



## EASTERN MEDITERRANEAN TURKEY'S LEGAL AND POLITICAL VIEWS

**Çağatay Erciyas**  
Ambassador - Director General for Bilateral Political &  
Maritime-Aviation-Border Affairs -MFA - ANKARA



5 February 2020 **5 February 2020 - Brussels** 1




## EASTERN MEDITERRANEAN

1. Maritime Boundary Delimitation
2. Legal Framework
3. EU's Biased Approach
4. Political Framework -Turkey's Position
5. Turkey-Libya MBD

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### BLACK SEA



- Enclosed Sea
- 6 Littoral States
- 12 nm territorial sea limit
- NO MBD DISPUTE

Turkey-USSR  
6 February 1987  
Delimitation Agreement  
(EEZ)

Turkey-USSR  
23 June 1978  
Delimitation Agreement  
(CS)

Turkey-USSR  
17 April 1973  
Delimitation Protocol  
(TS)

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


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)

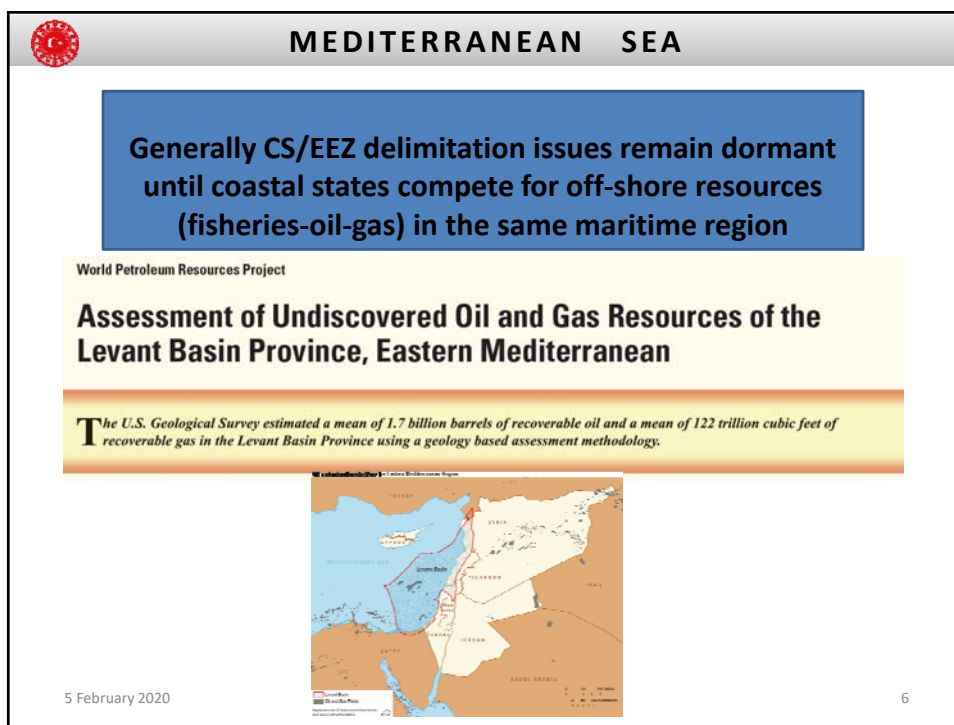
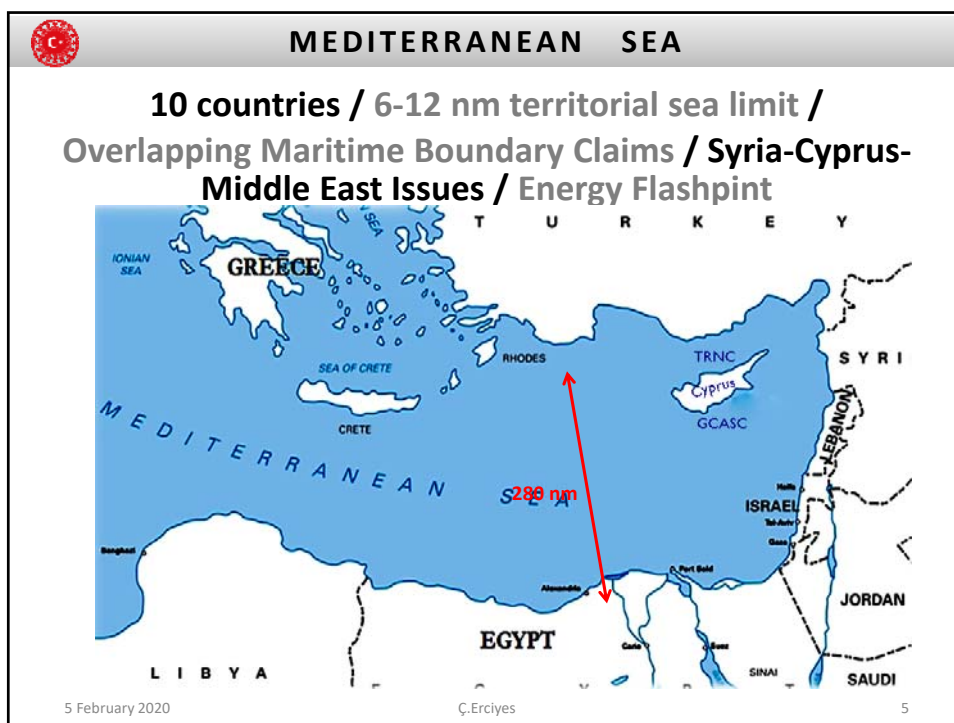
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3

### AEGEAN SEA



- ❖ 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)

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4



### MEDITERRANEAN SEA

## Discovered Natural Gas Fields

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### EASTERN MEDITERRANEAN

## 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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9

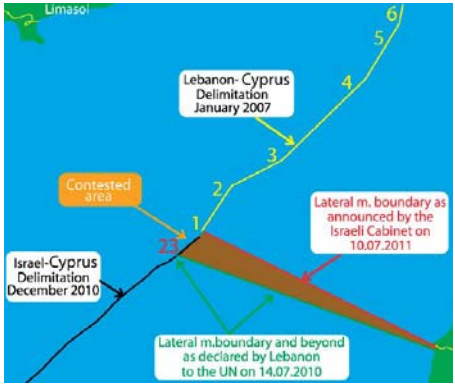
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## How did it all start ?

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



**2003 Egypt-GC EEZ Agreement VIOLATED Turkey's rights**

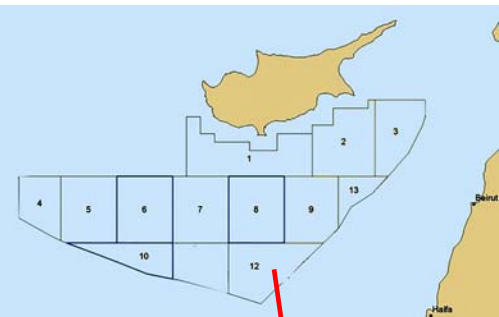


**2010 Israel-GC EEZ Agreement VIOLATED Lebanon's rights**

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10

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**How did it all start ?**

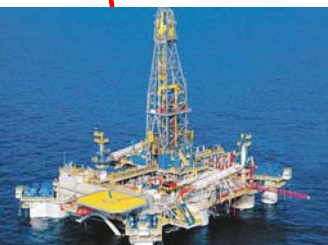


**2006-2007**  
Launched 2D-3D Seismic Surveys

**2007**  
Draw off-shore blocks  
Announced first licencing round

19 September **2011**  
Started off-shore drilling

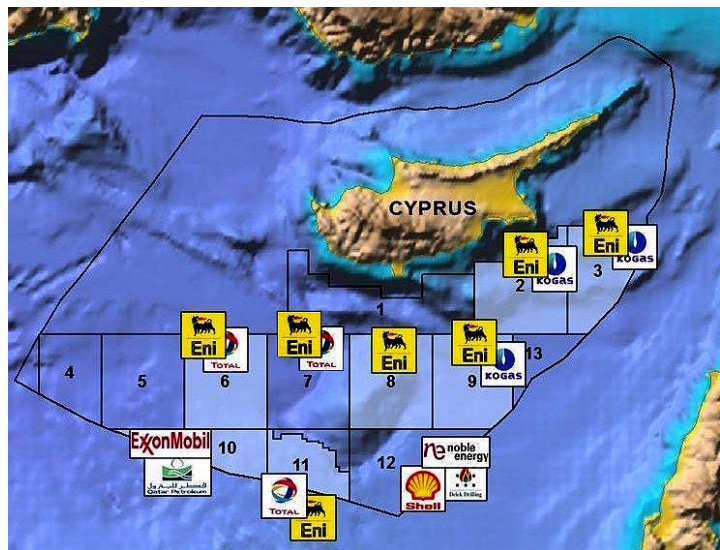
Turkey & TRNC objected all of these unilateral actions and asked GCs to cease their off-shore activities until the comprehensive settlement



