



Centre for Aerospace and Defence Laws

DDE-NALSAR
M.A.(Maritime Laws)

**Regional Approaches to Protection of the Marine Environment and
Emerging Challenges to Marine Pollution**

23 February 2025

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General Issues Pertaining to Regional Approaches

First, since the oceans are a **commonly shared environment**, any **assumption of unilateral legislation** may **jeopardize the legitimate interests of other nations**.

Second, **unilateral initiative** may become a **vehicle for a coastal state** to expand its jurisdiction to include **matters totally unrelated** to the protection of the marine environment.

Third, in the final analysis, **only joint efforts** can successfully cope with the environmental challenge.

Fourth, the protection of the marine environment is closely related to **navigation, fishing** and other marine activities which, as experience has shown, are of **international concern** and can be governed **predictably and effectively only by international agreement**.

An international approach would seem preferable

Marine Pollution

UNCLOS Convention, following the **definition** prepared by the United Nations Joint [Group of Experts on the Scientific Aspects of Marine Pollution \(GESAMP\)](#), defines pollution of the marine environment as:

“The **introduction by man**, **directly or indirectly**, of substances or **energy** into the marine environment which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.”

[Energy: Noise Pollution from Ships can be a type of energy referred in this interpretation]

Six Sources of Marine Pollution identified by UNCLOS in Part XII:

- 1. Land-based sources:** These include municipal, industrial and agricultural wastes which reach the ocean from rivers, estuaries, pipelines and outfall structures.
- 2. Continental shelf drilling:** Drilling equipment can transport marine species to new habitats, where they can become invasive.
- 3. Dumping:** Any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, either dispersed or in containers, is another source of pollution. The dumping of nuclear waste, nerve gas and highly toxic substances is a particularly dangerous and controversial procedure.
- 4. Pollution from vessels** by oil and other potentially hazardous substances is the fourth source of marine pollution.
- 5. Pollution from or through the atmosphere**
- 6. Pollution from seabed mining**

Can only global action be effective?

Even a very general survey of pollution sources reveals the **diverse and complex problems** inherent in protecting the marine environment.

Hence, depending upon the **nature and source of the pollutant** and the **specific hydrographical and ecological features** of the sea, **action** to prevent, reduce and control marine pollution must be effectively undertaken at **different levels**: **national, subregional, regional and global**.

For example, **vessel-source pollution** by deliberate oil discharges is a **global issue** because of the worldwide traffic of oil tankers and chemical carriers.

However, **land-based pollution** in a semi-enclosed sea, such as the Baltic Sea, is a primary concern of the **regional, littoral states**.

[**Littoral States** refer to countries or regions that have coastlines along a sea, ocean, or lake.]

Global Approach

The theoretical rationale for a **global regulatory system** of marine pollution is a corollary of the rationale for the **freedom of the seas**:

If the high seas are open to all nations, then control over any detriment to the marine environment caused by a nation, otherwise representing disregard of the interests of other members of the international community, **ought to be comprehensively regulated by a global agency** authorized not only to set standards but also to carry out enforcement measures for the protection of the common enjoyment of the oceans.

According to this view, **purely regional regulation** is **incompatible** with the **fundamental principle** of the law of the sea.

Yet, however perfect and rational this is in theory, it is **not possible** or even advisable **to establish a comprehensive global regime** to protect the marine environment from all sources of pollution.

However, a **general consensus** does exist that **pollution from ships** must be governed by **global standards**, with procedures for their enforcement: IMO auspices.

No global conventions dealing specifically with **pollution from land-based sources** or **from offshore drilling exists**, these being types of hazards more **amenable to regional**, rather than global, treatment.

1958 Geneva Conventions on the Law of the Sea

These conventions **codified** contemporaneous **customary law**, and a relatively limited number of countries are still bound by them.

The Convention on the High Seas places upon its signatories the **obligation to prevent** pollution of the sea by the **discharge of oil from ships or pipelines** or resulting from the **exploration and exploitation of the seabed and subsoil** as well as to take measures to prevent pollution from the dumping of **radioactive waste**.

The Convention on the Continental Shelf obliges the parties to protect the **living resources of the sea** from "harmful agents" in the process of offshore drilling.

Although the pollution-related provisions of these Conventions are drafted in **cautious and general terms**, the Convention on the High Seas, by emphasizing the duty to exercise freedom of the sea with reasonable regard to the interests of other states, has laid down a **basic principle of the global pollution management framework**.

This principle is predicated upon the need to preserve a **reasonable balance** between nations in their **use and utilization** of the oceans.

Global efforts to combat marine pollution covered in **yesterday's session**

The [International Convention for the Prevention of Pollution of the Sea by Oil, 1954 \(OILPOL\)](#) - Places limitations upon deliberate, "operational" discharges of oil or oily mixtures."

First tentative move towards achieving a **balance** between the interests of the **flag and port (coastal) states** in the specific area of vessel-source pollution.

However, even though the **port State** has the **right to inspect ships**, its powers are **limited to reporting violations** to the **flag State**

Only flag State has the right to enforce the Convention.

