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Africa's Combined Exclusive Maritime Zone and African navies

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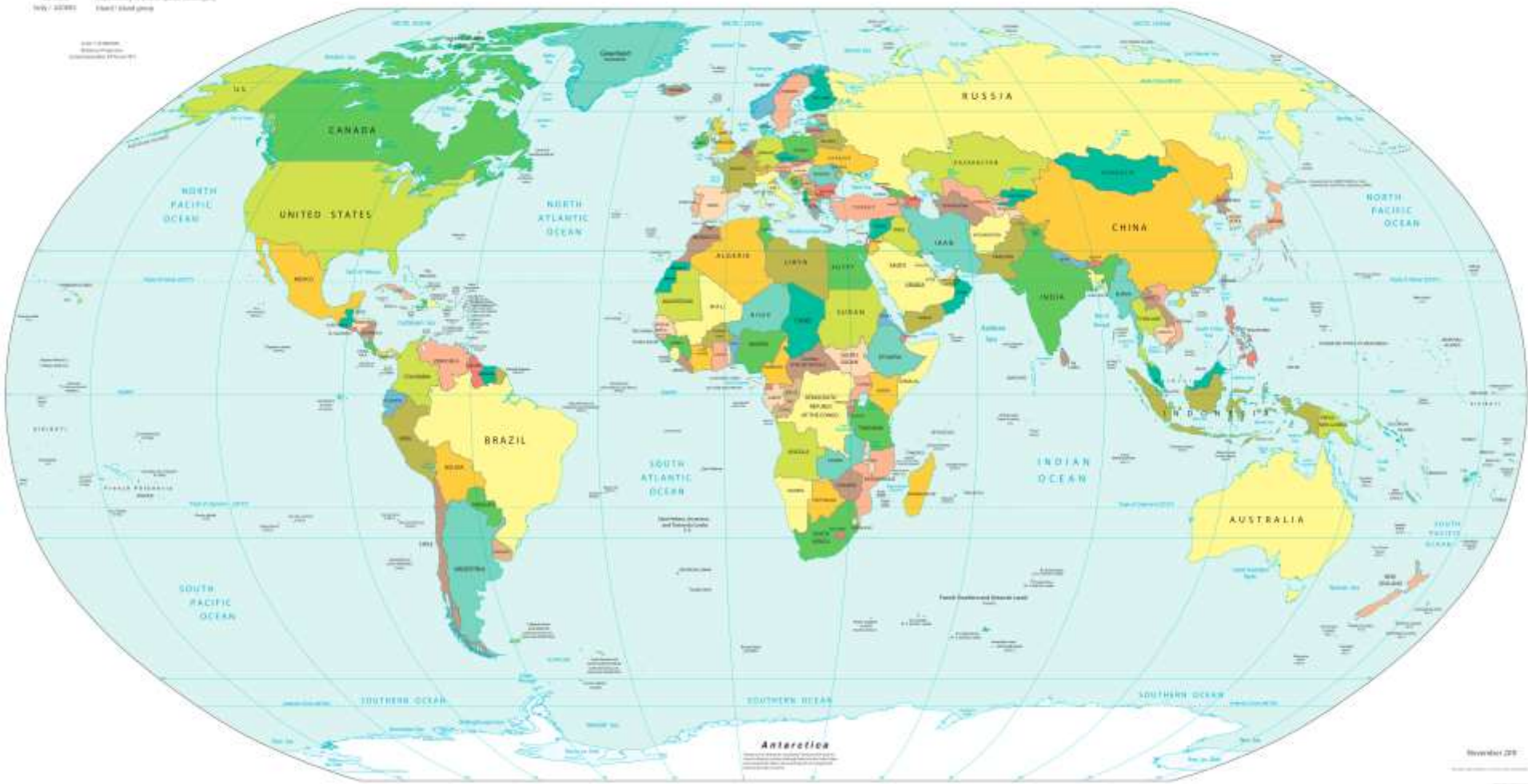
UKZN INSPIRING GREATNESS

