



Arctic Fishing

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Overview of presentation

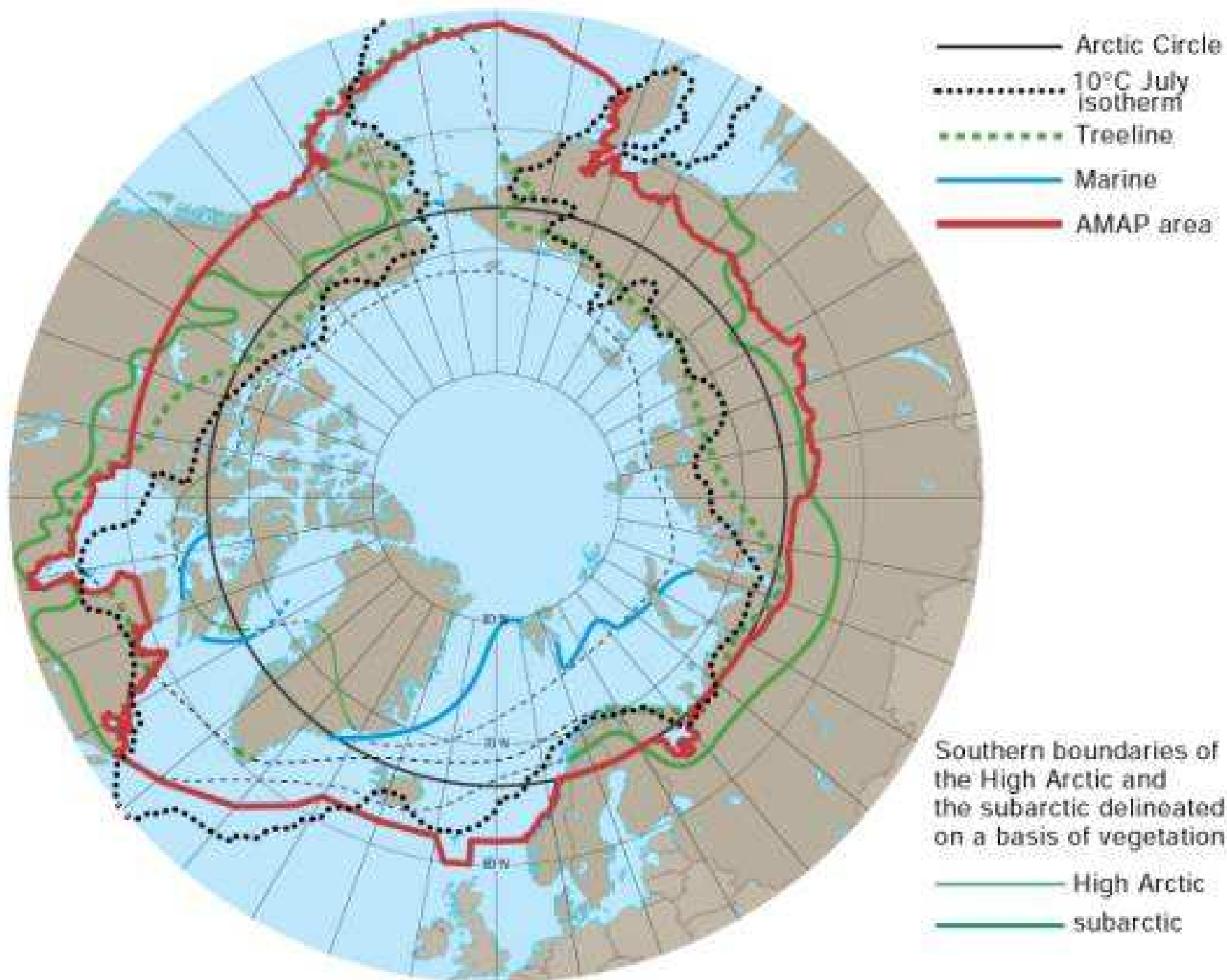
- Definitions
- Current fishing activities
- Trends
- Overview of international law on Arctic fisheries
- Disputes, gaps and challenges
 1. Geographical scope Spitsbergen Treaty
 2. Fisheries in the Loophole
 3. No RFMO/A (regional fisheries management organization/arrangement) for Central Arctic Ocean
 4. Inadequate rules and procedures for allocating fishing opportunities

