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“Dharma is to protect the Needy”

RESEARCH ARTICLE ON

**CONFLICT OF THE OVERLAPPING MARITIME ZONE IN THE
MEDITERRANEAN SEA**

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ABSTRACT:

The evolution of the Law of the Sea gives nations new areas of sovereignty and areas of jurisdiction, which gives rise to conflict between different nations of the Mediterranean region. The United Nations Convention on Law of Sea has defined the maritime territory of a state and island over which state or island has sovereignty and jurisdiction. However, in the Mediterranean region, the overlapping continental shelf of different states leads to a dispute between nations. In recent times, due to the abundant amount of marine resources found in the Mediterranean Sea, states have started claiming their sovereignty and jurisdiction over marine territory which overlaps other states of the region. United Nation Convention on Law of Sea (UNCLOS) permits states to exploit the marine resources and subsoil of its territorial water, Exclusive Economic Zone (EEZ) as well as Continental shelf, but in cases where delimitation of the marine territory and continental shelf of two states overlaps give rise to conflict between the states. The area defined by UNCLOS for territorial waters is 12 nautical miles, whereas the area for EEZ is 200 nautical miles, however in the case of Mediterranean nations, due to the lack of space between maritime zones of two states or islands, these areas intersect with each other. This article sets out probable issues and potential solutions for the delimitation of territorial waters, continental shelves, and exclusive economic zones, concerning the applicable jurisprudence defined and the practice of the States, taking account of the equity and security requirements of the states.

I. INTRODUCTION

Issues related to the maritime boundary are very alarming as the countries are becoming concerned about their resources because the world has turned to marine and ocean-based resources which are also termed as blue economy. Every state has shown interest in exploiting and exploring its marine resources. The 1982 United Nations Convention on the Law of the Sea (UNCLOS) laid out the rights and responsibilities of coastal States concerning resources, including living resources such as fisheries and non-living resources such as oil and gas. In addition to the privileges that coastal States have in their national zones, the Convention acknowledges the rights and responsibilities of States in international zones such as the high seas and the international sea beds outside their national jurisdiction. The creation of maritime zones by States in compliance with the 1982 UNCLOS can give rise to overlapping conditions, involving maritime boundary delimitation.

Before delving into the overlapping issue in the Mediterranean Sea, it is crucial to reflect upon the maritime zones, rights, and duties of the states in those zones which is defined under UNCLOS. Maritime zones are divided into six parts these are:

1. Internal waters: Article 8 of UNCLOS defines internal waters as the waters on the land side of the baseline from which the width of the territorial sea is measured. Each coastal state has total sovereignty over its internal waters. Bays, ports, inlets, channels, and even lakes that are related to the sea are examples of internal water. There is no right to an innocent passage across internal waters. An innocent passage applies to traveling across waters that are not prejudicial to peace and security.¹

2. Archipelagic waters: Archipelagic waters are described in Article 49 of the UNCLOS. They constitute the seas surrounded by the archipelagic state, regardless of their breadth or distance from the coast. This Article further confers on the archipelagic state jurisdiction over the archipelagic waters surrounded by its archipelagic baselines, the airspace over those waters, its bed and subsoil, and the properties found therein. The archipelagic state has sovereign jurisdiction over the archipelagic waters.²

3. Territorial Sea: Territorial sea, in International law, is that portion of the sea that is directly adjacent to the coast of the State and subject to the territorial jurisdiction of that State. Article 3 of the 1982 Convention specifies that each State has the right to define the width of

¹ United Nations Convention on the Law of the Sea art. 8, Dec. 10, 1982, 1833 U.N.T.S. 397.

² United Nations Convention on the Law of the Sea art. 49, Dec. 10, 1982, 1833 U.N.T.S. 397.

its territorial sea to a maximum not exceeding 12 nautical miles (nm), determined from the baseline as laid down in the Convention, and Article 4 provides that the outer boundary of the territorial sea of each State shall be the line at each point at a distance from the nearest point of the baseline.³

4. Contiguous Zone: According to Article 33 of UNCLOS, the contiguous zone is defined as a region of the sea adjacent to and extending to the sea of the territorial sea, in which the coastal State may exercise the authority required to prevent and punish infringements of its customs, economic, immigration and sanitary laws within its territory or territorial sea. As per the article contiguous zone cannot extend beyond 24 nm from the baseline from which the breadth of the territorial sea is measured.⁴

