

Do We Need a New Legal Regime for the Arctic?

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Outline

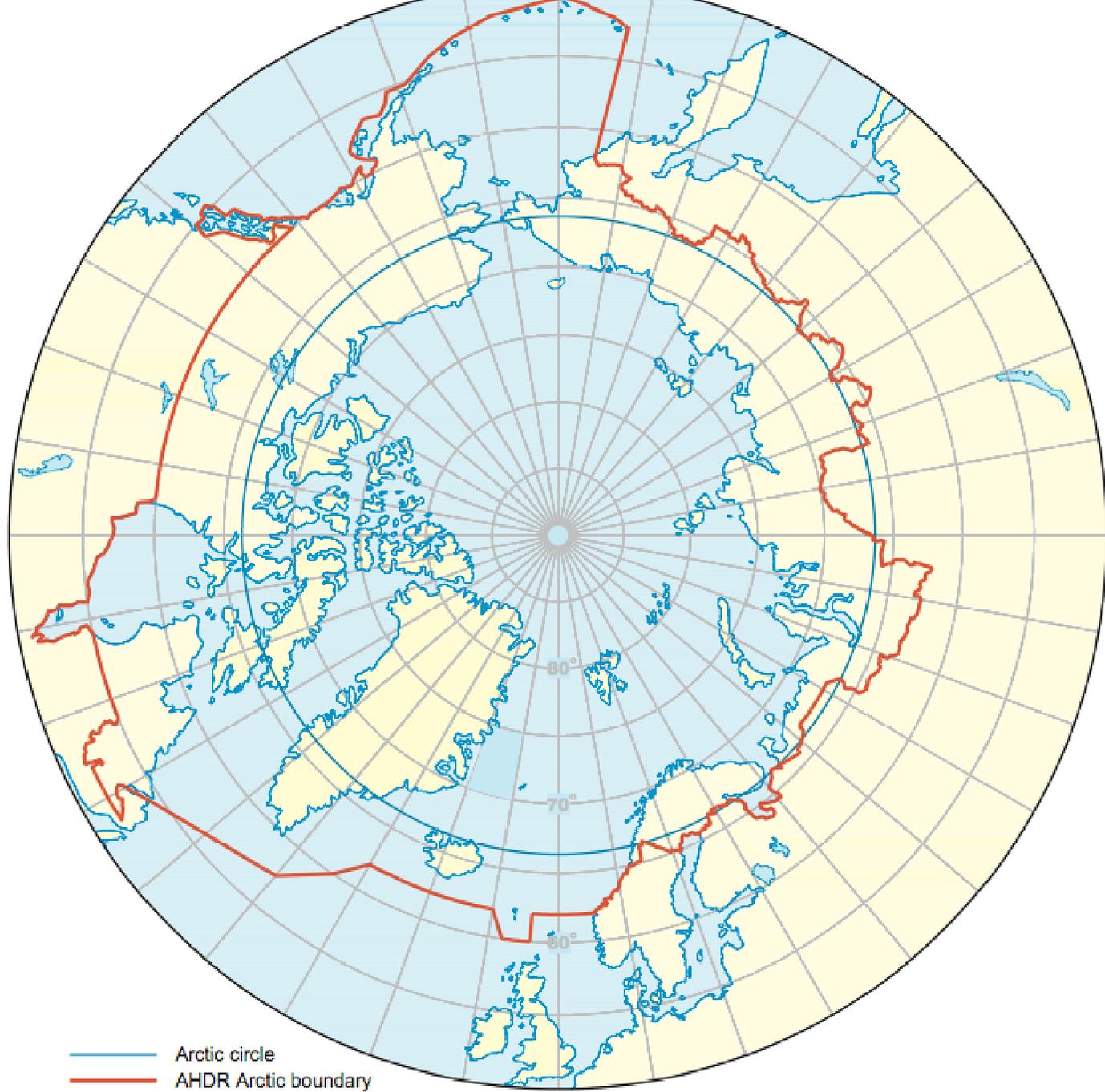
- What is “Arctic”?
- The Arctic governance structure
- Current processes - implementation
- Conclusions

What is the Arctic?