Direct Action Agreements

1969 Intervention Convention

1969 CLC

1971 Fund Convention

In the **early 1970's, concern for the global protection** of the environment substantially **increased**.

This increase was highlighted not only by the [Stockholm Declaration of the United Nations Conference on the Human Environment of 1972](#), but also by efforts to broaden the coverage of the [1954 Convention](#) to **include other noxious substances besides oil**.

These efforts culminated with the adoption of the International Convention for the Prevention of Pollution from Ships of 1973 (**MARPOL**).

Indirect Action Agreements

Among international agreements of indirect concern to marine environment protection are the major arms control treaties: [The 1963 Partial Nuclear Test Ban Treaty](#) which bans nuclear weapons testing in the atmosphere, in outer space, and under water;'

[The 1971 Seabed Arms Control Treaty](#) banning weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof [Installation], and

[The Bacteriological \(Biological\) and Toxin Weapons Treaty of 1972](#) banning stockpiling of such weapons.

The **piecemeal approach** to **global marine pollution legislation** is more than matched by the rather **disjointed** and uncoordinated global structure of **international organizations** in this area.

At least eight United Nations agencies:

IMO, United National Environmental Program (UNEP), Food and Agriculture Organization (FAO), World Health Organization (WHO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Meteorological Organization (WMO), International Atomic Energy Agency (IAEA) and one advisory committee, U.N. Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP), have **some kind of program related to the marine environment**.

NGO Effort

The **duplication of functions** as well as the **organizational and bureaucratic competition** over programs and resources is magnified with respect to **scientific advice** by the existence of several **international nongovernmental organizations** and other bodies.

The **Scientific Committee on Oceanic Research (SCOR)**, the **Scientific Committee on Problems of the Environment (SCOPE)** of the International Council of Scientific Unions (ICSU), and the **Advisory Committee on Marine Resources Research (ACMRR)** of FAO are only a few of the many bodies investigating some aspects of marine pollution.

Most are **restricted to disseminating information**, assessing particular marine pollution problems, and making recommendations on performance standards.

None of the agencies has the **competence** to apply specific anti-pollution standards

The confusion at the global level caused by the number of organizations fighting against the various forms of marine pollution is **not helped** by the fact that the **decisions of UNEP**, which was originally conceived as the global coordinating body for all environmental protection, **have no legal effect** on other agencies unless explicitly endorsed by their governing bodies.

UNEP's functions with respect to the marine environment have now focused almost **exclusively on regional programs**.

The **Administrative Committee on Coordination** (ACC) of the United Nations system at large **does reduce duplication** to a certain extent, but it is **not generally capable** of providing **consistent coordination**.

Regional Approach

Although marine pollution is recognized as a global problem requiring a certain minimum number of centrally coordinated anti-pollution standards such as the vessel-source pollution regime established under IMO auspices, the **existence of local peculiarities** suggests solutions which would take into account the heterogeneous nature of the oceans.

The vulnerability of the marine environment varies greatly, depending upon the **geography, depth, temperature, salinity and currents of the ocean**.

The marine environment is further affected by the **intensity and nature of traffic** and the **economic and political development of the coastal area**.

All of these elements produce **unique pollution problems** for the **littoral nations** of a **region**.

Semi-enclosed seas typify ecological units of the ocean where **global** environmental pollution standards would **not be appropriate**.

Even some larger portions of the oceans, such as the segments of the Indian Ocean with heavy tanker traffic or the North Sea with its oil exploration and exploitation, require adaptation of **general standards to regional peculiarities**.

Generally, pollution from **land-based sources, dumping** and environmental protection of **enclosed and semi-enclosed seas** are **primarily regional concerns** while **vessel-source pollution** from oil and certain persistent toxic substances is a **global problem**.

The reasons why the **regional approach** is especially **well suited** for controlling marine pollution can be summarized as follows:

First, a global approach to combat some types of pollution, such as that from **land-based sources**, is inappropriate because of the nature of the problem.

Second, the **heterogeneity of the oceans** requires taking into account regional differences.

Third, **regionally organized** anti-pollution mechanisms can be more **readily** made available in case of an emergency.

Fourth, the regional approach **encourages maximum participation** by the regional nations, especially **less developed countries** which might **otherwise stay away from a globally organized** and technologically advanced system. Regional cooperation may thus favor **cost-effectiveness and transfer of technology** to the developing nations.

Finally, a regional arrangement can serve as a forum for consultation and might even contribute to **developing habits of cooperation** eventually **transcending matters** relating to the protection of the marine environment.

What is a Region?

The regional solution to the environmental problems of the oceans raises a **theoretical question** concerning the **concept of the marine region itself**, an issue analogous to the attempts of **political scientists to define political regions on land**.

Definitions focusing on certain geographic political features of segments of land, however, **cannot be readily applied** to a marine region where a body of water is the point of reference.

A region is, of course, a **perceptual concept** created by selecting certain features relevant to a certain issue, be it protection of the marine environment or management of the living resources of the sea.

The boundaries of a region are **not objectively fixed**; the region is in the eyes of the beholder.