5. Exclusive Economic Zone (EEZ): The 1982 Convention defines the EEZ as "an area beyond and adjacent to the territorial sea subject to the legal regime defined by Part V of the Convention (Article 55)"⁵ and grants coastal States the freedom to create an exclusive economic zone that may stretch to 200 nautical miles from the baselines from which the territorial sea is measured (Article 57).⁶ The creation of this zone grants the coastal State significant territorial rights concerning living and non-living resources and "for other operations for the commercial use and discovery of the zone, such as the extraction of energy from water, currents, and winds". Article 56 lays out the general extent of the rights, jurisdiction, and duties of the coastal States in addition to the territorial rights of the coastal State in the EEZ for exploration and exploitation.⁷ It is effectively a compromise on overlapping coastal State resource interests and the interests of those states that tend to protect navigation rights.⁸

6. Continental Shelf: A continental shelf is the edge of a continent that exists under the ocean. The Continental shelf contains the seabed and subsoil within the territorial sea of coastal states. Where the continental margin stretches beyond 200 nm from the baseline, the maximum permissible claim depends on the geology and geomorphology of the region. Article 77 provides for the rights of coastal States on the continental shelf, but Article 88 states that such

³ 5 SHABTAI ROSENNE AND LOUIS B. SOHN, EDS., UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 1982: A COMMENTARY 125 (Dordrecht, Martinus Nijhoff, 1989).

⁴ United Nations Convention on the Law of the Sea art. 33, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁵ United Nations Convention on the Law of the Sea art. 55, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁶ United Nations Convention on the Law of the Sea art. 57, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁷ United Nations Convention on the Law of the Sea art. 56, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁸ C. H. SCHOFIELD & V. PRESCOTT, THE MARITIME POLITICAL BOUNDARIES OF THE WORLD (Leiden, Netherlands: Martinus Nijhoff Publishers, 2 ed. 2005).

rights "must not infringe or result in any unjustifiable conflict with navigation and freedoms or the lawful status of the waters or airspace above them, and specifically preserve those rights as specified elsewhere in the Convention".⁹

As per the law of the Sea of Sea Convention the length of the territorial sea is 12 nautical miles, for the contiguous zone, it is 24 nautical miles and for the exclusive economic zone, it is 200 nautical miles from the baseline. But practices from around the corners of the world show that a larger limit of all the maritime zones are existing among the states. So many marine disputes are emerging because the coastal states claim jurisdiction according to their interest. Bilateral and multilateral talks are held among nation but the parties in many cases fail to reach an agreement of settlement.

II. LEGAL FRAMEWORK FOR RESOLVING THE MARITIME BOUNDARY DISPUTE

To resolve the issue of maritime jurisdictions of each state, UNCLOS provides specific boundaries over which a state can exercise its jurisdiction like Exclusive Economic Zone and Continental Shelf. Both the zones are defined under articles 56 and 76 respectively and both are considered as customary international law. In the case of Nicaragua and Columbia, it was held that the continental shelf stated under article 76 of UNCLOS forms a part of customary international law and it will apply to the countries which are not signatory to the convention.¹⁰

All the coastal states signatory of UNCLOS will be bound by treaty law and the customary international law for determining their continental shelf limits under article 76 of UNCLOS and the coastal states which are not a party to UNCLOS must rely on customary international law for determining their continental shelf limits.¹¹ Most of the coastal states asserted continental shelf under customary international law and in doing so they have accepted that other states may do the same and they are also obliged to respect the corresponding continental shelf rights asserted by other coastal states.¹² Furthermore, the official statement of government's positions including oral representations in arbitral and judicial proceedings, government memorandum that are publicly accepted in countries, gives the clearest indication of *opinio Juris*. This shows that various part of Article 76 of UNCLOS presents the relevant

⁹ Mazen Adi, *The Application of the Law of the Sea and the Convention on the Mediterranean Sea* (2009), https://www.un.org/depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/adi_0809_syria.pdf.

¹⁰ Territorial and Maritime Dispute (Nicar. v. Colom.), Judgement, 2012 ICJ 624, 666, para. 118. (Nov. 19).

¹¹ Michael Byers, '*Custom, Power, and the Power of Rules*', 17(1) M. J. OF INT'L L. 110 (1995).

