

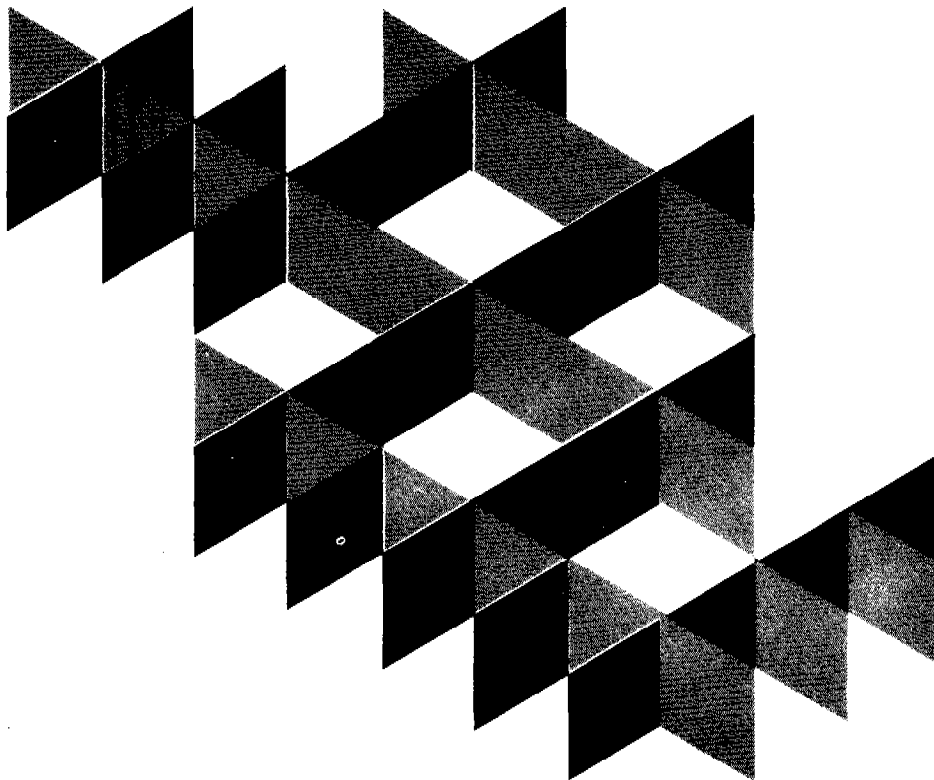
United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*



Limits in the Seas

No. 118

**Straight Baseline Claim:
Pakistan**



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No. 118

STRAIGHT BASELINES CLAIM:

PAKISTAN

December 20, 1996

**Office of Ocean Affairs
Bureau of Oceans and International
Environmental and Scientific Affairs
U.S. Department of State**

Introduction

The Government of Pakistan published a Ministry of Foreign Affairs Notification in the August 29, 1996, *The Gazette of Pakistan* which included a listing of geographic coordinates defining the straight baselines for Pakistan. From these straight baselines Pakistan will measure the breadth of its territorial sea, contiguous zone, exclusive economic zone, and continental shelf. These baselines are claimed by authorization given in the 1976 Pakistan law on Territorial Waters and Maritime Zones Act. Paragraphs 2(3) and (4) of this 1976 law state:¹

(3) The baseline from which such limit [territorial waters] shall be measured and the waters on the landward side of which shall form part of the internal waters of Pakistan shall be specified by the Federal Government by notification in the official Gazette.

(4) Where a single island, rock or a composite group thereof constituting a part of the territory of Pakistan is situated off the main coast, the baseline referred to in sub-section (3) shall be drawn along the outer seaward limits of such island, rock, or composite group.

