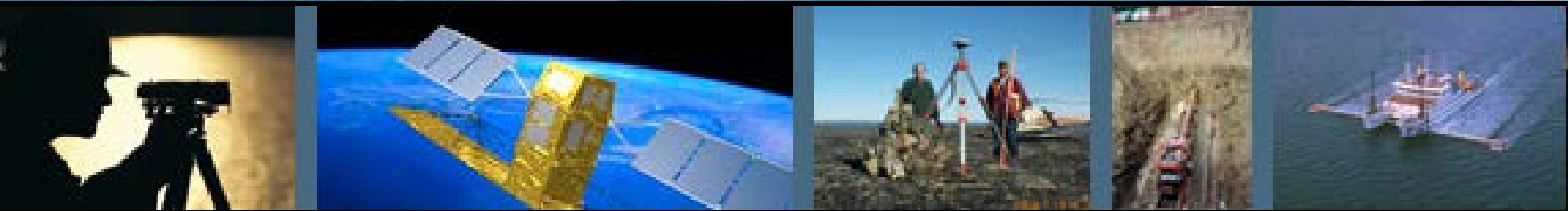




Offshore Property Rights Seminar

Session 2- Legal Regimes #1: The
Legal Basis of Areas of Jurisdiction



Session Objectives

- Provide a background to the areas of jurisdiction in the offshore
- Introduce the basis of starting points for these areas
- Geographically describe these jurisdictional areas
- Highlight the state's rights and obligations in these offshore areas

Sovereignty and Sovereign States

Sovereignty – independent, autonomous States

- absolute, supreme manifestation of ownership and power over territory and resources
- only asserted by States

UNCLOS recognizes sovereign rights

- exclusive rights exercisable by the State, primarily to natural resources within defined areas
- jurisdiction is the legal competence of a State to legislate in these areas

- Internal Waters
- Territorial Sea
- Contiguous Zone
- Exclusive Economic Zone (EEZ)
- Continental shelf
- High Seas
- The Area

Areas of Jurisdiction – Rights Diminish Seaward

- Internal Waters - same as your land
- Territorial Sea - all laws of country apply
- Contiguous Zone - drugs, immigration, customs, sanitary and tax laws apply
- EEZ - rights to resources in water, on and beneath seabed - all have right to “innocent passage”, overflight and laying cables and pipelines
- Continental Shelf - coastal state rights are to sedentary species and resources on and beneath seabed
- High Seas - six traditional freedoms
- The Area – common heritage of mankind

Starting Points For Jurisdictional Areas

Baselines

- Normal
- Straight
- Canada has used both to define its Territorial Sea.

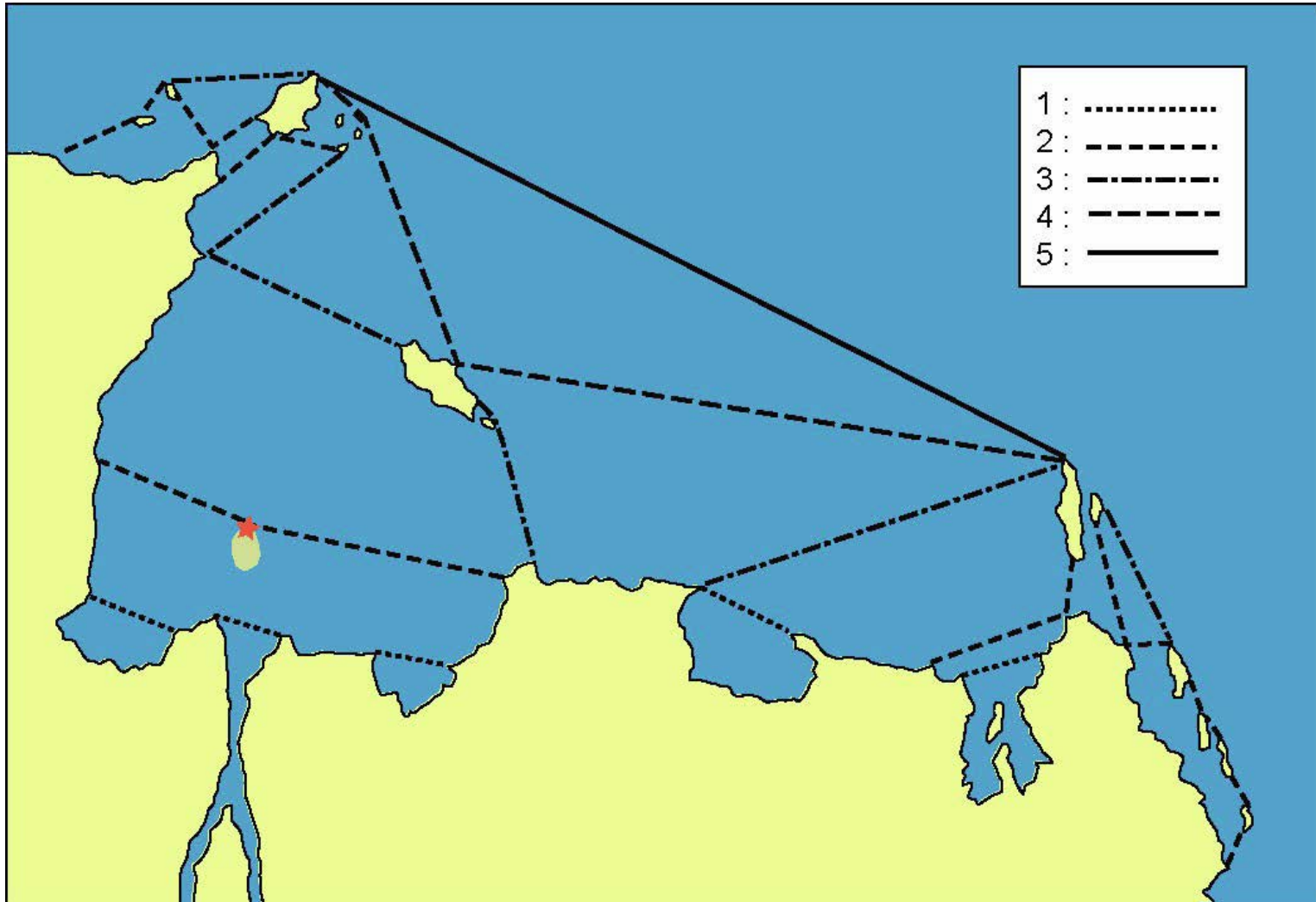
Vertical Datum (water levels)

