THE SOUTH CHINA SEA DISPUTE

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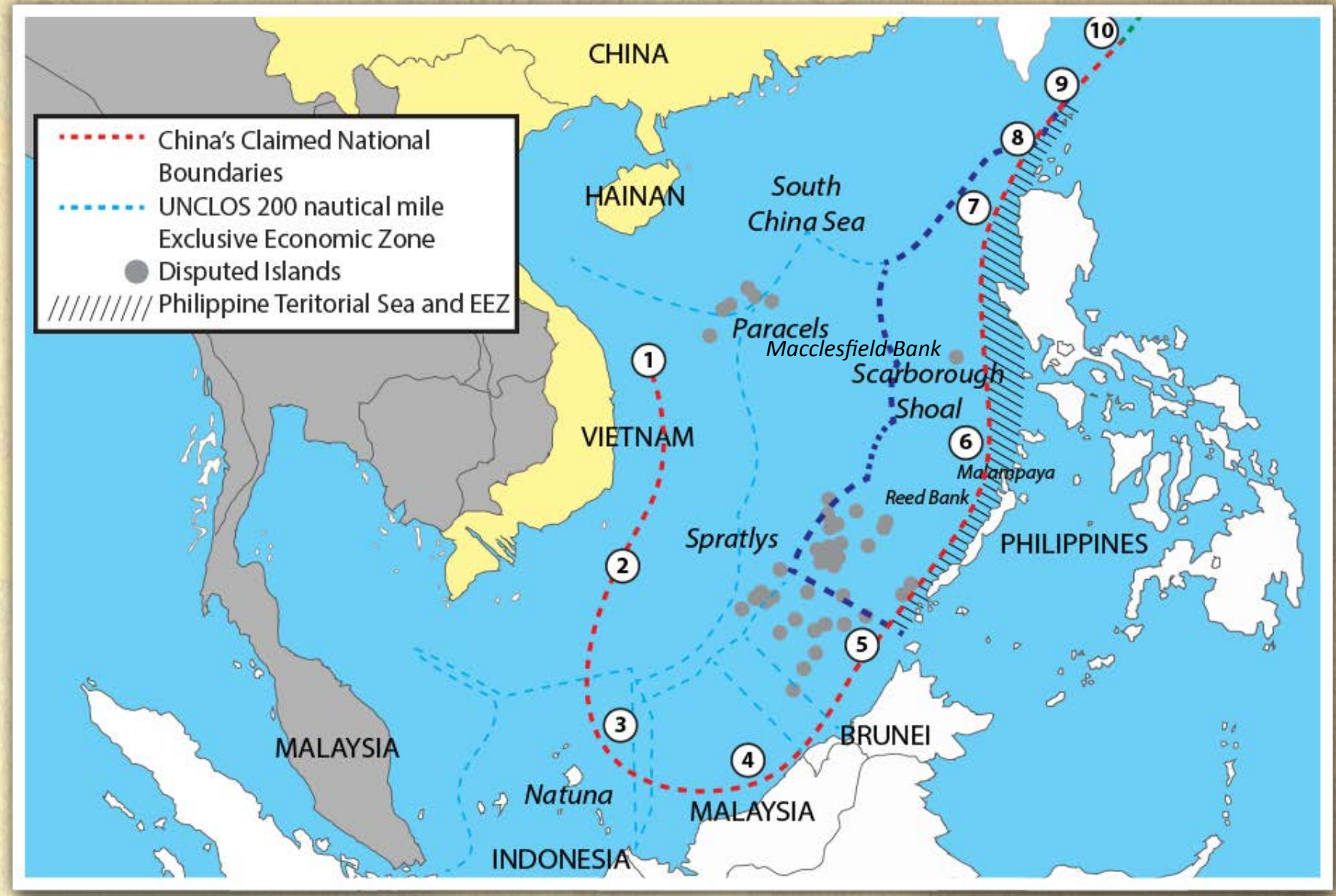
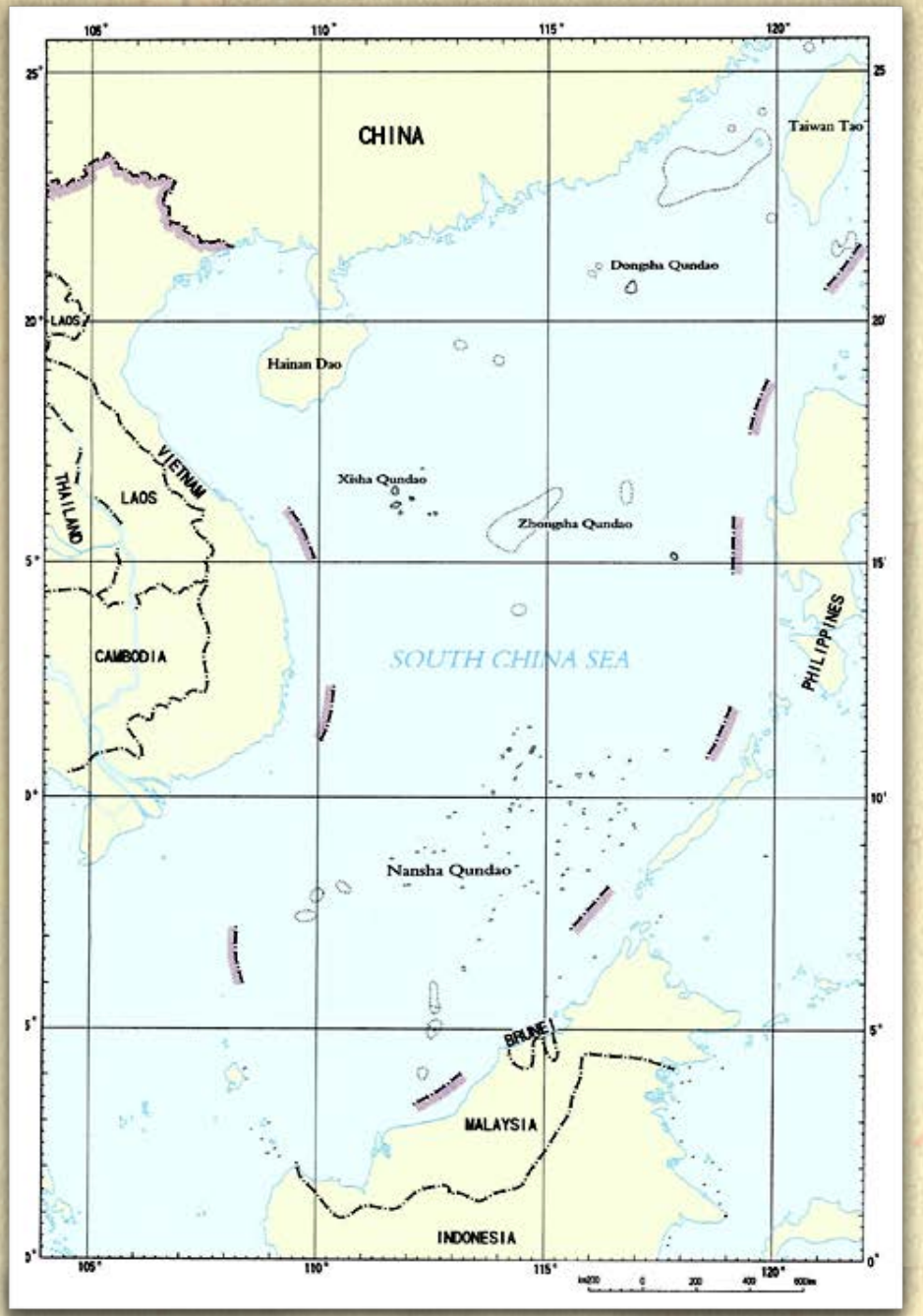
The views expressed in this presentation are the personal opinion of the author and do not necessarily represent the position of the Philippine Government.

China’s 9-dashed Lines

China's new "national boundaries" under the 9-dashed lines





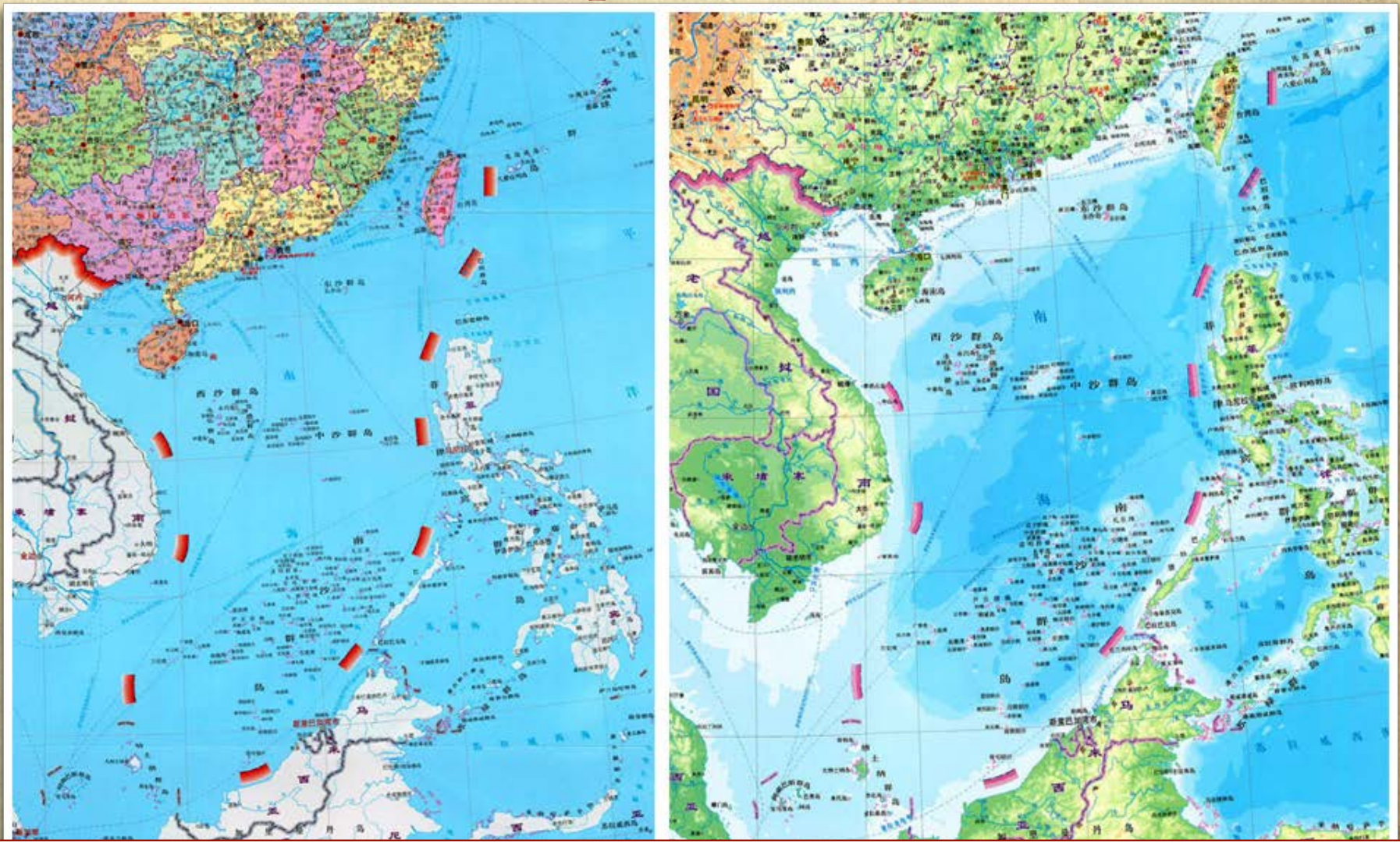
Nine-dashed Lines Map Submitted by China to UN in 2009

China did not explain the legal basis for the dashes. The dashes had no fixed coordinates.

In 2013, China released a new map of China, adding a 10th dash on the eastern side of Taiwan. In its 2013 map, China claims the 10 dashed lines are its "**national boundaries**" without explaining the legal basis or giving the fixed coordinates for the dashes. The 2013 China map was published by SinoMaps Press, under the jurisdiction of China's State Bureau of Surveying and Mapping. This means the 2013 Map is an official Chinese government map.

In its *Note Verbale* of June 7, 2013 to China, the Philippines stated it "**strongly objects to the indication that the nine-dash lines are China's national boundaries in the West Philippine Sea/South China Sea.**"

China's New Map with 10 dashes (2013)

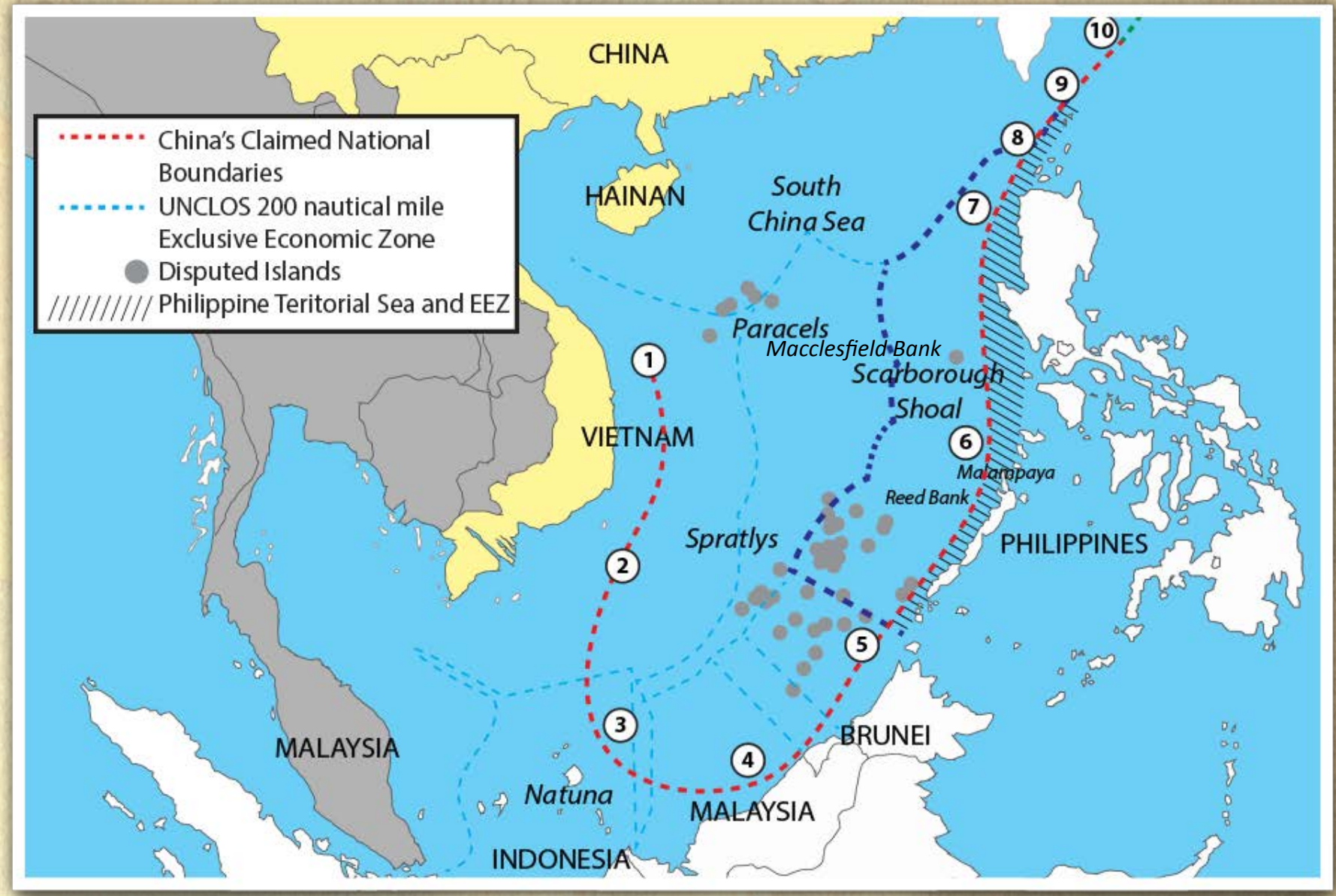


Printed in a 1947 map, China's 9-dashed lines have no fixed coordinates. Originally 11 dashes, two dashes in the Gulf of Tonkin were removed in 1950 without explanation. In 2013, one dash was added east of Taiwan. The new 2013 China map, with 10 dashed lines, is printed by SinoMaps Press.

What is the Effect of China's "National Boundaries" under the 9-dashed Lines?

The Philippines loses about 80% of its EEZ facing the West Philippine Sea, including the entire Reed Bank and part of the Malampaya gas field. Malaysia loses also about 80% of its EEZ in Sabah and Sarawak facing the South China Sea, as well as most of its active gas and oil fields in the same area. Vietnam loses about 50% of its total EEZ. Brunei loses about 90% of its total EEZ. Indonesia loses about 30% of its EEZ facing the South China Sea in Natuna Islands, whose surrounding waters comprise the largest gas field in Southeast Asia.

China's new "national boundaries" under the 9-dashed lines



What is the dispute in the South China Sea?

There is a **territorial dispute** in the South China Sea that is rooted in conflicting territorial claims over islands, rocks, and reefs above water at high tide. There is also a **maritime dispute** that is rooted in conflicting maritime claims over maritime zones. The dispute involves six countries bordering the South China Sea.

China's 9-dashed lines claim, through which China is aggressively asserting "indisputable sovereignty" to all the islands and waters enclosed by the lines, is the **main driver** of the South China Sea dispute. China's 9-dashed lines claim encloses 85.7% of the entire South China Sea. This is equivalent to 3 million square kilometers out of the 3.5 million square kilometers surface area of the South China Sea.

James Shoal - China's "Southernmost" Border

China claims James Shoal, which is fully submerged at 22 meters below water, as its southernmost border, more than 950 NM from Hainan Island and more than 400 NM from Itu Aba. Under international law, a state's border must either be a land territory, a river, or a territorial sea - which are all subject to its full sovereignty.

A state cannot appropriate as its sovereign territory a fully submerged area beyond its territorial sea. James Shoal is 80 KM from Malaysia's coast in Bintulu, Sarawak, within Malaysia's EEZ.

Chinese Sovereignty Oath-Taking Ceremony at James Shoal in January 2014

A Chinese taskforce composed of three warships from the South China Sea Fleet of the Navy of the Chinese People's Liberation Army (PLAN) held a sovereignty oath-taking ceremony on January 26, 2014 in the waters of James (Zengmu) Shoal off the coast of Sarawak, Borneo in the South China Sea. Photo: Xinhua

China's Continuing Mass Production of Warships

The 3rd generation Type 052D guided missile destroyer on the left was launched in 2014. The other two will be launched in 2015. There are five other Type 052Ds under construction. The Type 052D has 64 vertical launched cells, each with 1 to 4 missiles. It carries the YJ-12 anti-ship missile with 400 KM range. China plans to deploy 10 Type 052D destroyers. China has already 6 Type 051 and Type 052A/B/C destroyers.

Type 54A Chinese Frigate Commissioned in January 2015

In 2014, China had 15 Type 054 frigates, the largest number of any class of China's warships. Five more Type 054 frigates are in production. A newer class of frigate, the Type 056, is under final development. China plans to produce 40 Type 056 frigates.

China's Type 056 Corvette

China launched its 25th Type 056 Corvette last March 19, 2015, out of a total planned 40-Type 056 Corvette fleet. The PLA Navy believes that it can control the South China Sea with 20 of these Corvettes.

China's New Type 093G Nuclear-Powered Attack Submarine

The China Daily reported on 3 April 2015 that China has completed and will soon launch three (3) Type 093G nuclear-powered attack submarines. Unlike its predecessors, the Type 093G has a vertical launching system to fire supersonic anti-ship missiles with 300 KM range, speeding to Mach 3 at 40 KMs from the target. The strategic force of the PLA navy now has four nuclear-powered Type 094 ballistic missile submarines, three older Type 093 nuclear-powered attack submarines with tube-launched anti-ship missiles, three Type 093G nuclear-powered attack submarine, and three Type 091 nuclear-powered attack submarines.

China's First Aircraft Carrier - Liaoning

China plans to build three more aircraft carriers, with one already under construction.