5 February 2020 11

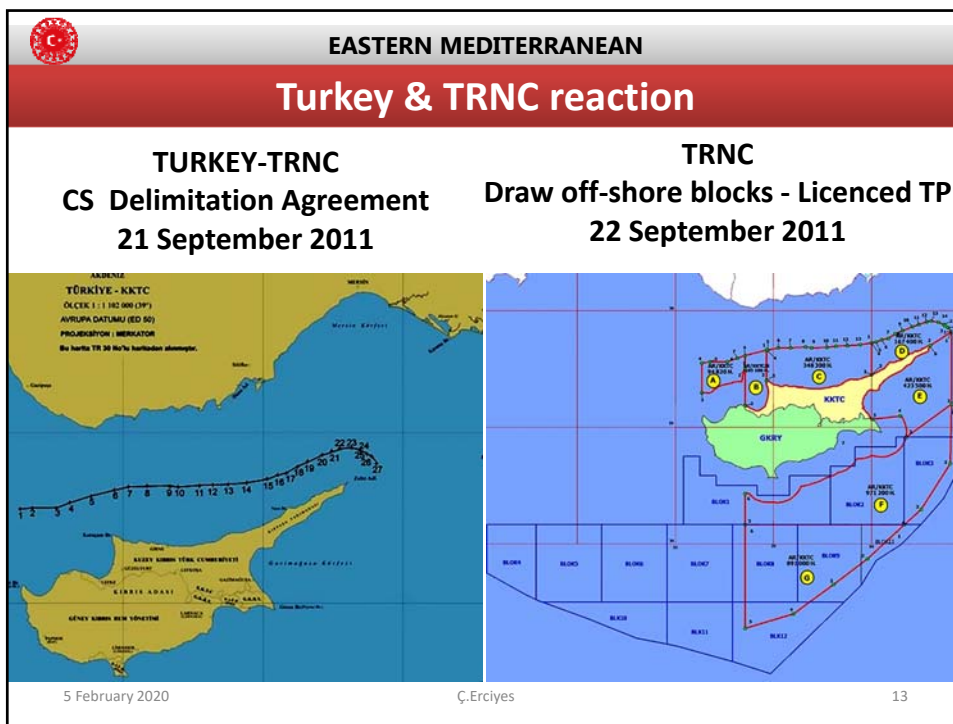
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**GC EEZ/CS Claim & Concessions**



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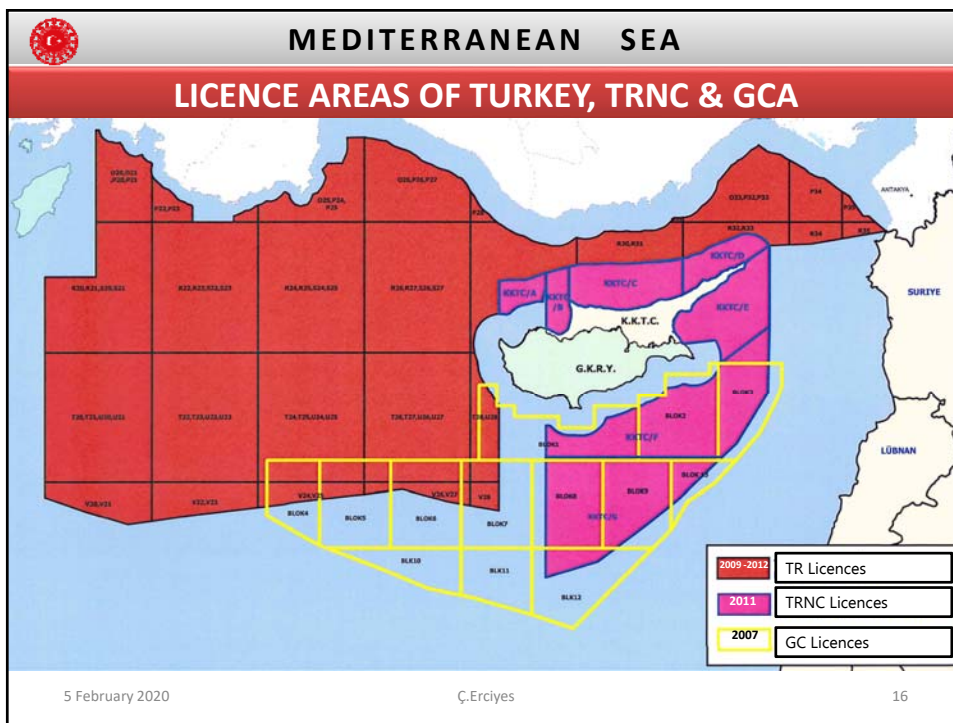
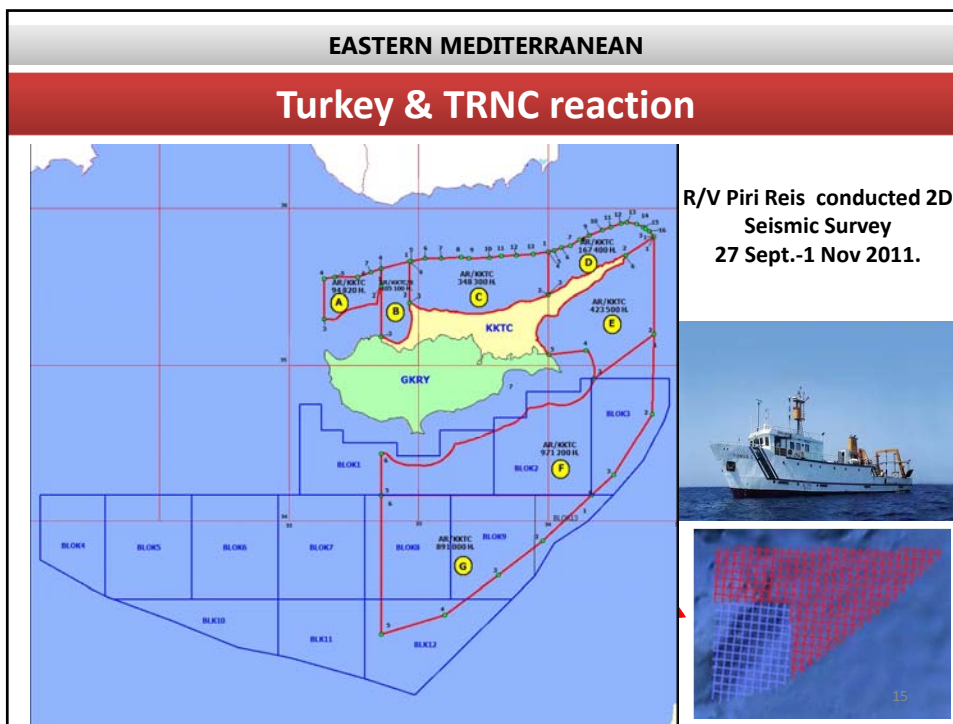
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**Turkey & TRNC reaction**

