

27 APR 70

RGES-1



~~CONFIDENTIAL/NO FOREIGN DISSEM~~

RESEARCH STUDY

BUREAU OF INTELLIGENCE AND RESEARCH

April 27, 1970

THE GULF OF SIAM: OFFSHORE CONCESSION PROBLEMS

Cambodia and Thailand have granted overlapping petroleum concessions in the Gulf of Siam. The Embassy in Bangkok has requested that The Geographer examine the shelf boundaries and prepare alternative median and lateral lines. This study discusses the boundary problem and proposes alternatives.

ABSTRACT

Four states--Malaysia, Thailand, Cambodia and Viet-Nam--border on the semi-enclosed Gulf of Siam. Malaysia has been actively pursuing a policy of resolving offshore boundary questions through international agreement and appears to have no immediate problems in the Gulf. Thailand has decreed a provisional shelf boundary for petroleum concessions with respect to the above three states based upon a modified equi-distance principle which utilizes selective basepoints to the advantage of Thailand. Five U.S. firms, including TENNECO, AMOCO, CONOCO, Gulf and Union Oil, and one British firm currently have concessions. The zones of these concessions are shown on Map A; the shaded area is also encompassed in the Cambodian concession area.

~~CONFIDENTIAL/NO FOREIGN DISSEM~~

CONFIDENTIAL/NO FOREIGN DISSEM

-ii-

The Cambodian shelf boundary also utilizes a modified equidistance principle choosing basepoints advantageous to Cambodia. The French combine ELF/ERAP has been granted a concession for the entire zone. Cambodia, moreover, has included within its continental shelf the Vietnamese-claimed islands of Phu Quoc and Han Panjang. These islands are also principal basepoints. Map B shows the limits of the Cambodian concession area.

Viet-Nam, in contrast, has not granted concessions but has created, as a preliminary step, an exploration zone, shown on Map B. The "disputed" area with Cambodia is extensive even though Viet-Nam has not, as yet, included Phu Quoc and other claimed islands within its zone.

The Geneva Convention on the Continental Shelf does not prescribe any one method of determining shelf boundary lines. The Convention provides that the equidistance method should be used unless the parties have not reached agreement on another method of delimitation or unless there are "special circumstances." The Geographer has constructed three potential equidistance lines on Map B. Line 1 uses all basepoints from which the territorial sea may be measured. Line 2 eliminates certain small rocks and islets close to this equidistance line which, if used, would change the lines out of proportion to their size or importance. The third line omits all islands not adjacent to the coasts of the states. For the most part, these three lines are situated between the shelf boundaries claimed by Thailand and Cambodia.

CONFIDENTIAL/NO FOREIGN DISSEM

CONFIDENTIAL/NO FOREIGN DISSEM

iii

The International Court of Justice, however, has stated that one factor in determining the proper shelf boundary between states is the measure of proportionality between the length of the claimant states' shorelines and the shelf to be allocated. Applying this criterion, the Cambodian claim is excessive; the Thai claim is slightly modest.

CONFIDENTIAL/NO FOREIGN DISSEM

CONFIDENTIAL/NO FOREIGN DISSEM

BACKGROUND

The Gulf of Siam, a semi-enclosed arm of the South China Sea, extends approximately 375 nautical miles into the Southeast Asian landmass. Ranging in width from 40 nautical miles in the north to approximately 250 nautical miles in the south, the Gulf has an area of 84,606 square nautical miles. Four states--Malaysia, Thailand, Cambodia, and Viet-Nam have shores bordering on the Gulf. Their individual coastlines measure approximately 10, 900, 150, and 155 nautical miles, respectively. Since the waters of the entire Gulf are less than 200 meters in depth the entire seabed qualifies as a legal continental shelf under the definition contained in Article 1 of the Geneva Convention on the Continental Shelf.

Malaysia

The last three turning points (Nos. 18 - 20) of the Indonesian-Malaysian continental shelf agreement are plotted on Map No. 2 as a dash and "x" line. While the shelf boundary is actually beyond the geographical limits of the Gulf of Siam, the terminus (No. 20) is a trisection point, equidistant from Malaysian, Indonesian and Vietnamese territory.¹

In contrast, no agreement has been signed between Thailand and Malaysia dividing the continental shelf at this date. However, the 30,000 square mile (Indonesian) ESSO concession does not appear, from cartographic evidence, to conflict appreciably, if at all, with the adjacent Thai concession zone.

