

TURKISH HERITAGE ORGANIZATION
CENTER OF EXCELLENCE
DIPLOMACY & RELATIONS

Turkish Foreign Policy on Maritime Boundary & Energy issues in the Eastern Mediterranean

February 18th, 2020
14.00 pm - 15.30 pm

Keynote Speaker
H.E. Ambassador
Cagatay Erciyes
Director General for Bilateral Political & Maritime - Aviation Border Affairs
Ministry of Foreign Affairs, Republic of Turkey

Moderator
Glenn Howard
President,
Jamestown Foundation

National Press Club
529 14th St NW, Washington, DC 20045
RSVP : info@turkishheritage.org

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G E O G R A P H Y

4 Enclosed / Semi-enclosed SEAS

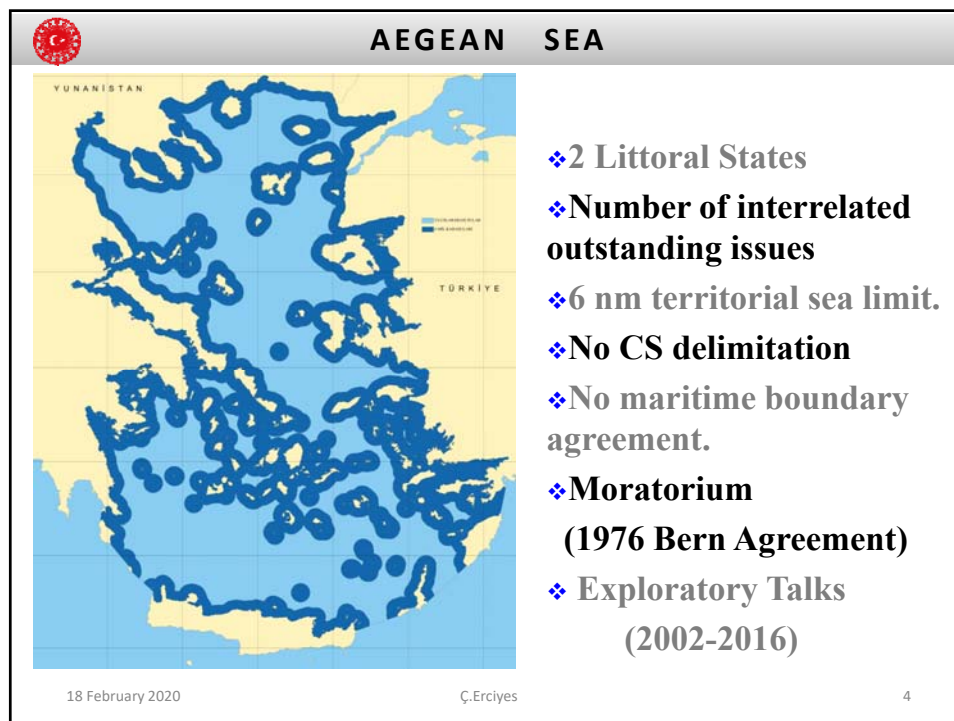
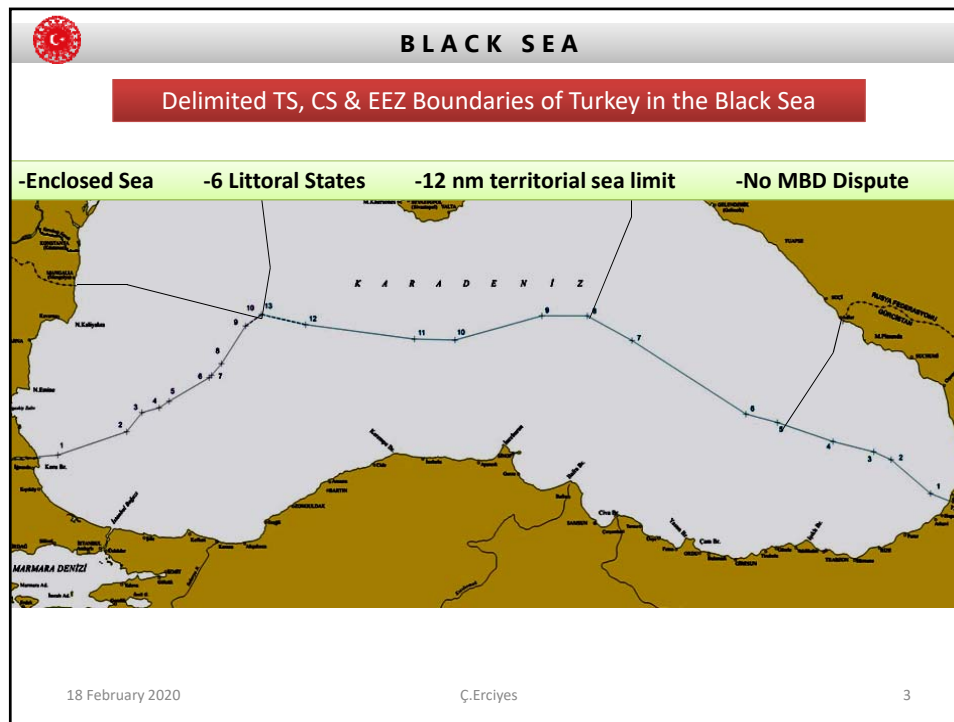
BLACK SEA 140 nm

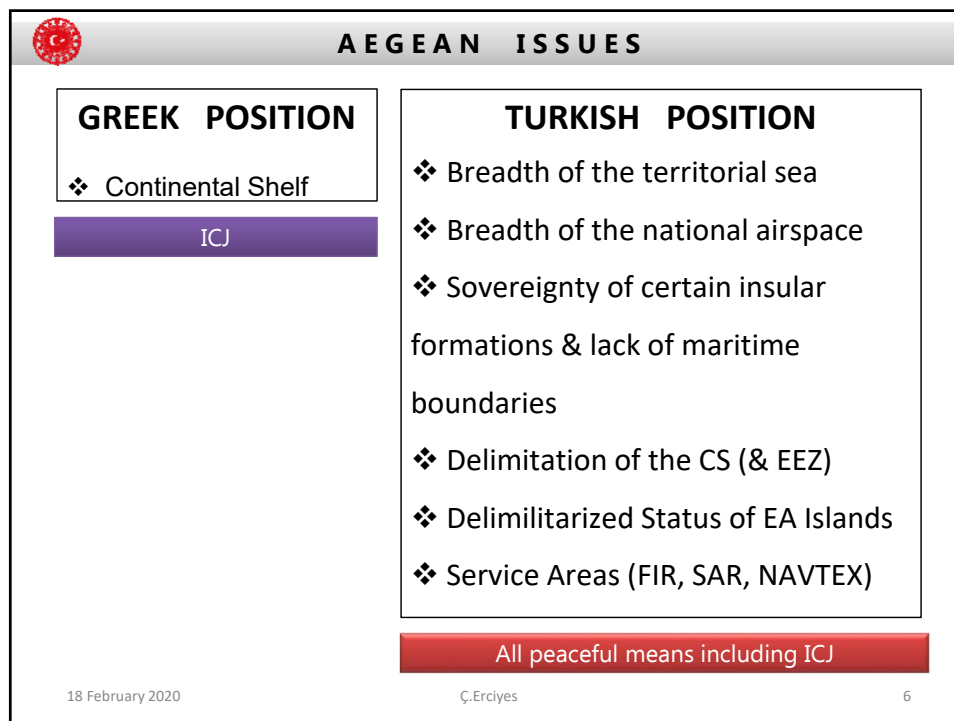
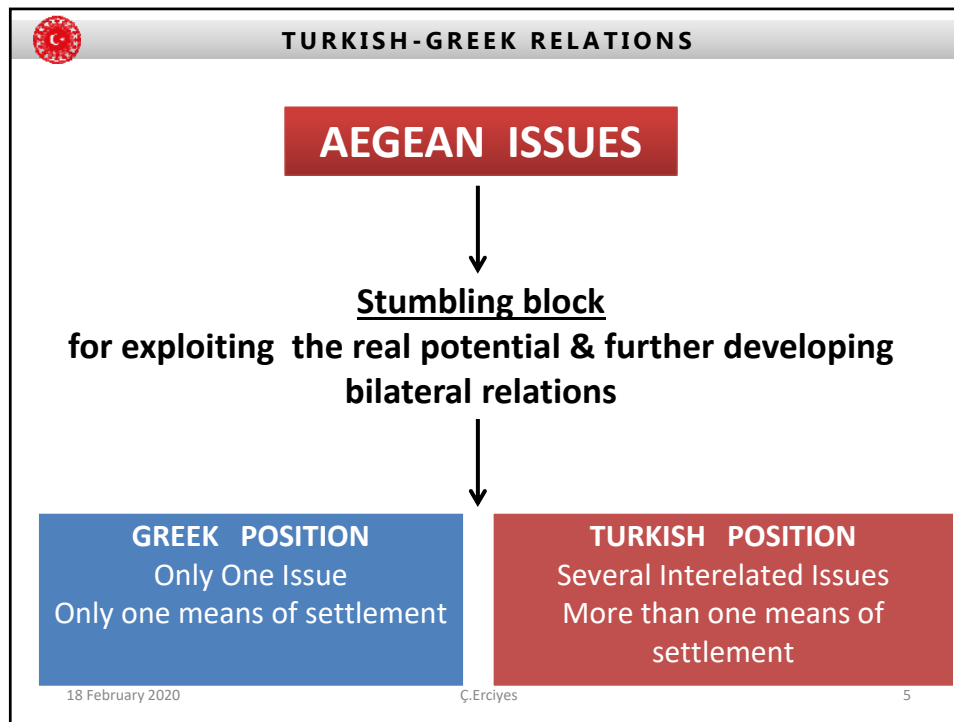
Marmara Sea (internal waters)

