

ILLEGAL APPROPRIATIONS IN THE SEA - FACTORS BEHIND EXCESSIVE MARITIME CLAIMS BY COASTAL STATES

*Syed Muhammad Akhtar Hussain Gardezi and Dr. Ishtiaq
Ahmad Choudhry*

Abstract

Controversies among coastal states crop up on maritime boundary claims similar to that of demarcation disputes. Choice of the type of baseline for measuring various maritime zones (internal waters, territorial sea, contiguous zone, Exclusive Economic Zone (EEZ) and continental shelf) plays a pivotal role in shaping maritime claims. On regular coasts the default baseline is the normal baseline. The straight baselines though provide an easy solution for irregular coastal configurations but are mostly adopted by the states for obvious advantage of maritime expansion. Extended maritime claim by a state restrict many freedoms of other states in the sea like navigation, over flight, marine scientific research, laying of submarine cables and pipeline, resulting into controversies. The objections to unfounded maritime claims of coastal states by other states and conflicts are not scarce. This paper examines the leading factors behind excessive coastal claims like geographical, economic, political, strategic and psychological. The factors are relative depending on time and space which may accumulate all factors or dominance of one over the other. The central theme is appropriation of more sea for more economic benefits.

Keywords: normal baselines, straight baselines, maritime zones, maritime claims, exclusive economic zone, contiguous zone

Introduction

Edifice of maritime claims rests on the selection of baseline that determines the extent of coastal state territorial sea¹ and other maritime zones (Internal waters²,

Contiguous zone³, EEZ⁴ and Continental Shelf⁵. It is significant to establish reference points on the coast for determining the outer limits of maritime zones at sea. The United Nations Convention on Law of the Sea, 1982 (UNCLOS) identifies different baseline systems for delimitation of maritime zones. The baselines are the starting point for construction of maritime regimes and for controversies as well. However, this paper would be restricted to Straight baselines being the most controversial due to their inherent capacity of maritime expansion seaward. Being advantageous, the coastal states mostly hanker after ways to expand their territorial limits seaward. The object of UNCLOS was to smooth the irregular coasts through application of straight baseline method for the convenience of both; the employing state and other states. The concept of straight baselines sprang from the famous Anglo-Norwegian fisheries case judgment by International Court of Justice (ICJ). The verdict legitimized straight baselines by Norway due to her irregular coastal conditions. During codification of the law of sea terms and phrases ICJ judgment got way into 1958 Territorial Sea and Contiguous Zone Convention (TSCZC), Territorial Sea Convention (TSC) and UNLCOS almost verbatim. The vagueness and ambiguities in the terms and phrases of straight baselines still exist in the UNCLOS without any precision leading to variety of interpretations. Contrarily some states take extraordinarily rigid position on employment of straight baselines resulting in interstate confrontations. In broad sense there may be a plenty of factors behind appropriation of sea through excessive maritime claims.

Baseline

In ordinary parlance baseline is; *“clearly defined starting point (point of departure) from where implementation begins, improvement is judged, or comparison is made”*.⁶ In legal terms baseline is; *“the line that divides the land from the sea, by which the extent of a coastal jurisdiction is measured.”*⁷ Baseline, being the linchpin, determines the extent of coastal states’ maritime

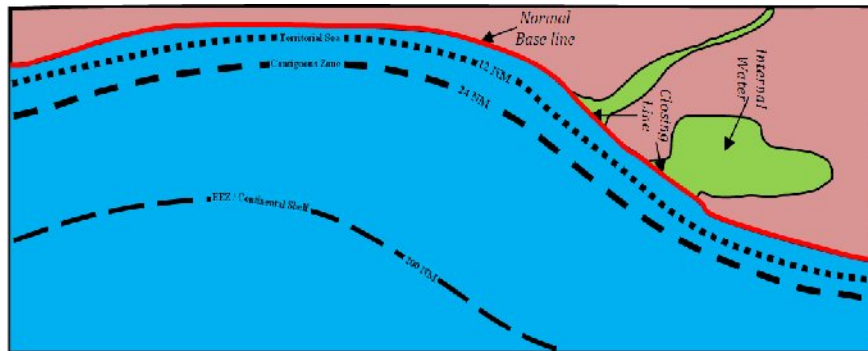
zones. UNCLOS outlines various types of baselines like normal baselines,⁸ closing lines,⁹ straight baselines¹⁰ and archipelagic lines¹¹ depending on coastal configurations.

