

Screen 1 – Maritime Zones and the Law of the Sea Part 2: Boundaries and Disputes

This is the second of two lectures which focus on the Law of the Sea. This lecture will focus on maritime boundaries and disputes.

Screen 2 – Learning outcomes

- Understand the mechanism for the determination of maritime boundaries.
- Appreciate that the determination of maritime boundaries can generate disputes.
- Recognise the main mechanisms to overcome maritime boundary disputes.

Screen 3 – Introduction

The delimitation of maritime boundaries is often a topic of great debate and occasionally conflict. This is because the resources found in maritime zones can be very valuable and the authority awarded over marine space by the designation of maritime zones is important in the protection and security of coastal states. The Law of the Sea is very clear in most situations regarding how to claim maritime zones, as discussed in our previous lecture. However, there are particular challenges related to the application of the Law of the Sea in three specific situations:

- When coastal states less than 400nm apart and a median line must be defined.
- When the maritime zone has the potential to be expanded by the existence of islands.
- When there is territory of disputed sovereignty.

In this lecture we will examine each of these situations in turn.

Screen 4 - The North Sea's maritime boundaries

First, we will start with situations in which coastal states are *less than* 400nm apart. If coastal states are *more than* 400nm apart, each can claim a full 200nm EEZ. If not, then agreement must be reached to define an agreed boundary. The boundary is called the Median Line. The median line is the mid-point between the baselines of each coastal state. Once agreed, the median line becomes the international maritime boundary between coastal states. The map on the screen of the North Sea shows the maritime area associated with each of the North Sea's coastal states. Where each of the maritime zones meet, this is a median line. As coastal states want to maximise their marine resources, the definition of the median line can be contentious.

Screen 5 - Median line

The median line is defined by calculating the mid-point of straight lines drawn between two or more baselines of adjacent maritime states. When joined together, the mid-points form the median line.

Screen 6 – Islands

The second situation we will examine is islands. An island is a “naturally formed area of land, surrounded by water, which is above water at high tide” (UNCLOS Article 121.1). Rocks “which cannot sustain human habitation or economic life of their own” shall have no maritime zones (UNCLOS Article 121.3). Artificial islands, structures, and installations do not have their own maritime zones. Coastal states try can populate islands to justify greater claim over maritime zones and the resources inside them. For example coral atolls in the South China Sea have been extended and populated to meet the ‘island’

criteria in the Law of the Sea and hence generate maritime zones. Overseas territories can be a significant contributor to the marine area of a coastal state. This has benefits including access to resources and military influence. The island on the screen is Tristan da Cunha, which is a British Overseas Territory located in the South Atlantic, is an example of this.

Screen 7– Exclusive Economic Zones of Portugal

Islands can therefore generate substantial additional maritime zones for coastal states. Looking at Portugal as an example, its mainland Europe EEZ has an area of 322,200km², whereas the Portuguese Madeira Islands, in the North Atlantic, have an EEZ of 454,500km² and the Portuguese Azores Islands EEZ, also in the North Atlantic, have an area of 1,060,000km². Similarly, France has a mainland EEZ area of approximately 335,000km², whilst France's total EEZ, including overseas islands, is over 11,000,000km², which is the 2nd largest EEZ of any country (after the United States). The vast majority of France's EEZ is generated by its islands and overseas territories. This illustrates that islands and overseas territories can be a significant contributor to a country's maritime area, and thus its economy and security. Source of maritime zone area information: The 'Sea Around Us' Project (www.seaaroundus.org).

Screen 8 – Disputed sovereignty

The third topic that presents challenges to the Law of the Sea is areas of areas disputed sovereignty. Generally, the maritime zones and rights to use the marine resources therein awarded to coastal states and islands under the Law of the Sea are clear. However, there are some territories, generally islands, which have disputed sovereignty. It is therefore not clear which country should have access to the resources within the maritime zones associated with the disputed territory. Disputed territories are land areas claimed by more than one country. Given their potentially important strategic military role, and valuable economic resources within maritime zones, the sovereignty of disputed territories is often a source of tension, and sometimes conflict, between countries. An example of this is the Islands of the South China Sea (such as the Spratly Islands) that are claimed by several countries including China, Vietnam and the Philippines.

