

SEABED BOUNDARY ISSUES IN THE YELLOW SEA

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In April 1969, the South Korean government signed a seabed oil exploration and exploitation contract with an American oil major, the Gulf Oil Corporation. The concession contract covered the seabed areas that have since been known as Blocks 2 and 4 in the Yellow Sea. To be precise, Block 4 straddled the southern part of the Yellow Sea and the northern part of the East China Sea.

Another similar contract was signed with Shell for Blocks 3 and 6 (in the Korea Strait) in January 1970, and a third with Texaco for Blocks 1 and 5 (around Cheju

Island) in February 1970.¹

The outer limits of South Korea's Blocks 1 to 4 toward China are still unilateral in the sense that, at the official level, the two coastal states have yet to initiate formal negotiations to demarcate their continental shelf boundary in the Yellow Sea; only informal contacts have been reported.

In other words, as it relates to the seabed boundary demarcation between China and South Korea in the Yellow Sea, the point at issue remains where it began some 35 years ago.

In this paper, the author simply tries to identify critical legal issues with respect to the delimitation of the seabed boundary between China and South Korea. For unavoidable reasons, no opinion is given here on how or on what international legal criteria the issue should be finally settled between the two parties.

The Median Line Principle

For the demarcation of the outer limits of its seabed blocks in the Yellow Sea, South Korea employed the median-line principle as defined in the Geneva Continental Shelf Convention of 1958.

Incidentally, it is necessary to point out here that, although the 1958 Convention has been superseded by a new treaty, namely, the United Nations Convention on the Law of the Sea (hereinafter "the Convention") of 1982, the definition of the median-line principle remains unchanged in this important new regime.

Now it remains to be seen whether or not, as the other coastal state on the western side of the Yellow Sea, China would also follow the same principle of seabed boundary demarcation in the Yellow Sea as South Korea.

Median Line Base-Points: The Legal Status of Islands

All outlying islands, inhabited and uninhabited, along the South Korean coasts in the Yellow Sea were given full effect as base-points by South Korea in drawing the median-line toward China².

In determining the outer limit of its Block 4, however, South Korea ignored an outlying rock situated east of the Yangzi River, called Dongdao or Haizhao in Chinese and Barren Island in English.

The outer limit of South Korea's Block 4 is the median-line drawn between the western end of its Marado situated west of Cheju Island and the eastern end of China's Chenqianshan situated slightly west of Dongdao.

China not only has given full effect to this rock as Basepoint 12, but has also used another, even smaller rock called Dongnanzhao as Basepoint 13, as its Baseline Declaration of May 15, 1996, shows³.

Overlapping Claims

1. To give full effect to China's Haizhao (Basepoint 12) and Dongnanzhao (Basepoint 13) would conflict with the position taken by South Korea in 1969. If the respective positions of both coastal states were applied in the area in question, a sharp triangle some 280 miles long would be created as an overlap (see Map I).
2. In 1992, in the name of the China National Offshore Oil Corporation, China announced the Fourth Round of Offshore Bidding in June 1992. In the Location Map annexed to the bidding invitation, two Acreages were designated, namely, the Northern Acreage and the Southern Acreage (Map III)⁴.

The Northern Acreage, which "is 18,800 square kilometers and is 230 kilometres east of Shanghai," overlaps with South Korea's Block 4 at two points. An 'accurate' calculation shows that altogether the overlap is approximately 25.66 square kilometers (see Map II)⁵.

On this point, to date South Korea has neither contested nor acquiesced, no relevant occasion having arisen for it to do so. Such an occasion would arise when the promise of oil from the seabed areas in question is, or is not, likely to be realized in the areas where the claims of the coastal states overlap.

Conclusion

Between China and South Korea, two issues still remain to be agreed on as they relate to the demarcation of their seabed boundary in the Yellow Sea. One is the principle to be applied for the demarcation, and the other is the division of the seabed areas where their claims overlap.

For the settlement of such issues, the 1958 Convention is intended to serve as the primary reference, both coastal states being parties to this single-most important multilateral treaty. In reality, however, the comprehensive universal Convention has limitations arising from its own ambiguities relating to the demarcation of maritime boundaries.

Where they disagree on the points at issue between themselves, therefore, it is for the parties to seek and reach agreement through negotiation or by any other means they agree to employ.

Opinions expressed in this paper are strictly the author's own, and do not reflect those of the Tribunal in any way.