Normal Baselines

Historically, 1839 Anglo-French Fisheries Convention was the first treaty to refer to the low-water line¹² being the normal baseline from which the territorial sea is measured.¹³ In 1804, jurisdiction case, the US Supreme Court declared that the word 'coast' meant the low water- line to measure the territorial sea.¹⁴ In 1882 North Sea Fisheries Convention declared low water mark as the standard which was mostly followed by the European countries. The writers from civil law system¹⁵ adopted this as convention for the sake of reference. Roman law described the word 'shore' and not the 'coast' from the high water mark instead of low water¹⁶ for measuring territorial boundary of the state.

ICJ in Anglo-Norwegian fisheries case decided that low-water mark was the accepted criterion for measuring breadth of the territorial sea by the coastal states.¹⁷ TSC¹⁸ and UNCLOS¹⁹ express that; "*the normal baseline for measuring the breadth of the territorial sea is the low water line [....]*". Fig.-1 shows a normal baseline drawn from the contours of the coast and amplifying different maritime zones.

Fig.-1
Normal Baseline



Source: www.linz.govt.nz/sea/nautical-information/maritime-boundaries/maritime-boundary-definitions

Straight Baselines

The coast which is not geographically straight and is irregular, the straight lines may be drawn instead of normal baselines.²⁰ Norway employed this system of baselines consistently since 1869.²¹ The straight baselines conflicted up at international arena due to challenging of Royal decree of Norway by United Kingdom before the ICJ.²² Norwegian coastline mostly comprises *fjords*²³ and *skjaergaard*.²⁴ The court decided that the straight lines applied by Norway were in consonance with the international law.²⁵

A straight baseline has its genesis in juridical phenomenon based on a treaty codification. Article 5 of TSC, with a slight addition, has hailed almost verbatim as Article 7 of UNCLOS without providing any definition for straight baselines. The provision presents conditions for application of straight baseline system devoid of any mathematical precision for such conditions and for a uniform implication. Employment of UNCLOS Article 5, pertaining to normal baselines on uneven coasts can in

most, circumstances emerge into enclaves and deep-pockets of 'non-territorial seas'. This situation might create "considerable difficulties for both the observance of the appropriate régime and surveillance".²⁶

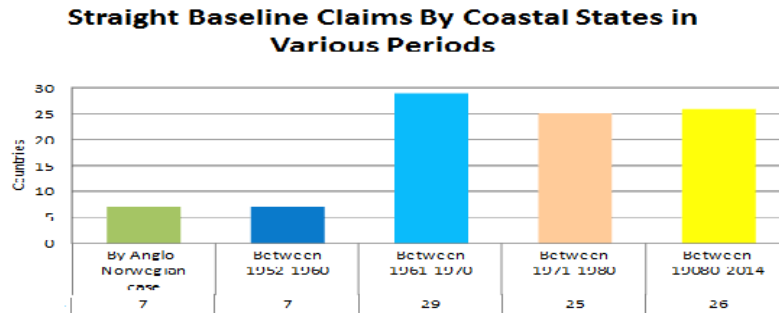
State practice on application of straight baselines is mostly inconsistent to evolve any effect of creating new customary international law.²⁷ The straight baselines are permitted for exceptional circumstances. Reverse to the object, states have adopted straight baselines as their right in general, whereas employment of normal baselines has become an exception. The most effective way to tackle the excessive claims is negotiation of state parties under some international law of sea related forum for uniformity of rules on straight baselines. Fig-2 below portrays a coast showing different kinds of straight and closing lines for the convenience of understanding.

Fig.-2
Straight Baseline Situations



The employing of straight baselines has not increased rather multiplied as is evident from Graph-1 below.

Graph-1



Source: Table compiled from US, Limits in the Seas Nos. 3, 4, 5, 8, 13, 14, 15, 19, 20, 21, 22, 23, 28, 29, 30, 31, 32, 33, 35, 36, 37, 40, 41, 43, 44, 47, 48, 51, 52, 53, 54, 76, 80, 82, 99, 103, 107, 111, 112, 113, 118 & 120.