¹² *id.*

state practice and *opinio Juris* in the context of traditional understandings of customary international law.¹³

Furthermore, an exclusive economic zone under article 56 of UNCLOS is a customary international right. The exclusive economic zone has become a part of the general international law as the majority of coastal states have claimed an EEZ and the volume of claims coupled with the absence of protesters have made it a part of customary international law.¹⁴ It was held in the case of Libya-Malta that the institution of the exclusive economic zone having a rule on entitlement because of distance has been shown by the broad consensus among states for an economic zone extending a maximum of 200 nm from shores and owing to the symmetry of seabed rights of EEZ, the ICJ by 1985 held that the 200 nm distance criterion to have become a part of customary international law.¹⁵

Apart from the customary nature of some provisions of UNCLOS, it is essential to distinguish among types of boundary-related disputes as each one of them is governed by their legal framework. Any claim which concerns maritime delimitation can be solved based on the best available technology. The ICJ's landmark decision given in the case of North Sea Continental Shelf cases has put forward principles and rules that apply to cases of maritime delimitation which come to international court or tribunals.¹⁶

There is a practice of drawing a 'single' all-purpose delimitation line that covers both EEZ and continental shelf has been followed differently by courts and Tribunals. The division here requires the consent of both the involved parties and the court has come up with the way concerning the requirement that is engaging in an identical analysis of coincident zones.¹⁷ International tribunals and courts follow a multi-stage approach normally that has evolved from the case laws of maritime delimitation and it can be divided into stages:

¹³ International Law Commission, 68th Sess., UN Doc. A/71/10, at 102-06 (2016) and other reports of the special rapporteur, Michael Wood, at https://legal.un.org/ilc/summaries/1_13.shtml.

¹⁴ Adel Omar Alsied, Delimitation of Maritime Boundaries with Special Reference to the EEZ and the IMO Conventions Regime: A Libyan Case Study (June, 2006) https://www.un.org/Depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/alsied_0506_libya.pdf

¹⁵ Continental Shelf (Libya v. Malta), Judgement, 1985 I.C.J. 13 (June 3).

¹⁶ North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands), Judgment, 1969 ICJ 3 (February 20).

¹⁷ Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States), Judgment, (1984) ICJ 246 (October 12).

Stage 1: firstly the relevant coast have to be identified to determine the parties, claims that are overlapping, the relevant areas within which delimitation is to be given effect, projections are decided where coasts of the parties are overlapping, and a provisional delimitation line is constructed by any International tribunal or court which is usually an equidistance line In cases where relevant coasts are adjacent or a median line is established where the relevant coasts are opposite by referring to their appropriate baseline.¹⁸

Stage 2: the line that is constructed provisionally is examined under equitable factors which are referred to as relevant circumstances. In case if it is necessary to shift or adjust the line for coming to an equitable solution.¹⁹ Although the jurisprudence of maritime delimitation provides that geographical configuration is not open to any sort of modification. The considerable disparity in coastline's length between the parties, the distance between their relevant coast, and concavity of the coastline within the area that has to be delimited considered as relevant circumstances. Any socioeconomic reasons or geology that are physical seabed characteristics are not recognized as relevant circumstances,²⁰ ICJ also mentions that oil concessions and oil wells will not in themselves be considered as relevant circumstances that would justify adjusting the decided delimitation line.²¹

Stage 3: It is also the final stage of the whole process of delimitation. It will be verified by the international tribunal that any adjusted or unadjusted line is not leading to an inequitable result due to disproportion between the ratio of the parties' coastal length and the ratio of parties' relevant maritime areas about the line.²² The process of the ultimate delimitation involves the application of final proportionality to check the equitableness of the delimitation that is tentative and whose ultimate result is not tainted by some gross disproportion.²³

ICJ has mentioned that the three stages of maritime delimitation are not mechanically applied and it is not appropriate to start with a provisional median or equidistance line as different prevailing geographical locations may call for other method's application like a method of the

¹⁸ P Bekker and R van de Poll, 'Unlocking the Arctic's Resources Equitably: Using a Law-and-Science Approach to Fix the Beaufort Sea Boundary' 34(4) INT'L J. MARINE & COASTAL L. 1, 25 (2019).

¹⁹ *id.*

²⁰ Y TANAKA, THE INTERNATIONAL LAW OF THE SEA 208-213 (Cambridge University Press, 2012).

²¹ Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria; Equatorial Guinea intervening), Judgment, (2002) ICJ 303, at p. 447, para 304.

²² Bekker, *supra* note 18.

²³ Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment, (2012) ICJ 624, at pp. 695-696, paras 190-193.

weighted lie, the method of the perpendicular line, the method of a bisector, the method of the enclave, the method of parallel of latitude method.²⁴

III. CHALLENGES AND OPPORTUNITIES IN THE EASTERN MEDITERRANEAN

The attention of global energy communities has been focused on Eastern Mediterranean as in recent years it has produced evidence of submarine seabed hydrocarbons whose geostrategic and economic implications are estimated to be long lasting. Discoveries of Natural gas would go beyond the normal standard of commercial viability and in the recent future, the Eastern Mediterranean is expected to yield more. Many countries that prove to possess reserves would make it game-changing in terms of imparting economic and several other benefits for generations to come.²⁵

Already there are rivalries and tensions over the resources that are creating, exacerbating, and sustaining the disputes among several nations both directly and indirectly. There is long-standing animosity between nations like Israel and Lebanon, or Cyprus or Turkey. The disputes give sufficient reasons to fear that the ill-considered rhetoric would not only delay lucrative resource's development but would also increase friction which may lead to some shooting wars. Disagreement among neighbors regarding ownership of the resources will require management because the potential of Eastern Mediterranean's energy has reached a colossal scale.

