CHAPTER FIVE

OIL AND WATER: ASSESSING THE LINK BETWEEN MARITIME BOUNDARY DELIMITATION AND HYDROCARBON RESOURCES

John W. Donaldson*

INTRODUCTION

Over a third of maritime space around the world falls under the claim or jurisdiction of coastal and island States under the provisions of the United Nations Convention on the Law of the Sea, 1982 (LOSC). Yet less than 50 per cent of possible maritime boundaries have been agreed by neighbouring States. After peaking in the late 1970s just prior to the conclusion of LOSC, the number of maritime boundary agreements concluded per year has dwindled to just a handful. This has been accompanied by a concurrent rise in the number of maritime boundaries delimited through third-party adjudication and arbitration.

Offshore hydrocarbon interests have played a key role in the development of modern law of the sea, but they have appeared in recent years to become almost inextricably linked to the delimitation of maritime boundaries. Ranking the relative impact of oil and gas interests on maritime boundary agreements concluded in the last 30 years, this chapter will critically examine the relationship between the definition of a maritime boundary and the presence of offshore hydrocarbon resources. While certainly paving the way for efficient exploitation, it is hoped that the presence of hydrocarbons should not be the sole prerequisite for States to clearly define the limits of their maritime jurisdiction. If this link is shown to have grown stronger in recent years, it raises potential questions about the relative balance between States’ rights to the resources of their maritime space, and the responsibilities of marine management.

* From 2003 to 2012, John Donaldson was the senior research associate at the International Boundaries Research Unit (IBRU) in the Geography Department at Durham University (UK). A Fellow of the Royal Geographical Society, Dr Donaldson holds an MA in international boundaries from the Law Department at Durham University and a PhD from Durham’s Geography Department. He now lives in Auckland and currently serves as the Deputy Head GEOINT for National Policy, Plans and Partnerships at GEOINT New Zealand (GNZ) part of the New Zealand Defence Force. This chapter was written during the author’s tenure at IBRU and opinions in the chapter are the author’s alone.
MARITIME DELIMITATION: A SPECIFIC SPATIAL PERSPECTIVE

International maritime boundary delimitation has generated substantial literature, especially in the decades that have followed the conclusion of *United Nations Convention on the Law of the Sea (LOSC)*\(^1\) in 1982, from the reviews of specific delimitations best evidenced by the International Maritime Boundary series through to insights from individual scholars and practitioners.\(^2\) With a number of notable exceptions from the geographic perspective provided, for example, by Prescott and Schofield,\(^3\) and technical considerations such as by Pratt and Schofield and Carleton,\(^4\) much of this literature has originated within the field of the international law of the sea. Since maritime boundary delimitation requires the direct or indirect consent of neighbouring coastal and island States, it is unsurprising that the international law of the sea engages so closely with these practices, being both developed by, as well as directive of, the interactions of State actors. Drawing out unique characteristics of delimitation in specific contexts, this literature has provided valuable insights into the methodologies and techniques for delimiting maritime boundaries based on State practice and international jurisprudence.

Almost by necessity much of this literature is retrospective to the actual delimitation processes that have often gone on behind closed doors, either within bilateral negotiations between government officials or within the deliberations of

---


