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Introducing International Maritime Boundaries and Indonesia's Current Boundary Issues




I Made Andi Arsana
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Introducing International Maritime Boundaries and Indonesia's Current Boundary Issues

my institution...

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Introducing International Maritime Boundaries and Indonesia's Current Boundary Issues

Outline

- Negara Kepulauan Indonesia
 - Lokasi
 - Pulau-pulau kecil
 - Indonesia dan 10 tetangga
- Evolusi klaim maritim Indonesia
- Perkembangan Hukum Laut Internasional
- UNCLOS 1982
- Prinsip Delimitasi Batas Maritim
- Metode Delimitasi Batas Maritim
- Batas Maritim Indonesia
 - Yang sudah terselesaikan
 - Yang belum terselesaikan
- Kasus terkait Batas Maritim di Nusantara
 - Sipadan dan Ligitan
 - Blok Ambalat (opini)
 - JPDA di Laut Timor
- Pengalaman penelitian aspek teknis/geodetis hukum laut

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Indonesia, the Archipelago...



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Small islands

Indonesia's Small Islands




Taken from: http://www.faridjuniar.web.ugm.ac.id/tampil_peta.htm

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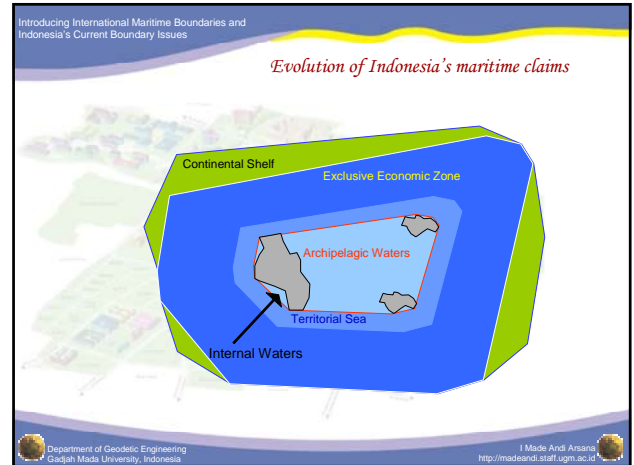
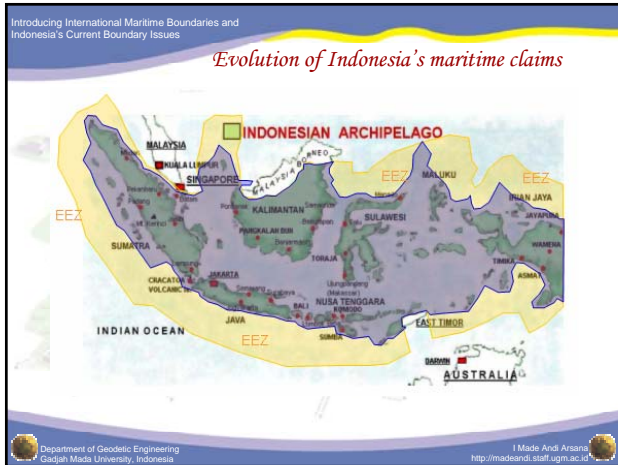
Indonesia and its neighbors



