

DELIMITATION OF MARITIME BOUNDARIES WITHIN CARICOM

[Background Paper for Report]

Development of Relevant Rules for Delimitation of Maritime Boundaries, Including Practical Illustrations of the Operations of such Rules.

Introduction

1. The development of the principles of international law with respect to maritime boundaries delimitation currently relate to mainly six areas, namely, internal waters, territorial sea, archipelagic waters, exclusive economic zone (EEZ), continental shelf and the extended continental shelf. Other areas of delimitation, which are sometimes met with are historic waters, contiguous zones and areas of joint development by neighbouring States. The focus of this report will be the maritime zones most often come under consideration for delimitation by and between CARICOM States, that is to say, territorial sea, archipelagic waters, the EEZ and the continental shelf. Some member States, in particular The Bahamas, Barbados, Guyana, Suriname and Trinidad and Tobago, have potential claim to extended continental shelf and so some attention will be paid to the rules and procedure relating to the delimitation of such areas.

2. The United Nations Convention on the Law of the Sea (UNCLOS), which was signed in Jamaica in 1982 and entered into force in 1994, made significant contribution to the development of maritime delimitation law. The UNCLOS recognised a 12-nautical mile limit for the territorial sea, archipelagic waters zone, where the requirements set out in the Convention are met, the 200-nautical mile EEZ limit and an extended continental shelf beyond 200-nautical miles up to 350-nautical miles from the baselines of the coastal States concerned. The new or extended zones greatly extended the potential maritime jurisdiction of coastal States and ushered in an era of growth in the conclusion of delimitation treaties unprecedented in maritime boundary making. The majority of the world's potential maritime boundaries are yet to be settled.

3. The CARICOM States are all littoral States. All, but two, are situated in the Caribbean Sea, a large semi-enclosed sea, approximately 1, 943,000 square kilometres in size. The current geopolitical nature of the CARICOM area will influence the delimitation of maritime boundaries in the region. Within CARICOM the Organisation of Eastern Caribbean States (OECS) forms a sub-regional grouping with competence to deal with delimitation matters to the extent that the members delegate the authority to deal with such matters. There are many dependent territories in the Caribbean Sea falling under the jurisdiction of the great maritime metropolitan powers of the United Kingdom, United States of America, the Republic of France and the Kingdom of the Netherlands. These powers are experienced in maritime boundary making, they have expertise, up to date technology in boundary making, financial resources, which enable them to offer flexibility and attractive trade-offs, such as grants and loans, unrelated to delimitation considerations. Three relevant geographic factors are the ring of islands in the eastern Caribbean Sea forming a convex shaped feature in that area, the numerous islands, rocks and cays in the eastern and other parts of the Caribbean Sea, and the presence of several States, which claim archipelagic status.¹

¹ These include, Antigua & Barbuda, Bahamas, Grenada, Jamaica, St. Vincent & the Grenadines, and Trinidad & Tobago.

Background to Delimitation in CARICOM

4. The St. John-Mariscal Treaty between the United Kingdom (British Honduras- Belize) and Mexico signed in 1893 and entered into force in 1897, dealing with the delimitation of internal waters,² and the Treaty between the United Kingdom (Trinidad) and Venezuela signed in 1942 (February) and entered into force in September of that year³, are the two first delimitation agreements in the CARICOM region. Since those early treaties of the colonial era, the independent States of CARICOM have concluded eight delimitation treaties⁴ and Montserrat, a non-independent Member State, has through the United Kingdom concluded a delimitation agreement with France with respect to Guadeloupe.⁵ A further five maritime boundary delimitation agreements have been concluded by the United Kingdom on behalf of its dependent territories in the Caribbean recently.⁶

5. Currently, there are a number of boundary disputes involving maritime delimitation with CARICOM States, and with respect to which third party intervention has been sought. These include Guyana and Venezuela, Guyana and Suriname, Belize and Guatemala, and Barbados and Trinidad and Tobago.

6. Negotiations to settle maritime boundaries commenced in a number of cases, but have to date have not achieved a successful conclusion. Among such cases are Grenada and Venezuela, Grenada and Trinidad and Tobago, Antigua and Barbuda and France, Jamaica and UK (Cayman Islands), and Barbados and Trinidad and Tobago (now suspended pending settlement by arbitration). Preparations for negotiation of maritime boundaries between Dominica and Venezuela, and between Antigua and Barbuda and St. Kitts and Nevis have been in the making for sometime.

7. A number of delimitation agreements in the Caribbean Sea and Atlantic Ocean areas entered into between some CARICOM States, and by these States with third States, will impact on delimitation of maritime boundaries of other Member States, and so will the boundaries agreed between third States in certain cases. These cases will be pointed out later in the report.

8. The delimitation agreements so far concluded by CARICOM Member States will no doubt point to the approach that others might take in future maritime boundary negotiations. Useful precedents with respect to the weight attached to certain geographic features for the purposes of delimitation are being developed, and the form and, where appropriate, the content of delimitation agreements are being standardised.

² See Treaty Series No. 6 1897 C.8653.

³ That Treaty was succeeded to by Trinidad and Tobago upon independence and was superseded by the 1990 Treaty, which entered into force in 1991, between Trinidad and Tobago and Venezuela.

⁴ These are in order of date signed: Haiti and Cuba 1977, entered into force 1978; Haiti and Colombia 1978, entered into force in 1979; St. Lucia and France (Martinique) 1981, entered into force that same year; Dominica and France (Martinique and Guadeloupe) 1987, entered into force 1988; Trinidad and Tobago and Venezuela 1990, entered into force 1991; Jamaica and Colombia 1993, entered into force 1994; Jamaica and Cuba 1994 entered into force 1995; and Barbados and Guyana 2003, (not yet in force).

⁵ UK (Montserrat) and France (Guadeloupe) 1996, entered into force 1997.

⁶ UK (Anguilla) and US (US Virgin Islands) 1993, entered into force 1995; UK (Cayman Islands) and Honduras 2001, entered into force 2002; UK (Turks and Caicos Islands) and Dominican Republic 1996, (not yet in force); UK (Virgin Islands) and US (Puerto Rico and US Virgin Islands) 1993, entered in to force 1995; and UK (Anguilla) and France (St. Martin and St. Barthelemy) 1996, entered into force 1997.