Three connotations of the marine region are distinguishable:

First, one can conceptualize a "**physical**" **marine region** as an expanse of water which is set aside from other parts of the world ocean by some distinctive feature or features.

Ocean basins and semi-enclosed seas, concepts devised by scholars and adopted in international practice, are the two sub-categories of the physical marine region.

The North and South Atlantic, Indian Ocean, Arctic Ocean, Antarctic Ocean, and North, West and East Pacific are recognized as the eight basins.

Four criteria have been suggested to differentiate a semi-enclosed sea from other marginal bodies of water.

A semi-enclosed sea has been defined as an area which has at least 50,000 square nautical miles, the quality of being a primary sea rather than an arm of another semi-enclosed water body, at least 50 percent of its periphery occupied by land and which is surrounded by at least two states. There are some seas that adhere fairly closely to these criteria: Gulf of Aden, Andaman Sea etc.

The [UNCLOS Convention](#) defines "enclosed or semi-enclosed sea" as "a gulf, basin, or sea surrounded by two or more States and connected to the open seas by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States."

Under these criteria some other bodies of water, such as the Coral, Norwegian and Barents Seas, the Greenland Sea, the Bay of Biscay and perhaps the Arabian Sea **would have to be added to the list of the semi-enclosed seas.**

A semi-enclosed sea may have a **subregion**.

For example, the Gulf of Bothnia is a subregion of the Baltic Sea and the Gulf of Aqaba is a subregion of the Red Sea.

The Atlantic and Pacific basins are sometimes subdivided into regions, such as the Northwest and the Northeast Atlantic, and the Southeast Pacific.

It must be remembered, however, that while some marine regions, for example the Baltic, Black, Red and Mediterranean Seas, are more distinguishable than others, **any marine regional unit is only a perceptual concept** created by selecting certain features relevant to a certain issue.

The **second** connotation adopts a "functional" approach which may or may not conform to the limits of a physical marine region. The functional marine region is defined in terms of an identifiable management problem, such as water pollution control, which can be handled as a **discrete issue by the coastal nations**.

The **third** connotation is the "institutional" or "operational" region, a site of one or more formal arrangements set up by international agreement to handle a certain management problem or problems. **The vulnerable semi-enclosed Baltic Sea**, for example, is a pioneering operational region and is the site of two arrangements: one on the conservation of the living resources and the other on the protection of the marine environment.

The framers of a regional operational arrangement must confront the spatial dimension of their region in a **realistic fashion**.

They must take into account both the **nature of the regional problem** and the interests and **possible contribution of each potential member** of the arrangement.

Whether the region should include **not only the littoral states but also non-littoral up-river states** as well as states which contribute air-borne pollutants is an important question.

For example, **should landlocked Czechoslovakia and Switzerland participate in the Baltic and North Seas marine environment arrangements?**

Should Portugal be a party to the Mediterranean Action Plan or the Bahamas to the environmental project for the Caribbean?

Questions of this kind, involving positive and negative inputs of the "regional" states, must be **carefully thought through** by the initiators of the regional action.

They must **balance legitimate interests** of all potential members of the arrangement with the need to provide for an **effective**, non-exclusive but **manageable joint mechanism** for achieving the objectives of the operational regional unit.

The **States of a marine region** which initiate an arrangement for the protection of the marine environment of their region must be aware of the **strengths and weaknesses of their program**.

They must **assess the reasonableness of their objectives**, both as stated in the **formalized agreement** and as **perceived by the parties** over time.

Several other concerns confront **evolving regional systems**, especially those involving developing countries.

First, once the international organization which initially **funded** the arrangement has **ceased its support**, alternative financial resources must be in place;

Second, threats to the arrangement's effectiveness, such as **competition for leadership** in the region, political or ideological conflicts and uneven enthusiasm among the participants may be present.

In terms of a regional system's ability to protect the marine environment, success depends very much on the coastal states' **perception of the gravity** of environmental deterioration in their region.

The **perception must be strong enough** to transcend any differences that may otherwise divide them.

The chances of success are reinforced further if all or most of the littoral states are **linked by other integrative forces** such as the European Economic Community (EEC) or the Council of Europe, or the ethnic and religious ties of the Arab League which bind almost all the countries of the Red Sea and Gulf of Aden action plan.

Regional Action on Vessel-Based Pollution?

Although the regional approach has vast appeal in the management of the ocean environment, it may give rise to problems in international law, especially insofar as **vessel-source pollution** is concerned. As already noted, this type of pollution requires a **global** rather than regional approach.

However, if states of several marine regions establish **regional pollution standards** for vessels entering their **internal waters** or even passing their **territorial sea** or **Exclusive Economic Zone (EEZ)**, foreign ships may be subjected to **unpredictable harassment** as they ply different regions of the oceans. Multiplicity of pollution regulations may also cause transregional pollution damage.

Moreover, an **extra-regional state** may **argue** that the regional pollution regulations **unreasonably interfere** with its **freedom of navigation** in the EEZ or in the exercise of its right of **innocent passage** and therefore are unenforceable against its vessels.

