

# The 1982 Law of the Sea Convention: Environment and Sustainability

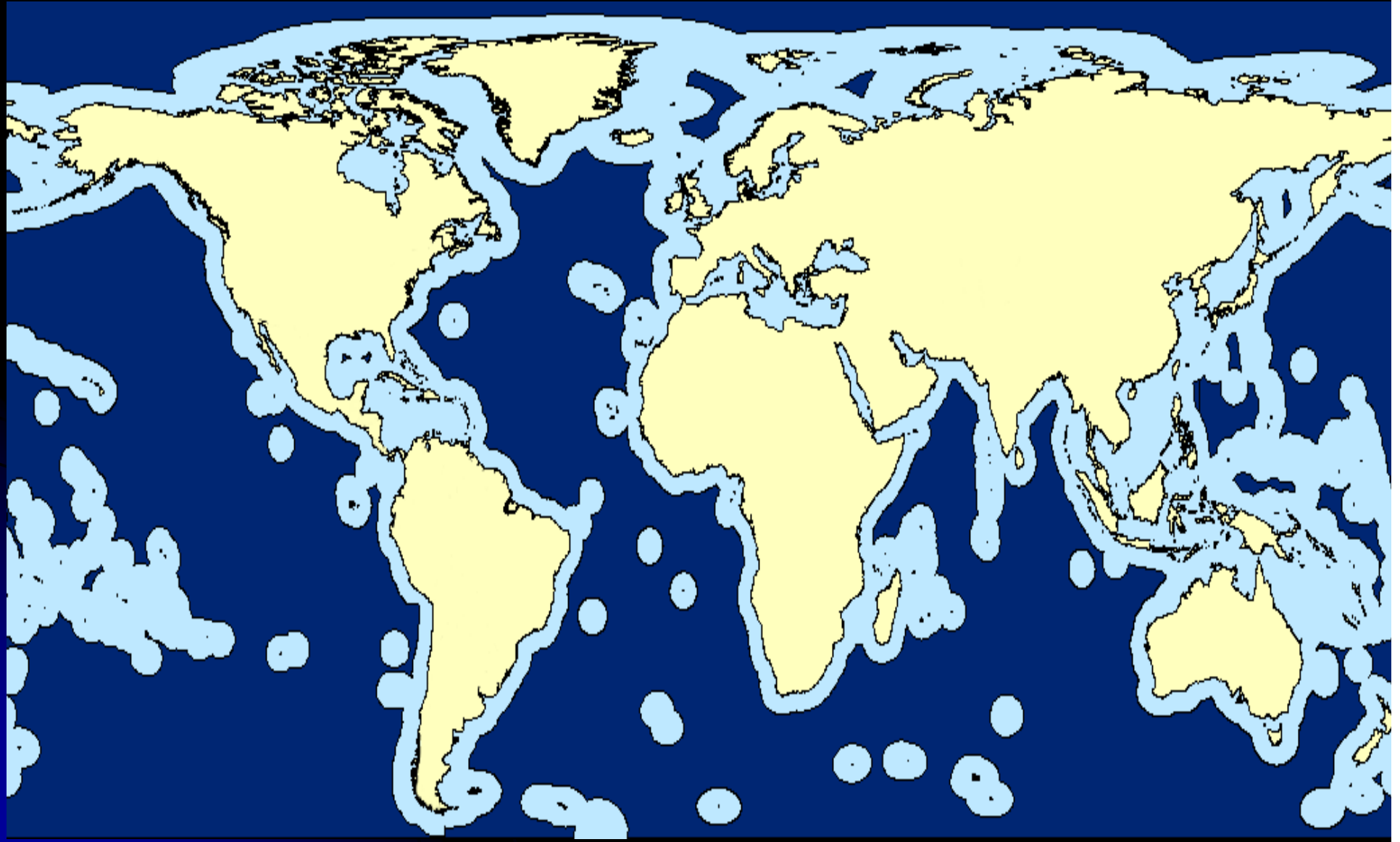
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UN DOALOS Side Event  
February 3, 2014

