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INTERNATIONAL BOUNDARY STUDY

Series A

LIMITS IN THE SEAS

No. 43

*STRAIGHT BASELINES: PEOPLE'S REPUBLIC OF CHINA*

The Geographer  
Office of the Geographer  
Bureau of Intelligence and Research

## STRAIGHT BASELINES: PEOPLE'S REPUBLIC OF CHINA

The Government of the People's Republic of China (PRC) on September 4, 1958, publicly claimed a 12-nautical-mile territorial sea to be measured from straight baselines. The Peking Review text of September 9, 1958, states:

### Document

#### *Declaration on China's Territorial Sea*

The Government of the People's Republic of China on September 4 issued the following declaration on China's territorial sea:

The Government of the People's Republic of China declares:

1) The breadth of the territorial sea of the People's Republic of China shall be twelve nautical miles. This provision applies to all territories of the People's Republic of China, including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands and all other islands belonging to China which are separated from the mainland and its coastal islands by the high seas.

2) China's territorial sea along the mainland and its coastal islands takes as its baseline the line composed of the straight lines connecting base-points on the mainland coast and on the outermost of the coastal islands; the water area extending twelve nautical miles outward from this baseline is China's territorial sea. The water areas inside the baseline, including Pohai Bay and the Chiungchow Straits, are Chinese inland waters. The islands inside the baseline, including Tungyin Island, Kaoteng Island, the Matsuo Islands, the Paichuan Islands, Wuchiu Island, the Greater and Lesser Quemoy Islands, Tatan Island, Erhtan Island and Tungting Island, are islands of the Chinese inland waters.

3) No foreign vessels for military use and no foreign aircraft may enter China's territorial sea and the air space above it without the permission of the Government of the People's Republic of China.

While navigating Chinese territorial sea, every foreign vessel must observe the relevant laws and regulations laid down by the Government of the People's Republic of China.

4) The principles provided in paragraphs 2) and 3) likewise apply to Taiwan and its surrounding islands, the Penghu Islands, the Tungsha Islands, the Hsisha Islands, the Chungsha Islands, the Nansha Islands, and all other islands belonging to China.

The Taiwan and Penghu areas are still occupied by the United States by armed force. This is an unlawful encroachment on the territorial integrity and sovereignty of the People's Republic of China. Taiwan, Penghu and such other areas are yet to be recovered, and the Government of the People's Republic of China has the right to recover these areas by all suitable means at a suitable time. This is China's internal affair, in which no foreign interference is tolerated.

Supplemental transmissions expanded slightly on the original text and elaborated on certain motives which may have underlain the original declaration.

Peking NCNA in English Morse to Pyongyang at 1334 GMT September 4 also carried the statement of The Chinese People's Republic regarding establishment of a 12-mile limit in adjacent seas:

"2--China's territorial sea along the mainland and its coastal islands takes as its baseline the line comprising straight lines connecting basepoints on the mainland coast and those on the coastal islands on the outer fringe, and the water area extending 12 nautical miles outward from the baseline is China's territorial sea. The water areas inside the baseline, including the Pohai Bay and the Chungchow Straits, are Chinese inland waters. The islands inside the baseline, including the Tungyin Island, the Kaoteng Island, the Matsu Islands, the Paichuan Islands, the Wuchiu Island, the Greater and Lesser Quemoy Islands, the Tatan Island, the Erhtan Island, and the Tungting Island are islands of the Chinese Inland waters."

The English Broadcast version said this in its final paragraph:

"The Taiwan and Penghu areas are still occupied by the United States by armed force. This is an unlawful encroachment on the territorial integrity and sovereignty of The People's Republic of China. Taiwan, Penghu, and such other areas are yet to be recovered, and the Government of the People's Republic of China has the right to recover these areas by all suitable means at a suitable time. This is China's internal affair, in which no foreign interference is tolerated."

Additional specific details on the PRC attitudes towards the law of the sea and the exploitation of the seabed are sparse. One major article, printed in Peking in 1959, conversations with foreign diplomats, ship incidents, "serious warnings" and "notices to mariners" constitute the principal source of our information on the subject.

#### STRAIGHT BASELINES

Due to the non-specific language of the PRC declaration and of the Convention on the Territorial Sea and Contiguous Zone, which authorizes straight baselines, it is not possible to draft a single authoritative system for the mainland. The language is subject to interpretation. Moreover, the Convention, to which the PRC is not party, requires the printing of the lines on charts to which due publicity must be given. The two attached maps illustrate a system which, while hypothetical in many places, may be substantiated in documents and in practice. Further, it should be noted that all islands mentioned in the PRC declaration are either occupied by the armed forces of the Republic of China (ROC) or their sovereignty is disputed with other states. Many of these islands are so situated, however, that they indicate the PRC position toward the drafting of straight baselines.

Basically, Peking appears to have taken a realistic and non-expansive attitude in drafting its straight baselines. Rather than stating that the lines join the outermost points of the outer islands, the declaration notes that mainland points intervene. This decision would act to shorten the length of straight baseline segments and hence to diminish the claim to internal waters and to territorial sea.