Screen 9-11 – South China Sea

Looking at the South China Sea, there are many islands of strategic importance that are disputed territories. Using the Spratly Islands as an example, in broad terms China says its right to the area comes from 2,000 years of history where the Spratly island chain was regarded as an integral part of the Chinese nation. Vietnam says it has actively ruled over the Spratly's since the 17th Century, and the Philippines, invokes its geographical proximity to the Spratly Islands as the main basis of its claim for part of the grouping. The disputed island territories in the South China Sea has led to the militarization and settlement of islands to support the maritime claims of various coastal states.

Screen 12 – Application of the Law of the Sea to disputed territories

To illustrate the application of the Law of the Sea to disputed territories, we will work through a fictional example. The example starts with a coastal state having a full EEZ of 200nm. Outside of the EEZ is an island. In this situation, the application of the Law of the Sea is straightforward.

Screen 13 – Application of the Law of the Sea to disputed territories

However, there is another coastal state nearby that disputes the sovereignty of the island.

Screen 14 – Application of the Law of the Sea to disputed territories

To complicate matters further, the island sits on a rich oil field that both coastal states seek to exploit. So now, we will consider how the maritime zones of the island interact with the maritime zones of the coastal states and predict how each resultant EEZ would be formulated if the sovereignty was awarded to each coastal state in turn. First, let's superimpose the EEZ of the island onto the chart. Clearly, the island's EEZ overlaps with the EEZ of each of the coastal states. This means that the EEZ of the island will significantly increase the area attached to the mainland of whichever coastal state is awarded sovereignty of the island. Second, let us test out how the EEZ would look if the sovereignty of the island was awarded to the coastal state on the right of the screen. Pause the presentation and think about how the resultant EEZ would appear. Think about all you have learned, including about the baseline and median line.

Take a moment to sketch an image of how the resultant EEZ would look. The first thing to think about is the baseline. In this situation, the baseline already exists and there is nothing we need to do with it. We know the baseline exists because the EEZ already exists and without a baseline, an EEZ cannot be measured. So we do not need to be concerned about the baseline. Next we need to think about whether any median lines needed. Median lines are the lines that mark the boundary between the maritime zones of different coastal states where the coastal states are too close to all have full maritime zones. Consider if this is the case in this situation where the island belongs to the coastal state on the right. A median line is needed because the EEZs of the island and the coastal state on the left overlap. A median line must be calculated that represents the mid-point between the two edges of the overlap.

Screen 15 – Application of the Law of the Sea to a disputed territories

However, there is another coastal state nearby that disputes the sovereignty of the island.

Screen 16 – Application of the Law of the Sea to a disputed territories

So the final EEZ for the coastal state on the right of the chart would look like this. You will see from the chart how the resultant EEZ adds significantly to the maritime area of the coastal state on the right, increases its access to important resources, increases its influence on the area and its security. It also reduces the maritime area of the country on the left due to the calculation of the median line. Now do draw a sketch of how the maritime zones would look if the coastal state on the left was awarded sovereignty of the island.

Screen 17 - Application of the Law of the Sea to a disputed territories

This image shows the EEZ of the coastal state on the left if it was awarded sovereignty of the island. Clearly, the coastal state on the left obtains all of the benefits that the other coastal state would have received if it had sovereignty of the island. This example demonstrates clearly the potential for disagreement and conflict over disputed territories as the benefits of sovereignty are potentially significant. Potential mechanisms to determine the precise locations of maritime boundaries and potentially the sovereignty of disputed territories include hydrographic survey, geospatial analysis, historical review, political negotiation and military action.

Under the terms of the Law of the Sea, there are four formal processes to resolve the settlement of disputes, including:

- The International Tribunal for the Law of the Sea (Annex VI to UNCLOS).

- The International Court of Justice.
- An arbitral tribunal constituted in accordance with Annex VII to UNCLOS.
- A special arbitral tribunal constituted in accordance with Annex VIII to UNCLOS.

However, in practice these processes can take a very long time to reach a resolution and the coastal states concerned may not accept the outcome.

Screen 18 – Conclusion and learning outcomes

- Understand the mechanism for the determination of maritime boundaries.
- Appreciate that the determination of maritime boundaries can generate disputes.
- Recognise the main mechanisms to overcome maritime boundary disputes.

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