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July 78

Maritime Claims and Conflict in Northeast Asia

An Intelligence Assessment

Secret

GC 78-10113
July 1978

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Preface

Maritime disputes in Northeast Asia prior to 1968 were, for the most part, restricted to low-key debates over the ownership of several small, uninhabited islands. A 1968 United Nations-sponsored geophysical survey reporting the possible presence of petroleum beneath the waters of the Yellow and East China Seas rekindled these old disputes over island ownership and prompted a series of unilateral extensions of continental shelf claims by the oil-poor countries of the region. The disputed islands and the gross overlapping of some of the continental shelf claims have since been a constant irritant in relations between the countries of Northeast Asia. The problem worsened during 1977 when the global trend toward the 200-mile exclusive economic zone spread to Northeast Asia, creating more overlapping maritime claims. This paper delineates the recent extensions of maritime claims, updates developments in the seabed and islands disputes since the initial spate of claims, and examines the areas with the highest potential for future conflict. Earlier issuances on the legal and historical origins of these disputes are listed on the back cover of this document.

i

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Contents

	<i>Page</i>
Preface	i
Key Points	v
Introduction	1
National Maritime Claims	1
People's Republic of China	1
Republic of China	3
Japan	5
Republic of Korea	7
Democratic People's Republic of Korea	9
Potential Conflict Areas	11
East China Sea	11
Senkakus	11
Joint Development Zone	12
Yellow Sea	12
Northwest Islands	12
Southern Yellow Sea	13
Sea of Japan	14
Tok-do	15
North Korean Military and Economic Zones	15
Glossary	17

Graphics

Map 1—Northeast Asia	viii
Map 2—PRC—Maritime Claims	2
Map 3—ROC—Maritime Claims	4
Map 4—Japan—Maritime Claims	6
Map 5—ROK—Maritime Claims	8
Map 6—DPRK—Maritime Claims	10
Map 7—Northwest Islands Area	13
Map 8—Sea of Japan—Maritime Claims	14

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Maritime Claims and Conflict in Northeast Asia

Central Intelligence Agency
National Foreign Assessment Center

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Key Points

The nations of Northeast Asia* are engaged in an extended feud over the region's offshore waters. Little progress has been made in resolving the various disputes, largely because the political struggles of the divided nations of China and Korea have been transplanted to the seas of the region.

- The People's Republic of China (PRC) and the Republic of China (ROC—Taiwan), each claiming to be the sole legitimate government of China, continue to vie for jurisdiction over a vast area of the East China Sea. Their dispute has prevented compromise with Japan, one of the other claimants.
- The establishment of military and economic zones by North Korea adds a new complication to the already complex situation in the waters off the Demilitarized Zone.
- Japan, with important economic ties to all of the other countries, is caught on a diplomatic tightrope and is reluctant to assume a leadership role.

Without a solution to the divided nations' problem the prospect is for recurring maritime incidents in Northeast Asia, always with the danger that an isolated offshore clash will escalate into a serious military or diplomatic confrontation. The following areas are most likely to provoke such a confrontation:

- **East China Sea**

- The Senkaku Islands remain in limbo. The PRC and Japan had subordinated their dispute to larger bilateral issues, but Peking's dispatch of a fishing fleet to the area in April 1978 provided Japan with a pointed reminder of China's claim to the islands and the surrounding waters and shelf. The ROC, the most vociferous claimant, has been unable to find a drilling subcontractor willing to risk PRC retaliation.
- PRC protests have slowed Japanese participation with South Korea in the Joint Development Zone in the disputed continental shelf. The two nations' plans have the potential to provoke a PRC response.

*For the purpose of this study, Northeast Asia consists of five states—the People's Republic of China, the Republic of China, Japan, the Democratic People's Republic of Korea, and the Republic of Korea. The USSR, although geographically a part of Northeast Asia, is involved only peripherally in the area's maritime disputes.

v
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- **Yellow Sea**

- The waters around the South Korean-held Northwest Islands have not yet been included in the North's new military security zone. The military zone provides yet another pretext for North Korea to renew its claims to these waters.
- South Korea has chosen not to respond militarily to PRC attacks on Korean fishing boats in the southern Yellow Sea; the clashes will continue if Seoul cannot gain greater control over the movements of its fleet.

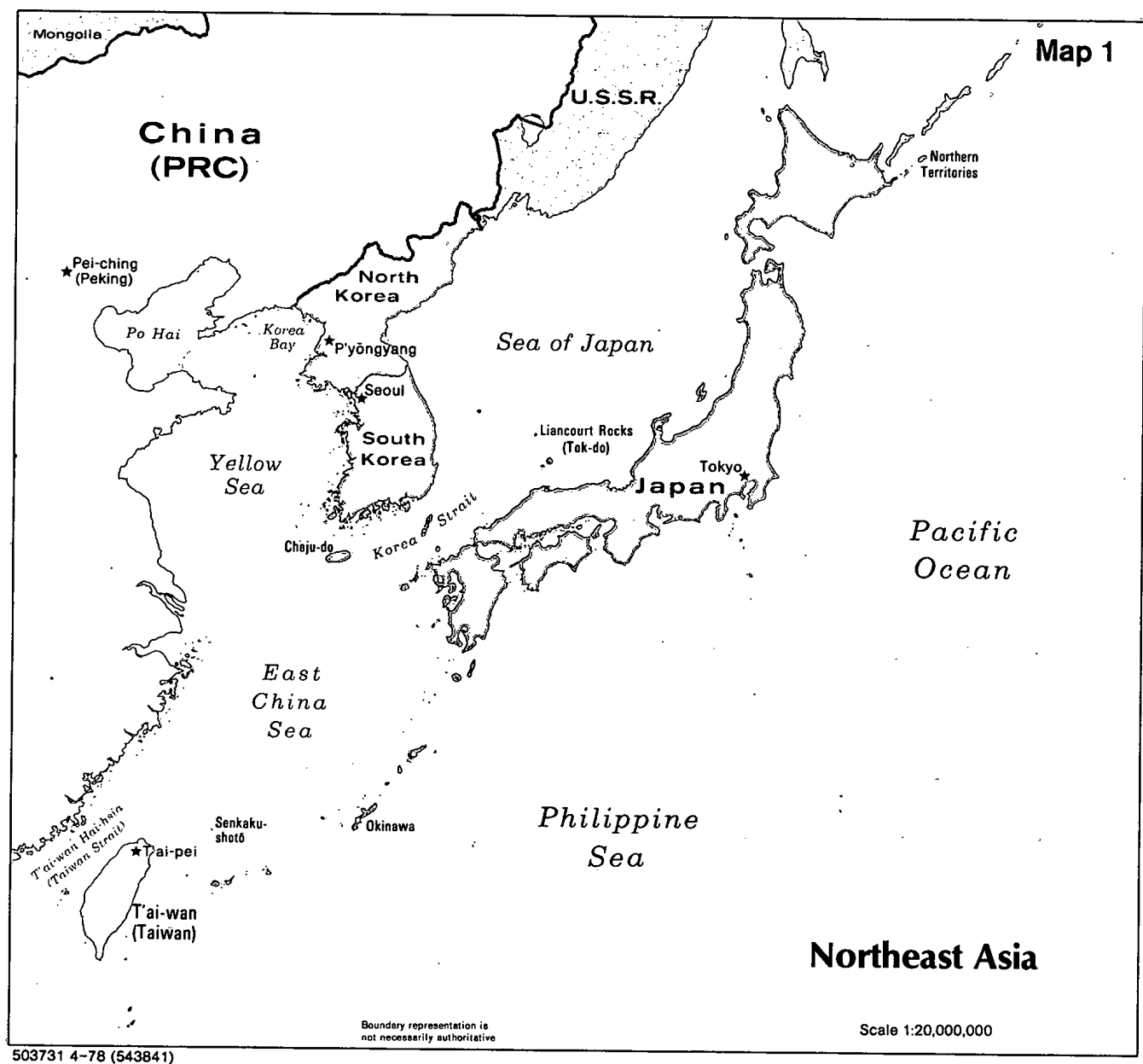
- **Sea of Japan**

- Japan and South Korea continue their public quarrel over the Liancourt Rocks (Tok-do),* albeit at a lower decibel level than in the past. Japan may be willing to drop the ownership issue in favor of a joint development scheme.
- The new North Korean military and economic zones underscore the potential for conflict in the waters off the east coast Demilitarized Zone. A decision by South Korea to disregard the zones could lead to direct military confrontation in the Sea of Japan.

* *Liancourt Rocks is the accepted Board on Geographic Names placename. The Korean rendition, Tok-do, is more commonly used, however, and has been used throughout this text.*

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Maritime Claims and Conflict in Northeast Asia

Introduction

Although the participants in the ongoing Third UN Conference on the Law of the Sea (LOS) have been unable to reach agreement on a new LOS treaty, a consensus has emerged on the 200-mile economic zone.* This consensus has encouraged the proliferation of expanded coastal state claims over the world's oceans. In regions where coastal states border open oceans, establishment of these new maritime limits is, in most cases, a matter of unilateral extension. In Northeast Asia, the East China, Yellow, and Japan Seas are semi-enclosed and will ultimately have to be divided among the countries of the region through bilateral or multilateral negotiations (map 1).

