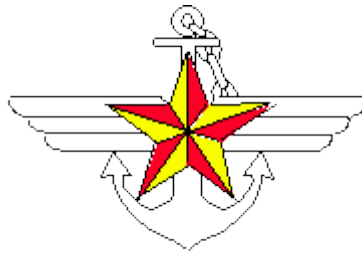


AUGUST 2002

THE REPUBLIC OF KOREA POSITION
REGARDING THE NORTHERN LIMIT LINE

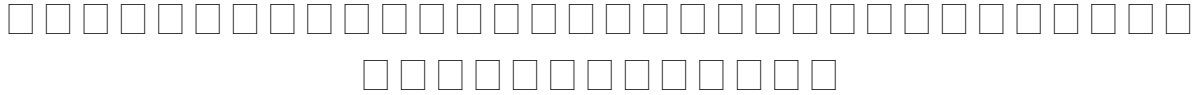


MINISTRY OF NATIONAL DEFENSE

III.

CONCLUSION

THE REPUBLIC OF KOREA POSITION
REGARDING THE NORTHERN LIMIT LINE



On June 29, 2002, North Korea intruded the West Sea Northern Limit Line and conducted an intentional, pre-planned armed attack on our Navy's patrol boat. Subsequent to the attack, our government demanded North Korea's apology, investigation of the incident and prevention of the future occurrences. The United Nations Command concluded that the North Korean action was a violation of the Armistice Agreement, condemned North Korea's actions and demanded Panmunjom General Officer-Level Talks to North Korea in order to discuss the incident.

However, since the West Sea incident of June 29, North Korea has indicated its blatant desire to nullify the Northern Limit Line by arguing that the area where our Navy's patrol boat sunk was in its territorial waters and by demanding notification of any salvage operation plans.

North Korea is vigorously defending its groundless claim regarding the NLL by releasing the purported "White Paper on the invalid the Northern Limit Line by Secretariat of Homeland Peaceful Unification Council" on August 2.

In the "White Paper", North Korea claims that "the Northern Limit Line is not the West Sea Sea Demarcation

Line.” The North argues that the NLL was established by the US unilaterally without prior agreement or notification. Additionally, North Korea claims that “the NLL has been the root of armed conflicts and possible war.” North Korea argues that the ROK and US are adhering to the NLL in order to bring about armed conflicts.

Therefore, under these circumstances the Ministry of National Defense reasserts its resolute position regarding the NLL by emphasizing the legitimacy of the NLL and the North Korea’s groundless claims regarding NLL, in order to enlighten the Korean public/military and others regarding the true nature of NLL.

I. THE LEGITIMACY OF THE NORTHERN LIMIT LINE (NLL)

1. BACKGROUND ON THE ESTABLISHMENT OF THE NLL

- During the Armistice Agreement negotiations, the United Nations Command (UNC) and the communist side could not agree on a sea demarcation line, which was to divide the South and North much like the Military Demarcation Line (“MDL”) on the ground, due to difference of opinions. Therefore, on August 30, 1953, the UNC Commander-in-Chief, General Mark W. Clark, established the Northern Limit Line (“NLL”) in order to limit patrol activities of our Navy and Air Force in the East and West Sea, and to reduce and prevent the possibility of accidental armed conflicts between South and North Korea in waters around the Korean peninsula. Because North Korea did have only a small naval force at that

time, UNC only needed to appropriately control activities of its own forces.

- In the West Sea, UNC established the NLL connecting the approximate median points between North Korea and the five islands of Baekryeong-do, Daecheong-do, Socheong-do, Yeonpyeong-do, and WOODO, using the international maritime law standard of three nautical miles of territorial water. In the East Sea, UNC established the Northern Boundary Line (NBL) by extending the MDL. Per the UNC/CFC Armistice Rules of Engagement revision of July 1, 1996, the designation of the West and East Sea lines were incorporated into a single term "NLL."
- Since the NLL establishment, North Korea never expressed any objections over the NLL, until in October and November 1973, North Korea provoked the "Western Islands Crisis" by intentionally intruding the NLL 43 times. In December 1973, the 346th and 347th Military Armistice Commission was convened to discuss the issues related to the "Western Islands Crisis." During discussions, North Korea, for the first time, claimed that the waters to the north of the extension of the provincial boundary line between Hwanghae province and Kyunggi province were North Korean territorial waters. According to North Korean Claims, the arrival and departure of ships to the five West Sea islands required North Korean approval. The UNC rejected North Korea's claim as contradictory to the spirit and provisions of the Armistice Agreement, and further denounced North Korean claims as an unacceptable sophistry.

- On July 1, 1977, North Korea declared a 200NM economic zone and on August 1, unilaterally declared a "Sea Demarcation Line", which was 50NM from the base line for territorial waters in the East Sea, and identical with the economic zone in the West Sea. In response to the North's declaration, the ROK government officially stated that North's claims would not be recognized.

- The "Sea Demarcation Line" dispute was incontrovertibly resolved through both the South-North Basic Agreement and Protocol on Non-aggression in 1992. Article 11 of the Basic Agreement stipulates that "the South-North demarcation line and areas for non-aggression shall be identical with the Military Demarcation Line specified in the Military Armistice Agreement of July 27, 1953, and with the areas that have been under the jurisdiction of each side until the present time." Moreover, Article 10 of the Protocol on Non-aggression stipulates that "the South-North sea non-aggression demarcation line shall continue to be discussed in the future. Until the sea non-aggression demarcation line has been settled, the sea non-aggression zones shall be identical with those that have been under the jurisdiction of each side until the present time."

