



THE SOUTH CHINA SEA DISPUTE

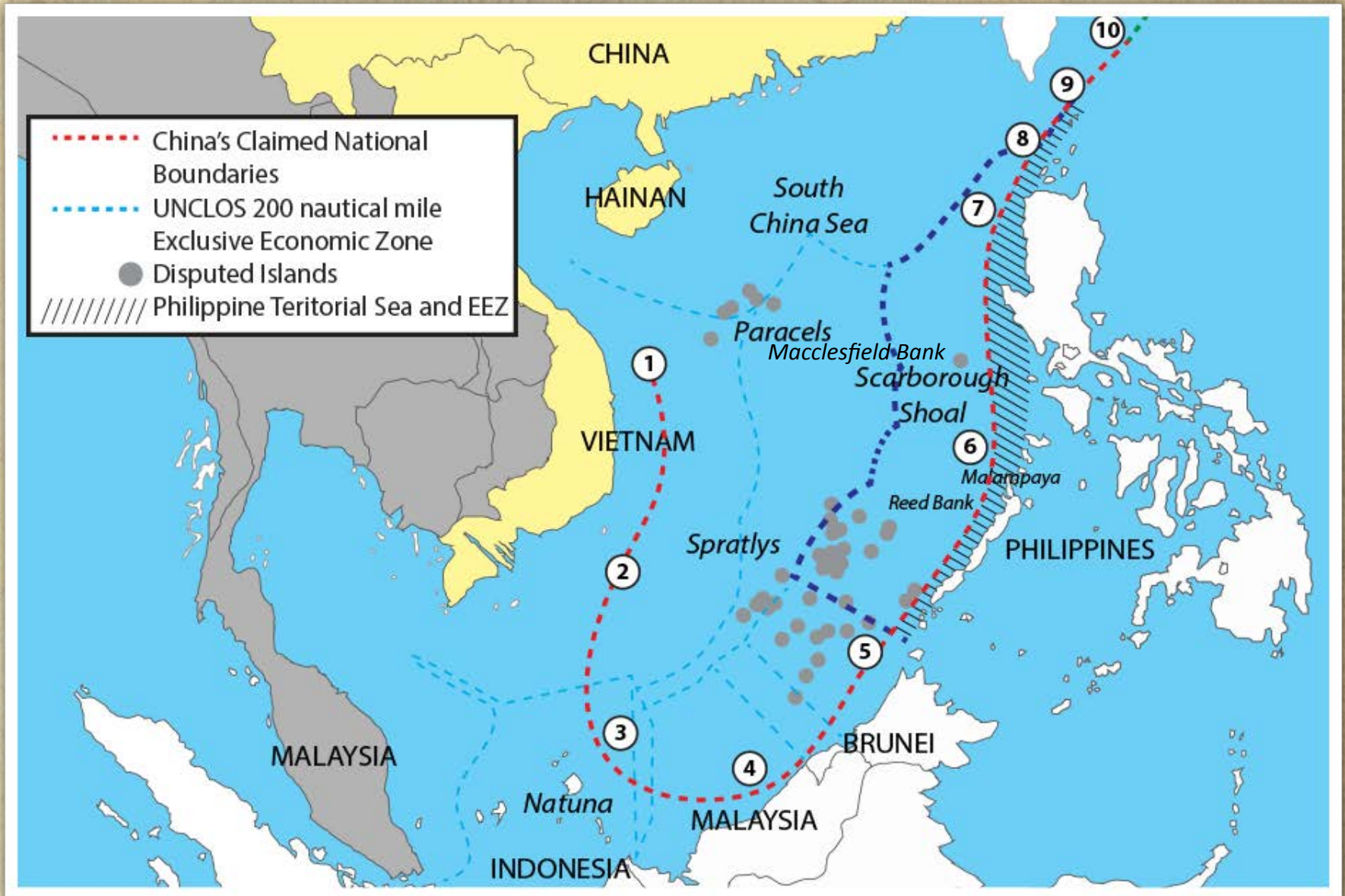
Justice Antonio T. Carpio

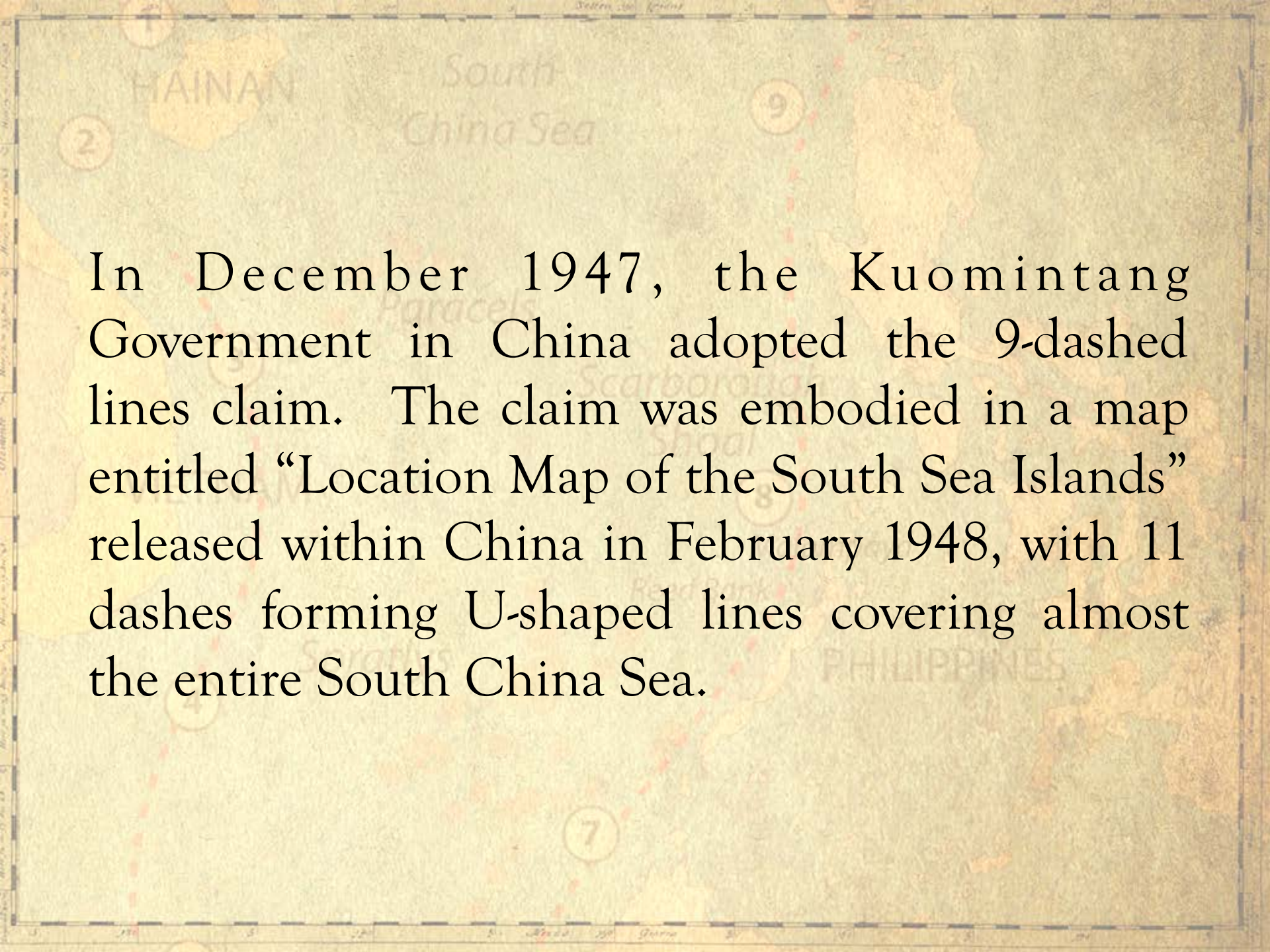
The views expressed in this presentation are the personal opinion of the author and do not necessarily represent the position of the Philippine Government.

A map of the South China Sea region, showing the coastline of China, Hainan Island, and the Philippines. A red dashed line, known as China's 9-dashed lines, is drawn across the sea, connecting nine numbered points (1-9) in a roughly U-shaped path. The map includes labels for 'HAINAN', 'South China Sea', 'Paracels', 'Scarborough', 'Spratlys', 'PHILIPPINES', 'Malampaya', and 'Reed Bank'. The text 'China's 9-dashed Lines' is overlaid in the center in a large, brown, serif font.

China's 9-dashed Lines

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

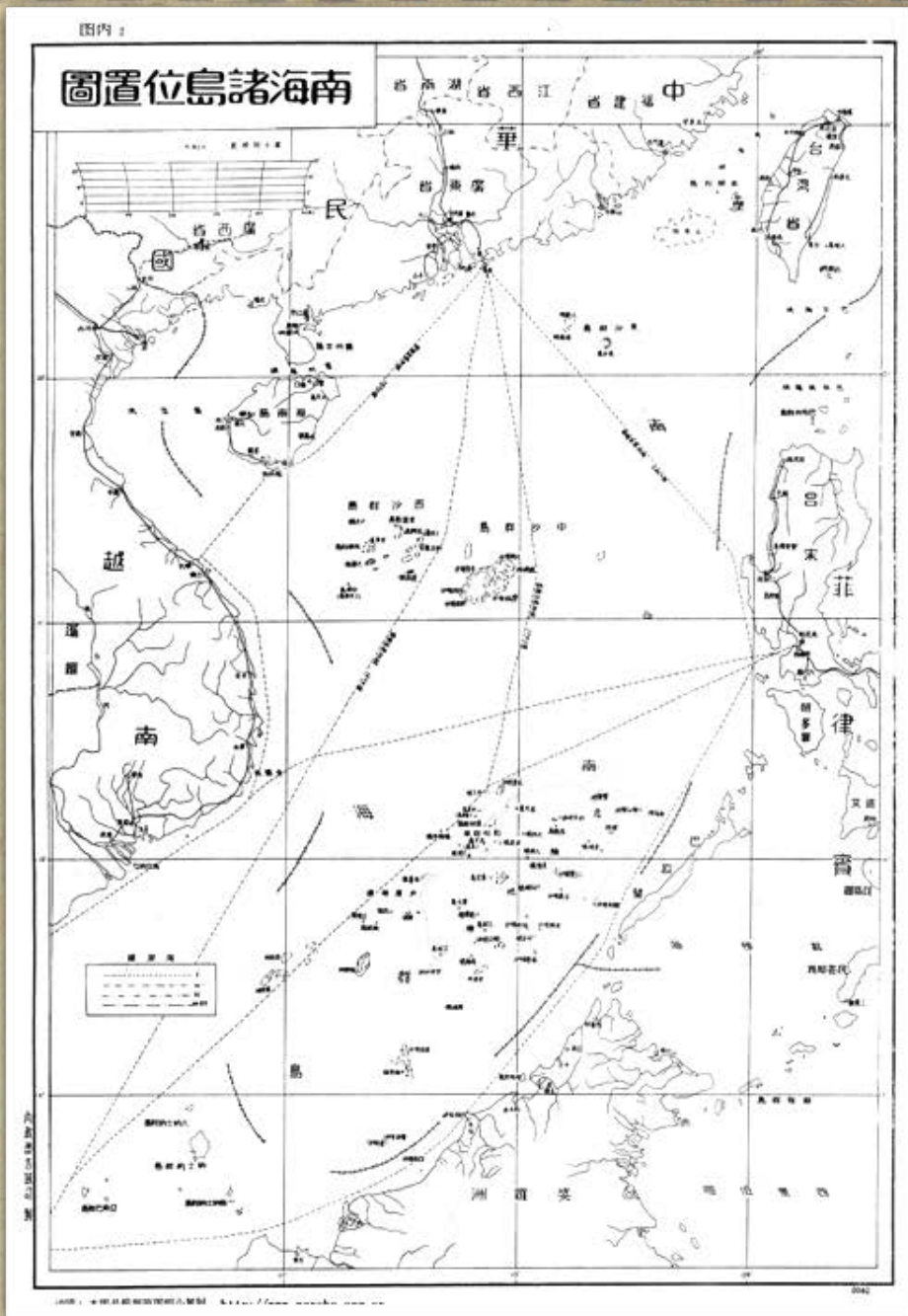


The background is a faded map of the South China Sea region. It features a prominent 9-dashed line forming a U-shape around the sea. Several numbered circles are overlaid on the map: a '1' at the top, a '2' on the left, a '9' at the top right, and a '7' at the bottom center. Faint text labels include 'HAINAN', 'South China Sea', 'Paracels', 'Scarborough Shoal', and 'PHILIPPINES'.

In December 1947, the Kuomintang Government in China adopted the 9-dashed lines claim. The claim was embodied in a map entitled “Location Map of the South Sea Islands” released within China in February 1948, with 11 dashes forming U-shaped lines covering almost the entire South China Sea.

The Original 1947
9-dashed Lines Map of China
Entitled “Location Map of
the South Sea Islands”

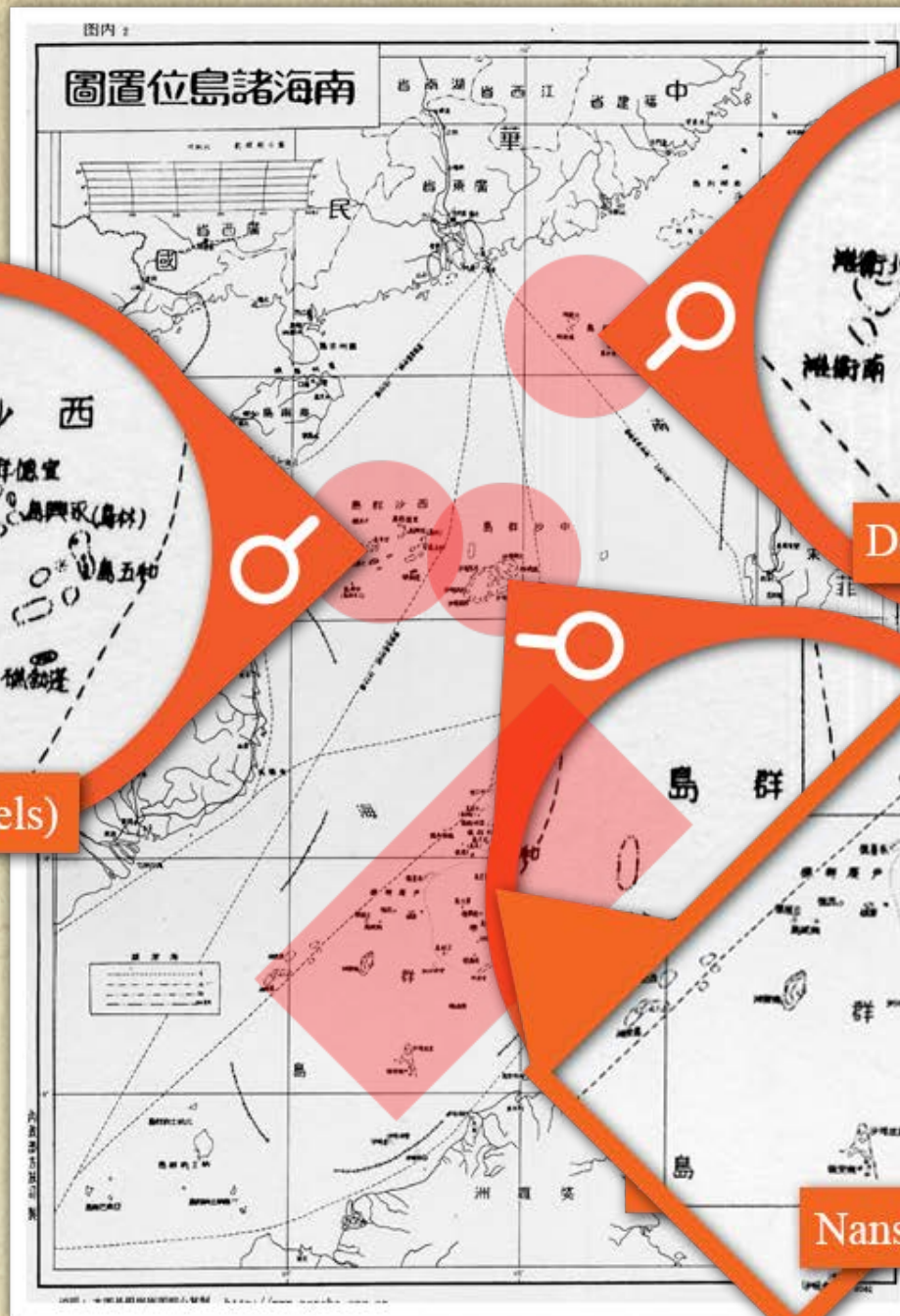
The title of the map indicates
a claim to the islands, not the sea.



China did not explain the meaning or basis of the 11 dashes. China did not also give the coordinates of the 11 dashes. China claimed the islands enclosed by the 11 dashes, namely Dongsha Islands (Pratas), Xisha Islands (Paracels), Zhongsha Island (Macclesfield Bank), and Nansha Islands (Spratlys).

China was silent on any claim to the surrounding waters. This claim is contrary to the 1946 Constitution of the Republic of China, which declared China's territory to be the same territory as that of the Qing Dynasty, with Hainan Island as the southernmost territory.

The Original 1947
9 dashed Lines
Map of China



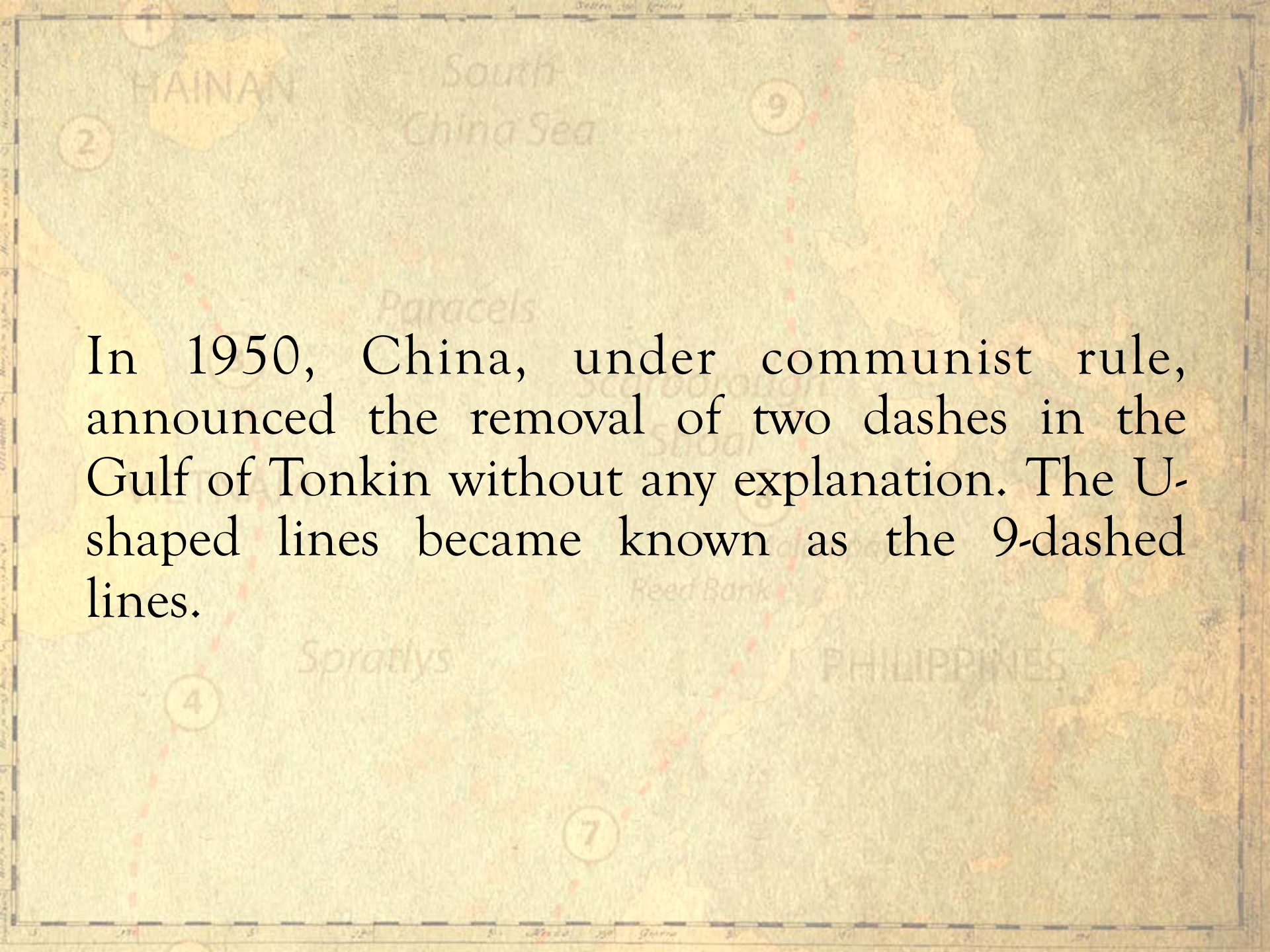
Xisha Islands (Paracels)



Dongsha Islands (Pratas)

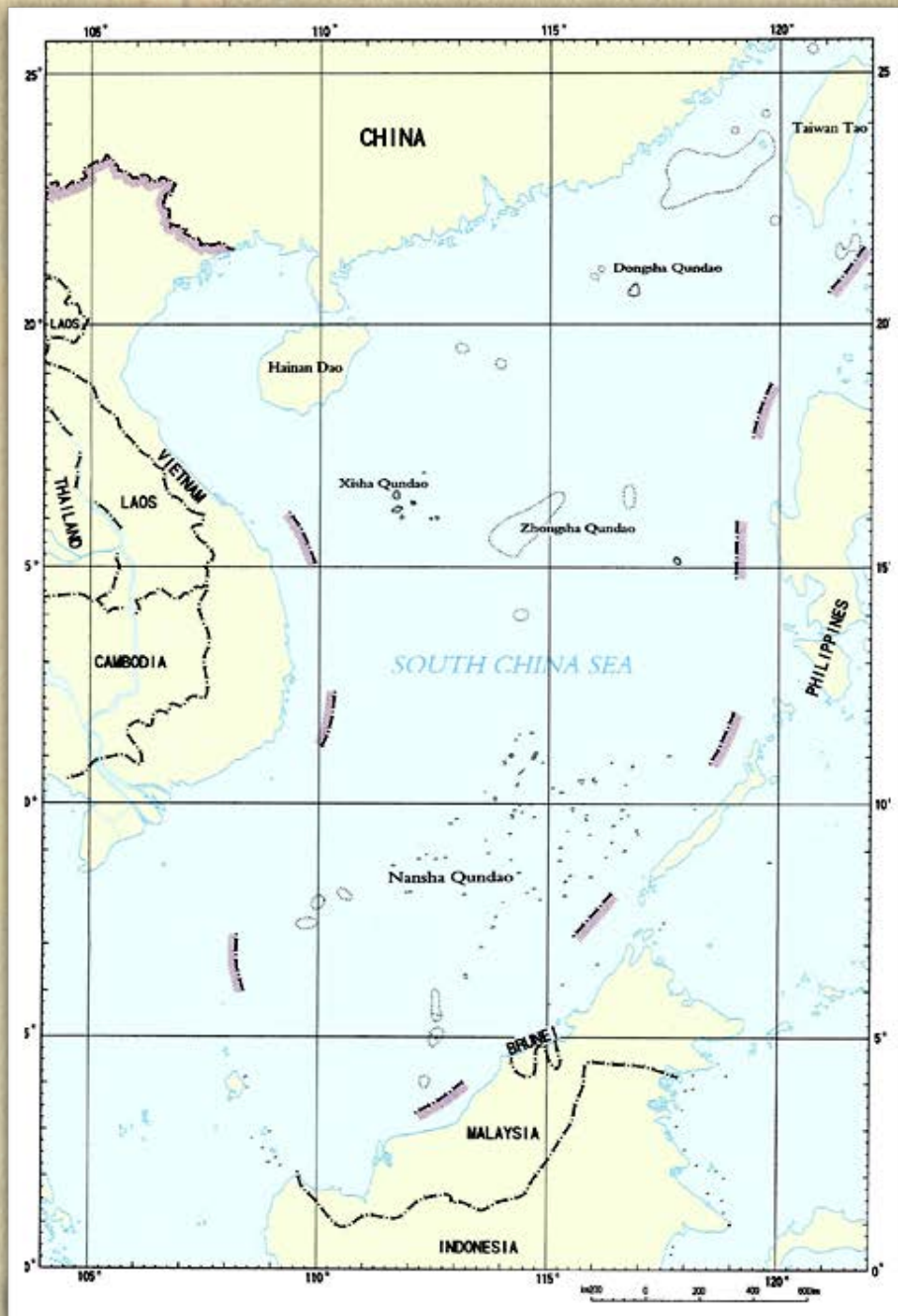


(Mcclesfield Bank)
Nansha Islands (Spratlys)



In 1950, China, under communist rule, announced the removal of two dashes in the Gulf of Tonkin without any explanation. The U-shaped lines became known as the 9-dashed lines.

In 2009, Vietnam and Malaysia jointly submitted to the United Nations their Extended Continental Shelf (ECS) claims. China protested the claims and attached to its protest a map of its 9-dashed lines, claiming (1) “indisputable sovereignty” over all the islands and the “adjacent” waters enclosed by the lines, and (2) “sovereign rights and jurisdiction” over the “relevant” waters of all the islands enclosed by the lines. This was the first time that China officially announced the 9-dashed lines to the world. China did not explain the meaning or basis of the dashes, or the meaning of “adjacent” and “relevant” waters. Neither did China give the coordinates of the dashes.



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



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 as its “**national boundaries.**” 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.**”

In 2014, China’s Hainan Province began enforcing fishing regulations interpreting the “adjacent” and “relevant” waters as those waters enclosed by the 9-dashed lines, comprising 85.7% of the South China Sea.

China's New Map with 10 dashes (2013)

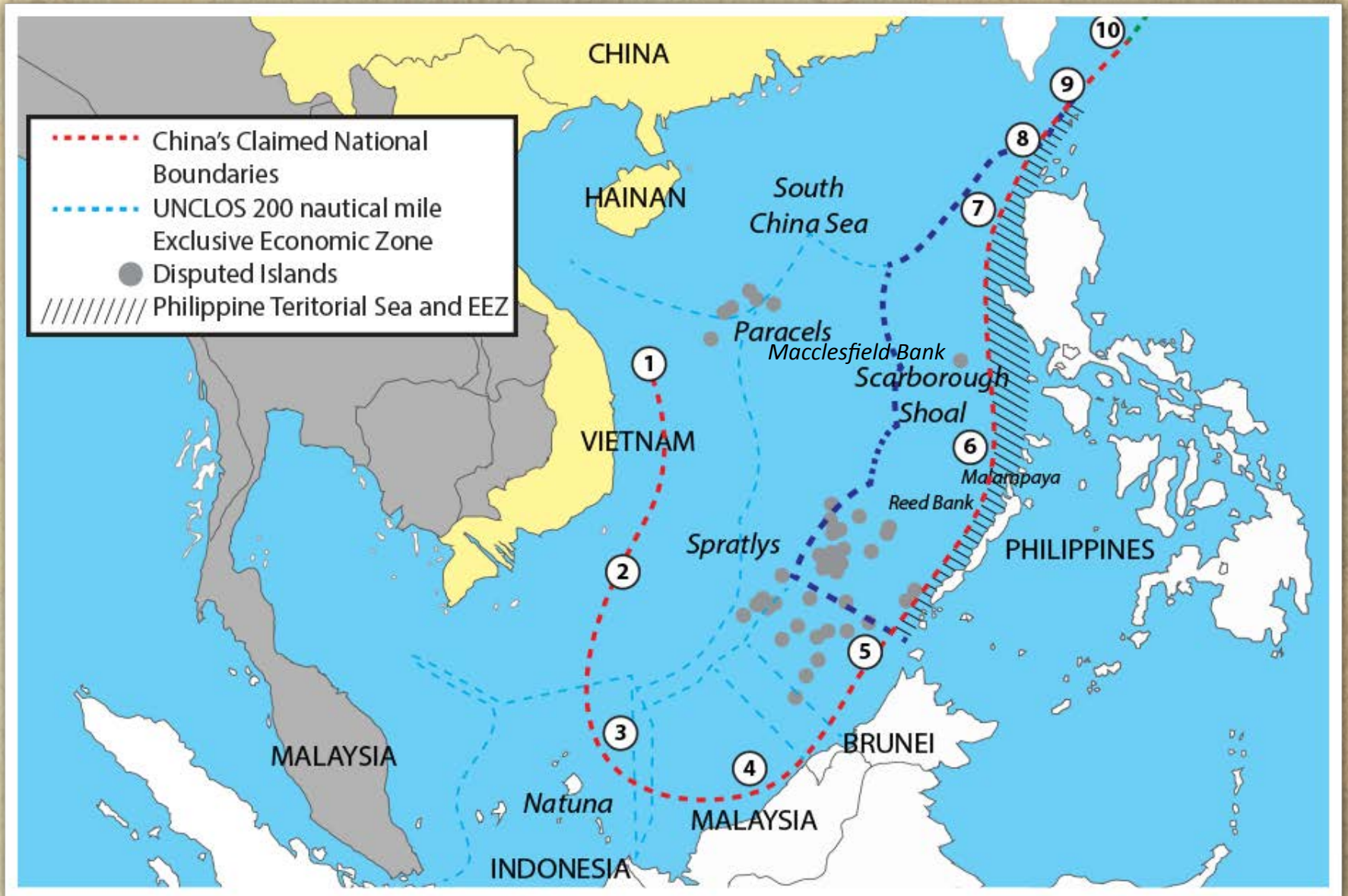


Printed in a 1947 map, China's 9-dashed lines have no fixed coordinates. Originally 11 dashes, two dashes in the Gulf of Tonkin were removed in 1950 without explanation. In 2013, one dash was added east of Taiwan. The new 2013 China map, with 10 dashed lines, is printed by SinoMaps Press.

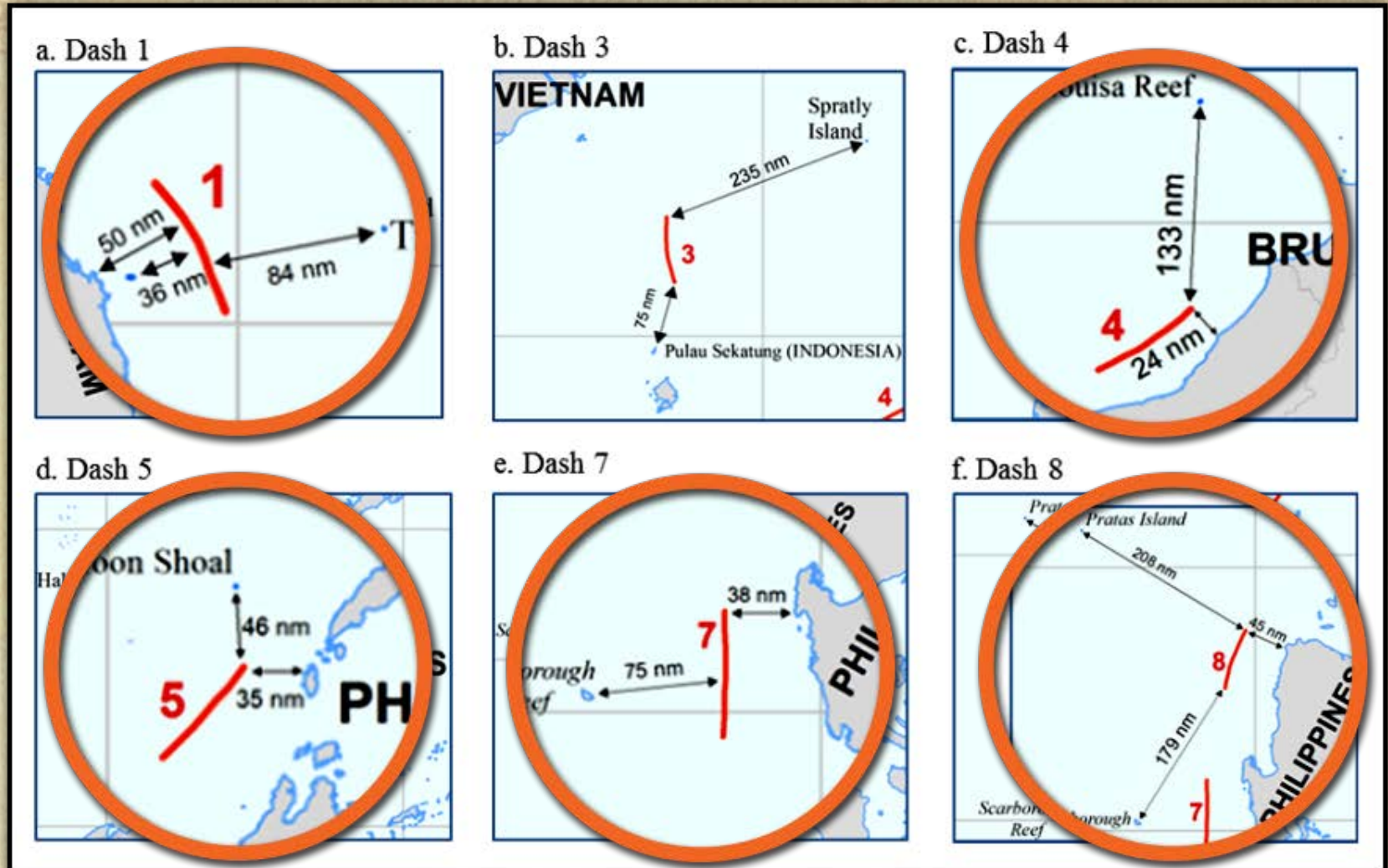
What is the Effect of China's "National Boundaries" under the 9-dashed Lines?

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.

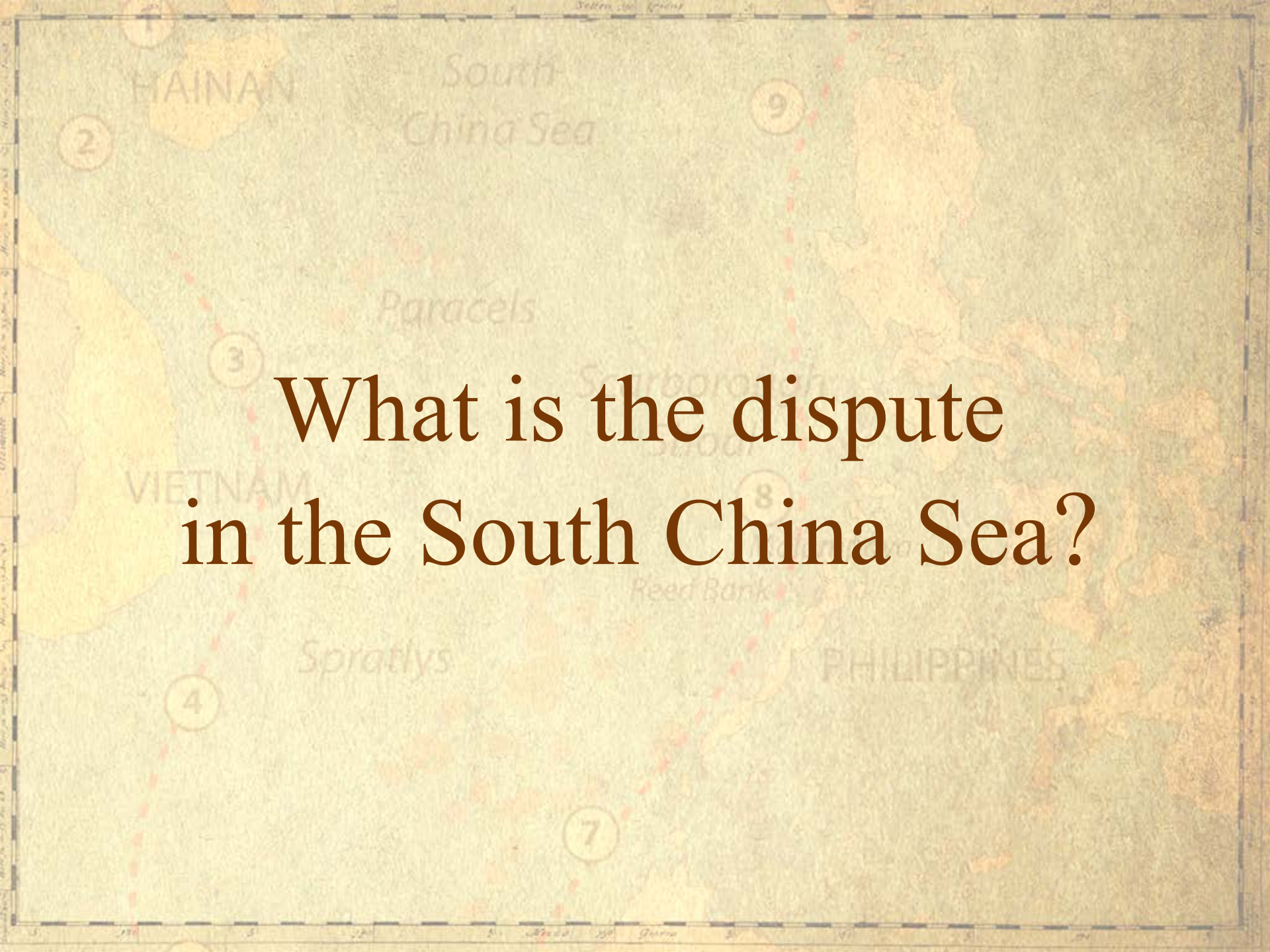
China's new "national boundaries" under the 9-dashed lines



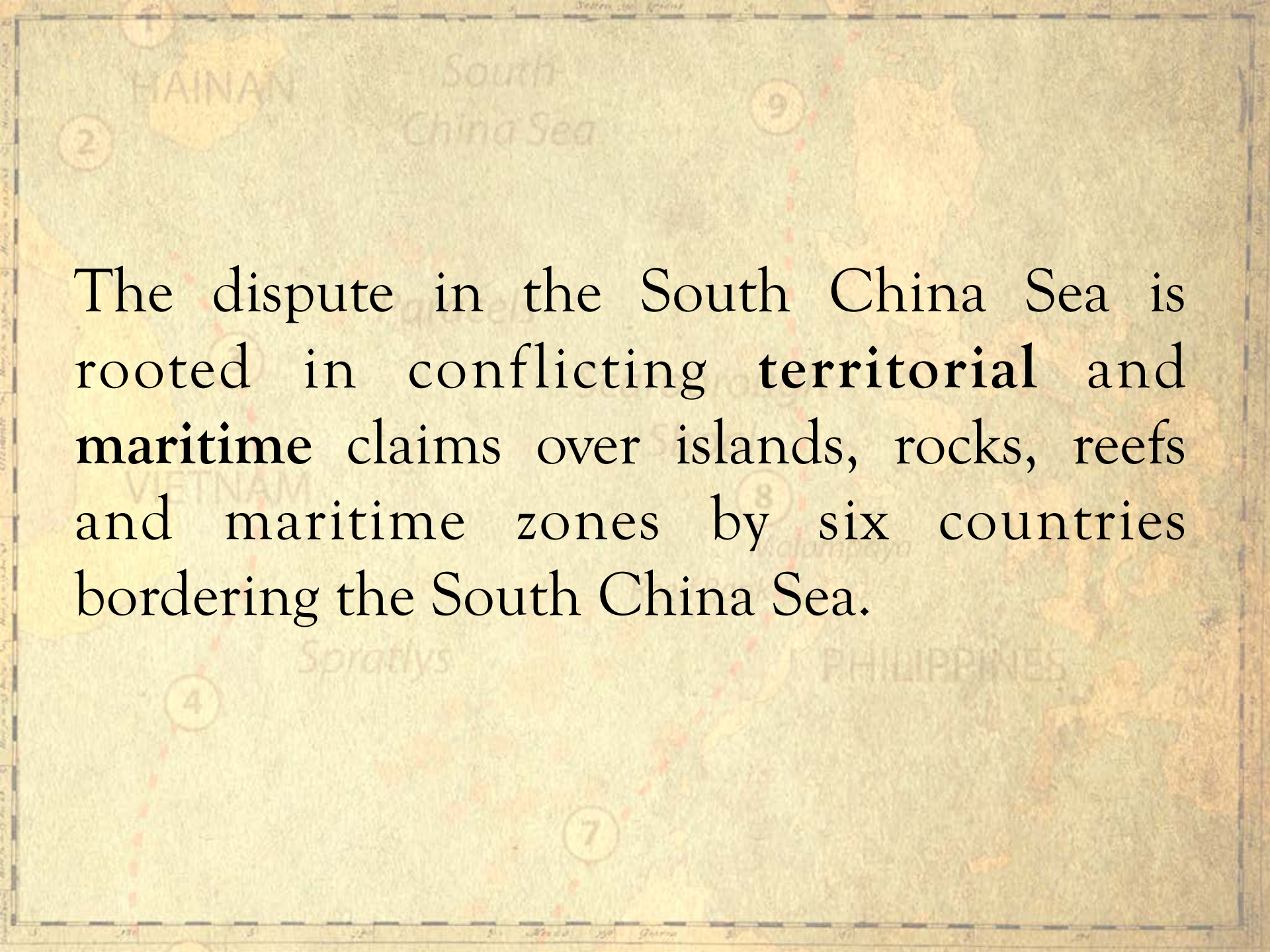
9-dashed Lines Hugs the Coastlines of Asean Coastal States



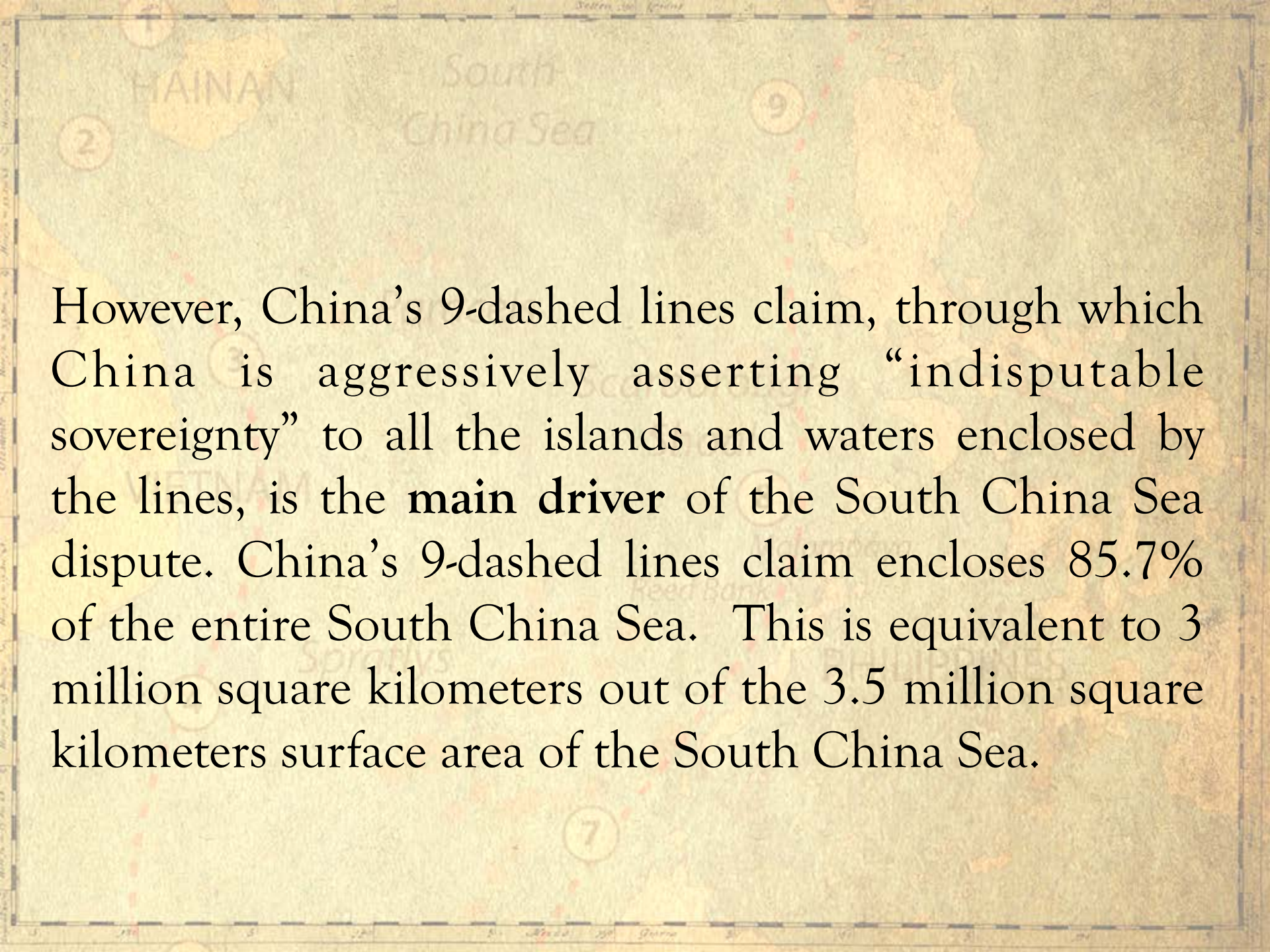
Source: *Limits in the Seas*, No.143, *China: Maritime Claims in the South China Sea*, Office of Ocean and Polar Affairs, U.S. State Department, 5 December 2015.

A map of the South China Sea region, showing Hainan, Vietnam, the Philippines, and various island groups like the Paracels, Spratlys, and Reed Bank. A red dashed line with numbered circles (1-9) traces a path across the sea. The text 'What is the dispute in the South China Sea?' is overlaid in the center.

**What is the dispute
in the South China Sea?**



The dispute in the South China Sea is rooted in conflicting **territorial** and **maritime** claims over islands, rocks, reefs and maritime zones by six countries bordering the South China Sea.



However, 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.

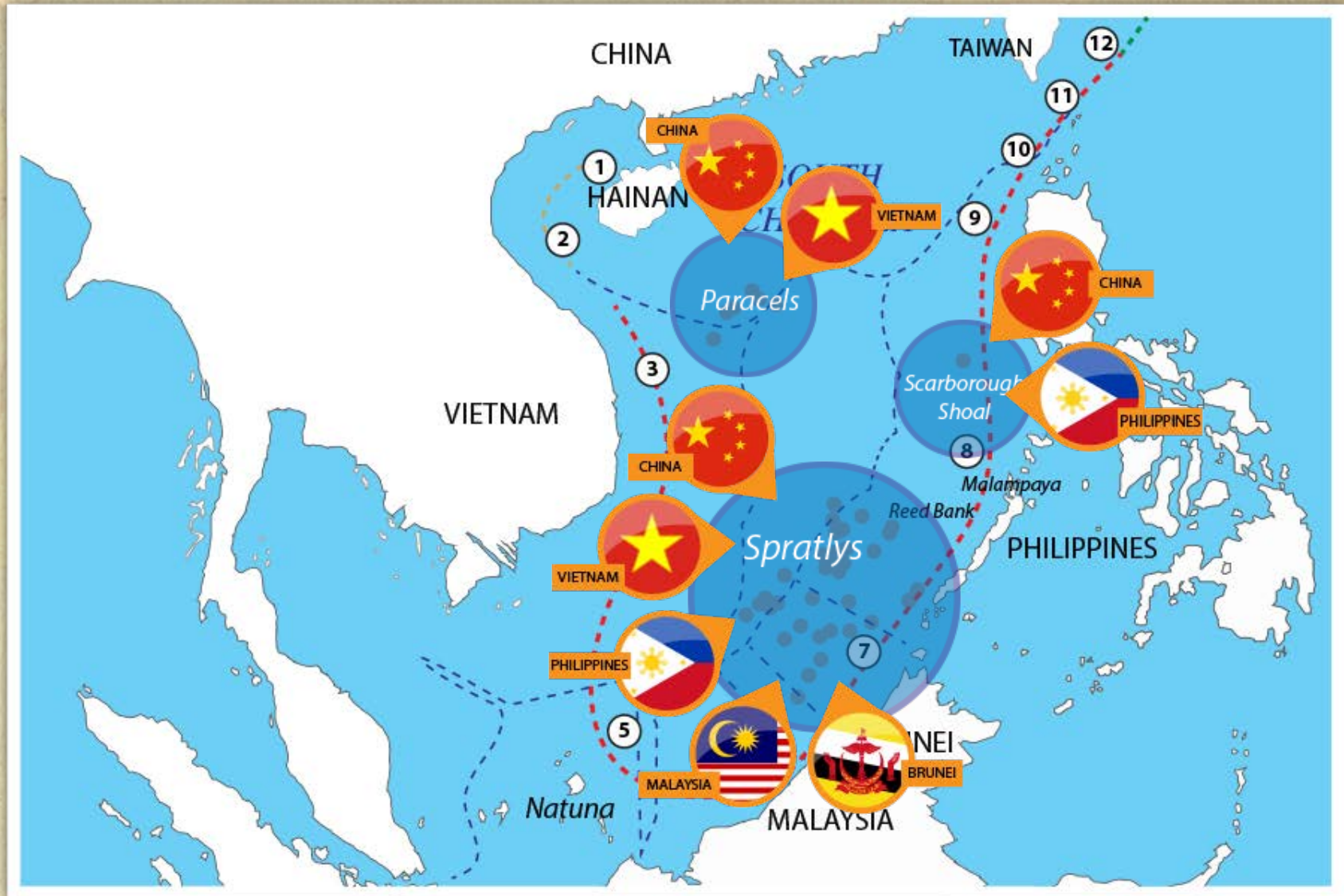
Six coastal states are involved, in varying degrees, in the South China Sea dispute.

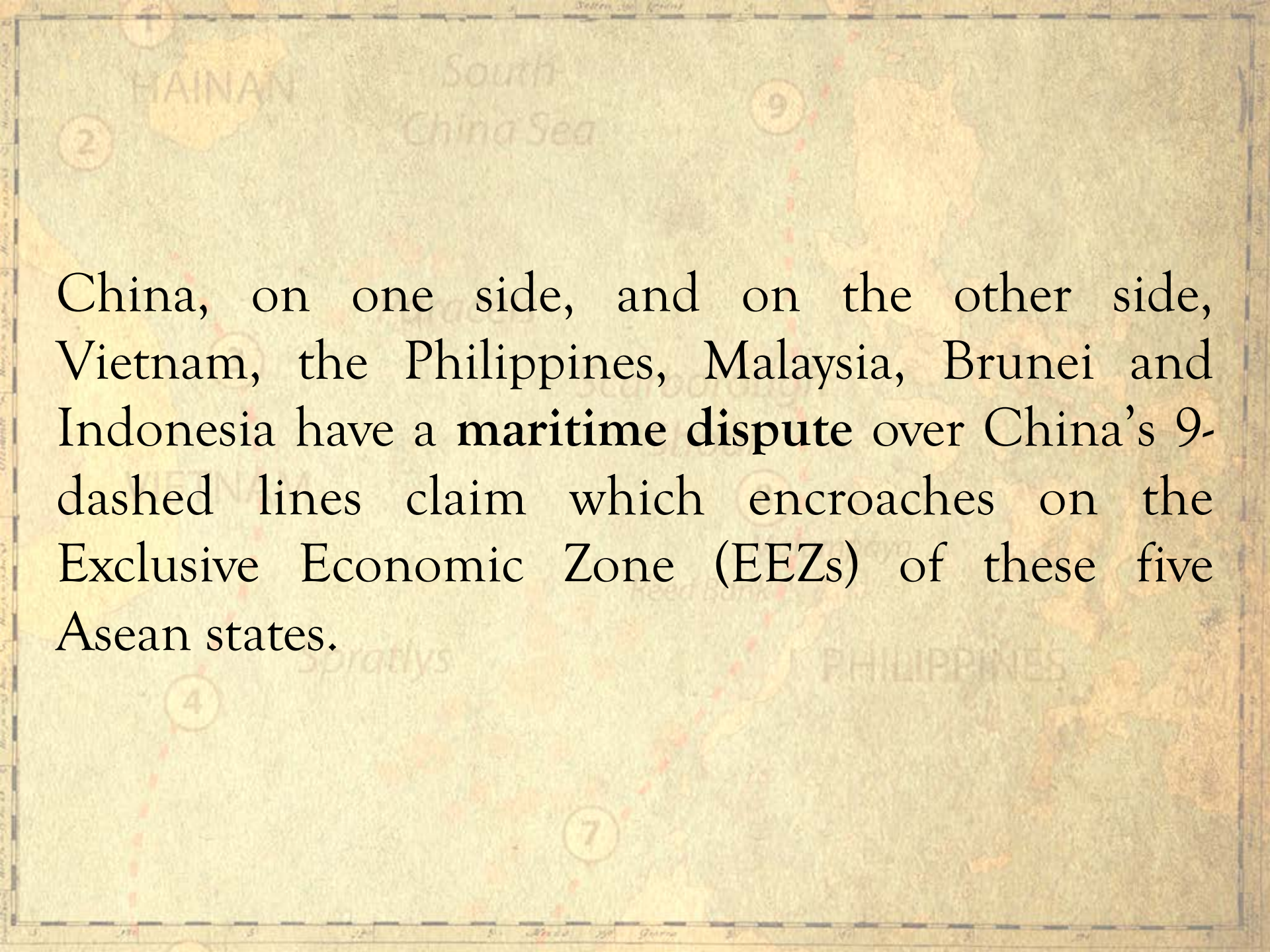
In the Spratlys, China, Vietnam, the Philippines, Malaysia, and Brunei have **territorial disputes**, with China and Vietnam claiming the entire Spratlys and the Philippines and Malaysia claiming only certain islands. Louisa Reef, within Brunei's EEZ and about one meter above water at high tide, is claimed by China as Nantong Reef.

China and Vietnam have a **territorial dispute** over the Paracels.

China and the Philippines have a **territorial dispute** over Scarborough Shoal.

Coastal states involved in the territorial dispute



The background of the slide is a map of the South China Sea region. It features a red dashed line representing China's 9-dashed line claim, which encircles the Spratly Islands and extends towards the Philippines. Numbered circles (1-9) are placed along this line. The map also shows the Exclusive Economic Zones (EEZs) of five ASEAN states: Vietnam, the Philippines, Malaysia, Brunei, and Indonesia. The text is overlaid on this map.

China, on one side, and on the other side, Vietnam, the Philippines, Malaysia, Brunei and Indonesia have a **maritime dispute** over China's 9-dashed lines claim which encroaches on the Exclusive Economic Zone (EEZs) of these five Asean states.

Coastal states involved in the *maritime* dispute



James Shoal - China's "Southernmost" Border

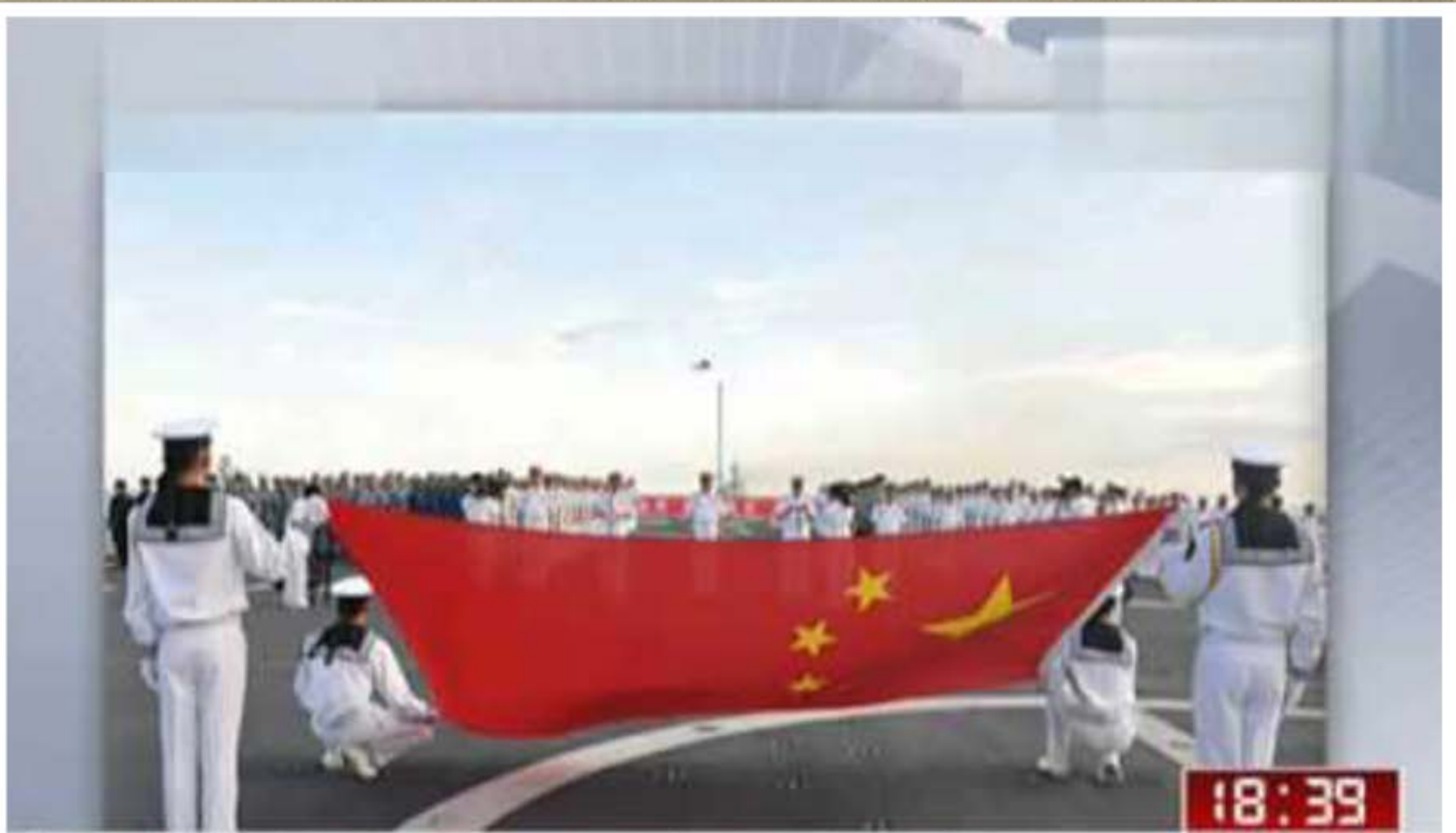


China claims James Shoal, which is fully submerged at 22 meters below water, as its southernmost border, more than 950 NM from Hainan Island. Under international law, a state's border must either be a land territory, a river, or a territorial sea - which are all subject to its full sovereignty. A state's border cannot be a fully submerged area in the EEZ of another state. China has neither territorial nor maritime jurisdiction over James Shoal, which is 80 KM from Malaysia's coast in Bintulu, Sarawak, Borneo, within Malaysia's EEZ. A state cannot appropriate as its sovereign territory a fully submerged area beyond its territorial sea.

