

Boundary Delimitation and Demarcation

### Maritime Boundary Delimitation

Available online at <http://madeandi.staff.ugm.ac.id> (see downloads)

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Lecture 8 – Maritime Boundary Delimitation

*Kutipan hari ini*

- Good morning. In less than an hour, aircraft from here will join others from around the world. And you will be launching the largest aerial battle in the history of mankind. "Mankind." That word should have new meaning for all of us today. We can't be consumed by our petty differences anymore. We will be united in our common interests. Perhaps it's fate that today is the Fourth of July, and you will once again be fighting for our freedom... Not from tyranny, oppression, or persecution... but from annihilation. We are fighting for our right to live. To exist. And should we win the day, the Fourth of July will no longer be known as an American holiday, but as the day the world declared in one voice: "We will not go quietly into the night! We will not vanish without a fight!" We're going to live on! We're going to survive! Today we celebrate our Independence Day!
- [taken from "Independence Day" movie]

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Lecture 8 – Maritime Boundary Delimitation

*Lecture outline*

- Review (UNCLOS, Maritime Zones, etc)
- Why delimit?
- Delimitation principles of the 1982 Conventions
- Emerging principles from the International Court of Justice and other tribunals
- Relevant and irrelevant circumstances
- Methods of Maritime Boundary Delimitation
  - equidistance lines (strict/simplified/modified)
  - parallels and meridians
  - perpendiculars
  - enclave
  - alternatives
- The Regime of Islands
- State practice in maritime boundary delimitation
- Common practice: two-stage approach

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*International Maritime Boundaries: A Briefing*

International Law of the Sea → UNCLOS III → Maritime Zones

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*International Maritime Boundaries: A Briefing*

State A Main land  
Archipelagic State B  
Fringing islands  
Island  
Low Tide Elevation  
Baselines  
Internal Waters  
Judicial bay  
Territorial sea Limit 12 nm  
Contiguous zone Limit 24 nm  
Continental margin  
EEZ Limit 200 nm  
Overlapping claim  
Maritime boundary

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*International Maritime Boundaries: A Briefing*

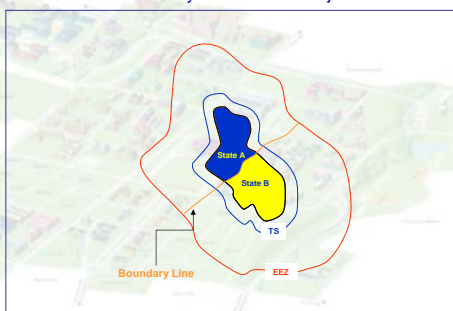
Maritime Boundary Delimitation: Opposite States

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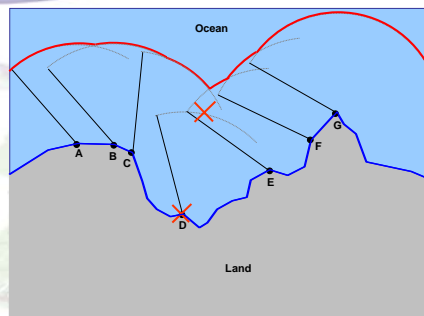
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*International Maritime Boundaries: A Briefing*

Maritime Boundary Delimitation: Adjacent States



*Maritime claims*



- Basepoints
- Distance from basepoints
- Envelope of arc
- Maritime zone limit
- ✗ Irrelevant basepoint

*Why delimit?*

- **Reasons for not to delimit**
  - Sea is a continuous fluid system
  - Many marine resources are thus translational
  - A borderless world? Increasingly globalised and interdependent world – oceans a vital link between states
- **But ...**
  - Security
  - Resources
  - Ocean management
  - Rights balanced by responsibilities

*The Purpose and Value of Maritime Boundaries*

- Equitable division of maritime space
- Clarity and certainty to all maritime states
- minimise risk of disputes and conflict
- Contribute to the sustainable management of the world's oceans and economic security for coastal states
- Required because of extension of maritime jurisdiction offshore – a relatively young process

*Delimitation principles of the 1982 Conventions*

UNCLOS Article 15

- Where the coasts of two States are opposite or adjacent to each other, **neither** of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea **beyond the median line** every point of which is **equidistant** from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of **historic title or other special circumstances** to delimit the territorial seas of the two States in a way which is at variance therewith

*Continental shelf & EEZ delimitation*

UNCLOS Article 74 and 83

- The delimitation of the continental shelf (exclusive economic zone) between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, **in order to achieve an equitable solution**. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into **provisional arrangements of a practical nature** and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

*Emerging principles from the ICJ*

- ICJ' decisions
- Jurisprudence
- Relevant Circumstances
- Irrelevant Circumstances
- Decision on a case, can usually influence the judgement of the later [similar] cases.

*Potentially relevant circumstances for an equitable solution*

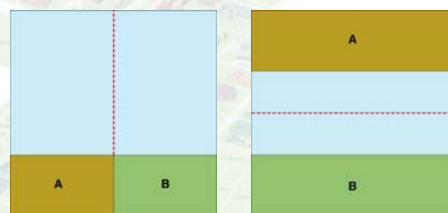
- *Theoretically no limit on relevant factors*
- Coastal geography the predominant factor
  - coastal configuration
  - coastal length
  - location and status of offshore islands and low-tide elevations
- Historic rights
- The previous conduct of the parties

*Irrelevant circumstances?*

- Size of landmass
- Existence of natural resources and their location
- Economic factors
- Security interests
- Environmental factors
- Geology and geomorphology – Libya/Malta case (1985) move away from natural prolongation within 200nm of the coast
- Distinction between negotiations vs. third-party dispute resolution

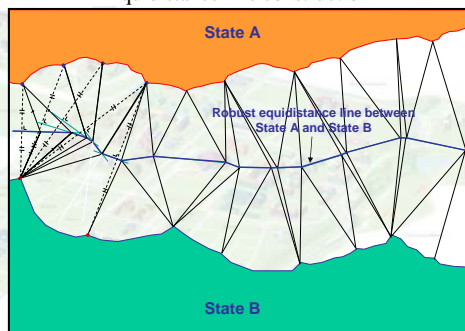
*Methods of Maritime Boundary Delimitation*

- Equidistance line (equitable)

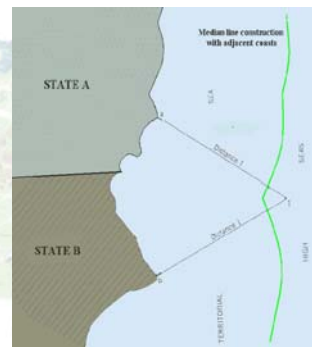


*Methods of Maritime Boundary Delimitation*

*Equidistance line construction*



*Equidistance Line*



<https://www.cnroc.navy.mil/nmosw/legal/los/Delimit2000.ppt>

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### Equidistance Line

https://www.cnmoc.navy.mil/nmosw/legal/los/Delimit2000.ppt

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### Equidistance Line

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### Methods of Maritime Boundary Delimitation

- Equidistance line

**Legend:**

- Strict Equidistance Line
- Simplified Equidistance Line
- Midfield Equidistance Line

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### Methods of Maritime Boundary Delimitation

- Equidistance line (inequitable)

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### Methods of Maritime Boundary Delimitation

- Parallels and meridians

France-Monaco Agreement of 16 February 1984 and the Dominica-France agreement of 5 May 1987.

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### Methods of Maritime Boundary Delimitation

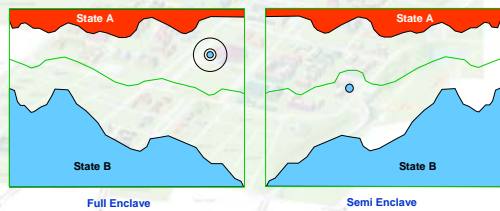
- Perpendicular to general direction of the coast

Gulf of Maine case and the Brazil-Uruguay agreement of 21 July 1972

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*Enclaving*

- When a coastal state has an island on the “wrong” side of a median line between mainland coasts, separated from the offshore zone of the mainland.

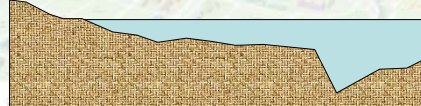


*Other Methods of Delimitation*

- Thalweg



- Natural Prolongation



*The Regime of Islands*

Article 121 of the LOSC

- An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
- Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this convention applicable to other land territory.
- Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.
- But..... Rocks can claim TS so there should be fishing ground so they might sustain human habitation. Think!

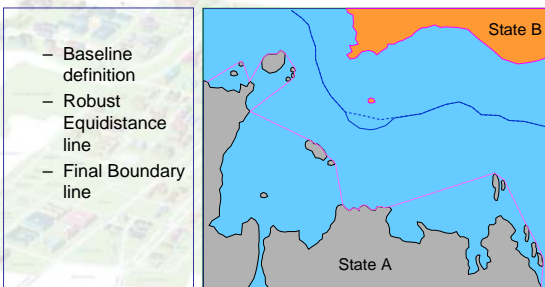
*Roles of an island in maritime boundary delimitation*

- Island sovereignty disputes
  - islands with intrinsic value
  - islands whose main value is their maritime space
  - islands whose main value is political or strategic

*State practice in maritime boundary delimitation*

- The decision taken by states in dispute may be considered by other states when resolving a similar maritime boundary case.
- The previous practise can directly or indirectly influence the decision on later cases.

*The two-stage approach*



*The End*

Thank you 😊