

**ICPC PLENARY,
HONG KONG, April , 2015,**

Sovereignty & Maritime Disputes in Southeast Asia: Implications for the Submarine Cable Industry

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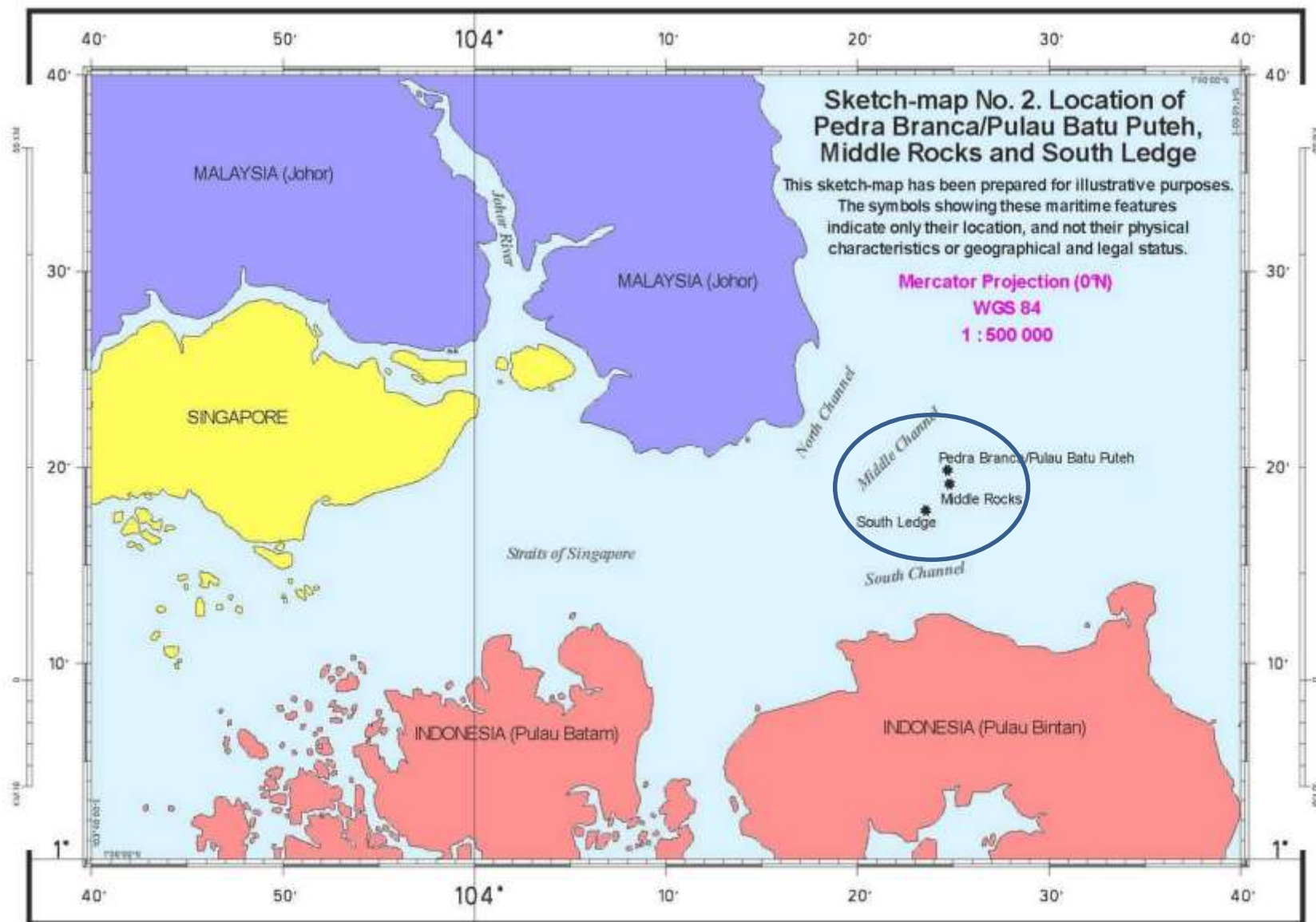
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Part 1

