

11th Cyprus Energy Symposium



31 October 2023, Royal Hall, Nicosia in Cyprus

Dr. iur university of Hamburg, Georgios Anthrakefs

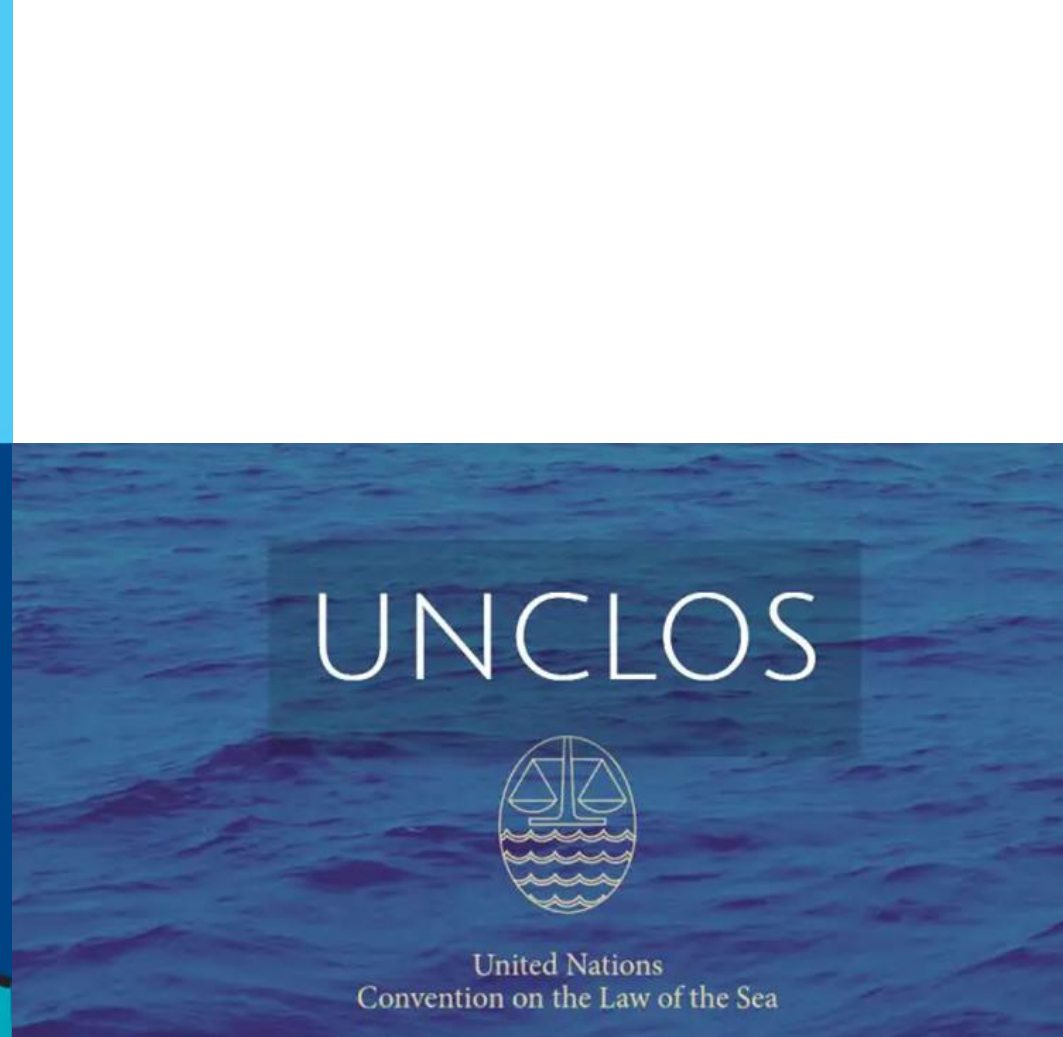