The Eastern Mediterranean being a crowded and complex place have many unsettled maritime boundaries and it has 12 main maritime boundaries which await to be defined under UNCLOS guidelines and rules of procedure to fully delineate the space of offshore among seven coastal states.

If the ambiguities regarding the boundaries are not settled, then the economic development which includes discovering and exploiting seabed hydrocarbon would be affected which would not only lead to a reduction in overall revenue of the region in general but also finding and extraction of resources, operation, and construction of water pipelines would be majorly hampered. The urgency of delineating the maritime boundary should be understood with the

²⁴ Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment, (2012) ICIJ 624, at pp. 695-696, paras 190-193.

²⁵ Roudi Baroudi, '*Unlocking Peace and Prosperity: How to Resolve Maritime Border Disputes in the Eastern Mediterranean Sea?*' (2020), https://www.aub.edu.lb/ifi/Documents/publications/research_reports/2019-2020/20200330_unlocking_peace_and_prosperity.pdf.

long-term economic and social potential for the resources otherwise the economies of all seven states would suffer from underdevelopment, infrastructure problems, and inadequate transport. Any country would seem attractive if it has a prospect for revenues to the investors and it also spins off many new opportunities for the companies in support activities which not only empowers development but also creates new jobs for the local applicants and strengthen government coffers by auctioning oil and gas blocks.

Once the extraction begins, the country can realize its savings on energy bills as its import would be eliminated and reduced. The whole of the economy benefits from lower electricity rates, lower bills of transport, lower cost of production which would lead to a fall in the input costs in various sectors virtually. Moreover, The saving mechanism competition of the economy between different nations would increase that could push export and growth ultimately leading to the momentum towards self-sustainability.²⁶

IV. THE MARITIME ZONES STATUS OF THE EASTERN MEDITERRANEAN AND ISSUES OF DELIMITATION.

Many countries in Eastern Mediterranean have not signed UNCLOS and there is much maritime delimitation that is required to be settled as countries have their historic rivalries and contradictory interest which leaves a very small chance that commonly applicable rules will be accepted. There are examples of delimitations of continental shelf and EEZ that took place through unilateral declaration agreements are as follows:²⁷

1. Federal Yugoslavia and Italy in 1968 have made an agreement by which they have delimited their continental shelf. After the collapse of Yugoslavia, Croatia also announced that it accepted the delimitation boundary and validated it in 2000.
2. Italy and Greece have delimited Continental Shelf through an agreement that was based on the principle of median or equidistance line.
3. France unilaterally declared its EEZ in the Mediterranean in 2013. Although the area declared by it overlaps the EEZ delimitation area between Italy and Spain. This has also caused friction between the Nation-state of Spain and France. Spain alleges that France has encroached

²⁶ Challenges and Opportunities in the Eastern Mediterranean, https://www.brookings.edu/wp-content/uploads/2020/05/Maritime-Disputes_CH1.pdf.

²⁷ Chrysochou G., 'Contemporary Status of Maritime Zones in Southeastern Mediterranean in the light of energy antagonism', 2 NMIOTC J., (Dec., 2015).

on the EEZ that belonged to it. Spain has also declared its EEZ up to 50 m of isobaths limit in the Gulf of Gabes.²⁸

4. Syria and Morocco have made unilateral proclamation of their EEZ whereas Libya asserts 62 nm of the fishing zone.

5. Cyprus and Egypt also have their delimitation agreement for EEZ based on the median line principle²⁹. The agreement came into effect in 2004. A fact of importance was taken as an approach for determining the media line between Egypt and Cyprus. The advice was taken of Greece which was to avoid tensions with Turkey and the EEZ was shifted 15-20 kilometers east of its location to keep the potential dispute of Greek and Turkey out of the present agreement.³⁰

6. A similar type of agreement was also formulated within Cyprus and Lebanon in 2007. It followed the decision of Cyprus and firstly started with the initiation of the licensing round for the exploration of hydrocarbon activities and looked forward to the pursuits of entering into an EEZ agreement with other nation-states. Then the agreement was formulated based on the median/ equidistance line and the same procedure was followed like that between Cyprus and Egypt. But due to the political instability that prevailed in Lebanon for a very long time along with the border dispute with Israel, the Parliament of Lebanon has not successfully ratified the agreement to date.³¹

7. EEZ agreements have also been made between Israel and the Republic of Cyprus in 2010 based on the delimitation method that happened between Lebanon and Egypt. The House of Representatives of Cyprus also ratified the agreement in 2011.³²

8. Concerning Cyprus and Greece, no agreements on the delimitation of EEZ have been made although it has been insisted by the Republic of Cyprus several times.