Political Map of the World, October 2016

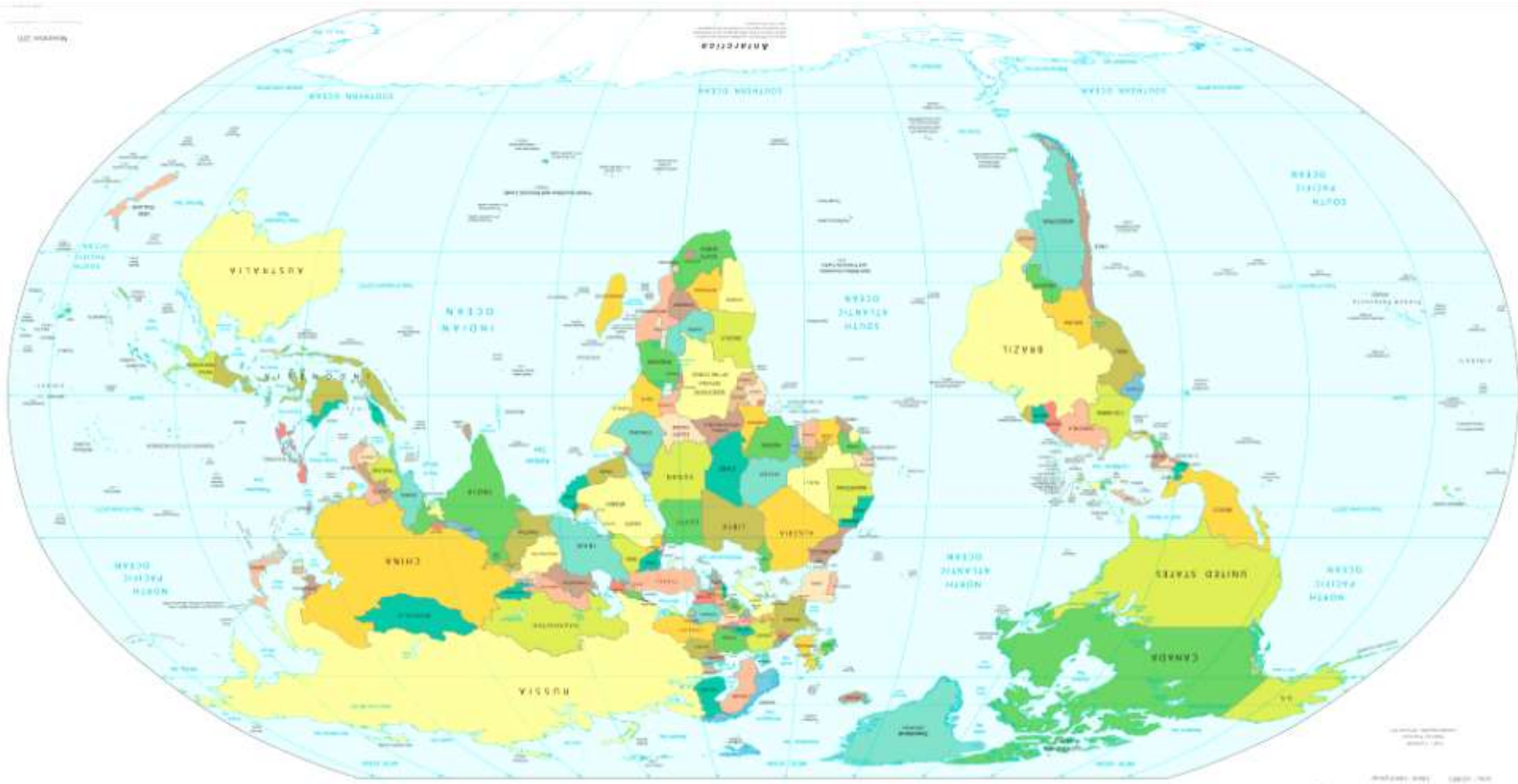
Source: <http://www.cia.gov/library/publications/the-world-factbook/docs/101016main01.html>

ADDITIONAL: Independent state
BORDER: Depending on size of special sovereignty
INLAND: Inland state

