

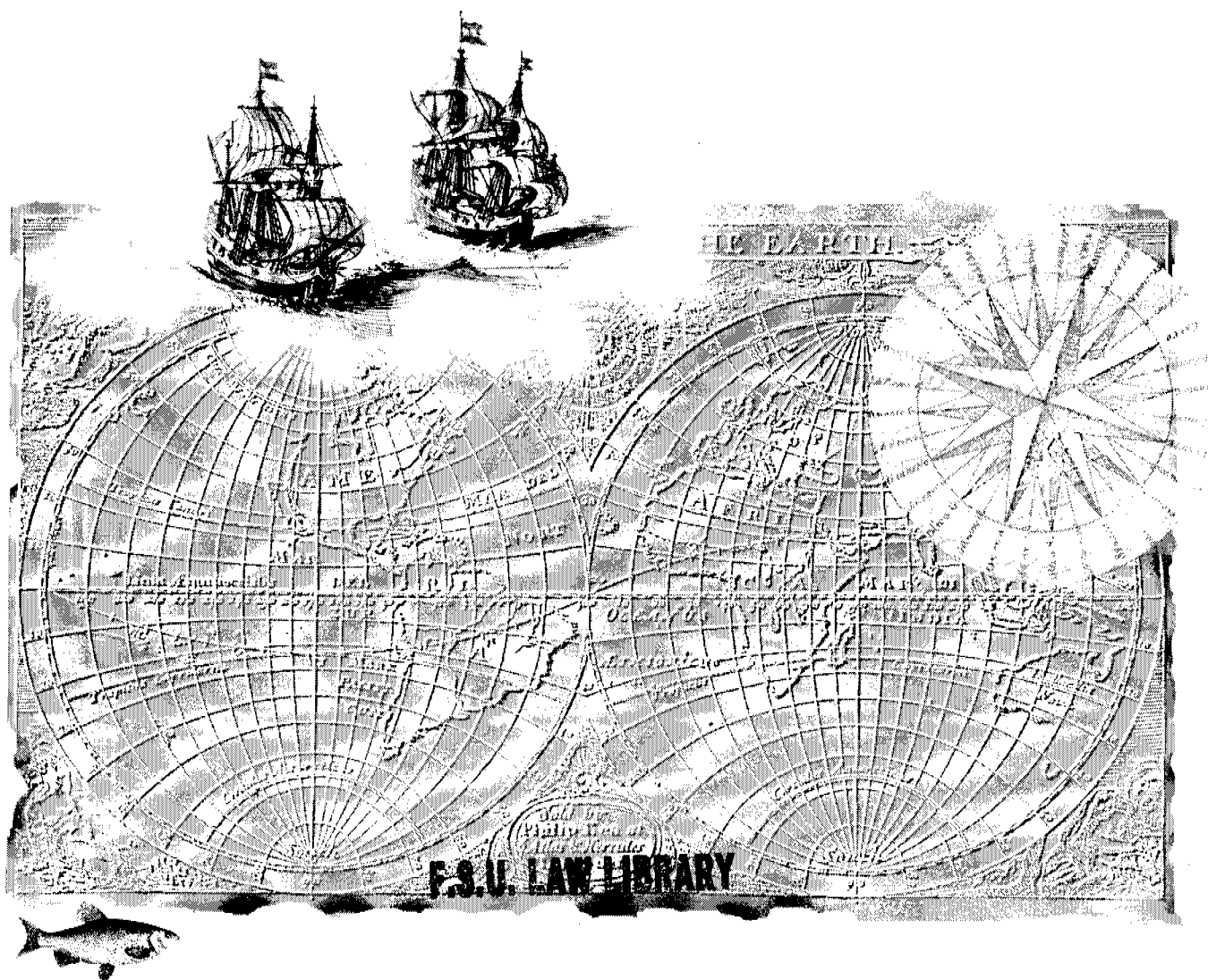
United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*



Limits in the Seas

No. 122

**Straight Baseline Claim:
Thailand**



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LIMITS IN THE SEAS

No. 122

STRAIGHT BASELINE CLAIM:

THAILAND

September 8, 2000

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

Introduction

This study analyzes the claim to straight baselines made in three announcements by Thailand's Office of the Prime Minister in 1970 and 1992.¹ The June 12, 1970 announcement establishes straight baseline systems along three areas of Thailand's coasts; two in the Gulf of Thailand and one at the northern entrance to the Strait of Malacca. The August 17, 1992 announcement created a fourth straight baseline system in the Gulf of Thailand. The Government of Thailand measures the limits of its territorial sea and other maritime zones from these straight baselines.

The 1970 Announcement, with geographical coordinates of the straight baseline turning points, is reproduced in Annex 1 of this study. The Announcement of August 11, 1992, amends three geographical coordinates and geographical names in the 1970 claim and is found in Annex 2 of this study. The Announcement of August 17, 1992, which established Area 4, is reproduced in Annex 3.

