

DOALOS/United Nations – Nippon Foundation Alumni Law of the Sea Training Programme



UN Photo/Eskinder Debebe

Maritime Zones and Jurisdiction

Welcome and opening

Programme

Welcome and opening 12:00 noon - 12:10 pm

Ms. Valentina Germani, Senior Legal Officer
(Programme Advisor), DOALOS

Maritime Zones and Jurisdiction 12:10 - 12:45 pm

Mr Luigi Santosuosso, Senior Legal Officer, DOALOS

Q&A session 12:45 - 1:00 pm

Moderated by Ms. Jessica Howley, Associate Legal Officer, DOALOS

Maritime Zones and Jurisdiction

Mr. Luigi Santosuoso, Senior Legal Officer,
DOALOS



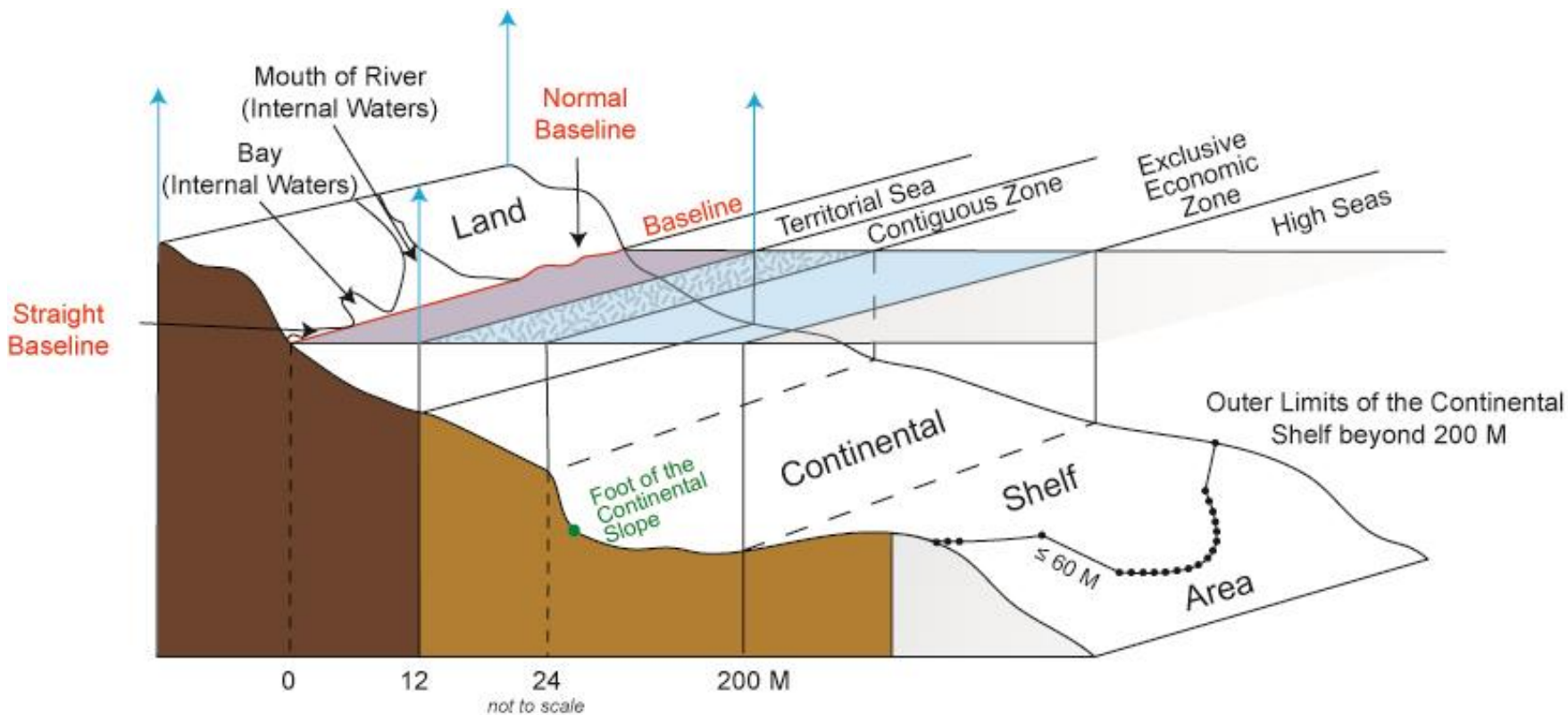
DISCLAIMER

- The designations employed and the presentation of the material in this lecture **do not imply the expression of any opinion whatsoever** on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Provision of information concerning developments relating to the law of the sea emanating from actions and decisions taken by States **does not imply recognition** by the United Nations of the validity of the actions and decisions in question.
- Unless expressly stated otherwise, the findings, interpretations and conclusions, if any, expressed in this briefing **are those of the United Nations staff member who prepared it and/or deliver it and do not necessarily represent the views of the United Nations or its Member States.**

Maritime zones (introduction)

- States have three fundamental components:
 - territory;
 - population;
 - government exercising its exclusive power over such territory and population.
- The power of a State over its territory – referred to as ‘territorial sovereignty’ – covers not only its land but also certain areas of the sea adjacent to it.
 - Sovereign rights
 - Jurisdiction:
 - Legislative
 - Enforcement
- The land dominates the sea

Maritime zones (detail)



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

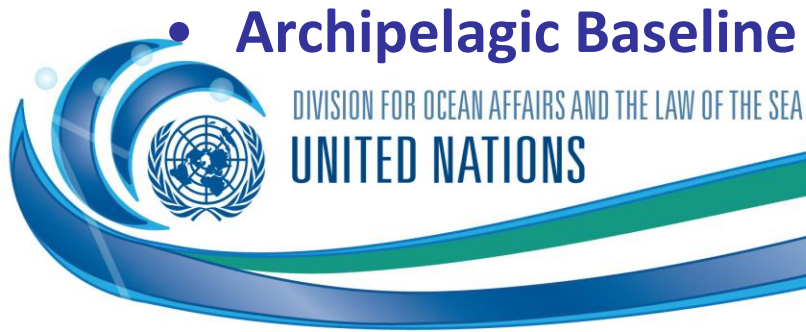
UNITED NATIONS

Maritime zones (baselines)

