

ATLANTIC FORUM

Coastal and Deep Sea Natural Resources



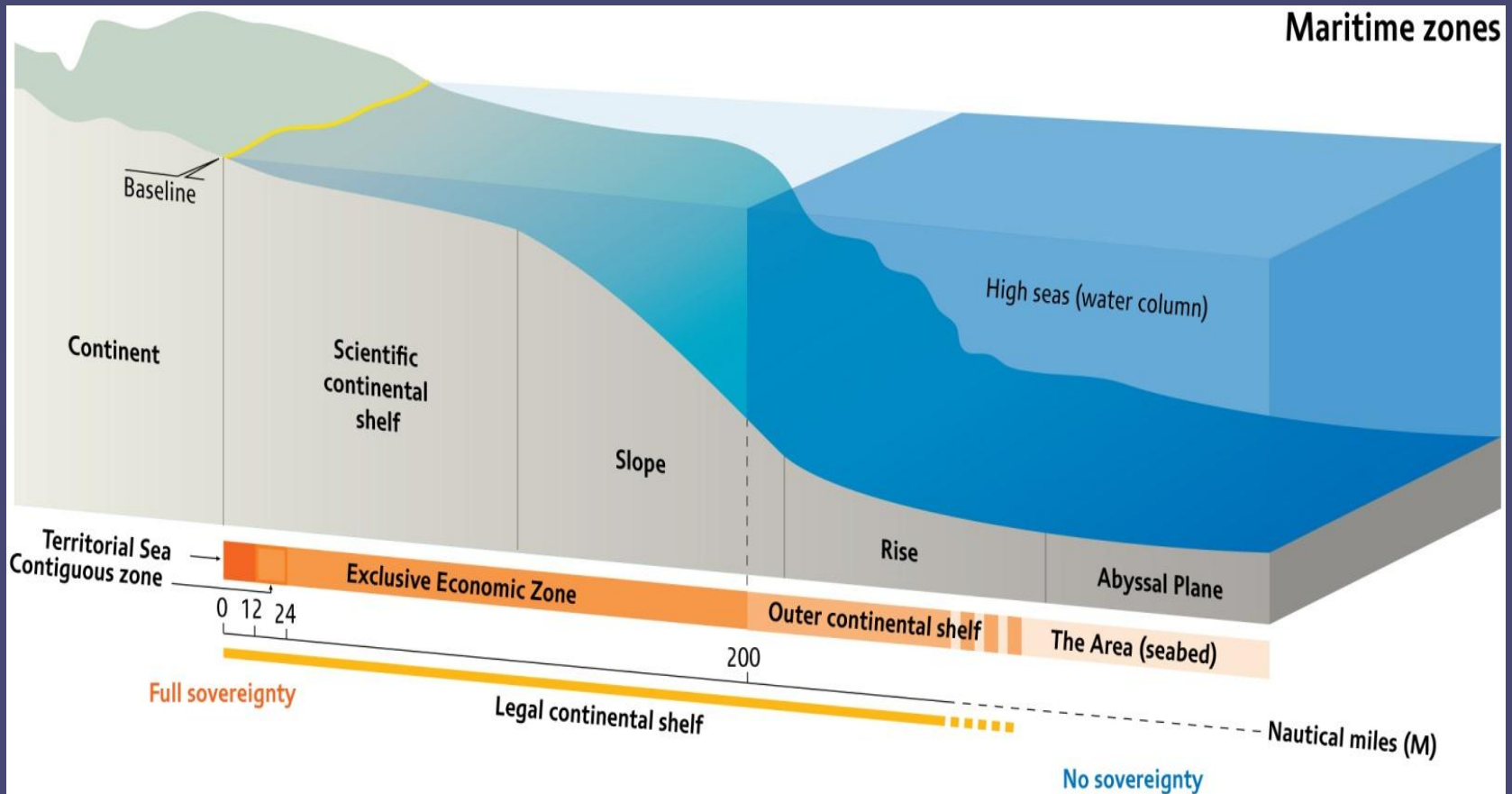
Legal and economic consequences of the extension of maritime jurisdiction: the case of the Portuguese Extension of the Continental Shelf Program

