



Arctic Fisheries and International Law

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Overview of this lecture

- International law of the sea
- International fisheries law
 - Introduction
 - Basic rights and duties of states
 - International legal framework
- International fisheries law and the Arctic
 - Introduction
 - RFMOs & Arrangements relevant to the Arctic marine area & the Arctic Ocean
 - Towards a regional agreement on Central Arctic Ocean fisheries
 - Fisheries regulation in coastal state maritime zones of the Arctic Ocean



International law of the sea

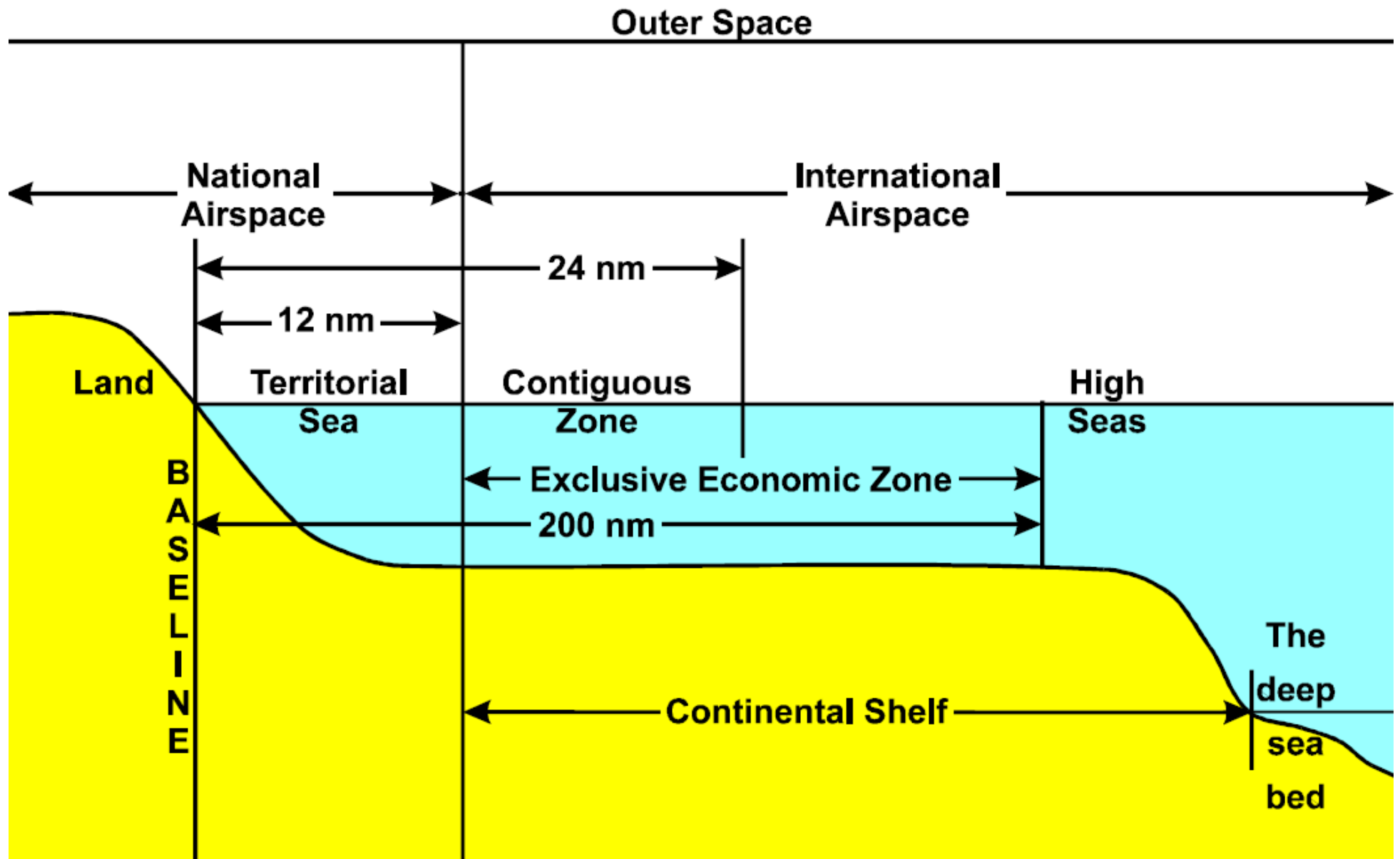
- Rights and obligations of states (esp. coastal and flag states) regarding the sea
- United Nations Convention on the Law of the Sea (LOS Convention)
 - Constitution of the Oceans
 - Negotiation between 1973-1982; in force 1994
 - 165 states and EU are party
 - Framework convention
 - General rights and obligations
 - Regulation of maritime activities by states individually or collectively (e.g. through international organizations)



International law of the sea (cont.)