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



中国海军编队在曾母暗沙举行宣誓仪式

时事新闻 全球陆路女广女亚相海体育枪进行了全球发发后子 即口抄女到

The caption of this photo reads, “The Chinese Naval Fleet held an oath-taking ceremony at Zengmu Reef or James Shoal.”

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. 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

China Sea



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



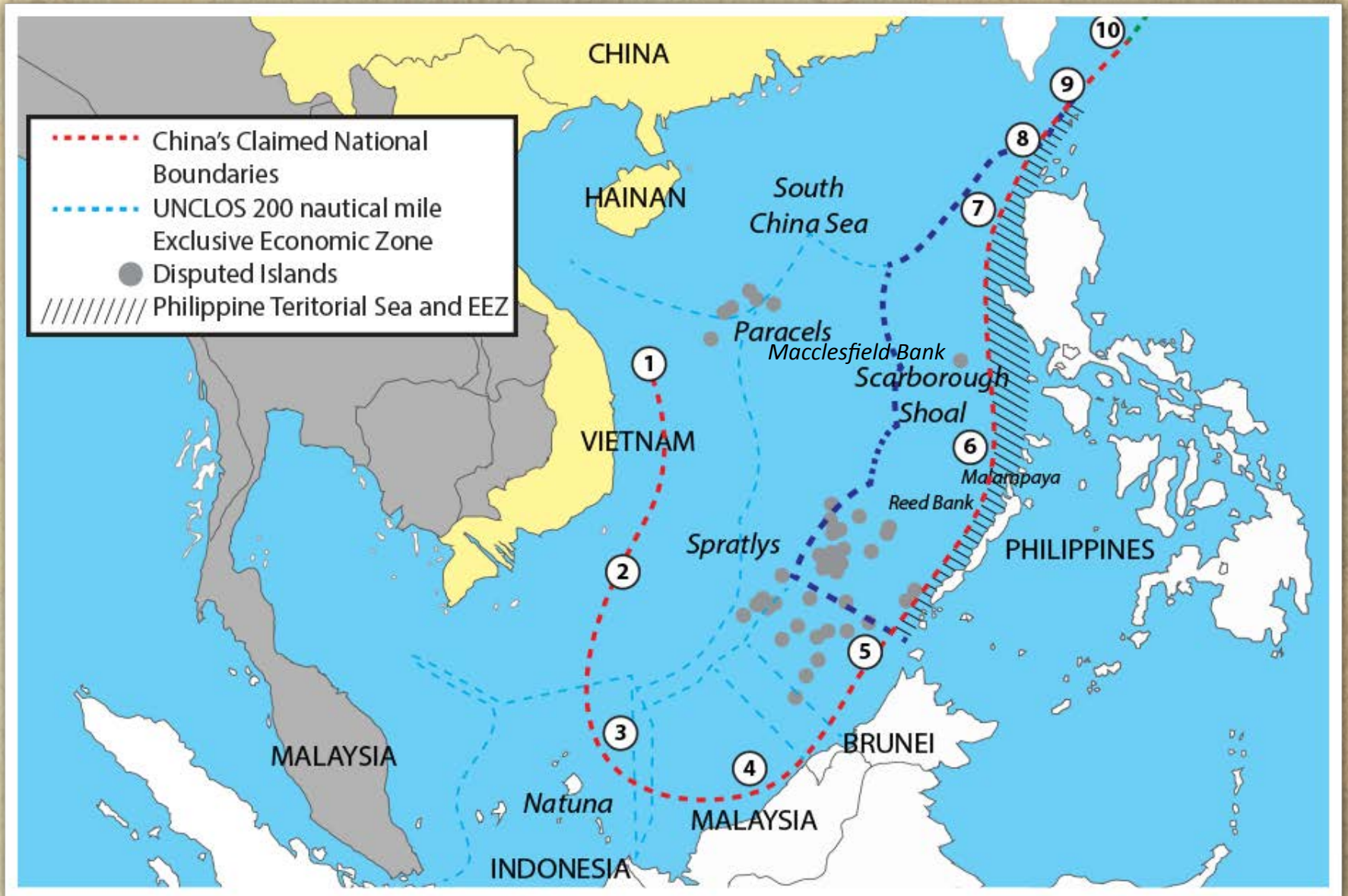
China is building several supply ships to service its outposts in the Paracels and the Spratlys. The new Type 904A supply ship has a helipad and storage for one Z-8 heavy transport helicopter.

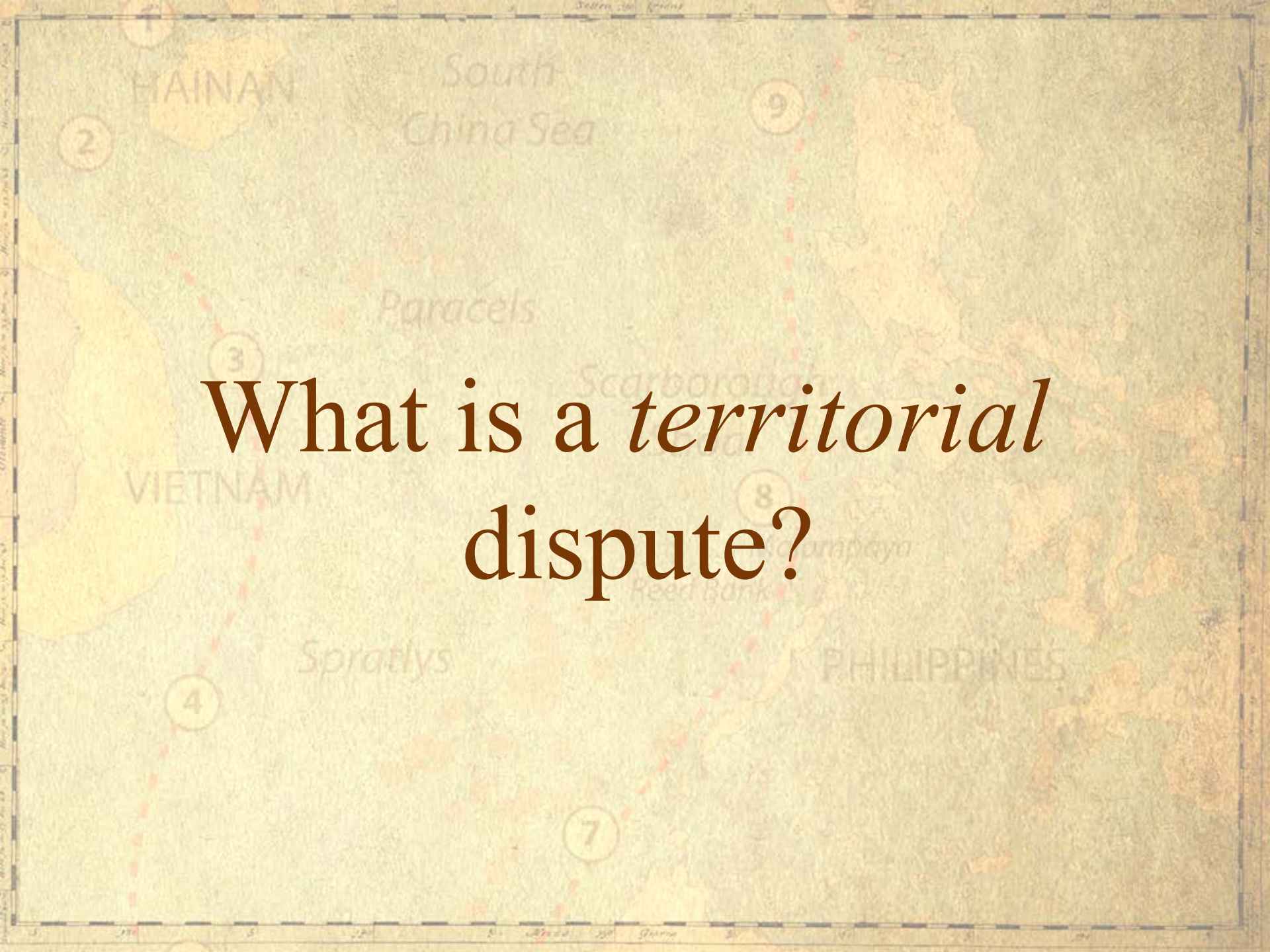
China's Second Navy - The Coast Guard



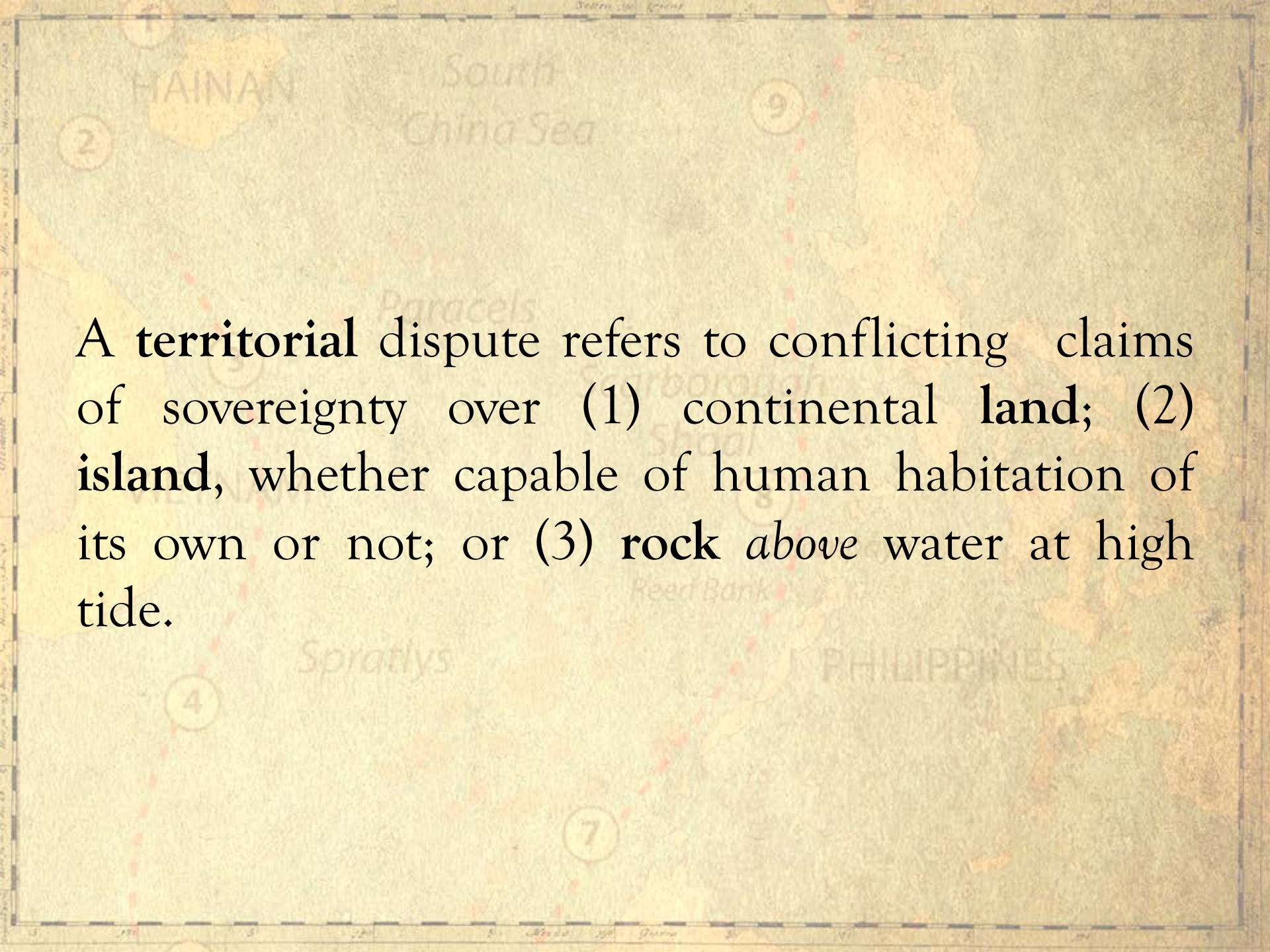
China will deploy this year a 10,000-ton coast guard vessel, the world's largest blue water coast guard vessel. A second 10,000-ton sister ship is under construction. China has more coast guard vessels than Japan, Vietnam, Indonesia, Malaysia and the Philippines combined. China's Coast Guard is the largest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

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

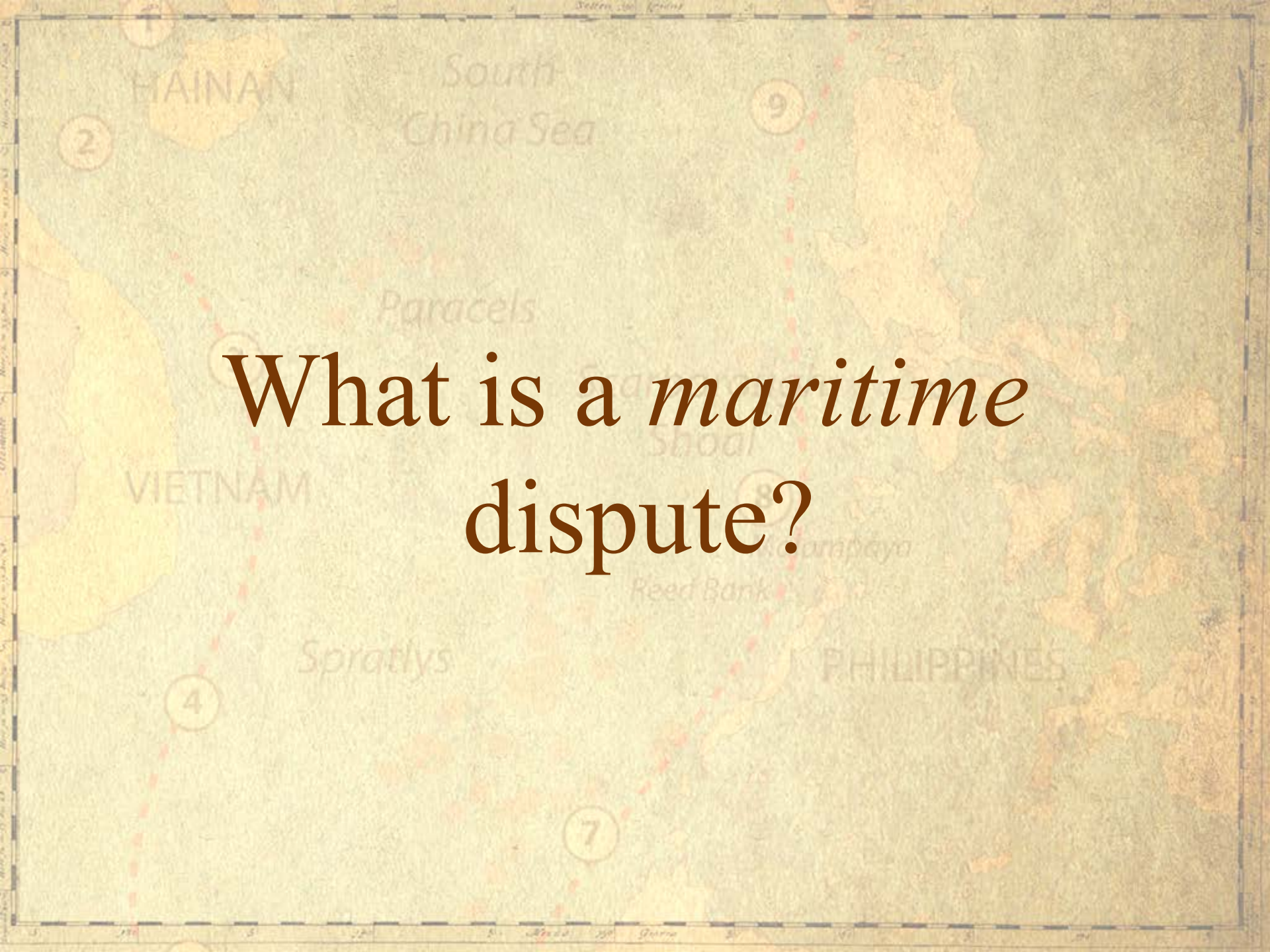


A map of the South China Sea region, showing the South China Sea, Hainan, Vietnam, Philippines, and various island groups like the Paracels, Scarborough, and Spratlys. A red dashed line with numbered circles (1-9) indicates a specific maritime boundary or claim. The text "What is a territorial dispute?" is overlaid on the map.

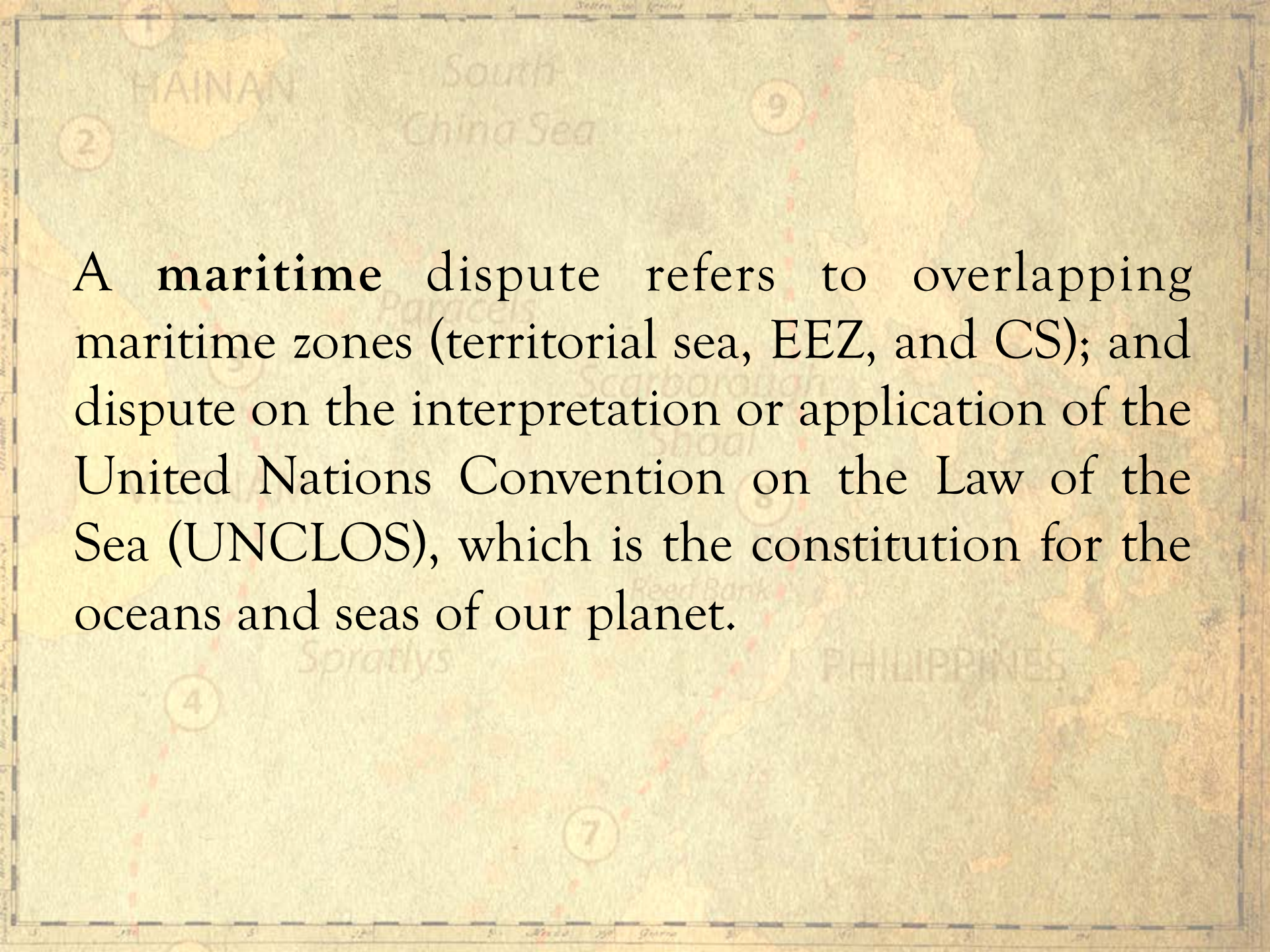
What is a *territorial* dispute?



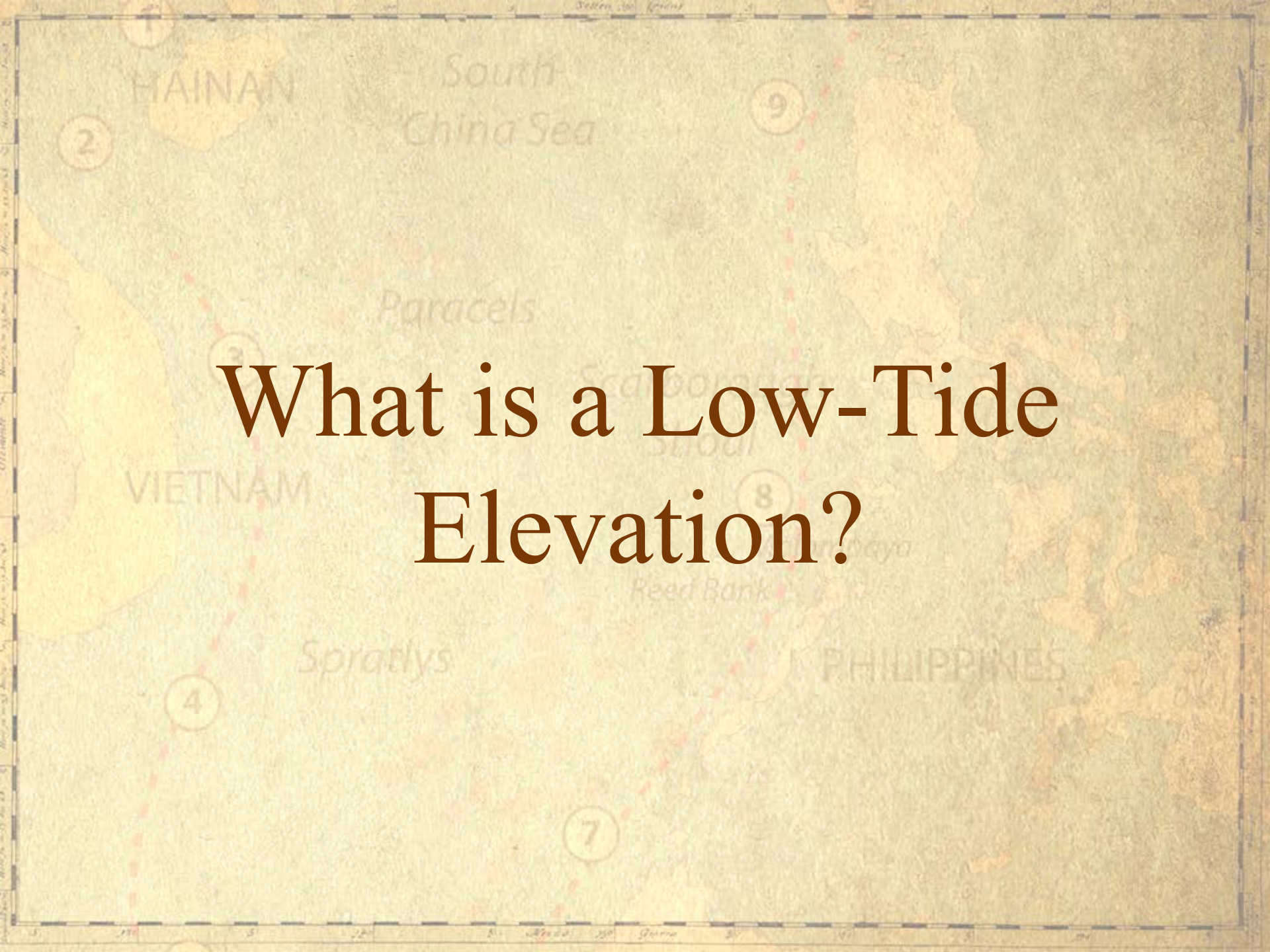
A territorial dispute refers to conflicting claims of sovereignty over (1) continental **land**; (2) **island**, whether capable of human habitation of its own or not; or (3) **rock** *above* water at high tide.

A map of the South China Sea region, showing the South China Sea, Hainan, Vietnam, Philippines, and various islands and reefs. A red dashed line traces a path through the sea, with numbered circles (2, 4, 7, 9) indicating specific points of interest. The text "What is a maritime dispute?" is overlaid on the map.

What is a *maritime* dispute?

A background map of the South China Sea region, showing Hainan, the Philippines, and various islands and reefs. Numbered markers 1 through 9 are placed on the map, likely indicating specific maritime zones or points of interest. The text is overlaid on this map.

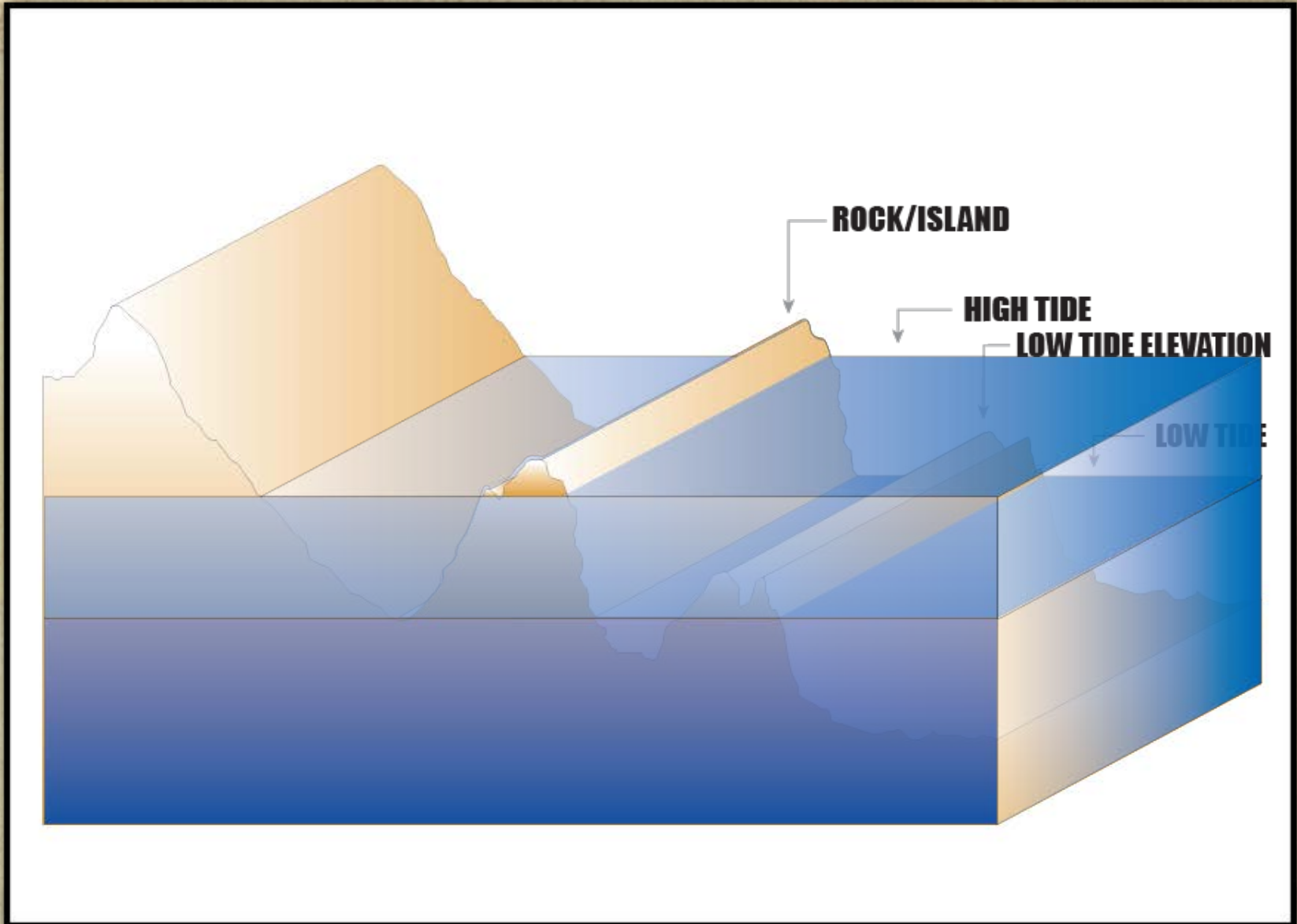
A **maritime** dispute refers to overlapping maritime zones (territorial sea, EEZ, and CS); and dispute on the interpretation or application of the United Nations Convention on the Law of the Sea (UNCLOS), which is the constitution for the oceans and seas of our planet.

A map of the South China Sea region, showing Hainan, Vietnam, the Philippines, and various island groups like the Paracels and Spratlys. A red dashed line with numbered circles (1-9) traces a path from Hainan down to the Philippines. The text 'What is a Low-Tide Elevation?' is overlaid in the center.

What is a Low-Tide Elevation?

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 map of the South China Sea region, showing territorial claims and maritime boundaries. The map includes labels for HAINAN, South China Sea, Paracels, VIETNAM, Spratlys, MALAYSIA, Malampaya, Reed Bank, PHILIPPINES, and Taiwan. A red dashed line indicates a maritime boundary, with numbered circles (2, 4, 7, 8, 9) marking specific points along it. The map also shows the coastlines of China, Vietnam, Malaysia, and the Philippines.

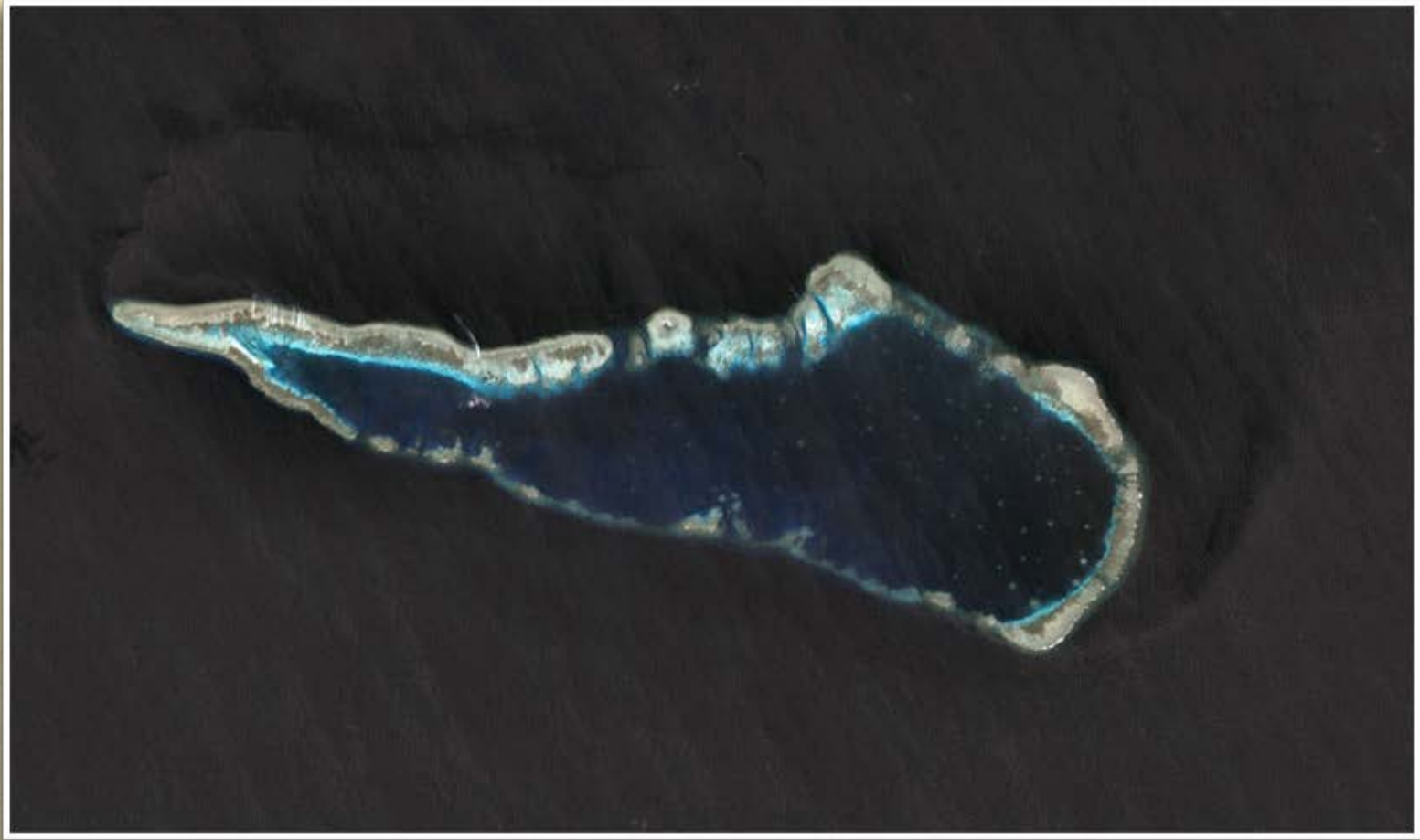
A dispute over an LTE beyond the territorial sea is a **maritime** dispute.

Mischief (Panganiban) Reef in 1995, 2005 and 2012

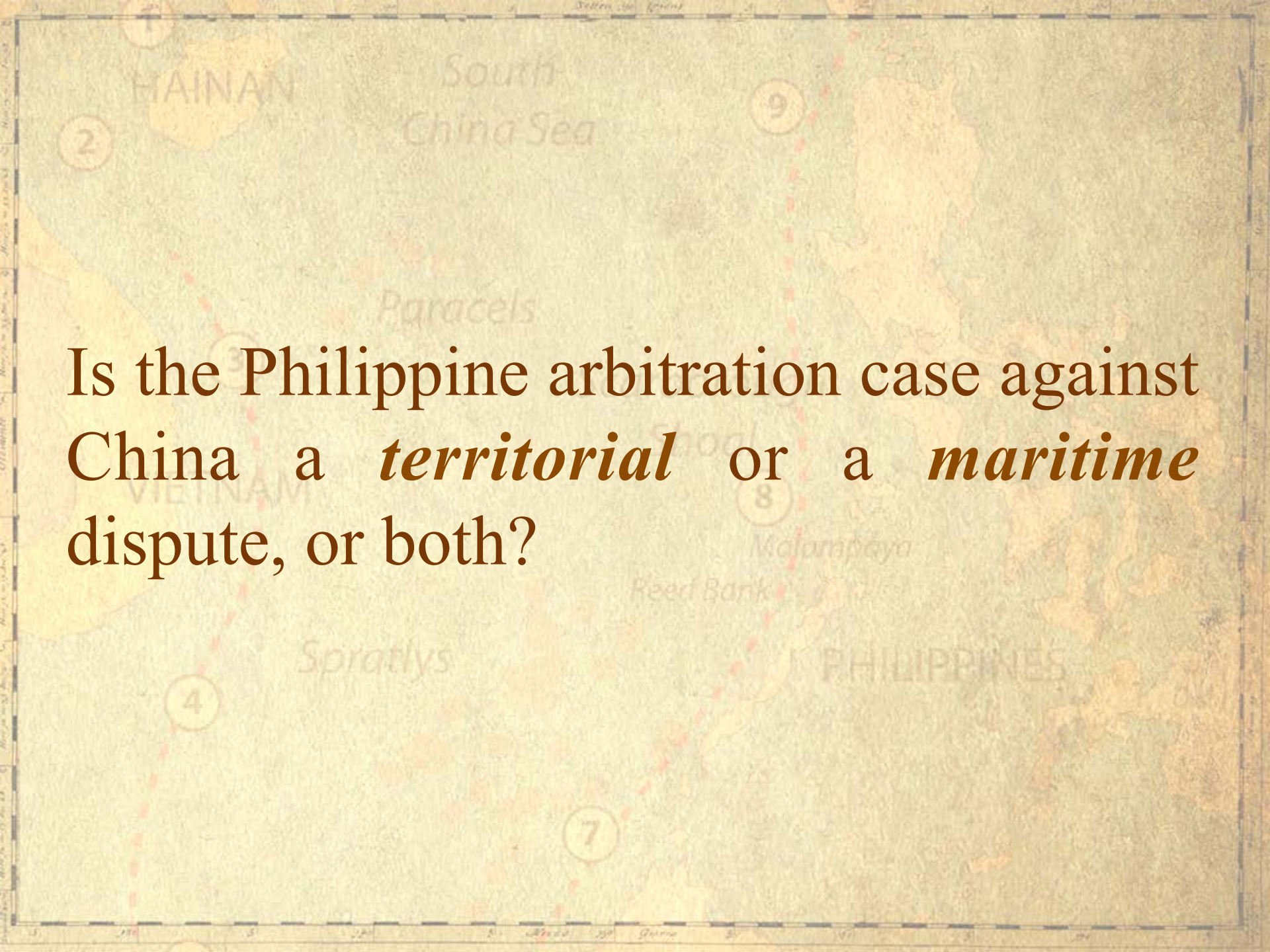


Mischief Reef is an LTE within the Philippines' 200 NM EEZ, 125 NM from Palawan. It was occupied by China in 1995. At that time China said it was building only a fishermen's shelter. It is now a military garrison. A dispute over an LTE situated in the EEZ or CS of a coastal state is a maritime dispute.

Second Thomas (Ayungin) Shoal



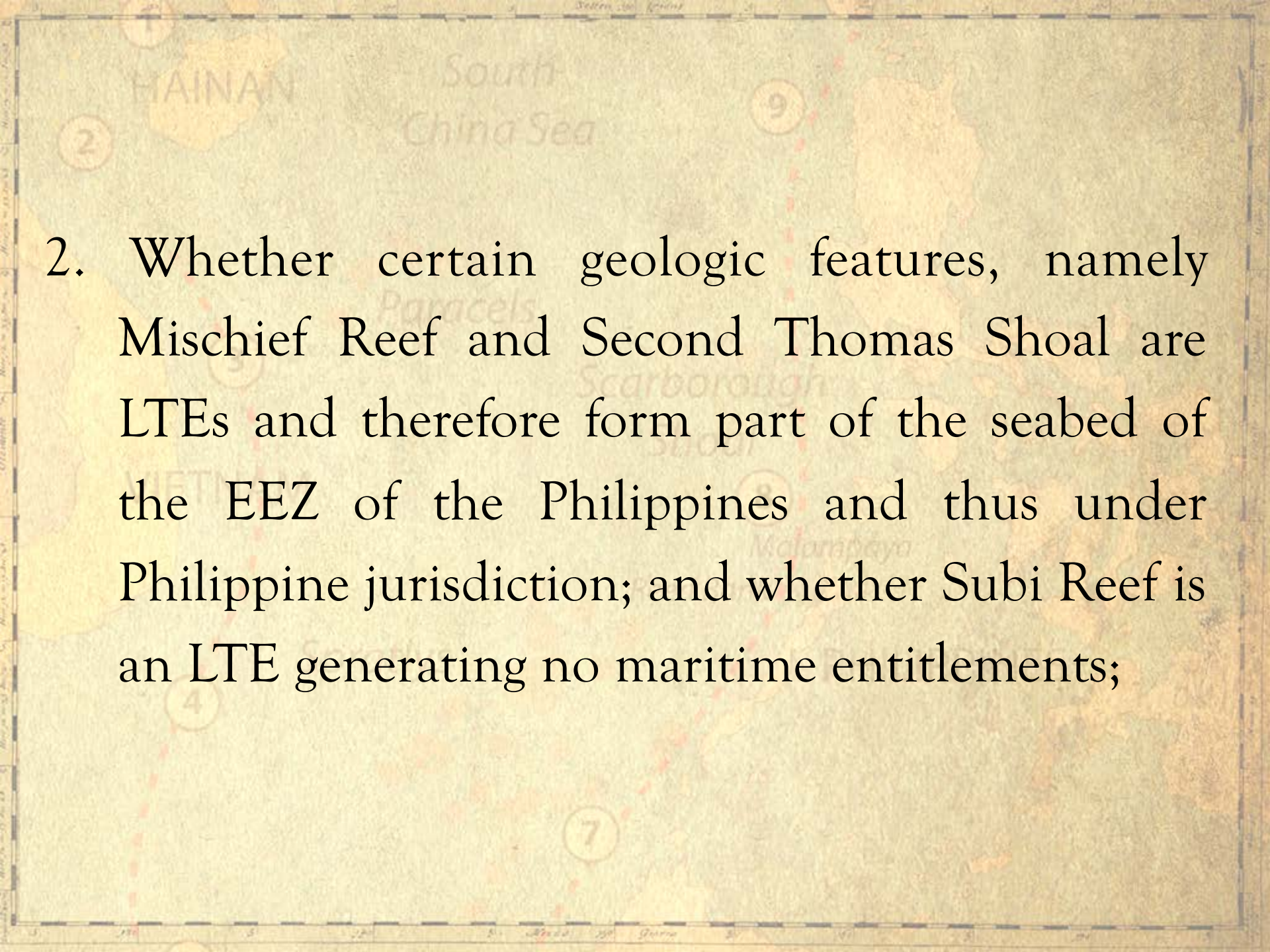
Second Thomas (Ayungin) Shoal is an LTE within the Philippines' 200 NM EEZ. It is 105 NM from Palawan.



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

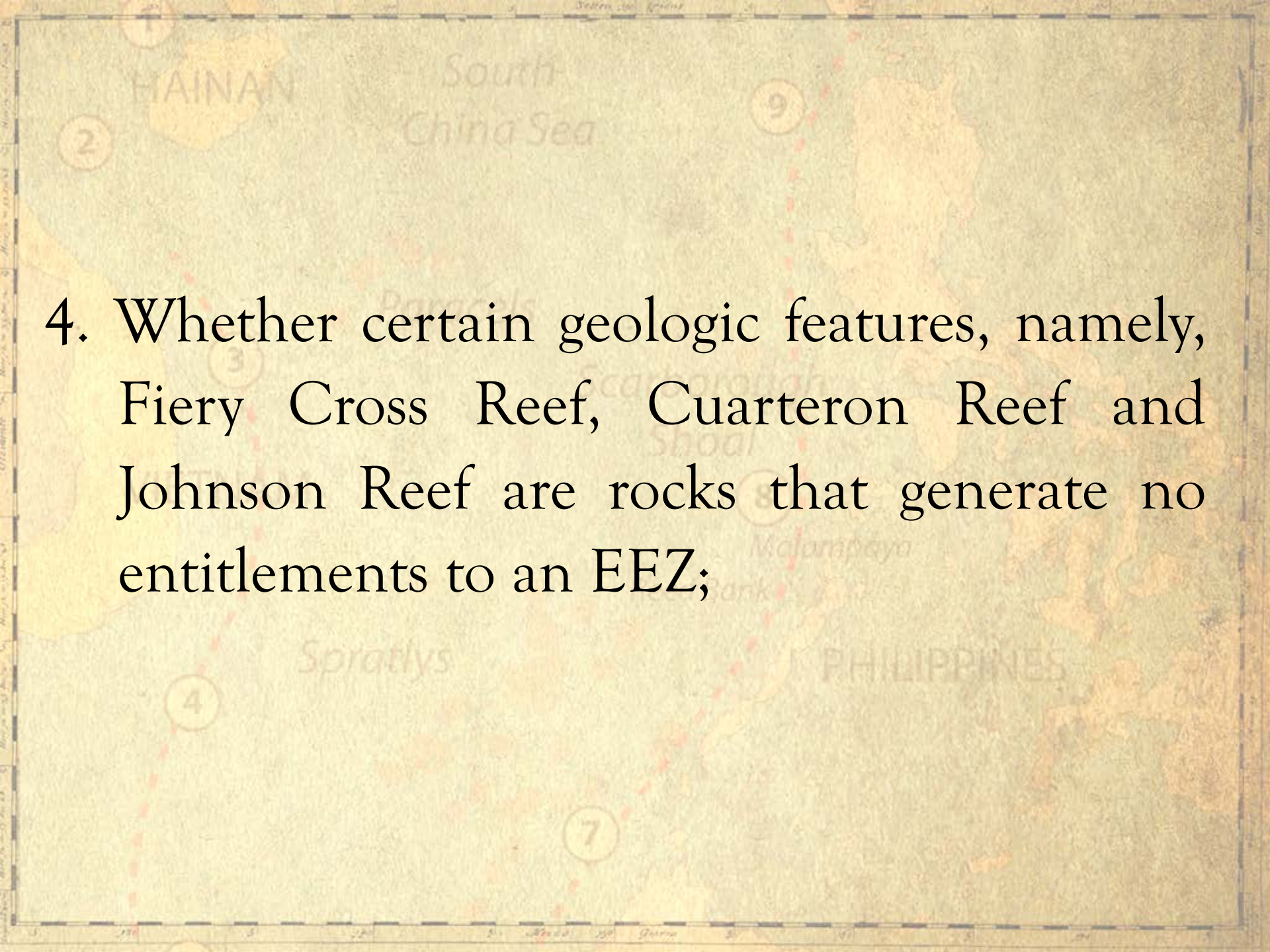
The Philippine arbitration case against China is not a territorial dispute but **solely a maritime dispute** involving the interpretation or application of UNCLOS:

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

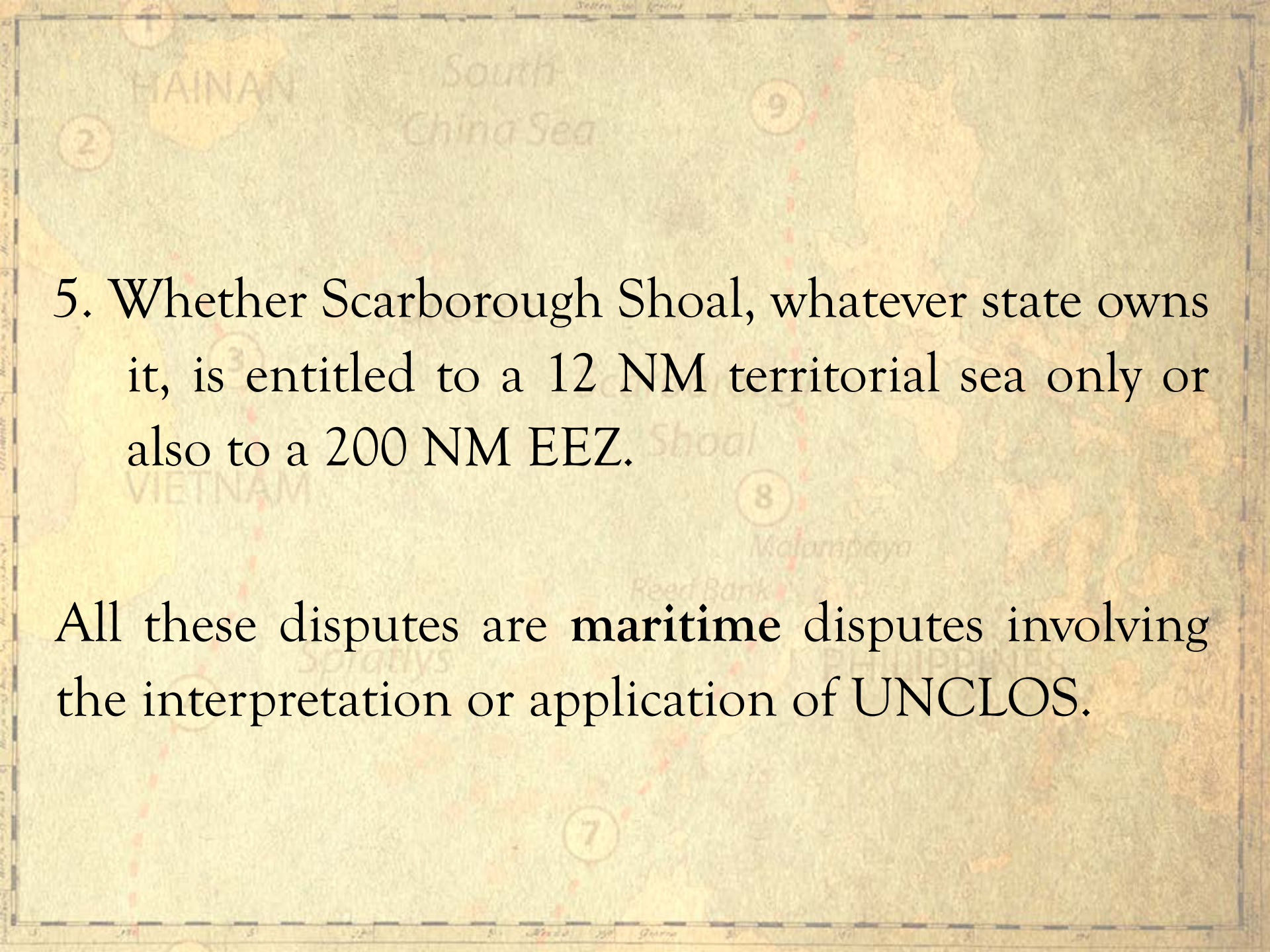


2. Whether certain geologic features, namely Mischief Reef and Second Thomas Shoal are LTEs and therefore form part of the seabed of the EEZ of the Philippines and thus under Philippine jurisdiction; and whether Subi Reef is an LTE generating no maritime entitlements;

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 Namyt Island and Sin Cowe Island, respectively, may be measured.

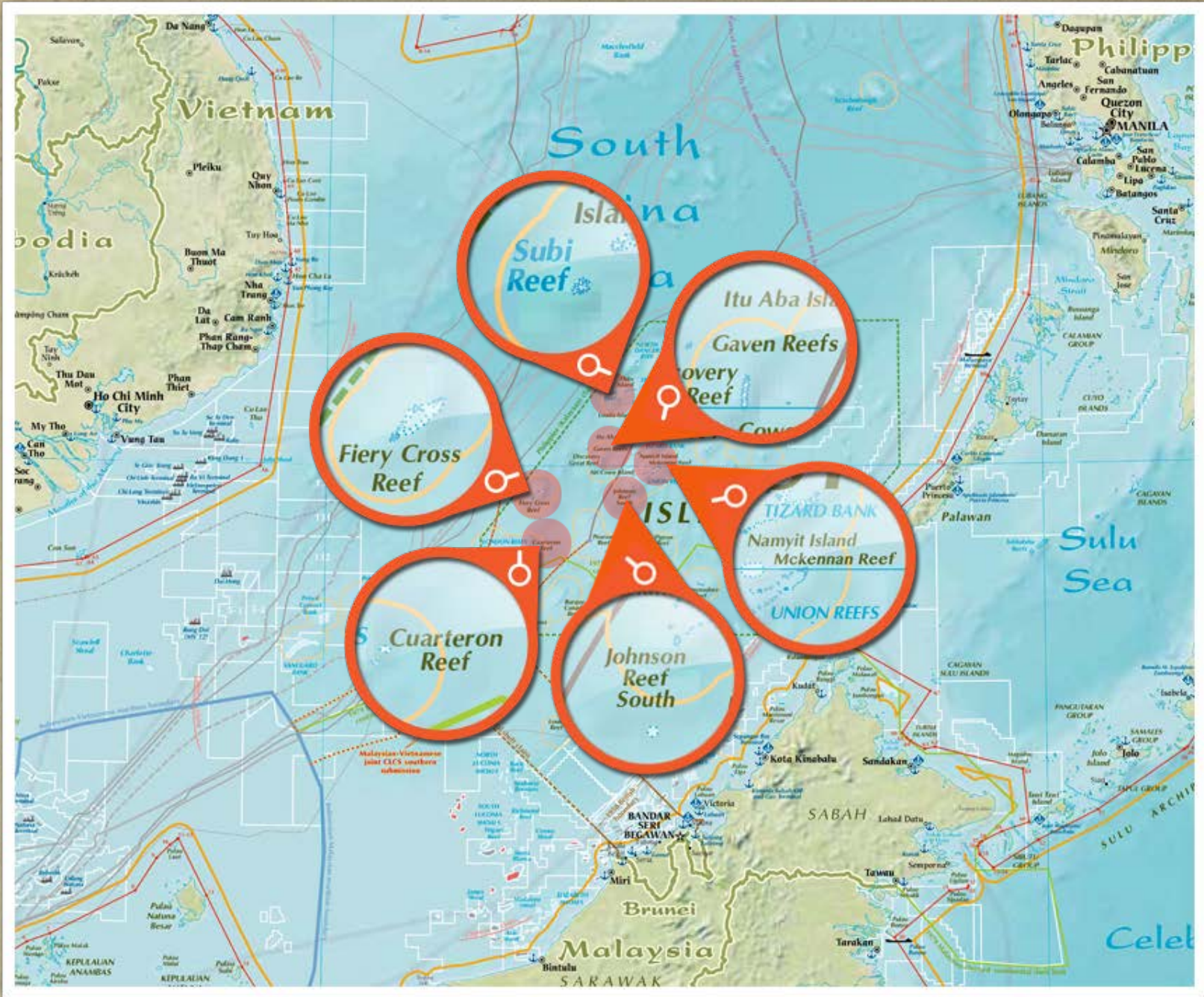
A faded map of the South China Sea region serves as the background. It shows the island of Hainan in the north, the Spratly Islands in the south, and the Philippines to the east. A red dashed line traces a path through the sea. Several circular markers with numbers (2, 3, 4, 7, 9) are placed at various points along this path. The text 'South China Sea' is visible in the upper center, and 'PHILIPPINES' is visible in the lower right. Other labels like 'HAINAN', 'Spratlys', 'Malampaya', and 'Shoal' are also present in a lighter font.

4. Whether certain geologic features, namely, Fiery Cross Reef, Cuarteron Reef and Johnson Reef are rocks that generate no entitlements to an EEZ;



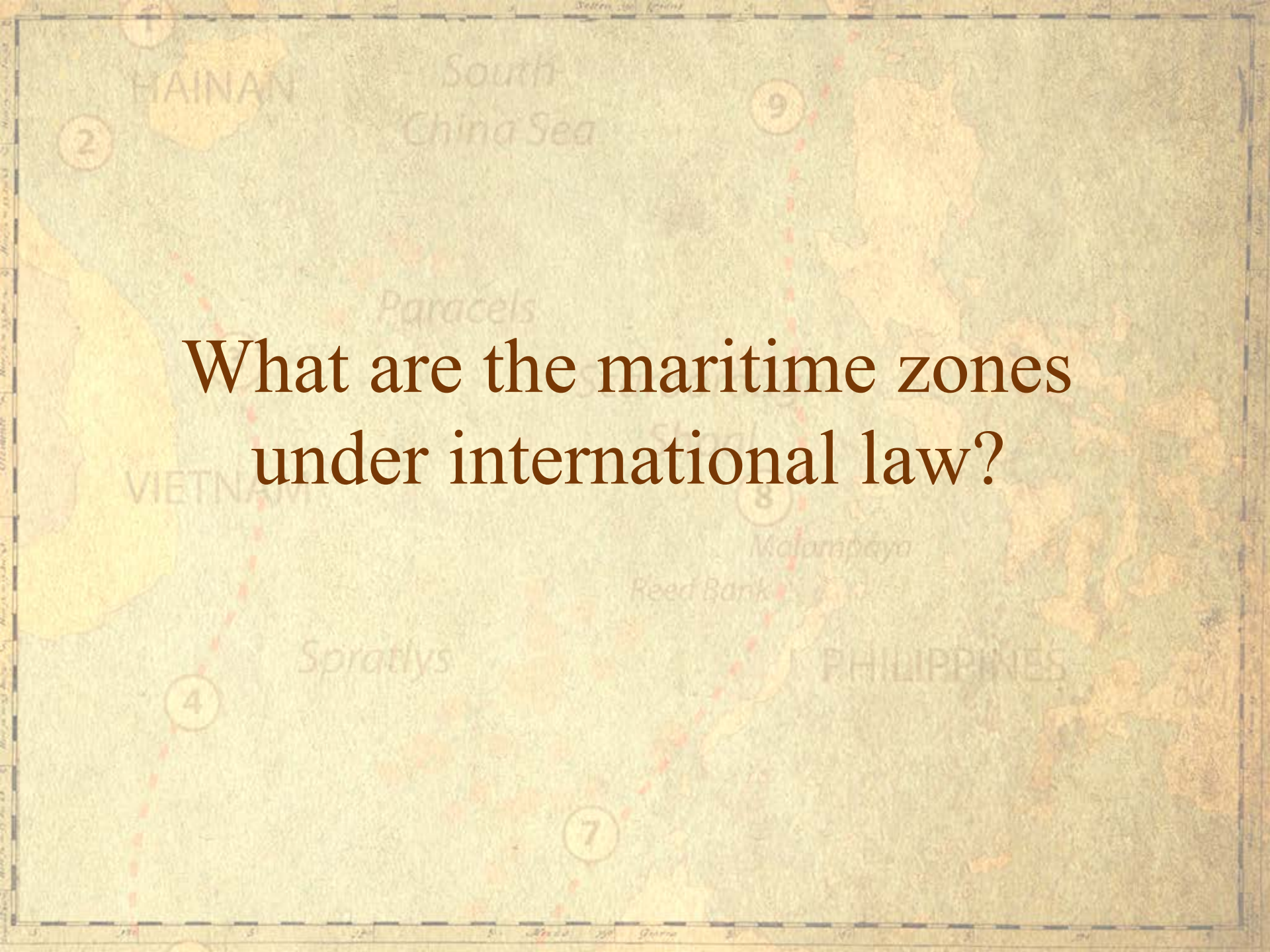
5. Whether Scarborough Shoal, whatever state owns it, is entitled to a 12 NM territorial sea only or also to a 200 NM EEZ.