Thailand

The Government of Thailand proclaimed on May 16, 1968 a Tentative Border Line for the Thai Continental Shelf. The extent of this boundary and the shelf concession areas, with current concession holders, is shown on Map No. 1. Five American based firms--TENNECO, AMOCO, Gulf, CONOCO, and Union Oil of California--and one British firm, BP, currently hold seven concession zones while two areas, adjacent to Malaysia, are open. The total Thai concession zone has an area of 55,718 square nautical miles.

The concept behind the delimitation of the Thai continental shelf boundary appears to be a variation of the equidistance principle which uses as basepoints only the mainlands of the two states and selected large, onshore islands. Cambodian islets, distant from the mainland, have been ignored. The Thai continental shelf boundary is shown on Map 8 by a series of crosses.

1. See International Boundary Study - Series A: Limits in the Sea- No. 1, dated January 21, 1970.

CONFIDENTIAL/NO FOREIGN DISSEM

- 2 -

Cambodia

The Cambodian continental shelf boundary, as determined from a Cambodian chart, is shown on Map B by a solid line. The area in potential conflict with Thailand is shaded on Map A. The Cambodian continental shelf zone is estimated to include approximately 30,000 square nautical miles of shelf. The French combine ELF/ERAP will have the concession area. The continental shelf boundary, as with Thailand, follows a selective equidistance principle. The equidistance line, where the two states are adjacent, follows a set azimuth from the shore to a point in the middle of the Gulf where the states become opposite. This line, which is equidistant from both Thai and Cambodian shores at the beginning, would, if continued, cut across the Thai island of Ko Kut. As a result, the Cambodian shelf boundary employs an equidistant line which circumscribes Ko Kut to the south where the intervening water body is less than 24 nautical miles, and by a series of 12 nautical mile arcs from Ko Kut where the water width is greater than 24 nautical miles. The original azimuth is rejoined west of Ko Kut and extends to a midpoint which is between the Cambodian coast and the Thai shore forming the western edge of the Gulf. The northern and eastern Thai shores of the Gulf and the many associated islands including Ko Kut are not utilized in the creation of the equidistance line.

The line southward from the midpoint, i.e. where Cambodia and Thailand are opposite, is an equidistance line measured from base points on the island groups of Poulo Wai and Han Panjang in the east and on the Thai-Malaysian shore or on large Thai islands immediately adjacent to the shore in the west. The southern extension of this median line is based on the premise of Cambodian sovereignty over Panjang and Phu Quoc, both of which would be disputed by the Government of Viet-Nam. These island groups are situated south of the Brevie Line, established by the French in 1939 as the administrative dividing line between Cambodia and (the then colony of) Cochinchina. Strangely, however, the boundary, close to the shore, leaves the "Southern Pirate" islands to Viet-Nam; these islands have been consistently claimed by Cambodia.

Viet-Nam

To our knowledge, offshore concession zones have not yet been established by Viet-Nam although an exploration zone has been decreed. Its limits are shown on Map B by a dotted line. While a significant overlap occurs between the Cambodian continental shelf boundary and the Vietnamese exploration zone, an even greater zone of potential conflict could occur with the inclusion of Phu Quoc in a Vietnamese concession zone.

Law of the Sea Principles

The Geneva Convention on the Continental Shelf, which entered into force in June 1964, states in Article 6:

CONFIDENTIAL/NO FOREIGN DISSEM

CONFIDENTIAL/NO FOREIGN DISSEM

- 3 -

"1. Where the same continental shelf is adjacent to the territories of two or more states whose coasts are opposite each other, the boundary of the continental shelf appertaining to such states shall be determined by agreement between them. In the absence of agreement, and unless another boundary is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest point of the baselines from which the breadth of the territorial sea of each state is measured.

2. Where the continental shelf is adjacent to the territories of two adjacent states, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each state is measured."

