Delimited TS, CS & EEZ Boundaries of Turkey in the Black Sea

6 Coastal States – Enclosed Sea - 12 nm territorial sea breadth
2 Coastal States
Number of interwined outstanding issues
6 nm territorial sea limit
No CS delimitation
No maritime boundary agreement
Moratorium on off-shore activities (1976 Bern Agreement)
Exploratory talks (2002-2016)

Multiple coastal states 6-12 nm TS limit Semi Enclosed Sea Overlapping EEZ-CS Claims Cyprus — Middle East Issues Energy Flashpoint
**EASTERN MEDITERRANEAN**

**Greek CS/EEZ Claim**

![Map of Eastern Mediterranean showing Greek CS/EEZ Claim](image)

08/12/2019
 Çağatay Ençişev  

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**EASTERN MEDITERRANEAN**

**Turkey’s CS/EEZ**

![Map of Eastern Mediterranean showing Turkey’s CS/EEZ](image)

08/12/2019
 Çağatay Ençişev
Generally CS/EEZ delimitation issues remain dormant until coastal states compete for off-shore resources (fisheries-oil-gas) in the same maritime region.

1976 Aegean Continental Shelf Crisis

**Assessment of Undiscovered Oil and Gas Resources of the Levant Basin Province, Eastern Mediterranean**

The U.S. Geological Survey estimated a mean of 1.7 million barrels of recoverable oil and a mean of 1.32 trillion cubic feet of recoverable gas in the Levant Basin Province using a geology-based assessment methodology.

**HOW DID IT ALL START?**

Unilateral actions of GCs
EASTERN MEDITERRANEAN

Greek Cypriots & Turkish Cypriots
co-founders of the RoC &
co-owners of the Island
Both have equal rights over the
off-shore resources of the Island

GCs cannot and should not engage in
unilateral MBD and off-shore activities
before the settlement of the Cyprus Issue

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MBD AGREEMENTS

2003 Delimitation Agreement with Egypt
violated Turkey’s CS rights

2007 Delimitation Agreement with Lebanon

2010 Delimitation Agreement with Israel

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A BILATRAL MARITIME BOUNDARY DELIMITATION AGREEMENT 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.

EASTERN MEDITERRANEAN

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
EASTERN MEDITERRANEAN
GCs Unilateral Actions

2006-2007
Launched 2D-3D Seismic Surveys

2007
Draw off-shore blocks
Announced first licencing 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.

Turkey & TRNC reaction

Turkey-TRNC
CS Delimitation Agreement
21 September 2011

TRNC
Draw off-shore blocks - Licenced TP
22 September 2011

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Turkey & TRNC reaction

R/V Piri Reis conducted 2D Seismic Survey 27 Sept.-1 Nov 2011.

TRNC COOPERATION PROPOSAL
24 SEPTEMBER 2011

- 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.

TRNC PROPOSAL 2012
EASTERN MEDITERRANEAN

Turkey – Libya
MOU on Delimitation of Maritime Jurisdiction Areas
27 November 2019

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Turkey- Libya MBD MOU - CONTENT

Preamble
Reference to UN Charter - Just and Equitable Delimitation
Article 1
Coordinates of CS/ EEZ boundaries
Annex 1 (Boundary Map) and Annex 2 (Map of Base Points) Reference
Article 2
Annexes are integral to the MoU
Article 3
Registration with the UN
Article 4
Revision and review through diplomatic channels - mutual understanding
Cooperation on straddling natural resources
Notification/ consultation prior to delimitation with other states
Article 5

Entry into force - 3 Languages

08/12/2019

ON BEHALF OF THE GOVERNMENT
OF THE REPUBLIC OF TURKEY

SIGNATURE
NAME : Mehmet ÇAVUŞOĞLU
TITLE : Minister of Foreign Affairs

ON BEHALF OF THE GOVERNMENT
OF NATIONAL ACCORD STATE OF LIBYA

SIGNATURE
NAME : Mohamed Taher SIYALA
TITLE : Minister of Foreign Affairs
SIGNIFICANCE OF THE MOU

(1) Turkey’s second MBD Agreement in the Eastern Mediterranean

08/12/2019

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SIGNIFICANCE OF THE MOU

(2) MOU defines the western EEZ/CS boundaries of Turkey in the Eastern Mediterranean

08/12/2019

Çağatay Erciyes
SIGNIFICANCE OF THE MOU

(3) MOU protects the CS rights of both Turkey & Libya

Greek Claim
(Full effect to all Islands)
(3) MOU protects the CS rights of both Turkey & Libya

LIBYA'S CS/EEZ ACCORDING TO GREEK CLAIM

08/12/2019
Çağatay Eroğlu

(2) LIBYA'S CS/EEZ CLAIM

08/12/2019

+ 36.083 km²
11.394 nm²
More CS/EEZ area
For Libya

101.606,67 km²
29.623,77 NM²

62.523,25 km²
18.228,86 NM²

09.12.2019
(4) MOU reflects the legal views of Turkey & Libya on MBD

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

(5) Political response to the initiatives aiming at isolating Turkey in the Eastern Mediterranean

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

How to settle Overlapping Maritime Claims? What does International Law say?