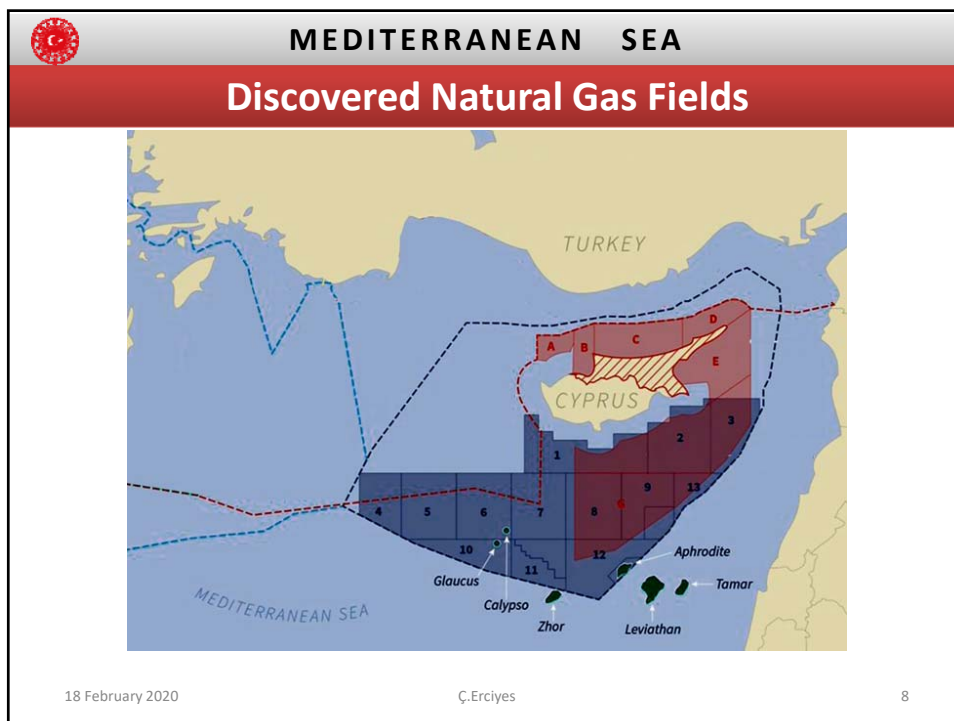
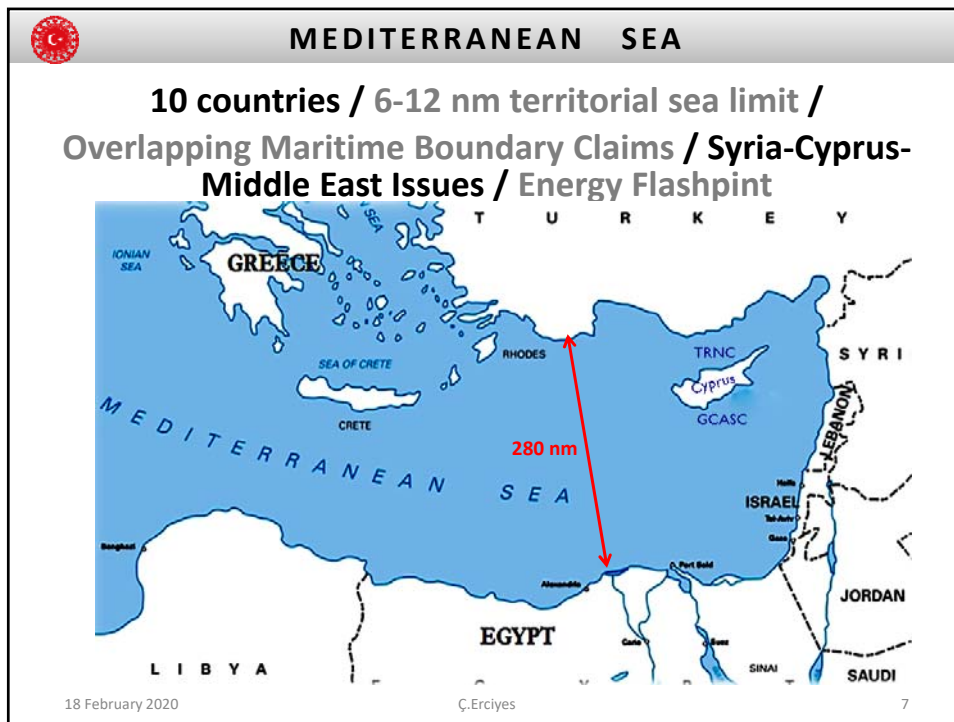
AEGEAN 90 nm

MEDITERRANEAN 280 nm

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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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EASTERN MEDITERRANEAN

How did it all start ?

