



6th ABLOS CONFERENCE
CONTENTIOUS ISSUES IN UNCLOS – SURELY NOT?

Monaco – 25-27 October 2010

**Problems relating to man-made Basepoints under
UNCLOS**

Chris Carleton
Head, Law of the Sea Division
UK Hydrographic Office

Introduction

- I hope to answer the following questions:
 - What is the meaning of “port” and “harbour works” in Article 11 of the Convention?
 - Can re-claimed land be part of the “coast”?
 - Can coastal protection structures be used as basepoints?
 - The use of other man-made structures as basepoints.
 - Do any of these structures have a role to play in delimitation?

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

Article 11: Ports

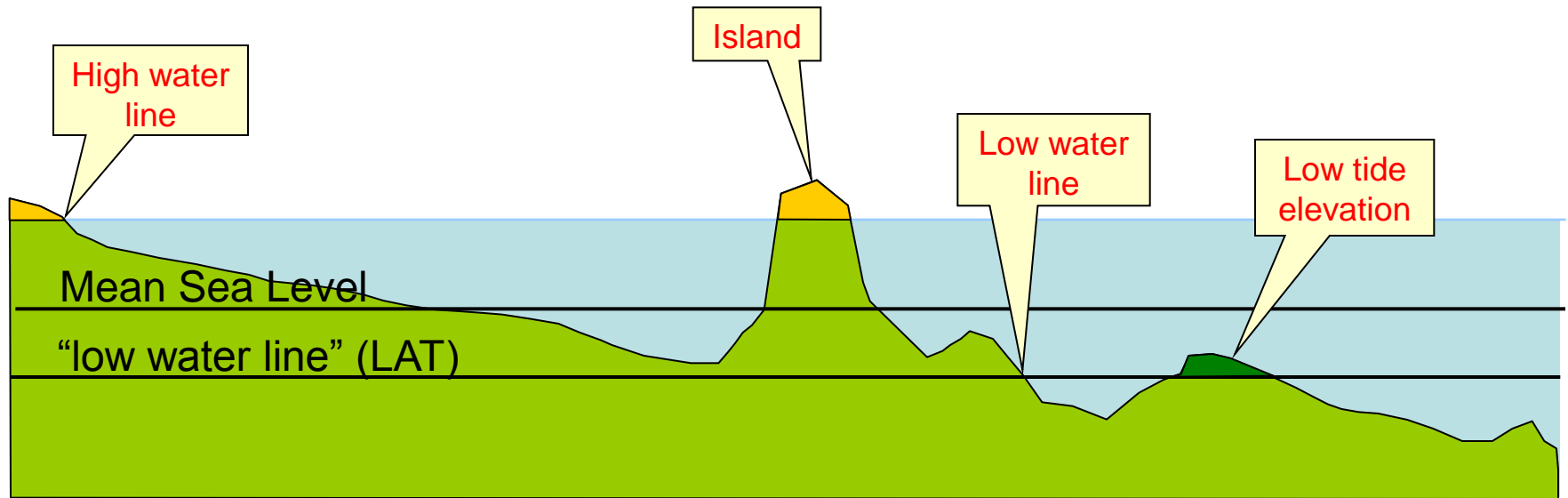
- For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

The Meaning of the Normal Baseline

What is “Low-water Line”?

- There is no internationally recognised vertical datum.
- This means that there are several different vertical datums all equally authoritative:
 - Mean Sea Level – Land Maps
 - Different High-water Lines – Land Maps and Charts
 - Different Low-water lines – Land Maps and Charts
- Lowest Astronomic Tidal (LAT) recommended for charts.

Low water line and vertical datums



Lowest Astronomical Tide (LAT): lowest predictable tide
(18.6 year cycle)

Mean Low Water Springs

Mean Lower Low Water

Lower Low Water Large Tides

Lowest Low Water Spring Tide

Alternative vertical datums.