The August 1996 publication represents the first claim made by Pakistan for straight baselines. In addition, on September 9, 1996, the Pakistan Foreign Ministry published a statement in Islamabad on the same subject (see Annex for the text of this statement). The August 29 Notification states:

Statutory Notifications (S.R.O.)
GOVERNMENT OF PAKISTAN
MINISTRY OF FOREIGN AFFAIRS
NOTIFICATION
Islamabad, the 29th August, 1996

S.R.O. 714 (I) 96.- In exercise of the powers conferred by sub-section (3) of section 2 of Territorial Waters and Maritime Zones Act, 1976 (LXXXII of 1976), the Federal Government is pleased to specify below the baseline from which the limits of the territorial waters, the Contiguous Zone, the Exclusive Economic

¹ Territorial Waters and Maritime Zones Act, 1976; entered into force December 31, 1976. Found in Robert W. Smith, *Exclusive Economic Zones Claims: An Analysis and Primary Documents*. Martinus Nijhoff Publishers, 1986, p. 357.

Zone and the Continental Shelf shall be measured, namely:²

- (a) 25° 02.20' N, 61° 35.50' E
- (b) 25° 00.95' N, 61° 46.80' E
- (c) 25° 05.30' N, 62° 21.00' E
- (d) 25° 06.30' N, 63° 51.01' E
- (e) 25° 09.00' N, 64° 35.20' E
- (f) 25° 18.20' N, 65° 11.60' E
- (g) 24° 49.45' N, 66° 40.00' E
- (h) 23° 52.80' N, 67° 26.80' E
- (j) 23° 47.30' N, 67° 35.90' E
- (k) 23° 33.90' N, 68° 07.80' E

The waters within the aforesaid straight baseline shall form the internal waters of Pakistan.

Basis for Analysis

The United Nations Convention on the Law of the Sea (LOS Convention) reflects customary international law for the principles that underlie the proper and legal establishment of baselines.³ The rules for drawing baselines are contained in articles 5-11 and 13-14 of the LOS Convention. Article 5 states that "except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast." Paragraph 1 of Article 7 is the paramount paragraph that establishes the geographical conditions that must be met should a coastal state elect to claim straight baselines in particular locations. This paragraph states that straight baselines may be drawn only in two specific geographic situations, that is, (a) "in localities where the coastline is deeply indented and cut into", or (b), "if there is a fringe of islands along the coast in its immediate vicinity".⁴

The purpose of authorizing the use of straight baselines is to allow the coastal State, at its discretion, to enclose those waters which have, as a result of their close interrelationship with the land, the character of internal waters. According to the LOS Convention, "the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject

² There was no point (i) in the listing published in The Gazette of Pakistan.

³ Pakistan signed the LOS Convention but, as of December 20, 1996, had not yet deposited its instrument of ratification with the United Nations.

⁴ LOS Convention, Article 7(1); also found in Article 4(1) of the Convention on the Territorial Sea and the Contiguous Zone 15 U.S.T. 1606, T.I.A.S. No. 639, 516 U.N.T.S. 205. Pakistan is not party to the 1958 Convention on the Territorial Sea and the Contiguous Zone.

to the regime of internal waters".⁵ By using straight baselines, a State may also eliminate complex patterns, including enclaves, in its territorial sea, that would otherwise result from the use of normal baselines.⁶

A United Nations study stated that when determining whether "conditions apply which would permit the use of straight baselines it is necessary to focus on the spirit as well as the letter of the first paragraph of article 7" (of the LOS Convention).⁷ And, as a noted geographer has stated, "proper straight baselines usually have a number of segments, each composed of several legs, interspersed with sections of the low-water mark of island and mainland coasts....The length of individual legs is short and the baseline is rarely more than 24 nautical miles from an exposed coast".⁸ Article 14 of the LOS Convention acknowledges that a combination of methods is appropriate for determining the type of baselines in particular areas: "The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions."

Pakistan's coastline does not meet either of the two LOS Convention geographic conditions required for applying straight baselines. And, for the most part, the waters enclosed by the new straight baseline system do not have the close relationship with the land, but rather reflect the characteristics of the territorial sea or high seas. In these areas it would be appropriate to use the normal baseline, the low-water mark.

