

**Legal Rules Applicable to the Equitable Maritime  
Boundaries Delimitation in the Eastern Mediterranean Sea:  
An Egyptian Perspective**

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**United Nations – The Nippon Foundation of Japan Fellowship Programme 2018**



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## **Abstract**

The Eastern Mediterranean Sea Basin is a semi-enclosed Sea bordered by ten States. The growing economic interests in the basin natural resources have motivated the basin States to claim jurisdiction over its exclusive economic zones and continental shelves. The absence of defined maritime boundaries, in this confined basin with numerous islands, have generated contesting claims between basin States on the overlapping undelimited maritime areas. The majority of maritime boundaries in the Eastern Mediterranean Sea are not delimited yet. Only four maritime boundaries, out of seventeen potential boundaries, were delimited by agreements. The delimitation of maritime boundaries in the basin is vital. It establishes legal certainty to maritime boundaries that enables basin States to exercise safely their sovereignty rights for exploring and exploiting their natural resources in their maritime areas. The research paper aims to identify the legal rules and principles governing maritime boundaries delimitation in the Eastern Mediterranean Sea Basin and its application on the delimitation of Egypt's maritime boundaries with opposite and adjacent States.

It explores in the first part the "equidistance/special circumstances" rule applicable for the delimitation of the territorial sea, the "agreement/equitable result" rule applicable for the delimitation of the extended maritime zones and the "equidistance/relevant circumstances" rule considered in recent jurisprudence. Subsequently, it assesses the "three-stage" delimitation methodology and the role of relevant circumstances to achieve an equitable delimitation solution.

It examines in the second part the rules and principles of maritime delimitation applicable to the delimitation of Egypt's maritime boundaries with opposite and adjacent States; Turkey, Greece, Palestine, Israel and Libya. The anticipated boundary line with Turkey is the median line between both States coasts. However, the expected boundary line with Greece is the "adjusted" median line due to the effects of the Greek islands on the delimitation line, which is considered as a relevant circumstance, that requires adjusting the median line to achieve an equitable delimitation. The anticipated eastern boundary line with Palestine and Israel is the equidistance line established in the first stage of the delimitation process which provides an equitable delimitation excluding any adjustment in the second and third stages. However, the expected western boundary line with Libya is the equidistance line constructed in the first stage. It achieves an equitable delimitation result by allocating comparable maritime areas to both States.

## **Acknowledgments**

The research leading up to this paper was made possible thanks to the kind assistance of the United Nations - The Nippon Foundation of Japan Fellowship Programme on the Law of the Sea. I am particularly grateful to Ms. Valentina Germani, Legal Officer, Programme Advisor, Division of Legal Affairs of the United Nations for her continuous support and valuable advises since the beginning of the programme.

I wish to express my sincere gratitude to the Nippon Foundation, which provided the necessary financial support to complete this work.

I would like to express my deepest gratitude and appreciation to Professor Alex G. Oude Elferink Director of the Netherlands Institute for the Law of the Sea (NILOS), School of Law, Utrecht University for the helpful and kind support received during the preparation of this research paper. My deep thanks go as well to Dr. Solene Guggisberg, Senior Research Associate and Nippon Foundation Senior Nereus Fellow at (NILOS) for her helpful comments and recommendations on the draft of the research paper. I would like to thank all members of staff at the NILOS, School of Law, Utrecht University for their help and cooperation.

My heartfelt thanks also extends to the staff of the Division for Oceans Affairs and the Law of the Sea of the United Nations (DOALOS) for the kind assistance given during the programme.

I wish to express also my appreciation to the Egyptian Ministry of Foreign Affairs for the kind financial support also received and the assistance from directors, friends and colleagues at the International Legal Affairs and Treaties Department, the Egyptian Permanent Mission to the United Nations in New York, the Egyptian Embassy in the Hague.

Finally, it please me to express my deepest appreciation to my parents and family for their understanding and encouragement during the period of my studies and research.

Ibrahim EL Diwany

Utrecht, The Netherlands

December 2018

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## List of Acronyms

1982 “UNCLOS”	United Nations Convention on the Law of the Sea
“TCF”	Trillion Cubic Feet
1958 “CTS”	Convention on the Territorial Sea and the Contiguous zone
1958 “CCS”	Geneva Convention on the Continental Shelf
“ILC”	The International Law Commission
“UNCLOS I”	The 1958 Geneva Conference on the Law of the Sea
“ICJ”	The International Court of Justice
“UNCLOS III”	Third United Nations Conference on the Law of the Sea
n.m.	Nautical Miles
Km	Kilometre
EEZ	Exclusive Economic Zone
CS	Continental Shelf
FZ	Fishery Zone
“TRNC”	Turkish Republic of Northern Cyprus

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## Introduction

The Mediterranean Sea is a semi-enclosed sea with an approximate surface area of 9,510,000 km<sup>2</sup> and bounded by 22 states from the three continents of Africa, Asia and Europe.<sup>1</sup> The Mediterranean Sea is divided into two parts; a western part and an eastern part.<sup>2</sup>

The Eastern part of the Mediterranean Sea is divided into two main sub-basins; the Ionian Sea Basin and the Eastern Mediterranean Sea Basin.<sup>3</sup> The Eastern Mediterranean Sea Basin is a semi-enclosed sea with an estimated surface area of 332,000 km<sup>2</sup> that located between the coasts of Lebanon and submarine ridge between Libya and Crete situated east to the meridian 23° east of Greenwich. The Eastern Mediterranean Sea Basin is characterized of its special complex geographical situation due to its confined maritime spaces between the basin opposite coasts and numerous islands such as Cyprus, Crete and the Dodecanese Islands.<sup>4</sup>

The Eastern Mediterranean Sea Basin is bordered by ten States;<sup>5</sup> Egypt and Libya on its African south side, Palestine, Israel, Lebanon and Syria on its Asian east side, Turkey and Greece on the north side and Cyprus and British Overseas Territories in the center.<sup>6</sup>

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<sup>1</sup> Tullio Scovazzi, “Mediterranean and Black Sea Maritime Boundaries”, in *International Maritime Boundaries*, vol. 1, Jonathan Charney and Lewis Alexander eds. (The Hague, Martinus Nijhoff Publishers,1996), p. 32, Also Mediterranean Sea Basin Map (Figure 1).

<sup>2</sup> Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World*, (The Hague, Martinus Nijhoff Publishers, 2005), p. 383-4.

<sup>3</sup> Stephen Langford, “Issues and problems in Mediterranean maritime boundary delimitation: a geographical analysis”, PhD dissertation, Durham University, 1993, p.26.

<sup>4</sup> Chris Parry, “The Eastern Mediterranean – A Brief Geo-Political Overview”, in *Maritime Security in the Eastern Mediterranean: Kiel International Sea power Symposium*, Jeremy Stöhs and Sebastian Bruns, eds. (Nomos Verlag, 2017), pp. 19-29, p.19

<sup>5</sup> Eastern Mediterranean Sea Basin Map (Figure 2).

<sup>6</sup> Encyclopedia Britannica, “The Levantine Sea”. Available at <https://www.britannica.com/place/Levantine-Basin> (accessed on 26 July 2018).

The ten riparian basin States have competing political, strategic, and economic interests in their offshore maritime spaces. The growing economic interests in the basin's natural living and non-living resources made basin States compete in gaining and expanding their control over their extended maritime zones.<sup>7</sup>

Most of the basin States have claimed exclusive economic zones according to the 1982 United Nations Convention on the Law of the Sea "UNCLOS" to extend their national jurisdictions beyond their territorial seas to protect their economic interests. According to articles 55, 56 and 57 of the "UNCLOS", every coastal State has sovereign rights to exploit the natural living and non-living offshore resources in its exclusive economic zone up to a distance of 200 nautical miles from its baselines.<sup>8</sup>

However, the special confined geographical situation of the Eastern Mediterranean Sea Basin prevents coastal States to claim an exclusive economic zone up to the maximum distance of 200 nautical miles or an extended continental shelf.<sup>9</sup>

Historically, the Eastern Mediterranean Sea Basin has been recognized for its geostrategic importance in controlling world navigation due to its central location situated at the crossroads between the three continents of Africa, Asia and Europe.<sup>10</sup>

The economic importance and influence of the basin on the world economy has increased in the last two decades. On the national level, basin States depend vastly on offshore activities for the development of their national economies. These activities include maritime shipping, commercial fishing, exploitation of hydrocarbons and mineral resources and tourism.

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<sup>7</sup> Nurit Klot, "Maritime Boundaries in the Mediterranean: Aspects of cooperation and Dispute", in *Maritime Boundaries and Ocean Resources*, Gerald Blake (Barnes and Noble Books, 1987), p.208.

<sup>8</sup> Gerald Blake, "The 1982 UN Convention on the Law of the Sea and the Eastern Mediterranean", *Geography Research forum*, No. 8 (2016), pp. 99-112, p.99.

<sup>9</sup> Parry, "The Eastern" note [4], at p.19.

<sup>10</sup> Mahmoud Talha, "The Strategic Importance of the Mediterranean", report prepared for the US Army War College, Pennsylvania, United States of America, March 1990, p. 3.

Fisheries in the Eastern Mediterranean Sea continue to be an important economic activity and contribute in economic development of basin States. Thus, several basin States have claimed exclusive economic zones to extend their national jurisdictions and exclusive fishing rights beyond their territorial seas to protect their national living resources from foreign commercial fishing.<sup>11</sup>

The energy resources in the Eastern Mediterranean Sea Basin have gained international attention after the US Geological Survey Report, issued in 2010, estimated that the Levant Basin contains around 122 trillion cubic feet “TCF” of natural gas.<sup>12</sup>

Explorations for natural gas in the Eastern Mediterranean Sea Basin started in 1969 and the first offshore natural gas discovery was found in Egypt in the same year. Subsequently, Israel had discovered its first natural gas reservoir in 1999 and then the two fields of “Tamar” and “Leviathan”.<sup>13</sup> Successively, most of Eastern Mediterranean Sea States have issued licenses for offshore natural gas explorations to energy companies.<sup>14</sup> In 2011, Cyprus discovered the “Aphrodite” field and issued several licensing rounds during the period from 2012 to 2016.<sup>15</sup>

Egypt, in 2016, developed the “Zohr” field which has the potential to be the largest natural gas discovery in the Eastern Mediterranean Sea Basin with an estimated natural gas resources of 30

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<sup>11</sup> Gerald Blake, “Offshore politics and resources in the middle east”, in *Change and development in the Middle East: Essays in Honor of W. B. Fisher*, John Clarke and Howard Bowen-jones, eds. (Routledge Revivals, 1981) pp. 113-130, p. 118.

<sup>12</sup> U.S. Geological Survey, Assessment of Undiscovered Oil and Gas Resource of the Levant Basin Province, Eastern Mediterranean, USGS, 12 March 2010, available online at: <https://pubs.usgs.gov/fs/2010/3014/pdf/FS10-3014.pdf> (accessed 22 August 2018)

<sup>13</sup> Sohbet Karbuz, “Geostrategic importance of east Mediterranean gas resources”, in *Economy, Finance and Geostrategy*, Andre Dorsman, eds. (Springer, 2018) pp. 237-255, p. 240.

<sup>14</sup> Ibid (Sohbet), p. 239, Also Hydrocarbon developments in the Eastern Mediterranean Sea Basin (Table 1).

<sup>15</sup> Ibid. (Sohbet), p. 242.

“TCF”.<sup>16</sup> The discoveries of natural gas resources in the Eastern Mediterranean Sea Basin will assist its States to secure their domestic consumption needs and also transform them to energy independent States and exporters to the international market.<sup>17</sup>

Historically, the Eastern Mediterranean Sea region has witnessed several wars and conflicts between several basin States. The new natural gas discoveries in the region have increased the risks of sparking new boundaries disputes between basin States claiming ownership to the newly discovered resources.<sup>18</sup> Moreover, several of the natural gas deposits are transboundary reservoirs located in undelimited maritime areas.<sup>19</sup> Consequently, recent tensions have erupted between several basin States due to overlapping claims over the same undelimited maritime spaces in the basin causing severe security and economic concerns in the region.<sup>20</sup>

These concerns have guided several basin States to realize the importance of establishing defined and delimited maritime boundaries in the basin to avoid maritime boundaries conflicts and promote regional peace and stability.<sup>21</sup> In addition, to other numerous benefits such as achieving legal certainty that enables them to exercise legal rights and freedoms over their maritime zones. Furthermore, it sustains the security required for promoting investment in the exploration and

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<sup>16</sup> Ghada Raafat, “Egypt stops gas imports, on its way to become self-sufficient”, *Ahram Online*, 4 October 2018. Available at <http://english.ahram.org.eg/NewsContent/3/12/312755/Business/Economy/Egypt-stops-gas-imports.-on-its-way-to-become-self.aspx> (accessed 4 October 2018).

<sup>17</sup> Nesrin Demir and Osman Tekir, “Sharing Energy resources of eastern Mediterranean: Regional and Global Dynamics”, *Economic and Environmental Studies*, vol. 17, No. 4 (December 2017), pp. 651-674, p. 653-4.

<sup>18</sup> Maria Gouvouneli, “Energy at Sea: New Challenges over troubled waters in the Eastern Mediterranean”, in *Science, technology and New Challenges to Ocean Law*, Harry Schreiber and James Kraska, eds. (Brill, 2015), pp. 253-279, p. 253.

<sup>19</sup> Georgios Chrysochou and Petros Siousiouras, Southern Mediterranean: The case-study of Geopolitics and Maritime Delimitation issues, *Global Journal of Human Social Sciences*, vol. 14 (January 2014). Available at <http://www.researchgate.net/publications/299526838> (accessed 4 October 2018).

<sup>20</sup> Irimi Papanicolopulu, “The Mediterranean Sea” in *The Oxford handbook of the Law of the Sea*, Donald Rothwell and Alex G. Oude Elferink, eds. (Oxford Scholarly Authorities on International Law, 2015), pp. 604-626, p. 606.

<sup>21</sup> *Ibid.*, (Irimi).

exploitation of offshore natural resources and fostering regional economic development and cooperation.<sup>22</sup>

States generally prefer to delimit their maritime boundaries by agreement resulting from negotiations since it provides the parties with control over the end result of the delimitation process, achieves negotiable gains and avoids the risks of litigation.<sup>23</sup> However, concluding a maritime boundary agreement may not be an easy process due to the disparity in States positions which compel them to recourse to third-party dispute settlement means such as international adjudication, conciliation or mediation.<sup>24</sup>

The Eastern Mediterranean Sea basin States, including Egypt, realize the importance to establish defined maritime boundaries in the basin in accordance with the rules and principles of the international law of the sea.

The main objective of the research paper is to identify the legal rules and principles governing maritime boundaries delimitation and its application on the delimitation of Egypt's maritime boundaries with its opposite and adjacent States in the Eastern Mediterranean Sea. The research paper is divided into two main parts.

Part one provides an overview of the legal regime governing maritime boundaries delimitation in the Eastern Mediterranean Sea. This legal regime is comprised of legal rules and customary principles embodied in the law of the sea conventions and customary law. This part is divided into two chapters.

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<sup>22</sup> Igor Karaman, *Dispute settlement resolution in the law of the Sea* (Martinus Nijhoff Publishers, 2012), p.170.

<sup>23</sup> Alex Oude Elferink, "International Law and Negotiated and Adjudicated Maritime Boundaries: a complex Relationship", *German Yearbook of International Law*, vol. 48, (July 2015). Available at <http://www.duncker-humblot.de/gyil>, (accessed 4 October 2018), p.6.

<sup>24</sup> Chatham House, "Methods of resolving maritime disputes", 2006.

As a starting point, chapter one identifies the conventional rules of the law of maritime boundaries delimitation set out in the of the law of the sea conventions; the 1958 Geneva Conventions on the Law of the Sea and the 1982 United Nations Convention on the Law of the Sea “UNCLOS”. This Chapter is divided into two sections.

Section (A) focuses on the “equidistance/special circumstances” rule applicable for the delimitation of the territorial sea as specified in the Law of the Sea Conventions at article 12 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous zone “CTS”, and article 15 of the 1982 “UNCLOS”.

Section (B) examines the rules applicable for the delimitation of the exclusive economic zone and continental shelf as demonstrated in article 6 of the 1958 Geneva Convention on the Continental Shelf “CCS”, and articles 74 and 83 of the 1982 “UNCLOS”. Furthermore, the section analyzes the developments in case law interpretation to the customary rule applicable for the delimitation of the exclusive economic zone and continental shelf and the conversion from applying the “equitable principles/relevant circumstances” rule to the “equidistance/relevant circumstances” rule to achieve an equitable solution.

Chapter two explores the “three-stage” approach of maritime boundaries delimitation developed by international adjudication. This chapter is divided into two sections.

Section (A) looks closely at the elements of the “three-stage” delimitation methodology applied by courts and tribunals in maritime delimitation to achieve an equitable delimitation result. The first stage of constructing the provisional ‘equidistance’ delimitation line. The second stage of assessing the equability of the provisional delimitation line in light of the relevant circumstances. The third stage of verifying the equitableness of the delimitation outcome by applying the “disproportionality” test.

Section (B) tackles the role of the relevant circumstances on maritime delimitation by considering different geographical and non-geographic factors. It examines the effects of geographic factors such as the presence of islands, the marked disparity in the lengths of relevant coasts, non “cut-off”, the general direction and coastal relationship, issues concerning third States claims. Furthermore, the section addresses the role of non-geographical factors such as economic factors and the conduct of States parties.

Part two explores the maritime boundaries in the Eastern Mediterranean Sea with special focus on Egypt maritime boundaries. This part is divided into two chapters.

Chapter one examines the maritime boundaries in the Eastern Mediterranean Sea. The Chapter is divided into two sections. Section (A) identifies the legal status of maritime boundaries in the basin by firstly, examining the status of the law of the sea conventions and maritime zones in the basin and secondly, classifying the delimited and undelimited maritime boundaries in the Eastern Mediterranean Sea. Section (B) examines the maritime delimitation agreements in the Eastern Mediterranean Sea.

Chapter two explores Egypt’s maritime boundaries delimitation in the Eastern Mediterranean Sea. This chapter is divided into two sections. Section (A) examines Egypt’s maritime boundaries delimitation with opposite States such as Turkey and Greece. Section (B) focuses on Egypt’s maritime boundaries delimitation with adjacent States such as Palestine and Israel on the eastern side and Libya on the western side.

## **Part I: Legal regime governing maritime boundaries delimitation in the Eastern Mediterranean Sea**

The law of maritime boundaries delimitation is one of the branches of the law of the sea and the legal regime governing maritime boundaries delimitation is comprised of legal rules embodied in the law of the sea conventions and customary international law.<sup>25</sup> Moreover, the law governing maritime delimitation may differ from one delimitation case to another pending on the legal status of the maritime zone subject to delimitation and the status of the delimitation States to the law of the sea conventions. However, all States are bound by maritime delimitation rules of customary international law.

Article 38 (1) of the statute of the International Court of Justice is the best authoritative reference listing the sources of international law. It identifies three formal and two subsidiary sources of international law which the Court shall apply to decide on disputes submitted to it. The three formal sources of law are international bilateral and multilateral conventions, international customary law and general principles of law. Moreover, judicial decisions and writings of publicists are the two subsidiary sources.<sup>26</sup>

The multilateral conventional regime of the law of the sea is comprised of several conventions including; the 1958 Geneva Conventions on the Law of the Sea and the 1982 United Nations Convention on the Law of the Sea “UNCLOS”.<sup>27</sup>

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<sup>25</sup> Bojana Lakicevic-Duranovic, “Theoretical and Practical Significance of the Issue of Maritime Delimitation in the Law of the Sea”, *Transactions on Maritime Science*, vol. 6, No. 2, (2017), pp. 125-129, p.125-127. Available at <https://hrcak.srce.hr/187860> (accessed on 4 October 2018).

<sup>26</sup> Rene Dupuy and Daniel Vignes, eds., *A Handbook on the Law of the Sea*, vol. 1, (Martinus Nijhoff Publishers, 1991), p. 30-31

<sup>27</sup> Robin Churchill and Vaughan Lowe, *The Law of the Sea*, 2nd ed. (Manchester University Press, 1988), p. 5,18.



The 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone “CTS” and the Geneva Convention on the Continental Shelf “CCS”, were adopted on 29 April 1958 by the First United Nations Conference of the Law of the Sea, are the first two conventions to embody rules for the delimitation of the territorial sea and continental shelf.<sup>28</sup> The former came into force on 10 September 1958 and has 52 States parties while the latter entered into force on 10 June 1964 and has 58 States parties.<sup>29</sup>

The 1982 United Nations Convention on the Law of the Sea “UNCLOS”, was adopted on 10 December 1982 at Montego Bay, Jamaica, by the eleventh session of the Third United Nations Conference on the Law of the Sea, and has entered into force on 16 November 1994 and has 168 States parties.<sup>30</sup> The “UNCLOS” provides specific provisions for the delimitation of the territorial sea, exclusive economic zone and continental shelf.

Article 12 of the 1958 “CTS” and article 6 of “CCS” established the triple general rule of “agreement/equidistance/special circumstances” for the delimitation of the territorial sea and continental shelf.<sup>31</sup> Similarly, article 15 of the “UNCLOS” embodied the triple rule for the delimitation of the territorial sea.<sup>32</sup> However, identical articles 74 (1) and 83 (1) of the “UNCLOS” provided a new rule for the delimitation of the exclusive economic zone and continental shelf that focuses on achieving an equitable delimitation and does not stipulate any method of delimitation.<sup>33</sup>

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<sup>28</sup> Donald Rothwell and Tim Stephens, *The International Law of the Sea*, 2<sup>nd</sup> ed. (Hart Publishing, 2016), p.417.

<sup>29</sup> United Nations, *Treaty Collection*, Chapter XXI Law of the Sea, Convention on the Territorial Sea and Contiguous Zone. Available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XXI-1&chapter=21&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXI-1&chapter=21&clang=en) (accessed on 10 August 2018).

<sup>30</sup> Ibid. United Nations.

<sup>31</sup> Rothwell & Stephens, *The International Law*, note [28], at p. 418.

<sup>32</sup> Ibid., p. 421.

<sup>33</sup> Ibid., p. 422.

The general rules applicable for the delimitation of maritime boundaries; the “equidistance/special circumstances” rule for the delimitation of the territorial sea and the “equitable principles/relevant circumstance” rule or the “equidistance/relevant circumstances” rule for the delimitation of the exclusive economic zone and continental shelf will be discussed in detail in the following chapter.

International customary law was the main source of law governing the law of the sea for a long time prior to the adoption of the 1958 Geneva Conventions on the Law of the Sea. The International Law Commission “ILC”, within its work on codifying various areas of International law, issued in 1956 draft articles concerning the law of the sea with commentaries.<sup>34</sup> The “ILC” draft articles, which were used as basis for negotiations at the 1958 Geneva Conference on the Law of the Sea “UNCLOS I”, included articles on the delimitation of the continental shelf and territorial sea.<sup>35</sup>

Maritime boundaries are considered one of the most litigated topics of the law of the sea and international jurisprudence has contributed massively to the development of the law of maritime delimitation.<sup>36</sup> The International Court of Justice “ICJ” *North Sea Continental Shelf Cases* were influential in determining the rule of customary international law governing the delimitation of the continental shelf.<sup>37</sup> Furthermore, the ICJ in the *Continental Shelf Delimitation between Tunisia/Libya Case* clarified the significant role of the concept of “relevant circumstances” in achieving equitable delimitation.<sup>38</sup>

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<sup>34</sup> Dupuy & Vignes, *A Handbook on, note* [26], at p.70.

<sup>35</sup> S.P. Jagota, *Maritime Delimitation* (Martinus Nijhoff Publishers, 1985), p. 53.

<sup>36</sup> Rothwell & Stephens, *The International Law*, note [28], at p. 423.

<sup>37</sup> International Court of Justice, *North Sea Continental Shelf Cases*, Judgment, I.C.J. Reports 1969, p.41, paras 60-82., Also Ibid., p. 425.

<sup>38</sup> International Court of Justice, *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, p.18, para 75-95, Also Ibid (Rothwell).

This made several jurists to argue that the law of maritime delimitation is a “judge-made law”, due to the cumulative case law of the ICJ and other tribunals, which assisted in reaching a level of unity, certainty and predictability to the law while sustaining flexibility.<sup>39</sup>

### **Chapter one: The conventional rules of the law of maritime boundaries delimitation**

The conventional rules of the law of maritime boundaries delimitation can be sourced from three of the law of the sea conventions; the 1958 Convention on the Territorial Sea and the Contiguous Zone “CTS”, the 1958 Convention on the Continental Shelf “CCS” and the 1982 United Nations Convention on the Law of the Sea “UNCLOS”.

The law of the sea conventions divide oceans and seas into different maritime zones. Each maritime zone has a separate legal status.<sup>40</sup> Maritime zones that are subject to maritime delimitation between States are the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf. Each zone has specific legal rules applicable to its delimitation. The legal rules applicable for the delimitation of the territorial sea, continental shelf and exclusive economic zone will be examined in the two following sections.

### **Section A: Rule applicable for the delimitation of the territorial sea**

The legal rule applicable for the delimitation of the territorial sea between States with opposite or adjacent coasts was firstly identified in article 12 of the 1958 “CTS” and restated in article 15 the 1982 “UNCLOS”.

Article 12 of the 1958 Convention on the Territorial Sea and Contiguous Zone “CTS” reads that:

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<sup>39</sup> Alex Oude Elferink, Signe Busch and Tore Henriksen, “The judiciary and the law of maritime delimitation: setting the stage” in *Maritime Boundary Delimitation: The Case Law Is it Consistent and Predictable?*, Alex Oude Elferink, eds. (Cambridge University Press, 2018), pp. 1-23, p. 3, 6.

<sup>40</sup> United Nations, *Handbook on the delimitation of Maritime Boundaries* (2000), p. 8.

“1. where the Coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.”

Likewise, article 15 of 1982 “UNCLOS” on the delimitation of the territorial sea between States with opposite or adjacent coasts, States that:

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

It is noticed that article 15 of the “UNCLOS” is almost identical to article 12 of the 1958 “CTS”.<sup>41</sup> Both articles adopt the “agreement/equidistance/special circumstances” triple rule for the delimitation of the territorial sea between States with opposite or adjacent coasts.

The triple rule permits the two States to agree firstly on the method applied for the delimitation of the territorial sea and depart from the median or equidistance line rule.<sup>42</sup> However, the median line rule is the appropriate method to apply for the delimitation of the territorial sea between both

<sup>41</sup> Daniel O’Connell, “Delimitation of the Territorial Sea”, in *The International Law of the Sea*, I.A. Shearer (ed.), (Oxford Scholarly Authorities on International Law, 1988), p. 677.

<sup>42</sup> David Attard and Malgosia Fitzmaurice, eds., *The IMLI Manual on the International Maritime Law*, vol. 3, (Oxford Scholarly Authorities on International Law, 2014), p. 37.

States in case there is no agreement for the delimitation of the territorial sea.<sup>43</sup> Moreover, the median line rule might not be the appropriate method for maritime delimitation in situations of historic title or special circumstances that require the application of other methods of delimitation.<sup>44</sup>

The International Law Commission “ILC”, in 1950, examined the rules governing the delimitation of the territorial sea during its study on the regime of the territorial sea.<sup>45</sup> The ILC issued in 1956 its draft articles concerning the law of the sea which included article 12 on the delimitation of the territorial Sea in straits and off opposite coasts and article 14 on the delimitation of the territorial sea of two adjacent States.<sup>46</sup>

The Geneva Conference on the Law of the Sea “UNCLOS I” referred to the ILC draft articles 12 and 14 during the negotiations of the first committee on the provision for the delimitation of the territorial sea.<sup>47</sup> States positions in the committee were divided into two main groups. Several States preferred the use of the median line for the delimitation of the territorial sea. Another group of States supported the application of equitable principles and considering special circumstances.<sup>48</sup> As to Germany, it proposed the addition of “historic title” to the new combined draft article.<sup>49</sup> The “UNCLOS I” adopted on 29 April 1958 the “CTS” which identifies in article 12 the “agreement/equidistance/special circumstances” triple rule for the delimitation of the territorial sea between States with opposite or adjacent coasts.

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<sup>43</sup> Ibid. (Attard).

<sup>44</sup> O’Connell, “Delimitation of the” note [41], at p. 677.

<sup>45</sup> Donald Rothwell, “The Law of Maritime Boundary Delimitation between States: A History of its development to the present day”, Masters dissertation, University of Alberta, 1984, p.75.

<sup>46</sup> Myron Nordquist, Satya Nandan and James Kraska, eds., *United Nations Convention on the Law of the Sea 1982: A Commentary* (Martinus Nijhof Publishers, 1995), p.134

<sup>47</sup> Ibid., (Nordquist), p135.

<sup>48</sup> Ibid., (Nordquist).

<sup>49</sup> Ibid., (Nordquist).

During the Third United Nations Conference on the Law of the Sea “UNCLOS III”, the second committee of the conference reviewed the rule applicable for the delimitation of the territorial sea. There was a general acceptance in the committee that the “agreement/equidistance/special circumstances” rule specified in article 12 of the 1958 “CTS” should be retained due to its widespread adoption among States in bilateral delimitation agreements.<sup>50</sup> Thus, the “UNCLOS III” agreed to maintain the rule of article 12 of the 1958 “CTS” and drafted article 15 of the 1982 UNCLOS “to be virtually identical to article 12, paragraph 1”.<sup>51</sup>

It has been argued that the incorporation by “UNCLOS III” to article 12 of the 1958 “CTS” with minor changes into article 15 of the UNCLOS is an evidence that the “equidistance/special circumstance” rule embodied in both articles reflects a rule of customary international law for the delimitation of the territorial sea.<sup>52</sup>

Moreover, the International Court of Justice “ICJ”, in its judgment in the *Qatar v. Bahrain Case*, confirmed that “article 15 of the 1982 Convention is virtually identical to Article 12, paragraph 1, of the 1958 Convention on the Territorial Sea and the Contiguous Zone, and is to be regarded as having a customary character. It is often referred to as the “equidistance/special circumstances” rule”.<sup>53</sup>

It is assumed that the “equidistance/special circumstances” rule identified by article 15 of the “UNCLOS” provides a definite delimitation rule that safeguards stability and legal certainty in

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<sup>50</sup> Faraj Ahnish, *The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea* (Oxford University Press, 1994), p. 48.

<sup>51</sup> International Court of Justice, *Maritime Delimitation and Territorial Questions between Qatar and Bahrain*, Merits, Judgment, I.C.J. Reports 2001, p.40, para176, Also O’Connell, “Delimitation of the” note [41], at p. 677.

<sup>52</sup> Prosper Weil, *The Law of Maritime Delimitation-reflections* (Grotius Publications Limited, 1989), p.136.

<sup>53</sup> Qatar/Bahrain, Merits, note [51], at para176.

the case law on the delimitation of the territorial sea and balances between the objectiveness of the equidistance rule and the flexibility of the concept of special circumstance.<sup>54</sup>

Case law established that the “two-stage” approach “is the most logical and widely practiced approach” for the delimitation of the territorial sea which includes drawing firstly a provisional median or equidistance line and afterwards considers whether the median line requires adjustment due to the existence of “special circumstances”.<sup>55</sup>

However, it is observed that the ICJ, in the 2007 *Nicaragua v. Honduras Case*, had shifted from applying the “two-stage” approach by not drawing a median line as a “starting point”. Nevertheless, it examined in the first stage whether there are “special circumstances” that require deviating from applying the equidistance line and acknowledged the presence of geographical circumstances that necessitated drawing a bisector line for delimitation.<sup>56</sup> Though, it is argued that the setback from the “two-stage” approach undermines the consistency and certainty achieved by case law in the delimitation of the territorial sea.<sup>57</sup>

The concept of “special circumstances” is not defined in article 15 of the UNCLOS while the ICJ defined it as “those circumstances which modify the result produced by an unqualified application of the equidistance principle” and is “necessary to be taken into account in the delimitation process”.<sup>58</sup> It is argued that this definition is general and relevant to cover the application of the concept of “special circumstances” on the delimitation of the territorial sea and

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<sup>54</sup> Massimo Lando, “Judicial Uncertainties on territorial sea delimitation under article 15 UNCLOS”, *International & Comparative Law Quarterly*, vol. 66, No. 3 (July 2017), pp.589-623, p. 593.

<sup>55</sup> Qatar/Bahrain, Merits, note [51], at para176.

<sup>56</sup> International Court of Justice, *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea*, Merits, Judgment, I.C.J. Reports 2007, p.659, paras 280-282, para. 298, Also Lando, “Judicial Uncertainties”, note [54], at p. 596.

<sup>57</sup> *Ibid.*, (Lando), p. 594, 615.

<sup>58</sup> International Court of Justice, *Maritime Delimitation in the Area between Greenland and Jan Mayen*, Judgment, I.C.J. Reports 1993, p.38, para 55.

continental shelf.<sup>59</sup> However, the concept applies restrictively, for a corrective function to the distortion caused to the delimitation line due to the presence of geographical features, to adjust or deviate from the equidistance line.<sup>60</sup>

Nevertheless, factors that amount to be considered as special circumstances in territorial sea delimitation are limited compared to the factors that are considered relevant circumstances in the context of continental shelf delimitation.<sup>61</sup> This dissimilarity in the scope of “special circumstances” and “relevant circumstances” is reasonable in light of the difference between the limited distorting effect of geographical features on the delimitation of the territorial sea and their grave distorting impact on the delimitation of the continental shelf.<sup>62</sup>

Consequently, case law did not consider the concavity of the coastline as a “special circumstance” in territorial sea delimitation but a significant “relevant circumstance” in continental shelf delimitation.<sup>63</sup> On the contrary, navigation is considered as a relevant circumstance in territorial sea delimitation and irrelevant in extended maritime zones delimitation.<sup>64</sup>

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<sup>59</sup> Davor Vidas, “The Delimitation of the territorial sea, the Continental Shelf, and the EEZ A Comparative Perspective” in *Maritime Boundary Delimitation: The Case Law Is it Consistent and Predictable?*, Alex Oude Elferink, eds. (Cambridge University Press, 2018), p. 56.

