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U.S. DEPARTMENT OF STATE  
DIRECTOR OF INTELLIGENCE AND RESEARCH

*Hong Kong / Dumas  
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*Research  
Memorandum*

REA-3, January 8, 1969

To : The Secretary  
Through: S/S  
From : INR - Thomas L. Hughes *Thomas L. Hughes*  
Subject: Communist Assertions of Sovereignty Over Waters In the Vicinity of Hong Kong

The recent halting of a number of merchant ships in waters just south of Hong Kong has raised the question of Chinese Communist claims to waters in the mouth of the Pearl River. A chronology of clashes in this area since the Communist assumption of power, and a discussion of Chinese and British attitudes towards access to the Colony by sea, are presented below. The conclusion is reached that the recent Communist actions do not represent a heightened belligerency on Peking's part.

Abstract

The publicity given to the halting in late October by Communist Chinese gunboats of an American freighter in Chinese-claimed waters south of Hong Kong focuses attention on the spate of similar, but generally unpublicized, confrontations that have been reported this year. A review of Chinese claims and attempts to assert them indicates that a modus vivendi has developed in the Pearl River estuary which permits access to the Colony by merchant and naval vessels within unofficial but well understood geographical limits. This Memorandum sketches the development of this modus vivendi since 1950 and speculates that the increase in reported incidents is the result not of a renewed Communist Chinese bellicosity but of, among other things, a reaction to the probable increase in "intrusions" into the Lema Channel by foreign

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merchant ships captained by masters unfamiliar with the unpublicized local ground rules. In marked contrast to their actions in the early 1950's, the Communist Chinese have not resorted to force, but have only sought to warn transgressing ships and to insure that they quickly returned to the approach lane east of the Lema and Chiapeng Islands. (See Map "A").<sup>1/</sup>

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<sup>1/</sup> The names used in this RM are those commonly appearing on British charts and maps of this area and are not necessarily those sanctioned by the US Board On Geographic Names. The most commonly used part of the Lema Channel is the eastern mouth between Tankan and Potoi Islands sometimes referred to as the East Lema Channel. In this RM the words "inner channel" are used to designate the part between Wailingting and Tankan on the northeast and Wenwei and Tawan on the southwest.

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"Thunderhead" Challenged

On the morning of October 28, 1968, the six thousand ton American freighter ss "Thunderhead" passed through the Taitami Channel from the South China Sea into the Lema Channel in the estuary of the Pearl River to the south of Hong Kong's southern border (see Map "B"). In so doing the American ship entered waters claimed by the Communist Chinese. The Lema Channel proper is bordered on the northwest by the Wanshan Islands, the Sanmen Islands, and Wailingting Island. On the southeast it is separated from the South China Sea by the Chiapeng and Lema (or Lima) Islands. The "Thunderhead" started into the Taitmai Channel at about 7:40 a.m., passing close to both the Chiapeng and the Lema Islands. At about 8:16 a.m. the ship was approached by two Chinese "Shanghai" class motor gunboats (PGM's) which blinkered it to "halt" and that it was "violating Chinese territorial waters." According to one of the "Thunderhead's" crew, as quoted in a Hong Kong newspaper, the PGM's first cruised up and down beside the freighter, then circled the ship, and later criss-crossed its bow. The freighter's captain stopped his engines momentarily, but then got up speed and continued on to Hong Kong. Very flares were fired by the gunboats, presumably as a further signal to stop, but although guns had been uncovered and trained upon the "Thunderhead" no other action was taken. The freighter's master had been radioed by the ship's Hong Kong agents to avoid the interior passage to Hong Kong per standing orders of the Hong Kong Marine Department, but had chosen to ignore this advice because he was late to pick up his pilot off Wanglan Light and the interior passage is slightly shorter.

Hong Kong Square Boundary

Technically speaking, the borders of the Colony were delineated in the map appended to the Sino-British Convention of June 9, 1898. These are clearly shown in Map "A". The southern-most portion of the 1898 boundary, known in British parlance as the "Square Boundary," is 22° 09' north latitude. The other straight portions are 114° 30' east longitude in the east and 113° 52' east longitude in the west. The Department of State's study of the China-Hong Kong boundary states that:

"While it is ordinarily recommended that international boundaries not be shown in the oceans, this boundary is to a degree an exception. The 1898 convention specifically delineates the water boundary and, as a result, it has almost the same validity as the terrestrial frontier."<sup>1/</sup>

In practice, however, the Hong Kong Government (HKG), the Foreign Office, and the Royal Navy, bowing to the realities of Hong Kong's political situation, and probably recognizing the impropriety of claiming title to parts of the high seas, have not tried to maintain or enforce this boundary with any consistency.

