EASTERN MEDITERRANEAN
TURKEY’S LEGAL AND POLITICAL VIEWS

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1. Maritime Boundary Delimitation
2. Legal Framework
3. EU’s Biased Approach
4. Political Framework - Turkey’s Position
5. Turkey-Libya MBD
Turkey-Bulgaria
4 December 1997
Delimitation Agreement
(CS-EEZ-TS)

Turkey-Ukraine
30 May 1994
Delimitation Agreement
(CS-EEZ-TS)

Turkey-Georgia
14 July 1997
Delimitation Protocol
(CS-EEZ-TS)

All 3 confirmed by Russian Federation on 17 September 1992 officially by a VN

2 Littoral States
Number of interrelated outstanding issues.
6 nm territorial sea limit.
No CS delimitation
No maritime boundary agreement.
Moratorium
(1976 Bern Agreement)
Exploratory Talks
(2002-2016)
Generally CS/EEZ delimitation issues remain dormant until coastal states compete for off-shore resources (fisheries-oil-gas) in the same maritime region.
Discovered Natural Gas Fields

How did it all start?
Unilateral actions of GCs before the settlement of Cyprus Issue violating Turkey’s and TCs rights

2003 Delimitation Agreement with Egypt
- violated Turkey’s CS rights
- CYPRUS Issue violated TCs rights

2007 Delimitation Agreement with Lebanon
- CYPRUS Issue violated TCs rights

2010 Delimitation Agreement with Israel
- CYPRUS Issue violated TCs rights
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**How did it all start?**

**BILATERAL MBD AGREEMENT SHOULD NOT VIOLATE 3RD PARTIES RIGHTS**

A MARITIME BOUNDARY DELIMITATION AGREEMENT BETWEEN THE TWO STATES SHOULD NOT VIOLATE THE RIGHTS AND INTERESTS OF A 3RD STATE

The delimitation line in the agreement should be ended before it reaches the area of overlapping potential claim of a third state.

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**How did it all start?**

**BILATERAL MBD AGREEMENT SHOULD NOT VIOLATE 3RD PARTIES RIGHTS**

2003 Egypt-GC EEZ Agreement VIOLATED Turkey’s rights

2010 Israel-GC EEZ Agreement VIOLATED Lebanon’s rights
How did it all start?

2006-2007
Launched 2D-3D Seismic Surveys

2007
Draw off-shore blocks
Announced first licensing round

19 September 2011
Started off-shore drilling

Turkey & TRNC objected all of these unilateral actions and asked GCs to cease their off-shore activities until the comprehensive settlement.
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Turkey & TRNC reaction

**TURKEY-TRNC**

CS Delimitation Agreement
21 September 2011

TRNC

Draw off-shore blocks - Licenced TP
22 September 2011

5 February 2020

- off-shore activities of TCs & GCs be ceased simultaneously until the settlement

- OR both sides should determine jointly the future course of off-shore oil/gas activities, including revenue sharing and funding of a possible settlement.
R/V Piri Reis conducted 2D Seismic Survey
27 Sept.-1 Nov 2011.

Turkey & TRNC reaction

LICENCE AREAS OF TURKEY, TRNC & GCA
TURKEY’s & TRNC’s OFF-SHORE ACTIVITIES

**MEDITERRANEAN SEA**

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Yavuz
18 January 2020

Fatih

Oruç Reis

**MEDITERRANEAN SEA**

Greek Cypriot EEZ/CS Claim

**MEDITERRANEAN SEA**

Greek Cypriot EEZ/CS Claim
Greek/GC CS-EEZ Claim

Turkey’s CS/EEZ
Overlapping CS/EEZ Claims

Legal Framework for MBD and the arguments of the Parties
• **ALL ISLANDS** REGARDLESS OF THEIR GEOGRAPHICAL POSITION AND WHETHER THEY SUSTAIN HUMAN HABITATION OR NOT **SHOULD GENERATE FULL MARITIME ZONES** *(CONTINENTAL SHELF AND EXCLUSIVE ECONOMIC ZONE)*

• **MEDIAN LINE SHOULD BE THE ONLY METHOD FOR THE CS-EEZ DELIMITATION**
DELIMITATION AND ENTITLEMENT ARE NOT THE SAME
(Jurisprudence ICJ and state practice)

THE PRINCIPLE OF EQUITY – EQUITABLE SOLUTION IS THE RULE
(UNCLOS Articles 74/83)

MEDIAN LINE IS NOT THE METHOD FOR CS/EEZ DELIMITATION
(Only for the territorial sea)

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.

