



China's Straight Baseline Claim and Implications for Countries in Southeast Asia

Nguyen Thanh Minh¹ - Le Bao²

¹ Vietnam East Sea research specialist, 15 Ha Tri, Ha Cau, Ha Dong, Hanoi City, Viet Nam

² East Sea research specialist, 10 Nguyen Trai Street, Thanh Xuan District, Hanoi City, Viet Nam
thanhhinh7589@yahoo.com

Abstract. The Declaration's claim to straight baselines violates the provisions of UNCLOS on the determination of baselines. Specifically, China is not an archipelagic state, so China is not allowed to draw baselines in the Paracels. Especially violating the sovereignty of the State of Vietnam over the Hoang Sa archipelago, because the Hoang Sa archipelago is the sacred territory of the State of Vietnam, China does not have any right to draw baselines in the archipelago. Hoang Sa.

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1. Preamble:

The study of China's straight baselines is an urgent issue in the current context, in order to help readers have a more comprehensive view of the nature of China's straight baselines, which is one of the requirements. China's legal policies have made the already complicated situation in the South China Sea even more complicated, tense, and full of the colors of a legal war, in order to gradually assert China's unreasonable sovereignty. States in the East Sea region.

On May 15, 1996 the People's Republic of China issued a Declaration on Straight Baselines running along parts of its coast. The declaration of the Government of the People's Republic of China on May 15, 1996, that the baseline adjacent to the Paracel Islands, which China calls the Xisha, includes 28 points connecting the protruding points, especially the islands, rocks and shoals of the archipelago. From this straight baseline China has measured the breadth of its territorial sea, the contiguous sea, the exclusive economic zone, and the continental shelf. The Declaration indicated that only part of China's straight baseline is being claimed at this time.

This document declares that the baselines of the territorial sea parts adjacent to the mainland and the baselines of the territorial sea adjacent to the Paracel Islands belong to Vietnam's sovereignty, which the Chinese side calls the Xisha Islands. That blatantly violated Vietnam's indisputable sovereignty over the Hoang Sa and Truong Sa archipelagoes and was contrary to the basic principles of international law, international law of the sea and international regulations. of the United Nations

Convention on the International Law of the Sea 1982 (Jeannette Greenfield, 1995).

The Declaration does not refer to China's baseline from the end of its land boundary adjacent to North Korea to point 1 of the Declaration along China's coast in the Gulf of Tonkin and including the area. in the Yellow Sea or around other islands that China claims in the South China Sea.

This is the first time China has made a claim to straight baselines since China made its Declaration on the Territorial Sea on September 4, 1958. In that Declaration China claimed that the line The basis for measuring the breadth of China's territorial sea is the line formed by straight lines connecting the base points on the coast of the mainland and on the farthest point of the coastal archipelago. However, in that Declaration did not give specific geographical coordinates to determine the points of the baseline, this is the biggest shortcoming of an ordinary baseline and it will have no legal value. reason for the lack of confirmation of specific geographic coordinates.

On February 25, 1992, China passed the Law of the People's Republic of China on the Territorial Sea and the Contiguous Sea. Again, China does not specify the baseline here, other than Article 3 of the Code which states: the method of drawing straight baselines by drawing straight lines connecting adjacent base points will used to draw the baselines of the territorial sea of the People's Republic of China.

Neither the 1958 Code nor the 1992 Code refer to the low-tide mark as being established as a normal

baseline, a weakness due to the lack of scientific evidence, the lack of international legal basis in accordance with the 1982 United Nations Convention on the International Law of the Sea. The 1982 Convention stipulates that: For coastal states and archipelagic states in the world, when drawing baselines used to calculate the breadth of the territorial sea, the lowest tidal line must be determined using specific coordinates printed on national charts.

2. Declaration of May 15, 1996 of China:

In this Declaration, China claimed two systems of straight baselines. The first system consists of 49 base points running along special terrain locations on the coast and adjacent to the coast and on Hainan Island starting at point 1 (Shandonggaojiao) on the eastern end of the Shantou peninsula. East (Shandong) is located in the southeast of the Yellow Sea Strait, extending south to point 49 on the west coast of Hainan Island.