Basis for Analysis

The United Nations Convention on the Law of the Sea (LOS Convention), which Thailand has not ratified, reflects customary international law for the principles that underlie the proper and legal establishment of baselines. The rules for drawing baselines are contained in articles 5-11 and 13-14 of the LOS Convention. Article 5 states that "except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast." Paragraph 1 of article 7 is the paramount paragraph that establishes the geographical conditions that must be met should a coastal State elect to claim straight baselines in particular locations. This paragraph states that straight baselines may be drawn only in two specific geographic situations, that is, (a) "in localities where the coastline is deeply indented and cut into", or (b), "if there is a fringe of islands along the coast in its immediate vicinity".²

The purpose of authorizing the use of straight baselines is to allow the coastal State, at its discretion, to enclose those waters which have, as a result of their close interrelationship with the land, the character of internal waters. According to the LOS Convention, "the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters".³ By using straight baselines, a State may also eliminate complex patterns,

¹ Announcement of the Office of the Prime Minister concerning straight baselines and internal waters of Thailand, 1970, Official Gazette, Special vol. 87, Chapter 52, 12 June 1970. Announcement of 11 August 1992, Official Gazette, vol. 110, chapter 18, 18 February 1993. Announcement of 17 August 1992, Official Gazette, vol. 109, chapter 89, 19 August 1992.

² LOS Convention, article 7(1); also found in article 4(1) of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606, T.I.A.S. No. 639, 516 U.N.T.S. 205, to which Thailand is a party.

³ LOS Convention, article 7(3).

including enclaves, in its territorial sea, that would otherwise result from the use of normal baselines.⁴

A United Nations study stated that when determining whether "conditions apply which would permit the use of straight baselines it is necessary to focus on the spirit as well as the letter of the first paragraph of article 7" of the LOS Convention.⁵ And, as a noted geographer has stated, "proper straight baselines usually have a number of segments, each composed of several legs, interspersed with sections of the low-water mark of island and mainland coasts....The length of individual legs is short and the baseline is rarely more than 24 nautical miles from an exposed coast".⁶ Article 14 of the LOS Convention acknowledges that a combination of methods is appropriate for determining the type of baselines in particular areas: "The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions."

In certain locations Thailand meets the LOS Convention criteria allowing for the establishment of straight baselines. However, in several areas many of the points used to establish the straight baselines are situated in locations that fail to meet either of the LOS geographic conditions required for applying straight baselines. And, for the most part, the waters enclosed by the new straight baseline system do not have the close relationship with the land as needed, but rather reflect the characteristics of the territorial sea or high seas. In these areas it would be appropriate to use the normal baseline, the low-water mark along the coastline.

Neither the LOS Convention nor the Convention on the Territorial Sea and the Contiguous Zone place a specific distance limit on the length of a straight baseline. However, several analyses have suggested limits ranging from 24 to 48 miles.⁷ The position of the United States is that as a general rule baseline segments should not exceed 24 miles.⁸ The following analysis supports 24 miles as the ordinary maximum baseline length.

The maximum segment length of 24 miles is implied from a close reading of the relevant articles of the LOS Convention. Article 7(1) speaks of the 'immediate vicinity' of the coast. Article 7(3) states that 'the sea areas lying within the line must be sufficiently closely

⁴ J. Ashley Roach and Robert W. Smith (Roach and Smith), *United States Responses to Excessive Maritime Claims*, 2nd edition, Martinus Nijhoff Publishers, 1996, p. 60.

⁵ United Nations, *Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea*, 1989, p. 17.

⁶ Victor Prescott, *The Maritime Political Boundaries of the World*, 1985, p. 69.

⁷ See Roach and Smith, p. 64 (24 miles); Robert D. Hodgson and Lewis M. Alexander, "Towards an Objective Analysis of Special Circumstances: Bays, Rivers, Coastal and Oceanic Archipelagoes and Atolls," *Law of the Sea Institute Occasional Paper No. 13*, 1971, p. 8 (45 miles); Peter B. Beazley, *Maritime Limits and Baselines: A Guide to their Delineation*, The Hydrographic Society Special Publication No. 2 (2nd ed., revised August 1978), p. 9 (45 miles); *Limits in the Seas No. 106*, "Developing Standard Guidelines for Evaluating Straight Baselines", August 31, 1987 (48 miles). Unless otherwise noted, miles in this study are nautical miles. One nautical mile equals 1,852 meters.

⁸ *U.S. Department of State Dispatch Supplement*, "Law of the Sea Convention, Letters of Transmittal and Submittal and Commentary", Vol. 6, February 1995, p. 8. J. Ashley Roach and Robert W. Smith, "Straight Baselines: The Need for a Universally Applied Norm," *Ocean Development & International Law*, 31: 47-80, 2000.

linked to the land domain to be subject to the regime of internal waters.' In both of these descriptions, the implication is strong that the waters to be internalized would otherwise be part of the territorial sea. It is difficult to envision a situation where international waters (beyond 12 miles from the appropriate low-water line) could be somehow 'sufficiently closely linked' as to be subject to conversion to internal waters.

This implication is reinforced by article 8(2) which guarantees the right of innocent passage in areas converted to internal waters by straight baselines. Innocent passage is a regime applicable to the territorial sea (with a maximum breadth of 12 miles). Preservation of innocent passage carries over pre-existing rights in waters that were territorial in nature before the application of straight baselines. Given this theme of linkage to territorial waters, it follows that, as a rule, no straight baseline segment should exceed 24 miles.⁹

Analysis of Thailand's Straight Baselines¹⁰

Thailand, a southeast Asian mainland State, shares the Malay peninsula with Malaysia in its southern region (see Map 1). Thailand's southern coast comprises more than one half the perimeter of the Gulf of Thailand. On the eastern side of the Gulf, Thailand shares a land boundary with Cambodia. In the south, along the western side of the Gulf of Thailand, Malaysia and Thailand have a land boundary. The western coastline of Thailand's southern peninsula faces the Andaman Sea and the northern entrance to the Strait of Malacca. Along this coastline Thailand shares land boundaries with Burma to the north, and Malaysia to the south.

