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RGES-1

Vietnam



RESEARCH STUDY

BUREAU OF INTELLIGENCE AND RESEARCH

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April 26, 1973

TEMPEST IN THE CHINA SEAS, CHAPTER IV: ENTER SOUTH VIET-NAM

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South Viet-Nam will shortly open for bidding its offshore petroleum concession zone. American companies have shown great interest in the zone, which appears to have a considerable resource potential. The Vietnamese concession zone, however, overlaps continental shelf areas claimed by Cambodia, Indonesia, Thailand, and probably Malaysia. This paper analyzes these disputes on the basis of developing international practice.

Unilateral declarations of continental shelf limits and offshore concession zones in Southeast and East Asia have created areas of dispute and political conflict. The latest state to join the progression of claims--South Viet-Nam--has decreed a national continental shelf which overlaps prior-claimed areas of Cambodia, Thailand, and Indonesia. A possible dispute may also exist with Malaysia

Vietnamese Decree No. 249/BKT/VP/UBQGDH/ND, dated September 6, 1972, specified the limits of South Viet-Nam's national continental shelf by means of 33 sets of geographic coordinates. (See Annex 1 for the text.)

These limits have been plotted on the attached map, "South Viet-Nam: Petroleum Concessions." The interested parties received these data in RVN Ministry of Foreign Affairs Note No. 793-BNG/JA/PL of March 3, 1972.

1. See RGES-1, "The Gulf of Siam, Offshore Concession Problems," April 27, 1970; RGES-4, "Effects of the Senkakus on the Division of the East China Sea Continental Shelf," October 27, 1970; and RGES-5, "South China Sea: Up for Grabs?," September 14, 1971.
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The basis for the Vietnamese claim varies locally. In the east, toward the Philippines, the meridian of 110° East longitude artificially forms the limits of the shelf. The meridian extends everywhere beyond the 200-meter limit (100-fathom isobath on the map), the provisional seaward extent of the national continental shelf established by the Geneva Convention on the Continental Shelf. The Convention defines these limits in Article I as "...the seabed and subsoil of the submarine areas adjacent to the coast but outside of the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas...."

The meridian, on the average, lies 50 nautical miles beyond the as-yet unbreached 200-meter limit of the shelf.

Indonesia - Viet-Nam

To the south, the Vietnamese shelf limit has been defined on a principle of equidistance; every point on the line is equally distant from points on the baselines of the opposite states. The variation on this principle adopted by the Vietnamese, however, uses only "mainland" basepoints of the two states. In this context, mainland status has been assigned to the continental portions of South Viet-Nam and to such major islands of Indonesia as Borneo. Smaller Indonesian islands, e.g., Kepulauan Natuna Utara, have been disregarded in the construction of the maritime boundary. Consequently, the boundary is situated within 52 nautical miles of these islands, but, at the same point, it lies

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230 nautical miles from the "mainlands" of Viet-Nam, Borneo, and Malaysia.

A basis can be said to exist in international law to disregard, in the construction of equidistant boundaries, uninhabited islets situated immediately adjacent to the median line of the water body.

However, these emerging international practices stem from negotiated settlements and not from unilateral declarations. Moreover, the Natuna group is neither uninhabited nor situated immediately adjacent to the center line.

On the attached map, the dark, shaded zone indicates the continental shelf area which Indonesia could claim if the Natuna Islands served as basepoints along with offshore Vietnamese islands. The disputed area measures approximately 12,000 square nautical miles.

The bases for both positions have validity. Viet-Nam claims, as have many other states objecting to insular basepoints, that the principle of equity would be violated by the use of the Natuna Islands as basepoints. The argument is built on the relative size and value of major land masses as the sites of habitation and national sovereignty.

Islands or islets, in contrast, are usually mere specks in the sea incapable of sustaining large populations. They are, therefore, of less importance and should be disregarded. Many agreements have been negotiated on this basis.

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Indonesia has shown a remarkable degree of sophistication in the negotiation of its territorial sea and continental shelf limits with Malaysia, Thailand, and Australia. (Only the agreement with Malaysia is in full effect.) In every discussion on the law of the sea or the peaceful uses of the seabed, Indonesia has started with the premise that the state comprises an archipelago with geographic unity which cannot be violated. This principle has apparently become sacred in the minds of many insular states. To preserve equity, Indonesia allowed Malaysia, for example, to draw straight baselines about its distant islands to serve as lines of division for the seabed. However, by this act, Malaysia accepted the integrity of the Indonesian archipelago.¹

To compromise on the issue would totally undermine the entire basis for the national posture toward the oceans, and this could have serious political, security, and economic consequences.

As a result, Indonesia is unlikely to alter its position unless an agreement recognizes the inviolate character of the archipelago. A potential solution would offer the islands a partial effect rather than no value at all.

