

# Legal Regimes Governing Antarctica and the Arctic

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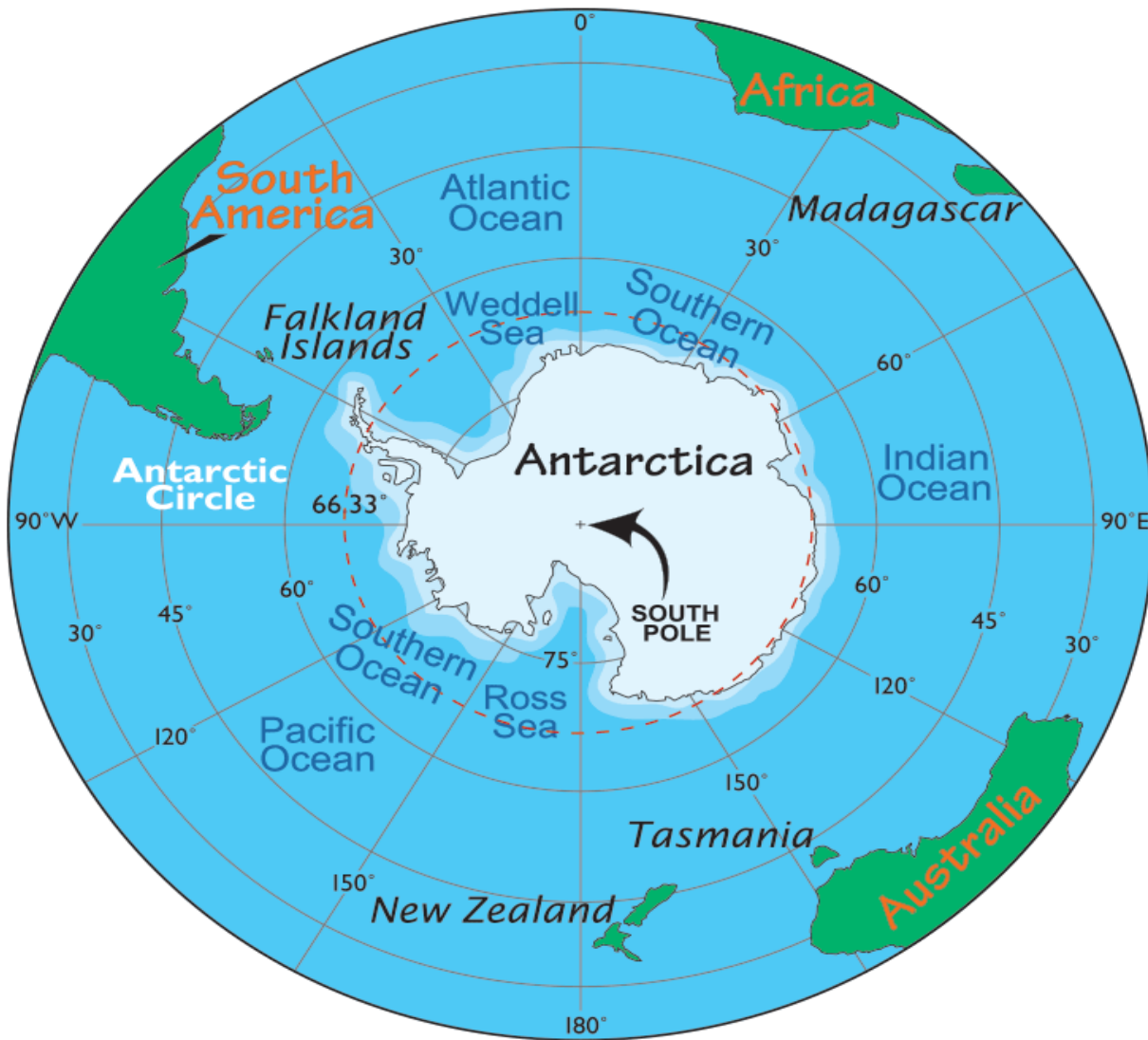
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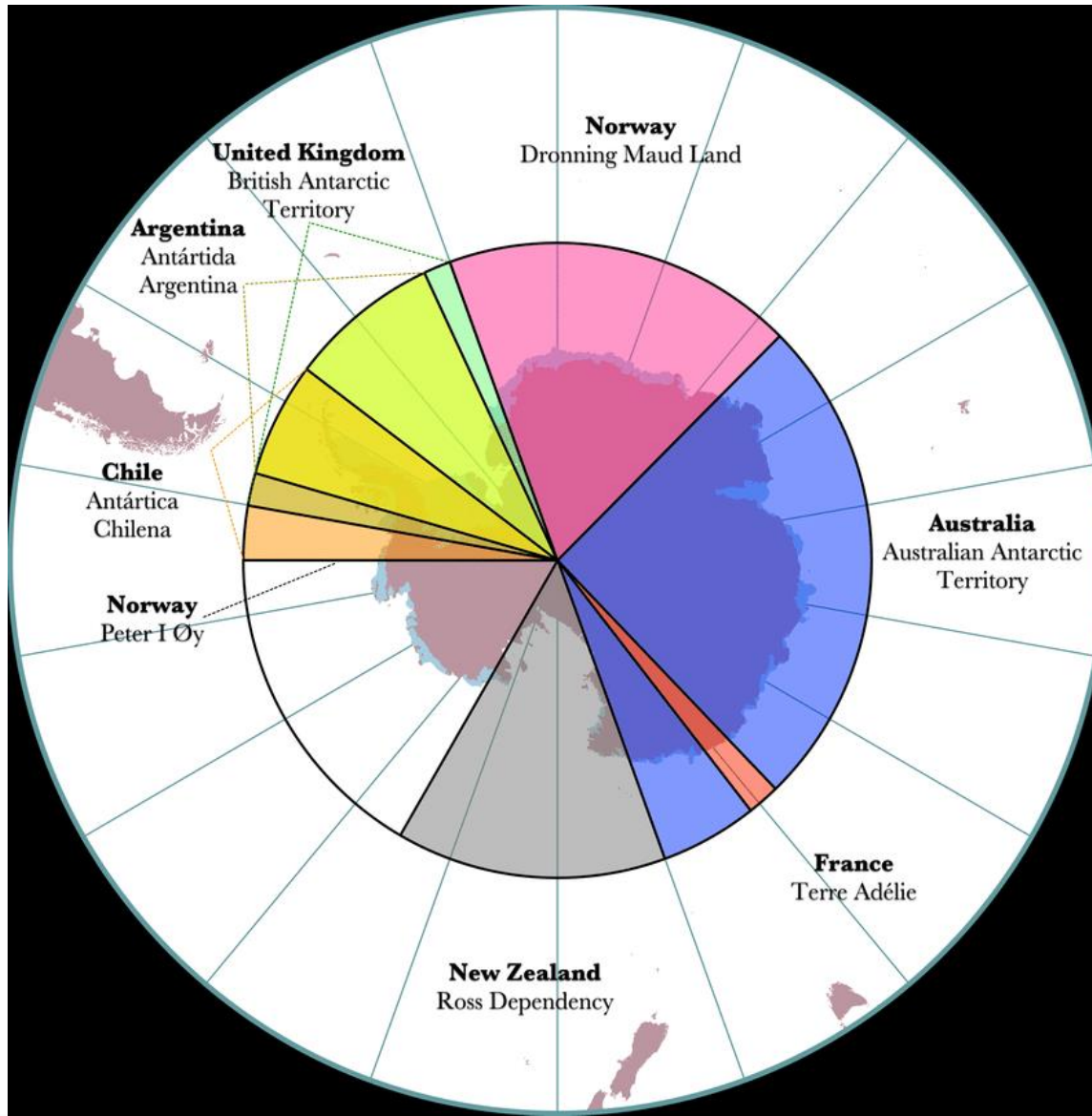
# Part One