Not to scale, for illustrative purposes only

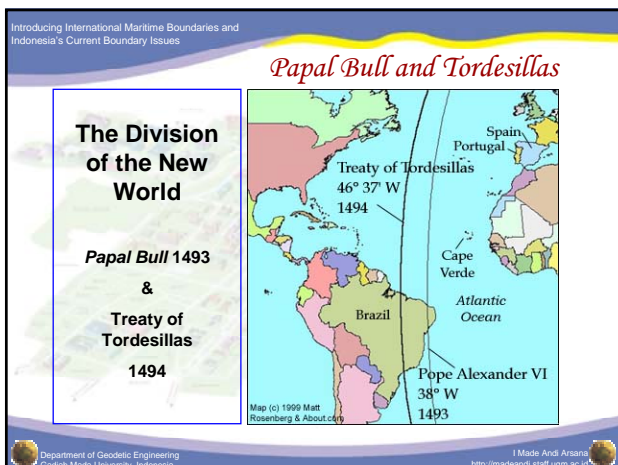
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- ### Development of the international LOS
- 18th-19th century *Laissez-faire* beyond belt of coastal seas, free!!!
 - Dominant European power → maintaining communication with their colonies
 - The use of the sea → navigation and fishing (*dipikir ikan gak akan abis*)
 - Second half of 20th century
 - Emergence of two superpowers USA and USSR
 - Independence and autonomy of developing countries
 - Multi uses of the seas due to technology and increase of needs → conflicts as the consequences
 - Consciousness of exhaustibility of marine resources → conservation
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- ### Historical Background
- #### Three Distinct Periods
- Period 1: 14th Century-15th Century
 - Period 2: 15th - 19th Century
 - Period 3: 19th Century to Present
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- ### Phase 2: 15th - 19th Century
- #### Role of the Dutch and British
- Establishment of the Dutch East Indian Company
 - Conflict between the Dutch and the Portuguese
 - Conflict between the Dutch and the British
- State sovereignty versus Freedoms of the seas – *Mare Clausum* vs. *Mare Liberum*
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3rd Period : 19th Century to Present

- Four Major attempts to codify the customary rules of law relating to the oceans.
- Rationale for codification
 - Complexity of rules
 - Increased number of States
 - Increased disputation

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1. Hague Codification Conference 1930

- Objectives
 - to codify the rules relating to the territorial sea:
 - The extent of the territorial sea.
 - The jurisdiction of the littoral or coastal State over the territorial sea.
- Disagreement among States over breadth of territorial sea

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2. First Law of the Sea Conference (UNCLOS I - 1958)

- Resulted in four conventions,
 - The Convention on the Territorial Sea and the Contiguous Zone 1958
 - The Convention on the High Seas 1958
 - The Convention on the Continental Shelf 1958
 - Convention on Fishing and Conservation of the Living Resources of the High Seas 1958
- Disagreement on breadth of the territorial sea

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3. Second Law of the Sea Conference (UNCLOS II - 1960)

- Convened to discuss two unresolved issues from the 1958 Conference.
 - The limits of the territorial sea.
 - Fisheries limits.
- 6+6 formulae – close to success but,
- Failed to resolve issues

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4. Third Law of the Sea Conference (UNCLOS III)

- Lasted from 1973 to 1982
- Resulted in the Law of the Sea Convention (LOSC) 1982
- Indonesia and Indonesians were active participants and contributors (especially in promoting the archipelagic concept)

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UNCLOS 1982

Baseline

Territorial Sea

Contiguous Zone

Continental Shelf beyond 200 nm

Exclusive Economic Zone

High Seas

Continental Shelf legal

Maritime Jurisdictions - LOSC

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Type of baseline

According to UNCLOS '82

- Normal (Art. 5)
- Reefs (Art. 6)
- Straight (Art. 7)
- Mouths of rivers (Art. 9)
- Bays (Art. 10)
- Ports and roadstead (Art. 11 and 12)
- Combination of methods
- Archipelagic (Art. 47)

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Defining a Juridical Bay (UNCLOS III)

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Combined Baselines

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Indonesian archipelagic baseline

- PP 38/2002

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Indonesian archipelagic baseline

- Some problems
 - Not yet a closed system
 - Sipadan and Ligitan are still considered as basepoints
 - Baselines around Timor Island