- Huge region - N Arctic Circle 21 mio km²
- Arctic Ocean proper 14 mio km²
- 6 times the Mediterranean, or 25 times the North Sea
- Diversity of definitions
- The larger the region, the more diverse the governance challenges



T 10°C (50°F) isotherm, July



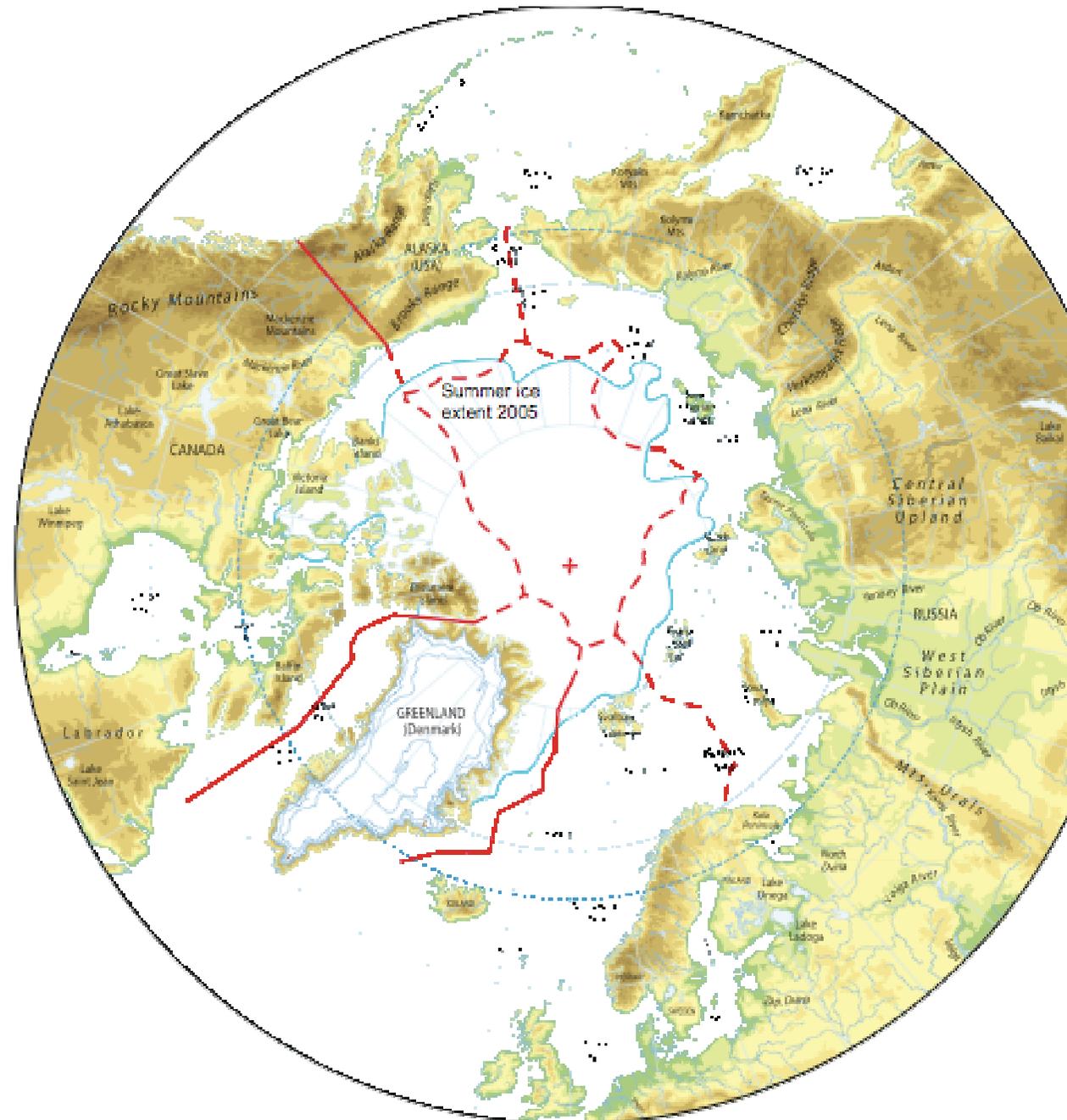
Arctic Human Development Report

The Arctic governance structure

- Part of evolving global governance structure
 - Oceans
 - Climate
- Few *Arctic* treaties and arrangements