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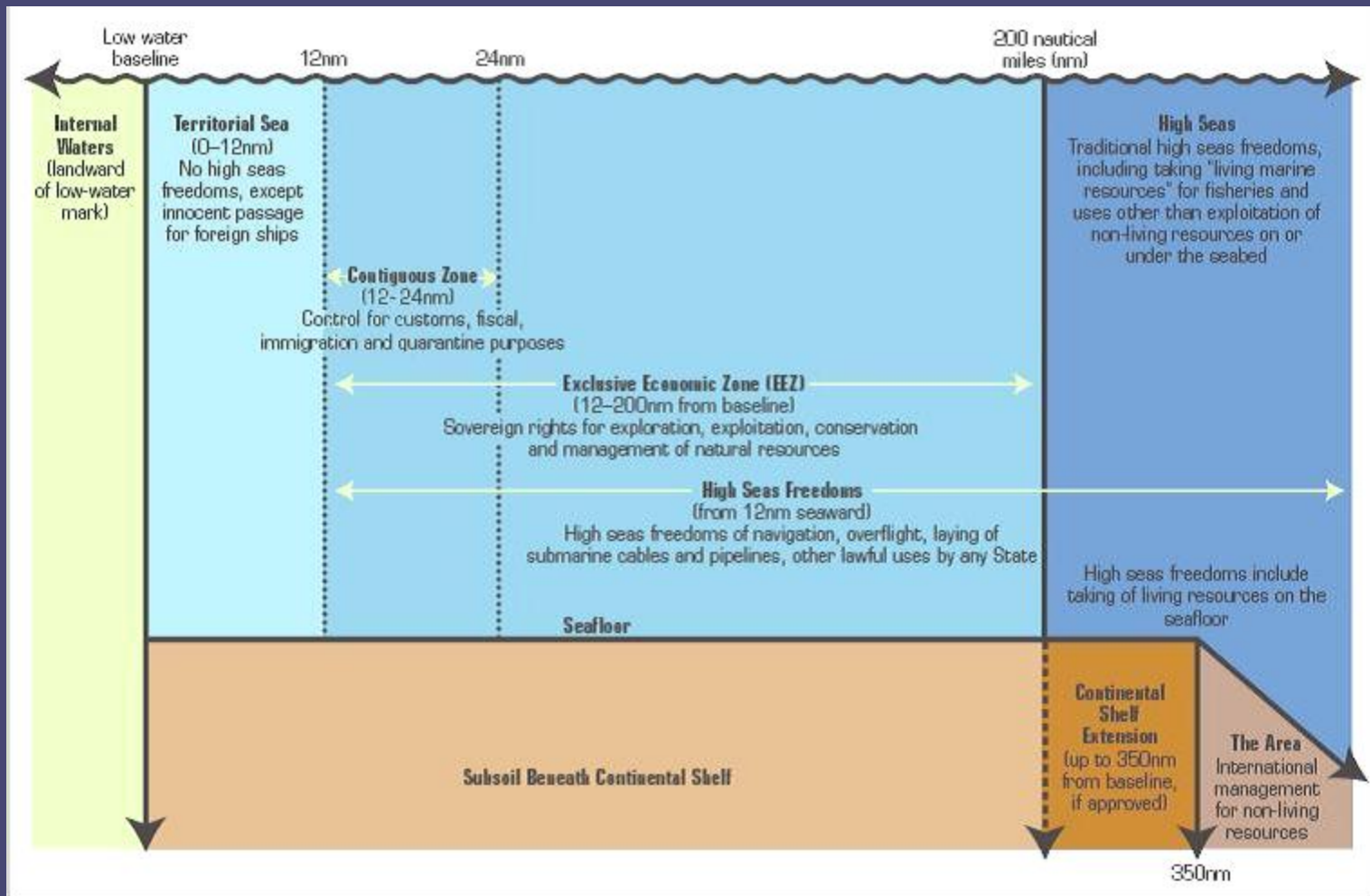
1. OVERVIEW

Legal background: UNCLOS (Part VI)



Source: <http://www.grida.no/graphicslib/collection/continental-shelf-the-last-maritime-zone>