Also DOALOS, *Law of the Sea Bulletin No. 71*, (United Nations: New York, 2009), 26. ILA, *Committee on Baselines*, (2014), Para 36.

Factors behind Excessive Claims in the Sea

The maritime boundary delimitations involve many intricacies as they always take into account international aspects. It is important to identify different factors relevant to excessive claims. Vagueness of basic terms on straight baselines embodied in Article 7 of UNCLOS, lack of standard definitions and absence of arithmetical precision contribute to the problem. The non-uniform state practice due to their vested interests adds to the severity of issue. It encourages the states to go for liberal interpretations to possess more area of the sea and resources too. Possessiveness is a human nature irrespective of practical utility of the things.

There may be numerous factors behind excessive sea claims and covering all of them may not be possible. Maritime territory claims may be tinged in history, patriotism and traditions apart from sheer security or

solidarity of a state. Some salient factors are discussed as under:

Geographical

Land is prerequisite for coastal claims as it dominates the sea²⁸. Napoleon was more categorical about the vitality of geography when he observed, “*The policy of a state lies in its geography*”.²⁹ Geography of the coast is a striking element in claiming the sea frontiers. It is the type of coast which determines the nature of claims to be made in the sea. Geographical importance may depend, *inter alia*, on location, economic incentive, security considerations, and strategic objectives.

Mahan, being naval strategist, has discussed the issue of geographical locations. He referred the ocean as “*a great highway; or better, perhaps, of a wide common [.....]*”.³⁰ Gray and Sloan assert that geography is “*the mother of strategy*”.³¹ A number of scholars have emphasized upon geographical considerations in the maritime boundary delimitations. Antunes is of the view that coastal geography is a key factor in maritime delimitation.³² Similarly, Charney while discussing the considerations for maritime boundary delimitations notes that primary attention is to be placed on geographical features of the coastline³³. It may be valid to say that there may be a state without coast but there may not be a state without land. Geography of a state is undoubtedly pivotal but it is the coastal geography which may have great impinging on shaping up the maritime claims.

Prescott and Schofield posit that geographical factors particularly the coastal geography of states is fundamental to maritime boundary delimitations.³⁴ To covet advantageous position, the desire of states for excessive maritime jurisdictions is natural. This factor persuaded the coastal states for *ultra vires*³⁵ claims on account of straight baselines. Generally in the complex coastal geographies, the excessive maritime claims are more vigorously enforced for

optimum advantage. The case in point is looming maritime claims in South China Sea by a number of states, mostly exaggerated, and based on excessive straight baselines.

Economic

The economic vitality is considered amongst the foremost uses of the sea. The oceans have been a great medium of transportation since ages apart from food source. In Anglo-Norwegian Fisheries case, economic factor was treated as relevant for the drawing of straight baselines³⁶ that, in turn, enhanced Norwegian coastal area. In the modern era, the technological advancements have made it possible for the humans to exploit riches of the sea. The paramount resources include; a variety of fish species, marine mammals, minerals, gas, oil, gravel, sand, tin, gold and pearls. The UN report divulges that value of sea resources exploited account for about \$7 trillion per annum.³⁷ Estimated value of marine minerals generated per year comes to \$1 trillion.³⁸

According to estimation, over 90% of fish resources of the sea lie in EEZ of coastal states³⁹. Similarly, enormous non-living resources of the sea particularly gas and hydrocarbons are present in Continental Shelf⁴⁰ an area equal to EEZ in legal counts and in some cases extendable up to 350 Nautical Mile (NM). The two types of resources; living and non-living are discussed as follows:

Living Resources

Traditionally, fishing has remained the foremost living resource in the sea. Dependence of people on fisheries and other sea species has increased manifold in the recent times.⁴¹ Globally, 3.0 billion people take 20% of their proteins from fish, whereas, 4.9 billion people take 10% of this protein.⁴² Comparing the high seas, EEZ of states are rich in living resources⁴³ that convince the coastal states to appropriate more sea for exploitation of living resources. Kenya's proposal⁴⁴ on EEZ was in fact the reflection of

evolving Asian and African countries' aspirations and their concerns over exploitation of off-shore fisheries by the foreign vessels.⁴⁵ EEZ concept re-allocated the fisheries rights significantly from international to national.⁴⁶ It is interesting that ICJ judgment which brought revolution in the baselines system was primarily the consequence of fisheries dispute between Norway and UK.