9. There have been two decisions of ICJ on maritime delimitation about continental shelves between Libya- Malta, and Libya- Tunisia.³³ There is a visible desire on the side of Greek to start a negotiation deal with Libya so that they could reach a maritime delimitation.

²⁸ United Nations Division for Ocean Affairs (2011), Table of claims to maritime jurisdiction, www.un.org/Depts/los/table_summary_of_claims.pdf.

²⁹ Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone, 17 February 2003.

³⁰ S. KASSINIS, THE EEZ OF CYPRUS REPUBLIC: FROM THEORY TO PRACTICE 77-78 & 81-82 (Kikilias, 5 ed., 2012).

³¹ Chrysochou, *supra* note 27.

³² Kassinis, *supra* note 30.

³³ Continental Shelf (Libya v. Malta), Judgement, 1985 I.C.J. 13 (June 3); Continental Shelf (Tunisia/Libyan Arab Jamahiriya), (1982), Judgment, ICJ Reports.

But according to Libya, the issues can be resolved within the framework which would also include other countries with a common maritime boundary which are Egypt and Turkey.³⁴

There are many agreements between different nations of the Mediterranean Sea, however, still there are disputes between the coastal states regarding the overlapping jurisdiction and delimitation of the continental shelf. These issues cause economical as well as developmental loss to the coastal states. Some of them are discussed in this paper.

V. MARITIME BOUNDARY DISPUTES – AN IMPEDIMENT TO EXPLOITATION AND TRANSPORTATION OF GAS

There are many challenges including legal, security, and geopolitical that affect the exploration and exportation of gas in the Eastern Mediterranean. One of the crucial impediments to gas production and exploration is that the majority of the maritime boundaries in the region are not demarcated.³⁵ As an instance, there are no agreements reached between Turkey and RoC, Greece and Turkey, RoC and Syria, Lebanon and Israel or Palestine and Israel and there are also many instances where the agreements which are signed among nations have been contested by the neighboring countries which also disrupts the process of exploitation and transportation of gas. Some examples of the same are as follows:³⁶

1. The overlapping maritime boundary claim between Lebanon and Israel: The countries have been technically at war since 1948. The relationship has already strained after the discovery of Tamar in 2009. And further complexity increased when the Lebanese government conducted bidding rounds within the disputed area. To minimize the tension or confrontation no exploration has taken place in those blocks.³⁷ There has been no direct negotiation between the government of the two nations because of the war that is going on. The U.S.A tried to mediate between two countries and have proclaimed demarcation of the border and proposed that Lebanon could start its gas exploration in the allotted part so that the dispute

³⁴ Hellenic Ministry of Foreign Affairs, Statements between the Greek Minister of Foreign Affairs D. Avramopoulos and the Minister of International Cooperation of Libya I. Ábdelaziz, www.mfa.gr.

³⁵ Harry Tzimitras and Mete Hatay, The Need for Realism: Solving the Cyprus problem through linkage politics (Center on the United States and Europe at Brookings 2016) www.brookings.edu/wp-content/uploads/2016/10/turkey_20161005_cyprus_problem.pdf accessed 25 August 2020.

³⁶ Ana Stanić & Sohbet Karbuz, The challenges facing Eastern Mediterranean gas and how international law can help overcome them (Aug. 19, 2020), <https://www.tandfonline.com/doi/pdf/10.1080/02646811.2020.1816739?needAccess=true>

³⁷ OFFICE OF THE SECRETARY-GENERAL TO THE UNITED NATIONS, PERMANENT MISSION OF LEBANON TO THE UNITED NATIONS (2018), https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/communications/2018_01_26_lbn.pdf.

can be resolved following the proposal which was not accepted by either of the parties. In 2014, U.S came forward with other proposals that a maritime separation is drawn and any exploration in the disputed area is subject to agreement by both countries which was again not accepted or responded to by either of parties, there is no possibility where unitization agreement is expected by the parties which would have allowed joint exploitation and development of private companies in the areas and as a result both the countries are not able to explore or exploit the resource to avoid tension which has hindered their development which would not be a case if there was a maritime boundary in agreement.³⁸

