

LAW OF THE SEA
MARITIME BOUNDARIES AND DISPUTE SETTLEMENT MECHANISMS

by

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Chapter I

MARITIME ZONES UNDER THE UNITED NATIONS CONVENTIONS

The Geneva Conventions on Territorial Sea and Contiguous Zone, Continental Shelf and High Sea, and the United Nations Conventions on the law of the sea which was adopted on 29 April 1958 and 10 December 1982 respectively, were recognized as universal legal documents on the seas. The Conventions contain provisions on the recognition of maritime zones such as internal waters, territorial sea, contiguous zone, exclusive economic zone, continental shelf, and archipelagic waters, which shall be established by coastal states. The Conventions also state the rights and obligations of the states on managing and governing their activities including protection and preservation natural resources in the zones. Furthermore, the states enjoy their rights in the Area and high sea which are beyond their national jurisdiction, for the purpose of exploitation and exploration. This chapter will look the general interests of states in those zones and their rights and obligations over those areas.

1. Internal Waters

The article 5 of 1958 Geneva Convention and the article 8 and 47 of 1982 United Nations Convention provide that Internal Waters are waters on the landward side of normal baseline, straight baseline and archipelagic baseline from which the territorial sea is measured.

Based on the foregoing provision, the Internal Waters are waters on the landward side of the normal baseline which is low water line a long the coast as mark on large scale charts officially recognized by the coastal state¹; waters on the landward side of straight baselines accepted to calculate the breadth of the territorial sea²; waters of bays to which the breadth of the entry does not exceed 24

¹ See figure in appendix 1

² See figure in appendix 2

miles³; waters considered to be historic gulfs, bays, inlets, and strait even if the breadth of entry exceed 24 miles⁴; waters of ports limited by a line passing through the most extended port installations seaward; waters of the deeply indented and enclosed by the territory of single state⁵; waters in the case of islands situated on atolls or of islands having fringing reefs⁶; mouth of river⁷; waters of which is considered highly unstable⁸; and archipelagic waters which is closed by closing line⁹. The said provisions of the Convention and the geographical nature of the coastline allow the coastal states to establish their internal water according to the circumstances of their own coastline. In some case, however, the establishment of internal water of states is considered not appropriate with international laws and regulations.

The coastal state exercises full sovereignty over its internal waters, and foreign ships while in this water, is to observe the laws and regulations of this state as its land territory. The regime of the maritime port is usually established under maritime regulations. However, the development of economic requires the coastal state to establish the best conditions port and also to adopt laws and regulations aimed at facilitating the procedure involved in the entry and stay of foreign merchant vessels. Foreign merchant vessels and all its crewmembers are fully subject to the criminal, civil and administrative jurisdiction of the coastal state. The 1982 United Nations Convention contains an article on the duty of state to adopt reasonable standard, rules and procedures to assist marine research and, when necessary, to facilitate entry into their ports of marine research vessels.

2. Baselines

The rules and regulations for establishing offshore jurisdictional zones involve three types of geographical issues. One type concern the width of the various zones, a second issue pertains to the seaward and lateral limits of the zone, and the third involves the baseline along the coast¹⁰. Baseline is a coastal state's fundamental water line from which territorial sea, contiguous zone, exclusive economic zone and continental shelf are measured. It is also

³ See figure in appendix 3

⁴ See figure in appendix 4

⁵ See figure in appendix 5

⁶ See figure in appendix 6

⁷ See figure in appendix 7

⁸ See figure in appendix 8

⁹ See figure in appendix 9

¹⁰ Lewis Alexander, Baseline Delimitation and Maritime Boundaries.

used as a border of sovereignty of the coastal states between internal water and other zones. The line is related to the circumstances of geography of the coastlines and sea areas, such as some coast are rugged and deeply indented, others are smooth and unbroken, and the other coasts are the delta of river or may be fringed by islands, rock and coral reefs. The United Nations Conventions on law of the sea provides for baseline delimitation almost all types of coastline even though, in some case, countries have delimited their baselines in way which appears inconsistent with convention provision. The following are the definitions of baseline under the concept of modern international law of the sea:

a. Normal Baselines:

In accordance with article 3 of 1958 and article 5 of 1982 United Nations Convention on law of the sea, except where otherwise provided, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state. Besides, the convention contains articles concerning low water line basis. In the case of islands situated on atolls or of islands having fringing reefs, the baseline is the seaward low-water line of the reefs (article 6 of 1982 Convention). In the case of river flowing directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low water line of its banks (article 9 of the 1982 Convention).

b. Straight Baselines:

Article 7 of 1982 United Nations Convention states that in localities where the coastline is deeply indented and cut into, or if there is a fringe of islands a long 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 territorial sea is measured¹¹. This provision is mainly based on the 1958 Convention on the Territorial Sea and Contiguous Zone. The new provision has been made to meet the concern of some coastal states whose coastlines are highly unstable. The paragraph 2 of the article 7 of 1982 Convention states that where because of the presence of a delta and other natural condition the coastline is highly unstable, the appropriate points may be selected along the farthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines

¹¹ See figure in appendix 10.

shall remain effective until changed made by the coastal state in accordance with this Convention. Moreover, the Convention has clauses on the restrictions for the coastal states in the establishment of their straight baseline. Straight baseline must not depart to any appreciable extend from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters (article 7 paragraph 3). Straight baseline shall not be drawn to and from low-tide elevation, unless lighthouse or similar establishments are built there on or except in instance where the drawing of such baselines to and from such elevations has received general international recognition (article 7 paragraph 4). Where the method of straight baseline is applicable, account may be taken, in determine particular baseline of the economic interests peculiar to the region concerned, the reality and importance of which are clearly evidenced by long usage (article 7 paragraph 5). The straight baseline shall not cut off the territorial sea of another state from the high sea or an exclusive economic zone (article 7, paragraph 6).

c. Archipelagic baselines.

The development of the United Nations Convention has been made detailed the provisions regarding the drawing of archipelagic baselines enclosing the archipelagic waters. Within the archipelagic waters, the archipelagic state may draw closing lines across the mouth of rivers, bays, or outermost harbor works for delimitation of its internal waters (article 50). The breadth of the territorial sea and other maritime zones of an archipelagic state shall be drawn from the archipelagic baselines (article 48). The archipelagic state may draw straight archipelagic baseline joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 percent of the total number of baselines enclosing any archipelago may exceed that length up to a maximum length of 125 nautical miles. In order to meet concerns of some states whose parts of their state separated by sea, the article 99 of 1982 Convention provides that if a part of the archipelagic waters of an archipelagic states lies between two parts of an immediately adjacent neighboring states, existing rights and all other legitimate interests which the latter state has traditionally exercised in such waters and all rights stipulated by agreement between those states shall be continue and be respected.

3. Territorial Sea

The Territorial Sea is an area extending from internal waters to the seaward side. The coastal state enjoys its sovereignty over the area subject to the right of the ships of other states to engage in innocent passage. According to the 1958 Convention, the breadth of territorial sea has not been stated how far from the baseline it is measured, but it could be inferred from the breadth of the contiguous zone which was established in article 24, paragraph 2 that the territorial sea can not exceed 12 nautical miles from the baseline. It means that the territorial sea and contiguous zone under this convention are the same area¹². However, article 3 of 1982 United Nations Convention clearly defined, every state has the rights to establish the breadth of its territorial sea up to the limit not exceeding 12 nautical miles, measured from baseline determined in accordance with the convention, and the outer limit of the territorial sea is the line every point of which is at the distance from the nearest point of the baseline equal to the breadth of the territorial sea¹³.

According to article 12 of the 1982 United Nations Convention, the territorial sea can be extended beyond 12 nautical miles. Roadsteads, which are normally used for the loading and unloading and anchoring of ships and would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in territorial sea¹⁴. The territorial sea could, nevertheless, be less than 12 nautical miles in the situation of the two states have opposite or adjacent coasts. The article 15 of 1982 United Nations Convention provided that, where the coasts of the 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 meridian line every point of which is equidistant from the nearest points on the baseline from which the breadth of the territorial sea is measured¹⁵. Moreover, states sometimes do not have their territorial sea in case the low water line is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island. In practical, this provision has not applied to any coastal states. All coastal states have their territorial sea. The said provision, however, where it is necessary by

¹² See figure in appendix 11

¹³ See figure in appendix 12

¹⁴ See figure in appendix 13

¹⁵ For example, the strait of Gibraltar which is bordered by Morocco (Southern shore) and Spain (Northern shore). There is no agreement between them, whose breadth is 12 nautical miles.

reason of historic title or other special circumstances to delimit the territorial seas of the two states in a way which is at variance therewith.

The Convention requires the coastal states to adopt laws and regulations which comply with the international rules in the purpose of ensuring the innocent passage of foreign vessels, with respect the followings:

- Safety of navigation;
- The protection of navigation and facilities
- The regulation the maritime traffic;
- The protection of cable and pipeline;
- The conservation of living resource
- The prevention of infringement of fisheries law and regulation of coastal state;
- The maritime scientific research and hydrographic survey;
- The prevention of infringement of the customs, fiscal, immigration, or sanitary law.

In addition, having regard the safety of navigation, the coastal states may establish sea lands and traffic separation schemes in its territorial sea to ensure the safety of navigation especially, tankers, nuclear power ship and ships caring nuclear or other inherently dangerous or noxious substances or materials (article 22 of 1982 United Nations Convention)¹⁶.

Besides the above necessity, the coastal states have their rights to prevent passage in which engage in the any of the following activities as stated in article 19 of 1982 United Nations Convention:

- any threat or use of force against the sovereignty, territorial integrity of political independence of the coastal state or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- any exercise or practice with weapons of any kind;
- any act of propaganda aimed at affecting the defense or security of the coastal state;
- the launching, landing or taking on board of any aircraft;
- the launching, landing or taking on board of any military device;

¹⁶ See figure in appendix 14. The map shows the traffic separation scheme established by International Maritime Organization under rule 10 of the Convention on the International Regulation for Prevention Collision at Sea in 1972, quoted by Scovazzi.

- the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal state;
- any act of willful and serious pollution contrary to this convention;
- any fishing activities;
- the carrying out of research or survey activities
- any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal state;
- any other activity not having a direct bearing on passage.

The article 27 and 28 of 1982 United Nations Convention also provides the coastal states with criminal and civil jurisdiction on board a foreign ship in cases:

- the sequences of the crime extend to the coastal states;
- there are request for assistance from Master of the ship or from a diplomatic agent of the flag state or consular officer of the flag state;
- suppression of illicit traffic in narcotic drugs or psychotropic substances;
- foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal water.

Relating to the warship which does not comply with law and regulations of the coastal state concerning the passage through the territorial sea and disregard any compliance therewith which is made of it, the coastal state may require that warship to leave the territorial sea immediately (article 30 of 1982 Convention). The case of innocent passage of warship through the territory of the coastal state has been discussed during the establishment of international convention on Law of the sea but there was not consensus. The maritime power claimed innocent passage for warships, whereas the others, particular the developing ones, emphasized that the importance of their coastal security necessitated imposing conditions on the passage of warships through its territorial sea. The differences caused the Convention on Law of the Sea has no provision on allowing or denying warships a rights of innocent passage. As practice, some coastal states require the warships to give prior notification for innocent passage of warships through their territorial sea. For example, China and Vietnam require foreign vessels for military use to obtain

prior permission before they transit through the Chinese territorial sea¹⁷. The requirement of China was stipulated in Law on Maritime Traffic Safety, entered into force in January 1984, which reads "...No military vessels of foreign nationality may enter the territorial sea of People's republic of China without being authorized by the Government thereof"¹⁸.

4. Contiguous Zone

In accordance with 1982 United Nations Convention on law of the sea, the coastal states have the rights to establish their contiguous zone which is adjacent to the territorial sea. The article 33 of 1982 Convention provides that the contiguous zone may not extend beyond 24 nautical miles from baseline from which the territorial sea is measured. The establishment of contiguous zone aimed at preventing violation of laws and regulations within its territory. The article 33 paragraphs 1 of the 1982 Convention states that in contiguous zone, the coastal state may exercise the control necessary to:

- a Prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea;
- b Punish infringement of the above laws and regulations committed within its territory or territorial sea.

Based on the spirit of the above article, a coastal state has its rights in a contiguous zone to defend its interests by stopping foreign ship supposed to be an offender in order to search, inspect or punish the offenders against its laws and regulations. In addition, in case the suspect foreign ships have intention to evade the responsibility and leave the contiguous zone, the coastal state has the rights to pursuit beyond the limit of contiguous zone. The article 111 of 1982 Convention stipulated that pursuit must be commenced when the foreign ship or one of its boats is within the internal water, territorial sea or contiguous zone of the pursuing states, and may be only be continued outside the territorial sea or contiguous zone if the pursuit has not been interrupted.

In the establishment of the contiguous zone, the coastal state has to take into account the fact of the sea areas, which are, in some case, bordered, by two or more states

¹⁷ Zou Keyuan, Innocent Passage for Warships, East Asian Institute, National University of Singapore. Printed in the Journal of Marine Affairs, Volume 29, page.195.

¹⁸ Reported by Zou Keyuan.

whose breadth does not exceed twice the breadth of the territorial sea. The Strait of Malacca, for example, used for international navigation is less than 24 nautical miles wide¹⁹. In this case the bordering states have to undertake their agreement in the delimitation of maritime boundary and to cooperate in the establishment of international sea route pass.

5. Continental Shelf

The concept of the establishment of the continental shelf in the international law of the sea is a result of the activities of exploitation natural resources in the seabed of the developed countries. For the purpose of preventing the danger of the division of the continental shelf, the International Law Commission was tasked to prepare the draft in the purpose of controlling such exploration and exploitation. As a result of the work of Commission and the discussion at the conference, the Convention on the Continental Shelf was adopted in 1958 in Geneva and get into force in 1964. The coastal states are given the sovereign rights to explore and exploit the natural resources of the seabed and subsoil in the submarine area adjacent to the mainland or islands, but outside the area of territorial sea, to a depth of 200 meters, or beyond that limit, to a point where the exploitation of such resource become impossible.

In accordance with the 1958 Convention, the outer limit of the continental shelf is not defined precisely. It depends on the rate of scientific and technological progress in the exploitation of resource in seabed and ocean floor. The definition of continental shelf in the convention is far from adequate. As Gutteridge noted :

"The definition is bound to result in uncertainty; and may lead to disputes between states in cases where the same continental shelf is adjacent to the territories of opposite or adjacent states, or, at the least to difficulties in fixing by agreement the boundaries of such shelves. Moreover, exploitability is a subjective criterion. It may well be asked, as it was asked at the conference, how is to be determined that a particular submarine area beyond the depth of 200 meters admits of exploitation"²⁰.

At the third United Nations Convention on the Law of the Sea, the long discussion of the opposite positions on the

¹⁹ Lee Yong Leng, South East Asian and Law of the Sea.

²⁰ J. A. C. Gutteridge "The 1958 Geneva Convention on the Continental Shelf" quoted by Hugo Caminos in Law of the Sea, page 28.

delimitation of the outer limits of the continental shelf came closer together through the a reasonable compromise which was proposed that the coastal state have the rights to extend its jurisdiction over the continental shelf beyond the exclusive economic zone on the condition that parts of the benefits derive from the exploitation of mineral resources beyond the 200 nautical miles be shared with the international community²¹. According to the article 76 (1) of 1982 United Nations Convention, the continental shelf of a coastal state comprises the seabed and subsoil thereof extending beyond its territorial sea throughout the natural prolongation of its land territory up to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline from which the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

Where the outer edge of the continental shelf margin extends beyond 200 nautical miles from baseline, the outer boundary of its shelf is to be delimited by the coastal state by either of the outermost fixed points at each of which the thickness of sedimentary rock is at least 1 percent of the shortest distance from such point to the foot of the continental slope, or the fixed point not more than 60 nautical miles from foot of the continental slope, and to define these points by coordinate of longitude and latitude. However, according to the article 76(5), if the underwater edge extends more than 200 nautical miles from coastline the outer limit may not exceed 350 nautical miles from baselines of territorial water or 100 nautical miles from 2,500 meters isobaths (line connecting depth of 2,500 meters). On the submarine ridge, other than submarine elevation that are natural components of the continental margin, such as its plateau, rise, caps, blank and spurs, only 350 miles applies (article 76).

The information on the limits of the continental shelf where it extends beyond 200 nautical miles is to be submitted to the Commission on the Limits of Continental Shelf composed of experts in geology, geophysics and hydrographic, which is formed by coastal state to the convention. The Commission may issue recommendation to coastal state on the delimitation of the outer boundary of continental shelf, and the limits established by a state on the basis of these recommendations shall be final and binding. Any exploitation of non-living resources of the continental shelf beyond 200 nautical miles from the baseline is subject to make payment or contribution in kind through the Authority in order to

²¹ By Jamaica, reported by E.P. Andreyev, the International law of the sea, p. 71

distribute them, on a basis of equitable sharing criteria, to the State Parties to this Convention (article 82). However, the action of the Commission shall not prejudice matters relating to the delimitation of boundaries between the States with opposite or adjacent coasts. The Commission must, therefore, avoid dealing with submissions that may prejudice matters relating to the delimitation of boundaries between States²². In accordance with the rule of procedure of the Commission, there are some clauses dealing with disputes that may arise in connection with the establishment of outer limits of the continental shelf, such as in case where a land or maritime dispute exists, the Commission shall not examine and qualify a submission made by any of the states concerned in the dispute. However, the Commission may examine one or more submission in the areas under dispute with prior consent given by all States that are parties to such a dispute²³.

To date, there are four states have submitted their claim of outer continental shelf to the Commission. Those countries are Russia, Brazil, Australia, and Iceland. Of those four submissions, only Russia's has been subject to a full review by the Commission. The others are currently undergoing review by the subcommissions of the Commission²⁴.

Under the 1982 Convention, the coastal state exercises sovereign rights over the continental shelf in the exploration and exploitation of its natural resources. The coastal state has exclusive rights in the sense that the other states may not explore or exploit in the continental shelf unless there is express consent of the coastal state. In addition, the rights of coastal state over the continental shelf does not depend on occupation, effective or notional, or any express proclamation (article 77). However, this provision indicates that the exercise of rights of the coastal state over the continental shelf shall not infringe on freedom of navigation, or on other rights and freedom of foreign states.

As for the rights to lay submarine cables and pipelines of the other states, the coastal states are entitled the rights to establish conditions for cables and pipelines entering its territory or territorial sea, or its jurisdiction over the construction of those cables and pipelines (article 79). The Convention acknowledges that, in case this conditions or

²² L. D. M. Nelson, the Role of the Commission on the limits of the Continental Shelf in the interpretation and application of the Convention "Current Maritime Environment and the ITLOS, p.257".

²³ Rule of Procedure of the Commission, annex I, para. 5.

²⁴ Lindsay Parson, National Oceanographic Center, Southampton, UK, email: lmpAnoc.soton.ac.uk

regulations are not respected, the coastal state may refuse to allow the laying underwater cables and pipelines. The Convention allows the coastal state to process exclusive rights to permit and regulate all types of drilling on its continental shelf, and to take some measures to prevent, reduce and control marine pollution (article 81). The dumping on the continental shelf of wastes or debris of destroyed ships, aircrafts or others structures is possible with the consent of the coastal state. So, the laws and regulations of the coastal state limit the exercises of rights of the other states on the continental shelf.

Besides the above precise limitation of and the increase the rights of the coastal state over the continental shelf, the convention contains articles on the settlement of disputes over the delimitation of continental shelf between states with opposite or adjacent coastlines. The article 83 provides that the limitation of the continental shelf between states with opposite or adjacent coastlines shall be effected by a agreement on the basis of international law as referred to the article 38 of the statute of International Court of Justice, in order to achieve an equitable solution. In case there is no agreement can be reached within a reasonable period of time, the states concerned to resort to the procedures provides for in Part XV of this convention.

6. Exclusive Economic Zone

The concept of the Exclusive Economic Zone is the most important pillars of the United Nations Convention on the Law of the Sea. The Convention contains the articles on legal regime of the Exclusive Economic Zone; the limitation of the Zone, the sovereign rights of the coastal state to manage the zone in good faith; the regard for the economic interests of the third states; regulations of the certain activities in the zone, such as marine scientific research, protection and preservation of the marine environment, and the establishment and use of artificial islands; freedom of navigation and over flight; the freedom to lay submarine cables and pipelines; military and strategic use of zone; and the means of settlement of disputes.

In accordance with the article 57 of 1982 Convention on law of the sea, the Exclusive Economic Zone is an area adjacent to the territorial sea and it shall not extend beyond 200 nautical miles from baseline where the territorial sea is measured. The Convention gives the coastal states the sovereign rights over natural resources and control of resources related to activities in the zone, and preserve for the other states the freedom of navigation, over flight

and the laying submarine cables and pipelines. The coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the living resources of the exclusive economic zone (article 56). Moreover, the coastal state has exclusive right to construct and to authorize and regulate the construction, operation and use of artificial islands, installation and structures; and has jurisdiction over such artificial islands, installation and structures.

The coastal state has broad regulatory and management power to conserve and utilize the living resources on the Exclusive Economic Zone. With respect to the conservation, the coastal state has to design some measures to ensure that the populations of harvested species are maintained or restored at a levels which can produce the maximum sustainable yield as qualified by relevant environmental and economic factors (article 61). With regard the utilization, the coastal state has the obligation to promote the objective of optimum utilization of the living resources. The coastal state is obliged to determine its capacity to harvest the living resources. If the coastal state does not have capacity to harvest the entire allowable catch, it could, by agreement, give access to the other states to the surplus of the allowable catch (article 62).

The land locked states and geographically disadvantaged states are given the rights to participate, on an equitable basis, in the exploration of an appropriate part of surplus of the living resources in conformity with the regulations and management laws designed by the coastal state. They also have the rights to overflight, lay submarines cables and pipelines and other internationally lawful uses of the seas on the zone (article 58).

The convention also has articles on the conservation of the Stocks such as, straddling stocks, Anadromous stocks, catadromous species, sedentary species, and highly migratory species. With respect to the marine mammals, the coastal states and other organizations have the rights to prohibit, limit, or regulate the exploitation of this species more strictly. In exercising its sovereign rights and in ensuring the sustainable conservation of living resources, the coastal state is empowered to take some measures of law enforcement such as boarding, inspection, arrest and judicial proceedings over the foreign fishing vessels (article 73).

As the other zones, Convention on the Law of the Sea establishes the articles on the delimitation of the

Exclusive Economic Zone between the states with opposite or adjacent coastlines. According to the article 74, the delimitation of the Exclusive Economic Zone between the states with opposite or adjacent coastlines shall be effected by agreement on the basis of international law. In case there is no agreement, the states concerned could follow the procedure provided in Part XV. With regard the fisheries disputes concerning the interpretation and application of the convention, the states concerned are to be settled by a binding form of disputes settlements (article 273).

7. High Sea

High Seas are the seawater beyond the limit of the national jurisdictions and excluded from the state sovereignty. It is not included in the territorial sea, contiguous zone, exclusive economic zone, and archipelagic water. The high sea is open to all states, whether coastal or land locked states and is an area reserved for peaceful purpose. All states have freedom to conduct all types of activities with due regard for the interests of the other states. Moreover, all states have duty to conserve and manage the living resources in the zone, and to combat and prevent the international transnational crimes at sea.

In accordance with article 87 of the 1982 United Nations Convention, the freedom of the high seas consists of: (1) freedom of navigation; (2) freedom of overflight; (3) freedom to lay submarine cables and pipelines; (4) freedom to construct artificial islands and other installations permitted under international law; (5) freedom of fishing; and (6) freedom of scientific research.

The freedom of navigation is the most important for all merchant and naval vessels. They have the rights to sail ships flying their flag in the high sea and participate in navigation by granting its nationality to vessels which are registered in their territory and which fly their flag. Warships in accordance with this Convention have on the high seas completely immunity from jurisdiction of any state other than the flag state. At the meantime, the Convention requires the flag state to exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag (article 94). In doing so, every state shall take some measures, which conform with generally accepted international regulations and practice, to ensure the international order or safety at sea, such as maintain the registration of ship; construction, equipment and seaworthiness of ships; manning of ships, labor conditions

and the training of crews; the use of signals, the maintenance of communications and the prevention of collisions.

Furthermore, the Convention calls for the cooperation of all states for the purpose of conservation and management the living resources. The states have to take some measures to manage the resources such as, the establishment of sub regional or regional fisheries organizations, provide information on the fishing statistic, the effect of harvested species. In addition, the states have duty to cooperate in combating against piracy, trafficking in illegal narcotic drugs or psychotropic substances, and also against the unauthorized broadcasting from the high sea (article 99, 100, 108 and 109).

8. The Area

The Area is the deep seabed area adjacent to the continental shelf beneath the high sea. It is beyond the national jurisdiction. The Area and its resources are the common heritage of mankind²⁵. No state or juridical person shall claim or exercise the sovereignty or sovereign rights over any part of the Area or its resources²⁶. However, the Area is open to use exclusively for peaceful purposes by all states, whether coastal or land locked, without discrimination and without prejudice to the other provision of this Part²⁷.

The concept of common heritage of mankind was seriously discussed for years and subsequently the Declaration of Principle was adopted at the General Assembly in 1970 by 108 votes to none with 14 abstentions²⁸. The different arguments between the developed countries and developing countries over the interpretation of common heritage of mankind continued. As the United States stated that the common heritage did not a common property. In contrast to the position raised by the United States and other industrialized countries, C Pinto, delegate of Sri Lanka, before the Law of the Sea Workshop at the University of Hawaii in 1978, defined that the common heritage of mankind means:

..that those minerals cannot be freely mined. They are not there, so to speak, for the taking. The common heritage of mankind is common property of mankind. The commonness of the "common heritage" is a commonness of ownership and benefit.

²⁵ UN Convention, article 136.

²⁶ Ibid, article 137.

²⁷ Ibid, article 141.

²⁸ Said Mahmoudi, the Law of the Deep Seabed Mining, p.134

*The minerals are owned in common by your country and mine, and by all the rest as well. In their original locations these resources belong in undivided and indivisible share to your country and to mine, and to all the rest—to all mankind, in fact, whether organized as a state or not. If you touch the nodules at the bottom of the sea, you touch my property. If you take them away means to take away my property*²⁹.

Eventually, the concept became the principle of the international law and was inserted in the United Nation Convention on Law of the Sea. The Convention contains 58 articles on the management and control of resources in the seabed and subsoil thereof, which was known as the Area, for the purpose of mankind as a whole.

The principle of common heritage of mankind, which set forth in the Convention, are really meaningful for the all states, particular, for developing countries which are less technology and lack of fund to explore the resources in the deep ocean floor. In addition and most important, the Convention also requires the industrialized countries that undertake the exploration of natural resources in the seabed areas to transfer their technology and scientific knowledge to the developing countries so that they are able to benefit therefrom³⁰.

The Area is believed to have rich resources which are necessary for industrial purposes. Recently study claimed that there are approximately 1.5 trillion tons of nodules in the Pacific Ocean alone³¹. According to the indication of eminent scientists and researchers who were invited to give a presentation on the nature and occurrence of these resources, there are cobalt rich ferromanganese crusts, occur throughout the global oceans on seamounts, ridges, and plateaus. The crusts precipitate out of cold ambient seawater onto hard rock substrates forming pavement up to 250 millimeters thick. These crusts form at water depths of between 400 to 4000 meters, with the thickest and most cobalt rich occurring at depths of 800 to 2500 meters. It also contains titanium, cerium, nickel, platinum, manganese, thallium, tellurium, and other rare earth elements³². According to the Congressional Research Service of the United State prepared for the Senate Committee in 1976, ocean manganese nodules contain approximately thirty elements, such as manganese, iron, silicon, aluminum, sodium, calcium, magnesium, nickel, potassium, titanium,

²⁹ Statement of Ambassador Pinto in the Law of the Sea Workshop, as quoted by Mahmoudi, p.159

³⁰ UNCLOS, article 144.

³¹ United States Congressional Research Service, as quoted by Jack N. Barkenbus, Deep Seabed Resource, p. 5.

³² Natya N. Nandan, Secretary General of International Seabed Authority, Current Marine Environment Issue, p. 23

copper, cobalt, barium, lead, strontium, zirconium, vanadium, molybdenum, zinc, boron, yttrium, lanthanum, ytterbium, chromium, gallium, scandium, and silver³³.

Among the major consortia poised to enter into the commercial recovery of those minerals are groups headed by Kennecott Copper Corporation, Ocean Mining Associates, Lockheed Missiles & Space Co., Inc., INCO, Ltd., Afernod (France), DOMA (Japan), CBL (United States, Canada, Australia), and EurOcean (France-Sweden-Netherlands). The expenditure per mine site, including developmental cost, mineral recovery systems, mining vessels, ore transport vessels, and processing plants will be in the order of UDS 1,250,000,000³⁴.

In order to control the activities and manage all resources in the Area, the United Nations Convention provides exclusive rights to the International Seabed Authority, which established under Section 4, article 156 of the Convention. All State Parties are *ipso facto* members of the Authority³⁵. As of 18 March 2005, 148 state parties are members of the Authority³⁶. In accordance with article 158 of the Convention, the Authority has its principal organ, an Assembly, a Council and a Secretariat, which are responsible for exercising the function of the Authority. In addition, the Enterprise shall be established to carry out activities in the Area directly pursuant to the article 153 of the Convention³⁷.

The adoption of regulations for prospecting and exploration for polymetallic nodules by the International Seabed Authority, paves the way for the Authority to issue the contracts for exploration to those entities listed in the article 153 of the Convention, which are eligible to carry out the activities in the Area. All activities in the Area shall be carried out for the benefit of mankind as a whole and taking into particular consideration to the interests and needs of developing states or people who have not attained full independence or other self-governing status³⁸. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from the activities in the Area through any appropriate mechanisms on a non-discriminatory basis³⁹.

³³ Reported by Jack N. Barkenbus, Deep Seabed Resource, p.6.

³⁴ Ralph J. Gillis, Deep Seabed Mining Industry Perspective in Deep Seabed Mining and Freedom of the Sea edited by Frederick Tse-shyang Chen, page 45.

³⁵ Convention, article 156.

³⁶ ISBA website: <http://www.isa.org.jm>

³⁷ See the chart of the organization of the Authority in appendix 15

³⁸ UNCLOS, article 140.

³⁹ Ibid.

Even if the Convention contains articles on the equal distribution of interests derive from the Area through appropriate mechanism, it wonders what kind of mechanism should be granted rights to be responsible for doing this job. Is it an existing mechanism or a new establishment by the Authority? Another matter could be a problem is the level of the need of the states, especially the developing countries that shall be provided preferential benefit. The natural disaster, for example, tsunamis, earthquake, flood and draught, famine, disease vaccination, and so on for which should the fund be used. Moreover, first priority of distribution should be given to the land locked states that are among the developing countries because these states have the least advantages.

9. Regime of Islands

a. Natural Islands

A natural island, or island, is a naturally formed area of land surrounded by water and is above water at high tide. Island is like a land territory; it has its own internal water, territorial sea, continental shelf, contiguous zone, and exclusive economic zone. Rocks, cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf⁴⁰.

The attempt to legally define islands in the international law started from the 1930 Hague Codification Conference, but there was no result since the disagreement to the wording of "*normal circumstances and permanently*" in the definition of island. At the First Conference of the Law of the Sea in Geneva in 1958, the proposal of following wordings by the United States, was accepted:

*An island is a natural formed area of land, surrounded by water which is above water at high tide*⁴¹.

Consequently, the disputed words were deleted and the proposed text by the United States was redrafted and became an article 10 paragraphs 1 of the 1958 Convention and there was no change in the 1982 Convention.

Both inhabited and uninhabited islands play an important role in the delimitation of maritime boundary in accordance with international law. Each coastal state used islands for their extension of maritime zone. Moreover, the islands are regarded as a relevant circumstance in the judgment of the limitation of maritime boundary between states, which have adjacent or opposite coastlines. In this case, island is

⁴⁰ UN Convention, article 121, para.2

⁴¹ UN Document, as quoted by Hiran W. Jayewardene, *the Regime of Islands in the International Law*, p.4

unavoidable to deviate the equidistance or median line. Likewise, islands are the points which are used by coastal states in the establishment of straight baselines. For instance, Britain has used the islets and rocks of the Echrehos and Minquieers groups respectively as influencing the median line delimitation between the Channel Islands and the French coast⁴².

In accordance with the article 7 paragraphs 1 of the 1982 Convention, in localities where the coastline is deeply indented and cut into, or if here 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 baselines from which the breadth of the territorial sea is measured. In the existing state practice, the coastal states established their straight baselines from the points the outermost part of the outermost islands. In some cases, rock, or islets are used as a point for measuring their baseline. For example, as has been seen, Thailand used Koh Losin, a rock about 1.5 meter, as a point for measuring its straight baseline⁴³.

b. Artificial Islands

An artificial island is a man-made island. It does not emerge through natural process. The artificial island does not have a status like natural island. It means that artificial island does not generate maritime spaces as Natural Island does. As stated in the 1982 Convention, artificial islands, installation and structures do not possess the status of islands. They have no territorial sea of their own and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone, or the continental shelf⁴⁴.

Usually, artificial islands are constructed on the existing reef or on small islets by land reclamation but the recent development are sometimes built in a manner of oil platforms using concrete, steel or stone. The artificial islands are established for the purposes of exploration, transport and communications, scientific investigation and weather forecasting, recreation, and military⁴⁵. So far, there are many artificial islands have being used such as Chubu Centrair International Airport (Japan), Hong Kong Exhibition and Convention Center (China, Harbor Island (USA), and the

⁴² Clive R. Symmons, *the Maritime Zone of Island in International Law*, p.157.

⁴³ Krangsak kittichaisaree, *the Law of the Sea and Maritime Boundary Delimitation in Southeast Asia*, p.101

⁴⁴ 1982 Convention, article 60, paragraph 8.

⁴⁵ Nikos Papadakis, *the International legal regime of artificial islands*, p.11

World Island (United Arab Emirate)⁴⁶. Even though the construction of artificial island has just been legalized in the international law in this century, artificial island has a long history in many parts of the world, dating back centuries⁴⁷.

Regarding the rights of the coastal states over the maritime zones which stipulated in the United Nations Convention on law of the Sea, coastal states have the rights to build whatever installations or other structures they wish in their internal water, territorial sea, contiguous zone, exclusive economic zone⁴⁸, continental shelf⁴⁹ and also in the high sea. Moreover, the coastal state has the right to authorize the other states to construct artificial island in its zone⁵⁰. For the land-locked states, since the high sea open to all states, so they have the rights to build artificial islands, installations and other structures in the high sea⁵¹. However, the artificial island and others constructions which cause interference the use of sea-lanes essential to international navigation may not be established⁵².

Furthermore, coastal states and the artificial islands' users are required to take some measures to ensure the safety of navigation such as giving notice about construction, removing all abandoned or disused structures, and establishing an appropriate safety zone around such artificial islands, and the marine environmental effect caused by those constructions has also to take into account⁵³.

10. List of Coastal States' Claim over Maritime Zones⁵⁴

State	TS ⁵⁵	CZ ⁵⁶	EEZ ⁵⁷	CS ⁵⁸ (+outer limit)
Albania	12			N/A ⁵⁹
Algeria	12			DLM

⁴⁶ [Hffp//en. wikipedia.org](http://en.wikipedia.org) , artificial island

⁴⁷ Ibid.

⁴⁸ UNCLOS, article 60, para. 1

⁴⁹ Ibid, article 80.

⁵⁰ Ibid, article 60, para. 1

⁵¹ Ibid, article 87, para. 1 (d)

⁵² Ibid, article 60, para. 7

⁵³ Ibid, article 60, para. 3, 4,5.

⁵⁴ United Nations Document, A/56/58 (as of March 2004)

⁵⁵ Territorial Sea

⁵⁶ Contiguous Zone

⁵⁷ Exclusive Economic Zone

⁵⁸ Continental Shelf

⁵⁹ No information of legislation is available

Angola	12	24	200	N/A
Antigua and Barbuda	12	24	200	CM/200 ⁶⁰
Argentina	12	24	200	CM/200
Australia	12	24	200	CM/200
Bahamas	12		200	N/A
Bahrain	12	24		N/A
Bangladesh	12	18	200	CM ⁶¹
Barbados	12		200	N/A
Belgium	12	24	* ⁶²	DLM
Belize	12 ⁶³		200	N/A
Benin	200			N/A
Bosnia and Herzegovina				N/A
Brazil	12	24	200	CM/200
Brunei Darussalam	12		200	N/A
Bulgaria	12	24	200	DLM
Cambodia	12	24	200	200
Cameroon	12			CM/200
Canada	12	24	200	CM/200
Cape Verde	12	24	200	200
Chile	12	24	200	N/A
China	12	24	200	CM/200
Colombia	12		200	Limit specified not
Comoros	12		200	N/A
Congo	200			N/A
Cook Islands	12		200	CM/200
Costa Rica	12		200	N/A
Cote d'Ivoire	12		200	N/A
Croatia	12		* ⁶⁴	DLM
Cuba	12	24	200	N/A
Cyprus	12	24	200	EXPL ⁶⁵
DPR. Korea	12	* ⁶⁶	200	N/A
D.R. Congo	12		DLM	N/A
Denmark	12		200 (+200 ⁶⁷)	200/EXPL
Djibouti	12	24	200	N/A
Dominica	12	24	200	N/A
Dominican Republic	6	24	200	CM/200

⁶⁰ Outer edge of the continental margin, or to 200 nautical miles where the outer edge does not extend up to that distance

⁶¹ Outer edge of the continental margin

⁶² Defined by coordinate of points

⁶³ Three miles limit applies from the mouth of Sarstoon River to Ranguana Caye.

⁶⁴ The Decision on extension of the Jurisdiction of the Republic of Croatia in the Adriatic Sea of 3 October 2003 proclaimed only certain elements of the EEZ. The implementation of the legal regime of the "ecological and fisheries protection zone" of Croatia commence twelve months after its establishment.

⁶⁵ Depth of exploitability

⁶⁶ 50-nautical mile military zone. Army Command Announcement of 1 August 1977.

⁶⁷ 200 nautical-mile fisheries zone.

Ecuador	200 ⁶⁸			200 ⁶⁹
Egypt	12	24	* ⁷⁰	N/A
El Salvador	200			N/A
Equatorial Guinea	12		200	N/A
Eritrea	12		* ⁷¹	N/A
Estonia	12			Defined by coordinates
Fiji	12		200	200m/EXPL
Finland	12	14 ⁷²	Defined by coordinates	200/EXPL.
France	12	24	200	200m/EXPL
Gabon	12	24	200	N/A
Gambia	12	18	(200 fishing zone)	N/A
Georgia	12		DLM	DLM
Germany	12		Defined by coordinates	200m/EXPL
Ghana	12	24	200	200
Greece	6 ⁷³			200m/EXPL
Grenada	12		200	N/A
Guatemala	12		200	Limits not specified
Guinea	12		200	N/A
Guinea-Bissau	12		200	N/A
Guyana	12		200	CM/200
Haiti	12	24	200	EXPL
Honduras	12	24	200	Limits not specified
Iceland	12		200	CM/200
India	12	24	200	CM/200
Indonesia	12		200	N/A
Iran	12	24	DLM	DLM
Iraq	12			Limits not specified
Ireland	12		200	Defined by coordinate
Israel	12			EXPL
Italy	12			200m/EXPL
Jamaica	12	24	200	CM/200
Japan	12 ⁷⁴	24	200	CM/200
Jordan	3			N/A
Kenya	12		200	N/A
Kiribati	12		200	N/A
Kuwait	12			Defined by coordinate

⁶⁸ Only between the continental territorial sea of Ecuador and its insular territorial sea around the Galapagos Islands.

⁶⁹ Also 100 nautical miles from isobath 2,500 m (Only between the continental territorial sea of Ecuador and its insular territorial sea around the Galapagos Islands)

⁷⁰ In March 2003, Egypt and Cyprus signed an agreement on the delimitation of their respective exclusive economic zones.

⁷¹ The exclusive economic zone has been delimited in arbitration Eritrea-Yemen.

