

MARITIME DELIMITATION IN THE ADRIATIC SEA

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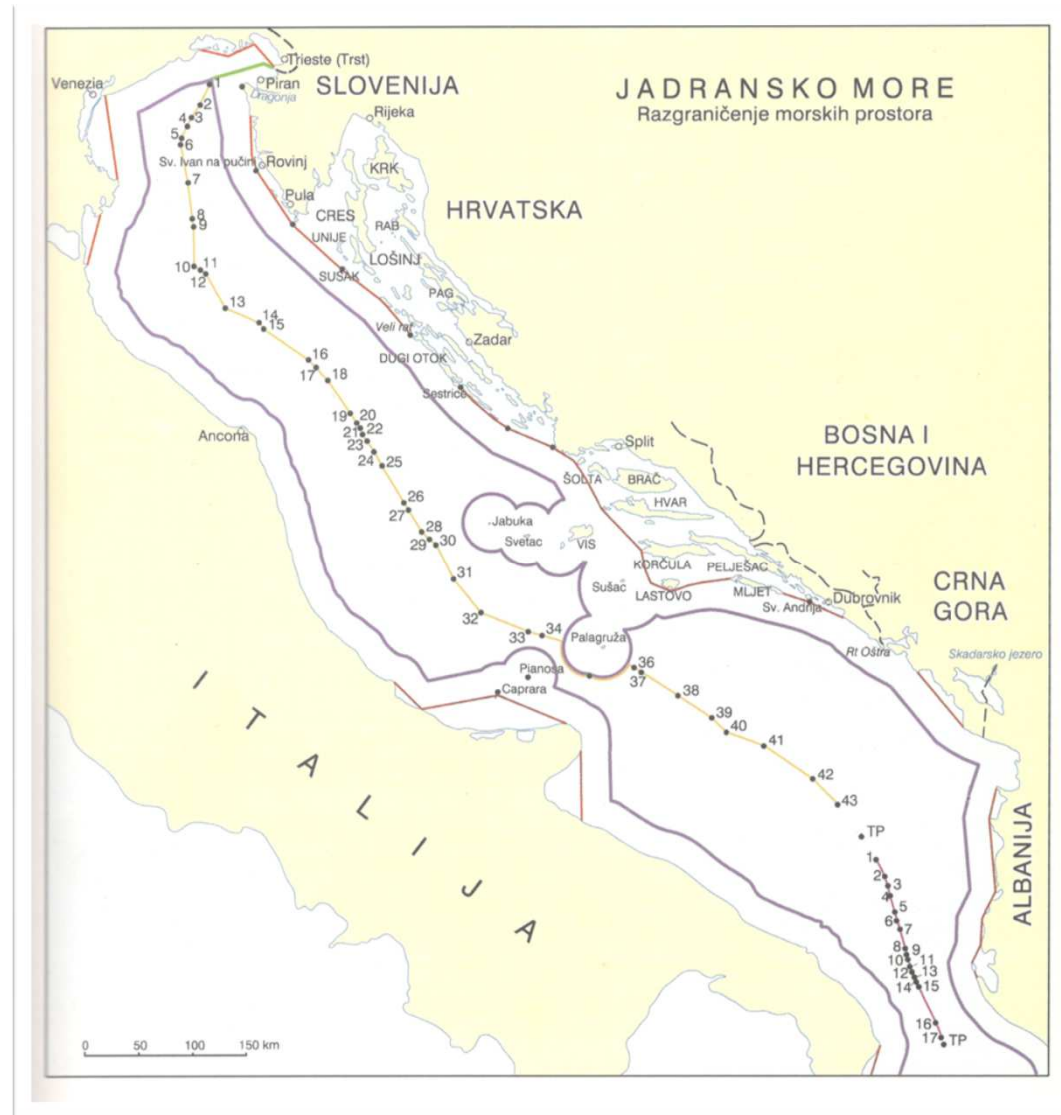


SEMINARI DI DIRITTO E GEOPOLITICA DEGLI SPAZI MARITTIMI

Italy–Yugoslavia treaties that remain in force

- *Agreement between Italy and Yugoslavia concerning the Delimitation of the Continental Shelf in the Adriatic Sea (1968)* ⇒ coordinates for points 1-41 technically corrected by 2005 agreement between Italy and Croatia
 - *Treaty concerning some open issues in connection with the Peace Treaty of 10 February 1947 (1975; known as Osimo Treaty)* ⇒ settled delimitation of territorial seas in the Gulf of Trieste
- as localised treaties they remain in force between Italy and successor states of SFRY

Maritime boundaries in the Adriatic



Source: V. Ibler, *Međunarodno pravo mora i Hrvatska*, 2001, 227

Maritime Boundary in the Gulf of Trieste



Source: V. Ibler, *Međunarodno pravo mora i Hrvatska*, 2001, 229

**Croatia – Slovenia
maritime boundary dispute**

Slovenia's 1993 Memorandum on the Bay of Piran:

- “The Republic of Slovenia is committed to maintaining the integrity of the Bay of Piran under its sovereignty and jurisdiction and the exit to the high seas [...].”
- “The Republic of Slovenia is of the view that the Bay of Piran is a case *sui generis*, demanding that exclusively historic title and other special circumstances be considered, and decisively rejects the median line criterion [...].”

2009 Arbitration Agreement between Croatia and Slovenia – Articles 3 and 4

Article 3 - TASK OF THE ARBITRAL TRIBUNAL

(1) The Arbitral Tribunal shall determine

- (a) the course of the **maritime and land boundary** between the Republic of Croatia and the Republic of Slovenia;
- (b) Slovenia's **junction** to the High Sea;
- (c) the **regime for the use** of the relevant maritime areas.

(...)

Article 4 - APPLICABLE LAW

The Arbitral Tribunal shall apply

- (a) the rules and principles of international law for the determinations referred to in Article 3(1)(a);
- (b) international law, equity and the principle of good neighbourly relations in order to achieve a fair and just result by taking into account all relevant circumstances for the determinations referred to in Article 3(1)(b) and (c).

