

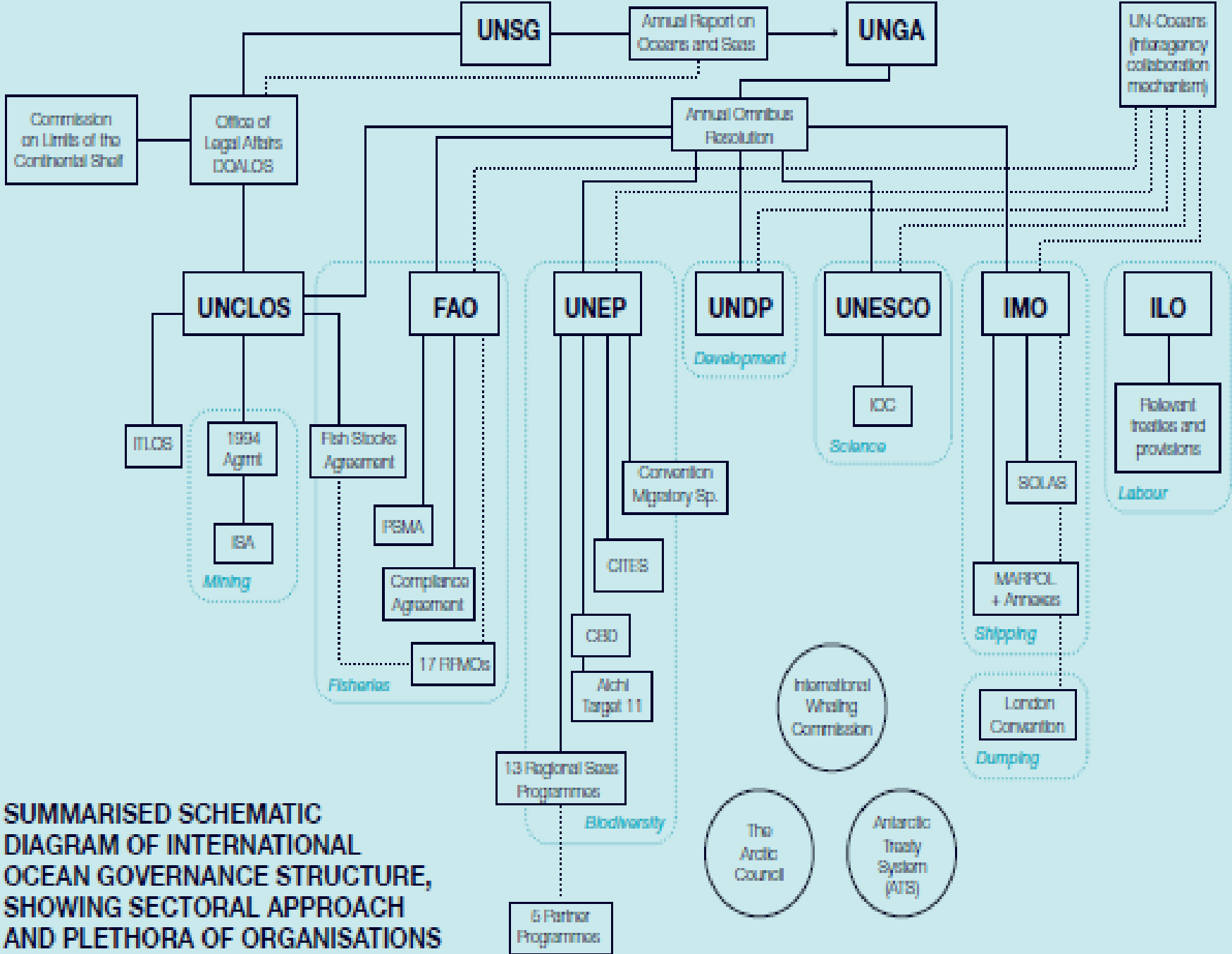
Governance of the Atlantic

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Presentation

- Fragmented ABNJ Governance Framework
- Overarching International Ocean Governance Principles
- 1982 UN Law of the Sea Convention
 - General Environmental Obligations
 - Seabed Mining regime
 - ITLOS Advisory Opinion
- International Maritime Organization
- Regional Fisheries Management Organizations
- Environmental Treaties CBD



**SUMMARISED SCHEMATIC
DIAGRAM OF INTERNATIONAL
OCEAN GOVERNANCE STRUCTURE,
SHOWING SECTORAL APPROACH
AND PLETHORA OF ORGANISATIONS**