The living resources extend to all categories of fish including *anadromous*⁴⁷, *catadromous*⁴⁸, straddling stocks, highly migratory species, marine mammals, shared and sedentary species on the seabed and in the subsoil.⁴⁹ The law also provides for the control of sedentary species by coastal states on the extended continental shelf.⁵⁰ In this manner, the seaward extension of the outer Continental Shelf by excessive straight baselines occupies more area of sea encroaching High Seas.

The coastal states feel more concerned about the control of resources putting aside UNCLOS obligation for determining total permissible fish catch for maximum sustainable yield⁵¹ and offering other states to harvest the surplus beyond their harvesting capacity.⁵² In practice, one can hardly find any such arrangement or agreement for sharing of living resources with the landlocked⁵³ and geographically disadvantaged countries⁵⁴ of the regions in the spirit of UNCLOS. The attraction for living resources and exclusive authority vested in coastal states regarding their exploitation encourages the coastal states to appropriate area through straight baselines. The marine living resources, in addition to protein source, contribute to significant food security, employment⁵⁵ and profitable trade.⁵⁶ The advantages consequently urge the coastal states for bringing more expanses into national fold.

Non-Living Resources

The non-living resources like minerals, specifically the significance of hydrocarbons in the economic development

of the countries still remain the priority of states. The technological progress has made it possible to tap hydrocarbons from the deep seabed and other pharmaceutical compounds of the sea. In the present era of globalization, the energy security is not just an economic issue rather a political as well as military issue for a state.⁵⁷ Petroleum is called 'blood' of the industry due to paramount importance of energy for states.

The energy experts unanimously consider that, "*Petroleum remains the principal energy provider among all the available resources in the 21st century*".⁵⁸ In order to secure economic sustainability and social development, states go for extended claims in the sea through drawing straight baselines. Most of the disputed sea areas are full of gas and oil reserves. According to Asif Inam, amongst other considerations, the hydrocarbons are one of the major factors behind appropriation of the sea by lodging claims through unfounded straight baselines.⁵⁹

Offshore oil rigs may have multi-pronged advantages for a coastal state. Expansive claims on the basis of straight baselines offer more outreach along with economic benefits. At the same time it may have regional and international strategic ramifications particularly when there are controversies on maritime boundary claims. China and US have emerged as two major maritime players for their row on maritime matters at sea. US have alleged Chinese authorities for declaring their deep water oil rigs as their "*mobile national territory and a strategic weapon*".⁶⁰ US have bitterly criticized this point of view calling it a mercantilist thinking on the part of Chinese ruling elite.⁶¹

Hydrocarbons being a hard cash bring political stability in a state and meet the indigenous requirements as well. The vital value of this resource leads to competition of excessive maritime claims amongst the states. The easiest way for the states to acquire sovereignty or sovereign rights on large sea area or at-least to confuse the situation by generating conflict can be through excessive straight baselines. With the

increased scientific knowledge and probability of the presence of precious resources is likely to enhance eagerness of the states for appropriation of sovereign areas in the sea.

Strategic

The strategic importance of oceans and seas need no emphasis. This reality has been accepted since olden times. Navies are a potent tool of states being guardian of oceanic interests of states both in peace and war. Gradually the role of naval power has changed significantly from combatant facet to benign operations and as law enforcement agency. Soviet Admiral Gorchakov opined, “*The navy has always been an important instrument of the policy of states, an important aid to diplomacy in peacetime*”.⁶² Luke observes that an action short of war by naval forces can cause strategic effects never thought before due to complexity of operating environment. He enumerates three factors; change in environment, globalization of maritime commerce and evolutionary impact of international maritime law.⁶³