Many problems are preventing such a negotiated settlement of maritime claims in Northeast Asia: the complicated coastal and seabed geography; the growing importance of offshore areas to each country's economy; a history of conflict over offshore islands and the continental shelf; and in addition, the presence of two politically divided nations—the greatest hindrance to an equitable division and ultimate rational economic development of Northeast Asian waters. Without a negotiated settlement the region's offshore problems will continue to be a spark capable of igniting a broader conflict.

National Maritime Claims

People's Republic of China

As the dominant country in Northeast Asia, the PRC's participation is vital for a negotiated division of the Yellow and East China Seas. Thus far, however, Peking has taken an opportunistic attitude toward both the international LOS conference and the regional maritime problems, using the conference as a forum to score Third World propaganda points against the superpowers and showing little inclination to negotiate an end to the unsettled situation in the waters of Northeast Asia. Peking's stated sea limits, in opposition to its territorialist Third World posturing,

* All distances are in nautical miles. Definitions of LOS terms are contained in the *Glossary*, p. 17.

are a mixture of both modest and expansive claims that best serve PRC political interests in Northeast Asia.

Territorial Sea Claims

In 1958 the Chinese Government established a straight baseline system and claimed a 12-mile territorial sea (map 2). The territorial sea has never been formally mapped, but the mainland sectors, as enumerated in 1958 and as established by Chinese enforcement policies, are not expansive. Although Taiwan and South China Sea islands controlled by other governments were claimed in the declaration, the PRC was only reiterating longstanding claims of previous Chinese governments, including the rival government on Taiwan.*

Ocean Resource Claims

Exclusive Economic Zone

While vigorously supporting the Third World's right to establish exclusive economic zones out to 200 miles, China has not declared such a zone. The PRC does not want to risk prejudicing a vast seabed claim, based on the natural prolongation principle, or to stir up an old territorial dispute with Japan over the ownership of the Senkaku Islands.** Indications are that China will enact some form of broad or extended exclusive fishery zone as a response to the future establishment of fishery zones by other Asian countries.

China has already instituted some controls on fishing activity in a large area of the Yellow and East China Seas. The fishery controls, established in a series

* In the 1958 declaration, China specified a 12-mile territorial sea around all three major island groups in the South China Sea and has since been engaged in disputes with Taiwan, Vietnam, and the Philippines over their ownership. To Peking's later dismay, the Senkaku Islands, called the *Tiao-yü T'ai* by China, were not specified in the declaration.

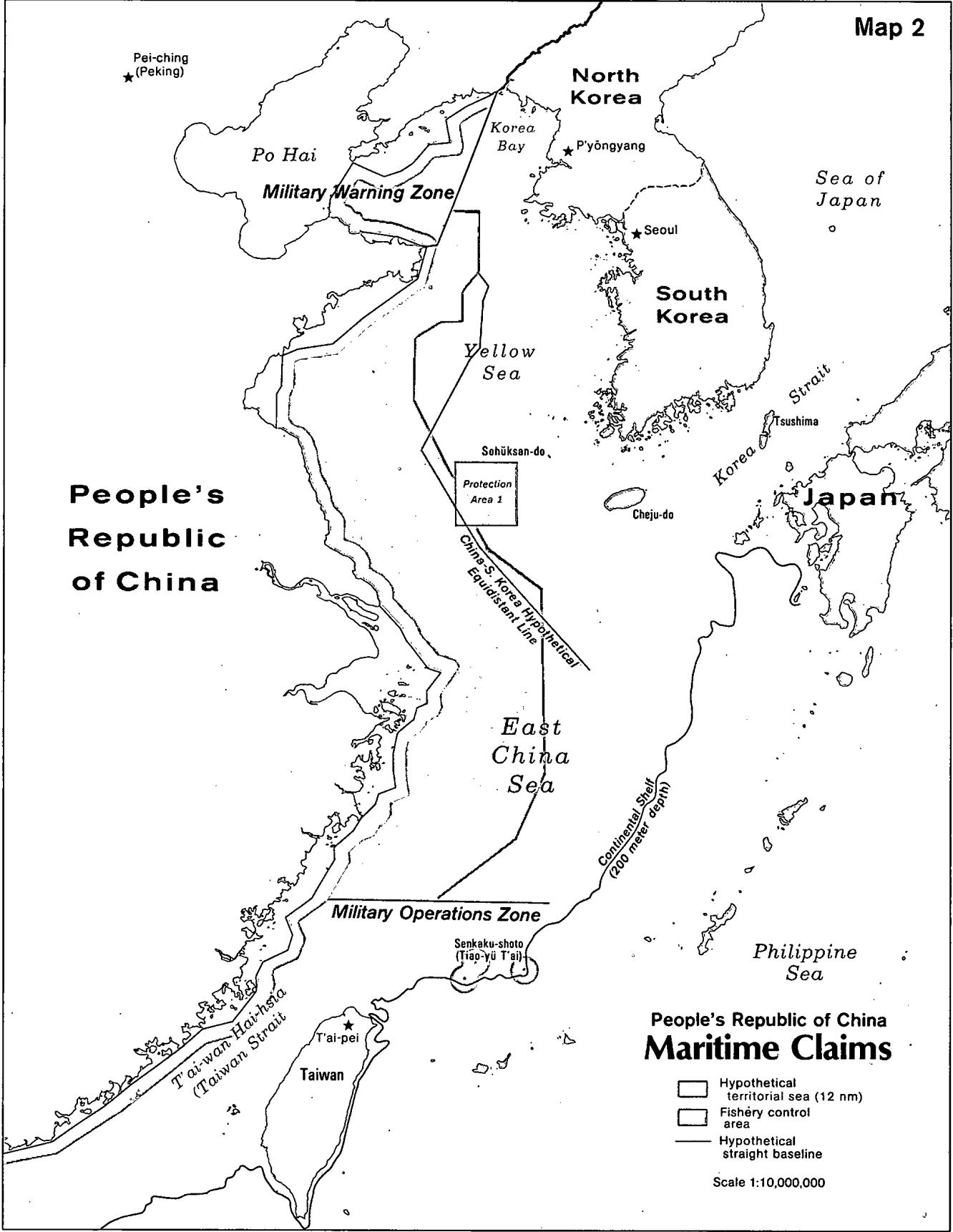
**In April 1978 China reinforced its claims to the islands by sending 200 fishing boats near or into waters the Japanese consider to be part of the Senkakus' territorial sea. Although Chinese motives remain unclear, this action indicates that the PRC may no longer be willing to moderate its maritime claims to avoid angering the Japanese.

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Map 2



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of non-governmental fishing agreements with Japan starting in 1955, were cemented by a governmental agreement in 1975. The agreement set up a number of fishery protection and conservation zones and established controls over such aspects of Japanese fishing activity as location, fishing method, time of year, type of equipment, and species and size of fish. It did not establish catch quotas for the Japanese. Other Socialist states, notably North Korea, are allowed to fish in the Chinese zones, but South Korean boats fish at their own risk. The South Korean Government has been reluctant to restrain its fleet because the Chinese zones, especially Protection Area 1, extend in places well beyond a hypothetical median line drawn between the PRC and the Korean peninsula.

The fishing agreement also imposes navigational restrictions on Japanese and other countries' vessels. Entry into a military warning zone in the Po Hai is prohibited without the permission of PRC officials, and fishing vessels enter a military operations zone north of Taiwan at their own risk. These navigational restrictions have no precedent in international law but are actively enforced for security reasons.

Continental Shelf Claims

China has made a general claim to the seabed and resources of the entire East Asian Continental Shelf, which theoretically could include the seabed from the Chinese mainland up to the western periphery of the Japanese islands and the Korean peninsula. The claim is based on the natural prolongation principle,* and the Chinese consider any exploration or drilling activity on the shelf an infringement on China's sovereignty. The government has also formally objected to agreements negotiated between other shelf claimants that are designed to allocate shelf resources. The Chinese have been especially annoyed by the ROK-Japan plan to develop petroleum resources in the Joint Development Zone (JDZ), stating that no country can determine shelf jurisdiction without China's participation. Yet China has refused to participate in any consultations except possibly with North Korea, with whom China is thought to have some kind of agreement in the northern part of the Yellow Sea.

* *The recent geophysical survey of the East China and Yellow Seas highlighted in the November 1977, China Pictorial reported that the "bottom sediments were mainly the load of the Yellow and Yangtze Rivers and the product of the erosion of the coast. . . . analysis of the sediments on the outer shelf throw light on the fact that the rim of the continental shelf was out of the water for a time in the evolution of geology and was the early coast zone of China's mainland."*

Outlook

The PRC has so far resisted the global trend toward defining a coastal resource zone in terms of miles from a baseline. A proliferation of 200-mile fishery zones by neighboring countries may force the PRC to follow suit, but it is unlikely that the zone would be based on the 200-mile principle. Instead, the Chinese will probably use the same technique they used in their seabed declaration and issue a sweeping but vague claim with no specific boundary delimitations, leaving a final division subject to "future" consultations.