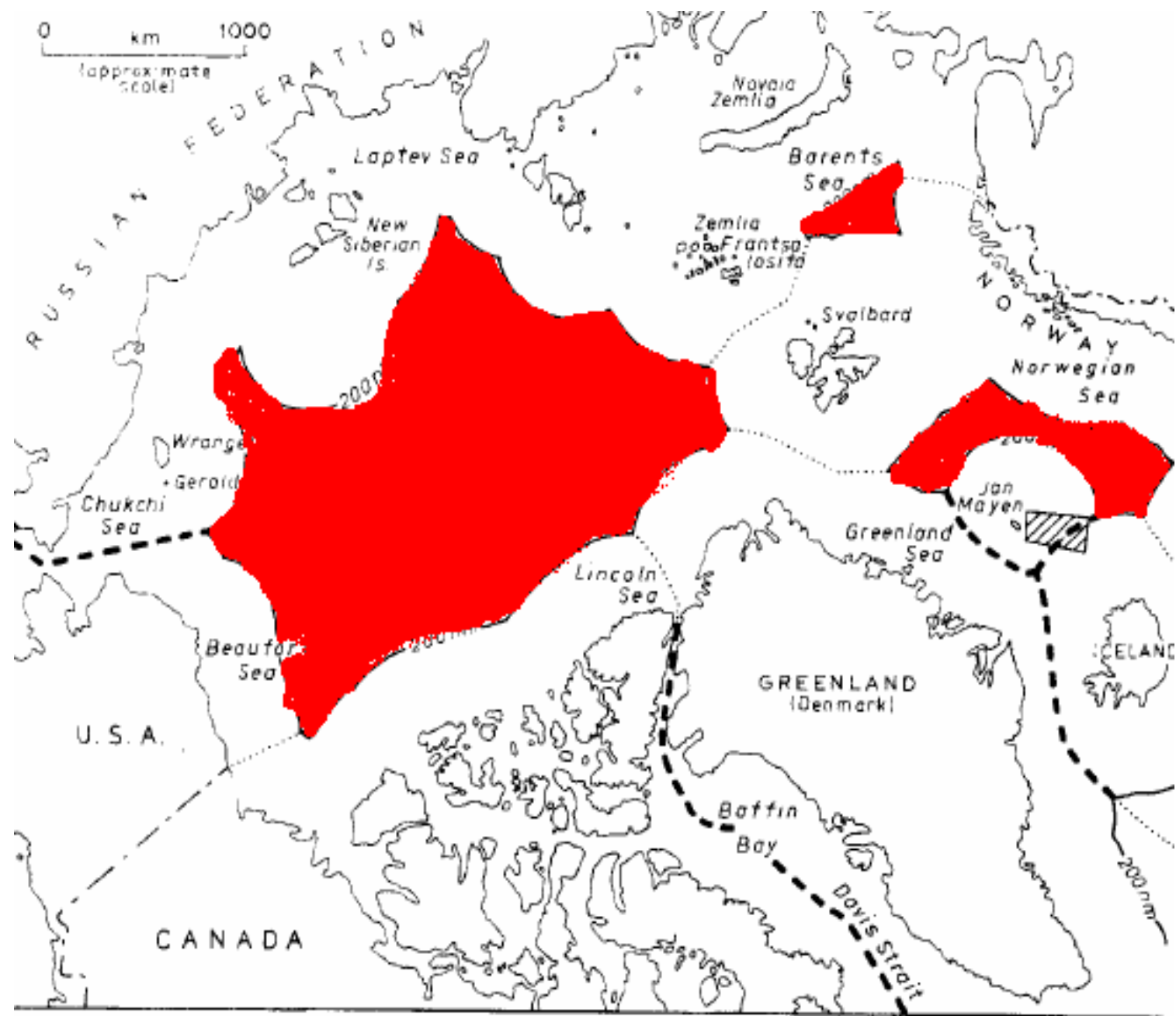


Definitions

- Focus is on marine capture fisheries; therefore not
 - Freshwater fisheries
 - Aquaculture
 - Marine mammals
- Marine Arctic vs Arctic Ocean
 - Arctic Ocean << marine Arctic
 - North of Bering Strait, Greenland, Svalbard & Franz Josef Land; not: Bering Sea and Barents Sea
- High seas pockets: Central Arctic Ocean, Banana Hole, Loophole (and Donut Hole)
- Several pockets of the deep sea-bed (Area)






