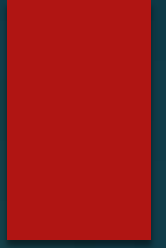


MARITIME JURISDICTION

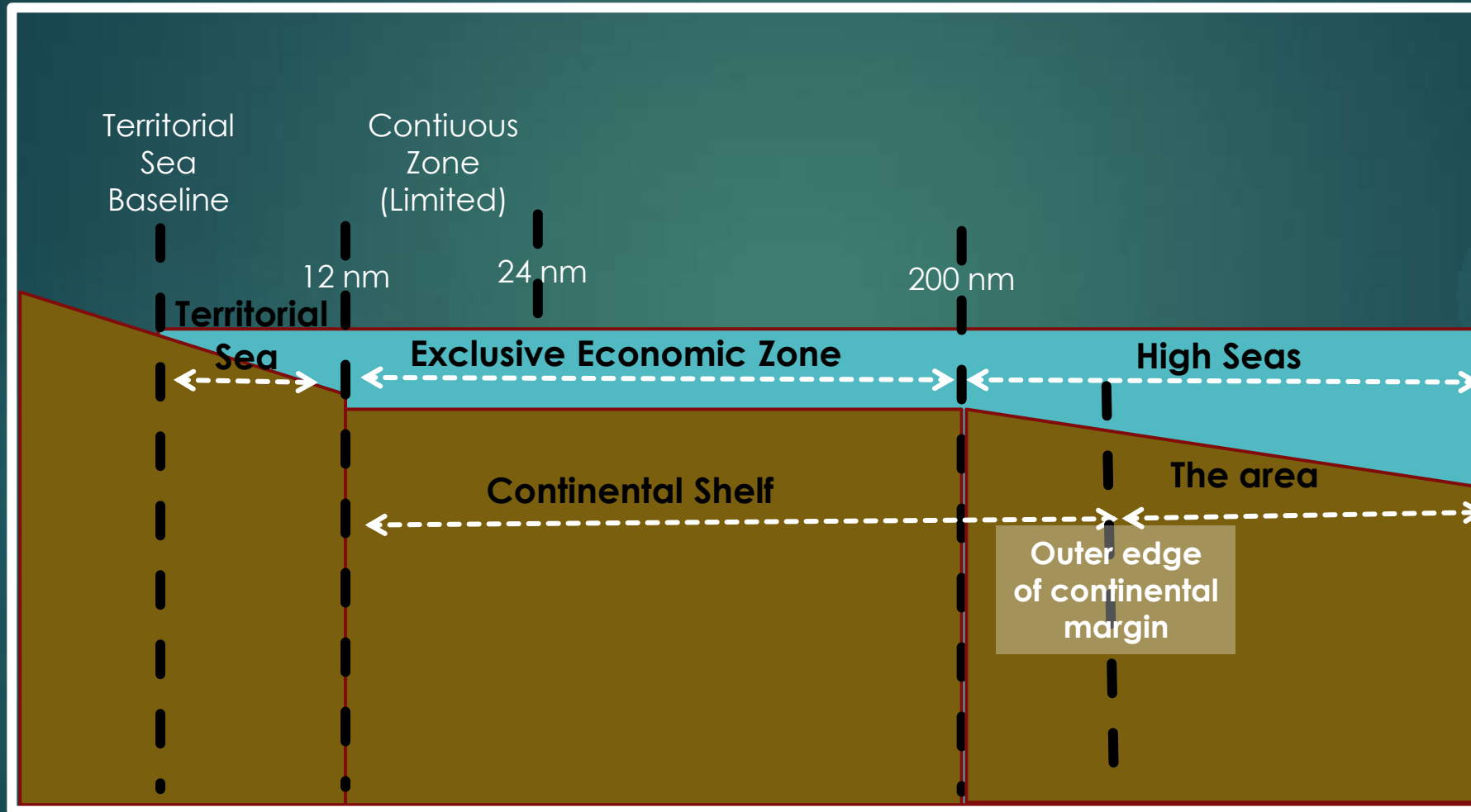


Maritime Jurisdiction

Pointers when deciding on a course of action on sea:

- ▶ Determine the status of area (territorial sea, high seas etc.)
- ▶ Determine the flag / registry State of the vessel
- ▶ Even when you do not have the right to such action, consider existence of circumstances precluding wrongfulness such as force majeure, self defence, necessity or distress or authorization by a binding UNSC resolution