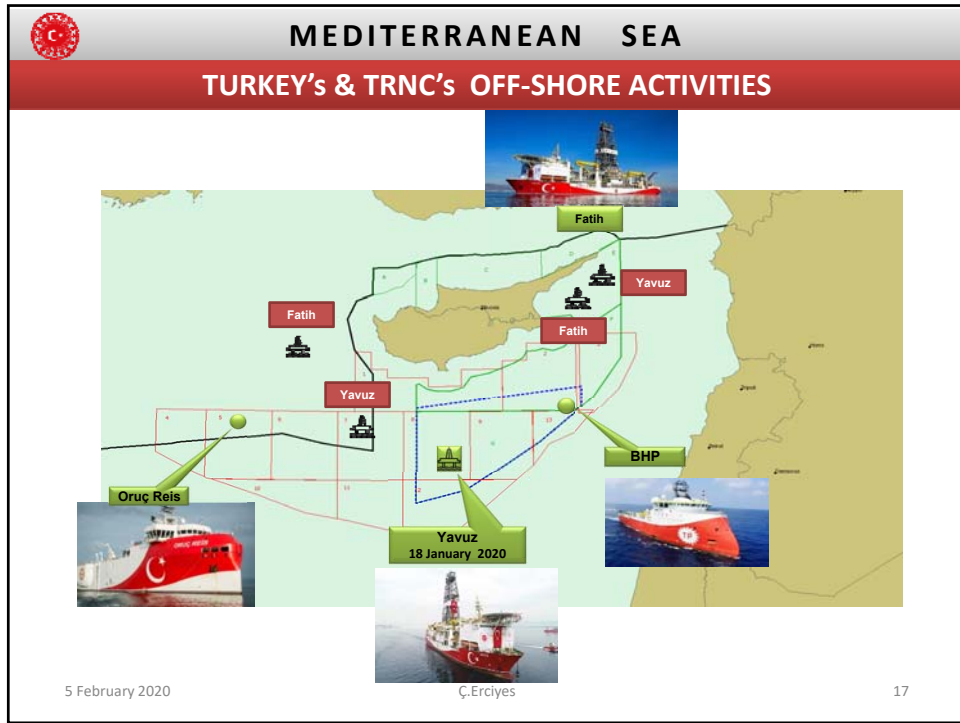
**TRNC COOPERATION**  
**24 SEPTEMBER 2011**

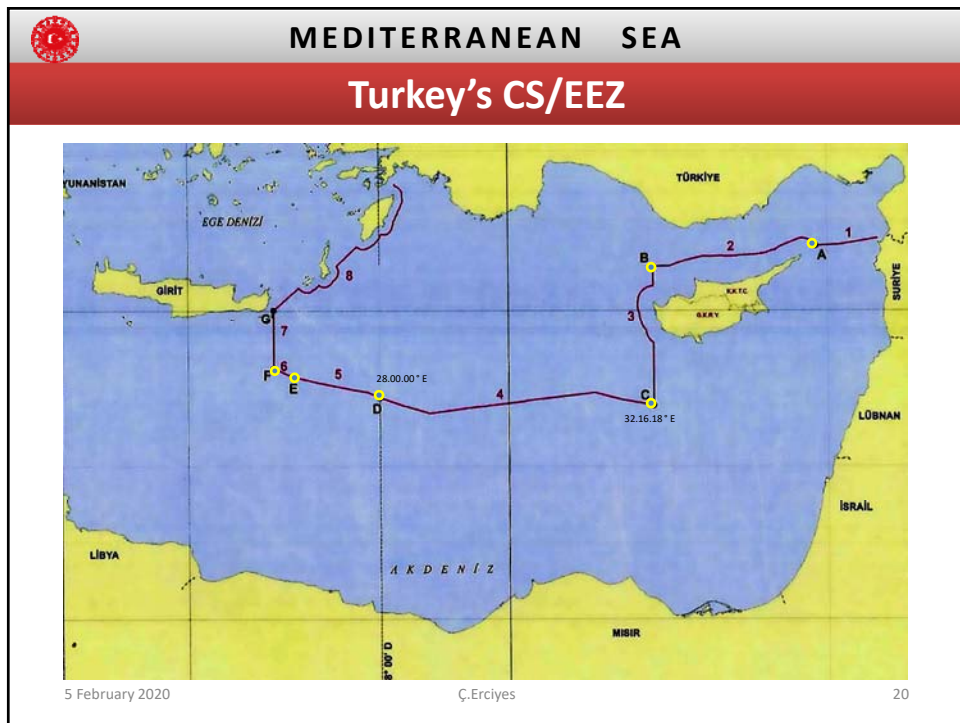
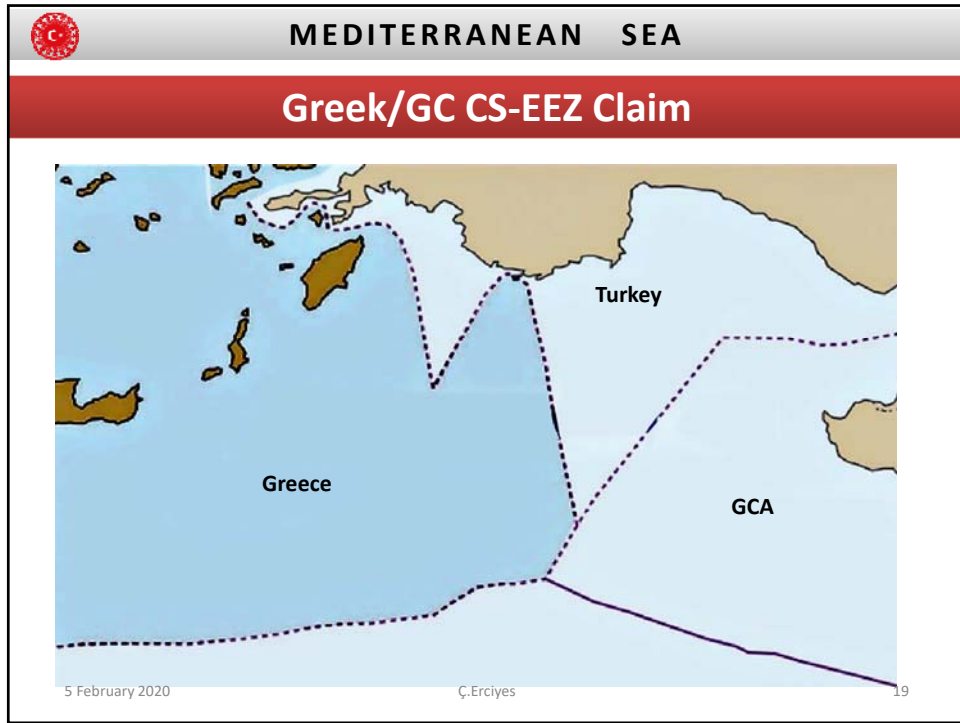
- off-shore activities of TCs & GCs be ceased simultaneously until the settlement
  
- OR both sides should determine jointly the future course of off-shore oil/gas activities, including revenue sharing and funding of a possible settlement.

