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**The Maritime Boundaries of the
Adriatic Sea**

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The Maritime Boundaries of the Adriatic Sea

by

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Preface

The inspiration for this study arose from Gerald Blake's participation in a symposium held at the University of Zagreb in September 1993 with the title *Croatia: A New European State*. Consultations with colleagues Mladen Klemenčić and Duško Topalović at the Lexicographic Institute in Zagreb led to a series of fruitful exchange visits between staff of the International Boundaries Research Unit (IBRU) in Durham and the Lexicographic Institute. This *Briefing* was drafted during Mr Topalović's time in Durham as a Visiting Fellow of IBRU in 1995. The visit was generously funded by the British Council and the Croatian Ministry of Science as part of the Academic Links and Interchange Scheme (ALIS) and their support is gladly acknowledged with gratitude. Other publications resulting from our collaboration are shown under Schofield and Klemenčić in the bibliography. The benefits of our collaboration have been considerable and we intend to keep it going.

Clive Schofield edited this *Briefing* with his usual thoroughness and eye for detail. He was also largely responsible for writing the valuable early section (Sections 1-4) on the law of the sea in the Adriatic. He also assembled the documents included in the Appendix. Thanks are also due to Dr Clive Symmons of Trinity College, Dublin, and Professor Colin Warbrick, University of Durham, for their very helpful comments on legal aspects of this paper and the former for also supplying the photograph for Figure 22. We hope that between us we have presented an accurate and objective view of some complex political issues. If any readers from Adriatic States feel we have not given a fair view, we apologise to them. We would of course welcome their constructive comments.

Arthur Corner and his staff at the Cartographic Unit in the Department of Geography at Durham University drew the maps, and we appreciate their help.

Gerald H. Blake

Duško Topalović

The opinions contained herein are those of the authors and are not to be construed as those of IBRU.

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The Maritime Boundaries of the Adriatic Sea

Gerald H. Blake and Duško Topalović

1. Introduction

The disintegration of Yugoslavia has led to a proliferation in the number of Adriatic littoral states and thus a sharp increase in the number of potential maritime boundaries and, almost inevitably, maritime boundary disputes.

The aim of this *Briefing* is to provide an overview of the maritime boundary agreements and outstanding claims of the Adriatic states. Particular attention will be paid to the consequences arising from the emergence of four Adriatic states, Croatia, Yugoslavia (Serbia/Montenegro)¹, Slovenia and Bosnia-Herzegovina, where up to the 1990s there had been but one, the Socialist Federal Republic of Yugoslavia (SFRY). Croatia, which inherited the lion's share of former-Yugoslavia's coastline, is involved in most of the new maritime boundaries which have yet to be delimited – Croatia-Slovenia, Croatia-Bosnia and Croatia-Yugoslavia (Serbia/Montenegro). The other Adriatic states under consideration here are Albania and Italy. Figure 1 provides an overview of those maritime boundaries which have been agreed upon and those which remain unresolved in the Adriatic Sea.

2. The Adriatic Sea

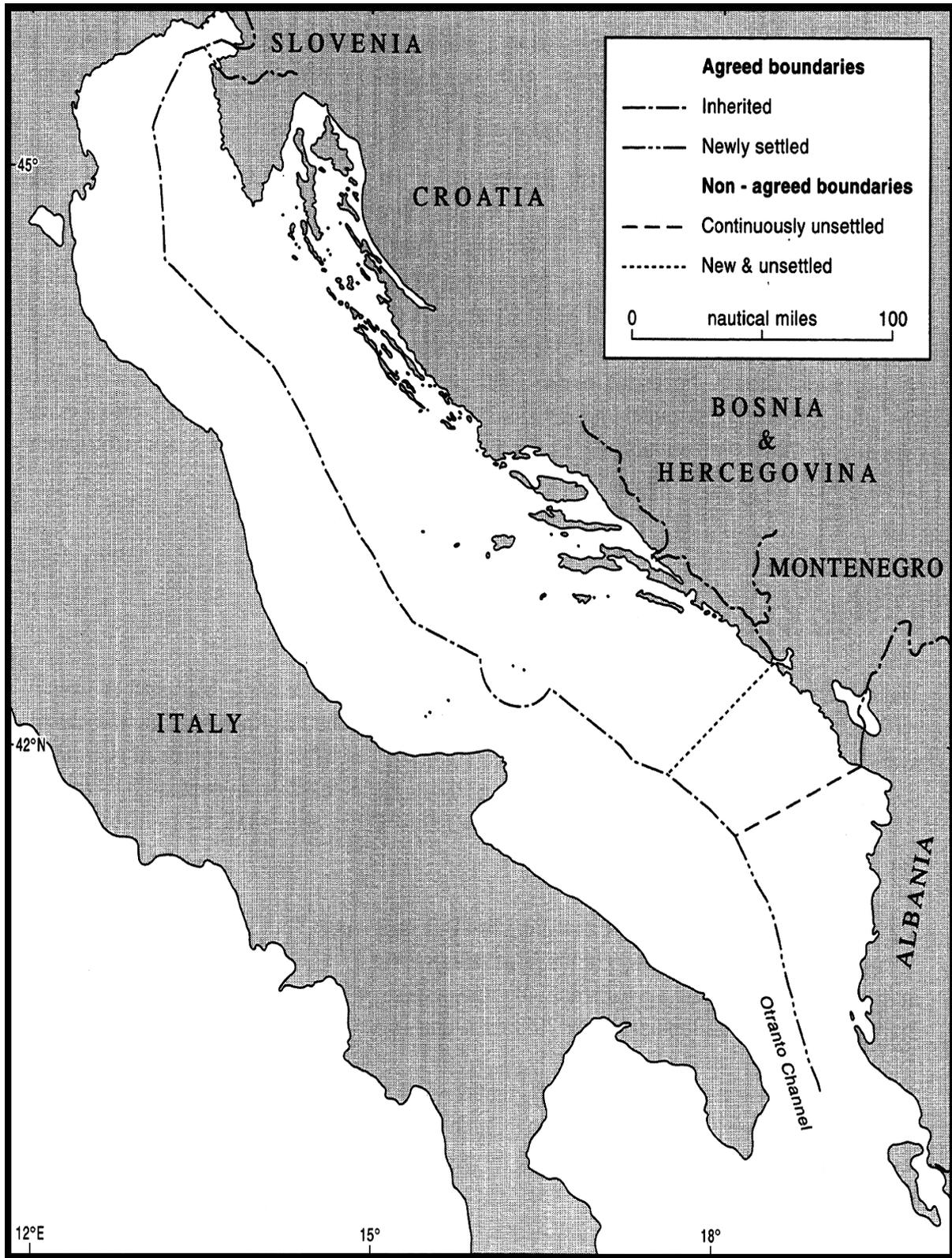
The Adriatic Sea, 783km long with an average width of approximately 170km, has an overall surface area of 138,595 sq. km. Although it reaches a maximum depth of 1,233m and has an average depth of 252m, in its northern parts (north of the Zadar-Pescara line) the Adriatic does not exceed 100m in depth. The total length of the Adriatic coastline amounts to 3,737km or 7,912km including island coastlines, of which fully 74% is accounted for by Croatia (see Table 1).

The temperature of the sea water near the surface is on average 8-13°C in February, 22-25°C in August and in shallower bays in the latter month up to 27°C. Sub-surface visibility has an average of 20-33m and a maximum of 56m. Both of these characteristics are highly favourable for the development of the Adriatic tourist industry.

Tidal levels increase from south (15-20cm) to north (50cm) while salinity in the Adriatic increases from north (c.38‰) to south (c.38-39‰). This relatively high level of salinity coupled with modest supplies of nutrients, in part due to the slow renewal of Adriatic waters through the Otranto Channel from the generally nutrient-poor Mediterranean, means that Adriatic fisheries are of limited significance. Within the Adriatic, however, the eastern side, as a consequence of the combination of currents and water depth, has traditionally proved the

¹ In the interests of clarity, for the purposes of this paper the Federal Republic of Yugoslavia (Serbia/Montenegro), often referred to as 'rump' Yugoslavia, will be referred to as Yugoslavia (Serbia/Montenegro).

Figure 1: Maritime Boundaries in the Adriatic Sea



more productive fishing ground. As a result of this situation Italy concluded six agreements with Yugoslavia between 1949 and 1973 providing rights for Italian fishermen to fish in specified areas of Yugoslav territorial waters in return for financial compensation to Belgrade (Sersic, 1993: 296). The last of these agreements terminated in 1980. No such agreements have since been concluded between Italy and the former Yugoslav republics in the 1990s. The only fishing agreement between Italy and the former Yugoslav states which remains in force is that concluded in 1983 between Italy and Yugoslavia which established a common fishing zone which straddles the territorial sea boundary in the Gulf of Trieste and has presumably been inherited by Croatia and Slovenia (see Section 5.5). In 1995 Slovenia and Croatia concluded a fishing agreement by which Slovenian fishermen are allowed to catch up to 1,500 tonnes of fish in Croatian territorial waters annually. By the late 1980s the annual fish catch in the Adriatic amounted to around 230,000 tonnes with Italy accounting for approximately 180,000 tonnes. In terms of geographical distribution of the catch, 60% was caught in the northern, 25% in the central and 15% in the southern areas of the Adriatic.

Table 1: Adriatic States – Length of Coastlines (km)

State	Mainland	Islands	Total	Coastal Front ²
<i>Croatia</i>	1,777.3	4,058	5,835.3	526
<i>Italy</i>	1,249	23	1,272	926
<i>Albania</i>	396	10	406	265
<i>Yugoslavia</i> <i>(Serbia/Montenegro)</i>	249	11	260	92
<i>Slovenia</i>	44.5		44.5	17
<i>Bosnia-Hercegovina</i>	21.2		21.2	10.5

Source: Ridanović and Bičanić (1993)

Concerning shipping and navigation, although the Adriatic does not lie on the main Mediterranean communication axes, the ports of the northern Adriatic are significant not only for the coastal states themselves but as the points of access to the sea for the land-locked states of Central Europe such as Austria, Switzerland, Hungary, the Czech Republic and Slovakia. The key ports concerned are Trieste in Italy, Koper in Slovenia and Rijeka in Croatia. Trieste and Rijeka are also important as the termini of transboundary oil and gas pipelines leading into the Central European energy supply network.

The Adriatic has also proved to be a source of oil and gas resources. The bulk of the offshore exploration has taken place in Italian waters with the most significant recent development being the US\$750 million *Alto Adriatico* project. This scheme, expected to yield its first gas in late 1996, ties in 15 marginal gas fields in the northern Adriatic, in the vicinity of the Po River delta, which were originally discovered between 1975 and 1985. The development will involve at least 82 wells being drilled and the construction of 260km of pipelines to collect the gas as well as an 80km pipeline to bring the gas onshore. Peak production of 11.5 million

² The distance between the extreme points of each littoral state's Adriatic coastline. The fact that Croatia clearly has the longest coastline among the Adriatic states overall contrasts sharply with its coastal front of 526km as compared with Italy's 926km and emphasises the geographical complexity of the Croatian littoral.

cubic feet per day is scheduled for 1999 and reserves are estimated to be in excess of 11.5 trillion cubic feet of gas (Beckman, 1996: 103). Other Italian offshore interests include several prospects in the southern Adriatic off Italy's 'heel' and in the Otranto Channel.

Exploration offshore the other Adriatic states has been limited in scope and has in the past met with little success. Croatia, with its long coastal front must be viewed as having the greatest potential in this regard and is in the process of developing two offshore gasfields in the northern Adriatic off Croatia's Istrian coastline. Five gasfields, dispersed over around 150km are located along the limit of Croatia's continental shelf. The largest fields are named 'Ivana' and 'Ika'. In addition, two other fields, 'Andreina' and 'Anna-Maria', are divided by the continental shelf boundary with Italy. In late 1995 the Italian oil company Agip and Croatian oil company Ina agreed to a joint exploitation project worth around US\$320 million (*Večernji list*, 23/12/95). The trend towards greater exploration and exploitation of offshore oil and gas resources, particularly in the underexplored eastern Adriatic, seems set to continue in the immediate future.

As a result of its relatively small size and physical geography, particularly the slow renewal of its waters through the Otranto Channel, the Adriatic is particularly vulnerable to pollution and environmental degradation. Indeed, the Mediterranean as a whole is only very gradually renewed principally through the Straits of Gibraltar. This is particularly significant in light of the fact that around 5.5 million people live on the shores of the Adriatic and the sea's environment supports not only a fishing industry but, far more significantly, a major tourist industry.

The main challenges to the Adriatic marine environment emanate from the large quantity of industrial and domestic liquid waste which enters the sea predominantly from rivers, particularly Italy's River Po. Another key threat to the Adriatic's environment is that posed by the potential for a major oil spillage in this enclosed sea area from one of the numerous tankers which traverse the length of the Adriatic in order to deliver their loads for transshipment by pipeline on into Central Europe at Trieste and Rijeka. The consequences of such an incident are potentially disastrous from an environmental perspective.

In view of the threat to their waters and coasts, the Adriatic littoral states have taken steps to cooperate in the overall Mediterranean context, for example through the 1975 *Mediterranean Action Plan*. Indeed, at a bilateral level Italy and Yugoslavia concluded an *Agreement on Cooperation for the Protection of the Waters of the Adriatic Sea and Coastal Zones from Pollution* in 1974. Both Italy and Yugoslavia were also parties to the 1976 *Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution* and its related protocols concerned with dumping from ships and aircraft, cooperation in combating oil pollution, pollution from land-based sources and relating to specially protected areas (Blake, 1996). As a result the Yugoslav coastal republics enacted legislation in order to implement these agreements and their scientific institutions actively participated in regional projects such as the *Program for Pollution Monitoring and Research in the Mediterranean Sea*, the *Blue Plan* and the *Priority Action Plan* with the latter being coordinated from a regional centre located in Split, Croatia (Sersic, 1993: 297). This sets the framework for the 'new' Adriatic state's participation in regional maritime cooperation efforts.

In this context, Albania in the past proved to be something of an “*odd man out*” being the only Mediterranean littoral state not to sign the Mediterranean Action Plan and not ratifying the Barcelona Convention until 30 March 1990 (Symmons, 1996: 69).

Nevertheless, the advances made following the implementation of the Barcelona Convention and related Protocols have meant that “*the most serious pollutants, mainly from land-based sources, have been significantly reduced*” so much so that large areas of the Adriatic can be described as “*largely unpolluted*” (Sersic, 1993: 297). These developments were followed up on 13 July 1991 with the signing by Albania, Greece, Italy, Yugoslavia and the Commission of the European Community of the so-called *Adriatic Sea Declaration*. This agreement provides for “*environmental protection of the Adriatic Sea and preservation of its ecological balance*” (Symmons, 1996: 72).

Both the Barcelona Convention (Article 3) and the United Nations Convention on the Law of the Sea (Article 123) provide for states such as those on the Adriatic littoral to cooperate at a sub-regional level in order to coordinate their environmental protection and management strategies. Article 123 of the latter agreement is specific to cooperation between states bordering enclosed or semi-enclosed seas. Although the preceding article of the UN Convention does not provide a precise definition of what constitutes an enclosed or semi-enclosed sea, merely stating that the term refers to, “*a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas or exclusive economic zones of two or more coastal states*”, it is abundantly clear that the Adriatic Sea fulfils these conditions.

Article 123 provides that states bordering enclosed or semi-enclosed seas should cooperate with each other “*to coordinate the management, conservation, exploration and exploitation of the living resources of the sea...to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment*”, as well as to undertake joint scientific research programmes and involve other interested states or appropriate international organisations. These provisions are therefore rather unspecific and represent more of a recommendation rather than a strict legal obligation (Sersic, 1993: 298).

Although at present it is extremely difficult to envisage meaningful cooperation emerging between some of the ‘new’ Adriatic littoral states, the inclusion of the concept of enclosed and semi-enclosed seas in the UN Convention on the Law of the Sea emphasises the importance of such cooperation from the environmental perspective. It can therefore be anticipated that Article 123 of the UN Convention, together with the Barcelona Convention and the Adriatic Sea Declaration will form the basis of future cooperation on environmental management issues.

Likely to be of particular significance in the future will be the development of Adriatic-wide plans to combat potential oil pollution, the harmonisation of relevant legislation among the littoral states and the coordination of management plans for the Adriatic Sea’s waters and coasts for example in relation to industry and tourism. It can also be anticipated that interested states such as the land-locked Central European states largely dependent on Adriatic ports for their access to the sea will find a role in such cooperation among the Adriatic littoral states, as will appropriate international organisations such as the United Nations Environment Programme.

3. The Law of the Sea and Claims to Maritime Jurisdiction

3.1 The Law of the Sea and the Adriatic States

The United Nations Convention on the Law of the Sea, agreed in 1982, finally entered into force on 16 November 1994 with the deposit with the UN of the sixtieth instrument of ratification. Although the Convention is only legally binding upon those states that have both signed and ratified it, it can be argued that in practice many of its provisions have become generally accepted as customary international law. Thus, if non-signatory or ratifying states, those on the Adriatic included, accept customary international law it would be impossible for them to depart from the Convention's provisions in the context of maritime boundary negotiations.

Among the Adriatic states, Albania has apparently neither signed nor ratified the Convention. Indeed, Albania's past action in relation to the law of the sea matters has been described as "eccentric" having, for example, altered the breadth of its claimed territorial sea no less than four times in the space of just three decades (see Section 3.3) (Symmons, 1996: 71).³ Italy signed the Convention on 7 December 1984 and ratified it on 13 January 1995. The former Socialist Federal Republic of Yugoslavia signed the Convention on 10 December 1982 and formally ratified it on 5 May 1986. At the time of the disintegration of Yugoslavia in 1991 the UN Convention was not in force. As a result, under the 1978 *Vienna Convention on Succession of States in Respect to Treaties*,⁴ the Yugoslav successor states do not automatically become parties to the UN Convention on the Law of the Sea, but may establish themselves as contracting states by issuing a notification of succession to that effect. As Sersic (1993: 293) points out:

"Unless a notification of succession is given, the successor state is not bound by a multilateral treaty not in force to which the predecessor state was a contracting party."

By this process Bosnia-Herzegovina, Croatia and Slovenia formally succeeded to the Convention on 12 January 1994, 5 April 1995 and 16 June 1995 respectively.⁵ Yugoslavia (Serbia/Montenegro) considers itself to be the legal successor to or continuing state of former Yugoslavia. If this were the case Belgrade would have no need to issue a notification of succession as it would have inherited former Yugoslavia's commitments to the Convention. The other former Yugoslav states contest Yugoslavia's (Serbia/Montenegro) claim to be the continuing state of Yugoslavia thereby entitled to all the rights and obligations of Yugoslavia. For its part the Badinter Commission, in its Opinion No.8 of 4 July 1992, made it clear that "the process of dissolution...is now complete and that the SFRY no longer exists" thus supporting the contention that former Yugoslavia was subject to dissolution rather than secession so that Yugoslavia (Serbia/Montenegro) could not be the continuing state of the SFRY (Hille, 1995: 602).

³ Symmons also notes that the reason behind such "erratic" practice is that, "it may be seen to reflect the almost paranoid pre-occupation of the old communist regime with security."

⁴ The Vienna Convention was, at the time of writing, itself not in force but does provide a useful guide regarding succession in respect to treaties.

⁵ According to the United Nations Division of Ocean Affairs and the Law of the Sea Web-site at: <http://www.un.org>

In the United Nations, while Slovenia, Croatia, Bosnia-Herzegovina and Macedonia have applied for and received new membership, Yugoslavia (Serbia/Montenegro) has refused to do so, insisting that it is entitled to take up the seat occupied by Yugoslavia of old. In response to this claim, the United Nations passed Resolution 777 (19 September 1992) as follows:

“Recalling the state formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist, and realizing that the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted; considering that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the Socialist Federal Republic of Yugoslavia in the United Nations; and therefore recommends to the General Assembly that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly.” (Williams, 1994: 782).⁶

It also appears that Yugoslavia has only gained international recognition, for example, under the Dayton peace accords, as a *successor state* of former Yugoslavia. If this is indeed the case, without a formal notice of succession then, Yugoslavia is *not* party to the UN Convention.