Principles of Ocean Governance

Law of the Sea Convention Universally Binding* Including Mining Code

REGIONAL TREATIES

- OSPAR
- EU Directives

ONLY BINDING ON PARTIES

SECTORAL TREATIES

- Shipping
- Fisheries

PROCESS TREATIES

- Espoo
- Aarhus

ONLY BINDING ON PARTIES

GUIDELINES

- FAO CBD

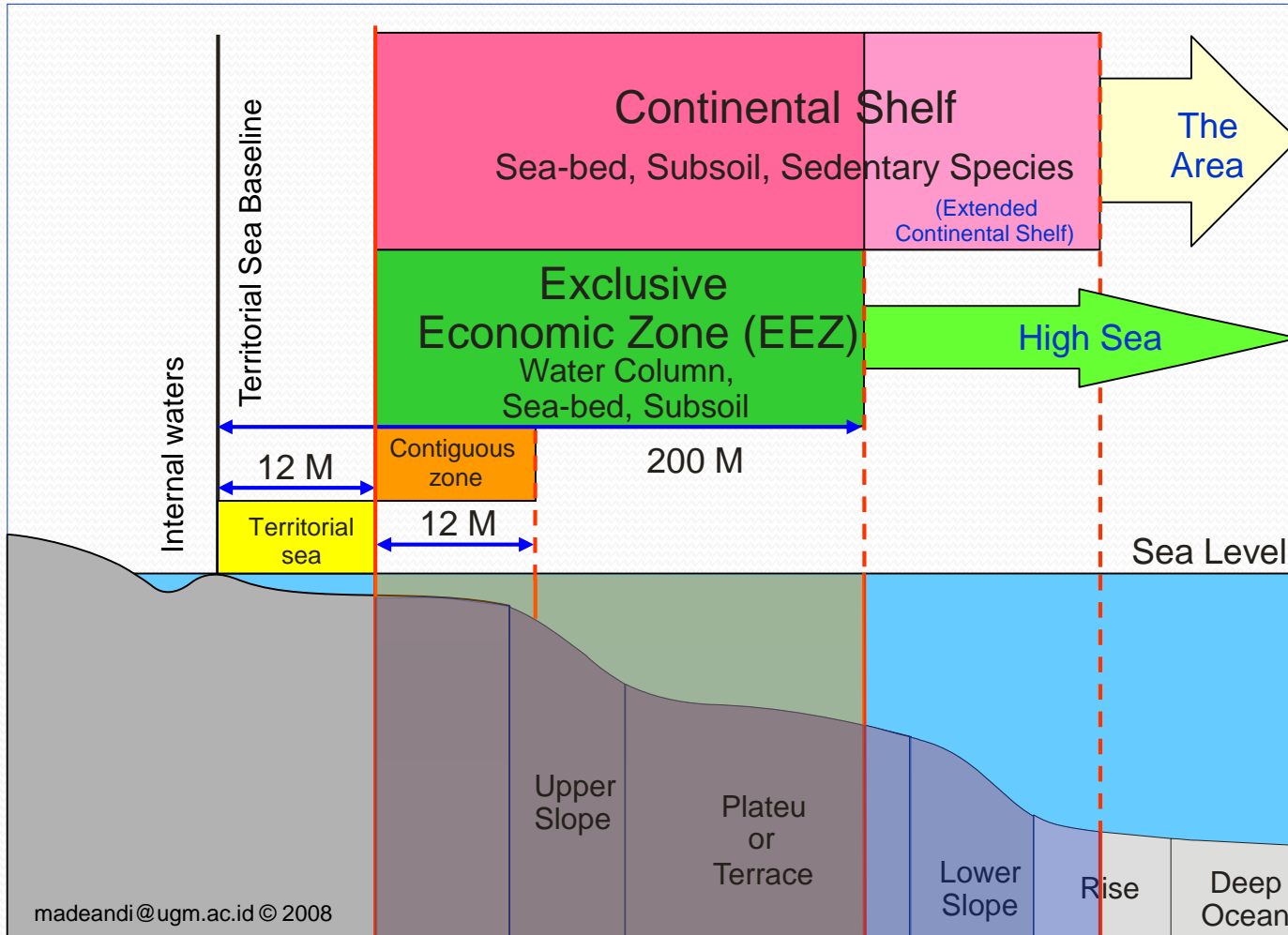
NOT BINDING: BEST PRACTICES

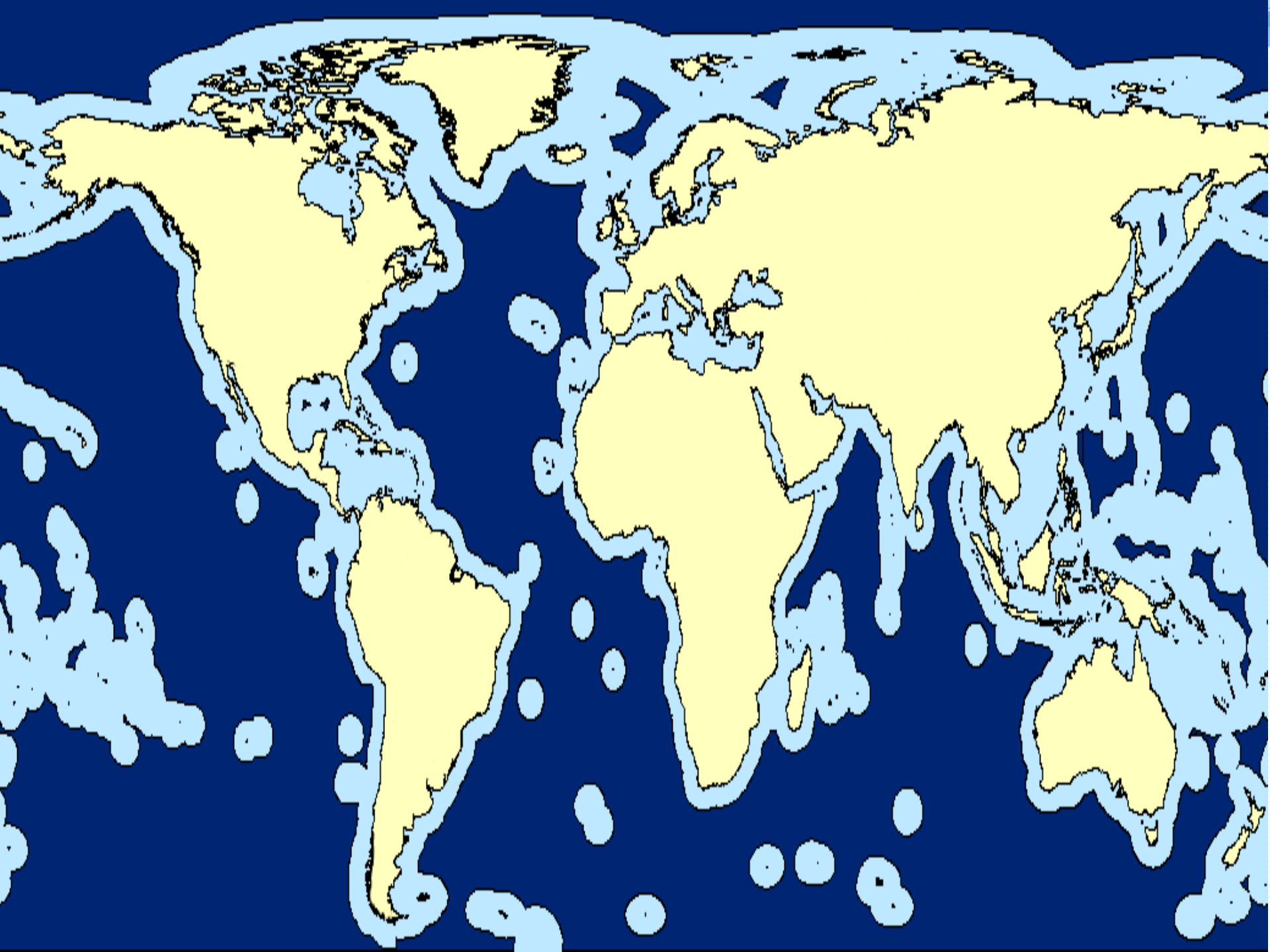
* Except for consistent objectors

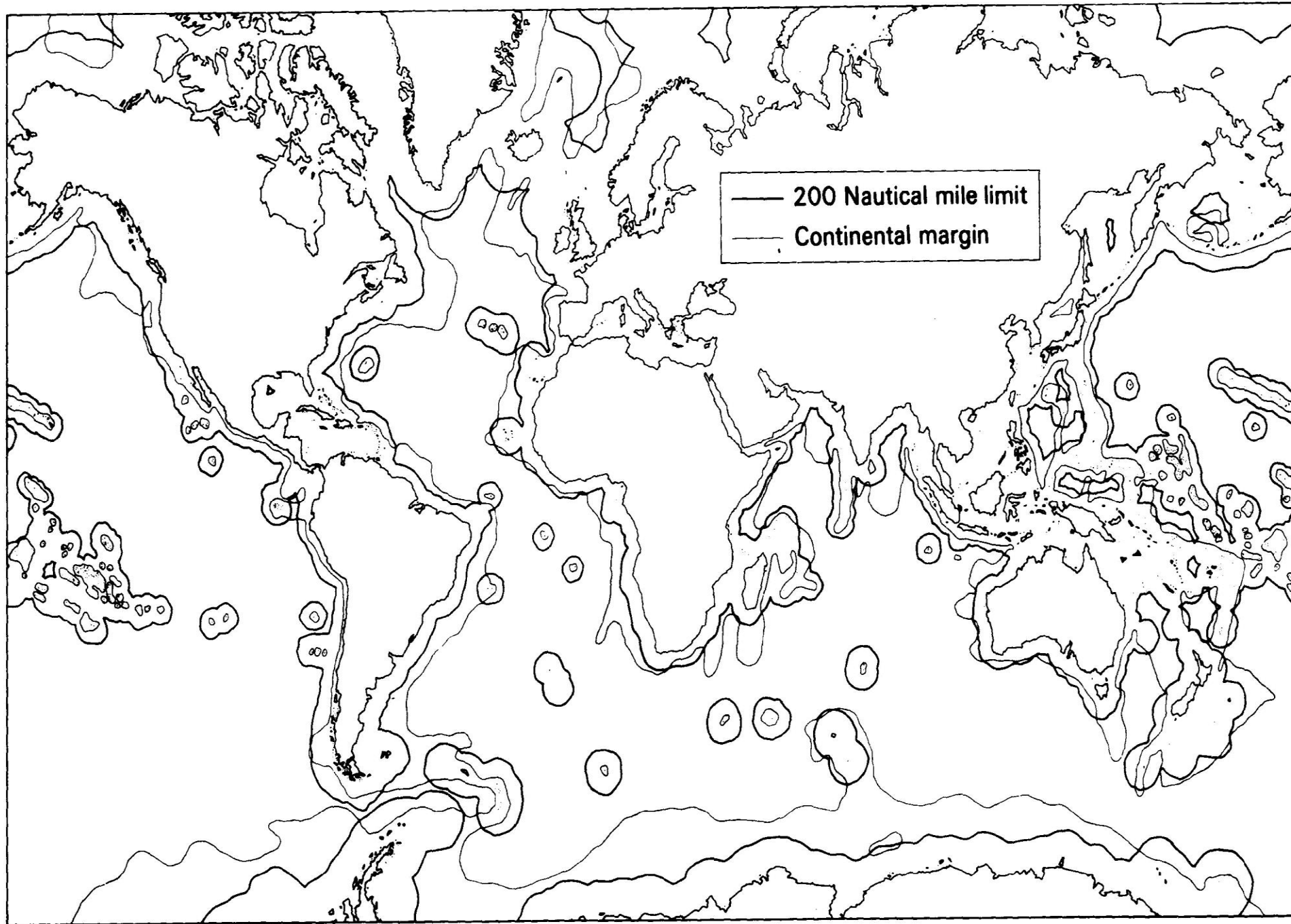
Principles of Modern Ocean Governance

1. Conditional Freedom of Activity on High Seas
2. Protection and Preservation of the Marine Environment
3. International Cooperation
4. Science-Based Approach to Management
5. Precautionary Approach
6. Ecosystem Approach
7. Sustainable and Equitable Use
8. Public Availability of Information
9. Transparent and Open Decision Making Processes
10. Responsibility of States as Stewards of the Global Marine Environment

Maritime Jurisdiction Zones







The 200-mile limit and continental margin

LOSC Part XII

Environmental Protection

LOSC Part XII Regime for

Environmental Protection re ABNJ

Article 192

States have the obligation to protect and preserve the marine environment.

