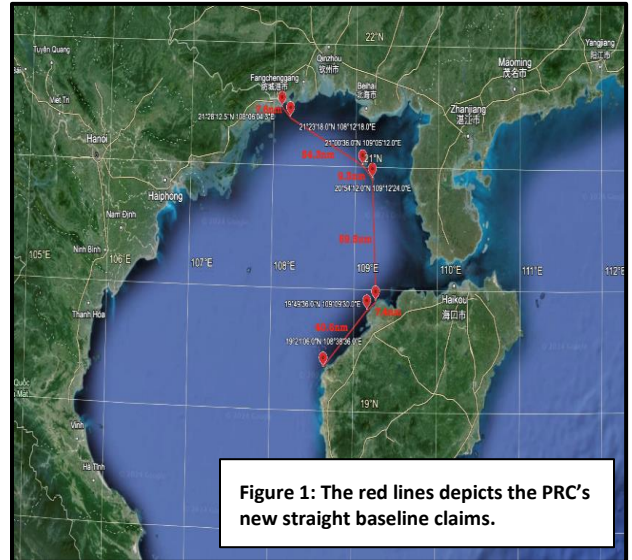


# TOPIC: The PRC's Straight Baselines in the Gulf of Tonkin

## BOTTOM LINE



- On March 1, 2024, *the People's Republic of China (PRC) announced new straight baseline claims in the Gulf of Tonkin.<sup>i</sup> The new claims appear to be inconsistent with international law* as enshrined in the United Nations Convention on the Law of the Sea (UNCLOS).
- UNCLOS permits straight baselines only in *very limited circumstances*, such as fringing islands and deep coastline indentations – none of which apply to the PRC's coastline in the Gulf of Tonkin.<sup>ii</sup>
- UNCLOS requires normal baselines to be measured from the “low-water line along the coast” without any appreciable departure from “the general direction of the coast,”<sup>iii</sup> but the PRC's new claimed straight baselines extend *up to 50 nautical miles from the coastline*.
- The position of the United States is that, as a general rule, baseline segments should not exceed 24 miles in length,<sup>iv</sup> but *3 of the 6 new baseline segments announced by the PRC exceed the 24-mile maximum length* with the longest segment being nearly 60 nautical miles.
- There are *various ways to contest the PRC's new claims*, including diplomatic protest, strategic messaging, freedom of navigation assertions,<sup>v</sup> or dispute settlement procedures specified in Article 287 of UNCLOS.<sup>vi</sup>
- Coordinated international responses*, legal diplomacy, and other proactive engagement efforts between allies and partners across the Indo-Pacific and globally help demonstrate *strength in numbers and collective resolve* to uphold the rule of law and protect rights, freedoms, and lawful uses of the sea preserved to all nations.<sup>vii</sup>
- USINDOPACOM is committed to working with allies and partners* to promote regional stability, safeguard freedom of navigation, and uphold international maritime law.



