

Scientific Moorings

Legal and Environmental

Regimes

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Moorings Workshop

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Aim

The aim of this short brief is to raise awareness within the scientific moorings community of current marine law and environment policy relating to the deployment of this capability.





Scientific Moorings – Legal Regime

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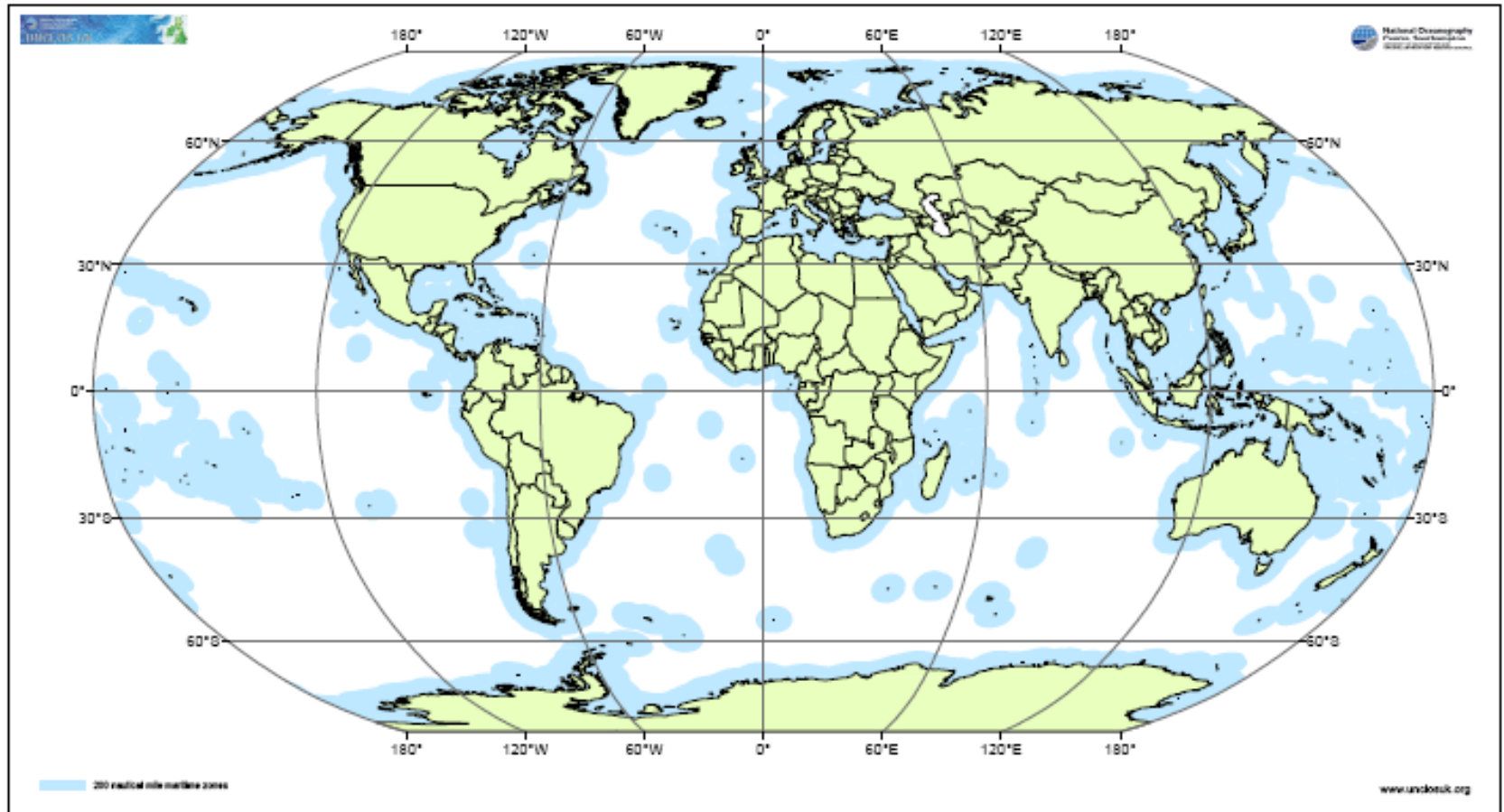
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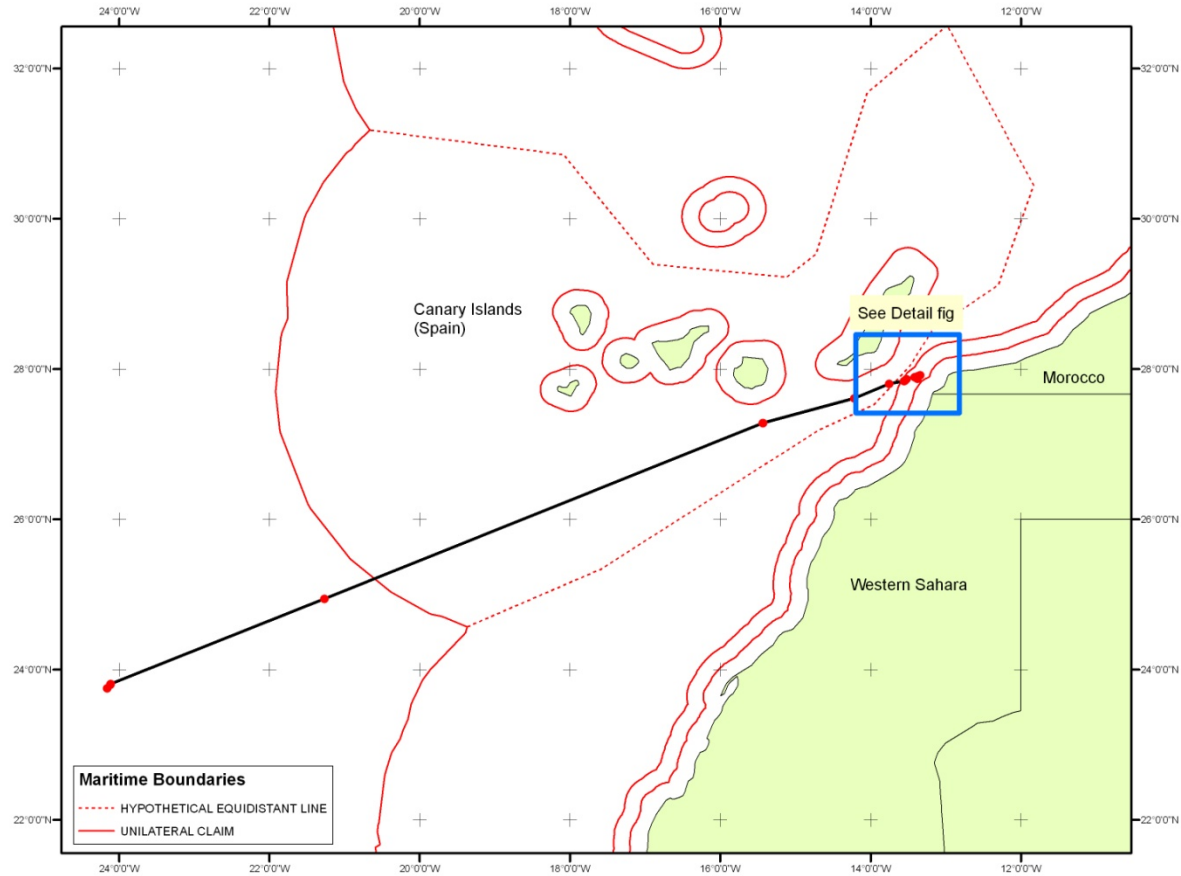