- Normally “Low Water Line”
- There are a variety to choose from
- Lowest Astronomic Tide?
- Not as large an impact in Canada as other nations

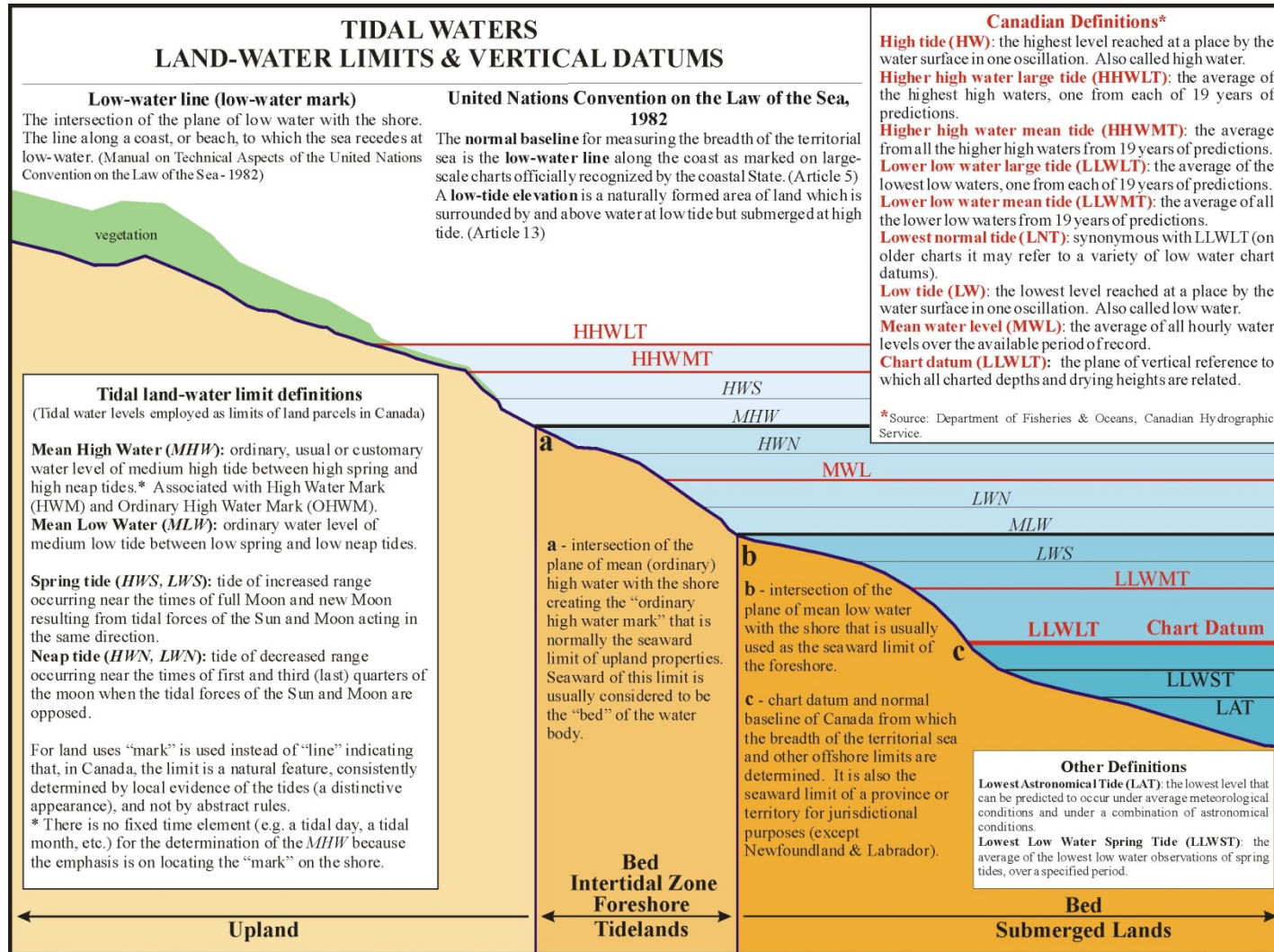
Baselines

- Starting point of measurement for jurisdictional areas
- Baselines coordinates must be deposited with UN
- Baselines are typically the “Low Water Line” or straight line segments, referred to a vertical datum
- Vertical datum affects the position of the baselines
- In Canada CHS charts show official maritime boundaries
- Baselines were established by Order in Council - refer to specific charts

