughout the long journey of my doctoral studies, there are numerous remarkable individuals who have helped me to reach my destination. I am deeply grateful to my advisors, Dr. Ken Conca and Dr. Miranda Schreurs, for their intellectual guidance, encouragement, and support during my entire time in graduate school. They have closely watched over me and guided me in every step I have made towards the destination. Their critical thinking has greatly influenced my way of pursuing the truth. Many thanks to Dr. Margaret Pearson, Dr. George Quester, and Dr. Kurt Finsterbusch for serving as my committee members.

This dissertation would not have been possible without the intellectual guidance and moral support of Dr. John Pernetta at UNEP, who has taken extraordinary efforts to work with me on this research project since 2001. His role cannot be over-emphasized in every stage of the dissertation: from the idea formulation, to data collection, to the final writing. Special thanks to Unchalee Pernetta for the spicy Thai food she has cooked for me, and her family for taking me in as part of their Thai family during my stay in Thailand.

I am thankful to the senior management of UNEP for approving three months special leave that allowed me to complete my dissertation. Dr. Ahmed Djoghlaif constantly reminded me of my academic commitment, and always encouraged me to complete the dissertation. I am appreciative of approximately 120 senior government officials and experts, with whom I have been working on the UNEP/GEF South China Sea Project. I greatly admire their work and commitment to reversing the environmental degradation trends in the South China Sea. Many thanks to Yihang Jiang, Kelvin Passfield, Suvaluck Satumanatpan, and Huang Zhengguang for their friendship and support.

Friends from work and in school have been a great support during my studies. Dr. Juha Uitto has continuously provided intellectual inspiration, great mental support, and friendship during the past four-and-a-half years. I am fortunate to have the friendship of Allison Morrill Chatrchyan, Ken Cousins, Bican Sahin, and Esook Yoon, who shared my tears and laughter in graduate school. Sheila Aggarwal-Khan, Song Li, Andrea Merla, Delfin Ganapin, and Michael Wells have continually reminded me to finish my degree while working full-time. Thanks to Charles Davies, Luc Debrun, and Xin Tong for the funny stories they sent to me during my last three months' writing.

I am blessed to have been born into a loving and happy family. My grandfathers would have been surprised to see this achievement and certainly would be proud if they were still living. I am deeply grateful to my parents Chen Xinfu and Xie Youxiang, for their love and extraordinary efforts in raising and educating me. Thanks to my elder siblings Chen Zhi, Chen Ming, Chen Suzhen, Chen Hua, and Chen Sumei, for loving and educating me as their very special baby sister. I thank my husband, Xiaofeng Guan, for his love and patience to allow me to travel away to pursue my studies and career. I hope this research will provide some inspiration for my six beloved nephews and nieces in their future studies. This dissertation is dedicated to my entire family.

## TABLE OF CONTENTS

<b>List of Tables</b>	<b>vii</b>
<b>List of Figures</b>	<b>viii</b>
<b>List of Abbreviations and Acronyms</b>	<b>ix</b>
<b>Chapter 1. Regionalizing Global Environmental Cooperation: the South China Sea Case</b>	<b>1</b>
When Global Ideas Meet Regional Politics	3
The South China Sea Case	8
Political Difficulties for Regional Environmental Cooperation	11
Brief Description of the Development of Environmental Cooperation	15
Research Questions	18
Methods	19
Findings	23
Contribution to International Relations Scholarship	31
The Plan of the Dissertation	32
<b>Chapter 2. Explaining Environmental Cooperation: Factors, Actors and Mechanisms</b>	<b>35</b>
Theories of International Cooperation	39
Alternative Explanations for Environmental Cooperation	45
Weaknesses of Theories and Empirical Studies on Environmental Cooperation	50
The Case to Revitalize the Study of IOs	54
IOs as Actors: Sources of Power	59
Roles of IOs	65
Mechanisms to Power	69
States Reactions: Environmental Cooperation as an Instrument of Diplomatic Goals	74
UNEP in the South China Sea Regional Setting	77
ASEAN as a Unit of Analysis	79
An Interactive Triangular Model	82
Hypotheses	83
<b>Chapter 3. Turbulence in the South China Sea: Territorial Disputes, Economic Development, and Environmental Degradation</b>	<b>87</b>
Strategic Importance of the South China Sea	89
Territorial Disputes in the South China Sea	96
Economic Development in the South China Sea	109
Marine Environmental Degradation in the South China Sea	118
Complex Linkages: Territorial Disputes, Development and Environment in the South China Sea	126
The Necessity for Regional Marine Environmental Cooperation	135

<b>Chapter 4. The Development and Implementation of the East Asian Seas Action Plan</b>	<b>140</b>
UNEP Regional Seas Programme	143
Early Development of the East Asian Seas Action Plan: 1978-1990	147
The 1981 East Asian Seas Action Plan	159
The Separation from ASEAN and Expansion of the Action Plan (1990-1994)	170
The East Asian Seas Action Plan (1994) and its Implementation (1994-Present)	174
Legal Aspects	181
The Marine Scientific Community in the East Asian Seas	184
Financial Sustainability	187
Recent Challenges and Developments	192
COBSEA: Searching for a New Identity	196
The Roles of UNEP, ASEAN and Other Member Countries	199
Conclusion	205
<b>Chapter 5. Marine Environmental Cooperation in the South China Sea</b>	<b>207</b>
China's Dual Policies towards the South China Sea	210
ASEAN's Need to Engage China	215
Informal Cooperation: The Workshops on Managing Potential Conflicts in the South China Sea	218
The Development of the UNEP/GEF South China Sea Project	225
Negotiation Process for the Project: Changing China's Attitude	238
Implementation of the Project (2002-Present)	247
Management Framework of the Project	250
Fostering Regional Consensus—Prioritization and Selection of Demonstration Sites	254
Interactive Policy Coordination: Setting Regional Environmental Goals and Standards	261
Searching for Alternative Regional Cooperative Instruments and Mechanisms	263
The South China Sea Epistemic Community	272
UNEP: De-politicization of Environmental Cooperation in the South China Sea	280
Conclusion	284
<b>Chapter 6. Towards a Strengthened Regional Marine Environmental Cooperation</b>	<b>285</b>
Re-assessing Theories on International Cooperation	285
UNEP's Evolving Roles	291
Political Utilities of Environmental Cooperation	295
UNEP: <i>Quo Vadimus</i>	298
Other IO-led Regional Activities	304
Lessons from UNEP's Regional Seas Activities	308

Generalizability of the Case	315
Future Research	318
<b>Bibliography</b>	<b>321</b>

## LIST OF TABLES

1.1. Status of the UNEP Regional Seas Programme	7
1.2. Author's Participation in Inter-governmental and Expert Meetings related to Environmental Cooperation in the South China Sea	22
1.3. Evolution of Environmental Cooperation from the East Asian Seas to the South China Sea	24
1.4. Changing Roles of Major Actors	25
3.1. Oil and Gas in the South China Sea – Comparison with other Regions, September 2003	91
3.2. Territorial Claims in the Spratly and Paracel Islands	98
3.3. Military Clashes in the South China Sea over the Past Two Decades	103
3.4. National Occupation of the Spratly Islands, 1998	105
3.5. Exports of South China Sea Countries, by Principal Commodity	114
3.6. Net Imports of Oil (Mtoe) in the South China Sea	117
3.7. Disputes over Drilling and Exploration in the South China Sea	131
4.1. Initial Projects under East Asian Seas Action Plan (1981-1990)	165
4.2. Projects Developed and Implemented during 1993-1998	179
4.3. Level of Pledges of the Participating States to the East Asian Seas Trust Fund (Thousand \$US)	189
5.1. UNEP/GEF South China Sea Project Budget Summary and Component Financing (million \$US)	226
5.2. Preliminary Ranking of Major Concerns and Principal Issues for the South China Sea	233
5.3. Areas of Mangrove under Different Forms of Management and Potential Targets for Mangrove Protection to be included in the SAP	262
5.4. Core Scientists of the Epistemic Community in the South China Sea	276
6.1. Evolving Roles of UNEP	292
6.2. Participation by Countries bordering the South China Sea, in Regional and Sub-regional Organizations, Programs, and Projects	307

**LIST OF FIGURES**

1.1. Geographical Coverage of the South China Sea	9
3.1. World Crude Oil Flows 1997	94
3.2. Economic Growth in the South China Sea (1997-2002)	111
5.1. Management Framework of the UNEP/GEF South China Sea Project	252
5.2. Distribution of Demonstration Sites by Country	258
5.3. Geographical Distribution of the Demonstration Sites	258

## LIST OF ABBREVIATIONS AND ACRONYMS

AEGE	ASEAN Expert Group on Environment
ASEAMS	Association of the Southeast Asian Marine Scientists
ASEAN	Association of Southeast Asian Nations
ASOEN	ASEAN Senior Official on Environment
ASEP	ASEAN Environmental Program
COBSEA	Co-ordinating Body for the Seas of East Asia
DIC	Department of International Cooperation (a department of SEPA)
EAS/RCU	East Asian Seas Action Plan Regional Coordinating Unit
EEC	European Economic Community
EEZ	Exclusive Economic Zone
ESCAP	Economic and Social Commission for Asia and the Pacific
FAO	Food and Agriculture Organization
GDP	Gross Domestic Product
GEF	Global Environment Facility
GIWA	Global International Water Assessment
GPA/LBA	Global Programme of Action for the Protection of the Marine Environment from Land-based Activities
ICRAN	International Coral Reef Action Network
IMO	International Maritime Organization
IO	International Organizations
MAP	Mediterranean Action Plan
MFA	Ministry of Foreign Affairs
MOU	Memorandum of Understanding
NGO	Non-governmental Organization

- OMEP Office for Marine Environmental Protection (Office under SEPA)
- PEMSEA UNEP/UNDP/IMO Projects entitled: “Prevention and Management of Marine Pollution in the East Asian Seas (1993-1998), and “Building Partnerships for the Environmental Protection and Management of the East Asian Seas (1998-present).
- PKI Indonesian Communist Party
- PSC Project Steering Committee
- RSTC Regional Scientific and Technical Committee
- RTF-L Regional Task Force on Legal Matters
- RWG Regional Working Group
- SAP Strategic Action Programme for the South China Sea
- SARS Severe Acute Respiratory Syndrome
- SEA Specialized Executing Agency
- SEPA State Environment Protection Agency (China)
- SOA State Oceanic Administration (China)
- TAC Treaty of Amity and Cooperation in Southeast Asia
- TDA Transboundary Diagnostic Analysis for the South China Sea
- UN United Nations
- UNCED United Nations Conference on Environment and Development
- UNCLOS United Nations Convention on the Law of the Sea
- UNDP United Nations Development Programme
- UNEP United Nations Environment Programme
- UNEP/DGEF UNEP Division of Global Environment Facility
- UNESCO UN Educational, Scientific and Cultural Organization

## CHAPTER 1

### **REGIONALIZING GLOBAL ENVIRONMENTAL COOPERATION: THE SOUTH CHINA SEA CASE**

This is a fascinating time to study China and Southeast Asia. They form the world's most rapidly growing region, and set a model for how developing countries can pursue economic development and improve the welfare of growing populations. Although the region's economic miracle has been watched by the world, a series of tragic region-wide events has afflicted the region: the 1997-1998 financial crisis, the outbreak of Severe Acute Respiratory Syndrome (SARS), the spread of avian flu, and, most recently, the disastrous Indian Ocean tsunamis. All of these events and their transboundary impacts have shown that the countries and peoples in the region are closely connected and interdependent. Without coordinated government measures, the region as a whole faces serious, and in some cases devastating, financial, health and ecological problems. Effective regional cooperation would have reduced the impacts of these events, even if it could not eliminate the causes or impacts entirely.

Connecting China and Southeast Asia is one of the world's busiest and most volatile seas, the South China Sea. The sea is also endowed with rich tropical marine biological diversity. In recent decades, due to growing economies, increasing population and advanced technologies, which make it possible to exploit the region's natural resources at an unprecedented rate, the South China Sea is experiencing profound environmental changes and increasing scarcities of natural resources, and has suffered serious environmental degradation, especially in coastal habitats.

Since the 1990s, however, the region has also witnessed a growing trend in environmental cooperation at both policy and operational levels. A cursory review of these environmental cooperation activities shows that most have been undertaken under the umbrella of UNEP or other international organizations (IOs).<sup>1</sup> Marine environmental cooperation in the region originated in the late 1970s when UNEP initiated the development of the East Asian Seas Action Plan under UNEP's Regional Seas Programme. Until recently, projects under the Action Plan tended to be small national research projects; efforts by governments to address marine environmental degradation have tended to be sporadic, *ad-hoc*, and individualistic. It is only in the 1990s that activities to develop systematic substantive regional cooperation in the South China Sea have emerged.

The dissertation seeks to explain why environmental cooperation occurs in such a sensitive and contentious sea as the South China Sea. I believe the key factor lies in the changing roles and functions of UNEP in interaction with regional political dynamics, and in particular, the interaction between the member states of ASEAN and China, which is not a member of that organization. In this process, I will argue that UNEP played *catalytic*, *inductive* and *instrumental* roles, strategically utilizing its power to foster and forge regional environmental cooperation in the region. One reason UNEP was able to play these roles is that for both ASEAN states and China, environmental cooperation is part of a state's overall foreign policy. Hence the significance and implications of environmental cooperation go beyond protecting the marine environment; cooperation serves as a mechanism for building confidence and trust in the highly contentious sea area and

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<sup>1</sup> In this dissertation, international organizations are used to refer to formal international organizations, unless otherwise specified.

for sustaining the regional prosperity shared by both parties. In exploring the interactions among UNEP, ASEAN and China, the dissertation explains why environmental cooperation has developed in a highly sensitive area and explores the conditions under which environmental cooperation take place.

### **When Global Ideas Meet Regional Politics**

In many developing countries, environmental policy developments take a top-down approach, reacting to international policy diffusions. Activists, the media and politicians pushed for environmental protection measures first in developed countries, and later at the international level. In the 1960s, a series of environmental disasters sparked international concern about the natural environment. In the marine environmental area, a number of oil spills attracted attention, including the 1967 *Torrey Canyon* spill between France and Britain (121,200 tons) and the 1978 *Amoco Cadiz* spill off the coast of Brittany (228,000 tons).<sup>2</sup> Pictures of oil on beaches and oil-smearred birds and fish were publicized by the media and non-governmental organizations, raising people's environmental awareness. Events such as these contributed directly to the internationalization of environmental protection.

The 1972 United Nations Conference on the Human Environment (UNCHE) is frequently described as a watershed in the development of international environmental law.<sup>3</sup> It represented a formal acknowledgement of the importance of multilateral efforts to deal with transboundary environmental

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<sup>2</sup> Peter Haas. 1990. *Saving the Mediterranean Sea*. New York: Columbia University Press. p. 3.

<sup>3</sup> Peter M. Haas with Han Sundgren. 1993. "Evolving International Environmental Law: Changing Practices of National Sovereignty." In Nazli Choucri, ed. *Global Accord: Environmental Challenges and International Responses*. Cambridge: MIT Press.

problems. Since then, there has been a proliferation of international environmental agreements and organizations. Various international environmental conventions and agreements have been negotiated and signed by countries at the global level. Currently, there are over 700 international environmental agreements.<sup>4</sup> Numerous IOs have been established to address global environmental problems. Particularly important is the establishment of UNEP in 1972 following the Stockholm Conference, and the Global Environment Facility (GEF) in 1991.

Two decades after Stockholm, representatives of governments, IOs and non-governmental organizations (NGOs) met in Rio de Janeiro in 1992 for the United Nations Conference on Environment and Development (UNCED). This conference was designed to act as a catalyst for injecting the concept of sustainable development into IOs, national governments and the private sector around the world. Its outcome was agreement on three general documents (the Rio Declaration, Agenda 21 and the Forest Principles), one new institution (the UN Commission on Sustainable Development), and two new environmental conventions (on climate change and biodiversity).<sup>5</sup>

Ten years after UNCED, the World Summit on Sustainable Development took place in 2002 in Johannesburg. The Johannesburg conference mainly reviewed the progress made to implement the Agenda 21 of UNCED. The conference restated the commitment to implement the plan for sustainable development, and produced a 54-page document called the “World Summit on Sustainable Development Plan of Implementation” and a short “Johannesburg

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<sup>4</sup> Ronald B. Mitchell. 2003. “International Environmental Agreements: A Survey of Their Feature, Formation, and Effects.” *Annual Review of Energy & the Environment*: 429-461.

<sup>5</sup> See the United Nations Conference on Environment and Development: <http://www.un.org/geninfo/bp/enviro.html>.

Declaration on Sustainable Development” signed by roughly 100 heads of state and government.<sup>6</sup>

Besides the three major UN earth summits, numerous other international or global conferences or meetings have been convened on various environmental protection issues, such as those convened under major global environmental conventions. In international environmental politics, policies, ideas and principles are formed, developed and agreed at the global level, and are then implemented at the national or regional levels through various partners, including IOs.

Scholars have attempted to explore the intersections between the international environmental movement and the domestic politics of environmental protection in specific countries.<sup>7</sup> Few studies, however, have investigated the interactions between international environmental movements and regional politics. When countries at the global level decide and agree that regional-level actions are the most appropriate measures to implement some global policies or ideas, various regions may react to these policies or ideas differently, leading to completely different results.

The UNEP Regional Seas Programme is an example of such a top-down approach. In 1974, UNEP decided that a regional approach was most appropriate for addressing coastal and marine environmental issues, and launched its Regional Seas Programme as a global framework for regional initiatives. Since 1974 thirteen regional seas action plans have been developed and implemented around

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<sup>6</sup> See the World Summit on Sustainable Development: <http://www.iied.org/wssd/>.

<sup>7</sup> See e.g. Miranda Schreurs and Elizabeth Economy, eds. 1997. *The internationalization of Environmental Protection*. Cambridge: Cambridge University Press. Elizabeth R. Desombre. 2000. *Domestic Sources of International Environmental Policy: Industry, Environmentalists, and US Power*. Cambridge, MA: MIT Press. Xinyuan Dai. 2005. “Why Comply? The Domestic Constituency Mechanism.” *International Organization* 59: 363-398. Lester Ross. 1998. “China: Environmental Protection, Domestic Policy Trends, Patterns of Participation in Regimes and Compliance with International Norms.” *The China Quarterly*, No. 156: 809-835.

the world. Table 1.1 lists these plans, member countries and their legal status (existence or non-existence of a regional convention). These action plans were designed with similar principles, structures and approaches. They are usually made up of the following parts: environmental assessment, environmental management, environmental legislation, institutional arrangements and financial arrangements.<sup>8</sup> Their performances and results however vary greatly between regions.

I selected the case of UNEP's activities in developing the East Asian Seas Action Plan and promoting regional environmental cooperation in the South China Sea in order to study the interactions between globally initiated actions and regional politics, to explore the changing roles of UNEP as it adapts to changing regional politics, and to investigate the impacts of regional politics on the development and evolution of these activities.

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<sup>8</sup> UNEP. 2000. *Regional Seas: A Survival Strategy for Our Oceans and Coasts*. [http://www.unep.org/dec/information/public\\_information.html](http://www.unep.org/dec/information/public_information.html).

**Table 1.1. Status of the UNEP Regional Seas Programme<sup>9</sup>**

Action Plan	Date of Adoption	Legal Status	Member Countries or Parties
Mediterranean	1975	Barcelona Convention (1976) Entry into force: 1978	Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, and Turkey
Red Sea and Gulf of Aden	1976	Jeddah Convention (1982) Entry into force: 1985	Egypt, Jordan, Eritrea, Palestine (PLO), Saudi Arabia, Somalia, Sudan and Yemen
ROPME Sea	1978	Kuwait Convention (1978) Entry into force: 1979	Bahrain, Iran, Iraq, Kuwait, Sultanate of Oman, Qatar, Saudi Arabia and United Arab Emirates
Wider Caribbean	1981	Cartagena Convention (1983) Entry into force: Pending	Antigua & Barbuda, Bahamas, Barbados, Belize, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Netherlands Antilles, Nicaragua, Panama, St Kitts & Nevis, Saint Lucia, St. Vincent & the Grenadines, Suriname, Trinidad & Tobago, United States of America, Venezuela, European Commission, United Kingdom, and France
East Asian Seas	1981	No convention negotiated	Australia, Cambodia, China, Indonesia, Malaysia, Philippines, South Korea, Singapore, Thailand and Viet Nam
South-East Pacific	1981	Lima Convention (1981) Entry into force: 1986	Chile, Colombia, Ecuador and Peru
West and Central Africa	1981	Abidjan Convention (1981) Entry into force: 1984	Angola, Benin, Cameroon, Cape Verde, Democratic Republic of Congo, Cote d'Ivoire, Equatoria Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mauritania, Namibia, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, Togo, Congo and South Africa
South Pacific	1982	Noumea Convention (1986) Entry into force: 1990	American Samoa, Northern Mariana Islands, Australia, Cook Islands, Palau, Micronesia, Papua New Guinea, Fiji, Pitcairn Islands, French Polynesia, Solomon Islands, Guam, Tokelau, Kiribati, Toga, Marshall Islands, Tuvalu, Nauru, Vanuatu, New Caledonia, Wallis and Futuna, New Zealand, Western Samoa, Niue
Eastern Africa	1985	Nairobi Convention (1985) Entry into force: 1996	Somalia, Kenya, Tanzania, Mozambique, South Africa, Comoros, Madagascar, Mauritius, France (La Reunion), Seychelles
Black Sea	1996	Bucharest Convention (1992) Entry into force: pending	Bulgaria, Georgia, Romania, Russian Federation, Turkey and Ukraine
North-West Pacific	1994	No convention negotiated	China, Japan, Russia, South Korea
South Asian Sea	1997	No Convention negotiated	Bangladesh, India, Maldives, Pakistan, Sri Lanka
North-East Pacific	2002	Antigua Convention (2002) Entry into force: Pending	Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama

Source: [www.unep.org/regionalseas/](http://www.unep.org/regionalseas/)

<sup>9</sup> Kuwait Sea developed a Regional Organization for the Protection of the Marine Environment (ROPME). The South Pacific region established the South Pacific Regional Environment Programme (SPREP) in 1982 with no action plan adopted. The Black Sea region developed a regional convention before action plan. The South Asian Sea developed the South Asian Cooperative Environment Programme (SACEP), which became a legal entity in 1982.

## The South China Sea Case

The South China Sea is defined by the International Hydrographic Bureau as the semi-enclosed body of water stretching in a Southwest to Northeast direction, whose southern border is three degrees South latitude between South Sumatra and Kalimantan (Karimata Straits), and whose northern border is the Strait of Taiwan from the northern tip of Taiwan to the Fukien coast of China<sup>10</sup> (See Figure 1.1). The South China Sea area includes more than 200 small islands, rocks and reefs, with the majority located in the Spratly and Paracel chain islands. The bordering countries of the South China Sea are Brunei, Cambodia, China, Indonesia, Malaysia, Philippines, Singapore, Thailand, and Viet Nam. Competing territorial claims over the South China Sea and its resources are numerous, with the most contentious revolving around the Paracel Islands and Spratly Islands. Between 1974 and 1999, thirteen significant military clashes have taken place among the claimants, with four between China and Viet Nam, five between China and the Philippines, two between Viet Nam and the Philippines, one between Taiwan and Viet Nam, and one between Malaysia and the Philippines.<sup>11</sup>

The South China Sea involves various interacting issues that form complex relationships to forge regional cooperation. These issues include territorial disputes, economic development, and environmental degradation. Chapter 3 will provide a detailed review of the geopolitical context of the sea and the complex relationships among regional military, economic and environmental trends.

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<sup>10</sup> David Rosenburg. 1999. "Environmental Cooperation around the South China Sea: Developing a Regional Response to a Regional Problem." *Resource Management in Asia Pacific Working Paper No. 20*. The Australian National University Press.

<sup>11</sup> See EIA website ([www.eia.doe.gov](http://www.eia.doe.gov)).

**Figure 1.1. Geographical Coverage of the South China Sea**



Source: Energy Information Administration (EIA) ([www.eia.doe.gov](http://www.eia.doe.gov))

I choose the South China Sea case for three reasons. First, it is a region with little record of historical cooperation before the late 1970s, when UNEP started to initiate regional environmental cooperation. The only sign of regional cooperation was the establishment of a loose regional organization, ASEAN, in 1967 through Bangkok Declaration. Up until the late 1970s, ASEAN was often criticized by commentators as “a club of ministers of foreign affairs,” or a talkshop. Cooperation within ASEAN was extremely limited, nothing substantive other than some meetings among political leaders occurred.<sup>12</sup> Scholars observed that ASEAN emphasized military and security issues rather than economic and non-military cooperation. Hence when UNEP initiated the development of a regional seas action plan, the region was devoid of any sort of prior environmental cooperation. The environment was not even considered as part of the issues to be

<sup>12</sup> See e.g. Michael Leifer. 1973. “The ASEAN States: No Common Outlook.” *International Affairs* Vol. 49: 600-607. Russell H. Fifield. 1979. “ASEAN: Image and Reality.” *Asian Survey* Vol. 19: 1199-1208.

dealt with by ASEAN. This makes the region a strong test of UNEP's ability to seed environmental cooperation.

Second, this region provides a good case to study how newly established regional organizations with weak institutional capacity deal with complex political and environmental problems simultaneously, and how they react to an initiative from an intergovernmental organization. It is important to understand how ASEAN, as a young, immature, and loose regional organization, reacted to the calls of international environmental protection at a time when it was engaged in a process of exploring its own structure, roles and functions. At a time when international environmental initiatives are increasingly regional in scale, and when many world regions are seeking to develop stronger regional political institutions and promote regional integration, there may be valuable lessons to be learned from this case.

Third, the South China Sea region is rich in tropical marine biological diversity, consists of the most prosperous developing countries in the world, and has been haunted by over-lapping territorial claims and potential territorial conflicts. The complex political, economic and environmental situation provides a good opportunity to study and explore environmental cooperation in a complicated geopolitical setting. It provides a good case to test whether such complexities provide good opportunities for IOs to leverage their powers through issue linkages.

### **Political Difficulties for Regional Environmental Cooperation**

Most of the existing literature on the South China Sea centers on conflicts and disputes in the sea; much less has been written on cooperation in the region.<sup>13</sup> The lack of literature on cooperation in the region is actually a reflection of reality. Until recently, the South China Sea region has not been noted for extensive cooperative mechanisms.

International cooperation is never an easy task. The international system is anarchic in that there is no overarching authority (in this case, a world government) that can dictate to individual states or actors within those states what they must do. Beyond this general feature of world politics, the recent, rapidly emerging environmental cooperation in the South China Sea requires extra efforts or motivations for countries because of the distinctive characteristics and political difficulties in the region.

First, competing territorial claims over the South China Sea and its resources are numerous, with the most contentious revolving around the Spratly Islands and Paracel Islands. Frequent skirmishes and conflicts have been seen in the past two decades, and numerous provocative actions, including fishing activities, have cast some shadows in the economically prosperous region. While the region's states seek to reclaim/consolidate sovereignty over disputed territory in the common sea area, they also need to relinquish their sovereignty to develop a cooperative solution to the deteriorating situation of the common resources in order

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<sup>13</sup> See e.g. Mark J. Valencia. 1995. *China and the South China Sea Disputes*. Oxford: Oxford University Press. Bob Catley and Makmur Keliat. 1997. *Spratlys: The Dispute in the South China Sea*. Brookfield, VT: Ashgate. Timo Kivimaki. 2002. *War or Peace in the South China Sea*. Copenhagen: The Nordic Institute of Asian Studies Press. Liselotte Odgaard. 2002. *Maritime Security between China and Southeast Asia*. Burlington, VT: Ashgate. Marwyn S.amuels. 1982. *Contest for the South China Sea*. New York and London: Methuen. Literature in Chinese mainly focuses on historical evidences of China's claims of the South China Sea, and political justifications for its claims.

to protect the living resources of the South China Sea.<sup>14</sup> Territorial disputes impose a challenge to any efforts to achieve cooperation in the region. As Mark J. Valencia has put it,

The foremost obstacles to multilateral maritime management regime formation in the South China Sea are the conflicting territorial and maritime claims and the concomitant lack of confidence and trust between some of the claimants. Settlement or the setting aside of jurisdictional boundary disputes may be a prerequisite for cooperation on other issues. Regional cooperation in the South China Sea must overcome or accommodate the conflicting sovereignty claims to features and the need to demilitarize them; the conflicting claims to maritime space; the conflicting definitions of the area that might be subject to a resource management agreement; the claimants' primary interest in the petroleum potential of the area; and the interests of non-claimant South China Sea countries.<sup>15</sup>

Second, there is a historical animosity among Southeast Asian countries, and between China and Southeast Asia. In addition, there are problems associated with the activities of communist movements and overseas Chinese in several countries.<sup>16</sup> Although the animosity has been somewhat relieved since the 1990s due to the end of Cold War and the increasing economic interactions in the region, the geopolitical context (China as a rising power) continues to be an ambivalent factor for Southeast Asian countries.<sup>17</sup>

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<sup>14</sup> Here I am using the Karen Litfin's conceptualization of sovereignty. Accordingly, sovereignty has three components: independence, control and legitimacy (Karen T. Litfin, eds. 1998. *The Greening of Sovereignty in World Politics*. Cambridge, MA: The MIT Press.)

<sup>15</sup> Mark J. Valencia. 2000. "Regional Maritime Regime Building: Prospects in Northeast and Southeast Asia." *Ocean Development and International Law* 31. p. 240.

<sup>16</sup> See Leo Suryadinata. 1985. *China and the ASEAN States: the Ethnic Chinese Dimension*. Singapore: Singapore University Press.

<sup>17</sup> See e.g. Carolyn W. Pumphrey, ed. 2002. *The Rise of China in Asia: Security Implications*. Carlisle, PA: US Army War College, Strategic Studies Institute. Jonathan D. Pollack and Richard H. Yang. 1998. *In China's Shadow: Regional Perspectives on Chinese Foreign Policy and Military Development*. Santa Monica, CA: RAND. Rommel C. Banlaoi. 2003. "Southeast Asian Perspectives on the Rise of China: Regional Security after 9/11." *Parameters*: 98-107. Shee Poon Kim. 1982. "China and the ASEAN States: From Hostility to Rapprochement." In *China's Foreign Relations*, ed. Chut Tu Hsueh. New York, NY: Praeger.

Third, the South China Sea has been one of the most rapidly industrializing regions of the world in the past two decades, and littoral countries are strongly development-minded. Maximizing national economic growth is the major goal of state-led industrialization, and environmental protection is not considered a priority for national policies.<sup>18</sup> People may argue that environmental cooperation in the region may be a result of the so-called “environmental Kuznets effect,” which suggests that economic growth and rising income levels eventually lead to environmental improvement after an initial period of degradation.<sup>19</sup> However, the environmental Kuznets’ effect is not apparent in this region. First, all countries bordering the South China Sea except Singapore are nowhere near the income range associated with maximum pollution on the conventional environmental Kuznets curve.<sup>20</sup> Second, the causal mechanism of the Kuznets-curve theory is that economic development will contribute to the growth of a middle class, which will demand better environmental quality and pressure governments to take actions to improve the environment. Households’ demand for better environmental quality is therefore a critical factor for improved environmental protection caused by

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<sup>18</sup> Andre Dua and Daniel C. Esty. 1997. *Sustaining the Asia Pacific Miracle: Environmental Protection and Economic Integration*. Washington DC: Institute for International Economics.

<sup>19</sup> See G. Grossman and A. Krueger. 1993. “Environmental Impacts of the North American Free Trade Agreement.” In *The US-Mexico Free Trade Agreement*. P. Garber, ed. Cambridge: MIT Press. p. 13-56. G. Grossman and A. Krueger. 1995. “Economic Growth and the Environment.” *Quarterly Journal of Economics* 110: 353-377. W. T. Harbaugh and A. Levinson and D. M. Wilson. 2002. “Re-examining the Empirical Evidence for an Environmental Kuznets Curve.” *Review of Economics and Statistics* 84: 541-551.

<sup>20</sup> Applied econometricians suggest that air and water pollution increase with development until per capita income reaches a range of \$5000 to \$8000. When income rises beyond that level, pollution starts to decline. See Susmita Dasgupta, Benoit Laplante, Hua Wang and David Wheeler. 2002. “Confronting the Environmental Kuznets Curve.” *The Journal of Economic Perspectives* 16: 147-168.

economic growth.<sup>21</sup> However, the region's coastal zones and marine environment are relatively far away from the urban middle classes, and the impacts of the deteriorating marine environment on the daily life of the middle classes are less palpable than is the case with the air pollution, waste, and sewage problems of urban cities.

Fourth, to achieve formal multilateral environmental cooperation in the South China Sea is even more difficult due to political reasons. China has resisted calls for multilateral discussions of the Spratly Islands issue in an official setting, insisting on bilateral negotiations involving China while condemning bilateral negotiations involving other claimants. China opposes the internationalization of the South China Sea issue; in the mid-1990s, mentioning the "South China Sea issue" in a regional or international forum would trigger Chinese formal objections and resentment.<sup>22</sup>

The first two difficulties pose challenges to any kind of interstate cooperation between China and Southeast Asian countries, while the third specifically reduces the possibility of governmental initiatives in environmental protection and the fourth presents an additional challenge to formal multilateral cooperation. Yet despite the unfavorable geopolitical difficulties and domestic politics for environmental protection and cooperation, multilateral environmental cooperation activities have been developing since the 1990s under the auspices of UNEP. This fact provides the central puzzle of the dissertation.

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<sup>21</sup>. Neha Khanna and Florenz Plassmann. 2004. "The Demand for Environmental Quality and the Environmental Kuznets Curve Hypothesis." *Ecological Economics* 51: 225-237.

<sup>22</sup> See Craig A. Snyder. 1997. "Building Multilateral Security Cooperation in the South China Sea." *Asian Perspective*, Vol. 21, No. 1: 5-36.

### **Brief Description of the Development of Environmental Cooperation**

I study two major initiatives under UNEP: the East Asian Seas Action Plan (1981-present) and the UNEP/GEF South China Sea Project entitled “Reversing Environmental Degradation in South China Sea and Gulf of Thailand”<sup>23</sup> (2002-present). The latter was developed under the auspices of, and approved by, the Coordinating Body on the Seas of East Asia (COBSEA), the inter-governmental decision-making body of the East Asian Seas Action Plan. Thus, these two initiatives are closely linked and partly overlapping.

The East Asian Seas Action Plan is part of UNEP’s globally managed Regional Seas Programme. Initiatives were undertaken since late 1970s to prepare the Action Plan, which was then adopted by an intergovernmental meeting of the five founding members of ASEAN: Indonesia, Malaysia, Philippines, Singapore and Thailand. During the first decade of the East Asian Seas Action Plan (1981-1990), the plan served as the ASEAN marine program, and played an important role in building the networks of marine scientists and providing research, training and other capacity-building assistance to the member countries. ASEAN gained tremendous experience in regional environmental cooperation through the East Asian Seas Action Plan, and established its own marine program in 1990. Despite the establishment of ASEAN’s own program, membership of the East Asian Seas Action Plan was still limited to ASEAN countries until 1994. During this period of engagement with ASEAN, UNEP initially played a catalytic role in environmental cooperation by providing information, setting agendas, and choosing participants. UNEP helped ASEAN to establish ASEAN environmental working groups, but no

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<sup>23</sup> Hereafter the project will be referred to as the UNEP/GEF South China Sea Project.

ASEAN marine environmental working group was established due to the existence of the Action Plan and COBSEA.

In 1994, Australia, Cambodia, China, the Republic of Korea, and Viet Nam joined the Action Plan, making it a real “East Asian” Seas Action Plan for the first time. In 1996, UNEP initiated an important activity to develop a large marine project for the South China Sea under the East Asian Seas Action Plan, to secure funding from the Global Environment Facility (GEF). When UNEP submitted a Project Development Funding (PDF-B)<sup>24</sup> proposal for a UNEP/GEF South China Sea Project to the GEF Secretariat in 1996, it was the first effort to internationalize environmental protection, and indeed any issue, in the South China Sea. Until then, China had been adamant that the South China Sea issue should not be internationalized.

As late as the 1995 ASEAN Regional Forum (ARF), Chinese delegates adamantly insisted that South China Sea issues should be settled bilaterally. China resented interference from third parties and resist internationalization of the issue.<sup>25</sup> ASEAN, in contrast, preferred to talking about South China Sea issues in multilateral forums especially after the 1995 Mischief Reef incident between China and the Philippines (China was found to have built infrastructure in the Mischief Reef, about 135 nautical miles from the Philippines coast).<sup>26</sup> China’s aversion to multilateral talks concerning the South China Sea, along with ASEAN’s preference

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<sup>24</sup> PDF-B is a funding mechanism for supporting further preparation of project proposal.

<sup>25</sup> Lee Lai To. 1999. *China and the South China Sea Dialogues*. Westport, Connecticut: Praeger press. p. 36.

<sup>26</sup> This was the first conflict China had with ASEAN countries other than Vietnam.

for multilateral talks, can be explained by the substantial differences in national capability between China and each of the ASEAN countries.

It took UNEP three years to develop the UNEP/GEF South China Sea project and get the approval from six countries bordering the South China Sea, and another one and one-half years to negotiate and obtain the Chinese government's approval. China's dramatic change of position in support of a multilateral approach is another fundamental puzzle the dissertation seeks to address.

Following the approval of the project, UNEP established a separate Project Coordinating Unit (PCU) in February 2002 to implement the South China Sea Project. This was done because of the complexity and large budget of the project, and the desire of China that countries other than those bordering the South China Sea should not be involved in any management decision regarding the project. COBSEA, with its wider membership including Korea, Australia and Singapore, could not therefore serve as the Steering Committee for this project. Since 2002, UNEP activities in the East Asian Seas have followed two parallel courses: activities under the East Asian Seas Action Plan focused on implementing global programs within the region and the UNEP/GEF South China Sea Project. In the dissertation, each of these initiatives to institutionalize cooperation is treated as a domain to study the core questions about the triangular interactions among states and regional extra-regional intergovernmental organizations. Although the South China Sea has been the setting for more rapid and dramatic success in fostering cooperation, the successes and failures at the broader level of the East Asian plan also provide an opportunity to test core propositions of this research.

## Research Questions

In the context of the political difficulties for regional cooperation, the emergence of environmental cooperation in the South China Sea poses a series of interesting questions for both political economy and international relations theories. Generally, why has environmental cooperation occurred in the sea of conflict? More specifically, 1) under what conditions are these development-minded states able to negotiate institutional arrangements to overcome collective action problems in situations where the incentive structure severely complicates cooperation? 2) Under what conditions can countries with political disputes still achieve environmental cooperation in shared sea areas? 3) What are the patterns of environmental cooperation occurring in a highly disputed resource abundant area? How are these patterns fostered or constrained by domestic, regional and international politics?

To study these questions, I have focused on UNEP and its interactions with ASEAN and China in creating conditions conducive to environmental cooperation. Operationally, the dissertation explores: 1) The mechanisms through which UNEP has drawn disputing development-minded countries into environmental cooperation in a highly politically sensitive and contested area; 2) How China and the ASEAN countries have reacted to UNEP's involvement, and how the interaction among UNEP, ASEAN and China has shaped the patterns and forms of environmental cooperation in the South China Sea; 3) How UNEP has managed to draw China to multilateral cooperation, despite China's persistent preference for bilateral dialogue on the South China Sea issues.<sup>27</sup>

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<sup>27</sup> UNEP's role is particularly important, considering that the World Bank has failed to persuade China to participate as a full member in the Mekong River Commission. China was reluctant to commit itself to the project with a concern that it might potentially compromise its economic

## Methods

I am applying an approach that combines archival research, interviews, and participatory research to study environmental cooperation in the South China Sea. Prior to the defense of the dissertation proposal, I worked as a short-term consultant from September to December 2002 for the PCU of the UNEP/GEF South China Sea Project. The short-term assignment with UNEP provided me abundant first-hand and second-hand data for the formulation of the hypotheses of the dissertation prospectus. Since the defense of the dissertation prospectus, I have been working full-time for the UNEP/GEF South China Sea Project. My dissertation research has been fully supported by the Project Director and other staff members in the office, which has provided me with access to inside information and materials, and made it possible to interview a large number of senior government officials and environmental experts in the region.

*Archival research.* I have conducted thorough research on the literature on cooperation and conflict in the South China Sea, and followed specific activities using newspapers and Internet. In order to identify developing trends of environmental cooperation, I have traced the historical development of ASEAN environmental cooperation, the UNEP East Asian Seas Action Plan (1978-present), the UNEP/GEF South China Sea Project (1996-present), the South China Sea Informal Working Group, and other past and present environmental cooperative activities in the region. I have collected all of the meeting minutes and reports of COBSEA and UNEP executive reports to the intergovernmental meetings since 1978. I have reviewed past and ongoing regional activities and organizations for

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development, such as the termination of dam-building. The World Bank failed to create an additional interest for China to participate in the Commission as a full member.

marine environmental protection related to the South China Sea region, and analyzed 15 existing regional and subregional environmental agreements and soft laws.

*Interviews.* During the formulation of the research program and prior to the defense of the dissertation proposal, I conducted some pre-interview research and chose more than 50 individuals as interviewees for my research. A list of interviewees was included in the annex of the dissertation proposal. These interviewees were chosen based on their involvement in regional marine cooperation and domestic policy-making processes, and their contributions to the formulation and development of national reports and the transboundary diagnostic analysis under the framework of the UNEP/GEF South China Sea Project. This list of interviewees was changed dramatically when I started to conduct the interviews in the region. Many of the original interviewees were domestic researchers, scientists, and scholars, who were usually the authors for technical reports for international organizations and national governments, but did not have adequate information on the process of regional cooperation.

Due to my working experience, I have had the privilege to meet up to 120 government officials and environmental experts from the South China Sea littoral countries. I have formally interviewed more than 30 international civil servants, government officials and environmental experts. My work with UNEP enabled me to meet with and interview these people multiple times, which helped me to clarify points and update developments. More importantly, many discussions have been conducted in a less formal way during the break of meetings or over coffee or meals, due to sensitivities related to my research topic.

My own position with UNEP also imposed some constraints on my interviews with relevant individuals. Governments are very sensitive about the South China Sea issues, and are afraid of losing their sovereign claims to the disputed areas. It took UNEP a long time to reduce the level of suspicion that governments had and make it possible to initiate certain forms of formal multilateral cooperation, therefore, the senior management of UNEP was very careful about who I met and what questions I could ask. It was expected that my research would be done in such a way as to not impair, to any extent, the trust and confidence that UNEP had worked hard to obtain. Therefore, this method served as only a supplementary tool to the participatory research approach, which I have mostly relied on to collect the raw data and information for this dissertation.

***Participatory Research Approach.*** Since September 2002, I have participated in and served as Secretary to more than twenty intergovernmental and regional expert meetings in implementing the UNEP/GEF South China Sea Project. In particular, I participated in the Regional Scientific Conference in February 2004, attended by about 120 senior government officials and senior environmental experts from the region, and observed the discourse on regional environmental cooperation and the possibilities to develop a regional convention in the South China Sea, after two years' implementation of the project. Table 1.2 includes all the intergovernmental meetings related to environmental cooperation in the South China Sea, in which I have participated between 2002 and 2005.

**Table 1.2. Author's Participation in Inter-governmental and Expert Meetings related to Environmental Cooperation in the South China Sea**

Meetings	Date	Participation Status
First Regional Partners Workshop on Regional Coordination Mechanisms in the East Asian Seas Region, Bangkok, Thailand	9–10 May 2005	Observer
Third Meeting of the Regional Task Force on Economic Valuation, Fangchenggang City, China	18–21 Apr. 2005	Secretary
Third Meeting of the Regional Task Force on Legal Matters, Olongapo City, Philippines	28 Feb.–3 Mar. 2005	Member and secretary
Fourth Meeting of the Project Steering Committee, Guilin, China	13–15 Dec. 2004	Secretary
Fifth Meeting of the Regional Scientific and Technical Committee, Fangchenggang City, China	9-11 Dec. 2004	Secretary
Fifth Meeting of the Regional Working Group on Land-based Pollution, Shenzhen, China	24-27Nov. 2004	Secretary
Fifth Meeting of the Regional Working Group on Wetlands, Ha Long Bay, Viet Nam	5-8 Oct. 2004	Secretary
Fifth Meeting of the Regional Working Group on Coral Reefs, Koh Chang, Thailand	13-15 Sep. 2004	Secretary
Fifth Meeting of the Regional Working Group on Seagrass, Bintan, Indonesia	24 - 27 Aug. 2004	Secretary
Second Meeting of the Regional Task Force on Economic Valuation, Seam Reap, Cambodia	31 May-2 Jun. 2004	Member and Secretary
Second Meeting of the Regional Task Force on Legal Matters, Phu Quoc Island, Viet Nam	3-6 May 2004	Secretary
Fourth Meeting of the Regional Working Group on Fisheries, Manila, Philippines	26-29 Apr. 2004	Secretary
Fourth Meeting of the Regional Scientific and Technical Committee, Pattaya, Thailand	15-17Feb. 2004	Observer
First Regional Scientific Conference, Bangkok, Thailand	11-13 Feb. 2004	Presenter
Fourth Meeting of the Regional Working Group on Wetlands, Kuala Lumpur, Malaysia	15-18 Dec. 2003	Secretary
Fourth Meeting of the Regional Working Group on Seagrass, Guangzhou, China	29 Nov.-2 Dec. 2003	Secretary
First Meeting of the Regional Task Force on Legal Matters, Phuket, Thailand	15-17 Sep. 2003	Member and Secretary
Second Meeting of the Project Steering Committee, Hanoi, Viet Nam	16-18 Dec. 2002	Observer
Second Meeting of the Regional Scientific and Technical Committee, Nha Trang, Viet Nam	11-13 Dec. 2002	Observer

The participatory research approach was allowed by UNEP only on the condition that my opinions or observations would not represent those of UNEP. However, my academic thinking or ideas have certainly influenced my ways of acting as a pro-cooperation UNEP officer in drawing countries' participants to participate in the meetings and act collectively. I have found through my own

working experience that the Secretary's thinking and ways of framing an issue could have a great impact on the opinions of meeting participants.

This approach has both a constraint and a strength. A constraint of this approach is that many countries' participants attended regional meetings in their personal capacity. As a result, they did not wish to include their personal comments or observations in official meeting reports or to be quoted when sensitive issues were considered. The strength of this approach is that I obtained access to senior government officials and experts' frank opinions and thoughts about the issues. As a result, I could obtain a relatively realistic estimate of the current status of marine environmental cooperation and countries' positions on relevant issues.

## **Findings**

The dissertation proposes an interactive model between an IO (UNEP), a regional organization (ASEAN) and a regional power (China) in explaining environmental cooperation in the South China Sea. Through the analysis of the interests, motivations, and mechanisms that have shaped the interactions between them, this dissertation seeks to explain the evolution of cooperation, the changing roles, strategies and mechanisms of the actors, and the levels of success of the environmental policies of these various actors in this highly contentious region.

I contend that UNEP has played both instrumental and inductive roles in facilitating and forging environmental cooperation in the South China Sea. On the one hand, in claiming environmental protection as a neutral and non-political issue, UNEP drew the littoral countries to the negotiation table and hence internationalized South China Sea environmental protection, making non-

participation in UNEP-sponsored environmental cooperation a politically costly and thus unfavorable strategy for the littoral countries. On the other hand, UNEP has provided an instrument to address collective environmental problems, and a mechanism for political confidence building between China and the ASEAN countries.

***Changing Roles of Major Actors.*** Since 1978, environmental cooperation in the South China Sea has grown from sporadic, *ad hoc* and individualistic activities to systematic, planned and coordinated activities. The development of environmental cooperation in the South China Sea reflects several trends: from a *general* approach that covers broad sea areas (East Asian Seas Action Plan) to a more *specific* but inclusive approach, from a *formal* to an *informal* and then back to a *formal* approach, from a *policy oriented* to an *action focused* approach, and from a *top-down* to a *bottom-up* approach. Table 1.3 outlines the evolution of environmental cooperation in the South China Sea.

**Table 1.3. Evolution of Environmental Cooperation from the East Asian Seas to the South China Sea**

	Traditional (1978-1995)	Transitional (1996-2001)	Current (2002-Present)
<b><i>Geographical Coverage</i></b>	Sub-regional	Supra-regional	Regional/supra-regional
<b><i>Format</i></b>	Formal	Informal (1990-2000)	Formal
<b><i>Area of cooperation</i></b>	Policy-oriented	Policy-oriented	Action-oriented
<b><i>Approach</i></b>	Top-down	Top-down	Bottom-up
<b><i>Legal Status</i></b>	Non-legally binding	Non-legally binding	Non-legally binding
<b><i>Nature</i></b>	Technical	Technical and political	Technical and political

During the evolution of environmental cooperation in the South China Sea, major actors, driven by different interests, have transformed their roles in forging and shaping environmental cooperation in its current form in the South China Sea.

UNEP adapted its roles from a mainly technical and financial provider to a political negotiator in bringing these completely differently positioned parties to formal inter-governmental cooperation. ASEAN transformed its role from a “passive recipient” of financial resources and technical assistance, to an active advocate of multilateral environmental cooperation. China, faced with the changing situations and strategies of the other major actors in the process, has turned from a laggard on multilateral cooperation to an active implementer and a strong sponsor for UNEP’s role in the region. Table 1.4 summarizes the changing roles of the major actors during the development of marine environmental cooperation in the South China Sea.

**Table 1.4. Changing Roles of Major Actors**

	<b>Traditional (1978-1995)</b>	<b>Transitional (1996-2001)</b>	<b>Current (2002-Present)</b>
UNEP	Technical/functional (catalytic through policy-making)	Technical/functional Broker/mediator of environmental cooperation	Technical/functional (catalytic through actions) and political
ASEAN	Recipient of financial and technical assistance from UNEP  Provider of institutional arrangements	Pressuring political entity for multilateral cooperation in the South China Sea	Advocator of multilateral environmental cooperation
China	Laggard of multilateral cooperation	Hard negotiator	Active implementer of activities under UNEP’s multilateral project, and strong sponsor for multilateral cooperation under UNEP

*The Period of 1978-1995.* UNEP, in its early involvement in the East Asian Seas, took ASEAN as a convenient institutional setting for the development of the East Asian Seas Action Plan. During this period, UNEP played a traditional technical role in catalyzing national environmental protection efforts, by providing financial resources, information and technical assistance, setting agendas, and choosing participants. The implementation of the Action Plan contributed directly

to the development of marine environmental cooperation within ASEAN countries, enabling ASEAN to build its own environmental program after a decade of UNEP involvement. However, ASEAN left an institutional hallmark in the Action Plan, which to date has failed to reach a legally-binding convention or agreement, due to ASEAN's traditional aversion to legally binding commitments, the so called "ASEAN Way".

During this period, China's participation in multilateral cooperation was limited. Prior to the mid-1990s, China always believed in bilateral negotiations, taking an approach of "divide and conquer." China believed that it could reap maximum benefits through bilateral negotiations. The approach remained successful and unchallenged, since military conflict had occurred only between China and Viet Nam, which was not a member to ASEAN. Hence China remained a laggard in multilateral actions in the South China Sea in all fields, including security talks and environmental cooperation.

*The Period of 1996-2001.* In 1994, China joined the East Asian Seas Action Plan upon the invitation of UNEP. Starting in 1995, UNEP initiated discussions to develop a multilateral cooperative project for the South China Sea under the framework of the East Asian Seas Action Plan. This idea later matured in 1996, when all the member countries endorsed the idea to develop the UNEP/GEF South China Sea Project. The project document was developed and endorsed by the six countries other than China within three years. UNEP spent another one and one-half years to negotiating with and persuading China to participate in this project. UNEP's bottom line was that even if negotiations failed to draw China to participate in this project, it would still be funded with the participation from the rest of the countries bordering the South China Sea.

By internationalizing environmental protection in the South China Sea, UNEP made non-participation a less attractive/more costly strategy for the littoral countries because participating countries did not want to lose their voices in an authoritative forum on any issues related to the South China Sea. Therefore, UNEP managed to *persuade* the littoral countries to cooperate on environmental protection in the South China Sea, due to its neutral and authoritative status in the regional setting and international context. During the process, UNEP has transformed its traditional technical functional role into a political role as a “*mediator*” and “*broker*” of environmental cooperation.

ASEAN has played a role as a pressuring regional political entity in pushing China to participate in multilateral cooperation. ASEAN’s members formed a united stand in supporting a multilateral project. This put China in a dilemma: if China did not participate, it would blemish its image as a cooperative and friendly country. More importantly, multilateral cooperation has been developing rapidly among the ASEAN countries in addressing the South China Sea issue, through various political declarations. This meant that ASEAN countries internationalize and multilateralize the South China Sea issues within ASEAN, without the full participation of China. This tends to foster a united ASEAN stand against China. China does not want to see itself excluded from this kind of forum as it would leave China with no control over decision-making processes.

China was left without much choice. If China did not participate in the proposed multilateral cooperation, it would lose the opportunity to get involved in the activities and have a control on the process, and lose possible say over the future of the South China Sea. Due to UNEP’s involvement, multilateral cooperation has a particularly important implication for the future, because the UN

could become the ultimate forum for countries to legitimize their territorial claims. If the territorial disputes were to go for adjudication under the UN system, then China's position could be undermined if it were not an active participant in cooperative endeavors, and non-participation in the UNEP sponsored activities could serve as an argument against China's territorial claims.

China's choice was further constrained by its foreign policy goal of developing a peaceful and friendly relationship with ASEAN countries in order to promote economic development and foreign trade with these countries. Politically, China did not wish to conflict with ASEAN as it would have to deal with larger political issues with other external powers, including the United States or Russia. China has tried very hard to appease its neighbors and express that it does not wish to become a dominant regional hegemon. China has to care about its image in the eyes of its neighboring countries.

*The Period of 2002-Present.* UNEP has carefully de-politicized environmental cooperation and "downgraded" its role as a political mediator, by mainly focusing its role on the provision of intellectual, scientific and technical leadership. It has done this to avoid plunging the project into any political quagmires.

ASEAN has in this period become an active advocator of multilateral cooperation in the South China Sea. There has been a trend of growing cooperative activities for the South China Sea under the framework of ASEAN. ASEAN played a role as a "broker" of multilateral cooperation, seen in the signing of the Declaration on the Code of Conduct in the South China Sea by all ten ASEAN members and China in November 2002.

China has witnessed a growing trend of consolidation of voices among ASEAN members willing to condemn China's assertive actions in the South China Sea. To China, ASEAN and UNEP have treated it differently. Under the framework of ASEAN, China is only a dialogue partner, and is presented with results from negotiations among full members of the organization. Under the umbrella of UNEP, in contrast, China is a full member, the most powerful member among all, participating in the negotiation process from the beginning. Realizing its inability to prevent the trend of multilateral cooperation in the South China Sea, and pressured by ASEAN's aggressive activities in multilateralizing the South China Sea, China has become a strong sponsor of UNEP-led multilateral cooperative initiatives, because it believes it has a better position in UNEP-led cooperation than in ASEAN-based cooperation.

***Mechanisms.*** During the process of getting China involved in a multilateral initiative in the highly sensitive South China Sea, UNEP has taken a "pull" strategy, while "ASEAN" applied a "push" strategy. As discussed in Chapter 4 and 5, UNEP's inductive power has been leveraged through the following mechanisms: potential legitimization, domestic politics, and linkage politics. Its instrumental power to facilitate regional cooperation has been manifested through two mechanisms, i.e. confidence building and identity politics.

*Potential legitimization.* UNEP does not possess the necessary "hard" power to force the countries to cooperate; however, it has potential "soft" power as a neutral and authoritative IO. This "soft power" is closely linked with the symbolic power of the United Nations, which could influence possible legitimization of various territorial claims by international society. UNEP's involvement has created a situation in which countries were afraid that non-

participation in environmental cooperation might endanger their future claims to the disputed areas.

*Domestic Politics.* At the national level, there are inter-agency conflicts and factions of government agencies or officials. UNEP promotes regional cooperation by allying with and strengthening the pro-cooperation agencies or factions, through information provision and technical support.

*Linkage politics.* The sphere of activity of an IO need not be restricted to a particular issue-area of international relations.<sup>28</sup> In the South China Sea, where multiple issues overlap and interact, the study of environmental cooperation must be based on a larger geopolitical context rather than focus purely on environmental protection activities. The UN system is the forum for various issues and a node for issue linkages. UNEP's involvement in regional cooperation represents the UN's initiative, which countries tend to support, possibly due to their overall considerations of the general benefits that derive from a relationship with UN agencies.

*Confidence and trust building.* When discussing the interaction between IOs and states, especially developing countries, scholars mainly treat developing countries as passive recipients of financial and technical assistance, knowledge, ideas or norms.<sup>29</sup> However, in this case the littoral countries did not stay passive in reacting to UNEP initiatives. Using UNEP as a mediator, the littoral countries have successfully transformed environmental protection efforts into an instrument for building confidence and trust between China and ASEAN, to achieve their

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<sup>28</sup> A. Hasenclever, P. Mayer, and V. Rittberger. 1997. *Theories of International Regimes*. Cambridge: Cambridge University Press.

<sup>29</sup> See Peter Haas. 1992. *Saving the Mediterranean: the Politics of International Environmental Cooperation*. New York, NY: Columbia University Press. Martha Finnemore. 1996. *National Interests in International Society*. Ithaca, NY: Cornell University Press.

other diplomatic goals. At the same time, UNEP has also implanted and demonstrated the idea that successful environmental cooperation can be achieved without necessarily addressing territorial disputes.

*Identity Politics.* Over time, ASEAN has successfully formed a community and an “ASEAN” identity. The Philippines and Viet Nam in particular have successfully transformed the South China Sea into a regional issue, and made ASEAN issue several declarations regarding the South China Sea. China is also very concerned about its image to the Southeast Asian countries, and is trying hard to create a “friendly” image and act as a good citizen of the community. UNEP activities provide an arena for ASEAN and China to socialize with one another for their overall diplomatic goals.

### **Contribution to International Relations Scholarship**

The dissertation contributes to international relations and Sino-ASEAN relations’ literatures the first systematic theoretical and empirical analysis of the dynamics between global, regional and domestic forces in forging environmental cooperation in the South China Sea. The dissertation explores not only the effects of international environmental initiatives on the regional dynamics of ASEAN and China, but also their responses to global initiatives. It allows the reader to gain a detailed perspective on how a newly established regional organization and a rising power respond to global environmental movements, and turn environmental cooperation into an instrument for regional consolidation of ASEAN and confidence building mechanism between ASEAN and China. Beyond capturing important transformations in Southeast Asian politics and Sino-China relationships and their impacts on environmental cooperation, this dissertation adds to the

broader political science literature that bridges the divide between global, regional and domestic politics. In an era of globalization and regionalism, it is particularly essential for scholars and policy makers to understand the dynamics between global actors, regionalization and domestic politics.

The dissertation also formulates a framework to analyze the sources and mechanisms of under-studied dimensions of the power of IOs in promoting regional environmental cooperation in a contentious area. This framework is particularly important at this time, as environmental cooperation studies to date have mainly focused on regime analysis and formulation. With the increased number of IOs active in promoting environmental cooperation, this dissertation offers a generalizable framework to analyze IOs' roles in influencing international politics, beyond the environmental politics field.

The dissertation also strengthens the approach to analyzing environmental politics in a larger framework of political dynamics, and bridges the traditional divide between realists and institutionalists in analyzing and explaining international cooperation. This study highlights the dynamics between traditional "high politics" and "low politics" issues, and illustrates the conditions for their intertwining relationships in the complexity of a regional political setting.

### **The Plan of the Dissertation**

Chapter 2 will first review the literature on international cooperation, and will contend that there is an inadequacy of both empirical and theoretical studies of the roles of IOs in facilitating and forging environmental cooperation. After analyzing the strengths and weaknesses of various international relations theories, the chapter will propose my theoretical framework to investigate and explain

international environmental cooperation in the South China Sea region. I contend that neither international regimes nor NGOs can supplant the roles of formal IOs in facilitating environmental cooperation in the South China Sea. The distinctive characteristic of IOs, not possessed by either regimes or NGOs, is the symbolic power of the organization itself in inducing or forcing states to cooperate on international environmental protection. Due to IO's involvement in the South China Sea, participation *per se* is a selective incentive to force states to take part in IO-sponsored environmental cooperation.

Chapter 3 describes the environmental, economic and geopolitical conditions of the South China Sea, and examines the obstacles to and the necessity of environmental cooperation in the region. It will survey the significance of the South China Sea in terms of its strategic location, oil resources, and marine biological diversity. It will review different countries' competing claims to the same sea area, territorial disputes among the countries, and marine environmental degradation in the region; and analyze the political and socio-economic causes and consequences of environmental degradation caused by fast economic development and sovereign disputes. I contend that environmental degradation may worsen the already contentious and volatile situation in the South China Sea due to increasing competition for oil resources and fishery resources. Environmental cooperation is therefore important not only in protecting and maintaining marine biological diversity, but also in achieving regional security in the highly volatile area.

Chapter 4 reviews the development and implementation of the East Asian Seas Action Plan from the late 1970s to the present. The chapter argues that UNEP has played a significant role in catalyzing early environmental cooperation among Southeast Asian countries by providing intellectual, technical and financial

assistance in the early stage of the Action Plan, including the development of ASEAN marine environmental cooperation. However, the Action Plan was embedded in ASEAN for more than a decade, and thus inherited the institutional legacy of the “ASEAN way”. This has resulted in the inability of the countries to reach a regional convention.

Chapter 5 focuses on recent efforts in engaging China in environmental cooperation in marine environmental protection in the South China Sea, and examines the interactions among UNEP, China and ASEAN in forging cooperation. This chapter illustrates how UNEP has induced China and ASEAN countries to marine environmental cooperation. During the process, UNEP has transformed its traditional technical roles into political roles, and has played both inductive and instrumental roles. UNEP’s involvement in the interactions among China and ASEAN countries provides additional political incentives for countries’ participation in regional cooperation in addressing shared marine environment problems.

Chapter 6 concludes that the interactions between UNEP, ASEAN and China explain the development and evolution of environmental cooperation in the South China Sea. It will then propose some recommendations for strengthened regional environmental cooperation, for UNEP’s roles, and for other IOs’ activities. The chapter will also propose some directions for future research.

## CHAPTER 2

### EXPLAINING ENVIRONMENTAL COOPERATION: FACTORS, ACTORS, AND MECHANISMS

Since the Stockholm Conference in 1972, IOs<sup>1</sup> have played an increasing role in carrying out environment protection activities and promoting international environmental cooperation. What attributes of IOs account for their roles, and how do these characteristics set formal organizations apart from alternative institutional arrangements? Under what conditions can IOs play their roles better, and through which mechanisms can they leverage their powers to execute these roles? These questions are embedded in a larger theoretical debate among scholars of international relations in explaining and promoting international cooperation, a perennial question in the field of international relations.<sup>2</sup> The debate encompasses many of the principal questions in the discipline, and has stimulated scholars to write in length on questions such as: 1) *why states cooperate* while rationalist deduction leads to the prediction of the difficulties of cooperation in international relations; 2) *whether institutions matter in promoting international cooperation*.

This chapter will review major international relations theories in explaining the emergence of international cooperation, and the debates on the relevance or irrelevance of international institutions in promoting international cooperation,

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<sup>1</sup> In this chapter, I will use IO to refer to formal international organization. When I talk about international organization as a field, which covers the studies of various forms of international institutions, I will not use acronyms, but refer to international organization.

