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## The Significance of A Single Maritime Boundary In Relation To Maritime Boundary Delimitation: Malaysia's Perspectives

*Boundary: a line between two nations, separating the  
rights of one from the rights of the other*

*- Ambrose Bierce (1911) -*

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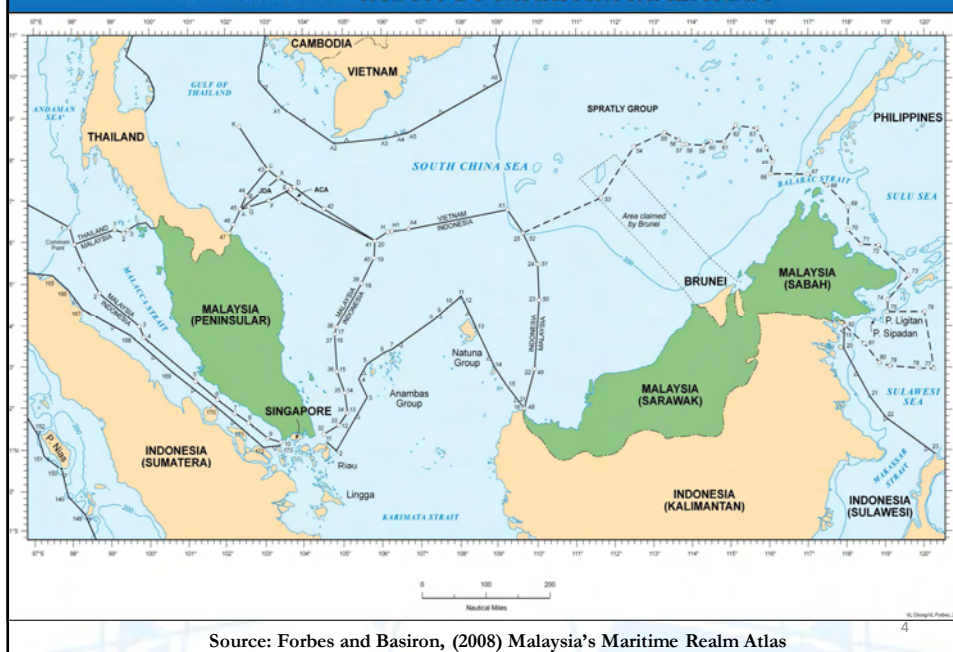
## Outline of the Presentation

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- Conclusion

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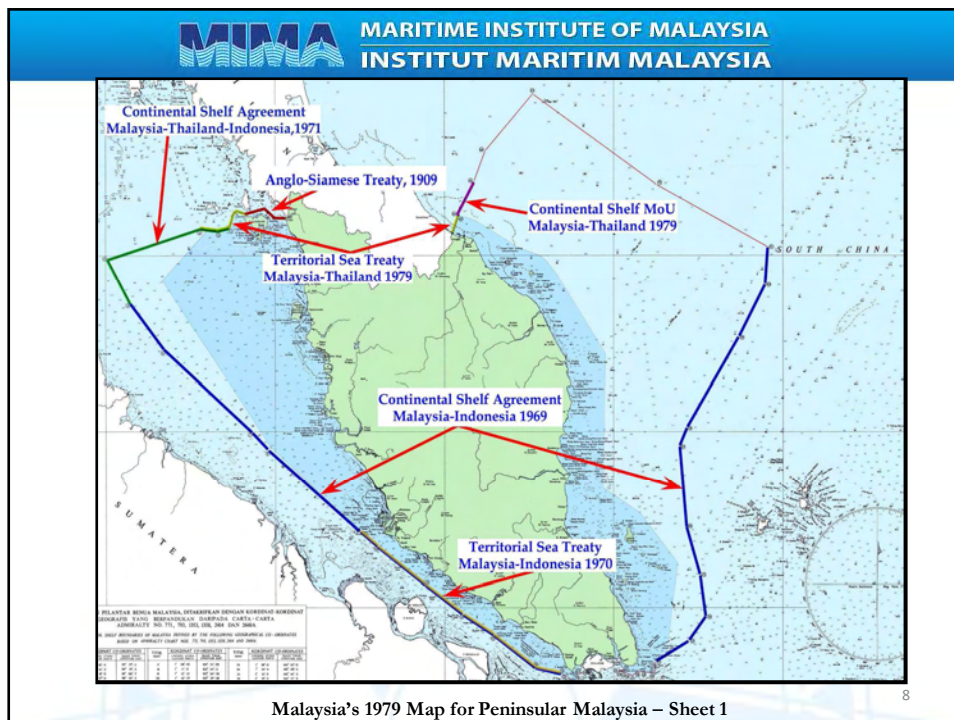