Selection of Baselines

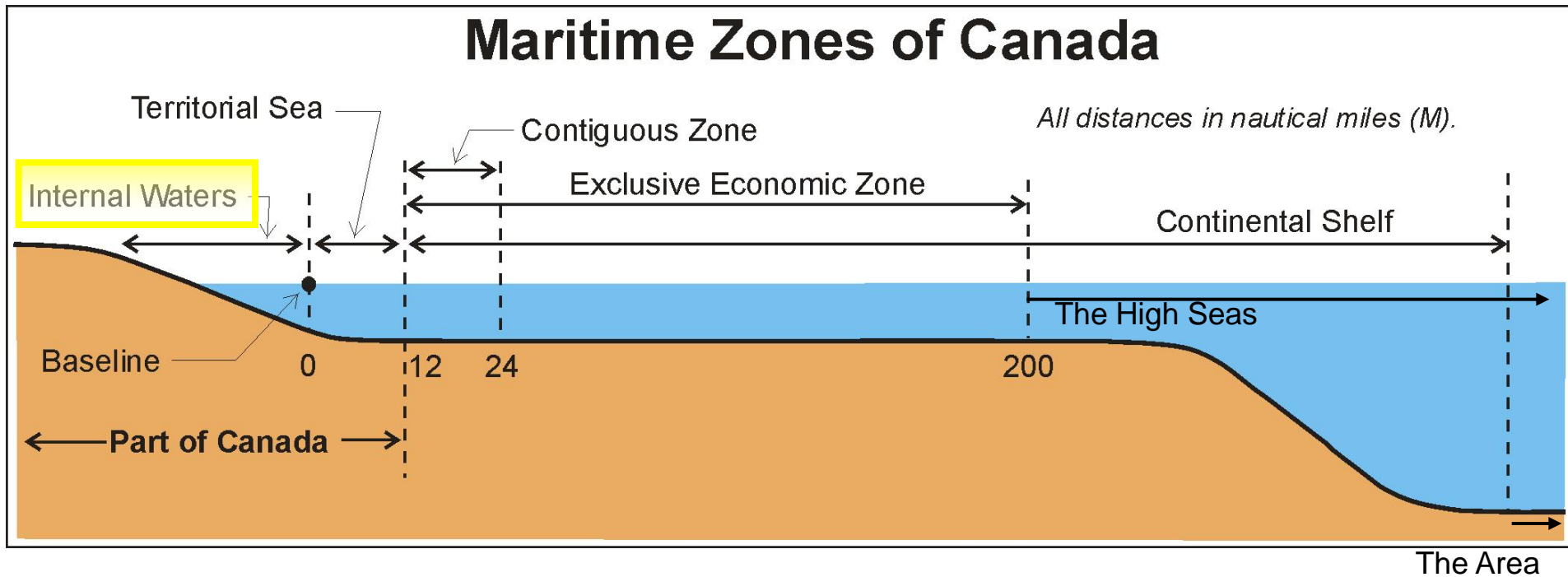


Vertical Datums and Water Lines



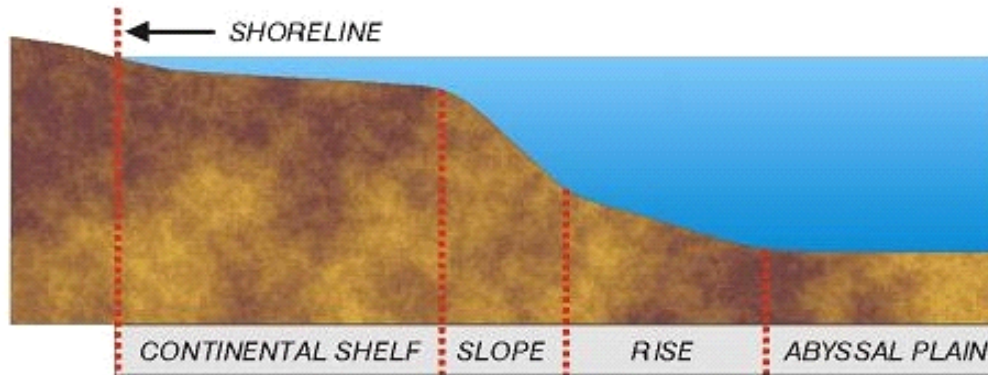
Maritime Zones – Internal Waters

Maritime Zones of Canada

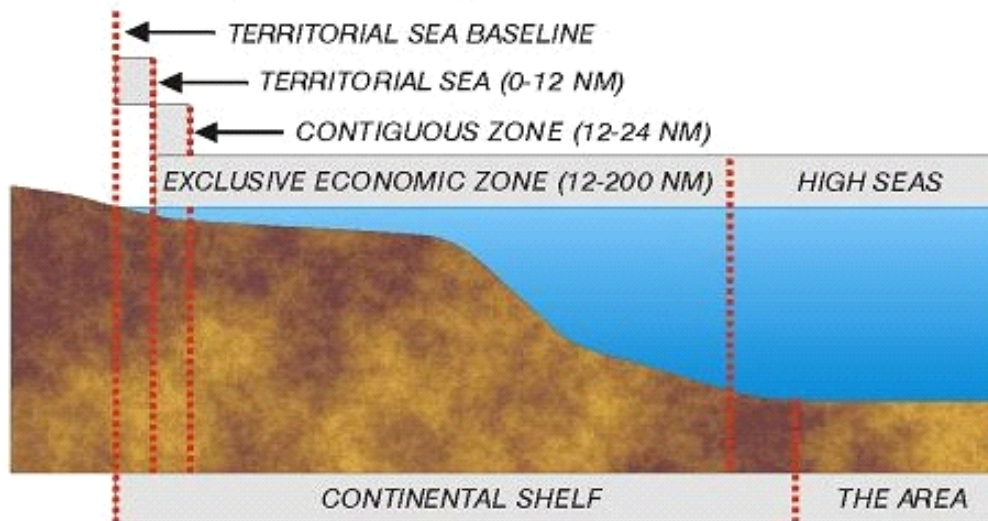


Maritime Zones – Internal Waters

PHYSIOGRAPHIC COMPONENTS:



JURIDICAL COMPONENTS:



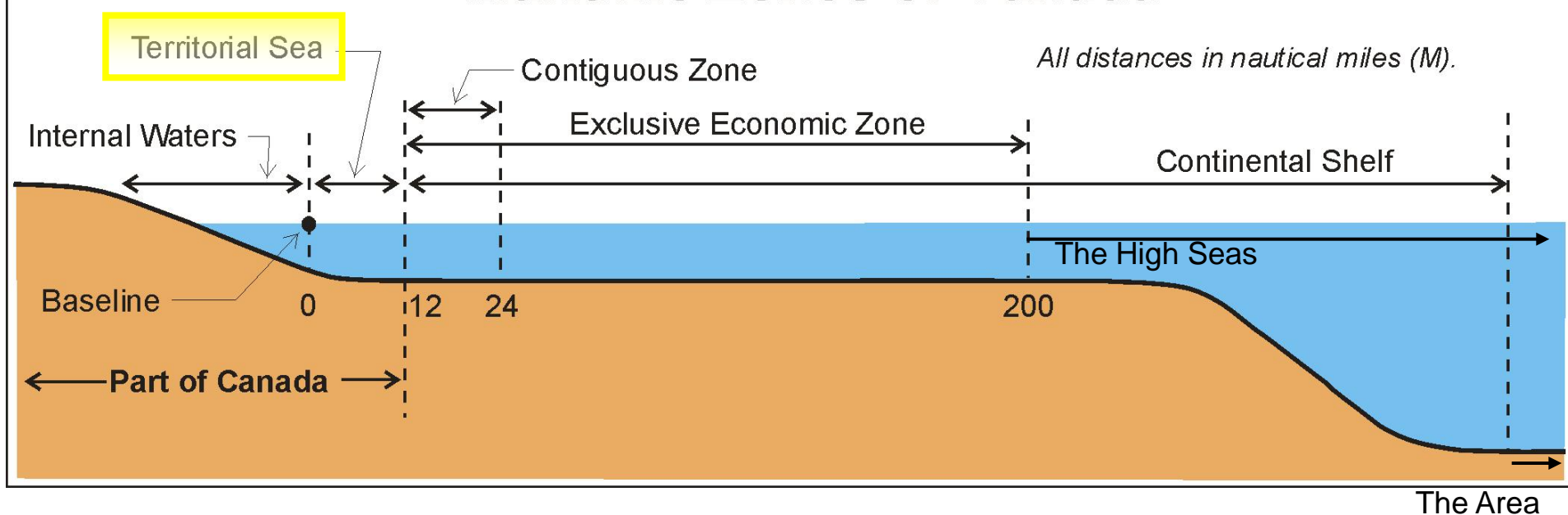
By UNCLOS, internal waters are:

