

出國報告（出國類別：國際會議）

參加「海域劃界」(Maritime Boundary Delimitation) 研習會議出國報告

服務機關：內政部（地政司）

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派赴國家：新加坡

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摘 要

在現代國際海洋法下，沿海國家對於領海基線起至其外側十二浬的「領海」，享有主權；自鄰接領海外側至距離領海基線二百浬間為「專屬經濟海域」；以及距離領海基線二百至三百五十浬間，甚至依陸地領土自然延伸至大陸邊外緣的「大陸礁層」則享有主權權利和管轄權。然而，當沿海國間所主張上述海域範圍重疊時，即產生「海域劃界」的種種問題。由於「海域劃界」關係到各沿海國經濟利益，致使「海域劃界」問題更形複雜且不易達成協議，而聯合國海洋法公約亦未具備海洋劃界爭端解決機制，主要還是仰賴各國劃界談判能力及於國際司法程序上的實踐。

「海域劃界」涉及實務面向十分廣泛，包含國際法海洋法基本原則規範、國際海洋法判例、地理空間資訊運用、生物及非生物資源掌握、以及協商談判技巧處理等。為培育全球疆界劃定及管理人才，英國國際邊界研究單位（International Boundaries Research Unit, IBRU）每年度舉辦國際劃界研習會議；基於東亞地區海域情勢日趨緊張，為因應該地區海域劃界事務人才培訓之迫切需求，IBRU今（2012）年9月26日至28日與新加坡國立大學合作於新加坡舉辦海域劃界研習會議，會議採專業研習方式進行，協助參與人員有效運用地圖、工作及其他地理資訊學習如何劃定海域邊界與解決劃界爭議，透過實務模擬演練使參與者瞭解並掌握劃界工作之關鍵地理技術及資源。

本研習會議主題為「海域劃界（Maritime Boundary Delimitation）」，議程包含：（1）海域邊界的特徵與價值、海洋劃界的挑戰、以及目前全球的概況等簡介；（2）海域司法管轄的法律架構：包含海洋法演變、聯合國海洋法公約、國際習慣法與國際條約；（3）海域空間基本定義：基線與限制；包含正常基線、直線基線、群島基線，以及海灣與河口；（4）實際模擬演練：藉由團隊合作模式，在沿海地區尋求並建立適當的基點；（5）海域劃界判例；（6）海域劃界技術：圖表及坐標詮釋、等距中線及其他潛在邊界線運用、海域劃界之地理工具和

資源；(7) 國家海域劃界實踐：劃界創新方法、如何於領土爭端中劃出海域邊界、三個國家邊境處界定；(8) 解決海域邊界爭端選項：現實情境下安排、聯合國海洋法公約下之爭端解決機制；(9) 實際模擬演練。

本部為維護海洋權利，因應與周邊國家未來可預見之海域劃界談判，自2006年起開始執行「我國大陸礁層調查計畫」及「我國大陸礁層與島礁調查計畫」，分期辦理我國大陸礁層科學調查、科學調查資料更新及建置，我國海域島礁圖資建置及監測管理，國際海洋法政研析、海域劃界資料整合分析等工作。上述種種工作項目都是為了日後與周邊國家劃界談判而準備，如何使用地理空間資訊來協助疆界談判與劃定，是我國與鄰近國家未來實際從事海域劃界時必然面對的問題。因此本部派員參加本研習會，藉以瞭解國際專業研究單位之研究新知與技術能量，並建立聯繫管道，對本部刻正執行之計畫以及日後面對實際劃界談判或國際訴訟時皆有重大助益。

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壹、緣起及目的

1982 年「聯合國海洋法公約」(United Nations Convention on the Law of the Sea; UNCLOS) 於 1994 年 11 月生效，其中第 76 條關於大陸礁層的定義明確規定，各國大陸礁層為沿海國專屬經濟海域 (Exclusive Economic Zone; EEZ) 內的 200 浬，但是如果海底地形、地質滿足一定的條件，能夠證明是沿海國陸地的自然延伸，沿海國就可以申請將大陸礁層的外部界限最遠延伸至 350 浬處。我國已於 87 年 1 月 21 日經總統明令公布施行「中華民國領海及鄰接區法」與「中華民國專屬經濟海域及大陸礁層法」，並於 88 年 2 月 10 日公布「中華民國第一批領海基線領海及鄰接區外界線」。

由於我國四面臨海，200 浬範圍內的專屬經濟海域與鄰國的專屬經濟區或大陸礁層範圍主張有部分重疊，處理與周邊若干鄰國間海域劃界或相關漁權爭議為未來不可避免的問題，包括：在東海面臨與中國、日本、韓國的劃界問題；在南海面臨與中國、菲律賓、印尼、馬來西亞、越南等國的劃界爭端議題。

英國國際邊界研究單位 (International Boundary Research Unit, 簡稱 IBRU) 為一個獨立研究機構，成立於 1989 年，迄今已超過 20 年。IBRU 是全球唯一研究國際邊界與領土問題的專業研究單位，創辦以來，每年定期於英國舉辦研習會，深受各國相關人員歡迎，除此之外，IBRU 亦提供劃界相關資訊與諮詢服務，致力於領土各項爭議之和平解決。本年度 IBRU 與新加坡國立大學共同合作於 2012 年 9 月 26 至 28 日假新加坡國立大學國際法中心舉辦海域劃界研習會議 (Training Workshop Programme)，會議探討主題包含海域劃界基礎、海域邊界定義、海域劃界案例、海域劃界技術等，對於我國在未來海域劃界與談判上具有實質的幫助。

為了防範鄰近國家恣意擴張海域主張，侵犯我國海洋權益，同時為確保我國海域疆界、大陸礁層能源礦產資源，與漁業資源的探勘、開發、養護與管理權益，本部指派陳視察杏莉、張視察則民等 2 員參與此次研習會，並偕同工業技術研究

院綠能所黃瑞賢、翁子偉等 2 位副研究員參加本研習課程，共同學習劃界相關專業知識、技術，汲取國際劃界案例經驗，蒐集相關資料，藉以瞭解國際海域劃界之基礎、方法與案例，因應未來實際劃界談判之需求，且有助於本部當前我國大陸礁層與島礁調查計畫工作順遂推動。

貳、出國行程

一、會議地點及時間

會議地點：新加坡國立大學 國際法中心 (Centre for International Law
National University of Singapore)

會議時間：2012 年 9 月 26 日至 2012 年 9 月 28 日 (計 3 天)