# Antarctica

# Antarctica

- A continent surrounded by Oceans
- 7 States claim sovereignty over the land territory – Argentina, Australia, Chile, France, New Zealand, Norway and UK
- **USA** and **USSR** have reserved the right to make territorial claims









# 1959 Antarctic Treaty - Preamble

- The Governments of Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, USSR, UK and USA,
- RECOGNIZING that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;
- ACKNOWLEDGING the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;



# 1959 Antarctic Treaty - Preamble

- CONVINCED that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of **freedom of scientific investigation** in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;
- CONVINCED also that a treaty ensuring the **use of Antarctica for peaceful purposes only** and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;
- HAVE AGREED AS FOLLOWS:

# 1959 Antarctic Treaty

## Article I

Antarctica shall be used for **peaceful purposes only**.

There shall be prohibited, inter alia, any measure of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapon.

The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

# 1959 Antarctic Treaty – Without Prejudice Clause

## ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:
  - a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;
  - b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;
  - c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's rights of or claim or basis of claim to territorial sovereignty in Antarctica.

# 1959 Antarctic Treaty – Without Prejudice Clause

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica.

No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

# Acceding States

- States not parties to the 1959 Treaty can become “acceding States if they demonstrate their interest in Antarctica by conducting scientific research there
- 16 States, including China, Korea and India have become consultative parties by acceding to the Treaty

## Other Antarctic Treaties

- **Convention for the Conservation of Antarctic Seals (1972)**
- **Convention on the Conservation of Antarctic Marine Living Resources (1980)**
- **Protocol on Environmental Protection to the Antarctic Treaty (1991)**