⁷² Two miles beyond the territorial sea

⁷³ Ten mile limit applies for the purpose of regulating civil aviation

⁷⁴ Three-mile limit applies to the Soya, the Tsugaru Strait, the eastern and western channels of the Tsushima Strait and the Osumi Straits only

Latvia	12		DLM	CM/200
Lebanon	12			N/A
Liberia	200			N/A
Libyan Arab Jamahiriya	12			N/A
Lithuania	12		DLM	N/A
Madagascar	12	24	200	200
Malaysia	12		200	200m/EXPL
Maldives	12	24	200	N/A
Malta	12	24	(25 fishing zone)	
Mashall Island	12	24	200	N/A
Mauritania	12	24	200	CM/200
Mauritius	12		200	CM/200
Mexico	12	24	200	N/A
Micronesia	12		200	N/A
Monaco	12			N/A
Morocco	12	24	200	200m/EXPL
Mozambique	12	24	200	CM/200
Myanmar	12	24	200	CM/200
Namibia	12	24	200	CM/200
Nauru	12	24	200	N/A
Netherlands	12		Defined by coordinates	200m/EXPL
New Zealand	12	24	200	CM/200
Nicaragua	12	24	200	CM
Nigeria	12		200	200m/EXPL
Niue	12		200	N/A
Norway	12	24	200 (+200 ⁷⁵)	CM/200
Oman	12	24	200	Limits not specified
Pakistan	12	24	200	CM/200
Palau	3		(200 fishing zone)	N/A
Panama	12	24	200	CM/200
Papua New Guinea	12 ⁷⁶		200	200m/EXPL
Peru	200 ⁷⁷			200
Philippines	* ⁷⁸		200	200m/EXPL
Poland	12		DLM	N/A
Portugal	12	24	200	EXPL
Qatar	12	24	DLM	N/A
Republic of Korea	12	24	200	N/A
Romania	12	24	200	N/A
Russian Federation	12	24	200	CM/200

⁷⁵ Fishing zone

⁷⁶ Three nautical miles in certain areas

⁷⁷ Called "Maritime Dominion) in its Constitution of 1993, Peru exercises sovereignty and jurisdiction, without prejudice to the freedoms of international communication, in accordance with the law and the treaties ratified by the state"

⁷⁸ Rectangle defined by coordinates. Claim extends beyond 12 nautical miles

Saint Kitts and Nevis	12	24	200	CM/200
Saint Lucia	12	24	200	CM/200
Saint Vincent & Grenadine	12	24	200	N/A
Samoa	12	24	200	N/A
Sao Tome and Principe	12		200	N/A
Saudi Arabia	12	18		Limits not specified
Senegal	12	24	200	CM/200
Serbia and Montenegro	12			DLM
Seychelles	12	24	200	CM/200
Sierra Leone	12	24	200	200
Singapore	3			N/A
Slovenia				N/A
Solomon Islands	12		200	200
Somalia	200			N/A
South Africa	12	24	200	CM/200
Spain	12	24	200 ⁷⁹ (* ⁸⁰)	N/A
Sri Lanka	12	24	200	CM/200
Sudan	12	18		200m/EXPL
Suriname	12		200	N/A
Sweden	12		DLM	200m/EXPL
Syrian Arab Republic	12	24	200	CM
Thailand	12	24	200	N/A
Timor-Leste	12	24	200	CM/200
Togo	30		200	N/A
Tonga	12		200	N/A
Trinidad and Tobago	12	24	200	200m/EXPL
Tunisia	12	24	(* ⁸¹)	N/A
Turkey	6 ⁸²		200 ⁸³	N/A
Tuvalu	12	24	200	N/A
Ukraine	12		200	N/A
United Arab Emirates	12	24	200	CM/200
United Kingdom	12 ⁸⁴		200 (+200* ⁸⁵)	Defined by coordinates

⁷⁹ In the Atlantic Ocean

⁸⁰ In the Mediterranean Sea, defined by coordinates.

⁸¹ Up to 50 m isobaths off the Gulf of Gabes.

⁸² Six nautical miles in the Aegean Sea, twelve nautical miles in the Black Sea.

⁸³ In the Black Sea

⁸⁴ Also three nautical miles in some areas.

⁸⁵ 200- nautical miles fishing zone in some areas.

Tanzania	12		200	N/A
United States of America	12	24	200 ⁸⁶	CM/200
Uruguay	12	24	200	CM
Vanuatu	12	24	200	CM/200
Venezuela	12	15	200	200m/200
Viet Nam	12	24	200	CM/200
Yemen	12	24	200	CM/200

Chapter II

I. MARITIME BOUNDARY CLAIMS IN THE GULF OF THAILAND

The Gulf of Thailand is located in the South China Sea (Pacific Ocean), surrounded by countries Malaysia, Thailand, Cambodia and Vietnam. The north tip of the Gulf is the Bight of Bangkok at the mouth of the Chao Phraya River. The Gulf covers roughly 320,000 square kilometers. The line from Cape Bai Bung in southern Vietnam to the city of Kota Baru on the Malaysian coast defines the boundary of the gulf. The Gulf of Thailand is relatively shallow; the mean depth is 45 meters, and the maximum depth only 80 meters. It contains some oil and large degree natural gas resources.⁸⁷ The countries bordering the gulf have not settled their overlapping maritime boundary claims. The following is chronological claims (official and unofficial) that each country has made up to the present.

1. Cambodia's Claim

Cambodia is in the Southeast Asia, bordering in the Gulf of Thailand, between Thailand and Vietnam. It has a total area of 181,035 square kilometer, in which land area is 176,520 square kilometer and water 4,520 square kilometer with a coastline 443 kilometer long. Cambodia has been under French protectorate for a period of approximately one century. France left behind the vague land border and maritime boundary lines. Brevie line, for example, was drawn by Jules Brevie who was General Governor at the time, which divided the islands in the gulf of Thailand well closed to Cambodia and Vietnam's border and other points of land border. Even before and after gaining independence from France, Cambodia never gave up its protest against the unjust transferred of its land and islands to Vietnam by France. Moreover, a long

⁸⁶ Including Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, Johnstoll Atoll, Palmyra Atoll, Midway Island, Jarvis Island, Wake Island, Kingman Reef, Howland Island, Baker Island, Northern Marianas, and Navassa Island.

⁸⁷ Columbia University Press, www.cc.columbia.edu/cu/cup

with its protest, negotiations with Vietnam were also undertaken but never reach an agreement. Cambodia is a party to the 1958 Conventions and a signatory to 1982 United Nations Convention on Law of the Sea.

Historical evidence strongly indicated that Cambodian rule over Khmer Krom lands (now Southern Vietnam) dates back many centuries. A Cambodian constitution, known as Kram Srok, promulgated in 1615 under His Majesty Chey Cheytha Reamea Eysaur clearly listed Khmer Krom provinces and their governors and titles. A French official cartographer in documenting the region in a map dated 1686, designated delta territories and Koh Tral as part of Cambodia⁸⁸. Cambodia had sovereignty over the islands in the Gulf of Thailand as late as 1865, such as islands of Koh Ta Kiev (Baie), Koh Thmey (Milieu), Koh Ses (Eau), Koh Tonsay (Pic), and Koh Po (the northern Pirate)⁸⁹. After the establishment of the protectorate over Cambodia in 1863, France annexed Kampuchea Krom, made a French colony out of it and named it Cochin China and placed Koh Tral (Phu Quoc) which is belong to Cambodia under administration of the Governor of Cochine Chia on 25 May 1874⁹⁰. One year later, Koh Tral was attached to the inspection of district of Hatien which was colonized by France. As noted above, Cambodia never gave up its claim. One needs to recall that on 16 June 1855, King Ang Duong, that time, reminded Napoleon III (first France President, 1845-1852), later France Emperor, 1852-1870) that the territories annexed by Vietnam located between the Western branch of the Mekong River and the Gulf of Siam (Hatien area) were actually Cambodian land. Therefore, Koh Tral (Phu Quoc) always remains a Cambodian island, eventhough it is under the administration of colonial France⁹¹. Besides King Ang Doung's claims, King Norodom at the time of his visit to Saigon (now Ho Chi Ming City) in October 1864, one year after the signing the Treaty establishing the French protectorate, demanded that the French authorities should hand back to him the province of Cochin China⁹².

On 31 January 1939, due to the reason of administrative and police control, eventhough France knew, logically and geographically, the islands in the south of Koh Tral, including Koh Tral should be under the jurisdiction of the administration of Cambodia, Governor General Jules Brevie divided all the islands located north of the line perpendicular to the coast starting from the border between

⁸⁸ Noted by Bora Touch, a Lawyer at Cambodian Khmer Institute in Sydney.

⁸⁹ International Boundary Study, No. 155, March 5, 1976, Bureau Intelligence and Research, USA.

⁹⁰ Noted by H. E. Say Bory, a member of Cambodian Constitutional Council, dated 16 August 2000.

⁹¹ Ibid.

⁹² Cambodian-American Resource Centre, [hhh//www.caraweb.org](http://www.caraweb.org).

Cambodia and Cochin China and making a 140 grad angle with the north meridian, administered by Cambodia, and all the islands south of this line including Koh Tral Island under the administration of Cochine China. The Breivie emphasized that the question of sovereignty remains entirely reserved⁹³.

Following the King Ang Duoung's rule, King Norodom Sihanouk continued to claim the territories. For instance, when Japanese were in control of Indochina, the King reiterated the King Ang Doung's letter to Napoleon III, informed the Japanese by his letter dated 25 June 1945 of Cambodia's title of the territories. Again, during the Geneva Conference, by Memorandum dated 24 April 1954, Cambodia claimed the territories and demanded their return⁹⁴.

The difficulties have existed from the French-drawn maritime boundary. Both Cambodia and Vietnam (then South Vietnam) claimed to their islands on the both sides of Brevie line. The consequent negotiations, along with their protests, between Cambodia and South Vietnam proved fruitless. On 31 May 1967 South Vietnam publicly accepted the Brevie line as a Maritime boundary since at the time they needed Cambodian territory for supply rout in a war⁹⁵. A decade later Vietnam refused to the Brivie line as Maritime boundary based on at the time Vietnamese were not aware of problems of territorial water, continental shelf, etc., confirmed by Deputy Foreign Minister Phan Hien⁹⁶.

On 27 September 1969, after the Thai unilateral declaration on delimitation of the continental shelf, Cambodia made a general continental shelf statement in its declaration and also allowed the foreign oil companies to explore in its water. In responding to Vietnamese petroleum law of 1 December 1970 and implementing degree of 9 June 1971, Khmer Republic, a political regime after King Sihanouk, issued a notification advising petroleum companies to aware of any demonstration of their interest in areas of the gulf of Thailand which is belonged to Cambodia⁹⁷. This notification followed by Kret of Khmer Republic dated 01 July 1972 on the delimitation of Territorial Sea and Continental shelf of Cambodia in the Gulf of Thailand⁹⁸. The claims were based on Franco-Siam Treaty of 23 March 1907, which follows a straight line joining the terminus of the land boundary on

⁹³ See the text of the letter of Mr. Jules Breivie in appendix 16

⁹⁴ Noted by Bora Touch.

⁹⁵ Epsy Cook Farrel, *The Socialist Republic of Vietnam and Law of the Sea*, page 189.

⁹⁶ *Ibid*, page 189.

⁹⁷ *Ibid*, page 191

⁹⁸ See the text of Kret of Khmer Republic in appendix 17

the coast with the highest point on the Kut Island to point P in the Gulf with coordinate Latitude 11°32 North and Longitude 101°20 East.

Although the both countries expressed their intention to settle their disputes peacefully through negotiation or appropriate legal mean, they never reach an agreement. The unsettled differences had continued along with the change of political regime in Cambodia. The Democratic Kampuchea, a political regime that got a victory over Khmer Republic, also had willingness to bring the unsettled maritime disputes to negotiation despites this regime did not have a good relationship with neighboring countries and isolated from the world. During the Democratic Kampuchea the border issues have not been resolved. However, on 15 January 1978, Democratic Kampuchea issued a unilateral statement on the establishment of the territorial sea, the contiguous zone, exclusive economic zone and continental shelf. The Statement established 12 nautical miles of territorial sea, 12 nautical miles of contiguous zone and 200 nautical miles of exclusive economic zone and 200 nautical miles of continental shelf. Through this statement, Democratic Kampuchea exercises its full and entire sovereignty over its territorial sea, its airspace and its seabed and subsoil. They also has exclusive rights for the purpose of exploring and exploiting, conserving and managing all their natural resources of the superjacent water and the bed and subsoil of its exclusive economic zone.⁹⁹ The claim of continental shelf area was entire seabed which was natural prolongation of its land territory and overlapped with later claim Continental shelf of Thailand, the farthest part of the Gulf of Thailand is approximately 300 nautical miles. So the three state claims areas totaling about 24,221 square nautical miles.¹⁰⁰

After four years of Democratic Kampuchea, People's Republic of Kampuchea -PRK (a political regime supported by Vietnam) signed three agreements with Vietnam: 1/ Historic Water Agreement, signed on 7 July 1982; 2/ Treaty on Principles for Settlement of Border Problem, signed on 20 July 1983; and 3/ Treaty on the National Border Delimitation of the Vietnam-Cambodia, signed on 27 December 1985. In accordance with the article 1 of 1982 Historic Water Agreement, the waters located between the coast of Kieng Giang Province, Koh Tral Island (Phu Quoc island) and the Tho Chu archipelago of the Socialist Republic of Vietnam (SRV) on the one side, and the coast of Kampot Province and the Poulo

⁹⁹ See the text of the Declaration of Ministry of Foreign Affairs of Democratic Kampuchea in appendix 18.

¹⁰⁰ See figure in appendix 19.

Wai group of islands of the People's Republic of Kampuchea on the other side, form the historical waters of the two countries placed under the juridical regime of their internal water and are delimited according to the Greenwich east longitude. The two sides continue to regard the Brevie Line drawn in 1939 as dividing line for the islands in this zone (article 3). In accordance with the Historical Water Agreement the overlapping zone extends from the coast of Kampot province and the Poulo Wai group of islands to the Kein Giang province, Phu Duoc island and Tho Chu archipelago.

People's Republic of Kampuchea issued a Degree on the Limitation of the Maritime Zones of the People's Republic of Kampuchea on 13 July 1982.¹⁰¹ The article 8 of the Degree provides that the PRK will negotiate and agree with SRV on the maritime border in the historical water zone of the two countries determined in the agreement on the historical water signed on 7 July 1982¹⁰². With regard the maritime boundary between Cambodia and Thailand, the Degree of 1982 states that the limit of the territorial water of the People's Republic of Kampuchea follows the dividing line of maritime water determined by the historic border stipulated in the Franco-Siam Treaty of 23 March 1907 (article 3).¹⁰³ The degree contains articles on the breadth of territorial water, contiguous zone, exclusive economic zone and continental shelf as claimed by Democratic Kampuchea, and on the sovereignty of the People's Republic of Kampuchea over the said zones. Moreover, the degree delimits the baseline which is made up of segments of a line passing through the following co-ordinates.

Number	Geographical Place	Latitude N.	Longitude E.
1	Border point on low water mark between Thailand and the People's Republic of Kampuchea according to the Treaty of 23 March 1907	11°38.8'	102°54.3'
2	Koh Kusrovie	11°06.8'	102°47.3'
3	Koh Voar	10°14.0'	102°52.5'
4	Poulo Wai	09°55.5'	102°53.2'
5	Point O out at sea on the Southwest limit of the historic waters according to the		

¹⁰¹ See the text of the Degree in appendix 20

¹⁰² See the text of the Agreement in appendix 21

¹⁰³ See the text of the Treaty of Franco-Siam in appendix 22.

agreement of 7 July 1982 of the
People's Republic of Kampuchea.

The historical water agreement was followed by a Treaty on the Principles for Settlement of Border Problems between PRK and SRV signed in Phnom Penh on 20 July 1983. The treaty provides that the two parties will negotiate at convenient time to delimit the sea border of each country in the historical water and the two countries will establish a mix committee which has representative from both countries to delimit the land border and sea border and to draft a treaty on the border delimitation between both countries.¹⁰⁴

The Treaty on National Border Delimitation signed on 27 December 1985 is the achievement of the treaty of 1983. This treaty provides that: 1/ The national sea border between the two countries originate from the farthest point of the land border as found in the 1: 100.000 and 1:50.000 scale maps attached to the Treaty; 2/ The national sea border continue to follow a path to be agreed upon by both sides to ensure to compute the division of islands as stipulated under the agreement on the historical water of the SRV and PRK; 3/ This border line will go through point 0, the adjoint point of the two baseline used to compute the width of the territorial sea of each country and this border will stretch to a point on the external border line of the each country's territorial sea; 4/ The official sea maps attached to the Treaty on the delimitation of the national sea border between the two countries will be the sea map of hydrology agency of French printed 1956 on 182.650 scale sea map bearing numbers 5394 and 5395.¹⁰⁵

Although People's Republic of Kampuchea has concluded their agreements with Vietnam for a decade of its regime, the border issues have not been settled and the international community has not recognized those agreements. For example, on 8 May 19, ASEAN Foreign Ministers issued a joint statement condemned the Vietnamese military attacks on Kampuchea and strongly support the coalition Government under presidency of Norodom Sihanouk, and then followed by a statement of 22 November 1985 by Thailand, in which Thailand considered that the so called Agreement on the historical waters agreement between Vietnam and Kampuchea was utterly devoid of any legal effect since the Government of the People's Republic of Kampuchea does not represent, and can not be considered to represent, Kampuchea in any manner whatsoever, as only the Coalition Government of Democratic

¹⁰⁴ See the text of the Treaty on the Principles for Settlement Border Problems in appendix 23.

¹⁰⁵ See the text of the Treaty on National Border Limitation in appendix 24.

Kampuchea under the Presidency of Samdech Norodom Sihanouk, which is sole legitimate Government of Kampuchea overwhelmingly recognized in the United Nations, can represent Kampuchea.¹⁰⁶ Those agreements were considered invalid since at the time Cambodia was invaded by Vietnam and People's Republic of Kampuchea was installed by Vietnam. Furthermore, the Coalition Government of Democratic Kampuchea (the exiled government) protested against the agreements and accused Vietnamese to demarcate the border into Cambodian sides. The protest followed by Paris Peace Agreement in 1991 of which all-Cambodian political parties and other foreign countries including Thailand and Vietnam are signatory states. Besides the articles on the cease of fire among Cambodian fractional parties, the Agreement specifies in the following terms "... terminate all treaties and agreements which are incompatible with its sovereignty, its independence, its territorial integrity, independence, and inviolability and its national unity". Since Cambodia wants to keep the good relationship with neighboring country, Cambodia has not nullified any agreements, which were signed during Vietnamese occupation, and tries to negotiate on the limitation of land and maritime boundaries. As Prime Minister of Cambodia said that because Cambodia and Vietnam relations are being strengthened and improved" I think that the Royal Government ought not to issue an official and public statement nullifying the agreements and treaties with Vietnam at this time and allow the Khmer-Vietnam Joint Committee to pursue vigorous negotiations leading to final good results."

Recently, in its efforts to settle the border disputes, the Royal Government of Cambodia has established Supreme National Border Council headed by Former King Norodom Sihanouk, a few months later was dissolved, and the National Border Committee led by Prime Minister Hun Sen. This proves the intention of Cambodia to settle the border disputes with neighboring countries. In October 2005, Cambodian delegation led by Prime Minister Hun Sen, traveled to Vietnam to sign a supplementary agreement on border issues. The agreement headed to the National Assembly for ratification and will be signed by His Majesty King Norodom Sihamony. The Treaty, unfortunately, does not mention about maritime boundary.

2. Malaysia's Claim

Malaysia is one of the adjacent countries in the Gulf of Thailand. It shares maritime boundary with Thailand in the southwestern part of the Gulf of Thailand. Some of the

¹⁰⁶ See the text of the Statement in appendix 25

maritime dispute areas between Malaysia and Thailand have been settled by agreements. The both states agreed to put unsettled areas under the joint developing area and to continue their negotiation on maritime delimitation. Malaysia is a party to the 1982 United Nations Convention on Law of the Sea.

During the period of colonization, Boundary Protocol between Great Britain and Siam has defined the maritime boundary in the Gulf of Thailand between Malaysia and Thailand in 1909¹⁰⁷. This point also mentioned in the Memorandum of Understanding between Thailand and Vietnam on the delimitation of continental shelf.¹⁰⁸ Consequently, the two countries have undertaken negotiation on the lateral continental shelf boundary in the southwestern part of the Gulf of Thailand up to approximately 29 nautical miles offshore but it failed due to disagreement on the use of Ko Losin, a rock 1.5 meter above high tide, 39 nautical miles offshore, as base point.¹⁰⁹ On the other hand, Malaysia claimed that it could not terminate the hydrocarbon concessions it had already granted in this area.¹¹⁰ Finally, the two country reached agreement in the form of Memorandum of Understanding between the two countries on the Establishment of a Joint Authority for the Exploitation of the Resources of the Sea-Bed in a Defined Area of the Continental Shelf in the Gulf of Thailand on 21 February 1979.¹¹¹ The Memorandum recognizes the overlapping claim of the two states and notes that negotiations may continue for some time. Meanwhile, both states consider it best to exploit the resources in the overlapping area as soon as possible. The area in question spans 5,439 square kilometers. It situated about 72 kilometer offshore, stretching from Narathiwat province in Southern Thailand to the states of Kelantan and Trengganu in Malaysia.¹¹² The Memorandum contains clauses concerning the criminal jurisdiction each country over the half part of the overlapping area.

The arrangement for the joint exploration of the overlapping area was not prejudice to the question of delimitation. The two parties would also continue to exercise their rightness in the overlapping area in matters of fishing, navigation, research, pollution control and other matters. The overlapping area has been divided into two parts for the

¹⁰⁷ R. Haller Trost, *Boundary of Malaysia*

¹⁰⁸ Article 1 para. 2 of the Memorandum of Understanding.

¹⁰⁹ Kriangsak Kittichaisaree, *Maritime Boundary Delimitation in South East Asia*

¹¹⁰ *Ibid.*

¹¹¹ See the MOU text in appendix 26

¹¹² See figure in appendix 27.

purpose of the exercise of criminal jurisdiction. Although the agreement does not contain the article on the continental shelf boundary, the criminal jurisdiction line between the joint development areas appears on an equidistant basis.

On 24 October 1979, Malaysia and Thailand signed a Treaty on the Delimitation of the Territorial Sea Boundary. The Treaty provides that the territorial sea boundary of Thailand and Malaysia in the Gulf of Thailand shall be formed by a straight baseline drawn from a point whose coordinates are latitude 6°14'.5 North and longitude 102°05'.6 East, to a point whose coordinates are latitude 6°27'.5 North and longitude 102°10'.0 East.¹¹³ The two countries agreed that the actual location at sea of the said points should be determined by a method to be mutually agreed upon by the competent authority of the two parties.

At the same year, Malaysia and Thailand signed Agreement in the form of Memorandum of Understanding on the Delimitation of the Continental Shelf Boundary between the two states in the Gulf of Thailand. The Agreement has settled the continental shelf boundary which comprises straight lines joining three points whose coordinates are: point (i) latitude 6°27'.5 North and longitude 102°10'.0 East; point (ii) latitude 6°27'.8 North and longitude 102°9'.6 East; point (iii) latitude 6°50'.0 North and longitude 102°21'.2 East.¹¹⁴ The agreement contains article concerning exploitation extends across the boundary lines, and the two countries agreed to continue negotiation to complete the delimitation of the continental shelf boundary.

3. Thailand's Claim

Thailand shares land territory with Cambodia, Laos, Myanmar and Malaysia, and maritime boundary with Cambodia and Vietnam in the Gulf of Thailand, with Myanmar in the Indian Ocean, and with Malaysia in the Andaman sea and in the Gulf of Thailand. Thailand also has maritime issues with Cambodia and Vietnam, which are on the process of negotiation. Eventhough Thailand and Cambodia had a land dispute (Preah Vihea Case) let to the decision of the International Court of Justice; maritime boundary problems are not as intense as those between Cambodia and Vietnam. As previously noted, during French protectorate of Cambodia, there was a Treaty between Thailand (then Siam) and France on maritime border in the gulf of Thailand, it is called Franco-Siamese Treaty,

¹¹³ See the text of the Treaty in appendix 28

¹¹⁴ See the text of the Agreement in appendix 29

dated 23 March 1907, and the Protocol annexed to the Treaty that provides that {..... the boundary between French-Indo China and Siam leave the sea at a point situated the highest point of Koh Kut island}.¹¹⁵ However, in the following years Thailand claimed to some of the seas and seabed subject to Cambodia's claim which created overlapping area. Thailand is a party to the 1958 Conventions and a signatory to the 1982 United Nations Convention on Law of the Sea.

On 22 September 1959, the office of Prime Minister issued a proclamation of the internal water of Thailand in the inner part of the Gulf of Thailand. Thailand confirmed the juridical status of the inner part of the Gulf of Thailand, namely, the inner part of the Gulf of Thailand situated northward of the baseline which starts from the first point on the Bahn Chong Samsarn Peninsula, latitude 12°35'4'' North, longitude 100°57'45' East, and running westward parallel to the latitude and reach the second point on the opposite sea coast, latitude 12°35'45'' North, longitude 99°57'30'' East, is a historical Bay and that water enclosed within the baselines forms part of the internal water of Thailand.¹¹⁶

On October 1966, Thailand proclaimed their territorial water which extends beyond its territory and internal waters, to a belt of sea adjacent to the sovereignty over air space and its bed and subsoil. The breadth of territorial water of Thailand is 12 nautical miles from baseline. Later, in 1981 Thailand issued a royal proclamation establishing the exclusive economic zone of Thailand. It is proclaimed that the exclusive economic zone of Thailand is an area beyond and adjacent to the territorial sea whose breadth extends 200 nautical miles measure from the baseline used for measuring the breadth of territorial sea. In this area Thailand has sovereign rights for the purpose of exploiting and exploring, conserving and managing the natural resources, whether living or non living, of the seabed and subsoil and the superjacent waters, and with regard to the other activities for the economic exploration of the zone.

On 16 February 1988, Thailand issued a proclamation on the establishment of exclusive economic zone adjacent to the exclusive economic zone of Malaysia in the Gulf of Thailand. The outer limits of the exclusive economic zone of Thailand are indicated in the following geographical co-ordinate:

<u>No</u>	<u>Latitude</u>	<u>Longitude</u>
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¹¹⁵ Noted by Bora Touch, a Lawyer at Khmer Institute in Sydney, Australia.

¹¹⁶ See the text of the Proclamation in appendix 30.

1	6°14'5''	
	102°05'6''	
2	6°27'5''	12°10'0''
3	6°27'8''	102°09'6''
4	6°50'0''	102°25'2''
5	6°53'0''	102°34'0''
6	7°03'0''	103°06'0''
7	7°20'0''	103°39'0''
8	7°22'0''	103°42'5''

On 14 August 1995, Thailand claimed its contiguous zone by a royal proclamation. It is proclaimed that the contiguous zone of the kingdom of Thailand is the area beyond and adjacent to the territorial sea of the Kingdom of Thailand, the breadth of which extends to 24 nautical miles measures from the baseline used for measuring the breadth of the territorial sea. In this area, Thailand has the rights to prevent violation of customs, fiscal, immigration and sanitary laws and regulations which will, or may commit within the Kingdom or its territorial sea, and to punish violation of the laws and regulations.¹¹⁷

On 9 August 1997, Thailand signed agreement with Vietnam on the delimitation of the maritime boundary between the two countries in the Gulf of Thailand. The agreement provides that the maritime boundary between the kingdom of Thailand and Socialist Republic of Vietnam in the relevant parts of their overlapping continental shelf claims in the Gulf of Thailand is a straight line drawn from point C latitude 07°48'00''.0000 North and longitude 103°02'30''.0000 East to point K latitude 08°46'54''.7754 North and longitude 102°12'11''.6542 East. Point C is northernmost point of the Joint Development Area between Thailand and Malaysia and point K is a point situated on the maritime boundary between the Socialist Republic of Vietnam and the Kingdom of Cambodia, which is a straight line equidistant from Tho Chu island and Poulo Wai island drawn from point O latitude 09°35'00''. 4159 North and longitude 105°10'15''.9805 East.¹¹⁸

This agreement was protested by Kingdom of Cambodia, through a note verbal of the Ministry of Foreign Affairs and International cooperation to the Secretary General of the United Nations dated 28 May 1998 concerning the position of Kingdom of Cambodia on the delimitation of maritime boundary between the Kingdom of Thailand and the Socialist Republic of Vietnam, signed in Bangkok on 9 August 1997. The note pointed out, inter alia that Cambodia has never accepted

¹¹⁷ See the text of Royal Proclamation in appendix 31.

¹¹⁸ See the text of the Agreement between Thailand and Vietnam in appendix 32.

the maritime boundary delimitation proclaimed by Thailand and Vietnam and that the latter constitute a violation of Cambodian sovereignty and its rights in its exclusive economic zone and on its continental shelf in this part of the Gulf of Thailand. Accordingly, the maritime delimitation is without prejudice to and does not affect the rights and legitimate interests of Cambodia in the area in question and Cambodia totally reserves its position in relation to any existing maritime delimitation in that part of the Gulf of Thailand or to be made in the future without agreement of the Government of Cambodia.¹¹⁹

4. Vietnam's Claims

Vietnam has joint land border with Cambodia, Laos and China, and sea border with Cambodia and Thailand in the Gulf of Thailand and with China in the Gulf of Tong Kin. Vietnam's boundary with Cambodia stems from the negotiated between French and Cambodia in the 19th century and from the decree issued by governor general of French colonization in Indochina. Several parts of land border and adjacent maritime boundary have not been settled, and the sovereignty over some islands in the Gulf of Thailand has been claimed by Vietnam and Cambodia. Vietnam is a party to the 1982 United Nations Convention on Law of the Sea.

The history indicates that before French administration in Indo China, Vietnam had no sovereignty over the disputed islands in the Gulf of Thailand. During the colonization and the French protectorate of Cambodia, France annexed those islands to Ha Tien of Indo China, which was a province separated by France from Anamese territory.¹²⁰ In 1870 and 1973 French and Cambodia signed the convention on the location of boundary between Cambodia and France, and agreement establishing the current boundary respectively.

After a series of decision of delimitation of land border, in 1939 French Governor General of Indochina, by a letter dated 31 January 1939, unilaterally proclaimed and administrative line (Brevie Line) followed an azimuth of 126 degrees from true north to the point where the land border between Cambodia and Cochin China met the coast. This line intersected the southern part of Koh Tral (Phu Quoc), which was to be administered by Cochin China including the all other islands in the south of the line. As previously noted, Brevie line made clearly that the sovereignty remains entirely reserved. Through this letter, Cambodia has

¹¹⁹ See the text of Note Verbal of the Ministry of Foreign Affairs of Cambodia in appendix 33.

¹²⁰ International Boundary Study, No. 155, March 5, 1976, Bureau of Intelligence and Research, USA

administrative rights over the islands in the north of the line.

As already noted, the maritime boundary problem between Vietnam and Cambodia has proved the contrary the solution. Between 1956 and 1960, Vietnam government had attempted to reassert claims and control over a number of islands north of Brevie Line, some of which extended to the vicinity of Sihanouk port. One again, at the UNCLOS III in a written statement, South Vietnam had just reaffirmed their claim to Poulo Wai island, which they alleged Cambodia had occupied illegally in 1962, as well as their claims to other islands in the Gulf¹²¹. Later, response to the Khmer Republic's claims over the islands which were still under foreign occupation and important to its security, Vietnam asserted its sovereign rights over islands lying off its coast which had been unjustly claimed or illegally occupied by neighboring countries and could not accept encroachments on the parts of continental shelf that belong to it by rights¹²².

In order to retake Phu Quoc and Thu Chu which were occupied by Democratic Kampuchea on 4 May and 10 May 1975 respectively, Vietnam made counterattacked and expel Khmer Rouge, then invaded and occupied Poulo Wai. Few months later Vietnam returned Poulo Wai to Cambodian control and acknowledged Cambodian sovereignty¹²³.

On 12 May 1977, Vietnam issued a statement on the Territorial Sea, Contiguous Zone, the Exclusive Economic Zone and the Continental Shelf. The Statement establishes 12 nautical miles of territorial sea, 12 nautical miles of Contiguous zone, 200 nautical miles of exclusive economic zone and 200 nautical miles of continental shelf, measuring from the baseline. The statement contains the articles on the sovereign rights over these areas including rights to explore, exploit, conserve and manage all natural resources.¹²⁴

In 1978 Vietnam and Thailand issued a joint communiqué on setting their overlapping maritime claims on the basis of equitable principle.¹²⁵ Although the Joint Communiqué between Vietnam and Thailand on maritime border issue was considered by Democratic Kampuchea as Thai and Vietnam collusion, Vietnam later stated that they are welcome the idea of a

¹²¹ Khim, Le Cambodge, reported by Farrel, page 193

¹²² Presscot, reported by Farrel, page 193

¹²³ Farrel, the SRV and Law of the Sea, page 195

¹²⁴ See the text of the Statement in appendix 34.

¹²⁵ Chanda, reported by Farrel, page 197

treaty of Friendship, as proposed by the Cambodian in 1975, and pushed for the 1976 Conference to discuss border problems. As noted, both states always had their intention to settle the border issues through negotiation but it has never done. It could be because of their claims beyond the fact or their acceptance. For instance, Vietnam considered Brevie Line is not boundary line and demanded the territorial sea of Phu Quoc larger than originally allotted 3 kilometers, whereas Cambodia during the Khmer Republic claimed its maritime boundary to the south of Phu Quoc island.

As soon as the Heng Samrin regime was installed, Vietnam's intention to conclude the 25-year Treaty of Peace, Friendship and Cooperation, which once Pol Pot believed that it was the Vietnam's policy to establish the Indochina Federation, has been done on 18 February 1979. It just a month after Khmer Rouge ousted from power. As noted in Chapter 2,1.1, Vietnam signed three agreements with People's Republic of Kampuchea, namely: 1/ Historic Water Agreement; 2/ Treaty on Principles for Settlement of border problems; 3/ Treaty on the Delimitation of the Vietnam-Kampuchea Frontier. They were signed in 1982, 1983 and 1985 respectively. For a period of over ten years since the ousted Khmer Rouge, the People's Republic of Kampuchea had no chance to claim the border they had to agree to negotiate. It was the first time that Vietnam could ease its tension over border issues since the colonization period. The invasion of Vietnam in Cambodia, however, and the installation of People's Republic of Kampuchea by Vietnam were not recognized by the international community and call for the withdrawal of Vietnamese troop from Cambodia. All the agreements were considered invalid. In addition, the exiled government, which later was named Coalition Government of Democratic Kampuchea, protested against the agreements and accused Vietnam of encroaching border and would not accept them.

On 12 November 1982, a radical baseline system was announced, starting in the north, at an island 13 nautical miles of the coast, it extends southward, and then westward for a distance of approximately 850 nautical miles to include Phu Quoc island, 80 nautical miles off the common land boundary between Vietnam and Cambodia. The following co-ordinates points of baselines starting from point O which is on the South western demarcation line of the history waters of the Socialist Republic of Vietnam and the People's Republic of Kampuchea to point A1 at the island of Nhan, Tho Chu Archipelago, Kieng Giang province, latitude $09^{\circ}15'0$ North and longitude $103^{\circ}27'0$ East, and continues to the last

point in the Gulf of Tonkin. The system used nine turning points, two of which are more than 80 nautical miles offshore, while three others are more than 50 nautical miles offshore. The four longest of the ten baselines are 162, 161, 149, and 105 nautical miles long, enclosing water area of 27 square nautical miles.¹²⁶

As noted in the part of Thailand's claim, Vietnam and Thailand have concluded agreement on the delimitation of their maritime boundary claims which overlap in the Gulf of Thailand. Since both countries have not resolved their maritime border dispute with Cambodia, the said agreement was considered by Cambodia as a violation the its sovereignty and its rights over the exclusive economic zone and continental shelf, and refuses to accept it through its note sent to the United Nations. Moreover, Cambodia reserves its position in relation to the other agreement on maritime boundary in the Gulf of Thailand to be made in the future unless there will be an agreement with the Royal Government of Cambodia.

The Socialist Republic of Vietnam has responded to the establishment of the Council to consider border disputes between Cambodian and its neighboring countries, including Vietnam, the spokesman of Ministry of Foreign Affairs of Vietnam concluded that Vietnam's consistent policy is to respect the independence, sovereignty and territorial integrity of other countries, including the Kingdom of Cambodia. Vietnam adheres to the border and territory agreements it signed with Cambodia on the basis of equality and mutual respect and in accordance with international laws and practices. At the recent forum, Vietnam and Cambodia Joint Border Committee in March 2005, the two sides agreed to intensify negotiations on border issues and to quickly resolve outstanding issues in the spirit of equality, mutual understanding and good neighborliness with a view to build a common border of peace, friendship an cooperation for mutual development. This was also affirmed in the Vietnam-Cambodia Joint Statement issued during the official friendship visit to the Kingdom of Cambodia by General Secretary Nong Duc Manh from 28-30 March 2005.¹²⁷

II. POSSIBILITY OF MARITIME BOUNDARY DELIMITATION

All parties to the maritime boundary disputes in the Gulf of Thailand have claimed their maritime zones along with the zone allocated by the International law of the sea.

¹²⁶ See the text of the Statement of Baseline Limitation in appendix 35.

¹²⁷ Sourced Vietnam News Agency, 12 May 2005

Actually, the widest part of the Gulf of Thailand from mainland to mainland is about 300 nautical miles and each state claimed 200 nautical miles from their baseline. As a result, the dispute areas of those states are approximately 24,221 square nautical miles. That is 14,580 sq nautical miles under the dispute between Cambodia and Vietnam; 5,798 sq nautical miles between Cambodia and Thailand; 233 square nautical miles between Thailand and Vietnam and 3,610 between the three states.¹²⁸

1. Cambodia and Thailand

1.1. Adjacent Boundary

As noted above, the adjacent maritime boundary between Cambodia and Thailand is based on the Treaty of Franco-Siam of 23 March 1907, and annexed Protocol, which stipulates "the border between French Indochina and Siam leaves the sea to a point opposite the highest point of the Island of Koh Kut." But yet in tracing, following the latitude of this summit, a line ends at this coast." The Minute was agreed and signed by members of the Commission: Gen. Prince Bovordej, Phya Petr Kamheng Songkram, Prince Traidos and Luang Suratudh for Thailand, and Commandant Guichard Montguers, Mr. Paul Petihuguenin, Dr. Cloite for France.¹²⁹

Another evidence that supports the borderline is the 1:200,000 scale map attached to the 1907 Treaty. It clearly shows that the straight boundary line between Koh Kut and the coast. The line drawn on the map illustrates that the border is, in fact, as set out in Clause 1 and the Minute of 8 February 1907, starting from the highest point of Koh Kut and ending at the coast and then goes north. Further more, the United States Department of Defense states clearly in its Maritime Claims References Manual issued January 1997 and updated on 2 April 2001 that the territorial sea boundary between Cambodia and Thailand was delimited under the March 1907 Treaty.¹³⁰ Besides, there are Degree of 1972 of Khmer Republic and Degree of 1982 of People's Republic of Kampuchea, which were justified by the Treaty of 1907.

According to the international practice concerning the maritime boundary which was drawn by colonial power, It has been held that the principle of *uti possidetis iuris* in international law, the frontiers inherited from colonial power are deemed not to be subject to alteration, is a regionally applied principle rather than a universal one

¹²⁸ J.R.V. Prescott, Maritime jurisdiction in Southeast Asia, quoted by Kriangsak Kittichaisaree, p. 65

¹²⁹ Bora Touch, Memorandum to Majesty Norodom Sihanouk, dated 5 June 2005.

¹³⁰ Quoted by Bora Touch, p 71 and 578.

since it originated from the Latin American continent and is based on administrative borders established during the Spanish colonial time. However, its application has been referred to lately in ICJ cases¹³¹:

The case of *Mali and Burkina Faso*¹³², Burkina Faso's claim to the disputed region was based on the boundaries established by the French colonial administration as shown on colonial maps and on the principle of *uti possidetis*. It maintained that Mali's claim (relying on the text of legal documents and ethnicity of the inhabitants of the disputed area) was ill founded in law as it challenged the principle of *uti possidetis* and would thus subvert the stability of the borders in acknowledged the delimitation based on French colonial law, and since they " have expressly requested the Chamber to resolve their disputes on the basis of the principle of the intangibility of frontiers, inherited from colonization, the Chamber cannot disregard the principle of *uti possidetis*.

The court also noted that the principle was by now firmly established in international law where decolonization was concerned, and continued that:

*"The principle is not a special rule which pertains solely to one specific system of international law (i.e. for Latin American countries formerly under Spanish control). It is a general principle which is logically connected with the phenomenon of the obtaining of independence, whenever it occurs. It obvious purpose it to prevent the independence and stability of new states being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power."*¹³³

In the judgment of the Land, Island and Maritime Frontier Dispute between *El Salvador and Honduras*, where the importance of the principle has been stressed as being the fundamental norm applicable to the case, it was held that the essence of the *uti possidetis* principle is primary aim of securing respect for the territorial boundaries at the time of independence, and its application has resulted in colonial administrative boundaries being transformed into international frontiers, stressing the point that it was the colonial and not the local settlement boundaries that affected these international boundaries.¹³⁴

¹³¹ R. Haller Trost, *Maritime Briefing*, 1994, p.31.

¹³² *Burkina Faso V. Mali*, ICJ report 1986 quoted by R. Haller Trost, p.31.

¹³³ ICJ report para.20

¹³⁴ *Ibid*, p. 33.

The principle of *uti possidetis* has been applied in the case law not only with regard to Latin America and Africa, but also in Asia¹³⁵. In the Temple of Preah Vihear case, the International Court of Justice was faced with a territorial dispute between Cambodia and Thailand, as one of the successors to French Indochina, and Thailand. The court clearly explained that:

*"It is common ground between the Parties that the present dispute has its fons et origo in the boundary settlements made in the period 1904-1908, between France and Siam (as Thailand was then called) and, in particular, that the sovereignty over Preah Vihear depends upon a boundary treaty dated 13 February 1904, and upon events subsequent to that date."*¹³⁶

Although the principle of *uti possidetis* is not in terms referred to it, it is clear that the Court and the parties operated on the basis of it. It was accepted that the boundary between the two states was that existing at the moment of independence of Cambodia (since Thailand had always been independent), and that was based upon a series of Franco-Siamese treaties, as interpreted in the light of particular practice.¹³⁷

The Arbitration Commission, a group of European jurists set up to settle internal border dispute between Serbia and Croatia, and between Serbia and Bosnia Herzegovina, declared that "..... the right to self-determination must not involve changes to existing frontier existing at the time of independence (*Uti Possidetis*). The Commission assumed that conflict over territories could be prevented only through recognition of former administrative borders as international ones."¹³⁸

In addition, the international law scholars are in agreement that the *Uti possidetis* principle is applicable to maritime boundaries: C. Antonopoulos, "The Principle of *Uti Possidetis Juris* in Contemporary International Law," R.H.D.I. 49 (1996) p.29, T. Bartos, "Uti Possidetis. Quo Vadis," A.Y. B.I.L (1997) p.36, M N Shaw, "The Heritage of State: The Principle of *Uti Possidetis Juris* Today" B. Y.I. Lb (1996-7), p.76.¹³⁹

It would be an acceptable solution if the adjacent maritime boundary between Cambodia and Thailand could follow the

¹³⁵ Malcolm N. Shaw, *The Principle of Uti Possidetis Juris today*, page 104.