<sup>2</sup> See e.g., Stephen Krasner, ed. 1983. *International Regimes*. Ithaca, NY: Cornell University Press. Robert Keohane. 1984. *After Hegemony*. Princeton: Princeton University Press. Robert Axelrod. 1984. *The Evolution of Cooperation*. New York: Basic Books. Kenneth A. Oye, ed. 1986. *Cooperation Under Anarchy*. Princeton: Princeton University Press. Robert Putnam and Nicholas Bayne. 1987. *Hanging Together*. Cambridge: Harvard University Press. Martin Feldstein. 1988. *International Economic Cooperation*. Chicago: University of Chicago Press. Oran Young. 1989. *International Cooperation*. Ithaca, NY: Cornell University Press.

with a view to identifying theoretical weaknesses and empirical gaps of the existing literature. I contend that none of the existing theories can adequately explain the development and evolution of environmental cooperation in the South China Sea, although each holds key insights. I will then propose an approach based on institutionalist arguments, while integrating realist elements, to study environmental cooperation. I argue that there has been a shift of academic attention from formal IOs to less informal regimes in studying environmental cooperation, and contend that more attention should be paid to the unique attributes and special roles of IOs, in comparison with other forms of institutions. I will then propose an approach to study IOs in facilitating international cooperation, by examining the sources of power, roles, and mechanisms of IOs as independent actors in international cooperation. Finally, I will present the South China Sea as a case to study with the integrated approach, and derive my working hypotheses from the theoretical reviews and the specific considerations of the South China Sea.

A review of the existing theoretical and empirical literature shows two weaknesses in the study of international cooperation. First, there is a general tendency to focus on international institutions, regimes and norms,<sup>3</sup> with little attention to the roles of IOs that bear or implement these institutions, regimes or norms.<sup>4</sup> Although some recent research has sought more systematically to

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<sup>3</sup> These concepts are generally inter-changeable for many scholars. Literature include, e.g., footnote 2.

<sup>4</sup> Regime theories, for example, treat international organizations as empty shells or impersonal policy machinery. States bargain within the machinery in pursuit of their policy goals. During the process, the machinery's norms and rules may constrain what states can do, but the machinery itself is passive and has no role. See Michael N. Barnett and Martha Finnemore. 1999. "The Politics, Power and Pathologies of International Organizations." *International Organization*, Vol. 53, No. 4: 699-732.

demonstrate that institutions are sometimes significant for political outcomes, much less has been written about the mechanisms through which these institutions matter and work to facilitate international cooperation. Second, the ongoing theoretical debates treat cooperation and conflict as a binary phenomenon (cooperation versus defection). They often treat the two as competing alternatives or as analytically separable, rather than inherently bound together. In existing empirical studies on international cooperation, scholars writing on international cooperation in issue areas such as economy, trade, and environment, tend to ignore the constraints imposed by security and structural conditions, outlined by realist theorists, under which states behave. As a consequence, realists conclude that rational institutionalist arguments on “institutions matter” are only applicable to the issues of low politics.<sup>5</sup>

To fill in the above-mentioned theoretical and empirical gaps in the existing literature on international cooperation and IOs, this chapter develops an interactive and integrative approach rooted in rational and sociological institutionalism to study the roles of IOs, the sources of their power, and the mechanisms through which they influence state behavior and shape the scope, form and pattern of international cooperation. IOs are treated as independent actors interacting with other actors in influencing and changing political outcomes. My approach differs from most institutionalist analysis, in which actors interact and foster the results in a “power vacuum,” an assumption that has been criticized by realists. The

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<sup>5</sup> John Mearsheimer, in a critical review of rational institutionalism, pointed out that institutionalist theory is based on “the assumption that international politics can be divided into two realms—security and political economy—and that institutionalism mainly applies to the latter.” See John J. Mearsheimer. 1994. “The False Promise of Institutions.” *International Security*, Vol. 19, Issue 3: 5-49. p. 15.

interactive approach takes into account countries' competition for power and desire to pursue relative gains.

The approach echoes rational institutionalist arguments that IOs are an *instrument* to facilitate cooperation by helping states to reduce transaction costs and overcome market failures, collective action dilemmas, and problems associated with interdependent social choice. The instrumental power of IOs in addressing collective action problems derives from their possession of expertise, information, and knowledge.<sup>6</sup> Another type of instrumental power with realist flavor, which has been much less studied by institutionalists, is realized through IOs' interactions with other major actors, in which IOs serve as an instrument for countries to achieve their top national policy goals, a result which may be unintended by IOs themselves.

The approach also builds upon sociological institutionalist arguments that the authority and legitimacy embodied by IOs bestow them with the power to *induce* countries to engage in international cooperation. The inductive power of IOs lies in the obligations felt by countries to comply with IOs due to their special attributes and power. Other forms of international institutions, including non-governmental organizations, rules and/or norms can provide similar motivations for addressing collective action problems, but do not possess the inductive power derived from the authority and legitimacy of IOs.

This integrated approach argues that the power of an IO is realized in interacting with other major actors, and emphasizes the interactions among actors in deciding the forms and content of cooperation. The results of this interaction may vary by region or issue area. I identify three specific mechanisms through

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<sup>6</sup> See Keohane. 1984.

which IOs can leverage their powers and execute their roles: identity politics, domestic politics, and linkage politics. Even if we take the realist assumption about states' competition for power (relative gains) as a variable in deciding states' preferences, strategies, and policies during the process of forging international cooperation, IOs still matter and play a role in deciding political outcomes of international negotiations.

Lastly, the chapter presents the South China Sea environmental cooperation as a highly interesting case to examine specific propositions related to the question of "why institutions matter", provide a more focused view on the roles of IOs, and fill in empirical gaps in linking security, economic development, and environment protection. IOs at the regional level are more prominent than those acting in the global arena. I posit that, when an IO created at the global level acts at the regional level, both its instrumental and inductive power will be elevated. A region cannot disband a globally established organization; neither can rules or procedures be changed at the regional level unless countries take the issue to the global level. At the regional level, an IO is not merely an arena or instrument for countries to pursue national interests or compete for national power, but acts independently with its mandates, visions and interests influencing how it interacts with countries.

### **Theories of International Cooperation**

Keohane defines cooperation as occurring "when actors adjust their behavior to the actual or anticipated preferences of others, through a process of policy coordination."<sup>7</sup> Following this definition, Helen Milner, in a review article, conceptualizes cooperation as "goal-directed behavior that entails mutual policy

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<sup>7</sup> Robert Keohane. 1984.

adjustments so that all sides end up better off than they would otherwise be.”<sup>8</sup> These two similar definitions share three components, which could help us to identify what cooperation is in reality. First, they assume that states are rational actors with some goal(s). Accidental behaviors cannot be considered as cooperation. Second, the definitions imply that mutual gains and rewards result from the cooperative behaviors, which could not be achieved if actors were not to cooperate. The gains need not be the same in amount or kind for each state, but the gains must be mutual. Third, states need to make extra efforts (policy adjustment) to achieve the goals, so cooperation usually means an extra policy or action.<sup>9</sup> Therefore, in order to diagnose causes of states’ participation in international cooperation, we have to identify the major actors, and analyze the *goals* of the actors, the *gains* (amount and kind) that they aim to achieve, and the *efforts* they are undertaking in international cooperation.

There are basically three groups of theories involved in the ongoing project of explaining the presence and absence of policy cooperation under conditions of international anarchy: realism, rational institutionalism, and sociological institutionalism. Realism does not consider institutions as a central variable in deciding international political outcomes, while rational and sociological institutionalism believe institutions can fundamentally change state policy, but they vary in the ways how institutions change state policies.

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<sup>8</sup> Helen Milner. 1992. “International Theories of Cooperation among Nations: Strengths and Weaknesses.” *World Politics* 44: 466-496.

<sup>9</sup> Ibid.

**Realism.** In the realist perspective, states are fundamentally motivated by relative gains because their major concerns are a relative measure such as power.<sup>10</sup> Realism presents a pessimistic analysis of the prospects for international cooperation and of the capabilities of international institutions. For realists, international institutions do not have independent roles in international politics, because they are barely arenas for states to compete and pursue their interests and do not have structural powers over individual states.<sup>11</sup> International institutions are a reflection of the balance of power, created by powerful states to maintain the existing power structure, and hence are “merely an intervening variable”<sup>12</sup> in international politics. Realists tend to have a gloomy view of the prospects for collective action to address global problems, including what Kenneth Waltz calls “the four p’s”—pollution, poverty, population and proliferation.<sup>13</sup>

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<sup>10</sup> This chapter does not distinguish between realism and “neorealism,” because on crucial issues—the meaning of international anarchy, its effects on states, and problem of cooperation—modern realists like Waltz and Gilpin are very much in accord with classical realists like Carr and Morgenthau. This has been pointed out by Joseph M. Grieco in his critical review of rational institutionalism, see Joseph M. Grieco. 1988. “Anarchy and Limits of Cooperation: a Realist Critique of the Newest Liberal Institutionalism.” Major contemporary realist works include: Hans J. Morgenthau. 1957. *Politics among Nations*, 4<sup>th</sup> ed. New York: Alfred A. Knopf. E. H. Carr. 1964. *The Twenty Years Crisis, 1919-1939: An Introduction to the Study of International Relations*. London and New York: Harper Torchbooks. Kenneth Waltz. 1959. *Man, the State and War: a Theoretical Analysis*. New York: Columbia University Press. Kenneth Waltz. 1979. *Theory of International Politics*. Reading, MA: Addison-Wesley. Robert Gilpin. 1981. *War and Change in World Politics*. New York: Cambridge University Press. Joanne Gowa. 1986. “Anarchy, Egoism, and Third Images: The Evolution of Cooperation and International Relations.” *International Organization* 43: 167-186. Joseph M. Grieco. 1988. “Realist Theory and the Problem of Cooperation.” *Journal of Politics* 50: 600-624. Joseph M. Grieco. 1990. *Cooperation among Nations: Europe, America and Non-Tariff Barriers to Trade*. Ithaca, NY: Cornell University Press.

<sup>11</sup> Tony Evans and Peter Wilson. 1992. “Regime Theory and the English School of International Relations: A Comparison.” *Millennium: Journal of International Studies* Vol. 21, p. 330.

<sup>12</sup> John J. Mearsheimer. 1994. “The False Promise of International Institutions.” *International Security* Vol 19, p. 13.

<sup>13</sup> Kenneth Waltz. 1979. p.139.

The realist “theory of hegemonic stability” claims that the presence of a single, strongly dominant actor in international politics leads to collectively desirable outcomes for all the states in the system.<sup>14</sup> China is clearly the regional hegemon in the South China Sea region. If the theory holds, the variation of cooperation in the region would be, then, a function of (or at least strongly influenced) by Chinese foreign policy decisions. Therefore, if we want to understand the features, patterns, and activities of any cooperation in the region, we need to examine the preference structure and activities in Beijing. Empirical studies notwithstanding show that there are problems with this hegemonic proposition in this region. In practice, China was the biggest obstacle to reaching multilateral environmental cooperation in the South China Sea. China has been opposed to any sort of internationalization of the South China Sea issue, and it acts as a “reluctant” regional hegemon when it comes to providing “public goods” and stabilizing the regional political environment. From the ASEAN countries’ point of view, China continues to be a potential threat to the peace and stability of the South China Sea.

***Rational Institutionalism.*** Rational institutionalist theories share the basic assumption of realism, that states are unitary rational actors determined to maximize their interests in dealing with one another. They reject realist propositions about international cooperation and its gloomy understanding of

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<sup>14</sup> See Robert Gilpin. 1975. *US Power and the Multinational Corporation: the Political Economy of Foreign Direct Investment*. New York: Basic Books. Robert Gilpin. 1981. *War and Change in World Politics*. Cambridge: Cambridge University Press. Robert Gilpin. 1987. *The Political Economy of International Relations*. Princeton, NJ: Princeton University Press. Robert Keohane. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, NJ: Princeton University Press. Charles P. Kindleberger. 1981. “Dominance and Leadership in the International Economy: Exploitation, Public Goods and Free Riders.” *International Studies Quarterly* 25: 242-254. Charles P. Kindleberger. 1986. “Hierarchy Versus Inertial Cooperation.” *International Organization* 40: 841-848. Duncan Snidal. 1985. “The Limits of Hegemonic Stability Theory.” *International Organization*, Vol. 39, Issue 4: 579-614.

world politics, and attribute to international institutions a wide range of effects on international cooperation. Accordingly, institutions change the incentives for states to cooperate, reduce transaction costs, link issues and provide focal points for cooperation.<sup>15</sup> For rational institutionalists, international institutions matter, but their roles are only constrained to changing incentives structure of the players of the Prisoner's Dilemma (PD) games. Although they argue that international institutions can help states cooperate, they view international institutions as instruments to achieve collective solutions, and the roles of international institutions are exemplified in changing the incentives for states to cooperate or defect. International institutions are a context in which state actors play their games. They do not participate in the games as independent actors; neither do they create values or change states' definition of interests.

***Sociological Institutionalism.*** Sociological institutionalists argue that states' definitions of national interests are deeply embedded in the social context of the international society.<sup>16</sup> World politics is heavily regulated by norms that prescribe appropriate behavior and are embedded in formal and informal institutions of the international society.<sup>17</sup> Sociological institutionalism also bases its argument on the assumption that ideas—worldviews, principled beliefs, and

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<sup>15</sup> Robert Koehane and Lisa Martin. 1995. "The Promise of Institutional Theory."

<sup>16</sup> As Martha Finnemore has put it: "States do not always know what they want. They and the people in them develop perceptions of interest and understandings of desirable behavior from social interactions with others in the world they inhabit. States are socialized to accept certain preferences and expectations by the international society in which they and the people who compose them live." See Martha Finnemore. 1996. *National Interests in International Society*. Ithaca, NY: Cornell University Press.

<sup>17</sup> See Jeffrey T. Checkel. 1999. "Norms, Institutions and National Identity in Contemporary Europe." *International Study Quarterly* Vol. 43: p. 83. Gregory A. Raymond. 1997. "Problems and Prospects in the Study of International Norms." *Mershon International Studies Review* Vol. 41: 205-245.

knowledge<sup>18</sup>—not only define the meaning of power but also affect the reasoning process by which state actors define their interests. States can learn new patterns of reasoning and may consequently begin to pursue new state interests.<sup>19</sup>

Sociological institutionalism holds a relatively modest view on the roles of IOs in spreading norms and disseminating certain ideas on the causal chain analysis of some problems. IOs, as norm-makers and norm promoters, promote international cooperation by creating and disseminating these norms, but are not necessarily an essential condition. Norms can have influences on states' preferences and policy directions even in the absence of formal organizations to enforce compliance with their injunctions.<sup>20</sup>

Sociological institutionalism assumes that states can learn new patterns of reasoning and may consequently begin to pursue new state interests.<sup>21</sup> Accordingly, diffusion of ideas, knowledge or conceptualization of problems can transform states' perception of self-interests and their calculations of costs and benefits on a specific issue, leading to a convergent attitude among states with regard to an issue, which in turn contributes to environmental cooperation.<sup>22</sup>

Assuming states' capability to learn, Haas argues the importance of the epistemic community, i.e. the networks of knowledge-based experts, in teaching government officials and persuading them to adopt environmental policies to

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<sup>18</sup> On these distinctions, see Judith Goldstein and Robert Keohane eds. 1993. *Ideas and Foreign Policy*. Ithaca, NY: Cornell University.

<sup>19</sup> Andrew Farkas. 1998. *State Learning and International Change*. Ann Arbor, MI: The University of Michigan Press.

<sup>20</sup> Gregory A. Raymond. 1997. "Problems and Prospects in the Study of International Norms." *Mershon International Studies Review* Vol. 41: 205-245.

<sup>21</sup> Andrew Farkas. 1998. *State Learning and International Change*. Ann Arbor, MI: The University of Michigan Press.

<sup>22</sup> See Goldstein and Keohane. 1993.

address marine environmental problems in the Mediterranean.<sup>23</sup> The epistemic community approach argues that the involvement of IOs is not a necessary condition for the epistemic community to execute its roles in promoting environmental cooperation. Although fully aware that UNEP professionals are members of the epistemic community, Haas considers that these professionals act out of their beliefs in science and causal relationships shared with their scientific counterparts, rather than their mandates to behave as UN officials. Hence, UNEP is not a necessary condition for the establishment of such an epistemic community.<sup>24</sup>

### **Alternative Explanations for Environmental Cooperation**

Most empirical studies on international environmental cooperation are centered on explaining institution building and regime formation, or investigating the roles of institutions or regimes in facilitating cooperation.<sup>25</sup> In the study of

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<sup>23</sup> See Peter Haas. 1990. *Saving the Mediterranean: the Politics of International Environmental Cooperation*. New York, NY: Columbia University Press.

<sup>24</sup> Emanuel Adler and Peter M. Haas. 1992. "Conclusions: Epistemic Community, World Order and the Creation of a Reflective Research Programme." *International Organization*, Vol. 46, Issue 1.

<sup>25</sup> See Edward L. Miles *et al*, eds. 2002. *Environmental Regime Effectiveness: Confronting Theory with Evidence*. Cambridge, MA: the MIT Press. Oran R. Young, ed. 1997. *Global Governance: Drawing Insights from the Environmental Experience*. Cambridge, MA: MIT Press. Young, Oran R. 1998. *Creating Regimes: Arctic Accords and International Governance*. Ithaca, NY: Cornell University Press. Young, Oran R. 1999. *The Effectiveness of International Environmental Regimes: Causal Connections and Behavioral Mechanisms*. Cambridge, MA: MIT Press. David G. Vitor, Kal Raustiala and Eugene B. Skolnikoff. 1998. *The Implementation and Effectiveness of International Environmental Commitment*. Cambridge, MA: the MIT Press. Robert O. Keohane and Marc A. Levy, eds. 1996. *Institutions for Environmental Aid: Pitfalls and Promise*. Cambridge, MA: the MIT Press. Peter M. Haas, Robert Keohane and Marc A. Levy, eds. 1993. *Institutions for the Earth: Sources of Effective International Environmental Protection*. Cambridge, MA: the MIT Press. Oran Young, eds. 1999. *The Effectiveness of International Environmental Regimes: Causal Connections and Behavioral Mechanisms*. Cambridge, MA: the MIT Press. Arild Underdal, eds. 1998. *The Politics of International Environmental Management*. Boston: Kluwer Academic Publishers. Lasse Ringius. 2001. *Radioactive Waste Disposal at Sea: Public Ideas, Transnational Policy Entrepreneurs, and Environmental Regimes*. Cambridge, MA: MIT Press. Esook Yoon. 2001. *Environmental Cooperation in Northeast Asia: Political Economy*

how the environment entered the political agenda, including environmental awareness raising and issue identification, the roles of non-state actors, namely advocacy networks, social movements and global civil society, have been better theorized in the process of international environmental politics than the roles of IOs.<sup>26</sup> Scholarship has also examined how non-state actors influence the process of IOs and “green” IOs.<sup>27</sup>

In a major review on the research of international environmental policy, Michael Zürn reviewed the development of international environmental politics as a field, and identified five research themes in the field: 1) holistic perspectives, 2) agenda setting, 3) regime formation, 4) regime effects, and 5) transnational networks.<sup>28</sup> All of these themes are based on a post realist consensus, which holds

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*of Transboundary Pollution Regime*. Ph.D Dissertation. University of Maryland, College Park, MD.

<sup>26</sup> For NGOs’ roles in environmental politics, see e.g. Margaret E. Keck and Kathryn Sikkink. 1998. *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca: Cornell University Press. Thomas Princen and Matthias Finger. 1994. *Environmental NGOs in World Politics: Linking the Local and the Global*. New York, NY: Routledge. Ronnie Lipschutz and Ken Conca ed. 1993. *The State and Social Power in Global Environmental Politics*. New York: Columbia University Press. Paul Wapner. 1995. “Politics beyond the State: Environmental Activism and World Civic Politics.” *World Politics*, Vol.47:311-40. Paul Wapner. 1996. *Environmental Activism and World Politics*. Albany: State University of New York Press. Ronnie D Lipschutz. 1996. *Global Civil Society and Global Environmental Governance*. Albany, NY: State University of New York Press. Ann M. Florini. 2000. *The Third Force: The Rise of Transnational Civil Society*. Washington D.C.: Carnegie Endowment for International Peace. Sanjeev Khagram, James V. Riker, and Kathryn Sikkink, eds. 2002. *Restructuring World Politics: Transnational Social Movements, Networks, and Norms*. Vol. 14. Social Movements, Protest and Contention, Bert Klandermans. Minneapolis: University of Minnesota Press. Bob Reinalda. 2001. "Private in Form, Public in Purpose: NGOs in International Relations Theory." In *Non-State Actors in International Relations*, edited by Bas Arts, et al., 11-41. Burlington, USA: Ashgate. Bob Reinalda and Bertjan Verbeek. 2001. "Theorising Power Relations between NGOs, Inter-governmental Organizations and States." In *Non-State Actors in International Relations*, edited by Bas Arts, et al., 145-58. Burlington, USA: Ashgate. Paul Wapner. 1996. *Environmental Activism and World Politics*. Albany: State University of New York Press.

<sup>27</sup> See e.g. Ken Conca. 1996. “Greening the United Nations: Environmental Organizations and the UN System.” In *NGOs, the UN, Global Governance*. Eds. Thomas G. Weiss and Leon Gordenker. Boulder, CO: Lynne Rienner.

<sup>28</sup> Michael Zürn. 1998. “The Rise of International Environmental Politics: A Review of Current Research.” *World Politics* 50 (4): 617-649.

that international institutions do matter. World politics is much than just intergovernmental politics and includes a wider range of actors other than states. It is not only about power and material interest but is also about nonmaterial interests, ideas, knowledge, and discourses. Zürn points out that the study of regime effectiveness and transnational networks has the most potential for producing an enduring research program.<sup>29</sup> Scholars indeed have written most in these two subjects in the field of environmental politics.<sup>30</sup> In this section I will mainly review the major arguments of how regimes and NGOs facilitate environmental cooperation in existing literature, and explain why they do not provide adequate explanation for the environmental cooperation in the South China Sea.

***Regimes and Environmental Cooperation.*** As a form of international institutions, international regimes facilitate international environmental cooperation by providing information to participants, reducing transaction costs and acting as a monitoring mechanism.<sup>31</sup> Some scholars measure the effectiveness of regimes in promoting international cooperation, and contend that “demonstrating that regimes matter is an essential step in understanding the role of institutional arrangements as determinants of *collective outcomes* in international

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<sup>29</sup> Transnational networks encompass two different nongovernmental associations: epistemic communities and international NGOs.

<sup>30</sup> See footnote 25 and 26.

<sup>31</sup> See Oran R. Young. 1989. *International Cooperation: Building Regimes for Natural Resources and the Environment*. Ithaca, NY: Cornell University Press. Oran R. Young. 1994. *International Governance: Protecting the Environment in a Stateless Society*. Ithaca, NY: Cornell University Press.

society.”<sup>32</sup> Young measures regime effectiveness by measuring how regimes influence the behaviors of the states and other actors, including IOs, nongovernmental organizations, corporations, and even individuals, whose behavioral changes contribute to the solution of collective problems.<sup>33</sup> Taking a behavioral approach, Young contends that regimes have effects always through influencing the behaviors of actors in an issue area. Additionally, in order to gain deeper insights into the roles regimes play as determinants of collective outcomes, it is essential to explore the behavioral pathways or mechanisms through which regimes produce results. Regimes are proposed as utility modifiers, enhancers of cooperation, bestowers of authority, learning facilitators, role definers and agents of internal alignment.<sup>34</sup>

It is well established that regimes can promote international cooperation. However, the definition of regimes has been always an ambiguous concept. According to Stephen Krasner, regimes are:

Implicit and explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.<sup>35</sup>

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<sup>32</sup> Oran R. Young, ed. 1999. *The Effectiveness of International Environmental Regimes*. Cambridge, MA: the MIT Press, p. 19. For other works, see Edward L. Miles *et al*, eds. 2002. *Environmental Regime Effectiveness*. Cambridge, MA: the MIT Press.

<sup>33</sup> Young. 1999. p. 21.

<sup>34</sup> *Ibid.* p. 19-28. Young has comprehensively summarized the behavioral effectiveness of regimes, but he is not accurate in categorizing these pathways. “Enhancers of cooperation” can include or may require all other pathways to be undertaken.

<sup>35</sup> Stephen D. Krasner. 1983. *International Regimes*. Ithaca, NY: Cornell University Press.

Susan Strange directed what has become a classic volley of criticisms against the study of international regimes, and asserted that regime analysis was doomed to failure because of the “imprecision” and wooliness” of the concept.<sup>36</sup> In addition to the well-known ambiguity of the definitions used to explain the concept, regime analysis has two other weaknesses. First, the canonical definition of regime encompasses only norms and collective choice procedures, making no provision for the active and independent IO functions and the corresponding institutional forms.<sup>37</sup> Regime theory deals with institutions at such a general level that it has little to say about the particular institutional arrangements that organize international politics. Second, as many scholars have noted, the very existence of a regime indicates a prior series of decisions by states to cooperate and that the regime formation itself is kind of collective action problem.

***Environmental NGOs.*** Due to the tremendous growth in the size and numbers of environmental NGOs, the roles of NGOs in international environmental politics have drawn increasing scholarly attention, resulting in a proliferation of literature on environmental NGOs.<sup>38</sup> To simultaneously reach up to the states and formal IOs and down to the local communities, environmental NGOs have played an important role in social learning, awareness raising, monitoring and research as a complementary function to the state’s activities. In regime formation, environmental NGOs influence issue identification, agenda setting and negotiation processes. In addition to the role of NGOs as pressure

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<sup>36</sup> Susan Strange. 1983. “*Cave! Hic Dragones: A Critique of Regime Analysis*”. In *International Regimes*. Stephen D. Krasner, ed. Ithaca, NY: Cornell University Press. p. 337-354.

<sup>37</sup> Kenneth W. Abott. 1998. “Why States Act Through Formal IOs.” *The Journal of Conflict Resolution* 42: 3-32.

<sup>38</sup> See footnote 26.

groups that “change states’ policies or create conditions in the international system that enhance or diminish interstate cooperation,”<sup>39</sup> some scholars ambitiously contend the emergence of “global civil society” or “world civic politics,”<sup>40</sup> defined as “a set of relational networks...(that) can and do directly shape widespread behavior in matters of public concern and involvement.”<sup>41</sup>

Environmental NGOs do raise awareness of environmental protection, such as tropical deforestation in Southeast Asia.<sup>42</sup> But few international environmental NGOs are engaging in marine environmental protection, partly because most of the governments in the South China Sea region still impose strict restrictions on NGOs’ activities, and partly because of the low number and capacity of NGOs in the developing countries that can hardly meet the requirement of dealing with complex regional seas’ problems. Therefore, the extent of NGOs’ influence in the emerging environmental cooperation in the South China Sea tends to be constrained and limited.

### **Weaknesses of Theories and Empirical Studies on Environmental Cooperation**

There are three weaknesses of theories and current empirical studies on environmental cooperation. First, the three bodies of theories have different assumptions on the situations under which states develop international cooperation or incur conflicts, and hence reach completely disparate conclusions on the

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<sup>39</sup> Paul Wapner. 1996. *Environmental Activism and World Politics*. Albany: State University of New York Press. p. 10.

<sup>40</sup> Lipschutz. 1996. Wapner. 1996.

<sup>41</sup> Paul Wapner. 1997. “Governance in Global Civil Society.” In *Global Governance*. p. 66.

<sup>42</sup> See Keck and Sikkink. 1998.

possibility and prospect of international cooperation. Students of international relations have to choose their camps among the three, and assume one of the conceptualization of states: relative gain players (realist), absolute gain players (rational institutionalist), or citizens of the international society (sociological institutionalist). Scholars in support of each have spent too much time and poured too much ink in debating which one is valid and more powerfully explanatory. Similarly, empirical studies developed to test or prove the theories do not transcend one another, and mostly choose the selected issue areas as if other issue areas of states' concerns do not influence them. As a result, each theory has claimed certain issue areas that can be best explained, e.g. security for realism, economy for rational institutionalism and environment for both rational and sociological institutionalism.

In reality, states are multiple role players, faced with multiple issues and complex situations that cannot be simply categorized in this manner. While these theories may succeed in maintaining the beauty of the theoretical “parsimony”, they fail to capture the complex political, economic and environmental situations in the South China Sea where low politics and high politics are intertwined and are not easily disaggregated into separate fields. Chapter 3 of this dissertation will discuss in detail the complexity and linkages among issues in this region. States do not play a single game in a single-issue area. States are faced with relative gain games in competing for the territories and the limited resources of energy or fisheries (realist conceptualization of the situation); they are also seeking to overcome obstacles to collective action to manage common resources (rational institutionalist conception of the situation); at the same time they are pressured by international society to protect the marine environment and address marine

environmental degradation (sociological institutionalist conceptualization of the situation). Therefore, none of the approaches adequately explain the development and evolution of environmental cooperation in the South China Sea.

Second, current theoretical and empirical works on environmental cooperation mainly focus on regimes and non-governmental organizations in promoting and shaping environmental cooperation. Although formal IOs can be considered as a component of regimes, their unique futures and roles, or even problems derived from these characteristics, are under-explored in the study of environmental cooperation. Later in this chapter I will further argue for a revitalized study on formal IOs, and the dissertation will explore the power and roles of IOs in forging environmental cooperation in the South China Sea.

Third, environmental cooperation has been always a foreign policy issue. It is part of states' foreign policy, and hence is shaped by states' overall diplomatic goals vis-à-vis other states who are also participating in environmental cooperation. In the past, environmental cooperation has been studied on its own, without systematic consideration of the diplomatic goals or considerations of countries. For example, although Peter Haas noted early in his book the political difficulties in achieving environmental cooperation, including the territorial disputes and diplomatic relations among the bordering countries of the Mediterranean Sea, all these factors are later treated only as context or background variables, which did not influence the activities of the epistemic community in educating, persuading or changing the perception of government officials in dealing with the marine environment.<sup>43</sup>

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<sup>43</sup> See Peter Haas. 1990.

I propose an integrative and interactive model to study environmental cooperation in the South China Sea. By “integrative”, I mean my primary approach will integrate institutionalist and realist approaches. I take the institutionalist assumption that IOs are independent actors with influence on state behavior, but I do not treat states as passive recipients of this influence. I assume that states are rational actors seeking to maximize their power and that they actively use IOs to pursue their goals, be they environmental or non-environmental goals. Therefore, I will analyze environmental cooperation beyond states’ environmental considerations, including security and economic considerations. By “interactive”, I mean we should study the interactions among major actors, that is between IOs and other actors, and the ways in which major actors’ interests, motivations and strategies influence their dealings with one another. Through this approach, I seek to strengthen the institutionalist case by importing additional properties from realism—in an attempt to show that cooperation is feasible under the realist assumptions that are not incorporated into the existing institutionalist analysis of international cooperation.

In the rest of this chapter, I will try to build my theoretical framework to study environmental cooperation, by focusing on IOs as a variable and their interactions with other major actors in shaping environmental cooperation. I will present a two-fold analysis. I will first summarize various conventional understandings of the roles of IOs as proposed by previous studies, and then explore additional sources of power and roles played by IOs. This will be followed by a review of literature on states’ active utilization of environmental cooperation as an instrument to achieve non-environmental goals. Lastly, I will analyze

UNEP's positions and ASEAN's dynamics in the South China Sea, and present the hypotheses for the dissertation.

### **The Case to Revitalize the Study of IOs**

The academic popularity of studying regimes, non-state actors and other forms of institutions, including “epistemic communities”, as well as the decline of research on IOs, has been a part of the development trend of international organization as a field since the 1970s.<sup>44</sup> The autumn 1986 issue of *International Organization* included two review articles on the study and practice of IO, one by Friedrich Kratochwil and John Gerard Ruggie and a second by J. Martin Rochester. Both noted that the practice of IOs was in a sorry, even, dismal state of affairs, while the studies of international organizations had moved the focus from formal organizations to regimes and informally institutionalized institutions.

J. M. Rochester contends the fall of IO study since 1970s was due to the rise of “turbulence” politics and the broadening concept of “international organization”. Friedrich Kratochwil and John Gernard Ruggie noted that in the 1980s students of international organizations shifted their focus systematically away from international institutions, toward broader forms of international institutionalized behavior.<sup>45</sup> Scholarship on the study of IOs reached its peak in

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<sup>44</sup> IO as a field includes the study of formal IOs, institutions, international regimes and NGOs etc. For development of IO as a field, see J. Martin Rochester. 1986. “The Rise and Fall of International Organization as a Field.” *International Organization*. Vol. 40, Issue 3: 777-813. Friedrich Kratochwil and John Gerald Ruggie. 1986. “International Organization: A State of Art on An Art of State.” *International Organization*, Vol. 40, Issue 4: 753-775.

<sup>45</sup> Friedrich Kratochwil and John Gerard Ruggie. 1986. “International Organization: A State of the Art on an Art of the State.” *International Organization* Vol. 40: 753-775.

the 1950s and 1960s,<sup>46</sup> mainly focusing on IOs as a functionalist solution to global governance.<sup>47</sup> Since then, academics observe a decline of interest in IOs and an increasing interest in institutions, regimes and NGOs. By the time “international environmental policy” obtained attention from academics, which does not date back much further than the late 1960s and early 1970s,<sup>48</sup> study of international regimes had started to become a “fad” in academics.<sup>49</sup> That is the reason why international environmental cooperation has been analyzed mainly from the perspective of regime analysis.

The reasons for the rise of regime theory and decline of IO study are due to both academic considerations and the practices of IOs. In academics, Kratochwil and Edward Mansfield observe there are two reasons why interest in regimes arose while that in IOs fell.<sup>50</sup> First, earlier studies of international organizations mainly focus on IOs, a formal hierarchical organization, as a solution to informational deficiencies and other “market failures.” Regime theorists argue that it is not the formal IOs per se, but the “principles, rules and norms” which foster efficiency. For example, reassignment of property rights, provided by the UNCLOS III through the creation of the exclusive economic zone (EEZ) is probably more likely to prevent overfishing than is the creation of a supranational bureaucracy. Second,

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<sup>46</sup> Helmut Breitmeier. 1998. “International Organizations and the Implementation of Environmental Regimes.” In *Global Governance: Drawing Insights from the Environmental Experience*, eds. O. Young. Cambridge, MA: The MIT Press, p. 88.

<sup>47</sup> See Haas (1964) and Miltrany (1966) for functionalist theory of international organizations.

<sup>48</sup> Martin List and Volker Rittberger. 1998. “The Role of Intergovernmental Organizations in the Formation and Evolution of International Environmental Regimes.” In *The Politics of International Environmental Management*, eds. Arild Underdal. Boston: Kluwer Academic Publishers, p. 67.

<sup>49</sup> Susan Strange. 1983.

<sup>50</sup> Friedrich Kratochwil and Edward D. Mansfield. 1994. *International Organization: A Reader*. New York, NY: HarperCollins College Publishers.

regime theorists modified the definition of “hierarchy” by “order”. Hierarchy does not necessarily imply order because compliance is “far more complicated than is implied by the usual ‘enforcement’ argument.”<sup>51</sup> Different from an IO approach stressing actors, regime analysis touches upon the fundamental rules, norms and principles, which are both the functions of IOs and factors shaping the behavior of IOs.

In practice, some IOs’ performances have been, to some extent, disappointing. The uneven performance and predicament of international organizations has been puzzling. Strange aptly summarizes several types of IOs in their performance: “(w)hile some (IOs)<sup>52</sup> lie becalmed and inactive, like sailing ships in the doldrums, others hum with activity, are given new tasks, and are recognized as playing a vital role in the functioning of the system.”<sup>53</sup> IOs, designed to solve collective action problems, have in practice been demonstrated to be inefficient and unable to meet their creators’ expectations. They often generated unforeseen and unintended consequences that actually impeded progress toward achieving social goals.<sup>54</sup>

Current academic studies of IOs have mainly focused on the problems of IOs, researched reform paradigms, and questioned IOs’ legitimacy.<sup>55</sup> In reality,

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<sup>51</sup> Ibid. p. xiii.

<sup>52</sup> Added for the clarity.

<sup>53</sup> Strange. 1983. p. 341.

<sup>54</sup> Young. 1989.

<sup>55</sup> M. N. Barnett and M. Finnemore. 1999. “The Politics, Power and the Pathologies of International Organizations.” *International Organizations*, Vol. 53, Issue 4: 699-732. J. Coicaud and V. Heiskanen, ed. 2001. *The Legitimacy of International Organizations*. Tokyo: United Nations University Press. Paul Taylor, ed. 1993. *International Organization in the Modern World*. London: Printer Publishers.

NGOs continue to criticize the IOs as inefficient destructive bureaucratic machine with a growing depth and scale. To talk about the functions or roles of IOs in academics seems out of fashion, and in reality, is an easy way to stimulate eyebrow raising among members of “civil society”, especially those engaged in environmental politics, which is largely viewed as having its roots in grassroots movements.

It is therefore not surprising that very limited literature has been written on IOs’ roles in facilitating environmental cooperation, and even less on the various conditions under which IOs work or do not work. In the past two decades, scholars have tended to apply regime analysis to study IOs or treat IOs as a component of regimes. Currently, the study of IOs’ roles in environmental cooperation is mostly researched by examining IOs’ roles in regime formation, implementation and evolution.<sup>56</sup> Scholars have studied IOs as a solution to collective action problems, and IOs’ instrumental roles in environmental negotiation<sup>57</sup> and networking.<sup>58</sup>

The study of international regimes and other forms of institutions should not marginalize or replace research on IOs. For many scholars, international institutions and regimes are broader concepts that, in many cases, incorporate IOs. However, the attempt to cover broader concepts tends to sacrifice in-depth studies of some unique features of IOs. Rochester emphasized that regime scholars had not only neglected IOs but had, in effect, so submerged their relevance as to

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<sup>56</sup> See e.g. Martin List and Volker Rittberger. 1998. Helmut Breitmeier. 1998.

<sup>57</sup> See Edward Parson. 1993. “Protecting the Ozone Layer.” In *Institutions for the Earth: Sources of Effective International Environmental Protection*. Eds. Peter Haas, Robert O. Keohane, and Marc A. Levy. Cambridge, MA: The MIT Press.

<sup>58</sup> Haas. 1990.

minimize and even deprecate their role. He therefore recommended taking a new approach by viewing IOs as the set of instruments for making and implementing “transnational policy” or “international public policy” rather than merely as “a patterned set of international interactions.”<sup>59</sup> Echoing Rochester’s comments, Kratochwil and Ruggie also recognized that “along the way...international institutions of a formal kind have been left behind” and that “it is necessary to link up regimes in some fashion with the formal mechanisms through which real-world actors operate.”<sup>60</sup> They further commented that “the process of global governance is not coterminous with the activities of international organizations but these organizations do play some role in that broader process,” and challenged scholars of international relations with “the objective was to identify their role.”<sup>61</sup>

Two decades after the two articles crying for more studies on formal IOs and their roles in the process of international politics, little progress has been made in the study of the roles of IOs or the identification of conditions under which the roles are executed and influenced by interactions among international actors. Martha Finnemore noted in 1993 that “little attention has been paid to international organizations”<sup>62</sup> in the literature of epistemic communities, ideas, and transnational relations, and the unexplored roles of IOs in developing and spreading international norms. In the most recent review article on formal IOs in the journal *International Organization* (1999 Autumn issue), Michael N. Barnett and

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<sup>59</sup> Rochester. 1986. p. 812.

<sup>60</sup> Kratochwil and Ruggie. 1994. p. 771-772.

<sup>61</sup> Ibid. p. 758-759.

<sup>62</sup> Martha Finnemore. 1993. “International Organizations as Teachers of Norms: the United Nations Educational, Scientific, and Cultural Organization and Science Policy.” *International Organization* Vol. 47: 565-597. p. 594.

Finnemore again noticed that “(r)esearch has paid little attention to how IOs actually behave after they are created.”<sup>63</sup>

IOs deserve more attention and further studies from academics in explaining environmental cooperation. The unique features of IOs, in comparison with any other institutional forms or regime types, can be exemplified from the definitions of these concepts, which are not always obviously clear in the international relations literature. In the rest of this chapter, I will discuss the special attributes and sources of the power of IOs, review the roles of IOs that have been proposed by scholars, propose their new roles, and identify those conditions for IOs’ roles and functions.

### **IOs as Actors: Sources of Power**

While regime theorists or institutionalists rightly point out the insufficiencies in studies that treat IOs as formal structures and bureaucracies, they underemphasize the roles that IOs play in environmental cooperation beyond that which can be represented by international regimes or environmental NGOs. The regime approach is not sufficient to study IOs, which have formal, symbolic and authoritative elements. Organizations, different from institutions, are “material entities possessing physical locations (or seats), offices, personnel, equipment, and budgets.”<sup>64</sup> They generally “possess legal personality in the sense that they are authorized to enter into contracts, own property, sue and be sued, and so forth.”<sup>65</sup>

In the environmental cooperation literature, key roles of IOs in inducing states to

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<sup>63</sup> M. N. Barnett and M. Finnemore. 1999. p. 699.

<sup>64</sup> Young. 1989. p. 32.

<sup>65</sup> Ibid. p. 32.

cooperate have been largely under-explored. This includes in relation to their abilities to leverage influence across issue areas and supply cooperative mechanisms in issues other than environmental protection for use by member countries.

I assume that IOs are autonomous sites of authority, independent from the state “principals” which have created them, with power flowing from the following sources: 1) the legitimacy of the rational-legal authority they embody; 2) the independence that they represent; 3) control over knowledge, including technical expertise and information.

**Legitimization.** Evans and Wilson have rightly pointed out “the literature on international regimes overwhelmingly focuses on formally negotiated international agreements and tends to ignore the social and political processes that underpin them.”<sup>66</sup> Beyond their traditional roles as a solution to market failures, IOs, especially the UN, different from international regimes, signify a certain authority and legitimacy to the nation-states. It is the authority and legitimacy that bestow upon the UN the power to induce countries’ compliance with its rules.

International politics is not merely a struggle for power maximization but also a contest over legitimacy.<sup>67</sup> Furthermore, the power of an institution in a society is a function of the legitimacy of the institution perceived by citizens,

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<sup>66</sup> Hasenclever et al. cites the work of Evans and Wilson in the discussion of international regimes in Hasenclever, 1997, p. 169. See Tony Evans and Peter Wilson. 1992. “Regime Theory and the English School of International Relations: A Comparison.” *Millennium: Journal of International Studies* Vol. 21: p. 330.

<sup>67</sup> Inis L. Claude. 1994. “Collective Legitimization as Political Function of the United Nations.” In *International Organization: A Reader*. Ed. Friedrich Kratochwil and Edward D. Mansfield. New York, NY: HarperCollins College Publishers.

domestically, and states in the international arena.<sup>68</sup> The UN is not only an entity with legitimacy bestowed by the member states, but it is also an originator of individual states' legitimacy of their statehood and specific rights. Membership in the UN has become one of the most important criteria for being recognized as a state in the international society. New states, therefore, struggle hard to gain their seats in the UN General Assembly. For example, Taiwan's loss of its seat in representing China in the UN does not cause much loss in its material power, but it is an important symbol for the international society that Taiwan is not an internationally recognized state.

In international politics or foreign affairs, states seek to obtain consent or support from IOs as a form of legitimacy. As Claude puts it:

While states have their own ways of justifying their foreign policies to themselves and their peoples, independently of external judgments, they are well aware that such unilateral determinations do not suffice. They are keenly conscious of the need for approval by as large and impressive a body of other states as may be possible, for multilateral endorsement of their positions—in short, for collective legitimization.<sup>69</sup>

The prominence of the UN among IOs and the universal value that it claims to represent have undoubtedly put the UN in the most authoritative position for granting collective legitimization. Although the function of the UN was recognized among scholars early in the IR field, little work has been done to explore the conditions under which this power of legitimization attracts states to comply with UN rules as opposed to merely seeking memberships.

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<sup>68</sup> Ian Hurd. 2002. "Legitimacy, Power, and the Symbolic Life of the UN Security Council." In *Global Governance*, Volume 8, No. 1: 35-51.

<sup>69</sup> Ibid. p. 195.

**Independence.** Independence means the ability to act with a degree of autonomy within defined spheres. It often entails the capacity to act as a *neutral* in managing interstate disputes and conflicts. IOs' independence can be highly constrained, but an even partially autonomous and neutral actor can influence and transform direct inter-state relations, as all other state actors act out of their individual national interests.

The power of IO independence derives from the procedures to establish an IO, its structure and the universal value it claims. An IO created by inter-governmental treaties, has the character given to it by its sovereign creators and is subject to the jurisdiction of no individual members, even though they created it. The headquarters of IOs do not enjoy a separate sovereignty, but the authority of the host state is withdrawn, affording the organization a limited territorial control in its own precincts. The autonomy of IOs is further augmented through the immunities possessed by members of its secretariat.<sup>70</sup> More importantly, the power of independence derives from the universal independent value claimed by IOs, to achieve the common interest of the human kind.<sup>71</sup> For individual staff members, independence means that they fully accept and practice primary loyalty to their organization and its purposes.

The claimed independence and neutrality grant IOs and its staff additional power in mediating and negotiating multilateral cooperation, and enable them to act as a perceived "fair" mediator to broker negotiation results among countries in contested interactions, without becoming deeply entangled in inter-state political

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<sup>70</sup> Edward H. Buehrig. 1965. "The International Pattern of Authority." *World Politics* Vol. 17: 369-385. p. 380.

<sup>71</sup> See e.g. the UN Charter ([www.un.org](http://www.un.org)).

quagmire. The ideas or proposals presented by IO staff would invite more attention and less suspicion from member states than those from government delegates, because of the independence and neutrality claimed by IOs. Activities that might be unacceptable in their original state-to-state form may become acceptable when run through an independent, or seemingly independent, IO. For example, states are always more cautious in accepting direct aid from individual governments, especially a former colonial power or one seeking political influence, than from an independent financial institution such as the World Bank and the International Monetary Fund.<sup>72</sup> As Kenneth W. Abbott and Duncan Snidal assert,

IOs facilitate interstate collaboration by pushing negotiations forward... an independent IO may be more acceptable because it is neutral. For many substantive IO operations, however, it is the existence of a truly independent third party, not the absence of bias per se, that enables states to achieve their ends.<sup>73</sup>

The power of this independence is magnified when it comes to the IO specializing in some neutral technical issues, such as environment protection, education and scientific research. States tend to perceive that the IO specializing in technical areas are more genuinely neutral or independent in comparison with those dealing with sensitive value-oriented issues, such as security and human rights issues. The more states perceive that an IO and its staff act out of independence and neutrality, the more likely that it can succeed in developing and negotiating multilateral cooperation among states.

**Knowledge.** Knowledge is power. It has been well recognized by scholars that an important source of power for IOs derives from their possession of

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<sup>72</sup> Kenneth W. Abbott and Duncan Snidal. 1998. "Why States Act through Formal International Organization." *The Journal of Conflict Resolution* Vol. 42: 3-32.

<sup>73</sup> *Ibid.* p. 9.

specialized technical knowledge, training, and experience that is not immediately available to other actors.<sup>74</sup> Specialized knowledge enables IO staff to originate ideas, and propose solutions to problems for the consideration of member countries.

Less noticed by scholars is the power of IOs to empower knowledge. When knowledge meets an IO, the result can be actually mutually reinforcing. A neutral source of information was more credible and could support greater cooperation. Information created or verified by an independent, neutral and authoritative IO is perceived to be more reliable than that provided by states because it is free of national biases. Usually an IO collects and compiles data and information through its national focal points, and publishes technical or annual reports based on the data and information contained in national reports submitted by the focal points. The same sort of information or data, presented in two different forms (national reports or IOs' consolidated reports) will generate different degrees of credibility, due to IOs' supposed independence.

These three attributes of IOs, i.e. legitimization, independence and knowledge, provide a theoretical basis for treating IOs as autonomous actors in contemporary world politics, since they enable IOs to act independently from states. Ironically, much IO power derives from the appearance of being depoliticized. As Barnett and Finnemore summarize, "the power of IOs and bureaucracies generally, is that they present themselves as impersonal, technocratic, and neutral—as not exercising power but instead serving others; the

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<sup>74</sup> See Michael Foucault. 1979. *Power, Truth, Strategy*, ed. M. Morris and P. Patton. Sydney, Australia. Michael Foucault. 1980. *Power/Knowledge*. Ed. C. Gordon. Brighton: Harvester. Ernst B. Haas. 1990. *When Knowledge is Power: Three Models of Change in International Organizations*. Berkeley, CA: University of California Press.

presentation and acceptance of these claims is critical to their legitimacy and authority.”<sup>75</sup> However, IOs differ in their ability to appear impersonal, technocratic, and neutral, and the extent to which they are accepted as neutral players also differ.<sup>76</sup>

### **Roles of IOs**

I distinguish between two types of roles that IOs execute in promoting international cooperation: *instrumental* and *inductive*. First is the conventional role of IOs as collective action facilitators. This role is a passive role since states seeking to address collective action problems create IOs as facilitators for international cooperation. The instrumental roles of IOs are similar to those of international institutions and regimes which have been well theorized and documented by rational institutionalists. Second is the inductive role of IOs in teaching, persuading or luring states to cooperate. IOs play an independent role, which influences state preferences and behaviors. The inductive roles are derived from the unique organizational structures and authority embodied by IOs, which are not shared by other types of organizations, institutions and regimes.

#### ***Instrumental Roles***

*Collective Action Facilitator.* Common interests may not lead to the development of collective action. Especially where uncertainty is high and actors have no access or different levels of access to information, obstacles to collective

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<sup>75</sup> Barnett and Finnemore. 1999. p. 708.

<sup>76</sup> For example, the International Monetary Fund (IMF) has been believed by many Southeast Asian leaders as a tool for US and other western countries to expand their western way of economic development, i.e. liberalization and globalization. Antagonism against the IMF was particularly strong during the 1997-1998 financial crisis. See Anthony Milner. 2003. “Asia-Pacific Perceptions of the Financial Crisis: Lessons and Affirmations.” *Contemporary Southeast Asia*, Vol. 25, No. 2: 284-305.

action and strategic calculations may prevent them from achieving mutual interests.<sup>77</sup> Axelrod contends that iteration of games, Tit-for-Tat strategy and lengthening the shadow of the future can assist game players to overcome a Prisoner's Dilemma situation and achieve cooperation.<sup>78</sup>

IOs act as collective action facilitators in various ways. IOs increase the interactions among states and provide an arena to address different issues, therefore lengthening the shadow of the future. They provide information to relevant actors and reduce uncertainty among states, hence reducing transaction costs for cooperation. They may serve to mitigate fears of cheating through measures designed to increase the transparency of the behavior of relevant actors. They may reduce incentives to defect either by sanctioning violators or by lengthening the shadow of the future.

*Nodes of Networks.* IOs act as nodes for various transnational networks. For example, in the "epistemic community" approach, IOs provide an important arena for the activities of a transnational network of experts. Moreover, staff members of IOs may also be part of the epistemic community itself.<sup>79</sup>

### ***Inductive Roles***

*Issue Framing and Agenda Setting.* IOs frequently act as catalysts in environmental negotiations, influencing the way the issues are conceptualized or framed and propelling them toward the top of the international policy agenda.

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<sup>77</sup> Keohane. 1984. p. 12.

<sup>78</sup> Axelrod. 1985.

<sup>79</sup> Haas. 1990.

More than an arena for agenda setting and negotiation process,<sup>80</sup> Breitmeier contends that IOs are very influential in improving the cognitive setting of an issue area and in bringing to the international level any information gathered at the national level about the causes and consequences of a problem.<sup>81</sup> The influence or power of an IO derives from countries' perceptions of it as an authoritative institution that possesses important knowledge.

*Normative Functions and Teaching Norm.* In investigating the driving forces behind the establishment of state bureaucracies for scientific research coordination, Finnemore contends that it was the United Nations Educational, Scientific, and Cultural Organization (UNESCO) that “taught” states the value and utility of science policy organizations.<sup>82</sup> Hence, the creation of state apparatuses to coordinate scientific research is the result of the “teaching” mission of UNESCO. Accordingly, the teaching mission was a reflection of a new norm elaborated within the international community, which held that coordination and direction of science are necessary tasks of the modern state and that a science policy bureaucracy having certain well-specified characteristics was the appropriate means to fulfill those tasks.<sup>83</sup> The approach lends support to constructivist or reflective theoretical approaches that treat states as social entities, shaped in part by international social action.

*Mediator.* Mediation is defined by Cormick as:

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<sup>80</sup> Earnst Haas. 1964. *Beyond the Nation-State: Functionalism and International Organization*. Stanford: Stanford University Press.

<sup>81</sup> Breitmeier. 1997. p. 94.

<sup>82</sup> Martha Finnemore. 1993. p. 566.

<sup>83</sup> Ibid.

A voluntary process in which those involved in a dispute jointly explore and reconcile their differences. The mediator has no authority to impose a settlement. His or her strength lies in the ability to assist the disputants in resolving their own differences. The mediated dispute is settled when the disputants themselves reach what they consider a workable solution.<sup>84</sup>

The study of mediation and the roles of mediators is no stranger to scholars of international relations.<sup>85</sup> Studies of international mediation have traditionally focused on the effectiveness of international efforts to settle or resolve militarized conflicts. Few studies examine the identity of mediators and factors determining the choice of mediators.<sup>86</sup>

The most important attribute of a successful mediator that has been traditionally identified by international relations scholars is even-handedness, or neutrality. Young claims “a high score in such areas as impartiality would seem to be at the heart of successful interventions in many situations.”<sup>87</sup> His views are well accepted and shared among scholars. Scholars emphasize the importance of neutrality in the selection and acceptability of mediators, and believe that parties will have confidence in a mediator only if he/she is, and is perceived as, neutral.<sup>88</sup>

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<sup>84</sup> G. W. Cormick. 1980. “The Theory and Practice of Environmental Mediation.” *Environmental Professional* 2 (1): 24-33.

<sup>85</sup> See e.g. J. Michael Greig. 2001. “Moments of Opportunity: Recognizing Conditions of Ripeness for International Mediation between Enduring Rivals.” *The Journal of Conflict Resolution* Vol. 45: 691-718. Jacob Bercovitch and Allison Houston. 2000. “Why Do They Do It like This? An Analysis of the Factors Influencing Mediation Behavior in International Conflicts.” *The Journal of Conflict Resolution* Vol. 44: 170-202. Andrew Kydd. 2003. “Which Side Are You On? Bias, Credibility, and Mediation.” *American Journal of Political Science* Vol. 47: 597-661. John S. Dryzek and Susan Huanter. 1987. “Environmental Mediation for International Problems.” *International Studies Quarterly* Vol. 31: 87-102.

<sup>86</sup> This was pointed out by Jacob Bercovitch and Gerald Schneider. 2000. “Who Mediates? The Political Economy of International Conflict Management.” *Journal of Peace Research* Vol. 37: 145-165.

<sup>87</sup> Oran R. Young. 1967. *Intermediaries: Third Parties in International Crises*. Princeton, NJ: Princeton University Press. p. 81.

<sup>88</sup> See e.g. Bercovitch and Schneider. 2000. James. D. D. Smith. 1994. “Mediator Impartiality: Banishing the Chimera.” *Journal of Peace Research* Vol. 31: 445-450. Thomas Princen. 1992.

An IO that claims to be neutral and independent, and operates with the view of achieving the common interests of human kind, is an ideal candidate to be a mediator in facilitating international negotiations among disputing parties.

Scholars have recently noticed that an important factor in selecting a mediator is that the selected mediator be seen as capable of promoting an agreement through the use of leverage, power potential, and influence.<sup>89</sup> To exercise influence and structure the interactions between parties, mediators need “leverage”, a wide array of means, and resources, which enhance their ability to achieve a favorable outcome.<sup>90</sup> The sources of power discussed in the previous part equip IOs with the necessary means and resources required to act as successful mediators.

### **Mechanisms to Power**

How, when and under what conditions can IOs’ power be transformed into the roles executed by IOs, resulting in real actions to achieve environmental cooperation? I have identified three mechanisms through which an IO can leverage its power and influence state behaviors and execute the roles outlined in the previous section: 1) *identity politics*. When states seek to build or consolidate their identities through participation in activities under the framework of an IO, the power of the IO tends to be realized or achieved. 2) *domestic politics*. When states are struggling with various policy priorities at the domestic level, and with

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*Intermediaries in International Conflict*. Princeton, NJ: Princeton University Press. Sanda Kaufman and George T. Duncan. 1992. “A Formal Framework for Mediator Mechanisms and Mediations.” *Journal of Conflict Resolution* 36 (4): 688-708. E. Jackson. 1952. *Meeting of Minds*. New York: McGraw-Hill.

<sup>89</sup> See Patrick M. Regan. 1996. “Conditions of Successful Third Party Intervention in Intrastate Conflicts.” *Journal of Conflict Resolution* 40 (3): 336-359.

<sup>90</sup> Bercovitch and Schneider. 2000.

fragmented political factions in support of individual policy priorities, IOs can ally with some domestic pro-cooperation factions to leverage influence on government decision-making. 3) *linkage politics*. IOs tend to have more influences on state behaviors and policies when IOs are an arena for multiple issues of concern to states. IOs can augment their power by linking issues and areas in dealing with states at both domestic and international levels.

***Identity Politics.*** Identities perform the following functions in a society: they tell you and others who you are, and they tell you who others are. The identity of a state implies its preferences and consequent actions. A state understands others according to the identity it attributes to them, while simultaneously reproducing its own identity through daily social practices. Identities ensure at least some minimal level of predictability and order. Durable expectations between states require inter-subjective identities that are sufficiently stable to ensure predictable patterns of behaviors.<sup>91</sup> For example, China's identity as a "regional power" in the South China Sea entails its hard-line policies and tendency to dominate regional political struggles. On the other hand, China as a "third-world" country implies certain weak economic relationships with the developed countries. A common identity, i.e. a sense of shared cultural "we-ness" among ASEAN countries, may define individual national interests shaping foreign policies towards "other-ness".

When states seek to reproduce or transform their identities through interactions with other, IOs tend to have power in constituting state identities through the interactions, hence shaping national interests and influencing state

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<sup>91</sup> Ted Hopf. 1998. "The Promise of Constructivism in International Relations Theory." *International Security* Vol. 23: 171-200.

behaviors and policies. Some aspects of states' identities must be reproduced through social practices within IOs, for example the definition of a "state" or execution of "statehood." In exploring why states comply with treaties, Abram Chayes and Antonia Handler Chayes argue that the fundamental reason for routine treaty compliance is the change of the inter-subjective understanding of "sovereignty", which "no longer consists in the freedom of states to act independently, in their perceived self-interest, but in membership in reasonably good standing in the regimes that make up the substance of international life."<sup>92</sup> They argue that states comply with international regulatory agreements simply because they behave as new sovereign states. They further assert:

In today's setting, the only way most states can realize and express their sovereignty is through participation in the various regimes that regulate and order the international system. Isolation from the pervasive and rich international context means that the state's potential for economic growth and political influence will not be realized.<sup>93</sup>

***Domestic Politics.*** International relations are always linked with domestic politics. Robert D. Putnam characterizes international negotiations as a two-level game.<sup>94</sup> At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies to specific groups, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments.

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<sup>92</sup> Abram Chayes and Antonia Handler Chayes. 1995. *The New Sovereignty: Compliance with International Regulatory Agreements*. Cambridge, MA: Harvard University Press. p. 27.

<sup>93</sup> Ibid. p. 27.

<sup>94</sup> See Robert D. Putnam. 1988. "Diplomacy and Domestic Politics: The Logic of Two-level Games." *International Organization* Vol. 42: 427-460.

An international environmental cooperation initiative will trigger different responses or reactions from various government agencies or institutions, producing bureaucratic and interest group splits. IOs can influence government decisions, state behaviors or policies towards cooperation by allying with domestic factions supporting international environmental cooperation, which may include line government agencies, non-governmental organizations or private sectors. IOs can affect state behaviors by creating new constituencies or shifting the balance among factions or subgroups vying for influence.<sup>95</sup>

How can IOs help or empower domestic pro-cooperation factions in gaining political leverage in domestic politics? A recent empirical study by Xinyuan Dai on why states comply with treaties may provide some food for thought in exploring IO influences on domestic politics. Dai contends that domestic politics provides a mechanism of compliance; specifically a government's compliance decision reflects the electoral leverage and the informational status of domestic constituencies. He argues that compliance decisions bias toward large interest groups that have significant electoral influence, and those special interest groups that are much better informed about the policy process.<sup>96</sup>

Following this line of reasoning, I have identified two channels through which IOs can influence and empower domestic pro-cooperation allies: 1) IO authority and legitimacy. In domestic politics, pro-cooperation fractions can use an IO to justify their arguments for international cooperation in domestic struggles,

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<sup>95</sup> Regime theory argues that regimes can have similar roles of internal realignment. See e.g. Oran Young. 1999.

<sup>96</sup> See Xinyuan Dai. 2005. "Why Comply? The Domestic Constituency Mechanism." *International Organization* 59: 363-398.

and to solicit more interest and partners at the domestic level. 2) Information empowering. An IO can empower its domestic allies by providing information and knowledge for domestic negotiation and competition.

***Linkage Politics.*** International regimes concern the delineation of a domain or activity. Regimes are usually constructed to solve problems occurring in an *issue area*. This approach has largely ignored the linkage politics among different issues and power or influence that can be leveraged by formal IOs across issue areas. As Hasenclever *et al.* argue, the sphere of activity of an IO need not be restricted to a particular issue-area of international relations, whereas regimes are issue-specific institutions.<sup>97</sup>

Transboundary environmental problems are not purely environmental problems. They are economic, political and cultural problems as well. Economically, environmental degradation can cause tremendous direct or indirect economic losses. For example, it has been estimated that the environmental stresses resulting from rapid economic development has caused productivity losses and require public health expenditures that together cost the Asia Pacific countries between three and eight percent of GDP.<sup>98</sup>

Issue linkage provides IOs a mechanism to leverage influence at both domestic and international levels. At the domestic level, an IO can increase the number of people or interest groups in supporting environmental cooperation by linking environmental problems with economic development, agriculture, public health, and tourism, and informing stakeholders of these various sectors regarding possible negative impacts caused by environmental degradation. At the

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<sup>97</sup> Hasenclever. 1997. p. 11.

<sup>98</sup> Dua and Esty. 1997. p. 1.

international level, an IO can be an arena for multiple issue areas, in which states have to deal with their counterparts. States' decisions on one issue area are closely linked to, and influence their decisions in other issue areas. In the South China Sea where multiple issues overlap and interact, an IO on the one hand is constrained by states' consideration of other issues, on the other, has more space to leverage influence by linking issues or areas. In short, the study of environmental cooperation must be based on a larger geopolitical context rather than focus purely on environmental protection activities.

### **States' Reactions: Environmental Cooperation as an Instrument of Diplomatic Goals**

When discussing the interactions between IOs and states, especially developing countries, many scholars treat developing countries as passive recipients of financial and technical assistance, knowledge, ideas or norms.<sup>99</sup> I contend that states, rather than being passive recipients, not only treat environmental cooperation as an opportunity to address the "collective action problems" for the good of environmental protection, but also actively seek to use international environmental cooperation for other purposes beyond environmental protection. The latter case would be more prominent when environmental cooperation occurs between countries with other sensitive, salient issues requiring intergovernmental actions, such as territorial disputes or economic cooperation.

Institutionalist theory has been rightly criticized for paying insufficient attention to issues of power and distribution in international politics. I draw upon realist considerations to supplement my institutionalist approach in this regard. I

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<sup>99</sup> See Hass. 1990. Finnemore. 1993. Finnemore. 1996.

integrate the realist assumption about states' desire to pursue power; hence, I contend that environmental cooperation should not be treated as a purely environmental issue, exempt from power struggles. When considering whether or not to develop environmental cooperation with their neighboring countries, states' considerations are not constrained within environmental fields, but encompass other foreign affairs aspirations, including security, trade, economy and cultural considerations. Hence, analyzing the motivations for states to participate in environmental cooperation should be embedded in a larger political context. An appropriate question to start with is what utilities or benefits, other than environmental gains, states will get by participating in environmental cooperation.