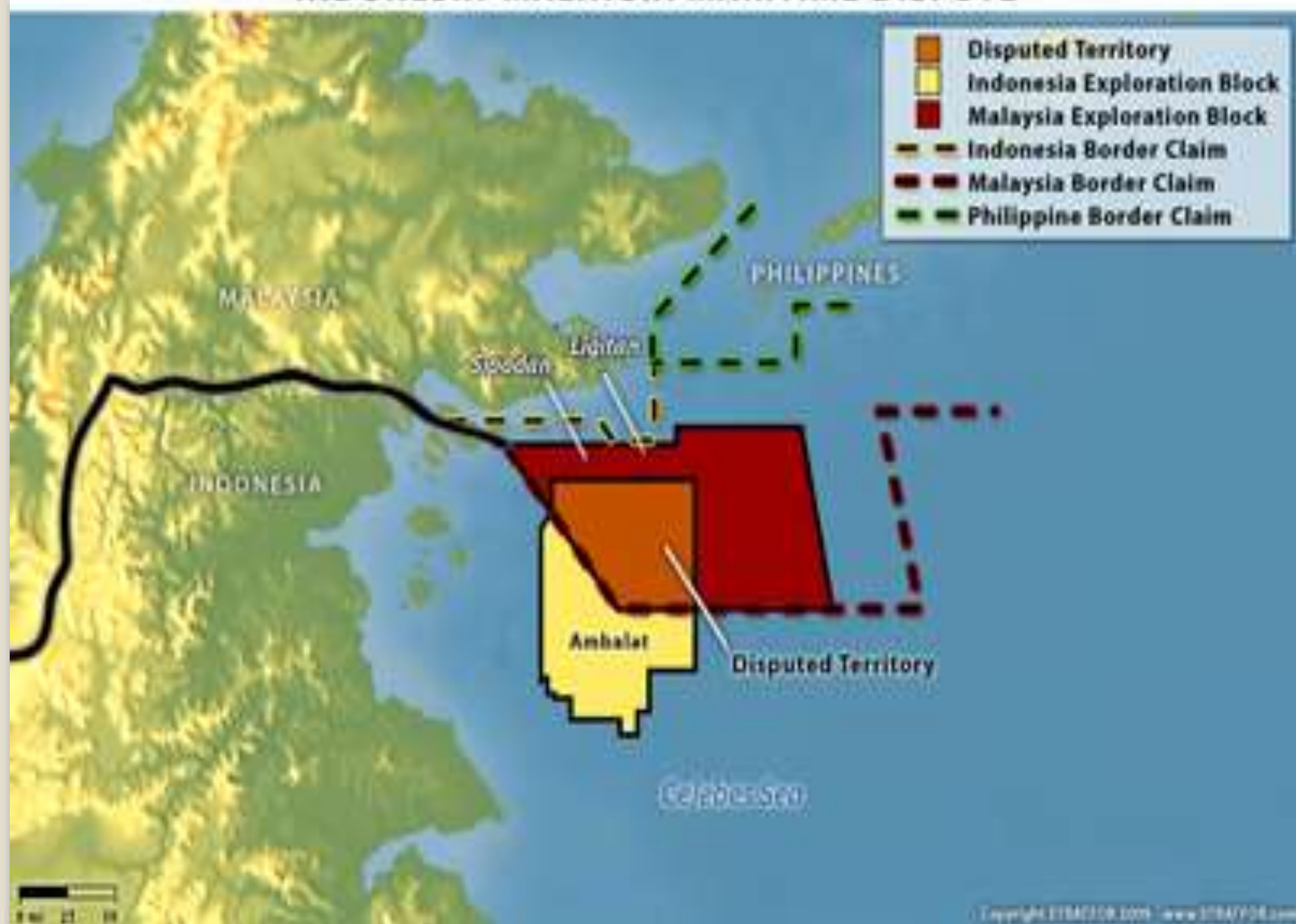
Sovereignty Disputes and Maritime Disputes

Sovereignty Disputes over Offshore Islands

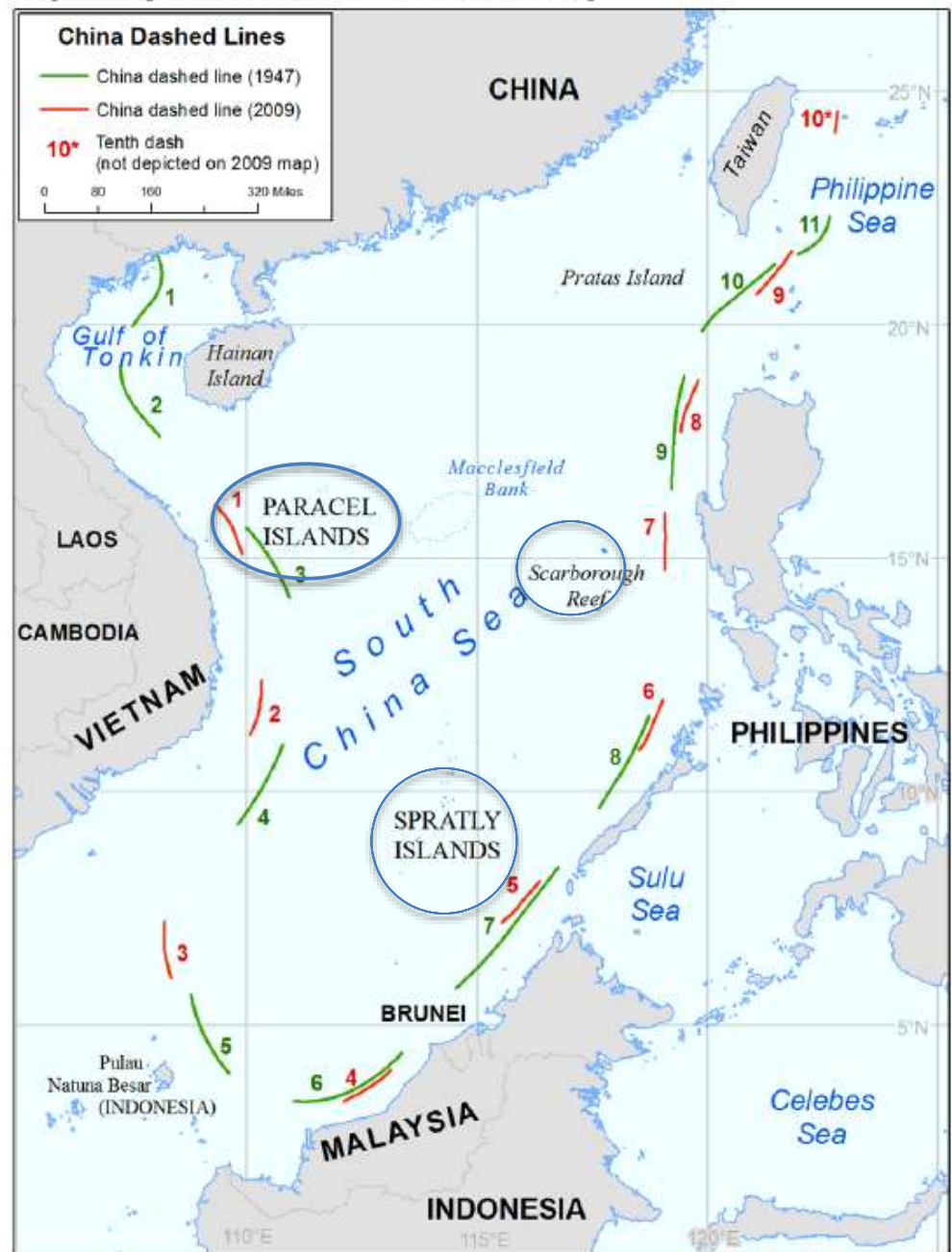
- Dispute between 2 or more States as to which State has better claim to sovereignty over offshore islands
- Governed by general international law, not by the UN Convention on the Law of the Sea
- Cannot be resolved by an international court or arbitral tribunal unless both States agree
 - Malaysia and Singapore referred dispute over Pedra Branca, Middle Rocks & South Ledge to ICJ
 - Malaysia and Indonesia referred dispute of Sipidan and Ligitan to ICJ