<sup>60</sup> *Ibid* (Vidas), p. 46.

<sup>61</sup> *Ibid.*, (Vidas), p. 56.

<sup>62</sup> *Ibid*, (Vidas).

<sup>63</sup> *Ibid*, (Vidas).

<sup>64</sup> *Ibid*, (Vidas).



## **Section B: Rules applicable for the delimitation of the exclusive economic zone and continental shelf**

The rules applicable for the delimitation of the continental shelf are identified in article 6 of the 1958 Geneva Convention on the Continental Shelf “CCS” and article 83 (1) of the 1982 UNCLOS. Both former articles stipulate different provisions on the rule applicable for the delimitation of the continental shelf. However, the rule applicable for the delimitation of the exclusive economic zone is specified in article 74 (1) of the UNCLOS.

### (A) The continental shelf delimitation rule in the 1958 Geneva Convention on the Continental Shelf:

Article 6 of the 1958 “CCS” sets out the rule applicable for the delimitation of the continental shelf between States with opposite or adjacent coasts, which reads that:

“1. Where the same continental shelf is adjacent to the territories of two or more States that 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.”

The 1958 “CCS” adopts in article 6 the “agreement/equidistance/special circumstances” triple rule for the delimitation of the Continental shelf between States with opposite or adjacent coasts. The triple rule stipulates that in the absence of an agreement, the continental shelf boundary is the median line between the two States of opposite coasts and the equidistance line between States with adjacent coasts. However, the median or equidistance line method may not apply in the presence of special circumstances that justify applying other methods of delimitation to establish the boundary line.<sup>65</sup>

The International Law Commission “ILC”, in 1950, examined the rules governing the delimitation of the continental shelf during its study on the topic of the regime of the high seas.<sup>66</sup> The ILC issued, in 1956, its draft articles concerning the law of the sea which included draft article 72 that specified that the rule applicable for the delimitation of the continental shelf between opposite or adjacent States is the “equidistance/special circumstances” rule. Furthermore, the commentary of the draft article 72 identified that the concept of “special circumstances” may justify the deviation from the principal of “equidistance” in special geographical situations such as the presence of islands in the delimitation area.<sup>67</sup>

The 1958 Geneva Conference on the Law of the Sea “UNCLOS I” incorporated with minor changes the text of the draft article 72 of the “ILC” draft articles concerning the law of the sea into the draft text of article 6 of the 1958 “CCS”.<sup>68</sup>

It is observed that, according to the 1958 Geneva Conventions on the territorial sea and on the continental shelf, the “equidistance/special circumstances” rule applies for the delimitation of

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<sup>65</sup> Rothwell & Stephens, *The International Law*, note [28], at p. 418.

<sup>66</sup> Rothwell, “The Law of Maritime” note [45], at p. 75.

<sup>67</sup> United Nations General Assembly, Report of the International Law Commission, 8<sup>th</sup> session, A/CN.4/SER.A/1956/Add.1, November 1956, Yearbook of International Law Commission, 1956, vol. II, p. 300.

<sup>68</sup> Zahraa Mahdi, “The delimitation of Continental Shelf boundaries with particular reference to “relevant circumstances” and “special circumstances””, PhD dissertation, University of Glasgow, 1990, p.40.

both the territorial sea and the continental shelf.<sup>69</sup> However, the application of the rule on maritime delimitation have raised several doubts. Firstly, on whether the concept of “special circumstances” applies as part of the rule of “equidistance” or as an exception to the rule.<sup>70</sup> Secondly, the vagueness of the concept of “special circumstances” since the law of the sea conventions did not define the concept or determine its scope.<sup>71</sup> Thirdly, the customary character of the “equidistance/special circumstances” rule is restricted to its application for the delimitation of territorial sea and does not extend to its application for the delimitation of the continental shelf.<sup>72</sup>

The ICJ confirmed, in the *North Sea Continental Shelf Cases*, that the “equidistance/special circumstances” rule, embodied in article 6 of the 1958 “CCS” for the delimitation of continental shelf, is only a conventional rule and “did not embody of crystalize any pre-existing or emergent rule of customary international law”.<sup>73</sup> Furthermore, the Court recognized that delimitation of the continental shelf “is to be effected by agreement in accordance with equitable principles, and taking account all the relevant circumstances”.<sup>74</sup> Correspondingly, the ICJ in the *North Sea Continental Shelf Cases* established a new rule; the “equitable principles/relevant circumstances” rule, for the delimitation of the continental shelf areas in the North Sea.<sup>75</sup>

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<sup>69</sup> Lucius Caflish, “Maritime Delimitation Disputes-What modes of Settlement?” in *The Hamburg Lectures on Maritime Affairs 2009 & 2010*, Jurgen Basedow, eds. (Springer, 2012), pp. 69-89, p. 76.

<sup>70</sup> *Ibid.*, (Caflish), p. 76.

<sup>71</sup> Hungdah Chiu, “Some Problems Concerning the Application of the Maritime Boundary Delimitation Provisions of the 1982 United Nations Convention on the Law of the Sea Between Adjacent or Opposite States”, *Maryland Journal of International Law*, vol. 9, No. 1 (1985), p.7.

<sup>72</sup> Caflish, “Maritime Delimitation”, note [69], at p. 76.

<sup>73</sup> *North Sea Continental Shelf Cases*, note [37], at para 69, *Ibid* (Caflish).

<sup>74</sup> *Ibid* (North Sea) para 101.

<sup>75</sup> Ki Lee, “The Demise of equitable Principles and the Rise of Relevant Circumstances in Maritime Boundary Delimitation”, PhD dissertation, University of Edinburgh, 2012, p. 27.

(B) The exclusive economic zone and continental shelf delimitation rule in the 1982 United Nations Convention on the Law of the Sea “UNCLOS”:

The 1982 United Nations Convention on the Law of the Sea sets out the rule applicable for the delimitation of the exclusive economic zone and continental shelf in articles 74 (1) and 83 (1), respectively.

Article 74 (1) of the “UNCLOS” on the delimitation of the exclusive economic zone between States with opposite or adjacent coasts reads that:

“1. The delimitation of the Exclusive Economic Zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of International Law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.”

Likewise, article 83 (1) of “UNCLOS” on the delimitation of the continental shelf between States with opposite or adjacent coasts stipulates that:

“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.”

The identical articles 74 (1) and 83 (1) of the “UNCLOS” identify a general rule for the delimitation of the continental shelf and exclusive economic zone between opposite or adjacent States that is comprised of three general elements. Firstly, the delimitation of maritime boundaries is a bilateral process established by agreement between the two delimitation parties and should not be claimed unilaterally.<sup>76</sup> Secondly, the delimitation agreement should be based

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<sup>76</sup> Alex G. Oude Elferink, *The Law of Maritime Boundary: A Case Study of The Russian Federation* (Publications on Ocean Development, 1994), p. 32.

on international law as referred to in article 38 of the ICJ Statute.<sup>77</sup> Thirdly, the ultimate objective of the delimitation process is to achieve an equitable solution.<sup>78</sup>

The conjunction of concluding a delimitation “agreement” based on international law implies that States are compelled to ensure that the provisions of their delimitation agreements are in accord with international law and achieve an “equitable solution”. Both articles include a reference to article 38 of the Statute of the International Court of Justice, which enumerates formal and subsidiary sources of international law. The formal sources of international law include international treaties, international customary law and general principles of law.<sup>79</sup> Furthermore, both articles embody an obligation of achieving “an equitable solution” which is an “obligation of result”.<sup>80</sup>

The ICJ, in the 1993 *Greenland and Jan Mayen Case*, confirmed that achieving an equitable solution in maritime delimitation is a customary rule that applies on the delimitation of exclusive economic zone and continental shelf. It stated that the “statement of an equitable solution as the aim of any delimitation process reflects the requirements of customary law as regards the delimitation both the continental shelf and of exclusive economic zone”.<sup>81</sup>

The legislative history of articles 74 (1) and 83 (1) can be sourced at the Third United Nations Conference on the Law of the Sea “UNCOLS III” that was convened in 1973.<sup>82</sup> The first session

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<sup>77</sup> Ibid (Oude Elferink).

<sup>78</sup> Nuno Antunes, *Towards the conceptualization of maritime delimitation* (Martinus Nijhoff Publishers, 2002), p.89

<sup>79</sup> Yoshifumi Tanaka, *Predictability and Flexibility in the Law of Maritime Delimitation* (Hart Publishing, 2006), p. 47.

<sup>80</sup> Antunes, *Towards the conceptualization*, note [78], at p.234.

<sup>81</sup> *Greenland/Jan Mayen*, note [58], at para 48, Also Tanaka, *Predictability*, note [79], at p.47.

<sup>82</sup> For a detailed legislative history of these provisions, see SN Nandan and S. Rosenne, eds., *United Nations Convention on the Law of the Sea 1982: A Commentary*, vol. II (Dordrecht, Martinus Nijhoff Publishers, 1993), pp. 796-819, 948-85, SP Jagota, *Maritime Boundary* (Martinus Nijhoff Publishers, 1985), pp. 219-72, Gerard Tanja, *The Legal Determination of International Maritime Boundaries: The Progressive Development of Continental Shelf, EFZ and EEZ Law* (T.M.C. Asser Institute, 1990), pp. 81-116.

of the conference witnessed different States positions on the rules applicable for the delimitation of the Continental shelf that were categorized to form three main groups. A first group of States, influenced by the 1969 ICJ *North Sea Continental Shelf Cases* ruling, proposed that the delimitation of the continental shelf should be established by agreement based on the “equitable principles” that consider all “relevant circumstances” of the delimited area.<sup>83</sup> A second group of States proposed that delimitation should be effected by agreement based on the “equidistance principle”. A third group of States called for preserving the formula established by article 6 of the 1958 Convention on the Continental shelf.

In the seventh session of “UNCOLS III”, in 1978, the “Negotiating group 7” was formed to work on reaching an agreement on the rule governing the delimitation of the continental shelf and two main negotiation groups were formed; The “equidistance principle” group and the “equitable principles” group.<sup>84</sup> The “equidistance principle” group and the “equitable principles” group were consisted of 20 States and 27 States, respectively.<sup>85</sup> Nevertheless, the divergence in positions between both groups impeded the Conference reaching to consensus on the rule governing the delimitation of the continental shelf.<sup>86</sup>

Ambassador Tommy Koh, president of the “UNCOLS III”, presented at the end of the tenth session to the Conference a proposal on the rule for the delimitation of the continental shelf and exclusive economic zone to break the deadlock reached in negotiations.<sup>87</sup> The president presented in his proposal a broad and neutral formula based on the “constructive ambiguity” approach to ensure its acceptance among the negotiating States. It stated that the delimitation of the continental shelf and exclusive economic zone “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”.

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<sup>83</sup> Ibid (Tanja), p. 87.

<sup>84</sup> Ibid (Tanja), p. 94.

<sup>85</sup> Tanaka, Predictability, note [79], at p. 44.

<sup>86</sup> Ibid., (Tanaka), p. 46.

<sup>87</sup> Ibid., (Tanaka).

The president's formula was generally accepted by the two main negotiating groups and was included in the final draft text of the convention.<sup>88</sup> Judge Oda in his dissenting opinion in the *Tunisia v. Libya Case* noted that the formula of articles 74 (1) and 83 (1) of the UNCLOS was drafted to "be satisfactory to delegates with not only different but sometimes contradictory views on the delimitation of the continental shelf and of the exclusive economic zone".<sup>89</sup>

However, articles 74 (1) and 83 (1) do not specify a method for the delimitation of the exclusive economic zone and the continental shelf and leave to the delimitation parties to agree on the delimitation method as long as it is consistent with international law and achieve an equitable result.<sup>90</sup> The ICJ, in the 1985 *Malta v. Libya Case*, observed that "the convention set a goal to be achieved but is silent as to the method to be followed to achieve it. It restricts itself to setting a standard, and it is left to States themselves, or to the Courts, to endow this standard with specific content".<sup>91</sup>

The formula embodied in the identical articles 74 (1) and 83 (1) was criticized of being vague as it did not specify any method for delimitation or how to achieve the equitable solution.<sup>92</sup> Judge Gros in his dissenting opinion in the *Gulf of Maine Case* described the formula stipulated in both articles as an "empty formula" and difficult to extract any particular rule from it.<sup>93</sup> Professor

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<sup>88</sup> Oude Elferink, *The Law of Maritime*, note [76], at p. 31.

<sup>89</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], Dissenting Opinion of Judge Oda, at para 143.

<sup>90</sup> Clive Schofield, "One step forwards, two steps back? Progress and challenges in the delimitation of maritime boundaries since the drafting of the United Nations Convention on the Law of the Sea" in *30 Years of UNCLOS (1982-2012): Progress and Prospects*, G. Xue and A. White, eds. (Beijing, China University of Political Science and Law Press, 2013), pp 217-239, p.220.

<sup>91</sup> International Court of Justice, *Continental Shelf (Libya/Malta) Case*, Judgment, I.C.J Reports 1985, p.13, pp. 30-31, para. 28.

<sup>92</sup> Tanaka, *Predictability*, note [79], at p. 47.

<sup>93</sup> International Court of Justice, *Delimitation of the Maritime Boundary in the Gulf of Maine Area Case*, Judgment, I.C.J. Reports 1984, p. 246, See Judge Gros in the Gulf of Maine case p.365 para 8 and p, 382 para 37.

Brown described the formula as “meaningless in itself and very difficult to interpret even when the reference to international law is followed up”.<sup>94</sup>

International courts and tribunals has attempted through case law on the delimitation of the exclusive economic zone and continental shelf to elucidate the concept of “equitable principles”.<sup>95</sup> The concept of “equitable principles” stems from “equity” which is a general principle of law inherent in maritime delimitation.<sup>96</sup> It appeared first in the 1945 Truman Proclamation and then in the ICJ 1969 *North Sea Continental Shelf Cases* judgment.<sup>97</sup>

The Court in the former case confirmed that application of equity in maritime delimitation is a matter “of applying a rule of law which itself requires the application of equitable principles”.<sup>98</sup> Furthermore, it acknowledged that the “delimitation is to be effected by agreement in accordance with equitable principles, and taking account all the relevant circumstances”.<sup>99</sup> Correspondingly, the Court established that the “equitable principles/relevant circumstances” rule is the rule applicable for the delimitation of the continental shelf.<sup>100</sup> Moreover, it reaffirmed, in several subsequent cases, that the “equitable principles/relevant circumstances” rule governs the delimitation of both the exclusive economic zone and continental shelf.

The ICJ, in the 1982 *Tunisia v. Libya Case*, confirmed that equitable principles “must be assessed in light of its usefulness for the purpose of arriving at an equitable result”.<sup>101</sup> It

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<sup>94</sup> Edward Brown, *The United Nations Convention on the Law of the Sea, 1982: A Guide for National Policy Making Legislation and Administration, Book 3; Maritime zones, exclusive economic zone and continental shelf* (London, UK Government Commonwealth Secretariat, 1991), p. 48.

<sup>95</sup> Ahmad Razavi, *Continental Shelf Delimitation and Related Maritime Issues in the Persian Gulf* (Kluwer Law International, 1997), p.278.

<sup>96</sup> Antunes, *Towards the conceptualization*, note [78], at p. 234.

<sup>97</sup> Lee, *The Demise of*, note [75], at p. 27.

<sup>98</sup> *North Sea Continental Shelf Cases*, note [37], at para 85.

<sup>99</sup> *Ibid* (North Sea), para 101.

<sup>100</sup> Lee, *The Demise of*, note [75], at p. 27.

<sup>101</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at para 72.



presumed that “the result of the application of equitable principles must be equitable” and noted the role of “relevant circumstances” in achieving the equitable delimitation.<sup>102</sup>

Moreover, the ICJ Chamber, in the 1984 *Gulf of Maine Case* stated that “delimitation, whether effected by direct agreement or by the decision of a third party, must be based on the application of equitable criteria and the use of practical methods capable of ensuring an equitable result”.<sup>103</sup> Furthermore, the Chamber stressed that equitable principles “can only be assessed in relation to the circumstances of each case and for one and the same criterion it is quite possible to arrive at different, or even opposite, conclusions in different cases”.<sup>104</sup>

The ICJ, in the 1985 *Malta v. Libya Case* confirmed that “the delimitation is to be effected in accordance with equitable principles and taking into account of all relevant circumstances, so as to arrive at an equitable result”.<sup>105</sup> Furthermore, it provided examples of the equitable principles and relevant circumstances that are relevant in continental shelf delimitation.<sup>106</sup> The Court specified that equitable principles in maritime delimitation may include; the principle of no refashioning of geography and the principle of non-encroachment on the natural prolongation of another State.<sup>107</sup> In addition, relevant circumstances in maritime delimitation may include geographical factors such as the marked disparity between the lengths of the parties relevant coasts and the coastal relationship between delimitation States.<sup>108</sup>

However, the ICJ, in the 1993 *Greenland and Jan Mayen Case*, rejected the position of early case law and asserted that the application of the “equidistance/special circumstances” rule

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<sup>102</sup> Ibid (Tunisia/Libya).

<sup>103</sup> *Gulf of Maine Case*, note [93], at para 113.

<sup>104</sup> Ibid., (*Gulf of Maine*), at para 158.

<sup>105</sup> *Malta/Libya Case*, note [91], at para 79 (1).

<sup>106</sup> Ibid., (*Malta/Libya*), Also Razavi, *Continental Shelf*, note [95], at p.280.

<sup>107</sup> Ibid., (*Malta/Libya*), para 46.

<sup>108</sup> Ibid., (*Malta/Libya*), para 79 (B).

embodied in article 6 of the 1958 “CCS” in maritime delimitation may also achieve an equitable solution. It stated that “it must be difficult to find any material difference, - ... between the effect to Article 6 and the effect of the customary rule which also requires a delimitation based on equitable principles”.<sup>109</sup>

Later, the ICJ, in the 2001 *Qatar/Bahrain Case*, established that “the equidistance/special circumstances rule, which is applicable in particular to the delimitation of the territorial sea, and the equitable principles/relevant circumstances rule, as it has been developed since 1958 in case-law and State practice with regard to the delimitation of the continental shelf and the exclusive economic zone, are closely interrelated”.<sup>110</sup>

Similarly, the ICJ, in the 2002 *Cameroon v. Nigeria Case*, noted that the “equitable principles/relevant circumstances” delimitation rule is “very similar to the equidistance/special circumstances method applicable in delimitation of the territorial sea, involves first drawing an equidistance line, then considering whether there are factors calling for the adjustment or shifting of that line in order to achieve an equitable result”.<sup>111</sup>

It may be indicated from the above case law that the ICJ starting from the 1993 *Greenland and Jan Mayen Case* has been consistent in favoring the application of the equidistance method for constructing the provisional delimitation line in the first stage of the delimitation process.<sup>112</sup> It is argued that this development in case law by applying the “equidistance/special circumstances” rule has aimed to overcome the silence of articles 74 and 83 of UNCLOS from identifying any method applicable for the delimitation of the exclusive economic zone and continental shelf. However, case law has replaced the use of the term “special circumstances” with the term

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<sup>109</sup> Greenland/Jan Mayen, note [58], at para 46.

<sup>110</sup> Qatar/Bahrain, note [51], at para 231.

<sup>111</sup> International Court of Justice, *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*. Judgement, I.C.J. Reports 2002, p.303, para 288.

<sup>112</sup> Greenland/Jan Mayen, note [58], para 46, Also Lee, *The Demise of*, note [75], at p.31.

“relevant circumstances” starting from the ICJ 2002 *Cameroon v. Nigeria Case*.<sup>113</sup> Judge Guillaume, the former ICJ president, stated in 2001 that “a new stage was then reached with the Judgment delivered on 14 June 1993 in the Case between Denmark and Norway concerning the maritime delimitation in the area between Greenland and Jan Mayen” and that “the Court proceeded to develop its case law in the direction of greater certainty”.<sup>114</sup>

The tribunal, in the 2006 *Barbados/Trinidad and Tobago Arbitration Case*, applied the two-step approach methodology for the delimitation process and referred to it as the “equidistance/relevant circumstances” principle.<sup>115</sup>

Subsequently, the ICJ, in the 2008 *Black Sea Case*, established the “three-stage” methodology for the delimitation of the exclusive economic zone and the continental shelf.<sup>116</sup> The “three-stage” methodology in maritime delimitation will be examined in the next chapter.

## **Chapter Two: The “three-stage” maritime delimitation methodology**

### **Section A: The “three-stage” methodology**

It is stated by conventional law and confirmed by case law that the “equidistance/special circumstances” rule governing the delimitation of the territorial sea and the “agreement/equitable solution” rule governing the delimitation of the exclusive economic zone and the continental shelf are rules of customary character.<sup>117</sup> Though, the law of the sea conventions did not determine a specified delimitation methodology for States or international courts to apply in the

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<sup>113</sup> Nigeria/Cameroon Case, note [111], at para. 288.

<sup>114</sup> Judge Gilbert Guillaume, President of the International Court of Justice, Speech to the Sixth Committee of the United Nations General Assembly 2001, New York, 31 October 2001. Available at <https://www.icj-cij.org/files/press-releases/5/2995.pdf> (accessed on 15 August 2018).

<sup>115</sup> *Arbitration between Barbados and the Republic of Trinidad and Tobago (Barbados v. Trinidad and Tobago) Case* (2006) 27 RIAA 147, para 242.

<sup>116</sup> International Court of Justice, *Maritime Delimitation in the Black Sea (Romania v. Ukraine) Case*, Judgment, I.C.J. Reports 2009, p.61, para 115-122.

<sup>117</sup> Stephen Fietta and Robin Cleverly, eds., *A Practitioner’s Guide to Maritime Delimitation* (Oxford Scholarly Authorities on International Law, 2016), p. 52.

delimitation process.<sup>118</sup> Consequently, it was left to case law to identify through its constant jurisprudence the appropriate delimitation methodology for the delimitation of different maritime zones.<sup>119</sup>

International courts and tribunals have established a uniform methodology for the delimitation of maritime boundaries which limited the risks of subjectivity and uncertainty in the delimitation process.<sup>120</sup> The ICJ had been consistent in adopting the “two-stage” approach crystallized by the *Qatar/Bahrain Case* judgement which noted that the “widely practiced approach is first to draw provisionally an equidistance line and then consider whether that line must be adjusted in light of the existence of special circumstances”.<sup>121</sup> Correspondingly, the Court in the *Cameroon v. Nigeria Case*, asserted that “equitable principles/relevant circumstances” is the applicable method which “involves first drawing an equidistance line, then considering whether there are factors calling for the adjustment or shifting of that line in order to achieve an equitable result”.<sup>122</sup> The arbitral tribunal, in the *Barbados v. Trinidad and Tobago Case*, confirmed that delimitation process “normally follows a two-step approach” by firstly drawing a provisional equidistance line as a starting point and then “an examination of this provisional line in light of relevant circumstances” is carried as a second step to ensure that the delimitation would achieve an equitable result.<sup>123</sup>

The ICJ, in the *Black Sea (Romania v. Ukraine) Case*, has adopted a new “three-stage” methodology for the delimitation of the exclusive economic zone and continental shelf that

<sup>118</sup> Ibid. (Fietta and Cleverly), p. 54.

<sup>119</sup> Ibid. (Fietta and Cleverly), p. 53.

<sup>120</sup> Ibid. (Fietta and Cleverly).

<sup>121</sup> *Qatar/Bahrain*, note [51], at para 176, Also Donald McRse, “The applicable law The Geneva Convention on the Continental Shelf, the LOSC, and Customary International Law”, in *Maritime Boundary Delimitation: The Case Law*, Alex Oude Elferink and Tore Henriksen, eds. (Cambridge Press, 2018), pp. 92-117, p.100.

<sup>122</sup> *Nigeria/Cameroon Case*, note [111], at para. 288.

<sup>123</sup> *Barbados/Trinidad and Tobago*, note [115], at para 242.

embraces three sequential stages.<sup>124</sup> In the first stage, the Court constructs a provisional delimitation line by using the appropriate geometrical method for the delimitation between opposite or adjacent States such as the median or equidistance line.<sup>125</sup> In the Second stage, the court examines the existence of relevant factors that require adjusting the provisional median or equidistance line in order to achieve an equitable solution.<sup>126</sup> Lastly, in the third stage, the Court applies the “disproportionality” test to verify that the provisional delimitation line “does not, as it stands, lead to an inequitable result by reason of any marked disproportion between the ratio of the respective coastal lengths and ratio between the relevant maritime area of each State”.<sup>127</sup>

International jurisprudence on maritime boundaries delimitation over the last decade has demonstrated the constant application of the “three-stage” delimitation methodology. The “three-stage” methodology realizes three main endeavors in the delimitation process. Firstly, it preserves in the first stage the objectiveness and predictability of the “equidistance” rule. Secondly, it maintains in the second stage the flexibility of the concept of “relevant circumstances” through adjusting the provisional equidistance line to achieve an equitable solution. Thirdly, it safeguards through applying the “disproportionality” test in the third stage the equitableness of the delimitation line.<sup>128</sup>

The three sequential stages of the “three-stage” methodology will be examined in the following subsections; (a) Stage 1: The provisional equidistance line, (b) Stage 2: relevant circumstances and the adjustment of the provisional line, (c) stage 3: the “disproportionality” test.

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<sup>124</sup> Romania/Ukraine, note [116], paras 118-122, Also Fietta and Cleverly, note [117], at p. 54.

<sup>125</sup> Ibid. (Fietta and Cleverly).

<sup>126</sup> McRse, The application, note [121], at p.102.

<sup>127</sup> Romania/Ukraine, note [116], at para 122.

<sup>128</sup> Fietta and Cleverly, note [117], at p. 55.

(A) Stage 1: The construction of the provisional equidistance line:

The “equidistance” method is recognized as the “foundation to the technical process of delimitation” and a “well defined geometric method which is relatively easy to apply”.<sup>129</sup> The equidistance line is defined in article 15 of UNCLOS as “the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured”. The equidistance line is constructed by “the geographical co-ordinates of the turning points and the lines joining them are usually defined as geodesics”.<sup>130</sup>

The term “equidistance line” refers to the lateral line used for the delimitation between adjacent States and the term “median line” refers to the equidistance line used for the delimitation between opposite States.<sup>131</sup>

Moreover, the equidistance line has three different forms: strict equidistance line, simplified equidistance line and modified equidistance line. The “strict equidistance line” is defined as “a series of segments of perpendicular bisectors of straight lines joining the nearest points on the coasts of the parties”<sup>132</sup> or in other words “a series of turning points, at each of which these basepoints are equidistant” and “the turning points are joined by a series of equidistant lines”.<sup>133</sup>

The strict equidistance line is constructed by using all basepoints required by law including low water line or straight baselines basepoints located on continental coasts, islands, rocks or low tide

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<sup>129</sup> International Hydrographic Organization and International Association of Geodesy “IHO-IAG”, “A Manual on Technical Aspects of the United Nations Convention on the Law of the Sea -1982 (TALOS)”, No. 51, 5<sup>th</sup> Edition, International Hydrographic Bureau, June 2014, Chapter 6-4.

<sup>130</sup> P.B. Beazley, “Technical Aspects of Maritime Boundary Delimitation”, published as *Maritime Briefing*, vol. 1, No. 2, (The International Boundaries Research Unit “IBRU”-(University of Durham, 1994), p. 8.

<sup>131</sup> IHO-IAG, note [129], Chapter 6-4.

<sup>132</sup> L. Legault and B. Hankey, “Method, Oppositeness and Adjacency, and proportionality”, in *International Maritime Boundaries*, Jonathan Charney and Lewis Alexander, eds., vol.1 (Martinus Nijhoff Publishers, 1993), p. 207.

<sup>133</sup> Beazley, Technical Aspects, note [130], p. 8.

elevations.<sup>134</sup> However, constructing a strict equidistance line in special geographical situations such as irregular coasts may produce a complicated equidistance line that causes difficulties for practitioners which requires to construct a “simplified equidistance line” instead.<sup>135</sup>

The “simplified equidistance line” is a line drawn after minimizing the number of turning points comprising the equidistance line and selecting certain points in a way that ensures the equal swap of maritime areas between the parties and increases the length of the segments comprising the equidistance line.<sup>136</sup>

The “modified equidistance line” is a line formed of segments joining connecting points located in positions that are not strictly equidistant from the coasts baselines. The equidistance line is modified after reducing or ignoring the distortion effects of certain geographical features such as islands on the equidistance line in order to allocate more maritime spaces to one of the parties.<sup>137</sup>

However, the process of identifying basepoints for the delimitation of maritime boundaries is different from the process of selecting basepoints for the measuring the outer limit of the exclusive economic zone and the continental shelf.<sup>138</sup> In practice, international courts and tribunals are not bound to resort to the basepoints selected by the disputed States for the construction of the provisional equidistance line.<sup>139</sup> Moreover, States in maritime delimitation should agree on the relevant basepoints for constructing the provisional equidistance line.<sup>140</sup>

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<sup>134</sup> Legault and Hankey, “Method, Oppositeness”, note [132], at p. 208.

<sup>135</sup> Ibid., (Legault), p.207.

<sup>136</sup> Beazley, Technical Aspects, note [130], at p. 9.

<sup>137</sup> Legault and Hankey, “Method, Oppositeness”, note [132], at p. 208.

<sup>138</sup> United Nations, Handbook, note [40], at p.32.

<sup>139</sup> Ibid., (United Nations).

<sup>140</sup> Legault and Hankey, “Method, Oppositeness”, note [132], at p. 208.

In practice, the construction of the equidistance line requires initially to identify the most seaward basepoints or “nearest basepoints” of the baselines.<sup>141</sup> The ICJ, in the *Black sea case*, described the method of equidistance as “geometrically objective”.<sup>142</sup> However, it did not adopt the “geometrically objective” criteria for selecting the nearest points used for the construction of the provisional equidistance line.<sup>143</sup> Conversely, it confirmed that the equidistance or median lines “are to be constructed from the most appropriate points on the coasts of the two States concerned” and “which mark a significant change in the direction of the coast”.<sup>144</sup>

Accordingly, the Court evaluates the appropriateness of the basepoints and their effects on the construction of the provisional equidistance line.<sup>145</sup> However, the ICJ judicial discretion in assessing the appropriateness of the basepoints was criticized for expanding the Court subjectivity and encumbering predictability and consistency in maritime delimitation.<sup>146</sup> Moreover, it disregards the role of the second stage in the delimitation process which examines the effects of relevant circumstances such as geographical factors including basepoints on the provisional equidistance line.<sup>147</sup>

(B) Stage 2: The relevant circumstances and the adjustment of the provisional line:

The concept of “relevant circumstances” plays a role in the second stage of the delimitation process. It may be influential in adjusting or shifting the provisional equidistance line to achieve an equitable delimitation.<sup>148</sup> Articles 74 (1) and 83 (1) of the UNCLOS on the delimitation of the exclusive economic zone and continental shelf did not refer to the concept of “relevant

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<sup>141</sup> IHO-IAG, note [129], Chapter 6-6.

<sup>142</sup> Romania/Ukraine, note [116], paras 116-117, Also Fietta and Cleverly, note [117], at p.56, McRse, The application, note [121], at p.103.

<sup>143</sup> Fietta and Cleverly, note [117], at p.578.

<sup>144</sup> Romania/Ukraine, note [116], at paras 117, 127, Also McRse, The application, note [121], at p.103.

<sup>145</sup> Fietta and Cleverly, note [117], at p. 577.

<sup>146</sup> Ibid., (Fietta and Cleverly), pp.577-578.

<sup>147</sup> Ibid., (Fietta and Cleverly), p. 578.

<sup>148</sup> Ibid., (Fietta and Cleverly), p. 65.



circumstances”. Nevertheless, this does not preclude States and international courts and tribunals from considering the concept during the delimitation process.<sup>149</sup>

The ICJ, in the North Sea Continental shelf case, introduced the concept of “relevant circumstances” in maritime delimitation. It acknowledged that the “delimitation is to be effected by agreement in accordance with equitable principles and taking account of all the relevant circumstances”.<sup>150</sup>

However, international jurisprudence did not specify a list of factors that amount to be considered as relevant circumstances and necessitate the adjustment of the provisional equidistance line to achieve an equitable delimitation.<sup>151</sup> Moreover, it is hard to conceptually classify specific factors as relevant circumstances since factors are assessed in accordance to the circumstances of each specific delimitation case.<sup>152</sup> It is noted that relevant circumstances” have a wider scope of influential factors than “special circumstances” and all the factors that were considered in the past as “special circumstances” may also be categorized as “relevant circumstances”.<sup>153</sup>

It is established by case law and confirmed by States practice that geographical factors are the most influential factors that amount to be considered as relevant circumstances in the second stage of the delimitation process.<sup>154</sup> Nevertheless, non-geographic factors may not be considered solely as relevant circumstances unless they support a boundary line claim based on a tacit

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<sup>149</sup> Malcolm Evans, “Relevant Circumstances” in *Maritime Boundary Delimitation: The Case Law*, Alex Oude Elferink and Tore Henriksen, eds. (Cambridge Press, 2018), pp 222-261, p.227.

<sup>150</sup> *North Sea Continental Shelf Cases*, note [37], at para 101.

<sup>151</sup> Fietta and Cleverly, note [117], at p. 66.

<sup>152</sup> Evans, “Relevant Circumstances”, 2018, note [149], at p.248.

<sup>153</sup> *Ibid* (Evans), p. 226,228.

<sup>154</sup> Fietta and Cleverly, note [117], at p.67.

agreement.<sup>155</sup> Examples to geographical and non-geographical factors that may amount to be considered as relevant circumstances are illustrated in the next section of this research paper.