The second system includes the Paracel archipelago ie the Hoang Sa archipelago under Vietnam's sovereignty, located in the northern part of the East Sea with 28 base points.

In its Declaration, China did not give technical information about the base point or the baseline. There has been no claim on figures, on spheres or on normal line patterns as provided for in the 1982 United Nations Convention on the Law of the Sea (UNCLOS). According to Article 16 of UNCLOS (United Nations Convention on the Law of the Sea), a coastal state or archipelagic state is required to make publicly available a chart or list of geographical coordinates, clearly indicating the earth geodetic data. The distances are calculated according to the 1984 World Geodetic System (WGS 84).

3. International Legal Basis for Analysis of China's Straight Baseline Claim:

The 1982 United Nations Convention on the Law of the Sea reflects customary international law for the principles to be applied as the basis for the establishment of baselines duly and legally. The rules governing the drawing of baselines are contained in Articles 5 to 11 and Articles 13 to 14 of UNCLOS. Article 5 of UNCLOS provides that, except where otherwise declared in this Convention, the usual baseline for measuring the breadth of the territorial sea is the line indicating the low tide along the coast.

Section 1 of Article 7 is the most important section, which establishes the geographical conditions that must be met when a coastal state wishes to claim straight baselines at specific locations. . This section specified that straight baselines could only be drawn in two specific geographical situations, that is, where the coastline cuts deep inland, or if there is a chain of islands running along the shore. the sea right next door.

The purpose of allowing the use of straight baselines is to allow coastal states to enclose bodies of water that,

due to their close relationship to the mainland, are of the nature of internal waters. According to UNCLOS, maritime areas lying within the baselines must be sufficiently closely connected with the mainland to be eligible for the regime of internal waters specified in Article 7 Paragraph 3. By using a straight baseline, a States can also eliminate complex patterns in their territorial seas, including foreign enclaves in territorial waters, which could otherwise arise from the use of normal baselines (Deyanov, 1990).

Another United Nations study has also stated that when determining whether conditions require what permits the use of straight baselines, it is imperative to focus on the spirit and the text. of Section 1, Article 7 of UNCLOS. As the research opinion of famous geographers in the world suggests that a correct muscle line usually has a number of straight lines, each line segment is composed of many stages interspersed between them are segments with ink marks. Lowest tide water of island and mainland shores...

The length of the individual legs is short, and the baseline is rarely more than 24 nautical miles from an empty coast. Units for calculation at sea are in nautical miles and 1 nautical mile = 1852 m. Article 14 of UNCLOS recognizes that a combination of methods should be used to determine the type of baselines in particular areas: The coastal State may determine the baselines in turn using the methods contemplated in the preceding paragraphs. the above to suit different conditions (Mark J Valencia, 1991).

Much of China's coastline does not meet the two geographical conditions of UNCLOS that are required for the application of straight baselines. In most cases, the waters bounded by the new straight baselines system are not closely related to the mainland, but rather feature international waters or territorial seas. In such areas, the normal baseline, i.e. the low tide line, should have been used.

4. Analysis of China's Straight Baseline Claim:

China's baseline system includes the mainland, Hainanisland and Hoang Sa archipelago under Vietnam's sovereignty, with China's claim of a straight baseline for Vietnam's Hoang Sa archipelago, By doing this, China has seriously violated basic provisions of international law and modern international law of the sea, especially those of the 1982 United Nations Convention on the Law of the Sea, which China said was not the case. Quoc is a member.

4.1. Baseline System of Mainland China and Hainan Island

With 48 segments connecting 49 base points with a total length of 1734.1 nautical miles. China claims a series of straight baselines running from the northeast coast all the way to the west coast of Hainan. These sections range in length from 0.1 nautical miles from 45 to 46 on Hainan Island and to 121.7 nautical miles from 8 to 9 off the northeast coast of China.

As Table 1 shows, more than half of the baselines are in excess of 24 nautical miles (25 out of 48), of which three are over 100 nautical miles, accounting for 6%.