SELECTED REFERENCES

- I. Choon-Ho Park, "Oil Under Troubled Waters: The Northeast Asia Sea-Bed Controversy," *Harvard International Law Journal*, Vol. 14, No. 2, pp. 212-260, Spring 1973.
2. Selig S. Harrison, *China, Oil, and Asia: Conflict Ahead?* 1977.
3. Tatsu Kambara, Takashi Saito, Yoshihiko Hirakawa, and Kazuo Yamanouchi, *Chugokuno Sekyusangyou* (the oil industry of China), 1985.
4. Hee-Kwon Park, *The Law of the Sea and Northeast Asia*, 2000.
5. Sun-Pyo Kim, *Maritime Delimitation and Provisional Arrangements in Northeast Asia*, 2004.
6. *Limits in the Seas* series referred to in Note 2, *supra*.

MAPS

I. Unilateral Claims and Concession Areas in the Yellow Sea and the East China Sea, as of Sept. 1970. Source: Choon-Ho Park, "Oil Under Troubled Waters: The Northeast Asia Sea-Bed Controversy," *Harvard International Law Journal*, Vol. 14, No. 2, Spring 1993, p. 219.

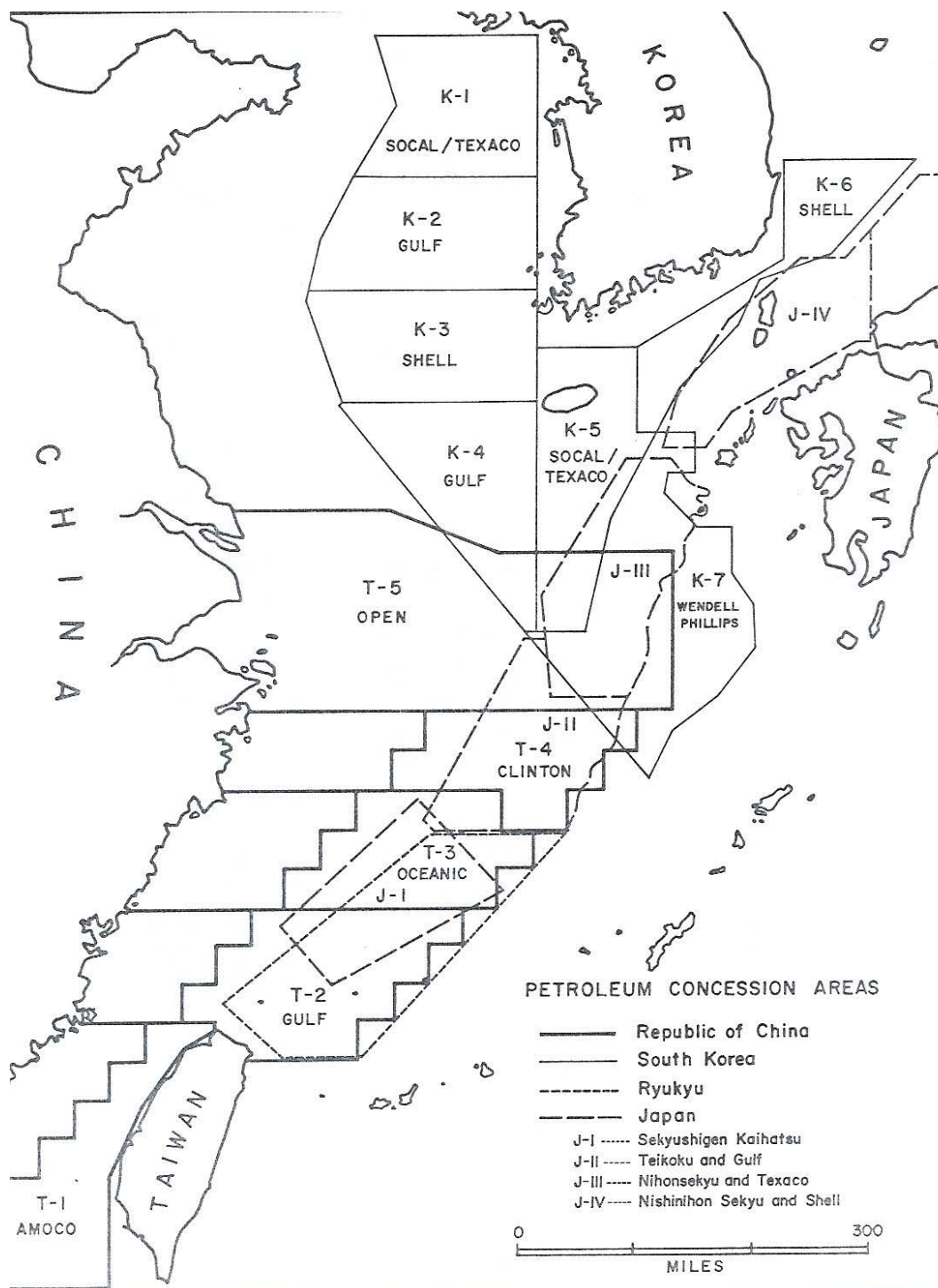
II. China-South Korea Seabed Claims Overlaps in the Yellow Sea.