The Meaning of “Ports” and “Harbour Works” – Article 11

- **International Hydrographic Organisation
Definitions:**

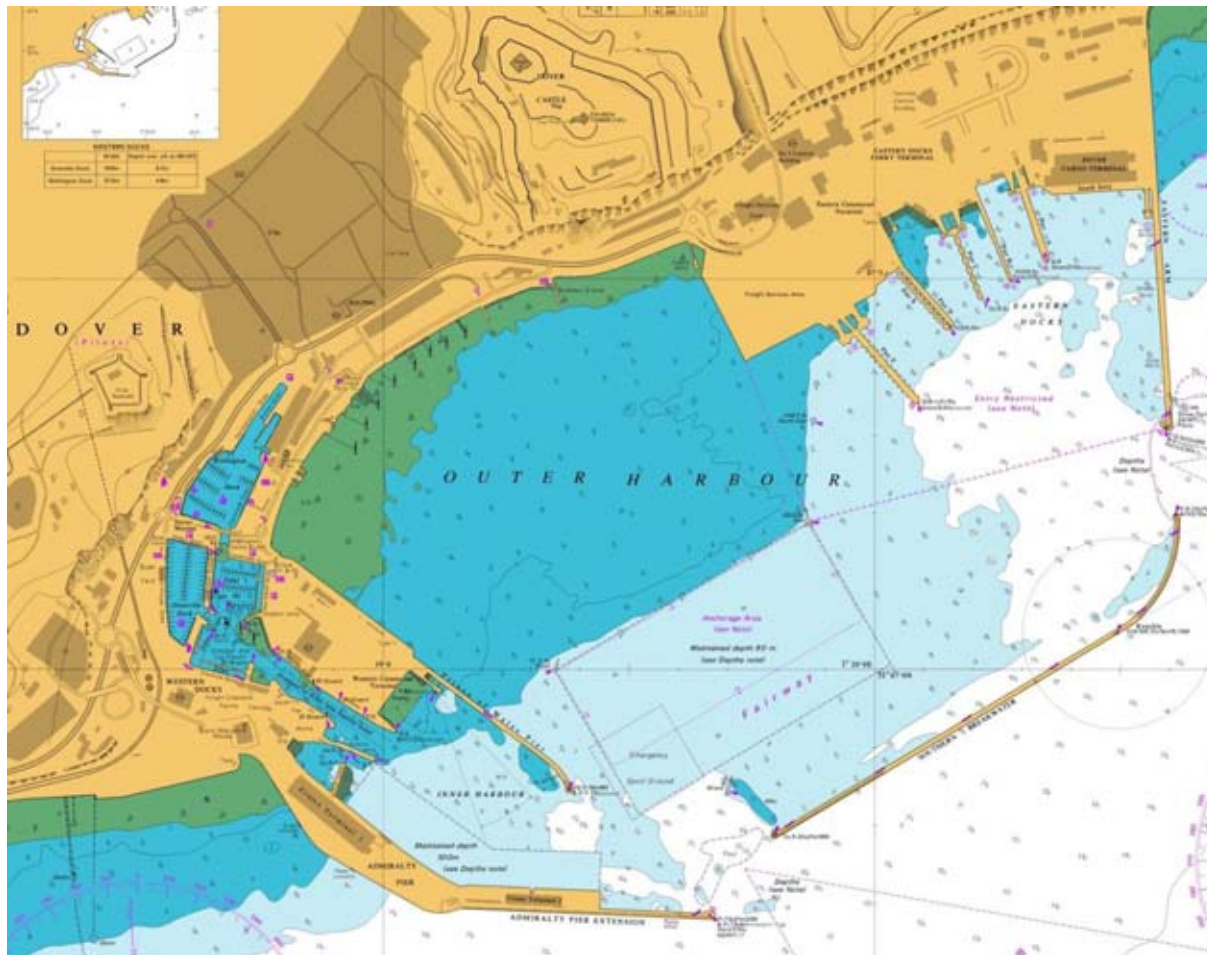
- **Port:**

A place provided with terminal and transfer facilities for loading and discharging cargo or passengers, usually located in a harbour.