¹³⁶ ICJ report, 1962, p 6, 16, quoted by Malcolm N. Shaw.

¹³⁷ Malcolm N. Shaw, page 105.

¹³⁸ Enver Hasani, professor at university of Prestina, Kosovo

¹³⁹ Quoted by Bora Touch, in a Memo sent to Majesty Norodom Sihanouk, 5 June 2005.

Treaty of Franco-Siam of 1907 with reference of the international practices of *Uti Possidetis iuris* Principle as mentioned above which go along with the position of the Royal Government of Cambodia which takes the *status quo* and its national legislations concerning the said boundary.

1.2. Opposite Boundary

So far there has not been any agreement relating to the opposite boundary between Thailand and Cambodia. Each country claimed its own boundary. The use of principle of equidistance as stated in the Convention on Law of the sea would be a good solution in the future. However, there will be some disagreement in case Thailand uses some islets in the Gulf as starting point for delimitation of maritime boundary. Cambodia is likely to argue that the Thai islets of Koh Kra and Koh Losin are small, isolated, barren and uninhabited rocky features, which are not regarded as island under the article 121 of the UNCLOS. In addition, Koh Losin was not considered as an island during a negotiation between Malaysia and Thailand on the delimitation of continental shelf in 1972. The negotiation broke down because of disagreement on the use of Ko Losin, a rock 1.5 meter above the high tide, by Thailand as a base point to extend the maritime boundary with Malaysia.¹⁴⁰

2. Cambodia and Vietnam

With regard the delimitation of maritime boundary with Vietnam, Cambodia has to take a serious consideration. The border issue, both land and maritime boundaries, between Cambodia and Vietnam are sensitive issues for the present Government. There has not been any agreement on which the maritime border should be based. The agreements and treaties, which were signed in the past between the two countries, and claims made by both states, are considered to be invalid. However, Royal Government of Cambodia wants the Brevie Line to be the international maritime boundary. It considers that the Brevie Line has established by colonial power over a considerable period of time since its formulation in 1939 and during that time its has been respected by both sides as the proper limits of their jurisdiction.¹⁴¹ The principle of *Uti Possidetis Juris* or the former administrative border as mentioned above is applicable to the Brevie Line.

Based on the principle of equidistance proposed by Vietnam,

¹⁴⁰ Kriangsak Kittichaisaree, *Maritime Boundary Delimitation in South East Asia*, page 101.

¹⁴¹ *Ibid.*

Cambodia may not accept it because Koh Tral Island is closer to Cambodian mainland than to Vietnam's. It is directly offshore of Cambodia's mainland coast on which there are two Cambodian towns, Kampot Town and Sihanouk Town, and the main seaport. On the other hand, if Cambodia turns back to the past considering what it lost, it may be absolutely unacceptable. In addition, the principle of equidistance which stipulated in the 1982 Convention applies only in the delimitation area in which there are no special circumstances or historic title¹⁴².

Chapter III

I. State Practice concerning the Delimitation of Maritime Boundary

State practice regarding the delimitation of maritime boundaries could be divided in four categories: (1) The provision of international laws, (2) Delimitation by agreement, (3) National legislation, and (4) Judicial Decision.

A. The provision of international laws

The United Nations Convention on laws of the sea is the international legal document which all states, whether coastal or land locked state, use as a fundamental basis in creating of national laws and regulations for governing their maritime zones. Centuries before the codification of international law of the sea, the coastal states claimed their own maritime boundary. The distance of those claims were different from one region to another and there was nothing used as basic rule for their claims. At the time they used the sea mainly for navigation, fishing or as a route for colonial purpose. During the present century, with the increased knowledge of technology, innovation and capacity, the use of the sea becomes commercialized purpose, such as petroleum or gas exploration in the continental shelf and fishing in the exclusive economic zone. Moreover, the sea is also being used now for the general power for the tides, winds and ocean thermal energy conversion, for the offshore terminals, installation, conducting of marine research and for nuclear weapons experiment. The new discovery and the world commitment could cause damage of global environment or hostility among the states if the international rules and regulations will not be considered. Seeing this danger and in order to ensure the sustainable utilization of the sea, the First United Nations Conference

¹⁴² UNCLOS, article 15.

on Law of the Sea was convened in Geneva in 1958. As a result, four conventions has been adopted: (1) The Convention on the Territorial Sea and the Contiguous Zone; (2) The Convention on the High Seas; (3) The Convention on the Continental Shelf; and (4) The Convention on Fishing and Conservation of the Living Resources of the High Sea.

Since the adopted conventions have not settled some questions concerning the outer limit of the territorial sea, the exploitation of mineral resources of the deep seabed, and the increasing military use of the seabed, the member states demanded to revise and to establish an international regime and machinery for regulating the exploitation of the resources of the international seabed area. Through the long discussion of each committee, the Third United Nations Conference on Law of the Sea was held in Montego Bay in 1982. The new formalized text of the law of the sea has been adopted which was called the United Nations Convention on Law of the Sea (UNCLOS). The UNCLOS is a comprehensive document. It is composed of 320 articles and 9 annexes. It deals with all aspects of the law of the sea, including those covered in the four 1958 conventions. The convention contains a set of international rules and regulations over the use of the sea, the provision concerning the disputes settlement, including the establishment of the International Tribunal for the Law of the Sea¹⁴³. It also contains other substantive rules for various sea zones which are divided into internal water, territorial sea, continental shelf and high sea for every coastal states, and some articles on the access of the land locked states. Eventually, the convention makes some general provisions, including a provision on fulfillment of obligation in good faith and in a manner, and another provision which deals with entry into force of the Convention and provides that " No reservation or exception may be made to this convention unless expressly permitted by other articles of this Convention"¹⁴⁴.

After the establishment of the International Law of the Sea, the coastal states give their serious concentration on the maritime boundary. They claimed their maritime boundary and adopted their national laws and regulations which comply with the international laws. In some cases, their claims cause overlapping areas, especially among the states whose coastlines are opposite or adjacent to each other and the sea is narrow. It is not big enough for their claim, such as gulf, bay or strait which bordering with two or more states. In the case of Gulf of Thailand, for example, which is the

¹⁴³ UNCLOS, Article 279-299.

¹⁴⁴ Ibid, Article 309

widest distance from mainland to mainland, is about 300 nautical miles and every states claims their continental shelf and exclusive economic zone of 200 nautical miles from their baselines. So, how do they do to settle these overlapping areas? The United Nations Convention on the law of the Sea and Geneva Convention encourages the State Parties to the disputes to settle through peaceful means and also provide some guidelines for their settlement in case there is no agreement.

(1) Regarding the delimitation of the *territorial sea*, article 12 of the Geneva Convention states that " where the coast of the two states are opposite or adjacent to each other, neither of the two states is entitled, failing agreement between them to contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest point on the baselines from which the breadth of territorial sea of each of the two states is measured. The provision of this paragraph shall not apply, however, where it is necessary by reasons of historic title or other special circumstances to delimit the territorial sea of the two states in any way which is in variance with the provision".

(2) Regarding the delimitation of the Continental Shelf, the article 83 of the United Nation Convention establishes that " 1/. The delimitation of the continental shelf between states with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in article 38 of the statute of the International Court of Justice, in order to achieve an equitable solution. 2/. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provides for in Part XV. 3/. Pending agreement as provided for in paragraph 1, the states concerned, in a spirit of understanding and cooperation, shall make a very effort to enter into provision arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangement shall be without prejudice the final delimitation. 4/. Where there is an agreement in force between the states concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement".

(3) Regarding the delimitation of the exclusive economic zone, the article 74 of the Convention provides similar to the article 83 concerning the Continental Shelf just changed the word Continental shelf to Exclusive Economic Zone.

Based on the said provisions of the international law, there are many coastal states have issued their national legislations, concluded the agreements establishing their maritime boundary and settled maritime disputes through international courts or arbitrations.

B. Maritime Delimitation by Agreement

The agreement of the delimitation of the maritime boundary is the first step that states concerned are encourage to make before their cases shall be brought to the international courts or arbitrations. Under the contemporary international law, the coastal states are given a suitable period of times to the negotiation of the maritime boundary delimitation. In practice, there are certain agreements have been made between the opposite or adjacent states, in which some are in the form of maritime boundary delimitation and the others as joint development agreement.

Boundary Agreements

(1) In the case of France and Spain Agreement of 29 January 1974,¹⁴⁵ the two parties concluded a Convention on the Delimitation of the Continental Shelf in the Bay of Biscay, together with a Convention on the Delimitation of the Territorial Sea and Contiguous Zone in the Bay of Biscay. The two states agreed to delimit the boundary line starting from the midpoint of a negotiated closing line across the Bidassoa estuary mouth, the boundary line extends through a series of designated turning points and terminates at a point on a construction line between Cabo Ortegal on the Spanish coast and Pointe du Raz on the French coast.¹⁴⁶

(2) In the case of Italy and Yugoslavia Agreement of 8 January 1968 on the delimitation of the continental shelf.¹⁴⁷ The both parties agreed to draw from point 1, located at 12 nautical miles from the nearest points on the land territory of the parties. Most of the turning points of the line are equidistant from the nearest land point of the parties. The parties, however, agreed to give a reduced effect o some small islands located in the central part of the Adriatic Sea, namely the Yugoslav islands of Jabuka, Pelagruza an Galijila and Italian island of Pianosa. Points from 26 to 31 are nearer to Jabuka than to the Italian territory. Point 33 is nearer to Pianosa than to the Yugoslav territory. Points from 34 to 38 are nearer to Pelagruza or Galijila than to the Italian territory (a 12 nautical miles radius is

¹⁴⁵ Masahiro Miyoshi, *Maritime Briefing*, Volume 2, page 31

¹⁴⁶ See figure in appendix 36

¹⁴⁷ International Court of Justice, *State Practice*, Volume I

drawn around these two islands).¹⁴⁸

(3) In the case of Thailand and Myanmar Agreement on the Delimitation of the Maritime Boundary between the two countries in the Andaman Sea. The two countries concluded the agreement on 25 July 1980.¹⁴⁹ The line starts from point 1 between Sindarar Island, located in Thai water, and Christie island in the Myanmar water, to a common point 9 (between Thailand, Myanmar and India) in the Andaman Sea. The agreed line is an equidistance line formed by a series of straight baselines connecting the nine points which are divided from point 1 to point 5 constitute the territorial sea boundary between Thailand and Myanmar; from point 1 to point 9 constitute the continental shelf and exclusive economic zone boundary between the two countries.¹⁵⁰

(4) In the case of Russia (then Soviet Union) and United States Agreement on maritime boundary, on 1st June 1990.¹⁵¹ The two parties agreed to draw a boundary line about 1,600 nautical miles, extending from the Bering Sea through the Bering Strait to the Arctic Ocean. The agreement states that in any area east of the line that lies within 200 nautical miles from Soviet Union but beyond 200 nautical miles from the United States, called eastern special area, the Soviet Union agrees that exclusive economic zone jurisdiction exercised by the United State. In any area west of the line that lies within 200 nautical miles from Soviet Union, called western special area, the United States agrees that exclusive economic zone jurisdiction exercised by the Soviet Union.¹⁵²

Joint Development Agreement

The idea of establishment of maritime boundary through joint development offshore came after the judgment of the International Court of Justice in the *North Sea Continental Shelf Case of 1969*. At that time the Court referred to the possibility of the parties' decision on "a regime of joint jurisdiction, use, or exploitation for the zone of overlap or any part of them".¹⁵³ The idea has met the purpose of the coastal states that focus on the advantages of the natural resources rather than the limitation of the maritime zone. Eventhough the idea of joint development does not limit the real international maritime boundary, it plays a vital role

¹⁴⁸ See figure in appendix 37

¹⁴⁹ Kriangsak Kittichaisaree, *Maritime Boundary in South East Asia*, page 47

¹⁵⁰ See figure in appendix 38

¹⁵¹ Charney & Alexander, *Boundaries*, quoted by T. Scovazzi, *Lines in the Sea*, page 230.

¹⁵² See figure in appendix 39

¹⁵³ ICJ Report of 1969, paragraph 101

in settling the maritime disputes in the absence of the agreement on delimitation of maritime boundary among the states with opposite or adjacent coastlines. In some cases the parties concerned define an area for joint development in addition to the boundary delimitation, across or beyond the boundary line for some practical reasons. To follow the idea, many coastal states have eased tension over their overlapping maritime boundary claims.

(1) In the case of Japan and Republic of Korea Agreement of 30 January 1974.¹⁵⁴ The two parties agreed on the continental shelf boundary in the Sea of Japan and Tsushima Strait, where the dispute between the two countries over the overlapping concession areas.¹⁵⁵ Under the joint development agreement, concessionaires, authorized by the two respective governments, have undivided interests with respect to each of the nine defined sub-zones, and one operator is chosen from among the concessionaires so authorized for a particular sub-zone. Thus a joint venture or consortium is not allowed for the exploration or exploitation of any of the sub-zones.¹⁵⁶

In accordance with the article 19 of the agreement, the law and regulations of one Party shall apply with respect to matters relating to exploration and exploitation of natural resources in the sub-zones with respect to which the Party has authorized concessionaires designated and acting as operators.¹⁵⁷ So, Japanese law is applied in a sub-zone where a Japanese concessionaires works as the operator, while in an adjacent sub-zone Korean law is applied because the operator there is a concessionaire authorized by the Korean Government, the choice of the operator being made on an equitable basis. However, the law shifts from Japanese to Korean law and vice versa as the operator alternates between the concessionaires of the two governments for a sub-zone with the shift of work phase from exploration to exploitation. Expenses incurred in the exploration and exploitation phases are to be shared equally, and so are the natural resources extracted in a sub-zone, between the concessionaires of the two countries.

The Agreement also contains article concerning the boundary delimitation, which provides that *"nothing in the Agreement shall be regarded as determining the question of sovereign rights over all or any portion of the Joint Development Zone or as prejudice the positions of the respective parties with*

¹⁵⁴ Masahiro Miyoshi, maritime briefing, Volume 2 Number 5

¹⁵⁵ See the figure in appendix 40

¹⁵⁶ Reported by Miyoshi Volume 2

¹⁵⁷ Quoted by Miyoshi

respect to the delimitation of the continental shelf". Although there is such reservation of the position of the parties, the agreement does not have provision that the Parties continue to negotiate the boundary delimitation in the area involved after the expiration of the Agreement.

(2) In the case of Australia and Indonesia Treaty of 11 December 1989. The two parties agreed to establish the Zone of Cooperation. The Zone of Cooperation consists of three zones: Zone A under joint control, Zone B under Australian jurisdiction and Zone C under Indonesian jurisdiction. The northern limit of the Zone is a simplified line of the bathymetric axis of the Timor Trough, its southern limit the limit of the 200 nautical miles exclusive economic zone of the Island of Timor, the boundary between Zone A and Zone C is a simplified line of 1,500 meters isobaths, the boundary between Zone A and Zone B is a median line between East Timor and Australia, while the East and West limits of the Zone are simplified equidistant lines.¹⁵⁸

In the delimitation of zone of cooperation, the Timor Trough and median line were used to ensure both the Australian position of natural prolongation and Indonesian median line principle. Indeed the Treaty provides that nothing in it shall prejudice the position of either country on a permanent continental shelf boundary or its sovereign rights in the Zone, and that the two countries continue their efforts for permanent boundary delimitation. The Treaty also states that after period of 40 years, it will continue in force for successive terms of 20 years unless the two countries agree on permanent boundary delimitation.¹⁵⁹

(3) The other case between *Bahrain and Saudi Arabia*, the two countries concluded agreement concerning the overlaps area over the oil field on 22 February 1958, in addition to the boundary delimitation¹⁶⁰. They agreed to settle the problem of jurisdiction over the Fasht Bu Saafa oil field. Since the use of median line principle would have divided the oil field, it was agreed to abandon that principle and establish a zone around the deposit by placing the field entirely under Saudi Arabia's jurisdiction, and equally sharing oil revenues from the field.¹⁶¹ The two Lubainah Islands are almost equidistant from the coast of the two states, and they were used as points for determination of the boundary. The agreement recognized the Bahraini

¹⁵⁸ See figure of Zone of Cooperation in appendix 41

¹⁵⁹ Article 33 of the Treaty

¹⁶⁰ Masahiro Miyoshi, *the Joint Development of Offshore Oil and Gas in relation to maritime Boundary Delimitation*, page 29.

¹⁶¹ See figure of the Revenue Sharing Area in appendix 42.

sovereignty over the greater of the two islands and Saudi sovereignty over the smaller. Neither of the islands will generate a territorial sea.¹⁶²

C. Maritime Boundary by the Decision of International Courts or Arbitrations

As previously noted, to bring the maritime boundary disputes to the courts or arbitrations is the last resort that the state parties concerned shall do in case the disputes could not be settled by agreement.

(1) On 11 September 1992 in a case between Honduras and El Salvador, the International Court of Justice decided as follows:¹⁶³

The Gulf of Fonseca is an historic bay the waters whereof, having previously to 1821 been under the single control of Spain, and from 1921 to 1839 of the Federal Republic of Central America, were thereafter succeeded to and held in sovereignty by the Republic of El Salvador, the Republic of Honduras, and the Republic of Negaragua, jointly, and continue to be so held (....), but excluding a belt, as at present established, extending 3 miles (one marine league) from the littoral of each of the three States, such belt being under the exclusive sovereignty of the coastal state, and subject to the delimitation between Honduras and Nigaragua effected in June 1900, and to the existing rights of innocent passage through the 3 miles belt an the waters held in sovereignty jointly; the water at the central portion of the closing line of the Gulf, that is to say, between a point on that line 3 miles (one marine league) from Punta Amapala and a point on that line 3 miles (one marine league) from Punta Cosigüina, are subject to the joint entitlement of all three states of the Gulf unless and until a delimitation of the relevant marine area be effected (.....). The legal situation of the waters outside the Gulf is that, the Gulf of Fonseca is a historic bay with three coastal states, the closing line of the coast constitutes the baseline of the territorial sea; the territorial sea, continental shelf and exclusive economic zone of El Savador and those of Nicaragua off the coast s of those two states are also to be measured outward from a section of the closing line extending 3 miles (one marine league) along that line from Punta Amapala (in El Savador) and 3 miles (one marine league) from Punta Cosigüina (in Nicaragua) respectively; but entitlement of territorial sea, continental shelf an exclusive economic zone seaward of the

¹⁶² Douglas M. Johnston, *Ocean Boundary Making*, page 211

¹⁶³ ICJ report, 1992

contral portion of the closing line appertains to the three states of the Gulf, El Savador, Honduras and Nigaragua; and that any delimitation of the relevant maritime areas is to be effected by agreement on the basis of international law.¹⁶⁴

(2) On 30 June 1977 in a case between France and United Kingdom, the Court of Arbitration rendered a decision on the delimitation of the continental shelf and relating to the submarine areas in the English Channel and in the Atlantic Ocean, as far as the furthest limits of the continental shelf of the parties.¹⁶⁵ The court concluded the following:

In the Channel, the delimitation is based on the equidistance between the opposite coasts of England and France (segments from A to M): The effects of irregularities in the coastline of each state are, broadly, offset by the effects of irregularities in the coastline of the other, a median line boundary will thus result in a generally equitable delimitation as between the parties.¹⁶⁶

In the Channel Islands area, the enclave method is applied to the continental shelf around the Channel Islands archipelago, a dependency of the Crown of the United Kingdom composed by four main groups (Alderney, Guernsey, Jersey and Minquiers). As remarked by the court, the Channel Islands are not only on the wrong side of the mid Channel Median line but wholly detached geographically from the United Kingdom.¹⁶⁷

In the actual circumstances of the region, where the extent of the continental shelf is comparatively modest and the scope for adjusting the equities correspondingly small, the Court considered that the situation demands a twofold solution.¹⁶⁸ The Channel Islands are enclosed in an enclave (arcs from 1 to 12) formed, to their north and west, by a 12 miles series of radiuses and, to their east, south an south west, by the boundary between them and the French coasts (Normandy and Britany), the exact course of which was outside the competence of the Court to specify.¹⁶⁹ France is thus accorded a substantial band of continental shelf in mind Channel which is continuous with its

¹⁶⁴ See the figure in appendix 43.

¹⁶⁵ Charney & Alexander, Boundaries, reported by T. Scovazzi

¹⁶⁶ ICJ decision, 1977, paragraph 103

¹⁶⁷ Ibid, paragraph 109

¹⁶⁸ Ibid, paragraph 201

¹⁶⁹ Ibid, paragraph 202

continental shelf to the east and west of the Channel Islands region.

In the Atlantic area, the method of the reduced effect of islands is applied to the Scilly Isles (United Kingdom), which are given a half-effect with respect to the equidistance line (segment M-N): The method of giving half effects consists in delimiting the line equidistant between the two coasts, first, without the use of the offshore islands as base-point and, second, with its use as a base-point; a boundary giving half-effect to the island is then the line drawn mid-way between those two equidistance lines.¹⁷⁰

(3) Another case between the United States and Canada concerning the delimitation of the maritime boundary in the Gulf of Maine area, the International Court of Justice rendered a decision on 12 October 1984.¹⁷¹ The two parties asked the court to determine the course of a single maritime boundary dividing their continental shelf and 200 miles exclusive fishery zones from point A to a point to be determined by the Court within an area bounded by three lines (the triangle shown on the map). The main economic interest at stake was the right to fish in the waters above Georges Bank. The map shows the line drawn by the Court, as well as those claimed by the parties. The segment A-B is the bisector of the angle formed by the two lines drawn from point A and perpendicular to the two basis coastlines of Canada and United States in the region, namely the line from Cape Elizabeth to the international boundary terminus and the line from that latter point to Cape Sable.¹⁷²

The segment BC corresponds to a corrected median line between the opposite and quasi-parallel coasts of Massachusetts (from Cape Ann to Cape Cod) and Nova Scotia (from Brier Island to Cape Sable). The correction reflects the ratio of the length between these coastal fronts (1.38 to 1 in favor of the United States), but gives a half-effect to the Canadian Seal Island. The final ratio to be applied for the purpose of determining the location of the corrected median line is thus approximately 1.32 to 1.¹⁷³ The segment C-D is the perpendicular to the closing line of the Gulf of Maine.¹⁷⁴

D. National Legislation

¹⁷⁰ Ibid, paragraph 251.

¹⁷¹ ICJ report 1984, page 246

¹⁷² ICJ Decision, 1984, paragraph 213

¹⁷³ Ibid, paragraph 222

¹⁷⁴ Ibid, paragraph 224

The delimitation of maritime boundary could be undertaken by unilateral proclamation of the coastal states. In order to ascertain of their maritime delimitation point, it is necessary for coastal states to delimit their maritime zones. As seen, after the UNCLOS I, many states have issued their national legislation concerning the delimitation of baseline, territorial sea, contiguous zone, exclusive economic zone and continental shelf, which most of their claims complied with the criterion of the international laws of the sea. So far, there are 130 countries have claimed their maritime zones. The following countries, for example, have claimed their national maritime boundary:

(1) In the case of Malaysia's Act 1966, as amended by Act No.83 of 1972 on Continental Shelf, and another Act of 1984 on Exclusive Economic Zone and Continental Shelf of Malaysia. The Act of 1984 provides that the Exclusive Economic Zone of Malaysia is an area beyond and adjacent to the territorial sea of Malaysia and extend to a distance of two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured.¹⁷⁵

(2) On 17 June 1961, the Philippines issued a Republic Act No3046 on the establishment of Baseline and Territorial Sea of the Philippines. The Act states as follows:

(i). All the waters within the limits set forth in the treaty of 1900 between the United States and Spain, in the Treaty of 1930 between the United States and Great Britain, have always been regarded as part of the territory of the Philippines Islands.

(ii). All the waters around, between and connecting the various islands of the Philippine archipelago, irrespective of their width of dimension, have always been considered as necessary appurtenances of the land territory, forming part of the inland or internal waters of the Philippines.

(iii). All the waters beyond the outermost islands of the archipelago but within the limits of the boundaries set forth in the aforementioned treaties comprise the territorial sea of the Philippines.

(iv). The baseline from which the territorial sea of the Philippines is determined consists of straight lines joining appropriate points of the outermost islands of the archipelago.

(v). All waters within the baselines are considered the internal waters of the Philippines.¹⁷⁶

¹⁷⁵ DOALOS/OLA/ United Nations, National legislation

¹⁷⁶ See the text of the Act in appendix 44

(3) In the case of the United Arab Republic's President Decision concerning the Continental Shelf. The Decision states that the United Arab Republic shall exercise rights of sovereignty over the seabed and its subsoil in the continental shelf beyond the territorial waters to the point where the depth of the water is 200 meters and deeper to the limit within which the natural resources of the bottom can be exploited.¹⁷⁷

II. Maritime Boundary Delimitation between Opposite or Adjacent States

The delimitation of maritime boundary between states with opposite or adjacent coast always meets obstacles or dispute. Every boundary negotiation presents a set of problems stemming from the differences in coastline configuration, small or large island and so on; or one of them insisted on the principle of equidistance and the others demanded deviations from this line by reason of the existence of special circumstances. The fact is that how to delimit maritime border between states with opposite or adjacent coasts. As Lewis M. Alexander posed a question that what principle can be used to guide the establishment of maritime boundaries between opposite or adjacent states? And what technical methods should be employed in delimitating the actual boundary? Dealing with this issue, the articles 15, 74 and 83 of the United Nations Conventions, which used as a guide in delimiting the maritime border in order to achieve an equitable solution, provides as follows:

Article 15

Where the coasts of two states are opposite or adjacent to each other, neither of the two states is entitled, failing an agreement between them to the contrary, to extend its territorial sea beyond the median line every points of which is equidistant from the nearest points on the baselines from which the breadth of the territorial sea of each state is measured. The above provisions will 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.

Article 74

1. The delimitation of the exclusive economic zone between states with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

¹⁷⁷ See the text of the President Decision in appendix 45

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.
3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make a very effort to enter into provisional arrangements of a practical nature and, during this transition period, not to jeopardize or hamper the reaching of the final agreement. Such arrangement shall be without prejudice to the final delimitation.
4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

The article 84 relating to the delimitation of continental shelf is the same purposes as article 74.

Based on the above provisions, there are some relevant factors, which the parties concerned, courts or arbitrations could consider in the delimitation of maritime boundary between the opposite or adjacent coasts.

A. Median Line and Equitable Principles

The boundary in lakes, straits, gulfs, bays and the territorial sea between states with opposite coasts had generally, but not always, followed the median line, but that between states with adjacent coasts, the boundary line had been varied and had followed a perpendicular line from the terminal point of the land boundary at sea, or a perpendicular to the general direction of the coastline, or a latitude or a longitude, or an equidistance line modified to remove the distorting effect of small islands or coastal projections.¹⁷⁸ Under article 6 of 1958 of Convention and article 15 of the 1982 Convention, the median and equidistance method is a general rule but it could be modified in exceptional cases due to the presence of special circumstances.¹⁷⁹

There are some remarkable developments of the concept of median line and equitable principle in the delimitation of maritime boundary.

Lewis M. Alexander, from the University of Rhode Island, gave his observations as follows:

- The boundary in the lakes and rivers, according to the Treaties between the United State and United

¹⁷⁸ Sang Myon Rhee, Sea Boundary Delimitation between states before world war II

¹⁷⁹ David Joseph Attard, Exclusive Economic Zone in International Law, page 229.

Kingdom in 1783, as the middle of the several lakes and water communications. The boundary in the Sabine River, according to the Act of Congress admitting Louisiana as state in 1812 was defined as a "Line to be drawn along the middle of the said river".

- However, in the case of rivers or streams, particularly if navigable by watercraft, the boundary since the early 1800s has more often been chosen as the line of greatest depth or the streamline of the fastest current, which was called in German "*the thalweg*". The use of the thalweg, rather than the dividing line between river and lake, was already a special circumstances situation. But the concept of the middle or median line was a basis one in the 19th and early 20th centuries. According to the decision of the international courts, it was recognized that equidistance was one of the potentially acceptable method of delimitation.

The 1930 Hague Codification Conference was also initiated the idea of median line principle. During the conference, there were sixteen governments expressed their support of the median line principle, with different wordings: "*Midway between the two shores*" by South Africa, Australia, Great Britain, India and New Zealand; "*Median Line*" by German, Italy, Sweden and the Netherland; "*Median line at an equal distance from both coast*" by Denmark; "*Middle line*" by Estonia, Finland, Japan and Latvia; "*Half the distance between such coasts or shoals*" by France; and "*Centre line of the strait*" by Romania.¹⁸⁰

In 1936, there was another significant development of the concept of median line principles when Boggs a Special Adviser on Geography in the US State Department, was invited to joint the team for Michigan-Wisconsin water boundary delimitation. Boggs defined the median line in Lake Michigan as " the line every points of which is equidistant from the nearest point or points on opposite shore".¹⁸¹ Later that in 1945, the Department of States and Interior submitted the memorandum concerning the natural resources of the subsoil and seabed of the continental shelf to the President of the United State, in which there was a clause indicated that "*In cases where the continental shelf extends to the shores of another state, or is shared with an adjacent state, the boundary shall be determined by the United State and the state concerned in accordance with equitable principles*".¹⁸²

¹⁸⁰ League of Nations Document, C.196. M. 70. 1927, quoted by Kuen Chen Fu, *Equitable Ocean Boundary Delimitation* page 17.

¹⁸¹ Kuen Chen Fu, *Equitable Ocean Boundary Delimitation* page 26.

¹⁸² *Ibid*, page 28.

The concept became worldwide knowledge after the President Harry S. Truman's proclamation on 28 September 1945. The wording used in Proclamation was exactly the same as that stated in the Memorandum.¹⁸³

In 1951 after the establishment of the United Nations, the International Law Commission was tasked to adopt a Draft Articles on the Continental Shelf in which the articles suggested " Two or more states to whose territories the same continental shelf is contiguous should establish boundaries in the area of the continental shelf by agreement. Failing agreement, the parties are under the obligation to have the boundaries fixed by arbitration."¹⁸⁴ Since the proposed article and other draft articles from the Commission of the United Nations could not be laid down, the comments from the member states concerning the delimitation the territorial sea of the two adjacent states were required in order to get information on their existing practices. At the same times, with request of Commission, there was a meeting of Expert Committee that consists of five representatives from Sweden, United Kingdom, France, the Netherlands and United States on April 1953. The Meeting discussed the following methods aiming at seeking the possible way to draw boundary through the adjoining territorial sea of two adjacent states.

1. Continuing the land frontier,
2. By perpendicular line to the coast at the intersection of the land frontier and the coastline,
3. A line drawn vertically on the general direction of the coastline,
4. A median line? If so, how should this line by drawn? To what extend should islands, shallow waters and navigation channels be accounted for?¹⁸⁵

The Meeting submitted its following recommendation to the special rapporteur of the Commission:

- a. After thoroughly discussing different methods, the Committee decided that the (lateral) boundary though the territorial sea...if not already fixed otherwise... should be drawn according to the *principle of equidistance* from the respective coastline.
- b. In a number of cases this may not lead to an equitable solution, which should be than arrived at by negotiation.¹⁸⁶

After getting comments from member states and recommendations form Expert Committee, the International Law

¹⁸³ Ibid, page 29.

¹⁸⁴ United Nations Document, A/CN.4/SER. A/1951, quoted by Kuen Chen Fu, page 31.

¹⁸⁵ United Nations Document A/AC.4/ 61/Add.1, quoted by Kuen Chen Fu, page39.

¹⁸⁶ Ibid, page 40.

Commission decided to draft the following articles on the delimitation boundaries of opposite or adjacent states, which were later codified in the 1958 Conventions on the Law of the Sea with a minor modification.¹⁸⁷

Delimitation of the Territorial Sea of two adjacent states

Article 14:

1. The boundary of the territorial sea between the adjacent states shall be determined by agreement between them. In the absence of such agreement, and unless another boundary line is justified by special circumstances, the boundary is drawn by application of the *principle of equidistance* from the nearest points of the baseline from which the breadth of the territorial sea of each country is measured.
2. The boundary line shall be marked on the officially recognized large-scale charts.

Delimitation of the continental shelf between opposite or adjacent states

Article 72:

1. Where the same continental shelf is adjacent to the territories of two or more states whose coasts are opposite to each other, the boundary of the continental shelf appertaining to such states shall be determined by agreement between them. In the absence of agreement and another boundary line is justified by special circumstances, the boundary is the *median line*, every points of which is equidistant from the baselines from which the breadth of the territorial sea of each country is measured.
2. Where the same continental shelf is adjacent to the territories of two adjacent states, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the *principle of equidistance* from the baseline from which the breadth to the territorial sea of each country is measured.

Besides, the equitable principle or equidistance were used by international courts or arbitrations in settling the disputes between the states with opposite or adjacent coastline. For example, the *Anglo-Norwegian Fisheries* and

¹⁸⁷ Ibid, page 43.

the *North Sea Continental shelf* Judgments initiated the equitable principles to maritime delimitation. This doctrine has thereafter been restated and further crystallized in all next decisions and also in bilateral treaty practice of the respective parties to the disputes concerned.¹⁸⁸

In the *North Sea Continental Shelf Case*, wrote "...the notion of equidistance as being logically necessary in the sense of being and inescapable a priori accompaniment of basis continental shelf doctrine is correct".¹⁸⁹ In the *United Kingdom and France Continental Shelf Arbitration* the court noted "...the appropriateness of the equidistance method... is a function or reflection of the geographical and other relevant circumstances of each particular case".¹⁹⁰

In the *Malta-Libya Case*, the court's reasoning would imply that equidistance should always have a presumptive status where there are opposite states situated less than 400 nautical miles apart. Within this distance it thought the distance principle determine the choice of the method and gave the impression that equidistance provided the best expression of it, saying in this circumstances, the tracing of a median line... is the most judicious manner of proceeding¹⁹¹.

B. Special Circumstances

As provided in the article 15, the median line shall apply unless there is a reason of historic title or special circumstances. Based on this clause, the questions could be raised what the special circumstances is. As a.a. Kovalev gave examples the special circumstances are historical legal grounds, factor of economic, geographical, geological, and geomorphological character. The following factors of special circumstances should be considered in delimitation of an equitable maritime boundary.¹⁹²

1. Geographical Consideration
2. Geological Consideration
3. Geomorphological Consideration
4. Historic Interests
5. Environmental-Ecological Considerations
6. Socio-Economic Consideration
7. Conduct of State & Estoppels
8. Prevention of Potential Disputes
9. Simplification of Boundary Lines.

¹⁸⁸ W. P. Heere, *International Court of Justice and Equitable Maritime Boundary Delimitation*, page 61.

¹⁸⁹ *North Sea Case*, reported by Lewis Alexander, *International Boundaries and Boundary Conflict Resolution*, p. 4.

¹⁹⁰ *UK-France Case*, reported by Lewis Alexander, p. 4

¹⁹¹ *Malta-Libya Case*, para. 61, 62

¹⁹² Kuen Chen Fu, *Equitable Ocean Boundary Delimitation*, page 240.

According to the international courts or arbitrations relating to the delimitation of overlapping areas over the continental shelf or exclusive economic zone, the decision of equitable solutions always considered the relevant or special circumstances of the shelf. For example, the 1909 Grisbadarna Case between *Norway* and *Sweden*, the Permanent Court of Arbitration in Hague took consideration the several circumstances of the fact over the Grisbadarna bank where there was large lobster fishing, in its decision¹⁹³. The dispute on jurisdiction over continental shelf between *Guinea* and *Guinea-Bissau* was decided on the basis of equity with regard to all circumstances, the significance of the shelf for the parties in dispute, and the configuration of the continental shelf¹⁹⁴. Another case between *Turkey* and *Greece* over the continental shelf in the Aegean Sea, where there is large number of islands, mostly belongs to Greece. The International Court of Justice in 1978 considered such as a dispute in connection with the discovery of oil and gas deposits in the northwestern part of the Aegean Sea. Both sides claimed the rights to search for oil and gas in the same areas. Turkey proceeded from the fact that the continental shelf also of islands, in its view, partially overlaps the Turkish shelf. The dispute was decided also on the basis of the principles of equity and regard to the significance of the shelf for the parties in disputes.¹⁹⁵

In the case of dispute between France and the United Kingdom in respect of boundary delimitation in the English Channel and the Atlantic area, the court concluded that:

In the channel, the court ruled that the presence of Channel Islands disturbed the balance of geographic circumstances of equality. If the Channel Islands were fully given full effect, France would lose the size, population, economic situation and so on in the area. In this regard, the court defined the equidistance line between the opposite coast of United Kingdom and France and decided that the continental shelf to north of this line belonged to the United Kingdom and to the south of this line belonged to France. In the Channel Islands area, the court held that the Channel Islands are enclosed in an enclave line in a distance of 12 nautical miles from baseline of territorial sea of the Channel Islands since the Channel Islands were regarded as special circumstances. In the delimiting the boundary in the Atlantic area, the court declared that it was modifying the equidistance principle by giving half effect of Scilly Isles

¹⁹³ Kuen Chen Fu, *Equitable Ocean Boundary Delimitation*, page 14.

¹⁹⁴ a. a. Kovalev, *Contemporary issues of the law of the sea*, page 101.

¹⁹⁵ *Ibid*, page 101.

in view that the Scilly Isles constituted special circumstances.¹⁹⁶

In the dispute over the North Sea Continental Shelf between Germany, Netherlands and Denmark, the court specified that the factors to be taken into account in the course of negotiations should include:

1. the general configuration of the coasts of the parties, as well as the presence of any special or unusual features;
2. so far as known or readily ascertainable, the physical and geological structure, and natural resources, of the continental shelf areas involved;
3. the element of a reasonable degree of proportionality, with a delimitation carried out in accordance with equitable principles ought to bring about between the extend of continental shelf areas appertaining to the coastal states and the length of its coastline, account being taken for this purpose of the effects, actual or prospective, of any other continental shelf delimitations between adjacent states in the same region.

In the Continental Shelf Case between Tunisia and Libya, the International Court of Justice ruled that the relevant circumstances has to be taken into account in achieving the equitable delimitation in this case:

The first relevant circumstance described below was the area relevant to the delimitation:

The fact that the area relevant to the delimitation in the present case is bounded by the Tunisian coast from Ras Ajdir to Ras Kaboudia and the Libyan coast from Ras Ajdir to Ras Tajoura and by the parallel of latitude passing through Ras Kaboudia and the meridian passing through Ras Tajoura, the rights of third States being reserved.¹⁹⁷

The second relevant circumstance identified by the court was:

The general configuration of the coasts of the Parties, and in particular the marked change in direction of the Tunisia coastline between Ras Ajdir and Ras Kaboudia.¹⁹⁸

The third relevant circumstance, as described by the court, was islands:

Among the islands, islets and low-tide elevations referred to in the Tunisian submissions, the Court considered that only the island of Jerba and the kerbennah Islands deserved consideration as possible relevant circumstances. In the event, however, it excluded Jerba because other considerations prevailed

¹⁹⁶ Text of International legal material, page 397, 1979, quoted by Surya P. Sharma " Delimitation of Land and Sea Boundaries between neighbouring countries (see figure in appendix 30), page 103.

¹⁹⁷ Judgment, p. 93.

¹⁹⁸ Judgment, p.93.

over the effect of its presence. The existence and position of the Kerbennah islands and surrounding low tide elevations were, however, considered to be material.¹⁹⁹

The historic right, which claimed by Tunisia, was also considered in the case but since the method of delimitation adopted by the Court left Tunisia in full possession of the area in which historic rights were claimed, there was no need for the Court to take account of them.²⁰⁰

The use of median line or principle of equidistance to delimit maritime boundary between the opposite or adjacent states as stated in the United Nations Convention on Law of the Sea, and as already used in previous judicial decisions may be acceptable for the parties to the dispute. However, there has not been a single principle used for dividing the boundary in an equal part in the area in which special circumstances or historic title has been taken into account. In order to get a just and acceptable boundary, it demands and experiences and serious consideration of the tribunal, court or arbitration which is involved in the delimitation, and the good commitment of the parties with respect to the existing international laws and regulations.

Chapter IV

DISPUTES SETTLEMENT MECHANISM

To settle sea disputes, the Convention on Law of the Sea provides freedom to the States Parties concerned to settle their dispute through negotiation or other diplomatic measures between them at anytime. Parties could, in case there is no settlement between them, request to the court or Tribunal having jurisdiction over their issues.

According to the article 287 of the United Nations Convention, one state has the right to choose one or more of following means for settlement their disputes concerning the interpretation and application of this Convention:

- The International Tribunal for the Law of the Sea - ITLOS
- The International Court of Justice -ICJ
- An Arbitral Tribunal constituted in accordance with

¹⁹⁹ Judgment, p. 64.

²⁰⁰ Judgment, p. 76.

Annex VII

- A Special Arbitral Tribunal constituted in accordance with Annex VIII.

As of December 2005, forty-one states have made a declaration concerning their choice of procedures²⁰¹. Twenty-six states have indicated the International Tribunal for Law of the Sea as their means for settlement of disputes. An equal number have expressed their preference for the International Court of Justice. Three of forty-one states have expressed rejection ICJ as their mean for settlement of disputes. Even though the States Parties are free to choose their procedures, the International Tribunal for Law of the Sea, which is the new institution, has been chosen as a means for settlement of sea disputes. However, where the parties have not accepted the same procedure or have not made declaration, for example one for ITLOS and the other for ICJ, or have not made declaration, the arbitration shall be applied to their disputes.