Map of the World
International boundaries

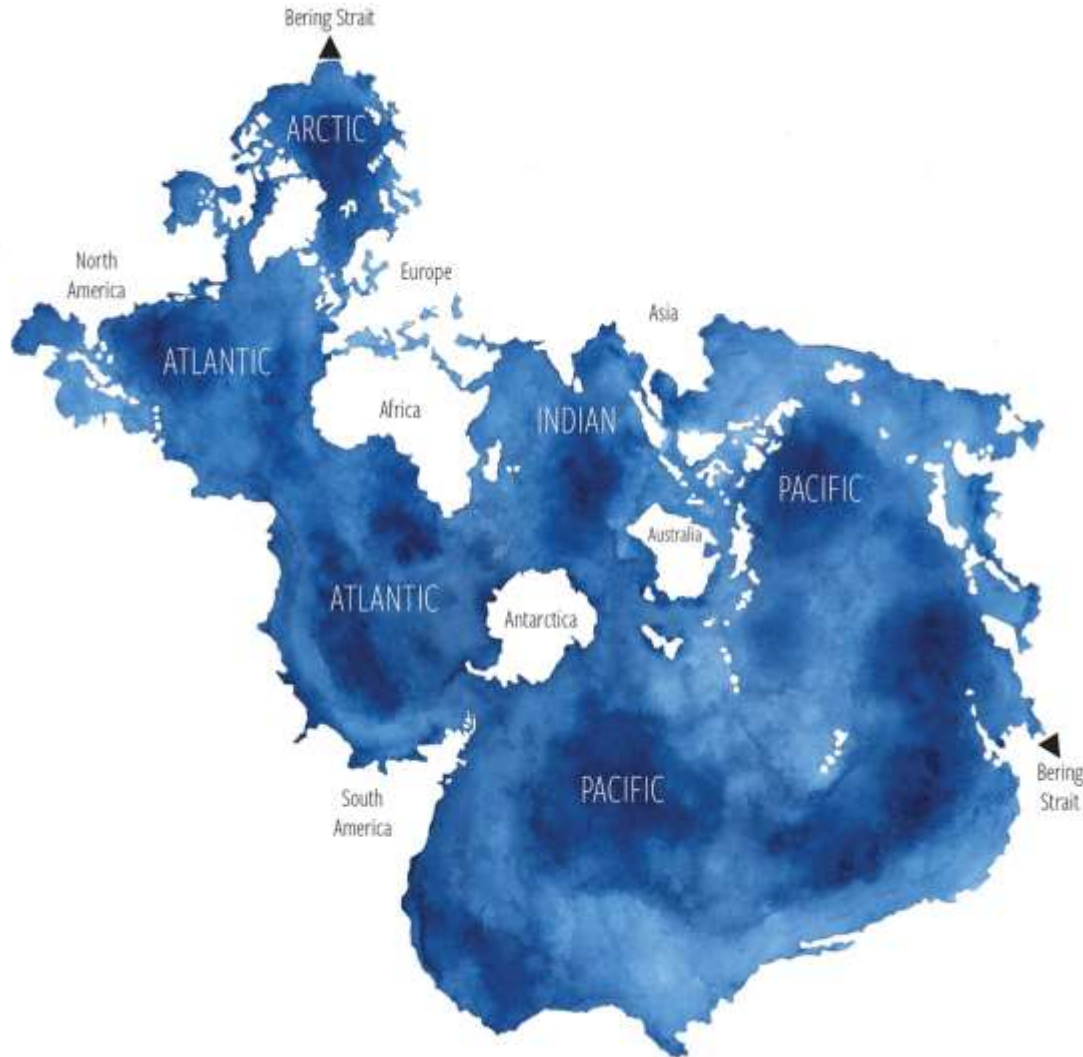


November 2016



Political Map of the World, October 2016

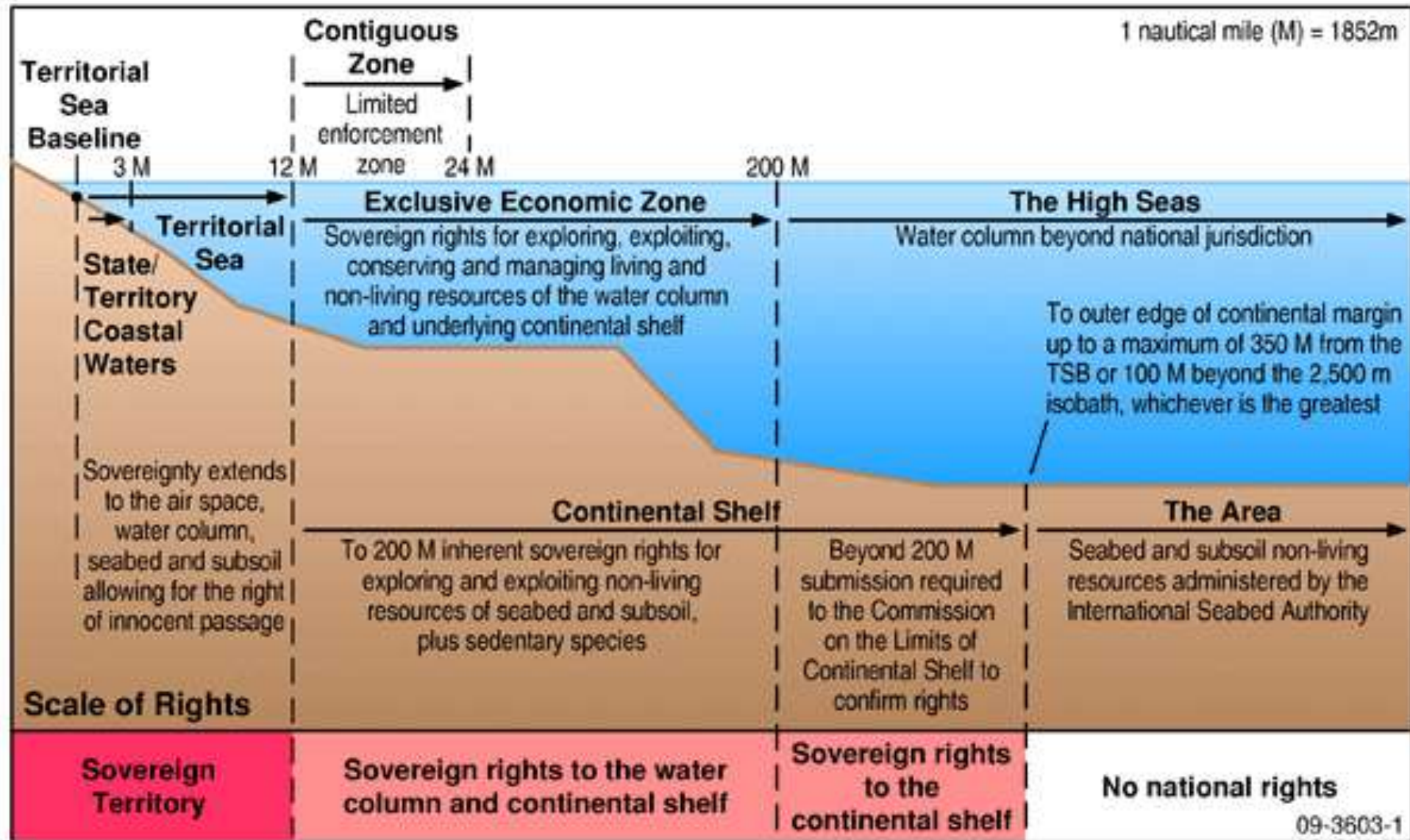
Spilhouse projection



TOWARDS UNCLOS 1982

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- Division of oceans, based on a sectoral or zonal approach
 - Rooted in historical principles of the freedom of the seas and sovereignty
 - Mare clausum and mare liberium

1 nautical mile (M) = 1852m



09-3603-1