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

3. Pending agreement as provided for in paragraph 1, the States
concerned, in a spirit of understanding and cooperation, shall make
every effort to enter into provisional arrangements of a
practical nature and, during this transitional period, not to
jeopardize or hamper the reaching of the final agreement. Such
arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned,
questions relating to the delimitation of the exclusive economic zone
shall be determined in accordance with the provisions of that
agreement.
WHAT ARE THE FACTORS TO ASSESS WHETHER A MARITIME DELIMITATION LINE IS EQUITABLE OR NOT?

**GEOGRAPHICAL CIRCUMSTANCES**
- Regional Geography (including general characteristics and particular features of the region - ocean, enclosed, semi enclosed sea etc.)
- Configuration of the Coasts (including adjacency and oppositeness, direction, comparative lengths, concave or convex shape)
- Basepoints (including presence of ports, roadsteads, bays, river mouths, low-tide elevations, reefs)
- The presence of islands and rocks (including their size and position in the context of general geographic configuration)

**NON-GEOGRAPHIC CIRCUMSTANCES**
- Geological and geomorphological factors
- Economic factors (Hydrocarbon resources, fisheries)
- Navigation
- Socio-economic and demographic factors
- Defence and security
- Environment
- Historical rights
- Presence of Third States

**OTHER FACTORS AFFECTING DELIMITATION**
- Proportionality
- Non-encroachment
- Proximity

There has been a sustained trend in international jurisprudence towards awarding islands a reduced or no effect in maritime boundary delimitation.
Cases - 1977-78 UK-France

Partial Effect

Enclave

CASES - 1985 Libya-Malta

Reduced Effect
State Practice – 1971 Tunisia-Italy Agreement

State Practice – 1969 Iran-Qatar Agreement

State Practice – 1988 USSR Sweden Agreement

State Practice – 1973 Canada-Denmark (Greenland)

State Practice – 1978 Papua New Guinea and Australia

Australian Islands as close as few miles to Papua New Guinea lying on the “wrong side”

SOLUTION

1978 Torres Strait Treaty
**State Practice – 1978 Papua New Guinea and Australia**

- TS and CS boundary established
- Territorial sea limit fixed for 3NM
- Islands lying on the wrong side encalved
- Agreed on joint fisheries management
- Established a Joint Protection Zone

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**Treatment of Islands in Maritime Boundary Delimitation**

**CONCLUSION**

There is no automaticity in claiming that islands generate full maritime jurisdiction areas.

Islands are ignored or given limited effect in maritime boundary delimitation if their location distorts equitable delimitation or if there are other special / relevant circumstances.
UNEQUITABLE CS/EEZ CLAIMS OF GREECE & GREEK CYPRIOOTS BASED ON THE ASSUMPTION THAT ALL ISLANDS GET FULL EFFECT IN MARITIME BOUNDARY DELIMITATION

Equidistant Line Between Mainlands Turkey & Egypt

Coastal Lenghts:
- TURKEY: 1792 km
- EGYPT: 1062 km (Total)
- TURKEY: 969 km
- EGYPT: 850 km (West of Cyprus)
EU’s BIASED APPROACH

...intended drilling activities within the exclusive economic zone of Cyprus

...Turkey's continued illegal actions in the Eastern Mediterranean and the Aegean Sea......

...Turkey's current illegal drilling activities in the Eastern Mediterranean.................

.........Turkey must respect the sovereignty of all EU Member States over their territorial sea and airspace as well as all their sovereign rights, including inter alia the right to explore and exploit natural resources,

.........restrictive measures in response to Turkey's unauthorised drilling activities in the Eastern Mediterranean

NOT A SINGLE REFERENCE TO THE TCS RIGHTS OVER THE OFF-SHORE RESOURCES
How does the EU let maximalist national maritime claims of its members as its own?

Is this biassed approach compatible with Int. Law & EU aquis?

- **Can EU qualify Turkey’s off-shore activities illegal under international law?**
  - **NO** especially in the absence of final agreed boundaries.