General Rules of Maritime Boundary Delimitation

9. The rules governing maritime boundaries delimitation encompass the principles and methods of delimitation. The broad general principle of every maritime boundary settlement is the achievement of an equitable solution, consistent with international law. The UNCLOS sets out the general principles of delimitation with respect to certain maritime areas. For example, in respect of the territorial sea, it states that, ‘Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured’ (article 15 of the Convention).

10. Archipelagic waters are created by States, which meet the requirements set out in Part IV of the UNCLOS. An archipelago is defined as ‘a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political unity, or which historically have been regarded as such’ (art. 46).

11. The delimitation rules relating to the EEZ and the continental shelf are similar, but rather different from those of the territorial sea. The operative parts of articles 74 (EEZ) state that, ‘the delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of International Court of Justice, in order to achieve an equitable solution.’⁷ Both articles 74 and 83 of UNCLOS provide for provisional arrangements of a practical nature may be made in the spirit of understanding and cooperation pending agreement on a final delimitation agreement.

12. In applying article 38 of the Statute of the International Court of Justice in conjunction with the relevant delimitation provisions of the UNCLOS and relevant Judgments of the Court, a number of factors or equities that influence an equitable solution in boundary settlements have been identified. These factors include adjacency or proximity, concave/convex coastline, general direction of the coast, distance between coasts, ecology, economic considerations, equality of States, geography, geology, geomorphology, historic rights, islands, length of coastline, macrogeographical

⁷ 1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto

considerations, presence of third States, and proportionality. Brief examples of the application of some these factors will be given below.

13. Adjacency or proximity sometimes amount to an equitable criterion in maritime boundary delimitation between neighbouring States. As the International Court of Justice (ICJ) pointed out in the North Sea Continental Shelf cases, the adjacency criterion does not imply absolute proximity and the literature on the subject, as well as the general terminology, is vague, with various terms, such as “near”, “close”, “close to its shores”, “off its coast”, “opposite”, “in front of its coast”, “in the vicinity of”, “neighbouring the coast”, “adjacent to”, and “contiguous”, being applied interchangeably.⁸ The Court did not regard proximity as a ground of title to areas of the continental shelf, but indicated that proximity may afford one of the tests to be applied and an important one in the right conditions. Adjacency or proximity, as an equitable factor in delimitation, is considered to be more a method or a test of an equitable delimitation rather than a principle on which delimitation is undertaken. The Court of Arbitration in the Continental case between Great Britain and France stated that under certain conditions proximity might be an appropriate test or method for delimiting the boundary of the continental shelf.⁹ The Chamber of the ICJ, which heard the Gulf of Maine case between Canada and the United States of America summarised the effect of adjacency on delimitation as one in which international law confers on a coastal State a legal title to an adjacent continental shelf or maritime zone adjacent to its coasts; but that it would not be correct to say that international law recognises the title conferred on the State by adjacency of that shelf or zone, as if the mere natural fact of adjacency produced legal consequences.¹⁰

The equitable factor of adjacency is relevant in the CARICOM region, because of the geographic configuration of the Caribbean Sea, particular its eastern section.

14. Concave/convex coastline is an important factor in particular maritime boundary delimitation. In particular cases, concave or convex geographic features may trigger a particular approach to boundary settlement in order to achieve an equitable solution. This is because the use of the equidistance method of delimitation could result in disadvantageous treatment of States with concave coastline features. In such cases, mitigating measures need to be taken, if an equitable solution is to be achieved. The ICJ pointed out that the effect of the use of the equidistance method in the case of a concave or recessing coast is to pull the line of boundary inwards, in the direction of the concavity.¹¹ The Court went on to point out that a State should not enjoy continental shelf rights considerably different from those of its neighbours merely because in the one case the coastline is roughly convex in form and in the other it is markedly concave, although those coastlines are comparable in length. In a similar vein, the Tribunal in the Guinea and Guinea-Bissau arbitration noted the ‘amputation’ effect, which the concavity factor could generate in the Guinea Bissau and Sierra Leone area of West Africa.¹²

15. The effect of concavity was clearly illustrated in the CARICOM region by the Dominica and France (Martinique and Guadeloupe) boundary negotiation when France initially insisted on applying the equidistance method of delimitation. That approach

⁸ See ICJ Reports 1969, North Sea Continental Shelf cases, Judgment, p. 30, paragraph 41.

⁹ See Reports of International Awards Vol XVIII, P. 50, paragraph 81.

¹⁰ See ICJ Reports, 1984, Gulf of Maine case, p. 296 and paragraph 103.

¹¹ See ICJ Reports, 1969, p. 17 and paragraph 8.

¹² See Guinea/ Guinea-Bissau Arbitration, Award 1985, paragraphs 103-104.

would have cut-off Dominica's EEZ 138 nautical miles (n. m.) short of its 200 n. m. Having rejected that approach and succeeded in persuading the French to apply the equitable principle, whereby all the equitable factors were considered and balanced up, Dominica achieved an EEZ zone that runs the full 200 miles recognised under UNCLOS.¹³

16. The general direction of the coast of a State may be relevant to the delimitation of a given area, as was found to be the case by the ICJ in the Tunisia and Libya Continental case¹⁴. The Court of Arbitration in the Channel Islands case between Great Britain and France found that the prolongation of the general direction of the Channel coasts of Great Britain and France was not a relevant factor in the delimitation of the maritime boundary between the two countries in the Atlantic region.¹⁵ The geographic location and the proximity of the islands of the eastern Caribbean Sea will cause the general direction of the coasts, constituting an arc on the Caribbean Sea and Atlantic Ocean, which will be relevant to delimitation in the sub-region.

17. Economic factors do not often influence the actual line of delimitation, except when the subject matter of a case concerns living or non-living resources. The ICJ has made several pronouncements ruling out economic factors as relevant equitable consideration.¹⁶ In the boundary delimitation treaties to date in the Caribbean there is ample evidence that economic factors have played a prominent role in some cases, for example, in the Trinidad and Tobago –Venezuela Agreement 1990, the Jamaica – Colombia 1994 Agreement, and the United Kingdom (Cayman Islands) – Honduras Agreement of 2002.

18. The numerous geographic features in the Caribbean Sea and the opposite and adjacent locations of many States and dependent territories make geography the dominant equitable consideration in the region. The problem for negotiators is attaching relative weight to competing relevant geographic features. The ICJ has offered some guidance as to how the relevant geographic features might be applied in given cases.¹⁷

19. Geological and geomorphological factors are no longer important equitable factors in the delimitation of the EEZ or the continental shelf up to 200 nautical miles from the base points from which the territorial sea is measured, since the UNCLOS came into force. Both factors may still be relevant in the delimitation of the extended continental shelf beyond 200 nautical miles.