Arbitration – final claims at the end of oral proceedings (June 2014)

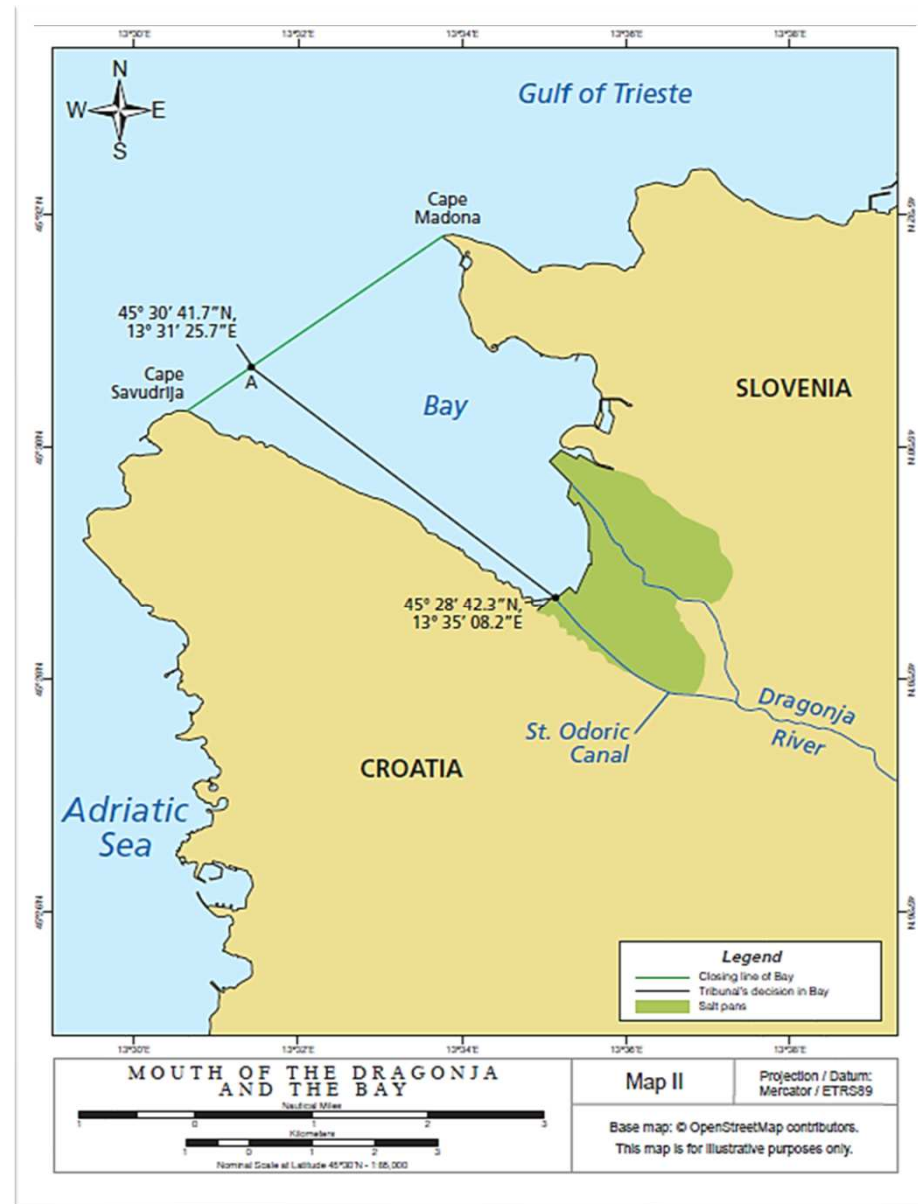
- SLOVENIA

- entire Bay of Piran as Slovenia's internal waters
- „junction” as direct territorial contact between territorial sea and the high seas
- a 12 nautical-mile territorial sea and an area of continental shelf starting at „Slovenia's junction to the High Sea”

