

# ***Governance in the Caribbean Sea: Implications for Sustainable Development***



*Oceans and Law of the Sea*  
Division for Ocean Affairs and the Law of the Sea



The Nippon Foundation

**United Nations/Nippon Foundation Fellowship**

**Asha Singh, PhD**

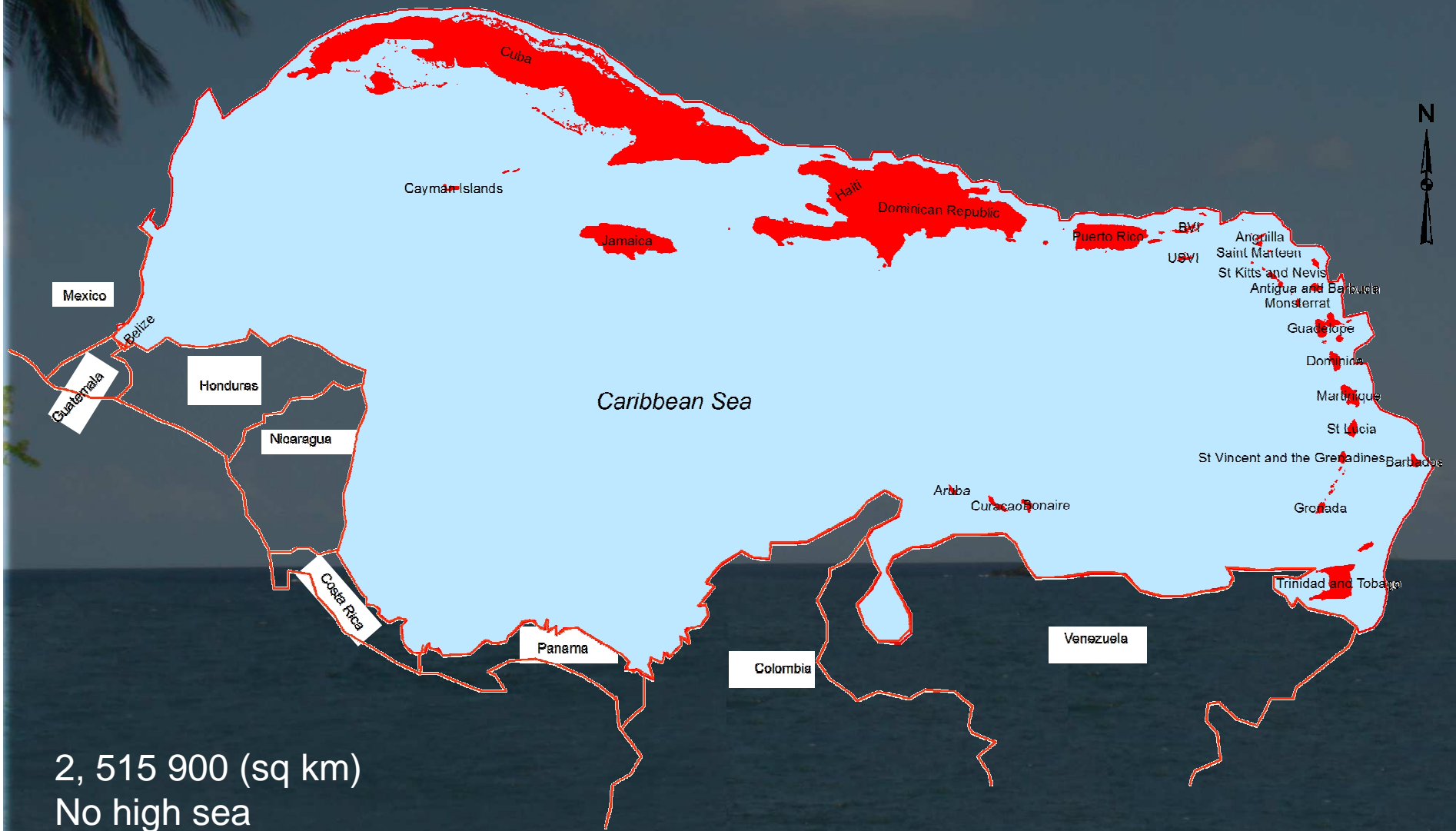
## ***Outline of the Presentation***

- The Study Area
- Ocean Governance
- Ocean Governance in the Caribbean Sea
- Ocean Governance and Sustainable Development
  - pollution, sustainable use and management of both Living and Non-living resources
- Shortcomings and Challenges of the Present Governance Structure
- Recommendations

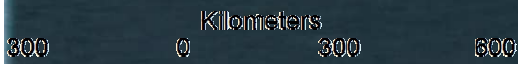
9°22' N

89°-60' W

# The Study Area



2, 515 900 (sq km)  
 No high sea



# *The Study Area*

## **Productivity**

The Sea is....

- Highly stratified
- Isolated areas of upwelling
- Long food chain

Despite....