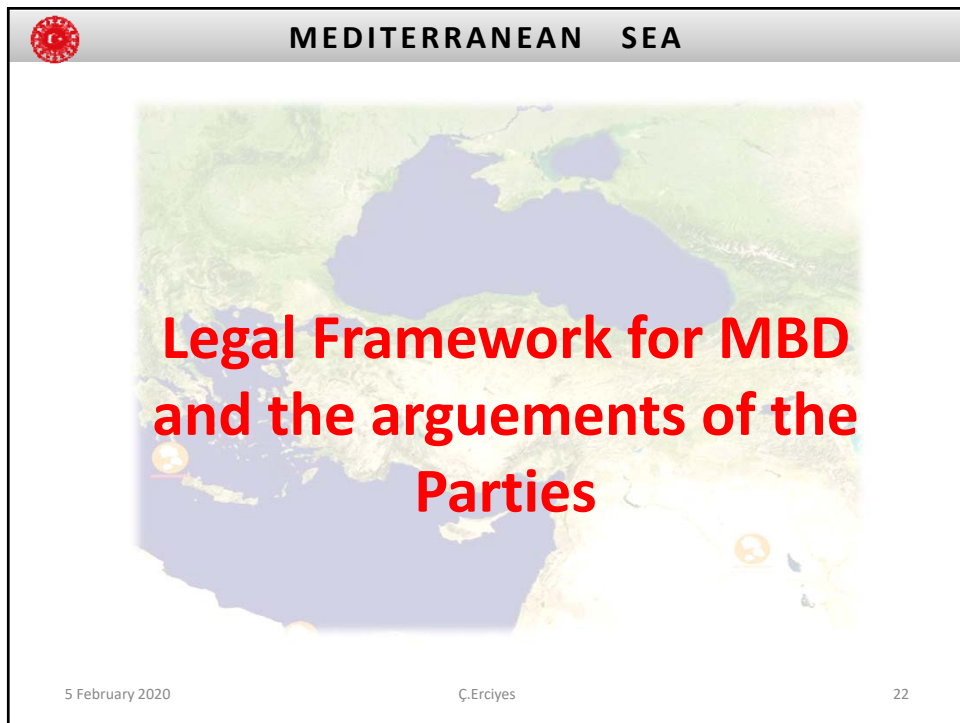
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14















**MEDITERRANEAN SEA**

**GREEK & GREEK CYPRIOT ARGUMENTS**

- **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

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23


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*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.

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24


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**TURKEY'S ARGUMENTS**

**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)



**Çağatay Erçiyas**   
@CErciyas

Islands  
(i) cutting off Turkey's coastal projection and CS (ii) lying on the wrong side of the median line between mainlands (iii) with minimal coastal lengths comparing to Turkey's mainland should not generate CS/EEZ.



**Çağatay Erçiyas**   
@CErciyas


🇹🇷&GC maritime claims are maximalist.They base on the entitlement of islands to EEZ/CS. **Entitlement & Delimitation are not the same thing.** Islands may get zero or reduced EEZ/CS if their presence distorts equitable delimitation.This is a fundamental international law principle.

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25

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1982 UNCLOS - EEZ (art. 74) and CS (art. 83)

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.

➡ **Agreement**

➡ **EQUITABLE SOLUTION**

➡ **Other Peaceful Means**

➡ **Provisional Arrangements (Joint Development)**

Median line as a method is not mentioned

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26

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**WHAT ARE THE FACTORS TO ASSESS WHETHER A MARITIME DELIMITATION LINE IS EQUITABLE OR NOT?**

ICJ Jurisprudence – Special/Relevant Circumstances

<p style="text-align: center; margin: 0;"><b>GEOGRAPHICAL CIRCUMSTANCES</b></p> <ul style="list-style-type: none"> <li>• <b>Regional Geography</b> ✓ <small>(including general characteristics and particular features of the region -ocean, enclosed, semi enclosed sea etc.)</small></li> <li>• <b>Configuration of the Coasts</b> ✓ <small>(including adjacency and oppositeness, <b>direction</b>, <b>comparative lengths</b>, concave or convex shape)</small></li> <li>• <b>Basepoints</b> ✓ <small>(including presence of ports, roadsteads, bays, river mouths, low-tide elevations, reefs)</small></li> <li>• <b>The presence of islands and rocks</b> ✓ <small>(including their size and position in the context of general geographic configuration)</small></li> </ul>	<p style="text-align: center; margin: 0;"><b>NON-GEOGRAPHIC CIRCUMSTANCES</b></p> <ul style="list-style-type: none"> <li>• <b>Geological and geomorphological factors</b> ?</li> <li>• <b>Economic factors</b> ? <small>(Hydrocarbon resources, fisheries)</small></li> <li>• <b>Navigation</b> ?</li> <li>• <b>Socio-economic and demographic factors</b> X</li> <li>• <b>Defence and security</b> ?</li> <li>• <b>Environment</b> ?</li> <li>• <b>Historical rights</b> ✓</li> <li>• <b>Presence of Third States</b> ✓</li> </ul>
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**OTHER FACTORS AFFECTING DELIMITATION**

- Proportionality ✓
- Non-encroachment ✓
- Proximity ✓

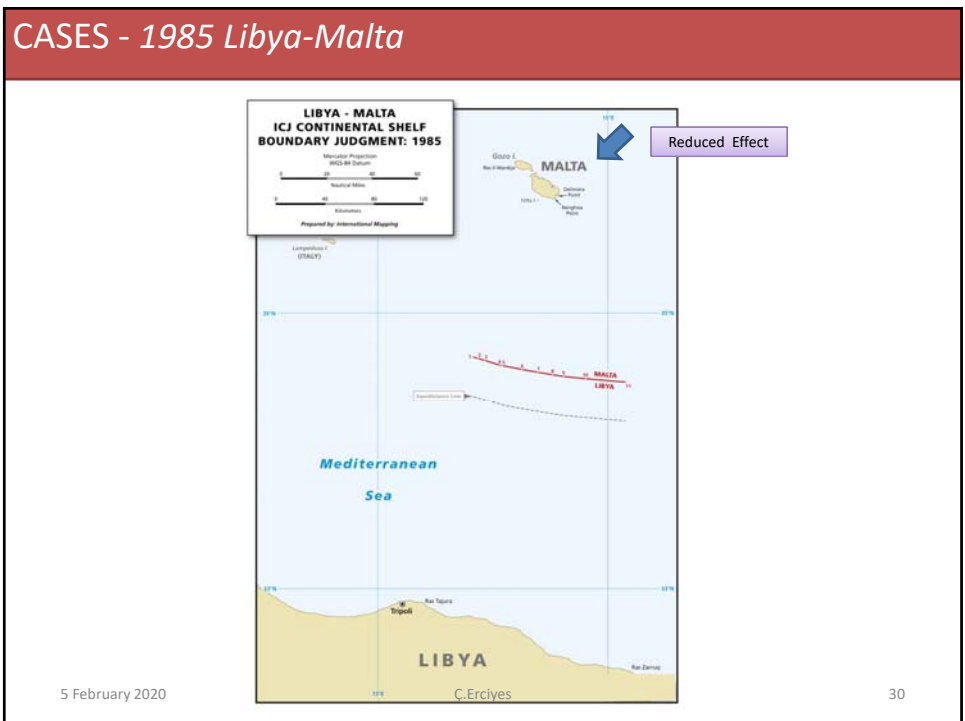
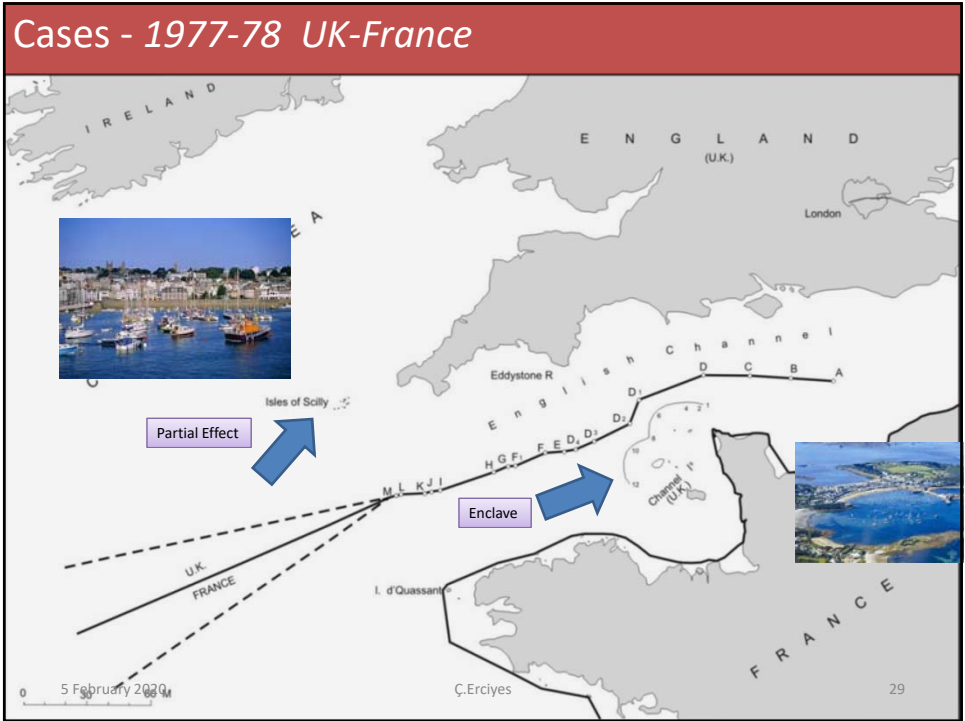
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27