## WHY THIS MATTERS



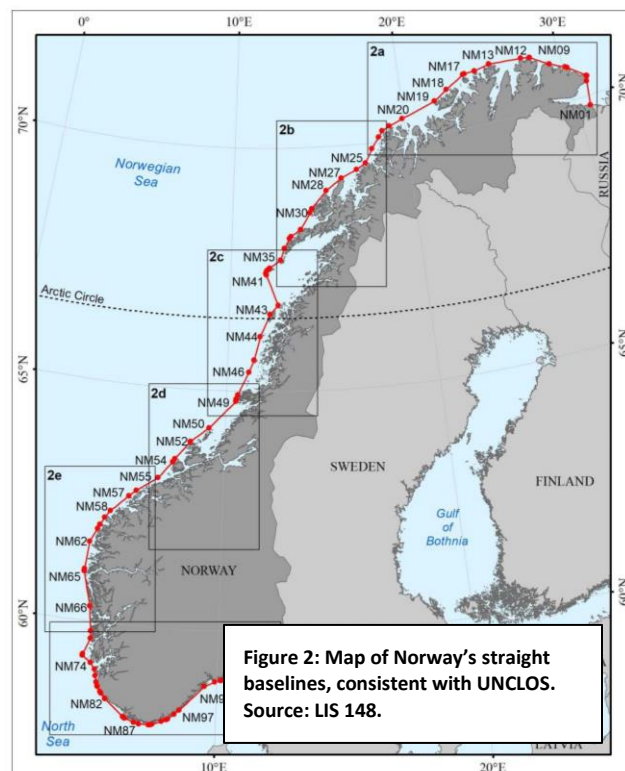
- The effect of the new claims is that *vast areas of the Gulf of Tonkin now fall within the PRC's claimed territorial sea and internal waters*, which may provide *pretext for the PRC to unlawfully impede navigational rights and freedoms* guaranteed to all nations,<sup>viii</sup> *including transit passage through the Hainan Strait.*<sup>ix</sup>
- If left uncontested, the PRC's new claims could erode international law, ripen into accepted norms, and embolden further action that *threatens the rules-based international order.*<sup>x</sup>
- The reasons why the PRC chose to promulgate these new claims now are unclear, but it may be *a legal warfare tactic to acquire leverage needed to coerce concessions* from Vietnam in other contexts, such as in relation to oil and gas fields in the South China Sea within Vietnam's exclusive economic zone.<sup>xi</sup>
- The PRC's new claims could have *significant ramifications for the broader international community* by destabilizing the security environment and threatening the integrity of UNCLOS and the rule of law.
- The PRC's announcement could be a *precursor meant to test international resolve and prepare the legal environment ahead of additional straight baseline claims* in the Taiwan Strait or Spratly Islands.