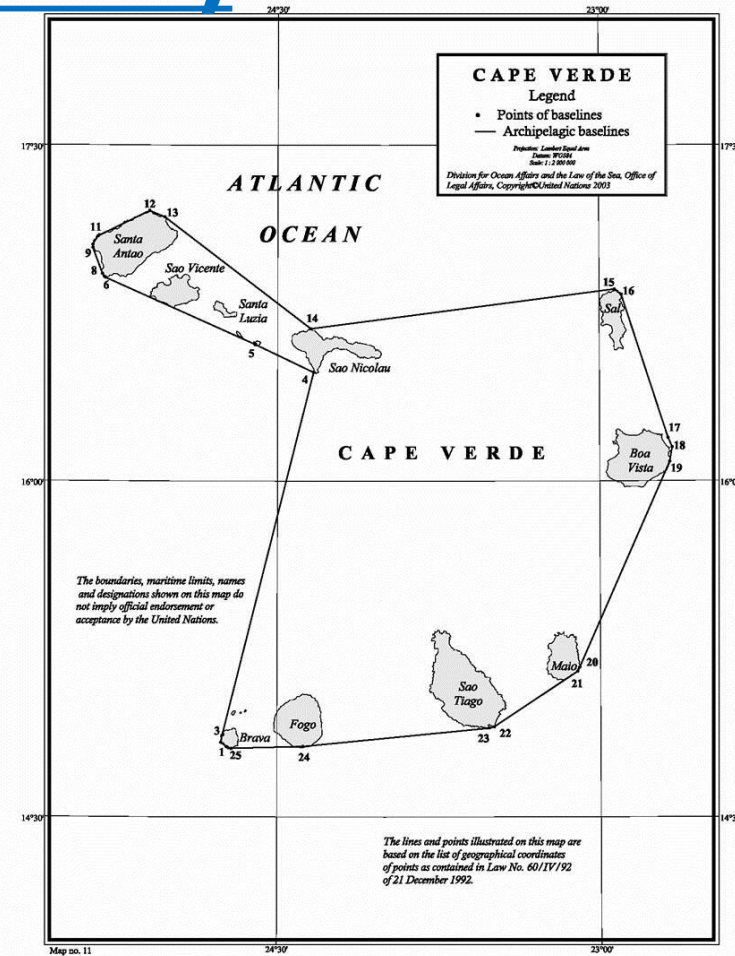
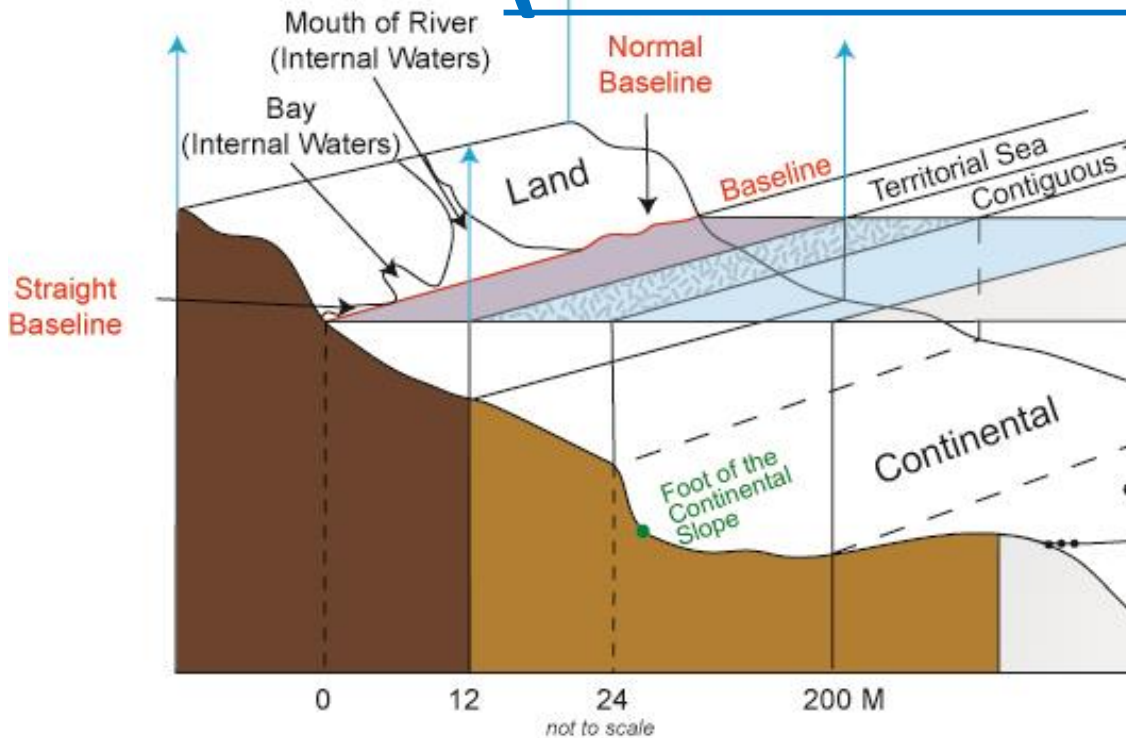
Line from which breadth of maritime zones is measured

Types:

- **Normal Baseline**
- **Straight Baseline**
- **Closing Baseline**
- **Archipelagic Baseline**



Maritime zones (baselines – cont.)



