Maritime Delimitation in Complex Island Situations: A Case Study on the Caribbean Sea

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Unresolved Maritime Boundary Problems in the Caribbean
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What is an Island?

UNCLOS Article 121.1

An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
UNCLOS Article 121.3

Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.
What is the difference between an “island” and a “rock”?

- Hodgson attempted to define the differences between islands, islets and rocks on a size basis prior to the 1958 Geneva Convention, but this failed to achieve international acceptance.
- I assume an “island” feature should be treated as a 121.1 island if it has ever had human occupation or any type of economic activity on the island itself.
Islands and Delimitation

- For a successful delimitation geographical parity is required.
- Any feature that causes an imbalance is likely to cause a difficulty in reaching an equitable solution.
- Islands can cause an imbalance if their effect is not matched on the opposing side.
Other Possible Causes of Imbalance

• Normal baseline opposed to a straight baseline.
• Normal baseline opposed to an archipelagic baseline.
• Long coast against a short coast.
• Large promontory against a smooth coast etc.
What is meant by “Complex”? 

• This is very much in the eye of the beholder.
• If you compare the situation in the South China Sea with the Caribbean, the latter should prove to be relatively simple.
• However very few maritime boundaries prove to be simple.
The Requirements for Successful Maritime Delimitation

- Political will must be present and consistent;
- Any sovereignty issues must be resolved;
- The termination points of land boundaries need to be certain and agreed;
- Datums, both horizontal and vertical need to be matched;
- Basepoints need to be accepted by both sides;
- Any geographical disparity needs to be addressed;
The Caribbean Sea

- It is a semi-enclosed sea and as such comes under the influence of UNCLOS Article 123.
- However the provisions of this Article do not go as far as to direct States to co-operate in the delimitation of their maritime zones.
Overview

• Assuming the Caribbean Sea area is terminated at the Yucatan Channel
• There are some 78 maritime boundaries of which only 23 are fully delimited with a further 4 that have been agreed but are not in force for one reason or another.
• 2 are before the ICJ – Nicaragua-Honduras and Nicaragua-Colombia.
• Belize-Guatemala with Honduras assisting has been the subject of facilitation by the OAS, but no agreement has been achieved to date.
Some Caribbean Examples

• A complex area of small islands close together and under the sovereignty of six States:
  • UK (British Virgin Islands, Anguilla, Montserrat);
  • USA (US Virgin Islands, Puerto Rico)
  • France (St. Martin, St. Barthélémy);
  • Netherlands (St. Maarten, Saba, St. Eustatius);
  • St. Kitts Nevis
  • Antigua & Barbuda
Boundaries and median lines

- BVI / USVI (1995)
- Anguilla / BVI agreed (2002) promulgated 2005
- Anguilla – St. Martin/St. Barthelemy (1997)
- Anguilla – Barbuda/Antigua/Redonda Median line
- Anguilla / USVI (1995)
- Anguilla / Saba agreed but not ratified (1994)
• This generates some 14 maritime boundaries of which only 4 have been delimited to date:
• USA(USVI & Puerto Rico)/UK(BVI);
• USA(USVI & Puerto Rico)/UK(Anguilla);
• France (St. Martin & St. Barthélémy)/UK(Anguilla);
• UK(BVI)/UK(Anguilla) an internal boundary.
Issues

• In general geographical parity is present and solutions based on a median line should be achievable.

• Sombrero Island - Anguilla caused an imbalance with the boundary with UK(BVI). The solution was to give less than full weight to the island compensating BVI further north.

• The effect of the Antigua & Barbuda archipelagic baseline is yet to be tested. This will be an issue with the boundaries with UK(Montserrat) and St. Kitts Nevis.
Western Caribbean

• The UK(Cayman Islands)/Honduras boundary is a recent example of a modified median line that is controlled in its entirety by small island features.

• The requirement to preserve historic fishing rights is reflected in the special fishing area over the Misteriosa and Rosario banks.
Cayman - Honduras

Cayman Islands
Cuba
Mexico
Honduras
Misteriosa-Rosario Banks Fishing Area
Cayman vs Jamaica
Cayman Islands
Jamaica
Archipelagic Baseline
Territorial Sea Limits
Cayman-Honduras Boundary
Cayman-Jamaica Median Line
Issues

• Larger island against a group of smaller islands;
• What portion of the larger island is relevant to the delimitation?
• What effect, if any, should the archipelagic baselines have on the delimitation?
North Eastern Caribbean
Antigua
Barbuda
Nevis
St Kitts
St K
N
B
A
Archipelagic Baseline
Montserrat – St Kitts & Nevis median line
12M TS
3M TS
Montserrat – St Kitts & Nevis median line
Archipelagic Baseline
Antigua
Barbuda
Nevis
St Kitts
St K
N
Montserrat – St K & N median line ignoring Redonda and ABL

Montserrat – Antigua median line ignoring ABL
Montserrat – Antigua median line ignoring ABL but full weight to Redonda

3M Enclave for Redonda
Antigua
Barbuda
Nevis
St Kitts
St K
N
B
A
M

Recommended solution

Nevis – Montserrat
Median Line
Ignoring Redonda

3M Enclave for Redonda

Antigua – Montserrat
Median Line

Acknowledge ABL but give NIL effect

Recommended solution
Aves Rock

Montserrat – Venezuela (Aves Island) Median line

Montserrat – Venezuela (Aves Island) ½ effect median line

12M Limit is all a rock is allowed

France Venezuela Treaty

Aves Rock [exaggerated]
Aves Island

General view

The “module”
Montserrat Boundaries - Issues

- Montserrat only has a 3M TS at present;
- Normal baseline (Montserrat) against archipelagic baseline (Antigua);
- Close proximity of Redonda Island;
- Effect of Venezuela (Aves Island).
BARBADOS/TRINIDAD AWARD

11 April 2006
St Lucia
Venezuela
Guyana
St Vincent & Grenadines
Grenada
Barbados
Trinidad and Tobago
Martinique
Suriname
T&T Claim during Proceedings
Questions?