Maritime Areas



Martime Areas - Definitions

Internal waters: - landward of baselines
- ports / bays / river mouths

Territorial sea: - up to max. 12 nm *
- includes straits

Contiguous zone: - needs to be declared
- for enforcement of immigration, customs, fiscal and sanitary laws

Continental shelf: - resource use of seabed and subsoil for 200 nm
- 350 nm max if geological continental shelf

Exclusive economic zone: - resource use of seabed, subsoil and water column
- up to 200 nm
- needs to be declared

High seas: *res communis*

* Turkey objects to unilateral extension where political geography of the enclosed sea does not allow reciprocal gain

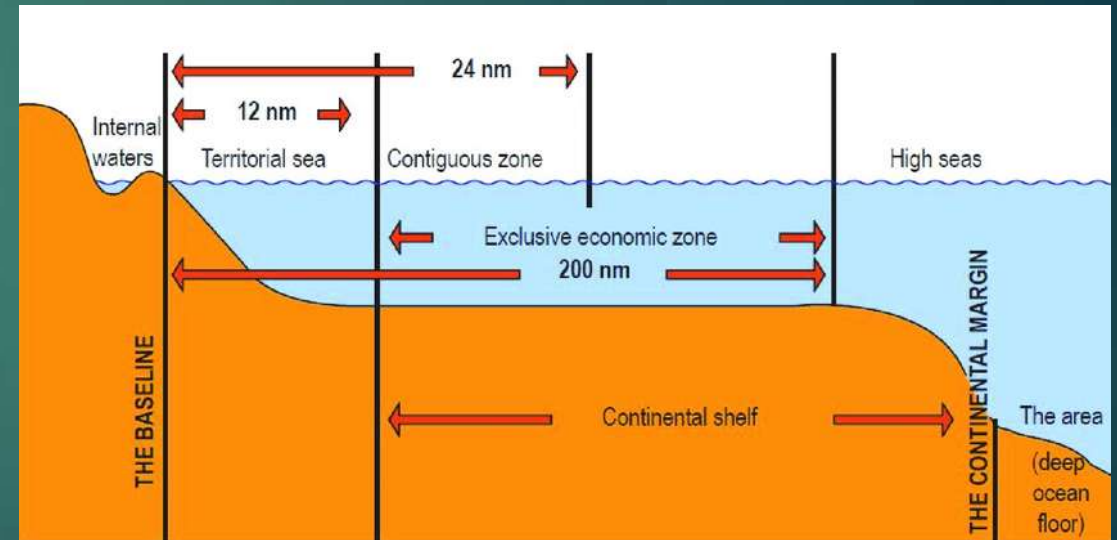
Enforcement Jurisdiction in Maritime Territory

INTERNAL WATERS

- complete sovereignty

TERRITORIAL SEA

- sovereignty ✓
- but is not to be exercised on vessels in innocent passage except in limited cases
- straits included in above rules unless subject to transit passage regime OR its own treaty



Maritime Areas – Functional Zones

CONTIGUOUS ZONE

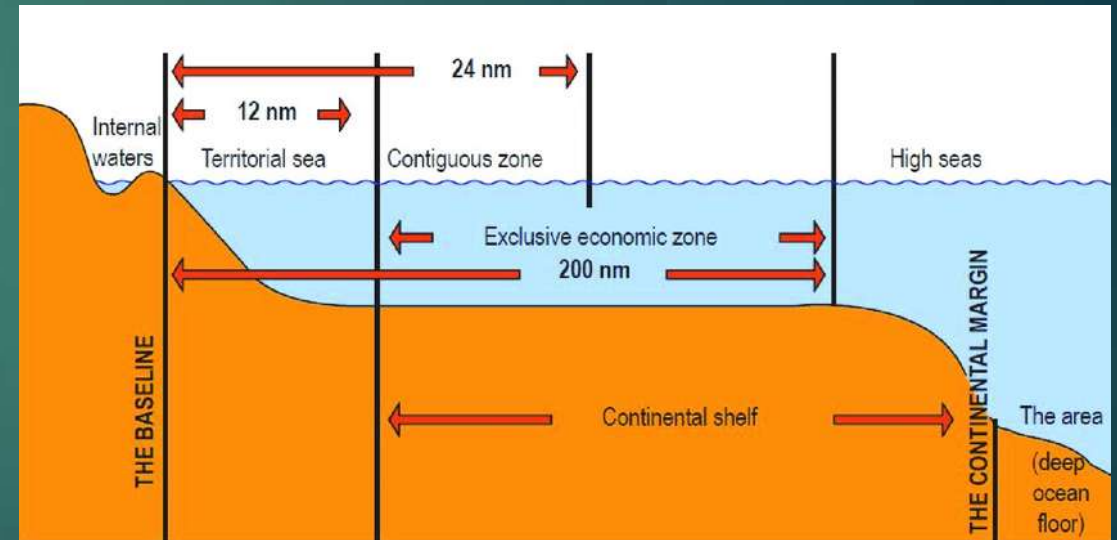
- Only for enforcement of immigration, customs, fiscal and sanitary laws

CONTINENTAL SHELF

- Use of non-living resources and sedentary species of seabed and subsoil
- Water column and airspace remains unaffected

EXCLUSIVE ECONOMIC ZONE

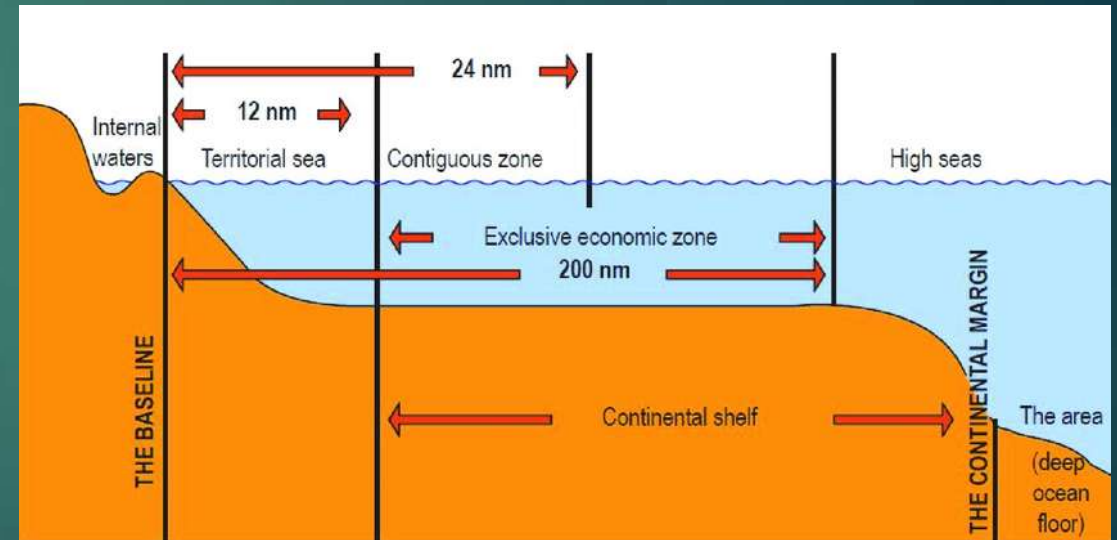
- Use of living and non-living resources of seabed, subsoil and the water column above, energy production
- Jurisdiction w/respect to marine environment
- High seas freedoms for navigation, overflight and cables / pipelines

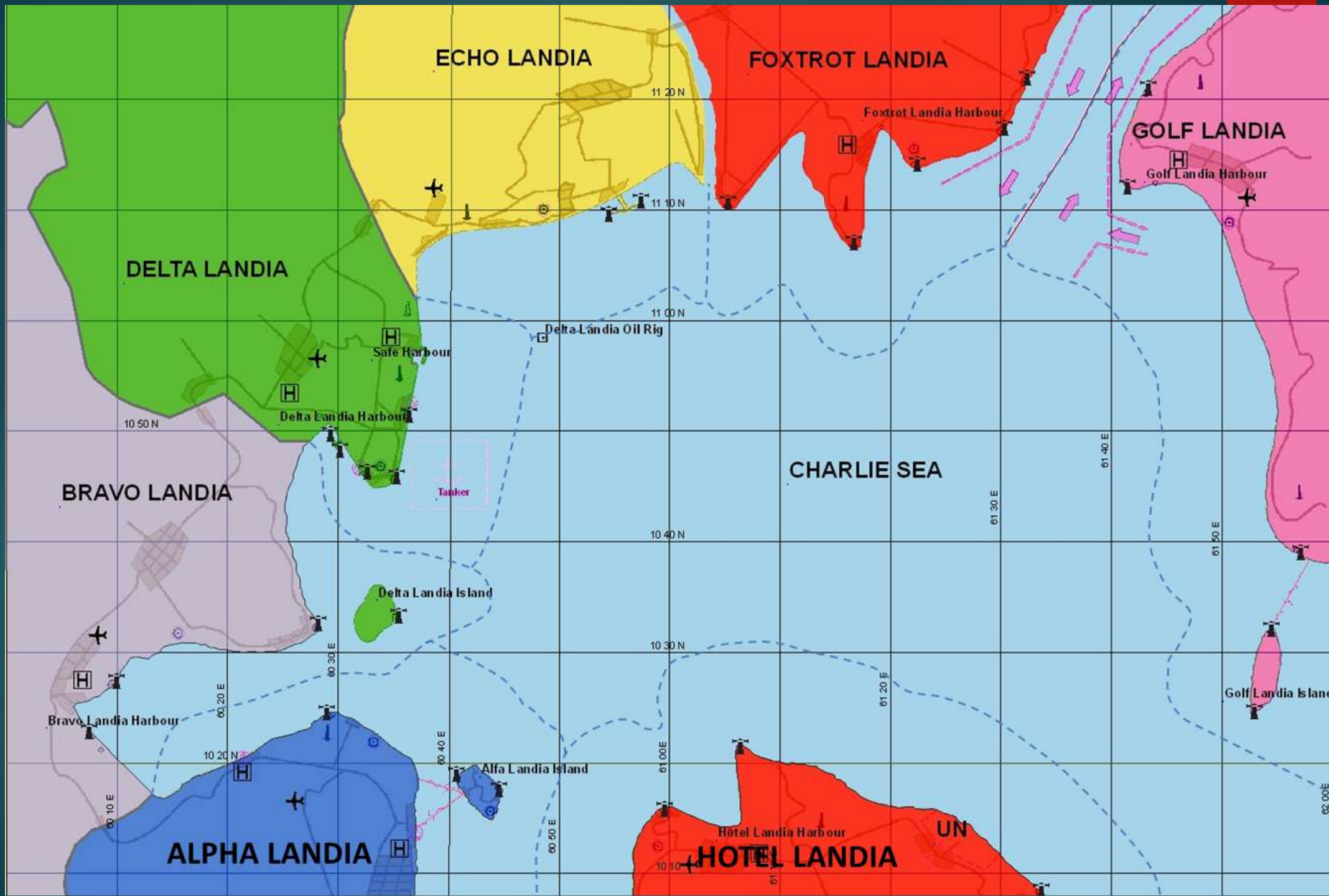


Enforcement Jurisdiction on the High Seas

HIGH SEAS

- Flag State jurisdiction
- 4 exceptions:
 - Piracy → two vessels, private ends
 - hot pursuit → visual / auditory warning (may operate with constructive presence)
 - visit to ascertain flag / stateless vessels
 - unauthorized broadcasting
- Consent
- Treaties to streamline cooperation / request consent; eg. Vienna Convention against Illicit Traffic in Narcotics, UN Convention against Transnational Organized Crime and its Protocols relating to Migrant Smuggling, Human Trafficking
- Intervention in major pollution incidents





Circumstances Precluding Wrongfulness – Justifications

- ▶ Will provide justification / legal excuses for interference with a foreign flagged vessel when regular rules do not allow it
- ▶ Self-defence
- ▶ Force Majeur: impossibility of performance due to irresistible force or unforeseen event beyond control
- ▶ Distress: to save own life / lives of those under one's care
- ▶ Necessity: grave and imminent peril to essential interest of State
 - ▶ eg. stopping on high seas foreign flagged vessel / persons on board infected with a lethal virus
- ▶ Consent
- ▶ Authorization by UNSC Chapter VII resolutions

Search and Rescue

- ▶ All vessels have duty to render assistance to those in distress at sea
 - ▶ Terminates with delivery of rescuees to a «place of safety»
- ▶ Coastal States are to promote establishment and maintenance of SAR services around their coasts
 - ▶ Note: SAR zones are to areas of maritime jurisdiction
- ▶ No State has obligation to allow disembarkation of rescuees!
 - ▶ Restriction on place of disembarkation: Obligation of non-refoulement!
 - ▶ Sorting out who is refugee / migrant requires evaluation best undertaken on land.
 - ▶ State responsible for SAR zone has duty to coordinate the cooperation of relevant States to ensure survivors are disembarked and delivered to a place of safety (Hamburg & SOLAS 2006 amendments)
 - ▶ If rescued in maritime territory / by State's own vessel, then the RSD obligation lies with that State.