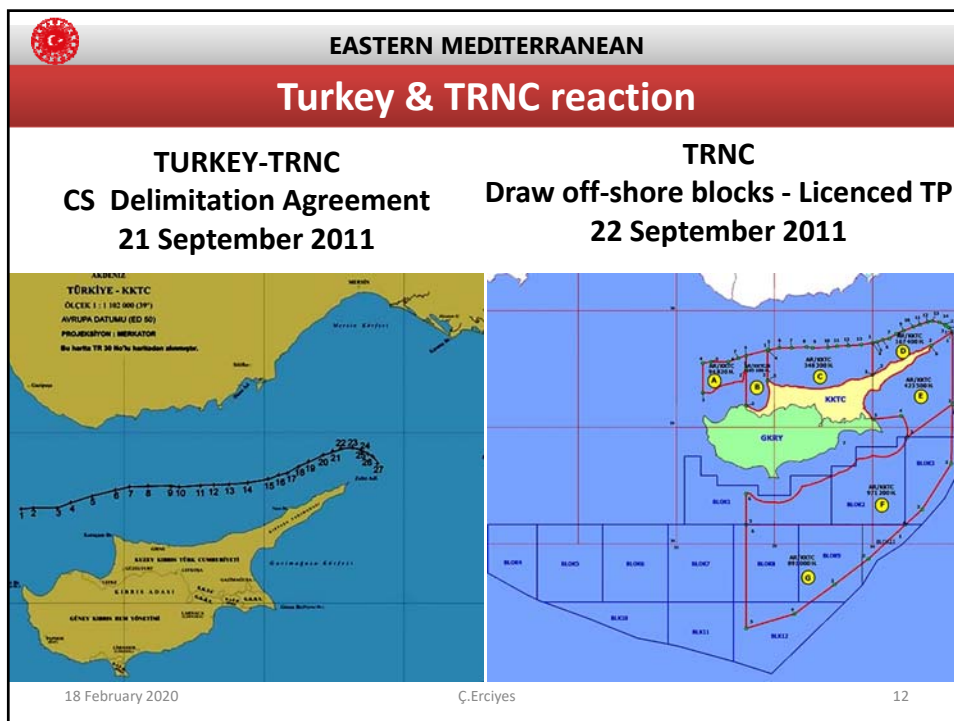
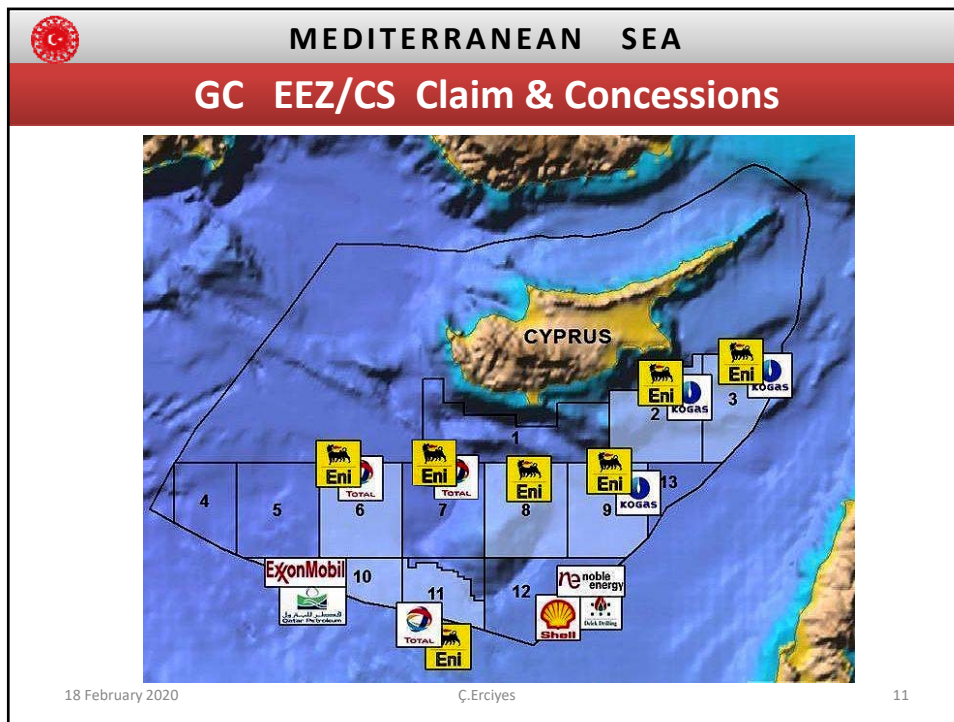
2006-2007
Launched 2D-3D Seismic Surveys

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

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EASTERN MEDITERRANEAN

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.

