



The Law of the Sea

**Maritime Boundary Agreements
(1985–1991)**



Office for Ocean Affairs and the Law of the Sea
United Nations

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INTRODUCTION

The Office for Ocean Affairs and the Law of the Sea is preparing publications dealing with the practice of States in relation to subject-matters covered by the United Nations Convention on the Law of the Sea adopted in 1982. It is essential, especially at a time when the Convention has not yet entered into force (as of 15 December 1991, there were 51 ratifications), to observe such a practice and gather all information in relation to it, particularly in the field of national legislation or bilateral agreements.

A first publication containing the texts of 74 maritime boundary agreements concluded during the period 1970-1984 was published in 1987. 1/

The present publication contains the text of the delimitation agreements adopted between 1985 to 1991. Another publication, covering the period 1942-1969, was also published recently. 2/

The delimitation of maritime boundaries, although not a new phenomenon, has certainly become an important element of the practice of States in the modern law of the sea. During the last 20 years numerous agreements have been adopted, and it is estimated that over one hundred boundary-delimitation issues around the world await some form of resolution.

The reason for such an increase in pending boundary-delimitation issues is to be found in the provisions of the 1982 Convention on the Law of the Sea relating to the extension of zones under national jurisdiction, namely the right to establish the breadth of the territorial sea up to 12 miles (art. 3), the adoption of the concept of an exclusive economic zone which may extend up to 200 miles (art. 57) and the definition of the continental shelf which may, in some cases, extend up to 350 miles or 100 miles from the 2,500-metre isobath (art. 76).

The coastal State will enjoy a variety of sovereign rights and jurisdiction over these areas which translate into important economic and political interests.

The adoption of new limits for areas under national jurisdiction, which in some cases may have created overlapping claims, has forced States to seek agreement with their neighbours with a view to establishing precise boundaries and to define clearly the zones in which they are entitled to exercise their sovereignty in the case of the territorial sea or their sovereign rights or jurisdiction in the case of the continental shelf or the exclusive economic zone.

In the United Nations Law of the Sea Convention, the applicable provisions are contained in articles 15, 74 and 83 dealing respectively with the delimitation of the territorial sea between States with opposite or adjacent coasts, the delimitation of the exclusive economic zone and the delimitation of the continental shelf.

In the case of the territorial sea, unless there is agreement to the contrary neither of the two States concerned is entitled to extend its territorial sea beyond the median line. This method does not apply, however, in cases of historic titles or other special circumstances. This provision of the Convention closely corresponds to article 12 of the Geneva Convention of 1958 on the Territorial Sea and the Contiguous Zone.

For the delimitation of the continental shelf or the exclusive economic zone, three elements are contained in articles 74 and 83 dealing with this question, namely:

- (a) The delimitation shall be effected by agreement;
- (b) Such agreement shall be reached on the basis of international law;
- (c) The object of the agreement shall be to achieve an equitable solution.

These provisions depart from article 6 of the Geneva Convention of 1958 on the Continental Shelf whereby the principle of equidistance applies in the absence of an agreement, unless another boundary line is justified by special circumstances.

Finally, one additional, very important aspect of the field of delimitation is the role played by the judicial decisions rendered either by the International Court of Justice or by an arbitral tribunal. Although defined as a subsidiary means by Article 38 of the Statute of the International Court of Justice, these decisions have contributed and still contribute to clarification of the elements which can be applicable in the search for an equitable solution.

Since 1982, the Court has rendered five judgments in relation to three boundary disputes:

- (a) 24 February 1982: Continental Shelf (Tunisia/Libyan Arab Jamahiriya); 3/
- (b) 10 December 1985: Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya); 4/
- (c) 21 March 1984: Continental Shelf (Libyan Arab Jamahiriya/Malta), Italy's Application to Intervene; 5/
- (d) 12 October 1984: Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America); 6/
- (e) 3 June 1985: Continental Shelf (Libyan Arab Jamahiriya/Malta). 7/

Additionally, on 14 February 1985, an arbitral tribunal rendered its award on the maritime delimitation between Guinea/Guinea-Bissau.

On 31 July 1989 the arbitral tribunal for the delimitation of the maritime boundary between Guinea-Bissau and Senegal rendered its award over the maritime delimitation between the two countries but Guinea-Bissau had instituted proceedings before the International Court of Justice concerning the existence and validity of the arbitral award. The judgment was rendered on 12 November 1991, confirming the arbitral award.

By a special agreement which entered into force on 1 October 1986, the Republic of El Salvador and the Republic of Honduras referred to a chamber to be constituted by the Court the resolution of two matters: the delimitation of parts of the land frontier between the two States and the determination of the legal situation in islands and maritime areas. On 17 November 1989 Nicaragua filed an application for permission to intervene in the case concerning the Law, Island and maritime frontier dispute. By its judgement of 13 September 1990, Nicaragua was permitted to intervene only for matters dealing with the legal regime of the Gulf of Fonseca not for the delimitation within the Gulf. The case is still before the Court.

The issue of maritime boundary delimitation has a long history, which can be viewed in three phases. The first period, which lasted from the eighteenth century to the start of the Second World War, witnessed the general acceptance of territorial seas extending the sovereignty of States off their coasts. Some basic principles of delimitation applying to these areas were developed during that time.

A second period, which commenced with the first agreement delimiting maritime areas beyond the territorial sea (the Treaty of the Gulf of Paria, 1942) and the Truman Declaration on the Continental Shelf (1945), saw the issue of maritime boundary delimitation expand to cover the continental shelf. It was highlighted by the conventional acceptance of the concept in the 1958 Geneva Convention and its full judicial recognition in the decisions of the International Court of Justice in the North Sea Continental Shelf cases in 1969.

From then on, the issue acquired a new dimension as the concept of exclusive economic zone and a new definition of the continental shelf were first introduced in negotiating texts prepared by the Third United Nations Conference on the Law of the Sea and subsequently embodied in the provisions of the United Nations Convention on the Law of the Sea.

The compilation of texts dealing with the delimitation of maritime boundaries has now been completed; the three publications issued on that subject will have reproduced 130 maritime boundary agreements.

The agreements reproduced in this publication, most of them in force and registered with the Secretary-General in accordance with Article 102 of the Charter of the United Nations, are first listed, for ease of reference, by region, i.e. Atlantic region (North), Caribbean region, Mediterranean region, Indian Ocean region and Pacific region (North, Central and South), and organized within each region according to the States and the zones on which the delimitation is based. They are reproduced in extenso with maps 8/ when available.

Notes

1/ The law of the sea: maritime boundary agreements (1970-1984) (United Nations publication, Sales No. E.87.V.12).

2/ The law of the sea: maritime boundary agreements (1942-1969) (United Nations publication, Sales No. E.91.V.11).

3/ I.C.J. Reports 1982, p. 16.

4/ I.C.J. Reports 1985, p. 192.

5/ I.C.J. Reports 1984, p. 3.

6/ Ibid., p. 246.

7/ I.C.J. Reports 1985, p. 13.

8/ The cartographic material as submitted for reproduction for the present publication did not allow for further improvement in its presentation.