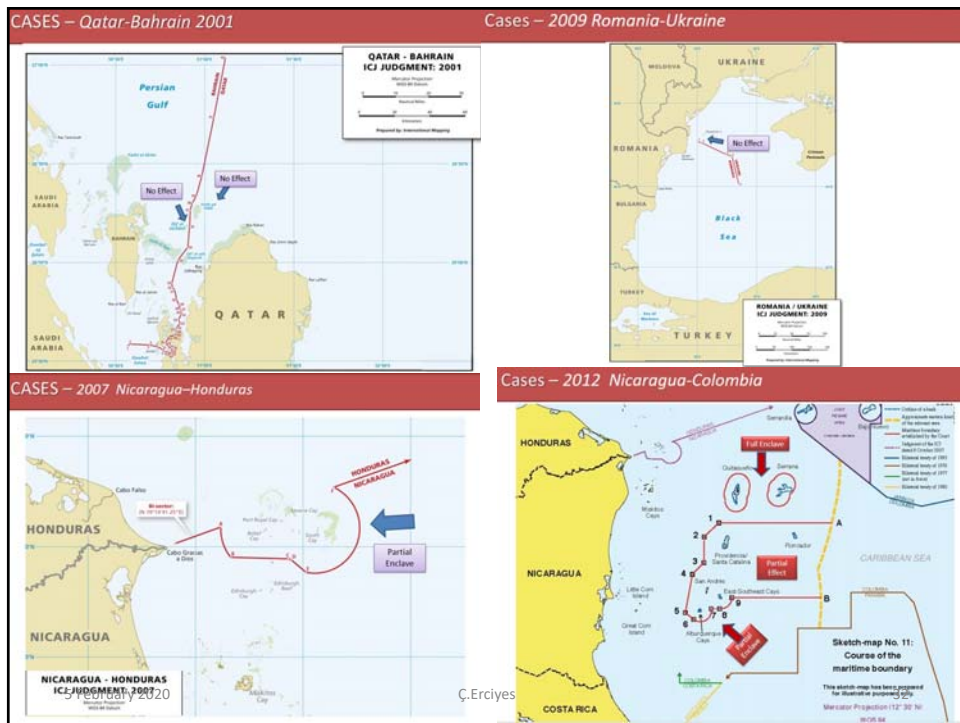
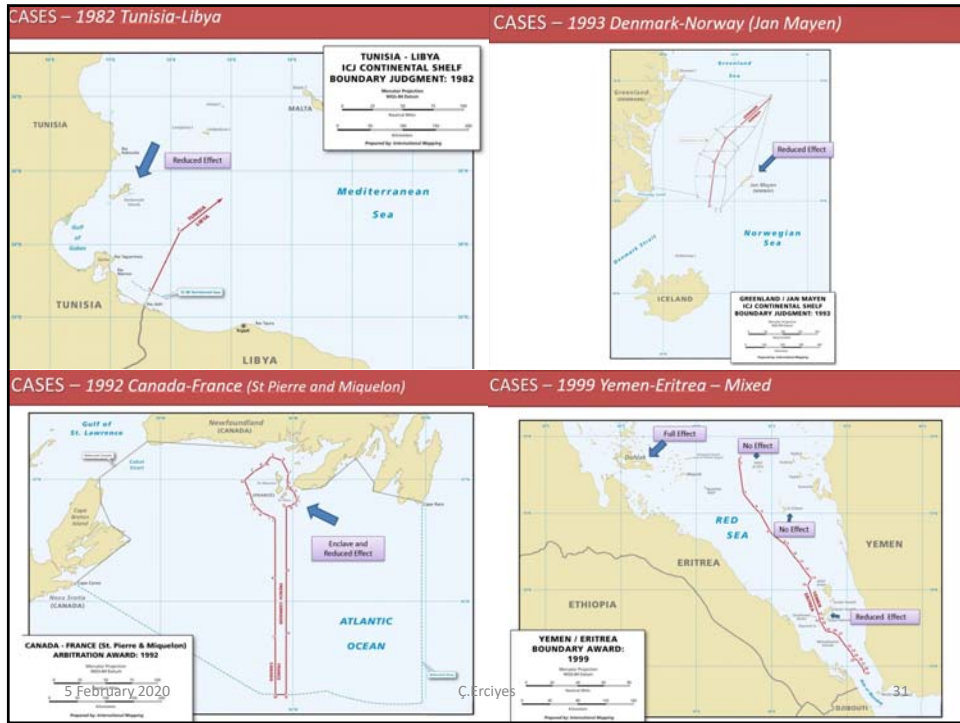
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**Treatment of Islands in Maritime Boundary Delimitation**

**There has been a sustained trend in international jurisprudence towards awarding islands a reduced or no effect in maritime boundary delimitation.**

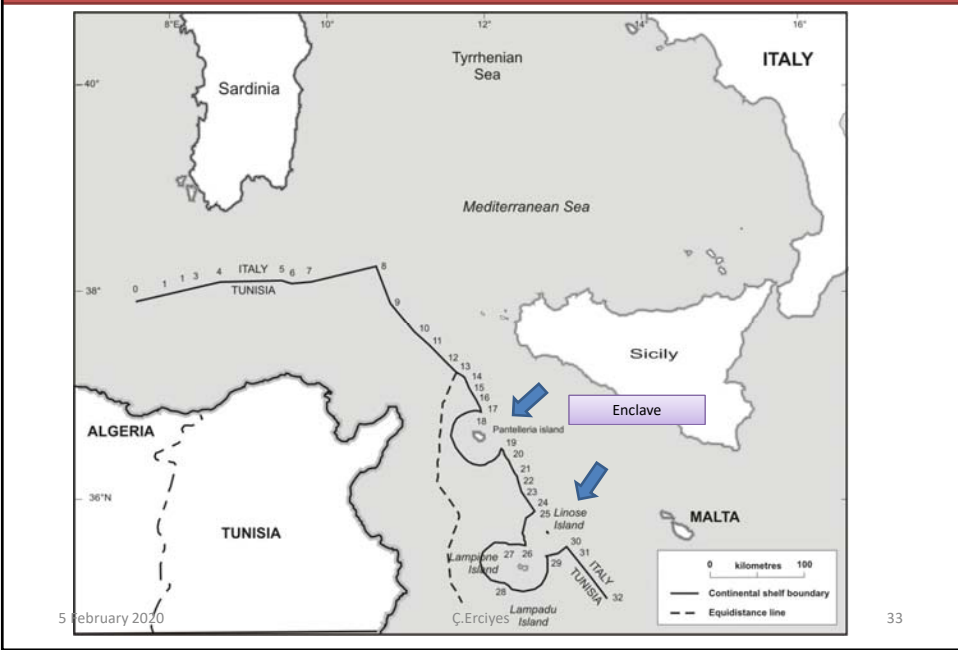
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28







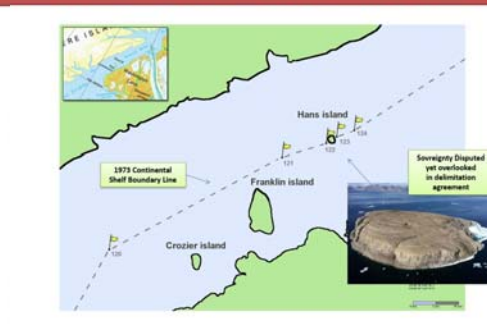
State Practice – 1971 Tunisia-Italy Agreement