## Part Two

# The Arctic

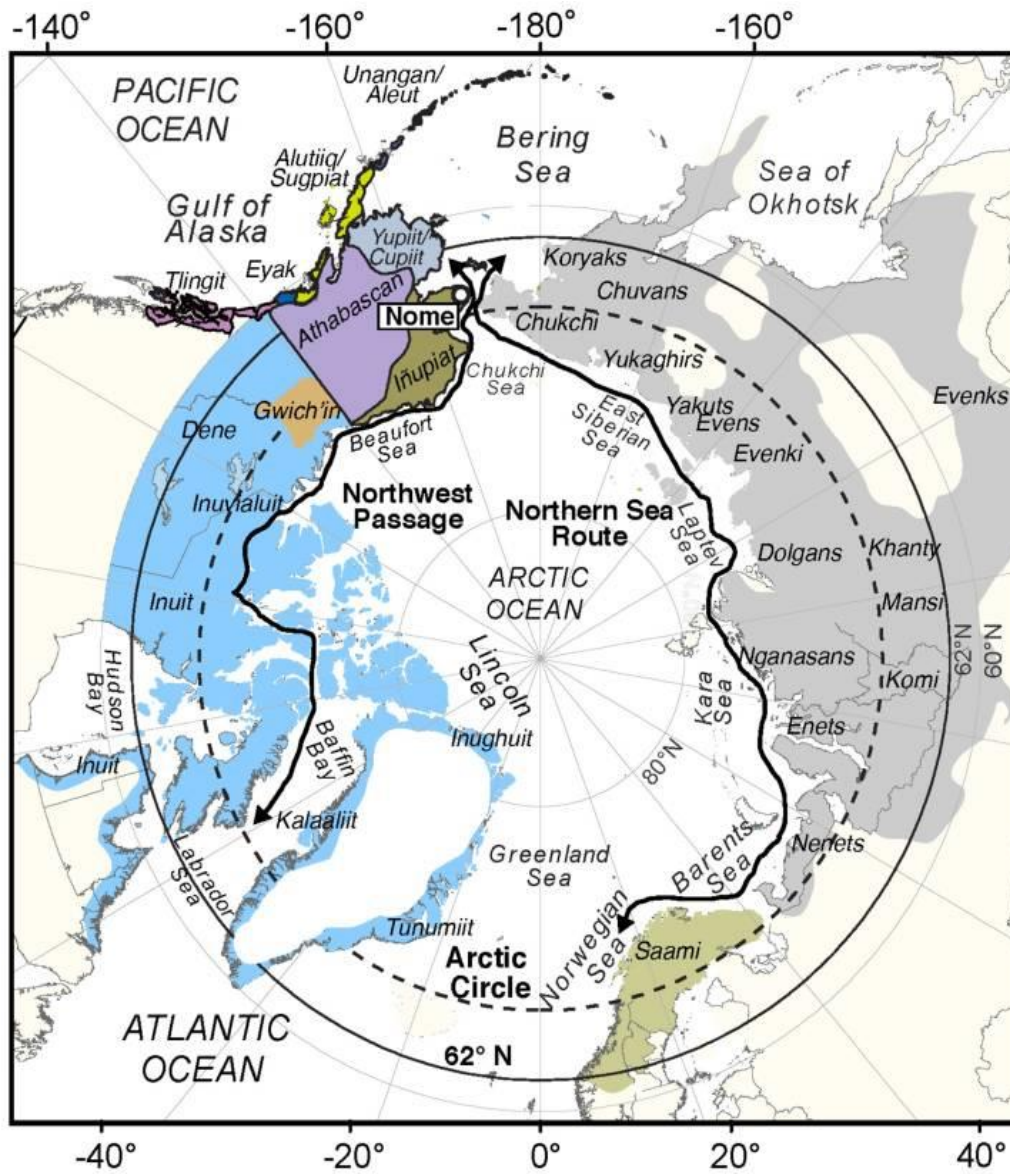
# The Arctic

- An Ocean bordered by Five Arctic States: Canada, Denmark, Norway, USA and USSR









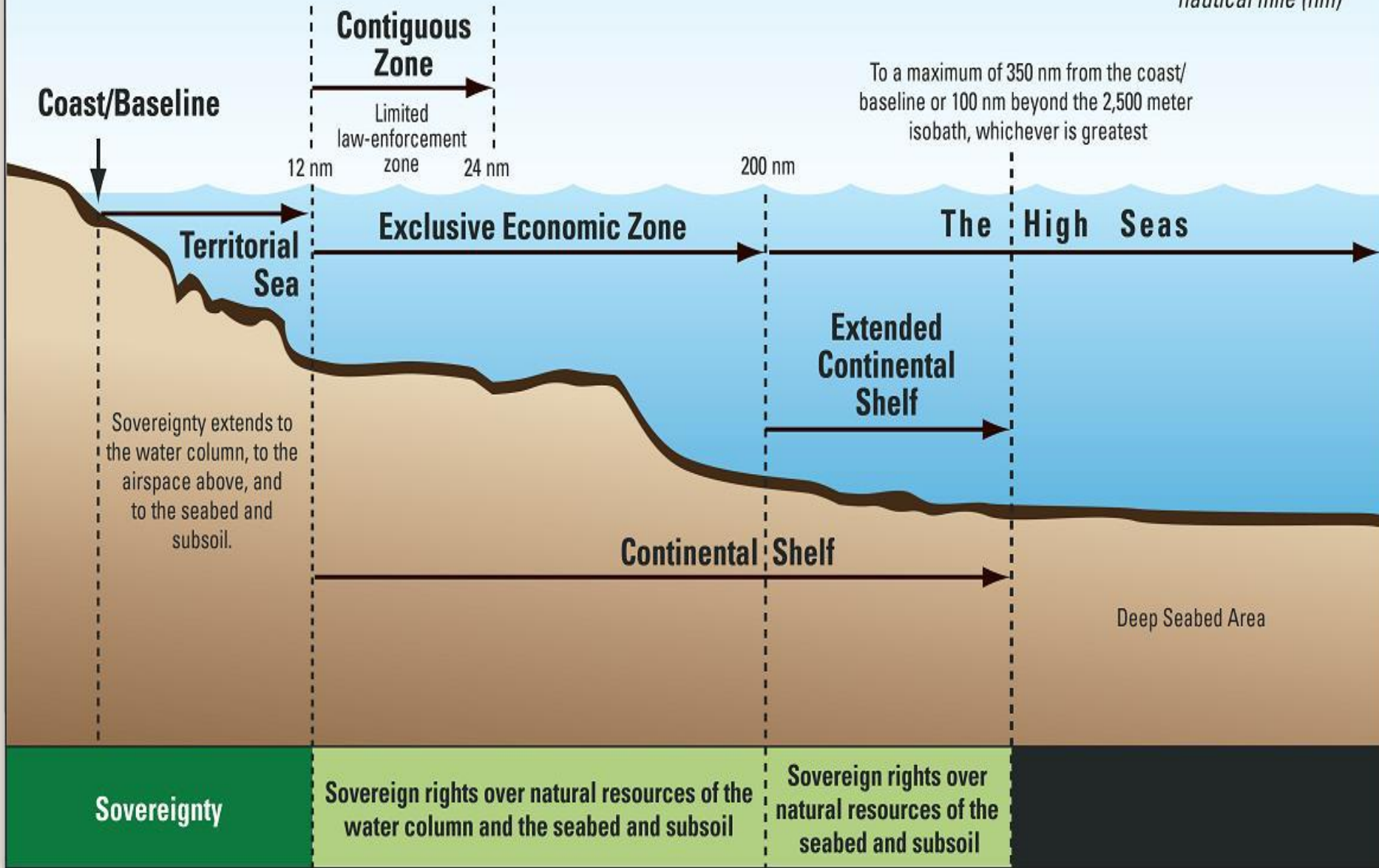


# 2008 Ilulissat Declaration – Canada, Denmark, Norway, USA and USSR

- The **law of the sea** provides for important rights and obligations concerning . . . the protection of the marine environment, ice-covered areas, freedom on navigation, marine scientific research and other uses of the sea
- This framework provides a solid foundation for responsible management by the five coastal States and other users of this Ocean through national implementation and application of relevant provisions
- Therefore, **we see no need to develop a new comprehensive international legal regime to govern the Arctic Ocean**

# Maritime Zones

*nautical mile (nm)*





### Territories and claims within the Arctic Circle

	Russia	Norway	Iceland	Denmark	Canada	United States
EEZ*, internal and territorial waters						
Claimed/potential continental shelf						

- Agreed national borders
- Equidistant lines
- 200-nautical-mile limit
- Disputed/potentially disputed areas
- Unclaimed/unclaimable areas