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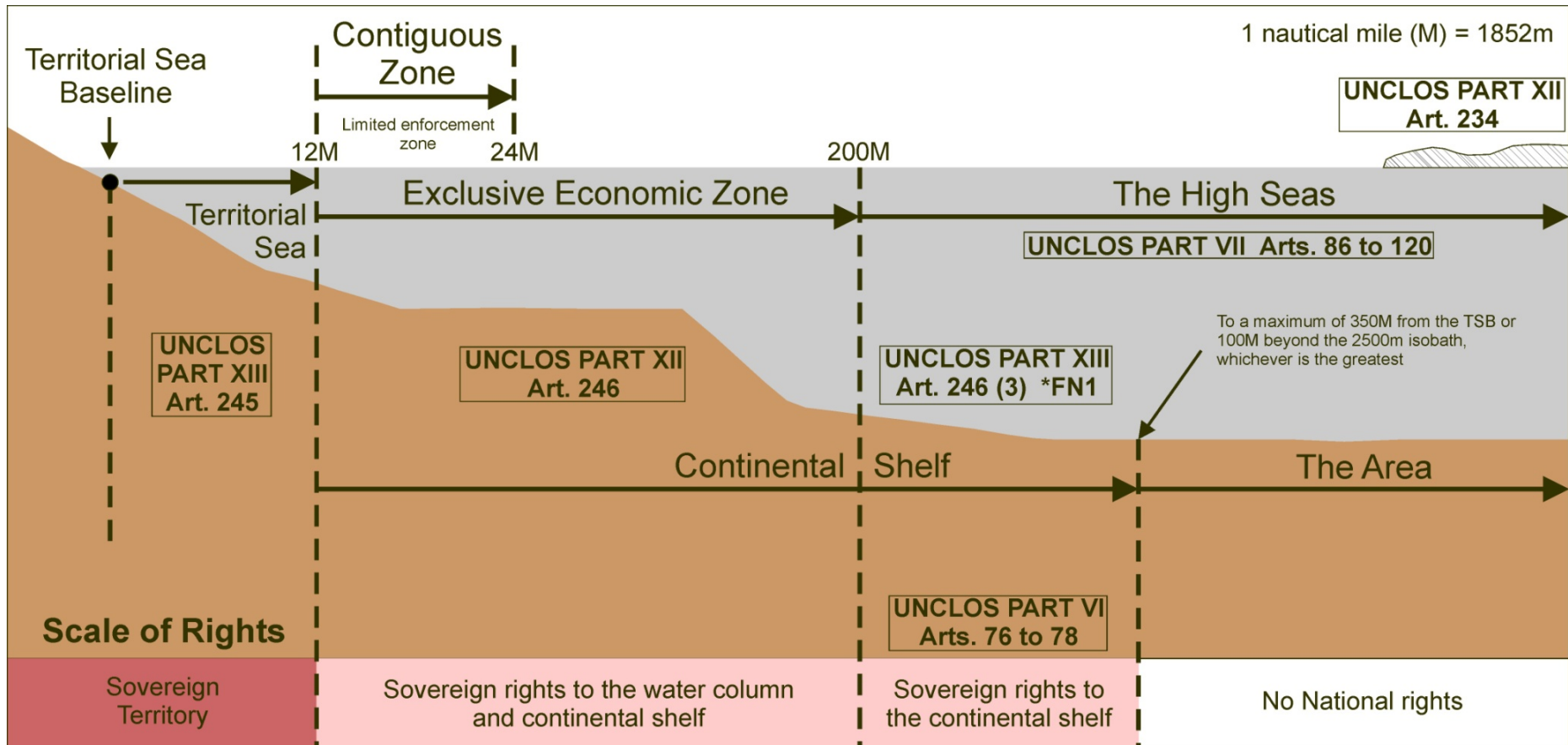
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Impact of UNCLOS Article 76 Scientific Moorings



