



MARITIME ISSUES

MARITIME BOUNDARY DELIMITATION, & TURKEY'S OFF-SHORE ACTIVITIES IN THE EASTERN MEDITERRANEAN

10 MAY 2019

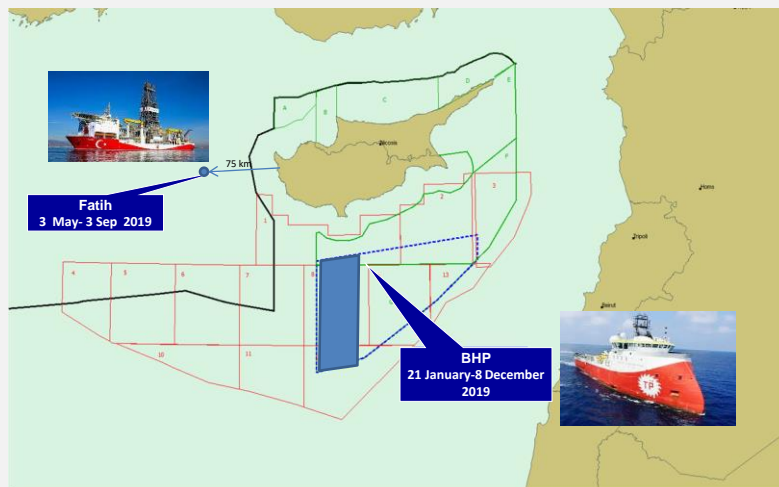
Çağatay Erciyes
Ambassador
Director General

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TP survey and drilling activities



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**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 in 2012

These licence areas were published in the Turkish Official Gazetta in the same year.

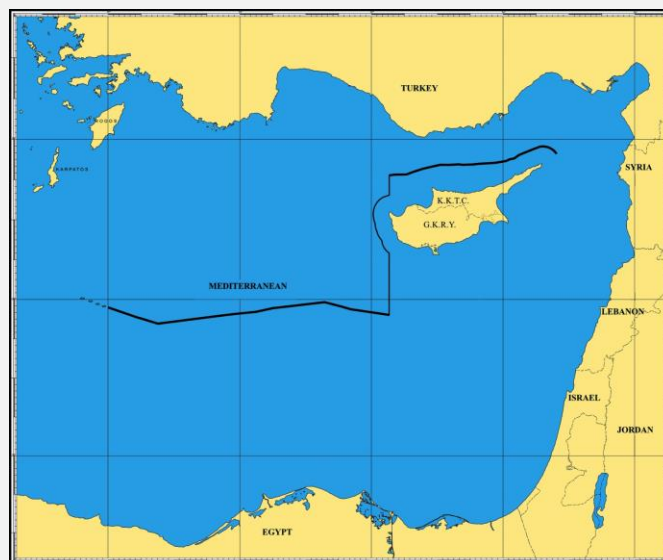
- ☐ The drilling area is **NOT** located within the TC & GC licence areas

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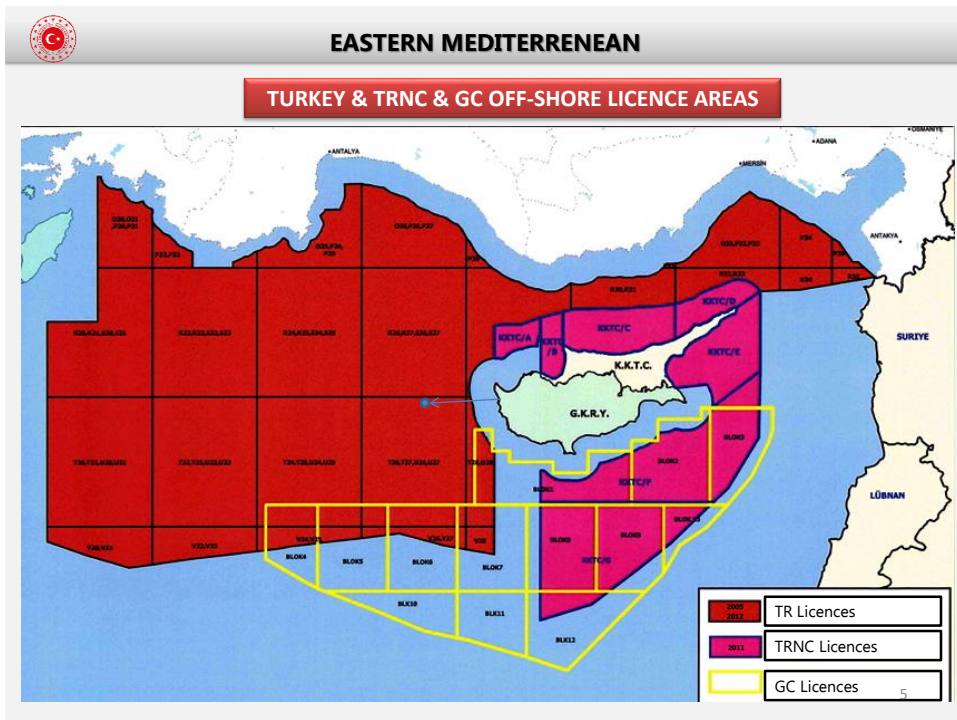


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Turkey's Continental Shelf



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EU Statement - 4 May 2019

We express grave concern over Turkey's announced intention to carry out drilling activities **within the exclusive economic zone of Cyprus.....illegal action.....**

US Statement - 5 May 2019

Turkish Drilling in Cypriot-Claimed Waters

.....offshore drilling operations **in an area claimed by the Republic of Cyprus as its EEZ.....**

French Statement - 7 May 2019

along the same line with the EU Statement

We are quite dismayed that some countries are supporting GCs position in accordance with their political expediencies. Yet, this issue is about international law.



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What are the legal means of maritime boundary delimitation?

- Negotiation leading to treaty.
 - Conciliation
 - Arbitration.
- Adjudication at an international court or tribunal.
- Courts/tribunals have played a major role in maritime delimitations.

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Treaty Provisions on Maritime Boundary Delimitation

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**
- **Provisional Arrangements**

NO METHOD IS INDICATED

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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.