二、參加會議行程

日期	預定停留地點	行程
2012.9.25 (二)	臺灣—新加坡	從桃園國際機場搭機 前往新加坡 (去程)
2012.9.26 (三)	新加坡國立大學 國際法中心 (報到暨會議研習課程)	會議研習課程
2012.9.27 (四)	新加坡國立大學 國際法中心 (會議研習課程)	會議研習課程
2012.9.28 (五)	新加坡國立大學 國際法中心 (會議研習課程)	會議研習課程
2012.9.29 (六)	新加坡—臺灣	從新加坡樟宜機場搭 機返回臺灣 (回程)

參、會議重要內容

一、辦理單位

2012 年於新加坡舉辦之「海域劃界」研習會議為英國德倫大學 (University of Durham) 國際邊界研究單位 (International Boundary Research Unit, 簡稱 IBRU) 所主辦。

IBRU¹為一知名國界學術研究單位，成立於 1989 年，屬於英國德倫大學地理系的一個獨立研究部門。從事世界各國海陸域國界糾紛之研究，提供劃界之資訊與諮詢服務並致力於國界爭議之和平解決。自創辦國界研習訓練以來，由於課程多樣化，師資充沛，迄今已舉辦近 30 期國界相關議題之研習會議，並已有約 100 國 700 名以上的各國官員、律師、軍事人員及劃界人員接受此項訓練，甚受各國歡迎。

課程中亦按照不同專業領域邀請各專家學者當教授導師，以下為各導師之服務機構：

1. Professor Robert Beckman, 新加坡國立大學國際法中心 (Centre for International Law, NUS)
2. Mr John Brown, 英國水道測量局 (UK Hydrographic Office)
3. Mr Rodman Bundy, Eversheds 律師事務所 (Eversheds LLP)
4. Ms Tara Davenport, 新加坡國立大學國際法中心 (Centre for International Law, NUS)
5. Professor Martin Pratt, 英國德倫大學國際邊界研究單位 (International Boundaries Research Unit)

¹ 網址：www-ibru.dur.ac.uk/index.html

6. Professor Clive Schofield, 澳洲臥龍崗大學 (University of Wollongong)

二、會議議程

2012 年 9 月 26 日 (星期三)		
09:00-09:15	Welcome	Robert Beckman
09:00-09:45	Introduction <ul style="list-style-type: none"> ● The significance and value of maritime boundaries ● The global state of play ● Challenges in maritime boundary delimitation 	Martin Pratt
09:45-11:00	Maritime jurisdiction: the legal framework <ul style="list-style-type: none"> ● The evolution of the law of the sea ● The United Nations Convention on the Law of the Sea ● Customary international law ● Relevant treaty law 	Robert Beckman
11:00-11:30	Refreshments	
11:30-13:00	Defining maritime space: baselines & limits <ul style="list-style-type: none"> ● The normal baseline ● Straight and archipelagic baselines ● Bays and river mouths ● Defining and maintaining maritime limits 	Clive Schofield
13:00-14:00	Lunch	
14:00-15:00	Practical exercise Working in teams, participants will establish appropriate baseline regimes in a variety of coastal settings	Martin Pratt
15:00-15:30	Refreshments	
15:30-17:00	Case law on maritime boundary delimitation I <ul style="list-style-type: none"> ● The North Sea continental shelf cases to the Eritrea-Yemen arbitration 	Rodman Bundy

2012 年 9 月 27 日 (星期四)		
09:00-10:45	Case law on maritime boundary delimitation II <ul style="list-style-type: none"> ● Qatar v. Bahrain to Bangladesh-Myanmar 	Rodman Bundy

10:45-11:15	Refreshments	
11:15-13:00	<p>Technical aspects of maritime delimitation</p> <ul style="list-style-type: none"> ● The role of the technical expert ● Understanding charts, coordinates and 'straight' lines ● Constructing equidistance lines and other potential boundary lines ● Geographical tools and data resources for maritime boundary delimitation 	John Brown
13:00-14:00	Lunch	
14:00-17:00	<p>Practical exercise</p> <p>Working in teams, participants will seek to delimit an equitable and technically robust maritime boundary between two neighbouring states</p>	Martin Pratt

2012 年 9 月 28 日 (星期五)		
09:00-10:00	<p>State practice in maritime boundary delimitation</p> <ul style="list-style-type: none"> ● Innovative approaches to delimitation ● Maritime delimitation in the context of territorial disputes ● Connection with the land boundary terminus ● Tripoints with third states 	Martin Pratt
10:00-11:00	<p>Options for resolving maritime boundary disputes</p> <ul style="list-style-type: none"> ● Provisional arrangements of a practical nature ● Dispute resolution mechanisms under UNCLOS 	Tara Davenport
11:00-11:30	Refreshments	
11:30-12:30	Maritime boundary delimitation: lessons from the Asia-Pacific region	Beckman & Schofield
12:30-13:00	Closing discussion and wrap-up	
13:00	Lunch	

三、會議情形

本次研習會議參加人員大半來自亞洲地區，包含我國、中國大陸、菲律賓、韓國、越南、泰國、部分歐洲國家、美國，以及聯合國組織成員等，為凸顯出與英國舉辦研習會議之不同，本會議所選擇之研討內容，主要乃以亞洲地區爭議海域相關議題為主，包含東海釣魚臺、南海等海域劃界問題等，在研習課程中皆陸續成為討論焦點及探討實例。

(一) 第一天

首日會議議程主要係針對海域劃界的基礎法則：海洋法，做一概略性通盤的介紹，並介紹基線的種類與其代表的意義，嗣由所有參與學員透過小組討論的方式，在主辦單位所提供海圖上訂定領海基點並繪製出領海基線。在實際操作課程中，直線基線與正常基線的使用時機與原則，以及如何定出海灣、河口等特殊地形的基線位置，為本項圖資繪製課程的重點。

經基點基線繪製的實際操作後，參與學員即可對建立領海基線的方法有一定的概念基礎，接下來，則藉由聯合國海洋法公約相關條文的闡釋，據以瞭解各種基線在法律上的實質意義，除此之外，課程內容亦包含第 15 條領海基線、第 83 條大陸礁層、第 121 條島嶼等說明。Eversheds 律師事務所 Mr. Rodman Bundy 認為，國際法庭 (International Court of Justice, 簡稱 ICJ) 從不提島嶼問題，對於島或礁，僅認為是名稱的爭議，而非實質問題。後續則透過國際法庭多年來案例分析來說明並瞭解海洋法的演進過程，依次扼要說明如下：