<sup>1/</sup> State Department, the Geographer, China-Hong Kong Boundary, Intn'l Boundary Study No. 13, Washington, April 15, 1962, p.3.

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Sino-British Relationship

The relationship between the Hong Kong and British Governments on the one hand and the Communist Chinese on the other has always been characterized by the subtle interplay of legalistic "i"-dotting and flexible pragmatism. It is not surprising, therefore, that, although the British technically still claim jurisdiction over the area within the Square Boundary, and to a certain extent exercise jurisdiction over territorial waters adjacent to that boundary in Chinese-claimed inland waters (i.e., that portion which skirts Lantau Island), a considerable amount of flexibility has been shown by the Hong Kong Government in sensitive areas of the water boundary. This attitude is to a great extent dictated by the position of weakness from which the Colony deals with its gigantic neighbor, but to an almost equal extent it is the result of eighteen years of experience during which Communist China has repeatedly demonstrated its unwillingness to do away with the British presence.

Communist Chinese Attitude Towards Hong Kong

On September 29, 1949, the Communist Chinese unilaterally declared that treaties concluded by previous Chinese governments would not be valid unless specifically reaffirmed by Peking. In the case of Hong Kong and the Portuguese Overseas Province of Macau, the Communists have consistently maintained that they are Chinese territory occupied on the strength of unequal treaties and that they will be recovered "without fail" by the Chinese people at "an appropriate time." That the time is not yet "appropriate" for the recovery of Hong Kong was demonstrated in 1967 when the violent struggle of local Communists against the HKG was phased out by Peking. As a result, the Chinese attitude towards Colony borders has shown the same flexibility as the British attitude and a modus vivendi can be said to have developed. Incidents which have molded and marked the extent of this tacit understanding are discussed below.

Communist Activities, 1950-54

After the Opium Wars and throughout the first half of the 20th Century the waters of the Pearl River estuary were considered by most authorities to be international waters and were freely traveled by merchant vessels, warships, and yachts of all nations. After the Nationalist Chinese defeat in 1949 the Communist Chinese effectively if not legally established their claim that the area of the Pearl River estuary bordered by the Wanshan, Chiapeng, and Lema Islands was a part of China's inland waters and closed what up to that time had been the international waterway west of the Chiapengs and Lemas to foreign ships. This resulted from two parallel actions on the part of the Communists: one was to react violently to "intrusions" into this area by foreign craft, and the other to let it be known through Hong Kong shipping circles that unless specifically authorized to approach Canton through these waters foreign ships were to remain to the east of the Chiapengs and the Lemas.

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Clashes in the Pearl River

Violent reaction by Communist forces was particularly severe in the first year of Communist rule, 1950, when at least eighteen incidents occurred in which Chinese batteries on the Namtou Peninsula, Lasawei, Wailingting, and Tankan fired on British, American, and other foreign vessels including a Royal Navy destroyer, a frigate, and a patrol boat. This fire was directed at craft in waters immediately adjacent either to the southern or to the western Square Boundary lines. In 1951, the number of reported incidents declined to eight, all but one of which involved merchant vessels. In 1952, there were five such incidents, but four of the five involved Royal Navy or HKG craft. The most serious occurred October 13, 1952, when the regular Hong Kong-Macau ferry ss "Tak Shing" was fired on by Chicom gunboats in the Lantau Channel and forced into Lasawei where two Chinese passengers were removed. HMG "Mounts Bay," responding to the ferry's distress call, was fired on while still in Hong Kong waters about 8,000 yards from Lasawei. "Mounts Bay" returned the fire and silenced the Communist guns. In the following year only four incidents were reported. In one of them a British officer and six enlisted men were killed September 9, when Hong Kong ML 1323 was fired on by a Chicom gunboat west of the Hong Kong western boundary. In addition, on March 21, 1953, the US-owned yacht "Kert" was seized in the same general area as the ML 1323 incident and the three Americans on board were taken into custody. In 1954, only one incident was reported, i.e., the British Forces yacht "Elinor" which was taken on June 4 and her compliment of six officers and seven enlistedmen detained until July 10. During this same period there were countless press stories of Communist attacks on Hong Kong-Macau "native" or "Chinese" shipping (i.e., junks, barges, etc.) and fishing craft. In 1950-51, as a result of these violent encounters, the Hong Kong Marine Department issued an advice to mariners to avoid the estuary when approaching Hong Kong and recommended that ships remain at least five miles away from the North East Head of Tankan Island. This was reinforced by emanations from the Hong Kong office of the (Communist) Chinese Ocean Shipping Company, all of which seems to have resulted over the four years discussed above in general awareness of and compliance with the Chinese ground rules by British and third country shipping on regular runs in this area.