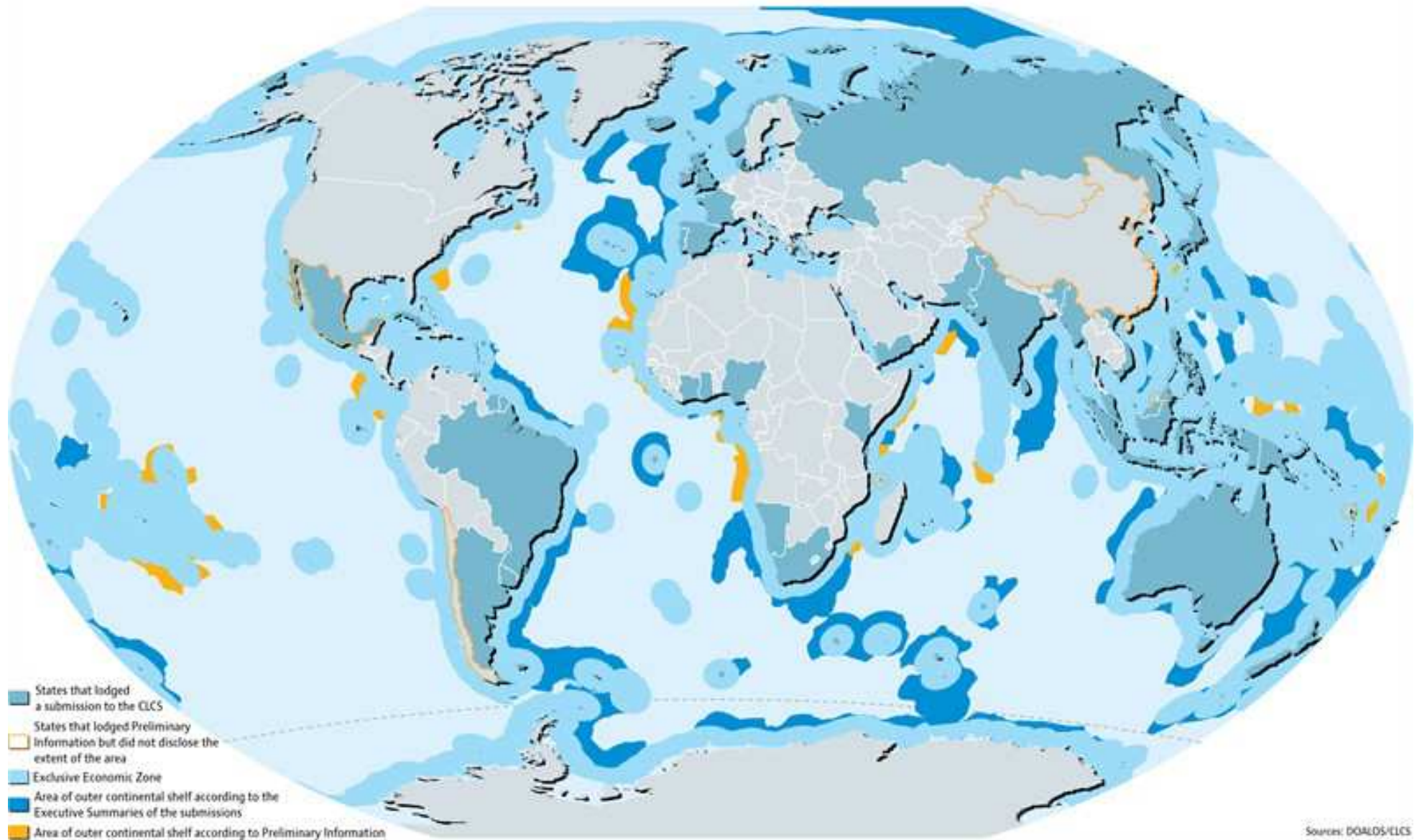
- Maritime zones
 - Within coastal state sovereignty (territory)
 - (Maritime) internal waters
 - Archipelagic waters
 - Territorial sea
 - Within coastal state's functional jurisdiction
 - Contiguous zone
 - Exclusive economic zone (EEZ)
 - (outer) continental shelf
 - Areas beyond national jurisdiction (ABNJ)
 - High seas → primacy of flag state jurisdiction
 - Area → competence of International Seabed Authority (ISA) over minerals

Maritime zones



Maritime zones

Global distribution of outer continental shelf





International fisheries law



Introduction

- Marine capture fisheries: not
 - Freshwater fisheries
 - Aquaculture
 - Marine mammals



Introduction (cont.)

- ‘Juridical’ categories of fish stocks
 - Discrete inshore fish stocks
 - Transboundary fish stocks
 - Shared or joint stocks (2 or more EEZs)
 - Straddling stocks (1 or more EEZ + high seas)
 - Highly migratory stocks (Annex I LOS Convention, e.g. tuna)
 - Anadromous (e.g. salmon)
 - Catadromous (e.g. eel)
 - Discrete high seas fish stocks



Basic rights and duties of states

- Rights
 - Coastal states: exclusive access to fish in:
 - Maritime zones under sovereignty (internal waters, archipelagic waters and territorial seas)
 - Maritime zones with sovereign rights (EEZ and continental shelf)
 - Flag states
 - Freedom of fishing on the high seas
 - Access to the surplus of the TAC in the EEZ through public (bilateral or multilateral) access agreement (optimum utilization)