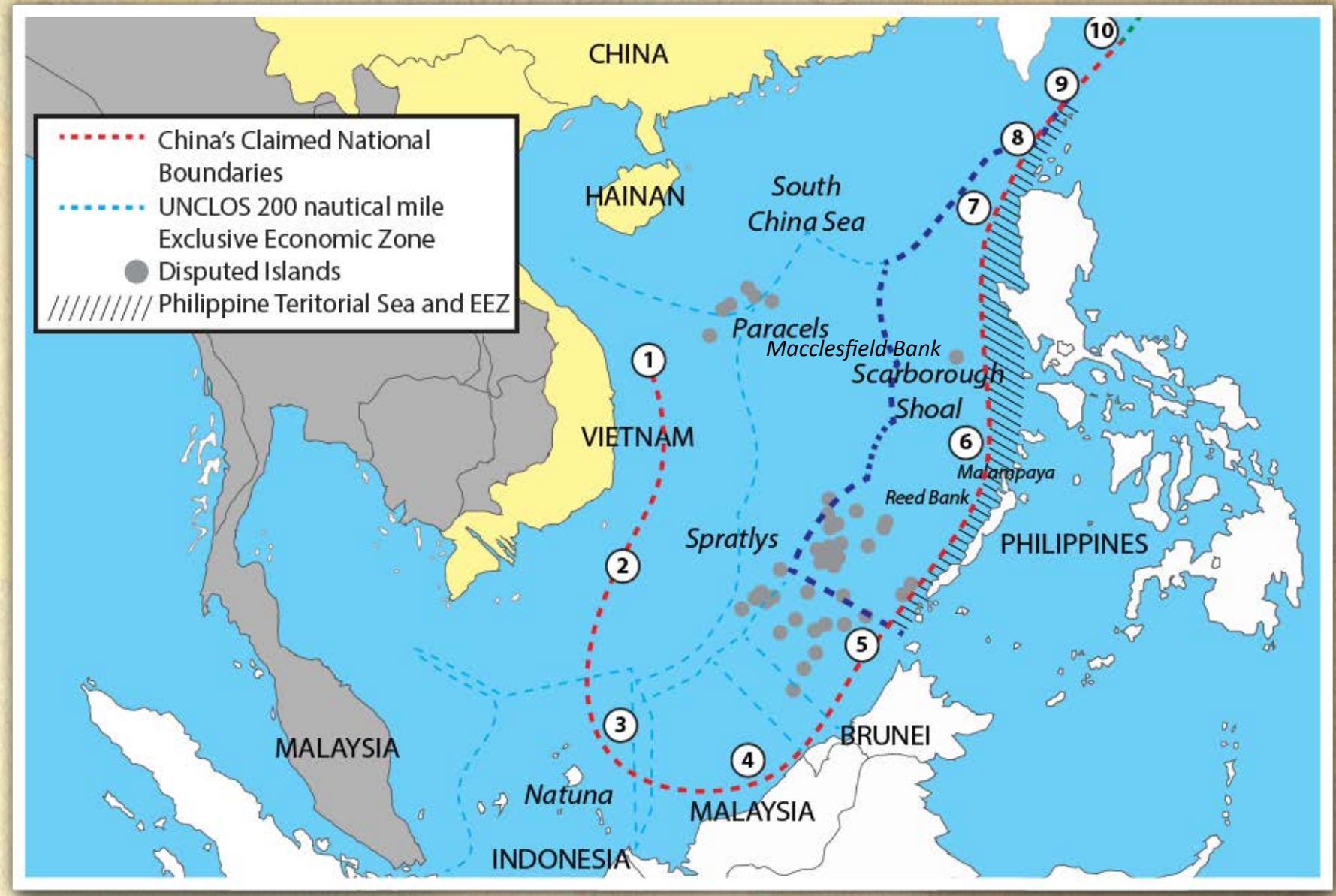
China's New Type 904A Supply Ship

China is building several supply ships to service its outposts in the Paracels and the Spratlys. The new Type 904A supply ship has a helipad and storage for one Z-8 heavy transport helicopter.

China's Second Navy - The Coast Guard

China will deploy this year a 10,000-ton coast guard vessel, the world's largest blue water coast guard vessel. A second 10,000-ton sister ship is under construction. China has more coast guard vessels than Japan, Vietnam, Indonesia, Malaysia and the Philippines combined. China's Coast Guard is the largest blue water coast guard fleet in the world.

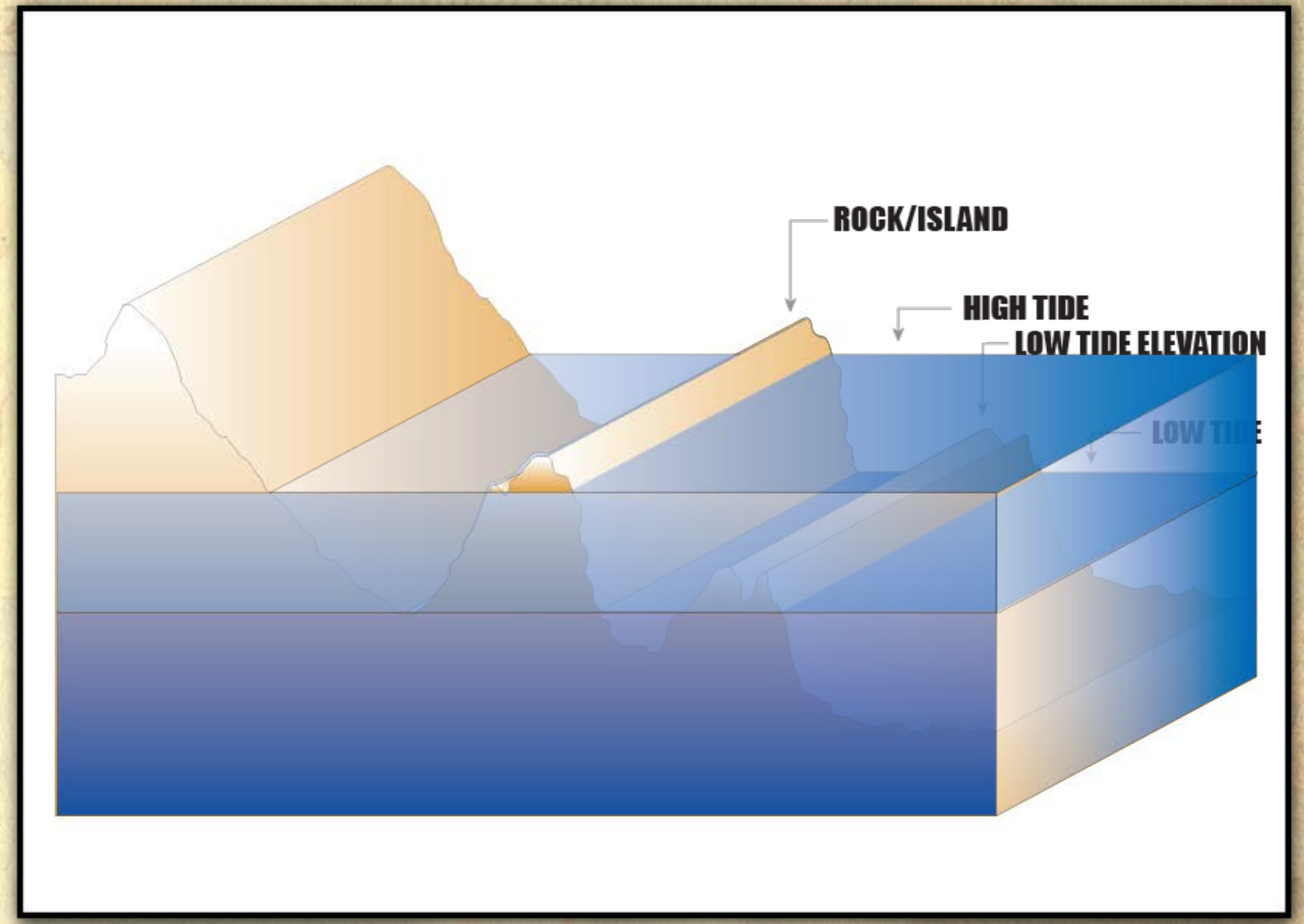
China's new "national boundaries" under the 9-dashed lines



What is a Low-Tide Elevation (LTE)?

A Low-Tide Elevation (LTE) is a naturally formed area of land (rock, reef, atoll or sandbar) surrounded by water, above water at low tide but **submerged at high tide**. An LTE is part of the submerged continental shelf. An LTE is not land or territory, and thus has no territorial sea (Art. 13, UNCLOS). An LTE beyond the territorial sea is not subject to appropriation by any State (Nicaragua v. Colombia, ICJ, 2012).

Low Tide Elevation vs. Rock/Island



A dispute over an LTE beyond the territorial sea is a **maritime** dispute.

Mischief (Panganiban) Reef in 1995, 2005 and 2012

Mischief Reef is an LTE within the Philippines' 200 NM EEZ, 125 NM from Palawan. It was occupied by China in 1995. At that time China said it was building only a fishermen's shelter. It is now a military garrison. A dispute over an LTE situated in the EEZ or CS of a coastal state is a maritime dispute.

Second Thomas (Ayungin) Shoal

Second Thomas (Ayungin) Shoal is an LTE within the Philippines' 200 NM EEZ. It is 105 NM from Palawan.

Is the Philippine arbitration case against China a ***territorial*** or a ***maritime*** dispute, or both?

The Philippine arbitration case against China is not a territorial dispute but **solely a maritime dispute** involving the interpretation or application of UNCLOS:

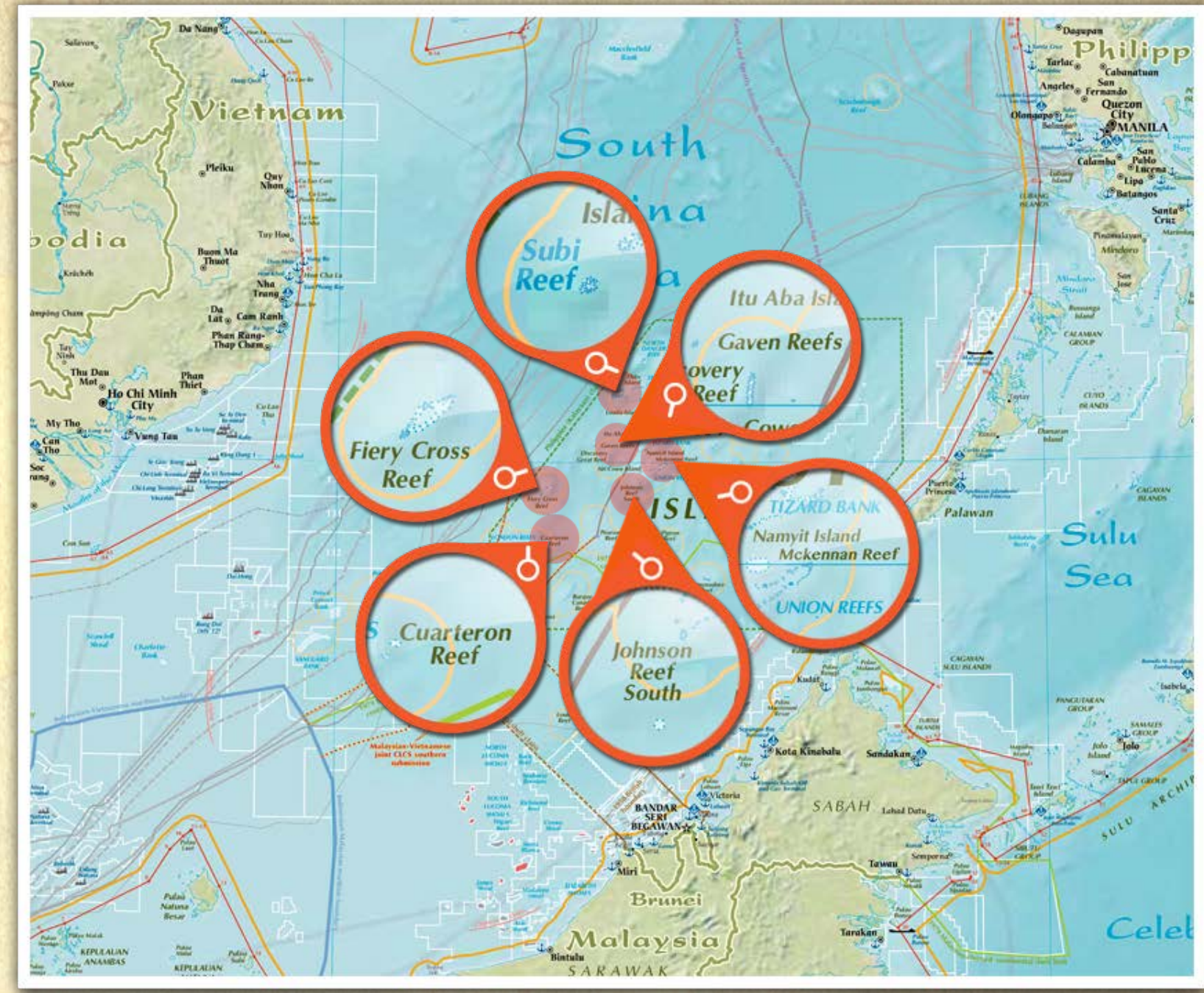
1. Whether China's 9-dashed lines, which are not measured from land (and thus not part of China's TS, EEZ or CS), can encroach on the 200 NM EEZ of the Philippines;

2. Whether certain geologic features, namely Mischief Reef, Second Thomas Shoal, and Johnson South Reef, all within the Philippines EEZ, are LTEs and therefore form part of the submerged continental shelf of the Philippines and as such are under Philippine jurisdiction; and whether Subi Reef, outside the Philippines' EEZ but within its continental shelf, is an LTE generating no maritime entitlements;

3. Whether certain geologic features, namely Gaven Reef* and McKennan Reef** (including Hughes Reef), are low-tide elevations which generate no maritime entitlements of their own, but their low-water line may be used to determine the baseline from which the territorial sea of Namyit Island and Sin Cowe Island, respectively, may be measured.

* 6.3 NM from Namyit Island
** 3.5 NM from Sin Cowe Island

4. Whether certain geologic features, namely, Fiery Cross Reef and Cuarteron Reef, outside the Philippines' EEZ but within its continental shelf, are mere rocks above water at high tide that generate no EEZ;


Subi Reef
Itu Aba Isl
Gaven Reefs
Fiery Cross Reef
TIZARD BANK
Namyit Island
Mckennan Reef
UNION REEFS
Cuarteron Reef
Johnson Reef South
Vietnam
South
Philipp
Sulu Sea
Palawan
Brunei
Malaysia
SABAH
SARAWAK
MANILA
Kota Kinabalu
Sandakan
Tawau
Tarakan
Miri
Bintulu
Ho Chi Minh City
Da Nang
Pleiku
Cam Ranh
Phan Rang-Thap Cham
Vung Tau
My Tho
Can Tho
Buon Ma Thuot
Nha Trang
Da Lat
Quezon City
Angeles
Cabanatuan
Tarlac
Dagupan
Calamba
Lucena
Batangas
Santa Cruz
Mindoro
Puerto Princesa
Kudat
Jolo
Semporna
Labad Datu
Victoria
BANDAR SERI BEGAWAN
Malaysian-Vietnamese joint CLCS southern submission
KEPULAUAN ANAMBAS
Pulau Natuna Besar

5. Whether Scarborough Shoal, whatever state owns it, is entitled to only a 12 NM territorial sea or also to a 200 NM EEZ.

All these disputes are **maritime** disputes involving the interpretation or application of UNCLOS.

The Philippines is **not** asking the tribunal to rule what state owns certain islands, or rocks above water at high tide.

The Philippines is asking the tribunal to rule what is the extent of the **maritime entitlements** (0, 12, or 200 NM) of certain islands or rocks, regardless of what state owns them; and whether certain geologic features are LTEs or not. All these are **maritime** disputes.

China's Reclamations in the Spratlys

China has on-going reclamations on seven (7) reefs, Fiery Cross Reef, Cuarteron Reef, Gaven Reef, Johnson South Reef, McKennan Reef, Mischief Reef and Subi Reef. These are all the reefs China occupies.

China explained that the reclamations are intended to "improve the living and working conditions of those stationed on the islands." Chinese Foreign Ministry Spokeswoman Hua Chunying asserted that China was building "civil functioning facilities such as typhoon shelters, navigation aids, search-and-rescue centers, marine meteorological forecasting stations, fishing services, and civil administration offices." The Spokeswoman, however, added that the reclamations would also be used for China's military defense. As the Chinese envoy to the U.S. Ambassador Cui Tankai explained, "Of course, there will be military facilities."

This is similar to China's explanation in 1995 that it occupied Mischief Reef to provide a "shelter" to its fishermen, which later turned out to be a military garrison. China is now reclaiming Mischief Reef and turning it into a 500-hectare military facility.

Fiery Cross (Kagitingan) Reef Pre-Reclamation 2012

Fiery Cross Reef is about 1 meter above water at high tide. It is just outside the Philippines' EEZ but within its continental shelf.

Fiery Cross Reef January 28, 2015

Seven (7) cutter suction dredgers and seven (7) cargo/supply vessels at Kagitingan (Fiery Cross Reef

Altitude: 5,000 feet Lat/long: n 09° 35' 51.60" e 112° 55' 47.51“

28 January 2015

Chinese Reclamation on Fiery Cross (Kagitingan) Reef
April 17, 2015

China's Planned Air and Naval Base on Fiery Cross Reef

Source: China State Shipbuilding Corporation

One of the reclamation projects of China will be an airbase with a seaport, expected to be completed in 2015. The airbase, with a 3,000 meter runway, will be in a 200-hectare reclamation on Fiery Cross Reef. This reclamation will be larger than the combined area of the 12 largest islands in the Spratlys, and twice the area of Diego Garcia Island, the U.S. airbase in the Indian Ocean.

Chinese Air & Naval Base on Fiery Cross (Kagitingan) Reef

China's J-16 Fighter-Bomber with 3,900 KM Range

The J-16's combat range covers the entire Philippines, Borneo and the Natuna Islands.

China's Strategic Bomber H-6K with 7,000 KM Range

The H-6K can carry under its wing pylons six conventional or nuclear armed CJ-10A cruise missiles with 2,200 KM range. Although the H-6 was first domestically produced in 1968, this upgraded version, using composite materials, modern avionics and a powerful radar, first entered service only in October 2009.

Johnson South (Mabini) Reef Pre-Reclamation

Image Credit: Johnson South Reef image via Google Earth

Johnson South Reef is an LTE within the Philippines' EEZ. [Note: Chinese, Philippine and other countries' nautical charts designate this as an LTE. Only the U.S. nautical chart designates this as a high tide feature.]

Johnson South (Mabini) Reef 2014

Chinese-made structures stand on the Johnson South Reef. Photo: AP

Johnson South (Mabini) Reef February 18, 2015

An LTE, which has no territorial sea, remains an LTE without a territorial sea despite reclamations that raise the LTE above water at high tide. Reclamations cannot convert an LTE into an island. In 1988, Chinese naval forces forcibly dislodged the Vietnamese soldiers guarding this LTE. Over 77 Vietnamese soldiers died in the battle. Johnson South Reef is within the Philippines' EEZ.

McKennan (Chigua) Reef Pre-Reclamation

McKennan Reef is an LTE within the Philippines' EEZ. It is within 12 NM of Sin Cowe Island.

McKennan (Chigua) Reef Pre-Reclamation 2014

McKennan (Chigua) Reef May 5, 2015

Total reclaimed Area: Approx 6.8 Hectares
Primary Building Approx 4, 128 sqm floor area 6-storey high
Port Facility: 1 Jetty, 1 Pier (can to cater to a 130-meter ship)
Distance to Palawan: 187 NM
Distance to China: 784 NM

Gaven Reef at Start of Reclamation 2014

Gaven Reef is outside of the Philippines' EEZ but within its continental shelf. Gaven Reef is an LTE within 12 NM of Namyit Island.

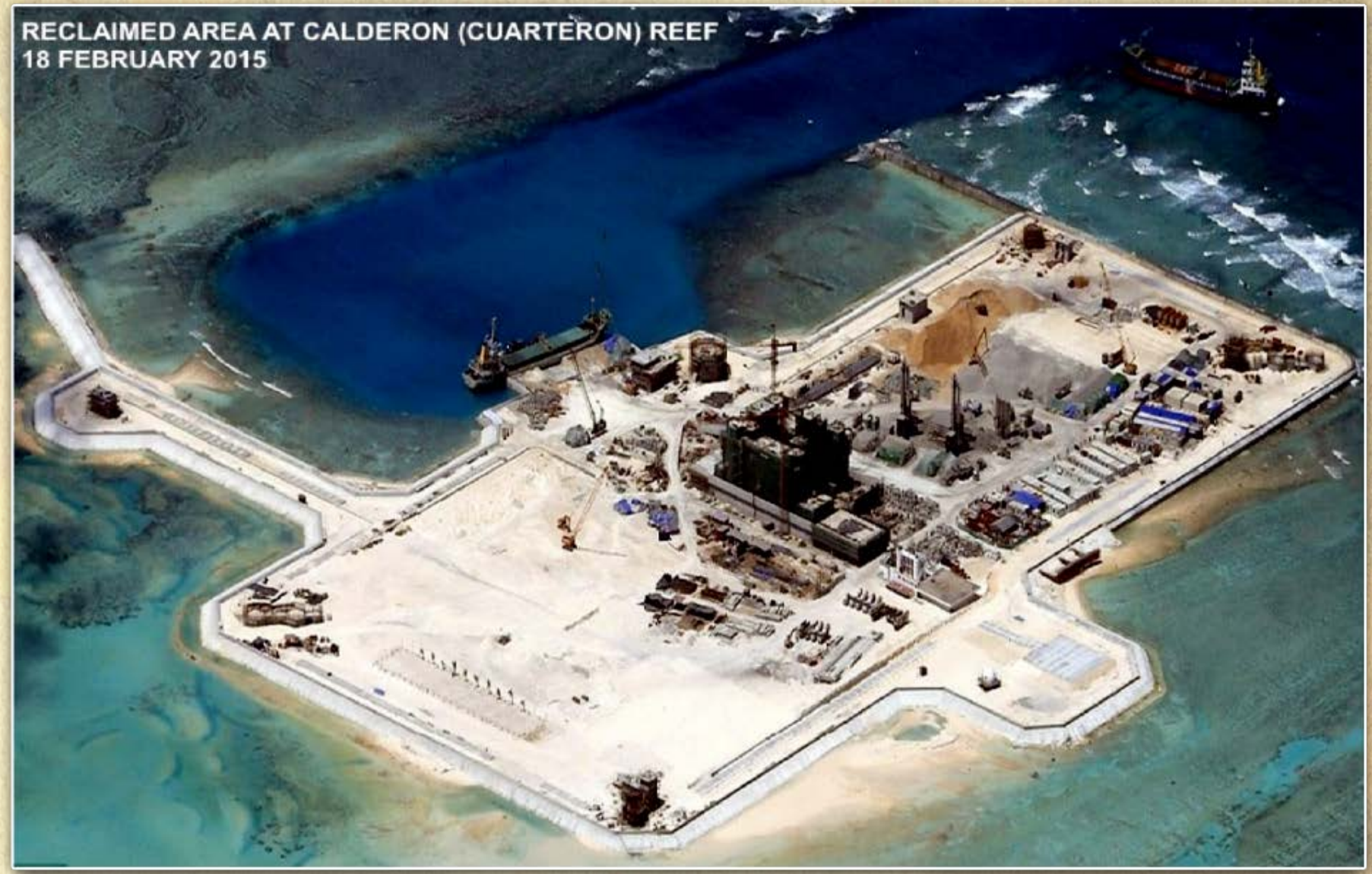
Gaven Reef Late 2014

Gaven Reef February 18, 2015

Cuarteron (Calderon) Reef Pre-Reclamation

Cuarteron Reef is outside the Philippines' EEZ but within its continental shelf. It is above water at high tide.