Table 1: Lengths of baselines along mainland China and Hainan Island, Length (nautical miles) Number of road segments (%)

Under 24	23 (48%)
24,1 → 48	9 (19%)
48,1 → 100	13 (27%)
Trên 100	3 (6%)

Neither UNCLOS nor the 1958 Convention on Territorial Seas and Contiguous Zones establish a specific distance limit for the length of straight baselines. However, many analytical works have put limits from 24 to 48 nautical miles. The US position is that as a general rule, baselines should not exceed 24 nautical miles. In the following analysis, the author agrees with the view that the maximum length should not exceed 24 nautical miles of straight baselines and is consistent with current international practices of coastal states.

The maximum length of 24 nautical miles of the baseline is derived from a careful study of the provisions of UNCLOS. Article 7 (1) refers to the area adjacent to the coast. Article 7 (3) stipulates that the sea areas located within the baselines need to be connected enough close to the mainland in order to apply the internal water regime. Both of the above descriptions have a clear implication that water bodies, if they want to be internal waters, must on the other hand be part of the territorial sea. It is difficult to imagine a situation in which international waters from beyond the limit of 12 nautical miles from the low-tide line could be linked sufficiently closely to the mainland to be transformed into inland waters. Water.

The above points are reinforced by article 8 (2) guaranteeing innocent passage in areas transformed by straight baselines into internal waters. The right of innocent passage is a regime that can be applied to the territorial sea (with a maximum width of 12 nautical miles). The maintenance of innocent passage would suspend pre-existing rights in the waters that were naturally considered territorial waters prior to the application of straight baselines.

In terms of the connection with the territorial sea, it shows that, as usual, no straight line can be allowed to exceed 24 nautical miles according to the analysis of the leading legal researchers in the world.

The analysis showed that the length and position of many straight baselines of China did not meet the standards set forth in UNCLOS. In general, China's coastline from the Shandong peninsula (point 1 of the baseline) to the Shanghai area (the baseline off this area is point 11) is mostly flat with no surrounding islands. Outside. Along this portion of the coast there are only a few inland areas that can meet the legal standards for the bay.

The base points from points 1 to 5 are located near the Shandong peninsula where there is no inland coastline and no outer islands. Between point 2 and point 3 there are two indentations inland that can legally enclose the bay drawn across the entrance to the bay. However, even the legal line that closes the bay cannot affect the calculation of the 12-nautical-mile territorial sea because there are other landmarks in the sea that form the closed line. In this particular area, China's territorial sea drawn from baselines 2 to 30 covers nearly 20 square nautical miles (70 km²) of claimed territorial sea that should still be in international waters. And a significant number of areas are claimed as internal waters that should be territorial waters.

The stretch of China's coastline between base points 5 and 8 is relatively flat, with only a few small deeps that can be closed by a legally closed bay. The city of Qingdao is located on the largest bay of the legal bays under UNCLOS. Points 6, 7, and 8 are assigned to very small islands immediately adjacent to approximately 140 nautical miles of coastline between 119050' East and 122015' East. Sections 6 to 7 are 84.1 nautical miles long and sections 7 to 8 are 71.8 nautical miles. The distances of points 6, 7, and 8 to the mainland are about 5.16 and 26 nautical miles.

Right next to the 6-7 section, there is only one small island, and near the 7-8 section, there is no island at all. Considering that the number of islands is so small, this offshore area cannot be considered to be surrounded by island chains.

The territorial sea should be drawn from the normal baseline, which is the low-tide line of these islets, and from the continental low-tide line as depicted on official charts of China. In that area, China has claimed approximately 1,175 square nautical miles (4,023 km²) of territorial sea that should be international waters, and about 600 square nautical miles (2,055 km²) of China's internal waters that should have been maritime international division in accordance with the provisions of UNCLOS to which China is a signatory. There are also a number of significant areas that have been claimed as internal waters that should have been territorial waters.

Sections 8 - 9 (121.7 nautical miles) 9 - 10 (25.6 nautical miles) and 10-11 (100.2 nautical miles) are located off the East coast of China in an area of mounds. hills at low tide. On the chart used for this analysis accompanying the May 15, 1996 statement, point 9 was identified as being less than 3 meters underwater. Point 10 is located on a hillock at the lowest tide level, more than 12 nautical miles from the mainland. right next to the mainland near sections 8-9 and 9-10 there aren't any islands. With the exception of a few rivers that empty into the Yellow Sea, in this area the continental coast is relatively flat.

