

# *Coast Bordeaux 2017*

*From coast to deep-sea, the winding  
road  
of a nested  
governance and management  
approach*

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# The history of the law of the sea

## *Beyond “freedom” vs. “enclosure”*

*When there is a strong hegemon,  
concept of free seas prevails*

*When there is competition in the world polity,  
each state attempts to seize  
as much of the ocean as possible*

*D.P. O’Connell, 1982*

But the ocean-space as a **social construction** may differ  
depending  
on history and societies around each ocean or regional seas

*Indian Ocean, Micronesia, Mediterranean sea....*

# **In our postmodern era, we have a common reference, UNCLOS, but...**

*Universality far from being achieved,*  
UNCLOS: 166 countries (*big absent: USA...*)  
UN Fish Stocks Agreement: 81 only...

## *Non compliance by ratifying countries themselves*

Territorial waters boundary  
Non respect of deep/fragile ecosystems (deep trawling)  
Illegal Unreported Unregulated (IUU) fishing

## *To be adapted to new problems and issues*

Conservation of high seas living resources (fisheries subsidies)  
Bioprospecting (no existing rules in the high seas)  
Climate change and ocean acidification  
Drug smuggling, piracy, etc.

**Still a very fragmented approach to jurisdiction**  
*despite the irrefutable unity of oceans as ecological systems*

***Deep sea minerals in ABNJs: UNCLOS - ISA***

***Fishing: RFMO – FAO***

***Biodiversity and habitats (EBSAs): CBD***

***Shipping and pollution: IMO***

***Land-based pollution and debris: (UNEP)***

***Waste disposal: London Dumping Convention***

***Scientific research: Voluntary code of conduct***

***Cable & pipelines: unregulated***

***Bioprospecting: unregulated***



**Leading States and organisations to appropriate  
a greater share of natural resources**



# Key agreements for marine resources management and biodiversity

**Global framework agreement:** UNCLOS 166  
(Parties)

**Global sectoral agreements:**

- UN Fish Stocks Agreement 81
  - MARPOL (pollution from ships) 74
  - London Convention (waste dumping) 87
  - International convention on whaling 88
- (95% GT)

**Global conservation (science-oriented) agreements:**

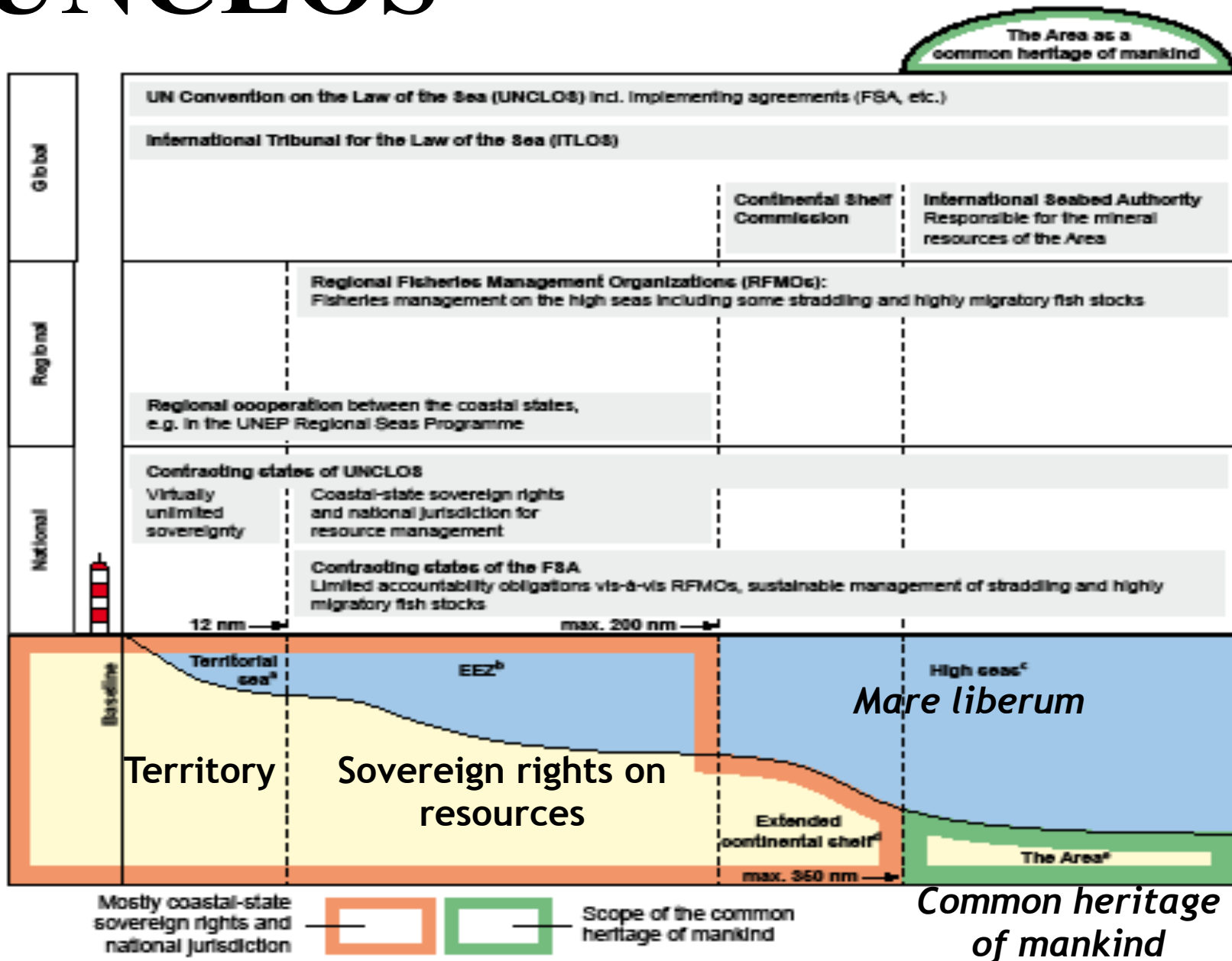
- CITES (endangered species) 178
- CMS (migratory species) 119
- CBD (biological diversity) 193
- WHC (world cultural & natural heritage) 190