20. Historic rights may be relevant in given delimitation cases, but generally these rights do not carry much weight as an equitable factor.¹⁸

21. Islands, which are located in a delimitation area, often constitute relevant or special circumstances through creating a distortion in the geographical configuration of the particular delimitation area. The influence of an island on the delimitation line in given cases depends on factors, such as location, size, population, economic activities, as well as the political and constitutional status. In considering the influence of islands in the Continental Shelf case between Great Britain and France, the Court of Arbitration stated

¹³ See the Dominica Case Study in *Practical Steps in Negotiating Maritime Boundary Agreements-A Guide to Small States*, pp. 210-233. Carl W. Dundas, Commonwealth Secretariat

¹⁴ See ICJ Reports 1982, p.63, paragraph 78

¹⁵ See Reports of International Arbitral Awards Vol. XVIII P. 115, paragraph 247.

¹⁶ See, for example, ICJ Reports 1969, North Sea Continental Shelf cases, pp. 51-53, paragraphs 94 and 97; and Reports 1984, Gulf of Maine Case, p.342.

¹⁷ See ICJ Reports 1969 p.49, paragraph 91, and Reports 1984, p. 271, paragraph 37.

¹⁸ See ICJ Reports 1982, p.75, paragraph 102; and Reports 1984, pp.340-341.

that, “the existence of the Channel Islands close to the French coast, if permitted to divert the course of the mid-Channel median line, effects a radical distortion of the boundary creative of inequity.”¹⁹ In that case, the Court of Arbitration awarded no more than a zone of twelve miles of seabed and subsoil to the north and west of the islands, in order to effect a median line boundary between Great Britain and France. In another situation in the case of Tunisia and Libyan Arab Jamahiriya Continental Shelf, the ICJ concluded the half-effect method of delimitation was the one that would serve to achieve the abatement of inequity.²⁰ Similarly, ICJ awarded only half-effect to Seal and Mud Islands, which are off the coast of Nova Scotia, Canada, in the Gulf of Maine case between the USA and Canada.²¹ The issue of whether or not an independent island State has any special status with respect to continental shelf rights came up for consideration by the ICJ in the case of Malta and Libya, where the Court stated that Malta, being an independent State, the relationship of its coasts with the coasts of its neighbours was different from what it would be if it were part of the territory of one of them.²²

22. The majority of CARICOM States are geographically insular. There are numerous islets, cays, reefs, rocks and uninhabited islands that may influence maritime boundary delimitation in the region. Aves Island, which is owned by Venezuela and situated nearer to the Eastern Caribbean States than to Venezuela, and Navassa Island, situated near to Haiti, between the latter and Jamaica, is claimed by both the USA and Haiti, are two cases in which islands are likely to play a significant part in maritime boundary settlement within the CARICOM region.

23. The length of coastlines is a potential equitable factor, which may be of relevance to some delimitation between CARICOM States. The ICJ pointed out in the Malta and Libya case mentioned above that: “consideration of the comparability or otherwise of the coastal lengths is a part of the process of determining an equitable boundary on the basis of an initial median line; the test is a reasonable degree of proportionality.”²³

24. The general or macrogeographical features of an area can generate relevant delimitation considerations. This has been recognised and commented upon by the ICJ in the Malta and Libya case²⁴ and by the Arbitral Tribunal in the Guinea-Guinea Bissau Continental Shelf dispute.²⁵ The semi-enclosed status of the Caribbean Sea, together with the general convex Atlantic and concave Caribbean coasts, will have an effect on some delimitation outcomes in CARICOM.

25. The presence of third States is a potential factor to be taken into account when delimiting maritime boundaries. The ICJ pronounced on this issue in the Malta- Libya case.²⁶ The proximity of some CARICOM states to each other or to third States makes it inevitable that this factor will be encountered frequently in the CARICOM region.

26. The concept of proportionality in delimitation of maritime boundaries has to do primarily with the test for an equitable outcome of a given delimitation exercise. The recent antecedent of the proportionality factor may be summed up as follows: the ICJ

¹⁹ See Reports of International Arbitral Awards Vol. XVIII, P. 94

²⁰ See ICJ Reports 1982, p. 89.

²¹ See ICJ Reports 1984 p.336

²² See ICJ Reports 1985, p. 42

²³ See ICJ Reports, 1985, p. 49, and 1984, pp. 322 & 334.

²⁴ See ICJ Reports 1985, p.50, paragraph 69

²⁵ See Arbitration Tribunal Award 1985, paragraph 108.

²⁶ See ICJ Reports 1985, p.26

enunciated it in the North Sea Continental Shelf cases,²⁷ the Court of Arbitration refined its scope in the Continental Shelf case between Great Britain and France,²⁸ its method of application was clarified in the Tunisia-Libya Continental Shelf case,²⁹ its role was expanded in the Gulf of Maine case between the USA and Canada,³⁰ and eventually the ICJ elevated its status to that of a separate equitable criterion in the Malta- Libya Continental Shelf case.³¹ The proportionality factor may be of considerable import in boundary settlements in the southern and eastern Caribbean Sea areas.

27. Security considerations are often taken into account in delimitation settlements, although such considerations seldom influence the construction of the actual boundary lines. However one on the chief functions of boundary delimitation is to define the limits of a coastal State's jurisdiction in order to ensure the provision of effective security for living and non-living resources.

Methods of delimitation

28. Certain methods of delimitation, for example, equidistance/median line, are often treated both as a principle and as a method of delimitation. Many delimitation exercises are based on the application of many strands of delimitation principles and a combination of various methods of delimitation.

29. Equidistance is often described as both a principle and a method of delimitation. There are situations in which the application of the equidistance approach yields acceptable results by providing sound equitable delimitation between the parties. In some cases however equidistance, whether applied as a principle or as a method, yield delimitation that is patently inequitable, and so other methods based on different principles are used. The ICJ has on occasion drawn attention to the strengths and weaknesses of equidistant, as a method of delimitation. It has pointed out that the equidistant method of delimitation is a convenient one, which is capable of application in almost all circumstances. It also attributes the virtue of the equidistant method of being user-friendly for competent hydrographers, who can de facto trace an equidistant boundary on appropriate maps and charts in a manner that most other hydrographers would accept.³² But the ICJ also indicated certain disadvantages of the equidistance method, namely that in certain geographic circumstances the equidistant method leads to inequity. This disadvantage is seen markedly in cases of concave coastlines, where the delimitation lines tend to project inwards and thus run nearer to the coastline, while delimitation lines in cases of convex coastlines behave in the opposite manner.³³ The case of delimitation of maritime boundaries between Dominica and France (Guadeloupe and Martinique) illustrates the classic case of inequity, which can result if the equidistant method is applied in certain cases. The application of that method to the Dominica – France (Guadeloupe and Martinique) would have cut-off Dominica's EEZ at 62 nautical miles from the baselines from which the territorial sea is measured, while applying other

²⁷ See ICJ Reports 1969, p. 52.