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Jurisprudance on Maritime Boundary Delimitation

SPECIAL/RELEVANT CIRCUMSTANCES

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 oppositness, direction, comparative lenghts, concave or convex shape)
- **Basepoints** ✓
(including presence of ports, roadsteads, bays, river mouths, low-tide elevations, reefs boundaries)
- **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** X
- **Defence and security** ?
- **Environment** ?
- **Historical rights** ✓
- **Presence of Third States** ✓

OTHER FACTORS AFFECTING DELIMITATION

- * **Proportionality** ✓
- * **Proximity** ✓

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The Role of Islands in Maritime Boundary Delimitation

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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.

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Treatment 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 have been 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.

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Treatment of Islands in Maritime Boundary Delimitation

In maritime boundary delimitation, islands may receive

- ☐ full effect
- ☐ partial effect
- ☐ full enclave or partial enclave
- ☐ no effect

**either through state practice or in international
jurisprudence**

**In delimitation cases, involving islands
competing with mainland coasts, equitable
delimitation takes into account ~~non-~~
encroachment, avoidance of cut-off effects
of islands and the avoidance of
disproportionate results.**

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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 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.

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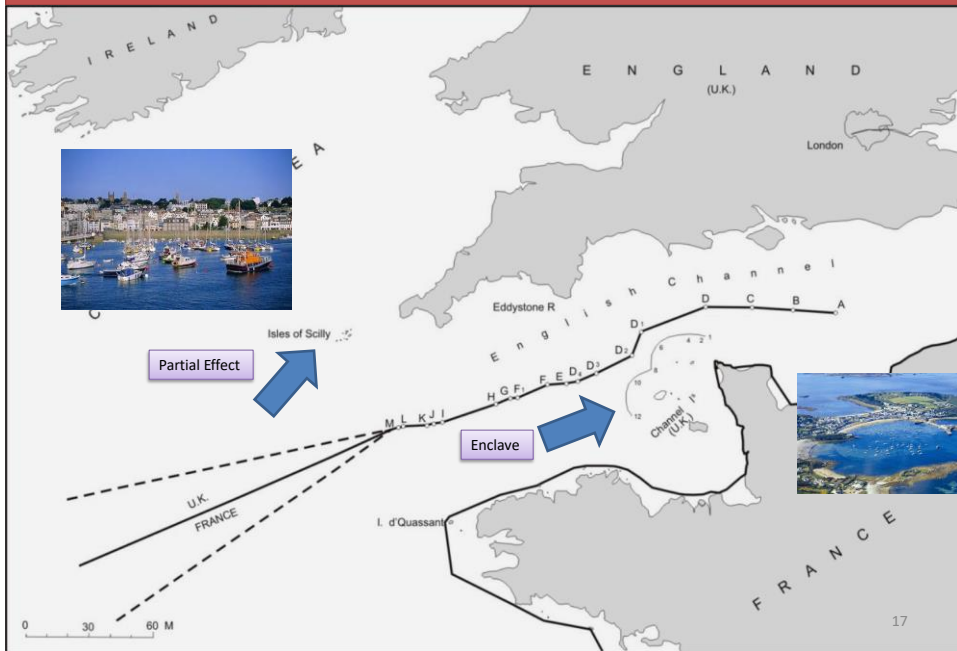
Islands in Maritime Boundary Delimitation

Some examples of jurisprudence and state practice where islands have received

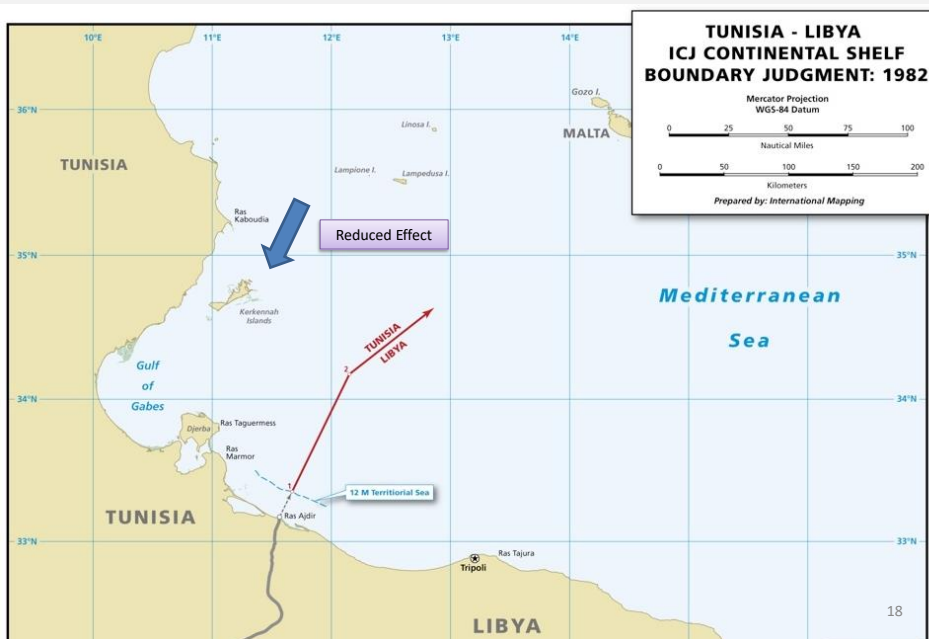
**a reduced effect or
been partially or wholly enclaved or
even completely ignored.**

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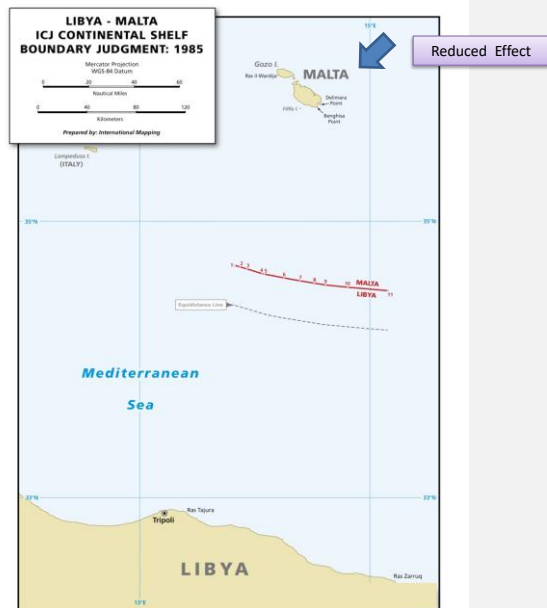
Cases - 1977-78 UK-France