Recent works on environmental cooperation have shed some light on instrumental utilities obtained by countries participating in environmental cooperation.<sup>100</sup> In studying the Soviet Union and its successor states' motivational incentives behind East-West environmental cooperation (mostly in the form of environmental aid from the West), Darst finds "the USSR and the newly independent states were rarely motivated to participate in international environmental cooperation by genuine concern about the domestic impact of externally generated pollution."<sup>101</sup> The Soviet Union and its successors instrumentally manipulated external environmental concerns in order to advance other goals, including the mitigation of East-West hostility, economic

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<sup>100</sup> See e.g. Robert G. Darst. 2001. *Smokestack Diplomacy: Cooperation and Conflict in East-West Environmental Politics*. Cambridge, MA: MIT Press. Erika Weinthal. 2002. *State Making and Environmental Cooperation*. Cambridge: MIT Press. Phyllis Mofson. 1997. "Zimbabwe and CITES: Illustrating the Reciprocal Relationship between the State and the International Regime." In *The Internationalization of Environmental Protection*. Eds. Miranda Schreurs and Elizabeth Economy. Cambridge, UK: Cambridge University Press.

<sup>101</sup> Darst. 2001. p. 3.

development, and the amelioration of their own self-inflicted environmental problems.<sup>102</sup>

In explaining environmental cooperation in the Aral Sea Basin after the collapse of the Soviet Union, Weinthal integrates both domestic and international processes of institution building to explain regional environmental cooperation in the Aral Sea Basin.<sup>103</sup> Weinthal's approach identifies IOs, bilateral aid organizations, and NGOs as the primary actors in inducing Central Asian States to participate in environmental cooperation. New leaders of these governments also seek to participate in international negotiations and to join in IOs as a means to consolidate their domestic power base and to gain legitimacy both at home and abroad.<sup>104</sup> She argues that the motivation for the newly independent Central Asian states to participate in Aral Basin cooperation lies beyond the desire for an international agreement on water sharing, but also the need to solicit international funding to "conduct" state making, by compensating key domestic constituencies that could undermine an agreement or threaten the government's hold on political and social stability.<sup>105</sup>

Weinthal's framework is, to some extent, parallel to Darst's research in that both contend that the motives of states participating in environmental cooperation lie in non-environmental considerations. The non-environmental benefits, which I will call the "political utility" of environmental cooperation, that motivate countries to participate in international cooperation, depend largely on domestic

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<sup>102</sup> Ibid.

<sup>103</sup> Weinthal. 2002.

<sup>104</sup> Ibid. p. 54.

<sup>105</sup> Ibid. p. 10.

politics and national policy considerations. The “political utility” is a function of domestic politics, linkage politics and inter-state relationships, hence varies across countries and regions, and over time.

Building on the empirical studies of Darst and Weinthal, I will explore the “political utility” exploited by states in participating environmental cooperation in the South China Sea. However, different from the approaches of Darst and Weinthal, I will further investigate how IOs, intentionally or unintentionally, contribute to the generation of such “political utility” in environmental cooperation.

### **UNEP in the South China Sea Regional Setting**

UNEP was established by the General Assembly in 1972 following the Stockholm Conference. It was designed to coordinate the environment-related activities of other UN agencies and to spur them to integrate environmental considerations into their activities. Actually the power of UNEP, deriving from administrative or financial resources, is relatively small, in comparison other UN agencies or programmes, with limited budget and about 200 professional officers working around the world. The power of UNEP derives not only from legitimacy, independence and knowledge outlined in the previous discussion of this chapter, but also some unique characteristics of UNEP, including its headquarter location, small-size, pro-developing countries and scientific focus.

Head-quartered in Nairobi, UNEP was the first UN program to be located in a developing country.<sup>106</sup> Its location helped to dispel some of the misgivings

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<sup>106</sup> Currently only two UN programs' headquarters are located in a developing country: UNEP and the United Nations Human Settlements Programme (UN-HABITAT).

about the program expressed by developing countries at the Stockholm Conference.<sup>107</sup> In the past three decades, UNEP has successfully built a pro-developing countries scientific and technical image with a goal to promote environmental protection. Unlike the large Breton Woods system, the Asian Development Bank, and UNDP which tend to impose non-environmental conditions on environmental projects or assistance, UNEP's small size and non-conditional environmental assistance helps UNEP to gain confidence and trust from developing countries, contributing to UNEP's ability to draw developing countries in disputes into a negotiation table.

UNEP's power is augmented when it acts at the regional level. First, Acting at the regional level, UNEP is a globally established organization with globally agreed rules and procedures that member countries in the region cannot change to fit regional requirements. When facing conflicts at the operational level, UNEP can resort to higher authority in Nairobi (UNEP headquarter), the Global Environment Facility in Washington DC, or even UN by simply stating that "the UNEP or GEF rules say..." or "according to the UN rules." Second, the UN is generally more respected in East Asia, in comparison with Europe and North America.<sup>108</sup> Third, none of the countries bordering the South China Sea use English as a native language, hence they are all equally at a disadvantage.<sup>109</sup>

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<sup>107</sup> Peter Haas. 1994. "United Nations Environment Programme." *Environment*, Vol. 36, Issue 7: 43-45.

<sup>108</sup> Interview with international civil servants working in New York, Geneva and Bangkok. UN staff considered that their professions are most respected in Bangkok, followed by Geneva, and least respected in New York.

<sup>109</sup> The Philippines uses English as an official language, therefore the Philippines can formulate better written proposals for funding. Singapore also uses English as an official language, but Singapore has no territorial claim to the South China Sea, hence has no direct stakes in the South China Sea.

Government officials sent to regional meetings and negotiations have less proficiency in English than UNEP staff, but they have to express their ideas in English. UNEP staff possesses the power that comes from having a language advantage, because they are generally better equipped with English language skills than government delegates. This has put UNEP in a powerful position in regional negotiation tables, and enabled UNEP to broker negotiations more easily than might have been the case amongst a group of English-speaking countries.<sup>110</sup>

### **ASEAN as a Unit of Analysis**

ASEAN countries are treated as a unit in dealing with China in this dissertation. Although countries in ASEAN are very different and also have conflicts and differences between themselves, major ASEAN countries share a common attitude of preferring a multilateral approach towards China in the South China Sea.<sup>111</sup> Furthermore, ASEAN countries had more than 15 years' experience of cooperation with each other before China joined the East Asian Seas Action Plan. I realize the weaknesses of treating ASEAN as a unit due to the difficulties and conflicts among the members within ASEAN, so I complement this approach by unpacking ASEAN in its early stage of development, during the early initiation and development of the East Asian Seas Action Plan.

ASEAN was established by the five founding members, with a vision to safeguarding their newly gained independence and sovereignty, and preventing any

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<sup>110</sup> Language sometimes becomes an obstacle to cooperation due to different understanding of the same English words. For example, some practitioners believe the reason why it is difficult to negotiate a legally binding agreement, is that in Chinese, "agreement" usually entails legally binding obligations in any form.

<sup>111</sup> Scholars have used ASEAN as unit of analysis when studying China-Southeast Asia relations. See works of Lee Lai To (1999) and Leo Suryadinata (1985).

external powers' intervening in domestic politics. The Bangkok Declaration that established ASEAN proclaimed the founding members' determination "to ensure their stability and security from external interference in any form or manifestation in order to preserve their national identities in accordance with the ideals and aspirations of their peoples."<sup>112</sup> "Non-interference in the internal affairs of one another" is one of the principles explicitly underlying ASEAN's 1976 Treaty of Amity and Cooperation (TAC) in Southeast Asia, as it was in the 1971 declaration on Southeast Asia as a Zone of Peace, Freedom and Neutrality, another of ASEAN's milestone documents. Article 2 of the TAC enshrined a number of principles governing ASEAN states, among which are: mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations; the right of every state to lead its national existence free from external interference, subversion or coercion; and non-interference in the internal affairs of another.

Over the past few decades since its establishment, the ASEAN countries have developed a unique set of diplomatic norms and a culture, emphasizing an informal and incremental approach to cooperation through consultation and dialogue, while limiting to a minimum, the institutionalization of the Association. This is generally referred to as the "ASEAN Way." Many scholars have discussed the elements of the "ASEAN way" and its' importance to the success of ASEAN as a regional organization.<sup>113</sup> Despite minor differences in interpretation, the

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<sup>112</sup> Bangkok Declaration. 1967.

<sup>113</sup> See e.g. Hiro Katsumata. 2003. "Reconstruction of Diplomatic Norms in Southeast Asia: the Case of Strict Adherence to the 'ASEAN Way'". *Contemporary Southeast Asia*, Vol. 25, No. 1, April 2003: 104 – 121. David Capie and Paul Evans. 2002. *The Asia-Pacific Security Lexicon*. Singapore: Institute of Southeast Asian Studies. Robin Ramcharan. 2000. "ASEAN and Non-interference: a Principle Maintained." *Contemporary Southeast Asia*, Vol. 22, No. 1, April 2000:

“ASEAN Way” is taken to refer to a series of behavioral and procedural norms shared by ASEAN member countries in practicing diplomacy. The former centers on the principle of “non-interference of internal affairs” and contains standard norms of international law: respect for sovereignty and non-interference in internal affairs, peaceful resolution of conflicts and non-use of force. The procedural norms characterizing the decision-making process are the observance of the Indonesian-Malay practice of *musyawarah* (consultation) and *mufakat* (consensus).<sup>114</sup>

The respect for non-interference in each other’s affairs has been a cardinal principle and characteristic of ASEAN concord since its creation. Non-interference stems from the traditional notions in international relations of equality of the sovereignty of states (from diminutive Singapore to mammoth Indonesia) and the consequent right to exclusive sovereignty.<sup>115</sup> Some politicians or scholars attributed the “ASEAN Way” to the Asian cultural preference for informality and non-confrontational practices. Singapore’s Ambassador-at-large Tommy T. B. Koh explained, “the Asian preference, unlike the Western preference, is to take a very non-legalistic approach to things. We take actions step by step and allow things to evolve, rather than sit down and say, *a priori*, we want to create an institution.”<sup>116</sup>

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60 – 87. Tobias Ingo Nischalke. 2000. “Insights from ASEAN’s Foreign Policy Co-operation: the ‘ASEAN Way’, a Real Spirit or a Phantom?” *Contemporary Southeast Asia*, Vol. 22, No.1, April 2001: 89-112.

<sup>114</sup> Hussin Mutalib. 1997. “At Thirty, ASEAN Looks to Challenges in the New Millennium.” *Contemporary Southeast Asia*, Vol. 19, No. 1: 74-85.

<sup>115</sup> Robin Ramcharan. 2000.

<sup>116</sup> Steven Holmes. 1993. “US Seeking New Asian Trade and Security Links.” *New York Times*, 17 August 1993.

Considering the long history of colonization and external powers' involvement, it is not difficult to understand why ASEAN, as a regional organization formed of developing countries, would so jealously defend their own sovereignty and absolute right to deal with internal politics. ASEAN respects individual countries' decisions, and hence takes collective decisions based on consensus; consequently it takes an extraordinarily long time to develop any legally binding agreement. The organization itself was established by the non-legally binding Bangkok Declaration in 1967 and it was almost ten years before the member countries managed to sign the first legally binding treaty, i.e. the 1976 TAC.

### **An Interactive Triangular Model**

An interactive triangular model between UNEP, a regional organization (ASEAN) and a regional power (China) will be used to explain the development and evolution of environmental cooperation in the South China Sea. I propose it is the interactions between the major actors motivated by different interests and goals and shaped by different strategies of actors (organizational or national) that have led up to the regional environmental cooperation in this current forms.

My dependent variable is the development and evolution of multilateral environmental cooperation in the South China Sea. The dependent variable has been examined and measured by the changing characteristics of environmental cooperation over time. These characteristics include: geographical coverage, format, area of cooperation, priority issue setting, approach, legal status and nature of the cooperation. My independent variables are the UNEP powers and its

interactions with China and ASEAN and the political dynamics between China and ASEAN.

During my research, I ask myself questions regarding the interests and power sources of major actors to explore what motivates countries to participate in regional environmental cooperation. What are the major sources of power for UNEP to play as an independent actor? What are the political, economic and environmental forces operating in the region? Whose interests would be served or threatened by the environmental cooperation? What are the environmental and non-environmental benefits countries can reap from environmental cooperation initiatives?

### **Hypotheses**

My hypotheses can be categorized into two groups. The first group is about the multiple roles played by UNEP in fostering and forging environmental cooperation. The second group is about ASEAN and China's reactions to UNEP's initiatives, and their influences on the form and nature of environmental cooperation.

#### ***Group 1 Hypotheses: UNEP's Multiple Roles***

I hypothesize UNEP plays an independent role in facilitating and forging environmental cooperation, and that UNEP's roles are multiple and evolving, including its conventional (instrumental) roles and proactive (inductive) roles. The conventional roles make UNEP an instrument to address collective action problems, by providing technical, scientific and financial assistances to overcome the barriers to collective action. The proactive roles of UNEP make it a political player, by acting as a persuader, mediator and teacher.

*Hypothesis 1.1. IOs can catalyze environmental cooperation in an instrumental manner in regions that lack regional institutions and domestic capacities, by providing financial resources and technical assistance.*

In a region which does not have adequate scientific and technical capacity and lacks cooperation experience, UNEP can play a catalytic role in facilitating environmental cooperation by providing various resources. In such a case, environmental cooperation tends to take the form of scientific research that is focused on a specific area the determination of which is influenced by global considerations due to UNEP's influence and priorities.

*Hypothesis 1.2. IOs also can catalyze/deepen cooperation by wielding their power of legitimacy, independence and knowledge in an inductive manner. This is done through identity, domestic, and linkage politics.*

In a region where territorial disputes are numerous, and countries are jealously guarding their rights of sovereignty, the more legitimate, knowledgeable and independent an IO can present itself as to the countries concerned, the more power it can leverage to broker a cooperative multilateral environmental outcome.

When states seek to build or consolidate their identities through their participation in an IO's activities, the IO's power is enhanced strengthening its potential to forge multilateral cooperation among the countries concerned. This is closely related to hypothesis 2.1.

IOs' influence on governments' decisions to participate in multilateral cooperation can be channeled through their domestic pro-cooperation alliances. The more equally domestic politics are split on environmental cooperation, the more critical IOs' roles will be.

The complexity of political, economic and environmental situation sometimes is an obstacle to successful cooperation, but also provides various mechanisms for UNEP to leverage its negotiation power. The fact that the UN is a forum where multiple issues meet provides UNEP with a source of power beyond the individual UN specialized agency.

### ***Group 2 Hypotheses on Reactions of ASEAN and China***

Environmental cooperation in the region was originally initiated by UNEP, but ASEAN and China do not act as passive recipients to the initiative. I hypothesize that they actively seek opportunities to maximize the political utilities of environmental cooperation, and that their preferences and behaviors have direct impacts on the nature and form of environmental cooperation in the South China Sea.

*Hypothesis 2.1. ASEAN used UNEP sponsored environmental cooperation as an instrument to achieve its own political utilities: 1) to promote environmental cooperation in ASEAN, and consolidate ASEAN identity through its participation in UNEP initiatives; 2) to engage China and lock it in a multilateral framework.*

Before 1990, ASEAN environmental cooperation was largely financed by UNEP. The earliest ASEAN environmental meetings, the ASEAN Environmental Declarations issued after the meetings, are based on the meeting results of COBSEA. Participants of the COBSEA convened their ASEAN environmental expert meetings the day following the COBSEA meeting in the same city. The results of COBSEA meetings provide direct inputs to ASEAN environmental cooperation. UNEP environmental aid finances ASEAN environmental consensus and ASEAN consolidation.

ASEAN also used environmental cooperation as a forum to engage and build confidence with China. It was believed that engaging China in a multilateral arrangement would “lock China into a network of constraining multilateral arrangements”<sup>117</sup>, which would serve as a soft constraining power against any possible aggressive actions of China.

*Hypothesis 2.2. China’s domestic politics is split between anti or pro-cooperation, and China’s desire to build confidence with ASEAN countries for economic and security considerations contributes to the strengthening of the domestic support for its participation and strong support for environmental cooperation under the framework of UNEP.*

Although China has taken an assertive position towards its sovereignty over the South China Sea, its overriding diplomatic goal is to build mutually beneficial relationships with Southeast Asia and create a peaceful and stable environment for its continuing economic development. Once having joined in the environmental cooperative initiative in the South China Sea, China has worked hard to present itself as a willing cooperator, and has taken an active leadership role in implementing the activities.

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<sup>117</sup> Michael Leifer. 1996. “Truth about the Balance of Power” in the *Evolving Pacific Power Structure*, edited by Derek Da Cunha. Singapore: Institute of Southeast Asian Studies. p. 51.

### CHAPTER 3

#### **TURBULENCE IN THE SOUTH CHINA SEA: TERRITORIAL DISPUTES, ECONOMIC DEVELOPMENT, AND ENVIRONMENTAL DEGRADATION**

The South China Sea is one of the most dynamic, volatile and controversial regions in the world with multiple issues interacting, i.e. fast economic development, overlapping territorial disputes and serious environmental degradation. It is a sea in a flux of hope, prosperity, uncertainties as well as dangers. For quite a while, East Asia was regarded as a model for economic development in developing countries. It is surrounded by the fastest developing economies, having directly contributed to the creation of “the miracle of East Asia.”<sup>1</sup> Three out of the “four dragons” are bordering the South China Sea: Taiwan, Hong Kong and Singapore.<sup>2</sup> The rest of the countries bordering the South China Sea have also achieved impressive economic development. Despite the 1997-1998 financial crisis, the region continues to show prosperity and serves as a model to other developing countries.

The prosperity of the region is however not completely secured: it is considered the most troubled water in the world due to the frequent skirmishes involving fisheries and oil exploration activities. Countries bordering the South China Sea have competitive claims to the Sea, and its resources, including oil and marine living resources. The marine environment has experienced serious degradation. Moreover, numerous conflicts and skirmishes have taken place among the littoral countries in the past two decades and these pose a threat to

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<sup>1</sup> The World Bank. 1993. *The East Asian Miracle: Economic Growth and Public Policy*. New York: Oxford University Press.

<sup>2</sup> The other dragon South Korea is also closely related to the bordering countries of the South China Sea, and largely depends on oil and gas passing through the South China Sea.

regional stability and the security essential to the long-term prosperity of the region.

Fast economic development has led to increasing demands for resources, including oil and fisheries, by countries bordering the sea. The increasing demand for resources in the South China Sea makes countries jealously guard their rights over the disputed sea areas. Technological advancement has made it possible for fishermen to fish further and further away from their national coastlines, resulting in closer contacts between fishermen from different claimant countries. As Thomas Homer-Dixon argues, if environmental problems are not taken care of, they can lead to conflicts in a not so controversial region.<sup>3</sup> What will be the impacts of fierce competition for resources on the spiraling of conflicts? Will marine environmental degradation, especially the overexploitation of fisheries resources, aggravate existing conflicts or even induce new conflicts between or among countries?

Economic development and technological advancement has led to marine environmental degradation and overexploitation of resources in the South China Sea. This will increase the possibilities of disputes and conflicts among the countries bordering the Sea. Unclear ownership of the resources poses an intimidating challenge to the management of common resources.<sup>4</sup> Over-fishing in

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<sup>3</sup> See Thomas F. Homer-Dixon. 1991. "On the Threshold: Environmental Changes as Causes of Acute Conflict." *International Security* 16: 76-116. Thomas F. Homer-Dixon. 1994. "Environmental Scarcities and Violent Conflict: Evidence from Cases." *International Security* 19: 5-40. Thomas Homer-Dixon. 1999. *Environment, Scarcity, and Violence*. Princeton: Princeton University Press.

<sup>4</sup> Neoclassical economists believe that environmental degradation can be attributed to a lack of clear property rights. See Ronald H. Coase. 1960. "The Problem of Social Cost." *Journal of Law and Economics* 3: 1-44. In fact, Demsetz argues that if property rights over all environmental resources were clearly defined and enforced, and if the transaction costs involved in buying them were low, then a free market for environmental resource would lead to internalization of environmental harms,

the area cannot be solved without cooperation among the littoral countries, and the trend will continue when a country's fishermen compete with others' for the undefined ownership of the limited fishery resources. Without coordinated actions or interventions from the littoral countries of the sea, territorial disputes and environmental degradation could form a vicious circle, in which they mutually reinforce one another and economic development and technological advancement further aggravate this relationship.

This chapter sketches the geopolitical setting and difficulties for multilateral cooperation in the region. It will survey the significance of the South China Sea in terms of its strategic location, oil resources, and marine biological diversity. It will review different countries' competing claims to the same sea area, territorial disputes among the countries, and marine environmental degradation in the region; and analyze the relationships among these various issues. It will contend that environmental degradation may worsen the already contentious and volatile situation in the South China Sea due to countries' increased competition for oil resources and fishery resources driven by the undefined ownership of these resources and the need to sustain economic growth. Environmental cooperation is highly important not only in protecting and maintaining marine biological diversity, but also in achieving regional security in the highly volatile area.

### **Strategic Importance of the South China Sea**

The South China Sea was named after its location, which means the sea to the south of China. More specifically, it refers to the sea area south of Hainan

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welfare-maximizing and fair outcomes. See Harold Demsetz. 1967. "Toward a Theory of Property Rights." *American Economic Review* 57: 347-59.

Island. It is bordered by China to the North, Philippines to the East, Vietnam, Cambodia, Thailand and Singapore to the West, Malaysia, Indonesia and Brunei to the South.

It is still not known how many islets, rocks or features exist in the South China Sea. The US Energy Information Administration (EIA) estimated there are more than 200 small islands, rocks and features existing in the area with most of them in the Spratly and Paracel island chains.<sup>5</sup> Mark J. Valencia et al. compiled the data from past literature and estimated there are 80-90 distinctive features in the Spratly area, among which only 25-35 are above water at high tide.<sup>6</sup> The largest islet, Itu Aba, is 0.43 km<sup>2</sup> in area, currently being occupied by Republic of China (Taiwan). Spratly Island, with a total area of 0.15 km<sup>2</sup>, is currently occupied by Vietnam. Only five other islets are larger than 0.1 km<sup>2</sup>, i.e. Thi Tu Island, West York Island, Northeast Cay, Southwest Cay and Sand Cay.<sup>7</sup> Most of the other islands are “partially submerged islets, rocks, and reefs that are little more than shipping hazards not suitable for habitation.”<sup>8</sup>

Currently, China (including Taiwan), Vietnam, Philippines, Indonesia, Malaysia and Brunei claim all or part of the South China Sea. It remains one of the most dangerous waters in the globe. Why are these countries so keenly interested in an area which could be seen as being “little more than shipping hazard” and jealously defensive of their rights over the waters?

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<sup>5</sup> US Energy Information Administration (EIA) (<http://www.eia.doe.gov/emeu/cabs/schina.html>. Accessed on 27 March 2004).

<sup>6</sup> Mark J. Valencia. 1997. *Sharing the Resources of the South China Sea*. Honolulu: University of Hawaii Press. p. 41.

<sup>7</sup> Ibid. p. 43.

<sup>8</sup> US EIA (<http://www.eia.doe.gov/emeu/cabs/schina.html>. Accessed on 27 March 2004).

***Oil and Gas Potential.*** Beyond other strategic considerations, what makes the South China Sea important today is the potential for significant deposits of oil, gas and minerals located on and under the surrounding seabeds. The offshore geology of the South China Sea indicates that a number of areas are likely to be endowed with hydrocarbon resources. Oil deposits have been found in most of the littoral (adjacent) countries of the South China Sea. The South China Sea region has proven oil reserves estimated at about 7.0 billion barrels, and oil production in the region is currently around 2.5 million barrels per day.<sup>9</sup> Table 3.1 summarises the potential oil and gas reserves in the South China Sea, in comparison with other regions.

**Table 3.1. Oil and Gas in the South China Sea - Comparison with other Regions, September 2003**

	<b>Proven Oil Reserves (Billion Barrels)</b>	<b>Proven Gas Reserves (Trillion Cubic Feet)</b>	<b>Oil Production (Million Barrels/Day)</b>	<b>Gas Production (Trillion cubic Feet/Year)</b>
<b>Caspian Sea Region</b>	17.2-32.8	232	1.6	4.5
<b>North Sea Region</b>	16.8	178.7	6.4	9.4
<b>Persian Gulf</b>	674.0	1,923.0	19.3	8.0
<b>South China Sea</b>	Est. 7.0	Est. 150.3	2.2	3.2

*Source: US Energy Information Administration.*

Different sources have different estimates of the oil and gas potential in the disputed area. China has been optimistic about the oil and gas potential in the region. Chinese media even consider the South China Sea as the second “Middle East” for its oil and natural gas reserves. A report from the China National Offshore Oil Company (CNOOC) shows that the South China Sea has three of

<sup>9</sup> EIA. <http://www.eia.doe.gov/emeu/cabs/schina.html>. Accessed on 8 April 2004.

China's five most productive natural gas pools.<sup>10</sup> One of the more moderate Chinese estimates suggested that potential oil resources (not proved reserves) of the Spratly and Paracel Islands could be as high as 105 billion barrels of oil, and another suggested that the total for the South China Sea could be as high as 213 billion barrels. A common rule-of-thumb for such frontier areas as the Spratly Islands is that perhaps 10 percent of the potential resources can be economically recovered. Using this rule, these Chinese estimates imply potential production levels for the Spratly Islands of 1.4-1.9 million barrels per day (at reserve/production ratios of 15 and 20).<sup>11</sup> The highest Chinese reserves estimate implies production levels that are twice as high as this.

Because of a lack of exploratory drilling, there are no proven oil reserve estimates for the Spratly or Paracel islands, and no commercial oil or gas has been discovered there. However, the fact that there exists abundant oil reserve in the surrounding areas of the South China Sea have led to the littoral countries to speculate that the Spratly islands and Paracels islands could be an untapped oil area. All the countries bordering the South China Sea except China have formally and unilaterally claimed exclusive economic zones (EEZs) extending up to 200 nautical miles from their national baselines.

***Important Shipping Sea Area.*** Shipping and trading in the South China Sea can be traced back to ancient times. In the Han dynasty of ancient China, silk was shipped to the west through the South China Sea. It was the starting point of the "Silk Road on the ocean". The sea route started from the South China Sea, passed India and Sri Lanka, crossed the northern end of the Red Sea, and then

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<sup>10</sup> People's Daily. September 28, 2000.

<sup>11</sup> EIA. <http://www.eia.doe.gov/emeu/cabs/schina.html>. Accessed on 8 April 2004.

finally reached Europe and East and North Africa. The famous story about "Cheng Ho going to the West Ocean" recounted how Cheng Ho led a fleet to the South China Sea, and visited the countries there.

From a comparative geographic view, the South China Sea can be likened to a "Mediterranean" region between the Asian and Australian continents.<sup>12</sup> This term has also been applied to the Gulf of Mexico—Caribbean area which has been described as the "American Mediterranean."<sup>13</sup> Strategically lying between the Indian and Pacific Oceans, the South China Sea is an important throughway for ship traffic between the Persian Gulf oil ports and the rapid growing East Asian economies. Located in the Southeast of the South China Sea, the Strait of Malacca is the shortest route between the Persian Gulf and Japan, South Korea, China and other newly industrializing countries in East Asia. More than 50,000 vessels transit the Strait of Malacca, and more than 10.3 million barrels out of the world's total (34.8 million barrels) oil pass through the Strait daily.<sup>14</sup> In addition to the oil transiting through the Strait of Malacca, oil being shipped from the two oil exporting countries in this region (Indonesia and Malaysia) to other countries in East Asia also passes through the South China Sea; so almost one-third of the world total daily oil flow passes through the South China Sea. Figure 3.1 shows the importance of the South China Sea as passage area for oil transit.

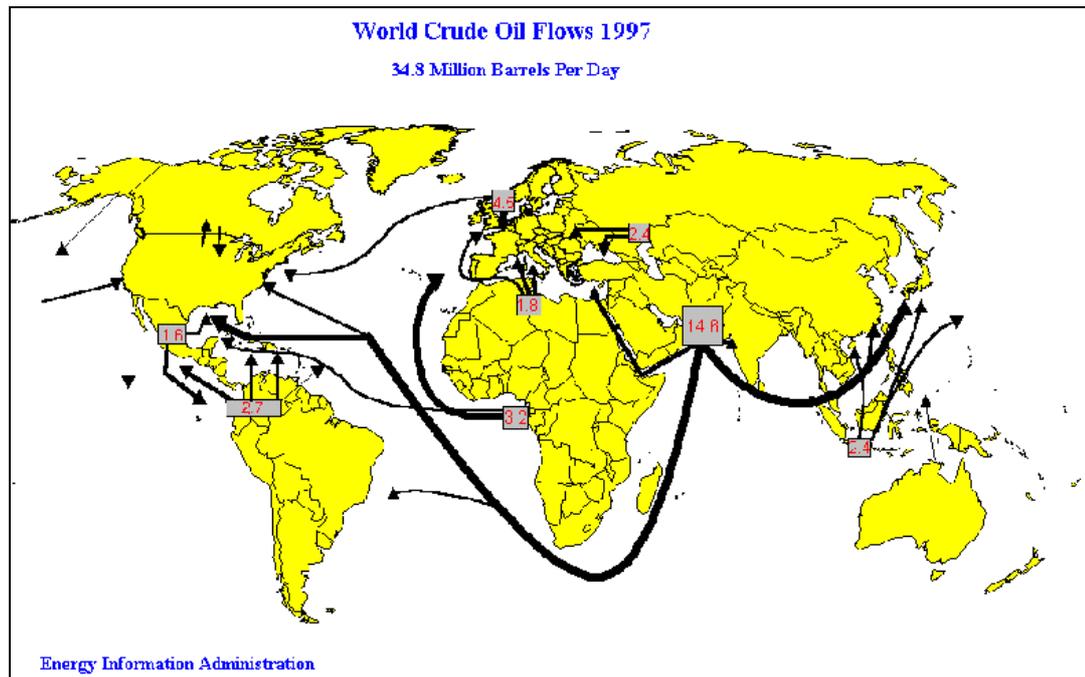
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<sup>12</sup> Joseph R. Morgan and Donald W. Fryer. 1985. "The Marine Geography of Southeast Asia". In George Kent and Mark J. Valencia, eds. *Marine Policy in Southeast Asia*. Berkeley, Los Angeles, and London: University of California Press.

<sup>13</sup> R.W. Fairbridge, ed. 1966. *Encyclopedia of Oceanography*. New York: Reinhold. p. 324.

<sup>14</sup> EIA. <http://www.eia.doe.gov/emeu/cabs/choke.html>. Accessed on 27 March 2004.

Figure 3.1. World Crude Oil Flows 1997



Source: EIA

Currently, the South China Sea is the second busiest shipping area in the world. More than half the world's shipping tonnage sails through the South China Sea each year. More than 80 percent of the oil for Japan, South Korea and Taiwan flows through the area; two-thirds of South Korean energy needs, and more than 60 percent of that of Japan and Taiwan, transit the region annually.<sup>15</sup> The importance of the sea is likely to increase due to East Asia's growing economies. As the countries bordering the South China Sea develop their export-oriented economies, the South China Sea will become a more and more important trading route between the region and the rest of the world, and within the region.

***Abundant Living Marine Resources.*** The South China Sea is among the world's richest fishing grounds. Over five million tons of fish are pulled from the South China Sea each year, 10 percent of the global fisheries catch, and five of the

<sup>15</sup> Brad Glosserman. 2001. "Cooling South China Sea Competition." Washington, DC: Center for Strategic and International Studies. Pac Net Newsletter: #22A.

world's eight top shrimp producers border the sea.<sup>16</sup> According to FAO-defined areas, South China Sea lies within Zone 71, ranking fourth among the world's nineteen fishing zones in terms of total annual marine production. The main species fished include scad, mackerel, tuna and shrimp. In terms of catch by species, Zone 71 ranks first in tuna and second in shrimp among all FAO zones.<sup>17</sup>

According to UNEP Transboundary Diagnostic Analysis for the South China Sea, four South China Sea littoral countries are among the top ten tuna fishing nations of the world. The combined catch of Taiwan, Indonesia, the Philippines and Thailand made up 23 percent of the global landed catch over a six-year period from 1988 to 1993.<sup>18</sup> The South China Sea coastal areas also provide a suitable environment for coastal aquaculture. For example, in 1995, the culture production of fisheries in the South China Sea coastal areas (6.7 million tons) accounted for 54 percent of the total world production.<sup>19</sup>

***Military Importance.*** The military importance of the Sea is obvious. It is the gateway to bordering countries. The disputed islands are strategic as bases for sea-lane defence, interdiction, and surveillance and possibly for launching of land attacks. They could serve as naval bases for supporting submarines and surface combatants, which would provide the occupying countries with a capability to monitor and potentially to interdict ships transiting the South China Sea. Jose Almonte, former national security adviser to the Philippines government, aptly captured the importance of the South China Sea: “the great power that controls the

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<sup>16</sup> UNEP. 2001. TDA.

<sup>17</sup> Daniel Y. Coulter. 1996. “South China Sea Fisheries: Countdown to Calamity.” *Contemporary Southeast Asia*, Vol. 17, No. 4, March 1996.

<sup>18</sup> UNEP. 2001. TDA.

<sup>19</sup> Ibid.

South China Sea will dominate both archipelagic and peninsular Southeast Asia and play a decisive role in the future of the western Pacific and Indian Ocean—together with their strategic sea lanes to and from the oil fields of the Middle East.”<sup>20</sup> During the Second World War, Japan used Itu Aba, the largest island in the Spratly Chains, as a submarine base and jumping-off point for its invasion of the Philippines.<sup>21</sup>

### **Territorial Disputes in the South China Sea**

Three areas are in dispute in the South China Sea: the Paracel, which is contested by China (Taiwan)<sup>22</sup> and Viet Nam; the Gulf of Tonkin, disputed by China and Viet Nam, and the Spratlys, contested in whole or part by five littoral parties: Brunei, China, Malaysia, Philippines and Viet Nam. The disputed claims over the South China Sea can be historically traced back to the fall of China’s power starting in the mid-nineteenth century, and the colonization of the countries bordering the South China Sea. Traditionally, the South China Sea is within the “influence area” of China, and the name “South China Sea” is not without a reason: it refers to its location in relation to China, corresponding to the “East China Sea.” Before the Second World War, Japan and France occupied the area. After the world war, in the 1951 San Francisco Peace Treaty, Japan renounced its

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<sup>20</sup> Glosserman. 2001.

<sup>21</sup> Esmond D. Smith, Jr. 1994. “China’s Aspirations in the Spratly Islands.” *Contemporary Southeast Asia*, Vol. 16, No. 13: 274-294.

<sup>22</sup> Mainland China and Taiwan claim about 80 percent of the entire South China Sea bounded by a U-shaped line that China made public in 1947 and which appears on official Chinese maps. The Mainland China and Taiwan claims are in fact a single claim and are based on the same historical justifications.

claim to the Spratlys, but did not specify a successor to that sovereignty.<sup>23</sup> The power vacuum created by the fall of the Chinese empire in the region and the withdrawal of colonizing powers (Japan and France) resulted in competition for the control of the area by the countries bordering the South China Sea.

***Overlapping Claims.*** Countries involved in the dispute apply numerous incompatible arguments to justify overlapping claims. China, Viet Nam, the Philippines, Malaysia and Brunei claim all or part of the islands in the South China Sea. Indonesia does not claim any islands, but other countries' claims extend into Indonesia's EEZs or continental shelf. Table 3.2 summarizes the littoral countries' claims of sovereignty over the South China Sea. The main dividing line is between claims to historical title as opposed to claims relying on technical-geographical arguments. Originally, China (including Taiwan) and Vietnam were the principal advocates of historical title, whereas the Philippines, Malaysia and Brunei made more use of technical-geographical arguments. However, from 1992 Vietnam appeared to change sides, de-emphasizing historical arguments to the advantage of technical-geographical arguments.<sup>24</sup>

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<sup>23</sup> Craig A. Snyder. 1997.

<sup>24</sup> Liselotte Odgaard. 2001. "Deterrence and Co-operation in the South China Sea." *Contemporary Southeast Asia* 23(2): 292-306.

**Table 3.2. Territorial claims in the Spratly and Parcel Islands**

Country	Claim
Brunei	Does not occupy any of the islands, but claims part of the South China Seas nearest to it as part of its continental shelf and Exclusive Economic Zone (EEZ). The boundary lines are drawn perpendicularly from 2 outermost points on the Brunei coastline. In 1984, Brunei declared an EEZ that includes Louisa Reef.
China	<p>Refers to the Spratly Islands as the Nansha islands, and claims all of the islands and most of the South China Sea for historical reasons. These claims are not marked by coordinates or otherwise clearly defined. China also claims the Parcel Islands (referred to as the Xisha Islands), and includes them as part of its Hainan Island province.</p> <p>Chinese claims are based on a number of historical events, including the naval expeditions to the Spratly Islands by the Han Dynasty in 110 AD and the Ming Dynasty from 1403-1433 AD. Chinese fishermen and merchants have worked the region over time, and China is using archaeological evidence to bolster its claims of sovereignty.</p> <p>In the 19<sup>th</sup> and early 20<sup>th</sup> century, China asserted claims to the Spratly and Parcel islands. During World War II, the islands were claimed by the Japanese. In 1947, China produced a map with 9 undefined dotted lines, and claimed all of the islands within those lines. A 1992 Chinese law restated its claims in the region.</p> <p>China has occupied 8 of those islands to enforce its claims. In 1974, China seized the Parcel Islands from Vietnam.</p>
Indonesia	Not a claimant to any of the Spratly Islands. However, Chinese and Taiwanese claims in the South China Sea may extend into Indonesia's EEZ and continental shelf, including Indonesia's Natuna gas field.
Malaysia	Its Spratly claims are based upon the continental shelf principle, and have clearly defined coordinates. Malaysia has occupied 3 islands that it considers to be within its continental shelf. Malaysia has tried to build up one atoll by bringing soil from the mainland and has built a hotel.
Philippines	Its Spratly claims have clearly defined coordinates, based both upon the proximity principle as well as on the explorations of a Philippine explorer in 1956. In 1971, the Philippines officially claimed 8 islands that it refers to as the Kalayaan, partly on the basis of this exploration, arguing that the islands: 1) were not part of the Spratly Islands; and 2) had not belonged to anyone and were open to being claimed. In 1972, they were designated as part of Palawan Province, and have been occupied.
Vietnam	Vietnamese claims are based on history and the continental shelf principle. Vietnam claims the entire Spratly Islands (Truong Sa in Vietnamese) as an offshore district of the province of Khanh Hoa. Vietnamese claims also cover an extensive area of the South China Sea, although they are not clearly defined. In addition, Vietnam claims the Parcel Islands (the Hoang Sa in Vietnamese), although they were seized by the Chinese in 1974. The Vietnamese have followed the Chinese example of using archaeological evidence to bolster sovereignty claims. In the 1930's, France claimed the Spratly and Parcel Islands on behalf of its then-colony Vietnam. Vietnam has since occupied 20 of the Spratly Islands to enforce its claims.

*Source: EIA.*

China refers to the Spratly Islands as the Nansha Islands and Parcel Islands as the Zhongsha Islands, and claims sovereignty over all of the islands and most of the South China Sea for historical reasons.<sup>25</sup> Chinese ships sailed across

<sup>25</sup> See Jianming Shen. 2002. "China's Sovereignty over the South China Sea Islands: a Historical Perspective." *Chinese Journal of International Law*, Vol. 1, Issue 1: 94-157. Keyuan Zou. 2001. "Historical Rights in International Law and in China's Practice." *Ocean Development and*

the South China Sea 2000 years ago, and used the Sea as a regular navigational route during the Han dynasty.<sup>26</sup> China used archaeological evidence to support its claim that fishermen and merchants have worked in the region already in ancient times. In 1946, China (then the Republic of China) sent a marine garrison to the largest island in the Spratlys, Itu Aba, to accept the surrender of the Japanese forces stationed there.<sup>27</sup> In 1947, China produced a map with a U-shape line, which encompasses the Spratly Islands and Paracel Islands and most of the South China Sea as Chinese territory.<sup>28</sup> This map has now become an important legal basis for Chinese claims.

Like Chinese claims, the Vietnamese claims are also based on historical evidence of occupation or ownership. Vietnamese show court documents during the reign of King Le Thanh Tong (1460-1497), indicating that both the Spratly Islands and Paracel Islands are Vietnamese territory.<sup>29</sup> After the Second World War, the Vietnamese claim to the Spratlys rests on rights of state succession following the French withdrawal from Indochina. The post World War II history of the Vietnamese occupation of the Spratlys has been shaped, in part, by its struggle for independence and subsequent civil war between the socialist government in the North and the US-backed government in the South. Since the 1990s, Vietnam also used the argument of proximity to support its claims over the

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*International Law* 32: 149-168. Keyuan Zou. 1999. "The Chinese Traditional Maritime Boundary Line in the South China Sea and its Legal Consequences for the Resolution of the Dispute over the Spratly Islands." *International Journal of Marine and Coastal Law* 14: 27-55.

<sup>26</sup> Shee Poon Kim. 1998. "The South China Sea in China's Strategic Thinking." *Contemporary Southeast Asia* 19(4): 369-387.

<sup>27</sup> Snyder. 1997.

<sup>28</sup> Zou. 2001.

<sup>29</sup> Valencia *et. al.* 1997. p. 33.

islands. In protesting Chinese oil exploration activities in the disputed areas in 1994, a spokesman of Vietnam's Foreign Ministry emphasized that the area fully lies within Vietnam's EEZ and continental shelf and that there was no disputed area there.<sup>30</sup>

The Philippines claims fifty islands that are located 230 nautical miles west of Palawan island, and are known to Filipinos as the Kalayaans.<sup>31</sup> While Chinese and Vietnamese claims can date back to certain historical periods, the Philippines claim is much more recent. The first claim to Filipino control over the Spratlys was made with a claim of discovery issued in 1956 by Thomas Cloma, a private Filipino citizen. His claim was based on the fact that in the 1951 San Francisco Peace Treaty, Japan renounced its claim to the Spratlys but did not specify a successor to that sovereignty.<sup>32</sup> At that time, the Philippines considered the islands abandoned, and rediscovered by the Philippines. In 1968, the Philippines military occupied eight of the islands, and the Marcos government formally annexed them into Philippine territory by a Presidential Decree in 1978. According to the Presidential Decree, the Kalayaans belong to the Philippines "by reason of their proximity".<sup>33</sup> Part of the basis for the Philippines claims is that "the islets were *res nullius* or 'abandoned' after World War II, and that the recent Philippine

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<sup>30</sup> Ramses Amer. 1997. "The Territorial Disputes between China and Vietnam and Regional Stability." *Contemporary Southeast Asia*, Vol.19, No. 1: 86-113.

<sup>31</sup> Ian James Storey. 1999. "Creeping Assertiveness: China, the Philippines and the South China Sea Dispute." *Contemporary Southeast Asia* 21(1): 95-118.

<sup>32</sup> Snyder. 1997.

<sup>33</sup> Ibid.

occupation of some of the islets gives it title either through ‘discovery’ or ‘prescriptive acquisition.’<sup>34</sup>

Other countries, including Malaysia, Indonesia and Brunei, claim sovereignty over part of the Spratlys based on their proximity to the “abandoned” islands. Malaysia claims twelve islands or features of the South China Sea, and six of them are occupied by Malaysia in certain forms.<sup>35</sup> Malaysia’s claim to the South China Sea was based on continental shelf extension and discovery of “new territory.” Brunei currently claims two reefs, i.e. Louisa Reef and Rifleman Bank, and a maritime zone based on the prolongation of its continental shelf.<sup>36</sup>

Besides the claiming countries within the region, the US, and to some extent Japan, are the most significant players in the disputes of the South China Sea. These external powers have great political and security interests, and to a lesser extent, economic interests in the South China Sea. The political and security interests stem from the strategic position of the South China Sea, and the need to balance the rise of China’s power. The economic value of the islands and features in the sea are still not that important, at least until economically recoverable oil and gas deposits are discovered. Economic interests of the South China Sea are derived from the strategic trade routes located nearby and the oil and gas exploration activities being conducted close to the area.

The US interest in the South China Sea is linked to the diverse and far-flung interests it has in East Asia as a regional and global power. The end of the Cold War and resource constraints have forced the United States to reduce its

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<sup>34</sup> Mark J. Valencia, Jon M. Van Dyke, and Noel A. Ludwig. 1997. *Sharing the Resources of the South China Sea*. Honolulu: University of Hawaii Press. p. 33.

<sup>35</sup> Valencia *et. al.* 1997. p. 36.

<sup>36</sup> Ibid.

military presence in the region, but the security of the sea-lanes in the vicinity of the Spratlys is still of considerable concern to the United States. The US security obligations to Japan and its defense commitments to the Philippines underpin its interests in the area, with a view to balancing the rise of China in the region. The United States also has considerable economic interests with nearly all states in the region, and some American oil companies are involved in oil exploration activities in the area.

Japan's stake in the maritime routes near the Spratly islands is greater even than that of the United States. Seventy percent of Japan's oil imports, as well as other trade pass through the Spratlys.<sup>37</sup> Japan is also a major trading partner and investor in all the claimant countries, and is involved in financing or operating some of the oil exploration efforts in the South China Sea. Geo-politically speaking, like the United States, Japan is also apprehensive about China's rising power, and seeks greater regional and global influence in the region.

***Military Clashes.*** There have been numerous minor incidents in the South China Sea, some of which could have led to an escalation of hostilities if circumstances had permitted. These incidents include arrests of fishermen in disputed waters, shows of force by naval vessels, the firing of warning shots against approaching craft, prevention of passage or access to exploration and drilling fields, and diplomatic oral protests by the claiming countries' Ministry of Foreign Affairs. Despite the numerous incidents, military clashes have been controlled within limited areas and between just a few countries. Table 3.3 summarizes the military clashes that have occurred in the South China Sea.

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<sup>37</sup> Mohamed Jawhar bin Hassan. 2000. "Disputes in the South China Sea: Approaches for Conflict Management." In *Southeast Asian Perspectives on Security*. Derek da Cunha, eds. Singapore: Institute of Southeast Asian Studies.

**Table 3.3. Military Clashes in the South China Sea over the Past Two Decades**

<b>Date</b>	<b>Countries</b>	<b>Military Action</b>
1974	China, Vietnam	Chinese seized the Paracel Islands from Vietnam, with 18 of its troops killed in clashes on one of the islands.
1988	China, Vietnam	Chinese and Vietnamese navies clashed at Johnson Reef in the Spratly Islands. Several Vietnamese boats were sunk and over 70 sailors killed.
1992	China, Vietnam	Vietnam accused China of landing troops on Da Luc Reef. China seized almost 20 Vietnamese cargo ships transporting goods from Hong Kong from June - September.
1994	China, Vietnam	China and Vietnam had naval confrontations within Vietnam's internationally recognized territorial waters over Vietnam's Tu Chinh oil exploration blocks 133, 134, and 135. Chinese claim the area as part of their Wan' Bei-21 (WAB-21) block.
1995	China, Philippines	China occupied Philippine-claimed Mischief Reef. Philippine military evicted the Chinese in March and destroyed Chinese markers.
1995	Taiwan, Vietnam	Taiwanese artillery fired on a Vietnamese supply ship.
1996	China, Philippines	In January, Chinese vessels engaged in a 90-minute gun battle with a Philippine navy gunboat near Capones Island.
1997	China, Philippines	The Philippine navy ordered a Chinese speedboat and two fishing boats to leave Scarborough Shoal in April; the Philippine navy later removed Chinese markers and raised its flag. China sent three warships to survey Philippine-occupied Panata and Kota Islands
1998	Philippines, Vietnam	In January, Vietnamese soldiers fired on a Philippine fishing boat near Tennent (Pigeon) Reef.
1999	China, Philippines	In May, a Chinese fishing boat was sunk in a collision with Philippine warship. In July, another Chinese fishing boat was sunk in a collision with a Philippine warship.
1999	China, Philippines	In May, Chinese warships were accused of harassing a Philippine navy vessel after it ran aground near the Spratly Islands.
1999	Philippines, Vietnam	In October, Vietnamese troops fired upon a Philippine air force plane on reconnaissance in the Spratly Islands.
1999	Malaysia, Philippines	In October, Philippine defense sources reported that 2 Malaysian fighter planes and 2 Philippine air force surveillance planes nearly engaged over a Malaysian-occupied reef in the Spratly Islands. The Malaysian Defense Ministry stated that it was not a stand-off.

*Source: EIA and BBC News*

To date military clashes have occurred only between China (Taiwan), Viet Nam and the Philippines. Before 1995, direct military clashes happened only between China (Taiwan) and Viet Nam. China and Viet Nam have had a relatively long history of military clashes in the South China Sea. The two major military conflicts occurred between China and Viet Nam in 1974 and 1988. The 1974 battle for the Paracel was triggered by the South Vietnamese<sup>38</sup> government's

<sup>38</sup> Viet Nam was colonized by France since 1840s, and later by Japan during the Second World War, after which an independent movement led to the outbreak of the war between Viet Nam and France until 1954. After French loss, Viet Nam was divided into the North and South Viet Nam,

administrative decision to incorporate the Spratly Islands into Phuoc Tuy Province in September 1973. The decision was made upon the recommendation of the National Petroleum Board, which was established after the granting of oil concessions to a number of international oil companies and consortia for exploration off the shores of South Viet Nam in July 1973.<sup>39</sup>

Four months later, on 11 January 1974, China issued a statement to condemn Viet Nam's action as an infringement of China's territorial integrity and sovereignty. South Viet Nam rejected China's claim and issued a counter statement. At the same time, Chinese fishermen were sent to three islands of the Paracel to carry out activities like setting up huts and displaying Chinese flags. Subsequently, both countries sent vessels and troops to the Paracel. Skirmishes took place during 16-18 January 1974, which finally led to serious fighting in the early hours of 19 January 1974. Within two days, South Vietnamese forces were defeated and withdrew from the Paracel islands, and China has taken control of the Paracel islands since then.

Competition for the occupation of the Spratlys started during the Viet Nam war. With the reunification of Viet Nam, Hanoi took over the six islands of the Spratly group in April 1975, and has since then expanded its control. In 1979, it published a map showing an extensive continental shelf claim north of Boreneo, and in 1983 and 1986, it sent troops to occupy islands on the shelf. By the mid-1980s, the Philippines, Malaysia, Viet Nam, and Taiwan (which occupies Itu Aba) had occupied virtually all the features in the Spratlys that were above the sea at

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which were reunited in 1975 when Americans lost the Vietnamese war to the North Viet Nam. For a detailed history, see Wikipedia—the Free Encyclopedi ([http://en.wikipedia.org/wiki/Vietnam\\_War](http://en.wikipedia.org/wiki/Vietnam_War)), accessed 6<sup>th</sup> July 2005).

<sup>39</sup> See Chi-Kin Lo. 1989. *China's Policy Towards Territorial Disputes*. London and New York: Routledge.

high tide. In the late 1980s, China became the last claimant to enter the scramble for features in the Spratlys. Beijing felt it had an imperative to have a presence in the Spratlys, with Viet Nam issuing oil concessions to areas that China claimed. The late 1980s provided a good opportunity for China to make a move because of the decreased power of the Soviet Union. In 1988, the Chinese began to occupy several reefs, including Fiery Cross Reef. In March 1988, China and Viet Nam clashed on the Johnson Reef, resulting in the sinking of three Vietnamese vessels and the deaths of 78 Viet Nameese navy personnel.<sup>40</sup> As of today, Viet Nam occupies the biggest number of islands of the Spratlys, followed by the Philippines and China, respectively. Table 3.4 presents the status of occupation, military facilities and number of troops in the Spratly Islands.

**Table 3.4. National Occupation of the Spratly Islands, 1998**

Claimant State	No. of Islands	Facilities	No. of Troops
Mainland China	8	Helicopter pads	260
Philippines	9	1,300m runway	595
Vietnam	25	600m runway	600
Malaysia	3	600m runaway	70
Taiwan	1	Helicopter pads	112
Brunei	0	None	0

Source: Christopher J. Joyner. 1998.<sup>41</sup> "The Spratly Islands Disputes".

Prior to 1994, ASEAN countries had a belief that China would resort to military actions only with Viet Nam. At that time, China and ASEAN shared an interest in containing Viet Nam. The year 1995 marked a change of attitude towards China from ASEAN countries due to the Sino-Philippines dispute over the ownership of the Kalayaans, which had not been a major irritant in Sino-

<sup>40</sup> See Alan Collins. 2003. *Security and Southeast Asia*. Boulder and London: Lynne Rienner Publishers.

<sup>41</sup> Christopher J. Joyner. 1998. "The Spratly Islands Disputes". *The International Journal of Marine and Coastal Law*, Vol. 13: 193-237.

Philippines relations prior to 1994. In April 1988 after the Sino-Viet Nam clash on the Johnson Reef, the Philippine President Corazon Aquino made a high-profile trip to China, during which she raised the issue of the Kalayaans with China's then paramount leader, Deng Xiaoping. Deng promised to shelve the sovereignty issue, engage in joint exploration and exploitation of maritime resources and work towards a peaceful resolution of the issue.<sup>42</sup>

The year 1995 marked a turning point in Sino-Philippines relations and the perception of ASEAN countries regarding China's aspirations in the South China Sea. In that year, China was found to have built structures on Mischief Reef—a small, rocky outcrop lying 135 miles west of Palawan and well within the Philippine-claimed 200-miles EEZ.<sup>43</sup> The finding was later confirmed by the US reconnaissance aircrafts. Accordingly, Chinese built four platforms on stilts, with three to four octagonal bunkers on each platform, equipped with satellite communication equipment. Eight Chinese naval vessels were also seen near the Reef. The Philippines government condemned Chinese actions, and arrested Chinese fishermen around the area. China claimed that these structures were “wind shelters” for fishermen, set up by “China's local fishing authorities” on Meijijiao (Chinese name of the Mischief Reef).<sup>44</sup> China also offered to allow fishermen from other countries to use the “shelters,” but Manila declined, wary of any actions that could be interpreted as acknowledging Chinese sovereignty.<sup>45</sup> In

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<sup>42</sup> Storey. 1999.

<sup>43</sup> Storey. 1999.

<sup>44</sup> Ross Marlay. 1997. “China, the Philippines, and the Spratly Islands.” *Asian Affairs*, Vol. 23, Issue 4: 195-211.

<sup>45</sup> Cameron W. Barr and Sheila Tefft. 1995. “Uneasy Silence Hangs over China's Grab.” *Christian Science Monitor*. 17 March 1995. p. 6.

October 1998, the issue of Mischief Reef came to prominence again when the Philippine Government produced photographs of Chinese vessels unloading construction materials at the reef. Subsequent photographs revealed Chinese workers constructing a large building adjacent to the original structures.

On May 15, 1996, China issued the Declaration of the Government of the People's Republic of China on the Baselines of the Territorial Sea of the People's Republic of China. In the declaration, China demarcated its 200 nautical mile EEZs, and provided coordinates for a portion of its coastal baselines. The baselines were mainly stipulated for the mainland coastal areas. A separate set of archipelagic baselines was also declared for the Paracel island group, but no baselines were declared for the Spratlys.<sup>46</sup> Since 1995, ASEAN countries have expressed increasing concern regarding China's actions and policies towards the South China Sea.

***Conflict Resolution.*** The claiming countries have yet to find a way to resolve the disputes. Each claiming country has strongly adhered to its claims, and it seems that negotiations will not produce any substantive results in the short term. An important reason that has aggravated the situation of the South China Sea is that according to the UN Convention on the Law of Sea, islands can generate their own EEZs of 200 nautical miles from the coastlines of the islands.

While the World Court is a useful conflict resolution tool, its use is predicated on the desire of disputants to allow outsiders to arbitrate their claims. Analysts have generally concluded that in the Spratlys, no nation's claim appears to have been sufficiently strong or unchallengeable to persuade others to keep out of

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<sup>46</sup> Snyder. 1997. p. 22.

the region. The claimants are not able to demonstrate continuous and effective occupation, administration, and control or acquiescence by other claimants.<sup>47</sup> Because all the claims are weak, each claimant undoubtedly realizes that if the dispute were presented to a tribunal or arbitrator, it may not ultimately or completely prevail. An independent decision-maker is likely to allocate these tiny islets according to the common legal principles of equity and fairness.<sup>48</sup> The ASEAN claiming countries strongly believe that the UN or the World Court should only be called upon after all other local attempts to find a solution have failed.<sup>49</sup> During the 1995 Mischief incident between China and the Philippines, the Philippines leadership indicated its willingness to resort to the World Court and other international channels for third-party arbitration, but China strongly opposed any third-party involvement. China's leadership has been reluctant to "internationalize" its claim to the South China Sea, as it claims the sea area over 1,000 nautical miles (nm) south of Hong Kong as its traditional territory. China considers any attempts to resort to international forums or mechanisms for the resolution of the South China Sea disputes an action of transgressing its sovereignty.

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<sup>47</sup> Valencia *et. al.* (1997) have thoroughly explained why each country's claim is not valid and justified from international and other countries' perspectives. Also see Jon M. Van Dyke and Mark J. Valencia. 2000. "How Valid are the South China Sea Claims under the Law of the Sea Convention." *Southeast Asian Affairs*: 47-64. Marius Gjetnes. 2001. "The Spratlys: Are They Rocks or Islands?" *Ocean Development and International Law* 32: 191-204.

<sup>48</sup> Dyke and Valencia. 2000.

<sup>49</sup> James Kiras. 1995. "The South China Sea: Issues of a Maritime Dispute". *Peacemaking and International Relations*, Jul/Aug 1995, Vol. 24 Issue 4: 13-14.

## **Economic Development in the South China Sea**

The economic development of East Asia has deservedly gained the attention of academics and policy-makers from all over the world during the past several decades. The South China Sea region contains the world's fastest growing and most dynamic economies. Until the outbreak of the 1997-1998 financial crisis, it was common to see references to the "Asian Economic Miracle." The World Bank, in 1993, published a report that characterizes eight East Asian economies as "miracle economies," because their achievements are unprecedented.<sup>50</sup> Six of the eight "miracle economies" border the South China Sea.

During the period of 1965 and 1996, GDP per capita in Malaysia, Indonesia and Thailand quadrupled.<sup>51</sup> Unlike the development that took place in South America, development in East Asia benefited the whole population, including the lowest-income groups. In Indonesia, the population living under the poverty line dropped from 60 percent in 1965 to 15 percent in 1996. The proportion of people living in absolute poverty, lacking such basic necessities as clean water, food and shelter, dropped from 58 percent in 1960 to 17 percent in 1990 in Indonesia, and from 13 percent to less than 5 percent in Malaysia during the same period.<sup>52</sup> The Economist, in September 1991, wrote,

The four economic 'tigers' of East Asia—South Korea, Taiwan, Singapore and Hong Kong—have forged the fastest industrial revolutions the world has ever seen. Behind them are another four countries which are getting close to the point of industrial take-

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<sup>50</sup> World Bank. 1993.

<sup>51</sup> Steven Redelet, Jeffrey D. Sachs, Richard N. Cooper, Barry P. Bosworth. 1998. "The East Asian Financial Crisis: Diagnosis, Remedies and Prospects." *Brookings Paper on Economic Activity*, Vol. 1998, No. 1: 1-90. p 18.

<sup>52</sup> Ibid. p. 18.

off—Thailand, Malaysia, Indonesia, and most interestingly, China.<sup>53</sup>

The coastal areas of the South China Sea are the fastest growing areas, and are the locomotive for economic development of the bordering countries. For example, Guangdong province is the fastest developing area in China, especially the Pearl River Delta bordering the South China Sea. In the period of 1978 to 1990, Guangdong's real GDP increased at an average annual rate of 12.3 percent while the country's rate is about 7 percent.

The region enjoyed high economic growth rates until the financial crisis in 1997-1998. Despite the 1997-1998 financial crisis, the region continues to grow faster than other regions. Figure 3.2 illustrates that all the countries achieved a growth rate higher than 4 percent in 1999, which continues to 2000. In 2001, the economic growth was lowered because of the slackened US demand. The US economy evolved into a mild recession by April 2001 and culminated in a GDP contraction later that year due to the 9/11 event.<sup>54</sup> Despite some disagreements over the reasons for the stellar economic performances in the region and the sudden financial crisis in late 1990s, commentators broadly agree that the region will continue to grow rapidly and move up in the development ladder for some time to come.<sup>55</sup> In the following, I will discuss three main characteristics of the economic development in the region, and their implications for marine environment protection in the South China Sea.

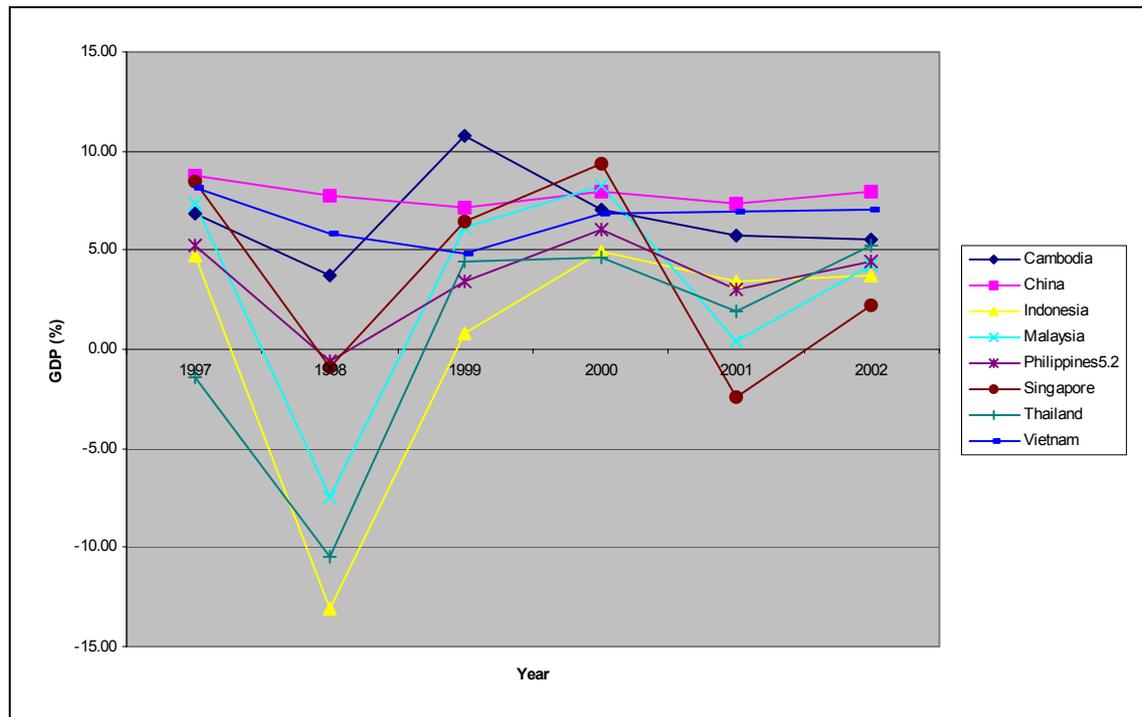
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<sup>53</sup> The Economist. 1991. "Asia's emerging Economies." p. 3-18.

<sup>54</sup> Asian Development Bank. 2002. *Asian Development Outlook 2002*. Oxford: Oxford University Press.

<sup>55</sup> Dua and Esty. 1997. p. 12.

**Figure 3.2. Economic Growth in the South China Sea (1997-2002)**



Source: Asian Development Bank. *Key Indicators 2003*.