Article 194 (5)

The measures taken ... shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

LOSC Part XII Regime for Environmental Protection re ABNJ

Art 204: States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Art 205: States shall publish reports ...or provide such reports to the **competent international organizations**, [to be] available to all States.

Art 206: When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments

LOSC Part XII Regime for Environmental Protection re ABNJ

Art 197

States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

LOSC Part XII Regime for Environmental Protection re ABNJ

Articles 208/209

“States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from, or in connection with,

seabed activities subject to their jurisdiction...” or
from activities in the Area

undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority.

Such laws and regulations “shall be no less effective than the international rules, standards, and recommended practices and procedures....”

LOSC Part XI

Activities in the Area

Principles governing the Area

Art 136

The Area and its resources are the common heritage of mankind

Article 139

1. States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part. The same responsibility applies to international organizations for activities in the Area carried out by such organizations.

LOSC Part XI The Area

Article 145

Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from these activities. To this end the Authority shall adopt appropriate rules, regulations and procedures for inter alia: ...

LOSC Part XI The Area

Article 145 contd.

... (a) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;

(b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

Mining Code

- Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (ISBA/6/A/18, 13 July 2000, as amended by ISBA/19/A/9 and ISBA/19/A/12, 25 July 2013, and ISBA/20/A/9, 24 July 2014).
- Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area (ISBA/16/A/12/Rev.1, 15 November 2010, as amended by ISBA/19/A/12, 25 July 2013 and ISBA/20/A/10, 24 July 2014).
- Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area (ISBA/18/A/11, 27 July 2012, as amended by ISBA/19/A/12, 25 July 2013).

Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area (ITLOS Seabed Chamber AO 2011)

Re Nauru and Tonga

- Precautionary Approach now part of customary law “trend”
- Due Diligence :Obligation of **Conduct** not result:
 - Best environmental practices
 - EIA
 - Financial/Technical guarantees
 - Guaranteed prompt and effective compensation for marine pollution