**Regional agreement bodies:**

## Extension of continental shelf: 78 submissions/29 recommendations (2001-2017)



# UNCLOS





# Territorialization of ocean-space

## ***Containerization and port-city changes***

*Spaces open to tourism activities*

*(Boston, Sydney, Barcelona, Genoa, Marseille, etc...)*

*The ocean as a site to be gaze at or celebrated...*

## ***Development planning in the coastal zone***

*Politically incorporated within the territory of the state/  
region*

*Becoming fully incorporated socially as well (3-6-12 n.miles?)*

## ***EEZs: the UNCLOS spirit and the facts***

*UNCLOS: not a component of state territory but a space  
wherein a single state has **exclusive rights***

*EEZ, rich reserves of resources necessitating fixed investments  
hence **territorial regime***

# **And beyond ?.....**

*1995: adoption of the Agreement for implementation of the Provisions of 1982 UNCLOS relating to the straddling and migratory fish stocks*

***A new global agreement in ABNJ is needed***

April 2014: UN AdHoc working group (BBNJ) gathering positive momentum to consider the

**‘scope, parameters and feasibility’  
of a new international instrument under  
UNCLOS (UNCLOS IA)**

*(benefit sharing of MGR, MPAs, EIAs, capacity building, transfer of technology....)*

# The governance responses

Regional and environment-lead

## *Regional conventions*

*e.g. Mediterranean, North-East Atlantic, South Pacific....*

## *The Antarctic Treaty System*

*An ABNJ managed under the auspices of ATS*

*Convention for the Conservation of Antarctic Marine Living Resources*

## *The Sargasso Sea Alliance*

*Enhance coordination and cooperation between existing regional, sectoral and international organisations*

# OSPAR Maritime Area and Regions



- Region I: Arctic Waters
- Region II: Greater North Sea
- Region III: Celtic Seas
- Region IV: Bay of Biscay/Iberian Coast
- Region V: Wider Atlantic

**Dealing with  
international  
waters**

## 16 Contracting Parties

- Belgium
- Denmark
- Finland
- France
- Germany
- Iceland
- Ireland
- Luxembourg
- The Netherlands
- Norway
- Portugal
- Spain
- Sweden
- Switzerland
- The United Kingdom
- European Union

