Thoughts on the future regulation of ocean observing in the European Union

ECOP Wednesdays, 7 December 2022

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This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 862626.

Overview

- Focus on the international regulatory framework
- Focus on the regulatory framework in the European Union

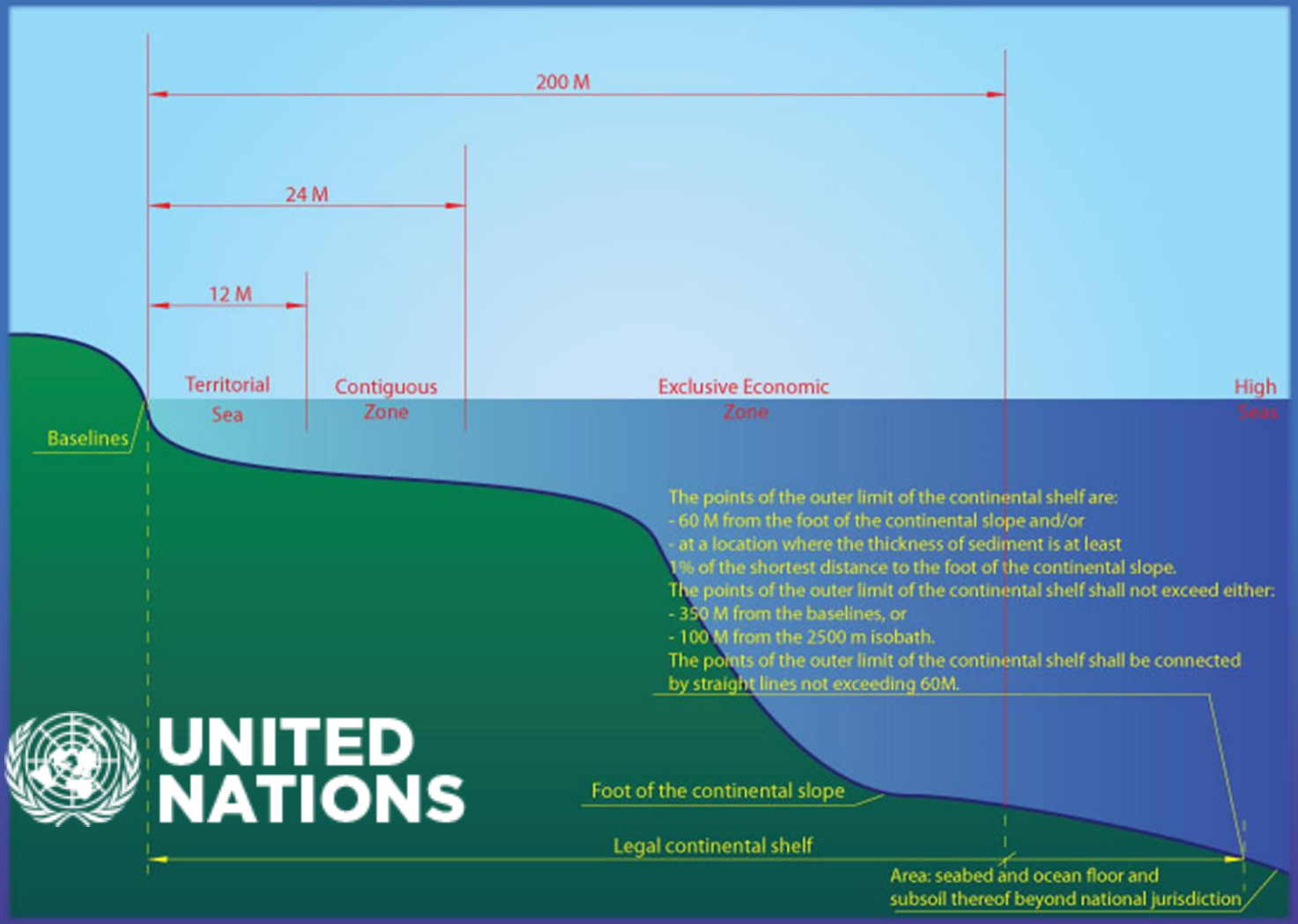
- Presentation on the background
- Q&A
- Discussion on future possibilities & their feasibility

What are the issues ?

- Law is mainly written (more than four decades ago) with research vessels in mind.
- Modern observation instruments fall generally under these rules as well.
- The purpose for which the data are collected is key.

International law of the sea

- 1982 United Nations Convention on the Law of the Sea
- Where does ocean observing take place ?



What is not marine scientific research

- Hydrographic surveys
- Resource-related research: stock assessments, drilling
- Remote sensing
- Operational oceanography / sustained ocean observations
- Marine meteorological & oceanographic measurements for the WMO
- Animal-borne sensors ?

Where does the European Union come in ?

- LOSC, Art. 123(c):´States bordering an enclosed or semi-enclosed sea should cooperate [...] to coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research

- Exclusive competence
- Shared competence
- Supporting competence

Integrated Maritime Policy

- Development of cross-sectoral initiatives
- Support of sustainable economic growth
- Promote the protection of the marine environment

- Maritime spatial planning
- ‘initiatives to co-finance, purchase and maintain marine observation systems and technical tools for designing, setting-up and running an operational European marine observation and data network system which aims to facilitate the collection, acquisition, assembly, processing, quality control, re-use and distribution of marine data and knowledge, through cooperation between Member States and/or international institutions concerned.’