Cuarteron Reef February 18, 2015



Subi Reef Pre-Reclamation

Subi Reef is an LTE outside of the Philippines' EEZ but within its continental shelf.

Subi (Zamora) Reef Pre-Reclamation

Subi Reef May 6, 2015

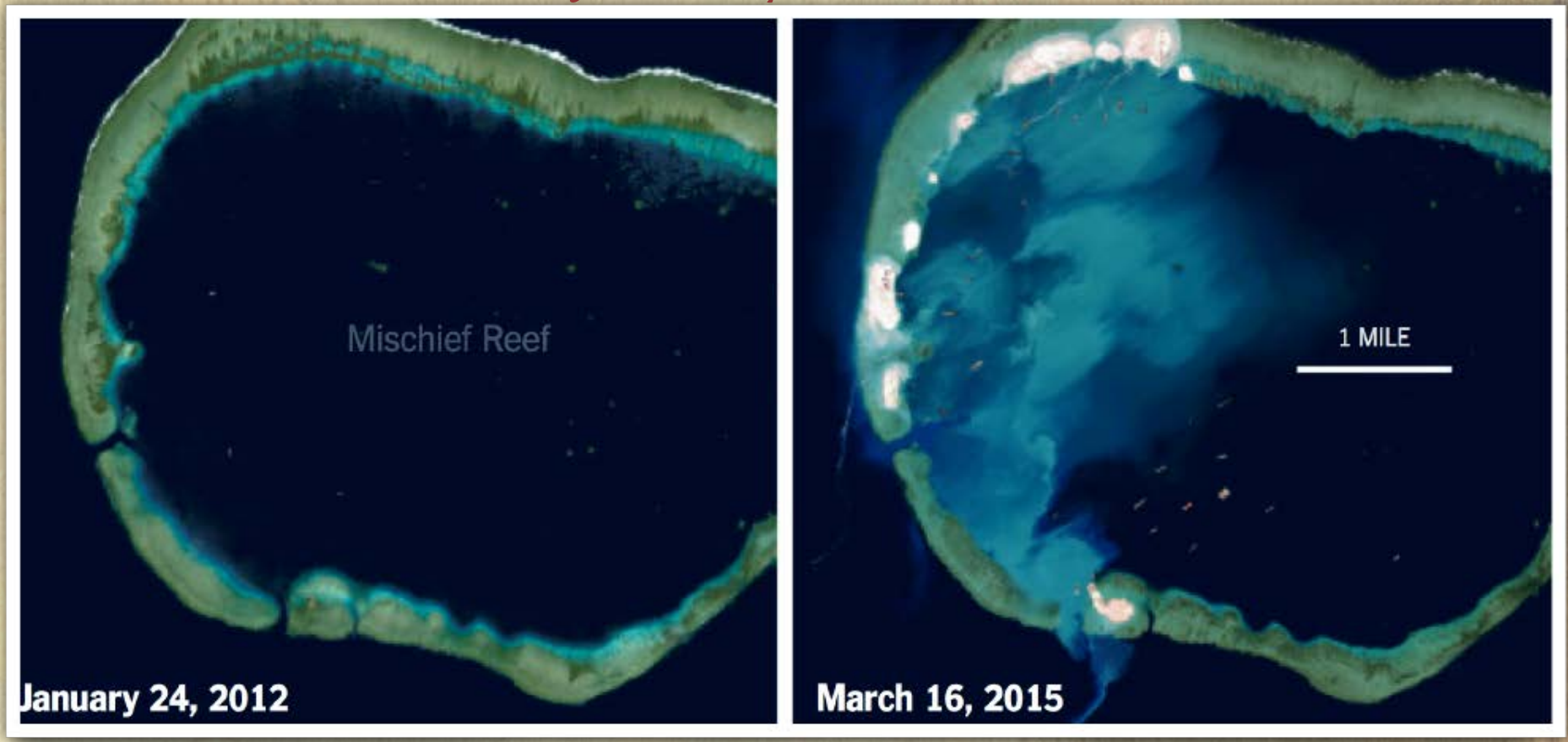
Mischief (Panganiban) Reef Pre-Reclamation

Mischief Reef is an LTE within the Philippines' EEZ.

Mischief Reef March 2015

China has deployed in Mischief Reef at least 23 dredgers and 28 concrete transport/mixing trucks, in addition to dozens of other earth-moving equipment. This appears to be the most massive reclamation of China. (Image from Center for Strategic and International Studies via Digital Globe)

Mischief Reef, January 2012 and March 2015



China's reclamation along the left side of the reef's ring is about 9 KMs in length. If China closes the edge of the upper reclamation and the edge of the lower reclamation running about 3.5 KM, the total reclaimed area can reach at least 500 hectares. This area is more than enough for an air and naval base, plus a garrison for thousands of marines. (Image from Center for Strategic and International Studies via Digital Globe)

MISCHIEF REEF
(PHOTO TAKEN: 13 APRIL 2015)

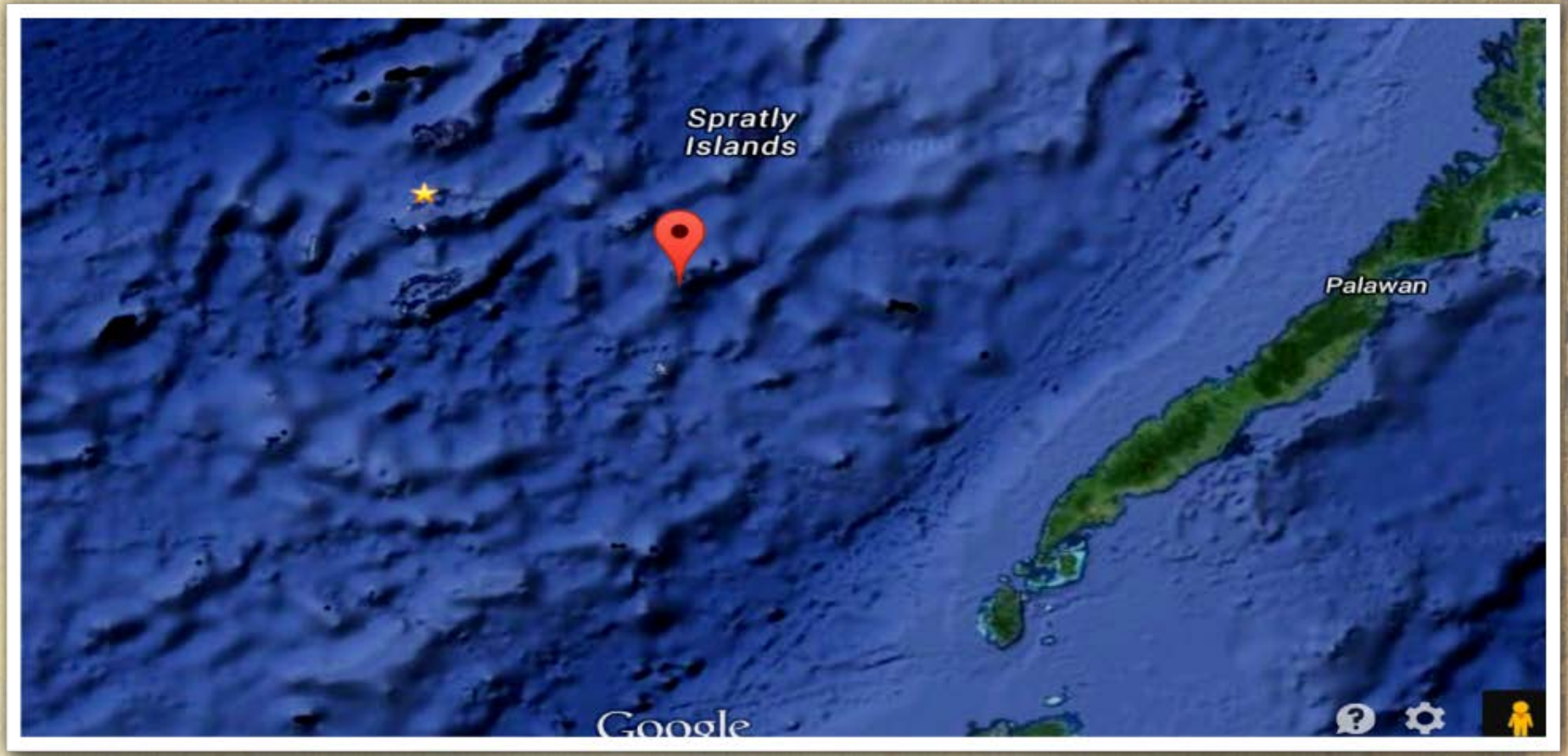
FISH CAGES AT PANGANIBAN (MISCHIEF) REEF, 15 JAN 2015

ORIGINAL STRUCTURE 2012

Total Reclaimed Area : Approx 7.3 Hectares
Port Facility : 1 Jetty
Distance to Palawan: 134 NM
Distance to China: 602 NM

SOURCE: http://thediplomat.com/2015/04/south-china-sea-chinas-unprecedented-spratlys-building-program/

Mischief Reef and Palawan, 125 NM Distance

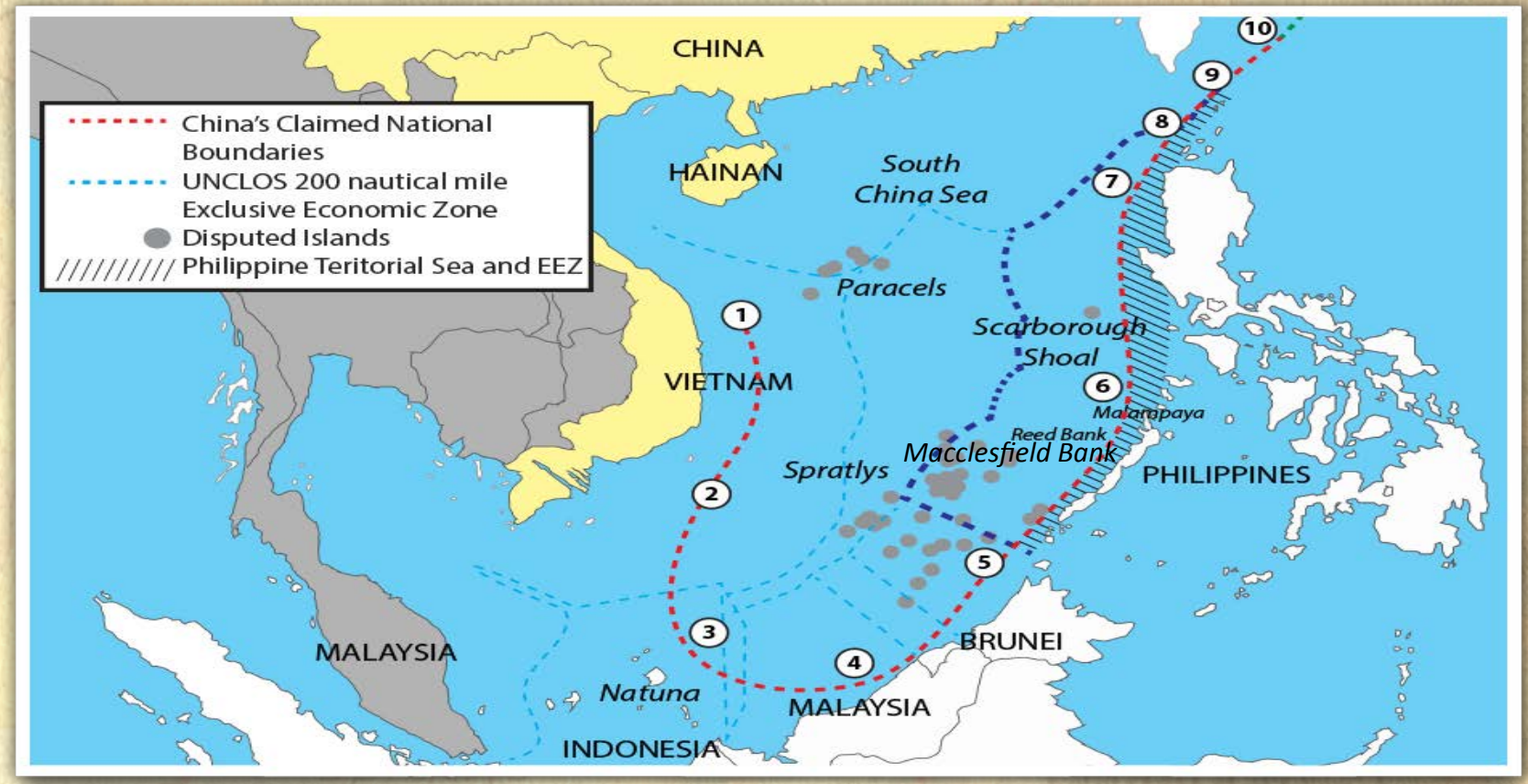


Mischief Reef is an LTE that is 125 NM from Palawan, well within the 200 NM EEZ of the Philippines. As an LTE, Mischief Reef is part of the submerged continental shelf of the Philippines. With an air and naval base in Mischief Reef between Palawan and all the Philippine-occupied islands in the Spratlys, China can block Philippine ships re-supplying Philippine-occupied islands in the Spratlys.

China's New Airbase on Woody Island, the Paracels

Woody Island has an area of 213 hectares. It has a a 2,700 meter runaway that can handle all of China's 4th generation fighter aircraft as well as the H-6K strategic bomber.

China's new "national boundaries" under the 9-dashed lines



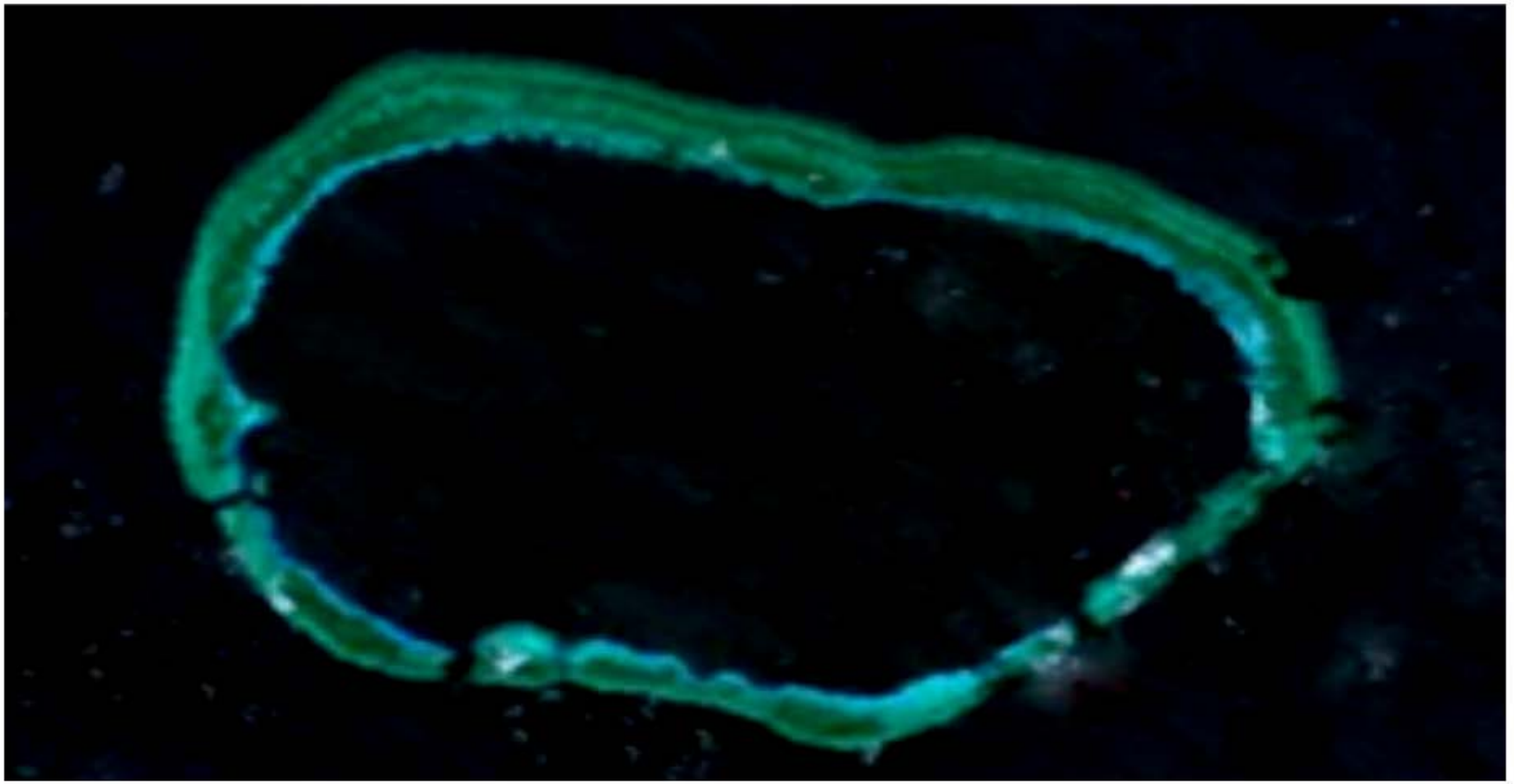
In the 1960s, China's southernmost defense perimeter was Hainan Island and the Amphitrite Group of the Paracels. In 1974, China forcibly dislodged the South Vietnamese from the Crescent Group of the Paracels, moving China's defense perimeter further south in the Paracels. In 1988, China forcibly evicted Vietnam from Johnson South Reef, moving China's southernmost defense perimeter to the Spratlys. In 1995, China seized Mischief Reef from the Philippines, just 125 NM from Palawan. In 2012, China seized Scarborough Shoal from the Philippines, just 124 NM from Luzon.

Protect and Preserve the Marine Environment

Article 192 of UNCLOS mandates, "**States have the obligation to protect and preserve the marine environment.**"

China's massive and wanton reclamation in the Spratlys is destroying the marine environment.

Mischief Reef - A 30-Million Year Work of Nature



It takes 30 million years for the reefs of an atoll like Mischief Reef to form. Reefs are the breeding ground of fish. In the Spratlys, the eggs spawned by the fish are carried by currents as far away as Indonesia. Once the sand supporting the reefs are removed, the reefs collapse. Reefs need clear waters to grow. Reclamations make the waters turbid, unhealthy for both reefs and fish. China is reclaiming on seven (7) reefs in the Spratlys. The coral reefs in the South China Sea comprise 34% of the world's total coral reefs, despite the South China Sea occupying only 2.5% of world's total ocean and sea surface.

Who can create artificial islands, or erect structures on LTEs, in the EEZ or CS?

Only the adjacent coastal state has the right to create artificial islands, or erect structures on LTEs, within its EEZ or CS (Arts. 60 & 80, UNCLOS). Thus, such artificial islands or structures put up by other states within the EEZ or CS of a coastal state are illegal under UNCLOS.

Thus, Article 60, **Part VI** of UNCLOS, on "*Artificial islands, installations and structures in the exclusive economic zone*," states:

"1. **In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:**

(a) **artificial islands;**

(b) **installations and structures** for the purposes provided in Article 56 (**exploitation of non-living resources in the seabed**, marine scientific research, protection and preservation of marine environment) and **other economic purposes;**

(c) xxx."

"2. **The coastal state shall have exclusive jurisdiction over such artificial islands, installations and structures**, including jurisdiction with regard to customs, fiscal, health safety and immigration laws and regulations."

Article 80, **Part VI** of UNCLOS, on "*Artificial islands, installations and structures on the continental shelf*," states:

> "Article 60 applies *mutatis mutandi* to artificial islands, installations and structures **on the continental shelf**."

Clearly, China's reclamations on LTEs in the EEZ and continental shelf of the Philippines violate UNCLOS and are thus illegal under international law.

Illegal Structures/Reclamations on LTEs

China has installed artificial structures, and is reclaiming, on two LTEs within the Philippines' EEZ, namely, Mischief Reef and Johnson South Reef. These LTEs are outside the territorial sea of any island and thus cannot be claimed by any other country except the Philippines.

China has installed artificial structures, and is reclaiming, on Subi Reef, an LTE which is outside the Philippines' EEZ but within its continental shelf. Subi Reef is also outside the territorial sea of any island and thus cannot be claimed by any other country except the Philippines.

The Chinese structures/reclamations on these three LTEs are illegal under UNCLOS.