“...waters on the landward side of the baseline of the territorial sea”

- poor wording – just consider the baselines
- State exercises full or absolute sovereignty
- effectively State land covered by water (appropriate legislative body)

Maritime Zones – Territorial Sea

Maritime Zones of Canada

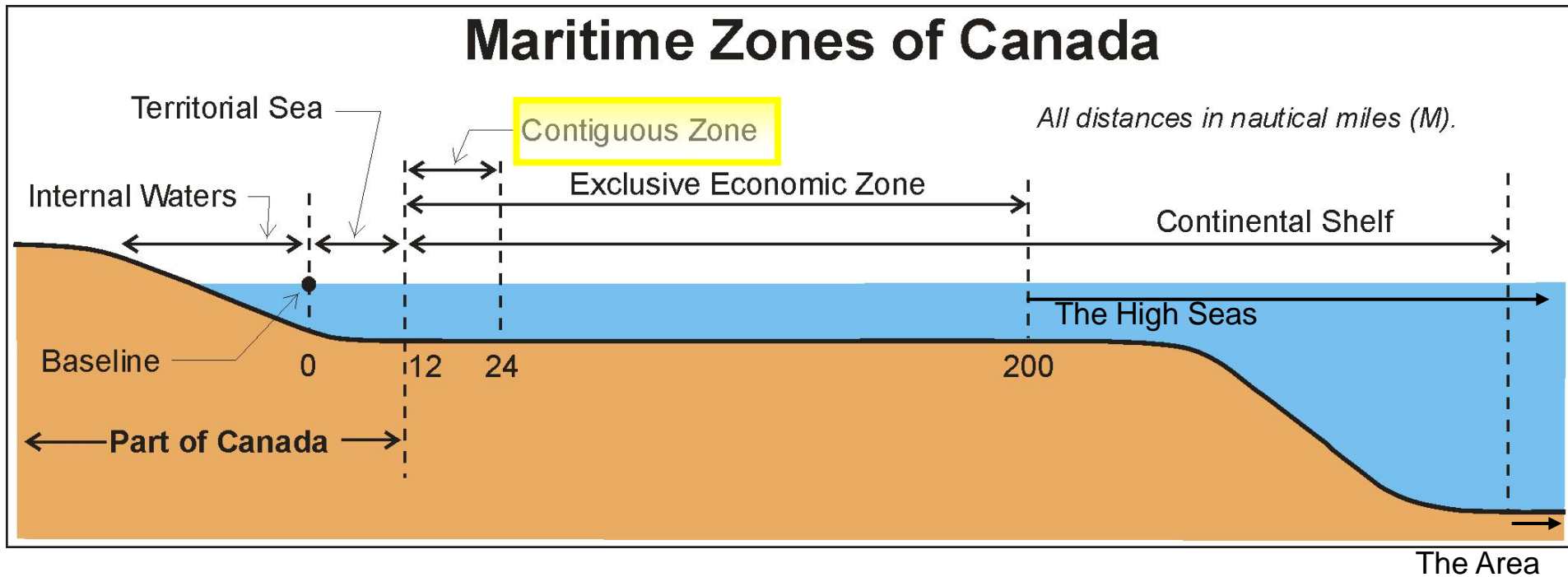


Territorial Sea

- 12 nautical mile belt extending seaward from the baselines
- Offshore land features above LWL may generate Territorial Sea area
- Sovereignty or authority of coastal state is absolute, subject to “innocent passage”
- Rights extend from sea, to air above, to seabed and subsoil
- Narrow straits can be designated “international straits” and allow “transit passage” – with no delays
- Proclaimed in the *Oceans Act (1996)*

Maritime Zones – Contiguous Zone

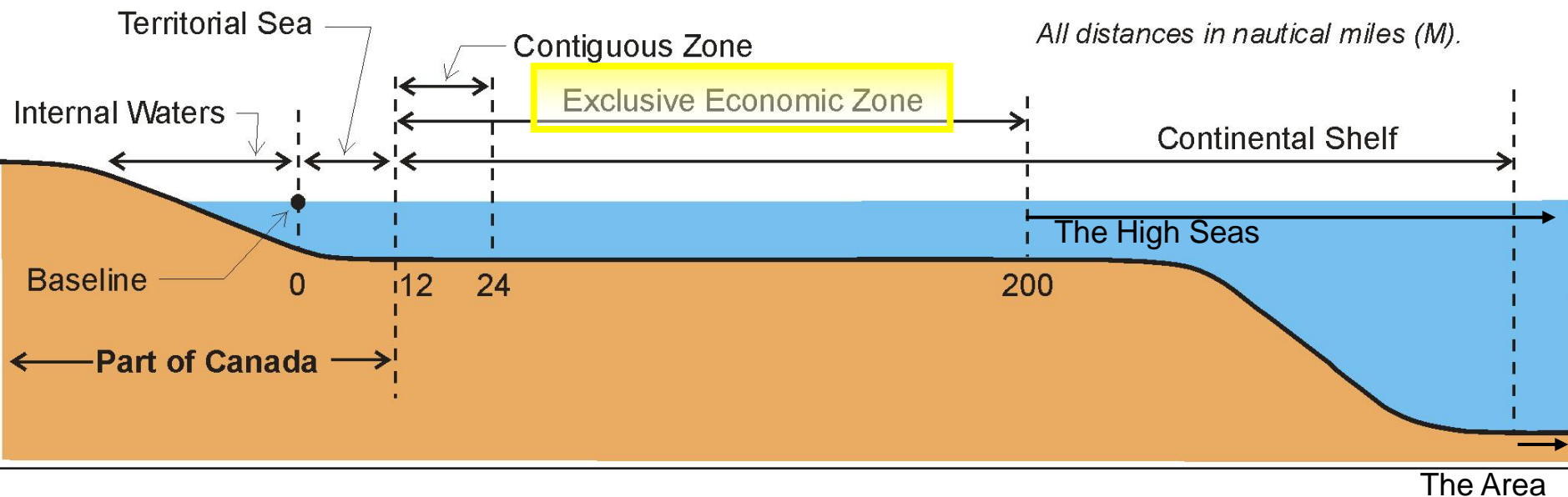
Maritime Zones of Canada



Contiguous Zone

- 12 nautical mile belt extending seaward from the Territorial Sea (Limit 24 NM from the baselines)
- State exercises control to prevent and punish infringements on customs, fiscal, immigration and sanitary laws
- It forms part of the Exclusive Economic Zone
- Proclaimed in the *Oceans Act (1996)*

