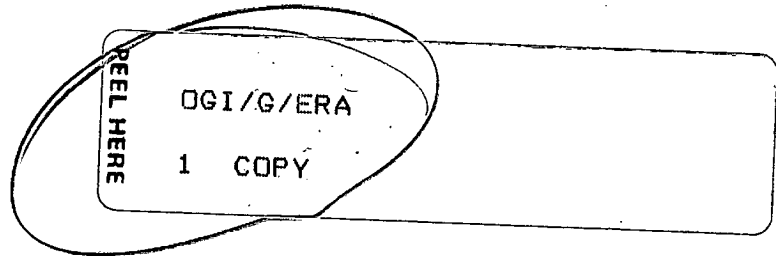


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**(U) Gulf of Thailand:
Maritime Jurisdictional Disputes and
Anti-Piracy Activities**

UNITED STATES DEPARTMENT OF STATE
Office of The Geographer
Bureau of Intelligence and Research

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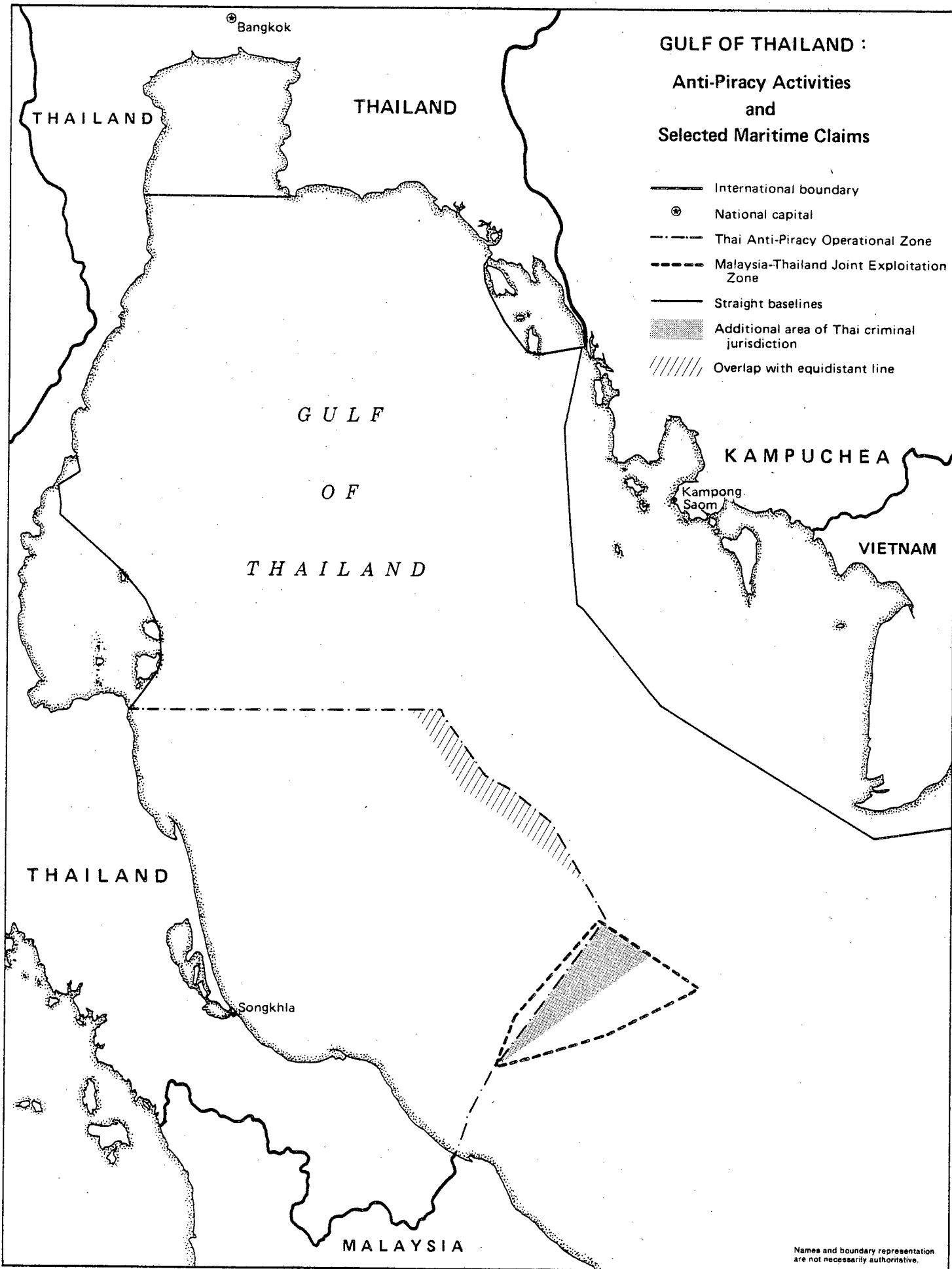
(U) GULF OF THAILAND: MARITIME JURISDICTIONAL DISPUTES AND
ANTI-PIRACY ACTIVITIES