2. The overlapping maritime boundary claims among Greece, the RoC, and Turkey:

The maritime zones among these countries are very complicated due to the Cyprus problem. As the island of Cyprus has been portioned de facto in 1974 between the self-declared TRNC in the north of the island where armed forces of Turkey have been stationed and the remaining island has come under the control of RoC. Turkey does not recognize the RoC or its maritime boundary like EEZ as it argued that the Turkish population is not represented by the RoC government. The EEZ claim of Turkey that is registered with U.N extends to the west of the Cyprus island which overlaps with ROC and that is drilling in RoC blocks has been objected by Turkey. Turkey on the other hand has also shown its interest in drilling in disputed areas³⁹ and since 2019 TPAO is conducting such hydrocarbon exploration and geological research in areas that are contested by both RoC and Turkey. Turkey's continued drilling activities after 2019 EU has suspended the negotiations on the agreement of air transport and has also endorsed the European Commission's proposal under which pre-accession assistance of Turkey will be reduced and has also invited the European Investment Bank to look and review the lending activities towards Turkey and later after the continued drilling EU adopted another framework for imposing sanctions on such individuals who are engaged in the activities of drilling. But still, the drilling activities are carried on which has led to tension among various nations which can anytime lead to a military war. It is to be noted that if the maritime boundary was delimited then both countries have engaged in drilling and they could have invited investment from other countries but due to the war-like situation, the overall development is hampered.⁴⁰

³⁸ Ana Stanič, *supra* note 36.

³⁹ Eni, 'Press Release: Eni Announces a Gas Discovery Offshore Cyprus' (8 February 2018) www.eni.com/en-IT/media/press-release/2018/02/eni-announces-a-gas-discovery-offshore-cyprus.html accessed 25 August 2020.

⁴⁰ European Council Conclusions of 20 June 2019, EU CO 9/19 (20 June 2019) www.consilium.europa.eu/media/39922/20-21-euco-final-conclusions-en.pdf accessed 25 August 2020.

3. Shifting alliance and increase in tension among countries due to no delimitation agreement: The Year 2019 saw a rise in the tensions among nations. Opportunities related to the exploitation and transport of substantial gas resources have changed the economics and geopolitics of the region. The issues that nations are facing because of the lack of maritime delimitation agreements have changed the dynamics of the nation-state. For instance, the deterioration in relation of Israel and Turkey in 2008, Egypt and Turkey since 2013, EU and Turkey since 2016 have played an essential role in shifting the alliances in regional counties. Even the Syrian conflict, the rise of the Levant, and the Islamic State of Iraq have changed the geostrategic interest of Nations like Russia and U.S.A which has resulted in instability in the region.⁴¹

VI. MARITIME BOUNDARY DISPUTES – AN IMPEDIMENT TO INVESTMENT FROM OTHER COUNTRIES

Qatar which is one of the world's leading exporters of liquefied natural gas and one of the biggest investors in the assets of energy all through the world. Qatar Petroleum holds about 40 percent stake of offshore Cyprus which has yielded the third-largest finder of gas in the last two years. Cyprus can benefit from such exploration, but it is the central location of such an energy hub for exploration, processing, and transportation of gas belonging to other countries as well. If Cyprus proves that it has managerial competence and establishes its diplomatic wherewithal, then Qatar would be a source for the investment which would provide essential capital that would help in transferring gas to other regions also.

Cyprus could easily reap revenues that would restore its financial strength in both the private and public sectors. It will also allow investment in the future. Many other regional countries can be benefitted either by getting gas to market via Cyprus or through receiving fees on pipeline transit.

If the situation overturns and Cyprus is not able to resolve its conflict with Turkey regarding Maritime Boundary which would cause Qatar and other potential investors to avoid any further exposure considering the risks that are involved. If it happens and no investor steps in the liquefaction plant, then the pipeline would never be built. If that comes true, then all countries of the region lose, including Turkey as it would lose its opportunity to secure legitimate claims on the Eastern Mediterranean and also the fees from the collection of pipeline transit.

⁴¹ Ana Stanič, *supra* note 36.

The rate at which extraction takes place is to be determined by the size of the deposit and how long such would last. The increase in investment required with no increase in revenue would be equal to self-harm economically. Investment is very important from other countries like Russia. The dispute over maritime boundaries affects the stability of shared interest, cross-border cooperation, investment and also closes down the way for the investment at the earliest opportunity. Shared prosperity can be brought by resolving the Cyprus problem because of its geographical location and low land prices. It can become a hub for the processing, gathering, and distribution of gas in the Eastern Mediterranean. Pipeline made from the Island to Greece, Turkey, and Italy would give the investors in present as well as in future access to Eurasian Mainland, Suez Canal which would grow markets in South Asia and East Africa.⁴²

VII. MOST JUDICIAL METHODS TO RESOLVE ISSUES RELATED TO MARITIME DELIMITATION AND OVERLAPPING CONTINENTAL SHELF BETWEEN COASTAL STATES.