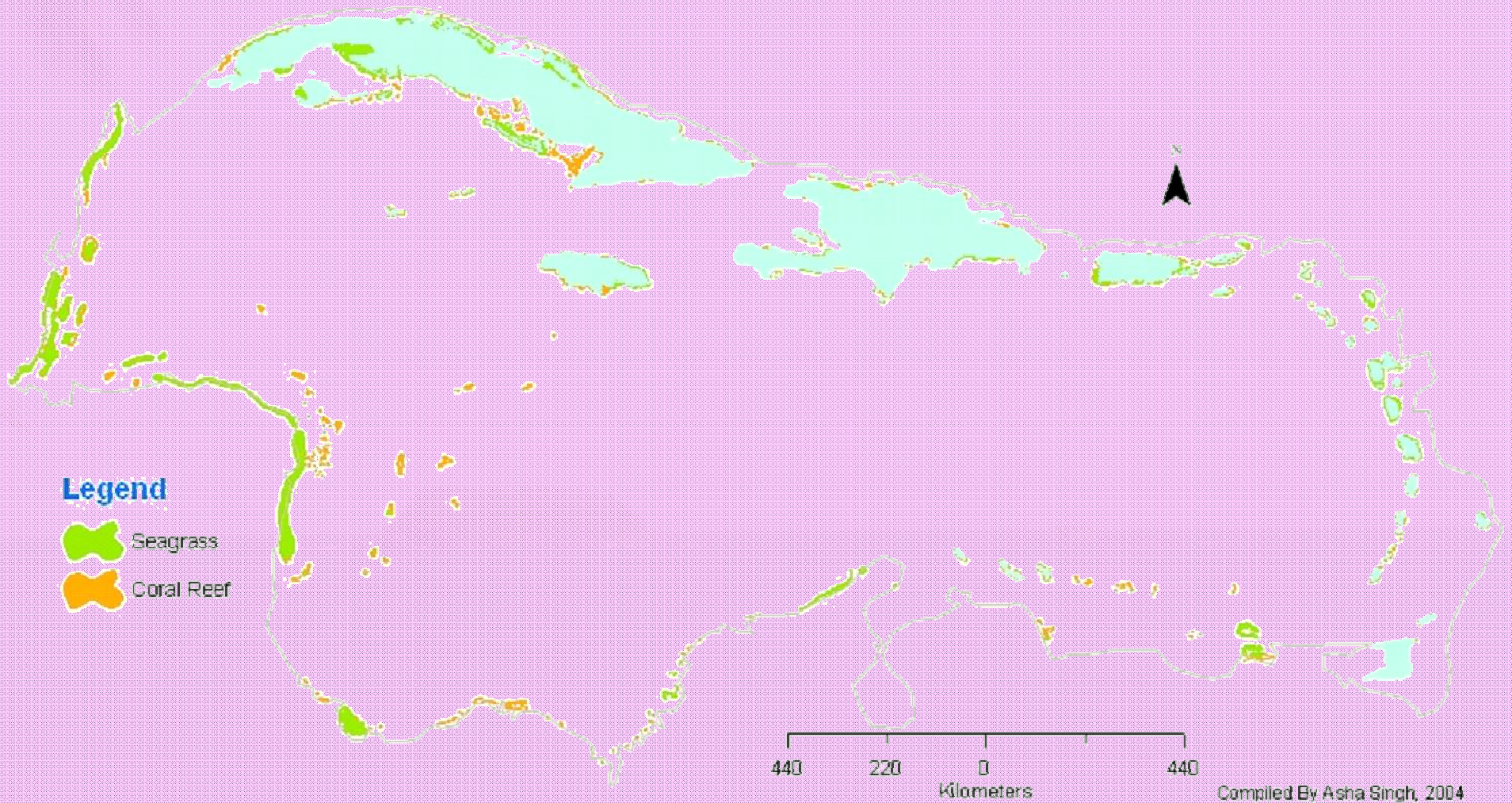
- Coral reefs, seagrass and mangroves ecosystems

Which in turn....

- Fisheries (500, 000 jobs, US\$ 2 billion<sup>1</sup>, 7 % Protein)
- Tourism

<sup>1</sup>- CARSEA, 2007

# The Study Area



# *The Study Area*

## Oil and Gas

Current explorations....

☐ Trinidad, Cuba, Colombia, Venezuela, Guatemala

Emerging....

☐ Jamaica, Nicaragua, Belize

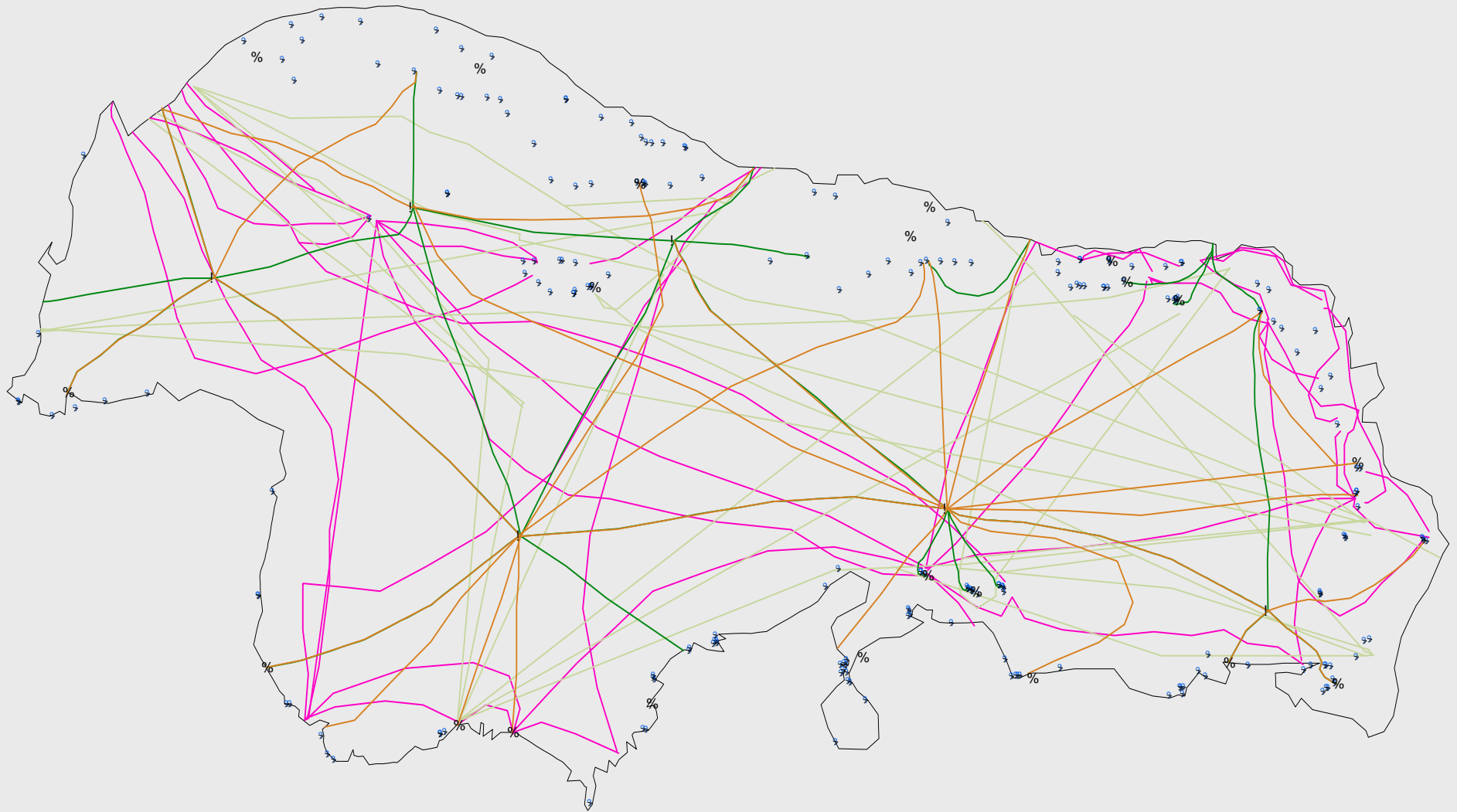
## Shipping

huge international and regional shipping network..