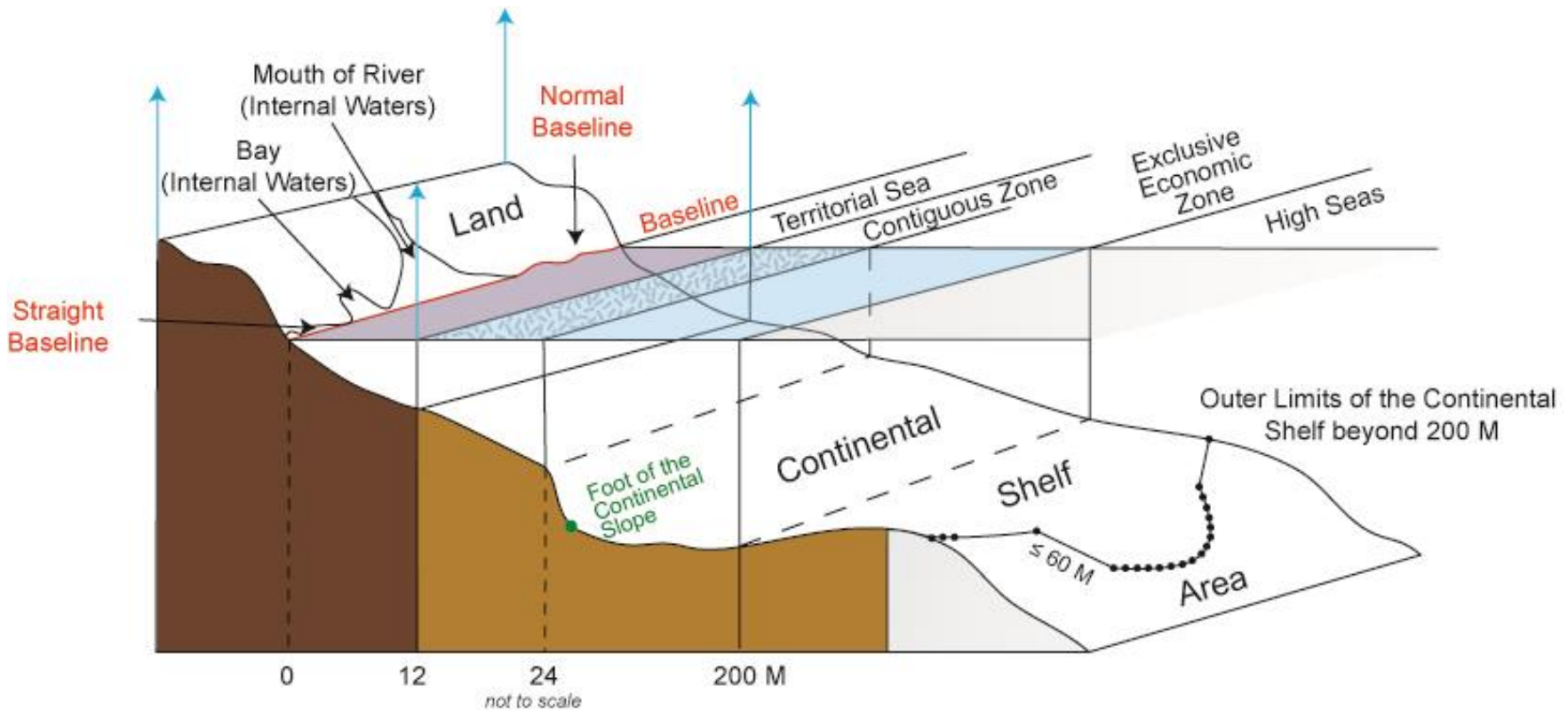
DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA
UNITED NATIONS

Maritime Zones: Internal waters (article 8)

- Waters on landward side of baseline
- Coastal State: full sovereignty
- No other generally enjoyed right [access to ports: granted by treaty]



Maritime zones (detail)

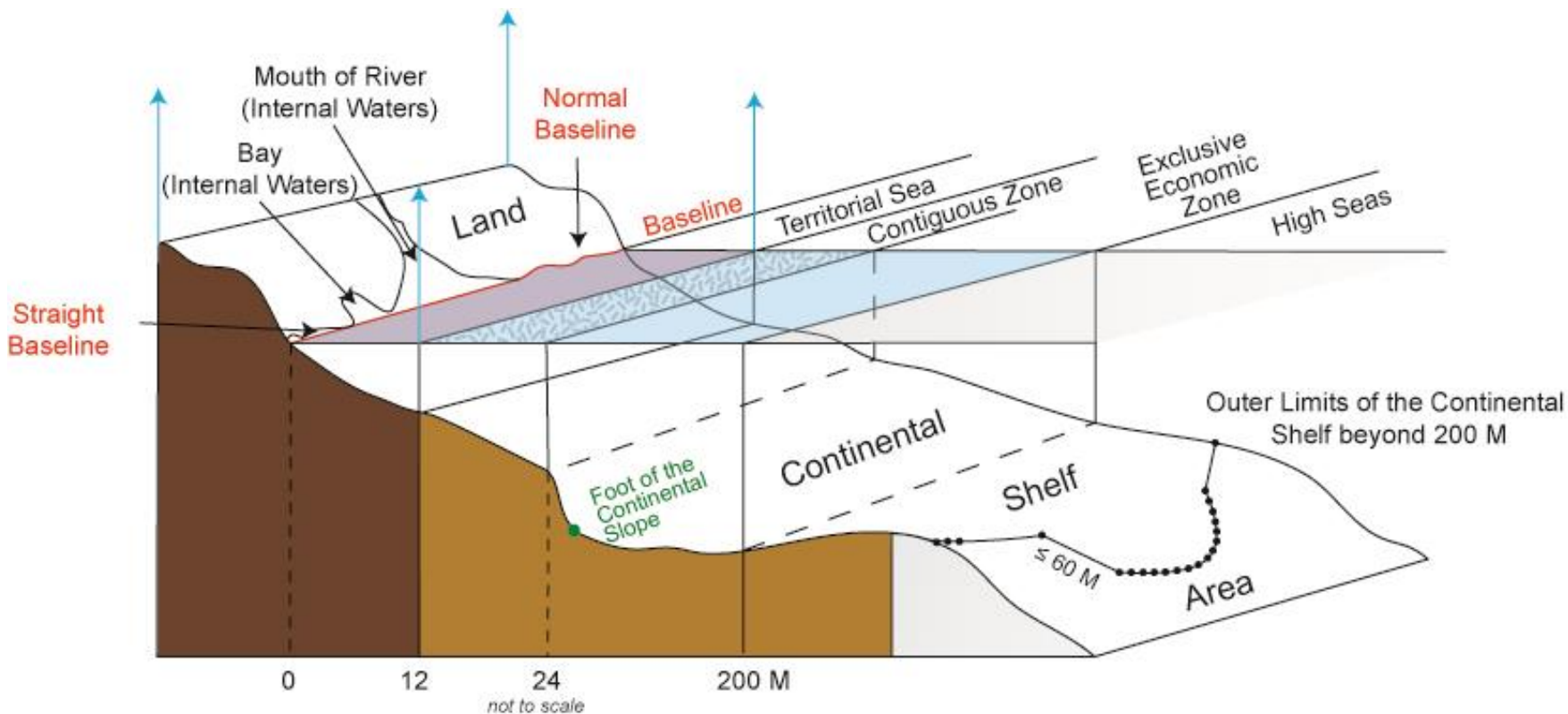


Maritime Zones: Territorial Sea (articles 2-32)

Sovereignty of a coastal State extends beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea: the territorial sea.