3.2 Baselines and Internal Waters

In the absence of certain special circumstances (see below) a state’s baselines are defined in Article 5 of the UN Convention on the Law of the Sea as *“the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state.”* These baselines are often referred to as ‘normal’ baselines.

The use of straight baselines is permitted in international law where coasts are highly indented, or fringed with islands. Article 7 of the UN Convention, which governs the use of straight baselines, provides that:

“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.”

Article 7 does, however, state that:

“The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.”

⁶ Despite endorsing the Security Council’s recommendations the UN General Assembly in its Resolution 47/1 of the same date failed to expel the SFRY from the UN and the SFRY’s seat and flag remained in existence at the UN. The supposedly non-existent SFRY’s UN membership was therefore apparently merely suspended (Hille, 1995: 610).

Unfortunately, Article 7 fails to define in precise terms what is meant by terms such as “*deeply indented*”, what constitutes the “*immediate vicinity*” of the coast or departure from the general direction of the coast to any “*appreciable extent*.” As a result states have frequently interpreted the provisions of Article 7 to their maximum advantage, proclaiming systems of straight baselines at variance with the spirit of Article 7.

These baseline systems are important as they form the points from which the width of a state’s maritime claims are measured. Thus, an aggressive straight baseline claim would extend a state’s claims to maritime jurisdiction further offshore than would otherwise be the case, sometimes leading to overlapping claims and hence disputes with neighbouring states.

3.2.1 *Albania*

The first indication that Albania claimed a system of straight baselines came in the form of a revision of the Adriatic Pilot (*Oglas za Polocre*) dated 1 March 1960 which made it clear that Albania’s territorial sea claim was based on a system of straight baselines embracing the northern two-thirds of its coastline. In commenting on the validity of this claim the US Department of State stated that: “*The coastline covered by the straight baseline system is markedly indented but it is not deeply incised...*” (United States, 1970: 1). The study did, however, conclude that the straight baselines did follow the general direction of the coast in their entirety.

Albania issued decrees relating to its maritime claims in 1970 and 1976. These were, however, primarily concerned with modifying the breadth of Albania’s territorial sea claim and did not essentially alter Albania’s straight baseline claim. On the other hand, Prescott (1985: 68) noted in relation to Albania’s claims that “*...a straight baseline is quite inappropriate along Albania’s uncomplicated coast.*”

In 1989 the United States government protested against not only Albania’s straight baseline claims, but the breadth of Albania’s territorial sea claim (then 15 nautical miles (nm), see below) and the provision in the 1970 decree, unaltered by the subsequent 1976 legislation, that: “*...foreign warships will enter or pass through the territorial waters of...Albania only with the special authorization of the Council of Ministers...*” (United States, 1994: 4). The relevant section of the US protest note, delivered on its behalf by the French Embassy in Tirana, reads as follows:

“The United States wishes to point out that, for the most part, the Albanian coastline, being neither deeply indented and cut into, nor having a fringe of islands in its immediate vicinity, does not meet the geographic criteria required under international law for the establishment of straight baselines. Further, the baseline segments from the Cape of Rodom [Muzhit] to the mouth of the Vjose River and from the Cape of Gjuhe to the Cape of Sarande, enclose waters which are neither juridical bays nor historic waters.” (Roach and Smith, 1994: 55).

Figure 2: Croatia – Straight Baselines and Territorial Sea

On 24 March 1990, Albania issued a further decree (No. 7366) which reduced the breadth of Albania's territorial sea to the international norm of 12nm but failed to satisfy the two other points raised in the US protest note. The 1990 decree reiterated Albania's claim to a system of straight baselines defined by citing seven points on the Albanian coastline rather than by a list of specific geographic coordinates (Figure 3).

The US Department of State's 1994 study pointed out, that because only one island, Sazan Island, has been defined as a basepoint by Albania, any justification for the straight baselines on the basis of a "*fringing islands*" argument as laid out in Article 7 of the UN Convention

must be considered invalid. The study states that: "...the coastline is relatively smooth and therefore the "deeply indented" coastline requirement is not met." (United States, 1994: 4). Furthermore, although a bay closing line could conceivably be drawn for Vlores Bay, the baseline for the remainder of the Albanian coast should in fact be the 'normal' low-water line. Even so, the bays enclosed by Albania's claimed straight baselines are relatively shallow and the straight baselines "have only a small effect on the outer edge of Albania's territorial waters" and thus its other claims to maritime jurisdiction (Prescott, 1985: 296). The existence of these questionable straight baseline claims did not, however, prevent Albania from concluding a continental shelf delimitation agreement with its opposite neighbour, Italy, in 1992 (see Section 4.3).

3.2.2 Croatia, Bosnia-Herzegovina, Montenegro and Slovenia – former Yugoslavia

Yugoslavia was one of the first states to adopt straight baselines, doing so in 1948. This action was taken in recognition of the complex geography of the Yugoslav, and now predominantly Croatian, coastline which is not only deeply indented, particularly in the north, but fringed with a great number of islands for large sections. The majority of these islands are close to and follow the general trend of a significant proportion of the mainland coastline. Many are large islands and the overall effect is to 'mask' the mainland from the open sea.

Yugoslavia's straight baseline system was extended by the *Law on the Coastal Sea, the Outer Sea Belt and the Epicontinental Belt of Yugoslavia* of 12 May 1965. Following this legislation, Yugoslavia's claimed straight baselines extended a total of 244.7nm from the mainland (Croatian) coastline just south of Dubrovnik to Croatia's Istrian coastline in the vicinity of Novigrad. The straight baselines are divided into three long sections by two sections of island coastline (i.e. 'normal' baselines) (Figures 2 and 3).

The average length of the 26 segments of straight baseline defined by the 1965 Yugoslav legislation is 9.4nm with the longest segment measuring 22.5nm. As the US Department of State's analysis indicates, Yugoslavia's straight baselines of 22 May 1965 "...do not depart appreciably from the general trend of the Yugoslav coast." The average variation from the general direction of the coast was noted as "approximately 5°", although selected segments were highlighted which depart from the general trend of the coast or the offshore islands rather more (United States, 1970: 4). It should also be noted that there are lighthouses on each of the low-tide elevations used as basepoints for the straight baselines (United States, 1970: 5). Furthermore, certain distant islands, including Vis, Andrija, Sušac and Biševo, were excluded from the straight baseline system together with those Yugoslav (now Croatian) islands in the central Adriatic, notably Jabuka, Palagruža and Galijula.

Yugoslavia's straight baseline claims of 1965 have not been internationally challenged. Instead, they have attracted praise from commentators as an example of modest and appropriate application of straight baselines. For example, Prescott (1985: 296) concludes his summary of Yugoslavia's straight baseline system with the comment: "The baselines along this coast could well serve as a model against which other baselines connecting fringing islands could be tested."

Among the Yugoslav successor states, the straight baseline system established by the 1965 Yugoslav legislation has the greatest significance for Croatia being confined to the Croatian littoral. Croatia's internal waters, derived from the straight baselines, embrace over 1,000 islands, and enclose a complex mainland coast. The island coastlines of Croatia add up to over 4,000km – over 97% of all island coasts in the Adriatic (see Table 1). This whole coastal area is of high value ecologically and environmentally and is of outstanding natural beauty. The Croatian Adriatic littoral has in the past been an extremely valuable asset as the basis of a

Figure 3: Straight Baselines and Agreed Maritime Boundaries in the Adriatic Sea



major tourist industry – something the Croatian government is actively trying to revive. Croatia's internal waters will therefore clearly require particularly careful planning and management.

Significantly, Bosnia-Herzegovina's narrow access to the sea at Klek-Neum falls within the 1965 baseline system. As a result, Bosnia's maritime areas are, rather unusually, surrounded by Croatia's *internal* waters. Ordinarily no right of 'innocent passage' through internal waters exists as it does in the case of the territorial sea, the implication of this situation is that Croatia could deny Bosnia access through the former's internal waters to the open sea.⁷ Having noted this curious situation, it is well to realise that Bosnian access to the sea is in fact reliant on the Croatian port of Ploče in any case, Bosnia having no port of its own at Klek-Neum. The two countries have recently signed agreements guaranteeing Bosnia access to Neum in March 1994 and May 1996 (see Section 6.3).

Although Yugoslavia's straight baseline system did not extend as far north as Slovenia and the Gulf of Trieste, the 1965 legislation did provide for bay closing lines. The Bay of Piran shared by Croatia and Slovenia which was considered to be a juridical bay and was closed by a straight baseline (Figure 4). The bay landward of the closing line thus became Yugoslav internal waters. The division of the bay between Croatia and Slovenia and the maritime boundary question as a whole has become a point of contention between the two states since independence (see Section 5).

From the perspective of the bay-closing line, Article 10 which provides for bay-closing lines explicitly relates to "*bays the coasts of which belong to a single state.*" It is therefore most unusual for a state to use a straight baseline basepoint belonging to another state. It remains unclear whether Slovenia, along with Croatia, has also adopted former Yugoslavia's straight baseline system.

For its part, Yugoslavia (Serbia/Montenegro) also fell outside the scope of the straight baselines designated in 1965. It is conceivable, however, that a bay closing line could be drawn for the Bay of Kotor – a source of dispute with Croatia (see Section 7) and, with less certainty, across the relatively shallow bays further south along the Montenegrin coast in the vicinity of Bar.

These straight baselines were in existence prior to the conclusion of two maritime boundary agreements in the Adriatic between Italy and Yugoslavia concerning continental shelf (1968) and territorial sea (1975) (see Sections 4.1 and 4.2). Croatia has indicated that Yugoslavia's legislation of July 1987, including these straight baselines, applies to Croatia.

⁷ Article 8 (2) of the Law of the Sea Convention does, however, state that: "*Where the establishment of a straight baseline in accordance with the methods set forth in Article 7 has the effect of enclosing as internal waters areas which had not been previously considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.*" As prior to 1948 the enclosed waters comprised areas constituting territorial sea or high seas, it can be argued that a right of innocent passage remains to Bosnia. It should, however, be noted that innocent passage does not include the right to fish. In addition, in the spirit of Article 7 (6) of the Convention whereby "*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*" and the rights of landlocked states to access to and from the sea (Article 125) it can be maintained that there is also a right to maritime freedom of transit.

3.2.3 Italy

Italy established a system of straight baselines around its coastline, including segments in the Adriatic Sea, by Decree No. 816 of April 1977. The Italian straight baselines declared in the Adriatic include three segments in the extreme north of the sea extending along almost the entire Italian coast of the Gulf of Trieste linking Cape Sottile to the lighthouse of Cape Sdobba, to the lighthouse of the Bank Mula di Muggia and finally to Cape Tagliamento (Figures 3 and 4) (Charney and Alexander, 1993: 1,642). The justification for the use of low-tide elevations for two of the basepoints for these sections is the presence of lighthouses upon them. Elsewhere in the Adriatic, straight baselines were declared linking the island of Tremiti to the mainland, closing the Bay of Manfredonia and closing small bays in the vicinity of Brindisi on Italy's 'heel'.

Although some of these straight baselines could be open to challenge under the provisions of Article 7 of the UN Convention, particularly the use of Tremiti as a basepoint, it seems unlikely that they will be. The reason for this apparent lack of international protest is that Italy's straight baseline claims in the Adriatic are deprived of much of their significance by the fact that an agreement concerning the delimitation of the vast majority of the continental shelf between the opposite coasts of the Adriatic was concluded between Italy and Yugoslavia in 1968. This accord was followed up by a further agreement between the two countries concerning a territorial sea boundary in the Gulf of Trieste signed in 1975.

Thus, both these agreements pre-date Italy's declaration of a straight baseline system. Moreover, there is every reason to believe that both agreements have been inherited by and are respected by the post-Yugoslav successor states since territorial agreements are unaffected by the succession of states. In any case it would be extremely difficult to maintain any claim, for example to an exclusive economic zone (EEZ), *beyond* these well-established and accepted existing maritime boundaries in the Adriatic. Despite the existence of straight baselines closing relatively shallow indentations in the Italian coast in the vicinity of Italy's 'heel', Italy nevertheless reached a continental shelf boundary agreement with Albania in 1992 (Section 4.3)

By the same April 1977 Decree, No. 816, as that establishing Italy's straight baseline claims, Italy also claimed the Gulf of Taranto, lying outside the Adriatic, as an historic bay. This aspect of the Italian legislation did attract international criticism. In the course of bilateral negotiations between the United States and Italy in 1984 the former stated its view that the Gulf of Taranto did not constitute an historic bay. This viewpoint was reinforced by US protest notes issued in 1986 and 1987 (Roach and Smith, 1994: 27). These protests did not, however, concern Italy's straight baseline claims in the Adriatic.

3.3 The Territorial Sea and Contiguous Zone

The coastal state is sovereign territorial sea, including the seabed, the water column, and the airspace above, subject to the rules of international law. Ships of other states have the right to pass through territorial waters in "*innocent passage*". What constitutes innocent passage is defined in the 1982 United Nations Law of the Sea Convention, Article 19.

All six Adriatic littoral states claim the international norm, as set out in Article 3 of the UN Convention, of a 12nm territorial sea. Albania initially claimed a 10nm territorial sea in 1952, extended its claim to 12nm in 1970 and to 15nm in 1976. Following international protests, particularly from the United States (see Section 3.2.1), Albania reverted to a 12nm territorial sea claim in its latest legislation dated 24 March 1990. Yugoslavia claimed a 10nm territorial sea and 2nm contiguous zone from 1965 but declared a 12nm territorial sea on 4 July 1979 (Decree No.765) thus abolishing its contiguous zone claim. This claim was repeated in Article 16 of Yugoslavia's *Act Concerning the Coastal Sea and the Continental Shelf* of 23 July 1987. The Yugoslav successor states, Bosnia-Herzegovina, Croatia, Yugoslavia (Serbia/Montenegro) and Slovenia, can reasonably be considered to have inherited this claim.⁸ Similarly, Italy, having claimed 10km in 1909 and 6nm in 1942, claimed a 12nm territorial sea by Law No. 359 of 14 August 1974. Italy also claimed a 12nm contiguous zone for customs purposes by Law No. 1424 of 25 September 1940 (United States, 1985: 12, 96, 190).

3.4 Continental Shelf

Beyond the territorial sea, coastal states are entitled to sovereign jurisdiction over the living and non-living resources of the seabed and subsoil of their continental shelf areas. In most cases this means oil and gas deposits, or minerals such as tin, but continental shelf rights also extend to living organisms which live on or under the seabed. States may not interfere with shipping, and must allow other states to lay cables and pipelines in their continental shelves.

Albania, Italy and Yugoslavia have all made claims to continental shelf. Albania, by Decree No. 4650 of 9 March 1970, Italy by Law No. 613 of 21 July 1967 and Yugoslavia by the *Law on the Coastal Sea, the Outer Sea Belt and the Epicontinental Belt* of 12 May 1965 (United States, 1985: 12, 96, 190). All three states defined their claim to continental shelf according to the definition provided for in Article 1 of the 1958 Geneva Convention on the continental Shelf:

"...the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superadjacent waters admits of the exploration of the natural resources of the said areas." (Brown, 1994: 110).

The Yugoslav successor states may be considered to have inherited former Yugoslavia's claim to continental shelf. Indeed, Croatia in particular reinforced this by declaring its succession to the 1958 Geneva Continental Shelf Convention on 3 August 1992 defining the limits of its continental shelf claim in accordance with that Convention.

3.5 Exclusive Economic Zone (EEZ)

The 1982 Law of the Sea Convention entitles coastal states to declare an EEZ to a limit of 200nm. The effect is to give the coastal state all the rights of continental shelf, plus the exclusive right to exploit living resources within the EEZ. The EEZ also carries certain other

⁸ For example, by a Law of 26 June 1991 (*Narodne novine*, No.53, 8/10/1991) the Croatian Parliament declared that the 23 July 1987 Yugoslav legislation is applicable to Croatia.

rights and obligations, including the right to control scientific research and implement environmental conservation.

None of the six Adriatic littoral states has apparently made a formal claim to an EEZ. Croatia has, however, indicated that it is likely to declare such a claim and it would not be surprising if other Adriatic states were to follow suit.⁹

4. Agreed Boundaries

4.1 Italy – Yugoslavia: Continental Shelf (1968)

Italy and Yugoslavia signed an agreement to delimit their continental shelf in the Adriatic on 8 January 1968 which subsequently entered into force on 21 January 1970 (Appendix I). The agreement therefore represents the first continental shelf boundary to be concluded and put into effect in the Mediterranean.

The boundary extended for 353 nautical miles, consisting of 42 segments connected 43 turning points – 40 segments are straight and two curved. The extension of a maritime boundary into the Gulf of Trieste was left to a later date as, at the time of the negotiations, there was still some debate as to the final status of the land boundary between the parties in the area. Point 01 of the 1968 agreement therefore lies 12nm from the nearest coast. An Italian-Yugoslav agreement on territorial waters was subsequently reached in 1975 (see Section 4.2). At the south-eastern extremity of the boundary line the parties agreed not to extend the boundary south of Point 43, thus falling short of the Italy-Yugoslavia-Albania tripoint (Figure 3).

The coasts of Italy and Yugoslavia are comparable in length and direction, so the parties had little difficulty in agreeing upon an equidistance boundary for a considerable proportion of the line. The application of strict equidistance would, however, have been disadvantageous to Italy because of the presence of several small Yugoslav islands significantly far offshore in the central Adriatic. As a result, strict equidistance was abandoned to give reduced effect to the Yugoslav islands of Jabuka, Palagruža, and Galijula and the Italian island of Pianosa. In contrast, Yugoslavia's numerous islands fringing its mainland coast were accorded full effect. Yugoslavia's straight baseline system does not seem to have played a part, however, as every Yugoslav basepoint used for the delimitation is either on the mainland coast or on an island coast rather than on a straight baseline. As noted, the Italian straight baseline system in the Adriatic post-dated this agreement and therefore had no bearing upon it. The consequence of this modified form of equidistance as opposed to strict equidistance was to provide two shifts in the alignment of the boundary in favour of Italy and one lesser concession in favour of Yugoslavia as follows:

Points 26 - 31	Italy gains 1,680 sq. km
Point 33	Yugoslavia gains 416 sq. km
Points 34 - 38	Italy gains 1,400 sq. km ¹⁰

⁹ The document passed the Croatian parliament on 2 February 1994. According to the Croatian national boundary commission the issue of an exclusive economic zone was in accord with the 1982 Law of the Sea, but the act would come in force only following consultation with Italy (*Slobodna Dalmacija*, 16/4/1994)

Overall, when compared with strict equidistance, Italy gained 2,664 sq. km and the agreement was widely considered to be an equitable one. It is not known whether the presence of two oilfields which straddle the continental shelf boundary were considered during negotiations. Article 2 of the 1968 Treaty provides for meetings of the parties to reach agreement on the way in which seabed resources straddling the boundary are to be exploited.

It is a generally accepted rule of customary international law that treaty provisions related to boundary and territorial regimes are unaffected by the succession of states (Sersic, 1993: 291).¹¹ It is therefore clear that the 1968 Italy-Yugoslavia continental shelf agreement remains in force and is binding on Croatia and Yugoslavia (Serbia/Montenegro) irrespective of the disintegration of Yugoslavia. Indeed, there appears to be no legal or political reason why the Italy-Yugoslavia continental shelf boundary should not be a perfectly satisfactory delimitation between Italy and Croatia and Italy and Yugoslavia (Serbia/Montenegro) – although Yugoslavia made some concessions in the 1968 agreement, the area gained by Italy overall was less than five percent of former Yugoslavia's total offshore area.

4.2 Italy – Yugoslavia (Gulf of Trieste): Territorial Sea (1975)

Italy and Yugoslavia concluded an agreement concerning their territorial sea boundary, usually referred to as the *Treaty of Osimo*, on 10 November 1975 which entered into force on 3 April 1977 (Appendix II). The 25.7nm long boundary consists of four segments connecting five points the last of which, Point 5, coincides with Point 01 of the 1968 Italian-Yugoslav continental shelf boundary agreement. Point 1 of the territorial sea boundary lies approximately 300 metres offshore the terminus of the Italo-Yugoslav land boundary on the Adriatic coast. Until 1979, when Yugoslavia extended its territorial sea claim from 10nm to 12nm, part of the boundary line was actually between Italian territorial sea and Yugoslav contiguous zone (Figures 3 and 4).

