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THE ARCTIC  
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# The Arctic Ocean, Environmental Stewardship and Law of the Sea

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**THE ILULISSAT DECLARATION**  
**ARCTIC OCEAN CONFERENCE**  
**ILULISSAT, GREENLAND, 27 – 29 MAY 2008**

«...The Arctic Ocean is a unique ecosystem, which the five coastal states have a stewardship role in protecting...»

# Stewardship: Rhetoric or a legal concept?

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Stewardship in national legislation:

Norwegian Constitution (Section 112): "...Natural resources shall be managed on the basis of comprehensive long-term considerations, which will safeguard this right for future generations as well".

**Stewardship and the law of the sea:** Is it more than a political argument, is it relevant concept under the law of the sea?

**Stewardship and the Arctic Ocean:** Is stewardship really exercised?

# What is (environmental) stewardship?

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The management of common natural resources by government on behalf of the community.

## Elements:

- The object
- The dutyholder
- The beneficiaries
- Values to be promoted

# Stewardship in international environmental law

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- A responsibility for states to care for the nature for the benefit of humankind
  - What would stewardship add?
    - Duty of action
    - The dual role taking care of and legitimate interest in maintaining nature
- Examples:
- "...safeguarding for future generations the great natural resources represented by the whale stocks." (1946 International Whaling Commission)
  - "...maintain and enhance his ability to use natural resources in a manner which ensures the preservation of the species and ecosystems for the benefit of present and future generations...» (1982 World Charter)
  - The conservation of biological diversity and "...change in the Earth's climate and its adverse effects are a common concern of humankind" (1992 Convention on Biodiversity and Framework Convention on Climate Change)



# Stewardship and law of the sea

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## UN Convention on the Law of the Sea:

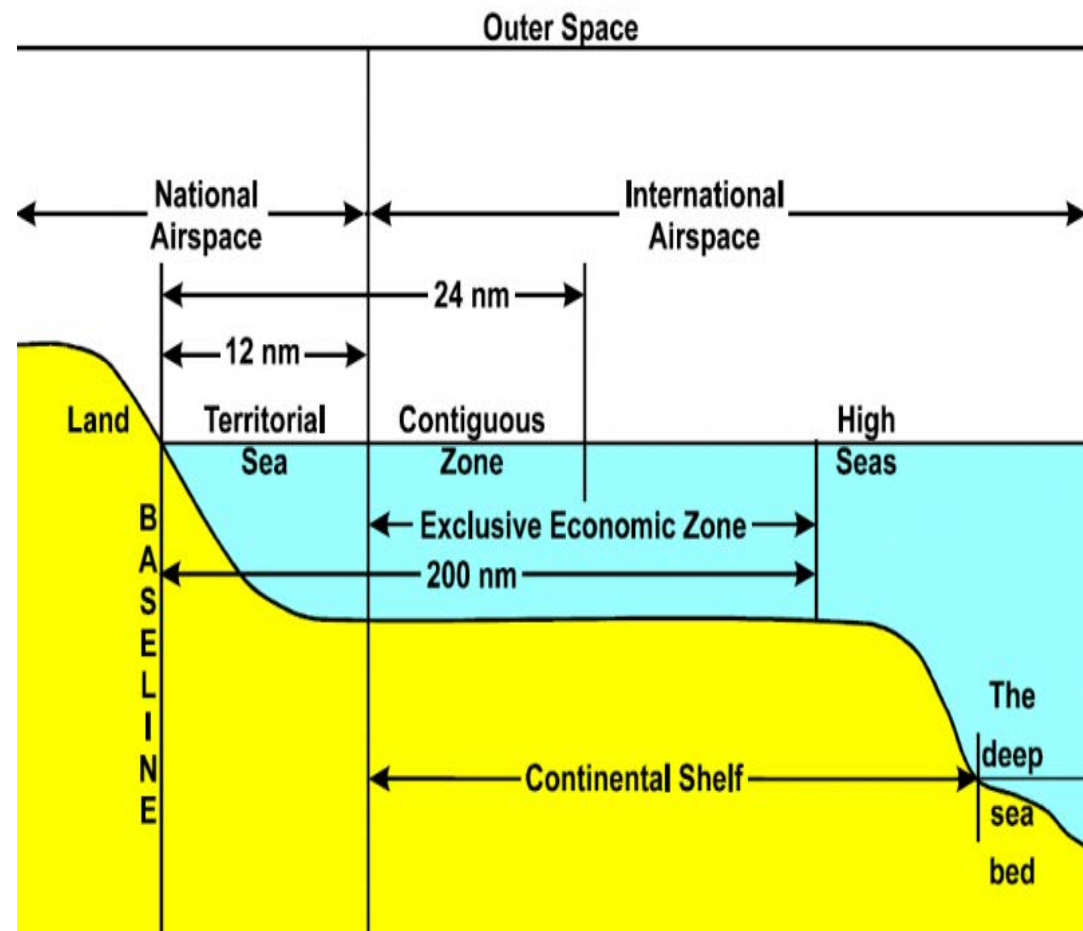
- Common heritage of mankind: Deep-sea area beyond national jurisdiction
- Obligation to protect and preserve the marine environment:
  - **The object: The marine environment:** All marine space, its physical and biological components.
  - **Values/beneficiaries:** Protection and preservation of marine environment «... takes into account the interests of **mankind as a whole**,...»

# The legal framework for exercise of environmental stewardship

Zonal approach

Sectoral approach:

- Marine Resources
- Navigation
- Marine Scientific Research
- Protection of the marine environment (sources approach)



# Cooperation: Bridging the zonal approach

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“States shall cooperate on a **global basis** and, **as appropriate, on a regional basis**, [...] in formulating and elaborating international rules, standards and recommended practices and procedures [...], for the protection and preservation of the marine environment,...» (UNCLOS Article 197)



# Briding the different sectors and jurisdictions

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## How to meet the piecemeal responsibility of states:

- New approaches are required [...] that are integrated in content and are precautionary and anticipatory in ambit (Rio 1992, Agenda 21, 17.1)
- 1992 Convention on Biodiversity (ecosystem approach)
- 1995 Fish Stocks Agreement (integration of environmental factors in conservation)
- Need to be considered as a whole through an integrated, interdisciplinary and intersectoral approach, and reaffirming the need to improve cooperation and coordination at the national, regional and global levels, (UNGA 61/222)
- Regional Sea Agreements (e.g. OSPAR Annex V)

**Stewardship:** Offers a description of the legal responsibilities (the duality of rights and obligations) with respect to the environment as a whole. It requires States to look beyond sectors and jurisdictions.

# Arctic Ocean and Stewardship

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## Stewardship role of the region:

- «Unique position to address these possibilities and challenges»
- Special obligation of coastal States of a semi-/enclosed sea (Article 123)

## From Arctic 5 to Arctic Council:

- Environment is one of the common issues for the Arctic Council to address
- The «principle locus for cooperative stewardship»?
- Policy-shaping through producing scientific-synthesis reports
- Towards policy-making?
- Assisting the Arctic States in coordinating/exercise of stewardship

# Conclusions

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- Stewardship as a description of the overall obligations of states to protect and preserve the marine environment
- Important in informing on the requirement of integration between the different sectoral regimes
- **Coastal States of a region:** A special responsibility to initiate and ensure adoption of positive measures to preserve the marine environment and measures to prevent pollution and other activities that may harm the sea or ocean
- **Arctic:** Use of the stewardship concept as far as it serves the interests of the Arctic coastal States.