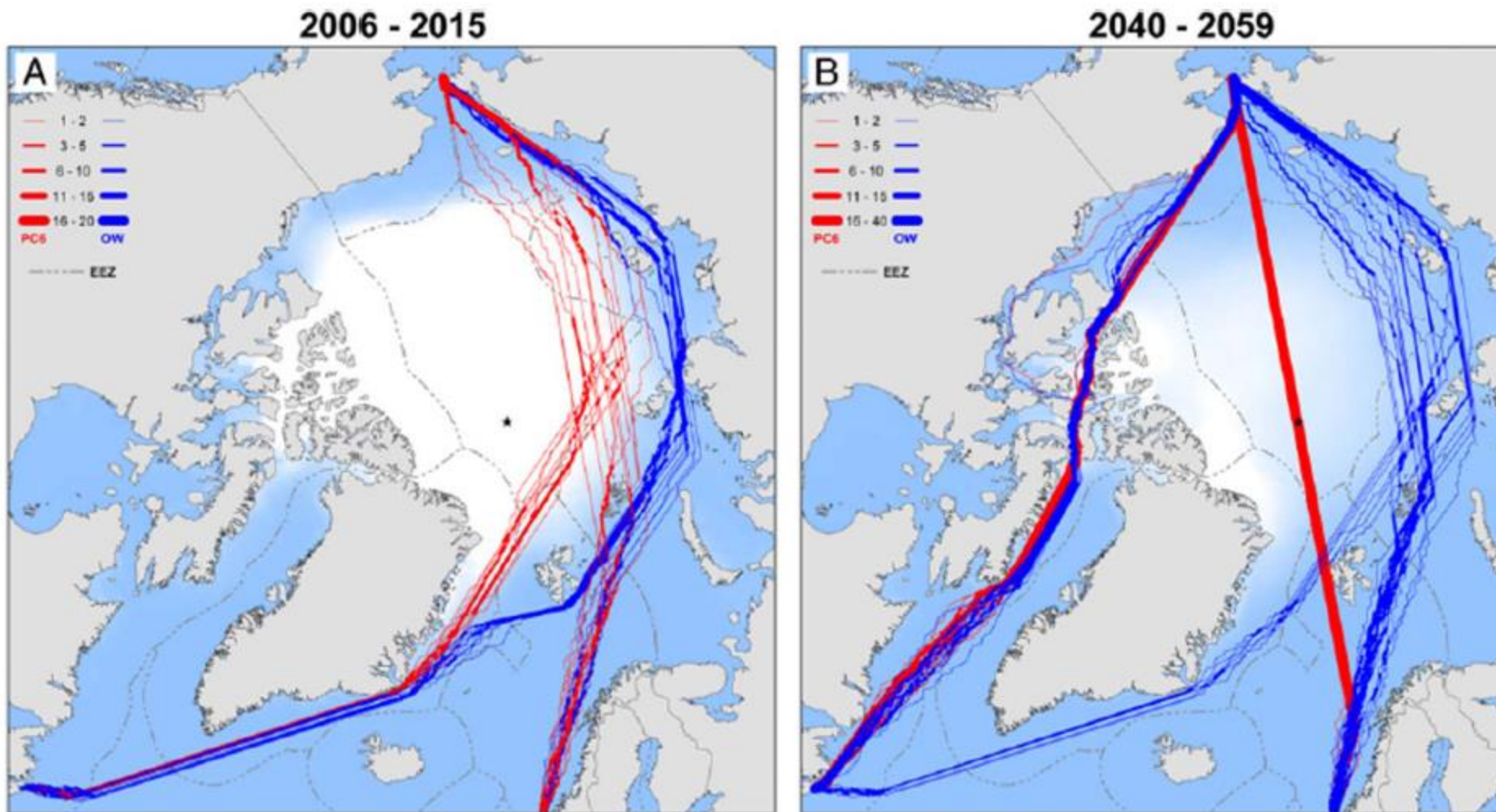


# UNCLOS Part XII, Marine Environment

## Section 8. Ice-Covered Areas (Art 234)

- Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance.
- Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.

# Expanding Ship Operations in the Arctic Ocean



Smith, L.C. and Stephenson, S.R. 2013. New Trans-Arctic shipping routes navigable by midcentury. Proceedings National Academy of Sciences of the United States. Pp 1-5. doi/10.1073/pnas.1214212110