The question of whether Article 6(2) has become a principle of customary international law was referred to the International Court of Justice. In its February 1969 decision in the North Sea Continental Shelf Case¹ the Court decreed that "the Geneva Convention did not embody or crystallize any pre-existing or emergent rule of customary law, according to which the delimitation of continental shelf area between adjacent States must, unless the Parties otherwise agree, be carried out on an equidistance-special circumstances basis."² The Court's ruling was directed at Germany, a non-signatory state. Both Thailand and Cambodia, in contrast, have signed and ratified the Convention.

The Court referred to the requirement of delimitation "by agreement, in accordance with "equitable principles" which take into account "all the relevant circumstances."³ Parties are under an obligation "to enter into negotiations with a view to arriving at an agreement, and not merely to go through a formal process of negotiation as a sort of prior condition for the automatic application of a certain method of delimitation in the absence of an agreement."⁴

1. North Sea Continental Shelf, Judgment, International Court of Justice Report, 1969.

2. Ibid., par. 69.

3. Ibid., par. 101.

4. Ibid., par. 85.

CONFIDENTIAL/NO FOREIGN DISSEM

CONFIDENTIAL/NO FOREIGN DISSEM

- 4 -

CONCLUSIONS

The Court decision repeatedly refers to the inapplicability of reliance on the equidistance principle alone for the determination of shelf boundaries between adjacent states. "The conclusion drawn by the Court... is that the notion of equidistance as being logically necessary, in the sense of being an inescapable a priori accompaniment of basic continental shelf doctrine, is incorrect."¹ The Court stressed the need to negotiate to obtain an agreement to arrive at an equitable division of the shelf.

In response to the Embassy's request, three equidistance lines have been constructed on Map B in addition to the Thai and Cambodian lines. The first equidistance line, represented by a dashed symbol, utilizes all basepoints from which the territorial sea of all states can be measured. The line has been extended to divide the shelves of the four states adjacent to the Gulf. The technique applied gives equal value to a small, isolated rock as to the mainland. In certain instances, as in the Saudi-Iranian, Abu Dhabi-Qatar and Italian-Yugoslav negotiations, rocks and islets close to the median line, which would exert undue influence in relation to their size and general value, have been ignored or given a diminished influence. The second equidistance line, the dash-dot symbol, follows this technique. The small Cambodian islets of Veer and Kusrovie, which push the lateral line far northward, have been ignored.