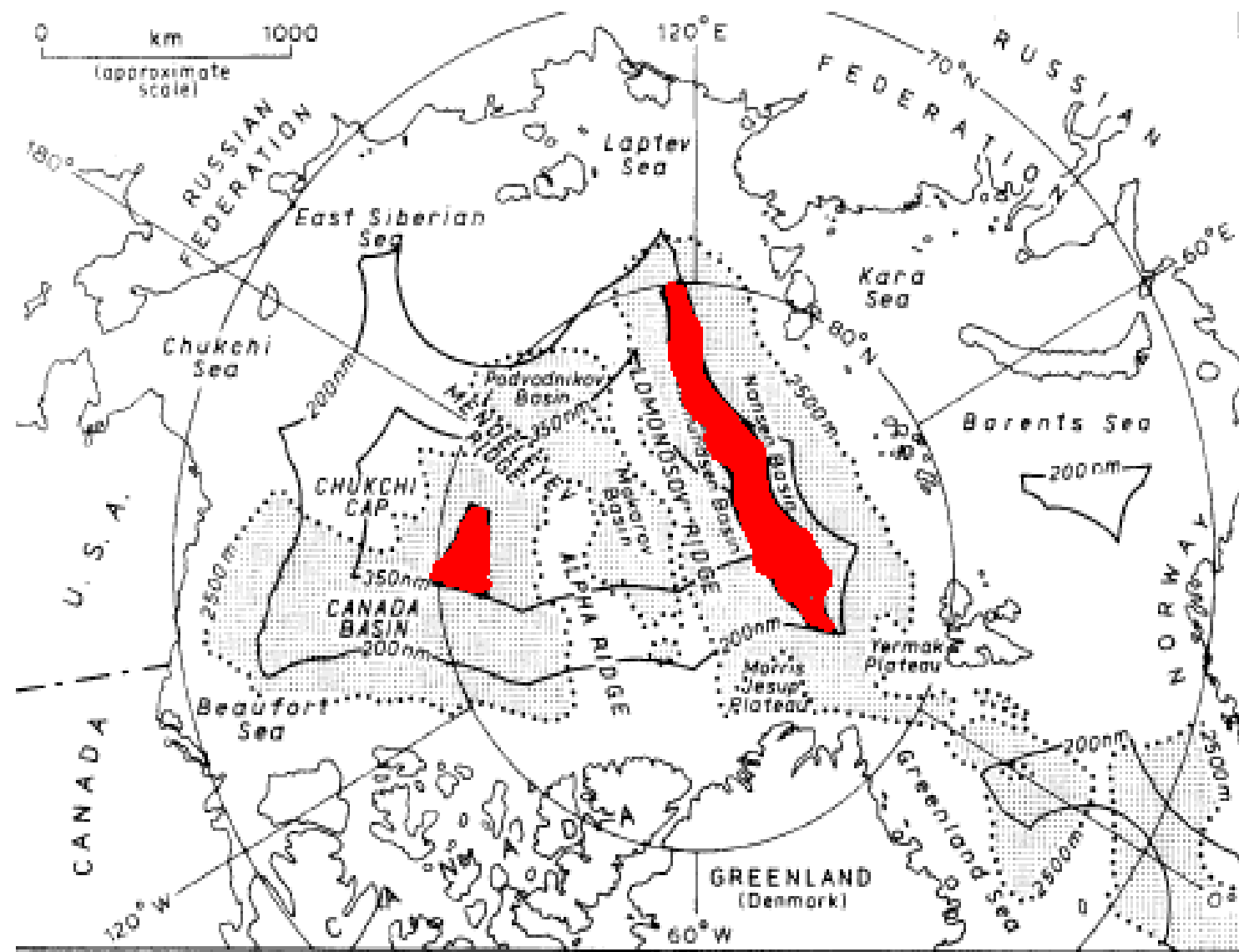


200nm Nautical miles limit

--- Agreed boundary

..... Equidistance line

 Joint zone



350nm

Nautical miles limits

200nm



Depth more than 2500 metres



Approximate outer limit of the continental shelf



Area

Definitions (cont.)