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**.



What are the maritime zones
under international law?



Before UNCLOS:

Territorial sea - 3 NM; just like land territory.

High seas – beyond the territorial sea; not subject to appropriation by any state; belong to all mankind.

After UNCLOS:

Territorial sea - 12 NM from baselines; just like land territory.

Contiguous zone - 12 NM from outer limit of 12 NM territorial sea; limited jurisdiction.

EEZ (legal) - 200 NM measured from baselines; 188 NM measured from outer limit of 12 NM territorial sea; specific sovereign rights only within the 188 NM area.

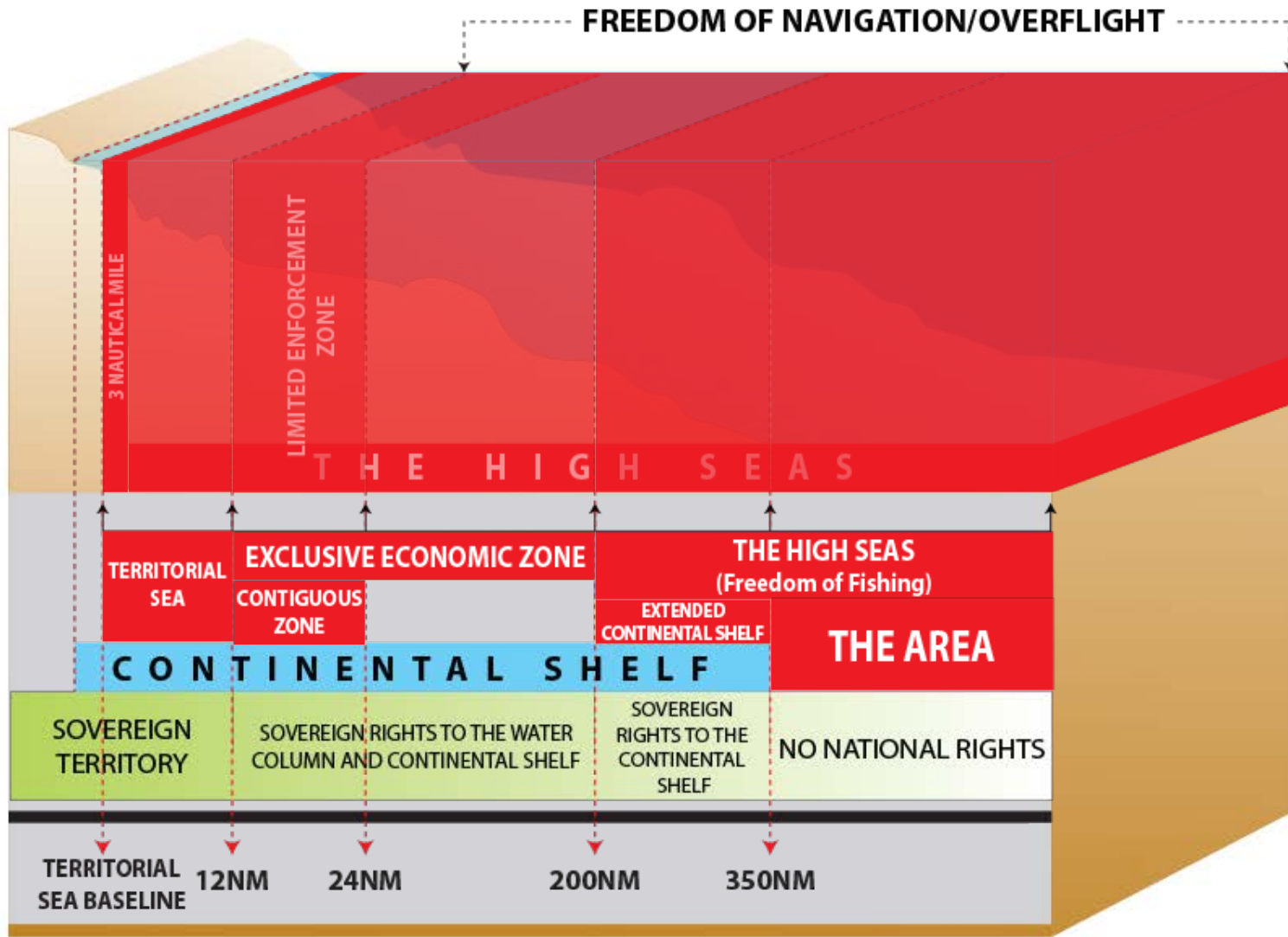
CS (physical) - not exceeding 150 NM measured from outer limit of the EEZ; living resources belong to all mankind; non-living resources and sedentary species belong to adjacent coastal state.

After UNCLOS:

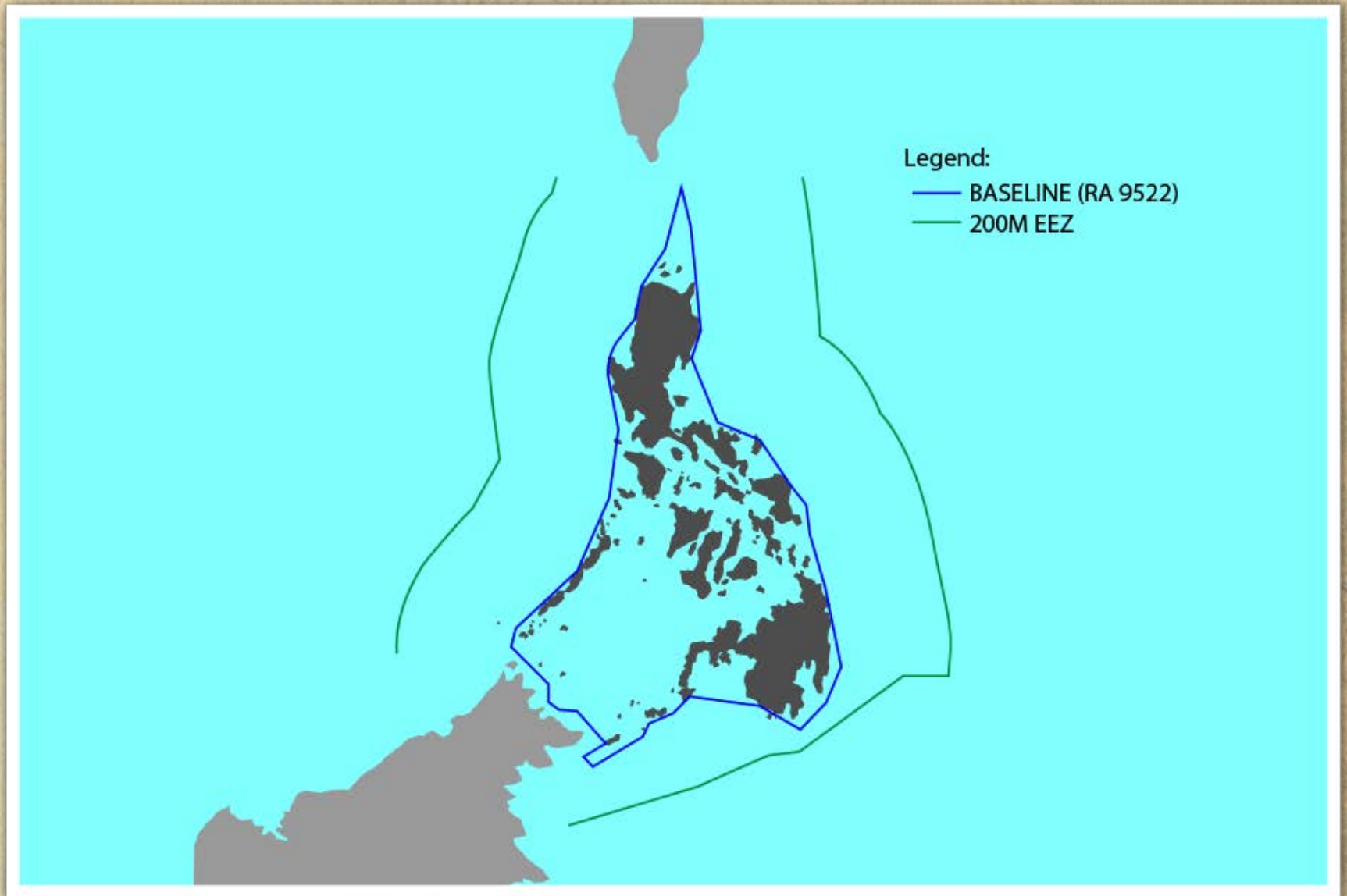
High seas - beyond the EEZ; **living resources belong to all mankind**; if no CS of an adjacent coastal state, all non-living resources also belong to all mankind; if there is a CS, non-living resources and sedentary species belong to the adjacent coastal state.

The Area - beyond the CS; all the living and non-living resources belong to all mankind.

Maritime Zones under UNCLOS

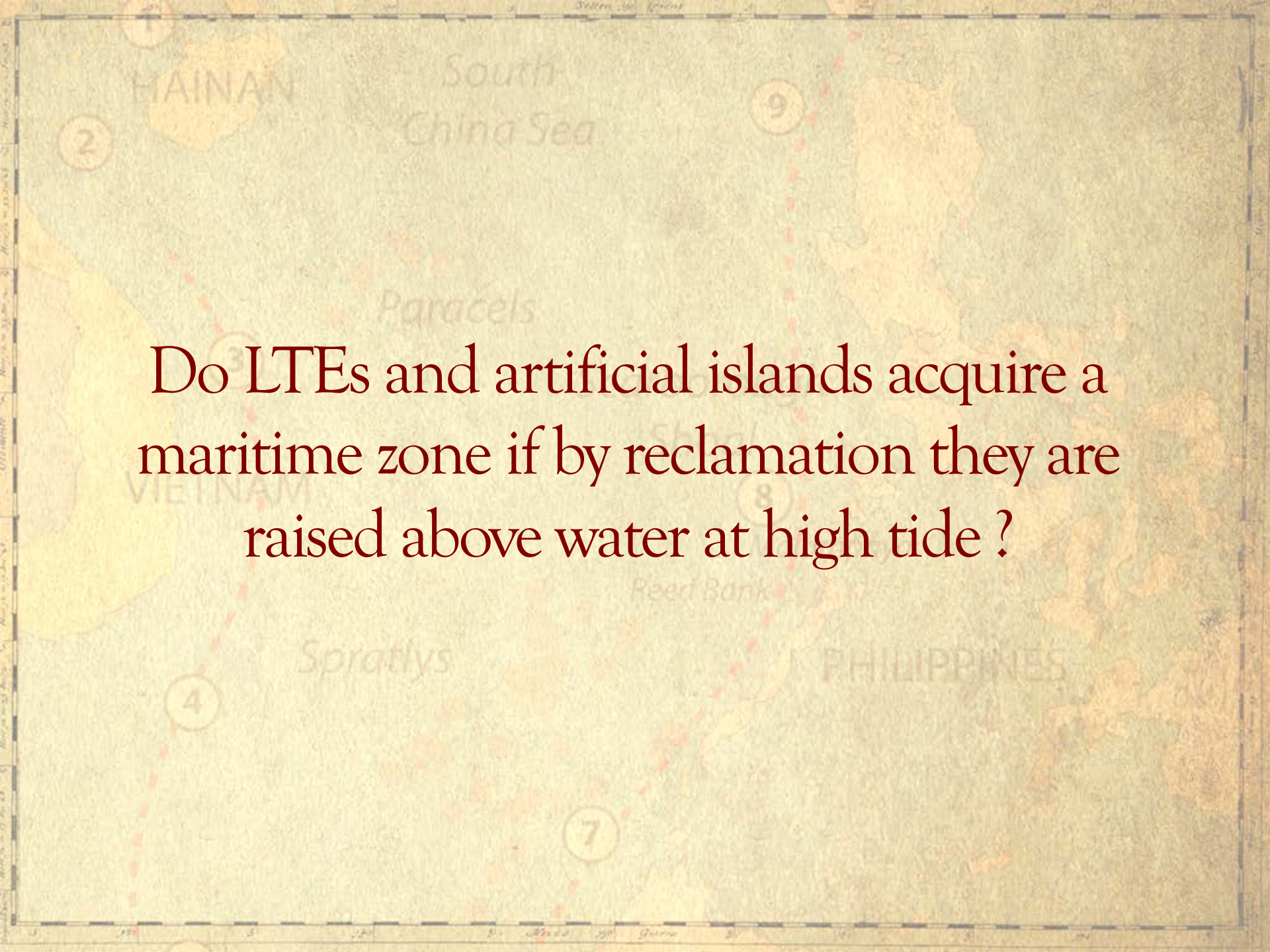


Archipelagic Baselines of Philippines

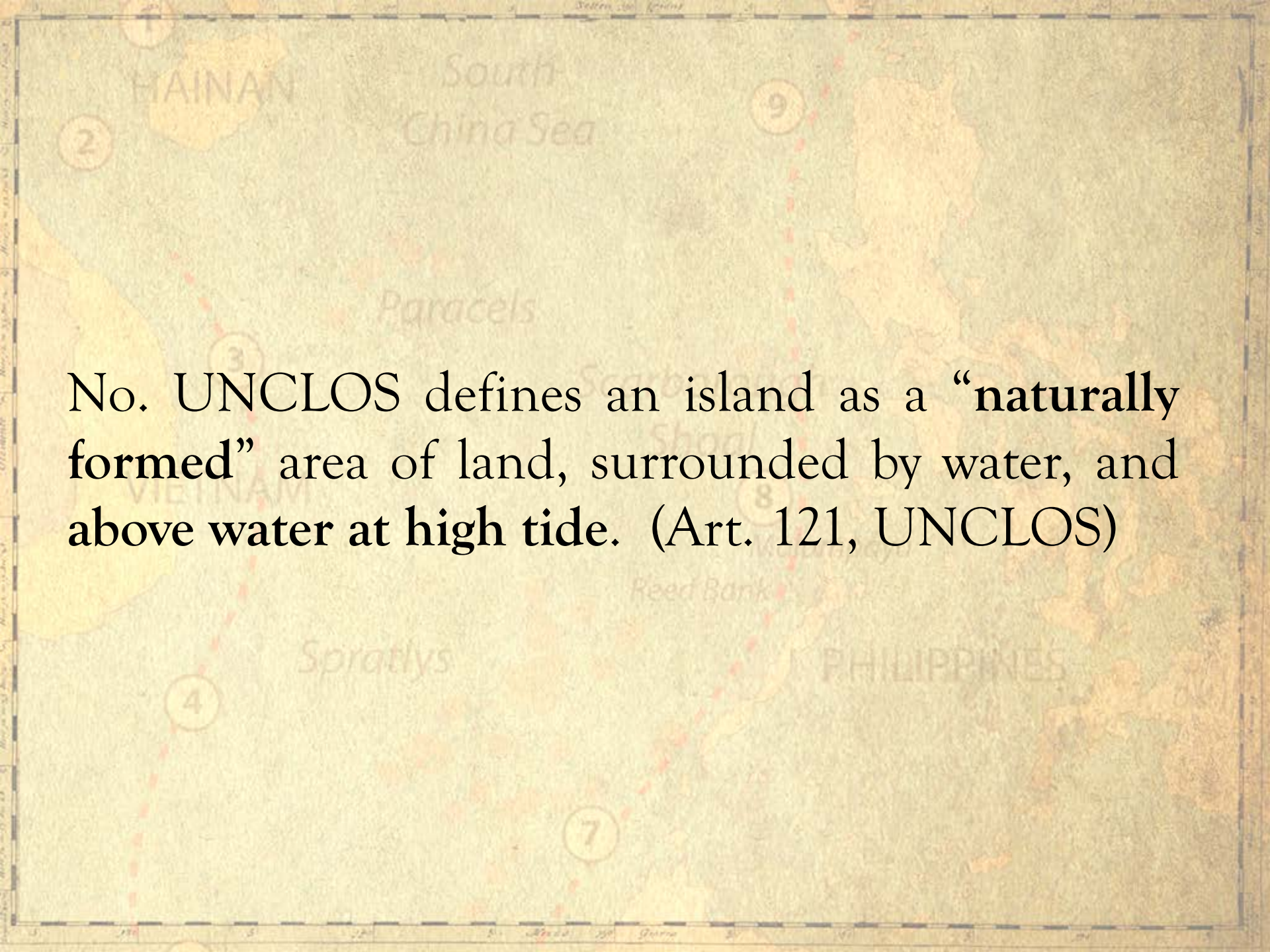


South China Sea, EEZs, and 9-dashed lines



A map of the South China Sea region, showing Hainan, Vietnam, the Philippines, and various island groups like the Paracels, Spratlys, and Reed Bank. A red dashed line with numbered circles (2, 3, 4, 7, 8, 9) traces a path through the sea. The text 'Do LTEs and artificial islands acquire a maritime zone if by reclamation they are raised above water at high tide?' is overlaid in the center.

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)

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.

This is similar to China's explanation in 1995 that it occupied Mischief Reef to provide a “shelter” to its fishermen.

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

Fiery Cross (Kagitingan) Reef January 30, 2015



Kagitingan (Fiery Cross) Reef : AIRSTRIP Reclaimed sand sediment have reached the perimeter of the outpost. Length of reclamation indicates possible runway construction.

Chinese Reclamation on Fiery Cross (Kagitingan) Reef

April 17, 2015

PHOTO: CSIS ASIA MARITIME TRANSPARENCY INITIATIVE/DIGITALGLOBE/APR04/17/2015 9:36 PM



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



4

Spratlys

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

China Sea



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 a high tide feature, just above water at high tide. It is within the Philippines' EEZ.

Johnson South (Mabini) Reef 2014



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

Johnson South (Mabini) Reef March 2014



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.

Johnson South (Mabini) Reef January 30, 2015



Johnson South (Mabini) Reef February 18, 2015

China Sea



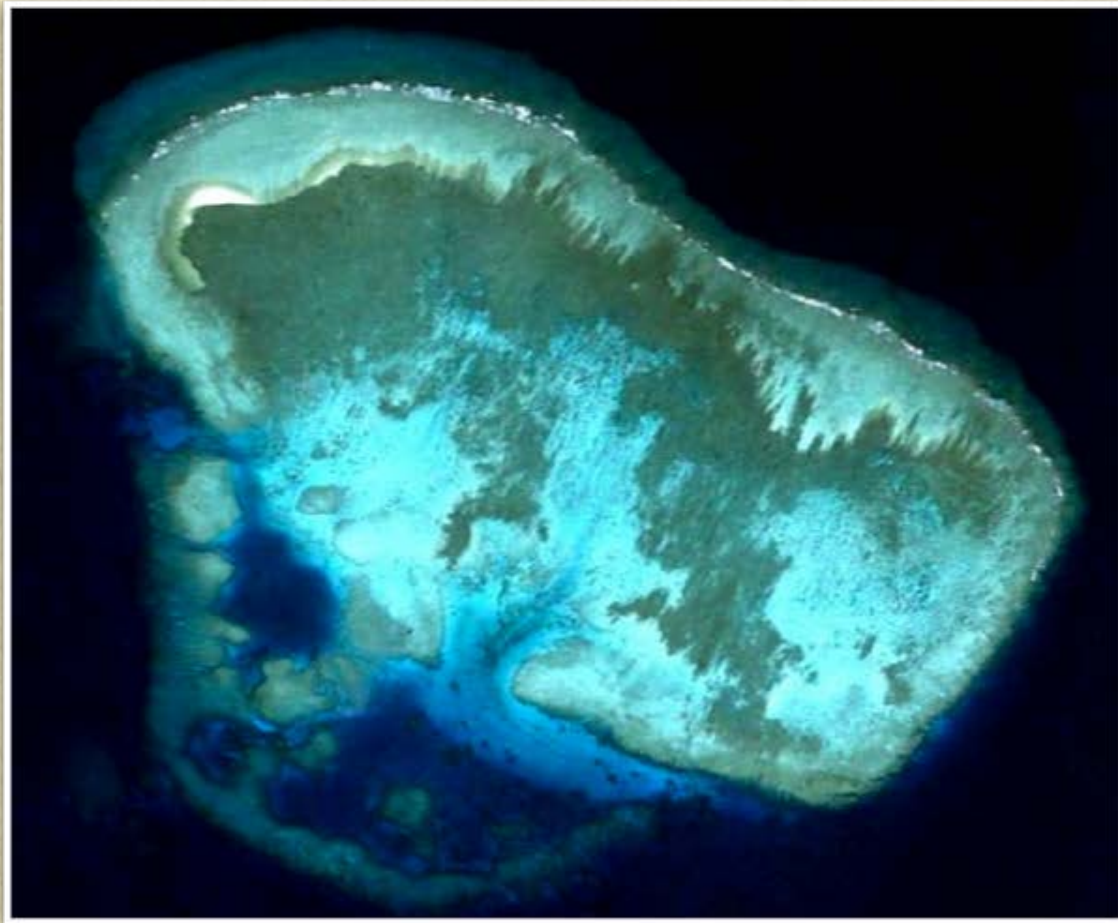
On-going construction of a multi-storey concrete structure at Mabini (South Johnson) Reef
18 February, 2015

Johnson South (Mabini) Reef February 18, 2015



RECLAIMED AREA AT MABINI REEF
18 FEBRUARY 2015

McKennan (Chigua) Reef Pre-Reclamation



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

McKenna (Chigua) Reef Pre-Reclamation 2014



McKenna (Chigua) Reef Late 2014



McKennan (Chigua) Reef January 28, 2015



ON-GOING CONSTRUCTION OF THREE (3) RECTANGULAR AND ONE (1)
OCTAGONAL CONCRETE STRUCTURES AT CHIGUA(KENNAN) REEF (PROC)

ALTITUDE: 5,000 FEET

LAT/LONG: N 09° 54' 10.95" E 114° 29' 52.39"

28 JANUARY 2015

McKennan (Chigua) Reef February 19, 2015



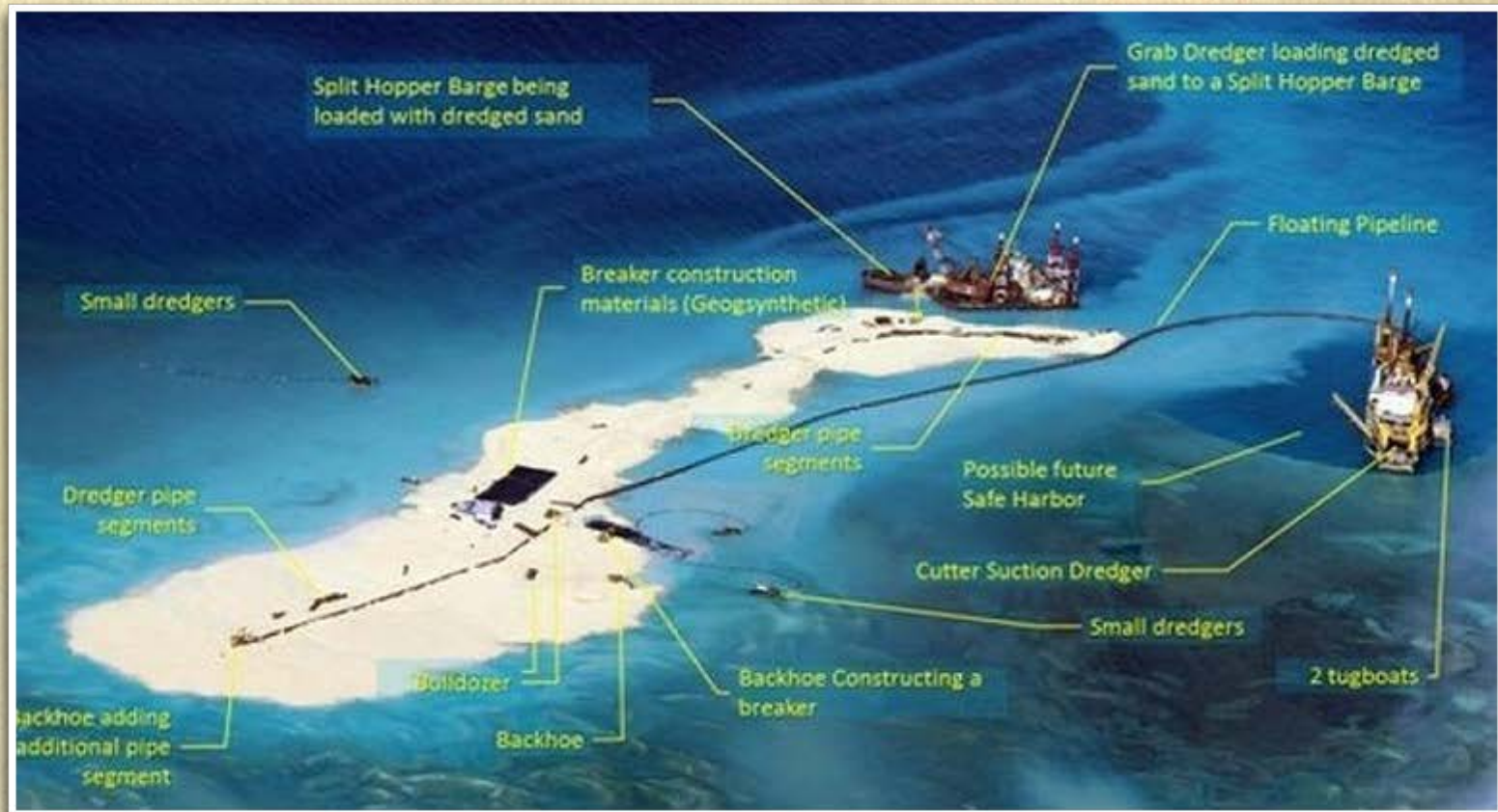
Reclaimed area at Chugua (Kennan) Reef
19 February 2015

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 January 29, 2015



ON-GOING CONSTRUCTION OF A MULTI-STOREY CONCRETE STRUCTURE
AT GAVEN REEF (PROC)

ALTITUDE: 5,000 FEET

LAT/LONG: N 10° 13' 00.00" E 114° 13' 59.99"

29 JANUARY 2015

Gaven Reef February 18, 2015

ON-GOING CONSTRUCTION OF A MULTI-STORY CONCRETE STRUCTURE
AT GAVEN REEF
19 FEBRUARY 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 January 30, 2015



Cuarteron Reef January 31, 2015



ON-GOING CONSTRUCTION OF OTHER MULTI-STOREY CONCRETE STRUCTURES AT CALDERON
(CUARTERON) REEF (PROC)

ALTITUDE: 5,000 FEET

LAT/LONG: N 08° 51' 56.20" E 112° 50' 07.20"

31 JANUARY 2015

Cuarteron Reef February 18, 2015

RECLAIMED AREA AT CALDERON (CUARTERON) REEF
18 FEBRUARY 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 April 17, 2015



6 February, 2015

17 April, 2015

Subi Reef, South China Sea

Image Credit: Victor Robert Lee, Airbus Defense & Space, and Digital Globe

Mischief (Panganiban) Reef Pre-Reclamation



Mischief Reef is an LTE within the Philippines' EEZ.

Mischief (Panganiban) Reef January 29, 2015



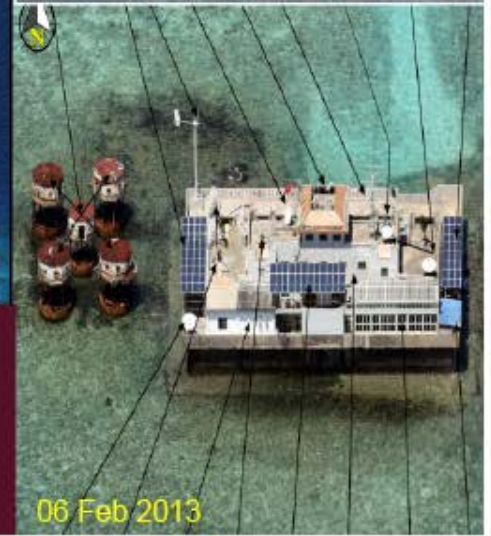
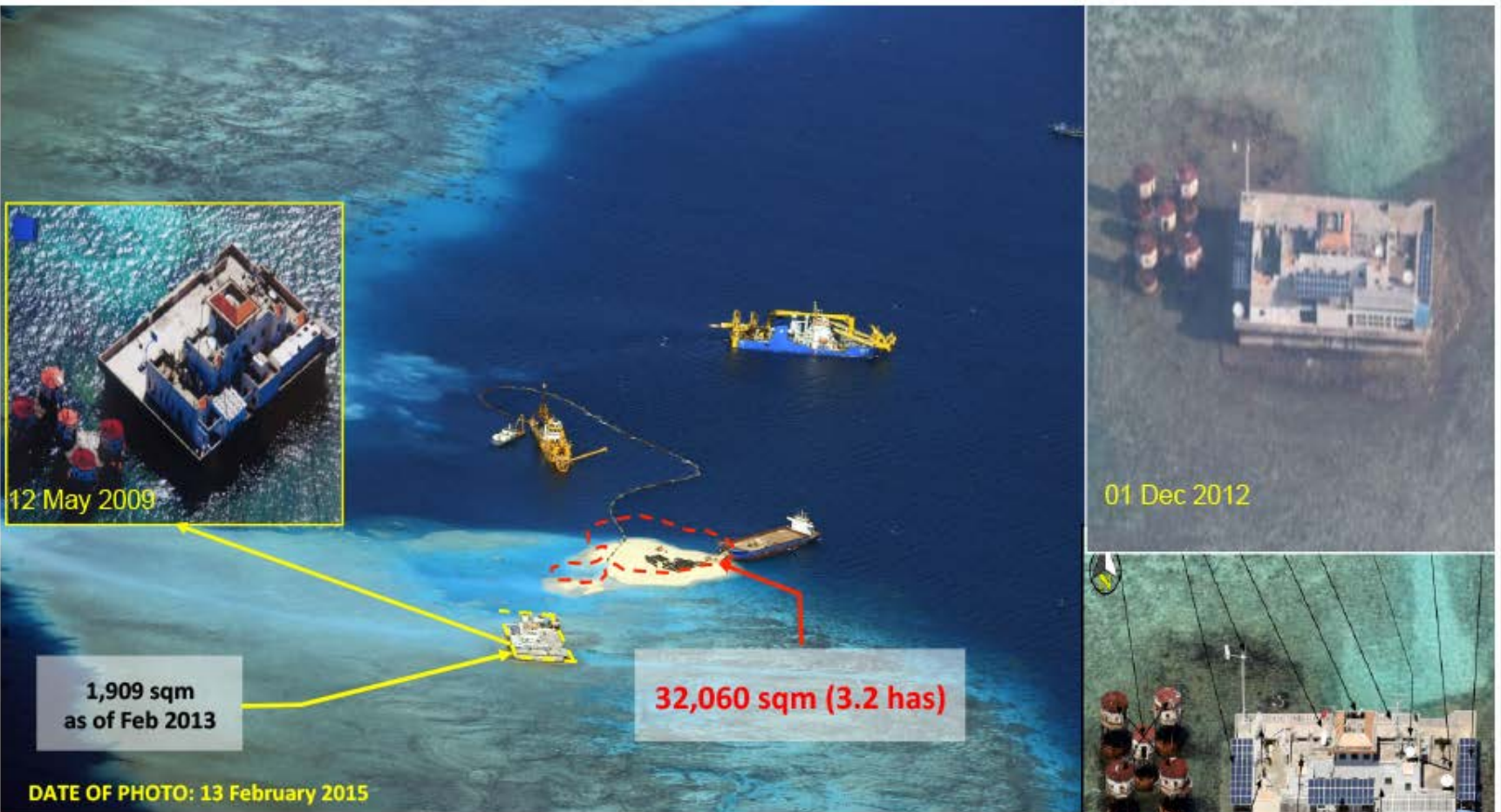
DISPOSITION OF CUTTER SUCTION DREDGER, TUGBOATS
AND FISHING VESSEL AT PANGANIBAN (MISCHIEF) REEF (PROC)

ALTITUDE: 5,000 FEET

LAT/LONG: N 09° 50' 30.12" E 115° 31' 28.28"

29 JANUARY 2015

Mischief (Panganiban) Reef February 13, 2015



Panganiban (Mischief) REEF FORTRESS

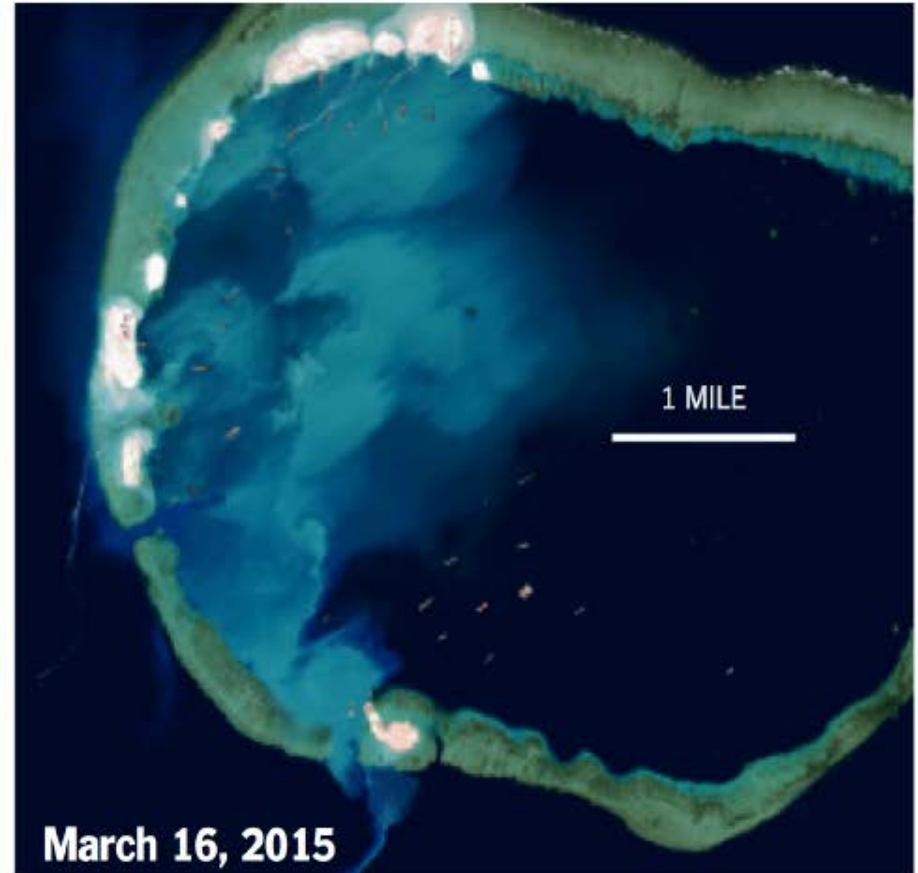
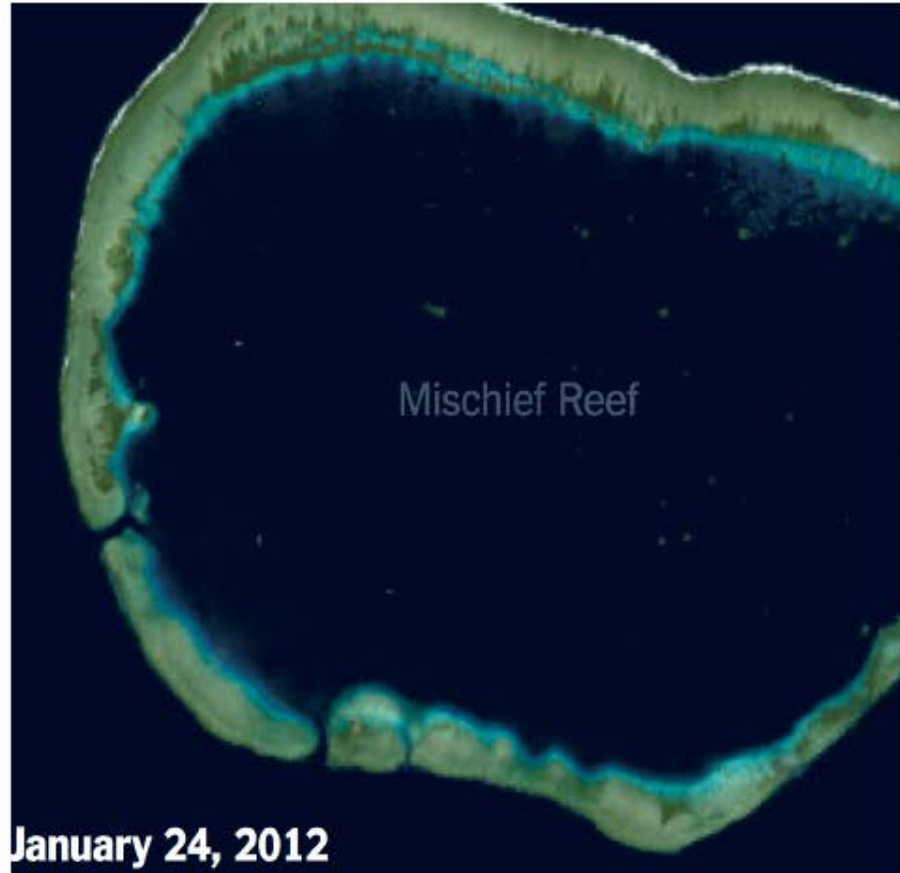
Ongoing land reclamation that begun on 14 January 2015 resulted to the formation of an artificial islet which now measures around 32,062 square meters

Mischief Reef March 2015



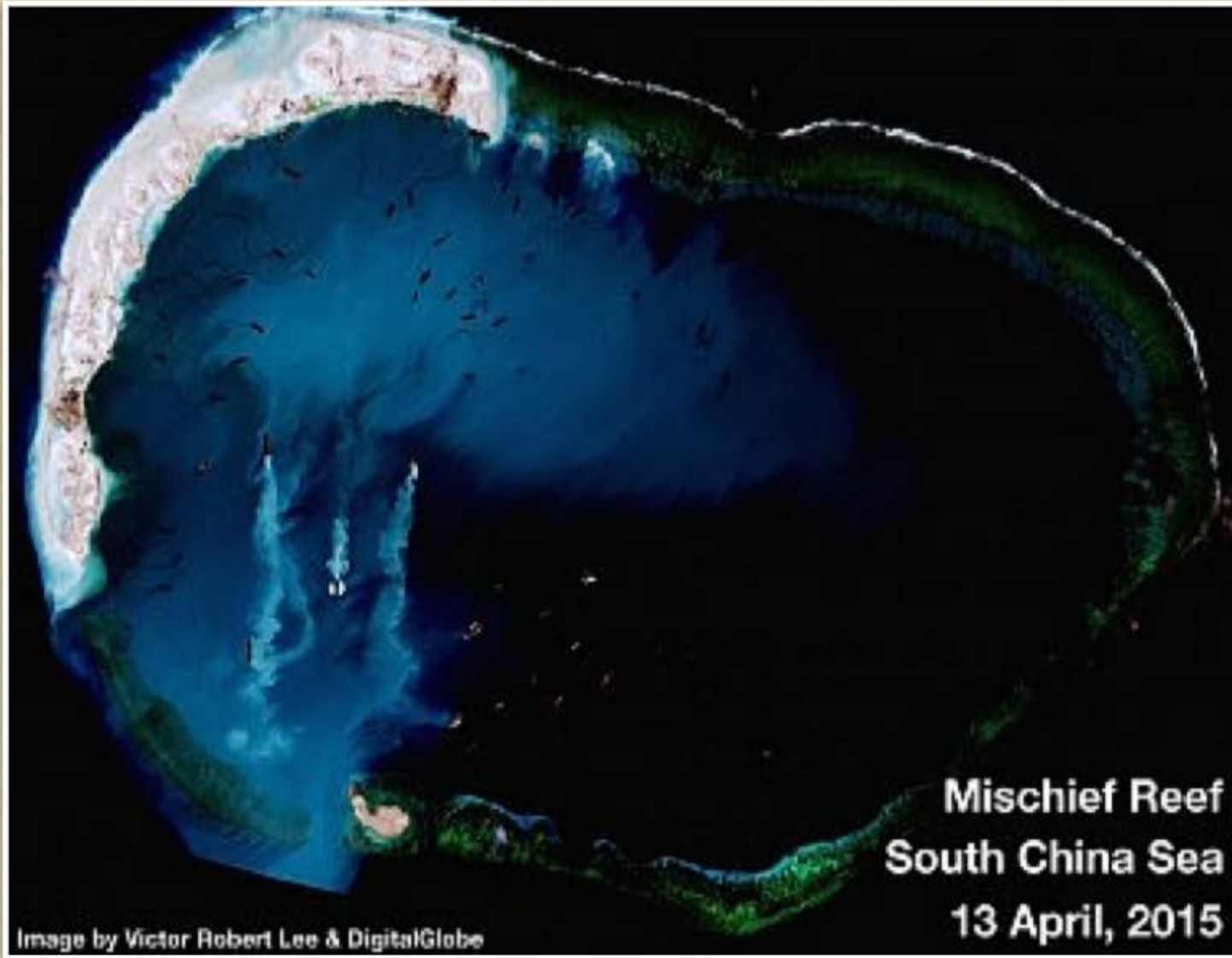
(Image from Center for Strategic and International Studies via Digital Globe)

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 April 13, 2015



**Mischief Reef
South China Sea
13 April, 2015**

Image by Victor Robert Lee & DigitalGlobe

Mischief Reef April 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.

Mischief Reef and Palawan, 125 NM Distance



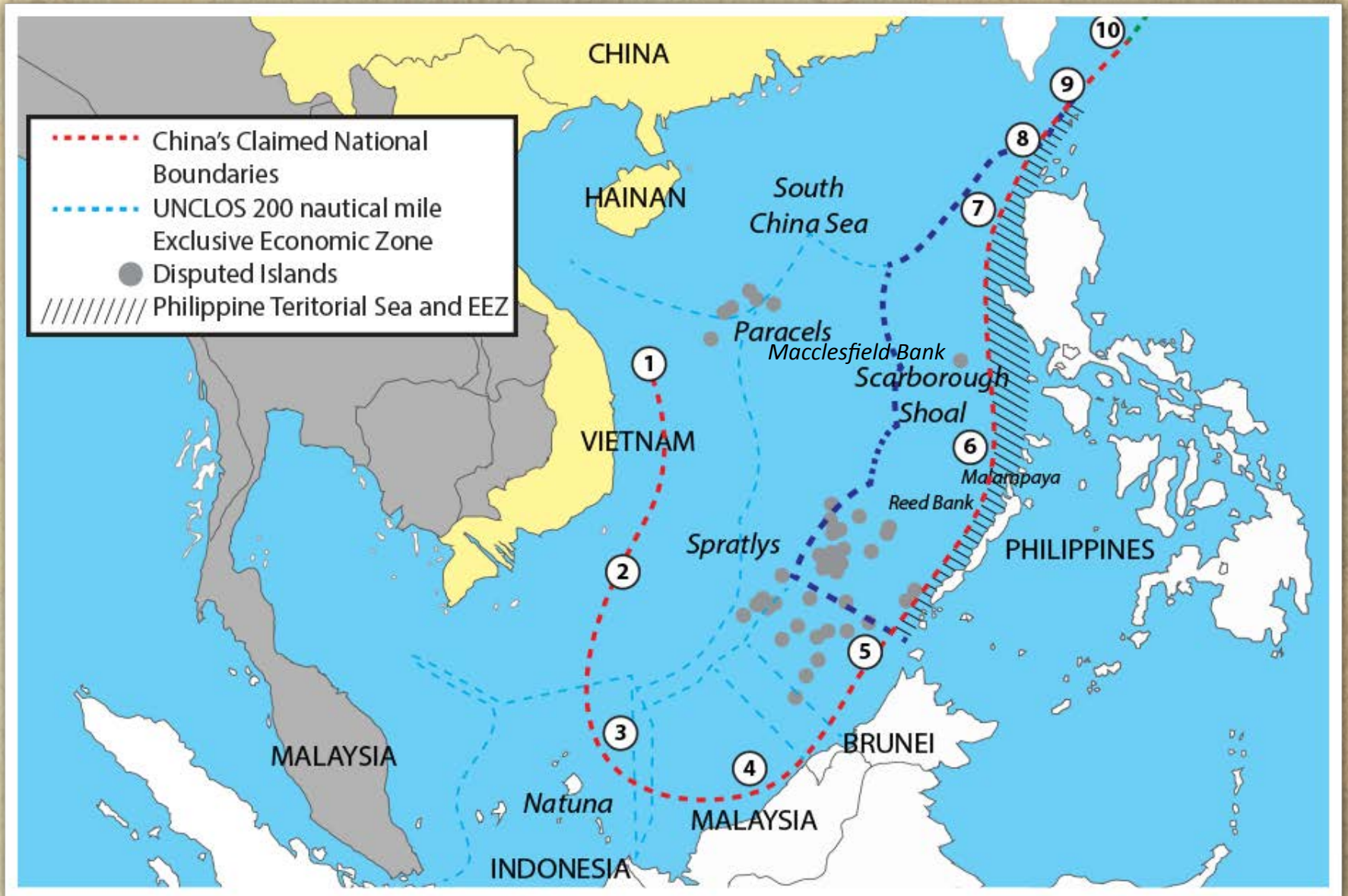
Mischief Reef is an LTE that is 125 NM from Palawan, well within the 200 NM EEZ of the Philippines. As an LTE, Mischief Reef is part of the submerged continental shelf of the Philippines. With an air and naval base in Mischief Reef between Palawan and all the Philippine-occupied islands in the Spratlys, 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 2,700 meter runway 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



Protect and Preserve the Marine Environment

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

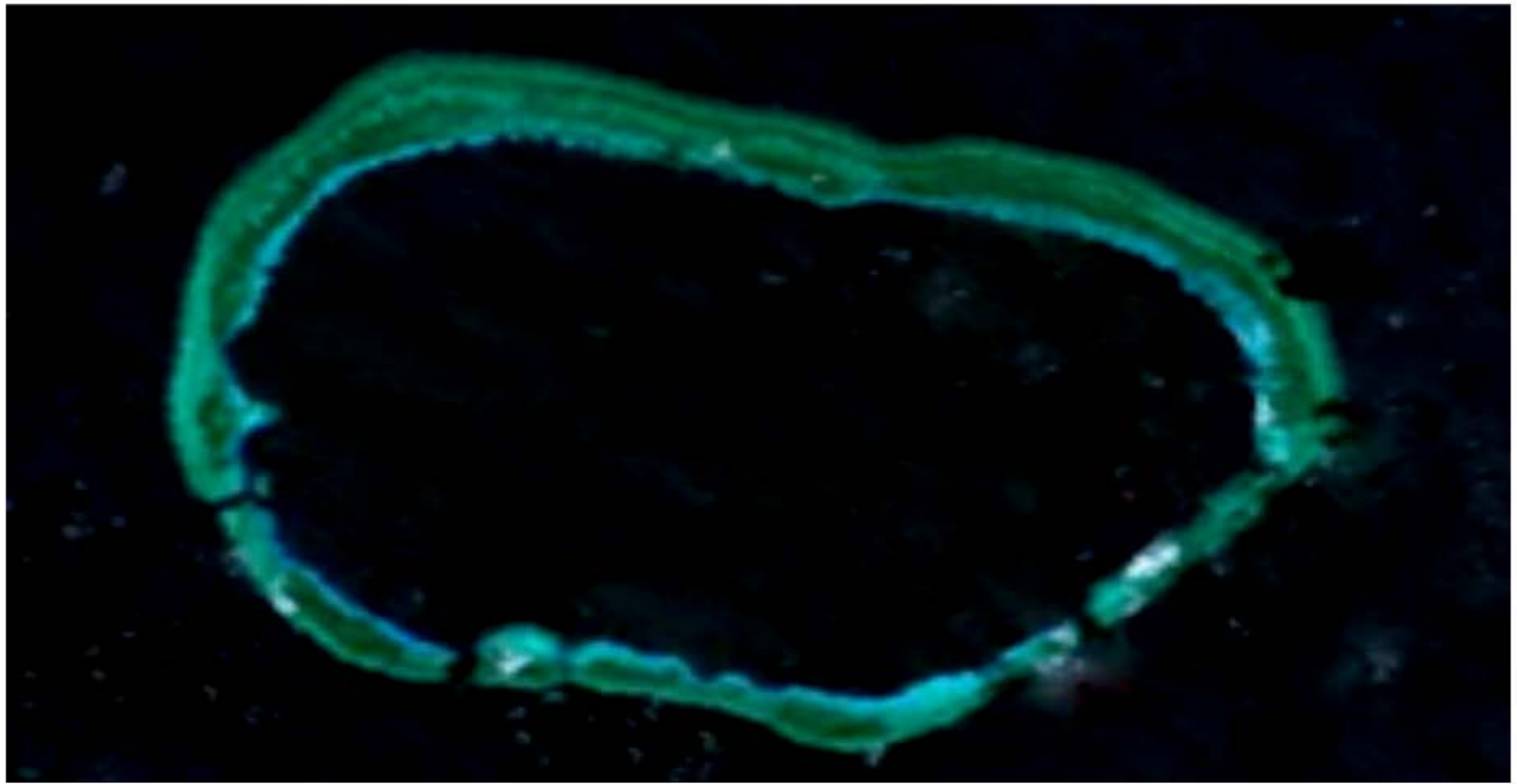
China’s massive and wanton reclamation in the Spratlys is destroying the marine environment.

Chinese Reef Killer Dredges 4,500 Cubic Meters of Sand per Hour



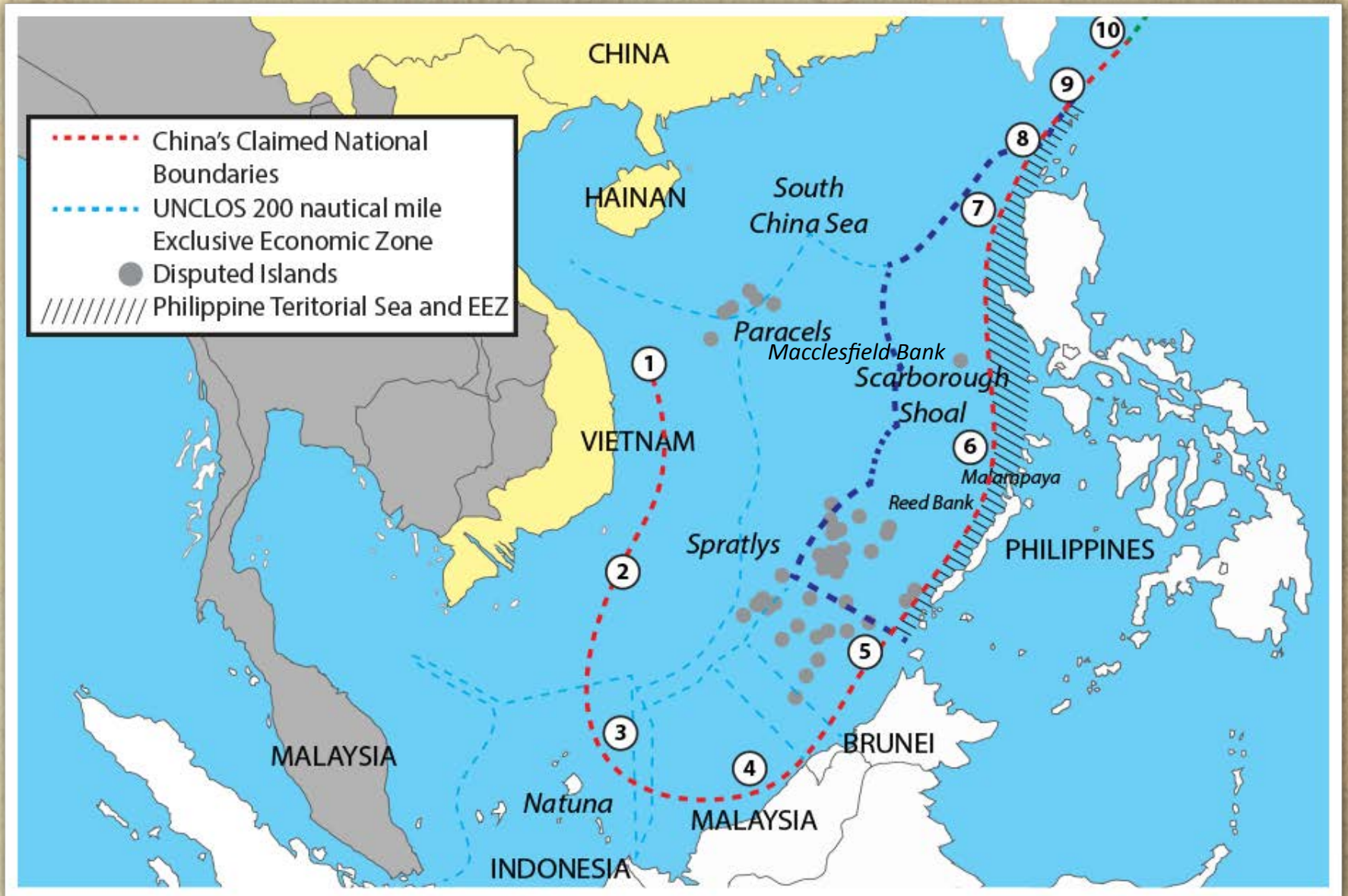
The *Tiang Jing Hao* dredger, a 127 meter-long seagoing cutter suction dredger designed by the German engineering company Vosta LMG. At 6,017 gross tons, this dredger is the largest in Asia.

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.