Maritime Zones of Canada

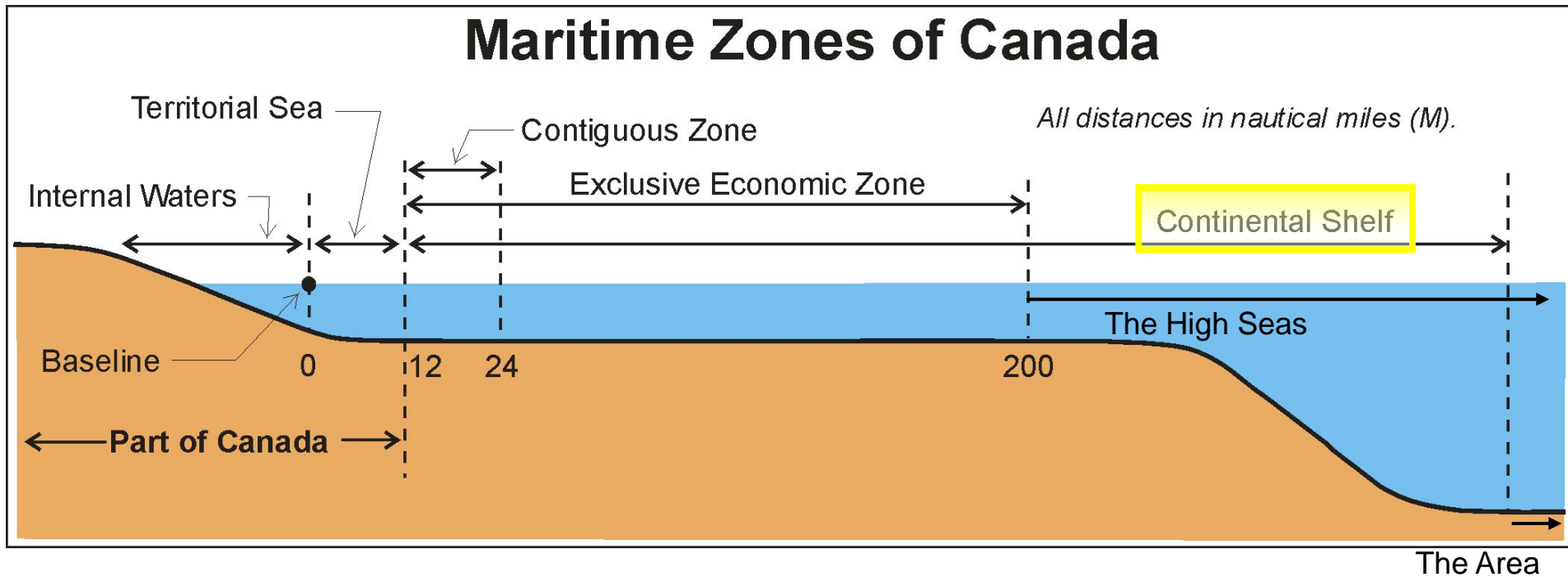


Exclusive Economic Zone (EEZ)

- Extends seaward from the Territorial Sea to a limit of 200 nautical miles from the baselines
- Rights and jurisdiction by State set forth in UNCLOS Article 56, paragraph 1
- Coastal State is given sovereign rights over exploration, exploitation, conservation and management over all resources in the superjacent waters, seabed and subsoil, including energy production
- The State has sovereignty over fishing (subject to quotas), construction of artificial islands and marine scientific research, but not over navigation, overflight and laying of submarine cables and pipelines
- Also proclaimed in the *Oceans Act (1996)*

Maritime Zones – Continental Shelf

Maritime Zones of Canada



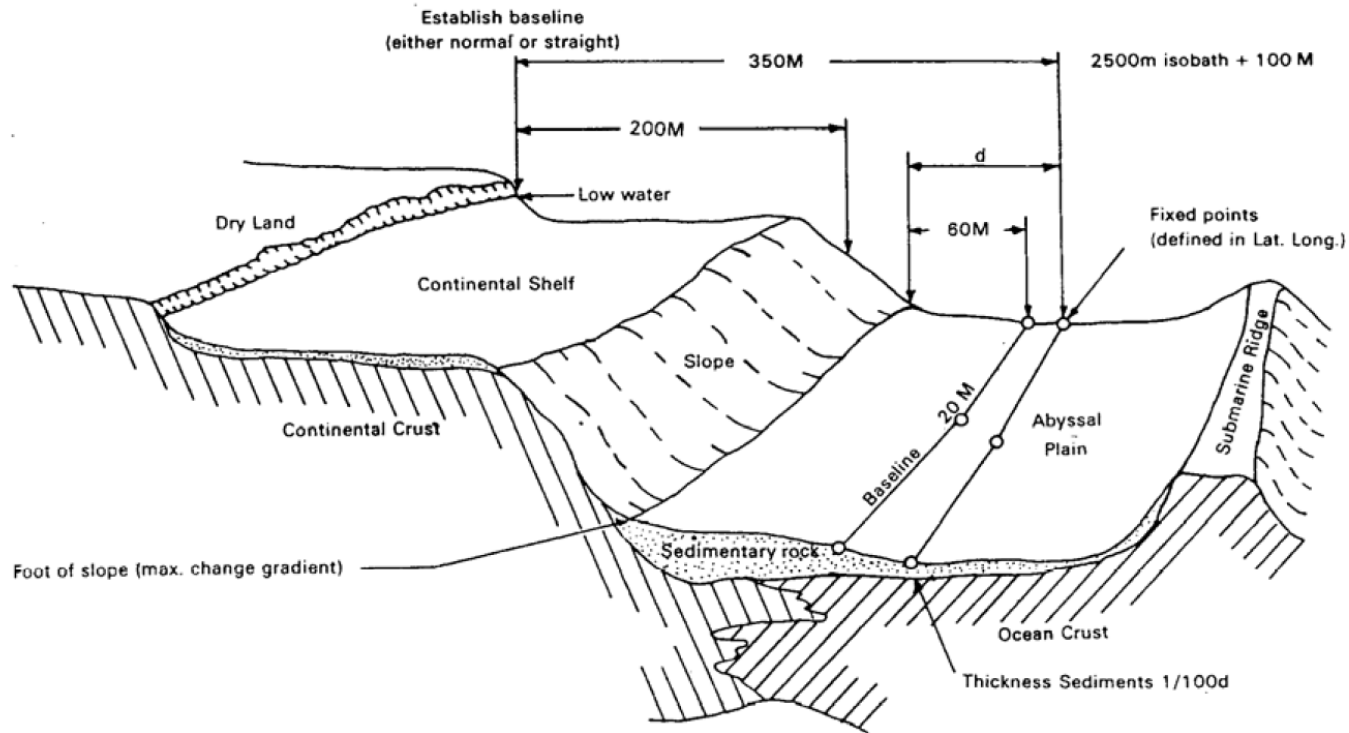
Continental Shelf

- A natural prolongation of the continent, or coastal plain
- Bathymetric and geological considerations
- Various formulae for outer limit line and constriction line construction
- Coastal State rights are limited to resources on the seabed and subsoil
- On Continental Shelf outside the EEZ the coastal state has rights only to sedentary species - those in touch with the seabed at their harvestable stage