4 April 1975 - Third Session of the Third United Nations Conference on the Law of the Sea, meeting of the Second Committee, Geneva, Switzerland.



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Exclusive Economic Zone

Text and Graphics Theo Deutinger

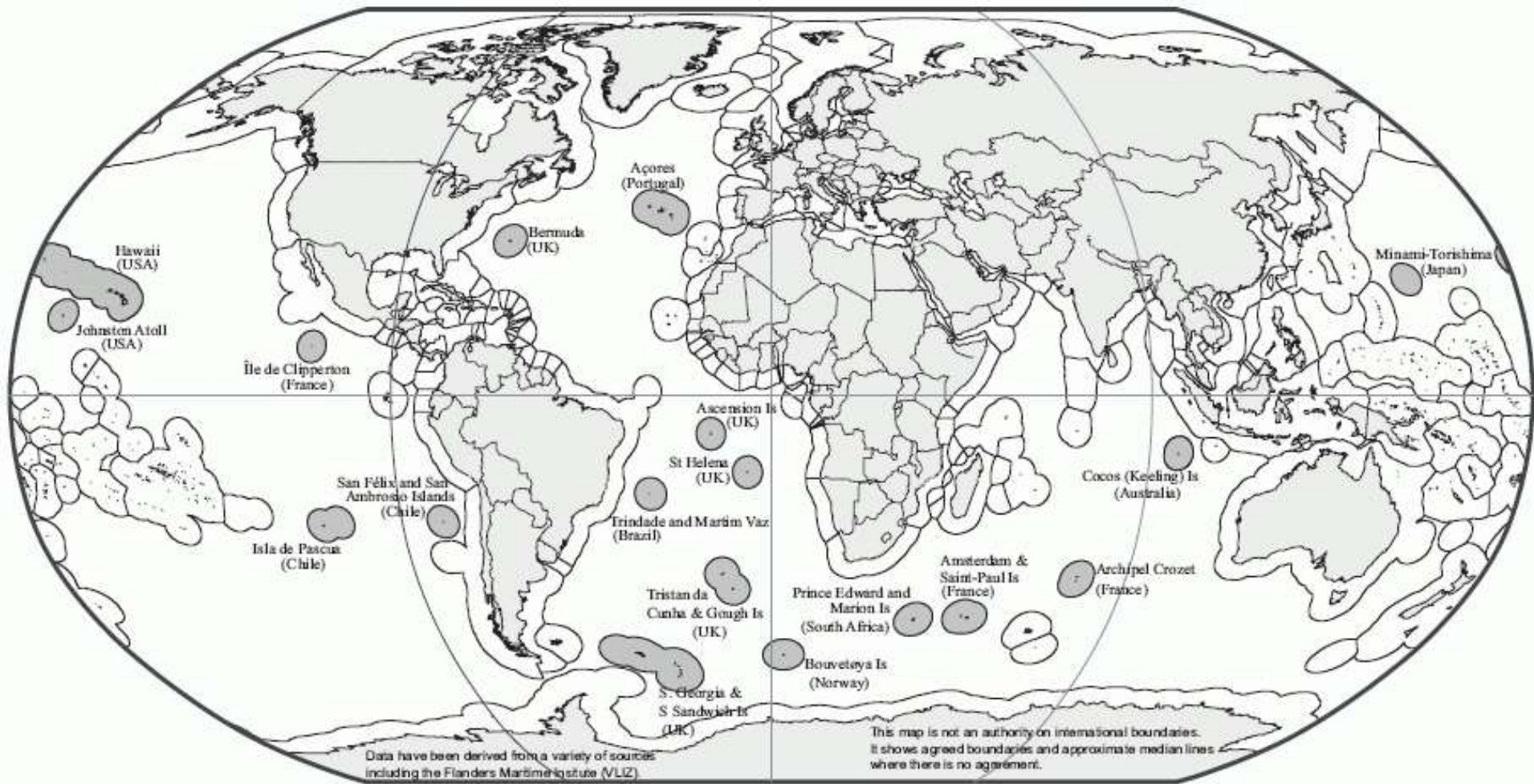
No matter the economical situation, natural resources are hot. Since many of the easy accessible resources on the main land are exhausted more and more effort is done for off-shore exploitation.