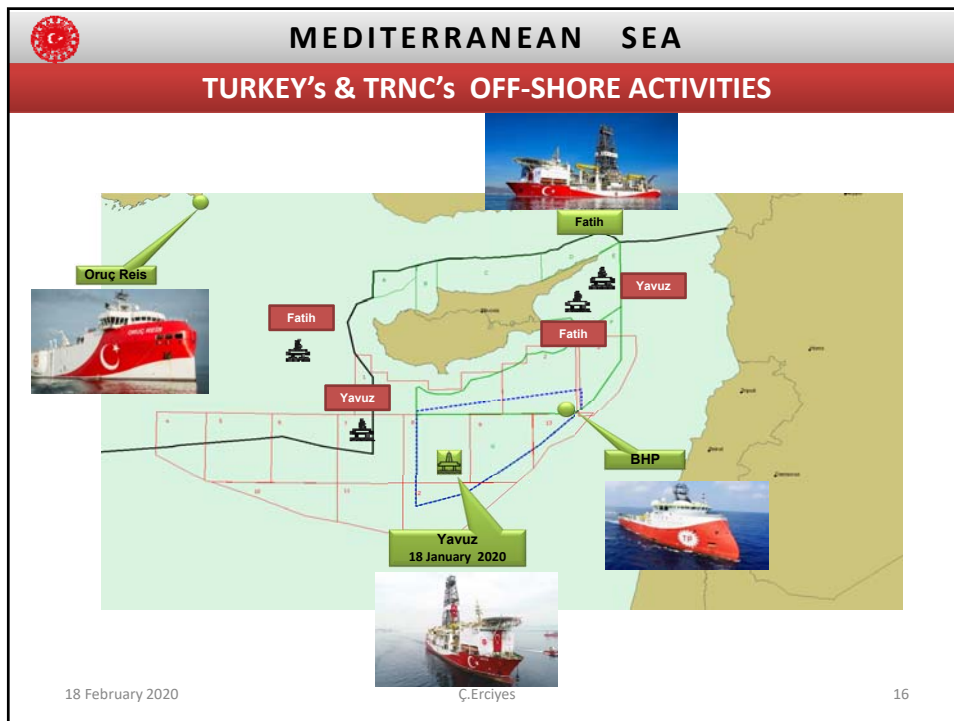
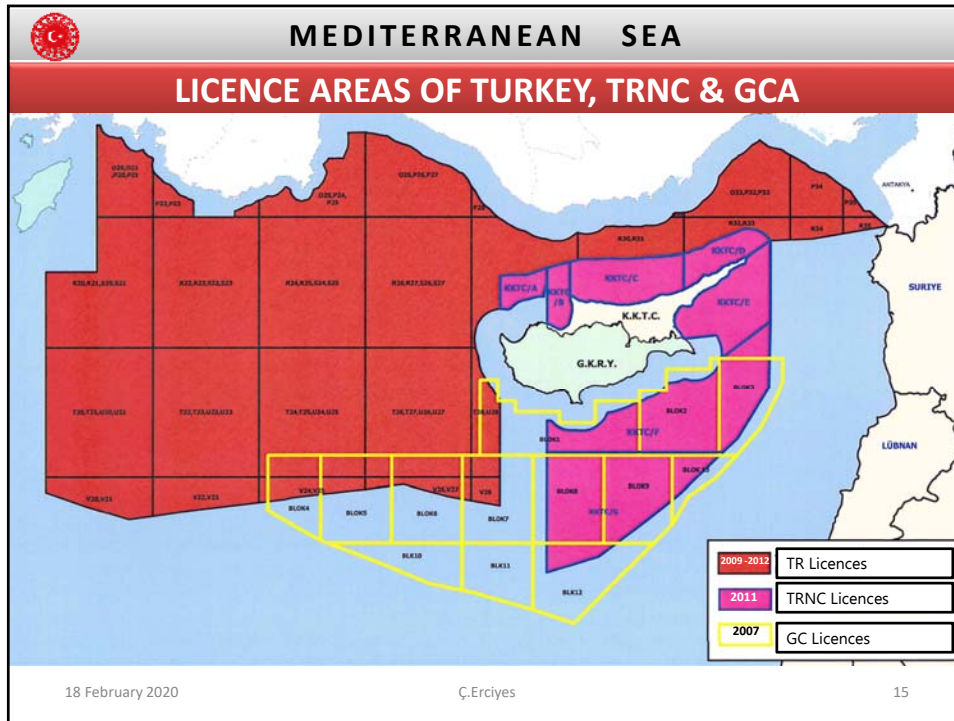
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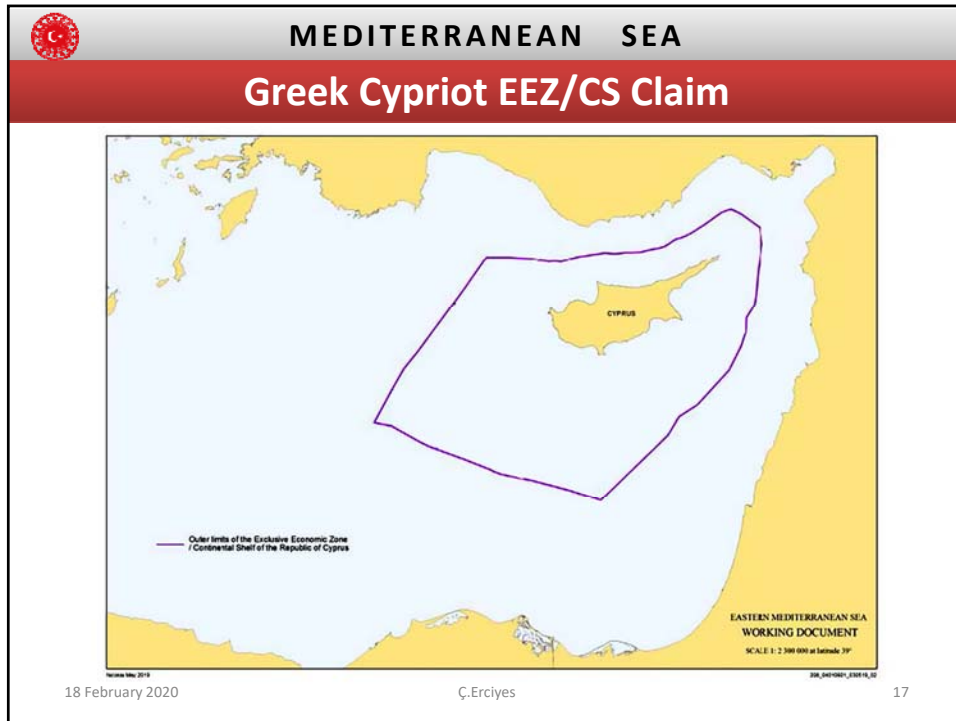
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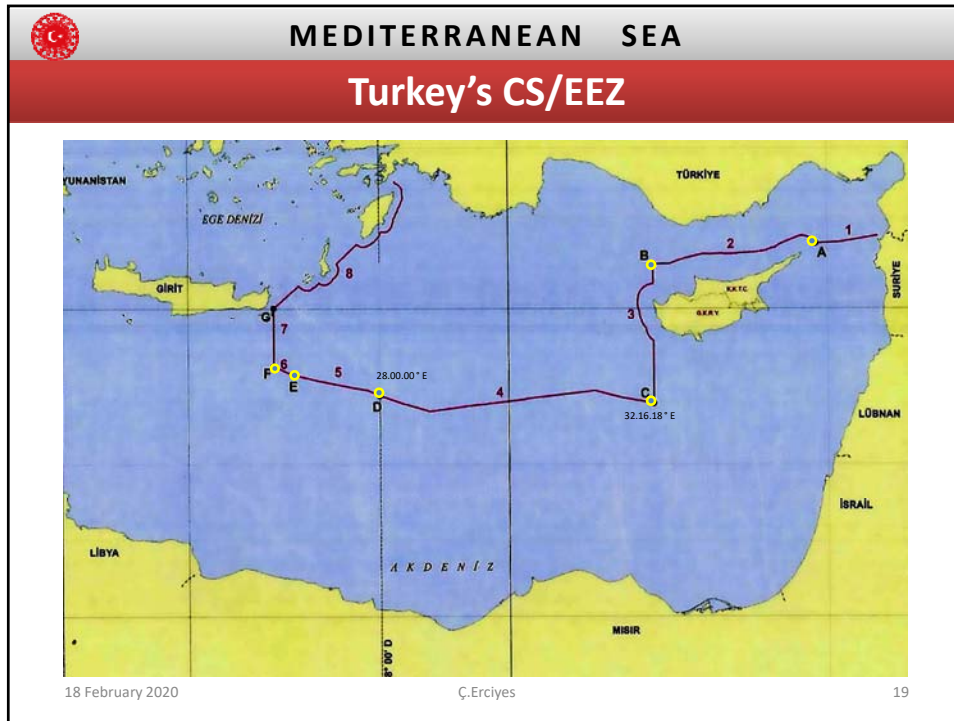
Turkey & TRNC reaction

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

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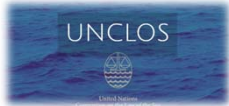
 **MEDITERRANEAN SEA**



Legal Framework MBD
and the arguments of the
parties

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 **MEDITERRANEAN SEA**



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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MEDITERRANEAN SEA

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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EASTERN MEDITERRANEAN

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;">GEOGRAPHICAL CIRCUMSTANCES</p> <ul style="list-style-type: none"> • 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) 	<p style="text-align: center;">NON-GEOGRAPHIC CIRCUMSTANCES</p> <ul style="list-style-type: none"> • Geological and geomorphological factors ? • Economic factors ? (Hydrocarbon resources, fisheries) • Navigation ? • Socio-economic and demographic factors X • Defence and security ? • Environment ? • Historical rights ✓ • Presence of Third States ✓
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OTHER FACTORS AFFECTING DELIMITATION

- Proportionality ✓
- Non-encroachment ✓
- Proximity ✓

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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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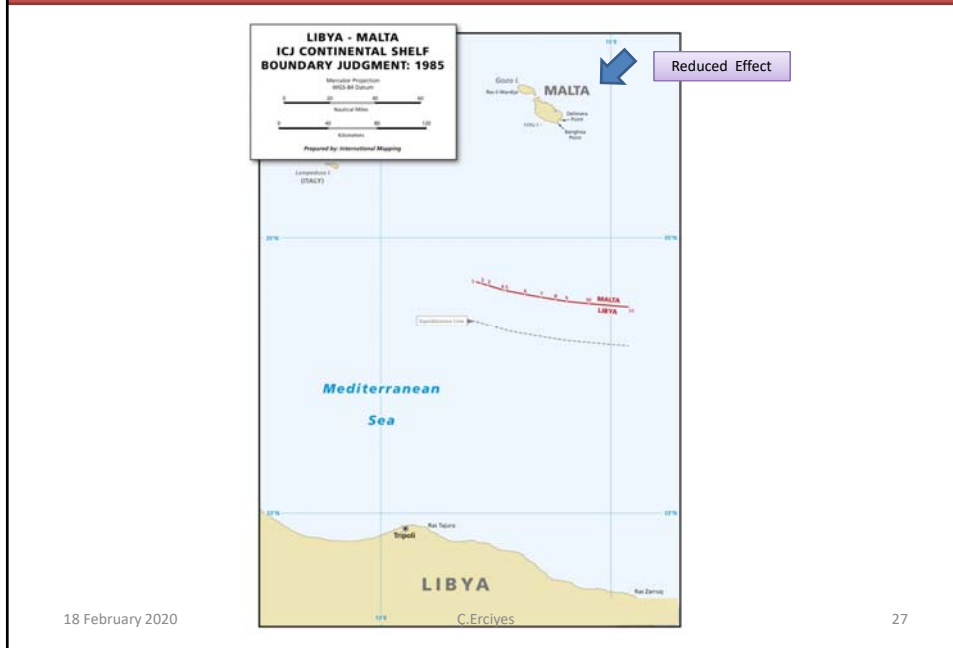
Cases - 1977-78 UK-France

The map illustrates the maritime boundary delimitation between the UK and France in the English Channel. Key features include:

- Geographical Labels:** IRELAND, ENGLAND (U.K.), FRANCE, London, Eddystone R, English Channel, Isles of Scilly, L. d'Quessant.
- Boundary Lines:** A dashed line labeled 'U.K. FRANCE' shows the maritime boundary. A solid line labeled 'Enclave' and a dashed line labeled 'Partial Effect' indicate specific boundary treatments.
- Inset Photos:** Two inset photos show a harbor scene and a coastal town, likely related to the maritime boundary cases.