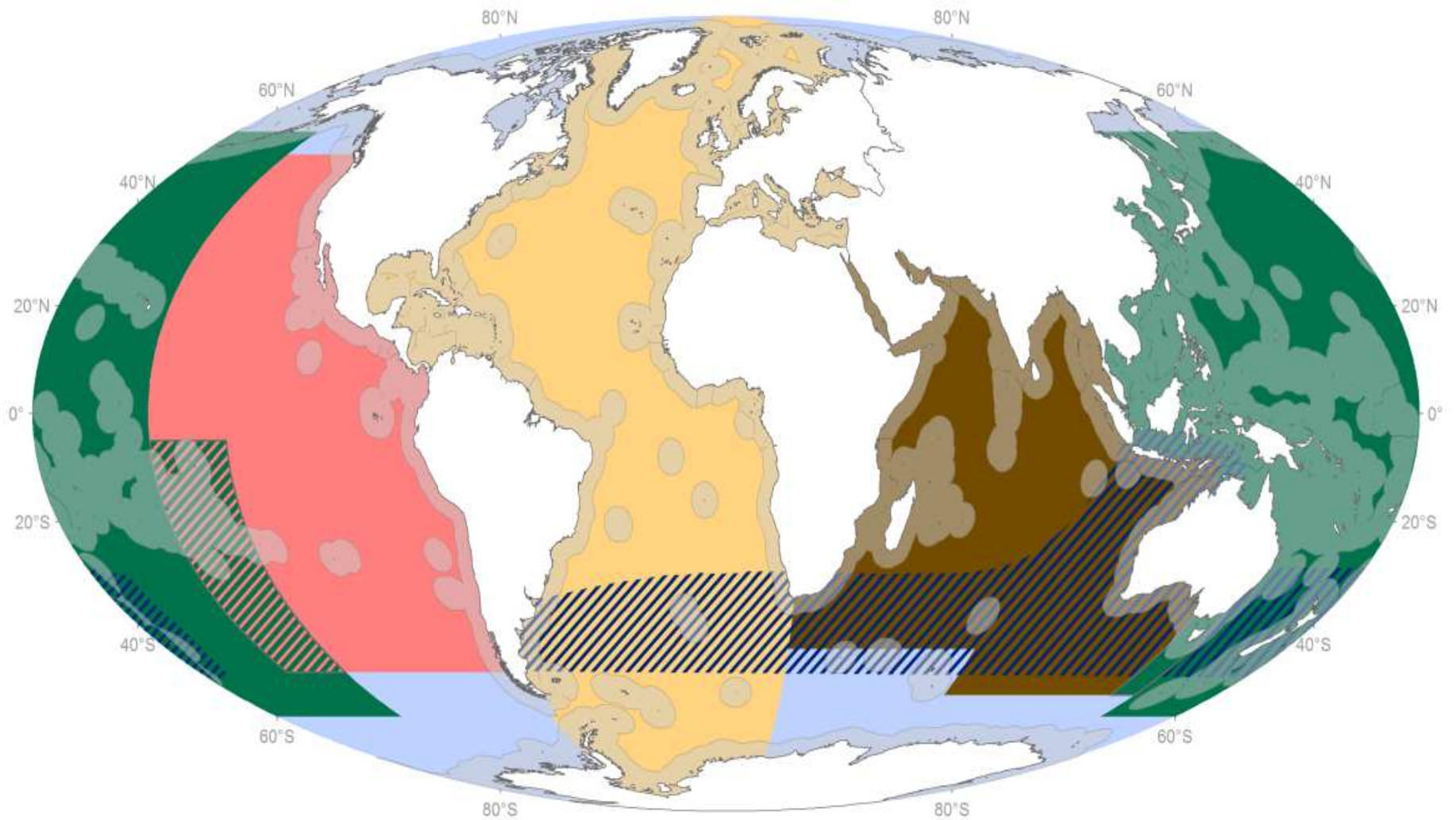
Basic rights and duties of states (cont.)

- Duties
 - Avoiding over-exploitation target species
 - *Science-based* TAC → MSY + precautionary approach
 - Striving for optimum utilization target species
 - Providing access to surplus TAC
 - Applying ecosystem approach to fisheries management (EAF)
 - E.g. by-catch and dependent species
 - Cooperating re transboundary and discrete high seas fish stocks
 - Exercising effective jurisdiction and control over own vessels



International legal framework

- Multiple levels: global, (sub-)regional and bilateral bodies and instruments
 - Global bodies and instruments commonly provide jurisdictional framework
 - LOS Convention, Fish Stocks Agreement, FAO treaties
 - Conservation of target & non-target species and habitats (e.g. CITES, CMS & CBD)
 - Actual fisheries regulation commonly by (sub-)regional and bilateral bodies and instruments
 - RFMOs and Arrangements
 - Bilateral arrangements (access and regulation)
 - Non-legally binding FAO instruments (e.g. Code of Conduct)



200nm limit

Tuna Regional Fisheries Management Organizations

Commission for the Conservation of Southern Bluefin Tuna

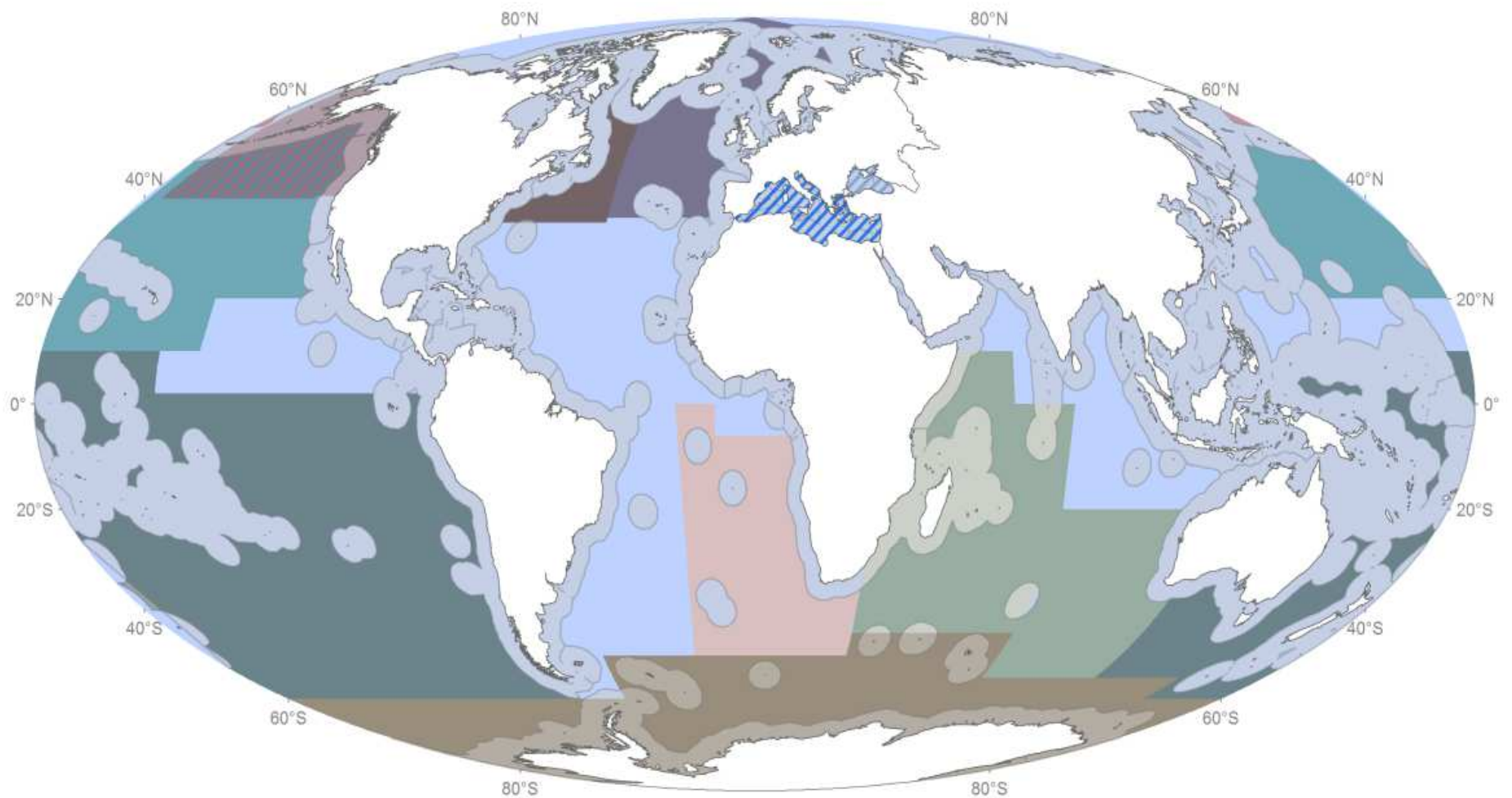
Inter-American Tropical Tuna Commission (IATTC)