CASES – 1982 Tunisia-Libya

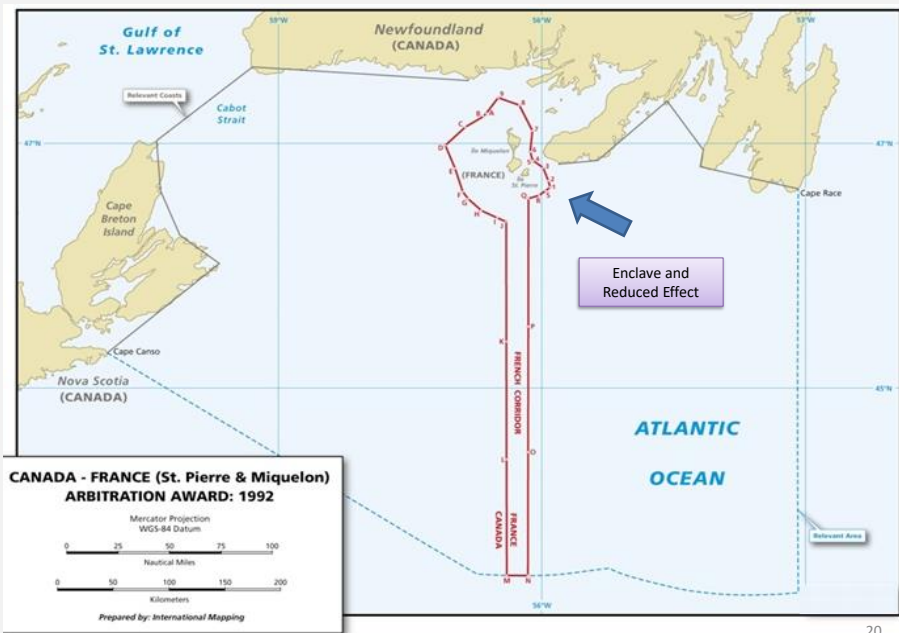


CASES - 1985 *Libya-Malta*



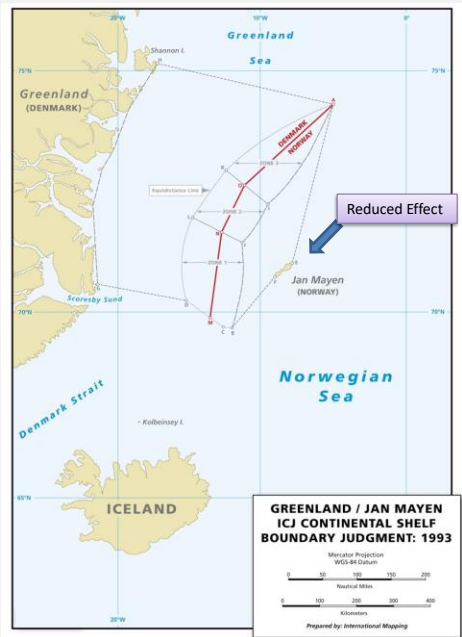
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CASES – 1992 *Canada-France (St Pierre and Miquelon)*



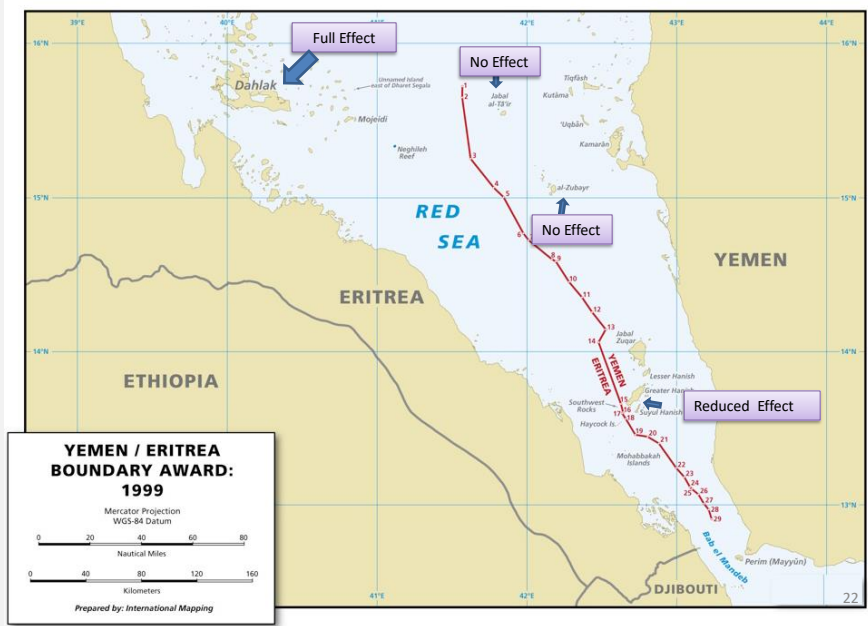
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CASES – 1993 Denmark-Norway (Jan Mayen)