# DETAILED DISCUSSION



## 1. UNCLOS & Straight Baselines

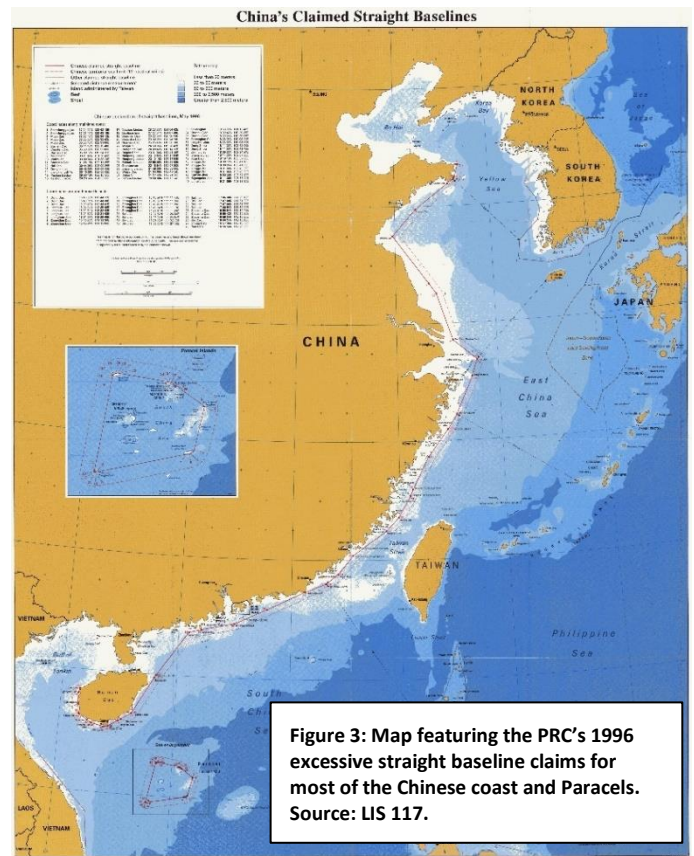
- UNCLOS Article 5 states: “except where otherwise provided in this Convention, **the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast.**”<sup>xii</sup>
- Straight baselines are an exception to the rule** based on geographic necessity.<sup>xiii</sup>
- Some states have deep cuts in their coastline or fringing islands closely aggregated along the coast.
- To accommodate these unique features, international law reflected in UNCLOS specifies **limited circumstances where states can draw straight baselines** analogous to a continuous coastline.
- UNCLOS Article 7(1) states: “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.”<sup>xiv</sup>
- UNCLOS Article 7(3) constrains 7(1) by providing that “the drawing of straight baselines **must not depart to any appreciable extent from the general direction of the coast**, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.”<sup>xv</sup>
- Straight baselines demarcate the **division between internal waters and territorial seas.**<sup>xvi</sup>
- Internal waters are landward the baseline from which the breadth of the territorial sea is measured. In internal waters, the coastal state has full sovereignty and may exclude ships and aircraft from entering, whereas the right of innocent passage for vessels applies in the territorial sea seaward of the baseline.<sup>xvii</sup>
- UNCLOS does not place a specific distance limit on the length of a straight baseline.
- However, several analyses have suggested limits ranging from 24 to 48 miles.<sup>xviii</sup>
- The position of the United States is that **as a general rule baseline segments should not exceed 24 miles.**<sup>xix</sup>
- The 24-mile maximum segment length is implied from a close reading of the relevant articles of UNCLOS.<sup>xx</sup>
- The seven new baseline points announced by the PRC in the Gulf of Tonkin result in six baseline segments including **three that exceed the 24-mile maximum** – the longest segment is approximately **59.5 nautical miles**.
- Norway’s coastline is a model coastline for straight baselines drawn consistent with UNCLOS (see Figure 2).** It is rugged with more than 239,000 islands and has numerous indentations including deep fjords and bays.<sup>xxi</sup>
- In contrast to Norway’s coastline, the PRC’s coastline in the Gulf of Tonkin is has no notable fringing islands or indentations and is thus unsuitable for straight baselines under UNCLOS Article 7(1).
- The PRC’s new claims rely on straight baseline points drawn from two islands in the Gulf of Tonkin (Weizhoui and Xieyang). Although there is no generally accepted test to determine whether a group of islands constitute “a fringe in the immediate vicinity of the coast,” these two islands are approximately 25 nautical miles from the PRC’s coastline and **do not appear to reasonably justify straight baseline points** under UNCLOS Article 7(1).
- Moreover, the PRC’s **new claims significantly depart from the general direction of the coast in breach of UNCLOS article 7(3)** – e.g., the largest baseline segment remains vertical as the landmass moves eastward.
- The PRC has a history of excessive straight baseline claims**, including 49 base points extending from mainland China along with a series of baselines enclosing the disputed Paracel and Senkaku islands (see Figure 3).<sup>xxii</sup>



Map 2. Overview of mainland Norway's straight baseline system. Labels for some baseline points have been omitted. Map scale: 1:8,500,000.

## 2. The PRC's Position

- The PRC's 1992 Law on the Territorial Sea and Contiguous Zone directs that the "baseline of the territorial sea is designated with the method of straight baselines."<sup>xxiii</sup>
- This provision **directly contravenes UNCLOS Article 5**, which requires the use of "normal baselines" unless "otherwise provided for in this Convention." The United States does not employ straight baselines.
- Nevertheless, a statement released by the PRC's Ministry of Foreign Affairs (MFA) cited **the 1992 law as a supposed legal justification, despite there being no apparent foundation under international law.**<sup>xxiv</sup>
- The PRC has further asserted that its action "strictly complies with domestic laws, international laws and bilateral agreements" and "will not impact Vietnam's interests or those of any other nation."<sup>xxv</sup>
- Notwithstanding these statements, the PRC has **not sufficiently explained how the new claimed baselines comply with UNCLOS**, instead offering, without evidence, that its new claims will "help deepen maritime cooperation with relevant countries."<sup>xxvi</sup>
- The MFA's statement referred to the new claims as the "the second step in the three-step process of delineating China's territorial sea baseline."<sup>xxvii</sup>
- Presumably, the "three-step process" is a reference to Article 16 of UNCLOS, which for the perfection of baseline delimitation claims requires states to (1) update charts and/or specify a list of coordinates associated with claimed baselines; (2) give "due publicity" to such charts or list; and (3) deposit a copy of each such chart or list with the Secretary-General of the United Nations.<sup>xxviii</sup>
- There is no indication that the PRC has made a deposit yet with the with the Secretary-General of the United Nations, but regardless of if that occurs, **compliance with UNCLOS Article 16 procedure does not obviate or overcome the underlying illegitimacy of an excessive straight baseline claim.**<sup>xxix</sup>