(c) Stage 3: The disproportionality test:

The notion of “proportionality” is one of the tools to achieve equity in maritime boundaries delimitation.<sup>156</sup> Its application in maritime delimitation is based on geographical parameters by considering the correlation between the ratio of coastal lengths with the ratio of maritime areas appertaining to each State by the delimitation.<sup>157</sup>

The concept of “proportionality” in the law of maritime boundaries delimitation has been developed by case law and without making reference to State practice or *opinio juris*.<sup>158</sup> The ICJ *North Sea Continental Shelf Cases* judgment was the first to elaborate on the concept of “proportionality” and limited its application when pertaining to the equidistance method for the delimitation of maritime areas with special geographical situations, such as concave coasts.<sup>159</sup>

Moreover, the ICJ, in the *Gulf of Maine Case*, *Libya v. Malta Case* and *Greenland and Jan Mayen Case*, confirmed that the “proportionality” test applies in the second stage of the delimitation process. The test assesses whether there is a marked disparity in the lengths of the

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<sup>155</sup> Evans, “Relevant Circumstances”, 2018, note [149], at p.260.

<sup>156</sup> Jin-Hyun Paik, “The Role of Proportionality in Maritime Delimitation: State of Jurisprudence”, in *Coexistence, Cooperation and Solidarity: Liber Amicorum*, Rudiger Wolfrum and Holger Hestermeyer, eds. (Maituns Nijhoff Publishers, 2012), p.199-221, 199.

<sup>157</sup> *Ibid.*, (Paik), p.200.

<sup>158</sup> Yoshifumi Tanaka, “The Disproportionality Test in the Law of Maritime Delimitation” in *Maritime Boundary Delimitation: The Case Law Is It Consistent and Predictability?*, Alex G. Oude Elferink and Tore Henriksen, eds. (Cambridge University Press, 2018), pp 291- 318, p.313.

<sup>159</sup> *Ibid.*, (Tanaka) 2018, p.294.

relevant coasts of the parties that may be considered as a relevant circumstance justifying the adjustment of the provisional equidistance line to achieve an equitable delimitation.<sup>160</sup>

Furthermore, the tribunal, in *1977 Anglo-French Continental Shelf Case*, confirmed that the “disproportionality” test aims to assess the equitability of the delimitation line.<sup>161</sup> Correspondingly, the ICJ, in the *Tunisia v. Libya Case*, turned the “disproportionality” test from a “subjective evaluation” to a “quantitative test” by referring to defined ratios of the parties’ coastal lengths and the extent of their allocated maritime areas.<sup>162</sup>

The ICJ, in the *Black Sea Case*, established the “three-stage” delimitation methodology and confirmed that the “disproportionality” test is the third and final stage of the delimitation process that aims to check the equitableness of the delimitation.<sup>163</sup>

Additionally, case law has distinguished between the “disproportionality” test and assessing the disparity in the lengths of coastlines at the second stage of the delimitation process and identified four of the test characteristics.<sup>164</sup> Firstly, the “three-stage” methodology referred to concept of “proportionality” in its negative formula; the “disproportionality” test”.<sup>165</sup> Secondly, the “disproportionality” test applies as an “*Ex Post Facto*” test to ensure the equitableness of the provisional or adjusted delimitation line.<sup>166</sup> Thirdly, the test is a mean to examine whether the delimitation line requires adjustment due to the presence of “significant” disproportionality in the ratios between the maritime areas allocated to parties and the lengths of their relevant coasts.<sup>167</sup> Fourthly, the Court applies the test with an approximate flexible approach that considers all

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<sup>160</sup> Gulf of Maine Case, note [93], paras. 184, 218, Also Malta/Libya Case, note [91], paras. 68, 66-7, Also Greenland/Jan Mayen, note [58], paras. 68-9, Also Matar AL Neyadi, “The Maritime Zones of the United Arab of Emirates with particular reference to Delimitation”, PhD dissertation, (University of Edinburgh, 1997), p.144.

<sup>161</sup> UK/France case, note [161], at p. 117, paras 99, 101, Also Fietta and Cleverly, note [117], at p. 603. |

<sup>162</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at para 108, Ibid (Fietta and Cleverly), p. 603.

<sup>163</sup> Romania/Ukraine, note [116], at paras 118-122, Also Tanaka, “The Disproportionality”, note [158], at p.304.

<sup>164</sup> Fietta and Cleverly, note [117], at p. 603.

<sup>165</sup> Tanaka, “The Disproportionality”, note [158], at p. 305.

<sup>166</sup> Ibid., (Tanaka, 2018).

<sup>167</sup> Paik, “The role”, note [156], at p.204.

relevant circumstances of the case and not limited to mathematical calculations of the ratios between the coastal lengths and maritime areas or bound to a fixed ratio in assessment.<sup>168</sup>

However, the “disproportionality” test may affect the certainty and consistency of the law of maritime delimitation with the absence of an objective criteria to evaluate “significant” disproportionality between coastal lengths and the extent of allocated maritime areas or a scientific criteria to determine the relevant coasts and delimitation area.<sup>169</sup> Moreover, the test may not be influential on all delimitation cases but significant in assessing the equitableness of maritime delimitation in areas with specific geographical characteristics.<sup>170</sup> In addition, it is viewed that courts apply the “disproportionality” test in the third stage of the delimitation process to maintain the formality of “three-stage” methodology as the test has not affected any maritime delimitation case yet.<sup>171</sup>

### **Section B: Relevant circumstances in maritime boundaries delimitation**

The concept of “relevant circumstances” has a significant role in maritime delimitation and is usually considered in the second stage of the delimitation process. Relevant circumstances may affect the delimitation of the boundary line and necessitate the adjustment of the provisional equidistance line to achieve an equitable delimitation. It is established by case law that there are several geographical and non-geographical factors that may amount to be considered as relevant circumstances in maritime delimitation. The presence of maritime features in the delimitation area and the marked disparity in the lengths of relevant coasts are among these geographical factors. However, non-geographical factors such as economic factors or States conduct may be considered as relevant circumstances affecting the delimitation of the boundary line in certain circumstances.

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<sup>168</sup> Tanaka, “The Disproportionality”, note [158], at p.305.

<sup>169</sup> Ibid., (Tanaka, 2018), p. 314.

<sup>170</sup> Fietta and Cleverly, note [117], at p. 607.

<sup>171</sup> Tanaka, “The Disproportionality”, note [158], at pp. 316-17.

(A) Relevant geographical factors:

Maritime boundary delimitation is established principally on geographic considerations and geographical factors are the most influential factors affecting the delimitation process. However, non-geographical factors do not have the same influence on maritime delimitation but States commonly refer to them to support their delimitation claims based on geography.<sup>172</sup> This was confirmed by the ICJ in the *North Sea Continental Shelf Cases* which stated that in maritime delimitation “there can never be any question of completely refashioning nature” or “totally refashioning geography”.<sup>173</sup>

International jurisprudence has considered certain geographical factors as relevant circumstances in the delimitation process that require adjusting the provisional equidistance line to achieve an equitable delimitation. These geographical factors include the presence of maritime features, the “marked” disparity in coastal lengths, the cut-off effect, the general direction of the coast, coastal relationship and issues concerning third States.<sup>174</sup>

1- The presence of maritime features:

Maritime features may be classified into three categories; features that are permanently below sea-level, features that are permanently above sea-level at high tide such as “islands” and “rocks” and features known as “low-tide elevations” that elevate above sea-level at low-tide and submerge at high tide.<sup>175</sup>

The legal regime of islands was addressed carefully by the law of the sea conventions and international jurisprudence. Article 121 of the 1982 UNCLOS provides the main rules governing

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<sup>172</sup> United Nations, Handbook, note [40], at p.25.

<sup>173</sup> *North Sea Continental Shelf Cases*, note [37], para 91, Proseper Weil, “Geographic Considerations in Maritime Delimitation” in *International Maritime Boundaries*, Jonathan Charney and Lewis Alexander, eds. (Martinus Nijhoff Publishers, 1998) vol. 1, pp115-130, p.119.

<sup>174</sup> United Nations, Handbook, note [40], at p.25.

<sup>175</sup> Malcolm Evans, “Maritime Boundary”, in *The Oxford Handbook of the Law of the Sea*, Donald Rothwell and Alex Oude ELferink (Oxford University Press, 2015), pp.255-275, p. 262-263, Also Derek Bowett, “Islands, Rocks, Reefs, and Low-Tide Elevations in Maritime Boundary Delimitations”, in *International Maritime Boundaries*, Jonathan Charney and Lewis Alexander (Martinus Nijhoff Publishers, 1993), vol. 1, p. 132.

the regime of islands and the accumulated case law has contributed significantly in interpreting this legal regime.<sup>176</sup> Article 121 of UNCLOS on the regime of islands, reads that:

- “1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.
3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.”

An island is defined by article 121 (1) of the UNCLOS as “a naturally formed area of land, surrounded by water, which is above water at high tide”. However, paragraphs 2 and 3 of article 121 differentiate between two categories of islands; islands and islands that are “rocks which cannot sustain human habitation or economic life of their own”. The former may generate maritime zones similar to the continental land territory including territorial seas, contiguous zones, exclusive economic zones and continental shelves. However, the latter may generate only territorial seas and a contiguous zones.<sup>177</sup>

Other maritime features such as low-tide elevations were also addressed in article 13 of the UNCLOS, which states that:

- “1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the

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<sup>176</sup> Sean D. Murphy, *International Law relating to islands*, Pockets books of the Hague Academy of International Law, vol. 32 (Brill Nijhoff, 2017), p. 22.

<sup>177</sup> *Ibid.*, (Murphy), 2017, p.48.

mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.”

Article 13 (1) of the UNCLOS defined “low-tide elevations” as “a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide”. They may be selected as basepoints when located within the territorial sea of the State or within its exclusive economic zone or continental shelf when lighthouses which are permanently above sea level have been built on them and fulfil the geographical requirements for baselines.<sup>178</sup>

During the “UNCLOS III” there was a division among delegations on the right of maritime features to generate maritime zones.<sup>179</sup> The texts of paragraphs 2 and 3 of article 121 of the UNCLOS were a result of a compromise that aimed to accommodate different States positions on granting islands full maritime zones similar to continental territories. Article 121 provides “islands” the right to generate maritime zones including exclusive economic zones and continental shelves.<sup>180</sup> However, “rocks” could only generate limited maritime zones such as territorial seas and contiguous zones. Nevertheless, “low-tide elevations” cannot generate any maritime zones but can be selected as basepoints when located within the territorial sea of the coastal State.<sup>181</sup>

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<sup>178</sup> Jonathan Charney, “Rocks that Cannot sustain Human Habitation”, *American Journal of International Law*, vol. 93, (1999), pp. 863-877, p. 874.

<sup>179</sup> Erik Franckx, “The Regime of Islands” in *The IMLI Manual on International Maritime Law*, David Attard and Malgosia Fitzmaurice, eds., vol.1, (Oxford Scholarly Authorities, 2014), pp.99-123, p.108.

<sup>180</sup> Charney, “Rocks that”, note [178], at p. 865.

<sup>181</sup> Murphy, note [176], at p.42.

International jurisprudence has established that the regime of islands embodied in paragraphs 1 and 2 of article 121 reflects customary international law.<sup>182</sup> However, the customary status of paragraph 3 was doubtful. Nevertheless, the ICJ, in the 2012 *Nicaragua v. Colombia Case*, considered that “the legal regime of islands set out in UNCLOS article 121 forms an indivisible regime, all of which (as Colombia and Nicaragua recognize) has status of customary international law”.<sup>183</sup>

The text of paragraph 3 of article 121 was criticized as being vague and uncertain and does not provide a legal definition to “rocks” or an interpretation to meaning of “sustain human habitation or economic life of their own”.<sup>184</sup> The tribunal, in the 2016 *South China Sea Arbitration Case*, interpreted paragraph 3 of article 121 and reached nine findings that were applied in assessing various maritime features in the case.<sup>185</sup>

The effects of islands on maritime delimitation is one of the most controversial issues in the law of maritime delimitation as UNCLOS did not provide a general rule on the issue. Consequently, States and international adjudication have to assess the effects of islands on maritime delimitation subject to the circumstances of the delimitation case.<sup>186</sup> The following subsections will demonstrate the various effects of islands on maritime delimitation which range from islands having “full effect”, “half or partial effect”, to islands enclaved or with “nil effect” on maritime delimitation.

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<sup>182</sup> Alex G. Oude Elferink, “Clarifying Article 121 (3) of the Law of the Sea Convention: The Limits Set by the Nature of International Legal Processes”, *IBRU Boundary and Security Bulletin*, No. 6, (Summer 1998), pp.58-68, p.59.

<sup>183</sup> International Court of Justice, *Territorial and Maritime Dispute (Nicaragua v. Colombia) Case*, Judgement, I.C.J. Reports 2012, p.624, para 139, Also Evans, “Maritime”, 2015, note [175], at p. 273.

<sup>184</sup> Murphy, note [176], at 63.

<sup>185</sup> Permanent Court of Arbitration “PCA”, *South China Sea Arbitration (Philippines v. China) Case*, Case No 2013-19, 12 July 2016, paras. 475-553, Also Sean D. Murphy, 2017, p. 69.

<sup>186</sup> United Nations, Handbook, note [40], at p. 33.



(A) Islands having “full effect”:

International courts and tribunals decided in a number of cases to provide populated islands, that are adjacent to the State coast and with independent economic activities, “full effect” in maritime delimitation.<sup>187</sup> The tribunal, in the *Eritrea/Yemen Maritime Delimitation Case*, granted the Eritrean “Dahlak” group of islands, located in the vicinity and form an “integral part” of the Eritrean coast, “full effect” on the construction of the provisional median line.<sup>188</sup>

Furthermore, States practice in several maritime boundaries agreements provided “full effect” to island States facing continental States coasts such as the 1974 agreement between Sri Lanka-India, 1979 Agreement between Denmark-Norway and 1977 Agreement between Cuba-USA.<sup>189</sup>

(B) Islands having “half effect” or “partial effect”:

The presence of islands in certain geographic situations may form a geographical factor that amounts to considered as a relevant circumstance that requires adjusting the provisional equidistance line. In this regard, the effects of islands on the construction of the delimitation line may be reduced by granting them “half” or “partial” effect in order to achieve an equitable delimitation.<sup>190</sup>

The tribunal, in the 1977 *Anglo/French Continental Shelf Arbitration*, considered the “Scilly Islands”, located 21 miles from the coast of the United Kingdom, a “special circumstance” and had “half effect” on the construction of the median line.<sup>191</sup> Moreover, the ICJ, in the *Tunisia v.*

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<sup>187</sup> Fietta and Cleverly, note [117], p. 77.

<sup>188</sup> Permanent Court of Arbitration, *Eritrea/Yemen Maritime Delimitation Arbitration Case*, Award in the Second Stage-Maritime Delimitation, (17 December 1999), paras 139-146. Also Stephen Fietta and Robin Cleverly, *Ibid*, p. 77.

<sup>189</sup> United Nations, Handbook, note [40], at p. 34.

<sup>190</sup> Murphy, note [176], at p. 183.

<sup>191</sup> UK/France case, note [161], at p. 117, para. 251, Also Fietta and Cleverly, note [117], at p. 76.

*Libya Case*, granted the “Kerkennah Islands” “half effect” to reduce its “excessive” impact on the delimitation line.<sup>192</sup>

Similarly, the ICJ Chamber, in the *Gulf of Maine Case*, rendered the “Seal island” “half effect” on the delimitation line.<sup>193</sup> Likewise, the ICJ, in *Libya v. Malta case*, did not grant the island of Malta “full effect” on the construction of the median line and decided to shift the median line in favor of Libya taking into consideration the disparity in the coastal lengths between Malta and Libya.<sup>194</sup>

(C) Enclaving or semi-enclaving islands:

Case law established that small islands located on the wrong side of the equidistance line and adjacent to other States coasts should be enclaved or semi-enclaved by territorial seas only and excluded from having exclusive economic zones or continental shelves.<sup>195</sup>

The tribunal, in the 1977 *Anglo/French Continental Shelf Arbitration Case*, decided to fully enclave the British “Channel Islands” with a 12 n.m. territorial sea only due to its location on the French side of the median line.<sup>196</sup> The ICJ, in *the Black Sea Case*, semi-enclaved the “Serpents Island” with a 12 n.m. territorial sea.<sup>197</sup> Similarly, the Court, in the *Nicaragua v. Honduras* and *Nicaragua v. Columbia Cases*, decided to enclave and semi-enclave several small cays.<sup>198</sup>

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<sup>192</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at para 129, Also Ibid (Fietta and Cleverly).

<sup>193</sup> *Gulf of Maine Case*, note [93], at para. 222, Also Ibid (Fietta and Cleverly).

<sup>194</sup> *Malta/Libya Case*, note [91], at paras. 71,78, Also Murphy, note [176], at p. 184.

<sup>195</sup> Fietta and Cleverly, note [117], at p. 81.

<sup>196</sup> *UK/France case*, note [161], at pp. 94-95, paras. 201-202, Also Ibid., (Fietta and Cleverly), pp. 81-82.

<sup>197</sup> *Romania/Ukraine*, note [116], at para. 188.

<sup>198</sup> *Nicaragua-Honduras Case*, note [56], at p. 749-752, paras. 299-305, Also *Nicaragua/Columbia case*, note [183], at p. 713-75, para 238, Also Fietta and Cleverly, note [117], at p. 82.

Moreover, the ITLOS, in the *Bay of Bengal (Bangladesh/Myanmar) Case* decided to semi-enclave the “St. Martin island” with a territorial sea only due to its “size and population and the extent of economic and other activity”.<sup>199</sup>

In State practice, the 1978 delimitation agreement between Australia and Papua New Guinea granted large islands reduced effect depending on its size and location and enclaved small islands on the wrong side of the delimitation line.<sup>200</sup>

(D) Islands having “nil effect”:

State practice and case law agree that uninhabited remote islands may be totally denied from having any effect on the equidistance line, due to their remoteness and distorting effect on maritime delimitation. The tribunal, in *the Eritrea/Yemen Arbitration case*, ignored a group of isolated Eritrean islands located close to the median line between Eritrea and Yemen and denied them any effect on the delimitation line.<sup>201</sup>

Similarly, the ICJ, in the *Black Sea Case*, decided not to use the “Serpents Island” as a basepoint and denied it any effect on the delimitation line due to its distorting effect on maritime delimitation in a manner that would amount to refashioning geography.<sup>202</sup>

Likewise, the ICJ, in the *North Sea Continental Shelf Cases*, acknowledged that delimitation of the continental shelf between States of opposite coasts can only be delimited by the median line and with “ignoring the presence of islets, rocks and minor coastal projections”.<sup>203</sup> Moreover, the

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<sup>199</sup> International Tribunal on the Law of the Sea, *Delimitation of the Maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, ITLOS Reports 2012, p.4, para. 169, Also Fietta and Cleverly, note [117], at p. 82, Also Murphy, note [176], at p. 180.

<sup>200</sup> United Nations, Handbook, note [40], at p. 34.

<sup>201</sup> Eritrea/Yemen Case, note [188], at pp. 369-371, paras. 154-159, Also Fietta and Cleverly, note [117], at p. 77.

<sup>202</sup> Romania/Ukraine, note [116], at pp.109-110, para. 149, Murphy, note [176], at p. 178. |

<sup>203</sup> *North Sea Continental Shelf Cases*, note [37], at para 57, Also Ibid., (Murphy), p. 177.

ICJ, in the *Tunisia v. Libya case*, denied any effect to the Tunisian island of “Djerba” on the boundary line since it would have inequitably affected the delimited line.<sup>204</sup>

The ICJ, in the *Libya v. Malta case*, discounted the “Filfla” island, which is a small uninhabited island of 0.06 square kilometer, located 5 Km south of Malta, and denied it any effect on the median line.<sup>205</sup> Furthermore, the ICJ Chamber, in the *Gulf of Maine Case*, ignored several small islets in the delimitation process and likewise the Court, in the *Qatar v. Bahrain Case*, discounted the “Qit at Jaradah Island”.<sup>206</sup>

In States practice, several maritime boundary agreements discounted small islands due to its disproportionate effect on the delimitation line. The 1988 Continental Shelf delimitation agreement between United Kingdom and Ireland denied any effect to the British “Rockall” islet on the delimitation line.<sup>207</sup>

In sum, it is observed that State practice and case law have adopted different approaches to solve the difficulties arising from the presence of islands in the delimitation area.<sup>208</sup> This suggests that the effect of islands on maritime boundaries delimitation varies -pending on several factors- between having “full effect”, “partial effect”, enclaved or semi-enclaved and “nil effect”.<sup>209</sup>

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<sup>204</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at p. 18, para 79, Also Ibid., (Murphy), p. 180.

<sup>205</sup> *Malta/Libya Case*, note [91], at p. 48, para. 64, Also Ibid., (Murphy).

<sup>206</sup> *Gulf of Maine Case*, note [93], at pp. 329,332 paras 201,210, Also *Qatar/Bahrain*, note [51], at pp. 104-109, para. 219, Also Clive Schofield, “The Trouble with Islands”, Masters dissertation (University of British Columbia, 2009), p. 193.

<sup>207</sup> United Nations, Handbook, note [40], at p. 34.

<sup>208</sup> Schofield, “The Trouble”, note [206], at p. 164.

<sup>209</sup> United Nations, Handbook, note [40], at p.33.

## 2- Marked disparity in the lengths of relevant coasts:

The lengths of the relevant coasts of the delimitation parties play a role in the second and third stages of the “three-stage” delimitation methodology. The ICJ, has distinguished between the “marked” disparity between coastal lengths as a relevant circumstance in the second stage and referring to the difference in the lengths of relevant coasts as part of the “disproportionality” test” in the third stage.<sup>210</sup>

In the second stage of the delimitation process, the marked disparity in the lengths of relevant coasts of the delimitation parties may amount to be considered as a relevant circumstance that requires adjusting the provisional equidistance line to achieve an equitable delimitation.<sup>211</sup>

Case law has consistently acknowledged that the “marked” disparity in the lengths of the relevant coastlines of the delimitation parties is a relevant circumstance that necessitates the modification of the provisional equidistance line in favor of the State with the longer relevant coast.<sup>212</sup> Nevertheless, the ICJ, in the *Jan Mayen Case*, confirmed that adjusting the delimitation line should not be based on means of “direct and mathematical application”.<sup>213</sup>

The ICJ, in the *Libya v. Malta Case*, recognized the “marked” difference between the coastal lengths of Libya and Malta that amounts to the ratio of 8 to 1 in favor of Libya.<sup>214</sup> Furthermore, the ICJ, in the *Nicaragua v. Columbia case*, acknowledged the “substantial disparity” in the relevant coastal lengths of Nicaragua and Columbia and found that ratio of relevant coasts of the parties was 8.2 to 1 in favor of Nicaragua.<sup>215</sup> The ICJ in both cases considered the “marked”

<sup>210</sup> Oude Elferink, “The Law of Maritime boundaries”, note [76], at p. 94.

<sup>211</sup> Alex G. Oude Elferink, “Relevant Coasts and Relevant Area: The Difficulty of Developing General Concepts in a Case-specific Context”, in *Maritime Boundary Delimitation: The Case Law*, Alex Oude Elferink and Tore Henriksen, eds., (Cambridge Press, 2018), pp 173-199, p.174.

<sup>212</sup> Fietta and Cleverly, note [117], at p. 72.

<sup>213</sup> Greenland/Jan Mayen, note [58], at p. 35, para. 69, Also Ibid., (Fietta and Cleverly).

<sup>214</sup> Malta/Libya Case, note [91], at paras. 68, 74-75.

<sup>215</sup> Nicaragua/Columbia case, note [183], at para 214-215, Also Fietta and Cleverly, note [117], at p. 72.

disparity in coastal lengths as a relevant circumstance and decided to shift the provisional median line towards the island of Malta and Columbian islands in order to give greater effect to the longer coasts of Libya and Nicaragua.<sup>216</sup>

Furthermore, the ICJ has confirmed that the disparity between the lengths of the delimitation parties' relevant coasts should be "marked" or "substantial" to amount to be considered as a relevant circumstance in the delimitation process. Consequently, the ICJ, in the *Black Sea Case*, rejected the Ukrainian claim that a disparity in the coastal lengths exists and decided that the ratio of relevant coastal lengths was approximately 1 to 2.8 in favor of Ukraine and it was not "marked" enough to constitute a relevant circumstance.<sup>217</sup>

The "relevant" coasts in maritime delimitation are the State coasts that face the delimitation area and generate maritime zones that potentially overlap with other States maritime zones.<sup>218</sup> This approach was confirmed by the ICJ in the *Tunisia/Libya Case* and the *Black Sea Case*.<sup>219</sup>

However, case law adopted several methods for measuring the length of the "relevant" coasts, by either following the lengths of the actual lines of every turn of the coast or the line of the general direction of the coast or the length of the straight line when coastal configurations are complicated.<sup>220</sup> Nevertheless, the adjustment of the delimitation line should not be based on mathematical ratios but rather using practices of modest nature.<sup>221</sup>

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<sup>216</sup> Malta/Libya Case, note [91], at paras. 71,78, Also Ibid., (Nicaragua /Columbia case), Also Evans, "Relevant Circumstances", 2018, note [149], at pp. 250-1.

<sup>217</sup> Romania/Ukraine, note [116], at para. 104, Also Fietta and Cleverly, note [117], at p. 72.

<sup>218</sup> Oude Elferink, "Relevant Coasts" note [211], at pp. 173-200, p. 178.

<sup>219</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at para. 74-75, Romania/Ukraine, note [116], at para 99, Also Ibid., (Oude Elferink) "Relevant Coasts", p. 179.

<sup>220</sup> Weil, "*The Law of*", note [52], at p.76.

<sup>221</sup> Fietta and Cleverly, note [117], at p. 72.

Several States have addressed in maritime delimitation agreements the effect of “marked” disparity in the lengths of the party’s relevant coasts on the delimitation line. In this regard, the disparity in coastal lengths was considered in several delimitation agreements as a relevant circumstance that required that parties to adjust the median line towards the State with the shorter coast in order to achieve an equitable delimitation result”.<sup>222</sup>

## 2- The “non-encroachment” or non “cut-off”:

The principle of non-encroachment is one of the important principles of the law of maritime delimitations that originates from the concept of the “natural prolongation”.<sup>223</sup> The ICJ, in *the North Sea Cases*, confirmed that maritime delimitation should be carried “without encroachment on the natural prolongation of the land territory of the other”.<sup>224</sup> That means that States while exercising their rights in their continental shelves should not encroach over the natural prolongation of continental shelf of other States sharing the same geological continental shelf.<sup>225</sup>

Weil argues that the principle of non-encroachment has negative and positive aspects as States have the right to enjoy their own maritime projection and should not unreasonably encroach on other States’ projection.<sup>226</sup> The ICJ, in the *Malta v. Libya Case*, confirmed that non-encroachment is not only considered as a “relevant circumstance” but also an “equitable principle” that requires adjusting the provisional equidistance line or shifting to other delimitation methods.<sup>227</sup>

The ICJ, in the *Tunisia v. Libya Case*, affirmed the relevancy of the non “cut-off” effect when applying the equidistance method on particular geographical situations such as the delimitation

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<sup>222</sup> IHO-IAG, note [129], at Chapter 6-9.

<sup>223</sup> Fietta and Cleverly, note [117], at p. 68.

<sup>224</sup> *North Sea Continental Shelf Cases*, note [37], at para. 101 c (1),

<sup>225</sup> Malcolm Evans, *Relevant Circumstances and Maritime Delimitation* (Oxford, Clarendon Press, 1989) p. 154.

<sup>226</sup> Weil, “*The Law of*”, note [52], at p.62.

<sup>227</sup> *Malta/Libya Case*, note [91], at para. 46, Also Evans, “Relevant”, 1989, note [225], at p.154.

between States with concave adjacent coasts.<sup>228</sup> The equidistance delimitation line in such geographical situation “cuts-off” the State with the concave coasts from extending its coastal projection into its maritime zones.<sup>229</sup>

Furthermore, the tribunal, in the *Bay of Bengal Case (Bangladesh v. Myanmar)*, examined the concavity of the coasts of Bangladesh and the cut-off effect on the maritime projection of Bangladesh resulting from the application of the equidistance method in maritime delimitation. This was considered as a relevant circumstance that necessitated the adjustment of the provisional equidistance line in favor of Bangladesh to achieve an equitable delimitation.<sup>230</sup>

Moreover, the ICJ, in the *Nicaragua v. Columbia case*, noted that constructing a provisional median line between the group of Columbian islands and the mainland coast of Nicaragua will “cut-off” Nicaragua from most of its maritime areas projecting from its coasts. Consequently, the Court adjusted the provisional line in favor of Nicaragua to avoid the excessive encroachment resulting from the projection of the small Columbian islands.<sup>231</sup> Furthermore, the tribunal in the *St. Pierre and Miquelon Arbitration between Canada and France*, granted the small French islands a limited corridor shape exclusive economic zone generated from the islands southern side projection to avoid the encroachment to certain Canadian coasts seaward projections.<sup>232</sup>

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<sup>228</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at para 76.

<sup>229</sup> Evans, “Relevant”, 1989, note [225], at p.155, 251.

<sup>230</sup> *Bangladesh/Myanmar Case*, note [199], at paras. 297, 323, 324, 329, Also Fietta and Cleverly, note [117], at p. 70.

<sup>231</sup> *Nicaragua/Columbia case*, note [183], at paras. 215, 232, *Ibid.*, (Fietta and Cleverly).

<sup>232</sup> *Court of Arbitration for the Delimitation of Maritime Areas Between Canada and France: Decision in Case Concerning Delimitation of Maritime Areas*, International Legal Materials, vol. 31, (1992), at p.1145, paras. 70-74, Also *Ibid.*, (Fietta and Cleverly).



### 3- The general direction of the coast:

The concept of the “general direction of the coast” is synonymous to the “coastal façade” and important in maritime delimitation to determine the direction of the delimitation line.<sup>233</sup> The concept applies specifically in the delimitation between States with adjacent coasts when the method of “perpendicularity” or “simplified equidistance line” is used.<sup>234</sup> The general direction of the coastline is determined by either drawing a straight line that joins the terminals of the relevant coast or dividing the coast into short equal segments that reflect the general direction of coast.<sup>235</sup>

The tribunal, in the *Guinea/Guinea Bissau Case*, found that in order to identify the general direction of the parties coasts it should adopt a “macro-geographical approach” that takes into consideration the general direction of West African coastline. It specified the general direction of the coastline by a line joining two points from Senegal to Sierra Leone and consequently drew a delimitation line perpendicular to the line resembling the general direction of the coasts.<sup>236</sup>

### 4- Coastal Relationship:

International jurisprudence and States practice have acknowledged the importance of coastal relationship between the delimitation States in the delimitation process. The oppositeness or adjacency of the parties’ relevant coasts may be considered in special geographic situations as a relevant circumstance that affects the delimitation process.<sup>237</sup>

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<sup>233</sup> Antunes, *Towards the conceptualization*, note [78], at p. 298, Also Beazley, *Technical Aspects*, note [130], at p.18

<sup>234</sup> United Nations, *Handbook*, note [40], at p.27.

<sup>235</sup> Beazley, *Technical Aspects*, note [130], at p.18.

<sup>236</sup> *Delimitation of the Maritime Boundary between Guinea and Guinea-Bissau Case* [1985] XIX RIAA, pp. 149-196, para. 111, Tanaka, *Also Predictability*, note [79], 2006, p.159.

<sup>237</sup> *Ibid.*, (Tanaka), 2006, p. 152.

On one hand, the application of the equidistance line method in the delimitation between States of adjacent coasts may produce an inequitable delimitation result influenced by the presence of special geographical factors such as islands or irregular coasts.<sup>238</sup>

The ICJ, in the *North Sea Continental Shelf Cases*, considered the concavity of the coasts as a relevant circumstance that requires shifting from the equidistance method to other delimitation methods due to the cut-off affecting the State with the concave coast. This indicates that the equidistance delimitation between adjacent States may produce an inequitable delimitation that precludes the State with the concave coast from having extended maritime zones. Consequently, the adoption of the bisector method may be appropriate to achieve an equitable solution.<sup>239</sup>

On the contrary, case law and State practice have established that using the median line for the delimitation between States with opposite coasts produces generally an equitable delimitation.<sup>240</sup> The ICJ, in the *North Sea Continental Shelf Cases*, confirmed that the “median line divides equally between the two opposite States areas that can be regarded as being the natural prolongation of the territory of each of them”.<sup>241</sup>

However, the ICJ has applied the “corrective-equity approach” which accepts the application of the equidistance method regardless of the coast configuration in a number of cases such as the *Qatar v. Bahrain Case* and the *Cameroon v. Nigeria Case*. The “corrective-equity approach” has minimized the effect of coasts oppositeness or adjacency on the appropriateness of the delimitation method and reduced the distortion effects caused by applying the equidistance method and evaded the need to shift to other delimitation methods.<sup>242</sup>

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<sup>238</sup> United Nations, Handbook, note [40], at p. 28.

<sup>239</sup> *North Sea Continental Shelf Cases*, note [37], at p. 37, para. 58, Also Ibid., UN, pp. 31-32.

<sup>240</sup> United Nations, Handbook, note [40], at p. 28.

<sup>241</sup> *North Sea Continental Shelf Cases*, note [37], at p. 37, para. 58, Also Tanaka, Predictability, note [79], at p.152.

<sup>242</sup> *Qatar/Bahrain*, note [51], at p. 91, para 167, Also *Nigeria/Cameroon Case*, note [111], at para. 230, Also Ibid, (Tanaka), p.154,157.

#### 5- Issues concerning third States:

Generally, a bilateral agreement is binding on its parties and does not create legal rights or obligations to third States without their consent according to article 34 of the Vienna Convention on the law of treaties.<sup>243</sup> Similarly, international courts rulings and tribunals awards are binding only on the parties of the case.<sup>244</sup> Article 59 of the ICJ Statute states that “the decision of the Court has no binding force except between the parties and in respect of that particular case”. Consequently, a third State is not bound to an agreement it is not party to or a court judgment in a case it was not party to its proceedings.