International Convention for the Conservation of Atlantic Tunas (ICCAT)

Indian Ocean Tuna Commission (IOTC)

Western and Central Pacific Fisheries Commission (WCPFC)

Source: Ban et al. 00 *Conservation Letters* 1-14 (2013)



200nm limit

Non-Tuna Regional Fisheries Management Organizations

Conv. on Cons. of Antarctic Marine Living Resources

Conv. on Cons. & Mgmt of Pollock Resources in the Central Bering Sea

General Fisheries Council for the Mediterranean

International Pacific Halibut Commission

Northwest Atlantic Fisheries Organization (NAFO)

North East Atlantic Fisheries Commission (NEAFC)

North Pacific Anadromous Fish Commission

South East Atlantic Fisheries Organization (SEAFO)

South Indian Ocean Fisheries Agreement (SIOFA)

South Pacific Regional Fisheries Mgmt Org

Southwest Indian Ocean Fisheries Commission

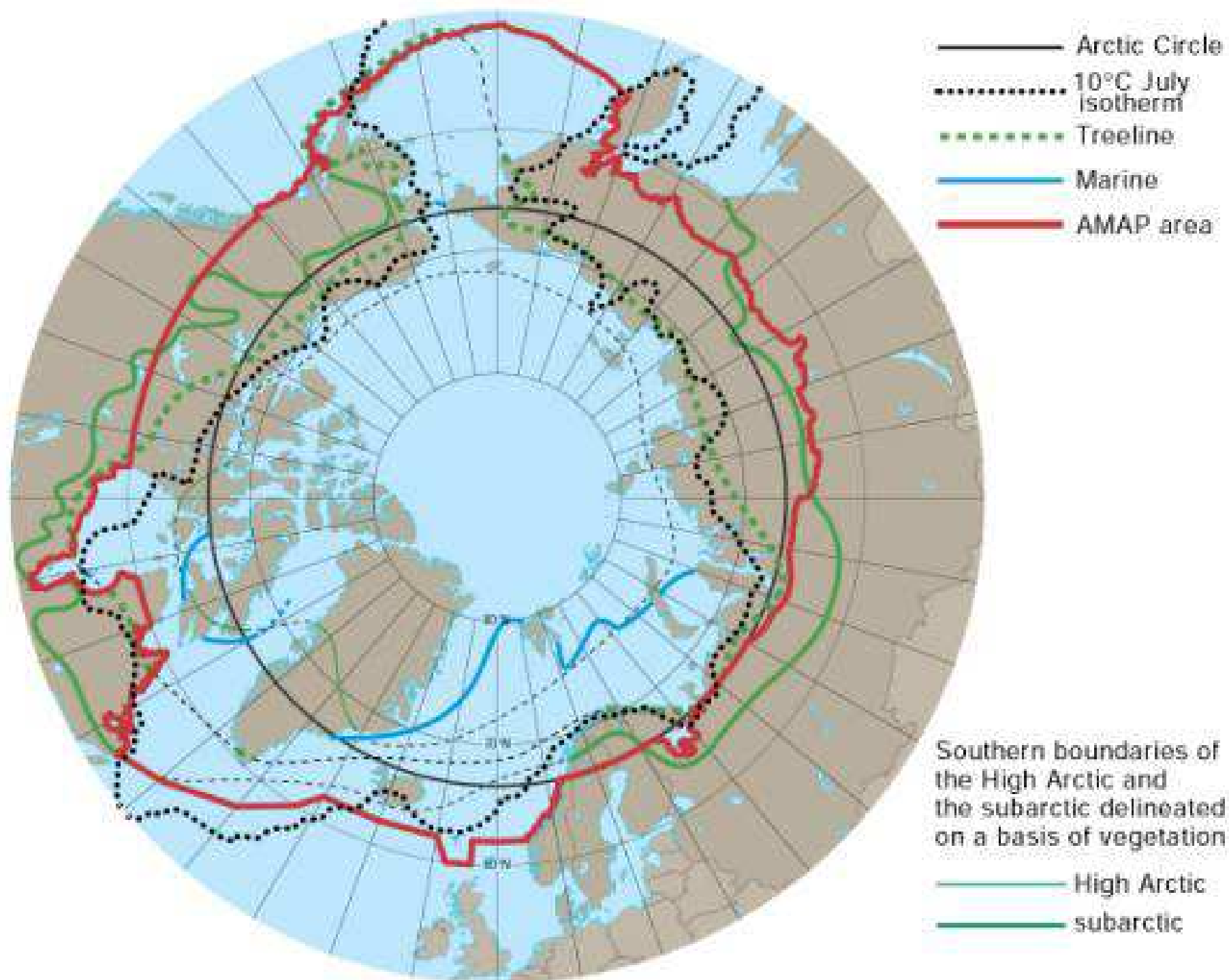


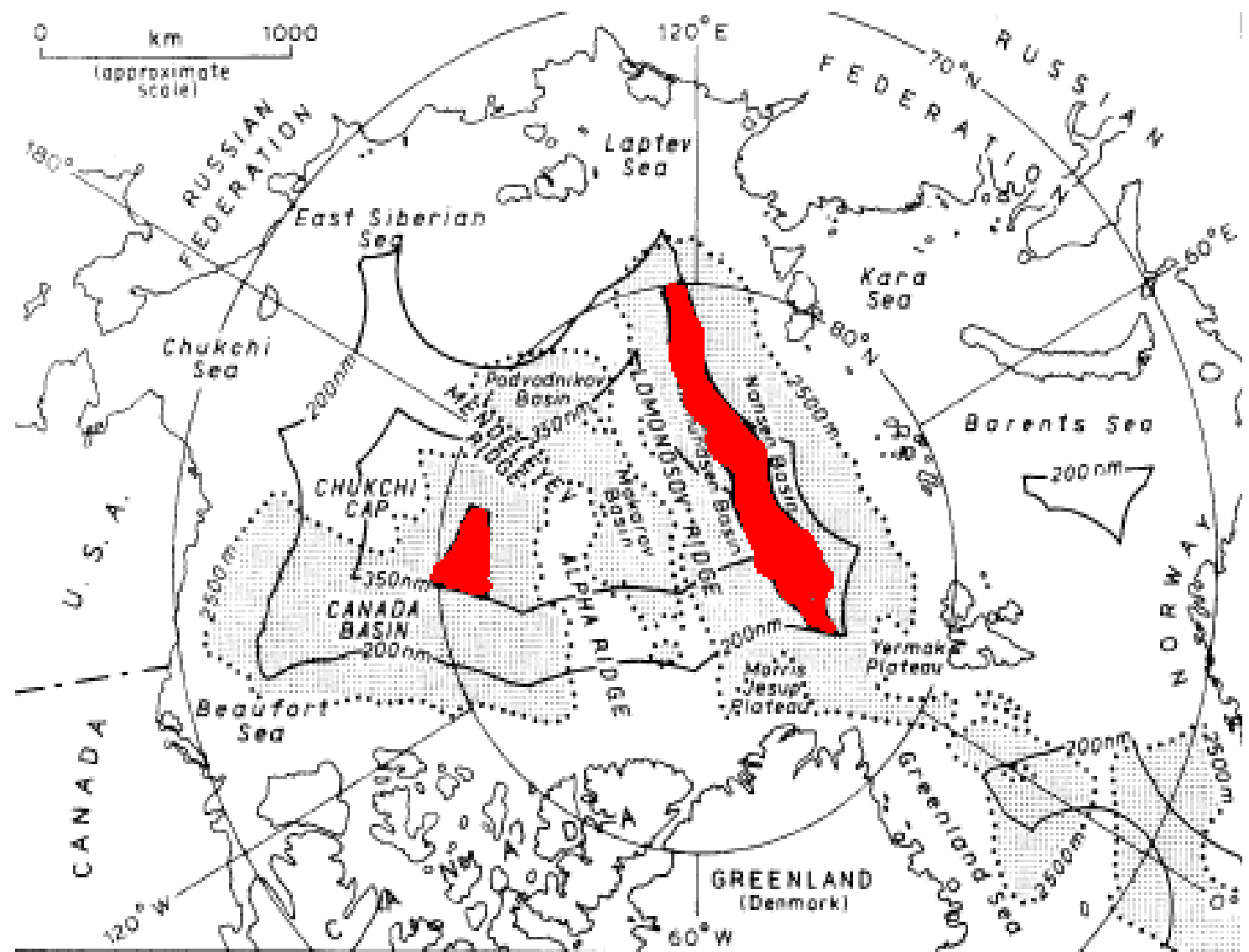
International fisheries law and the Arctic



Introduction

- Arctic marine area vs Arctic Ocean
 - Arctic Ocean << Arctic marine area
 - North of Bering Strait, Greenland, Svalbard & Franz Josef Land; not: Bering Sea and Barents Sea
 - Characteristics compared to more southerly areas:
 - Data, knowledge and insight in ecosystems limited
 - Currently no large-scale commercial fisheries and
 - in the high seas portion - no fisheries at all
 - High seas pockets: Central Arctic Ocean, Banana Hole, Loophole and Donut Hole
 - 1 or 2 pockets of the deep sea-bed (Area)
 - Five Arctic Ocean coastal states (Canada, Denmark/Greenland, Norway, Russian Federation and United States)