²⁸ See Reports International Arbitral Awards Vol. XVIII, P.57

²⁹ See ICJ Reports 1982, p. 91

³⁰ See ICJ Reports 1984, pp. 334-335

³¹ See ICJ Reports 1985, p. 48

³² See ICJ Reports 1969, p. 23

³³ See *ibid.* p. 49

methods based on the balancing up of the equity factors, Dominica make good its maritime claim of 200 nautical miles.³⁴

30. Equitable principles are based on equity and as the name implies are more in the nature of principles rather than methods of delimitation. Indeed, equitable principles often utilise a combination of methods to produce an equitable solution to overlapping boundary claims. The application of the equidistant method frequently achieves an equitable boundary settlement. The utilisation of the equitable principles approach (in contrast to the equidistance) consists in the balancing up of all the equitable factors present in the delimitation area, evaluating the relative weight of each factor.³⁵

31. The general principle of equity plays an important role in maritime boundary delimitation, whose goal is to produce an equitable outcome. The ICJ has equated equity with the legal concept of justice.³⁶

32. Median line is sometimes treated as a principle and as a method of delimitation. As the Court of Arbitration put it in the Great Britain and France case, “ in a situation where the coasts of two States are opposite each other, the median will normally effect a broadly equal and equitable delimitation.”³⁷

33. Perpendicularity is a method of delimitation used to construct a line perpendicular to the coast or to the general direction of the relevant coast. The ICJ has recognised and applied this method of delimitation. Thus the ICJ, in the Tunisia-Libya Continental Shelf case, stated that “ the factor of perpendicularity to the coast and the concept of prolongation of the general direction of the land boundary are, in the view of the Court, relevant criteria to be taken into account in selecting a line of delimitation calculated to make an equitable solution.”³⁸

34. The UNCLOS of 1982 introduced some new maritime zones and stipulated requirements, which States have to meet in order to claim such zones. These requirements are relevant when negotiating boundary delimitation agreements. Some of these zones, which were recognised in UNCLOS, attracted definition and attributes, which must be met by States seeking to make claims to such zones. Many CARICOM States are positively affected by the international recognition of these zones, which greatly expanded the potential jurisdiction of coastal States in the region. These maritime zones are the archipelagic waters, territorial sea, the exclusive economic zone (EEZ) and the extended continental shelf.

35. Archipelagic States are defined and described in Part IV of UNCLOS. The definition of an archipelagic State is set out in Article 46 and the rules for constructing baselines to determine the extent of the limits of archipelagic waters are contained in Article 47. Six CARICOM States have met the requirements of Articles 46 and 47.³⁹ A relevant consideration to some CARICOM Member States is the obligation of an archipelagic State to recognise traditional fishing rights and other legitimate activities of the

³⁴ See case study of the Dominica- France negotiations in *Practical Steps in Maritime Boundary Agreements. A Guide to Small States*, pp. 210-233 Carl W Dundas Commonwealth Secretariat

³⁵ See for example, ICJ pronouncements in Reports 1969 p. 53; 1982 p. 59, 1985 p.39.

³⁶ See ICJ Reports 1982 p.60

³⁷ See Reports of International Arbitral Awards, Vol. XVIII, p. 112

³⁸ See ICJ Reports 1982, p. 85

³⁹ These are: Antigua and Barbuda, the Bahamas, Grenada, Jamaica, St Vincent and the Grenadines, and Trinidad and Tobago.

immediately adjacent neighbouring States in certain areas falling within archipelagic waters.⁴⁰

36. The UNCLOS recognised the extension of the territorial sea of coastal States up to 12 nautical miles from the baselines. Many CARICOM States have benefited. However due to the geographic configuration of the Caribbean Sea and the particular location of some of the States, they are not able to attract the full 12-mile territorial sea and are subject to Article 15 of UNCLOS, which sets out the applicable rules to the delimitation of the territorial sea opposite or adjacent neighbouring States.

37. The EEZ and the continental shelf converge in practice (though not necessarily the legal concepts of the two) up to a distance of 200 nautical miles from the baselines from which the territorial sea is measured, and the rules of delimitation, as set out in UNCLOS Articles 74 and 83 respectively, are similar. Some CARICOM States may not be able to realise their full 200 nautical miles EEZ, because of the presence of third States in the delimitation areas.

38. The UNCLOS of 1982 recognised States jurisdiction over certain resources in the continental shelf beyond 200 nautical miles from the baselines of the coastal State from which the territorial is measured. Special rules are set out in Article 76 of UNCLOS deals with the definition of outer limits of this area (which is sometimes called the ‘extended continental shelf’). The definition of the continental shelf in this Article will profoundly influence the delimitation procedures with respect to this area. Only certain CARICOM States will meet the requirements of Article 76, and able to proffer claims to extended continental shelves.⁴¹

Developments in respect of delimitation in CARICOM

39. Maritime boundary delimitation within CARICOM will be influenced significantly by the geographic considerations in the Caribbean Sea, which washes the coasts of thirteen of its fifteen Member States. The Caribbean Sea is a large semi-enclosed sea, which, under UNCLOS, enjoys a special regime of co-operation with respect to the management, conservation, exploration and exploitation of living resources of the sea.⁴²

40. A number of geopolitical factors present in the CARICOM region will influence on maritime boundaries delimitation of its Member States. Among these are the large numbers of islands, rocks, reefs, cays, sandbanks and islets; and more than a third of the Member States meet the requirements of UNCLOS to claim archipelagic status, four large maritime metropolitan powers, namely, France, Great Britain, The Netherlands and the United States of America, have several dependent territories with potential maritime boundaries with CARICOM States. Even before the UNCLOS entered into force, these metropolitan powers claimed fisheries jurisdiction of up to 200 nautical miles and began to enforce their maritime claims by concluding delimitation treaties in the region.⁴³

⁴⁰ See Article 51 of UNCLOS.