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CASES - 1985 Libya-Malta



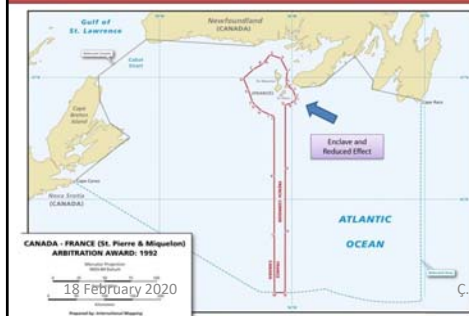
CASES - 1982 Tunisia-Libya



CASES - 1993 Denmark-Norway (Jan Mayen)

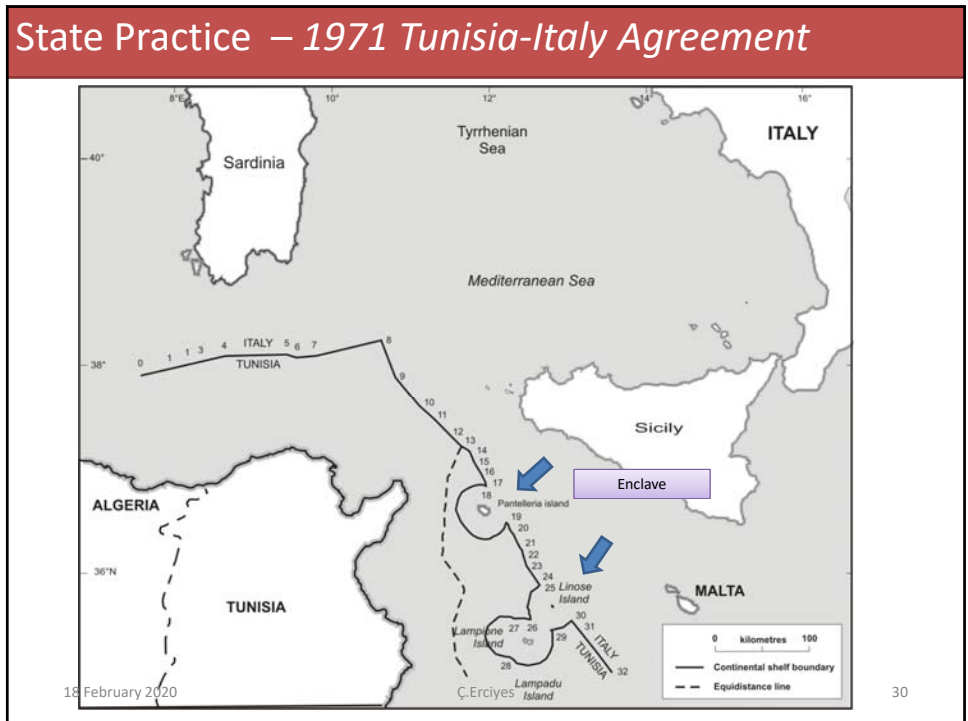
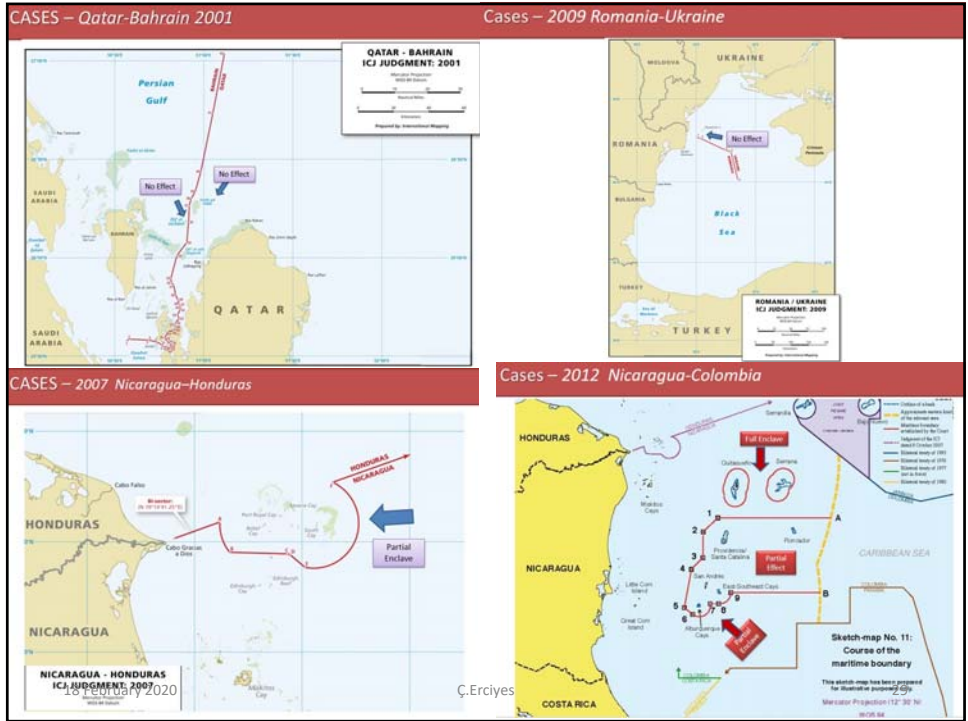


CASES - 1992 Canada-France (St Pierre and Miquelon)



CASES - 1999 Yemen-Eritrea - Mixed





State Practice – 1969 Iran-Qatar Agreement

No Effect

State Practice – 1973 Canada-Denmark (Greenland)

Sovereignty Disputed yet overlooked in delimitation agreement

State Practice – 1988 USSR-Sweden Agreement

Reduced Effect (US)

Joint Fisheries Zone (JFZ)

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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

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State Practice – 1978 Papua New Guinea and Australia