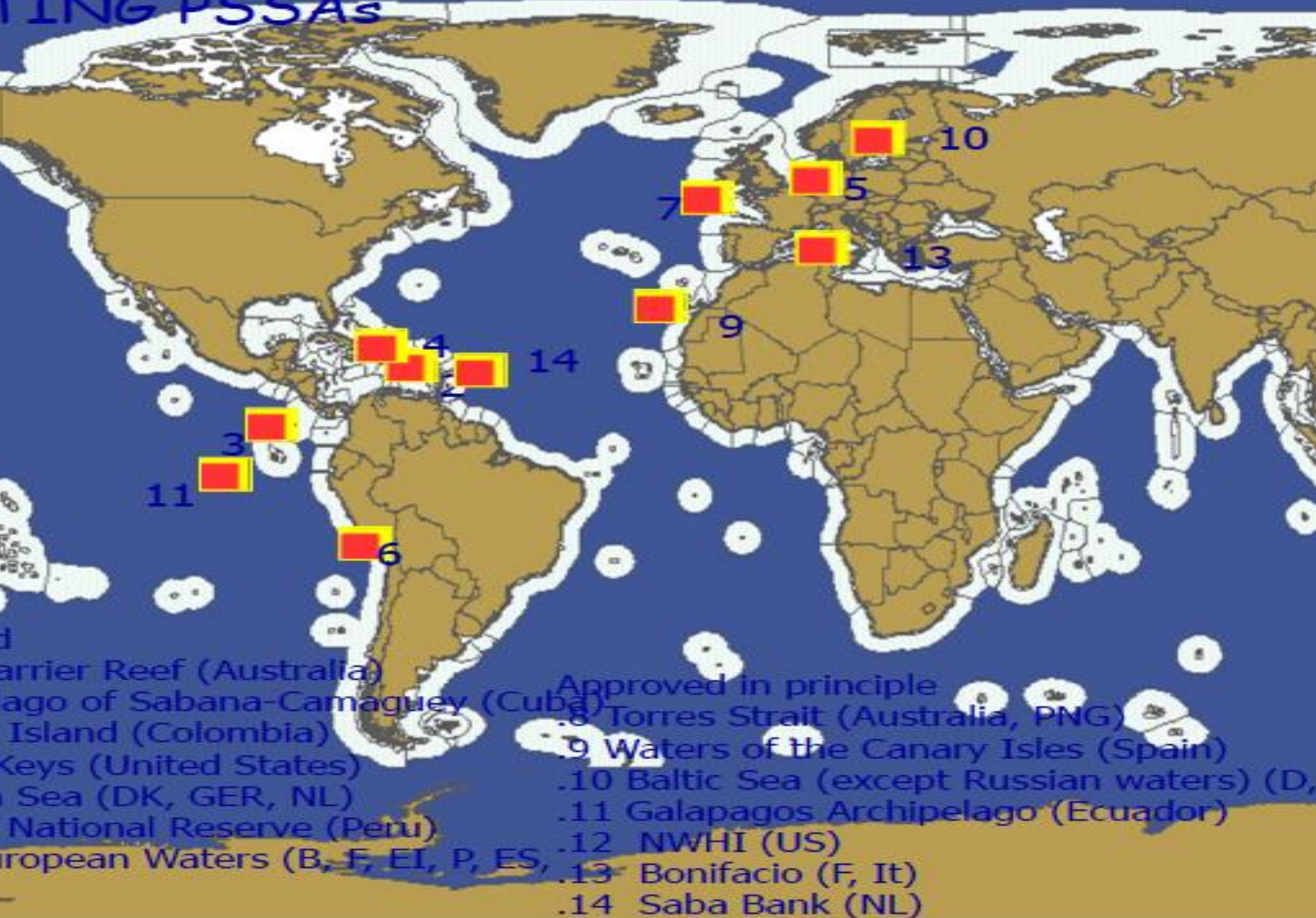


IMO

MARPOL 73/78

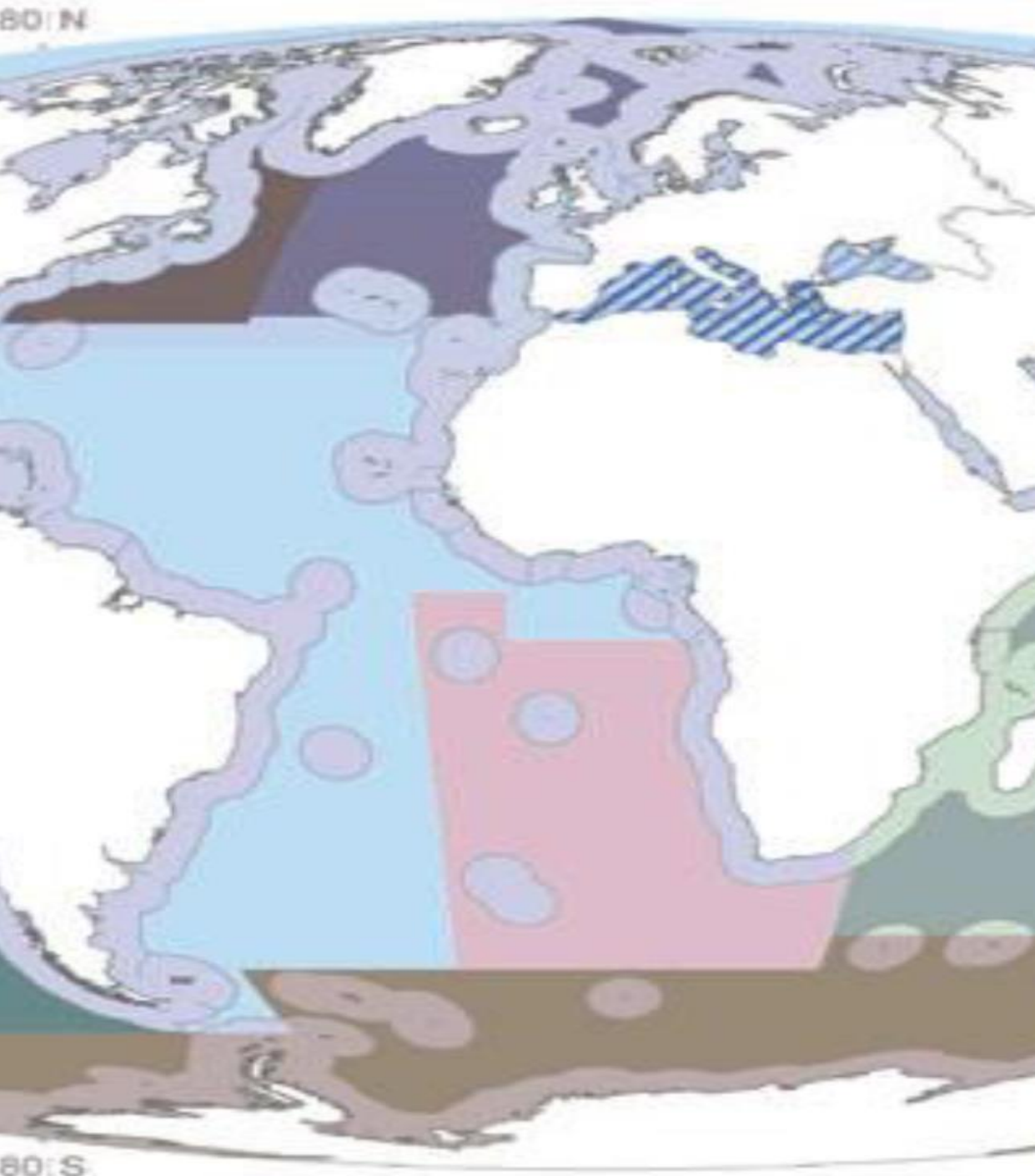


TING PSSAs



- Barrier Reef (Australia)
- Bay of Sabana-Camaguey (Cuba)
- San Andres Island (Colombia)
- Florida Keys (United States)
- North Sea (DK, GER, NL)
- Manu National Reserve (Peru)
- North Atlantic Ocean (B, F, EI, P, ES)
- Torres Strait (Australia, PNG)
- Waters of the Canary Isles (Spain)
- Baltic Sea (except Russian waters) (D, F, P)
- Galapagos Archipelago (Ecuador)
- NWHI (US)
- Bonifacio (F, It)
- Saba Bank (NL)

Fisheries Bodies



Regional Fisheries Management Organizations (non-tuna)

Ban et al. 2013, Cons. Letters



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VME closed areas

Other access regulated areas

Bottom fishing areas

Navigation controls: up, down, left, right arrows, zoom in (+), zoom out (-), globe icon, and a "Reset" button.

Map selection controls: "Map selection", "Management Body/Authority (ies)", and "Change projection".