- Importance of soft law approaches to governance in the Arctic

Jurisdiction

- Land boundaries resolved
- Oceans: 5 littoral states
- The 5 countries follow the Law of the Sea



(2008)

(Canada, Denmark, Norway, Russia, USA)

“... an extensive legal framework applies..”

“We remain committed to this legal framework and to the orderly settlement of any possible overlapping claims”

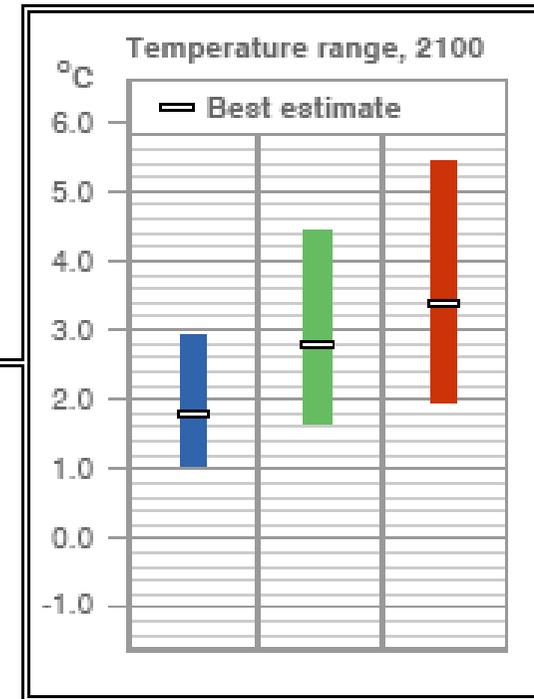
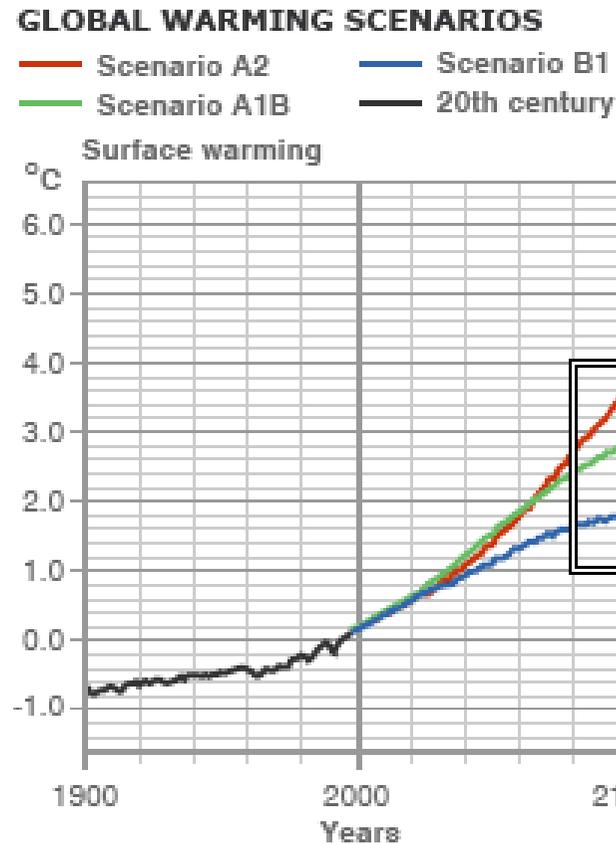
The Arctic Council