- Arctic States
 - Canada, Denmark, Finland, Iceland, Norway, Russian Federation, Sweden and United States (Arctic Eight)
- Arctic Ocean coastal States
 - Canada, Denmark/Greenland, Norway, Russian Federation and United States (Arctic Five)
- Arctic coastal States
 - Arctic Five + Iceland
- Non-Arctic States and Entities (EU and Taiwan)



Current fishing activities

- Large-scale commercial fishing in the southern parts of the marine Arctic (e.g. Bering Sea, Barents Sea & Norwegian Sea)
- Small-scale subsistence fishing in the coastal State maritime zones of the Arctic Ocean
- No fishing at all in the Central Arctic Ocean



Relevant trends

1. Poleward shift of distributional range fish stocks (e.g. cod)
2. Very large (extraordinary?) changes in abundance and distribution of fish stocks (e.g. mackerel)
3. Rapidly decreasing extent and thickness of sea-ice
4. Concern and some evidence of increasing acidification of marine Arctic, in particular the Arctic Ocean



Overview of international law on Arctic fisheries

- Multiple levels: global, (sub-)regional and bilateral bodies and instruments
 - Global bodies and instruments commonly provide jurisdictional framework → also apply to the marine Arctic, however defined
 - 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
 - RFMO/As
 - Bilateral arrangements (access and regulation)
 - Non-legally binding FAO instruments (e.g. Code of Conduct)



Overview of international law on Arctic fisheries (cont.)

- Basic rights
 - Coastal States: exclusive access to fish in own maritime zones (internal waters, territorial sea & exclusive economic zone)
 - Flag States: rights to fish on the high seas and to the surplus of the total allowable catch (TAC) in EEZs of coastal States
- Basic obligations, e.g.
 - Avoid over-exploitation target species
 - Ecosystem approach to fisheries management
 - Cooperate on transboundary and discrete high seas fish stocks



RFMOs/As also relevant to marine Arctic 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)
- Trilateral Loophole Agreement