# Arctic Council

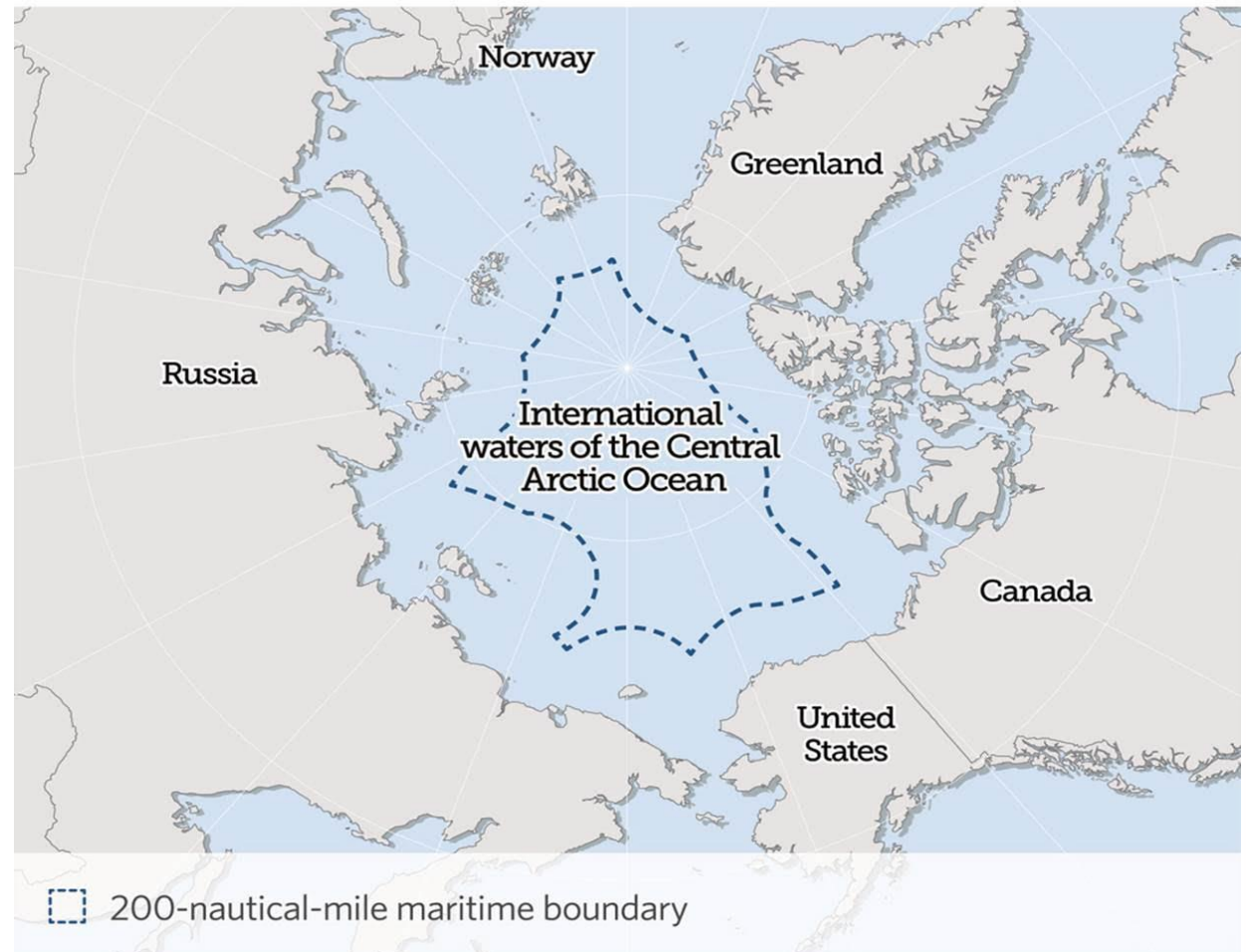
- A high-level intergovernmental forum established in 1996 by the Ottawa Declaration that addresses issues faced by the Arctic Governments and the indigenous people of the Arctic region
- **Members:** 5 coastal States plus Finland, Iceland and Sweden
- **Permanent Participants:** 6 Indigenous Peoples' organizations
- **Observers:** France, Germany, Italy, Netherlands, Poland, Spain, Switzerland, UK, India, China, Japan, Korea & **Singapore**

# 2021 Moratorium on Fishing in the Central Arctic Ocean

- 2021 International Agreement to Prevent Unregulated Fishing in the High Seas of the Central Arctic Ocean
- Agreement will prevent commercial fishing by the signatory States for 16 years
- Ten States Parties: Canada, Iceland, Denmark, Norway, United States, Russian Federation, plus **China, Japan, South Korea** and the EU

# Central Arctic Ocean Fishing Moratorium to Protect Newly Opened Waters

1.1 million square miles of high seas covered by agreement



# Thanks for Your Attention