

A scenic view of a lake with two wooden canoes in the foreground and trees on the right. The canoes are light brown and have oars resting inside them. The lake is calm and blue, with a distant shoreline visible. The sky is light blue, and there are green trees on the right side of the frame.

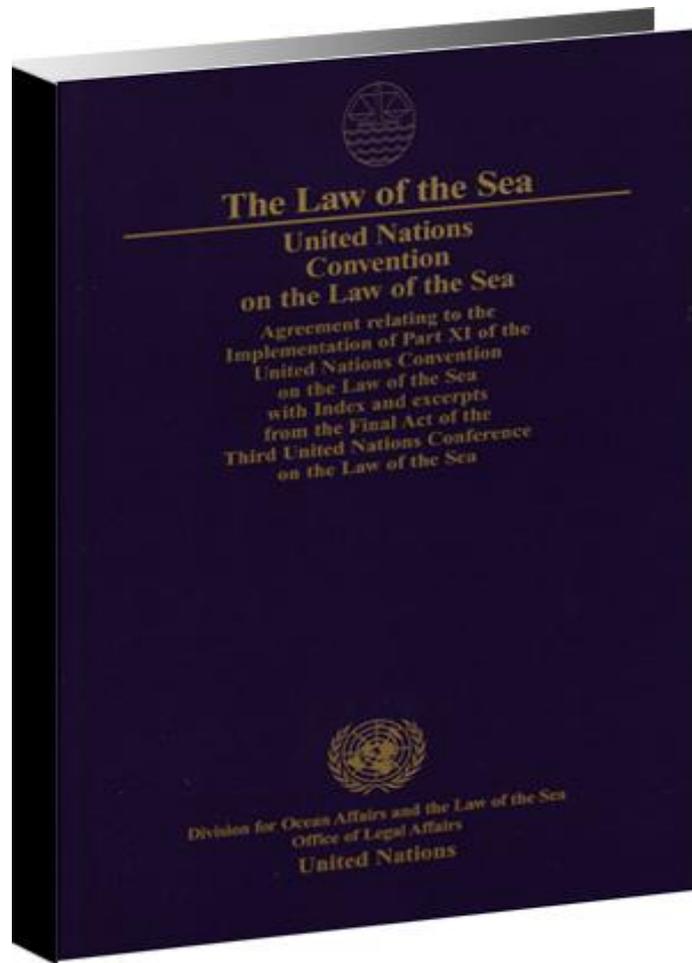
Instruments and Mechanisms for Ocean Governance

***Dr. Gail Lugten
Cape Town, November 2017***

History of the International Law of the Sea

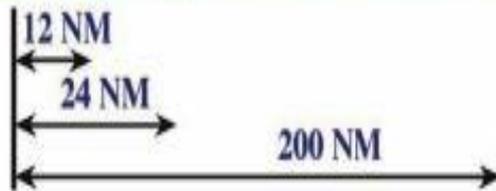
- The first subject considered to be suitable for codification.
- Since 1958 the international community of states has been negotiating and perfecting the law of the sea.





Today the 1982 United Nations Law of the Sea Convention (the LOSC) has 168 State Parties out of 194 countries in the world.