2. THE ROK NLL POSITION

- A. NLL is the legal sea demarcation line between South and North Korea.

The ROK has effectively exercised jurisdiction over the NLL thus far. The NLL continues to be an effective sea demarcation line because the NLL has maintained both function and effect as a sea demarcation line. Until a new sea demarcation line is agreed upon, the NLL must be observed.

- On July 27, 1953, there was no agreement on the sea demarcation line. The armistice talks ended under the following terms:
- Article 2, Paragraph 13 of the Armistice Agreement provides:
 - Within ten (10) days after this Armistice Agreement becomes effective, withdraw all of their military forces, supplies, and equipment from the rear and the coastal islands and waters of Korea of the other side.
 - The term "coastal islands", as used above, refers to those islands which, though occupied by one side at the time when this Armistice Agreement becomes effective, were controlled by the other side on 24 June 1950; provided, however, that all the islands lying to the north and west of the provincial boundary line between Hwanghae and Kyunggi province shall be under the military control of the Supreme Commander of the Korea People's Army and the Commander of the Chinese People's Volunteers, except the island groups of Baekryeong-do, Daecheong-do, Socheong-do, Yeonpyeong-do and Woo-do.
- An important aspect of the above provision is that both sides agreed that the coastal islands and waters between the 38th parallel and the provincial boundary line between Hwanghae and Kyunggi province were under the ROK's control before the start of the war, and at the time of the Armistice Agreement.

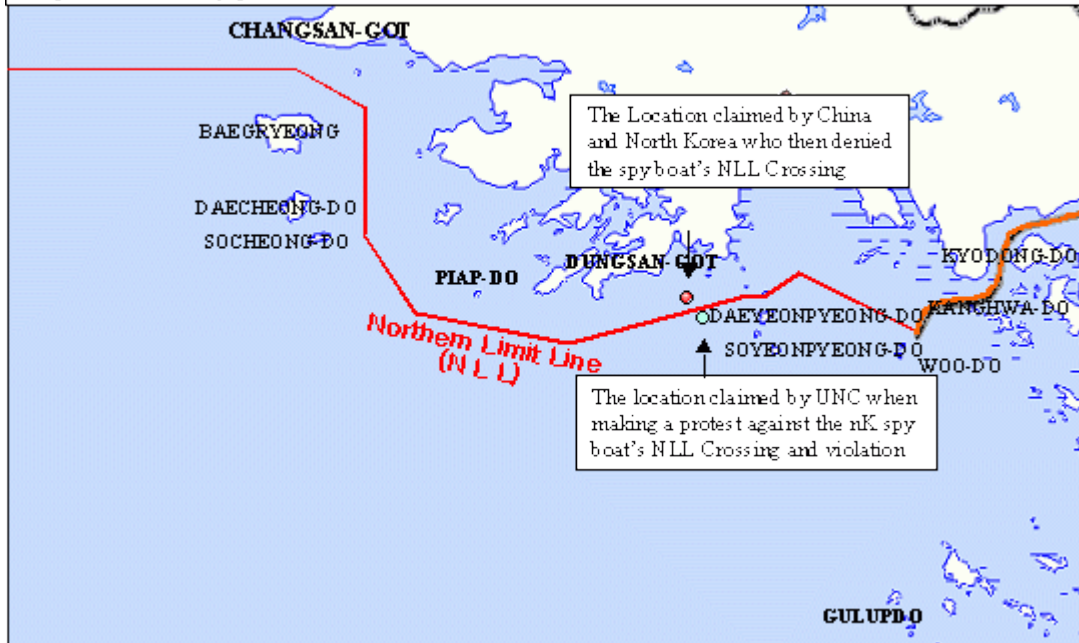
- The UNC agreed to return all the islands ('Cho-do' west of Nampo, 'Daehwa-do' west of Chungchun river, 'Yeo-do' east of Wonsan, etc.) under its control above the 38th parallel to North Korea and pull back to the 38th parallel. However, this would result in the complete naval blockade of Haeju and Ongjin peninsula, which are below the 38th parallel. Therefore, the UNC gave one more concession and agreed to return several islands below the 38th parallel and near the North Korean coastline, which arguably should have been maintained under ROK control.
- Pursuant to the spirit of the Armistice Agreement, the waters between the 38th parallel and the provincial boundary line between Hwanghae and Kyunggi province, which were under ROK control at the time of the Armistice Agreement, remain under ROK jurisdiction despite the lack of specific provision in the Armistice Agreement.
- The purpose of establishing the NLL on August 30, 1953 by the UNC Commander-in-Chief was to facilitate the implementation of Article 2, Paragraph 13 of the Armistice Agreement. Therefore, although the NLL is not stipulated in the Armistice Agreement, it is clearly a sea military demarcation line.
- The NLL is stipulated in the South-North Basic Agreement as the sea non-aggression demarcation line between South and North Korea.
- Article 11 of the South-North Basic Agreement of 1992 stipulates that "the South-North demarcation line and areas for non-aggression shall be identical with the Military Demarcation Line specified in the Military Armistice Agreement of July 27, 1953, and the areas that have been under the jurisdiction of each side until the present time."