***State-led Development.*** It is agreed by political economists that the roles played by governments directly contributed to the economic development. Asian economies did not come along by themselves or completely by laissez-faire policies. Asian economies do not take a completely “free market” approach, neither a “centralized” way. The governments strategically protect and promote specific industries with policies such as subsidizing exports and preventing imports. These governments have followed the prototypes of the so-called “developmental states” in the field of political economy.<sup>56</sup>

<sup>56</sup> See Stephen Haggard. 2004. “Institutions and Growth in Asia.” *Studies in Comparative International Development* 38 (4): 53-82. Robert Wade. 1990. *Governing the Market: Economic Theory and the Role of Government in East Asian Industrialization*. Princeton, New Jersey: Princeton University Press. Meredith Woo-Cummings. 1999. *The Developmental State*. New York: Cornell University Press. Peter Evans. 1995. *Embedded Autonomy: States and Industrial Transformation*. Princeton: Princeton University Press.

In summarizing the lessons learnt from Asian economic development, the *Economist* points out, governments shared a common view that the priority of state action should be economic development, which is “not defined by the government’s ability to hand out welfare payments to the less privileged, but rather by growth in output, productivity and above all, international competitiveness.”<sup>57</sup>

As one of the biggest growing economies, the Chinese government’s strong emphasis on “economic development” partly explains its fast economic growth in the past two decades. Deng Xiaoping, the post-Mao leader, emphasized, “economic construction is the center of the party work (Chinese Communist Party)”.<sup>58</sup> The essential state policy is that “everything has to center around economic development.” The most important criteria of bureaucratic promotion in China are economic performances, including both economic growth and the foreign investment attracted during the tenure of a government official.

This state-led economic development takes an approach of “grow now, and save clean up later,” which causes the acceleration of environmental degradation. In order to gain foreign currencies, for example, shrimp production and export were encouraged. Mangrove forest areas were converted into shrimp ponds. Short-term economic incentives overtook ecological considerations.

***Export-oriented Economy.*** An important strategy of developmental states in promoting economic development is to encourage exports by fostering a supportive macroeconomic climate and by providing suitable macroeconomic

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<sup>57</sup> Danny M. Leipziger. 1997. *Lessons from East Asia*. Ann Arbor, MI: University of Chicago Press.

<sup>58</sup> The Third Plenary Session of the 11th of the Central Committee of the Communist Party of China instituted the economic reform policy which stipulates that economic development be placed at the Party’s center of attention. See e.g. Yakov Berger. 2004. “Deng Xiaoping and Economic Reform in China.” *Far Eastern Affairs* 32 (4): 32-46.

incentives. Exports supply the needed foreign currencies to import necessary machines, equipments and technologies for industrializing. Mechanisms used by governments range from broad, export-friendly measures such as avoiding an appreciated exchange rate to government-run export contests. Universal export incentives, such as tax breaks and credit guarantees, are provided for all exporters.<sup>59</sup>

In their early development stage, the countries of the South China Sea did not have much experience with producing technological products. Instead, they had to take advantage of their abundant natural resources and cheap labor; and therefore/ a significant part of their exports is from the export of raw materials or agricultural and resource-based products with intensive labor inputs. Textiles, petroleum, aquatic products, rubber, and wood have been among the most important export commodities. Table 3.5 indicates the top five export commodities of the countries bordering the South China Sea.

Driven by the demand of the world market for raw materials and natural resources, these countries have increased their exploitation of their natural environment. The processing of some products further deteriorates the local environment. For example, forest products have traditionally been a mainstay of the Southeast Asian economies with timber consistently ranking among the top foreign exchange earners, but the last two decades have seen a precipitous decline in timber stocks in the area. In crude terms, annual forest loss amounts to 100,000 hectares in the Philippines, 230,000 in Malaysia, 325,000 in Thailand and 550,000

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<sup>59</sup> The World Bank. 1993.

in Indonesia.<sup>60</sup> The processing of some of the export products results in negative environmental impacts. It is well known that the textile industry is one of the “dirty” industries. Rubber and palm oil are also not clean. They can cause intense water pollution. The processing of rubber results in the discharge of acidic effluents, being dumped into the water supply. The palm oil industry needs huge amounts of fresh water, which is then turned into a hot, thick, oily waste.

The export-oriented characteristics of the economies of this region indicate that the environment not only has to bear the impacts of economic activities to sustain human livelihood in the region, but also of the consumption demands outside of the region. The type of export commodities in the region places tremendous pressure on the environment.

**Table 3.5. Exports of the South China Sea Countries, by Principal Commodity**

<b>Countries</b>	<b>Top Five Export Commodity</b>
Cambodia	1. Rubber; 2. Timber; 3. Soya beans; 4. Maize; 5. Sesame.
China	1. Cotton yarn and cloth; 2. Crude petroleum; 3. Aquatic products; 4. Coal; 5. Cereals.
Indonesia	1. Petroleum and products; 2. Plywood; 3. Rubber; 4. Shrimp; 5. Coffee
Malaysia	1. Petroleum; 2. Logs and timber; 3. Palm oil; 4. Rubber; 5. Thermionic valves, tubes, photocells, etc.
Philippines	1. Electronically equipments; 2. Garments; 3. Coconut oil; 4. Copper concentrates; 5. Centrifugal and refined sugar.
Singapore	1. Petroleum and products; 2. Telecommunication equipment; 3. Clothing; 4. Crude rubber; 5. Fixed vegetable oils
Thailand	1. Computer and parts; 2. Textile products; 3. Electrical appliances; 4. Integrated circuits and parts; 5. Canned food.
Vietnam	1. Food and live animals; 2. Beverage and tobacco; 3. Crude materials; 4. Mineral fuels; 5. Animal/vegetable oil and fats.

*Source: Asian Development Bank. Key Indicators 2003.*

<sup>60</sup> Mark A. McDowell. 1989. “Development and Environment in ASEAN.” *Pacific Affairs*, Vol. 62 (3): 307-329.

***Economic Integration.*** Along with dramatic economic growth, the region has experienced rapid economic integration. During the 1990s, global trade in merchandise grew by 5 percent per year, reaching \$5,473 billion in 1999. During the same period, ASEAN's exports grew at more than double the world rate, at 11 percent annually, to \$359 billion in 1999 despite considerable volatility during the economic crisis. ASEAN's share of total world exports increased from 4.3 percent in 1990 to 6.6 percent in 1999; for imports from 4.7 percent to 5.2 percent.<sup>61</sup>

In 1992, the ASEAN heads of State/Government decided to establish the ASEAN Free Trade Area (AFTA). Its objective is to increase ASEAN's competitive advantage as a production base geared for the world market by increasing regional economic integration. A vital step is to liberalize trade through elimination of tariffs and non-tariff barriers among ASEAN member countries. According to the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for AFTA, tariffs levied on a wide range of products traded within the region are reduced to 0-5 percent. Quantitative restrictions and other non-tariff barriers are to be eliminated. The average CEPT tariff rate in ASEAN countries, was 12.76 percent in 1993, but has been reduced to below 5 percent.

Economic integration between China and ASEAN has sped up in the past decade. According to statistics released by Chinese customs, China-ASEAN trade reached 21.48 billion dollars between January-October 1999, registering an increase of 15.7 percent over the same period the year before. The bilateral trade has grown steadily, from 6 billion dollars in 1991<sup>62</sup> to 13 billion dollars in 1994 to

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<sup>61</sup> ASEAN. 2001. *Second ASEAN State of the Environment Report 2000*. Jakarta: ASEAN Secretariat.

<sup>62</sup> See Richard L. Grant, eds. 1993. *China and Southeast Asia into the Twenty-first Century*. Washington DC: the Center for Strategic and International Studies.

23.5 billion dollars in 1998. In 2002, China's exports to ASEAN grew 27.6 percent to 18.82 billion US dollars, while its imports from ASEAN climbed 28.9 percent to 24.64 billion US dollars.<sup>63</sup> ASEAN is now an important market for labor services and project contracting by China. China has respectively signed governmental agreements on cooperation in science and technology with Singapore, Malaysia, Thailand, Viet Nam, the Philippines and Indonesia.

Several implications for the marine environment in the South China Sea of the rapid economic development in the region need to be carefully explored. First, economic growth is accompanied by an increasing demand for energy. The region has turned from a net exporter in 1990 to a net importer of oil in 1995. Table 3.6 shows that the region has become a huge importer of energy, in comparison to its energy status in 1971. In 2001, the region imported 173.12 Mtoe of oil, with China alone accounting for almost half of the net import (81.79 Mtoe).<sup>64</sup> The increased demand for oil will further motivate the littoral countries of the South China Sea to explore and drill for the oil resources believed to be in the region. This in turn will increase the competition and tension among the bordering countries. Between 1992 and 2003, ten disputes related to exploration and drilling occurred among the countries, among which nine were between China and Vietnam, and one between Brunei and Malaysia. As the development of exploration and drilling technology and equipment continues, more and more exploration activities are likely to be undertaken in the South China Sea, with high potential for conflicts and disputes.

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<sup>63</sup> People's Daily. 18 December 2002.

<sup>64</sup> Organization for Economic Co-cooperation and Development (OECD). *Energy Balances of Non-OECD Countries, 2000-2001*.

**Table 3.6. Net Imports of Oil (Mtoe<sup>65</sup>) in South China Sea**

	1971	1973	1980	1985	1990	1995	1999	2000	2001
Brunei	-5.95	-11.77	-11.79	-8.31	-7.56	-8.48	-8.83	-9.62	-9.61
China	3.77	2.99	-10.99	-31.20	-17.57	20.59	60.88	87.08	81.79
Chinese Taiwan	7.26	10.35	21.41	17.00	18.79	37.29	43.76	45.85	44.71
Malaysia	1.31	0.18	-5.57	-13.80	-19.25	-16.15	-14.86	-12.28	-11.69
Indonesia	-33.88	-50.82	-58.05	-43.41	-41.47	-35.45	-22.36	-17.30	-11.98
Philippines	8.73	9.25	11.26	7.23	11.74	17.83	17.62	17.22	17.33
Singapore	6.61	12.23	8.02	10.52	24.50	30.98	38.40	39.70	43.47
Thailand	6.35	8.28	12.17	8.83	17.63	30.53	29.86	27.39	27.86
Vietnam	5.82	5.80	1.85	1.90	0.11	-2.69	-7.78	-7.43	-8.76
Total	0.02	-13.51	-31.69	-51.24	-13.08	74.45	136.69	170.61	173.12

Source: OECD. *Energy Balances of Non-OECD Countries, 2000-2001*

Second, the increased economic activity and rising consumption due to improvement of living standards across the region has placed, and will continue to place, increasing pressure on the environment and marine ecosystems.<sup>66</sup> The dramatic economic growth has generated a rapid rise in incomes for large populations in the region, increasing the demand for products and services, including those provided by the South China Sea. In the past, shrimp and seafood were exported to mainly Europe and the United States. As the living standards increases in the region, domestic demand for seafood is likely to increase. Therefore, pressure on marine fishery resources in the region is expected to continue, rising in parallel with high domestic and international demand.

Third, with economic development and the deepening of economic integration, factors of production, particularly capital, freely move beyond national boundaries, seeking the most favorable investment environment. All too often this

<sup>65</sup> A million of tons of oil equivalent (MTOE) is the amount of energy released when one million tonnes of crude oil is burnt. One million tones of gas would release rather more than one MTOE of energy when burnt, while one million tons of coal rather less.

<sup>66</sup> See Ming Wan. 1998. "China's Economic Growth and the Environment in the Asia-Pacific Region." *Asian Survey* 38: 365-378. Edward B. Barbier. 1997. "The Economic Determinants of Land Degradation in Developing Countries." *Philosophical Transactions: Biological Sciences*, Vol. 352, No. 1356: 891-899.

means countries with lowest environmental and social standards.<sup>67</sup> Debates have continued on the relationship between free trade and the environment. Environmentalists contend that under the free trade system, heavily polluting industries will move to poor countries where environmental and social regulations are lax. Some economists also contend that free trade contributes to economic growth, which will make people wealthy enough to have the funds to clean up the environmental damages caused by growth.

Whether free trade is good or bad for the environment, to achieve effectiveness in environmental policy in integrated economies requires coordination among governments, as the factors of production, including capital and labor, are free to move beyond national boundaries. Regional economic integration poses questions for the countries bordering the South China Sea related to how best to cooperate for environmental protection.

### **Marine Environmental Degradation in the South China Sea**

The high economic growth in the South China Sea region has inevitably placed tremendous pressure on the natural ecosystems. Until recently, environmental problems were largely considered to be those resulting from urbanization and industrialization with limited geographical impact. Today, in addition to air and water pollution, they include soil erosion, desertification, tropical deforestation, loss of biodiversity, global warming, acid rain, and toxic and

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<sup>67</sup> Herman E. Daly. 1993. "The Perils of Free Trade." *Scientific American*: 50-57.

hazardous wastes, many of which have not only national but also regional and global impacts.<sup>68</sup>

Each country bordering the South China Sea has incurred a series of severe environmental problems, resulting from fast industrialization, population increase and urbanization. Some of the problems tend to be “local”, with consequences limited to within a national jurisdiction, while others have impacts that spill over national boundaries. Due to the lack of systematic and consistent environmental cooperation before the mid-1990s among all the major countries, little information is available for countries to assess the causes and severity of transboundary environmental problems. From 1996 to 1998, under the sponsorship of the GEF and UNEP, a transboundary analysis was conducted to evaluate the environmental status of the South China Sea. Each participating country undertook a national study on environmental problems in the South China Sea. Building on these national analyses, a regional analysis of transboundary marine environmental problems was conducted, and problems were ranked in terms of their importance. The end result was a UNEP technical report entitled “Transboundary Diagnostic Analysis for the South China Sea”, often referred to as the TDA<sup>69</sup>

The TDA report identified major marine environmental concerns and principal issues in the South China Sea. Major environmental concerns are in priority order: habitat loss and degradation, over exploitation of living resources, marine pollution, and freshwater concerns. During the first stage of the UNEP/GEF South China Sea Project, more substantive study has been conducted

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<sup>68</sup> Asian Development Bank. 1994. *The Environment Program of the Asian Development Bank: Past, Present and Future*.

<sup>69</sup> UNEP. 2001. TDA.

to identify the problems, causes, and optimal points of intervention to reverse the environmental degradation trends in the region.

***Habitat degradation and loss.*** Located within the global center of marine biological diversity, the South China Sea is endowed with an immense diversity of species, which find their home in various ecological habitats, formed by mangroves, coral reefs, seagrass and wetlands. In the past several decades, the South China Sea witnessed an accelerating speed of degradation and loss of these globally significant habitats. Undoubtedly, the most effective way to protect biological diversity is to protect their habitats.

***Mangroves.*** The uniqueness of mangrove trees lies in their ability to survive in unstable, saline and low-oxygen environments, earning them fame as the “guards” of the coastlines. Mangroves can live in soft substrates, such as muddy inter-tidal zones, where ocean waves threaten to dislodge them. Some mangroves have stilt roots or cable roots to cling onto the soil. They also possess ecological functions that enable them to live in saline and low-oxygen environments.

Mangroves grow in tropical and subtropical coastlines where seawater temperature occasionally drops below 20 degrees. The South China Sea coastal region forms a major concentration area for mangrove trees. FAO estimated that Asia supports around 39 percent of the world’s total of the remaining mangrove forest (14.6 million hectares), mostly found in the seven major countries bordering the South China Sea.<sup>70</sup> The diversity of the mangrove trees in the region can be shown in comparison with other regions in the world. According to a recent UNEP report, some 41 genera of true mangrove species exist in the Indo-West Pacific,

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<sup>70</sup> UNEP. 2004. *Mangroves in the South China Sea*. UNEP/GEF/SCS Technical Publication No. 1.

while only 5 are in the Atlantic and Pacific seaboard of the Americas. The diversity of the plant species provides a home to a diversity of both aquatic and terrestrial animals that are residents in the forests.

At the same time, the region's mangroves suffered a much higher rate of loss than the world average. In 1998, it was estimated that a total area of 4.2 million ha has been lost in the region, resulting in the loss of more than half of its original mangrove forests. The annual rate of loss during 1990-2000 is 1.1 percent, down from 1.9 percent in the 1980s.<sup>71</sup> The loss of mangroves in the region is not only a direct loss of mangrove trees and species, but also threatens the animals residing in the habitats. Due to the global significance of the region's mangrove forests, the loss is not merely a national or regional one, but has an impact on global biological diversity.

Mangroves are important not only from a marine biological perspective; they also provide direct and indirect economic value to human beings. Mangrove forest systems yield large amounts of fish, crabs, prawns and oysters. They are also valuable sources of fuel wood, timber, tannin and other natural products. Their non-marketable value is of equal importance: stabilization of the coastline, an indispensable nursery ground for numerous marine species with commercial value, a natural filter maintaining the clarity of nearshore water, a home for resident and migratory birds and other wildlife.

*Coral Reefs.* The South China Sea is acknowledged as the richest in the World in terms of its biological diversity related to coral reefs, with the center of diversity lying in the Philippines and Indonesia. More species occur here than in

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<sup>71</sup> Ibid.

any other part of the tropical reef world, which is partly due to favorable climatic conditions and the huge range of habitats associated with the long and varied shorelines.<sup>72</sup> The location of the South China Sea at the junction between the Pacific and Indian Ocean basins endowed it with species from both oceans.

The South China Sea's coral reefs and their related biological diversity are globally significant. It was estimated that 34 percent of the earth's coral reefs are located in the seas of Southeast Asia.<sup>73</sup> The Philippines recorded over 450 coral species, while only some 35 coral species are found in the Atlantic, 200 from the Red Sea, 117 from the Southeast India and 57 from the Persian Gulf.<sup>74</sup>

Ecologically, coral reefs are important habitats for many commercially important reef fish and invertebrate species, and they provide breeding and nursery grounds for many pelagic and demersal fish species found in the open sea. For example, the most diverse reef systems in the region may support over 1,000 species of fish and 400 species of stony corals.<sup>75</sup>

Coral reefs in the South China Sea have degraded due to coastal development, destructive fishing, including use of poison and bomb fishing, and global climate change.<sup>76</sup> Coral reefs in Malaysia and the northwest of the Philippines show 10 to 30 percent degradation. In Thailand and Indonesia, 40 to 60 percent of reefs are degraded. Ninety-five percent of coastal areas of Hainan,

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<sup>72</sup> Elizabeth Wood and Michael AW. 2002. *Reef Fishes, Corals and Invertebrates of the South China Sea*. London: New Holland Publishers.

<sup>73</sup> L. Burke, E. Selig and M. Spalding. 2002. *Reefs at Risk in Southeast Asia*. Washington DC: World Resources Institute.

<sup>74</sup> UNEP. 2004. *Coral Reefs in the South China Sea*. UNEP/GEF/SCS Technical Publication No. 2.

<sup>75</sup> Wood and Michael AW. 2002.

<sup>76</sup> UNEP. 2004. UNEP/GEF/SCS Technical Publication No. 2.

China are severely degraded. Burke *et al* considers that over 80 percent of Southeast Asia's coral reefs are under threat.<sup>77</sup>

*Seagrass.* Like mangroves and coral reefs, seagrass beds are an important ecological system that provides a highly productive habitat that supports a large quantity of marine life including commercial fish. They provide important feeding and breeding areas for fish. For instance, the endangered green turtle and Dugong from the Philippines feed on the seagrass beds in the South China Sea.<sup>78</sup> Seagrass beds are highly diverse in the region. The region was found to have 20 species of seagrass out of about 50 species worldwide, making the region the second most seagrass species-rich area next to Malesia, a region bounded by Indonesia, northern Australia and Papua New Guinea.<sup>79</sup> Seagrass beds have also incurred a rapidly increasing rate of loss and decline. Of seagrass beds, about 30-40 percent in Indonesia, 30-50 percent in the Philippines, 20-30 percent in Thailand and 40-50 percent in Vietnam have been lost due to various causes.<sup>80</sup>

*Wetlands.* Southeast Asian countries have at least 334 wetland sites, with a total area of 192,363,601 ha. These wetlands support livelihoods of local communities and provide habitats to a variety of rare endemic, endangered and threatened species with global significance. However, wetlands, for a while considered as wastelands, have suffered from land reclamation, logging, and waste dumping. Logging and woodcutting affect about 30 percent of all wetlands sites in the Southeast Asian countries. In China's Pearl River Delta, an average annual

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<sup>77</sup> L. Burke, E. Selig and M. Spalding. 2002.

<sup>78</sup> ASEAN. 2001.

<sup>79</sup> Miguel Fortes. 1995. *Seagrasses of East Asia: Environmental and Management Perspectives*. RCU/EAS Technical Reports Series No. 6, UNEP.

<sup>80</sup> UNEP. 2004. UNEP/GEF/SCS Technical Publication No. 3.

rate of 11 km<sup>2</sup>/year of reclamation has occurred during the period of 1966-1996. Indonesia, the Philippines and Thailand recorded an overall wetland rate of loss of 31 percent, 78 percent and 22 percent respectively.<sup>81</sup>

***Over-exploitation of fisheries resources.*** Due to its abundant marine biological diversity, there are abundant fishery resources in the South China Sea. The littoral countries are important exporters of aquatic products, including fisheries and shrimps. Marine fishery production in the countries bordering the sea accounts for more than 12 percent of the world total. The region's coastal aquaculture in the region has a dominant share of 54 percent of the global total. Four littoral countries are among the top ten leading tuna fishing nations in the World.

Will this production of fishery be sustainable? Fish nursery areas and breeding grounds are being degraded, and two-thirds of the waters' major fish species are being over exploited. According to the UNEP/GEF TDA, as of the late 1990s, there is a region-wide over-exploitation of fisheries resources in the South China Sea. Destructive fishing practices, bycatch, post-harvest losses, siltation and habitat destruction are a tremendous pressure on sustainable fishing.<sup>82</sup> If the trend continues, the fishery resources will be depleted.

***Marine pollution.*** The major sources of pollution to the South China Sea include land-based pollution, ship-based pollution and air pollution. Land-based pollution is the most important source of pollution in the sea. Wastes from domestic, agricultural, and industrial sources, along with sediments and solid

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<sup>81</sup> D. A. Scott ed. 1993. *Wetland Inventories and assessment of Wetland Loss: a Global Overview*. Proceeding of the IWRB Symposium. St. Petersburg, Florida, November 1992. IWRB Special Publication 26.

<sup>82</sup> UNEP. 2001. TDA.

wastes are major pollutants running down through rivers and draining into the sea, polluting freshwater systems, coastal areas and the sea. Ship-based pollution is also likely to increase as a result of the growing trade and transport of raw materials, fossil fuels and commodities across the shipping lanes, with increasing oil spills and waste dumping.

Transboundary air pollution, both in the form of smoke haze from forest fires and air pollutants resulting from the combustion of fossil fuels and biomass in transport, industries, agriculture and households, has spread widely across the region, severely affecting human health and economic activity. The annual average level of “total suspended particulates” in the air of Bangkok, Manila and Jakarta are more than double the standard set by the World Health Organizations (WHO) Guidelines.<sup>83</sup> The most serious air pollution problem in the region is the transboundary haze pollution from land and forest fires. Satellite photo-images of the South China Sea during the last half of 1997 showed dense clouds of smoke haze. Most of this air pollution came from forest fires in Sumatra, Kalimantan and East Malaysia.

***Holistic and Transboundary Nature of Marine Environmental Degradation.*** Marine environmental degradation in the South China Sea has two inherent characteristics. First is the holistic nature of the problems. Marine habitats are interrelated with each other, and losses in one can cause losses in others. Land-based pollution can cause the degradation and losses of coastal habitats and pose a threat to fisheries. The coastal habitats, having served as nursery or feeding grounds for fisheries at some stage of, or throughout their whole

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<sup>83</sup> ASEAN. 2001.

life cycles, will directly impact the sustainable reproduction of fisheries. For example, coral reef-based fisheries account for about 20-25 percent of the marine fish catch in the Philippines and Indonesia.<sup>84</sup> Second, marine environmental degradation has a transboundary nature inherently in that impacts can transfer beyond national boundaries through movement of fisheries and ocean currents. Fisheries may find their residence at some stage of their life in different countries' coastal areas. The losses of mangroves, coral reefs and seagrasses themselves are global losses, as they are important as nursing and feeding grounds for fisheries and other migratory species.

### **Complex Linkages: Territorial Disputes, Development and Environment in the South China Sea**

Territorial disputes, economic development and environmental degradation in the South China Sea form complex relationships among them in which a change in one of the variables may lead to changes in the other two. The relationships can be as follows: 1) Fast economic development places great pressure on the marine environment of the South China Sea, causing the degradation of marine environment in the South China Sea. Furthermore, economic development increases national demands for increased resources, including oil and marine living resources, causing governments more aggressive actions towards the occupation and consolidation of their positions in the South China Sea, increasing inter-governmental conflicts; 2) The status of competing claims for the South China Sea forms a situation in which countries do not feel the security of their ownerships of the part of the South China Sea occupied by them. This insecurity may lead to

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<sup>84</sup> UNEP. 2001. TDA.

countries actions to exploit and explore the resources in the South China Sea, in a speed faster than when ownership of a resource is clearly defined, leading to further environmental degradation in the South China Sea. Territorial disputes also make the countries increase their government expenditures on military modernization, reducing government investment in further economic development.

3) Environmental degradation in the South China Sea can pose a serious threat to sustainable economic growth in the region, as it relies heavily on its marine resources for economic benefits and foreign exchanges. Environmental degradation can also worsen inter-state conflicts already existing in the region.

***Development and Territorial Disputes as Causes of Environmental Degradation.*** Like many other environmental problems, the degradation of the marine environment in the South China Sea can find its causes in economic development, population growth, and urbanization that are rapidly occurring in the region. Southeast Asia has been not only one of the fastest growing economic regions in the world in the past several decades; it is also one of the most heavily populated regions. Some 70 percent of the Southeast Asian population are coastal dwellers, representing approximately 270 million, or roughly five percent of the world's population. The littoral countries of the South China Sea heavily rely on the marine resources from the South China Sea for basic animal proteins and economic incomes. The governments have to provide sufficient food and protein to their large and still increasing populations. In Southeast Asia, seafood is the main animal protein source for most people, and two-thirds of animal protein consumption comes from seafood and crustaceans.<sup>85</sup> The increasing population is

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<sup>85</sup> Tom Næss. 2002. "Dangers to the Environment". In *War or Peace in the South China Sea*. Timo Kivimaki eds. Copenhagen, Demark: NIAS Press.

probably the root cause for fisheries exploitation and other marine environmental problems in the South China Sea.

Unlike any other domestic problems, the degradation is further worsened by the unclear ownership of the contested area, which encourages various claimant countries' competition for resources, and ultimately leads to increasing government-encouraged exploitation activities without taking consideration of any obligations to protect the environment. The unclear definition of sovereignty rights, along with competing unilateral claims of ownership, drive individual governments to fiercely compete with one another and accelerate their exploitation of fisheries resources and oil exploration activities. They fear that any unilateral restraints will only benefit other countries. For example, media reports commonly show government-supported oil exploration activities and fishing activities being conducted with soldiers serving as escorts.

***Environmental Degradation: a Possible Trigger to Inter-state Conflicts.***

There is awareness at the highest political levels in the states bordering the South China Sea that development cannot continue to be pursued at the expense of the environment; if it is, it will not be sustainable. The only uncertainty of the policy-makers is how much more the environment/ecosystem can take. Less noticed by policy-makers is that a degrading marine environment can increase the tensions and the quarrelling among nations, and actually play a disintegrating role in the peace and final solution of the disputes and conflicts in the region. The importance of marine environmental degradation in the South China Sea goes far beyond the significance of its impact on the marine ecosystem, or sustainable development of the region, although this is still extremely important. The environmental status of the South China Sea directly relates to the security of the region. When resources

are abundant, human beings are less aggressive, but tension tends to increase when resources are being depleted. Competition for the resources will increase as the depletion continues, especially when ownership of the resources has not been clearly defined.

To some littoral countries, marine environmental problems in the South China Sea seem less threatening or impending than some of their domestic environmental problems, which are more closely related to the welfare of their citizens, for example, the fresh water, air pollution, and sewage systems and hygienic conditions of urban cities. In the main environmental reports by ASEAN and UNEP, the marine environment is mostly discussed in less length than other environmental problems such as air pollution and deforestation, and in general is relegated to the latter part of the reports.

Marine environmental degradation in the South China Sea, interacting with development and territorial disputes could have impacts beyond the environmental field. Scholars have long recognized that environmental scarcities can contribute to inter-state conflicts. Thomas Homer-Dixon observed that Japan sought to secure oil, minerals and other resources in China and Southeast Asia during the Pacific War, and the 1991 Gulf War was at least partly motivated by the desire for oil.<sup>86</sup>

Two kinds of resource exploration and exploitation competition in the South China Sea may essentially intensify regional tensions, and aggravate the conflicts over the South China Sea. The first is the growing need for developing indigenous hydrocarbon resources. The rising demand encourages states to allow foreign oil companies to explore areas not recognized as being within their

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<sup>86</sup> Homer-Dixon. 1994.

jurisdiction. The second is the over-capacity in fishing industries of individual countries, responding to the increasing demands for fish as a source of animal protein and export income.

Two factors may contribute the “environmental scarcity” in the South China Sea: technological development and an increasing population with access to the marine resources. As technology develops, both offshore hydrocarbon exploration activities and fishing activities are likely to increase in a competitive way. People from different countries will find themselves, physically closer and closer, more and more often, trying to fish the same stocks. In other words, the common resource pie is decreasing, while the population wanting to divide the resource pie is increasing. Tension among resource users, therefore, is likely to greatly increase. Environmental degradation and resource depletion in such a volatile and disputed area as the South China Sea could easily lead to further conflicts in the already much “troubled” waters. The advanced fishing technologies enable fishermen to fish in distant areas, increasing the chances of contacts and competition with fishermen from other countries.

***Oil Exploration and Conflicts.*** Expectations of large offshore oil deposits in the region are spurring aggressive oil exploration efforts by littoral countries, especially China and Vietnam. This has resulted in a volatile situation, which could easily and quickly lead to open conflict. Table 3.7 includes the major disputes over drilling and exploration of hydrocarbon resources in the South China Sea in the 1990s. Ten major disputes have occurred since 1992, nine out of which were between China and Vietnam.

**Table 3.7. Disputes over Drilling and Exploration in the South China Sea**

Date	Countries	Disputes
1992	China, Vietnam	In May, China signed a contract with U.S. firm Crestone to explore for oil near the Spratly Islands in an area that Vietnam says is located on its continental shelf, over 600 miles south of China's Hainan Island. In September, Vietnam accused China of drilling for oil in Vietnamese waters in the Gulf of Tonkin.
1993	China, Vietnam	In May, Vietnam accused a Chinese seismic survey ship of interfering with British Petroleum's exploration work in Vietnamese waters. The Chinese ship left Vietnamese block 06 following the appearance of 2 Vietnamese naval ships.
1993	China, Vietnam	In December, Vietnam demanded that Crestone cancel offshore oil development in nearby waters.
1994	China, Vietnam	Crestone joined with a Chinese partner to explore China's Wan' Bei-21 (WAB-21) block. Vietnam protested that the exploration was in Vietnamese waters in their blocks 133, 134, and 135. China offered to split Wan' Bei production with Vietnam, as long as China retained all sovereignty.
1994	China, Vietnam	In August, Vietnamese gunboats forced a Chinese exploration ship to leave an oilfield in a region claimed by the Vietnamese.
1996	China, Vietnam	In April, Vietnam leased exploration blocks to U.S. firm Conoco, and ruled out cooperation with U.S. oil firms that signed Chinese exploration contracts in disputed waters. Vietnamese blocks 133 and 134 cover half the zone leased to Crestone by China. China protested, and reaffirmed a national law claiming the South China Sea as its own in May.
1997	China, Vietnam	In March, Vietnamese issued a protest after the Chinese Kantan-3 oil rig drills near Spratly Islands in March. The drilling occurred offshore Da Nang, in an area Vietnam calls Block 113. The block is located 64 nautical miles off Chan May cape in Vietnam, and 71 nautical miles off China's Hainan Island. The diplomatic protests were followed by the departure of the Chinese rig.
1997	China, Vietnam	In December, Vietnamese protested after the Exploration Ship No. 8 and two supply ships entered the Wan' Bei exploration block. All 3 vessels were escorted away by the Vietnamese navy.
1998	China, Vietnam	In September, Vietnamese protested after a Chinese report stated that Crestone and China were continuing their survey of the Spratly Islands and the Tu Chinh region (Wan' Bei in Chinese). (The dispute over this area was resolved by an agreement between China and Vietnam concluded in December 2000.)
2003	Malaysia, Brunei	In May 2003, a patrol boat from Brunei acted to prevent from undertaking exploration activities in an area offshore from Northern Borneo disputed by the two countries.

*Source: EIA.*

Assertion of exploration rights intensified in 1992 with China's granting of an oil exploration contract to a US oil company adjacent to a Vietnamese oil field. This action led to verbal and minor physical confrontation between China and Vietnam. The Philippines and Malaysia have also proceeded with hydrocarbon exploration activities in the Spratly area.<sup>87</sup>

***Depletion of Fisheries Resources and Conflicts.*** Conflicts resulting from fishing competition due to depletion of fishery resources are a new phenomenon. The Cod Wars between Iceland and Great Britain were the results of the depletion of fisheries resources. Since the very beginnings of distant water fishing, Icelandic seas were a magnet to the trawler fleets of other nations—in particular the UK. But during the 1950s catches began to fall. In 1958, Iceland declared a territorial limit of twelve nautical miles and pushed out the foreign trawlers. Throughout the 1960s the catches kept on dropping. In 1972, Iceland extended its exclusive fishing limit to 50 nautical miles. UK authorities refused to recognize the new limit and continued to send their trawler fleet into Icelandic waters. Iceland responded with force sending in gunboats to cut the British trawlers' nets. In response, the UK sent in the Royal Navy to protect its fishing fleet. This was followed with a tense diplomatic situation. The conflict was concluded with an agreement between the two countries that limited British fishing to certain areas inside the 50 nautical miles' limit. Great Britain agreed the British vessels could not catch more than 130,000 tons of fish annually. The agreement was valid for two years, and expired in November 1975. After the expiration of the agreement, Iceland further declared an exclusive fishing area with 200 nautical miles from its

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<sup>87</sup> Liselotte Odgaard. 2001. "Deterrence and Cooperation in the South China Sea." *Contemporary Southeast Asia*, Vol. 23, No. 2, August 2002: 292-306.

coastline. Great Britain refused to recognize the declaration, and kept sending fishing vessels to areas within 200 nautical miles of Iceland coastlines. Iceland employed six Coast Guard ships and two Polish-built stern trawlers, converted for Coast Guard work, to enforce her control over fishing rights. In response, Great Britain deployed 22 frigates, seven supply ships, nine tug boats, and three support ships to protect its fishing trawlers. The consequence of the conflict is that there were numerous ramming between Icelandic ships and British trawlers and frigates. This conflict brought the two NATO allies to the brink of war. This time NATO was brought in to broker a peace deal.

In recent years, fishing disputes in the South China Sea region have been on the rise due to the increase of fishing fleets and decrease of fish stocks. The rapid introduction of sophisticated fishing technology by private or state-controlled companies has seriously disrupted the traditional organization of small-scale fishermen. The construction of small trawlers has intensified the pressure on coastal stocks, and small-scale fishing has been neglected in development plans, which focus on full-time fishermen. In order to assure fishermen's interests, governments have even sent naval forces to protect them. By 1988, the South China Sea countries had become increasingly active in securing for themselves a share of fishery resources.

In 1999 alone, two serious incidents between Philippine naval ships and Chinese fishing boats were reported by the BBC News.<sup>88</sup> On May 23, 1999, a Chinese fishing boat sank near the Scarborough Shoal (claimed by both China and the Philippines), after a collision with a Philippine naval vessel which had been

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<sup>88</sup> See BBC News World: Asia-Pacific. "Chinese boat sunk off disputed reef." May 24 1999. "China condemns sinking of trawler." May 25 1999. "Philippines 'regret' over Spratly sinking." 20 July 1999.

chasing it. Again on 19 July 1999, the Philippines naval ship chased and fired on two Chinese fishing boats in the disputed area, and one of the boats was then rammed and sank with eleven crew members on board. After two incidents, each country restated their sovereignty over the disputed areas. China expressed strong protest against the Philippines action and demanded the Philippines punish those responsible and compensate the Chinese fishermen for their losses. It also urged the Philippines government to take “necessary measures” to prevent similar incidents again. The Philippines government, on the other hand, refused to apologize because it considers the Chinese fishing boats as trespassing in its sovereign territory. President Joseph Estrada said, “they were fishing inside the Philippine territory so we have to study whether to apologize or not for that unfortunate incident.”<sup>89</sup>

For the five-year period between 1987 and 1991, the Thai authorities recorded more than a 60 percent increase in the seizure of Thai boats and crew in the national waters of other states.<sup>90</sup> Numerous other incidents involving the detention of fishermen and equipment occurred in the region. There has been an increasing trend of such detentions. Recurrent incidents of the arrest and detention of fishermen and their boats became a repeated source of friction between the littoral states of the South China Sea. It is important to recognize that such disputes could trigger bigger conflicts in the future. “The presence of so many vessels in the area can lead to accidents that can lead to so many repercussions,” said Mr. Domingo Siazon, the Philippines Foreign Secretary.<sup>91</sup> Such disputes

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<sup>89</sup> BBC News World: Asia-Pacific. May 25, 1999.

<sup>90</sup> Bangkok Post. 31 December 1992. p. 61.

<sup>91</sup> BBC News World: Asia-Pacific. 20 July 1999.

between China and the Philippines, in particular, have been part of the cause of diplomatic frictions between the two countries, rendering their bilateral Code of Conduct (signed in 1995) virtually non-existent.

### **The Necessity for Regional Marine Environmental Cooperation**

The complexity and inter-connectedness of these various issues challenge the littoral countries to take collective actions to reverse the environmental degradation trends, and thereby prevent adverse impacts on economic and security issues. Marine environmental cooperation is needed not only for environmental cooperation, but also for the achievement of the region's economic prosperity and peace. Of particular relevance to developing states is that the regional level of cooperation offers the possibility of improved collective capacity and capacity building. Regional cooperation has at least the three following functions: pooling and more efficient use of scarce resources; attracting assistance from regional agencies, bilateral aid agencies and other donors; and the presentation of a unified "regional front" allowing states to increase their "leverage", whether in direct confrontations with external powers or in the context of highly fractionalized global negotiations.

The transboundary nature of environmental problems itself requires states and people across boundaries to cooperate and deal with the problems together. The fact that environmental spillovers—physical, economic, and psychological—occur at a variety of geographic scales argues strongly for effective actions at various levels. Thus, problems that arise at the local level that have local effects should be handled by national governments and their sub-jurisdictions, and issues

with a global dimension should be addressed by international institutions.<sup>92</sup> The most appropriate approach to regional seas problems is probably to foster regional cooperation on the relatively non-political and non-sensitive problems such as the marine environment, and shelving for the time being the “sovereignty” issues.

Impacts of environmental degradation do not recognize national boundaries due to ecological interdependence. Environmental problems especially can be transferred easily in enclosed and semi-enclosed sea areas; therefore, regional cooperation is particularly important in these types of areas. The United Nations Convention on the Law of the Sea (UNCLOS 1982) provides a sound legal justification for the further development of regional cooperation on marine environmental issues. All the countries bordering the South China Sea have ratified the Convention. Article 123 of the UNCLOS stipulates,

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 the UNCLOS. To this end they shall endeavor, 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 co-operate with them in furtherance of the provisions of this article.<sup>93</sup>

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<sup>92</sup> See Dua and Esty. 1997. Although some scholars argue that all environmental issues have global significance due to the inter-linkages in the holistic ecosystem, actions at various levels are required to effectively address problems with various scopes of impacts.

<sup>93</sup> The text of UNCLOS can be found at the website of the UN Division for Ocean Affairs and the Law of the Sea (<http://www.un.org/Depts/los/index.htm>).

Although the physical and ecological degradation of the coastal and near-shore areas, and the depletion of their resources are seemingly local in their nature, the impacts of these problems are widespread and are today so evident at sites far away from their origin that only globally applied strategies have a chance to achieve long-term solutions.<sup>94</sup> However, due to their large scale and the wide coverage of global actions, global initiatives cannot address specific environmental problems, as Mark J. Valencia puts it:

The global approach serves an indispensable function in creating frameworks or blueprints for action, and in defining general principles. But the breath of the global approach is sometimes achieved at the expense of depth. Indeed, the nature of obligations to global agreements tends towards the lowest common denominator in order to ensure that the largest possible number of parties might be included.<sup>95</sup>

Neither can individual countries' actions address transboundary environmental problems, carried through ocean currents and winds. The region provides an important medium level between the generalities of global regimes and the specifics of national implementation, since national level actions without regional coordination tend to lead to the "tragedy of commons," and global level actions have been general, and not specific enough to deal with regional seas problems such as those of the South China Sea.

The definition of a region is flexible, and loose. It mainly refers to a group of countries sharing some common interests or characteristics. A region might be defined around existing patterns of cooperation (regardless of whether the

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<sup>94</sup> Peter Bautista Payoyo. 1994. *Ocean Governance*. Tokyo, New York, and Paris: United Nations University Press.

<sup>95</sup> Mark J. Valencia. 2001. *Ocean Governance and Sustainable Development in the Pacific Region*. p. 67. Southeast Asian Programme in Ocean Law, Policy and Management. Bangkok, Thailand: Innomedia Co., Ltd.

cooperation is marine-related, a management problem shared by all members of the region; geographic proximity and the presence of a transboundary issue (as with some enclosed and semi-enclosed seas); cultural homogeneity; military alliances; and even *ad hoc* groupings intended to reflect a common position on a specific issue of special concern.<sup>96</sup> Thus states might be members of a number of overlapping “regions” defined for different purposes and according to different criteria. The countries in a region must share political concepts. For example, a sense of “community” must be developed among the participating countries. There must be a gradual progression in the region from the concept of national resilience and absolute sovereignty to the concept of regional resilience, regional cohesion and regional identity. Hence, to facilitate regional cooperation, it is necessary to identify an issue area that the countries are willing to cooperate on, and form a sense of “community” among the countries to collectively address this identified issue. Linkages and networking among academics, experts and think tanks are important particularly in the preliminarily and initial stages, as are linkages between and among various regional and sub-regional initiatives.

What is the appropriate size of “a region” for successful regional marine environmental cooperation? If a region covers a broad geographic area, it tends to be difficult to identify a common “issue area” that all countries are willing to cooperate on. Sometimes the environmental issues can be so diverse that any actions to identify regional priority issues may prove to be impossible. Furthermore, vast geographical coverage may also bring about controversial political considerations, which are not conducive to the formation of a sense of

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<sup>96</sup> Ibid. p. 68.

community. As Valencia has pointed out, “if a region contains a smaller number of states with more congruent interests or similar management concerns, there is a better chance of achieving more specific and more robust agreements than within a larger grouping”.<sup>97</sup>

In the quest for a cleaner environment and regional marine environmental cooperation in the highly complex situation of the South China, the UNEP has taken a lead in the cause. The following two chapters will review the development of marine environmental cooperation under the framework of UNEP, and how UNEP identifies issues for cooperation and fosters a sense of community, by interacting with the countries bordering the South China Sea in their efforts to forge multilateral environmental cooperation in the South China Sea.

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<sup>97</sup> Ibid. p. 68.

## CHAPTER 4

### THE DEVELOPMENT AND IMPLEMENTATION OF THE EAST ASIAN SEAS ACTION PLAN

The earliest moves towards environmental cooperation around the South China Sea were driven and shaped by two concurrent dynamics operating at the global and regional levels: namely the internationalization of the global environmental agenda and the particular dynamics of cooperation in the region. At the global level, public awareness of environmental problems arose quickly during the 1960s in Europe, and resulted in the United Nations Conference on the Human Environment (UNCHE), convened in Stockholm in 1972, which led to the establishment of the United Nations Environment Programme (UNEP) in the same year.<sup>1</sup> In 1974, UNEP initiated one of its first marine initiatives to develop and implement the Mediterranean Action Plan (MAP) followed by similar actions in other regions leading, three decades later, to 13 regional seas action plans with the participation of more than 140 countries. At the regional level in Southeast Asia, a cooperative mechanism, ASEAN, had been established in August 1967 involving five Southeast Asian countries, i.e. Indonesia, Malaysia, the Philippines, Thailand and Singapore. During its early days, ASEAN was very inactive, and was criticized as nothing more than a “talk shop”. Sometimes even the talk shops could not be held on time due to intra-regional disputes and conflicts.<sup>2</sup> Despite the institutional weakness of the newly established organization, ASEAN at least

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<sup>1</sup> For global environmental movement, see e.g. J McCormick. 1989. *The Global Environmental Movement*. London: Belhaven. Andrew Hurrell and Benedict Kingsbury, eds. 1992. *The International Politics of the Environment*. Oxford: Oxford University Press. Norichika Kanie and Peter M. Haas. 2004. *Emerging Forces in Environmental Governance*. Tokyo: United Nations University Press.

<sup>2</sup> See Michael Leifer. 1973. “The ASEAN States: No Common Outlook.” *International Affairs* 49: 600-607.

provided a regional institutional setting, probably the only regional institution available in the late 1970s, which could be conveniently used to promote the global environmental agenda at the regional level in Southeast Asia.

Starting in the late 1970s, UNEP, in collaboration with ASEAN, developed and implemented the East Asian Seas Action Plan. The Action Plan was considered part of ASEAN's marine environmental program in its early stage, and remained embedded in ASEAN for more than a decade before its separation from the ASEAN framework in 1990. The Action Plan, one of the most heavily UNEP-supported action plans, is amongst the few UNEP regional seas action plans that lack the backing of a legally binding regional convention. The Action Plan is facing lots of difficulties currently, seeking a niche in a region with a variety of environmental cooperative activities, which the Action Plan has catalyzed. Three decades' ago, when the Action Plan was first adopted, environmental cooperation, or any sort of cooperation, was still extremely rare. Hence, despite the fact that no legally binding regional convention was formed among the countries of the Action Plan, observers cannot deny the progress and achievements of environmental cooperation made by the countries over the last three decades, including catalyzing environmental protection activities, building scientific and management capacity, promoting networking among marine scientists, all fostering ASEAN environmental cooperation and confidence building among the participating countries, culminating in the development of the UNEP/GEF South China Sea Project in the 1990s.

This chapter will review the origin, development and evolution of UNEP's Regional Seas activities in the East Asian Seas; explore its interactions with ASEAN in forging and shaping the East Asian Seas Action Plan, its institutional

setting and expansion, and attempt to explain why no regional convention has been developed to date. It explores how UNEP utilized the existing ASEAN as an institutional setting for the early development of the East Asian Seas Action Plan; how ASEAN environmental cooperation evolved as the East Asian Seas Action Plan grew, and how expansion of ASEAN membership and growth of the East Asian Seas Action Plan led to an inevitable separation of the two initiatives.

I contend that, UNEP had successfully catalyzed marine environmental cooperation through the Action Plan by facilitating and fostering the networking of marine scientists, enhancing governmental capacity to deal with marine affairs, and transforming global environmental policies into regional implementation. However, the Action Plan had relied on institutional arrangements and political support from ASEAN for the development and implementation of the Action Plan since the beginning. As a result, embedded in ASEAN for more than a decade, the decision-making body of the East Asian Seas Action Plan, COBSEA failed to build its own regional identity at an early stage. Inevitably, ASEAN left an organizational mark on, and institutional legacy to COBSEA. Specifically, COBSEA inherited the “ASEAN Way” as a norm for decision-making—principles of non-interference, consultation and unanimous consensus, which although they initially fostered non-legally binding cooperation in a region without much history of cooperation, now has probably become the factor preventing the further development of formal, legally-binding environmental agreements in the region. The separation of ASEAN marine environmental cooperation from COBSEA activities and growing regional activities have put COBSEA in a situation of a continuous flux, seeking its own niche and identity, which to date has not been very successful.

## UNEP Regional Seas Programme

Coastal areas are among the earliest places for human settlement and economic development, due to their proximity to abundant marine living resources and the services of maritime transport. According to Agenda 21, more than half of the world's population lives within 60 km of the shoreline, and, this figure is projected to rise to three quarters by the year 2020.<sup>3</sup> A UNEP report states that seven out of ten people live within 80 kilometers of coastal areas.<sup>4</sup> Due to rapid population growth and fast-paced industrialization, coastal resources and the coastal environment are being rapidly degraded in many parts of the world.

The 1972 UNCHE and its Stockholm Declaration were a catalyst for the development of a range of global initiatives to protect and preserve the environment. One important result of the conference was the creation of UNEP. Although sovereignty and development were still considered priorities by national governments compared with environmental protection, the conference contributed to raising environmental awareness among top national leaders, worldwide.

The Regional Seas Program was initiated by UNEP in 1974 as a global program to address marine environmental problems through a regional approach. The Regional Seas Programme aimed to address the accelerating degradation of the world's oceans and coastal areas by working regionally to engage governments in comprehensive and specific actions to protect their shared marine environments.<sup>5</sup> The Regional Seas Programme involved the development of

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<sup>3</sup> UNCED. Agenda 21: Chapter 17.

<sup>4</sup> UNEP. 2000. *Regional Seas: A Survival Strategy for Our Oceans and Coasts*. [www.unep.org/dec/information/public\\_information.html](http://www.unep.org/dec/information/public_information.html).

<sup>5</sup> UNEP. 2003. *A World of Neighbours: UNEP's Regional Seas Programme*. [www.unep.org](http://www.unep.org).

intergovernmentally agreed action plans. In most cases, this was underpinned by a strong legal framework in the form of a regional convention and associated protocols on specific problems. Normally a small secretariat was established to coordinate the implementation of the action plan, according to a work plan and budget approved by periodic inter-governmental meetings.

UNEP's earliest initiative was in the Mediterranean, which served as the first testing ground for the newly adopted regional approach to marine environmental issues. In the beginning, obstacles to regional cooperation seemed insurmountable due to the considerable differences in the political and socio-economic systems; the differing levels of development of the participating countries; and even open hostilities between some of the 20 coastal countries bordering this semi-enclosed sea.<sup>6</sup> Despite these presumed difficulties, it proved relatively easy to reach rapid agreement on an action plan in Barcelona in February 1975. Within a year of the adoption of the action plan, negotiations were completed for a legally binding agreement, which would serve as the legal framework of the action plan. In early 1976, 11 countries and the European Economic Community (EEC) signed the convention supplemented with two protocols, on the control of dumping and cooperation in cases of pollution emergencies. Less than two years after the signing, the convention and two protocols entered into force. Four other protocols have been developed in two decades, the MAP community has grown to 21 participating countries.

The MAP has been financially self-sufficient since 1984. Today all expenses are covered by the contributions from the contracting parties to the

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<sup>6</sup> Stjepan Keckes. 1994. "The Regional Seas Programme—Integrating Environment and Development: The Next Phase." In Peter Bautista Payoyo eds. *Ocean Governance: Sustainable Development of the Seas*. Tokyo, New York, Paris: United Nations University Press.

Mediterranean Trust Fund established in 1979. It was one of the most useful lessons demonstrating that UNEP's funds could be used to catalyze a large-scale program with continuing financial support from the member countries that continues to operate and produce results long after UNEP's financial support has been withdrawn.<sup>7</sup>

The success of the Mediterranean Action Plan led UNEP to transfer experiences through the regional seas programme to almost all regional seas in the world commencing with the development of individual action plans in each region. At present, the Program includes 13 regional action plans covering more than 140 countries in the: Black Sea, Caribbean, East Africa, East Asia, the Kuwait Convention region, Mediterranean, North-East Pacific, North-West Pacific, Red Sea and Gulf of Aden, South Asia, South-East Pacific, South Pacific, and West and Central Africa.<sup>8</sup>

The impact of the UNEP Regional Seas Programme on the reduction of marine pollution and the protection of the marine environment continues to be questioned by some NGOs and scholars. However, there is probably no argument that "regional" level actions are the most appropriate level of action in addressing marine environmental problems, since neither a global nor a national approach are adequate or effective in addressing transboundary marine environmental problems. It is clear that UNEP created a particular niche within the international system through which to address marine environmental problems, namely, the regional approach.

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<sup>7</sup> Ibid.

<sup>8</sup> Ellik Adler. 2003. "A World of Neighbours: UNEP's Regional Seas Programme." *Tropical Coasts*, July: 4-18.

Perhaps more importantly, the significance of the UNEP Regional Seas Programme goes beyond the impacts on the marine environment. A regional approach demands cooperation among countries bordering a common sea area. When UNEP launched its program as part of a global initiative, using the argument of the "shared" nature of the marine environment, countries found it difficult to resist such multilateral cooperation. As a result, environmental cooperation became an ice-breaking area for contentious countries, and it helped to build confidence and reduce suspicion and ambiguity among neighboring countries.

In addition, the Regional Seas Programme provided a forum to develop other forms of marine environmental cooperation including, in collaboration with the International Maritime Organization (IMO), activities on emergency oil spill response and preparedness, and in collaboration with the Food and Agriculture Organization (FAO) on regional fisheries issues. In addition to its mandate to develop and implement the regional action plans and regional conventions, the Regional Seas Programme also formed an effective network and platform for UNEP to launch global programs addressing marine environmental issues and problems, such as: the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA/LBA); the International Coral Reef Action Network (ICRAN); the Global International Water Assessment (GIWA); and the Global Plan of Action for Marine Mammals.

A point should be noted at the outset of the discussion, the East Asian Seas Action Plan is one of the initiatives under UNEP's Regional Sea Programme. The observations or conclusions drawn for the East Asian Seas Action Plan may not be applied to other regional seas action plans. Since great diversity exists among the thirteen action plans, it is often difficult to draw valid generalizations about either

the regional arrangements themselves or the management problems they are intended to handle. Observations made, experiences drawn or lessons learnt in the East Asian Seas Action Plan may not be applicable to other action plans, but it is a case demonstrating how geopolitical considerations shape the development and evolution of a global program initiated by an international organization, and that the various geopolitical settings and political support can at least partially explain why the same global program results in different levels of successes and performances in different regions.

### **Early Development of the East Asian Seas Action Plan: 1978-1990**

Following the success of the MAP, UNEP undertook a proactive approach to develop a similar regional seas approach as a measure to tackle the growing coastal and marine environmental problem of the globe. In the fifth session of the Governing Council of UNEP in 1977, five ASEAN member countries requested the development of the East Asian Seas Action Plan. The Governing Council decided that “steps are urgently needed to formulate and establish a scientific program involving research, prevention and control of marine pollution and monitoring” for a regional seas program in Asia.<sup>9</sup> At that time, the difficulties of establishing an Action Plan encompassing the entire East Asian Seas seemed insurmountable, so UNEP took a subregional approach to promote regional environmental cooperation; that is, UNEP started the Action Plan among ASEAN countries, which, in its first decade, were still struggling to develop to form a solid and regional organization with a distinct identity.

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<sup>9</sup> UNEP/IG. 37/10. 1982. *Report of the First Meeting of the Coordinating Body on the Seas of East Asia*. p. 1. First Meeting of the Coordinating Body on the Seas of East Asia (COBSEA), Bangkok, Thailand, 3 April 1982.

In addition to the territorial disputes discussed in Chapter 3, the 1970s witnessed complete turmoil in Southeast Asia. Bilateral conflicts, disputes and strife are found between almost all countries of the region. In the 1970s, Southeast Asia was entirely divided by ideological struggles along the Cold War lines, with strong involvement of the US and former Soviet Union. The Indochinese<sup>10</sup> countries (Laos, Cambodia and Viet Nam) followed a socialist model, supported by the Soviet Union. With the support of the Soviet Union, Vietnam occupied Cambodia; China, in détente with the Soviet Union, was in opposition to Viet Nam and their deteriorating relationship culminated in a border war in 1979 between China and Viet Nam. At that time it was a region full of antagonism, poverty, and under-development.

*China and Southeast Asia.* During the late 1970s and early 1980s, the relationship between China and the major Southeast Asian countries was characterized by ideological struggles and hostility. Three interrelated factors contributed to the hostility between China and the Southeast Asian countries: namely China's support of communist insurgent movements in neighboring Southeast Asian countries; problems relating to large Chinese ethnic communities in Southeast Asia (the "overseas Chinese problem"); and regional conflicts, especially Viet Nam's invasion of Cambodia, and the Sino-Vietnamese War in 1979.

China was believed by Southeast Asian Governments to have supported the communist insurgency in Southeast Asia with a view to creating communist satellite states for China. During the Cultural Revolution, China had cultivated ties

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<sup>10</sup> Under French rule the countries of Laos, Cambodia and Viet Nam were administered as a single entity "IndoChina."

with insurgent communist parties in Thailand, Malaysia, Burma, Indonesia and the Philippines. Besides endorsing the call for armed struggle against the central governments in these countries, Beijing frequently provided material support to some parties and set up clandestine radio stations on Chinese territory to serve the communist movements in Southeast Asia. The most well known of these include the Voice of People's Thailand; the Voice of the Malayan Revolution; and the Voice of the People of Burma; broadcasting from China in support of the communist insurgency in Southeast Asia.<sup>11</sup>

Amongst all the Southeast Asian countries, China's relations with Indonesia, the most populous Southeast Asian country, were the worst largely due to the failed Indonesian communist coup of 1965, known as Gestapu Affairs.<sup>12</sup> On 31 October 1965, the Indonesian Communist Party (PKI) failed in an attempted coup to seize power in Indonesia. The Indonesia Armed Forces (ABRI) took this opportunity to put an end to communist influence in Indonesia by striking decisively at the coup leaders. Major General Suharto took the presidency, the leaders of the PKI were arrested, tried and executed, and the PKI was banned. Thousands of PKI members and supporters were massacred in a bloodbath following the coup. It was the belief of the Indonesian leadership that the Chinese government was behind the entire event. Consequently, the ethnic Chinese community, believed to be a "tool" of the Chinese government to disseminate

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<sup>11</sup> For a detailed analysis of China's relationships with the communist movements in the Southeast Asia in late 1970s and early 1980s, see Willaim R. Heaton. 1982. "China and Southeast Asian Communist Movements: the Decline of Dual Track Diplomacy." *Asian Survey* 22 (2): 779-800. In this article, Heaton argues that Chinese government starts to weaken its relationship with the communist parties in Southeast Asia to improve its government-to-government relations with Southeast Asian countries, but still maintains party-to-party relationships.

<sup>12</sup> Ian James Storey. 2000. "Indonesia's China Policy in the New Order and Beyond: Problems and Prospects." *Contemporary Southeast Asia* 22 (1): 145-174.

communism, was harshly persecuted. Chinese schools were closed down, the use of Chinese characters and language were banned, and the observance of Chinese festivals was forbidden. In September 1965, against the background of rising tensions between the two countries, Indonesia suspended diplomatic relations with China.

Although China successfully normalized its diplomatic relationships with Malaysia in 1974 and with the Philippines and Thailand in 1975, it did not renounce support for the communist parties in these countries.<sup>13</sup> Consequently, these countries remained conservative in their relations with China, and were concerned about the influence of communism being disseminated by the Chinese government through the overseas Chinese communities.

*ASEAN: Seeking to Consolidate Its Identity.* In a region where conflicts were persistent, and even normal diplomatic relationships did not exist between some countries, broad based regional cooperation was obviously out of the question. Southeast Asia had a history of internal divisions and the influence of external powers. On 16 September 1963, Malaya, Singapore, Sabah and Sarawak were amalgamated into the Federation of Malaysia. Neither Indonesia nor the Philippines recognized Malaysia: the Philippines because of the Sabah dispute; while Indonesia viewed Great Britain's creation of Malaysia as a case of an imperial power imposing its will on Southeast Asia. Indonesia embarked on a policy of Konfrontasi (confrontation) with Malaysia. In August 1965, Singapore was expelled from Malaysia due to the constitutional, party, ethnic and personal differences between the Singaporean government and the Malaysian federal

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<sup>13</sup> See Willaim R. Heaton. 1982.

government.<sup>14</sup> The Singaporean and Malaysian governments were still mutually suspicious and continued open disputes, reminiscent of those, which occurred before separation. The Vietnamese occupation of Cambodia since December 1978 not only created a crisis situation in the Indochinese peninsula but also threatened the stability of Southeast Asia.

The five founding members of ASEAN had different goals for the initial establishment of a regional organization. Indonesia desired to repair its relations in the region that had been damaged largely by the policy of *Konfrontasi*, which underlay the disruptive potential of Indonesia as the largest and most militarily powerful state in the region. Suharto's government tried to reassure its neighbors that a new Indonesia would not be the destabilizing influence it had been in the past; hence Indonesia went from a state largely indifferent to efforts at regional collaboration to a major proponent of regionalism.<sup>15</sup> Furthermore, Indonesia also saw ASEAN as an opportunity both to exercise regional leadership and to reduce the ability of external powers to influence events in Southeast Asia. Shee Poon-Kim observed,

The downfall of Sukarno after the PKI coup in 1965 and Suharto's "New Order" in both domestic and foreign policy were the crucial factors that gave impetus to the formation of ASEAN. Suharto, not wishing to ally himself with either the capitalists or the communist bloc, now saw the necessity of becoming an active proponent of a new regional organization in Southeast Asia in which Indonesia could perform a leading role.<sup>16</sup>

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<sup>14</sup> For a detailed recount of Singapore's breakup with Malaysia, see R. S. Milne. 1966.

"Singapore's Exit from Malaysia; the Consequences of Ambiguity." *Asian Survey* 6: 175-184.

<sup>15</sup> See Shaun Narine. 2002. *Explaining ASEAN: Regionalism in Southeast Asia*. Boulder, CO: Lynne Rienner Publishers.

<sup>16</sup> Shee Poon-Kim. 1977. "A Decade of ASEAN, 1967-1977." *Asian Survey* 17: 753-770.

Malaysia, Singapore and the Philippines supported ASEAN as a way to constrain Indonesia, while providing Jakarta with a channel for its aspirations to regional preeminence. Thailand hoped that ASEAN would become the basis for the “collective political defense” of the region, which would help to contain Viet Nam.<sup>17</sup>

The common concern among the Southeast Asian countries of the perceived threat of communism in the 1960's constituted a most important reason for the formation of a regional organization. In 1967, Indonesia, Malaysia, the Philippines, Thailand, and Singapore signed the Bangkok Declaration, marking the establishment of the ASEAN. Not much attention was drawn to this organization in its early development. The organization was built upon a declaration, rather than a legally-binding instrument. The failure of similar previous attempts in the region, i.e. the Association of Southeast Asian States (ASA) in 1961 and Maphilindo (Malaysia, Philippines and Indonesia) in 1963, as well as subsequent security threats and other destabilizing events in the region throughout the 1960s and 1970s, led to pessimism and indifference about the viability of ASEAN from major powers.<sup>18</sup>

ASEAN ran into problems almost immediately after its formation. The Corregidor Affair erupted in March 1968. It involved allegations that the Philippines was using the island of Corregidor as a base to train Muslim insurgents for infiltration into Sabah. Diplomatic attempts to resolve the territorial dispute between Malaysia and the Philippines proved fruitless. In September 1968, the

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<sup>17</sup> Tim Huxley. 1990. “ASEAN Security Cooperation—Past, Present and Future.” In Alison Broinowski, ed. *ASEAN into 1990s*. London: Macmillan.

<sup>18</sup> Hussin Mutalib. 1997. “At Thirty, ASEAN Looks to Challenges in the New Millennium.” *Contemporary Southeast Asia*, Volume 19, Number 1, June 1997.