Transport of Oil and Gas, cruise, pleasure crafts

# The Study Area

Shipping – cruise, tankers, pleasure boats, cargo ships liners



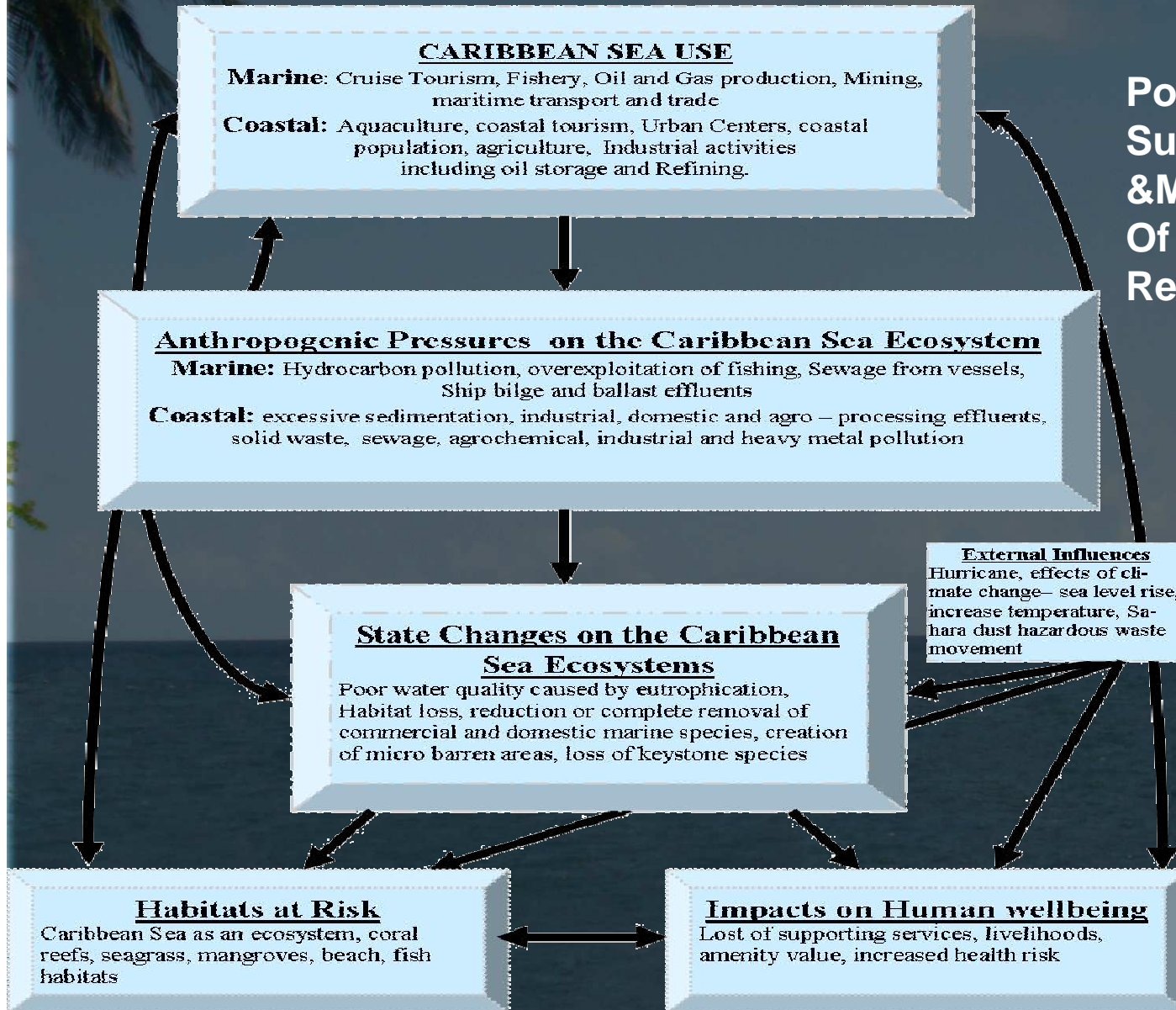
80000

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# The Study Area

## Pollution, Sustainable Use & Management Of Living and Non living Resources





A photograph of a tropical seascape. In the foreground, the dark blue ocean stretches across the frame. In the middle ground, a small, lush green island is visible on the left, and a smaller, rocky island is on the right. The sky is a clear, deep blue with a few wispy clouds. The palm fronds of a tree are visible in the top left corner.

# A Paradigm of Governance?

# Ocean Governance

core of any ocean governance...

The fundamental basis of ocean governance is to be given the 'right and space to govern the oceans and their resources.'

.... by way of a legal instrument (UNCLOS) OR customary international law.

in exercising the right to govern .....

also means that there is an obligation to protect the resources. Therefore, there must be interventions, which will assist in executing the rights and meeting the obligations.