INDONESIA-MALAYSIA MARITIME DISPUTE



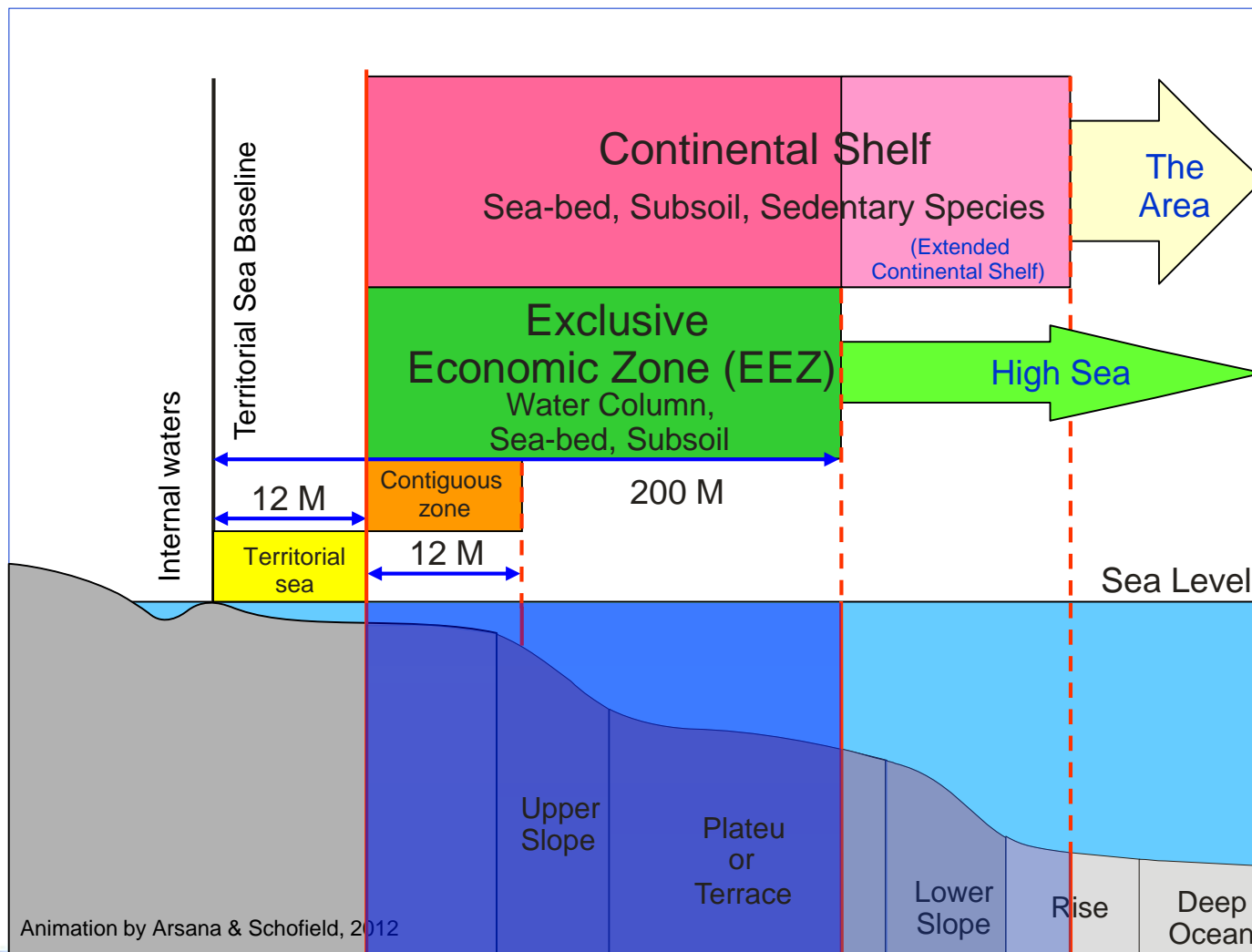
Map 5: Comparison of Dashed Line in 2009 and 1947 Maps



Maritime Claims

- 1982 UN Convention on the Law of the Sea (UNCLOS)
- “Island” is naturally formed area of land surrounded by and above water at high tide
- States are entitled to claim maritime zones from land territory including islands: 12 nm territorial sea, 200 nm EEZ and a continental shelf beyond 200 nm
- “Rocks” which cannot sustain human habitation or economic life of their own are not entitled to an EEZ or CS – only a 12 nm territorial sea