***Total superficy: 14 M Km<sup>2</sup>***



# Network of MPAs (2010)

From coast to  
International  
waters

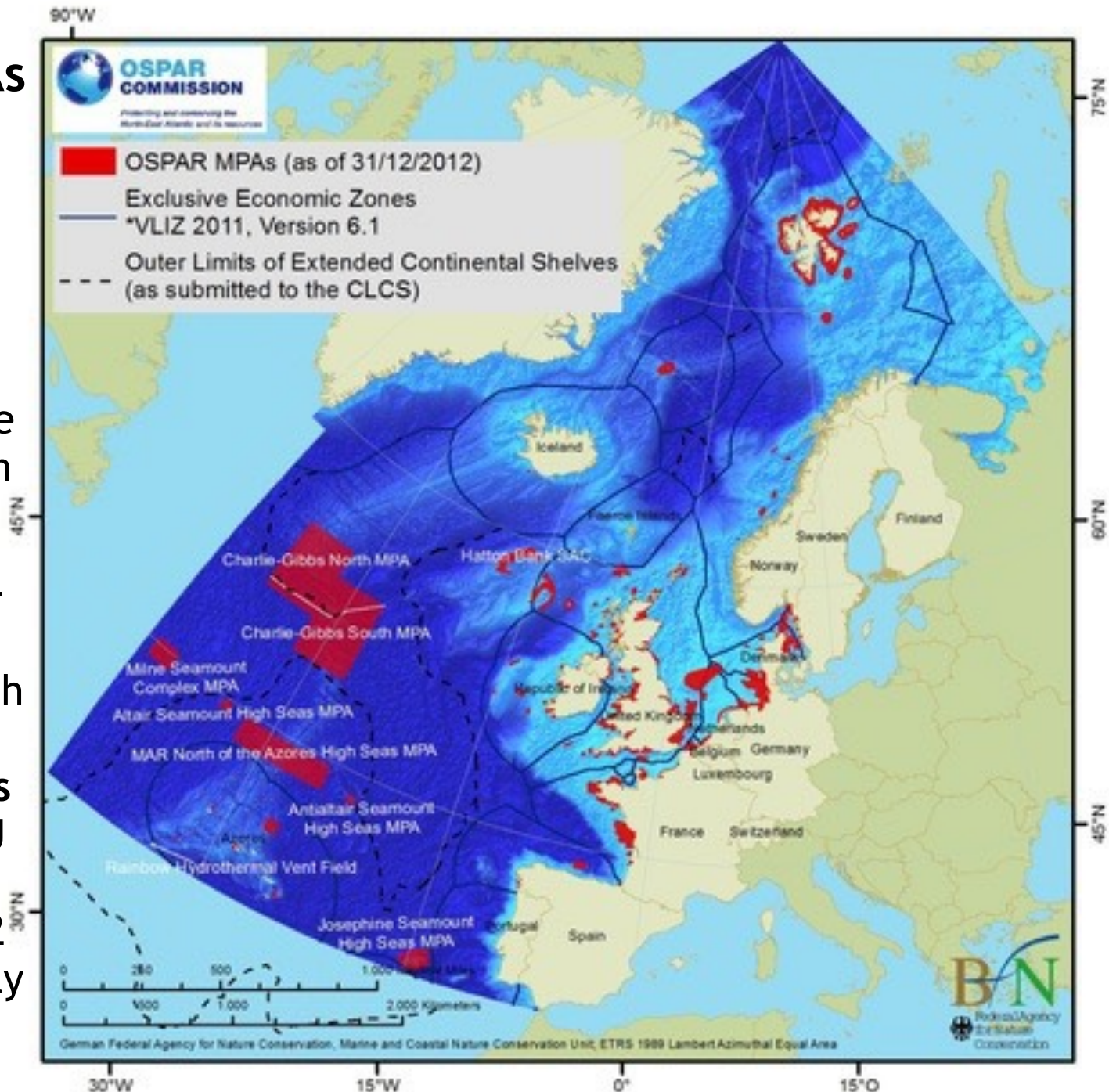
From the shoreline  
to depths > 5600m

Area: 14M km<sup>2</sup>

An ad hoc approach

Included in EBSAs  
definition in ABNJ

Evaluated in 2012  
as “not ecologically  
coherent”





# **The need for integrating platforms**

**for cooperation amongst organisations**

*A Collective Arrangement between competent authorities on the management of selected areas in ABNJ in the **North-East Atlantic***

*Underpinned by a set of more formal MoUs with relevant sectoral management organisations, including NEAFC, IMO, ISA, etc.*

*The ‘Oceanscape’ concept in the **South Pacific** (Micronesia, Polynesia)*

*The re-invention of the ocean as a territory, a set of discrete places linked together by ocean highways*

*The **Sargasso Sea Alliance** (with no regional environmental treaty or regional fisheries treaty covering the area)*

*In the three cases, the expansion of regional activities and interest*

# About 'macro-regions' in the Mediterranean

## *Intermediterranean Commission of CPMR Integrated Mediterranean Strategy*



# ***Guiding concepts***

- Variable geometry***
- Governance: multilevel and polycentric approach, Top-down/bottom-up, public-private synergies***
- Gradual step by step voluntary approach***
- thematic concentration by strategies***
- capitalisation on previous projects/initiatives***
- synergies with financial tools***

***A work based on the EC macroregional approach  
With Member States, Local and Regional authorities  
First pilot: the Adriatic-Ionian Region***

***Agreement then to be reached through the  
Union for the Mediterranean***

# ***Some factors of success:***

***Necessity of a trigger***

*(e.g. mutual economic opportunity like tourism, environmental threat like fishing),*