The Treaty of Osimo's primary aim was to settle the disputed land boundary between the parties and thus also providing the opportunity for Italy and Yugoslavia to complete their maritime delimitations. Prior to the treaty both sides had laid claim to the central Gulf of Trieste.

In light of the lack of outstanding geographical features in the Gulf of Trieste such as islands significantly offshore the parties elected to base the boundary delimitation on equidistance. Concerning baselines, the only relevant Yugoslav straight baseline was the line closing the Bay of Piran (see Section 3.2.2). Although Italy had not at the time of the agreement declared a system of straight baselines, doing so in 1977, the Italian side indicated that it was on the verge of making such a declaration. Strict equidistance based on these, at the time unofficial, straight baselines would have favoured Italy. In contrast, strict equidistance on the basis of 'normal' baselines on the two state's coasts would have favoured Yugoslavia. As a result agreement on a compromise line between the two alternatives was reached in what has been

¹⁰ From Point 34 to 35 the boundary line follows a 12nm arc from Palagruža and from Point 35 to 36 a 12nm arc from Galijula.

¹¹ This is now replicated as a treaty rule by Article 11 of the Vienna Convention of 1978 although at the time of writing this Convention was not yet in force.

Figure 4: The Italy-Yugoslavia Territorial Sea Boundary in the Bay of Trieste



described as “...the partial effect of straight baselines.” (Charney and Alexander, 1993: 1,642).

The problem of competing fishing interests in the Gulf of Trieste, particularly allegations of Italian vessels fishing beyond the agreed boundary, was resolved in Rome in a separate agreement of 18 February 1983 which established a joint fishing zone straddling the boundary line in the Gulf of Trieste. The agreement came into effect on 16 June 1987. It is likely that part of this zone will be divided between Croatia and Slovenia possibly giving rise to a dispute (see Section 5.5).

As noted in relation to the Italy-Yugoslavia continental shelf agreement, the Treaty of Osimo, being of a boundary and territorial character, is unaffected by the dissolution of Yugoslavia and remains in force.

4.3 Albania – Italy: Continental Shelf (1992)

Albania and Italy concluded an agreement to determine their respective areas of continental shelf in the southern Adriatic and the Otranto Channel on 18 December 1992 in Tirana (see Appendix III).¹² As neither state has claimed an EEZ there was no call for an EEZ boundary and the sea area divided is too wide for there to be any requirement to delimit a territorial sea boundary (Symmons, 1996: 75). The agreement defines 17 points with geographic coordinates which are connected by 16 boundary segments extending approximately 73nm in total (Figure 3).

The preamble to the treaty states that “*the border division between the two zones of continental shelf be determined by on the basis of the principle of equidistance that is expressed by the median line.*” Francolanci and Scovazzi (1994: 232) note that the resulting boundary line is an equidistant line “*with some minor adjustments.*” These adjustments relate to the presence of claimed straight baseline systems on both sides of the Otranto Channel which were discounted. However, as both Albania’s and Italy’s straight baselines on the Otranto Channel close relatively shallow bays, even if they had been taken into account their effect on any delimitation would have been marginal. It appears that only the island of Sazan, close inshore and a basepoint for Albania’s straight baseline system, acted as a non-mainland basepoint for this delimitation (Symmons, 1996: 75-76).

The two states also agreed not to extend the boundary beyond the first and last points specified in the 1992 treaty “*for the present*”, leaving these sections to be determined by later agreements “*respectively with the respective interested parties.*”

In the north, Point 1 falls short of the tripoint equidistant from Albania-Italy-Yugoslavia (Serbia/Montenegro). As noted, the final point, Point 43, of the Italy-Yugoslavia continental shelf agreement of 1968 also falls short of this theoretical tripoint. Were Albania and Yugoslavia (Serbia/Montenegro) to reach an agreement on their adjacent continental shelf boundary extending towards this tripoint, a relatively simple trilateral agreement would be required to tie together the Italy-Yugoslavia, Albania-Italy and, yet to be realised, Albania-Yugoslavia (Serbia/Montenegro) maritime boundaries.

Similarly, in the south, Point 17 of the Albania-Italy agreement falls short of the Albania-Italy-Greece equidistance tripoint. Greece and Italy concluded a continental shelf agreement relating to the Ionian Sea on 24 May 1977 which in turn falls 7nm short of the same tripoint. Connecting the Albania-Italy and Greece-Italy agreements thus depends on the outcome of negotiations between Albania and Greece concerning their adjacent continental shelf boundary after the conclusion of which a fairly straightforward trilateral agreement can be envisaged.

4.4 Summary

Prior to the disintegration of Yugoslavia the process of maritime boundary delimitation in the Adriatic was relatively well advanced – particularly in comparison with the situation in the Mediterranean as a whole. The Italy-Yugoslavia continental shelf agreement of 1968 resulted in a boundary delimitation for the majority of the area between opposite coasts in the Adriatic.

¹² Symmons (1996: 75) notes that although the treaty was brought before the Italian parliament for ratification on 16 September 1994 it does not yet appear to be in force.

The short Italy-Yugoslavia territorial sea agreement of 1975 completed the delimitation between the two countries save for small sections in the extreme north and south. In the north the 1975 agreement fell 300 metres short of the terminus of the Italy-Yugoslavia (now Slovenia) land boundary on the Gulf of Trieste coast while in the south the 1968 agreement fell short of the Albania-Italy-Yugoslavia tripoint. The process of delimitation between the Adriatic's opposite coasts was virtually completed with the Albania-Italy continental shelf agreement of 1992.

As far as maritime boundaries between opposite Adriatic coastlines are concerned, only short additional segments are required to complete the system linking, from north to south, the Italy-Yugoslavia agreement of 1968, the Albania-Italy agreement of 1992, and, finally, the Greece-Italy continental shelf agreement of 1977 extending from the southern end of the Otranto Channel into the Ionian Sea. These additional segments are, however, dependent on the conclusion of trilateral agreements linking in adjacent boundary agreements between Albania-Yugoslavia (Serbia/Montenegro) and Albania-Greece respectively which have not yet been concluded.

The emergence of four Adriatic littoral states – Bosnia-Herzegovina, Croatia, Yugoslavia (Serbia/Montenegro) and Slovenia – has, however, significantly complicated the maritime boundary delimitation picture in the Adriatic. Three additional unresolved adjacent maritime boundary situations have thus been created between, from north to south, Croatia-Slovenia, Bosnia-Herzegovina - Croatia and Croatia-Yugoslavia (Serbia/Montenegro), in addition to the yet to be agreed potential adjacent maritime boundary between Albania and Yugoslavia (Serbia/Montenegro) which pre-dates the break-up of Yugoslavia. These new potential maritime boundary delimitations have proved less than easy to resolve with the Croatia-Slovenia and Croatia-Yugoslavia (Serbia/Montenegro) situations in particular being subject to open disputes.

5. Croatia – Slovenia: The ‘Four Hamlets’ and Bay of Piran Disputes

5.1 Introduction

On 25 June 1991 both Croatia and Slovenia proclaimed their sovereignty and independence. The two ‘new’ states simultaneously declared their mutual recognition “*within existing boundaries*” and stated that there were no outstanding territorial claims between them. Approximately a year thereafter, when both countries had been accepted as independent states by the international community, they jointly formed commissions to demarcate their 546km long common land boundary, 240km of which follows rivers.

Several disputed points did, however, emerge along the boundary line. These points of contention arose despite the fact that the border itself had existed for administrative and infrastructural purposes long before it acquired its international status. Clearly there are aspects of the delimitation which are interpreted differently on either side of the line. In addition, the question of a maritime boundary delimitation was raised for the first time.

The most significant land boundary dispute in territorial terms, although in fact only encompassing a four sq. km area,¹³ lies in the southernmost sector of the boundary in the vicinity of the Bay of Piran, on the Istrian peninsula. Resolution of the dispute in this sector also has fundamental implications for the construction of a maritime boundary as it will determine the terminus of the Croatia-Slovenia land boundary on the Adriatic coast and thus the starting point for any offshore delimitation.

The dispute came to light in 1993 when Croatia started to construct an extension of its crossing-point facilities in the disputed territory near the hamlet of Škrile. Croatia reluctantly stopped work on the project in response to Slovenian protests. The dispute later became known as the ‘four hamlets’ case and deepened in October 1994 when the Slovenian parliament passed a law concerning the constitution of communes and their territories.¹⁴ Within the commune of Piran, four hamlets were listed – Bužini, Mlini, Škodelin and Škrile, which Croatia also claims and which are effectively under Croatian *de facto* jurisdiction. In Croatia the hamlets are known as Bužin, Mlini, Škudelin and Škrilje. They are situated on a narrow strip of land a few hundred metres in width and several kilometres in length on the left bank of the River Dragonja. They are claimed by both countries on the basis of differing criteria.¹⁵

5.2 Historical Background

Traditionally the Dragonja river has marked the southern extent of Slovene populated territory, while in the area to the south, Croats and Italians were the major ethnic groups.¹⁶ From the 14th century until the First World War the area in question had for the most part been under Austrian control. In the then secret Treaty of London of 26 April 1915, Italy agreed to enter the war on the Allied side in return for promises of territories including Trieste, Istria and much of the Dalmatian coast. Although by no means all of Italy’s demands were met at the end of the war, by the 1920 Treaty of Rapallo with Yugoslavia, Italy gained Trieste and the whole of Istria, with the majority of Dalmatia being allocated to Yugoslavia.

During the Second World War, a strong anti-fascist movement was active in Istria in which both Croats and Slovenes participated. The resistance movement’s aim was the liberation of Istria and unification with other Yugoslav lands – Croatia and Slovenia. In the course of the war the Croatian and Slovenian partisan leaderships organised a system of local ‘peoples government.’ The Slovenian leadership formally annexing the Slovenian littoral on 16 September 1943 and the Croatian leadership annexed the Croatian part of Istria four days later. Although neither declaration precisely specified the area claimed it is clear from the correspondence between the representatives of the two sides that the Dragonja River was the mutually accepted boundary.

¹³ The President of the Croatian boundary commission, Hrvoje Kačić, stressed in 1994 that it was established that only 4 sq.km were disputed, not 8 sq.km as was formerly supposed (*Vjesnik*, 20/9/1994).

¹⁴ *Zakon o ustanovitvi občin ter o določitvi njihovih območij*, Uradni list, Republike Slovenije, IV/60.

¹⁵ For a fuller account of the ‘four hamlets’ dispute readers are recommended to refer to Klemenčič and Schofield, 1995a: 65-77.

¹⁶ The majority of the Italian population emigrated to Italy after World War II following an agreement between Italy and Yugoslavia, leaving a predominantly Croatian population south of the river.

Towards the end of the war, the question of a Croatian-Slovenian allocation in Istria became entwined with that of the status of Trieste and the Italo-Yugoslav boundary dispute. Following the failure of a four-power (UK, France, USSR, US) commission of experts to reach unanimous conclusions on a final boundary delimitation, on 12 July 1946 the Allied Council of Foreign Ministers approved the creation of a Free Territory of Trieste (FTT) (Figure 5). Despite the rejection of this development by both Italy and Yugoslavia, the UN Security Council took over the administration of the Free Territory on 10 January 1947 and a month later, on 10 February, in a peace treaty signed in Paris between Italy and the Allied powers the FTT was declared demilitarised and neutral.

The FTT had a special status with Zone A under Allied control and Zone B under Yugoslav control with the remainder of Istria being recognised as Yugoslav. The Croatian-Slovenian borderland in Istria was therefore divided into two. In the east within the area definitely recognised as being Yugoslav the border was delimited along the clear ethnic divide between Croats and Slovenians without dispute. The western end of the borderland including the Dragonja sector was, however, included within Zone B of the FTT.

Administratively the Yugoslav authorities organised this area into one unit – the Istrian department (*okružje*) – consisting of the two districts of Buje and Koper. Within Buje, specifically within the commune of Kaštel, the hamlets of Bužin and Škudelin were included. (Boban, 1994: 5).

The deterioration in relations between Italy and Yugoslavia over the FTT issue finally led to an Anglo-American announcement on 8 October 1953 that they were “*no longer prepared to maintain responsibility for the administration of Zone A*” and that as a result they had determined to terminate the Allied military government, withdraw their troops, and “*having in mind the predominantly Italian character*” of the zone relinquish control of the area to Italy. The Yugoslav government issued an official protest against the decision on the following day characterising it as a “*unilateral violation*” of the 1947 peace treaty rewarding a former Axis power and “*unjust*” because it included the cession of territory inhabited by Slovenes and, furthermore, it cut Trieste off from its natural hinterland (Day, 1987: 77).

Subsequent negotiations led to the London Agreement of 5 October 1954 (signed by Italy, Yugoslavia, US and UK) which abolished the FTT and divided its territory between Italy and Yugoslavia almost exactly in accordance with the provisional boundary. As a result of the agreement the Yugoslav government abolished the provisional military authority within the area and extended Croatian civil authority to the district of Buje, and Slovenian authority to Koper and the small part of the former Zone A (a 13 sq. km strip inhabited mainly by Slovenes) also allocated to Yugoslavia under the London accord.

The governments of both Yugoslav republics promulgated judicial and administrative acts in order to incorporate the respective territories. The administrative limit between the districts of Buje and Koper was therefore accepted and its status was transformed into that of a republican boundary. Thus the hamlets of Bužin and Škudelin (the other hamlets in question not being mentioned) became part of Croatia. Since then there have been no boundary changes in the area. The disputed hamlets were administratively part of Croatia, and included in Croatian censuses and elections, since they are south of the Dragonja river which was and is the *de facto* boundary.

Figure 5: The Free Territory of Trieste



One minor boundary change in another sector of the Croatia-Slovenia boundary was carried out in 1956 by mutual consent to Slovenia's advantage. A group of villages encompassing an area of 24.1 sq. km with 1,014 inhabitants was transferred from Croatia to Slovenia. As a result the boundary delimitation between the federal republics of Croatia and Slovenia was considered complete.

5.3 Framework for Demarcation in the 1990s

Several key points can be identified which are relevant to any final settlement of the Croatia-Slovenia international boundary:

- international provisions concerning the stability of boundaries – particularly the UN Charter and the Conference on Security and Cooperation in Europe (CSCE) Helsinki Final Act;
- the opinion of the Arbitrary Commission of the Conference on the former Yugoslavia that republican borders should be treated as international boundaries (Klemenčič, 1993);
- Croatia and Slovenia's 25 June 1991 statement concerning mutual recognition of the existing boundary as well as denying the existence of any outstanding territorial claims; and,
- both sides had interests in settling the question without serious dispute or conflict in order to demonstrate to the international community, and especially to the EU, that they are stable European states which do not share a 'Balkan syndrome' with the rest of the former Yugoslavia.

The final point was consistently emphasised by representatives of both Croatia and Slovenia. The possibility of being forced to resort to some form of international mediation, arbitration or even litigation, whilst immeasurably superior to resorting to the use of force – as in the case of Bosnia for example, is perceived by both parties as weakening their 'image' in the eyes of the international community. Furthermore, such dispute resolution strategies are likely to prove costly and are therefore viewed as putting an undue and unwelcome financial burden on the two states.

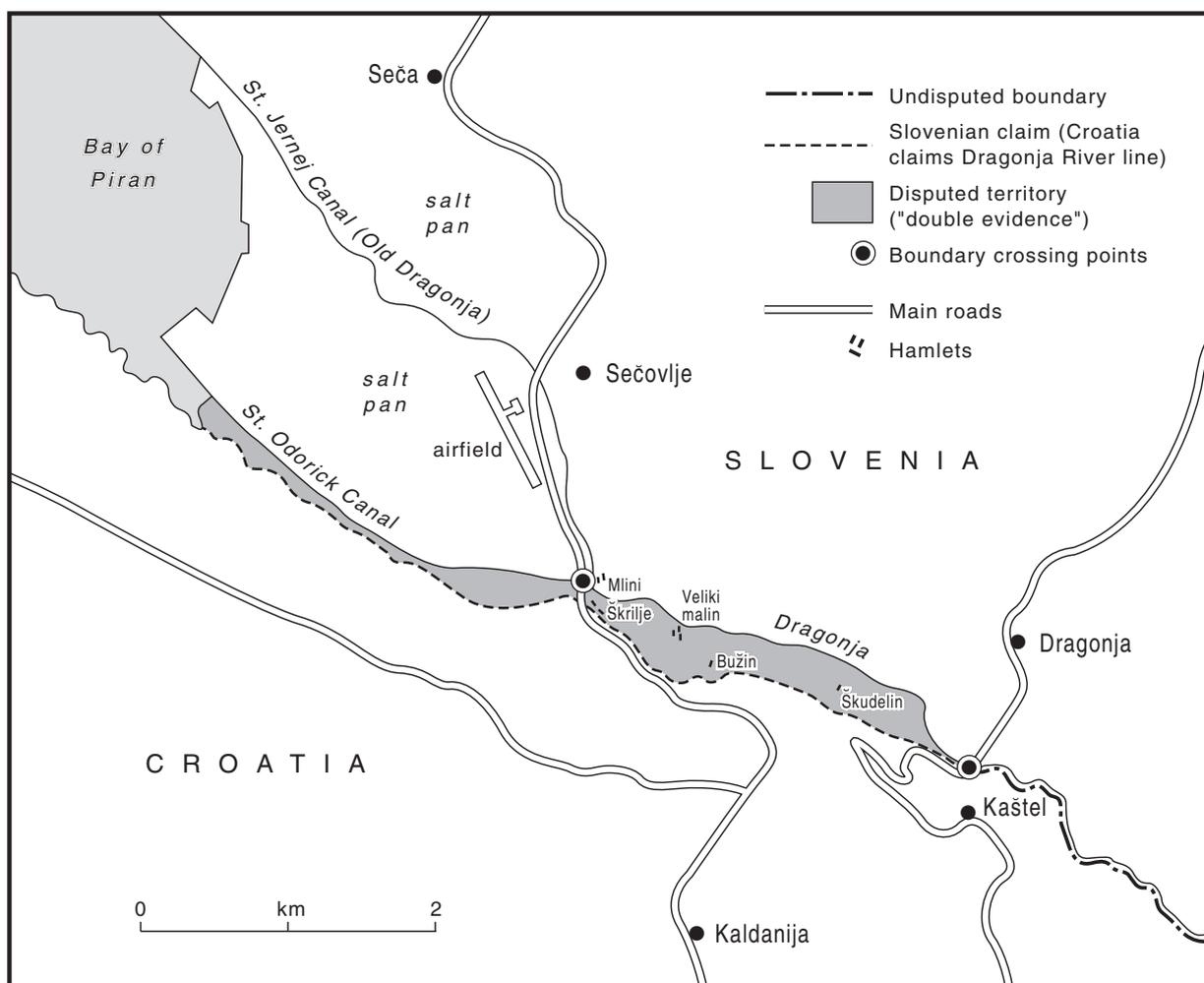
Although an initial post-independence analysis of the boundary question indicated that there were no serious disagreements and the two sides merely required precise cartographic evidence and fieldwork to complete demarcation, problems swiftly surfaced, the most significant of which is the dispute over the four hamlets and Bay of Piran. The area under dispute is relatively insignificant to either state purely in terms of area and it may in fact be misleading to characterise the four hamlets case as a major territorial dispute (although it should be noted that certain unofficial claims are more extreme, see Figure 8). Even so, the dispute has proved to be somewhat intractable and after five years the boundary commissions appear to be no nearer to reaching an agreement. Indeed, it even seems that the two states are further from resolution than they were at independence.

5.4 Conflicting Claims

In the four hamlets case Slovenia claims a boundary line on the southern limits of the cadastral commune of Piran III. This claim therefore includes the narrow strip of land south of the Dragonja river containing the disputed hamlets (Figure 6). In cadastral evidence that strip of land belongs to the Slovenian commune of Piran III, although administratively the area is part of Croatia. As noted, the problem only surfaced when the two countries started to demarcate their common boundary. They realised then that the strip of land was, on the basis of differing evidence, claimed by both sides. It is difficult to account for the discrepancy between the cadastral and administrative evidence, given that the boundary was theoretically settled in 1954.