Baselines and Maritime Zones

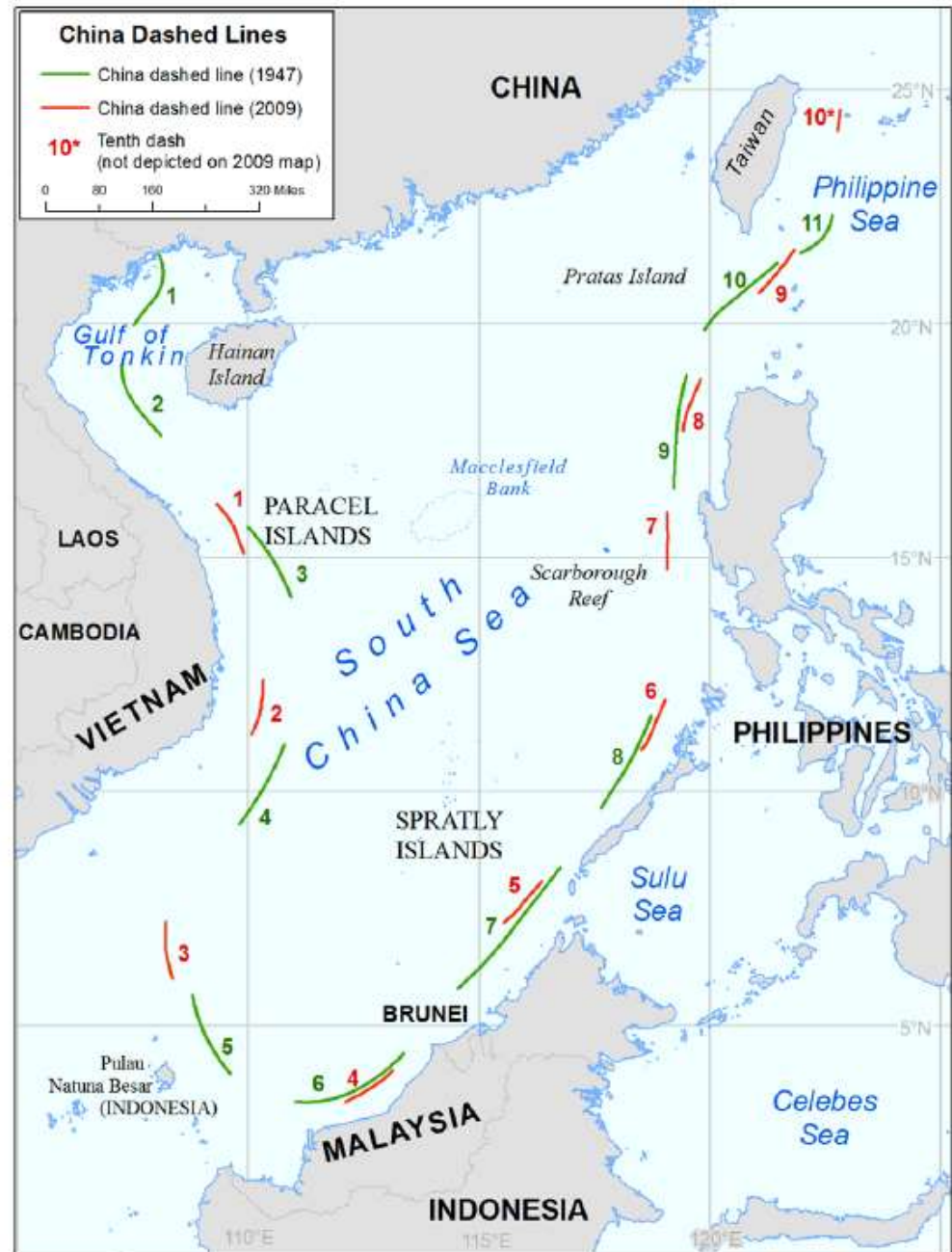


Animation by Arsana & Schofield, 2012

Maritime Claims

- **Low-tide elevations**
 - naturally formed area of land above water at low-tide but submerged at high tide
 - Not entitled to any maritime zones of their own
- **Artificial Islands, Installations and Structures**
 - Not “islands” because not naturally formed
 - Not entitled to any maritime zones of their own
 - Safety Zone of 100 m permissible

Map 5: Comparison of Dashed Line in 2009 and 1947 Maps



Legend

- Archipelagic waters
- Baseline & internal waters claims
- 12-nm territorial sea
- CLCS submissions
- Agreed maritime boundaries

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0 100 200 300

Nautical miles (nm)

China

Taiwan Strait
Taiwan

Pratas Islands

Luzon Strait

Gulf of Tonkin

Hainan

Paracel Islands

Macclesfield Bank

Vietnam

Scarborough Shoal

Philippines

Nine-dash line

Thailand

Laos

Cambodia

Vietnam

Nine-dash line

200 nm from mainland and archipelagic baselines

Reed Bank

Spratly Islands

Malaysia's claim
Brunei-Malaysia boundary delimitation (1958)
Brunei claim

Malaysia and Vietnam

Vietnam
Indonesia

Malaysia
Indonesia

Malaysia's claim

Malaysia
Indonesia

Nine-dash line

Brunei

Malaysia

Indonesia

Malaysia

Malacca Strait

Singapore Strait

Singapore

CIL

Centre for International Law

Arsana and Schofield, 2012

Part 2

Occupied Features in Spratly Islands

Occupied Features in Spratlys

At least 44 are occupied with installations & structures:

- Vietnam 25 (5 of largest)
- Philippines 8 (5 of largest)
- **China** 7
- Malaysia 3
- Taiwan 1 (Itu Aba, the largest)