Naval forces primarily operate for safeguarding national interests of the states. The competitive environment at sea always has the potential of conflicts. It necessitates more than ever having restraints by the states particularly by the major maritime nations to avoid any untoward incident which may catapult the nations to devastating strategic impacts. One of the reasons for states to acquire expansive maritime claims through excessive straight baselines criteria is to have more sea for their authority to assert. Holmes views that even small coastal states through artful strategy can exploit the geographical assets themselves or can deny the stronger rivals. The strategic guile for the weak states, indeed, is more important.⁶⁴

The importance of Sea-Lines of Communication (SLOCs) from national, regional and international perspectives is undeniable. SLOCs are crucial for the states both during peace and war. In as early as 1616, Sir Walter Raleigh said

that, "*Whosoever commands the sea commands the trade; whosoever commands the trade commands the riches of the world, and consequently the world.*"⁶⁵ SLOCs not only ensure the flow of national trade but also strategic military interests. The protection of SLOCs necessitates sea control⁶⁶ by the naval forces. Sea denial⁶⁷ technique is usually adopted by a comparatively weaker naval power to avert any sea control by the hostile state. The recent example of sea denial is 2006 Lebanon War where Hezbollah fired C-802 missile on Israeli navy ship *Hanit* causing her significant damage. It compelled Israel to withdraw the ship from theatre of operation⁶⁸. The weapons and gadgetry would continue to modernize and so the ships housing them but fundamental theme of naval warfare would remain the same; the military controlling the SLOCs would control the sea and would ultimately control the results of the war.⁶⁹ The uninterrupted SLOCs are considered the backbone of national, regional and international shipping activity as over 90% global cargo is transported by sea.⁷⁰

The issue was not serious when territorial limits of states were generally restricted to 3NM as it did not cover much area in the sea. Straight baselines may give a variety of restrictions to the passages like; internal waters jurisdictions, territorial sea condition of innocent traversing by foreign shipping or EEZ subject to coastal state's right of traffic separation schemes. Strategic interests of states in the sea need no exaggeration. The case in point is Russian Federation rejection to return *Shikotan* and *Habomai* islands to Japan mainly on account of strategic interests.⁷¹ Claiming of 12NM territorial sea by coastal states in terms of UNCLOS has taken over 100 straits including strategically important straits like; Hormuz, Malacca, Gibraltar, Bab El-Mandeb into national jurisdictions.⁷²

Claiming expanses through straight baselines of states are inversely proportional to the international interests. The weak maritime nations find it difficult to compete with the major maritime nations either through trade or military might at sea. On the other hand maritime powers feel

handicapped due to the reduction or abridgement of the free navigation area in the sea from commerce as well as military strategy point of view.

Political

Political element is another factor to shape up the maritime claims. Kaikobad contends; “*the political significance of territory to a State lies at the very heart of the whole idea*”⁷³. The political imperatives also constrain the coastal states to appropriate large expanses in the sea. Uncertainty, over the limit of jurisdictions leads to mis-coordinated policies which exacerbate the problem. The political, economic and environmental impacts of such conflicts may be very serious.⁷⁴

In certain cases the states go for exaggerated claims due to political and social compulsions. The national sentiments are so strong that governments find themselves compelled to lodge expansive sea claims due to public pressures.⁷⁵ Philippine’s government intended to submit its amended archipelagic baselines law with the UN to make it compatible with the UNCLOS regime. The public filed a petition in the Supreme Court of Philippine stopping the government from depositing amended law with the UN. The argument was based on historical, scientific and legal basis. Although the Supreme Court rejected the stance of petitioners,⁷⁶ yet it exhibits the awareness of public and constraints of governments on baselines and delimitation matters.

Land boundaries between the states are closer and usually visible with more emotive issues of the citizens and the governments alike. Maritime boundaries being at distant locations are not of grave concern of the general public. The land boundary issues are always concerned with the neighbouring states. Conversely, the maritime boundaries may encompass three scenarios; delimitation with the neighbouring state(s), with the opposite state(s) and with all

the states of the world, including landlocked, due to common high seas or International Seabed Area interests.