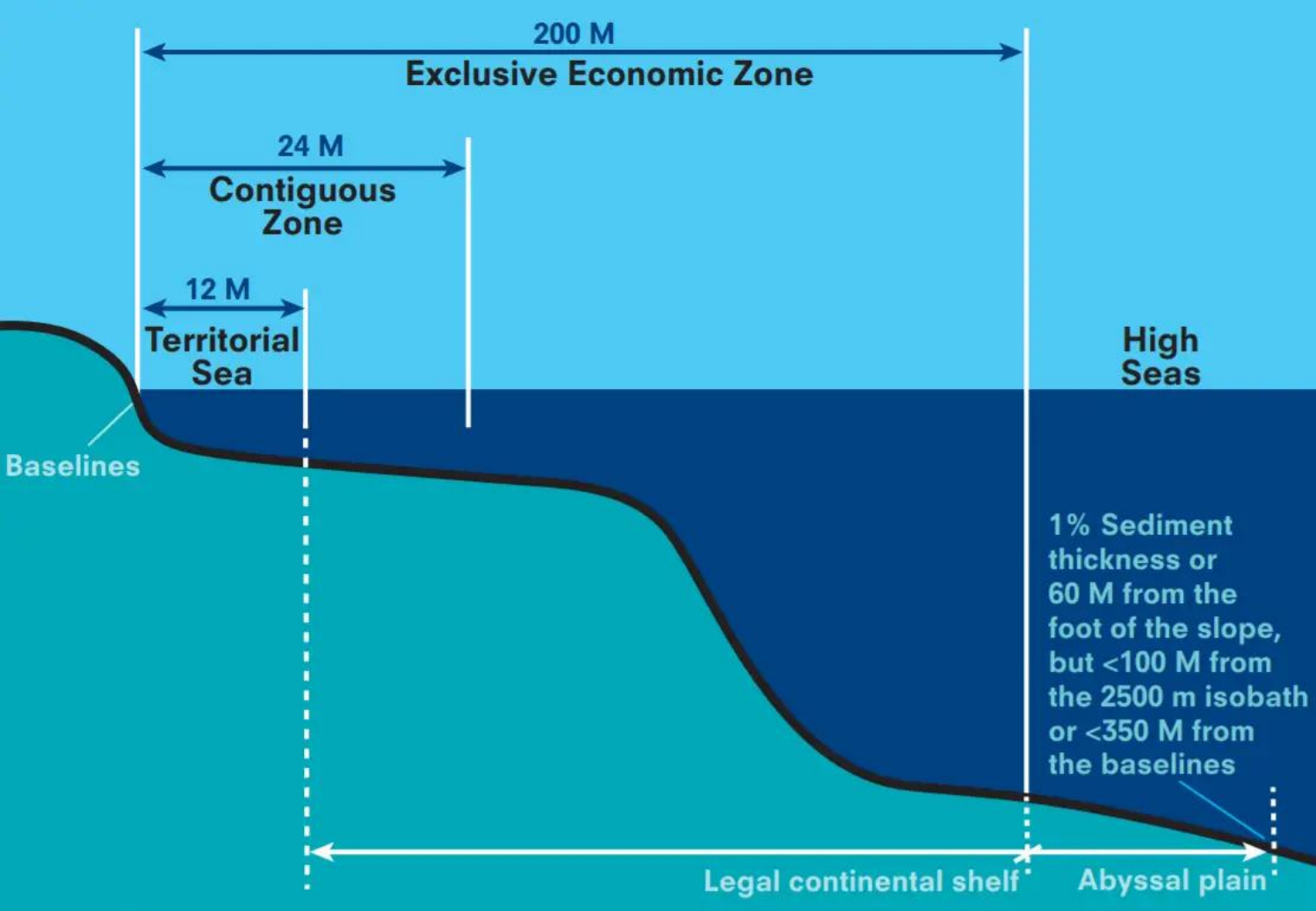
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* The United Nations Convention on the Law of the Sea (UNCLOS)