*Footnote 1 - only applies where the coastal state has had a successful claim under Article 76 and this claim has been embodied in that coastal states law.

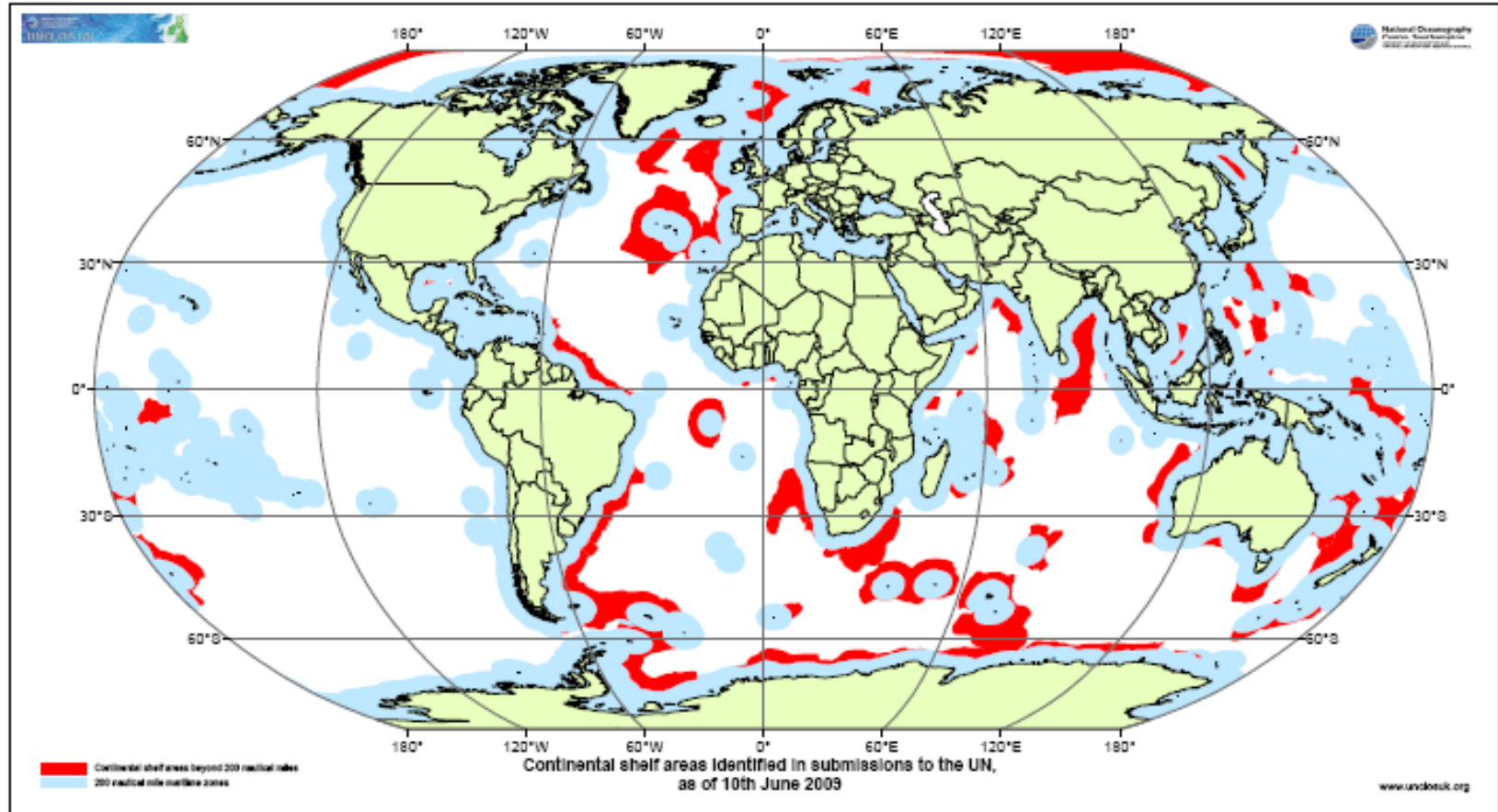


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Impact of UNCLOS Article 76 Scientific Moorings