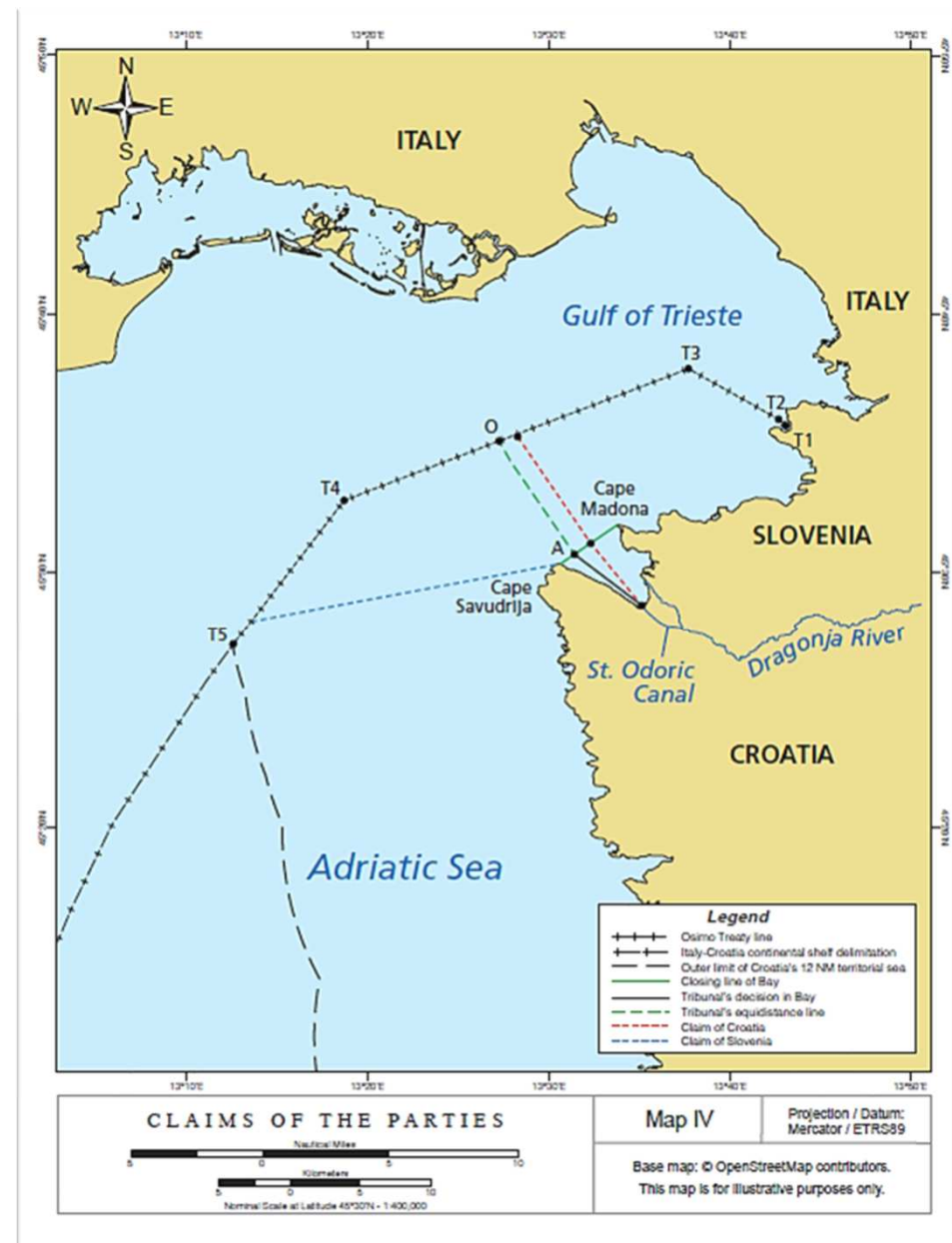
- CROATIA

- application of the median line within and outside the Bay of Savudrija/Piran
- no special circumstances exist that warrant departure from equidistance line
- „junction” as maritime access and communications based on regime of innocent passage through straits

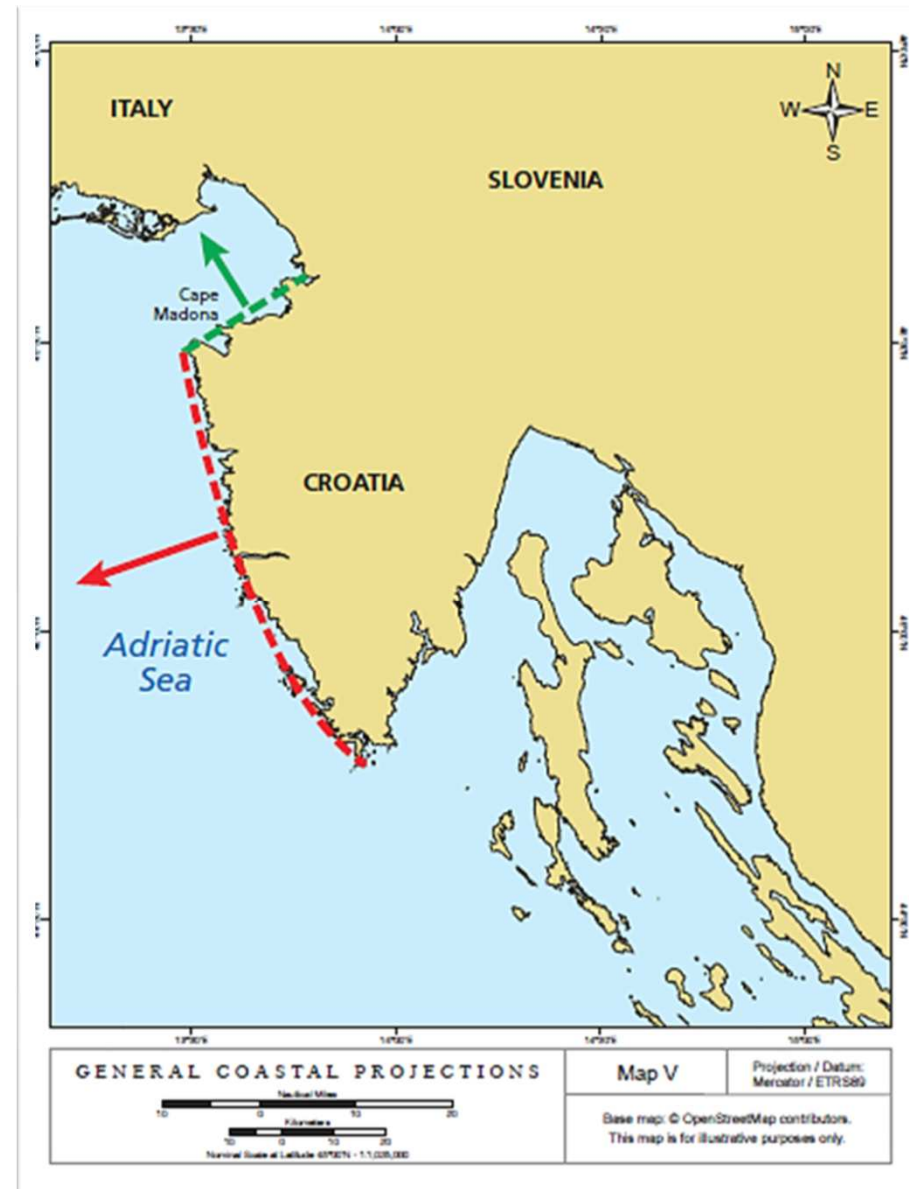
2017 Arbitral Award – boundary in Piran Bay