Total Land Area of 13 largest – about 2 km²

China / Philippines / Vietnam / Taiwan / Malaysia



Itu Aba / Taiping (Taiwan)

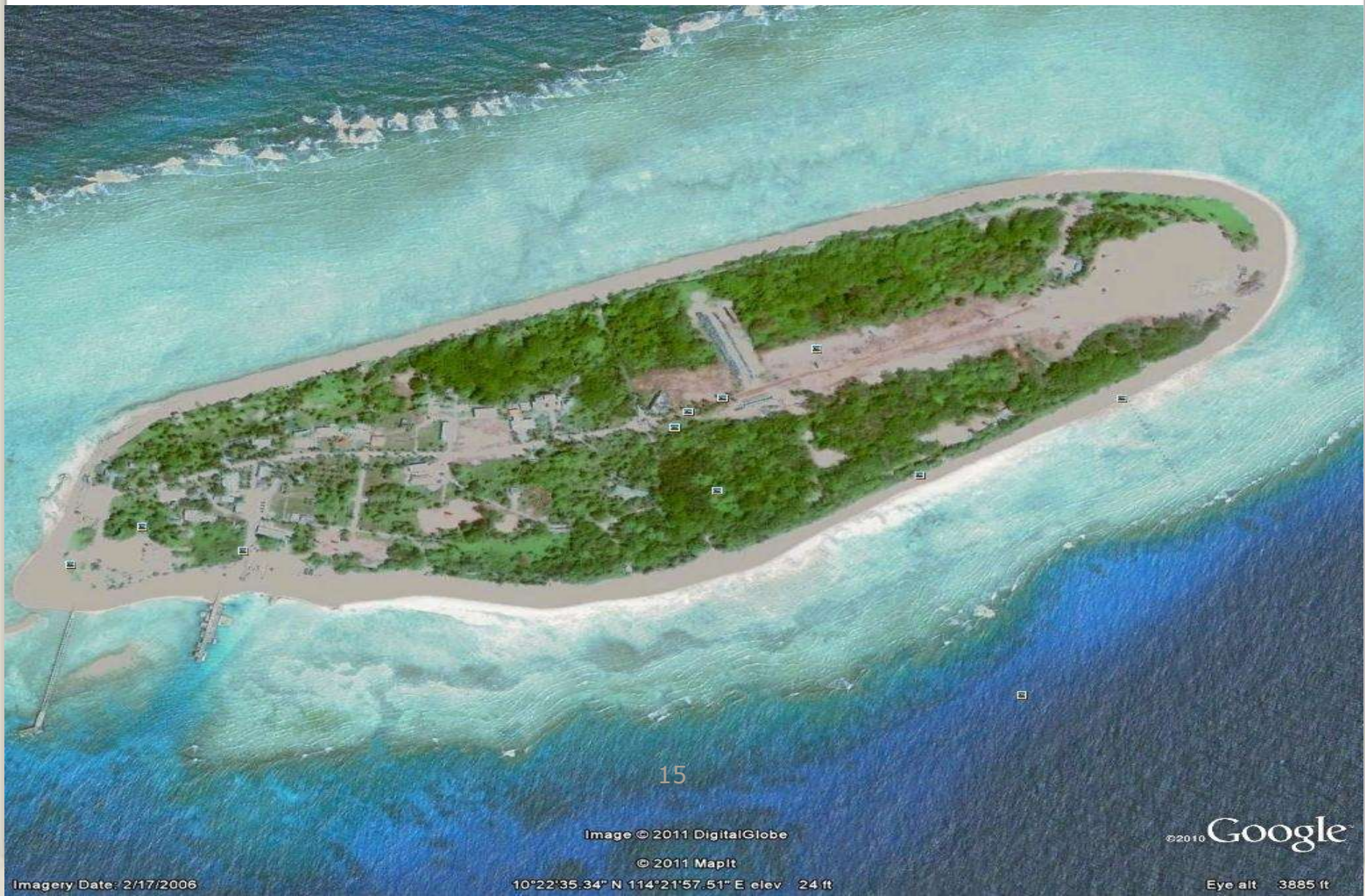


Image © 2011 DigitalGlobe

© 2011 MapIt

Imagery Date: 2/17/2006

10°22'35.34" N 114°21'57.51" E elev 24 ft

©2010 Google

Eye alt 3885 ft

Thitu Island (Philippines)



Spratly Island (Vietnam)



Imagery Date: 6/13/2007

© 2011 MapIt
Image © 2011 DigitalGlobe
8°39'39.68"N 111°55'11.75"E elev 12 ft

©2010 Google

Eye alt 1771 ft

Swallow Reef / Pulau Layang Layang (Malaysia)

