



6th EMB Forum
**Implementing the UN 2030 Agenda: What role
for marine science?**

***Ocean science needs for
implementing the SDGs –
The Legal Perspective***

Seline Trevisanut

s.trevisanut@uu.nl

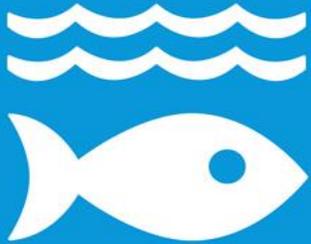
ERC StG [SUSTAINABLEOCEAN](#) Project



Universiteit Utrecht

6 December 2017

14 LIFE BELOW WATER



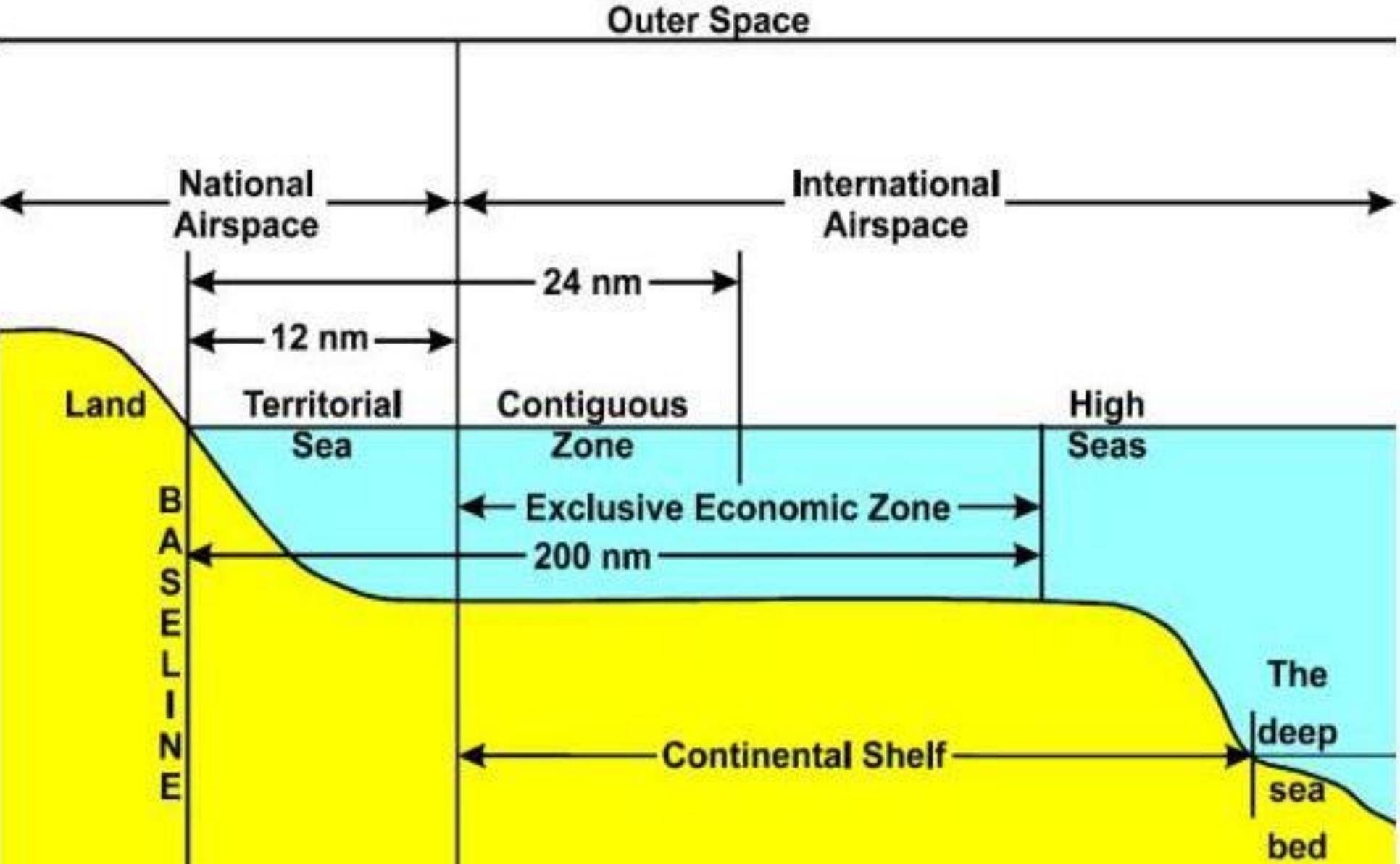
- Sustainable Development Goal 14 on 'Conserve and sustainably use the oceans, seas and marine resources for sustainable development'
 - '[e]nhance the conservation and sustainable use of oceans and their resources **by implementing international law as reflected in UNCLOS**, which provides the **legal framework** for the conservation and sustainable use of oceans and their resources'

- Jurisdictional Framework
- Protection of the Marine environment

- Substantive norms in other instruments
 - Regime interaction



The Jurisdictional Framework



Article 194 LOS Convention

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.
2. States shall take all measures necessary to ensure that activities under their **jurisdiction or control** are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