- Breadth: up to 12 nautical miles, measured from the baselines.
- Entitlement: inherent part of its territory.
- Scope: sea; air space; seabed; and subsoil.

Maritime zones (detail)



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

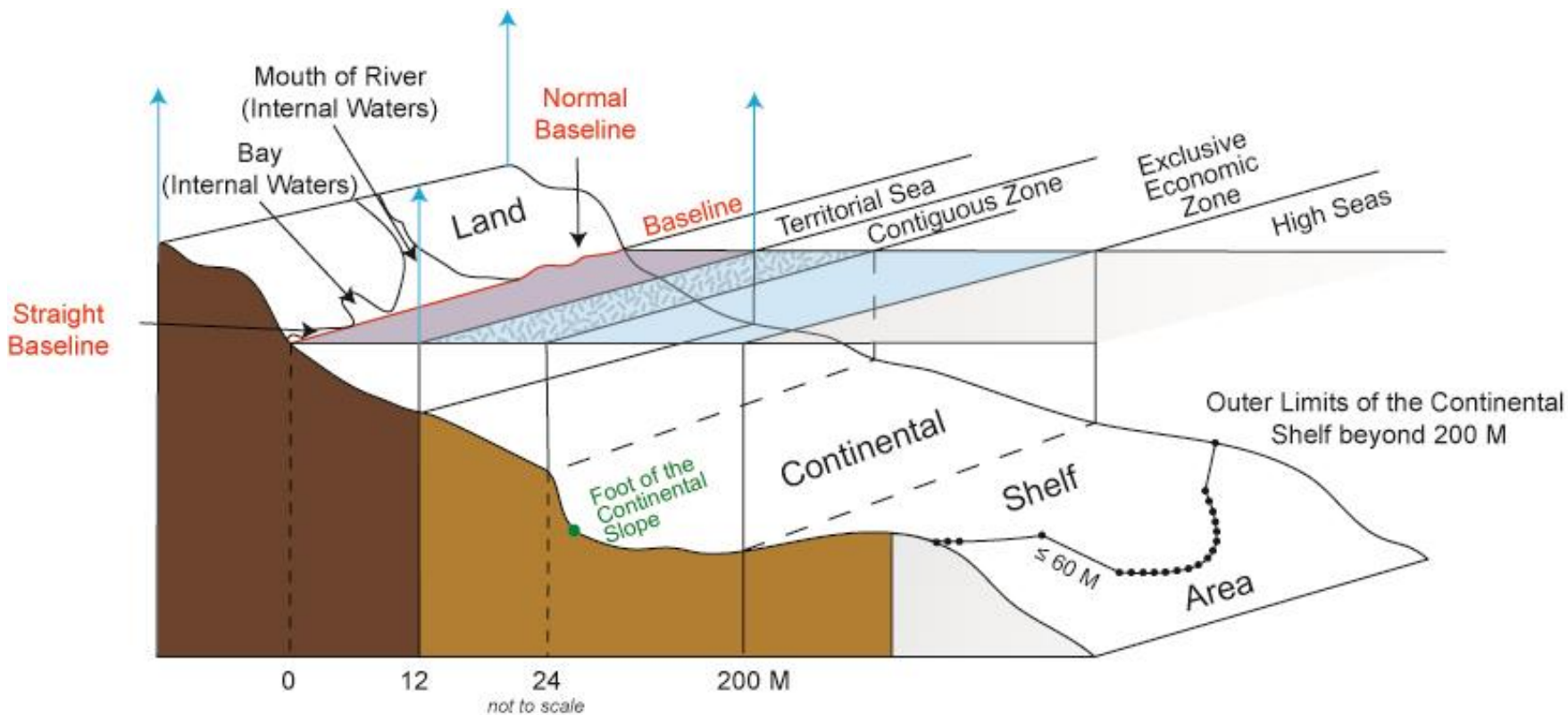
UNITED NATIONS

Maritime Zones: Contiguous Zone (articles 33; 303)

The contiguous zone is a maritime zone contiguous and seaward of the territorial sea within which coastal States have a limited degree of jurisdiction.

- Breadth: from the outer limit of the territorial sea to up to 24 nautical miles, measured from the baselines.
- Entitlement: the coastal State may proclaim it.
- Scope: sea and seabed.

Maritime zones (detail)