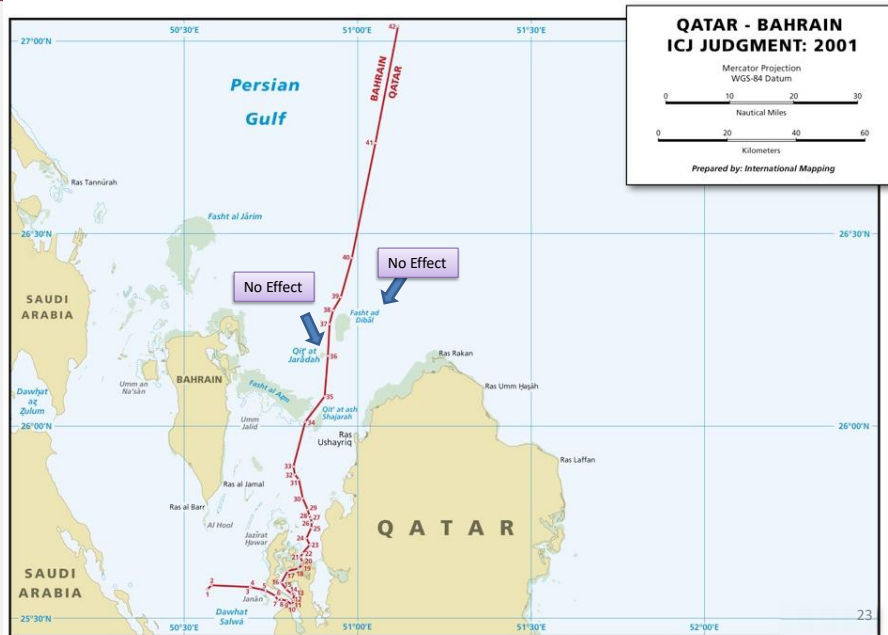
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CASES – 1999 Yemen-Eritrea – Mixed

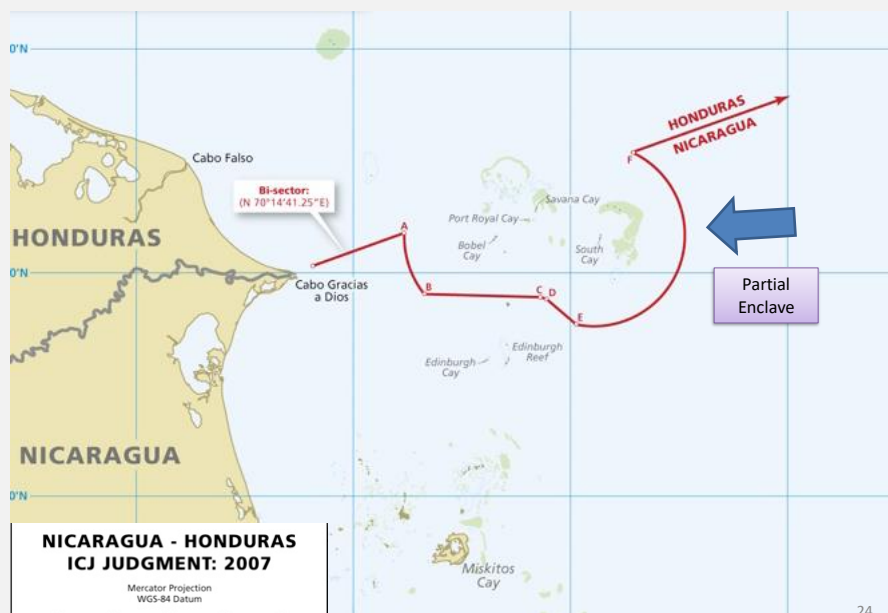


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CASES – Qatar-Bahrain 2001



CASES – 2007 Nicaragua–Honduras

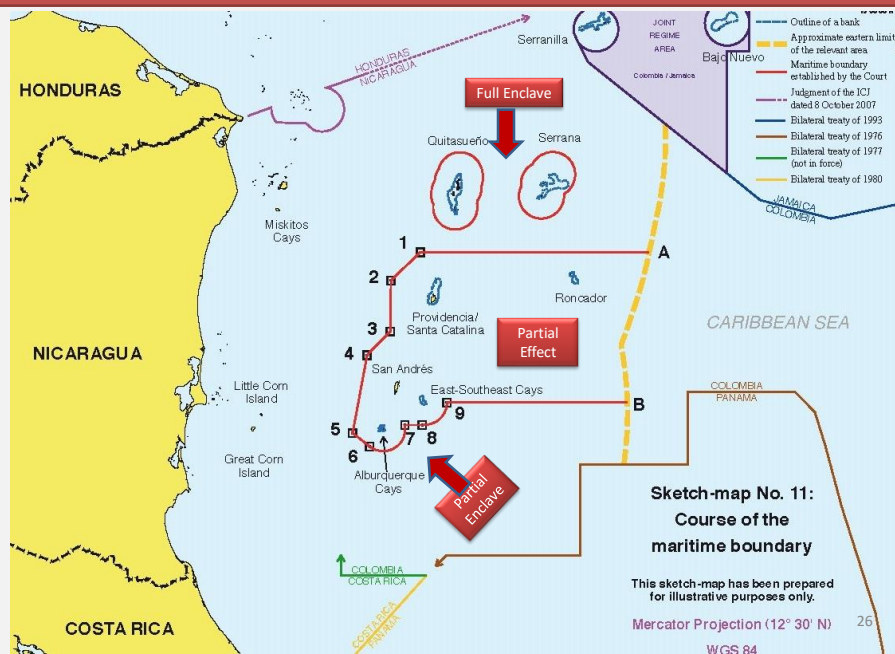


Cases – 2009 Romania-Ukraine



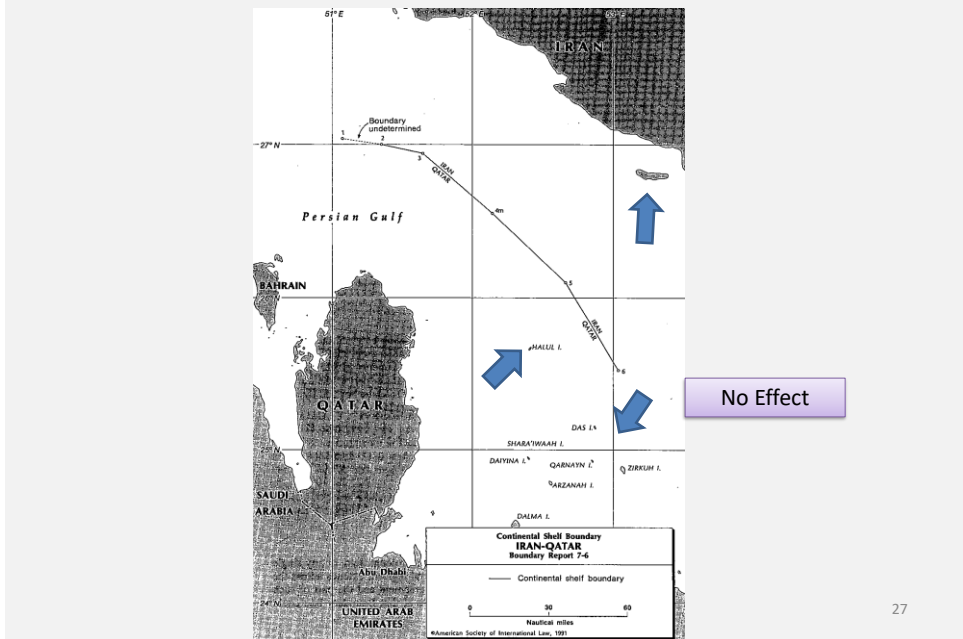
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Cases – 2012 Nicaragua-Colombia