1. 1969 年北海大陸礁層案 (第一個 ICJ 判例)：等距中線、衡平原則、自然延伸、海岸特徵、海岸線長度的重要性。
2. 1977 年英法仲裁案：對島嶼使用半效力的首例。

3. 1982 年突尼西亞－利比亞案：雙方對等距線並無歧見，卻對地質的自然延伸產生爭議，但無關乎最終裁決，法院因考量相關情況的平衡性，而採用兩種劃界方式。
4. 1984 年緬因灣案：單方面的海域疆界，重點在於地質條件的論述、海岸線長度以及島嶼的半效力。
5. 1985 年利比亞－馬爾他案：相對國家的海域界線劃定，以等距中線為劃界的初始參考線段，中間部分是根據海岸線長度而調整位置，未將地理與地質因素納入考量。
6. 1993 年丹麥－挪威案：採用等距中線為初始參考線，同時，衡酌兩國明顯的海岸線長度差距，以及公平劃定兩國間的漁業資源。
7. 1999 年葉門－厄立特里亞案：兩國間有島嶼主權爭議，加上海域劃界因素，以兩國本土陸地劃界，小島不具效力。
8. 後續藉由 2000 年後的案例分析，說明海洋法以及國際法庭判決案例的重點與演進情形。

（二）第二天

次日會議議程聚焦在以科學技術觀點來說明海域劃界的各種方法，包含投影坐標系統、大地測量、橢球基準面、海圖的使用與製作、潮位修正的技術等等。同時，介紹等距中線的繪製原理，相向、相鄰國家等距中線建立的方式，海岸趨勢線與等角線的應用等，透過各種案例海圖上等距中線或島嶼領海外界線的繪製，讓參與學員學習如何透過 GIS 與相關電腦技術進行現代的海域劃界工作。

在瞭解等距中線運用於海域劃界的原理與基礎之後，本日課程後半段採分組實習方式進行，以澳洲 Tasmania 與 Victoria 地區為兩國家為案例，參與學員由主辦單位自行編排區分為 Tasmania 國家代表與 Victoria

國家代表，每個國家代表成員為 6 位，雙方在先期擬定劃界條件與界限，再安排與對方國家代表進行劃界談判，經三次談判程序後，雙方需完成談判後之界線劃定。

在上述劃界實例內，原設定考量條件當中，兩相向國家間的海域間，有一座油井平台，有一兩國漁民的傳統漁業區，若干個小島或礁石，雙方應採取對己有利的條件來劃定界線。首先，需決定劃設中間線使用的基點位置，一般而言，具有島嶼地位的小島最外圍，可提供有利的基點位置，部分峽灣的尖端也是非常好的基點選擇。

參與學員在初步劃定本國主張的中間線時，需將重要的資源分布位置納入優先考量，油井平台是否位於我方主張範圍？傳統漁場是否有涵蓋於內？然而，當雙方進行談判時，必定是竭盡所能將自身海洋資源與海域權益最大利益化，故第一次談判建議不直接針對劃界線段討論，而是由雙方先提出原則問題，例如：中線基礎必定是大島對大島，小礁對小礁，有島嶼地位問題的小礁石是否放棄等等。第二次談判則開始對於資源分布、線段定義進行討論，在談判過程中，可進一步知悉雙方皆有退讓或力爭的區域，在第三次進行談判前，小組內部可先擬定一可接受最低底線，但提出較為寬鬆的界線要求，只要對方同意此寬鬆的界線，基於我方的基本需求即可達成雙贏互惠的共同協定。

各分組在雙方熱烈討論後，多能達成滿意的劃界結果，但在最終成果發表時，有一組因雙方認知的不同，導致最後界線並沒有達成協議；因此，必須特別注意，雙方在談判會議進行時，必須各自指派專人做會議紀錄，且此紀錄需經雙方認可，以避免上述認知不同的問題發生。另外，在討論資源優先問題時，多數人認為油氣資源的經濟效益高於漁業資源，所以劃界談判需特別將油氣等非生物資源的分布與潛力納入己區。

（三）第三天

最後一天課程是以世界各國重要的海域爭端及解決案例說明為主，講師與學員藉由互動模式針對各種爭端解決的方法進行交叉討論。由於本次會議舉辦地點位於新加坡，參加成員也多半來自南海周邊國家或其他亞洲國家，加上南海議題近來相當熱門，故本次課程即以南海劃界作為討論的核心。

基點基線是海域劃界的基礎，課程中說明基線在南海周邊國家的實際現況，如越南、柬埔寨、馬來西亞、中國大陸的直線基線，菲律賓的群島基線等，值得注意的是參與討論的學者多數對於中國大陸西沙群島的直線基線表示並不恰當，因西沙群島基線性質上較類似群島基線，但中國大陸並非群島國。

第二個問題是專屬經濟海域（EEZ）與大陸礁層（CS）能否分別主張？不論是南海或東海海域，相對國家間的距離大多不到 400 浬，故兩國主張的 EEZ 範圍與大陸礁層外部界限有許多重疊之情形，如將 EEZ 主張與大陸礁層外部界限主張分開，在目前的狀況下是否可簡化國家間的海域權益爭議？在場的各國成員皆有熱烈的討論。

第三個問題談論目前有主權爭議的島嶼，以及其島嶼地位問題。其中，有主權爭議島嶼包含獨島（竹島）、釣魚臺列嶼、南沙群島等，近來島嶼地位問題爭議最多且影響最大的則是日本主張的沖之鳥礁。

本研習會議最後以國際法院對於新加坡與馬來西亞之白礁案例來作總結，國際法庭最終判決白礁屬新加坡，中岩島屬馬來西亞，至於南礁的主權問題則因雙方領海劃界尚未完成，最後南礁主權應屬其位於哪一國之領海範圍內而定。從上述白礁案所得結論：雖然島嶼主權爭議大部分可以經由國際法庭（ICJ）判決獲致解決，但必須注意到其結果的控制權與可預期性相對較低，且耗費時日。另主權爭議經 ICJ 判決後並非完全落幕，後續還有相當複雜、繁瑣、冗長的海域劃界、協商談判等行政

程序即待處理。

透過上開三個海域劃界關鍵問題的討論，以及白礁案詳細解說，讓參與學員對於現在國際法庭或國與國之間海域劃界談判的相關議題有進一步認知，最後，更希望將本次三天課程所學習到的觀念與技術應用於未來工作之中。