Under the modern international legal system, especially UNCLOS, a country can use the low-tide line of a hillock at low water level as a baseline from which to measure the breadth of its territorial sea, provided that that

low-water hillock is located wholly or partly at a distance not exceeding the breadth of the territorial sea as measured from the mainland or an island as provided for in Article 13 of UNCLOS.

In the case of China, the low tide of any low-water hillock within 12 nautical miles of the mainland or from an island may be used to determine the limit. territorial border. There are eight low-water mounds, including the one on which base point 10 is depicted, as depicted on US Department of Defense Mapping chart 94260, which cannot be used to determine territorial seas because none of these mounds are within 12 nautical miles of the mainland or an island.

In addition, straight baselines cannot be drawn across and from low-water hills, unless permanently used beacons erected above sea level have been constructed there, or otherwise which draw baselines through and from such hills is generally accepted by international opinion. This point is specifically provided for in article 7(4) of UNCLOS.

Thus, in the area of sections 8 - 9, 9 - 10 and 10 to 11, the correct baseline should be the low-tide line of the continent and of low-water hills located wholly or partly in distance not exceeding 12 nautical miles from land. Thus, in this area China has claimed approximately 1,995 square nautical miles (6,831 km²) of territorial sea that ought to be international waters, and about 550 square nautical miles (1,880 km²) of internal waters that ought to be international waters. international waters, and a large area of internal waters that should have been territorial waters.

Point 11, located east of Shanghai near the mouth of the Yangtze River, is located on a solitary small island and should not be part of a straight baseline system.

From about 30050' N (on the southeast side of Shanghai and to the mainland of point 12) to about 27030' N, located just next to point 18 (on Nanjishan Liedao), there is an outer chain of islands close to the mainland that can be meet the requirements of the outer island chain of Article 7(1) provided for in UNCLOS. However, with the possible exception of points 16, 17 and possibly point 18, the others are all located on small islands that are isolated from other near-shore islands.

Points 12 and 13, for example, are located on rocks about 60 nautical miles inland from the Maan Qundao Islands (Maan Liedao), where straight baselines may be valid. Points 14 and 15 are also placed on islands that do not meet the requirement that the outer chain must run along the adjacent coast.

The baselines connecting point 18 through 24 are located along the western island chain of the Taiwan Strait. Although the coastline in this area is characterized by many indentations and an outer ring of islands, it is necessary to amend some things in China's current baseline system. States in accordance with UNCLOS. Points 19 and 20 are located on small floating mounds located about 21 nautical miles from the island chain. Sections 18 to 19 (73.2

nautical miles), 19 to 20 (14.3 nautical miles) and 20 to 21 (50.3 nautical miles) enclose areas of water that are not closely associated with land.

Similarly, points 22, 23 and 24 are floating mounds that are not part of the surrounding islands. The coastal area on the mainland side of the above points has islands immediately enclosed along the coast, on which a straight baseline could be drawn.

The sections 24 - 25 (30.8 nautical miles), 25 - 26 (1.1 nautical miles) and 26 - 27 (43.8 nautical miles) are unjustifiable, since the small islands on them have no place points 24, 25 and 26 are not surrounding islands. The inland coastline of points 24 to 27 contains a number of legal bays and the territorial seas in these areas need to be drawn from the low-tide level of the islands and of the mainland, and from the legal bay closed road.

Sections 27 - 28 (84.6 nautical miles), 28 - 29 (71.3 nautical miles), 29 - 30 (66.8 nautical miles) and 30 - 31 (25.4 nautical miles) connect base points The base is located on small islands and rocks. The inland portion of sections 27-28 has one or two deeps that can be closed off by legal bay closures. However point 28 is a solitary small island 19 nautical miles from the mainland. Sections 28 - 29 and 29 - 30 enclose Hong Kong and Macao.

Base point 31 is a solitary rock, straight baselines that should have been drawn from point 30 running to the northwest, connecting several large inshore islands with the mainland. The baseline section from 31 to 32 (107.8 nautical miles) connects the reef at point 31 with a small island located off the northeast coast of Hainan Island. This section cuts off the eastern entrance to the Hainan Strait, which is an international strait. here China has sealed off large areas of international waters and considers them internal waters.

