

**Boundary Delimitation and Demarcation**

*Maritime Boundary Disputes and their Resolutions*  
available online at <http://madeandi.staff.ugm.ac.id> (see downloads)

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Lecture 9 – Maritime Boundary Disputes and their Resolutions

*Lecture Outline*

**Maritime Boundary Disputes and their Resolution (15/5/06)**

- **Causes of dispute:**
  - Disputed coastal territory
  - Contested island sovereignty
  - Competing jurisdictional claims
  - Disputed over the weight accorded to insular features
  - Baseline-related disputes
  - Treaty interpretation issues
  - Resource and security issues
  - Concerns over extended continental shelf claims
  - Technical disputes
- **Resolutions**
  - Negotiation, mediation and conciliation
  - Arbitration and litigation – the International Court of Justice (ICJ) and the International Tribunal on the Law of the Sea (ITLOS)
- **Alternatives to Delimitation: Joint Development Zones and Cooperative Mechanisms**
- **Case studies**
  - Sipadan and Ligitan
  - Ambalat
  - JPDA at Timor Sea

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*Causes of dispute:*

- **Disputed coastal territory**

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*Causes of dispute:*

- **Contested island sovereignty**

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*Causes of dispute:*

- **Competing jurisdictional claims: AMBALAT block**

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*Causes of dispute:*

- **Disputed over the weight accorded to insular features**

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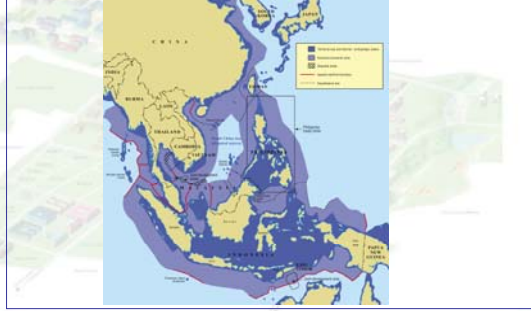
*Causes of dispute:*

• **Baseline-related disputes**



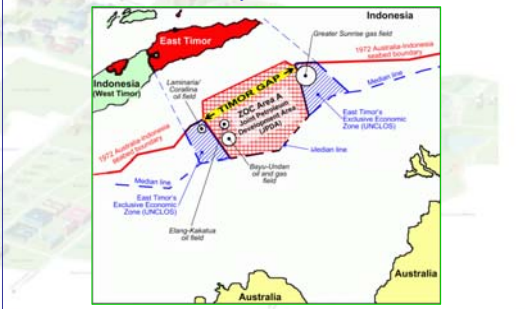
*Causes of dispute:*

• **Treaty interpretation issues**



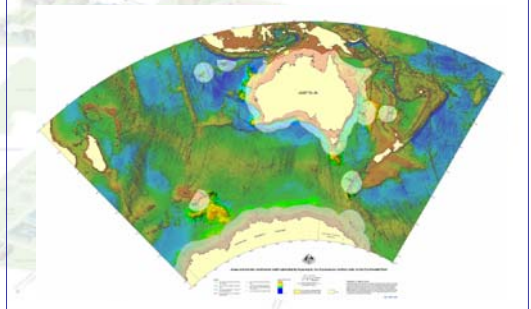
*Causes of dispute:*

• **Resource and security issues**



*Causes of dispute:*

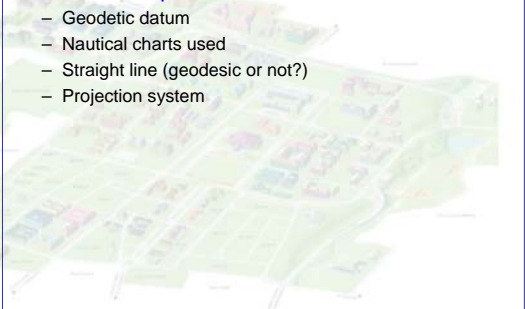
• **Concerns over extended continental shelf claims**



*Causes of dispute:*

• **Technical disputes**

- Geodetic datum
- Nautical charts used
- Straight line (geodesic or not?)
- Projection system



*Dispute Resolutions*

• **The United Nations Charter**

Article 33(1)

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice

### Dispute Resolutions

#### • Negotiations

- The principle means of handling international disputes
- Cooperation between parties critical
- Parties retain control of dispute
- Ongoing contact provides form of confidence building measure
- May be conducted at a number of levels:
  - normal diplomatic channels
  - competent authorities
  - special commission
  - summit discussions
- dispute may also be sub-divided during negotiations

### Dispute Resolutions

#### • Mediation

- Where negotiations fail, the intervention of a third party may be a means towards resolution of a dispute.
- Common consent and confidence in the mediator required by both sides. The mediator may be:
  - An internationally recognised body
  - United Nations (UN)
  - Association of South East Asian Nations (ASEAN)
  - A Government
  - An Individual
- Parties in question meet up in mediation

### Dispute Resolutions

#### • Conciliation

- Institutionalises mediation
- Avoids resorting to arbitration or litigation
- Institution focuses attention of parties on the dispute
- May have time-limit imposed on its work, thereby increasing the chances of reaching a conclusion
- Promotes chance of equitable compromise as both parties are represented
- Findings are not binding and remain open to further negotiation
- Parties in questions do not meet up directly

### Dispute Resolutions

#### • Arbitration

- Parties responsible for establishing a tribunal or arbitration commission
- May be permanent or temporary
- Composition of commission of crucial importance
- May involve only members from the disputing parties or may include neutral parties
- Terms of reference and procedure must be agreed in advance
- Binding rather than final decision - interpretation involving clarification rather than challenging the correctness of an award often possible
- Decision only binding in international law if the commission has been properly constituted
- Dependent on political will and responsible behaviour on the part of states
- Often time-consuming and expensive

### Dispute Resolutions

#### • International Court of Justice

- Costly and time-consuming
- Consent of parties required
- Takes dispute out of parties hands - control thus sacrificed
- Court consists of 15 Judges elected for 9-year terms by UN Security Council and General Assembly
- Cases interpreted according to public international law (LOSC)
- Flexible but also unpredictable
- Can depoliticise contentious disputes
- Impartial (Without bias, prejudice, or other preconception)
- Final and binding

### Dispute Resolutions

#### • The International Tribunal on the Law of the Sea (ITLOS)

- Seat of Tribunal in Hamburg, Germany
- 21 Judges elected by the UN General Assembly
- "Persons enjoying the highest reputation in the Law of the Sea"
- Equitable geographical distribution
- Decisions of Tribunal are binding on the Parties to the dispute
- Cost of the Tribunal borne by Parties to the Law of the Sea Convention
- Each Party to a dispute bears its own cost

*Alternatives to Delimitation:  
Joint Development Zones and Cooperative Mechanisms*

Continental shelf & EEZ delimitation  
UNCLOS Articles 74 and 83

3. 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.

The legal rationale for joint development arrangements

*Alternatives to Delimitation:  
Joint Development Zones and Cooperative Mechanisms*

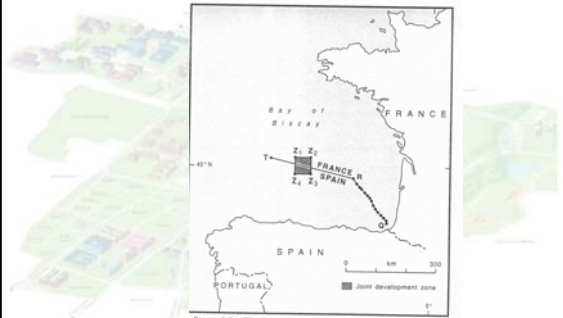
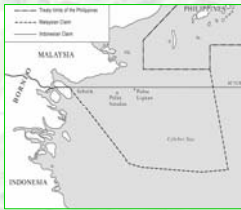


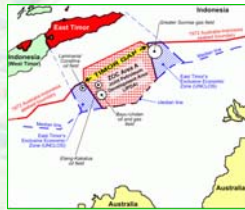
Figure 2.21 The France–Spain maritime boundary and Joint Development Zone

*Case Studies*

Sipadan and Ligitan



JPDA at the Timor Sea



*The End*

Thank you ☺