The matter would be even more controversial if, through a uniform regional or subregional policy, a coastal state were to enforce **special port entry requirements** governing the design, construction, manning and equipment of extra-regional vessels, which are subject to lesser anti-pollution standards in their home regions.

The need to protect the marine environment against the adverse effects of tanker disasters, however, is likely to cause states to adopt regional or subregional regulations establishing a special regime for the marine region, even though such regulations involve potential conflict with states from outside the region.

Regional Legal Framework Overview

Background

- By the early 1970s, the world became increasingly aware of environmental issues and as a consequence, environmental concerns were also increasing. There was also a general feeling that pollution, in particular marine pollution, should be tackled at an international level.
- This global concern culminated in the organization of the [United Nations Conference on the Human Environment in Stockholm in 1972](#).
- Of particular relevance to the issue of [international cooperation and mutual assistance to combat marine pollution](#), was the recommendation for governments [to take early action](#) to adopt **‘effective national measures for the control of all significant sources of marine pollution and concentrate and coordinate their actions regionally and where appropriate on a wider international basis’**.

Regional Seas Programme

- A **direct result** of the Stockholm Conference was the December 1972 decision of the United Nations General Assembly to **establish**, in **1973**, the **United Nations Environment Programme (UNEP)**.
- The Governing Council of UNEP subsequently **identified ‘Oceans’ as one of its priority areas** in which efforts would be focused and activities developed.
- The UNEP Governing Council also **endorsed a regional approach** to the control of marine pollution and management of marine coastal resources and requested that regional action plans be developed.
- As a consequence, UNEP’s **Regional Seas Programme** was initiated in **1974**.

- The Regional Seas Programme (RSP) aims to address the **accelerating degradation of the world's oceans and coastal areas** through the **sustainable management and use of the marine and coastal environment**, by engaging neighboring countries in comprehensive and specific actions to protect their shared marine environment.
- It has accomplished this by stimulating the creation of Regional Seas Programmers' sound environmental management, to be coordinated and implemented by countries **sharing a common body of water**.
- The major objective of the setting up of the RSP was to **promote regional marine pollution control programmes** in areas that, for geographical, ecological, or political reasons, were perceived to have common elements and interest.
- The programme **has steadily grown** and today **covers eighteen regions** of the world, representing **virtually all the world's oceans and seas**.

The following **six of the individual RSPs** are **directly administered** by the **UNEP Division of Environmental Policy Implementation** (DEPI), meaning that UNEP has been given responsibility for secretariat functions, usually through a Regional Coordinating Unit established in the region.

The six RSPs are as follows:

- Mediterranean Region
- Caribbean Region
- Eastern Africa Region
- Western Africa Region
- East Asian Seas
- Northwest Pacific Region

For these RSPs, **UNEP** is also accountable for **administering the Trust Funds** and provides financial and budgetary services, as well as technical backstopping and advice, and hence is more closely and directly involved in all their projects and activities.

For the following **Non-UNEP administered RSPs**, **other independent (regional) organizations** host and/or provide the Secretariat function:

- Black Sea Region
- ROPME Sea Area
- Red Sea and Gulf of Aden
- South-East Pacific Region
- Pacific Region
- North-East Pacific Region
- South Asian Seas

In these cases, their financial and budgetary services (**Trust Funds**) are managed by the **programmes themselves**.

However, the regional activities continue to form a part of the global RSP, which in turn continues to act as a platform for cooperation and coordination.

The role of the **global RSP** is to **enhance linkages**, coordination, and synergies within and amongst global, regional, and partner programmes, organizations, and actors.

In return, the **regional programmes** support the **implementation** of the global RS strategic directions, and report regularly on progress.

The approach taken in developing UNEP's **RSP is an action plan** tailored to the **needs and priorities of a region**, but it can also be applied to other regions.

In most cases the **Action Plan is underpinned by a legal framework, in the form of a regional Convention and associated Protocols on specific problems.**

Implementation should be **tailored to the regional and local specificities**

- The holistic approach defined by UNEP addresses all sources of pollution affecting the marine environment.
- Consequently, all programmes reflect a similar approach, yet each has been tailored by its own governments and institutions to suit their particular environmental challenges.

A regional **Sea Programme Action Plan** is built on **five interdependent components**:

1. An environmental assessment: The state of the marine environment is monitored through a continuous coordinated pollution research programme and exchange of information to identify the problems that need priority attention in the region.

2. **An environmental management component**, involving integrated planning of activities related to developing and managing coastal areas, aimed at controlling and preventing pollution.
3. **A legal component** consisting of an umbrella convention embodying the general commitments of the Parties to the Convention, supported by technical and specific Protocols dealing with specific issues such as: land based pollution; preparedness and response to accidental marine pollution; dumping, and seabed activities, all of which are aimed at strengthening cooperation among States in managing the regional pollution problems identified and committing the States to an active programme.
4. **An institutional component**, consisting of regular meetings of Contracting Parties to the regional convention, which provides an intergovernmental forum for consultation and decision-making and a regional coordinating mechanism consisting of a Regional Coordinating Unit and/or Regional Activity Centres that service specific programmes and act as a secretariat for the Action Plan or parts of it.
5. **A financial instrument** that underpins the other four parts and ensures the financing for the implementation of the Action Plan.