The LOSC has given us the zones of jurisdiction for Ocean Governance

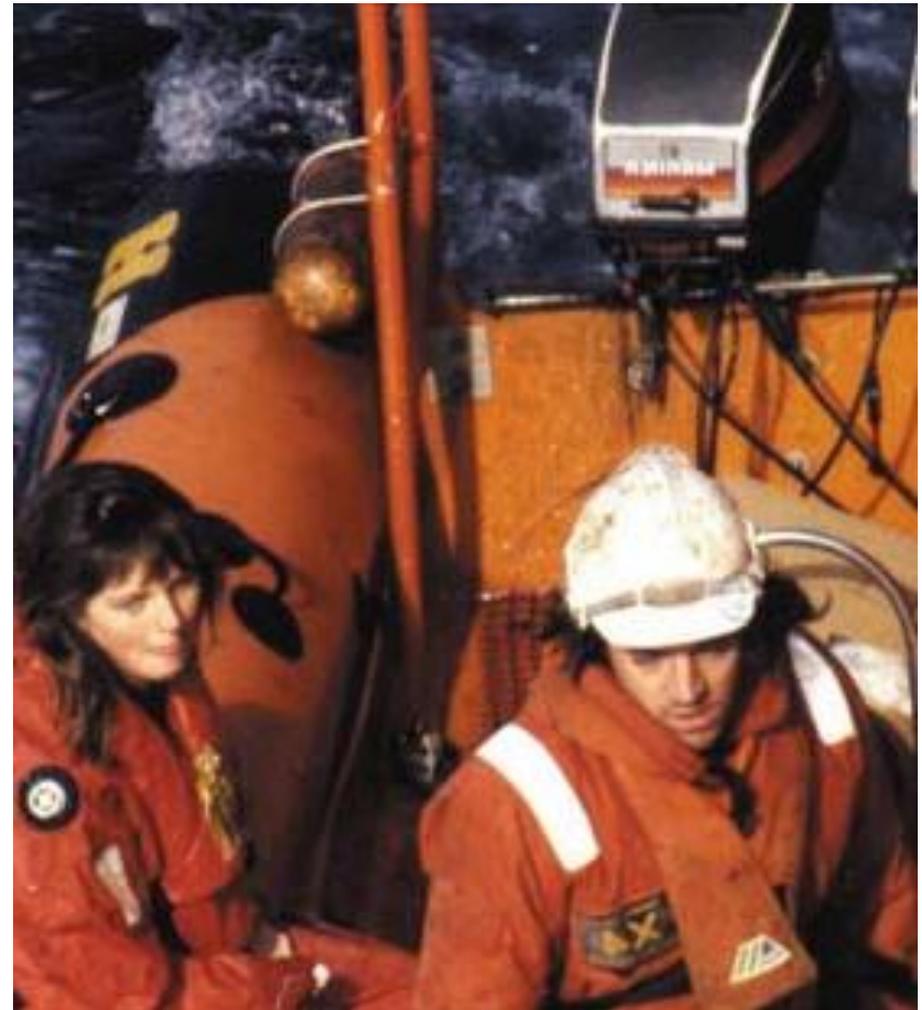


Coastal States have a

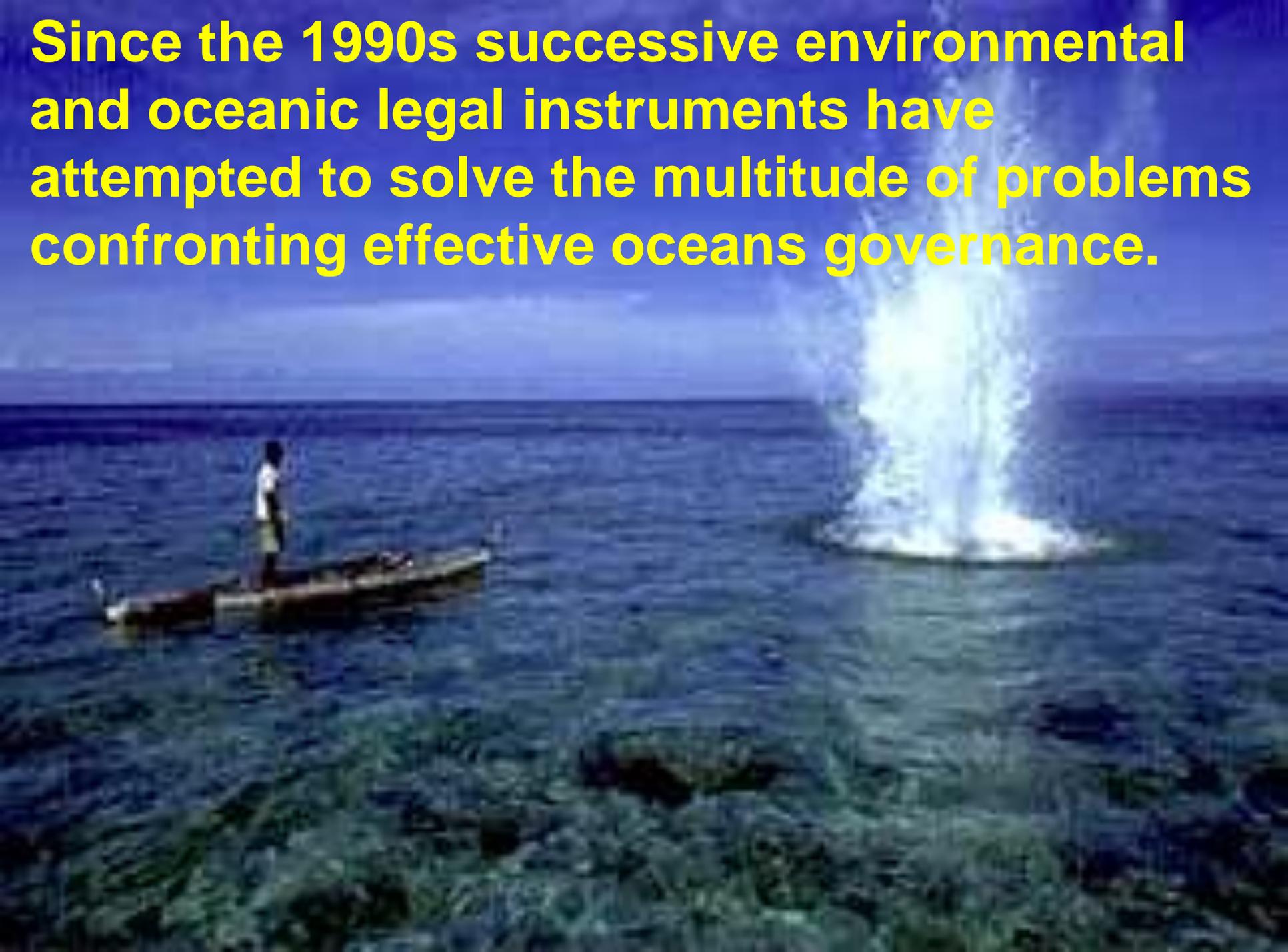
- 12 nautical mile territorial sea;
- 200 nautical miles for an exclusive economic zone; and
- Beyond the EEZ, are the High Seas (the ABNJ).

Ocean Governance

By “Ocean Governance”, I am referring to the international legal regime providing for the administration of coastal and offshore waters. The LOSC only goes so far, and it has been necessary to expand the law of the seas.



Since the 1990s successive environmental and oceanic legal instruments have attempted to solve the multitude of problems confronting effective oceans governance.



What exactly are these “multitude of problems” facing the oceans?

- Overfishing
- Destructive fishing practices
- Habitat destruction
- Ocean acidification
- Piracy
- Coral Reef Bleaching
- Land-based and sea-based Pollution
- Threatened marine species
- Threatened ecosystems
- Trans-boundary marine Crime
- Law enforcement at sea
- Marine Environmental Impacts of:
 - climate change
 - shipping
 - aquaculture
 - oil and gas mining
 - increased coastal living
 - militarisation of the oceans