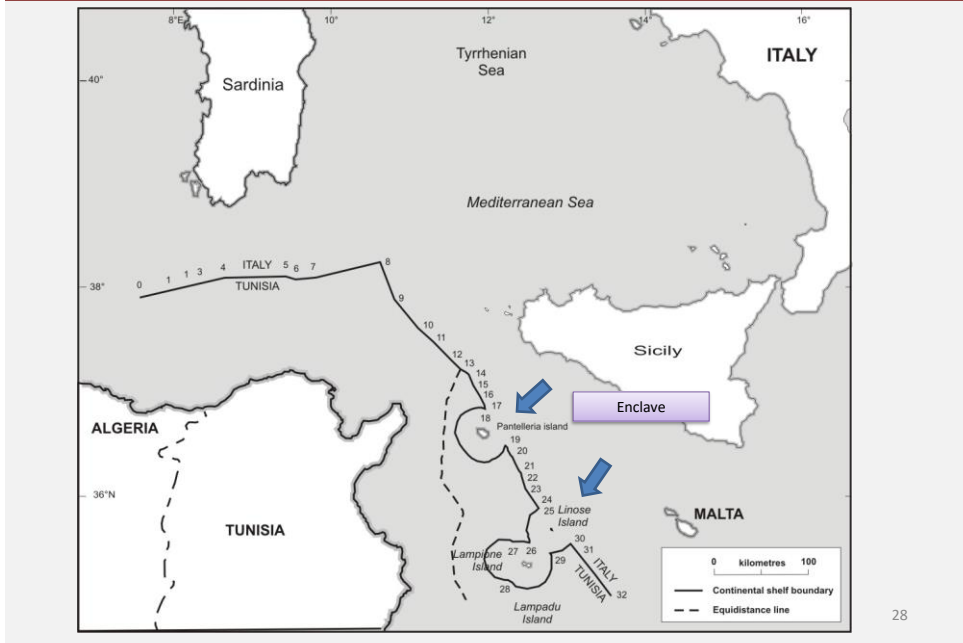


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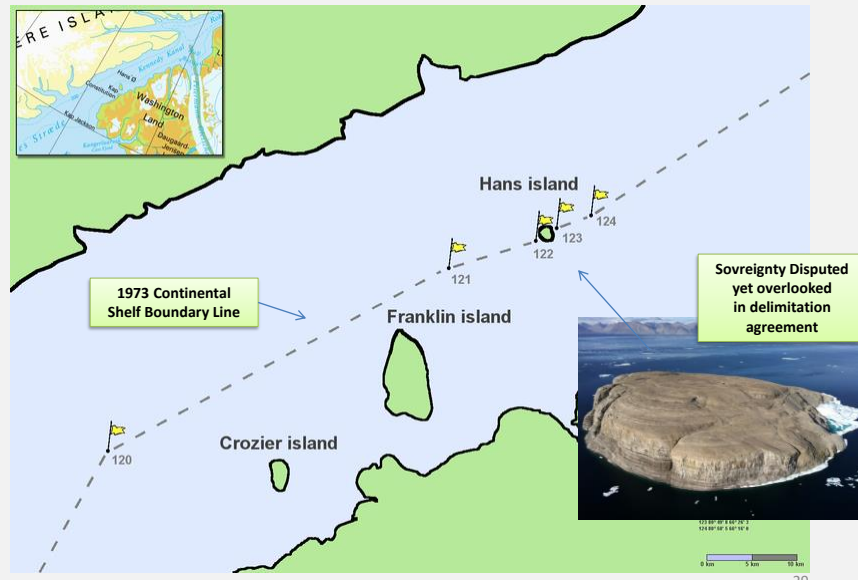
State Practice – 1969 Iran-Qatar Agreement



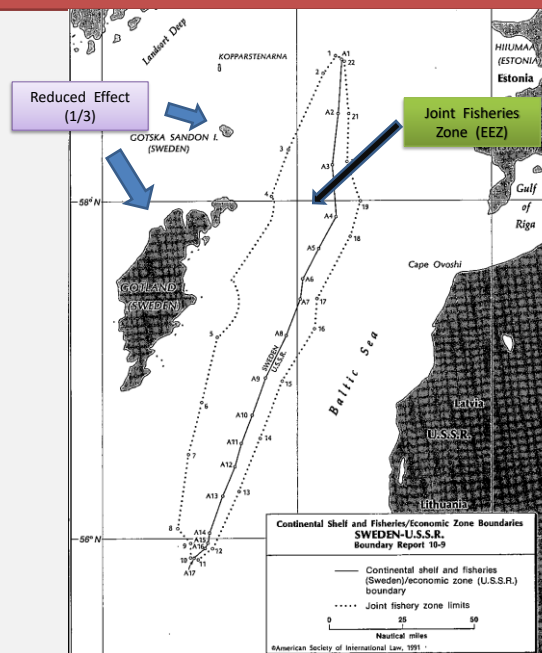
State Practice – 1971 Tunisia-Italy Agreement



State Practice – 1973 Canada-Denmark (Greenland)



State Practice – 1988 USSR-Sweden Agreement



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



- ❖ 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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As seen from these examples, there is no automacity in claiming that islands generate full maritime jurisdiction areas, This is not the case in international law.