.....national laws, programmes, policies and guidelines

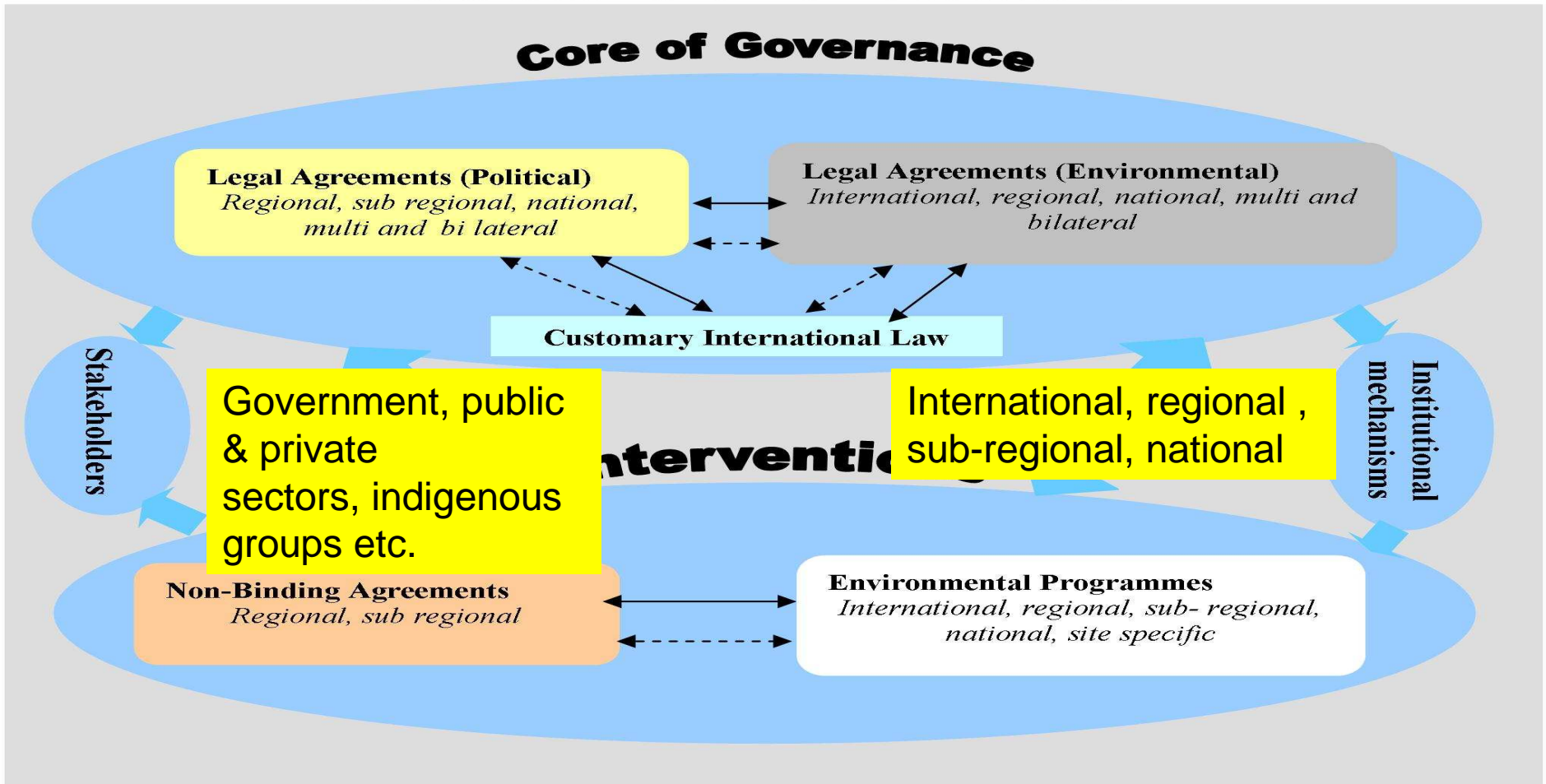
facilitated by .....

Institutions, multitude of stakeholders and the social, economic and cultural aspects of society.

# Governance

## Ocean Governance

### Core of Governance



↔ Inter-linkage and synergy present

↔ Inter-linkage and synergy absent

Asha Singh, 2008

## ***Ocean Governance***

ocean governance is the 'ability to govern the ocean as prescribed in forms of legal instruments and/or customary international law and supplemented by policy, programme and institutional interventions at the international, regional and national levels, all done in a holistic manner with effective synergies among the various entities, taking into consideration the social, cultural and economic factors.'

# Ocean Governance in the Caribbean Sea

## Legal

UNCLOS

Other Legal Instruments e.g MARPOL

Political/ Diplomatic e.g Revised Treaty

## Interventions

Declarations, Guiding Principles,  
Programmes of Actions, Projects e.g BPOA,

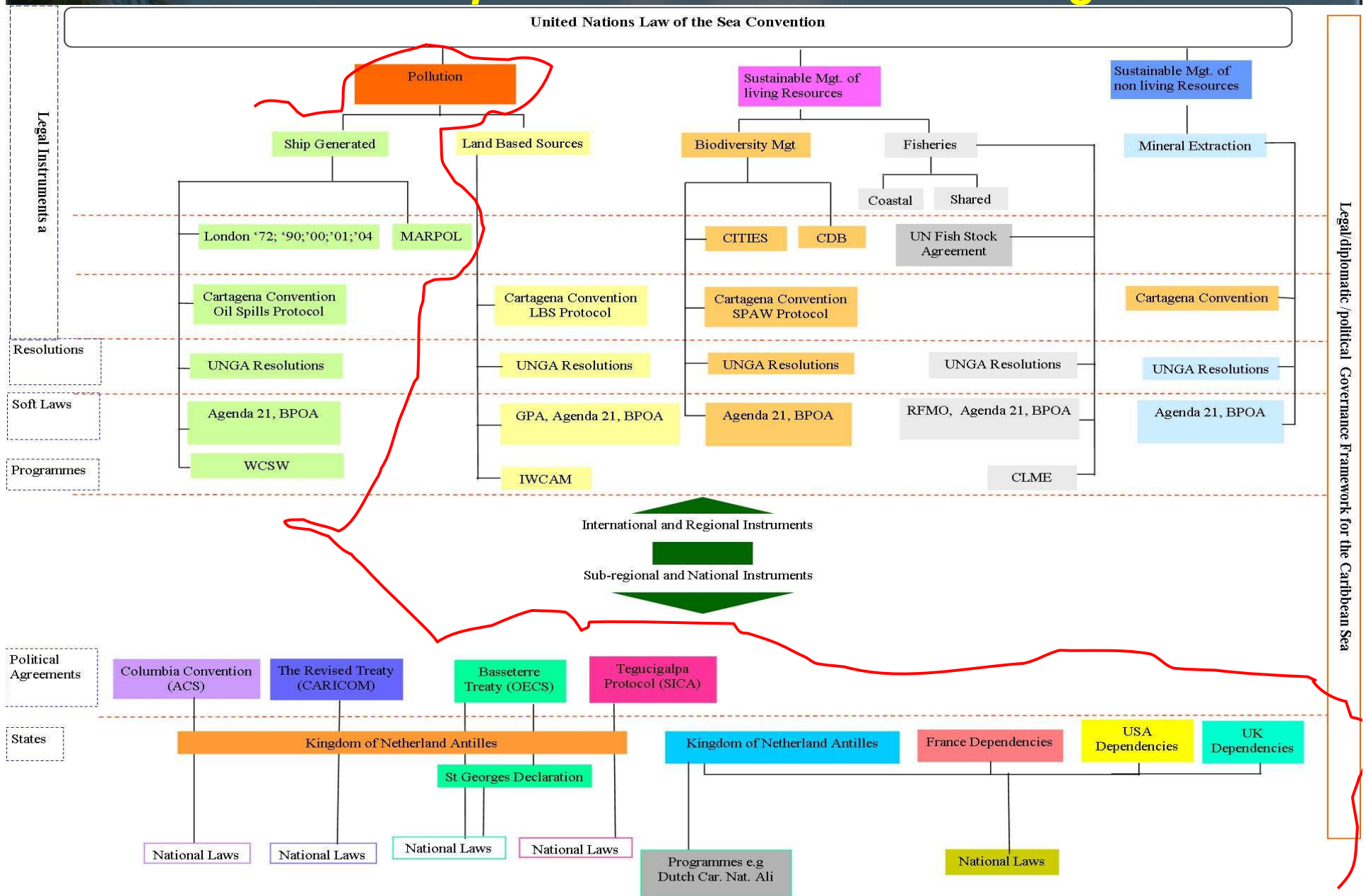
Resolutions e.g UNGA

National Laws and Regulations

Gave rights, elaborated resp., cooperation

.... Done in core

# Governance and Ship Generated Pollution Management



## ***Governance and Ship Generated Pollution Management***

- Major contributors to pollution in the Caribbean Sea
  - ballasting, operational discharges, accidental spills, solid waste, sewage

### **Oil**

- 7 million barrels discharged annually from tank washing
- Between 1960-1995 : 28 accidents > 250 barrels
- Ship collision – Cartagena (20 tonnes of oil)
- 200 ports: 62 (oil and oil products) – 28 (reception facilities)

### **Solid Waste**

- Cruise: 3.5 kilos/d; in 2000 >25,000 beddays = 75m/tons

Caribbean Sea – special area ?