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

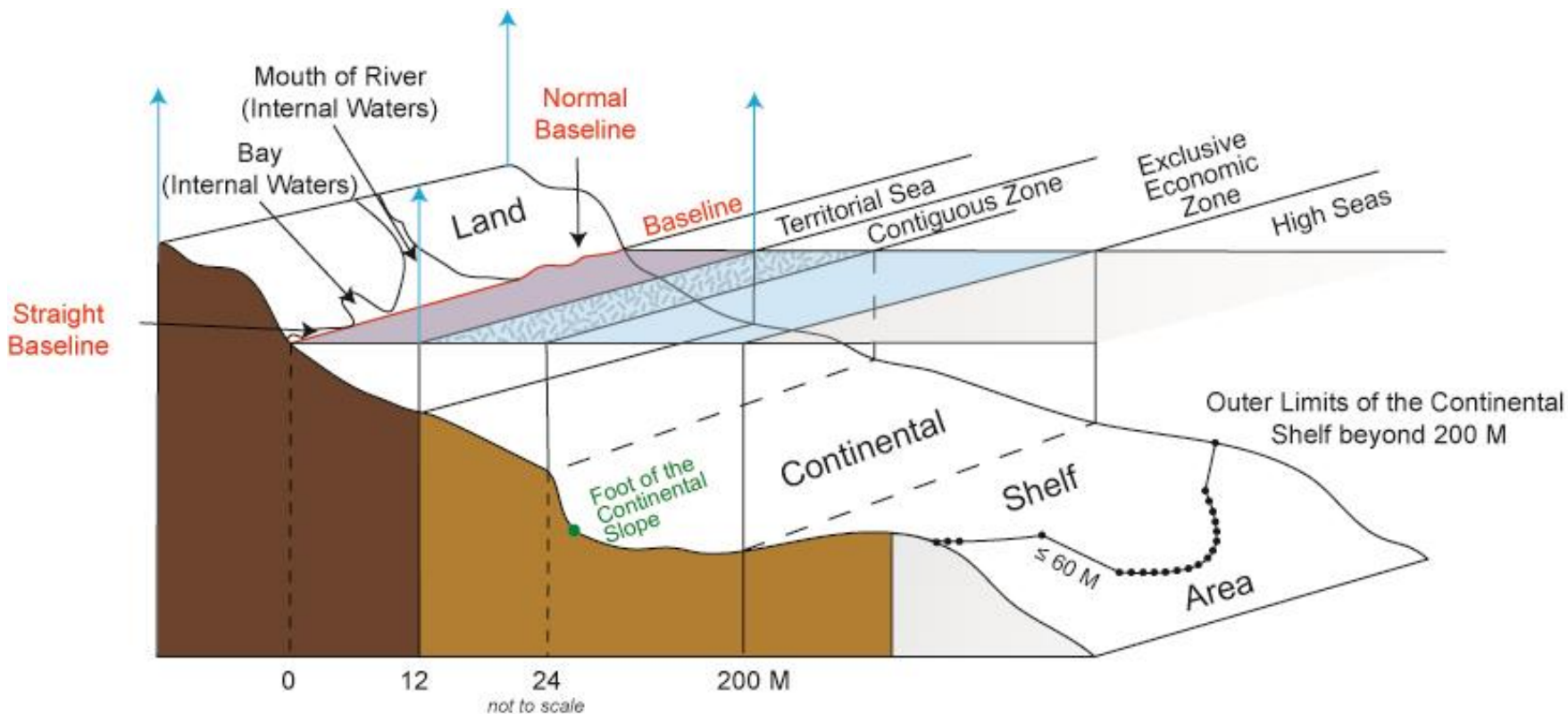
UNITED NATIONS

Maritime Zones: EEZ (arts. 55-75)

The exclusive economic zone (EEZ) is an area beyond and adjacent to the territorial sea within which the coastal State's sovereign rights and jurisdiction are limited to the exploration and exploitation of the natural resources and related activities.

- Breadth: from the outer limit of the territorial sea to up to 200 nautical miles, measured from the baselines.
- Entitlement: the coastal State may proclaim it.
- Scope: sea; seabed; and subsoil.

Maritime zones (detail)



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

UNITED NATIONS

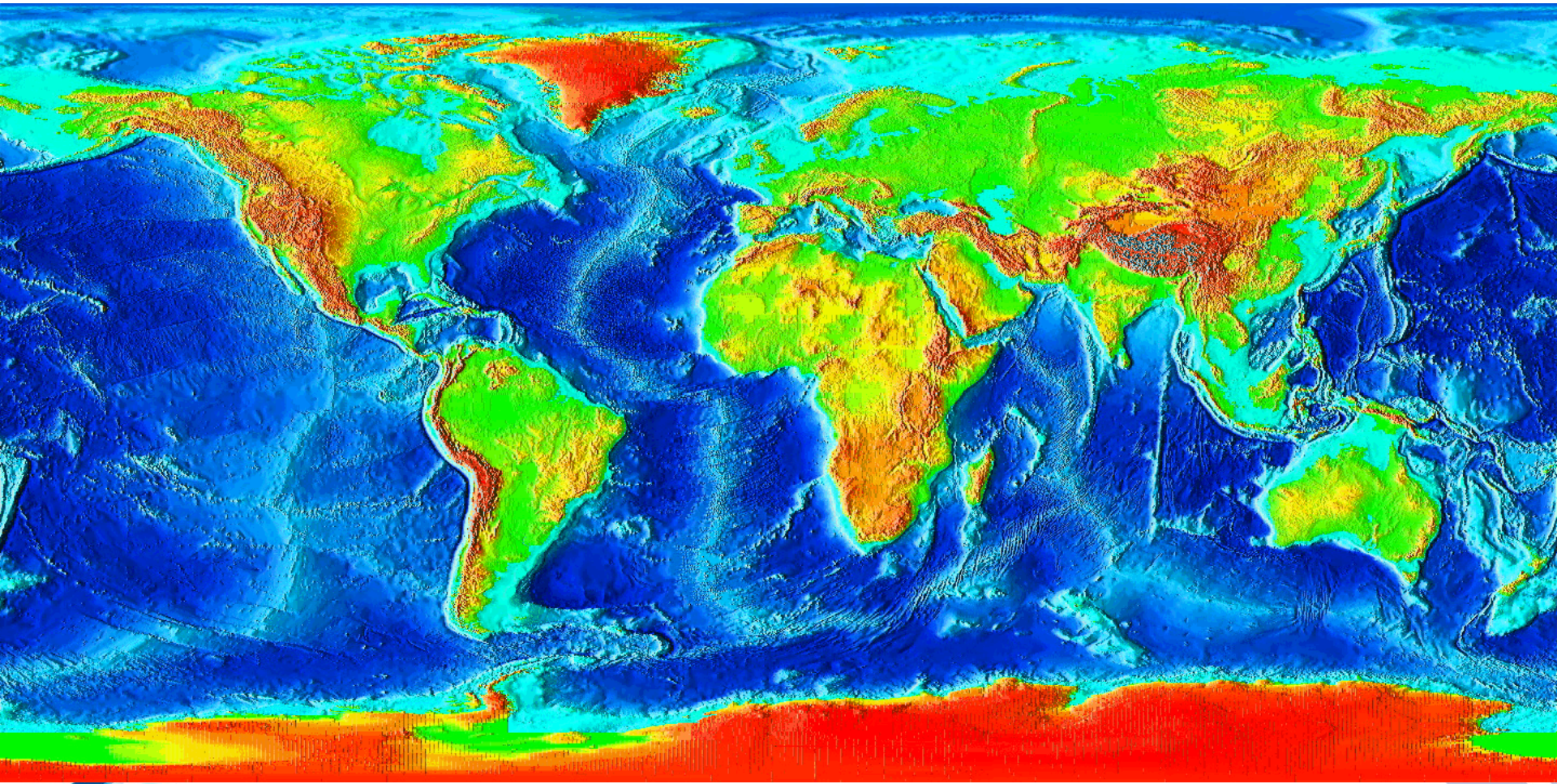
Maritime Zones: Continental Shelf (arts. 76-84; Annex II)