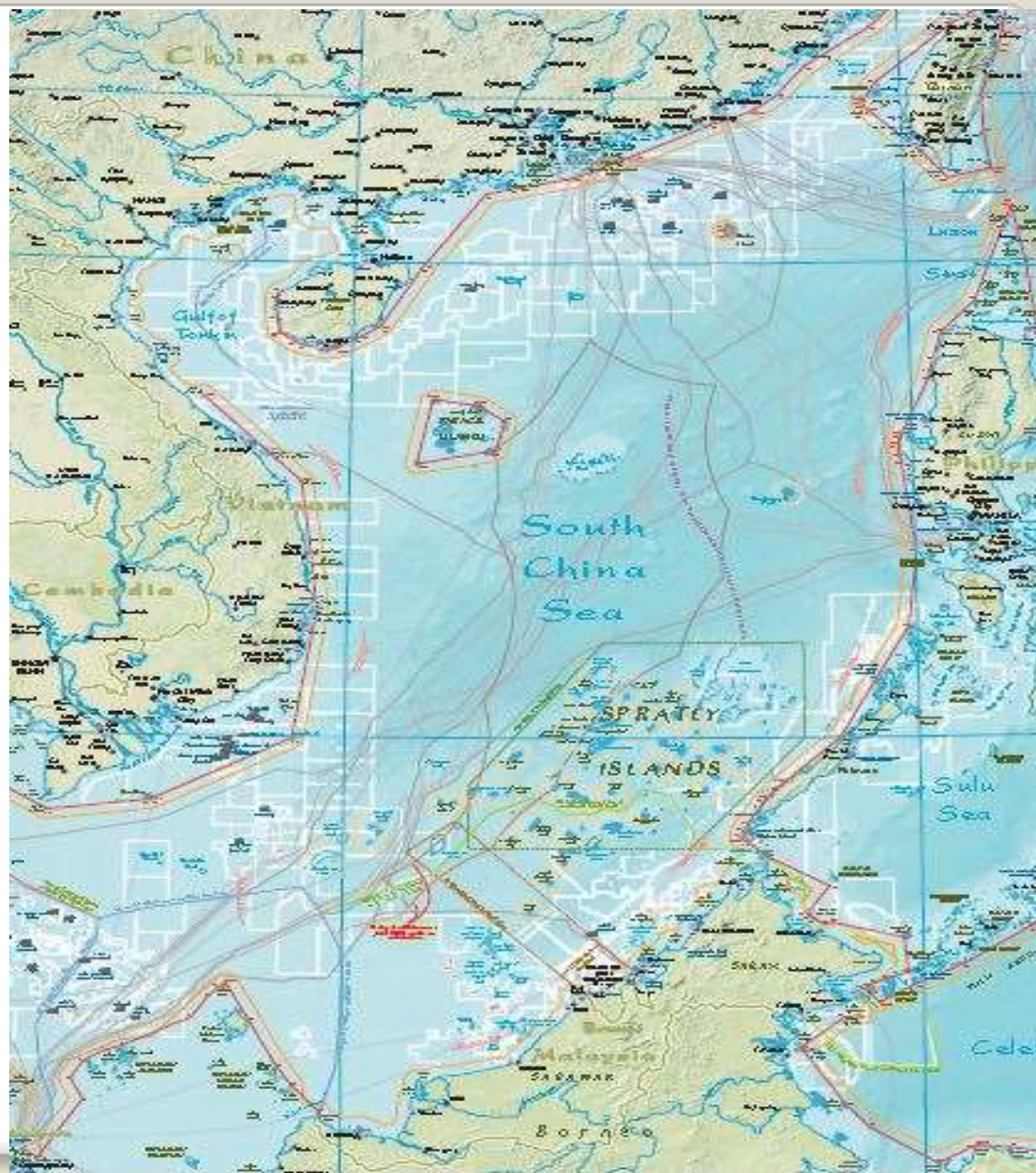


Mischief Reef (China)