Philippines Congress passed a resolution emphasizing the Philippine claims to Sabah. ASEAN meetings were canceled and were resumed only in May 1969.<sup>19</sup>

Although ASEAN was built out of the concern against communism, the leaders of ASEAN emphasized that it was not a “security organization”, which would certainly antagonize other countries or supposed enemies. The Bangkok Declaration broadly states seven purposes of ASEAN: six of them deal with non-political issues such as economic, social, technical, scientific matters, and only one regarding the promotion of peace and stability of the region.<sup>20</sup> Despite the latter objective, ASEAN politicians made it clear from the outset that the organization would not deal directly with security matters or political controversies, because it wished to avoid the polarizing effects such a position would have on the other states of the region. Forming a military alliance clearly implied antagonism toward some identifiable threat. In addition, there was inadequate consensus between the ASEAN states on security matters, and the distrust among the ASEAN states remained a problem.

ASEAN had a very slow start in terms of its activities and meetings during the early years of its existence. It was almost a decade following the official establishment of the organization that, the first meeting of heads of all member states was convened in 1976, which adopted the Treaty of Amity and Cooperation in Southeast Asia (TAC). The primary purpose of the Treaty was to promote regional security and peace and to provide the opportunity for dialogue and consultation among the member countries. In the first decade of ASEAN, the greatest achievements were made in the military area, for example the signing of

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<sup>19</sup> See Narine. 2002.

<sup>20</sup> See ASEAN. 1967. *Bangkok Declaration* (8 August 1967). [www.aseansec.org](http://www.aseansec.org).

the TAC.<sup>21</sup> Although ASEAN leaders emphasized that the organization was established for non-military reasons, their greatest achievements as of the late 1970s lay in security and military aspects. ASEAN was in much need of functional, technical and non-political cooperation to build its “non-military” identity.<sup>22</sup> UNEP’s initiatives to promote regional environmental cooperation were much in line with ASEAN’s political considerations. Therefore, environmental cooperation sponsored by UNEP reflected ASEAN’s power and incentive structure, which will be discussed in detail later in this chapter.

For quite some time, scholars pondered and questioned the strength and durability, and the extent to which ASEAN represents anything beyond “business-as-usual” inter-state politics. ASEAN was struggling for the consolidation of the organization to form a regional identity; hence it was actively seeking for opportunities of socialization among member countries to build that identity.

*The Early Development of the East Asian Seas Action Plan: Embedded in ASEAN.* Considering the stark antagonism among the countries in the region, UNEP did not attempt to achieve a regional action plan that covered the whole region of East Asia. Rather, UNEP took advantage of an existing institution and decided to develop an East Asian Seas Action Plan under the umbrella of, and involving, the five founding members of ASEAN. The view was that this participation could be expanded at a later stage when geopolitical factors became more benign allowing broader, multilateral cooperation. Fully recognizing the

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<sup>21</sup> Another example is the Sabah dispute between Malaysia and the Philippines (Oct. 1968-May 1969), which nearly caused a paralysis of ASEAN activities. Thailand and Indonesia helped to place the Sabah issue on the back burner and restore the solidarity of ASEAN. See Russell H. Fifield. 1979. “ASEAN: Image and Reality.” *Asian Survey* 19: 1199-1208.

<sup>22</sup> See e.g. Alejandro Melchor, Jr. 1978. “Assessing ASEAN’s Viability in a Changing World.” *Asian Survey* Vol. 18: 422-434.

future involvement of other countries, the Action Plan stated early on in its text (paragraph 2 of the Action Plan) that:

The area of application of the action plan will cover initially the marine environment and coastal areas of the following states: Indonesia, Malaysia, Philippines, Singapore and Thailand without prejudice to its future extension so as to cover the marine environment and coastal areas of all the States bordering the East Asian Seas as may be determined at a later stage.<sup>23</sup>

In the early preparation and development of the Action Plan, UNEP used ASEAN as a mechanism to convene expert meetings, and collaborated with various international organizations in developing program priorities and projects. UNEP played an important role catalyzing environmental cooperation among ASEAN countries, not only marine environmental cooperation. As early as 1977, UNEP commissioned its Asia-Pacific regional advisory team to draft an ASEAN subregional Environmental Program (ASEP). During the process, UNEP launched a series of meetings and discussions on environmental issues, which were associated with progress not only in identifying issues and enunciating principles, but also with the actual formation of environmental ministries and the establishment of nature preserves in the ASEAN countries.<sup>24</sup> In December 1978, an ASEAN Expert Group on Environment (AEGE) convened a meeting in Jakarta, Indonesia to discuss the desirability of an action plan for the ASEAN region. In March 1979, a UNEP mission visited Indonesia, Malaysia, Philippines, Singapore and Thailand to explore their interest in the development of the action plan. The

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<sup>23</sup> UNEP. 1983. *Action Plan for the Protection and Development of the Marine and Coastal Areas of the East Asian Region*. UNEP regional Seas Reports and Studies No. 24. This document reproduces the parts of the reports of the intergovernmental meetings convened by UNEP in Manila, 27-29 April 1981 and in Bangkok, 9-11 December 1981 as the final stage of the preparatory work leading to the adoption of the Action Plan.

<sup>24</sup> See Manuel F. Montes and Francisco A. Magno. 1997. "Trade and Environmental Diplomacy: Strategic Options for ASEAN." *Pacific Affairs* Vol. 70: 351-372.

first draft of the action plan was prepared by the secretariat of UNEP in cooperation with specialized organizations of the United Nations System. It was reviewed by the second meeting of AEGE (Penang, 17-20 September 1979). Eleven projects relevant to the development of the action plan were initiated by the secretariat of UNEP in September 1979, in cooperation with the UN Economic and Social Commission for Asia and the Pacific (ESCAP), the World Health Organization (WHO), IMO, the UN Educational, Scientific and Cultural Organization (UNESCO) and FAO. The draft of the action plan was reviewed and revised by two meetings of experts designated by the countries of the region, respectively in Baguio, 17-21 June 1980 and in Bangkok, 8-12 December 1980.

The draft action plan was then submitted to the first intergovernmental meeting of member countries, convened to adopt the Action Plan on 27-29 April 1981, in Manila, Philippines. Representatives from Indonesia, Malaysia, Philippines, Singapore, and Thailand attended an intergovernmental meeting on the protection and development of the marine environment and coastal areas of the East Asian Region, and adopted the “Action Plan for the Protection and Development of the Marine and Coastal Areas of the East Asian Region.”<sup>25</sup> Due to extensive consultations among government nominated expert members of the region during the drafting of the action plan, the adoption of the text of the action plan was relatively easy. Another factor that had contributed to the adoption of the text was that it was comprised of general statements regarding marine environmental protection, and the proposed activities were all about scientific and

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<sup>25</sup> This Action Plan will be referred to as the “1981 East Asian Seas Action Plan”, which was not revised until 1994.

technical research related to environmental assessment and management. There were no sensitive issues or obsessive obligations for countries.

However, when it came to legal, institutional, and financial arrangements to achieve the goals and objectives set forth by the action plan and support the implementation of the action plan, the meeting failed to reach agreements. The meeting decided that the legal component did not need to be developed for the time being, due to ASEAN's aversion to legally binding agreements. With respect to financial and institutional arrangements, the meeting participants had to go back to their governments and seek their governmental perspectives on financial and institutional arrangements, before they could make a commitment on financial contributions and nominate focal points and institutions for the regional networking of the Action Plan. UNEP hence pushed the governments to consider suitable coordinating measures, i.e. the institutional and financial arrangement, for the Action Plan.<sup>26</sup> As a result, the meeting agreed that a second inter-governmental meeting should be convened later in 1981 to reconsider and adopt necessary institutional and financial arrangements for the implementation of the Action Plan.

Although the governments failed to adopt institutional, legal and financial arrangements to implement the Action Plan, the meeting contributed to Senior Government officials' awareness of the marine environmental problems and challenges faced by the region. Building on the outcomes from the inter-governmental meeting for the adoption of the Action Plan, the five ASEAN countries issued the "Manila Declaration on the ASEAN Environment" on 30 April 1981; this was the first ASEAN environmental declaration. It announced that the

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<sup>26</sup> See Para. 25.1 of UNEP. 1983. *Action Plan for the Protection and Development of the Marine and Coastal Areas of the East Asian Region*.

ASEAN countries had decided to endorse and implement the adopted ASEP, a report that had been drafted by UNEP.

Following the first inter-governmental meeting, UNEP followed up with individual governments for financial and institutional arrangements for the Action Plan. A letter was sent by the UNEP Executive Director to the five governments, and favorable responses were received from the five countries to reconsider the financial and institutional matters. Hence, before the convening of the second intergovernmental meeting, each government had already decided its financial contribution, and nominated its focal point and institutions for regional networking. It was based on the “ASEAN Way”, relying entirely on voluntary commitment, and individual governments’ judgments of the benefits from the Action Plan. On 9-11 December 1981, the five countries convened a second Intergovernmental Meeting on the East Asian Seas Action Plan, in Bangkok, 9-11 December 1981. During the meeting, countries agreed on the institutional and financial arrangements for the implementation of the Action Plan, which formed the basic structure for the Action Plan.

To ensure synergy between ASEAN and the COBSEA, it was decided that the participants attending the ASEAN Expert Group meeting should participate in the COBSEA meeting, and the interim coordinator of the ASEAN Experts Group on the Environment was designated to provide a channel of communication between UNEP and COBSEA between the periodic meetings of COBSEA. This meeting also decided that, at the national level, each country would designate a national focal point and national institutions to coordinate implementation of the Action Plan at the national level. The same meeting considered the establishment of a Regional Coordinating Unit, which would technically coordinate the various

program activities and act as the secretariat of the action plan. Due to the financial implications, the meeting postponed any decision regarding the establishment of such a unit and designated UNEP as the responsible entity for the overall technical co-ordination and continuous supervision of the implementation of the action plan; as the secretariat for the action plan; and, as the manager of the resources of the Trust Fund.

### **The 1981 East Asian Seas Action Plan**

The 1981 Action Plan had four major components: environmental assessment; environmental management; financial arrangements; and, institutional arrangements; all of which were meant to be mutually reinforcing. The two intergovernmental meetings in 1981 concluded the adoption of the Action Plan in two separate parts: the environmental text (including environmental assessment and environmental management), and the institutional and financial text. In comparison with the MAP, the East Asian Sea's Action Plan lacked two major components; namely a legal component, comprised of the framework convention and related protocols; and details of the institutional and financial arrangements for the implementation of the action plan.<sup>27</sup> ASEAN countries preferred to work in a flexible way, and had aversions to make long-term financial commitments and fixed institutional arrangements. Financial commitments were made initially for a period of two years, and were renewed in every other year in the COBSEA annual meeting. No regional coordinating unit was set up to coordinate the activities due to the financial implications of such a unit.

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<sup>27</sup> For the MAP, see Peter Haas. 1990. p. 97.

*Environmental Assessment.* In the 1981 action plan, priority was given to the identification of the quality of the marine environment and coastal areas, the factors affecting its quality, and the projection of future trends. There were three integrated clusters of activities under environmental assessment: baseline information and data collection; a coordinated environmental assessment program; and a program of training and technical support for local scientists and technicians.

*Baseline Information and Data Collection.* The Action Plan aimed to build networks among marine scientists and institutions, and collect data and information regarding the status of marine scientific research in the region. Baseline information to be collected included: 1) a survey of national capabilities and activities in the region as they relate to the marine environment and coastal area development, including a directory of scientific institutions, research centers, information centers and data sources; a compendium of past and ongoing research work and scientific studies; and a bibliography of publications and reports published on relevant problems of the region, and 2) a compilation and up-to-date synthesis of existing data on the physical oceanography of East Asian waters utilizing physical and chemical oceanographic information collected in the past by various national data centers or international organizations.

*Regional Assessment Program.* Due to the inadequacy, or incomparability of available data on the marine environment, the Action Plan aimed to establish a regional assessment program, listed with priority elements and elements for the expansion of the program. The priority elements for the environment assessment program were overwhelmingly focusing on marine pollution.<sup>28</sup> Although there

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<sup>28</sup> The priorities elements included: 1) Assessment of the oceanographic phenomena with particular reference to hydrography, water masses, water circulation and their effects on pollution dispersion patterns including detailed oceanographic surveys with special emphasis on maritime

was an aspect of assessing habitat degradation, it was only part of the assessment of the impact of pollution. The Action Plan further listed some other elements for the assessment program, for future expansion of the program, including environmental impact of offshore seabed exploration and exploitation, thermal pollution, and atmospheric pollution. Again, the activities are mainly pollution-related.

*Program of Training and Technical Support.* This was mainly a capacity building program to support activities of the environmental assessment program. This program mainly focused on analytical techniques, procedures and methodology so that data and information were collected with the same methodology at the national level, and hence could be synthesized or compiled at the regional level.<sup>29</sup>

*Environmental Management.* This component mainly focused on the training and capacity building of managers and policy makers in environmentally sound management practices in related fields such as coastal area development and oil pollution. Environmental management activities mainly include training, joint implementation, establishment of regional advisory services on oil pollution

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meteorological phenomena, oceanographic features, and establishment of oceanographic reference station. 2) Assessment of oil pollution and its impact on living aquatic resources including survey of oil pollution sources and monitoring of oil pollution in the marine and coastal environment, and cooperative research on oil and oil dispersant toxicity. 3) Assessment of non-oil pollutants, especially metals, organics, nutrients and sediments, and their environment impact. Assessment of the impact of pollution on, and habitat degradation of, mangrove and coral ecosystems. See UNEP. 1983. *Action Plan for the Protection and Development of the Marine and Coastal Areas of the East Asian Region.* p. 6.

<sup>29</sup> Training activities included: standardization of analytical techniques for measuring pollutant concentration and the effects of pollutants on human health, fisheries resources and marine and coastal ecosystems; introduction of quality control of analytical procedures within and among the laboratories participating in the action plan, including the conduct of regional intercalibration exercises; the establishment of a joint regional equipment service; training of scientists and technicians through existing national, regional and international institutions ready to offer their facilities; compatible methodology for the handling, validation and regional evaluation of data collected. See UNEP. 1983. *Action Plan for the Protection and Development of the Marine and Coastal Areas of the East Asian Region.* p. 6.

control; development and application of principles and guidelines for the discharge of waste into coastal waters and cooperative research on marine sites for dumping of hazardous wastes, and development and/or strengthening of national coordinating mechanisms for the management of relevant information and data, leading to the establishment of a regional data exchange system.

Activities under both environmental assessment and environmental management heavily focused on marine pollution, with little coverage of other marine environmental problems such as marine biological diversity and fisheries. There were three reasons why oil pollution was treated as a priority issue in the Action Plan. First, at the global level, there was a fashionable tendency to focus on oil pollution. Vessel-source pollution, mainly oil pollution, has been said to be “the most obvious and widely publicized source of marine pollution.”<sup>30</sup> Marine environmental problems reached the international agenda largely due to the striking effects of oil pollution on the marine environment. Oil pollution attracted the most considerable attention from the international community, following the oil spill disaster of the “Torrey Canyon” in 1967. A variety of international conventions were developed and ratified, mostly on marine pollution.<sup>31</sup> Second, no overall comprehensive regional surveys and studies were undertaken to examine the priority marine problems in the region, prior to the development of the Action Plan. The region lacked data and information in the late 1970s regarding the marine environment, and there were extremely limited financial resources for

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<sup>30</sup> E. D. Brown. 1994. *International Law of the Sea*. Dartmouth: Aldershot. Vol. 1. p. 377.

<sup>31</sup> For example the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (INTERVENTION 1969), the Convention of the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention 1972), and the International Convention for the Prevention of Pollution from Ships, 1973, and its Protocol of 1978 (MARPOL 1973/1978).

an overall comprehensive study at the regional level. Collecting all first hand data and information from scratch seemed impossible. Third, for many people in Southeast Asia in the late 1970s, including government officials and marine scientists, environmental problems were considered simply in terms of pollution problems. Other aspects of environmental degradation were considered insignificant.

***Institutional Arrangements.*** Following the adoption of the Action Plan, an institutional structure was developed to support the operations and implementation of the Action Plan, including COBSEA, national focal points, and national/regional institutions to support the Action Plan. COBSEA is the overall authority to determine the content of the action plan, to review its progress and to approve its program of implementation, including the financial implications. The roles of COBSEA in the early years of the Action Plan were purely process related. It made policy decisions only concerning all substantive and financial matters related to the action plan, including: reviewing progress achieved; evaluating results; adopting a work plan, and approving budget allocations.<sup>32</sup> UNEP's goal was modest in the early days: COBSEA was not a policy forum aimed to develop or change marine policies at the national level, but a decision-making body for an action-oriented program to promote scientific research and study and build capacity and networking of government officials and scientists in the region.

In view of the ASEAN Expert Group on the Environment (AEGE), it was decided that the AEGE would be also convened as COBSEA. UNEP was designated by the governments to be responsible for the overall technical coordination and continuous supervision of the implementation of the action plan.

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<sup>32</sup> See UNEP/IG.31/6. 1981.

The Interim coordinator of AEGE was designated to provide a channel of communication between UNEP and the member countries, due to the fact that UNEP's secretariat was being physically located outside of the region. Considering the expenses and cost incurred, the governments decided not to establish a separate regional coordinating unit.

At the national level, each participating country designated an official national focal point for the action plan to act as the official channel for communication between the Interim coordinator and their respective governments and to coordinate the participation of national institutions and agencies in the agreed program. The national focal points were responsible for coordinating activities at the national level, and communicating with other countries and attending COBSEA meetings at the regional level.

National institutions, such as research centers, laboratories, government services, and universities, were designated by each participating government to provide the institutional basis for carrying out the projects under the action plan. These institutions were designated by national governments, taking into account the specific characteristics of national administration and the organizational structure of each country. Subregional and regional institutions were also used to maximize the possible extent of the implementation and coordination of the Action Plan. While governments were mainly responsible for designating national institutions, it is usually UNEP that selects subregional or regional institutions to assist UNEP in implementing regional activities through subcontracts. Sometimes national institutions were proposed by a government to assume a regional or sub-regional role to provide services in support of the implementation of the Action Plan.

**Early Implementation.** Following the adoption of the Action Plan up until 1990, nine projects were funded to implement the Action Plan, see Table 4.1. Six of the projects were addressing pollution problems; three on oil pollution and the other three on other types of pollution.<sup>33</sup> Early projects tended to be small in size, due to the limited funding sources. Nearly all of the project activities were related to studying, surveying, researching or assessing the status of problems.

**Table 4.1. Initial Projects under East Asian Seas Action Plan (1981-1990)**

Project Title	Leading Country	Environment Fund	Trust Fund	Co-financing
Cooperative Research on Oil and Oil Dispersant Toxicity in the East Asian Seas Region	Malaysia	\$96,807	\$33,769	\$9,841
Study on Coral Resources and the Effects of Pollutants and Other Destructive Factors on Coral Communities and Related Fisheries in the East Asian Seas Region	Philippines	\$87,229	\$54,422	\$40,000
Study of the Maritime Meteorological Phenomena and Oceanographic Features of the East Asian Seas Region	Thailand	\$54,964	\$83,890	\$28,800
Survey and Monitoring of Oil Pollution and Development of National Coordinating Mechanisms for the Management and Establishment of a Regional Data Exchange System	Indonesia	\$37,571	\$80,809	\$40,000
Assessment of Concentration Levels and Trends of Non-Oil Pollutants and Their Effects of Non-Oil Pollutants and Their Effects on the Marine Environment in the East Asian Seas Region	Philippines	\$34,744	\$57,607	\$40,000
Implementation of a Technical and Scientific Support Programme for Oil Spill Contingency Planning	Indonesia	\$14,272	\$17,000	\$20,000
Cooperative Study into the Cleaning-up of Urban Rivers	Singapore	\$5,217	\$5,217	\$10,000
Development of Management Plans for Endangered Coastal and Marine Living Resources in East Asia: Training Phase	Malaysia	\$59,000	34,000	\$220,000
Assessment of Land-based Urban, Industrial, Agricultural Sources of Pollution, Their Environmental Impact and Development of Recommendation for Possible Control Measures	Singapore	\$52,000	\$22,000	\$27,332

*Source: EAS/RCU, Bangkok, Thailand*

<sup>33</sup> The reason that oil pollution was treated as a priority issue was mainly due to the lack of a comprehensive regional survey conducted on overall marine environmental problems in the region, prior to the Action Plan, and a result of global influences and perspectives of the threat to marine pollution.

In terms of implementation, a member country would be designated as a lead country for coordinating and collaborating with other member countries to implement the project activities. The selection of the lead country was mainly decided during the formulation and development of project proposals, which were developed by UNEP in collaboration with the member countries. There were no systematic criteria for the selection of a lead country, but general consideration was given to the capacity of the country and environmental status regarding a specific environmental issue. There was a tendency that each country should lead at least one project.

A project's funding was mainly from the UNEP Environment Fund and the EAS Trust Fund. During the implementation of project activities, considerable delays often occurred due to the lack of experience of member countries in implementing projects according to UN rules and procedures. Most of the projects expected to be completed within a year lasted for more than five years.

A series of regional workshops or meetings were organized to support the project activities, the participants of which were mainly from the five ASEAN countries. Normally, for a workshop or meeting organized under a particular project, the lead country would invite one to three participants from other member countries of the Action Plan to participate in the meeting. Most participants would be from the lead country of the project. These meetings and workshops helped to build connections and personal relationships among scientists, with the impact flowing over to other regional activities. As Dr. Manuwadi Hungspreugs has summarized, "in a region where marine scientists were few and marine problems were not well noticed, the initial activities of the Action Plan did play a significant

role in starting up the activities and building a networking of marine scientists in Southeast Asia.”<sup>34</sup>

By 1990, about fifty national institutions and agencies actively participated in the implementation of agreed activities. Technical assistance, including equipment, material and expertise, was provided to national institutions for the implementation of the agreed activities. More than five hundred technical personnel, mostly from the five countries, were trained in various aspects of environmental protection, pollution control and environmental management techniques.<sup>35</sup> The training contributed considerably to the capability of these personnel and their institutions to respond to the environmental problems of their countries. Furthermore, the personnel and institutions provided inputs directly to ASEAN environmental cooperation. Consequently, to a great extent, the Action Plan financed the development of ASEAN environmental cooperation. For example, many marine scientists or researchers receiving funding or training from the Action Plan also participated in the ASEAN marine program.

The policy impacts of the Action Plan are more difficult to evaluate. Since the adoption of the Action Plan, there have been changes in the environmental policies of the participating states that are in conformity with the objectives of the Action Plan. There was increased environmental awareness in the states participating in the Action Plan. However, it is hard to disaggregate the impact of the Action Plan from those of other global, regional and national factors. No comprehensive efforts were made to change national policies, except through

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<sup>34</sup> Interview with Dr. Manuwadi Hungspreugs, April 2005.

<sup>35</sup> M. S. Kismadi and A. Maheswaran. 1991. *Reappraisal and Revision of the East Asian Seas Action Plan*. UNEP (OCA)/EAS IG.3/8.

various workshops and training activities provided to government officials or scientists.

During the first decade of the implementation of the Action Plan, regional coordination and cooperation on project activities were limited, mainly due to limited financial resources. The available financial resources were too thinly distributed over too many activities. As a result, projects conceived as being regional were implemented at the national level with only the lead country carrying out the project activities with marginal participation of institutions and experts from other countries in the region. In other words, countries were drawn in only for meetings and workshops during the implementation of these projects, but scientific or operational activities were not undertaken collectively.

The situation was aggravated by the non-existence of a regional coordinating unit located in the region. The UNEP provided the secretariat service functions through its Regional Seas Programme office located first in Geneva and later in Nairobi. Consequently, activities tended to be individual, national and not well coordinated at the regional level. Due to financial constraints and lack of a regional coordinating unit, no efforts were made to identify common regional marine environmental problems or joint strategies and actions to address them, although almost all of the projects were designed to be implemented at the regional level.

In 1991, UNEP hired two high-level consultants, Mr. M. S. Kismadi and Mr. A. Maheswaran, to evaluate the Action Plan and its implementation in the first decade. Their evaluation missions to the participating countries recommended the strengthening of regional cooperation by exploring joint activities and concentrating on the most important regional issues:

The Action Plan should help to solve the environmental problems faced *jointly* by the participating states and to strengthen extra regional cooperation... the projects being implemented within the framework of the Action shall concentrate on the most important issues identified by the Governments of the region as requiring through *regional* cooperation.<sup>36</sup>

The institutional arrangement of linking the COBSEA with AEGE had a dual impact on marine environmental cooperation in the region. On the one hand, during the early days of ASEAN environmental cooperation, i.e. the convening of the AEGE, ASEAN had limited technical inputs to provide for the AEGE since there was no funding for project activities under AEGE. ASEAN also lacked experience in convening regional expert meetings in comparison with UNEP. The activities under the Action Plan and meeting results from COBSEA provided direct inputs to AEGE meetings. On the one hand, COBSEA and AEGE were in effect managed by the same set of officials and this situation gave rise to the state of affairs that there were two sets of parallel activities operating in the same field of marine environmental protection and management. The institutions and personnel used for the implementation of the activities of both COBSEA and the AEGE marine program were virtually the same, thereby imposing considerable strain on the limited human resources available in each country for carrying out such activities in the region. Literally, the same groups of people attended the two meetings to consider and agree upon similar matters, under two different organizational titles.

In summary, during the first decade of the implementation of the Action Plan, individuals were being drawn by UNEP to marine environmental cooperation through AEGE. As a result, countries capacity to address marine environmental

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<sup>36</sup> M. S. Kismadi and A. Maheswaran. 1991. Annex III. p. 4. Italics added by author.

issues has been increased, and marine scientists have formed networks and connections in the region. However, few substantive activities were truly cooperative, except meetings and workshops.

### **The Separation from ASEAN and Expansion of the Action Plan (1990-1994)**

The incorporation of the Action Plan under the umbrella of ASEAN helped ASEAN to build its own networks and increase the technical and scientific capacity among its government officials and environmental managers. After a decade of the implementation of the Action Plan, ASEAN was ready to create its own marine program with increased scientific and technical expertise and networking among the member countries.

In 1990, ASEAN undertook an overall institutional reform to strengthen the regional organization. As a result, ASEAN established its own environmental program, including a marine environment program. The AEGE, established in 1978 and convened as COBSEA since 1981, was upgraded to the ASEAN Senior Officials on Environment (ASOEN) and held its first meeting in June 1990 in Kuala Lumpur. ASOEN established its Working Group on ASEAN Seas and Marine Environment in order to oversee activities within the ASEAN seas. During the second meeting of the ASOEN, 17-19 June 1991, in Singapore, it was decided that there was no need to discuss the issue of COBSEA activities under the mandate of ASOEN.<sup>37</sup> This signified the official separation of the East Asian Seas Action Plan from the ASEAN environment program in terms of formal institutional connections.

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<sup>37</sup> UNEP (OCA)/EAS IG.3/11. 1991. *Report of the Ninth Meeting of the Co-ordinating Body on the Seas of East Asia*. Ninth Meeting of the Co-ordinating Body on the Seas of East Asia (COBSEA) on the East Asian Seas Action Plan, Kuala Lumpur, Malaysia, 13-15 November 1991.

In view of the decision of the ASEAN Standing Committee to upgrade the AEGE to ASOEN, and anticipating that ASOEN would be responsible for the formulation and implementation of all environment programs of the ASEAN region, ASEAN countries attempted to integrate the Action Plan into ASOEN activities. ASEAN countries expressed their views to M. S. Kismadi and A. Maheswaran, the two consultants hired by UNEP, that “the East Asian Seas Action Plan should therefore logically be an activity under ASOEN in contrast to the present arrangement where COBSEA is considered a UNEP activity distinct from the activities of AEGE (*sic*).”<sup>38</sup> Based on their visits to the five ASEAN countries, Mr. Kismadi and Mr. Maheswaran recommended, “the Action Plan shall be called the ASEAN Seas Action Plan.”<sup>39</sup>

The ninth meeting of the COBSEA was convened in Kuala Lumpur in September 1991. The consultant report by Mr. Kismadi and Mr. Maheswaran was reviewed, and the meeting considered the recommendations of the report to integrate the Action Plan into the activities of ASOEN. UNEP stressed that the COBSEA had a major part to play within the wider East Asian Seas region, not only confined to ASEAN. In view of the expanded role of COBSEA and the possible participation of other countries of the region in the East Asian Seas Action Plan, the meeting requested the Executive Director of UNEP to arrange the preparation of a detailed report on UNEP’s perception of the future role of COBSEA and its future mode of operation. Taking into consideration the fact that the ASEAN marine environment was separated from COBSEA activities, and that consequently the local support to the Action Plan was reduced, the ninth COBSEA

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<sup>38</sup> M. S. Kismadi and A. Maheswaran. 1991. p. 14.

<sup>39</sup> Ibid. Annex III, p. 4.

meeting made a number of major decisions, including: 1) requesting the Executive Director of UNEP to establish a Regional Coordinating Unit for the East Asian Seas Action Plan (EAS/RCU) in the region; 2) extending invitations to other countries of the region to join the action plan; 3) preparing a draft revised action plan in order to, *inter alia*, include the new countries that join the action plan and reflect the relevant elements of Agenda 21, specifically Chapter 17.

These decisions actually followed the intentions of UNEP. ASEAN intended to integrate the Action Plan into its ASEAN environmental program, and turned it into an “ASEAN Seas Action Plan.” However, UNEP argued that the East Asian Seas Action Plan covered broader geographical areas, which were stipulated in the 1981 Action Plan. Therefore, the meeting decided to expand the membership to other East Asian Seas countries. Furthermore, the revised action plan was influenced by UNEP’s global environmental responsibility to promote the implementation of the Agenda 21 adopted in the Rio conference in 1992.

Following the decision of the ninth COBSEA meeting, UNEP established the EAS/RCU on 1 May 1993. In other words, it was more than a decade following the adoption and implementation of the Action Plan that UNEP established a regional coordinating unit to oversee and coordinate the activities on behalf of COBSEA. The office of the EAS/RCU was at that time administratively located within UNEP’s Regional Office for Asia and the Pacific physically located in the UN Building in Bangkok, Thailand. At the beginning, the unit was staffed by two professional staff, a coordinator and a junior program officer.

Following the decisions of the ninth meeting of COBSEA to extend the memberships to other countries of the East Asian Seas, invitation letters were sent, by UNEP over the period of 1992-1993 to the Governments of Australia, Brunei

Darussalam, Kingdom of Cambodia, People's Republic of China, Hong Kong, Japan, Republic of Korea, Union of Myanmar and Socialist Republic of Vietnam to the join the East Asian Seas Action Plan. Australia, Cambodia, China, the Republic of Korea, and Viet Nam accepted the invitations.

The successful expansion of membership of the Action Plan was closely related to the changing geopolitical context in the region of the East Asian Seas, namely a *détente* in the relationships between major powers; and the end of the Cold War, which created an environment more conducive to promoting environmental cooperation among countries beyond the ASEAN member countries. With the dissolution of the Soviet Union, the confrontation between alliances disappeared in the region, and this was accompanied by the settlement of the Cambodian issue. The geopolitical environment lessened the antagonism among Southeast Asian countries, and with China, and overall conditions for multi-lateral cooperation in the region improved.

The early 1990s witnessed an improvement in diplomatic relations between China and other Southeast Asian countries, and among the Southeast Asian countries themselves. In August 1990, China restored its diplomatic ties with Indonesia, which was followed by the establishment of diplomatic ties with Singapore in October of the same year, and with Brunei in September 1991. Two months later, China normalized party-to-party relations as well as state-to-state relations with Viet Nam.<sup>40</sup> In July 1991, Chinese Foreign Minister, Qian Qichen,

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<sup>40</sup> Joseph Y. S. Cheng. 2001. "Sino-ASEAN Relations in the Early Twenty-first Century." *Contemporary Southeast Asia* 23 (3): 420-51.

attended the ASEAN Ministerial Meeting. In 1992, Minister Qian proposed closer economic, trade, scientific and technological cooperation.<sup>41</sup>

The political changes formed the necessary political environment for the improvement in marine environmental cooperation in the East Asian Seas region. However, barriers still remained regarding environmental cooperation in the South China Sea, as the 1990s was a decade of increasing conflicts in the South China Sea.

### **The East Asian Seas Action Plan (1994) and Its Implementation (1994-Present)**

Considering the expansion of membership of the Action Plan, UNEP took the initiative to revise the Action Plan in view of the participation from five other countries in the region. The Action Plan was revised and submitted to the Fifth Meeting of Experts (Singapore, 25-26 July 1994). On 27 October 1994, the Meeting of Plenipotentiaries on the East Asian Seas Action Plan was convened in Bangkok on 27 October 1994, and five additional countries were officially welcomed to the Action Plan. The revised action plan was adopted by the participating countries, along with a long-term strategy to implement the Plan.

*The Action Plan: What Has Changed since 1981?* The 1994 Action Plan had a paradigmatic shift from oil pollution to ecosystems. This shift was mainly driven by the changing perception of marine environmental problems at the global level, from a pollution-focused approach to a comprehensive approach addressing various environmental problems, including biodiversity, climate change,

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<sup>41</sup> Lee Lai To. 1993. "ASEAN-PRC Political and Security Cooperation: Problems, Proposals, and Prospects." *Asian Survey* 33 (11): 1095-1104.

desertification, and biotechnology. The UNCED in 1992 adopted a detailed Agenda 21 of desired actions. Chapter 17 of the Agenda 21 outlined a comprehensive program of action to be taken by governments, the UN agencies and all other partners to address the impacts of human activities on the marine environment. The paradigmatic shift was made possible also because scientific research and baseline data and information collected in the implementation of the Action Plan provided the necessary data and information to re-prioritize regional marine environmental problems.<sup>42</sup> The increasing data and information collected in the region showed that the most serious marine problems were actually ecosystem and habitat degradation, rather than oil pollution.<sup>43</sup>

In comparison with the Action Plan of 1981, which mainly focused on baseline data and information and environmental assessment, the revised action plan emphasized the importance of the management of marine ecosystems, and promoted scientific research for the purpose of management. This was mainly due to the fact that during the implementation of the Action Plan in the 1980s, most activities were on research, study and environmental assessment. The management aspects of the Action Plan were largely ignored during the 1980s.

The revised Action Plan is composed of five components: scientific activities; environmental management; implementation; institutional arrangements and financial arrangements. Among the five components, sound environmental management is the centerpiece of the Action Plan, and is based on the principles of

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<sup>42</sup> UNEP (OCA)/EAS IG.5/6. 1994. *Report of the Meeting of Plenipotentiaries on the East Asian Seas Action Plan*. Bangkok, 27-28 October 1994.

<sup>43</sup> Interviews with marine scientists in the region.

Chapter 17, Agenda 21.<sup>44</sup> It was expected that data produced by scientific activities would provide direct inputs to environmental management programs designed to protect and properly manage the marine and coastal environment.<sup>45</sup>

***Long Term Strategy (1994-2009).*** In view of the restructured ASEAN framework, UNEP prepared a long-term strategy (1994-2009) and a policy document regarding the future roles and operation mode of the COBSEA to support the implementation of the revised action plan. The two documents reflect UNEP's endeavor to enhance and transform the roles of COBSEA in the changing regional setting, by adding policy functions to COBSEA, re-focusing the Action Plan on regional activities, and strengthening the management component of the Action Plan. The two policy documents, along with the revised Action Plan, are the guiding documents for the development and implementation of the expanded Action Plan.

The COBSEA's long-term strategy is to promote and support the following tasks: 1) preparation of national strategic plans covering marine and coastal environment; 2) integration of these strategic plans to achieve a regionally balanced approach to the conservation of marine habitats of the East Asian Seas; 3) identification of regional priorities for action, including protection of biodiversity, management of pollution and ecosystem rehabilitation; 4) evaluation of progress in program achievement through regular monitoring and assessment of the state of the

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<sup>44</sup> See para. 19 of UNEP (OCA)/EAS IG 5/6: Integrated management efforts shall draw on the spirit of Chapter 17, Agenda 21 of UNCED... The action plan should eventually see the "implementation of integrated coastal and marine management and sustainable development plans and programmes at appropriate levels."

<sup>45</sup> Scientific and management activities cover the following aspects: 1) the development and maintenance of a regional database; 2) monitoring and environmental assessment program; 3) rehabilitation of ecosystems, species and communities; 4) marine protected areas; 5) utilization and protection of marine resources; 6) pollution; 7) capacity building. See UNEP (OCA)/EAS IG.5/6. 1994. Annex 4: p.1-6.

marine environment of the region; 5) strengthening the governments' capability to manage coastal environments, including training, developing a database and capabilities to assess environmental risk and socio-economic impact evaluation; 6) increasing awareness in decision-makers and the community on the socio-economic, cultural and ecological importance of marine ecosystems.<sup>46</sup>

In terms of the mode of operation, the EAS/RCU of UNEP communicates directly with national focal points to coordinate the implementation of the Action Plan, rather than through the interim coordinator of AEGE as was done in the past. The roles of COBSEA cover the following: 1) examine, amend and extend its Long Term Strategy; 2) advise on potential areas of cooperative venture with other regional seas action plans; advise on policy issues and guide on technical aspects of the development of program activities; 3) advise on avenues to be pursued for securing possible additional funding for its major priority programs; 4) concentrate on the implementation of major coastal and marine environmental projects, the development of which should be based on the elements of the Long-Term Strategy, avoiding small scale studies and projects.

Two points are worthy of note. First, UNEP aimed to enhance COBSEA's role as a policy forum, trying to changing national policy by developing strategic national plans on the marine and coastal environment, building management capacity through training, and increasing environmental awareness among decision-makers. During the first ten years, COBSEA had been only a decision-making body for budget allocation and the approval of projects funded by the Trust

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<sup>46</sup> UNEP. 1994. "Long-Term Strategy of the Coordinating Body on the Seas of East Asia: COBSEA (1994-2009)." In UNEP (OCA)/IG.5/6. *Report of the Meeting of Plenipotentiaries on the East Asian Seas Action Plan*, Bangkok, Thailand, 27-28 October 1994.

Fund.<sup>47</sup> Second, having realized that in the first decade of the implementation of the Action Plan, the past activities had been implemented at the national level involving very little regional collaboration, UNEP took a strategy to promote operational regional cooperation by focusing the limited financial resources on fewer numbers of larger regional projects, and aimed to turn the Action Plan into a real “regional” action plan, by concentrating on the most important issues identified by the Government of the region as requiring solution through regional cooperation.

***Implementation.*** Since the establishment of the EAS/RCU in 1993, there has been growing activities seeking funding from external donors on a project related basis. Between 1993 and 1998, eighteen projects were developed and implemented to support the implementation of the Action Plan (see Table 4.2 for a list of projects developed).

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<sup>47</sup> The statement is made based on a comprehensive review of all the meeting agenda and reports of all the COBSEA meetings from 1981 to 1994.

**Table 4.2. Projects Developed and Implemented during 1993-1998**

<b>Proposing or Leading Country</b>	<b>Project Title</b>	<b>Env. Fund</b>	<b>Trust Fund</b>	<b>Other Sources</b>
Thailand	Component 1-the Oceanographic Features of the East Asian Seas Region—Development of Oil Spill Trajectory Models		\$60,000	
	Component 2-Survey and Monitoring Oil Pollution in the East Asian Seas Region			
Philippines	Quality Assurance for Non-Oil Pollution Monitoring			
Malaysia	Conservation and Sustainable Development for the East Asian Seas			
	Programme of Action to Control Land-based Sources of Pollution in the East Asian Seas Region	\$25,000		\$31,566
Malaysia	Coastal Resource Management Plan Project for the East Asian Seas Region			
	Enhancement of the Public Awareness and Participation on Environmental Issues Related to Coastal Marine Areas in the East Asian Seas Region	\$98,000		
Thailand	Workshop on the Biological Effects of Pollutants	\$40,000	\$20,000	
EAS/RCU	Study of the Evaluation of the Percentage Contribution of Coastal Activities to the GNP	Cancelled		
IMO	Feasibility Study on a Comprehensive Preparedness and Response Plan to Oil and Chemical Spills, Integrating National, Sub-regional and Regional Plans	\$30,000		
UNEP/ROAP	Training Workshops on Biological Effects of Pollutants: East Asian Seas Region	\$62,900	\$15,000	
Australia	Development of training Materials for Integrated Coastal Zone Management	\$80,000	\$15,000	
Malaysia, Thailand and Viet Nam	Integrated Management of Watersheds in relation to the Management and Conservation of Coastal and Marine (Nearshore) Areas of the East Asian Seas Region	\$469,000		
UNEP	Valuation of Environmental and Natural Resources with Particular Reference to Coastal and Marine Ecosystems			\$75,000
Philippines	East Asian Regional Symposium/Workshop on Small Cetaceans			\$44,500
Cambodia	Capacity Building Programme for Protection and Management of Marine and Coastal Areas of the Kingdom of Cambodia			
Malaysia	Ecological Consequences of Land-based Oil Discharges into Coastal and Marine Areas of the East Asian Seas			\$80,000
EAS/RCU	International Coral Initiative Regional Workshop for the East Asian Seas			\$120,000

*Source: EAS/RCU, Bangkok Thailand*

The projects covered pollution; public awareness and participation; training and capacity building assessment; and integrated coastal zone management to various research projects and studies. The EAS/RCU actively sought funding from other bilateral aid agencies and UN agencies. Additionally, some activities were initiated to support the implementation of global programs, such as GPA/LBA. A regional workshop on the implementation of the GPA/LBA was held in Cairns, Australia, 30 April – 3 May 1997, and a Regional Plan for Action was prepared and distributed to all member countries. An overview of land-based sources and activities affecting the marine environment in the East Asian Seas was prepared and sent to the member countries by the EAS/RCU.<sup>48</sup> The implementation of the Action Plan became more diversified with a variety of projects, activities and funding during 1993-1998. All eighteen projects were concluded in 1998: a few were terminated due to the failure to secure additional funding. Since 1998, the implementation of the Action Plan has mainly focused on assisting in the implementation of some global and international marine-related programs or projects, particularly the GPA/LBA and ICRAN have been the major activities.

Under the framework of the regional GPA/LBA, a project was initiated in 2001 to identify regional hotspots of land-based pollution, their characteristics and impacts. The project developed regional guidelines for the control and treatment of sewage. A questionnaire was developed to collect data and information to establish a regional Geographic Information System (GIS) for better management of regional hotspots of land-based pollution.<sup>49</sup> This project was completed in

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<sup>48</sup> UNEP (WATER)/EAS IG. 9/3. 1998. *Report of the Thirteenth Meeting of the COBSEA*, Bangkok, Thailand, 18-19 November 1998.

<sup>49</sup> UNEP(DEC)/EAS IG. 17/4 Rev. 1. 2004. *Report of the Executive Director on the Implementation of the East Asian Seas Action Plan in 2002-2003*. Also see [www.unepasrcu.org](http://www.unepasrcu.org).

2003. The regional component of ICRAN in the East Asian Seas was initiated in 2001 and concluded in 2004. Eight coral reef sites in the region were selected for the implementation of activities based on a study of management gaps.<sup>50</sup> Additionally, an important initiative has been undertaken since 1996 in collaboration with UNEP's Division of Global Environment Facility (UNEP/DGEF) to develop a large marine environment project for the South China Sea, involving multiple countries with operational activities on the ground. Chapter 5 will describe the initiation, development and implementation of this project.

### **Legal Aspects**

From the beginning, the aim of the UNEP Regional Seas Programme was to develop an action-oriented program at the regional level, with a legal framework to support its implementation. An umbrella regional convention in most regional seas areas provides the legal framework for an action plan. It also expresses the political will and legal commitment of the governments to tackle their common environmental problems, acting both together and individually. Conventions are put into practice through protocols dealing with specific problems—oil spills, response to emergencies, land-based pollution, and conservation of wildlife and habitats, for example.<sup>51</sup> Among all thirteen UNEP regional seas action plans, only three have not adopted a regional convention. Interestingly all three no-convention

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<sup>50</sup> Activities include training, workshops on management, preparation and distribution of public awareness materials, coral reef monitoring, tourism capacity studies, and feasibility studies on pilot projects for alternative income livelihoods. See UNEP(DEC)/EAS IG. 17/4 Rev. 1. 2004.

<sup>51</sup> See UNEP. 2000. *Regional Seas: A Survival Strategy for Our Oceans and Coasts*. [www.unep.org/dec/information/public\\_information.html](http://www.unep.org/dec/information/public_information.html).

action plans are located in Asia: East Asian Seas, North-West Pacific, and South Asian Seas. The East Asian Seas action plan is the oldest among the three, the latter two being launched only in the 1990s.<sup>52</sup>

At the adoption of the action plan in 1981, ASEAN countries failed to reach an agreement on the development of a regional convention to provide legal backing for the implementation of the Action Plan, due to the countries' political preference for safeguarding their sovereignty. Furthermore, the development of a legally binding agreement to provide the legal framework for the action plan was seen as a possible impediment to the future extension of membership to other countries in the East Asian Seas.<sup>53</sup>

ASEAN countries generally had an aversion to a legally binding convention. Indonesia, as the leading country of the organization, was unwilling to enmesh itself in a multilateral legally binding agreement. Unsure about the implications of legally binding agreements for their newly gained independence and sovereignty, Malaysia, the Philippines, and Singapore also preferred to work in a gradual, informal and voluntary way to implement the Action Plan. Thailand, being the only country in Southeast Asia without a recent history of colonization by external powers, was the only country that supported the idea of developing a regional convention.<sup>54</sup> In the second meeting of the COBSEA, Yogyakarta, Indonesia, 25 – 26 March 1983, Mr. K. Snidvongs from Thailand, acting as the Interim Coordinator, requested the delegations to consider the legal aspects of the

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<sup>52</sup> Ibid.

<sup>53</sup> UNEP. 1987. *The East Asian Seas Action Plan: Evaluation of its Development and Achievements*. UNEP Regional Seas Reports and Studies No. 86.

<sup>54</sup> See UNEP/IG.44/11. 1983. *Report of the Second Meeting of the Co-ordinating Body on the Seas of East Asia*. Second Meeting of the Co-ordinating Body on the Seas of East Asia, 25-26 March 1983, Yogyakarta, Indonesia.

Action Plan.<sup>55</sup> Other countries indicated their preferences for working together on various programs through developing and implementing the Action Plan, and that it was not opportune to take steps to formulate a regional convention.<sup>56</sup>

The 1991 UNEP initiated high-level consultative mission found that “the ASEAN countries still prefer to work by way of consensus and agreement in conformity with the traditional ASEAN spirit, and therefore the question of conventions and protocols should not be considered at this point in time. However, Thailand is of the view that effective conventions and protocols should be considered for a suitable EAS Action Plan legal framework.”<sup>57</sup> This is related to Southeast Asia’s recent history of struggling for independence and sovereignty. With the exception of Thailand, all Southeast Asian nations achieved independence or have experienced society-transforming movements within the past three decades. Many are still struggling with the basic problems of nationhood, thus inserting a nationalistic fervor into regional and marine environmental affairs.<sup>58</sup>

This aversion to legalization of environmental cooperation was carried forward until very recently. The sensitivity of this issue reached its highest level during the development and approval of the UNEP/GEF South China Sea Project. In the past one or two years of the implementation of the project, however, there appears to be a trend towards the loosening of some governments’ stands on the issue. This will be discussed in more detail in Chapter 5.

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid. p. 3.

<sup>57</sup> M. S. Kismadi and A. Maheswaran. 1991. p. 15.

<sup>58</sup> Valencia. 2000. p. 239.

### **The Marine Scientific Community in the East Asian Seas**

Due to the complexity of marine environmental problems, government officials cannot deal with the problems effectively without seeking advice from marine scientists. Given the uncertainty, a scientific community, which shares views regarding the causes of environmental degradation, is critical in forging common understandings regarding the cause and effect of environmental problems among policy and decision-makers, and facilitating governmental learning regarding the necessity for environmental cooperation and the development of new state objectives in accordance with common interests.<sup>59</sup>

A mature “epistemic community” has not formed under the East Asian Seas region. Due to lack of data and information, scientists themselves were still not sure what the priority problems were in the region, and the root causes of problems were not well analyzed. However, early activities of the Action Plan helped the scientific community to gain incremental coherence in their views, and contributed to later regional environmental cooperation. Scientists trained with different academic backgrounds had to work together to adopt a compatible methodology, techniques and skills for regional consolidation of data and information.

Shared or perceived shared interests are the basis for environmental cooperation, which derive from a common understanding of the causes and effects of marine environmental degradation. Achieving common understanding of the causes or effects of a complex marine environmental problem should not be taken for granted. A scientific community becomes an epistemic community only when scientists in the community share the same approach, view, and a common

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<sup>59</sup> See Peter Hass. 1990.

interpretive framework and maintain “consensual knowledge”. According to Peter Haas,

An epistemic community is a professional group that believes in the same cause-and-effect relationships, truth tests to assess them, and shares common values. As well as sharing an acceptance of a common body of acts, its members share a common interpretive framework, or “consensual knowledge,” from which they convert such facts, or observations, to policy-relevant conclusions.<sup>60</sup>

Experts were consulted for the preparation, development and implementation of the Action Plan. Leading scientists have been relied upon to implement various projects under the framework of the Plan. However, the East Asian Seas cover the geographical area from South Korea to Australia. Due to the vast geographical coverage of the East Asian Seas, extraordinarily diverse environmental problems, and linguistic diversity, marine scientists in the East Asian Seas are not well organized and do not share a common view regarding regional marine environmental protection. An epistemic community has not been formed despite the dramatically increased number of marine and environmental scientists in the region. Large geographical coverage, few shared common concerns, and uncontrollably diverse environmental problems sometimes tend to water down environmental cooperation simply into “talk shops” or “No Action Talk Only” forums, in which no substantive or meaningful concrete actions can be developed to meet the interests of all member countries.<sup>61</sup>

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<sup>60</sup> Haas. 1990. p. 55.

<sup>61</sup> In the Regional Partners Workshop for the East Asian Seas Action, Bangkok, Thailand in April 2005, participants complained that the COBSEA has become a “talkshop”. Ms. Srisuda Jarayahband, the new regional coordinator of EAS/RCU, indicated that the vast geographical coverage of the Action Plan made it difficult to identify common marine environmental problems of interest to all member countries.

UNEP contributed to the development of a scientific community by convening various expert meetings, and establishing/funding the Association of the Southeast Asian Marine Scientists (ASEAMS), which was established in 1989 and financially supported by the Action Plan. ASEAMS provided scientific and technical assistance to the implementation of the Action Plan. As of 1995 when it ceased to function, the membership of the ASEAMS stood at 213.<sup>62</sup>

Marine scientists in the East Asian Seas share a general concern about the environmental degradation trends in the seas of the region, and have proposed that governments take measures to address the problems. They have also tried to persuade governments to act. However, when it comes to specific measures and operational level advice, they do not share the same views. For example, Southeast Asian marine ecologists are very concerned about the loss of mangroves and coral reefs, but South Korea has no mangroves or coral reefs along its coast. As a result, actions to be taken in such a vast region tend to focus on capacity building activities such as training and conferences, from which all member countries can benefit, and operational level actions tend to be national or sub-regional.

The coherence in the views of the marine scientists in the entire region is limited regarding regional environmental problems, but the scientific networking and connections among Southeast Asia provide a good foundation for later development of an epistemic community. Such a community would develop and mature through the development and implementation of the UNEP/GEF South China Sea Project, see Chapter 5.

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<sup>62</sup> UNEP (OCA)/EAS IG. 5/6. 1994.

## Financial Sustainability

The Trust Fund of the East Asian Seas Action Plan was established to provide financial support to the Action Plan during the second intergovernmental meeting in 1981. The financial resources for the Trust Fund came from the contributions of the national governments and the UNEP Environment Fund. It was agreed that the participating governments would contribute \$US 86,000 in both 1982 and 1983, and future contributions would be decided bi-annually through COBSEA meetings.

Indonesia, as the biggest country in ASEAN, took on a leadership role in consolidating ASEAN.<sup>63</sup> Indonesia took the lead in contributing the largest amount (\$30,000) to the East Asian Seas Trust Fund. Malaysia contributed \$17,000, while the Philippines and Thailand each contributed \$19,000 per year. Singapore surprisingly made the minimum pledge of \$1,000 to the Fund, which is merely a symbolic contribution. Singapore's consideration was that its coastline was very short with a small population as a proportion of the entire East Asian Seas.<sup>64</sup> Both ASEAN's and UNEP's goal was to secure the participation of all ASEAN countries, and build environmental cooperation from scratch. ASEAN practiced "quiet diplomacy" and avoided confrontational ways in dealing with issues. The decisions regarding the amount of financial contribution to be made to the collective "Trust Fund" was entirely based on voluntarism.<sup>65</sup> Both the ASEAN

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<sup>63</sup> See Bilson Kuras. 1993. "Understanding ASEAN: Benefits and Raison d'Etre." *Asian Survey* Vol. 33: 819-831.

<sup>64</sup> Interview with Mr. Yihang Jiang, former Senior Programme Officer of the Regional Coordinating Unit for the East Asian Seas Action Plan.

<sup>65</sup> Interviews with Dr. Manuwadi Hungspreugs, Professor of Department of Marine Science, Chulalongkorn University, who was expert member for the East Asian Seas Action Plan and Mr. Henk Uktolseya, Indonesian senior government official, who is among the few have attended every single meeting of the COBSEA since its establishment.

countries and UNEP did not want to jeopardize the spirit of cooperation by confronting Singapore at the early stage. However, during the implementation of the East Asian Seas Action Plan, Singapore received an almost equal amount of funding from the Trust Fund in terms of training and fellowships to scientists and researchers.<sup>66</sup> Consequently, there was a phenomenon of “the poor supporting the rich” in the Action Plan, simply due to the political consideration of other ASEAN countries in maintaining cohesion, and engaging every ASEAN country in the Action Plan.

UNEP, having agreed to provide the technical co-ordination for the interim period of the Action Plan, agreed to contribute the cost of the technical co-ordination in so far as its own staff and related costs were concerned (estimated at \$ 50,000 per year). In addition, UNEP contributed \$50,000 in 1982 for program activities. Since then, UNEP has increased its financial support through project implementation or other mechanisms, until very recently.<sup>67</sup>

Table 4.3 summarizes changes in the pledges of the participating countries to the East Asian Seas Trust Fund. Among the five founding members (Indonesia, Malaysia, the Philippines, Singapore, and Thailand), the pledges to the Trust Fund only increased 10 percent over the period 1981 to 1994. Between 1994 and 2005, no other country, except Australia and China, increased its contribution. Since

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<sup>66</sup> Interview with Dr. Manuwadi Hungspreugs.

<sup>67</sup> UNEP/IG.31/6. 1981. *Report of the Intergovernmental Meeting on the East Asian Seas Action Plan*. Intergovernmental Meeting on the East Asian Seas Action Plan, Bangkok, Thailand, 9<sup>th</sup> – 11<sup>th</sup> December 1981. p. 14.

1981, the region has witnessed rapid economic growth, but COBSEA failed to establish a rate of regular increase in members' contributions to the Trust Fund.<sup>68</sup>

**Table 4.3. Level of Pledges of the Participating States to the East Asian Seas Trust Fund (Thousand \$US)**

State	1981	1994	2003
Australia		15	20
Cambodia		5 (for 1995)	5
China		15	30
Indonesia	30	33	20
Korea			15
Malaysia	17	18.7	18.7
Philippines	19	20.9	25
Singapore	1	1.1	10
Thailand	19	20.9	20.9
Viet Nam		7 (for 1995)	7
<b>Total</b>	<b>86</b>	<b>136.6</b>	<b>171.6</b>

*Source: EAS/RCU, Bangkok, Thailand*

In April 1984, as the first pledge expired, Indonesia, Malaysia and Thailand stated that their governments were prepared to contribute to the Trust Fund at the 1982-1983 level plus ten percent on the condition that all governments agreed to contribute at the higher level. It was also stated that their proposal to contribute at this higher level was contingent on the Environment Fund at least matching the increase. Since the Philippines and Singapore could not make matching level contributions, the pledges from all countries remained the same as in the period 1982-1983.

By 1986, the Trust Fund achieved “savings” of \$175,799 due to slow approval and implementation of project activities. In 1987, an independent evaluation of the East Asian Seas Action Plan pointed out, “the resources pledged to be contributed to the Trust Fund were and are received with considerable delays,

<sup>68</sup> Average GDP growth rates between 1982 and 2003 for the member countries are: Australia (3.5%), China (9.8%), Indonesia (5.1%), South Korea (7.1%), Malaysia (6.2%), Philippines (2.6%), Thailand (6.1%), Viet Nam (6.6%) for 1985-2003, and Cambodia (6.6%) for 1994-2003. Data are from the World Bank Development Indicators 1982-2003.

hampering the implementation of programme activities according to agreed schedules. The problem is further compounded by the slow project approval procedure of UNEP, even once the funds are available.”<sup>69</sup> This probably contributed to the countries’ unwillingness to increase their pledges, which remained the same over a period of 12 years (1982-1994). In 1994 when the membership was extended to five other countries in the East Asian Seas region, the pledges from the original member countries increased 10 percent. From 1994 to the present the pledges of member countries remain the same, except in the cases of China and Indonesia. While China increased its contribution from \$15,000 to \$30,000, in 1999, Indonesia decreased its contribution from \$33,000 to \$20,000 after the East Asian financial crisis.

Since the adoption of the East Asian Seas Action Plan, UNEP has provided more funds to COBSEA than to any other regional seas action plan.<sup>70</sup> Following two decades of heavy support, UNEP was forced to consider reducing its financial support due to its’ own financial difficulties. During the seventeenth meeting of the COBSEA, Bangkok, Thailand, 9 – 11 March 2004, UNEP informed COBSEA of its plans to phase out UNEP contributions to the Trust Fund. UNEP will make a contribution of US \$300,000 to the Trust Fund for the period 2004/5. UNEP management proposed a contribution of US \$200,000 to the Trust Fund for the period 2006/7, subject to approval by the Governing Council. Beyond 2007, UNEP management is considering to contribute US \$50,000 annually to the Trust Fund and possible project support in line with programs of work approved by the

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<sup>69</sup> UNEP. 1987. *The East Asian Seas Action Plan: Evaluation of its Development and Achievements*. UNEP Regional Seas Reports and Studies No. 86.

<sup>70</sup> UNEP (DEC)/EAS IG. 16/3. 2001. *Report of the Sixteenth Meeting of the COBSEA on the East Asian Seas Action Plan*. Sixteenth Meeting of the COBSEA on the East Asian Seas Action Plan, Bangkok, Thailand, 24<sup>th</sup> – 26<sup>th</sup> October 2001.

Governing Council. UNEP suggested the proposed budget be linked with: strengthening of COBSEA through increased ownership, increased partnerships, policy approaches, and increased communication with the member countries.

At present COBSEA has centered on a struggle to sustain the EAS/RCU with decreased UNEP financial contributions. Currently, there is about a \$1 million “savings” in the Trust Fund from previous years. The “income” of the Trust Fund during 2004/2005 includes interest from the “savings”, UNEP Environment Fund contribution of \$150,000 per annum, and member countries’ annual contributions. The total “income” per annum would be around \$350,000. Extensive discussions during the seventeenth COBSEA meeting focused on various scenarios to reduce the secretariat core budget to \$350,000 to ensure financing is sustainable. No funding would be available from UNEP's regular budget to cover project activities, if no additional funding were raised. If no additional funding is secured, and no activities are undertaken under the Action Plan, the value of the mere existence of the EAS/RCU becomes questionable.

To summarize: the Action Plan did not succeed in mobilizing the required national financial resources for the solution of environmental problems at the national or regional levels. It was also unsuccessful in attracting substantial financial support from funding organizations or donors; the Environment Fund of UNEP has been the major source of cash contributions to these activities. Resources of the Trust Fund are inadequate for any larger scale environmental action in the region.

## **Recent Challenges and Developments**

The Action Plan has incurred a series of problems and challenges in the past two years. The main problems include: 1) inability to raise adequate financial resources to meet increasing expectations of member countries; 2) lack of a strong and fully staffed EAS/RCU; 3) vast geographical coverage of the Action Plan, along with financial constraints, resulting in the difficulties to identify shared marine environmental problems at the operational level.

The effectiveness of the implementation of the Action Plan has been questioned by both UNEP and member countries recently. The Action Plan has been the most heavily funded plan by UNEP in the past three decades, yet it has failed to achieve financial sustainability. Member countries complain that no tangible benefits are obtained through the implementation of the Action Plan. There are many similar programs/ projects going on in the region, partly because there is a lack of coordination among UN agencies involved such as UNESCO Intergovernmental Oceanographic Commission, IMO, UNDP, UNEP, and FAO. Not only do they lack coordination, but they are also competing for funding external donors to implement similar programs on the coastal and marine environment. In the past decade the region has witnessed a growing number of marine environment projects, through which countries receive funding from external donors to implement activities at the national and local level. This has raised governments' expectations to receive funding from UNEP through the Action Plan, and governments feel that although they have a financial obligation for the Action Plan they have not received tangible benefits from the Action Plan.<sup>71</sup>

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<sup>71</sup> Interviews with Ms. Srisuda Jarayahband, regional coordinator of the EAS/RCU, who derives her statement from her visits to member countries.

COBSEA, with extremely limited financial resources, cannot initiate concrete regional activities at the operational level. Consequently, although the Action Plan was designed as an action-oriented program, the implementation remained small-scale and stagnant. National rather than regional based projects or activities have therefore dominated the portfolio for the implementation of the Action Plan. As of 31 December 1992, a total of US \$1,911,296 had been disbursed from UNEP's Environment Fund to support twenty eight projects, among which nine projects were implemented by the countries participating in the Action Plan, thirteen by other UN agencies, five were internal projects implemented by UNEP, and one was implemented by the EAS/RCU.<sup>72</sup>

A strong and fully staffed EAS/RCU is a critical factor to seek external funding and revitalize the implementation of the Action Plan. However, the work of the EAS/RCU has lacked continuity, planning and coherence in the past two years. Dr. Hugh Kirkman, the coordinator of the EAS/RCU (1998-2003), was a strong believer that the COBSEA should be terminated, and that its activities should be integrated into ASEAN.<sup>73</sup> Upon his retiring from the office, the Senior Expert, Mr. Yihang Jiang, took over as the interim coordinator (2003-2004), but worked for the EAS/RCU only on a half-time basis, and spent his other half time working for the UNEP/GEF South China Sea Project. During 2003-2004, the UNEP/GEF South China Sea Project was severely under-staffed; hence Mr. Jiang committed more than half of his time to the implementation of the South China Sea

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<sup>72</sup> UNEP/OCA/EAS IG.4/6. 1993. *Environment Fund and the East Asian Seas Trust Fund: Their Contribution and Support to the Development of the East Asian Seas Action Plan*. Tenth Meeting of the Co-ordinating Body on the Seas of East Asia (COBSEA), Bangkok, 9<sup>th</sup> –10<sup>th</sup> July 1993.

<sup>73</sup> Interview with Dr. Hugh Kirkman, former Regional Coordinator of EAS/RCU.

Project.<sup>74</sup> The EAS/RCU was completely paralyzed upon Mr. Jiang's leaving the office in September 2004 until January 2005, because there was no professional staff working for the EAS/RCU for more than four months. The regional coordinator was recruited only in January 2005, with two professionals joining in later months, so the office became fully staffed in June 2005. However, all the professionals were recruited from outside the UN system, with no professional experience in dealing with the administration, procedures and rules of the UN. More importantly, the East Asian Seas Action Plan had a long history of development and implementation, involving complex relationships with various partners, including governments, other UN agencies, external donors, and regional and national institutions. The current regional coordinator, Ms. Srisuda Jarayahband, a former senior official from Royal Thai Government, said her biggest problem with the current job was the lack of continuity of work of the EAS/RCU.<sup>75</sup> This problem is caused mainly by the UNEP internal administration, in that UNEP provided no institutional back-up to ensure at least a short period of overlap between old and new staff.

