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March 14, 1975

Memorandum for Richard Smyser from Morton I. Abramowitz, “26-27 February Yellow Sea Incident (U)"

Citation:

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Summary:

Morton I. Abramowitz, Deputy Assistant Secretary of Defense, provides Richard Smyser with a chronology of events surrounding the February 26-27, 1975, incident in Yellow Sea between North and South Korea.

Credits:

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JBF

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INTERNATIONAL
SECURITY AFFAIRS

14 MAR 1975

MEMORANDUM FOR MR. RICHARD SMYSER, NATIONAL SECURITY COUNCIL

SUBJECT: 26-27 February Yellow Sea Incident (U)

Attached, as you requested, are a chronology of events associated with the subject incident, a copy of the JCS cable transmitting the Rules of Engagement to CINCPAC, the UNC's Rules of Engagement, and a joint State/Defense cable dispatched after the incident.

Attachments

Morton I. Abramowitz
Deputy Assistant Secretary

Classified by ASD/ISA
SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE OF EXECUTIVE ORDER 11652. AUTOMATICALLY DOWNGRADED AT TWO YEAR INTERVALS. DECLASSIFIED ON 31 Dec 83
bby 5/24/01

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26-27 February Yellow Sea Incident - Republic of Korea (ROK)

TIME (EDT)	EVENT
260205	South Korean radar station made first radar contact with unidentified North Korean boats south of Py-do.
260430	ROKN Escort Transport (ADP-82) challenged NK armed patrol boats at 37-39N/124-15E. The NK boats ignored the challenge, and the subsequent ROK warning shots, and proceeded south at 15K. ADP-82 pursued and was joined by ROKN destroyer DD-92. The two NK boats merged with an estimated eight NK fishing boats.
260508	Two ROKAF F-5s scrambled from Suwon against track of unidentified vessels.
260633	COMROKFLT ordered ROKN ships to capture the two original NK boats, using minimum force and without main battery gunfire.
260710	First NK aircraft penetrated Northern Limit Line (NLL) - i. e. extension of the Military Demarcation line into international waters - 10 NM southeast of Py-do.
260720	314th Air Division Commander, to support the ROKs, ordered an air defense scramble. Two USAF F-4E aircraft from Osan AB assumed CAP at a position 70 NM west of Osan.
260726	DD-92 collided accidentally with a small NK fishing boat at 37-36N/124-00E. The vessel was sunk, and no survivors were found. The other NK boats then proceeded north at 5 knots, shadowed by APD-82 and DD-92.
260813	USAF F-4E's were directed to return to base; landed 0835.
261055	Second scramble of two USAF F-4E aircraft from Osan AB. Flew CAP at position 30 NM west of base.
261116	South Korean radar station reported two high speed surface contacts (in excess of 30 knots), presumed to be North Korean patrol boats, south of NLL, proceeding on apparent course to intercept ROKN units. NK boats came to within 7 NM of ROKN vessels, then turned back.

DECLASSIFIED
E.O. 12958 (as amended) SEC 3.3
MR # 10-022; #26
state rev 9/25/02; OSD ltr 5/17/10
By dal NARA, Date 6/23/10

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TIME (EDT)	EVENT
261230	Second flight of F-4E aircraft returned to Osan AB. No further activity by US aircraft.
26 Feb	Throughout the day, radar trackings indicated 68 NKAF aircraft in defensive fighter patrol in the area around UN-controlled islands south of the NLL. The maximum number detected at one time was seven, with the deepest penetration about 40 NM southwest of Py-do. Some NK aircraft flew over UN-controlled islands. Air Forces Korea responded throughout the incident with 77 sorties (4 USAF F-4E's and 73 ROKAF: 71 F-4D's and F-5's, 1 AT-33, and 1 C-46 flare ship). The actions of all aircraft on both sides was defensive. The opposing aircraft maintained a minimum 40 NM separation. Except for the ROKN warning shots mentioned above, no rounds were fired by either side.
262145	All NK aircraft had returned to base.
262235	All ROKAF aircraft had returned to base.