### **Sewage and grey water**

- Cruise ship: 3000 capacity = 30,000 gallons sewage & 255, 000 Gallons/day (2000 = 6,636 ships + 10, 091,071- SIDS)

*No regional surveillance and monitoring system)*

# Governance and Ship Generated Pollution Management

Convention	Status	State	Signed	Ratified or Acceded					# of non party members
<b>Ship Generated</b>									
Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (1972) and 1996 Protocol	<b>Adoption:</b> <b>Entry into force:</b> 1974;2006	Independent States (total of 21)		14					7
		Dependent States ( total of 16)		5					11
Convention for the Prevention of Pollution form Ships (MARPOL 73/78)	<b>Adoption:</b> 1978 <b>Entry into Force:</b> 1983 along with Annex 1 and 11. Annex VI: 2005	Independent States (total of 21)		<b>1&amp; 11</b>	<b>111</b>	<b>1V</b>	<b>V</b>	<b>VI</b>	
		Dependent States ( total of 16)		18	15	14	18	6	
International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990	<b>Adoption:</b> November 1990 <b>Entry into force:</b> May 1995	Independent States (total of 21)		10					11
		Dependent States ( total of 16)		2					14
Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)	<b>Adoption:</b> March 2000 <b>Entry into force:</b> June 2007	Independent States (total of 21)		2					19
		Dependent States ( total of 16)		0					16
International Convention on the Control of Harmful Anti-fouling Systems on Ships	<b>Adoption:</b> October 2001 <b>Entry into force:</b> pending	Independent States (total of 21)		3					18
		Dependent States ( total of 16)		0					16
International Convention for the Control and Management of ship Ballast water and Sediments	<b>Adoption:</b> February 2004 <b>Entry into force:</b> pending	Independent States (total of 21)		3					18
		Dependent States ( total of 16)		0					16
Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena)  A Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region	<b>Adoption:</b> March 1983 <b>Entry into force:</b> October 1986  <b>Adoption:</b> 1983 <b>Entry into force:</b> October 1986	Independent States(total of 21)	2	18					1
		Dependent States (total of 16)		16					
		Dependent States(total of 21)	1	19					1
		Independent States (total of 16)		16					0
<b>Land Based Sources of Pollution</b>									
A Protocol for Land Based Sources of pollution in the Wider Caribbean (LBS Protocol)	<b>Adoption:</b> <b>Entry into force:</b>	Independent States (total of 21)	3	2					16
		Dependent States ( total of 16)	8	4					4



# Governance and Ship Generated Pollution Management

Convention	Provision
<b>Ship Generated</b> Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (1972) and 1996 Protocol	<b>Prohibits dumping</b> of certain hazardous materials (materials –prohibited, requiring prior special permit or requiring a general permit) <b>Contracting Parties</b> must have a designated Authority to deal with records, permits and <b>MONITOR THE CONDITION OF THE SEA</b> Protocol: All dumping prohibited except those on the 'reverse list'
Convention for the Prevention of Pollution form Ships (MARPOL 73/78)	<b>provides limits and conditions for dumping: Annex 1 (Oil)</b> no discharge 43 NM of nearest land; <b>Annex 11</b> (Noxious Substances) – 12 NM; <b>Annex 1V</b> (Sewage) – comminuted and disinfected 3NM, not comminuted or disinfected (12 NM) Ships must report incidents of pollution
International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990	ships must carry an <b>oil pollution emergency plan</b> ; Contracting Parties should <b>forge international cooperation</b> at all levels in combating <b>major incidents or threats of marine pollution</b> . In forging such cooperation, cognizance must be taken of the special needs of some countries including developing and SIDS
Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)	This protocol follows the <b>principles of OPRC, 1990</b> . This protocol aims to provide a global framework for international co-operation in combating <b>major incidents or threats of marine pollution</b> specifically dealing with hazardous and noxious substances. Forges international cooperation in combating major incidents or threats of marine pollution. Ships required to carry shipboard <b>pollution emergency plans</b>
International Convention on the Control of Harmful Anti-fouling Systems on Ships	prohibits and/or <b>restricts the use on ships, anti-fouling paints, which contain harmful organotins</b> . This convention moved away from the norm to include ships flying flags of Contracting Parties, as well as ships not entitled to fly their flag but which operate under their authority and all ships that enter a port, shipyard or offshore terminal of a Party
International Convention for the Control and Management of ship Ballast water and Sediments	Entrenched in the convention is the provision <b>to prevent, minimize and ultimately eliminate the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water</b> and sediments. In this regard, ships must have a ballast water management plan and Ballast Water Record Book. The regulations also include port state inspection powers . The discharge of Ballast Water shall only be conducted through Ballast Water Management, in accordance with the provisions of the Annex."
Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena)	requires parties to adopt measures aimed at <b>preventing, reducing and controlling pollution from ships and those caused by dumping among others</b>
A Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region	It stipulates that Contracting Parties take remedial and preventative measures (within their capabilities) for the <b>protection of the marine and coastal environment of the Wider Caribbean Region</b> , particularly the coastal areas of the islands of the region, from oil spill incidents