- 1996 Declaration - “Arctic 8”
- “... cooperation, coordination and interaction among the Arctic states ... issues of sustainable development and environmental protection..”
- Ministerials set course of action
- Work programs - projects that may yield policy recommendations.
- Fosters common understandings of issues through assessments - science critical

Current processes

Climate

- Arctic more affected than global average
- What happens in the Arctic, has global repercussions
- Rapid changes and tipping points
- By far the most urgent issue facing us



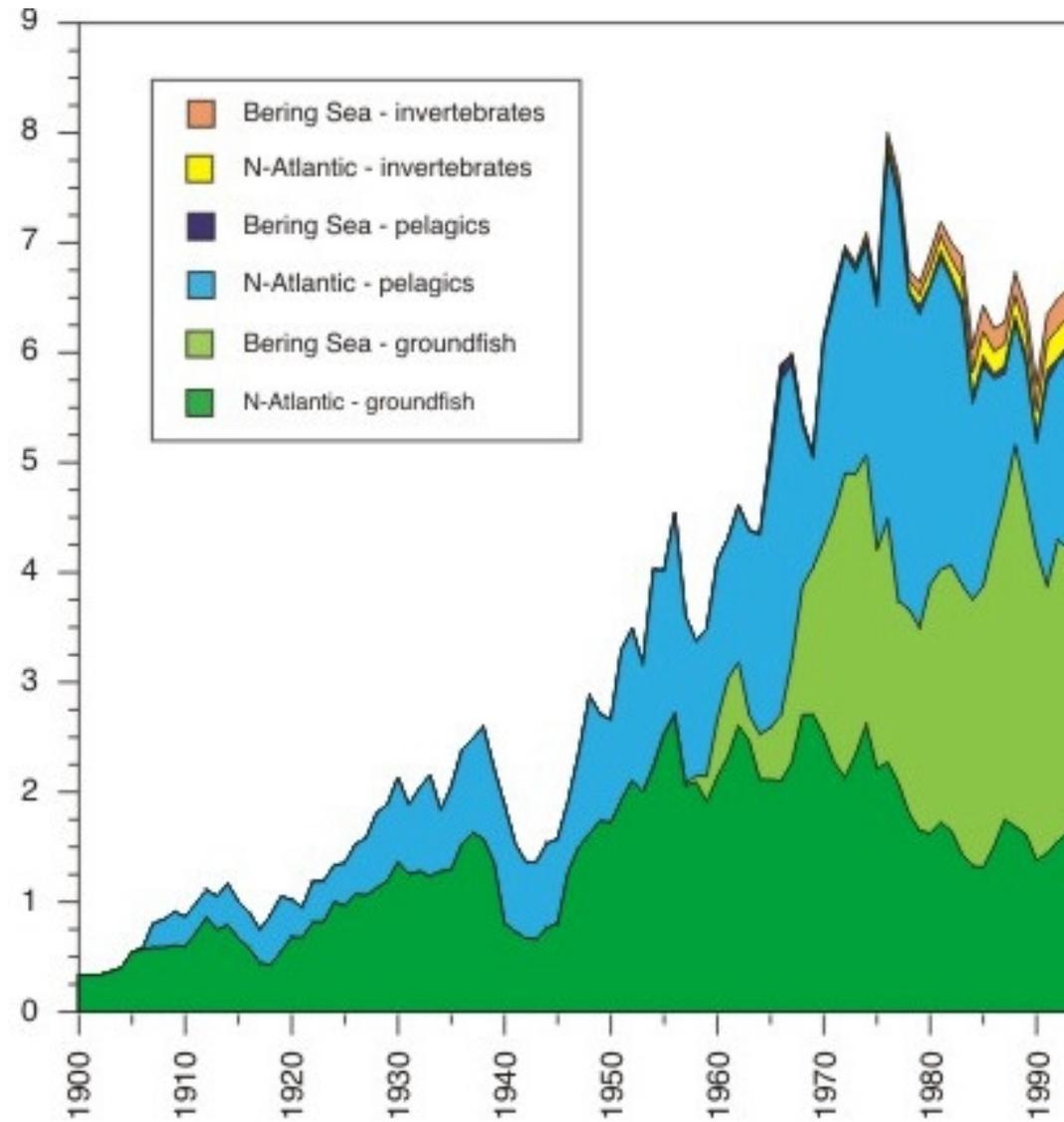
SOURCE: IPCC

The climate regime

- Global: Mitigation (reduction of emissions)
 - Kyoto protocol and post-Kyoto
 - Role of Arctic countries
- Regional: Assessment and Adaptation
 - Arctic Climate Impact Assessment (ACIA)
 - The Vulnerability and Adaptation to Climate Change project (VACCA)

Living marine resources

- Extended Arctic region globally important fisheries
- “Arctic” fisheries: Generally well managed
- The # 1 global challenge: reduce fishing mortality



regime: multilevel governance

- Global legal + soft law framework
- Regional Fisheries Management Organizations (RFMOs)
- Bilateral arrangements
- Domestic implementation

Living marine resources and climate change

- ACIA scenarios (2005)
 - Increased productivity
 - Northwards shifts of distribution of fish stocks
 - Additional complexities

QuickTime™ and a
TIFF (LZW) decompressor
are needed to see this picture.

The Northeast Atlantic

- Major overhaul of RFMOs since entry into force of UNFA in 2001
- The Northeast Atlantic Fisheries Commission
- Four areas of high seas in the Northeast Atlantic
- The North Pacific regime