Chart Shows 10-mile Closing.

The successful culmination of Peking's campaign to establish its authority west of the Lema and Chiapeng Islands seems to have been behind the unpublicized delivery to the Hong Kong Government in September 1954 of a chart of the area marked to show a 3-mile limit for Chinese waters and a 10-mile closing line for the mouth of the Pearl River. Unfortunately, a copy of the chart was not available at the time this Memorandum was prepared, but it is presumed that the Communists took cognizance of a 1951 International Court of Justice ruling that the 10-mile rule for bays was not necessarily contrary to international law and

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left "the choice of delimitation, under certain criteria recognized in international law, to the national state."<sup>1/</sup> An interesting legal oddity of the 1954-58 period was a December 1955 ruling by a Hong Kong Puisne Judge that a robbery which had taken place 250 yards off the southwestern tip of Lantau was within British jurisdiction.<sup>2/</sup> In reply to the defense counsel's assertion that the area was not within British territory, Crown Counsel claimed that these waters had been patrolled by British forces for some time and that there was no indication that the Communist Chinese Government had ever challenged British jurisdiction over the area or had ever sought to exercise its own jurisdiction. No mention was made by Crown Counsel of the events narrated in the previous paragraph. The Chinese Communists appear to have ignored the import of this ruling and routine traffic between Hong Kong and Macau has been permitted to continue without serious interruption.

#### Peking Claims 12-mile Territorial Sea

On September 4, 1958, Peking announced its claim to a 12-mile territorial sea measured from straight baselines. The pronouncement occurred at the height of the Taiwan Straits crisis when US Navy ships were convoying Nationalist Chinese vessels to within three miles of the Offshore Islands, and this seems to be the main reason for the timing of the claim. It also appears that the Communist Chinese were conversant with the provisions of the Convention on the Territorial Sea and the Contiguous Zone adopted that April at the UN Conference on the Law of the Sea. Although conferees did not reach agreement on the question of the breadth of the territorial sea, the Convention did provide for delineation of such a sea utilizing the straight base line method "where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity" (Article 4) and, alternatively, also provided for a 24-mile closing line (Article 7).<sup>3/</sup> When it announced its claim Peking did not make any reference to how a baseline would be laid down across the mouth of the Pearl River. It is worth noting that legal experts in London, when the matter was under discussion by the British in 1960, concluded that under Article 7 the Chinese could draw a closing line across the estuary in a south-westerly direction from the edge of their territory on South West Point at the northwest mouth of Deep Bay and concluded that the waters seaward of this line, up to the limits of the territorial sea, are territorial sea, and on the landward side are Chinese internal waters. The authorities also concluded that the Chiapengs and Lemas could be said to constitute a "fringe of islands" under Article 4 (see below).

<sup>1/</sup> See Shalowitz, Shore and Sea Boundaries, US Coast & Geodetic Survey Publication 10-1, Vol. 1, pages 72 and 73.

<sup>2/</sup> See also "Royal Navy Operational Practice," page 12.

<sup>3/</sup> Shalowitz, Appendix I and pages 212-230.