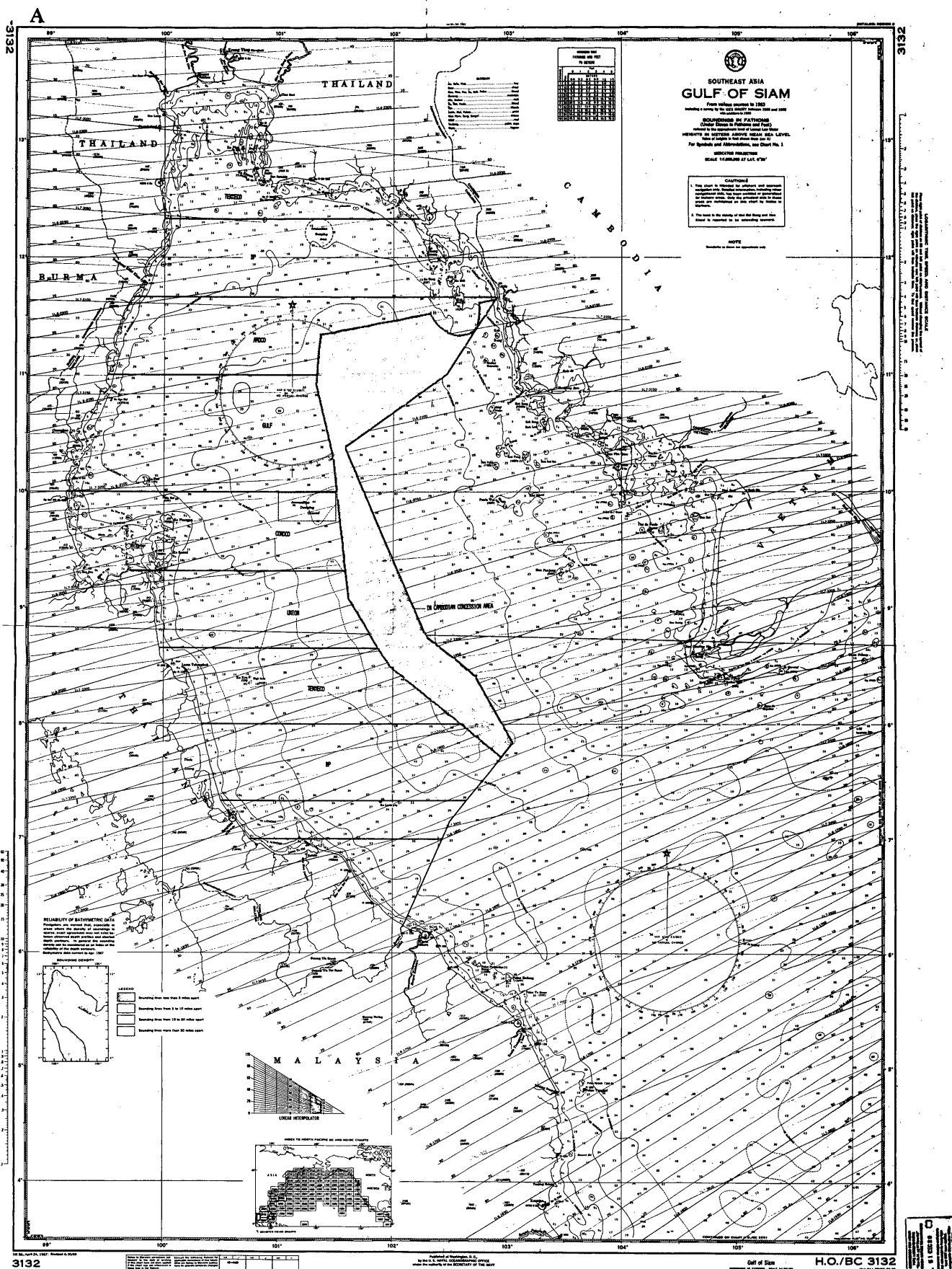
The third equidistance line, dash-double-dot symbol, ignores all islands not immediately adjacent to the mainlands of the states. These three equidistance lines fall, for the most part, between the Cambodian and Thai lines. (The area of discrepancy in the northwest may be due to errors of plotting stemming from scale or projection factors of the charts utilized.)