肆、心得

參與本次三天的海域劃界課程，除了能瞭解海域劃界的基礎原則以及各個重要的劃界案例之外，透過課程安排的實習與討論，更可加深劃界談判所需的重點資訊。

基點基線無非是海域劃界最基礎的依據，但也容易引發各界質疑，中國大陸的西沙群島以直線基線劃定，其近日公告的釣魚臺基線也是採用直線基線，此於本次研習課程當中，講師及參與學員皆有疑慮。關於西沙群島部分，講師認為若是由一獨立的群島國家提出群島基線之主張較為合理，但中國大陸於其領海基線法中僅說明採直線基線法劃定，是否因此造成其無法採用正常基線劃定的理由，其實還是有討論空間的。反觀我國公告之第一批領海基線主張，釣魚臺列嶼採正常基線，各島嶼的最低低潮線即為基線，兩者相對來說更為合理。

此外，對於島嶼地位的認定課程內也有相當程度的討論，講師認為聯合國海洋法公約第 121 條有關島嶼地位的定義並不明確，一個國家在提及其海域權益之時，為追求海洋權益最大化，縱使只是一顆小小礁石，還是可以主張其擁有 200 浬專屬經濟海域權益，以及島嶼所應具備的相關權益，因為島與礁只是名詞上的問題，非實質性問題。但從國際法庭判決案例觀之，無論島（或礁）的大小及地位，在判決中都具有一定程度的重要性，從許多案例來看，都可以發現島嶼僅具半效力或甚至不具任何效力的劃界判決實例。

再者，由本次研習過程觀察，本次研習會議參與成員有 70% 以上具備法律背景，其餘的 30% 為技術人員；在面對實際繪圖課程時，法律背景的成員往往不知從何下手，但技術背景的成員對於海洋法規範及判決案例亦不熟悉，也不知如何選擇適當基點，經過講師指導與團隊練習，兩種背景的成員已漸漸瞭解自己不為熟悉的領域，且在與其他國家組員的相互討論，以及談判桌上的相對詰問，間接地明瞭各國民情與習慣，更能強化自身專業領域並與國際最新海洋資訊相互接軌。

本部近年來除委請國內學術單位主辦或協辦海洋法政國際研討會，邀請國際知名海洋法政學者來台參與討論外，亦積極派員參與於其他地區舉行之各類國際海洋法政學術研討會，但本次研習會議感受特別不同，最主要在於主辦單位刻意以隨機分組方式，針對海域劃界案例區分為兩造當事者，透過分組內部深入討論溝通，以及三回合協商談判，使各參與成員有深入印象。同時，藉此機會建立難能可貴的友好關係，未來，我國不妨改變既有以國際研討會的主要交流模式，適度加入實際演練課程，一方面，將法理與實務結合，一方面，由學員間討論彼此瞭解建立情誼，提高我國日後參與國際海洋事務的能見度。

伍、建議

一、利用參與國際研習機會，蒐集周邊國家最新權益主張及論述基礎

本次與會的成員有許多來自東南亞國家的政府機關，包括印尼、泰國、越南、緬甸、柬埔寨與菲律賓等，皆為東協會員國，在今年 11 月於柬埔寨金邊舉辦東盟高峰會議時，東協聯盟已對外明確表態，不同意將南海爭端「國際化」，意味南海問題定調為區域內部問題，由東盟自行協商解決，造成美日要求多邊參與機制無法體現。我國非東協一、二軌之參與國，無法於公開場合與周邊國家正式對談，甚至缺乏雙邊溝通管道，僅能透過少數國際研討會時機，蒐集周邊國家對於特定議題的看法，如果能舉辦類似海域劃界及相關研習活動，即可經由直接互動方式近距離瞭解周邊國家對於東海釣魚臺、南海島礁主權的想法，反思如何強化我國劃界主張的策略，更助於後續劃界協商談判的順利進行。

二、在臺舉辦海域劃界議題研習會議，培育海域劃界及協商談判人才

由東南亞國家派員參加本次研習會議出席人員情形觀察，可見這些國家多麼重視海域劃界及協商談判，認真看待海洋權益及權利主張議題，我國政府應該以更嚴肅的態度注意此問題。正當周邊國家積極從事海域劃界各項準備工作時，甚至大舉延攬國際級專家當成顧問之同時，我們也應思索並有所作為。以往，各部會每年度都會主辦或參與國內外國際海洋議題學術研討會，惟會議模式僅止於特定議題的發表、與談及討論，缺乏實務課程操作。本部於今年度 9 月初與國立師範大學共同舉辦「海洋法實踐與南海爭端解決研討會」，會中難得邀請前聯合國大陸礁層界限委員會主席卡雷拉（Galo Carrera Hurtado）參與，其於會後私下表示願意為舉辦海域劃界或大陸礁層界限專業訓練，值此東海與南海情勢不斷升溫之際，應把握此良機，舉辦上述研習課程，邀集相關部會人員參與，並委請卡雷拉擔任課程安排規劃及專案講師，以提升我國海洋專責人才能力。

三、鼓勵專家學者參與國際劃界研習訓練，建立國際海域劃界的智庫

從過去到現在面對的種種國際性問題與談判，皆需要國內熟悉相關國際法律學者的參與，才能協助行政官員，提供專業法律諮詢意見、政策建議、甚至一起參與國際談判。本次研習會議舉辦期間，中國大陸出席人員不時邀請講師或參與人員至當地授課，甚或擔任智庫顧問，其企圖心可見一斑。本部雖於大陸礁層與島礁調查計畫執行期間，與海洋地質、地理資訊製圖及國際海洋法等學者，建立極為密切的合作關係，但由於大陸礁層外部界限延伸及海洋劃界事務都是屬於國際性案件，需不斷蒐集、更新國際間甚至聯合國的最新消息，故需要學者不斷參與國際學術研討會，獲得外國學者之意見，同時將我國的聲音傳達出去。因此，未來若有相關國際研討會或訓練活動，除了各主管部會指派相關業務同仁參加之外，亦應鼓勵學界一起參與學習，俾建立我國海域劃界事務的人才智庫。