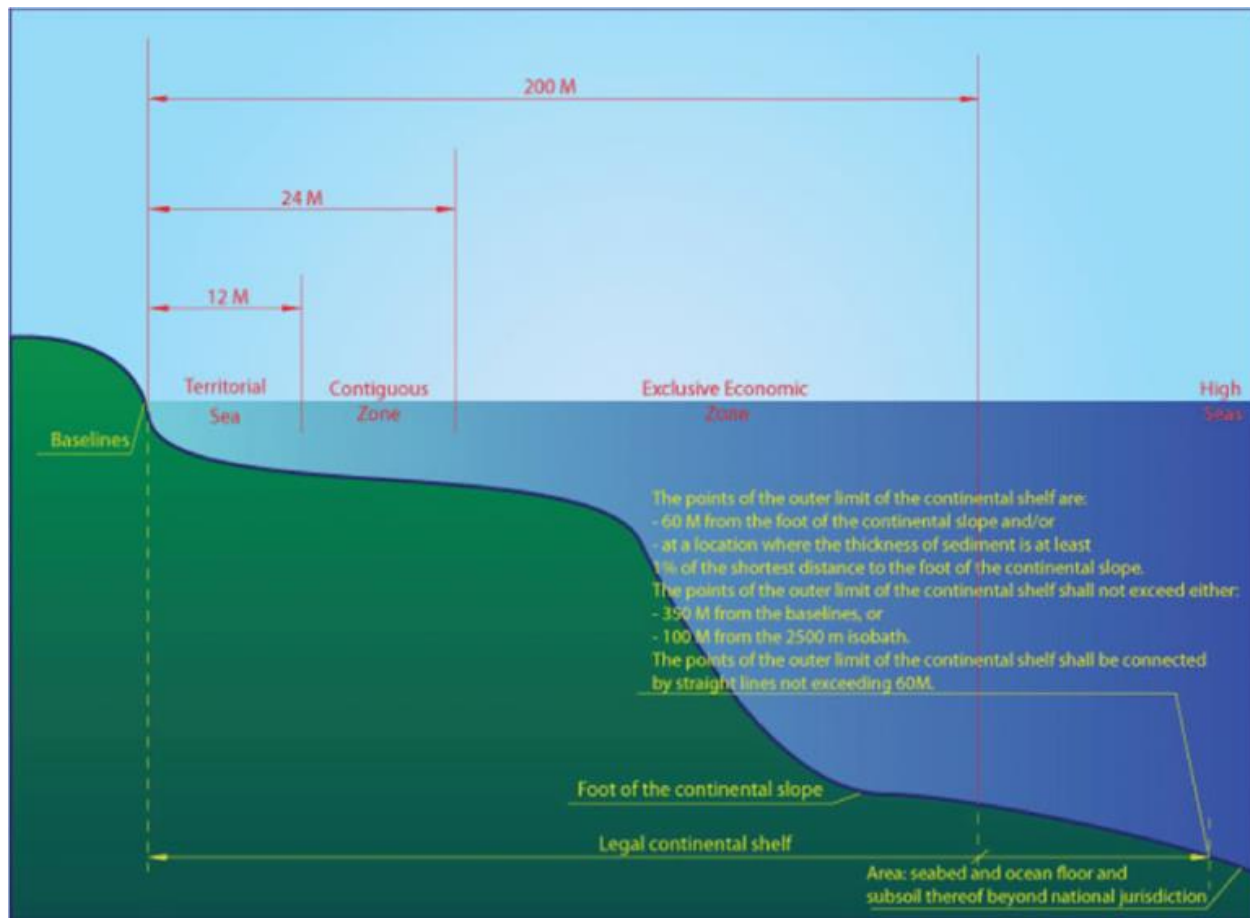


- Also called the Law of the Sea Convention or the Law of the Sea treaty, it is the international agreement that resulted from the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place from 1973 through 1982
- UNCLOS came into force in 1994
- To date, 162 countries and the European Community have joined in the Convention.
- United States have not signed it.