RFMOs/As also (potentially) relevant to Arctic Ocean

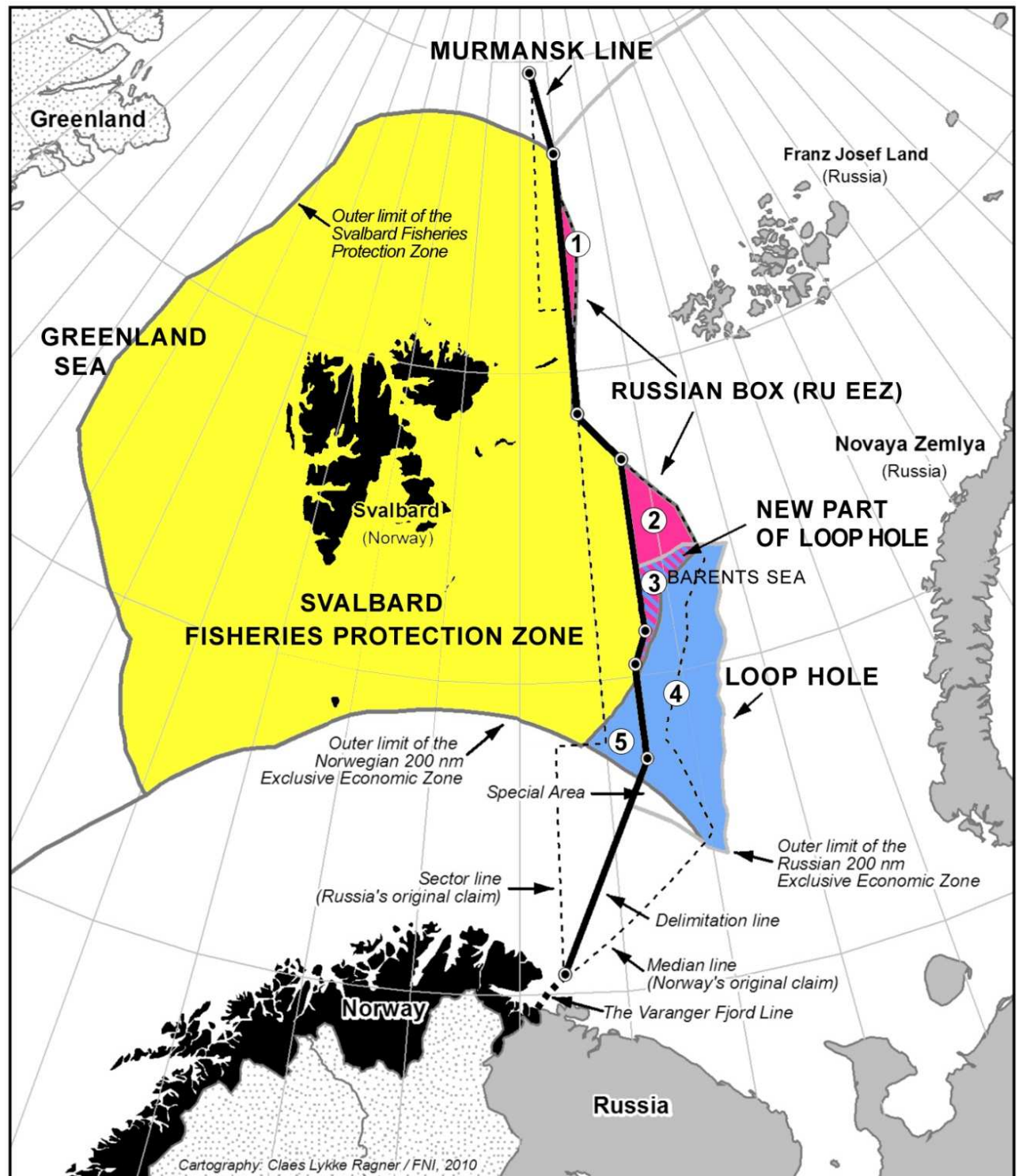
- North-East Atlantic Fisheries Commission (NEAFC)
- Joint Norwegian-Russian Fisheries Commission
- North Atlantic Salmon Conservation Organization (NASCO)
- International Commission for the Conservation of Atlantic Tunas (ICCAT)

Disputes, gaps and challenges

1. Geographical scope Spitsbergen Treaty

- Spitsbergen Treaty grants Norway sovereignty over Svalbard “subject to the stipulations” of the Treaty, e.g. equal access and non-discrimination for other parties
- Norway’s position:
 - Treaty does not apply beyond territorial sea
 - Claims right to establish EEZ but established a Fisheries Protection Zone (FPZ) instead
- No other States agree with Norway. Dominant view: Norway entitled to all normal maritime zones, but Treaty applies to all
- Compromise: allocation of fishing opportunities to some parties based on historic track records
- Allegations of preferential treatment of Norwegian and Russian vessels (e.g. *Kiel* case (Supreme Court, 2014))
- 23rd Licensing Round: 3 blocks ‘under’ FPZ