陸、研討會照片



圖 1 本部陳視察杏莉出席會議照片



圖 2 本部張視察則民出席會議照片



圖 3 會議報到情形

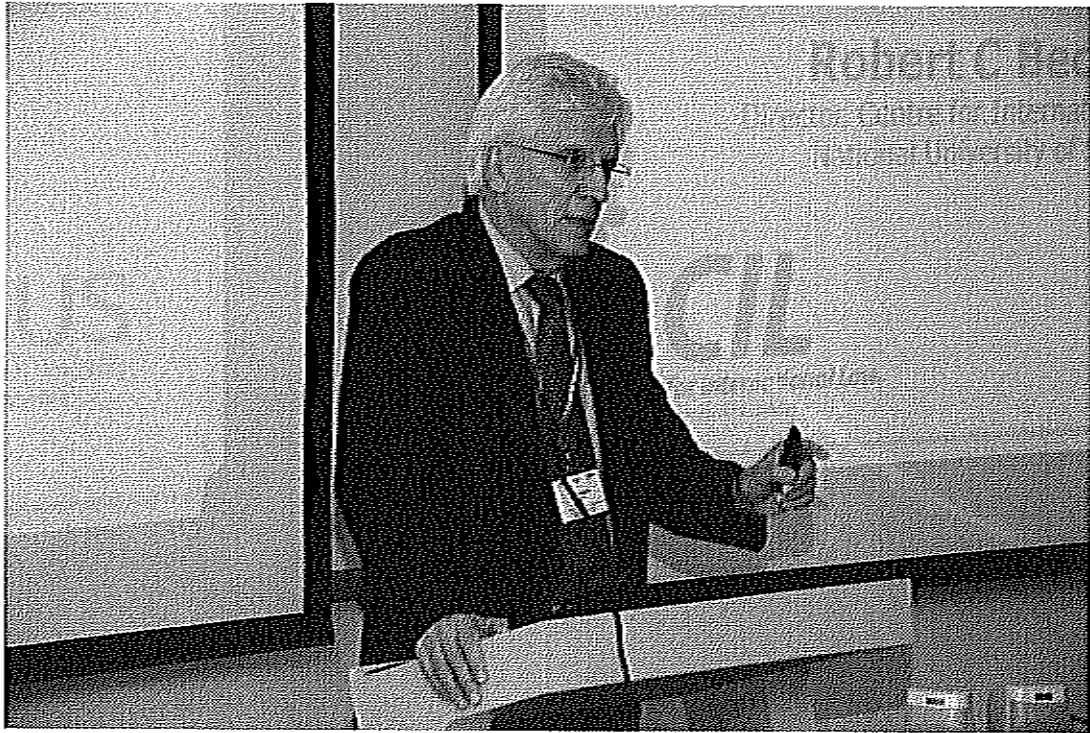


圖 4 新加坡國立大學國際法中心 Professor Robert Beckman 授課照片



圖 5 澳洲臥龍崗大學 Professor Clive Schofield 授課照片



圖 6 英國德倫大學國際邊界研究單位 Professor Martin Pratt 授課照片

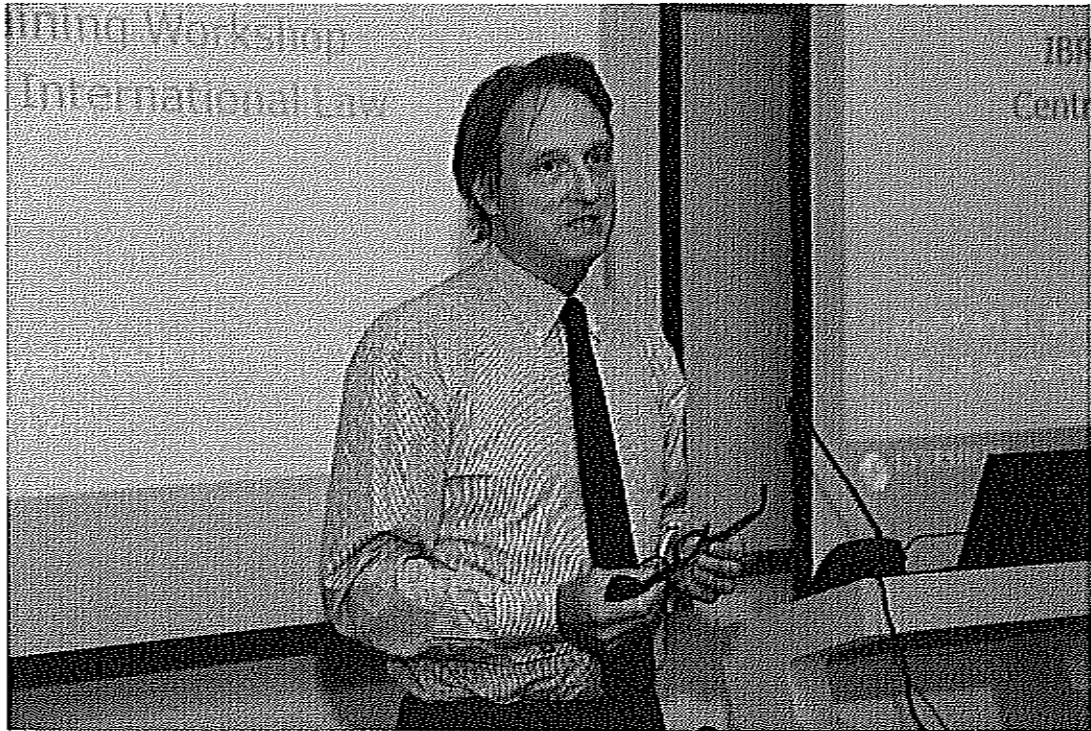


圖 7 Eversheds 律師事務所 Mr Rodman Bundy 授課照片



圖 8 英國水道測量局 Mr John Brown 授課照片



圖 9 會議實景



圖 10 會議期間問題研討情形