- **Harbour**

A natural or artificially improved body of water providing protection for vessels, and generally anchorage and docking facilities. See also port

Dover Harbour on Chart 1698



Territorial sea basepoints and delimitation - Yes



Dover Harbour from Google Earth



Plymouth Sound

A natural harbour



Ra's Laffān

A modern port Chart 3781

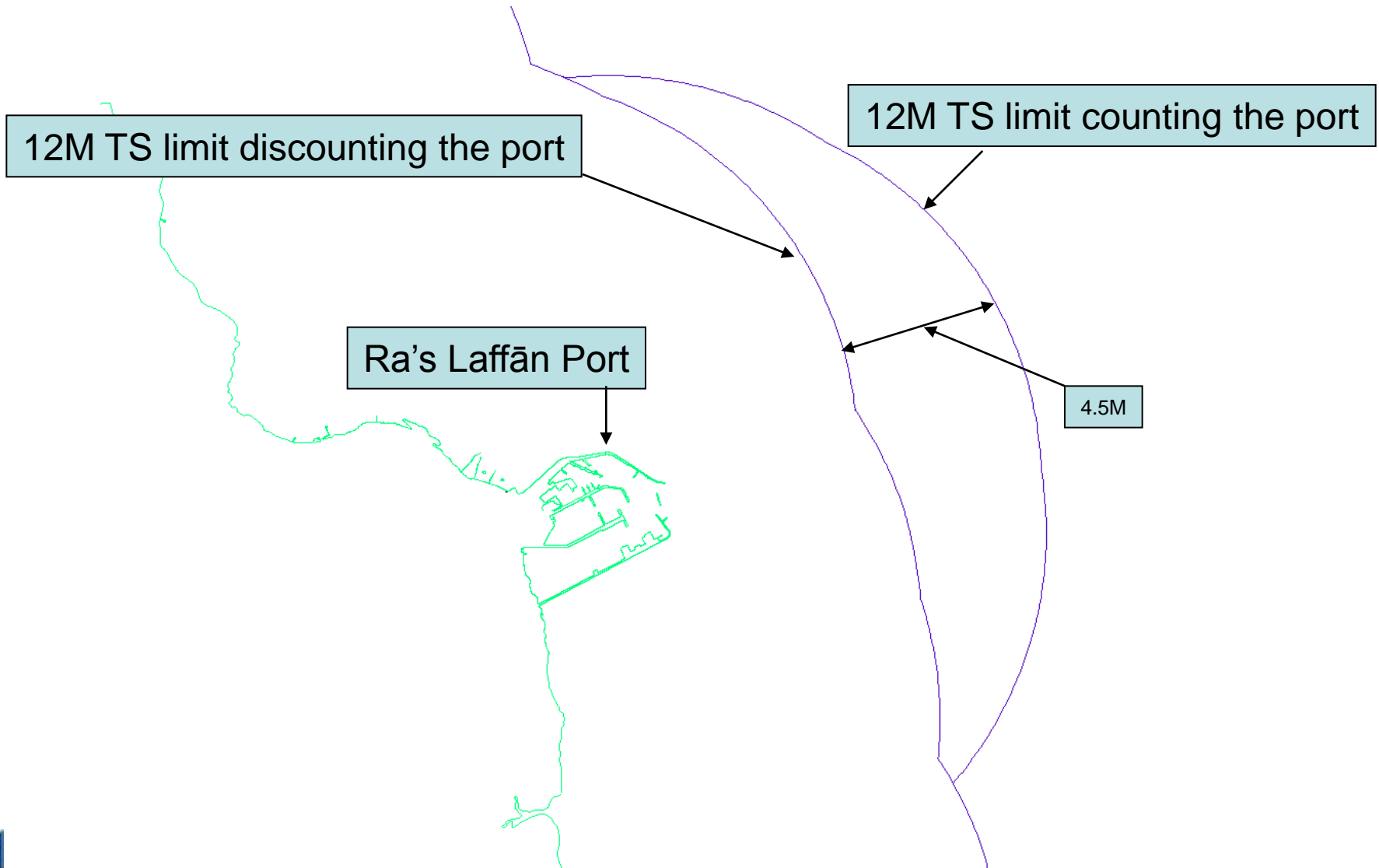


Territorial sea basepoints – Yes
Delimitation – not yet

Ra's Laffān



The Effect of Ra's Laffān Port on the 12M Territorial Sea Limit of Qatar



Jetties

are they harbour installations?