The 'four hamlets' case is closely related to the general Slovenian view on the boundary demarcation with Croatia in Istria. In addition to the desire to maintain its territorial claim, the main Slovenian interest appears to be the extension of Slovenian territorial waters. For that reason Slovenia claims the whole Bay of Piran, while Slovenian politicians have frequently stated that they want to ensure that Slovenia has a direct exit to 'international waters'.

Figure 6: Disputed Territory on the Dragonja River



The boundary line south of the Dragonja river, based on the old cadastral limit, would provide a favourable basis to claim sovereignty over the majority of the bay for Slovenia. There is also perhaps a secondary motive, related to the airfield near Sečovelje situated just a few hundred metres from the boundary (Figure 7). Under current conditions aircraft on take-off or landing usually traverse the airspace over the disputed strip and therefore enter *de facto* Croatian airspace. Were the boundary to be shifted south in favour of Slovenia aircraft would remain in Slovenian airspace.

Two further, unofficial, claims have also emerged from Slovenian sources which are worth consideration (Figure 8). Whilst these informal claims lack official sanction and are in fact unlikely to have attracted widespread public acceptance being proposed by those who might be described as radicals and hard-liners, they nevertheless exist.

The best known revisionist is Zmago Jelinčič, the leader of right-wing Slovenian National Party (SNS) and influential member of committee for foreign affairs of the Slovenian parliament. This controversial politician openly supports major revisions of the Croatian-Slovenian boundary in the latter's favour. However, Jelinčič is not alone. In June 1994 the Slovenian daily *Večer* based in Maribor published a report including a map from a press conference given by Janez Janša, former Slovenian minister of defence and leader of the Social Democrat Party of Slovenia (SDSS). Janša criticised Slovenian policy towards Croatia as being too compliant and proposed that Slovenia should change her negotiating position. According to the most extreme claim, the boundary would be based on the southern limit of the FTT's Zone B, on the river Mirna. That claim, if realised, would transfer the whole northwestern part of the Istrian peninsula from Croatia to Slovenia, including the towns of

Figure 7: View of the Bay of Piran and Airfield near Sečovelje from Croatian Territory



Figure 8: Slovenian Claims



Buje, Umag and Novigrad. The apparent justification for the claim is that the limit of the FTT was the 'last internationally recognised boundary' in that area. From a Croatian perspective this argument is somewhat surprising given that the FTT was a temporary and transitional solution created by the great powers in order to resolve the Italian-Yugoslav boundary dispute. Both Croatia and Slovenia were at that time very much interested in securing the best possible delimitation on behalf of Yugoslavia and they therefore acted jointly. Only after the FTT was divided between Italy and Yugoslavia, was the Yugoslav portion of the former FTT (mainly Zone B) divided between Croatia and Slovenia. There therefore appears to be little basis for either side to claim the entirety of the FTT zone.

The other claim shown on Figure 8 is less radical. It claims a boundary on the Savudrija peninsula some 2-3 kilometres south of the Dragonja river. Although territorially more moderate, the claim would still ensure for Slovenia the possibility of treating the Bay of Piran as part of her internal waters (as did Yugoslavia). The historical basis for that claim is to be found in an administrative division from the Austrian period. According to this 1910 division, the southern limit of the district of Koper was somewhat more to the south of the present Croatian-Slovenian boundary – that is, the district of Koper formerly contained the communes of Savudrija and Kaštel (presently within Croatia).¹⁷

Croatia claims the *de facto* boundary on the Dragonja river. Croatia has administered the disputed strip of land and hamlets since the 1954 delimitation and so claims the *status quo* limit on the basis of effective administration. Croatia therefore also views the terminus of this line at the mouth of the Dragonja river on the Bay of Piran as the starting point for any maritime delimitation.

Concerning disputes along the Croatian-Slovenian boundary as a whole, Croatia argues that each case should be considered in isolation because different sectors have dissimilar characteristics and histories. For example, the boundary in Istria was delimited only post-Second World War, while other sectors have been stable as some form of boundary since the middle ages.

Only one possible, unofficial, alternative Croatian proposal concerning the Dragonja sector has been outlined. This alternative claim was based on the argument that the present river-bed is in fact just one of several channels (or canals) because the Dragonja's mouth forms a delta. The channel which is considered the river-bed today is called St. Odorick's. Croatian historian Ljubo Boban, a member of the boundary commission, gave a public lecture on delimitation in the Croatian Academy of Sciences and Arts in February 1994 in which he stated that St. Odorick's channel should be accepted as the boundary line. However, since Slovenia rejected this delimitation, Croatia might find grounds to claim an alternative boundary on St. Jernej's channel which lies some two kilometres further to the north.

According to Boban, when the Dragonja was for the first time mentioned as a boundary in 1944, the main river-bed was still in St. Jernej's channel. As a result of reclamation work in the area in 1952 the natural flow of the Dragonja was diverted from St. Jernej's to St. Odorick's canal – the *de facto* boundary today. The Croatian position is well illustrated by a Croatian government statement issued at the end of 1993:

¹⁷ In support of this claim Slovenian sources stated that some 80% of second-homes on the Savudrija peninsula were the property of the citizens of Slovenia (*Večernji list*, 28/11/1991).

“the boundary on the Dragonja river follows St. Odorick’s canal because it was Dragonja’s main stream on 25 June 1991 when the Republic of Croatia and the Republic of Slovenia proclaimed independence.” (Večernji List, 30/7/94).

It is important to place the Croatian-Slovenian dispute in the four hamlets and Bay of Piran area in its proper perspective. Overall, the boundary questions raised with Slovenia are of limited significance in comparison to the problems Croatia has recently faced along its eastern boundaries.¹⁸ There are no significant Croatian territorial claims in relation to Slovenia. Both Croatia and Slovenia have emphasised their interest in good relations and peaceful cooperation with one another and have generally maintained a cordial relationship. From a Croatian perspective it is perhaps also of significance that Slovenia represents the gateway for the transit of Croatian goods and people *en route* to Austria, Italy and the rest of western Europe. In light of Croatia’s deep desire to develop its relations with the EU that last geographical reality is of great importance.

5.5 The Maritime Dimension

No maritime boundary exists between Croatia and Slovenia. Indeed, Yugoslavia declared a closing line for the Bay of Piran as part of its straight baseline claim of 1965. The consequence of this action was to give the Bay of Piran the status of internal waters. Thus the Croatia-Slovenia federal boundary was not extended offshore and the bay remained undivided.

As outlined above, the resolution of the dispute over the four hamlets territory has a bearing on any maritime delimitation between the two states as it determines the terminus of the land boundary on the coast and thus the starting point for any maritime boundary. The maritime dimension to the four hamlets dispute is clearly regarded as a significant factor by Slovenia which regards itself as a geographically disadvantaged state with limited access to the sea.

Theoretically, once the four hamlets dispute has been resolved the Croatia-Slovenia maritime boundary is likely to consist of a territorial sea boundary extending approximately 8-10 nautical miles as far as the former Italy-Yugoslavia boundary in the Gulf of Trieste, signed on 10 November 1975 and entered into force on 3 April 1977 (Blake, 1994: 42). As noted earlier, the former Yugoslav agreements with Italy concerning continental shelf between their opposite coasts in 1968 and concerning territorial sea in the Gulf of Trieste in 1975 have been inherited by the former-Yugoslav successor states and remain in force regardless of the disintegration of Yugoslavia. In the context of the Gulf of Trieste it is believed that none of the three littoral states, Croatia, Slovenia and Italy challenge the delimitation agreed in 1975 between the latter state and Yugoslavia in 1975.

The delimitation of the territorial sea is governed by Article 15 of the UN Convention on the Law of the Sea (which came into force on 16 November 1994). Article 15 provides that:

“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

¹⁸ For example, the Serbian occupation of Slavonia, the breakaway Krajina region and the presence of UN Protected Areas.

nearest points on the baselines from which the breadth of the territorial seas of each of the two states is measured.”

There is therefore a clear presumption in favour of a median line in the Croatia-Slovenia case in the Bay of Piran. Technically therefore the boundary itself should be relatively easy to delimit once the starting point is clarified. Article 15 does, however, include a ‘get-out clause’ in that it goes on to state that:

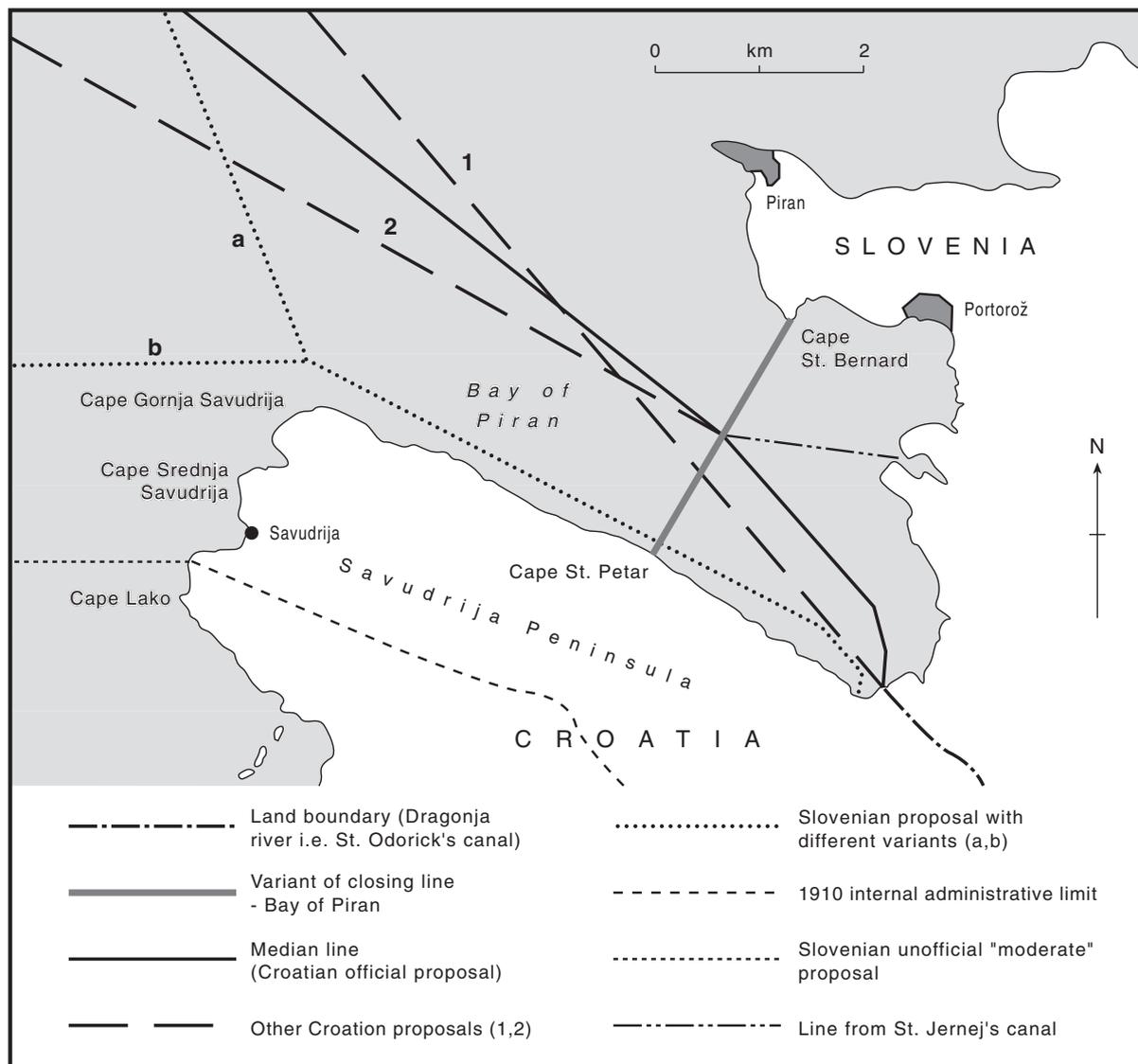
“The above provision [i.e. a median line] does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial sea of the two States in a way which is at variance therewith”.

In 1992 Slovenia rejected a Croatian proposal for condominium over the Bay. The Slovenian government declared its viewpoint on 7 April 1993 in a document called *Memorandum on the Bay of Piran*. Slovenia argued that it had effective control and jurisdiction over the entire Bay while former Yugoslavia existed and that this was the *de facto* situation until the day both countries proclaimed independence. The Croatian side argues otherwise, citing the case of the Italian tanker *Nonno Ugo* which was stranded in 1973 in the vicinity of the village Kanegra on the Croatian side of the Bay. The salvage and pollution prevention operation was conducted exclusively by the Croatian local authorities from Pula and Umag and coordinated from Zagreb.¹⁹

According to Croatia’s document, *Standpoints of the Republic of Croatia in regard to the delimitation within the Bay of Piran* (18 November 1993), the maritime boundary should be drawn from St. Odorick’s canal and the principle of equidistance should be applied. According to the other possibility, supported by Slovenia, the starting point for the maritime boundary should be 300 metres further to the south. If the latter starting point of the maritime boundary were accepted and used as the first point of a maritime boundary and Slovenia’s proposals for delimitation were accepted, Croatia’s maritime jurisdiction in the Bay of Piran would be severely restricted to a narrow, 200-300m strip along the Savudrija peninsula (Figure 9).

Although the Slovenian Prime Minister, Janez Drnovšek, has stated that Slovenia “*is not likely to give up the sovereignty over the entire bay*” (*Večernji list*, 18/6/1994), Hrvoje Kačić, president of the Croatian boundary commission responded by stating that: “*Croatia must have territorial sea in front of the northern part of Savudrija peninsula*” and that a “*maritime belt of only 278 metres in width is not acceptable*”. He also suggested a compromise: “*A median line is not the only solution. My impression is that Slovenia would give up its exclusive claim to sovereignty over the entire bay, if Croatia stops insisting on a median line as the only possible solution.*” (*Večernji list*, 30/7/1994). In order to avoid possible incidents pending final settlement, Croatia proposed that both sides should provisionally control the Bay as far as the median line. The situation at the time of writing is that Slovenian police control most of the Bay, as was also the case in the pre-1991 period before the two states proclaimed independence.

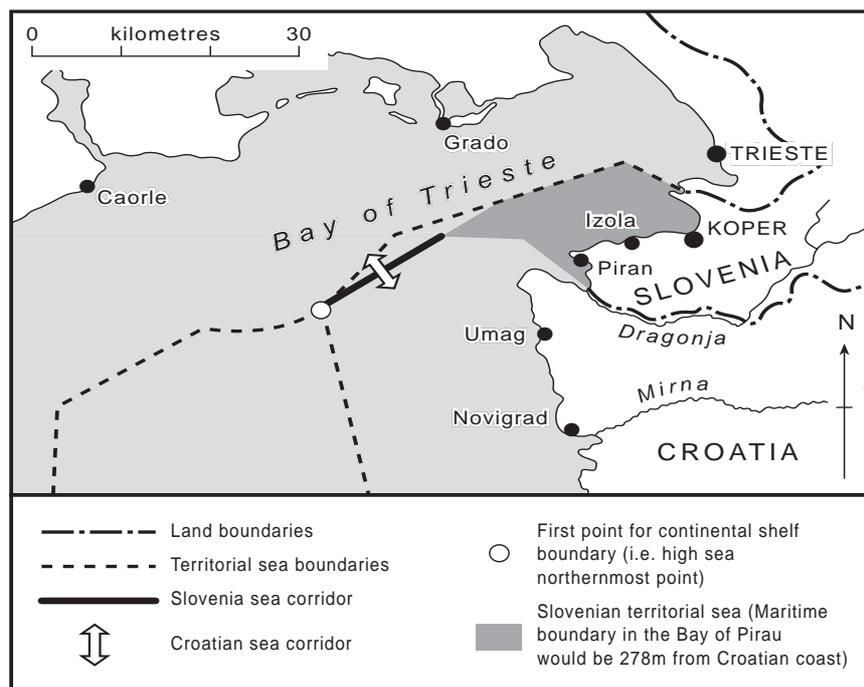
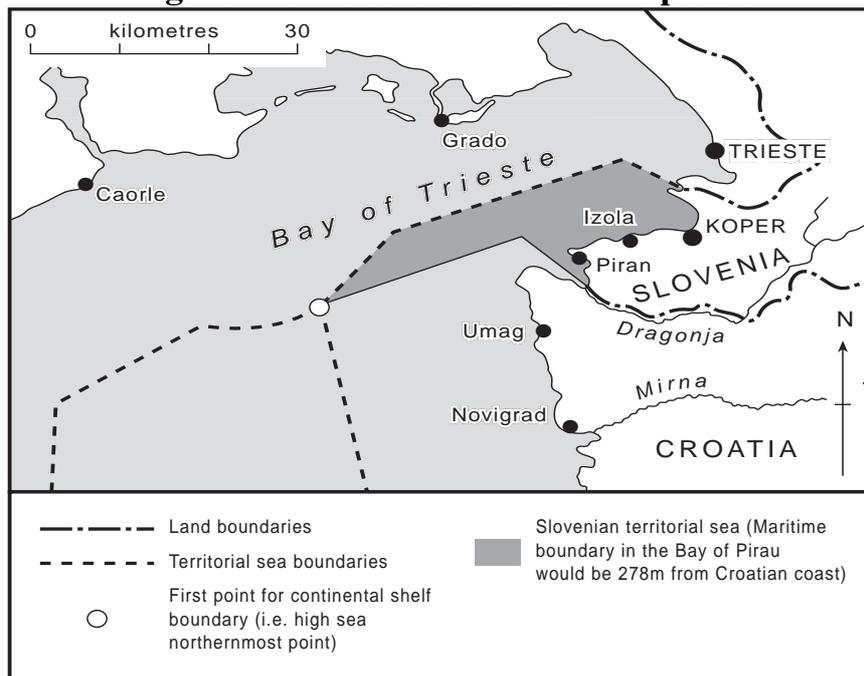
¹⁹ According to the statement of Hrvoje Kačić, president of the Croatian national boundary commission (*Vjesnik*, 10/10/1994).

Figure 9: Maritime Boundary Variants in the Bay of Piran

In addition to claiming sovereignty over the entire Bay of Piran, Slovenia also seeks uninterrupted access to the 'high seas' and 'international waters'. Prime minister Drnovšek stated that this was his country's natural and genuine right (*Večernji list*, 22/10/1994). Even with sovereignty over the entire bay, however, the Slovenian territorial sea would still be surrounded by Croatian and Italian territorial seas. Thus Slovenia would not achieve direct access to 'international waters'. This predicament is a consequence of the Italy-Yugoslavia maritime boundary in the Gulf of Trieste as agreed by the *Treaty of Osimo* on 10 November 1975 (Section 4.2, Figure 4, Appendix II). The relatively narrow Gulf of Trieste was then delimited between the territorial seas of Italy and Yugoslavia, both extending less than the permissible 12 nautical miles. The first point was defined approximately in the centre of the entrance to the Gulf of Trieste, west of Croatian coast. Starting from that point the continental shelf was also delimited between Italy and Yugoslavia by an agreement signed in Rome on 8 January 1968 (Section 4.1, Figure 3, Appendix I). Thus, access to and from Slovenian ports, particularly Slovenia's key port Koper, must depend on the right of 'innocent passage' through Croatian or Italian territorial sea.

In late 1995 Slovenia repeated its claim for a maritime boundary within the Bay of Piran only 278m off the Croatian coast, together with a demand for a free exit to the open sea and proposed several possible solutions (Figure 11). The first option would result in an extension of Slovenia's territorial sea at Croatia's expense resulting in the entire length of the 1975 Italy-Yugoslavia territorial sea boundary in the Gulf of Trieste becoming the Italy-Slovenia boundary. Alternatively, Slovenia raised the possibility of establishing a corridor through Croatia's territorial sea connecting Slovenia's territorial sea to 'international' waters.

Figure 11: Recent Slovenian Proposals



Another reason for Slovenia's desire to extend its maritime jurisdiction is to provide access to fisheries resources. Slovenia needs concessions for fisheries in the Croatian territorial sea, because its fishery industry, limited to Slovenian territorial sea, has little chance for development. Until the break-up of Yugoslavia, the Slovenian fishery industry realised around 90% of its annual catch within the present Croatian territorial sea (*Vjesnik*, 28/2/92).