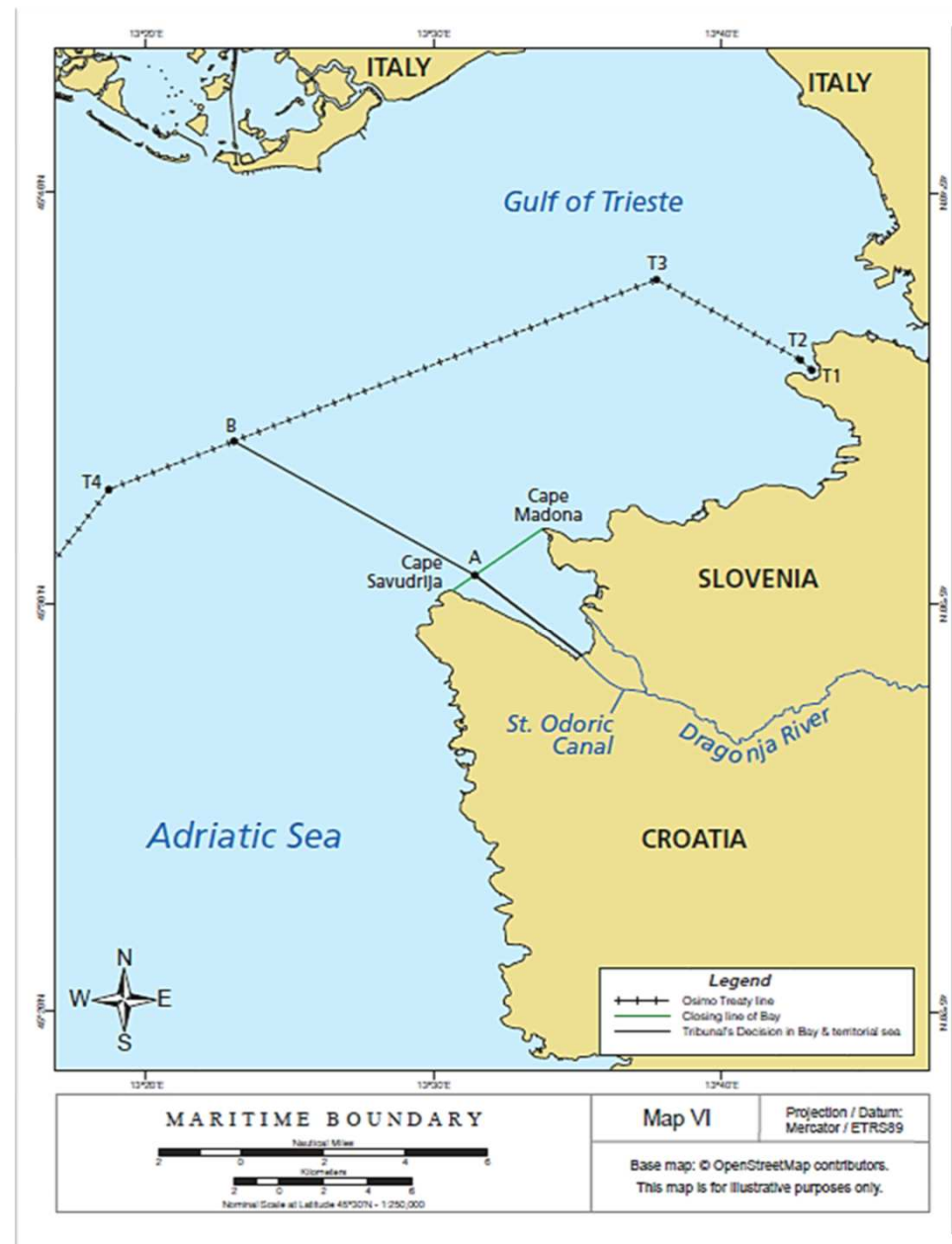
2017 Arbitral Award – claims/ Tribunal's equidistance



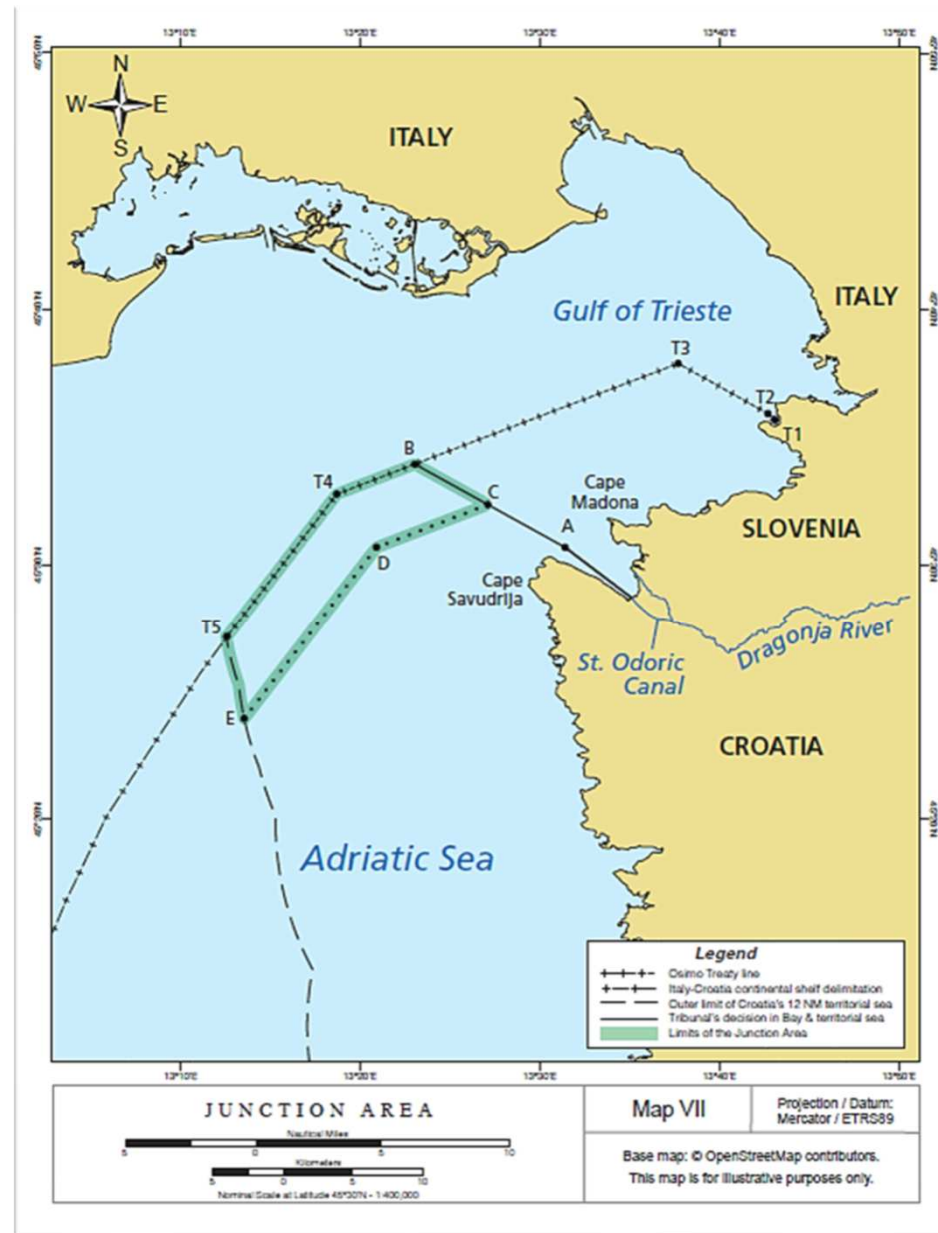
2017 Arbitral Award – general coastal projections



