

The Northern Limit Line: The Disputed Maritime Boundary Between North and South Korea

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Introduction

The Northern Limit Line (NLL) is the disputed maritime boundary between North Korea [Democratic People’s Republic of Korea – DPRK] and South Korea [Republic of Korea – ROK] in the Yellow (West) Sea that was drawn sometime after the Korean War by the United Nations Command (UNC). The line has been the location of several clashes between the two Koreas, most recently the sinking of the ROK Navy *Cheonan* in March 2010 and the artillery exchange around Yeonpyeong Island the following November. The NLL remains a serious flashpoint for conflict with fears that a relatively small incident could escalate into a larger more violent conflagration.

History of the Northern Limit Line

The line has its origins in the Korean War but the precise details of its designation are murky. During armistice talks to end the fighting, negotiators settled on a land border called the military demarcation line along with a 2 km demilitarized zone on either side of the line. The talks also addressed a maritime boundary but negotiators could not reach an agreement, largely over North Korea’s insistence on a 12 nautical mile (nm) zone for its territorial waters rather than the UNC’s position of 3 nm.¹ Though 12 nm would later become the international standard, 3 nm was the accepted zone at the time. The armistice also listed five islands by name —Baekryeongdo, Daecheongdo, Socheongdo, Yeonpyeongdo, and Woodo,² later known collectively as the Northwest Islands (NWI)— that “shall remain under the military control of the Commander-in-Chief, UNC.” In addition the armistice states that all parties “shall respect the water contiguous to the Demilitarized Zone” but does not define contiguous.³

¹ One nautical mile is equal to 1.852 kilometers or 1.1508 miles.

² The armistice uses the following spellings: Paengyong-do, Taechong-do, Sochang-do, Yonpyong-do, and U-do.

³ “Text of the Korean War Armistice Agreement,” July 27, 1953, available at <http://news.findlaw.com/wp/docs/korea/kwarmagr072753.html>.

Soon after the signing of the armistice on July 27, 1953, it became clear that a maritime boundary was needed, in part to ensure that South Korean Navy and fishing vessels did not stray too far north and restart hostilities.⁴ As a result, on August 30, 1953, UNC commander General Mark Clark promulgated the NLL as a military control line in the West Sea. The line was drawn essentially mid-channel between the North Korean coast and the NWI, and may not have been called the NLL at the time. It is also possible that this line may have been based on a military control line that had been utilized during the war by the UNC to help separate enemy combatants. Since the NLL applied largely to ROK and UNC vessels, it is likely that North Korean officials were not formally notified of the NLL, though they do appear to have ascertained the extent of the line in the years since. Most authors writing on the NLL give August 30, 1953 as the date the line was established, but do not cite a specific document. A declassified 1974 CIA report indicated that “no documentation can be found to indicate that the NLL was established prior to 1960.”⁵ However, it is possible that earlier documentation exists that delineates a line, possibly called the Northern Patrol Limit Line at the time, and some North Korean statements acknowledge the line was drawn sometime in the 1950s.

For twenty years after the promulgation of the NLL, little happened along the line. However, in 1973 North Korea began a concerted effort to demonstrate its dissatisfaction with the NLL.⁶ At the December 1, 1973 Military Armistice Commission (MAC) meeting, North Korea lodged its first formal protest of the NLL. The DPRK representative announced that the five NWI designated in the armistice were in North Korean territorial waters and that access to these islands required prior notification and permission from the DPRK.⁷ The UNC rejected North Korean demands at a subsequent MAC meeting.

For the next two decades or so, the NLL was fairly calm. However, on June 15, 1999, North and South Korean warships exchanged fire resulting in the sinking of two DPRK vessels. After several rounds of talks following the clash, the Korean People’s Army General Staff issued a special communiqué declaring the current NLL void and proposing a different line (see map) that did not challenge UNC/ROK control of the NWI but drew a line that was approximately equidistant from the two coasts. The DPRK pronouncement provided for a two nm-wide corridor for transit to and from the NWI. Seoul and Washington refused to acknowledge the DPRK’s new line.

⁴ Park Hee Kwon, *The Law of the Sea and Northeast Asia: A Challenge for Cooperation* (The Hague: Kluwer Law International, 2000), p. 108.

⁵ Central Intelligence Agency, “The West Coast Korean Islands,” January 1974, p. 3.