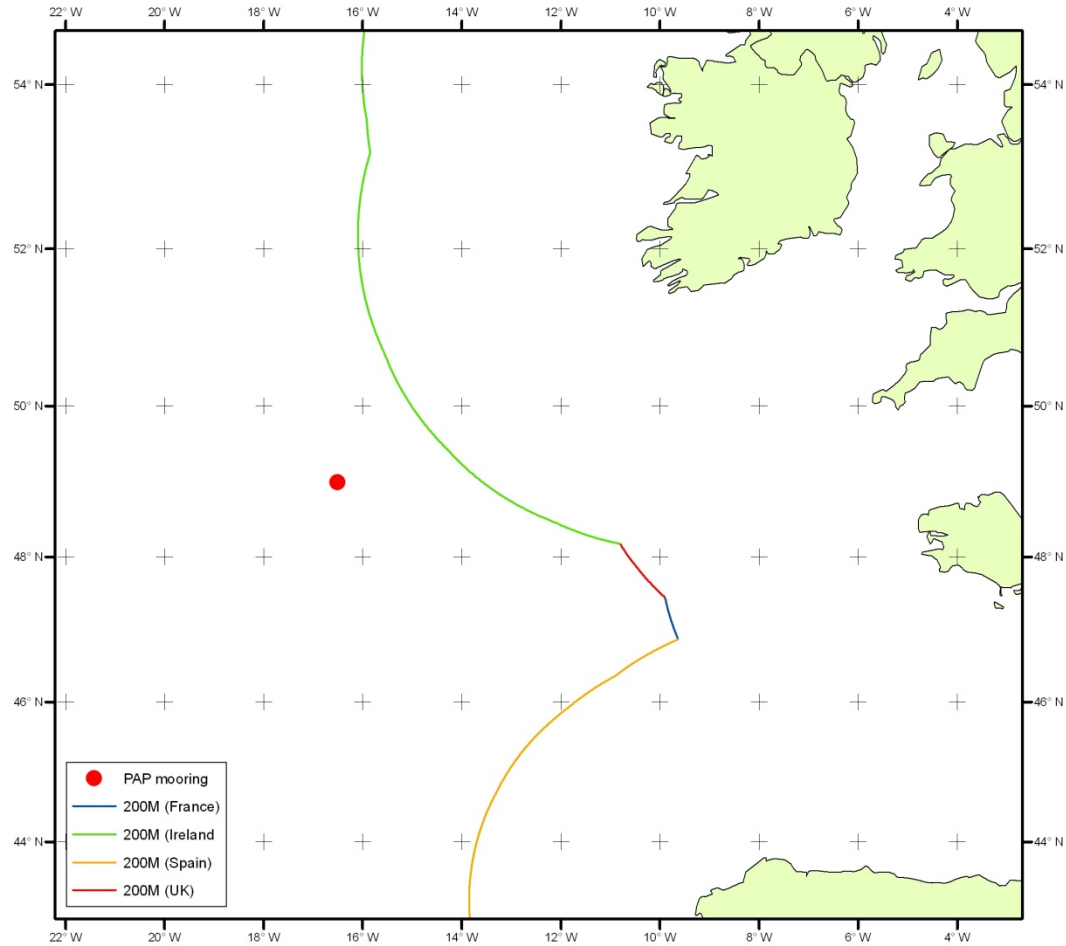


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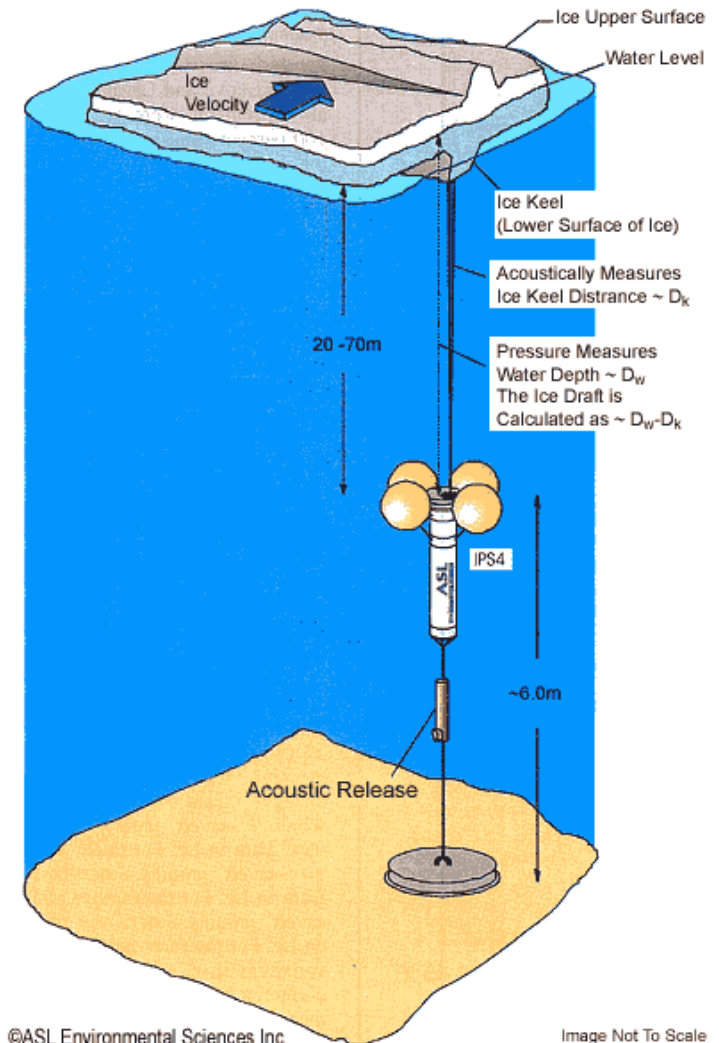
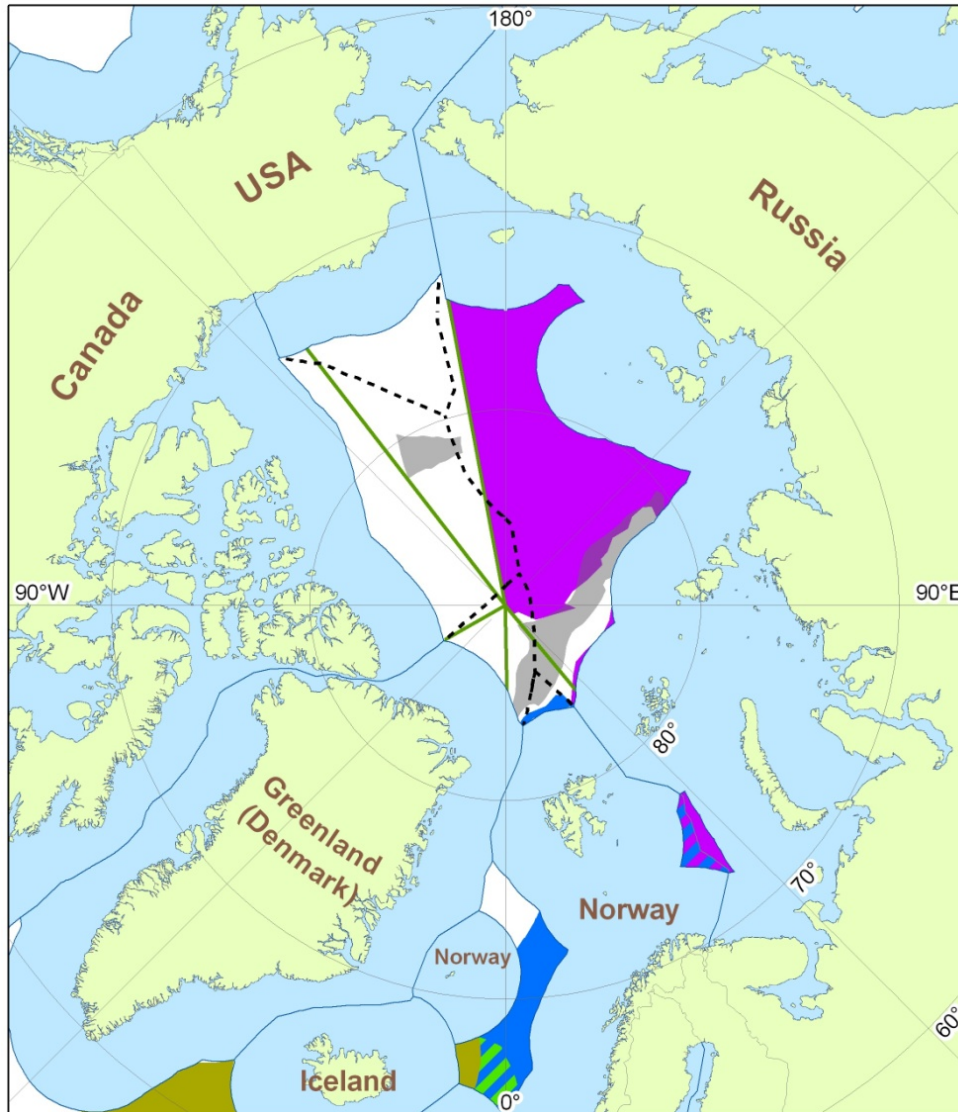
PAP Mooring



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Scientific Moorings in the Arctic



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Image Not To Scale

Chart provided by NOCS UNCLOS Group.

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Marine Strategy Framework Directive

25.6.2008

EN

Official Journal of the European Union

L 164/19

DIRECTIVES

DIRECTIVE 2008/56/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 17 June 2008

establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

impact on marine waters regardless of where their effects occur.

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

(3) The marine environment is a precious heritage that must be protected, preserved and, where practicable, restored with the ultimate aim of maintaining biodiversity and providing diverse and dynamic oceans and seas which are clean, healthy and productive. In that respect, this Directive should, *inter alia*, promote the integration of environmental considerations into all relevant policy areas and deliver the environmental pillar of the future maritime policy for the European Union.