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

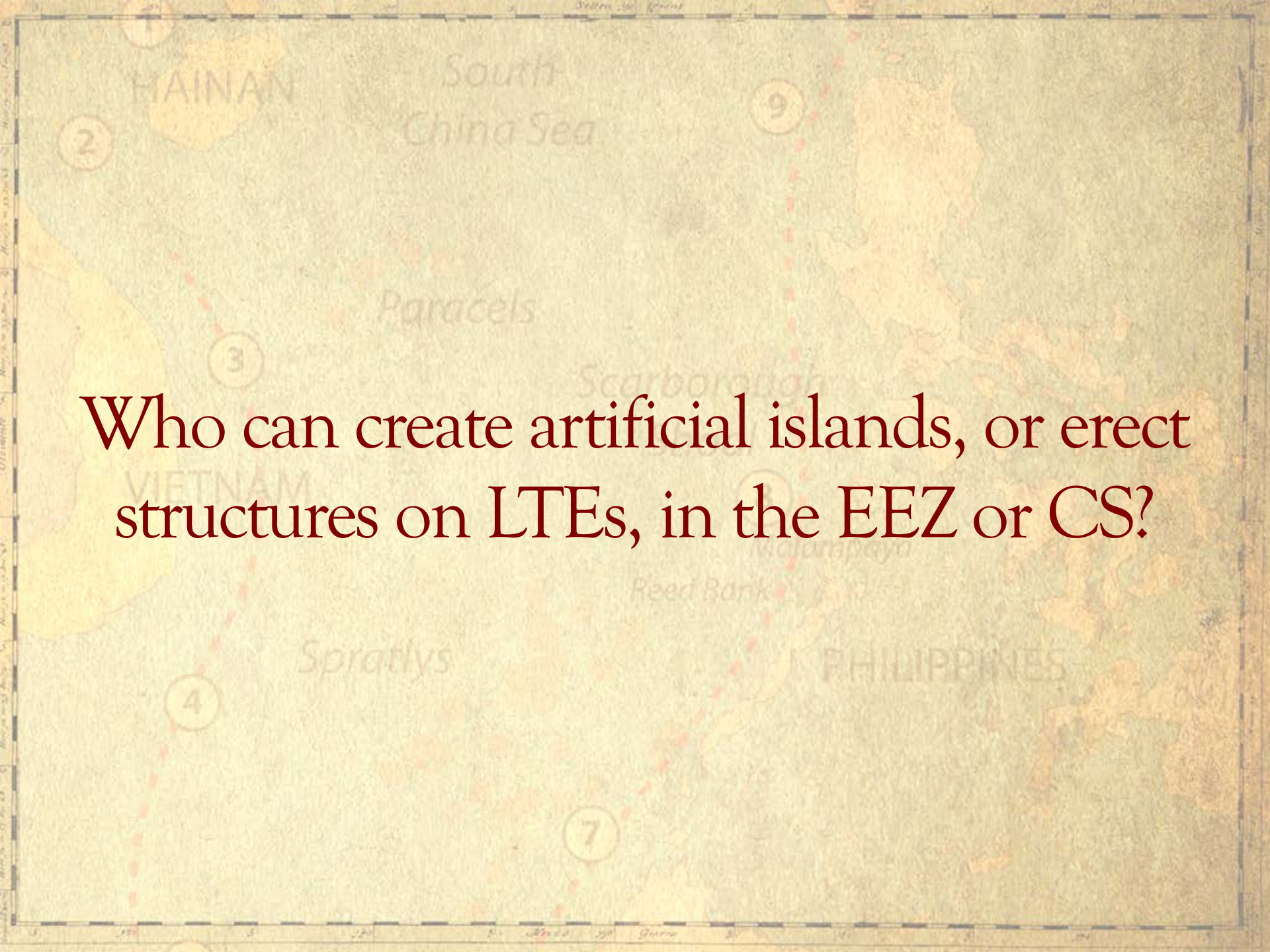


Implications of China's Massive Reclamations

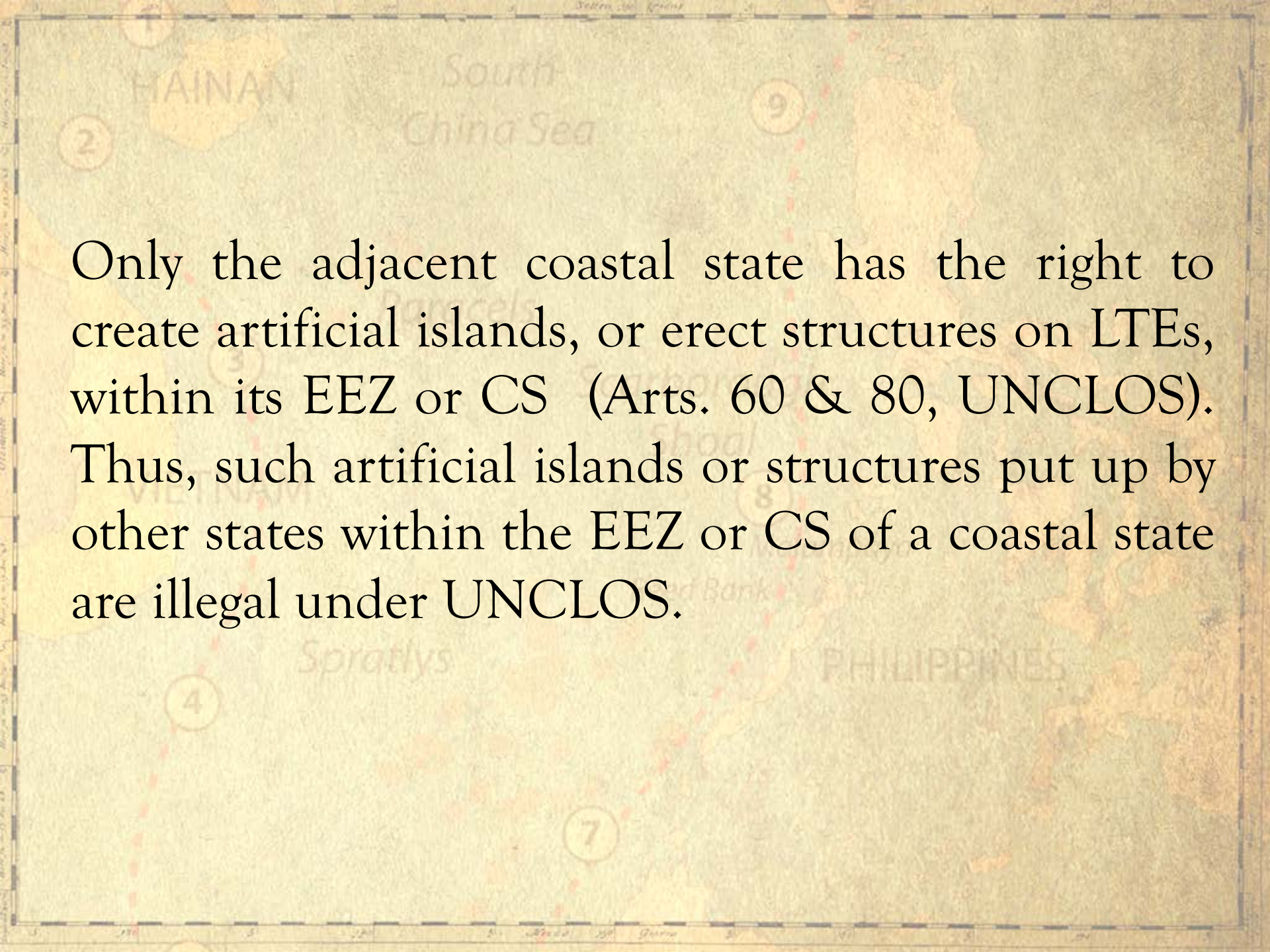
China's reclamations, intended to give teeth to its 9-dashed lines claim, have grave implications on the Philippines' -

- a. National security;
- b. Food security; and
- c. Energy security.

This is a **national crisis** for the Philippines.

A map of the South China Sea region, showing the coastlines of Hainan, Vietnam, and the Philippines. The map includes labels for the South China Sea, Paracels, Scarborough, Reed Bank, and Spratlys. A red dashed line with numbered circles (1-9) indicates a path or boundary. The text "Who can create artificial islands, or erect structures on LTEs, in the EEZ or CS?" is overlaid in red.

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

The background is a map of the South China Sea region. It shows the coastline of China, including Hainan Island, and the Philippines. A red dashed line represents a maritime boundary. Numbered markers (1-9) are placed at various points along this boundary and in the surrounding waters. The text is overlaid on this map.

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.

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

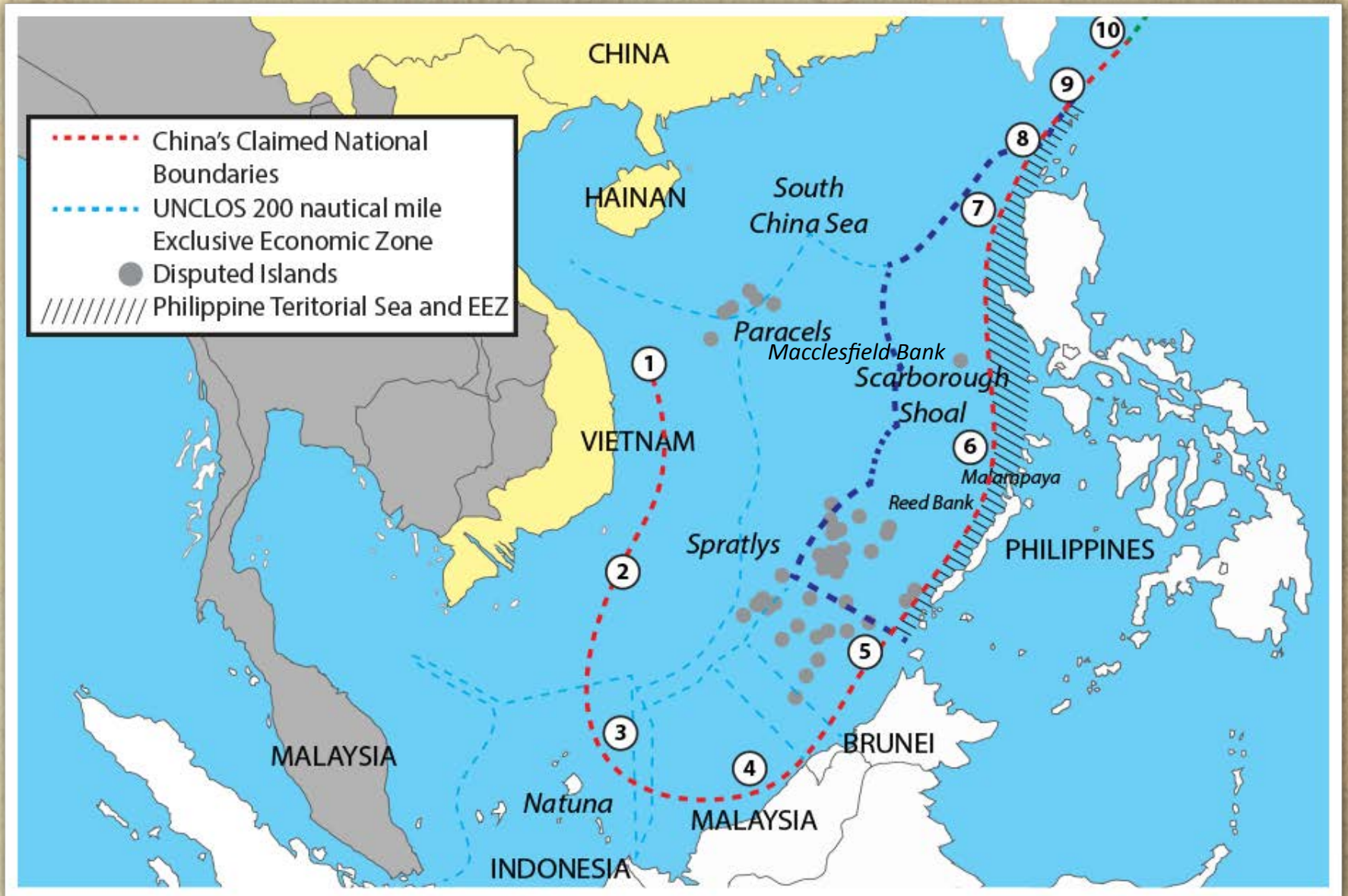
xxx

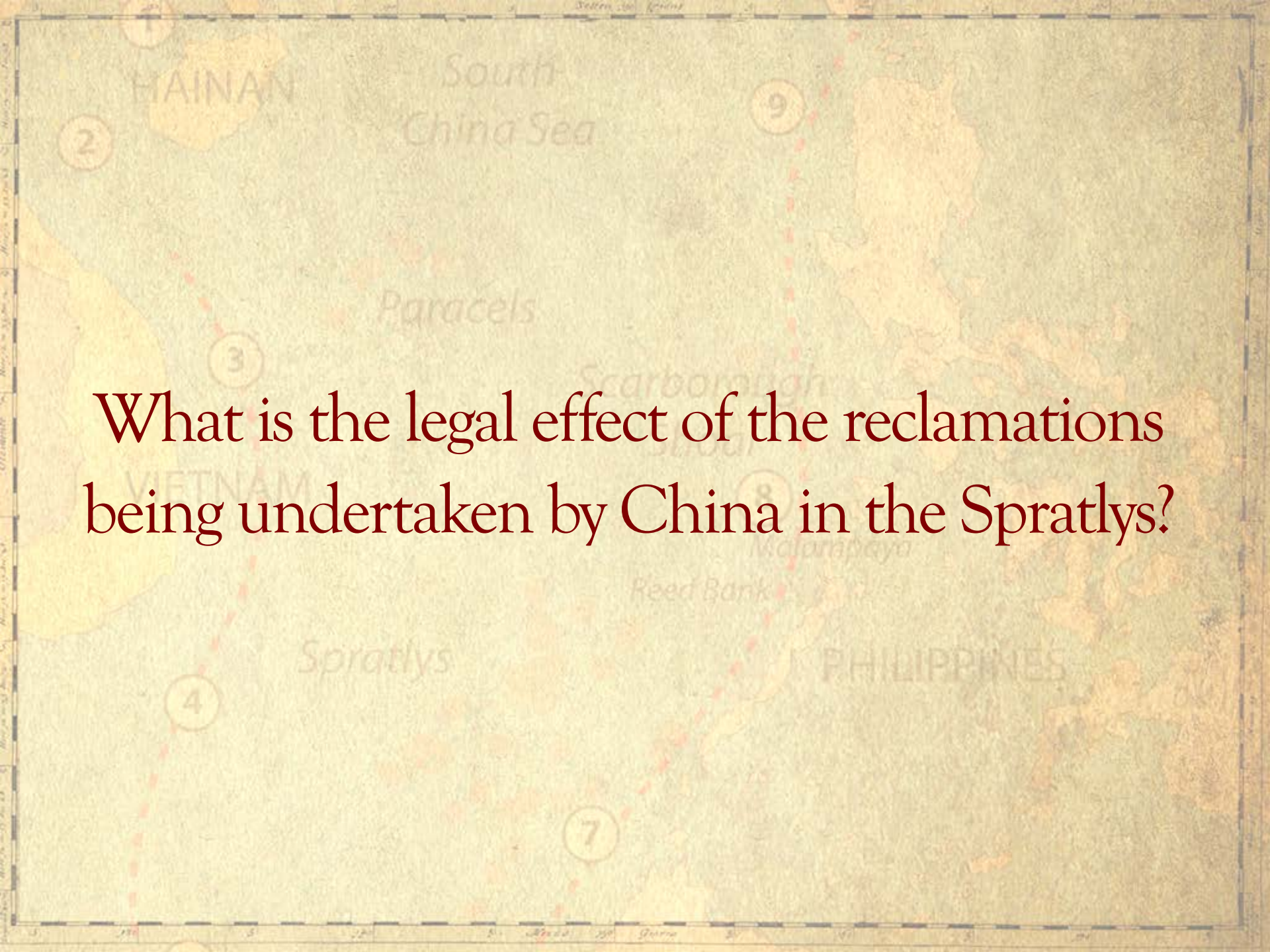
(d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI; [Note: referring to Art. 80, Part VI]

xxx.

Article 87(d), on the right to construct artificial islands and other installations in the high seas, is expressly “subject to Part VI.” Article 80 of Part VI, in relation to Article 60 of Part VI, grants to the coastal state the “exclusive right” to construct artificial islands and other installations within its continental shelf beyond its EEZ. The waters in the continental shelf of a coastal state beyond its EEZ are part of the high seas. 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



A map of the South China Sea region, showing the South China Sea, Hainan, Vietnam, Philippines, and the Spratly Islands. A red dashed line with numbered circles (1-9) indicates a path or boundary. The text "What is the legal effect of the reclamations being undertaken by China in the Spratlys?" is overlaid on the map.

What is the legal effect of the reclamations
being undertaken by China in the Spratlys?

Reclamations of an LTE, rock or island will not change the legal status of the LTE, rock or island for purposes of entitlement to maritime zones.

An LTE (which does not have a territorial sea) does not become an island or rock above water at high tide (which has a territorial sea) by virtue of reclamation.

Reclamation cannot convert an island incapable of human habitation or economic life of its own into one that is capable.

Legal Status of Artificial Islands under 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.

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 .



Is Joint Development in the Spratlys,
as Proposed by China, Possible?

China's Proposal for Joint Development in Spratlys

China's offer of joint development in the Spratlys has **one pre-condition** – that the other state concede to China indisputable sovereignty over the Spratlys. No claimant state has accepted, or will ever accept, China's offer because acceptance means the accepting state must immediately vacate any island it occupies in the Spratlys since that is the consequence of admitting China's sovereignty over the Spratlys.

China's Proposal for Joint Development in Spratlys

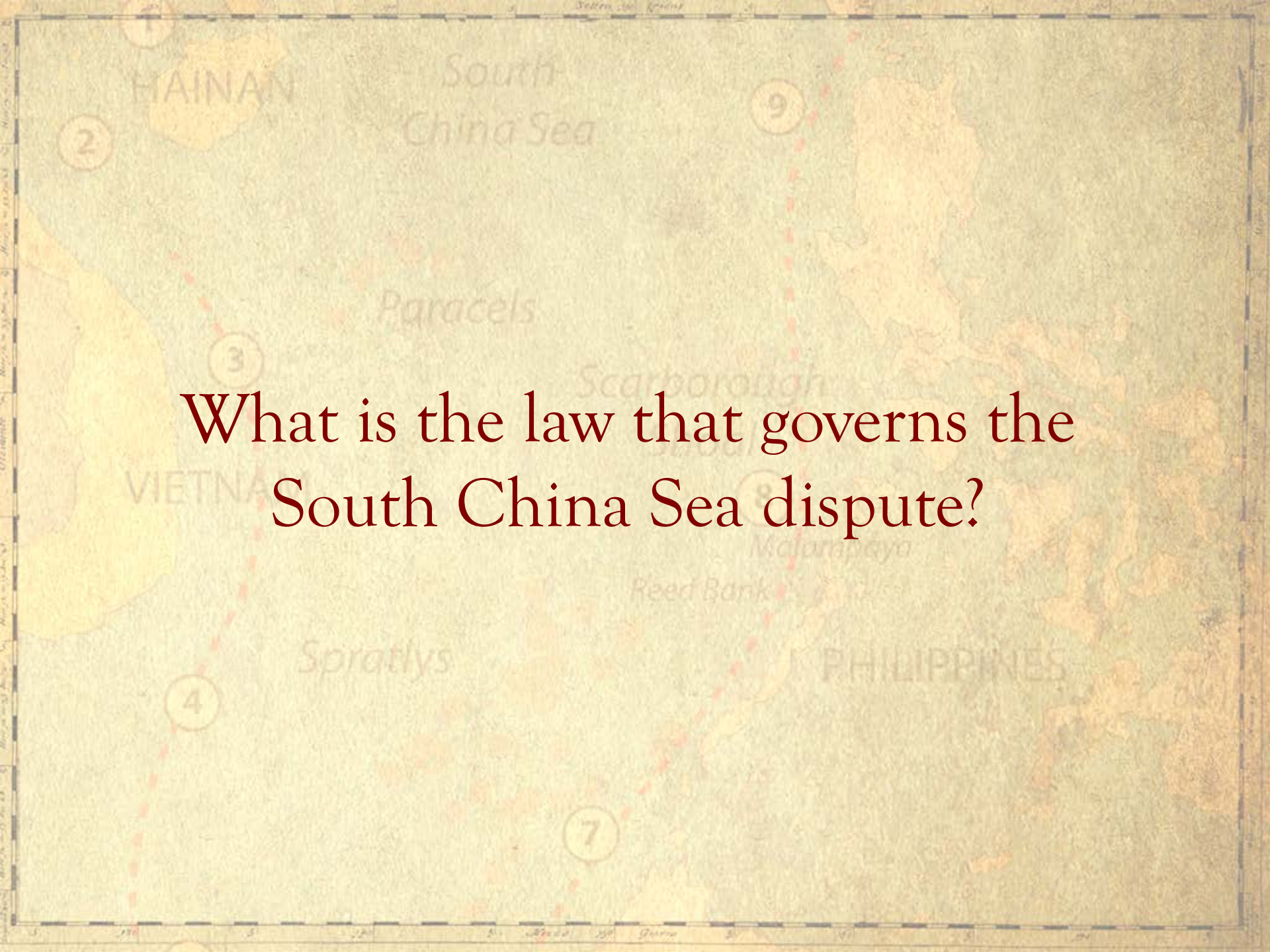
The Kalayaan Island Group (KIG) is part of Philippine national territory as defined in the Philippine Baselines Law (RA No. 3046, as amended by RA No. 5446 and RA No. 9522) and in Article 1 of the 1987 Philippine Constitution on the National Territory. Any President who concedes sovereignty over the KIG to China culpably violates the Constitution and commits an impeachable act.

China's Proposal for Joint Development in Spratlys

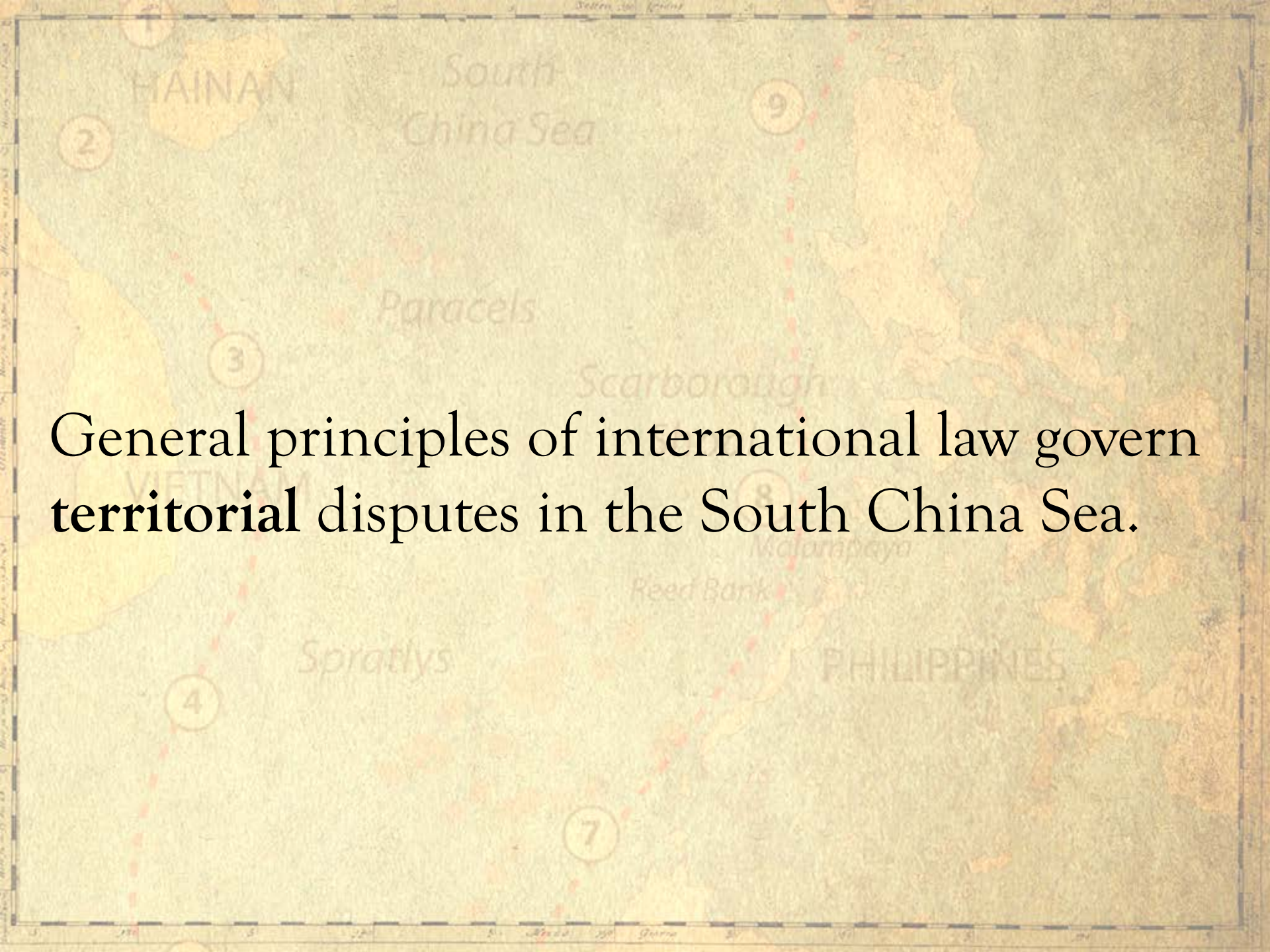
Moreover, Section 2, Article XII of the 1987 Constitution mandates that the “State shall protect the nation’s marine wealth in its xxx exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.” Conceding to China sovereignty over the Spratlys, whose surrounding waters facing Palawan form part of the Philippines’ EEZ, or even just allowing China to use and enjoy the Philippines’ marine wealth in these waters, violates Section 2, Article XII of the Constitution. Any President who violates this constitutional provision commits an impeachable act.

Joint Venture Possible under the 1987 Constitution

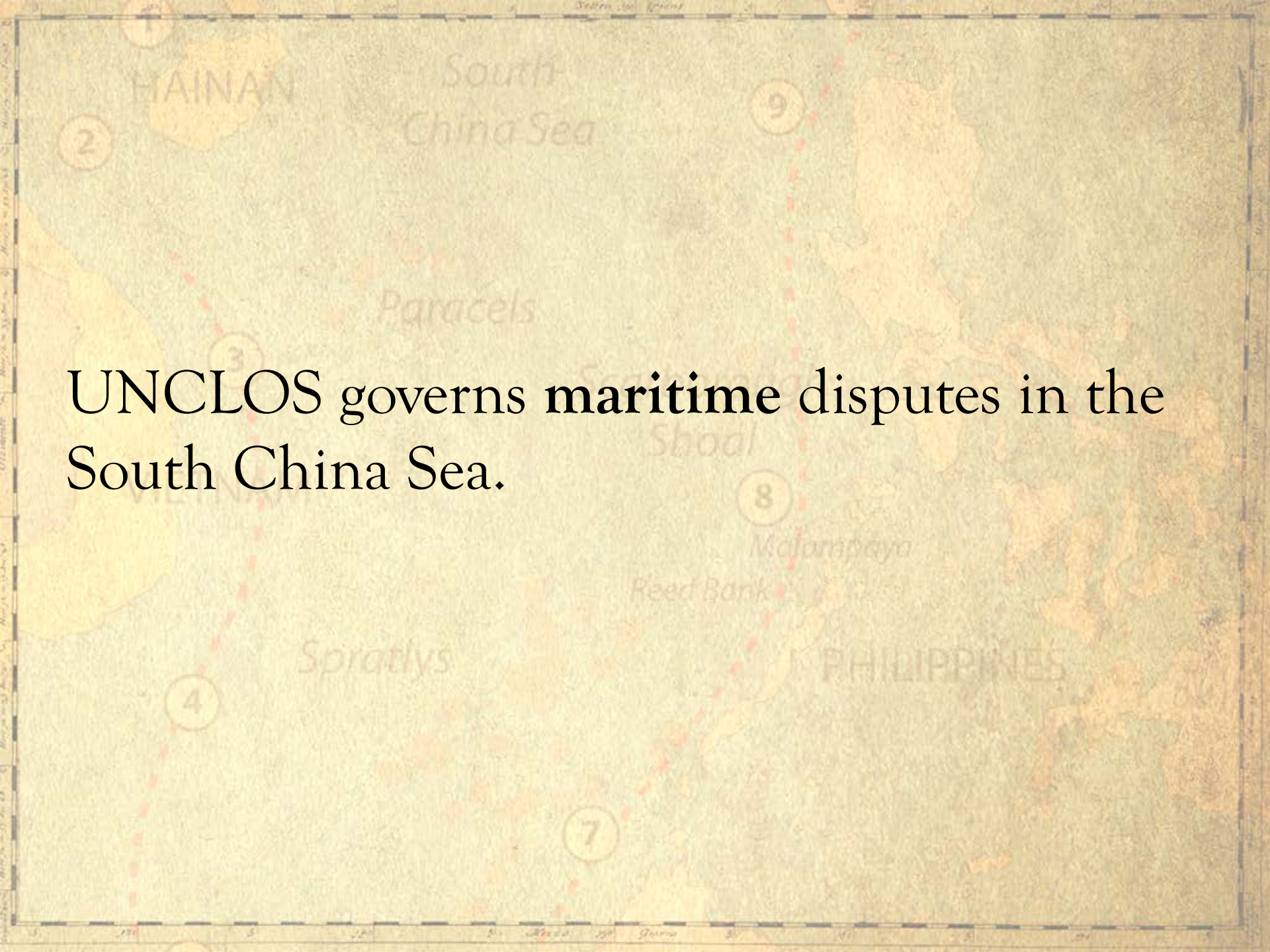
The Philippine Government may enter into a joint venture with Chinese state companies to exploit oil and gas resources within the Philippines' EEZ provided the exploitation is done under Philippine law. This is expressly allowed under Section 2, Article XII of the Philippine Constitution. The Malampaya gas is exploited by a 90% foreign-owned company in accordance with this constitutional provision.

A map of the South China Sea region, showing the coastline of China, Vietnam, and the Philippines. The map is overlaid with a red dashed line and several numbered circles (1-9). The text "What is the law that governs the South China Sea dispute?" is centered on the map in a dark red font. The map includes labels for "HAINAN", "South China Sea", "Paracels", "Scarborough Shoal", "VIETNAM", "Malampaya", "Reed Bank", "Spratlys", and "PHILIPPINES".

What is the law that governs the
South China Sea dispute?

A map of the South China Sea region showing territorial claims. A red dashed line traces a path through the sea, marked with nine numbered circles (1-9). Key geographical features and islands are labeled: HAINAN, South China Sea, Paracels, Scarborough, Spratlys, and PHILIPPINES. Other labels include VIETNAM, Malampaya, and Reed Bank. The map includes a coordinate grid with latitude and longitude markings.

General principles of international law govern territorial disputes in the South China Sea.

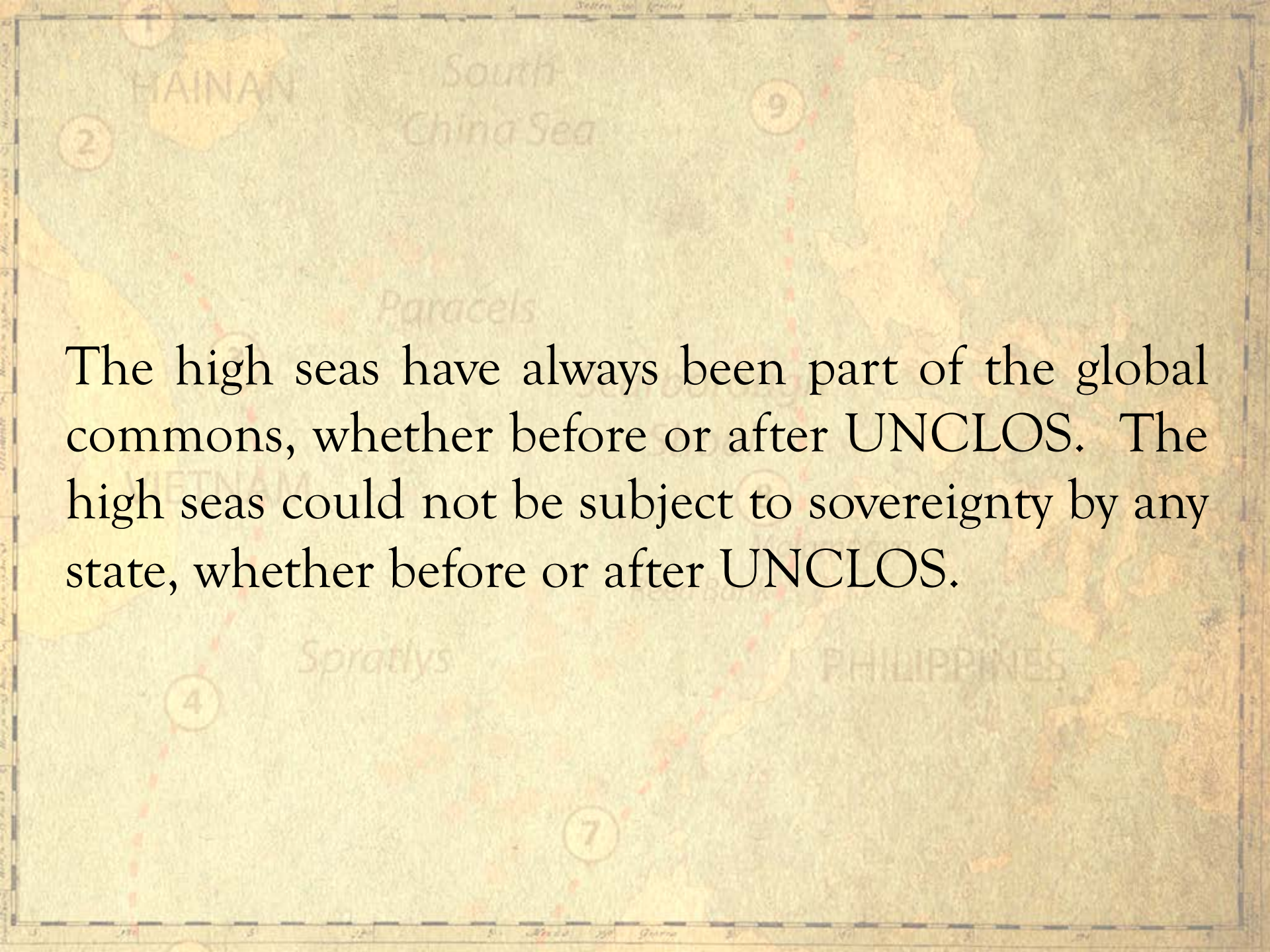
A map of the South China Sea region, showing the coastline of China to the north and west, and the Philippines to the east. The map is overlaid with a red dashed line and several numbered circular markers (1-9). The text 'UNCLOS governs maritime disputes in the South China Sea.' is superimposed in the center. Labels on the map include 'HAINAN', 'South China Sea', 'Paracels', 'Shoal', 'Malampaya', 'Reed Bank', 'Spratlys', and 'PHILIPPINES'.

UNCLOS governs maritime disputes in the South China Sea.

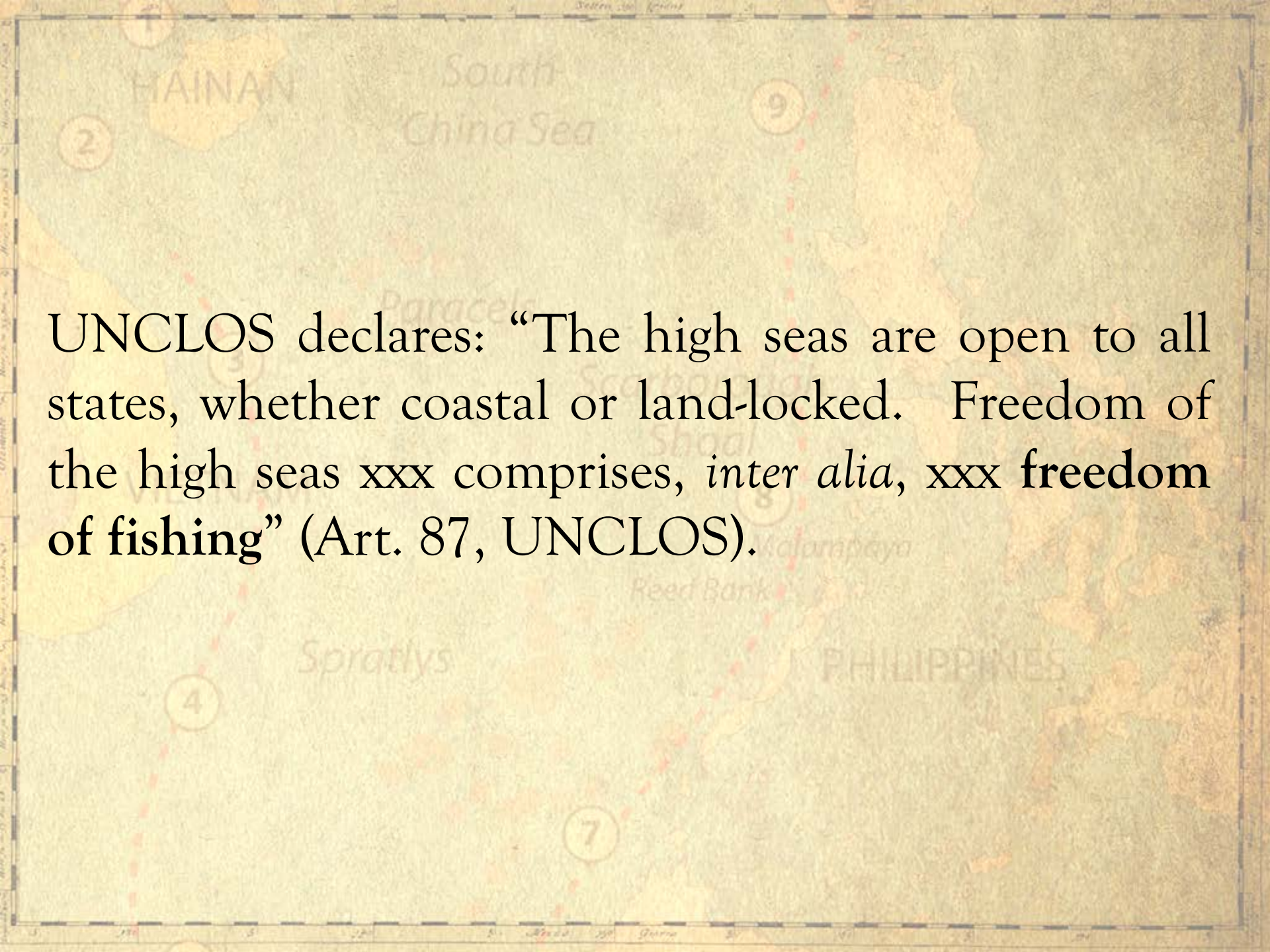
A map of the South China Sea region, showing the coastline of China, Vietnam, and the Philippines. A red dashed line with numbered circles (1-9) traces a path through the sea. The path starts at Hainan (1), goes south to the Paracels (2), then to the Spratlys (3, 4, 5, 6, 7), and ends at the Philippines (8, 9). Labels on the map include HAINAN, South China Sea, Paracels, VIETNAM, Spratlys, PHILIPPINES, and Reed Bank. The text "Can a state claim historic rights to maritime zones?" is overlaid in the center in a dark red serif font.

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).

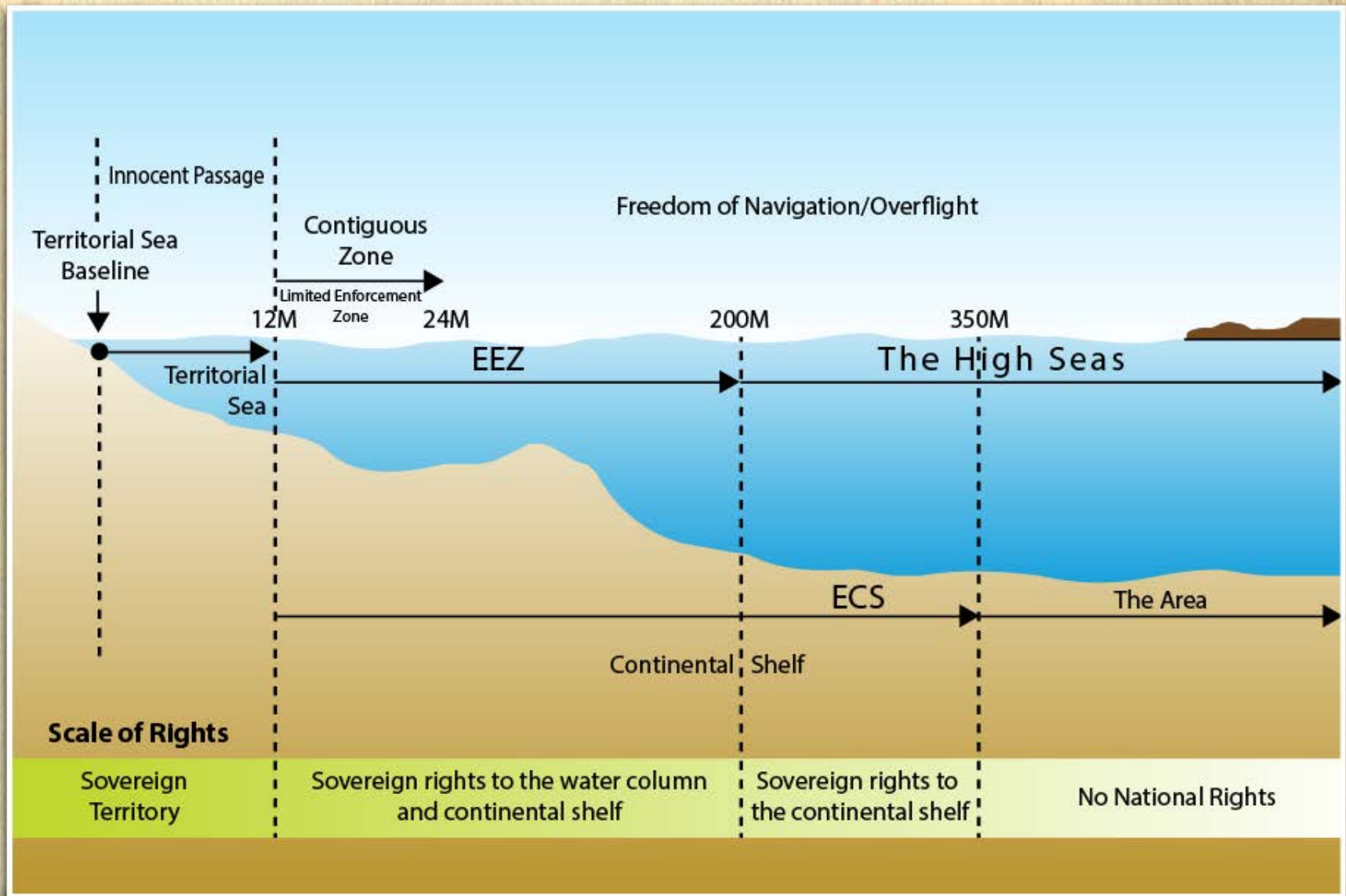
A faded map of the South China Sea region, showing the coastline of China and the Philippines. The map includes labels for 'HAINAN', 'South China Sea', 'Paracels', 'Spratlys', and 'PHILIPPINES'. There are several numbered circular markers (2, 4, 7, 9) and a dashed red line tracing a path through the sea. The text is overlaid on the map.


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.

A background map of the South China Sea region. The map shows the coastline of China to the north and the Philippines to the east. A red dashed line runs through the sea, with nine circular markers numbered 1 through 9. Marker 1 is at the top left, marker 2 is below it, marker 3 is in the middle left, marker 4 is at the bottom left, marker 5 is in the middle, marker 6 is in the middle right, marker 7 is at the bottom right, marker 8 is in the middle right, and marker 9 is at the top right. The text 'South China Sea' is visible at the top, and 'PHILIPPINES' is visible at the bottom right. Other labels include 'HAINAN', 'Paracels', 'Spratlys', 'Reed Bank', and 'Palampaya'.

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).

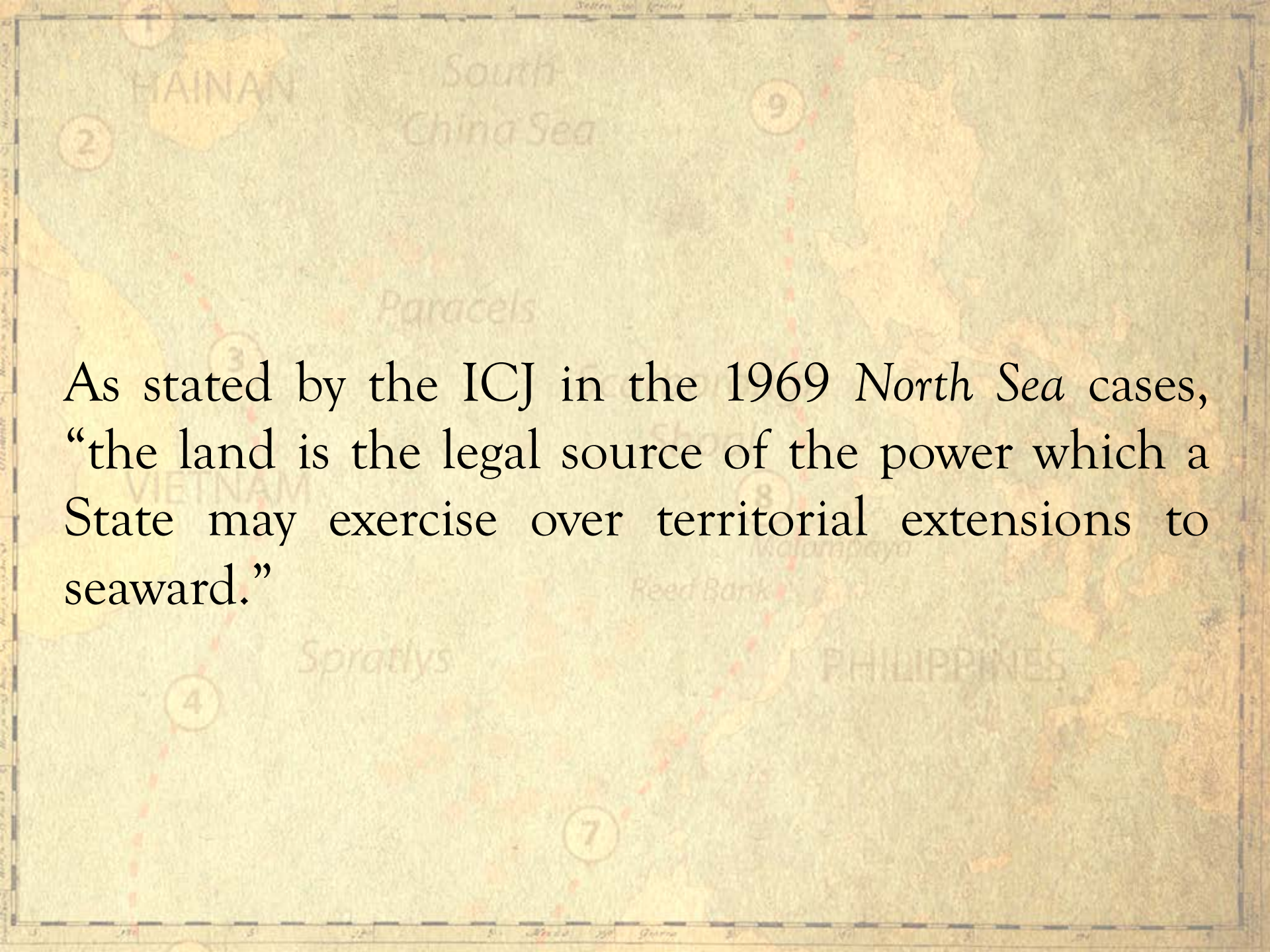
Maritime Zones under UNCLOS



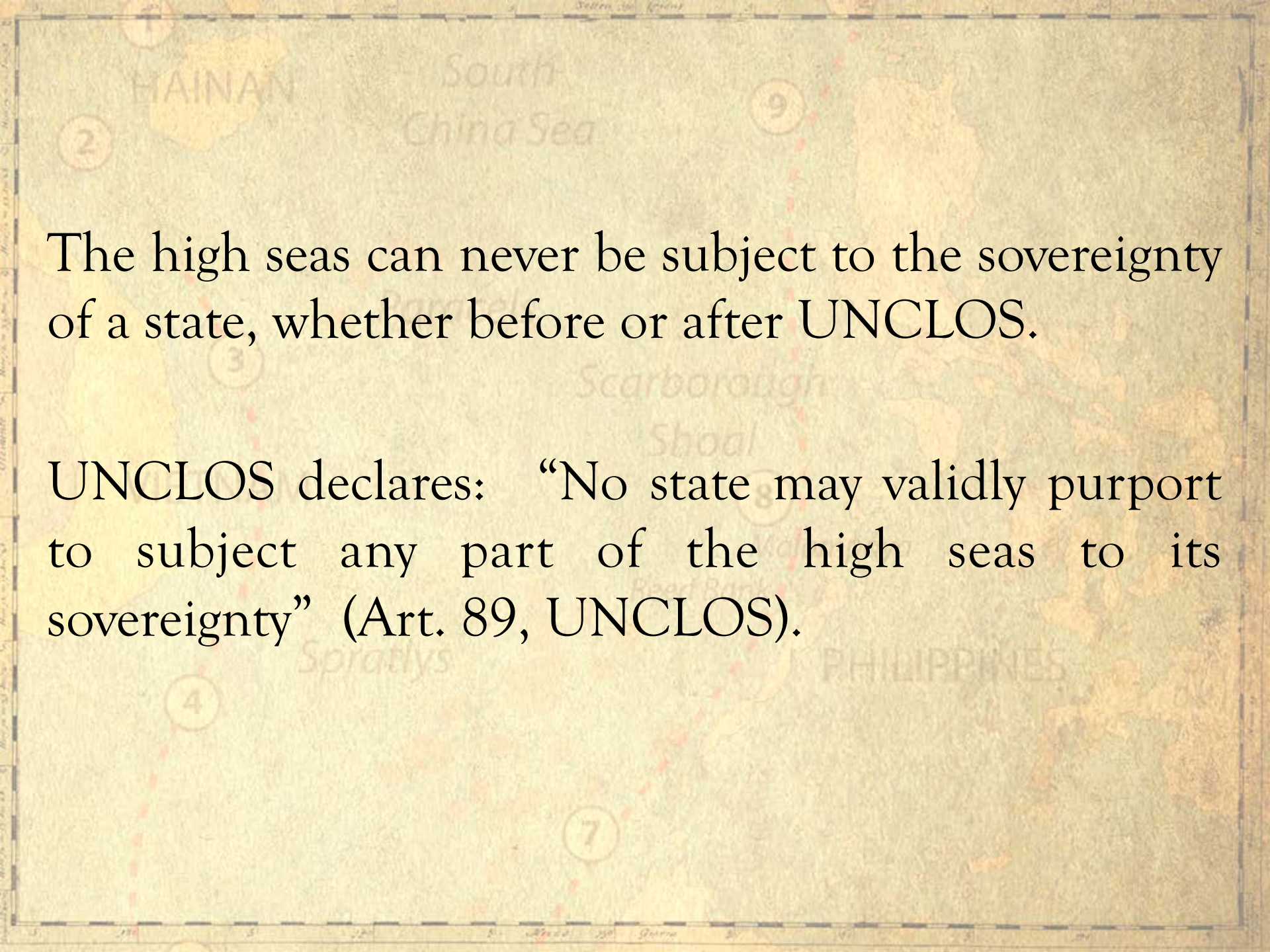
A map of the South China Sea region, showing the 9-dashed line claim. The map includes labels for HAINAN, South China Sea, Paracels, Scarborough Shoal, MALAMPAYA, Reed Bank, PHILIPPINES, and Spratlys. The 9-dashed line is marked with numbers 1 through 9. The text "Is there legal basis under international law to China's 9-dashed lines claim?" is overlaid on the map.

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,**” which means that all maritime zones are **measured from 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.



As stated by the ICJ in the 1969 *North Sea* cases, “the land is the legal source of the power which a State may exercise over territorial extensions to seaward.”

A background map of the South China Sea region. It shows the coastline of China, including Hainan Island, and the Philippines. A dashed red line runs through the sea. Numbered markers (1-9) are placed at various points: 1 is on Hainan, 2 is in the western sea, 3 is on the western coast of China, 4 is on the Spratly Islands, 5 is on the eastern coast of China, 6 is on the eastern coast of China, 7 is on the eastern coast of China, 8 is on the eastern coast of China, and 9 is in the eastern sea. The text "South China Sea" is written in the upper part of the map.

The high seas can never be subject to the sovereignty of a state, whether before or after UNCLOS.

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

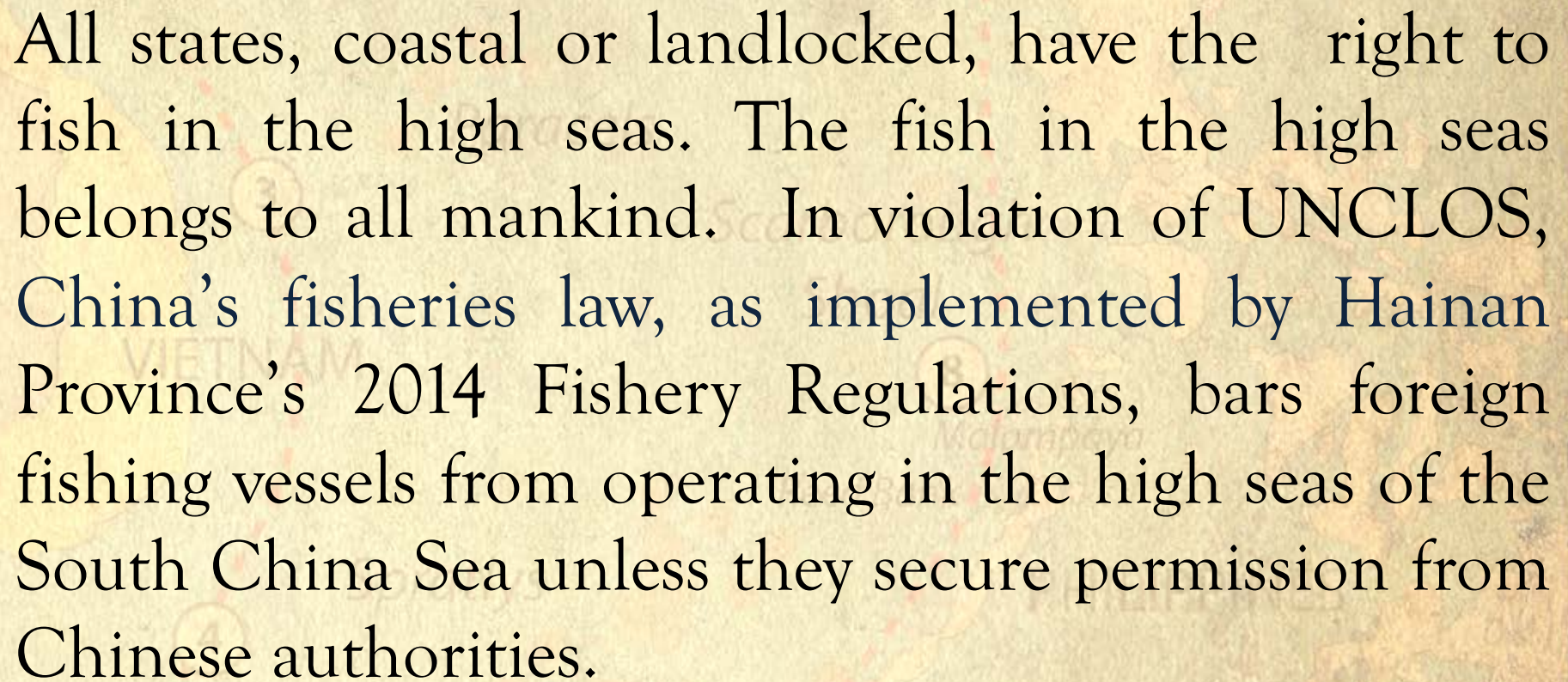
South China Sea, EEZs, and 9-dashed lines



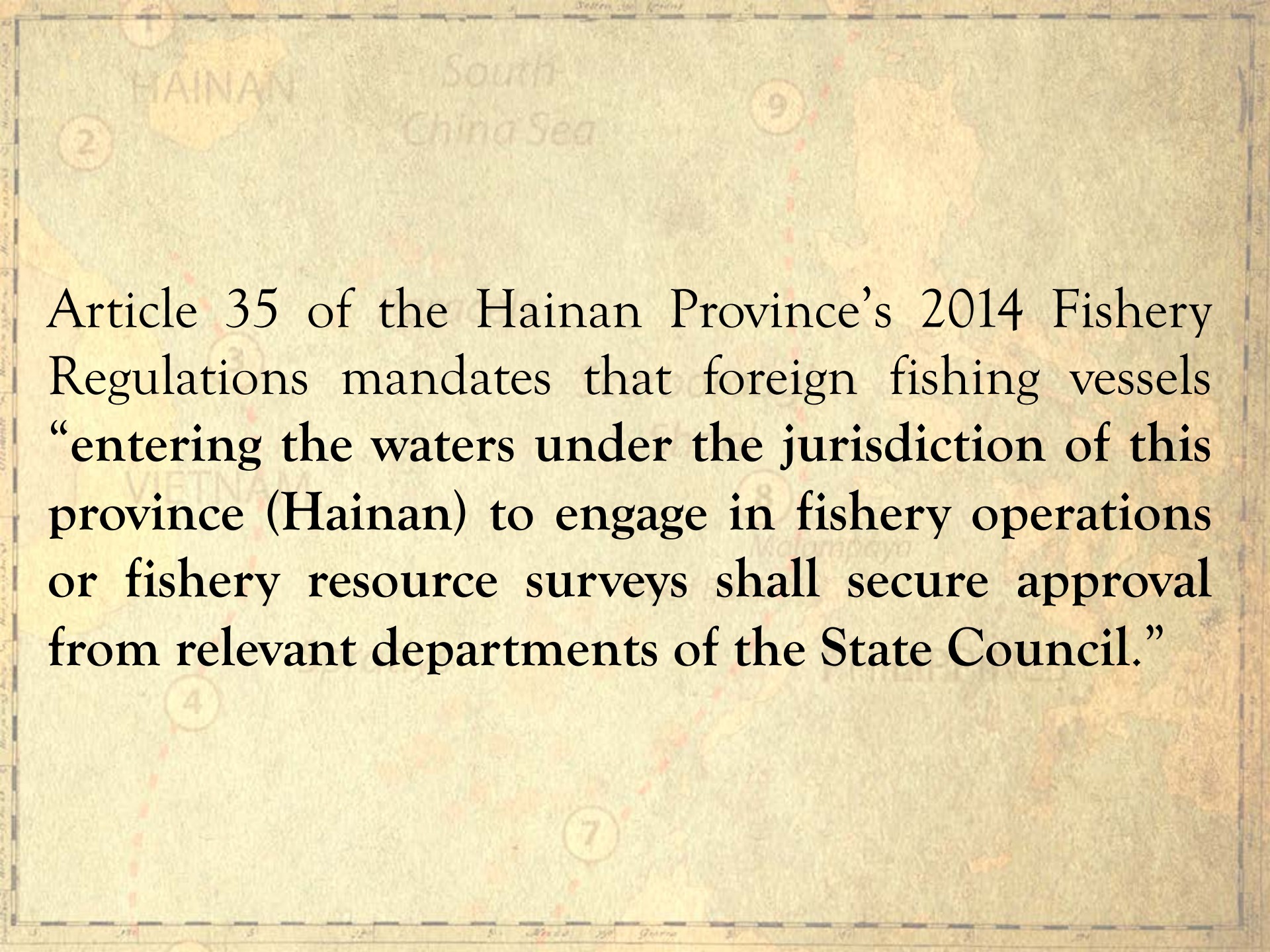
Waters Hainan Claims under its Administration



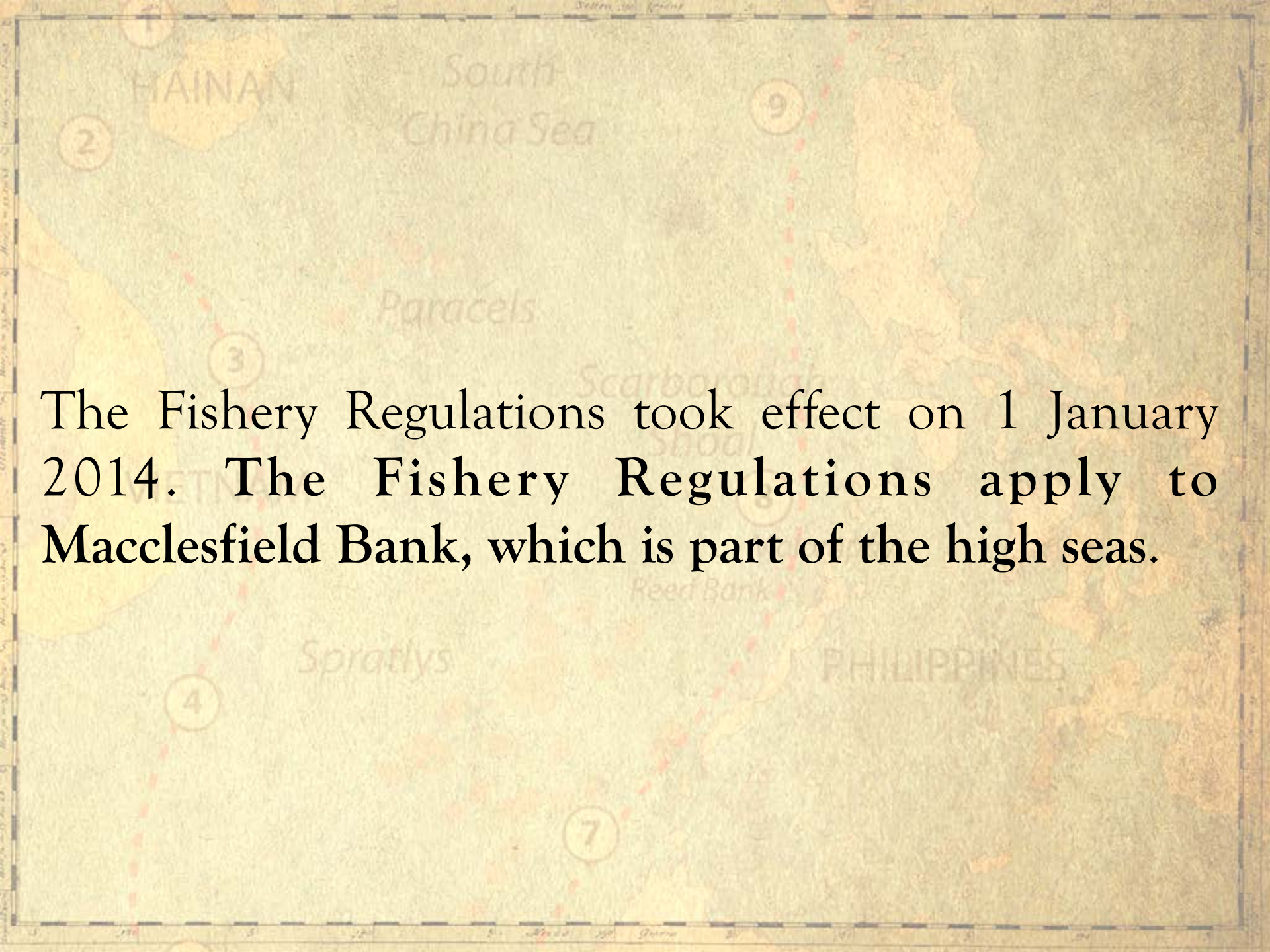
The enclosed waters under Hainan's administration comprise 2 million square kilometers out of the 3.5 million square kilometers total surface area of the South China Sea. China claims a total of 3 million square kilometers or 85.7% of the waters of the South China Sea. Macclesfield Bank, which is part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



All states, coastal or landlocked, have the right to fish in the high seas. The fish in the high seas belongs to all mankind. In violation of UNCLOS, China's fisheries law, as implemented by Hainan Province's 2014 Fishery Regulations, bars foreign fishing vessels from operating in the high seas of the South China Sea unless they secure permission from Chinese authorities.