<https://cultofsea.com/maritime-law/unclos-salient-features-objectives-maritime-zones-passages-and-duties/>



Georgios Anthrakefs

**The Right to Exploit Offshore
Hydrocarbon in the Southeastern
Mediterranean in the Light of
Public International Law**

Verlag Dr. Kovač



<https://www.verlagdrkovac.de/978-3-339-13358-8.htm?lang=english#pop13358>

The Convention on the Law of the Sea has been a Union law since 1998



Dr. George Anthrakes, from Naoussa, presented his doctoral thesis on the exploitation of hydrocarbons in the Eastern Mediterranean under international and EU law at the Athens Bar Association. The thesis was prepared at the Law School of the University of Hamburg. The book was commented very positively by Professors Yannis Valinakis, former Deputy Minister of Foreign Affairs, and Stelios Perrakis, former Vice-Rector of the Panteion University of Athens. The two professors praised the fact that Dr. Georgios Anthrakes for the first time demonstrated scientifically that the Convention on the Law of the Sea has been a Union law since 1998, with the result that **the jurisdiction of the European Union court in Luxembourg to resolve maritime delimitation disputes between Greece and its neighbouring countries is automatically recognised and no longer before the international court in The Hague.**

Claimed Exclusive Economic Zone of Greece

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Article 344 of TFEU

Member States undertake not to submit a dispute concerning the interpretation or application of the Treaties to any method of settlement other than those provided for therein.

Comments:

Article 344 of the TFEU provides for the obligation of EU Member States not to submit their disputes to a third party

(i.e., to the International Court of Justice in The Hague or the Court of Hamburg) for their resolution.

This also concerns the Convention on the Law of the Sea, which from June 1998 became European Union law.

Article 282 of United Nations Convention on the Law of the Sea (UNCLOS)

Obligations under general, regional or bilateral agreements

If the States Parties which are parties to a dispute

concerning the interpretation or application of this Convention

have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall,

at the request of any party to the dispute,

be submitted to a procedure that entails a binding decision,

that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.

Comments:

Article 282 as a general regional agreement
means the EU and
a binding decision means
the Court of Justice of the EU (CJEU)

Article 259 of TFEU

A Member State which considers that another Member State has failed to fulfil an obligation under the Treaties may bring the matter before the Court of Justice of the European Union.

Article 273 of TFEU

The CJEU) shall have jurisdiction
in any dispute between Member States
which relates to the subject matter of the Treaties
if the dispute is submitted to it
under a special agreement between the parties.

Comments:

Article 273 means
difference or pendency of procedure and not dispute.
See the Greece-Cyprus case of 2003
with the pending delimitation of a joint EEZ.

Article 19 of TEU

The CJEU shall ensure that in the interpretation and application of the Treaties the law is observed.

Comments:

The CJEU has the exclusive interpretation of the Convention on the Law of the Sea as European law.

Agreement establishing an Association
between the European Economic Community and Turkey
(signed at Ankara, 12 September 1963)

Article 25

1. The Contracting Parties may submit to the Council of Association any dispute relating to the application or interpretation of this Agreement which concerns the Community, a Member State of the Community, or Turkey.

2. The Council of Association may settle the dispute by decision; it may also decide to submit the dispute to the Court of Justice of the European Communities or to any other existing court or tribunal.

Article 280 of TFEU

The judgments of the CJEU shall be enforceable.

Comments:

Decisions of the international court of The Hague or Hamburg on the application of the Convention on the Law of the Sea are not binding on the countries that resort to them.

Article 4 of TFEU

1. The EU shall share competence with the Member States where the Treaties confer on it a competence which does not relate to the areas referred to in Articles 3 and 6.

2. Shared competence between the Union and the Member States applies in the following principal areas:

(c) economic, social, and territorial cohesion

(d) agriculture and fisheries, excluding the conservation of marine biological resources

(i) energy

Competence of the International Court of Justice in the Hague

Article 34

1. Only states may be parties in cases before the Court.

Comments:

Since the UNCLOS became European law in June 1998 and the EU has competence to define maritime zones together with the EU Member States, in this case the EU cannot participate based on Article 34 para. 1 of statute of the international court in The Hague in the possible delimitation of the EEZ or the continental shelf between Greece and Turkey and the proceedings before the international court in The Hague will be prima facie invalid.