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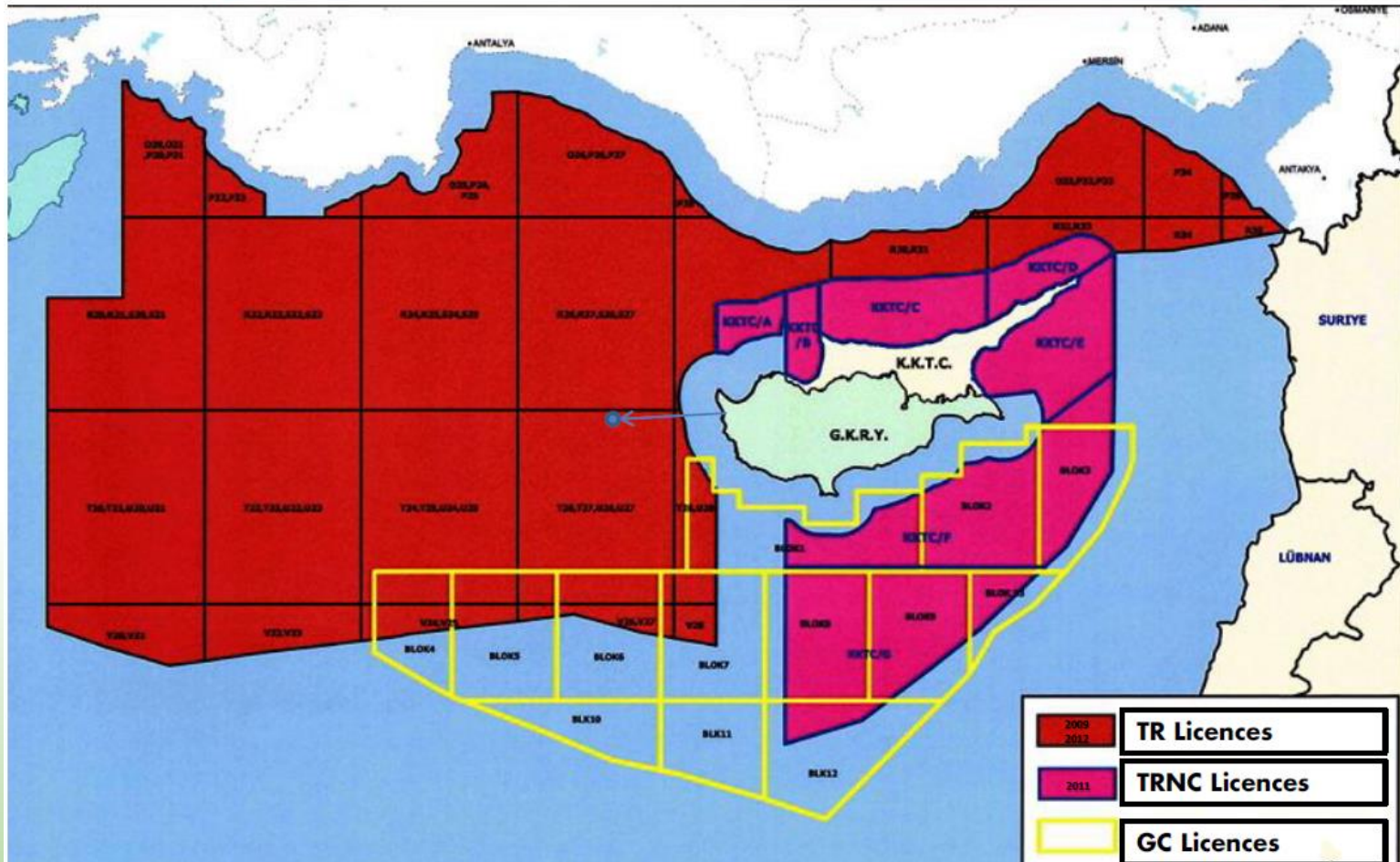
BUILDING THE FUTURE TOGETHER IN THE EAST MEDITERRANEAN: INTERNATIONAL LAW PERSPECTIVE

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TURKEY & TRNC & GC OFF-SHORE LICENCE AREAS



Scope of Review

- 1. Rights of Coastal States in Maritime Zones*
- 2. International Law re. Laying of Pipelines*
- 3. International Law on Maritime Delimitation*
- 4. International Law re. Straddling Deposits*
- 5. Mechanisms for Resolving Disputes between States*

1. *Rights of Coastal States in Maritime Zones*

- **Territorial Sea:** state has sovereignty
- **Exclusive economic zone (EEZ)** [Art. 56(1)(a) of UNCLOS]
 - **Sovereign rights** for the purpose of **exploring and exploiting, conserving and managing the natural resources** and other activities such as production of energy from the water, currents and winds
 - **Jurisdiction** for marine scientific research and the protection and preservation of the marine environment
- **Continental shelf (CS)** [Articles 77(1) and (2) and 81 of UNCLOS]
 - sovereign rights to explore the seabed and exploit its natural resources
 - exclusive right to authorize and regulate drilling on the continental shelf for all purposes