In practice as indicated in the list in appendix 46, states parties have included in their declarations:

- 1- A choice of procedure made in two ways: First, the states can choose one, more procedures, or all procedures with or without order or preference. Second, a particular procedure is defined in relation to the specific issue such as fisheries, protection and preservation of the marine environment, marine scientific research or navigation including pollution from vessels and by dumping.
- 2- Indicating that they wish to exclude issues referred to in Article 297 (2) and (3) from the application of section 2 binding procedures;
- 3- Indicating that they wish to exclude issues referred to in Article 298 from the application of section 2 binding procedures; and
- 4- A choice of procedure to deal with disputes over the prompt release of detained vessels and crews under Article 292.
- 5- Indicating that they reject jurisdiction of one or more of the four means for any types of disputes.

With regard to the choice of procedure the article 287 of the Convention also provides that a state party which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII, and if the parties to a dispute have not accepted the same procedure for the settlement of the

²⁰¹ See the table of states' choice of procedure in appendix 46.

dispute, it may be submit only to the arbitration in accordance with Annex VII, unless the parties otherwise agree.

I. The International Tribunal for the Law of the Sea (ITLOS)

The establishment of the International Tribunal for Law of the Sea is to bring the system of dispute settlement of the United Nations Convention on Law of the Sea into full operation. It is the latest international judicial institutions which was established after the entry into force of the United Nations Convention on Law of the Sea in November 1994. It convened its first session at its seat in Hamburg on 1 October 1996 and began its work from thereon. For a period of one year of its organizational phase, it has adopted three documents: the Rules of Tribunal, the Guidelines concerning the Preparation and Presentation of Cases before the Tribunal, and the Resolution on the Internal Judicial Practice of Cases before the Tribunal²⁰². The Tribunal has decided 13 cases so far. Of these cases, seven cases related to prompt release proceedings, four cases related to provisional measures, and one case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South Eastern Pacific Ocean between Chile and European Community, and the other one is the M/V "SAIGA" case between Saint Vincent, the Grenadines and Guinea²⁰³.

In accordance with article 15 of the Statute, the Tribunal may form special chambers. The Tribunal forms annually a Chamber of Summary Procedure. In prompt release cases under article 292 of the Convention, it would be more appropriate in time to come if such cases were referred to the Chamber of Summary Procedure. The Tribunal has formed two other Chambers, one to deal with fisheries disputes and the other with marine environment dispute²⁰⁴. In 2000, for example, at the request of Chile and the European Community, the Tribunal formed a special chamber to deal with a dispute concerning the conservation and sustainable exploitation of swordfish stocks in the Southeastern Pacific Ocean. This is a unique case between an international organization and a State that has been attracted by the contentious jurisdiction of a world court²⁰⁵.

²⁰² Gudmundure Eiriksson, ITLOS, p 2.

²⁰³ Report of ITLOS.

²⁰⁴ Ibid.

²⁰⁵ Ibid, page 5.

Under Part XV of the UNCLOS, the Tribunal has jurisdiction over certain types of legal disputes between states parties concerning the interpretation and application of law of the sea convention or international agreement related to the purpose of the Convention. Unless parties agree otherwise, the Tribunal's jurisdiction becomes obligatory in respect of prompt release of vessels under article 292 and provisional measures under article 290, paragraph 5, of the Convention. The Seabed Disputes Chamber of the Tribunal enjoys almost exclusive jurisdiction in relation to activities in the international seabed area²⁰⁶. It has competence *ratione materiae* which goes further and comprises contracts or plans of works, acts of omission, refusal of contracts, legal issues arising in the negotiation of the contract, and disputes where it is alleged that liability has been incurred, in order to name only subject matters expressly mentioned in Article 187 of the convention.

A. The members of the Tribunal (Judges)

The Tribunal is composed of 21 independent members elected by the States Parties to the Convention²⁰⁷. In accordance with Annex VI, article 4 (3) the election of judges shall take place within 6 months of the entry into force of the UN Convention that means by 16 May 1995, but the meeting of State Parties to the UN Convention on 22 November 1994 decided to postpone the first election of judges to 1 August 1996²⁰⁸. The judges are elected for a term of 9 years but in order to ensure the triennial election in the future, seven elected judges were to serve for a nine-year term, seven for a term of six years, and seven for a term of three years²⁰⁹.

The term of office of the members elected at the first election commenced on 1 October 1996. Seven members have expired on 30 September 2005, seven expired on 30 September 2002, and seven expired on 30 September 1999. As provided in article 5 of the Statute, those whose term expired may be reelected. In practice, at the triennial election, six of the seven judges whose term expired on 30 September 1999 were reelected for their term of nine years. Four of those whose term of office expired on 30 September 2002, were also reelected for their term until 2011. The fifteenth Meeting of the States Parties to the Convention on 22 June 2005 elected five new judges and two whose term expired on 30 September 2005 were reelected to serve term nine years. Before taking up their duties, newly elected judges are

²⁰⁶ P. Chandrasekhara Rao, President of ITLOS, Current Marine Environmental Issues and ITLOS, page 4.

²⁰⁷ Statute of ITLOS, article 2.

²⁰⁸ Report of the meeting of the state parties, on 21-22 November 1994.

²⁰⁹ Statute, article 5

required to make the solemn declaration to exercise the powers as judges impartially and conscientiously.

In accordance with the article 2 of the Statute, the judges of the Tribunal are elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea. The same article provides that the election of judge assures the representation of the principal legal systems of the world, and equitable geographical contribution. The article 3 (2) of the Statute provides that there shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations. These groups are: African Group, Asian Group, Latin American and Caribbean Group; Western European and other States Group; and the Eastern European Group. Thus, under this provision, and as determined by the Meeting of State Parties at its fifth meeting on 31 July 1996, 21 members of the Tribunal have been elected as follows²¹⁰:

- (a) Five judges from African group;
- (b) Five judges from the Asian group;
- (c) Four judges from the Latin American and Caribbean group;
- (d) Four judges from the Western European and other States group;
- (e) Three judges from the Eastern European group.

The first meeting of the States Parties also decided on geographical distribution of the term of nine years, six years, and three years so that the members of each category were to be the nationals of African; Asian, Latin American and Caribbean; Eastern European; and Western European Group.

The current composition of the Tribunal is as follows:

<u>Name</u>	<u>Country</u>	<u>Term Expiry</u>
Rüdiger Wolfrum (President)	Germany	30 September 2008
Joseph Akl (Vice President)	Lebanon	30 September 2008
Hugo Caminos	Argentina	30 September 2011
Vicente Marotta Rangel	Brazil	30 September 2008
Alexander Yankos	Bulgaria	30 September 2011
Anatoly Lazarevich Kolodkin	Russia	30 September 2008
Choo-Ho Park	Korea	30 September 2014
Paul Bamela Engo	Cameroon	30 September 2008
L. Dolliver M. Nelson	Grenada	30 September 2014
P. Chandrasekhara Rao	India	30 September 2008
Tullio Treves	Italy	30 September 2011

²¹⁰ Meeting of State Parties, 21 April 1999

Tafsir Malick Ndiaye 2011	Senegal	30	September
Jose Luis Jesus	Cape Verde	30	September 2008
Guangjian Xu	China	30	September 2011
Jean-Pierre Cot	France	30	September 2011
Anthony Amos Lucky	Trinidad & Tobago	30	September 2011
Stanislaw Pawlak	Poland	30	September 2014
Shunji Yanai	Japan	30	September 2014
Helmut Türk	Austria	30	September 2014
James Kateka	Tanzania	30	September 2014
Albert Hoffmann	South Africa	30	September 2014

B. Presidency

The President and Vice President of the Tribunal are elected by secret ballot by a majority of the member of the Tribunal from among the 21 elected judges²¹¹. They serve for a period of three years and may be re-elected²¹². The terms of office of the President and Vice President of the Tribunal begin to run from the date on which the terms of office of the members elected at a regular election begins²¹³. The outgoing president continues to exercise the functions of the President of the Tribunal until the election of the next President has taken place if he is still a member of the Tribunal at the date of the election²¹⁴.

The President of the Tribunal presides at all meetings of the tribunal. He directs the work and supervises the administration of the Tribunal (article 12 of the Rules). He represents the Tribunal in its relation with States and other entities. In event of an equality of votes, the President has a casting vote²¹⁵. The President is an ex officio member of the Chamber of Summary Procedure and he presides over any special chamber of which he is a member.

The Vice Presidents exercises the functions of the presidency in the event of a vacancy in the presidency or of the inability of the President of the Tribunal²¹⁶. The Vice President is an ex officio member of the Chamber of Summary Procedure²¹⁷. He also acts instead of the President as a member of ex officio of the Drafting Committee unless the President does not share the majority opinion of the majority as it appears then exist²¹⁸. In the event of the

²¹¹ Rules of the Tribunal, Article 11.

²¹² Ibid, Article 12

²¹³ Ibid, Article 10

²¹⁴ Ibid, Article 10

²¹⁵ Ibid, Article 12

²¹⁶ Ibid, Article 13

²¹⁷ Ibid, Article 28

²¹⁸ Resolution of the Tribunal, article 6.

inability of the President and Vice-President, the Senior Member of the Tribunal, who takes precedence next after the President and Vice-President, shall exercise the function of the Tribunal²¹⁹.

C. Chambers of the Tribunal

1. Seabed Disputes Chamber

(a) Members

The Seabed Disputes Chamber is established as an expert body of the International Tribunal for Law of the Sea, which has a vital role to settle disputes concerning activities in the deep seabed mining. The judges who serve in the Chamber are selected among those of the Tribunal.

According to Annex VI, section 4, a Seabed Disputes Chambers shall be established. It consists of 11 members selected by a majority of the members of the Tribunal from among them for a term of three years and could be renewable for the second term²²⁰. The members of the Chambers shall represent the principal legal system of the world and assure the equitable geographical distribution²²¹. One President shall be selected from the members of the Chambers to serve the term of the Chambers. If any proceedings is still pending during the term of three years, the Chambers shall complete the proceedings in its original composition²²². If there is a vacancy, the Tribunal shall select one among its members to hold office for the remainder of predecessor's term²²³. In order to assure the representation, the Tribunal adopted the proposal of the first election of the members as follows:

- three judges are nationals of the African Group;
- three judges are nationals of Asian Group;
- two judges are nationals of Latin American and Caribbean Group;
- two judges are nationals of Western European and other states group; and
- one judge is a national of state member of Eastern European Group.

For the next elections, the Tribunal decided that for every two terms last for six years, one judge national of the Eastern European Group would occupied another seat during one term, and this seat would be alternatively deducted from

²¹⁹ Rules, Article 4

²²⁰ Annex VI, Article 35, para 3.

²²¹ Ibid, Article 35, para. 2

²²² Ibid, Article 35, para. 5

²²³ Ibid

the seat allotted to the judge nationals of States of the African Group and those allotted to the judges nationals of the States of Asian Group²²⁴.

The Chamber has its President who is selected among its members (article 35). However, the article 35 of the statute provides that in case the vacancy, the Tribunal is to select a successor from among its elected members, who will hold office for the remainder of his predecessor's term.

The parties to the dispute may request the Seabed Disputes Chamber to establish an *Ad Hoc* Chamber to have jurisdiction over their dispute (article 188 of the convention). *Ad Hoc* Chamber is composed of three members of the Seabed Disputes Chamber. The composition of the *Ad Hoc* Chamber is determined by the Seabed Disputes Chamber with the approval of the parties to the dispute. Members of the *Ad Hoc* Chamber must not be in the service of, or nationals of, any parties to the dispute (article 36 (3) of the Statute). However, article 39 paragraph 2 provides that if the parties do not agree on the composition of an *Ad hoc* Chamber, each party to the dispute shall appoint one member, and the third member shall be appointed by their agreement. If they disagree, or if any party fails to make an appointment, the President of the Seabed Dispute Chamber shall promptly make an appointment or appointments from among its members, after consultation with the parties.

The current composition of the Seabed Dispute Chamber for the period ending 30 September 2008 is as follows:

Name	Title	Country
Hugo Caminos	President	Argentina
Anatoly Lazarevich Kolodkin	Member	Russia
Tullio Treves	-	Italy
Jose Luis Jesus	-	Cape Verde
Anthony Amos Lucky	-	Trinidad &Tobago
Stanislaw Pawlak	-	Poland
Shunji Yanai	-	Japan
Helmut Türk	-	Austria
James Kateka	-	Tanzania
Albert Hoffmann	-	South Africa

(b) Jurisdiction

The Seabed Disputes Chamber has jurisdiction over disputes with respect to activities in the Area, as defined in

²²⁴ P. Chandrasekhara Rao and Rahmantullah Khan, ITLOS, page 79

article 1 of the convention, falling within the categories referred to in article 187 of the convention. Parties to such disputes may be States Parties, the International seabed Authority, the Enterprise, state enterprise and natural or juridical persons in accordance with the agreement.

2. Special Chambers

The Statute envisages the establishment by the International Tribunal for the Law of the Sea of three kinds of special chambers for dealing with the particular categories of disputes. The judgment of any chamber as well as the Seabed Dispute Chamber shall be considered as rendered by the Tribunal

- the Chamber of Summary Procedure;
- standing chambers to deal with particular categories of disputes;
- chambers to deal with particular disputes at the request of the parties, so called *ad hoc* chambers.

(a) Chamber of Summary Procedure

In accordance with the article 15 of the statute, with a view to the speedy dispatch of business, the Tribunal is required to form annually a chamber of five members, with two alternative members, to hear and determine disputes by summary procedure. In addition, the Chamber may prescribe provisional measures if the Tribunal is not in session or a sufficient number of members is not available to constitute a quorum²²⁵.

The President and Vice President of the Tribunal act as members *ex officio* of the Chamber of Summary Procedure and he or she shall preside over that chamber²²⁶. Three other members are elected by secret ballot with a majority of the member of the Tribunal. In addition, in order to assure the availability of the chambers to sit in a given case, two members of the Tribunal shall elect annually for substitution.

The current composition of member of the Chamber for Summary Procedure is as follows:

Name	Title	Country
Rüdiger Wolfrum	President	Germany
Joseph Akl	Members	Lebanon
Alexander Yankov	-	Bulgaria
L. Dolliver M. Nelson	-	Granada

²²⁵ Statute, article 25.

²²⁶ Rules, article 28.

Tafsir Malick Ndiaye	-	Senegal
Tullio Treves	Alternates	Italy
Shunji Yanai	-	Japan

(b) Standing Chambers to deal with particular categories of disputes

This Chamber is envisaged by article 15 (1) of the Statute that reads, "The Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes". The article 29 of the Rules also set out the procedure of the establishment of this chamber. The Tribunal is to determine the category of disputes concerned, the number of members, the period for which they will serve, the date when they enter upon their duties and the quorum for meeting.

The Standing Chamber is not mandatory. The Tribunal could dissolve it at any time, but the Chamber must finish the case pending before it²²⁷. In case any member expires his or her term of office before the case is closed, the Tribunal select new members to replace them.

For the purpose of dealing with particular cases as provided in article 15 of the Statute, the Tribunal, by Resolution of 1997, established two standing special chambers, the Chamber for Fisheries Disputes and the Chamber for Marine Environment Dispute. Each Chamber consists of seven members. If the number of members able to sit in a given case falls below five, the Tribunal shall select new members to bring the number to five at least.

The **Chamber for Fisheries Disputes** is available to deal with dispute concerning the interpretation or application of:

- (1) any provision of the Convention concerning the conservation and management of marine living resources; and
- (2) any provision of any other agreement relating to the conservation and management of marine living resources which confers jurisdiction on the Tribunal.

The current composition of the Chamber for Fisheries Dispute which term ending 30 September 2008 is as follows:

Name	Title	Country
Anthony Amos Lucky	President	Trinidad & Tobago

²²⁷ Ibid, article 29.

Alexander Yankov	-	Bulgaria
Choon-Ho Park	-	Republic of Korea
Guangjian Xu	-	China
Helmut Türk		Austria
James Kateka		Tanzania
Albert Hoffmann		South Africa

The **Chamber for marine Environment Disputes** is available to deal with disputes concerning the interpretation or application of:

- (1) any provision of the Convention concerning the protection and preservation of the marine environment;
- (2) any provision of special conservations and agreements relating to the protection and preservation of the marine environment referred to in article 237 of the Convention; and
- (3) any provision of any agreement relating to the protection and preservation of the marine environment which confers jurisdiction on the Tribunal.

The current composition of the Chamber for Marine Environment Dispute for the period ending 30 September 2008 is as follows:

Name	Title	Country
Tullio Treves	President	Italy
Vincent Marotta Rangel	Member	Brazil
P. Chandrasekhara Rao	-	India
Jose Luis Jesus	-	Cape Verde
Stanislaw Pawlak	-	Poland
Shunji Yanai	-	Japan
James Kateka	-	Tanzania

(c) Chamber for dealing with particular disputes at the request of the parties

Article 15 (2) of the Statute provides for the establishment, at the request of the parties concerned, of a chamber for dealing with particular disputes. The Tribunal with an approval of the parties determines the members who are constitute the chamber. A request to form a chamber must be made within two months after the institution of proceedings. If the request to form a chamber is made by one party only and not by the parties jointly, the President ascertains whether the other party assents²²⁸. Upon agreement of the parties to form the chamber, the President ascertains

²²⁸ Ibid, article 30 (1).

the views of the parties on its composition and reports to the Tribunal accordingly²²⁹.

D. Committee of the Tribunal

With a view to ensure the day-to-day work, the Tribunal has established five Committees that are dealing with their specific function. Each Committee has one Chairman. Those committees are:

- (1). Committee on Rules and Judicial Practice
- (2). Committee on Budget and Finance
- (3). Committee on Staff and Administration
- (4). Committee on Library and Publication
- (5). Committee on Building and Electronic Systems

E. Experts

The article 289 of the Convention provides that any dispute involving scientific or technical matters, the Tribunal may, at a request of a party or *proprio motu*, select no fewer than two scientific or technical experts. The selection is made in consultation with the parties. The selected experts sit with the Tribunal but without the rights to vote. They take part in the judicial deliberations of the Tribunal²³⁰. The experts shall be independent and enjoy the highest reputation for fairness, competence and integrity and they are required to make solemn declaration at a public sitting for their job²³¹. Every expert will make the solemn declaration before the making any statement²³².

F. Registry

The Registry is an administrative organ of the Tribunal. The Registry consists of the Registrar, the Deputy Registrar and staff serving in 35 other established posts. In accordance with the article 32 of the Rules, the Tribunal elects its Registrar and a Deputy Registrar from among candidates nominated by Member States for a term of seven years and may be reelected. In accordance with the Rules, the Tribunal may elect an Assistant Registrar but practical situation the Tribunal has not done so. The Deputy Registrar assists Registrar, acts as Registrar in his or her absence and, in the event of the office becoming vacant²³³.

With assistance of the Deputy Registrar, the Registrar is responsible for all registry's legal works, both substantive and procedural, for all administrative arrangements and support, for the assessment and collection of contributions,

²²⁹ Ibid, article 30 (2).

²³⁰ Rules, article 42

²³¹ Ibid, article 15

²³² Rules, article 79

²³³ Ibid, article 37

and for the administration of the accounts and finances of the Tribunal. The Registrar shall be present in person at the meeting of the Tribunal, and of the Chambers and sign all judgments, advisory opinions and orders of the Tribunal. He or she is a regular channel of communications to and from the Tribunal. He keep a list of cases and keeps copies of communications and agreements, as required by the Rules²³⁴.

G. Judges Ad hoc

In accordance with the article 17 of the Statute, the parties to the dispute have the rights to choose judge to sit on the bench for the purpose of the case, in addition to, and sometimes in place of, the elected judges. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal²³⁵. Such judges are known as judges *ad hoc*. The person chosen as judges *ad hoc* shall fulfill the same conditions pertaining to the qualifications for election to the Tribunal and the participation in a particular case. According to article 19 of the Rules, the judge *ad hoc* may be of a nationality other than that of the party which chooses him. If the Tribunal find that two or more parties of the parties to the dispute have the same interests, the Tribunal shall fix the time limit within which they may jointly choose one judge *ad hoc*²³⁶. In the case of *Southern Bluefin Tuna Case between Japan, New Zealand and Australia*, for example, New Zealand and Australia jointly chose a judge *ad hoc*²³⁷.

H. Jurisdiction of the Tribunal

If we look the area in which the Tribunal is dealing with is unlikely complicated comparing to the other International Institutions such as International Court of Justice that is responsible for many different kinds of subject matters. However, the ocean affairs and law of the seas cover variety of activities and obligations of the states around the world. So the International Tribunal for Law of the Sea which is the international institution established for the purpose of settlement of sea disputes and of assuring the non abuse by the state parties plays an important role to maintain the world in peace at sea.

The Jurisdiction refers to the competence or power of the Tribunal to decide the cases. The jurisdiction of the international tribunal for law of the sea is based on the

²³⁴ Ibid, article 36

²³⁵ Statute, article 17 (3).

²³⁶ Rules, article 20.

²³⁷ Gudmundur Eiriksson, ITLOS, page 47.

United Nations Convention on Law of the Sea and on any international agreement related to the purposes of the Convention. It also depends on the agreement of the parties to the dispute and on the effect of the their declaration of choosing mean for settlement of disputes made when signing, ratifying or acceding to the Convention or at any time thereafter²³⁸. It demands that both parties to the disputes had accepted the Tribunal to have jurisdiction on their case and agreed to bring the case before the Tribunal. In accordance with the Convention on Law of the Sea, the Tribunal shall be open to state parties²³⁹. The definition of the term " State Parties" in the Convention refers to not only States which have consented to be bound by the Convention but also entities other than states, such as Namibia represented by the United Nations Council for Namibia, self-governing associated States, all territories which enjoy full internal self-government, and international organizations²⁴⁰.

When one of the four means has been chosen as a mechanism, any dispute concerning the interpretation or application of the Convention may be submitted to it at any request of any party²⁴¹. However, the Convention contains article on the limitation to applicability of section 2 on compulsory procedures entailing binding decisions, in which the first paragraph indicates the disputes concerning the exercises of coastal state's sovereign rights or jurisdiction that contravene of this Convention in regard to the rights in exclusive economic zone; of laws and regulations adopted by coastal state in conformity with international laws; of specified international rules and standards for the protection and preservation of the marine environment, may be submitted to compulsory jurisdiction. The second and third paragraph provide that disputes relating to the interpretation or application of the provision of the Convention with regarding the marine, scientific research and fisheries may be submitted to compulsory jurisdiction, and continue by stating some exceptions²⁴²: (1) regarding the scientific research, coastal state shall not be obliged to accept the submission to compulsory settlement of disputes concerning the exercise a right or discretion under article 246 or 253; (2) As regard fisheries, the coastal shall not be obliged to accept the submission to such settlement of disputes relating to the coastal state's sovereign rights with respect to the living resources in exclusive economic

²³⁸ UNCLOS, article 287 (1).

²³⁹ Statute, article 20.

²⁴⁰ UNCLOS, article 1 and article 305.

²⁴¹ Ibid, article 288.

²⁴² UNCLOS, article 297.

zone, including explicitly some important aspects of such exercise.

Furthermore, the Convention stated the optional exception in which specific cases are required to choose by State Parties. This means that the court or Tribunal that are chosen by one state does not have jurisdiction over all cases of that state. The States have the right to choose which court or tribunal to have jurisdiction over which one of their cases as specified in article 298 of the Convention²⁴³.

I. Procedural Aspect of the Tribunal

The Rules of the International Tribunal for Law of the Sea was adopted on 28 October 1997 in which there are articles on legal proceeding of the Tribunal. This Rules was established under Annex VI of the Convention that powers the Tribunal to adopt rules of procedure for carrying out its functions²⁴⁴. Under the Rules, the Tribunal has to proceed the cases brought by parties concerned through the procedural phases, starting from instituting of application or notification indicating the party making it and the party against and the subject of the dispute; filing of pleadings which consists of a memorial, a counter-memorial and provision of agreement; making initial deliberation; oral proceeding; and issuing a judgment. For urgent proceeding which was stipulated in article 290 of the Convention and article 89 of the Rules of the Tribunal, a party may request the Tribunal for the prescription of provisional measure to prevent serious harm caused by the conflicting activities in the course of proceedings²⁴⁵. This section will look more detail of each phase of proceedings.

(i) Institution of Proceeding

The proceeding before the Tribunal can be instituted either by written application or by notification of a special agreement. Where a case is brought by one of the parties, it is done by an application. Where the case is brought under the agreement between the parties, it is done by a notification. The case, which is brought before the Tribunal by application, indicates the party which bring the claim and the party against which the claim is brought and the subject of the dispute. The application also specifies the legal ground upon which the jurisdiction of the Tribunal is

²⁴³ See the list of procedure chose by States in Appendix 46

²⁴⁴ Statute, article 16.

²⁴⁵ In the case between Malaysia and Singapore concerning land reclamation in and around the Strait of Johor, Malaysia brought the case before the Tribunal by a notification. Pending the constitution of arbitral tribunal, Malaysia has requested the Tribunal for prescription of provisional measures as stated in article 89 of the Rules of the Tribunal and article 290 of the Convention on Law of the Sea.

said to be based, the precise nature of claim with the fact and the grounds on which the claim is based²⁴⁶. In case it is brought by notification, it is accompanied by an original or certified copy of the special agreement. Equally, the notification indicates the precise subject of the dispute and identifies the parties to the dispute²⁴⁷. The application and notification are required to state the name of its agents with an address so that the communication can be reached. Upon receiving an application, the Registrar lists the case and forthwith transmits a certified copy of the application to respondent and of the notification to any party in case it is not effected jointly by the parties. The Registrar shall also keep informed all States Parties²⁴⁸ and the United Nations²⁴⁹. The respondent or any party to the special agreement, upon receiving the certified copy of such application or notification, or as soon as possible, shall inform the Tribunal of the name of its agent²⁵⁰.

In a case where the applicant proposes to found the jurisdiction of the Tribunal upon the party against which the application is made has not given its consent, the application is transmitted to that party. The Registrar will not put the application in the list of the case, nor will any action be taken in the proceedings, unless and until the party against which such application or notification is made consents to the jurisdiction of the Tribunal for the purpose of the case²⁵¹.

(ii) Written Proceedings

In accordance with the article 45 of the Rules, every case submitted to the Tribunal, the President shall ascertain the views of the parties with regard to questions of procedure. In the light of this, the Tribunal determines the time limit used for and the number and order of pleadings. In some cases, when there are preliminary objections and requests to intervene by third parties in the proceeding, the decision on the organization of proceeding is required to be postponed²⁵². The pleading which begun by mean of application consists of a memorial made by the applicant in which contains a statement of the relevant facts; a statement of law; and the submission, and a counter memorial made by the respondent in which contains an admission or denial of the facts stated in the memorial; any additional facts;

²⁴⁶ Rules, article 54.

²⁴⁷ Ibid, article 55

²⁴⁸ Statute, article 24

²⁴⁹ Agreement between ITLOS and UN, article 4

²⁵⁰ Rules, article 56.

²⁵¹ Ibid, article 54.

²⁵² Gudmundur Eirriksson, ITLOS

observation concerning to the statement of law in the memorial; a statement of law in answer thereto; and the submissions²⁵³. In case instituted by the notification of a special agreement, the provisions of the agreement shall govern the number and order of the pleading. If the agreement contains no such provision, and if the parties have not agreed on the number and order of pleadings, the memorial and counter memorial are also required to made within the same time limits²⁵⁴.

In the main proceeding before the Tribunal there would be a second round of written proceeding. The second round of proceedings consists of the exchange of reply and a rejoinder. At this stage the parties do not repeat their contentions in memorial or counter memorial but they try to bring out the issues which still divide them²⁵⁵.

(iii) Initial Deliberation after Written Proceeding

The initial deliberation is the job of the Tribunal to consider the case in a period between written proceeding and oral proceeding. For a period of five weeks after the closure of written proceeding, each judge prepares a brief written note identifying the principal issues for decision and point which should be clarified during oral proceedings without further elaboration²⁵⁶. Then, on the basis of written proceeding and the judges' notes the President draws up a working paper which will be circulated by the Registrar to the judges not later than 8 weeks after written proceeding so that the judges could exchange views or consider the scope, nature or any requirement in the case²⁵⁷. Article 68 of the Rules provides that after the closure of the written proceedings and prior to the opening of the oral proceedings, the Tribunal shall meet in private to enable judges to exchange views concerning the written pleadings and the conduct of the case.

(iv) Oral Proceeding

The oral proceeding is the hearing stage of the case at the Tribunal. After the closure of the written proceedings the Tribunal shall set the date for oral proceedings. Such date shall fall within 6 months after the closure of the written proceeding²⁵⁸. The hearing of the case is conducted in public, unless the Tribunal decides otherwise or unless the

²⁵³ Rules, article 62

²⁵⁴ Ibid, article 61.

²⁵⁵ Ibid, article 62

²⁵⁶ Article 2 of the Resolution on the on the Internal Judicial Practice of the Tribunal.

²⁵⁷ Resolution on the International Judicial Practice of the Tribunal, article 2 and 3.

²⁵⁸ Rules, article 69

parties demand that the public not be admitted²⁵⁹. The President of the Tribunal shall have control of the hearing. In the event that the President is unable to preside, the Vice President or senior judge present at the Tribunal shall preside. The parties to the dispute have to be present during the hearing but when one of the parties does not appear before the Tribunal or fail to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision²⁶⁰.

During the oral proceedings, the Tribunal indicates to the parties any points or issues they wish to have addressed or not addressed, questions, call the parties to provide evidence or explanations, seeks information itself, calls witnesses on its own initiative and arranges for inquiries or expert opinions. At the conclusion of the last statement made by a party at the hearing, its agent, without recapitulation of the arguments, shall read that party's final submissions²⁶¹. The Registrar makes a verbatim record of every hearing in one of the official language of the Tribunal, which will be preceded by the names of the judges present, and those of the agents, counsels and advocates of the parties. Copies of the transcript of the verbatim will be circulated to the judges sitting in the case and to the parties. The judges may correct the transcript of any thing they have said and the parties, under supervision of the Tribunal may correct of speeches or statement made on their behalf. The witnesses and experts may also correct in the same manner. One certified copy of the corrected transcript, signed by the President and the Registrar, constitutes the authentic minutes of the hearing.

(v) Judgment

After the closure of oral proceeding the judges have four working days to study the arguments presented to the Tribunal in the case. During this period every judges prepares his tentative opinion on the issue in the form of briefing note. The Tribunal makes an initial deliberation in order to seek a conclusion on what are the issues of case which need to be decided. During this period, the Tribunal also sets up a drafting committee for the case, consist of five judges chosen on the proposal of the President by an absolute majority of the judge present²⁶². After its establishment, the Drafting Committee meets immediately to prepare a first draft of judgment which normally takes three

²⁵⁹ Ibid, article 74

²⁶⁰ Statute, article 28.

²⁶¹ Rules, article 75.

²⁶² Resolution, article 6

weeks for its consideration and inclusion in the draft²⁶³. In accordance with article 10 of Resolution on the Internal Judicial Practice of the Tribunal, experts who are appointed under article 289 of the Convention may participate in the deliberation process. The first draft of the judgment will be circulated to the judges in the case for amendments or comments which need to be returned to the Committee within three weeks from the date of the circulation²⁶⁴. When receiving the second draft of the judgment, the Registrar will circulate copies to all judges.

The deliberations of the second draft of the judgment are held as soon as possible after receiving it. In principle, it is not later than three months after oral proceeding. The Tribunal examines the second draft in first and second reading in which judges are allowed to modify or make new amendments. Separated or dissenting opinions will be submitted within a time-limit fixed by the Tribunal²⁶⁵. After the Tribunal has completed its second reading of the draft of the judgment, the President takes the vote in order to adopt a judgment. In accordance with article 29 of the Statute, all questions shall be decided by a majority of the member of the Tribunal who are present. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place have a casting vote. The judgment states the reasons on which it is based, contains the names of the members of the Tribunal have taken part and will be signed by the President and the Registrar²⁶⁶. It shall be read in open court, and due notice having been given to the parties to the dispute.

II. Arbitration

As previous noted, the Arbitration is one of the four means for settlement of disputes concerning the interpretation or application as stated in article 287 of the Convention. The Arbitration under Annex VII is used for the settlement of disputes between parties that have not made a declaration of choosing procedure or for parties that have not accepted the same procedure for settlement of the dispute. A party to the dispute may bring its case before Arbitration by written notification addressed to the other party. The notification shall be accompanied by a statement of the claim and the ground on which it is based²⁶⁷.

The Arbitration is composed of five members preferably

²⁶³ Ibid, article 7

²⁶⁴ Ibid, article 7.

²⁶⁵ Ibid, article 8

²⁶⁶ Statute, article 30

²⁶⁷ Annex VII, article 1.

chosen from the list of arbitrators. A list of arbitrators shall be drawn up and maintained by the Secretary General of the United Nations²⁶⁸. Every State Party shall be entitled to nominate four arbitrators to constitute the list²⁶⁹. The arbitrators, which the parties have nominated, shall have similar qualification to those nominated for member of the Tribunal²⁷⁰. When the case is brought before the Arbitration, the party instituting the proceedings shall appoints one member to be chosen preferably from the list of arbitrators, who may be its national²⁷¹. The other party against which the case is made, within 30 days of receipt of the notification addressed by the party that brings the case, also appoints one member among its nationals in the list. The other three members shall be appointed by agreement between the parties and they shall be chosen preferably from the list and shall be nationals of the third States unless the parties otherwise agree. The parties will choose one among the three members as a President. If the party against which the case is brought does not do so within that period or the parties are not able to reach an agreement on the appointment, the President of the International Tribunal for Law of the Sea, upon request and in consultation with the parties, shall make the necessary appointment²⁷².

In accordance with article 5 of Annex VII of the Convention, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present the case. All decisions of the arbitral tribunal demand a majority vote of its members. In case there is an equality of vote the President will have a casting vote²⁷³. The award mentions the subject matter of the dispute and states the reasons on which it is based, and the name of the members who have participated. The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It will be binding upon the parties.

III. Special Arbitration

A special arbitral tribunal is established under Annex VIII of the Convention. It is also one of the four means for settling dispute concerning the interpretation or application of the articles of the Convention relating to:

- (1) fisheries,
- (2) protection and preservation of the marine

²⁶⁸ Ibid, article 2

²⁶⁹ Ibid, article 2

²⁷⁰ Ibid, article 2

²⁷¹ Ibid, article 3

²⁷² Ibid, article 3

²⁷³ Ibid, article 8

- environment,
- (3) marine scientific research, or
 - (4) navigation, including pollution from vessels and by dumping.

A party to the dispute may submit their case to the special arbitral tribunal by written notification addressed to the other party or parties to the dispute. A statement of the claim and the grounds on which it is based accompanies the notification²⁷⁴.

The special arbitral tribunal consists of five members to be preferably chosen from a list of experts. The list of experts shall be established and maintained in respect of each of the field of fisheries, protection and preservation of the marine environment, marine scientific research, and navigation, including pollution from vessels and by dumping²⁷⁵. The list of expert shall be drawn up and maintained, in the field of fisheries by the Food and Agriculture Organization of the United Nations, in the field of protection and preservation of the marine environment by the United Nations Environment Programme, in the field of marine scientific research by the Intergovernmental Oceanographic Commission, in the field of navigation, including pollution from vessels and by dumping, by the International Maritime Organization²⁷⁶. Each state party is entitled to nominate two experts for each field to constitute the appropriate list. They are required to have competence in the legal, scientific or technical aspect of such field, and enjoy the highest reputation for fairness and integrity (annex viii, article 2, paragraph 3).

When the case is submitted to the special arbitral tribunal, the party instituting the proceeding appoints two members, of who one may be its national, from the list of experts relating to the matters in the dispute²⁷⁷. The other party against which the case is brought, within 30 days of receipt of notification addressed by the party that submitted the case appoints two members to be chosen preferably from the list relating to the matters in the dispute, one of whom may be its national²⁷⁸. The parties to the dispute shall by agreement appoint the President of the special arbitral tribunal, chosen preferably from the appropriate list, who shall be national of the third State²⁷⁹. If the parties to the dispute are unable to reach agreement on the appointment

²⁷⁴ Annex VIII, article 1

²⁷⁵ Ibid, article 2

²⁷⁶ Ibid, article 2

²⁷⁷ Ibid, article 3, para b

²⁷⁸ Ibid, article 3, para c

²⁷⁹ Ibid, article3, para. d

of the President, the Secretary General of the United Nations, at a request of a party to the dispute, shall appoint the President²⁸⁰. Likewise, If the party against which the case is made has not made appointment of two members to be chosen preferably from the appropriate list or lists relating to the matters in the dispute, the Secretary General of the United Nations, at the request of the party instituting the proceedings, shall make an appointment²⁸¹.

The procedures of the special arbitral tribunal to decide the case submitted by the parties to the dispute are not different from those of the arbitral tribunal²⁸².

In conclusion, the establishment of United Nations Convention on Law of the Sea and of the International Tribunal for law of the sea clearly shows that the world has established legislative and judiciary power in the field of ocean affairs. At the same time, State Parties that wish to use this new institution, have to make their declaration of choosing the procedures for settling their dispute. It strongly believes that the International Tribunal and other three procedures will play an important role to assure a peaceful maritime boundary and the sustainable development in the sea.

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²⁸⁰ Ibid, article 3, para. d

²⁸¹ Ibid, article 3, para. c

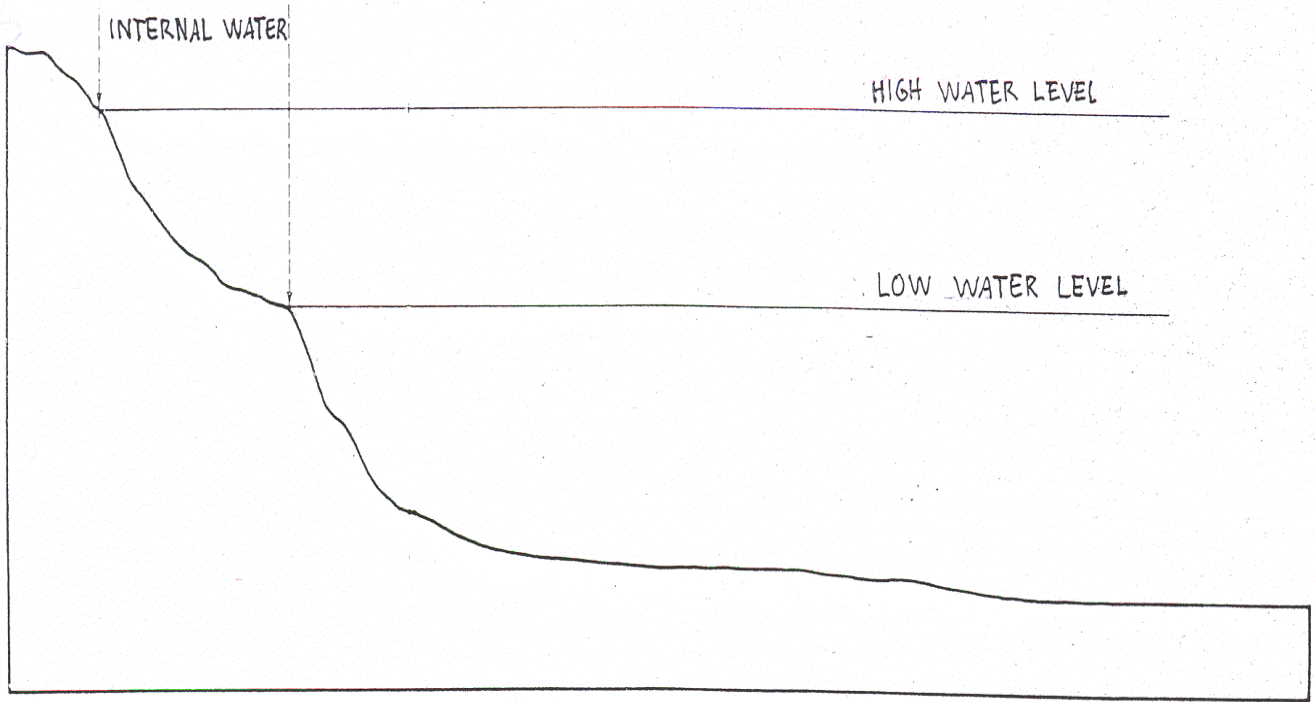
²⁸² Ibid, article 4.

