

Problems relating to Man-made Basepoints under UNCLOS

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ABSTRACT

The United Nations Convention on the Law of the Sea (UNCLOS), hereafter “Convention”, came into force on 16 November 1994 and to date (April 2010) 160 States have ratified or acceded to the Convention.

Article 5 of the Convention defines the normal baseline as follows:

Article 5: Normal baseline

“Except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognised by the coastal State.”

As part of the normal baseline several natural coastline features are included including reefs (Article 6) mouths of rivers (Article 9), Bays (Article 10) and low-tide elevations (Article 13). Artificial structures are just covered by Article 11 as follows:

Article 11: Ports

“For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.”

This raises several questions of interpretation both of the meaning of “Port”, “permanent” and “harbour works”. The Convention is also silent on such issues as re-claimed land that forms coastline, and coastlines that have been protected artificially to mitigate against erosion. Further issues concern artificial man-made structures that could be used as basepoints for the determination of maritime space and in the delimitation of maritime boundaries. This paper will discuss these issues.