## 3. Vietnam's Position

- **Vietnam's MFA swiftly criticized the new PRC's new claims** and called on the PRC to "respect and abide by the agreement on the delimitation of the territorial seas, exclusive economic zones, and continental shelves of the two countries in the Gulf of Tonkin, as well as the 1982 UNCLOS."<sup>xxx</sup>
- A spokesperson said that "Vietnam has and will continue to exchange views with China on this issue" and that "Vietnam believes that coastal countries need to abide by the UNCLOS when establishing the territorial baseline used to calculate the width of the territorial waters and to ensure that it does not affect the lawful rights and interests of other countries, including the freedom of navigation, and the freedom of passage through straits used for international maritime activities in accordance with UNCLOS."<sup>xxxi</sup>

## 4. The Effect of the PRC's New Claims

- The practical effect of the PRC's new straight baseline claims is a **seaward expansion of the PRC's claimed maritime zones and corresponding domestic rights** – e.g., with straight baselines up to 50 nautical miles from the coast, **vast areas of the Gulf of Tonkin now fall within the PRC's claimed territorial sea and internal waters.**



- The maritime zones formed by the newly claimed straight baselines may provide ***pretext for the PRC to restrict navigational rights and freedoms or to conduct increased patrols and enforcement under the guise of domestic legal instruments***, such as the China Coast Guard Law<sup>xxxii</sup> or Maritime Traffic Safety Law.<sup>xxxiii</sup>
- The PRC's domestic laws assert excessive jurisdiction within the PRC's claimed maritime zones, such as a requirement for permission for innocent passage of foreign warships – these excessive claims to domestic legal authority could now have even greater geographical reach.<sup>xxxiv</sup>
- The waters enclosed by the newly claimed straight baselines are presumably considered internal waters by the PRC, meaning ***the PRC could unlawfully restrict, impede, or prohibit access to the Hainan Strait, an international strait in which all nations enjoy the right of transit passage***.<sup>xxxv</sup>
- The PRC's announcement could be a ***precursor meant to test international resolve and prepare the legal environment*** ahead of additional straight baseline claims in the Taiwan Strait or Spratly Islands.
- The PRC's new claims do not appear to directly implicate its maritime boundary agreement with Vietnam,<sup>xxxvi</sup> but may nonetheless be a ***legal warfare tactic to gain leverage and coerce concessions*** from Vietnam, such as in relation to oil and gas fields in the South China Sea within Vietnam's exclusive economic zone – the PRC has employed this tactic in other contexts (e.g., by asserting new territorial claims along its border with Bhutan as a means to gain the upper hand in negotiations over other strategically important disputed border areas).<sup>xxxvii</sup>