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

(4) In line with Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ⁽²⁾, a thematic strategy for the protection and conservation of the marine environment has been developed with the overall aim of promoting sustainable use of the seas and conserving marine ecosystems.

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

(5) The development and implementation of the thematic strategy should be aimed at the conservation of the marine ecosystems. This approach should include protected areas and should address all human activities that have an impact on the marine environment.

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

(1) Marine waters under the sovereignty and jurisdiction of Member States of the European Union include waters in the Mediterranean Sea, the Baltic Sea, the Black Sea and the North-east Atlantic Ocean, including the waters surrounding the Azores, Madeira and the Canary Islands,

(6) The establishment of marine protected areas, including areas already designated or to be designated under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽⁵⁾ (hereinafter referred to as the 'Habitats Directive'), Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽⁶⁾ (hereinafter referred to as the 'Birds Directive'), and under international or regional agreements to which the European Community or Member States concerned are Parties, is an important contribution to the achievement of good environmental status under this Directive.

(2) It is evident that pressure on natural marine resources and the demand for marine ecological services are often too high and that the Community needs to reduce its

⁽¹⁾ OJ C 185, 18.8.2006, p. 20.

⁽²⁾ OJ C 206, 29.8.2006, p. 5.

⁽³⁾ Opinion of the European Parliament of 14 November 2006 (OJ C 114 E, 21.12.2006, p. 86), Council Common Position of 23 July 2007 (OJ C 242 E, 16.10.2007, p. 11) and Position of the European Parliament of 11 December 2007 (not yet published in the Official Journal), Council Decision of 14 May 2008.

⁽⁴⁾ OJ L 242, 10.9.2002, p. 1.

⁽⁵⁾ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 140).

⁽⁶⁾ OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 2005/10/EC.

⁽¹⁾ OJ C 185, 18.8.2006, p. 20.

⁽²⁾ OJ C 208, 29.8.2006, p. 5.

⁽³⁾ Opinion of the European Parliament of 14 November 2006 (OJ C 114 E, 21.12.2006, p. 86). Council Common Position of 23 July 2007 (OJ C 242 E, 16.10.2007, p. 11) and Position of the European Parliament of 11 December 2007 (not yet published in the Official Journal). Council Decision of 14 May 2008.

⁽⁴⁾ OJ L 242, 10.9.2002, p. 1.

⁽⁵⁾ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 148).

⁽⁶⁾ OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 2006/105/EC.

STATUTORY INSTRUMENTS

2010 No.

ENVIRONMENTAL PROTECTION

The Marine Strategy Regulations 2010

Made - - - - - ***
Laid before Parliament - - - - - ***
Coming into force - - - - - 15th July 2010

The Secretary of State is designated (a) for the purposes of making Regulations under section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (b) in relation to the environment.

It appears to the Secretary of State that it is expedient for references to Annexes I, III, IV or V of Directive 2008/56/EC of the European Parliament and of the Council of 17th June 2008 establishing a framework for Community action in the field of marine environmental policy (e) to be construed as a reference to those provisions as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by that section.

PART I

Preliminary and interpretation

Citation, commencement and application

1.—(1) These Regulations may be cited as the Marine Strategy Regulations 2010 and come into force on 15th July 2010.

(2) These Regulations apply only in relation to the marine strategy area.

Interpretation

2.—(1) In these Regulations—

“baseline” means the baseline from which the breadth of the territorial sea is measured;

“coastal water” has the meaning given by the Water Framework Directive (and set out in Part 3 of Schedule 2);

(a) S.I. 2008/301.

(b) 1972 c. 68. Under section 57(1) of the Scotland Act (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in relation to devolved matters in Scotland, the function of the Secretary of State in relation to implementing these obligations continues to be exercisable by the Secretary of State as regards Scotland.

(c) OJ L No 164, 25.06.08, p. 19.



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Marine Strategy Framework Directive

Good Environmental Status

5. 'good environmental status' means the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding the potential for uses and activities by current and future generations, i.e.:



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Marine Strategy Framework Directive

Qualitative descriptors for determining good environmental status

1. Biological diversity is maintained. The quality and occurrence of habitats and the distribution and abundance of species are in line with prevailing physiographic, geographic and climatic conditions.
2. Non-indigenous species introduced by human activities are at levels that do not adversely alter the ecosystems.
3. Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.
4. All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity.
5. Human-induced eutrophication is minimised, especially adverse effects thereof, such as losses in biodiversity, ecosystem degradation, harmful algae blooms and oxygen deficiency in bottom waters.
6. Sea floor integrity is at a level that ensures that the structure and functions of the ecosystems are safeguarded and benthic ecosystems, in particular, are not adversely affected.
7. Permanent alteration of hydrographical conditions does not adversely affect marine ecosystems.
8. Concentrations of contaminants are at levels not giving rise to pollution effects.
9. Contaminants in fish and other seafood for human consumption do not exceed levels established by Community legislation or other relevant standards.
10. Properties and quantities of marine litter do not cause harm to the coastal and marine environment.
11. Introduction of energy, including underwater noise, is at levels that do not adversely affect the marine environment.