The Chinese have shown no sign of reducing their huge continental shelf claim, which seems to have been designed to halt exploration by other countries while China laid the groundwork for its own offshore activity.* The PRC is now able to reinforce its claims and demonstrate its intentions not only with naval vessels but also with drill rigs. Whether it will engage in the "consultations with other countries concerned" or proceed unilaterally will depend upon the political importance of the country involved. China will not hesitate to explore or test drill in areas claimed by Taiwan or South Korea. Although the recent Chinese actions near the Senkakus indicate a new willingness to risk antagonizing the Japanese, Peking will probably try to reach a modus vivendi with them before drilling in any sensitive areas of the East China Sea. In fact, on two recent occasions PRC officials have even discussed with the Japanese a joint effort to exploit offshore petroleum, raising the possibility of future Chinese flexibility on shelf jurisdiction. The continued existence of governments in Taiwan and South Korea that are anathema to the PRC precludes any future multilateral negotiations aimed at dividing the shelf.

Republic of China**

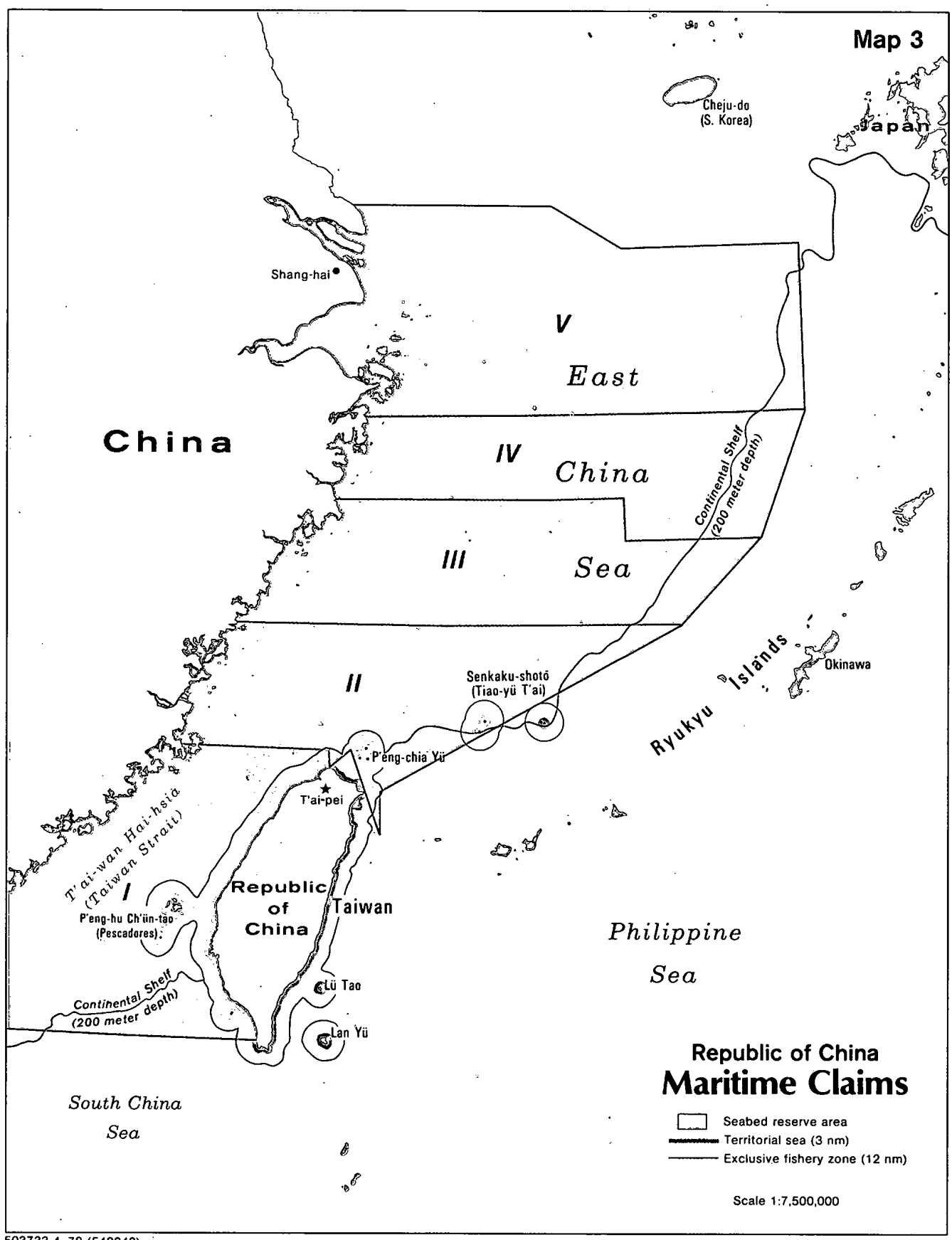
The Republic of China's LOS claims are based on the assertion that the ROC Government represents all of China. Its claims are supposed to represent legal

* *The PRC has embarked upon an extensive program to develop offshore mineral resources in the Yellow, East, and South China Seas. The PRC claims to have completed aerial geophysical surveys of this entire area, and numerous seismic survey ships have been actively exploring in waters beyond 200 miles from the mainland. At least eight offshore drilling rigs are operating in China waters, and the Chinese are actively seeking modern offshore equipment to add to the two rigs recently acquired in Singapore.*

***Due to its worsening international position, Taiwan has kept a low profile on LOS matters compared to other states in the region. Taiwan's claims, however, contribute to a sticky regional problem and help prevent a resolution of common maritime problems by other states, notably Japan and the PRC, who might otherwise reach an agreement.*

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claims for all the mainland coastline but are, of course, effectively limited to the island of Taiwan and several other small islands. Without the legal assumption that it speaks for the mainland, the ROC would have no basis for some of its maritime claims (map 3).

Maritime Claims

The ROC enforces a 3-mile territorial sea and a 12-mile exclusive fishery zone around Taiwan, the Pescadores, the Senkakus, and other small island groups near the main island. Some consideration was given to enlarging the territorial sea claim to 12 miles to counter other countries' extensions, but this step has not been taken. A 200-mile economic zone was also considered but was dismissed as unworkable because of the political problems involved in establishing and enforcing it.

The ROC, in its role as the sole legitimate government of China, has claimed extensive areas of the continental shelf in the Taiwan Strait and East China Sea. The ROC Government staked out five seabed reserve areas extending to the Chinese mainland, granted concessions, and actively promoted drilling activity by the concessionaires. The offshore activity in these reserve areas has all been on the Taiwan side of a median line with the mainland, largely because the US Government has warned American oil companies not to drill in disputed offshore waters. Sizable commercial deposits of oil or gas have not been found.

Outlook

The ROC is not likely to establish any new territorial claims beyond the 12-mile mark. The economic advantages of enacting such sea limit extensions are far outweighed by the accompanying enforcement and political problems. Taiwan cannot afford to stake out national maritime boundaries that appear to treat the island as a separate nation, and it cannot enforce boundaries that pertain to the mainland. The economic stakes are much higher in the continental shelf, and the ROC's need for oil should prevent a retreat from its original shelf claims. The government will try to increase the rate of exploratory offshore drilling, which has been slowed by numerous dry holes and the return of leased areas to the government. The PRC will probably continue to take a tolerant attitude toward Taiwan's exploratory offshore drilling activity as long as it remains comfortably close to Taiwan's coastline, under the auspices of a one China government, and fails to produce significant quantities of oil or gas. Should any of these conditions

change, the odds of military action by the mainland against a drill rig will increase. In the meantime, Taiwan's continental shelf claims should serve as a hindrance to a Sino-Japanese accord in the East China Sea.

Japan

Japan's primary interest has been to preserve freedom of access to the seas for its merchant and distant-water fishing fleets. The government was reluctant to increase its maritime limits, but domestic pressures and the aura of inevitability surrounding the 12- and 200-mile concepts finally combined to force it to extend its claims (map 4).