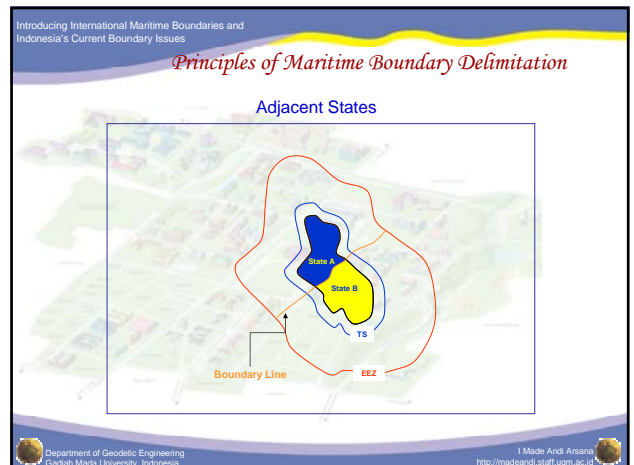
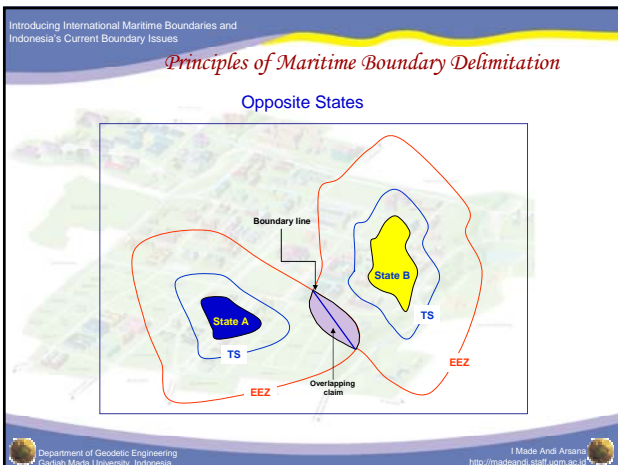
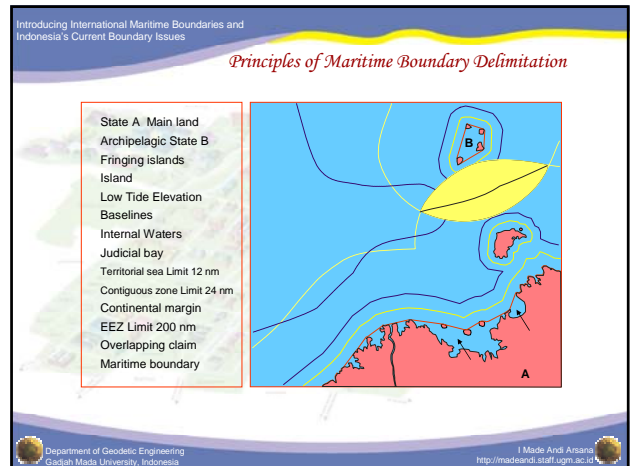
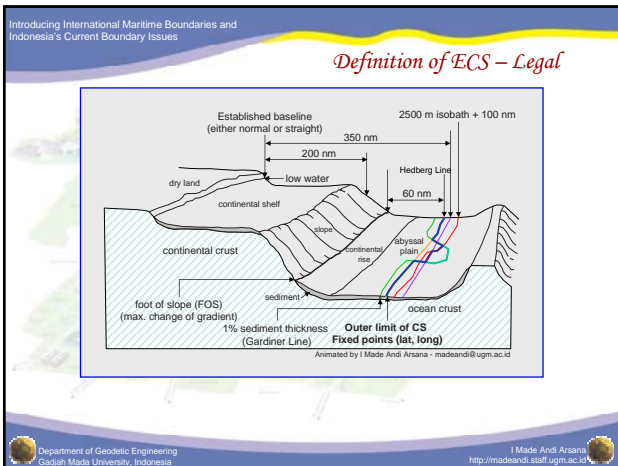
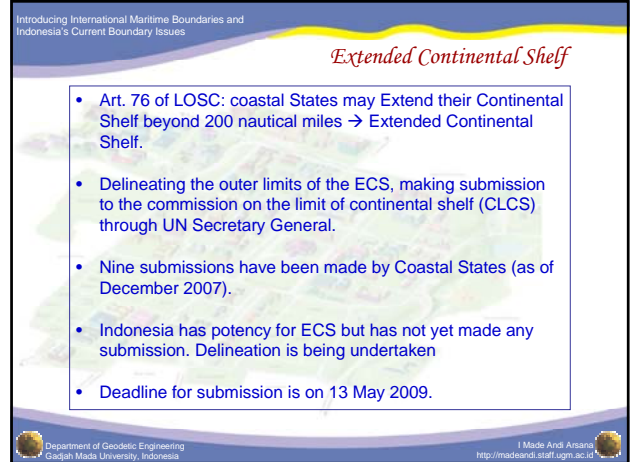
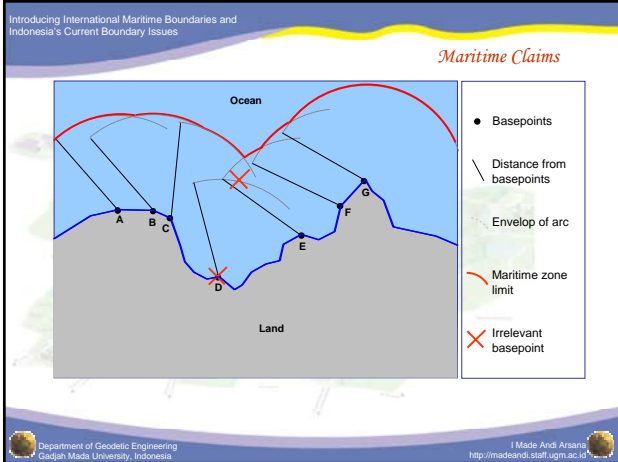
- Revision is being undertaken