Neither the LOS Convention nor the Convention on the Territorial Sea and the Contiguous Zone place a specific distance limit on the length of a straight baseline. However, several analyses have suggested limits ranging from 24 to 48 miles.⁹ The position of the United States is that as a general

⁵ LOS Convention, article 7(3).

⁶ J. Ashley Roach and Robert W. Smith (Roach and Smith), *United States Responses to Excessive Maritime Claims*, 2nd edition, Martinus Nijhoff Publishers, 1996, p.60.

⁷ United Nations, Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea, 1989, p.17.

⁸ Victor Prescott, The Maritime Political Boundaries of the World, 1985, p.69.

⁹ See Roach and Smith, p. 64 (24 miles); Robert D. Hodgson and Lewis M. Alexander, "Towards an Objective Analysis of Special Circumstances: Bays, Rivers, Coastal and Oceanic Archipelagoes and Atolls," *Law of the Sea Institute Occasional Paper No. 13*, 1971, p.8 (45 miles); Peter B. Beazley, *Maritime Limits and Baselines: A Guide to their Delineation*, The Hydrographic Society Special Publication No. 2 (2nd ed., revised August 1978), p.9 (45 miles); Limits in the Seas No. 106, "Developing Standard Guidelines for Evaluating Straight Baselines", August 31, 1987 (48 miles). All miles in this

rule baseline segments should not exceed 24 miles.¹⁰

The 24-mile maximum segment length is implied from a close reading of the relevant articles of the LOS Convention. Article 7(1) speaks of the 'immediate vicinity' of the coast. Article 7(3) states that 'the sea areas lying within the line must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.' In both of these descriptions, the implication is strong that the waters to be internalized would otherwise be part of the territorial sea. It is difficult to envision a situation where international waters (beyond 12 miles from the appropriate low-water line) could be somehow 'sufficiently closely linked' as to be subject to conversion to internal waters.

This implication is reinforced by article 8(2) which guarantees the right of innocent passage in areas converted to internal waters by straight baselines. Innocent passage is a regime applicable to the territorial sea (with a maximum breadth of 12 miles). Preservation of innocent passage carries over pre-existing rights in waters that were territorial in nature before the application of straight baselines. Given this theme of linkage to territorial waters, it follows that, as a rule, no straight baseline segment should exceed 24 miles.¹¹

Analysis of Pakistan's Straight Baselines¹²

From where its land boundary with Iran terminates on the coast to Sonmiani Bay, just north of Karachi, Pakistan's coast extends in a general west to east direction for about 250 miles. (see map) From this bay to the Pakistan- India land boundary terminus, the general direction of the coast is northwest- southeast, for a distance of approximately 140 miles. While there are several locations along the coast where river or bay closing lines may be drawn- along the many creeks of the Indus River system- the coastline itself generally is relatively smooth and void of deep indentions. There are no

study are nautical miles. One nautical mile equals 1,852 meters.

