TURKEY’S OFF-SHORE ACTIVITIES IN THE EASTERN MEDITERRANEAN & MARITIME BOUNDARY DELIMITATION IN INTERNATIONAL LAW
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Turkish Petroleum survey & drilling activities

Fatih
3 May - 3 September 2019

BHP
21 January - 4 December 2019
Turkish Flagged Drillship Fatih launched off-shore drilling operations on 3 May 2019

The drilling area (Finike-1) lies:
- 75 km (42 nm) off the west coast of the Island of Cyprus,
- entirely within the TURKISH CONTINENTAL SHELF registered with the UN
- within the licence areas granted to TP by the Turkish Government

TP licence areas were published in the Turkish Official Gazette in 2009-2012

- The drilling area is NOT located within the TC & GC licence areas
We express grave concern over Turkey’s announced intention to carry out drilling activities within the exclusive economic zone of Cyprus.…….illegal action…..

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

along the same line with the EU Statement

•Turkish MFA responded to these statements immediately
•FM Cavusoglu sent letters to HR Mogherini, EU members & P5 on 16 May
Some EU countries are supporting GCs maritime boundary claim in accordance with their political expediencies or under the pretext of EU solidarity.

- Does EU have any competence in delimiting maritime boundaries?
- Can EU qualify Turkey’s off-shore activities illegal under international law?
- What is the EU position vis-à-vis overlapping maritime jurisdiction claims between its members?
- Can EU take the boundary claim of one side and try to impose it to the other?

The issue is about Maritime Boundary Delimitation in international law.

What are the legal means of maritime boundary delimitation?

- Negotiation leading to treaty.
  - Conciliation
  - Arbitration.
- Adjudication at an international court or tribunal.
  (UN Charter – Article 33)

- Courts/tribunals have played a major role in maritime delimitations.
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?

- 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.
The Role of Islands in Maritime Boundary Delimitation
Entitlement of Islands to CS/EEZ Areas and Their Effect to Maritime Boundary Delimitation are Two Different Issues.

Islands in delimitation may be given no weight in the construction of the relevant continental shelf or EEZ delimitation line.

The reason is not related to their entitlement or their potential capacity to create continental shelf or EEZ areas.

The reason is their distortive effect on equity.
There has been a sustained trend in international jurisprudence towards awarding islands a reduced effect in maritime boundary delimitation.

This has proved to be especially the case where such islands are located at a considerable distance offshore and opposed to mainland coasts as they would create a disproportionate impact.
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 – 1992 Canada-France (St Pierre and Miquelon)

Enclave and Reduced Effect

CASES – 1993 Denmark-Norway (Jan Mayen)

Reduced Effect
CASES – 2007 Nicaragua–Honduras

Cases – 2009 Romania-Ukraine
Cases – 2012 Nicaragua-Colombia

State Practice – 1969 Iran-Qatar Agreement
State Practice – 1971 Tunisia-Italy Agreement

State Practice – 1973 Canada-Denmark (Greenland)
State Practice – 1988 USSR-Sweden Agreement

Reduced Effect (1/3)

Joint Fisheries Zone (EEZ)

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

According to international law, as supported by these examples, there is no automacity 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.

**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 CYPRIOTS BASED ON THE ASSUMPTION THAT ALL ISLANDS GET FULL EFFECT IN MARITIME BOUNDARY DELIMITATION

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TURKEY'S CS CLAIM

Meis Island

12 km²
2 km from Turkish mainland

Equidistant Line Between Turkey & Egypt

Coastal Lenghts:

TURKEY 1792 km EGYPT 1062 km (Total)
TURKEY 969 km EGYPT 850 km (West of Cyprus)
Any delimitation exercise in the Eastern Mediterranean needs to take into account the legal rights and legitimate interests of Turkey.

The Turkish continental shelf to the west of Island of Cyprus is starting from longitude 32°16'18"E, then following the equidistance line between Turkish and Egyptian coastlines,

to a point to be determined to the west of 28°00’00”E, in accordance with the outcome of future delimitation agreements in the Aegean Sea and the Mediterranean among all relevant States taking into account all prevailing parameters and special circumstances.

The delimitation of continental shelf in a semi-enclosed sea like the Mediterranean should be effected by AGREEMENT respecting rights and interests of the countries concerned under international law, both customary and case-law.

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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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

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REGION OVERLAPPING WITH THE TURKISH CONTINENTAL SHELF

Outer limits of The Turkish Continental Shelf

- Boundaries of Greek-Cyprus
- Egypt EEZ Delimitation Agreement, 17th February 2001
- Boundaries of Greek-Cyprus
- Israel EEZ Delimitation Agreement, 22nd September 2003
- Boundaries of Greek-Cyprus
- Lebanon EEZ Delimitation Agreement, 17th January 2007
- Outer limits of The Turkish Continental Shelf
EU has no competence in delimiting maritime boundaries.

EU has never taken a side in supporting the claim of one side in overlapping maritime claims.
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.

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.

Greece’s &GC maritime claims are maximalist. They are based on the entitlement of islands to EEZ/CS.

Entitlement & Delimitation are not the same thing.

Islands may be ignored or given reduced EEZ/CS if their presence distorts equitable delimitation. This is a fundamental international law principle.

GC’s started off-shore drilling on 19 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 ISSUED OFF-SHORE LICENCES on 22 September 2011

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THE WAY AHEAD

Overlapping Claims Agree to Disagree

Third Party Solutions ICJ – Arbitration

Bilateral MBD Agreements

Joint Management Joint Development
Turkey will resolutely continue its survey and drilling activities in its continental shelf in the areas where the Turkish Government granted the Turkish Petroleum licenses in 2009 and 2012.

Likewise, unless the Greek Cypriots include the Turkish Cypriots, as the equal partners of the Island, into the decision making mechanisms regarding hydrocarbon resources or cease their unilateral hydrocarbon activities, Turkey will continue to protect the continental shelf rights of the Turkish Cypriots as well.
Thank You

Questions

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