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Indonesian archipelagic sea lanes

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Methods of Maritime Boundary Delimitation

- Equidistance line (equitable)

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Methods of Maritime Boundary Delimitation

Equidistance line construction

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Equidistance Line

<https://www.crmoc.navy.mil/nmosw/legal/los/Delimi2000.ppt>

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Methods of Maritime Boundary Delimitation

- Equidistance line

Legend:

- Strict Equidistance Line
- Simplified Equidistance Line
- Midfield Equidistance Line

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Methods of Maritime Boundary Delimitation

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Methods of Maritime Boundary Delimitation

- Parallels and meridians

France-Monaco Agreement of 16 February 1984 and the Dominica-France agreement of 5 May 1987.

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Methods of Maritime Boundary Delimitation

- Perpendicular to general direction of the coast

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Enclaving

- When a coastal state has an island on the "wrong" side of a median line between mainland coasts, separated from the offshore zone of the mainland.

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Other Methods of Delimitation

- Thalweg
- Natural Prolongation

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The two-stage approach

- Baseline definition
- Robust Equidistance line
- Final Boundary line

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Indonesia's maritime boundaries

PETA NEGARA KESATUAN REPUBLIK INDONESIA

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Cases: Sipadan and Ligitan

- **treaty-based title**
- **Chain of title**
 - Bulungan sultanate
 - Sulu Sultanate
- **Effectivités**
 - Lighthouse construction
 - Turtle egg regulation
 - Environmental management
- **ICJ's decision**

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Cases: Ambalat Block

- Overlaps in oil concession blocks
- Sovereignty or sovereign rights?
- Lack of comprehensive understanding
- Does Ambalat belong to Indonesia or Malaysia?

TUMPANG TINDIH LAHAN MINYAK

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Cases: JPDA

1971-1972 Seabed Boundary (Indonesia-Australia) → Timor gap
 1976 → East Timor integration to Indonesia (or annexation?)
 1989 → Timor Gap Treaty (Joint Cooperation Zones (A, B, C)
 Timor gap unresolved
 1997 ZEE agreement (Indonesia-Australia)
 1999 → East Timor independence
 Timor Gap → East Timor and Australia
 2002 Timor Sea Treaty → pending maritime boundary delimitation and the establishment of JPDA
 2006 CMATS signed
 No maritime boundary was agreed
 Potential maritime boundaries (Indonesia and East Timor)

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Concluding remarks

- There are a lot of things to learn and do
- Let's discuss 'anything'
- Drop me a line: email is faster than sms ☺
- Satisfied? I hope not!
- Thanks to:
 - Teknik Geodesi UGM
 - Teknik Geodesi UNDIP
- Jalesveva jaya mahe!
- *Nenek moyangku orang pelaut...*

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Thank you ☺

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