China Cannot Invoke Freedom of the High Seas To Create Islands in High Seas

Article 87, Part VII

Freedom of the high seas

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

(a) xxx

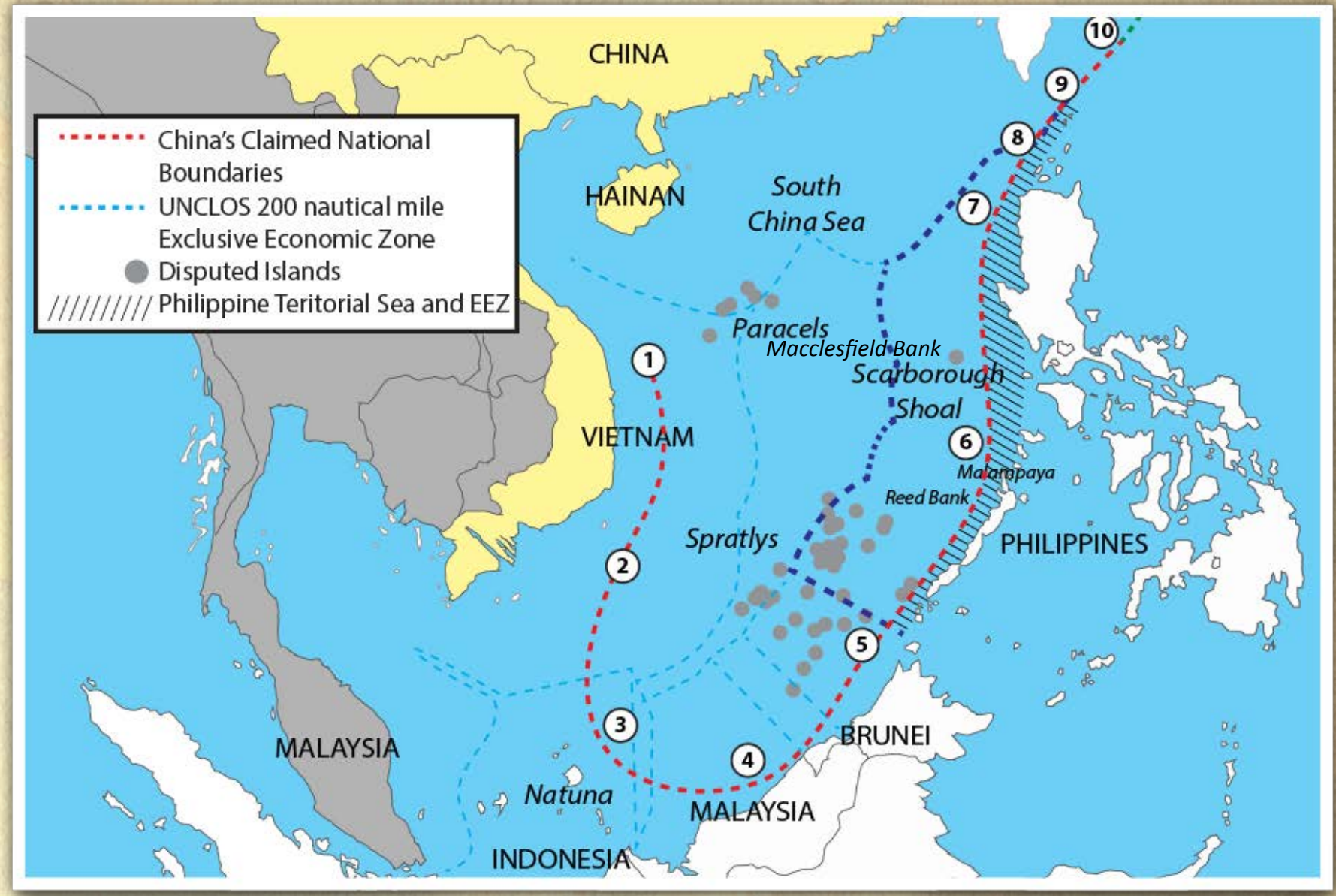
xxx

(d) **freedom to construct artificial islands and other installations permitted under international law, <u>subject to Part VI</u>**; *[Note: referring to Art. 80, Part VI]*

xxx.

Article 87(d) applies only if a coastal state cannot claim a continental shelf beyond its EEZ because there is no natural prolongation of its continental shelf from its land mass. Even then, any artificial island or installation erected on the high seas must be for peaceful purposes only (non-military) because Article 88 of UNCLOS mandates that "**the high seas shall be reserved for peaceful purposes.**"

China's new "national boundaries" under the 9-dashed lines



Do LTEs and artificial islands acquire a maritime zone if by reclamation they are raised above water at high tide ?

No. UNCLOS defines an island as a "**naturally formed**" area of land, surrounded by water, and **above water at high tide**. (Art. 121, UNCLOS)

Article 60(8) of UNCLOS provides:

> "8. **Artificial islands, installations and structures do not possess the status of islands**. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone, or the continental shelf.

Artificial islands reclaimed from **LTEs** beyond the territorial sea, such as Mischief Reef, Johnson South Reef and Subi Reef:

1. Are not islands or rocks above water at high tide;
2. Do not have a territorial sea;
3. Do not have territorial airspace;
4. Do not have EEZ or CS;
5. If illegally erected (as China has done), do not even have a 500-meter safety zone.

Reclamations Tamper with the Evidence

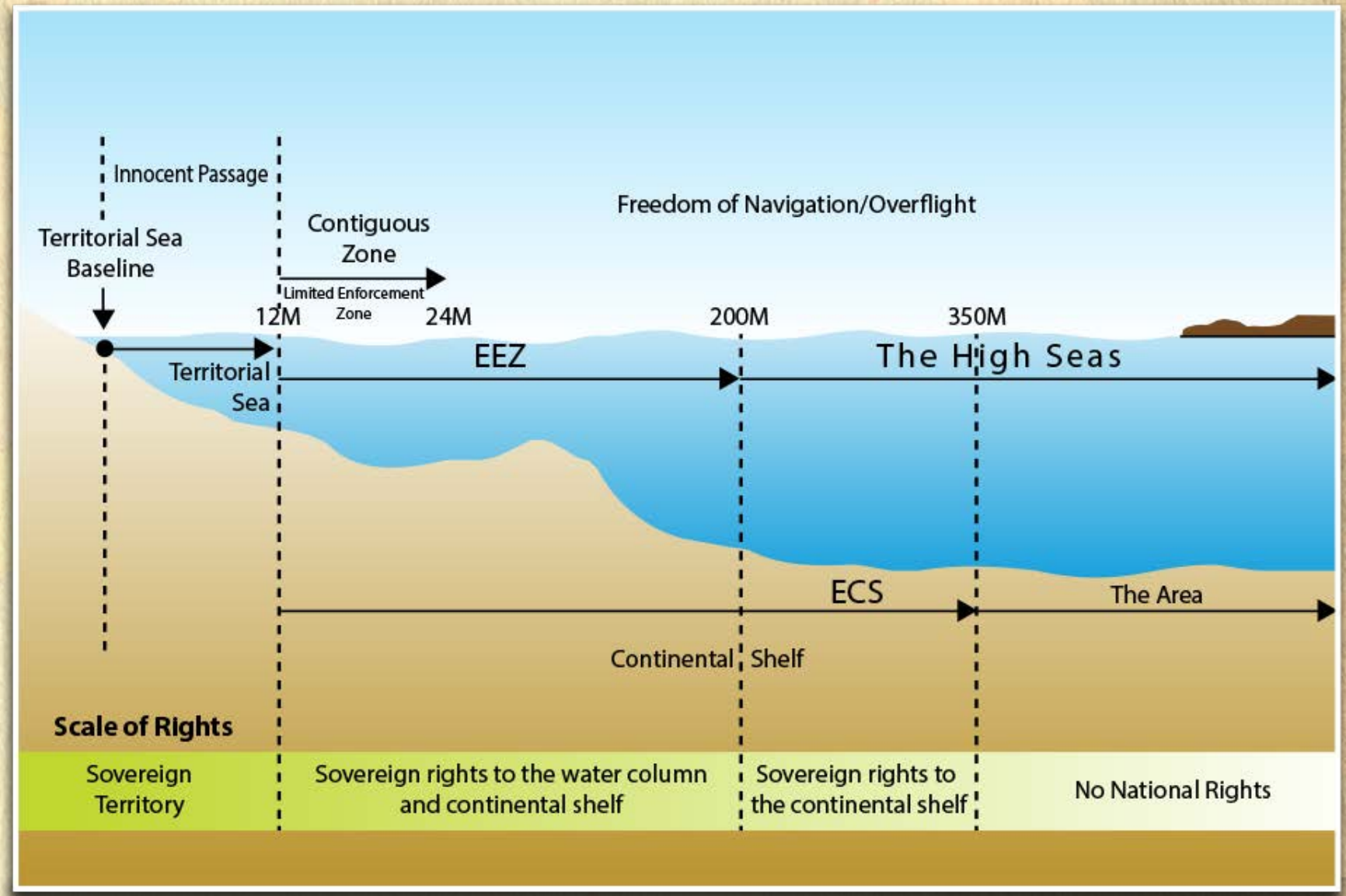
How can the Philippines establish before the Tribunal that Mischief Reef, Gaven Reef, Subi Reef and McKennan Reef are LTEs when China has already covered them with sand and these geologic features are now permanently above water at high tide?

The Philippines can show that China's own nautical charts prior to the reclamations designate these four geologic features as LTEs, just like Philippine nautical charts. The nautical charts of other countries, such as those of the United Kingdom, the United States, Japan, Russia and Vietnam are unanimous in their designations of these geologic features as LTEs .

Can a state claim historic rights to maritime zones?

Historic rights or historic title cannot be invoked to claim EEZs or CSs. The creation of the EEZ under UNCLOS, with "sovereign rights" (supreme rights) granted to the adjacent coastal state, extinguished all historic rights or claims by other states to the EEZ of a coastal state. The word "exclusive" in the term EEZ means the economic exploitation of the zone is **exclusive** to the adjacent coastal state. No one may exploit the natural resources in the EEZ without the express consent of the coastal state (Art. 77[3], UNCLOS).

Maritime Zones under UNCLOS



Is there legal basis under international law to China's 9-dashed lines claim?

There is no legal basis whatsoever. The well-entrenched doctrine in the law of the sea is that "**the land dominates the sea.**" This means that for non-archipelagic states like China, all maritime zones must be "**measured from baselines**" "**along the coast**" of continental land, island or rock (Arts. 3, 57 & 76, UNCLOS). China's 9-dashed lines are not measured from baselines along its coast, and thus do not comply with the basic requirement under UNCLOS for validly drawing maritime zones.

The high seas have always been part of the global commons, whether before or after UNCLOS. The high seas could not be subject to sovereignty by any state, whether before or after UNCLOS.

UNCLOS declares: "The high seas are open to all states, whether coastal or land-locked. Freedom of the high seas xxx comprises, *inter alia*, xxx **freedom of fishing**" (Art. 87, UNCLOS).

UNCLOS declares: "No state may validly purport to subject any part of the high seas to its sovereignty" (Art. 89, UNCLOS).

South China Sea, EEZs, and 9-dashed lines

Waters Hainan Claims under its Administration

The enclosed waters under Hainan's administration comprise 2 million square kilometers out of the 3.5 square kilometers total surface area of the South China Sea. China claims a total of 3 million square kilometers or 85.7% of the waters of the South China Sea. Macclesfield Bank, which is part of the high seas, is within the enclosed waters.

Article 35 of the Hainan Province's 2014 Fishery Regulations, which took effect on January 1, 2014, mandate that foreign fishing vessels "**entering the waters under the jurisdiction of this province (Hainan) to engage in fishery operations or fishery resource surveys shall secure approval from relevant departments of the State Council.**"

The Fishery Regulations apply to Macclesfield Bank, which is part of the high seas. Moreover, Hainan unilaterally imposes an annual fishing ban from mid-May to end July on waters in and around the Paracels, **Macclesfield Bank** and Scarborough Shoal.

海南省实施《中华人民共和国渔业法》办法

Hainan Province's Measures to Implement the "Fisheries Law of the People's Republic of China"

时间：2013-12-07 05:20 来源： 海南日报 作者

Time: 2013-12-07 05:20 Author: Hainan Daily

海南省实施《中华人民共和国渔业法》办法

Hainan Province's Measures to Implement the "Fisheries Law of the People's Republic of China"

1993年5月31日海南省第一届人民代表大会常务委员会第二次会议通过根据2008年7月31日海南省第四届人民代表大会常务委员会第四次会议关于修改《海南省实施〈中华人民共和国渔业法〉办法》的决定修正2013年11月29日海南省第五届人民代表大会常务委员会第五次会议修订)

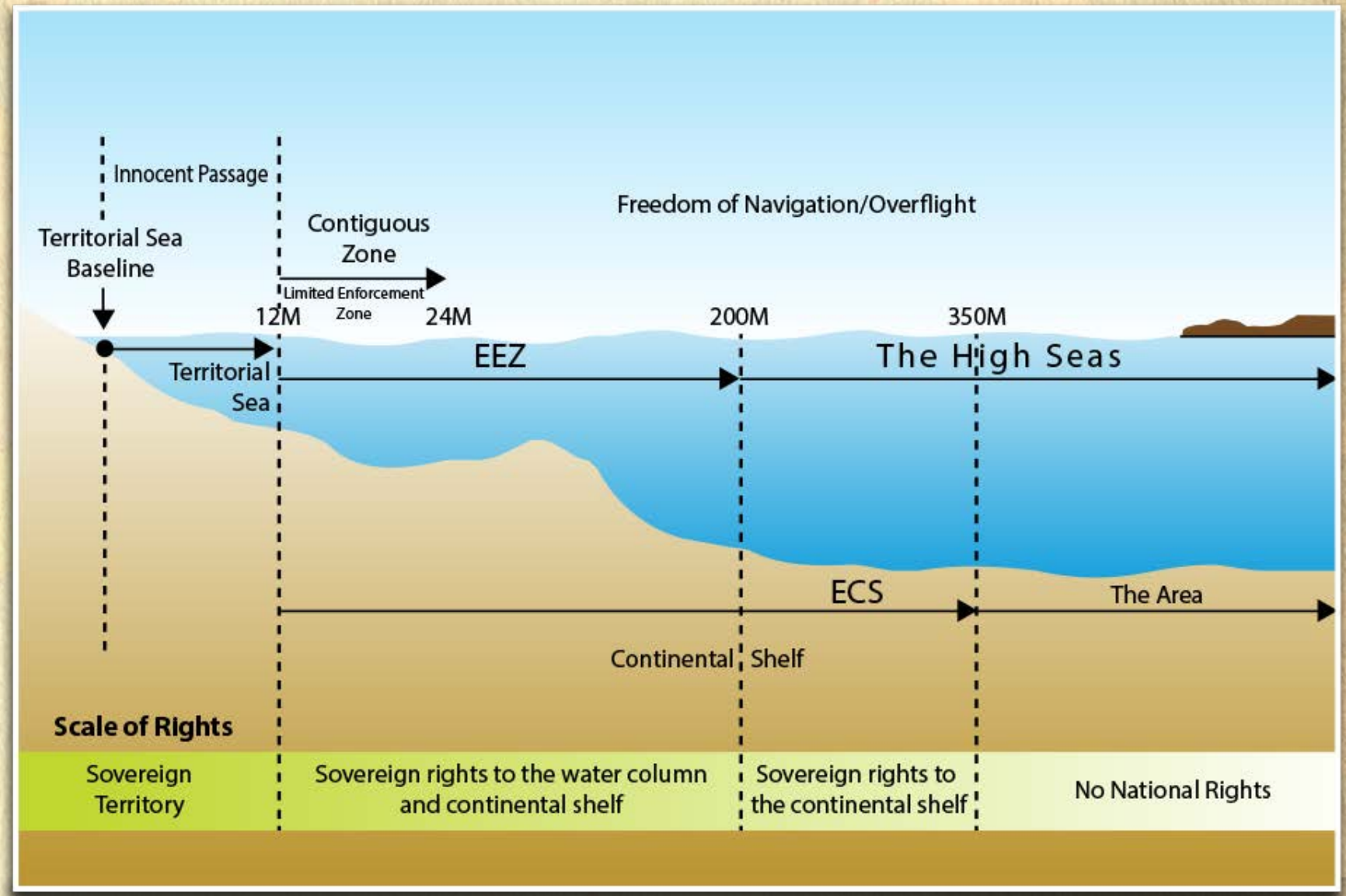
第三十五条外国人、外国渔船进入本省管辖水域进行渔业生产或者渔业资源调查活动应当经国务院有关主管部门批准。

Article 35. Any foreigners and foreign fishing vessels entering the waters under the jurisdiction of this province to engage in fishing operations or fisheries resource surveys shall obtain the approval of the relevant administrative department of the State Council.

By appropriating for itself the fishery resources in the high seas of the South China Sea, China is committing a grand theft of the global commons.

All states, coastal and landlocked, are **interested parties in the South China Sea dispute** because China is appropriating for itself the fishery resources in the high seas.

Maritime Zones under UNCLOS



2002 ASEAN-China Declaration of Conduct

The South China Sea dispute shall be resolved "**in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.**"

China Insists on Respect for Historical Facts

After the Philippines filed in January 2013 its arbitration case against China under UNCLOS, China's Foreign Minister Wang Yi declared that the South China Sea dispute should be resolved in accordance with "**historical facts and international law.**"

The Truth about China's "Historical Facts"

We gladly accept China's invitation to look at the historical facts. We shall examine:

(1) China's so-called **sovereignty markers** in the Paracels and the Spratlys;
(2) **Ancient maps** of China and the Philippines;
(3) The **Republican Constitutions of China**;
(4) **Official declarations** of China to the world;
(5) The **veracity** of respective historical claims of China and the Philippines to Scarborough Shoal.

China's "Abundant Historical Evidence"

Chinese officials have repeatedly declared to the world that China has "**abundant historical evidence**" to prove its "indisputable sovereignty" over the islands and waters enclosed by the 9-dashed lines.

A noted French geographer, Francois-Xavier Bonnet, who has made an extensive research on the South China Sea dispute, exposed in a forum at the Ateneo Law School in Manila last March 27, 2015 that China actually **planted** its so-called "abundant historical evidence" in the Paracels and the Spratlys.

China's False Sovereignty Markers

"Several authors writing about the Chinese claim to the Paracel Islands have dated the first official Chinese expedition to these islands to 1902. However, none of these writers have been able to show any records of this expedition taking place. In fact, Chinese records show that the expedition never happened. **Instead, a secret expedition took place decades later to plant false archeological evidence on the islands in order to bolster China's territorial claim.** The same strategy has been applied in the Spratly islands: the sovereignty markers of 1946 had been placed, in fact, ten years later, in 1956."

François-Xavier Bonnet, *ARCHEOLOGY AND PATRIOTISM: LONG TERM CHINESE STRATEGIES IN THE SOUTH CHINA SEA*, Paper presented at the Southeast Asia Sea Conference, Ateneo Law Center, Makati City, March 27, 2015. François-Xavier Bonnet is a geographer and a Research Associate of the French Institute for Research on Contemporary Southeast Asia (Irasec). He has published, among others, "Geopolitics of Scarborough Shoal", Irasec's discussion paper 14, November 2012, http://www.irasec.com/ouvrage34 email: mpdbonnet@yahoo.com.

Chinese Sovereignty Markers

Steles from the Guangxu reign (1882-1902) on one of the Xisha Island
Source: Thomas H. Hahn Docu-Images. http://hahn.zenfolio.com/xisha/h1D468115#h1d468115

"There is a simple reason why no scholar has been able to unearth any historical records of the 1902 expedition: it never happened. Instead evidence of a 1902 voyage was concocted at a much later date: 1937.

In **June 1937**, the chief of Chinese military region no. 9, Huang Qiang, was sent to the Paracels with two missions: Firstly to check reports that the Japanese were invading the islands and secondly to reassert Chinese sovereignty over them. xxx."

François-Xavier Bonnet, *ARCHEOLOGY AND PATRIOTISM: LONG TERM CHINESE STRATEGIES IN THE SOUTH CHINA SEA*, Paper presented at the Southeast Asia Sea Conference, Ateneo Law Center, Makati City, Mach 27, 2015.