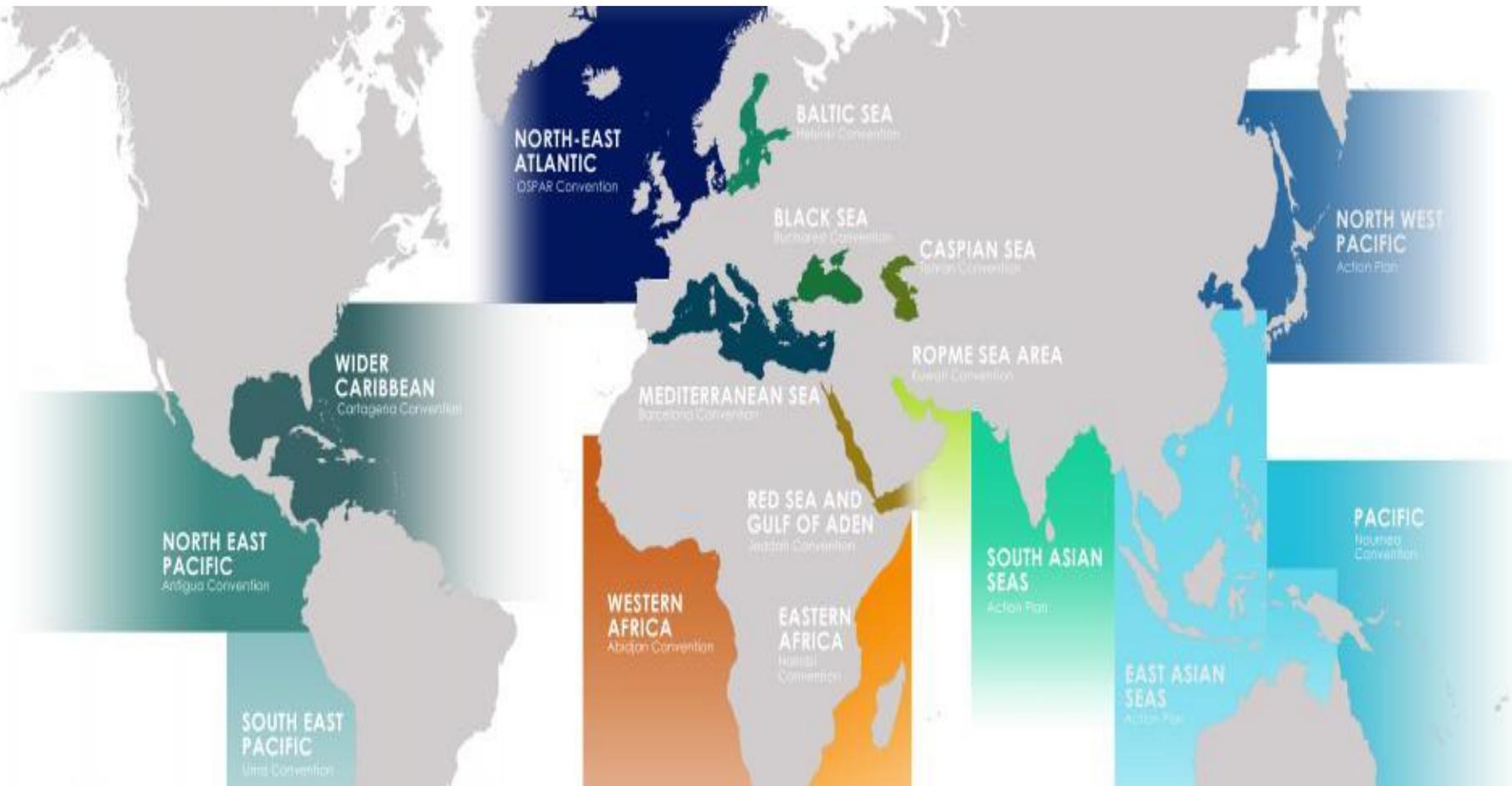
What are the Post-LOSC instruments attempting to address these problems?

- UN Fish Stocks Agreement
- Port State Measures
- Vessel Compliance
- Code of Conduct
- IPOAs
- Deep Seas
- Flag State Performance
- By-catch Guidelines
- UNGA Resolutions
- MARPOL
- IMO Ship Identification
- CBD
- CITES
- CMS
- Rio Declaration
- Helsinki Convention
- Nairobi Convention
- Barcelona Convention
- OSPAR
- Bucharest Convention