Continental Shelf

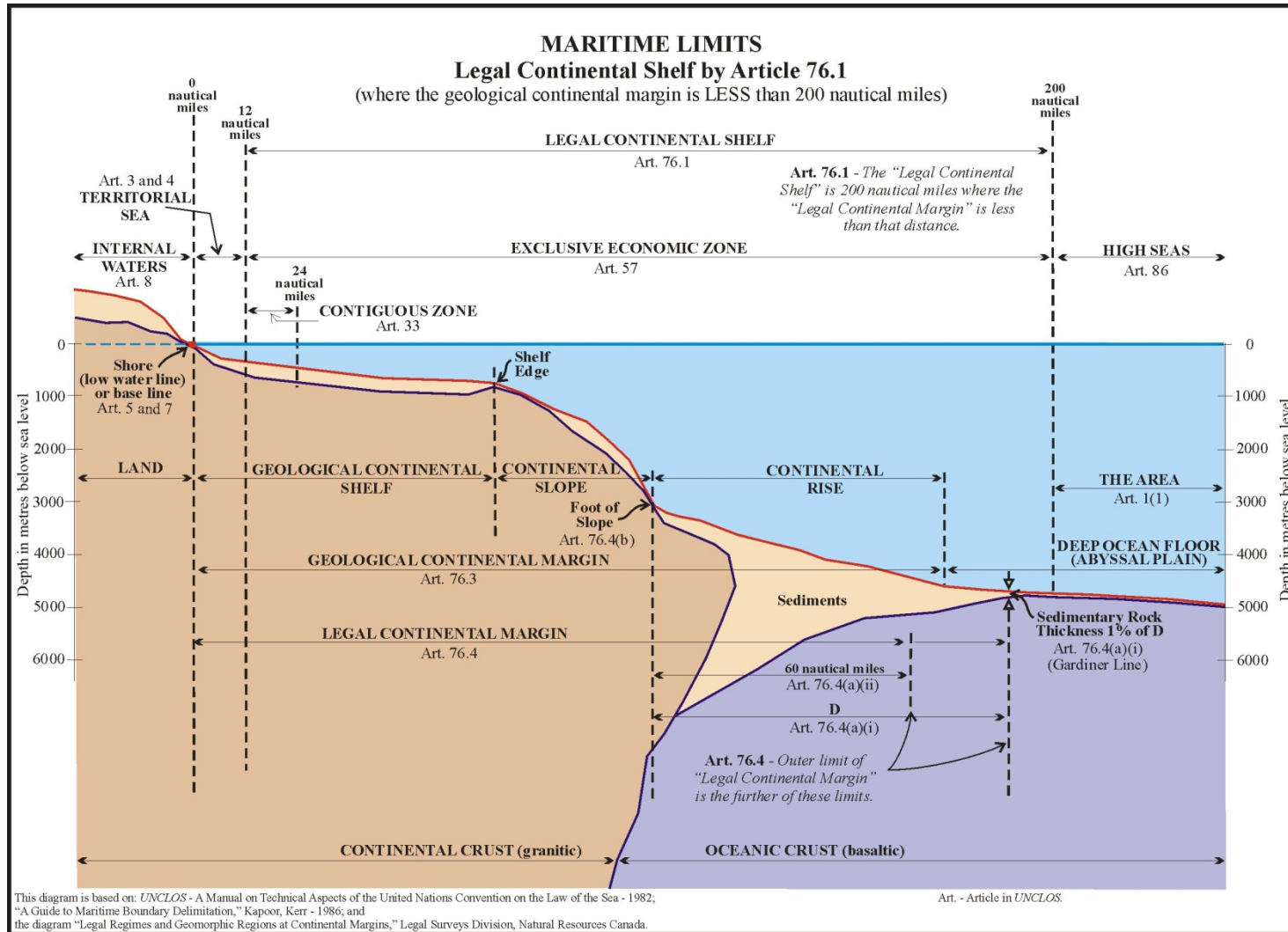
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA - 1982

[Prepared by the IHO, IAG, IOC Advisory Board on Law of the Sea (ABLOS)]