Summary

Although Thailand under international law has the right to apprehend pirates anywhere beyond the territorial seas of other countries, the existence of overlapping maritime claims in the Gulf of Thailand may complicate Thai anti-piracy activities. At least one-seventh of the Thai Anti-Piracy Operational Zone (see map, over) may overlap jurisdictional claims by Kampuchea and Vietnam, encouraging a tendency toward cautious enforcement efforts in those "gray" areas. By agreement with Malaysia, however, Thailand has claimed criminal jurisdiction in part of their joint development zone. Thailand thus could extend its anti-piracy activities into an approximately 2,800-square-kilometer area where there is a high incidence of pirate attacks.

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Geography

The area of the Gulf of Thailand is greater than 190,000 square kilometers (sq. km.) or 57,000 square nautical miles (sq. nm)--slightly larger than Kampuchea.^{1/} At its mouth, traditionally measured from the southern tip of Vietnam to the Malaysia-Thailand land boundary terminus, it is 210 nautical miles wide. The gulf penetrates about 360 nm into the Asian mainland, terminating in the Bight of Thailand, south of Bangkok. Water depths in the gulf are relatively shallow, ranging from about 4 fathoms (24 feet) in nearshore areas to about 45 fathoms in the south-central section.

Thailand, Kampuchea, and Vietnam border the gulf proper. Malaysia and Vietnam border its approaches. The coast is densely populated. Census figures for Thailand in 1970 show 6.7 million people residing in provinces bordering the gulf. Offshore activities include fishing, gas extraction, and shipping.

Maritime Jurisdictional Claims

The littoral states make different jurisdictional claims in the Gulf of Thailand and its approaches. With few agreed maritime boundaries in the gulf, the exploitation of marine resources and enforcement of relevant laws present difficult problems to the coastal states and to third parties.

Straight Baselines and Internal Waters. Kampuchea, Malaysia, Thailand, and Vietnam claim straight baselines^{2/} along at least part of their coasts. Because baselines delimit the seaward extent of a country's claimed internal waters (an area of complete sovereignty) and serve as the base from which other maritime claims are measured, the presence of straight

^{1/} Kampuchea, as used herein, is the People's Republic of Kampuchea, a regime installed by Vietnam and headed by Heng Samrin. The US does not recognize any government in Kampuchea.

^{2/} According to international law, a state may create straight baselines "where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity." Such baselines "must not depart to any appreciable extent from the general direction of the coast." The Kampuchean and Vietnamese straight baseline systems do not follow these criteria in their entirety.

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baselines can significantly affect the extent of jurisdictional claims. Thailand employs generally conservative straight baselines along three sections of the coast; elsewhere the low-water line serves as the Thai baseline. The Vietnamese- and Kampuchean-claimed straight baselines (not recognized by the US) are projected outward from the coastline to incorporate distant islands. This expands maritime jurisdictional claims seaward, at the possible expense of neighbors and third parties.

Territorial Seas. All the coastal states claim 12-nm territorial seas, measured from their respective baselines. This is an area of coastal state sovereignty, subject only to a right of innocent passage by foreign flag vessels. Kampuchea and Vietnam claim the right to exclude at least foreign warships, however, a position not recognized by the US.

Contiguous Zone. Kampuchea and Vietnam claim contiguous zones extending 24 nm from their baselines, i.e., a belt 12 nm beyond their territorial seas. Their claims to jurisdiction include a requirement that foreign warships obtain permission before entering the contiguous zone, a position also not recognized by the US. The contiguous zone is an area beyond the territorial seas in which the coastal state may exercise certain customs, immigration, sanitation, and fiscal authority, but within which all states have freedoms of navigation and overflight.