Full Enclave

- ❖ 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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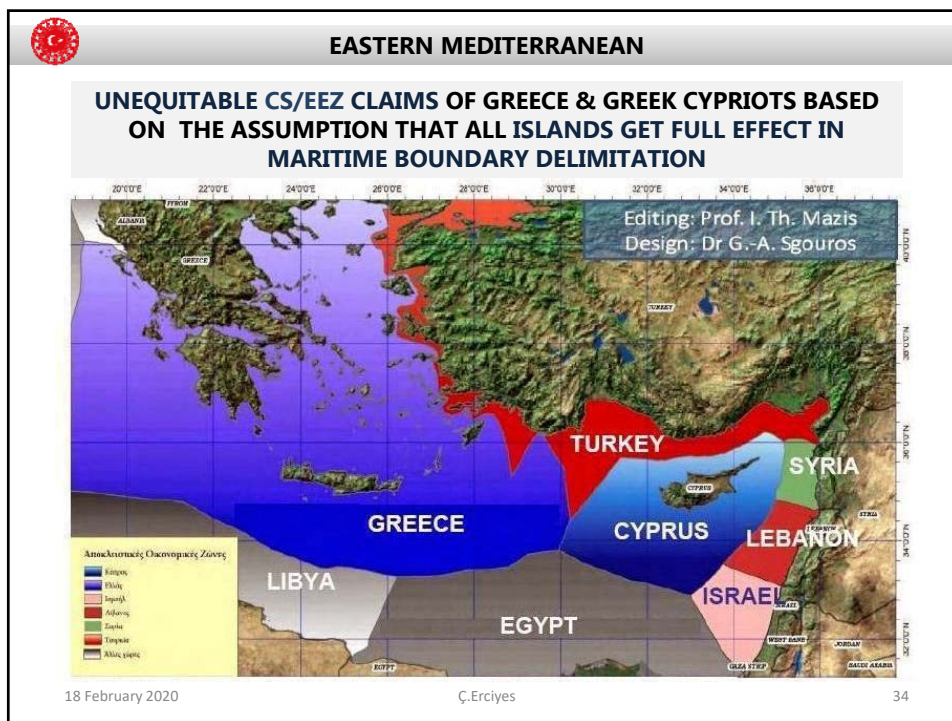
Treatment of Islands in Maritime Boundary Delimitation

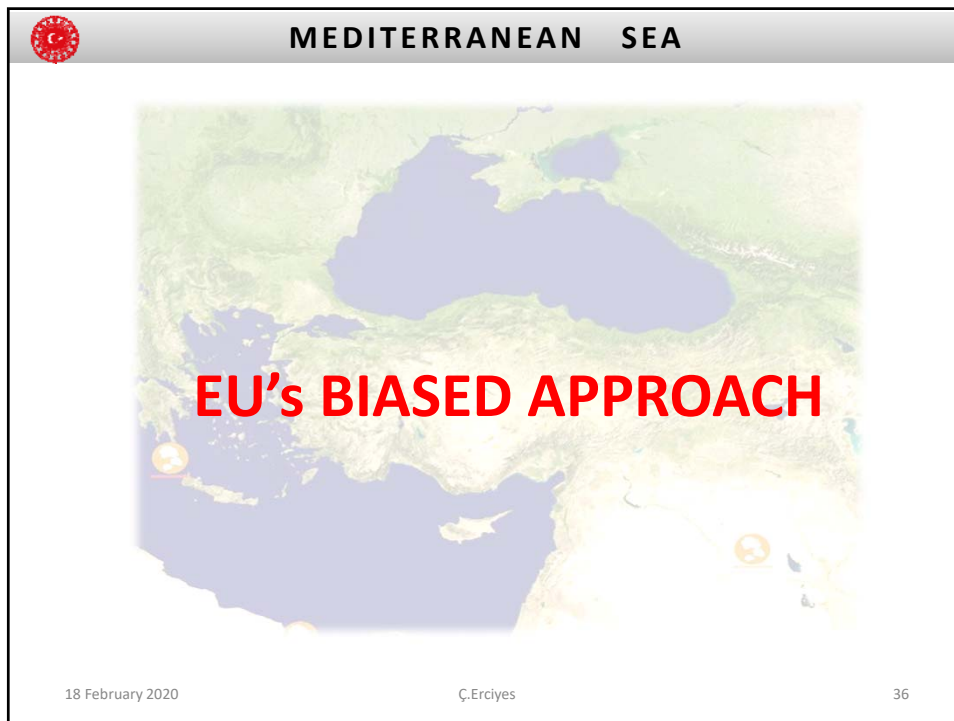
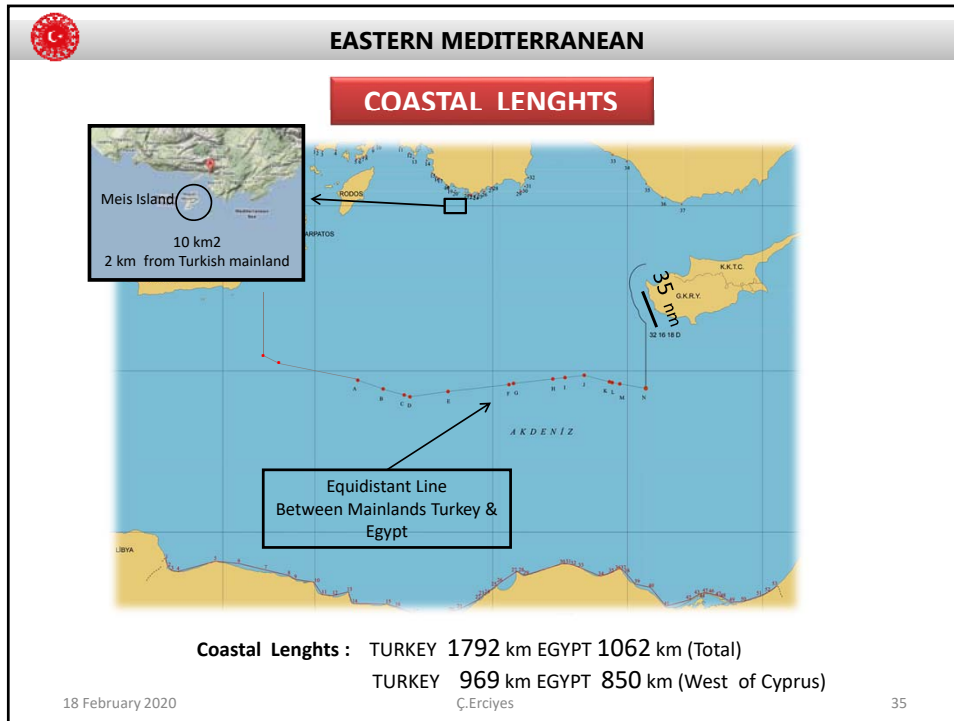
CONCLUSION

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

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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

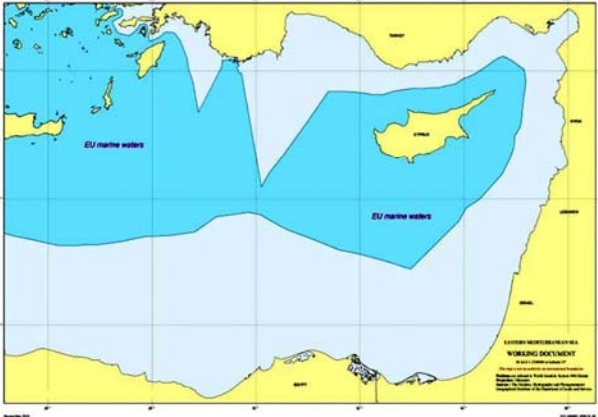
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EU's BIASED APPROACH

European Union marine waters

???



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?