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Deposit of any scientific instrument or associated equipment (otherwise than for the purpose of disposal) in connection with scientific experiment or survey.

Deposits in the Sea
(Exemptions) Order 1985
3.23



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Coverage

The licensing regime under the Bill will apply to activities conducted in territorial waters around England, Wales and Northern Ireland and for all UK waters beyond 12 nautical miles as measured from the baseline of the territorial sea¹.

¹ Certain activities done or controlled from British vessels, aircrafts or structures will be licensable anywhere at sea and not just UK waters (see clause 66)

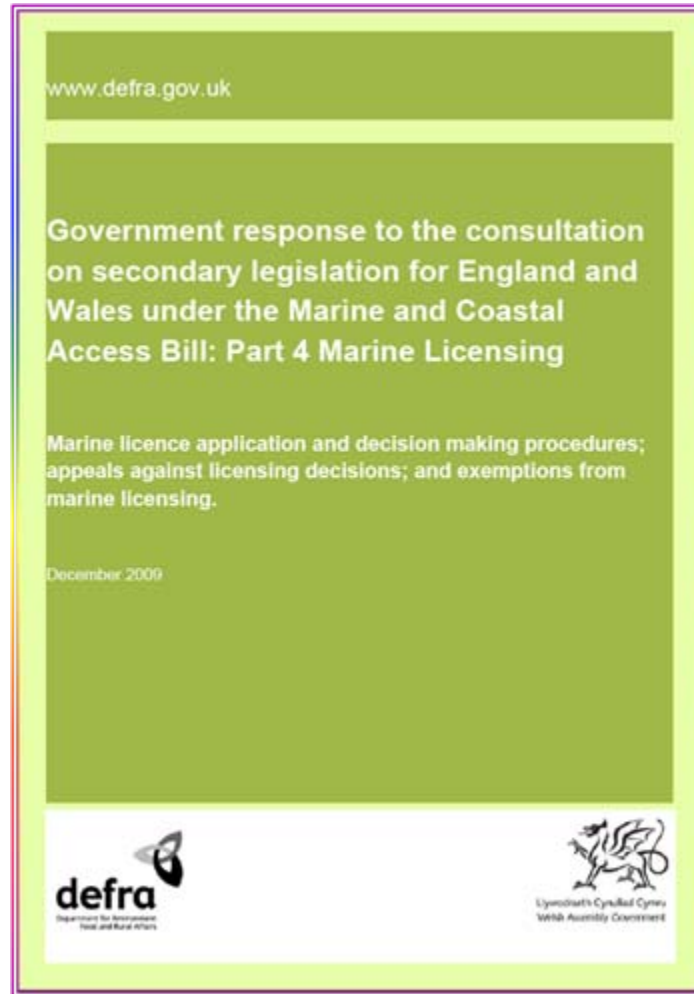


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Government Response

The Government welcomes the strong support there was for taking the current exemptions under FEPA and CPA as the starting point. However, we recognise that we cannot simply reproduce the existing exemptions. The marine licence will combine and extend the scope of FEPA and CPA consents. The Marine and Coastal Access Act 2009 also introduces a test that exemptions must meet so that the licensing authority must consider marine licensing exemptions in the light of the need:

- to protect human health and the environment;
- to prevent interference with other legitimate uses of the sea; and
- other relevant factors.



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There were some modifications suggested to existing FEPA exemptions to include the deployment of autonomous scientific monitoring systems, powered and unpowered; to cover the surface water outfall pipes on estuarine riverbanks; and to include horizontal drilling entirely below the seabed from onshore.

One respondent wanted an exemption to capture scientific monitoring and investigation of the seafloor, overlaying water column, immediate subsurface of the seabed etc. This is usually limited in duration and scale while longer term monitoring by moored instruments has minimal impacts.