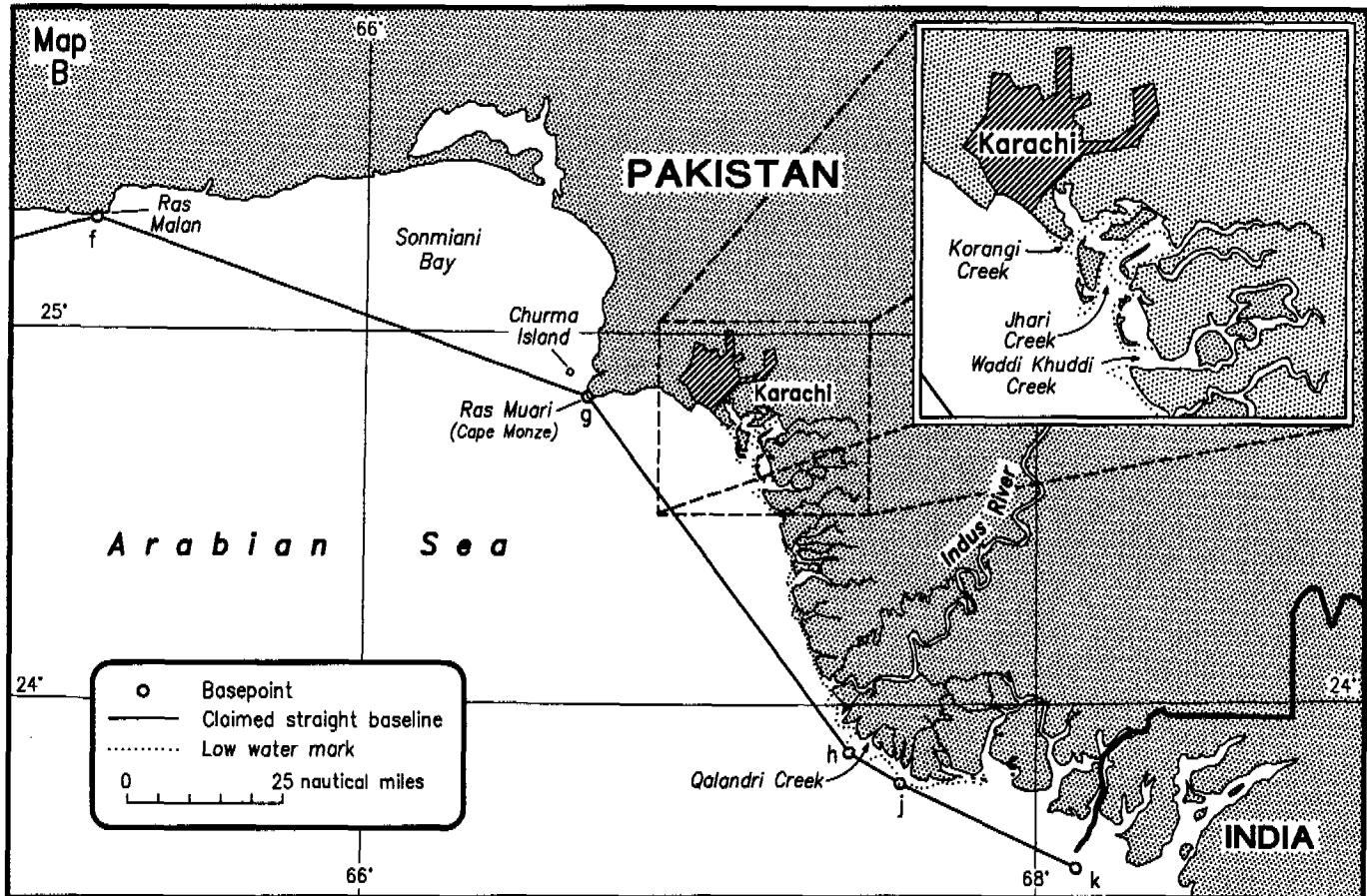
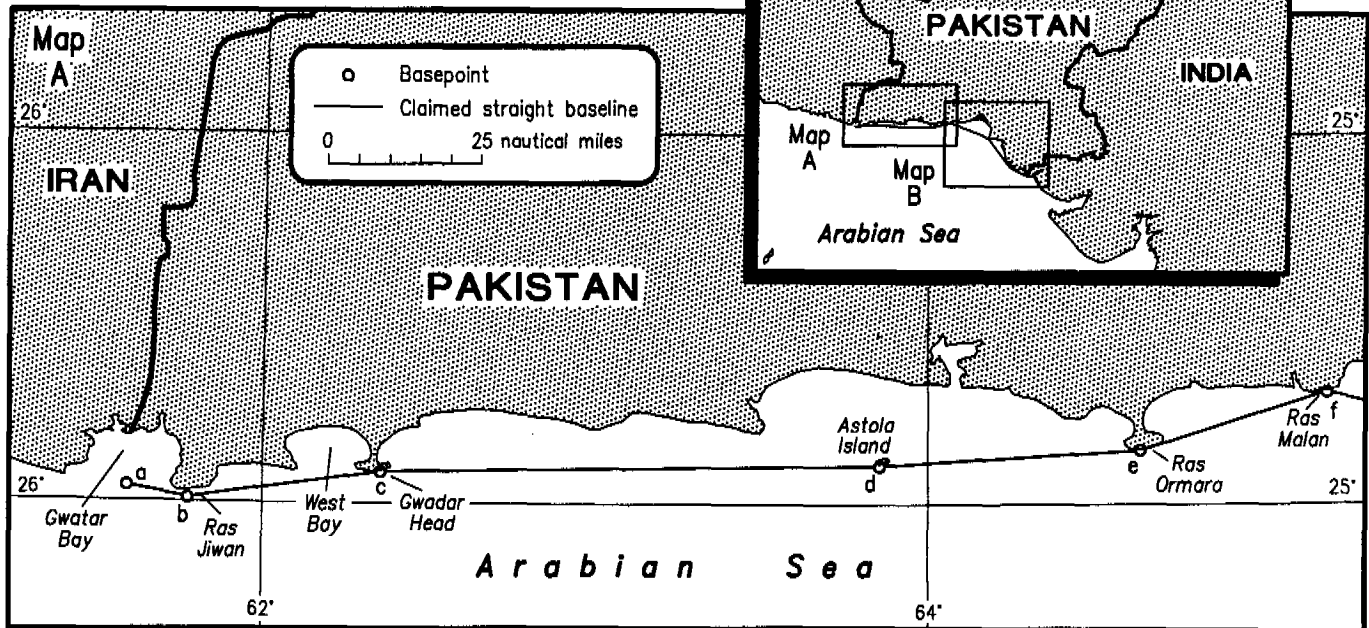
¹⁰ U.S. Department of State Dispatch Supplement, "Law of the Sea Convention, Letters of Transmittal and Submittal and Commentary", Vol.6, February 1995, p.8.

