

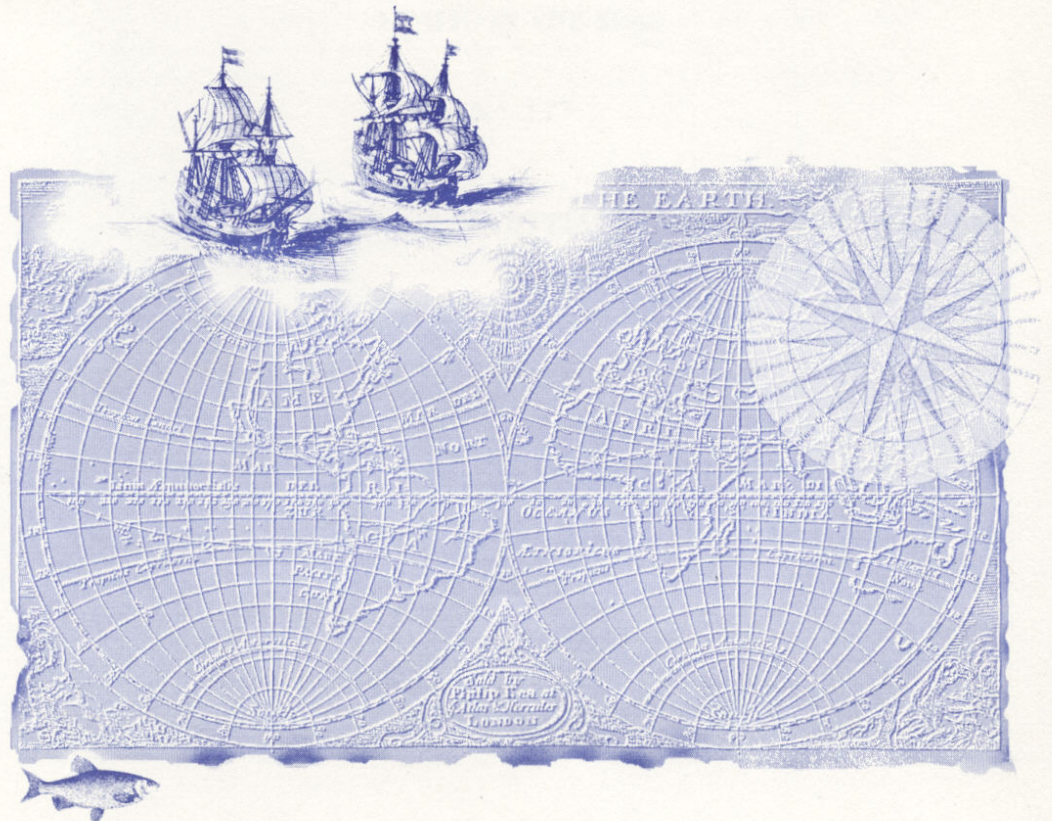
United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*



Limits in the Seas

No. 127

TAIWAN'S MARITIME CLAIMS



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Principal analysts for this study: J. Ashley Roach and Robert W. Smith. Requests for additional copies should be addressed to the Office of Oceans Affairs, Room 5805, United States Department of State, Washington, D.C. 20520.

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November 15, 2005

**Office of Oceans Affairs
Bureau of Oceans and International
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This study reviews Taiwan's maritime claims for consistency with the international law of the sea, as reflected the 1982 UN Convention on the Law of the Sea (LOS Convention).¹ The review is based on the English texts of Taiwan's maritime claims set out in three laws and a Notice to Mariners:²

Law on the Territorial Sea and Contiguous Zone of the Republic of China of 1998;³
 Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China of 1998;⁴
 Marine Pollution Control Act of 2000;⁵ and
 Republic of China—Territorial Sea Baseline, Outer Limits of the Territorial Sea and Contiguous Zone.⁶

I. SUMMARY

In general, the Law on the Territorial Sea and the Contiguous Zone is consistent with customary international law as reflected in the LOS Convention. However, the provisions on baselines and innocent passage deviate significantly from those rules. In addition, some of the activities listed as making passage not innocent are not consistent with article 19.2 of the LOS Convention.

The Law on the Exclusive Economic Zone and the Continental Shelf is also generally consistent with customary international law as reflected in the LOS Convention. However, the provisions on Taiwan's rights and the course of submarine cables deviate significantly from those rules.

Taiwan has promulgated a number of laws and regulations to protect the marine environment. The provisions most comparable to Part XII of the LOS Convention on protection and preservation of the marine environment are contained in articles 10-13 of the Law on the Exclusive Economic Zone and the Continental Shelf. A few of the provisions of this Law are not consistent with the comparable provisions of the LOS Convention.

¹ While the laws make reference to international law, this study expresses no opinion on whether Taiwan is an entity referred to in the international law of the sea. An earlier version of this study appears in the **Taiwan International Law Quarterly**, volume 2, number 1, March 2005, at pages 249-321. The LOS Convention opened for signature Dec. 10, 1982, entered into force Nov. 16, 1994, 1833 UNTS 297. Text available at http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm.

² The analyses are based on unofficial English translations; the official texts are in Chinese.

³ The unofficial English translation by the Ministry of Interior is reproduced in 16 **Chinese YB Int'l L. & Affairs** 124-129 (1997-1998) and, as annotated by the authors, in Annex 1 of this study.

⁴ The unofficial English translation by the Ministry of Interior is reproduced in *id.* at 129-137 and, as annotated by the authors, in Annex 3 of this study.

⁵ An English translation may be found at <http://law.epa.gov.tw/en/laws/759702163.html> (visited Nov. 9, 2005).

⁶ Chinese Naval Hydrographic and Oceanographic Office Pub. No. 3, Notice to Mariners No. 19 of 1999, Mar. 22, 1999, available at <http://www.dtic.mil/whs/directives/corres/html/20051m.htm> (U.S. Department of Defense, **Maritime Claims Reference Manual**, 2005 ed.)(visited Nov. 9, 2005). The coordinates of the baseline segments are reproduced in Annex 2 of this study.

Marine scientific research (MSR) is addressed in article 9 of the Law on the Exclusive Economic Zone and the Continental Shelf. The regime of MSR is specifically addressed in Part XIII of the LOS Convention. In a number of aspects, involving supervision, suspension and cessation of MSR activities, interference with exercise of rights, information on results of research, and security, article 9 of this Law is not consistent with the LOS Convention.

II. TERRITORIAL SEA AND CONTIGUOUS ZONE

A. Law on the Territorial Sea and the Contiguous Zone

In general, the Law on the Territorial Sea and the Contiguous Zone is consistent with customary international law as reflected in the LOS Convention. However, the provisions on baselines and innocent passage deviate significantly from those rules. In addition, some of the activities listed as making passage not innocent are not consistent with article 19.2 of the LOS Convention.

Normal baseline

The normal baseline defined in the LOS Convention, and in its predecessor the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone,⁷ is the low water line; straight baselines are the exception and can be applied only when specific geographic conditions are met. The Taiwan territorial sea law states the reverse.

Article 4 provides:

The delimitation of the baseline of the territorial sea of the Republic of China shall be determined by a combination of straight baseline in principle and normal baseline as exception.

On the other hand, article 5 of the LOS Convention provides:

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 as marked on large-scale charts officially recognized by the coastal State.

Article 7 of the LOS Convention provides the limited geographic circumstances where straight baselines may be used:

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.

The baselines declared by Taiwan are examined in the next section of this paper.

⁷ Done at Geneva April 29, 1958; entered into force Sept. 10, 1964; 15 UST 1606, TIAS 5639, 516 UNTS 205.

Innocent passage

Article 7 of the Taiwan territorial sea law provides that the right of innocent passage by foreign vessels is enjoyed on the basis of reciprocity. On the other hand, article 17 of the LOS Convention provides that the “ships of *all* States ... enjoy the right of innocent passage through the territorial sea.” (Emphasis added.) The international right of innocent passage is not conditioned on reciprocity.

Article 7 of the Taiwan territorial sea law also provides that:

Foreign military or government vessels shall give prior notice to the authorities concerned before their passage through the territorial sea of the Republic of China.

No such requirement appears in section 3 of Part II of the LOS Convention, including subsection C on rules applicable to warships.⁸

Acts making passage not innocent

Article 8 of the Taiwan territorial sea law sets out those acts that make passage not innocent. Most of them follow the text of article 19.2 of the LOS Convention. However, three provisions are not consistent with article 19.2.

Subparagraph five lists “[t]he launching or landing of any aircraft or taking on board of any navigation equipment.” Paragraph 19.2(e) of the LOS Convention lists “the launching, landing or taking on board of any aircraft”. No mention is made of “navigation equipment”.

Subparagraph seven lists “[t]he loading or unloading of any commodity, currency or person contrary to the customs, fiscal, trade, inspection, immigration, sanitary or environmental protection laws and regulations of the Republic of China.” Article 19.2(g) of the LOS Convention makes no mention of trade, inspection and environmental protection.

Subparagraph eight lists “Any act of serious pollution”. Article 19.2(h) of the LOS Convention requires the act be more than “serious pollution”. It requires the act to be “willful and serious pollution” and that it be “contrary to this Convention.”

Suspension of innocent passage

The purposes for which innocent passage may be suspended set out in Article 10 of the Taiwan territorial sea law are broader than those authorized by the LOS Convention. Article 10 provides in part that innocent passage may be suspended “[f]or protecting national security and national interests”. Article 25.3 permits a coastal State to

⁸ See J. Ashley Roach and Robert W. Smith, **United States Responses to Excessive Maritime Claims** 251-267 (2nd ed., Martinus Nijhoff Publishers, 1996) (hereinafter, Roach and Smith) and **II Cumulative Digest of United States Practice in International Law** 1981-1988, at 1844-1854 (1994).

suspend innocent passage only if the suspension is “essential for the protection of its security, including weapons exercises.”⁹

Laws and regulations of the coastal State relating to innocent passage

Article 11 of the Taiwan territorial sea law lists the laws Taiwan may adopt in relation to innocent passage through its territorial sea. While consistent for the most part with article 21 of the LOS Convention, there are a number of minor differences that are identified in the footnotes to article 11 in Annex 1.