- Article 10 of the Protocol on Non-aggression of the Basic Agreement stipulates that "the South-North demarcation line shall continue to be discussed. Until the sea non-aggression demarcation line has been finalized, the sea non-aggression zones shall be identical with those that have been under the jurisdiction of each side until the present time."
- As indicated above, the NLL should be respected as a sea demarcation line between South and North, in the absence of agreements to the contrary.
- Additionally, there have been many cases where North Korea practically recognized and accepted the NLL during the past 49 years. Some of the more importance cases follow:

<Example #1>

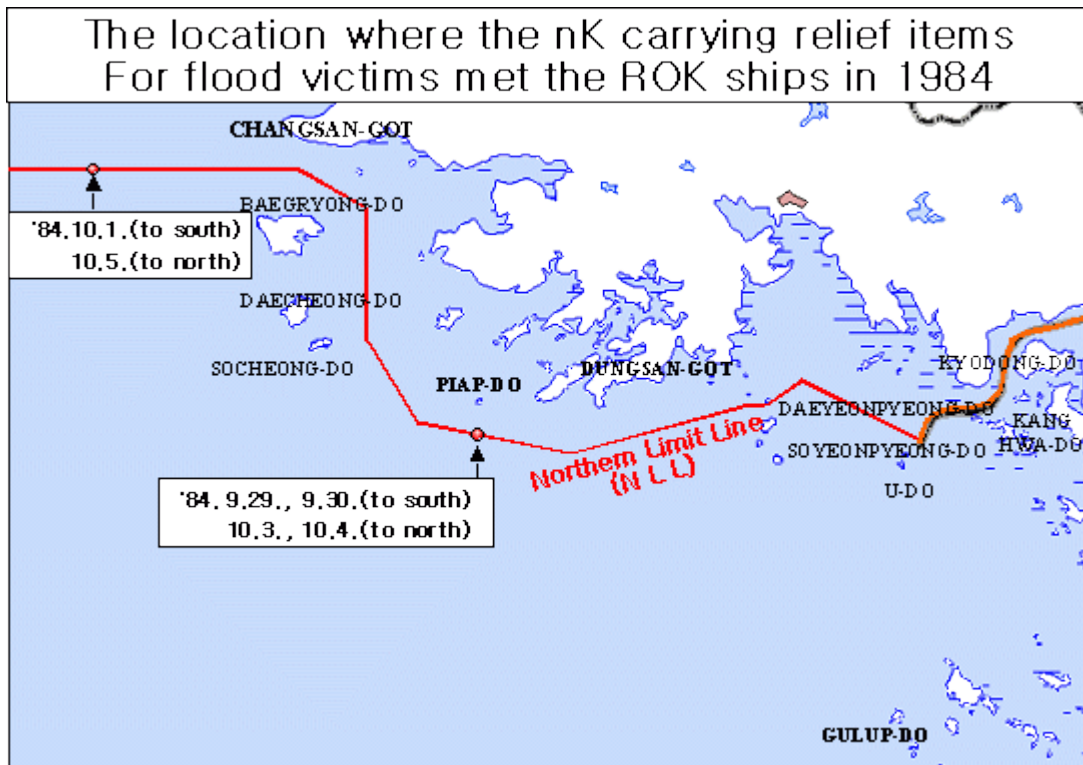
- At the 168th Military Armistice Commission meeting, held in May, 1963, there was a dispute as to the location of the engagement of a North Korean spy vessel. The UNC showed a map on which the NLL was shown and protested that it fired because the spy vessel crossed the NLL. In response to UNC's statement, North Korea argued that it had never crossed the NLL. This response may be said to presume the existence of the NLL and it shows that North Korea has acknowledged that it is complying with the NLL.

North/South claims on the location of 1963 NLL Crossing(Violation)
By the nK Spy Boat and the location where the nK boat was sunk