⁶ Narushige Michishita, *North Korea’s Military-Diplomatic Campaigns: 1966-2008* (New York: Routledge, 2009), pp. 52-72.

⁷ See J.R.V. Prescott, *Maritime Jurisdiction in East Asian Seas*, Occasional Paper no. 4 (Honolulu: East-West Environment and Policy Institute, 1987), pp. 48-49, and Jung-Gun Kim, “Reflections on the Attitude of North Korea Toward the Law of the Sea Treaty (UNCLOS III),” pp. 219-223.

North and South Korean ships clashed again in 2002, this time with greater casualties. After a 20 minute exchange, DPRK ships moved back across the NLL and ROK ships did not pursue. South Korea suffered 5 killed and 19 wounded while estimates of North Korean casualties were around 30 killed and an unknown number wounded.⁸ Another clash occurred in November 2009 followed by the March 2010 sinking of the *Cheonan* off Baekryeong Island that killed 46 sailors and the November 2010 artillery duel at Yeonpyeong Island which killed four South Koreans, including two civilians.

Importance of the NLL

The NLL is important to both North and South Korea for several reasons. First, the seas are a valuable fishing ground for a number of types of catches, especially blue crab that migrate through this area. The profits from fishing for both sides are considerable. Managing the NLL is complicated by the presence of Chinese trawlers that fish illegally on both sides of the line.

Second, the NLL has a significant impact on regional commerce, especially for North Korea. As a result of the NLL, North Korean merchant ships must take a circuitous route north of Baekryeong Island before entering the West Sea to continue on their journey. Instead of entering the West Sea directly, DPRK ships must take this detour, adding extra miles and increased fuel costs to their trip. The NLL also complicates shipping between North and South Korean ports in the West Sea, though most of the traffic has been cut off since the sinking of the *Cheonan*.

The third and most important set of issues at stake with the NLL is security. For both Koreas, these concerns are likely paramount and trump the economic considerations. For Seoul, any shift of the NLL further south jeopardizes the security of the NWI. Accommodating North Korean demands would make these islands very difficult to defend, even if each island were allowed its own territorial sea. Moreover, the Ongjin peninsula and the surrounding area contain a number of important DPRK military installations. Shifting the NLL would allow North Korean naval vessels to patrol closer to the Han River estuary and Seoul, reducing warning time for ROK defenses and making it easier for the DPRK Navy to deliver special operations forces. So long as the security situation remains tenuous, South Korea is unlikely to show much willingness to adjust the line. For North Korea, the NLL is an equally serious security concern. The current NLL allows ROK warships to sail very close to the North Korean shore and its military bases in the region. An NLL farther south would provide a larger maritime buffer from South Korean naval patrols and intelligence gathering.⁹

⁸ Aiden Foster-Carter, "No-Penalty Shootout," *Asia Times Online*, July 3, 2002, available at <http://www.atimes.com/atimes/Korea/DG03Dg01.html>, accessed March 3, 2008.

⁹ Terence Roehrig, "Korean Dispute over the Northern Limit Line: Security, Economics, or International Law?," *Maryland Series in Contemporary Asian Studies*: 2008: no. 3, pp. 25-27.

North Korea's Position

North Korea's position on the NLL is clear: it is a "bogus line unilaterally and illegally drawn by [the UNC] in the 1950s and our side, therefore, has never recognized it."¹⁰ Pyongyang argues the NLL is inconsistent with the dictates of international law and though it has never challenged UNC/ROK control of the NWI, maintains these islands are in its territorial waters. According to the UN Convention on the Law of the Sea (UNCLOS), if North and South Korea were typical adjoining states, UNCLOS would dictate a maritime border that was equidistant from the nearest points on land (Art 15). In addition, UNCLOS calls for maritime borders that do not "cut off the territorial sea of another State from the high seas or an exclusive economic zone." (Art 7 (6)). Though the NWI would be entitled to some measure of their own territorial sea, they would likely not be allowed to cut North Korea off from its territorial waters. An international tribunal would take these issues into account but a final decision would likely be a compromise that also considered South Korea's security concerns.¹¹ All this is a moot point as South Korea will never allow the matter to go to arbitration.