Sea lanes and traffic separation schemes in the territorial sea

Article 12 of the Taiwan territorial sea law authorizes Taiwan to require ships in innocent passage to use designated sea lanes or traffic separation schemes. While consistent for the most part with article 22 of the LOS Convention, article 11 lists more reasons for this requirement than are set out in article 22: “protecting the safety of navigation, preventing their destruction of on-the-sea and under-the-sea installations or marine resources, as well as preventing marine environment pollution”. Article 22.1 authorizes designation of sea lanes and traffic separation schemes only “where necessary having regard to the safety of navigation”.

Regulation of transit passage

Article 13 of the Taiwan territorial sea law lists a number of laws Taiwan might enact regarding that “part of the Taiwan Straits not part of the territorial sea of the Republic of China used for international navigation”. Article 13 has no basis in the LOS Convention.

While article 13 appears to be based on article 42 of the LOS Convention (which pertains to laws and regulations of States bordering straits relating to transit passage), article 36 of the LOS Convention provides that Part III of the Convention, including section 2 on transit passage, “does not apply to a strait used for international navigation if there exists through the strait a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigation and hydrographical characteristics; in such routes, the other relevant Parts of this Convention, including the provisions regarding the freedoms of navigation and overflight, apply.” The Taiwan Straits meet this definition.

Contiguous zone

Article 14 of the Taiwan Law on the territorial sea and contiguous zone provides for a 24-mile¹⁰ wide contiguous zone, consistent with article 33.2 of the LOS Convention.

⁹ See Roach and Smith 233-235 and II **Cumulative Digest of United States Practice in International Law** 1981-1988, at 1838-1840 (1994).

¹⁰ Unless otherwise noted, miles in this study are nautical miles. One nautical mile equals 1,852 meters.

The Convention's Article 33.1 lists the categories of law and regulations that are subject to control in the contiguous zone: customs, fiscal, immigration and sanitary. There is no precedent for the expansion of categories in Article 15 of the Taiwan territorial sea law to include trade, inspection, environmental protection and unauthorized broadcasting.

Unauthorized broadcasting on the high seas

Article 15 of the Taiwan territorial sea law also permits enactment of laws and regulations to prevent and punish unauthorized broadcasting on the high seas or other sea areas beyond its territorial sea and contiguous zone. Unauthorized broadcasting is addressed in article 109 of the LOS Convention. The contiguous zone is part of the high seas, or EEZ if declared. Article 58.2 provides that article 109 applies in the EEZ insofar as it is not incompatible with Part V on the EEZ.

Archaeological and historical objects found at sea

Article 16 of the Taiwan territorial sea law provides:

All objects of a historical nature or relics found in the territorial sea and the contiguous zone of the Republic of China, while undertaking archaeological and scientific research, or other activities, shall belong to the Republic of China and be administered by the Government in accordance with related laws and regulations.

Pursuant to the LOS Convention article 303.2, pertaining to archaeological and historical objects found at sea, article 303 may be applied in the contiguous zone. However, article 303.3 provides that nothing in that article "affects the rights of identifiable owners, the law of salvage or other rules of admiralty". Title to foreign government property, such as sunken foreign warships and military aircraft, is not lost by the mere passage of time, but must be renounced in accordance with that government's law. This rule applies anywhere at sea, including in foreign territorial seas.¹¹

B. Claimed Baselines

This section analyzes the baselines claimed by the Taiwan Executive Yuan on February 10, 1999¹² that were published in a Notice to Mariners by the Chinese Naval Hydrographic and Oceanographic Office on March 22, 1999. Taiwan established a system of straight baselines around most of its coast from which to measure the outer limits of its territorial sea and other maritime zones. In very few areas the low water line is used. The straight baselines will be analyzed using international law standards, i.e., the Law of the Sea Convention.¹³

¹¹ See Roach, *Sunken Warships and Military Aircraft*, 20 *Marine Policy* 351-354 (1996) and Title XIV, *Sunken Military Craft*, of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108-375, Oct. 28, 2004, available at <http://thomas.loc.gov> and <http://www.gpoaccess.gov/plaws/index.html>.

¹² Decree No. Tai 88 Nei Tze #06161, Executive Yuan Gazette, vol. 5, no. 6, Feb. 10, 1999, at 36-37.

¹³ The authors express their appreciation to Sarah Morison, at the time with the Office of Oceans Affairs, U.S. Department of State, who prepared the initial draft of this section.

The geographical coordinates of the baseline turning points are given in Annex 2, where an English translation of the attachment to the notice to mariners is reproduced in full. It should be noted that the Chinese text would prevail over any discrepancies in the English translation.

Basis for Analysis

The LOS Convention 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 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”.¹⁴

In its 2001 decision on the merits of the *Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, the International Court of Justice affirmed that these are the applicable rules of international law and that they must be “applied restrictively”.¹⁵

184. The Court, therefore, will accordingly now turn to the determination of the relevant coasts from which the breadth of the territorial seas of the Parties is measured. In this respect the Court recalls that under the applicable rules of international law the normal baseline for measuring this breadth is the low-water line along the coast (Art. 5, 1982 Convention on the Law of the Sea).

185. In previous cases the Court has made clear that maritime rights derive from the coastal State's sovereignty over the land, a principle which can be summarized as “the land dominates the sea” (*North Sea Continental Shelf, I.C.J. Reports 1969*, p. 51, para. 96; *Aegean Sea Continental Shelf, I.C.J. Reports 1978*, p. 36, para. 86).

* * * *

210. Bahrain has contended that, as a multiple-island State, its coast consists of the lines connecting its outermost islands and such low-tide elevations as lie within their territorial waters. Without explicitly referring to Article 4 of the 1958 Convention on the Territorial Sea and the Contiguous Zone or Article 7 of the 1982 Convention on the Law of the Sea, Bahrain in its reasoning and in the maps provided to the Court applied the method of straight baselines. This is also clear from its contention that the area of sea to the west of the Hawar Islands, between these islands and Bahrain's main island, is comprised of internal waters of Bahrain.

¹⁴ LOS Convention, article 7.1; also found in article 4.1 of the 1958 Convention on the Territorial Sea and the Contiguous Zone.

¹⁵ Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), 2001 ICJ Rep, paras. 184-185, 210-215, available at <http://www.icj-cij.org/icjwww/idocket/iqb/iqbframe.htm>.

211. Bahrain maintains that as a multiple-island State characterized by a cluster of islands off the coast of its main islands, it is entitled to draw a line connecting the outermost islands and low-tide elevations. According to Bahrain, in such cases the external fringe should serve as the baseline for the territorial sea.

212. The Court observes that the method of straight baselines, which is an exception to the normal rules for the determination of baselines, may only be applied if a number of conditions are met. **This method must be applied restrictively.** Such conditions are primarily that either the coastline is deeply indented and cut into, or that there is a fringe of islands along the coast in its immediate vicinity. [Emphasis added.]

213. The fact that a State considers itself a multiple-island State or a *de facto* archipelagic State does not allow it to deviate from the normal rules for the determination of baselines unless the relevant conditions are met. The coasts of Bahrain's main islands do not form a deeply indented coast, nor does Bahrain claim this. It contends, however, that the maritime features off the coast of the main islands may be assimilated to a fringe of islands which constitute a whole with the mainland.

214. The Court does not deny that the maritime features east of Bahrain's main islands are part of the overall geographical configuration; it would be going too far, however, to qualify them as a fringe of islands along the coast. The islands concerned are relatively small in number. Moreover, in the present case it is only possible to speak of a "cluster of islands" or an "island system" if Bahrain's main islands are included in that concept. In such a situation, the method of straight baselines is applicable only if the State has declared itself to be an archipelagic State under Part IV of the 1982 Convention on the Law of the Sea, which is not true of Bahrain in this case.

215. The Court, therefore, concludes that Bahrain is not entitled to apply the method of straight baselines. Thus each maritime feature has its own effect for the determination of the baselines, on the understanding that, on the grounds set out before, the low-tide elevations situated in the overlapping zone of territorial seas will be disregarded. It is on this basis that the equidistance line must be drawn. . . .

The purpose of authorizing the use of straight baselines is to allow the coastal State, at its discretion, to enclose those waters that 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".¹⁶ By using straight baselines, a State may also eliminate complex patterns, including enclaves, in its territorial sea, that would otherwise result from the use of normal baselines.¹⁷

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.¹⁸ 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".¹⁹ 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

¹⁶ LOS Convention, article 7.3.

¹⁷ Roach and Smith 60.

¹⁸ **United Nations, Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea**, 1989, at 17.

¹⁹ Victor Prescott, **The Maritime Political Boundaries of the World** 69 (1985).

baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.”

Neither the LOS Convention nor its predecessor, 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.²⁰ The position of the United States is that as a general rule baseline segments should not exceed 24 miles.²¹ The following analysis supports 24 miles as the ordinary maximum baseline length.

The maximum segment length of 24 miles is supported by 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 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 that 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.

Finally, Article 10 of the LOS Convention allows a coastal State to draw a closing line between the low-water marks of the natural entrance points of a bay that meets the geographic criteria set forth in that Article. The maximum length of such closing lines may not exceed 24 miles.