<Example #2>

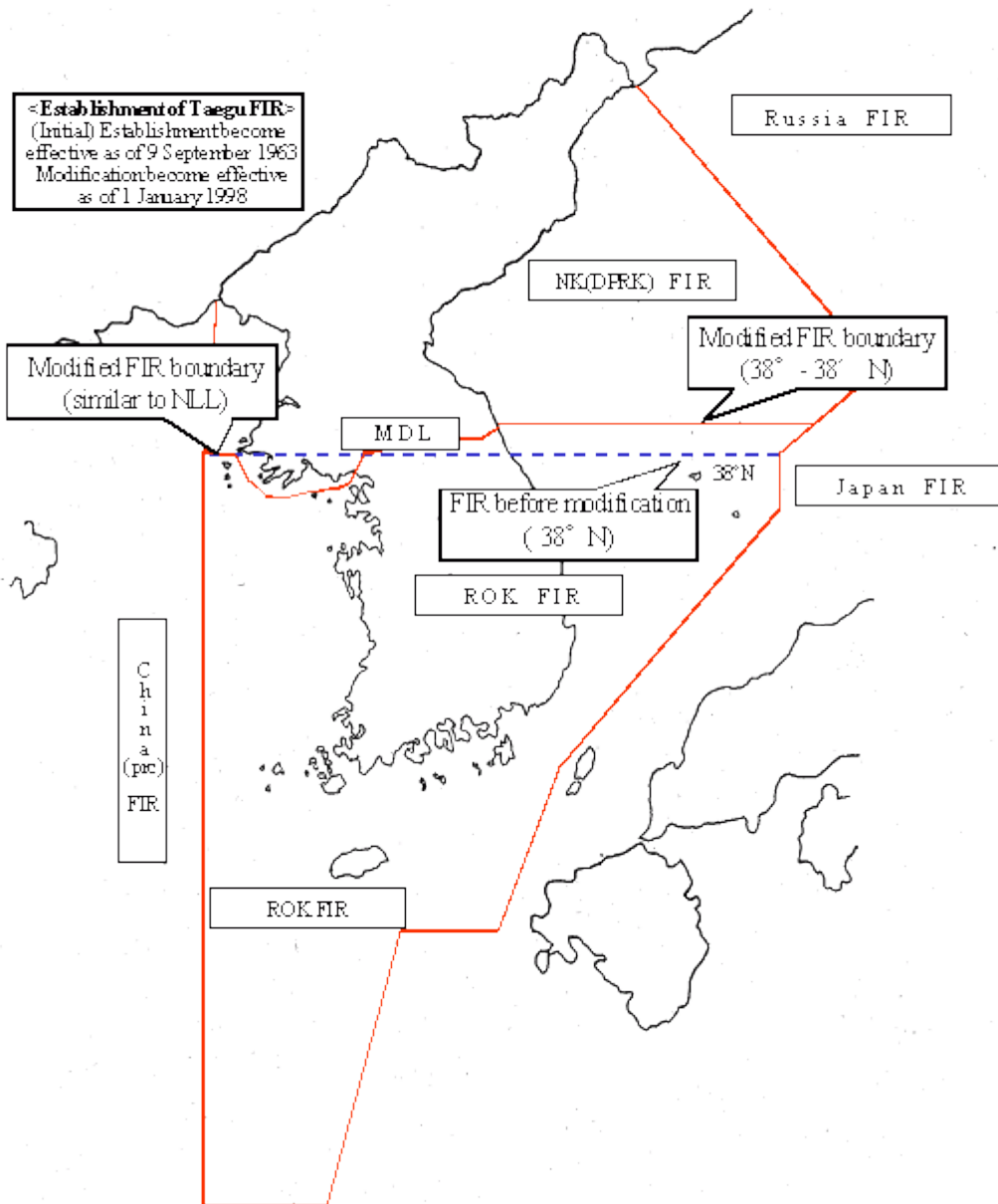
- Between September 29, 1984 and October 5, 1984 when the North Korean Red Cross sent us relief items for the flood victims, the escort fleets of the both sides consisting of naval vessels, such as patrol boats, which could only operate within their respective jurisdictions under the Armistice Agreement and international law, relieved each other upon the NLL. This was just another example of North Korea recognizing the NLL as an effective sea demarcation line.



<Example #3>

- In May, 1993, we announced the Flight Information Region adjusted to reflect the NLL in the ANP published by ICAO. However, North Korea did not raise any objections until January, 1998 when the new Flight Information Region became effective and even after it became effective. A Flight Information Region does not define the relevant country's territory and territorial waters; however, it provides a duty to search for, and rescue crashed aircraft. Therefore, the Flight Information Region is generally established according to the areas in which the relevant country can exercise jurisdiction. Therefore, North Korea implicitly recognized the NLL by not objecting to the Flight Information Region procedures.

Flight Information Region(FIR)



3. JUSTIFICATION OF NLL

A. Pragmatic Justification

- By assuming no NLL, we can see better the importance of the NLL
 - Currently, North Korea claims a sea military demarcation line that goes beyond the seas near the five islands in the West Sea and crosses the Kyunggi Bay in the southwesterly direction.
 - From the time of the Armistice Agreement, the United States has recognized only 3 miles as coastal waters, and thus, recognized only 3 miles from North Korea near the five islands and considered the rest of the area as international waters. However, since the NLL matter surfaced, the US has taken the position that the NLL has been adhered to historically, and that the NLL has functioned effectively for the past 46 years to reduce military tension between South and North Korea. Logically, North Korea should recognize the realities of the NLL. Furthermore, the UNC indicated to North Korea that the UNC will not recognize the unilaterally-declared sea military demarcation line. Until there is a new agreement through the South-North Joint Military Commission, the current NLL is, in effect, a sea demarcation line, and that North Korea's intrusion across the NLL for any reason shall be considered a provocation.
- If the NLL is ignored, the ROK and UNC naval vessels may sail close to North Korea, and the North Korean naval vessels may move deep into the south of the five islands. Both sides will not tolerate the other side's intrusion into the area that each claims to be its own territorial waters or jurisdictional areas. There may be frequent contact between the navies and air forces of both sides, and North Korean spy vessels can easily sail into the ROK. Therefore, for the management of the Armistice Agreement,

the NLL should be maintained and recognized as a matter of reality.

B. Justification under International Law

- The NLL was established by the UNC Commander-in-Chief in place of a sea demarcation line, which had been excluded from the Armistice Agreement pursuant to the communists' demand. The NLL was essentially established in order to prevent the armed conflict between both sides, and to provide for the stable management of the Armistice Agreement. The NLL was the result of determining a solution to an issue that was required by the necessities of reality. The NLL completely conforms with the principles of the Armistice Agreement.
- Furthermore, the NLL was relatively well established following "the median line principle" under the international law of the sea. The NLL was drawn using the approximate median points between the five islands and North Korea. There may be an objection from the international law scholars that the distance between Yeonpyeong-do and Socheong-do is 47 miles, and therefore, violates the 24-mile limit under the international law of the sea. However, China and Japan have territorial waters which exceed 24 miles, and if the NLL is broken in the middle, Yeonpyeong-do and Baekryeong-do become completely isolated thereby threatening their security. Thus, the line was drawn as a single line in consideration of military necessity. The United Nations Convention on the Law of the Sea also recognizes such exceptional cases of military necessity.