Maritime boundaries delimitation is a bilateral process that is settled through negotiations or by other methods of dispute settlement.<sup>245</sup> However, it was argued that international agreements or judgments on land or maritime boundaries delimitation create “factual situations” that may affect the legal interests of third States.<sup>246</sup> Moreover, several issues concerning third States may appear in maritime boundaries delimitation including third States claims on overlapping maritime areas and trilateral points.<sup>247</sup> Furthermore, third States according to article 62 of the ICJ Statute may request to the Court to intervene in a case when they have an interest of a legal nature that may be affected by the Court judgment in the case.<sup>248</sup>

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<sup>243</sup> Julia Lisztwan, “Stability of Maritime boundary agreements”, *Yale Journal of International Law*, vol. 37 (2012), pp.153-200, p. 193

<sup>244</sup> *Ibid.*, (Lisztwan), p. 193.

<sup>245</sup> Alex Oude Elferink, “Third States in Maritime Delimitation Case: Too Big a Role, Too Small a Role, or Both?”, in *The Future of Ocean Regime-Building-Essays in Tribute to Douglas M. Johnston*, Aldo Chircop and Ted McDorman, eds., (Leiden, Martin Nijhoff Publishers, 2009), pp. 611- 641, p.614.

<sup>246</sup> Lisztwan, “Stability”, note [243], at p.193.

<sup>247</sup> Oude Elferink, “Third States”, note [245], at p. 614, Also Naomi O’Sullivan, “The Case Law’s Handling of Issues Concerning Third States”, in *Maritime Boundary Delimitation: The Case Law*, Alex Oude Elferink and Tore Henriksen, eds., (Cambridge Press, 2018), pp. 262-290, p. 262.

<sup>248</sup> *Ibid.*, (Oude Elferink), “Third States”, 2009, p.614.

Case law has examined in several maritime boundaries delimitation cases the effect of third States interests on the delimitation process.<sup>249</sup> The ICJ, in a number of cases, decided the case inadmissible when it found that its judgment will affect the rights of third States to the case.<sup>250</sup> However, the Court in several cases decided to adjudicate the case while acknowledging the need to “accommodate” the rights of a third state.<sup>251</sup>

The ICJ, in *North Sea Continental Shelf Cases*, examined the geographical relationship between the coasts of Netherland, Germany and Denmark. In this regard, it assessed the cut-off effects, resulting from of applying the equidistance line to delimit the continental shelf boundary between Denmark and The Netherlands, on Germany which is a third State to the bilateral delimitation.<sup>252</sup>

Moreover, the ICJ, in *Malta v. Libya Case*, and the tribunal in *Guinea/Guinea-Bissau Arbitration*, considered the rights of third States as a relevant circumstance in maritime delimitation.<sup>253</sup>

The ICJ, in the *Malta v. Libya Case*, considered Italy’s claims as a third state to the case and examined the whole geographical context and stated that “the limits within which the court, in order to preserve the rights of third States, will confine its decision in the present case, may thus be defined in terms of the claims of Italy.”<sup>254</sup>

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<sup>249</sup> Carl Dundas, *Practical Steps in Negotiating Maritime Boundary Agreements: A Guide to Small States* (Commonwealth Secretariat, 2007), p. 68.

<sup>250</sup> Lisztwan, “Stability”, note [243], at p. 194.

<sup>251</sup> Ibid, Lisztwan.

<sup>252</sup> *North Sea Continental Shelf Cases*, note [37], at app. 49-50, para 91, Also Oude Elferink, “Third States”, note [245], at pp. 611- 641, p.630.

<sup>253</sup> Ibid., (Oude Elferink), p.629.

<sup>254</sup> *Malta/Libya Case*, note [91], at paras. 22-23, United Nations, Handbook, note [40], at p. 45.

Similarly, the tribunal in the *Guinea/Guinea-Bissau Arbitration Case*, had to examine the entire West African coastline to reach a delimitation outcome that could integrate with future maritime delimitations in the West African region.<sup>255</sup>

The ICJ, in the *Cameroon v. Nigeria Case*, confirmed that “the jurisdiction of the Court is founded on the consent of the parties. The Court cannot therefore decide upon legal rights of third States not parties to the proceedings”.<sup>256</sup> In that Case, the Court had to ensure that its judgment on maritime delimitation was not to affect the rights of third States; Equatorial Guinea and Sao Tome and Principe.<sup>257</sup>

Similarly, the tribunal, in *Barbados/ Trinidad and Tobago Arbitration Case*, asserted that “the tribunal’s award does not prejudice the position of any State in respect of any such boundary” and at the same time takes into account the rights and interests of third States.<sup>258</sup>

Also, case law has preserved third States rights to establish their terminal trilateral boundary points and consistently ruled that it had no jurisdiction to decide on third States rights without their consent.<sup>259</sup> Furthermore, the ICJ and arbitral tribunals have decided in several cases to refrain from fixing terminal endpoint to the adjudicated boundary line in order not to prejudice the rights of third States.<sup>260</sup>

In state practice, States while negotiating maritime boundaries may consider the rights of third States by ending the boundary line before reaching the potential overlapping conflict area

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<sup>255</sup> Guinea/Guinea Bissau Case, note [236], at para 108, Oude Elferink, “Third States”, note [245], at pp. 611- 641, p. 635.

<sup>256</sup> Nigeria/Cameroon Case, note [111], at para. 238.

<sup>257</sup> Alain Pellet, “Land and Maritime Tripoints in International Jurisprudence” in *Coexistence, Cooperation and Solidarity: Liber Amicorum Rudiger Wolfrum*, Holger Hestemeyer and Doris Konig, eds. (Martinus Nijhoff Publishers, 2011), vol. 1, pp. 246-263, p. 256.

<sup>258</sup> Barbados/Trinidad and Tobago, note [115], at para. 218.

<sup>259</sup> Pellet, “Land and Maritime”, note [257], at pp. 246-263, p. 255.

<sup>260</sup> Ibid., (Pellet), “Land and Maritime”, p. 262.

claimed by third States or at the equidistance point between the coasts of the two delimitation parties and the third State.<sup>261</sup>

(B) Relevant non-geographical factors:

States rely on non-geographical factors to consolidate their delimitation claims founded principally on geographical factors in both maritime boundaries delimitation negotiations and adjudication. Non-geographical factors may also amount, in certain circumstances, to be considered as relevant circumstances in maritime delimitation. These factors include economic factors and States conduct such as economic activities exercised in the delimitation area.<sup>262</sup>

1- Economic factors:

Economic factors may take part in maritime boundaries delimitation in two forms; States claim based on economic factors “in strict sense” and States claim based on “socio-economic factors”.

States may rely on economic factors “in strict sense” to consolidate their delimitation claims by claiming rights and jurisdiction over the natural resources such as fishing and hydrocarbons located in the delimitation area.<sup>263</sup> Case law and state practice has acknowledged that the presence of natural resources in the delimitation area was the main interest in several maritime boundaries delimitations. Correspondingly, it has been argued that the importance of natural resources to the delimitation parties is a non-geographical factor that may amount to be considered as a relevant circumstance in the delimitation process as long as they are “known or readily ascertainable”.<sup>264</sup>

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<sup>261</sup> United Nations, Handbook, note [40], at p. 45.

<sup>262</sup> Tanaka, Predictability, note [79], at p. 265.

<sup>263</sup> Ibid., (Tanaka), 2006, p. 265.

<sup>264</sup> Ibid., (Tanaka), 2006, p. 287-288.

Socio-economic factors such as the difference in economic wealth and development have generally not been recognized as relevant circumstances in maritime delimitation. However, the ICJ Chamber, in the *Gulf of Maine Case*, confirmed the importance of socio-economic factors in the overall assessment of the equitability of the delimitation at the “verification stage”.<sup>265</sup> The Court asserted the relevance of socio-economic factors when the geographical delimitation principles may “likely to entail catastrophic repercussions for the livelihood and economic well-being of the population of the countries concerned”.<sup>266</sup>

## 2- States conduct:

States conduct is an issue that is usually raised within the law of estoppel and acquiescence in general international law and has been constantly claimed within the law of maritime delimitation as a relevant factor affecting the delimitation of the boundary line.<sup>267</sup>

The ICJ, in the *Tunisia/Libya Case*, confirmed that the conduct of the States parties could be influential in maritime delimitation when it is evidential to an existing “de facto” or “modus vivendi” line or an agreement between the parties on applying a specific method delimitation.<sup>268</sup> Furthermore, the Court examined several claims of maritime limits resulting from States conduct including a “de facto” line emanated from the parties concessions for the exploration and exploitation of oil and natural gas.<sup>269</sup> It noted that “this line of adjoining concessions, which was tacitly respected for a number of years, and which approximately corresponds furthermore to the line perpendicular to the coast at the frontier point which had in the past been observed as a de facto maritime limit, does appear to the court to constitute a circumstance of great relevance for the delimitation”.<sup>270</sup>

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<sup>265</sup> *Gulf of Maine Case*, note [93], at. 246, para 237, *Ibid.*, (Tanaka), p. 287.

<sup>266</sup> *Ibid.*, (*Gulf of Maine Case*).

<sup>267</sup> Tanaka, Predictability, note [79], 2006, p. 288.

<sup>268</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at para 117-118, Also *Ibid.*, (Tanaka), 2006, pp. 298-299.

<sup>269</sup> *Ibid.* (*Tunisia/Libyan Arab Jamahiriya Case*) para 95., Also *Ibid.*, (Tanaka), 2006, pp. 298-299, p. 290.

<sup>270</sup> *Ibid.* (*Tunisia/Libyan Arab Jamahiriya Case*) para 96.

It may be argued from the former case that the “de facto” line based on concessions which corresponds a “tacit” or “modus vivendi” line recognized for a long period of time by the parties reflects a provisional solution or de facto compromise.<sup>271</sup> Correspondingly, the ICJ confirmed in subsequent cases that States conduct reflected in oil concessions or practices cannot be considered solely as a relevant circumstance that justifies adjusting the provisional equidistance line. Though, the line established by States conduct should be based on an expressed or tacit agreement between the parties.<sup>272</sup>

The ICJ, in the *Nicaragua v. Honduras Case*, observed that “Evidence of a tacit agreement must be compelling. The establishment of a permanent maritime boundary is a matter of grave importance and agreement is not easily to be presumed”.<sup>273</sup> Moreover, the ITLOS Special Chamber, in the 2017 *Ghana/Cote d’Ivoire Case*, considered that evidence based solely on oil practices and oil concessions lines “cannot in itself establish the existence of a tacit agreement on a maritime boundary” but “might reflect the existence of a maritime boundary”.<sup>274</sup>

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<sup>271</sup> Tanaka, Predictability, note [79], at 2006, p. 289.

<sup>272</sup> *Ibid.*, (Tanaka), p. 297.

<sup>273</sup> *Nicaragua-Honduras Case*, note [56], at para 253.

<sup>274</sup> International Tribunal on the Law of the Sea “ITLOS”, *Dispute Concerning Delimitation of the Maritime Boundary Between Ghana and Cote Ivoire in the Atlantic Ocean*, Case No. 23, Judgment, 2017, para 215.



## **Part II. Maritime boundaries in the Eastern Mediterranean Sea: Egypt's maritime boundaries**

### **Chapter one: Maritime boundaries in the Eastern Mediterranean Sea**

As stated in the introduction, the Eastern Mediterranean Sea Basin is a semi-enclosed sea bordered by ten States; Libya, Egypt, Palestine, Israel, Lebanon, Syria, Turkey, Cyprus, United Kingdom and Greece. The basin is characterized of its relatively confined and restricted maritime areas as the distance between any of its opposite coasts does not extend beyond 400 n.m. Accordingly, there is no possibility for any of the basin States to claim an extended continental shelf in the Eastern Mediterranean Sea. However, the basin States are entitled to claim a single maritime boundary line that incorporates both the exclusive economic zone boundary and the continental shelf boundary.

### **Section (A): The legal status of maritime boundaries in the Eastern Mediterranean Sea**

#### **1- The law of the sea conventions and maritime zones in the Eastern Mediterranean Sea**

The law of the sea conventions distinguish between maritime zones and their legal regime including the rules governing the delimitation of the territorial sea, exclusive economic zone and continental shelf.<sup>275</sup> In light of the scope of this research paper, this sub-section will examine the status of the 1958 “CTS”; the 1958 “CCS” and the 1982 Sea “UNCLOS” in the Eastern Mediterranean Sea States.

The 1958 Convention on the Territorial Sea and the Contiguous Zone “CTS” and the 1958 Convention on the Continental Shelf “CCS” were adopted on 29 April 1958. The former convention has only two States parties from the Eastern Mediterranean Sea basin States; Israel

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<sup>275</sup> United Nations, Handbook, note [40], at p. 8.

and the United Kingdom.<sup>276</sup> However, the later convention has four States parties from the basin States; Cyprus, Greece, Israel, United Kingdom and Lebanon is a signatory state.<sup>277</sup>

The United Nations Convention on the Law of the Sea “UNCLOS” was adopted on 10 December 1982 and has six States parties from the Eastern Mediterranean Sea basin States including Cyprus, Egypt, Greece, Palestine, Lebanon, United Kingdom.<sup>278</sup> However, four of the basin States are not parties to the “UNCLOS”; Syria, Libya, Turkey and Israel. Nonetheless, the two later States had voted against the adoption of the “UNCLOS” during “UNCLOS III”.<sup>279</sup>

Eastern Mediterranean Sea basin States enjoy full sovereignty in their territorial seas which may extend, according to article 3 of the UNCLOS, up to 12 n.m. from the baselines. Correspondingly, most of the basin States issued national legislations proclaiming a territorial sea of 12 n.m. with the exception of Turkey and Greece that claimed territorial seas of six n.m. in the Mediterranean Sea.<sup>280</sup>

Moreover, Eastern Mediterranean Sea basin States have, according to article 76 of the UNCLOS, an “*ab initio ipso facto*” inherent right to a continental shelf up to the limits of 200 n.m. from the baselines.<sup>281</sup> In this regard, four of the Eastern Mediterranean Sea basin States have proclaimed national laws concerning the continental shelf including Egypt, Israel, Greece and Cyprus.<sup>282</sup>

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<sup>276</sup> Langford, note [3], at p. 5, Also Status to 1958 CTS & CCS (Table 2).

<sup>277</sup> United Nations Treaty Collection, Chapter XXI Law of the Sea, Convention on the Continental Shelf. Available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXI-4&chapter=21&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-4&chapter=21&clang=en), (accessed on 11 August 2018), Also Status to 1958 CTS & CCS (Table 2).

<sup>278</sup> UN Treaty, note [29], “CTS”.

<sup>279</sup> Status to 1982 UNCLOS (Table 3)

<sup>280</sup> Territorial sea legislations and declarations (Table 4).

<sup>281</sup> United Nations, Handbook, note [40], at p. 10.

<sup>282</sup> Exclusive economic zone and continental shelf and fishery zones proclamations and declarations (Table 5).

The 1982 UNCLOS established a new maritime zone; the exclusive economic zone, which extends, according to article 57 of the UNCLOS, beyond the territorial sea and up to the limits of 200 n.m. from the baselines. Coastal States have exclusive sovereign rights over the natural resources in the sea bed, subsoil and the water column of their exclusive economic zones.<sup>283</sup> The exclusive economic zone does not exist *ipso facto* but should to be proclaimed or declared by the coastal State to confirm its jurisdiction and exercise its exclusive sovereign rights over the zone.<sup>284</sup>

Six of the Eastern Mediterranean Sea basin States have declared or proclaimed exclusive economic zones in the Mediterranean Sea, including Egypt, Palestine, Lebanon, Cyprus, Libya and Syria. Conversely, four basin States did not proclaim an exclusive economic zone in the Mediterranean Sea; Greece, United Kingdom, Israel and Turkey. Israel concluded in 2010 an exclusive economic zone delimitation agreement with Cyprus while Turkey proclaimed an exclusive economic zone in the Black Sea only.<sup>285</sup>

## 2- Delimited and undelimited maritime boundaries in the Eastern Mediterranean Sea

The ten coastal States of the Eastern Mediterranean Sea Basin generate seventeen maritime boundaries between them. Nine of the maritime boundaries are between opposite States. Each median line between opposite coasts is a single boundary line that incorporates a continental shelf boundary and an exclusive economic zone boundary. The remaining eight maritime boundaries are between adjacent States. Each boundary line between adjacent coasts is comprised of a territorial sea, continental shelf and exclusive economic zone boundaries.<sup>286</sup>

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<sup>283</sup> United Nations, Handbook, note [40], at pp. 9-10.

<sup>284</sup> David Attard, "Mediterranean Maritime Jurisdictional claims: A Review", in *The Hamburg Lectures for Maritime Affairs*, Jurgen Basedow and Ulrich Magnus, eds. (Springer, 2012), p. 98.

<sup>285</sup> Ibid., (Attard),2012, p.98.

<sup>286</sup> Delimited and undelimited maritime boundaries Map (Figure 3).

**Table: maritime boundaries in the Eastern Mediterranean Sea Basin <sup>287</sup>**

State	Opposite boundary	Adjacent boundary	Boundary status
<b>Egypt</b>	<b>Greece</b>		-
<b>6 boundaries</b>	<b>Cyprus</b>		<b>EEZ Agreed (2003)</b>
1 delimited	<b>Turkey</b>		-
5 undelimited		<b>Libya</b>	-
		<b>Palestine</b>	-
		<b>Israel</b>	-
<b>Libya</b>			
<b>Libya</b>	<b>Greece</b>		-
<b>2 boundaries</b>		<b>Egypt</b>	-
2 undelimited			
<b>Palestine</b>			
<b>Palestine</b>			<b>Egypt</b>
<b>2 boundaries</b>			<b>Israel</b>
2 undelimited			
1 Probable	<b>Cyprus (Probable)</b>		
<b>Israel</b>			
<b>Israel</b>	<b>Cyprus</b>		<b>EEZ Agreed 2010</b>
<b>4 boundaries</b>		<b>Egypt</b>	
1 delimited		<b>Palestine</b>	

<sup>287</sup> potential maritime boundaries in the eastern Mediterranean basin. (Table)

3 undelimited		<b>Lebanon</b>	
<b>Lebanon</b>	<b>Cyprus</b>		<b>EEZ Agreed 2007(not in force)</b>
<b>3 boundaries</b>		<b>Israel</b>	
1 delimited		<b>Syria</b>	
2 undelimited			
<b>Syria</b>	<b>Cyprus</b>		
<b>3 boundaries</b>		<b>Lebanon</b>	
3 undelimited		<b>Turkey</b>	
<b>Turkey</b>	<b>Cyprus</b>		
<b>4 boundaries</b>	<b>Egypt</b>		
4 undelimited	<b>Greece</b>		
		<b>Syria</b>	
<b>Greece</b>	<b>Libya</b>		
<b>3 boundaries</b>	<b>Egypt</b>		
3 undelimited	<b>Turkey</b>		
<b>Cyprus</b>	<b>Egypt</b>		<b>EEZ Agreed 2003</b>
<b>6 boundaries</b>	<b>Lebanon</b>		<b>EEZ Agreed 2007 (not in force)</b>
4 delimited	<b>Israel</b>		<b>EEZ 2010</b>

2 undelimited		<b>United Kingdom</b>	<b>TS Agreed 1960</b>
	<b>Syria</b>		
	<b>Turkey</b>		
1 probable	<b>Palestine (Probable)</b>		
<b>United Kingdom</b> <b>1 boundary (delimited)</b>		<b>Cyprus</b>	<b>TS Agreed 1960</b>

From the above table, several observations can be made. Firstly, there are seventeen maritime boundaries in the Eastern Mediterranean Sea that are divided into four delimited maritime boundaries and thirteen undelimited maritime boundaries. Secondly, the majority of maritime spaces in the Eastern Mediterranean Sea is not delimited. Thirdly, Egypt has the highest number of undelimited maritime boundaries in the Eastern Mediterranean Sea. Fourthly, the first exclusive economic zone boundary delimitation agreement was concluded between Egypt and Cyprus in 2003. Fifthly, the claimed Greek-Cypriot boundary was not counted as a potential maritime boundary or listed in the above table. This position is based on the conclusion reached in the research paper, as clarified in the next chapter, that refutes the alleged claim of Greece and Cyprus that they share a continental shelf and an exclusive economic zone boundary. Sixthly, the Agreement between Turkey and the Turkish Republic of Northern Cyprus “TRNC” Continental Shelf Delimitation Agreement, signed on 21 September 2011, is also not listed in the table since the “TRNC” is not recognized as a State by the United Nations.

The limited number of maritime delimitation agreements in the Eastern Mediterranean Sea may falsely indicate that there is lack of interest among basin States to delimit their maritime boundaries. However, it may be argued that the confined maritime spaces of the Eastern Mediterranean Sea Basin have raised tensions in the region that thrust basin States to adopt

policies of self-restraint and not to declare outer limits to their exclusive economic zones.<sup>288</sup> Moreover, it is anticipated that the potential natural gas discoveries in the region will motivate basin States to protect their interests by claiming jurisdiction over their exclusive economic zones or continental shelves. Nevertheless, the absence of defined maritime boundaries may blast new tensions on the claimed overlapping maritime zones.<sup>289</sup> Currently, there are two maritime boundaries delimitation disputes in the Eastern Mediterranean Sea; the maritime boundary dispute between Turkey and both Cyprus and Greece and the maritime boundary dispute between Lebanon and Israel.

### **Section (B): Maritime boundaries delimitation agreements in the Eastern Mediterranean Sea**

This section examines the maritime boundaries delimitation agreements in the Eastern Mediterranean Sea and analyzes the common provisions of the three exclusive economic zones delimitation agreements in the basin.

#### **1- 2003 Egypt - Cyprus exclusive economic zone delimitation agreement:**

The Agreement between Egypt and Cyprus on the Delimitation of the Exclusive Economic Zone, was signed in Cairo, on 17 February 2003 and entered into force on 7 March 2004. Cyprus registered the agreement at the United Nations on 14 January 2008.<sup>290</sup> The agreement adopted the median line delimitation method and the maritime boundary line between both States is composed of 7 segments that join 8 geographical coordinates with a total length of 144 n.m..<sup>291</sup>

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<sup>288</sup> Attard, "Maritime jurisdiction", 2012, note [284], at p.107.

<sup>289</sup> Ibid., (Attard), 2012, p. 107, 112.

<sup>290</sup> D.A. Colson and R.W. Smith, eds., *International Maritime Boundaries*, paper Report No. 8-15 (The American Society of International Law, 2005), p. 3917, Also check Egypt-Cyprus EEZ delimitation agreement Map(Figure 4).

<sup>291</sup> Ibid., Colson and Smith, 2005, p.3917.

Both States have concluded an agreement concerning the development and exploitation of the cross-median line hydrocarbons resources, which entered into force on 16 September 2014.<sup>292</sup>

Turkey objected the 2003 Egypt-Cyprus agreement and expressed its non-recognition of the agreement on 2 March 2004.<sup>293</sup> Turkey claims that it has existing *ipso facto* and *ab initio* sovereign rights over the maritime areas falling beyond the western part of the parallel of longitude 32°16'18" and reserves all its legal rights related to the delimitation of these areas.<sup>294</sup>

However, Cyprus responded to the Turkish objection by asserting that it exercised with Egypt their legitimate sovereign rights to delimit the exclusive economic zone lying between their respective coasts and avoided extending their delimitation line into areas where the rights of third coastal States could be affected.<sup>295</sup> Similarly, Greece joined Cyprus in rejecting Turkey's objection and reiterated its claim of having a shared continental shelf and exclusive economic zone boundary with Cyprus.<sup>296</sup>

## 2- 2007 Cyprus-Lebanon exclusive economic zone delimitation agreement:

The Agreement between Cyprus and Lebanon on the Delimitation of the Exclusive Economic Zone, was signed in Nicosia, on 17 January 2007 and has not yet entered into force.<sup>297</sup> The agreement adopted the median line method and the boundary line between both States is composed of 5 segments that connect 6 coordinates points with a total length of 84.5 n.m..<sup>298</sup> Lebanon did not conclude any maritime boundary agreement with its adjacent States; Syria and

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<sup>292</sup> Cyprus mail, "Cyprus and Egypt sign a unitization deal on the joint exploitation", 13 December 2013. Available at <https://cyprus-mail.com/2013/12/13/cyprus-and-egypt-sign-unitisation-deal-on-the-joint-exploitation/> (accessed on 15 August 2018).

<sup>293</sup> United Nations Division of the Oceans and Law of Sea, Law of Sea Bulletin No. 54, 2004, p. 127.

<sup>294</sup> Ibid., LOS bulletin.

<sup>295</sup> United Nations Division of the Oceans and Law of Sea, Law of Sea Bulletin No. 57, 2005, p. 124-125.

<sup>296</sup> Ibid., LOS bulletin, p. 129.

<sup>297</sup> Colson and Smith, note [290], at 2005, p.4446. Also check Cyprus-Lebanon EEZ Delimitation Agreement Map (Figure 5).

<sup>298</sup> Ibid, Colson and Smith, 2005, p.4446.



Israel and argues that the terminal points of the median line fall short of the estimated equidistance tripoints.<sup>299</sup>

### 3- 2010 Cyprus-Israel exclusive economic zone delimitation agreement:

The Agreement between Cyprus and Israel on the Delimitation of the Exclusive Economic Zone, was signed in Nicosia, on 17 December 2010 and entered into force on 25 February 2011.<sup>300</sup> Israel registered the agreement at the United Nations on 9 March 2011.<sup>301</sup> The agreement adopted the median line method and the boundary line is composed of 11 segments that join 12 geographical coordinates.<sup>302</sup>

Cyprus and Israel have claimed that the endpoints of their median line are in line with the Cyprus-Egypt and Cyprus-Lebanon agreements.<sup>303</sup> In particular, the geographical coordinates of the southern endpoint no 12 of the median line between Cyprus and Israel was adjusted to be similar to the coordinates of the endpoint no 8 of the median line between Cyprus and Egypt. Similarly, the geographical coordinates of the northern endpoint no 1 of the median line between Cyprus and Israel was adjusted to be identical to the coordinates of the endpoint no 1 of the median line between Cyprus and Lebanon.<sup>304</sup>

Lebanon objected the 2010 Cyprus-Israel delimitation agreement on 20 June 2011.<sup>305</sup> It argues that the agreement violates the sovereign and economic rights of Lebanon by absorbing part of

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<sup>299</sup> Ibid, Colson and Smith, 2005.

<sup>300</sup> Ibid, Colson and Smith, 2005, p.5092, Also check Cyprus-Israel EEZ delimitation agreement Map (Figure 6).

<sup>301</sup> United Nations Division of the Oceans and Law of Sea, Law of Sea Bulletin No. 75, 2011, p. 27.

<sup>302</sup> Colson and Smith, 2005, note [290], at `p 5097.

<sup>303</sup> Ibid, Colson and Smith, 2005, p 5096.

<sup>304</sup> Ibid, Colson and Smith, 2005, p 5097.

<sup>305</sup> United Nations Division of the Oceans and Law of Sea, Law of Sea Bulletin No. 76, 2011, p. 38, Also check Disputed maritime areas between Lebanon and Israel Map (Figure 9).

Lebanon's exclusive economic zone and that the endpoint no 1 of the Israel-Cyprus median line cannot be used as a trilateral point between Lebanon, Cyprus and Israel.<sup>306</sup>

#### 4- 1960 Cyprus - United Kingdom sovereign bases territorial sea delimitation:

The treaty concerning the establishment of Cyprus, signed on 16 August 1960 by four States; Cyprus, Greece, Turkey and the United Kingdom, specified, in section 3, a territorial sea boundary between Cyprus and the areas of the two British sovereign bases of "Akrotiri" and "Dhekelia".<sup>307</sup>

The treaty is the first territorial sea delimitation agreement in the Eastern Mediterranean Sea. It provided the two British sovereign bases of "Akrotiri" and "Dhekelia" a territorial sea zone with the extent of 3 n.m. adjacent to the two sovereign bases coasts.<sup>308</sup> Furthermore, it defined four adjacent territorial seas boundary lines between Cyprus and the United Kingdom sovereign bases. Nevertheless, the United Kingdom sovereign bases maritime areas were only offered a limited territorial sea zone for security purposes and did not affect the delimitation of the exclusive economic zone between Cyprus and both Egypt and Lebanon.<sup>309</sup>

In analyzing the three exclusive economic zones delimitation agreements in the Eastern Mediterranean Sea it appears that the provisions of the three agreements are mostly identical. The preamble in the three agreements recalls the relevant provisions of the 1982 UNCLOS.<sup>310</sup> There is a slight difference between the Egypt-Cyprus and Cyprus-Lebanon agreements on one hand and the Cyprus-Israel agreement on another hand. The latter agreement recalls the provisions of UNCLOS relating to the exclusive economic zone and the rules and principles of

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<sup>306</sup> Ibid, LOS bulletin, p. 38.

<sup>307</sup> Ahnish, note [50], at p. 256, Also check 1960 treaty on Cyprus and UK territorial sea delimitation Map(Figure 7).

<sup>308</sup> Ibid, (Ahnish), p. 257-8.

<sup>309</sup> Attard, "Maritime jurisdiction", 2012, note [284], at p. 102.

<sup>310</sup> Nicholas Ioannides, "emerging voices: The Law of the Sea as a tool for stability and progress in the eastern Mediterranean Sea", 30 August 2015. Available at <http://nioannides.com/?p=402>, (accessed on 13 August 2018).

international law of the sea applicable to the matter.<sup>311</sup> It was argued that this “distinction is superfluous” since article 74 and 83 of the UNCLOS have become part of customary international law and accordingly binding to all States including Israel.<sup>312</sup>

Moreover, the three agreements specify the median line as the method of delimitation and define the coordinates of the exclusive economic zone demarcation line. It has been argued that the “use of the median line evinces the establishment of a regional practice in the eastern Mediterranean Sea favoring this method”.<sup>313</sup>

Furthermore, the three agreements have an identical article relating to the obligation to cooperate for concluding agreements on the modalities of exploiting transboundary shared living and non-living natural resources straddling over the exclusive economic zone boundary line.<sup>314</sup> Also, each State party is bound to notify and consult the other party before concluding an agreement with a third party that will affect the end points of the boundary line.<sup>315</sup> Moreover, the three agreements preserve the interests of neighboring third States in the delimitation and permit the reviewing and /or modification of the median line end points as necessary by a trilateral agreement.<sup>316</sup> In addition, the three agreements incorporate an article on the settlement of disputes. It specifies that disputes on the implementation of the agreements should be settled by diplomatic channels or, in case of failure, by arbitration.<sup>317</sup>

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<sup>311</sup> Ibid., (Ioannides).

<sup>312</sup> Ibid.

<sup>313</sup> Ibid.

<sup>314</sup> Colson and Smith, 2005, note [290], p. 3919.

<sup>315</sup> Ioannides, “Emerging”, 2015, note [310].

<sup>316</sup> Attard, “Maritime jurisdiction”, 2012, note [284], p.108.

<sup>317</sup> Colson and Smith, 2005, note [290], p. 3919.

## **Chapter two: Egypt's maritime boundaries delimitation in the Eastern Mediterranean Sea**

Egypt has one of the longest coastlines on the Eastern Mediterranean Sea of about 1100 km that stretches between the western Libyan borders and the eastern borders with Palestine.<sup>318</sup> Its maritime interests in the Mediterranean Sea have considerably developed over the years from accommodating maritime shipping routes, exercising jurisdiction for security purposes to exploiting offshore natural resources.<sup>319</sup>

Egypt ratified the 1982 UNCLOS in 1983 and issued in 1990 a decree concerning the baselines of the maritime areas which included a list of geographical coordinates of 53 basepoints on the Mediterranean coast.<sup>320</sup> Moreover, Egypt deposited with its ratification to the UNCLOS a declaration on its exclusive economic zone which stated that the outer limit of its exclusive economic zone is established according to “the rules, criteria and modalities laid down in the convention”.<sup>321</sup>

Egypt has maritime boundaries in the Mediterranean Sea with Libya, Greece, Turkey, Cyprus, Israel and Palestine. It has concluded only one maritime boundary delimitation agreement in the Mediterranean Sea, in 2003, with Cyprus. Yet, the majority of Egypt's maritime boundaries remain unidentified and uncertain.<sup>322</sup>

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<sup>318</sup> Nabil Embabi, “Geographic Regions of Egypt”, in *World Geomorphological Landscapes*, Piotr Migon, ed. (Springer, 2017), pp. 3-13, p.12.

<sup>319</sup> Mohamed EL-Deeb, “Egyptian Exclusive Economic Zone”, in *Regional workshop on the Exclusive Economic Zone Proceedings*, Adel Yehia and H. ElEtr, eds., 3-5 April 2000, Cairo, pp. 11-16, p. 12.

<sup>320</sup> Giampiero Francalanci and Tullio Scovazzi, “The old and new Egyptian legislation on straight baselines” in *Maritime Boundaries*, Gerald Blake, ed., vol. 5, (Routledge, 1994), pp. 127- 143, p. 131.

<sup>321</sup> Attard, “Maritime jurisdiction”, 2012, note [284], at p.108.

<sup>322</sup> Egypt maritime boundaries Map (Figure 10).

## **Section A: Egypt's maritime boundaries delimitation with opposite States**

Egypt has maritime boundaries with three opposite States in the Eastern Mediterranean Sea; Cyprus, Turkey and Greece. Egypt has delimited its maritime boundary with Cyprus in 2003 while the two opposite maritime boundaries with Turkey and Greece remain undelimited. The following subsection examines the pending maritime boundaries delimitation between Egypt and both Turkey and Greece.

### 1- Maritime boundary delimitation between Egypt-Turkey:

Egypt and Turkey have the longest coasts in the Eastern Mediterranean Sea with approximate coastal lengths of 1062 km and 1792 km, respectively.<sup>323</sup> However, lengths of the relevant coasts of Egypt and Turkey are approximately 850 km and 969 km, respectively.<sup>324</sup> The two States opposite continental coastal fronts have an east-west direction and openly project towards each other, from the west of the Cyprus, creating a single undelimited overlapping exclusive economic zone and continental shelf boundary.