1. OVERVIEW

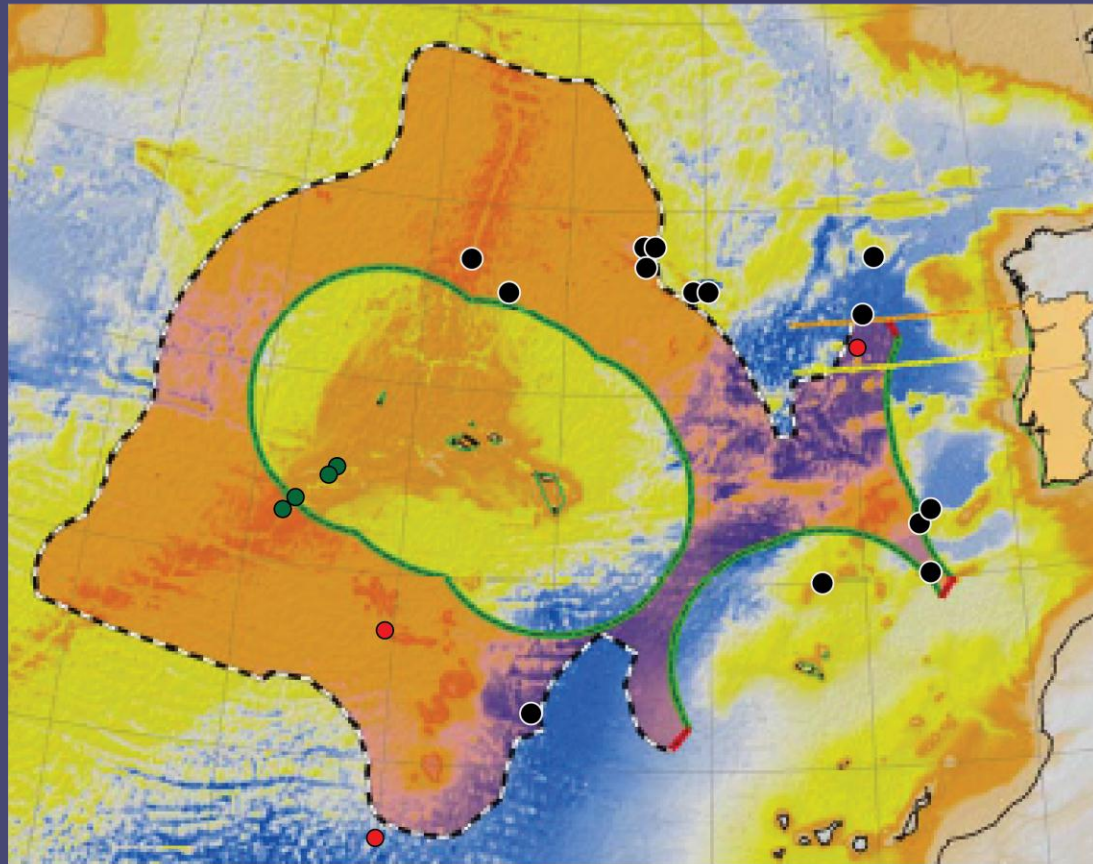


Source: <http://www.cbd.int/doc/meetings/mar/ewbcsima-01/other/ewbcsima-01-unesp-wcmc-en.pdf>

2. Reasons for 'extending' the continental shelf (CS)

- **Economic:**
 - Valuable non-living resources, particularly mineral resources (e.g., polymetallic sulphides, manganese nodules and crusts)
 - Valuable living resources (biological and genetic)
- **Political:** coastal State powers can be exercised in a larger area

2. The Portuguese case



Legenda:

- Fontes hidrotermais
- Nódulos de manganês
- Crostas de manganês

- ZEE
- - - Limite exterior da plataforma continental
- Área de plataforma continental portuguesa para lá das 200 MN

Fontes:

Mapa - Sumário executivo da submissão portuguesa
Informação - EMEPC (2010)

3. Exploration and exploitation of natural resources: consequences (article 77)

- **Before and during the analysis of the submission :**
 - **Full sovereignty**, that is, coastal State may immediately fully exercise his rights (article 77 (2)(3) and article 82; [ISA, Technical Study No. 5, 2010, paragraph 2.2.1](#)). **Nevertheless** it is arguable a duty of 'standstill' on the part of the coastal State regarding the exploitation of natural resources till the CLCS issues recommendations (sections of the CS 'free of objections') or the whole process be concluded
 - Fishing and bioprospecting by third States for sedentary species should cease