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DEPARTMENT OF DEFENSE

NATIONAL MILITARY COMMAND CENTER

MESSAGE CENTER

VZCZCIEC230 S E C R E T

RUEKJCS 92626

SECT 60 OF 51364

ACTION

DISTR CJCS(04) DJS(03) SJCS(02) J5(02) SECDEF(04) SECDEF:(01)
ASD:ISA(07) ASD:PA&E(01) ASD:PA(01) DIA:(01) :DIA(15) MCCC(01) CMC(02
CSAF WASH DC
CNO WASH DC
CSA WASH DC
FILE(1)

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57

DECLASSIFIED
E.O. 12958 (as amended) SEC 3.3
MR # 10-017; #39
state ltr 4/25/10; OSD ltr 10/29/10
By dal NARA Date 12/8/10

TRANSIT/071659Z/091257Z/043:58TOR0681248
ZNY SSSSS ZOC STATE ZZH
TPP RUMJSL RUAGAAA RUEHDT RUHQHQA
DE RUEHC #1364 0662059
ZNY SSSSS ZZH
P 071659Z MAR 75
FM SECSTATE WASHDC
TO RUMJSL/AMEMBASSY SEOUL PRIORITY 0000
RUAGAAA/CINCUNC
INFO RUEHDT/USMISSION USUN NEW YORK PRIORITY 0000
RUHQHQA/CINCPAC HONOLULU HI
BT
S E C R E T STATE 051364

LIMDIS - JOINT STATE/DEFENSE MESSAGE

E.O. 11652: GDS

TAGS: MARR, PFOR, PBOR, MOPS, KS

1. WE APPRECIATE CONSIDERATIONS CITED REFTEL. WE FURTHER RECOGNIZE THAT NO BOARDING OR SEIZURE DID IN FACT TAKE PLACE AND THAT SINKING OF NORTH KOREAN SHIP WAS THROUGH INADVERTENT COLLISION.

2. AT THE SAME TIME, THERE IS NO JUSTIFICATION UNDER INTERNATIONAL LAW FOR BOARDING OR SEIZURE OF VESSELS ON HIGH SEAS EXCEPT IN THE MOST NARROWLY DEFINED INSTANCES AS SPECIFIED BY CONVENTION OR INTERNATIONAL TREATIES.

3. THE CONVENTION ON THE HIGH SEAS, CONCLUDED UNDER U.N. AUSPICES, IS PRIMARY CODIFICATION OF INTERNATIONAL LAW IN

57

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THIS AREA. US IS A PARTY TO THE CONVENTION AND ALTHOUGH NEITHER ROK NOR NK IS A PARTY, WE CONSIDER THEM BOUND BY PRINCIPLES OF INTERNATIONAL LAW CODIFIED THEREIN.

4. IN THE EXERCISE OF ITS INTERNATIONAL LAW RIGHT OF QUOTE APPROACH AND IDENTIFICATION UNQUOTE, A WARSHIP MAY APPROACH AND CHALLENGE (CHALLENGE IN THIS SENSE IS LIMITED TO RIGHT TO REQUEST ID BY TRANSMITTING AA FROM INTERNATIONAL CODE OF SIGNALS OR BY OTHER APPROPRIATE MEANS) WITH

RESPECT TO AN UNIDENTIFIED VESSEL ON THE HIGH SEAS. (OBVIOUSLY A VESSEL CLEARLY IDENTIFIABLE AS A WARSHIP OF A FOREIGN STATE IS NOT AN UNIDENTIFIED VESSEL.) THERE IS, MOREOVER, NO CORRELATIVE DUTY UPON THE CHALLENGED VESSEL TO RESPOND IN ANY PRESCRIBED MANNER, OR INDEED TO RESPOND AT ALL. AS YOU KNOW, US SHIPS ROUTINELY IGNORE CHALLENGES FROM PRC SHORE INSTALLATIONS WHILE ENTERING HONG KONG. THIS RIGHT OF APPROACH AND CHALLENGE DOES NOT INCLUDE THE RIGHT TO HAZARD THE VESSEL OR DIRECT ITS COURSE.