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### Malaysia's Maritime Boundaries: International Law and Existing Treaties

- Maritime boundaries has always been important to Malaysia.
- Malaysia's Maritime Boundaries was drawn based on:
  - (1) 1958 Geneva Convention on the Law of the Sea:
    - Convention on the Territorial Sea and Contiguous Zone;
    - Convention on the Continental Shelf
  - (2) Various existing Treaties

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Agreement between the Government of Malaysia and the  
Government of the Republic of Indonesia relating to the Delimitation  
of the Continental Shelves between the Two Countries,  
27 October 1969

- Malaysia and Indonesia signed the Agreement on 27 October 1969.
- In determining the continental shelf line, Indonesia used its straight baselines (constructed by joining its outermost features). Indonesia agreed for Malaysia to also use the same principles (constructed baselines using outermost features) in dividing the continental shelf equally between Malaysia and Indonesia.
- The boundary line is the median line from both countries' baselines.

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Principles of International Law  
in relation to existing Treaties

- Article 62(2)(a) of the Vienna Convention on the Law of Treaties - a fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty if the treaty establishes a boundary.
- Article 83 (4) UNCLOS 1982 states:  
*“Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement” .*

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### Malaysia's Declaration:

#### The Application of A Single Maritime Boundary

- Having established its maritime boundaries, Malaysia through its Declaration upon Ratification of the Convention of the Law of the Sea, Paragraph 7 stated as follows:  
*“Malaysia is also of the view that in accordance with the provisions of the Convention, namely Article 56 and Article 76, if the maritime area is less [than] or to a distance of 200 nm from the baselines, the boundary for the continental shelf and the exclusive economic zone shall be on the same line (identical)”.*
- The declaration effectively outlines Malaysia's position on single maritime boundary.

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#### The Concept of Single Maritime Boundary

- The concept of a single maritime boundary is a consequence of the reformation which the definition of maritime zones underwent during the Third Conference on the Law of the Sea.
- *“It stems from the solution reached on the spatial definition of the EEZ and the continental shelf, where up to 200 nm from the baselines, the two became coincident”.*
- Under UNCLOS 1982, the provisions dealing with the delimitation of the continental shelf and EEZ was formulated in order to achieve an equitable result.
- The drafting of the provisions of Article 74 (1) and Article 83 (1) are similar, stated as follows:  
*“The delimitation of the continental shelf [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 the International Court of Justice, in order to achieve an equitable solution”.*
- As such, the delimitation of the EEZ and continental shelf coincide.

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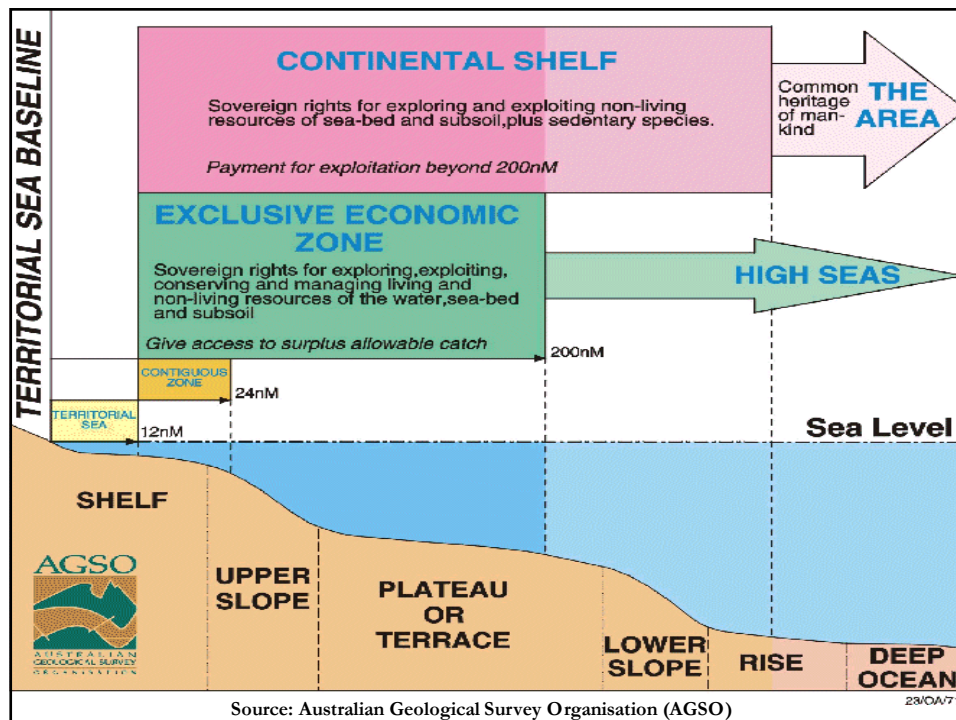