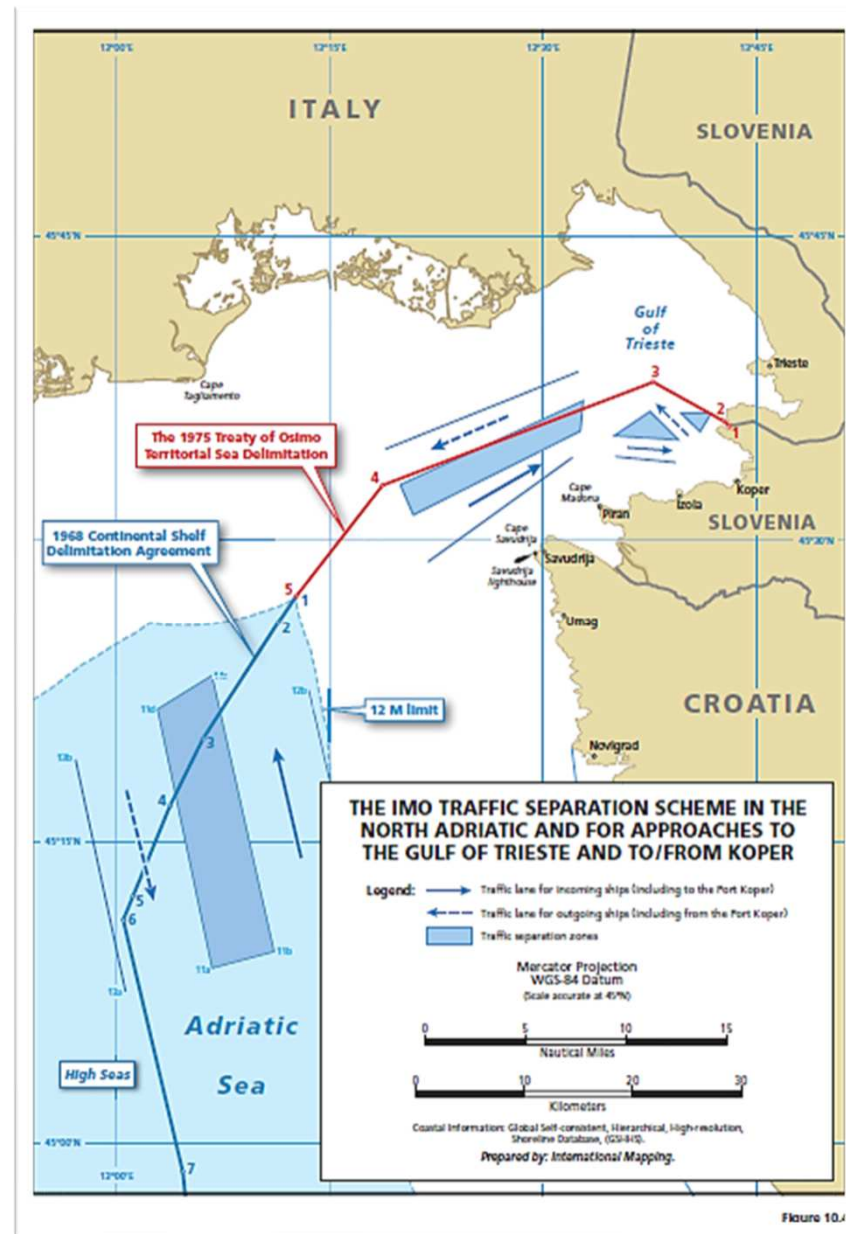
2017 Arbitral Award – maritime boundary



2017 Arbitral Award – junction area



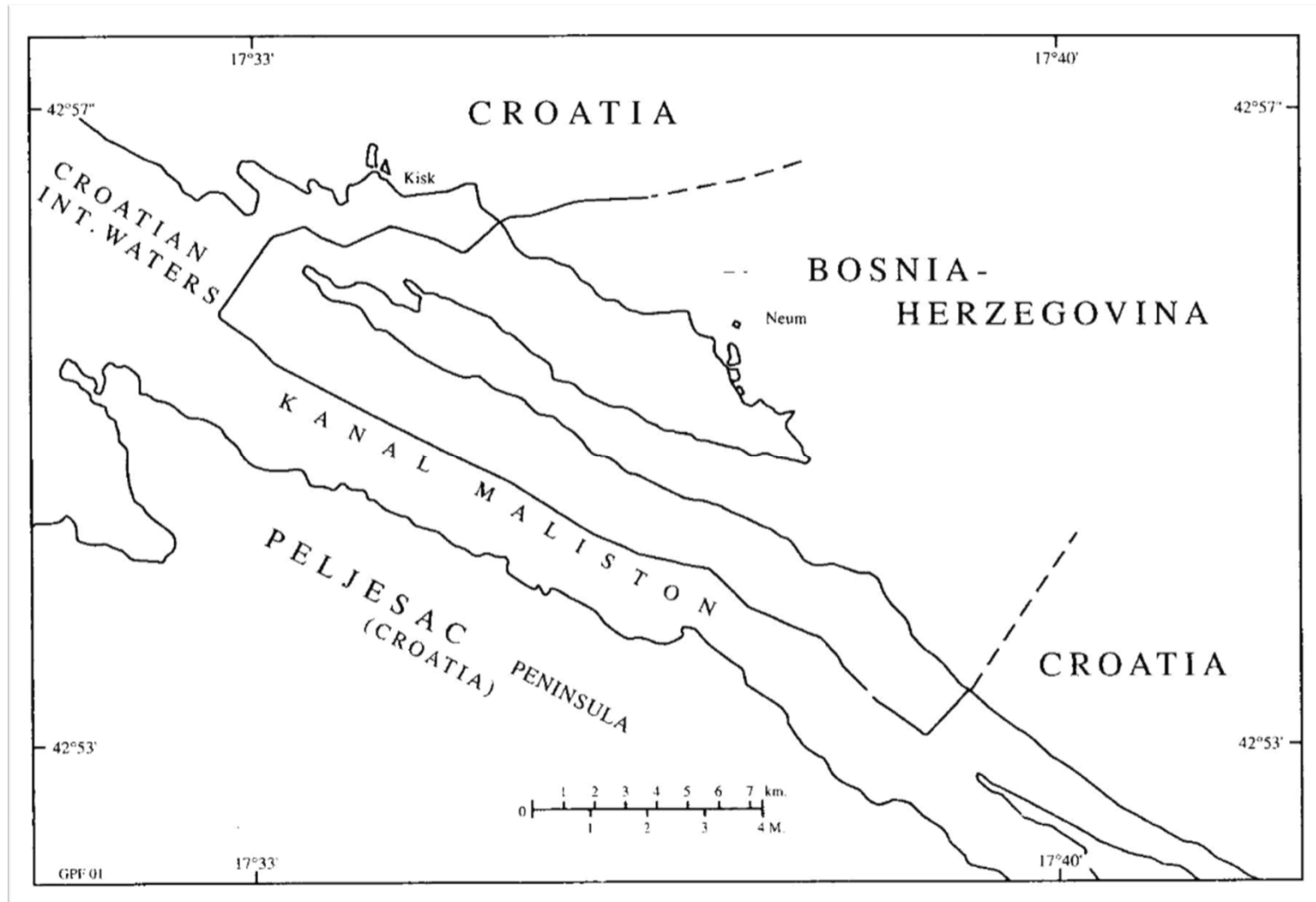
Traffic separation scheme in the North Adriatic