5. IF THE VESSEL IS A WARSHIP, SUCH VESSEL IS, UNDER ARTICLE 8 OF THE CONVENTION, COMPLETELY IMMUNE FROM THE JURISDICTION OF ANY STATE OTHER THAN ITS FLAG STATE. IN PARTICULAR THERE IS NO RIGHT OF VISIT AND SEARCH OF A FOREIGN WARSHIP. IN THIS CONNECTION, A WARSHIP IS DEFINED BY ARTICLE 8 OF THE CONVENTION AS QUOTE: A SHIP BELONGING TO THE NAVAL FORCES OF A STATE AND BEARING THE EXTERNAL MARKS DISTINGUISHING WARSHIPS OF ITS NATIONALITY, UNDER COMMAND OF AN OFFICER DULY COMMISSIONED BY THE GOVERNMENT, WHOSE NAME APPEARS IN THE NAVY LIST, AND MANNED BY A CREW WHO ARE UNDER REGULAR NAVAL DISCIPLINE -- UNQUOTE. DETERMINATION WHETHER APPROACHED VESSEL IS A WARSHIP MAY ON OCCASION BE DIFFICULT FOR THE RESPONSIBLE COMMANDER; SINCE SOME ELEMENTS OF ARTICLE 8 DEFINITION ARE NOT VERIFIABLE BY OBSERVATION IN ANY EVENT. UNDER CONDITIONS OF RESTRICTED VISIBILITY, AND DEALING WITH SMALL PATROL-TYPE CRAFT, JUDGMENT IS PARTICULARLY DIFFICULT AND IS RECOGNIZED AS SUCH. NEVERTHELESS, EXERCISE OR ATTEMPTED EXERCISE OF JURISDICTION OVER A FOREIGN WARSHIP ON THE HIGH SEAS IS A SERIOUS BREACH OF INTERNATIONAL LAW AND CUSTOM. ACCORDINGLY, A HIGH DEGREE OF CIRCUMSPECTION IS REQUIRED IN MAKING THIS DETERMINATION.

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THE VESSEL'S GENERAL CONFIGURATION AND APPEARANCE, THE PRESENCE OF EXTERNAL ARMAMENT OR DISTINGUISHING MARKINGS, ENSIGN DISPLAYED, AND RESPONSE, IF ANY, TO CHALLENGE ARE ALL RELEVANT CIRCUMSTANCES TO BE TAKEN INTO ACCOUNT.

6. EVEN IF UNIDENTIFIED VESSEL IS DETERMINED NOT REPEAT NOT TO BE A WARSHIP, NO AUTOMATIC RIGHT OF VISIT AND SEARCH ARISES, EVEN IF VESSEL IGNORES CHALLENGE. UNDER ARTICLE 22 OF THE CONVENTION, SUCH RIGHT ARISES ONLY IF THERE ARE REASONABLE GROUNDS FOR SUSPECTING PIRACY, SLAVE TRADE, THAT THE VESSEL IS REALLY OF THE SAME FLAG AS WARSHIP CHALLENGING IT, OR IF FLAG STATE OF CHALLENGED VESSEL HAS BY TREATY CONFERRED SPECIAL POWERS ON CHALLENGED VESSEL. REFUSAL TO DISPLAY ANY NATIONAL ENSIGN

IN RESPONSE TO A CHALLENGE IS ONLY ONE CIRCUMSTANCE TO BE CONSIDERED IN DETERMINING WHETHER VESSEL FALLS INTO ONE OF ABOVE CATEGORIES.

7. ARTICLE 23 OF CONVENTION AUTHORIZES HOT PURSUIT OF FOREIGN VESSELS ON HIGH SEAS ONLY WHERE PURSUING STATE HAS GOOD REASON TO BELIEVE ITS LAWS AND REGULATIONS HAVE BEEN VIOLATED AND IF PURSUIT IS COMMENCED WHEN FOREIGN SHIP WAS WITHIN ITS INTERNAL WATERS, TERRITORIAL SEA OR CONTIGUOUS ZONE (LIMITED TO 12 NAUTICAL MILES). SINCE HOT PURSUIT CONTEMPLATES ULTIMATE ARREST OF FOREIGN VESSEL, AND SINCE WARSHIPS ARE NOT SUBJECT TO ARREST, HOT PURSUIT DOES NOT APPLY TO WARSHIPS.

