Chapter Three

The Convention in Practice: Dispute Settlement and Maritime Boundary Delimitation

3.1. Purpose of Maritime Boundary Delimitation

At present, there are 195 States on the political map of the world. Of these, 152 are coastal States and 136 coastal States are parties to the Convention. All coastal States have the continental shelf (shelf) *ipso facto* and *ab initio*,¹ 150 coastal States have provided in their domestic laws for the territorial sea and 90 States for the contiguous zone, 132 States have established the EEZ and 15 States exclusive fishing zones.² In many cases, due to geographic configurations and proximity, these various zones of neighbouring States overlap with each other and need to be delimited. In other words, an international boundary line separating the overlapping maritime spaces must be drawn. The total number of all potential maritime boundaries yet to be delimited stands at between 376 and 430³ and presently there is no single sea or ocean, which has been fully delimited. Only the North, the Baltic, the Black and the Caribbean seas have reached a high level of completeness in maritime delimitation. More than

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half of potential maritime boundaries have already been drawn and one may expect that the process of maritime delimitation will continue for several more decades. This process may be further prolonged due to the emergence of new States and the assertion and recognition of new maritime claims.\(^4\)

Although under international law States do not bear a positive obligation to delimit their maritime spaces if none of the parties wish to do so, there are several incentives for doing this. In the broadest and somewhat philosophic terms, the primary aim of maritime delimitation is an equitable division of the maritime space.\(^5\) More practically, delimitation enables neighbouring States to properly exercise their rights, freedoms, jurisdiction and sovereignty in their respective zones. From the diplomatic standpoint, “good fences make good neighbours”\(^6\), whereas undetermined boundaries open an ideal environment for possible disputes and clashes between States. Finally, political reasons for delimiting maritime boundaries also play a significant role. They include core national security concerns, vital economic interests, integrity and legitimacy of the States concerned, etc.\(^7\) As a result, maritime delimitation may be viewed from different perspectives: international law and relations, policy and diplomacy, economics, geography, engineering, etc. Some of these aspects will inescapably be addressed \textit{infra}, while the scope of this research is limited to the examination of maritime boundary delimitation through the prism of the dispute settlement provisions of the Convention as they have been applied after its entry into force.

3.2. \textit{Maritime Zones to be Delimited: Some Topical Issues}

Both under the Convention and in customary law, the delimitation of maritime boundaries may be effected between: (a) the territorial seas of adjacent States and States whose opposite coasts are less than 24 nautical miles apart;\(^8\) (b) the exclusive economic or fishing zones of adjacent States and States whose opposite

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\(^4\) For example, an entity claiming statehood, if internationally recognized, may seek delimitation of its possible maritime borders with its neighbour(s), and new maritime boundary line(s) may be drawn as a result.
\(^8\) Article 15 LOSC.