The background is a faded map of the South China Sea region. It shows the coastline of Hainan Province in China, the Gulf of Thailand, and the Malay Peninsula. A red dashed line runs through the water. There are nine numbered circular markers: 1 (Hainan), 2 (off Hainan), 3 (off Vietnam), 4 (off Vietnam), 5 (off Vietnam), 6 (off Vietnam), 7 (off Vietnam), 8 (off Vietnam), and 9 (off Vietnam). The text "South China Sea" is visible in the upper part of the map.

Article 35 of the Hainan Province’s 2014 Fishery Regulations mandates 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 took effect on 1 January 2014. The Fishery Regulations apply to Macclesfield Bank, which is part of the high seas.

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

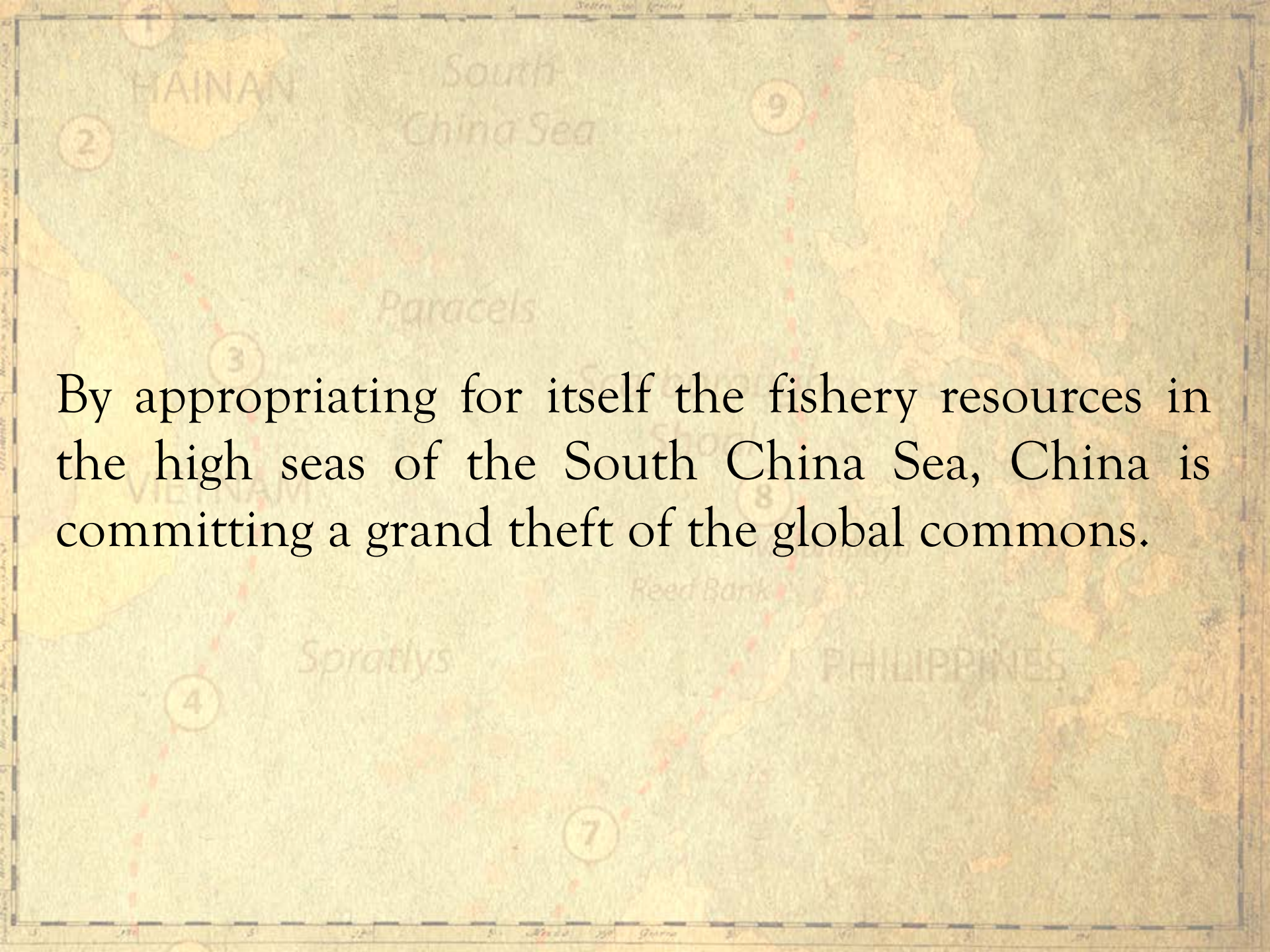
海南省实施《中华人民共和国渔业法》办法

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

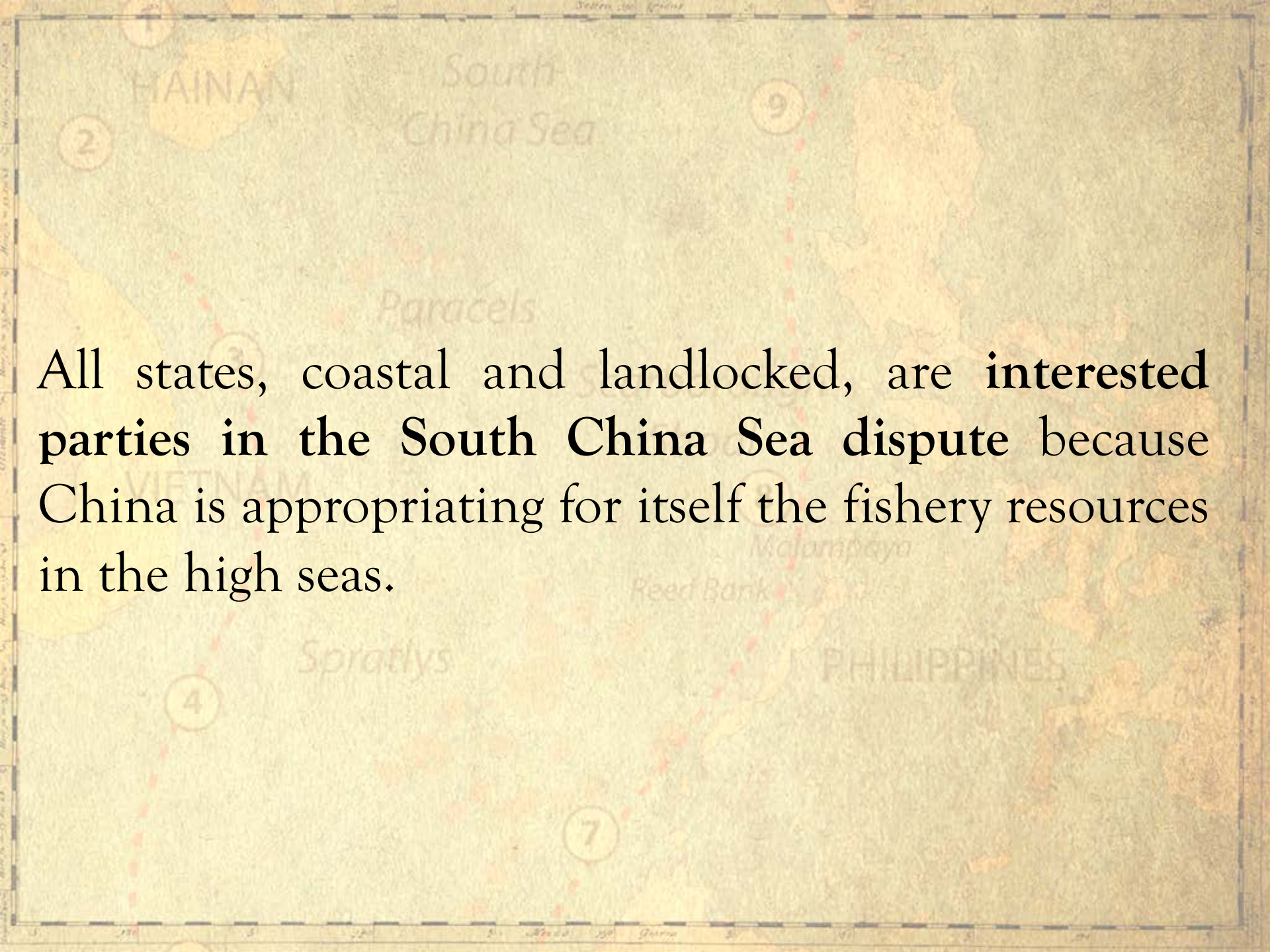
1993年5月31日海南省第一届人民代表大会常务委员会第二次会议通过根据2008年7月31日海南省第四届人民代表大会常务委员会第四次会议关于修改《海南省实施〈中华人民共和国渔业法〉办法》的决定修正(2013年11月29日海南省第五届人民代表大会常务委员会第五次会议修订)

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.

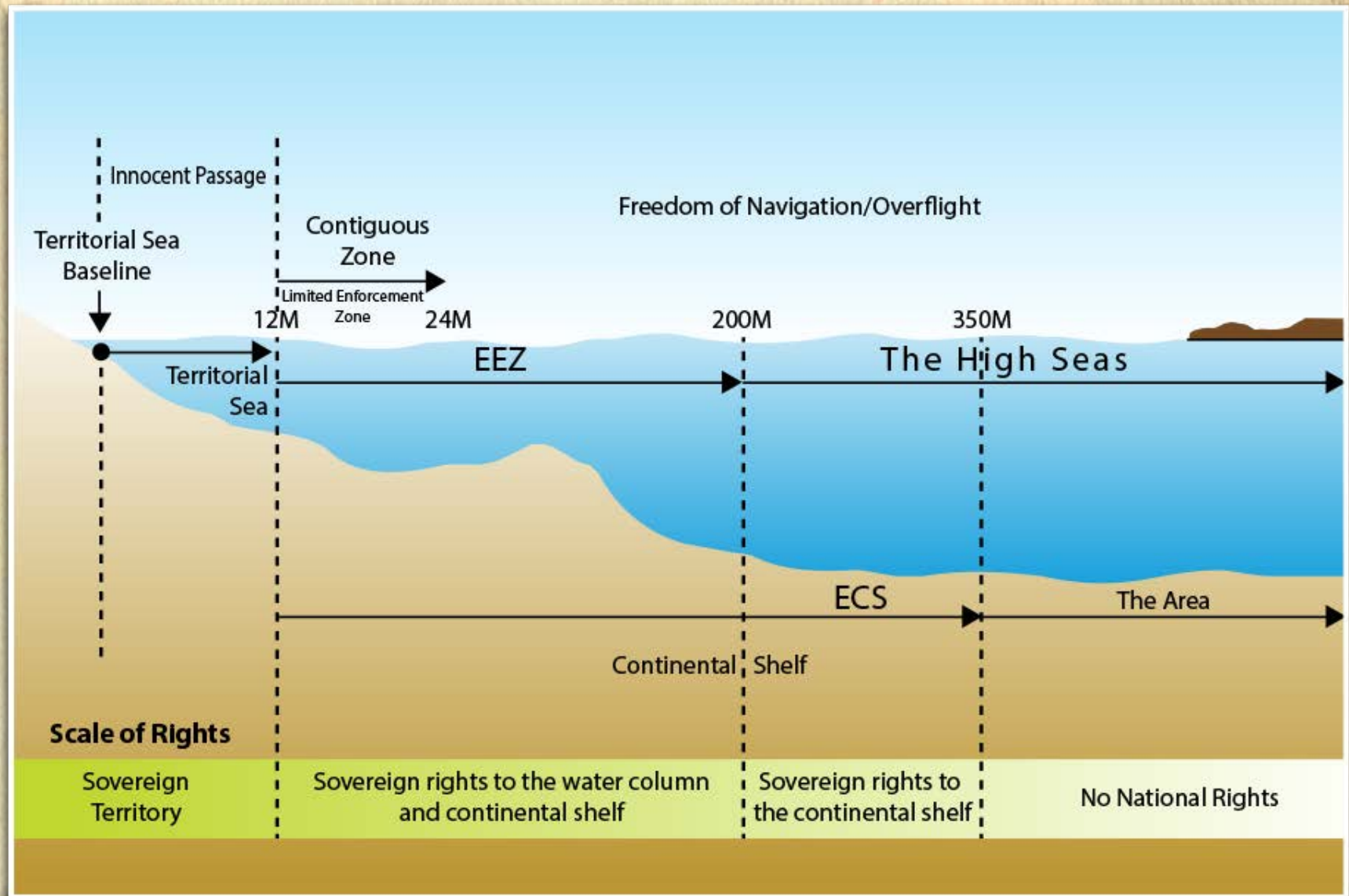


By appropriating for itself the fishery resources in the high seas of the South China Sea, China is committing a grand theft of the global commons.



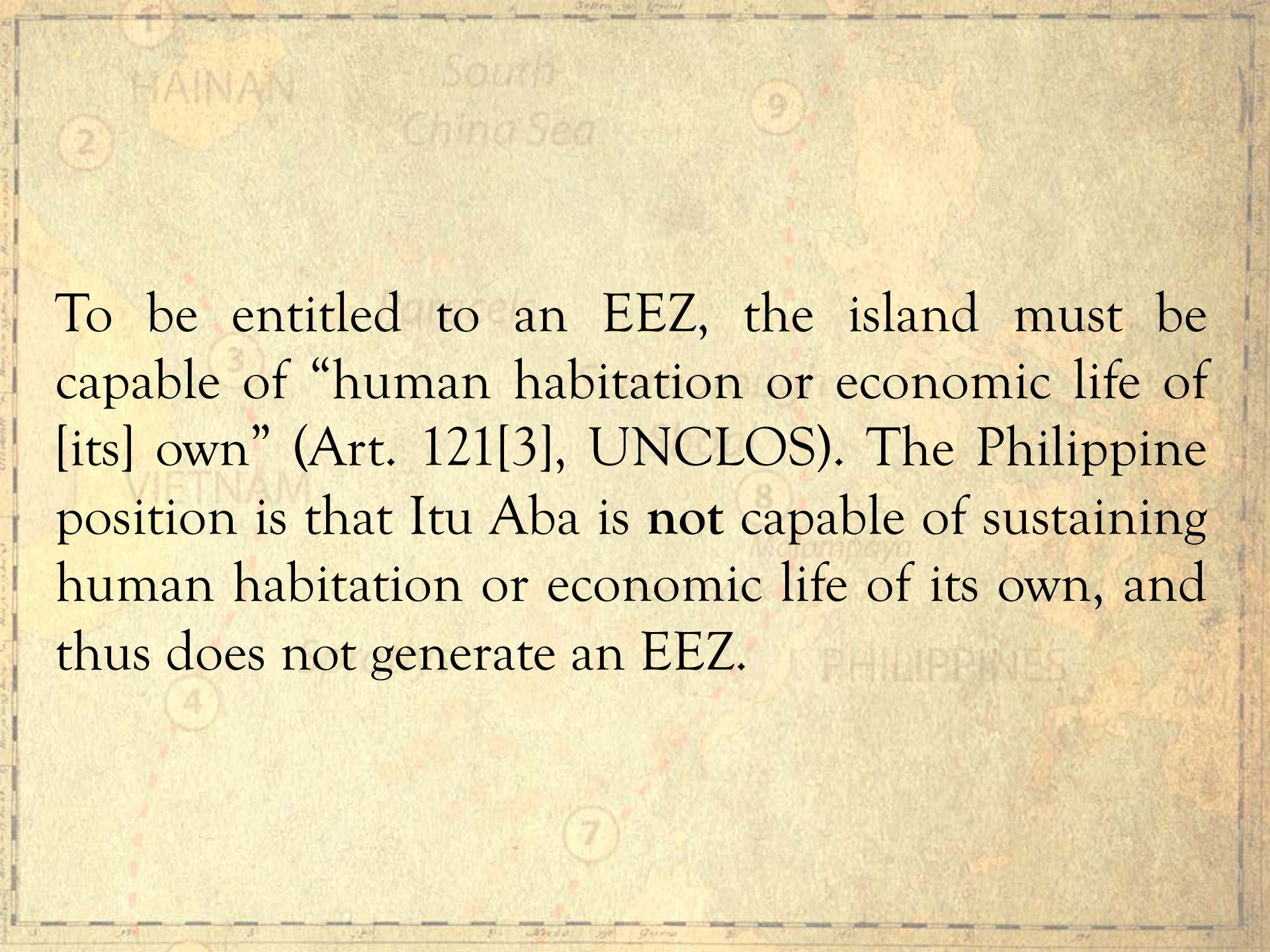
All states, coastal and landlocked, are **interested parties in the South China Sea dispute** because China is appropriating for itself the fishery resources in the high seas.

Maritime Zones under UNCLOS



A map of the South China Sea region, showing the South China Sea, Paracels, Scarborough, Spratlys, and Hainan. The map includes labels for HAINAN, South China Sea, Paracels, Scarborough, VIETNAM, PHILIPPINES, Malampaya, and Reed Bank. A red dashed line with numbered circles (1-9) indicates a path or boundary. The text "When is an island entitled to an EEZ?" is overlaid in red.


When is an island entitled to an EEZ?

A background map of the South China Sea region, showing Hainan, Vietnam, and the Philippines. The map is overlaid with a grid and several numbered circular markers (1-9) in a red dashed line path. The text is centered over the map.

To be entitled to an EEZ, the island must be capable of “human habitation or economic life of [its] own” (Art. 121[3], UNCLOS). The Philippine position is that Itu Aba is **not** capable of sustaining human habitation or economic life of its own, and thus does not generate an EEZ.

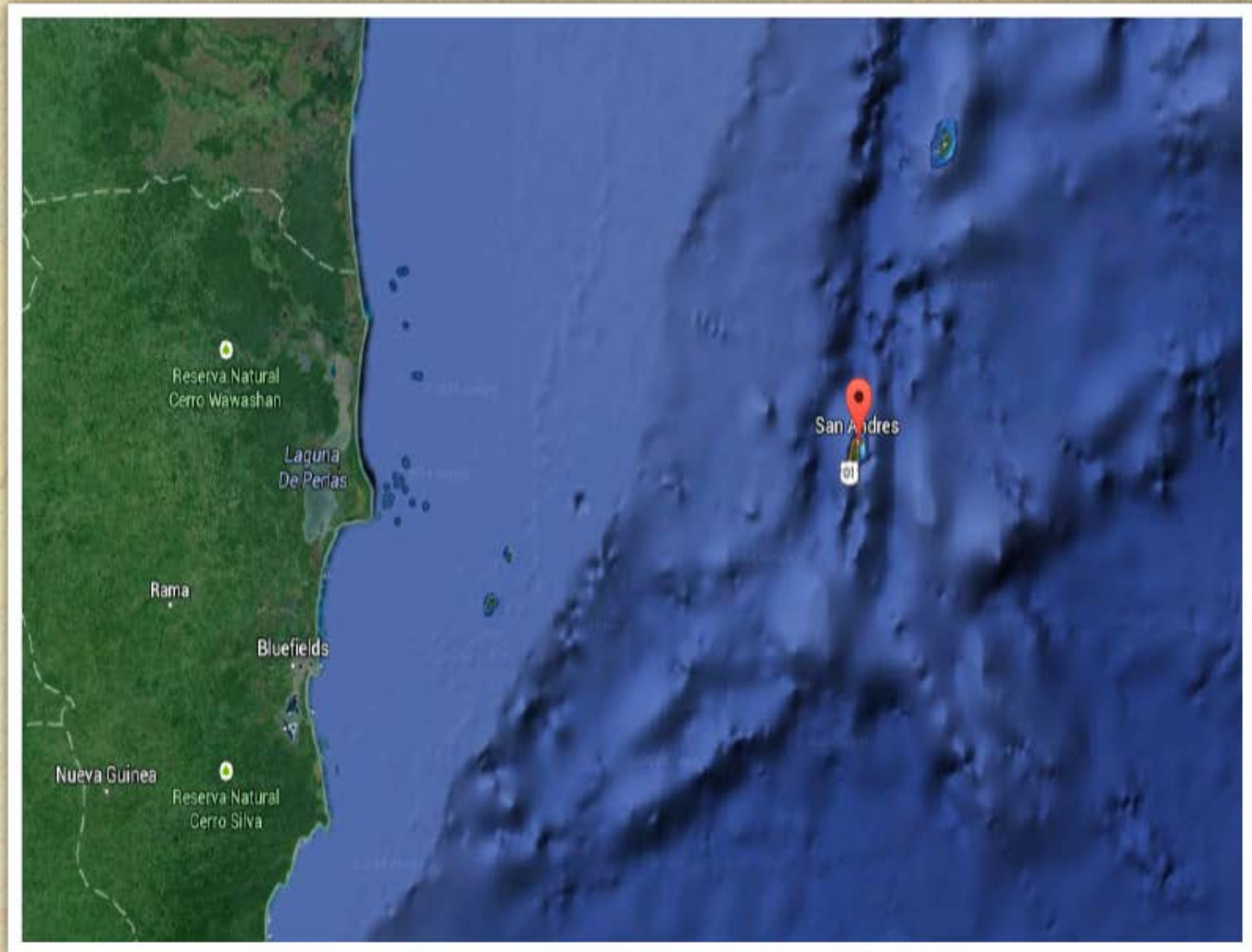
Even if an island satisfies the criterion for an EEZ, the island may not be given a full EEZ if there is an overlap with the EEZ of a much bigger island or with continental land. The length of the relevant coasts of the opposing land/islands is taken into account to achieve an “equitable solution.” If there is “substantial disparity” in the lengths of the relevant coasts, there must be an adjustment of the median line to make the maritime entitlements “reasonable and mutually balanced.” The adjustments must avoid a disproportionate allocation of maritime entitlements, in relation to the ratio of the coastal lengths, that create “inequitable results.”

Nicaragua v. Colombia (ICJ, November 2012); *Bangladesh v. Myanmar* (ITLOS, March 2012).

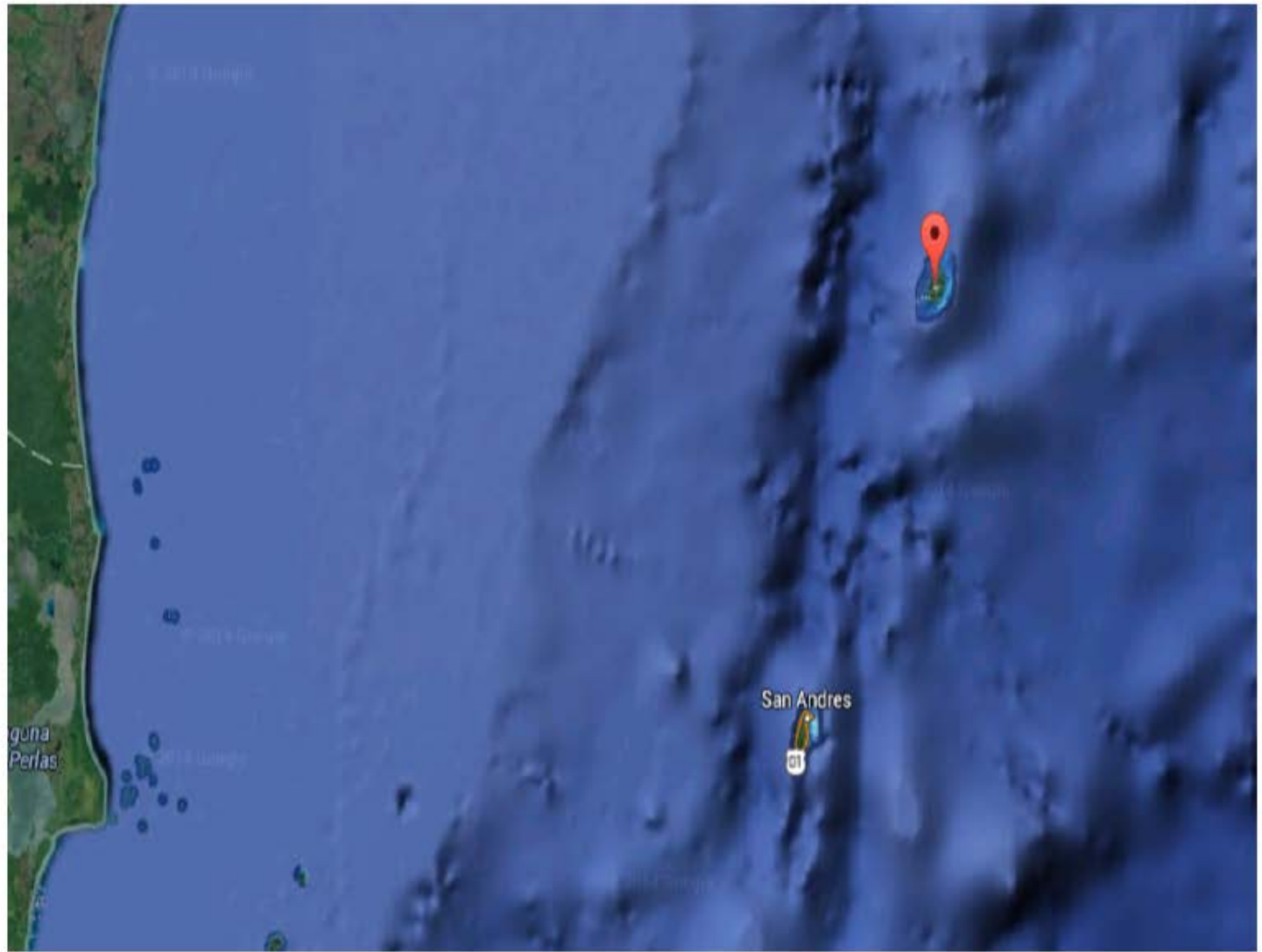
A map of the South China Sea region, showing the coastlines of Hainan, Vietnam, and the Philippines. A red dashed line with numbered circles (1-9) traces a path from Hainan in the north, through the Paracels, Scarborough, and Reed Bank, to the Spratlys in the south. The text 'Nicaragua v. Colombia, ICJ Ruling (November 2012)' is overlaid in the center in a dark red serif font. The map includes labels for 'HAINAN', 'South China Sea', 'Paracels', 'Scarborough', 'VIETNAM', 'Reed Bank', 'Spratlys', and 'PHILIPPINES'.

Nicaragua v. Colombia, ICJ Ruling
(November 2012)

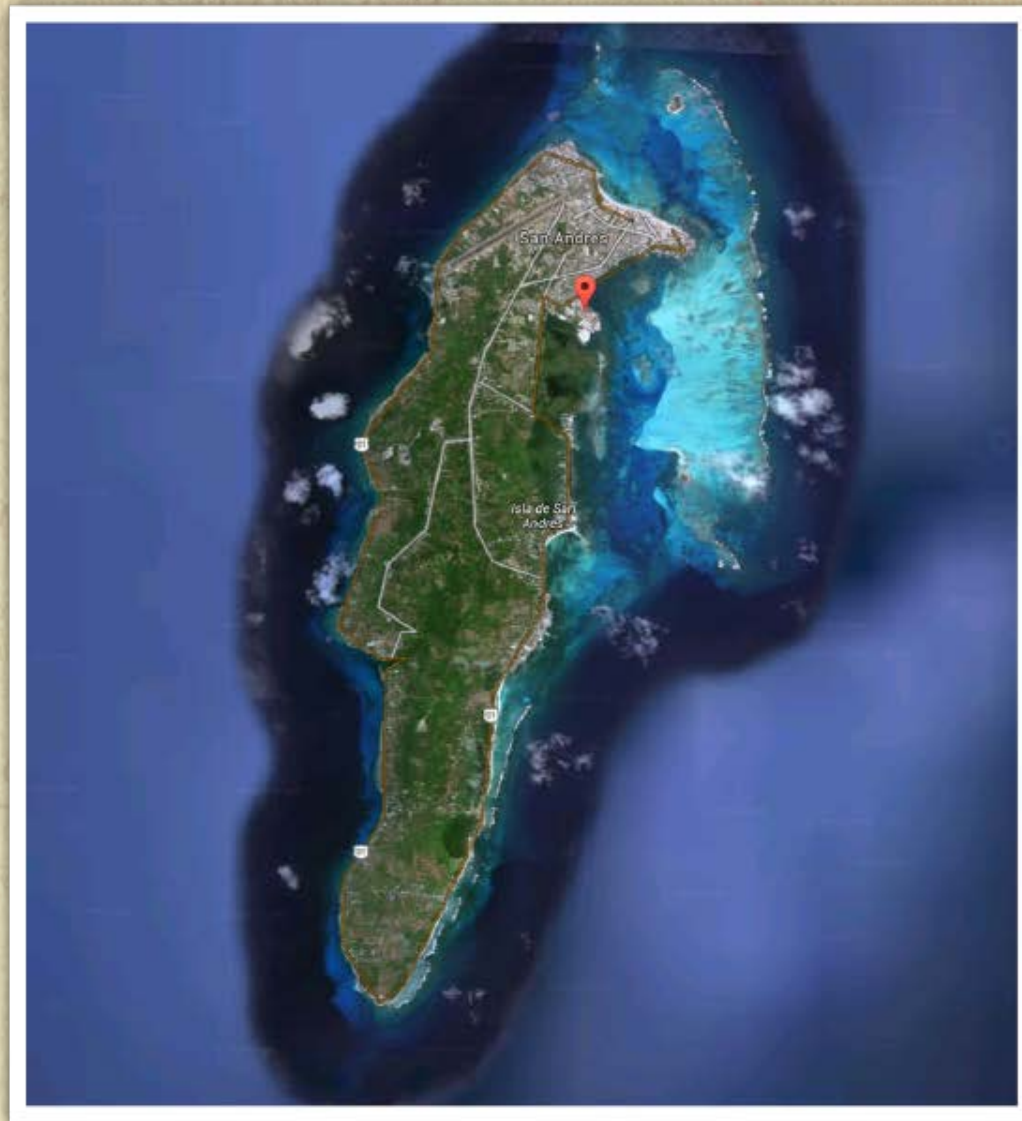
Satellite Image of San Andres Island, Colombia



Providencia Island, Colombia



San Andres Island, Colombia



San Andres Island, Colombia



San Andres Island has a land area of 26,000 hectares and a population 67,912 (2007). In comparison, Quezon City has a land area of 17,171 hectares. Metro Manila has a total land area of 63,600 hectares.

San Andres Island, Colombia

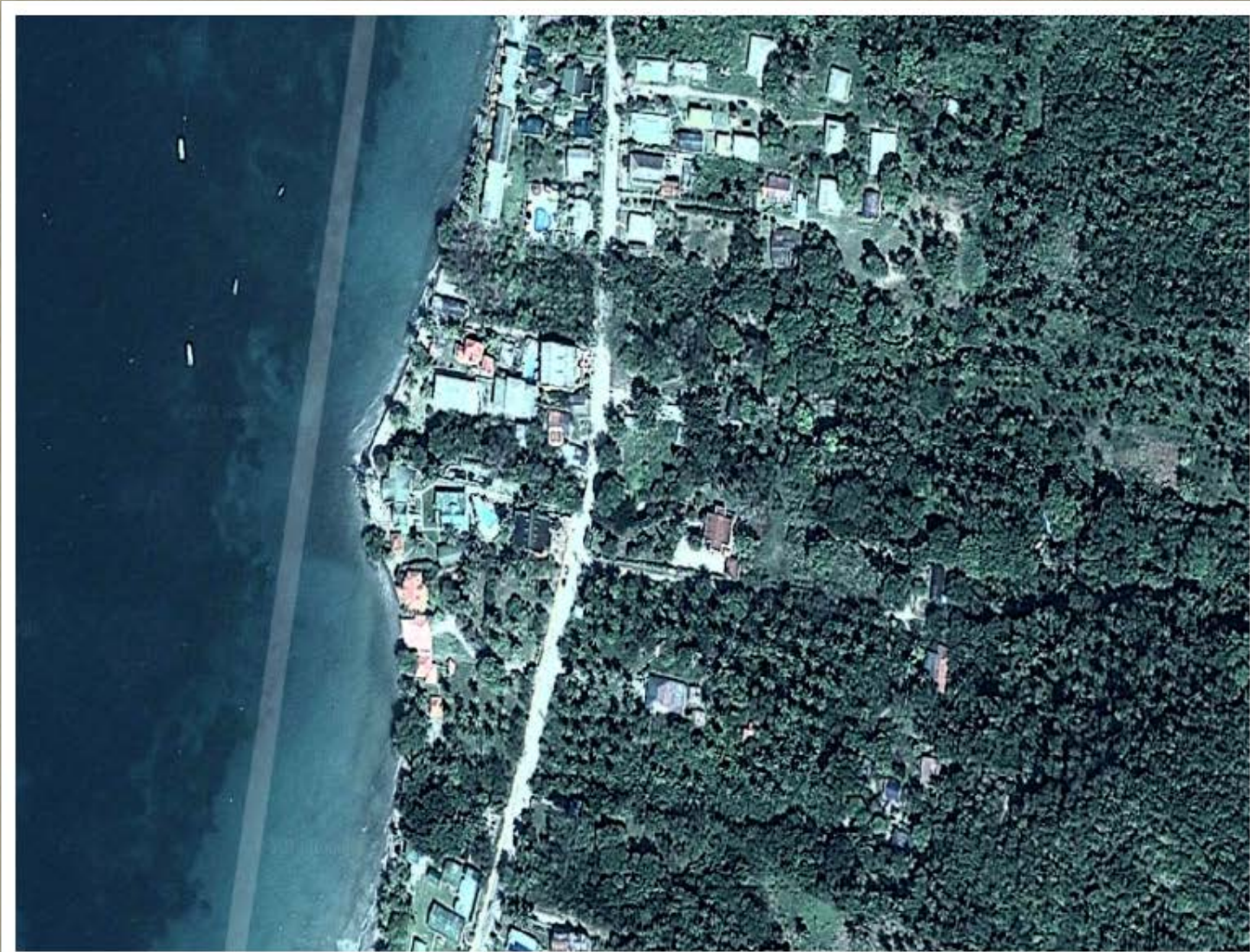


Providencia and Sta. Catalina Islands, Colombia

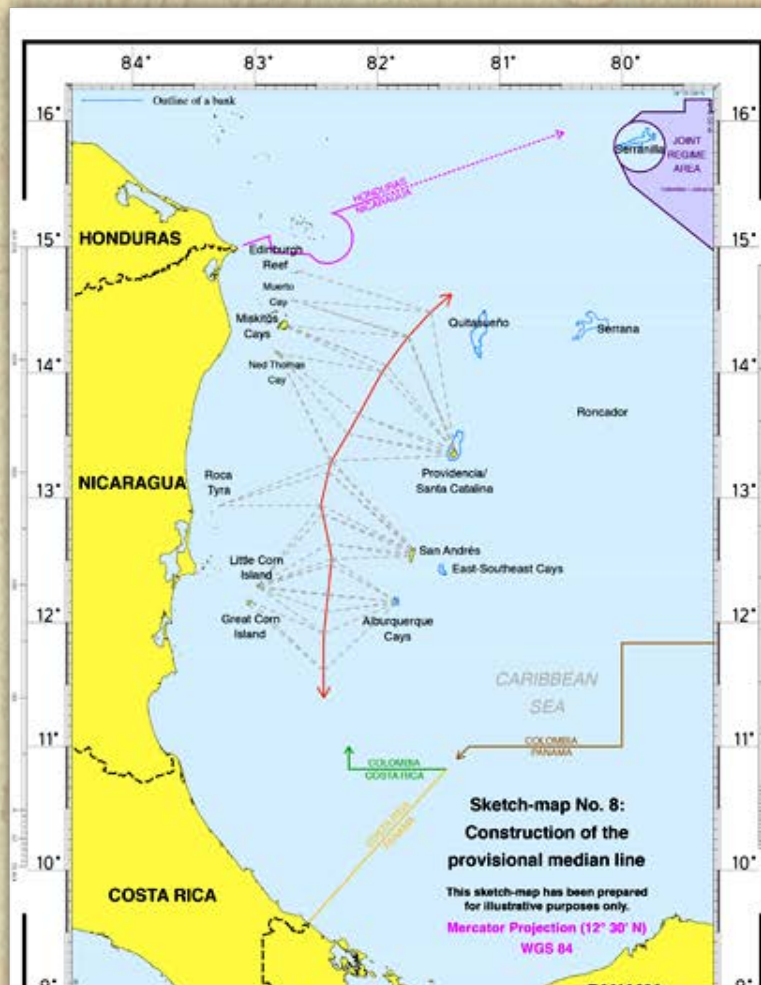


The combined land area of Providencia and Sta. Catalina is 1,800 hectares. The population is 5,000.

Providencia Island, Colombia

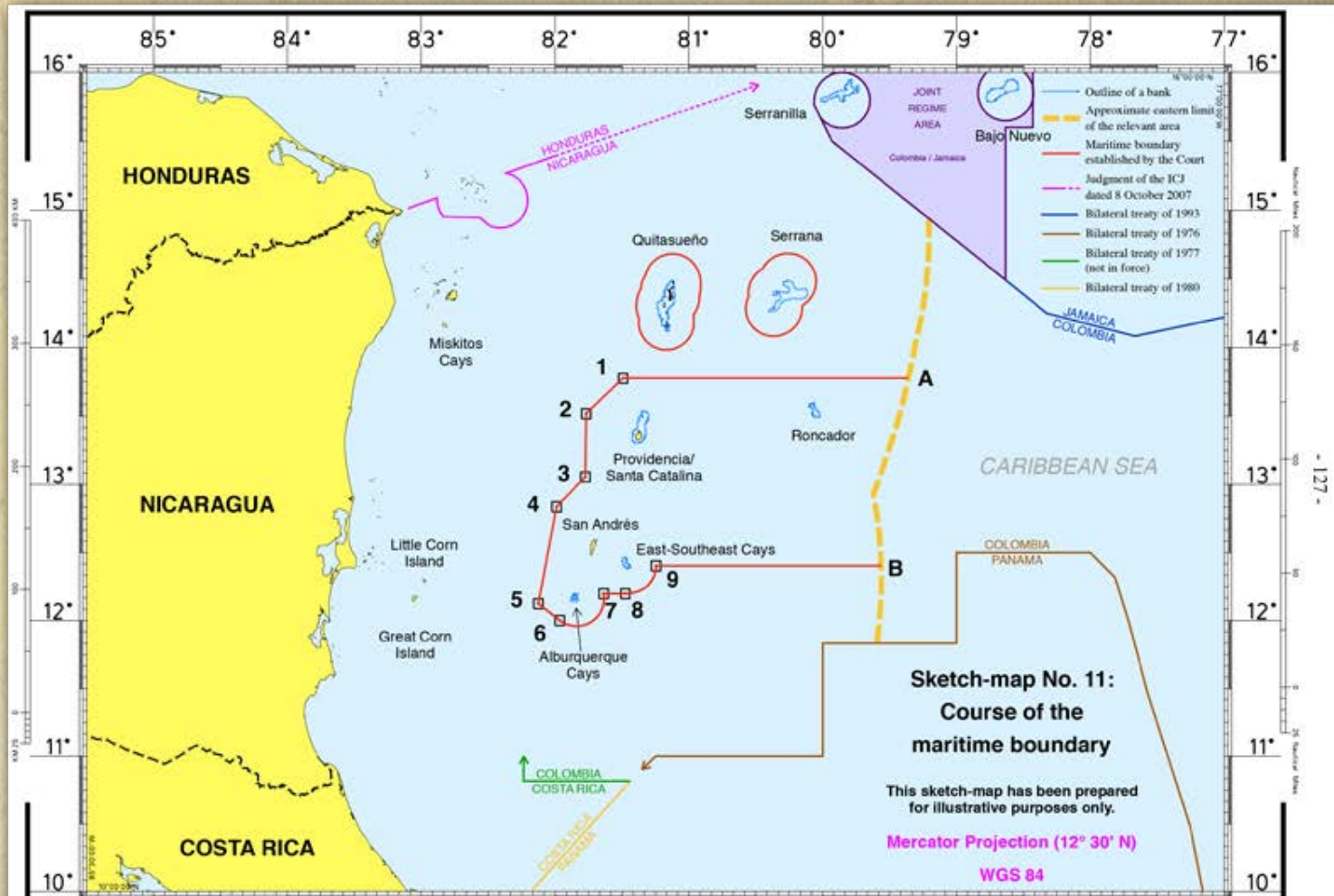


Median (Provisional) Line Nicaragua v. Colombia (November 2012)



This is the provisional median (equidistant) line drawn by the Tribunal. On the Nicaraguan side, the median line is measured from the islands fringing the Nicaraguan coast.

Nicaragua v. Colombia



The lengths of the relevant coasts are 531 km for Nicaragua and 65 km for Colombia's islands (San Andres, Providencia, Sta. Catalina, Albuquerque Cays, East-South Cays, Roncador and Serrana), a ratio of approximately 1:8.2 in favor of Nicaragua.

The *International Court of Justice* ruled:

“The Court begins by observing that a substantial difference in the lengths of the parties’ respective coastlines may be a factor to be taken into consideration in order to adjust or shift the provisional delimitation line. In the present case, the disparity between the relevant Colombian coast and that of Nicaragua is approximately 1:8.2. This is undoubtedly a substantial disparity and the Court considers that it requires an adjustment or shifting of the provisional line, especially given the overlapping maritime areas to the east of the Colombian islands.”

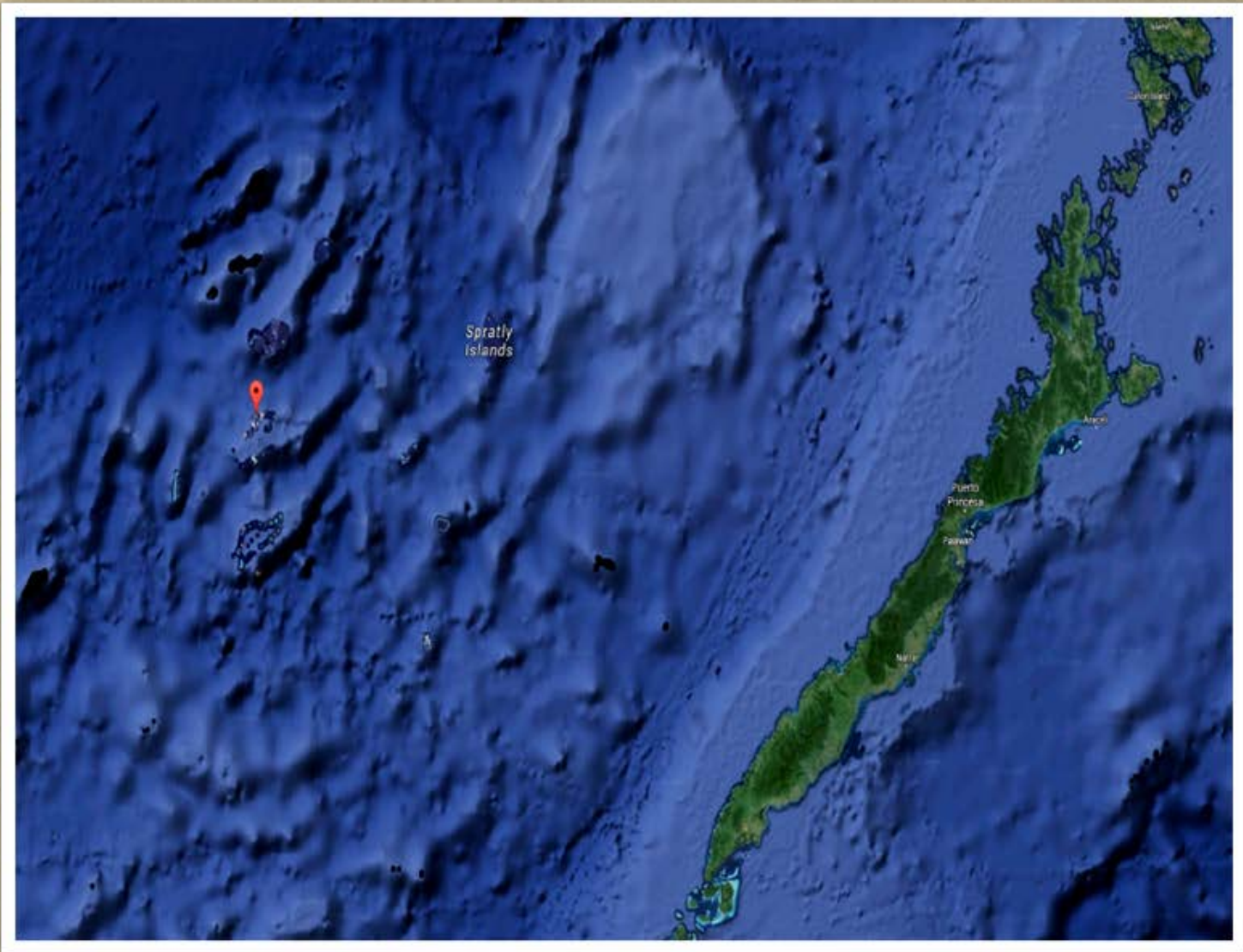
“The Court must take proper account both of the disparity in coastal length and the need to avoid cutting either State off from the maritime spaces into which its coasts project. In the view of the Court an equitable result which gives proper weight to those relevant considerations is achieved by continuing the boundary line out to the line 200 nautical miles from the Nicaraguan baselines along lines of latitude.”

“The disparity in coastal lengths is so marked as to justify a significant shift. The line cannot, however, be shifted so far that it cuts across the 12-nautical-mile territorial sea around any of the Colombian islands.”

Itu Aba (Ligaw, Taiping) Island



Satellite Image of Itu Aba (Ligaw, Taiping) Island

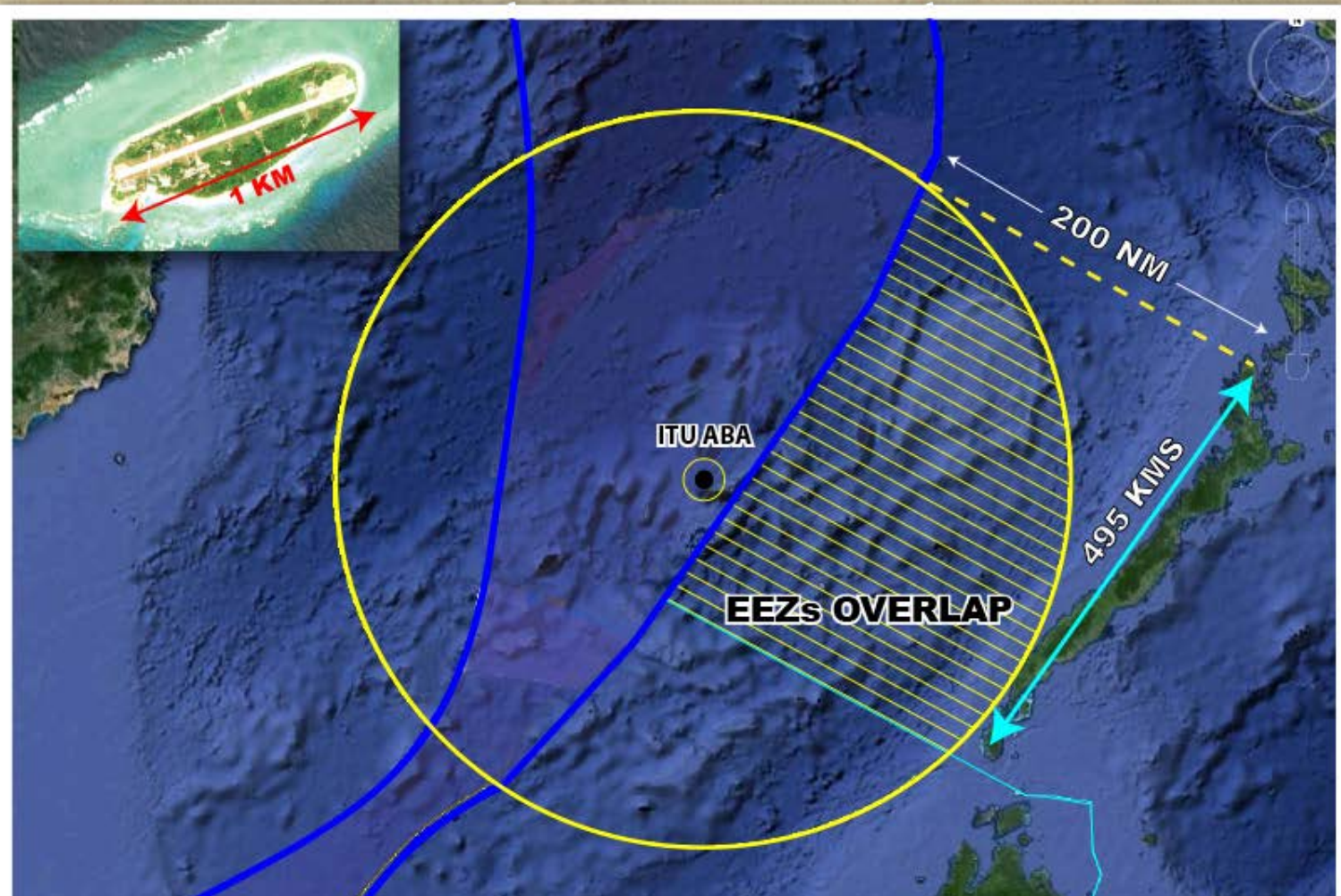


Itu Aba (Ligaw, Taiping) Island



The island has an area of 46 hectares, and the length of its coast is 1.4 KM. Taiwan stations in the island 600 soldiers who are supplied with food and amenities from Taiwan.

Palawan-Itu Aba EEZs Overlap

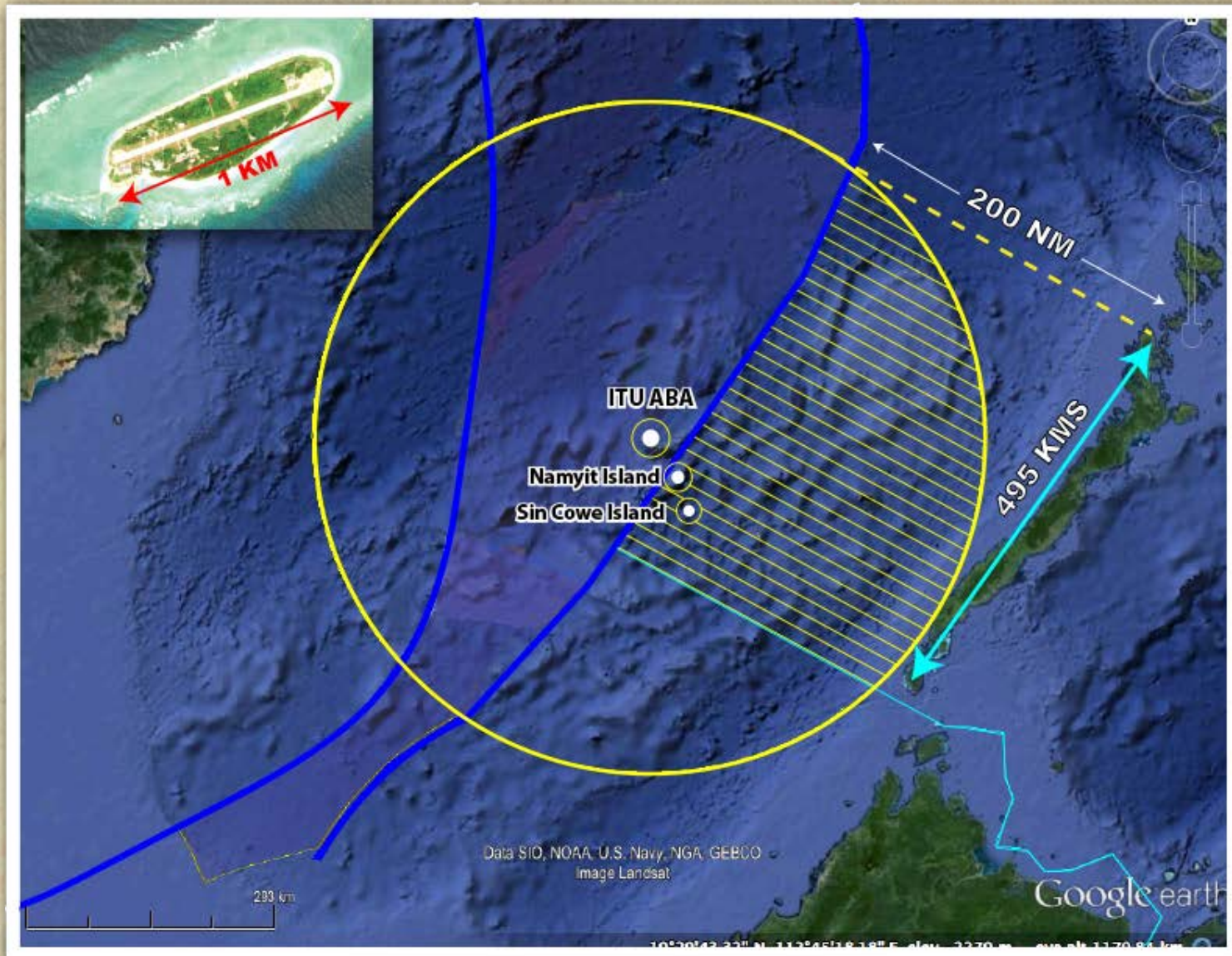


Palawan has an area of 1,464,900 hectares, and a 650 KM coast facing the West Philippine Sea, while Itu Aba has an area of 46 hectares and a 1.4 KM coast. The relevant coast for Palawan is about 495 KM, while the relevant coast for Itu Aba is about 1 KM, or a ratio of 1:495 in favor of Palawan. The relevant coast of Palawan should include Balabac Island and other nearby islands, following *Nicaragua v. Colombia*.

Assuming that Itu Aba Is Capable Of Human Habitation of its Own

If Itu Aba is capable of human habitation, there will be overlapping EEZs and the arbitral panel will have no jurisdiction to proceed further on this particular issue. **The Philippines will then resort to compulsory conciliation.** The conciliation commission will still apply the “equitable solution” principle. Palawan will be allocated a full 200 NM EEZ facing Itu Aba, and Itu Aba will be given the balance of 25 NM as follows: 12 NM territorial sea and 13 NM EEZ facing Palawan. Itu Aba will also have an EEZ facing seaward up to where Vietnam’s EEZ ends.