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"Magar" Notes

Although Peking announced its 12-mile claim in September 1958 and immediately began issuing "serious warnings" regarding "intrusions" into Chinese territory by American warships and planes, the first and, so far as can be ascertained, only public protest specifically related to the sea approach to Hong Kong was a result of the Sino-Indian border dispute. On September 7, 1959, the Indian Embassy was given a note by the Chinese stating that:

"On August 9, 1959, the Indian LST "Magar" on its way to Hong Kong, instead of taking the international route south-east of Hong Kong and east of the Tankan Islands, unlawfully intruded into China's territorial sea from the direction southwest of the Wansan Islands outside the mouth of the Pearl River...and sailed through the waterway west of the Chiapeng and Tankan Islands of China."<sup>1/</sup>

The note also protested a similar trip by the Indian cruiser "Mysore" the previous July and, once again referring to the outside passage as "the international route always followed by ships of other countries" and to failure to "heed" the warnings served by the Chinese coast guard units," attributed it all to "India's planned military provocations against China." This protest, probably to Peking's dismay, opened something of a Pandora's box because the Indians in their reply dated six days later baldly stated that the route followed by the "Magar" and the "Mysore" is:

"...an internationally recognized approach to the Hongkong port and is mentioned as such in the China Sea Pilot, Volume I, page 454. There was no previous information that the Chinese Government had placed any restriction on the use of this channel."

In addition, the Indians denied that the "Magar" had been challenged but undertook to instruct her captain to avoid the interior passage on his return voyage. He did so, taking the outer eastern passage, but this also was the subject of a Chinese protest, a Memorandum this time, delivered on October 20. The Memorandum said in part:

"According to the report of the Naval Command of the Chinese People's Liberation Army, I.N.S. Magar...again made intrusion into China's territorial sea on 16th September on its way from Hong Kong to Singapore. At 1135 and 1510 hours...the ship made unlawful intrusions 5.5 nautical miles deep into China's

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<sup>1/</sup> All quotations are from texts provided by the Indian Ministry of External Affairs in its White Paper No. II on exchanges with the CPR over Tibet. (Underscoring supplied by INR).

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territorial sea east of the Chiapeng and Tankan Islands....The Chinese coast guard unit issued light and flag signals 15 times warning the ship to leave (the) Chinese territorial sea..."

Referring to the Indian defense of the "Magar's" earlier use of the interior passage, the Memorandum went on to say:

"...the Government of India in its reply note dated 13th September...even cited the so-called China Sea Pilot published by the British admiralty before the liberation of China as the basis for asserting that (the interior passage)...is 'an internationally recognized approach to the Hongkong Port.' The Chinese Government cannot but express its surprise and regret at such an allegation which ignores the fact that China has already freed itself from the imperialist bondage and become a completely independent sovereign State."

To which the Indians tartly replied that:

"The Chinese Government are aware that the Hongkong harbour lies within two miles of the Chinese mainland (sic). It is not possible for any ship to approach Hongkong without coming within 12 miles from the... mainland or one of the Chinese islands lying off the coast of South China. (The position given by the Chinese is correct)...but, as already stated, no ship could leave Hongkong...without coming within the 12 mile limit imposed by China."<sup>1/</sup>

"The Government of India would like to point out that although the China Sea Pilot has been compiled by the British Admiralty, it is generally recognized and internationally used....The Government of India has no knowledge of any official Chinese publication for the guidance of ships sailing in the neighborhood of Chinese territorial waters: and they cannot, therefore, understand the reference to 'imperialist bondage' in this context."

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<sup>1/</sup> The Indian assertion is not precisely true. A "window" could exist in the southeast portion of the Square Boundary.

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Chinese Memorandum of 1960

Having themselves given the Indians an opportunity to make known to the world at large the contradictions of the Chinese position, Peking, after several months reflection, quietly took action to reassert its claims. On February 10, 1960, the British Charge in Peking was given the following confidential memorandum:

"The waterway west of the Chiapeng and Tankan Islands at the mouth of the Pearl River of China is a part of China's inland waters. Following the founding of the People's Republic of China, the Chinese authorities in charge of maritime affairs closed this waterway to all foreign ships. (Foreign merchant vessels wishing to pass the Wanshan Islands in approaching and leaving Canton harbour may do so with permission by making application in accordance with regulations governing the navigation of foreign ships as laid down by Chinese authorities concerned.) According to reports of the departments concerned, since September 1959, British ships have on more than twenty occasions wilfully passed through the above mentioned waterway in disregard of repeated warnings given in international signals by the Chinese authorities in charge of maritime affairs. The Ministry of Foreign Affairs hereby requests the Office of the British Charge d'Affaires immediately to convey the matter to the British Government and the British authorities in Hong Kong for their serious attention, with the request that the British authorities in Hong Kong immediately notify the vessels concerned not to pass through the above mentioned waterway in the future."