III. Location Map of Area for China's Fourth Round of Offshore Bidding. Source: China Daily, July 1, 1992.

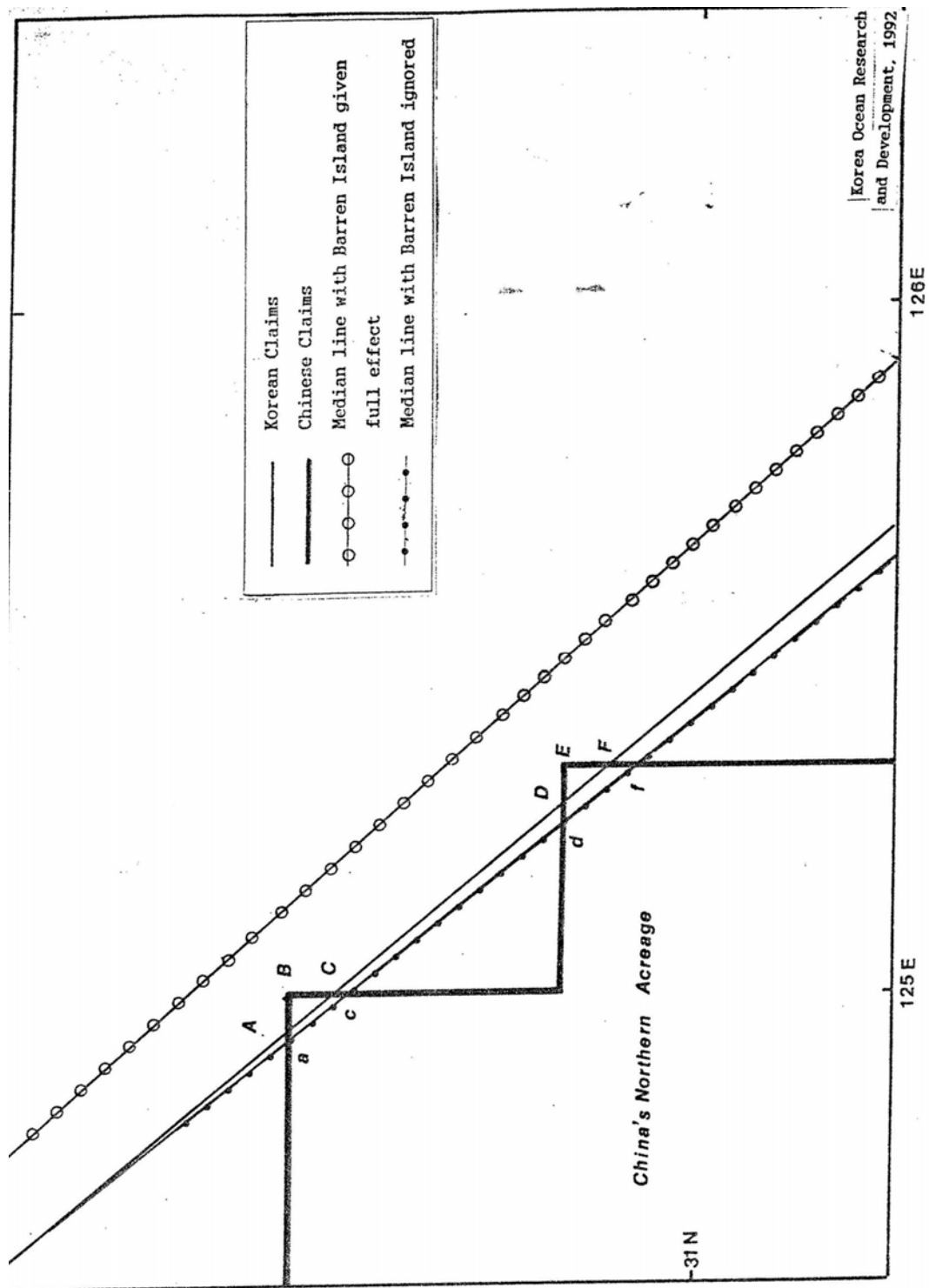
IV. China-South Korea Seabed Claims Overlaps in the Yellow Sea.