Today a countries marine economic area is defined by its Exclusive Economic Zone (EEZ), a 200 nautical miles (370 km) wide-off from the countries national coast-line. This regulation, which was installed by the "UN Convention on the Law of the Sea" in

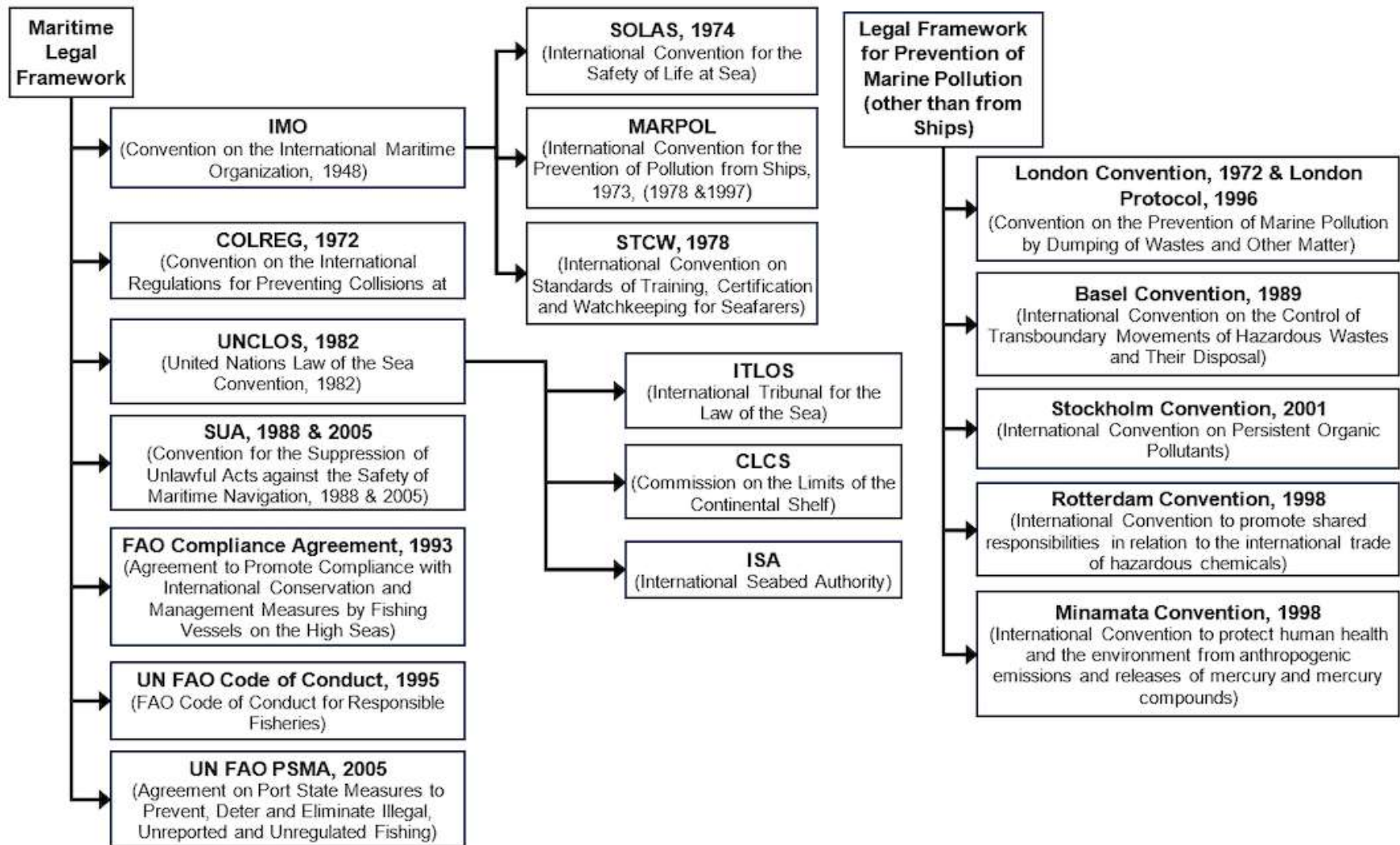
1982 grants a state special rights to explore natural (e.g. oil) and marine (e.g. fish) resources, including scientific research and energy production (e.g. wind-parks). Practically this means that if a country owns a miniscule rock somewhere in the ocean, this rocks exploitable surface increases from almost zero on-shore to 430.000km² off-shores. In the case EEZ's overlap it is up to the involved states to delineate the actual boundary: a rule which led in certain case to

decennia's of dispute. Yet there is more underwater land to claim and more squabbles ahead, since the 200 nautical miles definition got supplemental by a clause which allows its expansion till the continental shelf. The first deadline for this so called "continental shelf submissions" passed this year May and land (seabed) allocation will start soon. If underwater land grabbing goes on like this the "Freedom of the Seas" might soon shrink to the "Freedom of the Ponds".

