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THE SOLUTION OF THE SEA DISAGREEMENT

Abstract:

In order to reach fair conclusions, I had to set out some definitions given by the International Conventions. This area is relatively new and unobtrusively studied by academics, military, Albanian lawmakers, who have been unequally confronted with the Greeks in this agreement because they have human capacities at the world's best levels, institutes and institutions of the sea. The method used to relate this study is that of comparison and deduction. To reach the goal, the study was conducted around the answers to these questions:

1. How do legal regimes operate in sea?
2. How are resolved marine disagreements?
3. Does the Albania-Greece deal matter??
4. How was it done in similar cases?
5. Is this agreement in accordance with the UN Conventions?
6. What is lacking in this agreement?

Only after the above answers, the relevant conclusions and recommendations have been reached.

Keywords:

Maritime border, maritime agreement, convention, territorial waters, continental shelf.

JEL Classification: K30, K33, K39

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Introduction

Under the customary International Law, the inland waters are an integral part of the territory. For a time, for more than two centuries, as territorial waters, it is considered a distance of 3 miles, from the base line to the sea. But the international events of the 1960s and 1970s brought new concepts for the water separation regime, at the center of which was the definition of a legal line, for example, territorial waters up to 12 nautical miles from the baseline. This essential change was supported by most states and was underpinned by the International Sea Law (LOS).

For a better understanding of the International Law on the legal separation of the sea, it is imperative to look back at history where the territorial waters have always been subject to conflicts, a high risk point and a major obstacle to reaching many agreements on Regional and world scale. So briefly, to understand the present and to be competent in solving complicated sea conditions, it is imperative to refer to the past. From the time of the Roman Empire, and roughly up to the 15th century, states claimed to have larger spaces as territorial waters. These spaces have been unstable, unclear by law and poorly defined by the technical side. At that time there was no consensus or international law on the definition of territorial waters.

By the 15th century, began to be abandoned the idea to include as many territorial waters as possible, replacing it with the idea that the territorial waters are the waters that are adjacent to the shore. In later centuries the term "territorial waters" was so popular that it began to be used for the first time when publicist Antonio Gentili published his book "*De jure belli*" in 1598, where he advanced his innovative proposition that territorial waters should Enjoy the same status as sovereignty, just like the rest of the state territory. By the 17th century, the content, scope and breadth of territorial waters were more legally defined. It was at the border of three miles. In his book "Dominio maris", published in 1702, the Dutch publicist Cornelis van Bynkershoek has given this definition of the interior waters: *"Meanwhile, in general, it seems a better rule that the distance of the waters controlled by the earth should be equal to the distance of a shotgun, the distance that we can possess and command. So in general terms, I would say that land control over the sea ends where it ends, even the effectiveness of the firepower of weapons used by man."*¹

The United States, as a growing naval power, has admitted the three-mile territorial waters since 1793, when then-President Thomas Jefferson announced the great naval powers of that time England and France. This system continued to be used during this century, where after the Second World War and practically until 1982 when this rule was

¹A.Goga, Ligji Ndërkombëtar dhe e Drejta Detare.

lifted, it was accompanied by fierce criticism from different states. While it was acknowledged that the minimum of territorial waters was three miles, disagreements had arisen for the maximum limit of this width. The nature and purpose of such disputes and the possibility of their resolution shall be given in the paragraphs below.

Determining the division of territorial waters began to be made on a non-centralized basis. However, the first breaks of the three-mile system took place in 1930, when 48 states met at The Hague in order to determine a new world platform for defining territorial waters. They failed to create any useful model, but in any case the criticism of the three mile system increased significantly. In 1958 and 1960, at the Geneva Conferences, efforts were again made to create a new and acceptable system, but once again failed. Over the years the lack of a legitimate world system for determining territorial waters created conflicts and friction between states.

Oceans and seas, covering 70% of the Earth's surface, are a key that regulates the climate and preserves biodiversity. Like forests, oceans are glamorous targets for short-term uses that cause the environment a long-lasting damage. Such uses include fishing, dumping poisonous and nuclear waste (and other trash), as well as large-scale transport of diesel cargoes that cause persistent pollution. Unlike tropical forests, oceans do not belong to any state but are a world property. This makes the problem of common good more difficult because there is no authority to make certain rules mandatory. Preserving the oceans depends on the cooperation of states, and non-state actors, who use the good ones. Free subscribers have great opportunities to benefit.

A solution that states have admitted includes the "involvement" of a large part of the ocean. Territorial waters have expanded to hundreds of miles off the coast (around the islands), so that state sovereignty includes many resources (fishing grounds and oil and mineral reserves located off the coast).