Article 192 LOS Convention

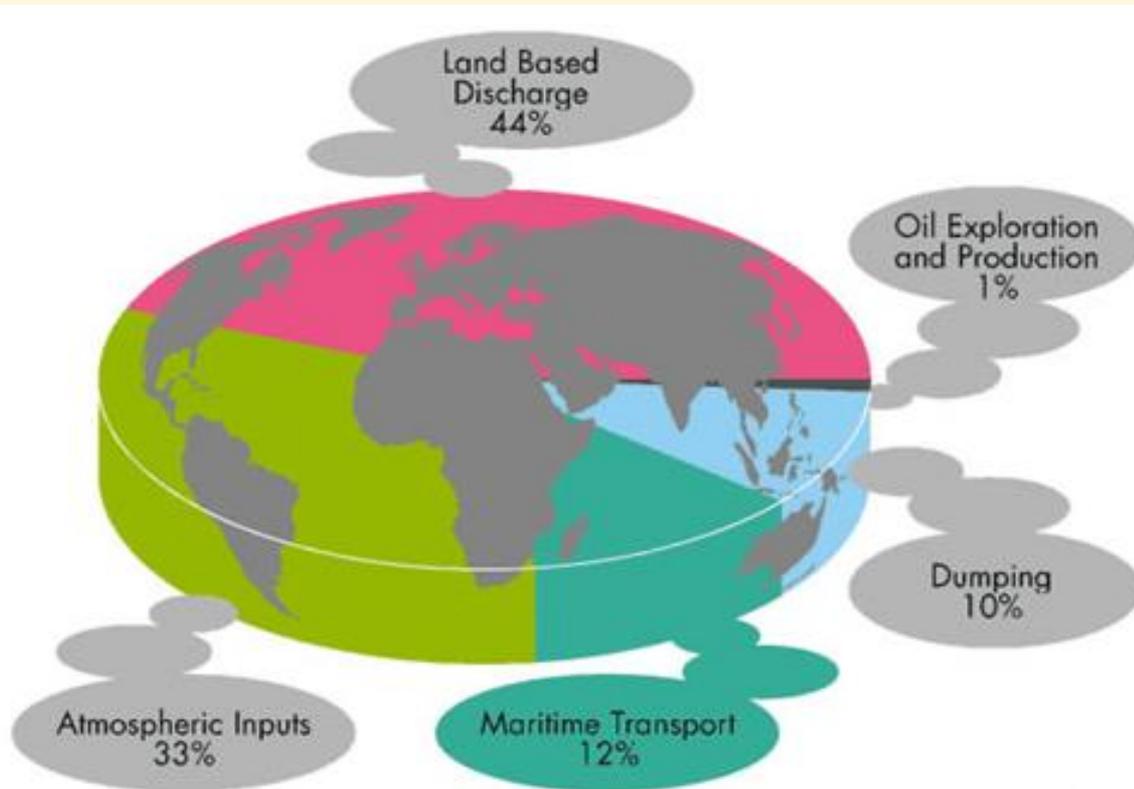
Article 193 LOS Convention

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.



- Part XII (cont.)
 - Monitoring & environmental assessment (Arts 204-206)
 - Art. 206: duty to conduct environmental impact assessments (EIAs)
 - (all?) sources & effects of marine pollution
 - Land-based pollution
 - Pollution from offshore activities
 - Pollution from atmospheric inputs
 - Pollution by dumping
 - Vessel-source pollution
 - Pollution from maritime transport



Marine Pollution Chart



- Rules of reference
 - Environmental provisions

Article 60.3

(removal of abandoned or disused installations)

Article 210.6

Pollution by dumping

National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.

- NOT INCLUDED IN PART XII
 - Polluter pays principle
 - Precautionary approach/principle
 - Ecosystem approach