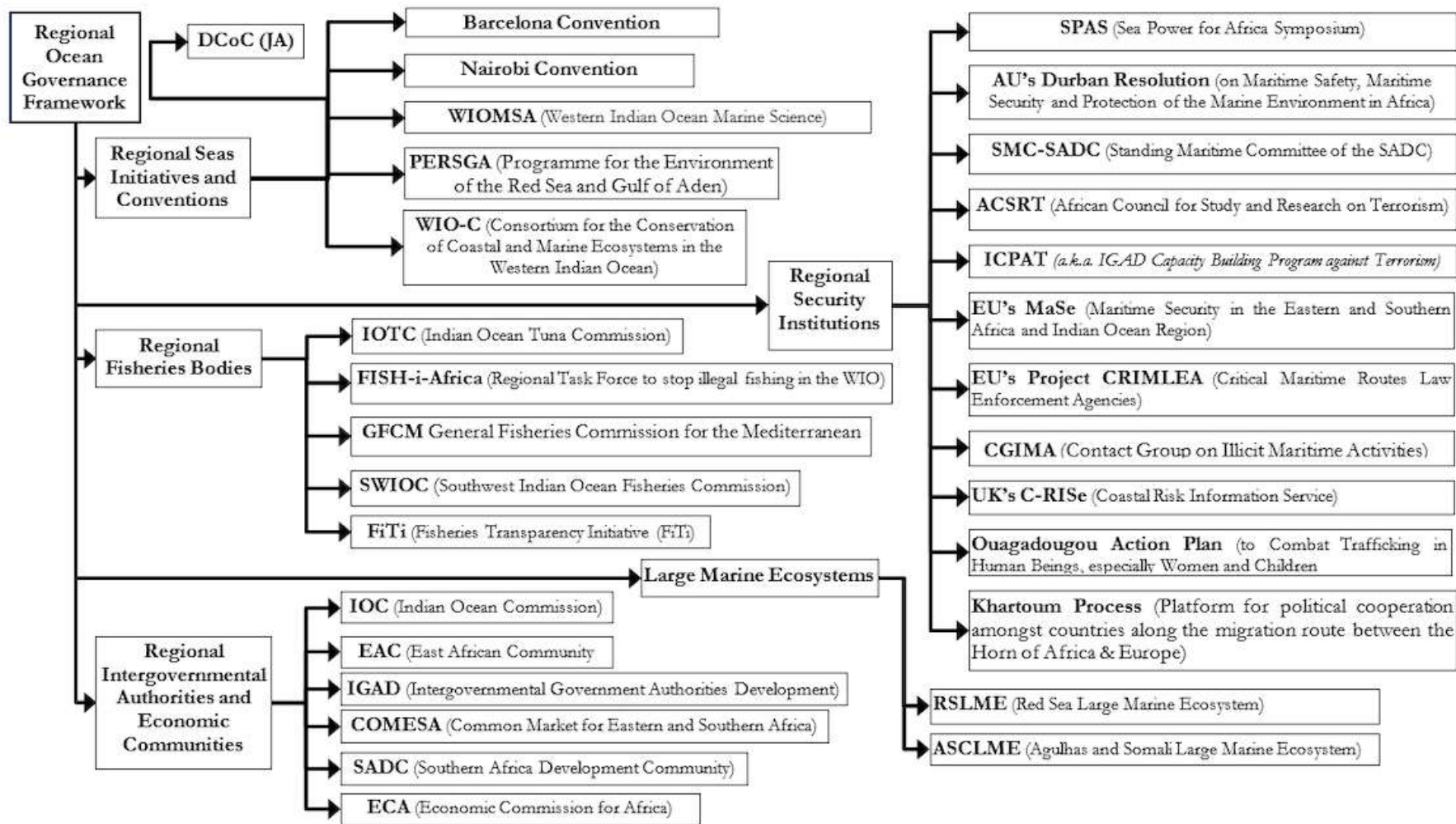




Map showing 200m maritime zones and associated boundaries. Highlighted areas are those islands without overlapping zones; all of which are dependencies.