#### GULF OF POHAI

Fu Chu wrote in "Concerning the Question of our Country's Territorial Sea", Peking 1959, that Pohai may be closed: 1) as a normal bay, 2) by straight baselines, and 3) by a claim to historic waters. According to the Convention on the Territorial Sea and Contiguous Zone, the first claim is out of the question because of the width of the bay mouth; the second represents a distinct possibility since the mouth is fringed with islands; the third point, however, goes to the heart of the matter. While the bay has not been listed in standard compilations of historic bays, geographically Pohai is totally enclosed by Chinese territory and the entrance would be completely enveloped by normal 12 nautical mile sea arcs. Fu Chu also notes that "if bays or gulfs have important interest with respect to the national defense and economy of the coastal states and for a long time the coastal states have repeatedly exercised jurisdiction over the bays or gulf, they may be regarded as historic bays.... The famous Gulf of Pohai, Hanchow Bay, Gulf of Chu River mouth are important internal bays of our country. The reason for mentioning the Gulf of Pohai in the Declaration on the Territorial Sea is that it is the largest bay...of our country...it has been constantly under the practical jurisdiction of our country and not

only has our country always considered it as an internal sea, but also [such a fact] is internationally recognized. For instance, in 1864 when Prussia and Denmark were at war .... A Prussian gunboat Gazelle captured a Danish ship in the Gulf of Pohai, the then Chinese Government protested ... on the ground that Pohai is internal waters and compelled the Prussian Government to free the Danish ship."

He further stated that a 45-mile line would close the Gulf. The straight baselines represented on the attached map, which connect the islands by the shortest-possible segments, measures very nearly 45 nautical miles. It must be assumed that, since no other 45-mile line could be drawn, that the PRC Government intended to use the chain of islands as a natural closing line of the Gulf as a historic bay.

#### PEARL RIVER ESTUARY

The PRC Government, in an undated notice in mid-1960, stated "The waterway west of the Chiapeng and the Tankan islands at the mouth of the Pearl River (Chu) is part of China's inland [internal?] waters ... foreign vessels are prohibited to sail in the waterways west of the Chiapeng and Tankan islands." The notice specified two permitted routes with pilot pickup points for both Canton and Whampoa. A series of lines connecting the outermost points of these islands has been drawn on the attached southern chart. These straight baselines are probably reasonable representations of the Chinese straight baselines in this area. The lines, however, would enclose Macao as an enclave within PRC internal waters. The PRC might also have chosen to enclose Hong Kong by continuing the Tankan line eastward but apparently has specifically not taken this action. No complaint on violating PRC territorial waters has been made except when ships have attempted to penetrate the Chiapeng-Tankan lines. To the east of Hong Kong, a tabulation of "serious warnings" indicates the straight baselines are probably situated, as on the attached map, in such a manner as to anchor to the mainland.

#### HAINAN STRAIT

The original territorial sea declaration of the PRC claimed the strait (Chiungchow Strait) to be internal waters. In the "Regulations Governing the Passage of Non-military Foreign Vessels through the Chiungchow Strait" (undated), the waters again are declared "Chinese inland waters." Article 3 of the Regulations defines the strait water area as being bounded "temporarily" by a line joining the Hainan Head Light Beacon and the San Kao Lung Light Beacon on the east and by a line joining Cape Kami Light Beacon and Cape Lun Kou Light Beacon on the west. These lines are shown on the attached chart as straight baselines. The regulation also provides for channel navigation within the strait during daylight hours and for the time requirements for advance notification.

#### TAIWAN AND PENGHU

The language in the declaration appears very clear that separate straight baseline systems would be drawn about the two island groups of Taiwan and Penghu were they under the administration of the PRC. This position would appear to be consistent with state practice as the lines are not extravagantly drawn.

#### SOUTH CHINA SEA ISLANDS

The declaration of 1958 applies the straight baseline principle to the Tungsha (Pratas), Hsisha Islands (Paracels), the Chungsha (Macclesfield Bank) and the Nansha (Spratly Islands).

Pratas, under ROC administration, is a small atoll which does not lend itself to straight baselines.

Warnings against intrusions into claimed PRC territorial waters of the Paracels indicate that the straight baseline alignment shown on the attached maps is accurate in the north and east. However, the inclusion of Triton island (claimed by the PRC) with the system is not clear. In addition to Triton, South Vietnamese forces occupy Robert and Pattle islands in the Crescent Group of the western Paracels. These islands may be excluded from any system by the PRC on an ad hoc basis.

Macclesfield Bank is a submerged feature which does not qualify as a basepoint.

The Spratly Islands, because of their small size and wide dispersion, defy any logical system of straight baselines. Since these islands are not normally occupied by the PRC, intrusions have not been protested except for the Philippine occupation of Nanshan, Thitu, and Flat islands. ROC forces have been in charge of Itu Aba. A straight baseline system has no basis in fact.

The straight baseline system of the PRC, if it were in fact drawn as indicated on the attached charts, could be subject to protest by the United States Government; the U.S. would certainly object to any mid-oceanic archipelago lines on the grounds they could interfere with navigation. The United Kingdom, which protested the straight baselines shortly after they were declared, has subsequently drawn its own system. Presumably the U.K. would no longer object to reasonable straight baselines drawn by the PRC. With the exception of the Spratly Islands, the straight baselines shown on the attached charts would probably be quite consistent with international state practices. However, the possibility exists that the PRC may have drawn longer straight baselines than have been indicated. These longer lines would include a much higher ratio of water to land within the baselines and might not, as a result, be viewed as acceptable.