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 **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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 **MEDITERRANEAN SEA**

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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EASTERN MEDITERRANEAN

EU's BIASED APPROACH

Spain-France

Slovenia-Croatia

Malta-Italy

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EASTERN MEDITERRANEAN

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)

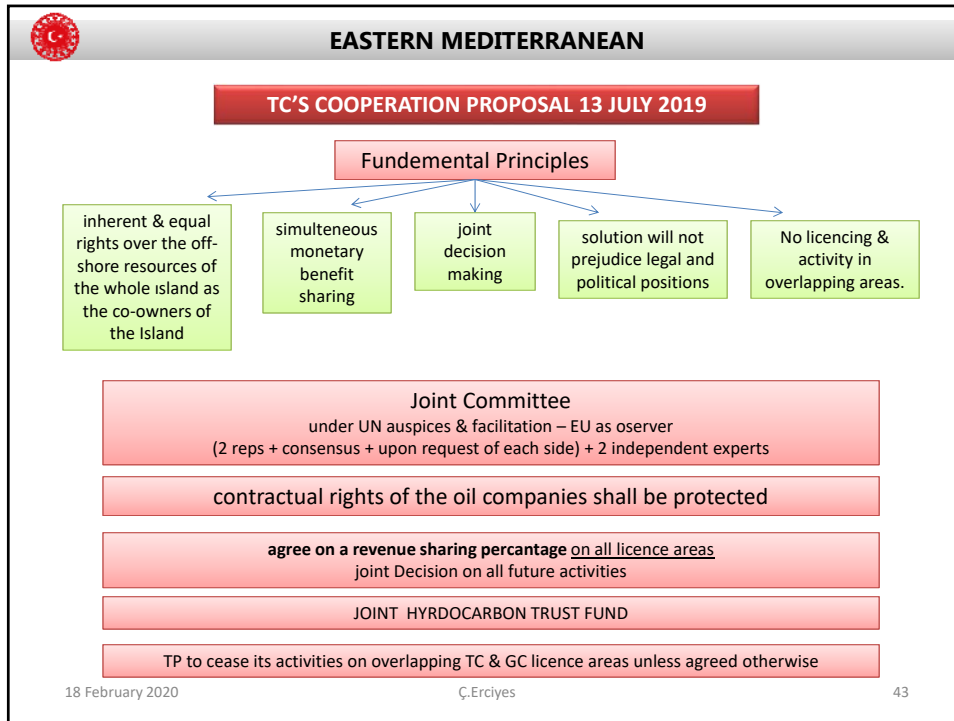
TCS' equal rights as co-owners of the Island should be guaranteed.

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

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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

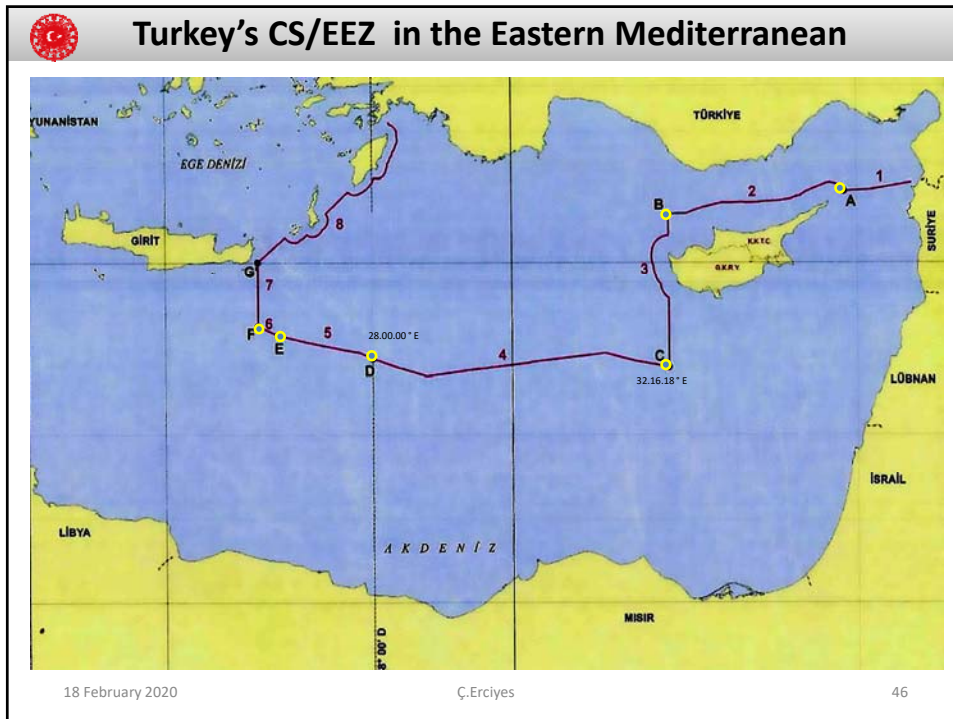
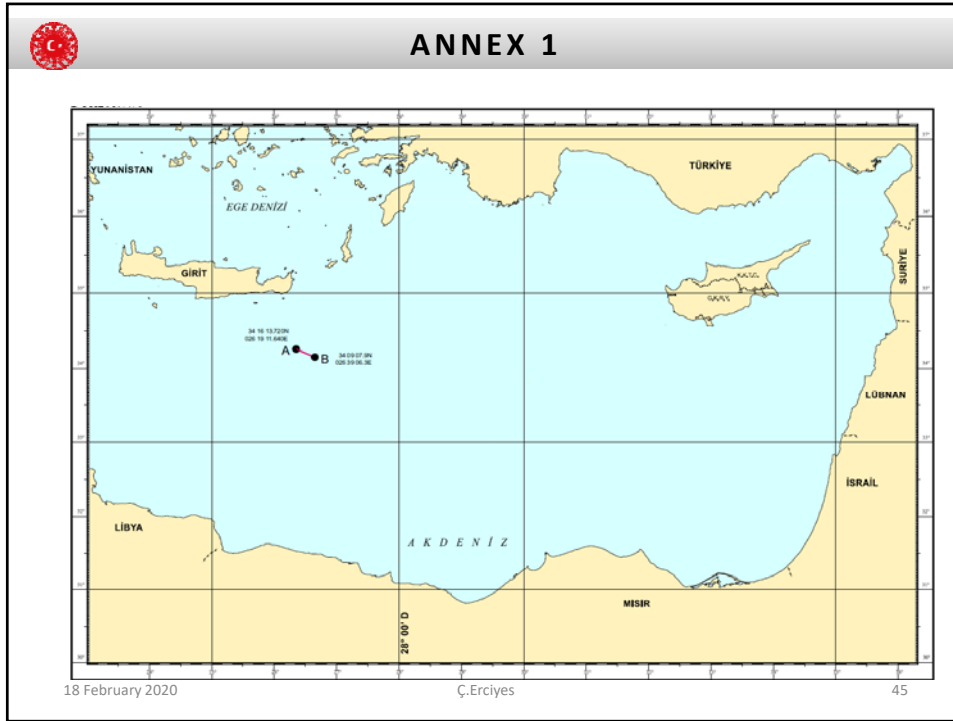
ON BEHALF OF THE GOVERNMENT OF NATIONAL ACCORD-STATE OF LIBYA