Part 3

Potential “Hot Spots” in Overlapping Areas in the South China Sea



CIL

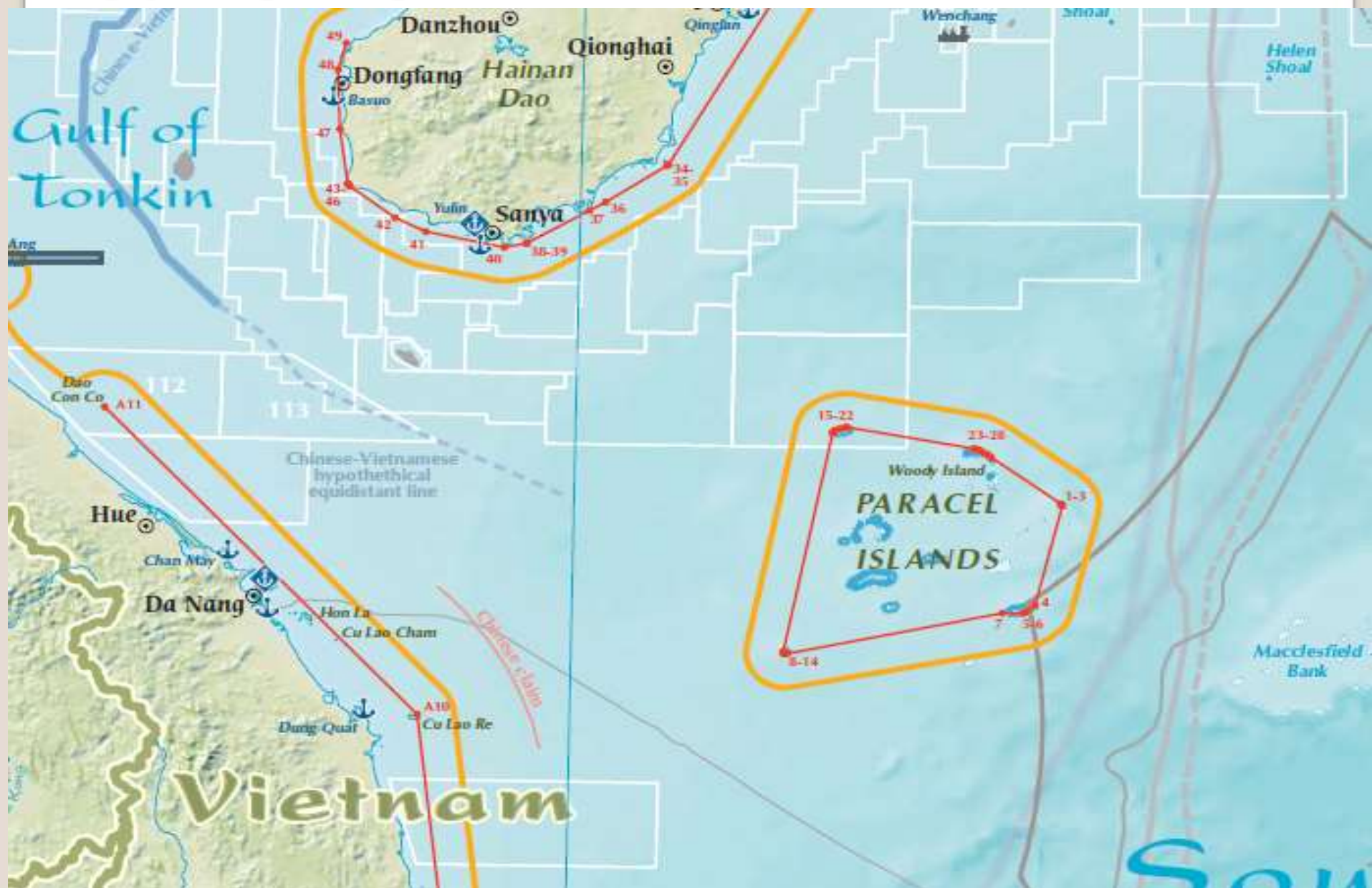
Centre for International Law

This map illustrates the Taiwan Strait and the surrounding maritime region. Key features include:

- Taiwan:** Located in the upper right, with major cities like Taipei (P'ing-tung) and Keelung (Kao-hsiung) marked. Shipping lanes T14, T15, T16, T17, and T18 are shown around the island.
- Philippines:** The Luzon Strait is shown in the center, with the Luzon Peninsula and various islands like Y'Amo, Itbayat, Basco, Sabtang, Babuyan, Calayan, Dalapuri, Fuga, and Camiguin labeled. Shipping lanes 95, 96, 97, 98, 99, and 101 are depicted.
- China:** The mainland is visible on the left, with the Hong Kong Special Administrative Region and the Lufeng area highlighted. Shipping lanes 27, 28, and 29 are shown.
- Shipping Lanes:** Various international shipping lanes are marked with numbers and letters, including T14, T15, T16, T17, T18, 95, 96, 97, 98, 99, 101, D1, D2, D3, and D4.
- Ports and Terminals:** Several ports and terminals are indicated, such as Lufeng Terminal, Huizhou Terminal, Xipang 23-1, Xipang 30-2, Panyu 4-2/5-1, and Liuhua Terminal.
- Islands:** Pratas Island is circled in the center, and other islands like Y'Amo, Itbayat, Basco, Sabtang, Babuyan, Calayan, Dalapuri, Fuga, Camiguin, and Cape Bojador are labeled.