4. THE UNC POSITION ON THE NLL

- Proposing General Officer Talks to North Korea on June 11, 1999, the UNC stated through a press release that "the NLL has served as an effective means of preventing military tension between North and South Korean military forces for the past 46 years. It serves as a practical demarcation line, which has contributed to the separation of forces."
- On June 15, 1999, at Panmunjom General Officer Talks between UNC and North Korea during the Yeonpyeong Naval Battle, the UNC representative clearly stated that "the NLL is a practical sea demarcation line and has been acknowledged and respected by both Koreas for the past 40-odd years as the out-right sea boundary line and it is not negotiable. Also, a new sea non-aggression boundary line has to be discussed on at the South-North Joint Military Committee, and until then, the current NLL must be abided by."
- Also, on June 15 and 17, 1999, right after the Yeonpyeong Naval Battle, the U.S. State Department quoted the statement made by the UNC on June 11 stating that "the NLL has served as an effective means of preventing military tension between North and South Korean military forces for the past 46 years. It serves as a practical demarcation line, which has contributed to the separation of forces," and reconfirmed UNC's position by stating that "we continue to urge the DPRK to recognize this practicality by keeping its craft north of the line. In 1953, the area was a zone of conflict, you'll recall - a war zone; and territorial jurisdictions, they remain in dispute today. Therefore, we believe this is a practical measure, or a practical mechanism that has allowed there to be a reduction in tensions or the means

of diffusing tensions. We continue to urge the DPRK to keep its naval craft north of that line for practical reasons.”

- In response to North Korea’s declaration of the so-called “West Sea sea demarcation line” on September 2, 1999, the U.S. State Department spokesman, Mr. James Rubin stated that “the NLL was, and still is, demarcated by the UN Command to serve as a practical way to separate forces. It’s been an effective means of preventing military tension between North and South Korean military forces for 46 years. We urge the DPRK to recognize the practicality of the NLL by keeping its craft north of the line.”
- Taking the above statements into account, both the US State Department and UNC acknowledges that although the waters near the West Sea NLL was a conflict zone in 1953 and territorial jurisdiction remain in dispute today, the NLL has served as an effective means of preventing military tension between South Korean and North’s military forces for decades. The NLL also serves as a practical demarcation line that has contributed to the separation of forces. In addition, they share our view that the establishment of a new sea non-aggression boundary line is an issue to be settled between South and North Korea.

II. NORTH KOREA’S GROUNDLESS CLAIM REGARDING NLL

1. NORTH KOREA’S CLAIMS

- North Korea provoked the Yeonpyeong Naval Battle in June 1999. During the 9th General Officer Talks to discuss the incident, North Korea argued that it could not recognize the NLL and presented a new boundary line with detailed points. In

addition, North Korea insisted that the sea demarcation line issue be discussed in the General Officer Talks, and proposed a ROK-US-nK Working-level meeting that include experts and military authorities. UNC rebuffed North Korea's proposal by stating that observance of the NLL is necessary, and that any new sea demarcation line should be discussed at the S-N Military Joint Commission.

- On another occasion, North Korea declared the "Chosun Sea Military Demarcation Line" on September 2, 1999, as its sea demarcation line. North Korea argued about the invalidity of the NLL, and stated that it would exercise its self-defense rights in its recognized area.

On March 2000, North Korea declared the "Order of Navigation to and from the five Islands in the West Sea." In the declaration, North Korea divided the five islands into three zones, and designated two passages for each zone. North Korea claimed that all U.S. military and commercial vessels should navigate only through the 1st and 2nd waterway, or the North would take action without any warning. The ROK Government elucidated through statements by spokesmen of MND and Navy HQs that such an "order of navigation" would not be accepted.

- To date, North Korea's claims regarding the West Sea Demarcation Line can be summarized as follows:
 - First, considering the volatile situation in the West Sea, there must be an immediate establishment of a sea demarcation line. The NLL is an illegal line, established by the UNC unilaterally; therefore, the NLL cannot be recognized as a demarcation line.

- Second, the matter of the West Sea Sea Demarcation Line is a subject of the Armistice Agreement. Therefore, this matter must be discussed between the United States and North Korea, who are parties to the Armistice Agreement, and ROK representatives may be included in the working-level discussions. The argument that this matter must be discussed at the Joint Military Commission, which does not even exist today, makes no sense.

 - Third, pursuant to the Armistice Agreement and international law, the West Sea Military Demarcation Line must connect the end of the extension of the provincial boundary between Hwanghae and Kyunggi province, the equidistant points between South and North Korea and the Chinese territorial waters, and the area to the north of this line must be designated as Sea Military Control Zone. The right of self-defense regarding the Sea Demarcation Line will be exercised through various means and methods. The North divided the five islands into three zones, and designated two passages for each zone, so all U.S. military and commercial vessels should navigate only through the 1st and 2nd waterway.
- North Korea's claims have the following contradictions:

2. NK'S CLAIM THAT THE "NLL IS ILLEGAL" IS GROUNDLESS

North Korea's first claim, that the NLL cannot be recognized because it was established by the UNC, is a groundless claim that disregards the historical facts that: (1) the sea demarcation line was not established during the armistice talks due to North Korea's demands; (2) North Korea did not raise any objections until 1973 because the NLL benefited North Korea; (3) North Korea clearly recognized and accepted the existence of the NLL; and (4) although North Korea raised objections from time to time in the last 46 years, North Korea has, in effect,

recognized and abided by the NLL.

