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

Limits in the Seas

No. 113

Straight Baseline Claims: Djibouti and Oman

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LIMITS IN THE SEAS

No. 113

STRAIGHT BASELINE CLAIMS:

DJIBOUTI AND OMAN

April 22, 1992

Office of Ocean Affairs
Bureau of Oceans and International
Environmental and Scientific Affairs

INTRODUCTION

This study analyzes claims made by two states to establish straight baselines from which to measure their respective territorial seas - Djibouti and Oman. The basis for the analysis of each claim is Article 7 of the United Nations Convention on the Law of the Sea (LOS) which is reproduced at Annex 1. Paragraph 1 of this Article is the paramount paragraph that establishes the geographical conditions under which States may claim straight baselines:

"1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured."

An earlier Limits in the Seas study proposes objective standards by which to judge straight baseline claims and those proposals will be used to analyze the claims of Djibouti and Oman.[1] Included in this study are page-size maps illustrating the straight baseline systems. Larger scale maps and charts, however, were used for the analyses.

DJIBOUTI

The Claim: By Decree No. 85-048 made on August 5, 1985, the Government of Djibouti established straight baselines around the Seba Islands (see map). An earlier law established closing lines for the Gulf of Tadjoura[2] (see Annex 2 for excerpts of Djibouti's 1985 Decree and 1979 law).

Analysis: From the straight baselines and the Gulf of Tadjoura closing lines Djibouti measures its 12 nm territorial sea. Along the remaining coastline the territorial sea is measured from the normal baseline (the low-water line).

The Gulf of Tadjoura is closed by two lines, A-B (9.9 miles)[3] and B-C (13.9 miles), which extend from two points on the mainland to Isles Moucho. A closing line that would better delimit the waters of the Gulf as a juridical bay would be from point A to a point on the coast near the city of Djibouti. As claimed, the closing lines incorporate, in part, waters associated with the Gulf of Aden rather than the Gulf of Tadjoura.

The straight baselines connect the mainland to several of the Seba Islands which are situated off Djibouti's northeast coast at the southern entrance to Bab el Mandeb and the Red Sea. The seaward-most island, named Kadd Dabali in the Decree on which basepoint F is located, is about 7 miles from the mainland and about 10 miles from Yemen's Perim Island situated across the entrance to Bab el Mandeb.

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1 United States Department of State, Limits in the Seas No. 106, Developing Standard Guidelines for Evaluating Straight Baselines, August 31, 1987.

2 Law No. 52/AN/78 on January 9, 1979.

3 All mileage cited in this study are nautical miles. One nautical mile equals 1,852 meters.

Djibouti's mainland coast, in the vicinity of the Seba Islands, is smooth with some attached fringing coral reefs and, from the land boundary with Ethiopia, runs in a generally southeast direction. The approximately six small islands that comprise the Seba group run virtually perpendicular to the mainland coastline. As such, the islands do not fringe the coast, one of prerequisites under Article 7 of the LOS Convention, for a state to claim straight baselines.

Table 1 gives the distances between the respective basepoints.

TABLE 1

Djibouti's Straight Baselines

Segment	Length (miles)
D-E	2.8
E-F	8.2
F-G	3.1
G-H	6.0

The straight baselines do not have any impact on the drawing of Djibouti's territorial sea. Due to the proximity of Yemen across the entrance to Bab el Mandeb, Djibouti's territorial sea in this direction will be less than 12 miles as a territorial sea boundary is required. To the south of the islands, Djibouti's mainland coast affects the 12-mile limit instead of baseline segment G-H. The straight baseline system does incorporate approximately 32 square (sq.) nautical miles (110 sq. kilometers) of water area as internal waters that, absent the straight baselines, would be territorial sea.

Because Djibouti does not meet the Article 7 criteria (i.e., the coastline is not deeply indented nor do the Seba Islands fringe the mainland), the United States submitted to the Government of Djibouti a diplomatic note on May 22, 1989 protesting, inter alia, this straight baseline claim (see Annex 3 for text of this note).