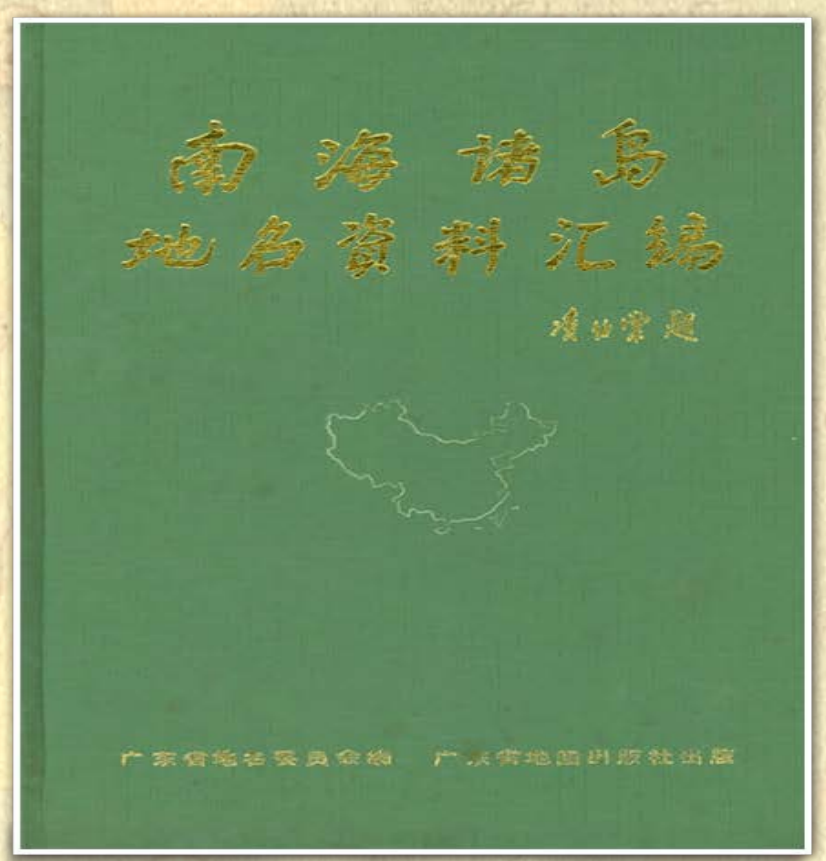
Confidential Annex of Report of June 1937 Mission

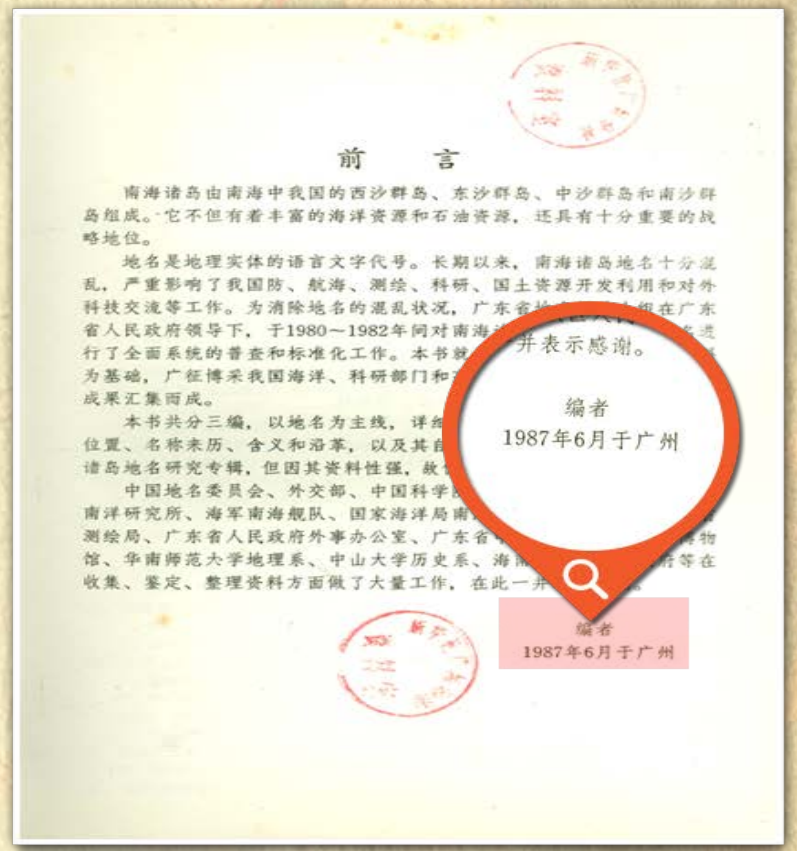
Huang Qiang made a Report of his June 1937 secret mission. The Report was published but a **confidential annex** of the Report was not published. However, in 1987 the confidential annex was published, apparently inadvertently.

"xxx **the confidential annex of this report had been published in 1987 by the Committee of Place Names of Guangdong Province in a book titled '***Compilations of References on the Names of All our Islands of Nan Hai.***' This annex gives the details of the actions of Huang Qiang in the Paracels.**"

François-Xavier Bonnet, *ARCHEOLOGY AND PATRIOTISM: LONG TERM CHINESE STRATEGIES IN THE SOUTH CHINA SEA*, Paper presented at the Southeast Asia Sea Conference, Ateneo Law Center, Makati City, March 27, 2015.

The 1987 Book That Revealed the Confidential Annex





Compilation of References of the Names of All the South Sea Islands [Nan Hai zhu dao di ming zi liao hui bian], Guangdong Map Publishing Company [Guangdong sheng di tu chu ban she], published in 1987 by the **Committee of Place Names of the Guangdong Province** [Guangdong sheng di ming wei yuan hui].

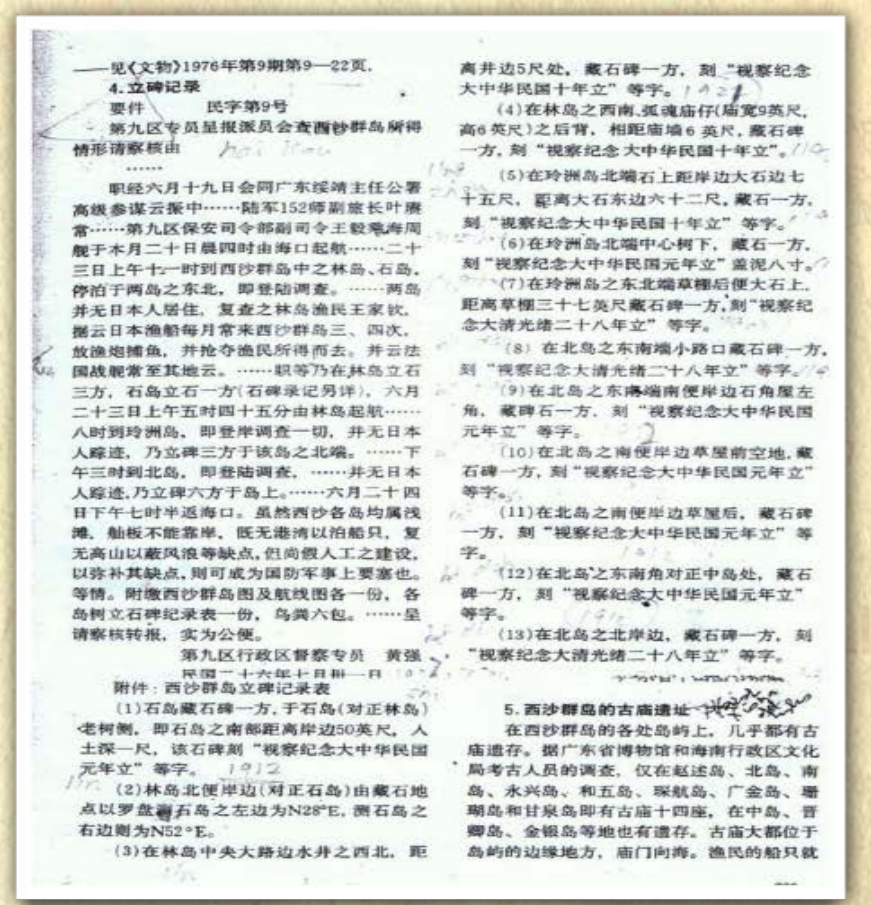
Summary of Antedated Markers Planted in 1937 in the Paracels

Island in Paracels	Date of Inscription on Marker
1. Woody Island	1911
2. Woody Island	1921
3. Woody Island	1921
4. Ling Zhou Island	1921
5. Ling Zhou Island	1911
6. Ling Zhou Island	1911
7. North Island	1902
8. North Island	1911
9. North Island	1911
10. North Island	1911
11. North Island	1911
12. North Island	1902

Summary of Antedated Markers Planted in 1956 in the Spratlys

Island in Spratlys	Date of Inscription on Marker
1. West York Island (Likas)	December 1946
2. Spratly Island	December 1946

Page 289, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Paracels



——见《文物》1976年第9期第9—22页.

4. 立碑记录

要件　　民字第9号

第九区专员呈报派员会查西沙群岛所得情形请察核由

……

职经六月十九日会同广东绥靖主任公署高级参谋云振中……陆军152师副旅长叶赓常……第九区保安司令部副司令王毅亭,海周舰于本月二十日晨四时由海口起航……二十三日上午十一时到西沙群岛中之林岛、石岛,停泊于两岛之东北,即登陆调查。……两岛并无日本人居住,复查之林岛渔民王家钦,据云日本渔船每月常来西沙群岛三、四次,放渔炮捕鱼,并抢夺渔民所得而去。并云法国战舰常至其地云。……职等乃在林岛立石三方,石岛立石一方(石碑录记另详),六月二十三日上午五时四十五分由林岛起航……八时到玲洲岛,即登岸调查一切,并无日本人踪迹,乃立碑三方于该岛之北端。……下午三时到北岛,即登陆调查,……并无日本人踪迹,乃立碑六方于岛上。……六月二十四日下午七时半返海口。虽然西沙各岛均属浅滩,舶板不能靠岸,既无港湾以泊船只,复无高山以蔽风浪等缺点,但尚假人工之建设,以弥补其缺点,则可成为国防军事上要塞也。等情。附缴西沙群岛图及航线图各一份,各岛树立石碑纪录表一份,鸟粪六包。……呈请察核转报,实为公便。

第九区行政区督察专员　黄强

民国二十六年七月[illegible]日

附件:西沙群岛立碑记录表

(1)石岛藏石碑一方,于石岛(对正林岛)老树侧,即石岛之南部距离岸边50英尺,入土深一尺,该石碑刻"视察纪念大中华民国元年立"等字。

(2)林岛北便岸边(对正石岛)由藏石地点以罗盘测石岛之左边为N28°E,测石岛之右边则为N52°E。

(3)在林岛中央大路边水井之西北,距离井边5尺处,藏石碑一方,刻"视察纪念大中华民国十年立"等字。

(4)在林岛之西南,弧魂庙仔(庙宽9英尺,高6英尺)之后背,相距庙墙6英尺,藏石碑一方,刻"视察纪念大中华民国十年立"。

(5)在玲洲岛北端石上距岸边大石边七十五尺,距离大石东边六十二尺,藏石一方,刻"视察纪念大中华民国十年立"等字。

(6)在玲洲岛北端中心树下,藏石一方,刻"视察纪念大中华民国元年立"盖泥八寸。

(7)在玲洲岛之东北端草棚后便大石上,距离草棚三十七英尺藏石碑一方,刻"视察纪念大清光绪二十八年立"等字。

(8)在北岛之东南端小路口藏石碑一方,刻"视察纪念大清光绪二十八年立"等字。

(9)在北岛之东南端南便岸边石角屋左角,藏碑石一方,刻"视察纪念大中华民国元年立"等字。

(10)在北岛之南便岸边草屋前空地,藏石碑一方,刻"视察纪念大中华民国元年立"等字。

(11)在北岛之南便岸边草屋后,藏石碑一方,刻"视察纪念大中华民国元年立"等字。

(12)在北岛之东南角对正中岛处,藏石碑一方,刻"视察纪念大中华民国元年立"等字。

(13)在北岛之北岸边,藏石碑一方,刻"视察纪念大清光绪二十八年立"等字。

5. 西沙群岛的古庙遗址

在西沙群岛的各处岛屿上,几乎都有古庙遗存。据广东省博物馆和海南行政区文化局考古人员的调查,仅在赵述岛、北岛、南岛、永兴岛、和五岛、琛航岛、广金岛、珊瑚岛和甘泉岛即有古庙十四座,在中岛、晋卿岛、金银岛等地也有遗存。古庙大都位于岛屿的边缘地方,庙门向海。渔民的船只就

Page 289, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Paracels

第九区行政区督察专员　黄强
民国二十六年七月卅一日

Huang Qiang
Chief of No. 9 Administrative Region
31 July 1937

xxx

Stone Tablets Erection Records on the Paracel Islands

One stone tablet can be found beside the old tree on the southern side of Shi Dao (Rocky Island) facing Lin Dao (Woody Island), which is 50 feet from shore. **The tablet's base was buried at a depth of 1 foot.** "*Commemorating the Inspection of 1911*" **was carved on the tablet;**

xxx

Northwest to the well near Central Road on Lin Dao (Woody Island), around 5 feet near the well, another tablet can be found with the inscription "*Commemorating the Inspection of 1921*";

Page 289, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Paracels

At the southwest of Lin Dao (Woody Island), at the back of Guhun Temple (6 feet high and 9 feet wide), 6 feet from the temple wall, one tablet can be found with the inscription "*Commemorating the Inspection of 1921*";

75 feet near the shore of the north side of Lingzhou Dao (Lingzhou Island), 62 feet to the east of a big stone, a tablet can be found with the inscription "*Commemorating the Inspection of 1921*";

Page 289, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Paracels

At the center of northern Lingzhou Dao (Lingzhou Island), a stone tablet can be found under the tree with the inscription "*Commemorating the Inspection of 1911*" with its base buried 8 feet into the ground;

At the back of the straw huts at the northeast of Lingzhou Dao (Lingzhou Island), 37 feet from the huts, a tablet can be found with the inscription "*Commemorating the Inspection of 1911*";

Page 289, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Paracels

At one end of the road at the southeast of Bei Dao (North Island), a tablet can be found with the inscription "*Commemorating the Inspection of 1902*";

At the left corner of the stone house on the southern shore of southeast Bei Dao (North Island), a stone tablet can be found with the inscription "*Commemorating the Inspection of 1911*";

In front of the straw huts located at the southern shore of southeast Bei Dao (North Island), a stone tablet can be found with the inscription "*Commemorating the Inspection of 1911*";

Page 289, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Paracels

At the back of the straw huts located on the southern shore of southeast Bei Dao (North Island), a stone tablet can be found with the inscription "*Commemorating the Inspection of 1911*";

At the southeastern corner of Bei Dao (North Island), facing Zhong Dao (Middle Island), a stone tablet can be found with the inscription "*Commemorating the Inspection of 1911*";

At the northern shore of Bei Dao (North Island), a tablet can be found with the inscription "*Commemorating the Inspection of 1902*".

Page 291, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Spratlys

“西月岛在太平岛的东北，距太平岛四十四海里。。。。岛上寂无人烟。。。南端有椰树数株，树旁有一石碑，刻‘西月岛’三字，字甚大，笔力有劲，右旁刻‘民国三十五年十二月立’十个小字。另外，在海边有石板架成之小庙一座，但已破旧不堪，上刻文字亦模糊不辨，也许是我早期渔民所建。”（第66页）

Xiyue Dao (West York Island) is located 44 nautical miles northeast of Taiping Dao (Itu Aba Island). ... No residents inhabit the island. ... Several coconut trees are located at the south side of the island. **Besides trees, there is a stone tablet with the inscription “Xiyue Dao (West York Island)” in three large Chinese characters with ten smaller characters on its right with the inscription “Erected on December 1946”**. xxx (Page 66)

[Lecturer’s Note*: West York Island, called Likas Island by the Philippines, has an area of 18.6 hectares, the third largest island in the Spratlys. It is occupied by the Philippines.*]

Page 291, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Spratlys

“（南威岛）岛的中央有石碑一具，刻‘南威岛’三字，旁注‘民国三十五年十二月立’一行字。。。岛西另有高丈土地庙一座，内有香炉一只，但无神象，想因年代湮化了”。（第72页）

A stone tablet was erected at the center of Nanwei Dao (Spratly Island), with the inscription “Nanwei Dao (Spratly Island)” and “Erected on December 1946”. ... Another Earth God Temple can be found in the western part of the island with only the censer (container where incense is burned) present inside. The Earth God figurine may have already eroded. (Page 72)

xxx

Page 291, the Annex to the 1987 Book Revealing the Planting of Antedated Markers in the Spratlys

—见《中国南海诸群岛文献汇编之八》，张振国：《南沙行》，1957年5月成书，台湾学生书局，1975年1月版。

Zhang Zhenguo. *Trip to the Spratly Islands*, written in May 1957 and **published in January 1975;** *The 8th compilation of documents on the South China Sea Islands*.

编者按：据广东省接收南沙群岛专员麦蕴瑜谈，1946年太平舰和中业舰并没有到西月岛和南威岛。据此两岛石碑可能是1956年台湾省海军巡视所立。

Editors' note: According to Mai Wenyu who was assigned by the Guangdong government to retake the Spratly Islands from the Japanese invaders, Chinese navy ships did not reach Xiyue Dao (West York Island) and Nanwei Dao (Spratly Island). Thus, stone tablets on these two islands might have been erected by the Taiwanese Navy in 1956.

Effect of China's Planted Historical Evidence

If you plant, falsify, fabricate, or manufacture historical evidence, then naturally you will easily have "abundant historical evidence." However, such "evidence" is totally worthless and self-defeating. If discovered and exposed, such planted evidence completely destroys the case and credibility of the perpetrator.

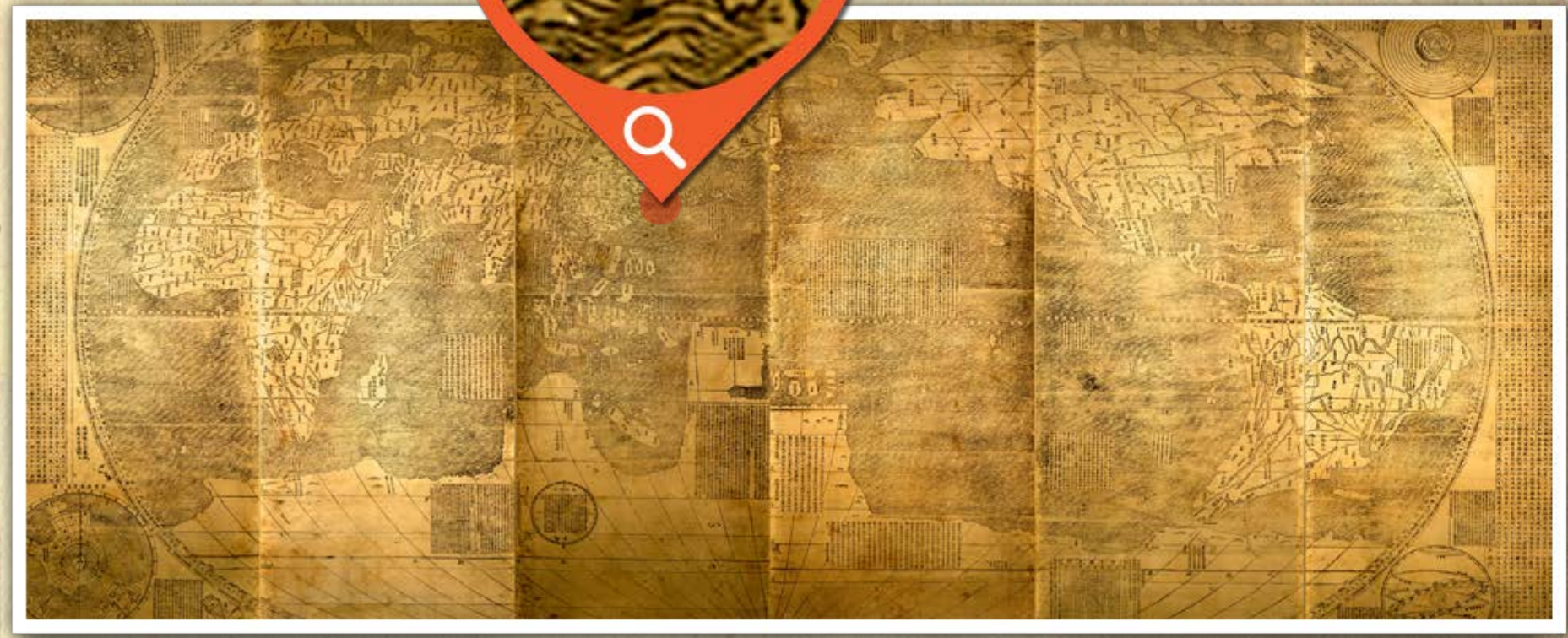
Ancient Maps of China and the Philippines

Official and unofficial maps of China from 1136 during the Song Dynasty until the end of the Qing Dynasty in 1912 show that the southernmost territory of China has always been Hainan Island. Official and unofficial maps of the Philippines from 1636 until 1933 show that Scarborough Shoal has always been part of the Philippines. The first name of Scarborough Shoal is "Panacot," which appeared in the 1734 Murillo Velarde map published in Manila.

1136 AD
“Hua Yi Tu”

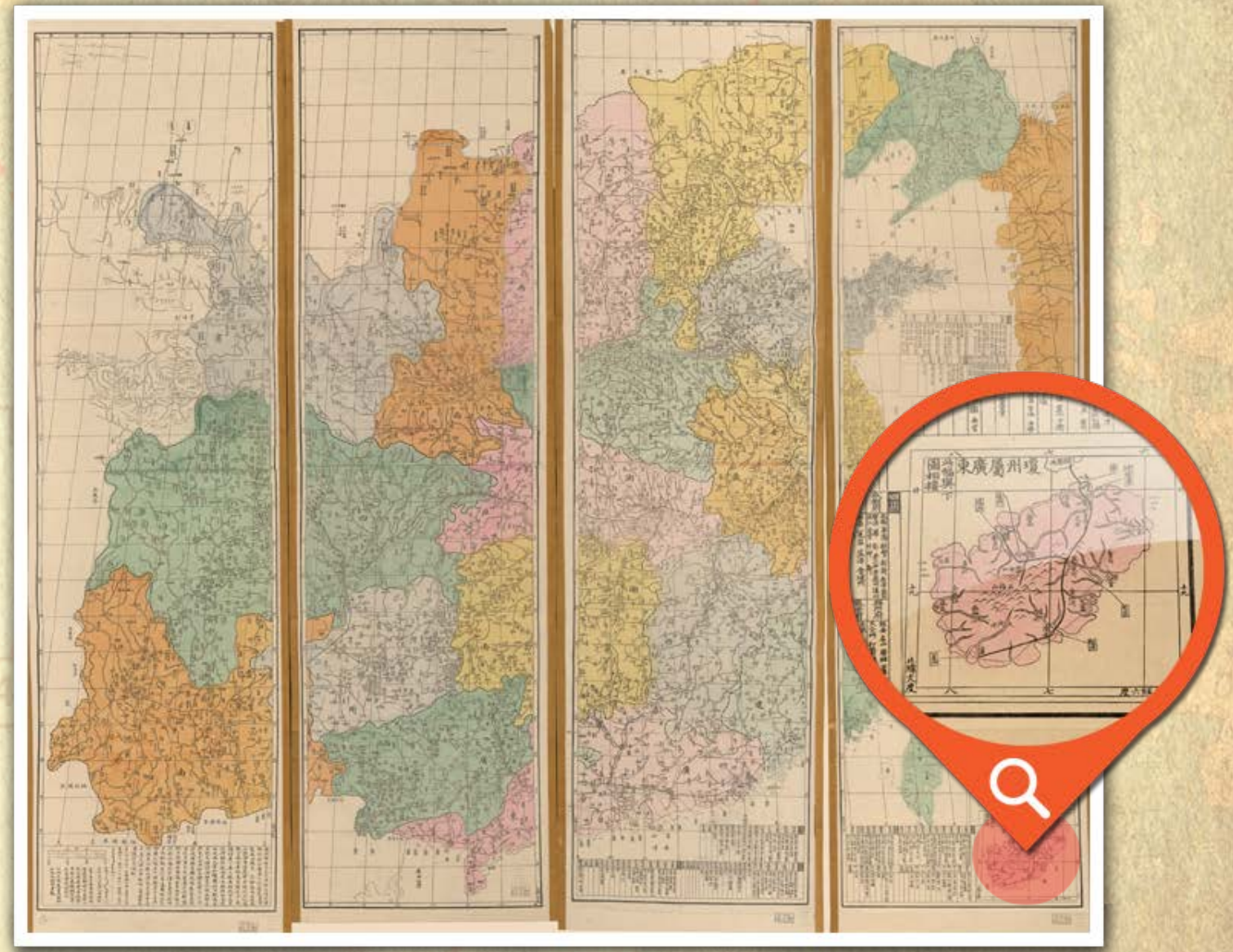
This map was engraved in stone in Fuchang in 1136 AD during the Song Dynasty. A stone rubbing of the map was published in 1903(?) in France. The stone map is entitled "**Hua Yi Tu**" or **Map of China and the Barbarian Countries.** The stone map is now in the Forest of Stone Steles Museum in Xi'an, China. **This map shows Hainan Island as the southernmost territory of China.** The annotations on the sides of this map are not part of the stone engraving. This digital reproduction is from the U.S. Library of Congress (Catalogue No.2002626771; Digital ID g7820 ct000284).