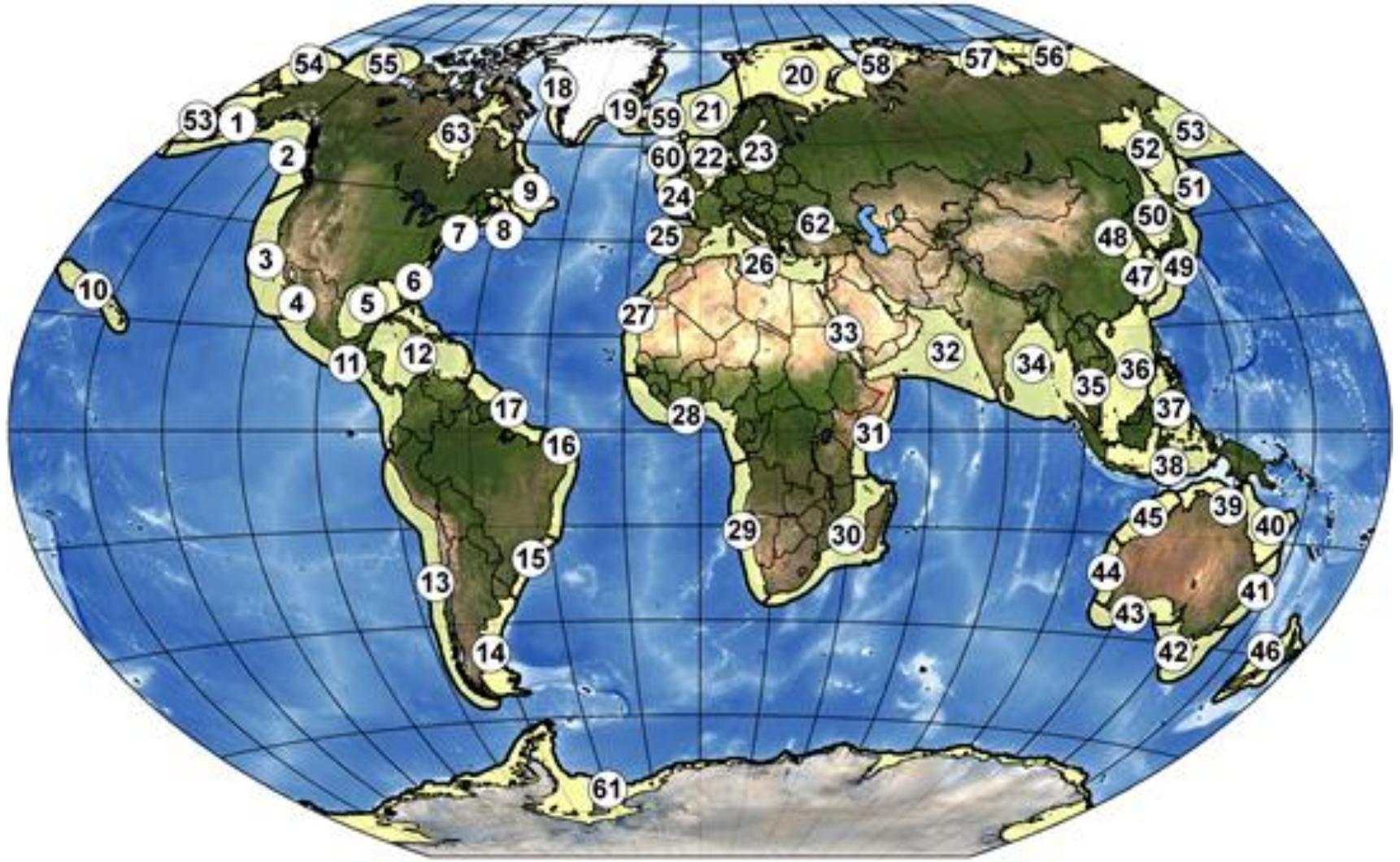
Plus the founding Agreements of the 50+ Regional Fishery Bodies and Regional Fisheries Management Organizations



And other regional approaches to Oceans Governance: the UNEP – Regional Seas Program



And of course: the 64 Large Marine Ecosystem Projects (LMEs)



So, we have no shortage of soft and hard laws, programs and entities to govern our oceans.

But still we have that “multitude of problems”.