Croatia – Bosnia and Herzegovina

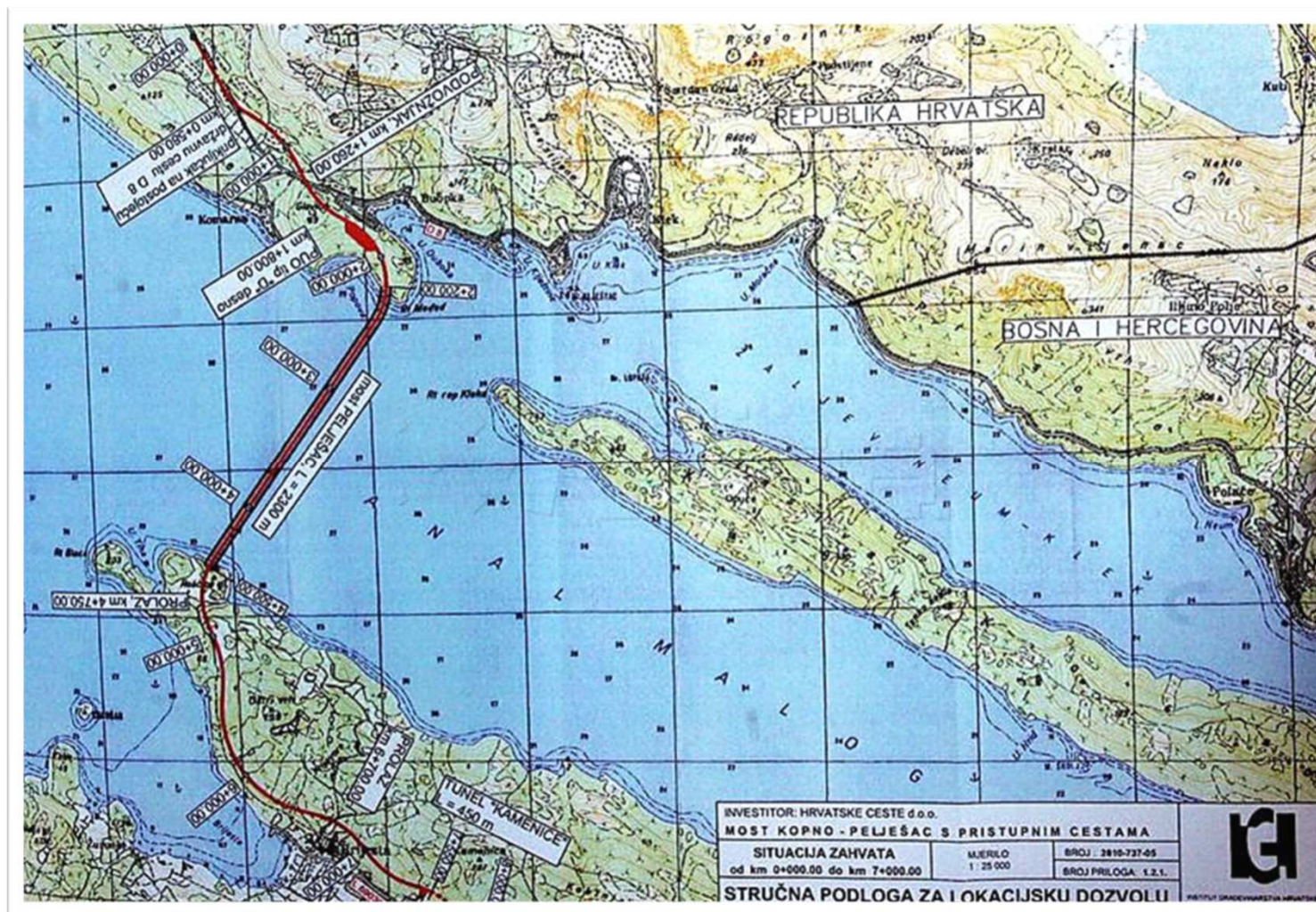
- *Treaty on the State Border (1999)*
 - concerns land and maritime boundaries
 - not ratified
 - provisionally applied since date of signature

1999 HR-BIH Border Treaty



Source: B. Vukas, in: R. Lagoni, D. Vignes (eds), *Maritime Delimitation*, 2006, 220