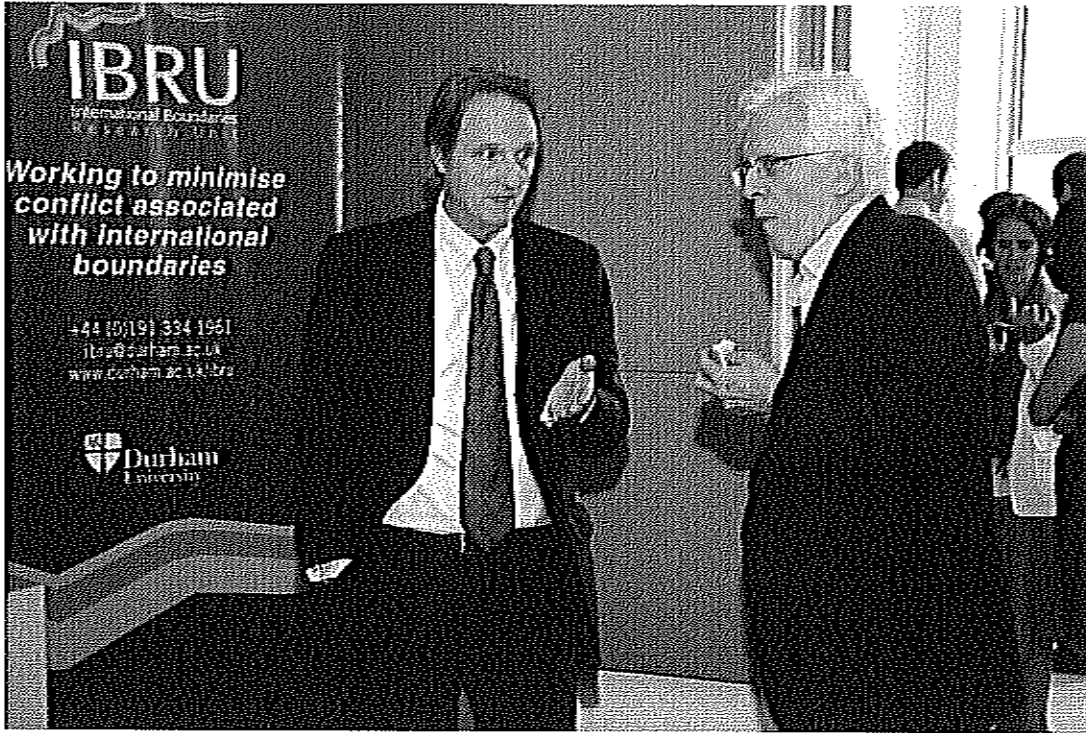


圖 11 與會人員於會議休息時間交流情形

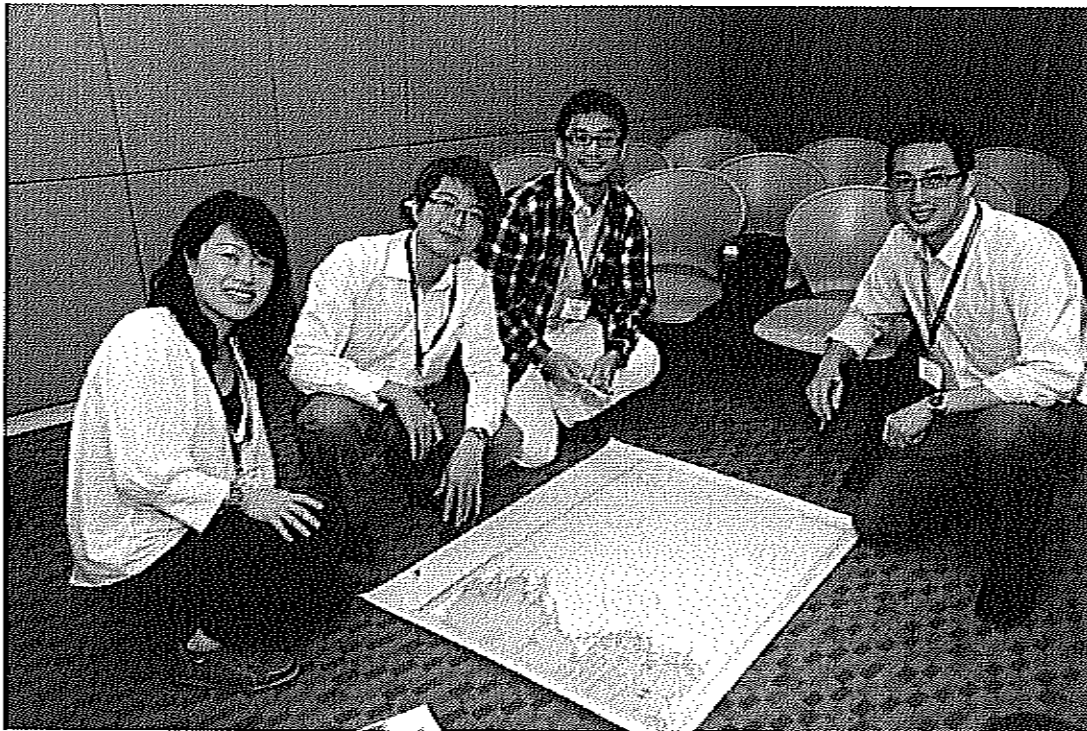


圖 12 領海基點基線討論與繪製實習



圖 13 陳視察（左 2）參與劃界談判分析小組討論

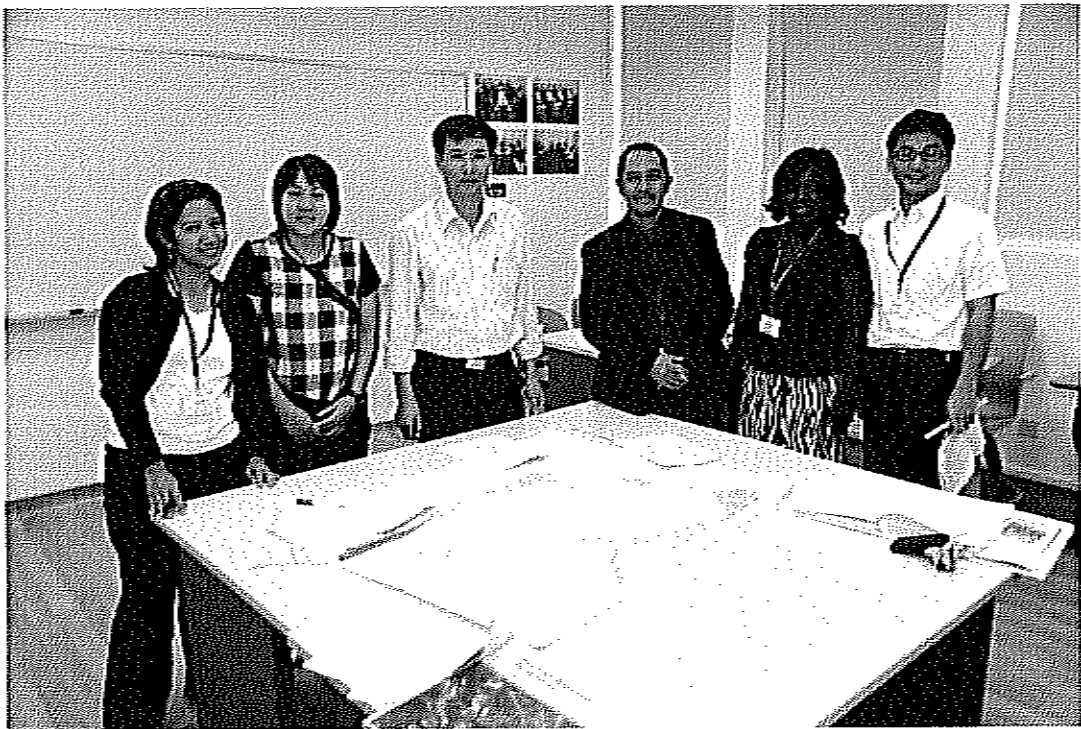


圖 14 張視察（右 1）參與劃界談判分析小組討論



International Boundaries Research Unit Training Workshop No. 49

Maritime Boundary Delimitation

Centre for International Law
National University of Singapore
26-28 September 2012