1602 “Kunyu Wanguo Quantu”
or A Map of the [illegible] Countries of the World



Published in Beijing in 1602 by the Ming Dynasty, this map is entitled "**Kunyu Wanguo Quantu**" or **A Map of the Myriad Countries of the World**. The Jesuit priest Matteo Ricci created this map upon request of the Ming Emperor Wanli. Ricci was assisted by Zhong Wentao, Li Zhizao, and other Chinese scholars. **This map shows Hainan Island as the southernmost territory of China**. This digital reproduction is from the U.S. Library of Congress (Catalogue No. 2010585650; Digital ID g3200 ex000006Za,b and g3200m gex00001).

1896 “Huang Chao Zhi Sheng Yu Di Quan Tu” or The Qing Empire’s Complete Map of All Provinces.



Published in 1896 in China by Guangxu Bing Shen, this map is entitled "**Huang Chao Zhi Sheng Yu Di Quan Tu**" or the **Qing Empire's Complete Map of All Provinces. This map shows Hainan Island as the southernmost territory of China.** This digital reproduction is from the U.S. Library of Congress (Catalogue No. gm71005083; Digital ID g7820 ct003428).

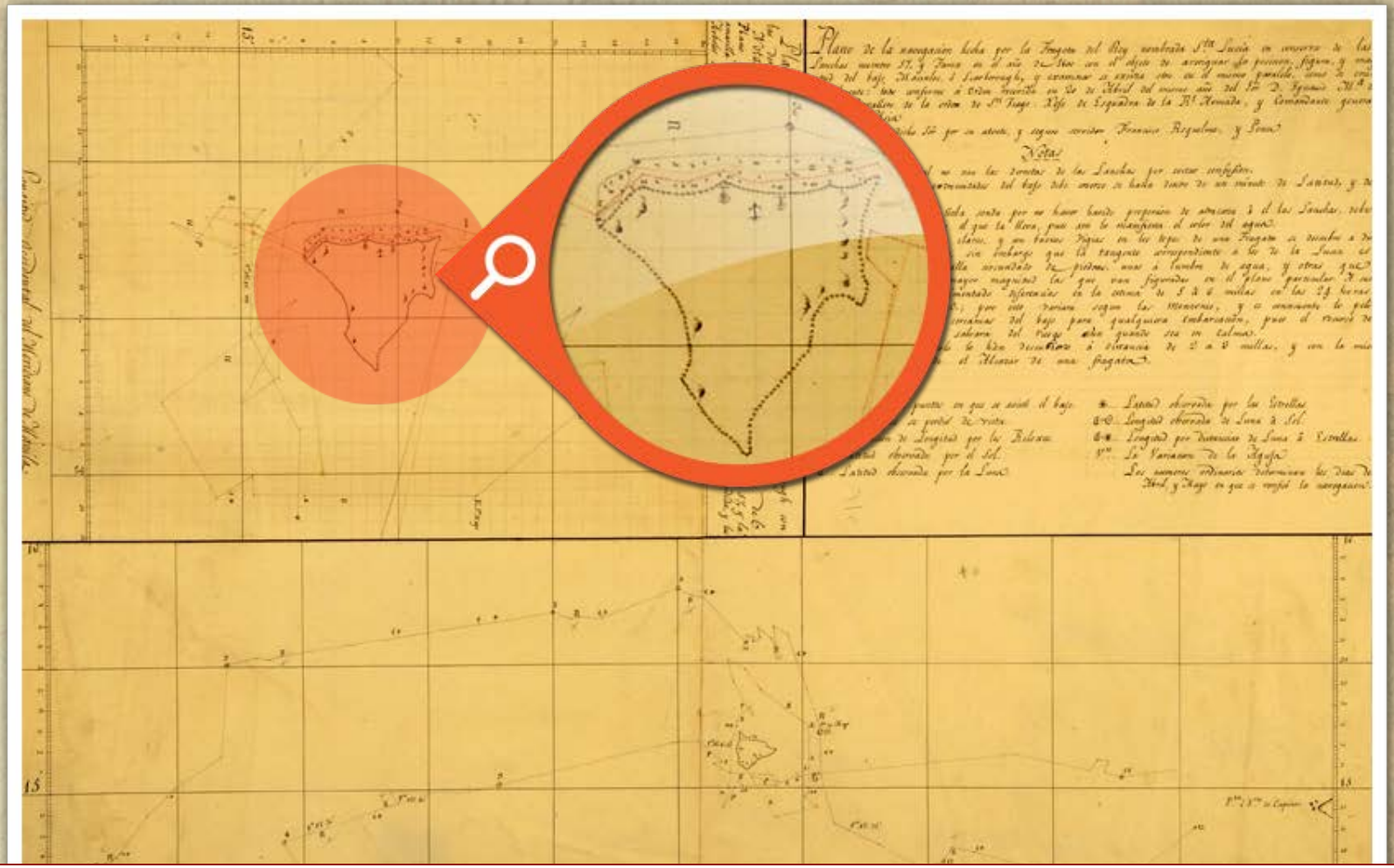
1636 “China Veteribus Sinarum Regio Nunc Incolis Tame Dicta.”

Published in Frankfurt in 1636 by map maker Matthaus Merian, this map is entitled "**China Veteribus Sinarum Regio Nunc Incolis Tame Dicta.**" This map shows China, Korea, Japan, Taiwan and Northern Luzon. **On the western side off the coast of Central Luzon, there is an unnamed shoal below the words "P. de Mandato." The Spanish phrase "P. de Mandato" means the point of command – which implies there was a Spanish military garrison in that coastal place. The unnamed shoal off this coastal place would later be called "Panacot" by the Jesuit Pedro Murillo Velarde.** This digital reproduction is from Barry Lawrence Ruderman Antique Maps, Inc. (http://www.raremaps.com/gallery/detail/36716).

1734 Murillo Velarde Map

Published in 1734 in Manila by the Jesuit Pedro Murillo Velarde, this map is entitled "**Carta Hydrographica y Chorographica de las Yslas Filipinas.**" **This is the oldest map that gives a name to "Panacot" shoal. Panacot is the Tagalog word for threat or danger. Prior to this 1734 map, no map had ever given a name to this shoal.** Scarborough Shoal had a Tagalog name 213 years before China drew its 9-dashed lines map. The Murillo Velarde map itself names two Filipinos, Francisco Suarez who drew the map and Nicolas dela Cruz Bagay who engraved it. This map is considered the "mother of all Philippine maps." This digital reproduction is from the U.S. Library of Congress (Catalogue No. 2013585226; Digital ID g8060 ct003137).

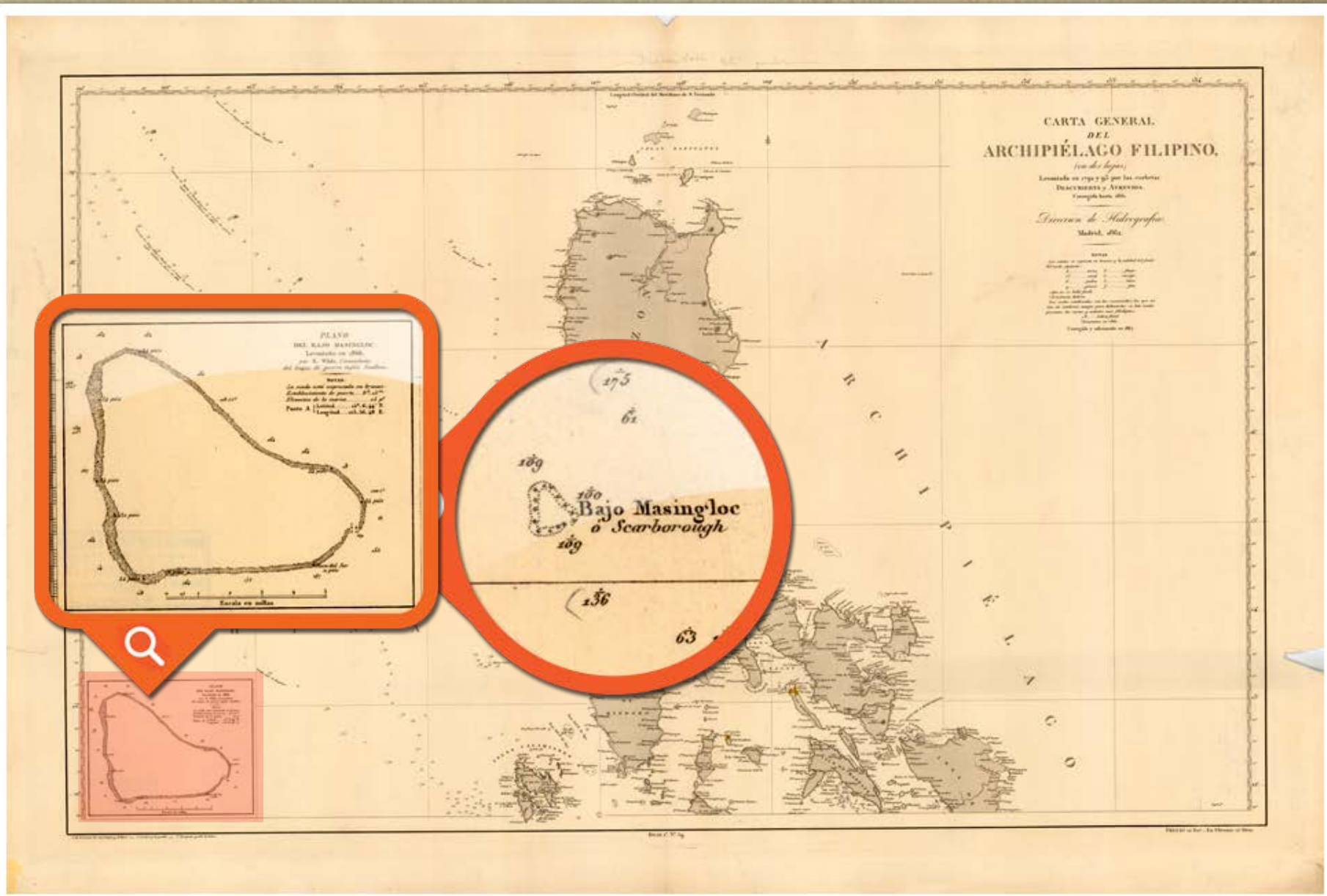
1792 "Plano de la Navigacion" Bajo de Masinloc



This is the route of the navigation taken by Alessandro Malaspina when he surveyed Scarborough Shoal on 4 May 1792 aboard the *Sta. Lucia*. In his Journal, Malaspina wrote: "On (this shoal) Spanish and foreign ships have been lost."

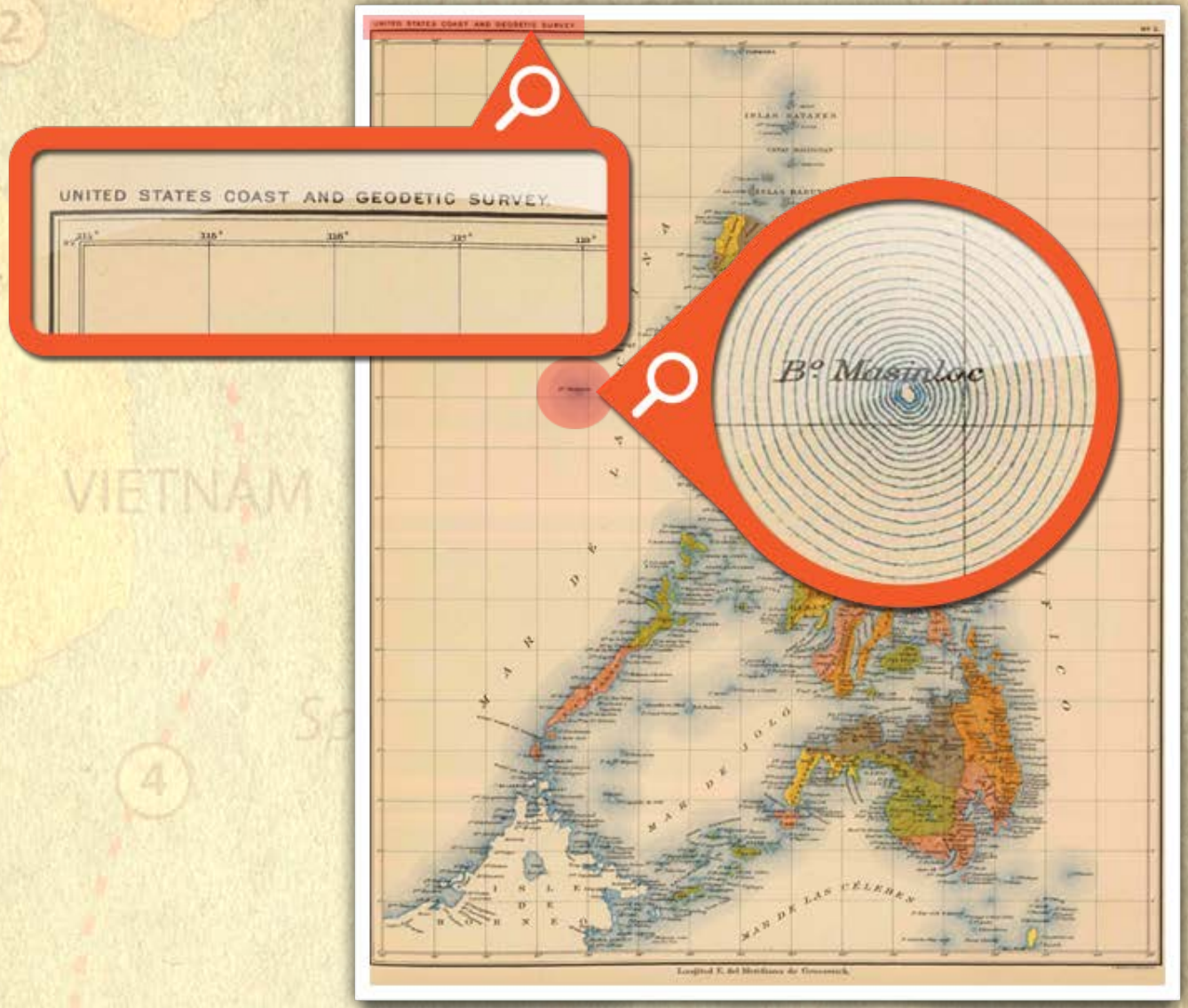
Published in Madrid by the *Direccion de Hidrografica* from the surveys of the Malaspina Expedition, **this 1792 chart (plano de la navigacion) is the route of the navigation taken by Alessandro Malaspina's ship** *Sta. Lucia* **when Malaspina surveyed what the chart states as "Bajo Masinloc o Scarborough."** On May 4, 1792, the day he surveyed Bajo Masinloc, Alessandro Malaspina wrote in his Journal "on (this shoal) Spanish and foreign ships have been lost." This digital reproduction is from the archives of the Museo Naval de Madrid, copied by the Philippine Embassy in Madrid.

1867 “Carta General del Archipielago Filipino”



Published in 1867 in Madrid by the *Direccion de Hidrograpfica*, this map is entitled "**Carta General del Archipielago Filipino.**" **This map shows "Bajo Masingloc o Scarborough." There is an inset of Scarborough shoal (1866 map of Commander Wilds) on the lower left side of the map.** This digital reproduction is from the archives of the Museo Naval de Madrid, copied by the Philippine Embassy in Madrid.

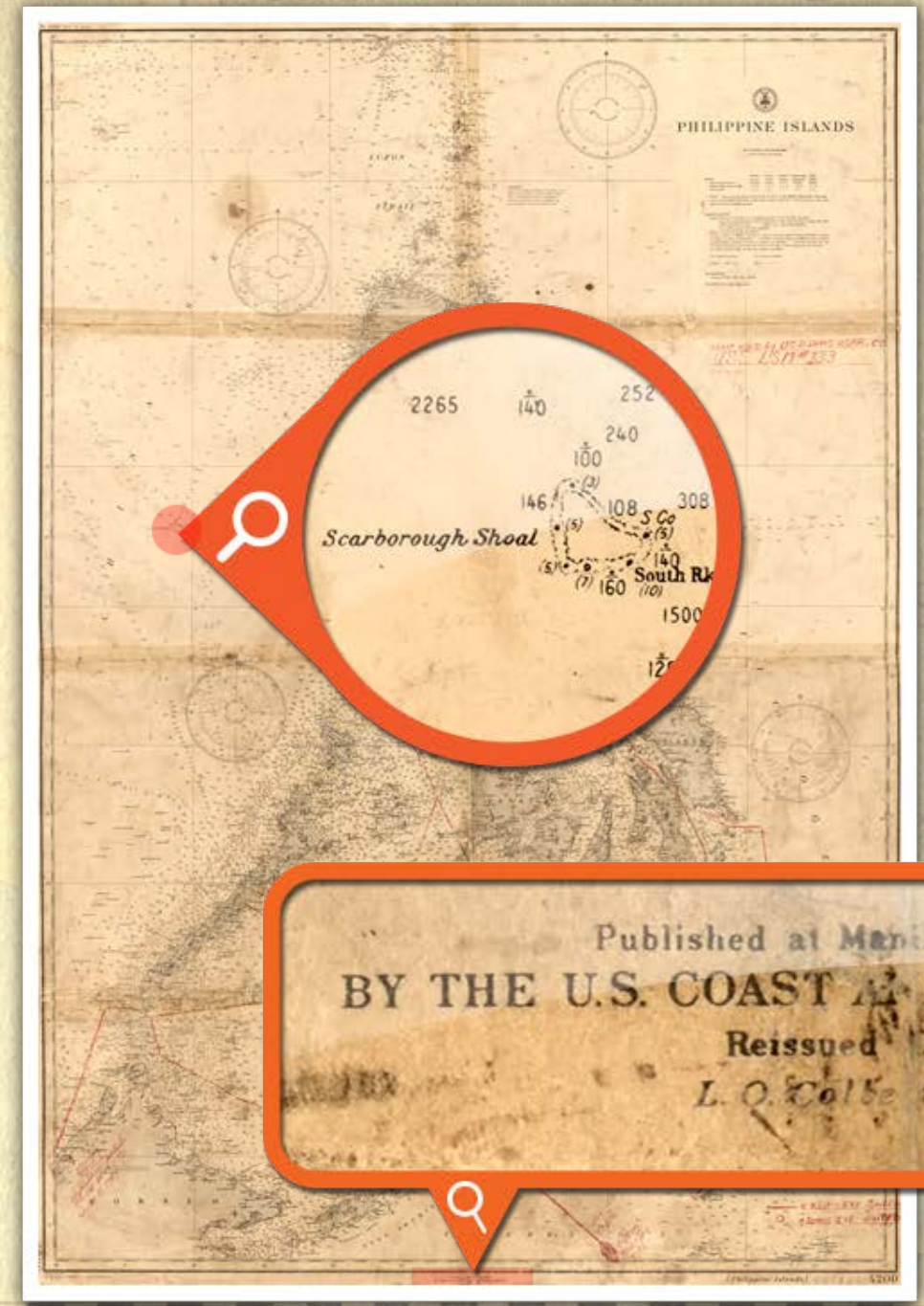
1899 “Islas Filipinas, Mapa General Observatorio de Manila.”



Published in 1899 in Washington, D.C. by the U.S. Coast and Geodetic Survey.

Published in 1899 in Washington, D.C. by the Jesuit Jose P. Algue and the U.S. Coast and Geodetic Survey, this map is entitled "**Islas Filipinas – Mapa General – Observatorio de Manila.**" **The map shows "B. Masinloc.**" This digital reproduction is from the *Atlas de Filipinas*, Internet Archive, Ohio State University Library, (https://archive.org/details/AtlasDeFilipinasColleccionDe30MapasTrabajadosPorDelineantes; ark:/13960/t2d804v8j).