Pelješac Bridge route



Pelješac Bridge – current status of works



Pelješac Bridge – visualisation



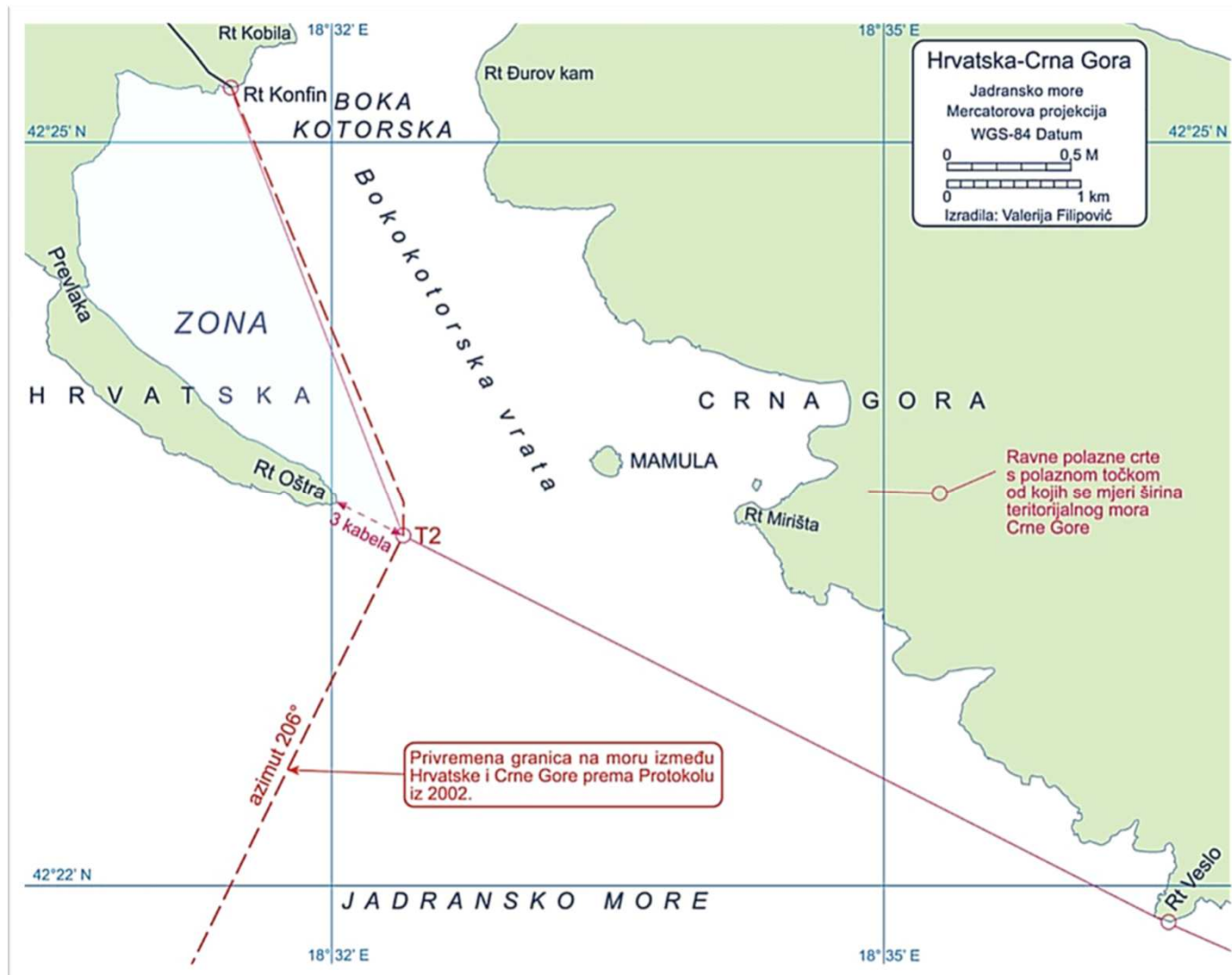
View over Neum-Klek Bay



Croatia – Montenegro

- *Protocol between the Government of the Republic of Croatia and the Federal Government of the Federal Republic of Yugoslavia (i.e., Serbia and Montenegro) on the Interim Regime along the Southern Border between the Two States (2002)*
 - concerns land and maritime boundaries
 - not ratified
 - provisionally applied since date of signature
 - remains applicable between Croatia and Montenegro based on state succession