ASEAN continues to exert influence on the future development of the East Asian Seas, and its members intend to use it as a political mechanism to promote environmental cooperation within the ASEAN political block. The vast geographical coverage of the Action Plan has already imposed a challenge to the COBSEA to identify shared or transboundary problems and common interests, but

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<sup>74</sup> Interview with Mr. Yihang Jiang, former Senior Expert of the EAS/RCU and the UNEP/GEF South China Sea Project Coordinating Unit. He left the EAS/RCU to take the post the Project Manager of the UNDP/GEF Yellow Seas Project.

<sup>75</sup> Interviews with Ms. Srisuda Jarayahband, regional coordinator of the EAS/RCU, who derives her statement from her visits to member countries.

ASEAN countries are still interested in expanding the COBSEA to invite other ASEAN countries to participate in the Action Plan. In 2003, Dr. Chou Loke Ming, hired by UNEP to evaluate the Action Plan and seek government perspectives, visited eight member countries and consolidated his recommendations based on the visits. He recommended that attempts should be initiated/continued to invite Brunei Darussalam, Myanmar and East Timor to join COBSEA. He outlines the reasons, as follows:

Brunei Darussalam and Myanmar are two ASEAN nations with a marine environment that are not members of COBSEA. Their involvement will facilitate the integration of activities and collaboration with the AWGCME,<sup>76</sup> and improve regional efforts in dealing with international waters. East Timor lies within ASEAN seas and should also be involved.<sup>77</sup>

In the seventeenth COBSEA meeting, March 2004, this recommendation to further expand the membership was considered and discussed. The meeting had an extensive debate on the definitions of the geographic area, the “East Asian Seas,” and the meaning of ecological “borders.” Myanmar is not even bordering the East Asian Seas, and the proposed expansion is driven by political rather than environmental considerations. Despite the debate, Indonesia strongly supported the expansion due to its leadership in ASEAN, with a view to use the COBSEA to consolidate and integrate ASEAN marine environmental cooperation. The seventeenth COBSEA meeting report recorded, “the delegate from Indonesia suggested, and the meeting agreed that the Secretariat should contact Brunei Darussalam to gauge her interest in participating in COBSEA. The delegate from Indonesia also suggested, and the Meeting agreed that at a later stage, the

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<sup>76</sup> AWGCME is ASEAN Working Group on Coastal and Marine Environment.

<sup>77</sup> Chou Loke Ming. 2003. *Review of the East Asian Seas Action Plan and Strategy for Future Development*. UNEP (DEC)/EAS IG. 17/8. p. 15.

Secretariat would contact Myanmar and Timor Leste to gauge their interests in the programme.”<sup>78</sup>

Further expansion of the membership of the Action Plan without due consideration to common or transboundary environmental problems will pose serious operational challenges for the Action Plan in the future. One problem that has haunted the Action Plan since its 1994 expansion is that countries find it difficult to identify shared marine environmental problems in the large geographical coverage. In the light of this, South Korea already indicated in 2003 the possibility of pulling out of COBSEA as it is more fully involved with the North West Pacific Action Plan (NOWPAP), and that its marine resource systems are influenced by processes different to that of the Southeast Asian region.<sup>79</sup>

### **COBSEA: Searching for a New Identity**

Thirty years ago, when UNEP initiated the activities to develop the East Asian Seas Action Plan, there were few regional initiatives on marine environmental problems; today, the region is thriving with various operational projects with large external funding. Many government officials and scientists attribute the growing activities to the initial work of the Action Plan in promoting networking, awareness and capacity building in the region in the 1980s. COBSEA is now facing competition from various entities in playing a coordinating role and serving as a policy forum. Some other regional programs are taking on roles and convening high level senior officials’ or environmental ministers’ meetings; for

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<sup>78</sup> UNEP (DEC)/EAS IG. 17/3. 2004. *Report of the Seventeenth Meeting of the Co-ordinating Body on the Seas of East Asia on the East Asian Seas Action Plan*. Seventeenth Meeting of COBSEA on the East Asian Seas Action Plan, Bangkok, Thailand, 9<sup>th</sup> – 11<sup>th</sup> March 2004.

<sup>79</sup> Chou Loke Ming. 2003. p. 15.

example this is the case with ASEAN's Environment Ministers meeting and ASOEN. Even some regional projects have moved from operations to policy consultation with a view to leveraging political support and influence for the projects. The PEMSEA project, for example, has organized its own ministerial meetings and various high-level inter-governmental policy meetings.<sup>80</sup> In May 2005 during a COBSEA partner's workshop, a participant questioned, "is there a need for continuing existence of the Action Plan and COBSEA, if their children have grown up and matured?"<sup>81</sup>

COBSEA has had both technical and political in nature since its establishment.<sup>82</sup> In its first decade, the roles of COBSEA were quite technical and mechanical: reviewing, approving projects, allocating budgets, and evaluating projects' results. The focal points of COBSEA, however, are high-level government officials, who may not have certain technical or environmental expertise in the related areas, and are usually not responsible for the implementation of projects at the national level. One of the serious deficiencies of the Action Plan's institutional arrangement is the lack of a forum, which could comprehensively examine and analyze the major environmental problems of the

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<sup>80</sup> The PEMSEA project is the UNDP/GEF Project entitled: "Partnerships in Environmental Management for the Seas of East Asia or PEMSEA." Twelve countries bordering the East Asian Seas participates in this project, i.e. Brunei Darussalam, Cambodia, China, Democratic People's Republic of Korea, Indonesia, Japan, Malaysia, Philippines, Republic of Korea, Singapore, Thailand and Viet Nam. See [www.pemsea.org](http://www.pemsea.org).

<sup>81</sup> This question was raised by a meeting participant during the First Regional Partners Workshop on Regional Coordinating Mechanisms in the East Asian Seas Region, Bangkok, Thailand 9-10 May 2005.

<sup>82</sup> Interview with Dr. John Pernetta. He strongly believes that a successful management framework for marine environmental cooperation should separate the scientific and technical functions from policy and decision-making body, so that the two processes will not mess up and result in fruitless discussions. His idea is reflected in the institutional design for the implementation of the UNEP/GEF South China Sea Project.

region and recommend actions for consideration of the Action Plan's policy-making body (COBSEA).

Faced with recent challenges to the Action Plan, UNEP initiated two workshops to redefine COBSEA's roles, with a view to identifying a niche for COBSEA's functions. In March 2004, a technical workshop for regional coordination enhancement was organized in Bangkok, Thailand. The workshop generally agreed that there was a need for greater coordination and integration of growing activities in the region, and that "COBSEA should change her approach to a more policy-driven approach, rather than project-driven."<sup>83</sup>

UNEP has tried to turn COBSEA into a policy forum with a view to playing a "coordination" role to enhance its political role and utility. In May 2005, the First Regional Partners Workshop on Regional Coordination Mechanisms in the East Asian Seas Region was organized to explore COBSEA's potential as a coordinating mechanism. The workshop was attended by, representatives from fifteen UN agencies, regional programs or projects. There was a general recognition that there was overlapping among regional bodies/projects from both the policy and the scientific perspectives. Meeting participants were divided into four groups to explore potential roles and functions of COBSEA for its future coordination role. Different groups had different views; UNEP claimed that there was a "general support for COBSEA future direction to be an inter-governmental policy forum and COBSEA to be responsible for high level policy coordination of

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<sup>83</sup> UNEP. 2004. "Workshop Summary: Technical Workshop for Regional Coordination Enhancement, Bangkok, Thailand, March 2004." In UNEP (DEC)/EAS IG. 17/3. *Report of the Seventeenth Meeting of the COBSEA on the East Asian Seas Action Plan, Bangkok, Thailand, 9-11 March 2004.*

projects.”<sup>84</sup> However, there was no agreement on whether and how to coordinate the existing large portfolio of activities in the region.

### **The Roles of UNEP, ASEAN and Other Member Countries**

*UNEP.* The roles of UNEP in the development and implementation of the Action Plan have been critical from three aspects: intellectual and technical inputs, financial support and institutional support. These roles are instrumental, enabling UNEP to serve as a facilitator for collective action and a catalyst for other regional actions.

UNEP’s intellectual input and coordinating role was of particular and decisive importance in the preparatory phase of the action plan. UNEP took overall responsibility for the logistics and administrative arrangements for the preparation, consultation, drafting and revision of the text of the Action Plan. During the process, UNEP hired regional experts or consultants to draft the Action Plan and relevant policy documents, and organize various expert meetings to review them. UNEP has the power to influence the outcomes of the meetings not only by directly participating in these meetings and enunciating their technical opinions on the text (in most cases their opinions would be well taken by other participants), but also by choosing experts to participate in the meeting and drafting a meeting agenda.

UNEP has been the major source of financial support to the East Asian Seas Action Plan. UNEP failed to phase out its financial contributions and the Action Plan failed to achieve financial sustainability over a period of more than

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<sup>84</sup> UNEP (DEC)/EAS 1. WS. 2005. *Report of the First Regional Partners Workshop in the Regional Coordinating Mechanisms in the East Asian Seas Region*, Bangkok, Thailand 9-10 May, 2005.

two decades. In this sense, UNEP did not play a catalytic role as it did in the Mediterranean Action Plan. However, by embedding COBSEA in ASEAN and the Action Plan's providing financial and technical support to ASEAN environmental cooperation have promoted ASEAN environmental cooperation both institutionally and financially.

UNEP's symbolic power as an authoritative international organization also helps to draw countries toward multilateral cooperation. Participation in UNEP sponsored activities provides countries with a way to present themselves as responsible states addressing regional environmental problems. Furthermore, for newly independent countries, such as Singapore, participation in international organizations' activities is a good way to execute their statehood, acting as equal sovereign states to their counterparts in the region.

UNEP's influences have had a double-sided effect on the development and implementation of the Action Plan. On the positive side, UNEP has been able to secure government support and participation in a relatively easy way, because UNEP can claim that this is a program approved by the Governing Council of UNEP. On the negative side, the Action Plan focused on environmental issues that were influenced or determined by factors external to the region. The Action Plan followed the global trend in addressing marine pollution, which in the 1970s was exemplified by a series of major oil spill accidents in the temperate northern hemisphere that raised extensive global attention due to their serious impacts on the marine environment. The oil spills problem was not a priority problem in the East Asian Seas region except in the Straits of Malacca, in comparison to the rapid loss and degradation of coastal habitats in the region. With the notable exception of projects dealing with control of pollution from accidental oil spills, most of the

other program activities were in the field of environmental assessment (research and monitoring) without much real impact on the management of environmental problems of the region.”<sup>85</sup> The failure to identify regional priorities and shared marine environmental problems in the region was probably the main factor causing the failure to mobilize strong governmental financial support to the Action Plan.

***The “ASEAN Way” and Its Institutional Impacts.*** Embedded in ASEAN for nearly a decade, COBSEA inevitably inherited its institutional and procedural norms, influencing the form and nature of environmental cooperation in the region: an aversion to a legally binding agreement and a preference for working with voluntarism.

The ASEAN states have often facilitated inclusion of all through an informal diplomacy that limits obligations and protocol.<sup>86</sup> It brings together a group of highly disputatious countries for dialogue and discussion. ASEAN provides a forum for member countries to exchange information and enhance trust and confidence; hence it promotes regional cooperation on various issues. In its early stage, it was envisaged that the Action Plan would grow to encompass other neighboring countries subject to favorable political developments in the region. A legally binding agreement providing the legal framework for the Action Plan was seen as a possible impediment to this future expansion of its membership. The strong attachment to the principle of “non-interference” and caution in reaching any legally-binding agreements, based on a fear of losing some aspect of “sovereignty” led to the inability of member countries to reach a regional convention based on the East Asian Seas Action Plan.

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<sup>85</sup> UNEP. 1987. *The East Asian Seas Action Plan: Evaluation of its Development and Achievements*. UNEP Regional Seas Reports and Studies No. 86.

<sup>86</sup> Michael Antolik. 1994. “The ASEAN Regional Forum: the Spirit of Constructive Engagement.” *Contemporary Southeast Asia* 16: 117-136.

The “ASEAN Way” has contributed positively to the successful expansion of COBSEA membership, but in contrast it is the main reason that COBSEA has failed to reach a legally binding regional convention. As David Rosenberg observed,

ASEAN serves as a useful forum for promoting economic growth, political stability, and social and cultural exchange in the region; however, it is sometimes subject to a “lowest-common-denominator” syndrome, whereby policies are watered down to satisfy the wishes of members with conflicting interests.<sup>87</sup>

The “ASEAN Way” also contributed to the missing opportunity to address some problems in a timely manner. Meeting participants felt it inappropriate or a “transgression” of other countries’ sovereignty by confronting other countries with their problems in implementation or pointing out the delay of activities in other countries. This was unfavorable to mutual monitoring and supervision. For example, the most obvious issue was the lowest contribution of the richest country to the East Asian Seas Trust Fund. Singapore, with the highest GDP per capita, had been contributing merely \$US 1,000 for over a decade.

ASEAN countries’ participation in the Action Plan was initially driven by the need to consolidate the ASEAN identity through UNEP, and strengthen environmental cooperation with members of the organization. As the Action Plan developed and expanded to other countries, ASEAN countries have treated it as a good opportunity to engage China and other countries, while still promoting ASEAN’s cooperation through UNEP.

***Roles of Non-ASEAN Countries.*** Non-ASEAN countries in the COBSEA are Australia, China and South Korea, and they all joined COBSEA in October

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<sup>87</sup> David Rosenberg. 1999. “Environmental Pollution around the South China Sea: Developing a Regional Response.” *Contemporary Southeast Asia* 21 (1): 118-145.

1994. Australia, as the only developed country, with a strong marine program at the national level, should play a more active role in COBSEA. However, Australia has not been a leader in the Action Plan. Its contribution to the Trust Fund is a mere \$20,000 per annum. In 1996, the Australian representative to the twelfth meeting of COBSEA indicated that his government would increase its contribution to \$30,000 only if other countries agreed to increase as well, or at least maintain the same level of contribution. This was a consideration resulting from Australia's support for the implementation of the GPA at the regional level through the Action Plan.<sup>88</sup> During the thirteenth meeting, Indonesia reduced its contribution by \$13,000 due to the East Asian financial crisis. As a result, Australia has not increased its contribution up to the present.

Since joining the Action Plan, Australia has provided some technical assistance and capacity building to assist countries in implementing the agreed project activities.<sup>89</sup> These activities have been on a project and individual basis, sometimes coming from the discussions during the COBSEA meeting. Australia has the ability to initiate more systematic and comprehensive capacity building and training activities to facilitate the implementation of the Action Plan, and the EAS/RCU should find a way to approach and motivate the Australian government to secure greater support.

China, trying to build good neighbor relationships with ASEAN countries and realizing that COBSEA is the only intergovernmental body for marine environment in the East Asian Seas region (covering the sensitive sea of the South China Sea), has demonstrated a great interest in supporting and strengthening

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<sup>88</sup> UNEP (WATER)/EAS IG. 8/6. 1996. *Report of the Twelfth Meeting of the COBSEA*. Manila, Philippines, 3-4 December 1996. p. 18.

<sup>89</sup> For example, Australia supported for the implementation of the regional GPA/LBA.

COBSEA. It is the member country with greatest annual financial contribution to the Trust Fund. Upon joining the Action Plan, China pledged US\$15,000 to the East Asian Seas Trust Fund. Two years later China unilaterally decided to increase its contribution to the East Asian Seas Trust Fund by doubling its original commitment, to \$US30,000 per annum starting from 1996. China's intent to build mutual confidence and trust with the ASEAN countries is demonstrated in the Statement made by the Head of Chinese Delegation, Mr. Liu Yukai, as follows:

“China is in favor of the making out of the East Asia Sea Action Plan and the equal cooperation between other countries bordering the East Asia Sea within the framework of this Action Plan, for the purpose of protection of the marine environment of this region... Embracing the sincere and cooperative attitude, China will cooperative with all the countries and positively take part in the various actions taken for the environmental protection of our region, for the end of making contributions to the marine environmental protection of this region.”<sup>90</sup>

China also expressed its concern at the latest dysfunction of the EAS/RCU and enunciated the need to strengthen the EAS/RCU, but China has shown continuous political support for COBSEA, despite its current challenges and problems. In the seventeenth meeting of COBSEA, China emphasized that “COBSEA is an appropriate body, and can and should coordinate activities...”<sup>91</sup> The eighteenth meeting of COBSEA will be hosted by China in Beijing in October 2005. China's support to UNEP activities is also manifested in its leadership in implementing the UNEP/GEF South China Sea Project, which will be analyzed in Chapter 5.

South Korea's participation in the COBSEA has been through its participation in various regional workshops and meetings. No projects have been

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<sup>90</sup> UNEP (WATER)/EAS IG. 8/6. 1996. *Report of the Twelfth Meeting of the COBSEA*. Manila, Philippines, 3-4 December 1996.

<sup>91</sup> UNEP (DEC)/EAS IG. 17/3. 2004. p. 7.

implemented by South Korea for the region. The main reason is that South Korea's marine environment is less linked and integrated with the traditional "focal area" of the Action Plan — the seas of Southeast Asia. As South Korea is more actively involved in NOWAP, it is now considering withdrawing from its membership to become only an observer to the COBSEA.

### **Conclusion**

In the nearly three decades' during which the Action Plan has developed, UNEP has facilitated regional cooperation by developing and adapting the Action Plan to changing regional political dynamics. UNEP started the Action Plan with a smaller geographical coverage that was limited to the regional organization, ASEAN, and only pushed for the expansion of the Action Plan when geopolitical changes allowed for that.

This case has demonstrated that UNEP's roles in regional cooperation should be examined in its interactions with regional politics. In the development and implementation of the Action Plan, UNEP's roles are mostly functional and instrumental, providing financial resources and technical assistance, raising environmental awareness among the development-minded countries, and building institutional and individual capacity for environmental management and studies.

The political roles of UNEP have been unintended in the following two aspects: 1) ASEAN's consolidation of its own identity and the; 2) confidence and trust building among member countries, firstly within ASEAN, and later mainly between ASEAN and China. As a result, the successes and failures of the Action Plan have been mixed. On the one hand, the Action Plan has successfully catalyzed marine environmental cooperation in the region. On the other hand, it

failed to achieve financial sustainability, and build a unique “COBSEA identity” for its future roles.

## CHAPTER 5

### MARINE ENVIRONMENTAL COOPERATION IN THE SOUTH CHINA SEA

In the past fifteen years or so, the South China Sea region has witnessed two seemingly conflicting trends: escalating small-scale conflicts and increasing environmental cooperation. The conflict in the sea attracts great international attention since China's physically entering the occupation of the Spratly Islands (see chapter 3). Since 1990, a series of workshops of an established Informal Working Group had been organized by Indonesia with funding from the Canadian International Development Agency. Marine environmental problems were identified by this Informal Working Group as one of the most important areas for cooperation in the South China Sea. Various meetings of the Informal Working Group considered and discussed the possibilities and implications of marine environmental cooperation in the South China Sea. Building on the success of the convening of the informal workshops and experiences of the East Asian Seas Action Plan, UNEP further promoted informal marine environmental cooperation to formal intergovernmental cooperation; and turned regional policy consultations into operational level actions to protect marine environment by developing and implementing the UNEP/GEF South China Sea Project.<sup>1</sup>

The approval of the UNEP/GEF South China Sea Project in 2000 signifies the first large-scale multilateral inter-governmental initiative on marine environmental protection, involving all major countries of the South China Sea. This is the first multilateral inter-governmental initiative signed by China on any

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<sup>1</sup> The full title of this project is: Reversing Environmental Degradation Trends in the South China Sea and Gulf of Thailand.

issues related to the South China Sea. With a total of \$32 million funding, the project aims to reverse the environmental degradation trend in the South China Sea, with components including mangroves, coral reefs, seagrass, wetlands, land-based pollution and fisheries.

The importance of the signing of this project in 2000 goes much beyond its environmental implications. Environmental cooperation in the South China Sea critically hinges on China's attitude, because China was strongly opposed to any efforts to internationalize the South China Sea issue. Given that China was strongly opposed to multilateral cooperation on issues related to the South China Sea, its changing attitude towards multilateral environmental cooperation in the South China Sea seems puzzling. More interestingly, during the implementation, China has played a leading role in implementing the project, with strong support from both the Central Government and local governments and executing agencies. How and why did China transform its role from a laggard in multilateral environmental cooperation to a leading implementer of the project?

This chapter surveys the evolution of environmental cooperation; from informal to formal intergovernmental cooperation; from policy consultations to operational level actions to reverse the trends of marine environmental degradation. It will explore factors that made multilateral environmental cooperation possible in such a sensitive and contentious sea area, and how various actors behave/act towards that end. This chapter analyzes the roles of UNEP, ASEAN and China in the development of environmental cooperation in the South China Sea. It explores how UNEP leveraged its inductive power to help China to re-define its interests and change its attitude towards environmental cooperation in the South China Sea during the negotiation and approval stage of the project, and

how UNEP facilitates regional cooperation during the implementation of this project.

The chapter contends that the development of marine environmental cooperation was driven less by the seriousness of degradation of the marine environment, than by the political and economic needs for further development of Sino-ASEAN relationships. That is, both sides were eager to build strong and cooperative relationships with a view to providing a stable political environment for further economic exchanges and development. The escalating conflicts among the bordering countries of the South China Sea pose a potential threat to the stability and prosperity of the region. Environmental cooperation provides an ideal mechanism for confidence and trust building among the littoral countries of the South China Sea. Both parties perceive UNEP as a neutral and authoritative organization through which environmental cooperation can be facilitated. During the process, UNEP applied various strategies to promote environmental cooperation among counties bordering the sea, including providing technical assistance to and alliance with domestic pro-cooperation factions, fostering the maturing of regional epistemic community, and nurturing a regional sense of the “South China Sea community.”

This chapter will therefore start with analyzing China and ASEAN’s interests, positions, diplomatic goals and policies towards each other regarding South China Sea issues and will provide a political and diplomatic background for analyzing their attitudes towards environmental cooperation in the South China Sea. The chapter will then review the development of environmental cooperation under the auspices of UNEP, and analyze UNEP’s strategies and roles.

### **China's Dual Policies towards the South China Sea**

China's policy goals and the means to achieve them in Southeast Asia are complex and to some degree contradictory. China's foreign policy is dictated by opposing impulses: one is irredentist while the other seeks to show evidence of a responsible country among the community of nations in an increasingly interdependent world. On the one hand, in dealing with issues of sovereignty, the Chinese Government does not have wide-ranging diplomatic options other than upholding entrenched territorial claims, as indicated by its numerous statements: in short, sovereignty issues are not negotiable.<sup>2</sup> On the other hand, the Chinese government desires stable and peaceful relationships with Southeast Asia so that China can concentrate on its domestic economic development and reap the benefits from the growing Southeast Asian economies.

From the first Opium War in 1840 until the establishment of the People's Republic of China in 1949, the Chinese people suffered from weak governments and military forces, which failed to defend the nation from the invasion by Western countries and Japan. The recent history of "blood and tears"<sup>3</sup> has resulted in the Chinese government jealously defending its sovereignty and independence, which the Chinese consider as having cost the efforts of generations to gain, not in an easy way. In the eyes of the nationalists, no Chinese Government can stand firm if it does not uphold the country's claim on its territories. Territorial claims are central to the efforts of re-legitimization of the current Chinese regime now riding

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<sup>2</sup> You Ji. 1995. "A Test Case for China's Defense and Foreign Policies." *Contemporary Southeast Asia*. Vol. 16, No. 4 March 1995: 375-403.

<sup>3</sup> The history textbook characterizes the recent history (1840-1949) of China since the Opium War a history of Chinese people's "blood and tears." This has been in great contrast of Chinese perception of their past history of grandeur and pride in the long civilization, and has encouraged generations after the Opium War to seek a road for the nation's revitalization.

high on a surge of nationalism and patriotism.<sup>4</sup> The popular irredentist pressure on the Chinese government is demonstrated in the popularity of a book called “China Can Say No,”<sup>5</sup> and more recently evidenced by the “Anti-Japan” demonstrations, triggered by Japan’s efforts to obtain a permanent seat in the UN Security Council. Due to domestic nationalism, the Chinese government cannot compromise on territorial disputes, but has to demonstrate its determination to guard the entirety of its territory, including the disputed South China Sea.<sup>6</sup>

Another factor that might have contributed to the strong Chinese attitude towards the issues in the South China Sea is the unique strategic importance of the South China Sea to China’s territorial integrity, i.e. the sea’s strategic position bordering Taiwan, Hong Kong and Macao. China’s claim to the South China Sea arises from the desire to consolidate the country’s borders in the modern era and promote the integration of Hong Kong and Taiwan with the mainland. Seen in these terms, the issue for China is one of defining the territory of the motherland and removing the consequences of the intrusion of Western powers that artificially separated areas rightfully belonging to China.<sup>7</sup>

Motivated by domestic pressures to act determinedly with respect to the issues of sovereignty, the Chinese government has since the mid-1970s undertaken a series of steps towards increasing its presence in the South China Sea. In 1974, China occupied the entire Paracel Islands as a consequence of a war with South

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<sup>4</sup> You Ji. 1995. “A Test Case for China’s Defense and Foreign Policies.” *Contemporary Southeast Asia*. Vol. 16, No. 4: 375-403.

<sup>5</sup> Song Qiang, Zhang Zangzang, Qiao Ben, Gu Qingsheng and Tang Zhengyu. 1996. *Zhongguo keyi shuo bu (China Can Say No)*. Beijing: Lianhe chubanshe.

<sup>6</sup> The pressure on the South China Sea is less than that on the territorial disputes with Japan on the sovereignty issue of “Diaoyu Island” in the East China Sea due to historical conflicts with Japan.

<sup>7</sup> Leszek Buszynski. 1992. “Southeast Asia in the Post-Cold War Era: Regionalism and Security.” *Asian Survey*, Vol. 32, No. 9): 830-847.

Viet Nam. In March 1988, a confrontation took place between Chinese and Vietnamese naval vessels in the Spratly Islands resulting in the sinking of three Vietnamese ships and the deaths of 78 Vietnamese navy soldiers.<sup>8</sup> In February 1992, China enacted “The Law of People’s Republic of China on It Territorial Waters and Contiguous Areas,” claiming, among other things, all the islets in the South China Sea. Beijing made no effort to disguise its intention to use force to oust other claimants if necessary.<sup>9</sup> In 1995, Chinese-built structures were discovered by the Philippines on Mischief Reef, which was lying 135 miles west of Palawan, Philippines.

On the other hand, since the introduction of the open-door policy in 1978, the Chinese leadership has made economic modernization China’s overriding national priority. To facilitate this goal, China needs a peaceful regional environment in which to pursue economic reform. Hence Chinese foreign policy towards Southeast Asia has emphasized the importance of economic cooperation with other countries. China has realized that it is not able to act independently in the Spratlys. If it adheres to its economy-in-command foreign policy and accepts the benefits of an interdependent world, it has only one choice: a settlement of the disputes through peaceful means.

China has preferred bilateral negotiations to multilateralism, because China believes it can exert more influence or pressure in bilateral negotiations with its smaller neighbors separately than with a group of them in multilateral forums. At the 22-23 July 1994 meeting of the foreign ministers of ASEAN in Bangkok,

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<sup>8</sup> The Manila Times. 03 March 2005.

<sup>9</sup> See Lee Lai To. 1993. “ASEAN-PRC Political and Security Cooperation: Problems, Proposals, and Prospects.” *Asian Survey*, Vol. 33, No. 11: 1095-1104. Wayne Bert. 1993. “Chinese Policies and U.S. Interests in Southeast Asia.” *Asian Survey*, Vol. 33, No. 3: 317-332.

China's Foreign Minister Qian Qichen rejected an Indonesian proposal to host talks among the claimants, indicating that China is opposed to multilateral talks on the Spratlys.<sup>10</sup> China's public position is that while sovereignty over the islands is non-negotiable, joint ventures to exploit the natural resources of the area can be negotiated on a bilateral basis. As stated by Craig Snyder, "China believed that if the issue were internationalized, international opinion would side with the smaller states."<sup>11</sup> From its perspective, Beijing perceives multilateralism as an attempt to encircle China as a threatening rising power and to interfere in its domestic affairs.

However, the Chinese government also fears being isolated on the issue in an international forum, and China could not afford to be left out of a multilateral security forum that included the most significant regional states.<sup>12</sup> China's suspicions towards multilateralism are reduced when it engages in countries less powerful or smaller than itself in a flexible and informal way, for example, China's participation in the ASEAN Regional Forum. China has perceived the forum as a vehicle for "promoting multipolarity in the Asia-Pacific to counter America's unipolar status in the post-Cold War world."<sup>13</sup> A United States- or Japanese-led arrangement would have been unacceptable to China. China has made particularly

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<sup>10</sup> Esmond D. Smith, Jr. 1994. "China's Aspiration in the Spratly Islands." *Contemporary Southeast Asia* 16 (3): 274-294.

<sup>11</sup> Craig A. Snyder. 1997. "Building Multilateral Security Cooperation in the South China Sea." *Asian Perspective* 21(1). p. 28.

<sup>12</sup> Ralf Emmers. 2001. "The Influence of the Balance of Power Factor within the ASEAN Regional Forum." *Contemporary Southeast Asia*, Vol. 23, No. 2: 275-291.

<sup>13</sup> Ibid.

clear its opposition to extra-regional powers' participation in discussions on resolution of the territorial disputes.<sup>14</sup>

Therefore, when the Chinese leadership is pressured by two opposing forces, its response is naturally a policy that exhibits a great deal of ambiguity or even contradictions: conciliatory foreign policy efforts vis-à-vis an increasing military presence in the South China Sea. China's policies towards the South China Sea are to some extent conflicting. On the issue of sovereignty, China would not compromise due to pressures from both the army and nationalists' views. With that principle in mind, China has tried to build a cooperative and friendly image towards neighboring countries to ensure the economic gains from economic integration of the region. The most important priority in China's foreign policy objectives in Southeast Asia, including the South China Sea is to ensure a stable external environment conducive to China's economic modernization and growth.<sup>15</sup>

China has two conflicting diplomatic goals towards the South China Sea, and at the domestic levels has different domestic alliances in supporting each of the two goals. When a state is split at the national level regarding an issue, a third-party international player (in this case, UNEP) can play an important role by allying with domestic factions to promote the achievement of one diplomatic goal in consistence with the goal of the international player.

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<sup>14</sup> Chen Jie. 1994. "China's Spratly Policy: With Special Reference to the Philippines and Malaysia." *Asian Survey*, Vol. 34, No. 10: 893-903.

<sup>15</sup> Shee Poon Kim. 1998. "The South China Sea in China's Strategic Thinking." *Contemporary Southeast Asia* 19 (14): 369-387.

### **ASEAN's Need to Engage China**

In the post-Cold War era, China's rising power has been the most important issue facing ASEAN member countries. The ASEAN countries are concerned about China's influence in the region with the changing security environment following American strategic retreat from the region. It is obvious that it is not possible for ASEAN countries to ignore and contain China, but that they have to engage China for regional peace and security reasons. In the early 1990s, when China was attempting to improve relations with its neighbors, to ensure that it would enjoy a peaceful international environment, the ASEAN states were also considering how to meet the challenge of integrating China into the Asia-Pacific community by offering it a reasonable stake and a constructive role in the region.”<sup>16</sup>

China's importance to Southeast Asia cannot be over-exaggerated, in economic, political and security areas. In the economic arena, China looms both as an opportunity and a challenge to Southeast Asian countries. Statistics from China's Ministry of Commerce show that since 1990, ASEAN has been the fifth largest trade partner of China. China's potentially huge markets and investment potential can provide abundant business opportunities, although similar export products' structure may pose severe competition to the manufacturing industries of the Southeast Asian countries. Mr. Rodolfo C. Severino, Secretary-General of ASEAN, stated, “the opening-up of the Chinese economy not only makes more formidable the challenge of China as a competitor of ASEAN for investments and export markets. It also presents a tremendous opportunity, offering a large – in

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<sup>16</sup> Joseph Y.S. Cheng. 2001. “Sino-ASEAN Relations in the Early Twenty-First Century.” *Contemporary Southeast Asia* 23 (3): 420-51.

many cases, new – market for ASEAN exports, for products of companies operating in ASEAN.”<sup>17</sup>

In the security arena, the ASEAN countries shared a stand in preferring multilateral to bilateral approaches, in dealing with China with respect to the South China Sea territorial issues, due to stark differences in national power between China and any other claiming countries, because they believe that bilateral talks or negotiations lead to results favorable to China. For example, despite the fact that China and the Philippines signed a code of conduct, the Philippines failed to stop China from building infrastructures in the Mischief Reef. In Sino-Viet Nam relationships, Viet Nam was at a disadvantage in dealing with China. In dealing with China’s assertiveness in the South China Sea, other claimant countries have attempted to regionalize the problems, and pushed to include the problem in the agendas of regional forums or discussions under the framework of ASEAN.

China’s assertiveness in the South China Sea has not only stimulated other claimant countries to resort to a regional forum for support, but also has reinforced non-claimants’ perception that China is a potentially destabilizing force in pursuit of a hegemonic regime in Southeast Asia. In dealing with issues regarding sovereignty and territorial disputes, the ASEAN countries have demonstrated their willingness to take a united stand on the issue and indirectly rebuke China.<sup>18</sup> While the South China Sea dispute does not involve all ASEAN members (there are four ASEAN claimants—Malaysia, the Philippines, Brunei and Viet Nam), it does have an impact on the stability of Southeast Asia and is therefore a concern to

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<sup>17</sup> Rodolfo C. Severino. 2001. “ASEAN and China—Partners in Competition”. Remarks at the ASEAN Forum sponsored by the ASEAN Consulates, Guangzhou, China, 9 June 2001.

<sup>18</sup> Ian James Storey. 1999. “Creeping Assertiveness: China, the Philippines and the South China Sea Dispute.” *Contemporary Southeast Asia* 21(1): 95-118.

all members. This explains the signing of various declarations on the South China Sea by all ASEAN members, regardless of whether they are claimant countries or not.

In the South China Sea disputes, none of the claimants are significant competitors in comparison with China in terms of economic and military capability if they individually deal with China in a bilateral way. Both claimant and non-claimant countries of the South China Sea realize the need to engage China in a multilateral form with “rule-based arrangements that provide sufficient incentive to constrain hegemonic ambitions”... “to encourage it in the practice of good international behavior.”<sup>19</sup> The good international behavior may include the non-use of force to resolve territorial disputes, and commitments to peace and cooperation. It was believed that engaging China in multilateral arrangement would “lock China into a network of constraining multilateral arrangements”<sup>20</sup>, which will serve as a soft constraining power against possible aggressive actions of China. Moreover, they may have anticipated that China would find itself isolated within the arrangement if it failed to follow a policy of self-restraint.<sup>21</sup>

Due to China’s aversion to internationalizing the South China Sea issue, and its reluctance to discuss sensitive issues, such as territorial or sovereignty disputes in multilateral forums, the Southeast Asian countries have undertaken two strategies in engaging China. First, they started from informal consultation with Chinese government officials, experts and researchers in their personal capacity.

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<sup>19</sup> Ralf Emmers. 2001. “The Influence of the Balance of Power Factor within the ASEAN Regional Forum.” *Contemporary Southeast Asia* 23 (2): 275-291.

<sup>20</sup> Michael Leifer. 1996. “Truth about the Balance of Power” in the *Evolving Pacific Power Structure*, edited by Derek Da Cunha. Singapore: Institute of Southeast Asian Studies. p. 51.

<sup>21</sup> ASEAN in its early establishment had an aim to lock Indonesia in a regional framework.

Second, less political or sensitive issues were given priority at the beginning. Marine environmental protection and scientific research have been one of the most prominent issue areas for cooperation among disputing countries.

In summary ASEAN's goals and policies towards China are much in line with UNEP's. Both parties aim to engage China in multilateral cooperative initiative, for different reasons. ASEAN intends to lock China in a multilateral arrangement, to make sure China's behavior within certain range. UNEP's reason to engage China is because China's effect on marine environment in the South China Sea is tremendous, and will continue growing due to its economic development.

### **Informal Cooperation: The Workshops on Managing Potential Conflicts in the South China Sea**

Cooperation in the South China started in the form of "informal consultation" in 1990, when academics and officials realized that the disputes concerning sovereignty over the Paracels and the Spratlys were becoming prominent issues that might pose threats to the peace and security of Southeast Asia. Dr. Hasjim Djalal, a former senior Indonesian diplomat, had been among those who foresaw the possible escalation of a dangerous situation, and had conceived of the possibility of convening informal meetings to discuss the issues of sovereignty and jurisdiction.<sup>22</sup> In view of difficult and sensitive territorial issues, it was believed that informal approaches would be better, at least during the early stage, to facilitate communications among disputing countries, enhance the

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<sup>22</sup> Hajim Djalal and Ian Townsend-Gault. 1999. "Preventive Diplomacy: Managing Potential Conflicts in the South China Sea." In *Herding Cats: Multiparty Mediation in a Complex World*, Crocker, Hampson and Aall editors, United States Institute of Peace Press.

confidence and trust of countries in the region, and prevent small-scale conflicts from escalating to regional conflicts.

A series of informal workshops on the South China Sea were organized by Indonesia under the framework of the project entitled “Managing Potential Conflicts in the South China Sea” between 1990 and 1999, with financial support from the Canadian International Development Agency. The purpose of the workshops was not to resolve the disputes but to develop confidence-building measures in the region and to establish precedents for cooperation among the South China Sea littoral states that would facilitate a peaceful resolution. The participants of the workshops comprised of government and military officials, academics, and scientists from each of the claimant state and other ASEAN countries, participating in the workshops in their “personal capacity.” Participants were invited to make statements regarding jurisdiction over the Spratlys and Paracels, but no discussions were allowed. The informality meant that participants attended these workshops in their “personal capacity”, and statements made during the meeting did not represent government perspectives, and should not be used to justify political claims or policies.

The project had two objectives: first, to manage the potential conflicts by seeking an area in which everyone could cooperate; second, to develop confidence building measures or processes so that the various claimants would be comfortable with one another, thus providing a conducive atmosphere for the solution of their territorial or jurisdictional disputes.<sup>23</sup> The assumption of the project was that talking in any form is better than lack of communication, and will eventually

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<sup>23</sup> Hajim Dijala and Ian Townsend-Gault. 1999. “Preventive Diplomacy: Managing Potential Conflicts in the South China Sea.” In *Herding Cats: Multiparty Mediation in a Complex World*, Crocker, Hampson and Aall editors, United States Institute of Peace Press.

contribute to trust and confidence building among the littoral countries, which would eventually lead to the peaceful solution of the territorial disputes.

The informal South China Sea Working Group was established, and held annual meetings between 1990 and 1999. During the ten years' period, thirty-two meetings were convened under the aegis of the workshop process. During the process, considerable confidence and trust was built among the meeting participants, who then brought the cooperative spirit back to their countries.

The first informal South China Sea workshop was held in 1990 in Bali, Indonesia, exclusively attended by ASEAN participants. In preparing the second workshop, ideas had been brought that Mainland China and Taiwan<sup>24</sup> should be included in view of the fact that they have claims in the South China Sea, and they also occupied some parts of the area. This would not have been possible if the forum was a "formal" one mainly due to China's concerns that the South China Sea issues should not be "internationalized", and that China would discuss the problems with its neighboring countries directly and bilaterally, not through a third party or in a multilateral forum.<sup>25</sup> It is Mainland China's practice of foreign diplomacy that there is only "one China" in the international arena, and that China should be represented by, the People's Republic of China. The Republic of China (Taiwan) should be excluded from any formal inter-governmental forums or meetings. The "informality" of the workshop process and the fact that individuals participate in the workshops in their "personal capacity" enabled the inclusion of

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<sup>24</sup> It is in the official view of the Mainland China that Taiwan is an inseparable part of People's Republic of China. Currently Taiwan is governed by the Republic of China, which had governed the entire China before it was expelled by the communist movement. Here in this chapter, Taiwan is mentioned as a geographical area, not with political implications.

<sup>25</sup> Hajim Dijala and Ian Townsend-Gault. 1999. "Preventive Diplomacy: Managing Potential Conflicts in the South China Sea." In *Herding Cats: Multiparty Mediation in a Complex World*, Crocker, Hampson and Aall editors, United States Institute of Peace Press.

participants from both Mainland China and Taiwan. By the second workshop in Bandung in 1991, China, Viet Nam, Laos and Taiwan were already able to attend the workshop.

The only goal of the workshops that the organizers claimed was to provide a forum for countries in dispute to sit together and freely exchange ideas. Later developments showed that the initiator and funding agency of the workshops did wish the informal consultations and confidence building would result in some formal or legal agreements for the resolution of the South China Sea issues.<sup>26</sup>

***Form of Cooperation.*** Far from removing the process from the attention of senior officials, the “informality” allowed such officials to attend and participate in the meetings. The participants in the informal workshops were high-level government officials, researchers, academics or even military personnel. Despite the fact that they participated in the workshops in their personal capacity, the workshops attracted wide attention due to the seniority of the participants in their respective fields. Most of the informal workshops, for example, were opened by His Excellency Ali Alatas, the Foreign Minister of Indonesia. High-level participation from countries also ensured that meeting results were brought back directly to the senior government officials in their home countries.

The informal nature of the workshop opened doors for all claimants of the South China Sea, regardless of their international standing because it is the only channel where Mainland China and Taiwan can sit together and address common maritime issues. The informal procedure of the workshop process is probably the only way to engage various actors. Moreover, the discussions and ideas could flow

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<sup>26</sup> Tom Nass. 2001. “Environmental Cooperation around the South China Sea; the Experience of the South China Sea Workshops and the United Nations Environment Programme’s Strategic Action Programme.” *The Pacific Review*, Vol. 14: 553-573.

more freely in an informal context while in a more formal meeting participants would be greatly constrained by the policies of their respective governments.

*Issues/areas of Cooperation.* Various areas of possible cooperation were discussed, and those technical and scientific issues were identified as potential areas for future cooperation. Identified issues included protection of the marine environment, political and strategic issues, safety of navigation, marine scientific research, and territorial disputes, including the dispute over the Spratlys and Paracels, and institutional mechanisms for cooperation. On the Spratlys and Paracels, in view of the extremely sensitive nature of the disputes, each participant was given only five minutes to express his or her views without entering into discussion.

By the third workshop in 1992, a decision had been made by the working group to establish two Technical Working Groups, one on marine scientific research and the other on resource assessment and means of development. As the informal workshops identified more technical issues for cooperation, three other Technical Working Groups were formed to discuss cooperation on these issues, including marine environmental protection, safety of navigation and communication, and legal matters. The outputs and results of these Technical Working Groups were reported to the annual informal working group meetings.

*The Role of Canada and Indonesia.* The Informal South China Sea Working Group was financially supported by the Canadian International Development Agency between 1990 and 2001, which was the only external actor that had funded the initiation and development of activities under the framework of the informal working group. Canada withdrew its funding in 2001, because littoral countries of the South China Sea were weary of “external funding with political

strings attached,”<sup>27</sup> after which the region failed to secure funding to continue the activities.

Canada’s role in mediating and financing the cooperative activities in the contentious South China Sea stemmed from two facts. First, Canada has a well-demonstrated interest in ocean affairs. It is one of largest ocean country in the world in terms of its coastline, depending on how one does the computation. Second, Canada was considered as a politically neutral country by the littoral countries of the South China Sea. It has maintained relatively friendly relationships with all littoral countries, without any history of conflict or negative involvement in regional affairs. While countries such as Australia, Japan, Russia, the United States, and others might be expected to have played a role in financing and promoting regional cooperation, for a number of political reasons they are effectively barred from doing so. Each of these countries has had bilateral relationships with different countries in the region, and a historical engagement in some countries to balance others in the region. Hence none of them could be trusted by all littoral countries to engage fairly in the regional process.

Indonesia has no claim to the any of the islands of the Spratly, hence is strictly speaking an “external player” as far as the Spratly dispute is concerned.<sup>28</sup> As the leading member of ASEAN, however, its influence is critical in the region. The escalating of the conflicts in the sea would have direct impact on overall regional security, and directly link with Indonesia’s national security and stability.

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<sup>27</sup> Karsten von Hoesslin. “Informal Dialogue on the South China Sea Works to Singapore’s Advantage”, originally submitted to the Straits Times.

<sup>28</sup> Bjorn Moller. 2002. “The Military Aspects of the Disputes.” In *War or Peace in the South China Sea*, Timo Kivimaki ed., Copenhagen: NIAS Press.

Indonesia was the organizer of these workshops, and had lent great political support to the organization of these workshop meetings.

***China's Participation.*** China's participation in the Informal Workshop meetings was largely driven by the need to build good relationships with its neighboring ASEAN countries in 1990. After the 1989 Tiananmen Square incident, China was sanctioned by major western powers, and its diplomacy with the western countries plunged into a low point. The response from the ASEAN countries was muted and "rational", especially when compared with that of the West, and this was greatly appreciated by Beijing in view of various domestic and international problems in the aftermath of that event.<sup>29</sup> At the beginning, China had been extremely cautious since it was organized by Indonesia which had suspended its relationship with China for more than two decades.

China's participation in the informal workshop meetings was entirely facilitated by the "informal" form of cooperation. It provided an opportunity for the Chinese government to interact with and understand its neighboring countries after long-time diplomatic break. After several years' involvement of the Chinese government officials, experts and scholars in the workshop meetings, they found that "ASEAN countries aren't that scary, and that people are fairly reasonable."<sup>30</sup> By mid-1990s, China was fully engaged in various meetings of ASEAN. The relationship built through the workshop process helped the later development formal environmental cooperation in the South China Sea.

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<sup>29</sup> See Lee Lai To. 1991. "Domestic Changes in China since the 4 June Incident and Their Implications for Southeast Asia." *Contemporary Southeast Asia* 13(1): 35-42.

<sup>30</sup> Interview with Professor Huang Zhengguang.

### **The Development of the UNEP/GEF South China Sea Project**

Building on the trust and confidence gained through the Informal South China Sea Working Group, the UNEP/GEF South China Sea Project has made path-breaking progress in formalizing regional marine environmental cooperation in the South China Sea, and undertaking substantive cooperative activities to address marine environmental problems. Following the Informal Working Group activities, UNEP initiated the development of the UNEP/GEF South China Sea Project in 1996, the first intergovernmental project involving all major South China Sea littoral countries. Seven countries bordering the sea participated in the preparation and development of this project, including Cambodia, China, Indonesia, Malaysia, Philippines, Thailand and Viet Nam. The other two littoral countries, Brunei Darussalam and Singapore, are non-participants because they are not eligible for funding from the Global Environment Facility. The implementation of the project started in early 2002, and the project should be completed by the end of 2007.

The preparation and approval of the project took unusually lengthy time, mainly due to China's refusal to sign the project. Considering strong Chinese aversion to internationalizing the South China Sea issue, and formalizing any forums for the South China Sea, the fact that UNEP successfully put the words of "South China Sea" in the project document indicated a significant achievement towards formal, multilateral, inter-governmental environmental management in the South China Sea.

The UNEP/GEF South China Sea Project is one of the largest marine environment projects of the GEF, with a total funding of over US\$ 32 million (Table 5.1). The project is funded by the Global Environment Facility, the

financial mechanism to address global environmental problems, and is implemented by UNEP to “develop regionally co-ordinated programmes of action designed to reverse environmental degradation particularly in the area of coastal habitat degradation and loss, halt land-based pollution and address the issue of fisheries over-exploitation.”<sup>31</sup> The project has four major components, namely: habitat degradation and loss, over exploitation of fisheries in the Gulf of Thailand, land-based pollution and project co-ordination and management.

**Table 5.1. UNEP/GEF South China Sea Project Budget Summary and Component Financing (million \$US).<sup>32</sup>**

Project Activities	GEF	Co-financing		Grand Total
		Governments	Other Sources	
<b>1. Habitat Degradation &amp; Loss</b>				
<b>1.1 Mangroves</b>	2.733	2.374	1.585	6.692
<b>1.2 Non-oceanic Coral Reefs</b>	2.587	2.326	1.560	6.473
<b>1.3 Seagrass</b>	2.529	2.305	1.585	6.419
<b>1.4 Wetlands</b>	0.975	0.400	0.082	1.457
<b>2. Over-exploitation of fisheries in the Gulf of Thailand</b>	1.650	0.735	0.960	3.345
<b>3. Land-based Pollution</b>	1.760	0.461	0.110	2.331
<b>4. Project Co-ordination and Management</b>	3.580	0.294	0.505	4.379
<b>EA Overheads</b>	0.600			0.600
<b>Project Total</b>	<b>16.414</b>	<b>8.895</b>	<b>6.622</b>	<b>31.931</b>
<b>PDF-B</b>	0.335	0.176	0.076	0.587
<b>Grand Total</b>	<b>16.749</b>	<b>9.071</b>	<b>6.698</b>	<b>32.518</b>

The project document outlines the overall goals of the project as follows:

“to create an environment at the regional level, in which collaboration and partnership in addressing environmental problems of the South China Sea, between all stakeholders, and at all levels is fostered and encouraged; and to enhance the capacity of the participating governments to integrate environmental

<sup>31</sup> See UNEP/GEF South China Sea Project: [www.unepscs.org](http://www.unepscs.org).

<sup>32</sup> John Pernetta. 2005. “Managing Multi-lateral Intergovernmental Projects and Programmes.” [www.unepscs.org](http://www.unepscs.org).

considerations into national development planning.”<sup>33</sup> In the medium term, the project aims to “elaborate and agree at an intergovernmental level, the Strategic Action Programme (SAP) encompassing specific targeted and costed actions for the longer-term, to address the priority issues and concerns. More specifically the proposed activities are designed to assist countries in meeting the environmental targets specified in the framework SAP that was developed over the period 1996-1998.”<sup>34</sup>

***The Formulation of the Project.*** The UNEP/GEF South China Sea Project was the brainchild of Dr. John Pernetta, one of the most respected international waters specialists in the Global Environment Facility system.<sup>35</sup> When Pernetta was recruited to the UNEP Division of the Global Environment Facility in early 1996<sup>36</sup> as the Senior Programme Officer of International Waters, he was asked to develop an International Waters portfolio for UNEP to secure funding from the Global Environment Facility. Pernetta had been actively formulating and seeking project ideas and concepts in various regional seas, and the East Asian Seas were one of the geographical areas. The existing Regional Seas Programs served as a convenient forum to develop multi-country large marine projects, and obtain governmental approvals.

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<sup>33</sup> UNEP. 2001. *Project Document for the UNEP/GEF South China Sea Project*. [www.gefweb.org](http://www.gefweb.org). p. 4.

<sup>34</sup> Ibid. p. 4-5.

<sup>35</sup> Interviews with UNDP, UNEP, World Bank and GEF Secretariat officials between 2001 and 2005.

<sup>36</sup> At that time the Division was merely a small office of five people within the Office of the Executive Director of UNEP.

The original project concept was driven and shaped by the policy preferences and funding priorities of the potential donor, the GEF.<sup>37</sup> Starting in 1996, UNEP took the initiative to develop a regional project to address marine environmental problems in the East Asian Seas, under the framework of the UNEP East Asian Seas Action Plan. However, the Global Environment Facility does not fund UNEP regional seas programmes, action plans or conventions; hence UNEP had to develop a project independent of the thematic and geographic scope of the East Asian Seas Action Plan for GEF funding. The East Asian Seas Action Plan covers a vast geographical area with a diversity of environmental problems; in contrast the South China Sea and Gulf of Thailand contain a reasonably contiguous geographical area with common resources and problems that are more amenable to substantive environmental cooperation.

The eleventh meeting of the COBSEA (see chapter four) decided to develop a project proposal on marine biodiversity of the East Asian Seas region. During the twelfth meeting of the COBSEA, in Manila, 3-4 December 1996, Pernetta briefed the meeting on the draft proposal for a project Development and Preparation Facility (PDF) Block B Grant which had been cleared by the GEF Secretariat subject to the endorsement of participating member countries. The government delegates reviewed, discussed and endorsed the PDF proposal to prepare a project document to request GEF grant assistance. The preparation activities for the development of a regional marine project in the South China Sea officially commenced following that approval.

The PDF grant was provided by the GEF to support countries to develop a full project for funding of the GEF. GEF funding for international waters required

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<sup>37</sup> Interviews with UNEP and GEF officials during 2002-2005.

the development of a Transboundary Diagnostic Analysis (TDA) and a regional Strategic Action Programme (SAP). The TDA is a document outlining transboundary environmental problems at the regional level, and identifying regional priorities or problems based on common national priorities or problems. The TDA identifies major regional problems, causes of these problems and possible actions to address the major problems by preventing or eliminating the causes. The TDA served as fundamental justifications for GEF interventions and government actions to address the problems. In order to address the problems identified by the TDA, an SAP was also developed to specify the actions needed to address them.

***The TDA/SAP Process.*** The process of developing a TDA and an SAP in the region is a process of reaching a common regional understanding of environmental problems, their causes, and impacts, and of identifying priority actions or interventions to address them. The TDA of the South China Sea and its associated catchments areas is a process that focuses on identifying water-related problems and concerns, their socio-economic root causes, and the sectoral implications of actions needed to mitigate them. The analysis further seeks to determine which issues have transboundary (that is, multicountry) dimensions, causes and/or impacts, appropriate mitigation of which will have to be done on a regional or bilateral basis. The analysis then becomes the basis for a SAP, which is coordinated at both the national and regional levels.<sup>38</sup>

Following the twelfth meeting of the COBSEA, national coordination committees were identified and formed through the initiative of the UNEP national

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<sup>38</sup> Liana Talaue-McManus. 2000. *Transboundary Diagnostic Analysis for the South China Sea*. EAS/RCU Technical Report Series No. 4. UNEP, Bangkok, Thailand.

focal points in each of the seven countries. Headed by a coordinator, each national committee was asked to prepare a country report that would provide a country-based analysis of water-related problems and concerns. To brief the seven coordinators, a first meeting was held in March 1997, during which the outline of the country reports was prepared and accepted by the group. National committees were charged with the responsibilities to identify national priority marine problems, which then served as the raw data for the formulation of the TDA and identification of priority actions to be included in the SAP. Two Task Managers were hired to take responsibility in consolidating the data and information, for the formulation of the TDA and SAP, i.e. Professor Liana Talue-McManus for the TDA and Mr. Charit Tingsabadh for the SAP.

To reach a common understanding among seven participating countries regarding priority marine environmental problems should not be taken for granted, and neither was it an easy process. This was mainly due to the lack of data and information in some countries, and the compatibility of data and information collected at the national level. UNEP took an interactive process between regional and national levels to formulate a regional TDA and SAP. Regional meetings of national coordinators for the formulation of a TDA and a SAP for the South China Sea were convened, to agree on the regional format to collect national data and information, adopt regional guidelines to develop the TDA and SAP, and reach common understanding on certain concepts and frameworks critical for the formulation of the TDA and SAP, such as the meaning of “transboundary” environmental problems, and the procedures to conduct a “causal chain analysis.” National coordinators, attending regional meetings, would then bring those regionally agreed formats and requirements back to their national committees, and

collect data and information as agreed at the regional level. Data and information collected at the national levels were then consolidated, at the regional level, by UNEP.

During the first meeting of the national coordinators for the formulation of the SAP and TDA, it was noted that the term “transboundary” could have a number of interpretations depending upon the scale at which a particular problem was analyzed or managed. Extensive discussions had been undertaken during various regional meetings, and consensus had been reached that “transboundary” problems refer to those problems that have impacts beyond a certain political and administrative unit, within or even beyond the region. Mangrove loss, for example, was considered a transboundary environmental problem, because the driving force of the mangrove loss, the high global demand for shrimps, lies outside the region. In teaching the members that a seemingly local problem can have a transboundary nature, UNEP often used an example to link the increased tourism in Mediterranean and the mangrove degradation in the South China Sea. The extensive tourism in Mediterranean increased the global consumption of seafood, resulting in increased demand and hence the world price of seafood, including shrimps, which then contributed to the conversion of mangrove areas into shrimp aquaculture ponds in the South China Sea coastal areas. It was agreed that “transboundary” environmental problems refer to those problems that have causes from or impacts on human beings or natural environment outside of the national jurisdiction.

The analysis of the chain of cause-and-effect relationships was intended to lead from the identified environmental issue or problem to root causes lying in the social, economic or cultural spheres of human activity. Such an analysis thus

provides guidance concerning the nature of the actions that could be undertaken in executing the Strategic Action Programme, and the economic sectors in which remedial action or change was required.

UNEP's influences on regional priorities and causal-chain analysis stem from the fact that UNEP provided the format for the collection of data and information, and the procedures of causal chain analysis. In the outline and contents for national reports, provided by UNEP task manager based on her own expertise and experience in the region, four types of marine water-related concerns and issues were given as an example in the outline, including pollution, freshwater shortage and degradation of its quality, exploitation of living aquatic resources and modification of aquatic habitats.<sup>39</sup> All national reports therefore collected data and information on those four types of problems. Issues under each type of the problems were then ranked at the regional level, with the preliminary ranking scores.

The data sources of the TDA include the national reports and existing knowledge on the marine environmental status of the South China Sea. The document covers 97 cities and 122 rivers with a total catchment area of about 2,400,000 km<sup>2</sup>.<sup>40</sup> Based on national reports and regional consultation, marine environmental problems were prioritized in the TDA (Table 5.2).

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<sup>39</sup> See Annex VII of UNEP(WATER)/EAS/SCS/NCM.1/3. 1997. *Report of the First Meeting of National Coordinators for the Formulation of a Transboundary Diagnostic Analysis and Preliminary Framework of a Strategic Action Programme for the South China Sea*. Bangkok, Thailand, 31 March – 4 April 1997.

<sup>40</sup> UNEP (Water)/EAS/SCS/NCM.3/3. 1998. *Report of the Third Meeting of the National Coordinators for the Formulation of a Transboundary Diagnostic Analysis and a Strategic Action Programme for the South China Sea*, Bangkok, Thailand, 15-17 November 1998.

**Table 5. 2. Preliminary ranking of major concerns and principal issues for the South China Sea**

Major Concerns	Score	Rank	Principal Issues	Score	Rank
<b>Habitat</b>	18.5	1	Mangroves	21	1
			Coral Reef	20	2
			Seagrasses	17	6
			Estuaries	16	7
<b>Over exploitation</b>	17.5	2	Marine	19	3
			Freshwater	16	7
<b>Pollution</b>	14	3	Sewage	19	3
			Freshwater Contamination	17.5	5
			Agricultural loading	15	9
			Industrial Waste	15	9
			Sedimentation	14	11
			Solid Waste	13	12
			Hydrocarbon	12	13
			Ship-based sources	12	13
Atmospheric	8.5	16			
<b>Freshwater concerns</b>	9	15			

Source: Liana Talaue-McManus. 2000. *Transboundary Diagnostic Analysis for the South China Sea*. EAS/RCU Technical Report Series No. 4. UNEP, Bangkok, Thailand.

The ultimate goal of the Strategic Action Programme is to halt or slow the current rate of environmental degradation and as such it contains priority actions that must be undertaken at both national and regional levels to address transboundary problems identified in the TDA.<sup>41</sup> It is designed to assist participating states in taking actions individually or jointly within their respective policies, priorities and resources, which will lead to the prevention, reduction, control and/or elimination of the causes of degradation of the marine and freshwater environment. The general objectives of the SAP are: 1) Formulation of principles, approaches, measures, timetables and priorities for action; 2) Preparation of a priority list for intervention and investments; 3) Detailed analysis of expected baseline and additional actions needed to resolve each transboundary

<sup>41</sup> See UNEP (UNEP/SCS/Ver.3). 1999. *Strategic Action Programme for the South China Sea*. Laurence Mee. 2004. *International Waters Programme Study*. [www.gefweb.org](http://www.gefweb.org).

priority problem; 4) Identification of the elements and preparation of guidelines for the formulation of national action plans for the protection of the marine environment and rational use of marine and coastal resources consistent with the regional SAP; 5) Foster the involvement of regional and, where appropriate, national Non-Governmental Organizations and the private sector in the implementation of the SAP; 6) Foster collaboration and co-operation between all regional entities having interests in the environment of the South China Sea in an attempt to reduce or eliminate duplication of effort and waste of scarce human and financial resources.<sup>42</sup>

Although the entire process to collect data and information, consolidate, and rank the issues took nearly two years from 1997 to 1999, political struggles among the participating countries had been limited during the formulation of the project due to the following two reasons. First, the sensitive sovereignty issue had not been brought, because all the participants attending regional meetings and undertaking national activities were mainly scientists and experts, with less attention to political or sovereignty issue. They may vary in their views of the seriousness of some issues, but since each country only providing the information and data of its own coastline bordering the South China Sea. Individual members therefore basically had authority to the information they collected regarding the status of environmental problems in their countries' coastline. Second, all the participants shared an important goal to secure GEF funding, therefore treat the TDA/SAP as a procedure to secure GEF funding rather than make countries'

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<sup>42</sup> UNEP (UNEP/SCS/Ver.3). 1999. *Strategic Action Programme for the South China Sea*.

commitments.<sup>43</sup> In the formulation of the TDA, UNEP's views had been given particular attention by members because of its access to the information and expertise on GEF funding requirement. For example, some countries indicated that land-based pollution should be more important issues than coastal habitats, but UNEP's arguments were that land-based pollution had less global significance than the tropical marine biodiversity in the region.<sup>44</sup> To meet the requirement of GEF, a draft framework SAP was endorsed by the participating countries, but no final draft had been adopted. Therefore, there was no formal or legal binding effects of the SAP on the participating countries. It was agreed that this SAP would be finalized and approved by all participating countries upon the completion of the UNEP/GEF South China Sea Project.

Despite the lengthy process to develop a TDA and an SAP among seven participating countries, the process has proved to be valuable since it provided a solid foundation for governments' understanding of the project, and further built necessary trust among participating countries for the successful implementation of the project. This process is particularly important to facilitate regional cooperation in a highly contentious region. During the process of forging a common understanding of issues and causes, UNEP played a critical role in providing technical information and intellectual support in the causal chain analysis. UNEP's power stems from the operational details, including the provision of format or outline for regional needs of data and information, consolidation of the data, interpreting GEF policies and drafting the regional TDA/SAP. Once

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<sup>43</sup> To meet the requirement of GEF, a draft framework SAP was endorsed by the participating countries, but no final draft had been adopted. It was agreed that this SAP would be finalized and approved by all participating countries upon the completion of the UNEP/GEF South China Sea Project.

<sup>44</sup> Interview with Henk Uktolseya, Senior Advisor, Ministry of Environment, Indonesia.

countries made a commitment to tackle the problems through a certain scientific or technical procedure, UNEP leveraged its position via its expertise on this procedure.

*Project Document of the UNEP/GEF South China Sea Project.*<sup>45</sup> The project document was drafted in 1999. It outlines activities to address three priority marine environmental problems identified in the TDA, forming the three major components of the project, specifically habitat degradation and loss, over exploitation of fisheries in the Gulf of Thailand, and land-based pollution. Among the three components, habitat degradation and loss is the most important component of the project, and fisheries and land-based pollution components focus on activities related to coastal habitats. In fisheries component, a main task was to identify and protect important feeding and nursery grounds of fisheries, and land-based pollution component focuses on impacts on habitats.

Actions addressing habitat degradation and loss are detailed under four sub-components addressing the four priority habitats, i.e. mangroves, coral reefs, seagrass, and wetlands, in the region. Activities within each sub-component include the following: establishment or revitalization of National Committees or technical working groups, to review national data on biodiversity; management; restoration and development activities impacting each habitat; research and publications; economic evaluation; institutions and legislation; and development of compatible, inter-linked national systems for regional data management. These preparatory actions will provide the background against which to prioritize sites for interventions and actions, and develop or update national management plans,

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<sup>45</sup> See UNEP. 2001. *UNEP/GEF South China Sea Project Document*. p. 5.

including required legislation, in order to maintain nationally important habitat areas.