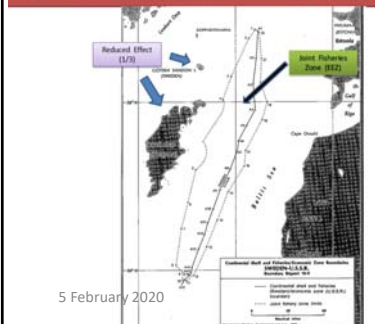
State Practice – 1969 Iran-Qatar Agreement



State Practice – 1973 Canada-Denmark (Greenland)



State Practice – 1988 USSR-Sweden Agreement



State Practice – 1978 Papua New Guinea and Australia



**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

5 February 2020 35

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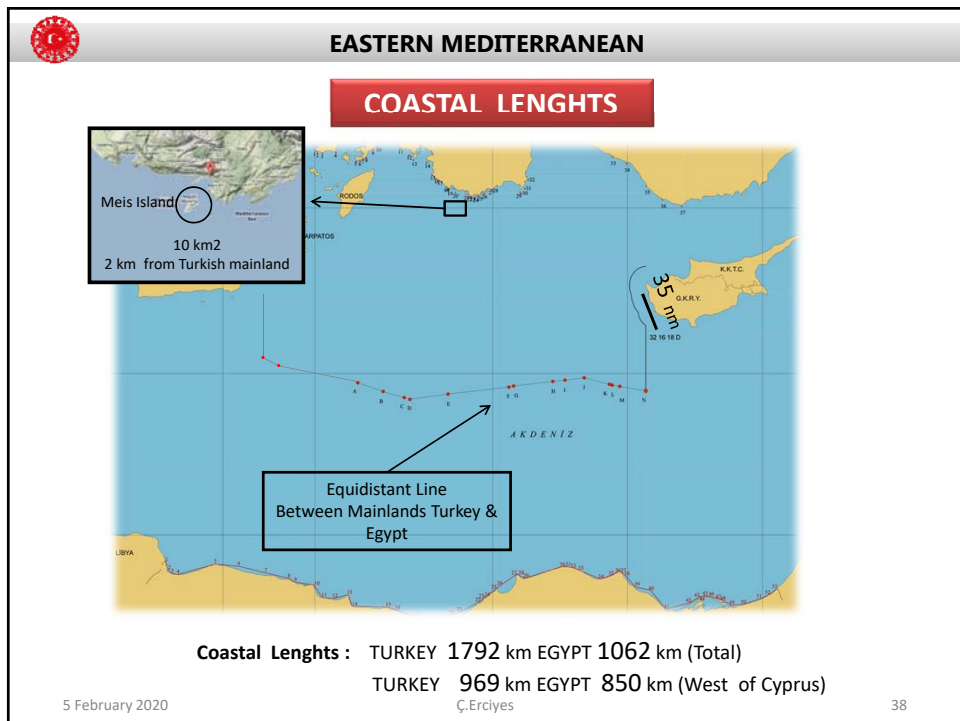
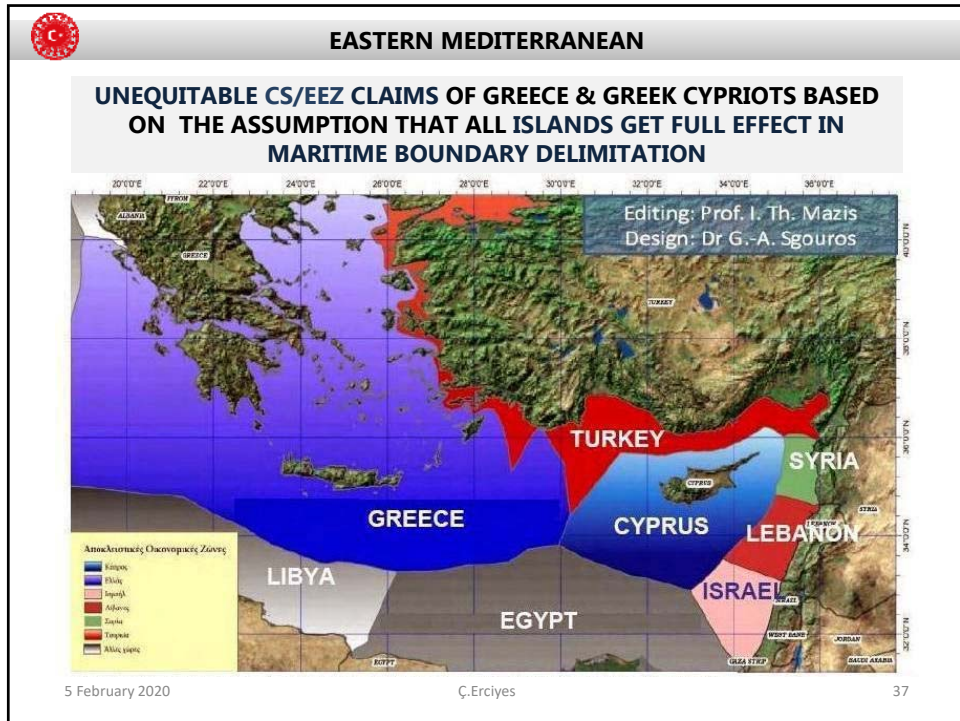
**Treatment of Islands in Maritime Boundary Delimitation**

**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**

5 February 2020 36



**MEDITERRANEAN SEA**




**EU's BIASED APPROACH**

5 February 2020 Ç.Erciyes 39

**MEDITERRANEAN SEA**

**EU's BIASED APPROACH**



**European Council Conclusions**

.....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**

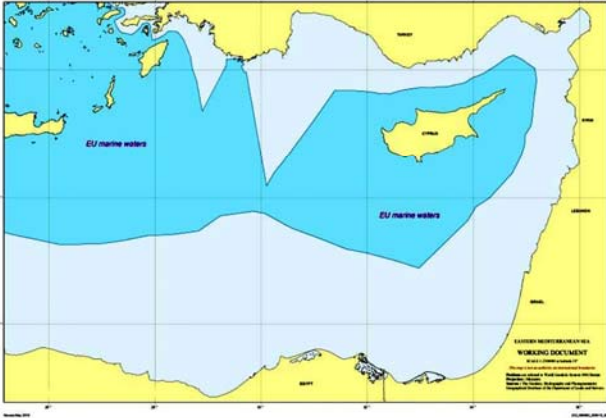
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## EU's BIASED APPROACH

European Union marine waters

???



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How does the EU let maximalist national maritime claims of its members as its own ?

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

 **MEDITERRANEAN SEA**

## EU's BIASED APPROACH

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\_...

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EU's BIASED APPROACH

EU solidarity to support national boundary claims ???

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


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43

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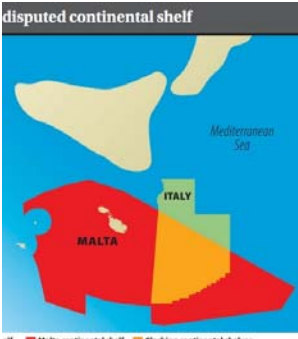
EU's BIASED APPROACH



Spain-France



Slovenia-Croatia



Malta-Italy

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44

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## TURKEY'S POSITION

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.

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45

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### TC'S COOPERATION PROPOSAL 13 JULY 2019

**Fundamental Principles**

**Joint Committee**  
under UN auspices & facilitation – EU as oserver  
(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 HYRDOCARBON TRUST FUND**

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

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46

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**FULL POLITICAL SUPPORT TO TURKEY'S EAST MED POLICY**

**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.**

**JOINT DECLARATION  
ADOPTED BY THE GRAND NATIONAL ASSEMBLY OF TURKEY  
ON 18 JULY 2019**  
*[Unofficial English translation of the original text in Turkish]*

We, as the political parties represented in the Grand National Assembly of Turkey, strongly condemn all attempts to turn a blind eye to, ignore and disregard the legitimate rights and interests of the Turkish Cypriots and the Republic of Turkey, based on international law, by imposing a fait accompli regarding the sharing of hydrocarbon resources in the Eastern Mediterranean, and, hereby state explicitly our objection to all the policies followed to that end, under all circumstances.