Exclusive Economic Zones and Continental Shelves. Kampuchea, Malaysia, Thailand, and Vietnam claim 200-nm exclusive economic zones (EEZs). (An EEZ is an area where the coastal state has resource and related economic jurisdiction, but freedom of navigation appertains.) No point in the Gulf of Thailand is 400 nm from the coast, therefore no coastal state can claim a full 200-nm zone without impinging on its neighboring states' EEZ claims. Although the EEZ declarations of the states in the area include statements of intent to enter into consultations to solve problems of overlapping claims, no agreements have been reached to date.

Because of the depths and distances involved, the continental shelf claims of the littoral states probably coincide with the geographic extent of their EEZ claims. Malaysia and Thailand have reached an agreement on part of their overlapping continental shelf boundary in the gulf. The remaining area of overlap has been placed under a joint development regime by the two states. The delimitation of the Malaysia/Thailand continental shelf boundary is probably a good indication of the future EEZ boundary between the two states.

No other bilateral EEZ or continental shelf boundaries in the Gulf of Thailand or its approaches have been negotiated. The

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overlap of Kampuchean and Vietnamese claims on the one side and Thai and Malaysian claims on the other does not appear near resolution.

Overlapping Claims. The degree of overlap among the claims to extended maritime jurisdiction in the gulf and its approaches is unclear because outer limits have not been precisely delimited in most cases.^{3/} Vietnam and the People's Republic of Kampuchea have not delimited the boundary between their claimed internal waters or other maritime jurisdictions. Under a 1982 agreement, however, the boundary of their internal waters will extend to a point on a straight baseline between the Tho Chu Archipelago and Poulo Wai Island. Therefore, it is possible to estimate a hypothetical median line with Thailand based on their joint straight baseline systems. There is a significant area of overlap between the continental shelf claim of Thailand and such a possible equidistant line (see map). EEZ claims may similarly overlap.

Part of the continental shelf boundary between Malaysia and Thailand has been delimited. Farther from shore, an area of overlap (some 7,410 sq. km.) has been placed under a joint exploitation agreement. The parties also agreed to a division of the area for purposes of criminal jurisdiction (see map, p. ii).

In the approaches to the Gulf of Thailand, Malaysia and Indonesia have agreed to a continental shelf boundary. The same line eventually may serve as the EEZ boundary. There are no boundary agreements, either for the continental shelf or for the EEZ, between either Malaysia or Indonesia and Vietnam. Indonesia and Vietnam dispute an area of overlap north of the Natuna Islands. Discussions between Indonesia and Vietnam about a resolution of their continental shelf claims were begun in 1978; no agreement has yet been reached. There also appears to be a narrow band of overlap between the Malaysian continental shelf claim and a possible claim by Vietnam based on an equidistant line giving full effect to the straight baselines delimited in 1982.

^{3/} In a worst-case scenario, the maximum area of overlap is produced by a median line calculated between the joint Vietnam-Kampuchea straight baseline and Thailand's baseline. In any negotiated boundary delimitation, however, straight baseline systems may not receive full weight in the calculation of median lines. For example, Burma ignored its published straight baseline system in its maritime boundary agreement with Thailand, signed July 25, 1980.

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Anti-Piracy Activities

The designated Thai Anti-Piracy Operational Zone in the Gulf of Thailand is approximately 70,100 sq. km. (20,400 sq. nm). Fifteen percent (10,300 sq. km.) of the zone lies within the Thai territorial sea. The Thai Marine Police patrol this area under the UN High Commissioner for Refugees-Royal Thai Government agreement. The Royal Thai Navy patrols the remaining 59,800 sq. km. of the zone.

Two areas of possible overlapping maritime claims have direct relevance to Thai anti-piracy activities. A band along the eastern edge of the Thai zone with an area of approximately 2,810 sq. km. (819 sq. nm) could be claimed by Kampuchea and Vietnam if they invoked an equidistant line calculated from their claimed straight baselines. Thus, one-seventh of the operational zone could be subject to a jurisdictional dispute among the gulf coastal states which could mute enforcement activities.

The second area is adjacent to the southeast limit of the zone. A small segment (804 sq. km.) of the operational zone extends into the Malaysia-Thailand Joint Exploitation Zone. Under the 1971 agreement with Malaysia, Thailand claims criminal jurisdiction within an additional 2,810 sq. km. (819 sq. nm) of this zone. Incomplete statistics indicate that this area lies in a region with a high incidence of pirate attacks--a higher incidence than that found in parts of the operational zone. Were the operational zone to be extended to this area, anti-piracy activities might be more effective.