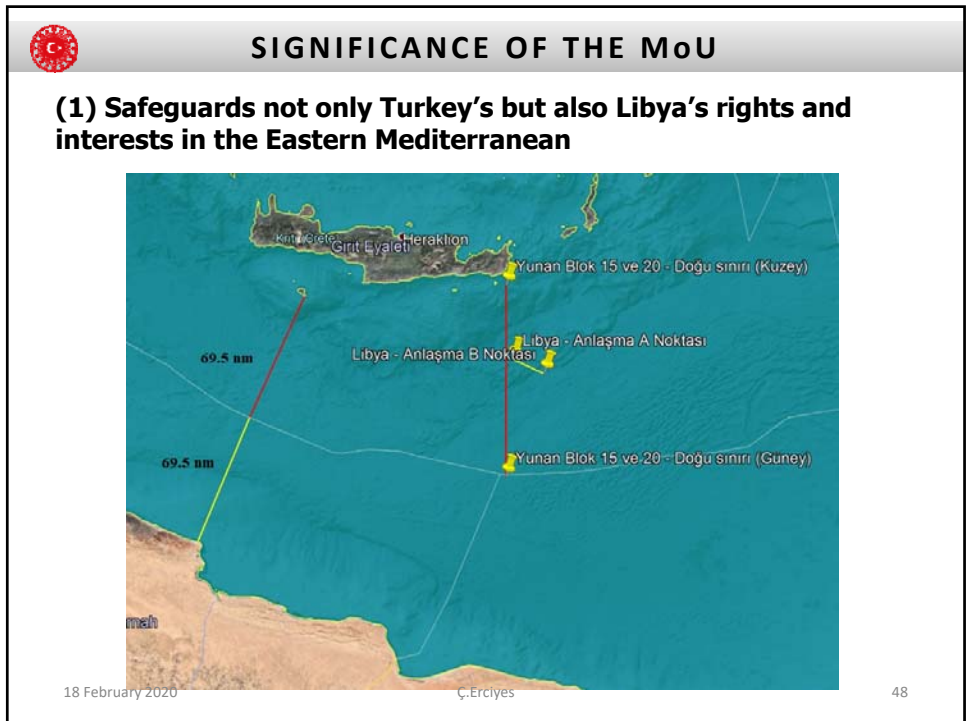
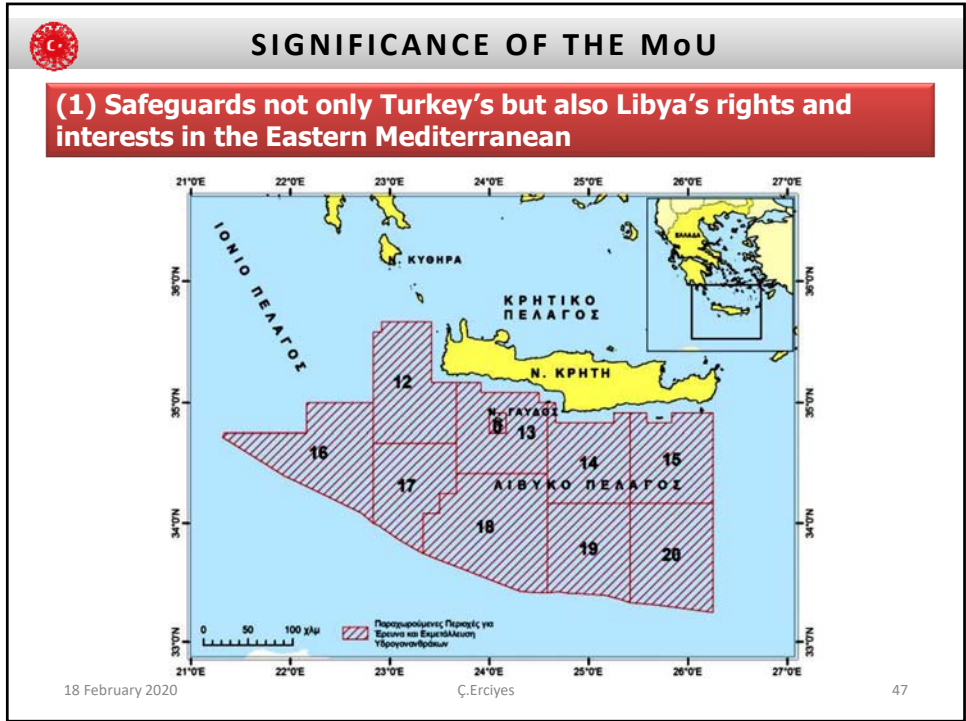
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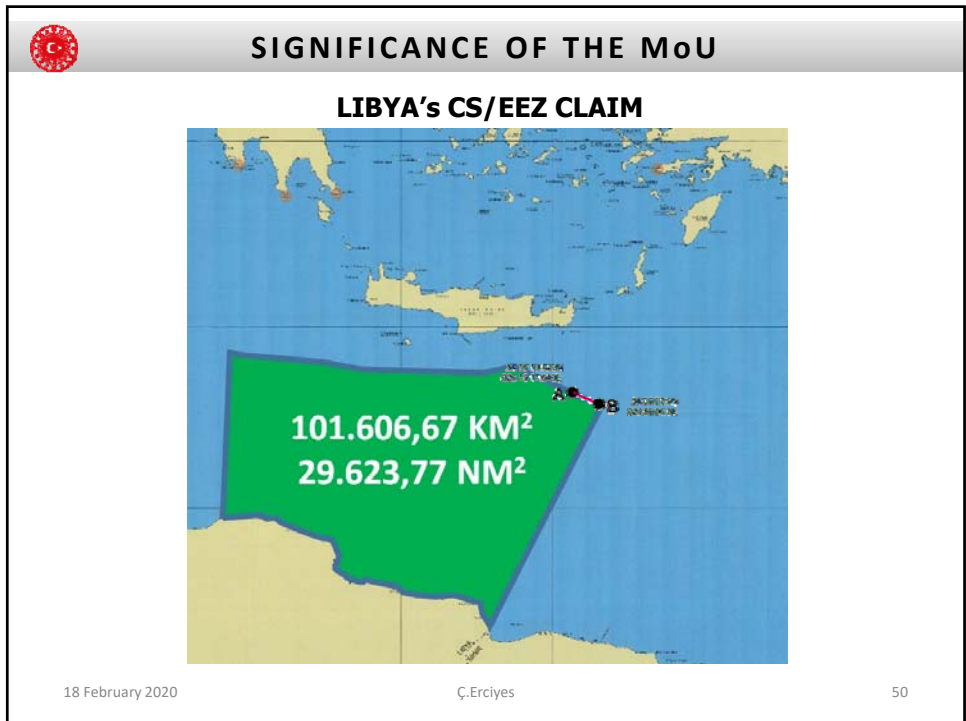
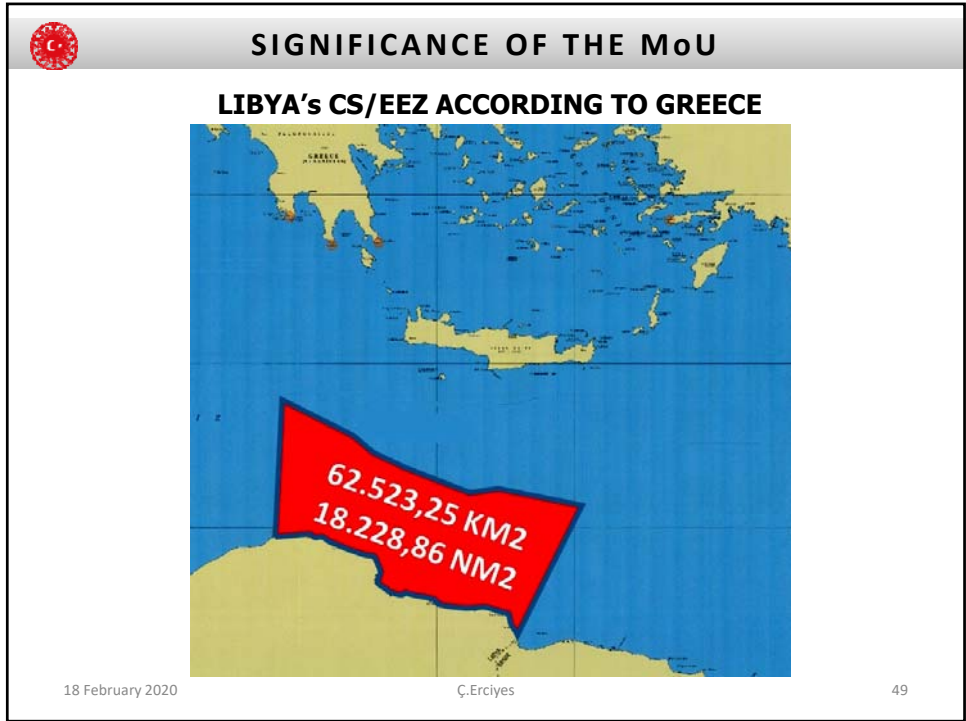
NAME : Mohamed Taher SIYALA

TITLE : Minister of Foreign Affairs

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SIGNIFICANCE OF THE MoU

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

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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

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SIGNIFICANCE OF THE MoU

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


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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.


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 **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



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 **EASTERN MEDITERRANEAN**



POSSIBLE MBD SCENARIOS

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