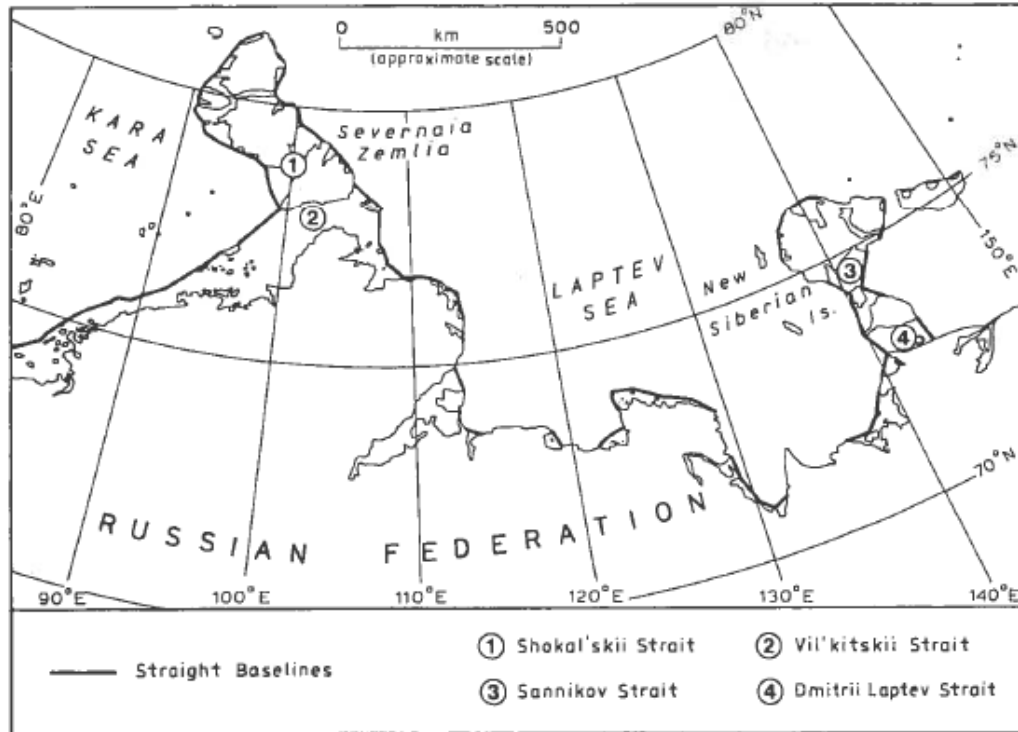
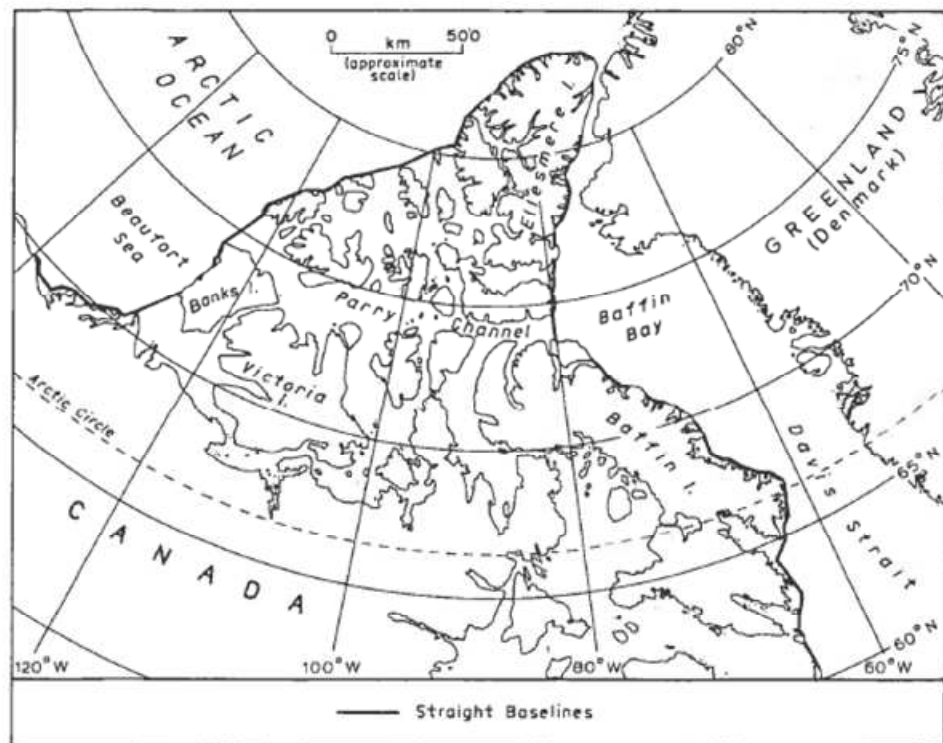
Introduction (cont.)