2. *International Law Rules on Laying Pipelines*

- **“ALL STATES ARE ENTITLED TO LAY SUBMARINE CABLES AND PIPELINES ON CONTINENTAL SHELF AND EXCLUSIVE ECONOMIC ZONE”** [Art. 58 and 79 of UNCLOS]
- *“Subject to its right to take reasonable measures for the exploration of the **continental shelf**, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the **coastal State may not impede** the laying or maintenance of such cables or pipelines.”* [Art.79(2)]
- *“The **delineation** of the course for the laying of such pipelines on the continental shelf is **subject to the consent** of the coastal State”.* [Art.79(3)]
- Nothing in this Part affects the right of the coastal State to **establish conditions for cables or pipelines entering its territory or territorial sea**, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and **structures under its jurisdiction**. [Art. 79 (4)]
- No right to transit via pipelines under ECT for investors

3. *International Law on Maritime Delimitation*

TS: equidistance as a method for delimitation

EEZ and CS: equidistance principle **is not** a CIL rule of boundary delimitation of CS or EEZ but a method of delimitation which can be replaced by another in case the use of such other method is necessary **to achieve an equitable solution**

ICJ has repeatedly held that the following methodology for delimitation of EEZ and CS represents a rule of CIL:

Step 1: equidistance line will be drawn using baselines;

Step 2: consider whether there are factors and circumstances due to which the equidistance line should be adjusted to reach an equitable solution; and

Step 3: check to ensure that the final demarcation line does not allocate significantly disproportionate areas as between the countries compared to their respective coastal lengths.

3. *International Law on Maritime Delimitation*

Step 1

- Islands: [naturally formed area of land, above water at high tide: **generate TS, EEZ and CS**
- Rocks: do not sustain human habitation or economic life: **generate TS**
- Low tide elevations: area of land submerged at high tide above water at low tide: **do not generate self-standing entitlements**

Step 2

- Geographical circumstances that may require adjustment of provisional equidistance line
 - Prevention of encroachment /cut-off of coastal state's projection on adjacent maritime zones
 - Marked disparity in length of delimiting states' relevant coasts
 - Disproportionate distorting effects of islands and rocks on the course of equidistant line

In case of delimitation of coasts of adjacent states the equidistance line is more likely to need to be adjusted to ensure equitable solution

4. *International Law Rules re. Straddling Deposits*

- A state has an exclusive right to authorise and regulate drilling in TS and on CS under international law [Art. 81 of UNCLOS + CIL]
- A state's petroleum law usually provides that a licence is granted only in respect of area which is under its sovereignty
- There is much debate on whether the rule of capture or rule on cooperation is a rule of international law
- At best it can be said that under CIL in respect of gas reserves exploitable, wholly or in part", from both sides of the boundary line
 - an obligation to co-operate in reaching an agreement on the exploration and exploitation of straddling gas reserves; and
 - in the absence of such an agreement, an obligation to exercise restraint with respect to the unilateral exploitation of straddling gas reserves.

4. *International Law Rules re. Straddling Deposits*

- UNCLOS Articles 74(3) and 83(3) provide for negotiation of “provisional arrangements of a practical nature” pending final delimitation of EEZ and CS
- These may include:
 - Moratorium on all activities in overlapping area
 - Joint Development Zones (sharing of benefits on a pre-determined basis)
 - Unitisation agreements (where boundary defined)
 - Special Areas for Fisheries Purposes
 - Provisional Boundaries
 - Bilateral Cooperation re. Environment
- Pursuant to the JDZ agreement the two states agree for a specified period of time to develop and share jointly in agreed proportions the oil and/or gas found within the JDZ of the seabed and subsoil of the EEZ or CS. JDZ agreements typically expressly provide that they are provisional in nature and that their conclusion is without prejudice to the delimitation of the maritime boundary between the countries.

5. Mechanisms for Resolving Disputes between States

- States must “settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered” [Articles 2(3) and 33 of the UN Charter]
- States are required to “refrain from the threat or use of force against the territorial integrity or political independence of any state...” [Article 2(4) of UN Charter]
- Possible mechanisms:
 - As for Cyprus, Egypt, Greece and Lebanon, ad hoc arbitration under Annex VII of UNCLOS
 - Since Israel, Lebanon, Syria and Turkey have not accepted the compulsory jurisdiction of International Court of Justice, the options are:
 - ICJ, by special agreement
 - ad hoc arbitration administered by the Permanent Court of Arbitration in The Hague

Thank you for your attention

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