The fisheries component focuses on transboundary fisheries issues in the Gulf of Thailand. Activities include: protection of endangered fisheries species; evaluation and testing of a prototype blast fishing detection system, the development and implementation of a program to provide information on fish stock conservation and sustainable fishery practices to fishing communities, the promotion of the FAO Code of Conduct for Responsible Fisheries through national and regional workshops, and the establishment of a system of refugia to maintain important transboundary fish stocks in the Gulf of Thailand based on marine protected areas identified as critical habitats for fish stock conservation and protection.

Land-based pollution component addresses the major problem of land-based pollution through an initial review of national standards and controls, and an examination of actions required to: harmonize such standards at a regional level; review and assess existing knowledge of regional water quality, determine information gaps, evaluate carrying/assimilation capacity of sub-regions and sensitive ecosystems and transboundary movements of contaminants within the South China Sea; produce guidelines/action programs for implementation of the GPA/LBA adopted in 1995 at an intergovernmental conference in Washington, DC; and prepare guidelines for the development of national management plans, including capacity building; legislation, and other appropriate components to achieve the agreed water quality objectives; review national capacity to test, monitor, control and enforce water quality and effluent standards and to develop and finalize national and regional management plans to reach specified objectives;

and to initiate capacity building activities and demonstration projects addressing specific pollutants of global, regional and transboundary significance.

### **Negotiation Process for the Project: Changing China's Attitude**

In January and February of 1999, the UNEP/GEF Division, along with EAS/RCU, prepared the project brief. The project brief was dispatched to the GEF National Operation Focal Points of the participating countries for written endorsement in March 1999. Thanks to the long-term consultation and cooperation in the process of TDA and SAP, six countries sent their endorsement letter within one month. Initially, China was expected to send its endorsement in April 1999, prior to the thirteenth GEF Council, 5<sup>th</sup> – 7<sup>th</sup> May 1999.

The project was included in the Work Program of the GEF Council on March 27<sup>th</sup>, 1999, subject to the receipt of endorsement by China. In order to facilitate China's endorsement of the project, on April 26<sup>th</sup>, 1999, the Deputy Executive Director of UNEP visited China and met with Deputy Minister of the State Environmental Protection Administration (SEPA), and was informed that China disagreed with the project proposal to be submitted to the GEF Council. Hence, the project proposal was withdrawn from the GEF Work Program immediately before the start of the Council meeting in April 1999.

During the Council meeting in Washington DC, Dr. Ahmed Djoghlaif and Dr. Pernetta, the Director and Deputy Director of the UNEP DGEF, held an informal discussion with the Chinese delegate and Mr. Zhang Shengman, the Vice President of the World Bank, to seek the Chinese government's perspectives and the reasons why China refused to approve the project. The initial response from the Chinese delegate was very strong and negative, giving an impression that

China would never undertake multilateral cooperation in the South China Sea. Despite China's intention to oppose the project, UNEP's stand was firm with strong support from UNEP senior management. During the discussion, Djoghlafl and Pernetta took a strategy to play respectively as a "soft" and "hard" negotiator. Djoghlafl stressed the importance of China's participation, and expressed UNEP's wish for China's support and participation; while Pernetta acted as a hard-line negotiator and informed the delegate that the project would go ahead, with or without China's participation, despite the fact that China was such an important player.<sup>46</sup> After the discussion, there was a slight softening of the Chinese government perspective, and Mr. Zhang informed UNEP that China would reconsider the decision. Following the GEF Council meeting and Washington discussion, UNEP initiated and undertook a lengthy and tedious negotiation process lasting more than one and one-half years with the Chinese government.

China's State Environment Protection Agency (SEPA) played an important role within Chinese domestic politics to change the government's attitude. SEPA is the "window agency" of UNEP,<sup>47</sup> and as such would be responsible for the implementation of the project. All the funding of the project would be remitted to SEPA, which would greatly strengthen SEPA's weak marine program. However, even within SEPA, there were different voices and opinions about the project, and opposition to the project got stronger after the objection by the Ministry of Foreign

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<sup>46</sup> Interview with Dr. John Pernetta.

<sup>47</sup> In China, the Central Government designates a "window agency" for each IO. The "window agency" of an IO deals with activities related to that IO. For example, the Ministry of Finance is the "window agency" of the World Bank and IMF and SOA is for IMO.

Affairs (MFA) to the approval of the project.<sup>48</sup> Within SEPA, the Department of International Cooperation (DIC) is responsible for approving and monitoring all international projects; while the Office for Marine Environmental Protection (OMEP) is responsible for substantive issues of the project, including scientific and technical issues and the preparation and development of the project. OMEP officials have a great interest in participating in the project; most of them have a scientific background and a keen concern about the impending environmental issues, with less consideration regarding the political sensitivity of the region. More importantly, the funding, technical and scientific benefits from the project would greatly increase the capacity of the office. DIC, in contrast, did not deal with marine problems directly, and DIC officials simply did not want to create any problems for their work in the future due to the sensitivity and uncertainty of the project. OMEP officials, however, knew that DIC's concerns could be eliminated if the MFA could be persuaded to approve the project.

The main political obstacle to the approval of the project was from the MFA and the State Oceanic Administration (SOA). MFA's objection was based on the consideration of traditional foreign policy towards the South China Sea. SOA's objection was purely a result of inter-agency conflict and competition for domestic and international influences.<sup>49</sup> SOA, the major government agency in dealing with marine environment, did not wish to see its political influence area

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<sup>48</sup> Interview with Mr. Tong Yu, Director, Office for Marine Environmental Protection, SEPA and Professor Huang Zhengguan, Senior Engineer, South China Institute of Environmental Science, SEPA (April 2005)

<sup>49</sup> SEPA and SOA have traditional strife over their jurisdictional powers. As one government official has put it, "SEPA and SOA follow two 'whatever' principles in dealing with one another. Whatever SEPA agrees or supports, SOA would disagree, and whatever SEPA disagree, SOA would agree, and vice versa." (Interview, December 2004). Although this might have exaggerated the situation, it reflected the fierce competition between the two agencies.

being trespassed by SEPA. SOA objected to the project only because of its concern to protect its jurisdictional power over marine environment.

MFA's attitude is the most important factor among all agencies due to its extraordinary power in assessing and overruling any international projects, in the name of national interests. The MFA, probably one of the most conservative government agencies from the perspectives of Chinese marine scientists,<sup>50</sup> was not well educated about marine environmental issues, and government officials would not want to risk their political careers by venturing into any sensitive or new issues or areas. The project was submitted to the MFA for approval before going to the GEF Council, at which point the Chinese government found itself faced with a political dilemma. The MFA found the project would be undertaken in the sensitive sea area, and MFA officials worried that China's participation in such a project would create sovereign implications and uncertainty beyond China's control. This was also inconsistent with traditional Chinese foreign policies towards the South China Sea, which preferred bilateral talks to multilateral cooperation.<sup>51</sup>

UNEP pursued a strategy of allying with SEPA, and providing technical, scientific and political support to SEPA during domestic inter-ministerial meetings. SEPA's OMEP office emerged as the strong supporter for the project. Three SEPA officials, Madam Liu Xiuru, Director General of OMEP, Mr. Tong Yu, Deputy Director of OMEP, and Mr. Huang Zhengguang, Senior Engineer of

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<sup>50</sup> One Chinese government official from the SEPA has vividly described the original foreign policies of the Ministry of Foreign Affairs as "ostrich policies" in dealing with the South China Sea, which mean that when sand storms occur, the ostriches will simply put their heads in the sand to avoid the storm (Interview, April 2005).

<sup>51</sup> As a senior government official stated, "when the number of parties increases in the negotiation table, the situation will become more difficult to control."

SEPA, were the main individuals to persuade the government to change its position. In addition to their professional commitment at the domestic level to protect marine environment and strengthen SEPA's OMEP, they also had personal obligation cultivated at the regional meetings to push for the Chinese government's approval of the project. They had participated in the long process of the preparation of the TDA and SAP at the regional level, and had assured to other countries' participants and UNEP regarding China's support for the project during the preparation phase. Personal relationships and friendships had been established between them and UNEP officials and other scientists and officials, and a sense of "regional cooperation" had been fostered by the preparation of the project. They felt the obligations to make the regional project approved and achieve success.<sup>52</sup>

UNEP's support in technical and scientific matters helped SEPA to fight against the objection of SOA. Two individuals within UNEP played a significant role in negotiating with the Chinese government on technical issues: Dr. John Pernetta, the Deputy Director of the UNEP DGEF Division, and Mr. Yihang Jiang, the Programme Officer of EAS/RCU, a Chinese national who, prior to joining the United Nations system, had worked for SOA long enough to know the internal process and politics of the Chinese government. For example, in addressing a comment raised by SOA regarding exclusion of coral reefs in the project on the grounds that coral reef activities may be conducted in disputed areas, UNEP changed "coral reefs" to "non-oceanic coral reefs", narrowing down the geographical coverage of the activities. SOA argued that there was no such technical term in marine ecology, and requested a bibliographic reference. SEPA

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<sup>52</sup> Interview with Professor Huang Zhengguang.

officials immediately sought assistance from UNEP, and Dr. Pernetta sent a reference to that word from Charles Darwin's book on the *Origina and Formation of Coral Reefs*.<sup>53</sup> After that, SOA stopped questioning the technical issues, but still refused to participate in the coral reefs subcomponent, since SEPA will be the coordinating agency for all project activities.

UNEP's prestigious IO status helped to change MFA's calculation of the costs and benefits of China's participation in the project. If China did not participate, other governments would still go ahead to implement the project in the South China Sea. China's non-participation would at least incur three types of cost to the country. First, would be the potential de-legitimization of its territorial claim. Second, would be the loss of information and opportunity to enunciate its opinion. As one Chinese government has stated, "the Chinese government was afraid that other South China Sea countries would discuss the issues behind the Chinese government, and China would not have any control on the agenda or issues they discuss excluding China. This will be an even worse situation."<sup>54</sup> Third, there would be the risk of harming China's relationship with UNEP and GEF. China has tried to present itself as a responsible and cooperative actor for global environmental issues, having been actively involved with IOs and sought for IO funding for environmental protection.<sup>55</sup> Currently, China's the biggest recipient of GEF funding. China was concerned that the rejection to sign such a significant

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<sup>53</sup> Interviews with Dr. John Pernetta.

<sup>54</sup> Interview with a Chinese Government Official, September 17, 2003.

<sup>55</sup> Jimin Zhao and Leonard Ortolano argue that one of the two important factors that have China's actions meeting the requirements of the Montreal Protocol is the country's desire to appear as a regional and cooperative actor in solving global environmental problems. See Jimin Zhao and Leonard Ortolano. 2003. "The Chinese Government's Role in Implementing Multilateral Environmental Agreements: The Case of the Montreal Protocol." *The China Quarterly*: 708-725.

project, to which the UNEP Executive Director had put a lot of emphasis, would hurt its relationships with UNEP and future funding from GEF.

Regional politics, i.e. the relationship between ASEAN and China, has also played a significant role in China's calculation of costs and benefits in participating in this regional initiative. China has a great interest to appear as a cooperative, friendly and threat-free regional power to its smaller neighboring country. China's assertive attitude towards its sovereignty in the South China Sea, along with its rapidly growing economy, had already elicited worried reactions from the US and China's neighboring countries.<sup>56</sup> It was therefore important for China to reduce the possibility that others would be united by their anxiety about a purported "China threat." Furthermore, China has increasingly taken responsible leadership in regional and international issues. When SEPA officials tried to persuade the MFA to approve the project, they argued that China, as a regional power, should act like a responsible leading country with *daguo fengfan* (great nation manner).<sup>57</sup>

At the same time, the negotiation was also a process of UNEP's teaching the Chinese MFA officials that marine environmental cooperation is possible and important for Chinese sustainable economic development without necessarily addressing political jurisdictional problems. UNEP's senior management showed great support to the initiative. On October 6<sup>th</sup>, 1999, the Executive Director visited China and had a meeting with Minister of the SEPA and Assistant Minister of the MFA to further discuss the endorsement of the project.

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<sup>56</sup> Allen Carlson. 2003. "Constructing the Dragon's Scales: China's Approach to Territorial Sovereignty and Border Relations in the 1980s and 1990s." *Journal of Contemporary China* 12 (37): 677-698.

<sup>57</sup> Interview with Professor Huang Zhengguang, September 2002, April 2005, and August 2005.

The Chinese government convened numerous inter-ministerial meetings to consider and discuss the project document. The project document was reviewed and commented three times by the Chinese Premier, Mr. Zhu Rongji.<sup>58</sup> None of other international or regional projects have received such high-level attention from the Chinese government. The comments were then consolidated and provided to UNEP.

Following the Executive Director's visit to China, on October 15<sup>th</sup>, 1999, China sent a letter to the Executive Director of UNEP proposing its six principles with regard to the project.<sup>59</sup>

To UNEP, the difficulties had passed by the time China was willing to provide six concrete principles or comments rather than its original decline without specific reasons or comments. UNEP staff along with their counterparts in China, mainly SEPA staff, worked closely to fix the six principles, which did not impose many changes to the project. 1) *It shall not affect China's sovereignty.* With respect to the sovereignty issue, the project document specifically indicated "the term 'South China Sea' is used in its geographic sense and does not imply recognition of any territorial claims within the area,"<sup>60</sup> and the project website has similar statement. 2) *It shall not cover the salient controversial South China Sea islets and waters in their vicinity.* Since the project's main focus is on coastal habitats, it has not covered the controversial South China Sea islets and waters. This issue has not brought changes to the project because of coastal focus. 3) *It*

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<sup>58</sup> Interview with Chinese government officials.

<sup>59</sup> Presentation made by Mr. Yihang Jiang, Programme Officer of UNEP East Asian Seas Action Regional Coordinating Unit, during the 14<sup>th</sup> COBSEA meeting.

<sup>60</sup> The project document for the UNEP/GEF South China Sea Project, p. 1.

*shall not cover the issue of multilateral fishery cooperation.* China declined to participate in the fisheries component, because the Ministry of Agriculture has been in charge of the fisheries issues in China. UNEP's linkages with the ministry had been weak, and all the influences had to be channeled through SEPA. Also, the time given to the ministry for its consideration was not long enough. The Ministry of Agriculture had been undertaking some unilateral measures to control the problems of overfishing along China's coasts, but was concerned that participation in a multilateral initiative might bring some uncertainties beyond the national control to the management of its coastal fisheries.<sup>61</sup> 4) *It shall not involve legal framework in this project.* The project originally planned to develop a legal agreement or regional convention for the South China Sea, but dropped this activity due to China's aversion. A later section in this chapter will detail how UNEP has worked to bring this issue and facilitating a changing attitude within the region towards legalization of environmental cooperation. 5) *No other countries and international organizations shall get involved in this project except COBSEA and UNEP and its relevant countries.* All IOs other than UNEP were excluded from the project document, but during the implementation some IOs and regional organizations, including FAO, ASEAN and other regional projects, were invited to participate in project meetings as observers or experts. The Informal Working Group was also excluded from the implementation of the project, since China considered the work of the Informal Working Group was political, not related to environmental issues. 6) *The project shall work on consensus by all the participating countries through consultations.* This is only a procedural requirement, which did not request any changes to the project document. This

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<sup>61</sup> Interview with Professor Huang Zhenguang.

principle, however, has been strictly stuck to during the implementation of the project.

### **Implementation of the Project (2002-Present)**

The implementation of the project has been divided into two phases: the preparatory phase (Feb. 2002-Jun. 2004), and the operational phase (Jul. 2004-Dec. 2007). During the preparatory phase of the project, project activities mainly focused on collecting, compiling and consolidating data and information at both national and regional levels to prioritize sites for interventions. Data and information collected included review of national data and information, review of past and ongoing activities, creation of national databases and metadatabases, identification and characterization of sites, review of economic valuation data, and national legislation. The implementation of project activities at the national level has been carried out through the signing of Memoranda of Understanding between UNEP and specialized executing agencies (SEA). At the commencement of the project, a total of 38 MOUs were signed to carry out activities on the various components of the project. The major outputs of these activities will include: 1) more than 30 national reports on the status of specific marine environment in each country; and 2) the development national and regional databases and metadatabases on various environmental problems. The implementation of the project in the preparatory phase provides a first-time opportunity for the countries to exchange data and information on the status of marine environmental problems in the region, resulting in the production of four regional booklets regarding the regional status

of mangroves, coral reefs, seagrass and wetlands.<sup>62</sup> In the past, data and information were collected and compiled mostly at the national level, and regional exchange of information was conducted on individual and personal basis.

Regional cooperation also helps to establish the development of national knowledge or experience in managing marine environment. For example, prior to the commencement of the project, China had little data on seagrass. Actually, seagrass and seaweed share the same Chinese word. The work in the regional working group on seagrass and the national committee for seagrass in China has led to a significantly increased knowledge about seagrass ecosystems and their importance in the coastal and marine environment. As a result of the seagrass work, the Guangdong environmental action plan includes seagrass protection as an element in the first time.<sup>63</sup>

As the project enters the operational phase, the project moves to the implementation of a total of eighteen demonstration projects at the local level, and focuses on changing national policies in conserving marine environment by the development of national action plans to support the updating of the regional SAP. It is expected that an updated SAP will be adopted by the regional level, and seven sets of national action plans on specific marine environmental issues will be developed and adopted by the governments prior to the completion of the project in December 2007, in an effort to ensure that actions will be sustained and carried out beyond the life of the project both at the regional and national level.

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<sup>62</sup> See UNEP. 2004. *Mangroves in the South China Sea*. UNEP/GEF/SCS Technical Publication No. 1. *Coral Reefs in the South China Sea*. UNEP/GEF/SCS Technical Publication No. 2. *Seagrass in the South China Sea*. UNEP/GEF/SCS Technical Publication No. 3. *Wetlands Bordering the South China Sea*. UNEP/GEF/SCS Technical Publication No.4.

<sup>63</sup> See GEF Secretariat. 2004. *Specially Managed Project Review: Reversing Environmental Degradation Trends in the Gulf of Thailand and South China Sea*.

The impacts of project activities at the national level vary in each country, and it is still too early to evaluate them. China has been a leading implementing country in the project. A total of US\$1.9 million has been allocated by the Chinese government for the implementation of project activities. China's Focal Point, Mr. Mingjian Chen, indicated that China would aim to build three demonstration sites as conservation models to be replicated nationally, and three sites would evolve into national nature reserves. Malaysia has a relative weak central coordination and support of the project, mainly due to domestic restructuring of government agencies during the commencement and early implementation of the project. Since UNEP signed an MOU directly with SEA, this ensures that SEAs will continue carrying out activities despite changes at the central level, and the negative impact has been reduced.

From the beginning of implementation in 2002 to July 2005, five rounds of regional meetings have been organized, for mangroves, coral reefs, seagrass, wetlands, land-based pollution and fisheries to identify causes of degradation and prioritize sites for interventions with each issue area. A systematic and comprehensive approach was applied by each group to take a step-by-step approach to diagnose the problems, prioritize and work out solutions, including regionally agreed formats for data and information, parameters to characterize sites, criteria, causal chain analysis and effective interventions. Unlike previous regional workshops or meetings organized under the East Asian Seas Action Plan, which were general and individualistic, the same members participate in regional meetings in order to focus on a specific environmental problem. Collective decisions made at the regional level are carried out by meeting participants. Later sections in this chapter will give detailed information on how the regional working

groups work together to formulate regional priorities and regional policy coordination.

These meetings also provide a mutual monitoring and supervision mechanism, because each participant has to report to the meetings regarding the progress and implementation of decisions made in the previous meetings. More importantly, national outputs would be consolidated for regional use, and inactivity of one country would delay the progress of the entire component at the regional level. After continuous and regular meetings, members of each working group have become very close to one another. When one country incurred a problem or difficulty, the focal point will resort to the help from other members of the regional working group.

### **Management Framework of the Project**

The project has six components and subcomponents in seven participating countries. The management of such a complex multi-country project was further complicated by the political sensitivities in the region. It poses numerous challenges to UNEP in guiding and leading the management process at the regional level, including how to ensure decisions would be exempt from political considerations, hence being watered down into non-actions at the operational level; how to ensure activities carried out at the national level meet regional environmental protection goals; and how to secure decisions made at the regional level to be carried out at the national level. The management of such a complex project requires the reconciliation of the inherent conflict between the “transboundary” nature of environmental problems and man-made political jurisdictional divisions of an integral ecosystem in the South China Sea. This

situation gets more complicated when the jurisdictional divisions of such an ecosystem have not been clearly agreed upon among the littoral countries bordering the Sea. During the implementation of the project, both UNEP and government officials, scientists and experts have carefully avoided the sovereignty and territorial issues. There has been no territorial disputes induced disagreements on environmental issues between countries during the implementation of the project.

A seemingly complicated management structure was established to separate scientific from political issues, ensure political decisions to be made on scientific findings, and ensure that information flows between national and regional levels. Such a management framework creates a situation in which “*scientific and technical considerations do not become obfuscated by political discussions*”.<sup>64</sup> Figure 5.1 outlines the management framework, which encompasses both national and regional coordination.

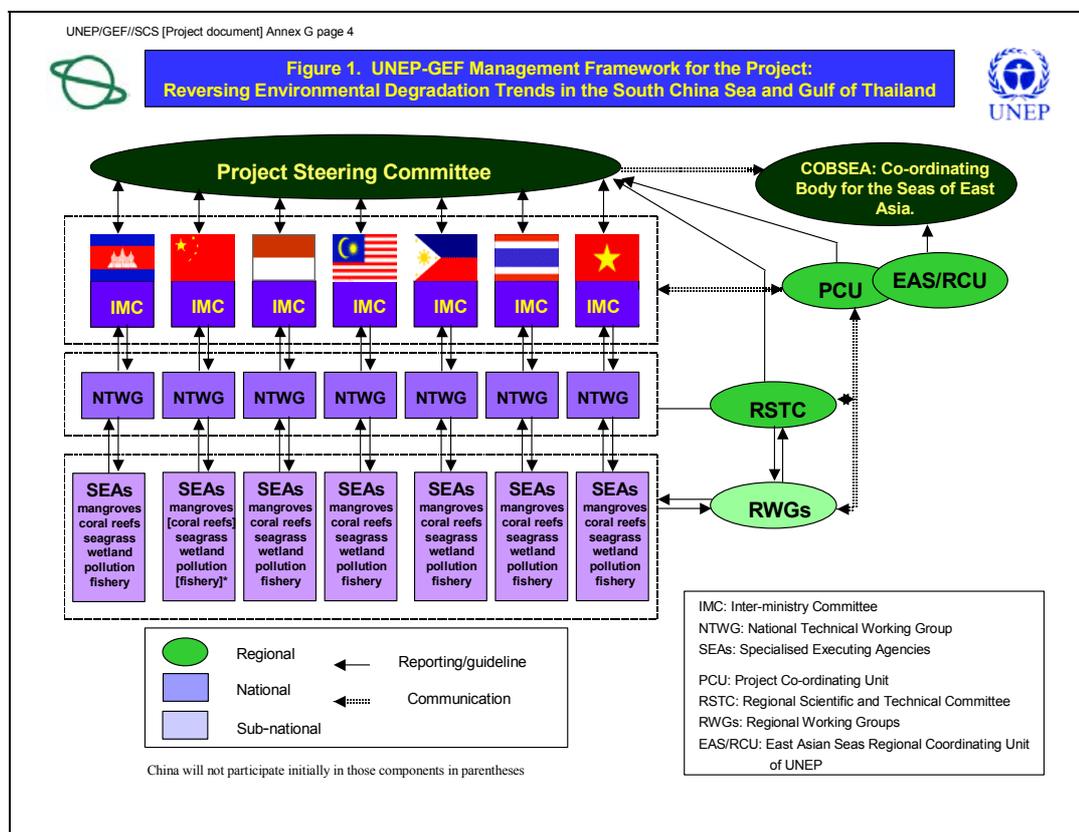
*National Coordination.* At the national level, governments selected and designated the most prestigious institutes or agencies as the Specialized Executing Agencies (SEA) to execute project activities in the countries related to mangroves, coral reefs, seagrass, wetlands, fisheries and land-based pollution. The lead individual in each of the SEA serves as members of the National Technical Working Group to ensure synergy and information exchanges within the country, and also participates in the biannual meeting of the Regional Working Group in each component or subcomponent. Due to the variety of sectors related to coastal management and environmental problems, a high-level Inter-Ministerial

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<sup>64</sup> Mike Bewers and Su Jilan. 2004. *Mid-term Evaluation of the UNEP/GEF South China Sea Project*. Published in hard copy by UNEP Evaluation and Oversight Unit, and electronically at [www.unepscs.org](http://www.unepscs.org).

Committee (IMC) was established to address policy conflicts or coordination for the project at the national level.

**Figure 5.1. Management Framework of the UNEP/GEF South China Sea Project**



Source: UNEP/GEF South China Sea Project ([www.unepscs.org](http://www.unepscs.org))

*Regional Coordination.* At the regional level, six Working Groups were established with membership from the Focal Points, the lead individuals in each of the SEA. Each Working Group convened bi-annual meetings during the first phase of the project, and annual meeting during the second phase. The regional working groups were responsible for developing criteria during the first phase (2002 to 2004) that were used in the selection of the various demonstration activities to be executed during the operational phase of the project (2005-2007). In addition, the working groups were responsible for assembling information and data, for

inputting these into a regional GIS and meta-database, and for conducting the analyses required to demonstrate the regional and global importance of the sites. Next section will give a full account of the process of how UNEP's technical and scientific advices help the region to establish the regional priorities.

To ensure synergies between the Regional Working Groups, and avoid any conflicts between decisions made by the Working Groups, a Regional Scientific and Technical Committee was created. The membership of this committee consists of the Chairpersons of the six regional working groups, the chairpersons of the seven National Technical Working Groups, and up to six additional senior marine and social scientists of recognized international standing drawn from the participating countries. The primary function of this committee is to “provide sound scientific and technical advice to the Project Steering Committee.”<sup>65</sup>

The Project Steering Committee (PSC), as the supreme decision-making body of the project, is composed solely of representatives of the participating countries. The committee has been responsible for reviewing and approving, on an annual basis, project activities, including the location of demonstration sites to be funded by the GEF project. UNEP acts as Secretariat of the Committee.<sup>66</sup> The responsibilities of the Project Steering Committee are further amplified in Paragraph 40 of the project brief which states: “*The Project Steering Committee’s primary responsibility will be to ensure synergy and integration in the planning and execution of the project sub-components.*”<sup>67</sup>

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<sup>65</sup> John Pernetta. 2005. “Managing Multi-lateral Intergovernmental Projects and Porgrammes.” [www.unepscs.org](http://www.unepscs.org).

<sup>66</sup> UNEP/GEF South China Sea Project Document.

<sup>67</sup> Ibid.

## **Fostering Regional Consensus—Prioritization and Selection of Demonstration Sites**

According to the Project Document, nine demonstration sites would be selected among the seven countries to demonstrate models of conservation and sustainable management of mangroves, coral reefs, and seagrass. A total of US\$ 3.5 million fund was allocated to fund nine demonstration sites over a period of three years. The project document did not specify the demonstration sites, nor did it prescribe an approach to select the sites. It was originally planned that the first phase of the project would provide adequate data and information to decide globally and regionally significant coastal habitats for funding as demonstration sites.

The selection of demonstration sites could be extremely politicized, and in the past situations depended on the dynamics of inter-state struggles for international environmental aid. Consequently, past processes typically resulted in an equal division of funds among countries in a regional setting. Regional or global environmental significance were not given adequate consideration. As the Project Director has correctly pointed out:

Past practice in regional programmes has generally been based on “equity” considerations such that the available resources tend to be divided equally or near equally between all participating countries. In general, decisions on specific, site-related activities in the framework of regional action plans, reflects a simple aggregation of the individual national priority actions with little attempt being made to either determine, or take into consideration, regional priorities independently of the national priorities. Regional priorities are thus generally derived from a process of consensus building on the basis of the nationally defined priorities without any inclusion of supra-national considerations such as the level of biodiversity or importance of the habitat from a transboundary perspective. Each party in such a process recognises that they would get “something” and consequently focuses on their own individual priorities rather

than a "collective" priority. National and regional priorities are however, rarely congruent<sup>68, 69</sup>.

To avoid repeating past practices, an objective and transparent process was needed that could not only determine regional environmental priorities scientifically, but also be acceptable to participating countries politically. As early as the second RSTC meeting in December 2002, in Nha Trang, Viet Nam, a three-step approach of selecting demonstration sites was proposed by UNEP to the participating countries. This approach was adopted by both PSC and RSTC in December 2002. Following the decisions made by RSTC, the regional working groups on mangroves, coral reefs, seagrass and wetlands each undertook the process to select potential demonstration sites.<sup>70</sup> The process included three steps:

1) *Site Characterization*. Each site was characterized by the parameters agreed at the regional level. Data and information were collected to characterize the sites. For example, for mangrove sites bordering the South China Sea, each site contains information on about nine parameters, including the area of a mangrove site, true mangrove species, associated mangrove species, number of resident fish species, number of crustacean species, resident bird species, zones or species associated, migratory bird species and endangered and threatened species. To ensure data compatibility, guidance had been provided by the RSTC regarding the collection of data and information at the national level. Extensive discussions had been undertaken at the regional level to agree on the definition of a certain

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<sup>68</sup> For example, a species considered endangered in one country may be abundant in another and may, from a global perspective be considered either threatened, or endangered or neither.

<sup>69</sup> John Pernetta. 2005. *The Role and Purpose of the South China Sea Demonstration Sites*. [www.unepscs.org](http://www.unepscs.org).

<sup>70</sup> Full details of the procedure and its application for mangroves, coral reefs, seagrass and wetlands are contained in the reports of the Regional Working Groups respectively on these coastal habitats ([www.unepscs.org](http://www.unepscs.org)). Summary procedures and results can be found in UNEP Technical Reports 2004 (UNEP/GEF/SCS Technical Publication No. 1-4).

parameter. A key innovation that helped to forge consensus was the provision that sites for which agreement could not be reached regarding the quality of the data would be discarded from the regional process.

2) *Cluster Analysis*. To maximize the range of biological diversity covered by a limited number of demonstration sites, it was agreed that the selected sites should represent the greatest possible range of conditions represented in the region. Environmentally speaking, the selected demonstration sites should cover as many different coastal habitats as possible. To assist in the process of grouping sites with more similarities, UNEP introduced cluster analysis to group sites. All sites were grouped into three clusters, and statistically sites within the group are more similar to one another than to sites in a different group. Hence, statistically speaking, the top site in each of the three clusters should cover more biological diversity than the top sites in similar coastal habitats.

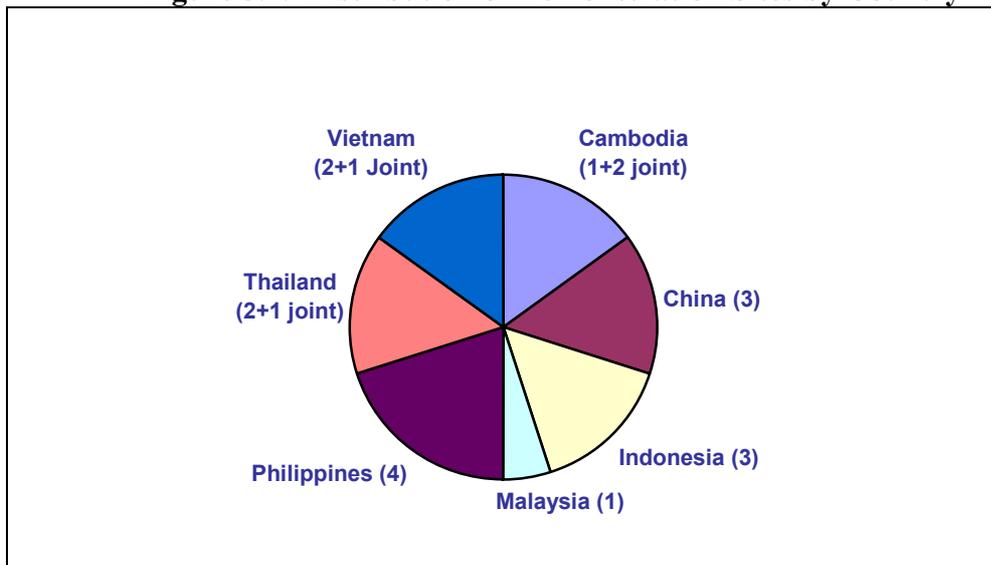
3) *Site Ranking*. Two sets of indicators with assigned scores were developed and agreed at the regional level to rank the sites with quantitative scores: environmental and socio-economic criteria. Each regional working group also agreed upon the weighting of the two sets of criteria, with a 70:30 or 60:40 ratio. Environmental criteria refer to the density of biological diversity and their transboundary and global significance. Socio-economic indicators include seriousness of threat, government support, co-financing, and stakeholder involvement.

As a result of the process, a total of eleven demonstration sites have been selected to be funded under the GEF grant of the UNEP/GEF South China Sea project. Additional seven medium-sized projects to be funded within the GEF international waters portfolio were also selected through the same procedures.

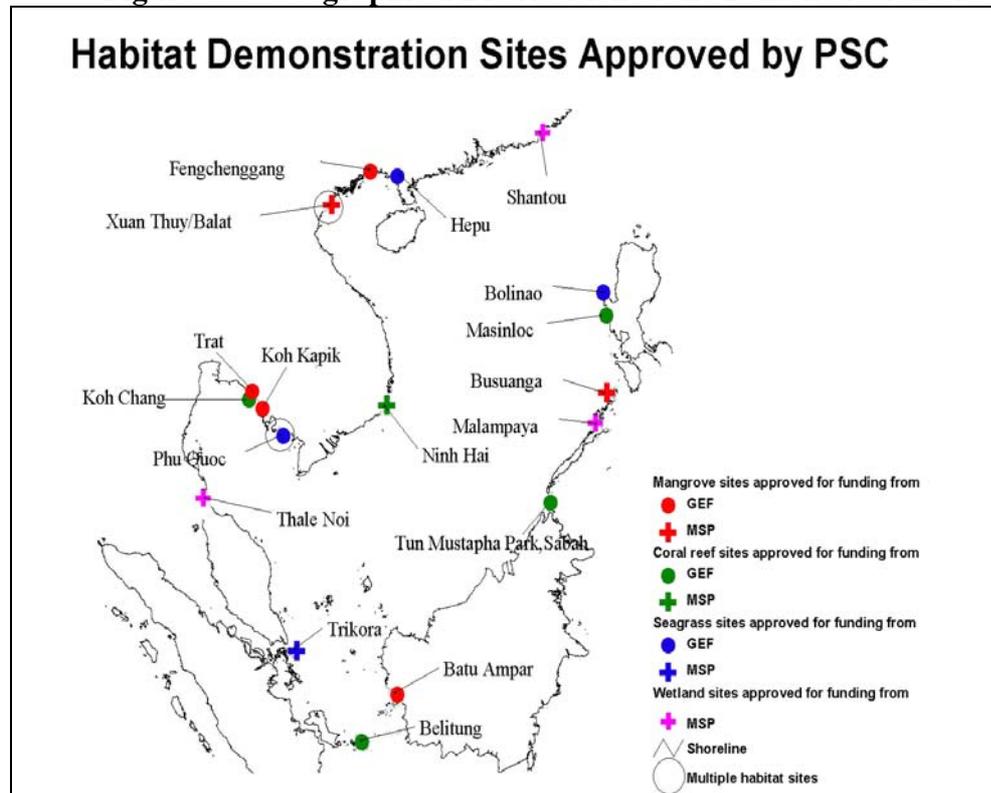
Figure 5. 2 shows the distribution of demonstration sites by participating country, and Figure 5.3 indicates the geographical distribution of the demonstration sites and their types of habitats in the region. This regional selection has resulted in different outcomes from the traditional pattern of an equal division of funding among the participating countries. The number of national demonstration sites receiving UNEP funds varies from one (Malaysia) to four (Philippines).

This process heavily depends on data and information collected at the national level, hence favoring countries that well equipped with scientific capacity and ready data and information. For example, Cambodia lacks necessary data and information on habitat sites, which as a result could not be included in the regional prioritization process. Recognizing this weakness, the RSTC meeting decided to initiate capacity building in Cambodia to continuously promote scientific research in the operational phase of the project. Additionally, two habitats bordering Thailand and Viet Nam were further developed into joint demonstration sites with the two countries. This will encourage bilateral cooperation between Cambodia and its two neighboring countries under the multilateral framework of the UNEP/GEF South China Sea Project. Except Cambodia, the rest of the countries do not vary dramatically in their scientific capacities in the coastal marine environment. They may excel in one or another area. For example, despite China's overall strength in marine scientific research, its research and scientific capacity in seagrass have been limited. The project in general contributes to exchange of knowledge and even out the differences in scientific capacity among participating countries.

**Figure 5.2. Distribution of Demonstration Sites by Country**



**Figure 5.3. Geographical Distribution of the Demonstration Sites**



Source: UNEP/GEF South China Sea Project ([www.unepscs.org](http://www.unepscs.org))

The socio-economic indicators enabled some habitats with strong political and government support to rank high in their socio-economic criteria, and boosting their ranks. Some China's sites have been strongly supported by the government, hence received high socio-economic indicators. For example, China's Fangchenggang mangrove site and Hepu seagrass site both do not belong to top three in mangroves and seagrass portfolio in their environmental scoring, but moved to the top with their high scores on socio-economic indicators. This process therefore encourages governments to lend strong political and financial support to the selected demonstration sites.

The regional prioritization process turned out to be a lengthy, even tedious, process during the meetings of the regional working groups. Countries used different types of data, the same ecological term at times meant different things to each country, and approaches to collecting the data also varied. It took two regional meetings in one year to make the data and information compatible at the regional level. When countries failed to provide compatible data, the sites were automatically eliminated. During the fourth-round meeting, each working group worked over fifteen hours a day to review, check, and ensure regional compatibility of the data.

The scientific process for regional site selection ensured the transparency, objectivity and the environmental coverage of the demonstration sites, and avoided the possibility of political struggles for funding. Consequently, the regional decisions for the PSC were unusually easy when facing the recommendations made by the RSTC based on the results of the meetings of each Working Group. There were no political complaints or bickering about the selected demonstration sites. Consensus had been reached that these demonstration sites were selected based on

a scientific approach using criteria agreed upon before the initiation of the process, and that these sites were selected due to their regional and global environmental significance.

UNEP played a critical role in fostering the sense of “regional priorities” and teaching the participating countries a process to prioritize coastal habitats in an environmentally and politically sound approach at the regional level. The process was proposed and designed by Dr. Pernetta, and UNEP staff worked hard to ensure data accuracy and compatibility. Members of various working groups indicate that they learned much from this exercises, and some members have intended to apply this approach at the national level to select national priority sites.<sup>71</sup>

During the implementation of activities in demonstration sites, environmental cooperation at the operational level will be further boosted by the regional networking of demonstration sites. UNEP has initiated a regional exchange and networking program for all the demonstration sites. This has particular significance considering that most demonstration sites will be implemented by local governments in the coastal areas of the South China Sea. Local governments will then exchange their staff and participate in each other’s training programs or study tours.

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<sup>71</sup> For example, Thailand seagrass focal point, Dr. Suvaluck Satumanatpan, is planning to write a summary paper to sketch the process for further awareness and distribution of the knowledge within Thailand.

## **Interactive Policy Coordination: Setting Regional Environmental Goals and Standards**

The draft SAP, published in 1999 was prepared during the preparatory activities leading to the approval of the UNEP/GEF South China Sea project.<sup>72</sup> At the time of its formal approval in 1998 by the meeting of COBSEA, the member countries requested that the further elaboration and development of the SAP be a defined output from the operational phase of the project.

During the implementation of the project, the further elaboration and revision of the regional SAP did not reach the working group meeting agenda until the fifth round meeting. It was expected that better data and information and experience with activities carried out during the project would provide a better foundation for the development of an operational, targeted, costed regional action program with realistic timelines. It was also believed that certain confidence and trust should be fostered among members of the working group before they commence to make commitments and targets at the regional level. After two years of implementation, both conditions were ripe for the initiation of the elaboration of the SAP.

During the fifth round of meetings, each working group formulated regional goal, targets and actions regarding the each component, based on the baseline data and information collected in the two years' implementation of the project. These regional goals and targets will not be finalized before 2007. Here I am giving an example on how mangroves working group reach their agreements

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<sup>72</sup> UNEP EAS/RCU. 1999. *Strategic Action Programme for the South China Sea* (Draft Version 3, 24 February 1999) East Asian Seas Regional Coordinating Unit. Bangkok, Thailand.

regarding regional goals and targets.<sup>73</sup> In the fifth meeting of the regional working group on mangroves, members collectively agreed that the preliminary target in the draft SAP, i.e. to maintain the area of mangroves in the region at not less than 90 percent of the 1998 level, was not realistic. Based on the data and information collected, the working group collectively categorized mangrove areas in different uses and worked out a provisional target that 66% of the present mangrove area should be brought under protection by the year 2010. Table 5.3 outlines the provisional regional and national target for mangroves by year 2010. This was still considered a provisional regional target, which members of the working group would bring back to their respective governments for further considerations prior to the convening of the sixth round meeting in August 2005.

**Table 5.3 Areas of Mangrove under Different Forms of Management and Potential Targets for Mangrove Protection to be included in the SAP.**

	Cambodia	China	Indonesia	Philippines	Thailand	Viet Nam	Total	Percent
Total area (ha)	72,350	23,446	934,000	24,783	34,677	156,608	1,245,864	
Production	0	0	610,800	0	0	40,000	650,800	52
Protection	13,558	15,772	158,200	23,143	11,520	115,000	337,193	27
Percentage under protection	19	67	17	93	33	73	27	
Target (%)	90	90	60	95	70	80	66	

*Source: Meeting Report of the Fifth Regional Working Group on Mangroves*

Recognizing the importance of national actions in reversing environmental degradation trends, each country commits to develop national action plans specifically on each component to support the regional SAP. Unlike other national action plans, the development of national action plans in the South China Sea

<sup>73</sup> The regional goals and targets for coral reefs, seagrass and wetlands, fisheries and land-based pollution can be found on the fifth round of meetings for the respective working groups. See [www.unepscs.org](http://www.unepscs.org).

countries has fully taken into account the consideration of regional environmental problems and results from regional activities.<sup>74</sup> The working group collectively reviewed each country's draft national action plan, with a view to assess its contribution to reach regionally set goals and targets. A common format and elements of an operational national action plan was agreed at the regional level in the fifth round of regional working group meetings in second half of year 2004. The regionally agreed goal, targets and actions will be reflected in the national action plans, which will be approved by the national governments upon the completion of the project.

This process has ensured that the regional goals and targets are concretely supported by national actions. At the same time, national action plans are built not only on national priorities but also on regional environmental considerations. These national action plans, unlike previous generic action plans, are operational documents which specify “who does what, when, where, and how” and the financial sources for the actions.<sup>75</sup>

### **Searching for Alternative Regional Cooperative Instruments and Mechanisms**

Considering that the countries of the East Asian Seas failed to reach a regional convention or other legal framework in support of the action plan, UNEP originally planned to include the development of a regional convention or other forms of legal frameworks as an important project activity for the UNEP/GEF South China Sea, with a view to formalizing environmental cooperation in South China Sea upon the completion of the project. The idea to develop a regional legal

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<sup>74</sup> See meeting reports of the fifth working groups meetings on mangroves, coral reefs, seagrass, wetlands, fisheries and land-based pollution ([www.unepscs.org](http://www.unepscs.org)).

<sup>75</sup> The fifth UNEP/GEF/SCS Regional Working Group meeting document.

agreement was included in the draft SAP, and was considered and agreed upon by national coordinators for the formulation of the TDA/SAP.

At the regional level, considerations and discussions to develop a regional convention and protocol were started during the development of the TDA and SAP. During the second meeting of national coordinators for the formulation of the TDA/SAP, in June 1998, developing and strengthening legal instruments were identified as a priority action to improve marine environmental management in the region. The preliminary proposed actions included “development of national instruments where necessary and regional harmonization of existing and planned legal instruments.”<sup>76</sup> Based on this proposition, Mr. Charit Tingsabadh, the Task Manager of the SAP, further elaborated this idea in the draft SAP, in which he proposed “a regional legal framework/protocol on the protection of the marine environment from pollution should be established in the region.”<sup>77</sup> This recommendation was discussed and considered by the third meeting of the national coordinators for the formulation of a TDA/SAP, in November 1998. The discussions seemed to be smooth, and no aversion to that proposal was expressed by any national coordinator. UNEP even provided some background information with regard to the establishment of other regional seas conventions, including the Mediterranean, SPREP, the Permanent Commission for the South Pacific, and the Black Sea Convention, which, the meeting noted, “provide effective and useful

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<sup>76</sup> UNEP. 1998. “Framework for a Strategic Action Programme to Address the Integrated Management of Water-Related Resources and Environment in the South China Sea.” p. 2 of Annex VIII in UNEP(WATER)/EAS/SCS/NCM.2/3. *Report of the Second Meeting of National Coordinators for the Formulation of a Transboundary Diagnostic Analysis and Preliminary Framework of s Strategic Action Programme for the South China sea*, Bangkok, Thailand, 23-29 June 1998.

<sup>77</sup> UNEP(WATER)/EAS/SCS/NCM.3/3. 1998. *Report of the Third Meeting of National Coordinators for the Formulation of a Transboundary Diagnostic Analysis and a Strategic Action Programme for the South China Sea*, Bangkok, Thailand, 15-17 November 1998. p. 4.

legal instruments.” To allow some flexibility regarding the form of a legal instrument, the meeting agreed that the word “legal framework” should be used instead of “convention” in the SAP document.<sup>78</sup> The meeting further agreed on a target and a timeline to develop such a regional legal framework during the implementation of the UNEP/GEF South China Sea Project:

Recognizing that negotiation of a legal framework normally takes an extended period of time it was agreed that appropriate preparation and negotiation should be commenced within the framework of this project. The target for this issue is to initiate intergovernmental negotiation on a legal framework within 2 years of commencing the project, and to finalize a draft within five years thereafter.<sup>79</sup>

Following the third national coordinators’ meeting, the draft SAP with a target to develop a regional legal framework was then presented to the thirteenth COBSEA meeting, in November 1998. This aroused opposition from the Indonesian delegate over the use of the words “convention and protocol” in the draft SAP. Even after UNEP agreed to change all the words of “convention and protocol” to “legal framework,” Indonesia still opposed it, stating that: “government was not in favor of making legal/formal commitments.”<sup>80</sup> Indonesia is still in the position to oppose the legalization of environmental cooperation. As champion of non-alliance principle, and the biggest Southeast Asian countries, Indonesia hesitated binding itself to any international legal agreements.

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<sup>78</sup> *Ibid.* p. 6.

<sup>79</sup> UNEP(WATER)/EAS/SCS/NCM.3/3. 1998. *Report of the Third Meeting of National Coordinators for the Formulation of a Transboundary Diagnostic Analysis and a Strategic Action Programme for the South China Sea*, Bangkok, Thailand, 15-17 November 1998. p. 6.

<sup>80</sup> UNEP(WATER)/EAS IG.9/3. 1998. *Report of the Thirteenth Meeting of the COBSEA on the East Asian Seas Action Plan*, Bangkok, Thailand, 18-19 November 1998. p. 7

Philippines and Vietnam have the greatest stakes in the South China Sea among all ASEAN countries, and have incurred most challenges from China regarding the territorial issues. Both countries have actively sought to internationalize the South China Sea issue and pushed it to ASEAN agendas. They do not have strong aversion to legalization, as it will enable both countries with legal justification for their rights and responsibilities equal to China, and lock China into a formal legal agreement. To accommodate Indonesia's objection, the Philippines proposed changing the word "legal framework" to "mechanism", but Viet Nam considered that a mechanism would be too soft to be effective. While Viet Nam preferred to legalize multilateral cooperation in the South China Sea, China indicated that even if a legal framework were needed, it should cover the entire East Asian Seas region, rather than the South China Sea, indicating an aversion to internationalizing the South China Sea issue. The other countries indicated that such an approach needed extensive discussions at the national level, prior to regional adoption.<sup>81</sup>

Faced with various opinions and limited support from the countries, UNEP's strategy to persuade the governments to adopt a legal target was to resort to the preferences of the funding agency, the GEF. UNEP indicated that the inclusion of such a "legal framework" target would show the political commitment of national governments to reverse environmental degradation trends, which the GEF would like to see. Furthermore, UNEP referred to some global conventions that COBSEA member countries had signed or ratified, to support the legal target.

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<sup>81</sup> Ibid. p. 7.

The meeting report of the thirteenth COBSEA meeting recorded UNEP's effort to persuade the governments as follows:

The Secretariat informed delegates that the GEF had supported the development and elaboration of regional conventions and agreements, and actions to implement them, most notably in the Black Sea and Caspian. It was noted that the development of these agreements required an extensive period of negotiation and consultation at both the national and regional levels. It was further noted that various Global agreements, including *inter alia* the Global Programme of Action for the Protection of the Marine Environment from Land Based Activities, and the United Nations Convention on the Law of the Sea, to which most COBSEA countries were signatory, called upon states to establish appropriate regional arrangements for the management and protection of semi-enclosed seas and other shared marine waters. It was suggested that agreement on the part of COBSEA to initiate a dialogue leading to the establishment of more formal arrangements for the protection of the South China Sea would be taken by bodies external to the region, such as the GEF, as a clear signal of a strong commitment on the part of the Governments of the region to addressing and halting the trends of environmental degradation.<sup>82</sup>

Considering that SAP was a required document to apply for GEF funding, and given UNEP's explanation of GEF preferences, the national governments agreed to retain the legal target in draft form, but also decided that further discussions were required at the national level. The final elaborated SAP is expected to be completed by 2007.

In October 1999, the effort to include a legal target met a more serious challenge when the Chinese government put "no involvement of legal framework" as one of its six conditions to sign the project, due to China's political aversion to multilateralism as discussed previously. The lengthy negotiation with the Chinese government regarding the signing of the project agreement, along with overall regional aversion to legalization of commitments, had turned the phrase "regional convention" or "legal framework" into a taboo when UNEP initiated

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<sup>82</sup> Ibid. p. 7.

implementation of the project in February 2002. The project document retained a carefully written paragraph (paragraph 31) to stipulate the regional legal component of the project, *inter alia*:

A regional expert working group will be convened to: review the current obligations of countries under Global Conventions including *inter alia* the UNFCCC, the CBD, the UNCLOS, and MARPOL; review the similarities and differences between national legislation; consider ways in which such legislation might be harmonized to achieve the common objectives of the countries as expressed in the Strategic Action Programme; prepare recommendations concerning the optimum mode of countries meeting their obligations under the global conventions and thus protecting the environment of the South China Sea. It is anticipated that the recommendations of this group will be considered by a high level intergovernmental meeting for inclusion as activities in the revised Strategic Action Programme.<sup>83</sup>

UNEP took a gradual approach to initiate the activities. UNEP started the work related to legal matters at the national level. Countries cannot oppose to legislation activities to build the capacity of legal development, because national legal instruments are among the most effective tools to protect environment, and the countries bordering the sea do need to strengthen their institutional and legal arrangements for environmental management. Members of each working group were requested to review and collect national legislation information to identify which countries are strong or weak regarding certain issues or areas. No regional activities had been undertaken during the first seven months of the implementation of the project, due to the sensitivity of the legalization issue.

In December 2002, during the second PSC meeting, the Project Director proposed to establish two regional task forces to strengthen the legal component and economic valuation of the projects, as there was a weakness in these two aspects of the project. The PSC approved the establishment of the Task Force on

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<sup>83</sup> UNEP. 2001. Project Document for the UNEP/GEF South China Sea Project. p. 10.

Economic Valuation with no difficulties, but took extraordinary caution for the establishment of the Regional Task Force on Legal Matters (RTF-L). The meeting had a lengthy discussion of the purpose of the RTF-L during which sensitivity of legal matters was raised. The meeting clearly indicated that the establishment of such a task force should not interfere with internal affairs:

It was not the intention to create a task force that would interfere with the internal affairs of the participating countries but rather to provide a forum for discussion and exchange of ideas and experience and through which possible ideas could be made available for use at the national level should they so wish.<sup>84</sup>

The Task Force is composed of a group of environmental lawyers with a strong commitment to their professions, and has held three meetings since its establishment, which has contributed to the networking and close connections among the members. Dr. Daud Silalahi, the Chairperson of this Task Force in its first meeting, has played a critical role in pulling members together to explore legal approaches to address environmental problems. As the most senior member in the Task Force, Dr. Silalahi, a 68 years' old professor, is very well respected by other members of the Task Force. He is particularly interested in transboundary environmental problems identified in the TDA, and believed that the only solution to address these problems is to promote regional cooperation. In the first meeting, UNEP prepared a document entitled "Review of Obligations of Signatory States Under Global Environmental Conventions with regard to Regional Cooperation," outlining countries' obligations for regional cooperation under fifteen global

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<sup>84</sup> UNEP/GEF/SCS/PSC.3/3. 2002. *Report of the Second Meeting of the Project Steering Committee*, Hanoi, Viet Nam 16<sup>th</sup> – 18<sup>th</sup> December 2002.

environmental conventions.<sup>85</sup> This document has provided legal justification for promoting regional cooperation, and helped the Task Force to identify its mission. The Task Force further reviewed the status of regional cooperation in the region, and concluded that great potential exists for strong regional cooperation because the only formal environmental cooperation in the South China Sea is the project, which will be completed within five years.<sup>86</sup> By the end of the second meeting in May 2004, the Task Force reached a consensus that members should work to promote regional cooperation, and that environmental cooperation needs to be strengthened in the region. The Task Force is very cautious regarding their responsibilities and mandates, and cannot propose officially to develop legal agreements at the regional level.

The work of the Task Force has gradually reduced the suspicions of countries regarding legal frameworks. In February 2004, during the Regional Scientific Conference, in which 120 senior government officials, scientists, researchers and advocates participated, there was a strong consensus that regional cooperation should be promoted, and proposals to establish regional conventions did not invite any objection during the conference.<sup>87</sup> However, this is still not an official indication of the change of governments' attitudes towards the legalization of environmental cooperation in the region. The conference was mainly a scientific and technical event, and there was no formal initiation for the development of such a legal instrument. Those senior government officials present

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<sup>85</sup> UNEP/GEF/SCS/RTF-L.1/13. 2002. *Review of Obligations of Signatory States under Global Environmental Conventions with Regard to Regional Cooperation*. [www.unepscs.org](http://www.unepscs.org).

<sup>86</sup> UNEP/GEF/SCS/RTF-L.2/7. *Review of Regional and Subregional Agreements and Soft Laws on Marine Environment in the South China Sea*. [www.unepscs.org](http://www.unepscs.org).

<sup>87</sup> For example, Indonesian wetlands focal point, Mr. Dibjo Sartoso proposed to develop a regionalized wetlands convention in the region to promote better management of wetlands bordering the South China Sea.

in the conference did not have to object to the opinion, until it really reached the stage for governments to decide. However, this has indicated that a regional consensus among scientists had been reached, and the sensitivity of the South China Sea issue had gradually reduced since the implementation of the project.

In December 2004, the fifth RSTC meeting instructed the RTF-L to explore alternative regional cooperative instruments and mechanisms to promote regional cooperation. Following the RSTC decision, the RTF-L decided to undertake two parallel sets of activities in year 2005-2006 to explore potential instruments and mechanisms for regional cooperation. At the national level, members of the RTF-L will organize two national consultation workshops to seek perspectives from different government sectors regarding potential instruments and mechanisms. At the regional level, a consultant has been hired to explore lessons and experiences from other world regions that might be applicable to the South China Sea.<sup>88</sup> The results of these two sets of activities will be revealed by the next RTF-L meeting in May 2006.

The legalization of environmental cooperation in the South China Sea still has a long way to go. The project has de-sensitized legal issues, and contributed to enhanced trust and confidence building, resulting in a softening attitude of governments towards legal matters and legalization. From my observation and participation in the working group and task force meetings, members have become more and more relaxed in making their statements and sharing their ideas.<sup>89</sup> More

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<sup>88</sup> For the details of these two sets of activities, see the meeting documents of the Third Meeting of the Regional Task Force on Legal Matters, 28 Feb. – 3<sup>rd</sup> March 2005. [www.unepscs.org](http://www.unepscs.org).

<sup>89</sup> For example, during the first RTF-L meeting, Phuket Thailand, September 2003, the Task Force members discussed the possibility of legalizing the environmental cooperation in the meeting under the leadership of the Chairperson. China member, Dr. Bei Tao, remained reticent and did not speak a word during the entire discussion. Later, I asked him why, he said before the meeting, he was

and more government officials have realized, through their involvement in the project, that legalized environmental cooperation does not entail sacrifice of sovereignty or independence, but can actually increase governments' capacity to deal with environmental problems, hence strengthen their sovereignty

UNEP played a subtle role in dealing with the sensitive issue. UNEP's principle has been that countries should not feel that the idea is being imposed upon them by UNEP. UNEP has had to work as a mediator to stimulate discussions and allow the idea to ferment. UNEP invoked global environmental conventions to provide the necessary legitimacy to initiate the activities. Many discussions, consultations, and efforts at persuasion took place outside of the meeting room, during coffee breaks or meeting dinners. UNEP often approached key individuals to take a lead in facilitating the activities

### **The South China Sea Epistemic Community**

Peter Haas's analysis of the epistemic community in the Mediterranean Sea environmental cooperation mainly focuses on the impacts of the epistemic community on policy changes and environmental cooperation in the region.<sup>90</sup> The epistemic community was treated as an independent variable, and its formation and evolution were not questioned or explored. Whose knowledge matters and how a group of scientists achieve consensual knowledge and reach agreements regarding

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instructed by SEPA's Department of International Cooperation that he should be extremely cautious in issues related to legal matters. However, after participating the meeting, Dr. Bie Tao himself indicated that he learnt that environmental cooperation should not be complicated by the sovereignty issues, and that the project would bring benefits to China, regardless whether territorial disputes resolved or not. After two years' involvement with the project, Dr. Bie is much more willing to share the ideas than before, and he personally approached key individuals within SEPA to persuade them that environmental cooperation should be strengthened.

<sup>90</sup> See eg. Peter Haas. 1990. *Saving the Mediterranean*. 1992. "Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone." *International Organization* 46: 187-224.

the causal effects of certain environmental problems are equally interesting questions as the analysis of their impacts.

As discussed in Chapter 4, no epistemic community has been formed within the wider East Asian Seas region due to its vast geographical area, diversity of problems, and limited financial resources. Marine scientists in Southeast Asia are much more integrated than those in the larger East Asian Seas region. The scientific community is even more coherent and integrated around the specific domain of the South China Sea's marine environmental problems, evolving into a mature epistemic community with shared views and "consensual knowledge." However, the causal direction has been reversed, with the project initiatives driving the formation of the community rather than vice versa. The development and implementation of the UNEP/GEF South China Sea has played a critical role in promoting the networking among scientists, and helping scientists in achieving "consensual knowledge" in the South China Sea.

The project management framework ensures maximum interactions and networking among involved individuals, with knowledge flowing both horizontally and vertically at the regional, national and local levels. At the national level, each country establishes national committees on specific components (for example, a national mangroves committee) to consolidate knowledge on a component at the national level. Demonstration site managers automatically become members of national committees, ensuring information flow between national and local levels. At the regional level, the chairpersons of the national committee participate in the meetings of the regional working groups, and serve as a communication line between national- and regional-level interactions on knowledge related to a special marine environment. Hence, information and knowledge flow across the three

levels, and decisions made at the regional level can be more effectively carried out at the national and local levels.

The project fosters the development of “specialty knowledge” in a specific issue. The national committees and regional working groups were established to address specifically mangroves, coral reefs, seagrass, wetlands, fisheries, and land-based pollution. This has avoided problems in many multilateral programs or projects in which scientists meet to address the “general” marine problems, without much focus on specific problems. As the Project Director points out,

Putting coral reef biologists, mangrove foresters and seagrass scientists together will not result in sound advice on “coastal habitat management” since the nature of the environmental and ecological processes in these three systems; their use by human populations; and the management measures required for their sustainability; are fundamentally different, and frequently not part of the “shared” body of ecological knowledge. By creating a more specialized lower level forum the opportunity exists to consolidate a wider body of highly specialized knowledge and experience before sharing it with specialists having other, often very divergent interests and concerns.<sup>91</sup>

In the South China Sea, about 120 government officials, scientists, and researchers meet regularly at the national and regional levels, fostering a common view on priority problems and causal chain analysis of marine environment problems in the region. I select 24 senior scientists and officials that have actively been fostering the regional consensus and taking leadership in promoting sound environmental management at both regional and national level. Table 5.4 is a list of these scientists and government officials and their titles. This list is in no way an exhaustive one, but a representation of the members of the epistemic

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<sup>91</sup> John Pernetta. 2005. *Managing Multilateral Intergovernmental Projects and Programmes: The Case of the UNEP/GEF Project Entitled: “Reversing Environmental Degradation Trends in the South China Sea and Gulf of Thailand.* [www.unepscs.org](http://www.unepscs.org).

community. This core group of scientists have claim to “authoritative knowledge” in the region and tend to have more influences on policies at the national level, and decisions at various regional working groups.<sup>92</sup>

This core group of people, during the development and implementation of the project, has reached consensus on the following aspects. First, the priority marine environmental problems in the South China Sea have been defined as degradation of coastal habitats, decline of fisheries, and land-based pollution. Within the coastal habitats, the priority should be accorded in the following order: mangroves, coral reefs, seagrass and wetlands. Second, a holistic and integrated approach should be developed to address the problems. This consensus leads to the development of some conservation models including multi-sectoral management and multiple stakeholders’ consultations in developing and implementing demonstration sites. For example, the recently approved China Fangchenggang mangroves demonstration site, Thailand Trat Province mangrove site, and China Hepu seagrass sites share these elements that have been agreed at the regional level.<sup>93</sup> Third, within the four prioritized coastal habitats, a regional list of priority sites for intervention has been developed, including 26 mangroves sites, 43 coral reefs sites, 26 seagrass sites, and 43 wetlands.

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<sup>92</sup> I must emphasize the list of core members is based on my personal views, resulting from my participation in various regional meetings, observation and interviews with government officials and scientists in the region. I selected these individuals based on the following criteria: 1) national technical focal point who is responsible for national and regional coordination of various components; 2) chairpersons of the working groups; 3) experts in the fields with international standing; 4) abilities to contribute to the discussions during various meetings.

<sup>93</sup> See [www.unepscs.org](http://www.unepscs.org) for the approved full proposals of these three sites.