5000 km
2000 nmi
28.48, lat: 57.42

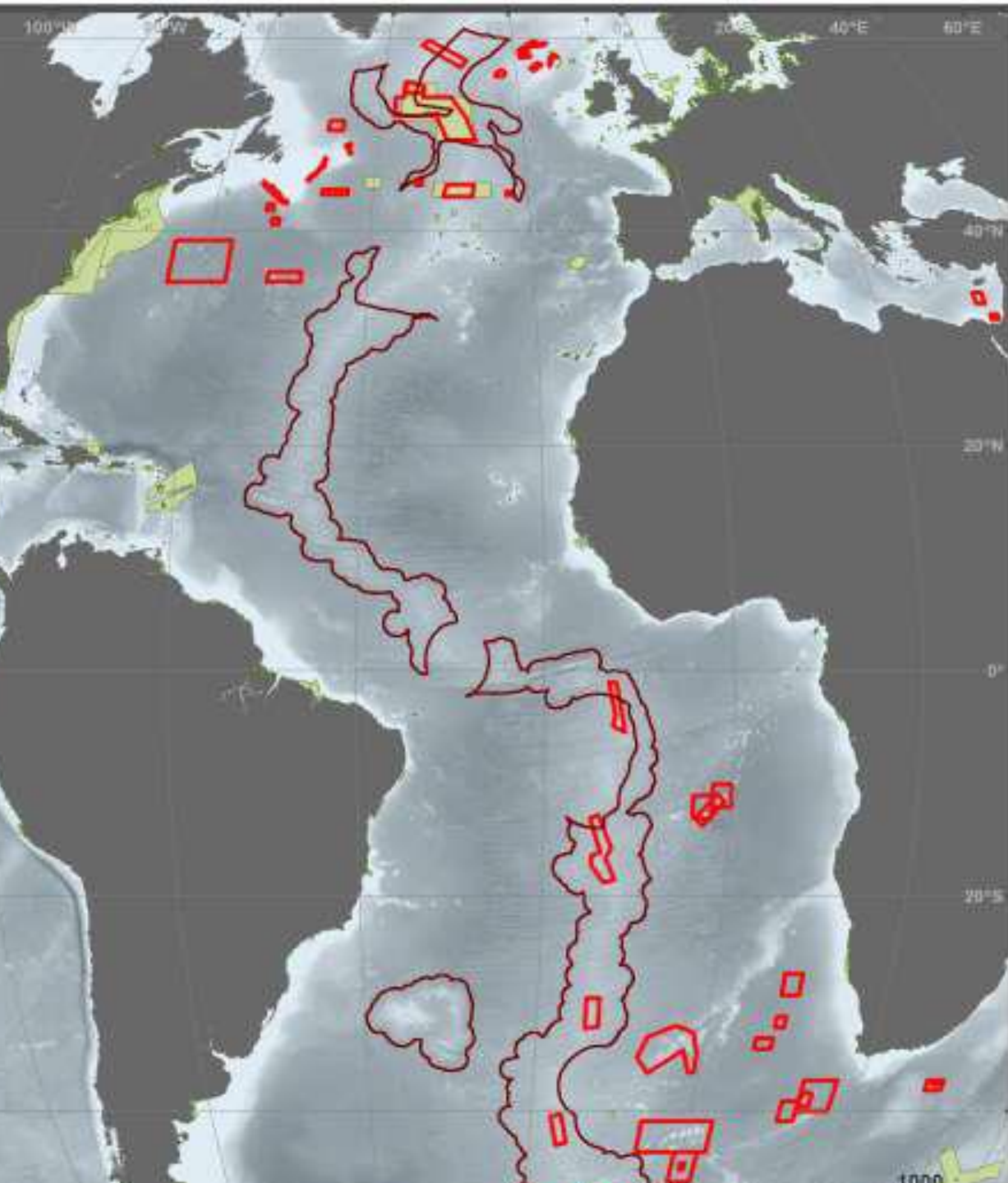


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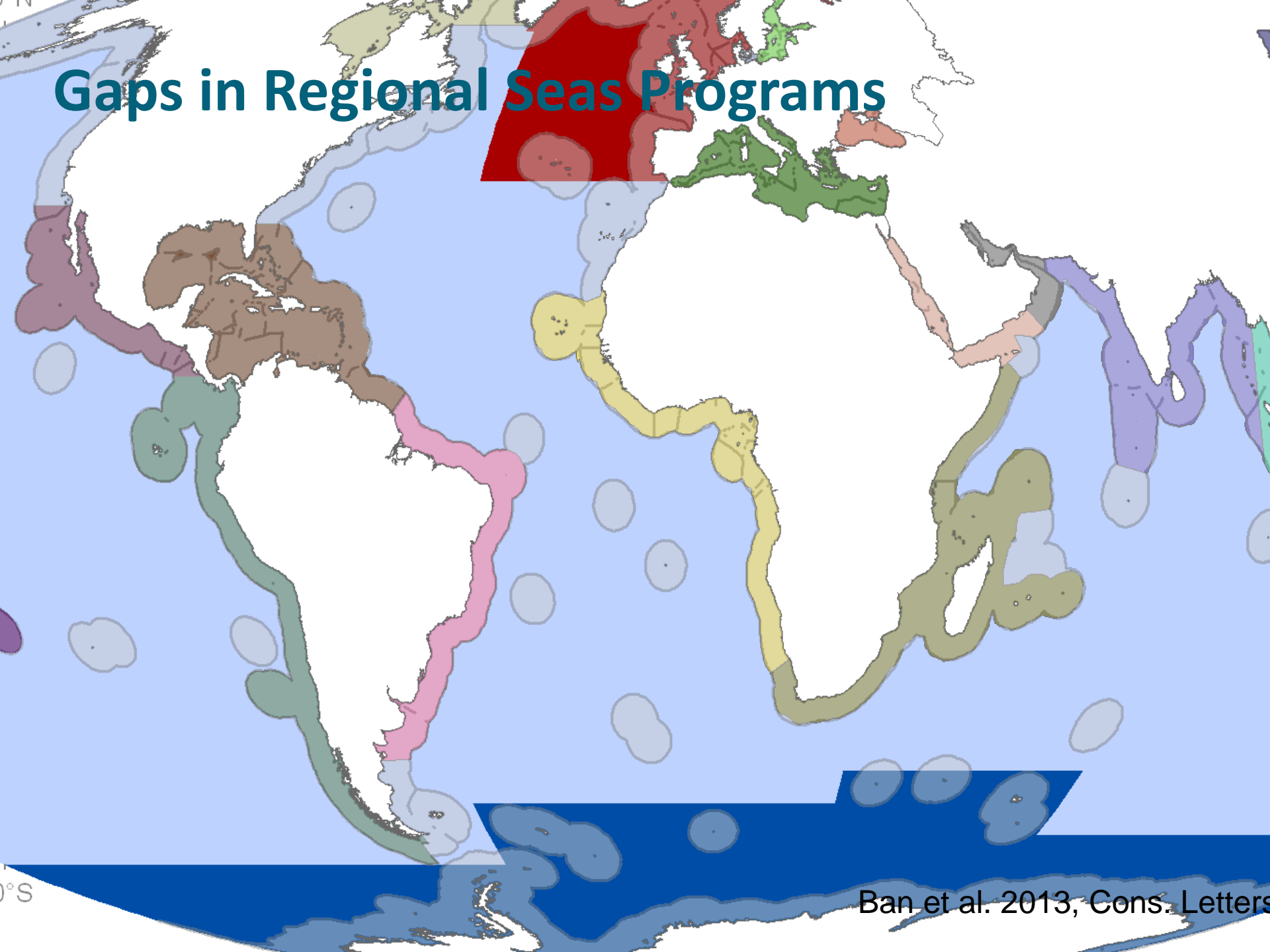


Windows taskbar with icons for Start, File Explorer, Internet Explorer, Google Chrome, Skype, Word, Adobe Reader, and PowerPoint. System tray shows volume, network, and date/time: 6:28 AM, 5/25/2015.

Atlantic VMEs

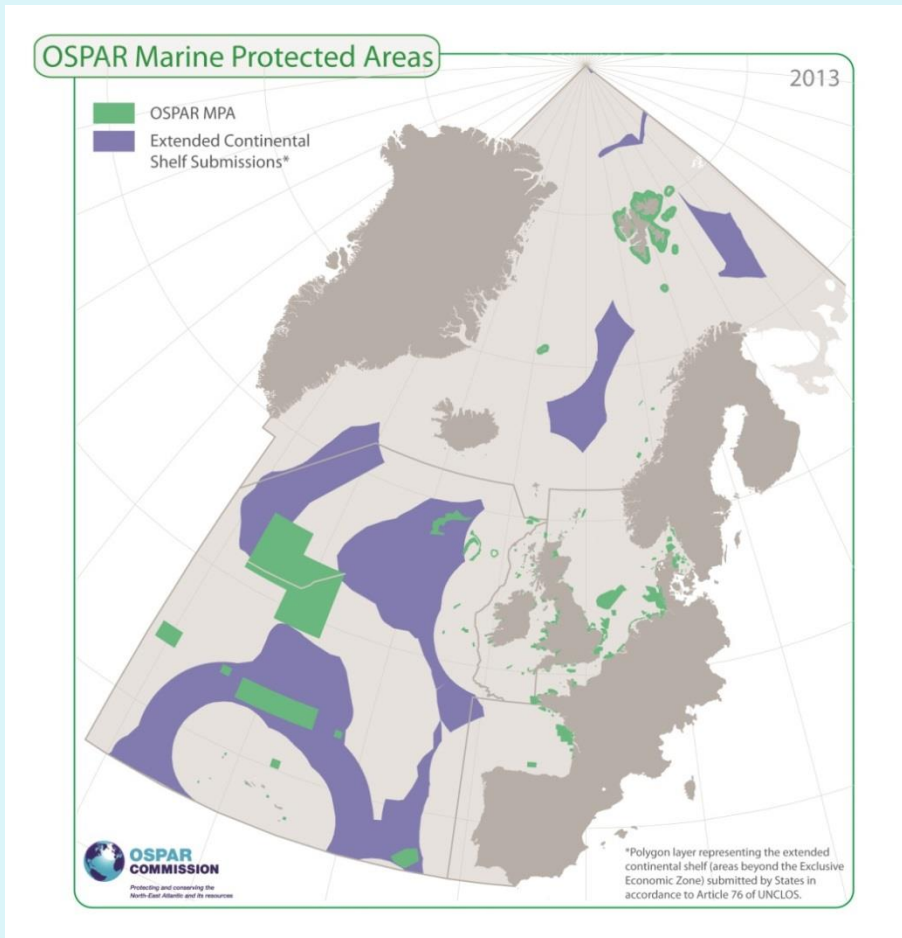


Gaps in Regional Seas Programs



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OSPAR MPAs in ABNJ



- 2009: North-East Atlantic Fisheries Commission (NEAFC) closed five areas in ABNJ to bottom trawling
- 2010: OSPAR Commission designated 6 MPAs located in ABNJ
- 2012: A seventh MPA is adopted
- Cooperation: seeking Collective Arrangement through MoUs with NEAFC, IMO and others where possible.