2002 HR-FRY Protocol on Interim Regime

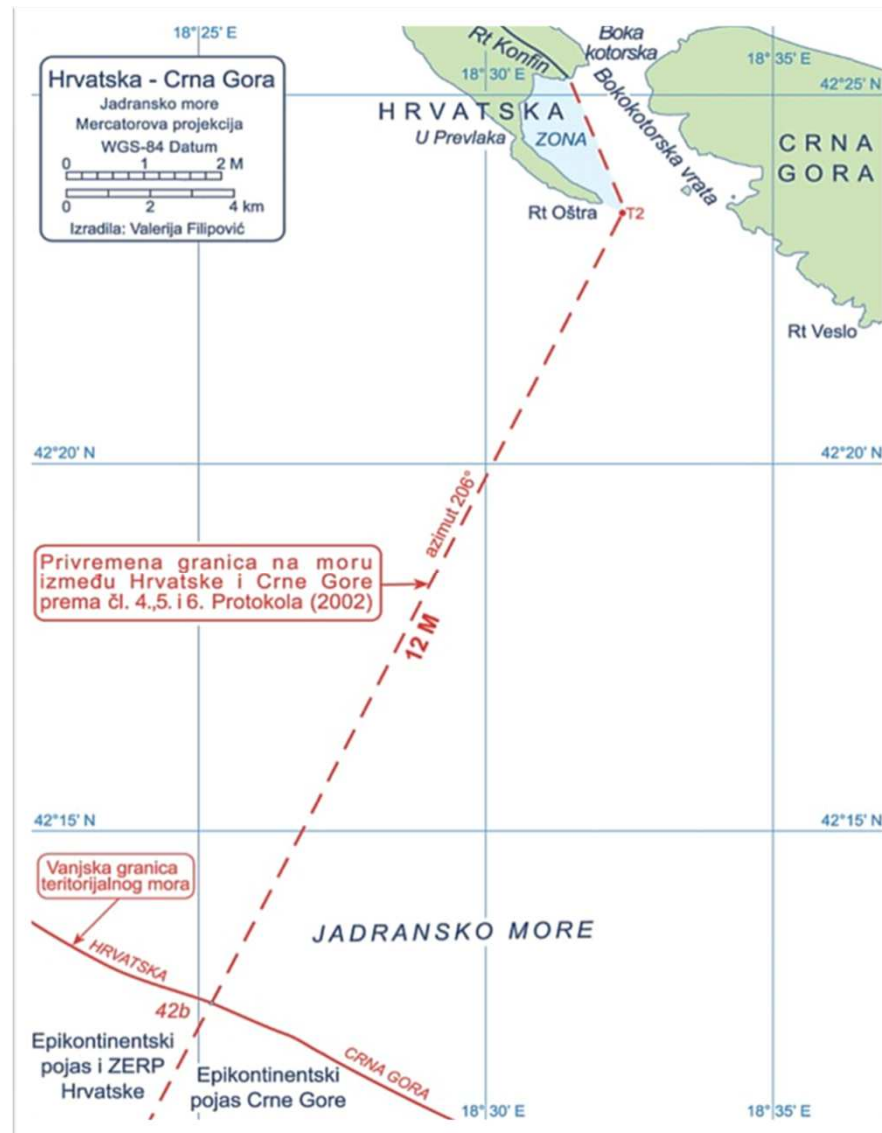


Source: V. Barić Punda, V. Filipović, in: Pomorsko poredbeno pravo, 54(2015), 74

View over „Zone” area

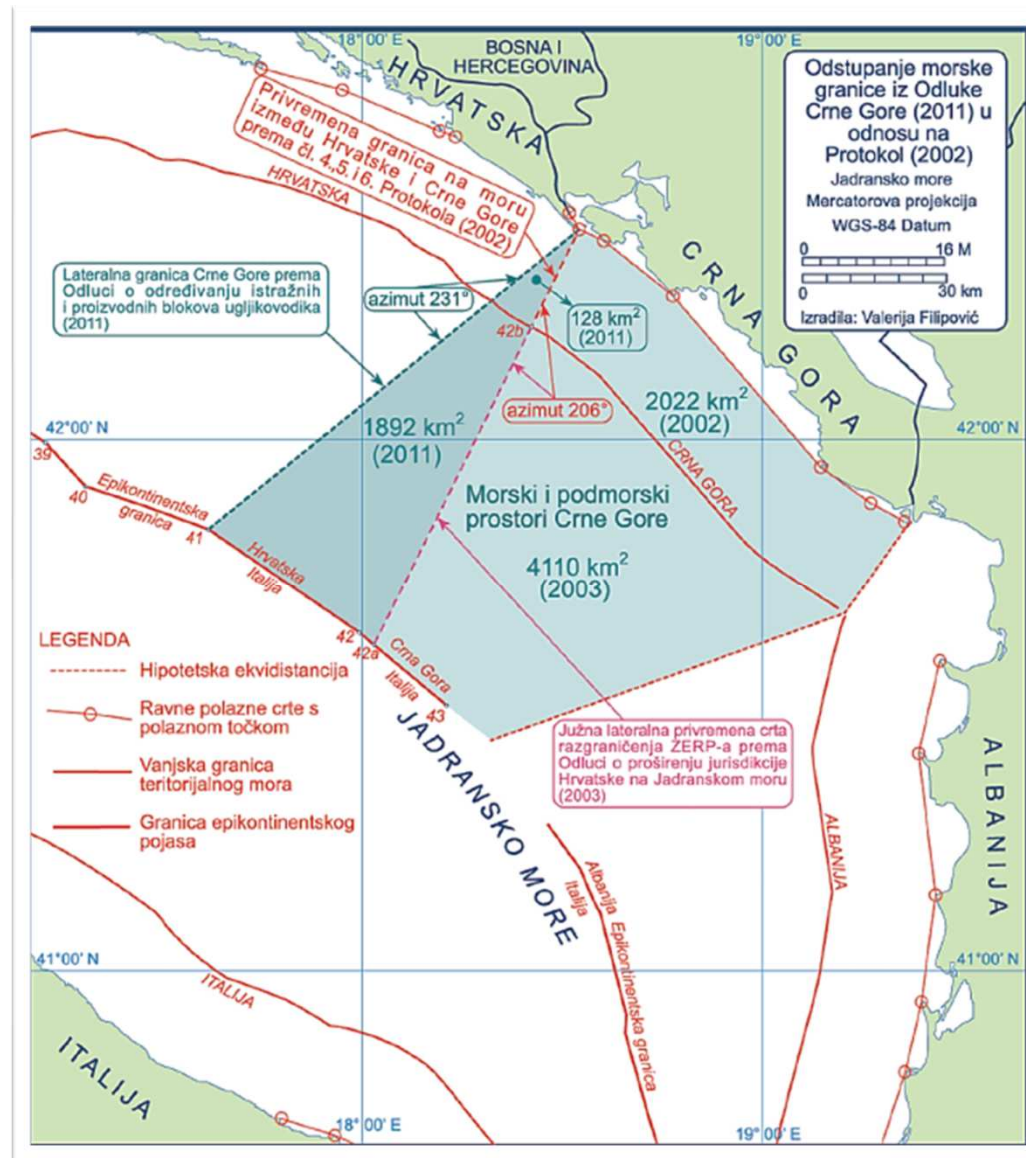


2002 HR-FRY Protocol on Interim Regime



Source: V. Barić Punda, V. Filipović, in: Pomorsko poredbeno pravo, 54(2015), 75

HR-MNE disputed continental shelf area



Source: V. Barić Punda, V. Filipović, in: Pomorsko poredbeno pravo, 54(2015), 80

Territorial sea:

- Article 15 LOSC:

“Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing **agreement** between them to the contrary, to extend its territorial sea beyond the **median line** every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of **historic title** or other **special circumstances** to delimit the territorial seas of the two States in a way which is at variance therewith.”

Territorial sea (2):

- In case of a TS delimitation between States with opposite or adjacent coasts \Rightarrow Art. 15 LOSC points to **agreement**.
- In absence of an agreement:
 - Neither of the two States is entitled to extend its TS beyond the **median line**.
 - This provision does not apply where it is necessary by reason of **historic title** or other **special circumstances** to delimit the territorial seas in a different manner.

Continental shelf/ EEZ:

1982 Law of the Sea Convention:

- “The delimitation of the continental shelf [exclusive economic zone] between States with opposite or adjacent coasts shall be effected **by agreement on the basis of international law**, as referred to in Article 38 of the Statute of the International Court of Justice, **in order to achieve an equitable solution.**” (Art. 83(1) [74(1)])

Continental shelf/EEZ (2):

Three-stage test (as established in the case law, primarily by the ICJ):

- 1st stage: construction of provisional equidistance line.
- 2nd stage: assessment of relevant circumstances (concavity of coast, etc.) that require adjustment of the equidistance line \Rightarrow if necessary, adjustment that produces equitable result.
- 3rd stage: check if the boundary line, as adjusted, results in disproportion between the ratio of the respective coastal lengths and the relevant maritime areas allocated to the parties in dispute („disproportionality test”).

States bordering the Adriatic Sea