圖 15 全體與會人員合影

柒、附錄

一、參與人員名單



Maritime Boundary Delimitation

IBRU / CIL training workshop

26-28 September 2012

PARTICIPANTS

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| 19. | Mr Ellis Atiglah , Technical Director, Ghana Boundary Commission | Ghana |
| 20. | Ms Grace Oppong , State Attorney, Ministry of Justice & Attorney General's Department | Ghana |
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37. **Ms Chotka Attapimon**, Second Secretary, Ministry of Foreign Affairs Thailand
38. **Ms Wathit Watanapee Boriban**, Lawyer, PTT Exploration and Production PLC Thailand
39. **Ms Jittma Mantajit**, Petroleum Engineer, The Department of Mineral Fuels, Ministry of Energy Thailand
40. **Ms Warunee Pan-Krajang**, Director of Legal Affairs, Ministry of Foreign Affairs Thailand
41. **Ms Jiratchaya Phontar**, The Department of Mineral Fuels, Ministry of Energy Thailand
42. **Ms Salyann Phudtapitug**, Third Secretary, Ministry of Foreign Affairs Thailand
43. **Mr Thanuth Prompoj**, Coordinator, PTT Exploration and Production PLC Thailand
44. **Mr Saeed Abdullah Al Dhaheiri**, Abu Dhabi Judicial Department UAE
45. **Mr Khaled Al Kuwaiti**, Abu Dhabi Judicial Department UAE
46. **Mr Mazen Tajeddine**, Abu Dhabi Judicial Department UAE
47. **Ms Nicola King**, Legal Officer, Division for Ocean Affairs and Law of the Sea United Nations
48. **Mr Kevin Baumert**, US Department of State, Office of the Legal Advisor for Oceans, Environment and Science USA
49. **Mr Tran Phuong Hoang**, Department of International Law and Treaties Vietnam
50. **Mr Le Duy Tran**, Department of International Law and Treaties Vietnam

二、會議議程



IBRU Training Workshop No. 46
Maritime Boundary Delimitation
26-28 September 2012

Programme

Wednesday 26 September

0815	<i>Bus departs Grand Copthorne Waterfront Hotel</i>	
0830	<i>Arrival at NUS Bukit Timah Campus</i>	
0900-0915	Welcome	Robert Beckman
0900-0945	Introduction <ul style="list-style-type: none">◆ The significance and value of maritime boundaries◆ The global state of play◆ Challenges in maritime boundary delimitation	Martin Pratt
0945-1100	Maritime Jurisdiction: the legal framework <ul style="list-style-type: none">◆ The evolution of the law of the sea◆ The United Nations Convention on the Law of the Sea◆ Customary international law◆ Relevant treaty law	Robert Beckman
1100-1130	<i>Refreshments</i>	
1130-1300	Defining maritime space: baselines & limits <ul style="list-style-type: none">◆ The normal baseline◆ Straight and archipelagic baselines◆ Bays and river mouths◆ Defining and maintaining maritime limits	Clive Schofield
1300-1400	<i>Lunch</i>	
1400-1500	Practical exercise Working in teams, participants will establish appropriate baseline regimes in a variety of coastal settings	Martin Pratt
1500-1530	<i>Refreshments</i>	
1530-1700	Case law on maritime boundary delimitation I <ul style="list-style-type: none">◆ The North Sea continental shelf cases to the Eritrea-Yemen arbitration	Rodman Brady
1730	<i>Bus departs NUS Bukit Timah Campus for Grand Copthorne Waterfront Hotel</i>	
1900	<i>CIL Welcome Dinner on the Grand Copthorne Waterfront Promenade</i>	

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Thursday 27 September

0815	<i>Bus departs Grand Copthorne Waterfront Hotel</i>	
0900-1045	Case law on maritime boundary delimitation II ♦ Qatar v. Bahrain to Bangladesh-Myanmar	Rodman Bundy
1045-1115	<i>Refreshments</i>	
1115-1300	Technical aspects of maritime delimitation ♦ The role of the technical expert ♦ Understanding charts, coordinates and 'straight' lines ♦ Constructing equidistance lines and other potential boundary lines ♦ Geographical tools and data resources for maritime boundary delimitation	John Brown
1300-1400	<i>Lunch</i>	
1400-1700	Practical exercise Working in teams, participants will seek to delimit an equitable and technically robust maritime boundary between two neighbouring states	Martin Pratt
1730	<i>Bus departs NUS Bukit Timah Campus for Grand Copthorne Waterfront Hotel</i>	
1830	<i>Boat departs from Grand Copthorne Waterfront Promenade</i>	
1900	<i>IBRU workshop dinner at the Marina Bay Sands</i>	

Friday 28 September

0815	<i>Bus departs Grand Copthorne Waterfront Hotel</i>	
0900-1000	State practice in maritime boundary delimitation ♦ Innovative approaches to delimitation ♦ Maritime delimitation in the context of territorial disputes ♦ Connection with the land boundary terrainus ♦ Tripoints with third states	Martin Pratt
1000-1100	Options for resolving maritime boundary disputes ♦ Provisional arrangements of a practical nature ♦ Dispute resolution mechanisms under UNCLOS	Tara Daveaport
1100-1130	<i>Refreshments</i>	
1130-1230	Maritime boundary delimitation: lessons from the Asia-Pacific region	Beckman & Schofield
1230-1300	Closing discussion and wrap-up	
1300	<i>Lunch</i>	
1400	<i>Bus departs NUS Bukit Timah Campus for Grand Copthorne Waterfront Hotel</i>	

Baseline determination exercise



Your government has assembled a task force (comprising you and your teammates) to determine the appropriate territorial sea baseline for the section of the western Irish coast depicted on UK Hydrographic Office chart 1125.

Your determination of the baseline must be made in accordance to the provisions of the 1982 United Nations Convention on the Law of the Sea.

In areas where you choose to employ a baseline other than the normal baseline, you should be prepared to justify your choice in the event of a protest from another state!

UNCLOS 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 recognized by the coastal State.

Article 6

Reefs

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.

Article 7

Straight baselines

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.
2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.
3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.
4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except

in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

Article 8

Internal waters

1. Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.