Malaysia - Viet-Nam

The area of potential dispute between Malaysia and Viet-Nam would probably be small. The Vietnamese decree line incorporates a limited area which Malaysia could claim with the use of offshore islands as basepoints. Little difficulty should be encountered in dividing the territory with equitable results for both states.

1. See International Boundary Study, Series A, No. 1: "Indonesia-Malaysia Continental Shelf Boundary."

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Cambodia - Viet-Nam

The lateral boundary between Cambodia and Viet-Nam will be the hardest to resolve. The centuries-old Annamese-Khmer mutual suspicion will complicate the negotiations. Furthermore, a serious territorial dispute over the sovereignty of various offshore islands further adds to the complexity of the situation.

In March 1960 the Vietnamese Government dispatched a note to Cambodia which reasserted the Vietnamese claim to sovereignty over the islands in the Gulf of Siam north and east of the 1939 Brevie Line. Brevie, the Governor-General of Indochina, had issued a line, which extended roughly southwestward from the land boundary and enveloped Phu Quoc, as a limit of administration between the then-colony of Cochin-China and the protectorate of Cambodia. The Vietnamese note declared that the islands of Mileu (Hon Phu Du - Kok Thmey), Eau (Hon Nuac - Koh Ses), Pic (Hon Antay - Koh Tonsay), and the North Pirate Islands belonged historically, geographically, and legally to Viet-Nam. The status of the Ile de Baie (Ream) also was unclear. The Vietnamese claims were based on Annamese colonization, French "recognition in reports," French administration from Cochin-China in the colonial period, and the establishment of Vietnamese administration at the end of the protectorate over Cambodia.

No evidence could be uncovered of Vietnamese (Annamese) sovereignty over the islands in the latter half of the 19th century. In fact, in 1856 France endeavored to convince Cambodia to cede Phu Quoc, the largest of the islands. The Khmer king refused and the French did not

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pursue the matter. Strangely, none of the islands has been mentioned in any of the boundary treaties, or referred to in the decrees of delimitation bearing on the Cochin-China - Cambodia frontier. It is obvious, however, that most, if not all, of the islands had come under Cochin-Chinese administration in the ensuing period. The Brevie order attests to this fact and to the open dispute between the two territories concerning the sovereignty of the islands.

Originally, Cambodia expressed a willingness to accept the Brevie Line as a permanent boundary but withdrew the offer after the Vietnamese claim. The Khmer Government later extended a claim to the Southern Pirates and to Hon Pajang and Hon Da Ban groups. The Brevie Line, however, appears to continue as the de facto limit of administration between the states in the Gulf.

Without a resolution of the insular dispute, a maritime boundary solution will remain impossible.

Cambodia, however, has recently redefined its national continental shelf. The changes in limits, however, were restricted to the north in the disputed area between Cambodia and Thailand. (See Annex 2.)

Thailand - Viet-Nam

The Thai Government on May 16, 1968, decreed a Tentative Border Line for the Thai Continental Shelf. The extent of the overlap of this zone and the Viet-Nam continental shelf is indicated on the attached map. About 2,000 square nautical miles of Thai shelf, out of a total of nearly 56,000 square nautical miles, overlaps the Vietnamese zone. The Thai boundary appears to have been drawn on an equidistance principle which

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utilized mainland and nearshore islands while ignoring distant islands, most of which were Vietnamese and Cambodian. In contrast, the Vietnamese line uses all of its islands while discounting Thai islands.

The roughly 15-mile-wide zone could be divided easily on the basis of several existing practices.

Conclusion

Cambodia, Malaysia, and Thailand are parties to the Geneva Convention on the Continental Shelf. Indonesia and Viet-Nam are not. The latter would not, as a result, appear bound by the Convention's articles on boundaries. The International Court of Justice, in the North Sea Cases, repeatedly refers to the inadvisability of relying on equidistance as the sole basis for the determination of maritime boundaries between adjacent states. The Court said: "The conclusion drawn by the Court ... is that the notion of equidistance as being logically necessary, in the sense of an inescapable a priori accompaniment of basic continental shelf doctrine, is incorrect."¹ Rather, the Court stressed the need for an equitable division of the seabed attained by consideration of all relevant factors within the decision. However, the Court did speak somewhat favorably of the use of a median line between opposite states, "ignoring the presence of islets, rocks, and minor coastal projections, the disproportionally distorting effect of which can be eliminated by other means." The states involved, however, were bound to make serious efforts to attain a settlement through negotiation and compromise.

RGE-INR/Geographer

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1. International Court of Justice, North Sea Continental Shelf, Judgment, 1969, para. 46.

RVN Ministry of Foreign Affairs Note
No. 793-BNG/JA/PL

The Ministry of Foreign Affairs of the Republic of Vietnam presents its compliments to all Diplomatic and Consular Missions and has the honor to request them to bring to the attention of their respective Governments the limits of the Continental Shelf of the Republic of Vietnam as indicated on the Table attached, which was established by the Ministry of Economy (Decree No 249/BKT/VP/UBQGDH/ND dated 9.6.1971).