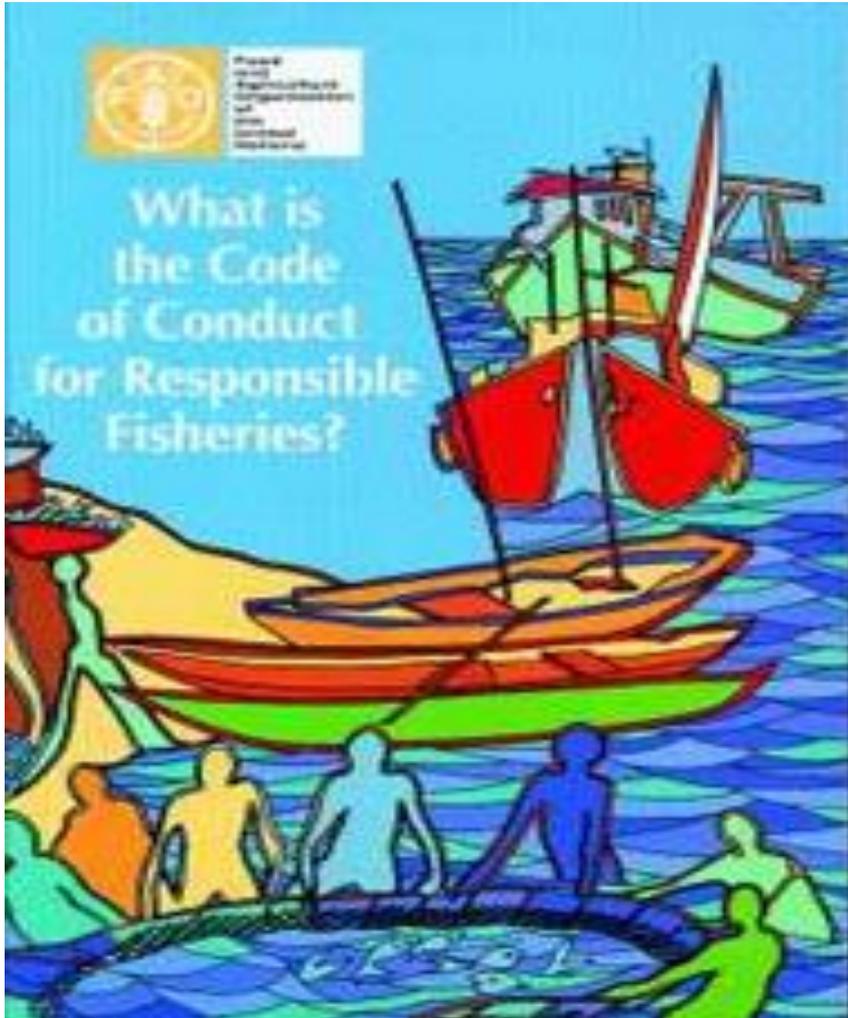
What can we do to improve the governance of our oceans?

In my final slides today I would like to suggest some mechanisms and processes that I think we can learn from.

1. The Strengths of Regionalism

- **UN Charter Article 1(3)** Achieving “international co-operation in solving international problems ...”
The Charter envisages that States will cooperate with one another in order to build a better world.
- Cooperation is the philosophical underpinning of Regionalism.
- Regionalism is the way of our current world: economically, politically, militarily, socially and ENVIRONMENTALLY! (APEC, NATO, EU, ASEAN etc)

2. More hard laws (treaties) are not necessarily needed:



FAO Code of Conduct for Responsible Fisheries

- Policies and Principles that are clearly written.
- Widely translated and actively promoted (especially regionally).
- Compliance is regularly monitored.

3. Interest, Participation and Collaboration in the work of each other (note RSN, GFCM, BCC LME & OSPAR)





Dr. Campbell observed that the relationship between OSPAR and NEAFC has been a difficult negotiation given the issue of conflicting competencies. It was important to raise the relevant issues with the relevant competent authority, and this has been the key to reaching agreement between the contracting Parties.

[From the FAO RSN 5 Report]

4. Science is probably the best collaborative starting point

M. S. Y.

1930s-1970s

***Here lies the concept, MSY.
It advocated yields too high,
And didn't spell out how to
slice the pie.
We bury it with the best of
wishes,
Especially on behalf of fishes.
We don't know yet what will
take its place,
But hope it's as good for the
human race.***

R. I. P.



A large group of colorful koi fish, including red, orange, yellow, and green varieties, are swimming in a pond. The water is dark and reflects the light, creating a shimmering effect. The fish are densely packed, filling most of the frame. In the upper left quadrant, the words "The End" are written in a large, white, sans-serif font.

The End