As was noted at the time, the memorandum was not technically a protest. Furthermore, the Royal Navy and major British and other foreign shipping companies had been avoiding the area since 1950. Nevertheless, in early March, the (Communist) Chinese Ocean Shipping Company took the trouble once again to warn Hong Kong shipping companies against the use of the south-westerly approach in a letter that also outlined the approach procedures for the port of Whampoa near Canton.<sup>1/</sup> Neither the British nor the Chinese authorities, as far as is known, have ever made the existence of the memorandum public nor have the Chinese officially repeated their claim.

1/ English text of letter is given in Appendix "A".

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"Serious Warnings."

Hong Kong has been an important liberty port for the US 7th Fleet for many years, but the first "serious warning" regarding US Navy ships south of Hong Kong (there were six previous warnings related to overflights by US aircraft) was No. 115 dated June 29, 1960, referring to the aircraft carrier USS "Ranger" and four escorting destroyers which had exited Hong Kong for the China Sea through the interior Lema Channel. Since that time there have been other such "warnings" but when compared with the number of warnings issued relating to the Taiwan Straits area and to the Paracel Islands these have been few in number. Part of the reason for this may be the issuance by the US Navy of confidential standing instructions for 7th Fleet ships to avoid the interior passage and, when approaching the western portion of Hong Kong harbor via the East Lamma Channel as the large carriers and fleet tankers must do, to "remain at least five (nautical) miles from Chinese Communist-claimed territory where feasible and in no case (to)...close to less than three (nautical) miles."<sup>1/</sup> It also seems to be the result of deliberate restraint or a lack of sensitivity on the part of the Chinese who apparently ignored violations of the inner Lema Channel by US and Royal Navy ships prior to the "Magar" notes and who continue to protest only a relatively small proportion of US "violations" to the present time. Evidence to support this theory is provided by several reports of violations by British, Indonesian, and 7th Fleet ships which were blinkered or otherwise signalled by shore stations in the Lemas and Chiapengs but whose "intrusions" were not publicly protested.

Unprotested "Intrusions "

Reports about blinkering of non-US ships by Communist shore stations is sparse but available information indicates consistent failure on the part of the Chinese to protest "intrusions" in this area by British and other third-country vessels as well as a tendency to protest intrusions by US Navy ships only sporadically. In June of 1961, for example, the Indonesian destroyers RI "Siliwangi" and "Singamangaradja" were challenged by signal lamp from Erhchou when approaching Hong Kong from the south but the incident is not known to have been protested to Djakarta. In late December 1961, two British warships leaving Hong Kong at night on two separate occasions were similarly challenged but a protest was not made. A US Navy officer who was on the bridge of an aircraft carrier that visited Hong Kong a number of times in 1965-66 has remarked that, due to the relative narrowness of the eastern mouth of the Lema Channel, US warships frequently "intrude" into the five nautical mile zone while rounding North East Head. A blinkered warning from the observation post on Tankan is the rule in these cases, yet the number of "serious warnings" related to these "intrusions" has been very small. One such incident occurred August 16 when the USS "America" passed within 4.6 nautical miles of Tankan on a sortie into

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1/ See Paragraph 4B, Tab "A" to Appendix "D," COM 7 FLT Operation Order No. 201, 68.

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the South China Sea. In this case, a Hong Kong Marine Department launch reported sighting the "America" within three miles of Tankan and the Consulate General was so informed by the Royal Navy Commodore. The Chinese Communists, however, did not issue a serious warning. Had the launch not made its erroneous sighting, it is likely that the challenge would have given rise to no more than an entry in the ship's log book. On the other hand, on October 29, 1968, the Chinese, in a seemingly random choice of "intrusions," protested a "violation" (Serious Warning No. 465) by the US Coast Guard Cutter "Ingham" when that ship passed with 4.2 nautical miles east of the Lemas.