The **UNEP's Regional Seas Branch** based at the Nairobi Headquarters provides the **oversight of the RSPs**.

Regional Coordination Units (RCUs), often aided by **Regional Activity Centres** (RACs), oversee the implementation of the programmes and aspects of the **regional Action Plans**, such as marine emergencies, information management, and pollution monitoring.

As the United Nations' specialized agency concerned with the prevention of pollution from ships, the **IMO** plays an **important contributory role** in UNEP's RSP.

Some regions where action plans and conventions have or are being **developed** are set out below in Table below.

Region	Convention and Action Plan	Adoption
The Baltic Region	Helsinki Convention	1974
	HELCOM Baltic Sea Action Plan	2007
The Mediterranean	Barcelona Convention	1975
The ROPME Area	Kuwait Convention	1978

Regional Seas Programmes administered by UNEP

Mediterranean Sea

Following the establishment of the UNEP Regional Seas Programme in 1974, the Mediterranean became the first region to adopt a Regional Action Plan ([Mediterranean Action Plan](#) (MAP)) in 1975.

This was quickly followed by the adoption of the [Convention for the Protection of the Mediterranean Sea against Pollution \(Barcelona Convention\)](#) in 1976, which entered into force in 1978, and a succession of seven landmark Protocols.

The Barcelona Convention was adopted together with **two specific Protocols**:

–The [1976 Protocol](#) for the Prevention of Pollution of the Mediterranean Sea by **Dumping from Ships and Aircraft**, which was amended in 1995. It became known as The Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea (Dumping Protocol); and

–The [1976 Protocol](#) concerning Co-operation in Combating Pollution of the Mediterranean Sea by **Oil and other Harmful Substances in Cases of Emergency** (Emergency Protocol) in force since 12 February 1978. The 1976 Protocol was replaced by the Protocol concerning Co-operation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol) to include the prevention of pollution by ships, it was adopted in 2002 and entered into force on 17 March 2004.

The MAP legal framework was enriched over the years with **five additional Protocols** addressing specific aspects of Mediterranean environmental conservation as follows:

–The Protocol for the Protection of the Mediterranean Sea Against Pollution from **Land-based Sources**, adopted in 1980, and amended in 1996 and now known as The Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources and Activities (LBS Protocol), in force since 11 May 2008;

–The Protocol Concerning Mediterranean Specially Protected Areas (SPA Protocol), adopted in 1982, and replaced by the Protocol concerning **Specially Protected Areas and Biological Diversity** in the Mediterranean (SPA and Biodiversity Protocol), adopted in 1995 and in force since 12 December 1999;

–The Protocol on the Prevention of Pollution of the Mediterranean Sea by **Transboundary Movements of Hazardous Wastes and their Disposal** (Hazardous Wastes Protocol), adopted in 1996 and in force since 18 January 2008;

–The Protocol for the Protection of the Mediterranean Sea Against Pollution Resulting from **Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil** (Offshore Protocol), adopted in 1994, in force since 23 March 2011;

–The Protocol on **Integrated Coastal Zone Management** (ICZM Protocol), adopted in 2008 and in force since 24 March 2011.

The introduction of the concept of [sustainable development](#) with the approach of the Rio Conference in 1992 led the Member States of the Barcelona Convention to draw up an Agenda 21 for the Mediterranean.

This concept, adapted to the Mediterranean context, forms an integral part of the objectives of the MAP.

In June [1995](#), the [Mediterranean Action Plan](#), which was adopted in 1975, was [replaced](#) by the [Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas of the Mediterranean](#) (renamed MAP Phase II).

The legal instruments were updated to reflect and ensure coherence with the progress made in international environmental law, and are set forth in Table 7.2.

The wider Caribbean region

The Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region, also called the [Cartagena Convention](#), was adopted in Cartagena, Colombia, on 24 March [1983](#) and entered into force on 11 October 1986, for the **implementation** of the [Action Plan for the Caribbean Environment Programme](#) (CEP).

The Convention is supplemented by [three Protocols](#):

- Protocol Concerning Co-operation in [Combating Oil Spills](#) in the Wider Caribbean Region which was also adopted in 1983 and entered into force on 11 October 1986.
- Protocol Concerning [Specially Protected Areas and Wildlife](#) (SPAW) in the Wider Caribbean Region which was adopted on 18 January 1990. The Protocol entered into force on 18 June 2000.
- Protocol Concerning Pollution from [Land-Based Sources and Activities](#) which was adopted on 6 October 1999 and entered into force on 13 August 2010.

The [Assessment and Management of Environmental Pollution \(AMEP\) Sub-Programme](#) of the Caribbean Environment Programme coordinates activities related to the Protocol Concerning Cooperation in Combating Oil Spills in collaboration with the [Regional Marine Pollution Emergency, Information and Training Centre \(REMPEITC-Caribe\)](#), the regional activity centre, established under the Cartagena Convention to address issues related to oil pollution and response.