3. Exploration and exploitation of natural resources: consequences (article 77)

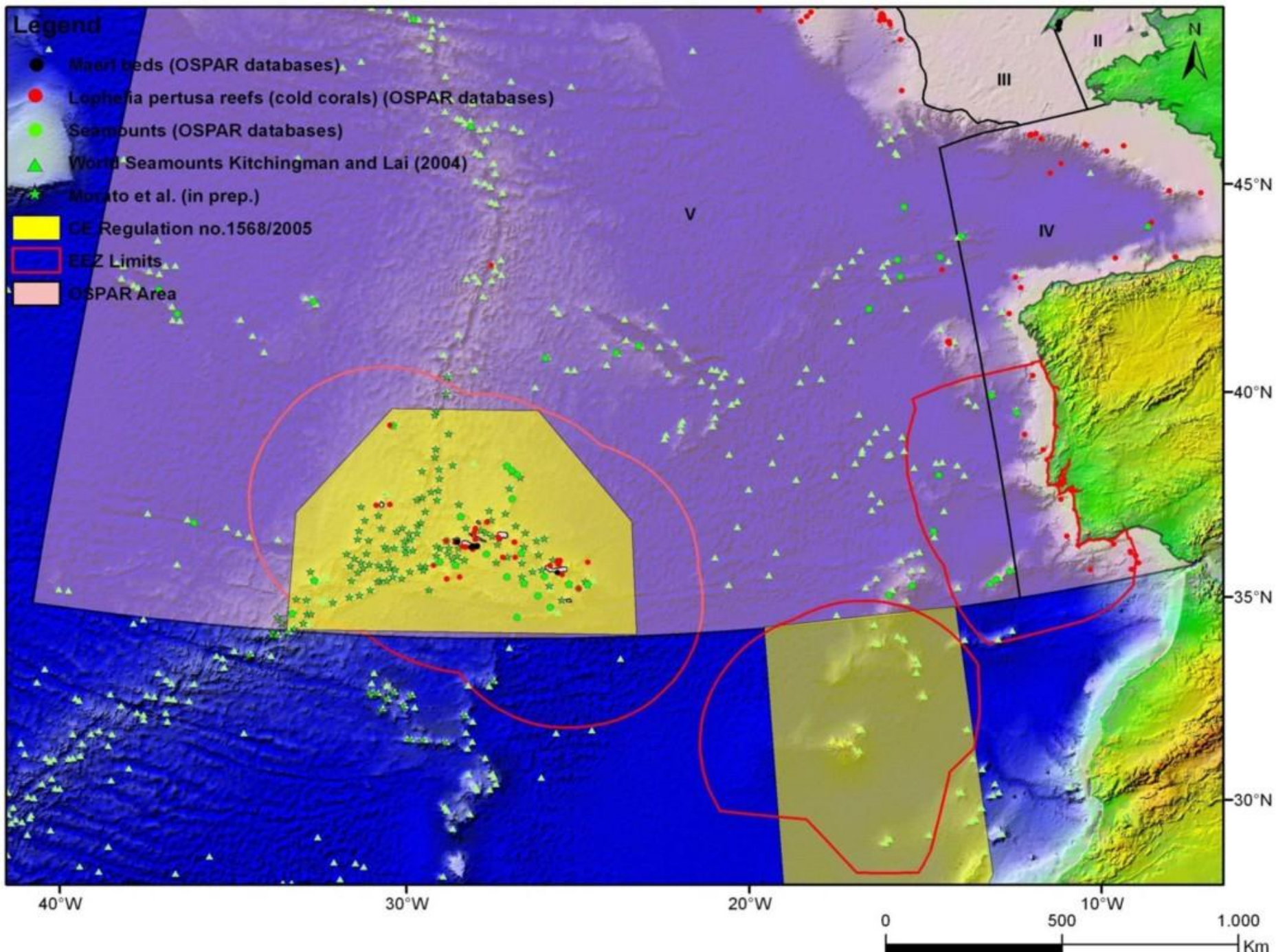
(continuation...)