Funn og felt

Olje

Gass

Olje m/gass

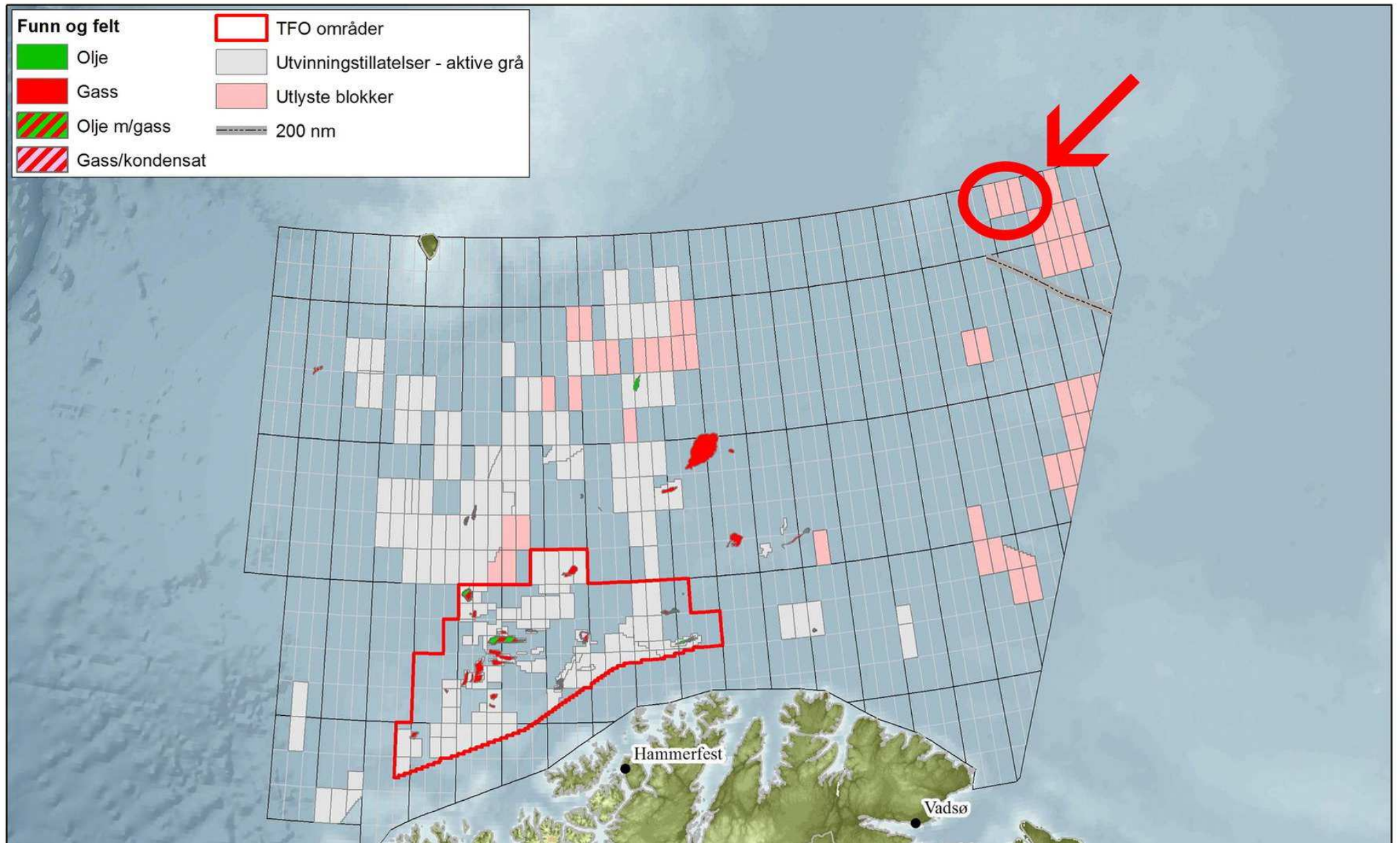
Gass/kondensat

TFO områder

Utvinningsstillatelser - aktive grå

Utlyste blokker

200 nm

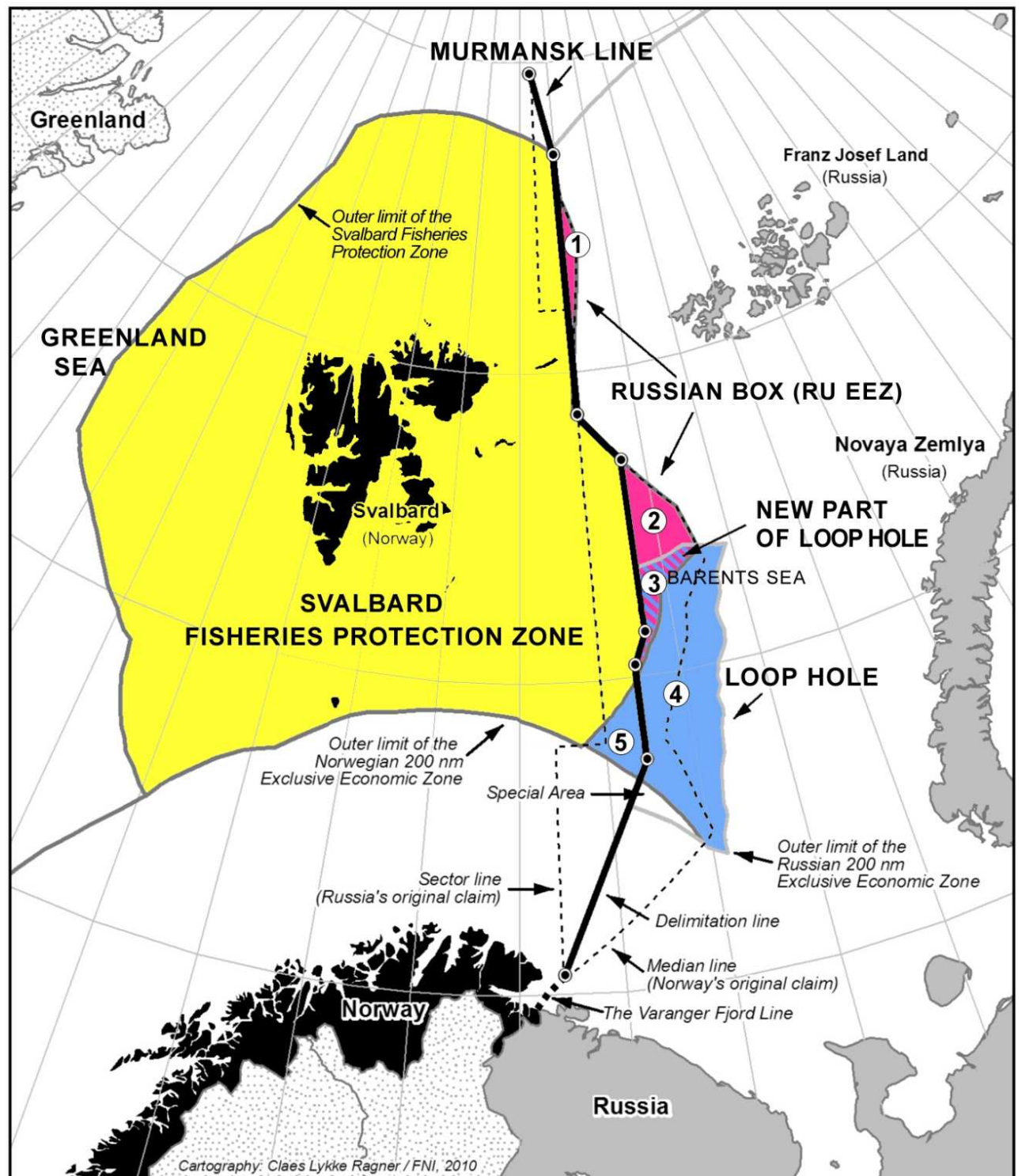


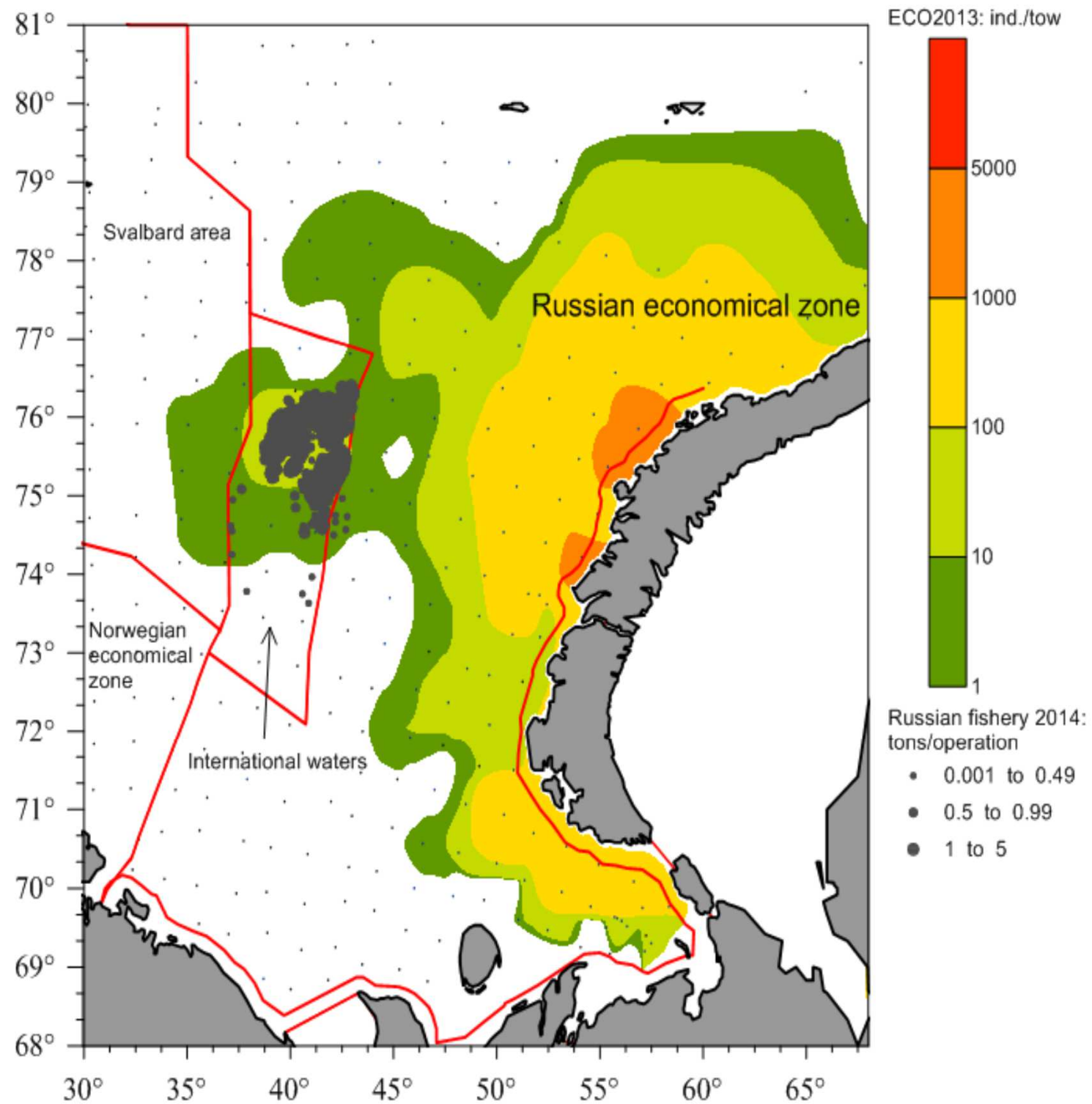
Disputes, gaps and challenges (cont.)

2. Fisheries in the Loophole

- Within spatial mandate of NEAFC (explicitly) as well as the Joint Commission (implicitly)
- Regulation by NEAFC and Joint Commission is complementary rather than incompatible
- Unique practice of Norway and Russia: access to own maritime zones in return for not fishing in Loophole
 - E.g. Trilateral Loophole Agreement
 - Not for shrimp and, recently, also not for snow crab