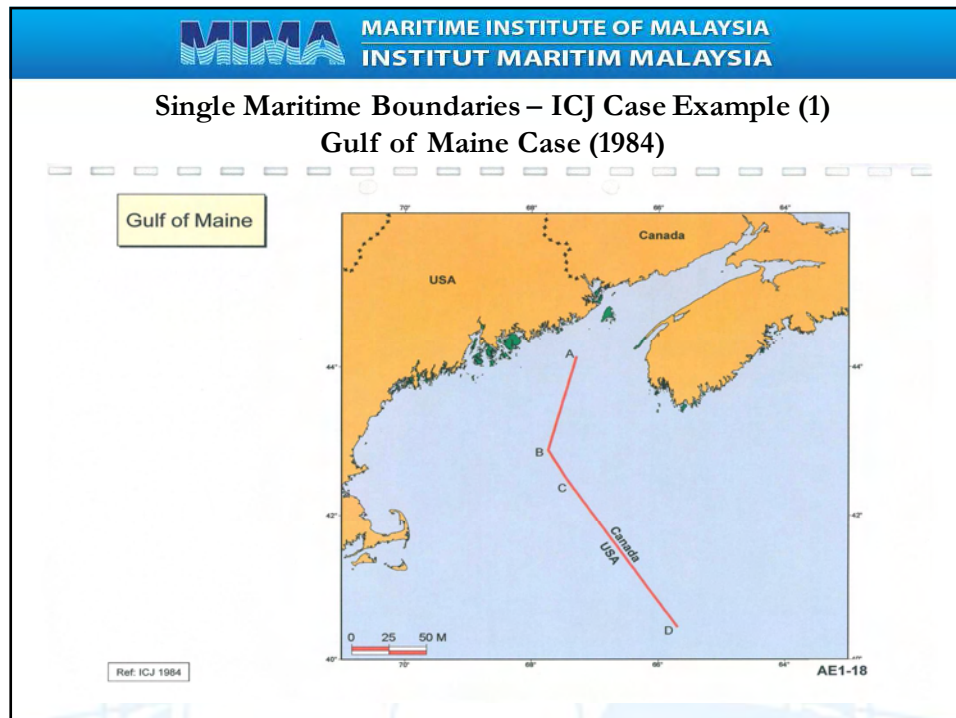
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**Cases on Single Maritime Boundaries –**  
**ICJ Case Example (1)**

- **Gulf of Maine Case (1984); para 194;**  
*“....it can be foreseen that with the gradual adoption by the majority of maritime states of an exclusive economic zone and, consequently, an increasingly general demand for single delimitation so as to avoid as far as possible the disadvantages inherent in a plurality of separate delimitations, preference will henceforth inevitably be given to criteria that, because of their more neutral character, are best suited for use in a multi-purpose delimitation”.*

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### Case on Single Maritime Boundaries – ICJ Case Example (2)

- In the Continental Shelf (Libyan Arab Jamahiriya/Malta) (1985); para 226; the Court referred to the close relationship between continental shelf and exclusive economic zone for delimitation purposes:

*“...the 1982 Convention demonstrates, the two institutions – continental shelf and exclusive economic zone – are linked together in modern law. Since the rights enjoyed by a State over its continental shelf would also be possessed by it over the sea-bed and subsoil of any exclusive economic zone which it might proclaim, one of the relevant circumstances to be taken into account for the delimitation of the continental shelf of a State is the legally permissible extent of the exclusive economic zone appertaining to that same State”.*

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### Single Maritime Boundaries – ICJ Case Example (3) Qatar and Bahrain





Case on Single Maritime Boundaries

– ICJ Case Example (3)

- Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v Bahrain), Judgment of 16 March 2001; para 173;

*“The concept of a single maritime boundary does not stem from multilateral treaty law but from State practice, and that it finds its explanation in the wish of States to establish one uninterrupted boundary line delimiting the various – partially coincident – zones of maritime jurisdiction appertaining to them”.*

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Case on Single Maritime Boundaries

– ITLOS Case Example (4)

- Bangladesh v Myanmar (2012), para 184;