**Table 5.4. Core Scientists of the Epistemic Community in the South China Sea**

<b>Name</b>	<b>Profession</b>	<b>Position</b>	<b>Function with UNEP/GEF</b>	<b>Nationality</b>
Alino, Porfirio	Marine Scientist	Professor, Marine Science Institute	Focal Point of Coral Reefs	Philippines
Aryuthaka, Chittima	Marine Scientist	Professor, Kasetsart University	Regional Expert (Seagrass)	Thailand
Chou, Loke Ming	Marine Biologist	Professor, The National University of Singapore	Regional Expert (Coral Reefs)	Singapore
Chullasorn, Somsak	Fisheries Expert	Retired Government Official	Regional Expert (fisheries)	Thailand
Fang, Hangqing	Marine Scientist	Professor, Guangxi Mangroves Research Center	Mangroves focal point	China
Fortes, Miguel	Marine Scientist	Consultant, IOC WESTPAC	Regional Expert (Seagrass)	Philippines
Gong, Wooi Khoon	Marine Scientist	Professor, Universiti Sains Malaysia	Regional Expert (mangroves)	Malaysia
Havanond, Sonjai	Government Official	Department of Marine and Coastal Resources	Focal point mangroves	Thailand
Huang, Zhengguang	Environmental scientists	Senior Engineer, South China Institute of Environmental Sciences	NTFP	China
Jacinto, Gil	Marine Scientist	Director, Marine Science Institute	NTFP	Philippines
Koesworo, Heru Waluyo	Government official	Assistant the Deputy Minister of Environment	NTFP	Indonesia
Mai, Trong Nhuan		Professor, Vice President, Viet Nam National University	NTFP	Viet Nam
Nawarat Krairapanond	Government official	Chief of Coastal and Marine Resources Management Group	NTFP	Thailand
Ong, Jin-Eong	Marine Scientist	Professor retired	Regional Expert (mangroves, RSTC)	Malaysia
Padilla, Noel	Environmental Economist	Development Management Officer Dept. of Environment and Natural Resources	Chair of RTF-E	Philippines
Pernetta, John	Ecologist	Project Director, UNEP/GEF South China Sea Project Coordinating Unit	Project Director	British
Satumanatpan, Suvaluck	Marine Scientist	Associate Professor, Mahidol University	Focal point of seagrass	Thailand
Savath, Koch	Government official	Deputy Director General of Technical Affairs, Ministry of Environment	NTFP	Cambodia
Silalahi, M. Daud	Environmental lawyer	Professor, University of Padjadjaran-Bandung	Chair, RTF-L	Indonesia
Snidvongs, Anond	Oceanographer	Director, Southeast Asia START Regional Center	Regional Expert (RSTC)	Thailand
Talae-McManus, Liana	Marine Scientist	Professor, University of Miami	Task Manager for TDA	Philippines
Uktolsey, Henk	Government Official	Expert Ministry of Environment	Regional Expert (land-based pollution)	Indonesia
Vo, Si Tuan	Marine Scientist	Senior Expert, UNEP/GEF South China Sea PCU	Senior Expert Ex-chair of RSTC/PSC	Viet Nam
Wattayakorn, Gullaya	Marine Scientist	Professor, Chulalongkorn University	Regional Expert (Land-based pollution)	Thailand

Although these core members are not evenly distributed among the countries, for example, China and Viet Nam have only two members, but both countries have strong national coordination at the national level, which, to a large extent, can be attributed to the national technical focal points: Professor Huang Zhengguang in China and Dr. Vo Si Duan in Viet Nam, replaced by Dr. Mai Trong Nhuan in February 2005. National technical focal points are extraordinarily critical in forging national and regional consensus, since they are the coordination points for all project activities at the national level, and they are also representing the countries as permanent members for the Regional Scientific and Technical Committee meetings. Strong national technical focal points lead the work at the national level towards achieving regionally agreed decisions. Hence the uneven distribution of the core members tends to have little influence on a country's attitude at the national level.

UNEP's influence on the formation of this epistemic community was channeled through the preparation of workshops or meetings, and direct participation in the discussions at these events. UNEP prepared meeting agendas and all documents prior to all expert and inter-governmental meetings. From my own experience of participating and organizing inter-governmental and expert meetings, well-prepared meeting documents determine the productivity and the level of success of a meeting. Meeting documents should include not only problems but more importantly suggest solutions and make recommendations.<sup>94</sup>

The documents serve as discussion documents for regional meetings, to solicit

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<sup>94</sup> When I started to prepare and organize meetings as a junior officer, my supervisor always poses a question to me—"what do you expect from the meeting and why?" A good secretary of a successful meeting should have a clear idea of what to be achieved, work hard to justify the idea, facilitate the adoption of that idea during the meetings, and follow up with the implementation of the idea after the meetings.

comments and advice from regional experts and during the meetings, the documents are normally adopted with no substantive change, but often extensive additions and amplification. Simply posing a problem to an expert or official meeting will not result in any productive outcomes, because experts or officials tend to vary in their opinions, and engage in lengthy academic debates, leading to the inability to get a reasonable conclusion in a short meeting. Only in very rare cases will UNEP organize some expert “brainstorm” meetings to seek advice and solutions, without preparing substantive documents.<sup>95</sup> Ostensibly, regional experts have been consulted for the development of certain policies or initiatives. Less noticed by academics is that the process of scientists’ sitting together and discussing the policy documents contributes to the building of “consensual knowledge,” which is normally shaped by the meeting documents prepared by UNEP.

UNEP would sometimes ally with or engage leading experts or chairpersons of the regional working groups to forge a consensus or decision at the regional level. In each regional working group, a number of regional experts were invited to act on behalf of the “regional” interests in addition to each government-designated member of the group. The mandate of these regional experts is to act “neutrally” and ensure common regional benefits. Their views or opinions are given more weight or considerations by the working group. Regional leading experts and UNEP’s organizational authority create a strong alliance to forge regional consensual knowledge. Whenever the UNEP secretariat got into difficulty

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<sup>95</sup> In my three and half years’ work with international organizations, I have participated in more than thirty intergovernmental or expert meetings (about twenty in the region and ten outside of the region). I have seen only one meeting in which no sufficient guiding documents were prepared, and experts were organized in groups to brainstorm recommendations and solutions to problems or questions during the meeting. The result of the meeting, as many participants stated, was a disaster.

to persuade members to agree on certain matters, regional experts were always resorted to for technical comments. The chairpersons of each working group, once elected, have the mandate to forge regional consensus and decisions. They have the motivations to act or present themselves to act on behalf of regional benefits. This was apparent in the process of the meetings and even in important decisions. For example, in the fourth RSTC meeting, in Pattaya, February 2004, the RSTC reviewed recommendations from each working group regarding the selection of demonstration site. The chairperson of the working group on mangroves, Dr. Sonjai Havanond, a Thai national, pointed out to the RSTC should consider allocating funding for a selected Philippines mangrove site.<sup>96</sup>

At the national level, government officials tend to pay more attention to “international” advice or expertise, especially opinions from international organizations.<sup>97</sup> Scientists, after attending the regional expert meetings, will normally report to their national governments, and resort to the international authority of the carrier of the knowledge or policy documents to support their lobbying or persuading governments to take certain measures or efforts in line with the regional agreements. Participation in UNEP organized meetings empowers scientists’ views at the national level.

Although the formation of the epistemic community takes a seemingly top-down approach, with UNEP in alliance with some experts in building the

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<sup>96</sup> Funding was not allocated to the Philippines site due to the UNEP Secretariat’s omission. If funding was not allocated to Philippines site, additional funding would be available to the other countries, including Thailand, for the execution of other activities. The fact that it was pointed out by the Chairperson of working group on mangroves, rather than by a Philippines delegate, indicates that the Chairperson feels the responsibility to maximize interests for the working group, and that a group sense or identity has been formed by the group.

<sup>97</sup> Several scientists mentioned to me that governments in the region respect international or foreign experts more than their own national or regional experts, which has been the result of the belief of government officials that Western science is more advanced and better developed than that in the region.

consensual knowledge, the approach will not reduce the significance of such a shared-views community. The epistemic community is the only mechanism that knowledge can be transferred to carried on beyond the life of the project.

### **UNEP: De-politicization of Environmental Cooperation in the South China Sea**

Environmental cooperation in the South China Sea has never been a purely technical or environmental issue. ASEAN countries want to engage China on South China Sea issues in a multilateral forum. China is, on the one hand, afraid of losing its stakes if it is forced to negotiate with multiple states in a multilateral forum, and on the other hand, concerned that non-participation in such a forum would put it into a more disadvantageous position by missing information and the loss of opportunity to influence the agenda within the forums. The third party's strategies become extremely important in promoting regional cooperation.

UNEP's most important strategy in the region is to de-politicize environmental cooperation, and it tries to build a "neutral" and "independent" image in the eyes of ASEAN countries and China. The practice of environmental cooperation in the South China Sea has provided some good experience for forging environmental cooperation in similarly highly contentious regions. The environmental cooperation started in an informal forum, and later evolved into a formal cooperative form under the framework of a politically neutral yet authoritative UN forum.

*Emphasizing the "Neutrality" of Environmental Protection.* During the process, the "neutral" and "non-political" nature of environmental problems has made marine environmental cooperation a convenient and relatively easy issue

area for initiating and forging substantive inter-governmental cooperation. Marine environmental degradation problems have been picked by environmental activists as “neutral” problems, which transcend national jurisdictional boundaries, and which should be exempt from political contests. These activists, normally marine scientists, academics, and international civil servants, have tried to persuade the government officials that environmental cooperation does not require clear benchmarking of national boundaries, and “that the benefits resulting from cooperative actions in managing the environment of the South China Sea are not dependent on a resolution of the unresolved issues.”<sup>98</sup> Hence, marine environmental protection has been identified by the Informal South China Sea Working Group as a priority area for regional cooperation. The particular “neutral” nature of marine environmental protection was also a critical factor for the successful initiation of formal environmental cooperation in the region.

*Clear Separation of Political and Scientific Issues.* The clear separation of roles of the policy and decision-making structures from the scientific and technical functions has been a key to the successful implementation of the UNEP/GEF South China Sea Project.<sup>99</sup> The highest-level decision-making structure is the Project Steering Committee, which consists entirely of government officials from the participating countries. The main scientific and technical forum, Regional Scientific and Technical Committee, forms the bridge between the PSC and the Regional Working Groups (RWGs) dealing with the scientific and technical aspects of the project. The RSTC makes recommendations to the PSC as to the

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<sup>98</sup> UNEP. 2001. *UNEP/GEF South China Sea Project Document*. p. 10.

<sup>99</sup> Mike Bowers and Su Jilan. 2004. *Mid-term Evaluation of the UNEP/GEF South China Sea Project*. Published in hard copy by UNEP Evaluation and Oversight Unit, and electronically at [www.unepscs.org](http://www.unepscs.org).

appropriate actions based on the scientific work carried out within the RWGs and at the national level. This structure has allowed the PSC to make its decisions based on accurate and appropriate scientific and technical advice.

Major decisions had to be based on sound scientific and technical arguments. The selection of demonstrations sites had been entirely based on transparent and sound scientific procedures, which proved to be effective in preventing political struggles.

*Avoidance of Sovereignty Debates.* The Informal South China Sea Working Group had adopted a rule in the meeting that each country was given only five minutes to state their justifications for claims of the Spratlys and Paracels. No questions or debates were allowed after the statements. This rule effectively prevented the workshops from degrading into a useless debate over “who owns what.”

The UNEP/GEF South China Sea Project has prevented the possible obfuscation resulting from fruitless debates and arguments on sovereignty issues, by stating clearly that the “South China Sea” is used in its geographic sense. During the execution of the project, the principle has been restated in various regional intergovernmental and expert meetings, and has been generally followed by meeting participants.

*Minimization or Exclusion of External Influence.* The littoral countries of the South China Sea, as prosperous developing countries, have been carefully defending their rights of independent decision-making, and avoiding external influences in the disputes of the South China Sea. China is particularly sensitive about any external involvement in the South China Sea. While other small countries may wish to introduce their external allies, different countries have

different external allies. Hence, despite the fact that the Informal South China Sea Working Group had been financially supported by Canada, a politically neutral country to the region, it was excluded from participation when it comes to formal intergovernmental cooperation under the framework of the UNEP/GEF South China Sea Project.

One of the Chinese conditions to approve the UNEP/GEF South China Sea Project was that no other organizations, except COBSEA or UNEP, would participate in the implementation of the project. The project has no external agenda or conditions attached to the grant allocated to countries, which helped UNEP to gain trust from the participating countries.

*Socializing Environmental Cooperation.* The South China Sea region basically shares a culture of preference for informality. Very often, businesses are done in informal situations outside the meeting rooms.<sup>100</sup> Socialization becomes a critical factor and sometimes a determining factor for the success of an intergovernmental meeting. Under the project framework, the same small group of people, having met at least five times in two and one-half years, helped to build close and personal relationships among them.<sup>101</sup> The icebreaker receptions and informal dinners in the duration of the meeting provide good opportunities for participants to interact with one another and build personal relationships, which become an important asset for future regional cooperation.

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<sup>100</sup> See e.g. Tun-jen Cheng and Brantly Womack. 1996. "General Reflections on Informal Politics in East Asia." *Asian Survey* Vol. 36: 320-337. Lowell Dittmer. 1995. "Chinese Informal Politics." *The China Journal* No. 34: 1-34.

<sup>101</sup> Some people meet more than five times with each other since they may participate in different committees.

## Conclusion

Environmental cooperation in the South China Sea has been largely shaped by Sino-ASEAN relations, and political dynamics in the region. Following the trends of improved relationships between China and ASEAN, the development of environmental cooperation in the South China Sea reflects a growing trend in environmental cooperation, from *informal* to formal, from a *general* approach, which covers broad sea areas, to a more *specific* but inclusive approach. Both ASEAN and China shares an aim to ensure a peaceful and regional environment to sustain their economic growth, but this aim has been to some extent obfuscated by the territorial disputes and conflicts in the South China Sea. Environmental issues, as being scientific, technical, and non-political, have served as an issue area to build confidence and trust among all the countries bordering the South China Sea.

During the formulation of environmental cooperation, UNEP's power stems from its access to international funding, interpretation of international rules, and possession of technical expertise. During the implementation, UNEP's power has been lifted by presenting itself as a legitimate, knowledgeable and independent actor and de-politicizing itself and the environmental cooperation. UNEP has played a critical role in promoting regional environmental cooperation in the South China Sea by acting as a neutral mediator, allying with domestic pro-cooperation factions, fostering a regional epistemic community, and leveraging support from regional experts.

## CHAPTER 6

### TOWARDS A STRENGTHENED REGIONAL MARINE ENVIRONMENTAL COOPERATION

In Chapter 1, I posed the puzzle: why has environmental cooperation occurred among development-minded countries situated in what has been known as a sea of conflict? The South China Sea constitutes a “hard case” for explaining environmental protection because it emerged under very difficult circumstances, including the broad disparity that exists in the interests and power of countries in the region and the territorial disputes among them. The South China Sea case provides a strong basis for understanding the process by which global forces can take advantage of regional political dynamics to not only promote environmental cooperation, but also shape its form, nature, and characteristics.

The concluding chapter first briefly re-assesses theories on international cooperation, and discusses the implications of the South China Sea case for the theories of international cooperation. Second, it summarizes the roles of the three forces, i.e. UNEP, states bordering the South China Sea, and ASEAN that have influenced and shaped regional environmental cooperation in the South China Sea. Third, it provides policy recommendations for the future roles of UNEP and discusses the implications for IOs’ involvement in regional environmental cooperation; and last, it discusses the generalizability of the case and provides some directions for future research agendas.

#### **Re-assessing Theories on International Cooperation**

In Chapter 2, theories on international cooperation were reviewed and found to be inadequate for explaining the emergence of environmental cooperation

in the South China Sea. This section revisits those traditional theories, and discusses the implications of this case for the validity of these theories, based on empirical studies on environmental cooperation in the South China Sea.

*Realism.* For realists, environmental cooperation in the South China Sea, like other forms of international cooperation, would be explained in terms of general patterns of international behavior as shaped by states' pursuit of maximum power. Realist theory argues that international institutions are unable to mitigate anarchy's constraining effects on inter-state cooperation. For realists, international institutions are barely outcomes of states' competition for power, and do not execute independent roles from states' actions.

Empirically, the reality of world politics continues to show the importance of international institutions, and the problems with the realist assertion that "institutions do not matter." The practice of international environmental politics in the South China Sea has proved wrong the realist assertion that international institutions are irrelevant, and has shown that international institutions are not simply an instrument of rational states, but execute independent roles in shaping world politics.

Another criticism of realism lies with the realist notion of security.<sup>1</sup> Traditional realist definitions of national security are concerned with keeping countries safe from military threats and invasions from other countries. From the 1970s onwards, an array of scholars has set out to provide alternative answers to

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<sup>1</sup>. See e.g. Keith Krause and Michael C. Williams. 1996. "Broadening the Agenda of Security Studies: Politics and Methods." *Mershon International Studies Review* Vol. 40: 229-254. Kendall Hoyt and Stephen G. Brooks. 2003. "A Double-edged Sword: Globalization and Biosecurity." *International Security* Vol 28: 123-148.

the question: security from what?<sup>2</sup> As a result, environmental security literature expanded significantly in the past decade.<sup>3</sup> This increased juxtaposition of security and environment came at a time when the conventional understandings of security had become obviously insufficient for analyzing the increasing number of threats to the security and welfare of human beings, from sources other than military offenses. There is a growing consensus that environmental degradation can and does trigger, amplify or cause conflict and instability, and a growing concern that environmentally induced conflict might increase. The fact that marine environmental cooperation in the South China Sea has been heavily politicized by the littoral countries illustrates that environmental degradation is a severe threat to states, which needs to be addressed.

In summary, realism would predict extremely limited environmental cooperation at best, due to military conflicts and the zero-sum game of territorial competition. In the South China Sea, where countries are concerned about their territorial claims and achieving relative gains in resources, any environmental cooperation that emerged would reflect the power structure of the countries bordering the sea. China is the most powerful state in the region and has been opposed to any sort of internationalization of the South China Sea issue as well as to multilateral talks on the South China Sea. This strategy has been based on the Chinese calculation of its military capability in comparison with those of the other

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<sup>2</sup> . Early works on linking environment with security include: Richard Falk. 1971. *This Endangered Planet: Prospects and Proposals for Human Survivals*. New York: Random House. Lester Brown. *Redefining National Security*. Worldwatch Paper No. 14. Washington D.C.: Worldwatch Institute. Richard Ullman. 1983. "Redefining Security." *International Security* Vol. 8: 129-153.

<sup>3</sup> . See e.g. Thomas Homer-Dixon. 1991. 1994. 1999. Jon Barnett. 2001. *The Meaning of Environmental Security: Ecological Politics and Policy in the New Security Era*. London and New York: Zed Books Ltd. Dennis C. Pirages and Theresa M. DeGeest. 2004. *Ecological Security*. Lanham, MD: Rowman & Littlefield Publishers.

claimant states in the region. This suggests that China should strongly oppose multilateral environmental cooperation, and use its power to prevent such cooperation. From a realist perspective, given this kind of pressure from China, environmental cooperation should be unimaginable.

In point of fact, China originally acted along what realist predictions would expect: it strongly opposed the internationalization of any issues related to the South China Sea. China's perspective, however, has been changed by UNEP in alliance with pro-cooperation domestic factions. This leads to two points which are contradictory to realist theories. First, international organizations do matter. Second, states are not coherent one-unit actors. They have domestic divisions, which compete against each other for preferred options.

*Institutionalism.* Rational institutionalists argue that institutions can make four major changes the environment in which international interactions among states occur, thereby creating a context more conducive to international cooperation. First, institutions can increase the number of interactions between particular states over time.<sup>4</sup> Second, institutions can tie together interactions between states in different issue areas. Issue linkage aims to create greater interdependence between and among states, which will then be reluctant to cheat in one issue area for fear that the victim—and perhaps other states as well—will retaliate in another issue area. It discourages cheating in similar way as iteration.

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<sup>4</sup> See Joseph Greico. 1994. "The False Promise of Institutionalism." Joseph Greico summarizes three ways in which the iteration of games discourages cheating. First, it raises the costs of cheating by creating the prospect of future gains through cooperation, thereby invoking the "shadow of the future" to deter cheating today. A state caught cheating would jeopardize its prospects of benefiting from future cooperation, since the victim would probably retaliate. In addition, iteration gives the victim the opportunity to pay back the cheater: it allows for reciprocation, the Tit-for-Tat strategy, which works to punish cheaters and not allow them to get away with their transgression. Finally it rewards states that develop a reputation for faithful adherence to agreements, and punishes states that acquire a reputation for cheating.

It raises the costs of cheating and provides a way for the victim to retaliate against the cheater. Third, institutions can increase the amount of information available to players, and stabilize players' expectations. Fourth, institutions can reduce the transaction costs, i.e. "costs of specifying and enforcing the contracts that underlie exchange,"<sup>5</sup> of individual agreements.<sup>6</sup>

According to rational institutionalists, the key to solving the Prisoner's Dilemma is for each side to convince the other that they have a collective interest in making what appear to be short-term sacrifices (the gain that might result from successful cheating) for the sake of long-term benefits (the substantial payoff from mutual long-term cooperation). This means convincing states to accept the second-best outcomes, which is mutual collaboration. Hence, the major obstacle to international cooperation is the threat of "cheating". Rational institutionalists argue that institutions can help to achieve international cooperation by inhibiting states' incentives to cheat, i.e. to defect.

Sociological institutionalism sheds lights on the role of international organizations in changing state's perceptions and the definition of their national interests. Through agenda setting and issue prioritization, UNEP, along with leading scientists, has been a teacher in scientific and technical aspects, and has fostered a need for regional cooperation among the littoral countries. Furthermore, UNEP's perceived authority and independence have greatly lifted its power in shaping regional environmental cooperation in the South China Sea.

It should be pointed out that the rational and sociological institutionalisms have not paid much attention to the "power" factor in environmental cooperation.

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<sup>5</sup> Douglas North. 1984. "Government and the Cost of Exchange in History." *Journal of Economic History* 44:255-264. p. 256.

<sup>6</sup> See Robert Koehane. 1984. p. 89-92.

In the South China Sea case, state's behavior and changing perspectives have been shaped by IOs in combination with domestic politics and state's calculation of power.

*An Integrated Approach.* The empirical evidence from the South China Sea case demonstrates that IOs have assumed an enhanced role in international politics. Their impact on regional politics is greater than initially perceived by state dominated theories of international politics. From the development of environmental cooperation in the South China Sea, we can conclude that neither realism nor institutionalism can adequately explain the patterns and dynamics of cooperation without incorporating elements or considerations from the other. The case has demonstrated that states with a concern in seeking security and territorial claims can cooperate with each other in environmental issues with IOs' facilitation.

Although I follow an institutionalist approach in exploring the power, roles, and mechanisms used by IOs, I incorporate the security considerations found in realist theories, and contend that countries do not act as passive "recipients" of environmental cooperation that is imposed by international institutions but rather as active transformers of that environmental cooperation. They manipulate environmental cooperation in such a way that it becomes a tool for them to achieve other diplomatic goals, goals that may not be intended by the IOs. The nature of environmental cooperation in the South China Seas has been both inductive and instrumental. "Inductive cooperation" means an IO uses its own unique power to persuade, mediate and induce countries to participate in multilateral cooperation. "Instrumental cooperation" has two layers of meanings: 1) An IO is used by states as an instrument to address the environmental degradation as a collective action problem; 2) IO-sponsored environmental cooperation is used by states to achieve

their diplomatic goals beyond environmental protection, including political, security and economic considerations.

### **UNEP's Evolving Roles**

I hypothesize in chapter 2 that UNEP plays a critical role in facilitating and forging environmental cooperation in the South China Sea, first, through conventional roles to address collective action problems, and later, with an inductive role that draws countries in dispute into multilateral cooperation. This dissertation demonstrates that without the overtly active role of UNEP, marine environmental cooperation, as defined by institution building, networking, and capacity building, would not have developed as quickly as it did. Environmental cooperation in the South China Sea would not have been made possible without the unique political functions of UNEP which, to a large extent, can be attributed to UNEP's intellectual and political leadership.

This dissertation has demonstrated that UNEP plays both instrumental and inductive roles in fostering and forging environmental cooperation in the region. The roles of UNEP have evolved in its nearly thirty years' involvement in environmental cooperation in the East Asian Seas and recently in the South China Sea, with UNEP adapting and positioning itself to facilitate environmental cooperation in a changing geopolitical context. Table 6.1 summarizes the evolving roles of UNEP in marine environmental cooperation in the region, as UNEP has shifted from being more of an instrumental to an instrumental/inductive actor.

In the East Asian Seas and the South China Sea, UNEP has provided scientific assistance for environmental cooperation. Scientific knowledge on the causes and impacts of environmental degradation is the basis for designing the

most effective interventions and persuading governments to take appropriate actions to reverse the degradation trends. UNEP has introduced new methods and procedures in analyzing transboundary environmental problems. Often UNEP is staffed with international experts in a certain environmental area, and can provide direct scientific inputs to various regional studies on the causes and impacts of environmental problems.

**Table 6.1. Evolving Roles of UNEP**

Types of Roles	East Asian Seas Action Plan	UNEP/GEF South China Sea Project
<i><b>Instrumental Roles</b></i>		
1) Information provider	Yes (compilation of data and information)	Yes (establishment of regional GIS database and metadata base, national reports)
2) Node of network	Yes (the establishment of ASEAM)	Yes (secretariat for regular meetings of ten regional committees)
3) Technical assistance	Yes (training, development of proposals)	Yes (training, development of proposals)
4) Financial source	Yes (UNEP Environment Fund)	Yes (GEF grant)
<i><b>Inductive Roles</b></i>		
1) Inductive negotiator	Partly (persuade ASEAN countries to expand membership of the Action Plan)	Yes (solicit China's participation)
2) Issue prioritization	No	Yes (cluster analysis, regional ranking of habitat sites, and identification of regional hotspots)
3) Forgoing regional consensual knowledge	No	Yes (TDA, causal-chain analysis)
4) Fostering a sense of regional community	No	Yes (socializing environmental cooperation)

In the development and implementation of the East Asian Seas Action Plan, UNEP basically executed the conventional roles of IOs as an instrument and facilitator for achieving collective action, first among a small group of ASEAN countries, and later expanding to cover other countries in reaction to changing regional politics and intra-regional relations. During the process, UNEP acted as

an information provider, node of network, and provider of technical assistance and financial resources. The roles of UNEP have been mostly of a technical and financial nature. The significance of its technical role has been tremendous in the early development of marine environmental cooperation in the region. These technical roles include: 1) catalyzing marine environmental protection activities in the region; 2) fostering the networking among scientists; 3) building institutional and individual capacities.

However, as the region has grown in scientific capacity, small-scale individual projects of the Action Plan do not meet the needs of the region any more. UNEP adopted an approach to refocus the activities on regional problems and issues. Building on the cooperative experience of the Action Plan, UNEP initiated the development and implementation of multilateral environmental cooperation in the sensitive South China Sea area.

During the development, negotiation and implementation of the UNEP/GEF South China Sea Project, UNEP not only continues its functions as an instrument for collective action, but also takes an inductive role to forge environmental cooperation in the sea. UNEP's roles include: 1) mediator and negotiator to draw all major countries, especially China, into multilateral environmental cooperation; 2) setting environmental priorities; 3) fostering regional "consensual knowledge"; 4) fostering a "South China Sea" community and family. Many scientists and government officials involved in this project have started to refer to the individuals involved as a "South China Sea" family.

The different roles that UNEP has played in the two initiatives vary due to four reasons. First is the different *institutional strength* in the two cases. The Action Plan did not establish a regional coordinating unit 1993, twelve years after

the adoption of the Action Plan. UNEP had no staff to work in the region to act as a proactive player in the region's environmental cooperation. All UNEP could provide was the financial and technical assistance from its headquarter located far away from the region. Despite the establishment of the coordinating unit, the staff has been unable to follow a consistent strategic approach to the implementation of the Action Plan, since there are no institutionalized arrangements or commitments. In the Case of the UNEP/GEF South China Sea project, a project coordinating unit has been in existence since 2002; it has been headed by the same person who was involved in the formulation of the project before he moved into his current implementation role. The project has a well-established regional management framework, providing it with a strong institutional arrangement for scientific networking.

Second are the *financial resources* available to the two initiatives. The Action Plan has limited financial resources, and environmental projects tend to be individual and country-based, rather than regional activities due to the limited financial resources available. The UNEP/GEF South China Sea Project has a total budget of \$32 million over the period of five years. Thirty-eight institutes or government agencies signed MOUs directly with UNEP, receiving funds to support scientific research. Over 400 institutions or agencies have been directly or indirectly involved in the project. These beneficiaries formed UNEP's domestic alliances of support for regional cooperation because of their direct financial interests. GEF has a policy that any countries receiving GEF grant must have at least 1:1 co-financing ratio. This policy provides both UNEP and its domestic beneficiaries (who can be considered UNEP's alliance partners) with the

legitimacy necessary to extract government financial support for marine environment protection.

Third is the *difference in the timing* between the two programs. It is fair to state that without the prior experience provided by the implementation of the East Asian Seas Action Plan the development of environmental cooperation in the South China Sea would probably not have been possible, at least not starting in 1996. During the implementation of the Action Plan, UNEP had established a supra-regional intergovernmental forum and won trust from other countries that it had no intention to intervene with their sovereignty issues during the implementation of the Action Plan. The COBSEA provides an inter-governmental forum for the development of the project for the South China Sea, so that UNEP did not need to start from scratch, which probably would have scared countries away immediately. This provides a sound political foundation for UNEP to be perceived by the countries as an independent and trustable organization.

Fourth, there was a substantially different *geographical coverage* in the case of the East Asian Seas Action Plan than the South China Sea Project. The East Asian Seas have a broad geographic coverage and a lesser density of sensitive political issues. The South China Sea entails numerous sensitive issues as well as clear disputes. This creates both opportunities and challenges for UNEP's ability to draw countries with disputes into cooperative arrangements.

### **Political Utilities of Environmental Cooperation**

The roles of UNEP are only part of the story. Marine environmental cooperation is nested within the process of regional integration politics among ASEAN countries, and their interactions with China. I also hypothesized that

beyond environmental benefits, both ASEAN and China exploit political utilities from the multilateral cooperation sponsored by UNEP to achieve their own diplomatic goals. Usually, states will try to turn environmental cooperation into an instrument to contribute to the achievement of higher political and diplomatic goals. This is particularly true when environmental cooperation happens in a region where some other prominent issues remain unsolved and sensitive.

International environmental cooperation is an instrument of a state's foreign policy. The dissertation has shown that non-environmental considerations act as both an obstacle and a facilitator for environmental cooperation in the South China Sea. Ostensibly, territorial disputes may be a major obstacle to regional cooperation, and the fact that China initially refused to join UNEP's initiative in the South China Sea indicated the difficulties of forging cooperation among countries in dispute. However, the case shows that it is the very presence of the danger of conflict that provides a possible catalyst for regional marine environment cooperation in the South China Sea. While countries are trying to consolidate their sovereign claims, they do share a desire to sustain a peaceful regional environment that has buttressed the prosperous economic development that the region has enjoyed in recent decades. Countries were actively looking for less sensitive "issue areas" where countries could cooperate without jeopardizing any sovereignty claims. Marine environmental problems provided such an issue area.

For ASEAN countries, the political utilities from the implementation of the East Asian Seas Action Plan have also changed over three decades. In the first decade, the development and implementation of the Action Plan helped ASEAN countries to consolidate an ASEAN identity, in addition to achieving the environmental benefits stemming directly from. As Chapter 4 has shown, in the

late 1970s and early 1980s, ASEAN countries were actively looking for opportunities to engage each other and foster ASEAN identity through environmental cooperation under the framework of the Action Plan. Environmental cooperation under the framework of the Action Plan provided a significant mechanism for ASEAN countries to socialize and consolidate within the organization, and to learn the skills for political engagement with each other through non-political marine environmental cooperation. This utility has decreased as ASEAN has evolved into a more mature and prominent regional organization, with its own identity. ASEAN still uses the Action Plan to promote cooperation within the member countries as shown in Chapter 4. That is the reason why ASEAN countries support the expansion of the Action Plan to cover other ASEAN non-East Asian Seas countries.

After ASEAN countries successfully formed an identity, the Action Plan became a convenient mechanism for ASEAN countries to engage China in a multilateral forum. This utility was significant in the early-to-mid-1990s, but has declined recently. ASEAN has actively engaged China in various issue areas, including trade and economic cooperation and security issues. In environmental issues, it has an ASEAN + 3 environmental ministerial meeting, a channel for environmental ministers to exchange their ideas and policies.

China continues to support the strengthening of COBSEA, mainly due to political reasons. COBSEA is the only inter-governmental forum on regional marine affairs in which China is a full and equal member with other ASEAN countries. China views COBSEA as a preferable option to ASEAN.

In the South China Sea case, as shown in Chapter 5, the political utility of environmental cooperation mainly derives from the symbolic and legitimization

power of IOs in highly sensitive political areas. We cannot say that participation in the IO sponsored activities would lead to potential legitimization of territorial claims in a UN forum, but states definitely do not want to de-legitimize their claims by non-participation. Non-participation will potentially reduce the international recognition of a non-participant's claims of the South China Sea islands. Additionally, it provides both ASEAN and China a mechanism to build confidence and trust between them.

In both the East Asian Seas Action Plan and the South China Sea project, ASEAN and China take environmental cooperation as a good opportunity to build confidence and trust between the parties. The East Asian Seas Action Plan also helped to develop ASEAN marine environmental cooperation, hence contributing to ASEAN's integration and consolidation. The Action Plan only involved the five founding members of the organization in its early stage. This utility is not apparent in the South China Sea project, since all the countries participated in the project from the same point in time, and they are all equal members within the project. The potential legitimization of territorial claims by the UN that is critical to the successful approval of the South China Sea project is not apparent in the Action Plan because the territorial disputes were less acute and were spread over a vast area of the East Asian Seas.

### **UNEP: *Quo Vadimus***

UNEP's roles in the regional seas have faced great challenges recently due to its limited financial budgeting and staffing and the increased regional activities of other IOs. UNEP's small-scale projects do not bring the same significant marginal benefits to the region as three decades ago, since the region has already

grown in scientific capacities, financial resources, and marine environmental activities funded by other IOs. Member countries look for some regional large-scale activities with operational benefits on the ground in marine environmental fields. The small-scale catalytic role of the Action Plan does not meet the environmental demands of the East Asian Seas countries.

Currently, UNEP has a weak Action Plan, but with a strong and large South China Sea project. COBSEA is still struggling to find a new identity or niche among various regional organizations involving environmental issues, which I will discuss later in this chapter. Although the implementation of the UNEP/GEF South China Sea Project received acclamation from UNEP and the GEF as the best international waters project,<sup>7</sup> the project activities will be completed by December 2007. How will the momentum built through the implementation of the project be carried on and sustained beyond the project? Where does UNEP go after the completion of the project, and how can UNEP ensure that project benefits sustain beyond the life of the project?

Project benefits gained at the national level are relatively easy to sustain beyond the project; it is in the individual country's interests to sustain the benefits and activities for the better living of its people. For example, all three demonstration sites of China will automatically become national nature reserves or marine parks after the completion of the project. Legislation or laws developed and adopted at the national level will remain valid and will be enforced through the national political structure. National action plans developed and adopted during

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<sup>7</sup> See GEF Secretariat. 2004. *The GEF Specially Managed Project Review*. Unpublished document. GEF Monitoring and Evaluation Team. 2004. *International Waters Program Study*. [www.gefweb.org](http://www.gefweb.org). John Michael Bewers and Su Jilan. 2004. *Reversing Environmental Degradation Trends in the South China Sea and Gulf of Thailand: Mid-term Evaluation*. [www.unepscs.org](http://www.unepscs.org).

the implementation of the project, and funding allocated to implement the national action plans will be enforced by national governments, with pressure from the involved government officials and scientists who have a direct stake in implementing these national action plans.<sup>8</sup>

Part of the project benefits gained at the regional level is likely to be sustained automatically. The maturing regional “epistemic community” will provide direct policy recommendations and solutions to future regional interventions, and continuously push for national governmental policy reforms for sustainable marine management. The trust and confidence built through the implementation of the project will not fade away after the project. The regional priority portfolios developed by the project can serve as a guide to both regional and national interventions in the future.

While some of the national and regional benefits will sustain beyond 2007, some other regional momentums are unlikely to be sustained if no careful consideration and planning are given to future development. The regional management framework will not exist beyond 2007. How will UNEP ensure the implementation of the revised SAP, and avoid the situation that this document will be adopted, shelved and forgotten by governments beyond the completion of the Project?

A conclusion of a recent partners’ workshop of the Action Plan, held in Bangkok, Thailand, April 2005, decided that COBSEA should strengthen its role in coordinating activities related to marine environmental issues in the region,

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<sup>8</sup> The national action plans developed under the UNEP/GEF South China Sea project specifically stipulates who does what, when, where, how and funding sources. The action plans specify, for example, the activities and projects to be executed by the designated institutes and agencies, with allocated funding from the governments. Once governments adopted the action plan, the institutes and agencies have a legal document to turn to support their requests for financial resources to execute the activities.

especially the activities of the UN agencies and programs involved in the region. If COBSEA's role will be defined as a "coordinating" body for the region's UN activities, it will not be a successful mission. Although UNEP has succeeded in promoting environmental awareness, prodding governments to integrate environmental considerations into their development plans, and serving as a data clearing house to promote scientific research,<sup>9</sup> it has failed in fulfilling its mandate to play a coordinating role within the UN system. UNEP's failure to coordinate environmental activities within the UN system may shed some light to COBSEA's current direction or attempts to transform its role.

The reason for this failure lies in the institutional arrangement within the entire UN system. The UN lacks any coherent institutional mechanism for dealing effectively with environmental issues. UNEP itself is a creature of a mere General Assembly resolution as an integral part of the UN, to coordinate environmental programs within the UN system.<sup>10</sup> Despite the fact that UNEP was established by the General Assembly to coordinate environmental matters within the UN system, other UN agencies including FAO, WHO, IMO, UNESCO, and UNDP have gradually assumed environmental and sustainable development responsibilities,<sup>11</sup> mainly due to the increasing awareness of environmental matters promoted by UNEP. These agencies have their own mandates, reporting to their own principals.

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<sup>9</sup> See e.g. Geoffrey Palmer. 1992. "New Ways to Make International Environmental Law." *The American Journal of International Law* 86: p. 259.

<sup>10</sup> The Governing Council is mandated with the coordinating role of UNEP, i.e. "to provide general policy guidance for the direction and co-ordination of environmental programmes within the United Nations System." The UNEP Secretariat is mandated, in resolution 2997, to "co-ordinate, under the guidance of the Governing Council, environmental programmes within the United Nations System, to keep their implementation under review and to assess effectiveness." See General Assembly Resolution 2997. 1972. *Institutional and Financial Arrangements for International Environmental Cooperation*. <http://www.un.org/ga/subsidiary/>.

<sup>11</sup> Palmer. 1992. p. 259.

They are better equipped with organizational capacity and more personnel. Some of them have their own country and regional offices. UNEP is probably the smallest program in terms of financial budgets and personnel resources. UNEP is just too small, too poor and too remote to coordinate and promote sustainable development effectively.<sup>12</sup> As Haas, Kanie and Murphy pointed out, “to some extent, UNEP’s success has led to its own obsolescence, because it is no longer equipped to conduct its activities or to serve as the UN system’s conscience on environmental issues now that the system has become so robust and decentralized.”<sup>13</sup>

Financial resources for environmental protection activities come from the World Bank, the GEF, UNDP and other bilateral aid agencies. UNEP has little influence on the decisions of these large bilateral and multilateral financial mechanisms. UNEP has to compete with those larger agencies for international funding for environmental matters. With its limited personnel resources and restricted location in Nairobi, UNEP’s ability to secure funding is small.<sup>14</sup>

UNEP’s coordinating dilemma is replicated at the regional level. COBSEA, having no legitimate power mandated to it by the member countries, simply cannot execute such a coordinating role at the regional level. All the regional

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<sup>12</sup> See Peter Haas, Norichika Kanie and Craig N. Murphy. 2004. “Conclusion: Institutional Design and Institutional Reform for Sustainable Development.” In *Emerging Forces in Environmental Governance*, Norichika Kanie and Peter M. Haas, eds. Tokyo: United Nations University Press. Branislav Gosovic. 1992. *The Quest for World Environmental Cooperation*. London: Routledge. Jan Stefan Fritz. 1998. “Earthwatch twenty-five years on.” *International Affairs* Vol. 10, No. 3: 173-196.

<sup>13</sup> Haas, Kanie and Murphy. 2004. p. 270.

<sup>14</sup> As a consequence, UNEP’s funding from GEF accounts for only 7 percent of the total GEF funding. As of June 30 2004, GEF has allocated \$5,126 million. The World Bank accounts for 53%, UNEP 29% and other agencies 11%. Competition for GEF funding has become fiercer since the GEF decided to include other international or regional organizations, such as the ADB and FAO, as new implementing agencies. See GEF/ME/C.25/1. 2005. *GEF Annual Performance Review (2004)*. [www.gefweb.org](http://www.gefweb.org).

organizations, programs or organs have their own headquarters with their own mandates and financial resources. They are responsible for reporting to their headquarters or funding agencies. Substantive activities tied to such a coordinating role will be extremely limited and superficial, except for facilitating exchange of information between projects or programs in the region and convening some regional meetings. This role will not meet the increasing expectations of member countries to obtain “tangible” benefits from the Action Plan.

In a region that has been spoiled by large amounts of external funding, including the continuous large GEF funding of the PEMSEA project, acquiring financial resources is a key factor to regain governments’ confidence in COBSEA and the Action Plan. In the short term, the EAS/RCU should take a lead in building and revitalizing donor relationships, and assisting countries in developing proposals and securing financial funding from international and bilateral aid agencies.

After gaining confidence from member countries of the EAS/RCU’s capacity by demonstrating some tangible financial benefits, UNEP should consider undertaking activities to strengthen the institutional arrangement for the Action Plan, geographical focus, and take the following steps:

- 1) *Institutional strengthening.* COBSEA should be elevated to be responsible purely for high-level policy and decision-making at the regional level, and leveraging domestic financial and political support for the Action Plan at the national level. A separate regional scientific and technical committee or working group should be established to provide scientific and technical support to the COBSEA, formulate project proposals and promote scientific capacity in the region. A marine scientists’ network or association should be established, or the

ASEAM should be revitalized to support this regional scientific or technical committee.

2) *Geographical Focus*. The geographical coverage of the Action Plan is very broad, consisting of ten countries from Australia in the South, to South Korea in the North. With such a broad geopolitical coverage, countries failed to identify shared priorities or to systematically develop actions to address the problems, with the exception of the UNEP/GEF South China Sea Project. Therefore COBSEA should reconsider carefully its geographical focus, and adopt a strategy to deal with the broad areas without losing governments' confidence and support. In the following section, I will discuss in more detail how a region is defined for strengthened regional cooperation.

3) *Regional knowledge node*. The region will continuously increase data and information collected by different large marine international projects in the region, but none of the projects will have a regional institutional setting to maintain and distribute the knowledge beyond the project life. UNEP can act as a data house to consolidate and distribute the information at the regional level. To further improve UNEP's role in scientific and technical issues, UNEP should consider consolidating data and information from various projects and regularly publish a report on the status of the marine environment in East Asia.

### **Other IO-led Regional Activities**

International organizations, including the UN agencies and the Bretton Woods institutions, have actively been involved in carrying out environmental protection activities to implement the policies and decisions made at the global level. The GEF, the major financing mechanism for international environmental

conventions on biodiversity, climate change, persistent organic pollutants, and desertification, has relied heavily on its implementing agencies, UNDP, UNEP and the World Bank, to formulate, develop and implement project proposals. These IOs have particular power in influencing environmental protection in the region due to the financial resources they possess. Table 6.2 lists the main IOs' regional office, projects or programs related to marine environmental cooperation in the region. In addition to the UNEP/GEF South China Sea Project in the East Asian Seas, there are two other GEF funded large marine projects in the region: PEMSEA project and UNDP/GEF Yellow Sea Project.

PEMSEA has been funded by the GEF for more than a decade; UNDP and IMO act as implementing agency and executing agency, respectively. PEMSEA is a result of two continuous GEF funded projects. The first is entitled "Prevention and Management of Marine Pollution in the East Asian Seas (\$8.03 GEF fund, 1993-1998), and the second is "Building Partnerships for the Environmental Protection and Management of the East Asian Seas (\$16.22 million, 1998-present).<sup>15</sup> These two projects, after more than a decade's implementation, have evolved into a regional program, PEMSEA. Currently, PEMSEA covers twelve countries of East Asia: Brunei Darussalam, Cambodia, China, Indonesia, Japan, Malaysia, North Korea, Philippines, South Korea, Singapore, Thailand and Viet Nam. The program covers components as wide as the following: integrated coastal management, managing subregional sea areas and pollution hotspots, capacity building, environmental investments, scientific research, integrated information

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<sup>15</sup> GEF Monitoring and Evaluation Team. 2004. *GEF International Waters Program Study*. [www.gefweb.org](http://www.gefweb.org).

management system, civil society, coastal and marine policy and regional mechanism.<sup>16</sup>

The UNDP/GEF Yellow Sea Project started implementation in 2004, with total GEF funding of \$13.328 million.<sup>17</sup> Currently, the project covers only China and South Korea, with an intention to get the involvement of North Korea. An indicator of the success of the project, according to the project manager, is to secure North Korea's participation in the project.<sup>18</sup>

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<sup>16</sup> See PEMSEA website [www.pemsea.org](http://www.pemsea.org).

<sup>17</sup> See the Project Document ([www.gefweb.org](http://www.gefweb.org)), and UNDP/GEF Yellow Sea Project website: <http://www.yslme.org/>.

<sup>18</sup> Interview with the project manager, Mr. Yihang Jiang.

**Table 6.2. Participation by Countries bordering the South China Sea, in Regional and Sub-regional Organizations, Programs and Projects**  
(in reverse chronological order)

Organizations Programs Projects	Date	Type	Brunei Darussalam	Cambodia	China	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	Other Participating Countries
UNDP/GEF Yellow Sea Project	2004	Inter-govt project			X							South Korea
UNEP/GEF South China Sea Project	2002	Inter-govt project		X	X	X	X	X		X	X	
Mekong River Commission	1995	Sub-regional inter-govt Institution		X	Dialogue Partner					X	X	Lao PDR, Myanmar (dialogue partner)
PEMSEA	1994	Inter-govt project	X	X	X	X	X	X	X	X	X	Democratic People's Republic of Korea, Republic of Korea
ADB	1986	Inter-govt organization	X	X	X	X	X	X	X	X	X	54 other members (19 from outside Asia and Pacific Region)
UNEP East Asian Seas Action Plan	1981	Inter-govt program		X	X	X	X	X	X	X	X	Australia, Republic of Korea
IOC-WESTPAC	1979	Inter-govt program	X	X	X	X	X	X	X	X	X	12 other members (Australia, France, Japan, Korea, New Zealand, Russia, UK and USA etc.)
FAO Asia and Pacific Office	1947	Inter-govt organization	X	X	X	X	X	X	X	X	X	34 other member countries

Source: Revised Information from UNEP/GEF/RTF-L.2/7 ([www.unepscs.org](http://www.unepscs.org))

### **Lessons from UNEP's Regional Seas Activities**

The development and implementation of the East Asian Seas Action Plan and the engagement of China in the UNEP/GEF South China Sea Project should provide some lessons and experiences for other IO activities in the region, including prioritization of environmental problems, the definition of an ecological management region, approaches to environmental protection, and capacity building.

*Prioritization of Transboundary Environmental Problems.* Although there is an increasing number of organizations and activities in the region addressing problems related to marine environmental problems in the East Asian Seas and South China Sea region, most lack activities to prioritize environmental problems and targets. Oil pollution was never a high priority issue in the East Asian Seas, despite the enormous amount of attention focused on it during the early implementation of the East Asian Seas Action Plan (see Chapter 4). In the early implementation of the East Asian Seas Action Plan, UNEP spent an extraordinary amount of financial resources on oil pollution matters. PEMSEA in its early years also had focused on oil pollution. There was no systematic effort at setting environmental priorities for the East Asians Seas region, after nearly three decades of the Action Plan, and more than ten years' implementation of the PEMSEA project.

Environmental priorities were decided mainly by donor preferences and major actors' interests. Scientific and objective prioritization efforts often fall short because actors have legitimate differences in what they consider to be the most important environmental priorities, and because environmental priorities often conflict with other issue priorities that compete for a donor's financial

resources.<sup>19</sup> The use of finite diplomatic and financial resources for low-priority problems diverted resources from more pressing problems.

The transboundary diagnostic analysis undertaken by UNEP in developing the UNEP/GEF South China Sea Project provides good reference materials for future interventions, and should also be updated regularly to reflect the most recent changes of environmental status. During the implementation of the project, a systematic regional cluster analysis and ranking process have been undertaken to develop priority sites in mangroves, coral reefs, seagrass and wetlands. The regional priority portfolios should also not be limited to the use of UNEP, but utilized by other IO-initiated activities in the future. Through the use of regional priority sites by all actors working in the region, IOs can achieve rationalization of projects and programs for marine environment protection, partly achieving the goal of inter-agency coordination.

***Defining a region.*** Since 1990, the East Asian Seas region has witnessed an increasing trend of regional interests and management with regard to ocean affairs. Regional solutions to the handling of ocean management problems are but one of a series of alternative strategies, ranging from unilateral approaches at one end of the spectrum to global regimes at the other extreme. The idea of a regional solution to marine environmental problems raises the basic theoretical question of what constitutes a marine region. The use of the term “region” with respect to

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<sup>19</sup> Barbara Connolly. 1996. “Increments for the Earth: The Politics of Environmental Aid.” In *Institutions for Environmental Aid*, Robert Keohane and Mark A. Levy, eds. Cambridge, MA: the MIT Press.

states' actions or interest is often ambiguous and may at times be found to lack any empirical support for the classification.<sup>20</sup>

Lewis Alexander defines a region as: “an area of the earth’s surface which is set apart from other areas by existence of one or more distinctive characteristics.”<sup>21</sup> Accordingly, the identifying element may be physical in nature, as in the case of desert or mountainous regions; conversely, some political, economic, or other nonphysical factor may distinguish the region as a separate geographic entity. Alexander conceptualizes three types of marine regions: 1) *Physical regions*, which are considered sufficiently extensive and distinguishable from other ocean areas to be suitable for regional management activities. They are finite and may be defined into two subgroups: ocean basins and semi-enclosed seas. Globally, there are nine ocean basins and twenty-four semi-enclosed seas.<sup>22</sup> Because of the physical uniqueness of most physical marine regions, they represent logical sites for management programs. This is particularly true for water bodies where there is little exchange of water with the open ocean and where there is, in effect, a relatively closed marine ecosystem.<sup>23</sup> 2) *Management regions*, which are functional in nature and responds to a situation where there is a well-defined management problem. Alexander points out that “the important point is that the

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<sup>20</sup> Lewis M. Alexander. 1977. “Regional Arrangements in the Oceans.” *The American Journal of International Law* 71 (1): 84-109. p. 89.

<sup>21</sup> Ibid. p. 88.

<sup>22</sup> The nine ocean basins are: the North and South Atlantic, the Indian, Arctic, and Antarctic, and four units of the Pacific—North, South, West Central, and East Central. The semi-enclosed seas are: Gulf of Aden, Arabian Sea, Andaman Sea, Baffin Bay-Davis Strait, Baltic Sea, Bay of Bengal, Bering Sea, Caribbean Sea, Celebes Sea, East China-Yellow Sea, Gulf of Guinea, Sea of Japan, Mediterranean Sea, Gulf of Mexico, North Sea, Sea of Okhotsk, Gulf of Oman, Persian (Arabian) Gulf, Red Sea, Solomon Sea, South china Sea, Sulu Sea and Timor-Arafura Seas. See Alexander, p. 70-71.

<sup>23</sup> Alexander. 1977. p. 91.

area in which the problem occurs may be distinguishable geographically from other maritime areas, thereby justifying its treatment as a separate marine region.”<sup>24</sup> 3) *Operational regions*, which are the sites of more formal regional arrangements, which may be defined by IOs to execute their activities due to the limits of competence, extent of ocean space within which scientific investigations are carried out or by the terms of a international treaty. These regions may be more of a political and administrative than environmental or ecological nature. The UN’s regional economic and social commissions were established for operational regions.

Action oriented projects and programs should address ecological management regions, rather than politically defined operational regions. Without a well-defined ecological management region, where common problems can be easily identified and distinguished from outside of the region, regional activities, projects or programs will incur difficulties to generate real regional environmental benefits and ultimately mobilize countries’ support for regional cooperation. This has been seen in the East Asian Seas Action Plan since its expansion, and will also inflict the PEMSEA project after the withdrawal of external funding. Neither the “East Asian Seas” defined by UNEP or the “Seas of East Asia” by PEMSEA is a physical marine region. Actually both do not offer a clear definition of their geographical coverage, and imply the entire sea areas bordering the countries of the “East Asia.” The region covers entirely four semi-enclosed seas: the East China-Yellow Sea, the Sea of Japan, the South China Sea, the Sulu Sea, partly the Timor-Arafura Sea, and other coastal areas of the East Asian countries.

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<sup>24</sup> Ibid. p. 92.

I am not arguing for a purely ecological division for regional cooperation, but for a blended ecological and political definition, as political support is critical for any regional activities. However, there are many regional political entities and organizations that exist in the region, but few have been built on common and shared environmental problems. Emphasis should be given to base regional cooperation on defined transboundary environmental problems, because IO-led activities can help an ecological region to turn into a political region as well, but a political region cannot turn in into an ecological one. As shown in Chapter 4 and 5, UNEP helped to promote ASEAN cooperation and consolidate ASEAN identity, and fostered a regional community in the South China Sea. IO-led environmental cooperation can help to foster a sense of region, based on littoral states' shared environmental problems with international financial resources and regional networking. However, if a region lacks regionally common or shared environmental problems, it is hard to have real operational environmental cooperation; activities will tend to be individualistic and country-based.

Since COBSEA is an inter-governmental body established by governments which make regular contributions to its Trust Fund, there is a political justification for COBSEA to operate at a supra-regional level. However, to ensure regional benefits and the effectiveness of regional interventions, COBSEA should consider examining the possibility of taking a subregional approach, and dividing the East Asian Seas into ecologically functional subregions for operational interventions.<sup>25</sup>

The PEMSEA is a result of two consecutive projects funded by the GEF; hence it should be an action-oriented project, not a political entity. The region it covers is so vast, that it is hard to identify shared common problems with

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<sup>25</sup> Subregion is in relation to the East Asian Seas.

operational meanings. No transboundary diagnostic analysis has been conducted, and no regional priority issues have been systematically identified and set by all twelve participating countries. Consequently, the two projects funded by GEF have gradually evolved into a regional program, which is a political bundle of all East Asian Seas countries, with a common interest to secure more and larger international funding. The environmental and ecological sense of the region is less justified, with such diverse environmental problems. This program, however, has gained considerable prominence and respect in the region, mainly due to the performances of some individual countries, the lengthy duration of the project, and its ability to generate international funding, especially from the GEF. Despite individual countries' benefits gained from PEMSEA over the past ten years, the regional benefits and the reasons to bundle these countries together cannot justify such a large operational region with high transaction costs. There are already many regional organizations operating in the region, on the basis of political regions, such as the Asian Development Bank, the FAO regional office, ESCAP, and the UNEP regional office in Asia and Pacific. GEF need not fund another regional organization or entity, with increased transaction cost and little sense of shared ecological or environmental problems. The question remains—what are the ecological and environmental justifications for the high transaction costs occurring in such a large regional project, in terms of the number of countries involved? What will be the regional benefits that cannot be generated through subregional or individual countries' approaches?

Not denying the successes and achievements of PEMSEA in the region, the fact that GEF decided to fund such a supra-regional project is a typical case of GEF's failure at inter-agency coordination. UNEP, with its regional seas program,

had considerable comparative advantages and experience in dealing with regional marine environmental problems. It has an established institutional ability and organizational structure in place for over a decade. GEF's funding for the UNDP-initiated PEMSEA project actually creates a situation in the East Asian Seas that two entities under two UN agencies are focusing on the same supra-regional operational region, creating inter-agency competition and difficulties for inter-agency coordination. As a result, COBSEA has been marginalized by the large and well-funded PEMSEA project. The implementation of the UNEP/GEF South China Sea Project and the UNDP/GEF Yellow Sea Project covers only parts of the East Asian Seas. All these activities would have been better managed or rationalized if they were under the control of one implementing agency.

**Capacity Building.** Capacity encompasses a number of aspects, including financial, political, administrative and technical forms.<sup>26</sup> Addressing each of these different forms of incapacity will require very different strategies of IOs. Effective implementation of IO led regional activities depends on strategic choices about which actors on whom to focus capacity building efforts, including sectoral ministries, NGOs, and private sectors. To sustain regional environmental cooperation beyond IOs' involvement, it is important to identify the most needed form or location of capacity within the participating countries to support continuous regional cooperation.

In the past, much effort has been made to build and increase the scientific and technical capacity of marine scientists. Less has been done to build the political and financial capacity within the countries for sustained environmental cooperation. The implementation of the East Asian Seas Action Plan has mainly

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<sup>26</sup> Haas, Kanie and Murphy. 2004. p. 345.

focused on building scientific and technical capacity for marine research and management. Among the numerous workshops organized under the Action Plan, very few focus on policy issues or legal matters. The UNEP/GEF South China Sea Project also heavily concentrates on scientific research and regional consolidation of data and information in its first two years' implementation, with less funding or efforts for policy or political related activities. The Project Director has been overwhelmingly occupied with the demands of scientific and technical matters, with less attention to building political capacity for regional cooperation directly.

Although scientific and technical capacity may increase the political capacity for regional cooperation, through the pressuring of the maturing “epistemic community”, IOs can play a more proactive and aggressive role in directly engaging the policy- and law-making groups at the domestic level, building the political capacity. Suggested activities can include networking among environmental lawyers, regular meeting addressing policies and laws, and training workshops for policy analysts and lawyers. There is no need for IOs to limit their influence through the mechanism of the epistemic community. A more direct and effective means to engage policy groups should be developed and strengthened.

### **Generalizability of the Case**

I will discuss the generalizability of the case from two aspects: the roles of IOs and applicability to other regions. To what extent can we generalize the conclusions about UNEP's roles to the larger universe of IOs dealing with a variety of issue areas? I believe the two types of powers/roles of IOs can be applied to IOs in various issues, although the mechanisms and strategies IOs apply to leverage their power may vary across issue areas.

IOs are created by states to address certain collective problems, and their instrumental roles are automatically derived from their daily work. It is the inductive power that may vary between IOs. The inductive power depends on how IOs present themselves as a legitimate, independent and knowledgeable actor in international affairs, and how staff of IOs utilize the power in negotiation and persuasion to change states' interests and perceptions. The World Bank appears powerful due to its financial resources, and it is normally backed up by western countries' financial and economic policies, but its power as a legitimate or independent IO in mediating between countries is less than that of UNEP, which is deemed more independent from influences of western powers, with a concern about the interests of developing countries.

When considering the applicability of the case to other regions, I believe the South China Sea case shed light to both developing and developed regions, because the case covers the development of environmental cooperation over three decades in a rapidly growing region. In the early period of environmental cooperation, the region carried the main characteristics of a developing region: lack of scientific and technical capacity, lack of financial resources, lack of regional institution, and regional animosity. UNEP played a significant dual role in providing scientific assistance, building the capacity and setting the issue priorities for the region. On the one hand, UNEP catalyzed environmental cooperation in the region. On the other hand, the environmental cooperation was much influenced by external priorities. A typical case is the case of oil pollution, which was never a priority issue even though the Action Plan had invested large amount of financial resources in this issue. This can happen to other developing regions which rely heavily on external scientific and technical assistance. African

countries, for example, do not possess the capacities to formulate their own views and normally accept the arrangements presented to them, so the IOs' conditionality, terms, and aid priorities of IOs' aid may not be consistent with the region's real needs.

The South China Sea case also sheds some light for scholars to explore the interactions between a developed region and IOs. In Joel S. Migdal's terms, the region consists of a group of countries with strong and increasing state capabilities.<sup>27</sup> The countries are jealously guarding their sovereignty, and can afford to resist financial and technical assistance from IOs, when their conditions are not met. These countries have actively used IOs to explore their political utilities, and continued growing in regional integration and consolidation. ASEAN environmental cooperation, for example, originally catalyzed by UNEP, has now evolved into an independent regional initiative under a strengthening region. In this case, we have seen an increased role of ASEAN in the past decade in environmental cooperation, and agenda issues come from within the region more often than before. This aspect of ASEAN is gradually approaching to the European Union's dynamics, in which region has strong technical, scientific and financial capacity within itself. IOs' roles in the Union are relatively small and insignificant, in terms of issue framing, identification prioritization, and policymaking. As I mentioned in chapter 1, there are many studies on the domestic aspects of international environmental politics, but there is much less literature on its regional aspects. I hope other students will pick up the challenge in assessing regional differences in dealing with global initiatives.

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<sup>27</sup> See Joel S. Migdal. 1988. *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World*. Princeton, NJ: Princeton University Press.

The South China Sea case proves that an authoritative and independent IO plays an important role in facilitating countries in dispute to reach multilateral marine environmental cooperation. The less developed environmental cooperation in Northeast Asia and the Yellow Sea can at least be partly attributed to the lack of activities led by such a strong, authoritative, and independent IO in the region.

### **Future Research**

In light of the main findings of this dissertation, I suggest three directions for future research: 1) how regions differ from one another in dealing with global initiatives; 2) how IOs vary in their powers in marine environmental issues; 3) how the considerations of non-environmental issues facilitate environmental cooperation, and furthermore the interplay between environmental and other issues.

*Regional comparative analysis.* A comparative analysis of regional seas action plans should shed light on why the same regional seas program operated from UNEP produce different institutional or legal arrangements in different sea areas. Among the thirteen regional seas action plans supported by UNEP, there are four kinds of institutional and legal arrangements developed. First, most regional seas involve the development of an action-oriented regional action plan and a regional seas convention as legal support for the action plan. Normally, the development of a regional action plan leads to the development of a regional seas convention, with or without protocols. However, some regional seas developed and adopted the action plan and regional convention simultaneously, and the Black Sea developed and ratified a regional seas convention before the development of an action-oriented regional action plan. Despite the differences in the ordering of developing action-oriented action plan and legal backing, they all have both

components. Second, some action plans were developed and adopted without regional conventions. All the three regional seas action plans in Asia have not reached a regional convention as legal backup. Third, in the Kuwait Sea, a regional organization was established to develop and implement the regional action plans and conventions. Fourth, the South Asian Seas developed a regional environmental program, which became a legal entity. Similarly, the South Pacific developed a regional environmental program, but with no action plan.

While it is undeniable that UNEP has catalyzed the establishment and development of regional institutions for marine environmental protection, an intriguing question would be why the same global force has led to such different forms of institutional arrangements, and how different actors shape the process of institutional building and development. Is there an ideal type of governance, i.e. action plan, program, convention or organization, in terms of institutional setting for the regional marine environmental protection?

*IOs' different roles in regional seas.* More and more IOs follow the example of UNEP and take a regional approach to addressing marine environmental problems. In the past decade, both UNDP and World Bank have increased their activities in regional seas, and are gradually moving ahead of UNEP in using a regional approach for addressing marine environmental matters. It would be highly interesting to examine how the three IOs vary in their approaches to dealing with marine environment, and how they leverage their powers to produce outcomes expected by them. I suggest two angles to start exploring the differences. First, both UNDP and the World Bank have their own country office, and rely heavily on their country office for services and execution activities. UNEP only has regional offices and regional seas units, and they have

to rely heavily on their counterparts at the national level for executing the activities. The former is probably a more “efficient” approach in the eyes of international donors, but the latter requires extra efforts in training the local people to conduct the activities and turns out to be slower and less inefficient, in terms of procedures. However, the lack of UNEP country offices forced UNEP to build close relationships with their national level officials, and the capacity built through “learning by doing” will probably have a long-term impact on countries’ environmental policies and actions. Second, both UNDP and the World Bank have their organizational focus on economic development, and environmental protection is not on the top of their agenda. UNEP is the only agency a sole responsibility to focus on the environmental. A possible result would be that the UNDP’s and the World Bank’s economic development priorities may marginalize their environmental considerations in the regional seas initiatives, while UNEP’s initiatives may be less integrated to an overall development agenda.

*Environment and security.* In a highly disputed area, countries in dispute may choose environmental issues as a testing ground for cooperation in other issue areas. This is particularly true when IOs are involved. It would be highly interesting to explore whether there are spillover effects of the cooperative habitats formed during environmental cooperation into other security areas, and the mechanisms through which such spillover effects may influence cooperation in other fields.

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