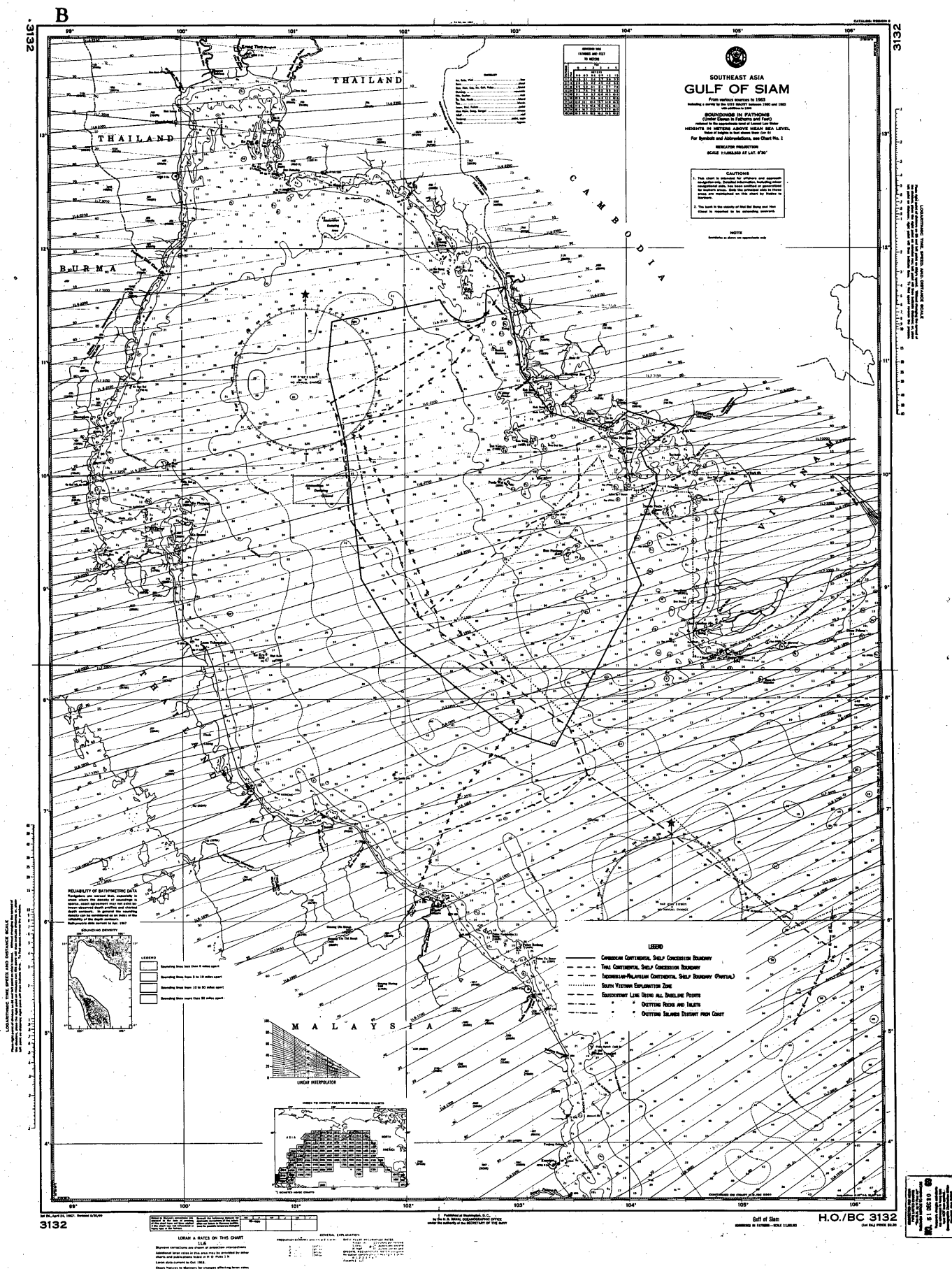
As noted, however, the International Court favored an equitable distribution of the seabed taking into consideration all factors outlined in the decision. The case involved the German claim that the existence of a concave coastline gave Germany a disadvantaged position in the construction of equidistance lines in a semi-enclosed sea. The Court, in summing its decision, stated "A final factor to be taken account of is the element of reasonable degree of proportionality which a delimitation effected according to equitable principles ought to bring about between the extent of the continental shelf appertaining to the states concerned and the lengths of their respective coastlines..."²

1. Ibid., par. 46.

2. Ibid., par. 98.

CONFIDENTIAL/NO FOREIGN DISSEM





CONFIDENTIAL/NO FOREIGN DISSEM

- 5 -

If this criterion is applied to the Gulf of Siam's continental shelf, Thailand would be entitled to a shelf approximately 6 times that of Cambodia. The proportionality factor of length of coastlines would allocate the following square nautical miles, roughly:

Thailand.....	63,000
Cambodia	10,500
Viet-Nam.....	10,500
Malaysia	700

The current Thai concession zone includes approximately 56,000 square nautical miles while the Cambodian (very roughly) includes 30,000 square nautical miles. It would then appear that an equitable division of the shelf based upon the proportionality criterion, or the least inequitable division, would be closer to the Thai claimed shelf boundary. Negotiations would have to develop a uniform and agreed system of coastline measurement as well as a common definition of the limits of the Gulf and the area it encompasses. The conclusion reached in this study are based upon figures derived arbitrarily and thus can not represent a final or definitive basis for the delimitation of the shelf area in question.

RGE - INR/Geographer

Director: RDHodgson

Analyst: RDHodgson *RHA*

Ext: 22022

CONFIDENTIAL/NO FOREIGN DISSEM

CONFIDENTIAL/NO FOREIGN DISSEM

CONFIDENTIAL/NO FOREIGN DISSEM