Territorial Sea Claims

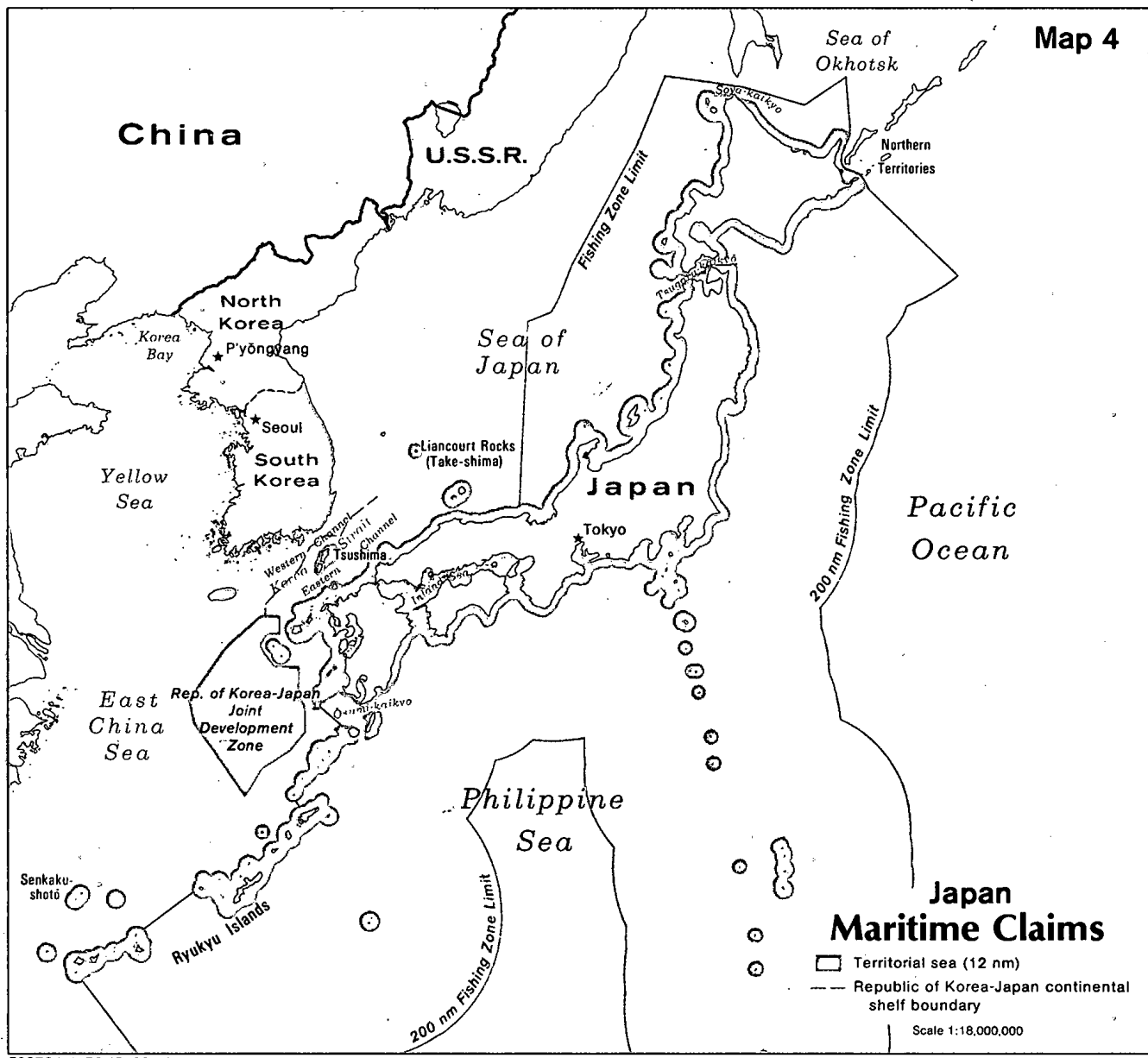
On 1 July 1977 Japan increased its territorial sea from 3 to 12 miles in response to pressure from domestic opposition parties and the coastal fishing industry. To avoid compromising its three non-nuclear principles (one of which prohibits the presence of nuclear weapons in the territorial sea) and damaging its position favoring unimpeded transit through international straits, Japan kept a 3-mile limit in five heavily traveled international straits. Although consideration was given to establishing a territorial sea around the Northern Territories, the Senkakus, and Tok-do, none of these disputed islands was specified in the declaration. This avoided resurfacing territorial disputes with its neighbors and did not seriously undercut Japan's own claims.

Ocean Resource Claims

Exclusive Economic Zone

Japan will probably refrain from declaring a 200-mile exclusive economic zone until the zone is formalized in an international LOS treaty. A prior declaration would create political problems for the cautious Japanese with the Koreans, Taiwan, and the PRC. Japan instituted a 200-mile fishery zone on 1 July 1977, primarily to strengthen its bargaining position in the difficult fishery negotiations with the Soviet Union. To mollify the PRC and South Korea, whose waters are heavily fished by the Japanese, and to avoid reopening disputes with those two countries over the Senkakus and Tok-do, Tokyo refrained from drawing the line on the west side of the Japanese islands opposite South Korea and the PRC. Also, the exclusive provisions of the zone are not being applied to Chinese and South Korean fishing fleets in order to avoid abrogating existing fishing agreements.

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Continental Shelf Claims

Japan's government has made no controversial continental shelf claims. Under Japanese mining law, the government becomes legally involved in seabed mining only when it approves a company's application to develop mineral resources or when it formally defends the position of such an applicant. It has avoided doing either in disputed areas, even during the height of the oil fever during the late 1960s. Four undersea blocks in disputed areas of the Korea Strait and the East China Sea were staked out by oil companies in 1969, but the government has not authorized the concessionaires to proceed with development, largely because of PRC protests. To alleviate the dispute with South Korea, Japan signed a continental shelf pact with Seoul in 1974 that divided the Korea Strait shelf and postponed a final division of the East China Sea shelf in favor of joint development of any potential petroleum deposits. This attempt to soothe South Korea involved Japan in a dispute with China. Chinese protests helped postpone Diet ratification of the pact for 3 years and delayed passage of the implementing legislation, necessary to allow exploration and development to proceed, until June 1978.

Outlook

Japan's position as a major maritime nation has dictated a cautious approach to the expansion of national sea limits and a compromising of both the 12-mile territorial sea and the 200-mile fishing zone. Tokyo will not enlarge its present sea limits or make any controversial continental shelf claims unless a clear consensus emerges from the LOS conference. Japan has also shown a willingness to yield on jurisdictional issues in favor of economic or political considerations, a tendency evident in both the joint development zone agreement and the abbreviated 200-mile fishery zone.

Japan will probably continue to take a cautious and flexible approach to the regional LOS problem, mainly to avoid an involvement in the political feuding between the rival Chinese and Korean Governments. With a large economic stake in both halves of the divided nations, Japan is sure to follow as close to a middle course as possible.

Republic of Korea

As an emerging maritime nation, South Korea has a keen interest in seeing that freedom of the high seas is retained and, consequently, does not want to take a territorialist approach toward its sea limits. However, the South's need to develop offshore petroleum

resources and to protect its coastline and waters have led to a controversial JDZ agreement and an adherence to the Northern Limit Line (NLL), a military boundary of uncertain legality (map 5).

Territorial Sea Claims

South Korea established a new baseline and extended the breadth of its 3-mile territorial sea to 12 miles on 30 April 1978. Although the final outline of the baseline and territorial sea awaits publication, Tok-do and the Northwest Islands were not specified in the decree. The principal controversy surrounding the location of the new boundaries is the status of the waters in two important straits—Korea and Cheju.* Seoul has decided to maintain a high seas corridor in its half of the western channel of the Korea Strait. By decreasing the breadth of its territorial sea in the strait to 3 miles, South Korea hopes to reduce the chances for a potential naval confrontation with the PRC or the Soviet Union. For security reasons, Seoul had considered designating Cheju Strait internal waters.** Apparently, US pressure has caused the Koreans to abandon this idea, but the strait will be included in South Korea's territorial sea.