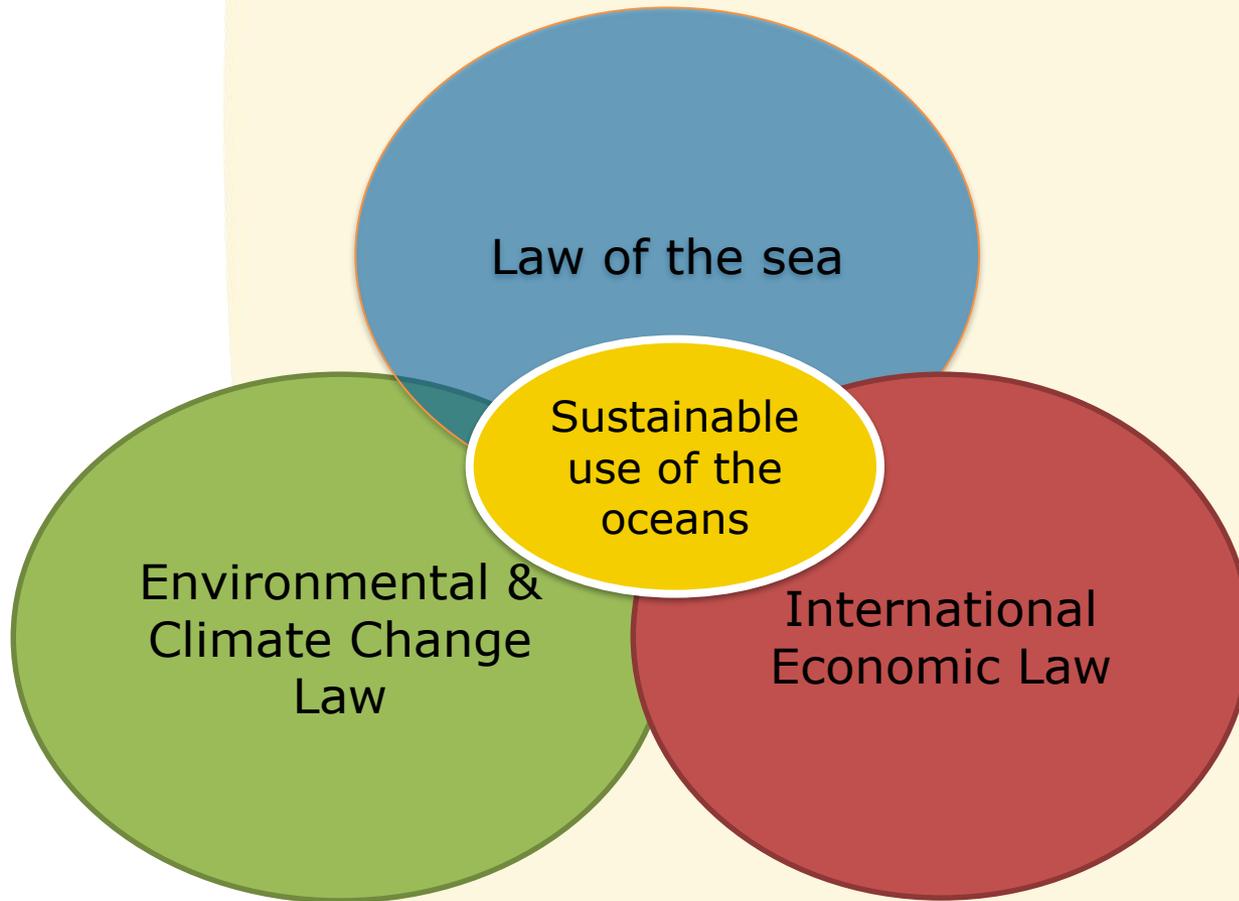
Current international legal framework for the protection of the marine environment

Regional instruments

- Species and (their) habitats:
 - CMS agreements (e.g. ASCOBANS)
 - NAMMCO Agreement
- Fisheries resources
 - RFMOs/As
- Regional shipping regimes (e.g. MOUs on PSC)
- Marine environmental protection + conservation of marine biodiversity:
 - Agreements and actions plans of UNEP Regional Seas Programme (e.g. Barcelona Convention)
 - OSPAR Convention (North-East Atlantic)
 - Helsinki Convention (Baltic Sea); increasingly holistic
 - Large marine ecosystem (LME) mechanisms (e.g. Benguela Current Commission)
- Special regimes in polar regions



Regime interaction - An example: The offshore energy sector



- LOSC system of marine environmental protection
 - Article 192 UNCLOS:
 - general and comprehensive duty to protect the marine environment
 - “due diligence” & certain level of vigilance
 - embedded in the wider environmental obligations stemming from relevant MEAs (South China Sea Award)
 - Article 206 UNCLOS:
 - cornerstone procedural obligation to conduct EIA
 - continuous duty to monitor impact throughout the life of major projects



- Marine conservation: from spatial regulation to multifunctional zones
 - Marine protected areas and spatial limitations to offshore energy activities
 - absolute prohibition of economic activities
 - restriction of particular economic activities
 - Marine spatial planning and strategic impact assessment
- Regime Interaction and mutual supportiveness
 - Environmental protection obligations substantiating legitimate expectations
 - PCA Peter A. Allard v. the Barbados Award (27 June 2016)



Environmental stress of the oceans: increase of dead areas, ocean acidification, 'interconnectiveness' of the oceans

- Pending Questions:
 - How can international law confront competing challenges?
 - Pluralistic accommodation or hierarchy of policies/objectives?

Tentative (optimistic) conclusions:

- Regime interaction is not necessarily a "threat"
- States can rely on different legal bases to implement their (environmental, social...) policies and integrate sustainability objectives
- Non-state actors can rely on different legal bases to support sustainable objectives and influence policies



Thank you for your attention!



European Research Council

Established by the European Commission

**Supporting top researchers
from anywhere in the world**

The research for this presentation has been conducted thanks to the financial support of the European Research Council under the European Union's Horizon 2020 research and innovation programme (Grant Agreement No 639070 – [SUSTAINBLEOCEAN](#))