



# **UN Law of the Sea Convention**

## **Main concepts and principles of environmental protection**

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## The question: How to regulate and control activities outside territorial waters, on the “high seas”?

Possible solutions:




- A comprehensive *international regime* and organization? (“Common heritage of the mankind”?)
- Extended *coastal state* jurisdiction, and coastal state obligations?
- Strict obligations for *flag states* to regulate and enforce?

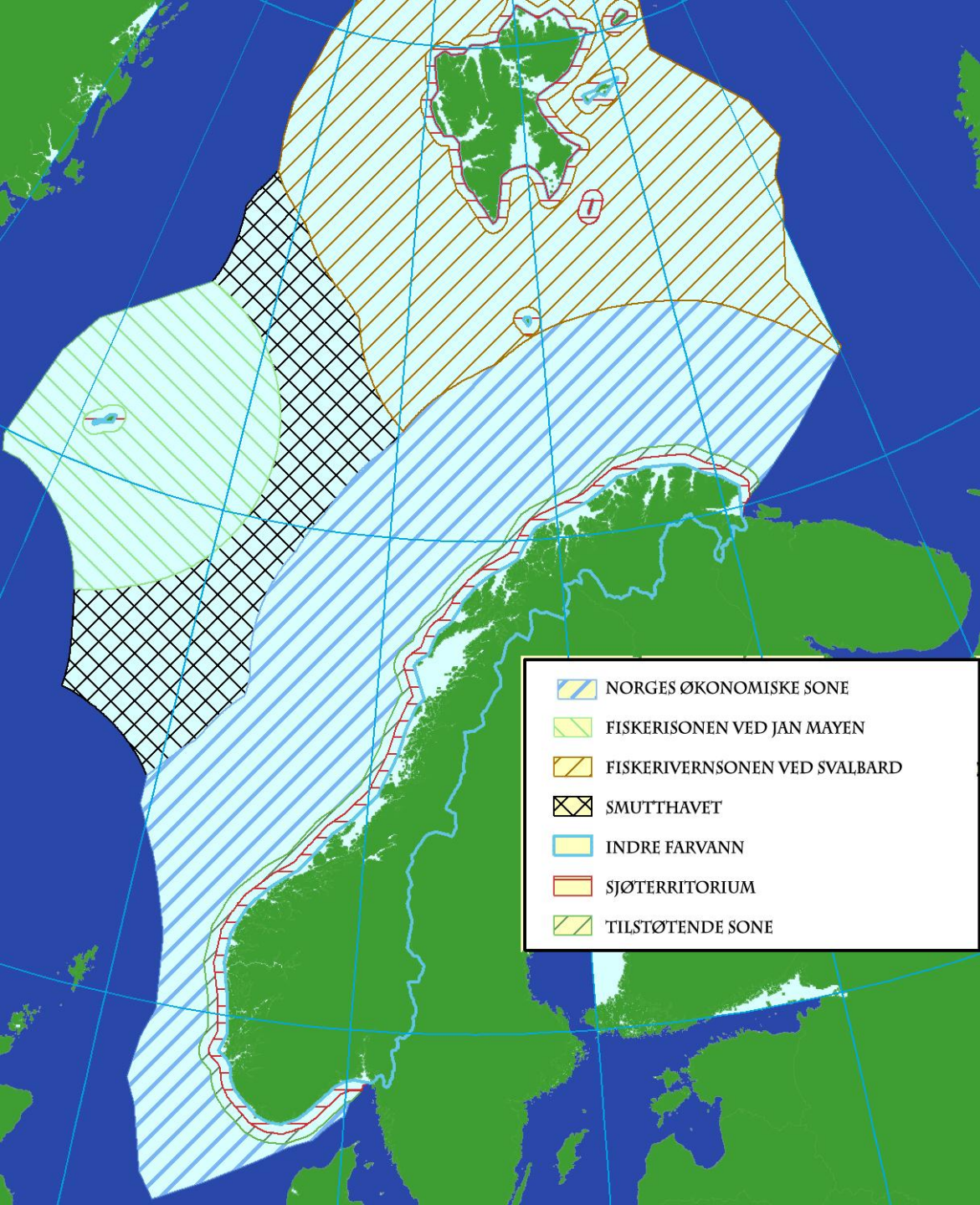


## The UN Convention on the Law of the Sea has elements of all alternatives, but the main result is *extended coastal state jurisdiction*:

- Extension of the territorial sea to max. 12 nautical miles.
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- Extension of “contiguous zone” (for enforcement) to 24 nautical miles.
- Exclusive Economic Zone (max. 200 nautical miles).
- Continental Shelf of the coastal state (defined earlier).
- New rights for “port states”.
- Stricter obligations for flag states.
- International regulation of exploitation of seabed minerals in international waters (“the Area”)



-  NORGES ØKONOMISKE SONE
-  INDRE FARVANN
-  NORSK SJØTERRITORIUM





# The "Law of the Sea Puzzle"

The rights and obligations of:

- flag states
- port states
- coastal states

In/on:

- internal waters
- ports
- the territorial seas
- the exclusive economic zone (EEZ)
- the continental shelf
- the high seas



# The "Law of the Sea Puzzle"

... with regard to regulation and enforcement of

- the exploitation of natural resources in general
- the management ("conservation") of various marine living resources
- the control of pollution from
  - ships
  - land-based sources/dumping
  - off-shore petroleum activity



# Part XII Protection and preservation of the marine environment

The basic obligations: Arts. 192 193, 194.





# UNCLOS – marine environment

## **Article 192** *General obligation*

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

## **Article 193** *Sovereign right of States to exploit their natural resources*

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.



- **Article 194**

## **Measures to prevent, reduce and control pollution of the marine environment**

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source,  
using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

## "Erika" oil disaster 1999 (20,000 tons of fuel oil)





# Article 211

## Pollution from vessels

1. States, acting through the competent international organization or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels.....



# Article 211 Pollution from vessels

## Flag states

2. States shall adopt laws and regulations for the prevention, reduction and control of pollution of the marine environment from *vessels flying their flag* or of their registry.

Such laws and regulations shall at least have the same effect as that of *generally accepted international rules and standards* established through the competent international organization or general



# Article 217

## Enforcement by flag States

1. States *shall ensure compliance* by vessels flying their flag or of their registry with applicable international rules and standards, established through the competent international organization or general diplomatic conference, and with their laws and regulations adopted in accordance with this Convention .....



- 4. If a vessel commits a violation of rules and standards established through the competent international organization or general diplomatic conference, *the flag State*, without prejudice to articles 218, 220 and 228, *shall provide for immediate investigation* and where appropriate institute proceedings in respect of the alleged violation *irrespective of where the violation occurred* or where the pollution caused by such violation has occurred or has been spotted.



# Article 218

## Enforcement by port States

1. *When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards ....*



## Coastal state: Territorial Sea, Article 21

### Laws and regulations of the coastal State relating to innocent passage

The coastal State *may adopt laws and regulations*, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through *the territorial* sea, in respect of all or any of the following:

- (a) the *safety* of navigation and the regulation of maritime traffic;
- ...
- (f) the *preservation of the environment* of the coastal State and the prevention, reduction and control of pollution thereof;



..but...

- 2. Such laws and regulations *shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.*



# Article 211 Pollution from vessels

## Coastal states

4. *Coastal States* may, in the exercise of their sovereignty *within their territorial sea*, adopt laws and regulations for the prevention, reduction and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage.

Such laws and regulations shall, in accordance with Part II, section 3 (Innocent passage), not hamper innocent passage of foreign vessels.



## Coastal state: EEZ, Article 56

1. In the exclusive economic zone, the coastal State has:
  - (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, ...
  - b) jurisdiction.... with regard to
  - (iii) the protection and preservation of the marine environment;



## Article 211

- 5. *Coastal States, for the purpose of enforcement as provided for in section 6, may in respect of their exclusive economic zones adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organization or general diplomatic conference.*



## Article 220

### Enforcement by coastal States, EEZ

(3) Where there are *clear grounds for believing* that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, *in the exclusive economic zone*, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels

.....

- that State *may require* the vessel to *give information* regarding its identity and port of registry, its last and its next port of call and other relevant information...



## Article 220

5. .... and the State may undertake *physical inspection* of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.



# The High Seas: Flag state control

## Art. 94 Duties of the flag State

- 1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.
- .....





# Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties

Art. 1: Coastal states may take “such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution....”