Occasionally the national ego transforms into political stunts for such excessive claims to counter the adversary, which later prove stumbling block for retreating. States, sometime, lodge excessive claims for placing themselves in better position for bargain during negotiation with their neighbouring states for delimitations. Schofield premises that declarations of straight baselines, ahead of discussions, based on tit for-tat are evident for achieving balance with their maritime neighbours.⁷⁷ Charney based on evidence of bilateral delimitation agreements views that economic, political and historical factors may have more salience.⁷⁸

In a number of coastal situations the core factors for claiming excessive maritime claims are the legacy of colonial powers. Some states have inherited conflicts from the tug of war of colonial might. The classic example of such legacy is a complex political problem between Guyana (Netherland) and Suriname (UK) which could not be resolved by the two powers during colonial time.⁷⁹ In early days of 1958 Continental Shelf Convention, the states were eager to acquire more continental shelves.⁸⁰ With the advent of other maritime zones particularly EEZ, the temptation of states for appropriation of more area is not scarce. At occasions the historical political rivalries between states are also instrumental in lodging competitive excessive claims.

Psychological

The psychological factor for excessive claims on the basis of straight baselines has been rarely discussed by the scholars. Exploration and exploitation of sea resources in the past had not been a reality like today's world. No exploitation of resources is possible without scientific data. Tanaka calls Main/Military Supply Route (MSR) a foundation for the ocean governance.⁸¹ Until the mid of 20th century, the literature on law of sea did not contain anything about scientific research.⁸² The developing and under

developed states had a lacking on two aspects; awareness about the resources and the capacity to exploit the resources. Converse to this, during 1950-1960, US alone drilled 15,300 wells in the sea exploiting 4.5 billion barrels of oil.⁸³ It was negotiated during third UN Conference on Law of the Sea III (UNCLOS-III) which provided insight of the sea resources and importance of the oceans to the developing and weak maritime states. The potentials of sea resources were not more than a dream to most of the nations. Blake is of the opinion that International boundary lines have a great significance for the states. Apart from representing the jurisdictional limits and defining ownership of the resources, they have immense significance; psychologically and politically.⁸⁴

The acquiring of sovereignty and sovereign rights in the form of maritime zones was certainly a solace and psychological gain. To most of the states, it is still a moral and psychological consolation despite lack of their capability to exploit the resources. Most of the developing countries do not possess even the data of resources in their zones whether living or non-living. Nonetheless, the states avoid engaging foreign states or firms to exploit them. Similarly states are quite reluctant to allow other countries for MSR apparently due to fear of unknown. They are sceptical about the work of developed countries and their companies as well. This fear or reluctance is more peculiar with the states which secured liberation from colonial reigns due to inherent mistrust.

Ensuring offshore resources and economic security is both; psychological and political.⁸⁵ The militarily weak and developing states feel more secure to push the limits of their maritime boundaries seaward as much as they can. The easiest course of action for stretching the boundaries seaward is employment of excessive straight baselines. According to UN, only 46 states have submitted their claims for extension of continental shelves, whereas, 27 states have submitted preliminary information.⁸⁶ Most of the states have not exploited the resources of continental shelf at all except

a mere psychological consolation. The developing coastal states having explored or exploited their EEZ for tapping the offshore resources is insignificant apart from sheer psychological satisfaction of appropriating the sea area.

Conclusion

The tug of war between the doctrinal concepts of *mare Librium* (freedom of the seas) for all and *mare Clausum* (appropriation of sea) is centuries old. The strong maritime powers always advocate free access to the oceans; contrarily weak states demand possessiveness of the sea areas. UNCLOS has although struck a balance between the rights and obligations of states in the sea, yet seaward expansion by the states is continuing unabated. However, factors for such claims have not been addressed to date. Controversies over excessive maritime claims is a serious concern which may jeopardize the international peace as any incipient incident at sea may have strategic impacts at international plane. UNCLOS provides a tool box for application of baselines suited to the coastal configurations of states. The straight baselines are certainly permitted for irregular coasts but not for expansive claims purpose. The factors behind excessive claims may vary but the easiest way for the coastal states to lodge excessive claims is through excessive straight baselines. The modern scientific knowledge about the sea and depletion of land resources has persuaded the coastal states to appropriate large expanses. The strategic relevance to the excessive claims is likely to continue for the coastal states particularly major maritime powers. The factors enumerated in the aforementioned discussion are self-explanatory for excessive claims by the coastal states. The states need to keep the windows of negotiation open for amicable resolution of controversies. An international UN forum on the pattern of UN Commission on the Limits of Continental Shelf may be used as launch pad for negotiations of states. This in, turn would convince the coastal states to revisit their excessive claims especially by redrawing straight baselines.