- Legal concept

versus

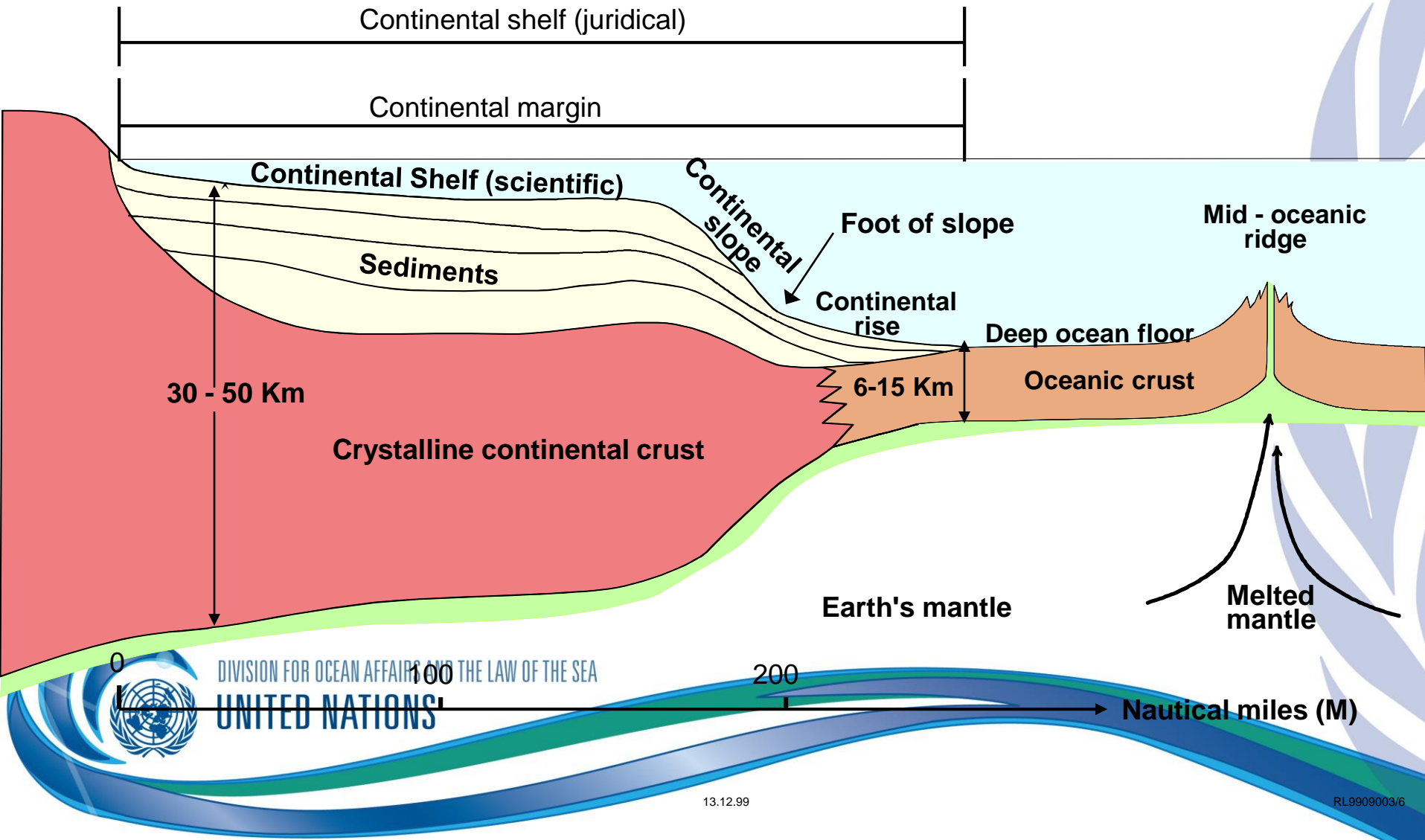
- Scientific concept

Continental shelf – Global Overview



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA
UNITED NATIONS

Continental Shelf - scientific concept



Continental Shelf – legal concept (art. 76)

- Definition of continental margin:

The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

(article 76, paragraph 3).

Continental Shelf – legal concept (article 76 – cont.)

- Definition of continental shelf:
 1. *The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea (i) throughout the natural prolongation of its land territory to the outer edge of the continental margin, or (ii) to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.*
(article 76, paragraph 1).

Continental Shelf – legal concept (article 76 – cont.)

Possible scenarios:

- A. States with continental shelves up to 200 nautical miles
- B. States with continental shelves extending beyond 200 nautical miles (extended continental shelf)

Continental Shelf – legal concept (article 76 – cont.)

Possible scenarios:

A. States with continental shelves up to 200 nautical miles:

Rights on the continental shelf are ‘automatic’:

“The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation”

(article 77, paragraph 3).

Continental Shelf – legal concept (article 76 – cont.)

Possible scenarios:

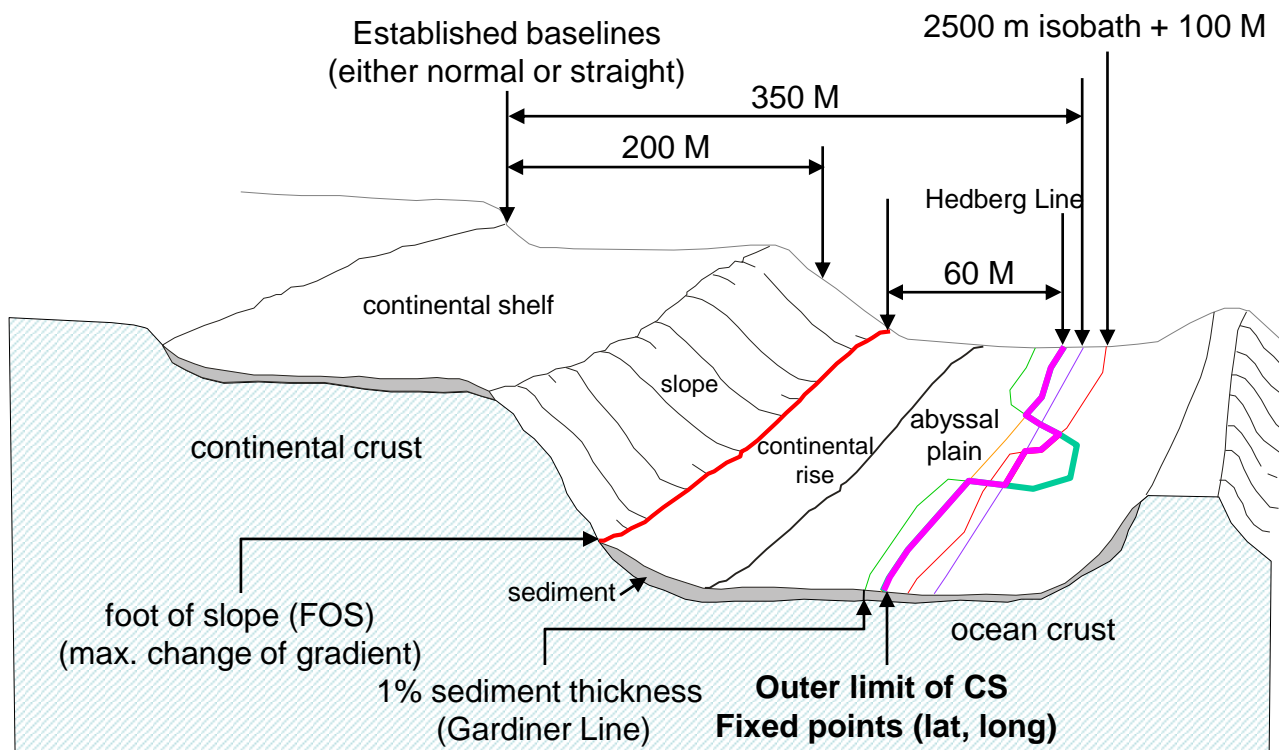
B. States with continental shelves extending beyond 200 nautical miles:

A submission to the Commission on the Limits of the Continental Shelf must be made (next slides)

Delineation beyond 200 M – Summary

- The outer limits of the continental shelf beyond 200 M result from the application of two formulae (giving entitlement) and two constraint lines (restricting entitlement):
 - 60 M formula line (FOS + 60 M)
 - sediment thickness formula line (sediment thickness at least 1% of distance back to FOS)
 - distance constraint (350 M from baselines)
 - depth constraint (2500 m isobath + 100 M)
 - Landward combination of combined formulae and combined constraints lines to be used for outer limits of the continental shelf
- Seaward combination is outer edge of continental margin
- Seaward combination of two constraint lines applies

Delineation beyond 200 M – Overview



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA
UNITED NATIONS

Continental Shelf – legal regime (articles 76 – 84)

- Breadth: from the outer limits of the territorial sea:
 - (i) up to 200 nautical miles, measured from the baselines, or
 - (ii) for States with margins wider than 200 nautical miles, up to:
 - the outer envelope of two formulae lines and
 - no greater than the outer envelope of two constraint lines.
- Scope: seabed and subsoil.



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA
UNITED NATIONS



Continental Shelf – legal regime (articles 76 – 84)

- Entitlement: depending on the breadth of the continental shelf:
 - Continental shelves up to 200 nautical miles: the coastal State does not need to establish the outer limits of the continental shelf.
 - Continental shelves extending beyond 200 nautical miles: for the portion up to 200 miles the coastal State does not need any proclamation; for the remaining part, the coastal State needs to establish the outer limits of the continental shelf, through the CLCS, in accordance with the criteria which will be examined in this module.

Continental Shelf – legal regime (articles 76 – 84)

- Content of the legal regime: the coastal State has:
 - A. Sovereign rights for the purpose of exploring the continental shelf and exploiting its natural resources.

These rights are:

- Exclusive;
- Independent from occupation
- No proclamation.

Continental Shelf – legal regime (articles 76 – 84)

- Content of the legal regime: the coastal State has:
 - B. Jurisdiction with regard to the:
 - (i) establishment and use of artificial islands, installations and structures (article 80);
 - (ii) drilling on the continental shelf (article 81);
 - (iii) cables and pipelines connected to its exploration and exploitation or to the operations of artificial islands, installations and structures (article 79);
 - (iv) marine scientific research (article 246); and
 - (v) protection and preservation of marine environment (article 208).

Continental Shelf and EEZ

Breadth: compared

- (i) The continental shelf can extend beyond the 200 nautical miles if geophysical configuration allows;
- (ii) The EEZ cannot extend beyond 200 nautical miles.

Entitlement:

- (i) The continental shelf inherently belongs to coastal State;
- (ii) The EEZ may be proclaimed by coastal State.

All coastal States have a continental shelf while they may or may not have an exclusive economic zone.

Continental Shelf and EEZ compared (cont.)

Content of the legal regime:

- Exploitation of resources:
 - (i) living resources: obligations to share surplus of resources caught in the EEZ; no such obligation for sedentary species harvested in the continental shelf;
 - (ii) non-living resources: payments or contributions in kind (up to 7% of value or volume) to ISA with respect of exploitation of resources of their continental shelves beyond 200 nautical miles;
- Pollution: broader jurisdiction in the exclusive economic zone than in the continental shelf.
- Marine scientific research: broader jurisdiction in the exclusive economic zone than in the continental shelf.

Continental Shelf and EEZ compared (cont.)

Scope:

- (i) The legal regime of the continental shelf only applies to the seabed, its subsoil and their natural resources;
- (ii) The legal regime of the exclusive economic zone extends also to the water column and its natural resources.