The Centre was established in Curaçao in [1995](#) within the framework of the Caribbean Environmental Programme and has been supported by the host Government (Netherlands Antilles and from 2011, Curaçao), as well as continuous secondments from United States and from France and temporary secondments from the Netherlands and Venezuela. Additional financial support for projects and activities has been provided by the IMO and UNEP-CAR/RCU.

REMPEITC-Caribe developed two Regional oil pollution contingency plans, the Caribbean Island OPRC Plan and the Central America OPRC Plan.

The Eastern Africa region

The Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region held at UNEP headquarters in Nairobi from 17 to 21 June 1985, adopted the Final Act of the conference, which included:

- Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region ([Nairobi Convention](#)).
- Protocol Concerning Co-operation in [Combating Marine Pollution in Cases of Emergency](#) in the Eastern African Region, and
- Protocol Concerning [Protected Areas and Wild Fauna and Flora](#) in the Eastern African Region.

The 1985 Convention and its Protocols entered into force on 30 May 1996.

The Conference of Plenipotentiaries and the Sixth Conference of Parties to the Nairobi Convention, which took place at the United Nations Environment Programme (UNEP) Offices at Gigiri in Nairobi Kenya, adopted on 31 March 2010:

- Amended Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean, and
- Protocol for the Protection of the Marine and Coastal Environment of the Western Indian Ocean from Land-Based Sources and Activities.

West and Central Africa region

The Conference of Plenipotentiaries on Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region held in Abidjan, in March 1981 adopted the Action plan for the West and Central African Region as well as:

- The Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region known as the ‘[Abidjan Convention](#)’, and
- The Protocol concerning Co-operation in [combating pollution in cases of emergency](#).

Important Regional Frameworks

The [1969 Bonn Agreement](#) for cooperation in dealing with accidental oil pollution of the North Sea became the first foundation of a composite structure of the North Sea's environmental protection by its coastal states. It was basically a regional response to the need for cooperation so dramatically revealed by the Torrey Canyon disaster of 1967. This agreement and similar subregional agreements mentioned below focus on combating pollution produced by accidental oil spills which, unlike operational spills, are suited for regional rather than global action.

The next stage in building a regional system of protecting the Northeast Atlantic was the [1972 Oslo Convention](#) concluded by 11 states of that region. This Convention deals with pollution caused by dumping. It is this regional regulation that served as a model for the global convention of the same year.

The Convention for the Prevention of Marine Pollution from Land Based Sources, signed in [Paris in 1974](#), was the next step. This convention is a novelty both because the European Economic Community (EEC) is a party to it and because it is open for accession to the non-coastal, riparian states of the rivers flowing into the Northeast Atlantic marine region (Austria, Czechoslovakia, German Democratic Republic, Luxemburg, and Switzerland). This region is also covered by the first ever Convention on airborne pollution, concluded in 1979 under the auspices of the United Nations Economic Commission for Europe.

Furthermore, civil liability for oil pollution damage resulting from the exploration and exploitation of oil in the Northeast Atlantic region is regulated by the [1976 London Convention](#).

Finally, 14 states of Western Europe concluded an agreement in 1982 designed to harmonize and improve the control of the port state in implementing agreements on maritime safety and protection of the marine environment.

Piecemeal approaches to marine pollution also include numerous bilateral and subregional agreements mainly concerning accidental vessel source pollution in the North Atlantic and Mediterranean areas: the 1971 Agreement among Denmark, Finland, Norway, and Sweden on cooperation in taking measures against pollution of the sea by oil; the Franco Spanish Agreement of 1975 on Oceanographic Cooperation; the Interim Canada-Denmark marine pollution plan of 1977 (pollution from offshore seabed activities); the United States-Canada Agreement on contingency plans for spills of oil and other noxious substances (1974); the United States-Mexican Agreement of 1980;ss the Denmark-Sweden Agreement on the protection of the Sund of 1974; the France-Italy- Monaco Agreement of 1976; and the Italo-Yugoslav Agreement of 1976 on the protection of the Adriatic. Finally, four Nordic countries (three of them on the Baltic littoral and parties to the Baltic arrangement) cooperate in the preservation of their environment, including the marine environment (but excluding vessel-source pollution), under the Nordic Stockholm Convention of 1974.

Umbrella Convention

Under the framework approach the coastal states of a semi-enclosed sea adopt a framework or "umbrella" convention, spelling out general principles to govern control of various types of pollution and the organizational structure of the arrangement. Detailed rules covering specific sources of pollution are left to special protocols and technical annexes which, in principle, constitute individual agreements.

This system was first adopted (after some coastal states' initial failure to approach the problem by the piecemeal method) by the states of the Mediterranean littoral under the Mediterranean Action Plan in 1976.

The Mediterranean Action Plan served as a **model for other regional seas programs**. Its framework approach has been adopted, first, by the states bordering the Persian (Arabian) Gulf and the Gulf of Oman. A conference, held in Kuwait in 1978 under the auspices of UNEP, adopted a framework Convention and a Protocol on cooperation in combating pollution by oil and other harmful substances in cases of emergency.