Palawan's EEZ and Islands' Territorial Seas





What is the overriding principle in resolving overlapping EEZs & CSs?

In boundary delimitation of overlapping EEZs and CSs, the objective under UNCLOS is to achieve an “equitable solution” (Art. 74, UNCLOS).

As applied in law of the sea cases, this means that if there is a **substantial disparity** in the lengths of the relevant coasts, there must be **adjustments** in the median line so that the maritime entitlements will be **reasonable and mutually balanced**. The adjustments must not produce such **disproportionality** in the maritime entitlements as to create an **inequitable result**.

The critical criterion is the length of the opposing coastlines in the overlapping maritime zones. Palawan is uniquely endowed by nature with an unusually long coastline – a total of more than 650 kilometers facing the West Philippines Sea. The combined coastline of all the Spratly Islands is minuscule compared to Palawan's coastline.

International law, international jurisprudence and nature itself have all combined to give the Philippines an impregnable legal position in this maritime dispute.

Length of Coastlines: Palawan v. Spratly Islands

2



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 international declarations of China; and (5) the 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 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>

“Professor Marwyn Samuels, in his well-known book “Contest for the South China Sea” admonished western scholars who dated the first Chinese expedition to the Paracels to 1909. Instead, he asserted that the first expedition took place in 1902. xxx

“Before 1979, neither western nor Chinese scholars had ever mentioned the existence of a 1902 expedition. The only official voyage recorded in the Qing annals was the inspection tour led by Admiral Li Chun in 1909.

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.

“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.

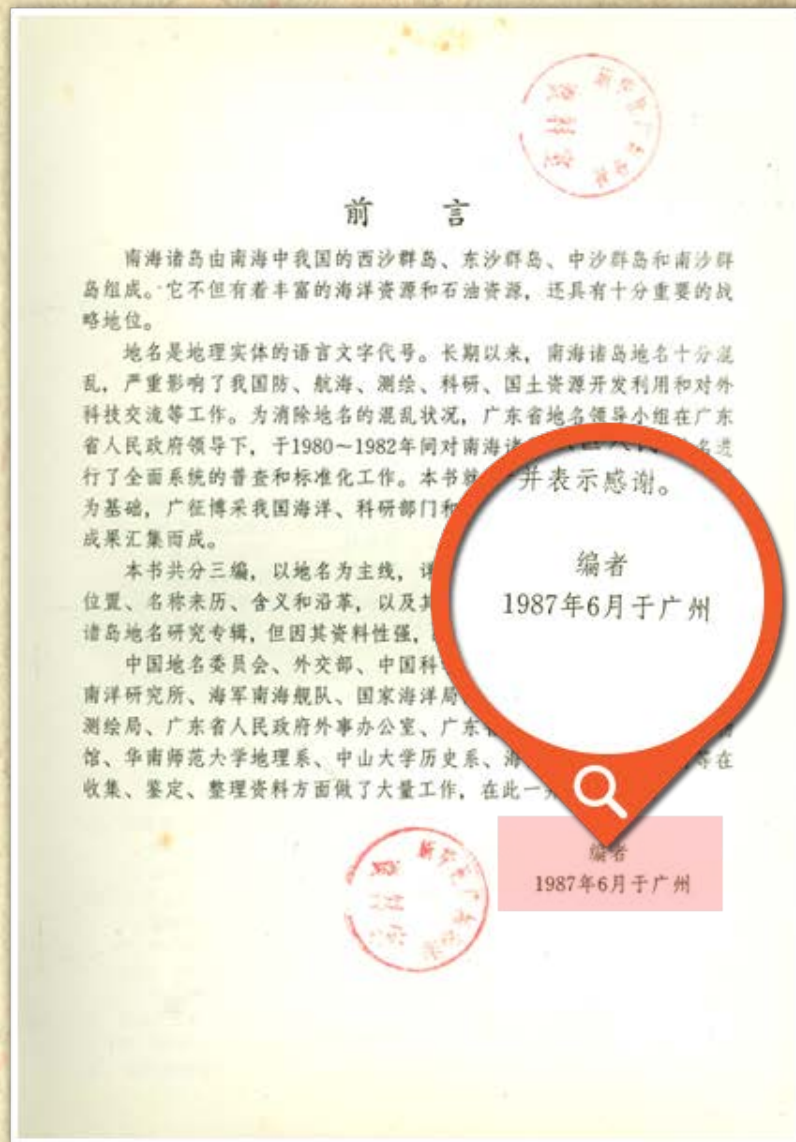
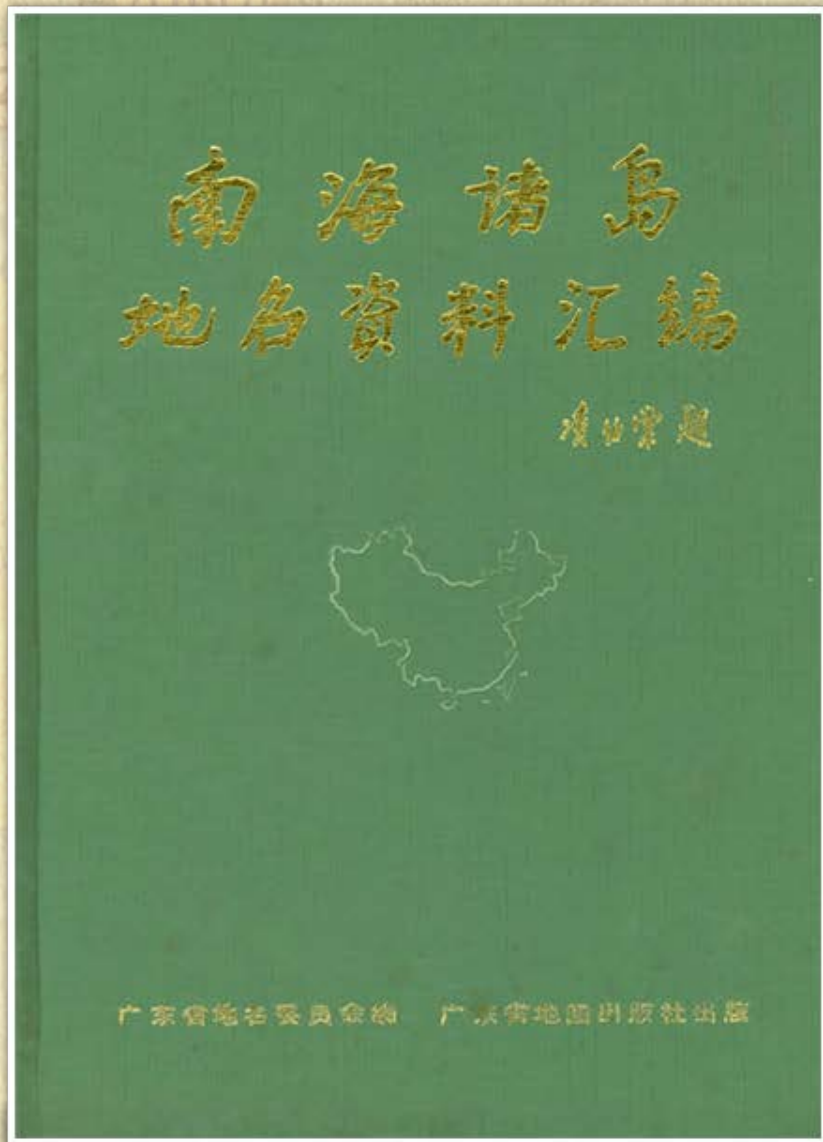
“This short and confidential mission has been recounted by the Chinese historians Han Zenhua, Lin Jin Zhi and Hu Feng Bin in their seminal work *“Compilation of Historical Documents on our Islands of the South Sea”* published in 1988. However, if they published the report of July 31, 1937, they forgot, consciously or not, to publish the annex of this report. Fortunately, 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 1937 Secret Mission

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].

Compilation of References of the Names of All the South Sea Islands



Summary of Antedated Markers Planted in 1937 in the Paracels

<u>Place</u>	<u>Date of Inscription on Marker</u>
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

Place

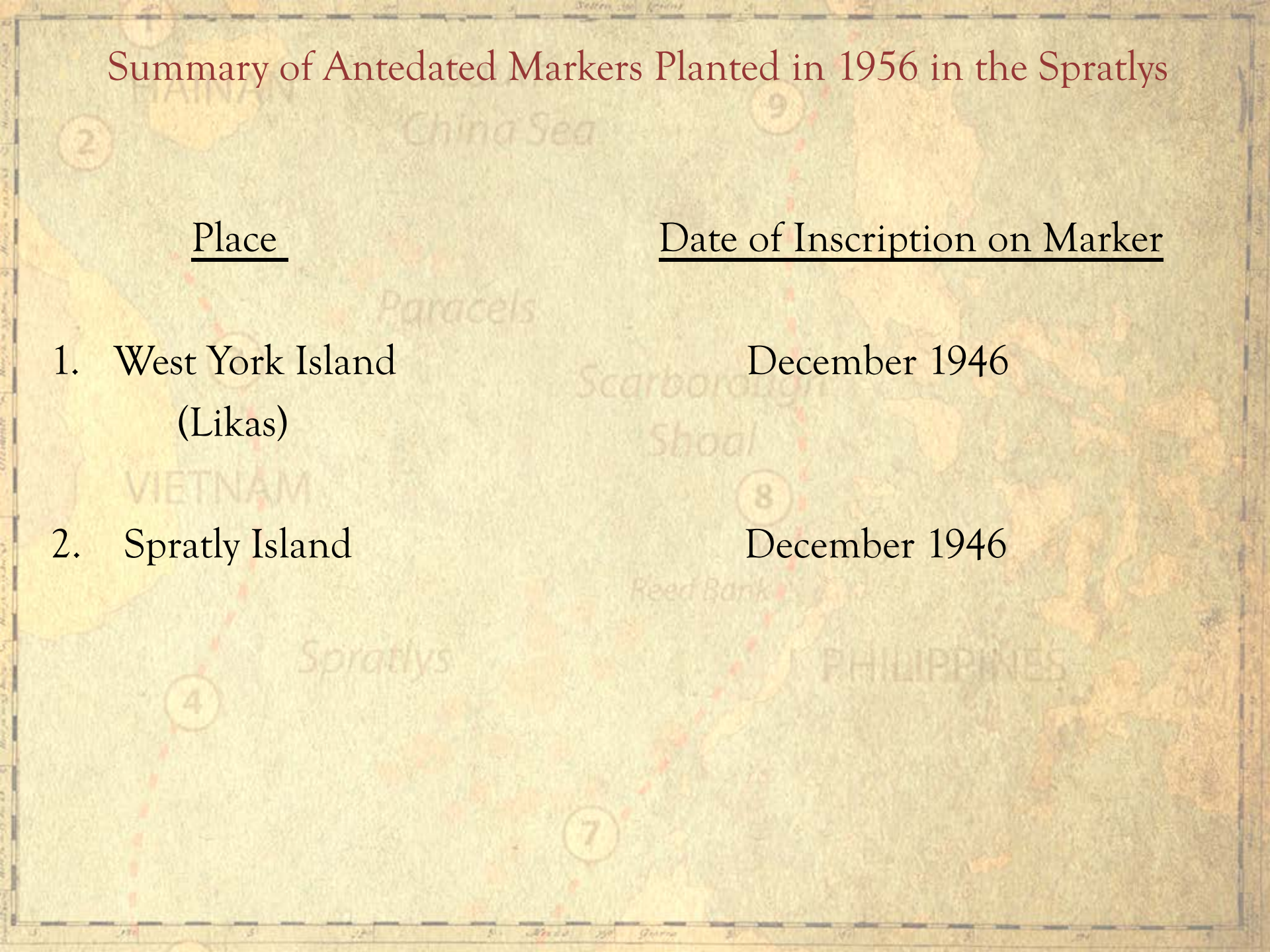
Date of Inscription on Marker

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师副旅长叶廉常……第九区保安司令部副司令王毅鸞海周舰于本月二十日晨四时由海口启航……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（石碑记录另详），六月二十三日上午五时四十五分由林岛启航……八时到玳洲岛，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，乃立碑三方于岛上。……六月二十四日下午七时半返海口。虽然西沙各岛均属浅滩，舢板不能靠岸，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。附徵西沙群岛图及航线图各一份，各岛树立石碑记录表一份，鸟粪六包。……呈请察核转报，实为公便。

第九区行政督察专员 黄强

民国二十六年十月卅一日

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

水井边5尺处，藏石碑一方，刻“视察纪念大中华民国十年立”等字。

(4) 在林岛之西南孤魂庙仔（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) 在玳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) 在玳洲岛北端中心树下，藏石一方，刻“视察纪念大中华民国元年立”盖泥八寸。

(7) 在玳洲岛之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) 在北岛之南便半边草屋前空地，藏石碑一方，刻“视察纪念大中华民国元年立”等字。

(11) 在北岛之南便半边草屋后，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，几乎都有古庙留存。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、晋脚岛、金银岛等地也有留存。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

附件：西沙群岛立碑记录表

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。

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 $N28^{\circ}E$ ，测石岛之右边为 $N52^{\circ}E$ 。

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。

在林岛之西南、孤魂庙仔（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”。

在玳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

在玳洲岛北端中心树下，藏石一方，刻“视察纪念大中华民国元年立”盖泥八寸。

在玳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份，刻“视察纪念大清光绪二十八年立”等字。

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。

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

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

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

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

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。

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

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;

A stone tablet can be found on the northern shore of Lin Dao (Woody Island). The left and right side of the stone read N28°E and N52°E on the compass, respectively;

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”. In addition, a small and dilapidated temple can be found, possibly built by our fishermen, near the shore with characters carved on the wall but are no longer readable. (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)

“（南钥岛）发现一座石块架设的土地庙，其中供养有石质土地神象，内有酒杯两个，饭碗四只，酒壶一把，均系瓷质。”（第73页）

There is a stone Earth God Temple in Nanyao Dao (Loaita Island), with offerings to a stone Earth God figurine. Two cups, four bowls, and a wine pot, all of which were made of porcelain, were found in the temple.

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; In, *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, even subjecting the perpetrator to shame and ridicule.

Ancient Maps of China and the Philippines

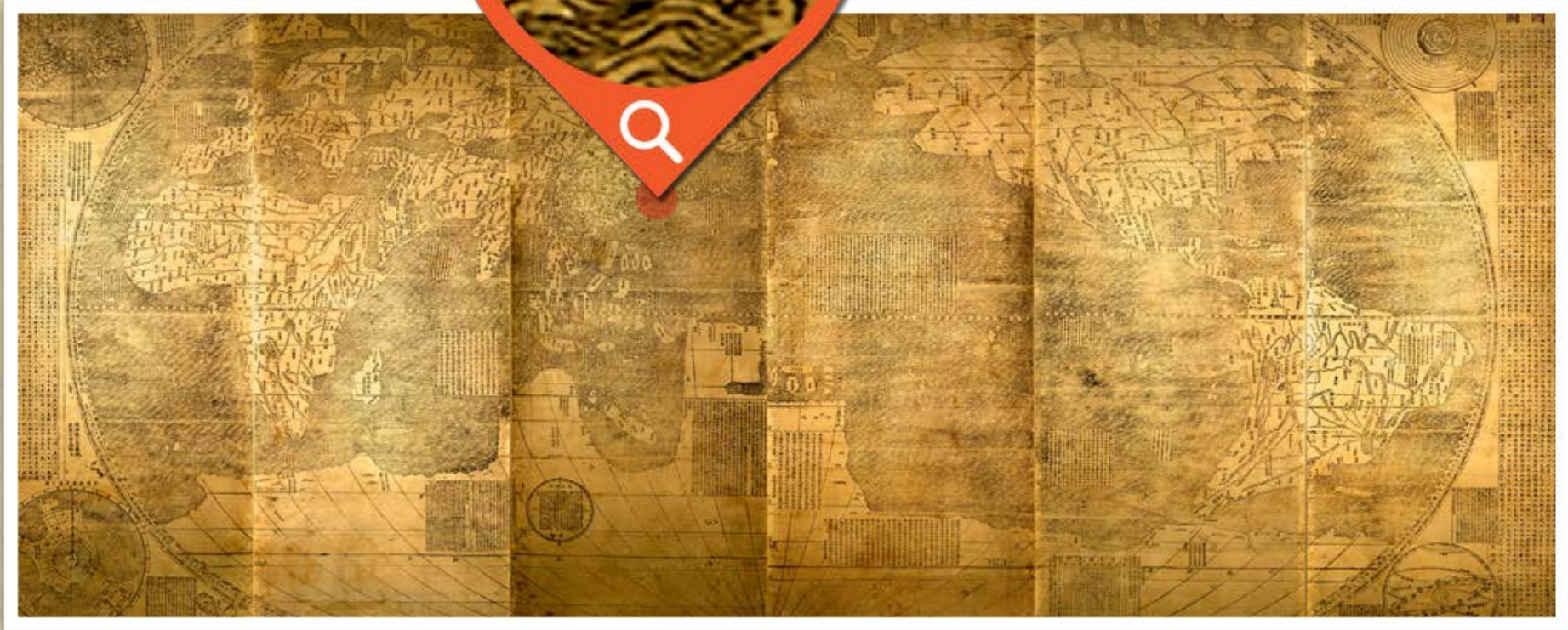
Official and unofficial maps of China from 1136 during the Song Dynasty until the end of the Qing Dynasty in 1912 show that the southernmost territory of China has always been Hainan Island. Official and unofficial maps of the Philippines from 1636 until 1933 show that Scarborough Shoal has always been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

1136 AD “Hua Yi Tu”



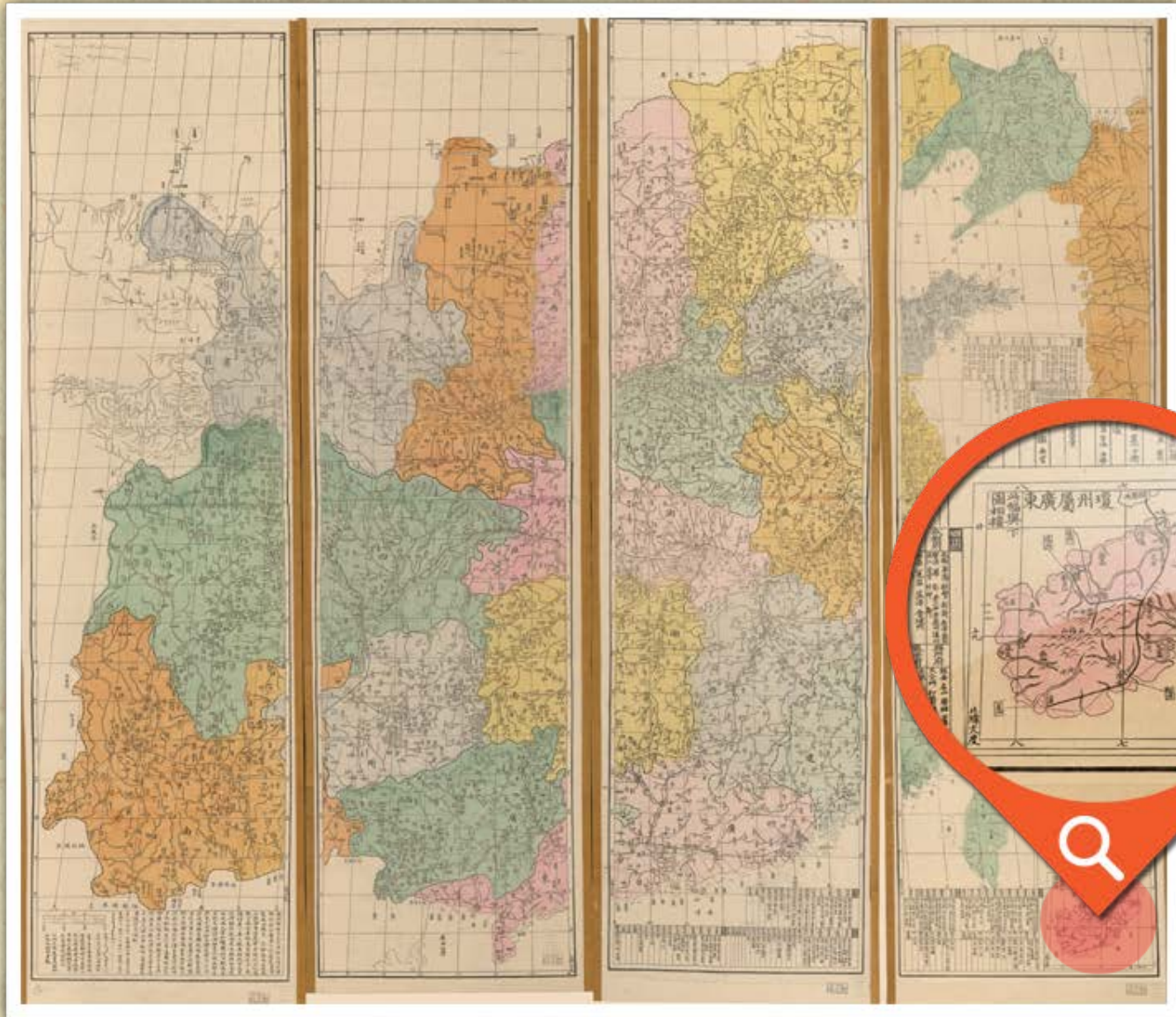
This map was engraved in stone in Fuchang in 1136 AD during the Song Dynasty. A stone rubbing of the map was published in 1903(?) in France. The stone map is entitled “**Hua Yi Tu**” or **Map of China and the Barbarian Countries**. The stone map is now in the Forest of Stone Steles Museum in Xi’an, China. **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).

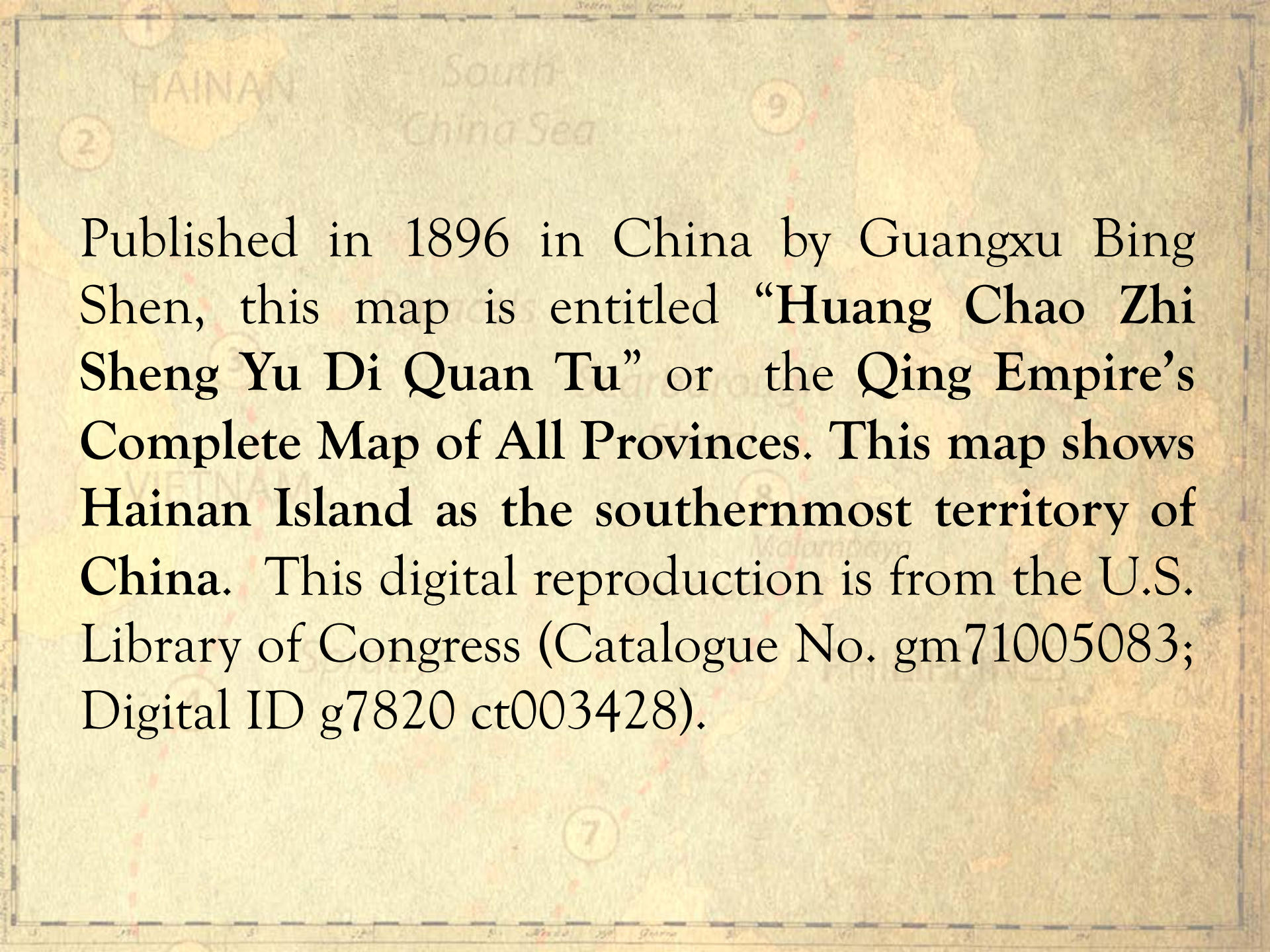
1602 “Kunyu Wanguo Quantu” or A Map of the World Countries of the World



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).

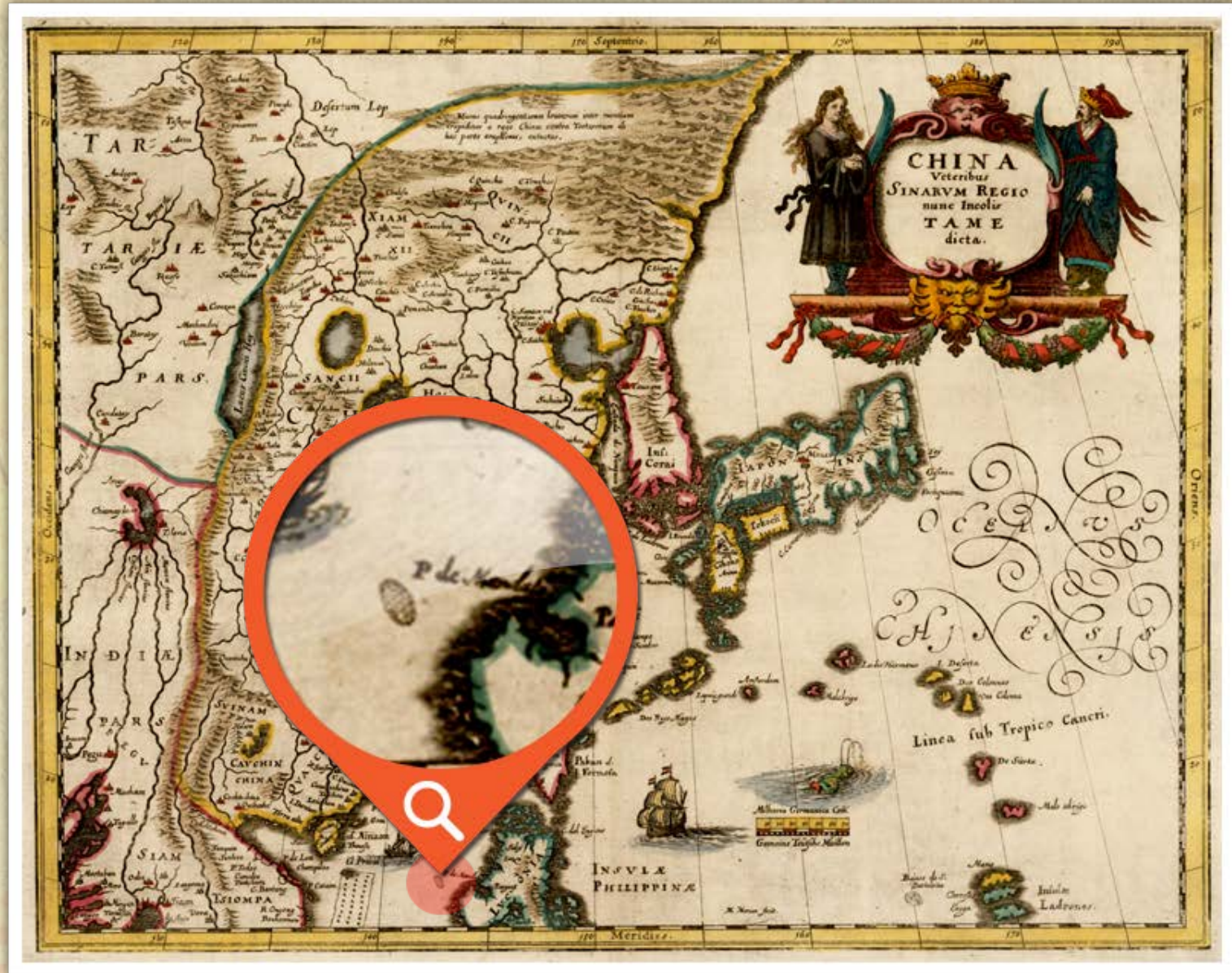
1896 “Huang Chao Zhi Sheng Yu Di Quan Tu” or The Qing Empire’s Complete Map of All Provinces.



A faint, historical map of China and the South China Sea is visible in the background. The map shows the coastline of China, with Hainan Island marked as the southernmost territory. The text 'HAINAN' and 'South China Sea' are visible on the map. There are also some circular markers with numbers on the map, such as '2' and '9'.

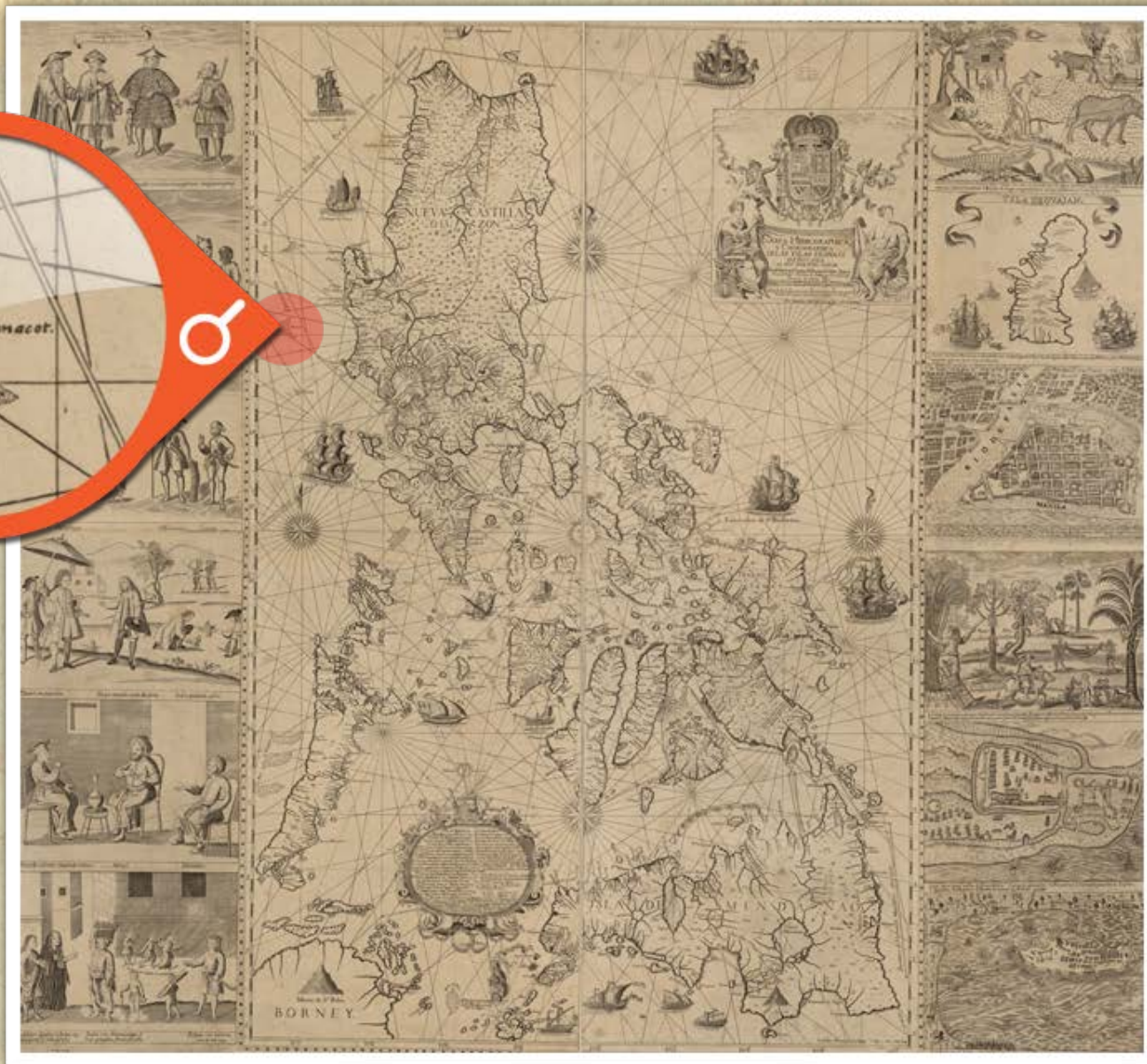
Published in 1896 in China by Guangxu Bing Shen, this map is entitled “Huang Chao Zhi Sheng Yu Di Quan Tu” or the Qing Empire’s Complete Map of All Provinces. This map shows Hainan Island as the southernmost territory of China. This digital reproduction is from the U.S. Library of Congress (Catalogue 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>).

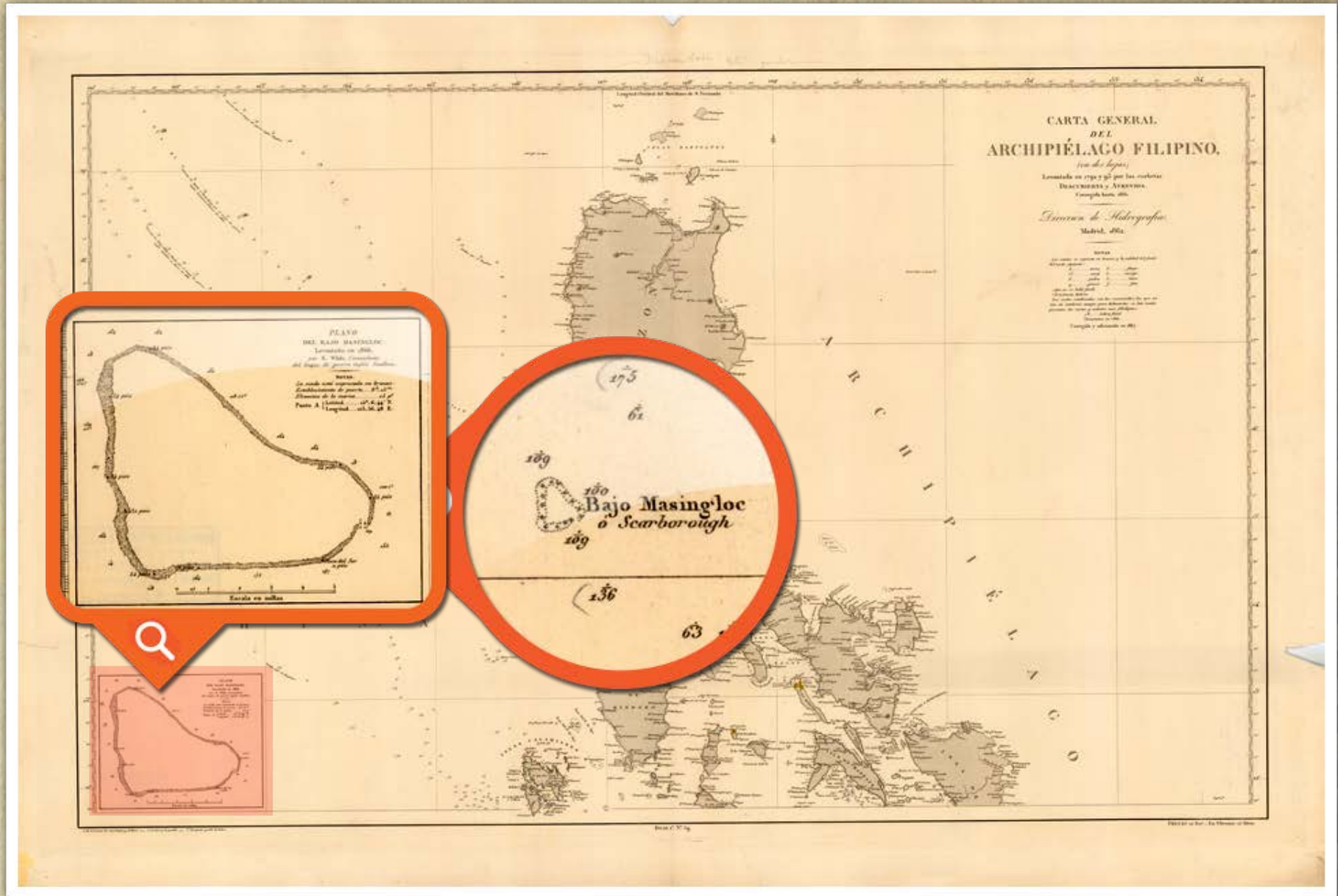
1734 Murillo Map



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 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).

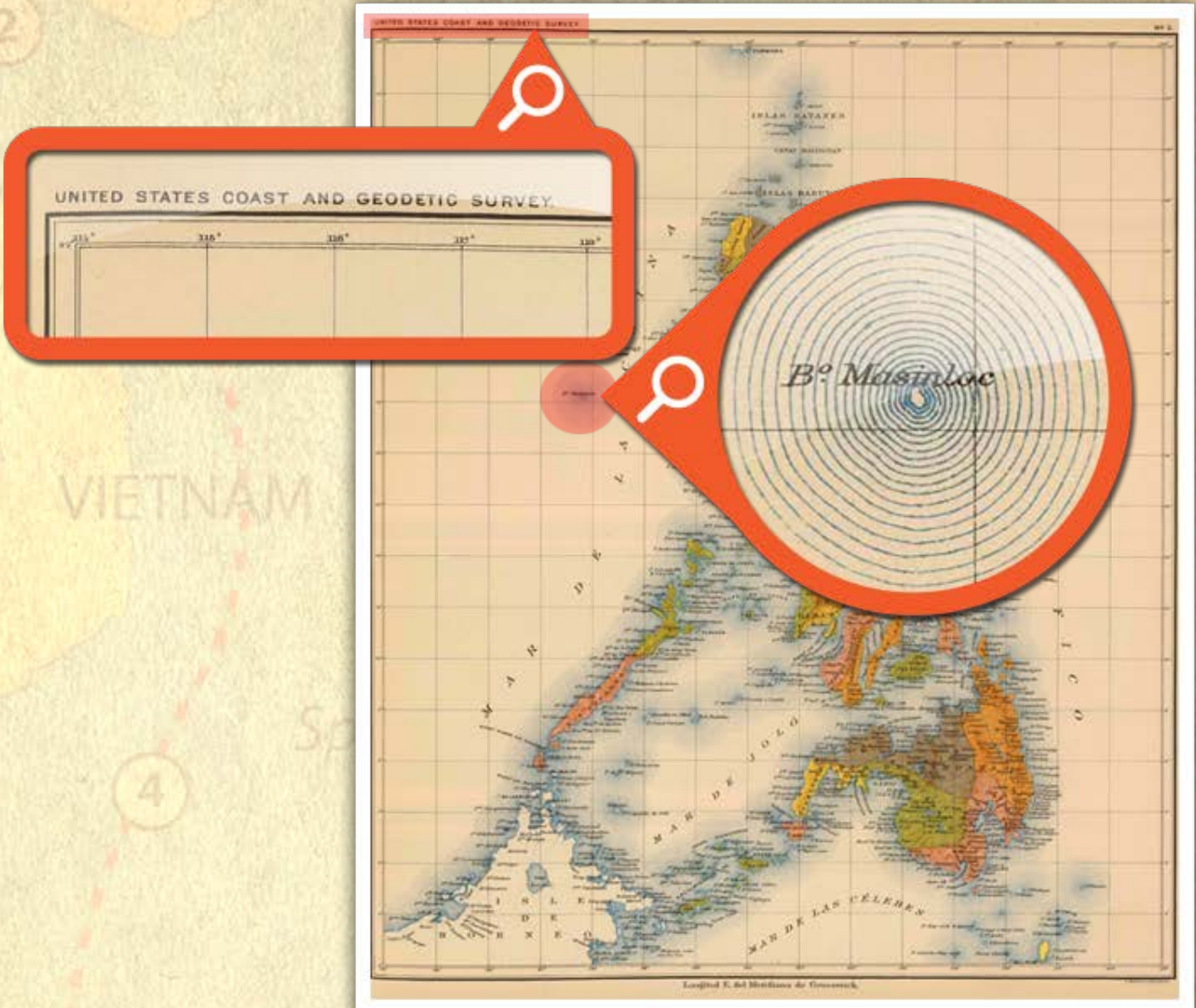
Published in Madrid by the *Direccion de Hidrografica* from the surveys of the Malaspina Expedition, this 1792 chart (*plano de la navegacion*) is the route of the navigation taken by Alessandro Malaspina's ship *Sta. Lucia* when Malaspina surveyed what the chart states as "Bajo Masinloc o Scarborough." 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 Archipiélago Filipino”



Published in 1867 in Madrid by the *Direccion de Hidrografica*, this map is entitled “**Carta General del Archipelago 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"

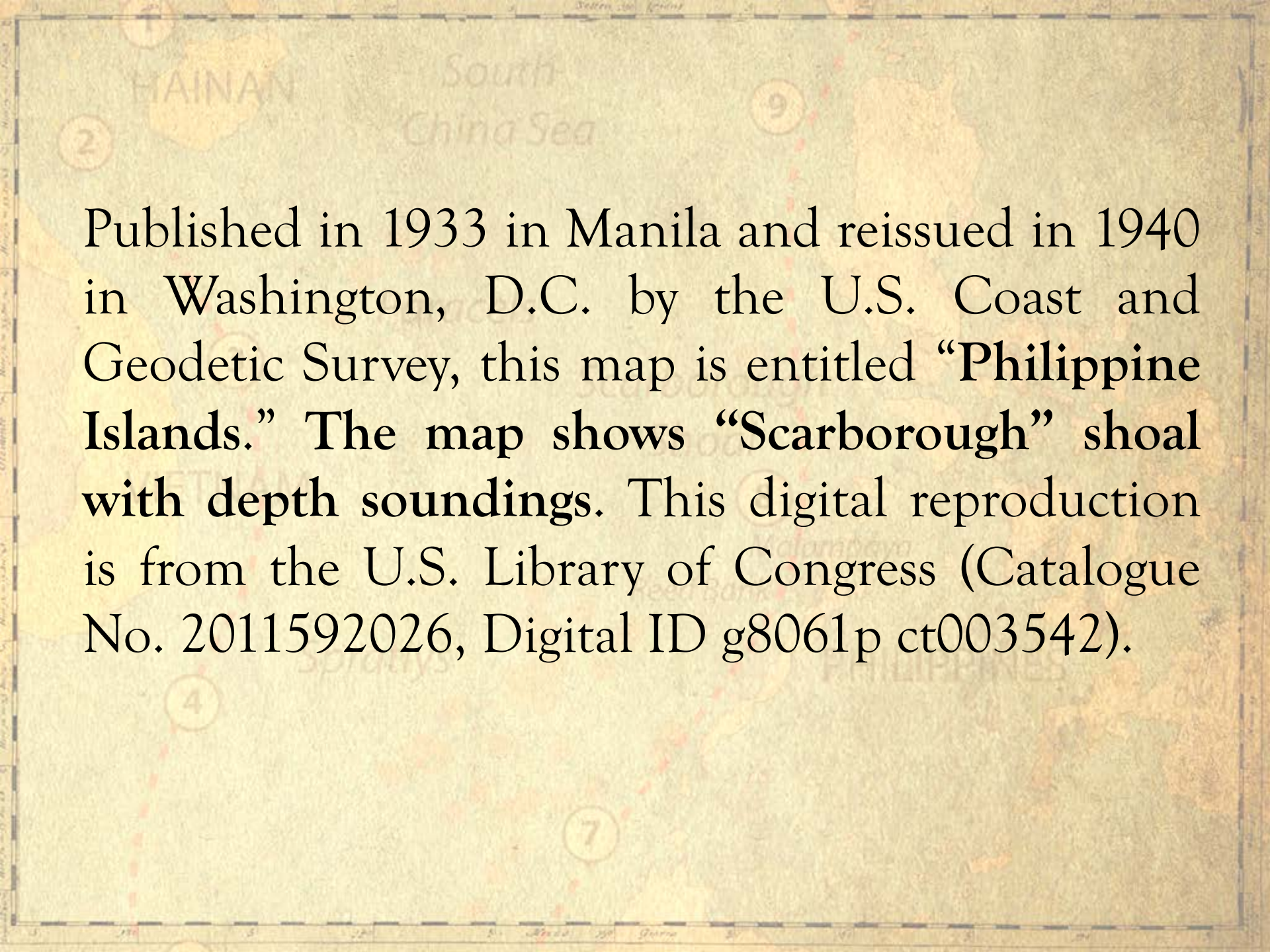
PHILIPPINE ISLANDS



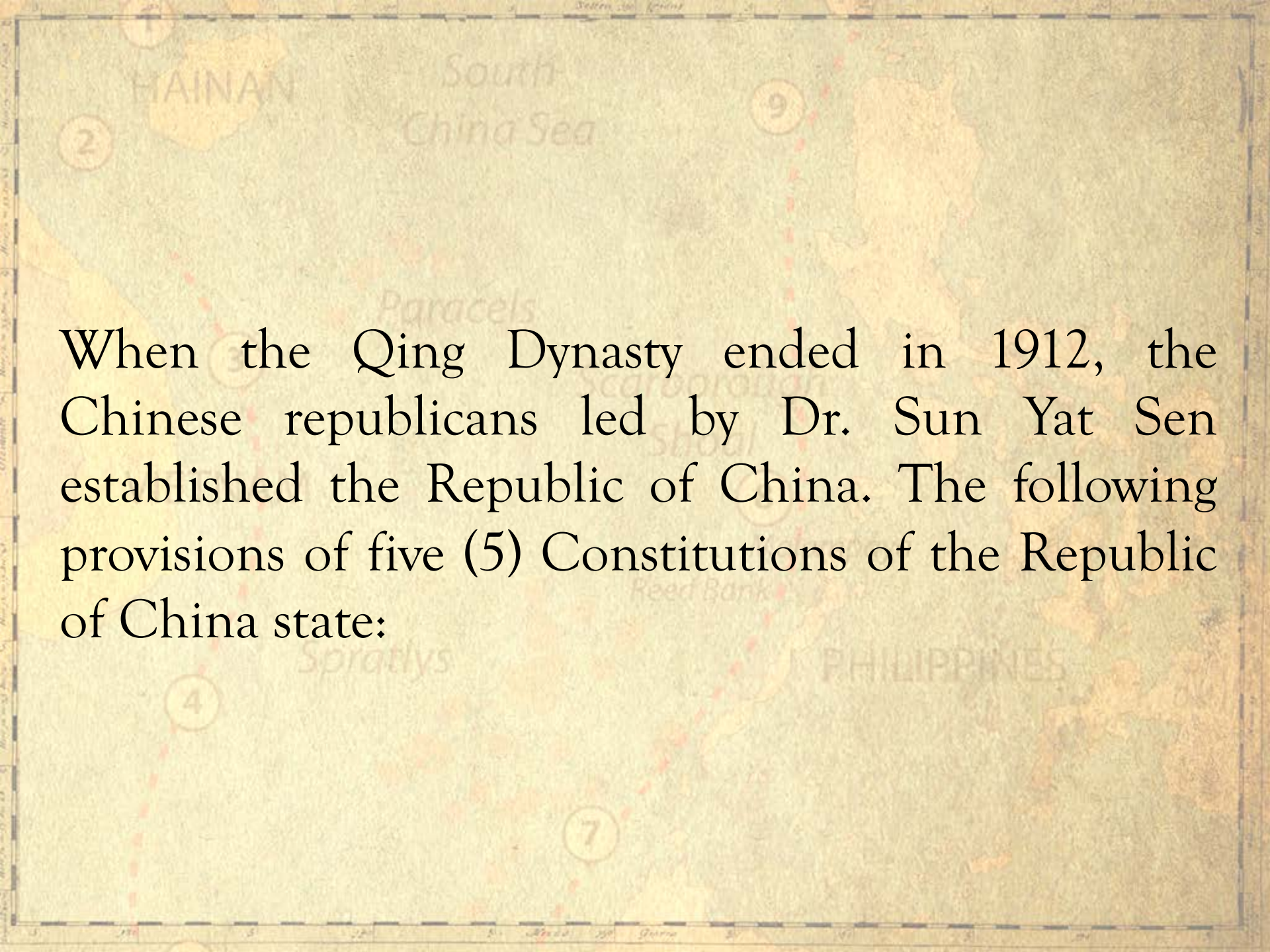
2265 140 252
240
100
146 108 308
Scarborough Shoal
South Rocks
140
160 1500
120



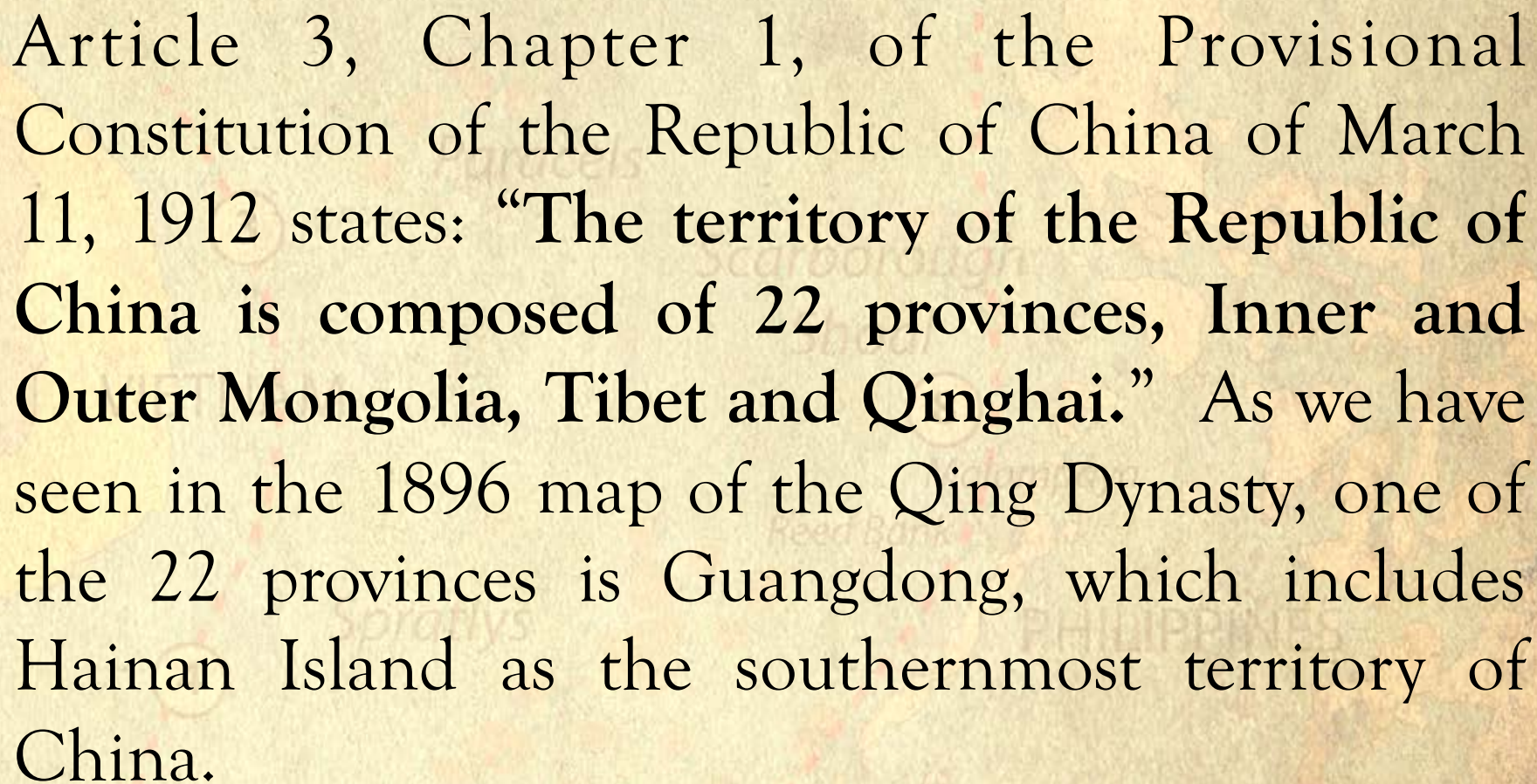
Published at Manila, P. I. Apr. 1933
BY THE U.S. COAST AND GEODETIC SURVEY
Reissued Dec. 1940
L. O. Collette, Director.



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).

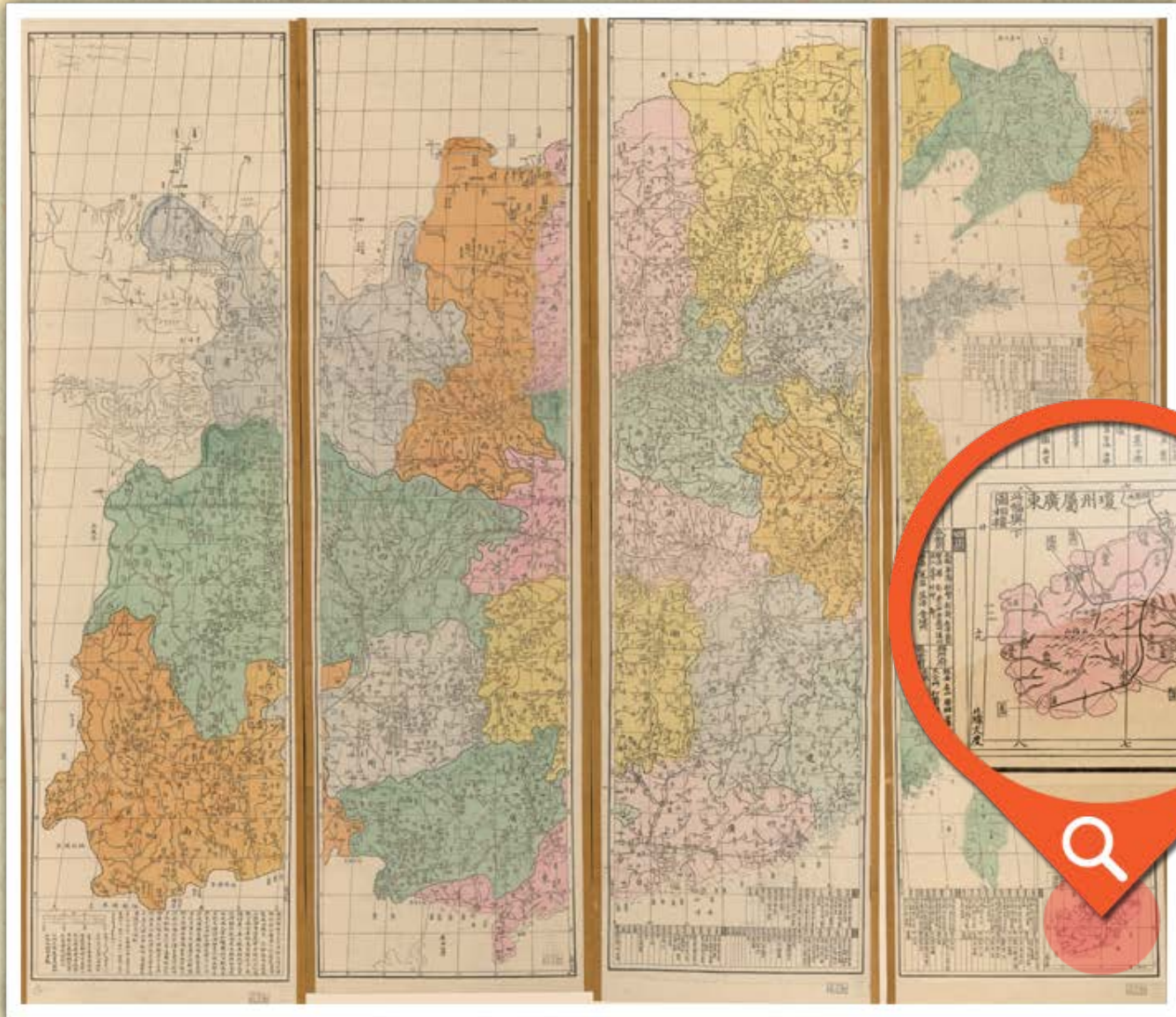


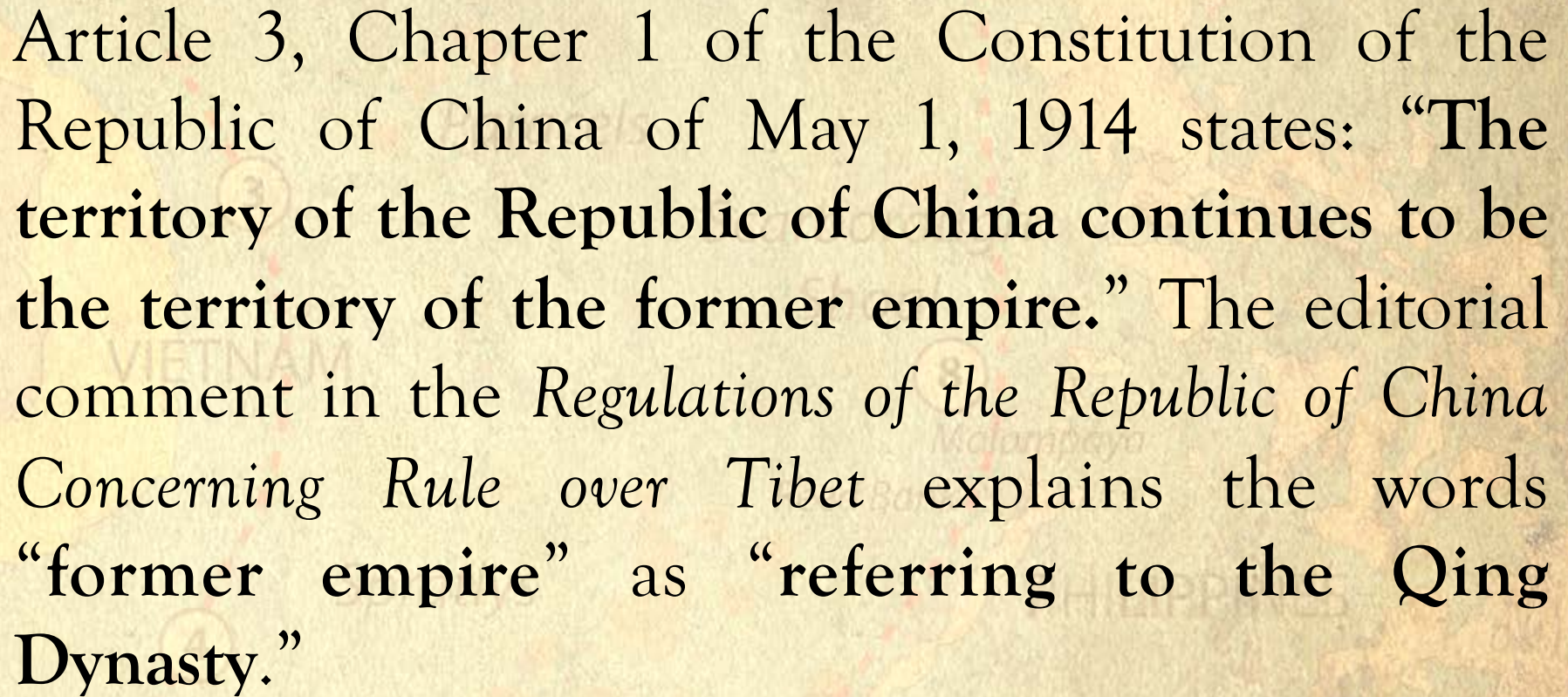
When the Qing Dynasty ended in 1912, the Chinese republicans led by Dr. Sun Yat Sen established the Republic of China. The following provisions of five (5) Constitutions of the Republic of China state:



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





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* explains the words “former empire” as “referring to the Qing Dynasty.”