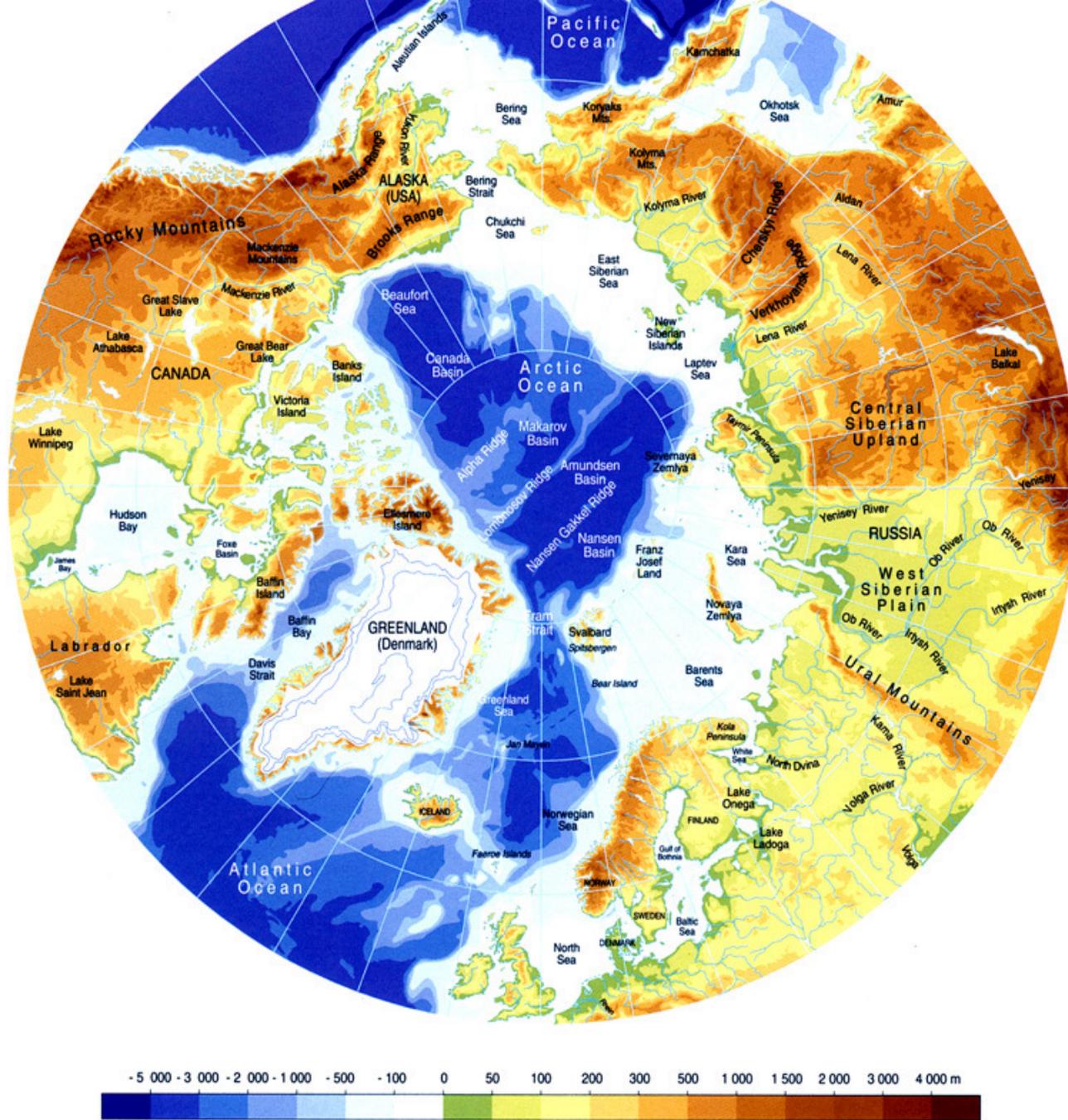


Figure 2-7. Topography and bathymetry of the Arctic (based on the