Islands are given limited effect in maritime boundary delimitation if their location distorts equitable delimitation.

Based on internatioan law, we have made our position clear since 2004 and registered our position in the United Nations.

We believe that the Island of Cyprus in the west of the Island and the Greek Islands in the area including Castellorizo cannot generate full EEZ/CS under international law as they distort the equitable delimitation.

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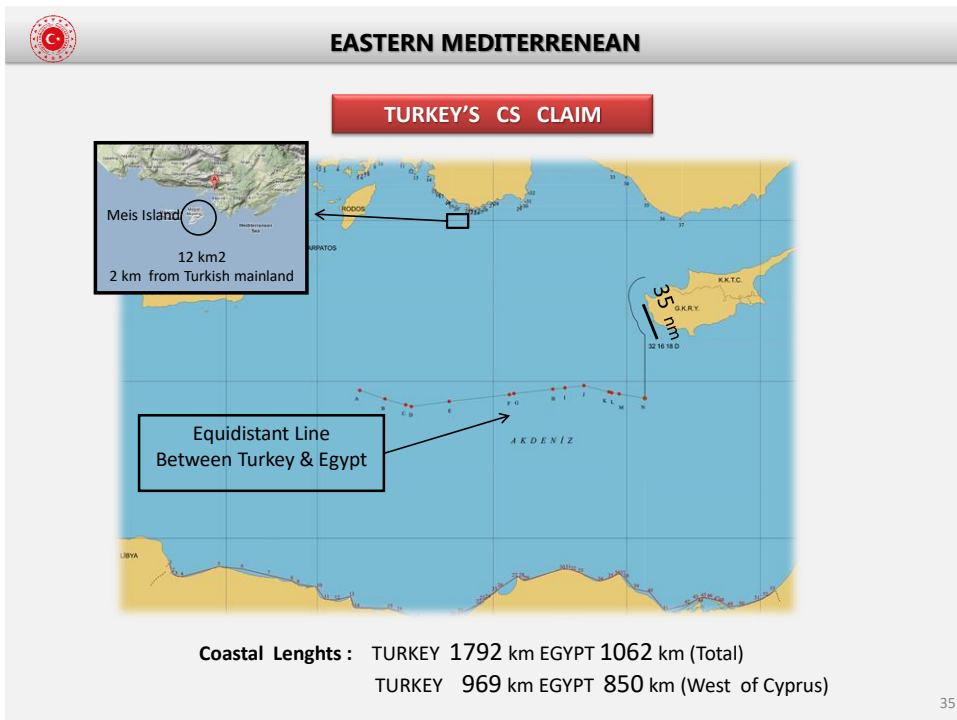


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UNEQUITABLE EXCLUSIVE ECONOMIC ZONE CLAIMS OF GREECE&GREEK CYPRIOTS WITH THE ASSUMPTION THAT ALL ISLANDS GET FULL EFFECT IN MARITIME BOUNDARY DELIMITATION



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- EASTERN MEDITERRENEAN**
- 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
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As seen from these examples, there is no automacity in claiming that islands generate full maritime jurisdiction areas, This is not the case in international law.

Third parties should refrain from taking sides in overlapping maritime boundary claims and acting as a court in deciding on maritime boundaries.

The final maritime boundaries in that part of the Mediterranean can only be settled through agreements to be concluded between the coastal states based on international law and the equitable principle.

As far as Cyprus is concerned this would only be possible after the political settlement.

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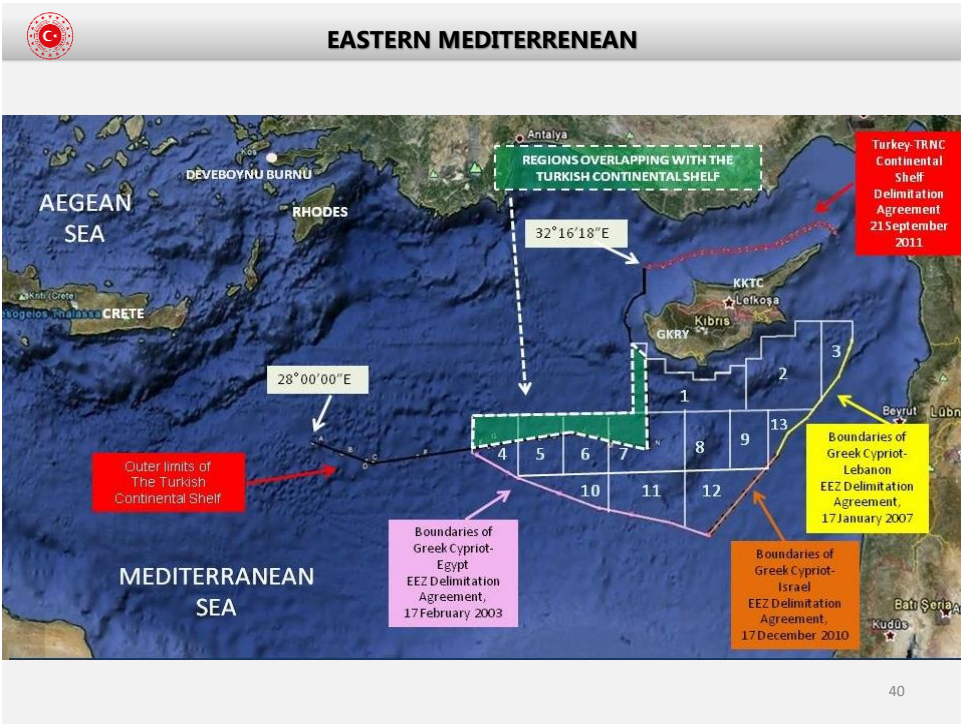
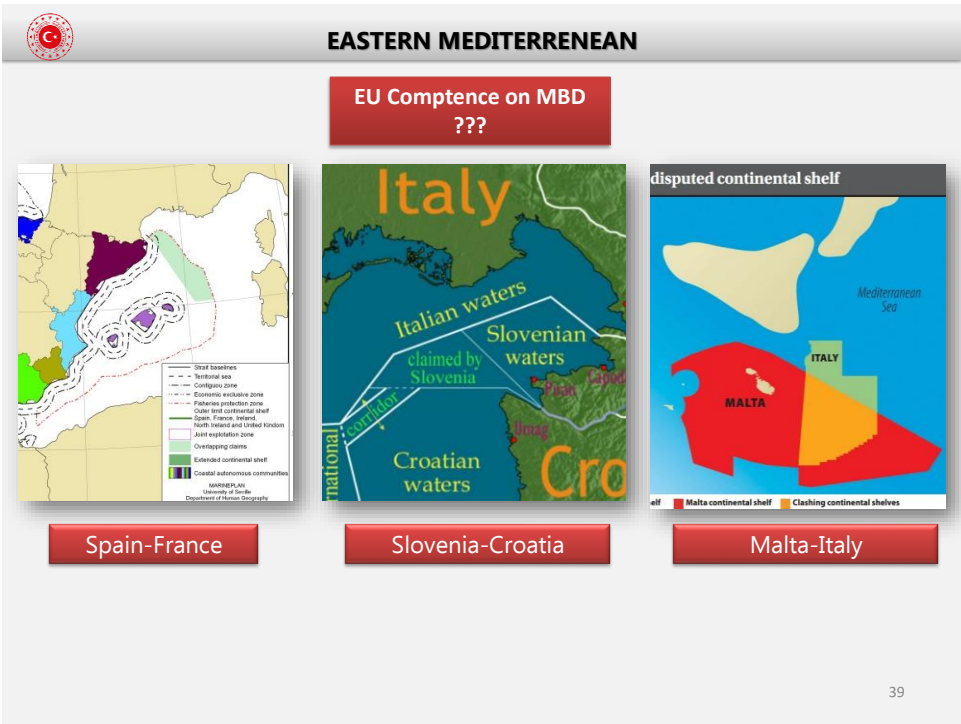