A. North Korea rejected the establishment of the sea demarcation line during the armistice talks.

- The reason that the sea demarcation line was not established during the armistice talks was because of North Korea demands. At the discussions on coastal waters held in January, 1952, the UNC argued for a three mile standard pursuant to the prevailing international law at the time. The communists argued for a twelve mile standard due to a concern for the UNC naval blockade. The UNC argued that such a concern was groundless because Article 15 of the Armistice Agreement prohibits any naval blockade. Nonetheless, the communists refused to concede and demanded the deletion of the entire article relating to the sea demarcation line. The UNC finally accepted the communists' demand, and the provisions related to the sea demarcation line was not included in Article 13, Paragraph b of the Armistice Agreement. The final agreed wording is as follows:

(Article 13, Paragraph b of the Armistice Agreement)

"The Commanders of the opposing sides shall within ten (10) days after this Armistice Agreement becomes effective, withdraw all of their military forces, supplies, and equipment from the rear and the coastal islands and waters of Korea of the other side...The term "coastal islands", as used above, refers to those islands which, though occupied by one side at the time when this Armistice Agreement becomes effective, were controlled by the other side on 24 June 1950; provided, however, that all the islands lying to the north and west of the provincial boundary line between Hwanghae and Kyunggi province shall be under the military control of the Supreme Commander of the Korean

People's Army and the Commander of the Chinese People's Volunteers, except the island groups of Baekryeong-do, Daecheong-do, Socheong-do, Yeonpyeong-do, and Woo-do, which shall remain under the military control of the Commander-in-Chief, United Nations Command..."

B. North Korea did not raise any objections to the NLL because the NLL benefited North Korea.

- During the armistice talks, the communist side obtained the jurisdiction over the coastal islands of Hwanghae-do below the 38th parallel from the UNC. The UNC, which controlled not only Hwanghae-do, but also the entire coastal waters of North Korea, departed from all coastal islands above the 38th parallel. UNC gave North Korea the jurisdiction over the islands near the mainland Hwanghae-do, except for the strategically-important five-island group. North Korea could not control its coastal waters because it did not have any significant naval power.
- Under these circumstances, the UNC unilaterally gave away the waters under our control in order to faithfully carry out Article 13 and Article 15 of the Armistice Agreement. Then on August 30, 1953, the UNC established the current NLL as a line limiting the United Nations Forces' northern control in order to prevent possible armed conflict.
- Although the NLL was established by the United Nations Commander, it was a line useful for preventing a direct clash between the military forces of South and North Korea and for maintaining peace and stability in this region. Therefore, the NLL was a

line greatly appreciated by North Korea whose naval power was insignificant at the time - a significant reason why North Korea did not raise any objections to the NLL for almost 20 years after its establishment.

C. North Korea openly recognized and accepted the existence of the NLL.

- North Korea claims that it cannot recognize the NLL because North Korea never received any notification thereof. However, this claim cannot be justified. An examination of North Korea's behavior after the NLL was established indicates that the NLL notification was directly and indirectly conveyed to North Korea. Finally, there is an overwhelming evidence that North Korea understood and recognized the NLL in the 1959 Yearbook of North Korea in which North Korea described the NLL as the military demarcation line.

Agreement, the United States and North Korea, to decide through discussions, the legitimate role of the ROK in the Korean War.

A. North Korea's claim is an unjustified claim that aims to exclude the ROK on the basis that a ROK representative did not sign the Armistice.

[NOTE: the UNC Commander signed for all UNC nations, to include the ROK]

- North Korea makes this claim based on the provision in Article 61 of the Armistice Agreement that provides, "Amendment and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides." However, amendment and additions to the Armistice Agreement refer to relatively minor changes to the wording regarding the execution of the Armistice Agreement. The matter of sea military demarcation line, which was not provided in the Armistice Agreement, goes beyond amendment and additions and, as such, is a major change. Therefore, such a matter cannot simply be discussed and decided by the commanders of the opposing sides.
- Under the prevailing theories of international law, the authority to enter into an armistice agreement belongs not only to the commanders of the opposing sides, but also to the governments of the nations at war.
 - In the Korean War, the UNC Commander-in-Chief had to be the representative to lead the armistice talks and sign the Armistice Agreement because there were 16 nations that participated in the war

on the ROK side. Although the representative from the ROK did not sign the Armistice Agreement, the ROK was a major party to the war.

- Of primary importance, the ROK position and reputation has grown considerably in the last 46 years, and the ROK government has the will to talk and discuss matters proactively with North Korea. Under these circumstances, the North's claim that this matter must be resolved within the framework of the Armistice Agreement, and that this matter must be discussed between the United States and North Korea, excluding the ROK, a legitimate party, makes no legal or rational sense.

B. North Korea's claim is contradictory and endeavors to nullify the Armistice Agreement.

- Considering that North Korea has tried to nullify the Armistice Agreement numerous times throughout the 1990s, North Korea's claim is self-serving and inconsistent.
- When a ROK general was appointed as the chief representative of the UNC at the Military Armistice Commission in March, 1991, North Korea refused to attend the plenary meeting of the Military Armistice Commission. In April, 1994, North Korea demanded to enter into a United States-North Korea peace agreement to replace the Armistice Agreement, calling it a "peace assurance system." North Korea withdrew its representatives to the Military Armistice Commission and established the Korean People's Army Panmunjom Representative Office. In 1993 and 1995, North Korea forced the Chinese representative to the Military Armistice Commission and Czechoslovakian and Polish representatives, who were serving as the communist members to the Neutral Nations Supervisory Commission to withdraw. These actions diminished the Military Armistice Commission and the Neutral Nations Supervisory Commission, the two most important supervisory bodies for