Ocean Resource Claims

Exclusive Economic Zone

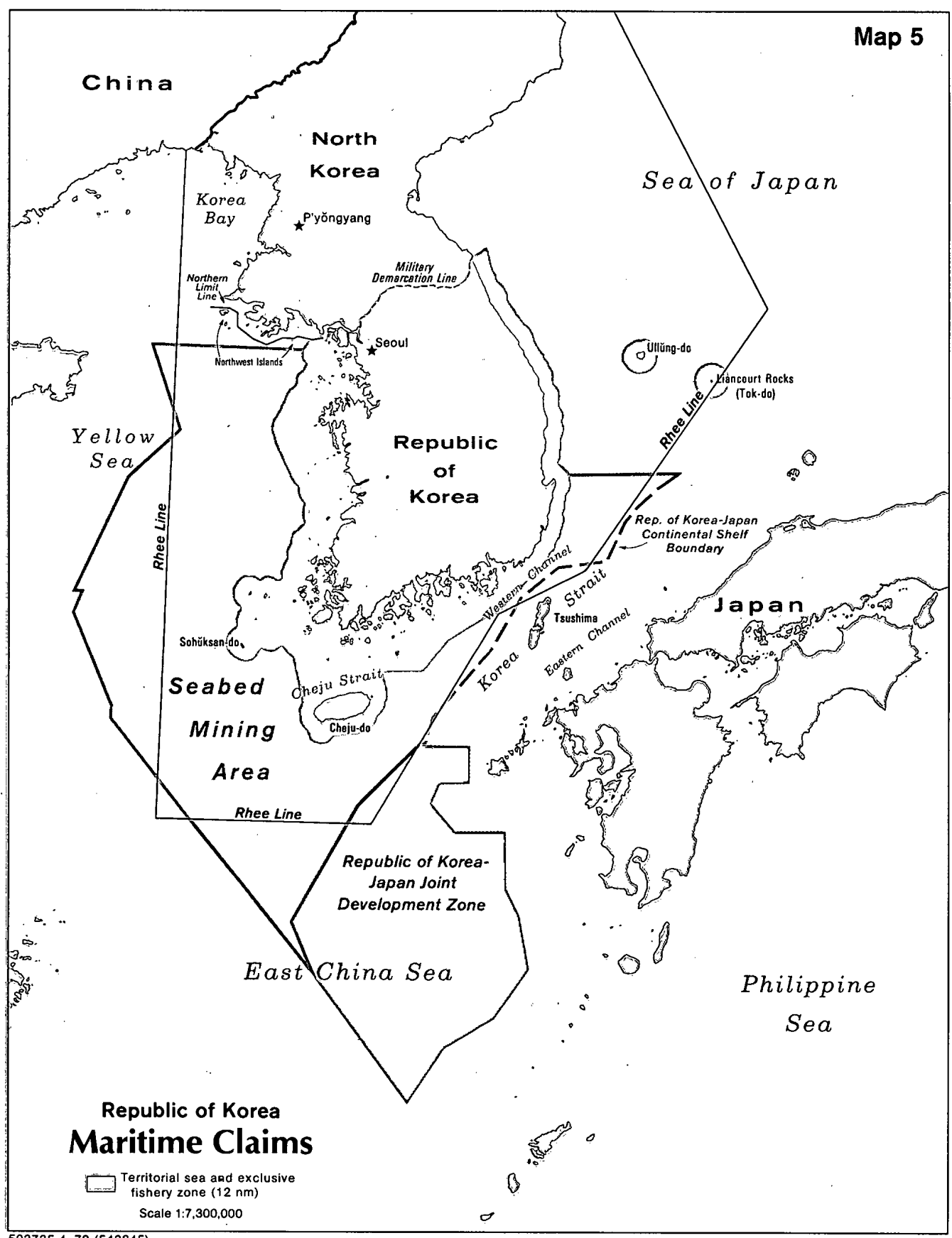
The establishment of 200-mile exclusive economic or fishery zones by some coastal countries badly hurt the ROK distant-water fishing industry. Japan's special treatment of South Korea and China's decision to delay drawing up an exclusive fishery zone have lessened the need for Seoul to enact a 200-mile zone. Enforcement difficulties and concern over the subsequent, inevitable disputes with the PRC and Japan are also reasons for South Korea's decision to table its plans. An extension of Seoul's present 12-mile exclusive fishery zone would probably require renegotiation of the 1965 Japan-ROK fishing agreement and reopen the debate with the Chinese over the legality of the ROK-Japan joint development zone.

* The new law, although not expansive in area, contains some security-oriented restrictions on passage that are not favored by other maritime nations.

** The Soviet Union once delivered a naval ship to North Korea after sailing it through this strait, and the South has had problems with North Korean agent boats near these waters. Seoul decided to withhold the final outline of the territorial sea in the Cheju area pending Japanese Diet action on the continental shelf pact implementing legislation in June. This delay served as a reminder to the Japanese Government that failure to pass the implementing legislation could result in some lucrative fishing areas becoming off-limits to Japanese fishermen.

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Map 5



**Republic of Korea
Maritime Claims**

Territorial sea and exclusive fishery zone (12 nm)
Scale 1:7,300,000

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The South Korean Government, in 1952, made a sea claim—termed the Rhee Line—similar in concept to the modern economic zone. The Rhee Line proclamation claimed ROK sovereignty over all economic resources for a large area of the water and seabed around the entire Korean peninsula. The Rhee Line claims, however, have not been actively advanced by the Pak government, and many of its restrictions have been whittled away by the ROK-Japan fishery and continental shelf agreements.

Continental Shelf Claims

The Rhee Line's extensive claims of sovereignty over seabed resources were superseded in 1970 by the Submarine Mineral Resources Development Law and a presidential decree establishing limits for seven seabed mining blocks. In delineating its shelf claim, Korea chose principles of international law that maximized its claims—a median line on the west coast, natural prolongation on the south, and primarily a median line on the east. China is unwilling to accept a median line as a valid method of dividing the Yellow Sea, and has vigorously opposed both Korea's shelf claims in the East China Sea and the JDZ part of the ROK-Japan continental shelf pact. Yet, if the Japanese Diet had failed to pass the required implementing legislation, South Korea was prepared to proceed with unilateral exploration of the JDZ, despite PRC objections.

Miscellaneous Claims

The NLL was originally drawn by the Commander of UN Naval Forces in Korea to help prevent maritime incidents in the Yellow Sea. Vessels under the UN naval command are forbidden to sail north of this line, which is located between the UN-controlled Northwest Islands and the North Korean coastline. Although the NLL could be completely enveloped by a hypothetical North Korean 12-mile territorial sea and has no basis in international law, the South has promoted it as the de facto boundary line in the Yellow Sea. P'yongyang, although generally respecting the NLL, has never formally recognized it.

South Korea also utilizes various fishery control lines in both the Yellow Sea and the Sea of Japan in an effort to control its aggressive coastal fishing fleet, which tends to follow migrating fish into contested waters. The fishery control lines are generally several miles south of the NLL (on the west coast) or the Military Demarcation Line (on the east coast) and are moved north only for short periods to allow the fleet to

follow the migrations of the more important species. These lines have been only partially successful because of the difficulty in keeping track of the thousands of primitive fishing boats in those two areas.

Outlook

With a new 12-mile territorial sea limit and an official claim to the most promising areas of the shelf already enacted, the ROK has only one sea limit left to add—some form of extended exclusive economic or fishery zone. South Korea appears to be reserving such a zone as a retaliatory measure in the event that China enacts a form of the 200-mile zone or Japan fails to fulfill its obligations in the JDZ. South Korea will continue to support the NLL, regardless of the line's legality. Seoul believes the NLL is necessary to ensure protection of the Northwest Islands, which have become an important symbol of South Korean determination to resist its northern neighbor.

Democratic People's Republic of Korea

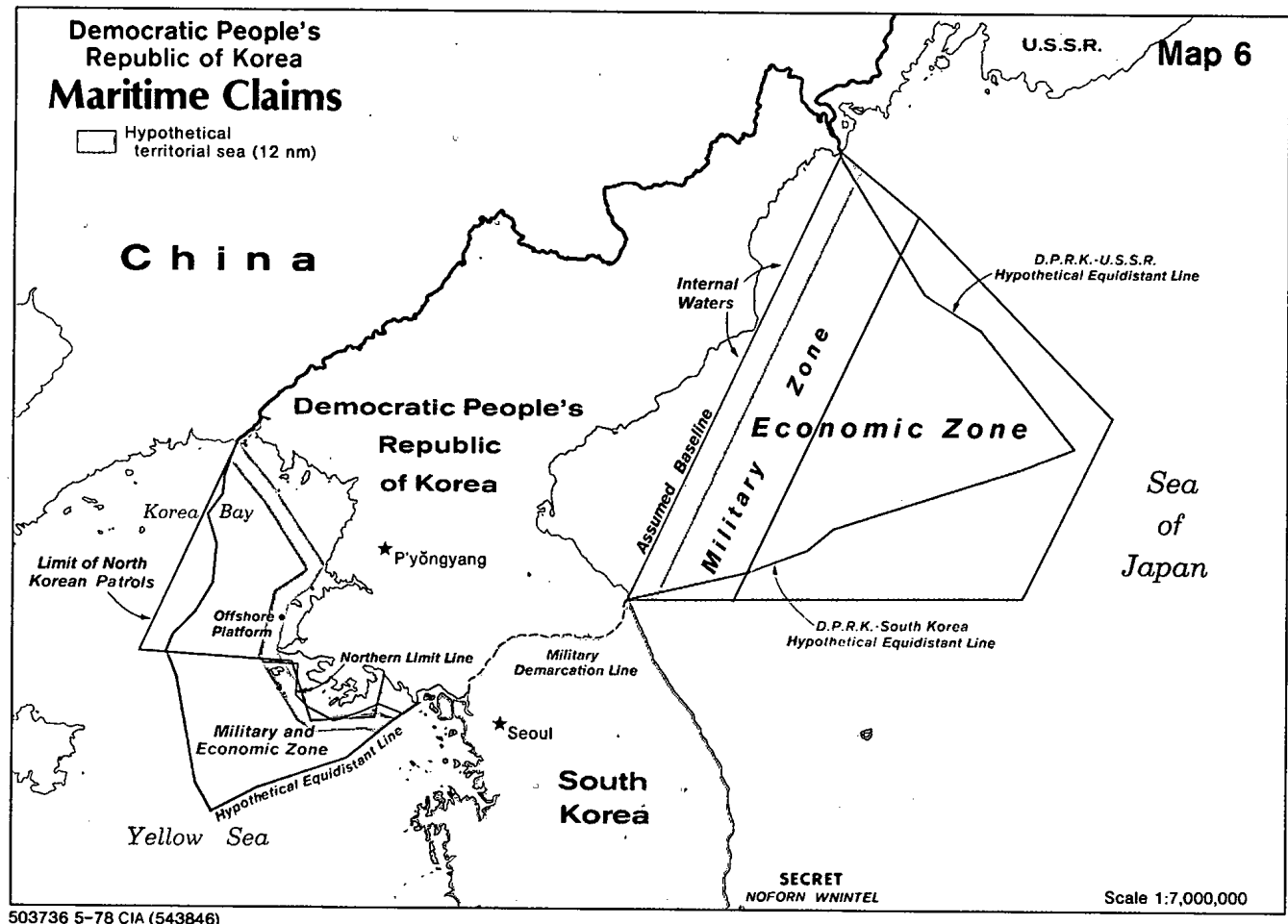
North Korea views the international LOS conference as an arena for the struggle by the Third World against the developed nations. The North portrays itself as a poor Third World nation struggling against the US imperialist aggressors and the puppet South Korean Government. P'yongyang's recent sea limit extensions, especially its unprecedented 50-mile security zone, illustrate the government's willingness to flout international law in order to ensure its national security (map 6).