ETOPO5 data set, NOAA 1988).

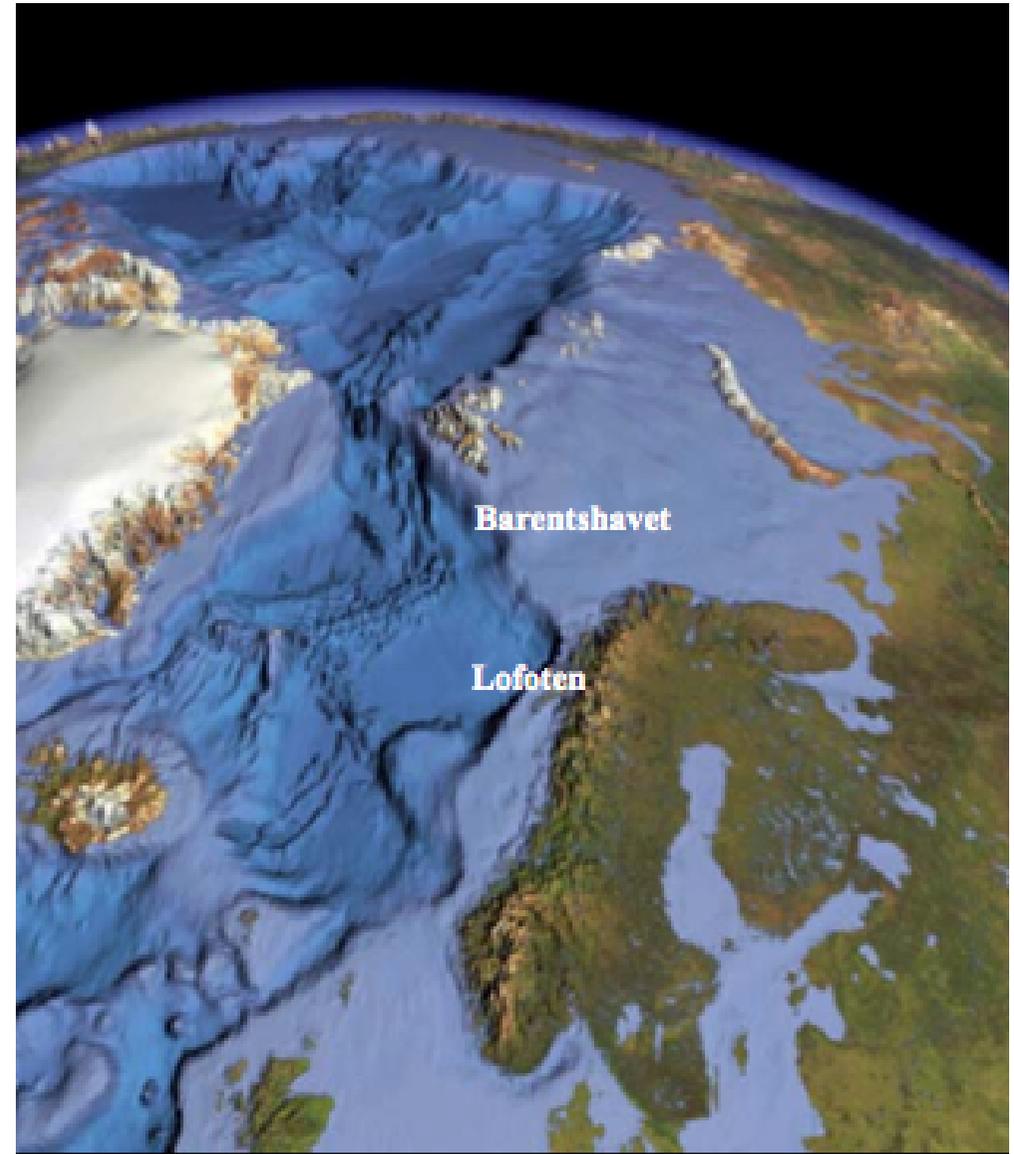
Potential fishing areas in the Arctic Ocean