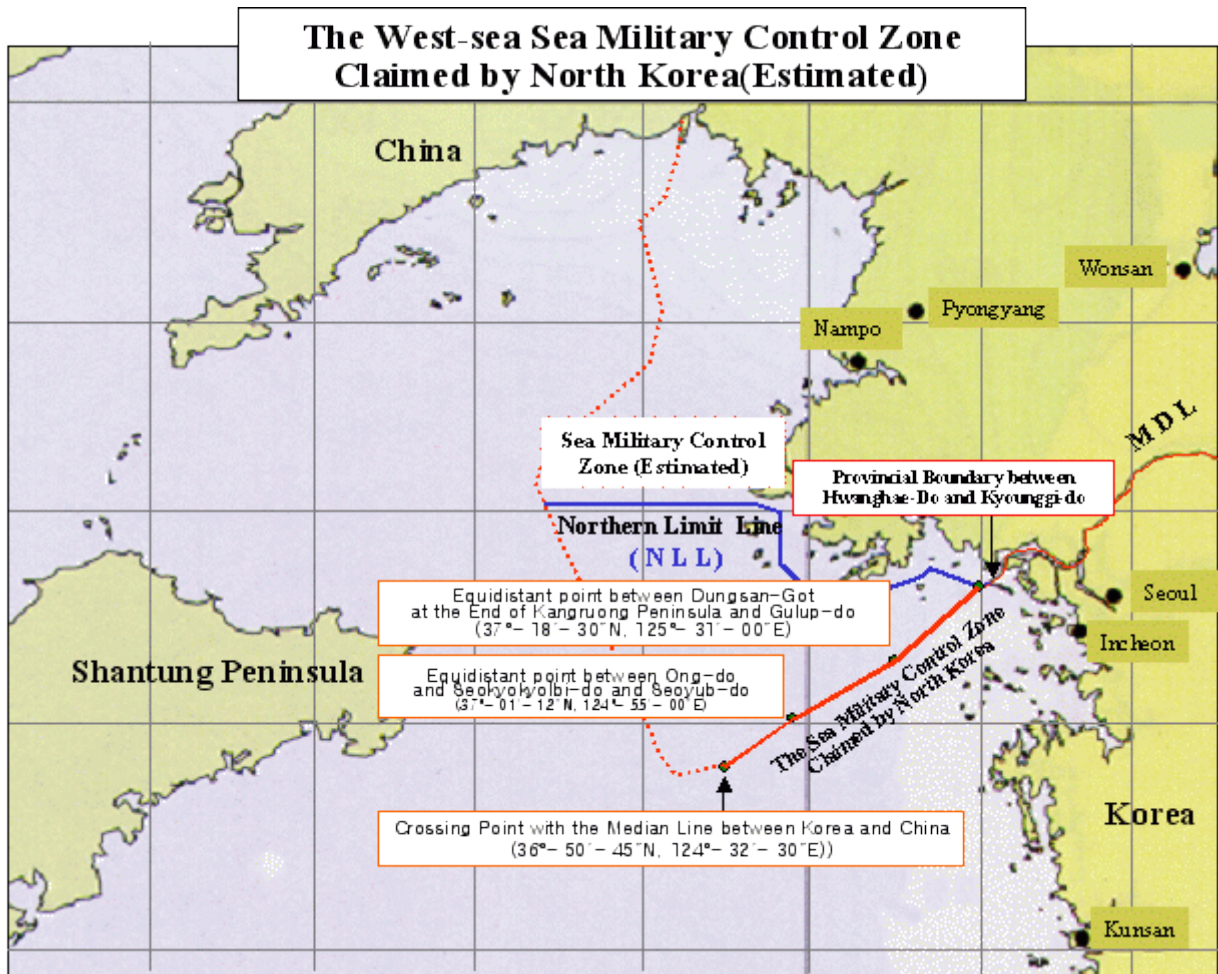
the supervision and management of the Armistice Agreement. Furthermore, in April, 1996, North Korea declared that it would no longer supervise the DMZ. Through the above actions, North Korea has continuously violated the Armistice Agreement, and tried to neutralize its effect

- The ROK and UNC categorically oppose the signing of the United States-North Korea Peace Agreement that purports to exclude the ROK from the matters of the Korean Peninsula. The ROK and UNC believe that if the Armistice Agreement is nullified before an alternative can be prepared, such an action will present a grave threat to the peace and security on the Korean Peninsula. By maintaining the Panmunjom General Officers Talks between the UNC and KPA, a temporary Armistice Agreement supervision body, a channel for military discussions is retained.

- The fact that North Korea is now emphasizing the resolution of the NLL issue according to the Armistice Agreement is a positive development. North Korea has recognized once again the necessity of the maintenance of the Armistice Agreement. Paradoxically, however, this action shows North Korea's contradictory behavior.

4. NK'S SO-CALLED "WEST SEA SEA MILITARY DEMARCATION LINE" IS GROUNDLESS

- A. The "West Sea Sea Military Demarcation Line" violates the Armistice Agreement.