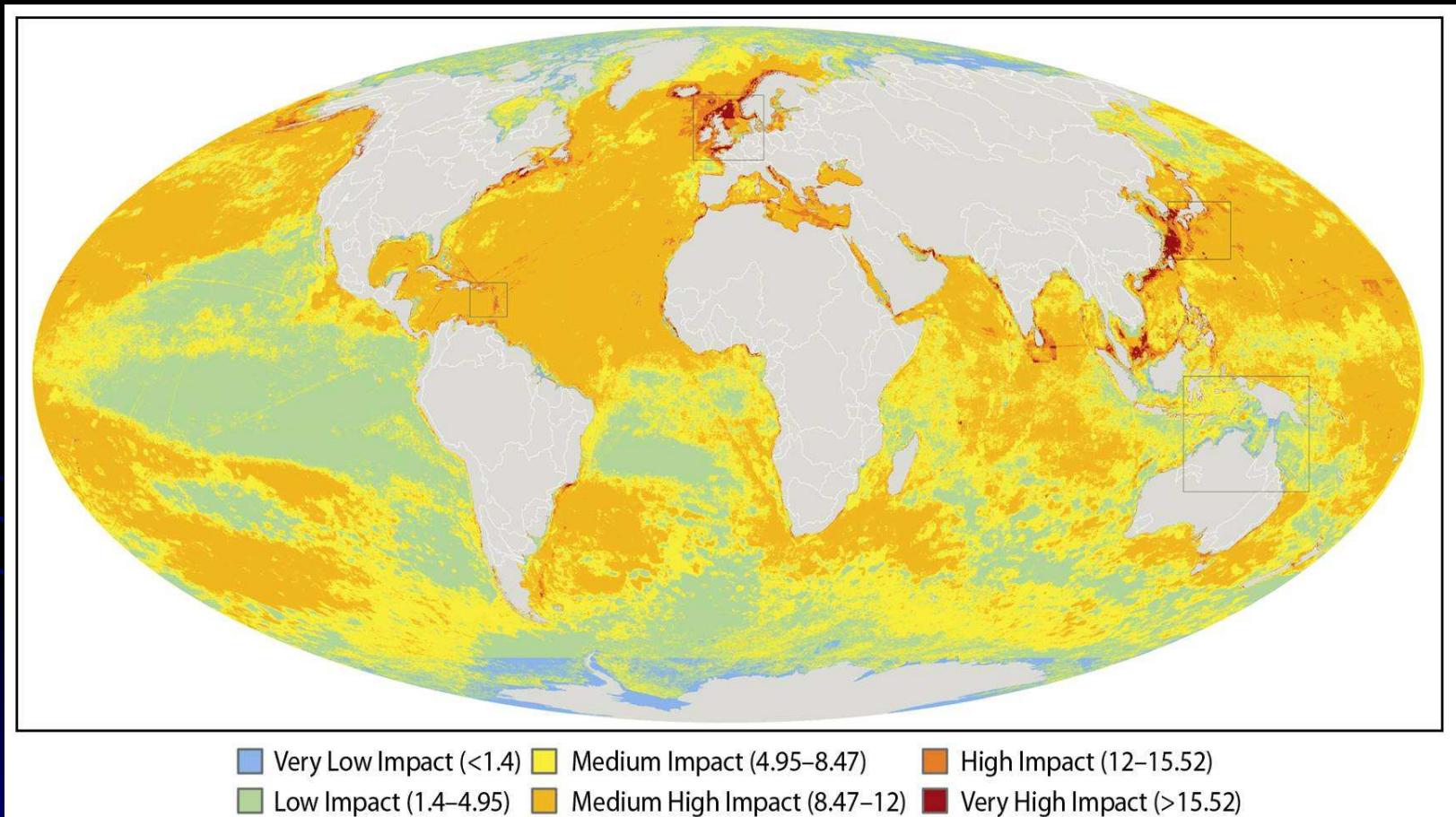
# Contents

- Oceans cover 70% of the planet
  - >50% is high seas
  - > 40 % strongly affected by human activities
- Legal Regime
  - 1982 UN Convention
    - 166 parties to LOSC
  - Developed by 1995 UN Fish Stocks Agreement
    - 81 parties to UNFSA

