Abstract

The international law of the sea is based on the general principle that land dominates the sea; entitlement to maritime zones is generated by coastal front and the seaward extent of those entitlements is measured from relevant coastal geography. This is rooted in the assumption that territory is permanent and, consequently, a stable basis for delineation and delimitation of maritime entitlements. However, climate-related changes and the new geological epoch, characterised by instability, are challenging these fundamental assumptions and international law must either change or allow for an interpretation that accommodates these changes.

Unilaterally declared maritime limits generally fluctuate to reflect changing coastal geography. However, States may permanently establish the outer limits of their continental shelf in certain circumstances. Maritime limits are opposable to other States, as long as they are consistent with international law, and other States can challenge outdated limits following a change to relevant coastal geography.

Overlapping maritime entitlements are delimited on the basis of relevant coastal geography and the resulting maritime boundaries generally remain stable, at fixed coordinates, notwithstanding subsequent changes to coastal geography. However, the juridical link between the coastal front and the rights to maritime zones can be strengthened by considering coastal instability and imminent changes to coastal geography in the delimitation process. Delimitation methods, base points and the adjustment of provisional boundaries can take account of changing coastal geography to produce boundaries that remain equitable in the foreseeable future.

Maritime boundaries can become radically inequitable when coastal geography changes and unforeseen changes may be invoked as grounds for terminating treaties establishing non-territorial maritime boundaries if they affect the essential basis of the treaty and radically affect ongoing obligations. This will only be possible in exceptional cases but the threat of termination may incite mutual revision of maritime boundaries.