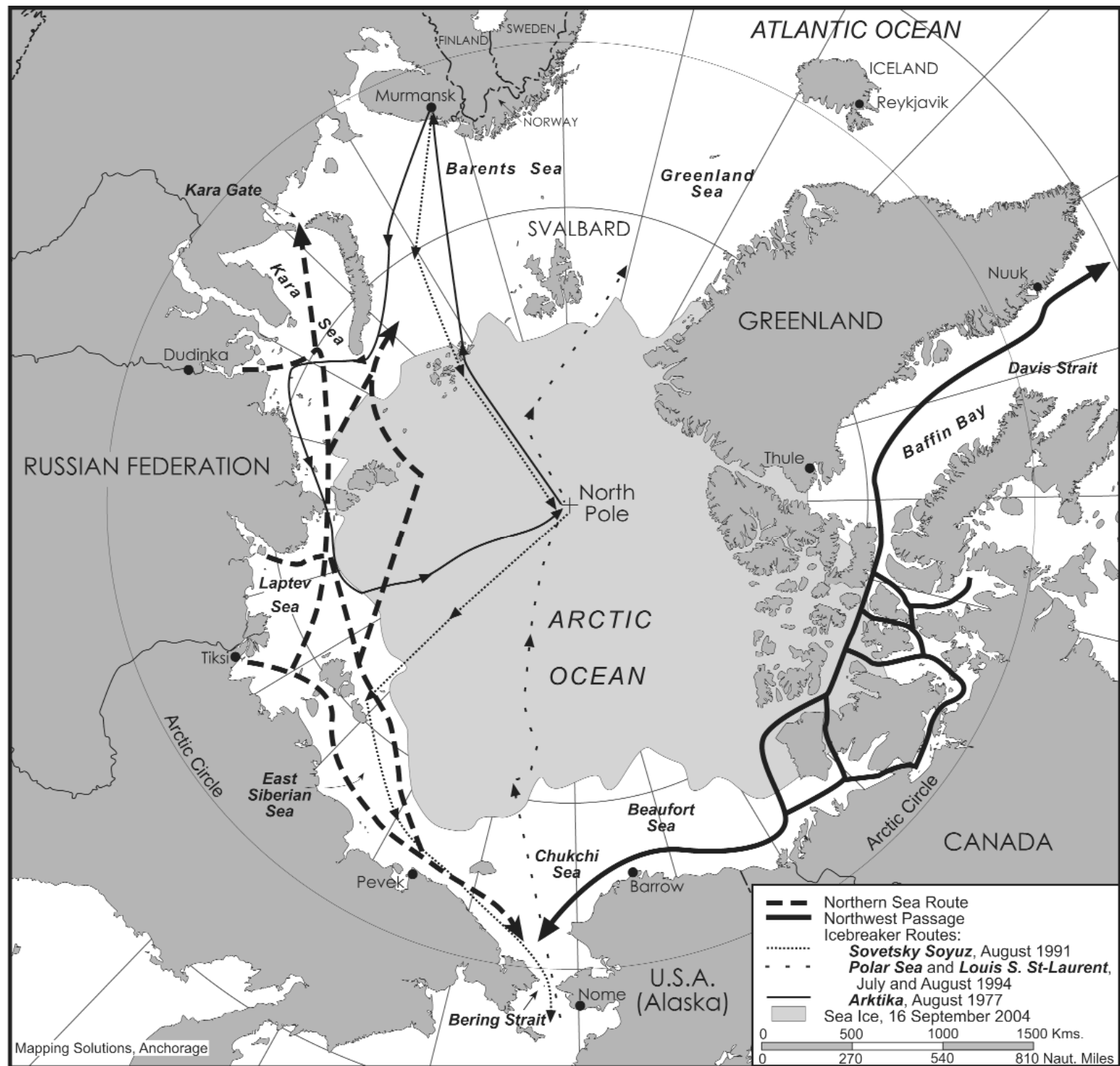
- No legal vacuum
 - All the global bodies and instruments on the law of the sea and international fisheries law apply to the Arctic marine area, however defined
- The international law regime relating to Antarctica is unique
 - Apart from Hans Island, no disputes on title to land territory in the Arctic
 - Maritime zones in Arctic Ocean comparable to any other ocean
 - Antarctic Treaty System is not an evident model for the Arctic

