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2. UNITED STATES OF AMERICA

The United States refers to an accord entitled "Agreement on the historical waters of the Socialist Republic of Vietnam and the People's Republic of Kampuchea," signed July 7, 1982.

Under the terms of this agreement the parties purportedly claim as historic certain waters in the Gulf of Thailand extending from the mainland to Tho Chu and Poulo Wai Islands.

As is well known under long-standing standards of customary international law and State practice, historic waters are recognized as valid only if the following prerequisites are satisfied: (A) the State asserting claims thereto has done so openly and notoriously; (B) the State has effectively exercised its authority over a long and continuous period; and (C) other States have acquiesced therein.

In the case of the historic waters claim made by the parties to the above agreement, the claim was first made internationally no earlier than July 7, 1982, less than five years ago, notwithstanding the assertion in the agreement that the waters "have for a very long time belonged to Vietnam and Kampuchea due to their special geographical conditions and their important significance towards each country's national defence and economy".

The brief period of time since the claim's promulgation is insufficient to meet the second criterion for establishing a claim to historic waters, and there is no evidence of effective exercise of authority over the claimed waters by either country before or after the date of the agreement. Moreover, without commenting on the substantive merits or lack thereof attaching to the "special geographic conditions" of the waters in question and their "important significance towards each country's defence and economy", such considerations do not fulfil any of the stated customary international legal prerequisites of a valid claim to historic waters.

Finally, the United States has not acquiesced in this claim, nor can the community of States be said to have done so. Given the nature of the claim first promulgated in 1982, such a brief period of time would not permit sufficient acquiescence to mature.

Therefore, the United States views the historic claim to the waters in question as without foundation and reserves its rights and those of its nationals in this regard.