Turkey is not party to any of the law of the sea conventions, even though it proclaimed in 1986 a decree declaring a 200 n.m. exclusive economic zone in the Black Sea only.

The anticipated maritime delimitation between Egypt and Turkey should be in accordance with the “three-stage” methodology. In the first stage of the delimitation process, the provisional delimitation line between Egypt and Turkey should be the median line between the continental coasts of the two States. In order to construct the provisional median line, both States should initially agree on three issues; the relevant coasts projecting to the overlapping area, the area of delimitation and the appropriate basepoints selected for the construction of the median line.

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<sup>323</sup> Cagatay Erciyes, “Maritime Delimitation and Offshore Activities in *the Eastern Mediterranean, Maritime and Aviation Affairs- Turkish Ministry of Foreign Affairs*, Presentation, 21 March 2012, Ankara. Available at [http://www.mfa.gov.tr/site\\_media/html/maritime\\_delimitation.pdf](http://www.mfa.gov.tr/site_media/html/maritime_delimitation.pdf) (accessed on 14 November 2018), p.7.

<sup>324</sup> Ibid., (Erciyes), p.7.

The presence of maritime features that belongs to a third State in the delimitation area may amount to be an influential factor in the second-stage of the delimitation process. It is expected that the maritime delimitation between Egypt and Turkey would receive strong objections from both Cyprus and Greece. Cyprus and Greece jointly adopt a different perspective on the delimitation of the maritime boundaries in the Eastern Mediterranean Sea. They jointly claim that they share together a single exclusive economic zone and continental shelf boundary generated from the opposite coasts of Cyprus and the Greek islands of “Rhodes” and “Castellorizo”. This claim is based on an argument that islands have rights to generate maritime zones including exclusive economic zones and continental shelves similar to continental territories.<sup>325</sup> Furthermore, they both claim that the delimitation of their shared exclusive economic zones should be the median line as stipulated in their national laws.<sup>326</sup>

Turkey’s has officially rejected the 2003 agreement between Egypt and Cyprus on the delimitation of exclusive economic zone and reserved all its *ipso facto* and *ab initio legal* sovereign rights related to the maritime areas in the west of the longitude 32°16’18” E.

Turkey argues that the Eastern Mediterranean Sea is a semi-enclosed sea with restricted maritime areas which should be delimited by agreement amongst the relevant coastal States based on the principles of equity, “land dominates the sea” and non “cut-off”.<sup>327</sup> Moreover, Turkey claims that the maritime areas falling beyond the western part of the longitude 32°16’18” E should be delimited by an agreement between Turkey and Egypt.<sup>328</sup>

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<sup>325</sup> Nicholas Poulantzas, “The status of islands in the international law of the sea: The Megisti Island”, *Revue Hellenique de droit international* vol. 65, (2012), pp. 359-372, p. 361

<sup>326</sup> Greece Permanent Mission to the United Nations, Letters addressed from the Permanent Mission of Greece to the United Nations Secretary General, dated 10/5/2017, 8/12/2016, 23 May 2016, 24/2/2005. Available at <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/GRC.html> (accessed on 14 October 2018), Also United Nations Division of the Oceans and Law of Sea, Law of Sea Bulletin No. 79, 2012, p. 14, Poulantzas note [325], p. 366, Also check Greece-Cyprus maritime delimitation approach Map (Figure 11).

<sup>327</sup> Permanent Mission of Turkey to the United Nations, Letter dated 15 June 2016 from the Permanent Mission of Turkey to the United Nations Secretary General, A/70/945-S/2016/541 dated 17 June 2016.

<sup>328</sup> DOALOS, Law of Sea Bulletin No. 81 , 2014, p.27, Also check disputed maritime areas between Turkey, Cyprus and Greece map (Figure 8).

The maritime boundaries between Turkey and Egypt should be delimited following the median line between the continental coasts of both States. The median line should start from an eastern trilateral point to be agreed by Egypt, Turkey and Cyprus. The provisional median line may then extend westwards as far as the maritime coastal fronts of Turkey and Egypt continue to face each other to an agreed western trilateral point between Egypt, Turkey and Greece west of the longitude 28° 00' 00" E.<sup>329</sup>

The determination of the eastern trilateral point between Egypt, Turkey and Cyprus is complicated. Turkey claims that the eastward terminal point of the Egyptian-Turkish median line should be located on the longitude 32°16'18" E. This claim is based on the Turkish perspective that the island of Cyprus should be enclaved and has no right to claim a continental shelf or an exclusive economic zone west of the longitude 32°16'18" E.<sup>330</sup>

However, Cyprus rejects the Turkish perspective and considers it unfounded as it deprives Cyprus from having extended maritime zones, contrary to articles 56, 77 and 121 of UNCLOS and customary international law.<sup>331</sup> In addition, Egypt is bound to the treaty provisions of the 2003 Egypt-Cyprus exclusive economic zone delimitation agreement which identified the western terminal point of the Egyptian-Cypriot median line by point (1) with the geographical coordinates of 33° 45' 00" E Latitude and 30° 05' 00" N Longitude. According to the agreement the geographical coordinates of this point may be reviewed and or/extended as necessary by a trilateral agreement with the neighboring State concerned.<sup>332</sup>

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<sup>329</sup> Ibid., LOS bulletin.

<sup>330</sup> Cihat Yayci, "Exclusive Economic Zones of Turkey and the Turkish Republic of the Northern Cyprus (TRNC)", in *The East Mediterranean*, The Turkish Association of Petroleum Geologists "TAPG" Bulletin, 2012, vol. 23, No. 2, pp.51-66, p.54.

<sup>331</sup> LOS bulletin, note [295], at p.124-125.

<sup>332</sup> Colson and Smith, 2005, note [290], p. 3921.

Nevertheless, there may be a disagreement between Egypt and Cyprus on the neighboring State concerned. Cyprus claims that Greece is the neighboring State based on the Greek-Cypriot mutual claim of having a shared maritime boundary resulting from the maritime zones generated from Cyprus and the Greek islands of “Rhodes” and “Castellorizo”. On the contrary, it may be indicated that Egypt considers Turkey as the neighboring State concerned.

The divergence between the Turkish position on one side and the 2003 Cypriot-Egyptian agreement commitments on another side minimizes the chances of reaching a trilateral agreement on the shared trilateral point between the three States. It may be suggested that the trilateral point should accommodate between the Turkish position of locating the trilateral point on the longitude 32°16'18" E and the terminal point determined by the Egypt-Cyprus agreement.

In the second stage of the delimitation process, Egypt and Turkey should examine the effects of the Greek islands, located in the delimitation area, on the construction of the provisional Egyptian-Turkish median line.

Turkey claims that its inherent rights to a continental shelf and an exclusive economic zone in the Eastern Mediterranean Sea should not be precluded due to the presence of several Greek islands opposite to the Turkish continental coasts.<sup>333</sup>

In this regard, Turkey argues that the Greek islands of “Rhodes”, “Karpathos” and “Castellorizo” should be enclaved by territorial seas and not to inhibit the delimitation of the maritime boundaries between Turkey and Egypt.<sup>334</sup> The 1923 treaty of Lausanne and the 1947 Paris treaty explicitly specified the three islands among the Greek “Dodecanese” islands and part of the

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<sup>333</sup> Chrysochou and Petros, “Southern Mediterranean”, 2014, note [19], at p. 36.

<sup>334</sup> Check Turkish delimitation approach Map (Figure 12).



Aegean Sea.<sup>335</sup> Accordingly, the Greek islands should also be treated under the legal sphere of the Aegean Sea and considered within the context of settlement of the Aegean Conflict.<sup>336</sup>

The Greek insular group of “Castellorizo” consists of tiny insignificant geographical features in the context of the delimitation between the continental coasts of Egypt and Turkey. “Castellorizo” is located two n.m. from Turkish coast and 72 n.m. from Rhodes.<sup>337</sup> It cuts-off the Turkish coasts from its seaward projection to the Eastern Mediterranean Sea and located on the wrong side of the envisaged median line between the continental coasts of Turkey and Greece.<sup>338</sup>

It has been established by UNCLOS that all islands have the right to generate maritime zones. However, their effects on maritime delimitation depend on the relevant circumstances of the delimitation case.<sup>339</sup> International jurisprudence has confirmed that the principle of “non-encroachment” or non “cut-off” effect is one of the principles of maritime delimitation. In addition, case law has been consistent in applying the principle of non “cut-off” to avoid or reduce the distortion effect caused by islands cutting-off the mainland coasts from their extended maritime zones. Consequently, enclaving such islands and disqualifying them from enjoying extended maritime zones in order to achieve an equitable delimitation.<sup>340</sup>

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<sup>335</sup> Deniz Bolukbasi, *Turkey and Greece: The Aegean Disputes* (Routledge, 2012), p. 434

<sup>336</sup> Petros Siousiouras and Georgios Chrysochou “The Aegean Dispute in the context of Contemporary Judicial Decisions on Maritime Delimitation”, *Laws* 2014, No. 3, pp.12-49, p. 36. Available at <http://www.mdpi.com/journal/laws/> (accessed on 16 October 2018), Also check The imaginary median line between Turkey and Cyprus Map (Figure 14).

<sup>337</sup> Nicholas Poulantzas, “The Status of Islands in the International Law of the Sea: Megisti Island”, in *Contemporary Developments in International Law: Essays in Honor of BudislavVukas*, Rudiger Wolfrum and Maja Sersic, eds., (Brill Nijhoff ,2015) pp. 250-262, p. 252.

<sup>338</sup> Yayci, (Exclusive), 2012 , note [331], at p.55.

<sup>339</sup> Siousiouras and Chrysochou, “The Aegean”, note [337], at p 17..

<sup>340</sup> Yunus Emre Acikgonul, “Reflections on the principle of Non-Cut off: A growing concept in maritime boundary delimitation law”, *Ocean Development and International Law*, vol. 47, No. 1, 2016, pp. 52-71, p. 65.

The ICJ, in the *North Sea Continental Shelf Cases* considered the cut-off effect caused by a State to the maritime entitlements of a neighboring State a relevant factor for adjusting the equidistance line.<sup>341</sup> This approach was confirmed by the Tribunal in the *Anglo-French Arbitration*.<sup>342</sup> Furthermore, the tribunal, in the *St Pierre and Miquelon Arbitration*, provided the small French islands a southern side projection to avoid their encroachment to the seaward projection of the Canadian coasts to an exclusive economic zone. The Arbitral tribunal stated that the “seaward projection must not be allowed to encroach upon or cut off frontal projection of adjacent segments”.<sup>343</sup> Moreover, the ICJ, in the *Nicaragua v. Columbia Case* considered “non-encroachment” as one of the relevant circumstances to achieve an equitable delimitation. Furthermore, the Court recognized while constructing the provisional median line between the group of Columbian islands and the mainland coast of Nicaragua “the need to avoid cutting either State off from the maritime spaces into which its coasts project”.<sup>344</sup>

Thus, islands located near the continental coast of another State cannot be allowed to encroach or cut-off the frontal seaward projection of the coastal State from its maritime entitlements. Consequently, these islands should not be entitled to generate extended maritime zones and should have limited or no effect on maritime delimitation.<sup>345</sup>

In conclusion, the Greek island of “Castellorizo” that cuts-off the Turkish coasts seaward projection to its maritime entitlements in the Eastern Mediterranean Sea should not be selected as a basepoint. In addition, it should be totally enclaved with a territorial sea and refrained from having any continental shelf or exclusive economic zone and have no-effect on the maritime boundaries delimitation between Turkey and Egypt.

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<sup>341</sup> *North Sea Continental Shelf Cases*, note [37], at paras 89, 90.

<sup>342</sup> UK/France case, note [161], at p. 117, paras. 183, 184, 187, 192.

<sup>343</sup> Canada/France Delimitation Case, note [232], at p.1145, para 58, 70.

<sup>344</sup> Nicaragua/Columbia case, note [183], at para 236.

<sup>345</sup> Yayci, (Exclusive), 2012 , note [331], at p. 56.

However, the Greek islands of “Rhodes” and “Karpathos” may be semi-enclaved by territorial seas with exception to their southern seaward projections that may be granted southward exclusive economic zones and continental shelves.

The examination in the second-stage of the delimitation process to geographical factors, suggests that the presence of third States islands in the delimitation area may be considered as a relevant circumstance affecting the construction of the provisional median delimitation line. In addition, third States rights in the delimitation area should also be considered as a relevant geographical factor that entails ending the boundary line before the equidistant trilateral point between the coasts of Egypt, Turkey and the third State. Both geographical factors may have a significant role on the delimitation of the median line between Egypt and Turkey to achieve an equitable delimitation.

Finally, both States should undertake the “disproportionality” test in the third stage of the delimitation process, to ensure the equitableness of the provisional median delimitation line. It is expected that the proximity of the lengths of the relevant coasts of both States may negate the presence of “significant disproportionality” between the ratios of the maritime areas allocated to both parties and that of the lengths of their relevant coasts.

In sum, the provisional median line to be drawn in the first stage of the delimitation process meets the requirements of an equitable solution and it is not necessary to modify or adjust it in the two subsequent stages.

## 2- Maritime boundary delimitation between Egypt and Greece:

Egypt and Greece have an overlapping undelimited continental shelf and exclusive economic zone boundary generated from the long Egyptian continental coast and the opposite relevant coasts of the Greek islands; “Crete”, “Kasos”, “Karpasos”, “Rhodes” and “Castellorizo”.

Greece is party to the UNCLOS and did not claim an exclusive economic zone. However, it proclaimed in 2011 a legislation on the prospecting, exploration and exploitation of hydrocarbons.<sup>346</sup>

In the delimitation process of the single continental shelf and exclusive economic zone boundary line between Egypt and Greece, it is necessary that both States determine the applicable law governing delimitation. Both States are parties to the UNCLOS and bound by the rules and principles of the convention and customary international law.

Subsequently, both States should agree on the method and methodology of delimitation. On the method of delimitation, Greece claims that the delimitation should be established by the “strict median” line method. It argues that equidistance is the main method of maritime delimitation between States with opposite coasts as confirmed by States practice and case law in the ICJ *Libya v. Malta Case*, *Qatar v. Bahrain Case* and the *Barbados/Trinidad and Tobago Arbitration Case*.<sup>347</sup> However, Egypt argues that the “strict median” line method is not the conventional or customary rule governing the delimitation of the exclusive economic zone and continental shelf. Nevertheless, the “agreement/equitable solution” rule embodied in the identical articles 74 (1) and 83 (1) of the UNCLOS is the rule recognized by case law as reflecting customary international law for the delimitation of the exclusive economic zone and continental shelf.

Furthermore, on the delimitation methodology, it is recognized by case law that the “three-stage” delimitation methodology is the most appropriate delimitation methodology for maritime delimitation as explained in part I of the research paper. Accordingly, Egypt and Greece should agree in the first stage of the delimitation process on the relevant coasts projecting onto the

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<sup>346</sup> LOS bulletin, note [326] at 2012, p. 14.,

<sup>347</sup> Hellenic Republic Ministry of Foreign Affairs, “Greek-Turkish dispute over the delimitation of the continental shelf”, *Foreign Policy Issues*, 14 June 2018. Available at <https://www.mfa.gr/en/issues-of-greek-turkish-relations/relevant-documents/delimitation-of-the-continental-shelf.html> (accessed on 15 November 2018).

overlapping maritime areas, the delimitation area and the appropriate basepoints for the construction of the provisional equidistance line.

The determination of the relevant coasts is fundamental to assess whether there is “marked” disparity between the lengths of both States relevant coasts and apply the “disproportionality” test in the second and third stages of the delimitation process, respectively. It is estimated that the length of the relevant coasts of Greece is 75 km and the length of the relevant coast of Egypt is 335.75 km. The ratio between the estimated relevant Greek coastline and the Egyptian coastline projecting to the overlapping delimitation area is about 1 to 4.4 in favor of Egypt.

Furthermore, both States should agree on the relevant delimitation area. Nevertheless, there might be dissimilarities between the Egyptian and Greek perspectives on the issue. Egypt may argue that the relevant delimitation area is the area located between the meridians longitude 28° 00' 00" E as the eastern limit and the longitude 26° 00' 00" E as the western limit. In addition, it may argue that the adjusted median line extends from an eastern tripoint with Turkey to a western tripoint with Libya. However, Greece claims that the relevant delimitation area is the area located between the meridians longitude 29° 50' 04" as the eastern limit and the longitude 26° 12' 55" as the western limit. In addition, the strict median line connects the eastern tripoint with Cyprus with the western tripoint with Libya.

Subsequently, both States should agree on the appropriate basepoints used for the construction of the provisional median line. In this respect, it is anticipated that Egypt will select the most seaward basepoints on its relevant coast starting from the city of Alexandria to the western boundary with Libya. However, Greece would claim several Greek islands with significant size and population as appropriate base points. These Greek islands may include; (i) “Kriti” which is the largest Greek island with a surface area of 8,303 Km<sup>2</sup> and a population of 623,065, (ii) “Karpathos” with a surface area of 324 Km<sup>2</sup> and a population of 4,645, (iii) “Rhodes” with a

surface area of 1,398 Km<sup>2</sup> and a population of 87,831, and (iv) “Castellorizo with a surface area of 9 Km<sup>2</sup> and a population of 222.”<sup>348</sup>

However, it is anticipated that both States may disagree on the provisional delimitation line constructed in the first stage of the delimitation process.

Greece argues that the Greek islands regardless of their location and size are entitled to extended maritime zones and have full effect on the delimitation line similar to continental coasts. It establishes its position on the ICJ judgment, in the *Qatar v. Bahrain Case*, which stated that “islands regardless of their size,..., enjoy the same status and therefore generate the same maritime rights, as any other land territory”.<sup>349</sup> Furthermore, Greece attempted to consolidate its legal argument by its practice reflected in the 2011 legislation on the prospecting, exploration of hydrocarbons and its 2014 bidding for the exploration and exploitation of hydrocarbons in offshore areas south of Crete. The Greek legislation confirmed that the outer limit of the Greek continental shelf and exclusive economic zone (once declared) is the median line, every point of which is equidistant from the nearest points on the baselines (both continental and insular). Similarly, the Greek 2014 international bidding determined that the external boundaries of block 20 is delimited according to the median line identified in the list of geographical coordinates and the map published at the Official Journal of the European Union.<sup>350</sup>

However, Egypt may argue that the “modified equidistance” line method is the appropriate method applicable for the delimitation of the exclusive economic zone and continental shelf

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<sup>348</sup> Jon M. Van Dyke, “The Role of Islands in delimiting maritime zones: The Case of the Aegean Sea”, *Ocean Yearbook Online* (1989), pp.17- 50, p. 21.

<sup>349</sup> Qatar/Bahrain, note [51], at para 185.

<sup>350</sup> “Notice from the Government of the Hellenic Republic concerning Directive 94/22/EC of the European Parliament and of the Council on the conditions for granting and using authorizations for the prospecting, exploration and production of hydrocarbons”, *The Official Journal of the European Union*, C 400/4 , 13 November 2014. Available at [www.ypeka.gr/Default.aspx?tabid=765](http://www.ypeka.gr/Default.aspx?tabid=765) (accessed on 18 November 2018).

between Egypt and Greece. Egypt argues that the presence of islands in the delimitation area is a geographical factor that may be considered as a relevant circumstance that requires adjusting the provisional median line to achieve an equitable solution. The Egyptian stance is in line with case law that has consistently disallowed islands from having “full effect” on delimitation lines when opposed to continental landmass coasts. In addition, it established that the “power” of islands to generate extended maritime zones affecting maritime delimitation depends on its location, size and population.<sup>351</sup> Nevertheless, the presence of remote islands located on the wrong side of the median or equidistance line is a geographical factor that amounts to be considered as a relevant circumstance affecting maritime delimitation. Consequently, the islands in such situation should be enclaved by territorial seas and have no-effect on the delimitation line.<sup>352</sup>

The *United Kingdom/France Continental Shelf Arbitration Case* was the first case to examine the effect of islands on maritime delimitation. The tribunal decided to be fully enclaved the British “Channel Islands”, which is of surface area of 195 km<sup>2</sup> and a population of 130,000, with a 12 n.m. territorial sea.<sup>353</sup> In addition, it had no effect on the median boundary line due to its location on the wrong side of the median line at and just 6.6 km from the French coast.<sup>354</sup> Furthermore, the ICJ, in the *Libya v. Malta Continental Shelf Case*, disregarded the tiny uninhabited Maltese island of “Filfla”, which is located 5 Km from the main island of Malta, in the delimitation of the continental shelf between Libya and Malta.<sup>355</sup> Similarly, the ICJ, in the *Black Sea Case*, provided the “Serpents” island with only a maritime jurisdiction of 12 n.m. territorial sea.<sup>356</sup>

Correspondingly, the Greek island of “Castellorizo”, does not meet the general criteria to generate extended maritime zones and therefore should be denied from having any exclusive zone or continental shelf in the Eastern Mediterranean Sea. This conclusion is based on the fact

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<sup>351</sup> Murphy, note [176], at p. 177.

<sup>352</sup> Van Dyke, “The Role”, note [349], at p. 44.

<sup>353</sup> UK/France case, note [161], at p. 117, paras. 183, 184, 187, 192.

<sup>354</sup> *Ibid.*, UK/France, para. 173, 189.

<sup>355</sup> Malta/Libya Case, note [91], p. 48, para. 64.

<sup>356</sup> Romania/Ukraine, note [116], at p. 123, para. 188.

that it is located in the vicinity of the Turkish Coast, far from other Greek islands and cuts-off Turkey's right to access to its exclusive economic zone and continental shelf in the Eastern Mediterranean Sea.<sup>357</sup>

However, the "Rhodes" island, is second largest Greek island, located 363 km from the Greek mainland and 18 km from Turkish coasts. Its location on the wrong side of the envisaged median line between Turkey and Greece prevents Turkey from accessing to its extended maritime zones in the Eastern Mediterranean Sea. Nevertheless, it meets the criteria of size and population and accordingly may be entitled to generate southwards an exclusive economic zone and a continental shelf. Though, its impact on the maritime delimitation line between Egypt and Greece should not extend in any circumstances the "half effect".

It may be argued that the approach adopted by the ICJ in the *Malta v. Libya Case* may be relevant for determining the "modified" median line between Egypt and "Rhodes". In this regard, the "modified" median line may be determined by referring to the median line constructed between two median lines; the median line drawn between the coasts of Egypt and Turkey and the "strict" median line drawn between Egypt and "Rhodes".

The island of "Karpathos", is the third largest Greek island, with a surface area of 324 Km<sup>2</sup> and a population of 4,645, located 24 miles south west of Rhodes. It is relatively not affecting the seaward projection of the Turkish coast.<sup>358</sup> The effect of "Karpathos" on the delimitation of the boundary line should be limited or minor by only having a "partial effect". This position is in line with ICJ ruling in the *Gulf of Maine Case* which granted Canada's "Seal Island" and "Mud" Island "partial effects" on the delimitation line even with the permanent year-round population residing on the "Seal" island.<sup>359</sup> Similarly, the ICJ, in the *Libya v. Malta Continental Shelf Case*,

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<sup>357</sup> Van Dyke, "The Role", note [349], at p. 46.

<sup>358</sup> Bolukbasi, 2012, note [336], at p. 434.

<sup>359</sup> Gulf of Maine Case, note [93], at pp. 336-37, para. 222, Also Van Dyke, "The Role", note [349], at p. 40.



gave the island of Malta “partial effect” on the delimitation line, due to the deference in the lengths of the relevant coasts between Malta and Libya.<sup>360</sup>

The island of “Kriti” is the largest of the Greek islands, with a surface area of 8,303 Km<sup>2</sup> and a population of 623,065. Though, its influence on the delimitation of the boundary line between Egypt and Greece should not extend in any circumstances the “half effect” in light of the disparity in the lengths of the relevant coasts between Egypt and the Greek islands. This position is in accord with the tribunal award in the *United Kingdom/France Continental Shelf Arbitration Case* which granted the “Scilly isles”, located 34 km from the British mainland coasts, only “half-effect”.<sup>361</sup> Likewise, the ICJ, in the *ICJ Libya v. Tunisia Case*, granted the Tunisian “Kerkennah” Island “half effect” on the delimitation of the continental shelf between the two States, even though the island has a surface area of the 180 km<sup>2</sup> and has a population of 15,000.<sup>362</sup>

In the second stage of the delimitation process, the disparity in the lengths of the relevant coasts is a geographical factor that may be considered as a relevant circumstance that requires adjusting the provisional median line. This geographical factor is consistently acknowledged in States practice and case law.<sup>363</sup> The ICJ, in the *Libya v. Malta Case* and *Nicaragua and Columbia case*, considered the marked disparity between the coastal lengths of the parties as a relevant circumstance that necessitated the adjustment of the provisional median line. This adjustment required moving the median line towards Malta and the Columbian islands and gave greater effect to the longer coasts of Libya and Nicaragua.<sup>364</sup>

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<sup>360</sup> Malta/Libya Case, note [91], at pp. 51,56, paras. 62, 77, Also Ibid., (Van Dyke), p. 42.

<sup>361</sup> UK/France case, note [161], at p. 455, para. 249, Also Ibid., (Van Dyke), p. 36.

<sup>362</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at p. 89, para. 129, Also Ibid., (Van Dyke), p. 39.

<sup>363</sup> Fietta and Cleverly, note [117], at p. 72.

<sup>364</sup> Malta/Libya Case, note [91], at pp. 51,56, paras. 71,78, Also Nicaragua/Columbia case, note [183], at paras 214-215, Also Evans, “Relevant Circumstances”, 2018, note [149], at p.250-1.

It is estimated that the lengths of the relevant coasts of Greece and Egypt is 75 km and 335.75 km, respectively. Consequently, the estimated ratio between the relevant Greek and Egypt coastlines is about 1 to 4.4 in favor of Egypt. Egypt may argue that the disparity in the coastal lengths of both States is a relevant circumstance that requires adjusting the provisional median line in favor of Egypt; the State with the longer relevant coast. In this regard, the median line may be adjusted by moving it towards the Greek islands; with the shorter relevant coast, in order to achieve an equitable delimitation.<sup>365</sup>

Finally, the “disproportionality” test is to be undertaken in the third stage of the delimitation process, to ensure the equitableness of the adjusted median line. It seems that adjusting the provisional median line in the second-stage may dismiss the existence of “significant” disproportionality between the ratios of the maritime areas allocated to both parties and the lengths of their relevant coasts.

In sum, the provisional median line anticipated in the first stage of the delimitation process does not achieve an equitable solution and this requires modifying the median line based on relevant circumstances assessed in the second stage to achieve an equitable delimitation.

### **Section B: Egypt’s maritime boundaries delimitation with adjacent States**

Egypt has three undelimited maritime boundaries with neighboring adjacent States in the Eastern Mediterranean Sea; two eastern maritime boundaries with Palestine and Israel and a western maritime boundary with Libya. This section examines Egypt’s adjacent maritime boundaries on the eastern side with Palestine and Israel and the adjacent maritime boundary on the western side with Libya.

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<sup>365</sup> Oude Elferink, “Relevant Coasts” note [211], at pp. 173-200, p.174.

## 1- Maritime boundaries delimitation between Egypt and Palestine - Israel:

Egypt's eastern maritime boundaries is composed of two maritime boundaries, a maritime boundary with Palestine and a potential maritime boundary with Israel pending on the outcome of the delimitation of the maritime boundary between Palestine and Israel. This subsection examines firstly the maritime boundary delimitation between Egypt and Palestine and, secondly, the potential maritime boundary delimitation between Egypt and Israel.

### (A) Maritime boundary Delimitation between Egypt and Palestine:

The Palestinian coastal front along the Eastern Mediterranean Sea is part of the Gaza strip which stretches for the distance of 42 km long.<sup>366</sup> It extends from the coastal terminus point of the Egyptian-Palestinian border “m1 or Tel-Raffah” to the “k1 or Errez” coastal terminus point of the Palestinian-Israeli border.<sup>367</sup> The Palestinian coast is part of the concave coastal corner of the southern Eastern Mediterranean Sea which extends from the city of Alexandria in Egypt to the Bay of Haifa in Israel.<sup>368</sup>

The 1994 Gaza-Jericho Agreement and the 1995 Interim Agreement on the West bank and Gaza Strip, signed between the Palestine Liberation Organization and Israel, granted Palestine jurisdiction over a maritime activity zone, that extends to 20 n.m. from the coast of Gaza.<sup>369</sup> Nevertheless, the two agreements do not prejudice negotiations towards the final borders of the State of Palestine.<sup>370</sup> However, Israel declared, in 2002, a naval blockade on the Gaza strip and reduced the Palestinian maritime jurisdiction, in 2009, to 3 n.m..<sup>371</sup>

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<sup>366</sup> Mahmoud Ali, *The Coastal Zone of Gaza strip-Palestine Management and Problems* (Capemalta, 2002), p.2

<sup>367</sup> Check Agreement on the Gaza Strip and the Jericho Area, signed in Cairo on 4 May 1994, Map (Figure 15).

<sup>368</sup> Khaldoun Abualhin and Irmard Niemeyer, “*Calculation of erosion and accretion rates along the Gaza coastal zone using remote sensing geoinformation systems*”, *ResearchGate*, (June 2009), p.2.

<sup>369</sup> Article 14, Agreement on the Gaza Strip and the Jericho Area, signed in Cairo on 4 May 1994.

<sup>370</sup> James Stocker, “The Politics of Oil and Gas in the Eastern Mediterranean”, *Middle East Journal*, vol. 66, No. 4 (2012), pp. 579- 597, p. 588.

<sup>371</sup> Pietro Azzali, “The Naval Blockade of the Gaza Strip: A law of the Sea perspective”, Masters dissertation, (The Arctic University of Norway, 2015), p. 24, Also check Israeli blockades to Gaza Map (Figure 16).

Palestine became a State party to the UNCLOS on 1 February 2015 and is entitled to a territorial sea of 12 n.m. and extended maritime zones off the coast of Gaza.<sup>372</sup> Subsequently, Palestine deposited, on 31 August 2015, to the United Nation a declaration regarding the maritime boundaries of Palestine. The declaration included the State of Palestine claim to an exclusive economic zone and a continental shelf in the Mediterranean Sea that extend beyond its territorial sea. Furthermore, it asserted that the delimitation of maritime boundaries between Palestine and other States should be resolved on the basis of equity and principles of international law.<sup>373</sup>

Following its accession to the UNCLOS, the Palestinian government expressed its intention to negotiate for the delimitation of its maritime boundaries with neighboring States in order to preserve the maritime rights of Palestine in the Mediterranean Sea.<sup>374</sup>

Egypt and Palestine have adjacent coasts in the Eastern Mediterranean Sea and the estimated lengths of the relevant coasts of Egypt and Palestine is 159 km and 42 km, respectively. The estimated adjacent maritime boundary line between Egypt and Palestine starts from the land-boundary terminus point of “Tel-Raffah” and is comprised of an equidistance territorial sea boundary and a potential single exclusive economic zone and continental shelf boundary.

The delimitation of the adjacent boundary line between Egypt and Palestine according to the “three-stage” methodology, will require both States to agree on a provisional equidistance delimitation line in the first stage of the delimitation process. This provisional equidistance boundary line consists of a territorial sea boundary and a potential single exclusive economic zone and continental shelf boundary.

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<sup>372</sup> Law of Sea Bulletin no 87, United Nations Division of the Oceans and Law of Sea, 2016, p. 16.

<sup>373</sup> Law of Sea Bulletin no 89, United Nations Division of the Oceans and Law of Sea, 2017, p. 18-20.

<sup>374</sup> The state of Palestine, Ministry of Foreign Affairs, press statement dated 9 March 2015. Available at <http://www.mofa.pna.ps/en/borders/> (accessed on 19 October 2018).

In this regard, Egypt and Palestine have claimed a territorial sea of 12 n.m. Article 15 of the UNCLOS establishes that the territorial sea delimitation line should not extend beyond the median line unless there are special circumstances that require applying other methods of delimitation. Correspondingly, the estimated territorial sea boundary line between Egypt and Palestine should be the equidistance line constructed from the agreed appropriate basepoints of both States.

Furthermore, it is suggested that the equidistance boundary line may extend beyond the territory sea boundary to delimit also the potential extended maritime zones between both States. Egypt and Palestine have claimed exclusive economic zones in accordance with the UNCLOS. However, there is uncertainty regarding the extension of the delimitation line to delimit potential extended maritime zones boundary between Egypt and Palestine in light of the slight concavity in the southern Eastern Mediterranean Sea coast.

In second stage of the delimitation process, few geographical factors may be assessed to consider whether they have effect on the delimitation of the provisional equidistance boundary line between Egypt and Palestine.

This geographical factor of the slight concavity in the coast of Gaza does not amount to be considered as a special or relevant circumstance affecting the maritime delimitation between both States. However, this concavity may be considered as a relevant circumstance in the delimitation of the maritime boundary between Palestine and Israel.

It may be argued that the potential Egyptian-Palestinian single exclusive economic zone and continental shelf boundary is pending on the outcome of the maritime delimitation process between Palestine and Israel. This outcome may produce three different delimitation situations.

This first situation may produce a long adjacent single exclusive economic zone and continental shelf boundary line between Egypt and Palestine. This line extends from the terminal point of the 12 n.m. territorial sea boundary between both States to the anticipated equidistant trilateral point with Cyprus. Consequently, this situation excludes the probability of any boundary line between Egypt and Israel.

The second situation may produce a limited adjacent Egyptian-Palestinian single exclusive economic zone and continental shelf boundary line that extends from the terminal point of the Egyptian-Palestinian territorial sea boundary line to the point of intersection with the “adjusted” Palestinian-Israeli equidistance boundary line. This situation will consequently produce an extended exclusive economic zone and continental shelf boundary line between Egypt and Israel that extends from the trilateral point between Egypt, Palestine and Israel to meet with the anticipated equidistant trilateral point between Egypt, Cyprus and Israel.