Given these linkages to the territorial sea, it follows that, as a rule, no straight baseline segment should exceed 24 miles.²²

²⁰ See Roach and Smith 64 (24 miles); Robert D. Hodgson and Lewis M. Alexander, *Towards an Objective Analysis of Special Circumstances: Bays, Rivers, Coastal and Oceanic Archipelagos and Atolls*, Law of the Sea Institute Occasional Paper No. 13, 1971, at 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), at 9 (45 miles); U.S. Dep’t State, Limits in the Seas No. 106, *Developing Standard Guidelines for Evaluating Straight Baselines*, August 31, 1987 (48 miles).

²¹ U.S. Department of State Dispatch Supplement, Law of the Sea Convention, Letters of Transmittal and Submittal and Commentary, Vol. 6, February 1995, at 8; J. Ashley Roach and Robert W. Smith, *Straight Baselines: The Need for a Universally Applied Norm*, 31 **Ocean Dev. & Int’l L.** 47-80 (2000).

²² Roach and Smith, n.24, at 64-65.

Analysis of Taiwan's Baselines

The following analysis was made using three Chinese Navy charts (the US chart does not depict the baseline system) that depict the 1999 baseline system, and one U.S. chart that does not depict the baseline system:

0106, Yang-Tzu Chiang Entrance to Hsia-Men including Northern Part of Taiwan, 1:1,000,000, June 30, 2000, WGS 84;
 0307, Min-Chiang Entrance to Hong Kong including Taiwan, 1:1,000,000, June 30, 2000, WGS 84;
 0471, South China Sea, Northern portion, Eastern sheet, 1:1,200,000, June 30, 2000, WGS 84; and
 U.S. National Imagery and Mapping Agency chart 94004, 1:600,000, 6th ed., Sept. 2, 1995, WGS 84.

Specific baselines are claimed for three areas: “Taiwan and its appurtenant islands”, the Pratas Islands and Macclesfield Bank.²³ The main island of Taiwan is egg-shaped, slanting from the east in the north to the west in the south. It is surrounded by the South China Sea to the southwest, the Taiwan Strait to the west, the East China Sea to the north, Luzon Strait to the south and the Pacific Ocean off its eastern coast. The coastline, in general, is relatively smooth, with a peninsula jutting from the southern tip. A deep indentation also exists in the northeastern coast. Two small islands, Lü Tao and Lan Yü, are situated off to the southeast, 17 miles and 34 miles respectively from the mainland. Finally, off the western coast, the Pescadores are approximately 25 miles from the mainland. Along this same portion of coast lie small islands, anywhere from less than 1 to over 3 miles from the coast, running parallel to the mainland. The longest is approximately 4.5 miles long. See the illustrative map on page 10.

Taiwan and its appurtenant islands

Of the 22 segments for the main island of Taiwan, all but four are straight baselines. These segments range in length from 4.5 miles (segment T11-T12) to almost 110 miles (segment T8-T9). See Table 1. Over half the straight baseline segments (11 of 18) are more than 24 miles long. The normal baseline segments are each no more than one mile long. The segment-by-segment analysis below gives further details.

Segments T1 to T6 enclose a small rock (Mien-hua Yü) and a small island (P’eng-chia Yü) situated 23 and 33 miles off the northern coast of Taiwan with the mainland. The two segments connecting these features with the mainland are each longer than 24 miles: segment T1-T2, which runs from the mainland to Mien-hua Yü is four miles longer than 24 miles and segment T5-T6, which connects P’eng-chiaYü with the mainland, is over 36 miles long. Segment T3-T4, which connects Mien-hua Yü and

²³ Attachment to Notice to Mariners No. 19 of 1999. The attachment notes that baselines for the Spratly Islands (Nansha Chiundau) “shall be promulgated in the future.” It should be noted that not all the “appurtenant islands” are “islands” as defined in article 121 of the LOS Convention, and that the normal baseline is claimed for the Senkakus.

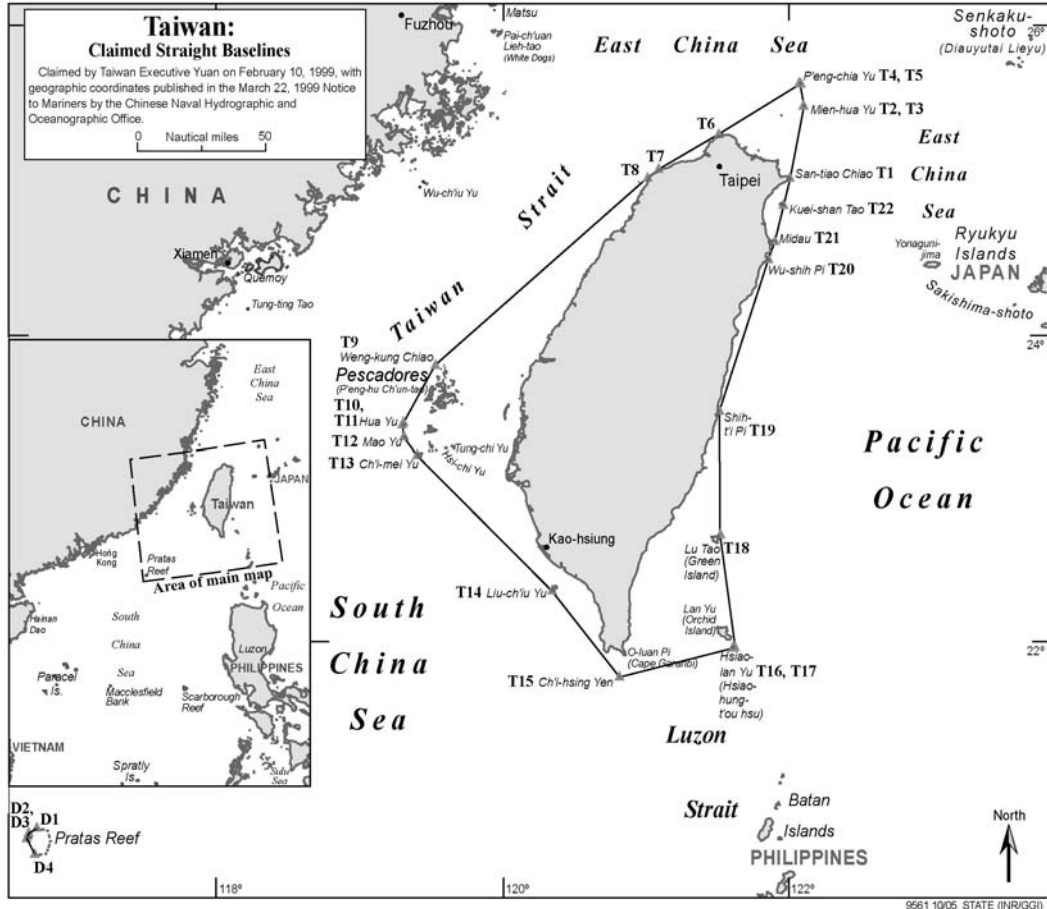


Table 1
Length of Taiwan's
Baseline Segments
(nautical miles)

Segment	Length	Type	Segment	Length	Type
T1-T2	28.6	straight	T12-T13	9.1	straight
T2-T3	0.2	normal	T13-T14	74.2	straight
T3-T4	8.6	straight	T14-T15	42.4	straight
T4-T5	0.6	normal	T15-T16	45.3	straight
T5-T6	36.3	straight	T16-T17	1.0	normal
T6-T7	26.4	straight	T17-T18	44.2	straight
T7-T8	5.7	straight	T18-T19	48.0	straight
T8-T9	109.0	straight	T19-T20	62.2	straight
T9-T10	25.5	straight	T20-T21	7.6	straight
T10-T11	0.9	normal	T21-T22	14.3	straight
T11-T12	4.5	straight	T22-T1	11.0	straight

P'eng-chia Yü, is 8.6 miles long. These two features should not be included as part of the delimitation of the internal waters of Taiwan. They are too small and too spread out to constitute a fringe of islands, and are too far from the mainland to “be sufficiently closely linked to the land domain.” The waters between these two small features have the characteristics of territorial sea and high seas.

Segment T6-T7 encloses a long shallow indentation of the northwest coast that includes the mouth of the Tan-shui River leading to Taipei. The area does not meet the criteria for a bay. The low water line should have been used in this area.

Segment T7-T8 is a short straight baseline segment along a portion of the coastline that itself is generally straight. As charted, portions of the segment are landward of the low water line. The low water line should be used in this area.

Segments T8-T19 enclose the Pescadores and other small offshore features with the northwest and eastern coasts of Taiwan. Segment T8-T9, over 109 miles long, connects the northwest mainland with Weng-kung Chiao, a low-tide elevation, the northwestern most feature of the Pescadores. This feature is 34 miles from the mainland. The coastline of Taiwan along this line is very smooth. The low water line should have been used in this area. Segment T9-T10, 25.5 miles long, connects Weng-kung Chiao with the small island of Hua Yü, the western most island of the Pescadores. Segment T11-T12 connects Hua Yü with the small island Mao Yü, 4.5 miles to the south. Segment T12-T13 connects Mao Yü with larger island Ch'i-meï Yü, 9 miles to the south southeast. Segment T13-T14 connects Ch'i-meï Yü with the island Liu-ch'iu Yü, over 70 miles to the southeast. The mainland along the course of this segment is generally smooth, with a few off-shore islands quite close to the coast. Liu-ch'iu Yü lies 7 miles offshore.

If the Pescadores could be considered as a fringe of islands, segment T8-T9 would not be used; rather a line due west from the mainland to point T9 would be used. Further, the baseline should have been brought back from point T13 due east to the mainland

connecting the islands of Hsi-chi Yü and Tung-chi Yü, the latter lying 23 miles off-shore.²⁴

Segment T14-T15, over 42 miles long, connects Liu'ch'iu Yü with the rock Ch'i hsing Yen that lies 8 miles due south of the southern tip of Taiwan. This part of the southwest coast of Taiwan is gently concave but smooth. The low water line should have been used in this area.

Segments T8 to T15 enclose approximately 4,000 square miles of both territorial sea and high seas.

Segment T15-T16 connects Ch'I-hsing Yen and the small island Hsiao-hung-t'ou Hsu, more than 45 miles east north east in the Pacific Ocean. This small island lies over 40 miles from the mainland. Segment T17-T18 avoids the large island Lan Yü just to the north and connects with the island Lü Tao 48 miles to the north. Lü Tao is 16 miles east of the mainland. There are no other islands in the area. Segment T18-T19 connects Lü Tao with the mainland at Shih-t'i Pi, 48 miles to the north. The coastline between points T15 and T19 along the southeast and east coasts of Taiwan is generally smooth. The low water line should have been used along the coast between points T15 and T19. Segments T15-T19 encompass an area of approximately 2,200 square miles that are properly territorial sea and high seas.

Segment T19-T20 connects the coastal point Shih-t'i Pi with the coastal point Wu-shih Pi, 62 miles to the north. The coastline between these two points is also gently smooth. Only about 150 square miles of water is enclosed. The low water line should have been used in the area as well.

Segment T20-T21 connects Wu-shih Pi and a near shore rock Midau 7.6 miles to the north. While there are two indentations in the coast landward of this segment, it appears that they might be better served by drawing closing lines if they qualify as article 10 bays. Otherwise the low water line should be used in this area.

Segment T21-T22, 14 miles long, connects Midau with the island Kuei-shan Tao that sits 7 miles off shore a concave coastline. Segment T22-T1, 11 miles long, connects Kuei-shan Tao with the mainland at San-tiao Chiao on the northeast coast. The area enclosed by segments T21-T22 and T22-T1 does not meet the requirements for an article 10 bay.

*Senkaku Islands*²⁵

The Senkaku Islands lie in the East China Sea about 100 miles east northeast of the northeastern tip of Taiwan, about 80 miles north of the Japanese islands of Sakishima,

²⁴ It should be noted that article 35(a) of the LOS Convention provides that "where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which has not previously been considered as such", Part III applies in those waters.

²⁵ Called the Diaoyutai Islands in the listing in Annex 2. Also claimed by Japan. Located at 25°46'N, 123°32'E.

and about 170 miles west of Okinawa. Taiwan (and Japan) claim the normal baseline for these two islands.

Pratas Reef

The Pratas Reef lies 230 miles to the southwest of the southern tip of Taiwan.²⁶ It consists of an island in the mouth of a semicircular shoal open to the west. The segments D1-D4 close the mouth by connecting the headlands of the shoal with the island.

Table 2
Baselines of the Pratas Reef
(length in nautical miles)

Segment	Length	Type	Segment	Length	Type
D1-D2	3.7	Straight	D3-D4	6.9	Straight
D2-D3	2.4	Normal	D4-D1	-	Normal

*Macclesfield Bank*²⁷

Macclesfield Bank lies about 280 miles west southwest of the Pratas Reef, 80 miles east of the Paracels, in the middle of the South China Sea, 270 miles west of the Luzon and 290 miles east of Vietnam. Taiwan claims the normal baseline for Macclesfield Bank.²⁸ However, this feature is submerged at high tide, and as it lies seaward of the outer limit of the territorial sea of an island, is entitled to no territorial sea of its own.²⁹

In summary, Taiwan uses straight baselines in many areas where the normal baseline, the low-water mark, should be used. While the mainland coast has some indentations, most do not meet the geographic standards, as set forth in the LOS Convention, for using straight baselines. In addition, the off-shore features Taiwan uses as turning points for the straight baselines are not physically close enough to the mainland to justify incorporation. For the most part, the waters enclosed by the 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.³⁰

²⁶ 20°42'N, 116°43'E.

²⁷ 15°50'N, 114°20'E. Macclesfield Bank is also claimed by the Philippines and Vietnam.

²⁸ It should be noted that chart 0471 depicts no territorial sea or contiguous zone limit around Macclesfield Bank, but does show 12 and 24-mile limits around Scarborough Reef. Scarborough Reef is also claimed by the Philippines and Vietnam.

²⁹ LOS Convention, article 13.2.

³⁰ The improper use of straight baselines in other areas of the Asia-Pacific region is examined in Roach and Smith, *Straight Baselines: The Need for a Universally Applied Norm*, *supra* n.21.

III. EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF

As was the case with the Law on the Territorial Sea and the Contiguous Zone, the Law on the Exclusive Economic Zone and the Continental Shelf³¹ is generally consistent with customary international law as reflected in the LOS Convention. However, the provisions on Taiwan's rights and the course of submarine cables deviate significantly from those rules.

Rights of Taiwan in the EEZ and on the Continental Shelf

Article 5 of this Taiwan law sets out the rights possessed and enjoyed in the EEZ and on the continental shelf.

Paragraph 28 addresses sovereign rights over “the resources, living or non-living” of the water column and the seabed and subsoil. This is broader than the sovereign rights in the EEZ accorded to the coastal State in article 56.1(a) of the LOS Convention, which are limited to “*natural* resources, living and non-living” (emphasis added). Excluded from “natural resources” are “wrecked ships and their cargoes (including bullion) lying on the seabed or covered by the sand of the subsoil.”³²

In asserting jurisdiction over all artificial islands, installations or structures in the EEZ, paragraph 29 does not make the distinction drawn in article 60.1 of the LOS Convention between (a) all artificial islands and (b) those installations and structures used for the purposes provided for in article 56 and other economic purposes and installations and structures that may interfere with the exercise of the coastal State in the EEZ. Thus the coastal State does not have jurisdiction pursuant to the LOS Convention over other installations and structures that do not have an economic purpose and that do not interfere with the exercise of the rights of the coastal State in the EEZ.

This Taiwan law does not contain any provisions addressing the definition of continental shelf natural resources such as that set out in article 77.4 of the LOS Convention, which provides:

4. The natural resources referred to in this Part [VI on the continental shelf] consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.³³

³¹ An annotated English text of the Law on the Exclusive Economic Zone and the Continental Shelf, promulgated on January 21, 1998, is attached as Annex 3. The text is reproduced from 16 **Chinese YB Int'l L. & Affairs** 129-137 (1997-1998) and appears to be based on the translation published by the Ministry of the Interior in 1999. “In case of any divergence of interpretation, the Chinese text shall prevail.” *Id.* at 137.

³² Report of the International Law Commission covering the work of its eighth session (A/31/39) on draft article 68 of the Convention on the Continental Shelf, and *Commentary*, II YB ILC 1956, at 253, 298; *also quoted in* II **Center for Ocean Law and Policy, United Nations Convention on the Law of the Sea 1982: A Commentary** 896 (M Nordquist ed., 1993).

³³ The United States considers sedentary species to include crustacea (crab), mollusks (abalone, conch, clam, quahog) and sponges. 16 U.S. Code §1802(7).

Submarine cables

Article 15 of the Law on the EEZ and Continental Shelf requires Taiwan's permission for "delineating the course for the laying, maintaining, or modifying any submarine cables or pipelines on the continental shelf". However, article 79.3 of the LOS Convention does not permit the coastal State to delineate the course of submarine cables not entering its territory or territorial sea.

IV. PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Taiwan has promulgated a number of laws and regulations to protect the marine environment.³⁴ The provisions most comparable to Part XII of the LOS Convention are contained in articles 10-13 of the Law on the Exclusive Economic Zone and the Continental Shelf. However, a few of the provisions of the Law are not consistent with the comparable provisions of the LOS Convention.

Institution of proceedings

The second paragraph of article 11 provides that Taiwan may proceed to indict a vessel found to be engaged in vessel source pollution in its EEZ. Article 220.6 of the LOS Convention permits the institution of proceedings in such a situation only when "there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 *resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone*, that State may, subject to section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws." (Emphasis added.)

Adoption of special mandatory measures

Article 12 provides that in order to meet "special circumstances," Taiwan "in explicitly defined areas of its exclusive economic zone, may adopt special mandatory measures for the prevention of pollution resulting from vessels, either discharges, navigation, or other practices of vessels." This article contains none of the safeguards contained in the comparable article in the LOS Convention, i.e., article 211.6:

6. (a) Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognized technical reasons in relation to its oceanographical and ecological conditions, as well as its utilization or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organization with any other States concerned, may, for that area, direct a communication to that organization, submitting scientific and technical evidence in support and

³⁴ For links to these laws see <http://law.epa.gov.tw/en/laws/water/marine.html> (visited Oct. 27, 2005).

information on necessary reception facilities. Within 12 months after receiving such a communication, the organization shall determine whether the conditions in that area correspond to the requirements set out above. If the organization so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organization, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organization.

(b) The coastal States shall publish the limits of any such particular, clearly defined area.

(c) If the coastal States intend to adopt additional laws and regulations for the same area for the prevention, reduction and control of pollution from vessels, they shall, when submitting the aforesaid communication, at the same time notify the organization thereof. Such additional laws and regulations may relate to discharges or navigational practices but shall not require foreign vessels to observe design, construction, manning or equipment standards other than generally accepted international rules and standards; they shall become applicable to foreign vessels 15 months after the submission of the communication to the organization, provided that the organization agrees within 12 months after the submission of the communication.

The basic implementing law is the Marine Pollution Control Act, promulgated November 1, 2000.³⁵ The Act appears to be entirely consistent with the LOS and various IMO conventions.

V. MARINE SCIENTIFIC RESEARCH

The subject of marine scientific research (MSR) is addressed in article 9 of the Law on the Exclusive Economic Zone and the Continental Shelf. The regime of marine scientific research is specifically addressed in Part XIII of the LOS Convention.³⁶ In a number of aspects, involving supervision, suspension and cessation of MSR activities, interference with exercise of rights, information on results of research, and security, article 9 is not consistent with the LOS Convention.

Supervision

The first paragraph of article 9 provides that MSR conducted in the EEZ or on the continental shelf will be subject to Taiwan's "supervision". Part XIII of the LOS Convention contains no provision authorizing a coastal State to "supervise" the conduct of MSR by a foreign researcher.

Suspension or cessation of MSR activities

The first paragraph of article 9 also provides that permission may be withdrawn or suspended "when necessary". In contrast to article 253 of the LOS Convention, the law does not indicate the parameters of "when necessary". Article 253 provides:

1. A coastal State shall have the right to require the suspension of any marine scientific research activities in progress within its exclusive economic zone or on its continental shelf if:

³⁵ An English language translation may be found at <http://law.epa.gov.tw/en/laws/759702163.html> (visited Oct. 27, 2005).

³⁶ See **Montserrat Gorina-Ysern, An International Regime for Marine Scientific Research** (2003) for a comprehensive examination of MSR and the practice of States.

(a) the research activities are not being conducted in accordance with the information communicated as provided under article 248 upon which the consent of the coastal State was based; or
 (b) the State or competent international organization conducting the research activities fails to comply with the provisions of article 249 concerning the rights of the coastal State with respect to the marine scientific research project.

2. A coastal State shall have the right to require the cessation of any marine scientific research activities in case of any non-compliance with the provisions of article 248 which amounts to a major change in the research project or the research activities.

3. A coastal State may also require cessation of marine scientific research activities if any of the situations contemplated in paragraph 1 are not rectified within a reasonable period of time.

4. Following notification by the coastal State of its decision to order suspension or cessation, States or competent international organizations authorized to conduct marine scientific research activities shall terminate the research activities that are the subject of such a notification.

5. An order of suspension under paragraph 1 shall be lifted by the coastal State and the marine scientific research activities allowed to continue once the researching State or competent international organization has complied with the conditions required under articles 248 and 249.

Interference with exercise of rights

Regulation 33 in article 9 requires the researcher “not to interfere” with Taiwan’s exercise of its rights in the EEZ or on the continental shelf. This unqualified obligation contrasts with Article 246.8 of the LOS Convention, which requires foreign MSR activities to not “unjustifiably” interfere with the coastal States activities in the exercise of their sovereign rights and jurisdiction provided for in the LOS Convention.

Information on results of research

Regulation 35 in article 9 requires the researcher “[t]o provide progress reports at all times, as well as preliminary conclusions and final conclusions”. Part XIII of the LOS Convention contains no requirement for the foreign researcher to provide “progress reports”. Rather article 249.1(b) of the LOS Convention requires the coastal State be provided, “at its request, with preliminary reports, as soon as practicable, and when the final results and conclusions after the completion of the research”.

Security

Regulation 37 in article 9 provides the foreign researcher shall “ensure no prejudice to the security an[d] benefits” of Taiwan in using such research data. No similar provision is contained in Part XIII of the LOS Convention.

VI. CONCLUSIONS

The foregoing analysis show that, with a number of significant exceptions, the basic maritime laws of Taiwan are consistent with the LOS Convention and that the baseline system is, for the most part, not consistent with the LOS Convention.

In general, the Taiwan Law on the Territorial Sea and the Contiguous Zone is consistent with customary international law as reflected in the LOS Convention. However, as demonstrated in section II, the provisions on baselines and innocent passage

deviate significantly from those rules. In addition, some of the activities listed as making passage not innocent are not consistent with article 19.2 of the LOS Convention.

The Taiwan Law on the Exclusive Economic Zone and the Continental Shelf is also generally consistent with customary international law as reflected in the LOS Convention. However, as demonstrated in section III, the provisions on Taiwan's rights and the course of submarine cables deviate significantly from those rules.

The Taiwan law with provisions most comparable to Part XII of the LOS Convention on protection and preservation of the marine environment is the Law on the Exclusive Economic Zone and the Continental Shelf, article 10-13. As explained in section IV, a few of the provisions of this Law are not consistent with the comparable provisions of the LOS Convention.

Marine scientific research (MSR) is addressed in article 9 of the Law on the Exclusive Economic Zone and the Continental Shelf. The regime of MSR is specifically addressed in Part XIII of the LOS Convention. As described in section V, in a number of aspects, involving supervision, suspension and cessation of MSR activities, interference with exercise of rights, information on results of research, and security, article 9 of this Law is not consistent with the LOS Convention.

Annex I
Law on the Territorial Sea and the Contiguous Zone
 Promulgated on January 21, 1998³⁷

Article 1

This Law is enacted to preserve the sovereignty over the territorial sea and the rights over the contiguous zone of the Republic of China.

Matters not covered by this law shall be governed by the provisions of other related laws.

Article 2

The sovereignty of the Republic of China extends to its territorial sea, the air space over its territorial sea, its seabed and its subsoil.³⁸

Article 3

The territorial sea of the Republic of China shall be the sea area between the baseline and the outer limits measuring outwardly twelve nautical miles from the baseline.³⁹

Article 4

The delimitation of the baseline of the territorial sea of the Republic of China shall be determined by a combination of straight baseline in principle and normal baseline as exception.⁴⁰

Article 5

The baseline and the outer limits of the territorial sea of the Republic of China shall be decided by the Executive Yuan and may be promulgated in parts.

Article 6

In the event that the territorial sea of the Republic of China overlaps with the territorial sea of adjacent or opposite countries, the delimitation shall be the equidistant median line. Where there is an agreement, such an agreement shall govern.

The equidistant median line prescribed in the preceding paragraph is a line on which every point is equidistant from the nearest points on the baseline of the Republic of China and the adjacent or opposite countries.⁴¹

Article 7

Foreign civil vessels may, under the reciprocity principle,⁴² enjoy the right of innocent passage through the territorial sea of the Republic of China as long as the passage is not prejudicial to the peace,

³⁷ The text is taken from 16 **Chinese YB Int'l L. & Affairs** 124-129 (1997-98). "In case of any divergence of interpretation, the Chinese text shall prevail." *Id.* at 129. It appears to reproduce the English translation published by the Ministry of Interior in 1999.

³⁸ This provision appears to be based on paragraphs 1 and 2 of article 2 of the Law of the Sea Convention. This provision does not mention land territory and internal waters.

³⁹ This provision appears to be based on articles 3 and 4 of the LOS Convention.

⁴⁰ Inconsistent with articles 5 and 7 of the LOS Convention. Article 5 provides that the normal baseline is the low-water line along the coast; article 7.1 provides that straight baselines are permissible only "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".

⁴¹ This provision appears to be based on article 15 of the LOS Convention.

good order and security of the Republic of China. Passage shall be continuous and expeditious and be in accordance with this law and other international regulations.

An innocent, continuous and expeditious passage, complying with this law and other international regulations as prescribed in the preceding paragraph may include stopping and anchoring under necessity, provided the same are incidental to ordinary navigation or a rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to person, vessels, or aircraft in danger or distress.⁴³

Foreign military or government vessels shall give prior notice to the authorities concerned before their passage through the territorial sea of the Republic of China.⁴⁴

While passing through the territorial sea of the Republic of China, foreign submarines and other underwater vessels are required to navigate on the surface and to display their flags.

Regulations governing innocent passage of foreign vessels shall be decided by the Executive Yuan.

Vessels of the Chinese mainland passing through the territorial sea of the Republic of China shall conform to the provisions of this law and that of the Statute Governing the Relations between the Taiwan Area and Mainland Area.

Article 8

A foreign vessel is not innocent in its passage through the territorial sea of the Republic of China if it engages in any one of the following activities:⁴⁵

1. Any threat or use of force against the sovereignty or territorial integrity of the Republic of China;⁴⁶
2. Any exercise or practice with any kind [of] weapons;
3. Any act aimed at collecting information to the prejudice of the defense or security of the Republic of China;
4. Any act of propaganda aimed at affecting the defense or security of the Republic of China;
5. The launching or landing of any aircraft or taking on board of any navigation equipment;⁴⁷
6. The launching, landing or taking on board of any military device;
7. The loading or unloading or any commodity, currency or person contrary to the customs, fiscal, trade, inspection, immigration, sanitary or environmental protection laws and regulations of the Republic of China;⁴⁸
8. Any act of serious pollution;⁴⁹
9. Any activity concerning catching living beings[sic];⁵⁰
10. Any activity of research or survey;⁵¹
11. Any act aimed at interfering with any systems of communication or any other facilities or installations of the Republic of China;⁵² or
12. Any other activity not having a direct bearing on innocent passage.⁵³

⁴² Article 17 of the LOS Convention provides that the “ships of all States ... enjoy the right of innocent passage through the territorial sea.” It is not conditioned on reciprocity.

⁴³ This provision appears to be based on paragraph 2 of article 18 of the LOS Convention.

⁴⁴ Prior notification is not authorized by the LOS Convention.

⁴⁵ This provision appears to be based on paragraph 2 of article 19 of the LOS Convention.

⁴⁶ Paragraph 19.2(a) also includes “political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations.”

⁴⁷ Paragraph 19.2(e) states “the launching, landing or taking on board of any aircraft”. No mention is made of “navigation equipment”.

⁴⁸ Article 19.2(g) makes no mention of trade, inspection and environmental protection.

⁴⁹ Article 19.2(h) requires the act be more than “serious pollution”. It requires the act to be “willful and serious pollution” and that it be “contrary to this Convention.”

⁵⁰ Article 19.2(i) refers to “fishing activities”.

⁵¹ Article 19.2(j) refers to the “carrying out of research or survey activities.”

⁵² This provision is consistent with article 19.2(k).

⁵³ Article 19.2(l) refers merely to “passage”, not “innocent passage.”

Article 9

Foreign nuclear-powered vessels and vessel carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea of the Republic of China, carry documents authorized in accordance with international agreements and such vessels shall be permitted and monitored by the Government of the Republic of China.⁵⁴ The Executive Yuan shall decide the permission and monitoring regulations.

Article 10

For protecting national security and national interests,⁵⁵ the Government of the Republic of China may suspend temporarily in specified areas of its territorial sea the innocent passage of foreign vessels.⁵⁶

The Executive Yuan shall promulgate the specified areas and the duration of suspension of innocent passage as prescribed in the preceding paragraph.⁵⁷

Article 11

The Government of the Republic of China may adopt laws and regulations relating to innocent passage through its territorial sea, in respect of any or all of the following:

13. The maintenance of navigation safety and the regulation of maritime traffic;
14. The protection of navigational aids and facilities and other installations or facilities;
15. The protection of cables and pipelines;
16. The conservation of living marine resources;
17. The prevention and punishment of infringement of the fisheries laws and regulations of the Republic of China;⁵⁸
18. The preservation of the environmental[sic] of the Republic of China and the prevention, reduction and control of any possible pollution thereof;⁵⁹
19. The prevention and punishment of any marine scientific research and hydrographic surveys undertaken without prior permission;⁶⁰
20. The prevention and punishment of infringement of the customs, fiscal, immigration or sanitation laws and regulations of the Republic of China;⁶¹ and,
21. The prevention and punishment of other activities without direct being on innocent passage.⁶²

The laws and regulations relating to innocent passage in the territorial sea prescribed in the preceding paragraph shall be duly promulgated by the Executive Yuan.

Article 12

The [G]overnment of the Republic of China may, for the purposes of protecting the safety of navigation, preventing their destruction of on-the-sea and under-the-sea installations or marine resources,

⁵⁴ Article 23 also requires such ships to “observe special precautionary measures” established for such ships by international agreements. Article 23 has no provision authorizing such vessels to be “permitted and monitored by the” coastal State.

⁵⁵ Article 25.3 permits a coastal State to suspend innocent passage only if the suspension is “essential for the protection of its security, including weapons exercises.”

⁵⁶ This provision is otherwise consistent with the first sentence of article 25.3 of the LOS Convention.

⁵⁷ This provision is consistent with the second sentence of article 25.3 which provides that “such suspension shall take effect only after being duly published.”

⁵⁸ Article 21.1(e) does not mention “punishment”.

⁵⁹ Article 21.1(f) does not mention “any possible” pollution.

⁶⁰ Article 21.1(g) refers only to “the carrying out of research or survey activities.”

⁶¹ Article 21.1(h) does not mention “punishment”.

⁶² Article 21.1 contains no such authorization.

as well as preventing marine environment pollution,⁶³ require the foreign vessels exercising the right of innocent passage through its territorial sea to observe designated sea lanes or traffic separation schemes.

The designated sea lanes or traffic separation schemes prescribed in the preceding paragraph shall be established and duly promulgated by the Executive Yuan.

Article 13⁶⁴

In the part of the Taiwan Straits not part of the territorial sea of the Republic of China used for international navigation, the Government of the Republic of China may enact laws and regulations relating to the transit passage of foreign vessels and aircraft, in respect of any or all of the following:

- 22. The maintenance of navigation safety and the regulation of maritime traffic;
- 23. The prevention, reduction and control of pollution of the environment;
- 24. The prohibition of fishing;
- 25. The prevention and punishment of loading or unloading of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary laws and regulations of the Republic of China.

The laws and regulations relating to transit passage prescribed in the preceding paragraph shall be duly promulgated by the Executive Yuan.

Article 14

The contiguous zone of the Republic of China is the sea area contiguous to the outer limits of the territorial sea and to a distance of twenty-four nautical miles measured from the baselines.⁶⁵ The outer limits of the contiguous zone shall be decided by the Executive Yuan and may be promulgated in parts.

Article 15

The Government of the Republic of China may enact laws and regulations in the contiguous zone for the following purposes:

26. To prevent infringement of customs, fiscal, trade, inspection, immigration, sanitation or environmental protection laws and regulations within its territory and territorial sea, and unauthorized broadcasting;⁶⁶

27. To punish infringement of customs, fiscal, trade, inspection, immigration, sanitation or environmental protection laws and regulations within its territory and territorial sea, and unauthorized broadcasting.⁶⁷

The Government of the Republic of China may enact laws and regulations to prevent and punish unauthorized broadcasting on the high seas or other sea areas beyond its territorial sea and contiguous zone.⁶⁸

⁶³ Article 22.1 authorizes designation of sea lanes and traffic separation schemes only “where necessary having regard to the safety of navigation”.

⁶⁴ Article 13 has no basis in the LOS Convention. While article 13 appears to be based on article 42 of the LOS Convention, article 36 of the LOS Convention provides that Part III of the Convention, including section 2 on transit passage, “does not apply to a strait used for international navigation if there exists through the strait a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigation and hydrographical characteristics; in such routes, the other relevant Parts of this Convention, including the provisions regarding the freedoms of navigation and overflight, apply.” The Taiwan Straits meet this definition.

⁶⁵ This provision appears to be based on article 33 of the LOS Convention.

⁶⁶ Article 33.1(a) makes no mention of trade, inspection, environmental protection or unauthorized broadcasting.

⁶⁷ Article 33.1(b) makes no mention of trade, inspection, environmental protection or unauthorized broadcasting.

⁶⁸ Unauthorized broadcasting is addressed in article 109 of the LOS Convention. The contiguous zone is part of the high seas or EEZ if declared. Article 58.2 provides that article 109 applies in the EEZ insofar as it is not incompatible with Part V on the EEZ.

The laws and regulations prescribed in the aforementioned two paragraphs shall be promulgated by the Executive Yuan.

Article 16

All objects of a historical nature or relics found in the territorial sea and the contiguous zone of the Republic of China, while undertaking archaeological and scientific research, or other activities, shall belong to the Republic of China and be administered by the Government in accordance with related laws and regulations.⁶⁹

Article 17

If the authorities of national defense, police, customs or other authorized agencies of the Republic of China consider that a person or an object which is in the territorial sea of the Republic of China or the contiguous zone is engaged in an activity violating laws and regulations of the Republic of China, such as authorities may engage in hot pursuit,⁷⁰ boarding,⁷¹ inspection, and when necessary, detaining or arresting such persons or objects.

The authorities prescribed in the preceding paragraph may replace each other consecutively in undertaking hot pursuit, boarding, and inspection.⁷²

Article 18

This law shall enter into force on the day of promulgation.

⁶⁹ Pursuant to paragraph 2 of article 303, archaeological and historical objects found at sea, article 303 may be applied in the contiguous zone. However, article 303.3 provides that nothing in that article “affects the rights of identifiable owners, the law of salvage or other rules of admiralty”.

⁷⁰ The rules for hot pursuit are set out in article 111 of the LOS Convention.

⁷¹ The rules for exercise of the right of visit are set out in article 110 of the LOS Convention.

⁷² This provision is consistent with article 111.5 and 111.6(b) of the LOS Convention.

Annex 2
The First Part of the Baselines of the Territorial Sea of Taiwan*

AREA	NUMBER OF THE POINT	NAME OF THE POINT	CO-ORDINATES		CONNECTING TO	TYPE OF BASELINE
			LONGITUDE (E)	LATITUDE (N)		
Taiwan and its Appurtenant Islands	T1	Sandiaujiau	122°00.00'	25°00.60'	T2	straight
	T2	Mianhuayu 1	122°05.80'	25°28.80'	T3	normal
	T3	Mianhuayu 2	122°05.80'	25°29.00'	T4	straight
	T4	Pengjiayu 1	122°04.50'	25°37.50'	T5	normal
	T5	Pengjiayu 2	122°03.90'	25°37.80'	T6	straight
	T6	Linsanbi	121°30.40'	25°17.70'	T7	straight
	T7	Dajiueshi	121°05.40'	25°04.20'	T8	straight
	T8	Danioulanshan	121°00.65'	25°00.55'	T9	straight
	T9	Wuengungshi	119°32.00'	23°47.20'	T10	straight
	T10	Huayu 1	119°18.70'	23°24.80'	T11	normal
	T11	Huayu 2	119°18.20'	23°24.00'	T12	straight
	T12	Mauyu	119°18.80'	23°19.50'	T13	straight
	T13	Chimeiyu	119°24.40'	23°12.00'	T14	straight
	T14	Liouchiouyu	120°20.90'	22°19.10'	T15	straight
	T15	Chishingyan	120°48.90'	21°45.45'	T16	straight
	T16	Shiaulanyu 1	121°36.10'	21°56.70'	T17	normal
	T17	Shiaulanyu 2	121°37.10'	21°57.00'	T18	straight
	T18	Feiyian	121°31.00'	22°41.00'	T19	straight
	T19	Shtibi	121°30.53'	23°29.20'	T20	straight
	T20	Wushbi	121°51.10'	24°28.70'	T21	straight
	T21	Midau	121°53.70'	24°35.90'	T22	straight
	T22	Gueitouan	121°57.30'	24°49.90'	T1	straight
	-	Diauyutai Lieyu (Diauyutai Islands)	-	-	-	normal
Dungsha Chiundau (Pratas Islands)	D1	Shibeigiau	116°45.45'	20°46.16'	D2	straight
	D2	Dungshabeijiau	116°42.13'	20°44.16'	D3	normal
	D3	Dungshananjiau	116°41.30'	20°41.92'	D4	straight
	D4	Shinanjiau	116°44.80'	20°35.78'	D1	normal
Jungsha Chiundau (Macclesfield Bank)	-	Huangyiandau	-	-	-	normal
Nansha Chiundau (Spratly Islands)	All islands and atolls of the Nansha Chiundau surrounded by the Chinese traditional U-shape lines are the territory of the Republic of China. The delimitation of the baselines in this region shall be determined by a combination of straight baselines and normal baselines. The related information concerning names of the base points, their co-ordinates, and charts shall be promulgated in the future.					

* This document was translated by Dr. Kuan-Hsiung Wang while a post-doctoral research fellow at the Sun Yat-sen Centre for Policy Studies, National Sun Yat-sen University, Kaohsiung, and is unofficial. It is available at <http://www.jiscmail.ac.uk/cgi-bin/webadmin?A2=ind99&L=int-boundaries&T=0&F=&S=&P=2751>. In case there is any dispute on the wording of this translation, the Chinese language shall be the authentic one.

Annex 3
Law on the Exclusive Economic Zone and the Continental Shelf⁷³
 Promulgated on January 21, 1998

Article 1

This law is enacted to preserve and exercise the rights in the exclusive economic zone and on the continental shelf of the Republic of China

Matters not covered by this law shall be governed by the provisions of other related laws.

Article 2

The exclusive economic zone of the Republic of China denotes the sea area contiguous to the other limits of the territorial sea and to a distance measuring outwardly 200 nautical miles from the baseline of the territorial sea.⁷⁴

The exclusive economic zone prescribed in the preceding paragraph comprise the water body, the seabed and the subsoil.⁷⁵

The continental shelf of the Republic of China is the submarine area that extends beyond its territorial sea through the natural prolongation of its land territory to the outer edge of the continental margin.

The submarine area prescribed in the preceding paragraph compromises [sic] the seabed and subsoil.⁷⁶

Article 3

The outer limits of the exclusive economic zone and the continental shelf of the Republic of China shall be decided by the Executive Yuan and may be promulgated in parts.

Article 4

In the event that the exclusive economic zone or the continental shelf of the Republic of China overlaps with the adjacent or opposite countries, the Republic of China may negotiate, on the principle of equality, a delimitation line with those of the adjacent or opposite countries.⁷⁷

Prior to the agreements mentioned in the preceding paragraph, the Republic of China and the adjacent or opposite countries, in a spirit of understanding and co-operation, may reach a *modus vivendi*.

Such a *modus vivendi* as prescribed in the preceding paragraph shall be without prejudice to the final delimitation.⁷⁸

Article 5

The Republic of China shall, in its exclusive economic zone or on its continental shelf, enjoy and exercise the following rights:

⁷³ The text is taken from 16 **Chinese YB Int'l L. & Affairs** 129-137 (1997-98). "In case of any divergence of interpretation, the Chinese text shall prevail." *Id.* at 137.

⁷⁴ Compare with articles 55 and 57 of the Law of the Sea Convention.

⁷⁵ Article 56.1(a) of the LOS Convention refers to the "waters superjacent to the seabed and ... the seabed and its subsoil".

⁷⁶ Article 76.1 of the LOS Convention defines the continental shelf as "the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin".

⁷⁷ Articles 74.1 and 83.1 of the LOS Convention require the EEZ and continental shelf to be delimited "by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution."

⁷⁸ These two paragraphs are consistent with articles 74.3 and 83.3, which speak of "provisional arrangements" rather than "*modus vivendi*".

28. Sovereign rights for the purpose of exploring, exploiting, conserving, and managing the resources, living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil.⁷⁹

29. Jurisdiction over the construction, use, modification, or dismantlement of artificial islands, installations or structures.⁸⁰

30. Jurisdiction over marine scientific research.⁸¹

31. Jurisdiction over preservation of marine environment;⁸² and

32. Other rights in accordance with international law.⁸³

The Republic of China shall enjoy and exercise sovereign rights of utilizing the energy stemming from the water, currents and winds or other activities.⁸⁴

The Republic of China shall enjoy and exercise jurisdiction over laying, maintaining, or modifying submarine cables or pipelines.⁸⁵

Article 6

For the undertaking of exploration, exploitation, conservation, or management of living or non-living resources in the exclusive economic zone or on the continental shelf of the Republic of China, an application for permission shall be made in accordance with related laws and regulations of the Republic of China.

Article 7

For utilizing energy from the water, currents and winds or other activities in the exclusive economic Zone of the Republic of China, permission from the Government of the Republic of China shall be required. The related permission regulations shall be decided by the Executive Yuan.

⁷⁹ Similar to article 56.1(a) of the LOS Convention regarding the EEZ, except that the rights are limited to “natural resources”. Paragraph 28 does not address the definition of continental shelf natural resources set out in article 77.4 of the LOS Convention: “The natural resources referred to in this Part [VI, on the continental shelf,] consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.”

⁸⁰ Similar to article 56.1(b)(i) of the LOS Convention, which does not mention “modification or dismantlement”. Article 60.1 of the LOS Convention limits the exclusive rights of the coastal State in the EEZ to those pertaining to the construction, operation and use of (a) artificial islands, (b) installations and structures for the purposes provided for in article 56 and other economic purposes, and (c) installations and structures which may interfere with the exercise of the rights of the coastal State in the EEZ. Article 60.2 gives the coastal State exclusive jurisdiction over *such* artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations. Article 60.3 of the LOS Convention addresses, *inter alia*, the removal of abandoned or disused artificial islands, installations or structures. Article 80 of the LOS Convention applies article 60 *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

⁸¹ Similar to article 56.1(b)(ii) of the LOS Convention.

⁸² Article 56.1(b)(iii) of the LOS Convention refers to “the protection and preservation of the marine environment.”

⁸³ Article 56.1(c) of the LOS Convention refers to “other rights and duties provided for in this Convention.”

⁸⁴ Article 56.1(a) gives the coastal State sovereign rights “with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds”.

⁸⁵ This is broader than article 79 of the LOS Convention which limits the rights of coastal States in a number of ways. *See further* article 15 below.

Article 8

For the undertaking of construction, use, modification, or dismantlement of artificial islands, installations, or structures in the exclusive economic zone or on the continental shelf of the Republic of China, permission from the Government of the Republic of China shall be required. The related permission regulations shall be decided by the Executive Yuan.

Laws and regulations of the Republic of China shall apply to artificial islands, installations, or structures prescribed in the preceding paragraph.

A safety zone shall be established around artificial islands, installations, or structures prescribed paragraph 1 where appropriate measures shall be taken to ensure the safety both of navigation and of the artificial islands, installations, or structures.⁸⁶

The width of the safety zones prescribed in the preceding paragraph shall be in accordance with general international standards or a recommended by the related international organizations.⁸⁷

Article 9

For the undertaking of marine scientific research in the exclusive economic zone or on the continental shelf of the Republic of China, permission from the Government of the Republic of China shall be required.⁸⁸ Such research will be subject to the Government of the Republic of China's supervision.⁸⁹ The Government of the Republic of China, when necessary, may withdraw permission or may suspend or cease marine scientific research activities in progress.⁹⁰

The undertaking of marine scientific research in the exclusive economic zone or on the continental shelf of the Republic of China shall comply with the following regulations:

33. Not to interfere with the Republic of China's exercise of rights in its exclusive economic zone or on its continental shelf;⁹¹

34. To ensure the right of the Government of the Republic of China to designate its representatives for participation;⁹²

35. To provide progress reports at all times, as well as preliminary conclusions and final conclusions;⁹³

⁸⁶ Article 60.4 of the LOS Convention permits the coastal State, "where necessary, [to] establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures."

⁸⁷ Article 60.5 provides that the "breadth of the safety zone shall be determined by the coastal State, taking into account applicable international standards." Article 60.5 also provides that such zone "shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization." Article 60.5 also requires that "[d]ue notice shall be given of the extent of safety zones."

⁸⁸ This requirement for permission to conduct marine scientific research (MSR) is consistent with article 246.2 of the LOS Convention.

⁸⁹ Part XIII on MSR of the Convention does not authorize a coastal State to "supervise" the conduct of MSR by a foreign researcher.

⁹⁰ The Law does not indicate the parameters of "when necessary". The authority of a coastal State to withdraw permission, suspend or terminate MSR is limited to the situations described in article 253 of the LOS Convention.

⁹¹ Article 246.8 of the LOS Convention requires foreign MSR activities to not "unjustifiably" interfere with activities undertaken by coastal States in the exercise of their sovereign rights and jurisdiction provided for in the LOS Convention.

⁹² Article 249.1(a) of the LOS Convention permits the coastal State to participate in the research project.

⁹³ Part XIII of the LOS Convention contains no requirement for the foreign researcher to provide "progress reports". Rather article 249.1(b) of the LOS Convention requires the coastal State be provided, "at its request, with preliminary reports, as soon as practicable, and when the final results and conclusions after the completion of the research".

36. To furnish copied data, figures, or samples, complete and without detriment to their scientific value,⁹⁴ and various assessment reports;⁹⁵
37. To ensure no prejudice to the security and [sic] benefits of the Republic of China in using such research data;⁹⁶
38. To inform the Government of the Republic of China immediately of any major change in the research project;⁹⁷
39. Unless otherwise agreed, not to investigate marine resources;⁹⁸
40. Not to harm the marine environment;⁹⁹
41. Unless otherwise agreed, to dismantle research installations and equipment once the research is completed;¹⁰⁰ and,
42. To comply with the provisions of related laws and international agreements.

Article 10

Any activity concerning dumping, discharging, or disposing of waste or other substances in the exclusive economic zone or on the continental shelf of the Republic of China shall comply with the laws and regulations of the Republic of China.¹⁰¹

Article 11

For any vessel navigating in the exclusive economic zone of the Republic of China which commits a discharge violation causing marine environmental pollution, the Republic of China may request that vessel to give information regarding its identity, its port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.¹⁰² In case the suspected vessel prescribed in the preceding paragraph refuses to give information, or the information supplied by the vessel in [sic] manifestly at variance with the evident factual situation, or the vessel does not carry valid certificates or records, or the circumstances of the case justify such inspection, the Government of the Republic of China may undertake physical inspection of the vessel¹⁰³ and, provided that the evidence so warrants, indict the vessel through due process.¹⁰⁴

⁹⁴ Article 249.1(c) of the LOS Convention requires the coastal State to be provided access, “at its request, to all data and samples and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value”.

⁹⁵ Article 249.1(d) of the LOS Convention requires the coastal State, if requested, to be provided “with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation”.

⁹⁶ Part XIII contains no such provision.

⁹⁷ This is consistent with article 249.1(f) of the LOS Convention.

⁹⁸ Article 246.5(a) and (b) of the LOS Convention permits the coastal State to withhold consent in such circumstances. See also article 250.2 of the LOS Convention.

⁹⁹ This is consistent with article 240(d) of the LOS Convention.

¹⁰⁰ This is consistent with article 249.1(g) of the LOS Convention.

¹⁰¹ Article 210 of the LOS Convention pertains to pollution by dumping. “Dumping” is defined in article 1.1(5)(a) of the LOS Convention, in part, as “any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea”. See further article 17 below.

¹⁰² The parallel provision in the LOS Convention is article 220.3, which provides:

3. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

¹⁰³ The parallel provisions in the LOS Convention are articles 220.5 and 226.1(a), which provide:

5. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3

For any suspected or indicted vessel as prescribed in the preceding paragraph, whenever appropriate procedures have been taken [sic] in accordance with international agreements, whereby compliance with requirements for any bond or other appropriate financial surety has been assured, that vessel shall be allowed to proceed.¹⁰⁵

Article 12

In order to meet special circumstances, the Republic of China, in explicitly defined areas of its exclusive economic zone, may adopt special mandatory measures for the prevention of pollution resulting from vessels, either discharges, navigation, or other practices of vessels.¹⁰⁶

Article 13

Unless otherwise provided in other laws and regulations, any activity conducted in the exclusive economic zone or on the continental shelf of the Republic of China shall not damage natural resources or harm natural ecology.

Whoever willfully or negligently damages or harms the natural resources or ecology of the exclusive economic zone or the continental shelf of the Republic of China shall be charged along with their employer with joint responsibility for compensation for the damage.

Article 14

The Government of the Republic of China reserves the right to conserve and manage fish stocks straddling both within and beyond its exclusive economic zone. Foreign fishing vessels conducting fishing

resulting in a substantial discharge causing or threatening significant pollution of the marine environment, that State may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.

1. (a) States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken only after such an examination and only when:

- (i) there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;
- (ii) the contents of such documents are not sufficient to confirm or verify a suspected violation; or
- (iii) the vessel is not carrying valid certificates and records.

¹⁰⁴ The institution of proceedings is authorized by article 220.6 of the LOS Convention only when “there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone, that State may, subject to section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws.”

¹⁰⁵ The parallel provision in the LOS Convention is article 220.7, which provides: “Notwithstanding the provisions of paragraph 6, whenever appropriate procedures have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for bonding or other appropriate financial security has been assured, the coastal State if bound by such procedures shall allow the vessel to proceed.”

¹⁰⁶ While apparently inspired by article 211.6 of the LOS Convention, this provision contains none of the safeguards set out in article 211.6.

of such stocks shall give due regard to the conservation and management measures of the Republic of China of these stocks.¹⁰⁷

The conservation and management measures of such fish stocks prescribed in the preceding paragraph shall be enacted and promulgated by Executive Yuan.

Article 15

In delineating the course for the laying, maintaining, or modifying any submarine cables or pipelines on the continental shelf of the Republic of China, permission of the Government of the Republic of China is required.¹⁰⁸ The permission regulations shall be decided by the Executive Yuan.

The Government of the Republic of China may withhold its permission as prescribed in the preceding paragraph on the grounds of exploring, exploiting, managing, conserving the non-living or sedentary resources over [sic] its continental shelf, or preventing, reducing, or controlling pollution from such pipelines.¹⁰⁹

Article 16

Where the authorities of national defense, police, customs, or other authorized agencies of the Republic of China consider that a person or an object, which is in its exclusive economic zone or on its continental shelf, is engaged in any activity violating laws and regulations[] of the Republic of China, such authorities may engage in hot pursuit,¹¹⁰ boarding,¹¹¹ and inspection. When necessary, the aforementioned authorities may expel or arrest the suspected person, or detain the vessels, aircraft, aircraft [sic], equipment, or other articles belonging to the suspected person, and institute legal proceedings.

Article 17

Whoever dumps, discharges or disposes of waste or other substances in the exclusive economic zone or on the continental shelf without complying with the laws and regulations of the Republic of China shall be punished with imprisonment not exceeding ten years, or detention in lieu thereof, or in addition thereof, a fine not exceeding one hundred million New Taiwan Dollars.¹¹²

Article 18

Whoever willfully damages or harms the natural resources or ecology of the exclusive economic zone or the continental shelf of the Republic of China shall be punished with imprisonment not exceeding five years or detention in lieu thereof, or in addition thereto, a fine not exceeding fifty million New Taiwan Dollars.¹¹³

¹⁰⁷ The general requirements for conservation and management of fish stocks are set out in articles 61 and 62 of the LOS Convention. The general rules for the conservation and management of straddling fish stocks are set out in article 63 of the Convention, and have been detailed in the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, in force as from 11 December 2001, and available at http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm.

¹⁰⁸ Article 79.3 of the LOS Convention does not permit the coastal State to delineate the course of submarine cables not entering its territory or territorial sea.

¹⁰⁹ A similar provision is found in article 79.2 of the LOS Convention.

¹¹⁰ The rules for hot pursuit are set out in article 111 of the LOS Convention.

¹¹¹ The rules for exercise of the right of visit are set out in article 110 of the LOS Convention.

¹¹² See article 10 above.

¹¹³ See articles 9.40 and 13 above. There does not appear to be a comparable provision for the punishment of vessel source pollution; see article 230 of the LOS Convention for the comparable provision.

Article 19

Whoever undertakes construction, use, modification, or the dismantling of artificial islands, installations or structures in the exclusive economic zone or on the continental shelf of the Republic of China without obtaining permission from the Government of the Republic of China shall be punished with a fine of between ten million and fifty million New Taiwan Dollars. The court may confiscate the constructed artificial islands, installations or structures or order the said person to restore the environment to the original condition.

Whoever violates terms or objects of the granted permission shall be punished with a fine of between five million and twenty million New Taiwan Dollars and a set time limit to remedy the violation shall be established. Without improvement until then, the permission shall be canceled and the artificial islands, installations or structures must be dismantled.¹¹⁴

Article 20

Whoever conducts any one of the following activities without obtaining permission from the Government of the Republic of China shall be punished with a fine of between one million and five million New Taiwan Dollars and the vessels, equipment, and catches belonging to the said person may be confiscated:

43. Conducting exploration, exploitation, management, or conservation of living or non-living resources in the exclusive economic zone of the Republic of China;

44. Conducting exploration, exploitation, management, or conservation of non-living resources or sedentary living resources on the continental shelf of the Republic of China.¹¹⁵

Whoever violated the terms or objects of any permission granted shall be punished with a fine of between two hundred thousand and two million New Taiwan Dollars. Products (catch or haul) may be confiscated.

Article 21

Whoever produces energy from the water, currents and winds or other activities in the exclusive economic zone or on the continental shelf of the Republic of China without obtaining permission from the Government of the Republic of China shall be punished with a fine of between two hundred thousand and one million New Taiwan Dollars and the related equipment may be confiscated.¹¹⁶

Article 22

Whoever undertakes marine scientific research in the exclusive economic zone or on the continental shelf of the Republic of China without obtaining permission from the Government of the Republic of China shall be punished with a fine of between five hundred thousand and two million New Taiwan Dollars and the related exploring instruments and data may be confiscated.¹¹⁷

Article 23

Whoever undertakes the laying[,] maintaining, or modifying of submarine cables and pipelines on the continental shelf of the Republic of China without obtaining permission on the delineation of the course shall be punished with a fine of between twenty million and one hundred million New Taiwan Dollars and the said person may [sic] be prohibited from using such cables and pipelines or be ordered to dismantle them.¹¹⁸

¹¹⁴ See article 8 above.

¹¹⁵ See article 6 above.

¹¹⁶ See article 7 above.

¹¹⁷ See article 9 above.

¹¹⁸ See article 15 above and accompanying note.

Article 24

Whoever conducts the following activities in the exclusive economic zone or on the continental shelf of the Republic of China shall be punished in accordance with the Criminal Code of the Republic of China:

45. Threats or violence against a public official who is engaged in the lawful discharge of his duties;
46. Organizing an open assembly at which an offense specified in the preceding sub-paragraph occurs;
47. Activities conducted to abandon, damage, hide, or render useless the letters, books, articles taken in its custody by a public official or entrusted by such public official of the ROC to a third person;
48. Activities conducted to damage, remove, [or] stain the seal or notice affixed by a public official of the ROC;
49. Public insults to a public official of the ROC during or with respect to the legal discharge of his duties; and,
50. Threats or violence with intent to compel a public official of the ROC to perform an act relating to his public duties or with intent to obstruct the lawful discharge of such public duties.

Article 25

Fines imposed in accordance with this law not paid within the designated time limit shall be transferred to the court for mandatory enforcement.

Article 26

This law shall enter into force on the date of promulgation.