Separation of territorial waters under international law

a. Width of Territorial Waters

One of the problems that have sparked more controversy in maritime affairs was the breadth of territorial waters. It was necessary to know where the territorial waters of a state begin and end, what rights do ships enjoy while sailing in these waters? Precisely, in view of such requests, international law makes the division of waters belonging to a coastal state. But how has it evolved over the centuries this division will be explained below.

Territorial water is called the water belt that starts from the base line of the coast, which divides the waters into the sea. They are under the full sovereignty of the coastal state to which they belong. Also, the coastal state is known for its full sovereignty, even over the

airspace and the seabed, extending above and below the territorial waters. Also, in the territorial waters, all the rivers, rivers, gorges, lakes and harbors enter; all these therefore enter the inner waters. But there must be a clear distinction between Territorial Waters and Domestic Waters because there is a huge legal difference between them.

Internal Waters are the water space extending from the base line to the ground. They are under the full sovereignty of the coastal state, to which they geographically belong. The coastal state has full sovereignty in these waters just like in its territory, and in special cases it may deny entry to these waters, foreign vessels.

b. Geneva Conventions (1958-1960)

In June 1956, the UN International Commission of Laws was created, which among others decided:

- The Commission considers it necessary to emphasize that International Law does not allow the extension of the territorial waters beyond 12 miles.
- The Commission, without taking any decision on the extent of territorial waters up to the 12 mile limit, underlines that on the one hand, many states have defined the distance over three miles, and on the other hand, many states do not recognize this width when their Territorial waters , are less than this distance.
- The Commission decided that the width of the territorial waters should be decided by an international conference..

The conference was held in Geneva, from 24 February to 27 April 1958, where delegations of more than 87 countries were present. However, even at this conference, it was not concluded in the definition of an exact formula for determining the extent of territorial waters. There were a total of 13 proposals, six of them voted, and none of them could get over 2/3 of the vote.

c. The 3rd Conference of the Convention on the Law of the Sea (LOS)

The UN General Assembly, at its session of 17 December 1970, decided that a third conference on seafaring law would be called in 1973. After a long work, the conference adopted the United Nations Convention on the Law of the Sea, which was signed on December 10, 1982, in Montego Bay (Jamaica), and entered into force on 16 November 1994.

The conference held its first session in New York, from 3 to 15 December 1973, and again the issue of determining the extent of territorial waters was the hottest point of debate. Over time, the number of countries supporting the 12-mile width continued to

grow. In 1968, the UN Food and Agriculture Organization had prepared the following table of territorial waters:

3 mile	31 countries
From 4-10 mile	16 countries
12 mile	46 countries
From 12-200 mile	12 countries
200 mile	15 countries

Whereas in August 1978, the American Committee of International Law (LOS) published the following table:

3 mile	20 countries
From -10 mile	9 countries
12 mile	70 countries
from 12-200 mile	12 countries
200 mile	15 countries

Also, the list was ranked 69 states, claiming for 200 miles, for fishing or as an Exclusive Economic Zone.

By the autumn of 1980, the conference on the International Maritime Law was held in 9 formal sessions and in a number of consultative sessions. Many of these were characterized by overly tedious and uncompromising debates. At the conclusion of the negotiations in 1982, one of the compromises was reached, which is expected to remain the time, is a compromise for territorial waters not more than 12 miles. This was the key to the success of the conference. Much of the world's opinion was in this idea. Although

the US insisted for a long time for the three-mile regime, over time, they went to the 12 mile system.

2. How Territorial Waters Are Measured

In order to determine the extent to which the external boundary of the territorial waters should be extended, it is necessary to know in what part of the coast line or baseline the measurement should begin. Normally, the measurement should begin on the visible line of separation, between the sea and the ground, which in some cases such as the Mississippi River delta, is very difficult to determine. Measurement of territorial waters starts from the land division with the sea, in the sea direction, and is presented in official maps, with large scale of the respective states. In some cases where the coast is island or very rugged, and which combines important economic interests, such as the Norwegian coastline, the base line may have nothing to do with the lower edge of the sea. In these cases, the base line should be used, which joins the most out capes of the coast as the starting point for measuring territorial waters. These capes should not be very detached from the rest of the ground, and the water space within the area should be visibly close so that these areas are included in the inland water regime.

The use of the baseline for measuring territorial waters is constrained by the fact that a state should not use it in order to intercept the open sea, territorial waters or the exclusive economic zone of another country..²

With the exception of special cases of application for the archipelagic waters, in all other cases the water space extending from the base line to the sea is treated in the internal water regime.