At the time of assessing the distance consideration and at the time of delimiting exclusively opposite coast of the nations, it is established that method of tracing an equidistant line is the most judicious manner in proceeding with the view to the eventual achievement of an equitable result. Article 83 of the UNCLOS provides that in case of overlapping maritime zones delimitation shall be effected by agreement based on international law, as referred under article 38 of ICJ to achieve an equitable solution. However, the provision does not suggest any express method which should be adopted to achieve an equitable solution.⁴³ Over a while, the international courts and tribunals had taken a view that equidistance is the most appropriate method to achieve an equitable solution.

In the Anglo-French Continental Shelf case⁴⁴ and Eritrea v. Yemen⁴⁵ case it was held by the tribunal after considering all the skillful and cogent arguments, that the international boundary shall be a single all-purpose boundary be a median line for the coast which has opposite mainland required by article 6 of Geneva Convention and this is not only following the precedent and practice in like situation but also under laws of the treaty. Tribunal termed it as a corrective-equity approach wherein, equidistance method is applied at the first stage and then the line can be adjusted if an equitable solution is not reached.

⁴² Challenges, *supra* note 26.

⁴³ United Nations Charter art. 38, Oct. 24, 1945, 1 UNTS XVI.

⁴⁴ Anglo-French Continental Shelf Case. Quick Reference. (United Kingdom v. France) (1977, 1978) 18 R.I.A.A. 3, 271.

⁴⁵ Eritrea v. Yemen, Award on maritime delimitation, (1999) XXII RIAA 335.

The ICJ in Greenland/Jan Mayen case held that the equidistance rule can produce the same result as an equitable principle relevant circumstances rule in the case of opposite coast.⁴⁶ Also, the Arbitral Tribunal in Guyana/Suriname Arbitration case held that the delimitation process should begin by equidistance line which may be adjusted if the situation demands so.⁴⁷

There has been established state practice of utilizing equidistance between opposite states which is significant and reliable evidence of normal standards of equity. Moreover, when there is a necessity in choosing the method of delimitation consistent with the distance approach emphasis should be given to the equidistant approach which gives the desired result in the case of opposite coast satisfying the equity.⁴⁸ The court has also taken into account that frequent use of the equidistance method, in many situations, lead to an equitable result.⁴⁹

Modern international law places higher regard for the equidistant rule in two circumstances where the states have coast opposite to each other and when the areas close to the coast of states because of the overlapping of the zone, and in these cases, the equidistant line provides a key advantage in allocation to the coastal states the areas which are more proximate to their land territory and there is less risk of distortion in distribution.⁵⁰ Furthermore, the security interest of the nation is also served when it places foreign waters as distant as possible.⁵¹

Under the customary law, equality is a very important factor and an equidistant line in principle should be used as it gives equal half shares and when it gives equal broad shares of the continental shelf to each state, it constitutes delimitation following the equitable principle. The court has equated equality in a refashioned nature and now it is related to particular equality of two states in their geographical relation to the continental shelf.⁵²

Furthermore, equidistance is an equitable solution provided under articles 74 and 83 of UNCLOS by referring to the distance criteria of delimitation for a maritime boundary and the

⁴⁶ Maritime Delimitation in the Area between Greenland and Jan Mayen, Denmark v Norway, Judgment, Merits, (1993) ICJ 38.

⁴⁷ Guyana v Suriname, Award, ICGJ 370 (PCA 2007).

⁴⁸ McRae, Delimitation of the Continental Shelf between the United Kingdom and France: The Channel Arbitration, 15 CN. Y.B. INT'L L. 173 (1977)

⁴⁹ Continental Shelf (Libya v. Malta), Judgement, 1985 I.C.J. 13 (June 3).

⁵⁰ Continental Shelf (Libya v. Malta), Judgement, 1985 I.C.J. 13 (June 3) 52-55; Maritime Delimitation between Guinea-Bissau and Senegal, Guinea-Bissau v Senegal, Order, Removal from List, (1995) ICJ 423, 302 (para. 124).

⁵¹ Colson, TheUnited Kingdom-French Continental Shelf Arbitration, 72 AM. J. INT'L L. 95 (1978).