The third situation excludes Palestine from extended maritime zones as a result of applying the “strict” equidistance line method for the delimitation of the adjacent maritime boundary between Palestine and Israel. The anticipated “strict” equidistance boundary line between Palestine and Israel will preclude Palestine from having extended maritime zones as it will that start from the “Errez” terminus point and directing westwards towards the Egyptian-Palestinian boundary line.<sup>375</sup> Consequently, this situation “cuts-off” the Palestinian coast from its extended maritime zones and produces an inequitable delimitation result to Palestine. The Palestinian maritime zones will not extend beyond the territorial sea of 12 n.m. and the maritime boundaries between Egypt and Palestine will be limited to a territorial sea boundary line. Thus, creating a long adjacent single exclusive economic zone and continental shelf boundary line between Egypt and Israel.

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<sup>375</sup> Nicholas Ioannides, “The Israeli-Cypriot Relations under the Law of the Sea”, *Eastern Mediterranean Geopolitical Review*, Vol.1 (Fall 2015), pp. 21-31, p. 27

However, the application of the “adjusted” equidistance line for the delimitation of the maritime boundary between Palestine and Israel may allow Palestine to have an exclusive economic zone and a continental shelf in the Mediterranean Sea.<sup>376</sup> Thus, creating a single exclusive economic zone and continental shelf boundary line between Egypt and Palestine.

The tribunal, in the *Bay of Bengal (Bangladesh/ Myanmar) Case*, examined the concavity of Bangladesh coastline and considered the “cut-off” effect as a relevant circumstance that requires adjusting the provisional equidistance line in favor of Bangladesh to achieve an equitable delimitation. The tribunal determined that “the provisional equidistance line is to be deflected at the point where it begins to cut-off the seaward projection of the Bangladesh coast. The direction of the adjustment is to be determined in light of those circumstances”.<sup>377</sup>

Palestine identified, in its 2015 maritime boundaries declaration, that the delimitation of its maritime zones with other States should be resolved on the basis of equity. In addition, it claims that Israel has illegally possessed parts of the Palestinian exclusive economic zone by the 2010 exclusive economic zone delimitation agreement between Israel and Cyprus. Consequently, Palestine called for concluding a new exclusive economic zone delimitation agreement between Palestine, Israel and Cyprus based on equity to settle the overlapping maritime areas between the three States.<sup>378</sup> Subsequently, the Palestinian government officially requested in July 2016 from both the Cypriots and Egyptian governments to hold bilateral talks for the delimitation of the exclusive economic zone boundaries.<sup>379</sup> The Palestinian request was apparently rejected by

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<sup>376</sup> Ibid, (Ioannides), “The Israeli-Cypriot”, p.27, Also check The Palestinian maritime claims off the Gaza Strip Map (Figure 17).

<sup>377</sup> Bangladesh/Myanmar Case, note [199], at p.4, para. 329.

<sup>378</sup> Susan Power, “Preventing the development of Palestinian natural gas resources in the Mediterranean sea”, Al-Haq, 2014, p. 30.

<sup>379</sup> The Palestinian Information Center, “PA negotiates Palestinian maritime borders with Egypt”, 8 June 2016, Available at <https://english.palinfo.com/print/2016/6/18/PA-negotiates-Palestinian-maritime-borders-with-Egypt>, (accessed on 18 October 2018).

Cyprus while the Egyptian government denied the reports that it has been negotiating for delimitation of maritime boundary with Palestine.<sup>380</sup>

Israel has been unilaterally conducting exploration and exploitation activities in the Palestinian maritime zones and ignoring Palestine's rights to its natural resources.<sup>381</sup> Israel has been investing in the "Yam Tethy's" basin, that contains several transboundary natural gas reservoirs that extend into the Palestinian maritime zones including the "Noa south" and Gaza Marine 3 zones.<sup>382</sup> Israel has been unilaterally exploiting the "Noa south", located in the Palestinian continental shelf, without the consent of Palestine and in violation to its sovereignty over its natural resources.<sup>383</sup>

In reaction to this violation, Palestine urged other States and companies not to operate within the Palestinian maritime boundaries without its authorization.<sup>384</sup> In addition, it called Israel to end its naval blockade on the Gaza strip which precludes Palestine from exercising its sovereign exclusive rights to explore and exploit its natural resources in its maritime zones.<sup>385</sup>

Furthermore, the lengths of the relevant coasts of Palestine and Egypt is 42 and 159 km, respectively that reflects an estimated coastal length ratio of 1 to 3.7 in favor of Egypt. It is to be noted that the disparity between the lengths of the relevant coasts of Egypt and Palestine may not constitute a "marked" disparity nor qualified as a relevant circumstance affecting maritime delimitation.

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<sup>380</sup> Middle East Observer, "Egypt denies reports about maritime demarcation with Palestine", 21 June 2016, available at <https://www.middleeastobserver.org/2016/06/21/egypt-denies-reports-about-maritime-demarcation-with-palestine/> (accessed on 18 October 2018).

<sup>381</sup> Stocker, "The Politics", note [371], at p. 588.

<sup>382</sup> Ibid, Stocker, p. 592.

<sup>383</sup> Power, note [379], at p. 27-29, Also check Israeli Gas fields Mari-B, Noa and Gaza Marine Map (Figure 19)

<sup>384</sup> LOS bulletin, note [374], at p. 18-20.

<sup>385</sup> Power, note [379], at p. 32.



In sum, the effects of the geographical factors such as the concavity of the coast or the disparity in the coastal lengths do not amount to be considered as relevant circumstances affecting the provisional median delimitation line. Thus, it is not necessary to modify or adjust the provisional line based on the geographical factors presented and assessed in the second stage of the delimitation process. Consequently, the provisional adjacent equidistance line drawn in the first stage of the delimitation process between Egypt and Palestine produces an equitable solution.

Finally, the “disproportionality” test is to be undertaken in the third stage of the delimitation process, to ensure the equitableness of the provisional equidistance delimitation line. It seems that the narrow difference between the lengths of the relevant coasts of both States dismisses the presence of “significant disproportionality” between the ratios of the maritime areas allocated to both parties and the lengths of their relevant coasts.

In conclusion, the provisional equidistance line to be constructed in the first stage of the delimitation process meets the requirements of an equitable solution and it is not necessary to modify or adjust it in the second or third stages of the delimitation process to achieve an equitable delimitation.

(B) Maritime boundary delimitation between Egypt and Israel:

Israel has a fairly regular coastline on the Eastern Mediterranean Sea with an estimated length of 180 Km that extends from the northern borders with Lebanon to the borders with Gaza.<sup>386</sup> The Israeli coast, which gradually curves, is comprised of several small islands adjacent to the coast, Haifa Bay and harbor installations in Ashdod and Haifa. One of the islands in the north of Israel

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<sup>386</sup> Shoshana Gabbay, “Coastal Zone Management in Israel”, paper prepared by CAMP-ISRAEL for Israel Ministry of the Environment Planning Department, 1999. Available at [http://www.sviva.gov.il/English/env\\_topics/marineandcoastalenvironment/Documents/CoastalZoneManagementInIsrael-Report-Sept1999.pdf](http://www.sviva.gov.il/English/env_topics/marineandcoastalenvironment/Documents/CoastalZoneManagementInIsrael-Report-Sept1999.pdf), (accessed on 19 October 1999), p.4.

was taken as basepoint and affected the exclusive economic zone delimitation line with Cyprus.<sup>387</sup>

Israel is not party to the UNCLOS, but party to the 1958 Geneva “CTS” and the “CCS”. It proclaimed a submarine areas law in 1953 which determined the outer limits of the continental shelf by using the exploitability criterion.<sup>388</sup> Israel has not proclaimed an exclusive economic zone legislation or issued a declaration claiming an exclusive economic zone. However, it concluded, in 2010, an agreement for the delimitation of the exclusive economic zone with Cyprus. Furthermore, it deposited, in 2011, with the Secretary-General of the United Nations a list of geographical coordinates for the delimitation of the northern limit of its exclusive economic zone.<sup>389</sup>

Egypt and Israel have a potential undelimited adjacent single exclusive economic zone and continental shelf boundary generated from the seaward projection of the relevant coasts of both adjacent States.

The delimitation of the adjacent boundary line between Egypt and Israel in accordance to the “three-stage” methodology, will require both States to agree in the first stage of the delimitation process on the relevant coasts, the delimitation area and the appropriate basepoints for the construction of the provisional equidistance line. The lengths of the relevant coasts of Egypt and Israel are 247 km and 180 km, respectively.

As previously explained, the application of the “strict” equidistant line method for the delimitation of the adjacent maritime boundary between Palestine and Israel, in a concave coast

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<sup>387</sup> Colson and Smith, 2005, note [290], Report No 8-22, p.5095.

<sup>388</sup> DOALOS, Legislation. Available at [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ISR\\_1990\\_AmendedLaw](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ISR_1990_AmendedLaw)

<sup>389</sup> DOALOS, Maritime Space: Maritime Zones and Maritime Delimitation, Israel page, Available at <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/ISR.htm> on 19 October 2018.

situation, may cut-off Palestine from having extended maritime zones. Consequently, creates a single exclusive economic zone and continental shelf boundary between Egypt and Israel.

The anticipated equidistance boundary line between Egypt and Israel may start from the trilateral point between Egypt, Palestine and Israel. This trilateral point is determined when the terminal point of the equidistance Egyptian-Palestinian boundary line intersects with the “adjusted” equidistance Palestinian-Israeli boundary line. Subsequently, the equidistance Egyptian-Israeli boundary line may extend vertically to meet with the anticipated equidistant trilateral point between Egypt, Cyprus and Israel.

Nevertheless, the determination of the trilateral point between Egypt, Israel and Cyprus raises several observations. Firstly, the 2003 Egyptian-Cypriot exclusive economic zone delimitation agreement permits the revision and/or extension of the geographical coordinates of the terminal points of the boundary line.<sup>390</sup> The agreement uses the indecisive endpoint technique and confirmed that the coordinates of the trilateral point should be established by a trilateral agreement between Egypt, Cyprus and either Israel or Palestine.<sup>391</sup> In this regard, point (8) of the 2003 Egyptian-Cypriot agreement is a point among the median line points and should not be considered as a fixed terminal point or used as the equidistant trilateral point. Secondly, Cyprus and Israel claimed that the southern terminal point (12) of the median line determined by the 2010 Cypriot-Israeli exclusive economic zone delimitation agreement was adjusted to be in line with the coordinates of the terminal endpoint no 8 of the Egyptian-Cypriot median line.<sup>392</sup> Thirdly, Egypt should express its reservation on the coordinates of the terminal point (12) of the 2010 Cypriot-Israeli delimitation agreement. The Egyptian reservation would aim to preserve Egypt’s rights in extending the Egyptian-Cypriot median line from point (8) eastwards to the equidistant trilateral point. Correspondingly, it would invalidate any interpretation that Egypt’s

<sup>390</sup> Attard, “Maritime jurisdiction”, 2012, note [284], at p.108.

<sup>391</sup> Coalter Lathrop, “Tripoint issues in maritime boundary delimitation” in *International Maritime Boundaries*, D.A. Colson and R.W. Smith, eds., (The American Society of International Law, 2005), pp. 3305-3375, p. 3321. Colson *International Maritime boundaries*, p 5092.

<sup>392</sup> Colson and Smith, 2005, note [290], Report No 8-22, pp. 5096-7.

silence reflects an “acquiescence” to the de-facto fixation by Israel and Cyprus to the trilateral terminal point without any consultation with Egypt.

In second stage of the delimitation process, few geographical and non-geographical factors may be assessed to consider whether they have effect on the delimitation of the provisional equidistance boundary line between Egypt and Israel.

The geographical factor of the slight concavity of the southern eastern corner of the Eastern Mediterranean Sea does not have any distorting effect on the provisional equidistance delimitation line nor qualified to be considered as a relevant circumstance.

Furthermore, the geographical factor of the “marked” disparity in the lengths of both States relevant coasts has to be assessed. It is estimated that the lengths of the relevant coasts of Egypt and Israel are 247 km and 180 km, respectively. Consequently, the ratio between the estimated relevant coasts of Egypt and Israel is about 1.3 to 1 in favor of Egypt. This difference in the coastal lengths between Egypt and Israel may not reflect a “marked” disparity in the lengths of the relevant coasts nor amount to be considered as a relevant circumstance that requires adjusting the provisional equidistance line.

Moreover, the non-geographical factor of State conduct reflected in economic activities in the delimitation area may be assessed to consider whether they have effect on the delimitation of the boundary line.

Case law established that States conduct reflected in economic activities such as oil concessions in the delimitation area cannot constitute solely a relevant circumstance for adjusting the provisional delimitation line unless it corresponds to a “de-facto” boundary line or tacit agreement. The ICJ, *Tunisia v. Libya Case*, confirmed that States conduct reflected in oil concessions has an influential role in maritime delimitation when it evidentially reflects the

existence of a “de facto” or “modus vivendi” boundary line or a tacit agreement between the parties.<sup>393</sup> The ICJ, in the *Nicaragua v. Honduras Case*, observed that “Evidence of a tacit agreement must be compelling”.<sup>394</sup> Moreover, the ITLOS Special Chamber, in the 2017 Ghana/Cote d’Ivoire Case, considered that evidence based solely on oil practices and oil concessions lines “cannot in itself establish the existence of a tacit agreement on a maritime boundary” but “might reflect the existence of a maritime boundary”.<sup>395</sup>

In this regard, Egypt has announced in 2015 an international bid for oil and natural gas in its territorial sea and exclusive economic zone along the anticipated eastern adjacent equidistance boundary line. The Egyptian international bid announcement included an annex map prepared by the Egyptian ministry of Petroleum and mineral resources identifying the location of the blocks offered for concessions.<sup>396</sup> However, Egypt did not claim a de-facto adjacent boundary line with Palestine and Israel.

Similarly, Israel announced, in November 2018, its second offshore bid round for the exploration and production of natural gas reservoirs in five zones located in the southern extent of Israel exclusive economic zone.<sup>397</sup> These zones were previously licensed and inspected by seismic research and limited exploration activities.<sup>398</sup> Currently, Israel is exploiting in the “Shimshon” gas field, discovered in 2012, which is in the vicinity of the anticipated equidistance boundary line between Egypt and Israel. Furthermore, the latest bid included “Zone C” which western

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<sup>393</sup> *Tunisia/Libyan Arab Jamahiriya Case*, note [38], at paras 117-118, Also Tanaka, note [79], 2006, pp. 298-299.

<sup>394</sup> *Nicaragua/Honduras Case*, note [56], at para 253.

<sup>395</sup> International Tribunal on the Law of the Sea “ITLOS”, *Dispute Concerning Delimitation of the Maritime Boundary Between Ghana and Cote Ivoire in the Atlantic Ocean*, Case No. 23, Judgment, 2017, para 215.

<sup>396</sup> Egypt concession in Mediterranean Sea Map (Figure 18).

<sup>397</sup> World Oil, “The Israeli Energy Minister announces Israel’s 2<sup>nd</sup> offshore bid round”, 13 November 2018. Available at <https://www.worldoil.com/news/2018/11/13/the-israeli-energy-minister-announces-israel-s-2nd-offshore-bid-round>, (accessed on 18 November 2018).

<sup>398</sup> Israel new concessions in Mediterranean Sea map (Figure 20).

borders is in line with the anticipated equidistance boundary line.<sup>399</sup> Similarly, Israel did not claim a de-facto adjacent boundary line with Egypt.

It is to be assumed that economic activities and concessions lines carried by Egypt and Israel do not correspond to any “de-facto” or “modus vivendi” boundary line or a tacit agreement on the delimitation between Egypt and Israel. Consequently, economic factors and States practice cannot be accepted as establishing boundary lines nor amount to a relevant circumstance that require adjusting the provisional equidistance line or shifting from the equidistance method.

In conclusion, the provisional adjacent equidistance line constructed in the first stage of the delimitation process between Egypt and Israel meets the requirements of an equitable solution. Thus, the geographical or non-geographical factors assessed in the second stage such as the coast concavity, the disparity in the coastal lengths between both States and their economic activities do not amount to be considered as relevant circumstances. Accordingly, there is no requirement to shift from the equidistance method nor adjust the provisional equidistance line between Egypt and Israel that produces an equitable delimitation solution.

Finally, the “disproportionality” test is to be undertaken in the third stage of the delimitation process. It is estimated that the slight disparity between both States coastal lengths dismisses the existence of “significant disproportionality”.

In sum, the provisional equidistance line to be drawn in the first stage of the delimitation process achieves an equitable solution and it is not necessary to modify or adjust it in the second or third stages.

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<sup>399</sup> World Oil, note 398.

## 2- Maritime boundary delimitation between Egypt and Libya:

The Libyan coast along the Mediterranean Sea extends for about 1770 km from the eastern borders with Egypt to the western borders with Tunisia.<sup>400</sup> Libya is not party to any of the law of the sea conventions but bound by customary international law. It proclaimed a territorial sea act in 1959 and an exclusive economic zone legislation in 2009.<sup>401</sup> Furthermore, Libya defined the extent of its territorial sea limits by 12 n.m. and applies the straight baselines system for measuring the breadth of the territorial sea and that the outer limits of the EEZ.

In accordance with the “three-stage” delimitation methodology, Egypt and Libya should initially agree in the first stage of the delimitation process on the relevant coasts, the delimitation area and the appropriate basepoints for the construction of the provisional equidistance line. The lengths of the relevant coasts of Egypt and Libya are 449 km and 268 km, respectively.<sup>402</sup>

Egypt and Libya have adjacent coasts in the Eastern Mediterranean Sea and the anticipated adjacent equidistance boundary line between both States starts from the “Marsa el Ramla” terminus land point and consist of two segments; a territorial sea boundary and a single exclusive economic zone and continental shelf boundary.

The expected provisional territorial sea boundary line between Egypt and Libya should be delimited in accordance with the delimitation rule identified by article 15 of the UNCLOS. Article 15 of the UNCLOS stipulates that States with adjacent coasts should not, in the absence of a delimitation agreement that determine otherwise or claims of historic title or special circumstances, extend their territorial sea beyond the median line. It is confirmed by case law that article 15 reflects a customary international law rule that is binding on all States irrespective to their status to the law of the sea conventions. Accordingly, the anticipated provisional delimitation line between the territorial seas of Egypt and Libya should not extend the equidistance line that every point of which is equidistant from the nearest relevant basepoints.

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<sup>400</sup> The Egyptian Libyan borders map (Figure 21).

<sup>401</sup> Attard, “Maritime jurisdiction”, 2012, note [284], at p.99.

<sup>402</sup> Francalanci and Scovazzi, note [320], at p. 138.

Similarly, the anticipated provisional delimitation line between both States extended maritime zones should be determined in accordance with the principle of achieving an equitable solution established by articles 74 (1) and 83 (1) of the UNCLOS. In this regard, the provisional single exclusive economic zone and continental shelf boundary line should extend from the endpoint of the territorial sea boundary line to meet with the trilateral point between Egypt, Libya and Greece. It is expected that the provisional equidistance line delimiting the exclusive economic zone and continental shelf between Egypt and Libya may produce an equitable delimitation result to both States by allocating comparable maritime areas.

Consequently, in the second stage of the delimitation process, both States should examine whether there are special or relevant circumstances that require the adjustment of the provisional equidistance line to achieve an equitable delimitation.

The general direction of the Egyptian-Libyan relevant coasts is composed of two different directions. The coast direction starts with an east to west direction from the city of Alamein to “Sidi Barrani” in Egypt then the coast sharply bends by the Gulf of “EL-Salloum” at its end. Then the coast direction extremely changes by directing northwards to form a south-north direction that extends beyond the Egyptian-Libyan borders.<sup>403</sup> Subsequently, the significant change in the general direction of Egyptian-Libyan coast from the east-west direction to the south-north direction forms a slight concave shape in the overall Egyptian-Libyan coastline.

Thus, the slight concavity shape in the overall Egyptian-Libyan relevant coastline is a geographical factor that may amount to be considered as a relevant circumstance that affects outstandingly the construction of the delimitation line when applying the equidistance method. It is expected that the application of the strict equidistant line for the delimitation of maritime areas

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<sup>403</sup> Alaa Edin Elhaweet and Mohamed Fishar, “Assessment of fisheries and marine biodiversity of Sallum Gulf, Egypt”, *International Journal of Environment Science and Engineering (IJESE)*, vol.1, No. 1, 2011, pp.21-43, p.22



within adjacent and concave coasts may cut-off the coastal projection of the State with the concave coast from its extended maritime zones.

Furthermore, the difference between the coastal lengths of both States is a geographical factor that has to be assessed. It is estimated that the lengths of the relevant coasts of Libya and Egypt are 268 km and 449 km, respectively. Consequently, the ratio between the estimated relevant Libyan and the Egyptian coasts is about 1:1.6 to in favor of Egypt. This difference in the coastal lengths between Libya and Egypt may not reflect a “marked” disparity in the lengths of the relevant coasts and would not amount to be considered as a relevant circumstance that requires adjusting the provisional equidistance line.

The provisional adjacent equidistance line drawn in the first stage of the delimitation process between Egypt and Libya produces an equitable solution. Thus, it is not necessary to modify or adjust the provisional equidistance line in the second stage of the delimitation process as the geographical factors presented such as the slight concavity of the coast or the narrow difference between the coastal lengths between Egypt and Libya may not amount to be considered as relevant circumstances affecting the provisional equidistance delimitation line.

It is also anticipated that the “disproportionality” test in the third stage of the delimitation process may dismiss the existence of “significant disproportionality” between the ratios of the maritime areas allocated to both parties and the lengths of their relevant coasts.

Consequently, in light of the equitableness of the provisional equidistance delimitation line resulting from the first stage of the delimitation process it is not necessary to modify or adjust it in the subsequent two stages.

## **Conclusion**

The research paper aims to identify the legal rules and principles governing maritime boundaries delimitation in the Eastern Mediterranean Sea Basin and its application on the delimitation of Egypt's maritime boundaries with opposite and adjacent neighboring States.

The Eastern Mediterranean Sea Basin is one of the sub-basins of the semi-enclosed Mediterranean Sea. It has a special and complex geographical situation due to its relatively confined maritime areas that contain numerous islands and bordered by ten States with competing economic interests in natural resources.

The potential natural gas discoveries in the region motivated basin States to claim jurisdiction and exclusive sovereign rights for exploring and exploiting the natural resources in their exclusive economic zones or continental shelves.

The extension of States jurisdiction over maritime zones with the absence of defined maritime boundaries have generated contesting claims between basin States on overlapping undelimited maritime zones and instigated maritime boundaries disputes. Thus, increased the importance of maritime boundaries delimitation that provides legal certainty to maritime boundaries between basin States that enables them to securely exercise their legal rights over their extended maritime zones.

The Eastern Mediterranean Sea is composed of seventeen potential maritime boundaries. The majority of maritime boundaries in the Eastern Mediterranean Sea are not yet delimited. There are only four boundaries that were delimited by agreements. The first exclusive economic zone boundary delimitation agreement in the basin was concluded, in 2003, between Egypt and Cyprus.

The law of maritime boundaries delimitation can be sourced from the legal rules embodied in the law of the sea conventions and customary international law principles. Moreover, international jurisprudence has contributed to the development of this law. The law of the sea conventions distinguish between different maritime zones and each maritime zone has a separate legal regime. The conventional rules governing the delimitation of maritime zones are binding on all States parties to the convention. Nevertheless, States that are not parties to a convention are not bound to its rules unless they reflect customary international law.

The conventional rules of maritime delimitation are set out in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone “CTS”, the 1958 Geneva Convention on the Continental Shelf “CCS” and the 1982 United Nations Convention on the Law of the Sea “UNCLOS”. The two former conventions encompass rules for the delimitation of the territorial sea and continental shelf respectively while the later convention incorporates rules for the delimitation of the territorial sea, exclusive economic zone and continental shelf.

Egypt, Palestine, Cyprus, Greece, Lebanon and United Kingdom are parties to 1982 UNCLOS. However, Greece, Cyprus and the United Kingdom are States parties to both the 1958 “CCS” and the 1982 UNCLOS. The 1982 UNCLOS has confirmed, in article 311 on the relation between the UNCLOS and other conventions, that the 1982 UNCLOS shall prevail, as between the States parties, over the 1958 Geneva Conventions on the Law of the sea. Israel is the only State that is party to the 1958 “CCS” and not party to the 1982 UNCLOS. Accordingly, Israel is bound to the rules of 1958 “CCS” and customary international law rules. However, Turkey, Syria and Libya are not party to any of the law of the sea conventions but bound to customary international law rules.

It is established by article 15 of the 1982 “UNCLOS” which is almost identical to article 12 of the 1958 “CTS” that the “equidistance/special circumstances” rule is the rule applicable for the delimitation of the territorial sea. Case law has confirmed that rule embodied in article 15 reflects a rule of customary international law for the delimitation of the territorial sea.

However, article 6 of the 1958 “CCS” sets out that “equidistance/special circumstances” rule is the rule applicable for the delimitation of the continental shelf. Nonetheless, case law confirmed that it is not a customary rule but a conventional rule and that the rule of applicable to the delimitation of the continental shelf is the “equitable principles/relevant circumstances” rule.

On the contrary, the identical articles 74 (1) and 83 (1) of the 1982 “UNCLOS” embodies the formula of “agreement/equitable solution” as the general rule for the delimitation of the exclusive economic zone and continental shelf. Subsequently, case law asserted that reaching an equitable delimitation is the aim of any delimitation process and that the “agreement/equitable solution” is the customary rule governing the delimitation of the exclusive economic zone and continental shelf.

However, the ICJ starting from the 1993 *Greenland/Jan Mayen Case* has been consistent in favoring the application of the “equidistance/special circumstances” rule. Case law has asserted in the subsequent cases the similarity between the “equidistance/special circumstances” rule and the “equitable principles/relevant circumstances” rule in aiming to achieve an equitable delimitation.

International jurisprudence has established a uniform delimitation methodology that applies for the delimitation of maritime boundaries. The ICJ, starting from the *Black Sea (Romania v. Ukraine) Case*, has been consistent in applying the “three-stage” methodology for the delimitation of the exclusive economic zone and continental shelf. In the first stage, the Court construct a provisional equidistance delimitation line. Then the court considers in the second stage whether there are factors that require adjusting or shifting the provisional equidistance line to achieve an equitable result. Lastly, in the third stage, the Court undertakes the “disproportionality test” to verify equitableness of the delimitation line.

The concept of “relevant circumstances” is examined in the second stage of the delimitation process. The presence of “relevant circumstances” in the delimitation case may require the adjustment of the provisional equidistance line or shifting from the equidistance method to achieve an equitable delimitation. Geographical factors are the most influential factors that may amount to be considered as relevant circumstances affecting the delimitation process. However, non-geographic factors are commonly used to consolidate delimitation claims founded on geographical bases.

Geographical factors may include the presence of islands, the “marked” disparity between the lengths of relevant coasts, the “cut-off” effect and issues concerning third States.

Islands have the right to generate different maritime zones. However, the effects of islands on maritime delimitation may vary pending on the circumstances of the delimitation case. Islands may have “full” effect, “half” or “partial” effect or “nil” effect on the construction of the delimitation line and in certain situations it should be “enclaved” or “semi-enclaved”.

The presence of islands and its location in the delimitation area is a geographical factor that may amount to be considered as a relevant circumstance that requires adjusting the provisional equidistance line to achieve an equitable delimitation result. In this regard, the “excessive” effect of islands on the delimitation line may be reduced by granting it “half” effect, “partial” effect or “nil” effect. Uninhabited remote islands may be totally discarded from having any effects on the equidistance line, due to their remoteness and distorting influence on the delimitation line. Small islands located on the wrong side of the equidistance line and in the vicinity to the coast of another State may be disqualified from having extended maritime zones to avoid or reduce its distorting cut-off effect to the mainland coasts from their extended maritime zones.

The “marked” disparity in the lengths of relevant coasts of the delimitation parties is also a geographical factor that may be considered as a relevant circumstance that requires adjusting the

provisional equidistance boundary line in favor of the State with the longer relevant coast to achieve an equitable delimitation.

The principle of non “cut-off” is a geographical factor that requires States to ensure while delimiting their continental shelves not to encroach over the natural prolongation of the continental shelf of other States. The “cut-off” effect may occur specifically when the equidistance method is applied to delimit maritime areas between States with adjacent concave coasts. In this regard, the provisional equidistance line may “cut-off” the State with the concave coasts from its extended maritime zones. This “cut-off” effect is a geographical factor that amounts to be considered as a relevant circumstance that requires the adjustment of the provisional equidistance line or shifting from the equidistance method.

Non-geographical factors that may amount to be considered as relevant circumstances in maritime delimitation include economic factors or States conduct in relation to economic activities. Economic factors may include the presence of natural resources such as fishing or hydrocarbons activities in the delimitation area or claiming socio-economic factors. Furthermore, States conduct may be indicated from oil concessions or oil wells. However, a non-geographical factor has only an influential role in maritime delimitation when it is evidential to an existing expressed or compelling tacit agreement between the parties on the delimitation line.

The “disproportionality” test in the third stage of the delimitation process is an “Ex Post Facto” test that aims to examine the equitability of the delimitation result by checking whether there is “significant disproportionality” in the ratios between maritime areas appertaining to each State by delimitation and the lengths of their relevant coasts.

Egypt has one of the longest coastlines on the Eastern Mediterranean Sea Basin of about 1100 km. Its maritime interests in the Mediterranean Sea have considerably developed over the years from having one of the important international maritime shipping routes to exploiting offshore

natural resources such as fishing and hydrocarbons. Egypt is party to the UNCLOS since 1983 and declared an exclusive economic zone in 1990.

Egypt has maritime boundaries with six States in the Eastern Mediterranean Sea Basin. It has delimited only one maritime boundary in the Mediterranean Sea with Cyprus in 2003. Yet, the majority of Egypt's maritime boundaries are undefined. Egypt has two undelimited maritime boundaries with opposite States; Turkey and Greece and three undelimited maritime boundaries with adjacent States; Palestine, Israel and Libya.

Egypt and Turkey have opposite continental coasts that project towards each other, from the west of the Cyprus, creating an undelimited overlapping single exclusive economic zone and continental shelf boundary. Turkey is not party to any of the law of the sea conventions but bound by international customary rules governing maritime boundaries delimitation.

The “three-stage” delimitation methodology is the applicable methodology for the delimitation of the overlapping extended maritime zones between both States. In the first stage of the delimitation process, a provisional median line should be constructed from the continental coasts of both States. It is estimated that the lengths of the relevant coasts are probably convergent. The delimitation area should start eastwards from a trilateral point to be agreed by the Egypt, Turkey and Cyprus. This trilateral agreement should accommodate between both the Turkish position that the longitude 32°16'18" E is the starting point and the end point determined by 2003 Egyptian-Cypriot delimitation agreement. The provisional median line may extend westwards to a trilateral point between Egypt, Turkey and Greece west of the longitude 28° 00' 00" E.

However, in the second stage of the delimitation process, the presence of islands that belongs to Greece in the delimitation area may amount to be considered as a relevant circumstance in the delimitation process. Case law has been consistent in considering the principle of non “cut-off” and in certain situations disqualified islands from having extended maritime zones. In this regard, the Greek island of “Castellorizo”, which “cuts-off” the Turkish coasts from its seaward

projection, may be totally enclaved with a territorial sea and disqualified from having extended maritime zones. However, “Rhodes” and “Karpathos” may be semi-enclaved with territorial seas with exception to their southern coasts which may generate an exclusive economic zone and continental shelf.

Finally, it is expected that the “disproportionality” test in the third stage will endorse the equitableness of the provisional median line produced in the first two stages with the absence of “significant disproportionality” between the ratios of the maritime areas allocated to both States and the lengths of their relevant coasts. In sum, the anticipated provisional median line to be established in the first stage of the delimitation process meets the requirements of an equitable solution and it is not necessary to modify the median line by the second or third stages.

Egypt and Greece have an overlapping undelimited Continental shelf and exclusive economic zone boundary between the Egyptian continental coast and the Greek islands coasts. Both States are parties to the UNCLOS and accordingly the applicable laws governing maritime delimitation are the conventional rules embodied in the UNCLOS and customary international law rules.

In accordance with the “three-stage” delimitation methodology, Egypt and Greece should construct a provisional median line in the first stage of the delimitation process. Greece argues that the delimitation line is the “strict median line” between the Greek islands. However, Egypt may argue that the “agreement/equitable solution” rule embodied in identical articles 74 (1) and 83 (1) of the UNCLOS is the applicable rule for the delimitation of the exclusive economic zone and continental shelf between both States.

In the second stage of the delimitation process, the presence of islands in the delimitation area is a geographical factor that may amount to be considered as a relevant circumstance that requires adjusting the provisional median line to achieve an equitable solution. It is expected that Greece would claim that all the relevant Greek islands have full effect on the delimitation line, similar to continental coasts, and entitled to extended maritime zones. However, Egypt might argue that the



“modified equidistance line” method is the appropriate method for delimitation and that the power of islands to generate extended maritime zones affecting delimitation is pending on its location, size and population.

“Castellorizo” should be totally enclaved with a territorial sea and disqualified from having extended maritime zones due to its remoteness and location in the vicinity of the Turkish Coast. However, “Rhodes” may be entitled to generate extended maritime zones since it meets the criteria of the size and population but its impact on the median delimitation line should not extend the “half effect”. Nevertheless, “Karpathos” effect on the delimitation line should be limited by only having a “partial effect”. Though, “Kriti” may have significant “half effect” on the delimitation line due to its large surface area and big population.

Furthermore, the estimated lengths of the relevant coasts of Greece and Egypt are 75 km and 335.75 km, respectively. Consequently, the ratio between the estimated lengths of the relevant Greek and Egyptian coastlines is about 1 to 4.4 in favor of Egypt. The difference in the lengths of the relevant coasts of both States is also a geographical factor that may amount to be considered as a relevant circumstance that requires adjusting the provisional median line in favor of Egypt to achieve an equitable delimitation.