#### Royal Fleet Auxilliary Stopped

Further evidence that the Communists, while determined to maintain their claims to a 12-mile territorial sea, do not wish at this time to make political capital out of "intrusions" in this area can be found in their stopping of the Royal Fleet Auxilliary "Gold Ranger" on April 2, 1968. (The British Navy makes a distinction between warships and auxiliary vessels). The fleet oiler, on a voyage from Japan to Hong Kong, was stopped at a position within Chinese-claimed waters about 26 nautical miles due east of the eastern Hong Kong boundary. Some British sources believe that the Chinese gunboats that halted the "Gold Ranger" may have mistaken it for a 7th Fleet tanker, because when the master broke out a large Union Jack (the "Gold Ranger" flies the Blue Ensign in contrast to the White Ensign of the Royal Navy and the Red Ensign of the Merchant Navy) it was permitted to proceed. The incident was reported briefly in the Hong Kong press, but Peking seems not to have taken notice and no protest was registered by either side.

#### Recent Merchantship Haltings

In addition to the "Thunderhead," three other foreign merchant ships recently have been stopped by Communist gunboats while passing through the interior Lema Channel. On October 8, a pair of gunboats challenged the Israeli ship m.v. "Har Boker" when it was about 3.5 nautical miles northwest of Erhchou Island in the Lema's, forced it to turn southward and to anchor at a point about one nautical mile northwest of Akan Head on Chih (Puntin) Island, (see Map "B"). The master radioed these events to the Hong Kong port authorities who contacted the ships agents, Wallem and Company, a firm which has done a great deal of business with the Communist Chinese. Wallem radioed "Har Boker's" master to apologize for intruding into Chinese territorial waters and also sent a telegram of apology to the Canton office of the Communist state shipping agency, Penavico. The apology was duly given and after several hours the ship was permitted to proceed to Hong Kong. The master later told Marine Department officers that it was his first voyage to the Far East and that he approached Hong Kong on the recommended course marked on US Hydrographic Chart 5595 which passes to the west of Wenwei Island. According to a British source,

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similar printed routes appear on Admiralty Charts and, as "Har Boker's" captain noted, the China Sea Pilot contained no reference to restrictions on inshore navigation in that area. (The US Sailing Directions for the area are being changed as a result of the "Thunderhead" incident.) Another problem faced by the "Har Boker" was the unintelligibility of the Chinese signals, which was also remarked on by the masters of the "Gold Ranger" and the "Thunderhead". On October 16 the American ss "Steel Vendor" was stopped by gunboats while it was en route from Hong Kong to Quinhon, South Vietnam. This incident took place about five nautical miles northwest of the Chiapengs and culminated in the ship reversing course and returning to Hong Kong. The most recent incident in this series occurred November 12 when the Soviet freighter mv. "Sinogorsk" was approached two nautical miles southeast of Wailingting by two gunboats from Chinwan (see Map "B"). The captain told Hong Kong officials that just prior to the gunboats' approach a message had been picked up addressed to all Russian ships instructing them to keep out of the Lema Channel and to approach Hong Kong only by way of the Tathong Channel. The captain therefore understood why the gunboats were signaling him, reversed course, and exited the channel around the southern tip of the Chiapeng Islands. He said he was late and attempting to save time. The "Sinogorsk" did not stop nor was it boarded as one Hong Kong newspaper reported.

#### Increase in Use of the Lema Channel

It is not possible to document an increase in the use of the inner Lema Channel in recent years because merchant captains and shipping line agents have been reluctant to expose themselves to censure by the Hong Kong Marine Department by reporting challenges in the channel from Communist vessels or shore stations. After the "Thunderhead" incident, local shipping agents and Marine Department officials informally approached by the American Consulate General unanimously expressed the view that the sudden spate of incidents was the result of merchant ships "blundering" into the channel. These sources also indicated that ships passing into the southern portion of the channel have tended over a number of years to elicit a variety of responses from the Communists ranging from blinkered warnings to hailing by gun boats. In the past, regular service to Vietnam was generally carried out by well known shipping lines that saw to it their captains were aware of and observed the ground rules for the channel. Since 1966 there has been a marked increase in traffic between South Vietnam and Hong Kong, as a result of the US logistics build-up, and North Vietnam and Hong Kong, as a result of increased Soviet aid to the DRV. American flag vessels utilized in this service have in many cases been captained by masters unfamiliar with the area (one expressed surprize that he was challenged because he had utilized the southern approach once before without incident). Furthermore, utilization of the approach from the south saves about 10 nautical miles and therefore offers a temptation to the master intent on making up time.