Druel, et al, 2013. Governance of marine biodiversity in areas beyond national jurisdiction at the regional level: filling the gaps and strengthening the framework for action.

Convention on Biological Diversity

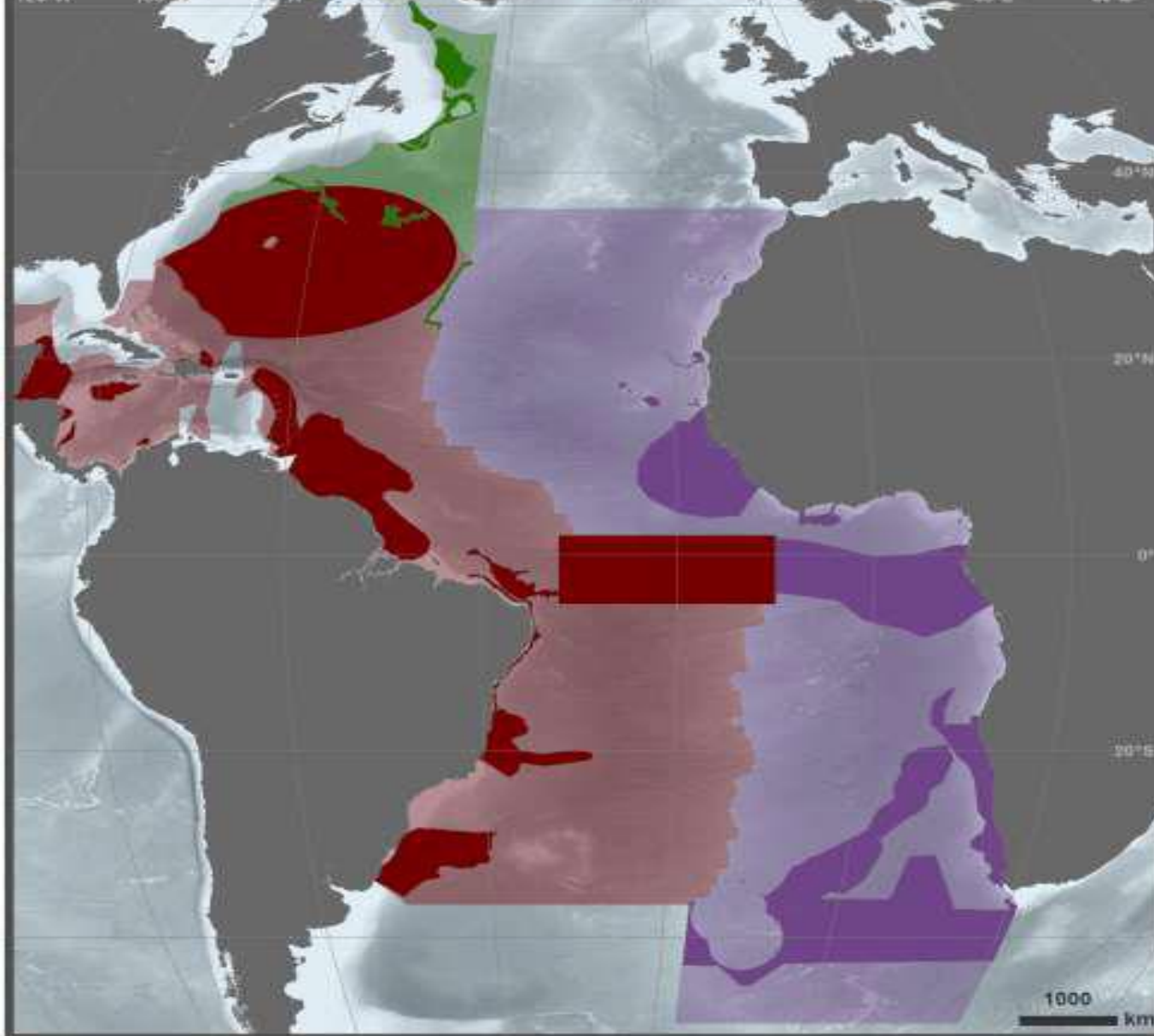
CBD Voluntary Guidelines for the consideration of Biodiversity in Environmental Impact Assessments and Strategic Environmental Assessments in Marine and Coastal Areas

Guidelines intended to inform the implementation of environmental impact assessments (EIAs) and strategic environmental assessments (SEAs) for activities which may have significant adverse impacts with a view to ensuring that such activities “do not compromise ecosystem integrity”.

Key elements of CBD EIA Guidelines for Marine and Coastal Areas

- o Introduction
- o Stages in the process
- o Biodiversity Issues at different stages of the process

Atlantic EBSAs



Marine Geospatial Ecology Lab, Duke University (2010)

CBD Ecologically or Biologically Significant Areas (EBSA)

Workshop Boundary

- North West Atlantic
- South East Atlantic
- Wider Caribbean and Western Mid-Atlantic

Described EBSA

- NWA EBSA
- SEA EBSA
- WC and WMA EBSA


PROCESS TREATIES

Espoo

Aarhus

Espoo Convention on Environmental Impact Assessment in a Transboundary Context, 1991)

- obligations of Parties to assess the environmental impact of certain activities at an early stage of planning.
- general obligation of States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries .
- Applies to UNECE members only. Once first amendment comes into force, will be open to all UN Member States
- Key principles behind Espoo Convention
 - Rio Declaration Principle 17: Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.
 - Rio Declaration Principle 19: States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.



**Aarhus Convention on Access to
Information, Public Participation in
Decision Making and Access to Justice
in Environmental Matters 1998**

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Thank you