¹¹ Roach and Smith, footnote 24, pp. 64-65.

¹² Analysis of this baseline claim was done using the following charts produced by the National Imagery and Mapping Agency (NIMA, formerly Defense Mapping Agency): 62038 (1:1,000,000), 63040 (1:300,000), 63050 (1:300,000), and 63060 (1:300,000).

Straight Baseline Claim: Pakistan

Ministry of Foreign Affairs Notification No. 714, August 29, 1996



Names and boundary representation are not necessarily authoritative

areas off the Pakistani coast that could be characterized as "fringed with islands".

Pakistan's baseline claim creates nine baseline segments that extend along the coast for 396 miles. The segments range in length from 10 miles (segment h-j) to 85 miles (segment f-g; see tables 1 and 2).¹³ There are only two segments less than 24 miles in length, with the average being 44 miles. The lengths of the seven baseline segments that exceed 30 miles are indicative of the overall judgment that this baseline system does not meet the criteria set forth in the LOS Convention.

Segment (a)-(b), 10.3 miles in length, is a line extending from the entrance of Gwātar Bay to Ras Jiwan. Basepoint (a) is not situated on any land territory as it is located at the middle of the entrance to Gwātar Bay, a body of water shared with Iran.¹⁴ From a legal perspective, the LOS Convention only addresses bays "the coasts of which belong to a single State."¹⁵

Table I
Pakistan's Straight Baselines

Distance between base points
(nautical miles)

a-b = 10.3	b-c = 31.4	c-d = 81.7
d-e = 40.2	e-f = 34.3	f-g = 85.2
g-h = 70.8	h-j = 10.0	j-k = 32.2

¹³ There are no geodetic parameters given in the Notification for the Datum of the baseline locations.

¹⁴ By Decree-Law of July 21, 1973, Iran claimed straight baselines. Point 25 of its claim was defined as being situated at the point of intersection of the meridian 61° 37'03" E., and the straight line joining the shorelines at the entrance of the Gwādar Bay at the low-water line. Given that neither Iran nor Pakistan has provided technical information on the Datum, it is difficult to determine if Iran's point 25 defines the same location as Pakistan's point (a).