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The juxtaposition of the increase in incidents and the increase in Hong Kong-Vietnam traffic strongly suggests that there have been many more violations of the Sino-British rules governing access to Hong Kong by sea than has been reported.

### British Reaction

Procedures and practices surrounding the Sino-British modus vivendi in Hong Kong waters are generally clear, but they have never been openly publicized by either side. First and most clearly understood are the rules governing the approaches to the Colony from the China Sea laid down by the Hong Kong Marine Department and Royal Navy in 1950-51. The most direct reference to this was issued in reaction to the "Har Boker" incident by the Political Adviser to the Hong Kong Government who circulated an informal note to all foreign representatives in the Colony which, after giving details of the incident, suggested that:

"You may wish to consider whether masters of vessels on your country's register would benefit from a reminder about political considerations that need to be taken into account when navigating near Hong Kong. They might for example, be advised that the most suitable approach to Hong Kong is to keep to the south of the Lima Group and five miles or more off Tamkan Head."

The Hong Kong Marine Department informed the American Consulate General at the time that it felt that the traditional informal means of dissemination of this cautionary notice, both to shipping companies and presumably to the Communist Chinese themselves, had been effective and therefore did not plan to make the note public.

### Current HKG Operational Practice

Not as well known nor as clearly understood are the confidential limitations imposed by the Royal Navy and the HKG on their own operations. The Political Adviser to the Governor recently outlined HKG's understanding of these rules for the American Consulate General. He said the Hong Kong Marine police operate within the Square Boundary, except in Deep and Mirs Bays where the police must remain at least one mile off the Communist shore. The Royal Navy, he said, operates under similar restrictions except that on the south and east of the Square Boundary ships remain within that boundary or within three miles of a "sinuous line" drawn three miles from Hong Kong islands, whichever is narrower. Where the distance between British and Communist territory is less than six miles a line is drawn in the middle of the channel. Furthermore, in Mirs Bay

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the Navy may not enter Starling Inlet nor pass between Pingchau Island and Mainland China. The Political Adviser also said that in May 1968, the HKG proposed that Royal Navy operations along the southern boundary be confined to the area within one nautical mile of the Soko Islands and one and a half miles off Potoi Island in the Lema Channel, but he did not know if this had been acted on.

#### Royal Navy Operational Practice

The Political Adviser's description of current HKG and Royal Navy practice apparently is correct, except that the Navy no longer observes the "sinuous line" rule; it operates within the Square Boundary except off the western shore of Lantao where vessels must keep within one nautical mile of the shore. (The Hong Kong-Tai O ferries and ordinary small craft also go outside the Square Boundary to reach Tai O.) The Navy is not currently operating in Deep Bay at all and specific permission must be obtained from Commodore Hong Kong for vessels to operate south of the Soko Islands or Potoi. When permission is given, Royal Navy craft must remain within one nautical mile south of the Sokos and no more than a mile-and-a-half south of Potoi.

#### American Reaction

The "Thunderhead" incident served the useful purpose of reminding both American merchant shipping and the United States Government of Chinese sensitivity regarding the Lema Channel. As a result of consultations between the Departments of State and Navy, the US Navy issued a notice dated November 8, 1968, that modified information contained in the Sailing Directions for the Western Shores of the South China Sea (H.O. Pub. 93) and warned shipping to remain east of the Lema Islands.<sup>1/</sup> Steps are also being taken to alter the recommended course lines on charts of the area which show an approach by way of the southeastern entrance of the Lema Channel and to remove the outdated reference to a "Submarine Exercise Area" immediately east of the Lemas.

#### Comment

The record of Chinese Communist assertions of sovereignty over the waters of the Pearl River estuary over the past eighteen years clearly demonstrates that in the Hong Kong area Peking's attitude towards its claims to a territorial sea of 12-miles measured on a straight base line system is as much subject to

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<sup>1/</sup> For text of change see Appendix "B."