DO WE NEED AN ARCTIC RFMO?

- When? Where?
- More urgent challenges:
 - Illegal, Unregulated and Unreported fishing
 - Overcapacity
 - Ecosystems-based management
- Marine mammals

Petroleum

- Not new to the region
- Increase in oil price and new technology
- Russia leads the way



The petroleum regime

- Global: Ownership and pollution-related agreements
- Regional:
 - OSPAR Convention (Atlantic)
 - Arctic Council guidelines 1997, 2002
 - The 2008 Oil and Gas Assessment
 - Current revision of Arctic Offshore

The draft Arctic Onshore Oil and Gas Guidelines

- All phases of exploration and production
- Principles: Precautionary approach, Polluter pays, Best available technology
- Define a set of recommended practices
- Adoption at 2009 Arctic Council Ministerial?

Shipping - Arctic

- Substantial increase in activity in some areas
- Global Marpol regime - applies in Arctic too
- Critical: ship-based tourism. Accidents mainly human errors



include:

- Search and Rescue
- Training of officers
- Better charts and means of navigation
- Vessel certification procedures



Regional initiatives

Arctic Council Arctic Marine Shipping Assessment (AMSA)

Ilulissat declaration

Bilateral agreements



Bringing it together: Ecosystem-based oceans management

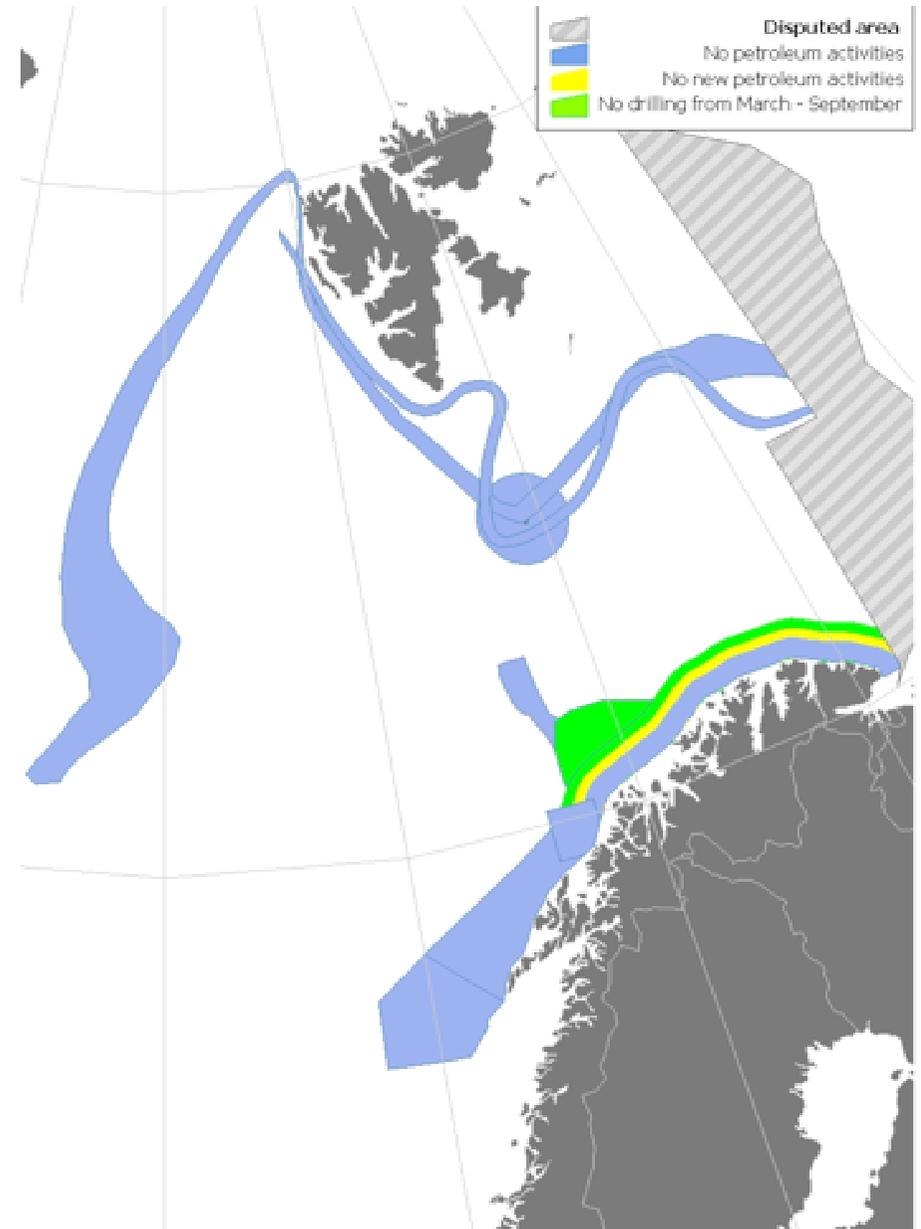
- Global instruments points to holistic approaches:
 - LOSC, CBD, FAO, UNGA resolutions
 - 2002 WSSD: Implementation by 2010
 - ICP 2006: Agreed consensual elements
- Regional:
 - The countries
 - Arctic Council: Arctic Marine Strategic Plan

Based Oceans Management Project

- Rationale: Effective implementation - can learn from studying implementation practices
- Observed Best Practices
 - Science-based, integrated decision-making
 - Area based approaches, management units defined by ecological criteria
 - International cooperation on transboundary issues, stakeholder participation

Management Plan for the Barents Sea

- How to reconcile economic activities and environmental concerns?
- Vulnerable areas
- An area-based approach
- Multi-sector and international coordination



Conclusions

- An Arctic Treaty not a good idea - we already have a comprehensive legal framework
- Alternative question: “Are there problems that cannot be confronted by existing treaties ”?
- Much can be done within existing frameworks
- Focus on implementation, putting rules to work
- A post-Kyoto treaty critical for climate

Thank you for your attention

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