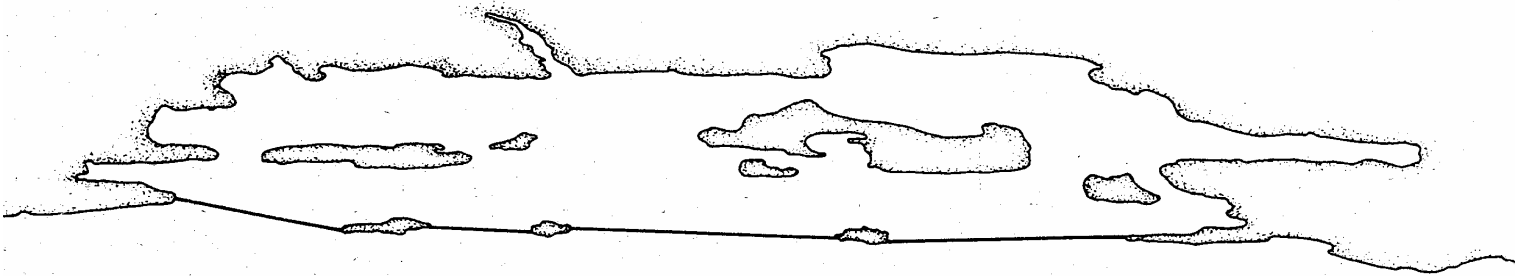
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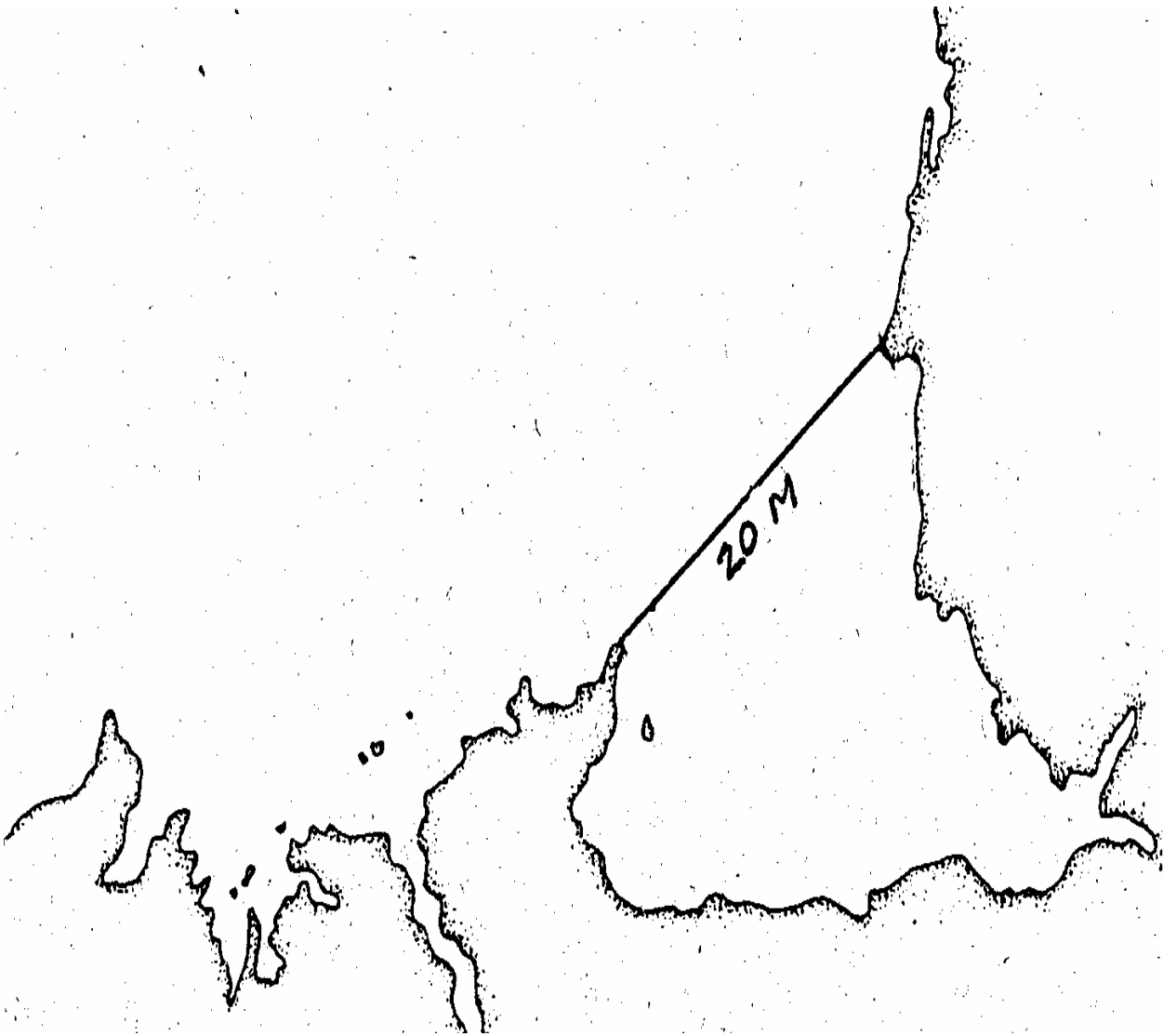
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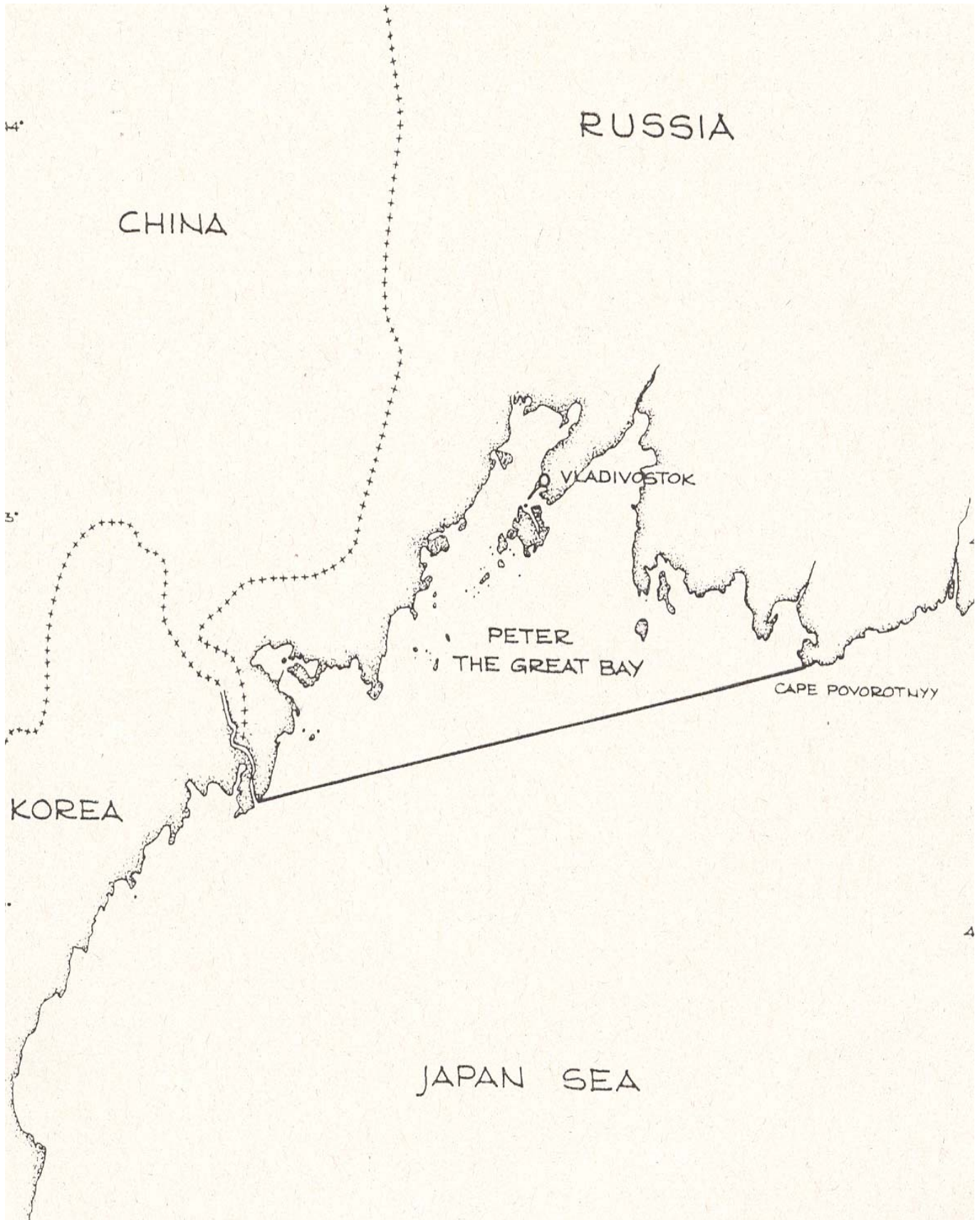
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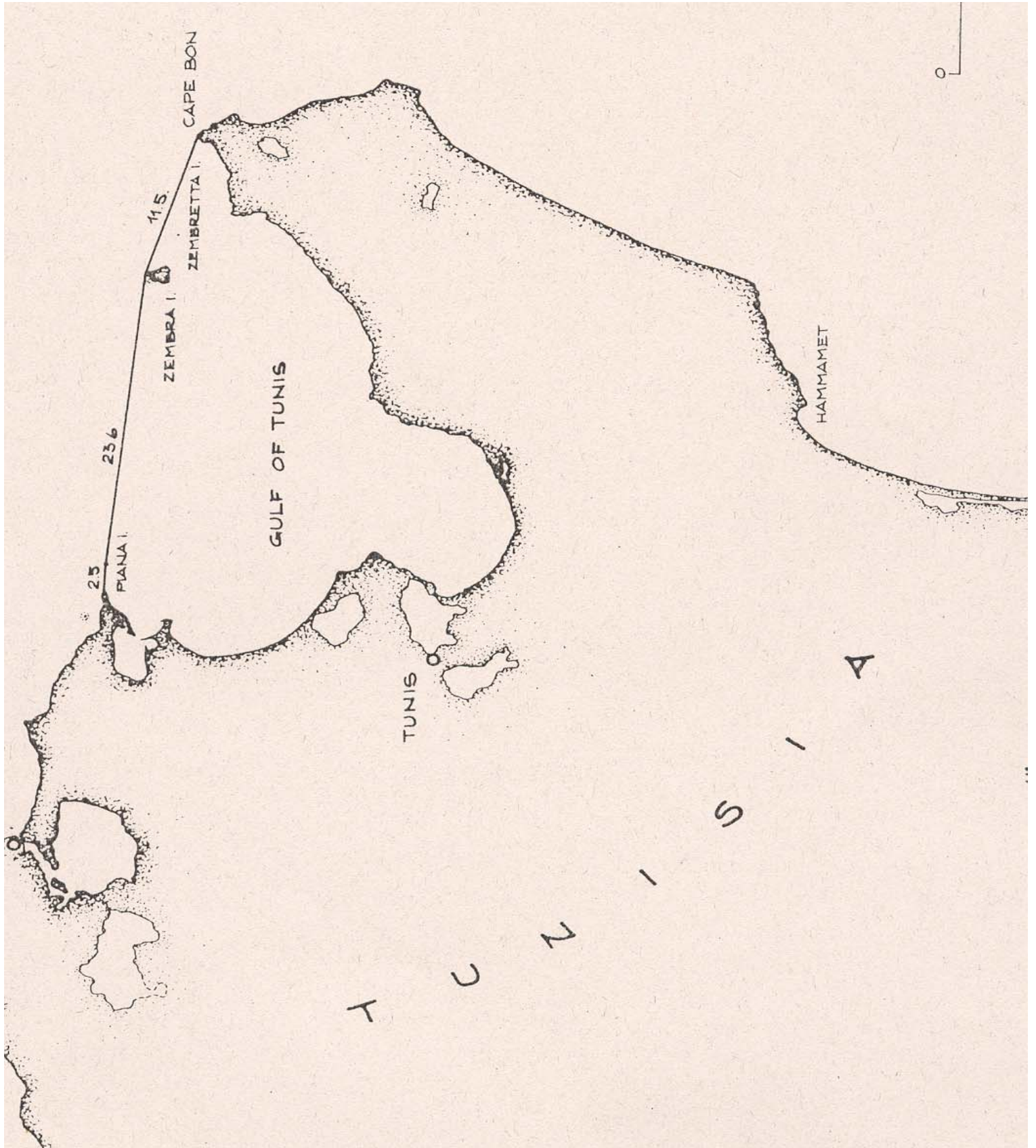
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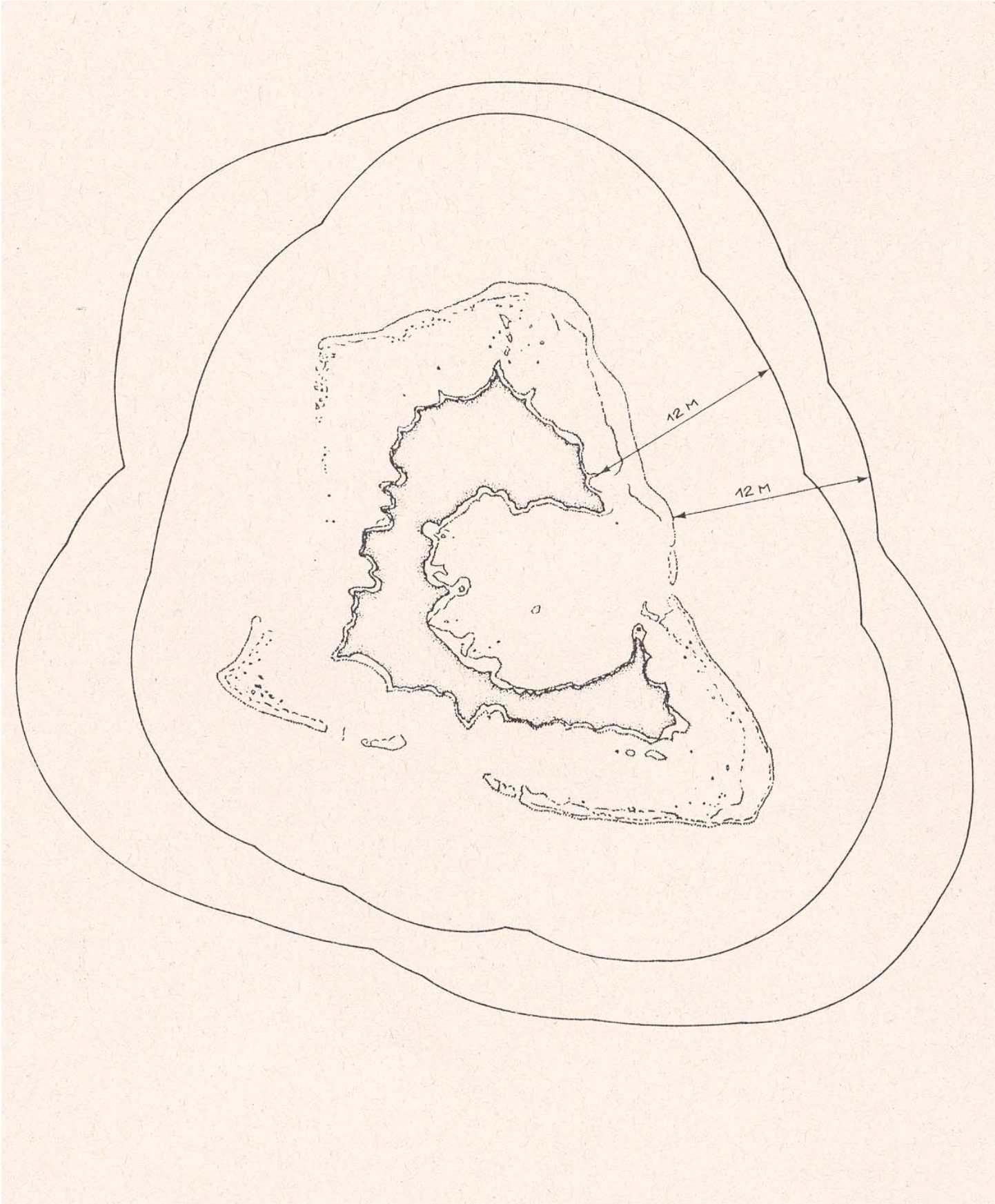