It is anticipated that the “disproportionality” test in the third stage will assert the absence of “significant disproportionality” between the ratios of the estimated maritime areas allocated to both States and the estimated lengths of their relevant coasts. In sum, the provisional median line resulting from the first stage may not achieve the equitable solution and requires adjusting the median line in the second stage by considering the relevant circumstances in order to achieve an equitable delimitation.

Egypt and Palestine have an undelimited adjacent boundary in the Eastern Mediterranean Sea. Both States are parties to the UNCLOS and accordingly the applicable laws governing maritime

delimitation are the conventional rules embodied in the UNCLOS and customary international law rules.

In accordance with the “three-stage” delimitation methodology, Egypt and Palestine should construct a provisional equidistance line in the first stage of the delimitation process. The estimated provisional equidistance boundary line is comprised of a territorial sea boundary and a subsequent single exclusive economic zone and continental shelf boundary.

In the second stage of the delimitation process, the slight concavity in the coast of Gaza does not amount to be considered as a relevant circumstance affecting the equitability of the provisional equidistance line. Furthermore, it is estimated that the lengths of the relevant coasts of Palestine and Egypt are 42 km and 159 km, respectively. Consequently, the ratio between the estimated lengths of the relevant coasts of both States is about 1 to 3.7 in favor of Egypt. This ratio does not constitute a “marked” disparity in the coastal lengths nor amounts the disparity between the coastal lengths as a relevant circumstance in the delimitation process.

It is estimated that the geographical factors assessed in the second stage do not amount to be considered as relevant circumstances and have no effect on the provisional equidistance line. Consequently, the provisional equidistance line resulting from the first two stages of the delimitation process achieves an equitable delimitation.

Finally, the “disproportionality” test in the third stage may discard the presence of any “significant disproportionality” between the ratio of the maritime areas allocated to both parties and the ratio of the lengths of their relevant coasts. In sum, the provisional equidistance line established in the first stage of the delimitation process provides an equitable delimitation line and it is not required to modify or adjust it in the second or the third stages of the delimitation process.

Egypt and Israel have a shared undelimited overlapping single exclusive economic zone and continental shelf boundary generated from the seaward projection of both states adjacent relevant coasts. Israel is not party to the UNCLOS, and accordingly the applicable law governing the maritime delimitation between Egypt and Israel is customary international law rules.

In accordance with the “three-stage” delimitation methodology, Egypt and Israel should initially construct a provisional equidistance line in the first stage of the delimitation process. The anticipated provisional equidistance delimitation line may start from the trilateral equidistant point between Egypt, Palestine and Israel and extends to meet with the anticipated equidistant trilateral point between Egypt, Cyprus and Israel.

In second stage of the delimitation process, it is estimated that the geographical factor of the slight concavity of the south eastern corner of the Eastern Mediterranean Sea does not have any distorting effects on the provisional equidistance line. Furthermore, it is estimated that the lengths of the relevant coasts of Egypt and Israel are 247 km and 180 km, respectively. Consequently, the ratio between the estimated lengths of both States relevant coasts is about 1.3 to 1 in favor of Egypt. This ratio does not constitute a “marked” disparity in the lengths of the relevant coasts nor amounts to a relevant circumstance that requires adjusting the provisional equidistance line.

Moreover, it is anticipated that States conduct and economic activities carried by Egypt and Israel in the delimitation area such as oil concessions do not constitute a relevant circumstance for adjusting the provisional equidistance delimitation line. As, both States did not claim a de-facto boundary line or a tacit delimitation agreement and consequently the concessions lines did not correspond to any established de-facto or tacitly agreed boundary line.

Therefore, the geographical and non-geographical factors assessed in the second stage do not amount to be considered as relevant circumstances that require adjusting the provisional equidistance boundary line.

Finally, it is estimated that the “disproportionality” will refute the existence of “significant disproportionality” between the ratios of the maritime areas allocated to both parties and the lengths of their relevant coasts. In sum, the provisional equidistance line resulting from the first stage of the delimitation process meets the requirements of an equitable solution and it is not necessary to adjust it in the second and third stages.

Egypt and Libya have adjacent coasts in the Eastern Mediterranean Sea and share an undelimited overlapping boundary line that encompasses a territorial sea boundary and a single exclusive economic zone and continental shelf boundary line. Libya is not party to any of the law of the sea conventions and accordingly the applicable law governing maritime delimitation between both States is customary international law rules.

In accordance with the “three-stage” delimitation methodology, Egypt and Libya should initially agree in the first stage on the construction of the provisional equidistance line. The anticipated provisional equidistance line should extend from the land terminus boundary point to meet the anticipated equidistant trilateral point between Egypt, Libya and Greece.

In the second stage of the delimitation process, the slight concavity in the Egyptian-Libyan coastline is a geographical factor that may affect the delimitation outcome. It is expected that applying the equidistance delimitation method may cut-off the parts of Egypt’s concave coast from its seaward coastal projection to extended maritime zones. Furthermore, it is estimated that the lengths of the relevant coasts of Libya and Egypt are 268 km and 449 km, respectively. Consequently, the ratio between the estimated lengths of both States relevant coasts is about 1:1.6 in favor of Egypt. This ratio does not establish a “marked” disparity in the lengths of the relevant coasts nor amounts the difference in the coastal lengths as a relevant circumstance that requires adjusting the provisional equidistance line.

It is also anticipated that the “disproportionality” test in the third stage will assert the absence of “significant disproportionality” between the ratios of the maritime areas allocated to both parties and the lengths of their relevant coasts. In sum, the provisional equidistance delimitation line constructed in the first stage produces an equitable delimitation result by allocating comparable maritime areas to both States and it is not necessary to adjust the delimitation line by the second and third stages.

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## ANNEXES

### **Tables:**

Table 1: Hydrocarbon developments in the Eastern Mediterranean Sea Basin <sup>404</sup>

<b>Gas-field</b>	<b>Probable reserves (bcm)</b>	<b>Discovery date</b>	<b>Status</b>
Tamar-Israel	280	2009	Producing
Leviathan-Israel	620	2010	Pursuing gas sales
Aphrodite- Cyprus	128	2011	Pursuing gas sales
Zohr- Egypt	845	2015	Being developed

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<sup>404</sup> Hydrocarbon developments in the eastern Mediterranean. Available at <http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources>.

Table 2: Status to 1958 CTS & CSC

State	1958 Convention on the Territorial Sea and Contiguous Zone (CTS) Ratification/Accession	1958 Convention on the Continental Shelf (CCS) Ratification/Accession (a)
LIBYA	-	-
EGYPT	-	-
PALESTINE	-	-
ISRAEL	6 Sep 1961	6 Sep 1961
LEBANON	-	(signed 29 May 1958)
SYRIA	-	-
TURKEY	-	-
GREECE	-	6 Nov 1972 (a)
CYPRUS	-	11 Apr 1974 (a)
UNITED KINGDOM	14 Mar 1960	11 May 1964

Table 3: Status to 1982 UNCLOS

State	1982 United Nations Convention on the Law of the Sea (UNCLOS)
LIBYA	(signed on 3 December 1984) without ratification
EGYPT	26 Aug 1983
PALESTINE	2 Jan 2015 (a)
ISRAEL	-
LEBANON	5 Jan 1995
SYRIA	-
TURKEY	-
GREECE	21 Jul 1995
CYPRUS	12 Dec 1988
UNITED KINGDOM	25 Jul 1997 (a)



Table 4: TS legislations & Declarations

State	Territorial Sea
LIBYA	11 n.m., Act No 2 of 18 February 1959 concerning the delimitation of Libyan Territorial waters Committee Decision No 104 of 2005 concerning straight baselines
EGYPT	12 n.m., Decree concerning the territorial waters of 15 January 1951, amended by Decree of 17 February 1958. Presidential Decree No. 27 (1990) concerning the baselines of the maritime areas
PALESTINE	12 n.m., Declaration regarding the maritime boundaries on 1 February 2015, low water mark
ISRAEL	12 n.m., Territorial waters law no 5750-1990 of 5 February 1990, low-water mark.
LEBANON	12 n.m., Decree No 138 concerning the territorial waters and sea areas 7 September 1993,
SYRIA	12 n.m., Law No 28 dated 19 November 2003, Definition of territorial sea limits
TURKEY	6 n.m., Act No 2674 of 20 May 1982 on the territorial sea
GREECE	6 n.m., Law no 230 of 17 September 1936
CYPRUS	12 n.m., The Consolidation of Territorial Sea Laws No 54 of 1964 and 95 (1) 2014, TS United nations on 3 May 1993
UNITED KINGDOM	3 n.m., 1960 Agreement on the independence of Cyprus

Table 5: EEZ & CS & FZ proclamations & Declarations

State	EEZ& CS & FZ proclamations & Declarations
LIBYA	Committee Decision No 260 of 2009 concerning the declaration of the exclusive economic zone of Libya, Committee Decision No. 105 of 2005 concerning the delimitation of the Libyan Fisheries protection zone.
EGYPT	Declaration concerning the exercise by Egypt of its rights in the exclusive economic zone on 26 August 1983  Presidential Decision No. 1051 of the 1958 concerning the Continental Shelf
PALESTINE	Declaration regarding the maritime boundaries on 1 February 2015, low water mark
ISRAEL	2011 geographical coordinates of the northern limits of Israel EEZ deposited to the United Nations  Submarine Areas Law of 10 February 1953
LEBANON	Decree no 6433 Delineation of the boundaries of the EEZ of Lebanon 1 October 2011.
SYRIA	EEZ Law 28 of 19 November 2003
TURKEY	Decree No 86/1124 of 17 December 1986 establishing EEZ in the Black Sea only
GREECE	Law No 2289/1995 on “prospecting, exploration and exploitation of hydrocarbons and other provisions, as amended by law No 4001/2011
CYPRUS	The EEZ and C.S laws 2004 and 2014

**Figures:**

Figure 1: Mediterranean Sea Basin Map<sup>405</sup>



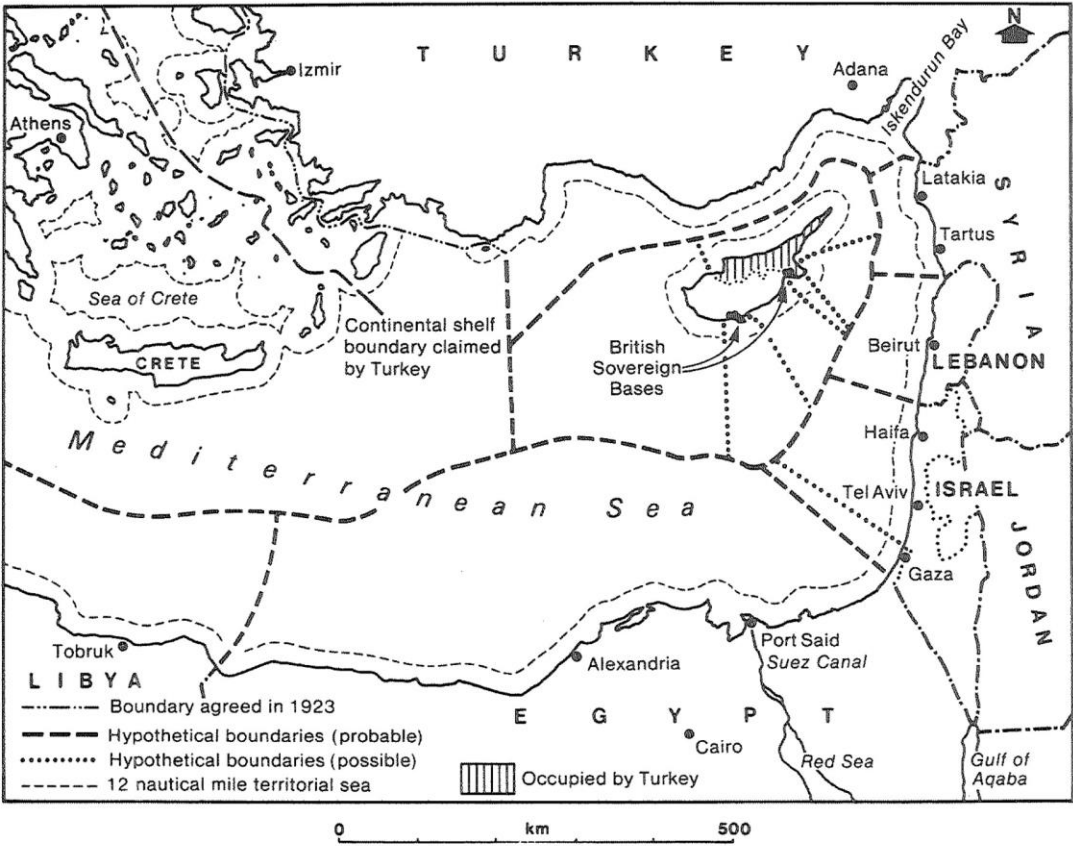
<sup>405</sup> World Atlas, <https://www.worldatlas.com/aatlas/infopage/medsea.htm>

Figure 2: Eastern Mediterranean Sea Basin map<sup>406</sup>



<sup>406</sup> Kolovrat, <http://www.kolovrat.org/map-of-the-mediterranean/eastern-mediterranean-countries-detail-map-of-map-of-the-mediterranean/>

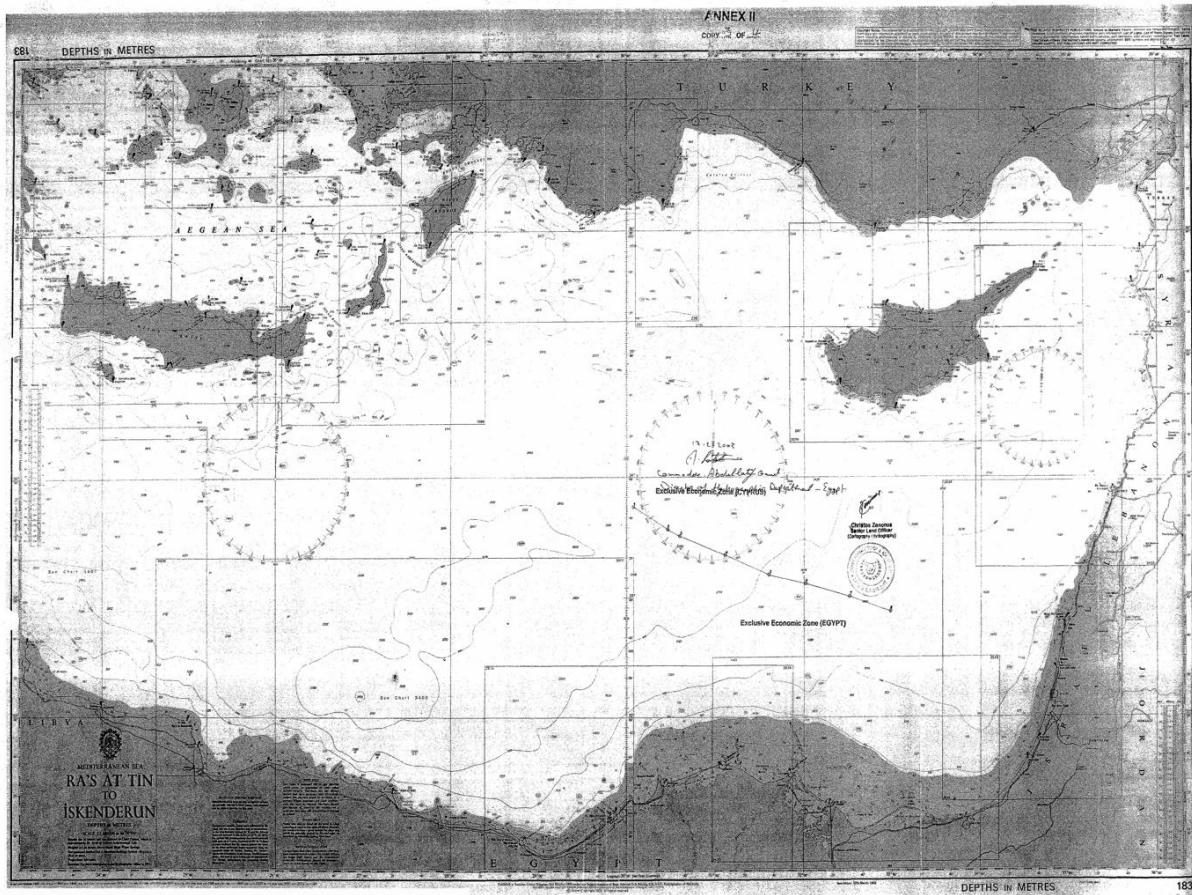
Figure 3: Maritime boundaries in the Eastern Mediterranean Sea map<sup>407</sup>



Maritime Boundaries in the Eastern Mediterranean

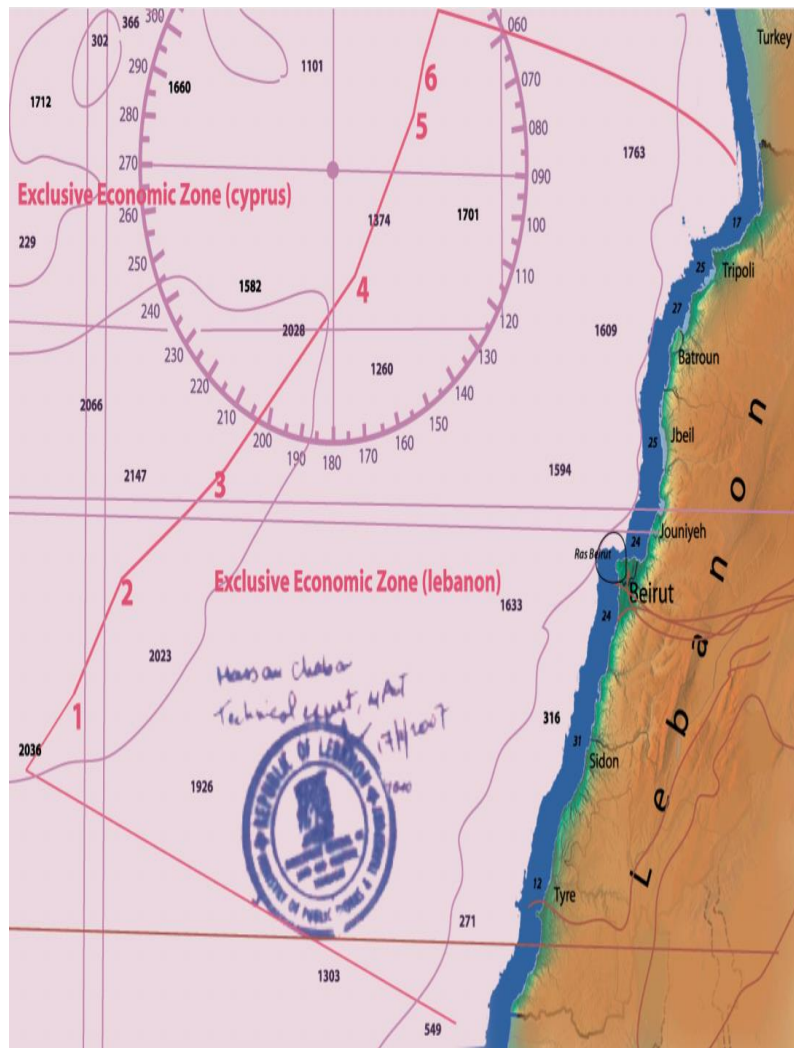
<sup>407</sup> Gerald Blake, “The 1982 UN Convention on the Law of the Sea and the Eastern Mediterranean”, *Geography Research forum*, No. 8 (2016), pp. 99-112, p. 102

Figure 4: Egypt-Cyprus EEZ delimitation agreement map <sup>408</sup>



<sup>408</sup> Colson, 2005, p.3923.

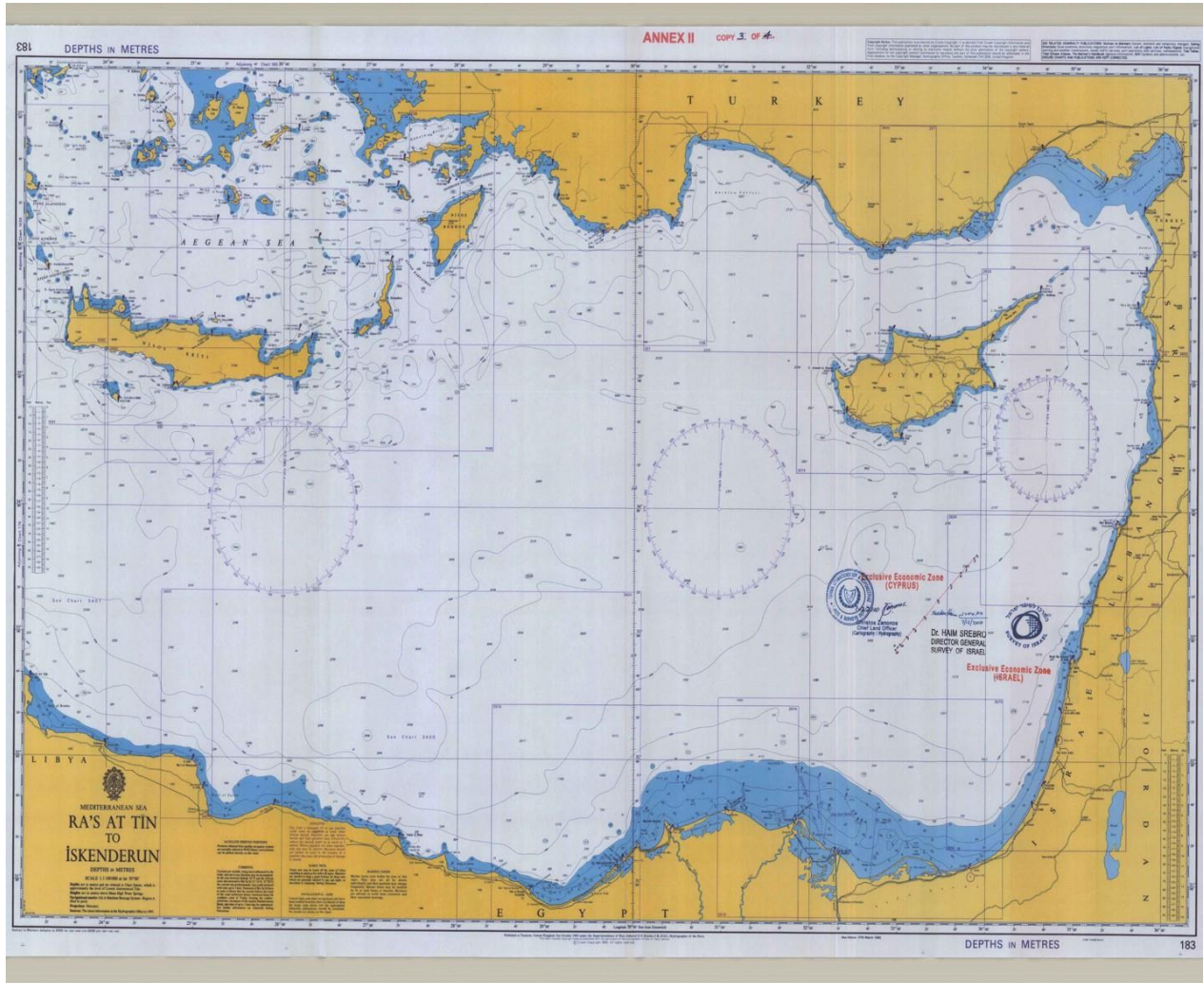
Figure5: Cyprus-Lebanon EEZ Delimitation Agreement map<sup>409</sup>



<sup>409</sup> <https://lebanesestudies.com/wp-content/uploads/2013/10/maritime.pdf>



Figure 6: Cyprus-Israel EEZ delimitation agreement map <sup>410</sup>

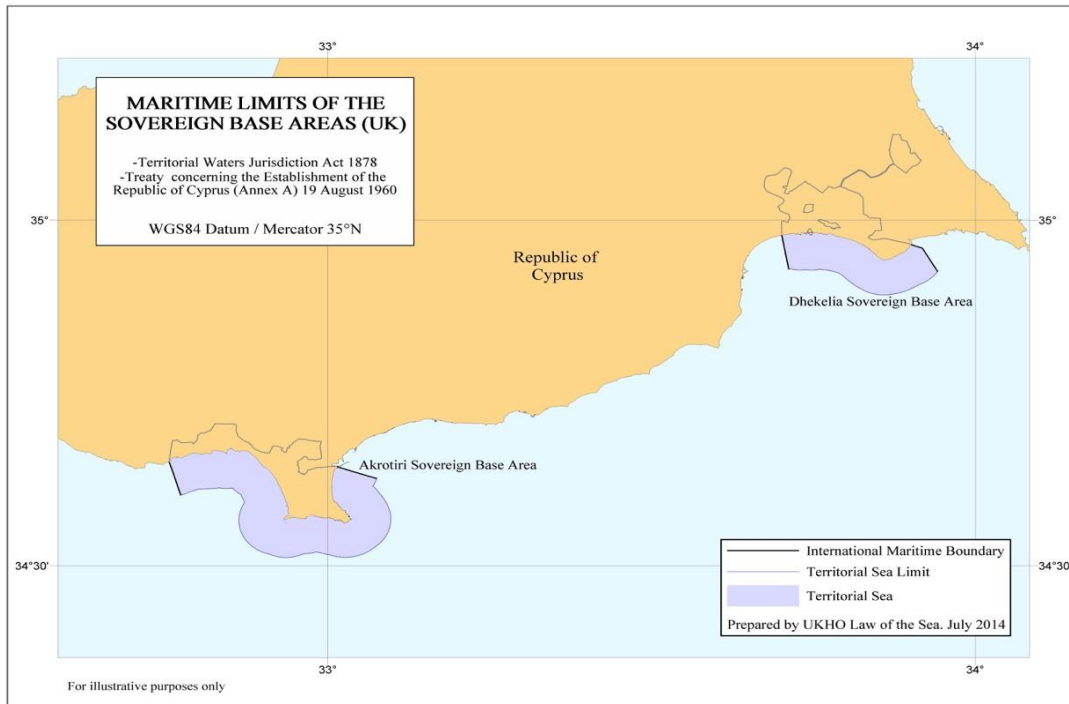


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[http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/cyp\\_isr\\_eez\\_2010annex.jpg](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/cyp_isr_eez_2010annex.jpg)

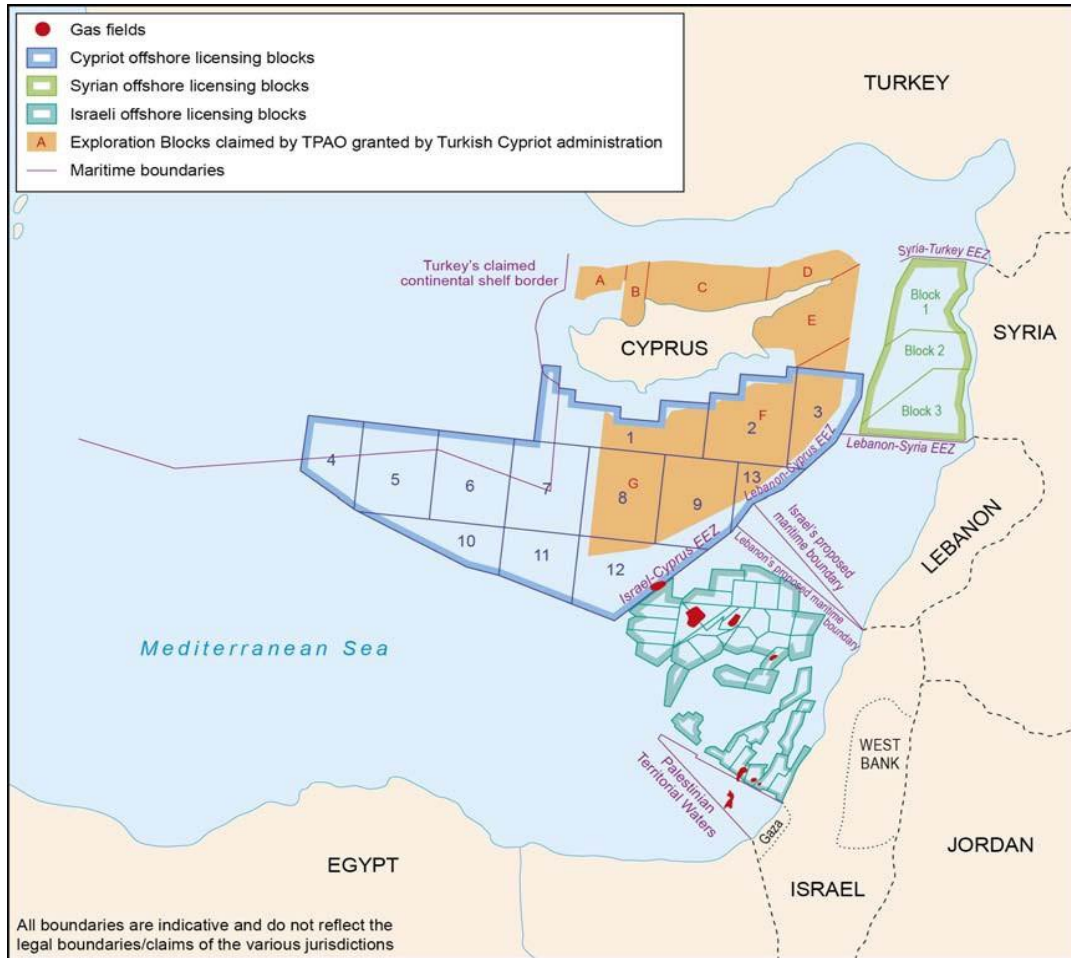


Figure 7: Maritime Limits of the UK sovereign base areas map <sup>411</sup>



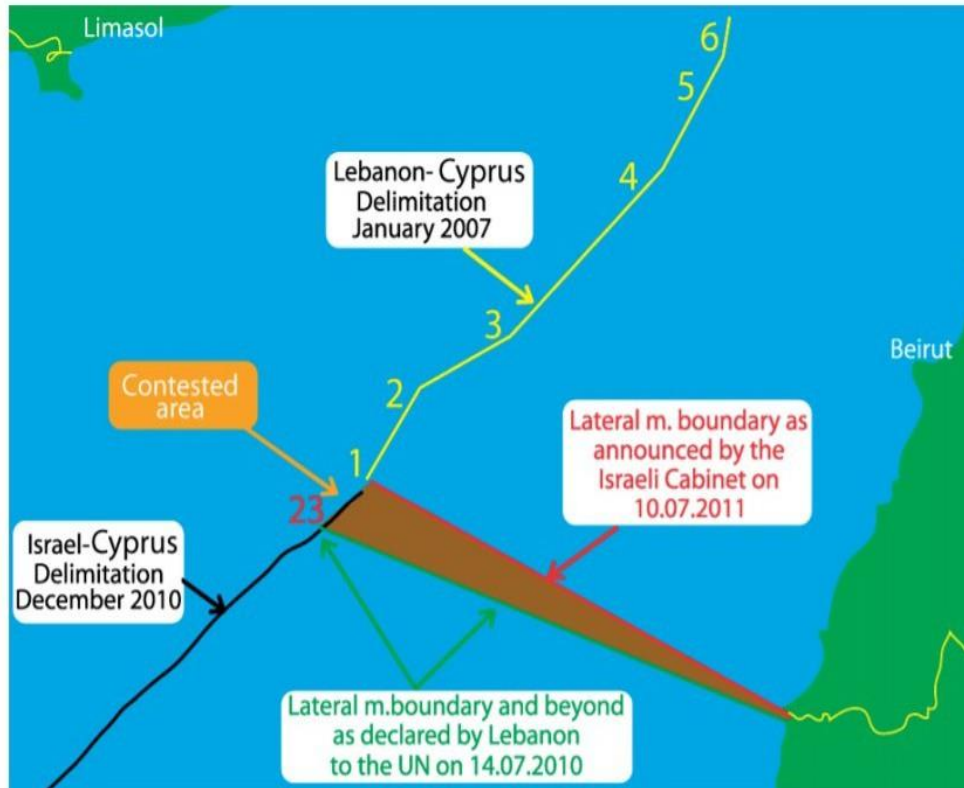
<sup>411</sup> United Kingdom Government, UK Hydrographic Office, 21 July 2015, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460979/Cyprus\\_Sovereign\\_Base\\_Areas.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/460979/Cyprus_Sovereign_Base_Areas.pdf)

Figure 8: Disputed maritime areas between Turkey and Cyprus & Greece map<sup>412</sup>



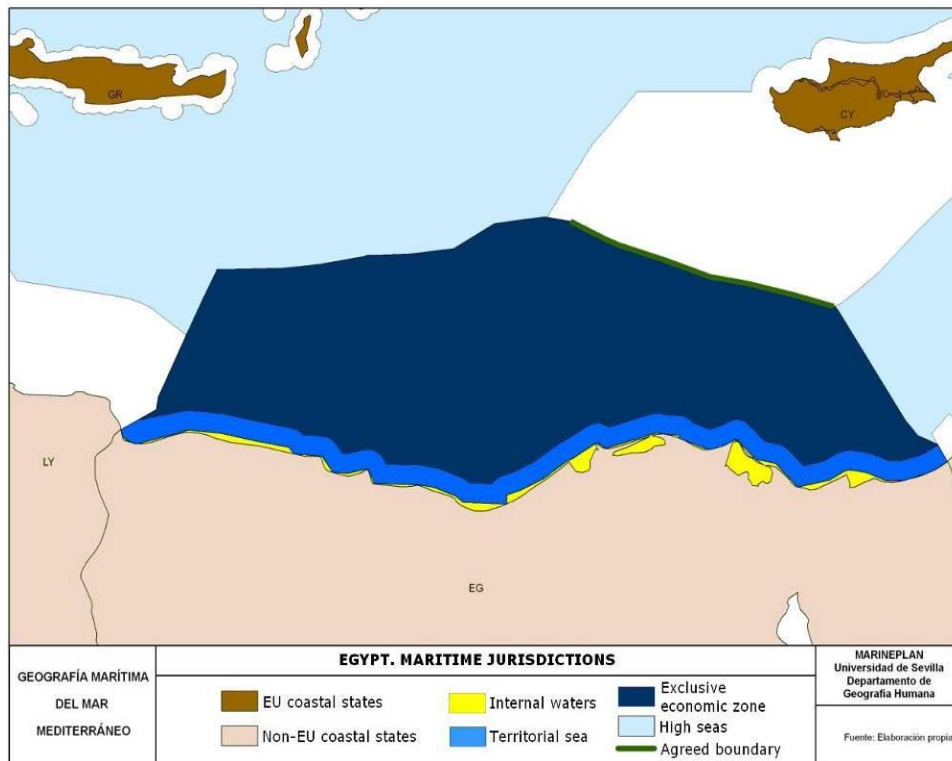
<sup>412</sup> Source: Oxford Institute for Energy Studies.