***high level advocate***

***(support at the highest level of government)***

***operating management board and plan  
coordination unit***

***sustainable funding mechanism***

***third party facilitators (e.g. international NGOs)***

***Recognition of stakeholder and community  
rights***

# Must we wait only for global and/or regional solutions ?

*« matching principal » in international law:  
problems involving multiple levels (global to local)  
should involve  
**contributions at each of these levels***

*But, while discussions and arrangements take place at  
global and regional levels, local coastal initiatives  
keep on developing but are not necessary linked to  
**form a system** and feed « polycentric » decision-  
making centers*



# **A global governance system fostering accountability**

**World Oceans Organization (WOO)**

**High seas+the Area**

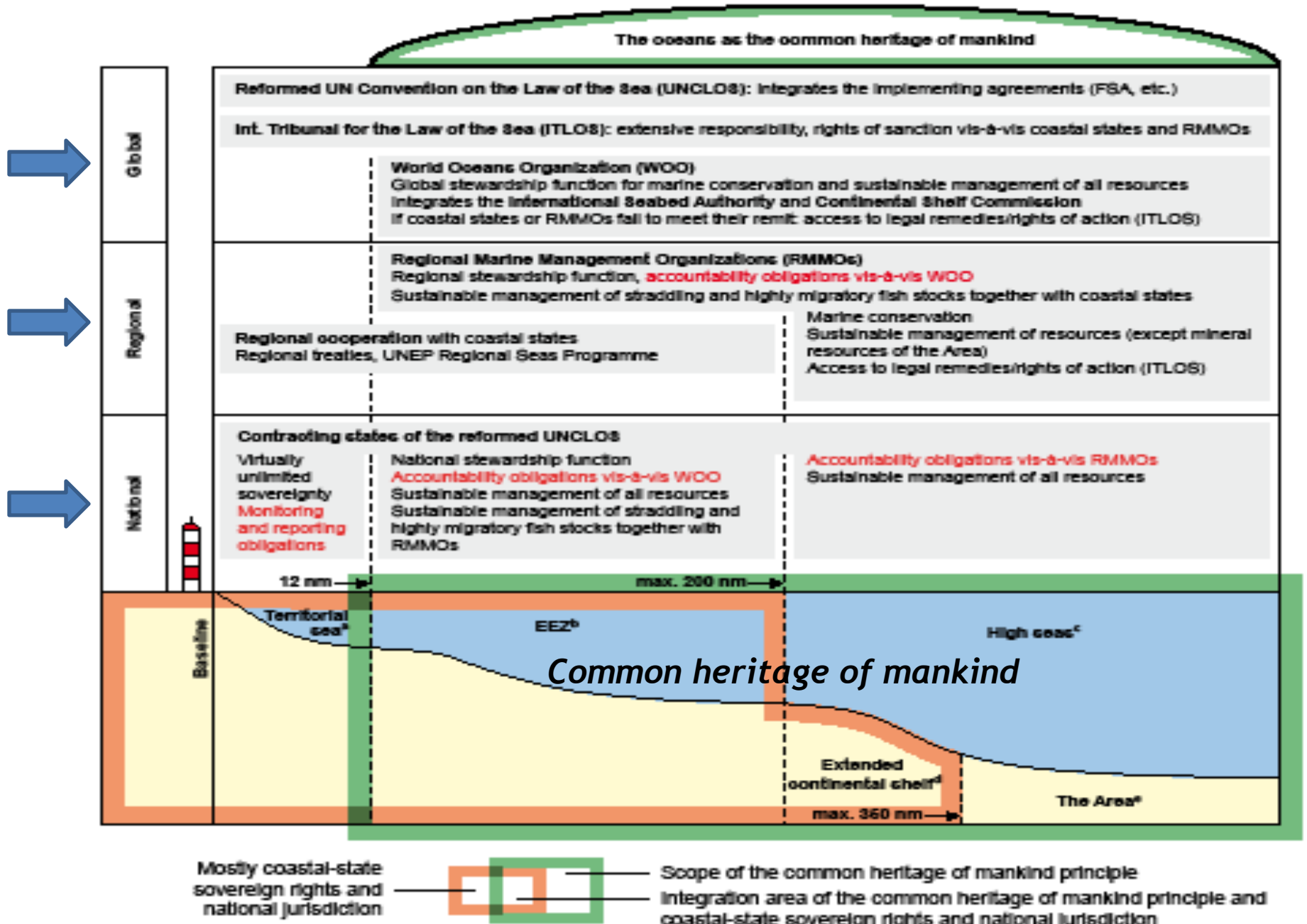
*Accountability obligations vis-à-vis WWO/ISA + RMMO*

**Regional Marine Management Organizations (RMMO)**

*Accountability obligations vis-à-vis WOO*

**National EEZ (territorial sea)+continental shelf**

*Accountability obligations vis-à-vis WOO*







Thank you