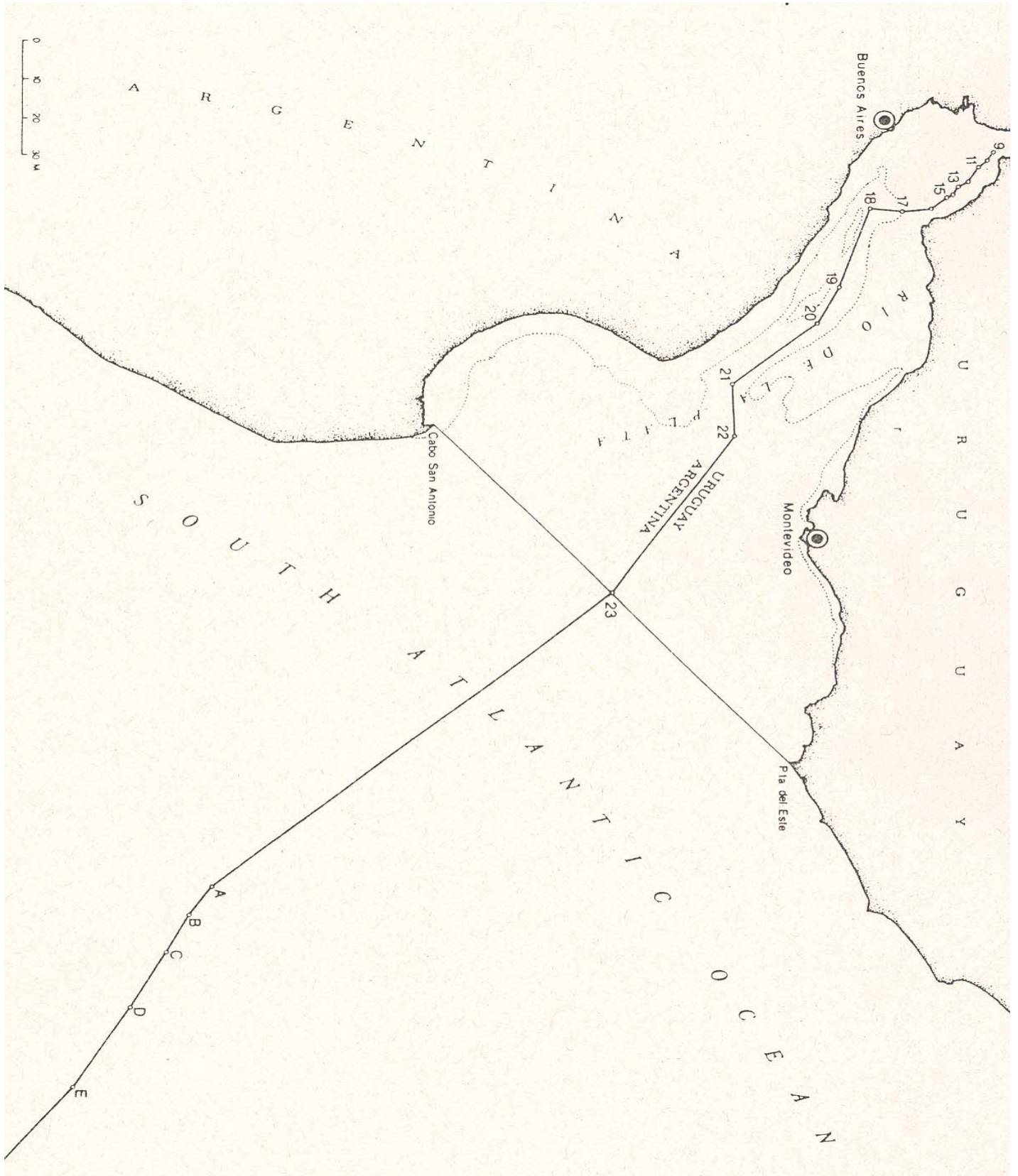


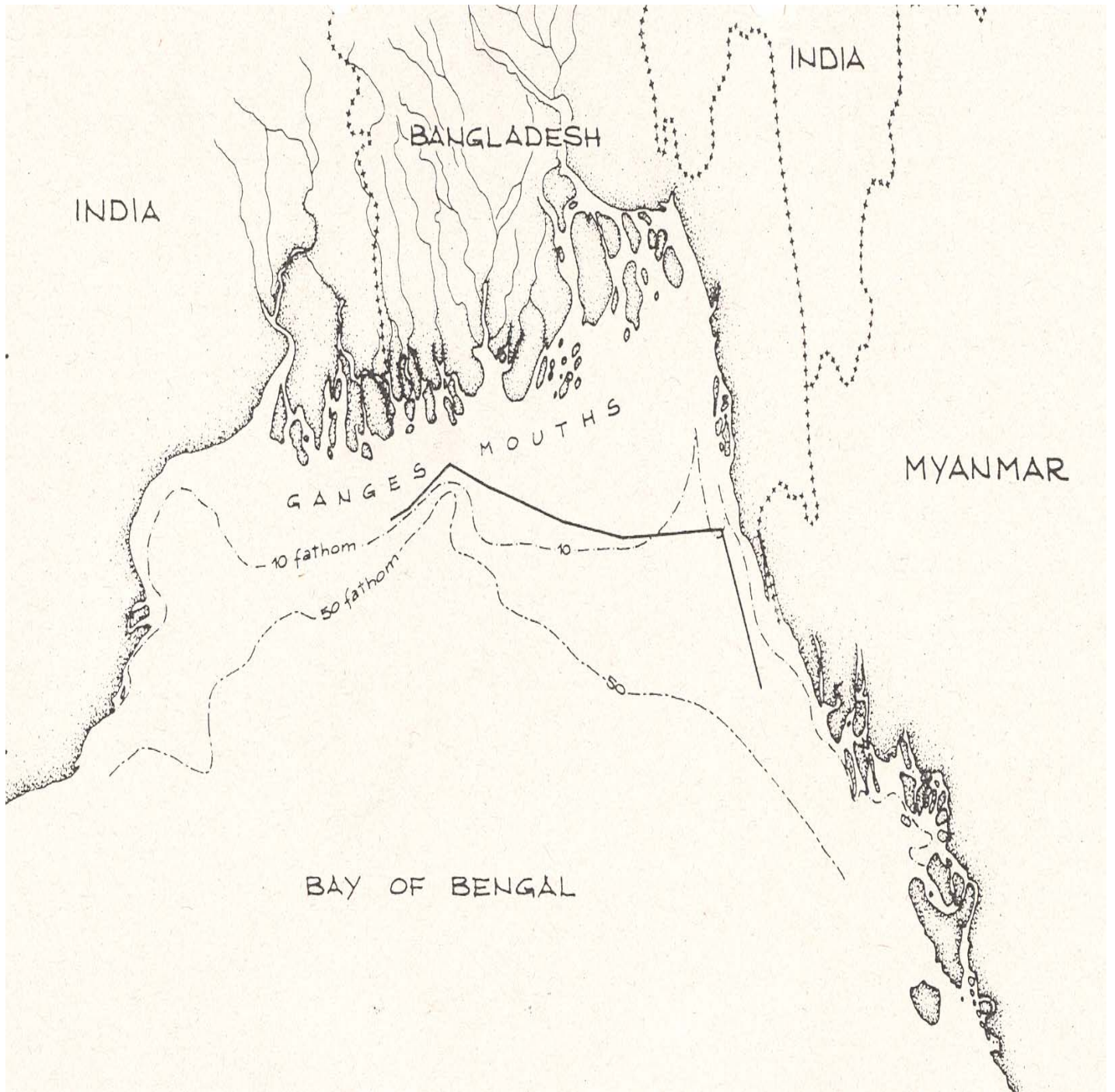


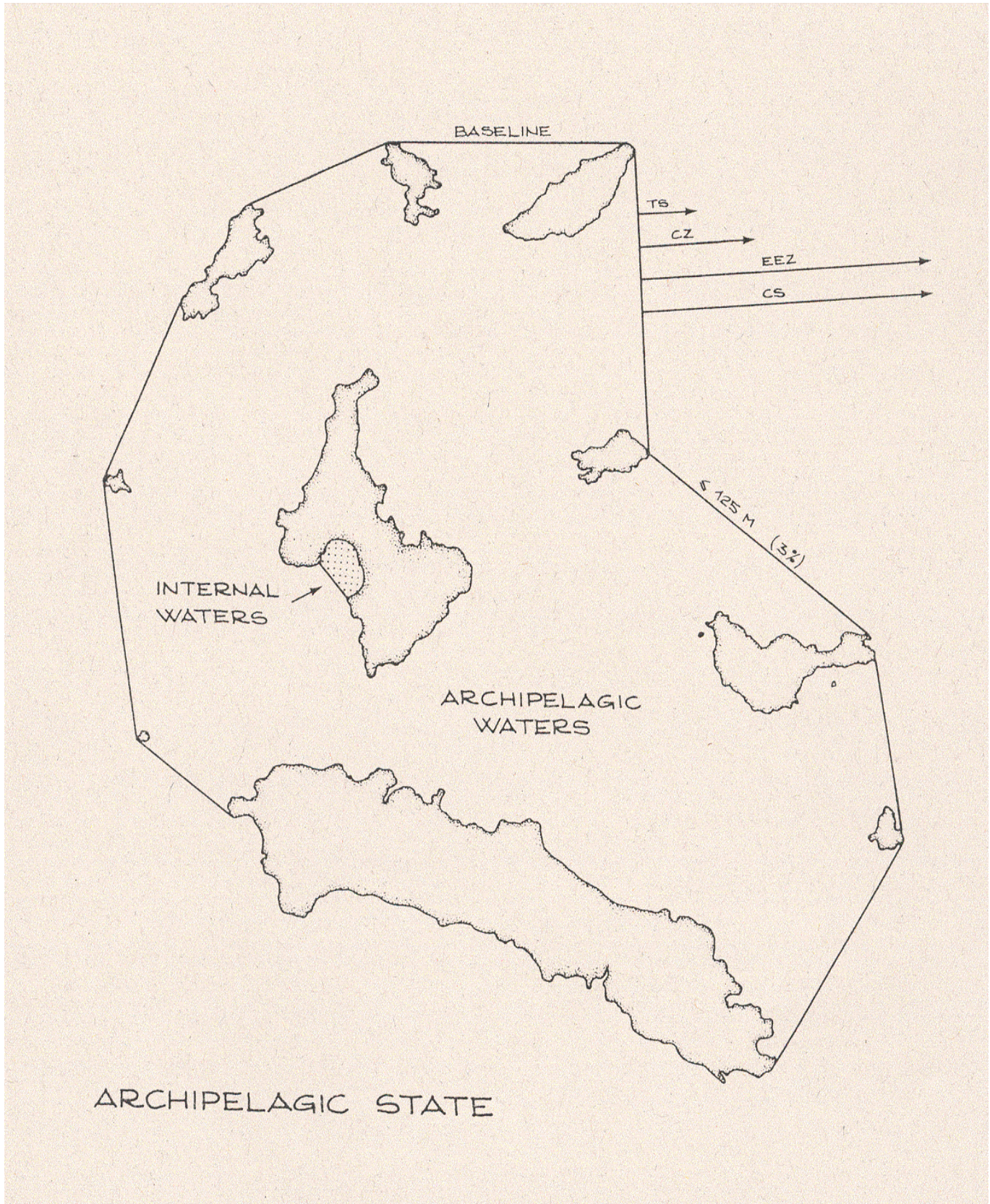


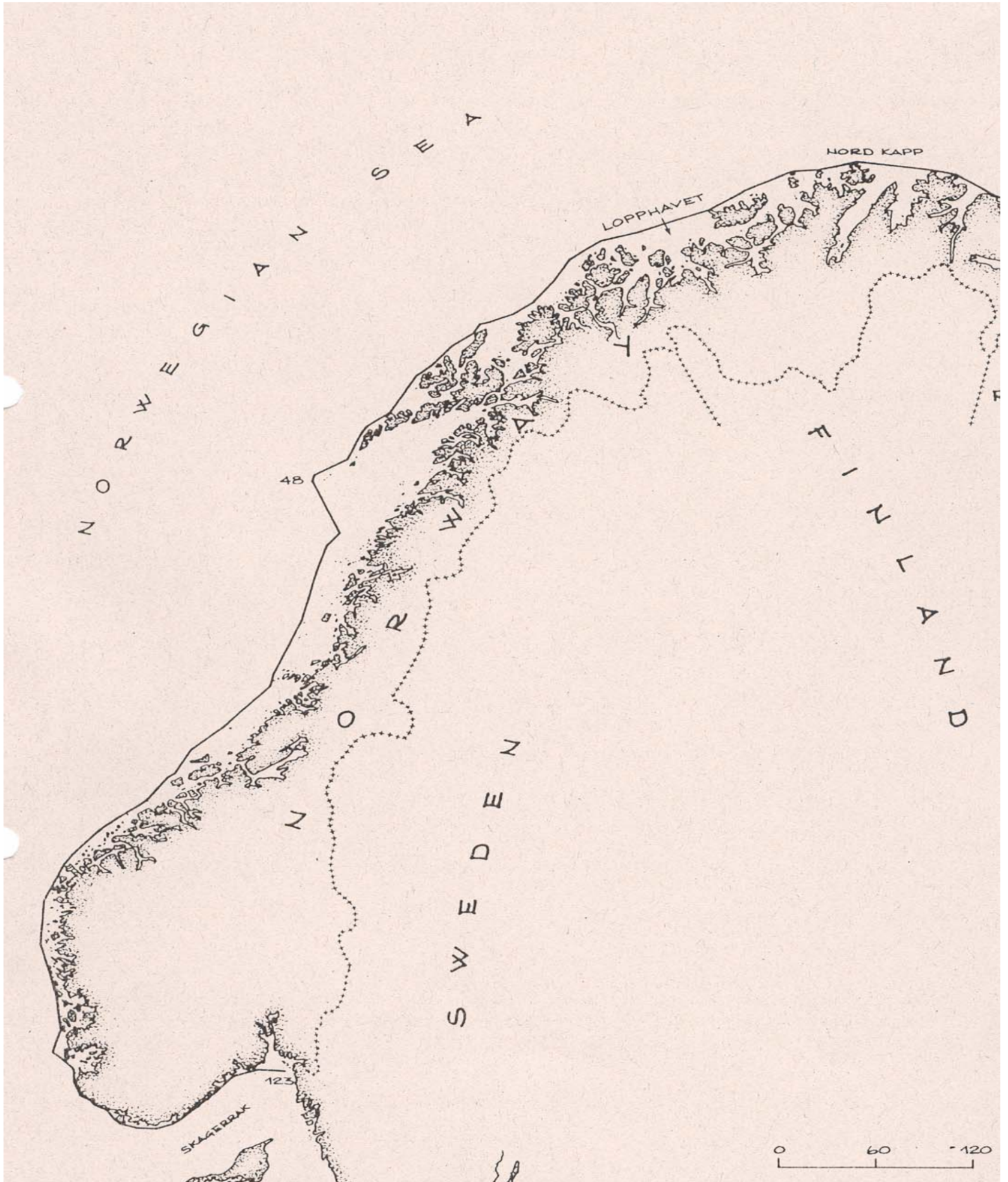


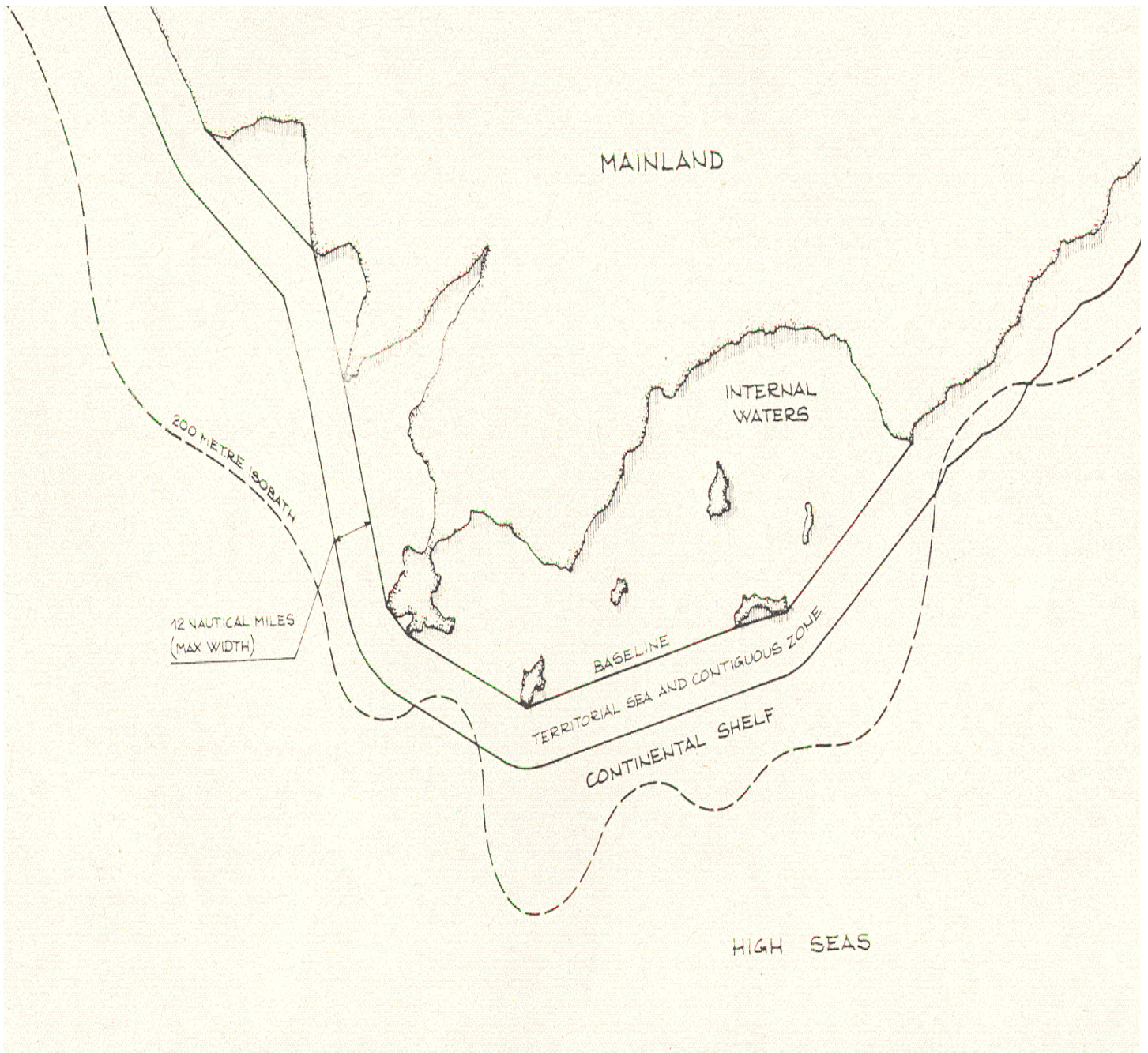






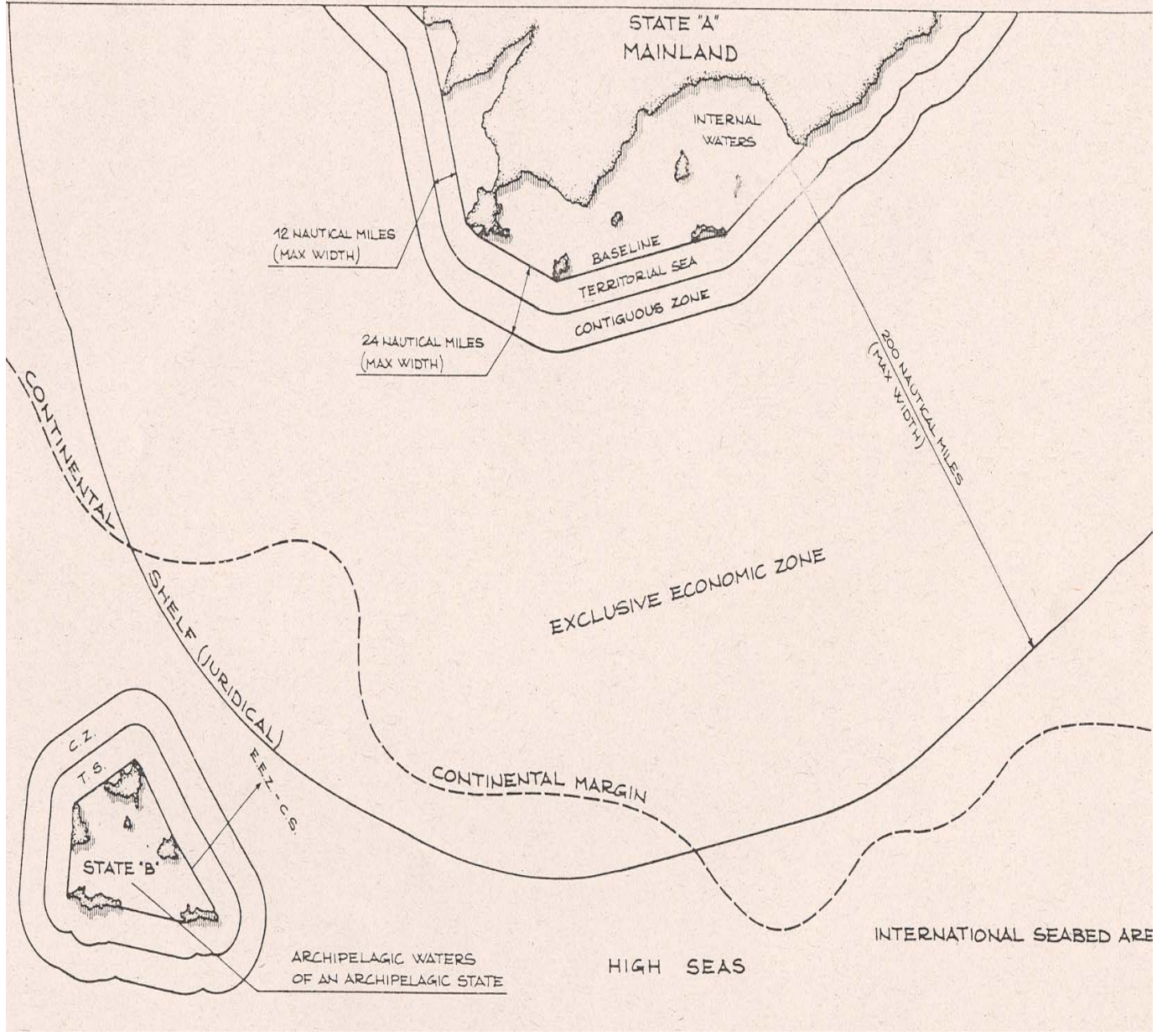


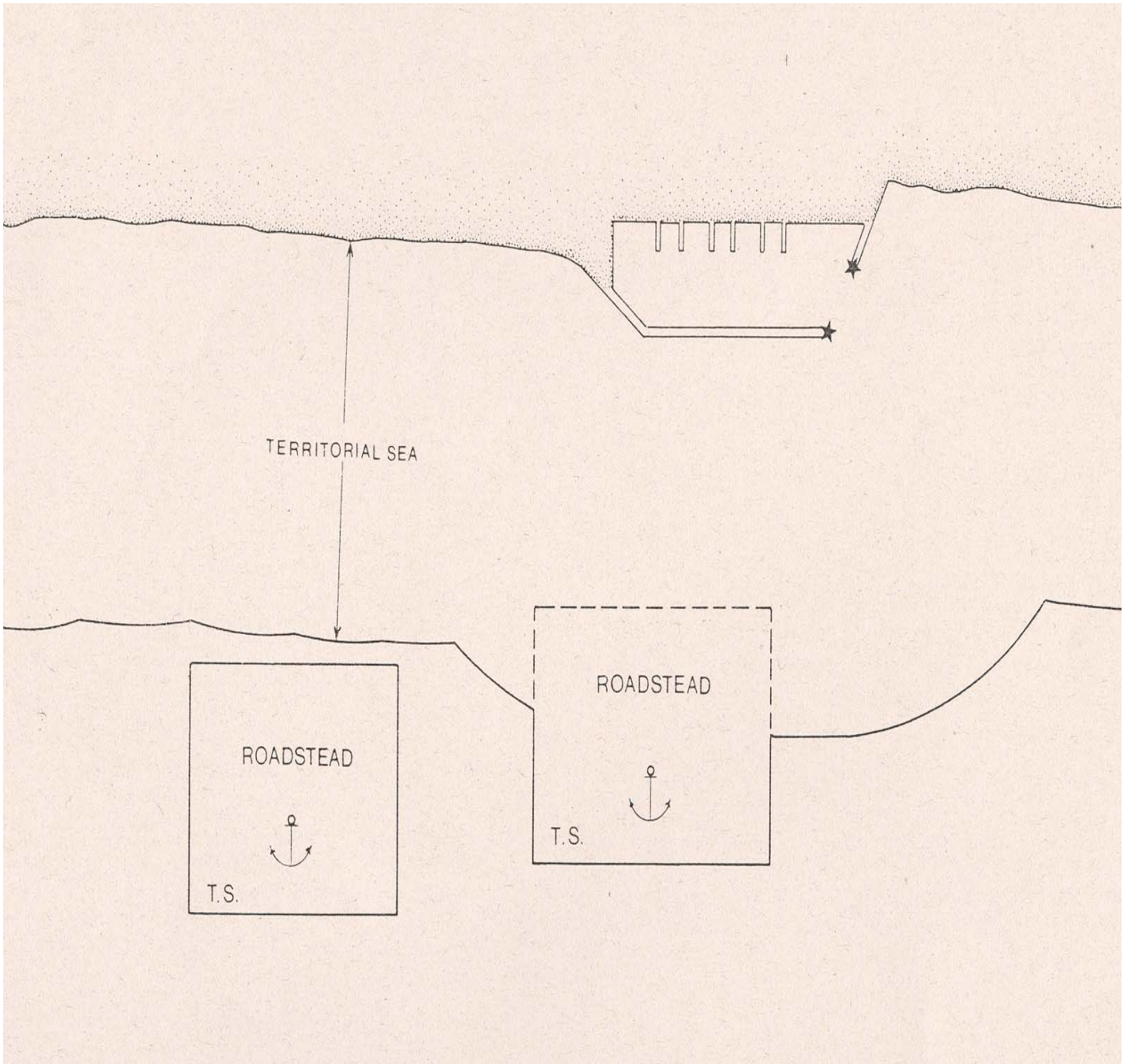


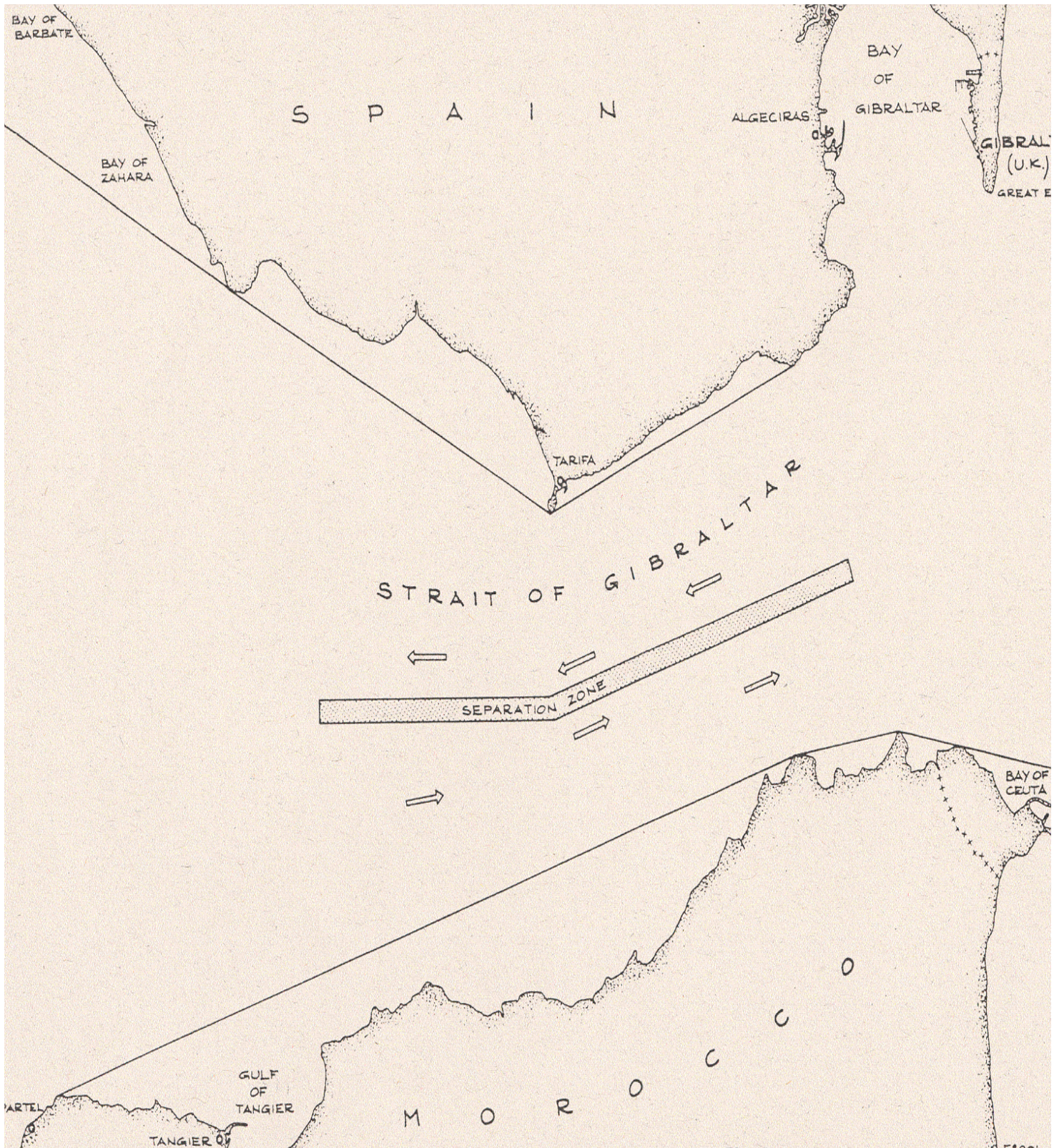


Appendix 12

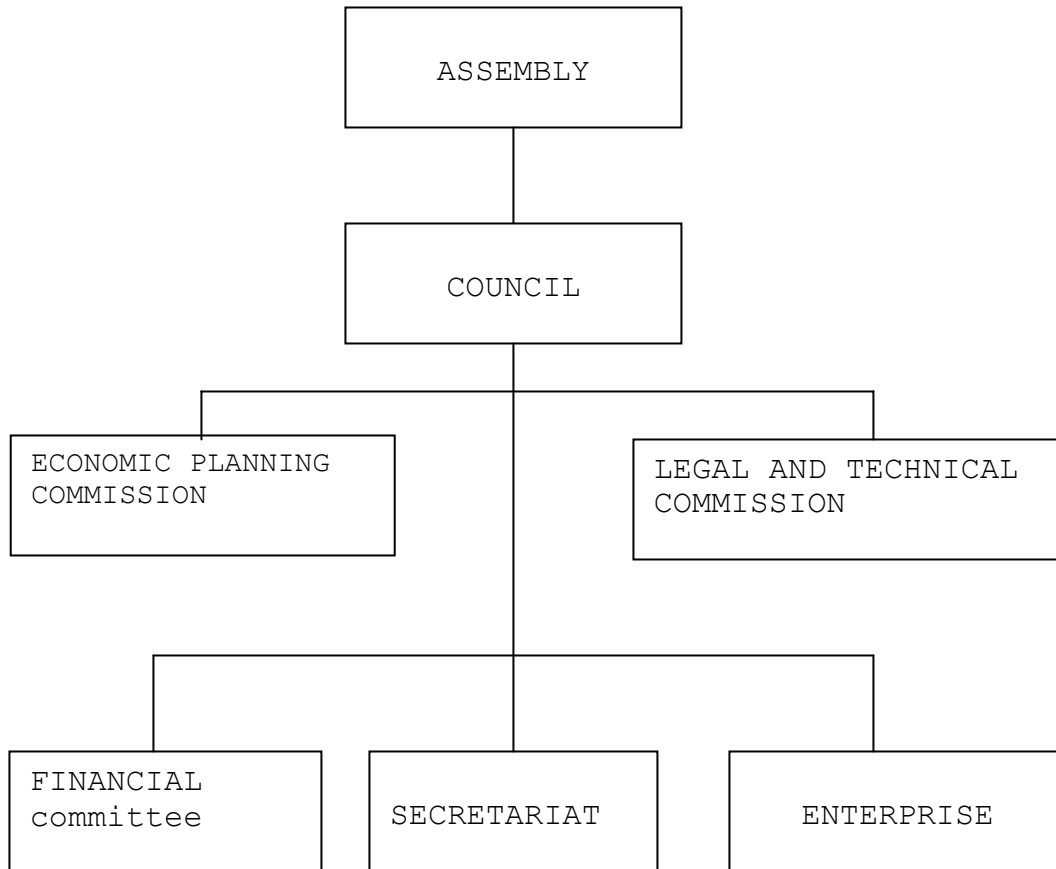
COASTAL ZONES
ACCORDING TO THE 1982 U.N. CONVENTION ON THE LAW OF THE SEA







**ORGANIZATION OF
THE INTERNATIONAL SEABED AUTHORITY**



Appendix 16

Directorate of Political Affairs
Number 867/API

Hanoi, 31 January 1939
The Governor General of Indochina
Grand Office of the Legion D' Honneur

To the Governor of Cochin China
Bureau I, Saigon

Subject: **Islands in the Gulf of Siam**

I have the honor of informing you that I have just reexamined the question of the islands of the Gulf of Siam, the possession of which is disputed between Cambodia and Cochin China.

The situation of this group of islands, scattered along the Cambodian coast and some of which are so near the coast that land filling presently being carried out will seem to fuse them to the Cambodian coast in a relatively near future, logically and geographically requires that these islands be under the jurisdiction of the Administration of Cambodia.

I believe that it is impossible to let the present state of affairs continue as it is, which is forcing the inhabitants of these islands to refer, either at the price of a long crossing, or at the price of a long detour through Cambodia territory, to the Administration of Cochin China.

As a consequence, I have decided that all the islands located north of the line perpendicular to the coast starting from the border between Cambodia and Cochin China and making a 140 grad angle with the north meridian, in accordance with the attached chart, will be from now on administered by Cambodia. The Protectorate will, in particular, take over the police of these islands.

All the islands south of this line, including the islands of Phu Quoc, will continue to be administered by Cochin China. It is understood that the demarcation line thus made will make a line around the north of the island Phu Quoc, passing three kilometers from the extreme ends of the north shore of this islands.

Administration and police power on these islands will thus be clearly distributed between Cochin China and Cambodia, so that all the future disputes might be avoided.

It is understood that the above pertains only to the administration and policing of these islands, and that the issue of the islands' territorial jurisdiction remains entirely reserved.

You will be pleased make provisions so that my decision is immediately put into effect.

Please notify me of the receipt of this letter.

Signed : BREVIE

Appendix 17

**Degree of Khmer Republic
President of Khmer Republic**

- Having reviewed the Constitution of Khmer Republic.
 - Having reviewed the Regulation No.1-71- BR dated 18 October 1971 concerning all matters covered by law.
 - Having reviewed the regulation No. 17-72- BR dated 12 March 1972 concerning the title of the President of Khmer Republic.
 - Having reviewed the Regulation No. 2-72-BSK dated 12 March 1972 concerning the power of the government empowered to the President.
 - Having reviewed the Degree No. 187-72 BSK dated 21 March 1972 concerning the appointment of Council of Ministers
 - With approval of Council of Ministers.

ORDERED AS FOLLOWS:

Article 1

In implementing the provisions as stated in the Geneva Convention on 29 April 1958 on the Continental Shelf to which Khmer Republic is a member, the Franco-Siam Treaty on 23 March 1907, and the minute of the meeting concerning the boundary delimitation dated 8 February 1908, the outer of continental shelf of the Khmer Republic is defined as shown in the attached map No. 1972 of French Navy scale map 1/1.096.000 and joining with the following co-ordinates:

The delimitation of adjacent line of the continental shelf in the northern side between Khmer Republic and Thailand begins with a straight line from Point "A" on the terminus of land boundary to the highest Point "S" on the island of Koh Kut, and continues to "P".

Point "A" and Point "P" are defined as follows:

- Point "A" is a border point on the sea line as stated in Treaty of Fraco-Siam, 23 March 1907 lying at longitude $102^{\circ} 55' 81''$ east and latitude $11^{\circ} 38' 88''$ north
- Point "P" is the end point of straight line from point "A", the Koh Rosvie Island and baseline of Thailand are opposite lying longitude $101^{\circ} 20' 00''$ east and latitude $11^{\circ} 32' 00''$ north.

Article 2

The delimitation of equidistance line from north to south represents a line starting from point "P" and passing through point Pck1, Pck2, Pck3, Pck4, Pck5, Pck6, Pck7, Pck8, Pck9, Pck10, Pck11, Pck12, Pck13, and point "B" (a boundary point with North Vietnam), whose co-ordinates are as follows:

	Longitude East	Latitude North
- Pck1	: 101°13'00''	10°59'00''
- Pck2	: 101°29'00''	10°16'50''
- Pck3	: 101°36'00''	9°05'00''
- Pck4	: 101°57'50''	8°31'00''
- Pck5	: 102°59'50''	7°42'00''
- Pck6	: 103°21'00''	7°35'00''
- Pck7	: 104°08'00''	9°01'00''
- Pck8	: 104°01'00''	9°18'00''
- Pck9	: 104°08'50''	9°38'50''
- Pck10	: 104°16'50''	9°56'00''
- Pck11	: 104°15'00''	10°01'00''
- Pck12	: 104°10'50''	10°08'00''
- Pck13	: 104°09'00''	10°12'00''
- Point "B"	: 104°09'63''	10°12'00''.

Article 3

The map No.1972 of French Navy established in 1949, scale map 1/1.069.000 is attached with this Degree.

The above said map is also attached with all references of this Degree.

Article 4

Any legal instrument, which is conflicted with this Degree, is invalid.

Article 5

The Minister of the Ministry of Foreign Affairs and the Minister of the Ministry of Mineral Industry and Marine Fisheries are responsible for implementing this Degree.

Phnom Penh, on 1 July 1972

(Signed)

Lon Nol

(Translated by author from an official Degree in Khmer Language. This translation is used for this report only)

Appendix 18

Statement Issued by the Spokesman of the Ministry of Foreign Affairs of 15 January 1978

The Ministry of Foreign Affairs of Democratic Kampuchea would like to reaffirm the stand of Democratic Kampuchea concerning the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Democratic Kampuchea, the stand that the Government of Democratic Kampuchea has successively stated precisely.

1. Democratic Kampuchea exercises its full and entire sovereignty over its territorial sea, the breadth of which is established on 12 nautical miles, measured from the baselines. Democratic Kampuchea also exercises this sovereignty over the airspace over its territorial sea as well as over the bed and subsoil of its territorial sea.
2. Democratic Kampuchea entirely exercises its rights of control over the contiguous zone which extend on 12 nautical miles from the external of its territorial sea.
3. Democratic Kampuchea has exclusive sovereign rights for the purpose of exploring and exploiting, conserving and managing all the natural resources of the superjacent waters, the bed and the subsoil of its exclusive economic zone situated beyond its territorial sea and extending up to 200 nautical miles from the baselines.

Democratic Kampuchea exercises its exclusive rights over its continental shelf, comprising the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory. Democratic Kampuchea exercises these sovereign rights over its continental shelf for the purpose of exploring and exploiting, conserving and managing all the natural resources of the sea-bed and subsoil.

4. All the islands of Democratic Kampuchea have their territorial sea, their contiguous zones, their exclusive economic zones and their continental shelves.
5. The Government of Democratic Kampuchea takes appropriate steps to safeguard entirely the sovereignty, rights and interests of Democratic Kampuchea in its territorial sea, its contiguous zone, its exclusive economic zone and its continental shelf.
6. The Government of Democratic Kampuchea will settle with parties concerned by the above maritime zones according to each specific situation.

Phnom Penh, 15 January 1978.

(Sourced by DOALOS/OLA-United Nations)



Appendix 20**Degree of the Council of State of 13 July 1982**

The chairman of the Council of State, considering that the People's Republic of Kampuchea has full sovereignty and inviolable rights over its territorial waters and its continental shelf; Considering that the People's Republic of Kampuchea must watch its sovereignty, security and national defense toward the sea and ensure the best exploitation of natural resources in its territorial waters and continental shelf in order to serve the national defence and reconstruction efforts and the improvement of the people's living standards; Considering the Constitution of the People's Republic of Kampuchea; And the Council of Ministers having been informed; Has decreed the following:

Article 1

The full and entire sovereignty of the People's Republic of Kampuchea extends beyond its territorial and internal waters to a maritime zone adjacent to its coasts and its internal waters, designated by the name of the territorial waters of the People's Republic of Kampuchea. This sovereignty also extends to the airspace above the territorial waters of the People's Republic of Kampuchea as well as to the seabed and subsoil of these waters.

Article 2

The width of the territorial waters of the People's Republic of Kampuchea is 12 nautical miles (1 nautical mile equaling 1,852 metres) measured from straight baselines, linking the points of the coast and the furthest points of Kampuchea's furthest islands; these baselines are traced along the low-water mark. These straight baselines are concretely defined in annex I of this Decree. The internal waters of the People's Republic of Kampuchea are the waters located between the baseline of the territorial waters and the coasts of Kampuchea.

Article 3

The outer limit of the territorial waters of the People's Republic of Kampuchea is a line each point of which is at a distance equal to the width of the territorial waters from the closest point of the baseline. In the maritime zone between Kach Kut Island and the terminus of the land border between Kampuchea and Thailand, the limit of the territorial water of the People's Republic of Kampuchea follows the dividing line of the maritime waters determined by the historic border stipulated in the Franco-Siamese treaty of 23 March 1907.

Article 4

The contiguous zone of the People's Republic of Kampuchea is a maritime zone located beyond and adjacent to its territorial waters, with a width of 12 nautical miles measured from the outer limit of the territorial waters of the People's Republic of Kampuchea. In its contiguous zone, the People's Republic of Kampuchea exercises necessary control in order to oversee its security and to prevent and check violations of its customs, fiscal, health and emigration and immigration laws.

Article 5

The exclusive economic zone of the PRK (Peopole's Republic of Kampuchea) is a maritime zone located beyond its territorial waters and adjacent to the latter. This zone extends to 200 nautical miles measured from the baseline used to measure the width of the territorial waters of the PRK. The PRK has sovereign rights over the exploration and exploitation and the preservation and managment of all organic or inorganic natural resources of the seabed, of its subsoil and of the waters above it and over other activities leading to the exploration and exploitation of its exclusive economic zone.

In its exclusive economic zone, the PRK has exclusive jurisdiction regarding the setting up and use of installations, devices and artificial islands and marine research; and has jurisdiction over the preservation of the marine environment and the control of pollution. Without prior authorization or agreement by the PRK, foreign ships are forbidden to fish or exploit any natural resources in any form, or to undertake scientific research in the exclusive economic zone of the PRK. When they have obtained prior authorization or agreement, they must conform with the laws and regulations of the PRK concerning fishing, the exploitation of other natural resources and scientific research, and with other regulations relating to them decreed by the PRK, and must strictly carry out all obligations provided in the licenses of the contracts.

Article 6

The continental shelf of the People's Republic of Kampuchea comprises the seabed and the subsoil of the submarine areas that extend beyond the territorial waters throughout the natural prolongation of its land territory to a distance of 200 nautical miles from the baseline used to measure the width of the territorial waters of the People's Republic of Kampuchea.

The People's Republic of Kampuchea exercises sovereign rights over its continental shelf for the purposes of exploration, exploitation, preservation and management of its natural resources comprising mineral resources and other inorganic resources belonging to sedentary species living on the continental shelf.

The People's Republic of Kampuchea has the exclusive right to regulate the setting up and use of installations, devices and artificial islands or drilling on its continental shelf for the purpose of exploration, exploitation or any other purpose.

All activities carried out by foreigners on the continental shelf of Kampuchea, for whatever end, must be the object of an authorization or an agreement by the Government of the People's Republic of Kampuchea and conform with the laws and regulations of the People's Republic of Kampuchea.

Article 7

The People's Republic of Kampuchea will settle, by means of negotiations with interested States, all problems concerning the maritime zones and continental shelf in a fair and logical manner on the basis of the mutual respect for sovereignty, independence and territorial integrity.

Article 8

The People's Republic of Kampuchea will negotiate and agree with the Socialist Republic of Viet Nam on the maritime border in the historic waters zone of the two countries fixed in the agreement on the historic waters of the two countries signed on 7 July 1982 in line with the spirit and letter of the Treaty of Peace, Friendship and Cooperation between the two States signed on 18 February 1979.

Article 9

All provisions contrary to this decree are purely and simply abrogated.

Article 10

The minister of national defense, the minister of interior and the ministers concerned are charged, each in his proper field, with the implementation of this decree.

Annex 1

Baseline retained for the limitation of the territorial waters of the People's Republic of Kampuchea

The baseline retained for the limitation of the territorial waters of the People's Republic of Kampuchea is made up of

segments of a line passing successively through the following points, the co-ordinates of which are expressed in degrees, minutes and tenths of a minute, the longitude being counted from the meridian of Greenwich.

Latitude	Longitude	Number	Geographical Place	(North)	(East)
11° 38.8'	102° 54.3'	1	Border point on low-water mark between Thailand and the People's Republic of Kampuchea according to Treaty of 23 March 1907		
11° 06.8'	102° 47.3'	2	Kack Kusrovie		
10° 14.0'	102° 52.5'	3	Kack Voar		
09° 55.5'	102° 53.2'	4	Poulo Wai		
		5	Point O out at sea on the south-west limit of the historic waters According to the Agreement of 7 July 1982 of the People's Republic of Kampuchea		

Appendix 21**Agreement on
the Historic Waters of the People Republic of Kampuchea
and the Socialist Republic of Vietnam**

The Government of the People Republic of Kampuchea and the Government of the Socialist Republic of Vietnam have desire of further consolidating and developing the special relation between Kampuchea and Vietnam in the spirit of the Treaty of Peace, Friendship and Cooperation between the People Republic of Kampuchea and the Socialist Republic of Vietnam signed on 18 February 1979,

Having considered the reality of maritime zone situated between the coast of Kampot Province and the Poulou Wai group of islands of the People Republic of Kampuchea on one side, and the the coast of Kieng Giang Province, Phu Quoc Island and the Thu Chu group of islands of the Socialist Republic of Vietnam on the other, encompass waters belong to Cambodia and Vietnam by their special geographical condition and their great importance for national defence and economy of the both countries,

Have agreed as follows :

Article 1

The waters located between the coast of Kampot Province and the Poulou Wai group of island of the People Republic of Kampuchea on the one side and the coast of Kieng Giang Province, Phu Quoc Island and Thu Chu group of island of the Socialist Republic of Vietnam on the other, form the historical waters, which put under the legal regime of internal water, whose boundary, based on Greenwich east longitude, is defined as follows:

In the northwest, a straight line passes the co-ordinates $09^{\circ}54'2$ latitude north and $102^{\circ}55'2$ longitude east, and $09^{\circ}54'5$ latitude north and $102^{\circ}57'0$ longitude east of Poulou Wai Island of Kampuchea to the co-ordinates $10^{\circ}24'1$ latitude north and $103^{\circ}48'0$ longitude east, and $10^{\circ}25'6$ latitude north and $103^{\circ}49'2$ longitude east of Koh Ses Island of Cambodia ; and to the co-ordinates $10^{\circ}30'0$ latitude north and $103^{\circ}32'4$ longitude east of Koh Thmey Island of Kampuchea ; then to the co-ordinates $10^{\circ}32'4$ latitude north and $103^{\circ}48'2$ longitude east of Kampot Province coatline of Kampucnea.

In the north, which is the coastline of Kampot Province, the line passes the co-ordinates $10^{\circ}32'4$ latitude north and

103°48'2 longitude east to the terminus of land border between Kampuchea and Vietnam on the coast.

In the southeast, the line passes the terminus of land border between Kampuchea and Vietnam on the coast to the coordinates 10°04'2 latitude north and 104°02'3 longitude east of An Yen island of Phu Quoc Island of Vietnam, and along the coast of this island to the Dat Do point situated at the coordinates 10°02'8 latitude north and 103°59'1 longitude east, and continues to the coordinates 09°18'1 latitude north and 103°26'4 longitude east of Tho Chu Island of Vietnam, then to the coordinates 09°15'0 latitude north and 104°27'0 longitude east of Ban Nhan Island in the Tho Chu group of islands of Vietnam.

In the southwest, the straight line stretches from coordinates 09°55'0 latitude north and 102°53'5 longitude east of Poulo Wai Island to the coordinates 09°15'0 latitude north and 103°27'0 longitude east of Ban Nhan Island in the Tho Chu group of islands of Vietnam.

Article 2

At a suitable time, the two Parties will negotiate in a spirit of equality, friendship and mutual respect of independence, integrity, and the legal interests of each side to delimit the maritime boundary between the two countries in the historical waters stipulated in Article 1 of this Agreement.

Article 3

Pending the settlement of maritime boundary between the two States stated in Article 1 of this Agreement :

The meeting point O of the two baselines used for measuring the breadth of the territorial waters of each country situated in the sea on the line connecting from Tho Chu Island and Poulo Wai Island will be defined by an agreement between the two Parties.

- The two Parties continue to regard the Brevie Line drawn in 1939 as a dividing line of islands in this zone.
- The two Parties jointly patrol and surveil this historical waters.
- The local population continue to conduct their fishing and to get other sea resources as usual.

For the exploitation of natural resources in this zone the two parties will decide by agreement.

Done at Ho Chi Ming City on the 7th of July 1982 in
Vitnamese and Khmer language. The two texts are equal valid.

For
the Government of Kampuchea
Vietnam

HUN Sen
Minister of Foreign Affairs
Foreign Affairs

For
the Government of

Nguyen Co Thach
Minister of

*(Translated by author from the text in Khmer language. This translation
is used for this report only)*

Appendix 22

CLAUSE I OF THE PROCOLE CONCERNANT LA DELIMITATION DES
FRONTIERES ET ANNEXE AU TRAITE DU 23 MARS 1907

CLAUSE I - *La frontière entre l'Indochine Française et le Siam part de la mer en un point situé en face du plus haut sommet de l'île de koh kut. Elle suit à partir de ce point une direction Nord-Est jusqu'à la crête de Phnom Kravanh. Il est formellement convenu que, dans tous les cas, les versants Est de ces montagnes, y compris la totalité du bassin Klong Kopo, doivent rester à l'Indochine Française.*

(Sourced by Cambodia's Border Committee in France. The author wishes to keep in Frence)

Appendix 23

Treaty on the Principles for Border Resolutions between People's Republic of Kampuchea and the Socialist Republic of Vietnam

- Council of State of People's Republic of Kampuchea and Council of State of the Socialist Republic of Vietnam.
- Desiring to strengthen the relationship between Kampuchea and Vietnam on the basis of mutual respect of independence, integrity and sovereignty, and to strengthen military solidarity and mutual assistance for the purpose of prosperity and happiness of people of each country.
- Recognizing that the article 4 of the Treaty on Peace, Friendship and Cooperation between People's Republic of Kampuchea and the Socialist Republic of Vietnam signed on 18 February 1979 aiming at building Peace, and Friendship border between the two states.
- Decided to assign the following representative of each country to sign this treaty:
 - + Council of state of People's Republic of Kampuchea:
Hun Sen
Minister of Ministry of Foreign Affairs of Kapuchea
 - + Council of state of the Socialist Republic of Vietnam:
Nguyen Co Thach
Minister of Ministry of Foreign Affairs of Vietnam
- The both representatives agreed:

Article 1

Both Parties recognized the existing land boundary between the two states using scale map 1:100.000 of Service Geographic de l'Indochin implemented before 1954 or the closest date of 1954 (as attached herewith 26 copies of this map endorsed by the two Parties) as a border between the two countries.

For the places which have not been drawn on the map or those which are considered to be incorrect, the both Parties will discuss so as to achieve an equitable solution and a mutual respect for the special relationship between Kampuchea and Vietnam in accordance with the international laws and practices.

Article 2

The both Parties will begin the negotiation at any convenient times to delimit the maritime boundary between the two countries in the historic waters area established by agreement between the two Parties in the spirit of mutual respect and interests of the relationship of Kampuchea and Vietnam in accordance with the international laws and practices.

Article 3

The both Parties will establish at a convenient time a mixed border committee represented by an equal number from the Parties in order to demarcate the land and maritime boundary in accordance with the Article 1 and 2 of this Treaty, and to draft a treaty on border delimitation between the two countries.

Article 4

This Treaty will be ratified and goes into force on the date of exchange of instrument of ratification.

This Treaty will have no any effect immediately after getting into force of the treaty on border delimitation between the two countries as stated in Article 3 of this Treaty.

Done in duplicate at Phnom Penh, on the twenty of July, one thousand nine hundred eighty three in Khmer and Vietnamese language.

Delegation of the Council of State
People's Republic of Kampuchea
(Signed)
Hun Sen
Minister of MFA

Delegation of the Council of
State of the Socialist Republic
of Vietnam
(Signed)
Quieng Qi Tach
Minister of MFA

*(Translated by author from official treaty in Khmer language.
This translation is used for this report only)*

Appendix 24NHAN DAN CARRIES BORDER TREATY WITH PRK

BK220654 Hanoi NHAN DAN in Vietnamese 5 Mar 86 p 2

["Full text" of 27 December 1985 SRV-PRK National Border

Delimitation Treaty

[Text] the SRV Council of State and the PRK Council of State, with the desire to constantly consolidate and develop the special Vietnam-Cambodia relationship on the basis of the principles of total equality and respect for each other's independence, sovereignty, and territorial integrity, and to constantly strengthen militant solidarity and mutual assistance in all respects so as to promote national prosperity and ensure a happy life for the peoples of both countries;

To delimit officially the national border between the SRV and the PRK with the aim of building a common border of lasting peace and friendship;

Decided to sign this treaty and nominated their plenipotentiaries: Foreign Minister Nguyen Co Thach for the SRV Council of State and Foreign Minister Hun Sen for the PRK Council of State.

The plenipotentiaries of both sides, after having exchanged their credentials and found them to be valid, agreed on the following:

Article 1

Pursuant to Article 1 of the treaty on the principles for the settlement of border problems between the SRV and the PRK signed on 20 July 1983 and pursuant to the minutes signed by the two governments' delegations to the Joint committee on 13 July 1984 and 8 December 1984, the two sides agree to delimit the national land border between the SRV and the PRK along a general north-south direction as follows:

Starting from the meeting point of the three national borders of Vietnam, Cambodia, and Laos, the border goes south-southwest along the mountain ridge down to cut across a gully at coordinates 1622.610-755.280; goes up along the mountain ridge to reach a mountain crest at coordinates 1621.125-775.025; stretches along a straight line for approximately 3,650 (three thousand six hundred and fifty)

meters to reach a mountain crest at coordinates 1616.515-774.600; veers southwest along the mountain ridge to pass height 1018 and reach a mountain crest at coordinates 1613.630-771.550; veers south along the mountain ridge to pass height 782 to reach a spot at coordinates 1609.400-772.835; veers southwest along the mountain ridge to pass a spot at coordinates 1605.150-770.625 and Heights 1054 (Ngok Poun), 924, and 1022; veers northwest along the mountain ridge to pass a spot at coordinates 1593.725-765.715 and Height 837 to reach Height 957;

Veers south-southwest along the mountain ridge to cut across an unname spring at coordinates 1594.765-762.735; passes a mountain crest at coordinates 1594.950-762.000; cuts across an unnamed spring at coordinates 1593-650-761.300 to reach a mountain crest at coordinates 1591.1251-761.460; goes down a long the gully to reach a spot at coordinates 1590.875-762.540; goes up to a spot at coordinates 1590.160-762.020; follows the mountain ridge to pass heights 1441, 1412, 465, 734, 885, 903, 754, 847, 697, 614, and 710 and reach a spot at coordinates 1560.280-752.250;

Veers southeast along the mountain ridge to cut across a gully at coordinates 1558.850-754.390; goes up along the mountain ridge to cut across a gully at coordinates 1558.555-754-.850; follows the mountain ridge to pass heights 338 and 421 and reach a spot at coordinates 1557.550-757-580; veers south along the mountain ridge to reach a spot at coordinates 1555.995-747.445; veers west to reach a spot at coordinates 1555.905-755; veers south-southwest along the mountain ridge to reach a spot at coordinates 1550.610-754.995 and pass height 324; goes down to cut across an unnamed spring and reach the spring's right bank at coordinates 1547.190-758.095; veers east along the right bank of the unnamed spring to reach the right bank of Nam Sathay at coordinates 1548.415-764.340; veers south along the right bank of Nam Sathay to reach the right bank of Sesane at coordinates 1540.010-766.095; follows Sesane (along its left bank or along its currents as shown in the attached map) to reach a spot at coordinates 1525.950-765.365; veers southeast along a straight line for approximately 3,150 (three thousand one hundred and fifty) meters to reach a spot at coordinates 1524.150-767.940; follows a straight line for approximately 1,200 (one thousand, two hundred) meters to reach a mountain crest at coordinates 1524.040-769.150; follows a straight line for approximately 3,400 (three thousand four hundred) meters to cut across Route No. 19 and reach an unnamed spring at coordinates 1522.350-772.070; follows a straight line for approximately 2,950 (two thousand nine hundred and fifty)

meters to reach a spot at coordinates 1520.490-774.345; follows a straight line for approximately 6,100 (six thousand and one hundred) meters to reach height 271; follows a straight line for approximately 3,500 (three thousand five hundred and fifty) meters to reach a mountain crest at coordinates 1511.800-778.425;

Veers south-along a straight line for approximately 4,600 (four thousand six hundred) meters to reach a mountain crest at coordinates 1507.160-773.700; veers south along a straight line for approximately 11,550 (eleven thousand five hundred and fifty) meters to reach height 468; veers south along a straight line for approximately 18,550 (eighteen thousand five hundred and fifty) meters to reach a spot at coordinates 1478-180-785.400; veers south-southwest along a straight line for approximately 36,950 (thirty-six thousand nine hundred and fifty) meters to reach a mountain crest at coordinates 1443.840-771.215; follows a straight line for approximately 2,200 (two thousand two hundred) meters to reach a spot at coordinates 1441.775-770.450; veers south-southwest along the mountain ridge to cut across an unnamed spring and reach the spring's left bank at coordinates 1440.580-771.000;

Veers south along the left bank of the unnamed spring to reach the confluence of the Srepok River (Dak Krong) and the Prek Dak-Dam River at coordinates 1440.055-770.650; follows the Prek Dak Dam River's right bank to reach a spot at coordinates 1362.050-769.540; veers west-southwest along a gully to reach the right bank of an unnamed spring at coordinates 1361.825-768.730; veers south-southwest along the unnamed spring's right bank to reach a spot at coordinates 1360.360-768.225; follows the mountain ridge, runs across a saddle and down along a gully to reach the right bank of the 0 Por River at coordinates 1359.800-766.345; veers south-southwest along the 0 Por River's right bank to reach a spot on the northern edge of Route No. 309 at coordinates 1354.475-765.270;

Veers northwest along the northern edge of Route No. 309 to reach a spot at coordinates 1355.760-761.250; follows the eastern edge of a trail to reach a spot at coordinates 1360.150-759.665; veers west along a gully and cuts across the Prek Dak Dang River to reach its left bank at coordinates 1362.950-749.050; follows the Prek Dak Dang River's left bank to cut across a spot at coordinates 1362-950-749-050; then follows the Dak Huyt River's left bank to reach a spot at coordinates 1.337-455-717.475; follows a straight line for approximately 3,400 (three thousand four hundred) to reach

a mountain crest at coordinates 1336.205-714.300; veers south-southwest along mountain ridge to reach a mountain crest at coordinates 1335.740-714.145; follow , a gully to reach the right bank of the Dak Jerman River to reach a spot at coordinates 1323.950-677.580; Veers west along a straight line for approximately 10,700 (ten thousand seven hundred) meters to reach a spot at coordinates 1323.280-666.950; veers north-northeast to reach a spot at coordinates 1323.800-667.160; veers east to reach a spot at coordinates 1323-890-667.785; veers northwest to reach a spot at coordinates 1324-250-667.420; veers west along the left bank of the Prek Kriou (Prek Chriv) River to reach a trail at coordinates 1323.760-654-170; veers south-southeast along a straight line for approximately 13,200 (thirteen thousand two hundred) meters to reach the junction of a trail and the right bank of the stream Cham (Tonle Cham) at coordinates 1311.960-660.210; follows the right bank of the stream Cham (Tonle Cham) to reach a spot at coordinates 1290.375-658.630;

Veers west to pass through the spots at coordinates 1290.270-656.700, 1290-995-655.875, 1290.925-654.690, 1292.620-652.850, 1929-650-652.050, 1292.930-651.450, 1293.075-649.825, 1291.350-646.000, 1291.865-645.740, 1290.815-643.950; to reach a spot at coordinates 1290.650-642-000; veers north to cut across Prek Paplam at coordinates 1291.285-641-955;

Veers northwest to cut across 0 Ngiev zit coordinates 1292.330-639-830 and reaches a spot west of a trail at coordinates 1293.950-638.875; follows the western edge of the trail leading to Ph. Chhung to reach a spot at coordinates 1295.775-638.340; veers west-northwest to pass through a spot at coordinates 1296-260-635.445; cuts across Prek Atung at coordinates 1296-825-634.040; passes through a spot at coordinates 1296.450-632.995; reaches a spot at coordinates 1296.725-632.325; follows the southern edge of a trail to reach a spot at coordinates 1297.770-630.850; veers north-northwest to cut across an unnamed spring at coordinates 1299.315-629.920; veers southwest to reach a spot at coordinates 1298.500-628.710; veers northwest to cut across an unnamed spring at coordinates 1298.860-628.150; veers southwest to cut across a trail of Phum Chrak Kranh at coordinates 1298.230-627.250 and reaches a spot at coordinates 1297.380-626.625; veers northwest and passes through the spots at coordinates 1298.115-621.645; 1299-570-620.355, 1299.655-619.580, and 1300.435-619-440; cuts across Prek Kdol at coordinates 1301.375-617.215 to reach a spot at coordinates 1301.750-617.010; veers west and passes through the spots at coordinates 1301.705-614.460 and 1302.050-

613,850; cuts across the spring Chor at coordinate 1301.610-612.015; veers southwest and passes through the spots at coordinates 1298.730-610.490; 1296.000-611.050, 1293.415-609.280, 1293.645-608.940; and 1291.395-606.925;; cuts across Route no. 22 (78) at coordinates 1290.755-607.340; to reach a spot at coordinates 1286.550-604.390; veers northwest to reach the southern part of a trail at a spot at coordinates 1286.825-603.380; follows the southwestern edge of the trail to reach a spot at coordinates 1290.715-597.210; veers southwest to pass through the spots at coordinates 1290.050-595-225 and 1289-000-593.260; cuts across Route no. 24 at coordinates 1287.690-592.345 to reach a spot at coordinates 1287.465-591.650; veers south-southwest to cut across Route no. 24 at coordinates 1286.540-591.680; cuts across an unnamed spring to reach its left bank at coordinates 1284.900-591.215;

Follows the unnamed spring's left-bank to reach the left bank of the Ben Go (Tonle Meanchey) stream at coordinates 1284.200-588.745; follows the left bank of the Ben Go and Cai Bac (Tonle Meanchey, Tonle Roti, and Kompong Kdei) streams to reach a spot at coordinates 1261.650-597.150; cuts across the Cai Bac stream to reach the right bank of the Cai Cay (Prek Kompong Spean) stream; follows the right bank of the Cai Cay stream to reach Route no. 24 at coordinates 1260.475-595.465; veers south to pass through the spots at coordinates 1259.000-596.360, 1257.050-595.425, 1256.465-596.760, 1253.280-596.050, and 1250.800-595.050; cuts across the Nang Dinh (Prek Anlung Kei) stream at coordinates 1247.980-594.650 to reach a spot at coordinates 1246-855-595.165; veers east along the southern edge of a trail to reach a spot at coordinates 1247.200-599.600; veers south along the western edge of the trail to cut across Route no. 13 (242) at coordinates 1243.250-599.650; follows the eastern edge of the trail to reach a spot at coordinates 1242.360-599.920; veers southeast to pass through the spots at coordinates 1239.880-601.630, 1238.600-603.150, 1237.490-605.915, 1237.770-607.000, 1236-950-611.150, 1231.425-612.165, 1239.370-615.700, and 1226.700-618.010; veers northeast to cut across an unnamed spring at coordinates 1227.130-619.080; veers southeast to pass through a spot at coordinates 1225.675-620.410; cuts across the unnamed spring at coordinates 1223.775-621.195; veers northeast to pass through the spots at coordinates 1225.770-623.180 and 1226.620-624.900 to reach a spot at coordinates 1227.205-626.490;

Veers south-southeast, along a straight line for approximately 3,500 (three thousand five hundred) meters to cut across Route no. 1 at coordinates 1224.350-628.510;

follows a straight line for 3,300 (three thousand three hundred) meters to reach a spot at coordinates 1221.515-630.615; follows a straight line for approximately 4 .300 (four thousand three hundred) meters to cut across a trait at coordinates 1217.250-630-675; follows a straight line for approximately 2,250 (two thousand two hundred and fifty) meters to cut across Route no. 6A at coordinates 1215.050-63.175 and reaches a spot at coordinates 1213.190-632.125; veers West to pass through a spot at coordinates 1213.070-629.450 (a trail junction) and cuts across the Soc Noc (Steng Mesar Thngak) stream at coordinates 1213.710-627.480; follows the southern bank of the Soc Noc stream to reach a spot at coordinates 1214.065-626.600; veers southwest to reach a spot at coordinates 1213.350-635.445; veers south to cut across Stoeng Tadev at coordinates 1211.225-625.645 and reaches a spot at coordinates 1209-500-626.290; veers south southwest along a straight line for approximately 3,300 (three thousand three hundred) meters to reach a spot at coordinates 1206.580-624.725; veers south-southeast along a straight line for approximately 4,100 (four thousand one hundred) meters to reach the trail junction of Ba Thu hamlet at coordinates 1203.470-627.400; follows a straight line for approximately 6,150 (six thousand one hundred and fifty) meters to reach a spot at coordinates 1197.995-630.245; follows a straight line for approximately 5,250 (five thousand two hundred and fifty) meters to reach a spot at coordinates 1192.775-630.490.