Regulations of the Republic of China Concerning Rule Over Tibet

中華民國二十一年五月二十七日
國務院令
公布
西藏地方行政區域之劃分
及
地方官制之實施
一、西藏地方行政區域之劃分
二、西藏地方官制之實施
三、西藏地方官制之實施
四、西藏地方官制之實施
五、西藏地方官制之實施
六、西藏地方官制之實施
七、西藏地方官制之實施
八、西藏地方官制之實施
九、西藏地方官制之實施
十、西藏地方官制之實施

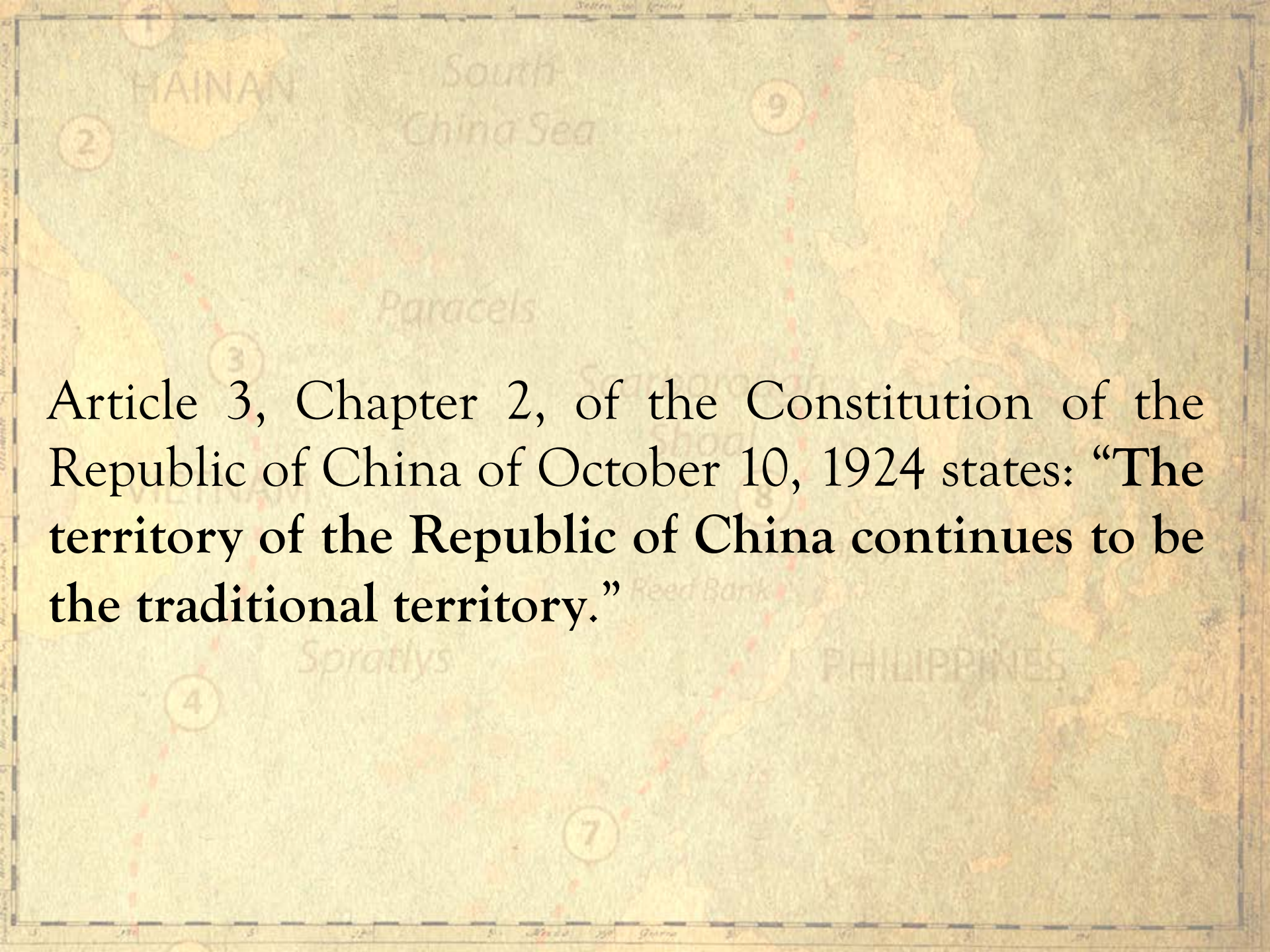
Compiled by China National Center for Tibetan Studies
China No.2 History Archives
China Intercontinental Press

“Former empire” means the Qing Dynasty

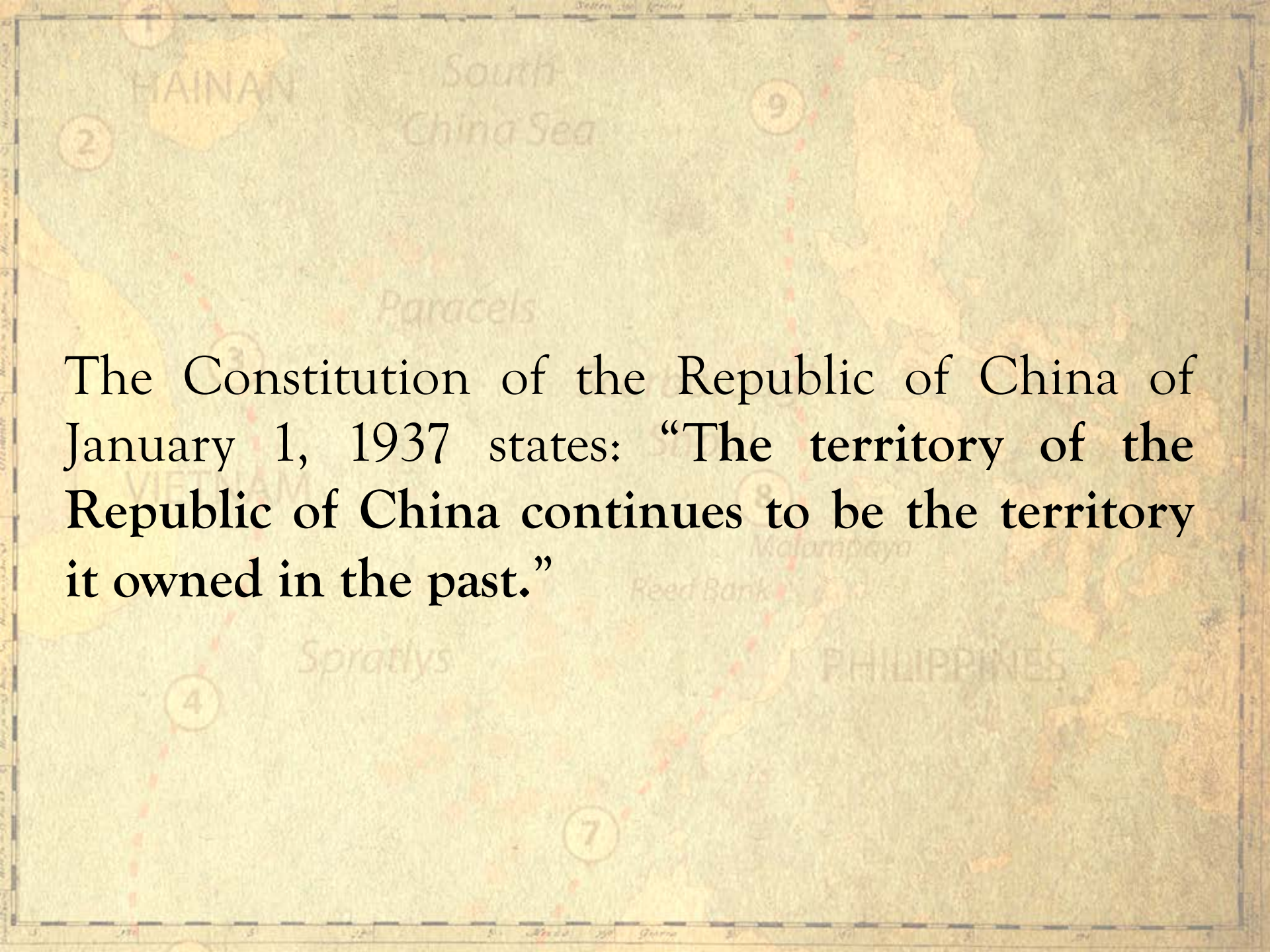
Page 3 of the *Regulations* state:

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.*)”;

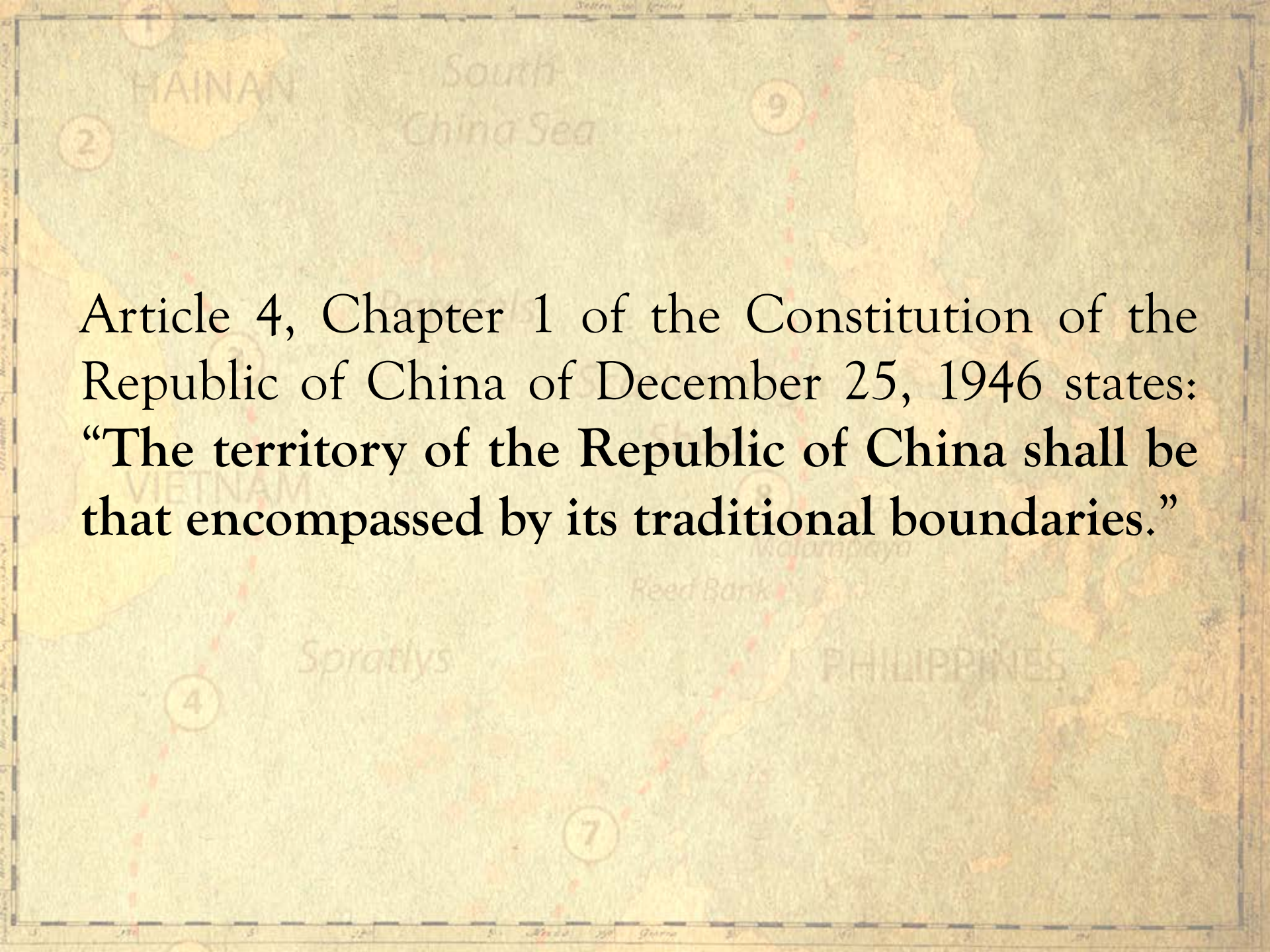
The Provincial Constitution of the Republic of China issued on May 1, 1914 stipulated: “The territory of the Republic of China continues to be the territory of the former empire (*referring to the Qing Dynasty—Ed.*)”; “People of the Republic of China, irrespective of race, class and religion, are equal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



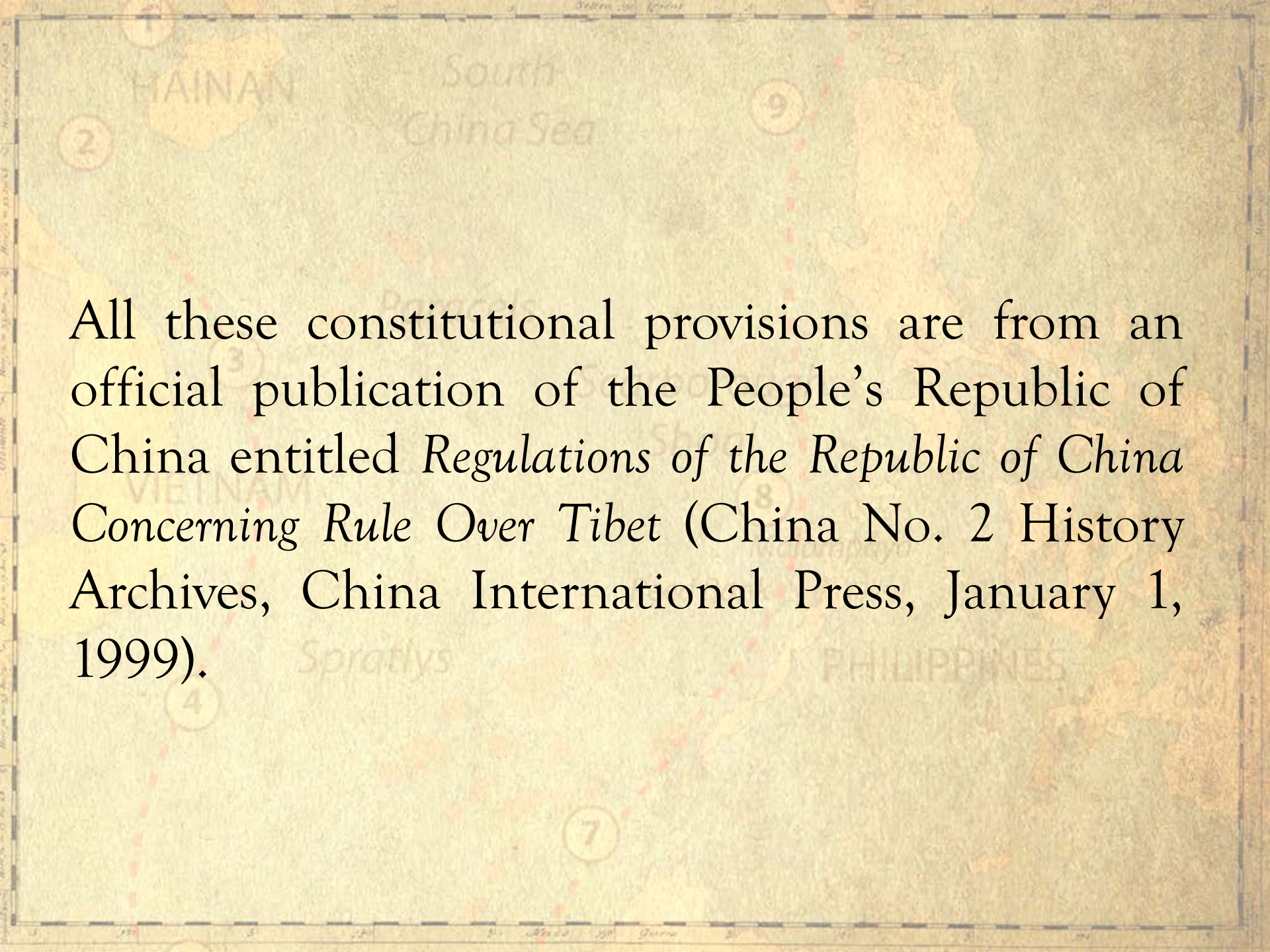
Article 3, Chapter 2, of the Constitution of the Republic of China of October 10, 1924 states: **“The territory of the Republic of China continues to be the traditional territory.”**



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.”

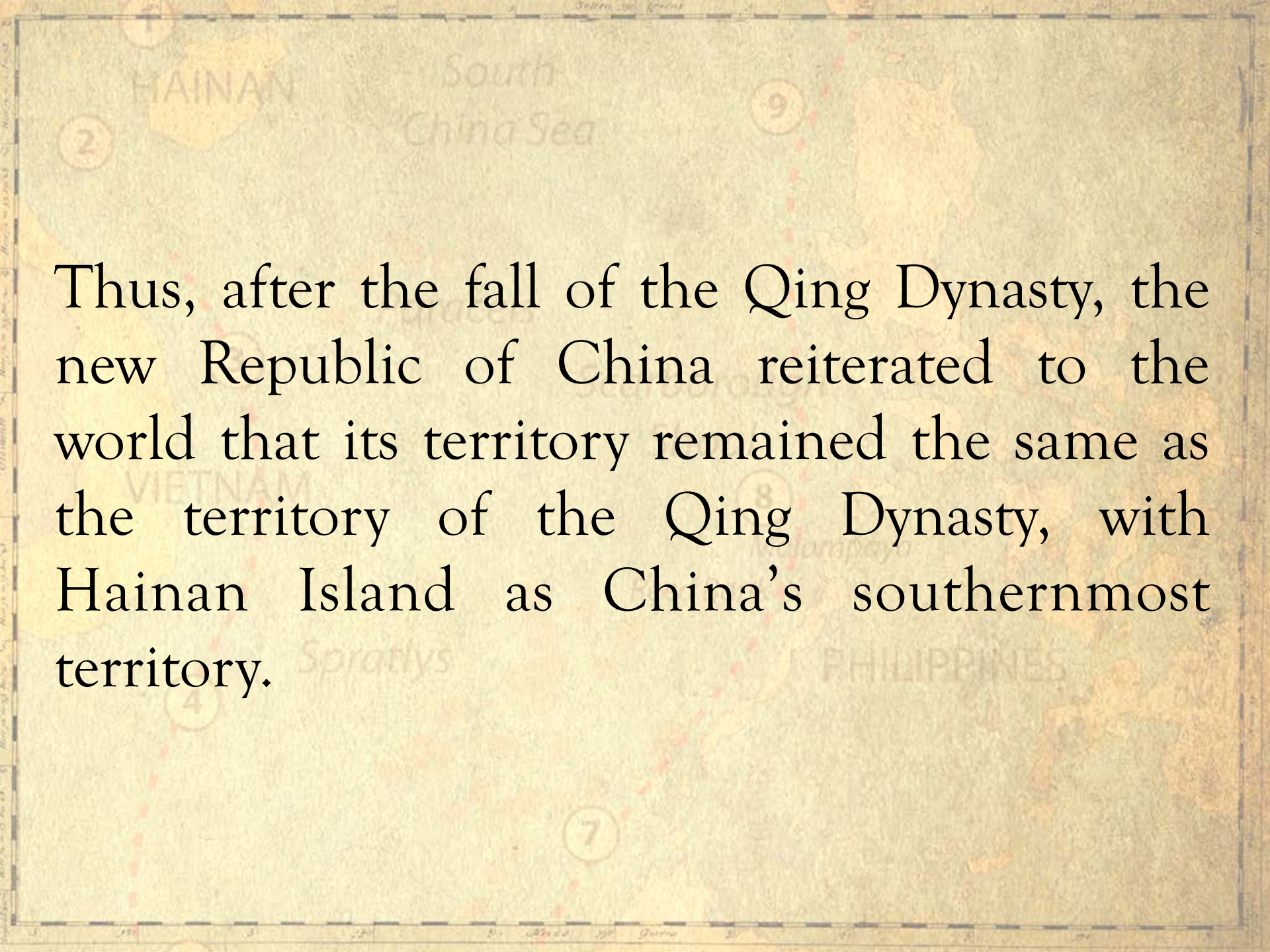


All these constitutional provisions are from an official publication of the People's Republic of China entitled *Regulations of the Republic of China Concerning Rule Over Tibet* (China No. 2 History Archives, China International Press, January 1, 1999).

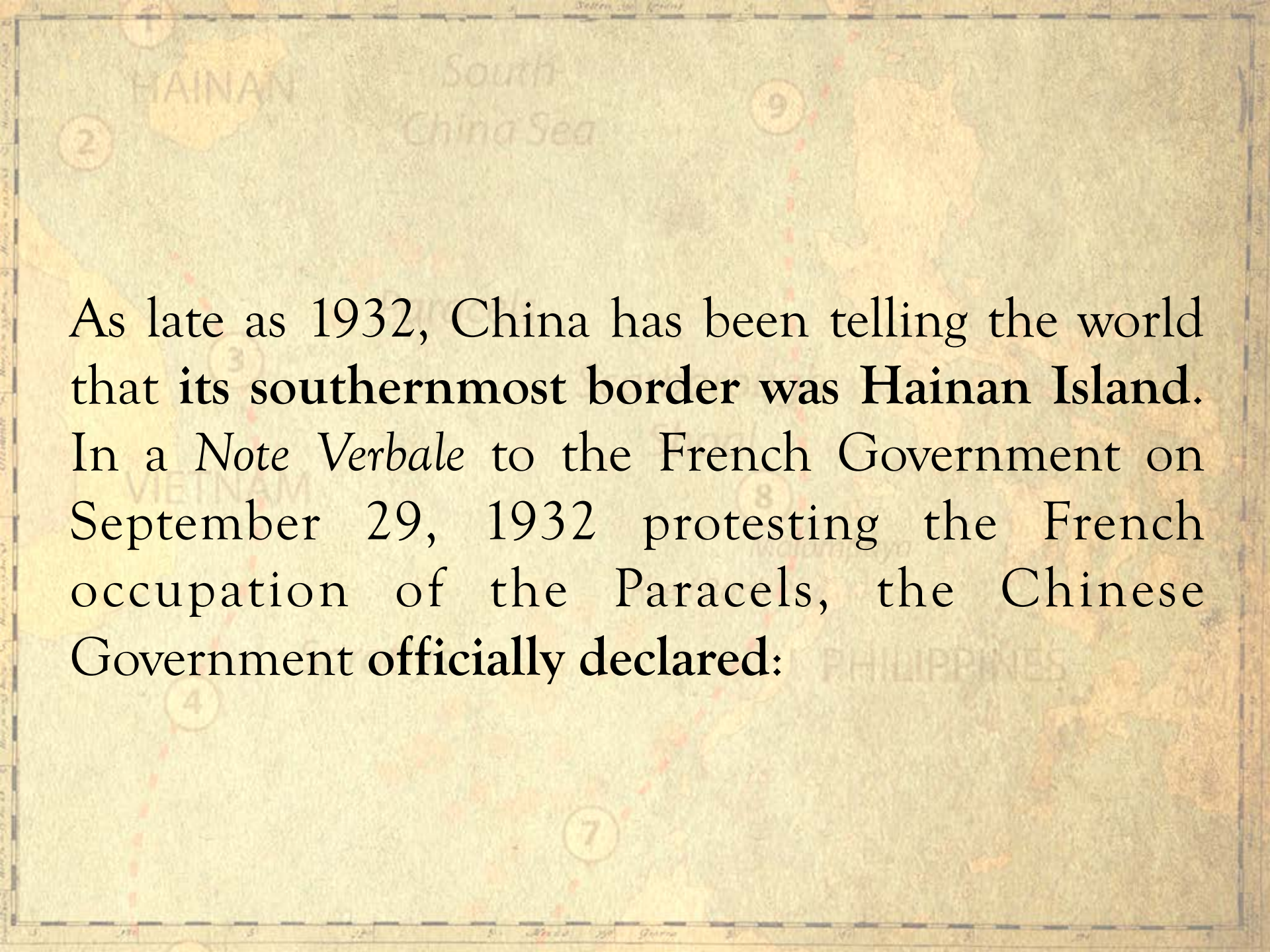
Regulations of the Republic of China Concerning Rule Over Tibet

Handwritten Chinese text in vertical columns, likely a historical document or treaty. The text is partially obscured by a red shadow.

Compiled by China National Center for Tibetan Studies
China No.2 History Archives
China Intercontinental Press



Thus, after the fall of the Qing Dynasty, the new Republic of China reiterated to the world that its territory remained the same as the territory of the Qing Dynasty, with Hainan Island as China's southernmost territory.



As late as 1932, China has been telling the world that its southernmost border was Hainan Island. 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

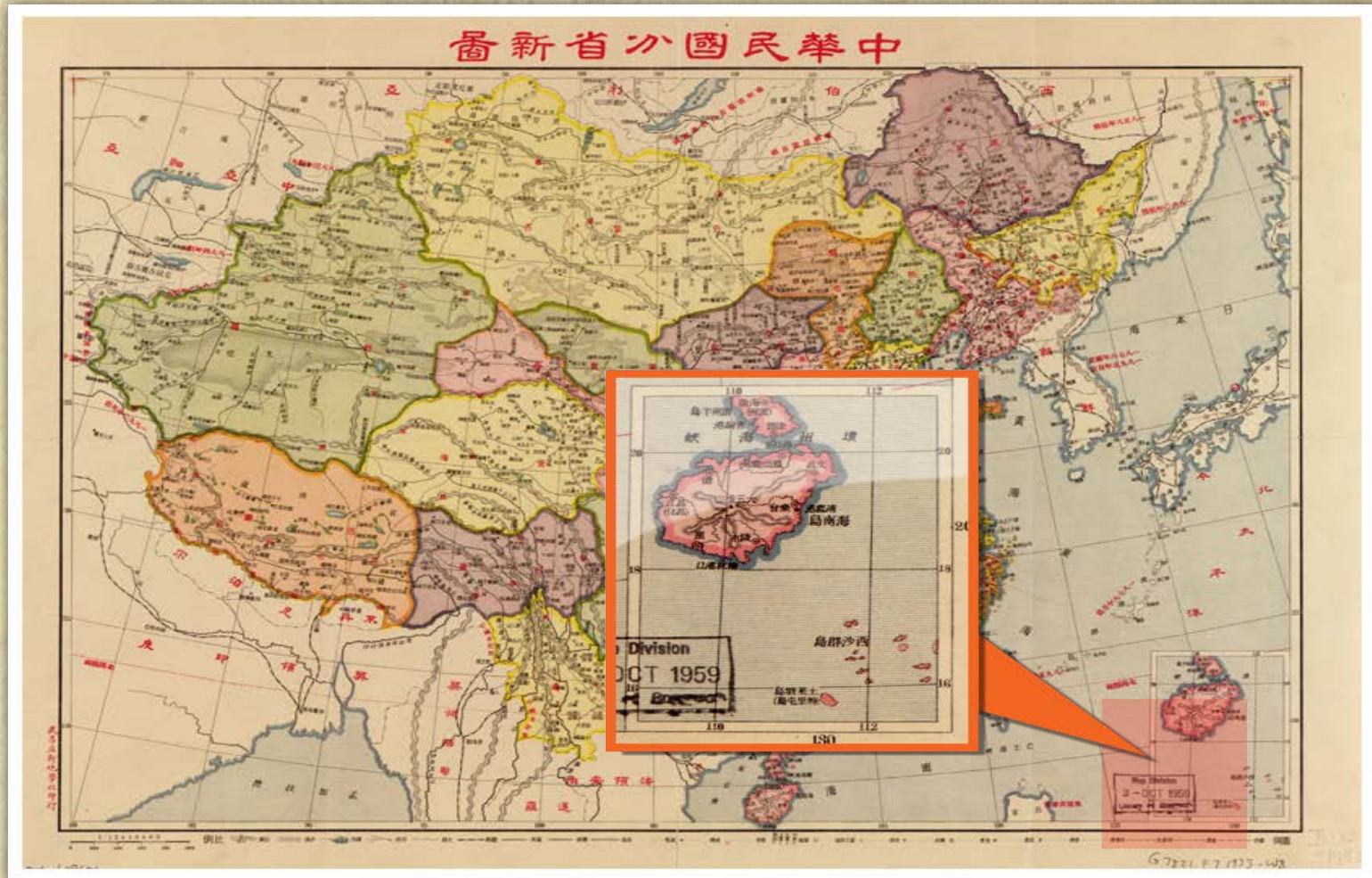
On the instructions of its Government, the Legation of the Chinese Republic in France has the honor to transmit its Government's reply to the Foreign Ministry's Note of 4 January 1932 on the subject of the Paracel Islands.”

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.

China's Southernmost Point in Ancient Chinese Culture

HONEYMOON at the EDGE of CHINA'S SOUTHERN MOST TERRITORY

In Chinese literature, Tianya Haijiao (*Edges of Heaven, Corners of the Sea*) is mentioned in many old famous poems. *"I will follow you to Tian-Ya-Hai-Jiao"* means if we get married I will never leave you. Many newlyweds spend their honeymoon here, considered the southernmost point of China.

TIANYA HAIJIAO

(Chinese: 天涯海角; pinyin: Tiānyá Hǎijiǎo; literally: "Edges of the heaven, corners of the sea") is a popular resort in the southern part of Hainan province, People's Republic of China. It is located 24 kilometres (15 mi) to the west of Sanya's municipal region. The venue is considered the southernmost point of China's land area despite the fact that Jinmu Cape actually is. It is for this reason that it is a popular sightseeing destination for tourists, as well as the fact that, on clear days, various islets are visible.

Wikipedia: http://en.wikipedia.org/wiki/Tianya_Haijiao




CC Anna Frodesiak

5. Tianya Haijiao -- Picturesque Beach Scenery

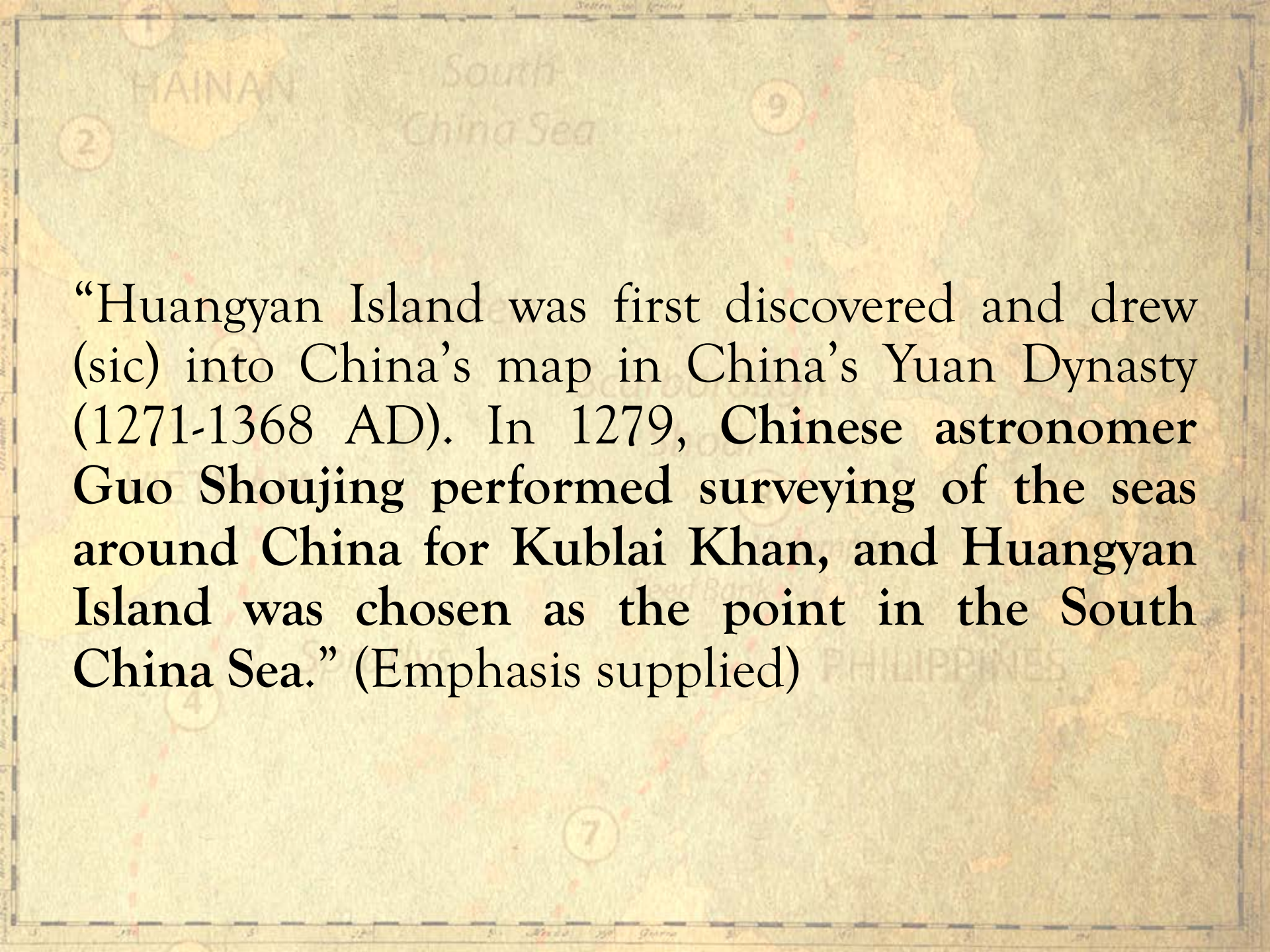
Tianya Haijiao (Heaven's Edge Sea's Corner) in Sanya, on South China's Hainan Island, is one of the most romantic and picturesque beaches in China. It is considered to be the southernmost tip of China. It is a must-see attraction for new Chinese couples because of old Chinese literature saying: 'I will follow you to Tianya Haijiao' which means the couple will be together forever.

Be warned: this place may be very crowded all year round.





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



Huangyan Island was first discovered and drew into China's map in China's Yuan Dynasty(1271-1368AD). 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.

(2)

1. It is China who first discovered Huangyan Island, gave it the name, included it into its territory, and exercised jurisdiction over it.

Huangyan Island was first discovered and drew into China's map in China's Yuan Dynasty(1271-1368AD). 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.

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. In the 16th year of the reign of Zhiyuan (1279) Kublai Khan or Emperor Shi Zu, (sic) personally assigned Guo Shoujing, the famous astronomer and Deputy Director of the Astronomical Bureau, to do the observation in the South China Sea. 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)

No. 7 February 18, 1980

BEIJING REVIEW

北京周報

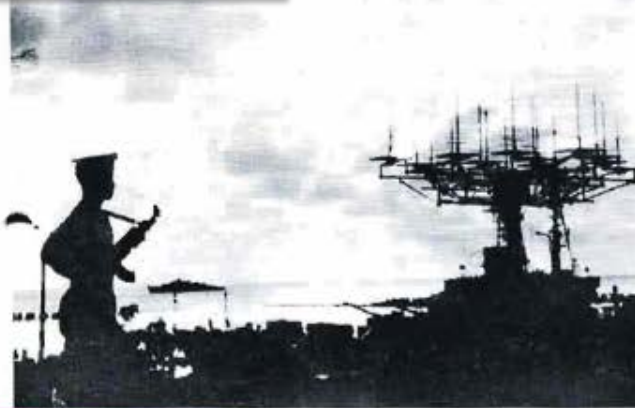
A CHINESE WEEKLY
OF
NEWS AND VIEWS

China's Indisputable
Sovereignty Over Xisha
And Nansha Islands

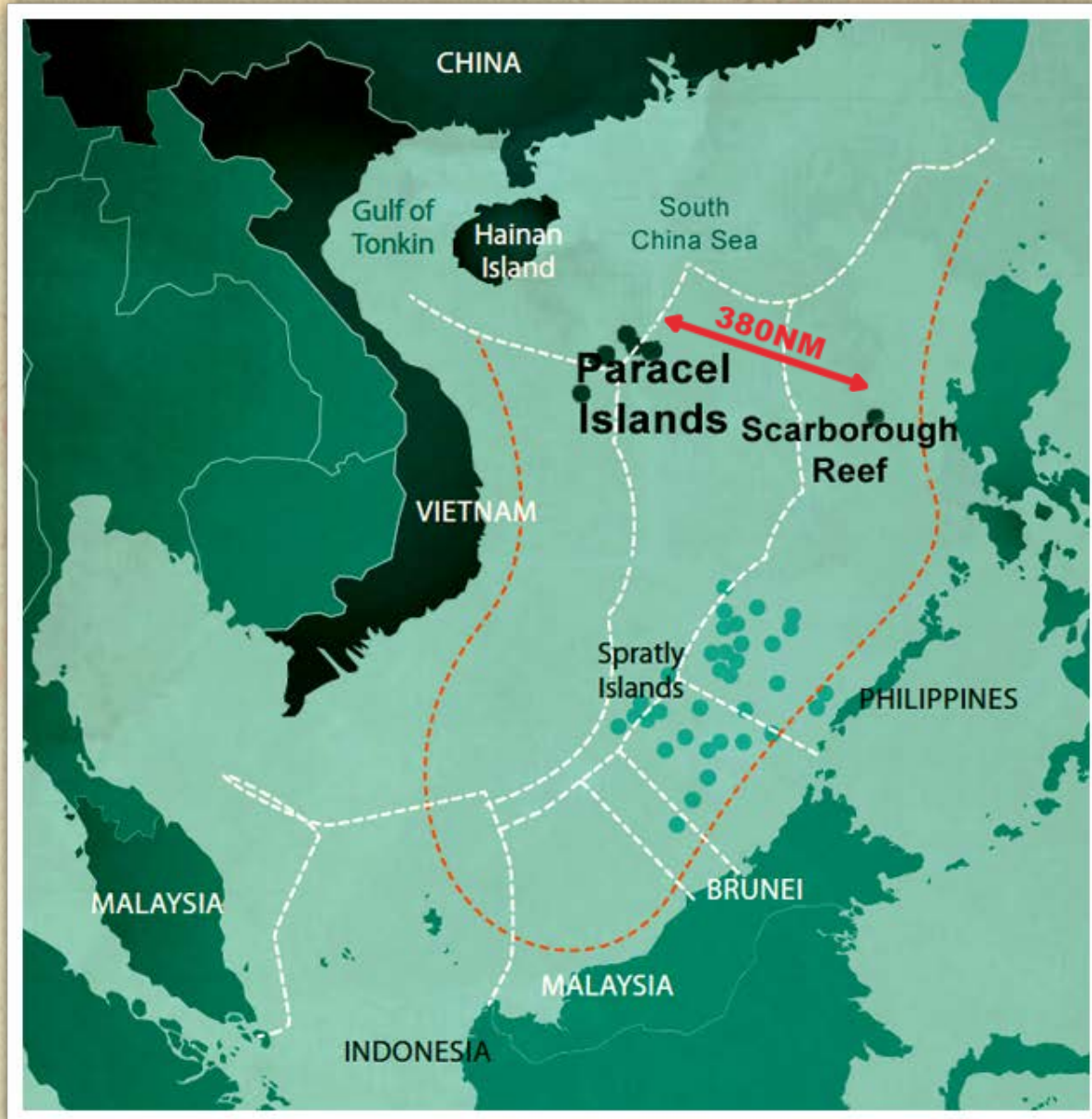
China's Indisputable
Sovereignty Over Xisha
And Nansha Islands.

●
Make Every Day Count
In the 80s

●
Mounting Tension on Kampu-
chean-Thai Border



The Paracels and Scarborough Shoal



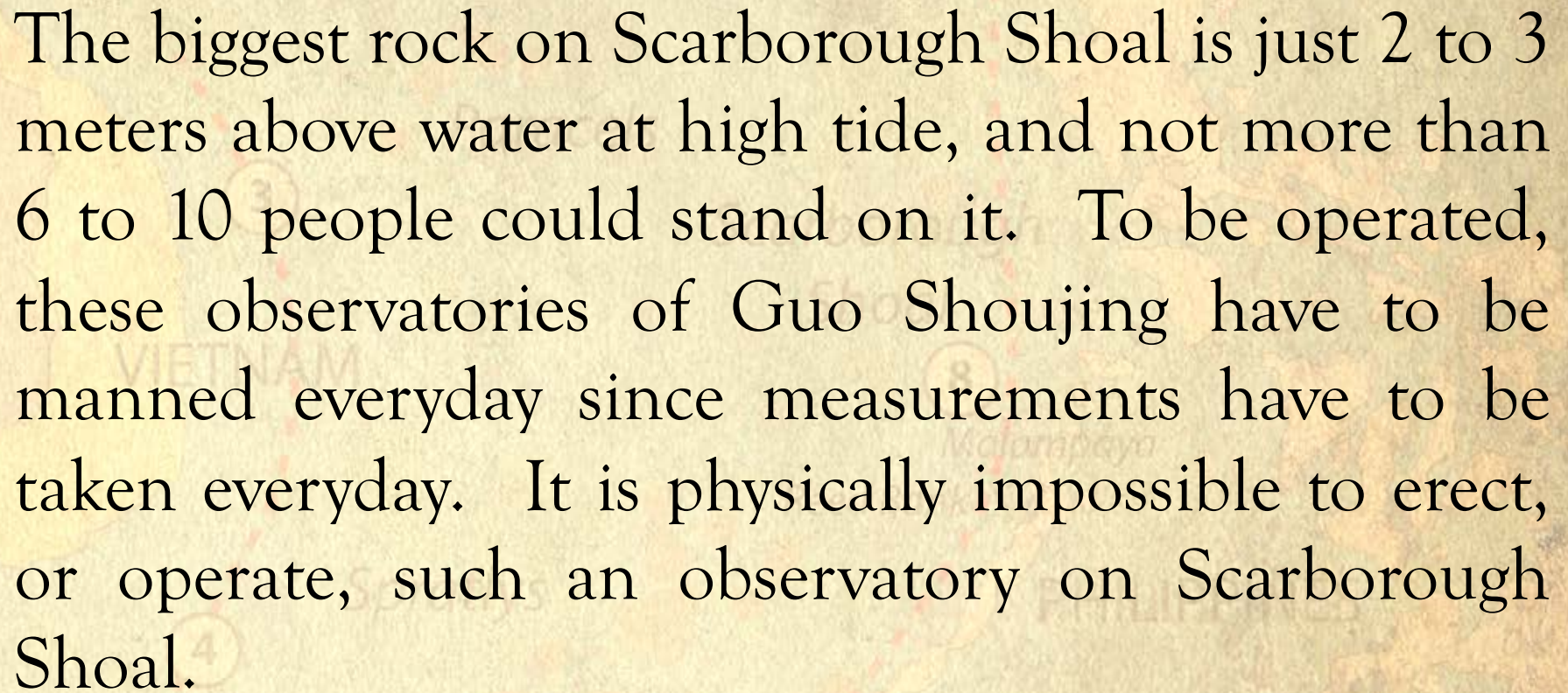
Gaocheng Observatory

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)

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. Gou Shoujing built only one astronomical observatory in the South Sea. 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.

The background is a faded map of the South China Sea region. It shows the coastline of Hainan to the north, Vietnam to the west, and Malaysia to the south. A red dashed line runs through the water. There are nine numbered circular markers: 1 (Hainan), 2 (off Hainan), 3 (off Vietnam), 4 (Scarborough Shoal), 5 (off Vietnam), 6 (off Vietnam), 7 (off Vietnam), 8 (off Malaysia), and 9 (off Malaysia).

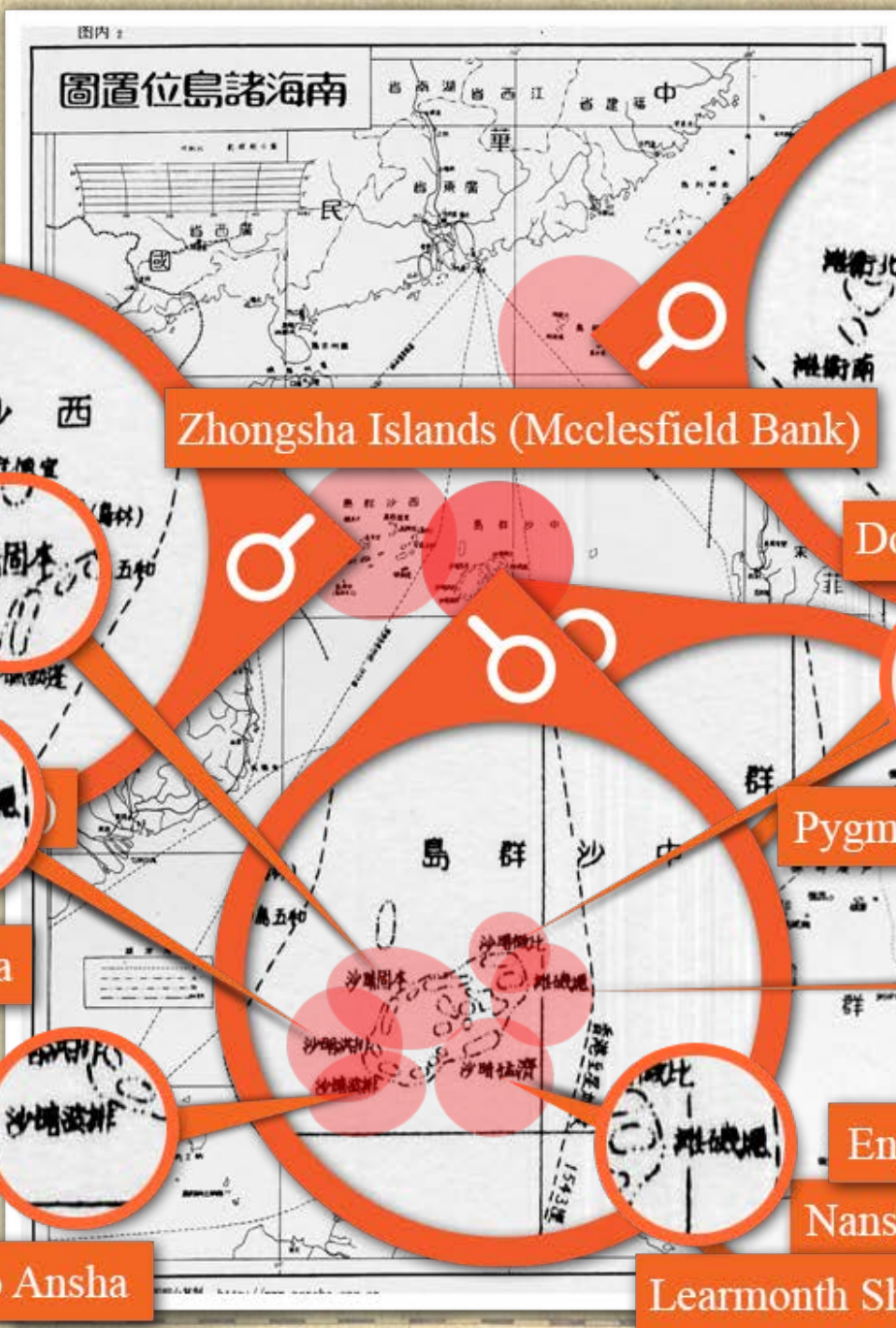
The biggest rock on Scarborough Shoal is just 2 to 3 meters above water at high tide, and not more than 6 to 10 people could stand on it. To be operated, these observatories of Guo Shoujing have to be manned everyday since measurements have to be taken everyday. It is physically impossible to erect,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



The Original 1947 9-dashed Lines Map of China

The original 1947 9-dashed lines map mentioned only Dongsha Islands (Pratas), Xisha Islands (Paracels), Zhongsha Island (McClesfield Bank), and Nansha Islands (Spratlys). There was no mention of Huangyan Island or its other name Minzhu Jiao. Mentioned as Zhongsha Island's features were: Pygmy Shoal (Biwei Ansha), Engeria Bank (Yinji Tan), Learmonth Shoal (Jimeng Ansha), Paibo Ansha, Paihong Ansha, and Bengu Ansha.

The Original 1947
9 dashed Lines
Map of China



Zhongsha Islands (Mcclesfield Bank)

Dongsha Islands (Pratas)

Bengu Ansha

Xisha Island

Paihong Ansha

Pygmy Shoal (Biwei Ansha)

Engeria Bank (Yinji Tan)

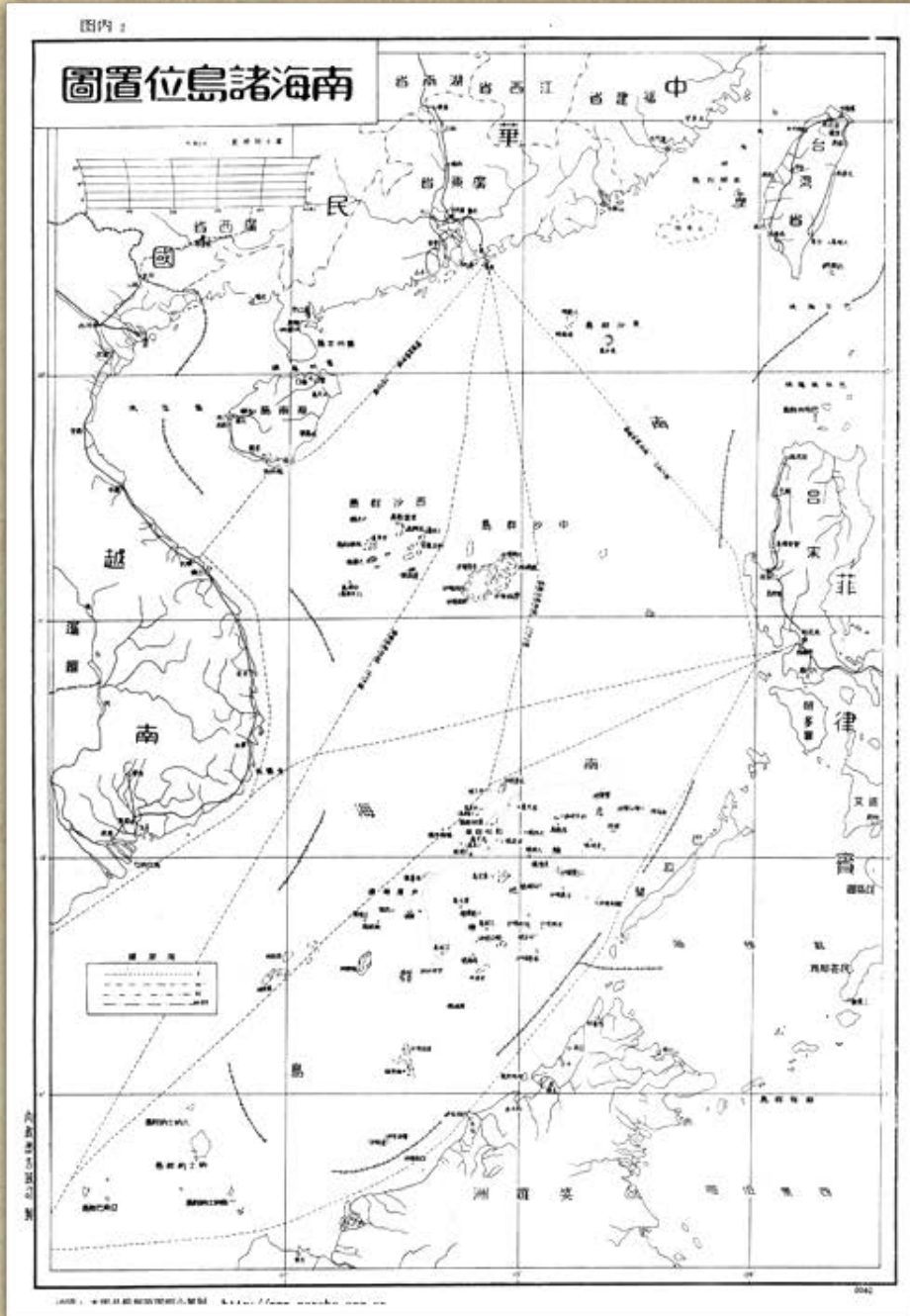
Nansha Islands (Spratlys)

Learmonth Shoal (Jimeng Anshah)

Paibo Ansha

The Original 1947 9-dashed Lines Map of China

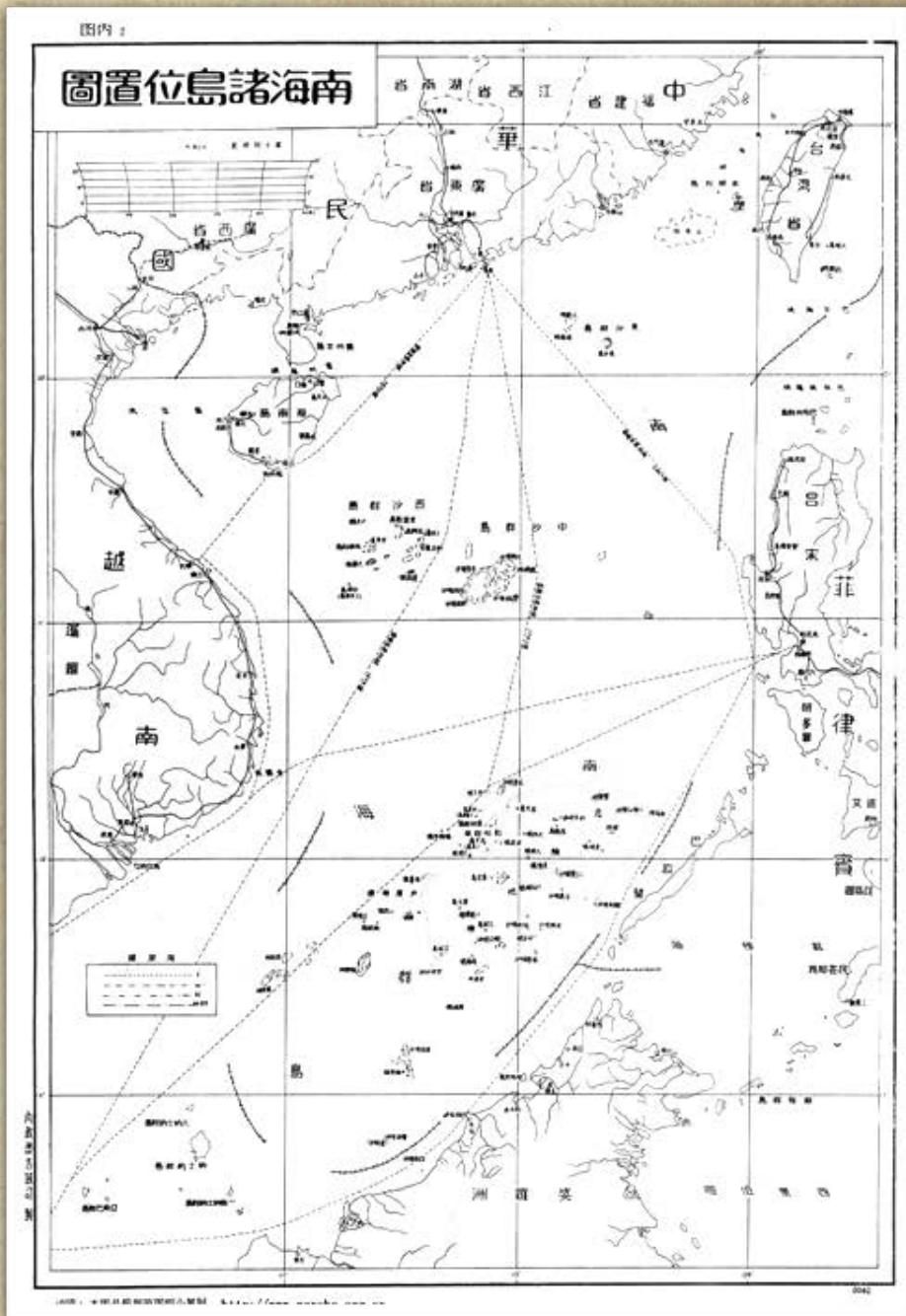
Zhongsha Island (McClesfield Bank) is not even an island because it is completely submerged even at low tide, the highest point of McClesfield Bank being 9 meters below the water. Whoever made the 9-dashed lines map had never seen Zhongsha Island because Zhongsha Island did not exist in 1947, and it does not exist today.