⁴¹ These potential claimants are Bahamas, Barbados, Guyana, Suriname and Trinidad and Tobago.

⁴² See Articles 122 and 123 of UNCLOS.

⁴³ See Venezuela (Aves Island) and USA (US Virgin Is.) 1978; Venezuela (Aves Is.) and The Netherlands (Saba and St. Eustatius) 1978; and Venezuela (Aves Is) and France (Guadeloupe and Martinique) 1980.

41. Economic considerations will also influence maritime boundary delimitation within CARICOM. The natural resources potential of a delimitation area had often played a part in negotiating maritime boundary settlements. For the greater part of the Caribbean Sea, scientific research obtained to date suggests that it is only modestly endowed with natural resources, living and non-living. Nonetheless, significant deposits of hydrocarbon have been discovered in the southeast area of the Caribbean Sea, and favourable sedimentary strata are believed to exist in the southern and eastern parts of the area.⁴⁴ Agreements have been concluded with oil companies from time to time with respect to exploration for hydrocarbon in offshore areas by a number of States and dependent territories in the Caribbean Sea⁴⁵
42. As a relevant economic factor in maritime delimitation, the exploitation of the fisheries potential of the Caribbean Sea has persistently caused jurisdictional difficulties, even for CARICOM Member States. Examples abound, Jamaican fishermen have experienced problem in Nicaraguan and Colombian waters, fishermen from Trinidad and Tobago and Grenada from time to time encounter difficulties in Venezuelan waters, and Barbadian fishermen have recently had problem in the waters of Trinidad and Tobago. French fishermen from Guadeloupe and Martinique often fish in the waters of Antigua and Barbuda, Dominica and St Lucia. The extension of the territorial sea up to 12 nautical miles and the EEZ up to 200 nautical miles, made possible by UNCLOS, has increased the incidence of violation of the jurisdiction of CARICOM States by their neighbouring States and territories, and also by distant fishing fleets from countries as South Korea and Japan.

Maritime boundary treaties concluded by CARICOM –Member States

43. At the present time, the independent Member States of CARICOM have entered into eight maritime boundaries delimitation treaties. The dependent Member State of Montserrat has, through the Government of the United Kingdom, concluded a maritime boundary treaty with France (Guadeloupe) in 1996 and entered into force in 1997. (In 1893 UK signed a treaty with Mexico delimiting, *inter alia*, the internal waters between British Honduras (Belize) and Mexico.) The Associate Members of CARICOM have had five treaties concluded on their behalf by the United Kingdom. A brief summary of the main features of the concluded treaties is set out below in order of date of conclusion.
44. The Haiti- Cuba delimitation of maritime boundary agreement was signed in 1977 and entered into force in 1978. At time of signature, both States had recently extended their jurisdiction to cover the declared EEZ of 200 nautical miles. The main feature of the delimitation was that it took place between two opposite States and it was done on the basis of the principle of ‘equidistance or equity, as the case requires’. The island of Navassa, considered by the USA as

⁴⁴ See Data Atlas for the Caribbean Region-Chart 4-7, International Union for Conservation of Nature and Natural Resources, Gland, Switzerland- IUCN Project Number 1037.

⁴⁵ These include Antigua and Barbuda, Bahamas, Barbados, Belize, Cuba, Honduras, Jamaica, Nicaragua, St. Vincent and the Grenadines, Trinidad and Tobago, Puerto Rico, Netherlands Antilles and British Virgin Islands.

an unincorporated territory, was not used by Haiti as a base point in the delimitation. The boundary line defines the limits of the EEZ and continental shelf between the two countries, and the agreement provides for cooperation between them with respect to the exploration, exploitation, conservation and administration of living and non-living marine resources. As one of the earliest maritime boundary delimitation agreements in the Caribbean Sea, and being based on both principles of equidistance and equity, there is no doubt that this agreement had an effect on later ones in the region.

45. The Haiti- Colombia delimitation agreement of 1978, which entered into force in 1979, was based on the equidistance principle. The main purpose of the agreement was to determine the limits of the jurisdiction of the respective States. This agreement was concluded prior to the development of economic activities in the area and not as a result of such activities. The agreement covered marine and submarine areas in deep waters at an average distance of about 360 nautical miles from each coast.
46. St. Lucia and France (Martinique) concluded a delimitation agreement in 1981, which entered into force that same year. The agreement defined the maritime boundary between St. Lucia and the French Caribbean Department of Martinique. The delimitation applied the equidistance method, declaring that in the circumstances, that method constituted an equitable way of delimiting the boundary. The factors, which influenced the delimitation, included the opposite coasts of the two islands, similar shape, size and geomorphology and location along the north-south direction along the same axis in the eastern Caribbean Sea, with only 17 nautical miles of sea separating them. There is an absence of any geographic features that would distort the delimitation area. The geographic factors dominated the delimitation and other factors, such as the independence factor, did not appear to yield any advantage for St Lucia. The important considerations of living resources, the marine environment and scientific research did not attract any treatment in the agreement. This was the first maritime boundary delimitation agreement concluded by a Member State of the OECS with a metropolitan power, acting on behalf of a Caribbean Overseas Department. The agreement covered the territorial sea, EEZ and the continental shelf between St Lucia and Martinique.
47. Dominica and France (Guadeloupe and Martinique) agreement was signed in 1987 and entered into force in 1988. It was based on the rules and principles of international law as expressed in the UNCLOS. Specifically, this agreement was based on equitable principles after the Parties rejected the application of the equidistance method of delimitation. This was a classic case of the equidistance method yielding results, which would be patently inequitable, had it been applied; for it would have the effect of cutting off Dominica's EEZ at 62 nautical miles from the baselines instead of its full entitlement of 200 miles permitted by UNCLOS. The relevant geographic features were the concave coastline of Dominica in relation to the location and distorting features of the French Departments of Guadeloupe to the north and Martinique to the south of