- North Korea had originally demanded 12-mile territorial waters at the time of armistice talks, but later demanded not to include such stipulation in the Armistice Agreement due to differences in opinions with the UNC. In March, 1955, through a cabinet resolution, North Korea decided its territorial waters would be 12 miles, although such an action was never propagated to the outside world. North Korea continued to claim 12-mile territorial waters because in May 1955, North Korea's Ministry of Fisheries made an announcement regarding permission for our fishing boats to fish in North Korea's "territorial waters." However, as we have discussed above, at the plenary meeting of the Military Armistice Commission in December, 1973, North Korea claimed that under the relevant provision of the Armistice Agreement (Article 13), the entire area to the north and west of

Point A, which lies to the southeast of U-Do, is North Korea's coastal waters. North Korea made the same claim during the discussions on the Protocol to the South-North Basic Agreement in 1992. North Korea has also declared a 200-mile economic zone based on the median lines in July, 1977. In August 1997, North Korea unilaterally declared that the boundary line of this economic zone was the sea military demarcation line. On July 21, 1999, North Korea declared at the Panmunjom General Officers Talks that the line connecting the equidistant points between South and North Korea and China was the new sea demarcation line under the Armistice Agreement and international law of the sea and that the area to the north of such line would be North Korea's Sea Military Control Zone. As one can see, North Korea has changed the name of its jurisdictional area from "territorial waters" to "coastal waters" to "Sea Military Control Zone" and continued to expand such an area. Such claims clearly show that North Korea's position and opinion on the West Sea sea demarcation line is inconsistent and ambiguous.

- Following is an examination of the provisions in the Armistice Agreement regarding North Korea's NLL claims. As North Korea argues, the Armistice Agreement (Article 13, Paragraph b) has a provision on the provincial boundary between Kyunggi and Hwanghae province. However, the map attached to the Armistice Agreement (Map 3), which has the same effect as the above provision, clearly provides that the above provincial boundary line shows the control of the coastal islands in the West Sea, has no other meanings and no other meanings can be attached thereto. Therefore, North Korea's claim that the area to the

north and west of Point A is its control zone based on the Armistice Agreement and the attached map is groundless.

B. The "Order of Navigation to and from the five Islands in the West Sea" violates the Armistice Agreement

- In December 1973, the 346th Military Armistice Commission was convened to discuss the issues related to the "Western Islands Crisis" of October and November, where North Korea, for the first time, claimed that the waters to the north of the extension of the provincial boundary line between Hwanghae and Kyunggi province were its territorial waters. Therefore, ships entering and leaving the five West Sea islands had to have prior North Korean permission for passage. Following this declaration, North Korea declared the "Order of Navigation to and from the five Islands in the West Sea" in which the North demanded that all civilian and US ships use only the two passages designated by the North to enter and leave the above islands.
- However, North Korea's claim of jurisdiction over waters north of the extension of the provincial boundary line between Hwanghae and Kyunggi province, in other words, North Korea's argument that it has jurisdiction over the so-called "West Sea Demarcation Line" clearly violates the Armistice Agreement. Also, the claim that North Korean approvals are needed to enter the five islands in the West Sea and permitting just two passages violates Article 2, Paragraph 15 of the Armistice Agreement.
- Article 2, Paragraph 15 of the Armistice Agreement provides, "* * * naval forces shall respect the waters contiguous to the Demilitarized

Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.”

- Therefore, the “Order of Navigation to and from the five Islands in the West Sea” that North Korea declared as a measure subsequent to the “West Sea Demarcation Line” is in violation of the spirit and provisions of the Armistice.

C. The “West Sea Sea Military Demarcation Line” violates international law.

- North Korea unconvincingly claims that its position on the territorial waters and sea military control zone is based on the international law of the sea.

- First, the United Nations Convention on the Law of the Sea is itself evolving into a customary international law binding all nations. However, North Korea has not ratified the United Nations Convention on the Law of the Sea and in fact is violating the Convention. Under the Convention, the jurisdiction of a country is limited to the internal waters and territorial waters, and with respect to the adjoining waters and exclusive economic zone, only the economic activities and other limited interests, such public health, are recognized.

However, in August, 1977, North Korea violated the United Nations Convention on the Law of the Seas by announcing a sea military demarcation line that did not conform to the provisions thereof.

- Second, the United Nations Convention on the Law of the Seas clearly provides that islands have their own territorial waters. The five islands in the West Sea are clearly islands under the international

law. If we recognize the 12-mile territorial waters under the international law, since the width of the area between the five islands in the West Sea and North Korea does not exceed 24 miles, a sea demarcation line must be drawn following the median line between North Korea and the five islands. The claim that the five islands lie within North Korea's "coastal waters" or "sea military control zone," disregarding the above principle, cannot be logically nor legally accepted.

- Considering the provision of the United Nations Convention on the Law of the Sea (Article 15) that states that the median line shall be recognized in absence of a separate agreement on the territorial waters between adjacent countries, the current NLL, which approximately connects the median points between Hwanghae-do's coastline and the five islands, is a line which reflects the principles of international law.

III. Conclusion

◦ In conclusion, our position on the Northern Limit Line in the West Sea is as follows;

Firstly, the NLL has been the practical sea demarcation line between South and North Korea for the past 49 years and was confirmed and validated by the 1992 South-North Basic Agreement.

Secondly, until a new sea nonaggression demarcation line is established, the NLL will be resolutely maintained like the Military Demarcation Line on the ground, and decisive responses will be made to all North Korean intrusions.

Thirdly, a new sea nonaggression demarcation must be established through South-North discussions, and therefore, the NLL is not the subject of negotiation between the US and the North or between the UNC and the North.

Finally, North Korea's claim of a purported 'Chosun West Sea Demarcation Line' and 'Order of Navigation to and from the five Islands in the West Sea' not only violates the Armistice Agreement but also is not compatible with the spirit and provisions of international laws. Therefore, we firmly proclaim that we will not accept North Korea's claim by any means.

AUGUST 2002

THE REPUBLIC OF KOREA POSITION AND
NORTH KOREA'S GROUNDLESS CLAIM
REGARDING THE NORTHERN LIMIT LINE