Notes

- ¹The territorial sea may extend upto 12NM measured from baselines. Source: Article 2 of UNCLOS.
- ² *Waters on landward of the baselines are internal waters.* Source: Article 8 of UNCLOS.
- ³Contiguous zone may extend to 24NM from baselines. Source: Article 33 (2) of UNCLOS.
- ⁴Exclusive economic zone may extend upto 200NM from baselines. Source: Article 57 of UNCLOS
- ⁵ Continental shelf consists of seabed and subsoil. It extends to 200NM but may not extend beyond 350NM to the maximum based on geological and geomorphological criteria. Article 76 of UNCLOS.
- ⁶ Source: <http://www.businessdictionary.com/definition/baseline.html> (accessed on 26 May 2015).
- ⁷ Bryan A.Garner, *Black's Law Dictionary*, 7th ed., (USA: West Group, 1999), 145.
- ⁸*Measured from the low-water line along the coast.*
- ⁹Article 10(4) & Article 50 of UNCLOS.
- ¹⁰Straight baselines can be delineated on specific irregular coastal situations in spirit of Article 7 of UNCLOS.
- ¹¹Article 47(1) of UNCLOS.
- ¹²A line where land intersects with the shore at low tide.
- ¹³D.P. O'Connell, *The International Law of the Sea*, Vol-I, (Oxford: Clarendon Press: 1982), 172. Hereinafter O'Connell, ILOS.
- ¹⁴*Soult v. Africaine* (1804) 22 Fed.Cas. page 805 at 807.
- ¹⁵O'Connell, ILOS, 172.
- ¹⁶*Ibid*, 171.
- ¹⁷*Anglo-Norwegian Fisheries Case*, ICJ Reports 1951, p. 116 at 128. Hereinafter Anglo-Norwegian case.
- ¹⁸Article 3 of TSC.
- ¹⁹Article 5 of UNCLOS.
- ²⁰ John O'Brien, *International Law*, (London: Cavendish Publishing Ltd.: 2001), 398. Also in O'Connell, ILOS, 476.
- ²¹.Anglo-Norwegian case, p. 116 at 138.
- ²²*Ibid*, p. 116.
- ²³ The Norwegian origin word means; 'A long, narrow, winding inlet from these a between steep slopes of a mountainous coast.' Source: <http://www.thefreedictionary.com/fjord>(accessed on 26 May 2015).
- ²⁴Anglo-Norwegian case, p. 116 at 127.
- ²⁵*Ibid*, 143.
- ²⁶ Office for Ocean Affairs and the Law of the Sea, *Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea*, (United Nations: New York, 1989), 18.
- ²⁷ Robin R. Churchill, "The Impact of State Practice on the Jurisdictional Framework Contained in the LOS Convention" in Alex G. Oude Elferink Ed., *Stability and Change in the Law of the Sea: The Role of the LOS*

Convention, (Laiden / Boston: Martinus Nijhoff Publishers, 2005), 108. Also in Yoshifumi Tanaka, *The International Law of the Sea*, (New York: Cambridge University Press, 2012), 50. Hereinafter "Tanaka, *International LOS*".

²⁸Anglo-Norwegian case, p. 116, at 133. Also North Sea Continental Shelf, Judgment, I.C.J. Reports 1969, p. 3, para 96 at 51.

²⁹Vijay Sakhuja, *Asian Maritime Power in the 21st Century: Strategic Transactions: China, India and Southeast Asia*, (Singapore: Institute of Southeast Asian Studies, 2011), 35.

³⁰ Alfred Thayer Mahan, *The Influence of Sea Power upon History (1660-1783)*, (Boston: Little, Brown & Company, 1890), 25.

³¹ Colin S. Gray and Geoffrey Sloan Ed., *Geopolitics, Geography and Strategy*, (New York: Routledge, 2013), 3.

³²Nuno Sergio Marques Antunes, *Towards the Conceptualisation of Maritime Delimitation: Legal and Technical Aspects of a Political Process*, (Leiden: Martinus Nijhoff Publishers, 2003), 290.