Oceans cover  $>70\%$  of the planet  
 $>50\%$  is high seas



# Environmental processes: Human impacts are increasing



More than 40% of oceans already strongly affected, Halpern *et al.*, 2008

# Legal Regime

## Plethora of Instruments

- 1982 Law of the Sea Convention
- 1992 Rio Declaration and Agenda 21
- 1993 FAO Compliance Agreement
- 1995 UN Fish Stocks Agreement
- 1995 FAO Code of Conduct
- 2001 Reykjavík Declaration
- 2002 WSSD POI
- 2012 FAO PortState Measures Agreement
- 2012 Rio + 20

# LOSC Part XII: Protection and preservation of the marine environment

## Article 192

- States have the obligation to protect and preserve the marine environment

## Article 194.5

- The measures taken ... shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitats of depleted, threatened or endangered species and other forms of marine life.

# LOSC Part XII: Environmental Protection

*Art 204* : States shall keep under surveillance the effects of any activities which they **permit or in which they engage** in order to determine whether these activities are likely to pollute the marine environment.

*Art 205* : States shall **publish reports** ...or provide such reports to the competent international organizations, [ to be ] available to all States.

*Art 206* :When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, **assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments ....**

# LOSC Part XII: Environmental Protection

## **Art 197**

**States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.**

**Is this an obligation on international organizations to cooperate to this end ?**



# 1982 LOSC Part VII

## Conservation requirements

### **VII.§2: Conservation and management of the living resources of the high seas**

- 116: All states have the right for their nationals to engage in fishing on the high seas, **subject to**
  - (a) their treaty obligations
  - (b) the rights and duties, as well as the interests of coastal states, provided for inter alia in article 63, para. 2 and articles 64-67; and
  - (b) the provisions of this section.
- 117: All states have the duty to take or co-operate with other states in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas

# 1982 Law of the Sea Convention

ART 119: In establishing TACs and other conservation measures

- Take measure to ‘maintain and restore populations of harvested species at levels which can produce MSY’
  - On the ‘best scientific evidence available’ to state concerned
  - As qualified by relevant *environmental* and economic factors:
    - Special requirements of developing states
    - Fishing patterns
    - Interdependence of stocks
    - **Generally recommended international minimum standards**

# 1995 UNFSA

## General Principles

- Ensure long term sustainability and promote optimum utilization
- Using 'best scientific evidence available'
- Apply Precautionary Approach
- Apply Ecosystem Approach regarding
  - Assessment of impacts of fishing, other human activities and environmental factors on
  - Conservation and management measures to
  - Protect Biodiversity

# LOSC Unfinished Agenda ?

- UNGA set up Ad Hoc Working Group on Biological diversity in ABNJ - BBNJ
- Met in 2006, 2008, 2010, 2011, 2012, 2013
- Identified some key issues that it suggests need codification
  - Principles of ABNJ governance
  - Measures for Marine Spatial Planning
    - Establishment of MPAs in ABNJ
    - EIA procedures
  - Marine genetic resources - including benefit sharing
  - Capacity-building and the transfer of marine technology

# How are we doing?

- Still gaps in treaty coverage of oceans
  - Fisheries and environmental treaties
- Slow progress on implementation of Ecosystem Approach and Precaution
  - CCAMLR
  - Western and Central Pacific
- Very poor co-ordination between sectors
  - LOSC Art 197
  - CBD EBSAs/Sargasso Sea case study