It remains doubtful whether Slovenia could build a strong case for a departure from a median line, particularly in light of the fact that under the UN Convention vessels retain the right of 'innocent passage' through territorial waters. Access to international waters from Slovenian ports would therefore remain essentially unaffected by the conclusion of an equidistant territorial sea boundary with Croatia.

One further issue that might give rise to dispute in the future in the maritime sphere is that of the Italo-Yugoslav joint zone straddling the area of the potential Croatian-Slovenian maritime boundary (Blake, 1994). In 1983 Italy and the former Yugoslavia concluded an agreement to establish a joint fishing zone in the Gulf of Trieste (Figure 4). A restricted number of fishing vessels from either side are entitled to fish within the zone which spans the 1975 Italy-Yugoslavia territorial sea boundary. In the event of a Croatia-Slovenia maritime delimitation it is likely that the portion of the zone on the former-Yugoslav side of the boundary will be divided between Croatia and Slovenia, providing the potential for further disputes.

5.6 Prospects

For Croatia, the Bay of Piran is important largely for tourism. There are no towns or industry on the Croatian coast of the bay. On the opposite side there is the Slovenian town of Piran, which has a nautical school. Portorož is the main Slovenian sea resort. Apart from the Bay of Piran, Slovenia has only Izola, the main fishing centre with shipyard, and Koper, the main commercial port. The port of Koper is in fact the only port equipped for handling overseas cargo (including oil) along the 45km long Slovenian coast. It is also a rival to the Croatian port of Rijeka, both competing for primacy in serving the landlocked countries of Central Europe such as Hungary, Austria, Slovakia and the Czech Republic. Naturally both Koper and Rijeka must also compete with Trieste and Venice.²⁰

The dispute between Croatia and Slovenia over maritime delimitation is clearly just one part of a complex politico-geographical relationship. Issues of note include territorial demarcation, rivalry regarding transportation routes, property ownership, and dispute over exploitation of the Krško nuclear power-plant (built as a joint effort in the former Yugoslavia). In regard to maritime delimitation, international arbitration or even litigation has been mentioned by both sides. But, the scope for direct bilateral negotiations has not been exhausted. The policy of transboundary cooperation is clearly preferable to confrontation, and at least the main political powers on both sides seems to be aware of the fact. The dispute over maritime delimitation between Slovenia and Croatia has not reached the level of international conflict, and seems unlikely to do so.

²⁰ The modernisation of the roads is important for Croatian transit but is not such a priority for Slovenia (Zagreb-Maribor-Graz, Rijeka-Trieste). For Croatia it is unfavourable that the only available railroad connecting Zagreb with Istria runs through Slovenian territory.

6. Bosnia-Hercegovina – Croatia: Bosnian Access to the Sea

6.1 Introduction

Bosnia-Hercegovina has a narrow exit to the sea on the Klek-Neum Bay and the Klek peninsula. The total length of this Bosnia-Hercegovina coast is 21.2km, but since the coastline is shaped like the letter 'Z', Bosnia's coastal front amounts to no more than 10km. (Figures 12 and 13). The territory has been an integral part of Bosnia since 1700 when it was ceded by the Republic of Dubrovnik to the Ottoman Empire. The aim of Dubrovnik's diplomacy was to establish buffer zones under Ottoman jurisdiction along its boundaries in order to avoid direct contact with Venetian territory. The Republic of Dubrovnik therefore ceded the territory along its north-western boundary around Neum and the Klek peninsula to the Ottomans. In addition, a strip of territory known as Sutorina was ceded along Dubrovnik's south-eastern boundary (Section 7.4, Figure 15).

After World War II, when Bosnia-Hercegovina was re-established within its historical boundaries as one of Yugoslavia's federal republics, only one of the two exits to the sea survived. Bosnia-Hercegovina kept an exit at Klek-Neum, while another one at Sutorina was transferred to Montenegro which for the first time in its history acquired control of the Bay of Kotor (Figure 15). In recent years the issue of control over access to the sea at Klek-Neum emerged as a contentious issue among the warring parties in Bosnia-Hercegovina.

Figure 12: Geographical Location of Klek, Neum and Ploče



Figure 13: Views of the Neum-Klek Corridor and the Port of Ploče from the Air



6.2 Historical Background

The boundaries between Venetian possessions and Ottoman-held Bosnia were delimited and partially demarcated in 1700 on the basis of the provisions of the Treaty of Karlowitz. The same boundaries were confirmed by the 1718 Treaty of Passarowitz. Although the Ottomans acquired narrow corridors to the sea along boundaries of the Republic of Dubrovnik, the sea in front of these corridors remained under Venetian control. The Venetian Republic did not allow free traffic over the land corridors and treated the sea in front of the corridors as ‘closed sea’ (*mare clausum*). Without Venetian permission ships were not allowed to land. For strategic reasons Venice also retained possession of the tip of the Klek peninsula known as *Rep Kleka* meaning ‘Tail of Klek’ (Figure 14). However, the Ottomans showed little interest in maritime based trade via Neum and Sutorina, their main trading routes lying further inland.

In the course of Napoleonic France’s short-lived rule over the eastern Adriatic coast (1805-13), when an administrative unit called the Illyrian Provinces was established, the Bosnian corridors disappeared from the political map. Moreover, in 1809 a ‘Post road’ was built across them to connect Split and Kotor.

On the basis of the provisions of the 1815 Congress of Vienna the former Venetian possessions in Dalmatia and around the Bay of Kotor, as well as the former independent Republic of Dubrovnik, came under Austrian rule. Austria organised these territories into a single unit known as the Kingdom of Dalmatia, a situation which lasted until 1918. The

Figure 14: The Neum-Klek Corridor

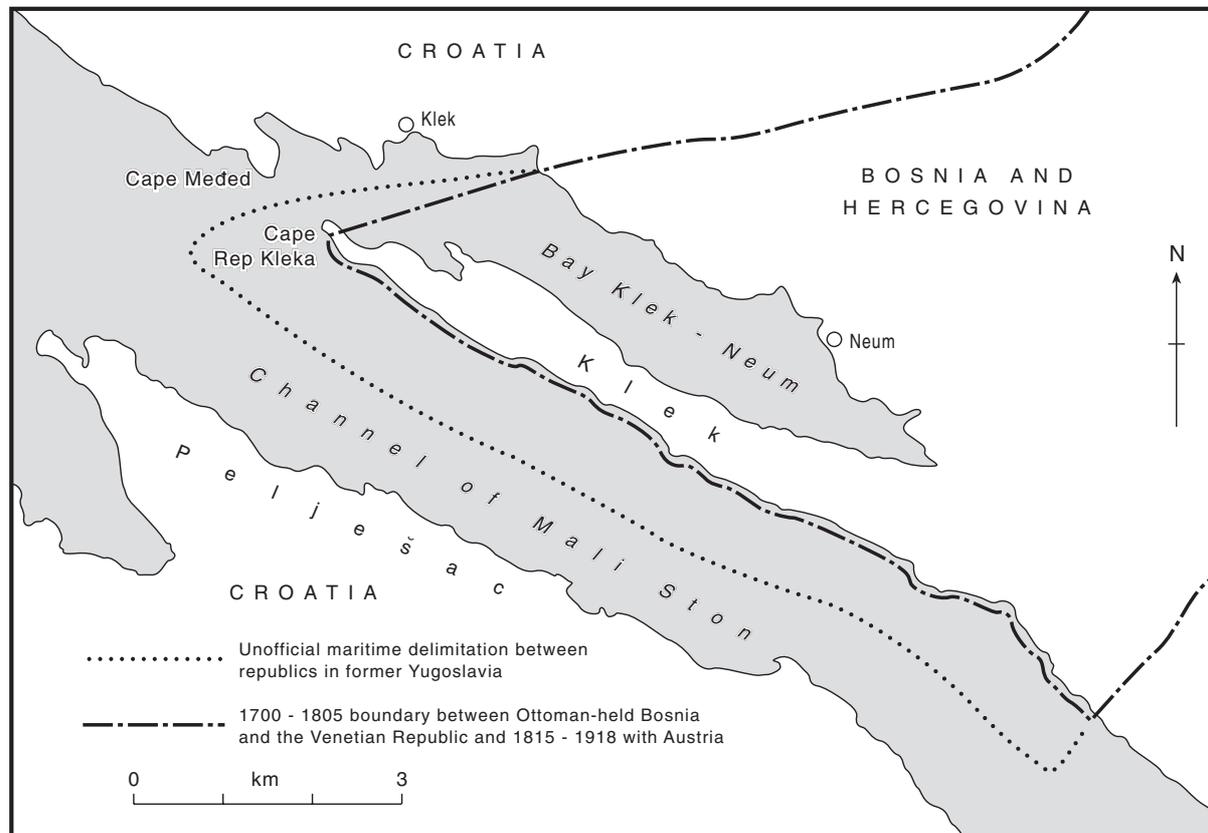
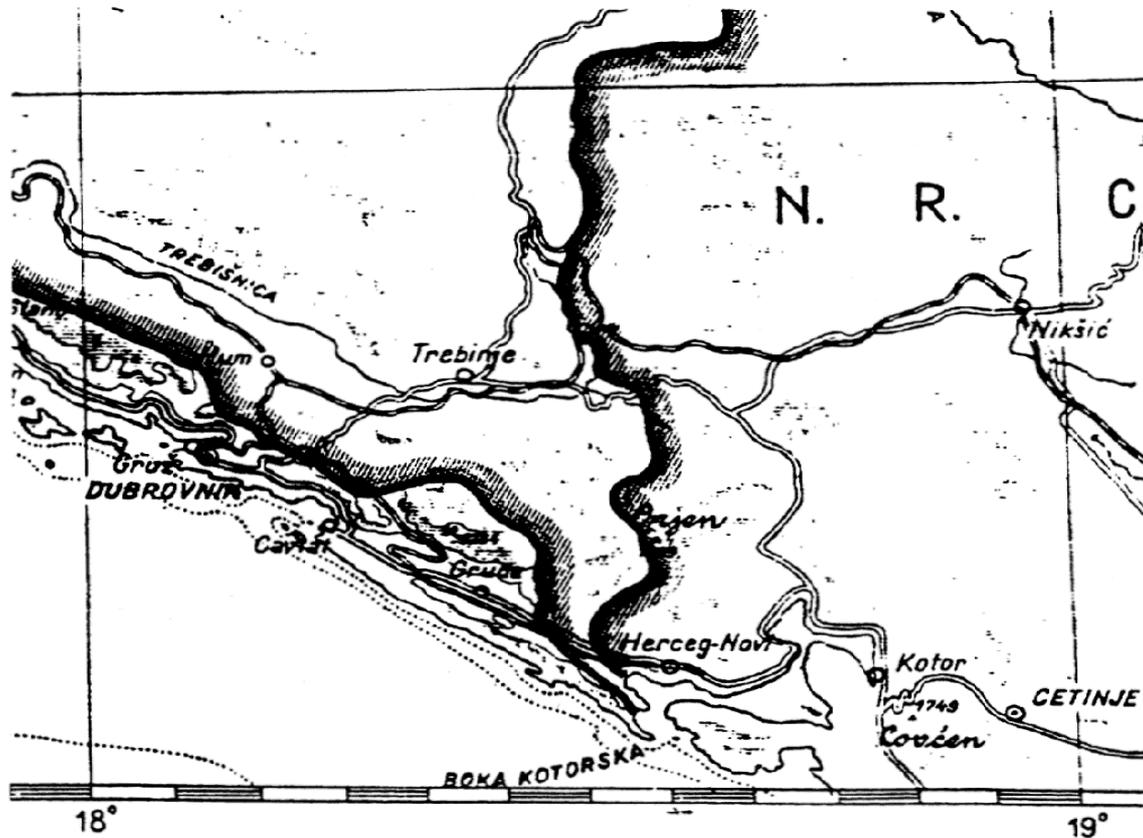


Figure 15: Sutorina – Bosnia-Hercegovina’s Corridor to the Bay of Kotor



From a Yugoslav map dated 1947. Source: Lučić and Obad, 1994.

Ottoman corridors were also confirmed by the Congress of Vienna within the boundaries established in 1700 and confirmed in 1718.²¹ As a successor of Venice, Austria retained the policy of controlling both sea access and trade over the corridors (Figure 16).²²

In 1834 protracted negotiations between Austria and the Ottomans started over a new route for the Post road across the corridors. Austria finally succeeded in buying some land on Neum-Klek in 1849 and proceeded to redirect the Post road across it. But in spite of the fact that a

²¹ According to Austrian sources from 25 June 1815 the Neum-Klek and Sutorina corridors jointly did not possess “more than two German miles and approximately 1,357 inhabitants.” In 1832 on Neum Klek, between the coast and the Post road there were no Muslim and only 16 Catholic households. (Šljivo, 1977: 11, 39).

²² After several incidents and Ottoman attempts at landing, the Austrian ministry of foreign affairs stated in 1851 that “in the waters around Klek and Sutorina traffic of Ottoman vessels, as well as vessels of other countries cannot be handled.” (Šljivo, 1977: 97).

road connection was secured, the Ottoman corridors still caused the fragmentation of Austrian Dalmatia. Austria tried to obtain the corridors from the Ottomans several times without success, despite offering both financial and territorial compensation.²³

The Bosnian/Ottoman corridors were at that time also the subject of commercial and political interest between European powers over trade penetration into the hinterland. The strategic importance of the corridors for the Ottoman Empire increased in 1850-51 during the mutiny of the Bosnian Beys against the Ottoman Sultan. The commander of the Turkish army, Omer-Pasha Latas, wrote in 1851: "*Trade interests are of marginal importance here; we are interested primarily in bringing troops to Hercegovina as quickly and easily as possible*" (Šljivo, 1977: 101).

Ultimately, Austria did not gain the corridors of Klek-Neum and Sutorina until it occupied Bosnia-Hercegovina in 1878 and annexed it in 1908. When federal Yugoslavia was established following the World War II, Bosnia-Hercegovina kept Neum-Klek, while Sutorina was allocated to Montenegro.

The Bosnian corridor to the sea did not have any functional meaning in the former Yugoslavia. The port in Neum is of limited potential and boasted a modest population (1,651 inhabitants according to the 1991 census). The main port for Bosnian trade was built at Ploče on the territory of the Republic of Croatia, at the mouth of the Neretva river, some 20km north-west of Neum and Klek (Figure 12). The building of Ploče started in 1940, but the port's development did not take off until post-1949.²⁴ From the early 1960s transportation links between Ploče and its Bosnian hinterland were improved. A new road connecting Ploče-Mostar-Sarajevo was completed in 1964, and the railroad on the same route (roughly 200km) was completed in 1966.²⁵ The port of Ploče was the most important port for Bosnia-Hercegovina, until the break-up of Yugoslavia and the war in Bosnia.

6.3 Post-Yugoslav Developments

As a consequence of the war that started in Spring 1992, Bosnia-Hercegovina has been effectively divided. The question of an exit or access to the sea was frequently on the agenda of the seemingly endless, and generally fruitless peace-talks between the Bosnian parties. The number of parties to the negotiations varied over time between two and three, depending on the health of the alliance between Bosnian Croats and Muslims. Discussions over access to the sea were at their most intense during 1993 when relations between the Croats and Muslims were at their lowest ebb. Since Neum-Klek was within the territory controlled by the Croats, the Muslims insisted on an exit to the coast under their own sovereignty.²⁶ The Croats offered

²³ In the 1830s Austria proposed territorial compensation to the Ottoman Empire. Territory around Kastel Lastva in the former Albania Venetia was offered as compensation (Šljivo, 1977: 30).

²⁴ The population of Ploče in the 1991 census was 6,332. In 1980 the town was renamed in Kardeljevo after Yugoslav communist politician Edvard Kardelj. The former name was re-established in 1991 after the demise of the communist regime in Croatia.

²⁵ When the port of Ploče was built-up, the importance of the river-port of Metković decreased. Metković is an old Croatian trade centre beside the boundary and a port on the Neretva river some 20km from the sea. A narrow-gauge railroad from Metković to Ploče was completed in 1939.

²⁶ The historic corridor Neum-Klek is presently an administrative commune of Neum. The territory has traditionally been populated almost exclusively by the Croats. According to the 1991 census there were 4,268 inhabitants within the commune, of which 87.6% were Croats and 4.6% Muslims.

access but refused to surrender sovereignty. This question was not simply a dispute between Bosnian Croats and Muslims: it also fell within the interests of the Republic of Croatia – just as Austria before it, Croatia was keen to prevent the fragmentation of its Dalmatian possessions (Klemenčić, 1994: 60).

During negotiations held on 20 September 1993 on the British aircraft-carrier *HMS Invincible*, the question of an exit to the sea was on the agenda. Several possibilities were discussed. The first was sovereign territory for the Muslim entity on the uninhabited Klek peninsula which would be connected by road across Bosnian Croat territory to Muslim territory in the hinterland. The second possibility was a lease contract for part of the port at Ploče for 99 years. A third option was a new river port for the Muslim statelet on the Neretva river between Višići and Čeljevo (Figure 12). The Serbs also pressed for concessions from Croatia. During the talks on *HMS Invincible* the Serbs argued that they had rights to one third of Neum as joint territory with the other Bosnian parties.

Firm guarantees for Muslim access to the sea were finally provided in the *Agreement on Federation of Croats and Muslims in Bosnia-Herzegovina* signed in Washington on 18 March 1994. At the same time an agreement providing the Muslim-Croat federation access to the sea across Croatian territory was also signed. Among other provisions, the agreement stated that:

- “(i) *The Republic of Croatia will lease to the Federation a part of the port of Ploče as a free zone for 99 years,*
- (ii) *The Republic of Croatia will allow access to the leased part of the port for ships coming across the Adriatic Sea and ships coming along the Neretva river as well as by the road and railroad route Sarajevo-Mostar-Ploče.*”

On the other hand, the agreement provided for Croatian transit through the territory of the Federation, in the form of a road through the Neum commune for 99 years (*Večernji list*, 5/3/94). Moreover, a *Provisional Agreement on the Establishment of Confederation between the Republic of Croatia and Bosnia-Herzegovina Federation* was also signed in Washington in March 1994. Chapter 6 of the agreement states that Croatia will allow unrestricted access to the Adriatic for Bosnia-Herzegovina, and that the Federation will allow Croatia unrestricted transit through the Neum strip (*Vjesnik*, 21/3/94). These agreements were confirmed and reinforced by another agreement which the two sides signed in Zagreb on 11 May 1996. The latter agreement provided the legal framework for the provisional use of the port of Ploče on the part of the Bosnian government, and transit through the Neum strip for Croatia.

6.4 The Croatia – Bosnia-Herzegovina Maritime Boundary

As already noted, in the Venetian and Austrian period the sea in front of the Neum-Klek corridor was treated as ‘closed sea’ (*mare clausum*). The closed sea regime was applied on the sea in the Klek-Neum Bay, some 8km long and 1.4km wide. In 1700 Ottoman Bosnia was given the inner part of the bay. Venice, and later Austria, kept the port of Klek and the promontory of the Klek peninsula (Cape Rep Kleka) and therefore control over the entrance to the bay (Figure 14). The entrance into the bay between the capes Rep Kleka and Međed is 770m wide. Southeast of the Klek peninsula the land boundary reached the sea and then followed the coastline of the peninsula (Figure 16). Thus, Ottoman Bosnia-Herzegovina was

denied jurisdiction on the outer, seaward side of the Klek peninsula. The arrangement was an extremely interesting and ingenious case of maritime delimitation whereby the state possessed the coast but had no rights to the sea in front of it (Sambrailo, 1966).