## 5. What Can be Done to Challenge the PRC's Claims?

- ***Exposing and opposing*** the PRC's new claims is important to deterring additional destabilizing activities and upholding the force of international law as enshrined in UNCLOS.
- Options for challenging the PRC's new claims may include:
  - ***Publication of official national positions*** regarding the PRC's new claims – official statements can be bolstered by press releases and other public affairs support (e.g., social media posts); public remarks; subject-matter expert exchanges and capacity building focused on international law; key leader engagements; legal diplomacy; and publicized legal analysis (e.g., Limits in the Seas and TACAIDS).
  - ***Diplomatic protest*** – demarches and military-to-military communication via defense attaché offices to the PRC and to allies and partners will ensure official positions and potential consequences are communicated, documented, and understood.
  - ***Institutional engagement*** – states may wish to engage the International Maritime Organization (e.g., to promote awareness by commercial shipping of navigational rights and freedoms, particularly in the Hainan Strait); the United Nations Division for Ocean Affairs and the Law of the Sea (e.g., to petition the relevant authorities to not publicly post the charts and/or coordinates of the PRC's new claims if/when they are submitted by the PRC under UNCLOS Article 16); or other international organizations whose policies and actions shape norms and custom.
  - ***Operational challenges*** – for example, freedom of navigation assertions in the areas covered by the PRC's excessive claims might include the conduct of normal operations by ships and aircraft within claimed territorial sea extending from the new claimed baselines; innocent passage by ships in the 12 nautical mile territorial sea; or transit passage by ships and aircraft through the Hainan Strait.<sup>xxxviii</sup>
  - ***Legal claims*** – A party to UNCLOS may pursue compulsory dispute settlement under Articles 286 and 287, which confer jurisdiction over UNCLOS-related disputes to four bodies: the International Tribunal for the Law of the Sea, the International Court of Justice, an arbitral tribunal constituted per Annex VII of UNCLOS, or a special arbitral tribunal constituted per Annex VIII – article 287 allows states to choose one or more of those bodies as their preferred tribunal for settling disputes.<sup>xxxix</sup>
- ***Coordinated international responses*** and proactive engagement efforts between allies and partners across the Indo-Pacific and globally help demonstrate ***strength in numbers and collective resolve*** to uphold the rule of law and protect rights, freedoms, and lawful uses of the sea preserved to all nations.

# PROPOSED COUNTER-LAWFARE APPROACH

*\*\*This section offers a summary of suggested language and key points for incorporation into communication strategies\*\**

- **The PRC's new claimed straight baselines in the Gulf of Tonkin appear to be inconsistent with international law** as enshrined in UNCLOS.
- UNCLOS permits straight baselines only in **very limited circumstances**, which do not apply to the PRC's coastline in the Gulf of Tonkin.
- In contravention of international law, the PRC's new claimed straight baselines are up to **50 nautical miles from the coastline and 60 nautical miles in length**.
- If left uncontested, the PRC's new straight baseline claims could erode international law, ripen into accepted norms, and embolden further action that **threatens the rules-based international order**.
- The PRC's new straight baseline claims **risk destabilizing the security environment and undermining the rule of law**.
- International law does not permit the PRC to use its new baseline claims to **restrict or impede navigational rights and freedoms, including access to the Hainan Strait, an international strait** in which all nations enjoy the right of transit passage.
- States may **lawfully contest the PRC's new claims**, including through diplomatic protest, freedom of navigation assertions, or dispute settlement procedures under UNCLOS.
- It is important to challenge excessive maritime claims in order to **preserve the freedoms of navigation, overflight, and other lawful uses of the sea** guaranteed to all nations under international law.
- **USINDOPACOM is committed to working with allies and partners** to promote regional stability, safeguard freedom of navigation, and uphold international maritime law.
- **Together with allies and partners**, USINDOPACOM seeks to promote international laws and norms, preserve peace and stability, and uphold freedom of the seas in accordance with international law.

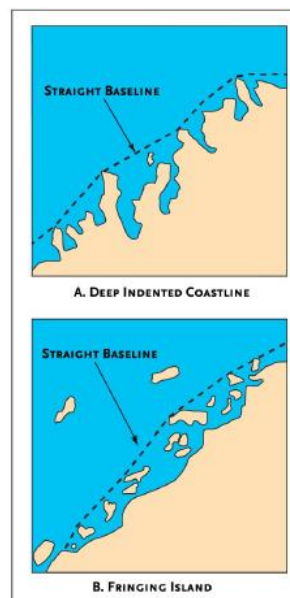


Figure 4: Examples of lawful straight baselines. Source NWP 1-14.