³³Jonathan I. Charney and Lewis M. Alexander ed., *International Maritime Boundaries*, Vol-I, (Dordrecht / Boston / London: Martinus Nijhoff Publishers, 1993), xlv. Hereinafter "Charney and Alexander, *International Maritime Boundaries*").

³⁴J.R.V. Prescott and Clive Schofield, *The Maritime Political Boundaries of the World*, 2nd ed., (Leiden / Boston: Martinus Nijhoff Publishers, 2005), 1. Hereinafter Prescott and Schofield, *The Maritime Political Boundaries of the World*).

³⁵A Latin word meaning 'beyond the scope or in excess of legal power or authority'. Source: <http://www.merriam-webster.com/dictionary/ultra%20vires> (accessed on 26 May 2015).

³⁶Anglo-Norwegian case, p. 116, at 133.

³⁷United Nations (2002), *Ocean: The Source of Life: United Nations Convention on the Law of the Sea, 20th Anniversary (1982-2002)*, 5.

³⁸*Ibid.*, 6.

³⁹FAO, Code of Conduct for Responsible Fisheries, (UN: 2011), Preface.

⁴⁰United Nations (2002), *Ocean: The Source of Life*, 6.

⁴¹Fishery and Aquaculture Statistics, FAO Yearbook 2012, xvii.

⁴²*Ibid.*, xvii.

⁴³FAO, Code of Conduct for Responsible Fisheries, (UN: 2011), Preface.

⁴⁴Submitted proposal of 200NM Economic Zone to Seabed Committee on 7 August 1972. Source: *Draft Article on the Exclusive Economic Zone Concept*, UN Seabed Committee, Doc. A/AC.138/SC.II/L.10.

⁴⁵Dennis Rumley, Sanjay Chaturvedi and Vijay Sakhuja Ed., *Fisheries Exploitation in the Indian Ocean: Threats and Opportunities*, (Singapore: Institute of Southeast Asian Studies, 2009), 127.

⁴⁶*Ibid.*, 126-127.

⁴⁷Anadromous (Greek: 'ana' means 'up' and 'dromos' means 'course') Fish which spends life span in sea water but migrate upstream (rivers) for spawning. Source: *Northeast Fisheries Service Science Centre*. 2014.

⁴⁸Catadromous (Greek: 'kata' means 'down' and 'dromos' means 'course') These Fish spend life cycle in fresh waters but migrate down streams (into the sea) for spawning. Source: *National Research Institute of Science for Environment and Agriculture*. 2014.

⁴⁹ Article 61-68, 77 (4) of UNCLOS.

⁵⁰ Article 76 (4)-(8) and Article 77(4) of UNCLOS.

⁵¹Article 61 (1) & (3) of UNCLOS.

⁵²Article 62 (2) of UNCLOS.

⁵³Article 69 (1) of UNCLOS.

⁵⁴Article 70 (1) of UNCLOS.

⁵⁵*Approximately 54.8 million people are engaged in fisheries and aquaculture worldwide. Asia alone accounts for over 87% of the world.* Source: *The State of World Fisheries and Aquaculture 2012* (FAO, 2012), 10.

⁵⁶*International trade in fish products has increased to an all-time high of US\$ 217.5 billion.* Source: *The State of World Fisheries and Aquaculture 2012* (FAO, 2012), 3.

⁵⁷Myron H. Nordquist, John Norton Moore and Kuen-chen Fu Ed., *Recent Developments in the Law of the Sea and China*, (Leiden/Boston: Martinus Nijhoff Publishers, 2006), 146.

⁵⁸*Ibid.*, 145.

⁵⁹Dr. Asif Inam is Director General and Head of Geology & Geophysics Section, National Institute of Oceanography, Pakistan.

⁶⁰Brian Spegele and Wayne Ma, *For China Boss, Deep-Water Rigs Are a Strategic Weapon*, *The Wall Street Journal*, (29 August 2012), available at <http://www.wsj.com/articles/SB10000872396390444233104577592890738740290> (accessed on 26 May 2015).

⁶¹ Martin Murphy, *Commentary – Deepwater Oil Rigs as Strategic Weapons*, *Naval War College Review*, Vol-66, No. 2, (Spring 2013), 110.

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