The Original 1947 9-dashed Lines Map of China

Clearly, Scarborough Shoal was not included among the islands originally claimed by China under its 1947 9-dashed lines. Apparently, China belatedly claimed Scarborough Shoal, which is a real island, when China realized that their Zhongsha Island was not a real island.

Scarborough Shoal is 200 NM from McClesfield Bank and 120 NM from Luzon Island.



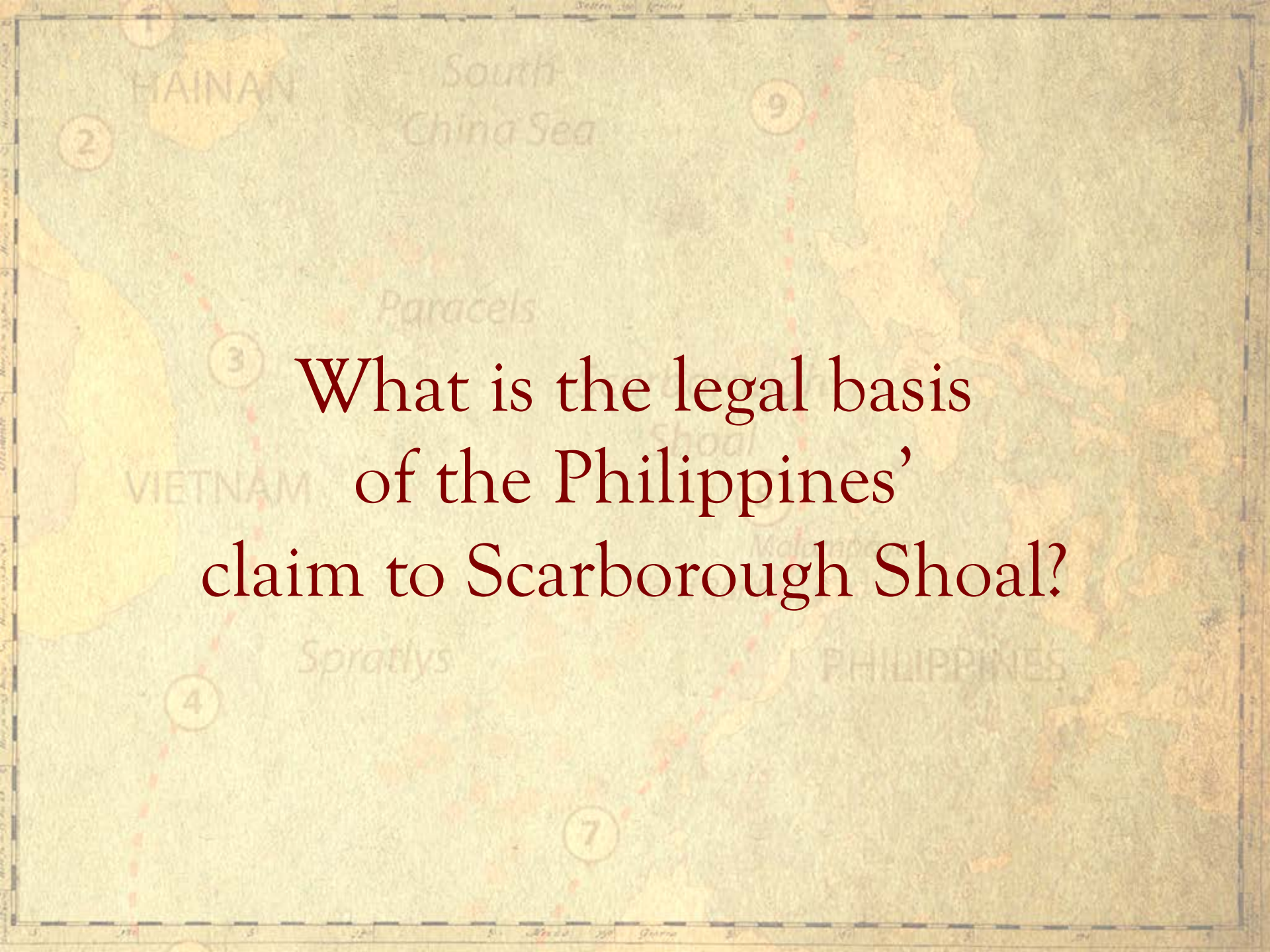
Taiwan's President Ma Ying-jeou Statement

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.

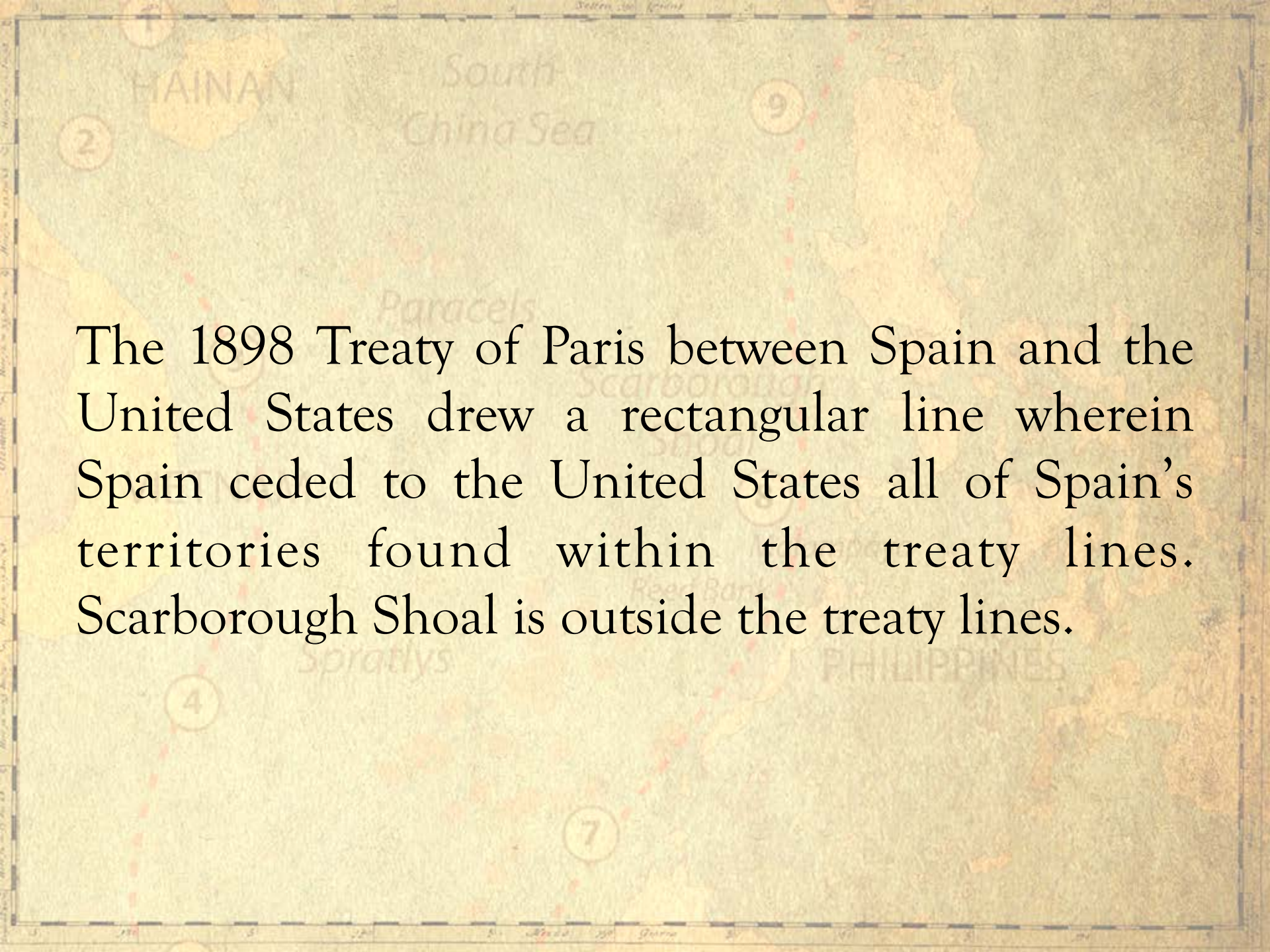
President Ma Ying-jeou: A Law of the Sea Scholar

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.”

A map of the South China Sea region, showing Hainan, Vietnam, the Philippines, and various island groups like the Paracels and Spratlys. A red dashed line with numbered circles (1-9) traces a path from Hainan to the Philippines. The text is overlaid in the center.

What is the legal basis
of the Philippines'
claim to Scarborough 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.*).

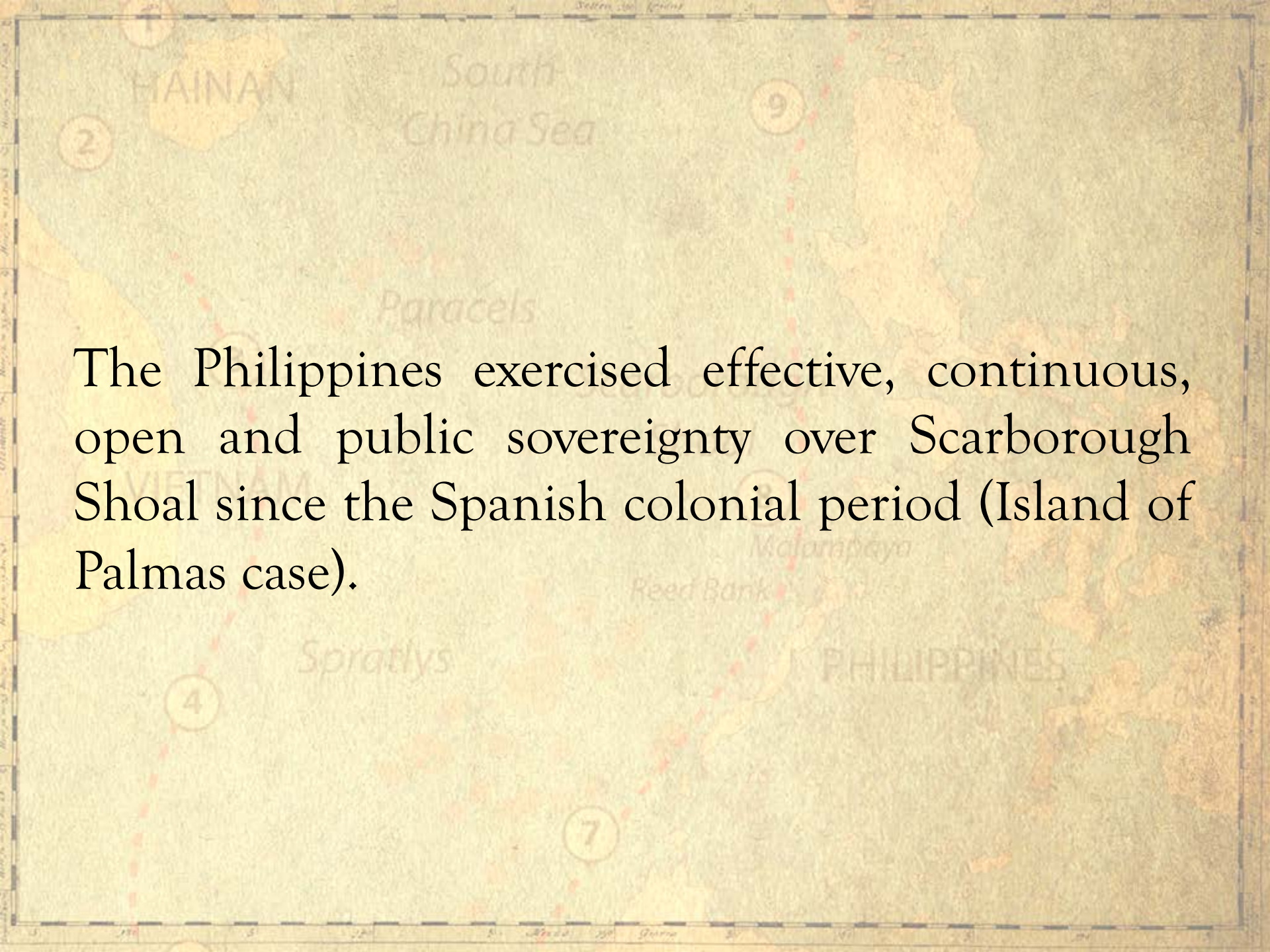
In 1938 the U.S. Had Already Determined Scarborough Shoal Is Part of Philippine Territory

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:

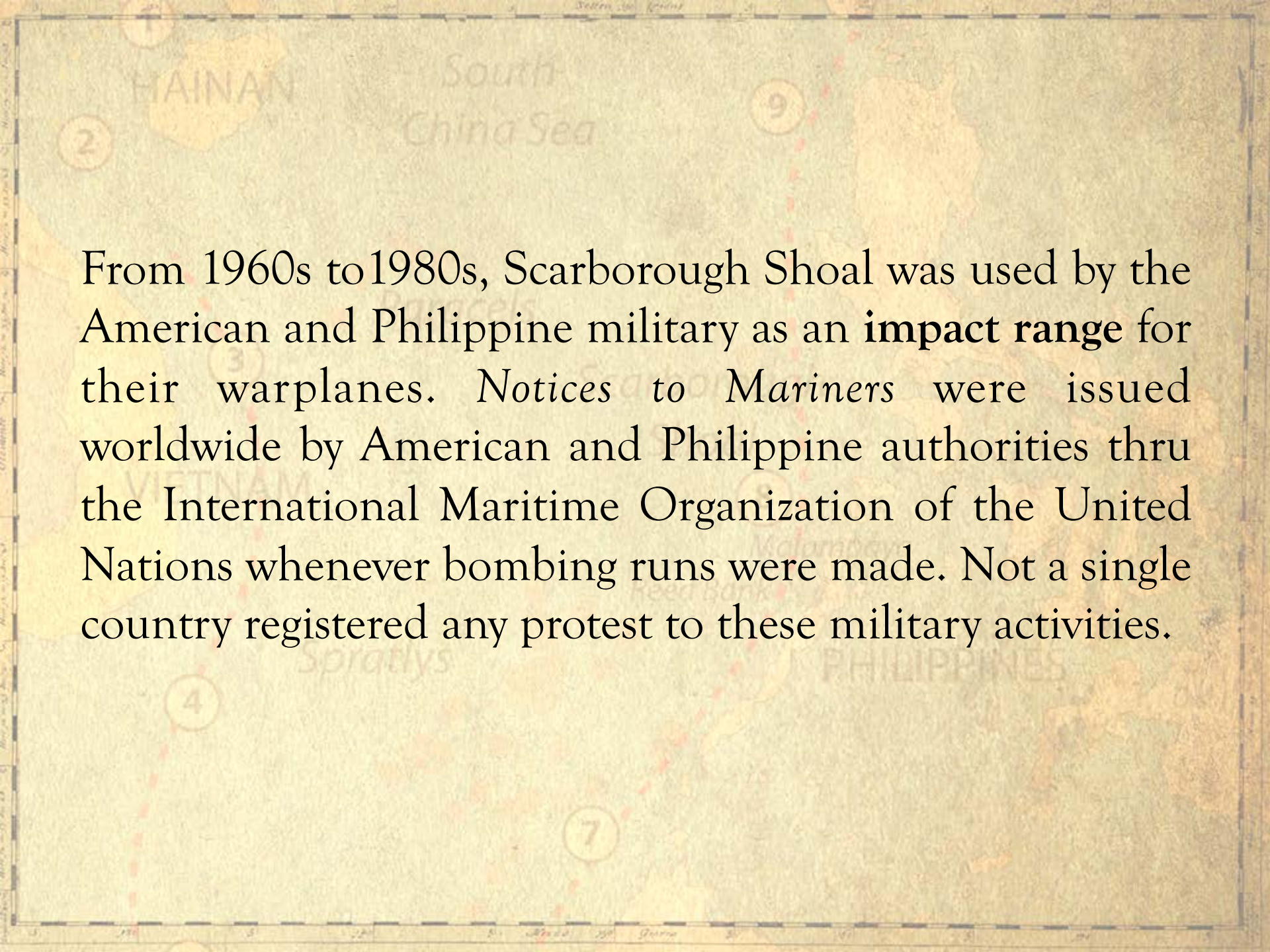
Because of the absence of other claims, the shoal should be regarded as included among the islands ceded to the United States by the American-Spanish Treaty of November 7, 1900*... In the absence of evidence of a superior claim to Scarborough Shoal by any other government, the Department of State would 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, LL.M [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. *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.

Scarborough Shoal



Unexploded ordnance in the waters of Scarborough Shoal. Photo taken by Scott Tuason.

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.

LUZON, W. COAST - SCARBOROUGH SHOALS -
PC&GS 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.

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.

NAVPHIL. 24/83

LUBON, NW. COAST - LUBON SEA -
PCGGG Chart 4705

Intermittent missile firing operations were reported February 1983 to take place 0001Z to 2400Z Monday through Sunday within OFAREAS RP/D25 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 degree 03 minutes East;
- g) 18 degrees 00 minute North,
118 degrees 02 minutes East;
- h) 18 degrees 02 minutes North,
117 degree 48 minutes East.

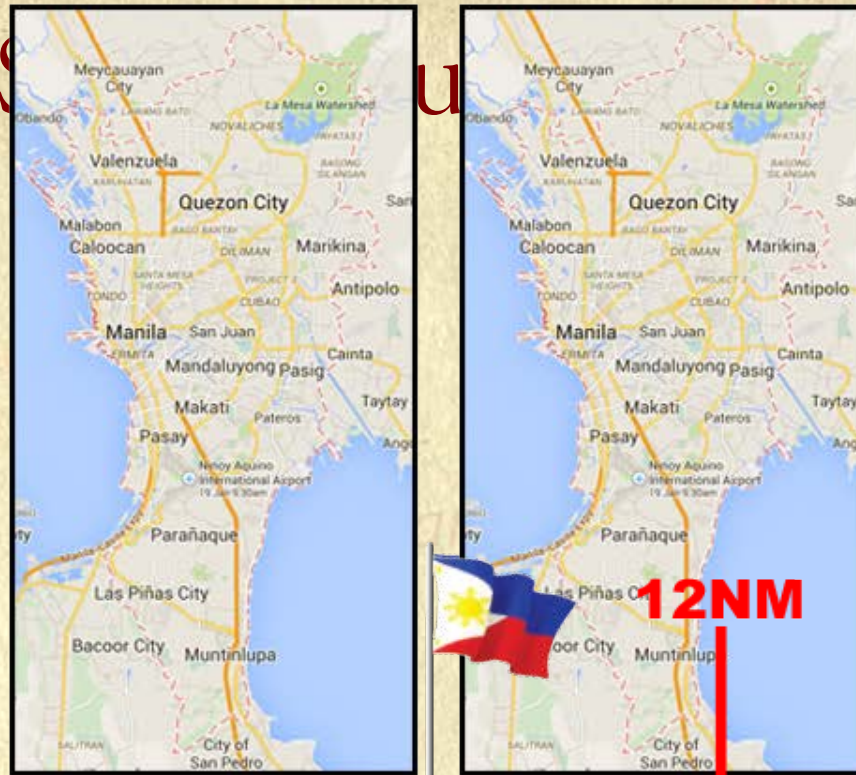
Vessels may be requested to alter course within the above areas due to firing operations and are requested to monitor VHF Channel 16, 500 KHZ or other appropriate marine broadcast frequencies for details of firing schedules before entering above areas.

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 ISMAG DAILY MEMORANDUM NO. 28;
HYDROFAC 175/83(91))

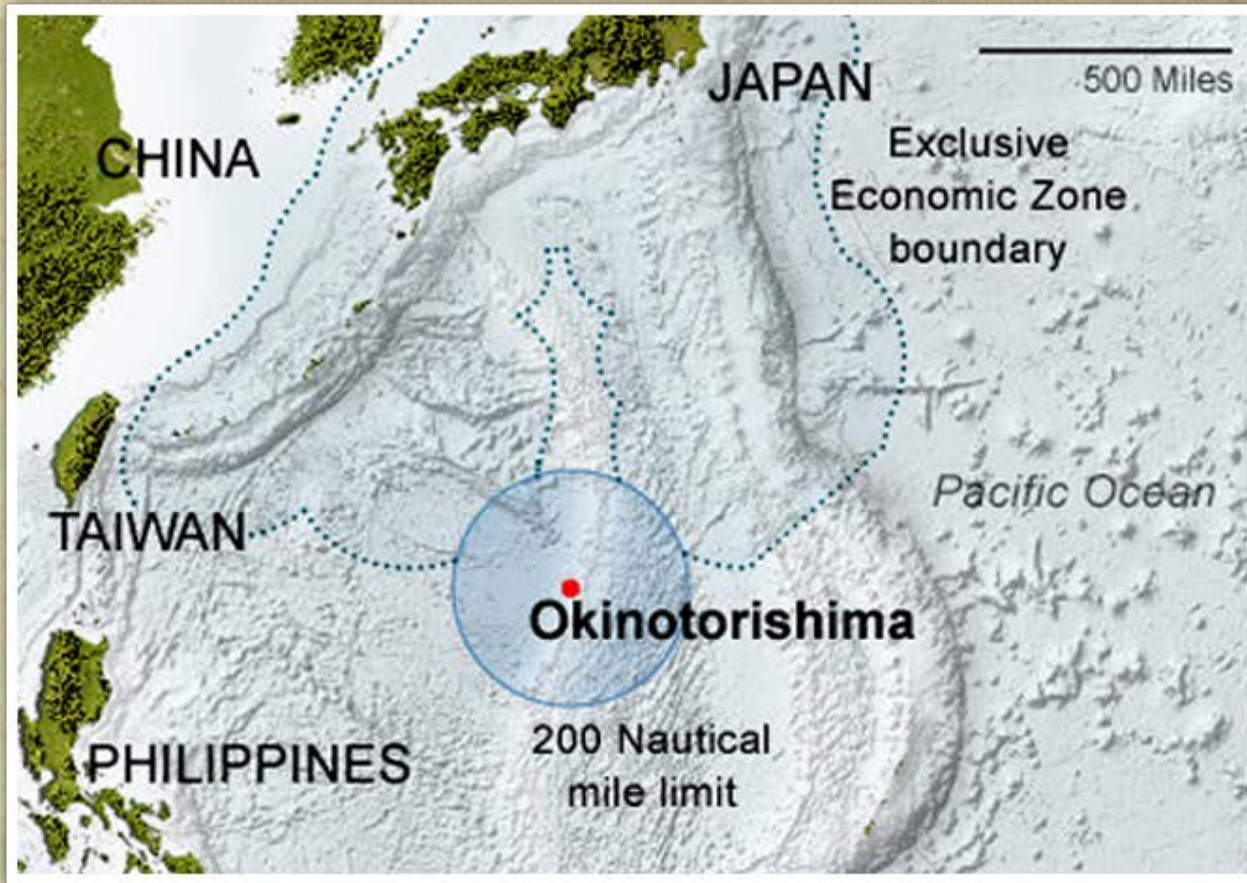
Scarborough Shoal





As an island, Scarborough Shoal is entitled to a 12 NM territorial sea around it. This amounts to 155,165 hectares of maritime space, more than twice the land area of Metro Manila of 63,600 hectares.

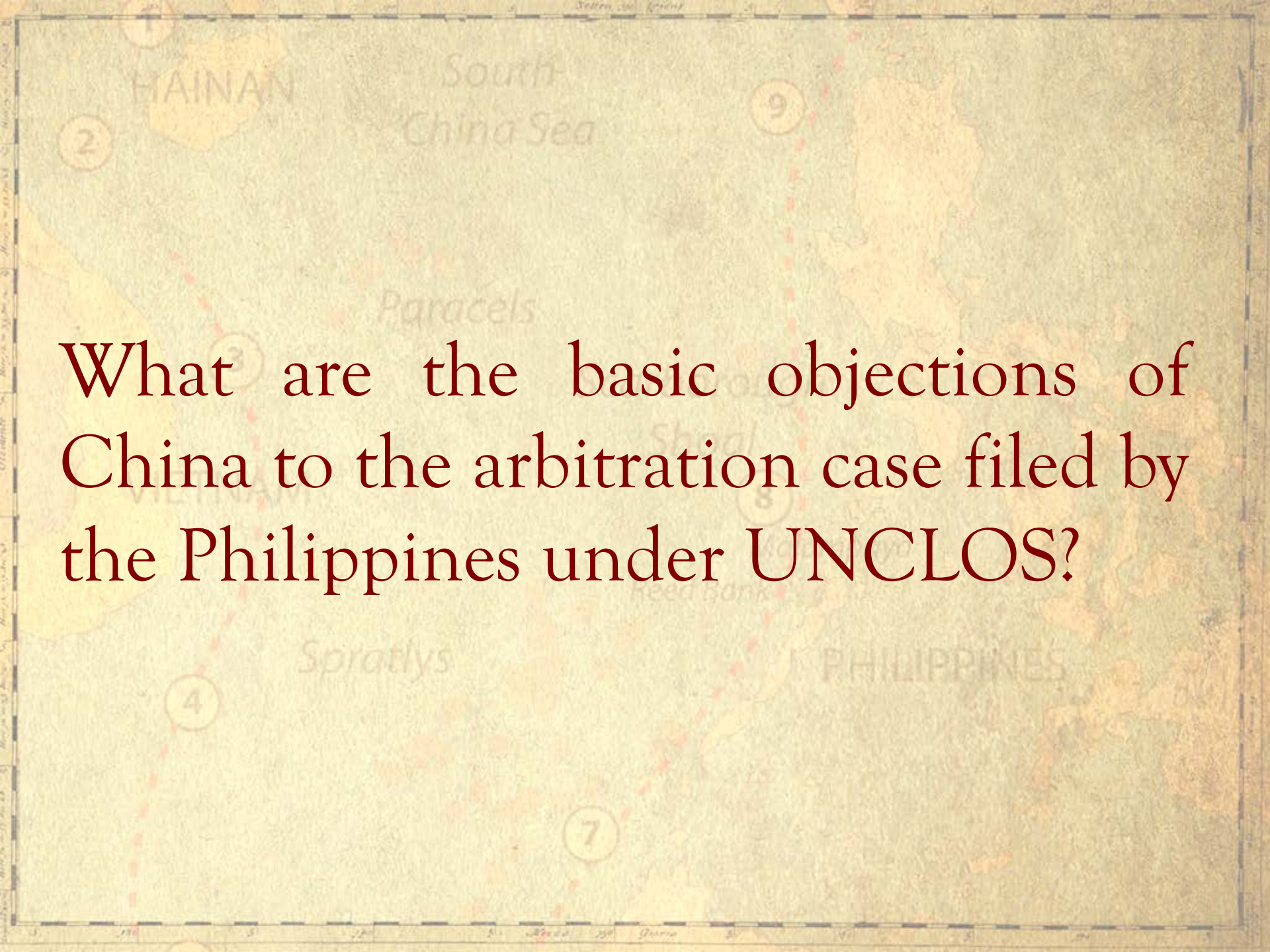
Okinotorishima



Japan's Okinotorishima Rock In Philippine Sea: Preventing Erosion of Tiny Rock



This rock is about 7 inches above water at high tide. Japan reportedly spent US\$600 million to prevent erosion in three Okinotorishima rocks.



What are the basic objections of China to the arbitration case filed by the Philippines under UNCLOS?

China's Comprehensive Position Paper Submitted to Members of the Tribunal

On February 6, 2015, China submitted a Position Paper to Members of the Tribunal. In its transmittal letter to the Tribunal, China stated that its Position Paper “**comprehensively** explain[ed] why the Arbitral Tribunal xxx manifestly has no jurisdiction over the case.” The Tribunal subsequently issued an order that “it will treat China’s communications (including the Position Paper) as constituting a plea concerning the Arbitral Tribunal’s jurisdiction.”

Summary of China's Comprehensive Position Paper Submitted to Members of the Tribunal

“It is the view of China that the Arbitral Tribunal manifestly has **no jurisdiction over this arbitration**, unilaterally initiated by the Philippines, with regard to disputes between China and the Philippines in the South China Sea.”

China's Position No.1

Firstly, the essence of the subject-matter of the arbitration is the territorial sovereignty over the relevant maritime features in the South China Sea, which is beyond the scope of the Convention and is consequently not concerned with the interpretation or application of the Convention.”

Short Answer:

The arbitration case does not involve a territorial sovereignty dispute because the Philippines is not asking the tribunal to rule what State has sovereignty over any of the disputed islands, or rocks above water at high tide. The Philippines is asking the Tribunal to rule on the extent of the **maritime zones** (0, 12 NM or 200 NM) of certain geologic features, regardless of what State has sovereignty over them.

The validity of China's 9-dashed lines, raising the issue of whether a coastal State can claim sea regions not drawn from its coasts, clearly involves an interpretation or application of UNCLOS, and does not involve any territorial sovereignty issue.

The Philippines' Statement of Claim states:

“The Philippines does not seek in this arbitration a determination of which Party enjoys sovereignty over the islands claimed by both of them. Nor does it request a delimitation of any maritime boundaries. The Philippines is conscious of China's Declaration of 25 August 2006 under Article 298 of UNCLOS, and has avoided raising subjects or making claims that China has, by virtue of that Declaration, excluded from arbitral jurisdiction.”

China's Position No. 2

“*Secondly*, there is an agreement between China and the Philippines to settle their disputes in the South China Sea by negotiations, as embodied in bilateral instruments and the DOC (2002 Asean-China Declaration of Conduct). Thus the unilateral initiation of the present arbitration by the Philippines has clearly violated international law.”

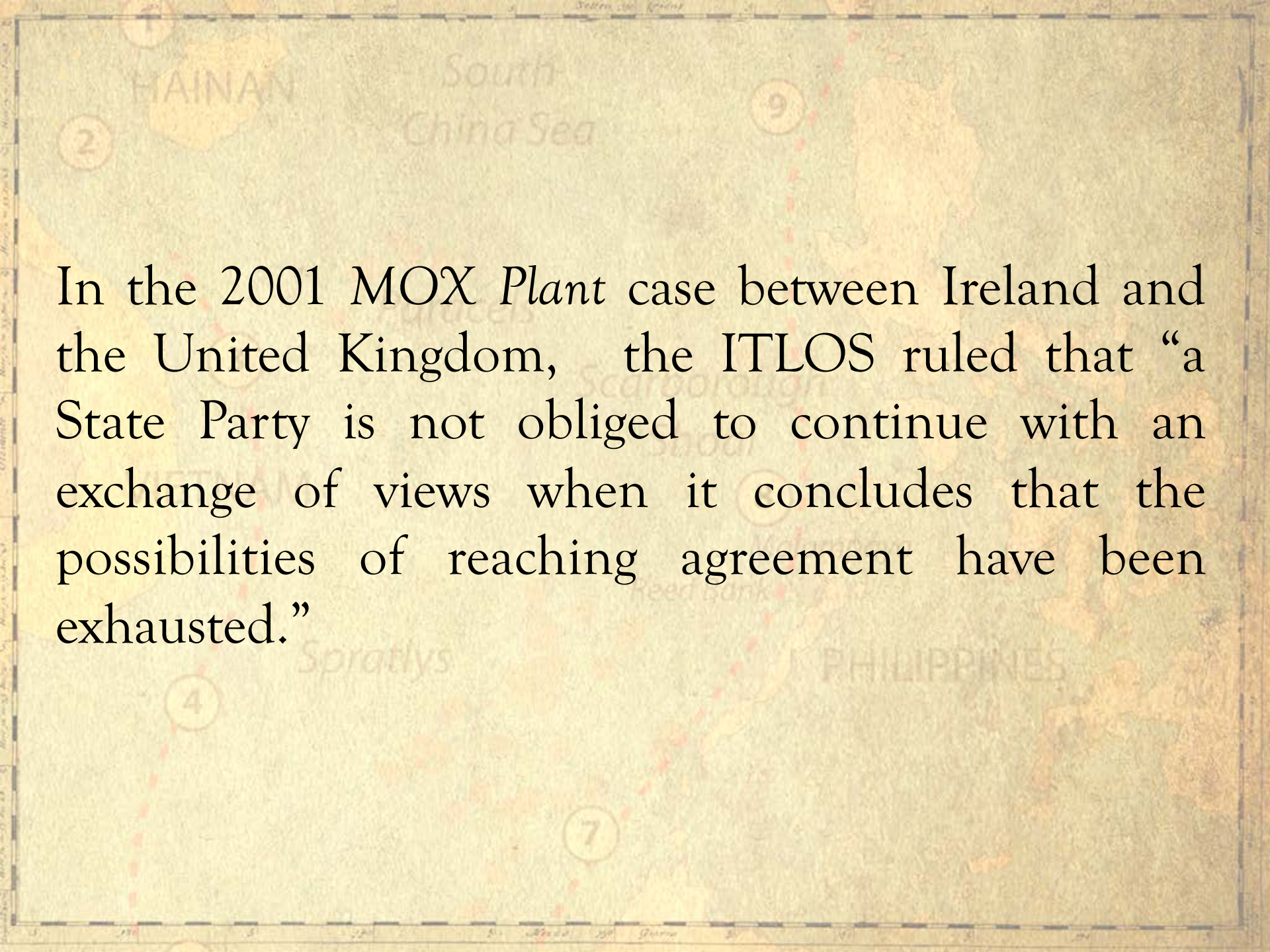
Short Answer:

The 2002 Asean-China Declaration of Conduct (DOC) expressly states that 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.” Thus, the Philippines filed the arbitration case in accordance with UNCLOS.

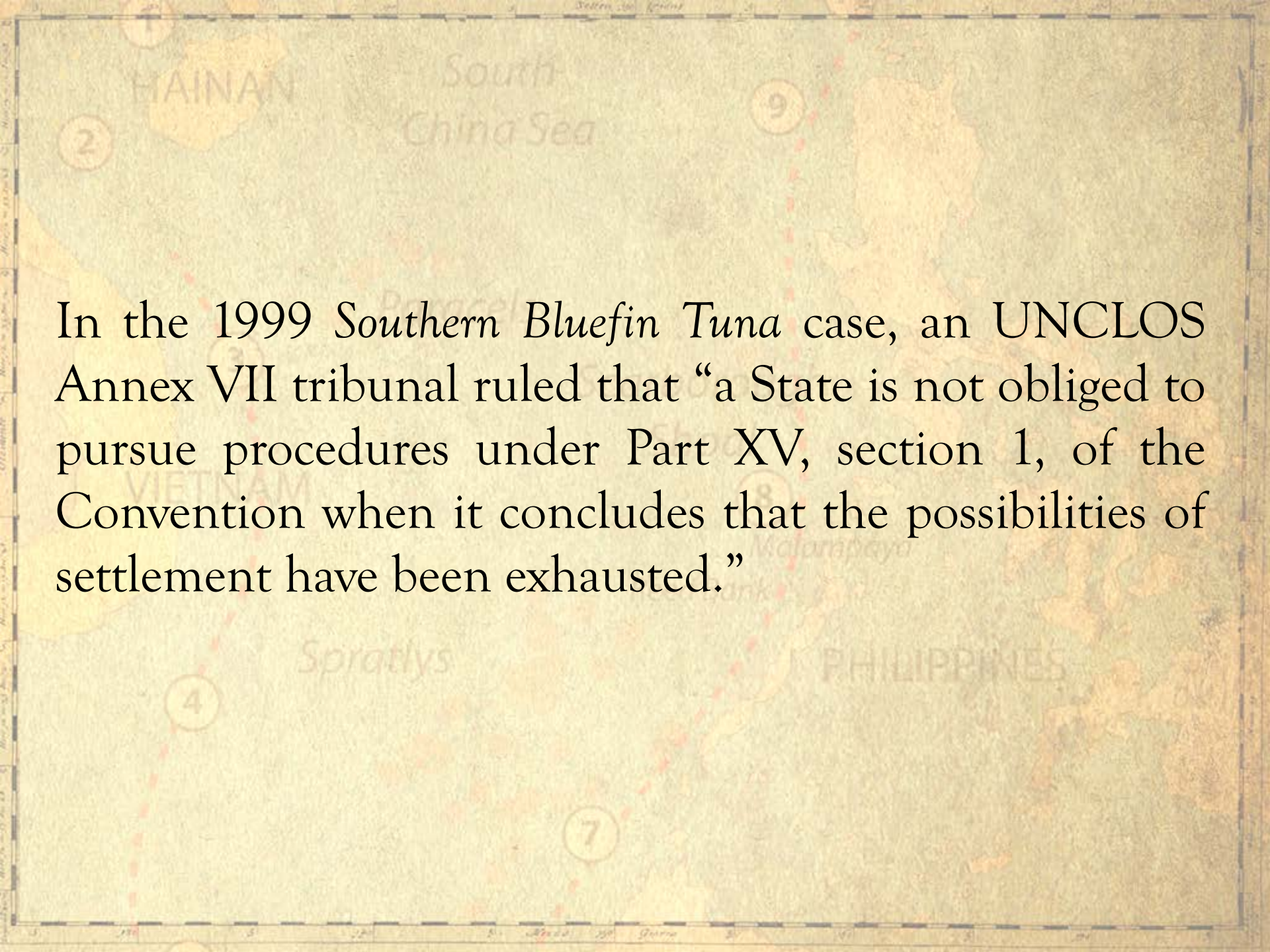
Moreover, there is no bilateral agreement between the Philippines and China stating that their maritime dispute shall be resolved exclusively through negotiations. The 2002 DOC is not a legally binding agreement between Asean states and China. The DOC was never intended to supplant the UNCLOS dispute settlement mechanism. The legally binding agreement would be the Code of Conduct, but China has been dragging its feet in the drafting of the Code of Conduct.

While UNCLOS requires an “exchange of views” or negotiations by the parties on the dispute before recourse to compulsory arbitration, this requirement cannot be used by a party to prevent compulsory arbitration. This requirement was satisfied by the Philippines, when it exchanged views with China repeatedly during its bilateral meetings and negotiations that took place over 17 years between 1995 and 2012.

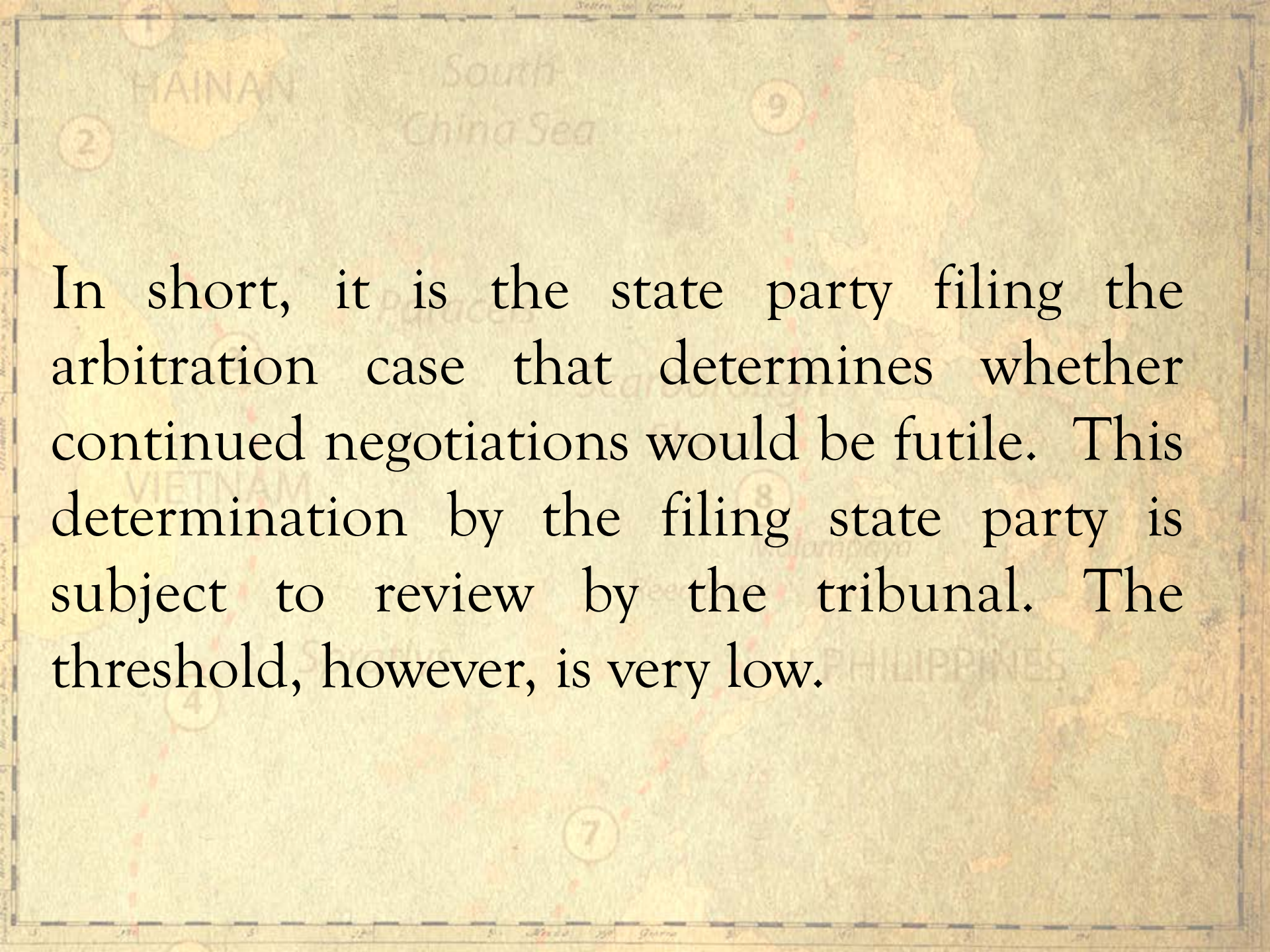
In the 2003 *Land Reclamation* case filed by Malaysia against Singapore, the ITLOS ruled that Malaysia “was not obliged to continue with an exchange of views when it concluded that this exchange of views could not yield a positive result.”



In the 2001 *MOX Plant* case between Ireland and the United Kingdom, the ITLOS ruled that “a State Party is not obliged to continue with an exchange of views when it concludes that the possibilities of reaching agreement have been exhausted.”



In the 1999 *Southern Bluefin Tuna* case, an UNCLOS Annex VII tribunal ruled that “a State is not obliged to pursue procedures under Part XV, section 1, of the Convention when it concludes that the possibilities of settlement have been exhausted.”



In short, it is the state party filing the arbitration case that determines whether continued negotiations would be futile. This determination by the filing state party is subject to review by the tribunal. The threshold, however, is very low.

China's Position No. 3

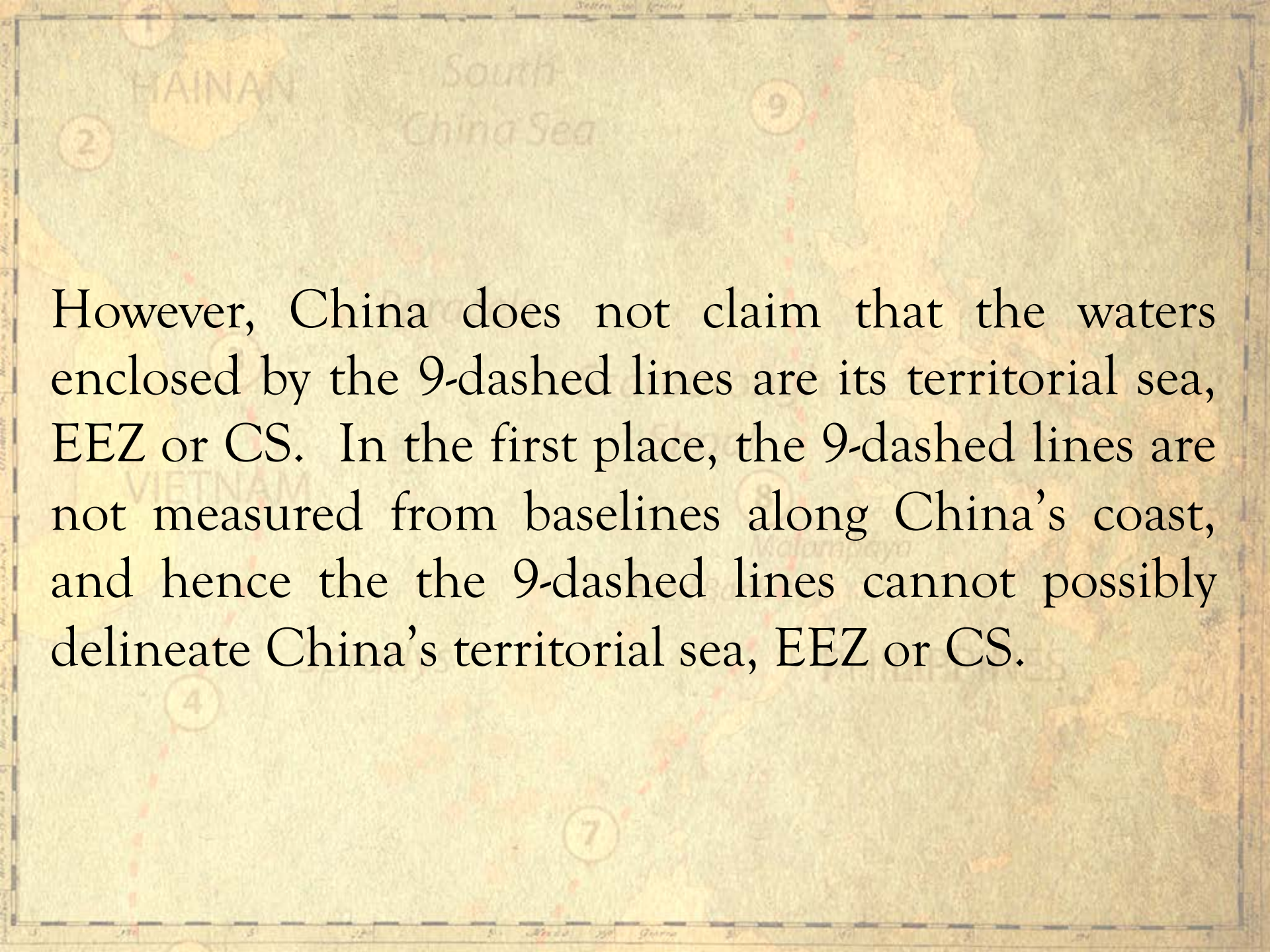
“Thirdly, even assuming that the subject-matter of the arbitration did concern the interpretation or application of the Convention, it has been excluded by the 2006 declaration filed by China under Article 298 of the Convention, due to its being an integral part of the dispute of maritime delimitation between the two States.”

Short Answer:

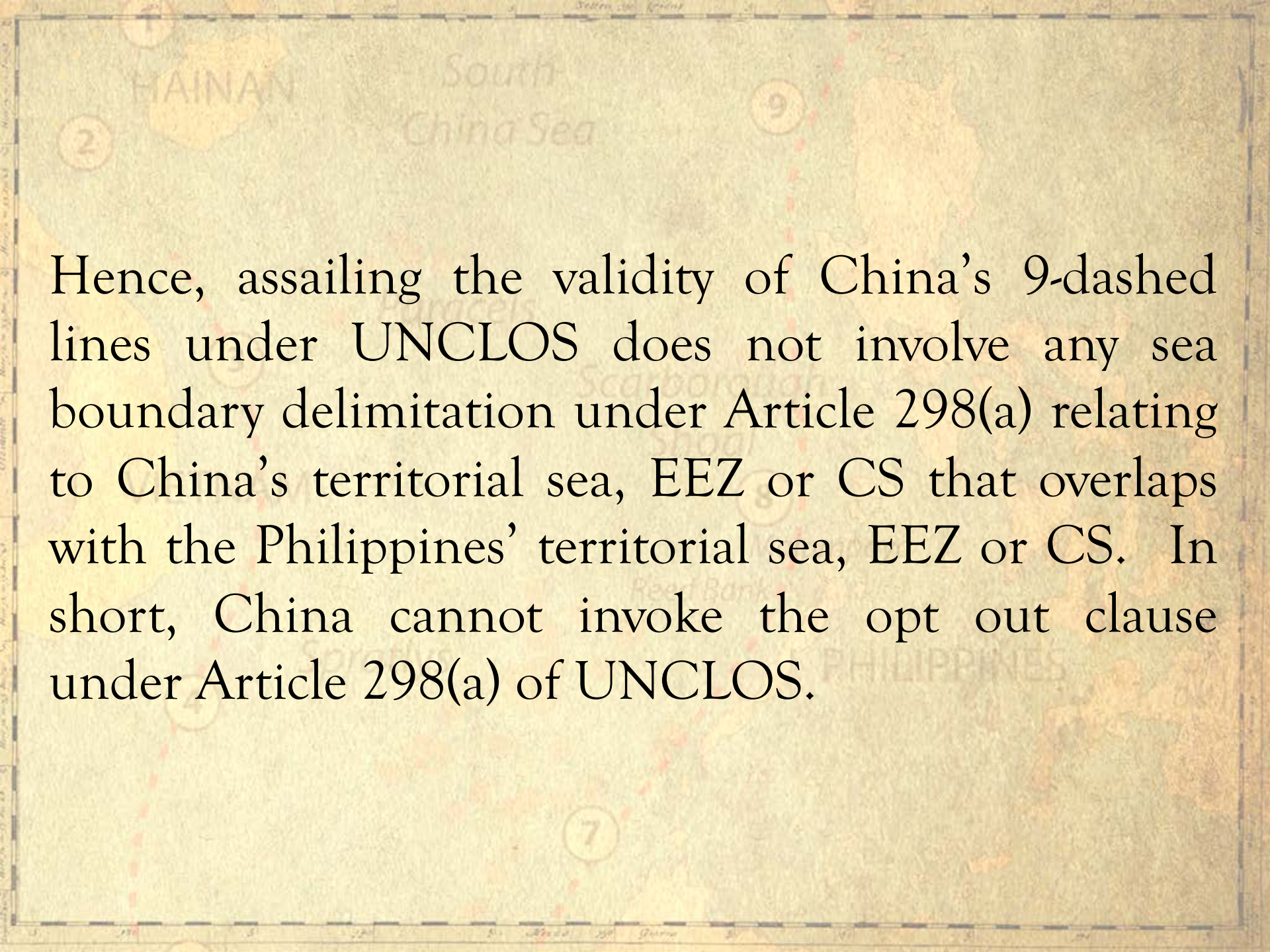
As China correctly states in its Position No. 3, the exclusion arising from its 2006 declaration under the opt out clause [Article 298(a), UNCLOS] refers to a **“dispute of maritime delimitation between the two States.”**

Article 298(a) expressly refers to “disputes concerning the interpretation or application of Articles 15, 74 and 83 **relating to sea boundary delimitations**, or those involving historic bays or title.” Article 15 refers to the territorial sea, Article 74 to the EEZ, and Article 83 to the CS.

In short, the exclusion under Article 298 that China expressly invokes refers to **sea boundary delimitations** of overlapping TS, EEZ, and CS - which are precisely **“dispute(s) of maritime delimitation between the two States,”** as China correctly characterized.

The background is a faded map of the South China Sea region. It shows the island of Hainan in the north, the coast of Vietnam in the west, and the 9-dashed line (Ullrich Line) in red. The text 'South China Sea' is visible in the upper center. There are also some faint numbers in circles (2, 4, 7, 9) scattered across the map.

However, China does not claim that the waters enclosed by the 9-dashed lines are its territorial sea, EEZ or CS. In the first place, the 9-dashed lines are not measured from baselines along China's coast, and hence the the 9-dashed lines cannot possibly delineate China's territorial sea, EEZ or CS.

The background is a map of the South China Sea region. It shows the island of Hainan in the north, the Philippines in the west, and the 9-dashed line in the east. The text is overlaid on this map. The text reads: "Hence, assailing the validity of China's 9-dashed lines under UNCLOS does not involve any sea boundary delimitation under Article 298(a) relating to China's territorial sea, EEZ or CS that overlaps with the Philippines' territorial sea, EEZ or CS. In short, China cannot invoke the opt out clause under Article 298(a) of UNCLOS." The text is in a black serif font and is centered on the page.

Hence, assailing the validity of China's 9-dashed lines under UNCLOS does not involve any sea boundary delimitation under Article 298(a) relating to China's territorial sea, EEZ or CS that overlaps with the Philippines' territorial sea, EEZ or CS. In short, China cannot invoke the opt out clause under Article 298(a) of UNCLOS.

China's Position No. 4

“Fourthly, China has never accepted any compulsory procedures of the Convention with regard to the Philippines' claims for arbitration. The Arbitral Tribunal shall fully respect the right of the States Parties to the Convention to choose the means of dispute settlement of their own accord, and exercise its competence to decide on its jurisdiction within the confines of the Convention. The initiation of the present arbitration by the Philippines is an abuse of the compulsory dispute settlement procedures under the Convention. There is a solid basis in international law for China's rejection of and non-participation in the present arbitration.”

Short Answer:

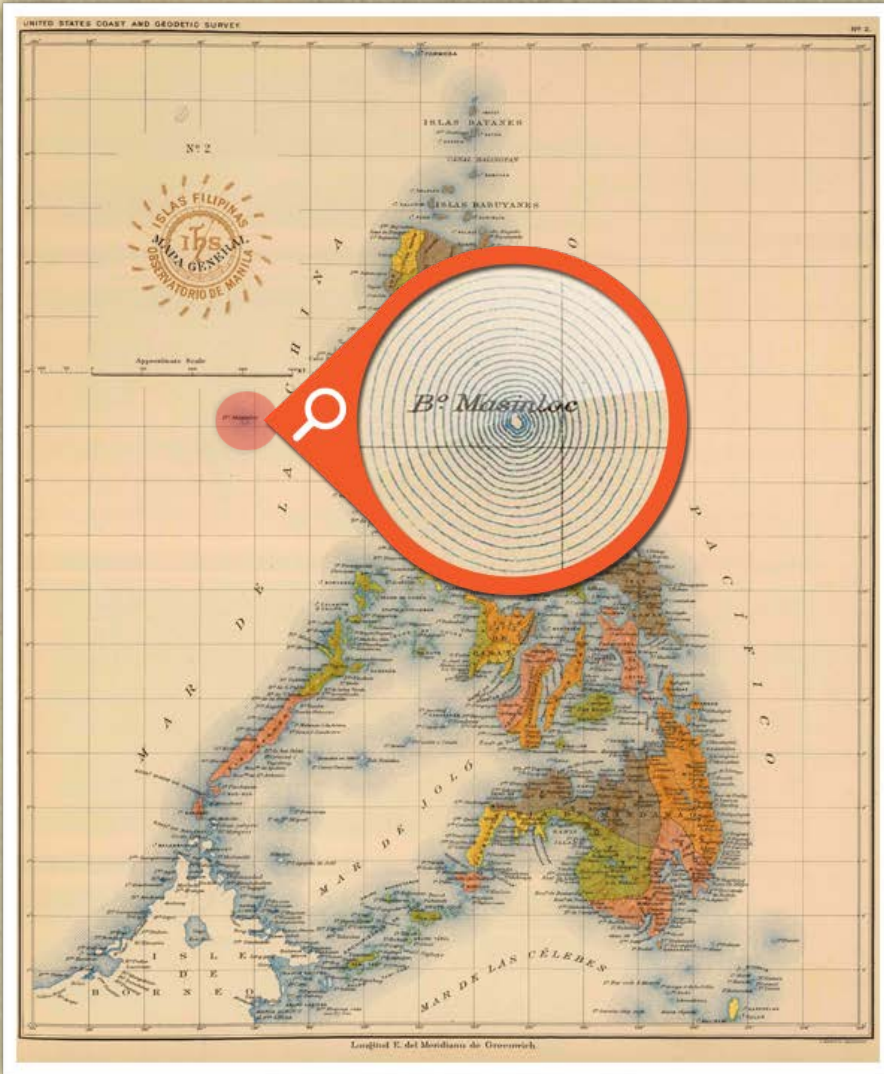
China ratified UNCLOS and is bound by Article 286 of section 2 (on Compulsory Procedures Entailing Binding Decisions), which mandates:

“Subject to section 3 (on Limitations and Exceptions to Applicability of section 2), **any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.**”

A map of the South China Sea region showing various islands and reefs. A red dashed line with numbered circles (1-9) traces a path from Hainan in the north to the Philippines in the south. The map includes labels for HAINAN, South China Sea, Paracels, Scarborough Shoal, VIETNAM, Malampaya, Reed Bank, PHILIPPINES, and Spratlys. The text 'Why is it important to apply UNCLOS to the South China Sea dispute?' is overlaid in the center.

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. It is the duty of all citizens of the world to prevent such a catastrophe.



9

End