Figure 9: Disputed maritime areas between Lebanon and Israel map <sup>413</sup>



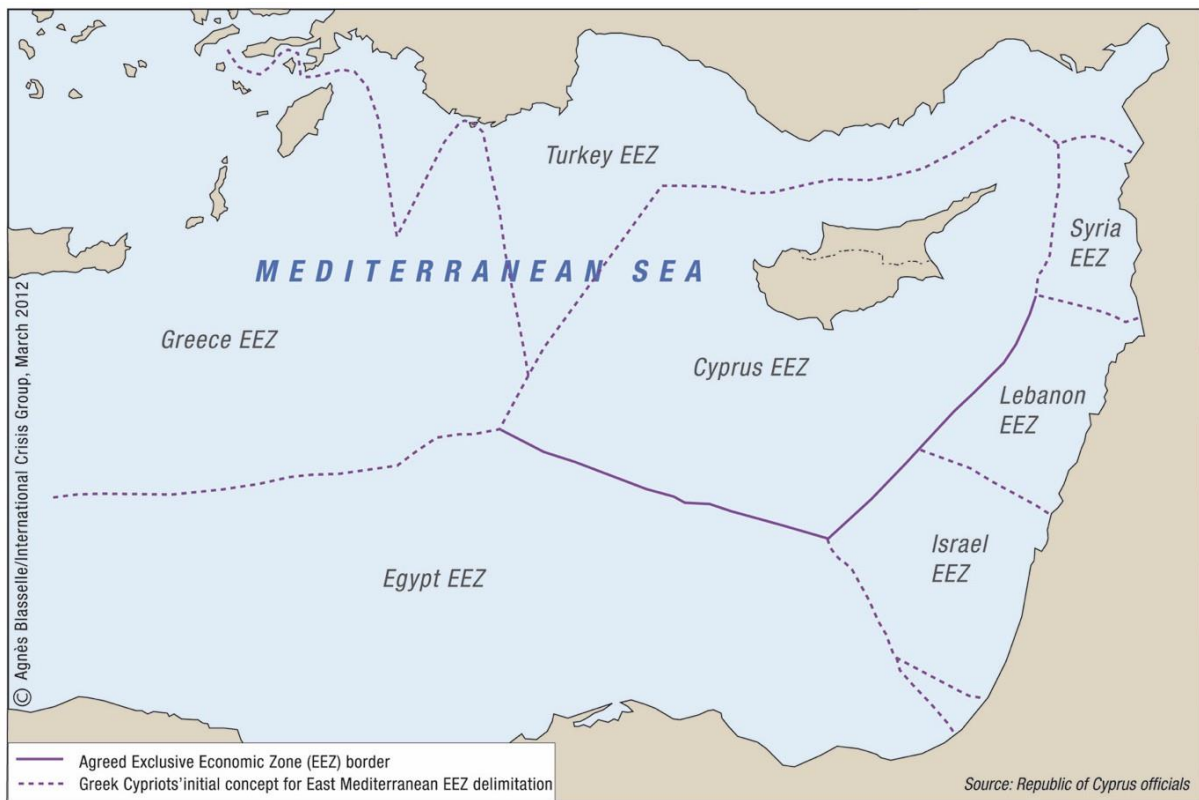
<sup>413</sup> Foundation Orient Mont-Pelerin, “The Legal Framework of Lebanon’s Maritime Boundaries”, 2012. Available at <http://orientmontpelerin.ch/the-legal-framework-of-lebanons-maritime-boundaries-the-exclusive-economic-zone-and-offshore-hydrocarbon-resources/>

Figure 10: Egypt maritime boundaries map <sup>414</sup>



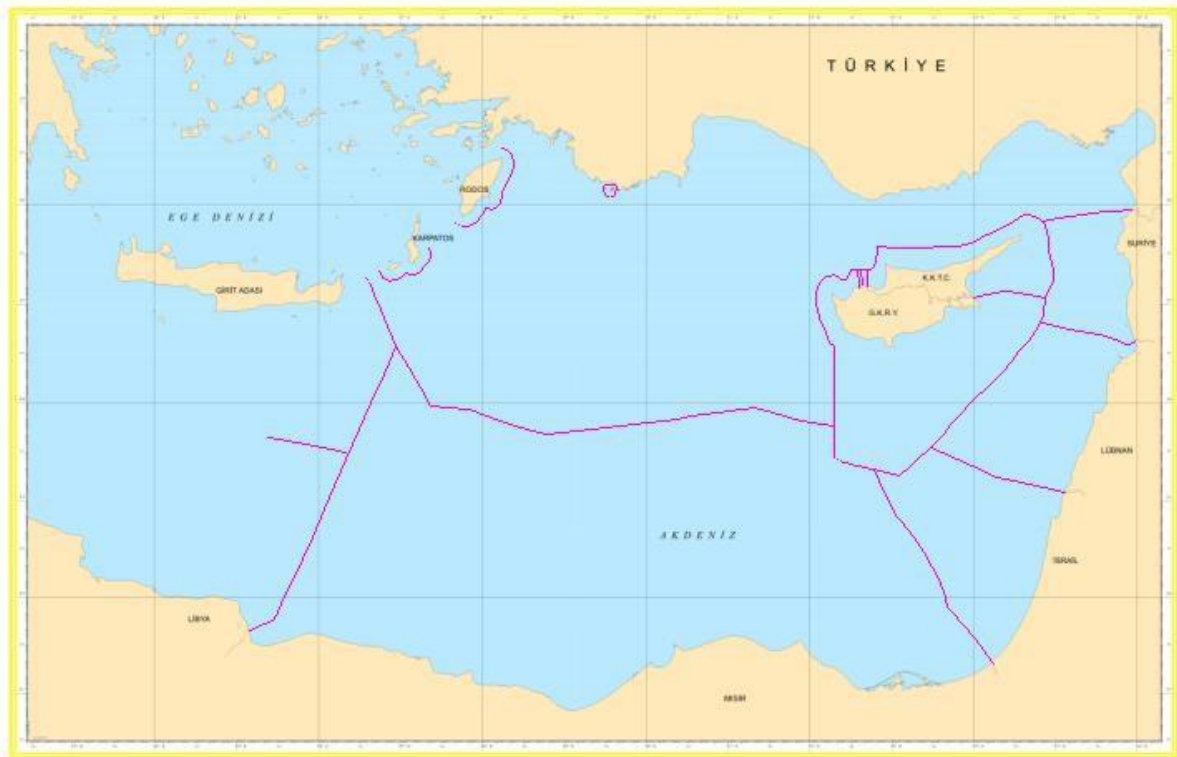
<sup>414</sup> European Parliament Study, “Jurisdictional Waters in the Mediterranean Seas and Black Seas, 2010, <https://www.unimc.it/maremap/it/temi/risorse-biologiche/studi-del-parlamento-europeo/JurisdictionalWatersintheMediterraneanandBlackSeas.pdf>, p.61

Figure 11: Greece-Cyprus approach on eastern Mediterranean Sea delimitation map <sup>415</sup>



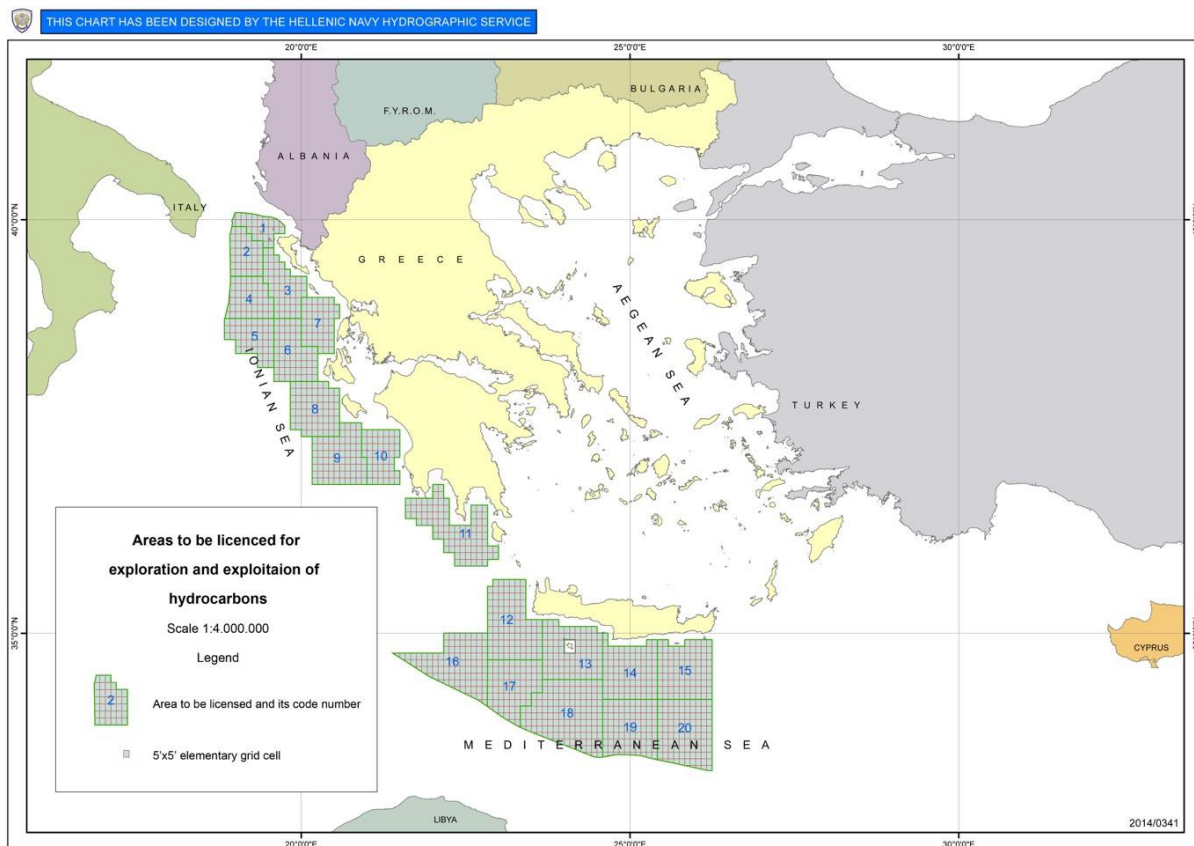
<sup>415</sup> Turkish Policy Quarterly, <http://turkishpolicy.com/article/815/can-resolving-cyprus-hold-the-key-to-regional-energy-cooperation>

Figure 12: Turkish approach on eastern Mediterranean Sea delimitation map<sup>416</sup>



<sup>416</sup> Potential Maps of Eastern Mediterranean EEZ, Turkish Marine Research Foundation, <http://tudav.org/en/our-fields/sea-areas/exclusive-economic-zone/potential-maps-of-eastern-mediterranean-exclusive-economic-zone/>

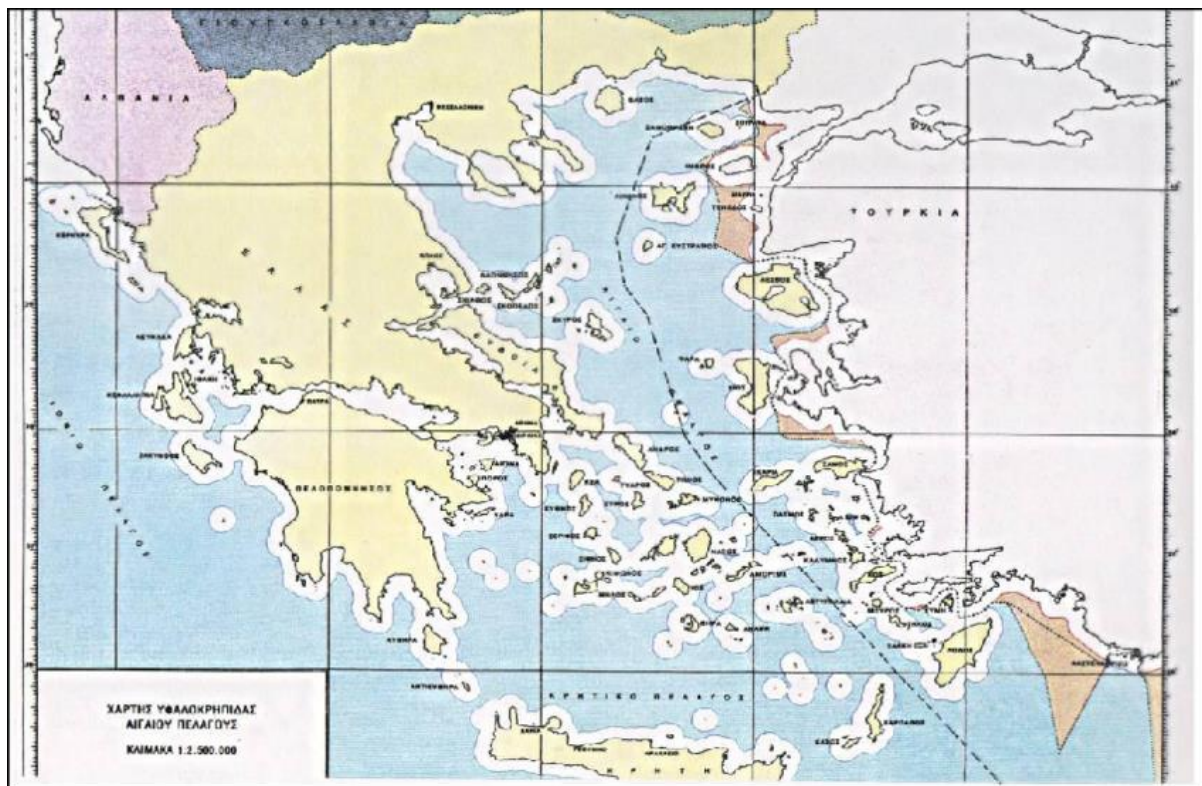
Figure 13: Greece 2015 2<sup>nd</sup> bid for exploration and exploitation of hydrocarbons map <sup>417</sup>



<sup>417</sup> Greece Ministry of Environment and Energy, <http://www.ypeka.gr/Default.aspx?tabid=875&locale=en-US>



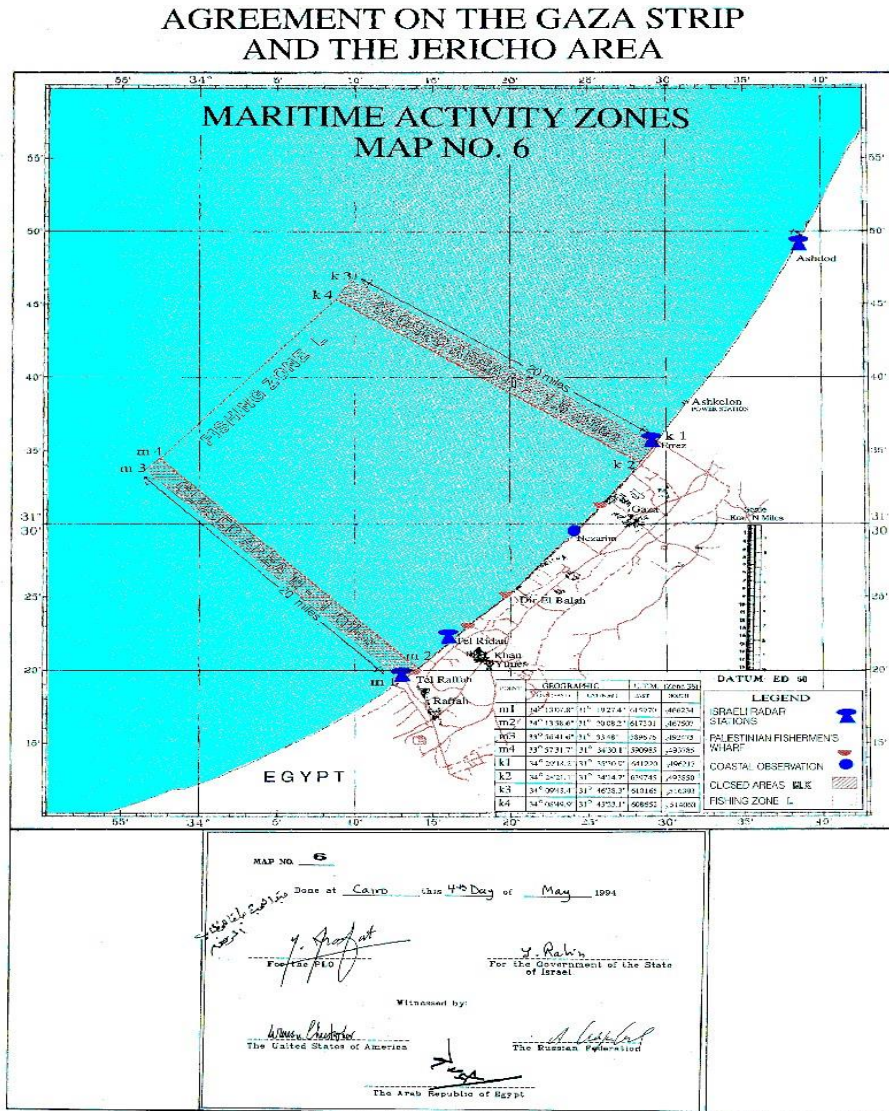
Figure 14: Turkey and Greece anticipated median line in the Aegean Sea map <sup>418</sup>



<sup>418</sup> Sioussiouras, Petros. and Chrysochou, Georgios. “The Aegean Dispute in the context of Contemporary Judicial Decisions on Maritime Delimitation”, *Laws* 2014, No. 3, pp.12-49, p. 36. Available at <http://www.mdpi.com/journal/laws/>, p. 16

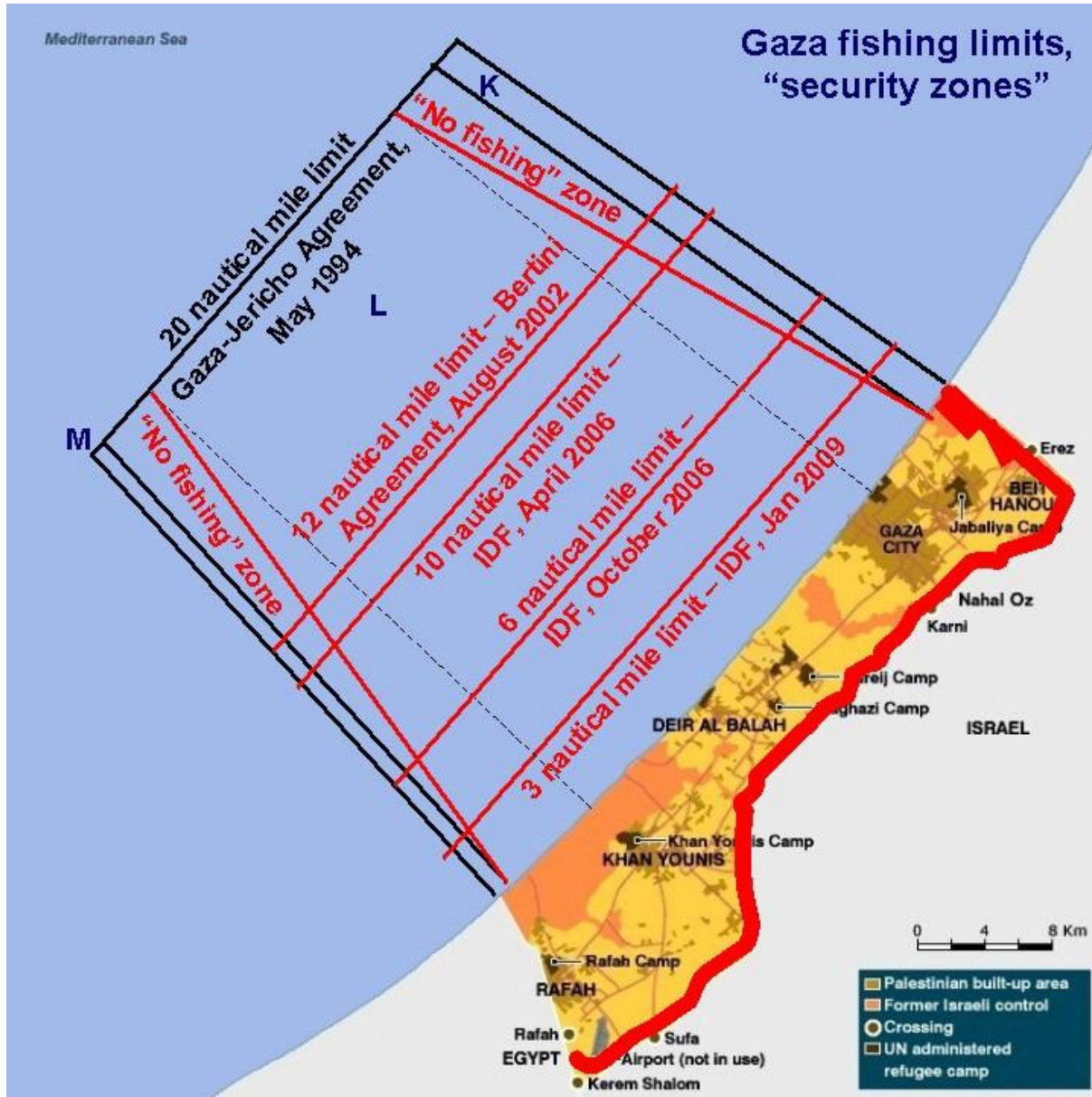


Figure 15: 1994 Agreement on the Gaza Strip and the Jericho Area map <sup>419</sup>



<sup>419</sup> Israeli Palestinian Peace Process, <https://www.jewishvirtuallibrary.org/agreement-on-the-gaza-strip-and-the-jericho-area>

Figure 16: Israeli blockades to Palestine Activity zones map <sup>420</sup>



<sup>420</sup> Sea siege, International Committee for Breaking the Siege of Gaza, <http://en.breakgazasiege.org/page/22>

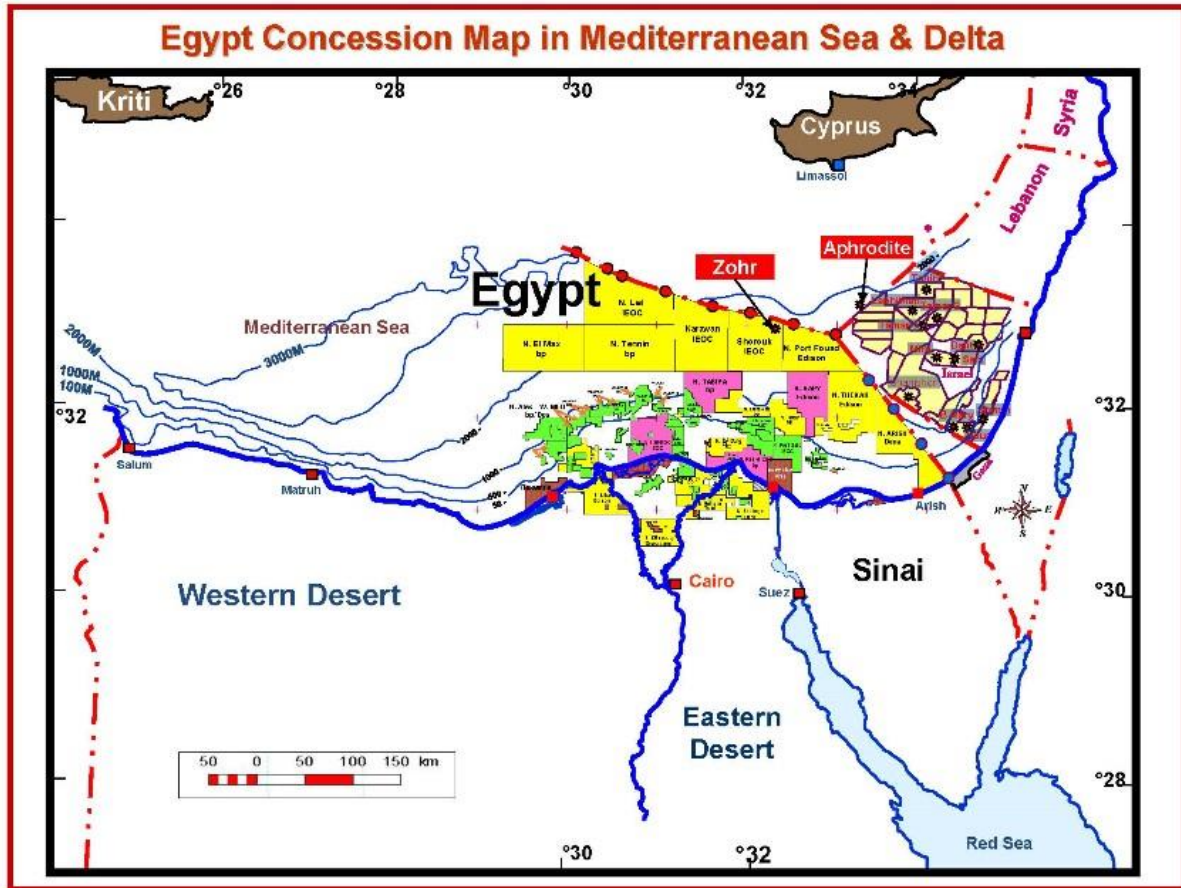


Figure 17: Palestinian maritime claims off the Gaza strip map <sup>421</sup>



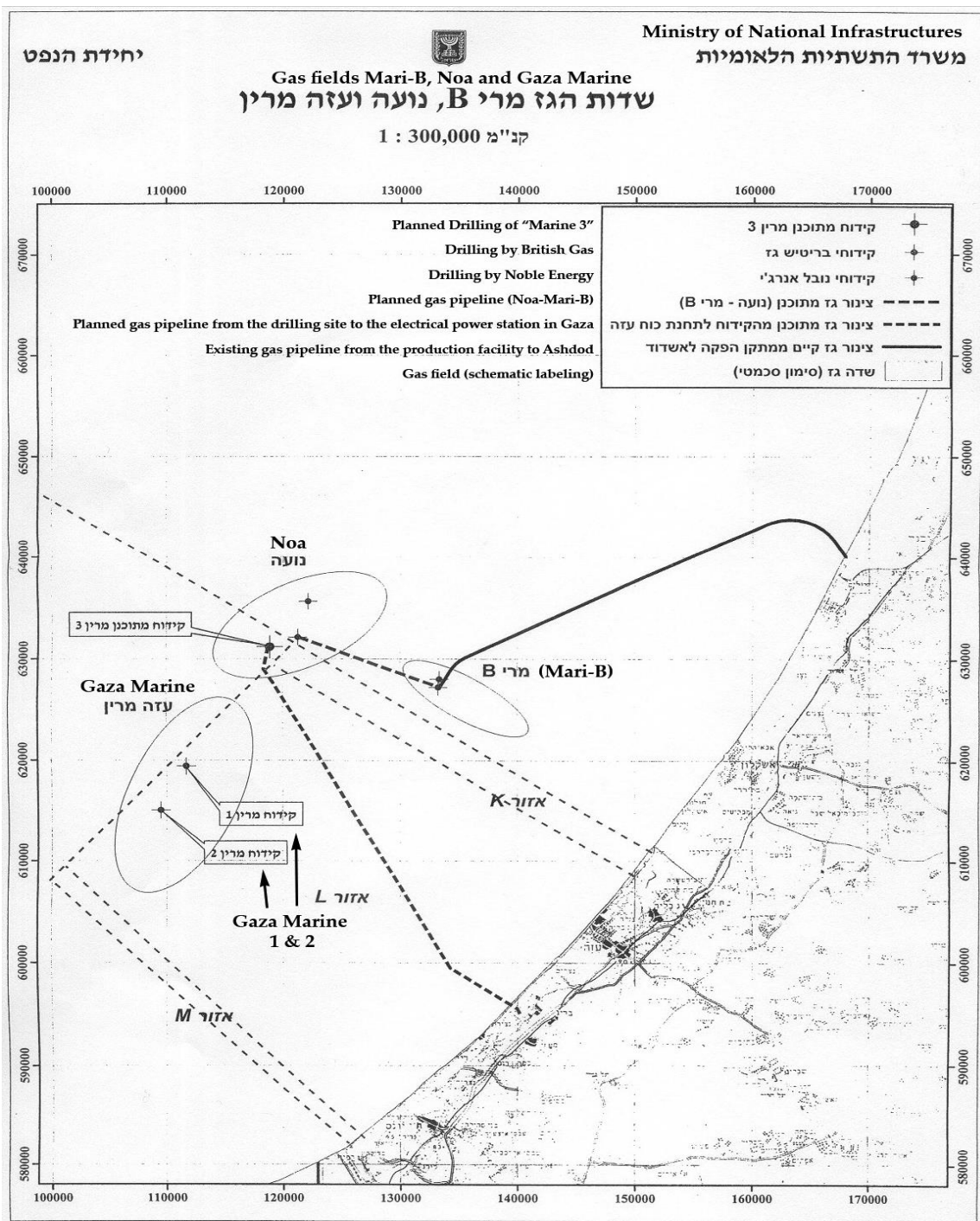
<sup>421</sup> Palestinian gas: The black box, Middle east eye, <https://www.middleeasteye.net/news/palestinian-gas-black-box-1617770683>

Figure 18: Egypt 2016 concessions in the Mediterranean Sea map<sup>422</sup>



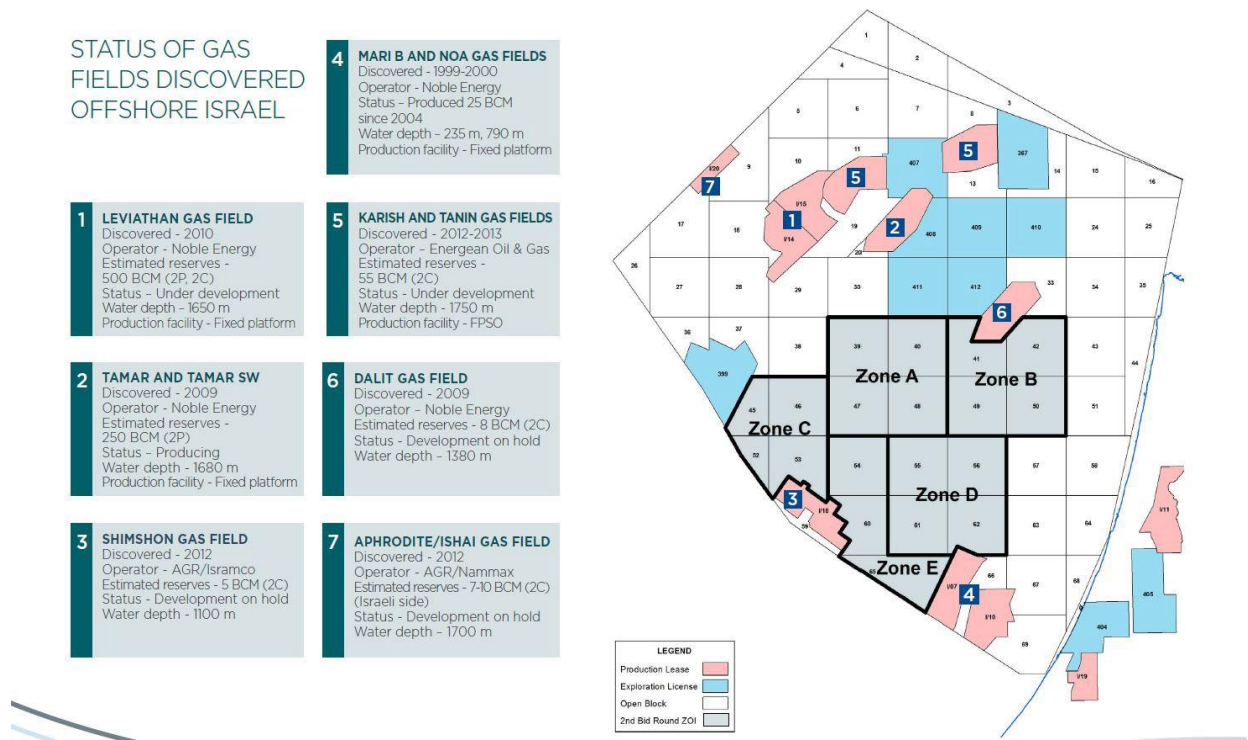
<sup>422</sup> Egypt concession map in the Mediterranean Sea, State Information Service, <http://www.sis.gov.eg/Story/101572?lang=en-us>

Figure 19: Israel Gas fields Mari-B, Noa and the Gaza Marine map<sup>423</sup>



<sup>423</sup> James Stocker, "The Politics of Oil and Gas in the Eastern Mediterranean", *Middle East Journal*, vol. 66, No. 4 (2012), pp. 579- 597, p. 591.

Figure 20: Israel 2018 concessions in the Eastern Mediterranean Sea map<sup>424</sup>



<sup>424</sup> World Oil, “The Israeli Energy Minister announces Israel’s 2<sup>nd</sup> offshore bid round”, 13 November 2018, accessed at <https://www.worldoil.com/news/2018/11/13/the-israeli-energy-minister-announces-israel-s-2nd-offshore-bid-round>, on 18 November 2018.



Figure 21: Egyptian -Libyan Maritime boundaries map <sup>425</sup>



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<sup>425</sup> Google Earth, Egypt and Libya Maritime Boundaries.

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