When Bosnia-Hercegovina was established as a republic within Yugoslavia after the World War II, a small boundary change occurred. The entire Klek peninsula was allocated to the commune of Neum, and consequently to Bosnia-Hercegovina. Although the maritime boundary has never been delimited, it is sometimes shown on Yugoslav maps and atlases, as the median line at the entrance into the bay. On the outer side of the bay it was not drawn following the coastline but usually as the median line in the Mali Ston Channel (Figure 14). The Klek-Neum bay is semi-enclosed by the 7km long Klek peninsula, but both the bay and peninsula are within the larger bay called the Mali Ston Channel, which is enclosed on the seaward side by the 62km long Pelješac peninsula. The distance between the peninsula of Klek and Pelješac peninsula varies between 1.5 and 2km. Because of the location of the Pelješac peninsula in front of the Neum-Klek corridor the full 12nm breadth of territorial sea cannot be established. Even if the sea between the two peninsulas is divided by a median line, access from Bosnia-Hercegovina territorial sea into 'international waters' is possible only through Croatian internal waters (see Section 3.2.2).

However, this transportation dependence is mutual. No matter how it is delimited, the Bosnian territorial sea would always be encircled by the Croatian internal waters. On the other hand, the Neum-Klek corridor cuts through Croatian territory. Such inter-dependence should encourage Croatia and Bosnia-Hercegovina towards transboundary cooperation. If they can be mutually agreed, the land and maritime boundaries around the Neum-Klek corridor might prove to be an important symbol of Croat-Bosnian cooperation.

7. Croatia – Yugoslavia (Serbia/Montenegro): Prevlaka Peninsula and the Bay of Kotor

7.1 Introduction

As is the case between Croatia and her other former Yugoslav Adriatic neighbours, Slovenia and Bosnia-Hercegovina, the maritime boundary between Croatia and Yugoslavia (Serbia/Montenegro) has yet to be defined. The Croatia-Montenegro maritime boundary question is also complicated, in a manner similar to that between Croatia and Slovenia, by unresolved territorial disputes the resolution of which is an essential precondition to any maritime delimitation as this will serve to determine the terminus of the Croatia-Montenegrin land boundary on the coast and thus the starting point of any maritime boundary. In addition, as a result of the fact that after the break-up of Yugoslavia, Serbia and Montenegro elected to form a 'new' Federal Republic of Yugoslavia which refused to recognise Croatia, no official negotiations over territorial disputes and the maritime boundary question have been possible.

7.2 The Prevlaka Peninsula Dispute

The territory disputed between Croatia and Montenegro consists primarily of the Prevlaka peninsula at the southernmost extremity of the Croatian region of Dalmatia. The peninsula is 2.5km long, the width varies from 170 to 480m, and the land surface is almost one sq. km

(93.33 hectares) (Figures 17 and 18). The south-eastern point of the Prevlaka peninsula is known as Cape Oštra.²⁷ Prevlaka is the southernmost part of the geographical region known as Konavle, a name based on the Roman word *canale*, meaning waterworks. From Prevlaka the region extends towards northeast to the town of Cavtat, which is some 15km from Dubrovnik. The whole region of Konavle covers 210 sq. km and has historically had a Croatian ethnic majority. The coast is mostly unapproachable, except at the small ports of Cavtat, Molunat and Prevlaka.

The whole region is geopolitically a highly sensitive area, because of the boundaries with Montenegro and the Serb-controlled area within Bosnia-Herzegovina in the hinterland. Furthermore, as a result of its position as the northernmost arm of the promontories guarding the entrance to the Bay of Kotor (*Boka kotorska*), the key base for the remnants of the Yugoslav navy, the peninsula itself has been accorded significant strategic value. Fearing that Croatian control of Prevlaka would compromise access to its naval installations, Yugoslavia is keen to secure exclusive control over the entrance to the bay. In addition, the Bosnian Serbs have frequently demanded access to the Adriatic in this area claiming that as they form part of Bosnia-Herzegovina which has access to the sea, they too should have the right of access to the sea.

7.3 Strategic Significance of Prevlaka and the Bay of Kotor

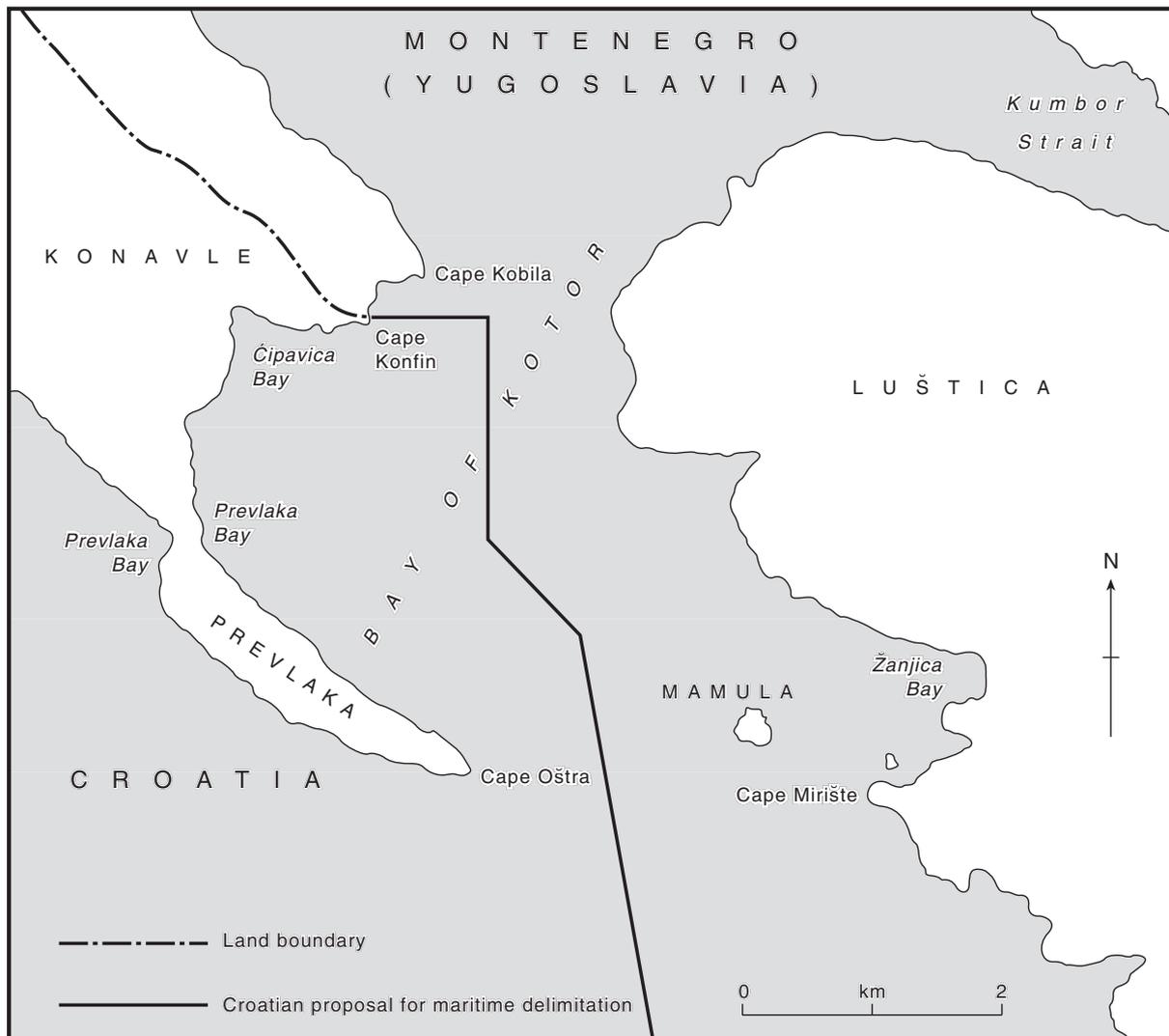
Over time the strategic position of the Bay of Kotor was important for controlling sea routes in the southern Adriatic Sea. The whole bay comprises smaller bays which penetrate the land for 15nm. These bays represent an excellent and easily defensible natural harbour. The surrounding mountains, rising to 1,000m, provide shelter from strong winds as well as offering a formidable defensive barrier against potential attacks from the hinterland. In addition the bays themselves enjoy water depths of up to 45m, thus providing an excellent natural harbour. The Bay of Kotor or *Boka Kotorska*, which is the traditional local name used by both sides, consists of three smaller parts (Figure 19):

- the outer bay – the Bay of Herceg-Novi, comprising also the Topla Bay, north of Prevlaka,
- the central area – the Bay of Tivat,
- the inner part – consisting of three small bays: Kotor, Risan and Morinj.

The Herceg-Novi and Tivat Bays are connected by Kumbor strait, which is 1km wide while the Bay of Tivat is connected with the inner bays by the 300m wide Verige gorge.

²⁷ The cape on Prevlaka is most frequently called Oštra although variants Oštro or Oštri can also be found.

Figure 17: The Bay of Kotor and a Croatian Proposal for Maritime Delimitation



A naval base was built by the Austrians in the Bay of Kotor, in the 1850s. On Prevlaka a wharf and a fortress on Cape Oštra were built. Cape Oštra was connected by road with Cape Kobilja, the boundary with Ottoman-controlled Sutorina since 1699. Austria also fortified the opposite side of the entrance to the bay. The fortresses were near Cape Mirište (formerly Arza) on the Luštica peninsula as well as on the Mamula islet (Figure 17).

During the World War I an Austro-Hungarian submarine sank an Italian ship, the *Garibaldi* in front of Konavle and thus prevented an Italian landing. During the 1930s the Yugoslav Royal Army built new fortifications and roads and conducted artillery exercises on Prevlaka.

The strategic significance of the Prevlaka peninsula was similarly recognised by the Yugoslav army after World War II. In 1955 military authorities forbade access to the peninsula, and some local people had their land confiscated. Access to the peninsula was controlled by armed

Figure 18: View of the Prevlaka Peninsula and Bay of Kotor from Croatian Territory

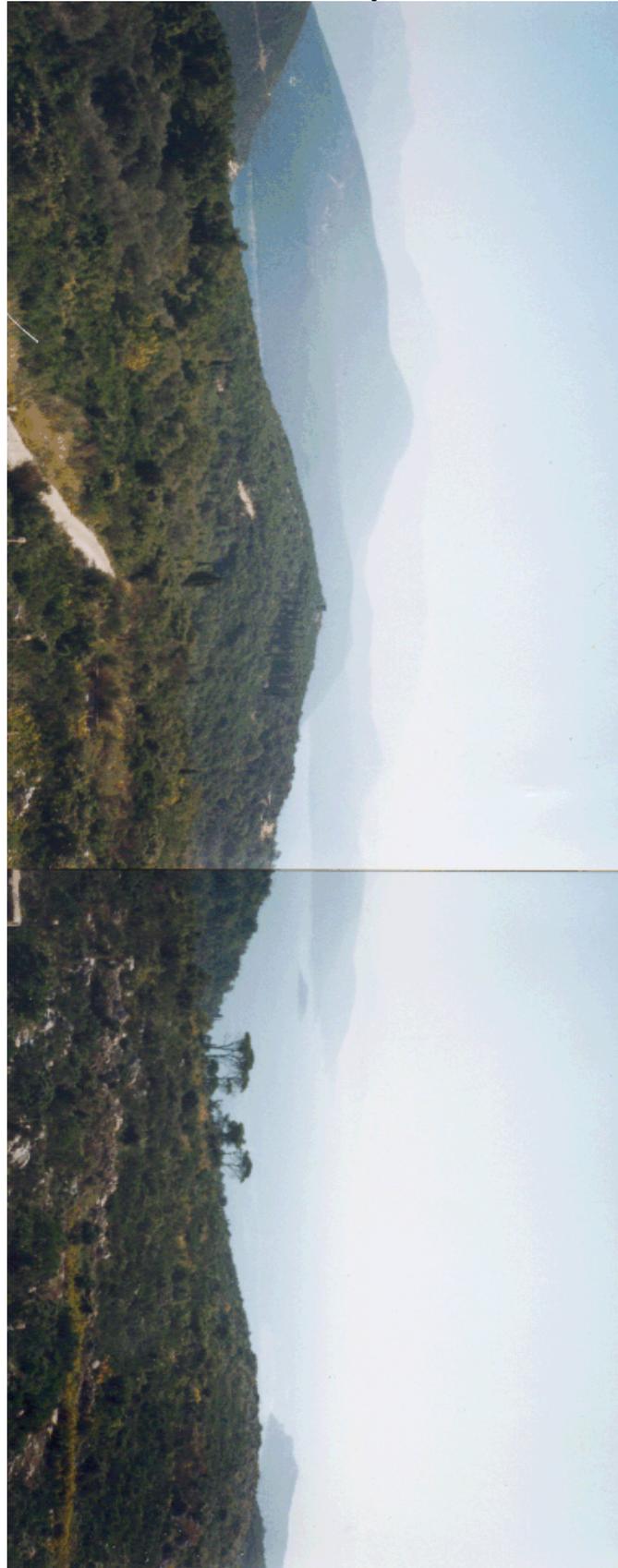
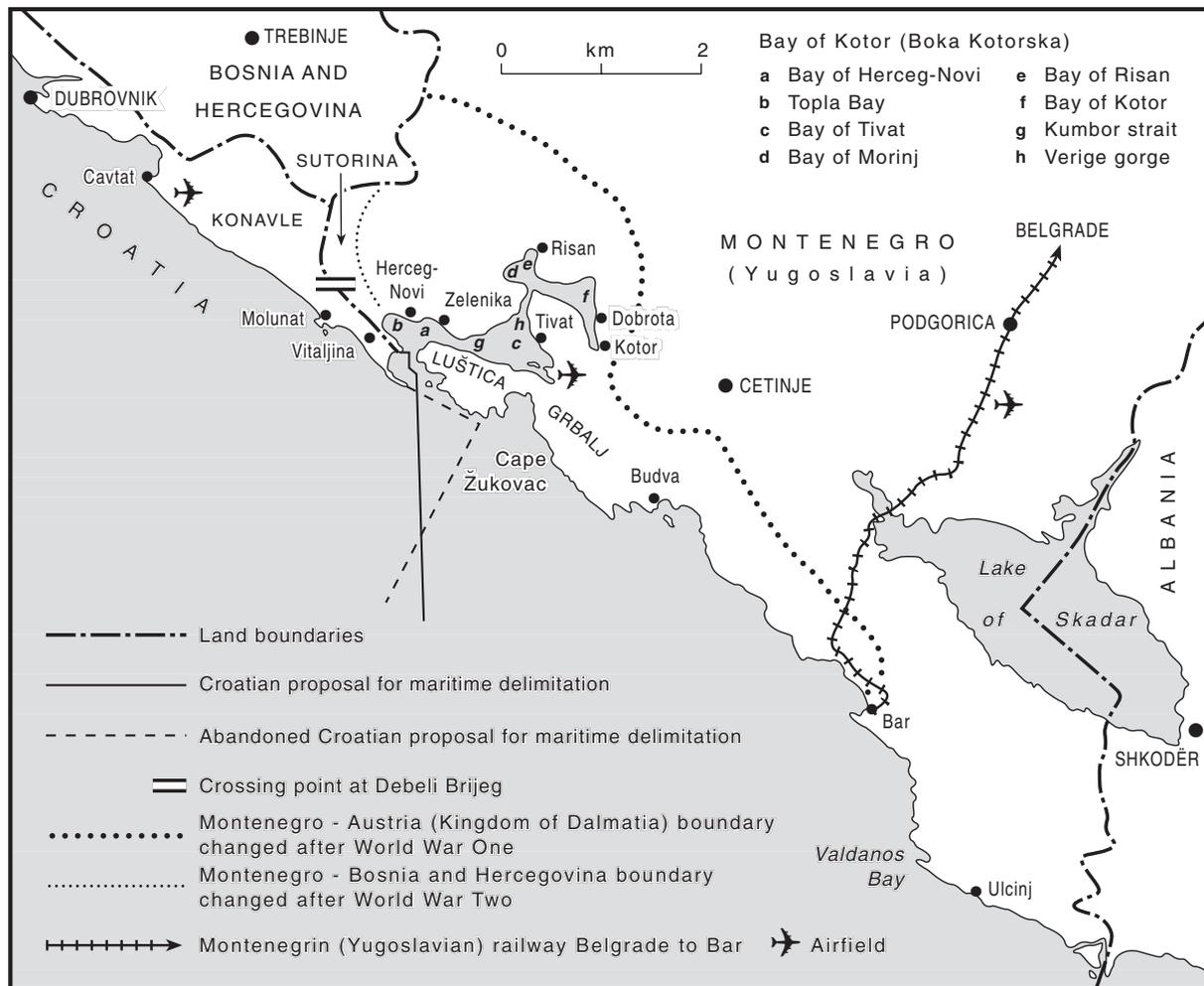


Figure 19: Boundaries between Croatia, Bosnia-Hercegovina and Yugoslavia (Serbia/Montenegro)



guards.²⁸ Coastal artillery included rocket systems as well as anti-aircraft batteries. Radar stations were built on Prevlaka, and on Kupica and Kobila. Another radar station was built on the Luštica peninsula on the opposite side of the bay. Deeper into the Bay, a naval base and shipbuilding and ship-repairing facilities were built. Occasionally, naval facilities at Tivat were also used by Soviet ships and submarines. (Harkavy, 1989: 54).

After it was forced to leave Croatian ports, the Yugoslav navy concentrated almost all its forces within the Bay of Kotor. In early 1993 the building of a new Yugoslav navy port at the Bay of Valdanos near Ulcinj was proposed (Figure 19). During 1994, 1995 and 1996 Yugoslav navy manoeuvres took place off the Bay of Kotor. These manoeuvres were viewed with considerable suspicion by Zagreb. The southernmost part of Croatia, including Dubrovnik and Konavle, lacking a defensive shield of islands, is considered vulnerable to potential attack from the Yugoslav navy. Moreover, the land territory concerned is extremely narrow with the average breadth of Croatian territory between the coast and the Bosnian boundary being less than 5km. Indeed, in 1991 Yugoslav forces attacked Dubrovnik from both land and sea.

²⁸

Austro-Hungarian authorities wanted to compensate the owners for the expropriated land, but the Monarchy collapsed before any money was paid. The Kingdom of Yugoslavia stopped any payments. The problem was never resolved by federal Yugoslavia.

7.4 Historical Background

The geopolitical importance of the Konavle region was recognised by the Republic of Dubrovnik, which wanted to annex it as early as 1358. In the 14th century, the Konavle belonged to the Bosnian nobility and was included in the Bosnian state. Dubrovnik was eager to extend its territory to the Konavle, because this was an agriculturally attractive area and a reliable supplier of farm produce to the Republic. Also, control of the southern Konavle coast was important for the safety of Dubrovnik's ships sailing in that part of the Adriatic. Finally, having control of Point Oštra and Prevlaka at the entrance to the Bay of Kotor offered protection against foreign incursions into the Bay and defended Dubrovnik's eastern flank (Lučić and Obad, 1994: 71).

Figure 20: The Territory of the Republic of Dubrovnic



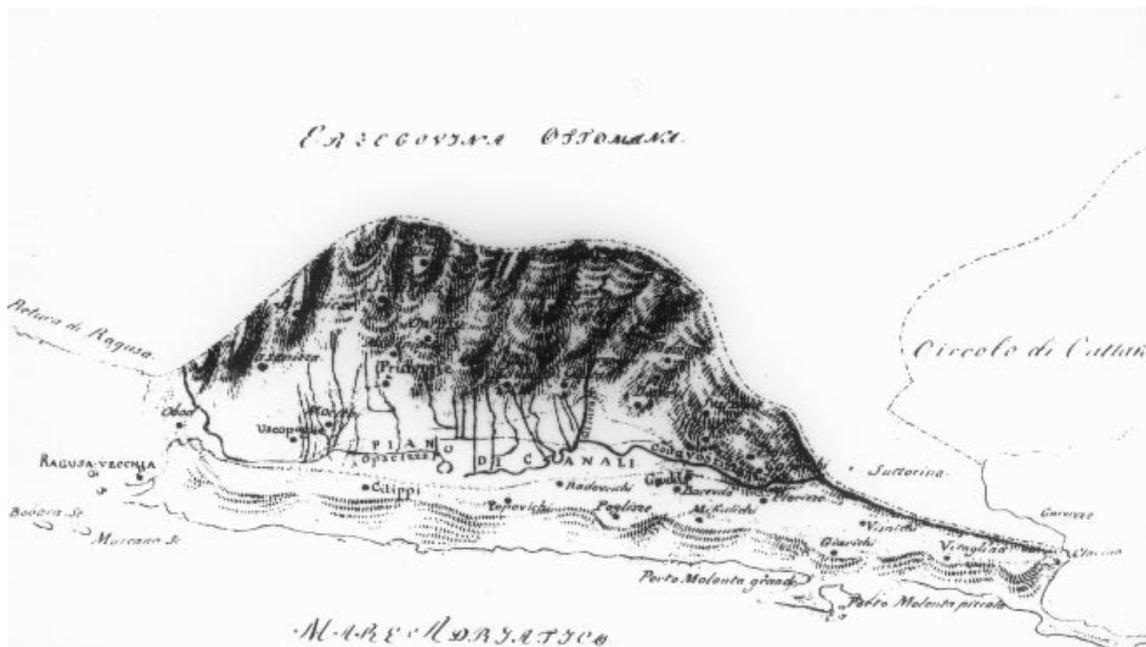
Source: Lučić and Obad, 1994.