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APPENDIX

Jurisdictional Claims by Country or Territory in the
Gulf of Thailand and its Approaches

People's Republic of Kampuchea

Straight Baselines: Decree, August 31, 1982.

Territorial Sea: 12 nm, Decree, August 31, 1982.

Contiguous Zone: 24 nm from baseline, Decree, August 31, 1982.

"Foreign military vessels wishing to enter this contiguous zone must request permission from the...Government" (commentary on the decree, found in FBIS, Daily Report: Asia & Pacific, August 13, 1982).

Exclusive Economic Zone: 200 nm, Decree, August 31, 1982.

Continental Shelf: Claims natural prolongation to 200 nm, Decree, August 31, 1982.

Bilateral Agreements: Under a July 7, 1982, agreement the PRK and the Socialist Republic of Vietnam delimited a common seaward limit of their "historic waters" and deferred the delimitation of the boundary between their "historic waters" to a later date.

Comment: The Foreign Ministry of the Coalition Government of Democratic Kampuchea has denounced the decree of August 31, 1982, and the agreement of July 7, 1982.

Malaysia

Straight Baselines: Ordinance No. 7, August 2, 1969.

Territorial Sea: 12 nm, Ordinance No. 7, August 2, 1969.

Exclusive Economic Zone: 200 nm, Proclamation, April 25, 1980.

Continental Shelf: 200 meters in depth or limit of exploitability, Continental Shelf Act (No. 57) of 1966, July 28, 1966. A map depicting the limits of the claimed continental shelf was published in December 1979.

Bilateral Agreements:

Territorial Sea Boundary: Malaysia-Thailand (in the Strait of Malacca and in the Gulf of Thailand), October 24, 1979.

Continental Shelf Boundary: Malaysia-Thailand (in the Gulf of Thailand), Memorandum of Understanding, October 24, 1979.

Malaysia and Thailand signed a 50-year joint development zone agreement for an area near the mouth of the Gulf of Thailand on February 21, 1971.

Multilateral Agreements: Malaysia-Indonesia-Thailand (continental shelf tripoint), December 21, 1971; 1958 Geneva Convention of the High Seas; 1958 Geneva Convention on the Territorial Sea and Contiguous Zone; 1958 Geneva Convention on the Continental Shelf; signed the Convention on the Law of the Sea, December 10, 1982.

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Thailand

Straight Baselines: Closure of the Bight of Thailand as historic waters, Council of Ministers decree, September 22, 1959; and Act of September 23, 1959; straight baselines, Announcement of the Office of the Prime Minister, June 12, 1979.

Territorial Sea: 12 nm, Royal Proclamation, October 6, 1966.

Exclusive Economic Zone: 200 nm, Royal Proclamation, February 23, 1981.

Bilateral Agreements:

Territorial Sea Boundary: Thailand-Malaysia (in the Strait of Malacca and Gulf of Thailand), October 24, 1979.

Continental Shelf Boundary: Thailand-Malaysia, December 21, 1971, and October 24, 1979.

Multilateral Agreements: Thailand-Indonesia-Malaysia (continental shelf tripoint), December 21, 1971; 1958 Geneva Convention on the High Seas (with a statement); 1958 Geneva Convention on the Territorial Sea and Contiguous Zone (with a statement); 1958 Geneva Convention on the Continental Shelf (with a statement); signed the Convention on the Law of the Sea, December 10, 1982.

Comment: Thailand and Malaysia on February 21, 1971, signed a 50-year agreement for a joint development zone in an area near the mouth of the Gulf of Thailand.

Vietnam

Straight Baselines: Statement of May 12, 1977, and Declaration of November 12, 1982. Vietnam claims historic waters in the Gulf of Tonkin to a line defined by the Sino-French Treaty of 1887 but has not delimited the connection of this line to the baselines declared in 1982.

Territorial Sea: 12 nm, Statement, May 12, 1977, and decree, March 16, 1980.

Contiguous Zone: 24 nm, Statement, May 12, 1977. Foreign warships must seek permission to enter the contiguous zone at least 30 days in advance.

Exclusive Economic Zone: 200 nm, Statement, May 12, 1977.

Continental Shelf: To the edge of the continental margin or 200 nm, Statement, May 12, 1977.

Bilateral Agreements: Vietnam-People's Republic of Kampuchea agreement on the historic waters of the two countries, July 7, 1982.

Multilateral Agreements: Signed the Convention on the Law of the Sea, December 10, 1982.