The [Kuwait Action Plan follows](#), in general, the pattern of the Mediterranean arrangement, but it establishes a special regional organization for the protection of the marine environment.

Other framework action plans, already initiated, include the Action Plan for West and Central African Region (Gulf of Guinea), adopted by the Conference of Abidjan in 1981," and the Red Sea and Gulf of Aden Plan, coordinated by the Arab League Educational, Cultural and Scientific Organization (ALECSO).

The Gulf of Aden Plan, initiated in Jeddah in 1976, was finally adopted in 1982. It is interesting to note that UNEP acts here only in an advisory role because the Arab coastal states (except Egypt) refused to permit Israel to participate.

Both Plans follow the framework approach with interrelated protocols similar to those of the Kuwait Action Plan.

Another plan for the protection of semi-enclosed seas is the [Action Plan for the Caribbean and the Gulf of Mexico](#) (1981).

The Baltic Sea stands out as a unique marine operational region. Set up by the [1974 Helsinki Conference](#) of the seven Baltic states (Denmark, Finland, East and West Germanys, Poland, Sweden, and the Soviet Union), the Baltic arrangement represents the only comprehensive regional approach to the protection of the marine environment from pollution of all sources.

It is also notable in that the agreement incorporates in an annex, virtually unchanged, the rules of the International Convention for the Prevention of Pollution from Ships of 1973 (MARPOL) on vessel-source pollution, which would otherwise have been binding for the Baltic states only as of October 2, 1983.

The Baltic arrangement, which incidentally complements the Convention on Fishing and Conservation of the Living Resources of the Baltic Sea and the Belts, is a remarkable example of international cooperation among states situated in the same marine region but divided by ideology and different foreign policy orientations.

Bodies outside the UN System

Regional organizations involved in the regional protection of the marine environment are the familiar "land-based" regional organizations, such as the EEC, Council of Europe, CMEA, Association of South East Asian Nations (ASEAN), Organization of African Unity (OAU) and the Arab League.

Some of these organizations have played an important role in formulating regional principles of the law of the sea.

The EEC is a party to regional marine environment conventions and issues environmental regulations which are binding upon its members.

One problem to be explored is whether and to what extent such "land-based" regional organizations which link the nations of one region by economic, political, ideological, cultural or ethnic ties strengthen, in a "spill-over" effect, the unifying forces of a marine regional arrangement.

UNCLOS

Preservation of the marine environment was one of the major issues before the Third United Nations Conference on the Law of the Sea (UNCLOS). The relevant environmental protection provisions of the UNCLOS Convention form part XII of the Convention.

Since the UNCLOS Convention more or less authoritatively reflects international consensus and current trends in the law of the sea, it is of interest to inquire into its **position vis-à-vis the global and regional approaches** to the preservation of the marine environment.

The UNCLOS Convention is the first global attempt at a comprehensive, though general, regime adopted to deal with pollution from all sources, although it does place much emphasis on vessel-source pollution. Its provisions bind the parties without prejudice to their specific obligations assumed under other conventions’

These obligations, however, must be carried out in a manner consistent with the general principles of the UNCLOS Convention.

While imposing upon states the obligation to protect and preserve the marine environment and take all necessary unilateral and joint measures to prevent, reduce and control pollution, the UNCLOS Convention does not show any special preference for a global or regional approach.

On the contrary, both are explicitly endorsed in a special section on "Global and Regional Cooperation" of Part XII and in numerous references to global and regional cooperation and international organizations at both global and regional levels."

The UNCLOS Convention provides that **"States shall co-operate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations.. taking into account characteristic regional features."**

While making references to "regional" and "subregional" cooperation and organizations, the UNCLOS Convention fails to provide definitions of "region" and "subregion" for purposes of marine regionalism.

However, as quoted above, the Convention defines the "enclosed or semi enclosed sea" in Part XI, which governs this type of marine region.

States bordering such a sea "**should cooperate with each other** ... [and] shall endeavour, directly or through an appropriate international organization to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment."

This is one of the many explicit references to international organizations, global or regional, in the provisions dealing with the preservation of the marine environment.

However, as a rule, the use of these mechanisms is not mandatory.

For example, in combating pollution from land-based sources and from sea bed activity on the continental shelf, states shall only "endeavour" to harmonize their national policies at the appropriate regional level.

It is also significant that states bordering a semi-enclosed sea are under no obligation to coordinate the implementation of their rights and duties; they **shall only "endeavour" to coordinate them.**

Using this language, the UNCLOS Convention avoids imposing a regional regime upon coastal states which for various reasons would not be willing to join it.

The tasks assigned to competent international organizations largely involve cooperation, promotion of research, dissemination of information and extending scientific and technical assistance to less developed countries.

Insofar as standards for combating pollution are concerned, the UNCLOS Convention calls upon states "acting especially through competent international organizations or diplomatic conference" to "endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution”

There are ample opportunities for regional cooperation under the UNCLOS Convention, but the **text lacks specificity and a mandatory nature**. References to the regional approach appear to be a favourite position to take in the face of otherwise difficult or unresolved issues.