1933 “Philippine Islands”



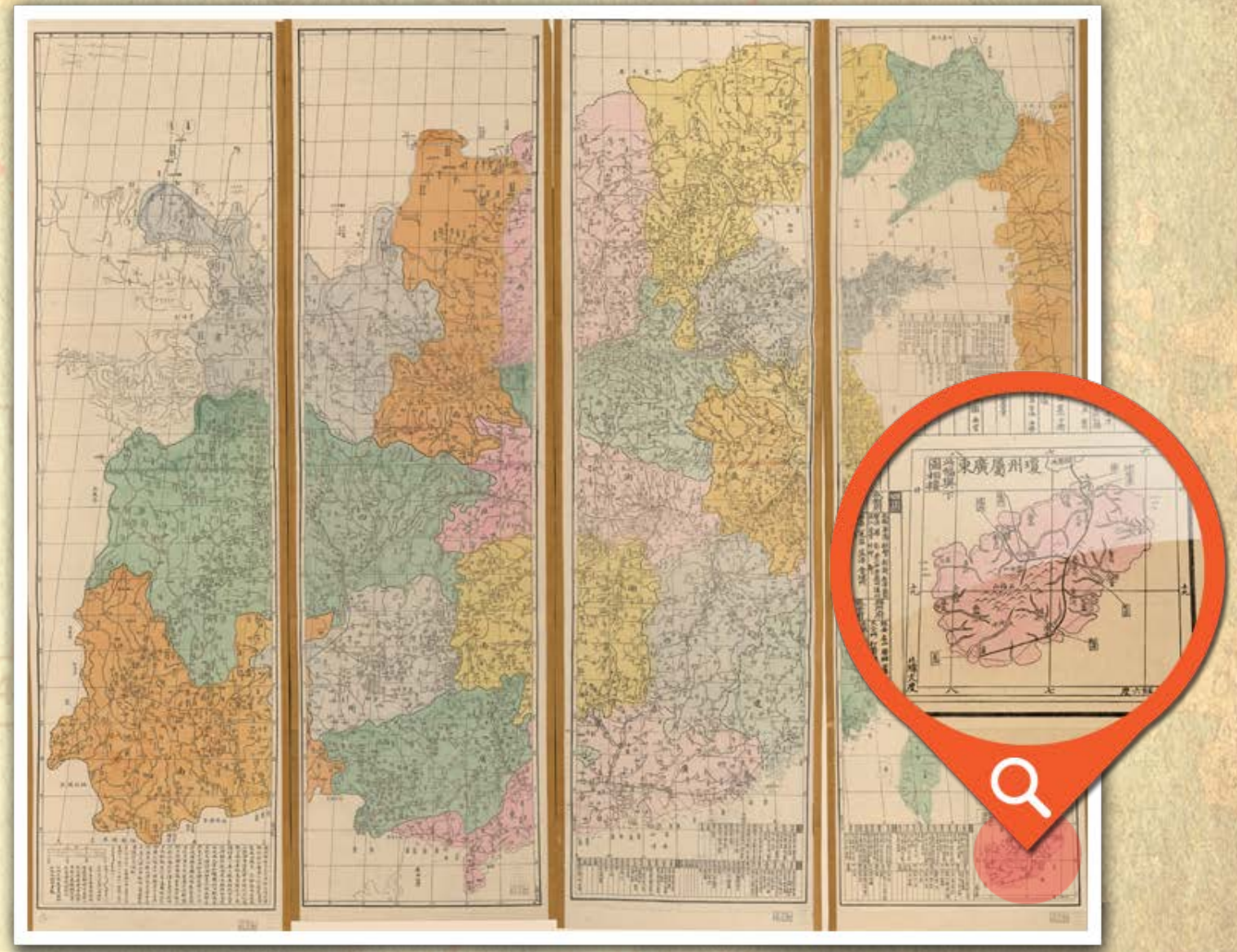
Published in 1933 in Manila and reissued in 1940 in Washington, D.C. by the U.S. Coast and Geodetic Survey, this map is entitled "**Philippine Islands.**" **The map shows "Scarborough" shoal with depth soundings.** This digital reproduction is from the U.S. Library of Congress (Catalogue No. 2011592026, Digital ID g8061p ct003542).

When the Qing Dynasty ended in 1912, the Chinese republicans led by Dr. Sun Yat Sen established the Republic of China. The following provisions of five (5) Constitutions of the Republic of China state:

Constitution of 1912

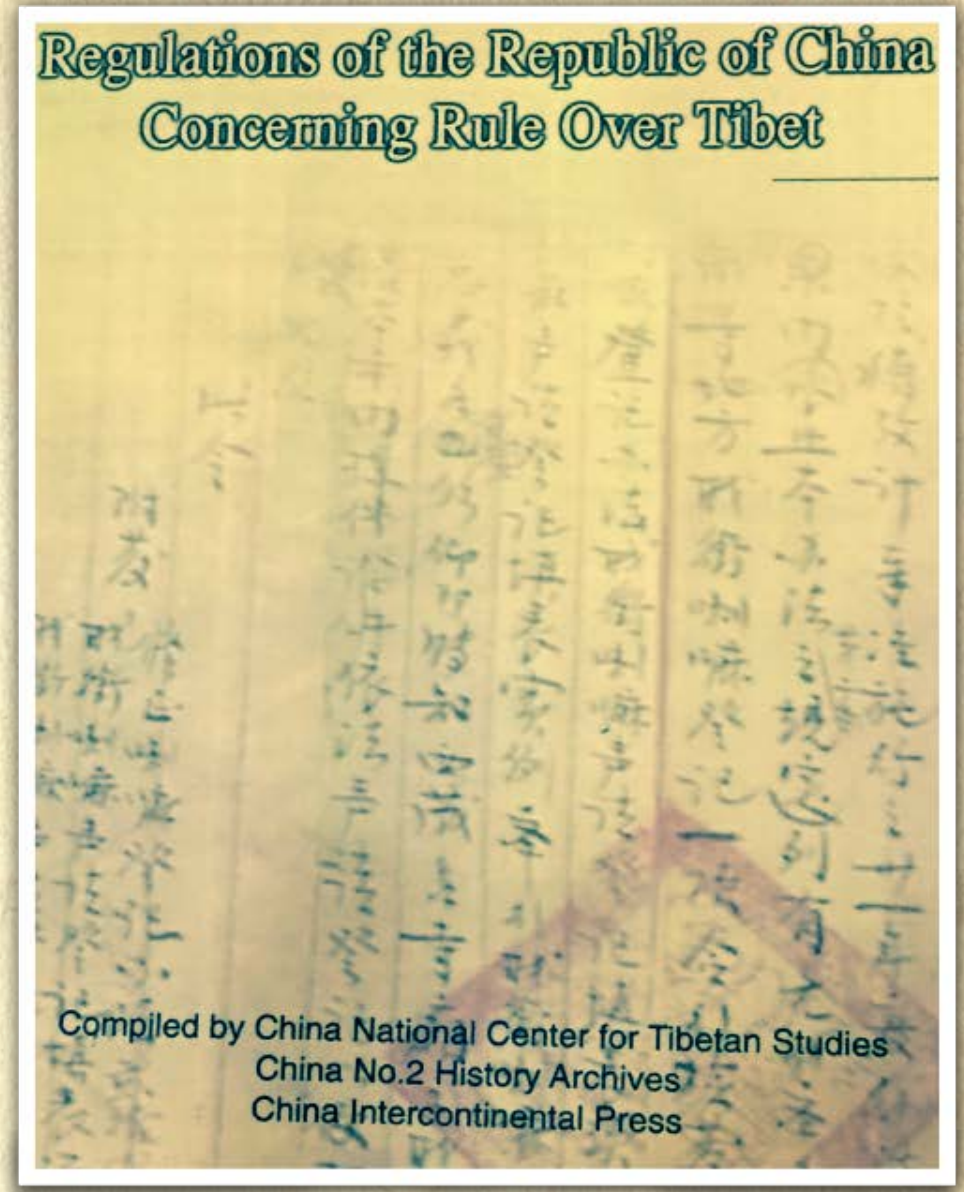
Article 3, Chapter 1, of the Provisional Constitution of the Republic of China of March 11, 1912 states: "**The territory of the Republic of China is composed of 22 provinces, Inner and Outer Mongolia, Tibet and Qinghai.**" As we have seen in the 1896 map of the Qing Dynasty, one of the 22 provinces is Guangdong, which includes Hainan Island as the southernmost territory of China.

1896 “Huang Chao Zhi Sheng Yu Di Quan Tu” or The Qing Empire’s Complete Map of All Provinces



Constitution of 1914

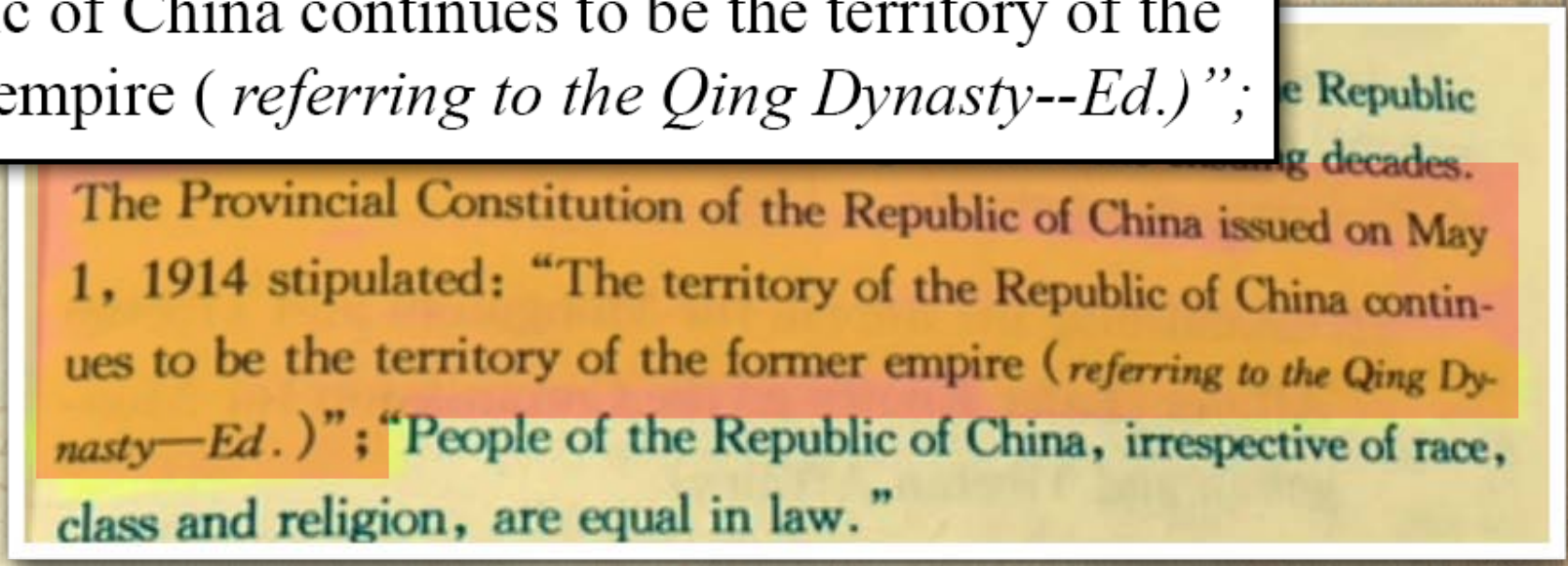
Article 3, Chapter 1 of the Constitution of the Republic of China of May 1, 1914 states: "**The territory of the Republic of China continues to be the territory of the former empire.**" The editorial comment in the *Regulations of the Republic of China Concerning Rule over Tibet* (1999) explains the words "**former empire**" as "**referring to the Qing Dynasty.**"


Regulations of the Republic of China
Concerning Rule Over Tibet
Compiled by China National Center for Tibetan Studies
China No.2 History Archives
China Intercontinental Press

"Former empire" means the Qing Dynasty

Page 3 of the *Regulations* state:

The Provincial Constitution of the Republic of China issued on May 1,1914 stipulated: "The territory of the Republic of China continues to be the territory of the former empire (*referring to the Qing Dynasty--Ed.)*";



e Republic

g decades.

The Provincial Constitution of the Republic of China issued on May 1, 1914 stipulated: "The territory of the Republic of China continues to be the territory of the former empire (*referring to the Qing Dynasty—Ed.*)"; "People of the Republic of China, irrespective of race, class and religion, are equal in law."

Constitutions of 1924, 1937 and 1946

Article 3, Chapter 2, of the Constitution of the Republic of China of October 10, 1924 states: "**The territory of the Republic of China continues to be the traditional territory.**"

The Constitution of the Republic of China of January 1, 1937 states: "**The territory of the Republic of China continues to be the territory it owned in the past.**"

Article 4, Chapter 1 of the Constitution of the Republic of China of December 25, 1946 states: "**The territory of the Republic of China shall be that encompassed by its traditional boundaries.**"

All these constitutional provisions are from an official publication of the People's Republic of China entitled *Regulations of the Republic of China Concerning Rule Over Tibet* (China No. 2 History Archives, China International Press, January 1, 1999).

As late as 1932, China has been telling the world that its southernmost border was Hainan Island, **but that Hainan Island included the Paracels.** In a *Note Verbale* to the French Government on September 29, 1932 protesting the French occupation of the Paracels, the Chinese Government **officially declared:**

"Note of 29 September 1932 from the Legation of the Chinese Republic in France to the Ministry of Foreign Affairs, Paris

On the instructions of its Government, the Legation of the Chinese Republic in France has the honor to transmit its Government's reply to the Foreign Ministry's Note of 4 January 1932 on the subject of the Paracel Islands."

xxxx

"xxx The eastern group is called the Amphitrites and the western group the Crescent. **These groups lie 145 nautical miles from Hainan Island, and form the southernmost part of Chinese territory.**" (Emphasis supplied)

xxx [Source: *Sovereignty over the Paracel and Spratly Islands*, Monique Chemelier-Gendreau, **Annex 10**, Kluwer Law International, 2000]

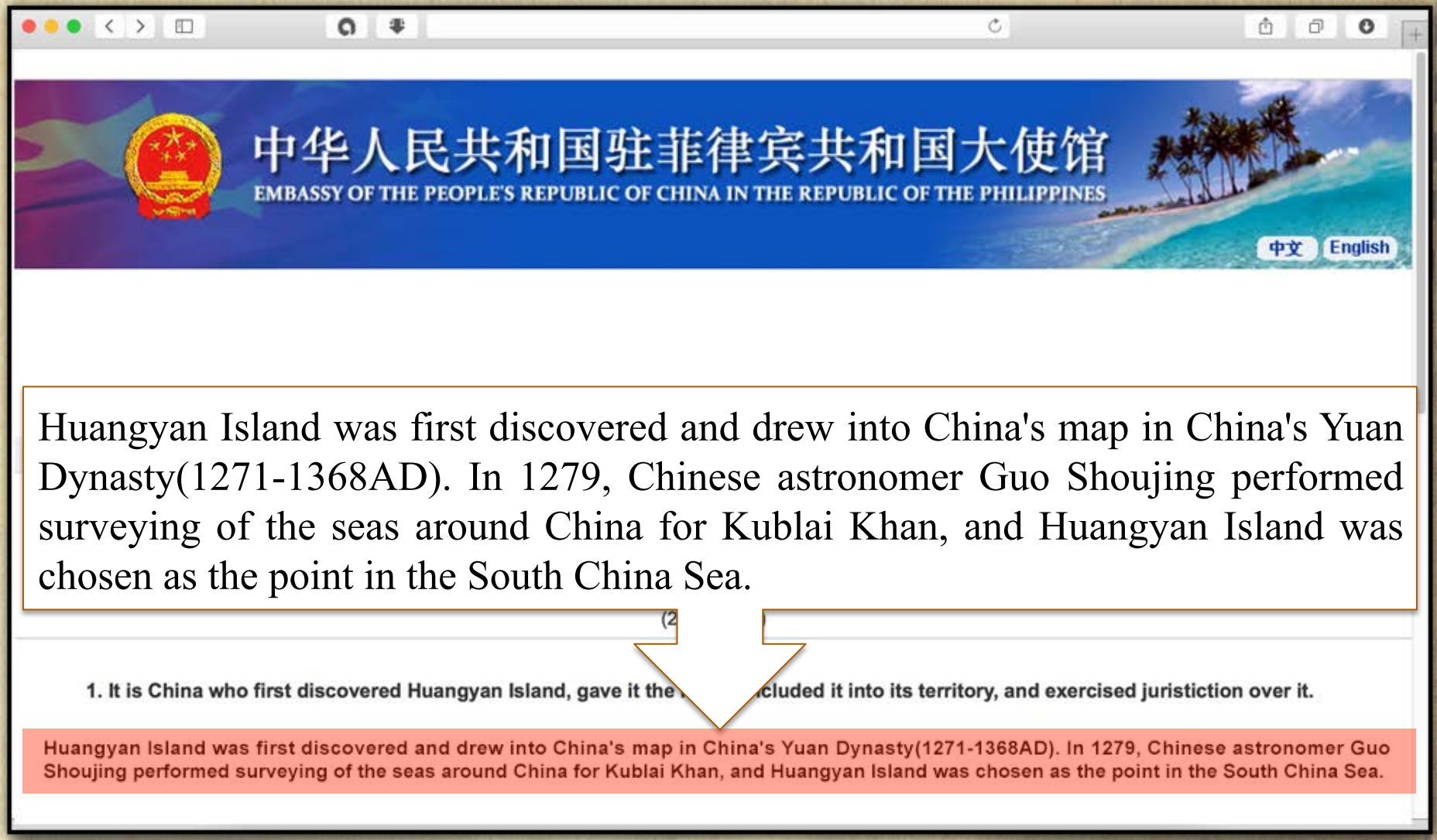
1933 "Zhonghua Min Guo Fen Sheng Xin Tu"

Despite Chinese maps that appeared in the 1930s and 1940s showing the Paracels as part of China, China's Republican Constitutions of 1937 and 1946 still declared that its territory remained the same as the territory of the former empire.

In China's Manila Embassy website, China claims Scarborough Shoal because the shoal is allegedly the *Nanhai* Island that Guo Shoujing visited in 1279 and where he erected an astronomical observatory. The website states:

"Huangyan Island was first discovered and drew (sic) into China's map in China's Yuan Dynasty (1271-1368 AD). In 1279, **Chinese astronomer Guo Shoujing performed surveying of the seas around China for Kublai Khan, and Huangyan Island was chosen as the point in the South China Sea.**" (Emphasis supplied)

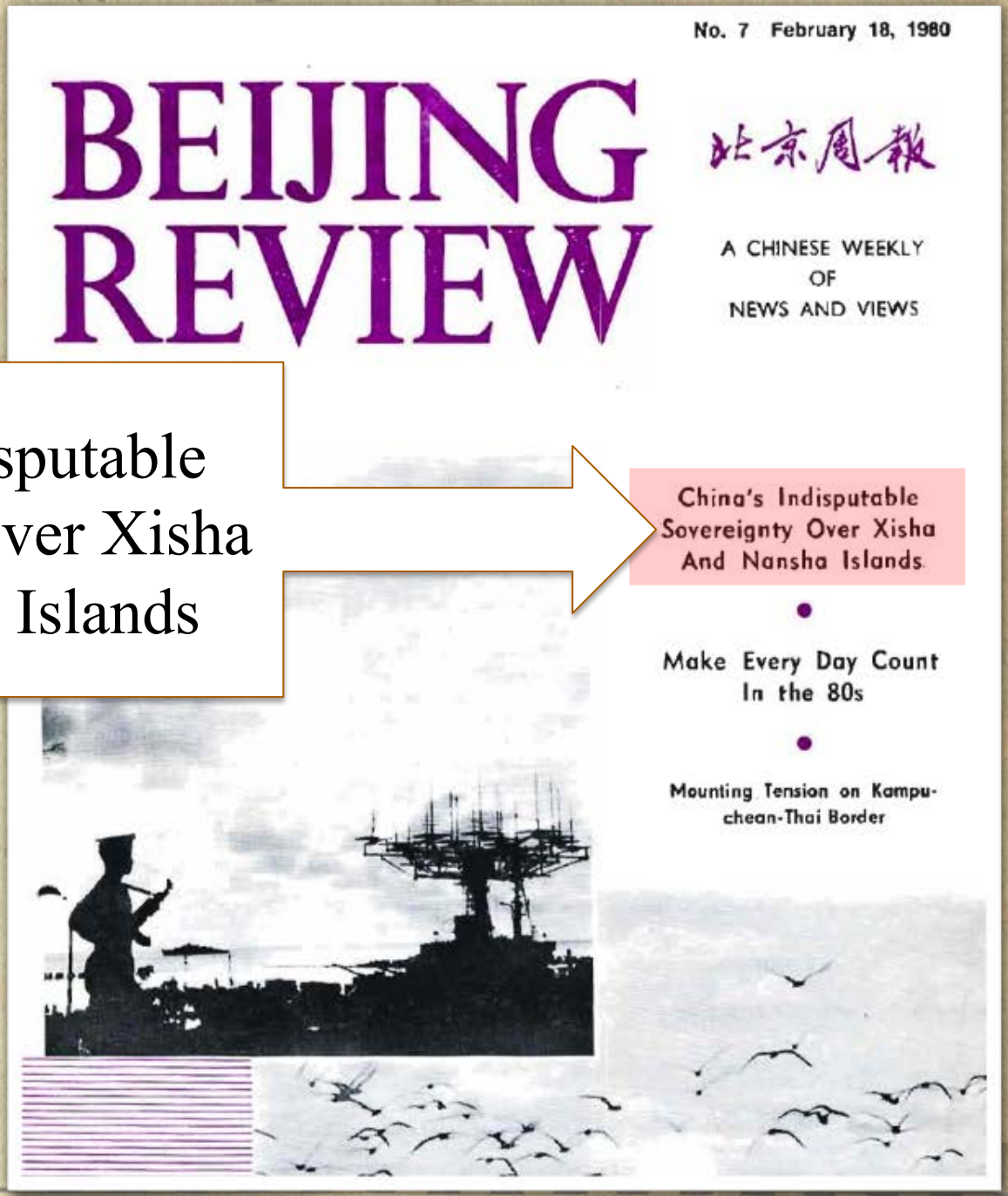
Screenshot from China's Manila Embassy Website



However, in a document entitled *China's Sovereignty Over Xisha and Zhongsha Islands Is Indisputable* issued on January 30, 1980, China's Ministry of Foreign Affairs **officially declared** that the Nanhai island that Guo Shoujing visited in 1279 was in **Xisha or what is internationally called the Paracels**, a group of islands more than 380 NM from Scarborough Shoal. China issued this official document to bolster its claim to the Paracels to counter Vietnam's strong historical claims to the same islands. This Chinese **official document**, published in *Beijing Review*, Issue No. 7 dated February 18, 1980, states:

"Early in the Yuan Dynasty, an astronomical observation was carried out at 27 places throughout the country. xxx According to the official *History of the Yuan Dynasty*, Nanhai, Gou's observation point, was "to the south of Zhuya" and "the result of the survey showed that the latitude of Nanhai is 15°N." **The astronomical observation point Nanhai was today's Xisha Islands. It shows that Xisha Islands were within the bounds of China at the time of the Yuan dynasty."** (Emphasis supplied)

China’s Indisputable Sovereignty Over Xisha And Nansha Islands



Gou Shoujing built 27 astronomical observatories, 26 on the mainland and one on an island in the South Sea (Nanhai). China cannot now claim that Scarborough Shoal is the South Sea island that Guo Shoujing visited in 1279 because China had already declared in 1980 that Gou Shoujing visited the Paracels where he erected the astronomical observatory. Besides, the massive astronomical observatories that Guo Shoujing erected in other places in China could not possibly fit on the tiny rocks of Scarborough Shoal.