Veers northwest along a straight line for approximately 3,600 (three thousand, six hundred) meters to reach a spot at coordinates 1195.080-627.735; veers west along a straight line for approximately 7,500 (seven thousand five hundred) meters to reach a spot at coordinates 1194.650-620.225; follows a straight line for approximately 2,850 (two thousand, eight hundred, and fifty) meters to cut across a trail at coordinates 1195.130-617.440; veers northwest along a straight line for approximately 8,050 (eight thousand, fifty) meters to reach a spot at coordinates 1199.785-610.895; follows a straight line for approximately 6,100 (six thousand one hundred) meters to cut across a trail at coordinates 1204.140-606.615; follows a straight line for approximately 3,550 (three thousand, five hundred and fifty) meters to reach a spot at coordinates 1206.500-603.950; follows a straight line for approximately 450 (four hundred, fifty) meters to cut across 0 Kampong Rou and reach the west bank of that stream at coordinates 1206.710-603.565;

Veers south-southwest along the west bank of 0 Kampong Rou or Ca Ro Stream to reach a spot at coordinates 1198.010-

602.575; veers west-northwest along a straight line for approximately 4,000 (four thousand) meters to cut across a trail at coordinates 1198.620-598.660; follows a straight line for approximately 5,800 (five thousand, eight hundred) meters to cut across Prek Kampong Roteh and reach the west - bank of that stream at coordinates 120.740- 593.250; veers north along the west bank of Prek Kampong Roteh to reach a spot at coordinates 1201.245-593.305; veers north-northeast along a straight line for approximately 3,850 (three thousand, eight hundred and fifty) Meters to reach a spot at coordinates 1204.710-594.875;

veers northwest along a straight line for approximately 4,600 (four thousand, six hundred) meters to cut across route 258 (1010) at coordinates 1208.500-592.225; follows a straight line for approximately 5,500 (five thousand, five hundred) meters to reach a spot at coordinates 1212.765-588.765; follows a straight line for approximately 7,400 (seven thousand, four hundred) meters to cut across an unnamed stream feeding into Long Khot stream at coordinates 1219.415-585.515;

Veers west-southwest along the north bank of Long Khot stream, Cai Co stream (Prek Kampong Svay), Cai.Trot stream, and Cai Co stream to reach a spot at coordinates 1210.100-555.650; veers northwest to cut across Tam Ly River (Prek Trabek) and reach the west bank of that river at coordinates 1210.605-554.895; veers southwest along the west bank of Tam Ly River to reach the north bank of So Ha river (Prek Kraom) at coordinates 1210.075-554.620; follows the north bank of So Ha river to reach the north bank of Cai Xu stream at coordinates 1202.170-539.000; follows the north bank of Cai Xu stream to reach a spot at coordinates 1210.560-538.680; follows the north bank of an unnamed stream to reach the middle of So Thuong River (Prek Kaoh Sampou) at coordinates 1200.210-537.315; veers northwest along the middle of So Thuong river to reach a spot at coordinates 1204.205-529.380;

Veers west-southwest along a straight line for approximately 2,850 (two thousand, eight hundred, and fifty) meters to reach a spot at coordinates 1203.795-526.560; veers west-northwest along a straight line for approximately 2,700 (two thousand, seven hundred) meters to reach a spot at coordinates 1204.695-524.000; follows a straight line for approximately 2,250 (two thousand, two hundred, and fifty) meters to reach a spot at coordinates 1205.900-522.115; veers-west along a straight line for approximately 1,900 (one thousand, nine hundred) meters to cut across the Cuo

Long (mekong) river and reaches a spot at coordinates 1205.950-520-215; veers northwest along a straight line for approximately 3,000 (three thousand) meters to reach a spot at coordinates 1207.215-517.475; veers west along a straight line for approximately 2,700 (two thousand, seven hundred) meters to reach a spot at coordinates 1207.050-514.790; follows a straight line for approximately 2,500 (two thousand, five hundred) meters to reach a spot at coordinates 1206.650-512.310; runs parallel with Prek Bak Nam and some 150 (one hundred and fifty) meters away from the south bank of that stream to reach the eastern edge of Bac Nam Island at coordinates 1207.325-511.300 and then goes upstream along the eastern edge of that island right in the middle of Hau Ciang (Tonle Bassac) river to reach a spot at coordinates 1209.180-512.970; veers north northwest along an unnamed stream to reach a spot in the middle of Hau Ciang (Tonle Bassac) river at coordinates 1211.305-512.000; goes upstream right in the middle of that river to reach a spot at coordinates 1210.950-509.440;

Veers southwest to run parallel with Bin Ghi stream and some 50 (fifty) meters to 100 (one hundred) meters away from the west bank of that stream as shown in the attached map for a distance of approximately 2,200 (two thousand, two hundred) meters until reaching a bend, then goes parallel with and about 150 (one hundred and fifty) meters away from the bank to meet Chau Doc River (Prek Moat Chruk) and cuts across that river at coordinates 1204.225-504.500; follows a straight line for approximately 1,100 (one thousand, one hundred) meters to reach a spot at coordinates 1203.690-503.550; veers south-southeast along a straight line for approximately 2,500 (two thousand, five hundred) meters to reach a spot at coordinates 1201.250-504.170; follows a straight line for approximately 6,050 (six thousand and fifty) meters to cut across an unnamed stream at coordinates 1195.810-506-825; follows a straight line for approximately 1,500 (one thousand, five hundred) meters to reach a spot at coordinates 1194-295 '506.755; follows a straight line for approximately 1.100 (one thousand, one hundred) meters to cut across Tra Keo River (Stoeng Takev) and reach a spot at coordinates 1193.250-507.240; follows a straight line for approximately 1,750 (one thousand, seven hundred and fifty) meters to reach a spot at coordinates 1191.500-507.600;

follows a straight line for approximately 1,150 (one thousand, one hundred and fifty) meters to reach a spot at coordinates 1191.040-508.650; follows a straight line for approximately 3,000 (three thousand) meters to reach a spot at coordinates 1188.620-510.460; follows a straight line for approximately 3,800 (three thousand, eight hundred) meters

to reach a spot at coordinates 1184.890-511.080;

Veers southwest along a straight line for approximately 13,250 (thirteen thousand, two hundred and fifty) meters to cut across an unnamed stream at coordinates 1178.250-499-615; follows a straight line for approximately 4,650 (four thousand, six hundred, and fifty) meters to reach a spot at coordinates 1175.700-495.680; veers south-southwest along a straight line for approximately 3,650 (three thousand, six hundred and fifty) meters to cut across Cay Duong stream at coordinates 1172.960-493.310; follows 9 straight line for approximately 8,250 (eight thousand, two hundred and fifty) meters to reach a spot at coordinates 1165.740-489.210; follows a straight line for approximately 4,300 (four thousand, three hundred) meters to reach a spot at coordinates 1162.825-486.050; veers west along a straight line for approximately 12,450 (twelve thousand, four hundred and fifty) meters to cut across Can stream at coordinates 1162.450-473.515; veers west-northwest along a straight line for approximately 6,850 (six thousand, eight hundred and fifty) meters to reach a spot at coordinates 1164.600-467.000; follows a straight line for approximately 5,300 (five thousand, three hundred) meters to reach a spot at coordinates 1164.855-461.710; veers south along a straight line for approximately 1,050 (one thousand and fifty) meters to cut-across a trail at coordinates 1163.800-461.660; veers west to run parallel with and some 150 (one hundred and fifty) meters away from the north bank of Vinh Te Canal and cut across Giang Thanh stream (Stoeng Tonhon) to reach a spot at coordinates 1164.200-456.450;

Veers southwest to cut across Route 161 at coordinates 1164.050-456.280; follows the western edge of a trail to reach a spot at coordinates 1150.000-445.530; veers northwest along a straight line for approximately 1,600 (one thousand, six hundred) meters to cut across an unnamed stream at coordinates 1151.280-444.580; veers north along a straight line for 300 (three hundred) meters to reach a spot at coordinates 1151.580-444.575; veers northwest along a straight line for approximately 1,750 (one thousand, seven hundred and fifty) meters to reach a spot at coordinates 1152.800-443.320; veers west-southwest along a straight line for approximately 1,600 (one thousand, six hundred) meters to reach a spot at coordinates 1152.520-441.740; follows a straight line for 1,150 (one thousand, one hundred and fifty) meters to cut across Route 8A (17) right in the middle of Xa Xia bridge at coordinates 1152.250-440.640; and from there, runs straight to the end of the national land border between Vietnam and Cambodia.

The national land border between the SRV and the PRK as delineated above is shown on the 1:100,000-scale map of the Geographical Service of Indochina (Service Geographique de l'Indochine) commonly used before 1954 or closest to 1954 (26 map sections are attached) with both sides, marking the border segments deemed by them to be rational with a black cross [plus sign printed in parentheses] and marking those segments that are redrawn with a red cross [plus sign printed in parentheses]; and also on a 1:50,000 UTM [Universal Transverse Mercator] map (40 map sections are attached) with both sides verifying with a black symbol (-.-.-.-). The two aforementioned sets of maps, called Appendix 1 and Appendix 2, are integral parts of this treaty, and both of them are equally valid. The coordinates mentioned in this article of the treaty are as shown in the 1:50,000 UTM map, using a meter as the unit.

Article 2

Pertaining to problems relating to border rivers, springs, and streams :

1. If border rivers, springs, and streams change their course, the border will remain as it is, without following the new course unless both sides agree otherwise.

2. Islets and sandbars in border rivers, springs, and streams shall fall under the sovereignty of Vietnam if they are located on the Vietnamese side; and they shall fall under the sovereignty of Cambodia if they are located on the Cambodian side.

New islets and sandbars that form after the complete settlement of the border shall also be resolved in accordance with the aforementioned principle.

3. In the case of bridges spanning border rivers, springs, and streams, the border shall cut across the middle of those bridges, irrespective of the position of the border running along the beds of those rivers, springs, and streams.

Article 3

In the sea, both sides refer to Article 2 of the treaty on the principles for settling border problems between the SRV and the PRK which was signed on 20 July 1983, and to Articles 2 and 3 of the treaty on the historical waters of the SRV and the PRK which was signed on 7 July 1982, and both sides agree to the principles for delimiting the sea

border in historical waters - namely the national sea border -- between the SRV and the PRK as follows:

1. The national sea border between the two countries originates from the farthest point of the land border as found in the 1:100,000 and 1:50,000-scale maps attached to the-treaty.

2. The national sea border continues to follow a path to be agreed upon by both aides to ensure the division of islands as stipulated under the agreement on the historical waters of the SRV and the PRK.

3. This border line will go through point 0, the adjoining point of the two base lines used to compute the width of each country's territorial waters. This border line will stretch to a point on the external border line of each country's territorial waters.

4. The official sea maps attached to the treaty on the delimitation of national sea border between the two countries will be the 1:182,650-scale sea maps bearing numbers 5394 and 5395 which were printed by the hydrology agency of the French Navy in 1955 and 1956.

Based on these principles, the Joint committee shall carry out an on-the-spot survey as soon as possible to delimit the national sea border and draft a treaty on national sea border delimitation between the SRV and the PRK.

Article 4

The two sides agree to set up a joint committee for on-the-spot border delimitation and national border market planing between the SRV and the PRK (called hereafter the joint committee) and entrust it with the following tasks:

Based on Articles 1 and 2 of this treaty, the joint committee will carry out on-the-spot delimitation of the entire national land border between the two countries, plan the locations of national border markers, officially plant national border markers, prepare a map of the national border between the SRV and the PRK which shows the locations of national border markers, and draft a final protocol to wind up on-the-spot border delimitation and market planting.

The final protocol shall serve as an appendix of this treaty. The map of the national border between the SRV and the PRK prepared by the joint committee after finishing on-the-spot border delimitation and market planting shall

supersede the map mentioned in the last part of Article 1 of this treaty.

The joint committee shall begin its activities immediately after this treaty becomes effective and carry out its work in accordance with the plans and agreements it adopted; and the joint committee shall terminate its activities upon completion of its tasks as mentioned under Article 4 of this treaty.

Article 5

This treaty shall be ratified and become effective beginning on the date when the letters of ratification are exchanged.

Made in Phnom Penh, the PRK's capital, on 27 December 1985 in two copies, in Vietnamese and Cambodian. Both copies are equally valid.

The SRV's Council of State delegate Nguyen Co Thach

The PRK's Council of State delegate Hun Sen

(Sourced by Cambodia's Border Committee in France)

Appendix 25**STATEMENT BY THE MINISTRY OF FOREIGN AFFAIRS OF THAILAND
ON THE VIETNAMESE CLAIMS CONCERNING THE SO CALLED
HISTORICAL WATERS AND THE DRAWING OF BASELINES**

The Ministry of foreign Affairs of Thailand refers to the following transaction and statement:

- (1) The so-called Agreement of 7 July 1982 between the Government of the Socialist Republic of Vietnam and the Government of the People's Republic of Kampuchea on the historical waters of Vietnam and Kampuchea, which was announced on 8 July 1982 through the Vietnam News Agency in Hanoi;
- (2) The Statement of 12 November 1982 by the Government of the Socialist Republic of Vietnam on the territorial sea baseline of Vietnam, which has been circulated as an official document of the General Assembly (A/37/697, dated 6 December 1982); and
- (3) The Statement of 5 June 1984 by the Government of the Socialist Republic of Vietnam on the airspace of Vietnam which has been circulated as an official document of the General Assembly (A/39/309, dated 21 June 1984).

The Government of Thailand has carefully examined the claims thus asserted in the above-mentioned Agreement and Statements, and wishes to state its positions with respect thereto as follows:

Regarding the claims to the so-called historical waters, which purport to appropriate and subject certain sea areas in the Gulf of Thailand and in the Gulf of Tonkin (Gulf of Bac Bo) to the regime of internal waters, the Government of Thailand is of the view that such claims cannot be justified on the basis of the applicable principles and rules of international law.

Regarding the Statement defining the baselines for measuring the breadth of the territorial sea and other maritime zones of Vietnam, the Government of Thailand considers that the drawing of the baselines of Vietnam's territorial sea between point O and A7 is at variance with the well-established rules of international law, as codified in article 4 of the Convention on the Territorial Sea and Contiguous Zone of 29 April 1958, and confirmed once again in Article 7 of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, to which Vietnam is a signatory.

Insofar as the Vietnamese Statement on the airspace of Vietnam seeks to assert Vietnamese sovereignty over the so-called historical waters both in closed within the said baselines, the Government of Thailand, consistent with its positions as sated above, feels bound to reject such claim as being contrary to international law.

Accordingly, the Government of Thailand reserves all its rights under international law in relation to the sea areas in question and the airspace above them.

Incidentally, in regard to the so-called Agreement on the historical waters of Vietnam and Kampuchea, the Government of Thailand wishes to reiterate that the so-called Government of the People's Republic of Kampuchea does not represent, and cannot be considered to represent, Kampuchea in any manner whatsoever, as only the Coalition Government of Democratic Kampuchea under the Presidency of Samdech Norodom Sihanouk, which is the sole legitimate Government of Kampuchea overwhelmingly recognized in the United Nations, can represent Kampuchea. Therefore, any agreement or declaration which purports to be concluded or made by the so-called Government of the People's Republic of Kampuchea is utterly devoid of any legal effect.

22 November 1985

Appendix 26

**MEMORANDUM OF UNDERSTANDING BETWEEN THE KINGDOM OF
THAILAND AND MALAYSIA ON THE ESTABLISHMENT OF A JOINT
AUTHORITY FOR THE EXPLOITATION OF RESOURCES OF THE SEA-BED
IN A DEFINED AREA OF THE CONTINENTAL SHELF OF THE TWO
COUNTRIES IN THE GULF OF THAILAND**

The Kingdom of Thailand and Malaysia,
DESIRING to strengthen further the existing bonds of
traditional friendship between the two countries;
RECOGNIZING that, as a result of overlapping claims made by
the two countries regarding the boundary line of their
continental shelves in the Gulf of Thailand, there exists an
overlapping area of their adjacent continental shelves;
NOTING that the existing negotiations between the two
countries on the delimitation of the boundary of the
continental shelf in the Gulf of Thailand may continue for
some time;
CONSIDERING that it is in the best interests of the two
countries to exploit the resources of the sea-bed in the
overlapping area as soon as possible; and
CONVINCED that such activities can be carried out jointly
through mutual co-operation.
HAVE AGREED AS FOLLOWS:

Article I

Both parties agreed that as a result of overlapping claims
made by the two countries regarding the boundary line of
their continental shelves in the Gulf of Thailand, there
exists an overlapping area, which is defined as that area
bounded by straight lines joining the following co-
ordinates:

(A) N 6° 50'.0	E 102° 21'.2
(B) N 7° 10'.25	E 102° 29'.0
(C) N 7° 49'.0	E 103° 02'.5
(D) N 7° 22'.0	E 103° 42'.5
(E) N 7° 20'.0	E 103° 39'.0
(F) N 7° 03'.0	E 103° 06'.0
(G) N 6° 53'.0	E 102° 34'.0

and shown in the relevant part of the British Admiralty
Chart No. 2414 Edition 1967, annexed hereto.

Article II

Both parties agree to continue to resolve the problem of the
delimitation of the boundary of the continental shelf in the
Gulf of Thailand between the two countries by negotiations
or such other peaceful means as agreed to by both Parties,
in accordance with the principles of international law and
practice especially those agreed to in the Agreed Minutes of
the Malaysia-Thailand Officials' Meeting on Delimitation of

the Continental Shelf Boundary Between Malaysia and Thailand in the Gulf of Thailand and in the South Sea, 27 February -1 March 1978, and in the spirit of friendship and in the interest of mutual security.

Article III

- (1) There shall be established a Joint Authority to be known as Malaysia-Thailand Joint Authority (hereinafter referred to as the Joint Authority) for the purpose of the exploration and exploitation of the non-living natural resources of the sea-bed and subsoil in the overlapping area for a period of fifty years commencing from the date this Memorandum comes into force.
- (2) The Joint Authority shall assume all rights and responsibilities on behalf both parties for the exploration and exploitation of the non-living resources of the sea-bed and subsoil in the overlapping area (hereinafter referred to as the joint development area) and also for the development, control and administration of the joint development area. The assumption of such rights and responsibilities by the Joint Authority shall in no way affect or curtail the validity of concession or licenses hitherto issued or agreements or arrangement hitherto made by either Party.
- (3) The Joint Authority shall consist of :
 - (a) two joint chairmen, one from each country, and
 - (b) an equal number of members from each country.
- (4) Subject to the provisions of this Memorandum, the Joint Authority shall exercise on behalf of both Parties all the powers necessary for, incidental to or connected with the discharge of its functions relating to the exploration and exploitation of the non-living natural resources of the sea-bed and subsoil in the joint development area.
- (5) All costs incurred and benefits derived by the Joint Authority from activities carried out in the joint development area shall be equally borne and shared by both Parties.
- (6) If any single geological petroleum or natural gas structure or field, or other mineral deposit of whatever character, extends beyond the limit of the joint development area defined in Article I, the Joint Authority and the Party or Parties concerned shall communicate to each other all information in this regard and shall seek to reach agreement as to the manner in which the structure, field or deposit will be most effectively exploited; and all expenses incurred and benefits derived therefrom shall be equitably shared.

Article IV

- (1) The rights conferred or exercised by the national authority of either Party in matters of fishing, navigation, hydrographic and oceanographic surveys, the prevention and control of marine pollution and other similar matters (including all powers of enforcement in relation thereto) shall extend to the joint development area and such rights shall be recognized and respected by the Joint Authority.
- (2) Both Parties shall have a combined and coordinated security arrangement in the joint development area.

Article V

The criminal jurisdiction of Malaysia in the joint development area shall extend over that area bounded by straight lines joining the following co-ordinates points:

(A) N 6° 50'.0	E 102° 21'.2
(X) N 7° 35'.0	E 103° 23'.0
(D) N 7° 22'.0	E 103° 42'.5
(E) N 7° 20'.0	E 103° 39'.0
(F) N 7° 03'.0	E 103° 06'.0
(G) N 6° 53'.0	E 102° 34'.0

The criminal jurisdiction of the Kingdom of Thailand in the joint development area shall extend over that area bounded by straight lines joining the following co-ordinates:

(A) N 6° 50'.0	E 102° 21'.2
(B) N 7° 10'.25	E 102° 29'.0
(C) N 7° 49'.0	E 103° 02'.5
(X) N 7° 35'.0	E 103° 23'.0

The areas of criminal jurisdiction of both Parties defined under this Article shall not in any way be construed as indicating the boundary line of the continental shelf between the two countries in the joint development area, which boundary is to be determined as provided for by Article II, nor shall such definition in any way prejudice the sovereign rights of either Party in the joint development area.

Article VI

- (1) Notwithstanding Article III, if both Parties arrive at a satisfactory solution on the problem of the delimitation of the boundary of the continental shelf between the expiry of the said fifty-year period, the Joint Authority shall be wound up and all assets administered and liabilities incurred by it shall be equally shared and borne by both Parties. A new arrangement may, however, be concluded if both Parties so decide.
- (2) If no satisfactory solution is found on the problem of the delimitation of the boundary of the Continental Shelf within the said fifty-year period, the existing

arrangement shall continue after the expiry of the said period.

Article VII

Any difference or dispute arising out of the interpretation or implementation of the provisions of this Memorandum shall be settled peacefully by consultation or negotiation between the Parties.

Article VIII

This Memorandum shall come into force on the date of exchange of instruments of ratification.

DONE in duplicate at Chiang Mai, the Twenty-first day of February in the year One thousand Nine hundred and Seventy-nine, in the Thai, Malay and English Languages.

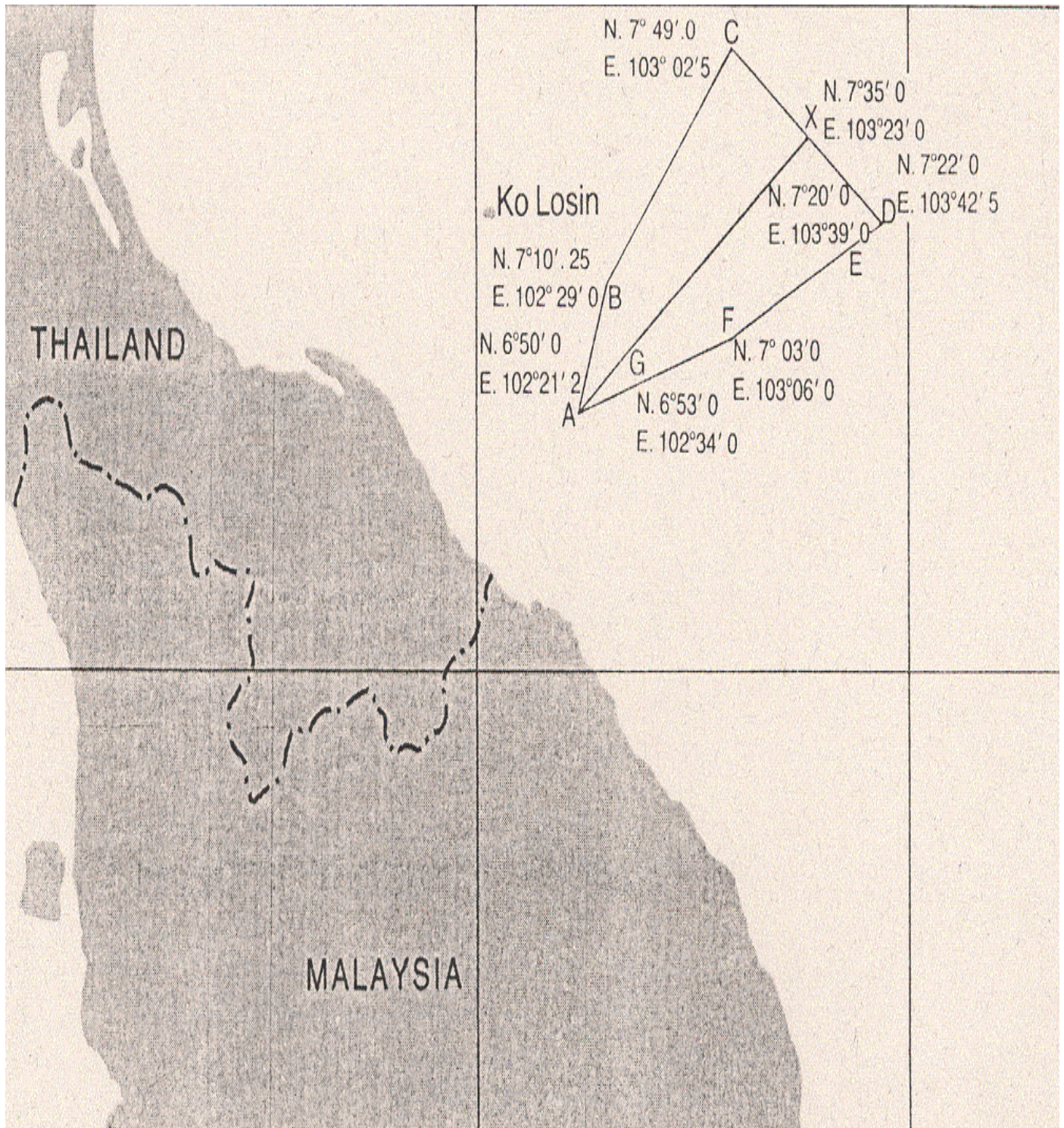
In the event of any conflict among the texts, the English text shall prevail.

FOR THE KINGDOM OF THAILAND FOR MALAYSIA

(Signed)
General Kriangsak Chomanan
Prime Minister

(Signed)
Datuk Hussein Onn
Prime Minister

Appendix 27



Appendix 28

**TREATY BETWEEN THE KINGDOM OF THAILAND AND MALAYSIA
RELATING TO THE DELIMITATION OF THE TERRITORIAL SEA OF THE
TWO COUNTRIES**

THE KINGDOM OF THAILAND AND MALAYSIA

DESIRING to strengthen the existing historical bonds of friendship between the two countries.

NOTING that the coasts of the two countries are adjacent to each other in the Northern part of the Straits of Malacca, as well as in the Gulf of Thailand, AND DESIRING to establish the common boundaries of the territorial seas of the two Countries.

HAVE AGREED AS FOLLOWS.

Article I

- (1) The boundary of the Thai and Malaysian territorial seas in that part of the Straits of Malacca between the islands known as the Butang Group and Pulau Langkawi where overlapping occurs shall be formed by the straight lines drawn from the point situated in mid-channel between Pulau Terutau and Pulau Langkawi referred to in the Boundary Protocol annexed to the Treaty dated March 10th, 1909 respecting the boundaries of the Kingdom of Thailand and Malaysia, whose co-ordinates are hereby agreed to be Latitude 6°28'5 N and Longitude 99°39'.2 E, in a north westerly direction to a point whose co-ordinates are Latitude 6°30'.2 N and Longitude 99°33'.4 E and from there in the south westerly direction to a point whose co-ordinates are Latitude 6°28'.9 N and Longitude 99°30'.7 E and from there in south-westerly direction again to the point whose co-ordinates are Latitude 6°18'.4 N and Longitude 99°27'5 E.
- (2) The outer limit of the territorial seas of the islands known as the Butang Group to the south of the said islands shall be formed by the boundary lines joining the points whose co-ordinates are Latitude 6°18'.4N and Longitude 99°27'.5 E referred to in paragraph (1) above and from there to the point whose co-ordinates are Latitude 6°16'.3 N and Longitude 99°18'.0 E and from there to the point whose co-ordinates are Latitude 6°18'.4 N and Longitude 99°27'5 E.
- (3) The co-ordinates of the points specified in paragraph (1) and (2) are geographical co-ordinates derived from the British Admiral Charts No.793 and No.830 and the boundary lines connecting them are indicated on the charts attached as Annexure A(1) and A(2) to this Treaty.

Article II

- (1) The boundary of Thai and Malaysian territorial seas in the Gulf of Thailand shall be formed by the straight line drawn from a point whose co-ordinates are Latitude 6° 14'.5 N and Longitude 102° 05'.6 E to a point whose co-ordinates are Latitude 6° 27'.5 N and Longitude 102° 10'. 0 E.
- (2) The co-ordinates of the points specified in paragraph (1) are geographical co-ordinates derived from the British Admiral Chart No. 3961 and the boundary line connecting them is indicated on the chart attached as Annexure B to this Treaty.

Article III.

- (1) The actual location at sea of the points mentioned in Article I and Article II above shall be determined by a method to be mutually agreed upon by the competent authorities of the two parties.
- (2) For the purpose of paragraph (1), "competent authorities" in relation to the Kingdom of Thailand means the Director of the Hydrographic Department, Thailand, and includes any person authorized by him and in relation to Malaysia, the Director of National Mapping, Malaysia, and includes any person authorized by him.

Article IV

Each Party hereby, undertakes to ensure that all the necessary steps shall be taken at the domestic level to comply with the terms of this Treaty.

Article V

Any dispute between the two Parties arising out of the interpretation or implementation of this Treaty shall be settled peacefully by consultation or negotiation.

Article VI

This Treaty shall be ratified in accordance with the legal requirements of the two Countries.

Article VII

This Treaty shall enter into force on the date of the exchange of the Instruments of Ratification.

DONED IN DUPLICATE AT Kuala Lumpur on the Twenty-fourth day of October, Nineteen Hundred and Seventy-nine in the Thai, Malaysian and English language. In the event of any conflict between the texts, the English text shall prevail.

FOR THE KINGDOM OF THAILAND
 (Signed)
 (General Kriangsak Chomanan)
 Prime Minister

FOR MALAYSIA
 (Signed)
 (Datuk Hussein Onn)
 Prime Minister

Appendix 29

**MEMORANDUM OF UNDERSTANDING BETWEEN THE KINGDOM OF THAILAND
AND MALAAYSIA ON THE DELIMITATION OF THE CONTINENTAL
SHELF BOUDARY BETWEEN THE TWO COUNTRIES IN THE GOULF OF
THAILAND**

THE KINGDOM OF THAILAND AND MALAYSIA;
Desiring to sgtrengthen the existing historical bonds of
friendship between the two countries,
And Desiring to establish the continental shelf boundary of
the two countries in the Gulf of Thailand,
HAVE AGREED AS FOLLOWS.

Article I

- (1) The boundary of the continental shelf in the Gulf of Thailand between the Kingdom of Thailand and Malaysia shall consist of straight lines joining in the order specified below the points whose co-ordinates are:
 - (i) Latitude $6^{\circ}27'.5$ N and Longitude $102^{\circ}10'.0$ E
 - (ii) Latitude $6^{\circ}27'.8$ N and Longitude $102^{\circ}09'.6$ E
 - (iii) Latitude $6^{\circ}50'.0$ N and Longitude $102^{\circ}21'.2$ E
- (2) The co-ordinates of point (ii) have been determined by refeence to a point whose co-ordinates are Latitude $6^{\circ}16'.6$ N and Longitude $102^{\circ}03'.8$ E, this point being the former position of Kuala Taba under the Boundary Protocol annexed to the Treaty between Siam and Great Britain signed at Bangkok on the 10th March 1909.

Article II

- (1) The co-ordinates of the points specified in Article I above are geographical co-ordinates derived from the British Admiralty Chart No. 3961 and the boundary lines connect them are indicated on the chart attached as an annexure to this Memorandum.
- (2) The actual location of these points at sea and of the lines connecting them shall be determined by a method to be mutually agreed upon by the competent authorities of the two Countries.
- (3) For the purpose of paragraph (2) of this Article, the term 'competent authorities' in relation to the Kingdom of Thailand shall mean the Director of Hydrographic Department and include any person authorized by him, and in relation to Malaysia the Director of National Mapping and include any person authorized by him.

Article III

The Government of the two countries shall continue negotiations to complete the delimitation of the continental shelf boundary of the two countries in the Gulf of Thailand.

Article IV

If any single geological petroleum or natural gas structure of field, or any mineral deposit of whatever character, extends across the boundary lines referred to in Article I, the two Governments shall communicate to each other all information in this regard and shall seek to reach agreement as to the manner in which the structure, field or deposit will be most effectively exploited; and all expenses incurred and benefits derived therefrom shall be equitably shared.

Article V

Any difference or dispute arising out of the interpretation or implementation of the provisions of this memorandum shall be settled peacefully by consultation or negotiation between the parties.

Article VI

This Memorandum shall be ratified in accordance with the constitutional requirements of each country. It shall enter into force on the date of the exchange of the Instruments of Ratification.

DONE IN DUPLICATE at Kuala Lumpur, the twenty fourth day of October, One Thousand Nine Hundred and Seventy Nine in the Thai and Malaysian and English languages. In the event of any conflict between the texts, the English language text shall prevail.

FOR THE KINGDOM OF THAILAND
 (signed)
 (GENERAL KRIANGSAK CHOMANAN)
 Prime Minister

FOR MALAYSIA
 (signed)
 (DATUK HUSSEIN ONN)
 Prime Minister

Appendix 30**Declaration of the Office of the Prime Minister concerning
the Inner Part of the Gulf of Thailand, 22 September 1959**

The council of Ministers has seen fit to issue the following declaration confirming the juridical status of the inner part of the Gulf of Thailand; namely, that the inner part of the Gulf of Thailand situated northward of the baseline which starts from the first point on the Bahn Chong Samsarn Peninsula (latitude 12°35'45'' north, longitude 100°57'45'' east) and, running westward parallel to the latitude, reaches the second point on the opposite sea coast (latitude 12°35'45'' north, longitude 99°57'3'' east) is a historic bay and that the waters enclosed within the baselines aforesaid form part of the internal waters of Thailand.

The Kingdom of Thailand has constantly maintained the foregoing position from time immemorial.

(Sourced by DOALOS/OLA-United Nations)

Appendix 31**Royal Proclamation establishing the Contiguous Zone of the Kingdom of Thailand, 14 August 1995**

By Royal Command of His Majesty the King, it is hereby Proclaimed that:

For the purpose of exchanging the rights of the Kingdom of Thailand with regard to the contiguous zone, which are based on generally recognized principles of international law, it is deemed appropriate to establish the contiguous zone of the Kingdom of Thailand as follows:

1. The contiguous zone of the Kingdom of Thailand is the area beyond and adjacent to the territorial sea of the Kingdom of Thailand, the breadth of which extends to twenty-four nautical miles measured from the baselines used for measuring the breadth of the territorial sea.
2. In the contiguous zone, the Kingdom of Thailand shall act as necessary to:
 - (a) Prevent violation of customs, fiscal, immigration or sanitary laws and regulations, which will or may be committed within the Kingdom or its territorial sea;
 - (b) Punish violation of the laws and regulations defined in (a), which is committed within the Kingdom or its territorial sea.

Proclaimed on the 14th day of August, B.E. 2538, being the forty-ninth year of the present reign.

Sourced by DOALOS/OLA-United Nations

Appendix 32**Agreement between the Government of the Kingdom of Thailand
and the Government of the Socialist Republic of Vietnam
on the delimitation of the maritime boundary between the
two countries in the Gulf of Thailand,
9 August 1997**

The Government of the Kingdom of Thailand and the Government of the Socialist Republic of Vietnam (hereinafter referred to as "contracting parties")

Desiring to strengthen the existing bonds of friendship between the two countries,

Desiring to establish the maritime boundary between the two countries in the relevant part of their overlapping continental shelf claims in the Gulf of Thailand,

Have agreed as follows:

Article 1

- 1 The maritime boundary between the Kingdom of Thailand and the Socialist Republic of Vietnam in the relevant part of their overlapping continental shelf claims in the Gulf of Thailand is a straight line drawn from point C to point K defined by latitude and longitude as follows:

Point C: Latitude N 07° 48' 00''. 0000, Longitude E 103° 02' 30''. 0000

Point K: Latitude N 08° 46' 54''. 7754, Longitude E 102° 12' 11''. 6542

- 2 Point C is the northernmost point of the Joint Development Area established by the Memorandum of Understanding between the Kingdom of Thailand and Malaysia on the Establishment of a Joint Authority for the Exploration of the Resources of the Seabed in a Defined Area of the Continental Shelf of the Two Countries in the Gulf of Thailand, done at Chiangmai on 21 February 1979, and which coincides with Point 43 of Malaysia's continental shelf claim advanced in 1979.
- 3 Point K is a point situated on the maritime boundary between the Socialist Republic of Vietnam and the Kingdom of Cambodia, which is the straight line equidistant from Tho Chu Islands and Poulo Wai drawn from Point O Latitude N 09° 35' 00''. 4159 and Longitude E 105° 10' 15''. 9805.
- 4 The coordinates of the points specified in the above paragraphs are geographical coordinates derived from the British Admiralty Chart No. 2414 which is attached as an

annex to this Agreement. The geodetic and computational bases used are the Ellipsoid Everest-1830-Indian Datum.

- 5 The Maritime boundary referred to in paragraph 1 above shall constitute the boundary between the continental shelf of the Kingdom of Thailand and the continental shelf of the Socialist Republic of Vietnam, and shall also constitute the boundary between the exclusive economic zone of the Kingdom of Thailand and the exclusive economic zone of the Socialist Republic of Vietnam.
- 6 The actual location of the above Points C and K at sea and of the straight line connecting them shall, at the request of either Government, be determined by a method to be mutually agreed upon by the hydrographic experts authorized for this purpose by the two countries.

Article 2

The Contracting Parties shall enter into negotiation with the Government of Malaysia in order to settle the tripartite overlapping continental shelf claim area of the Kingdom of Thailand, the Socialist Republic of Vietnam and Malaysia which lies within the Thai-Malaysia Joint Development Area established by the Memorandum of Understanding between the Kingdom of Thailand and Malaysia on the Establishment of a Joint Authority for the Exploration of the Resources of the seabed in a Defined Area of the Continental Shelf of the Two Countries in the Gulf of Thailand, done at Chiangmai on 21 February 1979.

Article 3

Each Contracting Party shall recognize and acknowledge the jurisdiction and the sovereign rights of the other country over the latter's continental shelf and exclusive economic zone within the maritime boundary established by this Agreement.

Article 4

If any single geographical petroleum or natural gas structure or field, or other mineral deposit of whatever character, extend across the boundary line referred to in paragraph 1 of article 1, the Contracting Parties shall communicate to each other all information in this regard and shall seek to reach agreement as to the manner in which the structure, field or deposit will be most effectively exploited and the benefits arising from such exploitation will be equitably shared.

Article 5

Any dispute between the Contracting Parties relating to the interpretation or implementation of this Agreement shall be settled peacefully by consultation or negotiation.

Article 6

This Agreement shall enter into force on the date of the exchange of the instruments of ratification or approval, as required by the constitutional procedures of each country.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Bangkok on this 9th August, one thousand Nine Hundred Ninety Seven in the Thai, Vietnamese and English language. In the event of any conflict between the texts, the English text shall prevail.

(Sourced by DOALOS/OLA-United Nations)

Appendix 33The Ministry of Foreign Affairs and International
Cooperation of Cambodia

No. CD/ MFA. IC

The Ministry of Foreign Affairs and International Cooperation of Cambodia presents its compliments to the United Nations and has the honor to inform the United Nations that the Kingdom of Thailand and the Socialist Republic of Vietnam concluded an agreement on the delimitation of maritime boundary in the Gulf of Thailand on 9 August 1997.

In this regard, the Ministry of Foreign Affairs wish to inform the United Nations the position of the Royal Government of Cambodia on the delimitation of maritime boundary between Thailand and Vietnam, signed in Bangkok on 9 August 1997 that Cambodia has never accepted the maritime delimitation proclaimed by Thailand and Vietnam and that the latter constitutes a violation of Cambodia's sovereignty and its rights in its exclusive economic zone and on its continental shelf in this part of the Gulf of Thailand. Accordingly, the maritime delimitation is without prejudice to and does not affect the rights and legitimate interests of Cambodia in the area in question and Cambodia totally reserves its position in relation to any existing maritime delimitation in that part of the Gulf of Thailand or to be made in the future without the agreement of the Government of Cambodia.

The Ministry of Foreign Affairs and International Cooperation avail itself of this opportunity to renew to the United Nations the assurances of its highest consideration.

Phnom Penh, 1998

Stamped of the Ministry of Foreign Affairs

(This note drafted by the author with the content from the UN. It is not an original Note Verbal of the Ministry of Foreign Affairs and international Cooperation of Cambodia)

Appendix 34**Statement on the Territorial Sea, the Contiguous Zone, the
Exclusive Economic Zone and the Continental Shelf of
12 May 1977**

.....

3. The exclusive economic zone of the Socialist Republic of Vietnam is adjacent to the Vietnamese territorial sea and forms with it a 200 nautical miles zone from the baseline used to measure the breadth of Vietnam's territorial sea.

The Socialist Republic of Vietnam has sovereign rights for the purpose of exploring, exploiting, conserving and managing all natural resources, whether living or non-living, the seabed and subsoil of the exclusive economic zone of Vietnam; it has exclusive rights and jurisdiction with regard to the establishment and use of installations and structures, artificial islands, exclusive jurisdiction with regard to other activities for the economic exploration and exploitation of the exclusive economic zone; exclusive jurisdiction with regard to scientific research in the exclusive economic zone of Vietnam; the Socialist Republic of Vietnam has jurisdiction with regard to the preservation of the marine environment, and activities for pollution control and abatement in the exclusive economic zone of Vietnam.

4. The continental shelf of the Socialist Republic of Vietnam comprises the seabed and subsoil of the submarine areas that extend beyond the Vietnamese territorial sea throughout the natural prolongation of the Vietnamese land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baseline used to measure the breadth of the Vietnamese territorial sea where the outer edge of the continental margin does not extend up to that distance.

The Socialist Republic of Vietnam exercises sovereign rights over the Vietnamese continental shelf in the exploration, exploitation, preservation and management of all natural resources, consisting of mineral and other non-living resources, together with living organisms belonging to sedentary species thereon.

5. The islands and archipelagos, forming an integral part of the Vietnamese territory and beyond the Vietnamese territorial sea mentioned in Paragraph 1, have their own

territorial seas, contiguous zones and continental shelves, determined in accordance with the provisions of Paragraph 1,2,3 and 4 of this statement.

6. Proceeding from the principles of this statement, specific questions relating to the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf of the Socialist Republic of Vietnam will be dealt with in detail in further regulations, in accordance with the principle of defending the sovereignty and interests of the Socialist Republic of Vietnam, and in keeping with international law and practices.

7. The Government of the Socialist Republic of Vietnam will settle with the countries concerned, through negotiation on the basis of mutual respect for independence and sovereignty, in accordance with international law and practices, the matters relating to the maritime zones and the continental shelf of each country.