Islands (art. 121)

- 1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
- 2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.
- 3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

Maritime Zones beyond national jurisdiction

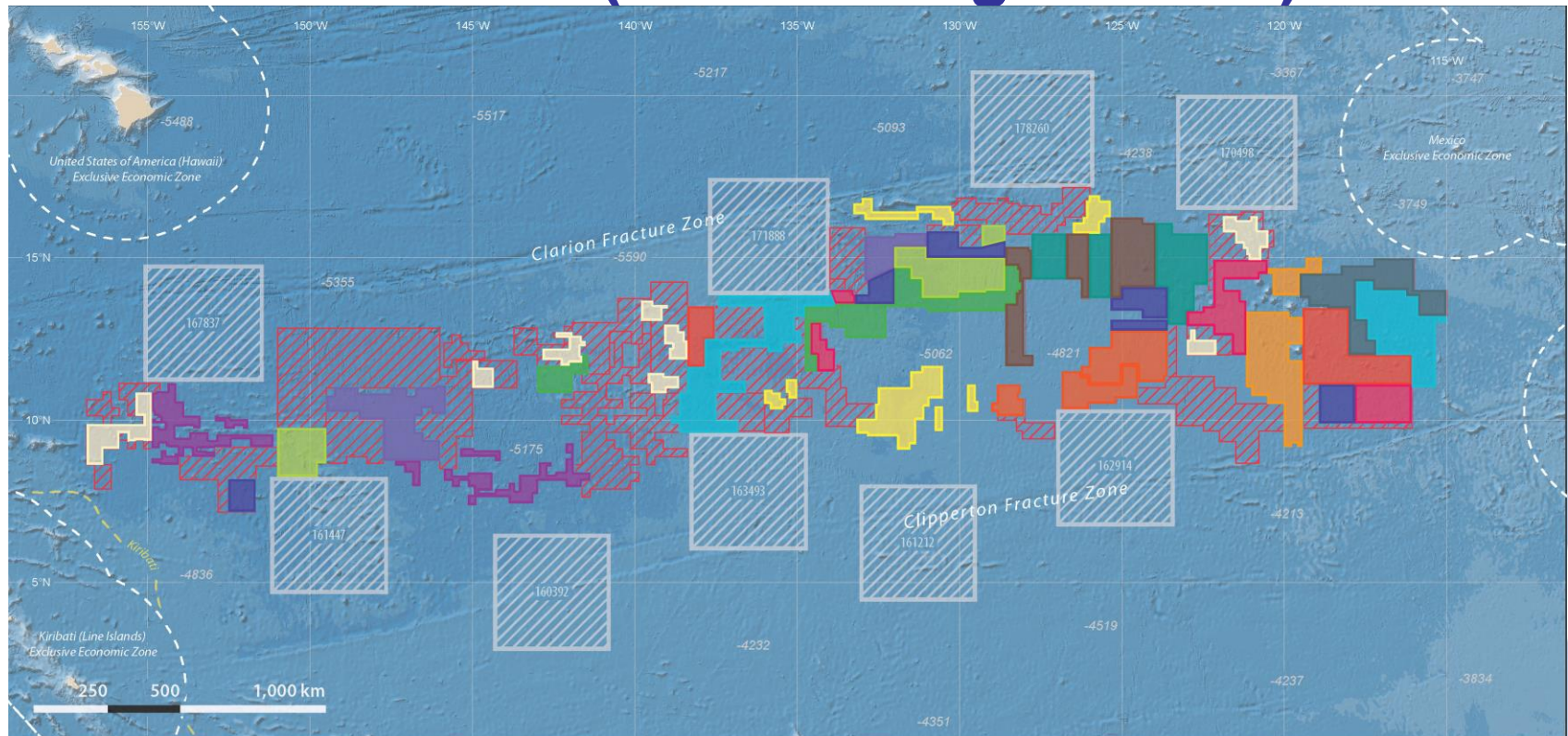
- **High Seas (Articles 86-120): not subject to the jurisdiction of any State**
- **International Seabed Area (Articles 133-191):**
“Common Heritage of Mankind”

The high seas (Part VII)

kathryntaylor via photopin cc.



The Area - (Part XI + Agreement)



Clarion-Clipperton Zone Exploration Areas for Polymetallic Nodules

- | | |
|---|--|
| Areas of Particular Environmental Interest (APEI) | China Minmetals Corporation (China) |
| Reserved Areas | Ocean Mineral Singapore Pte Ltd (OMS) |
| Submission to the Commission for the Limits of the Continental Shelf | Tonga Offshore Mining Ltd (TOML; Tonga) |
| Cook Islands Investment Corporation (CIIC; Cook Islands) | UK Seabed Resources Ltd (UKSRL; UK) |
| Deep Ocean Resources Development Company (DORD; Japan) | Yuzhmorgeologia (Russian Federation) |
| China Ocean Mineral Resources Research and Development Association (COMRA; China) | Government of the Republic of Korea |
| Bundesanstalt für Geowissenschaften und Rohstoffe (BGR; Germany) | Marawa Research and Exploration Ltd (Kiribati) |
| Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER; France) | Global Sea Mineral Resources NV (GSR; Belgium) |
| Interoceanmetal (IOM; Bulgaria, Cuba, Czech Republic, Poland, Russian Fed., Slovakia) | Nauru Ocean Resources Inc. (NORI; Nauru) |

Sources: Claes S., N. De Haewere, B. Vanhoorne, F. Souza Dias, P. Oset Garcia, F. Hernandez, and J. Mees (Flanders Marine Institute) (2016). MarineRegions.org. Accessed at <http://www.marinerregions.org> on 2016-11-24



Map produced by GRID-Arendal (December 2016)
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Seabed Authority.



Status of the Maritime Zones

| Coastal State: Sovereignty | Coastal State: Sovereign rights, obligations and/or jurisdiction | Areas beyond national jurisdiction: rights and obligations of States as members of the international community |
|---------------------------------------|---|---|
| Internal waters | Contiguous zone | High Seas |
| Archipelagic waters | Exclusive economic zone | The Area |
| Territorial sea | Continental shelf | |



DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA
UNITED NATIONS

| S-Sovereignty J – Jurisdiction SR – Sovereign Rights F – Freedom IP – Innocent passage AP- Archipelagic sea lane passage | Sovereignty, sovereign rights and freedoms in maritime zones | | | | | |
|---|--|---------------------|-----------------|-------------------------|-------------------|-------------|
| | Internal Waters | Archipelagic Waters | Territorial Sea | Exclusive Economic Zone | Continental Shelf | High Seas |
| Navigation | S (IP) | IP AP | IP (AP) | F | - | F |
| Overflight | S | AP | S (AP) | F | - | F |
| Laying of submarine cables and pipelines | S | S | S | F limited | F limited | F (art.112) |
| Constructing artificial islands and other installations | S | S | S | J | J | F |
| Fishing | S | S | S | SR | SR | F |
| Exploration and exploitation of non-living resources | S | S | S | SR | SR | - |
| Marine scientific research | S | S | S | J | J | F |
| Protection of the marine environment | S | S | S | J | J | Obligation |

Q&A session

Moderated by Ms. Jessica Howley, Associate
Legal Officer, DOALOS