In the 15th century the Republic of Dubrovnik bought the Konavle region from the Bosnian nobility – the eastern part, including Prevlaka, in 1419 and western part, including Cavtat, in 1426 (Figure 20). In 1441 the Dubrovnik government decided to fortify Cape Oštra in order to protect the inhabitants of Konavle from attacks from the hinterland. By a charter of 1461 the Bosnian King confirmed Konavle as belonging to the Republic of Dubrovnik (Figure 21). The boundaries remained untouched in 1700 and 1718 when corridors were established at Sutorina and Neum-Klek to separate Dubrovnik and Venetian territories. After the fall of the Republic of Dubrovnik in 1808 its territory, including Konavle, came firstly under the French and then from 1813 under the Austrian rule until 1918 (Figure 19).²⁹

After the Yugoslav state was founded in 1918, the Konavle belonged to different administrative units but was always inseparable from Dubrovnik. In 1939 the area was included in the autonomous Croatian unit, the *Banovina Hrvatska* (the Banate of Croatia).

The boundaries of Prevlaka and Konavle established as early as 1419 and 1426 were thus respected over a considerable period of time with the only exception being during World War II. On the basis of the 1941 Rome agreements signed between Italy and the Independent State of Croatia (proclaimed in 1941 under German and Italian sponsorship), the eastern part of the

Figure 21: The District of Cavtat in the County of Dubrovnik in 1827 Showing the Sutorina Corridor



Source: Lučić and Obad, 1994.

²⁹

Most of the eastern Adriatic was united under Austria in one political-territorial unit. The Kingdom of Dalmatia consisted of the former Venetian possessions in Dalmatia and Bay of Kotor as well as the former Republic of Dubrovnik. According to the 1878 Congress of Berlin, Austrian Dalmatia extended towards the south almost to the town of Bar (presently part of Montenegro). The boundary remained unchanged until 1918.

Konavle including Prevlaka was annexed to Italy together with the whole of the Bay of Kotor. After Italy surrendered in 1943, the German army entered the region but was defeated in 1944 by Yugoslav partisans, namely the 2nd Dalmatian Brigade. After the end of World War II, Konavle and Prevlaka became an integral part of the Republic of Croatia within federal Yugoslavia.

7.5 Post-Yugoslav Developments: Conflicting Claims

In mid-June 1991 the dispute surfaced when Croatia installed new border signs on the crossing-point at Debeli Brijeg (Figure 19). According to Montenegrin sources, the Croatian signs were installed some 40m inside Montenegrin territory. The two sides agreed to resolve the dispute by commissioning a new survey. However, on 23 September 1991, the Yugoslav Peoples Army (JNA, federal army transformed into joint army of the Serbs and Montenegrins) attacked the villages of Vitaljina and Molunat. The JNA advanced swiftly, and soon occupied the whole of Konavle, and the territory between Konavle and Dubrovnik. In the meantime, in the framework of the Conference on the (former) Yugoslavia, then chaired by Lord Carrington, Croatia stated it was ready to accept a demilitarised status for Prevlaka after the withdrawal of the JNA. A Croatian delegation visited Montenegro on 24 October 1991 to discuss such a possibility but without reaching an agreement.³⁰ On the other hand, within the context of the Conference on the former Yugoslavia, Yugoslavia (Serbia/Montenegro) tried to prevent international recognition of republican boundaries arguing that they are no more than 'administrative'. Therefore, on 20 December 1991 Yugoslavia requested to the Arbitration commission, chaired by the Frenchman Robert Badinter, that Prevlaka should stay within the boundaries of Montenegro, and consequently Yugoslavia.³¹ In its report to Lord Carrington on 15 January 1992, the commission concluded:

“Demarcation lines between Croatia and Serbia or between Serbia and Bosnia-Herzegovina or, eventually, between other independent states might be altered only on the basis of free and mutual agreement. If such an agreement is not reached, former boundaries should be treated as boundaries protected by international law.” (Međunarodna politika, 1/2/1992).

JNA forces finally withdrew from Konavle and Prevlaka following an agreement reached in Geneva on 30 September 1992 by Franjo Tuđman, President of Croatia, and Dobrica Ćosić, President of Yugoslavia. It was agreed *“that the security of Prevlaka would be resolved by demilitarisation and deployment of UN monitors, while the future security of Dubrovnik and*

³⁰ Momir Bulatović, Montenegrin president, stated: *“We are not going to give Prevlaka to Croatia. It will be part of Yugoslavia. All arguments are on our side.”* (Vjesnik, 1/3/1992). Vladislav Jovanović, Yugoslav foreign minister, said about the same problem: *“That small piece of land means a lot for us and almost nothing for Croatia. It is not territorial pretension, it is just the question of fair delimitation.”* (Vjesnik, 16/8/1992).

³¹ *“Presidency of Yugoslavia thinks that in case of Croatia’s secession from Yugoslavia, territorial delimitation between Croatia and Yugoslavia in the area of Montenegro must be discussed. It is the Prevlaka peninsula, presently within Croatia, at the entrance to the Bay of Kotor, which is in question. If Croatia become an independent state, and the administrative boundary is not corrected previously in way that Prevlaka become integral part of Montenegro, the sovereignty of Yugoslavia i.e. Montenegro over the part of territory would be threatened...Presidency thinks that the Prevlaka peninsula must be integral part of Montenegro.”* (Međunarodna politika, 1/2/1992).

Bay of Kotor would be resolved by negotiations."³² Following the agreement Prevlaka was demilitarised and put under United Nations Protection Force (UNPROFOR) control.³³

Periodic meetings between the representatives of the ministries of interior of the two sides were held in order to try to resolve problems. Among the outstanding issues, there is the issue of the existence of the so-called 'Blue Zone' on Prevlaka. The Montenegrin side considers that only UN monitors are entitled to be within the Blue Zone, not Croatian police. The Croatian side, citing the Geneva agreement, considers that the zone actually does not exist legally because it has only been referred to in a UN document.³⁴

7.6 Bosnian Serb Claims

The territories of Konavle and Prevlaka have also repeatedly been claimed by the Bosnian Serbs, as a location for their exit to the sea. Momčilo Krajišnik, president of the parliament of the Bosnian Serb Republic, stated: *"We are only five to 10 kilometres from the sea, and we are ready to exchange territory to get an exit on the Adriatic coast between Čilipi [a village in Konavle] and the Montenegrin boundary."* (*Vjesnik*, 5/7/1993). Shortly afterwards he also stated that: *"I am sure we'll get some 20 kilometres of coast beside the Montenegrin coast. For Croatia that would be a symbolical loss, and for our republic a significant gain"* (*Vjesnik*, 2/9/1993).

The Prevlaka question was also discussed during a meeting on the British carrier *Invincible* held on 20 September 1993 in the Adriatic Sea. Although the main outcome was a draft *Agreement on Bosnia-Hercegovina*, in Article 6 (Access to the sea) it was stated:

*"As soon as relations between the Republic of Croatia and Federal Republic of Yugoslavia become normal, the negotiations will start, which will include exchange of the territory...taking into account the needs for strategic security of Dubrovnik and the strategic importance of Prevlaka for the Bay of Kotor as well as needs of the Serbian Republic for the access to the coast between Cape Oštra and Molunat and the necessity to compensate the Republic of Croatia so that it has no territorial losses at all."*³⁵

³² According to Ivan Jarnjak, Croatian Minister of Interior (*Vjesnik*, 29/1/1993).

³³ UN Security Council Resolution 1066 of 15 July 1996 while once again reaffirming the Security Council's commitment to Croatia's "independence, sovereignty and territorial integrity" authorised the UN military observers present on the peninsula to continue monitoring the demilitarisation of Prevlaka for a further six month period.

³⁴ According to Ivan Jarnjak (*Vjesnik*, 29/1/1993). Following a meeting with the Croatian delegation Nikola Pejaković, Montenegrin Minister of Interior, stated: *"Prevlaka will surely belong to Yugoslavia i.e. Montenegro, which means we'll take the territory by arms if necessary."* (*Vjesnik*, 29/1/1993). Montenegrin prime minister Milo Đukanović stated: *"There are grounds and atmosphere to find a fair solution through some sort of trilateral exchange (Croatia, Yugoslavia, Bosnia Hercegovina) and to ensure that Prevlaka will stay within Yugoslavia."* (*Vjesnik*, 30/6/1993).

³⁵ According to *Večernji list*, 30/9/1993. The Croatian side was represented by Franjo Tuđman, President of Croatia and Mate Boban, President of Herceg-Bosna (the part of Bosnia-Hercegovina under Bosnian Croat control). The Yugoslav side was represented by Slobodan Milošević, President of Serbia, Momir Bulatović, President of Montenegro, and Radovan Karadžić, President of the Bosnian Serb Republic (Republika Srpska). The Muslim (Bosnian) side was represented by Alija

It was reported that the agreement was generally accepted but not signed.

Before and during that negotiations the Yugoslav side gave some indications of a possible territorial compromise with Croatia. Momir Bulatović, Montenegrin president, said “*Croatia is ready to accept our vital interest to find a solution with Prevlaka as a part of Yugoslavia.*” (*Vjesnik*, 15/9/1993). At the same time the leader of the Trebinje commune (within the Serbian Republic) bordering Konavle, said: “*There is a tripartite agreement between Yugoslavia, Croatia and Serbian Republic providing us a part of Konavle, approximately as far as Grude, including the coast from the Prevlaka to Popovići village, north-west of Molunat. Together with Prevlaka, which would be allotted to Yugoslavia, there are some 23 kilometres of Adriatic coast.*” (*Vjesnik*, 15/9/1993).³⁶ There is no firm basis for such a statement, however, because the existence of such an agreement has never been confirmed.

The Croatia-Yugoslavia (Serbia/Montenegro) boundary was discussed in November 1993 at a conference entitled *The Principles of Delimitation between States* organised by the Army Geographic Institute in Belgrade. A part of Croatian coast, extending some 120km north from Prevlaka, was marked at that meeting as the potential coast of a “*Serbian sea*” (*Politika*, 8/11/1993).

Speculations about Serbian access to the sea in Konavle were also commonly associated with Radovan Karadžić, leader of the Bosnian Serbs, although his opinion about what territory Croatia might be willing to cede seemed to vary. Just after the talks on *HMS Invincible* finished, he declared that it was agreed that the “*Bosnian Serbs are given an exit to the sea, 10 kilometres in length, reaching as far as Molunat*” (*Vjesnik*, 25/9/1993). A year later in an interview with *Pravda* newspaper, Moscow, he said, “*We were obliging to Croatia and promised to give certain territories in the vicinity of Dubrovnik in exchange for 30 to 35 kilometres of the coast around Prevlaka.*” (*Vjesnik*, 28/10/1994).

The Croatian president Franjo Tuđman had also made statements about potential territorial compromises and agreements with the Yugoslav (Serbian) side:

“At some of the meetings the Serbs declared the wish to get an access to the sea and to give the territory which [would] guarantee security for Dubrovnik in exchange. We told them we did not want to speak about any exchange, but we would be ready to discuss each issue guaranteeing security of Dubrovnik and Croatia. The tip of Prevlaka is in question, but the solution should be within the definitive boundary solution at the extreme south of Croatia...Croatia might be ready to negotiate if it is offered more concessions than it gives. Croatia is interested in delimitation ensuring the security of Dubrovnik, but is not likely to accept anything which is against its interests.” (*Vjesnik*, 6/7/1993).

The president of the Croatian boundary commission, Hrvoje Kačić, said in late 1994 that in all negotiations Prevlaka and Cape Oštra were considered as part of Croatia,

Izetbegović, President of Bosnia-Herzegovina. Lord David Owen and Thorwald Stoltenberg, co chairmen of Conference on former Yugoslavia, were also present.

³⁶ The Belgrade daily, *Politika*, reported that, apart from the coast, the Serbian Republic would also get the Konavle's interior; i.e. the villages of Dubravka, Vodovađa, Zastolje i Pločice (*Vjesnik*, 25/9/1993). The villages are situated along the road connecting Trebinje with Molunat.

“but we are ready to look for a solution according to which the very tip of the peninsula would be demilitarised for certain period. Not a single square meter of south-eastern Croatia is marked as UN Protected Area...Croatia respects agreements regarding demilitarisation and Croatian troops have not entered that area. But there are Croatian border guards on Debeli Brijeg and on Cape Konfin which is on the Kobila peninsula, just opposite to Cape Oštra. (Slobodna Dalmacija, 9/10/1994).

Conflicting geopolitical interests and different views on the status of Cape Oštra, Prevlaka and Konavle still exist in 1996. The Croatian viewpoint is that recognition of territorial integrity of the whole of Croatia is the precondition for any talks with the opposing side.

7.7 Croatian Concessions?

In a speech, presumably calculated to prepare Croatian public opinion, in late 1995 the Croatian President, Franjo Tudjman, hinted at the possibility of Croatia ceding territory in the extreme south of the country in exchange for a buffer zone around Dubrovnik. The statement was made in the course of a long televised address to the nation on 17 November 1995, while the peace negotiations continued at Dayton, Ohio:

“In the framework of the Dayton conference, the question was raised of the need for Croatia to give compensation at the tip of Prevlaka for the territory which the Croatian army occupied in the hinterland of Dubrovnik. This demand was left for further consideration as part of a general agreement on the solution of the crisis in the former Yugoslavia...”

In the pre-war period the vast majority of Yugoslavia's once lucrative tourist industry was concentrated along Croatia's Adriatic littoral with Dubrovnik, the 'pearl of the Adriatic', a key attraction. Although federal forces lifted the siege of Dubrovnik in 1992 and much of the damage inflicted on the old city has now been repaired the revival of the tourist industry faltered, largely due to the threat of cross-border shelling from Serb positions inside Bosnia.

Croatia is clearly keen to enhance the security of its vulnerable Dalmatian coastline in order to foster a badly needed economic recovery in the region based on tourism. The Croatian army therefore pushed into Bosnia in the vicinity of Dubrovnik and has in the past threatened to push the Bosnian Serb forces even further east. Bosnian Serb guns remain well in range, however, as demonstrated by the firing of mortar shells over the border on 29 October 1995 during the Croatian parliamentary elections.

The issue of the state's territorial integrity is unsurprisingly a highly sensitive one in Croatia. Indeed, in the same speech that he mentioned the discussions on Prevlaka, Tudjman emphasised that Croatia had come a long way towards its “*grand and sacred aim - full sovereignty throughout the whole of its internationally recognised territory.*” Squaring this rhetoric with the cession of Croatian territory in and around Prevlaka would seem a difficult task. The prospect of a territorial swap involving Prevlaka provoked strong criticism from Croatian opposition politicians. Coupled with this view was the fear that any concession over Prevlaka could serve as a precedent for other claims on Croatian territory, for example over Eastern Slavonia.

It should be noted, however, that the final text of the peace agreement signed at Dayton on 22 November contained no reference to Prevlaka. Indeed, Croatia's foreign minister, Mate Granic stated on 22 November 1995 "*Croatia emerged from the peace talks with its international borders intact.*" Even so, on the same day, commenting on the outcome of the Dayton negotiations, Tudjman confirmed that the Prevlaka issue had been raised and that a solution to the problem of Bosnian Serb rights to access to the sea was being sought. In this context the Croatian president stressed Croatian concerns over the threat, "*not only to Dubrovnik but to tourism in the southern Adriatic in general.*"

On 9 January 1996 it was reported that Belgrade had once again raised the peninsula issue.³⁷ On the following day the first aide to the Croatian foreign minister reacted by reaffirming Zagreb's stance that Prevlaka was an integral part of its territory and that there would be no territorial exchanges or border changes. He did, however, say that Croatia was ready to negotiate about the demilitarisation of Prevlaka, "*and even of a wider area.*"³⁸

In light of the sensitive nature of the issue, the task of selling any transfer of territory in the Prevlaka region to the Croatian public must be seen as extremely difficult even if the area 'gained' by Croatia was significantly larger than that 'lost' to the Bosnian Serbs. That Croatia is prepared to enter into discussions on a subject which has hitherto been profoundly off the agenda is, however, indicative of the keen desire on the part of the Croats to ensure Dubrovnik's security and thus kick start the once crucial Dalmatian tourist industry – so enhancing Croatian economic security (Klemenčić and Schofield, 1996).

7.8 The Maritime Boundary

In the former Yugoslavia a 24km long land boundary between the federal republics of Croatia and Montenegro reached the sea at the Bay of Kotor. It followed the same line which was defined as early as the 15th century. The terminal point of this land boundary is at Cape Konfin,³⁹ situated between Cape Kobilica on Montenegrin side, and the small Bay of Čipavica on Croatian side (Figure 17). Cape Konfin is some 600m from the Cape Kobilica. The Croatian part of the Bay of Kotor is south of Cape Konfin, and it includes the small bays of Čipavica and Prevlaka, and the northern coast of the Prevlaka peninsula including Cape Oštra. The direct distance between the capes of Konfin and Oštra is slightly less than 3.5km. The entrance to the Bay of Kotor, between Cape Oštra and Cape Mirište on the Montenegrin side is only 3km in width. The Montenegrin islet of Mamula⁴⁰ lies almost on the bay's closing line. The distance between Cape Oštra and Mamula islet is around 1.8km. Prevlaka itself is also important because of the fact that it potentially generates 252 sq. km of territorial sea (12 nautical miles from the baseline) and 4,300 sq. km of continental shelf or exclusive economic zone.⁴¹

³⁷ Agency France Press quoted in Open Media Research Institute Daily Digest Special Report "Pursuing Balkan Peace", Vol. 1, No. 2, Part 2, 16 January 1996.

³⁸ HINA news agency, Zagreb, 11/1/96 in BBC SWB EE/2508, 13/1/96.

³⁹ The title Konfin is interesting since it is derived from an Italian word *confine*, which means "boundary".

⁴⁰ On old maps the islet is called Rondoni. It was fortified in the mid-19th century under the command of Austrian general Lazar Mamula, and named after him. The local name is Velika Žanjica.

⁴¹ According to Hrvoje Kačić, president of Croatian boundary commission (*Večernji list*, 20/9/1994).

Although Prevlaka is demilitarised and under United Nations control, Croatian border guards are present on the Debeli Brijeg crossing point as well as on Cape Konfin or, in other words, on the boundary which already existed within the former Yugoslavia. The Croatian government has established an expert group for the Croatia-Montenegro delimitation, but the Montenegrin side has so far failed to do likewise. The Croatian commission, unsurprisingly, has confirmed the existing land boundary. Considering maritime delimitation, the Croatian commission discussed two options:

- a 12nm lateral territorial sea boundary drawn vertically from the middle of a straight line connecting Cape Oštra and the Mamula islet (Figure 17).
- a 12nm lateral territorial sea boundary drawn vertically from the middle of line connecting Cape Oštra and Cape Žukovac in Grbalj area of the Montenegrin littoral (*Slobodna Dalmacija*, 16/4/1994) (Figure 19).

The Croatian boundary commission preferred the first option for delimitation. Reactions of the Montenegrin/Yugoslav side have differed considerably. Some sources regarded the Croatian proposals as having little value, while others suggested that it was an “*agreed solution*” (*Slobodna Dalmacija*, 9/10/1994). In any case, no maritime boundary has been agreed and at the time of writing no negotiations on the issue were underway.