Ra's Tannūrah Oil Terminal



Harbour Installations?
Yes

Territorial sea basepoints – Yes

Delimitation - maybe



Al Ju'aymah LPG Terminal

Single jetty of pile construction



LPG Jetty

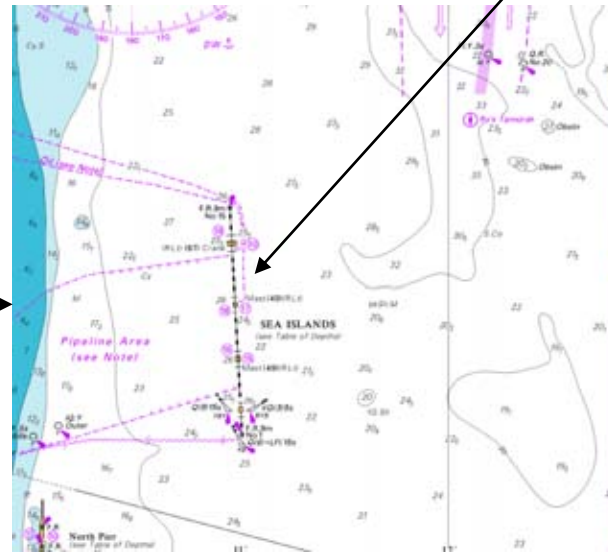
Territorial sea basepoints
– probably but not in the
United States

Delimitation - unlikely



Offshore Loading Structures

Sea Island Terminal



Territorial sea basepoints – No
Delimitation - No

Other man-made structures that form part of the coast

- Sea defences such as:
 - groynes
 - dykes
 - levees
 - berns
 - and seawalls
- All are acceptable as territorial sea points
- Some examples



Groynes



Oosterschelde sea defences in The Netherlands

Training Walls are they legal basepoints?

ICJ stated in Romania/Ukraine that Sulina Dyke was acceptable as a territorial sea basepoint but was not used for the delimitation

Sulina Dyke



<http://www.panoramio.com/photos/original/743>

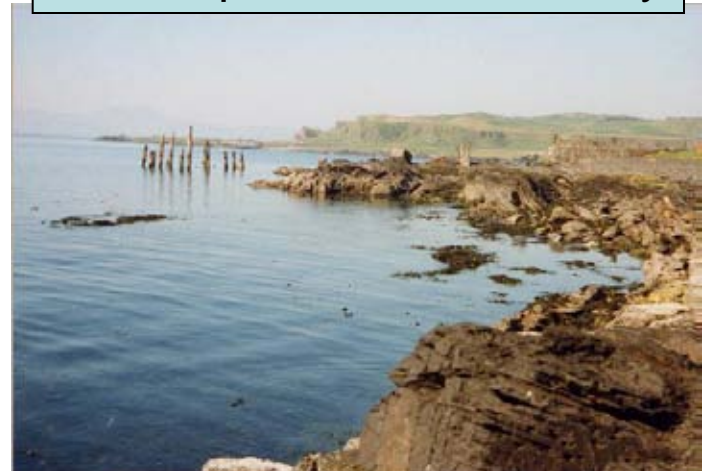
Ruined jetties and piers?

- If they are not attached to the coast they do not count.

Isolated seaward end of Herne Bay pier



Ruined pier at Black Mill Bay



Pleasure Piers?

- Normally of pile construction they are generally used as basepoints in NW Europe but not in the United States.
- Many have berthing facilities for ships.