- Dominica. The boundary agreement was followed by an accompanying fisheries access agreement with the European Economic Community.⁴⁶
48. Trinidad and Tobago and Venezuela signed a maritime boundary treaty in 1990, which entered into force in 1991. This treaty superseded all previous delimitation treaties between the two countries, including the historic delimitation treaty of 1942, between the United Kingdom (Trinidad) and Venezuela, which was the forerunner of all continental shelf delimitation treaties. The delimitation line runs from the potential tri-junction with Grenada in the Caribbean Sea across the Gulf of Paria and the Columbus Channel to the outer edge of the continental margin in the Atlantic Ocean. The total length of the boundary is about 440 nautical miles, of which 235 nautical miles are located in the Atlantic sector. The boundary's terminal appears to be on the outer edge of the continental margin at its point 22. The Parties reserve the right to negotiate a future extension of the boundary line if the margin is proved to be nearer to 350 nautical miles and further than its current position. The treaty states that the boundary travels from the outer limits of the EEZ and thereafter towards point 22, at Latitude 11° 24' 00" North and Longitude 56° 06' 30" West which is situated approximately on the outer edge of the continental margin which delimits the national jurisdiction of Trinidad and Tobago and Venezuela and the International Seabed Area which is the common heritage of mankind. Here the treaty broke new ground and is believed to be the first of its kind to purport to delimit parts of the extended continental shelf recognised by UNCLOS. The Parties indicated that in case of determining that the outer edge of the continental margin is located closer to 350 nautical miles from the respective baselines, further negotiation would take place between them in conformity with the provisions of international law. The treaty states that its provisions do not prejudice the rights of third parties.⁴⁷ The treaty is a multipurpose one, which takes account of living and non-living resources, specifically hydrocarbon exploitation and fishery interests, as well as navigation and pollution control.
49. Jamaica and Colombia signed a delimitation treaty in 1993, which entered into force in 1994. The centrepiece of this treaty is the creation of a Joint Regime Area (JRA), which is delimited with respect to third States. The treaty deals with the delimitation of the maritime space between the two States, including the outer limits of the JRA, and non-renewable resources. There is provision for the establishment of a Joint Commission to oversee the implementation of the activities within the JRA, which is about 4,500 square nautical miles. The JRA covers an area in whose proximity Jamaican fishermen have long fished, and so this solution might set a useful precedent for CARICOM Member States. The legal characteristics of the JRA has come under scrutiny, as it is

⁴⁶ This agreement was initialled by both sides, but the EEC never signed it on the ground that there was a reciprocal imbalance in favour of Dominica, in that Dominica's fishermen could fish in the inner 6 miles within the waters of Guadeloupe and Martinique and French fishermen could not do so in Dominica's waters.

⁴⁷ This provision is in line with international law on the issue. See also the United States' response to Dominica's protest note about granting full weight to Aves Island in the US-Venezuela boundary treaty of 1978.

believed that a legal vacuum exists with respect to which State is responsible for activities in a particular location within the zone.⁴⁸ This lack of internal delimitation within the JRA appears to be temporary and may bring it within the realm of Article 74(3) of UNCLOS. The JRA encompasses areas that project beyond the 200 nautical miles limits of both States, although those areas are within the continental shelf of one or the other States party to the treaty.

50. The Jamaica and Cuba delimitation agreement was signed in 1994 and entered into force in 1995. This agreement delimits the marine and submarine areas, that is to say, the EEZs and continental shelves between the two States. The method of delimitation was equidistant, which the Parties held to offer an equitable settlement.
51. The UK (Montserrat)-France (Guadeloupe) delimitation agreement establishes an all-purpose maritime boundary between Montserrat and Guadeloupe. Montserrat, being a dependent territory of UK, is the only non-independent Member State of CARICOM. The boundary line extend for a distance of 74 nautical miles, beginning in the east near to an equidistant tri-junction with Antigua and Barbuda and in the west at the at the end point of the agreed boundary between France (Guadeloupe) and Venezuela (1980). The method of delimitation was simplified equidistant, which yielded an equitable result. The strict equidistant line was simplified for convenience and the adjustments were made on an area-compensated basis.
52. The Barbados- Guyana exclusive economic zone co-operation treaty was signed in 2003 and is not yet in force. This treaty establishes provisional arrangements pursuant to paragraph 3 of Article 74 of the United Nations Convention on the Law of the Sea (the Convention), under which a zone of co-operation has been created within the joint jurisdiction of Guyana and Barbados. The zone has been created in the overlapping outer limits of the exclusive economic zone of the two States. Consistent with the objective of the provisional arrangements provided for in paragraph 3 of Article 74, the treaty recites its transitional nature pending the eventual delimitation of the respective maritime zones of the Parties. The Co-operation Zone, which has been created by the treaty, is concerned primarily with the regulation, management and development of living and non-living resources of the zone. The joint civil and administration jurisdiction within the zone is thus aimed at economic development, although the treaty refers also to security and environmental issues. The treaty provides for the Parties to enter into a joint fishery licensing agreement, talks with respect to such an agreement should begin with three months after the treaty enters into force. The joint jurisdiction over non-living resources will be managed by a joint non-living resources commission to be established by the Parties. The geographical extent of the Co-operation Zone is described as the area of bilateral overlap between the exclusive economic zones encompassed within each of their outer limits measured to a distance of 200 nautical miles from the baselines from which the breadth of the territorial

⁴⁸ See Report 2-18 of the International Maritime Boundary Series, eds. J.I. Charney and L.M. Alexander, American Society of International Law, 1996.

sea is measured. The Parties undertake to respect the rights of third States in the Co-operation Zone in accordance with international law and in particular, Article 58 of the Convention.

Existing delimitation agreements in CARICOM- Associate Members

53. UK (Anguilla)- France (St Martin and St. Barthelemy) concluded a delimitation agreement in 1996, which entered into force in 1997. The agreement established an all-purpose boundary, which extends for a distance of 83 nautical miles. In the west, the agreed boundary begins near to an equidistant tri-junction with the Dutch island of Saba, and in the east the agreed boundary ends close to an equidistant tri-junction with Antigua and Barbuda. The delimitation line is a simplified equidistant line, which was done in the interests of administrative convenience, and for which adjustments area compensation was made.
54. UK (British Virgin Is) –United States (Puerto Rico and US Virgin Is.) concluded a delimitation treaty in 1993, which entered into force in 1995. The treaty establishes maritime boundary between the British territory of British Virgin Islands and the US territories of Puerto Rico and US Virgin Islands. The boundary is a simplified equidistant line. The reason for the boundary was given as the potential overlap created by the extension of maritime jurisdiction by both sides to 200 nautical miles. The Parties agreed that the equidistant method provided an equitable solution for the maritime boundary delimitation in the area.
55. UK (Anguilla) – US (US Virgin Islands) concluded a delimitation treaty in 1993, which entered into force in 1995. The boundary line is about 1.34 nautical miles in length and is an equidistance line 42 nautical miles from the respective coasts. It is a one-segment line, which forms the boundary between the British territory of Anguilla and the US territory of US Virgin Islands. There were no special circumstances in the delimitation area and the Parties believed that an equidistant line provided an equitable methodology.
56. UK (Turks and Caicos Islands)- Dominican Republic concluded a delimitation agreement in 1996, which has not yet entered into force. The agreement established a maritime boundary between Turks and Caicos Islands and the Dominican Republic for all purposes. The delimitation line runs north of the equidistant line between the opposite coasts of Turks and Caicos Islands and the Dominican Republic. The line runs for a distance of 283 nautical miles from a tri-junction with Haiti in the west out to the limit of 200 nautical miles in the east. Perhaps to take account of the difference in the length of the relevant coastlines, the boundary line runs about 7 nautical miles to the north of the equidistant line throughout its length.
57. UK (Cayman Islands)- Honduras concluded a delimitation treaty in 2001, which entered into force in 2002. It established an all-purpose maritime boundary about 220 nautical miles between the British territory of Cayman Islands and Honduras. The delimitation concerns the Honduran islands of the Swan Islands (Islas Santanilla o del Cisne) and Cayo Gorda, which are 182 and 212 nautical miles apart from the Cayman Islands. The agreed boundary ends