¹⁵ LOS Convention, Article 10(1).

Table 2
Length of Pakistan's
Baseline Segments

Length (nautical miles)	Number of segments (percent of total)
Less than 24	2 (22.2%)
24.1 to 48	5 (55.5%)
48.1 to 100	2 (22.2%)
9 Segments = 396.1 n. miles	
Longest = 85.2 n. miles	
Average = 44.0 n. miles	

Segment (b) - (c) connecting Ras Jiwan to Gwādar Head is not a proper baseline under the criteria of the LOS Convention. Landward of this segment, however, an Article 10 bay closing line (about 10 miles in length) can be drawn to the east of Gwādar, closing off West Bay.

Segments (c)-(d) connect Gwādar Head to supposedly Astola Island (as plotted, point (d) is situated in the water). And, segment (d)-(e) connects this Astola Island point to Ras Ormara. Except for bay closing lines that could be drawn at Gwādar East Bay and near Ras Ormara, this part of the Pakistan coast is relatively smooth, with only slight curvatures. Astola Island is the only island in the area.

Segment (e)-(f) extends from Ras Ormara to Ras Malan to the northeast. A bay closing can be drawn to the east of Ras Ormara, but otherwise the coastline is smooth and a straight baseline is not warranted.

Baseline segment (f)-(g) extends southeastward from Ras Malan to Ras Muari (Cape Monze), just to the west of Karachi. The coastline, while it changes its general direction from east-west to northwest-southeast, remains smooth, with no indentations and only one island (Churma Island). The normal baseline, or low-water line, would be the proper baseline here.

The claimed straight baseline system continues to point (h) which plots in the water just seaward of a large low-water area at Qalandri Creek.¹⁶ It is along the next several segments where the Indus River empties into the sea through numerous entrances, labeled as "creeks". There is a short segment of the coastline (approximately 11 miles in length), just to the southeast of Karachi, in which there are several islands at the mouths of the Korangi, Jhari, and Waggi Khuddi Creeks. Further along this part of the Pakistani

¹⁶ As plotted on NIMA 63060 (1:300,000), 7th ed., Feb. 19, 1994.

coast there are numerous creeks that could have closing lines drawn across their entrances. But, segment (g) - (h), as drawn, is excessive and encloses waters that should remain either territorial sea or high seas.

Segment (h)-(j) supposedly connects two points of extensive low-water areas. The proper method here would be to draw the territorial sea from the low-water mark.

The final segment, (j)-(k), extends to a water area about eight miles seaward of the nearest Pakistani land (and about 4 miles from the nearest Indian territory). Landward of this segment are several creeks across which closing lines could be drawn.

Thus, for the vast majority of the Pakistani coastline, the low-water line would be the appropriate baseline. There are many areas where bay and river closing lines could be employed. Only in a couple of local areas could straight baselines be justified.

ANNEX**Pakistan Notifies Establishment of Baselines****Islamabad, September 9, 1996**

Pursuant to the United Nations Convention on the Law of the Sea 1982, as well as Pakistan's Territorial Waters and Maritime Zones Act 1976 the Government of Pakistan has issued a notification specifying its baseline from which limits of the territorial waters, the contiguous zone, the Exclusive Economic Zone and Continental Shelf shall be measured in accordance with the following coordinates:

(a) to (k) - *[see Text for the geographic coordinates]*

The waters within the aforesaid straight baselines shall form the internal waters of Pakistan. This was part of the process of delimiting the maritime boundaries with countries with adjacent (India and Iran) and opposite (Oman) coasts. It was essential for Pakistan to first establish the baseline as all the zones of sovereignty and national jurisdictions shall be measured from the baseline to be established by Pakistan pursuant to section 2 paragraph (3) of the Territorial Waters and Maritime Zones Act 1976.