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❖EU has no competence in delimiting maritime boundaries.

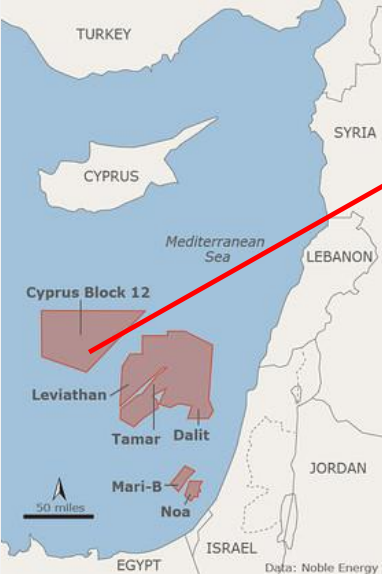

❖EU has never taken a side in supporting the claim of one side in overlapping maritime claims

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GC's OFF-SHORE DRILLING

GC's started off-shore drilling on 19 September 2011

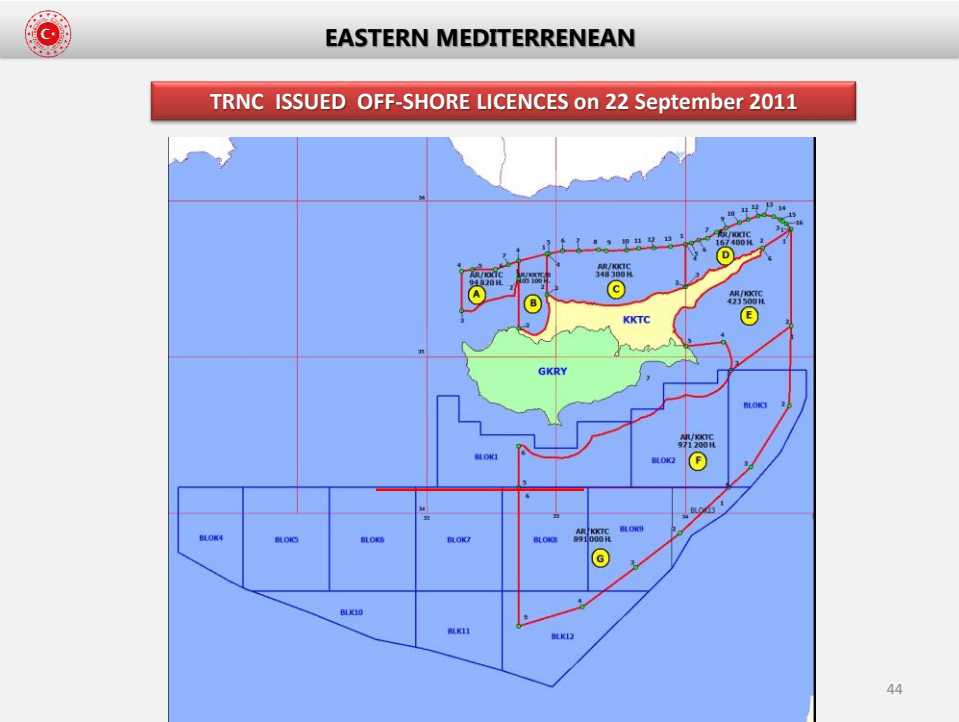
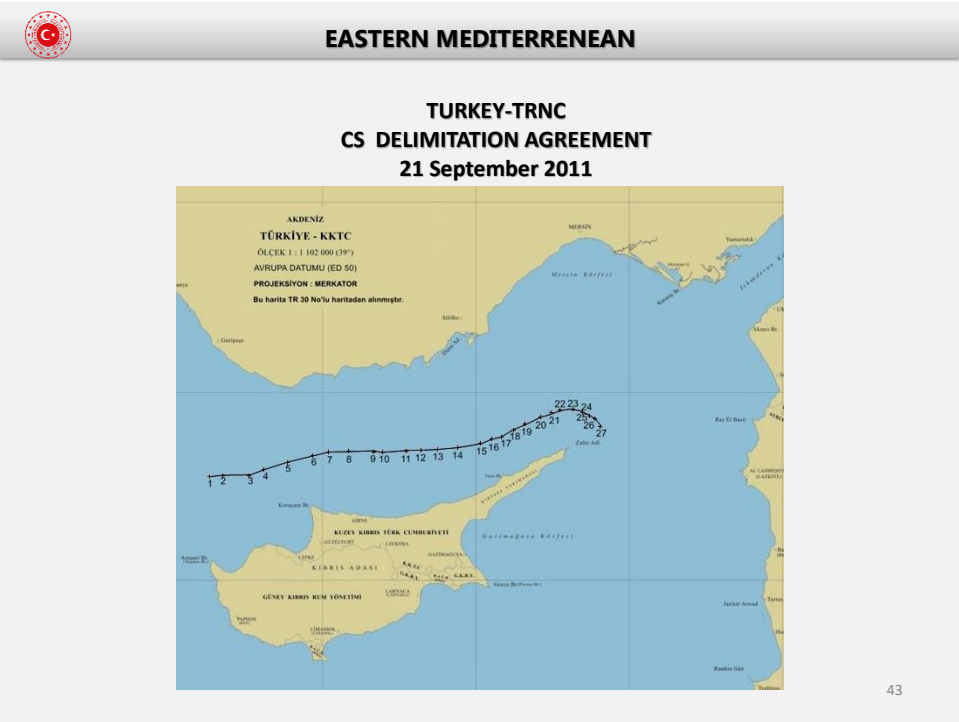
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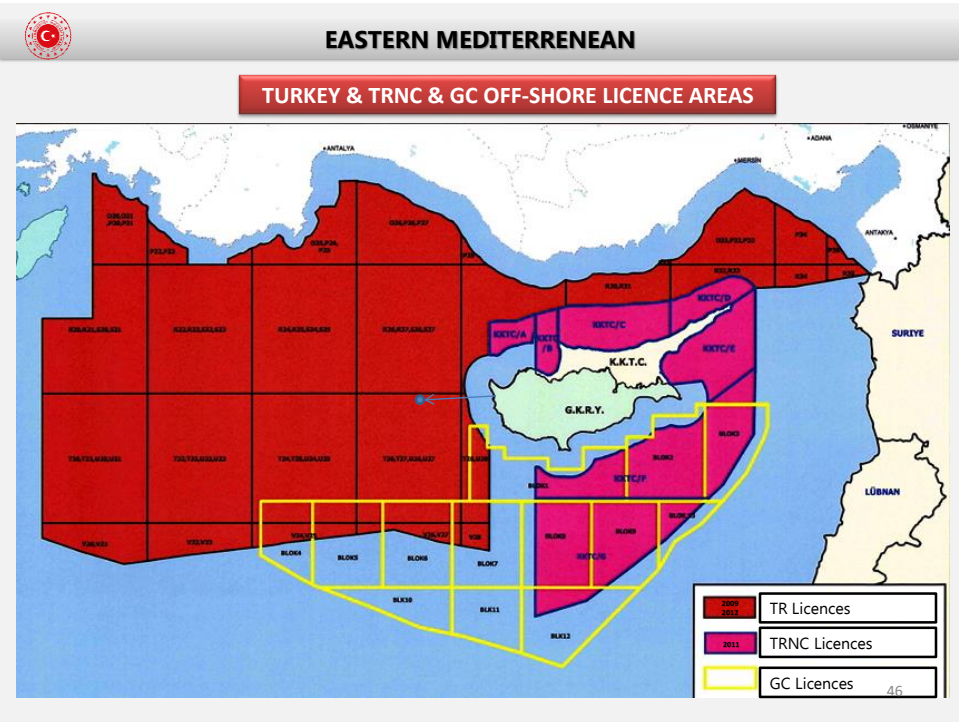