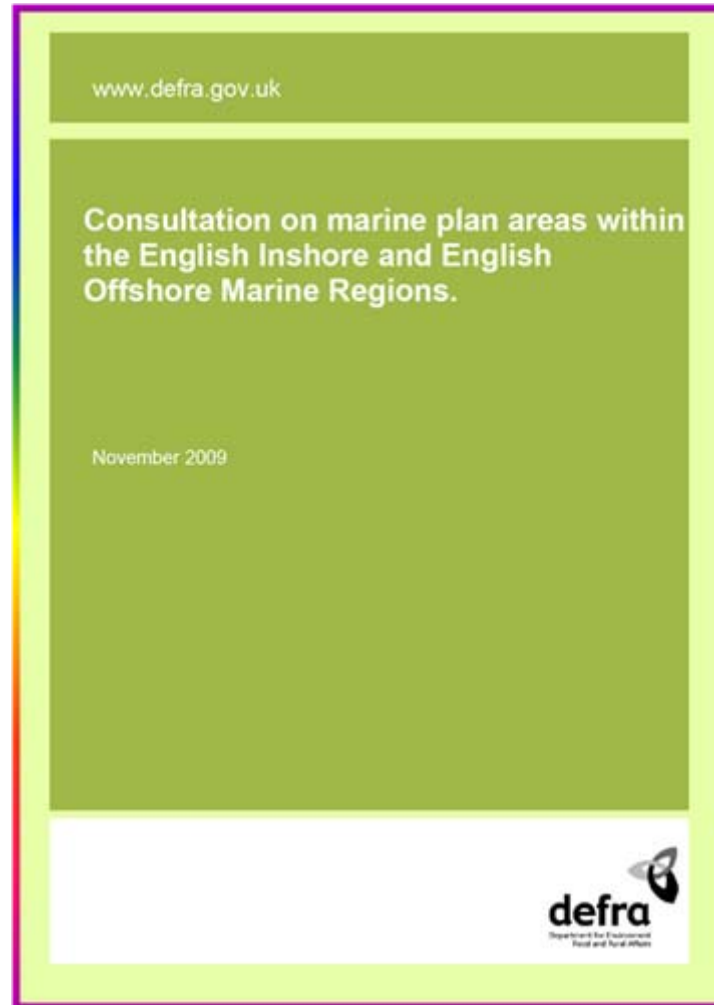


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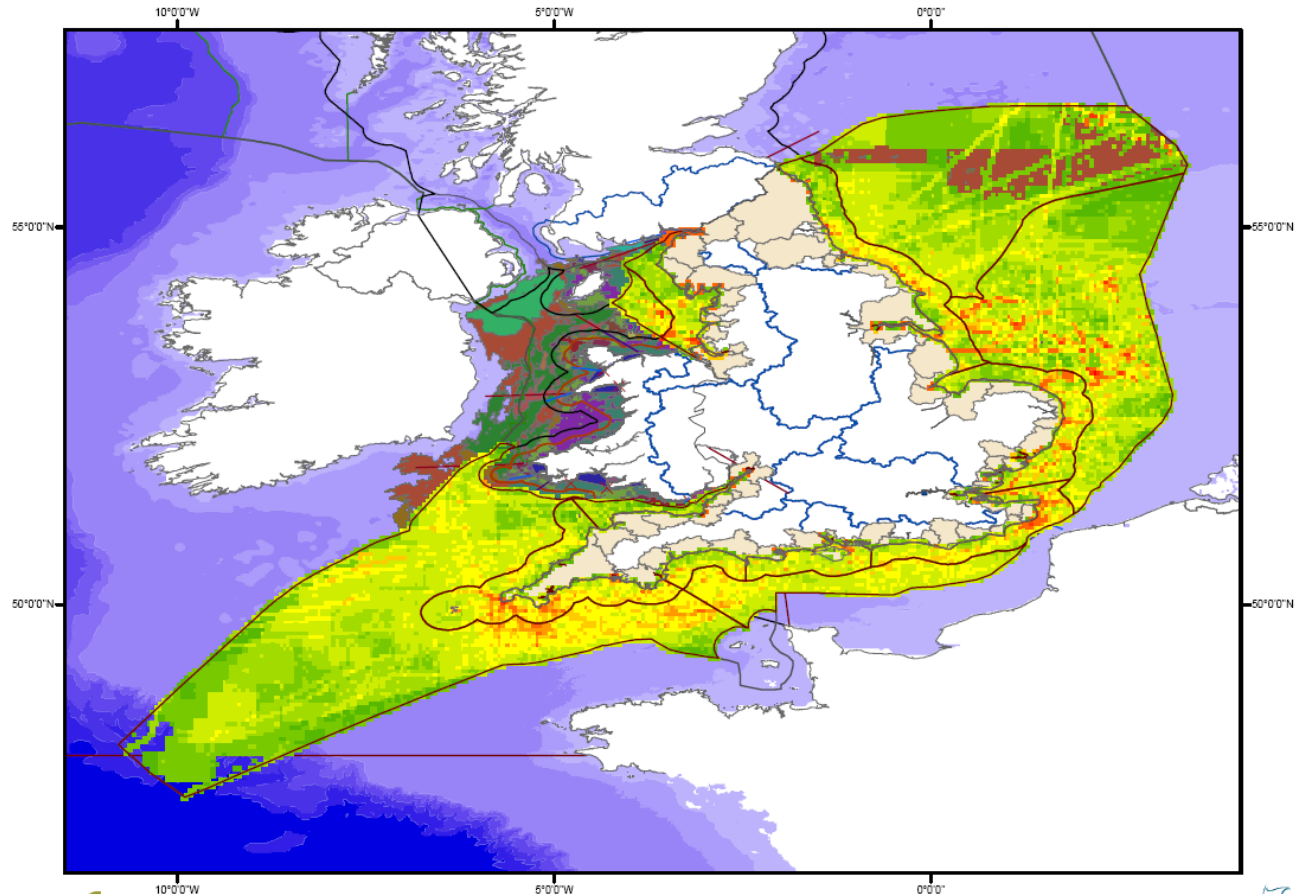


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Marine and Coastal Access Bill 2009 – Planning Regime

MARINE PLAN AREAS FOR ENGLISH INSHORE AND OFFSHORE REGIONS
Defra, November 2009



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