# Governance and Ship Generated Pollution Management

Convention Ship Generated	Provision
<i>Colombia Convention</i>	<b>commits the ACS to preserve the environmental integrity of the sea, while at the same time developing and exploiting the resources.</b> One of the initiatives under the Caribbean Sea commission is the pursuance of the Caribbean Sea Special Status at the UNGA
<i>The Revised Treaty</i>	the need for management of the Caribbean Sea to avoid environmental impacts is recognized in a number of areas including its transport policy. In addition, <b>the Treaty sets forth the mandate of seeking international recognition of the Caribbean Sea as a special area</b>
<i>Tegucigalpa Treaty</i>	It articulates <b>the protection of the natural environment in the area</b> but no qualification was stated whether it means the terrestrial, marine, or both.
<i>Basseterre Treaty</i>	Under the OECS, the St George's Declaration of Principles of Environmental Sustainability was adopted to augment the legal international environmental instruments within the OECS and to give credence to the treaty. <b>'Measures will be taken to prevent, reduce and control waste generation and disposal, as well as pollution of land, rivers, sea and the air.'</b>
<i>Agenda 21</i>	recognizes the importance of <b>preventing, reducing and controlling sea based activities</b> , which are affecting the marine environment and presented a number of measures for States to consider. These include supporting the <b>ratification and implementation of shipping conventions and protocols</b> , cooperate in monitoring and assessment of marine pollution from ships from illegal discharges, enforcement of MARPOL provisions and consider appropriate measures for ballast water discharge and transportation of hazardous and noxious substances.
<i>Barbados Programme of Actions (BPOA)</i>	Develop and implement appropriate <b>regulatory measures, including emission discharge and pollution standards, for the reduction, prevention, control and monitoring of pollution from all sources</b> ; for the safe and efficient management of toxic, hazardous and solid wastes, including sewage, herbicides, pesticides and industrial and hospital effluent; and for the proper management of disposal sites. States ratify and implement all the necessary treaties and convention.
<i>Wider Caribbean Ship Generated Waste Project</i>	The objective of the project was to provide a <b>regional strategy for the ratification of MARPOL Convention</b> . Specifically it aimed at providing the governments in the region with information on the legal, technical and institutional measures and also to support for the implementation of a regional strategy. However, at the end of the project in 1998, this was not achieved.
<i>Merchant Shipping Act 1996 (St. Lucia)</i>	Provides measures to <b>regulate oil pollution incidents from shipping</b> . This legislation also makes a provision for civil liability of pollution in coastal and marine water by merchant ships.
<i>Island Regulation of the Netherland Antilles (Eilanden-regeling Nederlandse Antillen)1998</i>	Regulates the function of the Central Government. In 2001, a statement regarding the environment was added to this regulation, " <b>the management of the environment and the management and conservation of nature as they derive from treaties</b> "

# ***Analysis of Caribbean Governance***

## **Sectoral**

- Conventions superimposing their own form of governance e.g MARPOL and UNCLOS

## **Generalisation of some Agreements:**

Some agreements are very generalised on certain issues and therefore opened to various interpretations while others are very specific. E.g Cartagena Convention in its provision on ship generated marine pollution articulated 'taking all appropriate measures to prevent, reduce and control pollution of the Convention area

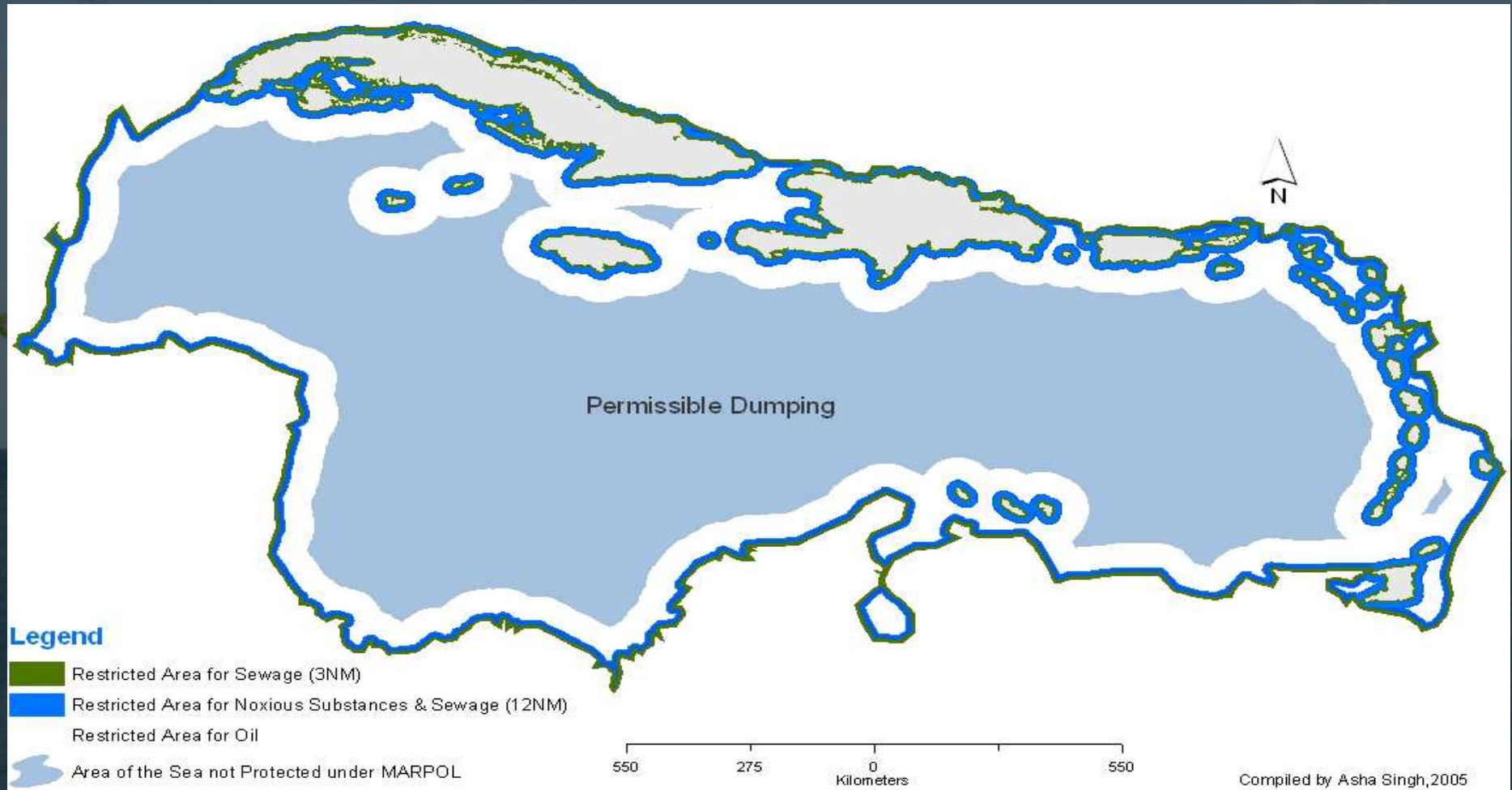
## **Ratification:**

On average low ratification rate, higher for treaties with less obligations, long time lag, meagre ratification for OTs (48 %). Low ratification and non-memberships create a significant disparity for the successful outcome of these instruments.