This has violated the basic principles of international law, international law of the sea, especially the provisions of UNCLOS. Hainan Island does not have an island chain around it, but only a few islands scattered offshore. Except for some small legal bays, the baseline should be the low-tide line under UNCLOS. Straight baselines have only minimal effect on the limits of their territorial sea.

4.2. The system of baselines drawn by China in the Paracel Islands belongs to Vietnam's sovereignty

China has placed 28 base points connecting them to enclose the Paracel Islands under Vietnam's sovereignty and even though the sovereignty of the Paracels belongs to Vietnam, a straight baseline is not drawn in the area. this area.

Vietnam's Hoang Sa archipelago consists of more than 30 floating islands, submerged islands and small reefs scattered over an area of 16,000 square kilometers. The largest island in the Hoang Sa archipelago is Phu Lam Island with an area of about 1.5 square kilometers. The remaining floating mounds in this area are smaller islands,

floating rocks and reefs, some of which are described above tidal data.

While an island may meet the requirement set out in Article 7 of UNCLOS and a straight baseline may apply, those criteria are not met here. The correct baseline should be the low tide line of the islands and reefs.

China would not be allowed to establish straight baselines around the Paracels, because UNCLOS explicitly states that an archipelagic state means a state made up entirely of one or more archipelagos, islands and potentially other islands, as provided for in Article 46 of UNCLOS.

And an archipelagic state such as natural floating constitutes an intrinsic geographical, economic and political entity, or historically has treated them as such, as provided for in Article 47 of UNCLOS.

As a mainland state, China cannot establish a straight baseline of the archipelago surrounding the islands. Moreover, this is a violation of Vietnam's sovereignty, because the Hoang Sa archipelago has long belonged to Vietnam's sovereignty, at least until the seventeenth century, Vietnam has established full and absolute sovereignty over the land. When the Hoang Sa archipelago did not belong to any country.

5. Conclusion

China is a mainland country with an area of about 9,600,000 square kilometers but at the same time a coastal country, with a coastline of about 18,000 km. Historically, China has been primarily a continent-oriented country. China ratified the 1982 United Nations Convention on the International Law of the Sea in 1996. However, in the performance of its obligations as a coastal state China went against the basic principles of modern international law, international law of the sea, especially the provisions of the 1982 United Nations Convention on the Law of the Sea and the Declaration on the Conduct of Parties in the East Sea, signed in 2002 between China and ASEAN referred to as DOC.

With the declaration of a straight baseline system on May 15, 1996, China violated the principles of UNCLOS, and at the same time especially seriously violated Vietnam's sovereignty over the Paracel Islands. It is more serious when China has recently committed blatant violations of Vietnam's sovereign rights and jurisdiction

through events such as sending Hai Giam ships deep into the exclusive economic zone of Vietnam. Vietnam to cut the cables of the Binh Minh 02 seismic probe and the Viking II ship in 2011; illegally placed the oil rig Hai Duong 981 in the exclusive economic zone and continental shelf of Vietnam in 2014; many times sent survey ship HD-08 to violate the exclusive economic zone and continental shelf of Vietnam in 2019, 2020...

With the recent acts of violating China's sovereignty, sovereign rights and jurisdiction over Vietnam's waters, not only Vietnam but the international and regional community has protested against these actions, wrongdoing by the Chinese side through international and regional forums, and asked China to stop similar actions, not to complicate the situation in the East Sea area. Calling on China and relevant parties to comply with international law, including UNCLOS 1982, fully and effectively implement the Declaration on the Conduct of Parties in the East Sea (DOC) and soon achieve a real COC. quality, efficiency and ensure the interests of the international community, contributing to turning the East Sea into a sea of peace, stability, cooperation and development./.

Corresponding Author:

Nguyen Thanh Minh, Ph.D.

Vietnam East Sea research specialist, 15 Ha Tri, Ha Cau, Ha Dong, Hanoi City, Viet Nam

E-mail: thanhminh7589@yahoo.com

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