Source: Anum Khan 2023



Source: Anum Khan 2023

CHALLENGES WITH A FRAGMENTED FRAMEWORK

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- Traditional zonal management approach (purely defined on spatially on the basis of distance from the coast, irrespective of the nature of the ocean and the natural resources within it) is insufficient to solve contemporary issues encountered in the management of the ocean space.
 - Such zonal management is a legal fiction (one cannot find a natural limit between territorial seas and the high seas)
 - Existing juridical framework under strain from a variety of threats:
 - Transnational crimes: piracy
 - Transboundary marine pollution
 - Threats are not always localized:
 - e.g. damage to subsea cables.

A DEPARTURE: INTEGRATED FRAMEWORKS

- Writers have often called for a new approach to ocean governance
- Concepts of ‘domaine public international’
- Common heritage of mankind
- A holistic approach to ocean governance, or ‘integrated ocean management’
- e.g. Par. 17.1. of Agenda 21
- UNGA Res 60/30 (2005) “the problems of the ocean space are closely interrelated and need to be considered as a whole through an *integrated*, interdisciplinary and intersectoral approach...to support and supplement the efforts of each state in promoting the implementation and observance of the Convention, and the *integrated management* and sustainable development of the oceans and seas”

THE AIMS 2050 AND THE CEMZA CONCEPT

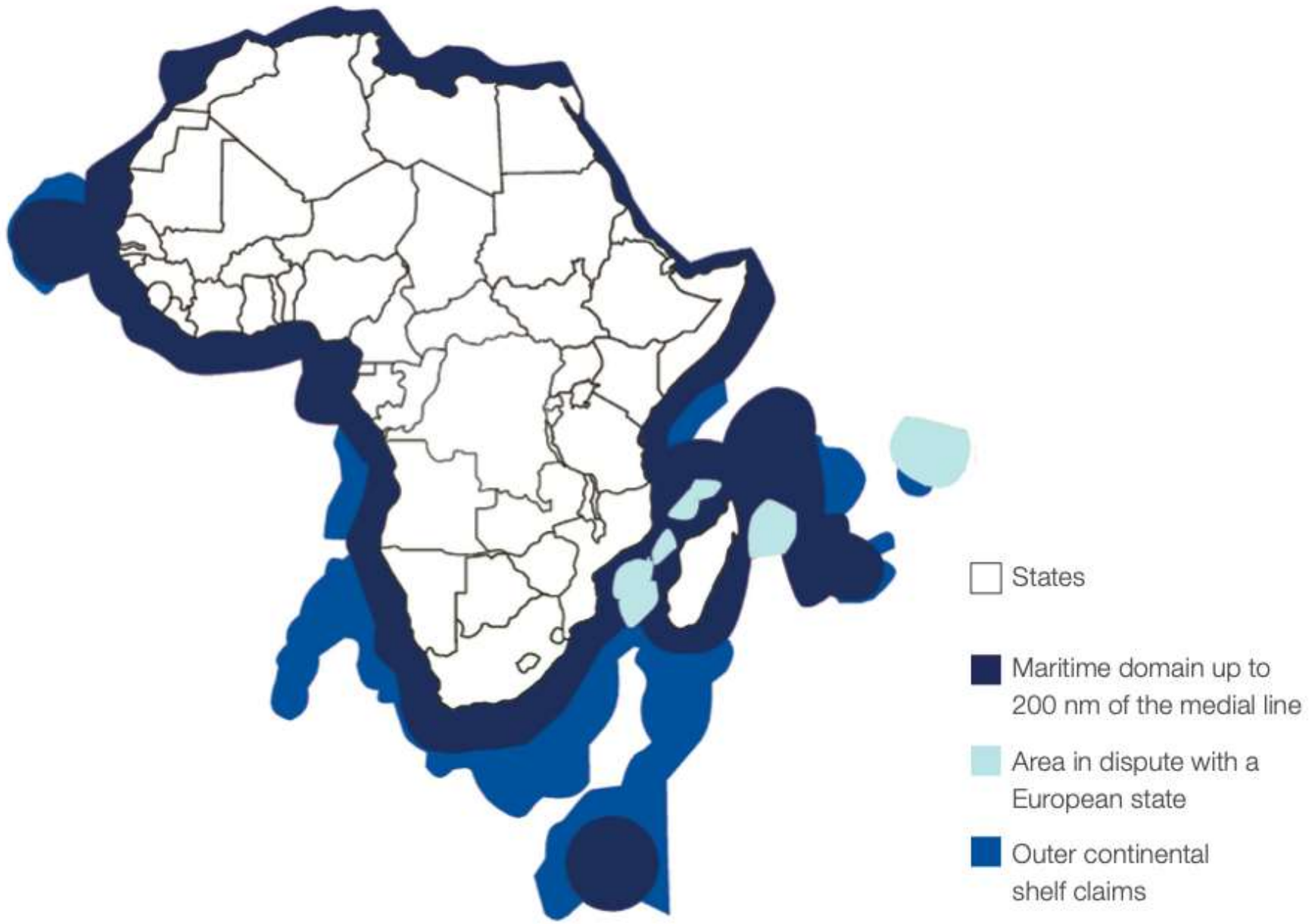
- In **2009** the AU Assembly, concerned about maritime security, including piracy, illegal fishing and the dumping of toxic waste, called on the AU Commission to develop ‘a comprehensive and coherent strategy to combat these scourges’
- The result was the adoption of the, consisting of **2050 Africa’s Integrated Maritime Strategy (AIMS)**, a concerted and coherent long-term multi-layered plans of actions that will achieve the objective of the AU to enhance the maritime viability for a prosperous Africa’.
- One of the strategic objectives of the AIMS is the establishment of a **Combined Exclusive Maritime Zone of Africa (CEMZA)**.