# Analyses of Caribbean Governance

## Inadequacies in the Conventions

Some of the conventions seem rather inadequate in dealing with the environmental issues facing the Caribbean Sea.



## ***Analyses of Caribbean Governance***

### **Non-Binding Agreements and their poor influence:**

Agenda 21 and BPOA have all attempted to give further credibility to the various legal instruments.

- provides useful guidelines and action plans which can assist in curbing marine degradation.

“We are nowhere near where we are supposed to be in terms of the implementation of the BPOA”

### **Overemphasising the UNGA Resolutions**

The CSC programme of work seems similar to a sub-regional organisation, in addition, the concept of special area which is presently being pursued under this resolution seems legally flawed in its present format.....

# ***Analyses of Caribbean Governance***

## **Implementation**

- Programmes that augment many of the legal instruments are done along traditional political alignments and conducted in core groups of countries.

Article 123 emphasized the need for cooperation by bordering States in exercising the rights and responsibilities with regard to the protection and preservation of the marine environment  
e.g IWCAM...

# Analyses of Caribbean Governance

## Repetition among Instruments:

many of the stipulations in the agreements are similar in scope and at times seem very repetitive. E.g protected areas CBD, Cartagena Convention, The SPAW Protocol, The BPOA and Agenda 21



45 MPAs in the SIDS with active management. Among them, 4 level management and 19 are ranked as having low level of management.

# ***Analyses of Caribbean Governance***

## **Poor Commitment in the Region**

The Caribbean Sea is designated a special area for garbage under Annex V MARPOL since 1993.

## **Poor Cooperation:**

In some areas of resource management, cooperation is very important e.g Fisheries

...UNCLOS and The Fish Stock Agreement.

In some instances, sub regional organizations are devising common fisheries policies for the Caribbean Sea with just the involvement of a small fraction of nations in the Caribbean Sea. This inability to incorporate all jurisdictions in such an initiative will make this ineffective in dealing with the fisheries issues in the region. e.g CLME

## **Asserting Rights:**

if States do not know the extent of their boundaries then they will be unable to ascertain how much and what they are governing. So how can they govern? How can the CARICOM Common Fisheries Policy work, when its members have only settled 7 claims out of a total of the 48?