⁵² The limitation on considerations in a judicially-determined delimitation: United Kingdom-French Continental Shelf case (1977) 54 I.L.R. 6.

appropriateness of equidistance for the opposite coast.⁵³ An analysis of the historical background of all the case laws related to maritime delimitation shows the inclusion of equidistant line as an approach of equity in the subsequent cases being adjudicated at the beginning of the 1990s⁵⁴ and particularly the equidistance method applied at the first stage enjoys substantial state practice⁵⁵⁵⁶

That Article 6 of the Geneva Convention (1958) on the continental shelf focusing on equidistance special circumstances is equated with the rule of the customary law of equitable principles.⁵⁷ The court has made an important pronouncement that it has to be in accord not only with the legal rules governing the continental shelf but also with the state practice to seek a solution and that is to modify the equidistance method rather than to have recourse to altogether a different rule.

It was led down in the case of Anglo-French continental shelf case that The role of the special circumstances mentioned in section 6 of the Geneva Convention is to ensure a delimitation based on equity and the combined equidistance-special circumstantial rule gives general norm to the particular expression, thus giving the same result as equity that in a case where agreement is not possible.⁵⁸

However, there are many critiques of the equidistance method. Some of them are that Article 74 and 83 of UNCLOS do not prescribe equidistance as a method of delimitation. Rather it states that maritime zone delimitation between states which are adjacent or opposite coasts shall be effected by an agreement based on international law as referred to in article 38 of the statute of the ICJ to achieve an equitable solution. In North Sea Continental shelf case⁵⁹ the court held that Equidistance is not a principle of customary international law. Thus it is not a

⁵³ Maritime Delimitation and Territorial Questions between Qatar and Bahrain, *Qatar v Bahrain*, (1994) ICJ 112; Land and Maritime Boundary between Cameroon and Nigeria, *Cameroon v Nigeria*, Judgment, Preliminary Objections, (1998) ICJ 275.

⁵⁴ 1 J.CHARNEY&L. ALEXANDER (ED.), *INTERNATIONAL MARITIME BOUNDARIES* 206-208 (Dordrecht, Nijhoff, 1993).

⁵⁵ Feldman and Colson, "The Maritime Boundaries of the United States," *Am. Jour. Int'l. L.* 75, 729, 743-746 (1981).

⁵⁶ B. CONFORTI AND G. FRANCALANCI, *ATLAS OF THE SEABED BOUNDARIES* 85 (1979).

⁵⁷ The Anglo-French Continental Shelf arbitration, 18 Reports of International Arbitral Awards, p. 45,para. 70.

⁵⁸ Anglo-French Continental Shelf Case. Quick Reference. (*United Kingdom v. France*) (1977, 1978) 18 R.I.A.A. 3, 271.

⁵⁹ North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands), Judgment, 1969 ICJ 3 (February 20).

method of delimitation that should be given priority overall.⁶⁰ Also in Guinea-Bissau Arbitration case⁶¹ and UK France continental shelf case⁶² It has been held that delimitation is just one among many methods and it has no priority in cases of maritime delimitation.

VIII. CONCLUSION

Law of the Sea gives nations new areas of sovereignty and authority which give rise to tension between the different nations of the Mediterranean region. The United Nations Convention on the Law of the Sea has specified the maritime territories of a state and an island over which the state or island has authority and jurisdiction. However, the overlapping continental shelf of the various states in the Mediterranean region contributes to disputes between nations. In modern times, due to the abundance of natural resources available in the Mediterranean Sea, countries have begun to assert their authority and control over marine territories, which overlap with other countries.

The United Nations Convention on the Law of the Sea (UNCLOS) allows States to control the marine resources and subsoil of their territorial waters, the Exclusive Economic Zone (EEZ) as well as the Continental Shelf, but where the delimitation of the marine territories and the continental shelf of two States overlap, there is a dispute between them. Due to the lack of space between two states or islands, these areas overlap with one another. The most judicious way to avoid such tensions in the Mediterranean Sea is the delimitation of coastal boundaries as per the equidistance method. However, there lies the political as well as economical interest of all coastal states in the Mediterranean Sea therefore, it is a never-ending issue that can be solved after negotiations and deliberations.

⁶⁰ Nugzar Dundua, Delimitation of maritime boundaries between adjacent States https://www.un.org/Depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/dundua_0607_georgia.pdf.

⁶¹ Maritime Delimitation between Guinea-Bissau and Senegal, *Guinea-Bissau v Senegal*, Order, Removal from List, (1995) ICJ 423.

⁶² Anglo-French Continental Shelf Case. Quick Reference. (United Kingdom v. France) (1977, 1978) 18 R.I.A.A. 3, 271.