Southend-on-Sea pier, UK



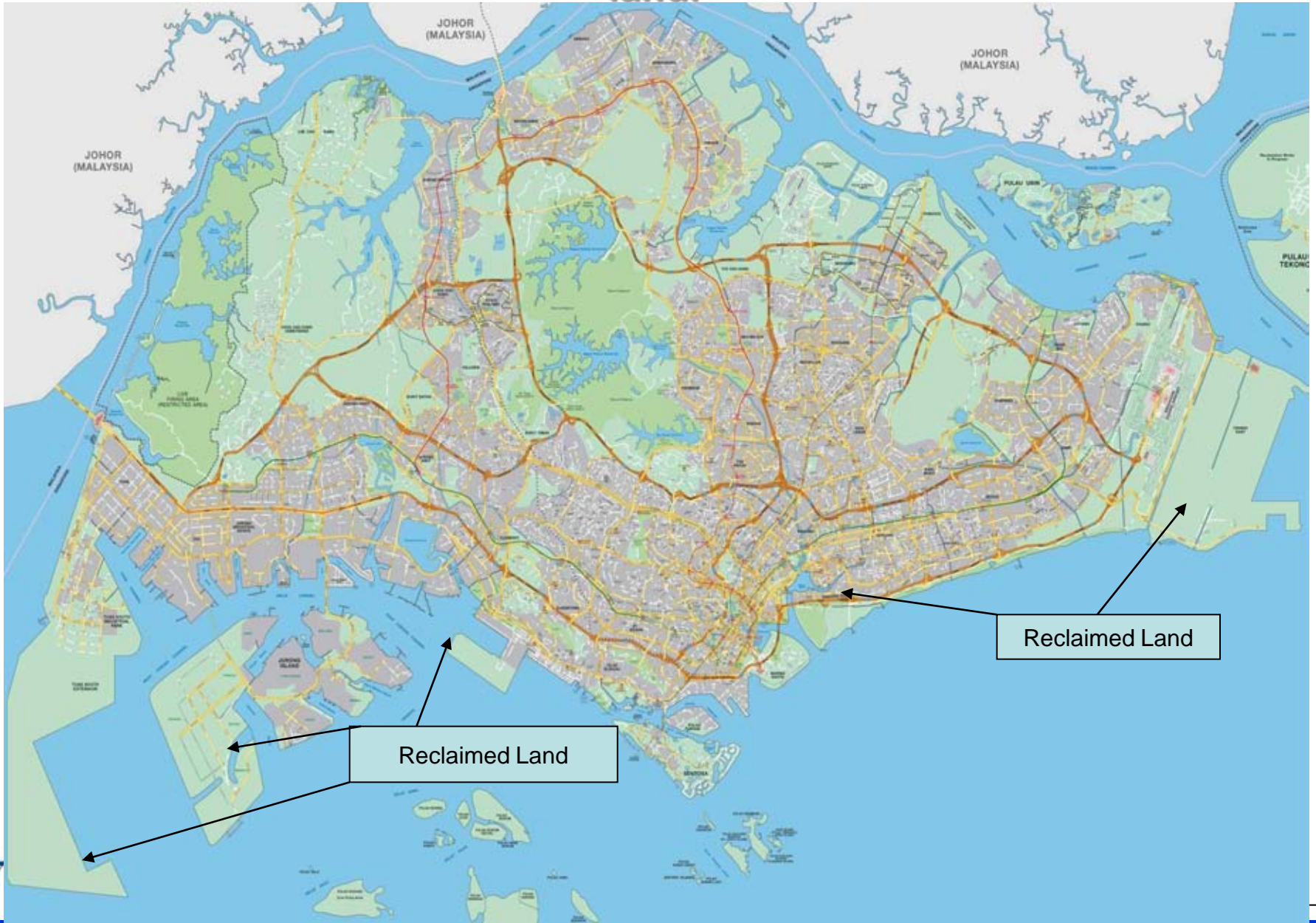
Southend-on-Sea pier head

State practice in the use of re-claimed land

- The Hook of Holland is an example of re-claimed land that is accepted as part of the normal baseline.



Singapore is another example of a State with extensive re-claimed land.



Artificial Islands

- Quite clearly do not count for basepoints or delimitation.
- The Dubai World Islands are an example even though they are habitable.