We particularly state that we find the sanctions announced recently in the Final Declaration of the Meeting of the European Union Foreign Affairs Council contrary to international law and unacceptable. We call upon the European Union to abide by international law and adopt a fair, equitable and impartial position in this regard.

Those attempting to ignore the rights and interests of the Turkish Cypriots and the Republic of Turkey in all processes and activities conducted by both international oil companies, which have been illegally involved in unilateral hydrocarbon activities by the Greek Cypriots, and by countries which support the Greek Cypriots, should know that their endeavours are futile, contrary to international law, and deeply contradict with the region's social and political realities.

In this sense, we consider right and appropriate the continuation of our State's hydrocarbon drilling activities in the Eastern Mediterranean. It should be known that both Turkey and the Turkish Republic of Northern Cyprus have the strength to protect their legitimate rights, stemming from international law, without bowing to any pressure.

We announce to our grand Nation and to the world public opinion, that we fully support each and every political initiative conducted, measure and step taken by our State, with regard to the protection of the rights and interests of our Nation, which are accordingly based upon ensuring a fair and equitable sharing in the Eastern Mediterranean region, and, that we will maintain resolutely our common stance in any case and under all circumstances.

<p><b>Mehmet Muş</b> Group Deputy Chairperson of the Justice and Development Party (AK Party)</p> <p><b>Erkan Akçay</b> Group Deputy Chairperson of the Nationalist Movement Party (MHP)</p>	<p><b>Engin Özkoç</b> Group Deputy Chairperson of the Republican People's Party (CHP)</p> <p><b>Lütfü Türkkan</b> Group Deputy Chairperson of the Good Party (İYİP)</p>
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47

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**QA-8, 30 January 2020, Statement of the Spokesperson of Ministry of Foreign Affairs, Mr. Hami Aksoy, in Response to a Question Regarding the Joint Statement of the Ministers of Foreign Affairs of Italy and GCA on the Eastern Mediterranean**

We consider the statement made yesterday (29 January) unfortunate especially on the part of Italy.

As we have repeatedly emphasized, the Turkish Cypriots, as the co-owners of the Island have equal rights on the hydrocarbon resources of the Island. Based on these rights, the TRNC Government granted exploration and exploitation licenses to the Turkish Petroleum (TP) in 2011. TP's ongoing survey and drilling activities in these license areas aim at protecting the rights of the Turkish Cypriots, not Turkey. Until these rights are guaranteed, the TP will continue to operate in these license areas.

These rights can only be guaranteed either by jointly suspending all off-shore activities in the south of the Island until a comprehensive settlement is reached in Cyprus, or by launching a cooperation mechanism by the Greek Cypriots with the Turkish Cypriots in accordance with the 13 July 2019 proposal. Otherwise, Turkey will continue resolutely to protect the rights of the Turkish Cypriots. Therefore, once again, we call on all the EU members, especially Italy to abandon their attitudes which ignore the very presence of Turkish Cypriots and their rights.


As we have also repeatedly stated in the past, the delimitation of maritime jurisdiction areas to the West of the Island of Cyprus will only be possible after the resolution of the Cyprus issue. It is out of question for Turkey to start maritime boundary delimitation negotiations with an entity that does not represent the Turkish Cypriots and usurps the title of the "Republic of Cyprus" since 1963. The only interlocutor of the Greek Cypriots is only the Turkish Cypriots, until the resolution of the Cyprus issue.

We also entirely reject the criticisms against the memorandum of understanding that we signed with Libya on the delimitation of maritime jurisdiction areas. In this context, it is worth mentioning the fact that Italy and other EU member states had remained silent to the delimitation agreement concluded between GCA and Egypt in 2003, which indeed indicates the inconsistency and contrariety of their current policies in the Eastern Mediterranean.

We will resolutely continue to protect our rights and of Turkish Cypriots in the Eastern Mediterranean.


48



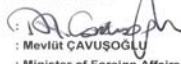


## TURKEY-LIBYA MBD

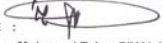
**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE GOVERNMENT OF THE REPUBLIC OF TURKEY**  
**AND**  
**THE GOVERNMENT OF NATIONAL ACCORD-STATE OF LIBYA**  
**ON DELIMITATION OF THE MARITIME**  
**JURISDICTION AREAS IN THE**  
**MEDITERRANEAN**