Territorial Sea Claims

P'yongyang has neither revealed the baselines from which its sea limits are measured nor published an official proclamation on its territorial sea, hinting only that a 12-mile limit is in effect.* The exact boundaries of the territorial sea became moot in August 1977 when P'yongyang established a military zone off both coasts that gives the North tighter control over the seas than it would have with a territorial sea regime. The North may ultimately install an official 12-mile territorial sea, if only to help buttress its claims to the waters around the Northwest Islands.

* During the 1973 Northwest Islands crisis, the chief North Korean representative at the Military Armistice Commission contended that the waters surrounding these islands were within North Korean "coastal waters." All the islands could be included within a hypothetical 12-mile territorial sea, leading to the belief that a 12-mile regime was being claimed.

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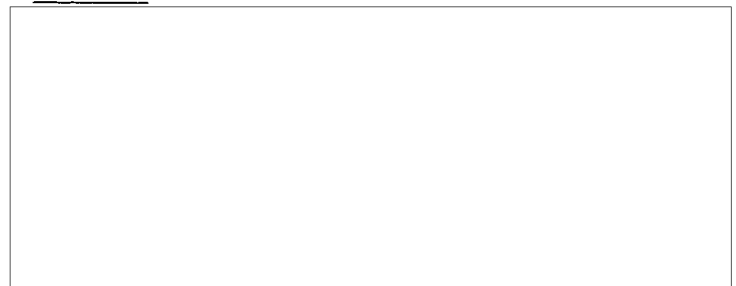
Ocean Resource Claims

Exclusive Economic Zone

On 1 August 1977 North Korea established a 200-mile economic zone and a military zone "to reliably safeguard the economic zone." This was the first time the North Koreans publically announced having a military zone, although different versions of a military control zone have been intermittently enforced by the North Koreans since the mid-1960s. All foreign military activity is prohibited in the zone, and foreign civilian ships and aircraft are allowed to navigate through the zone only with prior government approval. Foreign fishing vessels are not allowed to fish or transit the zone. The economic zone claims all resources for the Koreans. The economic zone seems to be a genuine response to the global trend toward the 200-mile zone, but the military zone, purportedly to protect the economic zone, appears to be an attempt by the security-conscious North to control possible foreign intelligence activity off its coastline.

North Korea has not announced the boundaries of its military and economic zones in the Yellow Sea except to note that the two zones are coincidental. Although extending slightly south of the NLL, the area presently being patrolled by the North implies acceptance of the NLL. The western limits of North Korean patrols correspond closely with the eastern boundary of the PRC's military warning zone.*

In the Sea of Japan, the military zone boundary, as announced by the North, extends 50 miles from an unspecified baseline and the economic zone 200 miles from the same baseline, or to the "halfway line of the



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sea" where the line cannot be fully extended. The North revealed a set of coordinates for the east coast economic zone to a Japanese Diet delegation in P'yongyang to negotiate a fisheries agreement. These coordinates can be used to calculate both the extent of the military zone and the coordinates of the baseline from which the other zones were measured. This calculated baseline runs in a straight line from the Soviet border to the Demilitarized Zone, enclosing a large area of what normally should be territorial seas or high seas as internal waters and violating accepted international LOS guidelines.

The Soviet Union has not yet published the boundaries of its 200-mile zone in the Sea of Japan, but the limits of the North Korean zone as given to the Japanese Diet delegation clearly extend well past a hypothetical Soviet-Korean equidistant line. North Korea will probably agree to a more equitable division of this area when the USSR defines the limits of the Soviet zone. A more serious problem exists farther south at the DMZ where the North's claims are sure to overlap the South Korean 12-mile territorial sea or any future South Korean 200-mile zone.

Continental Shelf Claims

The North Korean Government has made public pronouncements that imply a claim to the continental shelf of the entire Korean peninsula. Only those portions of the seabed from the coastline to the limits of the new economic zone have been formally claimed. Apparently, P'yongyang is preparing to exploit its shelf; a crude offshore platform has been detected on the west coast in the shallow waters of Korea Bay. The government has authorized the State-owned Korea Industrial Technology Corporation to engage a Singapore-based consulting firm to put together a complete package of subcontractors for offshore petroleum exploration.

Outlook

The most distinctive feature of North Korean LOS policy, as evidenced by the new sea limits, is the government's disdain for international norms. Neither world opinion nor an international LOS agreement is likely to force P'yongyang to retreat very far from its expansive new boundaries. That the North would sign a contract with a foreign oil exploration company implies attachment of great importance to the exploitation of offshore areas. This emphasis also indicates that North Korea may ultimately renew its claims to the waters south of the Northwest Islands, an area denied it by the NLL.

Potential Conflict Areas

No other region contains as much potential for conflict as this one, where two divided nations and Japan are striving to increase their economic utilization of the sea. Several islands and tracts of the ocean where these countries' maritime claims overlap stand out as the most serious and persistent areas of conflict. The disputed islands—the Senkakus, the Northwest Islands, and Tok-do—have little intrinsic value. They will play an important role, however, in determining jurisdiction over much of the shelf and waters of Northeast Asia. Potential offshore petroleum reserves, rich fishing grounds, and security concerns help fuel the debate over areas of the East China, Yellow, and Japan Seas.

East China Sea

The dispute in the East China Sea is primarily over oil. The 1968 UN survey stated that the area between Taiwan and Japan may be "one of the most prolific oil reservoirs in the world."* Although all five governments have at least implied claims to parts of the East China Sea, the Senkaku Island group and the ROK-Japan Joint Development Zone are at the center of the dispute.

Senkakus

The debate over ownership of the Senkakus is only the superficial focal point for the dispute over the right to exploit the petroleum thought to be present in the continental shelf around the islands. Jurisdiction over thousands of square kilometers of shelf may depend on a determination of both the ownership of these islands and the effect given them in a shelf division.

Since the original dispute in 1970, Taiwan has aggressively pressed its claims to the islands and surrounding waters. Taiwanese naval craft regularly patrol the area, often driving away Japanese fishermen. The ROC Government also attempted to coerce an unwilling concessionaire, Gulf Oil, to drill in waters around the islands. Gulf has since relinquished its concessions, and the State-operated China Petroleum Corporation is searching for subcontractors willing to accept the hazards of drilling in these contested waters.

The possibilities for Taiwan to accomplish more than exploratory test drilling are hindered by the

* *Drilling activity in the outer margins of the East China Sea (near Cheju-do and Taiwan) indicates that the original survey was too optimistic. However, no significant test drilling has taken place in the most geologically promising areas, and the governments of the region still do not know how much oil is located beneath the East China Sea.*

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looming specter of potential adverse PRC action, the increasing opportunity for oil companies to conduct business with the PRC, and the disapproval of the US Government. The PRC has nothing to lose by allowing Taiwan to test drill in the area, but probably would take a stand against any attempts at commercial production of oil.

Japan and the PRC, during their 1972 move to open diplomatic relations, agreed to shelve their dispute over the islands, and the Japanese Government has since scrupulously adhered to this agreement, especially in drawing up its territorial sea and fishery zone extensions in 1977. China had also complied with the informal agreement until its recent dispatch of a large fishing fleet into the islands' waters. Although Chinese motives in the April 1978 imbroglio remain unclear, the two nations are unlikely to let the incident affect their long term economic or political relationship.

Tokyo and Peking could probably settle the Senkakus issue if the two could factor Taiwan out of the East China Sea equation. Without a positive assurance that oil is present, Japan is unwilling to risk a disruption of economic relations with Taiwan by negotiating a division of the East China Sea with the PRC. With no resolution of the two Chinas problem in sight, Japan and the PRC are likely to return to their earlier policy and treat the dispute with benign neglect.

Joint Development Zone

Other Asian countries are closely watching China's response to the attempt by the ROK and Japan to develop jointly a large area of the continental shelf. Progress toward this goal has been slowed by PRC protests in spite of the fact that the JDZ is on the Japanese side of an equidistant line with China. Although Chinese objections initially delayed ratification of the pact, the Liberal Democratic Party (LDP) succeeded in passing it through the Diet with a clever parliamentary maneuver in June 1977. The strong PRC reaction after the ratification alarmed the Japanese Government, but the LDP, discounting the PRC objections, decided to pass the domestic implementing legislation in June 1978.* The two nations'

* *The PRC threatened economic sanctions against the Japanese. The only evidence of such action is the somewhat tougher stance taken by the PRC at the December 1977 fishery talks with Japan in which the Chinese proposed the institution of catch quotas. The recent \$20 billion long term trade agreement between the two countries indicates that the threatened sanctions are not being carried out. The Chinese also sent the Japanese a message in May of 1978 by dispatching a marine research vessel into the southern part of the JDZ.*

determination to proceed, coupled with the statement by Chinese Vice Premier Li Hsien-nien that "concrete" measures would be taken by the PRC if anyone undertook actual exploration activities, promises to keep the pot boiling. A military action against Japanese-sponsored drilling activity poses unacceptable diplomatic risks, but China's invasion of the South Vietnamese-held Paracel Island group and harassment of South Korean fishing boats in the Yellow Sea suggest that a military move against a South Korean drill rig is a possibility. North Korea refuses to recognize the validity of the ROK-Japan agreement but, given the distances involved, is not likely to interfere militarily with operations in the JDZ.

Yellow Sea

South Korea has had a number of clashes with both China and North Korea in the shallow waters of the Yellow Sea. Except for the 1973 Northwest Islands crisis, these clashes have been isolated incidents between armed patrol boats and fishing vessels. South Korea has not backed off from confrontations with North Korea in the Northwest Islands area but has so far been unwilling to test PRC strength in the southern part of the Yellow Sea.

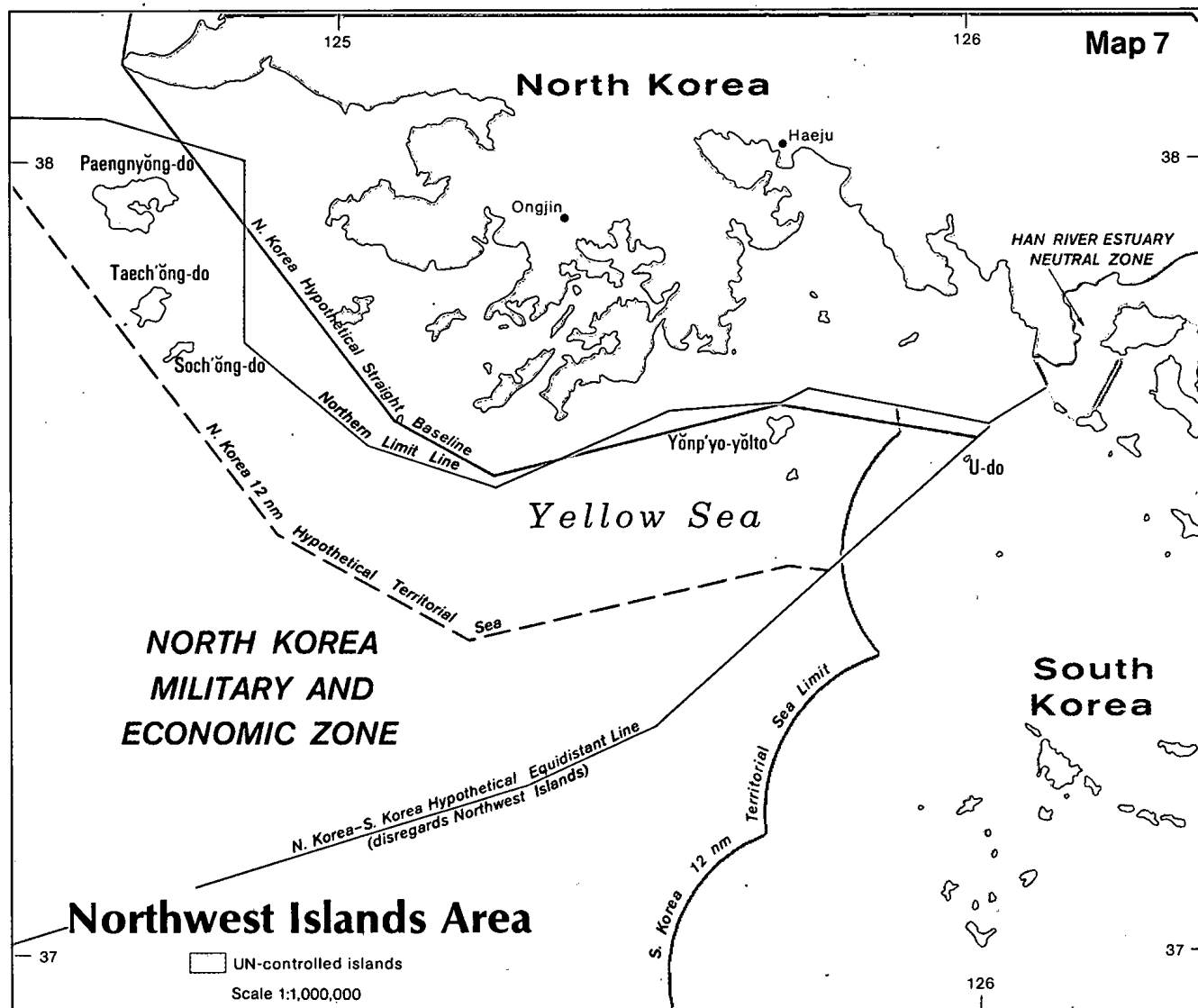
Northwest Islands

Although the UN was given control of the Northwest Islands in the 1953 Armistice Agreement, jurisdiction over Yellow Sea waters near the islands was not awarded to either side. In 1973 North Korea provoked a confrontation by trying to enforce a claim to waters around the five islands, all of which could fall within a North Korean 12-mile territorial sea drawn from straight baselines (map 7). In essence, North Korea contended in 1973 that the UN-controlled islands should not affect its juridical right to put in force national maritime boundaries around its coastline.* The South countered that the Armistice Agreement obligates the North to respect the contiguous waters of the islands and also championed the NLL as the de facto dividing line in the Yellow Sea. While North Korea never disavowed its claim to the waters, it did end attempts to enforce the claim, resulting in the present stalemate.

P'yongyang's recently established military and economic zones add a complicating factor but have not influenced the heart of this dispute—the disagree-

* *It is indeed ironic that North Korea ignored LOS juridical principles in establishing the east coast military zone yet relies on them to justify claims to the waters around the Northwest Islands.*

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ment over the effect the UN-controlled islands should have on Yellow Sea jurisdiction. Since no real precedent exists for this complicated situation—the presence of UN-controlled islands near a nation's coastline—a precise determination of each country's rights in the area is nearly impossible. South Korea's right of access to the islands is clearly granted by the Armistice Agreement and customary international law, but Seoul's contention that the NLL has become a respected element of the armistice regime, and thus should be the de facto boundary, is legally untenable.* North Korea's claim, that the Northwest Islands should have no bearing on a division of Yellow Sea jurisdiction, is also of dubious legitimacy.

* It should be noted that South Korea, in establishing its new sea law, decided not to try to claim a national territorial sea around the UN-controlled islands.

South Korea is obviously content with the present stalemate, as the NLL gives it direct access to the Northwest Islands and denies North Korea the effective use of a large area of the Yellow Sea. To avoid upsetting the US troop withdrawal, the North will probably continue to observe the status quo. However, P'yongyang's initiation of the 1973 crisis and increasing interest in exploiting offshore resources are indications that North Korea will not let the stalemate become permanent. The withholding of boundary information on the west coast military zone suggests that the extension of this zone into waters south of the NLL will be the mechanism used by the North to renew its claims to these waters.

Southern Yellow Sea

The southern part of the Yellow Sea has been the scene of numerous incidents between the Chinese and

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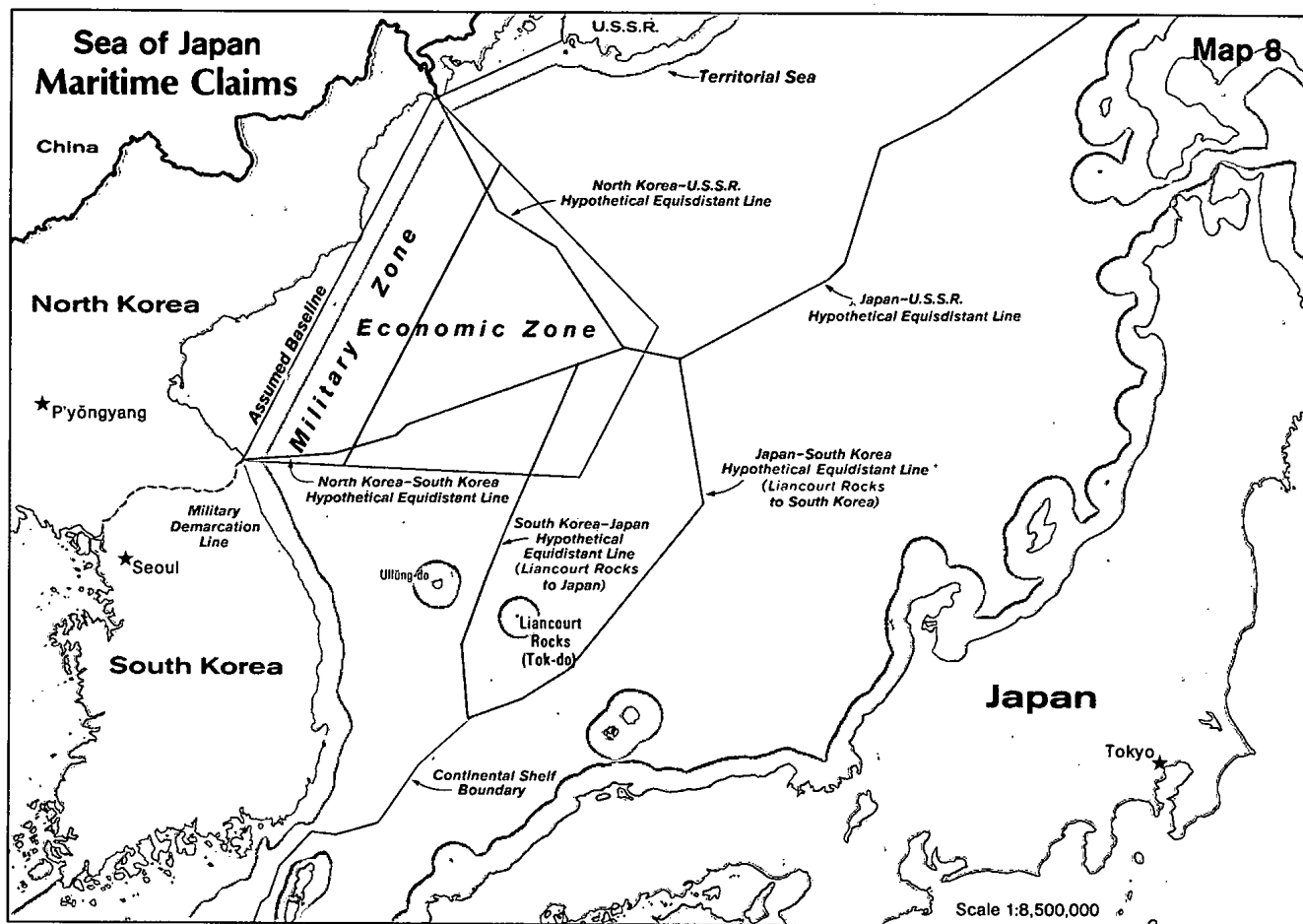
South Korean fishing fleets. Chinese vessels, often armed or escorted by patrol boats, have abducted ROK boats and crews, confiscated catch and equipment, and generally harassed Korean fishermen. All of the incidents have occurred in the PRC's Fishery Protection Area 1 (map 2) between the Korean island of Sohuksan and the Chinese mainland. The protection area is partially on the Korean side of a hypothetical equidistant line and partially within the ROK's continental shelf claim.

The problem stems from both South Korean reluctance to accept PRC enforcement of a fishery protection zone in that area and the incompatible fishing techniques used by the two fleets. Seoul contends that a unilaterally declared restriction zone is not binding on it or any other littoral state under international law and practice. The voluntary fishery control lines set up by the Korean Government have not been effective in controlling its venturesome fleet. Even when the two fleets are separated, Chinese trawl nets being towed through the water are often fouled by stationary nets previously set by the Koreans.

The potential is low for a violent confrontation in this area. South Korea remains most deferential to the PRC and has sent no armed boats to protect its fishing fleet. Seoul has even tried to turn the incidents to its advantage by using them as a justification to call for much desired joint consultations with the PRC on fisheries and other matters pertaining to the economic exploitation of the Yellow and East China Seas. China has been unwilling to engage in such talks. Maritime incidents in this part of the Yellow Sea will probably continue unless Seoul gains better control over its fishing fleet.

Sea of Japan

The Sea of Japan has been relatively free of serious maritime incidents. However, two contentious issues—ownership of the island of Tok-do and the North Korean military and economic zones—have the potential to provoke diplomatic and military confrontations, respectively (map 8).



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Tok-do

South Korea and Japan have had annual public quarrels over the ownership of this island since 1952, with no resolution of the problem in sight.* Although the debate is focused on Tok-do, the island, like the Senkakus, is a surrogate for the real dispute over the surrounding waters and seabed. Japan helped minimize the dispute by excluding the island from its new maritime zones. South Korea followed suit by not mentioning Tok-do in its new territorial sea decree. Although Seoul has lowered its voice on Tok-do, an ROK Coast Guard detachment remains on the island.

The question of ownership must be resolved, and the South Koreans seem to have a more fervent attachment to Tok-do than the Japanese. Tokyo's pragmatic approach to the jurisdictional dispute in the area of the JDZ indicates that it might be amenable to a similar joint development solution to the Tok-do dispute. If Seoul objects to this idea, Japan might even concede on the ownership issue in return for an equitable shelf partition that would reduce the influence of Tok-do on the final boundaries.

North Korean Military and Economic Zones

In establishing its military and economic zones, North Korea managed to encroach upon the potential economic zones of all the countries bordering the Sea of Japan (map 8). The overlapping claims with the USSR should be easily resolved. Japan did not extend its zone into the potential overlap area and is apparently willing to ignore the situation as long as

* This year's dispute arose in May when a Japanese fishing fleet entered waters off Tok-do eliciting the usual claim by Seoul that the island is South Korean territory.

P'yongyang allows Japanese fishermen unrestricted fishing privileges in the economic zone. The overlapping claim with South Korea, however, has the potential to provoke maritime incidents in the waters off the DMZ.

Until the early 1960s South Korea's coastal fishing fleet had numerous confrontations with the North's naval patrols off the DMZ. Since the North originally patrolled only near the coastline, the South established a near-shore fishery control line that effectively controlled its fleet. However, the extension of P'yongyang's claims and patrols to the center of the Sea of Japan will seriously test the South's ability to keep its fleet separated from North Korean patrol boats actively patrolling both zones. Complicating the enforcement problem for South Korea is the highly migratory nature of the fish species in east coast waters. Flatfish, squid, saury pike, and pollack, all highly prized fish, have seasonal migrations that carry them, and pursuing fishing fleets, from South Korean waters into the North Korean zone.* Some of the east coast's best fishing grounds, formerly fished by both the Japanese and South Koreans, are now within P'yongyang's military zone. South Korea has extended its fishery control line, but keeping the fleet away from the lucrative fishing areas along the more than 200-mile-long southern border of the North's zone will be a formidable task.

An even more serious problem will occur if the ROK ever chooses to disregard the North's zones and enforces its own version of a dividing line. Such an action would almost certainly precipitate a violent response from North Korea.

* The waters off the DMZ have the highest concentration of ROK boats in the October-March period.

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Glossary

Baseline: The low water line along a coastline or, in the case of deeply indented or island-studded coastlines, a straight line drawn across indentions or between islands from which all other sea limits are measured.

East Asian Continental Shelf: The subsea extension of the Asian landmass that underlies the Po Hai, the Korea Strait, and the Yellow and East China Seas.

Equidistant Line: A line, or boundary, drawn between two adjacent or opposite countries, every point of which is equal in distance from their respective baselines.

Exclusive Economic Zone: An area adjacent to its coast within which a nation exercises control over all living and non-living resources in the sea and on or beneath the seabed.

Exclusive Fishery Zone: An area adjacent to its coast within which a nation has control over all living resources.

Internal Waters: Waters landward from a baseline over which a nation exercises the same degree of sovereignty exercised over its land territory, including the right of exclusion of foreign vessels.

Natural Prolongation Principle: The theory that the continental shelf, being made up of sediments from the landmass, is the seaward extension of the land territory of a coastal state and therefore should come under the jurisdiction of that coastal state regardless of its breadth.

Territorial Sea: Waters seaward from a baseline over which a nation has exclusive sovereignty conditioned only by the right of innocent passage of foreign vessels.

Innocent Passage: The right of a foreign vessel to pass through the territorial sea of a coastal nation, so long as the vessel commits no act prejudicial to the coastal nation or contrary to the rules of international law.

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