# LOSC Part XII: Environmental Protection

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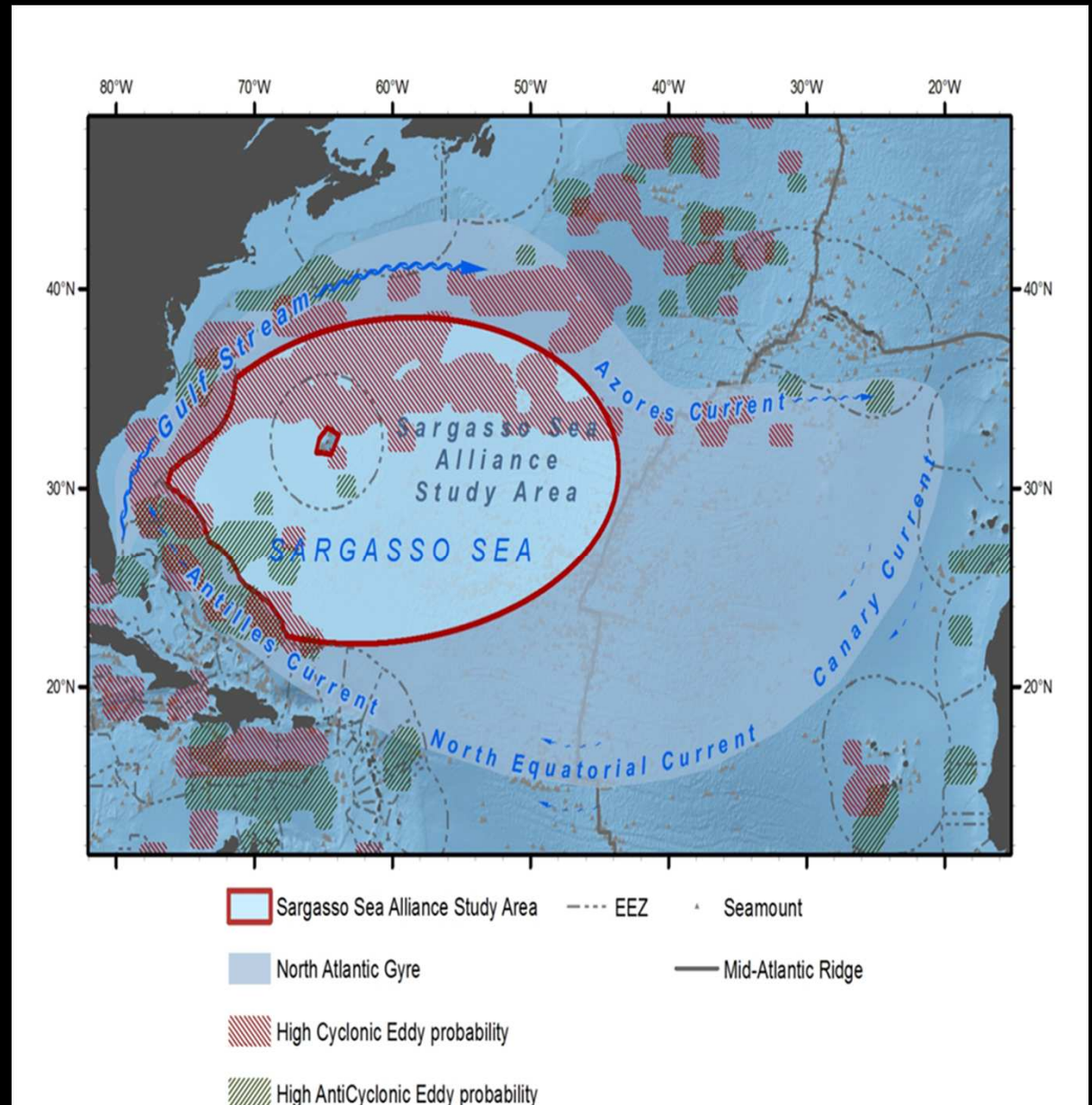


# Convention on Biological Diversity

## EBSA Process October 2012

- CBD COP submitted Sargasso Sea EBSA to CBD repository

Feb 2012 in Recife  
“identified” at regional  
workshop (March  
2012)  
and reviewed by CBD  
SBSTTA (April 2012)





Thank You