<sup>i</sup> The PRC announced the straight baseline claims via its Ministry of Foreign Affairs website on March 1, 2024 (<https://fmprc.gov.cn>).

<sup>ii</sup> See United Nations Convention on the Law of the Sea (Dec. 10, 1982), 1833 U.N.T.S. 397 [hereinafter UNCLOS], Section 2, Article 7.

<sup>iii</sup> UNCLOS, Arts. 5 and 7. See also, NWP 1-14, section 1.4.2 (noting that straight baselines are only appropriate "Where the coastline is deeply indented—or where there is a fringe of islands along the coast in its immediate vicinity.").

<sup>iv</sup> U.S. State Dep't Bureau of Oceans and International Environmental and Scientific Affairs, No. 117, Limits in the Seas – Straight Baseline Claim: China, <https://www.state.gov/wp-content/uploads/2020/01/LIS-117.pdf>

<sup>v</sup> See J06 TACAID – Freedom of Navigation Operations, (USINDOPACOM, 2022), last accessed 2 Apr 2024, available at <https://www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20FONOPs.pdf?ver=pH6Fte-cpgyhqfBJi2vEKg%3d%3d>; U.S. Dep't of Defense, Freedom of Navigation Program Fact Sheet, Feb. 28, 2017, <https://policy.defense.gov/Portals/11/DoD%20FON%20Program%20Summary%2016.pdf?ver=2017-03-03-141350-380>.

<sup>vi</sup> See UNCLOS Part XV at [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/part15.htm](https://www.un.org/depts/los/convention_agreements/texts/unclos/part15.htm)

<sup>vii</sup> U.S. State Dep't, Limits in the Sea (LIS) No. 150, Jan. 2022, <https://www.state.gov/wp-content/uploads/2022/01/LIS150-SCS.pdf> (explaining the PRC's long history of inaccurate claims to maritime features, straight baselines, maritime zones, and "historic rights" in the South China Sea).

<sup>viii</sup> U.S. State Dep't Bureau of Oceans and International Environmental and Scientific Affairs, No. 112, Limits in the Seas – United States Responses to Excessive National Maritime Claims, <https://www.state.gov/wp-content/uploads/2019/12/LIS-112.pdf>

<sup>ix</sup> UNCLOS, Art. 38

<sup>x</sup> See USINDOPACOM J06 TACAID - TAIWAN STRAIT, last accessed 2 Apr 2024, available at <https://www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20TAIWAN%20STRAIT.pdf?ver=Jquptm61jOabuHldAHkiA%3d%3d> (explaining the PRC's excessive claims in the Taiwan Strait); See also, J06 TACAID on PRC's Unlawful Restrictions on Innocent Passage, last accessed 2 Apr 2024, available at <https://www.pacom.mil/Portals/55/Documents/pdf/J06%20PRCS%20Unlawful%20Restrictions%20on%20Innocent%20Passage.pdf?ver=cqWRSbjyF5sEu-WMhGlljg%3d%3d> (describing the PRC's unlawful restrictions on innocent passage of warships).

<sup>xi</sup> See e.g., reporting on the PRC's activities near Vanguard Bank (<https://e.vnexpress.net/news/news/vietnam-opposes-chinese-vessel-s-operation-near-vanguard-bank-4716803.html>).

<sup>xii</sup> UNCLOS, Art. 5.

<sup>xiii</sup> UNCLOS, Art. 7.

<sup>xiv</sup> UNCLOS, Art. 7.

<sup>xv</sup> *Id.* See also Fisheries (United Kingdom v. Norway), ICJ Reports 1951, 116 (ICJ 1951).