- **Does EU have any competence in delimiting maritime boundaries? NO**

  EU Court of Justice @EUCourtPress · 31 Jan
  
  #ECJ: the Court is not competent to decide on the border issue between Slovenia and Croatia – they must work together to find a definitive judicial solution curia.europa.eu/jcms/jcms/Jo2_...
Is it fair for the EU to take the boundary claim of one side and try to impose it to the other?

NO

What is the EU position vis-a-vis overlapping maritime jurisdiction claims between its members?

Neutrality
Turkey is ready to launch maritime boundary delimitation talks with all the neighbouring countries except the Greek Cypriots.

Delimitation in the west of the Island should be effected after the comprehensive settlement of the Cyprus issue (Federal, Confederal or 2 state solution).

TCs’ equal rights as co-owners of the Island should be guaranteed.

TCs’ 13 July 2019 cooperation proposal is on the table and a good basis for a solution.

**TC’s Cooperation Proposal 13 July 2019**

**Fundamental Principles**
- Inherent & equal rights over the off-shore resources of the whole island as the co-owners of the island
- Simultaneous monetary benefit sharing
- Joint decision making
- Solution will not prejudice legal and political positions
- No licensing & activity in overlapping areas.

**Joint Committee**
- Under UN auspices & facilitation – EU as observer
- (2 reps + consensus + upon request of each side) + 2 independent experts
- Contractual rights of the oil companies shall be protected

**Agree on a revenue sharing percentage on all licence areas**
- Joint Decision on all future activities

**Joint Hydrocarbon Trust Fund**
- TP to cease its activities on overlapping TC & GC licence areas unless agreed otherwise
TP should continue its survey and drilling activities in Turkey’s continental shelf.

TP should continue its survey and drilling activities in the TRNC licenced areas unless the Turkish Cypriots’ equal rights over the off-shore resources are guaranteed.
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF TURKEY
AND
THE GOVERNMENT OF NATIONAL ACCORD-STATE OF LIBYA
ON DELIMITATION OF THE MARITIME
JURISDICTION AREAS IN THE
MEDITERRANEAN

ON BEHALF OF THE GOVERNMENT
OF THE REPUBLIC OF TURKEY
SIGNATURE
NAME: Murat CAVSOĞLU
TITLE: Minister of Foreign Affairs

ON BEHALF OF THE GOVERNMENT
OF NATIONAL ACCORD-STATE OF LIBYA
SIGNATURE
NAME: Mohamed Tahir SIYYALA
TITLE: Minister of Foreign Affairs

5 February 2020

ANNEX 1

5 February 2020
Turkey’s CS/EEZ in the Eastern Mediterranean

SIGNIFICANCE OF THE MoU

(1) Safeguards not only Turkey’s but also Libya’s rights and interests in the Eastern Mediterranean
SIGNIFICANCE OF THE MoU

(1) Safeguards not only Turkey’s but also Libya’s rights and interests in the Eastern Mediterranean

LIBYA’s CS/EEZ ACCORDING TO GREECE

62,523.25 KM²
18,228.86 NM²
SIGNIFICANCE OF THE MoU

LIBYA’s CS/EEZ CLAIM

101,606.67 KM²
29,623.77 NM²

(2) The second delimitation agreement of Turkey in the Eastern Mediterranean
SIGNIFICANCE OF THE MoU

(3) MoU reflects the LEGAL arguments of Turkey & Libya

- Islands do not automatically generate CS/EEZ (entitlement vs. delimitation)
- Principle of equity / just and equitable delimitation
- Coastal lengths facing the area shall be taken into account
- Coastal projection – CS of Turkey cannot be cut-off

SIGNIFICANCE OF THE MoU

(4) MoU defines the western boundaries of Turkey’s maritime jurisdiction areas in the Eastern Mediterranean
SIGNIFICANCE OF THE MoU

(5) MoU is a strong response to the political – economical initiatives attempting to isolate and encircle Turkey in the Eastern Mediterranean.

- Trilateral mechanisms formed by Greek Cypriot/Greek duo with countries in the region.

SIGNIFICANCE OF THE MoU

(6) MoU may prompt remaining countries in the region to review their agreements made with GCA and/or their respective legal arguments.
POSSIBLE MBD SCENARIOS

- Overlapping Claims
- Agree to Disagree
- Bilateral MBD Agreements
- Joint Management
- Joint Development
- Third Party Solutions

Thank You