Case Study

Legal and technical issues concerning the baselines in Ireland

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Overview

- Background
- Baselines
- European Law
- Conclusions
TREATY LINE

350 mile limit

Exclusive Economic Zone (200nm)

24 mile limit

Outer Continental Shelf Limit (potential)

Territorial Sea Limit (12 nautical miles)
History

- Admiralty / UKHO
- Ireland no national hydrographic service…
Van Onzen Case (1994)

- 1,950 kilograms of cannabis resin
- Irish territorial waters
- Argued charts produced by the prosecution were inadmissible in evidence
- Expert evidence UKHO

- Importation of arms by IRA
- Vessel apprehended within territorial sea
- Prosecution had to prove offence committed within territorial sea
  - Charts
  - Baseline Legislation
Ports of Refuge

refused entrance to Irish territorial waters & benefit of port of refuge 1989
AIR INDIA 172
Normal Baseline Ireland

Save as otherwise provided, the baseline is the low-water mark—

(a) on the coast of the mainland or of any island, or

(b) on any low-tide elevation

…within 12 nautical miles…

• s.85(1), Sea-Fisheries and Maritime Jurisdiction Act 2006
IRELAND
Maritime Jurisdiction Act, 1959
(Straight Baselines) Order, 1959

Map returned to its English boundary. New Straight Baselines are shown in red. The terminal points are numbered to correspond with the reference numbers in the Schedule to the Order.
Problems associated with Normal Baselines

- Coastline is dynamic
- Admiralty charts are dated
- Charts are at different scales
- Modern survey methods (LIDAR)
- Low Tide Elevations
Problems associated with Normal Baselines

- Article 5 LOSC silent on tidal datum

- State practice varies:
  - MLWS
  - Lowest Astronomical Tide
Straight Baselines Ireland

(2) The Government may by order… prescribe straight baselines in relation to any part of the State and the closing line of any bay or mouth of a river, and any line so prescribed shall be taken as the baseline.

(3) The Maritime Jurisdiction Act 1959 (Straight Baselines) Order 1959

s.85(2), Sea-Fisheries and Maritime Jurisdiction Act 2006
Problems associated with Straight Baselines

- Existing co-ordinates are not described with sufficient precision

- Doesn’t specify datum ...(WGS 84)

- Specific rules under LOSC…some straight baselines do not conform with Articles 7 or 10 LOSC
Problems associated with Straight Baselines

- Irish law does not assert specific ‘bay’ claims as such and prescribes none on the east coast

- The method of straight baseline delineation codified in the 1982 LOS Convention must be applied restrictively and is an exception to the normal rules for the determination of baselines
Europe

- 27 Member States
- Semi-Enclosed Seas & Regional Seas
- International Straits
- Coastline – 100K KM
- Sea Area – 3.9 million sq. KM
- European maritime policy
Common Fisheries Policy

- EC competence and limited Member State competence in territorial sea

- Historic fishing rights within 6-12 miles

- UK Baseline Case (1989)
  - Rejected ambulatory baselines…for historic rights

“the regulation cannot be altered by the unilateral action of a Member State in shifting its baselines” ECJ
Water Framework Directive

- Improve water quality…river basins

- “Surface water”
  …includes coastal waters
  (up to 1 nautical mile from baseline for ecological status)(12 nautical miles for chemical status)
Marine Strategy Directive

- “protect the European marine environment by achieving good environmental status of the EU's marine waters by 2021”

- Marine waters defined in the context of the baseline (Art 3(1)(a))
European Court of Justice

• Marine Habitats Case
  - Defines maritime jurisdiction in context of baselines
  - “… the continental shelf can extend to a maximum of 350 nautical miles from the baselines.”
   (para.124)

Case C-6/04
Commission v United Kingdom
Conclusions

- IHO Convention
- Update law …and coastal survey
- EC Law
- Normative framework…1982 LOS Convention
Publication
New Publication

Ireland’s Maritime Limits

• R. Long, A. M. O’Hagan, C. Symmons

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