OMAN

The Claim: By Royal Decree No. 38/82 and accompanying Notice of June 1, 1982 (see Annex 4 for complete texts), Oman has claimed straight baselines along four sections of its coast (identified as Groups A, B, C, and D, see map). This claim implemented the enabling legislation Oman had passed on July 2, 1972.[4]

Analysis: Oman consists of two non-contiguous regions separated by the United Arab Emirates. It occupies the northern extremity of the Ru'us (peninsula) al Jibal, comprising the Musandam Peninsula and offshore islands. The major territorial segment of Oman is situated in the south and west, below the 25th parallel of north latitude, along the shores of the Gulf of Oman and the Arabian Sea.

Generally, Oman's coastline is quite smooth. The straight baseline claim involves less than half Oman's coastline. In those areas where straight baselines are not claimed the territorial sea is measured from the normal baseline, which, according to Article 5 of the LOS Convention "is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State."

Baseline segment distances are given in Table 2.

TABLE 2
Oman's Straight Baselines

Group "A" (Along the Musandam Peninsula)		**Group "B"** (Coastline near Muscat)	
Segment	Length (miles)	Segment	Length (miles)
1-2	1.03	17-18	4.02
2-3	10.63	18-19	11.21
3-4	1.15	19-20	5.63
4-5	0.95	20-21	2.20
5-6	10.7	21-22	1.06
6-7	11.59	22-23	3.52
7-8	1.06	23-24	23.60
8-9	0.85	24-25	6.13
9-10	7.18	25-26	10.90
10-11	11.44		
11-12	6.76		
12-13	8.51		
13-14	9.74		
14-15	3.86		
15-16	8.36		

[4] The analysis made in this study of Oman's 1982 straight baselines claim supercedes the analysis made in Limits in the Seas No. 61: Straight Baselines-Oman (Hypothetical), June 4, 1975.

TABLE 2
Oman's Straight Baselines
(cont'd)

Group "C" (Along Oman's east coast)		**Group "D"** (Along Oman's southeast coast)	
Segment	Length (miles)	Segment	Length (miles)
27-28	16.62	38-39	24.88
28-29	0.38	39-40	20.54
29-30	11.48	40-41	10.29
30-31	1.28	41-42	16.06
31-32	16.76	42-43	17.67
32-33	4.89		
33-34	4.29		
34-35	1.64		
35-36	20.90		
36-37	19.31		

Group "A": Basepoints 1-5 are located along a smooth coast with no islands thereby not justifying straight baselines. The claimed baselines have little effect on the territorial sea limit. Although point 6 is on an island, segment 5-6 essentially encloses two juridical bays.

Segments 10-11 and 11-12 should be modified to ignore point 11. The Musandam Peninsula is deeply indented here, but the island on which point 11 is situated is the only island in the area, thus it alone would not constitute fringing islands. From point 10 straight lines could be drawn to connect the various headlands of the Musandam Peninsula to point 12.

The coastline from point 12 to point 16 is relatively smooth, with small juridical bays. Instead of claiming straight baselines in this area, several bay closing lines would be more proper.

Group "B": None of the baseline segments in Group "B" meet the requirements for straight baselines. The coastline in the Muscat region is quite smooth and the few small islets situated off the coast do not constitute fringing islands.

Group "C": In Group "C" segment 36-37 properly closes a juridical bay. In this area there is only one large island, Al Masirah, which in itself does not constitute fringing islands. The mainland coast is not deeply indented. Segments 27-28 and 35-36 close off entrances to the Strait of Khawr Al Masirah.

Group "D": The coastline in the area of Group "D" is smooth and the four small islands do not fringe the coast. Thus, this is not a proper place to draw straight baselines.

As a result of conducting an analysis similar to the above, the United States delivered to the Government of Oman a diplomatic note on August 12, 1991, protesting many segments of this baseline system (see Annex 5 for text of the note).[5]

[5] In addition to protesting several of the straight baselines, the United States also protested Oman's claim that warships needed permission to exercise innocent passage prior to entering Omani territorial sea.

ANNEX 1

UNITED NATIONS LAW OF THE SEA CONVENTION
ARTICLE 7

Straight Baselines

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.

3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and 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.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

ANNEX 2

EXCERPTS FROM DJIBOUTI LAWS

Law 52/AN/78: Entered into force, January 9, 1979.[1]

Article 4

The territorial sea extends over a breadth of 12 nautical miles starting from the baselines. The baselines used to measure the breadth of the territorial sea are the low-water mark and also the straight baselines and the closing lines of bays.