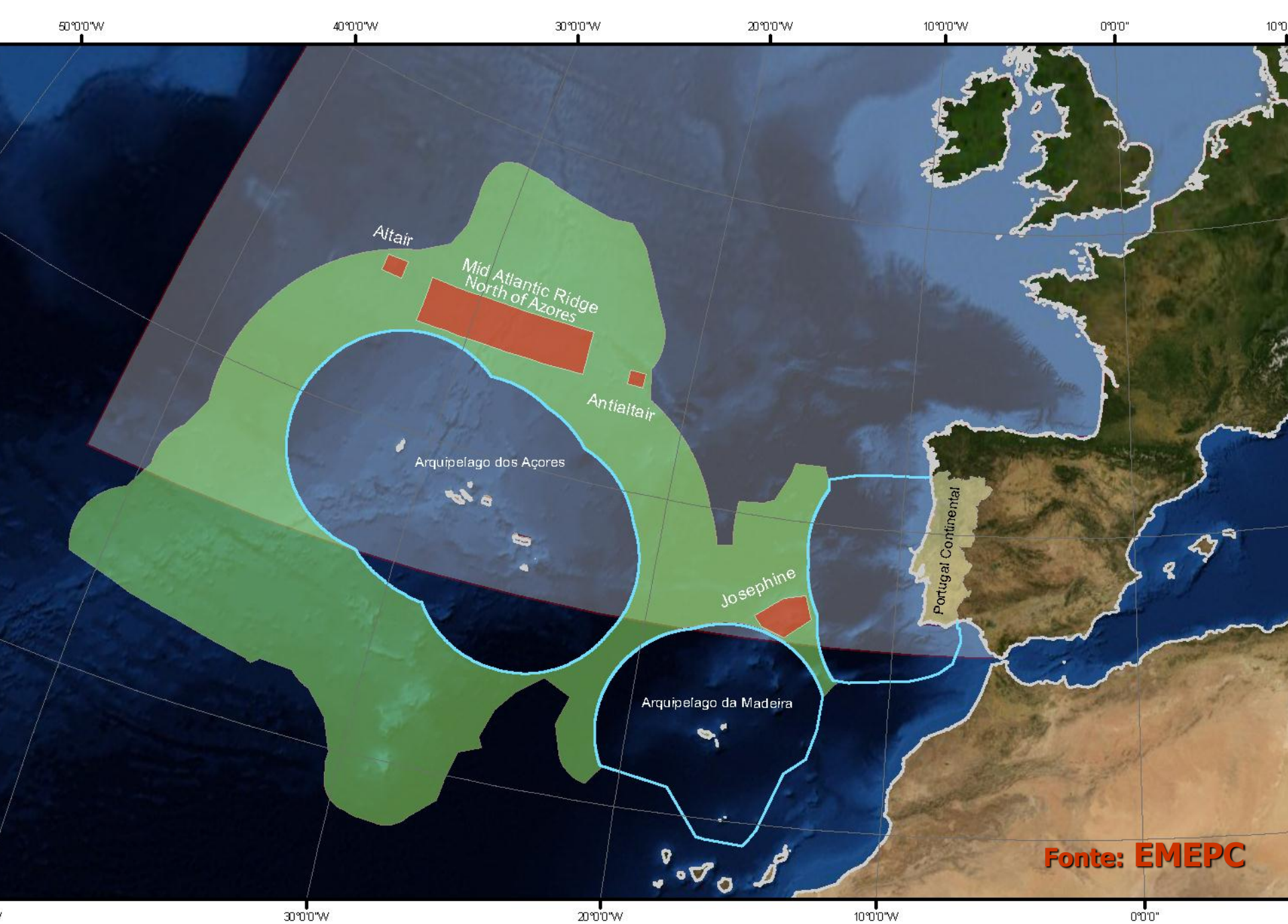
- In the unlikely event that the ISA is involved in any mining activity on the outer CS, it would have to immediately suspend any activity planned
- Updated domestic (EU?) legislation is needed, namely to regulate the access to the resources and its utilization, either by national and third states users.

Remark: the case of the Nagoya Protocol on genetic resources, CDB, 29 October 2010 / the Azorian example

4. Environmental jurisdiction: consequences

- Before and after the submission of the process of 'extension' the coastal State **can** and **should** (e.g., precautionary principle) immediately exercise the environmental jurisdiction recognised by UNCLOS
- **The Portuguese pioneer example:**
 - The creation of MPAs within the OSPAR Convention framework (2007/2010)
 - The nomination of the *Rainbow* hydrothermal field to the Natura 2000 network (National List of Sites - 2010)





Fonte: EMEPC

4. Creation of 'outer' MPAs: consequences

- Need for immediate regulation of conflicting human activities (domestic, EU and regional/global level)
- Impact on the geographical scope of the Natura 2000 Network
- Impact on the achievement of a 'good environmental status' within the framework of the Marine Strategy Framework Directive (2008/56/EC)
- How to make outer MPAs effective? The need of publicity, surveillance and monitoring of these areas

5. Other legal and economic consequences

- **Marine scientific research (article 246):**
coastal State full jurisdiction before and after the submission to the CLCS (**remark:** the limits established by art. 246 (6))
- **Laying of cables and pipelines (article 79):**
coastal State full jurisdiction before and after the submission to the CLCS
- **Article 82** (*Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles*) – **non-living resources only** – a duty under clarification

Thank you very much for your attention...

Global distribution of outer continental shelf