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compromise for political and economic reasons, at least for the time being, as is Peking's denial of the validity of the treaties related to British rule in Hong Kong. It also shows that, although capable of causing considerable trouble to merchant and naval ships operating off their coasts and in and out of Hong Kong, the Communists have not been willing so far either to kill the Hong Kong goose, which contributes substantially to China's foreign exchange earnings, or to interfere with ships of the 7th Fleet and run the additional risk of conflict with the United States. (For this reason; the "Gold Ranger" incident would seem to have been a gentle warning to the Royal Navy to keep twelve miles off the Kwangtung coast rather than a case of mistaken identity.) So long as Peking believes it is advantageous to keep the British in Hong Kong the Communist Government is likely to continue to maintain a discreet public silence regarding the exact limits of its claim. The recent spate of incidents involving merchant ships does not, in our view, presage a new harder line from Peking, but instead is a reaction to an increasing number of passages through the interior Lema Channel, the result, possibly, of increased traffic between the east coast of Vietnam and Hong Kong by Free World ships, and of increased travel to North Vietnam and Southeast Asia ports by ships of the Soviet Far Eastern Shipping Company. If this analysis is correct, the Chinese have already produced the effect they desired and will not push the matter further. The issuance of a warning to US merchant ships to avoid the area and the publicity given to the "Thunderhead" and "Sinogorsk" incidents will probably both reassure the Communists that a deliberate attempt is not being made to test their willingness to defend their claimed seas and at the same time bring to the attention of ship masters the wisdom of keeping clear of the southeastern approach to Hong Kong.

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## APPENDIX "A" TO REA-3

The English translation of the Sailing Instructions for Foreign Vessels Entering and Leaving Whampoa circulated by the China Ocean Shipping Company's Canton office to Hong Kong Shipping companies in March and April of 1960 follows:

**"SAILING INSTRUCTION FOR FOREIGN VESSELS ENTERING AND LEAVING WHAMPOA**

We append hereunder the following Sailing Instruction for Foreign Vessels Entering and Leaving Whampoa in English received from the China Ocean Shipping Agency, Whampoa Branch, for your information and guidance:

"The water way west of Chiapang and the Tankan Islands at the mouth of Pearl River is a part of China's inland waterways. We have been notified by Authorities concerned that foreign vessels are prohibited to sail in the waterways west of the Chiapang and the Tankan Islands. Foreign vessels entering or leaving Canton (including Whampoa) should adhere to the following routes, strictly effective from 6th April, 1960."

"1. From Eastern Routes or Hong Kong:

To start from the position Latitude  $22^{\circ}08'32''$  North Longitude  $114^{\circ}32'06''$  East, and then set the course (True)  $174^{\circ}$  to the position  $21^{\circ}57'15''N$ .  $114^{\circ}33'30''E$ . then alter course (True)  $334^{\circ}$  to the position  $21^{\circ}52'13''N$ .  $113^{\circ}42'10''E$ . then alter the course (True)  $052^{\circ}$  to the position  $22^{\circ}00'00''N$ .  $113^{\circ}52'30''E$ . then alter course (True)  $331^{\circ}$  to Lafsami Pilot Station  $22^{\circ}07'45''N$ .  $113^{\circ}42'48''E$ . and anchor there to wait for Pilot.

"2. Southern Route:

To start from the position  $21^{\circ}52'13''N$ .  $113^{\circ}42'10''E$ . and then set the course (True)  $052^{\circ}$  to the position  $22^{\circ}00'00''N$ .  $113^{\circ}52'30''E$ . and then alter the course (True)  $331^{\circ}$  to Lafsami Pilot Station  $22^{\circ}07'45''N$ .  $113^{\circ}47'48''E$ . and anchor there to wait for pilot.

"Foreign vessels exit for Lafsami Pilot Station take the same course as above, but, in reverse direction."

The above instruction should be strictly complied with."

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APPENDIX "B" to REA-3

"HYDROPAC 2292/68 GENERAL. HONG KONG APPROACH INFORMATION.

In order to minimize the possibility of challenge by Chinese Communist naval craft, ships approaching and departing Hong Kong are advised to do so only from and to the southeast, remaining at all times east of the Chia-P Eng (Chia-P Eng Ch Un Tao) and Lima (Li-Ma Ch Un Tao) Island groups, which are controlled by the Chinese Communists, and to pass at least five miles to the east of the northeast head of the Lima Islands. Normally, ships should enter and leave Hong Kong berths via the Tathong Channel. However, ships assigned berths in the vicinity of Green Island (Tsing Chau) should proceed through the Lema (Lima) and East Lamma Channels. In passing through the Lema Channel, ships should remain as far north as is feasible for safe navigation and in no case less than three miles north of the northeast head of Li-Ma Ch Un Tao.

( 8 Nov. 1968)"

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