Dubai World Islands



The first house

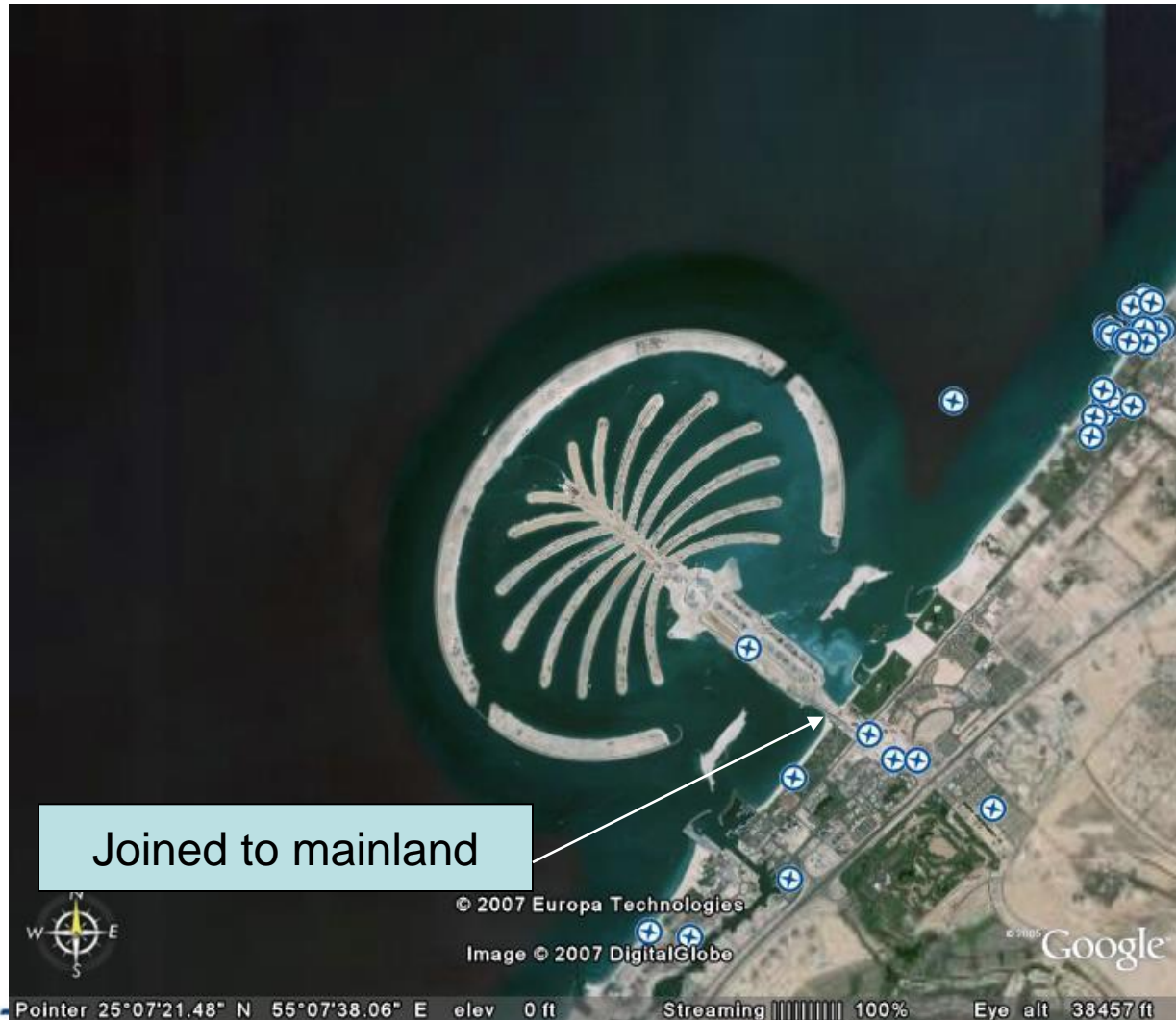


2009 Google

Image © 2010 Earthstar
Image © 2010 Google



But what about the Dubai Palms?



- Maybe it could be considered as re-claimed land with harbour facilities?

But the completed Palm is now only joined to the mainland by bridges so it becomes an artificial island?



Man-made structures and delimitation

- If the structure is accepted as a territorial sea basepoint then it may play a part in delimitation.
- Examples
 - UK/France – Dover Harbour.
 - Dubai/Sharjah arbitration – harbour installations.
 - UK/Netherlands – Ijmuiden Harbour used, Europoort under construction was not.
 - UK/Belgium – Ostend Harbour used, but not the extension to Zeebugge under construction.
- Very little State practice and no jurisprudence concerning re-claimed land.

- If a man-made feature causes an imbalance between the two opposite or adjacent coasts then its effect will be adjusted to restore the coastal balance.

Conclusions

Man-made structures and their use as territorial sea basepoints

- Acceptable:
 - Harbour installations with their detached moles.
 - Other man-made features attached to the coast such as:
 - Groynes
 - Dykes
 - Levees
 - Seawalls
 - Training walls
 - Re-claimed land – probably.

- Not Acceptable:
 - Jetties and piers constructed with piles in the United States **only**;
 - Artificial islands;
 - Offshore harbour facilities;
 - Ruined structures that are no longer connected to the coast.

The use of man-made structures in delimitation

- If the man-made structure is accepted as part of a State's normal baseline then it may have a part to play in delimitation.
- If it causes an unacceptable deviation of the equidistance/median line then it will be discounted in some way.
- Artificial islands and offshore harbour facilities have no effect.

Questions?