*“decisions of international courts and tribunal are also of particular importance in determining the content of law applicable to maritime delimitation under articles 74 and 83 of the Convention; and ... together with judicial and arbitral decisions, helps to shape the considerations that apply to any process of delimitation”.*

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## Cases on Single Maritime Boundaries

### – ICJ, PCA and ITLOS Cases

1. Nicaragua – Colombia 2012 (single maritime boundary)
2. Bangladesh-Myanmar 2012 (single maritime boundary)
3. Romania - Ukraine 2009 (single maritime boundary)
4. Nicaragua - Honduras 2007 (single maritime boundary)
5. Guyana - Suriname 2007 (single maritime boundary)
6. Barbados - Trinidad and Tobago 2006 (single maritime boundary)
7. Cameroon - Nigeria 2002 (single maritime boundary)
8. Qatar - Bahrain 2001 (single maritime boundary)
9. Eritrea - Yemen Arbitration 1999 (single maritime boundary)
10. Denmark (Greenland) - Norway (Jan Mayen) 1993 (single maritime boundary)
11. Canada - France (St. Pierre and Miquelon) 1992 (single maritime boundary)
12. Libyan Arab Jamahiriya - Malta 1985 (continental shelf)
13. Guinea - Guinea-Bissau 1985 (single maritime boundary)
14. Tunisia - Libyan Arab Jamahiriya 1982 (Continental Shelf)
15. Gulf of Maine Area (Canada - United States of America) 1982 (single maritime boundary)
16. France - United Kingdom Continental Shelf Case 1977
17. North Sea Continental Shelf Case (Germany-Denmark & Germany-Netherlands) 1969

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## Cases on Single Maritime Boundaries

*There is a clear trend of state practice in favour of a single maritime boundary.*

Yacouba, Cisse and McRae, Donald;

*“In fact, the trend in state practice, as well as in jurisprudence, demonstrates that the water column of the EEZ and continental shelf can be delimited by a single maritime boundary”.*

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### Issues relating to Dual Maritime Regimes – Separate EEZ and Continental Shelf

- Dual boundary regimes set a difficult hurdle as they establish two separate regimes i.e., water column rights for EEZ and seabed rights for the continental shelf.
- The complexity would be in terms of exploring and exploiting, conserving and managing the natural resources, whether living or non-living.
- For example, State B which has secured the seabed rights would need permission to get through a water column where State A has secured water column rights.
- Problems – different sets of agreements, regulations relating to both living and non-living resources.



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### Issues relating to Dual Maritime Regimes – Separate EEZ and Continental Shelf

- Another example: fishing rights in relation to pelagic and demersal species. Problem would be in terms of enforcing different sets of regulation from different countries.
- Complexity also in relation to ecosystem - species of pelagic and demersal exist within one ecosystem.



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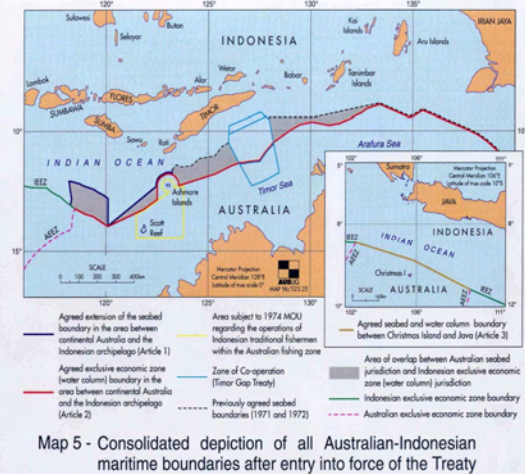


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### Case of Australia, Indonesia and Timor-Leste

- Australia claims sovereign rights to the resources on and under its natural continental shelf.
- Indonesia claims sovereign rights to explore, exploit, conserve and manage the marine biotic resources in the water column.

### Case Examples – Countries with Dual Maritime Regimes Separate EEZ and Continental Shelf



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### Conclusion - Single Maritime Boundary

- A single maritime boundary in delimiting the seabed and subsoil and the water column seems practical and effective in relation to enforcement of regulations.
- A clear and manageable maritime zone can also be said to be conflict prevention.
- Implementation and enforcement of regulations can be done without any hindrance.
- A single maritime boundary line is practical and effective. Dual boundary regimes pose complexity in terms of enforcing different sets of regulation from different countries.
- Trend in state practice, as illustrated in several ICJ cases, delimits their maritime boundaries based on a single maritime boundary.

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**THANK YOU**

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