8. FOREGOING, OF COURSE, DOES NOT AFFECT RIGHT OF A VESSEL OR AIRCRAFT TO DEFEND ITSELF WHEN VESSEL, AIRCRAFT, OR COASTAL STATE IS UNDER ATTACK.

9. WE DO NOT REPEAT NOT CONSIDER THAT ARMISTICE CREATES EXCEPTIONS TO CONVENTION AND INTERNATIONAL LAW WITH RESPECT TO BOARDING OR BRINGING IN FOREIGN VESSELS ON HIGH SEAS, NOR ARE WE AWARE OF ANY CUSTOMARY INTERNATIONAL PRACTICE WHICH WOULD PERMIT, DESPITE CONVENTION, SUCH ACTIONS. WE ARE WELL AWARE THAT HOSTILE ACTS BETWEEN TWO SIDES CONTINUE DESPITE ARMISTICE. ARMISTICE NEVERTHELESS REMAINS IN FORCE, AND IT WOULD BE MOST DIFFICULT TO ALLEGE SOME SPECIAL BELLIGERENCY RIGHTS SUCH AS VISIT AND SEARCH UNDER OR OUTSIDE ARMISTICE IN LIGHT OF OUR

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PAST PUBLIC POSITION IN CASES SUCH AS PUEBLO AND FEBRUARY 15, 1974 INCIDENT.

10. ASIDE FROM LEGAL CONSIDERATION INVOLVED, SEIZURE OR SUCCESSFUL BOARDING WOULD HAVE CREATED SERIOUS POLITICAL PROBLEMS. SEIZURE WOULD HAVE CONSTITUTED APPARENT PARALLEL TO NK ACTIONS IN CASE OF PUEBLO AND ROK FISHING BOATS ATTACKED FEBRUARY 15, 1974. IN BOTH INSTANCES WE RAISED STRONG PROTEST OVER SEIZURE ON HIGH SEAS IN CASES WHERE VESSELS WERE OUTSIDE TERRITORIAL WATERS, BUT MUCH CLOSER TO NK MAINLAND. OTHERS WOULD BE QUICK TO CITE THE APPARENT INCONSISTENCY. GLOBAL MOBILITY OF US NAVAL AND MERCHANT FLEET DEPENDS IN LARGE MEASURE ON STRICT OBSERVANCE OF INTERNATIONAL LAW EVEN WHEN SUSPICIOUS OF A VESSEL'S INTENT.

11. MORE IMMEDIATE PROBLEM WOULD HAVE BEEN CHARGES RELATIVE TO UNITED NATIONS COMMAND ROLE AND AUTHORITY. LEGITIMACY OF PRESENT UNC RELATIONSHIP CAME UNDER STRONG

ATTACK IN UNGA LAST YEAR AND WE CAN EXPECT SIMILAR MOVE THIS YEAR. PLAUSIBLE CHARGES THAT US WAS EXCEEDING ITS ROLE AS UNC IN SUPPORT OF ROKG FISHING OR QUOTE OPERATIONAL WATERS UNQUOTE CLAIMS WOULD BE HIGHLY DAMAGING TO US/ROK POLITICAL INTERESTS IN UNGA AND DIFFICULT IF NOT IMPOSSIBLE TO COUNTER.

12. IN THIS REGARD, IT IS IMPERATIVE THAT ALL CONCERNED AVOID US INVOLVEMENT IN FUTURE ACTIONS WHICH APPEAR TO VIOLATE ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AND INSURE THAT ROK FORCES DO NOT PARTICIPATE IN SIMILAR ACTIONS WHILE UNDER UNC CONTROL. YOU SHOULD EXERT APPROPRIATE INFLUENCE TO DISCOURAGE ROKG FROM UNILATERALLY PARTICIPATING IN SUCH ACTIONS AS WELL.