Gaocheng Observatory

This 12.6 meter high stone observatory in Henan Province is the only extant astronomical observatory among the 27 that Guo Shoujing built during the Yuan Dynasty.

Scarborough Shoal (Panatag)

The biggest rock on Scarborough Shoal is just 2 to 3 meters above water at high tide, and not more than 6 to 10 people could stand on it. To be operated, the observatories of Guo Shoujing have to be manned everyday since measurements have to be taken everyday. It is physically impossible to erect, or operate, such an observatory on Scarborough Shoal.

Taiwan's President Ma Ying-jeou Statement

In September 2014, Taiwan's President Ma Ying-jeou, who belongs to the Kuomintang Party, which controlled the Chinese mainland government in 1947 that adopted the 9-dashed lines, clarified the extent of China's claim under the lines. President Ma declared that the claim was **limited only to the islands and their adjacent 3 NM (now 12 NM) territorial sea.** President Ma unequivocally stated that there were "**no other so-called claims to sea regions.**" This express clarification from Taiwan directly contradicts China's claim that China has "indisputable sovereignty" over all the waters enclosed within the 9-dashed lines.

President Ma Ying-jeou: A Law of the Sea Scholar

In an October 21, 2014 interview with the *New York Times*, President Ma, who earned an S.J.D. from Harvard University with specialty in the Law of the Sea, stated:

> "**There is a basic principle in the Law of the Sea, that land dominates the sea. Thus marine claims begin with land**; however, even if it is logically this way, when resolving disputes, it is not impossible to first resolve resource development issues. xxx."

What is the legal basis of the Philippines' claim to Scarborough Shoal?

1. The 1898 Treaty of Paris, as amended and clarified by the 1900 Treaty of Washington; and

2. The continuous exercise of sovereignty by Spain, the United States and the Philippines over the shoal.

The 1898 Treaty of Paris between Spain and the United States drew a rectangular line wherein Spain ceded to the United States all of Spain's territories found within the treaty lines. Scarborough Shoal is outside the treaty lines.

However, two years later, in the 1900 Treaty of Washington, Spain clarified that it had also relinquished to the United States "**all title and claim of title, which (Spain) may have had at the time of the conclusion of the Treaty of Peace of Paris, to any and all islands belonging to the Philippine Archipelago, lying outside the lines**" of the Treaty of Paris. Thus, Spain ceded Scarborough Shoal to the United States under the 1900 Treaty of Washington (*Treaty between Spain and the United States for Cession of Outlying Islands of the Philippines, signed November 7, 1900.).*

Scarborough Shoal

In 1938 the U.S. Had Already Determined Scarborough Shoal Is Part of Philippine Territory

When the issue of whether Scarborough Shoal forms part of Philippine territory, Secretary Cordell Hull of the U.S. State Department stated in his *Memorandum of July 27, 1938* to Harry Woodring, Secretary of War:

> **Because of the absence of other claims, the shoal should be regarded as included among the islands ceded to the United States by the American-Spanish Treaty of November 7, 1900*...** In the absence of evidence of a superior claim to Scarborough Shoal by any other government, the Department of State would interpose no objection to the proposal of the Commonwealth Government to study the possibilities of the shoal as an aid to air and ocean navigation.

***Treaty of Washington; boldfacing supplied.**

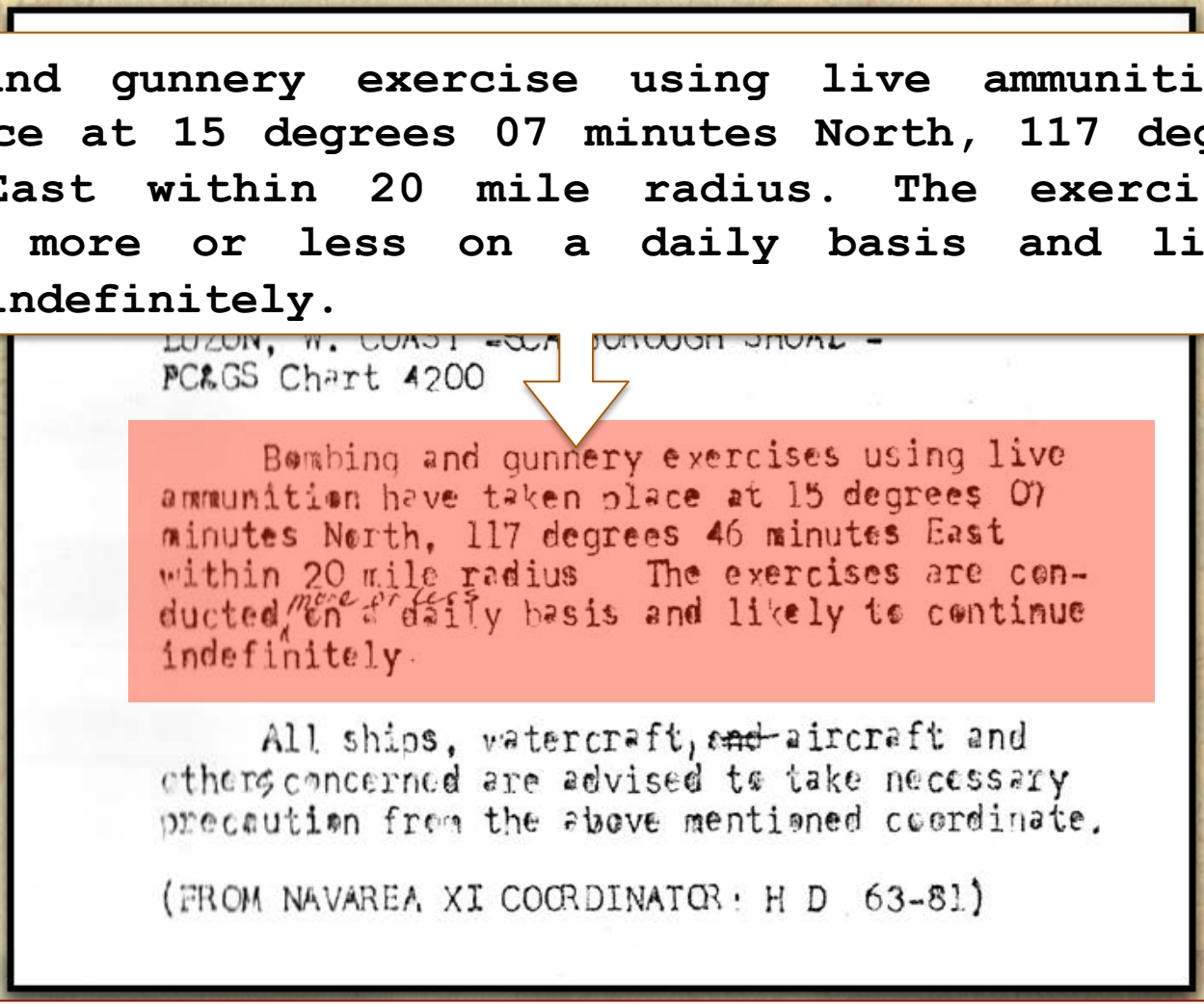
Source: *A CNA Occasional Paper, Philippine Claims in the South China Sea: A Legal Analysis*, Mark E. Rosen, JD, LLM [citing François-Xavier Bonnet, *The Geopolitics of Scarborough Shoal*, *available at* www.irasec.com.] (2014)

The Philippines exercised effective, continuous, open and public sovereignty over Scarborough Shoal since the Spanish colonial period (Island of Palmas case).

From 1960s to 1980s, Scarborough Shoal was used by the American and Philippine military as an **impact range** for their warplanes and warships. *Notices to Mariners* were issued worldwide by American and Philippine authorities through the International Maritime Organization of the United Nations whenever bombing runs were made. Not a single country registered any protest to these military activities.

Philippine Navy *Notice to Mariners* in September 1981

Bombing and gunnery exercise using live ammunition have taken place at 15 degrees 07 minutes North, 117 degrees 46 minutes East within 20 mile radius. The exercises are conducted more or less on a daily basis and likely to continue indefinitely.



PCAGS Chart 4200

Bombing and gunnery exercises using live ammunition have taken place at 15 degrees 07 minutes North, 117 degrees 46 minutes East within 20 mile radius The exercises are conducted more or less on a daily basis and likely to continue indefinitely.

All ships, watercraft, ~~and~~ aircraft and others concerned are advised to take necessary precaution from the above mentioned coordinate.

(FROM NAVAREA XI COORDINATOR: H D 63-81)

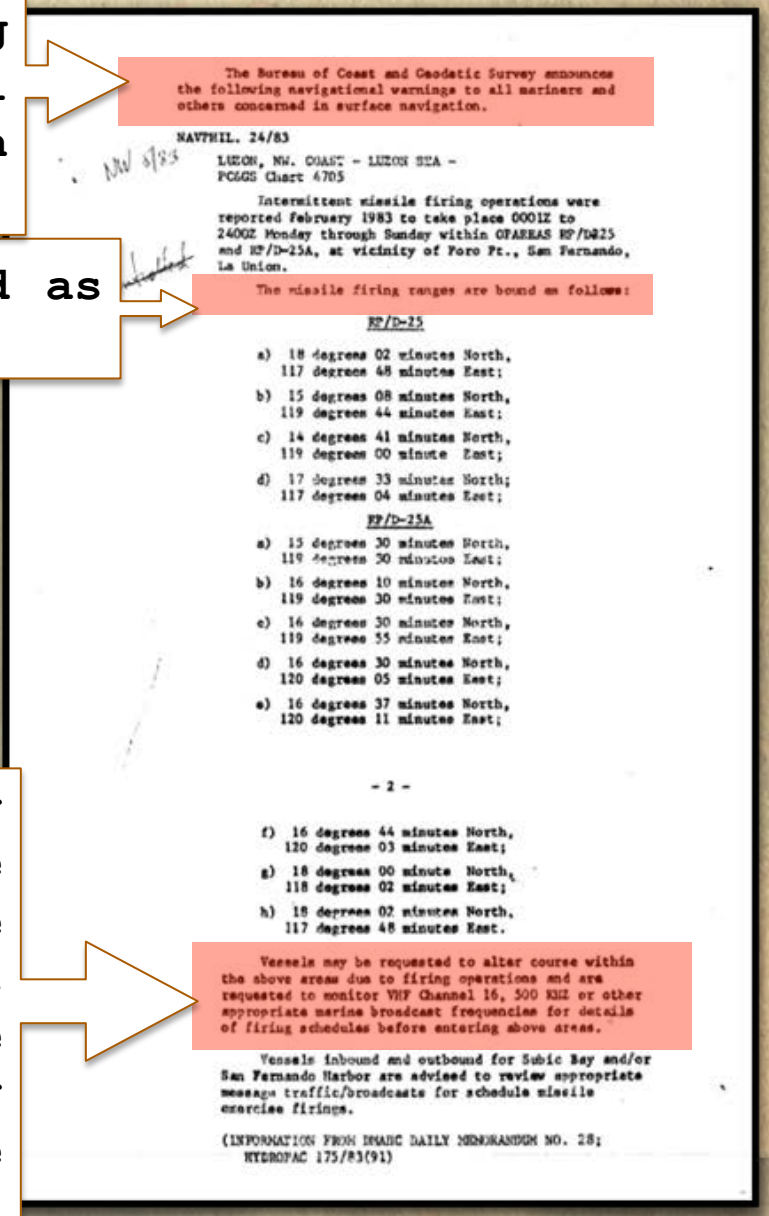
The Philippine Navy issued *a Notice to Mariners* on 18 September 1981 warning mariners that the U.S. Navy would undertake gunnery and bombing exercises in Scarborough Shoal.

Source: *Bajo de Masinloc, Maps and Documents*, U.P. Institute for Maritime Affairs and Law of the Sea/NAMRIA, 2014

The Bureau of Coast and Geodetic Survey announces the following navigational warnings to all mariners and others concerned in surface navigation

The missile firing ranges are bound as follows:

Vessels may be requested to alter course within the above areas due to firing operations and are requested to monitor VHF Channel 16, 500 KHZ or other appropriate marine broadcast frequencies for details of firing schedules before entering above areas.



The Bureau of Coast and Geodetic Survey announces the following navigational warnings to all mariners and others concerned in surface navigation.

NAVTHIL. 24/83

LUZON, NW. COAST - LUZON SEA - PCOGS Chart 4705

Intermittent missile firing operations were reported February 1983 to take place 0001Z to 2400Z Monday through Sunday within OPAREAS RP/D-25 and RP/D-25A, at vicinity of Poro Pt., San Fernando, La Union.

The missile firing ranges are bound as follows:

RP/D-25

a) 18 degrees 02 minutes North, 117 degrees 48 minutes East;

b) 15 degrees 08 minutes North, 119 degrees 44 minutes East;

c) 14 degrees 41 minutes North, 119 degrees 00 minute East;

d) 17 degrees 33 minutes North; 117 degrees 04 minutes East;

RP/D-25A

a) 15 degrees 30 minutes North, 119 degrees 30 minutes East;

b) 16 degrees 10 minutes North, 119 degrees 30 minutes East;

c) 16 degrees 30 minutes North, 119 degrees 55 minutes East;

d) 16 degrees 30 minutes North, 120 degrees 05 minutes East;

e) 16 degrees 37 minutes North, 120 degrees 11 minutes East;

- 2 -

f) 16 degrees 44 minutes North, 120 degrees 03 minutes East;

g) 18 degrees 00 minute North, 118 degrees 02 minutes East;

h) 18 degrees 02 minutes North, 117 degrees 48 minutes East.

Vessels may be requested to alter course within the above areas due to firing operations and are requested to monitor VHF Channel 16, 500 KHZ or other appropriate marine broadcast frequencies for details of firing schedules before entering above areas.

Vessels inbound and outbound for Subic Bay and/or San Fernando Harbor are advised to review appropriate message traffic/broadcasts for schedule missile exercise firings.

(INFORMATION FROM DMADC DAILY MEMORANDUM NO. 28; HYDROPAC 175/83(91)

Source: *Bajo de Masinloc, Maps and Documents*, U.P. Institute for Maritime Affairs and Law of the Sea/NAMRIA, 2014

Why is it important to apply UNCLOS to the South China Sea dispute?

If UNCLOS does not apply to the South China Sea dispute, as when China's 9-dashed lines are allowed to gobble up the EEZs of coastal states as well as the high seas, then UNCLOS, the constitution for the oceans and seas, cannot also apply to any maritime dispute in the rest of the oceans and seas of our planet. It will be the beginning of the end for UNCLOS. The rule of the naval canon will prevail in the oceans and seas of our planet, no longer the rule of law. There will be a naval arms race among coastal countries.

The Free Sea versus the Closed Sea

In 1609, Hugo Grotius published *Mare Liberum* or the Free Sea. Grotius argued that the oceans and seas belong to all mankind. Grotius articulated the position of the Netherlands. In rejoinder, John Selden wrote *Mare Clausum* or the Closed Sea. Selden argued that the oceans and seas are subject to appropriation and ownership by sovereign states. Selden articulated the position of England, Spain and Portugal, the naval powers of that bygone era. For over a century these two opposing ideas battled for the hearts and minds of the world. Grotius won that great battle and his idea became the foundation of the modern Law of the Sea.

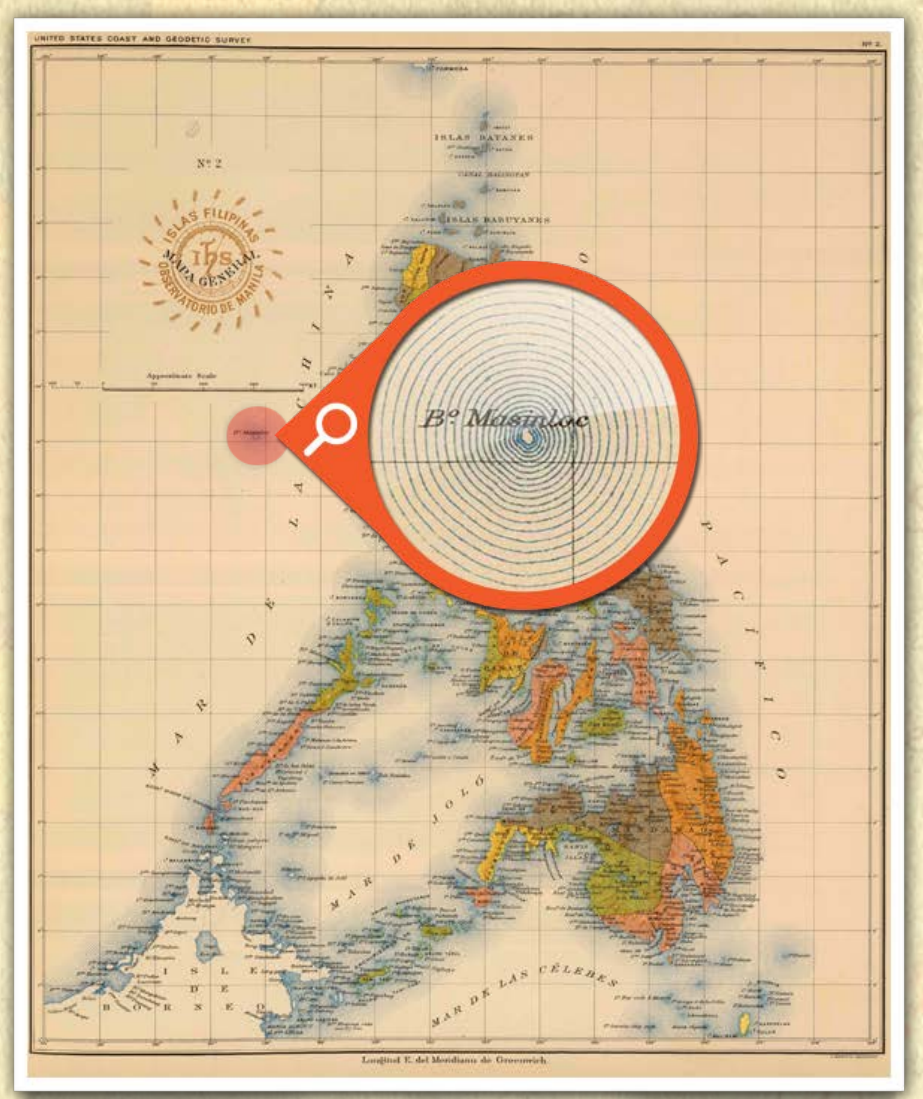
The Free Sea versus the Closed Sea Redux

Today, China has revived John Selden's argument that a state can appropriate as its own sovereign waters an entire or almost an entire sea. **At bottom, this is the core issue before the UNCLOS tribunal hearing the Philippines' arbitration case against China.** If China's 9-dashed lines claim is allowed to stand, it will be a direct attack on the Grotian foundation of the Law of the Sea. The settled principles on freedom of navigation, freedom of over-flight, freedom to fish in the high seas, the right of coastal states to exclusive economic zones, and the common heritage of mankind, will all be in peril.

The Groatian Question

Will the world community allow a single state to re-write the Law of the Sea, so it can exercise indisputable sovereignty to almost an entire sea, subject the high seas to its sovereign jurisdiction, and seize large areas of other coastal states' EEZs, which are their legal maritime entitlements under UNCLOS?

End


UNITED STATES COAST AND GEODETIC SURVEY
Nº 2
ISLAS BATANES
ISLAS BABUYANES
ISLAS FILIPINAS
MAPA GENERAL
OBSERVATORIO DE MANILA
Bº Masinloc
MAR DE LA CHINA
MAR DE JOLÓ
MAR DE LAS CÉLEBES
ISLE DE BORNEO
Longitud E. del Meridiano de Greenwich


Spratly Islands
Puerto Princesa
Palawan