ON BEHALF OF THE GOVERNMENT  
OF THE REPUBLIC OF TURKEY

SIGNATURE :   
NAME : Mevlüt ÇAVUŞOĞLU  
TITLE : Minister of Foreign Affairs

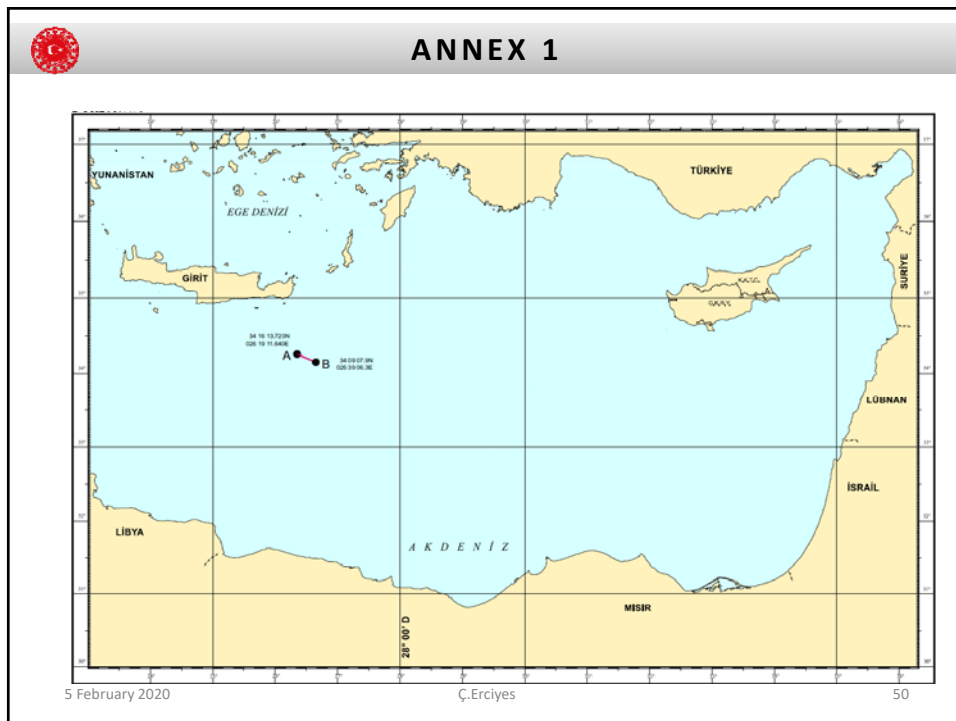
ON BEHALF OF THE GOVERNMENT OF  
NATIONAL ACCORD-STATE OF LIBYA

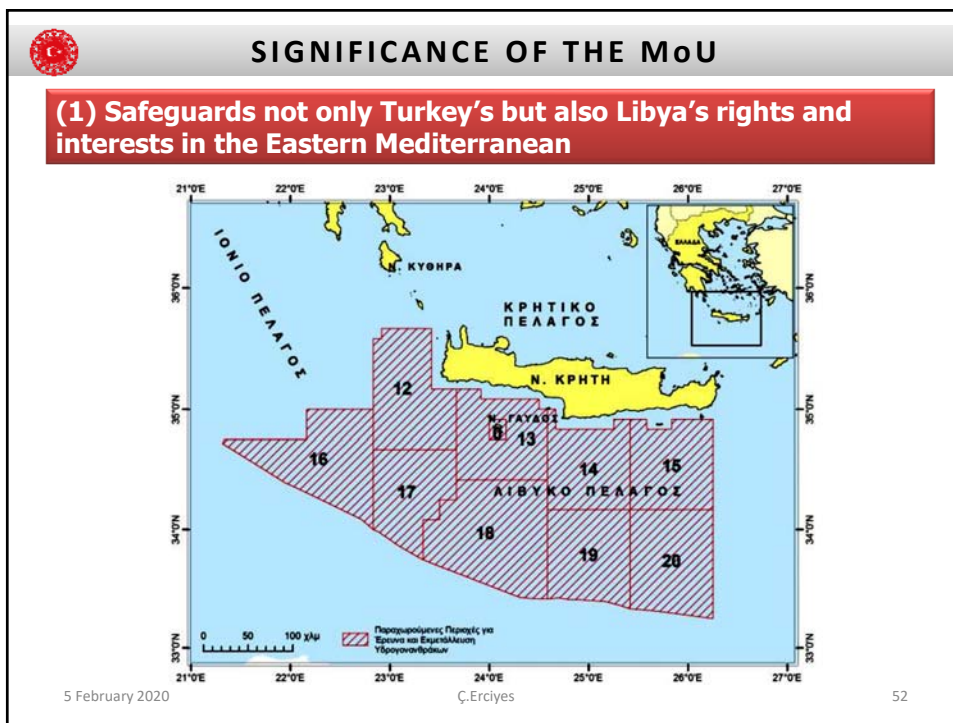
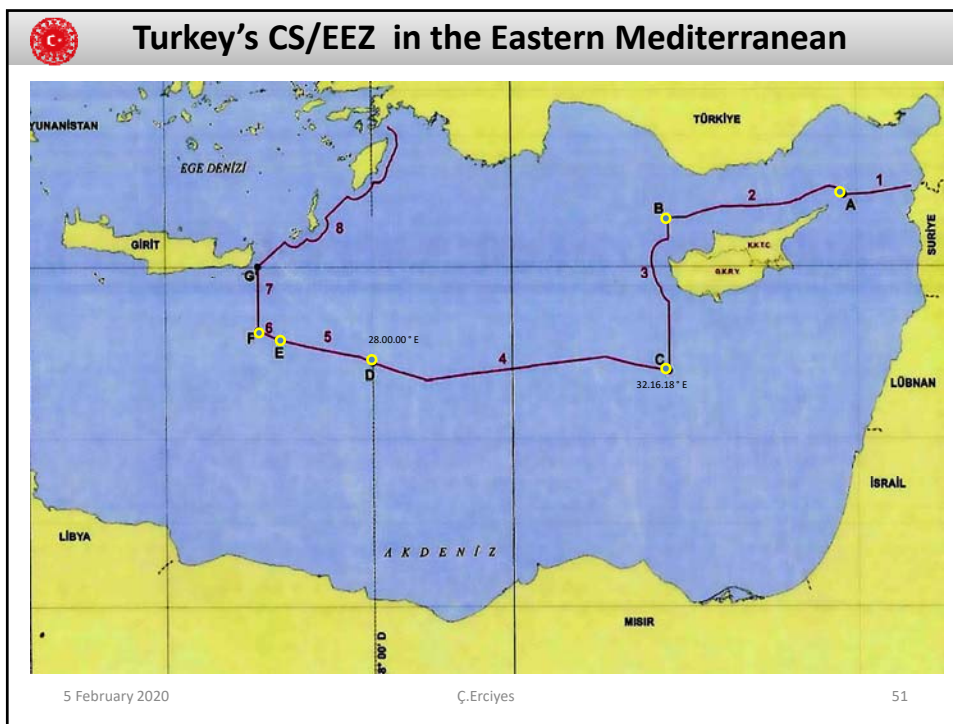
SIGNATURE :   
NAME : Mohamed Taher SIYALA  
TITLE : Minister of Foreign Affairs


5 February 2020

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49






 **SIGNIFICANCE OF THE MoU**


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



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 **SIGNIFICANCE OF THE MoU**


**LIBYA's CS/EEZ ACCORDING TO GREECE**



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**SIGNIFICANCE OF THE MoU**

**LIBYA's CS/EEZ CLAIM**

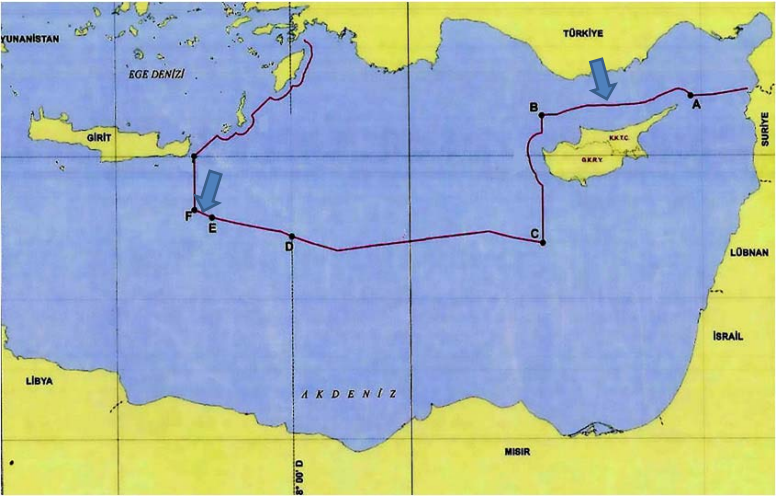


101.606,67 KM<sup>2</sup>  
29.623,77 NM<sup>2</sup>

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**SIGNIFICANCE OF THE MoU**

**(2) The second delimitation agreement of Turkey in the Eastern Mediterranean**



TÜRKİYE  
SURIYE  
LÜBNAN  
İSRAİL  
MISIR  
LIBYA  
YUNANISTAN  
EGE DENİZİ  
AKDENİZ  
KIBRIS

5 February 2020 Ç.Erciyes 56

**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

5 February 2020 Ç.Erciyes 57


**SIGNIFICANCE OF THE MoU**

**(4) MoU defines the western boundaries of Turkey's maritime jurisdiction areas in the Eastern Mediterranean**

5 February 2020 Ç.Erciyes 58

**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**

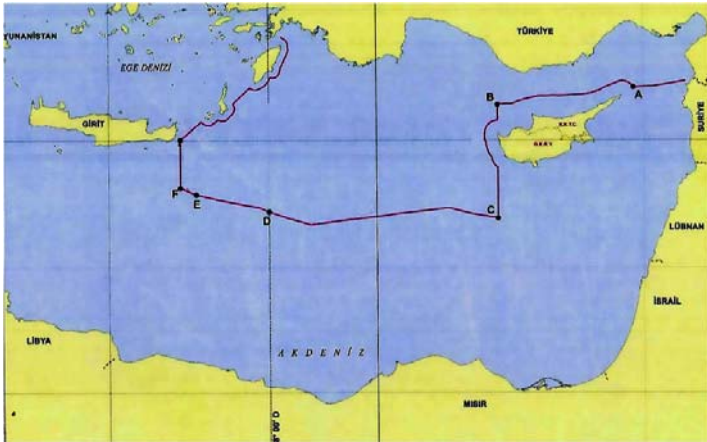


- ❖ Trilateral mechanisms formed by Greek Cypriot/Greek duo with countries in the region.
- ❖ East-Med Gas Forum.


5 February 2020 Ç.Erciyes 59


**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**



5 February 2020 Ç.Erciyes 60

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**POSSIBLE MBD SCENARIOS**

```
graph TD; A[POSSIBLE MBD SCENARIOS] --> B[Overlapping Claims  
Agree to Disagree]; A --> C[Bilateral  
MBD Agreements]; A --> D[Joint Management  
Joint Development]; A --> E[Third Party Solutions];
```

5 February 2020 Ç.Erciyes 61

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Thank You

5 February 2020 Ç.Erciyes 62