The Ministry of Foreign Affairs avails itself of this opportunity to renew to All Diplomatic and Consular Missions the assurances of its high consideration.

Saigon, March 3rd, 1972

/s/ DT.

Enclosure: as stated

DUONG-HOANG-THANH

ALL DIPLOMATIC AND CONSULAR MISSIONS

S A I G O N

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LIMITS OF THE CONTINENTAL SHELF OF
THE REPUBLIC OF VIET-NAM

Points	Latitude	Longitude (Greenwich)
1	8°19'N	104°50'E
2	8°33'N	105°27'E
3	9°00'N	105°40'E
4	9°25'N	106°45'E
5	10°09'N	107°06'E
6	10°32'N	108°00'E
7	11°00'N	108°36'E
8	11°00'N	110°00'E
9	7°05'N	110°00'E
10	5°20'N	107°20'E
11	7°03'N	103°52'E
12	7°34'N	103°19'E
13	7°42'N	102°58'E
14	8°31'N	101°56'E
15	9°36'N	101°30'E
16	10°09'N	101°27'E
17	10°09'N	102°58'E
18	10°03'N	103°31'E
19	10°22'N	103°41'E
20	10°29'N	103°45'E
21	10°31'N	103°45'E
22	10°31'N	103°47'E
23	10°30'N	103°54'E
24	10°30'N	103°57'E
25	10°29'N	104°04'E
26	10°24'N	104°11'E
27	10°28'N	104°20'E
28	10°28'N	104°21'E
29	10°14'N	104°22'E
30	10°23'N	104°24'E
31	10°00'N	104°31'E
32	8°36'N	104°31'E
33	8°26'N	104°35'E

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KHMER REPUBLIC

[Presidential Decree] No. 439-72/PRK

Decree

In view of:

The Constitution of the Khmer Republic;

Ordonnance No. 1/71-CE of October 18, 1971 governing matters coming under the law;

Ordonnance No. 17/72-CE of March 12, 1972 defining the title of the Chief of State of the Khmer Republic;

Ordonnance No. 2/72-PRK of March 12, 1972 conferring the powers of Head of Government on the President of the Khmer Republic;

Decree No. 187/72-PRK of March 21, 1972, amended by subsequent texts providing for nomination of the Ministerial Cabinet; and

Consultation with the Council of Ministers;

The President of the Khmer Republic hereby decrees:

Article 1. In application of the provisions of the Geneva Convention of April 29, 1958 on the Continental Shelf, to which the Khmer Republic has adhered, the Franco-Siamese Treaty of March 23, 1907, and the Process-Verbal of delimitation of the boundary, dated February 8, 1908, the exterior limit of the continental shelf of the Khmer Republic is established as indicated by French Navy chart No. 1972, drawn on the scale of 1:1,096,000, attached to this decree, with the coordinates of its bench marks as follows:

The lateral northern delimitation between the zones of the continental shelf under the jurisdiction of the Khmer Republic and Thailand shall be formed by a straight line joining boundary-point A on the coast to the highest peak of the island of Koh Kut "S" extending to point P; points A and P are defined as:

Point A: Boundary-point on the coast (Treaty of Bangkok of March 23, 1907):
Lat. $11^{\circ}38'88''$ N.; Long. $102^{\circ}54'81''$ E.

Point: P A point equidistant from the Cambodian base A, Kusrovie Islet, and the Thai baseline opposite: Lat. $11^{\circ}32'00''$ N.; Long. $101^{\circ}20'00''$ E.

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Article 2. The delimitation of the median line, in a north-south direction, shall be formed by a broken line starting at point P and passing successively through points P P P P P P P P P

ck1 ck2 ck3 ck4 ck5 ck6 ck7 ck8
P P P P P and B, the boundary point with South Viet-Nam;
ck9 ck10 ck11 ck12 ck13

those points are defined below and marked on the attached map.

<u>Point</u>	<u>Latitude North</u>	<u>Longitude East</u>
P A point equidistant from the ck1 Cambodian islet of Kusrovie and the following Thai points: Koh Charn islet and point 8 area 2 (Hin Bai)	10°59'00	101°13'00
P ck2	10°16'50	101°29'00
P ck3	9°05'00	101°36'00
P ck4	8°31'00	101°57'50
P ck5	7°42'00	102°59'50
P ck6	7°34'00	103°21'00
P ck7	9°01'00	104°08'00
P ck8	9°18'00	104°01'00
P ck9	9°38'50	104°08'50
P ck10	9°56'00	104°16'50
P ck11	10°01'00	104°15'00
P ck12	10°05'00	104°10'50
P ck13	10°12'00	104°09'00
B Boundary point with South Viet-Nam	10°25'23	104°26'63

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