(Sourced by DOALOS/OLA-United Nations)

Appendix 35**Statement of 12 November 1982 by the Government of the
Socialist Republic of Vietnam on the Territorial Sea
Baseline of Vietnam**

In implementing the provisions of paragraph 1 of the statement on the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf issued by the Government of the Socialist Republic of Vietnam on 12 May 1977 after being approved by the Standing Committee of the National Assembly of the Socialist Republic of Vietnam, The Government of the Socialist Republic of Vietnam makes the following statement on the baseline from which the breadth of the territorial sea of Vietnam be measured:

- (1) The baseline from which the territorial sea of the continental territory of Vietnam shall be measured is constituted by straight lines connecting those points the coordinates of which are listed in annex attached herewith.
- (2) The territorial sea baseline of Vietnam which starts from point O -the meeting point of the two baselines for measuring the breadth of the territorial sea of the Socialist Republic of Vietnam and that of the People's Republic of Kampuchea, located in the sea on the line linking the Tho Chu Archipelago with Poulou Wai Island- and which ends at Con Co Island shall be drawn following the coordinates listed in the attached annex on the 1/100,000 scale charts published by the Vietnamese People's Navy prior to 1979.
- (3) The Gulf of Bac Bo (Tonkin Gulf) is a Gulf situated between the Socialist Republic of Vietnam and the People's Republic of China; the maritime frontier in the gulf between Vietnam and China is delineated according to the 26 June 1887 Convention of frontier boundary signed between France and the Qing Dynasty of China.

The part of the Gulf appertaining to Vietnam constitutes the historic waters and is subjected to the juridical regime of internal waters of the Socialist Republic of Vietnam.

The baseline from Con Co Island to the mouth of the gulf will be defined following the settlement of the problem relating to the closing line of the gulf.

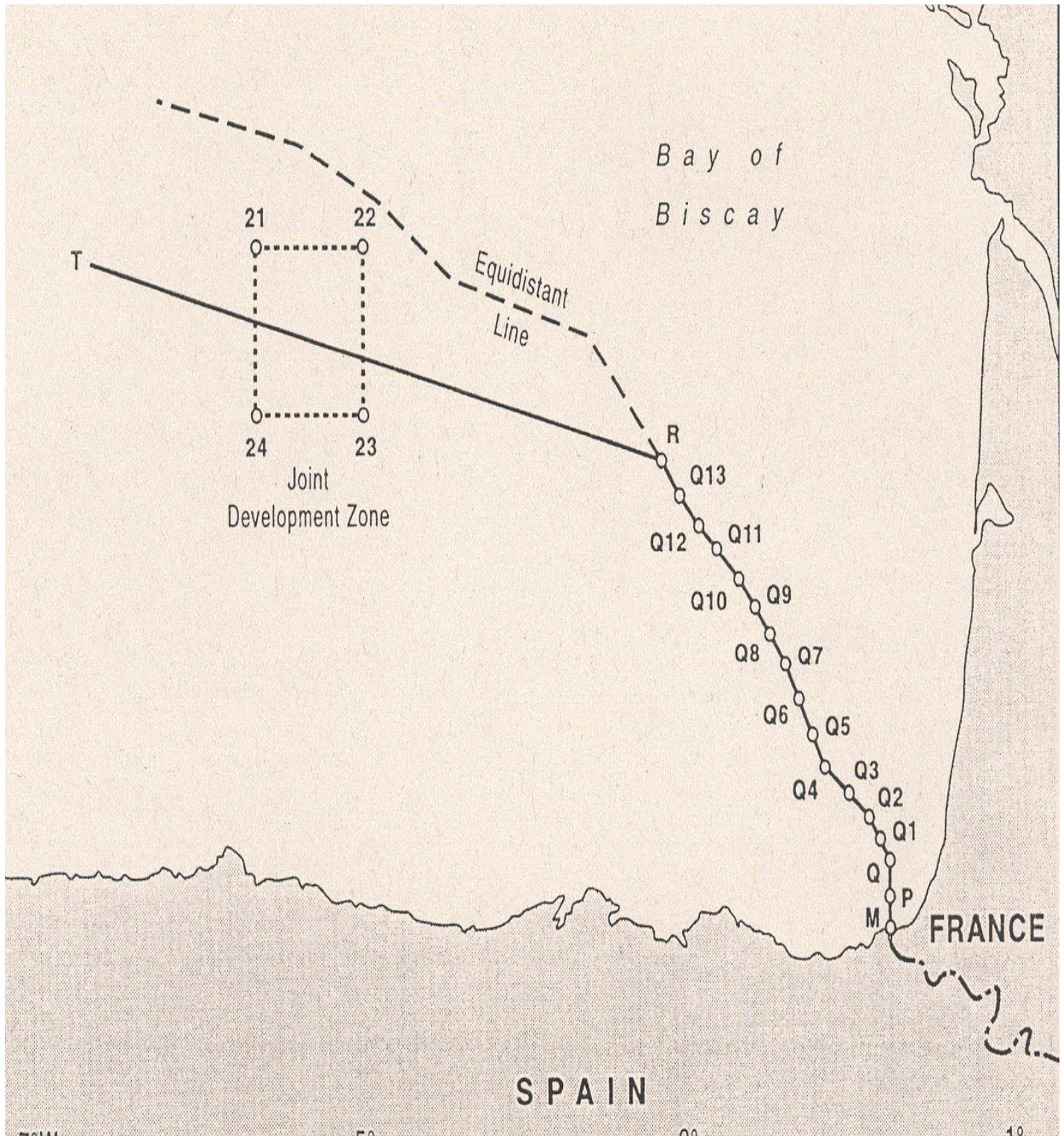
- (4) The baseline for measuring the breadth of the territorial sea of the Hoang Sa and Truong Sa Archipelagos will be determined in a coming instrument

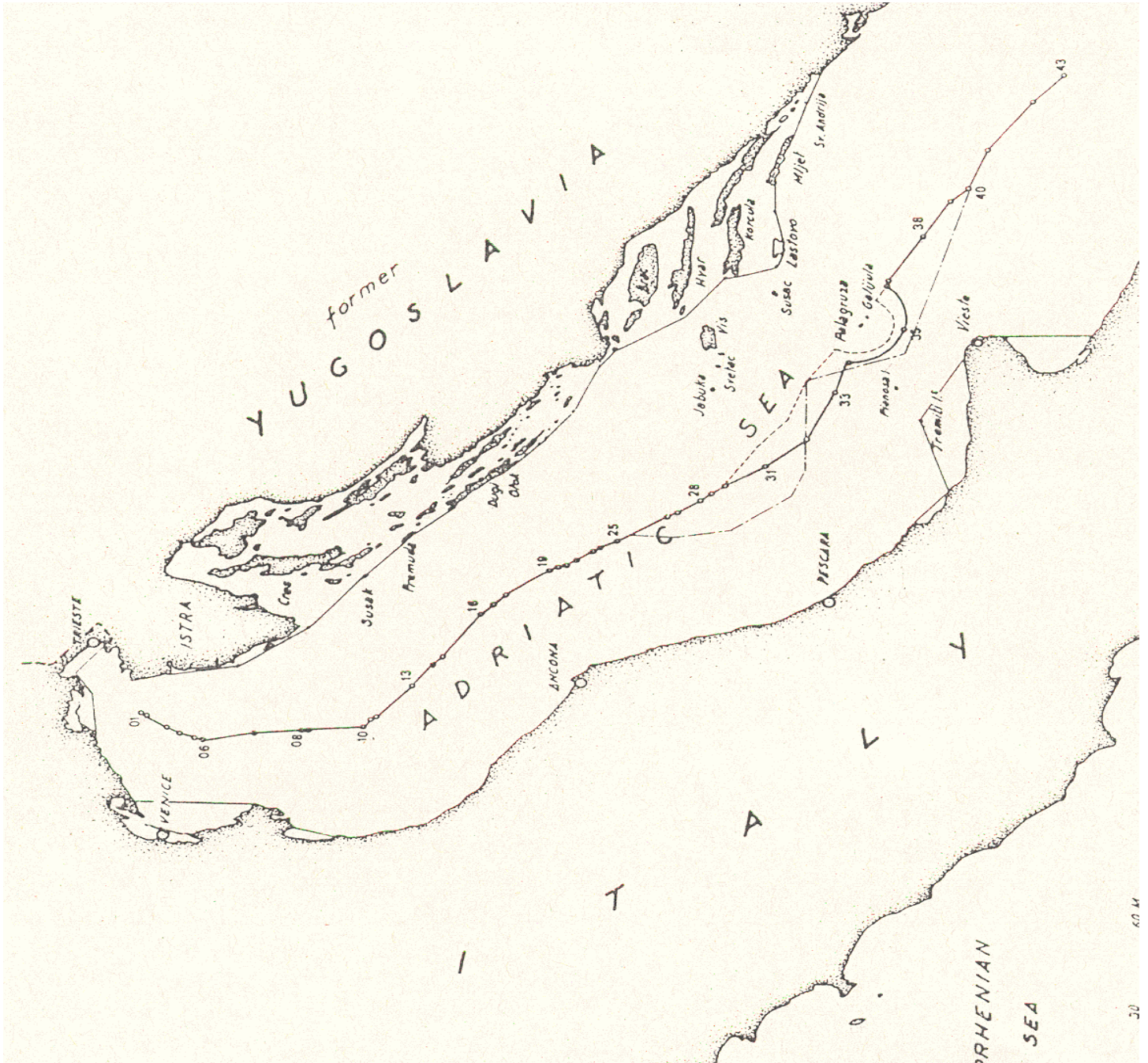
in conformity with paragraph 5 of the 12 May 1977 statement of the Government of the Socialist Republic of Vietnam.

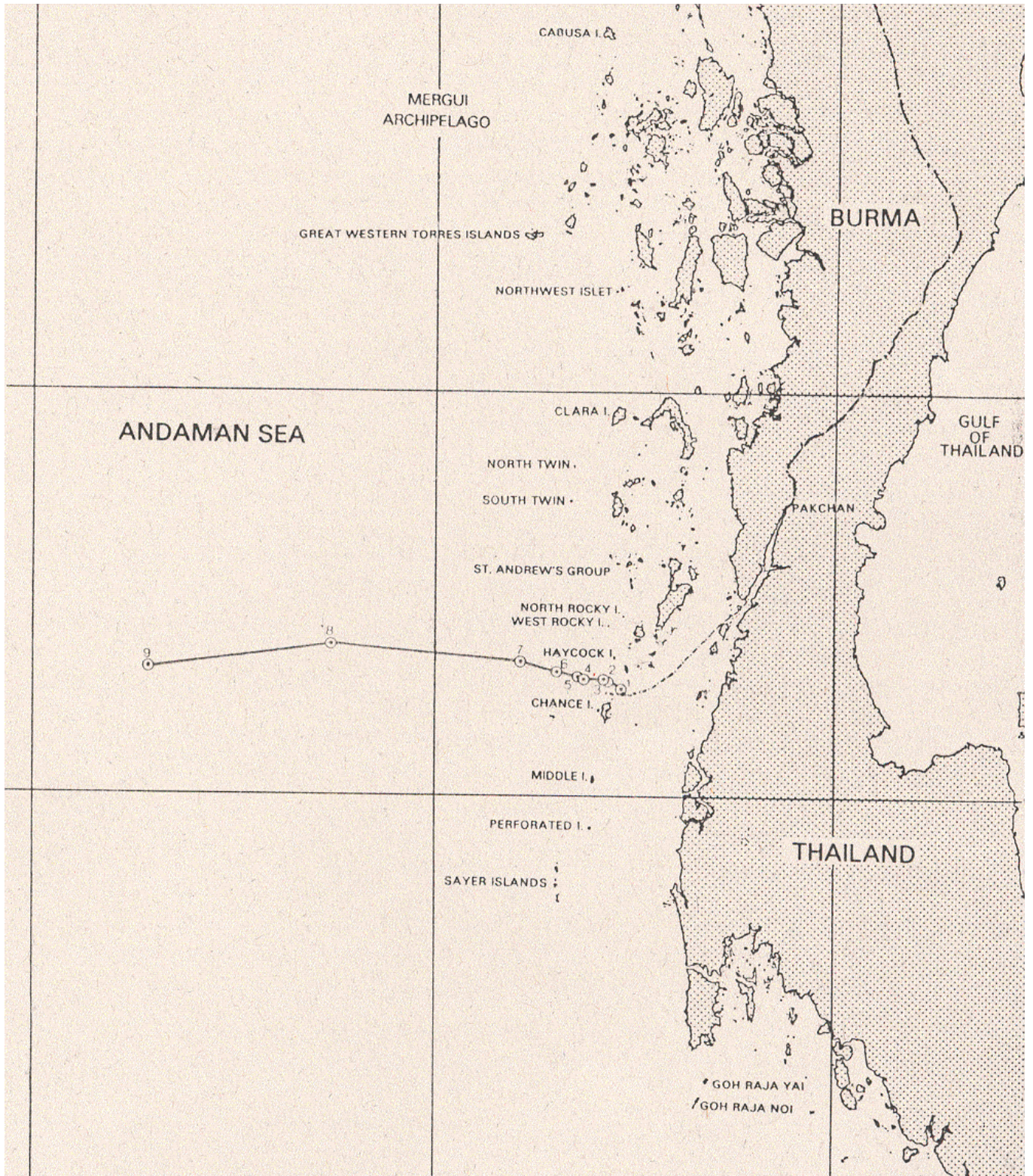
- (5) The sea as lying behind the baseline and facing the coast or the islands of Vietnam constitutes the internal waters of the Socialist Republic of Vietnam.
- (6) The Government of the Socialist Republic of Vietnam holds that all differences with countries concerned relating to different sea areas and the continental shelf will be settled through negotiations on the basis of mutual respect for each other's national independence and sovereignty in conformity with international law and practice.

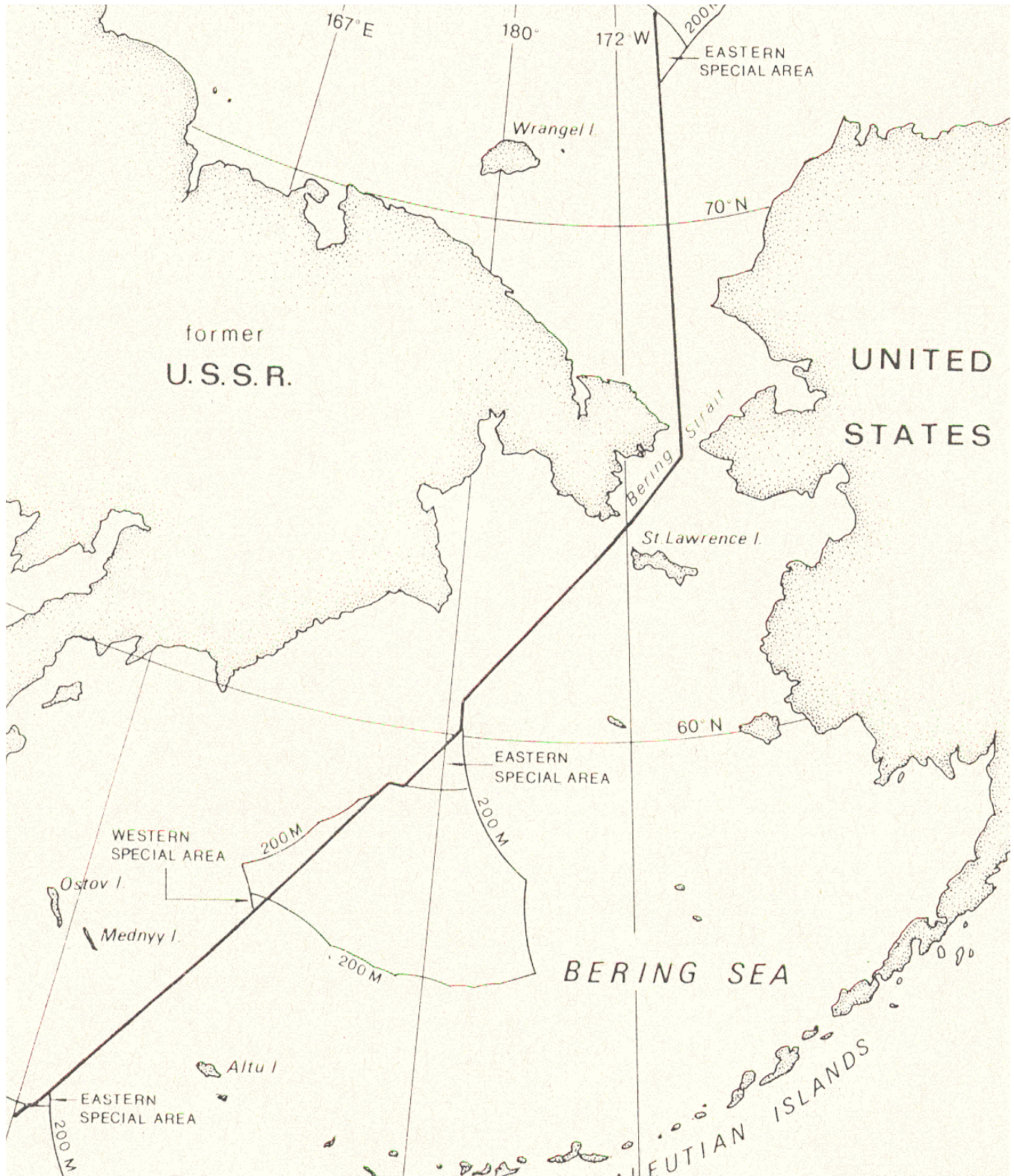
HANOI, 12 May 1982.

(Sourced by DOALOS/OLA- United Nations)

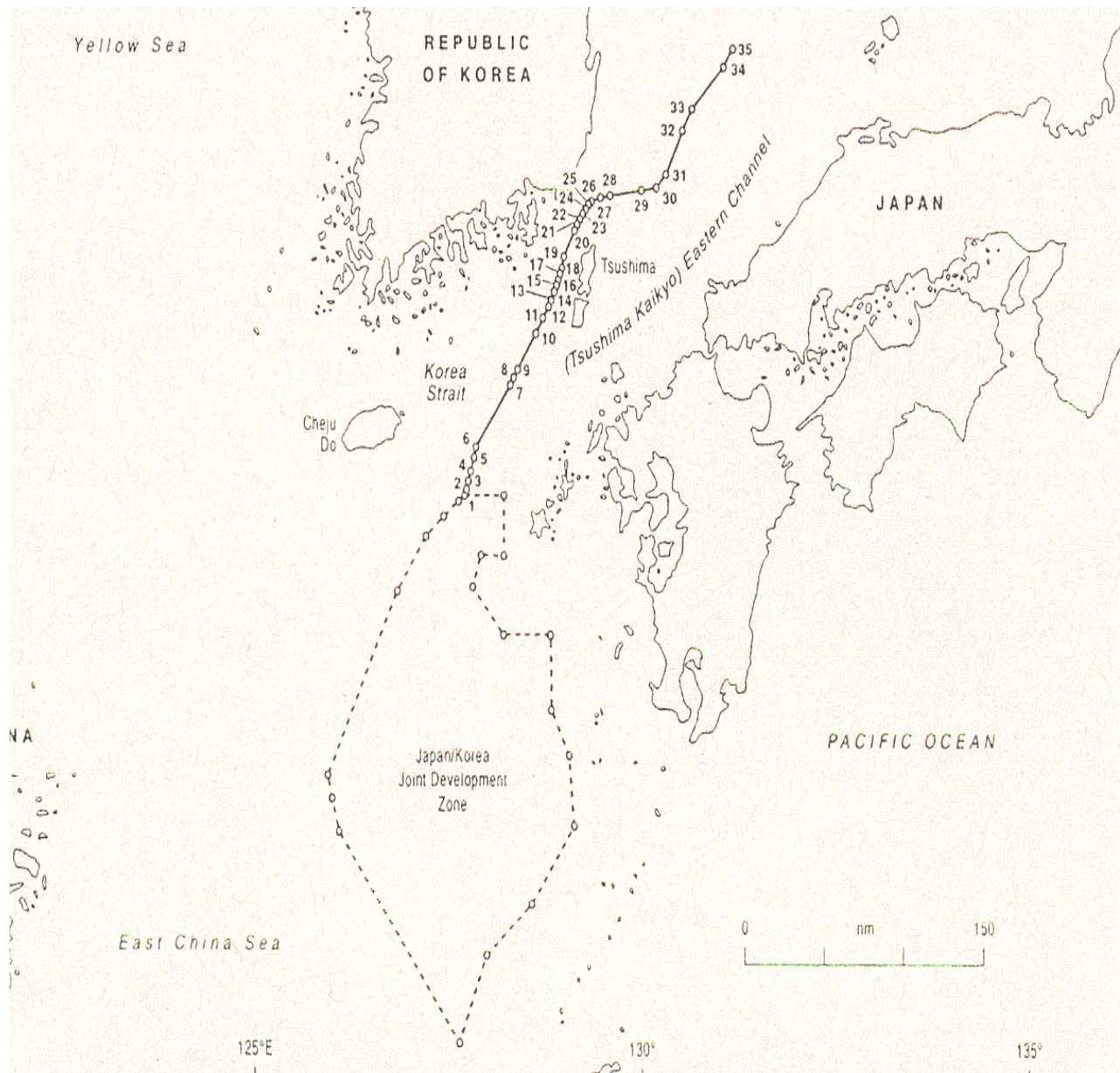




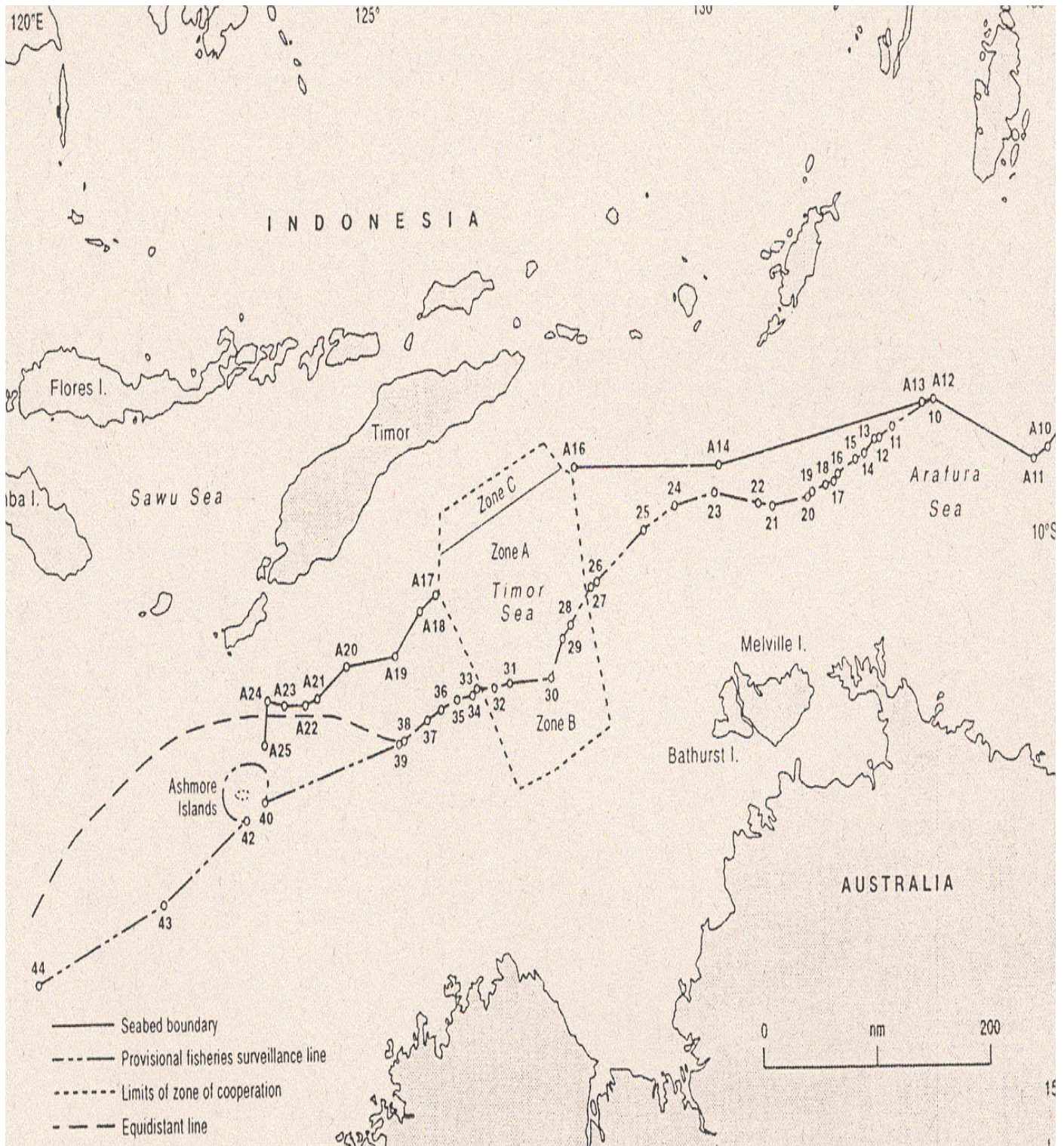


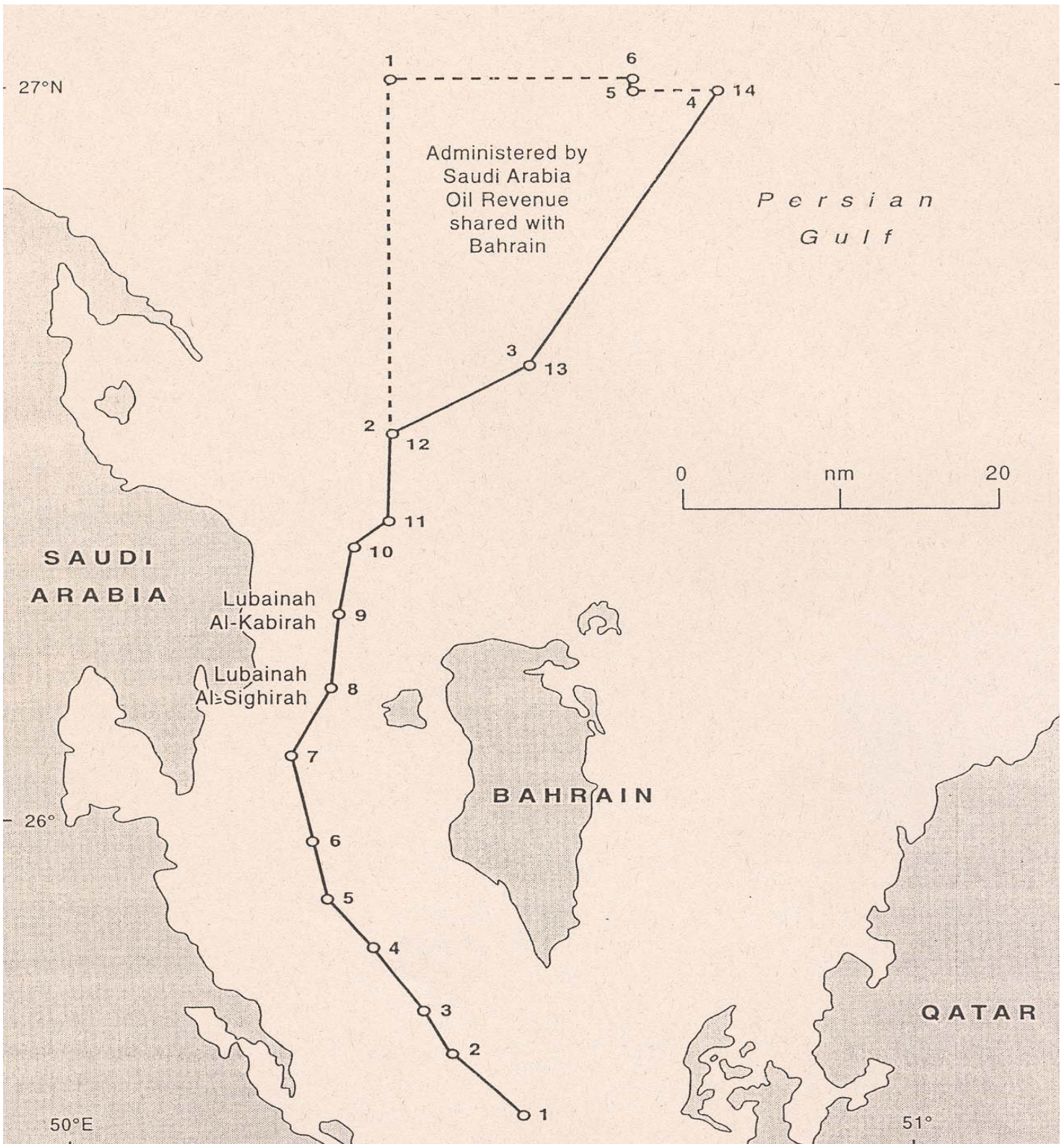


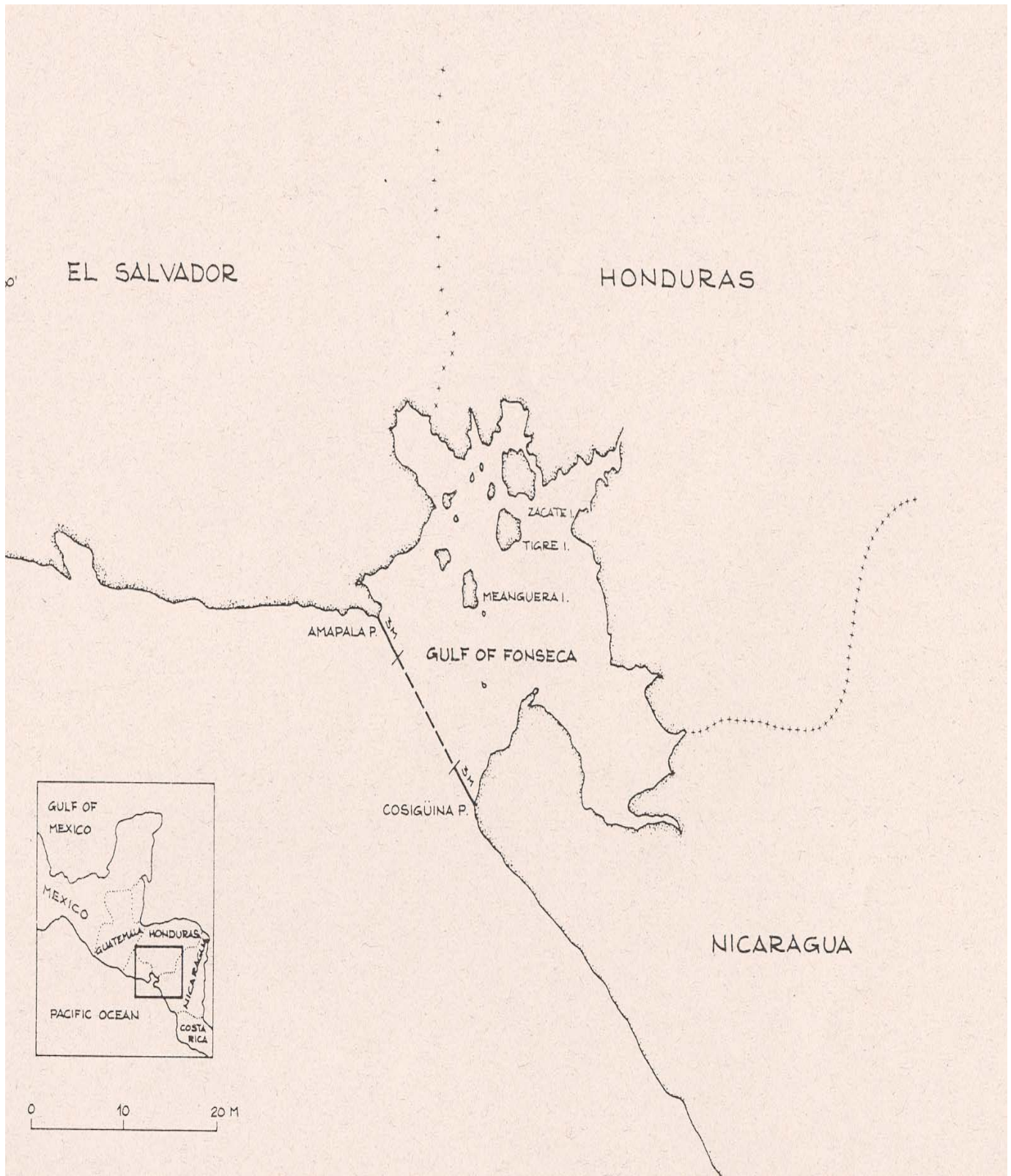
Appendix 40



Appendix 41







Appendix 44**Republic Act No. 3046 of 17 June 1961
An Act to Define the Baseline of the Territorial Sea of the
Philippines**

Whereas the Constitution of the Philippines describes the national territory as comprising all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on December 10, 1898, the limits of which are set forth in Articles III of said Treaty together with all the islands embraced in the treaty concluded in Washington, between the United States and Spain on November 7, 1900, and in the treaty concluded between the United States and Great Britain on January 2, 1930, and all the territory over which the Government of the Philippines Islands exercised jurisdiction at the time of the adoption of the Constitution;

Whereas, all the waters within the limits set forth in the above-mentioned treaties have always been regarded as part of the territory of the Philippines;

Whereas, all the waters around, between and connecting the various islands of the Philippines archipelagos, irrespective of their width or dimension, have always been considered as necessary appurtenances of the land territory, forming part of the inland or internal waters of the Philippines;

Whereas all the waters beyond the outermost islands of the archipelago but within the limits of the boundaries set forth in the aforementioned treaties comprise the territorial sea of the Philippines;

Whereas, the baseline from which the territorial sea of the Philippines is determined consist of straight lines joining appropriate points of the outermost islands of the archipelago; and

Whereas, the said baselines should be clarified and specifically defined and described for the information of all concerned;

Section 1. (See Republic Act No.5446 infra)

Section 2. All waters within the baselines provided for in section one hereof are considered inland or internal waters of the Philippines.

Appendix 45**President Decision No. 1051 of 1958 concerning the
Continental Shelf**

The President of the Republic,

Having reviewed the Decree issued on 15 January 1951 concerning the territorial waters, as amended by Presidential Decision No. 180 of 1958, and article 17 of the Syrian Penal Code issued under legislative Act No. 148 of 27 June 1949,

And acting on the recommendation of the State Council,
Hereby decides as follows:

The United Arab Republic shall exercise rights of sovereignty over the seabed and its subsoil in the continental shelf beyond the territorial waters to the point where the depth of the water is 200 meters and deeper to the limit within which the natural resources of the bottom can be exploited.

The United Arab Republic shall also have rights of sovereignty over the similar continental shelf with respect to the islands of the United Arab Republic.

The foregoing is without prejudice to the description of the waters over these areas as being part of the high seas, nor shall it be detrimental to free navigation in these waters and the air space over them.

The United Arab Republic shall have an exclusive right to explore, prospect and exploit all natural and mineral resources and other non-living resources as well as living organisms of the indigenous species which exist on the bottom of the sea and its subsoil in the areas indicated in the first article.

To exercise this right, the United Arab Republic may construct, maintain and operate the required installations, and establish round these installations security areas for a distance of 500 meters, in which it would take the necessary action for their protection.

Establishment or exercise of the rights referred to in the preceding articles shall not be contingent on the actual or symbolic possession of these areas or on the issues of special permits.

No foreign person, natural or judicial, may exploit the natural resources indicated in the second article, prospect or search for them or undertake any research whatsoever in the continental shelves unless by a decision of the President of the Republic.

The decision shall be published in the official Gazette, and shall enter into force as from the date of its publication.

Issued at the Presidential Palace on 19 Safa, 1378 Hijri (3 September 1958).

(Sourced by DOALOS/OLA-United Nations)

Appendix 46

**List of States Choosing
Means for Settlement Dispute**

State/with date of declaration	Choice of Procedure Declaration under article 287 (numbers indicate the order of preference, if number 1 appears more than one procedure, no order of preference has been specified)				Optional exceptions to applicability of Part XV, section 2, of Convention, under article 298
	International Tribunal for Law of the Sea (ITLOS)	International Court of Justice (ICJ)	Arbitral Tribunal Constituted in Annex VII	Special Arbitral Tribunal Constituted in Annex VIII	Declaration indicating that the state does not accept any one or more of the procedures provided for Part XV, Section 2 with respect to one or more of the categories of disputes
ALGERIA (upon ratification)	Algeria does not consider itself bound by the provisions of article 287, paragraph 1 (b), of the said Convention dealing with the submission of disputes to the ICJ. It declared that, in order to submit a dispute to the ICJ, prior agreement between all the Parties concerned is necessary in each case.				--
ARGENTINA (upon ratification)	1	-	-	2	Disputes specified in article 298, paragraph 1 (a), (b) and (c), of the Convention
AUSTRALIA (22 March 2002)	1	1	-	-	Disputes referred to in article 298, paragraph 1 (a), of the convention
AUSTRIA (upon ratification)	1	3	-	2	--
BELARUS (upon signature)	In respect of the prompt release of detained vessels or their crews	-	1	For disputes relating to fisheries, the protection and preservation of the marine environment, marine scientific research	Disputes referred to in article 298, paragraph 1(a), (b) and (c) of the Convention.

				and navigation , including pollution from vessels and by dumping	
BELGIUM (upon ratification)	1	1	-	-	--
CANADA (upon ratification)	1	-	1	-	Disputes referred to in article 298, paragraph 1(a), (b) and (c) of the Convention.
CAPE VERDE (upon ratification)	1	2	-	-	Disputes referred to in article 298, paragraph 1(b), of the Convention.
CHILE (upon ratification)	1	-	-	2	Disputes referred to in article 298, paragraph 1(a), (b) and (c) of the Convention.
CROATIA (4 November 1999)	1	2	-	-	--
CUBA (upon ratification)	-	Cuba rejected ICJ jurisdiction for any types of disputes	-	-	Consequently, Cuba does not accept the jurisdiction of the ICJ with respect to the provisions of article 297 and 298.
DENMARK (upon ratification)	-	1	Not accepted for any of the categories of disputes mentioned in article 298	-	Does not accept an arbitral tribunal constituted in accordance with Annex VII for any of the categories of disputes mentioned in article 298.
EGYPT (upon ratification)	-	-	1	-	--
Equatorial Guinea (20 February 2002)	No declaration under article 287 made				Disputes referred to in article 298, paragraph 1 (a), of the Convention
ESTONIA (upon accession)	1	1	-	-	--

FINLAND (upon ratification)	1	1	-	-	--
FRANCE (upon ratification)	No declaration under article 287 made				Disputes referred to in article 298, paragraph 1 (a), (b), and (c), of the Convention
GERMANY (upon accession)	1	3	2	-	--
GREECE (upon ratification)	1	-	-	-	--
GUINEA-BISSAU (upon ratification)	-	Guinea Bissau rejected the ICJ jurisdiction for any disputes.	-	-	Consequently, Guinea Bissau does not accept the jurisdiction of ICJ with respect to the articles 297 and 298.
HONDURAS (18 June 2002)	-	1	-	-	--
HUNGARY (upon ratification)	1	2	-	3 For all the categories of disputes specified therein	--
ICELAND (upon ratification)	No declaration under article 287 made				Iceland declared that under article 298 of the Convention the right is reserved that any interpretation of article 83 shall be submitted to conciliation under Annex V, section 2 of the Convention.
ITALY (upon ratification and on 26 Feb 97)	1	1	-	-	Disputes referred to in article 298, paragraph 1 (a), of the Convention
LATVIA (upon accession)	1	1	-	-	--
LITHUANIA (upon accession)	1	1	-	-	--
MEXICO (on 6 Jan 2003)	1	1	-	1	Disputes referred to in article 298, paragraph 1 (a), and (b), of the Convention

NETHERLANDS (upon ratification)	-	1	-	-	--
NICARAGUA (upon ratification)	-	1	-	-	With respect to the categories of disputes referred to in article 298, paragraph 1 (a), (b) and (c) of the Convention, Nicaragua accepted only jurisdiction of ICJ
NORWAY (upon ratification)	-	1	-	-	Norway does not accept an arbitral tribunal constituted in accordance with Annex VII for any categories of disputes referred to in article 298.
OMAN (upon ratification)	1	1	-	-	--
PORTUGAL (upon ratification)	1	1	1	1	Disputes referred to in article 298, paragraph 1 (a), (b) and (c), of the Convention
RUSSIA (upon signature and ratification)	In mater relating to the prompt release of detained vessels and crews	-	1	1 For disputes relating to fisheries, the protection and preservation of marine environment marine scientific research and navigation, including pollution from vessels and dumping	Disputes referred to in article 298, paragraph 1 (a), and (b), of the Convention
SLOVENIA (11 October 2001)	-	-	1	-	Slovenia does not accept an arbitral tribunal constituted in accordance with Annex VII for any categories of disputes referred to in article 298.
SPAIN (19 July 2002)	1	1	-	-	Disputes referred to in article 298, paragraph 1 (a), of the Convention.

SWEDEN (upon ratification)	-	1	-	-	--
TUNISIA (upon ratification and on 22 May 01)	1	-	2	-	Disputes referred to in article 298, paragraph 1 (a), (b) and (c) of the Convention.
UKRAINE (upon ratification)	In respect to the prompt release of detained vessels or their crews	-	1	1 For disputes relating to fisheries, the protection and preservation of marine environment marine scientific research and navigation, including pollution from vessels and dumping	Disputes referred to in article 298, paragraph 1 (a) and (b) of the Convention, unless otherwise provided by specific international treaties of Ukraine with relevant States.
UNITED KINGDOM & NORTH IRLAND (12 January 1998 and 7 April 2003)	-	1	-	-	Disputes referred to in article 298, paragraph 1 (b) and (c) of the Convention
TANZANIA (upon ratification)	1	-	-	-	--
URUGUAY (upon ratification)	1	-	-	-	Disputes referred to in article 298, paragraph 1 (b) of the Convention

* Sourced by United Nations Document, LOS Department, as of 09 September 2005.