at an equidistant tri-point with Cuba in the west, and in the east it approaches a notional tri-point with Jamaica. The treaty took account of certain economic considerations with respect to both parties, namely the preservation of traditional fishing rights for the Cayman Islanders, and account of certain Honduran oil concessions.

Outstanding potential maritime boundaries' claims in CARICOM

58. CARICOM Member States have approximately 48 potential maritime boundaries to be delimited, of which only 7 have been finally settled and one, provisional arrangements, Guyana-Barbados 2003, have been agreed. A total of approximately 39 potential maritime boundaries remain to be delimited.
59. The Associate Members of CARICOM have approximately 12 potential maritime boundaries to be delimited, of which 5 have been concluded, with 7 remaining.
60. A number of boundary negotiations have been going on for some time, or preparation for negotiations have long been made with little movement on either side, and are yet to be concluded. These cases include Antigua and Barbuda and France (Guadeloupe and St Barthelemy), negotiations began in the mid-1980s; Grenada –Trinidad and Tobago; Grenada-Venezuela, in both cases negotiations started in the '90s without achieving an outcome; Dominica-Venezuela, negotiations were deferred due to unrest in Venezuela in the '90s and have not been activated; Antigua and Barbuda and St Kitts and Nevis were both prepared for negotiations with their expert teams in place, but negotiations failed to get off the ground; and Jamaica and UK (Cayman Islands) have been moving at a slow pace since late '90s.
61. With respect to the Associate Members of CARICOM, the picture is more encouraging. There are ongoing negotiations between UK (Cayman Islands) and Cuba; contact has been made between UK (Anguilla) and the Netherlands (Saba); the internal boundary between Anguilla and the British Virgin Islands is soon to be completed, and the negotiations between UK (Turks and Caicos Islands) and the Bahamas are ongoing.

Potential delimitation problems on the horizon

62. The islet of Aves Island, which belongs to Venezuela, is set to influence in favour of the latter the delimitation of maritime boundaries between the members of OECS and Venezuela. Aves Island is of coral formation and lies about 300 nautical miles northward of the Venezuelan mainland and 125 nautical miles west of Dominica. The island is barren and treeless with vegetation consisting of shrubs and inhabited by seabirds. Despite the fact that the island is incapable of sustaining human habitation without external support, the Venezuelan navy constructed a scientific research station on the island in 1978. Before that in 1973, the island was declared a wildlife sanctuary. Aves Island, notwithstanding its size and distance from mainland Venezuela, has been treated as an island, and not as a rock, and given full weight as a base point, thus attracting full EEZ of up to 200 nautical miles from the baselines of its territorial sea by the metropolitan powers of USA and The Netherlands, and almost full weight by France (Guadeloupe and Martinique).⁴⁹ The USA

⁴⁹ See treaties US-Venezuela 1978, Netherlands-Venezuela 1978 and France-Venezuela 1980.

justified its position on Aves Island by pointing out that the United States uses islands and rocks as base points for measuring the territorial sea and the 200 mile zone over a large percentage of the stretch of the United States coast. It pointed out that the practice had a bearing on their Pacific boundaries, where they had a number of island territories for which they wished to receive full recognition. The Deputy Legal Adviser of the State Department went on to state that from the point of view of the national interest of the United States, the security interest, the resource interest, and control over as much area as possible, that principle served the United States' general boundary position very well.⁵⁰ The Government of Dominica protested to the US and received a response that Dominica's position was not prejudiced in any way in international law.⁵¹

63. Navassa Island, an unincorporated uninhabited islet situated near to the coast of Haiti between that country and Jamaica, is claimed by the United States. The location of this feature, coupled with the stated US delimitation policy referred to in paragraph 62 above, is likely to complicate delimitation between Jamaica and Haiti.

Maritime boundary differences or disputes involving CARICOM States

64. The Barbados- Trinidad and Tobago dispute is reported to involve both maritime boundaries and fisheries access arrangements. Since this matter is sub-judice, in that the matter has been submitted to third party settlement, the substance or merit of each country's case cannot be discussed here. A similar caution has to be observed with respect to the Guyana-Suriname maritime boundary dispute, which has been submitted to third party settlement.
65. The longstanding land and maritime boundary disputes of Belize-Guatemala-Honduras and Guyana -Venezuela, which involves sovereignty and delimitation questions, have been submitted to third party intervention with a view of finding a settlement.

Options for amicable maritime settlement in CARICOM

66. Differences over maritime boundary delimitation have begun to appear between Member States of CARICOM with less than one quarter of the potential boundaries settled. It is important that urgent practical steps be taken to ensure that maritime boundaries be settled amicably without acrimony and in a cost-effective manner. An appropriate strategy, which involves the CARICOM and OECS Secretariats, should be devised to assist Member States to undertake boundary negotiations. There are some Member States, which have the required expertise and financial resources to undertake such negotiations, but those States, which are not able to do so, may need assistance to negotiate even with other CARICOM States, in order to create a level playing field in negotiations.
67. Maritime boundary delimitation is in essence a bilateral matter between the coastal States involved, but the preparation for negotiation can be done to a large extent on a multilateral level in appropriate cases. For example, it would

⁵⁰ See Feldman, Report 96th Congress 2nd Session, Senate, Executive Rept. No. 96-49. Three treaties establishing maritime boundaries between Usand Mexico, Venezuela and Cuba.