<sup>xvi</sup> National Oceanic and Atmospheric Administration, *Maritime Zones and Boundaries*, <https://www.noaa.gov/maritime-zones-and-boundaries>.

<sup>xvii</sup> UNCLOS, Art. 19.

<sup>xviii</sup> See Roach and Smith, p. 64 (24 miles); Robert D. Hodgson and Lewis M. Alexander, "Towards an Objective Analysis of Special Circumstances: Bays, Rivers, Coastal and Oceanic Archipelagoes and Atolls," Law of the Sea Institute Occasional Paper No. 13, 1971, p. 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), p. 9 (45 miles); Limits in the Seas No. 106, "Developing Standard Guidelines for Evaluating Straight Baselines", August 31, 1987 (48 miles)

<sup>xix</sup> U.S. Department of State Dispatch Supplement, "Law of the Sea Convention, Letters of Transmittal and Submittal and Commentary", Vol. 6, February 1995, p. 8.

<sup>xx</sup> U.S. State Dep't Bureau of Oceans and International Environmental and Scientific Affairs, No. 120, Limits in the Seas – Straight Baseline and Territorial Sea Claims: Japan, <https://www.state.gov/wp-content/uploads/2020/01/LIS-120.pdf> at page 8

<sup>xxi</sup> U.S. State Dep't Bureau of Oceans and International Environmental and Scientific Affairs, No. 148, Limits in the Seas – Norway at 12. Of note, the United States asserts "the coastline of mainland Norway appears to meet the geographic requirements of Article 7 of the Convention for use of straight baselines. Indeed, this coastline is the model example of a coastline suited for straight baselines and was itself the geographic basis for the formation of the rules found in Article 7.2." See graphic on this page, which represents most of Norway's territory. The United States does not agree with Norway's use of straight baselines for several island areas (not depicted) including Hopen, Bjornoya, Kong Karls Land, and Kvitoya, and Jan Mayen islands or groups of islands.

<sup>xxii</sup> U.S. State Dep't, Limits in the Sea (LIS) No. 150, Jan. 2022, <https://www.state.gov/wp-content/uploads/2022/01/LIS150-SCS.pdf> (explaining the PRC's long history of inaccurate claims to maritime features, straight baselines, maritime zones, and "historic rights" in the South China Sea). See also U.S. State Dep't LIS No. 112 and 117 (<https://www.state.gov/wp-content/uploads/2019/12/LIS-112.pdf> and <https://www.state.gov/wp-content/uploads/2020/01/LIS-117.pdf>)

<sup>xxiii</sup> See article 3 of the PRC's Law on the Territorial Sea and the Contiguous Zone of 25 February 1992, available at [https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CHN\\_1992\\_Law.pdf](https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CHN_1992_Law.pdf).

<sup>xxiv</sup> MFA statement is available at <https://www.fmprc.gov.cn/eng/> and quoted widely in PRC state media (e.g., <https://www.globaltimes.cn/page/202403/1308023.shtml#:~:text=This%20delineation%20of%20the%20baseline,according%20to%20Fu%20Kuncheng%2C%20a>).

<sup>xxv</sup> See e.g., <https://www.chinastategy.org/2024/03/31/vietnam-objects-to-chinas-expanded-reach-in-gulf-of-tonkin/>

<sup>xxvi</sup> PFC Foreign Minister Wang Wenbin Statement on PRC Gulf of Tonkin Demarcation Announcement (March 19, 2024), available at <https://maritime-executive.com/article/china-quietly-annexes-northeast-corner-of-gulf-of-tonkin>.

<sup>xxvii</sup> China's latest delineation of territorial sea baseline in Beibu Gulf, Global Times, 2 March 2024, <https://www.globaltimes.cn/page/202403/1308023.shtml#:~:text=This%20delineation%20of%20the%20baseline,according%20to%20Fu%20Kuncheng%2C%20a>

<sup>xxviii</sup> UNCLOS, Art. 16

<sup>xxix</sup> *Id.*, noting that the requirements of previous articles must be met to satisfy Art. 16.