Thailand's claimed straight baseline areas 1, 2, and 4 have been established on its Gulf of Thailand coastline while area 3 is situated near the Strait of Malacca.¹¹

Area 1

This area is situated along Thailand's southeast coast in the northeast part of the Gulf of Thailand near the Cambodia-Thailand land boundary (see map 2).¹² The straight baselines enclose two medium-size islands (Ko Chang and Ko Kut), and numerous smaller islands; the water depths landward of the baselines are relatively shallow, being generally 10 fathoms (60 feet) or less. Seven straight baseline segments have been drawn in Area 1 with the baseline lengths ranging from 3.2 miles (segment 1-2) to about 20 miles where the baseline system is apparently drawn back to the mainland at the Cambodia-Thailand land boundary terminus (see

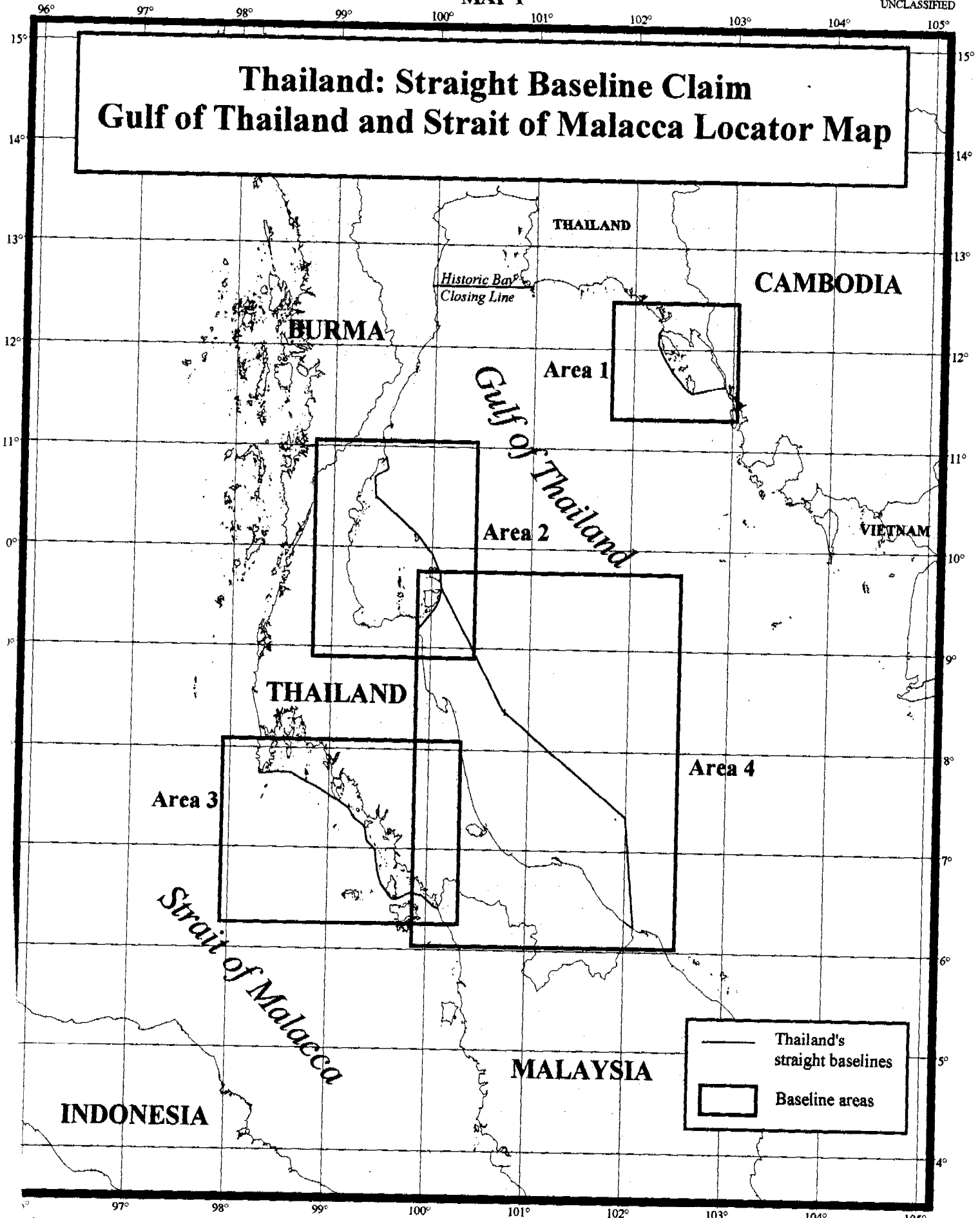
⁹ Roach and Smith, footnote 24, pp. 64-65.

¹⁰ The following analysis supersedes that found in *Limits in the Seas* No. 31: Straight Baselines Thailand, March 24, 1971.

¹¹ It should be noted that by a Declaration made in 1959, Thailand claimed the northern part of the Gulf of Thailand as a historic bay. This Declaration of the Office of the Prime Minister Concerning the Inner Part of the Gulf of Thailand, 22 September 1959, is reproduced in Annex 4 of this study and can be found at United Nations Legislative Series, ST/LEG/SER.B/16, p. 34.

¹² Analysis for Area 1 has been done using National Imagery and Mapping Agency (NIMA) chart 93010 (3rd edition, Sept. 2, 1978, 1: 1,083,933).

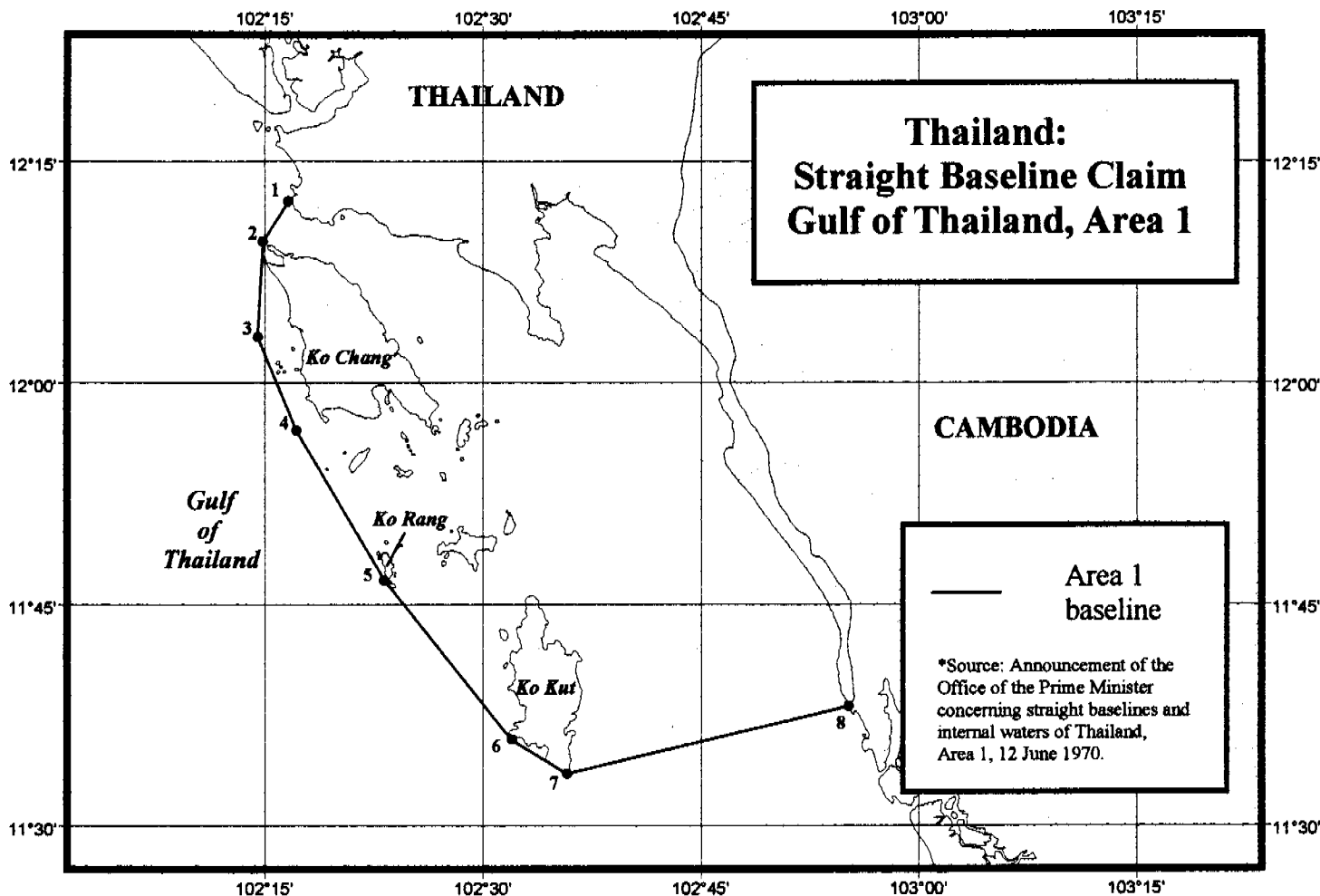
Thailand: Straight Baseline Claim Gulf of Thailand and Strait of Malacca Locator Map



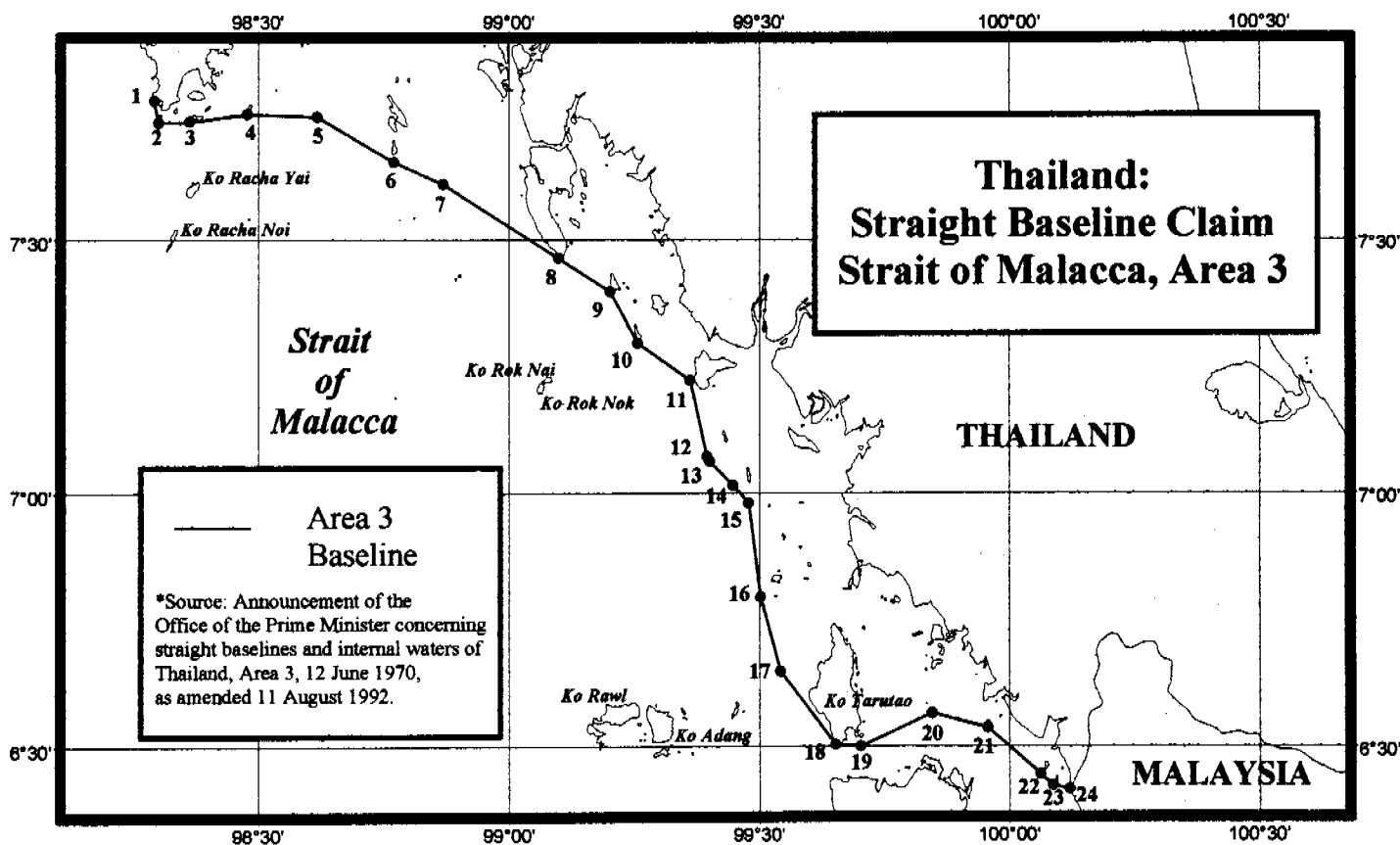
Boundary representation is not necessarily authoritative.

MAP 2

UNCLASSIFIED



MAP 3



Boundary representation is not necessarily authoritative.

Table 1). The Announcement cites point 8 as the "Thai-Cambodia Boundary Post" but does not give a specific geographic position.

This island group could be considered as fringing the mainland coast. No island within this straight baseline system is greater than 24 miles from the mainland coast. The only baseline segment that diverts from the general direction of the mainland is segment 7-8 which brings the straight baseline system back to the mainland.

Table 1
Area 1
Straight Baseline Lengths
(nautical miles)

Segment	Length	Segment	Length
1-2	3.2	5-6	13.8
2-3	6.0	6-7	4.2
3-4	7.4	7-8	Approx. 20
4-5	11.7		

Area 2

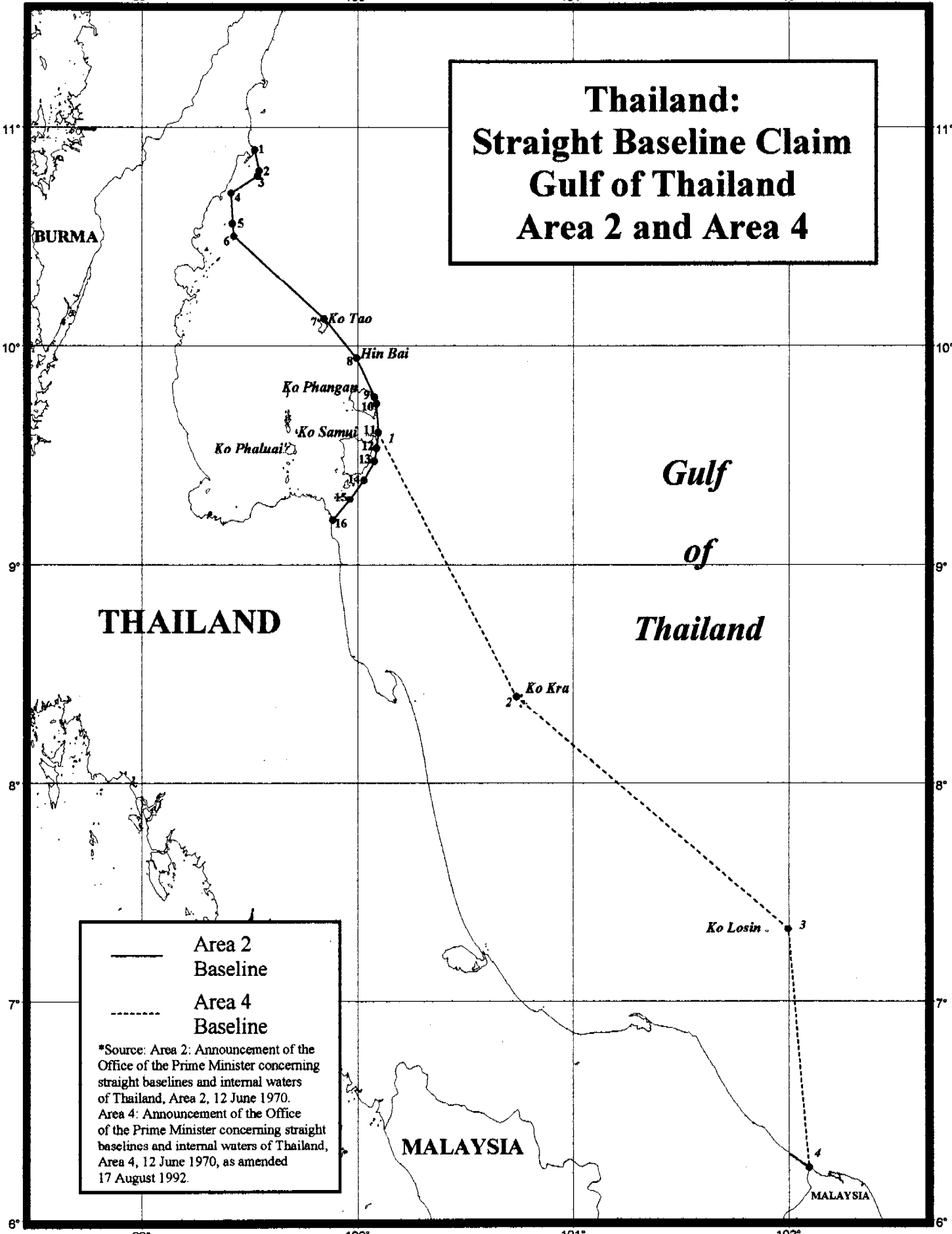
This area is in the western Gulf of Thailand (see map 4).¹³ In this approximately 100-mile stretch, the coastline is relatively smooth with slight indentations and a sprinkle of very small offshore islets and rocks. At its southern extent the mainland coast creates an "L" shape with several medium sized islands (Ko Phangan and Ko Samui). Only in this southern part of Area 2 might a few straight baseline segments be valid.

The first five segments in Area 2 (points 1 to 6) range in length from 1.4 to 8.7 miles but the features which are connected by the baselines are mere rocks and small islets and not a fringe of islands (see Table 2). Segment 6-7 is over 33 miles long and connects a small islet to Ko Tao, a small island. This baseline segment encloses waters that should be high seas and territorial sea not internal waters, as claimed by Thailand. Ko Tao is about 40 miles from the mainland.

From Ko Tao straight baselines are drawn to Hin Bai, a small islet 40 miles from the mainland, and then to Ko Phangan. From Ko Phangan the baseline extends to Ko Samui and then to small islets to the southwest, and then joins back to the mainland. It is possible that a localized straight baseline system could be created in the area of Ko Phangan, Ko Samui, and Ko Phaluai and the small adjacent islets. However, in this Area 2 about 3,000 square nautical miles (10,290 square kilometers) are claimed as internal waters that should retain the legal status of either high seas or territorial sea.

¹³ Analysis of Area 2 was also based on plotting the baseline segments on NIMA chart 93010.

**Thailand:
Straight Baseline Claim
Gulf of Thailand
Area 2 and Area 4**



— Area 2
Baseline
 - - - Area 4
Baseline
 *Source: Area 2: Announcement of the
Office of the Prime Minister concerning
straight baselines and internal waters
of Thailand, Area 2, 12 June 1970.
Area 4: Announcement of the Office
of the Prime Minister concerning straight
baselines and internal waters of Thailand,
Area 4, 12 June 1970, as amended
17 August 1992.

Boundary representation is not necessarily authoritative.

Table 2
Area 2
Straight Baseline Lengths
(nautical miles)

Segment	Length	Segment	Length
1-2	6.0	9-10	1.9
2-3	1.4	10-11	7.9
3-4	8.7	11-12	4.1
4-5	8.0	12-13	3.7
5-6	3.6	13-14	5.7
6-7	33.4	14-15	6.8
7-8	14.0	15-16	7.1
8-9	11.8		

Area 3¹⁴

Area 3 comprises a 125-mile stretch of coastline facing the northern entrance to the Strait of Malacca (see Map 3). As shown in Table 3, all the straight baseline segments in area 3 are less than 24 miles long. This entire area that has been claimed by Thailand within the straight baseline system comprises either a fringe of islands or a mainland that has is deeply indented or cut into. Thailand has properly excluded several islands from the straight baseline system that would not meet the fringing islands criterion.

Table 3
Area 3
Straight Baseline Length
(nautical miles)

Segment	Length	Segment	Length
1-2	2.6	13-14	3.6
2-3	3.7	14-15	3.2
3-4	7.0	15-16	11.2
4-5	8.3	16-17	9.1
5-6	10.5	17-18	10.8
6-7	6.4	18-19	3.0
7-8	16.4	19-20	9.4
8-9	7.3	20-21	6.9
9-10	6.9	21-22	8.3
10-11	7.6	22-23	2.0
11-12	12.0	23-24	Approx. 2
12-13	.7		

¹⁴ Analysis for this area has been done using NIMA charts 71315 (2nd ed., May 1, 1999, 1: 200,000) and 71040 (5th ed., March 13, 1999, 1: 300,000).

In the northern section the baselines begin on the island of Ko Phuket which, given its proximity to the mainland (less than 0.4 miles) and the shallow intervening waters, could be considered a part of the mainland. The first ten segments (connecting points 1 to 11), which total about 77 miles, are situated along a coastline that has the geographic characteristic that appear to permit the drawing of straight baselines: deep indentations and islands that fringe the coast. It should be noted that several Thai islands lying seaward of these segments, including Ko Racha Noi, Ko Racha Yai, Ko Rok Nok, and Ko Rok Nai, have been excluded from the straight baseline system. The territorial sea limits are determined from the low water line of these islands.

For the next seven segments (connecting points 11 through 18) the straight baseline system continues in a southerly direction connecting small islets. It should be noted that Thailand has not incorporated Ko Rawl and Ko Adang and adjacent smaller islands in their claimed straight baseline system. These islands are situated further from the mainland in the Strait of Malacca.

From point 18, situated on the southern part of Tarutao Island, the straight baselines extend to the east then southeast to the Thai-Malaysia land boundary terminus. The six baseline segments connect small islands.

Area 4

This part of Thailand's straight baseline system was claimed in 1992.¹⁵ It is a continuation of Area 2's baselines in the southwestern part of the Gulf of Thailand. Its initial point is point 11 of Area 2 (see Map 4). The final point is situated on the land boundary terminus with Malaysia. Along this 230-mile stretch of Thailand's smooth coastline there are a few broad indentations. But, the coastline clearly is not deeply indented, nor is there a fringe of islands in the immediate vicinity. The few small islets, situated between 20 and 30 miles from the mainland, are used as the basepoints for this series of straight baselines. Clearly, this is an excessive maritime claim. The baseline segments range in length from 65.3 miles to close to 100 miles (see Table 4). Thailand has claimed as internal waters an area approximately 8,400 square nautical miles (28,812 square kilometers) that should remain either territorial sea or high seas.¹⁶

Table 4
Area 4
Straight Baseline Length
(nautical miles)

Segment	Length	Segment	Length
1-2	81.4	3-4	65.3
2-3	98.4		

¹⁵ Analysis of Area 4 is based on plotting the baseline segments on NIMA chart 93010.

¹⁶ The United States protested the straight baseline claim for areas 2 and 4 in August, 2000.

Annex 1

Announcement of the Office of the Prime Minister¹

Subject: Base Lines and Internal Waters of Thailand

The Cabinet has deemed it suitable to assert the base lines and internal waters of Thailand as follows:

And asserting the water areas within the said base lines to be the internal waters of Thailand as per details in the map attached hereto.

Thailand has adhered to these claims since time immemorial.

Amended on 11th June 2513
Field Marshall Thanom Kittikachorn
Prime Minister

AREA No. 1

Reference No.	Geographical Name	Geographical Coordinate	
		Lat. N.	Long. E.
1	Laem Ling	12° 12.3'	102° 16.7'
2	Ko Chang Noi	12° 09.6'	102° 14.9'
3	Hin Rap	12° 03.1'	102° 14.5'
4	Hin Luk Bat	11° 56.7'	102° 17.2'
5	Ko Rang	11° 46.6'	102° 23.2'
6	Hin Bang Bao	11° 35.8'	102° 32.0'
7	Ko Kut	11° 33.6'	102° 35.7'
8	Thai-Cambodia Boundary Post	--	--

AREA No. 2

Reference No.	Geographical Name	Geographical Coordinate	
		Lat. N.	Long. E.
1	Laem Yai	10° 53.7'	99° 31.4'
2	Ko Ran Khai	10° 47.8'	99° 32.6'
3	Ko Ran Pet	10° 46.5'	99° 32.2'

¹ Limits in the Seas (LIS), No. 31, March 24, 1971. The coordinate values of Areas 1, 2 and 3 also appear in The Law of the Sea, Baselines: National Legislation with Illustrative Maps (United Nations publication, Sales No. E.89.V.10), p. 307-8. The latitude coordinate for Area No. 2, Point 10 is incorrectly given in the coordinates table in LIS, No. 31, as 09° 49.0' N. The correct point given on the map from the same edition, and in this edition of Limits in the Seas, is correct - 09° 44.0' N.

4	Ko Khai	10° 41.8'	99° 24.8'
5	Ko Chorakhe	10° 33.6'	99° 25.2'
6	Hin Lak Ngam	10° 30.0'	99° 25.6'
7	Ko Tao	10° 07.5'	99° 50.7'
8	Hin Bai	09° 56.6'	99° 59.7'
9	Ko Kong Thansadet	09° 45.8'	100° 04.7'
10	Ko Phangan	09° 44.0'	100° 05.2'
11	Ko Kong Ok	09° 36.1'	100° 05.8'
12	Ko Mat Lang	09° 32.0'	100° 05.3'
13	Ko Samui	09° 28.3'	100° 04.7'
14	Hin Ang Wang	09° 23.4'	100° 01.8'
15	Ko Rap	09° 17.9'	99° 57.8'
16	Laem Na Tham	09° 12.4'	99° 53.2'

AREA NO. 3

Reference No.	Geographical Name	Geographical Coordinate	
		Lat. N.	Long. E.
1	Ko Phuket	07° 46.5'	98° 17.5'
2	Ko Kaeo Noi	07° 43.9'	98° 18.0'
3	Ko Hi	07° 44.0'	98° 21.7'
4	Ko Mai Thon	07° 44.9'	98° 28.7'
5	Ko Kai	07° 44.6'	98° 37.1'
6	Ko Bida Nok	07° 39.2'	98° 46.2'
7	Ko Ma	07° 36.6'	98° 52.1'
8	Ko Lanta Yai	07° 27.8'	99° 06.0'
9	Ko Ngai	07° 23.8'	99° 12.1'
10	Ko Kradan	07° 17.7'	99° 15.4'
11	Ko Khwang	07° 13.3'	99° 21.7'
12	Ko Beng	07° 04.3'	99° 29.7'
13	Hin Baewa	07° 03.7'	99° 24.0'
14	Ko Tului Yai	07° 00.9'	99° 26.8'
15	Ko Ta Dai	06° 58.8'	99° 28.7'
16	Ko Ayam	06° 47.6'	99° 30.1'
17	Hin Osbon	06° 38.8'	99° 32.5'
18	Ko Tarutao	06° 30.2'	99° 39.1'
19	Hin Bai	06° 30.0'	99° 42.1'
20	Ko Koi Yai	06° 33.9'	99° 50.7'
21	Ko Lima	06° 32.2'	99° 57.4'
22	Ko Khuning	06° 26.7'	100° 08.7'
23	Ko Prasmana	06° 25.4'	100° 05.2'
24	Thai-Malaysia boundary	--	--

Annex 2

Announcement of the Office of the Prime Minister concerning the Straight Baselines and Internal Waters of Thailand¹

Whereas the Announcement of the Office of the Prime Minister concerning the Straight Baselines and Internal Waters of Thailand dated 11 June 1970 was made to confirm the status of the straight baselines and internal waters of Thailand;

Whereas there are certain errors in the aforesaid Announcement;

Whereas the name of an island referred to in the aforesaid announcement has now been changed;

The Cabinet, by its decision of 11 August 1992, has amended the aforesaid Announcement as follows:

1. The geographical names and geographical coordinates of Reference Number 5, Reference Number 12 and Reference Number 22 of Area No. III of the Announcement of the Office of the Prime Minister concerning the Straight Baselines and Internal Waters of Thailand dated 11 June 1970 are hereby repealed and substituted by the following:

Reference No.	Geographical Name	Geographical Coordinates	
		Lat. N.	Long. E.
5	Ko Kai	07° 44' .6	98° 37' .1
12	Ko Bulaobot	07° 04' .3	99° 23' .7
22	Ko Khuning	06° 26' .7	100° 03' .7

2. The map annexed to the Announcement of the Office of the Prime Minister concerning the Straight Baselines and Internal Waters of Thailand dated 11 June 1970 is hereby repealed and substituted by the map annexed to this present Announcement.

¹ Published in the Official Gazette, vol. 110, chapter 18, 18 February 1993. Text was transmitted by the Permanent Mission of Thailand to the United Nations in note verbale No. 401/2536 dated 8 March 1993. The map cited in paragraph 2 is not included in this study.

Annex 3

**Announcement of the Office of the Prime Minister
concerning straight baselines and internal waters of Thailand
Area 4, 17 August 1992¹**

Whereas the Announcement of the Office of the Prime Minister concerning the Straight Baselines and Internal Waters of Thailand dated 11 June 1970 was published in Official Gazette, Special vol. 87, Chapter 52, dated 12 June 1970, to proclaim the straight baselines and internal waters of Thailand in 3 areas.

Whereas the Cabinet has deemed it appropriate to proclaim the straight baselines and internal waters of Thailand in another area, that is Area 4, pursuant to the generally accepted principles of international law, as follows:

Reference No.	Geographical Name	Geographical Coordinates	
		Lat. N.	Long. E.
1	Ko Kong Ok	09° 36' 06"	100° 05' 48"
2	Ko Kra	08° 23' 49"	100° 44' 13"
3	Ko Losin	07° 19' 54"	101° 59' 54"
4	Thai-Malaysian Boundary	06° 14' 30"	102° 05' 36"

Whereupon the waters within the aforementioned straight baselines are the internal waters of Thailand.

Details of straight baselines and internal waters of Thailand Area 4 appear in the map annexed to this present Announcement.

Announced on 17 August 1992.

¹ Published in Official Gazette, vol. 109, chap. 89, dated 19 August 1992.

Annex 4

Declaration Of The Office Of The Prime Minister Concerning The Inner Part Of The Gulf Of Thailand, 22 September 1959¹

The Council of Ministers has seen fit to issue the following declaration confirming the juridical status of the inner part of the Gulf of Thailand; namely, that the inner part of the Gulf of Thailand situated northward of the baseline which starts from the first point on the Bahn Chong Samsarn Peninsula (latitude 12° 35' 45" north, longitude 100° 57' 45" east) and, running westward parallel to the latitude, reaches the second point on the opposite sea coast (latitude 12° 35' 45" north, longitude 99° 57' 30" east) is a historic bay and that the waters enclosed within the baselines aforesaid form part of the internal waters of Thailand.

The Kingdom of Thailand has constantly maintained the foregoing position from time immemorial.

¹ *Official Gazette*, vol. 76, Chapter 91, Special Supplement, 26 September 1959. Unofficial English translation provided by the Foreign Ministry of Thailand in a note verbale of 18 October 1971. National Legislation and Treaties Relating to the Law of the Sea, *United Nations Legislative Series*. New York, 1974. p. 34.