Article 9

Mouths of rivers

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

Article 10

Bays

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

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.

Article 12

Roadsteads

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea.

Article 13

Low-tide elevations

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

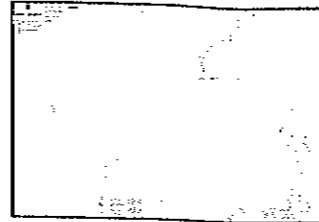
2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 14

Combination of methods for determining baselines

The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.

Maritime delimitation exercise
Tasmania- Victoria maritime boundary



Context

In a parallel universe...

Following the acrimonious 2010 referendum over the retention of the British monarchy, the Commonwealth of Australia dissolved along state lines. Fervently republican Tasmania was the first state to secede on 1 January 2011. Staunchly royalist Victoria reluctantly declared independence in July 2011, but continues to recognise the British monarch as head of state.

Official relations between the two new states have been courteous, but popular feelings are strained. With each country's tabloid press blaming the other for the break-up of the Commonwealth, Prime Minister Prescott of Victoria recently invited Tasmania's President Kaye to a 'goodwill summit' at which a number of initiatives were agreed. Foremost among these was an agreement in principle to delimit the maritime boundary between the two countries, with negotiations commencing immediately. As your government's experts on maritime boundary delimitation, you have been called in to find an equitable solution.

The task

Working in teams representing either Tasmania or Victoria, you should seek to agree a maritime boundary (or boundaries) that produces an equitable division of maritime space between the two countries. If possible you should produce a draft agreement defining the line or lines you have agreed – or at least a list of points of agreement between the parties.

If no agreement is in sight by 1615, you should seek to agree a course of action for resolving any disputes that exist.

Please base your negotiations on the information provided in this briefing document. If you require additional information about relevant issues, please consult Martin Pratt – do not invent facts to suit your country's position! Tutors will circulate among the teams during the afternoon to offer advice and technical assistance.

Feel free to meet with your opposing team as often as you see fit. However, the following timetable may be helpful in planning your afternoon:

1415	Preparation
1500	Negotiation
1520	Preparation
1535	Negotiation
1550	Preparation
1605	Negotiation
1630	Debrief

Roles

It is recommended that each team member be assigned a role as a representative of a particular ministry (e.g. foreign affairs, energy, fisheries, environment, tourism, defence, transport) or a technical expert. Although in real negotiations it is common for there to be a single team leader who speaks for the whole team throughout the negotiations, in order to allow everyone to participate in the exercise as fully as possible, teams may wish to consider allowing different members to speak for the team during each meeting. It is highly recommended that at least one person in each team takes notes during the meetings. The team should also appoint a spokesperson to report on the exercise during the debrief session.

Debrief

At 1630 each pair of teams will be asked to make a five minute presentation on its experience of the negotiation. The following questions should be addressed:

- ◆ What were the key factors in the delimitation?
- ◆ What was your opening position?
- ◆ What arguments did you use to justify your claim?
- ◆ What did you feel represented an equitable solution?
- ◆ Were you able to achieve an agreement? If not, why not?
- ◆ What alternative methods for dispute resolution were explored?

Facts about the two countries

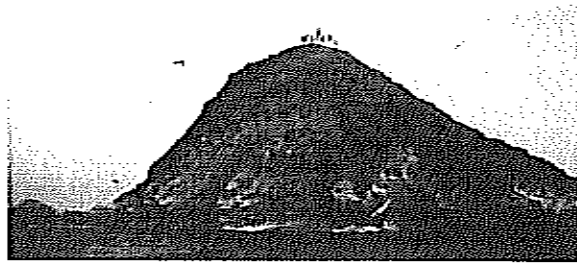
1. The Republic of Tasmania comprises numerous islands, including Tasmania itself, the Hunter Group and the Furneaux Group (including Craggy Island, Beagle Rock and Wright Rock). Although it covers an area of over 68,000 km², it has a population of only 300,000 people, more than half of whom live in the capital, Hobart. Tasmania is a mountainous state, and the majority of its population are either sheep farmers or fishermen. It has few natural resources and relies primarily on hydro-electric power.
2. Victoria covers nearly 230,000 km² and has approximately 1,200 km of coastline. In addition to its mainland territory, Victoria has sovereignty over King Island, the Curtis, Hogan and Kent Groups, and Bass Pyramid. It has a population of 4.5 million, around 3 million of whom live in and around Melbourne, which is its capital, principal port and an important transport hub. Compared to Tasmania, Victoria is a prosperous state, with abundant forestry resources and a highly-productive series of oilfields in the northeast Bass Strait. It is also home to a large naval base in Corner Inlet.
3. Victoria recently ratified the United Nations Convention on the Law of the Sea (UNCLOS) and claims a 12 nautical mile (nm) territorial sea, a 12 nm contiguous zone and an EEZ out to 200 nm. It has yet to publish details of the limits of these zones. Tasmania has yet to ratify UNCLOS or enact its own maritime legislation. However, it has indicated that it plans ratify the Convention and define maritime zones in conformity with its provisions.

The territorial sea and contiguous zone limits depicted on UKHO chart AUS487 are those defined by Australia prior to the independence of Tasmania and Victoria and should not be considered as a definitive depiction of the maritime limits of either of the two new states.

4. Of the numerous small islands in the Bass Strait between Flinders Island and Wilson's Promontory, only Deal Island in the Kent Group is inhabited. Deal Island is home to a small community of fishermen who have fished the waters around the Furneaux Group for over a century. In recent weeks the Deal Islanders have threatened to blockade the shipping lanes south of Wilson's Promontory – and even secede to Tasmania – if they are denied access to their traditional fishing grounds.
5. The Curtis islands are a breeding ground for the Australian fur seal and were declared a protected reserve by the Victorian state government in 1975.
6. In the run-up to the boundary negotiations the energy minister of Tasmania publicly stated that he believed that the Yolla A gas well in the central Bass Strait (39° 41' S, 145° 48' E) is located on the continental shelf of Tasmania rather than Victoria. The well was developed before the breakup of Australia and the provincial government of Tasmania fought a long but ultimately unsuccessful campaign to have the pipeline from the well feed Tasmania rather than Victoria.
7. Bass Pyramid (39° 49' S, 147° 15' E) is a tiny rocky outcrop, above water at high tide but almost completely devoid of vegetation. It is shown overleaf, along with South West Island (39° 31' S, 147° 7' E) for comparative purposes.



Bass Pyramid



South West Island

FOR TRAINING PURPOSES ONLY



AUS 487