⁵¹ Source: the Government of Dominica 1980.

be prudent for the OECS Members affected by the geographic location of Aves Island to take a common position on the treatment of that island for the purposes of delimitation of boundaries with Venezuela.

68. The exploitation of natural resources, living and non-living, in the CARICOM region is also a reason to examine the ways in which the definition of each Member State's jurisdiction would facilitate improved utilisation of such resources. A common fisheries regime may operate with greater efficiency, if the full extent of the common area of jurisdiction is defined.
69. The potential maritime boundaries claims yet to be settled can be conveniently grouped in four categories, namely, CARICOM Member States and metropolitan powers; CARICOM Member States and other Caribbean States; intra-CARICOM (other than OECS Members); and intra-OECS Members.
70. It is of interest to note that the majority of maritime boundaries delimited thus far by CARICOM countries fall within the first and second categories. Indeed, so far only the Guyana-Barbados Agreement of 2003, which is a provisional arrangement under UNCLOS, has been concluded between two CARICOM Member States, and there is no delimitation agreement between an OECS and a CARICOM (not being an OECS Member) State or between two OECS Members.
71. It is tempting to propose an orderly progression from the first to the fourth categories of potential delimitations set out in paragraph 69 above, or the other way, that is, from the fourth to the first category, but from a pragmatic viewpoint, that approach might not be attractive to some States, which have their priority in resource exploitation. The States concerned should therefore be willing to indicate their preferences and seek assistance and facilitation through the CARICOM or OECS Secretariats, as the case may be.
72. The role of the respective Secretariats should be clearly stated and perhaps be limited to preparatory assistance in technical areas. There should be guidelines to re-affirm the neutrality and impartiality of Secretariat staff in the preparatory assistance offered. Where two or more CARICOM States or two or more OECS Members are involved in negotiations, personnel from the respective Secretariats, should not be involved, except as observers to the proceedings. If the respective Secretariats offer preparatory assistance to a Member State, any other Member State, whose interest is likely to be affected, should be offered similar assistance.

Preparation for maritime boundary negotiation

73. In order to achieve maximum advantage during the negotiation of maritime boundary agreements, a State should ensure that it has in place the following:
 - Relevant up-to-date maritime legislation;
 - A hydrographical and technical report; and
 - A negotiating brief.
74. Many CARICOM Member States have up-to-date maritime legislation, which takes account of the provisions of the UNCLOS, particularly those articles dealing with the delimitation of the various maritime zones. There should be an audit of maritime legislation in CARICOM States to ascertain the current standing of such legislation. It should be remembered that legislation that is

consistent with the UNCLOS is the best way to achieve maximum claims to maritime jurisdiction. The choice of base points, archipelagic or otherwise, may influence the size and shape of maritime areas claimed. A proper legislative framework creates the legal environment best suited for undertaking the important task of hydrographical and technical survey, which should form the basis for constructing charts and maps of the maritime areas of a particular State.

75. It is necessary for any State, which is about to commence negotiation in respect of maritime boundary delimitation to cause a hydrographical and technical survey to be carried out by an experienced and qualified hydrographer. The survey should include a technical report accompanied by charts and maps showing base points and potential geographic coordinates for the provisional boundaries with neighbouring States. In appropriate cases, the report should address the question of whether or not the State satisfies the technical criteria set out in the UNCLOS for an archipelagic State. On the technical aspects, the survey should address the issue of the use of an appropriate geodetic datum, which will help to ensure that the exact location of the boundary is determined in relation to the coastal State. It is now possible, through the use of satellite position fixing methods to determine the geographical position of any chosen site on a single geodetic datum. There are differences between the datums used, and so it is necessary to indicate the particular datum used in quoting geographical positions on maritime limits. Many parts of the Caribbean have been charted on North American Datum. Maritime boundary delimitation requires accurate maps and charts. Some Caribbean islands are incorrectly positioned on some older small-scale British Admiralty charts. A hydrographical and technical report should address the relationship between the EEZ and the continental shelf (including the extended shelf beyond 200 nautical miles, if any), and instance any potential difficulties with the claims of neighbouring States.
76. A carefully prepared negotiating brief that takes full account of the hydrographical and technical report is essential for every negotiating team undertaking delimitation negotiations. The brief should examine in detail the legal, technical and economic considerations with respect to the maritime areas, which would form the subject of the negotiations. It should have regard to the relevant decisions of the ICJ and awards by arbitral tribunals. An examination of relevant State practice in maritime boundary delimitation is also desirable. The policy options open to the negotiators with respect to the method to be pursued to achieve an equitable solution should be dealt with in the brief. The natural resource potential of the area to be delimited should form an important aspect of the brief.

Negotiating strategy

77. CARICOM Member States need to formulate, individually or collectively to the extent feasible, a negotiating strategy, which takes account of up-to-date techniques in maritime boundary negotiations. These negotiations usually entail a large political and economic content, and there is seldom any opportunity to re-open a boundary agreement once it is concluded. This means

that boundary negotiators should be well acquainted with the negotiating techniques likely to achieve an equitable solution in a particular case. Every effort should be made to develop a pool of expertise in maritime boundary negotiations, particularly where negotiation with third States are involved. Where national or regional expertise is not available, the services of competent advisers in the appropriate legal, hydrographical or technical field should be secured to assist the conduct of the negotiation.

78. A multidisciplinary team, preferably consisting of representatives from the Foreign Ministry, Ministry of Mines (if any), Fisheries Department, Survey Department and the Attorney General's Department. The negotiating team should have a leader, who may be the chief spokesperson. The need to make area-based compensation trade-offs often arises in maritime boundary negotiation, but this should be done only after careful consideration and preferably in respect of areas about which much is known. A negotiating team would not wish to lightly trade-off a potential oil field or a rich fishing bank for an area with little natural resources.

Conclusions

79. CARICOM States need to pay greater attention to defining the limits of their national jurisdiction. Collectively, the common fisheries regime may require them to define the extent of their maritime jurisdiction.
80. The CARICOM Secretariat and the OECS Secretariat should develop guidelines, which would enable them to assist their Member States to prepare for boundary negotiations without appearing to be favouring any particular Member. They should have the ability to assist Member States when they are negotiating with third States.
81. The CARICOM Secretariat should consider establishing a small technical unit to assist Member States with preparation for maritime boundary negotiation. The unit's tasks would include human resource development with respect to maritime boundary negotiating teams of Member States (including OECS).

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