Islands

Even for islands, the same rule is used for determining the extent of territorial waters. The water space extending between an island and the main coast is considered as territorial waters if they are from 12 to 24 nautical miles. The same rule applies to the islands or the aquatic rocks that appear, in the case of tides, and which are facing the earth.

If a submarine rock rises only in the case of tides, and within the latitude of the territorial waters of the island or the coast, the water line in the case of tiredness can be taken as a baseline for measuring water territory.

² A.Goga. Lijji Ndërkombëtar dhe e Drejta Detare.

a. National Maritime pretends

Below will be provided data on the maritime claims of different countries of the world such as Territorial Waters, Fishing Areas and the Exclusive Economic Zones. As it emerges from the data of this study, the territorial claims between states are different. This is determined by their geographic position and other political-economic factors in the region.

b. Archipelago, Bays and Gorges

Archipelago

Since there is an inseparable link between water and islands in an archipelagic state, a special regime for the definition of territorial waters in these states is defined. In these cases, the archipelagic line is used, which is created by the union of the most extreme points of the islands or rocks. As an example of the application of this method are the definition of the territorial waters of the Philippines and Indonesia.

Bays and gorges

A fierce debate has been developed over the years about where the inner waters of the gulfs and gorges end and where territorial waters begin. From the outset, it was determined that in cases where the entry of a bay or gorge is less than 6 nautical miles, the territorial waters begin from the base line between the tangents in the direction of the sea of their entry. All the waters that lie in the interior of the ground from this line are considered as internal waters. In practice, as well as by treaties, the same rules apply to bays and lanes, which have a width of 10 to 12 miles, and some states, have submitted claims even for gulfs with greater latitude. Since such a claim has been for a long time, and other states have accepted it, a special classification exists in these cases. The so-called historical bays fall into this category.

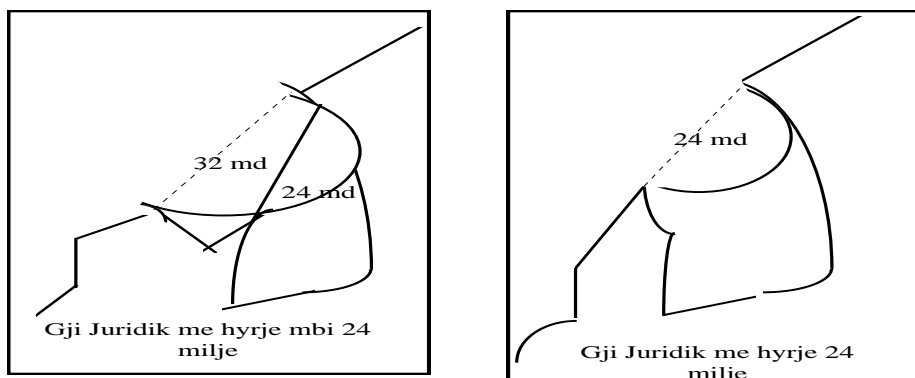
Since in recent years, different countries have followed different practices in defining the territorial waters of the Gulf, the 3rd Conference on Sea Laws (LOS) took this issue into consideration and determined that:

"If the distance between the shore signs that occur during the discharge and the natural access points of a bay does not exceed 24 nautical miles, a closing line should be removed between these points, and the entire water space is included within This basin is called inner water. When the distance between the coast markings that appear during the

*reflux exceeds 24 miles, a base line should be removed so as to include as much water surface as possible, with a line at that length”.*³

Definitions have also been made for the semi-circular method to determine that an water space is a bay or anchor, and that sanction the unchanging of the determination of the historical bay. The conference also sanctioned that the islands, which are in the atolls with cape can use the right line at their disposal to measure their territorial waters. From here, it emerges that the waters contained in the lagoons of these atolls are called inland waters. According to Article 7, Geneva Convention (1958), and Article 10 of UNCLOS (1982), bay area less than half-circle is not called bay.

Figura 1.⁴



2. Division of Territorial Waters with neighboring countries.

In cases where the coasts of the two countries are facing each other, and between these states there is no agreement to regulate the territorial division; The territorial waters of any state should not cross the line that separates them between these waters, ie this water space is equally divided. An example of the application of this international law requirement is the separation of territorial waters between Albania and Greece on the Corfu channel.

Another issue that has been the subject of the International Court has been the solution of the conflicts between Canada and the United States for the determination of territorial waters, in the Strait of Juan de Fuca, in the Bofort Sea, in the Queen Sharlotte Islands, in the Arctic etc.