V. Sizes of Overlapping Areas in the Yellow Sea.

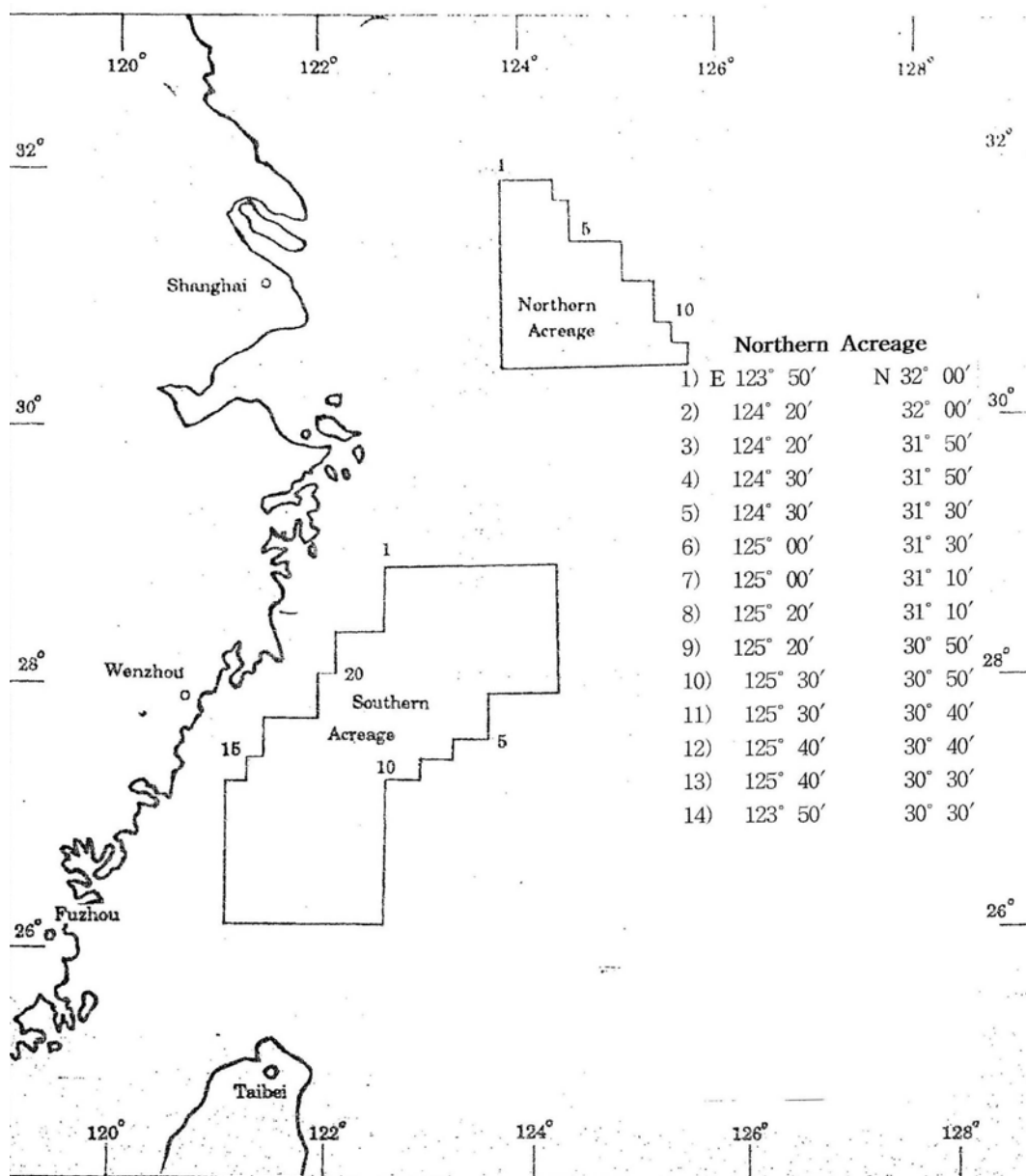
Map I : Unilateral Claims and Concession Areas in the Yellow Sea and the East China Sea