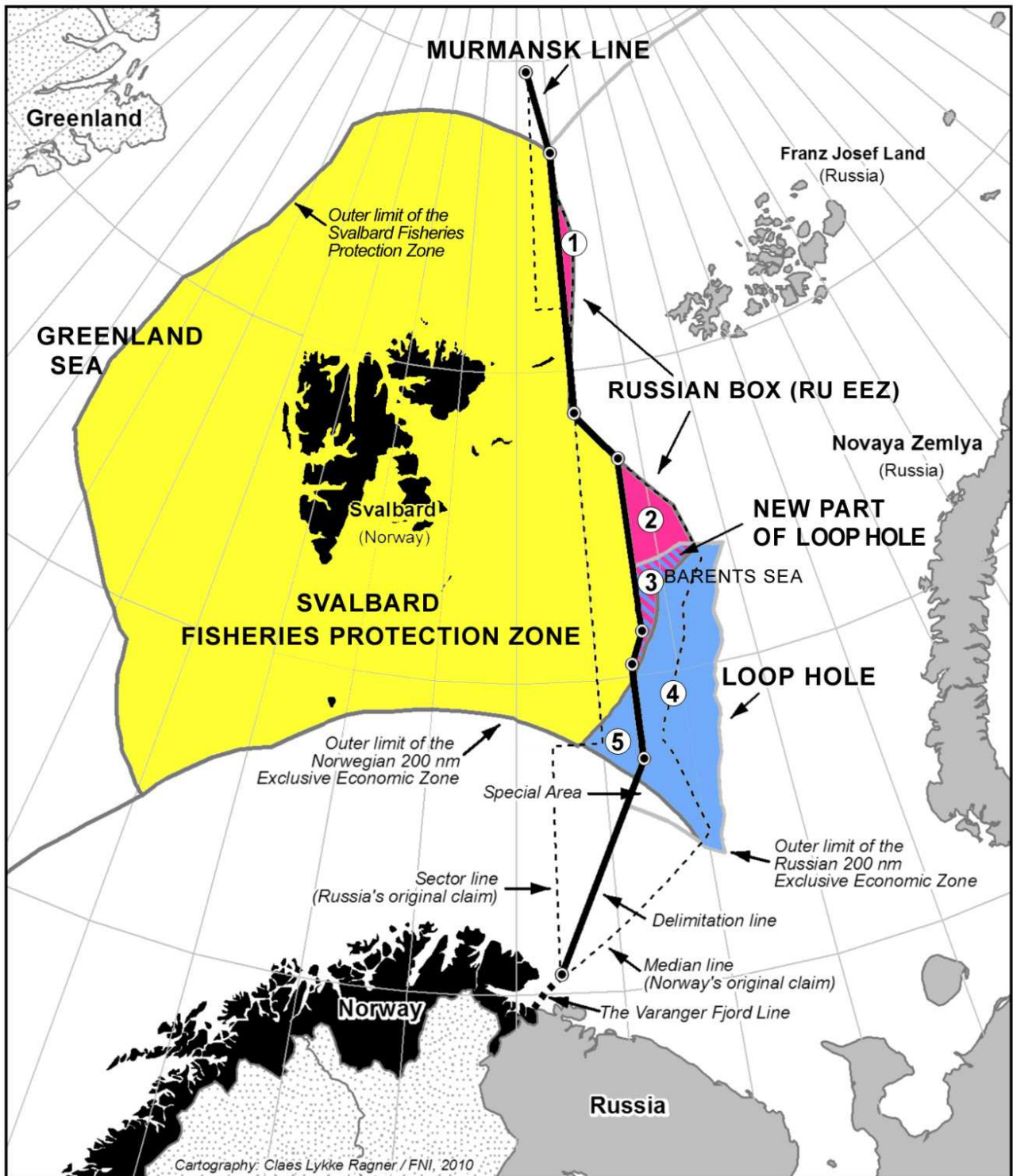


Introduction (cont.)

- Law of the sea disputes in the Arctic marine area
 - Straight baselines of Canada & Russian Federation
 - Claims to historic waters by Canada & Russian Federation
 - Status of Northwest Passage and Northern Sea Route
 - Geographical scope of application Treaty of Spitsbergen







RFMOs/As also relevant to Arctic marine area but not Arctic Ocean

- Central Bering Sea (CBS) Convention
- International Pacific Halibut Commission (IPHC)
- North Pacific Anadromous Fish Commission (NPAFC)
- Yukon River Panel to Pacific Salmon Treaty
- Intergovernmental Consultative Committee (ICC)
- Western and Central Pacific Fisheries Commission (WCPFC)
- Northwest Atlantic Fisheries Organization (NAFO)
- Loophole Agreement

RFMOs/As also (potentially) relevant to Arctic Ocean

- North-East Atlantic Fisheries Commission (NEAFC)
- Joint Norwegian-Russian Fisheries Commission
- North Atlantic Salmon Conservation Organization (NASCO)
- International Commission for the Conservation of Atlantic Tunas (ICCAT)



Towards a regional agreement on Central Arctic Ocean fisheries

- 2007: northward species expansion triggers precautionary action within United States
- 2007: Arctic Council not interested
- 2009: Arctic Ocean coastal states (except US) object to any role of United Nations General Assembly (UNGA)



Towards a regional agreement on Central Arctic Ocean fisheries (cont.)

- Arctic Ocean coastal state process
 - Policy/governance
 - Ministerial level
 - » Ilulissat (May 2008); no reference to fisheries
 - » Chelsea (March 2010)
 - Senior officials level
 - » Oslo (June 2010)
 - » Washington D.C. (April-May 2013)
 - » Nuuk (Feb 2014)
 - Science
 - Anchorage (June 2011)
 - Tromsø (Oct 2013)



Towards a regional agreement on Central Arctic Ocean fisheries (cont.)

- Arctic Ocean coastal state process (cont.)
 - Nuuk meeting
 - Agreement on interim measures to prevent unregulated fishing in **Central** Arctic Ocean
 - Arctic Ocean coastal States Ministerial Declaration (when?)
- Broader process
 - By invitation only: China, EU, Japan, Iceland and South Korea
 - First meeting late 2014 or early 2015 in Canada?
 - Not RFMO but possibly treaty (Arrangement)



Fisheries regulation in coastal state maritime zones of the Arctic Ocean

- Fish stocks expansion is likely to occur first in coastal state maritime zones
 - Consistent with the ecosystem approach & precautionary approach?
 - Compatibility with regulation in Central Arctic Ocean?
 - Gaps in cooperative arrangements between Arctic Ocean coastal states?



Thanks!

Questions?



International legal framework (cont.)

- 1982 UN Law of the Sea Convention (i.f. 1994)
- 1991 UNGA Resolution 46/215 on Large-scale pelagic drift-net fishing
- 1992 UNCED: CBD (i.f. 1993)
Rio Declaration
Agenda 21
- 1993 FAO Compliance Agreement (i.f. 2003)
- 1995 UN Fish Stocks Agreement (i.f. 2001)
FAO Code of Conduct on Responsible Fishing (+ Technical Guidelines)



International legal framework (cont.)

- 1999 IPOA for Reducing Incidental Catch of Seabirds in Longline Fisheries
IPOA on the Management of Fishing Capacity
IPOA on the Management and Conservation of Sharks
- 2001 IPOA on Illegal, Unreported and Unregulated (IUU) Fishing
- 2002 Johannesburg Plan of Implementation of the World Summit on Sustainable Development



International legal framework (cont.)

- 2005 FAO International Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries
- 2006 UNGA 'Fisheries' Resolution 61/105 (bottom fisheries)
- 2008 International Guidelines for the Management of Deep-sea Fisheries in the High Seas
- 2009 Guidelines to Reduce Sea Turtle Mortality in Fishing Operations
 Agreement on Port State Measures to Combat IUU Fishing (n.i.f.)



International legal framework (cont.)

- 2010 Recommendations on Global Record of Fishing Vessels
International Guidelines on Bycatch Management and Reduction of Discards
- 2012 Rio+20 Outcome Document 'The Future We Want'
- 2013 FAO Guidelines for Flag State Performance
- 2014 Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication