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The Law of the Delimitation of Continental Shelves and State Practice

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THE LAW OF THE DELIMITATION OF CONTINENTAL
SHELVES AND STATE PRACTICE

*To
Shaker and Amale,
For their love and patience*

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CHAPTER ONE

Introduction

Delimitation of maritime boundaries has become an issue of great importance due to the "Expansion of national jurisdiction over the sea."¹ Furthermore, coastal states have become more interested in what lies beneath their waters because of the large amounts of valuable natural resources found in the seabed such as petroleum. In this work, the focus is on the methods found, under international law, for delimiting shared continental shelves between opposite and adjacent states, as well as identifying the steps in which judges follow to choose one method of delimitation over the other. It is of major concern under international law and under the law of the sea.

Maritime delimitation means quite simply, "A line of separation...[is]...drawn."² A delimiting line can be a line reflecting a specific maritime boundary, like the continental shelf, or it can reflect the exclusive economic zone³ or it could be a single boundary line delineating all "Maritime jurisdictions between two states."⁴ In other words, one single boundary line can be drawn to delimit two or more maritime zones. An example of a case involving maritime delimitation in a single boundary line is the Gulf of Maine Case (Canada vs. USA) of 1984. In this case both states asked the World Court (previously known as the International Court of Justice), to establish a single boundary

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¹ Theodore C. Kariotis, Greece and the Law of the Sea (The Hague: Kluwer Law International, 1997) 23.

² Prosper Weil, The Law of Maritime Delimitation (Great Britain: Grotius Publications Limited, 1989) 3.

³ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea (New York: United Nations, 1997) 40. **Exclusive Economic Zone: a zone that is "beyond and adjacent to the territorial sea," and where its limits is 200 n. miles. It is an area where the coastal state can enjoy seabed exploitation and exploration.**

⁴ Weil, 5.

line "Dividing their fisheries zones and shared continental shelf in the Gulf of Maine area."⁵

In general, coastal states are not only interested in delimiting their continental shelf but also in protecting their own economic benefits. For example, the exploitation of oil resources and minerals found underneath the continental shelf is important in the seabed and subsoil. Unlike in the past, the focus of the coastal state nowadays is not about who has a larger or stronger navy, but it is about who has a bigger share in the ocean.

Seventy-one percent of the planet is covered by sea water.⁶ Underneath the waters there is another region, described as the continental shelf and the seabed and subsoil. The continental shelf, which extends beyond the territorial sea to a distance of 200 nautical miles (or a maximum of 350 nautical miles) from the baselines from which the width of the territorial sea is measured, consists of the seabed and subsoil of the submarine areas.⁷ According to maritime history, the law of the sea originated through custom and was developed through state practice.⁸ Customary law is defined as "A general and consistent practice adopted by States,"⁹ where states must accept the rule or practice and where they have legal obligations to that rule(s). An example of customary international law which was codified under article 76 of the 1982 Convention on the Law of the Sea is applying equitable principles and taking into account relevant circumstances when delimiting a continental shelf in order to reach an equitable result. Another

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⁵ Martin Dixon, and Robert McCorquodale, Cases & Materials on International Law (Great Britain: Oxford University Press, 2003) 374.

⁶ James B. Morell, The Law Of The Sea (U.S.A.: McFarland & Company, Inc., 1992) xiii.

⁷ E.D Brown, The International Law of the Sea Volume I Introductory Manual (Great Britain: Dartmouth Publishing Company Limited, 1994) 142. see also United Nations, The Law of the Sea Definition of the Continental shelf (New York: United Nations, 1993) 1-4.

⁸ Caminos Hugo, and Molitor R. Michael, "Progressive Development of International Law and the Package Deal." Jstor 79 (Oct., 1985): 871.

⁹ George V. Galdorisi, and Kevin R. Vienna, Beyond the Law of the Sea (United States: Praeger Publishers, 1997) 12.

principle considered as customary law, is the natural prolongation concept,¹⁰ which was elaborately described in the 1969 North Sea continental shelf cases between Germany and the Netherlands and Germany and Denmark.¹¹ Furthermore, the natural prolongation principle was also dealt with in the Truman Proclamation on the continental shelf, (discussed later on in the chapter).

As a result, treaties, conventions, agreements, customary law and protocols are all agreements between states where the states have "Obligations under international law."¹² One of the greatest contributors to the law of the sea was by a Dutch scholar and lawyer Hugo Grotius.¹³ He is considered as the father of "Modern international maritime law."¹⁴ Grotius viewed reason and natural law as the main basis of law. Therefore, he changed the older views of international law and the law of the sea from the idea of "Competition between the exercise of governmental authority over the sea and the idea of freedom of the seas."¹⁵ He gave the world a new perspective to international law and the sea. As a result, in 1608 Hugo Grotius published one of his greatest works dealing with the Freedom of the Seas – "*Mare Liberum*."¹⁶ In his book, Grotius stated that all people have access to the seas – no one can own the sea; it is not property.¹⁷ He based his theory of the sea on the Law of Nations, calling it the primary rules or, as it is called today,

¹⁰ "North Sea Continental Shelf Cases." Online. May 1, 2003.

www.lawschool.cornell.edu/library/cijwww/icjwww/idecisions/isummaries/icsummary690220.htm The natural prolongation concept in the North Sea cases stated that each state had "an original right to those areas of the continental shelf which constituted the natural prolongation of its land territory into and under the sea."

¹¹ Bayram Ozturk, "Aegean Sea 2000." Proceedings of The International Symposium On The Aegean Sea (Turkey: Turkish Marine Research Foundation, 2000) 89.

¹² E.D. Brown, The International Law of the Sea Volume I Introductory Manual (Great Britain: Dartmouth Publishing Company Limited, 1994) 3.

¹³ James B. Morell, The Law of the Sea (United States of America: McFarland & Company, Inc., 1992) 2.

¹⁴ George Galdorisi, and Kevin R. Vienna, Beyond the Law of the Sea (U.S.A.: Praeger Publishers, 1997) 9.

¹⁵ Galdorisi, 9.

¹⁶ Morell, 2.

¹⁷ Hugo Grotius, The Freedom of the Seas (New York: Oxford University Press, 1916) v.

International Law.¹⁸ However, at the time of Grotius and of the creation of the "Freedom of the seas doctrine," the continental shelf and the seabed were ignored in terms of what legal regime to apply.¹⁹ The reason behind this is because the seabed areas underneath the continental shelf are much deeper than the territorial waters area. As a result, due to lack of technology, it did not occur to coastal states in Grotius's time quite simply to claim jurisdiction over an area they had no access to.²⁰

Before the creation of the 1958 United Nations Convention on the Law of the Sea, lawyers were divided into two groups when dealing with claims to the seabed areas underneath the continental shelf.²¹ The first group followed the *res nullius* principle while the second group followed the *res communis* principle. The first group believed that the continental shelf is *res nullius*, which means that "Title to the seabed could be acquired by its effective occupation, arising from its exploitation."²² According to a source "*International Boundary Cases: The Continental Shelf*," the Truman Proclamation is an example of *res nullius*.²³ His argument is that when the United States decided to occupy its shelf and seabed it was an act of *res nullius*.²⁴ The other group viewed the seabed as a *res communis*, meaning that it is "Property held in common by the community of nations which could freely be exploited by any or all states."²⁵ Under this idea no state can exclusively claim any area(s) of the seabed by occupation. Instead, this

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¹⁸ James B. Morell, *The Law Of The Sea* (U.S.A.: McFarland & Company, Inc., 1992) 2.

¹⁹ Morell, 2.

²⁰ Morell, 2.

²¹ *International Boundary Cases: The Continental Shelf Volume One* (England: Grotius Publications Limited, 1992) 6.

²² *International Boundary Cases: The Continental Shelf Volume One*, 6.

²³ *International Boundary Cases: The Continental Shelf Volume One*, 6.

²⁴ *International Boundary Cases: The Continental Shelf Volume One*, 6.

²⁵ *International Boundary Cases: The Continental Shelf Volume One*, 6.

principle, according to the expert, encouraged a “Rush and grab”²⁶ situation or a first-come first-serve, which can cause many conflicts among states.²⁷ However neither principle worked.

References to the continental shelf go back to the 1800’s.²⁸ According to M. W. Mouton, the subject of continental shelves was of interest to many international lawyers; though major concerns in dealing with the continental shelf and the seabed have only really been shown very recently.²⁹ One of the very first attempts to deal with the seabed and subsoil of the continental shelf is the treaty agreement between the United Kingdom and Venezuela.³⁰ This treaty dealt with the “Submarine areas of the Gulf of Paria, of February 26, 1942.”³¹ (further details will be shown throughout the paper). However, the main contribution concerning the continental shelf and the seabed and subsoil arose with the Truman Proclamation, issued by President Harry S. Truman on September 28, 1945.³² (further details will be shown later in the chapter). Briefly the Truman proclamation started the modern continental shelf concept, due to the technological advances, allowing coastal states to exploit the seabed of their continental shelf.³³ The Proclamation also triggered other countries to make declarations and decrees concerning their continental shelves and the subsoil and seabed.³⁴ After the Truman Proclamation the 1958 Law of the Sea Convention was developed, where customary law of the sea was

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²⁶ International Boundary Cases: The Continental Shelf Volume One, (England: Grotius Publications Limited, 1992) 6.

²⁷ International Boundary Cases: The Continental Shelf Volume One, 6.

²⁸ M. W. Mouton, The Continental Shelf (Netherlands: Martinus Nijhoff, 1952) 337.

²⁹ Mouton, 1.

³⁰ Mouton, 1.

³¹ Mouton, 1. see also Shigeru Oda, The International Law of the Ocean Development (Sijthon Basic Documents, 1977) 432-435.

³² Mouton, 1.

³³ Kriangsak Kittichaisaree, The Law of the Sea and Maritime Boundary Delimitation in South - East Asia (New York: Oxford University Press, 1987) 57.

³⁴ Mouton, 1.

codified and new legal rules were created "To fill the gaps in existing international law."³⁵ One of the main issues dealt with in the 1958 Convention was limiting the continental shelf to a depth of 200 meters (600 feet). However, the Convention allowed states to claim areas beyond 200 meters "To any depth where technical capabilities allowed it."³⁶

The most recent agreement dealing with an extensive range of maritime issues is the 1982 United Nations Convention on the Law of the Sea which, "Covers virtually every aspect of international maritime law and was designed to update and [join together] a number of earlier multilateral conventions."³⁷ Reservations to articles in the 1982 Convention are not permitted, however, States may make statements or comments concerning certain points within the convention upon signing or ratifying.³⁸ The 1982 Convention on the Law of the Sea came into effect on November 16, 1994.³⁹ Moreover, in the 1982 Convention, the outer limit of the continental shelf was defined as 200 nautical miles (or a maximum of 350 nautical miles if the continental shelf extends beyond 200 nautical miles), unlike in the 1958 convention where it had "An open-ended definition."⁴⁰ Under the 1982 Convention, the continental shelf, which is the submerged prolongation of the landmass of the coastal state, is defined as comprising the continental margin, the slope and the rise.⁴¹ This definition confirmed the judgment made in the 1969 North Sea cases where the continental shelf was defined as the natural prolongation of a coastal state's landmass. Also, the statement issued in the Truman Proclamation

³⁵ James B. Morell, *The Law of the Sea* (United States of America: McFarland & Company, Inc., 1992) 6.

³⁶ James C.F. Wang, *Handbook on Ocean Politics & Law* (New York: Greenwood Press, 1992) 57.

³⁷ "The Law of the Sea." Sept. 1996. Online. 1 May. 2003.

³⁸ Caminos Hugo and Molitor R Michael. "Progressive Development of International Law and the Package Deal." *Jstor* 79 (Oct., 1985): 877.

³⁹ Theodore C. Kariotis, *Greece and the Law of the Sea* (The Hague: Kluwer Law International, 1997) 23.

⁴⁰ Wang, 58.

⁴¹ Wang, 58.

stated that the United States has, "Jurisdiction and control over the shelf resources, based on the fact of the physical attachment...of the continental shelf to the landmass of the coastal state."⁴² As a result, the concept of natural prolongation (as mentioned earlier is part of customary law) was then codified in the 1982 United Nations Convention on the Law of the Sea as a principle under international law.⁴³ In addition, it is important to mention briefly that coastal states can also enjoy fishing rights within the 200 nautical mile limit in a zone called the exclusive economic zone (EEZ). This zone "Is a post – 1958 development,"⁴⁴ and it is located beyond and near the territorial sea of the coastal state. The exclusive economic zone, allows coastal states that have a small extension of a continental shelf or no continental shelf, the opportunity to enjoy exploration and exploitation of fish, natural resources and other interests regarding economical benefits.⁴⁵

Furthermore and of great significance in this research, it must be noted that the 1958 and 1982 Conventions on the Law of the Sea provide two different approaches in delimiting the continental shelf. In the 1958 Convention, the method of delimitation is described as the equidistance-special circumstances method. Consequently, the equitable principles technique is used to delimit continental shelves under the 1982 Convention on the Law of the Sea. There remain many different points of views concerning the two methods of delimitation in terms of which is the appropriate method for delimiting

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⁴² International Boundary Cases: The Continental Shelf Volume One (England: Grotius Publications Limited) 7.

⁴³ James C.F. Wang, Handbook on Ocean Politics and Law (New York: Greenwood Press, 1992) 58.

⁴⁴ Martin Dixon & Robert McCorquodale, Cases & Materials on International Law (Great Britain: Oxford University Press) 372.

⁴⁵ Dixon, 372.

overlapping or shared continental shelves.⁴⁶

Equidistance-Special Circumstances method

The great interest in maritime delimitation all started in the 19th century when states began to be concerned about the delimitation of their territorial sea. As a result, coastal states came up with principles and rules under *Sedes Materiae*, the “Contemporary law on maritime boundaries.”⁴⁷ With the emergence of the 1958 Convention on the Law of the Sea, the International Law Commission introduced a technique for delimiting the territorial sea. The importance of this was that the method used to limit the territorial sea was also going to be used to limit the contiguous zone⁴⁸ and the continental shelf. The form of delimitation suggested for all maritime zones was the equidistance method.⁴⁹ Equidistance means finding a median line “Every point of which is equidistant from the baselines of the states concerned.”⁵⁰ It is a geometric principle that can be applied between opposite or adjacent states.⁵¹ However, it is not recognized as a rule of customary international law.⁵² The process of how the equidistance⁵³ method is applied is as follows: first, the nearest base points of the two states are located (points A and B) and a median line which equidistant from the

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⁴⁶ Both the 1958 and 1982 Conventions on the Law of the Sea are still in use, however, if a state is a party to both conventions on the Law of the Sea then the most recent convention is applied (which is the 1982 Convention on the Law of the Sea).

⁴⁷ Faraj Abdullah Ahnish, The International Law Of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 31.

⁴⁸ Contiguous zone: it is a zone contiguous to the territorial sea not extending 24 nautical miles. The coastal State has control of the area and it can prevent “infringement of its customs, fiscal, immigration or sanitary laws.”

⁴⁹ Ahnish, 32.

⁵⁰ Ahnish, 31

⁵¹ D.C Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 74.

⁵² Shigeru Oda, International law of the Resources of the Sea (The Netherlands: Sijthoff & Noordhoff, 1979) 85.

⁵³ Kapoor, 73. As a note an equidistance line and a median line mean the same.

baselines of each state is created.⁵⁴ The midpoint (a) is then found and then the next point is (b) which is equidistant from both sides is located, and so on and so forth. Once all the points are created (equidistant from both sides), a line is which would be the delimiting line is revealed. That line is not necessarily a straight line; it could be a “zigzag” line.⁵⁵ (See figure 5.2/5.3 in appendix A). Even though the equidistance rule was adopted as the method of delimitation for all maritime zones at the time, the Commission did not consider it as being absolute.⁵⁶ The Commission agreed that there would be times when there are certain “special circumstances” to be taken into consideration to delimit a specific maritime zone.⁵⁷ The aim of this was to be able to find principles and rules that result into a fair and just delimitation.⁵⁸ Examples of “special circumstances” include geographical characteristics within the area such as islands, the shape of the coastal state(s), historical title, natural resources, economic reasons and so on.⁵⁹ Therefore, when delimiting maritime zones between opposite or adjacent states, the median line would always be the starting point for delimitation, however, “If a divergence from the median line appeared to be indicated by special circumstances, another boundary could be established by negotiation, but the median line would still serve as the starting point.”⁶⁰ Furthermore, the equidistance-special circumstances method, according to Faraj Abdullah Ahnish, “Provide[s] a specific method of delimitation and at the same time capable of adjustment in order to meet the peculiarities

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⁵⁴ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 74.

⁵⁵ Kapoor, 74.

⁵⁶ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 32.

⁵⁷ Ahnish, 42 -43.

⁵⁸ Ahnish, 31.

⁵⁹ Farrokh Jhabvala, Maritime Issues in the Caribbean (Miami: University Presses of Florida, 1981) 22.

⁶⁰ Ahnish, 42.

of the area to be delimited.”⁶¹ It is to be noted that the equidistance special-circumstances method is not divided into two separate parts. In fact the Commission’s objective was to combine the equidistance and special circumstances “In one comprehensive delimitatory rule.”⁶² According to Mr. Joseph Akl, a Lebanese Judge in the Law of the Sea Tribunal, the equidistance special-circumstances method is one rule with two corresponding elements and that the delimitation process can never be purely equidistance.⁶³ Therefore, equidistance is the first step for delimitation, and then flexibility is applied to “Reflect various relevant factors.”⁶⁴ As mentioned earlier, relevant factors include the geographical characteristics of the area, such as, islands, fishing, navigation rights, natural resources and the geological characteristics of the continental shelf.⁶⁵ “Special circumstances” must work in parallel with the equidistance line formula in order to reach an equitable solution for the delimitation of overlapping continental shelves.

At the end, the 1958 Commission states that the form of delimitation of continental shelves will be based on the equidistance method⁶⁶ justified by “special circumstances.”⁶⁷

According to Shigeru Oda, a Japanese Judge of the World Court, applying the equidistance method alone most of the times will not achieve an equitable result.⁶⁸ Oda

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⁶¹ Faraj Abdullallah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 33. see also Malcolm D. Evans, Relevant Circumstances and Maritime Delimitation (Great Britain: Oxford University Press, 1989).

⁶² Ahnish, 56. see also Relevant Circumstances and Maritime Delimitation.

⁶³ Judge Joseph Akl, personal interview, June 2003.

⁶⁴ Ahnish, 38. see also Malcolm D. Evans, Relevant Circumstances and Maritime Delimitation (Great Britain: Oxford University Press, 1989).

⁶⁵ Ahnish, 38. see also Relevant Circumstances and Maritime Delimitation.

⁶⁶ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 73. **As a note: when dealing with delimitations between adjacent states the term equidistance is used and when delineating an area between opposite states the term median line is applied.**

⁶⁷ Ahnish, 32. see also Relevant Circumstances and Maritime Delimitation.

states that most likely "Exceptions will probably be more numerous than the rule."⁶⁹ However, he is not against the equidistance rule. Oda believes that the equidistance method can be a possible solution to delimit the continental shelf between two or more states in certain geographical situations given that the result is an equitable delimitation.⁷⁰ (this idea will be shown in chapter seven). Therefore, to have an equitable result, taking into consideration special circumstances is essential.⁷¹

Equitable Principles method

On the other hand, the section on the continental shelf under the 1982 Convention on the Law of the Sea follows the equitable principles as the form of delimitation. Before reaching the final draft of the 1982 Convention for the delimitation of the continental shelf, a long process of negotiations were made. There were two main groups working on finding the appropriate method of delimitation. Group one suggested the median line with "special circumstances" as being the form of delimitation – in other words, the equidistance-special circumstances method while group two abided by "equitable principles."⁷² The equitable principles group backed up their point of view by stating that when dealing with the delimitation of overlapping or shared continental shelves, all relevant circumstances must be taken into consideration, including the geographical surroundings and the geological characteristics of their respective continental shelves. Each case must be dealt with differently.⁷³ As a result, according to L.D.M. Nelson, each continental shelf case "Should be considered and judged on its own

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⁶⁸ Shigeru Oda, International Law of the Resources of the Sea (The Netherlands: Sijthoff & Noordhoff, 1979) 93.

⁶⁹ Oda, 93.

⁷⁰ Oda, 93.

⁷¹ Oda, 94.

⁷² Faraj Abdullah Ahnish, The International Law Of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 72.

⁷³ Ahnish, 72

merits, having regard to its peculiar circumstances.”⁷⁴ However, under the 1982 Convention the equidistance method (or the median line formula) is not totally disregarded; it can be used and “May be employed alone or in combination according to the areas involved.”⁷⁵

Whereas, when applying the equitable principles method to delimit continental shelves, the World Court follows a certain procedure or steps when coming up with the delimiting boundary line for a certain case. The sequence in approaching the conflict is quite specific. First, the Court must define the geographical characteristics of the region in dispute.⁷⁶ Second, the Court indicates the areas of disputes and their coast lines.⁷⁷ Third, the Court provides all the possible considerations for delimitation.⁷⁸ Fourth, based upon all the relevant geographical indications provided and all the relevant considerations made, a temporary line is drawn.⁷⁹ Finally, the Court looks at all the sides of the situation and also takes into consideration the line drawn. If the Court sees that that line drawn is based on equitable principles, which means that each state acquired its fair share of the continental shelf and the seabed underneath, then the Court keeps the line. If the line is not drawn in an equitable manner, then the Court readjusts it to satisfy all the states involved in a fair and just way avoiding prejudice.⁸⁰ Moreover, authors in this field

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⁷⁴ L .D. M. Nelson, “The Roles of Equity in the Delimitation of Maritime Boundaries.” *Jstor* 84 (Oct.,1990): 838.

⁷⁵ Faraj Abdullah Ahnish, The International Law Of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 81.

⁷⁶ Mark J. Valencia, Jon Mvan Dyke and Noel A Ludwig, Sharing the Resources of the South China Sea (Netherlands: Graham & Trotman Ltd., 1997) 50.

⁷⁷ Valencia, 50. see also Farrokh Jhabvala, Maritime Issues in the Caribbean (Miami: University Presses of Florida, 1981) 26.

⁷⁸ Valencia, 50. see also Maritime Issues in the Caribbean, 26.

⁷⁹ Valencia, 50. see also Malcolm D. Evans, Relevant Circumstances and Maritime Delimitation (Great Britain: Oxford University Press, 1989).

⁸⁰ Valencia, 50. see also Relevant Circumstances and Maritime Delimitation

stressed on the fact that equity does not mean equality.⁸¹ The objective when delimiting an area whether the continental shelf or any other maritime zone is not to divide the area(s) in an equal way, but the aim is for each party to receive its rightful share of the area concerned.⁸² Equity is not a "Matter of abstract justice,"⁸³ it is applying the rule of law where in "Itself requires the application of equitable principles."⁸⁴ Also, equity is shown differently in every case.⁸⁵ It is a "Relative justice, the achievement of which passes through the application of an equitable balancing of relevant circumstances."⁸⁶

After many negotiations to try to come up with a formula for the delimitation of continental shelves, the President of the conference decided to adopt the equitable principles method under the 1982 Convention on the Law of the Sea seeing that most states preferred that method.⁸⁷ Nelson stated that it is very difficult to abide by a "Global or general rule,"⁸⁸ like the equidistance principle. According to D.C. Kapoor, another author in this field, "It must be remembered that, while equity does not rule out equidistance, equidistance may cause inequity."⁸⁹ The equitable method, which takes into consideration principles or criteria to come up with an equitable solution,⁹⁰ gained dominance.

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⁸¹ Mahdi Zahraa, "Prospective Anglo- Scottish Maritime Boundary revisited," Electronic Resources of London School of Economics and Political Science 12. 1 (2001) : 85.

⁸² Zahraa, 86.

⁸³ Zahraa, 86. see also E.D Brown, The International Law of the Sea Volume I Introductory Manual (Great Britain: Dartmouth Publishing Company Limited, 1994) 166.

⁸⁴ Zahraa, 86.

⁸⁵ Mahdi Zahraa, "Prospective Anglo-Scottish Maritime Boundary Revisited," Electronic Resources of London School of Economics and Political Science 12. 1 (2001) : 86.

⁸⁶ Zahraa, 86.

⁸⁷ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 74.

⁸⁸ L. D. M. Nelson, "The Roles of Equity in the Delimitation of Maritime Boundaries." Jstor 84 (Oct., 1990): 857.

⁸⁹ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 27.

⁹⁰ Nelson, 858.

Case of Gulf of Paria

One of the first examples of a case dealing with the delimitation of the continental shelf and the submarine areas of the shelf is the treaty of the Gulf of Paria between the United Kingdom and Venezuela on February 26, 1942.⁹¹ It is important to deal with this case in details because an equitable result in the delimitation of the overlapping submarine areas of the Gulf of Paria was achieved, considering that at the time there were no United Nations Sea Conventions developed in order for states in dispute to follow in terms of what principles and rules to apply. It was a treaty negotiated between the King of England and the President of the United States of Venezuela concerning the submarine areas of the Gulf of Paria.⁹² The agreement was set between the two states because both Great Britain and Venezuela had individual interests in the submarine areas of the Gulf of Paria.⁹³ The agreement between England and Venezuela was based on the following articles: Article 1 defined the meaning of the submarine areas of the Gulf of Paria as being the seabed and subsoil going beyond the territorial waters of the "High Contracting Parties to one or the other side of the lines A- B, B- Y, and Y- X."⁹⁴ Article 2(1) stated that His Majesty the King will not claim control or sovereignty over certain parts in the submarine areas of the Gulf of Paria, and these parts include the areas that lie west of the line A- B and south of the lines B- Y, and Y- X.⁹⁵ The King, furthermore, recognizes the control and sovereignty of Venezuela over the submarine parts of the Gulf of Paria in

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⁹¹ M.W. Mouton, The Continental Shelf (Netherlands: Martinus Nijhoff, 1952) 1.

⁹² United Nations, United Nations Legislative Series, Laws and Regulations on the Regime of the High Seas (New York: United Nations, 1951) 44.

⁹³ United Nations, Laws and Regulations on the Regime of the High Seas, 44. and Garcia F.V. Amador, The Exploitation and Conservation of the Resources of the Sea (Netherlands: 1959) 96.

⁹⁴ United Nations, Laws and Regulations on the Regime of the High Seas, 44.

⁹⁵ United Nations, Laws and Regulations on the Regime of the High Seas, 44.

which he has no control over.⁹⁶ In article 2(2), on the other hand, the President of Venezuela stated that he will also refrain from controlling certain parts of the submarine areas of the Gulf of Paria which include: east of A- B, and north of the lines B- Y, and Y- X.⁹⁷ The Venezuelan President also recognized that the areas in which the King of England controlled was out of his control.⁹⁸ Articles 3- 5 deal with the explanation of the lines of A- B, B- Y, and Y- X. The procedure of division for the United Kingdom and Venezuela was done in an equal way, revealing that the states used the equidistance method of delimitation at the time. The division of the lines was specifically carried out using latitude and longitude lines. Furthermore, Articles 3- 5 state that the contracting parties must "Appoint a mixed Commission to take all necessary steps to demarcate the lines... by means of buoys or other visible methods."⁹⁹ Article 6 states that the articles in the treaty will not affect the waters of the Gulf of Paria or the rights of passage or "Navigation on the surface of the seas outside the territorial waters of the contracting parties."¹⁰⁰ Articles 7-8, states that the United Kingdom and Venezuela should prevent exploitation of the submarine areas claimed by them and also avoid "Pollution of the territorial waters of the other by oil, mud or any fluid or substance liable to contaminate the navigable waters."¹⁰¹ Article 8 dealt with the right of the United Kingdom and Venezuela to ask for a grant or an allowance to exploit the submarine areas in the Gulf of Paria, given that a concessionaire¹⁰² of modern equipment is there supervising "To ensure

⁹⁶ United States, United Nations Legislative Series, Laws and Regulations on the Regime of the High Seas (New York: United Nations, 1951) 44.

⁹⁷ United Nations, Laws and Regulations on the Regime of the High Seas, 44.

⁹⁸ United Nations, Laws and Regulations on the Regime of the High Seas, 44.

⁹⁹ United Nations, Laws and Regulations on the Regime of the High Seas, 45.

¹⁰⁰ United Nations, Law and Regulations on the Regime of the High Seas, 45.

¹⁰¹ United Nations, Law and Regulations on the Regime of the High Seas, 46.

¹⁰² Robert K., Barnhart, A-K World Book Dictionary, Vol One. (World Book Inc., 1996) 430.

Concessionaire: is a person to whom a concession (a grant from the government) has been granted.

that the provisions of the present treaty are complied with.”¹⁰³ Article 9, in the case of differences in the interpretation or execution by the United Kingdom and Venezuela concerning the treaty, it states that both countries will have to settle the issue by peaceful means under international law.¹⁰⁴ At the end, both Great Britain and Venezuela agreed to the terms in the treaty and a successful delimitation of the shared continental shelves and submarine areas was achieved, using the equidistance formula as the equitable method in this particular case.

Truman Proclamation

The Truman Proclamation of September 1945 concerning the continental shelf is regarded “As one of the most important documents of our epoch and it constituted a veritable customary law.”¹⁰⁵ With the Truman Proclamation and the laws and decrees issued by other states, coastal states were able to “Regulate exploitation activities...[so]...that exhaustion and conflicts will be prevented.”¹⁰⁶ As a result, the Truman Proclamation is regarded as customary international law. The significance of the Proclamation was that “It was the first general extension of seabed jurisdiction by a major maritime state”¹⁰⁷ According to James Morell, the bringing about of this document was due to pressure from interest groups in the United States such as scientists, ecologists, and oil and mining industries.¹⁰⁸ According to Josef L. Kunz, however, the bringing about of the Truman Proclamation on the continental shelf was due to primarily the “Fact that petroleum [was] highly needed, [and] that geologists [had] located great resources of

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¹⁰³ United States, United Nations Legislative Series, Law and Regulations on the Regime of the High Seas (New York: United Nations, 1951) 46.

¹⁰⁴ United Nations, Law and Regulations on the Regime of the High Seas, 46.

¹⁰⁵ M.W. Mouton, The Continental Shelf (Netherlands: Martinus Nijhoff, 1952) 275.

¹⁰⁶ Mouton, 2.

¹⁰⁷ James B. Morell, The Law Of The Sea (U.S.A.: McFarland & Company, Inc., 1992) 4.

¹⁰⁸ Morell, 4.

petroleum below the waters of the continental shelf.”¹⁰⁹ The continental shelf Proclamation concerns “U.S jurisdiction and control over the natural resources of the continental shelf contiguous to the United States.”¹¹⁰ Unlike the Gulf of Paria case, the Truman Proclamation follows the method of applying equitable principles rather than the equidistance method.

The Truman Proclamation was drawn up because the U.S wanted to determine the boundaries of its shelf between adjacent states on the basis of equitable principles, and to also have access to the waters above the continental shelf.¹¹¹ Furthermore, the President of the United States recognized the fact that there is a “World-wide need for new sources of petroleum and other minerals.”¹¹² Suspecting that these sources existed under the United States’ continental shelf, and given that the U.S. had the advanced equipment to retrieve the resources underneath the continental shelf, and also given the fact that the continental shelf was “Regarded as an extension of the land mass of the coastal nation... and since self-protection compels the coastal nation to keep close watch over activities off its shore,”¹¹³ The Proclamation clearly stated that the Government of the United States considered the resources in the subsoil and seabed of its continental shelf as being subject to U.S jurisdiction and control because the shelf is contiguous to its coast.¹¹⁴ Moreover, the President stated that if the continental shelf of the United States extends

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¹⁰⁹ Josef L. Kunz. “Continental Shelf and International Law: Confusion and Abuse.” *Jstor* 50 (Oct., 1956): 829.

¹¹⁰ Ann L. Hollick, *U.S Foreign Policy and the Law of the Sea* (New Jersey: Princeton University Press, 1981) 18.

¹¹¹ Hollick, 18.

¹¹² “Truman Proclamation On The Continental Shelf.” *Google Online*. 28 Sept. 1945. 26 Apr. 2003. see also Kunz, 829.

¹¹³ “Truman Proclamation On The Continental Shelf.” see also Kunz, 829.

¹¹⁴ “Truman Proclamation On The Continental Shelf.”

“To the shores of another States, or is shared with an adjacent State,”¹¹⁵ the method of determining a boundary line(s) would be based on equitable principles.¹¹⁶ Finally, the Proclamation stated that navigation on the waters above the continental shelf will not be affected in any way.¹¹⁷ As a result, the Truman Proclamation on the continental shelf began the “long history of coastal-state claims to offshore jurisdiction”¹¹⁸

The 1958 Convention on the Law of the Sea – the continental shelf

It is worth being aware of the definitions and articles under the 1958 and 1982 United Nations Conventions on the continental shelf. Under the 1958 Convention on the Law of the Sea, the continental shelf under article 1 of the convention is defined:

“as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent water admits of the exploitation of natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.”¹¹⁹

Article 2(1) deals with the right of the coastal state to explore and exploit the natural resources of the continental shelf.¹²⁰ Article 2(2) states that if the coastal state does not explore or exploit its continental shelf, then no other state may do so “Or make a claim to the continental shelf, without the express consent of the coastal state.”¹²¹ Article 2(4), the natural resources of the seabed and subsoil, includes the following: minerals, non-living and living organisms which “Either are immobile on or under the seabed or are unable to

¹¹⁵ “Truman Proclamation On The Continental Shelf.” [Google Online](#). 28 Sept. 1945 26 Apr. 2003.

¹¹⁶ “Truman Proclamation On The Continental Shelf.”

¹¹⁷ “Truman Proclamation On The Continental Shelf.”

¹¹⁸ Ann L. Hollick, *U.S. Foreign Policy and the Law of the Sea* (New Jersey: Princeton University Press, 1981) 19.

¹¹⁹ “Convention on the Continental Shelf.” [Google Online](#). 29 April. 1958. 26 Apr. 2003. see also D.W. Bowett, *The Law of the Sea* (U.S.A.: Manchester University Press).

¹²⁰ H.A Smith, *The Law and Custom of the Sea* (London: Stevens & Sons Limited, 1959) 271.

¹²¹ “Truman Proclamation On The Continental Shelf.”

move except in constant physical contact with the seabed or subsoil,”¹²² such as lobsters, crabs, sponges and so on.

Article 3, regardless of the rights of the coastal state over its continental shelf, the superjacent waters over the continental shelf and the airspace above the waters of the continental shelf are not affected.¹²³ In article 4, the coastal state, however, may not block or stand in the way of the “Laying or maintenance of submarine cables or pipe lines on the continental shelf.”¹²⁴ In article 5(1), furthermore, the exploration and exploitation of the continental shelf by the coastal state should neither get in the way of navigation, fishing, preservation of the living resources of the sea nor with “Other scientific research carried out with the intention of open publication.”¹²⁵ Article 5(2) states that paragraphs 1 – 6 under Article 5 deal with the right of the coastal state to construct and operate installations on the continental shelf with the purpose of exploration and exploitation of the continental shelf and its resources found underneath. Moreover, the coastal state can “Establish safety zones around such installations and devices and take in those zones measures necessary for their protection.”¹²⁶ Article 5(3) deals with the safety zones mentioned above. These zones can extend to a distance of 500 meters around the installations “Measured from each point of their outer edge.”¹²⁷ “Ships of all nationalities must respect these safety zones.”¹²⁸ In article 5(4), these installations are under the jurisdiction of the coastal state and they are not considered as islands. The installations

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¹²² “Convention on the Continental Shelf.” [Google Online](#). 29 April. 1958. 26 Apr. 2003.

¹²³ H.A. Smith, The Law and Custom of the Sea (London: Stevens & Sons Limited, 1959) 271.

¹²⁴ Smith, 271.

¹²⁵ “Convention on the Continental Shelf.” [Google Online](#). 29 April. 1958. Apr. 2003. see also The Law of the Sea, International Seabed Authority.

¹²⁶ Smith, 272. see also The Caribbean, International Seabed Authority, The Law of the Sea Compendium of Basic Documents (Jamaica: 2001).

¹²⁷ “Convention on the Continental Shelf.”

¹²⁸ Smith, 272.

have no territorial sea and do not effect the delimitation of the coastal state's territorial sea.¹²⁹ In article 5(5), the coastal state must provide prior notice concerning the construction of devices or installations on its continental shelf. Any installations which are not in use anymore must be completely removed.¹³⁰ In article 5(6), the installations and safety zones around them may not interfere with "Recognized sea lanes essential to international navigation."¹³¹ In article 5(7), the coastal state must consider the protection of the living resources of the sea from harmful agents in the safety zones.¹³² In article 5(8) research is conducted about the continental shelf of a coastal state by an authorized institution, after the consent of the state.¹³³ The research done by the institution will be based upon scientific, physical and/or biological characteristics of the continental shelf. Furthermore, the coastal state has the "Right, if it so desires, to participate or to be represented in the research and that in any event the results shall be published."¹³⁴ Article 6, under the 1958 convention on the Law of the Sea, is the most important article concerning the subject of this paper. It deals with the technique of delimitating overlapping continental shelves. Article 6(1) concerns two or more states whose coasts are opposite each other and have the same continental shelf contiguous to these states. The form of delimitation would be setting a boundary line through an agreement between the two or more states. If there is no agreement between the states, then the delimitation of the continental shelf, unless "Another boundary line is justified by special circumstances,"¹³⁵ would be the "Median line, every point of which is

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¹²⁹ "Convention on the Continental Shelf." [Google Online](#). 29 April. 1958. 26 Apr. 2003.

¹³⁰ H.A. Smith, *The Law and Custom of the Sea* (London: Stevens & Sons limited, 1959) 272.

¹³¹ Smith, 272.

¹³² "Convention on the Continental Shelf."

¹³³ D.W. Bowett, *The Law of the Sea* (U.S.A.: Manchester University Press) 89.

¹³⁴ "Convention on the Continental Shelf."

¹³⁵ "Convention on the Continental Shelf."

equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.”¹³⁶ Article 6(2) concerns the delimitation of the continental shelf adjacent to the territories of two nearby states.¹³⁷ The form of delimitation would be coming up with a boundary line based upon an agreement between the two states. In the case where there is no agreement for finding a boundary line and unless a boundary line is determined by special circumstances, then the delineating line will be given based on the equidistance principle “From the nearest points of the baselines from which the breadth of the territorial sea of each state is measured.”¹³⁸ Article 6(3), deals with cases where coastal states when delimiting their continental shelves must provide charts with geographical features of the boundary lines and with reference to “Fixed permanent identifiable points on the land.”¹³⁹ Finally, Article 7 states that all the above mentioned articles concerning the continental shelf “Shall not prejudice the right of the coastal state to exploit the subsoil by means of tunneling irrespective of the depth of water above the subsoil.”¹⁴⁰

The 1982 Convention on the Law of the Sea – the continental shelf

Several years later the new United Nations Convention on the Law of the Sea was developed. The 1982 Convention on the Law of the Sea allows “Flexibility of practice in order to ensure durability over time.”¹⁴¹

There are many similarities in the 1958 and 1982 definitions on the continental shelf.

However, more details are given in the 1982 Convention on the Law of the Sea.

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¹³⁶ “Convention on the Continental Shelf.” Google Online. 29 April. 1958. 26 Apr. 2003.

¹³⁷ “Convention on the Continental Shelf.”

¹³⁸ “Convention on the Continental Shelf.”

¹³⁹ “Convention on the Continental Shelf.”

¹⁴⁰ H.A. Smith, The Law and Custom of the Sea (London: Stevens & Sons Limited, 1959) 273.

¹⁴¹ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law Of the Sea (New York: United Nations, 1997) 1.

Concerning the definition of the continental shelf under the 1982 Convention on the Law of the Sea, Article 76 defines the continental shelf of the coastal state as:

“The seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin.”¹⁴² The continental shelf can extend to a distance “Of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.”¹⁴³ As a note the area above the continental shelf up to 200 nautical miles is also considered as the fishing zone or the exclusive economic zone. Coastal states have rights within that region to benefit from fishing.

According to M.W. Mouton the continental shelf is “Of purely geological, geographical and oceanographical origin.”¹⁴⁴ Further on, article 76(3) defines the continental margin as consisting of the prolongation of the landmass of the coastal state underneath the waters.¹⁴⁵ The continental margin also includes the seabed and subsoil of the continental shelf as well as the slope and rise of the shelf.¹⁴⁶ However, the continental margin does “Not include the deep ocean floor with its oceanic ridges or subsoil.”¹⁴⁷ Article 76 4(a), explains how to delimit the outer edge of the continental margin of the coastal state when the state wants to extend its jurisdiction over the continental shelf beyond 200 nautical miles from the baselines from which the width of the territorial sea is measured. If the coastal state decides to extend its continental shelf beyond 200 miles, it cannot exceed

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¹⁴² United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea (New York: United Nations, 1997) 49.

¹⁴³ United Nations Convention on the Law of the Sea, 49. see also The Caribbean, International Seabed Authority, The Law of the Sea Compendium of Basic Documents (Jamaica: 2001) 31.

¹⁴⁴ M.W. Mouton, The Continental Shelf (Netherlands: Martinus Nijhoff, 1952) 6.

¹⁴⁵ United Nations Convention on the Law of the Sea, 50.

¹⁴⁶ United Nations Convention on the Law of the Sea, 50.

¹⁴⁷ United Nations Convention on the Law of the Sea, 50.

350 nautical miles.¹⁴⁸ There are two ways of finding a delineating line: 4(i) suggests that one way is by finding the foot of the continental slope, then by finding areas of sedimentary rocks, then by measuring the shortest distance between the foot and the sedimentary rock which should have a thickness of at least 1% of the distance between the foot of the slope and the sedimentary rock, and finally by drawing straight lines from the points where the thickness is at least 1% and connecting those points. However, the straight lines should not exceed 60 nautical miles.¹⁴⁹ That would then be the limit of the coastal state's continental shelf. The second method to delineate the continental shelf of a coastal state is shown in 4(ii). It is simply done by drawing straight lines "To fixed points not more than 60 nautical miles from the foot of the continental slope."¹⁵⁰ In other words, when the foot of the continental slope is found, straight lines are drawn downwards from the foot where the lines should not be more than 60 nautical miles. The lines are then connected and the limit of the shelf is found. 4(b) in case a state cannot find the foot of the continental slope, then they will have to find the greatest change in gradient at its base, and that will be the foot of the slope.¹⁵¹

Article 76(5-6) deals with the fixed points that determine the outer limits of the continental shelf as defined in section 4(i) and 4(ii); these lines can reach a maximum of either 350 nautical miles from the baseline from which the width of the territorial sea is

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¹⁴⁸ United Nations, Office for Ocean Affairs and the Law of the Sea, The Law of the Sea National Legislation on the Continental Shelf (New York: United Nations, 1989) 4.

¹⁴⁹ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea (New York: United Nations, 1997) 50. see also United Nations, The Law of the Sea National Legislation on the Continental Shelf.

¹⁵⁰ United Nations Convention on the Law of the Sea, 50. see also United Nations, The Law of the Sea National legislation on the Continental Shelf.

¹⁵¹ United Nations Convention on the Law of the Sea, 50.

measured or not more than 100n miles from the 2,500 meter isobath.¹⁵² (see figure 3.2 in appendix B, figure 8.1 in appendix C, and appendix D). The coastal state, in other words, has to see where its isobath reaches 2,500 meters and from that point go no more than 100 nautical miles forward.¹⁵³ Furthermore, Article 76(7) deals with how to draw the delineating lines in section 4(i) and 4(ii) in latitude and longitude coordinates.¹⁵⁴ In article 76(8), if the coastal state's continental shelf exceeds 200 nautical miles, the state shall then report the limits of their continental shelf to the Commission on the Limits of the Continental Shelf.¹⁵⁵ On the basis of equitable, geographical representation, the Commission will make recommendations or provide guidance on the outer limit of the continental shelf.¹⁵⁶ The coastal state will then decide where the limits should be based on the suggestions given by the Commission. The limits will become final and binding at the end.¹⁵⁷ Moreover, sections 9 -10 under Article 76 state that coastal states must provide the Secretary-General of the United Nations the necessary information about their continental shelf and the outer limits of the shelf. The Secretary-General will then publicize the given information. Furthermore, there will be no "Prejudice to the question of the delimitation of the continental shelf between states with opposite or adjacent coasts."¹⁵⁸

Article 77 deals with the rights of the coastal state over the continental shelf, which was similarly defined in the 1958 convention. Article 77(1) states that the coastal state has

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¹⁵² United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea, 50. see also Robert K. Barnhart, The World Book Dictionary. Vol. One A-K. (U.S.A.: World Book Inc., 1996) 1118. **Isobath = depth below the surface of a body of water.**

¹⁵³ United Nations Convention on the Law of the Sea, 50.

¹⁵⁴ United Nations Convention on the Law of the Sea, 50.

¹⁵⁵ United Nations Convention on the Law of the Sea, 50.

¹⁵⁶ United Nations Convention on the Law of the Sea, 50.

¹⁵⁷ United Nations Convention on the Law of the Sea, 50.

¹⁵⁸ United Nations Convention on the Law of the Sea, 50.

the right to explore its continental shelf and exploit its natural resources.¹⁵⁹ Paragraph 2 under Article 77 deals with the case of a coastal state that does not want to explore its continental shelf nor exploit the natural resources underneath the shelf. If that happens then no other state may explore or exploit a coastal state's continental shelf without the consent of the coastal state.¹⁶⁰ In article 77(3), "The rights of the coastal state over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation."¹⁶¹ Therefore, article 77(3) means that a state cannot claim a continental shelf by occupation or by *res nullius*. In article 77(4), the natural resources of the continental shelf include minerals, non-living and living organisms which could be mobile or immobile in the seabed and subsoil.¹⁶²

Article 78(1-2) states that the rights of the coastal state will not affect the overlaying waters of its continental shelf and the airspace above those waters. As a result, the coastal state has no right to interfere "With navigation and other rights and freedoms of other states as provided for in this convention."¹⁶³ In article 79, any state has the right to lay submarine cables and pipelines on the continental shelf given the states abide by the following provisions. Paragraph 2 of Article 79 states that the coastal state may not stand in the way of "The laying or maintenance of such cables or pipelines,"¹⁶⁴ even though the coastal state has the right to explore its shelf and exploit its natural resources. Moreover, the coastal state has the right and the responsibility to prevent, reduce, and control the

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¹⁵⁹ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea, (New York: United Nations, 1997) 51.

¹⁶⁰ United Nations Convention on the Law of the Sea, 51.

¹⁶¹ United Nations Convention on the Law of the Sea, 51.

¹⁶² United Nations Convention on the Law of the Sea, 51.

¹⁶³ United Nations Convention on the Law of the Sea, 51.

¹⁶⁴ United Nations Convention on the Law of the Sea, 51.

pollution from the pipelines.¹⁶⁵ In paragraph 3, the coastal state must be informed and in agreement concerning the issue of delineation for the laying of the pipelines on the continental shelf.¹⁶⁶ Also, the coastal state has the right to state its own conditions for the cables and pipelines "Entering its territory or territorial sea,"¹⁶⁷ and the right to establish its control over the cables and pipelines which are "Used in connection with exploration of its continental shelf or exploitation of its resources."¹⁶⁸ In article 79(5), once the cables and pipelines, are set on the continental shelf, all states will be notified concerning the positioning of the submarine cables and pipelines. In addition, when there is a need to repair the cables and pipelines states will also be given notice.¹⁶⁹ Article 80 concerns artificial islands which is not relevant here. In article 81, the coastal state has the full right to "Authorize and regulate drilling on the continental shelf for all purposes."¹⁷⁰ In article 82, coastal states must make payments in either money or contributions of any kind when dealing with the exploitation of the non- living resources (minerals) of the continental shelf beyond 200 nautical miles from the baselines from which the width of the territorial sea is measured.¹⁷¹ In article 82(2) during the first five years of production at the site, the payments or contributions will be done yearly. During the sixth year "The rate of payment or contribution shall be 1 per cent of the value or volume of the production site."¹⁷² The rate (of payment or contribution) will then increase by 1 per cent each year until the twelfth year. After the twelfth year the rate will be set to 7 per cent

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¹⁶⁵ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea (New York: United Nations, 1997) 51.

¹⁶⁶ United Nations Convention on the Law of the Sea, 51.

¹⁶⁷ United Nations Convention on the Law of the Sea, 51.

¹⁶⁸ United Nations Convention on the Law of the Sea, 51.

¹⁶⁹ United Nations Convention on the Law of the Sea, 51.

¹⁷⁰ United Nations Convention on the Law of the Sea, 52.

¹⁷¹ United Nations Convention on the Law of the Sea, 52.

¹⁷² United Nations Convention on the Law of the Sea, 52.

and it will continue on that rate.¹⁷³ As a note, the production referred to here does not consist of the resources exploited by a state for its personal use.¹⁷⁴ Paragraph 3 states that the only countries that are excused from the payments and contributions are the developing states. Paragraph 4 deals with the requirement of payments and contributions to be made through the International Seabed Authority, where they will be in charge of distributing the payments and contributions equally to States Parties to this Convention – they call this “Equitable sharing criteria.”¹⁷⁵ However, the Seabed Authority will pay special attention to the less developed states “Taking into account the interests and needs of the developing states.”¹⁷⁶

Finally, one of the most important parts dealing with the section on the continental shelf under the 1982 Convention on the Law of the Sea is Article 83. This article deals with the delimitation of the continental shelf between states with opposite or adjacent coasts. In article 83(1), states that are opposite or are adjacent to each other and have overlapping continental shelves will delimit the shelf “Referred to Article 38 of the Statue of the International Court of Justice,”¹⁷⁷ to come up with an equitable solution.¹⁷⁸ Article 38 states that the Chamber shall apply:

“(a) the rules, regulations and procedures of the Authority adopted in accordance with this Convention; and
(b) the terms of contracts concerning activities in the Area in matters relating to those contracts.”¹⁷⁹

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¹⁷³ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea (New York: United Nations, 1997) 52.

¹⁷⁴ United Nations Convention on the Law of the Sea, 52.

¹⁷⁵ United Nations Convention on the Law of the Sea, 52.

¹⁷⁶ United Nations Convention on the Law of the Sea, 52.

¹⁷⁷ United Nations Convention on the Law of the Sea, 52.

¹⁷⁸ United Nations Convention on the Law of the Sea, 52.

¹⁷⁹ United Nations Convention on the Law of the Sea, 185.

In paragraph 2, in case the two or more states cannot reach an agreement given a certain period of time, then the states must refer to PART XV of the Law of the Sea Convention, which is a section on the settlement of disputes.¹⁸⁰ In article 83(3), coastal states that form an agreement based on paragraph 1 of this article will have to try to be understanding and cooperative in order to successfully be able to "Enter into provisional arrangements,"¹⁸¹ and further on "Not to jeopardize or hamper the reaching of the final agreement."¹⁸² Moreover, states that decide to form an agreement relating to the delimitation of their continental shelves will be made "In accordance with the provisions of that agreement."¹⁸³

The issue of delimiting overlapping continental shelves is an important subject for coastal states especially because of the useful resources found underneath the continental shelf in the seabed and subsoil. Under maritime law, there are several delineating methods commonly used in the settlement of disputes where in this particular case; delimiting shared continental shelves between opposite and adjacent states. One of these methods is applying the equidistance special-circumstances method, which is drawing a median line equidistant from the nearest points of the baselines from which the width of the territorial sea of each state is measured and also taking into account the "special circumstances" within the area of delimitation. The other method is applying equitable principles while taking into consideration relevant characteristics of the area to be delimited. Another option for delimiting overlapping continental shelves is considering principles under customary international law. The settlement of dispute can be done

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¹⁸⁰ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, United Nations Convention on the Law of the Sea (New York: United Nations, 1997) 52.

¹⁸¹ United Nations Convention on the Law of the Sea, 52.

¹⁸² United Nations Convention on the Law of the Sea, 52.

¹⁸³ United Nations Convention on the Law of the Sea, 53.

through state practice (state agreements), or through the World Court, or through the International Tribunal for the Law of the Sea, or through an arbitration Court.¹⁸⁴

As a result, in this work three cases will be presented concerning the delimitation of overlapping continental shelves. The first case is the Aegean dispute between Greece and Turkey, concerning the delimitation of their overlapping continental shelves in the Aegean Sea area. No solution has been found to date, however, there are many possible solutions to this conflict that may lead to an equitable result. A possible resolution for the Aegean case is a joint development zone, (JDZ). The Anglo-French Arbitration case of 1977 which deals with the delimitation of shared continental shelves between Great Britain and France based on the equidistance special- circumstances method is the second case considered in this paper. A just and fair result was achieved in the English Channel area. Finally, the third continental shelf case illustrated in this work is the Tunisia-Libya (1982) case, where an equitable solution was also reached. In the Tunisia-Libya case, states are adjacent to one another and the equitable principles method was applied as the method of delimitation. Relevant circumstances within the area were also taken into consideration for a successful delimitation.

The subject of the delimitation of continental shelves is complex and controversial. Besides the geographical and geological characteristics of continental shelves, there are also political, strategic, nationalistic, and historical factors that add to the complexities of the subject, and make the resolution of its cases by purely judicial means difficult.

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¹⁸⁴ Ayesha, Dias, Annual Review of United Nations Affairs Volume IV (New York, Oceana Publications Inc., 2000) 262.

There is no accurate yardstick to determine the choice of method used by judicial bodies for fixing continental shelf boundaries. However, evidence has shown that there are certain factors that allow judges to prefer one method over the other. In this work, some of these conditions have been identified as follows: first, Judges determine whether the states in dispute have signed the 1958 Convention on the Law of the Sea. If this is determined, then the application of the rules of that Convention become mandatory. Second, if the states in conflict are both parties to the 1982 Convention on the Law of the Sea, then applying equitable principles and relevant characteristics are taken into account when a boundary line is being fixed. On the other hand, when the parties in dispute have signed neither the 1958 nor the 1982 Law of the Sea Conventions, then judicial bodies revert to general customary law which is applying equitable principles and taking into account relevant circumstances.

There will, however, always be certain variables or factors that cannot be assessed and controlled to allow a strict application of either method. This explains the fact that a number of cases involving continental shelves are still unresolved.

CHAPTER TWO

The Aegean Dispute Case

Homer once described the Aegean in one of his writings as, "Calm as a slumbering babe,"¹ however, underneath its waters lies great conflict. Since their existence Turkey and Greece have endured many differences, whether culturally or religiously. However, our specific concern here is the Aegean dispute, which started in 1973 and is looked upon as a political issue, a geographical issue, a security issue, and an issue of national pride. It is one of the most complex cases concerning the law of the sea, where still today no resolution has been found. The reason behind why no solution has been found in the Aegean dispute case is multifaceted. One major cause is the political tensions which affect the coming up of a resolution, negotiations and/or an agreement. Turkey, in this situation, is the party that insists on solving the conflict based on political negotiations whereas Greece demands to solve the situation through legal means like going to the World Court. Turkey is hoping to get a larger share of the continental shelf that is initially not hers in order to benefit economically by, for example, acquiring new oil deposits found underneath the Aegean continental shelf. Turkey plans to do so through direct negotiations with Greece (state agreement) and not as mentioned above through the World Court.

As a geographical overview, the Aegean area is described as a "Semi-enclosed sea of the Mediterranean basin" of 70,000 sq.m.² There are the Cretan Islands in the southern part of the Aegean, the coast of Turkey in the east and the Greek coast in the

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¹ Andrew Borowiec, *The Mediterranean Feud* (New York: Praeger Publishers, 1983) 26.

² Faraj Abdullah Ahnish, *The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea* (New York: Oxford University Press Inc., 1993) 356.

west and north.³ There are around 3000 islands (mostly Greek islands) in the basin where the majority of the islands are lined up like in a chain.⁴ Furthermore, there are the Greek islands that are lined up near the coast of Turkey which are also considered as part of the Aegean dispute. According to the author Faraj Abdullah Ahnish the islands are "One of the most difficult factors in maritime delimitation."⁵

The geo-political dispute between Greece and Turkey involves several conflicts concerning the Aegean area where the disputes are separate yet linked together. The Aegean dispute is composed of the following issues: concerns regarding the rights over the Aegean continental shelf, the limits of the territorial sea by each state, the military and civil air traffic control over the Aegean and the remilitarization of the Greek islands near the coast of Turkey, "Whose demilitarization was ordered by the Treaties of Lausanne and Paris."⁶ To add to the complexity of the situation, Greece signed the 1958 Convention on the Continental Shelf whereas Turkey is not a signatory to the convention, due to the fact that Turkey does not agree with the convention's definition of rights provided for archipelagic states.⁷ Greece, on the other hand, abides by the articles set in the 1958 Convention including the definition of the continental shelf, the rights of the coastal state over the continental shelf, exploration and exploitation of the shelf, and the construction of safety zones in the area where the state plans to explore. Most important of all, Greece accepts the form of delimitation of maritime zones which is the equidistance special-circumstances method.⁸ Turkey, for its part, disagrees with the

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³ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 356.

⁴ Ahnish, 356.

⁵ Ahnish, 296.

⁶ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 2.

⁷ Wilson, 4.

⁸ Wilson, 4.

equidistance special-circumstances method and, therefore, has adopted a definition of its own of the Aegean continental shelf as "The natural prolongation of Anatolian islands."⁹ If the Turkish definition is followed, then that would mean that Turkey's continental shelf would extend towards the Greek islands in the west which are near the coast of Turkey and it would also give Turkey the access to explore and exploit the seabed around those Greek islands.¹⁰

The actual development of the dispute concerning the continental shelf began on November 1, 1973.¹¹ This date revealed the first time Turkey permitted the Turkish State petroleum company (TPAO) rights to explore the Eastern part of the Aegean.¹² Furthermore, Turkey permitted itself on the same day to publish in the "Turkish Gazette" the limiting line of the Turkish continental shelf. Given the information on the map, the limits of the shelf were placed west of the Greek islands of Samothrace, Lemnos, Aghios, Efstratios, Lesbos, Chios, Psara, and Antipsara.¹³ The above mentioned islands are Greek-claimed areas that overlap the Greek continental shelf and also clash with a region where Greek authorities have already provided licenses to foreign companies for exploration purposes.¹⁴ As a result, Greece opposed Turkey's announcement. When Turkey proposed to negotiate, Greece accepted on condition that the rules set under the 1958 Geneva Convention are applied.¹⁵ Three days later Turkey sent a survey ship named the "Candarli" to conduct magneto metric studies¹⁶ in the Aegean with the

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⁹ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 5.

¹⁰ Wilson, 5.

¹¹ Wilson, 5.

¹² Wilson, 5.

¹³ Wilson, 5 – 6.

¹⁴ Wilson, 6.

¹⁵ Wilson, 6.

¹⁶ Robert K. Barnhart, World Book Dictionary. Vol Two L-Z. (U.S.A.: World Book Inc., 1996) 1254. **A magneto metric study is: the process of measuring magnetic forces with a magnetometer.**

intention of oil-drilling.¹⁷ According to the Turkish Minister of Power the studies done were for the purpose of oil drilling on the Turkish continental shelf. However, upon entering the area, the survey ship was escorted with thirty-two Turkish Navy warships and spent six days of mineral exploration.¹⁸ Even though Greece was angered and sent a formal complaint to Turkey, Turkey refused it and continued by giving out exploration licenses to explore further to the west and south of the Aegean near the Dodecanese Greek islands.¹⁹ In parallel to the Aegean continental shelf dispute, conflicts between Greece and Turkey erupted in Cyprus, causing more political factors to pile up between the two states.²⁰

On January 27, Greece proposed to Turkey to take the Aegean continental shelf issue to the International Court of Justice, (World Court).²¹ The Turkish Prime Minister at the time Professor Sadi Irmak agreed to the proposal but was attacked by the Turkish Opposition leader, Mr. Ecevit.²² Given the following information, one can deduce that there was another factor delaying the coming up with a resolution and that was the unstable political situation within Turkey. Therefore with the different political groups in Turkey and with their different point of views, coming up with a resolution over the Aegean dispute was very difficult.

However, regardless of Mr. Ecevit's opposition, Turkey accepted to go to the ICJ with Greece on February 6 1975.²³ Unfortunately, before Turkey was able to go to the ICJ with Greece, Mr. Irmak was replaced by the Justice Party Leader, Mr. Suleyman

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¹⁷ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 6. see also "Aegean Sea Continental Shelf Case," International Court of Justice, 62 (1978) : 4-45.

¹⁸ Wilson, 6.

¹⁹ Wilson, 6.

²⁰ Wilson, 7.

²¹ Wilson, 7.

²² Wilson, 7.

²³ Wilson, 7.

Dermirel.²⁴ He, on the other hand, proposed that the dispute over the Aegean continental shelf should be settled through negotiations and not through the ICJ. The Turks, as of today, still prefer to settle the conflict with Greece over the Aegean through bilateral negotiations in accordance with rules of international law.²⁵ Regardless of "Turkey's preference for a political rather than a legal settlement,"²⁶ Turkey's foreign Minister, Mr. Ihsan Sabri Caglayangil, took the initiative and met with the Greek Foreign Minister, Mr. Dimitrios Bitsios, in Rome on May 19th with the intention to reach a "Compromise for joint submission of the Aegean question [at] the International Court."²⁷ Furthermore, this led the Greek Prime minister, Mr. Karamanlis and the Turkish prime Minister, Mr. Demirel, to meet at the NATO summit in Brussels to speed the process of finding a resolution.²⁸ To make sure that Turkey kept its word this time "Greece cited the Joint Communiqué as evidence to the International Court of Justice that Turkey had agreed to submit to the latter's adjudication."²⁹ In the communiqué, the two Prime Ministers stated that they were both in agreement concerning the tense situation between the two countries, that the conflict should be resolved through peaceful negotiations, and that the dispute over the Aegean continental shelf should be specifically resolved through the International Court at The Hague.³⁰

At the beginning after issuing the communiqué both governments cooperated and met up on a regular basis. However, in June 1975, tensions broke out once again when a

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²⁴ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 7.

²⁵ Theodore C. Kariotis, Greece and the Law of the Sea (The Hague: Kluwer Law International, 1997) 94.

²⁶ Wilson, 7.

²⁷ Wilson, 7.

²⁸ Wilson, 7.

²⁹ Wilson, 7.

³⁰ Wilson, 7.

Canadian hydrographic vessel³¹ named *Goel I* entered Izmir with the mission to explore for mineral deposits near Greek territorial waters.³² The mission was conducted by an American company called The Dorchester Gas Corporation. This mission disturbed the Greeks because on board the vessel Turkish experts were involved in the exploration.³³ Moreover, Turkey then set up a military command on the island of Izmir calling it "The Army of the Aegean," supposedly to protect the Anatolian coast.³⁴ According to international law both Greece and Turkey have the right to explore their own continental shelf, but the problem was and still is that both states claim "The same area of the Aegean as their seabed."³⁵

In September, the Turkish Prime Minister, Mr. Demirel, and his government were attacked by the Turkish Opposition group who believed that Greece wanted to hurry up the process to go to the ICJ.³⁶ Furthermore, the Opposition group argued that Turkey has the right to "[Create] Turkey's legitimate rights to the Aegean seabed."³⁷ While Turkey was looking at the situation from all angles to try to find a possible way to resolve and delimit the continental shelf without going to Court, Greece, on the other hand, had a different perspective. Greece took into account the fact that political tensions existed between the two unfriendly neighbors and that solving the problem together is not likely. Greece, therefore, strongly considered a neutral party or a third party like the ICJ to help both states come up with an equitable solution. Moreover, a resolution coming from

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³¹ The New Merriam-Webster Dictionary (Massachusetts: Merriam – Webster Inc., 1989) 362. A

hydrographic vessel is: a vessel equipped with materials used to study and describe bodies of water

³² Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 7.

³³ Wilson, 7.

³⁴ Wilson, 7. see also Andrew Borowiec, The Mediterranean Feud (New York: Praeger Publishers, 1983) 28.

³⁵ Borowiec, 28.

³⁶ Wilson, 7.

³⁷ Wilson, 7.

neither Greece nor Turkey "Would encounter less opposition from Greek public than a negotiated one."³⁸

Once again in 1976 Mr. Ecevit, the leader of the Turkish Opposition group, accused Mr. Demirel, the Turkish Justice Party leader, of allowing the negotiations between Greece and Turkey to go against Turkey's national interest concerning the Aegean continental shelf.³⁹ Therefore, to prove that Turkey had claims to the continental shelf, the Turkish government sent the *Hora ship* later named *Sizmik I* to check for oil near Thasos, a Greek-claimed island where Greece three years ago had already discovered oil.⁴⁰ The Turks managed successfully to delay the process of resolving the issue by entering the disputed area and exploring the continental shelf of the Greek island of Thasos. Even though Greece warned Turkey that it would be unsafe if the vessel entered Greek-claimed areas, Turkey still continued its quest and notified Greece that "She would be forced to retaliate."⁴¹ As a result, Turkey's move into the Greek region "Raised the level of the Aegean dispute and accelerated legal and political developments."⁴²

On August 10, 1976 Greece demanded a meeting of the Security Council on the basis that Turkey is constantly violating "Greek sovereign rights in the Aegean continental shelf,"⁴³ and causing danger to peace and security. The Greek representatives at the Security Council asked the members to demand from Turkey to stop its "provocative acts,"⁴⁴ like insisting on exploring the Greek continental shelf and to stop

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³⁸ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 7.

³⁹ Wilson, 7.

⁴⁰ Wilson, 7 - 8.

⁴¹ Wilson, 8.

⁴² Wilson, 8.

⁴³ Wilson, 8.

⁴⁴ Wilson, 8.

naval and air convoy to the Turkish vessel.⁴⁵ Greece also reminded Turkey, of its agreement to go to the ICJ, which was not fulfilled. Turkey, on the other hand, responded to the Greek accusations by arguing that since there is no agreement on the delimitation of the continental shelf, then it did not violate any Greek claim. Furthermore, Turkey continued its point that the research vessel *Sizmik I* conducted research outside Greek territorial waters in an area where the continental shelf was not limited.⁴⁶ Moreover, Turkey confessed that during its exploration it was hassled by the Greek Navy and Air force.⁴⁷ Turkey also stated that Greece went against the treaties of Lausanne and Paris by using its military in the East Aegean islands (these islands are the Dodecanese islands which are twelve in all).⁴⁸ Turkey believed and still does that it has the full sovereign rights to its continental shelf which is the "Natural prolongation of the Anatolian land."⁴⁹ As a result, Turkey turned the sides around and continued its accusations against Greece. At the Security Council, Turkey mentioned that Greece too sent its own vessel, called the *Nautilus*, to conduct similar researches like the *Sizmik I* in a nearby region.⁵⁰ Therefore, Turkey suggested to the Security Council to ask Greece to join her into discussing several important factors related to the Aegean conflict to include: 1. the Greek violations of the treaty concerning the demilitarization of the Greek islands near the coast of Turkey.⁵¹ 2. The Turk's pointed out that it did not disregard taking the issue to the ICJ, however, it wanted to deal first with the conflict through

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⁴⁵ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 8.

⁴⁶ Wilson, 8.

⁴⁷ Wilson, 8.

⁴⁸ Wilson, 8. see also Andrew Borowiec, *The Mediterranean Feud* (New York: Praeger Publishers, 1983) 27.

⁴⁹ Wilson, 8.

⁵⁰ Wilson, 8.

⁵¹ Wilson, 9.

bilateral negotiations with the hope of reaching an agreement. The parts that could not be resolved through bilateral negotiations could be then taken to the Court.⁵²

3. The Turk's issue is that they are not a signatory of neither the 1958 Convention on the Law of the Sea nor the 1982 Convention on the Law of the Sea. Therefore, Turkey believed that the 1958 Convention on the Law of the Sea cannot be applied to the Aegean conflict even though the Aegean area has a special shape which makes it a special case,⁵³ where the equidistance special – circumstances method may be applied. 4. The Turkish point of view that the purpose of the mission of *Sismik I* was to collect specific scientific data to be used during negotiations with Greece. Moreover, Turkey stated that it always informed the Greek authorities about their voyages.⁵⁴

The Security Council listened to both the Greek and Turkish arguments concerning the Aegean continental shelf, however, the Security Council did not take any sides. Instead, the Council adopted Resolution 395, which dealt with placing criteria for finding a peaceful resolution.⁵⁵ (See Appendix H). The two most significant paragraphs in the resolution are paragraphs 3 and 4. Paragraph 3 demanded from both the Greek and Turkish governments to cooperate by having direct negotiations in order to come up with fair and just solutions.⁵⁶ Paragraph 4 stated that the Security Council advised them to take any issue not yet resolved to the ICJ in order to settle any differences through the use of legal methods.⁵⁷ Unfortunately, the resolution was considered as "Indefinite and unsatisfactory...[however it took] ...some steam out of the dispute."⁵⁸ As a result,

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⁵² Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltds, Bartholomew Press, 1979) 9.

⁵³ Wilson, 9.

⁵⁴ Wilson, 9.

⁵⁵ Wilson, 9.

⁵⁶ Wilson, 9.

⁵⁷ Wilson, 9.

⁵⁸ Wilson, 9.

Greece appealed to the ICJ with two major points to be considered. The first point dealt with the delimitation of the continental shelf between Greece and Turkey and the right to explore and exploit the seabed underneath the shelf.⁵⁹ The second point concerned Greece's demand from the Court to intervene as a means for measures of protection – an interim. Also, Greece asked the Court to help both countries avoid conducting any form of explorations whether scientific explorations or personal benefits concerning the areas of the continental shelf where Turkey has handed out licenses for explorations to be done.⁶⁰ Moreover, the use of military action must be stopped.⁶¹ Furthermore, the reasons why Greece asked for an intervention for protection was because Greece considered Turkey's actions for handing out licenses on behalf of the Turkish State Petroleum Co., and the *Sizmik I* explorations are all acts of prejudice to "Greece's right of exclusivity of knowledge about her continental shelf."⁶² Greece wanted the Court to take this point into consideration for future judgment on the case.⁶³

On the other hand, Turkey did not agree with the above accusations. Turkey stated that it did not discriminate any of Greece's rights in the conflicted areas, and if it did, the Turkish government was willing to pay compensation.⁶⁴ However, the Court refused Greece's request to intervene for its protections because the Court could not find valid reasons of "permanent prejudice" done on behalf of Turkey and, furthermore, it could not come up with reasons to exercise its power.⁶⁵ As a result, Greece's request for the Court to intervene between the two states opened up another factor to be added in the

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⁵⁹ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 9. see also "Aegean Sea Continental Shelf Case" *International Court of Justice* 62 (1978) : 7.

⁶⁰ Wilson, 9. see also "Aegean Sea Continental Shelf Case" *International Court of Justice* 62 (1978) : 7.

⁶¹ Wilson, 9.

⁶² Wilson, 9.

⁶³ Wilson, 9.

⁶⁴ Wilson, 9.

⁶⁵ Wilson, 9.

Aegean issue and it concerns the Court's jurisdiction in the case. As a legal body, the Court as a general rule is dependent "On the consent of the parties."⁶⁶ Therefore, in the Aegean case, Greece contended that the signing of the General Act of the Pacific Settlement of Disputes in 1928 by both Greece and Turkey verifies that the General Act allows the Court the right under Article 37 of its Statute "The function of a former Permanent Court of International Justice."⁶⁷ In addition, Greece stated that the Joint Communiqué where both the Greek and Turkish Prime Ministers agreed on in May of 1975 included Turkey's promise to Greece to settle the conflict through the World Court, which it has not until this very day. Furthermore, Greece and Turkey have agreed to the statements under article 17 of the General Act which declares that all conflicts where the parties are not in agreement with shall submit their disputes to "The jurisdiction of the Permanent Court,"⁶⁸ or by settling the dispute through arbitration.⁶⁹

On the other hand, Turkey's reaction to Greece's statements annulled the General Act. The reason is because Greece made reservations to it.⁷⁰ The reservation dealt with the section on the territorial status of Greece. Greece had conflicts with Bulgaria concerning its rights over its ports and its lines of communications.⁷¹ However, Turkey misinterpreted the reservation made on behalf of Greece. Greece's reservation was intended for Bulgaria since at the time they were in dispute over land territory.⁷²

Concerning the point about the joint communiqué and the reason why Turkey did not go to The Hague is because Turkey believed that since the two states could not come up with

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⁶⁶ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 10.

⁶⁷ Wilson, 10.

⁶⁸ Wilson, 10.

⁶⁹ Wilson, 10.

⁷⁰ Wilson, 10.

⁷¹ Wilson, 10.

⁷² Wilson, 10.

statements that exactly explained and defined their dispute, then going to Court and reaching an agreement would not be possible. Therefore, Turkey believed that political negotiations must be the starting point before going to the World Court.⁷³ However, in January 1979 the decision came out stating that the Court lacked the legal power over the Aegean Sea continental shelf. As a result, this left limited options for a resolution to include "Non- judicial arbitration, which has yet to be explored."⁷⁴

Attempts at a solution once again, began in November 11th 1976, when Greek and Turkish experts in the field of continental shelves met in Berne and after several days both Greece and Turkey signed the Berne declaration.⁷⁵ The Berne Declaration dealt with "A code of behavior to govern future negotiations on the continental shelf."⁷⁶ It consisted of ten points to help both countries come up with a solution in delimiting their shared continental shelf. The points in the Berne Declaration included the following: First, both states must agree that the negotiation process should be based on honesty and that the purpose of the negotiations was "Reaching an agreement based on mutual consent."⁷⁷ Second, both Greece and Turkey must keep the negotiations confidential.⁷⁸ Third, both parties must hold back their personal point of views concerning the delimitation of the Aegean continental shelf.⁷⁹ The fourth and fifth points stated that Greece and Turkey must not share details of this agreement nor the suggestions made from each side to anyone outside the negotiation

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⁷³ Andrew Wilson. *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 10.

⁷⁴ Wilson, 10.

⁷⁵ Wilson, 10.

⁷⁶ Wilson, 10.

⁷⁷ "The Berne Declaration." *Google Online*. 1 May 2003.

http://www.greekturkishforum.org/h79_1.htm

⁷⁸ "The Berne Declaration,"

⁷⁹ "The Berne Declaration."

environment.⁸⁰ There should be no leakage of information concerning the negotiations and agreements to the press unless both states agree to do so.⁸¹

Points six and seven concerned the continental shelf, where both states must refrain from saying anything that might prejudice the negotiations.⁸² In point eight, both states agreed to "Study state practice and international rules on the subject,"⁸³ of delimitation of overlapping continental shelves. In point nine, Greece and Turkey both agreed to set up a mixed commission consisting of national representatives.⁸⁴ Finally, both states were in agreement to "Adopt a gradual approach in the course of the negotiations ahead after consulting each other."⁸⁵ For a short period of time the Berne Declaration was considered as a framework for bilateral discussions.⁸⁶ However, when Greece asked the Court at The Hague to intervene to suggest various ways or methods to delimit the continental shelf using rules of international law, the relations between Turkey and Greece once again became tense. To Greece's dismay the Court refused to intervene, but it also refused Turkey's request to remove the case completely from its list.⁸⁷ The Berne agreement was supposed to open the path for bilateral meetings; it instead created "A mixed reaction in Turkey."⁸⁸ According to the Turkish Foreign Minister the agreement triggered negotiations between the two states and both Greece and Turkey were able to express "Their political will to find a solution through negotiations."⁸⁹ Greece and Turkey, though, continued to try to come up with a formula. However, Turkey hopes to

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⁸⁰ "The Berne Declaration." [Google Online](#). 1 May 2003.

⁸¹ "The Berne Declaration."

⁸² "The Berne Declaration."

⁸³ "The Berne Declaration."

⁸⁴ "The Berne Declaration."

⁸⁵ "The Berne Declaration."

⁸⁶ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 11.

⁸⁷ Wilson, 13.

⁸⁸ Wilson, 13.

⁸⁹ Wilson, 13.

receive some of its requested areas on the Aegean continental shelf while still
 "Preserving the Greek position with regard to the islands,"⁹⁰ especially since these islands
 "Form a political continuity with the Greek mainland."⁹¹
 Greece had many doubts concerning Turkish claim to areas of the continental shelf
 because of the possibility that Turkey might control the areas of waters above the
 continental shelf and the air space above those waters.⁹²

Possible Methods of Delimitation

While Turkey and Greece worked on possible delimiting solutions, Turkey still
 feared that the Aegean will become mainly Greek sea and it will not have any navigation
 rights. Also, at the time of the Aegean dispute, Turkey joined the West as a first step of
 modernizing itself, with the hope of becoming a member of the European Union.
 Therefore, Turkey's national pride put it in a position where it would feel embarrassed to
 have access to the ports in the Aegean Sea only through Greek waters.⁹³
 As a result, two ways of delimiting the shared continental shelf was suggested at the time.
 The first method proposed a joint regime agreement between Greece and Turkey in the
 conflicting area of the Aegean continental shelf.⁹⁴ This formula suggested limiting
 Greece's and Turkey's rights to the continental shelf "To an area contiguous with the
 territorial sea limit."⁹⁵ In other words, the limit of the continental shelf of each state
 would be 6 nautical miles since both Greece's and Turkey's territorial sea limits are 6
 nautical miles from their baselines. Therefore, the remaining areas of the seabed

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⁹⁰ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 13.

⁹¹ Wilson, 13.

⁹² Wilson, 13.

⁹³ Wilson, 14.

⁹⁴ Wilson, 14.

⁹⁵ Wilson, 14.

underneath the continental shelf would be shared by both Greece and Turkey as a joint zone. Therefore, both states would be able to explore and exploit the remaining seabed areas.⁹⁶ Moreover, the remaining seabed areas could also be used by a joint international company to explore and exploit the area or exploration and exploitation could be done by national companies where the state and the national company could work together under joint authority.⁹⁷ According to the author Andrew Wilson this method could be a great compromise. One reason was due to the fact that Greece would not have the problem of "Enclaving of the Greek islands," while Turkey would not worry about the "Hellenization"⁹⁸ of the continental shelf.⁹⁹ Turkey, unlike Greece, preferred the joint regime compromise as a way of resolving the Aegean dispute. Greece rejected this model of delimitation because it believed that the joint regime arrangement would be difficult to connect to legal rules and principles which may cause conflicts in the long run.¹⁰⁰

The second method called "Maritime façade"¹⁰¹ dealt with coming up with a compromise for a delineating line for the overlapping Aegean continental shelf. The maritime façade method suggested that states that face one another, as in the case here, can have overlapping continental shelves where they can be delimited in an equal and proportional way. If an equal and proportional delimitation is done between Greece and Turkey, then Turkey by this method would receive a larger area of the continental shelf more than she initially claims.¹⁰² Also, with this formula, Turkey would be able to get

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⁹⁶ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 14.

⁹⁷ Wilson, 14.

⁹⁸ Hellenization: referring to Greek influence.

⁹⁹ Wilson, 14.

¹⁰⁰ Wilson, 14.

¹⁰¹ **Maritime Façade:** A maritime façade means the front part of the coastal state facing the sea.

¹⁰² Wilson, 14.

rights to “fingers” of the continental shelf, extending westwards between the Greek islands without affecting the sovereignty of the islands and the Greek coast.¹⁰³

According to Turkish experts, it would seem that Turkey would be receiving half of the continental shelf but in truth Turkey would be receiving only 8% of the Aegean shelf.¹⁰⁴ Turkey did not accept this mathematical formula.

However, another formula which was a mixture or a fusion of the above mentioned methods was recommended. This type of procedure is called the “Bay of Maine” formula. It was named after the resolution of the continental shelf conflict between the United States and Canada in the Bay of Maine area.¹⁰⁵ If applied to the Aegean continental shelf, the Bay of Maine formula would mean that the Aegean shelf would be delimited according to the 1958 Convention, which follows the equidistance special – circumstances method, but exploration and exploitation outside Greece and Turkey’s territorial sea limits of 6 miles would be conducted by companies or organizations given that they get licenses by the state.¹⁰⁶ Furthermore, there would be a Joint Authority between the states and the designated companies, where at the end of each year the exploited materials, such as oil and minerals would be shared using a certain formula “Reflecting each state’s claim on the area’s resources.”¹⁰⁷ Using this method, there would be an equal distribution of economic resources without disturbing Greece’s political continuity over its islands.¹⁰⁸ However, this formula neglects an

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¹⁰³ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 14.

¹⁰⁴ Wilson, 14.

¹⁰⁵ Wilson, 14.

¹⁰⁶ Wilson, 14.

¹⁰⁷ Wilson, 14.

¹⁰⁸ Wilson, 14.

important point concerning Turkey, which is sovereignty over certain areas of the Aegean.¹⁰⁹

Territorial Sea Issue

Another factor linked to the Aegean dispute is the subject of the Greek and Turkish territorial seas. Both Greece and Turkey have a 6 nautical mile territorial sea limit.¹¹⁰ This also includes the Greek islands which are about 3,000 in the Aegean area and they too follow a 6 mile territorial sea limit.¹¹¹ Since 1974 Greece constantly threatened Turkey that it might extend its territorial waters to 12 miles whereas Turkey stated if Greece should do so, then they too will apply a 12 mile territorial sea.¹¹² As a result, Turkey's territorial sea would then overlap Greek claims causing a major political threat.¹¹³ So far Greece has not done so, for, it controls 34% of the Aegean basin, when combining its territorial sea and the territorial limit of their islands. While Turkey controls only 8.5% of the Aegean Sea, which as a result restricts ships entering and leaving Turkish territorial sea from international waters.¹¹⁴ What Turkey fears most concerning this issue is the possibility of Greece extending its territorial sea from 6 miles to 12 miles. If this were to be done, then Greece would control 63% of the Aegean Area whereas Turkey would control 10%.¹¹⁵

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¹⁰⁹ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 14-15.

¹¹⁰ Wilson, 5.

¹¹¹ Wilson, 5. see also Luciani Giacomo, The Mediterranean Region (Great Britain: St. Martin's Press, 1984) 112.

¹¹² Andrew Borowiec, The Mediterranean Feud (New York: Praeger Publishers, 1983) 27.

¹¹³ Borowiec, 27.

¹¹⁴ Borowiec, 27.

¹¹⁵ Wilson, 5.

Airspace Factor

The other part connected to the continental shelf issue is the airspace factor over the Aegean area. In 1952, a regional conference of the International Civil Aviation Organization (ICAO) took place between Greece and Turkey. The ICAO stated that the airspace over the Aegean area should be "Part of the Athens Flight Information Region (FIR) for air traffic control purposes."¹¹⁶ This meant that military and civil aircrafts flying west from Turkey were required to report flight plans and their position once they crossed the FIR boundary when leaving the Turkish coast.¹¹⁷ When doing that, all Turkish aircrafts would receive orders from the Athens flight control center.¹¹⁸ On the other hand, aircrafts flying eastwards from Greece were also asked to report to the Istanbul Control center once entering the Turkish FIR.¹¹⁹ This system worked for twenty – two years, however, the conflicts that constantly occurred between Greece and Turkey in Cyprus resulted in these arrangements to be broken.¹²⁰

As mentioned at the beginning of chapter two, one of the issues connected to the Aegean conflict is also the subject of the militarization of the Greek islands that are located near the coast of Turkey. When conflicts started in Cyprus in 1974, the Greeks militarized their islands near Turkey's coast.¹²¹ The Greeks prepared the islands in case of war. Because the Greeks militarized the islands, Turkey set up its army calling it "The Army of the Aegean."¹²² Turkey viewed the militarization of the Greek islands as a

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¹¹⁶ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 6.

¹¹⁷ Wilson, 6.

¹¹⁸ Wilson, 6.

¹¹⁹ Wilson, 6. see also Andrew Borowiec, The Mediterranean Feud (New York: Praeger Publishers, 1983) 29.

¹²⁰ Wilson, 6.

¹²¹ Wilson, 16.

¹²² Wilson, 16.

violation of the treaties of Lausanne and Paris.¹²³ With the Greek Army on one side and Turkey on the opposite side, feelings of war were felt all over again. However, at the end, after many talks between the Greek and Turkish government nothing was done since they never submitted the case to the International Court of Justice. As a result, "Very little [was able to be] achieved here by attempting to pass judgment on them."¹²⁴

In 1978, Mr. Ecevit returned to power in Turkey. As a result, the Greek Prime Minister, Mr. Karamanlis, congratulated Mr. Ecevit and this opened up a meeting in Montreux to exchange the different point of views of how the Greek and Turkish conflict should be resolved.¹²⁵ The outcome of the meeting did not establish concrete results but they were able to have a "Friendly and sincere dialogue."¹²⁶ They also agreed to give priority to using international methods to solve the dispute.¹²⁷ The relations between the two states were going on very well until Greece and Turkey decided to meet with the Secretary-General and everything came to a halt. The reason was on the same day of the meeting with the Secretary-General the US State Department decided to lift the arms embargo on Turkey.¹²⁸ This angered the Greek public and Mr. Karamanlis had to cancel the meeting.¹²⁹ Turkey, on the other hand, analyzed Greece's reaction as an admission that Greece wanted the arms embargo on Turkey because it would weaken it, which would result in forcing Turkey to "Lower her demands on major issues,"¹³⁰ like the delimitation of the continental shelf. This upset the Turks. However, at the end of April 1978, there was another new opportunity for Mr. Ecevit and Mr. Karamanlis to reopen

¹²³ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 16.

¹²⁴ Wilson, 16.

¹²⁵ Wilson, 20.

¹²⁶ Wilson, 20.

¹²⁷ Wilson, 20.

¹²⁸ Wilson, 20.

¹²⁹ Wilson, 20.

¹³⁰ Wilson, 20.

talks at a meeting organized by a NATO Summit in Washington. As a result bilateral contacts began all over again.

CHAPTER THREE

Turkey's point of view to the Aegean conflict

In this chapter the different points of view between Greece and Turkey concerning the Aegean dispute will be presented. According to an article written on the delimitation of continental shelves a resolution to this conflict could lead to the solution of other maritime problems.¹

As mentioned in chapter one, Turkey's point of view in dealing with the overlapping continental shelves issue included political principles.² Turkey's main aim was to keep a balance between Greece and itself through the use of the Treaty of Lausanne and to find a solution to the Aegean dispute through negotiations and agreements without going to Court.³ Reaching a solution at the time was not supported by the United Nations Resolution 395 whereas the Berne agreement of 1976 did show a possible settlement.⁴ According to Turkey, the Treaty of Lausanne could be used as a framework to delimit the Aegean continental shelf. Turkey believed that the balance established by the Treaty of Lausanne, where both states were "Using the Aegean on an equal footing," could also be used as a basis to delimit the continental shelf.⁵ Moreover, Turkey saw that Greece's claim to the Aegean continental shelf was "Seeking de facto sovereignty over the whole Aegean Sea."⁶ In other words, Greece was trying to claim a temporary form of power over the Aegean Sea area. Turkey hoped (and still does) that the Aegean continental

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¹ "Continental Shelf." Google Online. 1 May 2003.

<http://www.yunan.gen.tr/english/aegean/rights01.html>

² "Delimitation of the Continental Shelf." Google Online. 1 May 2003.

http://www.mfa.gr/english/foreign_policy/Europe_southeastern/turkey/aegean_continental_shelf.html

Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 22.

See also "Continental Shelf."

⁴ Wilson, 22.

⁵ Wilson, 22.

⁶ Wilson, 22.

shelf would be divided in such a way where Turkey can acquire access to the areas west of the Greek islands up until the middle of the Aegean Basin. Furthermore, according to Turkey, Greece violated the Treaties of Lausanne and Paris when it militarized the Eastern Aegean islands, which are located near the Turkish coast, causing a disturbance to its security.⁷ Also, Turkey interpreted the militarization of the Greek islands as a form of Greek control of the "Airspace, the sea, the seabed and the subsoil of the Aegean."⁸ Once again Turkey's opinion in finding a solution to the Aegean dispute was and still is today through negotiations. Delimitation of the continental shelf should be based on state agreement using equitable principles like finding "An equitable median line,"⁹ as well as taking into account the natural prolongation of the continental shelf from the land mass of each coastal state.¹⁰ Since Turkey is not a party to the 1958 Convention on the Law of the Sea nor the 1982 Convention on the Law of the Sea, it, therefore, does not accept that islands have their own continental shelf.¹¹ Even though Turkey respects the Greek islands within the Aegean area, it, on the other hand, believes that islands do not form a "Continuation of the Greek mainland because there are intervening high seas."¹² However, Turkey highly supports the concept of finding an equitable result which is introduced in the 1982 Convention on the Law of the Sea.¹³ Its reasons for following this method of delimitation are due to the fact that the Aegean continental shelf represents an example of a "Special Circumstances" situation which means that international rules should take into consideration the geographical characteristics of the Aegean area and the

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⁷ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 22.

⁸ Wilson, 22.

⁹ Wilson, 22.

¹⁰ Giacomo Luciani, The Mediterranean Region (Great Britain: ST. Martin's Press, 1984) 112.

¹¹ Wilson, 22.

¹² Wilson, 22.

¹³ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 360.

islands located within the region before coming up with a delimitation method or dividing line.¹⁴ According to one source, the author in this field believes that it is not fair nor is it logical to consider islands having a continental shelf.¹⁵ He says that according to article 121 of the 1958 Law of the Sea Convention islands do have continental shelves and must have equal conditions when delimiting.¹⁶ However, according to the 1982 Convention on the Law of the Sea, article 123 (1)3 states that small islands do not have a continental shelf and are not inhabitable.¹⁷ Therefore, Greece has no legal validity concerning the subject of islands and their continental shelves.¹⁸

Finally, Turkey clearly states that her claim to the Aegean continental shelf does not mean that she claims the use of the waters above the shelf – there will be “Free movement of international shipping.”¹⁹

Greece's point of view to the Aegean conflict

On the other hand, Greece is a party to the 1958 Convention on the Law of the Sea. The 1958 Convention states that islands have their own continental shelf and, therefore, the Greek islands form a continuity to the Greek mainland.²⁰ As a result, territory sovereignty over the Greek islands extends “To their seabed and subsoil as well as to their continental shelf.”²¹ Furthermore, Greece comments that if Turkey does not recognize that islands have a continental shelf then the political sequence between the

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¹⁴ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 360.

¹⁵ “Continental Shelf.” Google Online. 1 May 2003. <http://www.yunan.gen.tr/english/aegean/rights01.html>

¹⁶ “Continental Shelf.”

¹⁷ “Continental Shelf.”

¹⁸ “Continental Shelf.” see also “Delimitation of the Continental Shelf.” Google Online. 1 May 2003.

¹⁹ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 22.

²⁰ Wilson, 22.

²¹ Ahnish, 361.

two states would be disturbed, as a result, going against the Treaty of Lausanne.²²

Moreover, allowing Turkey to have access to the area between the Greek islands and the Greek coastline would be creating a threatening situation for Greece. As a result, Greece wanted to protect its continental shelf and seabed area by delimiting the Aegean area in such a way as to prevent "Turkey any seabed area beyond the coasts of the Aegean islands."²³ Also, if Turkey were to be allowed into the region between the Greek islands and Greek coastline, it may establish in the seabed installations and security zones around them and, therefore, Turkey may interfere with Greece's internal sea and air communications.²⁴ If Turkey were to extend its rights into the Aegean Sea it would encircle over 500 Greek islands which are inhabited with more than 330,000 people, causing again a threat to Greek sovereignty.²⁵ However, Greece's situation concerning this issue raises no threat to Turkey. The reason is because Greece claims only the areas of the continental shelf and not the waters above the shelf (the superadjacent waters), therefore, allowing Turkish ships and international shipping to move freely.²⁶

Concerning the Greek militarization of the islands, Greece replied that it was done in self-defense which is recognized by the United Nations Charter.²⁷

Greece also stated that it had always been willing into finding a solution through legal means along with political negotiations.²⁸ Furthermore, Greece's interests were threatened for three years when Turkey kept on sending *Sismik I* to explore the areas

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²² Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 22.

²³ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 361.

²⁴ Wilson, 22.

²⁵ Wilson, 22.

²⁶ Wilson, 22.

²⁷ Wilson, 22.

²⁸ Wilson, 22.

which legally belong to Greece under the 1958 Convention.²⁹ As for Resolution 395, it backed up Greece's position, and it demanded from both parties to settle the conflict using international law.³⁰ However, Greece like Turkey still demands to "Seek an equitable settlement."³¹ Though, Greece's view on finding an equitable solution as mentioned earlier was (and still is) by taking the case to the (ICJ) World Court and considering the application of the equidistance method for the delimitation of their shared continental shelf and seabed.³²

According to Faraj Abdullah Ahnish the resolution of the Aegean continental shelf dispute between Greece and Turkey is through a legal solution. Ahnish agrees that there is unfairness in the distribution of the Aegean area, where Greece has claims to most of the islands located in the Aegean as a result taking away from Turkey its part of the continental shelf.³³ He based his statement on two facts: first, the coastal length of Turkey is approximately 427 nautical miles whereas Greece's coast is about 384 nautical miles in length.³⁴ Second, Turkey is "Geographically disadvantaged...on the rest of its Mediterranean coast."³⁵ This means that if a strict equidistance line was created as a form of delimitation, then the median line would be drawn between the Levantine which is near the Turkish coast and the rest of the close-by coasts, which include the Greek islands of: Rhodes, Karpathos, Kasos and Crete.³⁶ Therefore, Turkey would receive a restricted area of the Aegean continental shelf and, as a result, there will be an unequal

²⁹ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 23.

³⁰ Wilson, 23. see also "Delimitation of the Continental Shelf." [Google Online](http://www.mfa.gr/English/foreignpolicy/Europesoutheastern/turkey/aegeancontinentalshelf.html). 1 May 2003.
<http://www.mfa.gr/English/foreignpolicy/Europesoutheastern/turkey/aegeancontinentalshelf.html>

³¹ Wilson, 23.

³² Theodore C. Kariotis, *Greece and the Law of the Sea* (The Hague: Kluwer Law International, 1997) 100.

³³ Faraj Abdullah Ahnish, *The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea* (New York: Oxford University Press Inc., 1993) 363.

³⁴ Ahnish, 363.

³⁵ Ahnish, 363.

³⁶ Ahnish, 363.

distribution of the shelf.³⁷ Furthermore, cutting off Turkey's designated area of the continental shelf would also mean cutting off Turkey's maritime zones near its coast.³⁸ Doing that would cause Turkey to resort to a maritime boundary very near to its coast and allowing Greece to exercise its rights so close to Turkey's mainland. Turkey would then be prevented from exercising "Its own right to development or compromise its security."³⁹ Ahnish claims that one of the major problems in this conflict is that there are so many islands and that their location in the Aegean makes it even more difficult to find an equal distribution of the area.⁴⁰ Therefore, if the Court refuses to give less significance to the mainland of each state, then the Court should also treat the islands in the same way by giving less consideration to the delimitation of their continental shelves.⁴¹ Turkey, on one hand, prefers to totally disregard the islands as located in the Aegean area in order to come up with a clear boundary line between Greece and Turkey.⁴² However, this proposal is very difficult to accomplish because islands, according to the 1958 and 1982 Conventions on the Law of the Sea, do have their own maritime zones and, therefore, under international law, one cannot disregard their maritime jurisdiction. Furthermore, islands are considered as special circumstances where they are taken into account in order to come up with an equitable solution. As a result, the islands in the Aegean cannot be disregarded.⁴³ The author continues his point of view and explains in more details that the location of the islands in comparison to the coast of a state is noteworthy. If the islands are located within the territorial sea of a

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³⁷ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 363.

³⁸ Ahnish, 363.

³⁹ Ahnish, 363.

⁴⁰ Ahnish, 363.

⁴¹ Ahnish, 364.

⁴² Ahnish, 364.

⁴³ Ahnish, 364.

state, then these islands are "Granted full effect in generating their own continental shelves."⁴⁴ Second, if the islands are located near the coastal state but outside the coastal state's territorial sea, then the islands are given partial effect.⁴⁵ Third, islands that are positioned close to the equidistance line – meaning that the islands are located between the first and second state - are either given "Full effect, partial effect, or no effect depending on other considerations."⁴⁶ Fourth, islands situated close to the coast of the opposite state are considered limited or no effect.⁴⁷ The above mentioned possibilities would work given that the entire Aegean area is divided into two parts – a northern part and a southern part.⁴⁸

Territorial Sea Question

Briefly concerning the subject on the territorial sea, Turkey's position included the following. First of all, as mentioned before, Turkey's territorial sea limit is 6 miles, thus, allowing it only three places where ships may enter or leave into international waters.⁴⁹ If Greece extends its territorial sea to 12 miles, it would take away Turkey's exits into international waters and would "Cut into the area of the continental shelf...reducing the exploration areas covered by the Turkish Petroleum Company from 16.3% of the total Aegean Seabed to 9.27%."⁵⁰ Turkey, therefore, demanded an equitable right to use the waters of the Aegean Sea and a fair and just segment of the continental shelf as mentioned earlier.⁵¹

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⁴⁴ Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 364 -365.

⁴⁵ Ahnish, 365.

⁴⁶ Ahnish, 365.

⁴⁷ Ahnish, 365.

⁴⁸ Ahnish, 365.

⁴⁹ Andrew Wilson, The Aegean Dispute (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 23.

⁵⁰ Wilson, 23.

⁵¹ Wilson, 23.

On the other hand, Greece's position regarding the territorial sea stated that under international law it has the right to extend its territorial sea from 6 to 12 miles.⁵² As a result, in order to keep good relations with Turkey, Greece will not extend its territorial waters to that distance.⁵³

Airspace Question

As for solving the air traffic control over the Aegean, Turkey issued NOTAM 714 (as mentioned in chapter two) to protect its national security.⁵⁴ Issuing NOTAM 714 was, Greece extended its airspace around the Greek claimed islands from 6 to 10 nautical miles.⁵⁵ This act added more to the tensions between the two states. Turkey, on the other hand, was not violating its FIR responsibilities; it just acted as a way of protecting its country.⁵⁶

Greece's point of view was the total opposite. Greece described the situation as exercising her air traffic control on the basis of keeping international air traffic in control.⁵⁷ The ten mile national airspace limit encircling the islands was essential for "Policing purposes and needs to be greater than the sea limit because of aircraft speeds."⁵⁸

Two different opinions were exposed. According to Andrew Wilson, the Aegean dispute "[Aroused] deep national emotions," as a result, if a negotiated settlement was to be made, the public would be provoked, therefore, it would be better to resolve the issue

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⁵² Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 23.

⁵³ Wilson, 23.

⁵⁴ Wilson, 24.

⁵⁵ Wilson, 24.

⁵⁶ Wilson, 24.

⁵⁷ Wilson, 24.

⁵⁸ Wilson, 24.

through the World Court just as Greece proposed.⁵⁹ Turkey, on the other hand, had political desires where its motive was "To break through the barrier of the Greek islands" in the eastern part of the Aegean Sea and to have access to the oil resources found in that area.⁶⁰ Furthermore, Turkey wanted (and still does) to have free entrance into the Dardanelles, access into several ports which are located in the eastern part of the Aegean and control of the airspace over the Aegean Sea.⁶¹ Going to war might cause Turkey to be rejected by the West and be pushed out of NATO whereas Greece will not be affected negatively.⁶² Turkey would like to continue negotiations on this point as a way of resolving the issue, however, Greece rejects the idea.⁶³

The Aegean dispute, specifically the issue concerning the overlapping continental shelves, is very complex. Due to its past history the conflict created more resentment between Greece and Turkey. A lack of cooperation continued throughout the 1990's when Turkey still demanded that the delimitation line be between the Greek and Turkish coasts, as a result threatening the Greek islands off the coast of Turkey.⁶⁴ In 1996, the Greek and Turkish navies sent out warships to the area around the island of Imia, due to the disagreement of the sovereignty of the island – this almost led the two states into war.⁶⁵ Until today Turkey still insists that the Aegean would be a "Greek Lake" if Greece claims the areas it wants.⁶⁶ As a result, prospects for a resolution according to this article are very difficult. The reason is because it is not easy to please both sides

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⁵⁹ Andrew Wilson, *The Aegean Dispute* (Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979) 25.

⁶⁰ Faraj Abdullah Ahnish, *The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea* (New York: Oxford University Press Inc., 1993) 362.

⁶¹ Ahnish, 362.

⁶² Wilson, 25.

⁶³ Wilson, 27.

⁶⁴ "Aegean Dispute between Greece and Turkey." *Google Online*. 1 May 2003.

<http://www.american.edu/projects/mandcela/TED/ice/AEGEAN.HTM>

⁶⁵ "Aegean Dispute between Greece and Turkey."

⁶⁶ "Aegean Dispute between Greece and Turkey."

equally – each state will always believe that they are not getting their fair share in the area.⁶⁷ However, two suggestions were made: the first proposal dealt with employing an international peacekeeping force in the area, and the second option is to draw a median line between Greece and Turkey without considering the Greek islands and then another line between the baseline of the Greek islands and the Turkish coast.⁶⁸ In the next chapter exploring suggestions concerning possible resolutions for the Aegean case will be presented.

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⁶⁷ “Aegean Dispute between Greece and Turkey.” Google Online. 1 May 2003.

⁶⁸ “Aegean Dispute between Greece and Turkey.”

CHAPTER FOUR

Possible solutions to the Aegean conflict

After reading chapters two and three, it should be apparent that finding a workable delimitation method is extremely important in the Aegean area. More reason to do so is of the large amounts of oil resources in the seabed and subsoil under the overlapping Greek and Turkish continental shelves.¹ The Aegean Sea area is geographically complex with Greek islands scattered all over the region, therefore, having more land than sea. The many indents of the Greek coast and the closeness of other countries to Greece and Turkey are additional factors making it harder to find a delimiting line in the region. Various authors and analysts have written and commented in many books, articles, and journals concerning the dispute between Greece and Turkey over the delimitation of their shared continental shelves and submarine areas in the Aegean Sea and have provided several possible resolutions.

According to Theodore Kariotis, who studied the Aegean dispute, the Aegean conflict is not just an economic and security issue, but it is an issue that deals with nationalism and pride – what is mine and what is yours.² Another author, Phaedon John Kozyris, states that delimitation must be based on geographical delimitation and not just on “Economic, social, demographic or historical factors.”³ As mentioned earlier in chapters two and three, Turkey’s point of view to the Aegean situation is dealing with the conflict through negotiations and not through the World Court. Turkey believes that the Greek islands near its coast do not have a continental shelf and that the Greek islands are

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¹ Bayram Ozturk, Proceedings Of The International Symposium On The Aegean, *The Aegean Sea 2000* (Turkey: Turkey: Turkish Marine Research Foundation, 2000) 86.

² Theodore C. Kariotis, *Greece and the Law of the Sea* (The Hague: Kluwer Law International, 1997) 23.

³ Kariotis, 47.

located on its geological continental shelf. In other words, according to Turkey, the Greek islands are situated on Turkey's natural prolongation of its continental shelf.⁴ Furthermore, Turkey rejects the equidistance method as the form of delimitation. Instead, it prefers to apply the concept of equitable principles to reach an equitable result.⁵ In Turkey's view, applying the equidistance method would result into an inequity in the delimitation of the Aegean region.⁶

On the other hand, Greece argues that applying equidistance lines as the process of delineating the overlapping continental shelves and submarine areas is the appropriate technique.⁷ Moreover, Greece claims that according to the 1958 Convention on the Law of the Sea (in which it is a party of), the continental shelf between opposite or adjacent states should be delimited using the equidistance method in absence of an agreement or special-circumstances.⁸ Also, Greece does not agree with the application of equitable principles saying that "This would introduce legal uncertainty."⁹ As a result, it follows the equidistance finding that in this particular case it is the most "Suitable starting-point for, and essential element of a delimitation agreement."¹⁰

In the following pages, the opinions of various authors and experts in the Aegean dispute will be stated concerning the possible ways and methods for resolving the Aegean case. According to Masahiro Miyoshi there are two possible solutions to the Aegean

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⁴ Gerard J. Tanja, The Legal Determination of International Maritime Boundaries (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 178-179.

⁵ Tanja, 179.

⁶ Tanja, 179.

⁷ Tanja, 179.

⁸ Tanja, 179.

⁹ Tanja, 179.

¹⁰ Tanja, 179.

conflict. The first is resolving the issue through arbitration¹¹ and the other possible solution is to have a joint development zone as a way to equally benefit from exploring and exploiting the areas in the Aegean Sea region.¹² Miyoshi also states that there are two ways for having joint development zone; one way is exploiting and exploring the seabed by both parties without creating a delimiting boundary line and the other approach is having joint development zone with a defined boundary line.¹³ Miyoshi believes that if joint development were to be applied, Greece would probably want a delineating line whereas Turkey would not want a boundary line.¹⁴

Sevin Toluner, another author who wrote about the Aegean case, sees resolving the conflict through an international judicial procedure would be too risky and that "It [would be] like a zero-sum game,"¹⁵ where there is one winner and one loser. Furthermore, even if Greece and Turkey want to go to the World Court, neither state has negotiated and agreed on any solid points concerning the delimitation of their continental shelves nor have they discussed what to ask the Court.¹⁶

Pratt and Clive Schofield are also two of the many authors who have analyzed the Aegean case and who propose joint development as a way of reaching a compromise to the issue. Joint development is mainly seen in cases where there are overlapping oil and gas resources as in the case here.¹⁷ Clive and Schofield both believe that joint development is a starting point for cooperation between states in dispute and it is also a

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¹¹ **Arbitration: parties in conflict are able to choose their arbitrators (judges) who will help the states reach a resolution - a compromise to their problem.**

¹² Bayram Ozturk, Proceedings of the International Symposium on the Aegean Sea, The Aegean Sea 2000 (Turkey: Turkish Marine Research Foundation, 2000) 92.

¹³ Ozturk, 92.

¹⁴ Ozturk, 92.

¹⁵ Ozturk, 149.

¹⁶ Ozturk, 149.

¹⁷ Ozturk, 154.

way in this case of helping in dispersing political tensions between Greece and Turkey.¹⁸ In a joint development, an agreement is made between the states involved as to what are areas to exploit and what areas to leave alone, making exploration and exploitation much easier and time consuming for the parties involved.¹⁹ For example, if a maritime boundary case is taken to the World Court, it can take up to four years to resolve and it is also expensive "With no guarantee of success for either side at the end of the process."²⁰ Joint development over the years has proven to solve many overlapping boundary disputes, where states in conflict are able to benefit from the overlapping areas of the seabed and subsoil without any prejudice.²¹ It is described as a "Functionalist and comprehensive approach to boundary management,"²² with no losers and no winners unlike in delimitation cases.²³ Most importantly, if joint development is considered by Greece and Turkey, it can open good neighborly relations and bilateral cooperation which may also lead into negotiating a continental shelf and submarine delimitation.²⁴ Several examples of joint development projects around the world include Kuwait and the Kingdom of Saudi- Arabia due to large amounts of oil reserves, Iran and Sharjah, Japan and Korea, Australia and Indonesia, Norway and USSR, Malaysia and Thailand, Colombia and Jamaica and much more.²⁵ All of the above mentioned joint development cases enjoy shared exploration and exploitation without any boundary lines, proving that this method can be the ideal start for Greece and Turkey in resolving their dispute.

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¹⁸ Bayram Ozturk, Proceedings of the International Symposium on the Aegean Sea, The Aegean Sea 2000 (Turkey: Turkish Marine Research Foundation, 2000) 153.

¹⁹ Ozturk, 154.

²⁰ Ozturk, 154.

²¹ Ozturk, 153.

²² Ozturk, 153.

²³ Ozturk, 155.

²⁴ Ozturk, 155.

²⁵ Ozturk, 158 – 160.

Evangelos Raftopoulos, Professor of International Law at Panteion University of Athens, mentions in his article that when delimiting any maritime zone within the Aegean region it should be done through an agreement based on equitable principles in order to achieve an equitable result.²⁶ Equitable principles in this case include "Taking into account the balancing of their mutual economic, security and navigational interests in the Aegean,"²⁷ and also taking into account that the Aegean is a semi-enclosed sea.²⁸ Raftopoulos adds that the islands that are within the exclusive economic zone (EEZ) or on the continental shelf of another state shall have neither EEZ nor a continental shelf of their own.²⁹ He further states that islands which are located in such a geographical circumstance (meaning being in a semi-enclosed area) do have maritime zones but they have special geographic features and should be delineated by an agreement between the two countries.³⁰

According to author Jon Van Dyke, who has written several articles concerning this issue, since the Aegean area has a complicated geography, the best way to delimit the region is to divide the area into three parts "In order to address the appropriate maritime boundary."³¹ The reason why he suggested dividing the area into three parts is because there are different geographical characteristics going from the northern part of the Aegean down into the southern section of the region.³² In the northern section there are few Greek Islands, therefore, a median line is created between the Greek continental shelf

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²⁶ Evangelos Raftopoulos, "The Crisis over the Imia Rocks and the Aegean Sea Regime: International Law as a Language of Common Interest," The International Journal of Marine and Coastal Law 12 (1997) : 439.

²⁷ Raftopoulos, 439.

²⁸ Raftopoulos, 439.

²⁹ Raftopoulos, 439.

³⁰ Raftopoulos, 439.

³¹ Jon M. Van Dyke, "The Aegean Sea Dispute: Options and Avenues," Marine Policy 20. 5 (1996) : 397.

³² Bayram Ozturk, Proceedings of the International Symposium on the Aegean Sea, The Aegean Sea 2000 (Turkey: Turkish Marine Research Foundation, 2000) 166.

and the Turkish continental shelf. The line would then be adjusted towards Turkey due to the "Location of the islands and the proportionality of the coasts."³³ The principle of proportionality which will be mentioned again in the Tunisia-Libya case is a principle used to test if the parties involved received their fair parts to the continental shelf or exclusive economic zone by comparing the "Shares and the length of the coastal front."³⁴ Furthermore, the Greek islands that are situated near the Turkish coast will receive a six nautical mile territorial sea enclave,³⁵ which is similarly done to the Channel Islands in the Anglo-French case. Concerning the middle part of the Aegean there is an increase in the number of the Greek islands and, therefore, the boundary line drawn would move further east once again towards Turkey's coast. However, still allowing Turkey navigational access "From Istanbul to the Mediterranean and thus protect[ing] its security needs."³⁶ The Greek Islands in the southern section of the Aegean increase in number and as a result the median line will be shifted again towards the Turkish side. The enclaving method would again be applied to the Greek Islands with a six-mile territorial sea allowing Turkey a "corridor" for navigational entrance.³⁷ Dyke continues that if this method of delimitation were to be tested by the proportionality principle to check if the delineation is equitable, the ratio would favor Greece, which means that it is entitled to the larger area in the Aegean Sea. He also states that even if the islands in the Aegean region were to be neglected, Greece would still acquire the larger part of the area due to the fact that the Greek coastline is much longer than Turkey's coast with a ratio of

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³³ Bayram Ozturk, *Proceedings of the International Symposium on the Aegean Sea, The Aegean Sea 2000* (Turkey: Turkish Marine Research Foundation, 2000) 166. see also Van Dyke, 402.

³⁴ Theodore C. Kariotis, *Greece and the Law of the Sea* (The Hague: Kluwer Law International, 1997) 27.

³⁵ Jon M. Van Dyke, "The Aegean Sea Dispute: Options and Avenues," *Marine Policy* 20 (1996) : 402.

³⁶ Ozturk, 166.

³⁷ Ozturk, 166.

59:41.³⁸ Furthermore, like many analysts to the Aegean case, Dyke also views that a joint development is an equitable solution between Greece and Turkey.³⁹ The second option for resolving the issue is to set up a "Non-binding conciliation commission."⁴⁰ This commission would be in charge of making suggestions for finding a solution between the two states.⁴¹ Finally, Dyke suggests taking the case to the World Court after both Greece and Turkey thoroughly decided on the points to ask the Court to help them in, or take the case to an International Tribunal of the Law of the Sea, or to an Arbitration Court like in the Anglo- French case.⁴²

Another author, Donald R. Rothwell, a teacher of law at The University of Sydney, is one of many analysts who also considers joint development as being "One of the most popular options put forward as an alternative to delimiting a maritime boundary."⁴³ Rothwell comments that joint development allows states in dispute to explore and exploit and "Have jurisdiction over adjacent maritime areas,"⁴⁴ and equally profit from the resources available. An example of a successful joint development is the case between Australia and East Timor (Indonesia) in the Timor Sea.⁴⁵ After many years of negotiations concerning the delimitation of their overlapping continental shelves and especially their overlapping submarine areas where there are large deposits of petroleum resources, Australia and East Timor were able to settle the dispute through a joint

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³⁸ Jon M. Van Dyke, "The Aegean Sea Dispute: Options and Avenues," *Marine Policy* 20 (1996) : 403

³⁹ Van Dyke, 403.

⁴⁰ Bayram Ozturk, Proceedings of the International Symposium on the Aegean Sea, *The Aegean Sea 2000* (Turkey: Turkish Marine Research Foundation, 2000) 168.

⁴¹ Ozturk, 168.

⁴² Van Dyke, 403.

⁴³ Donald R. Rothwell, *Maritime Boundaries and Resource Development: Options for the Beaufort Sea* (Australia: 1998) 45.

⁴⁴ Rothwell, 45.

⁴⁵ Rothwell, 46. see also Kriangsak Kittichaisaree, *The Law of the Sea and Maritime Boundary Delimitation in South-East Asia* (New York: Oxford University Press, 1987) 79-82.

development zone (JDZ).⁴⁶ Like in the Aegean case, the coasts of Australia and East Timor are opposite each other and their continental shelves overlap in the area of the Timor Gap, where there are large amounts of oil and gas resources.⁴⁷ As a way of resolving this issue, both states agreed to share the hydrocarbon resources underneath the area of the overlapping continental shelves. Recently in July 2001 a new arrangement between Australia and East Timor was adopted.⁴⁸ The 2001 agreement is a newer version of the previous joint development agreement.⁴⁹ Author of this article David M. Ong stated that when an agreement cannot be reached concerning the delimitation of shared continental shelves and submarine areas, the ideal solution is to have a joint development "Which assures that exploration goes forward without interruption and often strengthens further co-operative approaches over time."⁵⁰ Ong also noted that the joint development principle has been supported by the judicial Court, one of which is the ICJ (World Court) in the 1969 North Sea Continental shelf cases, where the court mentioned in its analysis of the case that this principle is "Particularly appropriate when it is a question of preserving the unity of a deposit."⁵¹

It appears to me that one way in delineating the Aegean continental shelf is by joint development. It is the most ideal option for resolving the Aegean dispute for now. Given that both Greece and Turkey have been in conflict for over twenty years and both states are attached to their perspectives as to how the area should be delimited, it is then

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⁴⁶ Donald R. Rothwell, Maritime Boundaries and Resources Development: Options for the Beaufort Sea (Australia: 1998) 46. see also Kriangsak Kittichaisaree.

⁴⁷ David M. Ong, "The New Timor Sea Arrangement 2001: is Joint Development of Common Offshore Oil and Gas Deposits mandated under International Law?" The International Journal of Marine and Coastal Law 17 (2002) : 82.

⁴⁸ Ong, 80.

⁴⁹ Ong, 82.

⁵⁰ Ong, 90.

⁵¹ Ong, 90.

very hard to believe that a delimiting line can be achieved or created to please both states. However, if joint development is considered, then this option can be at least a start into resolving this dispute and it may lead into having friendly negotiations and bilateral agreements later on. According to the author Lagoni, when there are common oil and/or gas deposits between two or more states, prejudice is likely to occur between the parties.⁵² As a result, a more flexible method to solve this dispute is by applying joint development which may also lead both countries in the near future to come up with a delimiting boundary line in the Aegean area.⁵³ Furthermore, a possible delimiting method in this particular case could be applying the equidistance special-circumstances method. Starting with a median line then adjusting it accordingly (depending on the relevant circumstances within the area such as islands) could be the appropriate method in delimiting the continental shelf and seabed and subsoil in an equitable way.

Once again, considering joint development is a fair and flexible compromise between Greece and Turkey, where both states can enjoy the valuable resources in the overlapped areas free from any kind of political, economical, and social tensions.

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⁵² David M. Ong, "The New Timor Sea Arrangement 2001: is joint Development of Common Offshore oil and Gas Deposits Mandated under International Law?" The International Journal of Marine and Coastal Law 17 (2002) : 90.

⁵³ Donald R. Rothwell, Maritime Boundaries and Resource Development: Options for the Beaufort Sea (Australia: 1998) 51.

CHAPTER FIVE

Anglo-French Continental Shelf Case

One of the most cited cases under the law of the sea is the case of Great-Britain vs. France concerning the delimitation of the shared continental shelf in the English Channel area. Since Great Britain and France could not come up with a mutual agreement to resolve their dispute, they agreed to take the issue to a special Court in order to find a compromise in delimiting their shared continental shelf.¹ This case is of great importance because it marks the first time when the Court was asked by the parties in dispute to actually draw the boundary lines.² The Court used to resolve the conflict was an Arbitration Court with selected judges from neutral states.³ The Arbitration Court located in the *Palais Eynard*, Geneva, consisted of five members who provided the two governments with their decisions based on rules of international law.⁴ Delimitation by a judicial settlement like in the case here was a legal procedure based on rules of international law.⁵

Given that Great Britain and France are parties to the 1958 Convention on the Law of the Sea, article 6 is, therefore, the applicable rule. One of the main points in this particular case is that the Court interpreted article 6 under the 1958 Convention on the Continental Shelf as one rule and not as two separate rules.⁶ As a result, the median line is used as a start and later on is adjusted by special circumstances. As mentioned in

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¹Gerald Blake, *Maritime Boundaries and Ocean Resources* (London: Croom Helm, 1987) 19.

² Blake, 19.

³ S.P Jagota, *Maritime Boundary* (Dordrecht: Maritnus Nijhoff Publishers, 1985) 140.

⁴ Jagota, 140.

⁵ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, *Handbook on the Delimitation of Maritime Boundaries* (New York: United Nations, 2000) 18.

⁶ Hungdah Chiu and Gary Knight, *The International Law of the Sea: Cases, Documents And Readings* (London: Elsevier Science Publishers LTD, 1991) 174.

chapter one, special circumstances could include taking into account the geographical features within the area to be delimited and other relevant circumstances.⁷ The Court also believed that when there are special circumstances considered, an equitable result is guaranteed.⁸ Therefore, the court's aim was to find an equitable solution by taking into consideration rules of international law, geographical characteristics, and all other relevant circumstances within the English Channel area.⁹

At the beginning, the Court faced some difficulties because it first had to delimit the continental shelf between Britain and France in the English Channel region while taking into account the Channel Islands near the coast of France which are under the jurisdiction of Great Britain. The Eddystone Rock was also another issue. Finally a delimiting boundary line had to be drawn in the Atlantic section as far out as 1000 meter isobath, while taking into consideration the Scilly Isles near the British coast and the Ushant Island near the French coast.¹⁰ The issue relating to Eddystone is whether it is an island or rock for delimitation purposes.¹¹ The Scilly Isles consist of a total of 48 islands and form a natural prolongation of the Cornish Peninsula,¹² which is part of British landmass. Another point the Court had to deal with was the fact that France had reservations to article 6 under the 1958 Continental Shelf Convention. Therefore, France suggested that the applicable law between the two states should be rules of customary law.¹³

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⁷ Gerald Blake, Maritime Boundaries and Ocean Resources (London: Croom Helm, 1987) 19.

⁸ Blake, 20.

⁹ Blake, 22. see also D.C. Kapoor (Admiral, Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986).

¹⁰ Shigeru Oda, International Law and the Resources of the Sea (The Netherlands: Sijthoff & Noordhoff, 1979) 105.

¹¹ S.P. Jagota, Maritime Boundary (Dordrecht: Martinus Nijhoff Publishers, 1985) 140.

¹² Oda, 105.

¹³ Oda, 107.

As a start, both states agreed that their coasts are opposite one another in the Channel area and that a median line solution should be used as a form of delimitation in that region.¹⁴ However, disagreement between the two parties, as mentioned earlier, concerned the Channel Islands, which are British islands, and happen to be located on the wrong side of the median line.¹⁵ Great Britain wanted the median line to be drawn between the Channel Islands and the French coast. Regarding the Atlantic region, Great Britain proposed the application of the equidistance method giving full-effect to the Scillies.¹⁶ However, France wanted to draw two boundary lines, one between the two coasts, without considering the islands, and another line would be drawn dealing with the Channel Islands "By arcs of circle of 6 nautical miles in radius made up of 3 miles of territorial sea and 3 miles of continental shelf."¹⁷ Other disagreements relating to this case dealt with whether to consider the Eddystone Rock as a base point for placing the median line between the two coasts and the "Extension of the median line in the Atlantic region up to 1000 metre isobath."¹⁸

Given the points of view of each side, the Court was able to provide both parties with its analysis and decision to include the following. First of all, article 6 under the 1958 Convention is applicable and binding in this case since both states are parties to the convention, regardless of the fact that France has made reservations to the article.¹⁹ Second, according to article 6 of the 1958 Convention, the form of delimitation is the median line unless justified by special-circumstances. However, in this particular case

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¹⁴ S.P. Jagota, *Maritime Boundary* (Dordrecht: Martinus Nijhoff Publishers, 1985) 141.

¹⁵ Jagota, 141.

¹⁶ Juraj Andrassy, *International Law and the Resources of the Sea* (New York: Columbia University Press, 1970) 107.

¹⁷ Andrassy, 107.

¹⁸ Jagota, 141.

¹⁹ Andrassy, 107.

the Court interpreted article 6 as one combined rule.²⁰ As a result, the Court viewed equidistance and special-circumstances as one rule and not two separate rules. Moreover, the Court stated that if an agreement is not reached between the two states, then the delimitation of the continental shelves must be based on equitable principles.²¹ Throughout the process of analyzing the case the Court made several references to the 1969 North Sea cases. This case is of great significance because it was "The first opportunity where the International Court of Justice had to consider the legal concept of the continental shelf."²² Furthermore, the ICJ (known today as the World Court) at the time came up with several theories that can be applied when delimiting maritime boundaries, one of which is the concept of natural prolongation which they considered in the North Sea cases as a customary rule.²³ Other principles taken into consideration in the Anglo-French case were the role of proximity, the role of the equidistance principle, and the proportionality principle.²⁴ The Court of arbitration in this case evaluated the above mentioned points to test if the delimiting boundary lines were equitable.²⁵ With regard to the idea of natural prolongation, the Court stated as the ICJ did in the North sea continental shelf cases that the purpose is not to divide the shelf up and then "Awarding just and equitable shares,"²⁶ it is the idea of drawing a dividing line in the areas of dispute giving each state involved its rightful share of the continental shelf.²⁷ Therefore, the continental shelf between Great Britain and France in the English Channel was divided

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²⁰ Juraj Andrassy, International law and the Resources of the Sea (New York: Columbia University Press, 1970) 107.

²¹ Andrassy, 108.

²² International Boundary Cases: The Continental Shelf Volume One (England: Grotius Publications Limited, 1992) 3.

²³ Andrassy, 108 see also International Boundary Cases: The Continental Shelf Volume one.

²⁴ Andrassy, 108.

²⁵ Andrassy, 108.

²⁶ Andrassy, 108.

²⁷ Andrassy, 108.

into three segments by a median line with points shown on the map as A-D, E-F and G-J,²⁸ (See Figure 2.1 in appendix M). The Court first drew a median line between the two coasts ignoring the Channel Islands. Then, Eddystone was given full effect and used as a point on the median line (for delimitation purposes), and then the limit of the equidistance line was up to 1,000 meter isobath going through the Atlantic region. (Points on map are M-N).²⁹ As for the Scilly Isles, which are 21 nautical miles away from the British coast, the Court ruled that they are to be considered as a special circumstance due to the fact that they are located far from the British coast.³⁰ Therefore, the islands were given half-effect.³¹ Half-effect refers to "Islands located close to but outside the territorial sea of the sovereign state's mainland are accorded partial effect."³² In more detail the process of half-effect concerning the Scilly Isles was constructed by equidistance lines between the Scilly Islands and the Ushant Island (the French island) and between Land's End and Ushant.³³ After equidistance lines are created, an angle is formed. Then the Court drew another dividing line or a bisector through the middle of the angle where that line or bisector became the boundary line.³⁴ On the other hand, the Court applied rules of customary law to the Channel Islands near the French coast taking into consideration that France has made reservations to article 6. Therefore, the solution was by "enclaving" or engulfing the islands by a distance of 12 nautical miles from their

²⁸ S.P. Jagota, Maritime Boundary (Dordrecht: Martinus Nijhoff Publishers, 1985) 141.

²⁹ Jagota, 141 see also Hungdah Chiu and Gary Knight, The International Law of the Sea: Cases, Documents and Readings (London: Elsevier Science Publishers LTD, 1991).

³⁰ Juraj Andrassy, International Law and the Resources of the Sea (New York: Columbia University Press, 1970) 111.

³¹ Jagota, 141.

³² Faraj Abdullah Ahnish, The International Law of maritime Boundaries and the Practice of States in the Mediterranean Sea (New York: Oxford University Press Inc., 1993) 365. see also Gerald H. Blake, Maritime Boundaries Volume 5 (London: Routledge, 1994).

³³ J.R.V. Prescott, The Maritime Political Boundaries of the World (New York: Methuen & Co. Ltd, 1985) 290. see also Blake.

³⁴ Prescott, 290.

designated baselines.³⁵ As a result, the Court considered the Channel Islands as a special circumstance because they "Were detached geographically from the U.K."³⁶ The Court had to also decide upon which parts of the continental shelf is a natural prolongation of the Channel Islands and not the natural prolongation from the French coast.³⁷ Moreover, the Court believed that the concept of natural prolongation should not be totally disregarded nor should it be taken as being absolute, especially if the islands involved belong to a certain state but located on the continental shelf of another state as in the case here.³⁸ Furthermore, the arbitration Court dealt with the role of proximity which was also mentioned in the ICJ decision of North Sea cases. The idea here is that being near or close to an area does not mean next to or adjacent. What is meant here is that in certain cases or conditions using proximity may be the necessary method to come up with a boundary line on the continental shelf.³⁹ The role of equidistance which was also reviewed by the Court stated that applying the equidistance method to reach an equitable result varies in different geographical conditions.⁴⁰ Therefore, the geographical characteristics of an area will help in determining the appropriate method of delimitation in order to reach a just and fair solution. The next concept reviewed by the Court in its analysis of the case is the idea of proportionality which, according to the ICJ in the North Sea cases, is the "Disproportion rather than any general principle of proportionality

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³⁵ S.P. Jagota, Maritime Boundary (Dordrecht: Maritus Nijhoff Publishers, 1985) 141. see also Shigeru Oda, The International Law of the Ocean Development. See also Malcolm D. Evans, Relevant Circumstances and Maritime Delimitations.

³⁶ Juraj Andrassy, International Law and the Resources of the Sea (New York: Columbia University Press, 1970) 110.

³⁷ Andrassy, 111.

³⁸ Andrassy, 111.

³⁹ Andrassy, 108.

⁴⁰ Andrassy, 108.

which is the relevant criterion or factor."⁴¹ As a result, proportionality is not a principle, but it is a method that could be taken into consideration when evaluating the delimited area to check if the delimitation of the continental shelf is done in a fair and just way.⁴²

In the Anglo-French case certain factors were considered by the Judges in order to come up with a fair and just delimitation. As a start both states are parties to the 1958 Convention on the Law of the Sea which means that article 6 (the equidistance special-circumstances method) is the applicable rule between the two parties. Furthermore, the Court also took into consideration rules of customary law and recent developments in international law. Another factor considered by the judges is the fact that Great Britain and France are located opposite to one another which means that the median line can be applied to create an equitable delimitation. As a result, the British claimed Channel Islands were encircled with a territorial sea and was recognized as special circumstances. The Eddystone Rock was recognized as an island for the purpose of delimitation and half-effect was given to the Scilly Isles in the Atlantic region.⁴³ Given all of the above, the Court was able to come up with an equitable result in delimiting the shared continental shelf between Great Britain and France. It is of great significance to mention here that reaching an equitable result when delimiting any maritime boundary is one of the major objectives under maritime and international law. In this case the Court of Arbitration states that whether the equidistance method is used or any other method to reach an equitable solution, the geographical area being dealt with must be highly

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⁴¹ Juraj Andrassy, International Law and the Resources of the Sea (New York: Columbia University Press, 1970) 110.

⁴² Andrassy, 110.

⁴³ S.P. Jagota, Maritime Boundary (Dordrecht: Martinus Nijhoff Publishers, 1985) 141-143.

considered.⁴⁴ The area being delimited, may have many relevant circumstances to consider before proposing a boundary line(s) such as whether the coasts of the states are opposite or adjacent to one another, islands, fishing rights, navigational rights, and the prolongation of the continental shelf. These factors allow judges to determine the appropriate boundary lines. As a result, every case should be examined on its own merit which means each continental shelf case is geographically and geologically different and unique than the other.

The outcome of the Anglo-French case appears to me as being fair and just. The reasons are applying the equidistance method with special circumstances allowed the Court to give both France and Great Britain their fair share of the overlapping continental shelves while also taking into account the British Channel islands located on the French side and the Scilles Isles belonging also to Great Britain. Each case has its own special circumstances or relevant factors to be considered, making each continental shelf case unique. Furthermore, the sequence or steps in which the Judges in the Anglo-French case followed in terms of determining the appropriate method of delimitation proves my thesis statement correct. Since both Great Britain and France are parties to the 1958 Convention on the Law of the Sea, then both states are bound by the equidistance special-circumstances method found under article 6 of the convention.

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⁴⁴ S.P. Jagota, Maritime Boundary (Dordrecht: Martinus Nijhoff Publishers, 1985) 146.

CHAPTER SIX

Tunisia-Libya Continental Shelf Case

After the Anglo-French case the Libya-Tunisia continental shelf case comes next in importance as an example of a successfully arbitrated dispute. Its decision was given by the International Court of Justice in 1982 (known today as the World Court).¹ Unlike in the Anglo-French case, Tunisia and Libya are adjacent states and are neither parties to the 1958 nor the 1982 Conventions on the Law of the Sea. Therefore, a solution had to be found based on customary international law by applying equitable principles and not the equidistance method. In addition, the Judges had to take into consideration all the relevant circumstances within the area to reach a fair and just delimitation,² "Leaving to each state those parts of the shelf that constitute a natural prolongation of its land territory."³ Equitable principles is defined according to one source as a concept that follows principles and rules under international law to reach an equitable result.⁴

A geographical overview of Tunisia and Libya include the following. They are adjacent states in North Africa and in the Mediterranean area.⁵ Ras Ajdir is the boundary limit of both states. Libya's coastline from Ras Ajdir curves to the east south-east direction.⁶ Its coast is described as being smooth. Tunisia's coastline, on the other hand, curves west-north-west taking a sharp turn into the Gulf of Gabes, where its coastline is considered as having many indents and curves, making it more complex than Libya's

¹ Gerald Blake, *Maritime Boundaries and Ocean Resources* (London: Croom Helm, 1987) 21.

² Mark B. Feldman, "Tunisia – Libya Continental Shelf Case: Geographic Justice or Judicial Compromise," *Jstor* 70 (1983) : 220. see also *International Boundary Cases: The Continental Shelf Volume One* (England: Grotius Publications Limited, 1992) 18.

³ *International Boundary Cases: The Continental Shelf Volume One*, 19.

⁴ Blake, 23.

⁵ S.P. Jagota, *Maritime Boundary* (Dordrecht: Martinus Nijhoff Publishers, 1985) 169.

⁶ Jagota, 169.

coast.⁷ Furthermore, Tunisia has two major islands near its coast, the island of Jebra and the Kerkennah Islands. Tunisia enjoys a great amount of hydrocarbon exploration and oil drilling within that area.⁸

On June 10, 1977, Tunisia and Libya signed a special agreement where they both decide to take the case to the International Court of Justice. The latter will draw principles and rules of international law that can be applied to the delimitation of their shared continental shelf.⁹ Similarly, the Arbitration Court drew the appropriate principles and rules for an equitable delimitation in the Anglo-French case. However, in the Tunisia-Libya case the parties did not request the Court to draw the delimiting boundary line(s).¹⁰ Tunisia and Libya wanted their designated experts to draw the boundary line(s) in accordance with the principles and rules provided by the Court.¹¹ The Court, however, disapproved and provided the parties with the exact coordinates for the boundary lines. Moreover, it demanded from both states that they abide by the Court's judgments.¹² As a note, Judge Gros (a Judge of the International Court of Justice) at the time was worried that Libya did not seriously take the authority of the Court, saying that "Nothing was negotiable on the judgment."¹³ Also, the ICJ was asked to take into consideration three major points when coming up with its decision. They included equitable principles,

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⁷ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 94. see also Mark B. Feldman, "Tunisia – Libya Continental Shelf Case: Geographic Justice or Judicial Compromise," *Jstor* 77 (1983) : 220.

⁸ S.P. Jagota, Maritime Boundary (Dordrecht: Martinus Nijhoff Publishers, 1985) 173. see also Feldman, 220.

⁹ Gerard J. Tanja, The Legal Determination of International Maritime Boundaries (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 180.

¹⁰ Feldman, 222.

¹¹ Feldman, 222.

¹² Feldman, 222.

¹³ Feldman, 222.

relevant circumstances dealing with the area to be delimited, and the new trends in the Third Conference on the law of the sea, (1982 Convention on the Law of the Sea).¹⁴

In the following paragraphs the arguments given to the Court by both Tunisia and Libya are presented. As a start, the disagreement between the two parties dealt with the interpretation of the scientific data given to detect the direction of the natural prolongation of the continental shelf from each state.¹⁵ The region of dispute between Tunisia and Libya was in an area called the Pelagian Block which Libya considered as constituting "A northwards geological prolongation of the North African landmass."¹⁶ According to Libya, the relevant principles and rules that should be applied for the delimitation of the shared continental shelf is the concept of natural prolongation, disregarding the equidistance method.¹⁷ As stated previously, the natural prolongation is referred to the continental shelf which is the shelf that extends from the state's landmass into and under the sea.¹⁸ Libya believed that the natural prolongation of the shelf should be left to "Each party all those parts of the continental shelf that constitutes such a prolongation."¹⁹ This form of delimitation according to Libya is the right of each state and this right is considered as an equitable principle – it is *Ipso Jure*, which means, "By the operation of the law itself."²⁰ Furthermore, Libya stated that the boundary line of the continental shelf should be towards the north from Ras Ajdir because this line would

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¹⁴ Gerard J. Tanja, The Legal Determination of International Maritime Boundaries (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 180.

¹⁵ Tanja, 181.

¹⁶ Tanja, 181.

¹⁷ Mark B. Feldman, "Tunisia – Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?" Jstor 77 (1983) 222.

¹⁸ S.P. Jagota, Maritime Boundary (Dordrecht: Martinus Nijhoff Publishers, 1985) 174.

¹⁹ Jagota, 174.

²⁰ Bryan A. Garner, Black's Law Dictionary (United States: West Group, 1999) 834.

reflect the prolongation of the shelf.²¹ It also argued that other equitable principles should not have any "Influence on the geological determination of the direction of the natural prolongation of each state."²² Libya's point of view was based on the following relevant characteristics: first, both Tunisia and Libya have similar geographical characteristics due to the fact that they are neighbors to the east and west of each other and facing north to the Mediterranean.²³ Second, in terms of geology both states are united as the African landmass and the shelf underneath is considered as part of the same tectonic plate or "African platform."²⁴ Finally, Libya viewed that the direction of the North African coast is east-west; therefore, the Tunisian coast in the Sahel area is irregular, "An incidental feature that should be discounted in any delimitation."²⁵ Moreover, Libya believed that using the equidistance method as the form of delimitation would not yield an equitable delimitation of the continental shelf, especially given that Tunisia and Libya are adjacent states making it very difficult to apply the equidistance or median line method.²⁶

On the other hand, Tunisia's point of view concerning the applicable principles and rules to be applied for the delimitation of the shared continental shelf stated that when delimiting the continental shelf, the geographical characteristics of the area must be

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²¹ Mark B. Feldman, "Tunisia-Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?" *Istor* 77 (1983) : 223.

²² Gerard J. Tanja, *The Legal Determination of International Maritime Boundaries* (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 181.

²³ Feldman, 223. see also Ying-jeou Ma, *Legal Problems of Seabed Boundary Delimitation in the East China Sea* (Baltimore: University of Maryland OPRSCAS, 1984) 85.

²⁴ Feldman, 223. see also Ying-jeou Ma, 85.

²⁵ Feldman, 223.

²⁶ Feldman, 223.

taken into consideration as well as geomorphology²⁷ and historic fisheries.²⁸ Tunisia also believed in the natural prolongation principle stating that since the shelf is a physical and natural prolongation from its landmass then this shelf is rightfully theirs, given that the continental shelf does not overlap another territory.²⁹ However, Tunisia stated that according to history and geological development the Pelagian Block is the eastward natural prolongation shelf. More specifically Tunisia considered the prolongation of its shelf as extending eastwards to areas between 250 – 300 meter isobaths and south – eastwards to an area, “Constituted by the Zira and Zuwarah ridges.”³⁰ As a result, Tunisia viewed that the geomorphologic characteristics makes it possible to differentiate between the Tunisian and Libyan continental shelf.³¹ Once again Tunisia took into consideration the geographical and geological characteristics of the area to be delimited and the concept of natural prolongation as all part of relevant circumstances in order to reach an equitable delimitation.³² Both states were in agreement concerning the principle of natural prolongation and that that principle must be taken into account by the ICJ when coming up with its judgment for the delimitation of their shared continental shelf. Furthermore, both Libya and Tunisia rejected the equidistance method saying that it will cause an inequitable delimitation.³³

Unlike in the Anglo-French case, the Tunisia-Libya case stressed on the geological characteristics of the continental shelf. Therefore, one of the disagreements

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²⁷Robert K. Barnhart, *World Book Dictionary A-K* Volume one (U.S.A.: World Book Inc., 1996) 893. **Geomorphology** is “the study of the arrangement, origin and changes of the earth’s surface features.”

²⁸S.P. Jagota, *Maritime Boundary* (Dordrecht: Maritnus Nijhoff Publishers, 1985) 173.

²⁹Jagota, 173.

³⁰Gerard J. Tanja, *The Legal Determination of the International Maritime Boundaries* (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 182.

³¹Tanja, 182.

³²Tanja, 182.

³³Tanja, 181.

between the two parties involved the geological direction of the natural prolongation of the Pelagian Block (the area of dispute).³⁴ Both Tunisia and Libya agreed on applying equitable principles in order to reach a just and fair solution. However, each side had a different opinion as to what are the equitable principles considered to come up with an equitable result.

Libya viewed the delimitation as being based on the, "Geological natural prolongation [this] alone would satisfy the equity test."³⁵ On the other hand, Tunisia believed that the direction of the natural prolongation of the shelf and other equitable principles are essential for delimiting the shared continental shelf.³⁶ The issue here between the two parties is, "Whether the natural prolongation defined scientifically without reference to equitable principles is truly a natural prolongation for the purpose of delimitation."³⁷

Given the above facts, the Court was able to finally come up with its decision. Ten voted with the decision, while four judges were against the outcome of the decision.³⁸ As mentioned earlier, the Court's aim was to base their judgment on applying equitable principles in order to reach a fair and just solution. In this case the Court refused to apply the equidistance method like in the Anglo-French case. The Court stated that, "There [is] no single obligatory method in international law,"³⁹ therefore, the equidistance method is not mandatory. The Judges' decision and analysis concerning the delimitation of the Tunisian-Libyan continental shelf included the following: the Court rejected the arguments provided by both states. In fact one of the experts in this case

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³⁴ Gerard J. Tanja, The Legal Determination of the International Maritime Boundaries (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 181.

³⁵ Tanja, 181.

³⁶ Tanja, 182.

³⁷ Tanja, 182.

³⁸ "Case Concerning Continental Shelf (Tunisia/Libyan Arab Jamahiriya)." Google Online. 1 May 2003.

³⁹ "Case Concerning Continental Shelf (Tunisia/Libyan Arab Jamahiriya)."

described the situation as an "Essay in geopoetry."⁴⁰ Both Tunisia and Libya stressed throughout their arguments on the concept of natural prolongation. However, the Court could not accept basing its decision on this principle because the continental shelf in this case is a single and common shelf extending from each state. Furthermore, the submarine area of the Pelagian Block is considered as the natural prolongation of Libya, which overlaps the natural prolongation of Tunisia.⁴¹ As a result, the continental shelf parts that belong to Libya and to Tunisia cannot be determined by "How far the natural prolongation of one of the parties extends in relation to the natural prolongation of the other."⁴² The Court also declared that it is not, "Possible to use principles of geology, geomorphology, or bathymetry"⁴³ to delimit a single continental shelf."⁴⁴ The Court, therefore, depended on rules of international law and other relevant circumstances within the area to reach an equitable delimitation. The Court also commented on a very important point that equitable principles and defining the natural prolongation are, "Not to be placed on a plane of equality."⁴⁵ As a result, the area to be delimited involved two sectors. The first division began at the outer limits of the territorial sea of both states. The lines constructed from both state's territorial sea reached a point of intersection. At that point of intersection a straight line was created from the Ras Ajdir boundary going 26 degrees east of north and continued, "At the same bearing until it [met at] the latitude

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⁴⁰ Mark B. Feldman, "Tunisia-Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?" *Jstor* 77 (1983) : 227.

⁴¹ Hungdah Chiu, and Gary Knight, The International Law of the Sea: Cases, Documents, and Readings (London: Elsevier Science Publishers, LTD, 1991) 183.

⁴² Chiu, 183

⁴³ Robert K. Barnhart, World Book Dictionary A-K Volume one (U.S.A.: World Book Inc., 1989) 171. **Bathymetry is "the science of depth measurement, especially of the sea."**

⁴⁴ A Guide to Maritime Boundary Delimitation, 94.

⁴⁵ Chiu, 181.

of the most westerly point of the Gulf of Gabes.”⁴⁶ The straight boundary line drawn at 26 degrees was also the boundary line of the petroleum concessions established before by Tunisia and Libya.⁴⁷ North of this line the Court decided that the line should turn eastwards.⁴⁸ As for the second area delimited, partial-effect was given to the Kerkanneh Islands of Tunisia. This was similarly done to the Scilly Isles in the Anglo-French case. Half-effect is a geometrical method of delimitation as mentioned previously in the Anglo-French case. This Process involves drawing two lines, one line giving the islands full-effect, which means taking into consideration the islands and the other line drawn totally disregarding the islands.⁴⁹ Then a delimiting line is drawn between the two lines. That delimiting line may divide the area in an equal way or it can be a bisector of an angle as it is in this case.⁵⁰ As a result, the Kerkanneh Islands were given half-effect due to their location in relation to the Tunisian coast. Since equitable principles was the method of delimitation in this case, all relevant features within the area were taken into consideration. Therefore, the Court had to, “Balance up the various considerations which it regards as relevant in order to produce an equitable result.”⁵¹ According to the Court’s analysis of the case, the first relevant factor is the geographic and geomorphologic features within the area to be delimited and the arrangement of each state’s coast line.⁵² For example, the Court took into consideration the fact that Tunisia’s coast changes

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⁴⁶ “Case Concerning Continental Shelf Tunisia/Libyan Arab Jamahiriya.” Google Online. 1 May 2003. see also Ying-jeou Ma, Legal Problems of Seabed Boundary Delimitation in the East China Sea (Baltimore: University of Maryland OPRSCAS, 1984) 85.

⁴⁷ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 96.

⁴⁸ Kapoor, 96.

⁴⁹ Hungdah Chiu, and Gary Knight, The International Law of the Sea: Cases, Documents and Readings (London: Elsevier Science Publishers LTD, 1991) 185.

⁵⁰ Chiu, 186.

⁵¹ Mark B. Feldman, “The Tunisia-Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?” Jstor 77 (1983) : 229.

⁵² Feldman, 234.

direction southwest – northeast and the other relevant circumstance are the Tunisian islands off its coast.⁵³ Another relevant circumstance is the positioning of the border line between the two states – “The position of its intersection with the coastline.”⁵⁴ Other factors considered are the historic fishing rights claimed by Tunisia which asked the ICJ to take into consideration the economic factor when coming up with its decision.⁵⁵ Tunisia stated in its argument that Libya is economically wealthier than Tunisia and that the exploitation of living resources in the area of dispute (where it claimed historic fishing rights) is important to “Survive as a country.”⁵⁶ However, the Court disregarded Tunisia’s request. The proportionality method was also used by the Court to test whether the suggested delineating lines are fair and just.⁵⁷ The proportionality test was done by comparing the relation (ratio) between the length of Tunisia’s coastline and Libya’s coastline with the ratio of the continental shelf areas given to each state, “In the overall area defined by the Court as being relevant to the delimitation.”⁵⁸ The outcome of this mathematical formula resulted into a delimitation based on equity.⁵⁹

Regardless of the fact that an equitable delimitation was achieved, the Tunisia-Libya case received many criticisms from different authors and Judges who were participating in the judgment of the case. According to Judge Oda the Court did not

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⁵³ Mark B. Feldman, “The Tunisia-Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?” *Jstor* 77 (1983) : 234.

⁵⁴ Martin Dixon, and Robert McCorquodale, Cases and Materials on International Law (Great Britain: Oxford University Press, 2003) 368.

⁵⁵ Ying-jeou Ma, Legal Problems of Seabed Boundary Delimitation in East China Sea (Baltimore: University of Maryland OPRSCAS, 1984) 120.

⁵⁶ Gerard J. Tanja, The Legal Determination of International Maritime Boundaries (The Netherlands: Kluwer Law and Taxation Publishers, 1990) 184. see also Legal Problems of Seabed Boundary Delimitation in East China Sea.

⁵⁷ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 94.

⁵⁸ Kapoor, 95.

⁵⁹ Kapoor, 95.

succeed in suggesting, "Any positive principles or rules of international law,"⁶⁰ and that the delimiting line created in this case was not too convincing.⁶¹ Oda proposed that the equidistance method is the appropriate method to delimit the continental shelf in this specific case, given that the line is adjusted by taking into consideration the coastal features.⁶² Judge Oda added that he believed in the role of special circumstances in order to come up with an equitable result.⁶³ Therefore, applying a median line as a start then adjusting the line by taking into consideration the special circumstances within the area is his idea of a better procedure for delimiting the shared continental shelf appertaining to Libya and Tunisia. Judge Gros, another Judge who contributed his opinion to the case too, stated that the Court should have tested the equidistance method.⁶⁴ Both Judge Oda and Judge Gros agree on the fact that the Court in the Tunisia-Libya case should have considered the use of the equidistance special-circumstances method. The equidistance special-circumstances method appears to me as a clear and systematic approach than applying equitable principles. A median line is created disregarding all the special circumstances within the area, and then the line is adjusted depending on the special circumstances. It is a fair way in my perspective of delimiting overlapping continental shelves while allowing each state to acquire its rightful share of the continental shelf.

The Tunisia-Libya case illustrated an equitable delimitation of the overlapping continental shelves given that neither state is a signatory of the 1958 or 1982 Conventions on the Law of the Sea. In the Tunisia-Libya continental shelf case the Judges resorted to

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⁶⁰ "Case Concerning The Continental Shelf (Tunisia/Libyan Arab Jamahiriya)." [Google Online](#). 1 May 2003.

⁶¹ "Case Concerning The Continental Shelf (Tunisia/Libyan Arab Jamahiriya)."

⁶² "Case Concerning The Continental Shelf (Tunisia/Libyan Arab Jamahiriya)."

⁶³ Mark B. Feldman, "The Tunisia-Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?" *Jstor* 77 (1983): 236.

⁶⁴ Feldman, 235.

customary international law to apply equitable principles and take into account all the relevant characteristics of the area. The Court also took into consideration new trends in UNCLOS III since both Tunisia and Libya asked the Court to do so in their judgment. Furthermore, the Judges took into account that Tunisia and Libya are adjacent states, making it hard to apply a geometrical method such as the equidistance method. Also, the continental shelf which is the natural prolongation of both Tunisia and Libya in this particular case is a single shelf shared by both states. Therefore, due to such a situation the natural prolongation principle could not be used as a factor for delimitation.⁶⁵ As a result, the area relevant for delimitation according to the Court was the area corresponding to the Tunisian coast from Ras Ajdir to Ras Kaboudia and the Libyan coast from Ras Ajdir to Ras Tajoura and, "By the parallel of latitude passing through Ras Kaboudia and the Meridian passing through Ras Tajoura."⁶⁶ Also, the arrangement of the coasts appertaining to both states was also taken into account, especially that the Tunisian coast at one point changes direction. The Kerkennah Islands, which the Court gave partial effect, were considered as a relevant factor.⁶⁷ Moreover, the land boundary between the two states was taken into account and the maritime limit of the petroleum concessions was also considered. The Tunisia-Libya continental shelf case and the Anglo-French case had several similarities and differences in terms of principles and rules applied in delineating their respective continental shelves; however, at the end both cases reached an equitable result in the delimitation of the overlapping continental shelves.

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⁶⁵ "Case Concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya)." [Google Online](#). 1 May 2003.

⁶⁶ "Case Concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya)."

⁶⁷ "Case Concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya)."

CHAPTER SEVEN

Delimiting Continental Shelves through State Practice

Maritime delimitation is one of the most difficult subjects dealt with under the Law of the Sea. Lots of experts under maritime law, have contributed their time and efforts to come up with principles and rules under international law to delimit shared continental shelves between opposite or adjacent states. The major objective when delimiting any maritime boundary is to be able to achieve an equitable result. An equitable solution, as mentioned earlier in this study, is one that takes into account all the relevant characteristics of the area to be delimited as well as referring to principles and rules of international law.¹ Once all the data is collected and analyzed by the judges, the right delimiting method can be applied to create a fair and just boundary line(s).

In this work three cases were illustrated, two of which dealt with applying each of the two main methods of delimitation between shared continental shelves. In the Anglo-French case the process of delimiting the overlapping continental shelves between Great Britain and France was based on the equidistance special-circumstances method, which is mentioned in article 6 under the 1958 Convention on the Law of the Sea. As for the Libya-Tunisia case, customary international law was used to delimit the shared continental shelves to include applying equitable principles and taking into consideration all of the relevant characteristics within the area. Concerning the Aegean dispute, the case is still unresolved. In the successful two cases, two different methods were applied in two geographically different areas. Depending on the given criteria in each case the Judges were able to choose the appropriate method to be applied for the delimitation.

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¹ Jonathan I. Charney, "Ocean Boundaries between Nations: A Theory for Progress," American Journal of International Law 78 (Jul 1984) : 591.

Therefore, one can deduce that there is no one ideal method to delimit continental shelves and that there are certain steps Judges have to follow in order to choose the right delimiting method: equidistance special-circumstances or equitable principles or customary international law. However, reaching an equitable result in the delimitation of overlapping continental shelves or any maritime boundary can also be done without going to Court. This point will be illustrated in the following paragraphs.

The following cases discussed in this chapter are examples of states delimiting shared continental shelves through state agreements² and not by judicial means. The outcomes of the delimitations were equitable solutions. It is important to include a chapter concerning continental shelf delimitations through state practice because state practice is recognized as part of international law. Moreover, equitable results in delimiting overlapping continental shelves or any other maritime boundary can be achieved through state negotiations. According to the United Nations Division for Ocean Affairs and the Law of the Sea, agreements between states is a "Political operation dependent first and foremost on the existence of political will."³ The cases included in this chapter deal with various states and islands located in different geographical areas. Moreover, a common trend in maritime delimitations that is more and more widely used deals with delimiting the continental shelf, and/or the exclusive economic zone, and/or the territorial sea, and/or the submarine areas of the continental shelf or a combination of all the above maritime zones in one single boundary line. Examples of such cases will also be included in this chapter.

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² D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986) 77. Settling a dispute through state agreements is an accepted rule of international law.

³ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, Handbook on the Delimitation of Maritime Boundaries (New York: United Nations, 2000) 17.

The first example of a successful continental shelf delimitation using state practice is the continental shelf delimitation between **Iran and Qatar** of September 20, 1969. This agreement dealt with delimiting their shared continental shelf based on rules of international law and the, "Law of sovereignty in a just, equitable and exact manner."⁴ An equidistance line was applied as the form of delimitation; the islands within the area were disregarded.⁵ The delineating lines consisted of geodetic lines⁶ in latitude and longitude coordinates.⁷ Furthermore, the final agreement between Iran and Qatar states that in case a petroleum structure or field extends across the boundary line of the other state, then no drilling of the oil will be done unless a mutual agreement is settled between the two governments.⁸ This would then be a special consideration between the two states. The delimitation of the continental shelf between Iran and Qatar was done in a fair and just way resulting in an equitable solution.

Furthermore, delimiting the areas in the Persian Gulf is extremely important due to large amounts of oil found in the seabed underneath the continental shelf.⁹ Another example from this region is the **Iran – Bahrain** agreement of June 17, 1971. In this case the delineating lines concerning their shared continental shelf consisted of

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⁴ Charles G. MacDonald, *Iran, Saudi-Arabia and the Law of the Sea* (Westport Connecticut: Greenwood Press, 1980) 131.

⁵ MacDonald, 131. see also United Nations, Office for Ocean Affairs and the Law of the Sea, *Maritime Boundary Agreements (1942-1969)* (New York: United Nations, 1991) 84-85.

⁶ D.C. Kapoor, (Admiral Rear), and Captain Adam J. Kerr, *A Guide to Maritime Boundary Delimitation* (Toronto: Carswell, 1986) 77. A geodetic line is a system used when delineating maritime areas. This technique is used, "In order to overcome the inaccuracies introduced by map projections." It is done by using specialized computer programs by entering the selected base points of the two opposite or adjacent states and with these base points the computer can indicate the median line in latitude and longitude lines.

⁷ "Agreement Concerning the Boundary Line Dividing the Continental Shelf between Iran and Qatar, 20 1969." *Google Online*. 2002. 1 Oct. 2003. www.google.com

⁸ "Agreement Concerning the Boundary Line Dividing the Continental Shelf between Iran and Qatar, 20 1969."

⁹ MacDonald, 116.

straight lines connecting four points.¹⁰ Two of the lines were based on past agreements between the states and the other two lines were based on the equidistance method of delimitation. Moreover, full-effect¹¹ was given to the Iranian islands of Nakhilu and Jabrin, while the Bahraini island of Muharraq was disregarded.¹² In case of petroleum field(s) or any other mineral field extending across the stated boundary lines, "No well shall be drilled on either side of the boundary line"¹³ except by an agreement between the two governments. An equitable delimitation was achieved at the end.

The **Iran – Oman** case of July 25, 1974 likewise dealt with the continental shelf delimitation in the areas between Oman and Ras Al-Khaimah and Oman and Sharjah.¹⁴ Iran and Oman are opposite states and the method of delimitation chosen was like the above case (using equidistant lines). Even though the, "Application of the median was accepted as most equitable,"¹⁵ there was a difference in point of views concerning the direction of the median line. The reason is that there are islands located on both sides of the Strait of Hormuz. At the end, the issue was resolved by giving no effect to the islands within the region of delimitation. Therefore, a median line was created to delimit the continental shelf between Iran and Oman and, as a result, a just and fair solution was accomplished

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¹⁰ Charles G. MacDonald, *Iran, Saudi-Arabia and the Law of the Sea* (Westport Connecticut: Greenwood Press, 1980) 131. see also "Agreement Concerning Delimitation of the Continental Shelf Between Bahrain and Iran signed at Bahrain on 17 June 1971." [Google Online](#). 2002. 1 Oct 2003.

¹¹ Abdullah Faraj Ahnish, *The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea* (New York: Oxford University Press Inc., 1993) 365. **Full effect islands are islands that are situated on or near the median line that is constructed between the states in dispute.**

¹² MacDonald, 131.

¹³ United Nations, Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea Maritime Boundary Agreements (1970-1984)* (New York: United Nations, 1987) 248.

¹⁴ MacDonald, 134. see also "Agreement Concerning Delimitation of the Continental Shelf between Iran and Oman 25 July 1974." [Google Online](#). 2002. Oct.1, 2003.

¹⁵ S.H. Amin, *Delimitation of The Continental Shelf: The Gulf States' Practice* (United Kingdom: 1984) 523.

Iran and the United Arab Emirates case of August 31, 1974 deals with coming up with delineating lines for their shared continental shelf. There were five points with straight lines connecting these points. This case achieved an equitable result even in the most, "Geographically irregular and politically disputed areas."¹⁶

All of the above cases applied the equidistance method to delimit their continental shelves. It was decided that the equidistance formula was essential in the Gulf cases in order to come up with equitable solutions.¹⁷ Due to the geographical and other relevant circumstances within the area this method was the appropriate one to delimit the states' continental shelves whereas in other cases the equidistance approach can lead to an inequity. Moreover, since there are rich oil resources underneath the continental shelves in the Gulf region, joint exploitation was considered by most states. The sharing of the resources of the seabed and subsoil is considered as a way of reaching a fair and just solution. Also the geographical characteristics of the area were considered during the continental shelf delimitations like the configurations of the coasts and islands within the area. Therefore, the agreements of the above Gulf cases were all based on principles and rules of international law where the equidistance method and relevant circumstances was applied for an equitable result.

The case of **Venezuela and the Netherlands** of March 31, 1978, is also an example of delimitation using a single boundary line. Confirming the good relations between the two states, specifically the, "Historical, social, economic and cultural ties,"¹⁸

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¹⁶Charles G. MacDonald, *Iran, Saudi-Arabia and the Law of the Sea* (Westport Connecticut: Greenwood Press, 1980) 134.

¹⁷ MacDonald, 137. see also "Continental Shelf Boundary: Iran-United Arab Emirates(Dubai)." [Google Online](#). 2002. Oct. 1, 2003.

¹⁸ United Nations, Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea Maritime Boundary Agreements* (1970-1984) (New York: United Nations, 1987) 139.

they decided to delimit their continental shelf, territorial waters, EEZ and submarine areas all in one single boundary line in the Caribbean sea area.¹⁹ The relevant factors in this case include the preservation of resources underneath the continental shelf, the sea traffic from Venezuela, and the guarantee of economic development in the Netherlands.²⁰ Taking into account the above relevant circumstances, rules of international law and trends in the new Law of the Sea Convention, both Venezuela and the Netherlands were able to delimit the designated areas in an equitable way.²¹

The treaty of **Venezuela and the Dominican Republic** of March 3, 1979 in the Caribbean Sea is another case where an equitable result was achieved by using a single boundary to delimit the areas of the continental shelf, EEZ, and the submarine areas.²² The delineating lines were determined by geodesic lines connecting certain geographic coordinates, which are in latitude and longitude lines.²³ Each state agreed to respect each other's marine and submarine areas and to protect the sea environment from all kinds of pollution.²⁴ Furthermore, any dispute between the two will be resolved through negotiations. The use of equitable principles was applied in this case, in particular recognizing the significance of maritime traffic to and from Venezuela in order to reach an equitable result.²⁵

Yet another case that reached an equitable delimitation is the case of **Australia and France** of January 4, 1982. The objective in this case was to build up the relations

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¹⁹ United Nations, Office for Ocean Affairs and the Law of the Sea, The Law of the Sea Maritime Boundary Agreements (1970-1984) (New York: United Nations, 1987) 139.

²⁰ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984) 139.

²¹ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984) 139. see also Richard T. Barber, Lecture Notes on Coastal and Estuarine Studies (New York: Springer-Verlag, 1998).

²² United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984) 135.

²³ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984) 135.

²⁴ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984) 136.

²⁵ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984) 135.

between the two states as neighbors and friends.²⁶ The area to be delimited in this case was between the Australian islands (Norfolk Island and other Australian Islands) in the Coral Sea and the French islands (New Caledonia, the Chesterfield Islands and other French Islands) on the other side.²⁷ Delineating lines were created between areas of the continental shelf, the Australian fishing zone, and the French economic zone.²⁸ The delimitation took into consideration principles and rules of international law and new trends in the recent Law of the Sea Convention in order to reach an equitable solution.²⁹ The delimiting lines were based on using the geodetic system where exact coordinates were given in latitude and longitude lines.³⁰ As a result, a fair and just delimitation between the islands was created relating to the continental shelf, the Australian fishing zone and the French economic zone.

Another successful continental shelf delineation is the **France and Belgium** agreement of October 8, 1990. It deals with taking into consideration applicable rules for maritime delimitation in order to reach an equitable solution.³¹ The boundary lines are made up of loxodromes in latitude and longitude coordinates.³² These points are considered as achieving an equitable delimitation concerning the continental shelf between France and Belgium. The low-tide elevations and also the low –water line of the coast were taken into consideration as relevant circumstances when coming up with the

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²⁶ United Nations, Office for Ocean Affairs and the Law of the Sea, The Law of the Sea Maritime Boundary Agreements (1970-1984) (New York: United Nations, 1987) 259.

²⁷ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984), 259.

²⁸ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984), 259.

²⁹ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984), 259.

³⁰ United Nations, The Law of the Sea Maritime Boundary Agreements (1970-1984), 260.

³¹ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, The Law of the Sea Current Development in State Practice No. III (New York: United Nations, 1992) 336.

³² United Nations, The Law of the Sea Current Developments in State Practice No. III, 336.

boundary lines of the continental shelf.³³ As a result, the delimitation of the continental shelf between the two states resulted in an equitable result.

The case of the **Republic of Trinidad and Tobago and the Republic of Venezuela** of April 18, 1990 is also an example of maritime delimitation using a single maritime boundary.³⁴ Like most of the cases illustrated here, Trinidad and Tobago and Venezuela wanted to cooperate as friends and as good neighbors; therefore, they decided to limit their territorial seas, continental shelves, exclusive economic zones, and submarine areas.³⁵ When delimiting, the states involved took into consideration rules of international law and the 1982 Convention on the Law of the Sea in order to reach an equitable solution.³⁶ As a result, the delineating lines in the Caribbean, the Gulf of Paria, the Serpent's Mouth, and the Atlantic region are defined by geodetic lines, which are expressed in latitude and longitude coordinates.³⁷

Another case is the agreement between **Great Britain and Belgium** on May 29, 1991. The United Kingdom and Belgium wanted to delimit their shared continental shelf while taking into account current rules of international law to reach an equitable solution.³⁸ In this case, the delimiting lines are loxodromes given in a series of latitude and longitude coordinates. Like the other cases, this case states that if one or more of these lines cross an area where mineral oil or natural gas is exploitable then a separate agreement between the two states must be reached.³⁹

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³³ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, The Law of the Sea Current Developments in State Practice No. III (New York: United Nations, 1992) 336.

³⁴ United Nations, The Law of the Sea Current Developments in State Practice No. III 329.

³⁵ United Nations, The Law of the Sea Current Developments in State Practice No. III 329.

³⁶ United Nations, The Law of the Sea Current Developments in State Practice No. III 329.

³⁷ United Nations, The Law of the Sea Current Developments in State Practice No. III 329.

³⁸ United Nations, The Law of the Sea Current Developments in State Practice No. III 338.

³⁹ United Nations, The Law of the Sea Current Developments in State Practice No. III 338.

Other cases where equitable solutions were achieved and where a single boundary line was used to delimit the continental shelf and other maritime zones include the **Thailand and Vietnam** agreement of August 9, 1997. Both states wanted to strengthen their friendship ties; as a result, Thailand and Vietnam delimited their continental shelf and exclusive economic zone in one single boundary line in the disputed area of the Gulf of Thailand.⁴⁰ In this case, several straight lines were established as delineating lines. These lines were defined by latitude and longitude coordinates which were based on the equidistance method.⁴¹ In certain areas, joint exploitation of the seabed and subsoil of the continental shelf was established as part of reaching an equitable result. Both states at the end received their fair share of the continental shelf and exclusive economic zone (EEZ) as well as the resources underneath the continental shelf.

The **Lithuania and the Russian Federation** agreement of October 24, 1997 is another example of delimiting shared continental shelves through state practice. Lithuania and Russia's aim was to expand and intensify the, "Good-neighborly relations."⁴² Also, given their common interests in protecting the natural resources of the sea and other interests, both states decided to delimit their continental shelf and exclusive economic zone in the Kaliningrad region by applying rules of international law in order to achieve an equitable result.⁴³ The delineating lines are straight lines (loxodromes)⁴⁴ which join certain given points.⁴⁵ The geographical coordinates given in this case were

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⁴⁰ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, Law of the Sea Bulletin no.39 (New York: United Nations, 1999) 23.

⁴¹ United Nations, Law of the Sea Bulletin No. 39, 23.

⁴² United Nations, Law of the Sea Bulletin No. 39, 26.

⁴³ United Nations, Law of the Sea Bulletin No. 39, 26.

⁴⁴ Robert K. Barnhart, The World Book Dictionary L-Z Volume Two (U.S.A.: World Book Inc., 1996) 1239. **Loxodromes are lines "On the surface of a sphere cutting all meridians at the same angle"**

⁴⁵ United Nations, Law of the Sea Bulletin No. 39, 26.

given and computed by the World Geodetic System of Coordinates;⁴⁶ thus, the lines are given in latitude and longitude coordinates. The agreement states in one of its articles that in case the delimiting lines of the continental shelf and EEZ run through an oil or gas deposit, then the parties will have to settle the dispute in accordance with principles and rules of international law.⁴⁷

One of the more recent delimitations dealing with the continental shelf is the February 19, 2001 agreement between **France and the Seychelles**. Both states wanted to build up their friendship ties. Therefore, they decided to delimit their continental shelves and exclusive economic zones based on rules and principles of international law and the 1982 Law of the Sea in order to have an equitable delimitation.⁴⁸ The delimiting line was created between the EEZ and the continental shelf of the French Republic (around the island of Ile de la Grande Glorieuse and Ile du Lys) and the EEZ and continental shelf of the Republic of Seychelles (around Assumption Island and Astove Island).⁴⁹ The equidistance method was used in this case, and it is considered as the equitable solution. The equidistance lines were created, "By a series of geodesics"⁵⁰ using latitude and longitude coordinates. Therefore, an equitable result was achieved.⁵¹

The **United Republic of Tanzania and the Republic of Seychelles** agreement of January 2002 is another recent case. Both states aimed at increasing their neighborly and friendship bonds; therefore, the continental shelf and EEZ between the two states were

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⁴⁶ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, Law of the Sea Bulletin No. 39 (New York: United Nations, 1999) 26.

⁴⁷ United Nations, Law of the Sea Bulletin No. 39, 27.

⁴⁸ United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, The Law of the Sea Bulletin No. 47 (New York: United Nations, 2001) 42.

⁴⁹ United Nations, The Law of the Sea Bulletin No. 47, 42.

⁵⁰ United Nations, The Law of the Sea Bulletin No. 47, 42.

⁵¹ United Nations, The Law of the Sea Bulletin No. 47, 42.

delimited.⁵² Delimitation was based on rules and principles of international law with the aim to have an equitable delimitation for their maritime zones. As a result, the equidistance method of delimitation was used and in this specific case the equidistance line was viewed as being the equitable solution for the case as well as being in agreement with international law.⁵³ The delineating line was created between the continental shelf and EEZ of the Mafia Island (which appertains to Tanzania) and the continental shelf and EEZ of the Aldabra Atoll-Picard Island (which appertains to Seychelles). The boundary line was given in latitude and longitude coordinates by using the geodetic system.⁵⁴ The outcome of the delimitation between Tanzania and the Seychelles was based on an equitable delimitation.

After reading the above cases it is obvious that there is no one ideal method to delimit overlapping continental shelves or any maritime boundary. Given the Anglo-French case, the Tunisian- Libyan case, and the above state agreement cases, it can be deduced that despite the different delimiting methods that were applied, all of the cases achieved an equitable result which is the objective under maritime law. Different geographical and geological characteristics and other relevant circumstances are all factors to be taken into account when delineating continental shelves. Every area is different from another and every continental shelf is geologically unlike another.

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⁵² United Nations, Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, The Law of the Sea Bulletin No. 49 (New York: United Nations, 2002) 56.

⁵³ United Nations, The Law of the Sea Bulletin No. 49, 56.

⁵⁴ United Nations, The Law of the Sea Bulletin No. 49, 56.

There are many different delimiting methods that can be applied in various areas and a fair and just result can still be achieved even without going to Court.⁵⁵

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⁵⁵ Josette Beer-Gabel. "Curriculum Vitae." Paris, 2003. According to the latest statistics done in 2003, there are a total of 170 maritime delimitations resolved. Out of the 170 maritime delimitations 85 of the cases were concluded based on state practice. 9 of the cases were solved by applying equitable principles and 56 cases were settled according to the equidistance principle. Out of the 170 maritime delimitations, 113 cases dealt with delimiting the continental shelf. 58 of the 113 cases concerned specifically the delimitation of shared continental shelves. 55 of the 113 delimitations dealt with finding a single maritime boundary to delimit the continental shelf and other maritime zones (i.e. the exclusive economic zone, territorial sea and etc.).

CHAPTER EIGHT

Conclusion

The main goal of this study involved exploring already existing international principles and rules concerning the delimitation of overlapping continental shelves between opposite and adjacent states, and identifying the steps in which Judges follow in order to choose the appropriate method of delimitation for a given case. The importance of continental shelves to coastal states has been the cause of a major international, legal, and political controversy. The issue of the delimitation of overlapping continental shelves is not just about a piece of land under the sea that needs to be delimited, it is more of a situation that involves major economical benefits for coastal states. Other important factors such as history, politics, nationalism, geography, and geology are also considered.

This work starts with a brief and general historical background dealing with the law of the sea and the history of the continental shelf. It was observed that the continental shelf or any maritime boundary could be delimited by an agreement between states or in case of no agreement, a third- party settlement could be attempted. Reference to the World Court (previously known as the International Court of Justice) or to an Arbitration Court, are also often made. Conventional international law is the first priority, while customary international law and general principles of law are alternative sources.

Historically, the continental shelf could not be explored nor exploited due to lack of technology. One of the very first attempts of delimiting shared continental shelves was the case of the Gulf of Paria in 1942. This case dealt with delineating the submarine areas of the Gulf of Paria between the United Kingdom and Venezuela by applying the equidistance method. At the time, the United Kingdom and Venezuela saw the use of

equidistance lines to delimit the submarine areas of the Gulf of Paria as the most equitable method. It is interesting to note that at the time of the Gulf of Paria case, the United Nations Conventions on the Law of the Sea did not yet exist, nevertheless, both states were able to resolve their dispute peacefully.

A major development in the issue of continental shelves was the 1945 Truman Proclamation on the continental shelf. This was prompted by the discovery of petroleum under United States' Continental shelf, and the need to exploit such resources with the use of advanced technology. The Truman Proclamation suggested equitable principles as the method to be applied in the case of delimiting overlapping shelves.

After the Truman Proclamation, the 1958 Convention on the Law of the Sea was concluded. Under that Convention, article 6 dealt with the process of delimiting overlapping continental shelves between opposite and adjacent coastal states. Article 6 stated that in the case of no agreement between states in dispute over the delimitation of their overlapping continental shelves, then the equidistance method is to be applied unless justified by special circumstances. It has been shown in this work that the equidistance special-circumstances method provides a clearer and more systematic procedure to be applied when delineating overlapping continental shelves between opposite and adjacent states than equitable principles. Equidistance special-circumstances is, in the opinion of the present writer, more methodical because in the case of no agreement between states concerning the delimitation of their overlapping continental shelves, a median line is drawn as a first step from which the process can continue. The median line is then adjusted depending on the special circumstances within the area to include islands, fishing, and navigational rights, and so on. As a result,

an equitable delimitation can be reached where each state receives its fair share of the continental shelf and seabed underneath.

Years later the 1982 Convention on the Law of the Sea endorsed the equitable principles, and took into consideration relevant factors within the area to be delimited. Therefore, when Judges apply the equitable principles method they study the disputed area and then take into account all the relevant circumstances, and finally apply the delimiting lines. It appears to me that applying equitable principles alone accentuates the element of vagueness in the delimitation process. Irrespective of the method applied, the fact remains that the Judges' main concern or objective in maritime delimitation under international law is achieving an equitable result at the end.

This work is not about which method of delimitation is "better;" it rather aims more at determining a methodology that would allow Judges to choose one method over the other. The steps include, first, distinguishing whether the states in dispute are opposite or adjacent states. Second, if the states in conflict are both parties to the 1958 Convention on the Law of the Sea, then they are bound to apply the equidistance special-circumstances method. If, however, the states in conflict are parties to the 1982 Convention on the Law of the Sea, then applying equitable principles and taking into consideration relevant characteristics within the area is the applicable method of delimitation. However, if the states involved are neither parties to the 1958 nor the 1982 Law of the Sea Conventions then Judges resort to customary international law, which is applying equitable principles and taking into account relevant characteristics of the area being delimited.

In this work, three major continental shelf cases were used as illustrations. The first case is the ongoing Aegean dispute. The Aegean case is one of the most complex continental shelf cases which still remains unresolved, even though, many authors and specialists in this field have provided several possible resolutions. It is a case that involves many factors such as historical, nationalistic, political, social and economical issues.

As mentioned in chapter two, the Aegean region is a semi-enclosed sea with over 3000 islands scattered all over the area and mainly claimed by Greece. Some of these Greek islands are located right off the coast of Turkey adding more complexities to the dispute. Turkey, wants to solve the continental shelf conflict through diplomatic means by directly negotiating with Greece, while Greece opts for the judicial means through the International Court of Justice. Greece is a party to the 1958 Convention on the Law of the Sea, and, therefore, it insists on the application of the equidistance method as the form of delimitation. Turkey, on the other hand, is a party to none of the Law of the Sea Conventions and proposes a negotiated agreement based on applying equitable principles. The Greek and Turkish shared continental shelf is very important and essential for both countries because of the large amounts of oil found in the seabed underneath the Aegean shelf. According to many sources dealing with this case, the Aegean area is mainly Greek claimed because of the many Greek islands scattered every where in the region. Turkey on the other hand, is hoping to acquire a larger area of the continental shelf to benefit more from the oil located in the seabed underneath. However, many authors specialized in the Aegean conflict suggest adopting a joint development zone. I, too, am inclined to share the same view, because a joint development zone would be a start for

resolving this case besides being a fair compromise for both Greece and Turkey.

Furthermore, having a joint development zone may lead Greece and Turkey in the future to create delineating boundary line(s) within the Aegean region.

The second case illustrated in this work is the 1977 Anglo-French continental shelf case between Great Britain and France in the English Channel area. Unlike, the Aegean case, the Anglo-French case was resolved. Both Great Britain and France agreed to take the case to an arbitration Court for the purpose of reaching an equitable delimitation for their overlapping continental shelves. Since, both Great Britain and France were parties to the 1958 Convention on the Law of the Sea, the equidistance special-circumstances was the main approach open for delimitation.

The Court delimited the shared continental shelf between Britain and France by first drawing a median line in the English Channel area going out up to 1000 meters to the Atlantic region without taking into consideration islands in the area. Concerning the Channel Islands the Judges decided to engulf the islands by a distance of 12 nautical miles from their designated baselines. Finally the Court treated the Scilly Isles by giving them half-effect. At the end an equitable result was achieved, where both Great Britain and France were equally satisfied. The overlapping continental shelves appertaining to Britain and France were divided by applying the equidistance method with special circumstances for the British claimed Channel Islands and Scilly Isles. In the Anglo-French case it is very obvious that the judges followed the sequence or steps that were identified in this work.

The third case chosen in this work was the 1982 Tunisia-Libya continental shelf case. However, unlike the Anglo-French case, both Tunisia and Libya were not

signatories of either the 1958 Law of the Sea Convention or the 1982 Law of the Sea Convention. The Judicial body chosen by both states to resolve the case was the International Court of Justice (World Court). The two states asked the Court to apply equitable principles while taking into account all the relevant circumstances within the area and new trends in the 1982 Law of the Sea Convention (work on the 1982 Convention on the Law of the Sea was in progress). This particular case was more complex than the Anglo-French case because of the fact that Tunisia and Libya are adjacent states and that their respective continental shelves is in fact a single continental shelf.

In the Tunisia-Libya case both states presented their arguments to the Court based on the natural prolongation concept. The two countries did not share the same view on this concept, and the Court, on its part, disregarded it. The Court instead resorted to customary international law such as applying equitable principles and taking into consideration the relevant characteristics within the area to guarantee an equitable result.

The equidistance special-circumstances method if used to delimit the overlapping Tunisia-Libya continental shelf would, in my opinion, have been a better choice. As pointed out earlier, the equidistance special-circumstances method would have provided a clearer and a more orderly approach than applying equitable principles. Many dissenting Judges were of the same opinion, stressing the elements of order and clarity inherent in the equidistance special-circumstances method.

It is pertinent to note here that international law makes room for maritime delimitations to be solved through state practice or state agreements. It was mentioned in

this work that reaching an equitable result for continental shelf delimitations can also be successfully done through diplomatic (i.e. non judicial) means.

The delimitation of overlapping continental shelves is a complex area of international law because it involves vital political and economic areas of interest to the territorial states. Methods of settlements of interstate conflicts are similarly complex. Each case is unique with different geographical characteristics and relevant factors (or special circumstances). With the specific factors found in a case, the Judges are able to choose the right method of delimitation. In the final analysis the Judges' aim is to find an equitable solution where the states in dispute receive their fair share of the continental shelf and seabed underneath. It is also pertinent to reiterate that The United Nations Conventions on the Law of the Sea have been developed as a way of settling maritime boundary disputes among coastal states. These international legal documents have, no doubt, been helping to ease conflicts and are contributing to the peace and stability of the world.

WORKS CITED

- "Aegean Dispute Between Greece and Turkey." Google Online. 1 May. 2003.
(<http://www.american.edu/projects/mandcela/TED/ice/AEGEAN.HTM>)
- "Aegean Sea Continental Shelf Case." International Court of Justice 62 (1978): 4-45.
- "Agreement Concerning the Boundary Line Dividing the Continental Shelf between Iran and Qatar, 20 September 1969." Google Online. 14 March. 2002. 1 Oct. 2003.
(www.google.com)
- "Agreement Concerning Delimitation of the Continental Shelf between Bahrain and Iran, signed at Bahrain on 17 June 1971." Google Online. 1 Oct. 2003.
(www.google.com)
- "Agreement Concerning Delimitation of the Continental Shelf between Iran and Oman 25 July 1974." Google Online. 14 March 2002. 1 Oct.2003.
(www.google.com)
- Ahnish, Abdullah Faraj. The International Law Of Maritime Boundaries and the Practice Of States in the Mediterranean Sea. New York: Oxford University Press Inc., 1993.
- Amador, Garcia F. V. The Exploitation And Conservation Of The Resources Of The Sea. Netherlands: 1959.
- Amin, S.H. Delimitation of the Continental Shelf: The Gulf States' Practice. United Kingdom: 1984.
- Andrassy, Juraj. International Law and the Resources of the Sea. New York: Columbia University Press, 1970.
- Barber, Richard T. Lecture Notes on Coastal and Estuarine Studies. New York: Springer-Verlag, 1988.

Barnhart, Robert K. The World Book Dictionary. Vol. One A- K. U.S.A.: World Book, Inc., 1996.

_____. World Book Dictionary. Vol. Two L- Z. (U.S.A.: World Book Inc., 1996).

“The Berne Declaration.” Google Online. 1 May. 2003.
(http://www.greekturkishforum.org/h79_1.htm.)

Blake, Gerald. Maritime Boundaries and Ocean Resources. London: Croom Helm, 1987.

_____. Maritime Boundaries World Boundaries Volume 5. London: Routledge, 1994.

Borowiec, Andrew. The Mediterranean Feud. New York: Praeger Publishers, 1983.

Bowett, D.W. The Law of the Sea. U.S.A.: Manchester University Press.

Brown, E.D. The International Law of the Sea Volume I Introductory Manual. Great Britain: Dartmouth Publishing Company Limited, 1994.

Caminos, Hugo and Molitor, Michael R. “Progressive Development of International Law And the Package Deal.” The American Journal of International Law 79 (Oct., 1985): 871 – 890.
(<http://www.jstor.org/>)

The Caribbean. International Seabed Authority. The Law of the Sea compendium of Basic Documents. Jamaica: 2001.

“Case Concerning The Continental Shelf (Tunisia/Libyan Arab Jamahiriya).” Google Online. 1 May 2003.
(<http://www.icjciij.org/icjwww/idecisions/isummaries/it/summary820224.htm>)

Charney, Jonathan I. "Ocean Boundaries between Nations: A Theory for Progress." The American Journal of International Law 78 (Jul., 1984): 582- 606.
(<http://www.jstor.org/>)

Chiu, Hungdah, and Gary Knight. The International Law of the Sea: Cases, Documents, And Readings. London: Elsevier Science Publishers LTD, 1991.

"Continental Shelf Boundary: Iran – United Arab Emirates (Dubai)." Google Online.
1 Oct. 2003.
(www.google.com)

"Continental Shelf." Google Online. 1 May. 2003.
(<http://www.yunan.gen.tr/english/aegean/rights01.html>)

"Convention on the Continental Shelf." Google Online. 29 April. 1958. 26 Apr. 2003.
(<http://www.oceanlaw.net/texts/genevacs.htm>)

"Delimitation of the Continental Shelf." Google Online. 1 May. 2003.
(http://www.mfa.gr/english/foreign_Policy/Europe_Southeastern/turkey/aegean_Continental_shelf.html)

Dias, Ayesha. Annual Review of United Nations Affairs. Volume IV. New York:
Oceana Publications Inc., 2000.

Dixon, Martin, and McCorquodale, Robert. Cases and Materials on International Law.
Great Britain: Oxford University Press, 2003.

Dyke, Jon M., Ludwig A. Noel and Valencia J. Mark. Sharing the Resources of the South China Sea. Martinus Nijhoff Publishers: The Hague, 1997.

Evans, Malcolm D. Relevant Circumstances and Maritime Delimitation. Great Britain:
Oxford University Press, 1989.

- Feldman, Mark B. "The Tunisia – Libya Continental Shelf Case: Geographic Justice or Judicial Compromise?" The American Journal of International Law 77 (Apr., 1983): 219-238.
(<http://www.jstor.org/>)
- Galdorisi, George V., and Kevin R. Vienna. Beyond the Law of the Sea. United States: Praeger Publishers, 1997.
- Garner, Bryan A. Black's Law Dictionary Seventh Edition. United States: West Group, 1999.
- Hollick, Ann L. U.S. Foreign Policy And The Law Of The Sea. New Jersey: Princeton University Press, 1981.
- International Boundary Cases: The Continental Shelf. Volume One. England: Grotius Publications Limited, 1992.
- Jagota, S.P. Maritime Boundary. Dordrecht: Martinus Nijhoff Publishers, 1985.
- Jhabvala, Farrokh. Maritime Issues in the Caribbean. Miami: University Presses of Florida, 1981.
- Kapoor, D.C. (Admiral, Rear), and Captain Adam J. Kerr. A Guide to Maritime Boundary Delimitation. Toronto: Carswell, 1986.
- Kariotis, C. Theodore. Greece and the Law of the Sea. The Hague: Kluwer Law International, 1997.
- Kittichaisaree, Kriangsak. The Law of the Sea and Maritime Boundary Delimitation in South – East Asia. New York: Oxford University Press, 1987.
- Kunz, Josef L. "Continental Shelf and International Law: Confusion and Abuse." The American Journal of International Law 50 (Oct., 1956) : 828 – 853.
(<http://www.jstor.org/>)

"The Law of the Sea." Sept. 1996. Google Online. 1 May. 2003.
(http://www.gpuk.org/atlantic/politics/c_report.html)

Luciani, Giacomo. The Mediterranean Region. New York: ST. Martin's Press, 1984.

Ma, Ying-jeou. Legal Problems of Seabed Boundary Delimitations in the East China Sea. Baltimore: University of Maryland OPRSCAS, 1984.

MacDonald, Charles G. Iran, Saudi Arabia, and the Law of the Sea. Westport Connecticut: Greenwood Press, 1980.

Morell, James B. The Freedom Of The Seas. New York: Oxford University Press, 1916.

Mouton, M. W. The Continental Shelf. Netherlands: Martinus Nijhoff, 1952.

Nelson, L. D. M. "The Roles of Equity in the Delimitation of Maritime Boundaries."
The American Journal of International Law 84 (Oct., 1990): 837 – 858.
(<http://www.jstor.org/>)

The New Merriam- Webster Dictionary. Massachusetts: Merriam – Webster Inc., 1989.

"North Sea Continental Shelf Cases." 20 Feb. 1969. On-Line. Internet. 1 May. 2003.
(www.lawschool.cornell.edu/library/cijwww/icjwww/idecisions/isummaries/icssummary690220.htm)

Oda, Shigeru. International Law of the Resources of the Sea. The Netherlands: Sijthoff & Noordhoff, 1979.

_____. The International Law of the Ocean Development. The Netherlands: Sijthoff Basic Documents, 1977.

Ong, David M. "The New Timor Sea Arrangement 2001: Is Joint Development of Common Offshore Oil and Gas Deposits Mandated under International Law?"
The International Journal of Marine and Coastal Law 17 (2002): 79-122.

Ozturk, Bayram. Proceedings Of The International Symposium On The Aegean Sea. "The Aegean Sea 2000." Turkey: Turkish Marine Research Foundation, 2000.

Prescott, J. R. V. The Maritime Political Boundaries Of The World. New York: Methuen & Co. Ltd, 1985.

Raftopoulos, Evangelos. "The Crisis over the Imia Rocks and the Aegean Sea Regime: International Law as a Language of Common Interest." The International Journal of Marine and Coastal Law 12 (1997): 427-446.

Rothwell, Donald R. Maritime Boundaries and Resource Development: options for the Beaufort Sea. Australia: 1988.

Smith, H.A. The Law And Custom Of The Sea. London: Stevens & Sons Limited, 1959.

Tanja, Gerard J. The Legal Determination of International Maritime Boundaries. The Netherlands: Kluwer Law and Taxation Publishers, 1990.

"Truman Proclamation On The Continental Shelf." Google Online. 28 Sept. 1945. 26 Apr. 2003.
(www.google.com)

United States. Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. Handbook on the Delimitation of Maritime Boundaries. New York: United Nations, 2000.

United States. Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. Law of the Sea Bulletin No. 39. New York: United Nations, 1999.

United States. Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. The Law of the Sea Current Developments in State Practice No. III. New York: United Nations, 1992.

United States. Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. Law of the Sea Bulletin No. 47. New York: United Nations, 2001.

United States. Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. Law of the Sea Bulletin No. 49. New York: United Nations, 2002.

United States. Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. United Nations Convention on the Law of the Sea. New York: United Nations, 1997.

United States. Office for Ocean Affairs and the Law of the Sea. The Law of the Sea National Legislation on the Continental shelf. New York: United Nations, 1989.

United States. Office for Ocean Affairs and the Law of the Sea. The Law of the Sea Maritime Boundary Agreements (1970-1984). New York: United Nations, 1987.

United States. Office for Ocean Affairs and the Law of the Sea. The Law of the Sea Maritime Boundary Agreements (1942-1969). New York: United Nations, 1991.

United States. United Nations Legislative Series. Laws And Regulations on the Regime Of The High Seas. New York: United Nations, 1951.

United States. United Nations. The Law of the Sea Definition of the Continental Shelf. New York: 1993.

Van Dyke, Jon M. "The Aegean Sea dispute: options and avenues." Marine Policy 20 (1996): 397-404.

Wang, C.F. James. Handbook on Ocean Politics & Law. New York: Greenwood Press, 1992.

Weil, Prosper. The Law of Maritime Delimitations – Reflections. Great Britain: Grotius Publications Limited, 1989.

Wilson, Andrew. The Aegean Dispute. Great Britain: Adlard & Sons Ltd, Bartholomew Press, 1979.

Zahraa, Mahdi. "Prospective Anglo-Scottish Maritime Boundary Revisited."
On-Line. Electronic Resources of London School of Economics and Political Science 12.1 (2001) : 77-108.

Median Line of Opposite States
Figure 5-2

Median Line of Adjacent States
Figure 5-3

Figure 3.2
Definition of the Continental Shelf

Analysis of Continental Margin
Figure 8-1

VI. SUMMARY OF THE PROCEDURE FOR ESTABLISHING THE OUTER LIMITS OF THE CONTINENTAL SHELF

89. The entire procedure for a coastal State to establish the outer limits of its continental shelf under article 76 of the Convention may be shown schematically in the following flow chart:

Flow chart for establishing the outer limit of the continental shelf under articles 76 and 84

TRUMAN PROCLAMATION ON THE CONTINENTAL SHELF

Presidential Proclamation No. 2667**28th September, 1945**

"Policy of the United States with Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf".

Whereas the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

Whereas its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilisation is already practicable or will become so at any early date; and

Whereas recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilisation when and as development is undertaken; and

Whereas it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilise or conserve these resources would be contingent upon cooperation and protection from shore, since the continental shelf may be regarded as an extension of the land mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of their nature necessary for utilisation of these resources;

NOW THEREFORE I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

*International Law
Commission*

Convention on the Continental Shelf, 1958^{*}

The States Parties to this Convention

Have agreed as follows:

Article 1

For the purpose of these articles, the term "continental shelf" is used as referring

- (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;
- (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

Article 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipe lines on the continental shelf.

Article 5

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.
2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.
3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.
4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.
5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.
6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.
7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.
8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

Article 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

Article 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

Article 8

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 11

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 12

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.
2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 13

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;
- (b) Of the date on which this Convention will come into force, in accordance with article 11;
- (c) Of requests for revision in accordance with article 13;
- (d) Of reservations to this Convention, in accordance with article 12.

Article 15

Convention on the Continental Shelf

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

*Abstract: (back)

Done at Geneva, on 29 April 1958

Entry into force: 10 June 1964

Text: United Nations, *Treaty Series*, vol. 499, p. 311

Status (note: the 1958 Law of the Sea Conventions were largely superceded by the 1982 United Nations Convention on the Law of the Sea)

The four Law of the Sea Conventions and the Optional Protocol of Signature were prepared and opened for signature by the *United Nations Conference on the Law of the Sea*. The Conference was convened pursuant to resolution 1105 (XI), adopted by the General Assembly of the United Nations on 21 February 1957, and met at the European Office of the United Nations at Geneva from 24 February to 27 April 1958. The Conference also adopted the Final Act and nine resolutions for the text of which, see United Nations, *Treaty Series*, vol. 450, p. 11. For the travaux préparatoires and the proceedings of the Conference, see *Official Records of the United Nations Conference on the Law of the Sea*, vols. I to VII, United Nations publication, Sales No.: 58.V.4, vols. I to VII.

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

UNCLOS INDEX
MAIN INDEX**PART VI****CONTINENTAL SHELF****Article 76**

DEFINITION OF THE CONTINENTAL SHELF

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.
2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.
3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.
4. (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:
  - (i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or
  - (ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.
- (b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.
5. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, drawn in accordance with paragraph 4(a)(I) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude.

8. Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

Article 77

RIGHTS OF THE COASTAL STATE OVER THE CONTINENTAL SHELF

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article 78

LEGAL STATUS OF THE SUPERJACENT WATERS AND AIR SPACE AND THE RIGHTS AND FREEDOMS OF OTHER STATES

1. The rights of the coastal State over the continental shelf do not affect the legal status of the

superjacent waters or of the air space above those waters.

2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

Article 79

SUBMARINE CABLES AND PIPELINES ON THE CONTINENTAL SHELF

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.
2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.
3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.
4. Nothing in this Part affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.
5. When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 80

ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES ON THE CONTINENTAL SHELF

Article 60 applies *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

Article 81

DRILLING ON THE CONTINENTAL SHELF

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

Article 82

PAYMENTS AND CONTRIBUTIONS WITH RESPECT TO THE EXPLOITATION OF THE CONTINENTAL SHELF BEYOND 200 NAUTICAL MILES

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the

non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.

3. A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.

4. The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.

Article 83

DELIMITATION OF THE CONTINENTAL SHELF BETWEEN STATES WITH OPPOSITE OR ADJACENT COASTS

1. The delimitation of the continental shelf 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.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, 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.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.

Article 84

CHARTS AND LISTS OF GEOGRAPHICAL CO-ORDINATES

1. Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of graphical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the

case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

Article 85

TUNNELLING

This Part does not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil.

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D. COMPLAINT BY GREECE AGAINST TURKEY

Decision

At its 1949th meeting, on 12 August 1976, the Council decided to invite the representatives of Greece and Turkey to participate, without vote, in the discussion of the item entitled "Complaint by Greece against Turkey: letter dated 10 August 1976 from the Permanent Representative of Greece to the United Nations addressed to the President of the Security Council (S/12167)".⁵³

⁵³ See *Official Records of the Security Council, Thirty-first Year, Supplement for July, August and September 1976*.

Expressing its concern over the present tensions between Greece and Turkey in relation to the Aegean Sea,

Bearing in mind the principles of the Charter of the United Nations concerning the peaceful settlement of disputes, as well as the various provisions of Chapter VI of the Charter concerning procedures and methods for the peaceful settlement of disputes,

Noting the importance of the resumption and continuance of direct negotiations between Greece and Turkey to resolve their differences,

Conscious of the need for the parties both to respect each other's international rights and obligations and to avoid any incident which might lead to the aggravation of the situation and which, consequently, might compromise their efforts towards a peaceful solution,

1. *Appeals* to the Governments of Greece and Turkey to exercise the utmost restraint in the present situation:

Resolution 395 (1976)

of 25 August 1976

The Security Council,

Taking note of the letter of the Permanent Representative of Greece dated 10 August 1976,⁵⁴

Having heard and noted the various points made in the statements by the Ministers for Foreign Affairs of Greece⁵⁵ and Turkey,⁵⁶

⁵⁴ *Ibid.*, document S/12167.

⁵⁵ *Ibid.*, *Thirty-first Year*, 1949th meeting.

⁵⁶ *Ibid.*, 1950th meeting.

2. *Urges* the Governments of Greece and Turkey to do everything in their power to reduce the present tensions in the area so that the negotiating process may be facilitated:

3. *Calls upon* the Governments of Greece and Turkey to resume direct negotiations over their differences and appeals to them to do everything within their power to ensure that these negotiations will result in mutually acceptable solutions;

4. *Invites* the Governments of Greece and Turkey in this respect to continue to take into account the contribution that appropriate judicial means, in particular the International Court of Justice, are qualified to make to the settlement of any remaining legal differences which they may identify in connexion with their present dispute.

Adopted at the 1953rd meeting by consensus.

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Lausanne Peace Treaty

Article 12

The decision taken on the 13th February, 1914, by the Conference of London, in virtue of Article 5 of the Treaty of London of the 17th-30th May, 1913, and 15 of the Treaty of Athens of the 1st-14th November, 1913, which decision was communicated to the Greek Government on the 13th February, 1914, regarding the sovereignty of Greece over the islands of the Eastern Mediterranean, other than the islands of Imbros, Tenedos and Rabbit Islands, particularly the islands of Lemnos, Samothrace, Mytilene, Chios, Samos and Nikaria, is confirmed, subject to the provisions of the present Treaty respecting the islands placed under the sovereignty of Italy which form the subject of Article 15.

Except where a provision to the contrary is contained in the present Treaty, the islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty.

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Lausanne Peace Treaty

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Article 13

With a view to ensuring the maintenance of peace, the Greek Government undertakes to observe the following restrictions in the islands of Mytilene, Chios, Samos and Nikaria:

1. No naval base and no fortification will be established in the said islands.
2. Greek military aircraft will be forbidden to fly over the territory of the Anatolian coast. Reciprocally, the Turkish Government will forbid their military aircraft to fly over the said islands.
3. The Greek military forces in the said islands will be limited to the normal contingent called up for military service, which can be trained on the spot, as well as to a force of gendarmerie and police in proportion to the force of gendarmerie and police existing in the whole of the Greek territory.

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The 1947 Treaty of Paris

Section V - Greece (Special Clause)

Article 14

1. Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands indicated hereafter, namely Stampalia (Astropalia), Rhodes (Rhodos), Calki (Kharki), Scarpanto, Casos (Casso), Piscopis (Tilos), Misiros (Nisyros), Calimnos (Kalymnos), Leros, Patmos, Lipsos (Lipso), Simi (Symi), Cos (Kos) and Castellorizo, as well as the adjacent islets.
2. These islands shall be and shall remain demilitarised.
3. The procedure and the technical conditions governing the transfer of these islands to Greece will be determined by agreement, between the Government of the United Kingdom and Greece and arrangements shall be made for the withdrawal of foreign troops not later than 90 days from the coming into force of the present Treaty.

DEFINITION OF THE TERMS "DEMILITARIZATION" AND "DEMILITARIZED"

For the purpose of the present Treaty the terms "militarization" and "demilitarized" shall be deemed to prohibit, in the territory and territorial waters concerned, all naval, military and military air installations, fortifications and their armaments; artificial military, naval and air obstacles; the basing or the permanent or temporary stationing of military, naval and military air units; military training in any form; and the production of war material. This does not prohibit internal security personnel restricted in number to meeting tasks of an internal character and equipped with weapons which can be carried and operated by one person and the necessary military training of such personnel.

The Berne Declaration

On the Procedure to be Followed for the Delimitation of the Continental Shelf by Greece and Turkey

1. Both parties agree that negotiations be sincere, detailed and conducted in good faith with a view to reaching an agreement based on mutual consent regarding the delimitation of the continental shelf.
  2. Both parties agree that these negotiations should, due to their nature, be strictly confidential.
  3. Both parties reserve their respective positions regarding the delimitation of the continental shelf.
  4. Both parties undertake the obligation not to use details of this agreement and the proposals that each will make during the negotiations in any circumstances outside the context of the negotiations.
  5. Both parties agree no statements or leaks to the press should be made referring to the content of the negotiations unless they commonly agree to do so.
-
6. Both parties undertake to abstain from any initiative or act relating to the continental shelf of the Aegean Sea which might prejudice the negotiations.
  7. Both parties undertake, as far as bilateral relations are concerned, to abstain from any initiative or act which would tend to discredit the other party.
  8. Both parties have agreed to study state practice and international rules on this subject with a view to educing certain principles and practical criteria which could be of use in the delimitation of the Continental shelf between the two countries.
  9. A mixed commission will be set up to this end and will be composed of national representatives.
  10. Both parties agree to adopt a gradual approach in the course of the negotiations ahead after consulting each other.

Signed in Berne, 11 November 1976

Figure 2.1 The France-United Kingdom maritime boundary

Figure 2.2 The Libya-Tunisia maritime boundary as decided by the International Court of Justice (1982)

Maritime Delimitations:

Appendix (N)

date	parties
26 février 1942	Trinité-et-Tobago (Royaume-Uni) / Venezuela
18 août 1952	Chili / Équateur / Pérou
15 février 1957	Norvège / URSS
22 février 1958	Arabie séoudite / Bahrein
26 avril 1960	Guinée-Bissau (Portugal) / Sénégal (France)
01 janvier 1964	Sharjah / Umm al Qaiwain
01 décembre 1964	Allemagne (République fédérale d') / Pays-Bas
10 mars 1965	Norvège / Royaume-Uni
20 mai 1965	Finlande / URSS
09 juin 1965	Allemagne (République fédérale d') / Danemark
09 juin 1965	Allemagne (République fédérale d') / Danemark
07 juillet 1965	Arabie séoudite / Koweït
06 octobre 1965	Pays-Bas / Royaume-Uni
08 décembre 1965	Danemark / Norvège
03 mars 1966	Danemark / Royaume-Uni
31 mars 1966	Danemark / Pays-Bas
05 mai 1967	Finlande / URSS
08 janvier 1968	Italie / Yougoslavie
18 février 1968	Abu Dhabi / Dubai
24 juillet 1968	Norvège / Suède
24 octobre 1968	Arabie séoudite / Iran
29 octobre 1968	Pologne / République démocratique allemande
20 mars 1969	Abu Dhabi / Qatar
28 août 1969	Pologne / URSS
20 septembre 1969	Iran / Qatar
27 octobre 1969	Indonésie / Malaisie
28 janvier 1971	Allemagne (République fédérale d') / Pays-Bas
28 janvier 1971	Allemagne (République fédérale d') / Danemark
18 mai 1971	Australie / Indonésie
17 juin 1971	Bahrein / Iran
20 août 1971	Italie / Tunisie
25 novembre 1971	Danemark / Royaume-Uni
25 novembre 1971	Allemagne (République féd. d') / Royaume-Uni
25 novembre 1971	Pays-Bas / Royaume-Uni
17 décembre 1971	Indonésie / Thaïlande
21 décembre 1971	Indonésie / Malaisie / Thaïlande
21 juillet 1972	Brésil / Uruguay
29 septembre 1972	Finlande / Suède
09 octobre 1972	Australie / Indonésie
12 février 1973	Indonésie/Papouasie-Nouvelle-Guinée (Australie)
19 novembre 1973	Argentine / Uruguay
17 décembre 1973	Canada / Danemark
29 janvier 1974	Espagne / France
30 janvier 1974	Japon / République de Corée
30 janvier 1974	Japon / République de Corée
19 février 1974	Espagne / Italie
16 mai 1974	Arabie séoudite / Soudan
26 juin 1974	Inde / Sri Lanka
25 juillet 1974	Iran / Oman
08 août 1974	Inde / Indonésie
13 août 1974	Émirats arabes unis / Iran
01 janvier 1975	Cameroun / Nigéria

53	04 juin 1975	Gambie / Sénégal
54	23 août 1975	Colombie / Équateur
55	11 décembre 1975	Indonésie / Thaïlande
56	12 février 1976	Espagne / Portugal
57	23 mars 1976	Inde / Sri Lanka
58	14 avril 1976	Maroc / Mauritanie
59	09 juillet 1976	Kenya / Tanzanie
60	23 juillet 1976	Inde / Maldives / Sri Lanka
61	26 juillet 1976	Cuba / Mexique
62	20 novembre 1976	Colombie / Panama
63	22 novembre 1976	Inde / Sri Lanka
64	28 décembre 1976	Inde / Maldives
65	14 janvier 1977	Inde / Indonésie
66	24 février 1977	États-Unis / URSS
67	17 mars 1977	Colombie / Costa Rica
68	24 mai 1977	Grèce / Italie
69	27 octobre 1977	Cuba / Haïti
70	16 décembre 1977	Cuba / États-Unis
71	13 janvier 1978	Colombie / République dominicaine
72	17 février 1978	Colombie / Haïti
73	28 mars 1978	États-Unis / Venezuela
74	31 mars 1978	Pays-Bas / Venezuela
75	04 mai 1978	États-Unis / Mexique
76	22 juin 1978	Inde / Indonésie / Thaïlande
77	22 juin 1978	République démocratique allemande / Suède
78	22 juin 1978	Inde / Thaïlande
79	23 juin 1978	Turquie / URSS
80	18 décembre 1978	Australie / Papouasie-Nouvelle-Guinée
81	22 décembre 1978	Norvège / Royaume-Uni
82	21 février 1979	Malaisie / Thaïlande
83	03 mars 1979	République dominicaine / Venezuela
84	15 juin 1979	Danemark (îles Féroé) / Norvège
85	24 octobre 1979	Malaisie / Thaïlande
86	11 janvier 1980	France (Wallis et Futuna) / Tonga
87	02 février 1980	Costa Rica / Panama
88	02 avril 1980	France (Réunion) / Maurice
89	11 juin 1980	États-Unis (Samoa) / Îles Cook
90	17 juillet 1980	France / Venezuela
91	25 juillet 1980	Birmanie (Myanmar) / Thaïlande
92	02 décembre 1980	États-Unis (Samoa)/Nouvelle-Zélande (Tokelau)
93	13 décembre 1980	Indonésie / Papouasie-Nouvelle-Guinée
94	30 janvier 1981	Brésil / France
95	04 mars 1981	France / Sainte-Lucie
96	22 octobre 1981	Islande / Norvège (Jan Mayen)
97	04 janvier 1982	Australie / France
98	24 juin 1982	France / Royaume-Uni
99	19 janvier 1983	Fidji / France
100	25 octobre 1983	France / Royaume-Uni
101	16 février 1984	France / Monaco
102	06 avril 1984	Colombie / Costa Rica
103	09 novembre 1984	Danemark / Suède
104	29 novembre 1984	Argentine / Chili
105	05 février 1985	Finlande / URSS

	date	parties
106	12 mars 1985	Costa Rica / Équateur
107	17 juillet 1985	Pologne / URSS
108	05 novembre 1985	France / Tuvalu
109	22 janvier 1986	Corée (République démocratique de) / URSS
110	02 août 1986	Colombie / Honduras
111	10 novembre 1986	Libye / Malte
112	23 décembre 1986	Birmanie (Myanmar) / Inde
113	06 février 1987	Turquie / URSS
114	07 septembre 1987	Dominique / France
115	18 avril 1988	Suède / URSS
116	08 août 1988	Libye / Tunisie
117	13 septembre 1988	Australie / Iles Salomon
118	14 septembre 1988	République démocratique allemande / Danemark
119	07 novembre 1988	Irlande / Royaume-Uni
120	28 décembre 1988	Mozambique / Tanzanie
121	25 janvier 1989	Papouasie-Nouvelle-Guinée / Iles Salomon
122	10 février 1989	Pologne / Suède
123	22 mai 1989	République démocratique allemande / Pologne
124	30 juin 1989	Pologne / Suède / URSS
125	11 décembre 1989	Australie / Indonésie
126	18 avril 1990	Trinité-et-Tobago / Venezuela
127	01 juin 1990	États-Unis / URSS
128	03 août 1990	France / Iles Cook
129	08 octobre 1990	Belgique / France
130	08 novembre 1990	Fidji / France
131	12 novembre 1990	France / Iles Salomon
132	29 mai 1991	Belgique / Royaume-Uni
133	23 juillet 1991	France / Royaume-Uni
134	18 décembre 1992	Albanie / Italie
135	19 janvier 1993	France / Royaume-Uni
136	17 février 1993	Cap-Vert / Sénégal
137	27 octobre 1993	Birmanie (Myanmar) / Inde / Thaïlande
138	05 novembre 1993	États-Unis / Royaume-Uni
139	12 novembre 1993	Colombie / Jamaïque
140	18 février 1994	Cuba / Jamaïque
141	02 juin 1994	Finlande / Suède
142	18 décembre 1995	Danemark / Norvège (Jan Mayen)
143	18 janvier 1996	Israël / Jordanie
144	27 juin 1996	France / Royaume-Uni
145	27 juin 1996	France / Royaume-Uni
146	12 juillet 1996	Estonie / Lettonie
147	02 août 1996	République Dominicaine / Royaume-Uni (îles Turques et
148	18 octobre 1996	Estonie / Finlande
149	18 décembre 1996	Belgique / Pays-Bas
150	14 mars 1997	Australie / Indonésie
151	30 avril 1997	Estonie / Lettonie / Suède
152	13 mai 1997	États-Unis / Nioué
153	09 août 1997	Thaïlande / Viet-Nam
154	24 octobre 1997	Lituanie / Fédération de Russie
155	11 novembre 1997	Danemark / Islande
156	04 décembre 1997	Bulgarie / Turquie
157	06 juillet 1998	Kazakhstan / Russie
158	02 novembre 1998	Estonie / Suède

159	18 mai 1999	Danemark / Royaume-Uni
160	26 juin 1999	Guinée équatoriale / Sao Tomé et Príncipe
161	09 juillet 1999	Lettonie / Lituanie
162	09 juin 2000	États-Unis / Mexique
163	11 juin 2000	Oman / Pakistan
164	12 juin 2000	Arabie Séoudite / République du Yémen
165	02 juillet 2000	Arabie séoudite / Koweït
166	12 septembre 2000	Nigéria / Guinée équatoriale
167	25 décembre 2000	Chine / Viet-Nam
168	16 janvier 2001	Estonie / Finlande / Suède
169	19 février 2001	France / Seychelles
170	04 décembre 2001	Honduras / Royaume-Uni

Equitable Principles

	date	parties
1	27 octobre 1977	Cuba / Haïti
2	31 mars 1978	Pays-Bas / Venezuela
3	23 juin 1978	Turquie / URSS
④	03 mars 1979	République dominicaine / Venezuela
⑤	17 juillet 1980	France / Venezuela
6	06 février 1987	Turquie / URSS
7	28 décembre 1988	Mozambique / Tanzanie
8	06 juillet 1998	Kazakhstan / Russie
9	25 décembre 2000	Chine / Viet-Nam

EQUITABLE SOLUTIONS

	Date	Parties
1	24 octobre 1968	Arabie séoudite / Iran
2	20 septembre 1969	Iran / Qatar
3	17 juin 1971	Bahrein / Iran
4	26 juin 1974	Inde / Sri Lanka
5	25 juillet 1974	Iran / Oman
6	13 août 1974	Emirats arabes unis / Iran
7	28 mars 1978	Etats-Unis / Venezuela
8	04 janvier 1982	Australie / France
9	07 septembre 1987	Dominique / France
10	13 septembre 1988	Australie / Iles Salomon
11	18 avril 1990	Trinité-et-Tobago / Venezuela
12	03 août 1990	France / Iles Cook
13	08 octobre 1990	Belgique / France
14	12 novembre 1990	France / Iles Salomon
15	29 mai 1991	Belgique / Royaume-Uni
16	09 août 1997	Thaïlande / Viet-Nam
17	24 octobre 1997	Lituanie / Fédération de Russie
18	04 décembre 1997	Bulgarie / Turquie
19	09 juillet 1999	Lettonie / Lituanie
20	19 février 2001	France / Seychelles