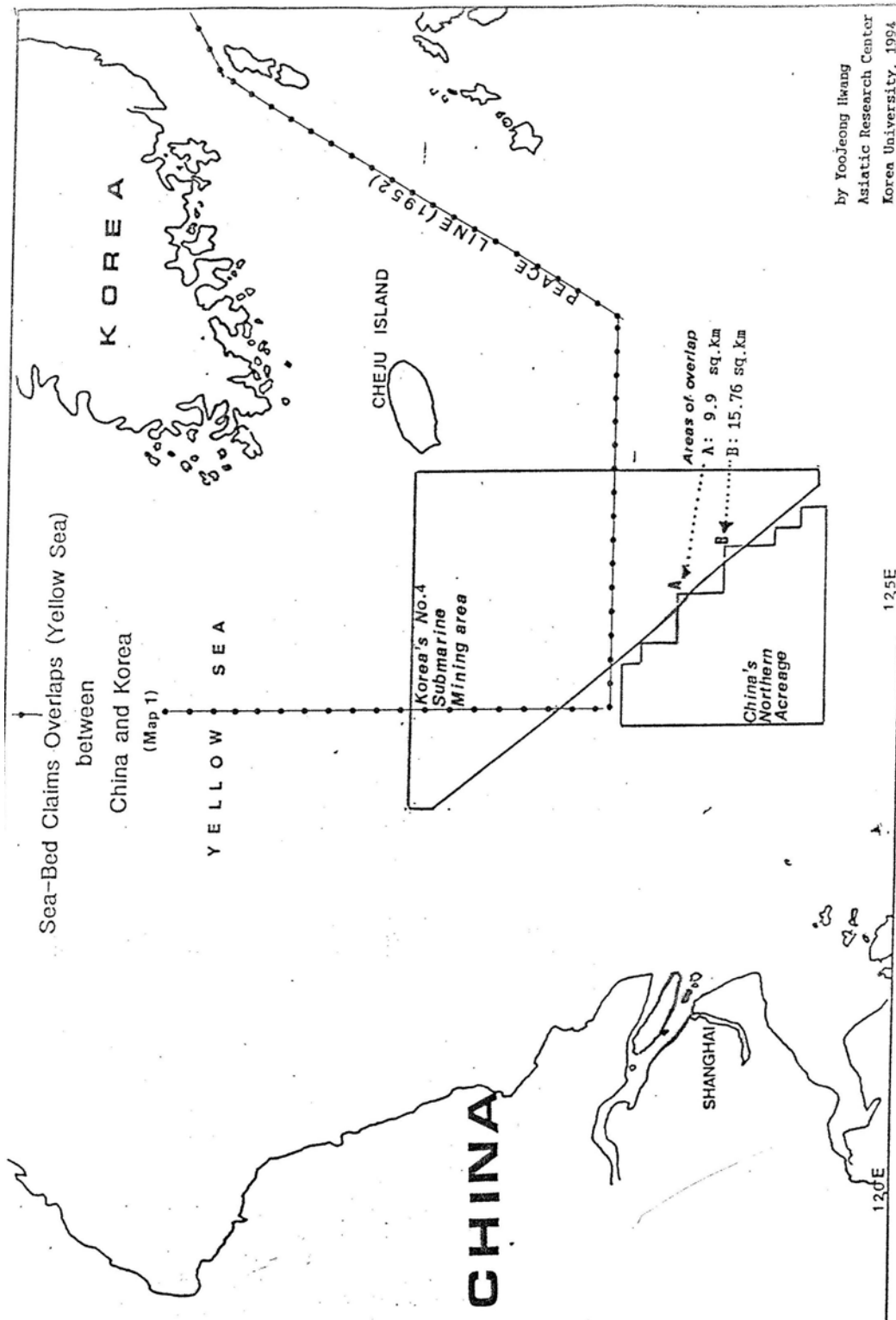
Map II : China-South Korea Seabed Claims Overlaps in the Yellow Sea



Map III : Location Map of Area for China's Fourth Round of Offshore Bidding



Map IV : Sizes of Overlapping Areas in the Yellow Sea



NOTES

¹ For further details with cartographic illustrations, see Choon-Ho Park, "Oil Under Troubled Waters: The Northeast Asia Sea-Bed Controversy," *Harvard International Law Journal*, Vol. 14, No. 2, Spring 1973, pp. 212-260.

² For further details with cartographic illustrations, see US Dept. of State, Bureau of Oceans and International Environmental and Scientific Affairs, Limits in the Seas, No. 117, Straight Baseline Claim: China, July 9, 1996; No. 120, Straight Baseline and Territorial Sea Claims: Japan, April 30, 1998; and No. 121, Straight Baseline and Territorial Sea Claims: South Korea, Sept. 30, 1998.

³ State Oceanic Administration, Office of Policy, Law and Regulation, Collection of the Sea Laws and Regulations of the People's Republic of China, 3rd ed., bilingual (Chinese and English), 2001.

⁴ For details, including a Yellow Sea oil acreages location map with latitudes and longitudes, see China Daily, July 1, 1992.

⁵ A private calculation done by a American professional cartographer is in the author's file.