

## The Duty to Cooperate in Semi-Enclosed Seas

The South China Sea is a semi-enclosed sea governed by Part IX of the Law of the Sea Convention, [\[1\]](#) which says in Article 123 that countries bordering such seas “should co-operate with each other in the exercise of their rights and the performance of their duties under this Convention” More specifically, they are instructed to “endeavor, directly or through an appropriate regional organization (a) to co-ordinate the management, conservation, exploration, and exploitation of the living resources of the sea” and also to co-ordinate their activities “with respect to the protection and preservation of the marine environment.” The countries bordering on the South China Sea have failed to create an effective regional organization, and their cooperation “directly” has been generally unsuccessful as well. The Coordinating Body on the Seas of East Asia (COBSEA) has been mostly dysfunctional and the Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) has been modest in its accomplishments. No effective organization to manage the shared fisheries has been established.



## The UNEP Regional Seas Programmes

The UNEP Regional Seas Programme was launched in 1974 and currently consists of 13 regional programmes, [\[2\]](#) six of which are administered directly by UNEP, [\[3\]](#) and it has links to five “partner” regional environmental bodies. [\[4\]](#) These programmes

emerged from the recognition that ocean regions differ dramatically and that unique ecosystems require individual conservation approaches, but it has also been recognized that many sources of marine pollution are global in nature and frequently uniform global standards and approaches are needed.

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Although some of these programs have thrived, others have stumbled because of a lack of interest, political disputes, mission uncertainty, and modest funding. The goal of these programs has also been questioned, because they were established with a single-sector focus on pollution, and today attention is given to multi-sector, integrated coastal and ocean management strategies.

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The regional seas programmes have been considered the “best” organizational form for the focus on pollution, in contrast to the modern “sector” approach that examines all aspects of ocean areas through integrated ecosystem management. Should the recognition that a new approach is needed for the regional seas programmes, and that organizations with a more holistic and integrated approach, and that address resource as well as pollution issues, should be developed to provide proper governance of coast and coastal areas?

# Regional Cooperation in the South China Sea, by Jon M. Van Dyke

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[United Nations Convention on the Law of the Sea, Vol. 11, 1982, 818 pages, Singapore, 1982 \(UN C.T.S. 82, 11, 1982\), entered into force on Nov. 16, 1984.](#)

[South China Sea Claims: East Asian Seas \(CHESA\), Eastern Africa, South Asian Seas, Persian Gulf \(PEPSA\), Bay Area, Mediterranean, Northern Pacific, Northern Pacific \(NORPAC\), Red Sea and Gulf of Aden, Southern Pacific, Pacific \(SOPAC\), and Western Africa.](#)

[Asian Countries: East Asian Seas, Eastern Africa, Mediterranean, Northern Pacific \(NORPAC\), and Western Africa.](#)

[Indonesia, Pacific, Indian Sea, Chinese Sea, and Northern Pacific \(SOPAC\).](#)

[See for example, J.C.B. Dickson, The Politics of the Marine Environment by Pacific States: A Review, 61 J. Marine Pollution Bulletin 822 \(2012\); M.S. Khan and M. Tahir, Impacts of Pollution on Coastal and Marine Ecosystems Including Coastal and Marine Fisheries and Approaches for Management: A Review and Synthesis, 30 J. Marine Pollution Bulletin 621 \(April 2010\); and D.A. Hobbie, The Acid and Chronic Effects of Widespread Acidification on Terrestrial and Aquatic Ecosystems, 413 Marine Pollution Bulletin 189 \(2012\).](#)

[See, e.g., World Bank World Bank Report \(World Bank Report\), Integrated Coastal and Ocean Management: Concepts and Practice \(World Bank, 1995\).](#)