

49th Conference on Oceans Law & Policy:

Panel IIB: Litigating Maritime Security

As maritime security disputes become more complex, courts and tribunals play an increasingly important role in clarifying legal obligations and resolving competing claims

Maritime Delimitation in the Context of the Maintenance of Maritime Security: Roles of International Courts and Tribunals

21st September 2026, Athens

Mariko Kawano, Professor of International Law,
Waseda University, Faculty of Law



Introduction

1. Disputes Concerning Maritime Delimitation since the Adoption of UNCLOS

- (1) Increase of the overlapping claims for the entitlement of the maritime areas as a result of the extension of the jurisdiction of the coastal State under UNCLOS
- (2) Difficulty in settling the dispute concerning maritime delimitation by agreement
- (3) Importance of international courts and tribunals in the settlement of disputes concerning maritime delimitation
- (4) Dispute concerning complicated and delicate issues relating to maritime delimitation

2. Clarification and Sophistication of Relevant Rules and Methods through the Precedents

(1) Rules and methodology of maritime delimitation

(i) Method to achieve an “equitable solution” in Articles 74 and 83: Application of the “three stage approach” of the equidistance/relevant circumstances (E/RC) method

(ii) Request for the decision of a single maritime boundary as a practical solution

→ * Importance of the criterion of “**distance**” as an element common to EEZ and the continental shelf

* Application of the E/RC method to the continental shelf without distinction between within and beyond 200 nm

2. Clarification and Sophistication of Relevant Rules and Methods through the Precedents

(2) Rules to Be Applied to the Unilateral Activities in the Disputed Area

- (i) Customary nature of the rules concerning EEZ
- (ii) Customary nature of the rules concerning the contiguous zone
- (iii) Relations between the contiguous zone and EEZ
- (iv) Distinction between law enforcement activities and the use of force
- (v) Obligation concerning the provisional arrangements under paragraph 3 of Article 83

3. Maritime Delimitation of the Continental Shelf beyond 200 nm

(1) Notion of the maritime delimitation of the continental shelf beyond 200 nm

- (i) Continental shelf without distinction between continental shelves within and beyond 200 nm
- (ii) Overlapping entitlements
- (iii) “Significant uncertainty” test for the entitlement

(2) Distinction between delineation and delimitation CLCS and international courts and tribunals

3. Maritime Delimitation of the Continental Shelf beyond 200 nm

(3) Function of international courts and tribunals in the maritime delimitation

(i) Responsibility to contribute to the settlement of disputes

“394. For the foregoing reasons, the Tribunal concludes that, in order to fulfil its responsibilities under Part XV, Section 2, of the Convention in the present case, it has an obligation to adjudicate the dispute and to delimit the continental shelf between the Parties beyond 200 nm.” (*Bangladesh v. Myanmar, Judgment, ITLOS Reports 2007*, p. 103)

3. Maritime Delimitation of the Continental Shelf beyond 200 nm

(3) Function of international courts and tribunals in the maritime delimitation (cont'd)

(ii) Regard to the function of CLCS

Somalia v. Kenya, I.C.J. Reports 2021, p. 274

189. The Court emphasizes that **the lack of delineation of the outer limit of the continental shelf is not, in and of itself, an impediment to its delimitation between two States with adjacent coasts, as is the case here.** As the International Tribunal for the Law of the Sea observed,

“the exercise by international courts and tribunals of their jurisdiction regarding the delimitation of maritime boundaries, including that of the continental shelf, is **without prejudice to the exercise by the Commission of its functions on matters related to the delineation of the outer limits of the continental shelf**” (*Delimitation of the Maritime Boundary in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, ITLOS Reports 2012, p. 100, para. 379). “

3. Maritime Delimitation of the Continental Shelf beyond 200 nm

(4) Distinction between

- (i) “Gray area” which occurs incidentally as a result of the maritime delimitation by an international court or tribunal, and
- (ii) Claim for the continental shelf beyond 200 nm located in EEZ of the other State



Concluding Remarks