What are the legal means of maritime boundary delimitation?

(UN Charter – Article 33)
- Negotiation
- Enquiry
- Mediation
- Conciliation
- Arbitration.
- Judicial Settlement

Joint Development may be devised in the absence of agreed boundaries.
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.

A number factors may be taken into account. In bilatereal negotiations, there is no limit to the factors which States may take into account.

As for the Courts, not all factors may be taken into consideration.

Courts tend to take into consideration factors or circumstances which they have a direct bearing or directly relevant to the delimitation.
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 opposition, 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 ✔
• Proximity ✔
• Non-encroachment ✔

The Role of Islands in Maritime Boundary Delimitation
**EASTERN MEDITERRANEAN**

**Treatment of Islands in Maritime Boundary Delimitation**

**Article 121**

**Regime of islands**

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.
Some examples of jurisprudence and state practice where islands have received a reduced effect or been partially or wholly enclaved or even completely ignored.
CASES - 1985 Libya-Malta

CASES – 2007 Nicaragua–Honduras
Cases – 2012 Nicaragua-Colombia

State Practice – 1971 Tunisia-Italy Agreement
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

EASTERN MEDITERRANEAN

Treatment of Islands in Maritime Boundary Delimitation

According to international law, as supported by these examples, 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.

Based on international law, Turkey has made its position clear since 2004 and registered it in the UN.

Turkey is of the legal opinion that the Island of Cyprus in the west and the Greek Islands in the area including Castellorizo cannot generate full EEZ/CS under international law as they distort the equitable delimitation.
UNEQUITABLE CS/EEZ CLAIMS OF GREECE & GREEK CYPRIOIS BASED ON THE ASSUMPTION THAT ALL ISLANDS GET FULL EFFECT IN MARITIME BOUNDARY DELIMITATION

Is it equitable for the Island of Meis to create EEZ/CS 4000 times bigger than its size

Coastal Lengths:
- TURKEY: 1792 km
- EGYPT: 1062 km (Total)
- TURKEY: 969 km
- EGYPT: 850 km (West of Cyprus)
We express grave concern over Turkey’s announced intention to carry out drilling activities within the exclusive economic zone of Cyprus... illegal action.....

EU Statement - 4 May 2019

Turkish Drilling in Cypriot-Claimed Waters
.....offshore drilling operations in an area claimed by the Republic of Cyprus as its EEZ.....

US Statement - 5 May 2019
EU’s BIASED POSITION

Does EU has any competence in delimiting maritime boundaries? **NO**

Can EU qualify Turkey’s off-shore activities illegal under international law? **NO**

Can EU 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**
The European Union stands in full solidarity with Greece and Cyprus regarding recent actions by Turkey in the Eastern Mediterranean, including the Aegean Sea. Turkey needs to respect the sovereignty and the sovereign rights of all EU Member States, as stressed repeatedly by the European Council and in Council conclusions, most recently in June 2019.

The bilateral “Memorandum of Understanding” between Turkey and Libya of 27 November 2019 on maritime delimitation has not been made public. Further clarifications are needed on its content. We expect the text to be communicated to the European Union without delay.

It is imperative that the international law of the sea, the principle of good neighbourly relations and the sovereignty and sovereign rights over the maritime zones of all neighbouring coastal states, including those generated by their islands, need to be respected. All members of the international community must abide by these principles and should refrain from any actions undermining regional stability and security.
EU’s BIASED POSITION

Legally questionable & curious statement. (1) Reference to “the maritime zones generated by islands” is very much out of legal context. EEAS is not the @CTI_ICJ to decide on that. (2) The EU has no depository function to "expect without delay" the Turkey-Libya MOU on MBD.

08/12/2019 Çağatay Erciyes

TURKEY’S POSITION

Maritime claims of EU members, violating the legitimate rights of 3rd countries cannot be portrayed as the external borders of the EU. That’s indeed the gross violation of international law. Turkey is determined to continue to protect it own & Turkish Cypriots’ CS/EEZ rights.

Final maritime boundaries can only be determined through agreements (not violating 3rd parties’ possible boundaries) or through litigation. Overlapping maritime claims prevail in the absence of a settlement.

08/12/2019 Çağatay Erciyes
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 NOW.

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

TP will continue its survey and drilling activities in Turkey’s continental shelf.

TP will continue its survey and drilling activities in the TRNC licenced areas unless the Turkish Cypriots’ equal rights over the off-shore resources are guaranteed.
**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 co-servant (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.**

**Third Party Solutions**

- TP to cease its activities on overlapping TC & GC licence areas unless agreed otherwise.

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**Overlapping Claims**

- Agree to Disagree

**Third Party Solutions**

- ICJ – Arbitration

**Bilateral MBD Agreements**

**Joint Management**

- Joint Development
Thank You