CEMZA provisions

- **Paragraph 29: Procedural guidelines and desired outcomes:**
- Africa is to establish, as appropriate and when permissible, a Combined Exclusive Maritime Zone of Africa (CEMZA). This will require the establishment of a dedicated **Strategic Special Task Force (S2TF)** to prepare the **technical file** which will underpin the **Solemn Declaration** of the CEMZA. The technical file will include **charts** presenting the CEMZA limits. CEMZA is expected to grant Africa enormous cross-cutting geo-strategic, economic, political, social and security benefits, as it will engender collective efforts and reduce the risks of all transnational threats, environmental mismanagement, smuggling and arms trafficking.

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- **Paragraph 30 further describes the concept and desired outcomes:**
 - The CEMZA, being a **common African maritime space without barriers**, is a concept which aims at 'Boosting intra-African **Trade**', eliminating or simplifying administrative procedures in intra-AU maritime **transport**, the aim being to make it more attractive, more efficient and more competitive, and do more to protect the environment. The CEMZA will contribute to the integration of the internal market for intra-AU maritime transport and services. The AU shall further set out guiding principles for the development of a common **information sharing** environment for the CEMZA. This should allow for the convergence of existing and future **monitoring and tracking** systems used for maritime safety and security, protection of the marine environment, fisheries control, trade and economic interests, border control and other law enforcement and defence activities.

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- Annex B to AIMS contains a definition of the CEMZA:
 - **Without prejudice** to maritime zones as established by the UNCLOS for individual nations, the [CEMZA] defines a **common maritime zone** of all AU Member States. It is to be a stable, secure and clean maritime zone in the view of developing and implementing common African maritime affairs policies for the **management** of African oceans, seas and inland waterways resources as well as for its multifaceted strategic benefits. The CEMZA will grant Africa enormous crosscutting geostrategic, economic, political, social and security benefits, as well as **minimize the risks of all transnational threats including organized crime and terrorism in Africa.**



Source: Vrancken and Tsamenyi, 2017¹³

WHAT ARE THE LEGAL IMPLICATIONS?

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- What does it consist of?
 - Does it replace existing maritime zones?
 - What are the rights and obligations of the states parties?
 - What is its present legal status?

THE PLACE OF AFRICAN NAVIES IN THIS FRAMEWORK

- the AMD is **critical** to the survival and sustainable development of the continent.
- **capacity** of African States to make the most of the AMD is very limited overall.
- limited capacity has contributed to, and is being perpetuated by, unacceptable levels of maritime **insecurity**.
- steps taken to address maritime insecurity must be part of an **integrated strategy** including all the other aspects of a healthy AMD.
- Constabulary role of navies.

CONSTABULORY FUNCTION

- Split capabilities between high-intensity activities (spear):
 - *Armed conflict, Chapter VII peacekeeping and enforcement actions*
- And softer maritime policing roles (shield):
 - *IUU fishing, migrant smuggling, human trafficking, environmental damages, marine pollution, drug trafficking.*
- And threats to international peace and security:
 - *Terrorism, piracy, counter proliferation of WMD*
- A law enforcement task for naval forces is by itself not a new phenomenon – acting against piracy has been a task of warships for centuries.
- This role will need to be set out in the **proposed technical file** compiled by the **strategic special task force**.

Prognosis

- The CEMZA is an **overlooked** innovative juridical framework that can have the potential to contribute to Africa's aspirations in terms of maritime security.
- If naval constabulary operations within the CEMZA framework are consistent, effective and accepted, **customary international law** of the sea may develop.
- This is in contrast to regional-specific measures that may be developed ad hoc to deal with a threat – where the threat is perceived to be eliminated, **complacency** develops.
- Dynamics are **not always localized**, there are inter-regional patterns of interaction that have developed with increased actors and stakeholders, from transnational companies, to NGOs and governments.
- Foreign naval operations would have to engage with a continental-wide framework, giving African navies **greater influence**.

Parting remarks

- Innovative and brave move towards protecting community interests and managing resources.
- Balance between sovereign rights and collective interests, the CEMZA infuses the African concept of *Ubuntu* – spirit of group **solidarity**. A platform for African coastal states to pool resources to make it possible for each of them to make the most of their sovereign rights.
- "If you want to go far, go together"