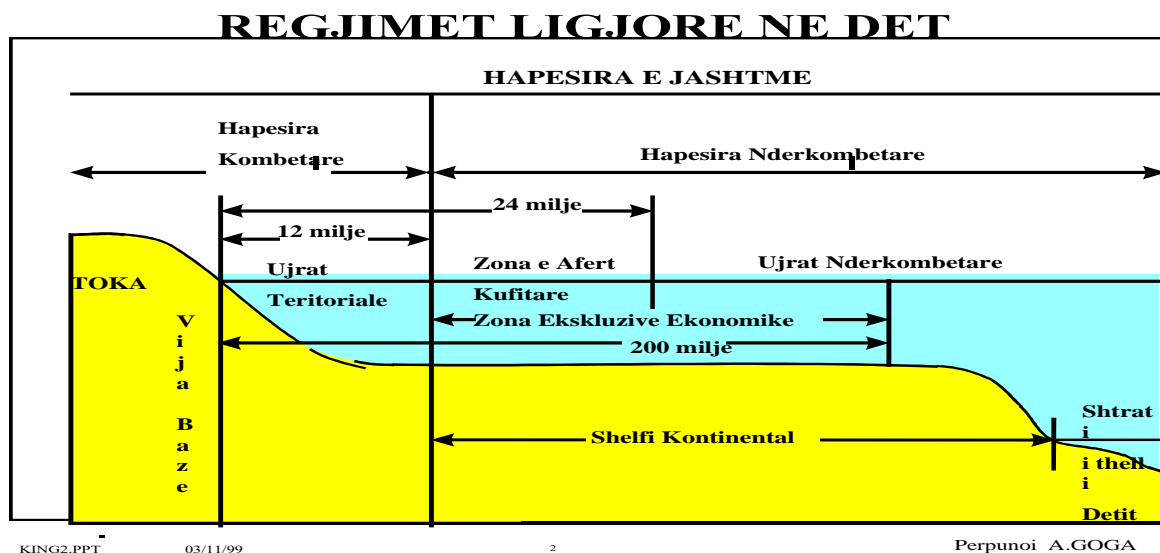
³ A.Goga. Ligji Ndërkombëtar dhe e Drejta Detare.

⁴ Përpunoi A. Goga

The announcement of the 200-mile zone as a Fishing and Exclusive Economic Area has created a new concept for "neighboring states", who, when in their jurisdiction narrow water territories, do not contradict each other. For example, the United States, with the announcement of 200 miles as a fishing zone, has created new areas of the maritime border, which should be discussed and reached agreements between neighboring states for determining the coordinates and the relevant jurisdiction.

These problems exist everywhere in the world, and of course many years, will pass until these boundaries are defined and definitely renowned.⁵

Figura 2.



4. Use of Territorial Waters

International law, applied to territorial waters has the effect above all of the ships sailing on all the seas of the world. The definition of territorial waters under international law is:

"Territorial waters, it is called that part of the sea next to the shore of a given country, which, according to international law, is an integral part of the sovereignty of this country."⁶

When Sovereignty and Jurisdiction terms are used for water areas, the sovereignty exercised by a coastal country is subject to certain limitations. Moreover, there are some

⁵ Ligji Ndërkombëtar dhe e Drejta Detare. - Regjimet Ligjore në Det. A. Goga

⁶ H.Wheaton, Elements of International Law, 1936

rights exercised by the coastal state over its territorial waters, which are easily distinguishable from those applied to the land space.

Conclusions

The abovementioned facts conclude that the designation of maritime borders is a very complex and multifaceted topic. The international community and trials held, despite their efforts, find it difficult to design a general principle of separating maritime borders. In 1982, the LOS Convention expresses only the achievement of the purpose of separating the maritime borders, but does not express the principles and methods for achieving an equal outcome..

The UNCLOS Convention, which plays an important role in the process of separation of the maritime borders, states that this division must comply with the principle of equality, taking into account the circumstances of the case in question. The law of equality does not exclude obligations but simply clarifies the methods, ways and ways of achieving an equal result in the division of borders, and the circumstances are special according to the cases. At the same time, court decisions and state practices relies on the use of the rules and circumstances in question, as well as show that the superiority must be compatible with geographical factors in the division of maritime borders because each case is unique.

The same rule or the same method can not be applied in all cases regardless of geographic facts and other facts. The designation of a border line should be equitable and fair between the parties, as well as to consider the circumstances regarding the designation of these boundaries. The main rule for the division of maritime borders, accepted by UNCLOS, is that this division is viable and effective, should be the result of an agreement between the border states..

The negotiation process between countries is very important for achieving positive results.. The issue for maritime borders, as well as for land borders, is a delicate matter, and must be treated with caution, and from different point of views. Despite the emergence of problems and conflicts, the parties may appeal to a third party to find a solution and to resolve them.

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