Still, in practice much will depend on global and regional organizations' initiative in exploring opportunities existing in the references to their role in the text of the UNCLOS Convention.

In this respect there are special possibilities for IMO and UNEP to lead in the development of rules concerning vessel source pollution and pollution from land-based sources respectively.

The conclusions to be drawn concerning the position of the UNCLOS Convention are, first, that it basically confirms the international practice of the two-track, global and regional (and subregional) approach and, second, that the UNCLOS Convention endorses marine regionalism for reasons that are noted in this study.

The UNCLOS Convention does not provide any consistent and harmonizing framework for the control of marine pollution.

Rather it relies on the discretionary power of the parties to choose the best practicable approach in meeting their legal obligation to preserve the marine environment. The chances are, therefore, that regionalism will continue to be the best reasonable alternative to the global solution.

It is being strengthened by the otherwise prevailing trend among the developing countries toward regional and subregional cooperation and decentralization of the activities of the global international organizations in the name of regionalism proclaimed as an integral part of the New International Economic Order.

Conclusion and Recommendations

This survey of the international approaches to the protection and preservation of the marine environment allows the conclusion that **both global and regional approaches have been applied in states' practice.**

Regionalism serves as an intermediate method between the global regulation of marine pollution and the basically inadequate unilateral national approach. In addition to avoiding the high level of abstraction of global law, the regional approach, used either alone or as a complement of global action, is better suited to the specific environmental features and needs of a particular marine region.

In this way, both approaches coexist in international marine law and policy. Moreover, **some global conventions encourage regionalization of their provisions, and regional conventions, in turn, influence the contents of global agreements and other regional regulations.** Regional solution has proved particularly suitable in managing and controlling pollution in semi-enclosed seas. Insofar as the network of operational marine regions and global regulations is concerned, the situation depends on the type of pollution.

The coverage is perhaps more satisfactory in the area of dumping than in others because pollution from this source is being covered both by a global regime and some regional arrangements. Vessel-source pollution caused by operational discharges is regulated by the 1954 London Convention and, since October 1983, by the 1973 MARPOL Convention which provides for more stringent rules in "special areas" particularly vulnerable to oil pollution. Protection against accidental spills is now governed by numerous regional plans, mostly under the UNEP Regional Seas Programme.

As yet there are no global arrangements for the control of pollution resulting from offshore sea bed exploration and exploitation, pollution from land-based sources.

However, pollution hazards from offshore drilling in the Baltic region are covered by the operational arrangement of the comprehensive, regional Baltic Convention, which is independent of the United Nations system.

These hazards will also be dealt with in a special protocol under the Mediterranean Action Plan and similar plans of UNEP's Regional Seas Programme.

Pollution from land-based areas in the most vulnerable areas of the European waters (Northeast Atlantic, Baltic, Mediterranean) is now managed and controlled by regional regimes.

Finally, the UNCLOS Convention includes provisions comprehensively, but generally, regulating marine pollution from all sources.

Experience has shown that the choice of a global or regional solution depends primarily on the nature of the problem. Thus, pollution from vessels, as an essentially global problem, requires global action, especially in the case of the operational discharges.

Global action will also have to be undertaken to protect the ocean environment against pollution that may arise from sea bed mining.

Yet, states appear ready to engage in regional initiatives when unilateral action is obviously not sufficient and global regulation non-existent or inappropriate, when the challenge to their common marine environment has reached crisis proportions and when they perceive a realistic chance of coping with their challenge.

Despite gaps that still exist both in global and regional coverage of marine pollution, much progress has been made, especially at the regional level, over the last decade or so.

This positive development has been codified by the UNCLOS Convention of 1982.

Despite initial opposition on the part of some developing countries, the UNCLOS Convention endorses the dual-track approach and explicitly refers to global and regional solutions and organizations.

In conclusion, a number of policy recommendations, which are designed to improve the global and regional regimes of marine environmental protection, should be made.

First, for the sake of comprehensive treatment, pollution sources still unregulated by the global regime (pollution through and from the atmosphere and from offshore drilling) should be the subject of future arrangements. Regionally, UNEP should continue its Regional Seas Programme to cover the remaining semi-enclosed seas and vulnerable areas of ocean basins and international straits.

Second, the network of U.N. bodies involved in matters related to the preservation of the marine environment must be harmonized and better coordinated. Coordination between U.N.-sponsored activities and programs outside the U.N. system is also advisable. In the marine regions of North-western Europe, multiplicity of regional conventions also raises the problem of coordination with regard to overlapping jurisdictions and areas of activity. In order to eliminate overlapping and waste, the links between global agencies and regional systems must be solidified, and the cooperation among regional arrangements and programs within one regime must be furthered.

Third, successful continuation of regional programs, which are moving more into the regions of the Third World, depends to a large extent on technical and financial aid to the developing nations.

Finally, in the midst of the trend toward marine regionalism one must not lose sight of the global dimension of the human environment. As regionalism on land, regional management of the oceans cannot in the long run replace the global perspective. It can only try to maintain the right balance between the two approaches in an international system of interdependent nation-states.