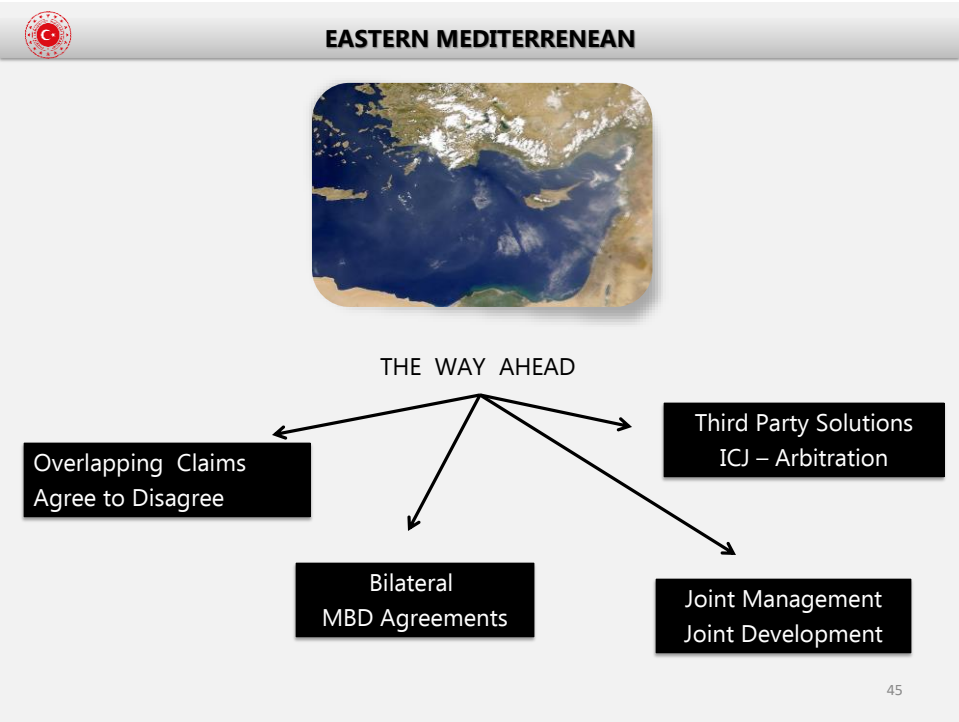
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**PROPOSAL OF THE TRNC PRESIDENT TO UN SECRETARY –GENERAL
24 SEPTEMBER 2011**

- ☐ 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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We will resolutely continue our survey and drilling activities in our continental shelf in the areas where our 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, We will continue to protect the continental shelf rights of the Turkish Cypriots as well.

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