 - What will happen with increased abundance of fish stocks in Loophole?







Disputes, gaps and challenges (cont.)

3. No RFMO/A for Central Arctic Ocean

- Currently no commercially viable fisheries; but precautionary approach on new and exploratory fisheries
- Arctic Five process
 - Nuuk meeting (Feb 2014): commercial fishing only pursuant to existing or new RFMO/A (i.e. no unilateral fishing) in accordance with “modern international standards”
 - Crimea + Eastern Ukraine
 - Envisaged Declaration soon signed (Oslo, June ?)
 - Broader process: ‘Five + Five’ (Arctic Five + China, EU, Iceland, Japan and South Korea)?
- Adequate regulation in coastal State maritime zones?



Disputes, gaps and challenges (cont.)

4. Inadequate rules and procedures for allocating fishing opportunities
 - Global treaties (Fish Stocks Agreement): only non-exhaustive and non-prioritized/non-weighted list of allocation criteria; e.g. historic track records; geographical distribution of the stock;
 - RFMOs/As
 - Often generic provisions or dedicated (but general) instruments
 - Urgent need for allocation rules and procedures that are
 - transparent and robust (science-based) and lead to operational and predictable outcomes
 - flexible to account for significant changes in abundance & distribution
 - stable (e.g. multi-annual, with no ability to opt-out or only subject to dedicated dispute settlement procedures)
 - New initiatives in the North-East Atlantic/Arctic?



Thanks / Takk / Dank
for your attention!

Questions?