In the recent past Prevlaka has usually been viewed in its strategic and security contexts. Thus, the maritime delimitation within the Bay of Kotor has strategic implications, primarily for the Yugoslav side. However, there are alternative viewpoints, advocating transboundary cooperation for the benefit of both sides. From the very beginning of the current conflict Hrvoje Kačić, president of the Croatian boundary commission, has insisted that “*Prevlaka should not divide Dubrovnik from the Bay of Kotor because there are solutions for Prevlaka that might connect two areas, and consequently Croatia and Montenegro*” (*Vjesnik*, 1/3/1992). Hoping for the “*recovery*” of Montenegro, he asked: “*Why should not the inner side of Prevlaka become a touristic paradise? Our neighbours must admit that the Bay of Kotor as well as entire Montenegro can look for development only in tourism, not in the navy which is from day to day closer to scrap iron.*” (*Slobodna Dalmacija*, 9/10/1994). These viewpoints offer some hope for future cooperation and development in the Croat-Montenegrin borderlands.

8. Albania – Yugoslavia (Serbia/Montenegro)

Despite the relatively straight and uncomplicated coastline in the vicinity of the terminus of the Albania-Yugoslavia (Serbia/Montenegro) land boundary on the Adriatic the only agreement concerning maritime boundary delimitation between the two states appears to be a Protocol of 26 July 1926 concerning territorial waters between Albania and the then Serb-Croat-Slovene state. This agreement, the existence of which is apparently open to question,⁴² states:

⁴² Symmons (1996: 72) states in a footnote that: “*Some international lawyers, however, seem sceptical about even the existence of this protocol.*”

“the boundary [between Albania and Yugoslavia] starting from the limit of the territorial waters in the Adriatic Sea follows first a straight line perpendicular to the general direction of the coast and ends up at the mouth of the principle arm of the [River] Boyana [Buna - the Albania-Montenegro border river].”

Aside from this dated agreement there have been no accords between the two countries. The relatively uncomplicated nature of the coastline concerned, however, indicates that an agreement should be attainable. Indeed, Albania appears to have defined the northern limit of its offshore oil and gas exploration block system (blocks ‘Rodon-1’ and ‘Adriatic-2’) on the basis of equidistance. One potential complication is the presence and treatment of Albania’s straight baseline system which could adversely affect a delimitation from the Montenegrin perspective. The fact that Albania agreed to discount its baselines in its 1992 agreement with Italy (Section 3.3) is, however, a promising sign in this regard.

Figure 22: View of the Terminus of the Albania – Yugoslavia (Serbia/Montenegro) River Boundary on the Adriatic Sea



The photograph is taken from Albanian territory looking northwards across the River Buna (Boyana), which forms the boundary, towards Montenegro. Source: Clive Symmons.

9. Conclusions

In many ways the maritime boundaries of the Adriatic Sea are a microcosm of the processes of maritime delimitations all over the world. Extensive claims to straight baseline systems are largely justified by the highly indented and island-strewn eastern coast; indeed Yugoslavia's straight baselines were regarded as classic examples of the concept. Italy and Yugoslavia were involved in relatively early boundary agreements concerning continental shelf (1968) and territorial sea in the Gulf of Trieste (1975). In the former, strict equidistance was abandoned to give reduced effect to certain islands far from the coast, and the adjusted boundary was widely regarded as being equitable. Fishing disputes in the Gulf of Trieste between Italy and Yugoslavia were resolved in 1983 by the establishment of a joint fishing zone. Before the break-up of Yugoslavia therefore, the two main Adriatic states had shown a willingness to solve maritime boundary disputes, and a capacity to reach agreement by compromise and ingenuity.

The emergence of four new Adriatic coastal states in the 1990s greatly complicated the picture. Although the former Italy-Yugoslavia boundaries remain in place throughout much of the length of the Adriatic Sea, a number of fresh maritime boundary disputes emerged. By international standards these are relatively small affairs, but in the context of the territorial upheavals which accompanied the break-up of Yugoslavia, these disputes require extremely careful handling. They demonstrate how disputed land boundaries can create uncertainty over maritime boundaries. The Croatia-Slovenia dispute over the four tiny hamlets on the Istrian peninsula is discussed in considerable detail because of its effect on the Bay of Piran. The dispute remains unresolved even though the political, strategic, and economic stakes are not particularly high. On the other hand, the unresolved Croatia-Montenegro dispute over the Prevlaka Peninsula and associated maritime divisions in the Bay of Kotor can be regarded as potentially far more serious because the bay has considerable strategic and military importance as a naval harbour.

Following several decades of isolation, Albania is beginning to take a greater interest in Adriatic and Mediterranean affairs, which augurs well for the future. To date however Albania has not signed the 1982 UN Convention on the Law of the Sea, although it finally signed up to the Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution in 1990, fourteen years after the Convention was launched. In 1992 Albania and Italy concluded a timely continental shelf agreement which is essentially a median line with minor adjustments. The straight baseline systems of both parties were ignored in the boundary delimitation. Short sectors of the Albania-Italy boundary have not yet been agreed pending adjacent boundary agreements between Albania and Montenegro, and Albania and Greece, in the north and south respectively.

The story of Bosnia-Herzegovina's quest for a corridor to the sea is also described. It is traced in some detail to illustrate the enduring importance of history in creating the political map of the world. The narrow Bosnia-Herzegovina exit on the Klek-Neum Bay and the Klek peninsula is one of Europe's most extraordinary historic legacies, and its effect on the offshore boundary system is bizarre indeed. In practice the port at Neum is virtually valueless, but the Neum-Klek region has become a potent bargaining counter in the post-war negotiations, not least because Croatia needs to maintain the right of transit north-south along the coast. Whatever working arrangement finally emerges the Klek-Neum phenomenon illustrates beyond doubt the futility of attempting agreement between parties concerning rights of access

by land or by sea if the political will to cooperate is not present. Given such political will and the re-establishment of trust between the parties there is almost no limit to what can be negotiated and made to work.

For the future, there is probably a greater likelihood of peaceful cooperation in the Adriatic Sea than among the states of the eastern Adriatic on land. The desire to collaborate over environmental questions, motivated in part by the need to preserve an environment attractive to tourists, may bring about regional cooperation in the Adriatic just as it did for the Mediterranean as a whole.

Appendix I

Agreement between Italy and Yugoslavia Concerning the Delimitation of the Continental Shelf between the Two Countries

The Government of the Italian Republic and the Government of the Socialist Federative Republic of Yugoslavia desiring to stabilize the line of demarcation between their respective parts of the continental shelf, have agreed as follows:

Article 1

The line of demarcation of the continental shelf between the contracting parties is constituted by arcs of the great circle between the points defined in values of latitude and longitude set forth later in the present article.

These coordinates are graphically set forth on the Italian nautical map No. I.I. 170, scale of 1: 750,000 (edition February 1964) found in the volume of *Avviso ai Naviganti* 1966 No. 20, and on Yugoslav nautical map H. I. of the JRM, scale 1 :750,000 No. 101 (edition of February 1963) and No. 102 (edition December 1952) revised in June 1966.

The points in the line of demarcation are traced on maps identical to those above cited and are attached to the present agreement.

The contracting parties agree that for the moment the demarcation will not be made beyond point 43. The coordinates are as follows:

<i>Point</i>	<i>Italian Coordinates on Map No. 170</i>	<i>Yugoslav Coordinates on Map No. 101</i>
01	45° 27.2' N 13° 12.7' E	45° 27.2' N 13° 12.9' E
02	45° 25.9' 13° 11.4'	45° 25.5' 13° 11.1'
03	45° 20.1' 13° 06.1'	45° 20.1' 13° 06.0'
04	45° 16.8' 13° 03.8'	45° 16.8' 13° 03.8'
05	45° 12.3' 13° 01.2'	45° 12.3' 13° 01.1'
06	45° 11.1' 13° 00.5'	45° 11.0' 13° 00.1'
07	44° 58.5' 13° 04.7'	44° 58.4' 13° 04.3'
08	44° 46.1' 13° 06.4'	44° 46.3' 13° 06.1'
09	44° 44.3' 13° 06.8'	44° 44.1' 13° 06.6'
10	44° 30.0' 13° 08.1'	44° 30.3' 13° 07.7'
11	44° 28.6' 13° 11.0'	44° 28.5' 13° 10.7'
12	44° 27.9' 13° 11.7'	44° 28.1' 13° 11.7'
13	44° 17.8' 13° 28.3'	44° 17.7' 13° 27.8'

14	44° 12.5' 13° 37.9'	44° 12.7' 13° 38.1'
15	44° 10.8' 13° 40.0'	44° 10.7' 13° 40.3'
16	44° 00.5' 14° 00.9'	44° 00.7' 14° 01.2'
17	43° 57.5' 14° 05.0'	43° 57.7' 14° 04.9'
18	43° 54.0' 14° 10.3'	43° 54.3' 14° 10.2'
19	43° 43.0' 14° 21.4'	43° 43.0' 14° 21.4'
20	43° 40.3' 14° 23.5'	43° 40.2' 14° 23.8'
21	43° 38.4' 14° 24.5'	43° 38.6' 14° 24.9'
22	43° 36.0' 14° 26.4'	43° 35.9' 14° 26.4'
23	43° 31.6' 14° 30.4'	43° 32.2' 14° 30.1'
24	43° 29.7' 14° 32.0'	43° 30.1' 14° 31.9'
25	43° 25.2' 14° 34.9'	43° 25.4' 14° 35.6'
26	43° 13.0' 14° 46.0'	43° 12.7' 14° 46.3'
27	43° 10.6' 14° 47.9'	43° 10.3' 14° 48.1'
28	43° 03.8' 14° 54.5'	43° 03.7' 14° 55.1'
29	43° 00.8' 14° 57.9'	43° 00.9' 14° 58.0'
30	42° 59.2' 15° 00.7'	42° 59.3' 15° 00.8'
31	42° 47.9' 15° 09.5'	42° 47.7' 15° 09.7'
32	42° 36.8' 15° 21.8'	42° 36.7' 15° 22.0'
33	42° 29.5' 15° 44.8'	42° 29.6' 15° 45.0'
34	Located 12 miles from the lighthouse of the Island of Pelagosa on the bearing of 103° from the lighthouse itself (true bearing) The line of delimitation from point 34 to 35 follows a circle with a radius of 12 miles from the lighthouse of the Island of Pelagosa.	
35	Located 12 miles from the lighthouse of the Island of Pelagosa on the bearing (alignment) from the lighthouse of the Island of Pelagosa to the lighthouse of Vieste. The line of delimitation from point 35 to 36 follows a circle with a radius of 12 miles from the islet of Caiola.	
36	Located 12 miles from the Islet of Caiola on the bearing (alignment) from the lighthouse of the Island of Pelagosa to point 37.	

37	42° 16.0' 16° 37.1'	42° 15.9' 16° 37.3'
38	42° 07.0' 16° 56.8'	42° 07.0' 16° 56.7'
39	41° 59.5' 17° 13.0'	41° 59.4' 17° 13.1'
40	41° 54.8' 17° 18.7'	41° 54.6' 17° 19.0'

<i>Point</i>	<i>Italian Coordinates on Map No. 170</i>	<i>Yugoslav Coordinates on Map No. 102</i>
41	41° 50.2' 17° 37.0'	41° 49.9' 17° 37.4'
42	41° 38.5' 18° 00.0'	41° 38.1' 18° 00.0'
43	41° 30.0' 18° 13.0'	41° 30.0' 18° 12.9'

Article 2

In case it is ascertained that natural resources of the sea bottom or under the sea bottom extend on both sides of the demarcation line of the continental shelf with the consequence that the resources of the shelf belonging to one of the contracting parties can be in whole or in part exploited from the part of the shelf belonging to the other contracting party, the competent authorities of the contracting parties will themselves be in contact with one another with the intention of reaching an understanding of the manner in which the foresaid resources shall be exploited previous to consultations by the holders of any eventual concessions.

Article 3

In case of controversy concerning the position of any installation or equipment with reference to the line of demarcation set forth in Article 1 of present agreement, the competent authorities of the contracting parties shall determine by mutual agreement in which part of the continental shelf such installations or equipment may be actually situated.

Article 4

The present agreement does not influence the juridical state of the waters or air space over the continental shelf.

Article 5

The present agreement shall be ratified in conformation with the constitutional norms of the contracting parties and shall enter into force on the date of exchange of the instruments of ratification which shall take place in Belgrade at the earliest possible date. The accord is made in two original copies in Italian and Serbo-Croatian, both texts being of equal validity.

DONE in Rome January 8, 1968.

Appendix II

Treaty between the Italian Republic and the Socialist Federative Republic of Yugoslavia

Article 1

The section of the border between the Italian Republic and the Socialist Federative Republic of Yugoslavia which is not indicated as such in the Peace Treaty with Italy dated 10 February 1947 is described in Schedule I and drawn on the map in Schedule II of this Treaty.

In the event of a discrepancy between the description of the border and the map, the written text shall be deemed authentic.

Article 2

The border between the two States in the Gulf of Trieste is described in Schedule III and drawn on the map in Schedule IV of this Treaty.

In the event of a discrepancy between the description of the border and the map, the written text shall be deemed authentic.

Omissis

Schedule 111

The maritime border runs from the main No. 1 landmark on San Bartolomeo Bay, on the right bank of San Bartolomeo stream to its mouth at the plane coordinates in both systems:

$x = 5049835.77$ }	$x = 5050841.73$ }
Italian }	Yugoslav }
$y = 2420416.72$ }	$y = 5400753.47$ }

and is determined by the largest arcs of a circle joining the following points:

Point	<i>Italian coordinates Chart No. 39</i>		<i>Yugoslavian coordinates Chart No. 100-15</i>	
	<i>Latitude N</i>	<i>Longitude E</i>	<i>Latitude N</i>	<i>Longitude E</i>
1	45° 35' .65	13° 43' .15	45° 35' .70	13° 43' .40
2	45° 35' .90	13° 42' .75	45° 35' .95	13° 43' .00
3	45° 37' .80	13° 37' .80	45° 37' .91	13° 38' .00
4	45° 32' .70	13° 18' .75	45° 32' .80	13° 19' .00
5	45° 27' .20	13° 12' .70	45° 27' .20	13° 12' .90

The aforementioned coordinates are drawn on the Italian map No. 39 published by the 'Istituto Idrografico della Marina', scale 1: 100.000, 3rd edition, dated March 1962, reprinted in July 1974, and updated in the Bulletin 'Avviso ai Marittimi' No. 42 of 1974, and on the Yugoslav maritime chart No. 100-15 published by the Yugoslav Hydrographic Institute, scale 1: 100.000, new edition dated June 1971, reprinted in July 1974, and updated in the Bulletin 'Notice to Mariners' No. 22 of 1974.

Appendix III

Agreement between the Republic of Albania and the Republic of Italy for the determination of the continental shelf of each of the two countries. 18 December 1992

[Original: Albanian and Italian]

Starting from the desire to determine the division line of the border between the respective areas of the continental shelf in the Adriatic Sea and in the Otranto Channel, on which each of the two countries respectively exercises sovereign rights with the aim of exploring for and exploiting natural resources;

Deciding that the border division between the two zones of the continental shelf be determined on the basis of the principle of equidistance that is expressed by the median line;

Reconfirming the request that the exploitation of the respective continental shelf should not impair the ecological equilibrium of the sea that waters the shores of the two countries, and their determination to cooperate towards this purpose as well as in harmony with what is decided in the Declaration on the Adriatic Sea, signed at Ancona on 13 July 1993;

Both Contracting Parties agreed to conclude the following Agreement:

Article I

1. Applying the principle of equidistance that is expressed in the median line, which is mentioned in the introduction to this Agreement, the division line between the two zones of the continental shelf of each of the two countries is determined from the lines that follow the geodesic curves that link the points, the geographic coordinates of which, referring to the geodesic system European Datum 1950, are as follows:

<u>No. of points</u>	<u>Northern Latitude</u>	<u>Eastern Longitude</u>
1.	41° 16' 39"	18° 27' 43"
2.	41° 11' 37"	18° 32' 34"
3.	41° 08' 01"	18° 34' 37"
4.	41° 06' 29"	18° 35' 42"
5.	40° 55' 03"	18° 39' 31"
6.	40° 53' 06"	18° 39' 34"
7.	40° 50' 50"	18° 40' 16"
8.	40° 43' 59"	18° 42' 40"
9.	40° 40' 10"	18° 44' 23"

10.	40° 38' 46"	18° 44' 43"
11.	40° 35' 38"	18° 45' 35"
12.	40° 30' 44"	18° 47' 45"
13.	40° 23' 17"	18° 51' 05"
14.	40° 21' 30"	18° 51' 35"
15.	40° 18' 50"	18° 52' 48"
16.	40° 12' 13"	18° 57' 05"
17.	40° 07' 55"	18° 58' 38"

This division line is marked by an indicating title in the map attached to this Agreement.

The basic map used is the Albanian sea map "From Korfu to Dubrovnik – from Cape Santa Maria di Leuca up to the Troniti Islands" at a scale of 1:500 000, of the Mercator projection, 1984 edition.

2. The Contracting Parties agreed that, for the present, the determination of the border should not extend beyond the first and the last point determined in the previous paragraph.

The completion of the determination in the north beyond point 1 and in the south beyond point 17 remains to be accomplished by later agreements respectively with the respective interested parties.

Article II

1. Where a deposit of mineral resources, including sand and gravel, is divided by the division line of the zones of the continental shelf, and the part of the deposit which is located on one of the sides of the division line is fully or partially exploitable by installations which are located on the other side of the line, the Contracting Parties will try, by preliminary consultations with the concessionaires, if there are any, that have the right of mineral exploitation, to agree on the conditions and the method of processing of the deposit, in order that this processing may be as beneficial as possible, keeping in mind the protection of the deposit and in such a manner that each of the parties maintains the integrity of its own rights to the mineral resources of the surface and subsurface of its continental shelf.

2. In particular, such an arrangement will be applied if the conditions and the processing method of the part of the deposit located on one side of the division line of the border have an effect on the conditions or processing method on the other part of the deposit.

Article III

None of the provisions of this Agreement affects the juridical regime of the waters and that of the airspace above the continental shelf.

Article IV

1. The Contracting Parties shall take all the possible measures in order that exploration in the respective zones of the continental shelf, as well as the exploitation of the natural resources of the latter, does not impair the ecological equilibrium of the sea or does not hinder in an unjustified manner other legal uses of the sea.
2. In case that in its territory, or in its continental shelf, there occurs a disquieting situation that brings about negative consequences for the environment in the continental shelf of the other party, each of the Contracting Parties commits itself to provide immediately to the other party the necessary notification and the latter on its part has the right to receive this notification which shall be considered secret if so requested by the party which provides the data.
3. A Contracting Party whose continental shelf may be polluted by negative effects upon the environment caused by verified operations or a failure to act in the territory or continental shelf of the other party, after having received the notification mentioned in the previous paragraph or in the case when it has been given any notice whatsoever, has the right to invest at any time in the establishment of an investigative commission, to clarify and define the basic elements of the situation, in order to prevent the emergence of any dispute between the two Contracting Parties.

Article V

1. The Contracting Parties shall try to resolve through the diplomatic channel, in the shortest possible time, any dispute which may arise concerning the interpretation and the application of this Agreement.
2. In case of disputes which are related to the location of installations or equipment in relation to the division line determined according to Article I of this Agreement, the respective competent authorities of both Contracting Parties shall verify in good understanding in which zone of the continental shelf such installations or equipment is installed.
3. If a dispute is not resolved within a period of four months from the date on which one of the Contracting Parties has notified the other party of its suggestions regarding the commencement of the procedures envisaged in paragraph 1 of this article, each of the Contracting Parties may refer the dispute to the International Court of Justice, if at least within this period of time the parties have not agreed to refer the dispute to any other international institution.

Article VI

1. This Agreement shall be ratified in accordance with the constitutional norms of the Contracting Parties. The instruments of ratification will be exchanged at Rome as soon as possible.
2. This Agreement enters into force on the day following the exchange of instruments of ratification.

DONE at Tirana on 18 December 1992 in two original copies in the Albanian and Italian languages, both texts having equal value.

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