<sup>xxx</sup> Dan Tri Newspaper, The Ministry of Foreign Affairs talked about China's declared baseline in the Gulf of Tonkin, Vietnam.vn, 15 March 2024, <https://www.vietnam.vn/en/bo-ngoai-giao-noi-ve-duong-co-so-trung-quoc-tuyen-bo-o-vinh-bac-bo/>; see also Vietnam urges respect of international law as China draws Gulf of Tonkin baseline, Reuters, 13 March 2024 <https://www.reuters.com/world/asia-pacific/vietnam-urges-respect-international-law-china-draws-gulf-tonkin-baseline-2024-03-14/>.

<sup>xxxi</sup> China Quietly Annexes Northeast Corner of Gulf of Tonkin (March 19, 2024), available at <https://maritime-executive.com/article/china-quietly-annexes-northeast-corner-of-gulf-of-tonkin>.

<sup>xxxii</sup> See How China's Coast Guard Law has Changed the Regional Security Structure, available at <https://amti.csis.org/how-chinas-coast-guard-law-has-changed-the-regional-security-structure/>

<sup>xxxiii</sup> See USINDOPACOM J06 TACAID Maritime Traffic Safety Law, available at <https://www.pacom.mil/Portals/55/Documents/Legal/J06%20TACAID%20-%20THE%20PRC'S%20MARITIME%20TRAFFIC%20SAFETY%20LAW%20-%20V2.pdf?ver=cFqBUFMS7molp7SP0rP-Tg%3d%3d>.

<sup>xxxiv</sup> See U.S. Navy's Maritime Claims Reference Manual for a summary of the PRC's excessive claims, available at <https://www.jag.navy.mil/national-security/mcrm/>.

<sup>xxxv</sup> UNCLOS Art. 38

<sup>xxxvi</sup> See The Chinese-Vietnamese Negotiation on the Demarcation of the Beibu Bay, Ministry of Foreign Affairs of the People's Republic of China, *last accessed* 1 Apr 2024, *available at* [https://www.mfa.gov.cn/mfa\\_eng/wjb\\_663304/zzjg\\_663340/tyfls\\_665260/tyfl\\_665264/2626\\_665266/2628\\_665270/200107/t20010709\\_600097.html](https://www.mfa.gov.cn/mfa_eng/wjb_663304/zzjg_663340/tyfls_665260/tyfl_665264/2626_665266/2628_665270/200107/t20010709_600097.html)

<sup>xxxvii</sup> See USINDOPACOM J06 TACAID on the PRC-Bhutan Border Dispute, available at [https://www.pacom.mil/Portals/55/Documents/Legal/J06%20TACAID%20-%20PRC-BHUTAN%20BORDER%20DISPUTE%20\(FINAL\).pdf?ver=ofbfrNNglqZr7nFqm60lbw%3d%3d](https://www.pacom.mil/Portals/55/Documents/Legal/J06%20TACAID%20-%20PRC-BHUTAN%20BORDER%20DISPUTE%20(FINAL).pdf?ver=ofbfrNNglqZr7nFqm60lbw%3d%3d).

<sup>xxxviii</sup> See USINDOPACOM J06 TACAID – Freedom of Navigation Operations, (USINDOPACOM, 2022), *last accessed* 2 Apr 2024, *available at* <https://www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20FONOPs.pdf?ver=pH6Fte-cpgyhqfBji2vEKg%3d%3d>; U.S. Dep't of Defense, Freedom of Navigation Program Fact Sheet, Feb. 28, 2017, <https://policy.defense.gov/Portals/11/DoD%20FON%20Program%20Summary%2016.pdf?ver=2017-03-03-141350-380>.

<sup>xxxix</sup> UNCLOS, Part XV.