2018 European Parliament resolution

- ‘extending existing EU research and observation tools and activities, including the European Marine Observation and Data Network (EMODnet), in order to establish a shared database, the European Earth Observation Programme (Copernicus), the European Global Ocean Observing System (EuroGOOS)’ (§ 146)
- ‘facilitating knowledge of the seabed, marine species and habitats, and of gathering geological, bathymetric, seismic, volcanic, chemical, hydrological, atmospheric and meteorological data on the oceans’ (§ 151)
- ‘strengthen mapping, observations and research in the Mediterranean, the Black Sea and the Atlantic’ (§ 166)

According to the Commission

- ‘split responsibility between different departments both at a national and at an EU level’
- ‘no coordination between the different consortia’ ?

According to stakeholders

- ‘inefficient planning’
- ‘opaque planning’
- ‘insufficient sharing’
- ‘insufficient innovation’
- ‘unsustainable observation’

Options for a policy solution

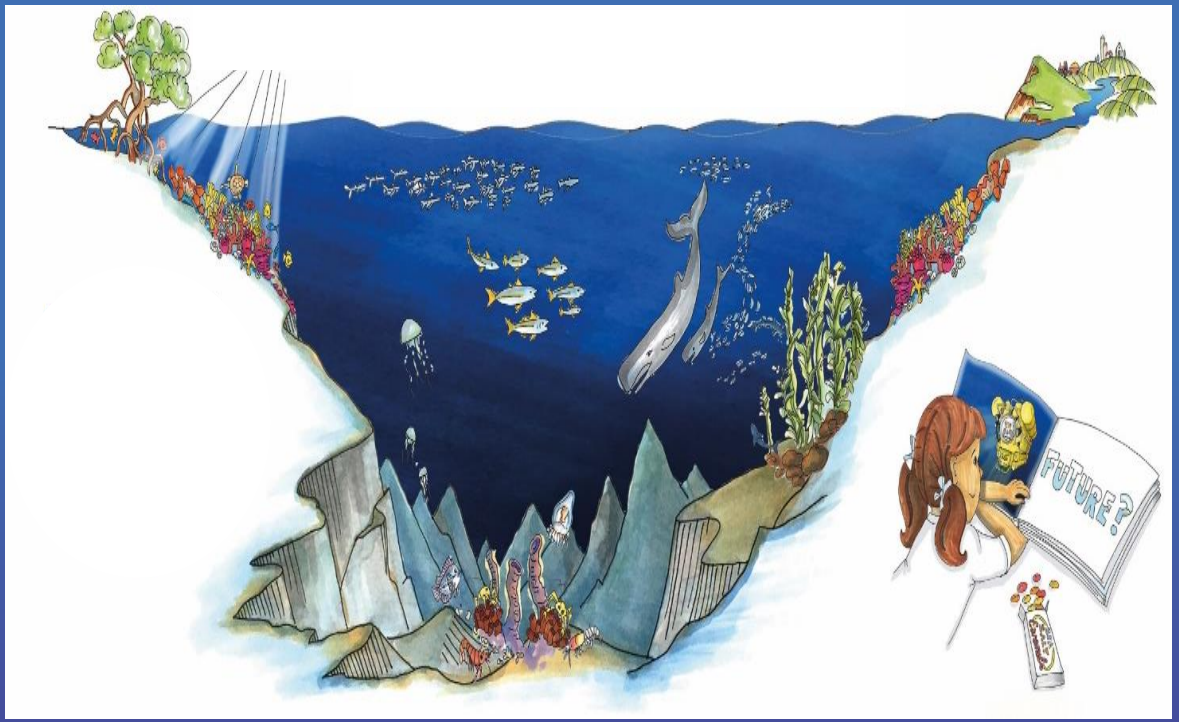
According to the Commission

- baseline
- Directive → 'aiming for Member States to bring all public bodies responsible for ocean observation together to develop priorities, realise opportunities for sharing effort, speak with agreed voice at EU level and facilitate coherence at a sea-basin level'
- Same through Regulation → 'more uniform and simpler implementation'
- Same through soft law
- Same → 'with EU funding to support observations of common benefit' ?

Likely impacts

According to the Commission

- Environmental
- Social
- Economic
- Simplification
- Administrative burden



Legislative function of the EU

- Commission
- Parliament
- Council

Points of importance

- Presidency
- Working Parties
- Member States

- Principle of subsidiarity ?

Problems & solutions at the international level

Coastal state's consent	→	Bilateral or regional agreements
Six months in advance	→	MSR Clearance Office
Inconsistencies in coastal states' regulations	→	Standardised form (such as that of UN DOALOS)
What is marine scientific research legally ?	→	Focus on GOOS' EOVs, for example

Problems & solutions at the international level

Principle of subsidiarity → Harmonisation of policies & legislation of member states

Art. 247 of the 1982 UN Law of the Sea Convention → EMODnet

Art. 123(c) of the 1982 UN Law of the Sea Convention → Extension to coverage of all littoral states of European seas

Problems & solutions at the international level

- LOSC, Art. 258
- Regulation according to purpose
  - EOVs
  - Customary international law
  - WMO resolutions

- Convention on the Legal Status of Ocean Data Acquisition Systems, Aids and Devices

Questions to you

- What can be improved on the European Union level?
- What can be improved on the national (or even local) level?

- How can the European Union facilitate this?
- Do you think the proposed solutions are feasible?