South Korea's Position

South Korea is equally determined in its position that the NLL is indeed the de facto maritime boundary between the two Koreas. The line is essential for South Korean security, particularly the NWI that would be indefensible without the NLL. Absent a major improvement in North-South relations and in the security environment, it is unlikely that ROK leaders would be willing to shift the line south and any ROK government would face heavy condemnation from its citizens for yielding on this issue, particularly after the *Cheonan* and Yeonpyeong incidents. After the 2007 summit between South Korean President Roh Moo-hyun and North Korean leader, Kim Jong-il, there was some movement toward the formation of a joint fishing and development zone in the area but little progress followed. South Korean analysts also argue that from 1953 to 1973, Pyongyang gave no indication that it disputed the line, demonstrating what international law calls "acquiescence" to the NLL. Finally, in 1992, the two Koreas signed the Basic Agreement which states in Chapter 2, Article 11: "the South-North demarcation line and the areas for nonaggression shall be identical with the Military Demarcation Line provided in the Military Armistice Agreement of July 27, 1953, and *the areas that each side has exercised jurisdiction over until the present time*,"¹² which the ROK claims indicates DPRK acceptance of the boundaries already drawn, including the NLL.

¹⁰ "S. Korean military to blame for armed clash in West Sea," *Korean Central News Agency*, June 30, 2002, available at www.kcna.co.jp.

¹¹ Jon M. Van Dyke, Mark J. Valencia, and Jenny Miller Garmendia, "The North/South Korea Boundary Dispute in the Yellow (West Sea)," *Marine Policy* 27, no. 2 (2003), p. 152.

¹² "Agreement on Reconciliation, Nonaggression, and Exchanges and Cooperation between South and North Korea," Effective February 19, 1992, available at <http://www.international.ucla.edu/eas/documents/korea-agreement.htm>. (Emphasis not in the original document).

United States and China

The United States is in a difficult position regarding the Northern Limit Line. As the Executive Agent of the UNC, it is responsible for upholding the armistice agreement, the one formal document agreed upon by all sides to manage security relations on the peninsula. However, as noted, the NLL is not part of the armistice and the United States has expressed concern over South Korea's assertion that the NLL is a de facto maritime boundary. A 1974 declassified U.S. State Department cable indicated "reservations" regarding the ROK's claims and that "we would be in an extremely vulnerable position of charging [North Korea] with penetrations beyond a line they have never accepted or acknowledged."¹³ However, the United States is also a long-standing ally of South Korea maintaining a security commitment for close to 60 years that has been dedicated to protecting the ROK.¹⁴ U.S. officials have refrained from taking a public position on the NLL, believing it is largely a Korean problem to solve. However, Washington is very aware that an incident along the line could escalate into a larger conflict.¹⁵ This concern has become particularly acute given Seoul's resolute statements that it will respond to any further North Korean provocations along the NLL.

China has had little to say about the NLL per se but is equally concerned that incidents along the line could flare up into a larger conflict. Though Beijing has some sympathy for Pyongyang, it has no doubt been miffed by North Korea's provocative behavior along the line. However, Chinese leaders have had no comment concerning any adjustment of the NLL.

Conclusion

It is unlikely that the NLL will change any time in the near future. South Korea is vehemently opposed to any alteration and has the military power to maintain the status quo. Moreover, North Korea's provocative behavior and rhetoric do little to produce international sympathy or confidence in South Korea to move the line. The DPRK may have some grounds in international law for challenging the line though Pyongyang would likely not receive all that it desires. However, security remains an important argument for the line to stay where it is. North Korea has the right to protest the line to demonstrate it has not accepted the boundary. However, it needs to do so in a way that does not threaten ROK security. South Korea will not modify its position without the North moderating its actions along

¹³ U.S. Department of State, "ROKG Legal Memorandum on Northwest Coastal Incidents," December 22, 1973, National Archives, <http://aad.archives.gov/aad/createpdf?rid=107420&dt=2472&dl=1345>. See also "Summary Public Affairs Aspects of North Korea," February 28, 1975, National Archives, <http://aad.archives.gov/aad/createpdf?rid=25832&dt=2476&dl=1345>.

¹⁴ See Terence Roehrig, *From Deterrence to Engagement: The U.S. Defense Commitment to South Korea* (Lanham, MD: Lexington Books, 2006).

¹⁵ John Barry Kotch and Michael Abbey, "Ending Naval Clashes on the Northern Limit Line and the Quest for a West Sea Peace Regime," *Asian Perspective* 27, no. 2 (2003), p. 183.

with improved North-South relations. Since the NLL is likely to remain the disputed maritime boundary, both sides need to find ways to manage the dispute and prevent incidents from occurring that endanger regional peace and security.

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