## Recommendations

### A Common Strategy

A common waste policy

A common agricultural policy

A common land use policy

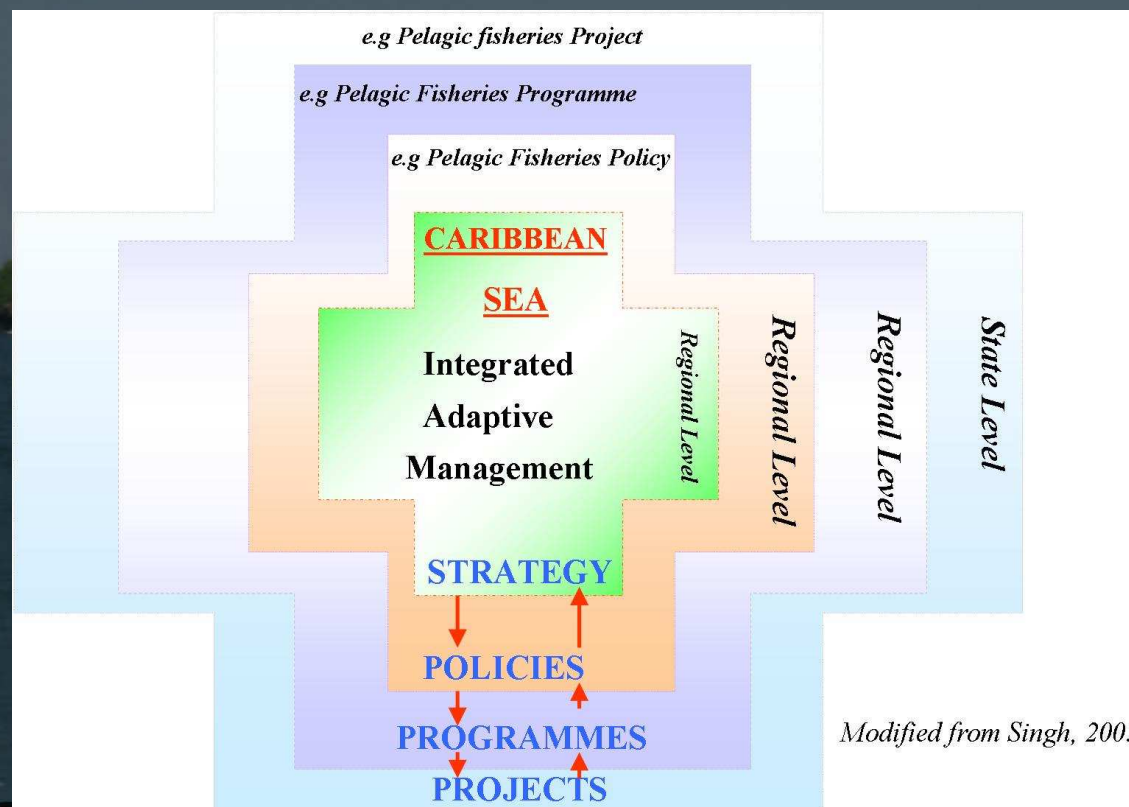
A common fisheries policy

A common policy for surveillance and monitoring controls

Standards, Monitoring Programmes and Data Collection

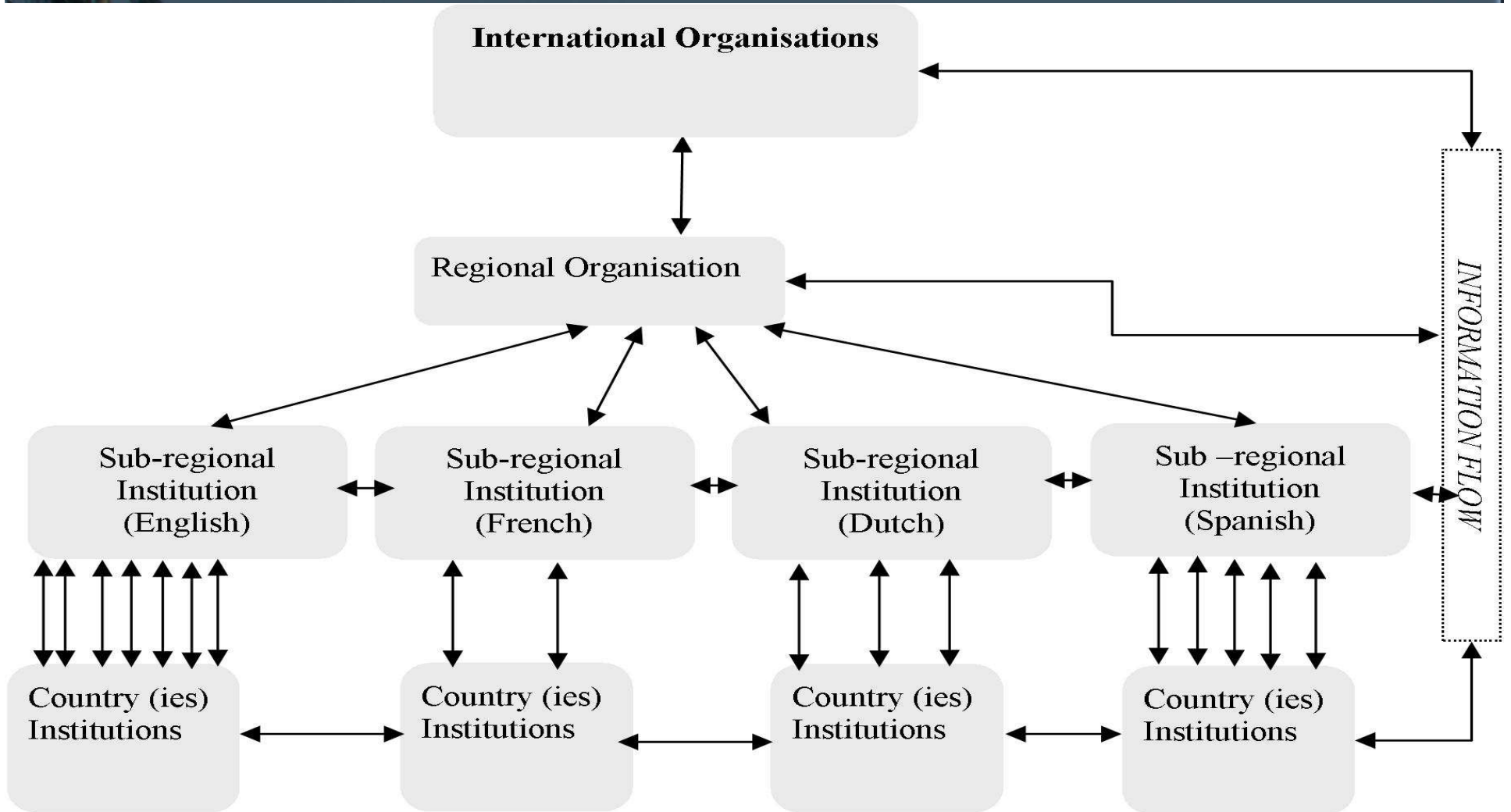
Research

Public Awareness



# Recommendations

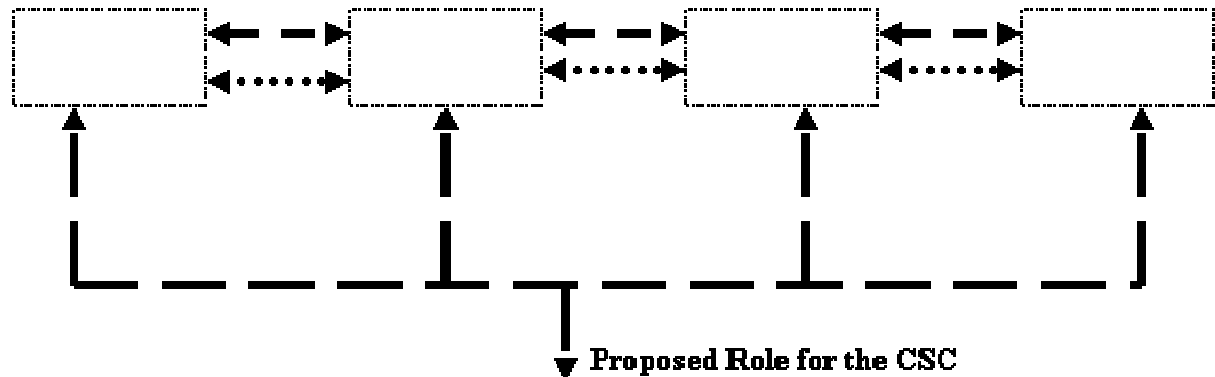
## Overcoming barriers



Compiled by Asha Singh, 2008

# Recommendations

International,  
Regional, sub-regional  
and national decision  
making entities

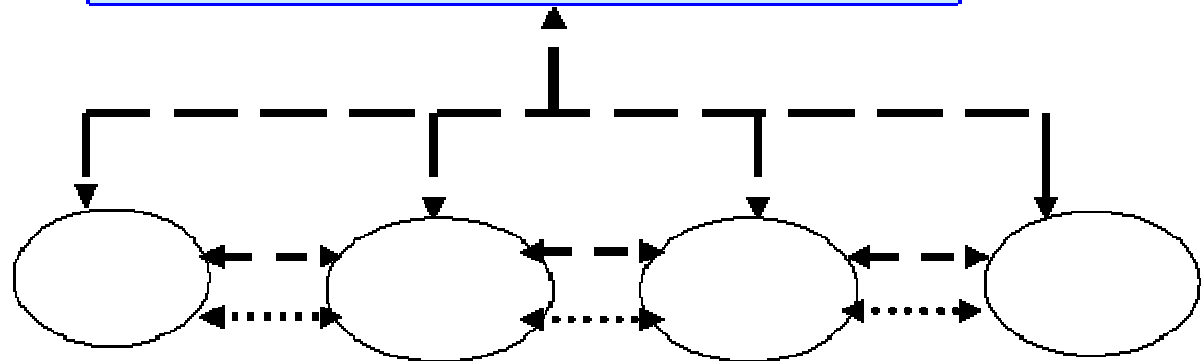


Integrated Sustainable  
Management Strategy

*Mandate  
Informed by*

Policy Advisory, Scientific and Technical  
Clearing-house for the Integrated Management  
of the Caribbean Sea

International,  
Regional, sub-regional  
and national environmental  
programmes



← - - - → Synergies Absent/Recommended

← ..... → Synergies Present but ineffective

□ Currently Absent

*Developed by Asha Singh, 2007, modified 2008*

A photograph of a sunset over the ocean. The sun is a bright yellow semi-circle on the horizon. The sky is filled with orange and yellow clouds. In the foreground, a dark boat with a railing is on the water.

Thank you

**United Nations/Nippon Foundation Fellowship**

**Asha Singh, PhD**