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Assistant Secretary of Defense

Washington, D.C. 20301

14 Mar[ch] 1975

MEMORANDUM FOR MR. RICHARD SMYSER, NATIONAL SECURITY COUNCIL

SUBJECT: 26-27 February Yellow Sea Incident (U)

Attached, as you request, are a chronology of events associated with the subject incident, a copy of JCS [Joint Chiefs of Staff] cable transmitting the Rules of Engagment to CINCPAC [U.S. Pacific Command], and a joint State/Defense cable dispatched after the incident.

Attachments

Morton I. Abramowitz
Deputy Assistant Secretary

26-27 February Yellow Sea Incident – Republic of Korea (ROK)

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TIME (EDT) EVENT □□□ □□□ □□□

EVENT □□□

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260205 □□□ □□□ □□□

South Korean radar station made first radar contact with unidentified North Korean boats south of Py-do. □□□ □□

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260430 □□□ □□□ □□□

ROKN [Republic of Korea Navy] Escort Transport (ADP-82) challenged NK [North Korean] armed patrol boats at 37-39N/124-15E. The NK boats ignored the challenge, and the subsequent ROK warning shots, and proceeded south at 15K. ADP-82 pursued and was joined by ROKN destroyer DD-92. The two NK boats merged with an estimated eight NK fishing boats. □□□ □□

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260508 □□□ □□□ □□□

Two ROKAF [Republic of Korea Air Force] F-5s scrambled from Suwon against track of unidentified vessels. □□□ □□

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260633 □□□ □□□ □□□

COMROKFLT [Commander ROK Fleet] ordered ROKN ships to capture the two original NK boats, using minimum force and without main battery gunfire. □□□ □□

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260710 □□□ □□□ □□□

First NK aircraft penetrated Northern Limit Line (NLL) – i.e. extension of the Military Demarcation line into international waters – 10 NM [nautical miles] southeast of Py-do. □□□ □□

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260720 □□□ □□□ □□□

314th Air Division Commander, to support the ROKs, ordered an air defense scrable. Two USAF [United States Air Force] F-4E aircraft from Osan AB [airbase] assumed CAP [combat air patrol] at a position 70 NM west of Osan. □□□ □□

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260726 □□□ □□□ □□□

DD-92 collided accidentally with a small NK fishing boat at 37-36N/124-00E. The vessel was sunk, and no survivors were found. The other NK boats then proceeded north at 5 knots, shadowed by APD-82 and DD-92. □□□ □□

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260813 □□□ □□□ □□□

USAF F-4E’s were directed to return to base; landed 0835. □□□ □□

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261055 □□□ □□□ □□□

Second scramble of two USAF F-4E aircraft from Osan AB. Flew CAP at position 30 NM west of base. □□□ □□

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261116 □□□ □□□ □□□

South Korean radar station reported two high speed surface contacts (in excess of 30 knots), presumed to North Korean patrol boats, south of NLL, proceeding on apparent course to intercept ROKN units. NK boats came to within 7 NM of ROKN vessels, then turned back. □□□ □□

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261230 □□□ □□□ □□□

Second flight of F-4E aircraft returned to Osan AB. No further activity by US aircraft. □□□ □□

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26 Feb □□□ □□□ □□□

Throughout the day, radar trackings indicated 68 NKAF aircraft in defensive fighter patrol in the area around UN-controlled islands south of the NLL. The maximum number detected at one time was seven, with the deepest penetration about 40 NH southwest of Py-do. Some NK aircraft flew over UN-controlled is lands. Air Forces Korea responded throughout the incident with 77 sorties (4 USAF F-4E’s and 73 ROKAF: 71 F-4D’s and F-5’s’, 1 AT-33, and 1 C-46 flare ship). The actions of all aircraft on both sides was defensive. The opposing aircraft maintained a minimum 40 NM separation. Except for the ROKN warning shots mentioned above, no rounds were fired by either side. □□□ □□

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262145 □□□ □□□ □□□

All NK aircraft had returned to base. □□□ □□

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262235 □□□ □□□ □□□

All ROKAF aircraft had returned to base. □□□ □□