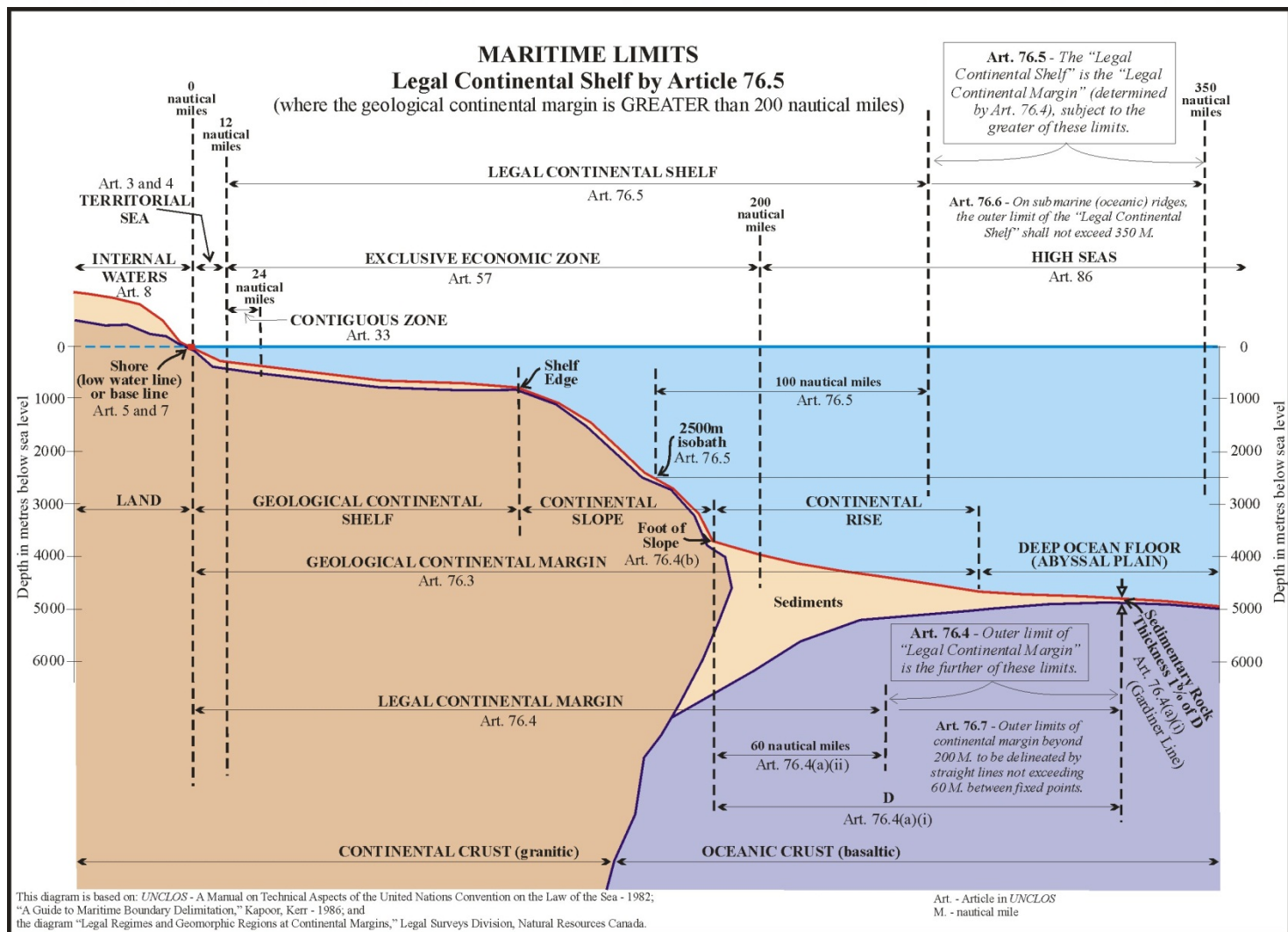


- Article 76 and the *Canada Oceans Act (1996)*
- Paragraph 17. (1) “The continental shelf of Canada is the seabed and subsoil of the submarine areas...that extend beyond the territorial sea of Canada throughout the natural prolongation of the land territory of Canada... to the outer edge of the continental margin, determined in the manner under international law that results in the maximum extent of the continental shelf of Canada...”