The closing lines of bays used to determine the baselines from which the breadth of the territorial waters adjacent to the territory of the Republic is measured are, for the Gulf of Tadjoura, the lines connecting points A and B, and points B and C, defined as follows:

POINT A: North point of the mouth of Dalley Wadi (latitude 11º50'.40 N; longitude 43º05'.10 E);

POINT B: Musha Island lighthouse (latitude 11º43'.90 N; longitude 43º12'.80 E);

POINT C: South point of the mouth of Aatar Wadi (latitude 11º30'.20 N; longitude 43º15'.50 E).

[1] An English translation of the full text may be found in Robert W. Smith, Exclusive Economic Zone Claims, Martinus Nijhoff Publishers, 1986, pp. 111-114.

ANNEX 2

EXCERPTS FROM DJIBOUTI LAWS (cont'd.)

Decree No. 85-048, May 5, 1985[2]

The straight baselines which are used as a basis for the determination of the breadth of the territorial sea are drawn as follows on the charts of the French Hydrographic and Oceanographic Service…

The Seba Islands (Map No. 6329, published in 1961), tangent originating at point D;

D. M - 43°15'.22 East
L - 12°32'.10 North

To the low tide water mark on the islands of Siyyan Himar and Kadd Dabali, respectively;

E. M - 43°17'.90 East
L - 12°31'.20 North

F. M - 43°25'.80 East
L - 12°28'.50 North

Tangent originating at point F above, to the low tide water mark on the island of Rhounda Komaytou at point:

G. M - 43°27'.22 East
L - 12°25'.68 North

From point G above, to the low-tide water mark Khor Angar at point:

H. M - 43°21'.88 East
L - 12°22'.62 North

[2] This decree may be found in United Nations, Baselines: National Legislation 149.

ANNEX 3

DIPLOMATIC NOTE
PRESENTED BY THE UNITED STATES TO THE GOVERNMENT OF DJIBOUTI
MAY 22, 1989

[Complimentary opening]…and refers to Article VII, Djibouti Law No. 52/AN/78, which seeks to mandate that foreign vessels with nuclear propulsion or transportation of nuclear materials or other radioactive substances must inform Djibouti authorities beforehand about their entrance and crossing of Djibouti territorial waters; Article XIII of that law, which seeks to assert sovereign and exclusive rights over certain activities in Djibouti's exclusive economic zone; and Decree No. 85-048, of May 5, 1985, which purports to establish straight baselines for the Seba Islands.

The Government of the United States continues to attach importance to the recognized legal right of innocent passage through the territorial sea, which may be exercised by all ships, regardless of type or cargo, and may not in any case be subjected to a requirement of prior notice to the coastal state. This right is recognized in customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

The Government of the United States further maintains its view that, as recognized in customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea, unless exceptional circumstances exist, baselines are to conform to the low-water line along the coast as marked on a state's official large-scale charts. Straight baselines may only be employed in localities where the coastline is deeply indented and cut into, or where there is a fringe of islands along the immediate vicinity of the coast. It is the position of the Government of the United States that, in the case of Djibouti, the Seba [Islands are not fringing islands so as to permit the] drawing of straight baselines, and, therefore, the baseline must be the low-water line along the coast of each island, and the mainland.

The Government of the United States therefore objects to the claims described above and made by Article VII of Djibouti Law No. 52/AN/78, of January 9, 1979, and Decree No. 85-048, of May 5, 1985, which are not valid in international law, and reserve its rights and those of its nationals in this regard.

Regarding Article XIII of the aforementioned Law No. 52/AN/78, relating to Djibouti's exclusive economic zone, the Government of the United States notes that the term "sovereign rights" is used with respect to matters over which international law affords coastal states only "jurisdiction" and that the wording of Article XIII in other respects deviates from the accepted international law formulations. The Government of the United States hopes that the Government of Djibouti intends to interpret and apply Article XIII consistently with international law as reflected in the 1982 United Nations Convention on the Law of the Sea, including Article 56 thereof. The Government of the United States is

not prepared to recognize any claims in excess of those permitted under customary international law as reflected therein.

ANNEX 4

OMAN
NOTICE OF 1 JUNE 1982[3]

I, Yousuf Al Alawi Abdullah, Minister of State for Foreign Affairs; In pursuance of the Royal Decree Number 15/81 concerning the territorial sea and economic zone, and the Royal Decree Number 38/82 relating to the application of the straight baseline system for the demarcation of baselines for the territorial sea, the internal waters and the enclosed waters;

Have hereby issued the following notification:

Article 1

By application of Article 2, paragraph (c) of the Royal Decree Number 15/81 referred to above, the fixing of the straight baselines for any part of the Sultanate of Oman and the lines for enclosed waters lying between gulfs and bays and also the waters in between islands and the mainland coast shall be on the following basis:

(a) The coordinates of latitudes and longitudes mentioned below shall determine the positions of points for drawing the straight baselines for the Sultanate of Oman.

(b) The straight lines joining the points between the co-ordinates of latitudes and longitudes referred to in the preceding paragraph shall determine the straight baselines as provided by the Royal Decree Number 15/81.

(c) The co-ordinates of latitudes and longitudes referred to shall also be the basis for the demarcation of the internal enclosed waters in the Sultanate:

Co-ordinates of points

Number of the point	North latitude	East longitude
	Group A	
1	26º03'04.703"	56º05'01.869"
2	26º04'04"	56º05'22"
3	26º13'30"	56º10'52"
4	26°14'28"	56°11'34"
5	26°15'08"	56°12'19"
6	26°22'29"	56°21'02"
7	26°30'19"	56°30'34"
8	26°29'50"	56°31'37"

[3] The Notice may be found at United Nations, Baselines: National Legislation pp. 247-48. Oman submitted to the U.S. Embassy in Muscat Diplomatic Note No. 7/5/744/700/WK on March 14, 1985, which noted typographical errors for turning points 17, 24, and 25. The coordinates listed in this Annex reflect the corrections.

9	26°29'11"	56°32'14"
10	26°21'59"	56°32'13"

ANNEX 4

OMAN
NOTICE OF 1 JUNE 1982
(cont'd)

Co-ordinates of points

Number of the point	North latitude	East longitude
	Group A	
11	26°10'32"	56°32'58"
12	26°05'02"	56°28'34"
13	25°56'30"	56°28'17"
14	25°48'32"	56°22'02"
15	25°45'10"	56°19'55"
16	25°37'32.345"	56°16'03.950"
	Group B	
17	23°46'40"	57°41'38"
18	23°47'00"	57°46'00"
19	23°50'28"	57°57'38"
20	23°51'26"	58°03'41"
21	23°52'00"	58°06'00"
22	23°52'06"	58°07'09"
23	23°50'28"	58°10'33"
24	23°40'55"	58°29'50"
25	23°37'38"	58°35'29"
26	23°31'18"	58°45'09"
	Group C	
27	20°57'18"	58°49'00"
28	20°41'29"	58°54'38"
29	20°41'08"	58°54'47"
30	20°30'12"	58°58'39"
31	20°30'00"	58°57'18"
32	20°16'29"	58°46'41"
33	20°12'44"	58°43'20"
34	20°10'36"	58°39'22"
35	20°09'18"	58°38'18"
36	20°20'30"	58°19'30"
37	20°19'12"	57°59'00"
	Group D[4]	
38	17°55'02"	56°20'29"

[4] A cautionary notice on British Admiralty chart No. 3785 states that 3' for latitude and longitude should be subtracted for the whole of the coast west of Ras As-Sauqara.

39	17°30'17"	56°24'02"
40	17°29'42"	56°02'33"
41	17°29'12"	55°51'48"
42	17°27'57"	55°35'03"
43	17°24'00"	55°17'02"

Article 2

The provisions of this Notice shall come into force from the date of issue of this Notice and it shall be published in the Official Gazette.

ANNEX 5

DIPLOMATIC NOTE 606
PRESENTED BY THE UNITED STATES
TO THE GOVERNMENT OF OMAN
AUGUST 12, 1991

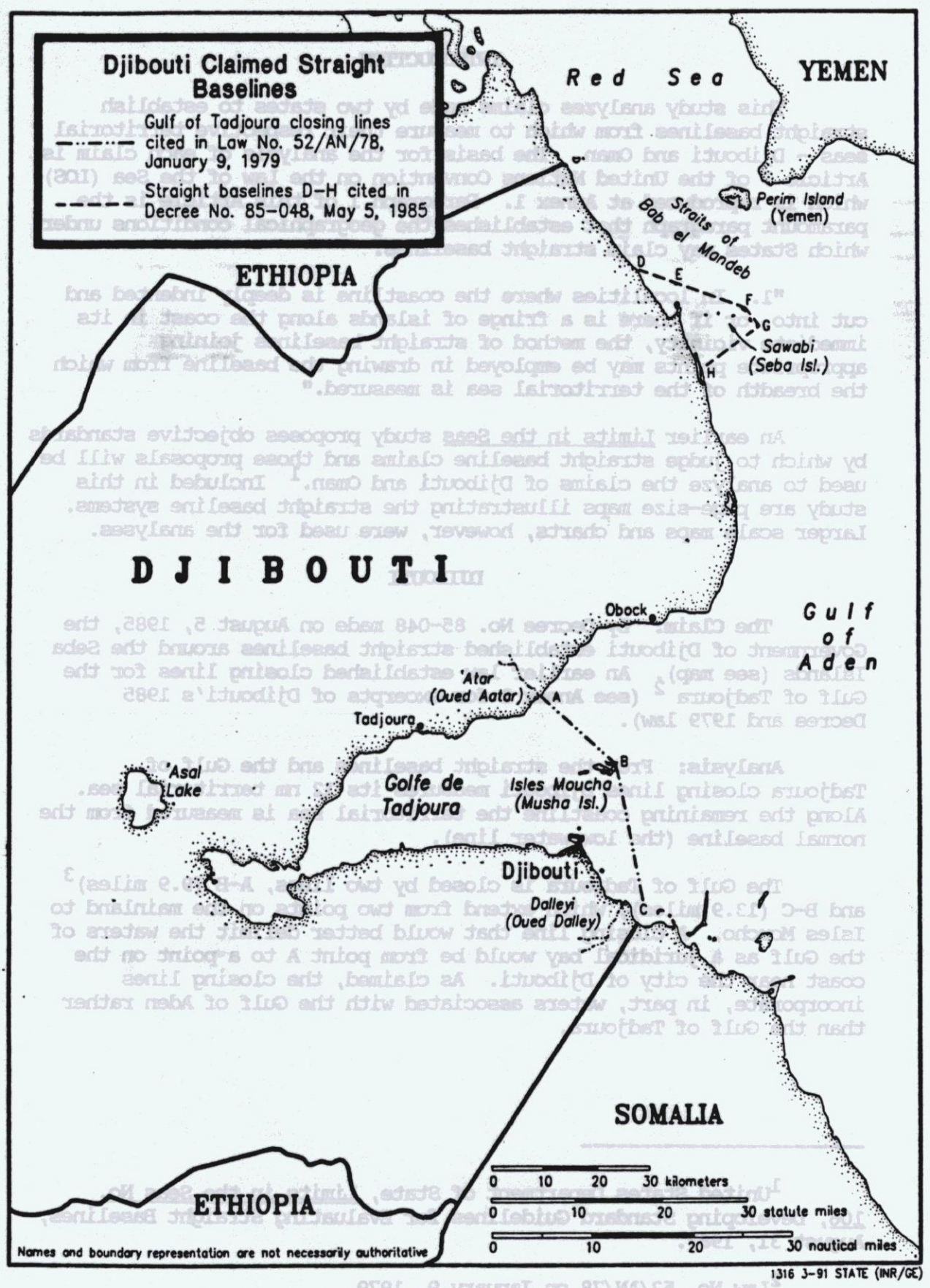
[Complimentary opening]…and refers to Oman's Declarations of 17 August 1989 accompanying the deposit of its ratification of the 1982 United Nations Convention on the Law of the Sea, confirming Oman's Notice of June 1, 1982, establishing straight baselines along portions of Oman's coast, pursuant to Article 2 (C) of Royal Decree No. 15/81, and also purporting to require prior permission for the exercise by warships of the right of innocent passage through Oman's territorial sea.

The Government of the United States wishes to recall to the Government of Oman that, as recognized in customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea, unless exceptional circumstances exist, baselines are to conform to the low-water line along the coast as marked on a state's official large-scale charts. Straight baselines may only be employed in localities where the coastline is deeply indented and cut into, or where there is a fringe of islands along the immediate vicinity of the coast. Where employed, straight baselines must not depart to any appreciable extent from the general direction of the coast. The coast of Oman does not meet any of these criteria. For example, the coastline is too smooth landward of points 1-5, 14-16, and 38-43; and too few islands mask Oman's coastline at points 6-7 and 38-43. On the other hand, the line connecting points 36 and 37 encloses a juridical bay, and while point 6 is situated on an island, instead of the mainland, segment 5-6 essentially encloses juridical bays.

The Government of the United States wishes further to recall to the Government of Oman that, with regard to its Declaration Nos. 2 and 3, the right of innocent passage through the territorial sea may be exercised by all ships, regardless of type or cargo, and may not in any case be subjected to a requirement of prior permission of, or notice to, the coastal state. This right is also recognized in customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

The United States Government notes that its warships have previously operated in Oman's territorial sea without the prior permission of the Government of Oman.

The Government of the United States therefore objects to the claims described above and made by Oman in ratifying the 1982 United Nations Convention on the Law of the Sea, which are not valid in international law, and reserves its rights and those of its nationals in this regard.


Djibouti Claimed Straight Baselines
Gulf of Tadjoura closing lines cited in Law No. 52/AN/78, January 9, 1979
Straight baselines D–H cited in Decree No. 85–048, May 5, 1985
Red Sea
YEMEN
Perim Island (Yemen)
Bab el Mandeb
Straits of
ETHIOPIA
D
E
F
G
H
Sawabi (Seba Isl.)
DJIBOUTI
Obock
Gulf of Aden
'Atar (Oued Aatar)
A
Tadjoura
B
'Asal Lake
Golfe de Tadjoura
Isles Moucha (Musha Isl.)
Djibouti
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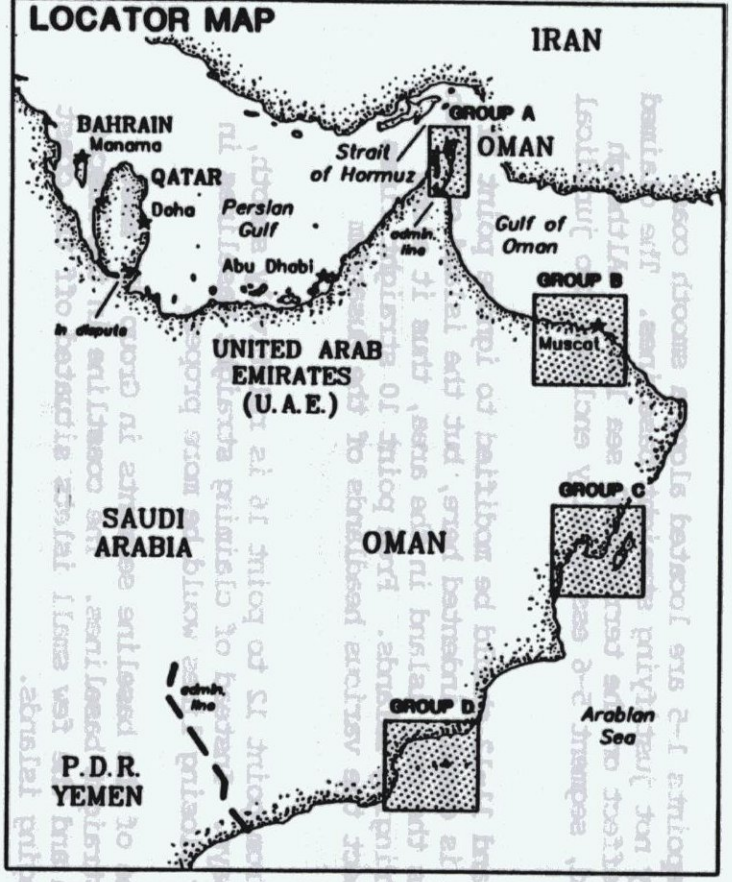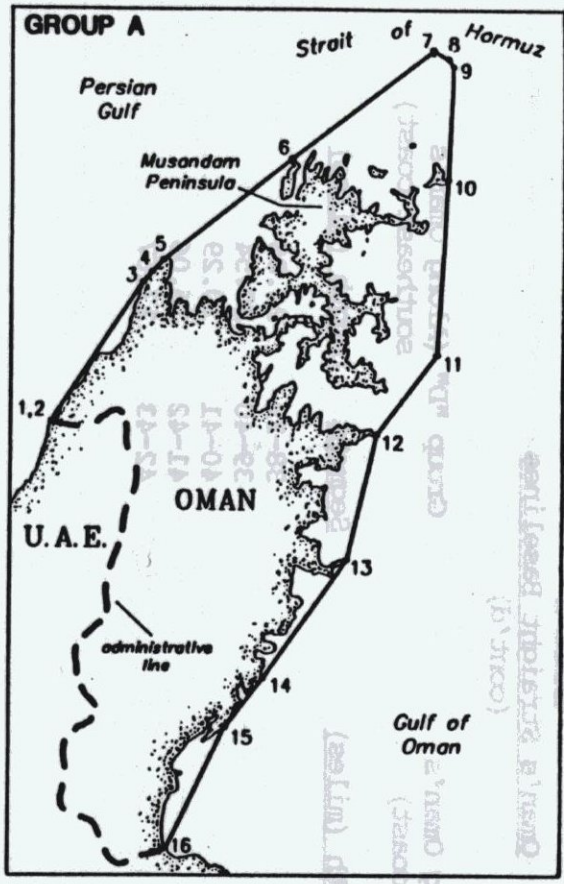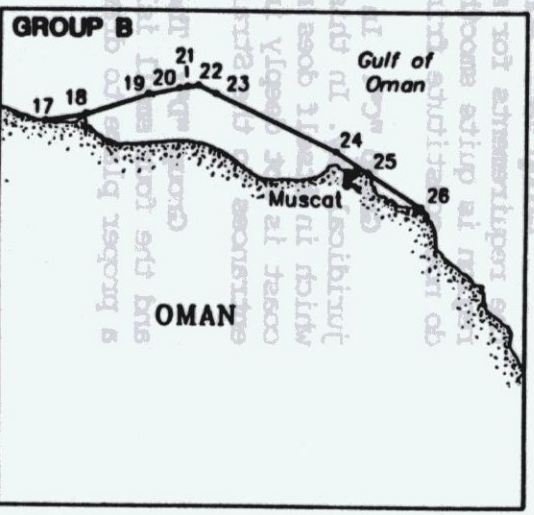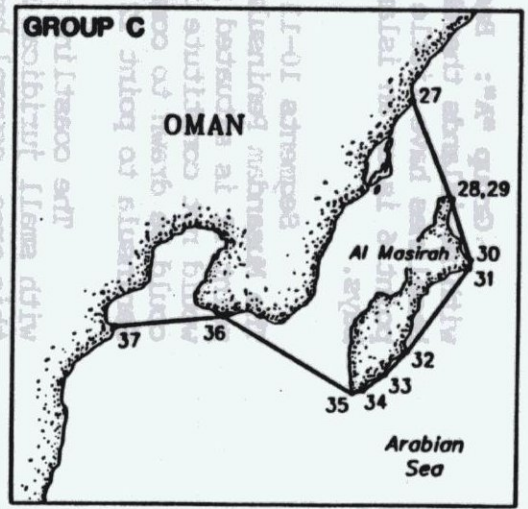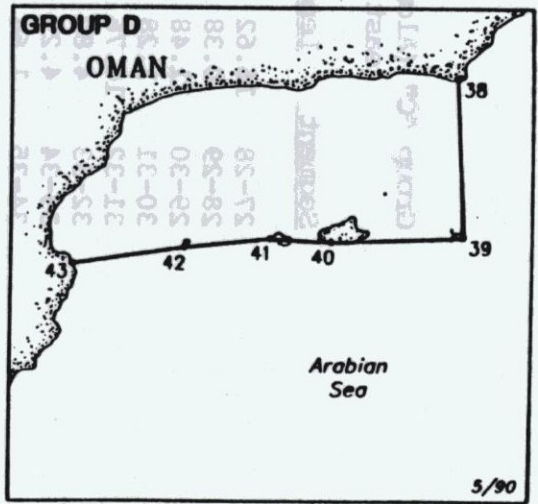
OMAN: STRAIGHT BASELINE CLAIM