Small Continental Shelf

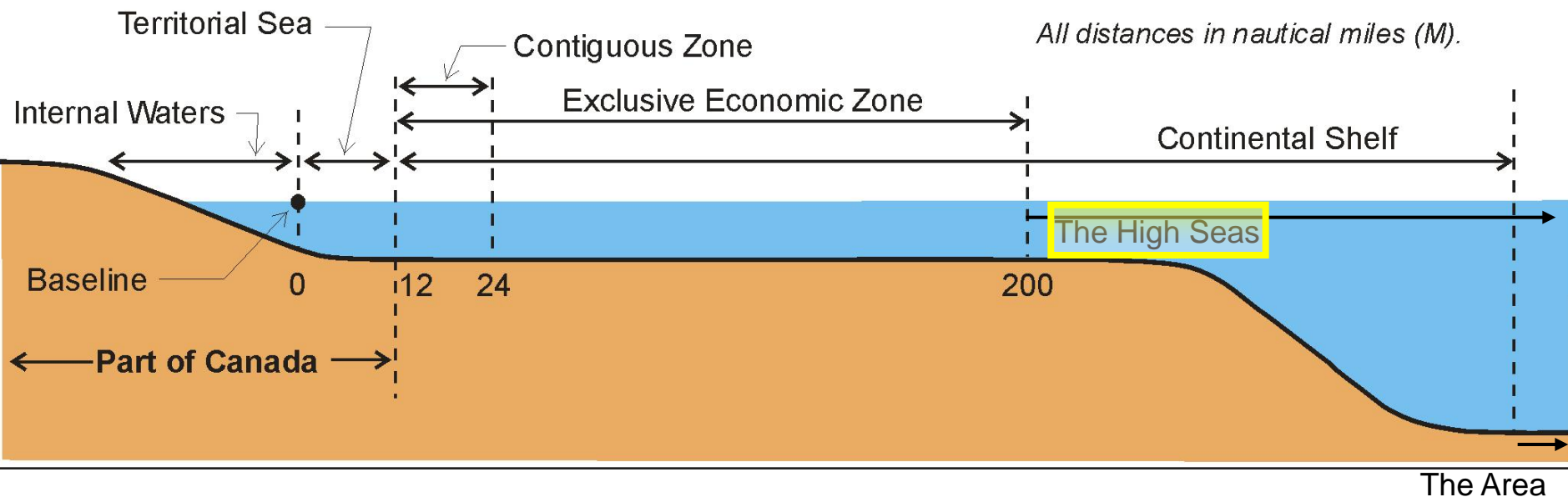


Large Continental Shelf



Maritime Zones – The High Seas

Maritime Zones of Canada

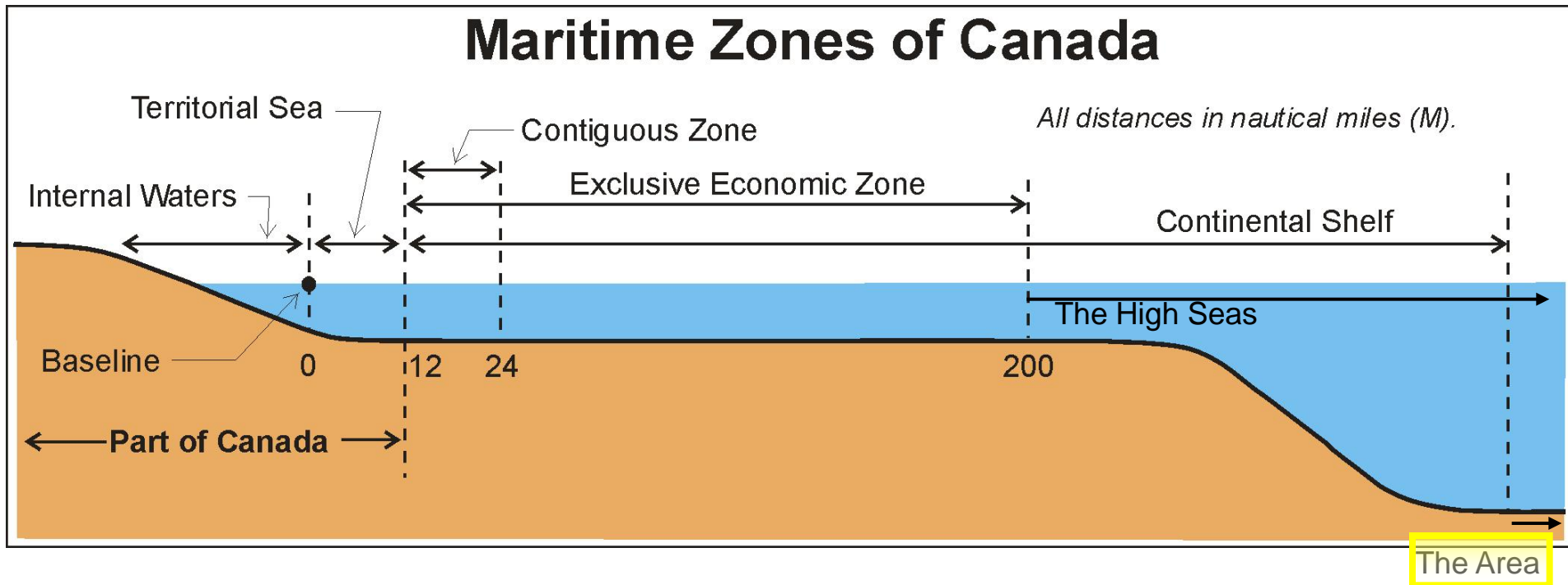


High Seas

- All parts of the sea not included in the EEZ, territorial sea, or internal waters of a State, or its archipelagic waters
- Superjacent waters outside the EEZ
- Six traditional high seas freedoms:
 - Navigation
 - Overflight
 - Laying submarine cables and pipelines
 - Construction of artificial islands
 - Fishing
 - Scientific research
- Reserved for peaceful purposes and not subject to any State's sovereignty – *res nullis / res communis*

Maritime Zones – The Area

Maritime Zones of Canada

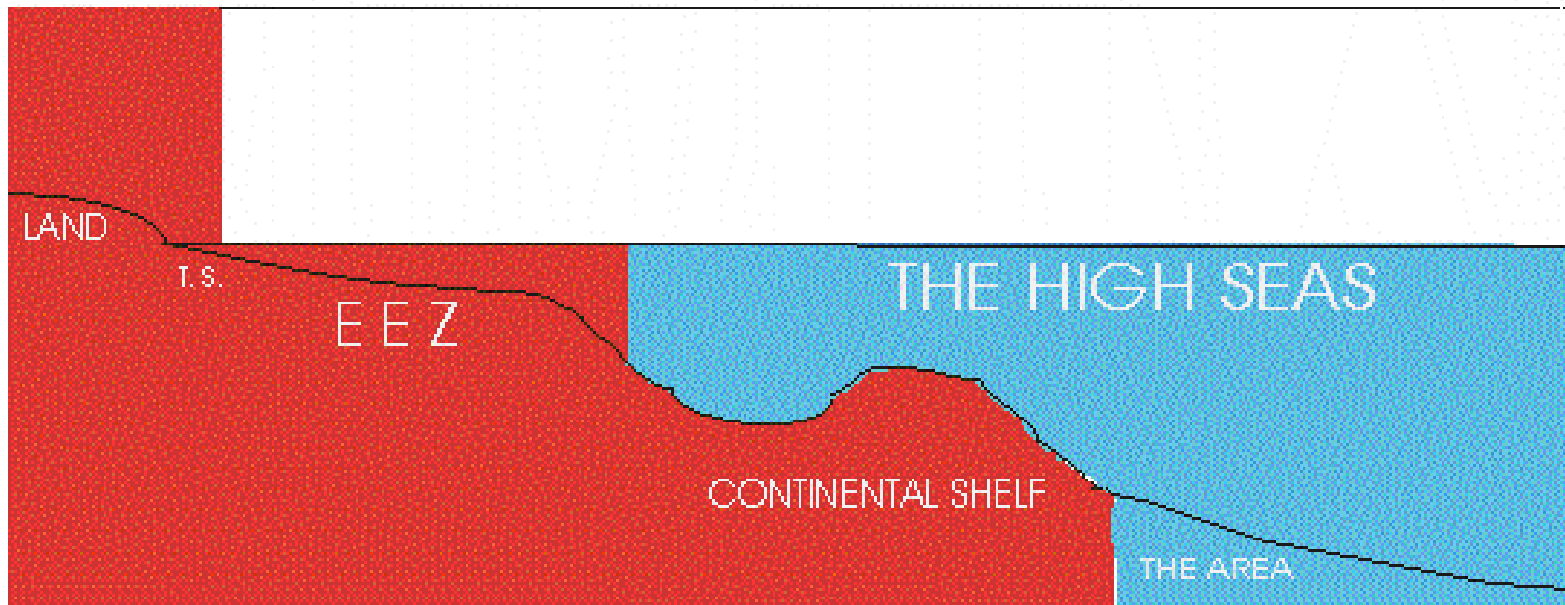


The Area

- By UNCLOS Article 1: “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction over the continental shelf”
- It is the seabed and subsoil outside the 200 NM limit or potential continental shelf
- All research is meant for peaceful purposes
- “Resources are the common heritage of mankind”
- International Seabed Authority (ISA) (based in Kingston, Jamaica)
- Regime for exploiting minerals - parallel system of private exploitation that pays taxes to ISA and public, ISA led
- Non-renewable resources taxed by ISA who shares taxes equitably (even to land locked States)
- International participation in research and sharing of results

Summary of Jurisdictions

- Red areas are under the jurisdiction of the Coastal State - Land, Inland Waters, Territorial Sea (12 nm), Contiguous Zone (24 nm), Exclusive Economic Zone (200 nm), Continental Shelf
- The blue areas under the jurisdiction of the UN
- Jurisdiction over a Continental Shelf has to be actively claimed, other areas area automatic



The content within this presentation is attributed to the following sources:

- Canada’s Offshore, Jurisdiction Rights and Management, 3rd Edition, Calderbank, Macleod, McDorman and Gray.
- A Guide to Maritime Boundary Delimitation, Kapoor and Kerr.
- *Oceans Act (1996)* - of Canada.

Questions?

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