Gulf of Tonkin



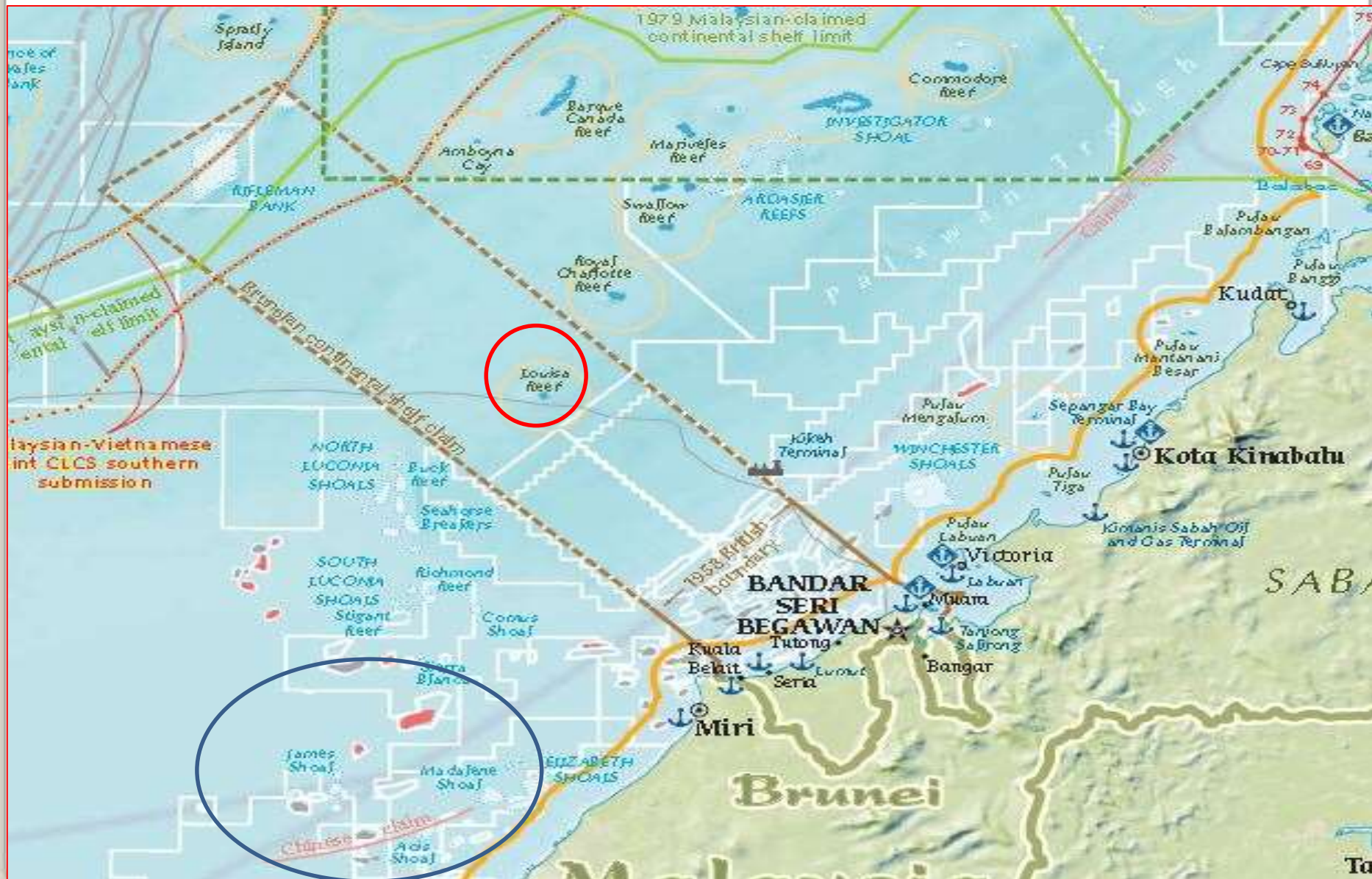
Reed Bank



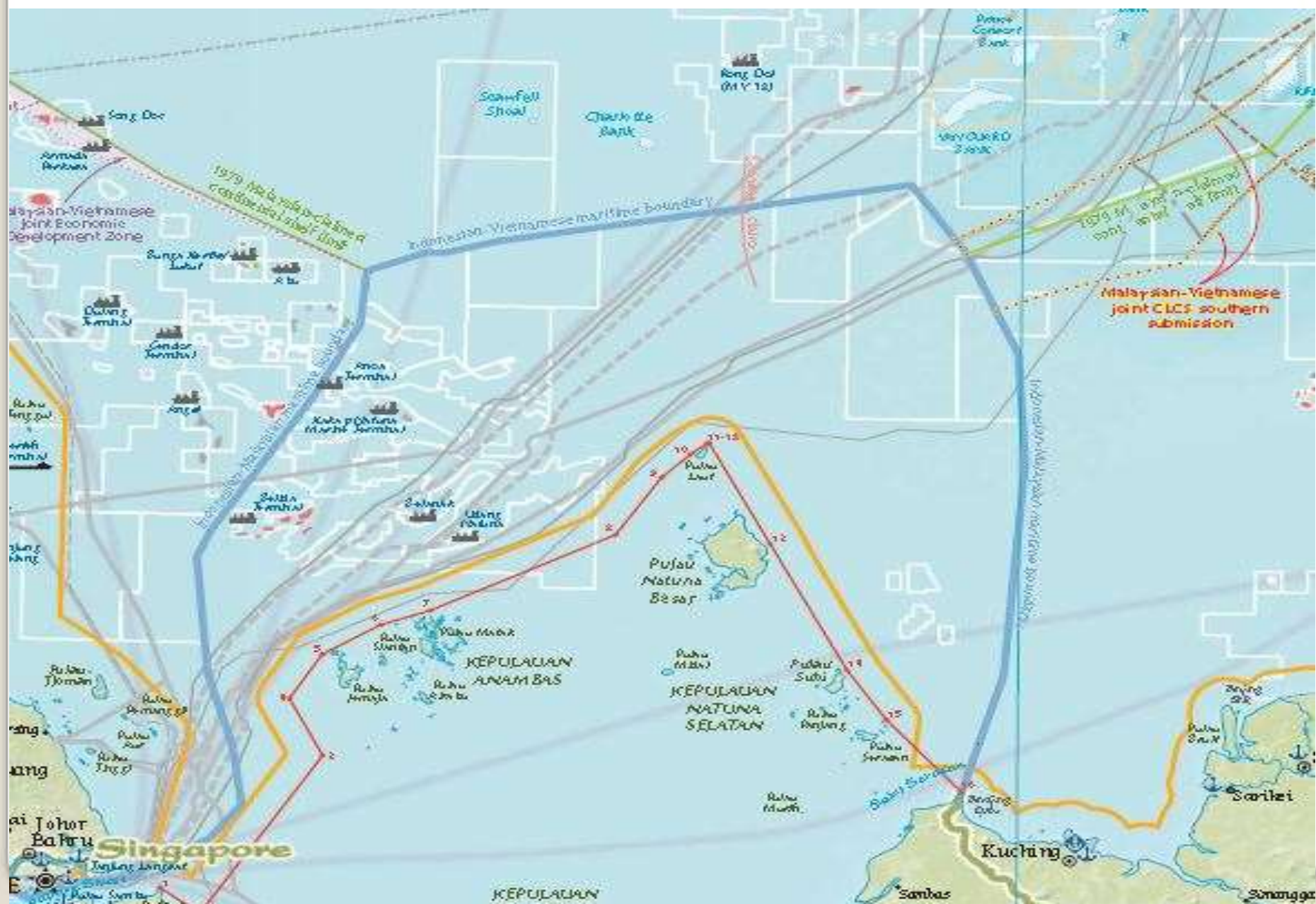
Vanguard Bank Area



Malaysia and Brunei



Indonesia – Natuna Islands



Part 4

China's Reclamation Works In 2014 and 2015

China's Reclamation Works



[reclaimed land area
=2.65 square kilometers]

suction hopper
dredger in operation

likely airstrip under construction
(~3,300 meters long)

new harbor being dredged

former reef being filled
with sand and coral cuttings

Fiery Cross Reef, Spratly Islands

South China Sea

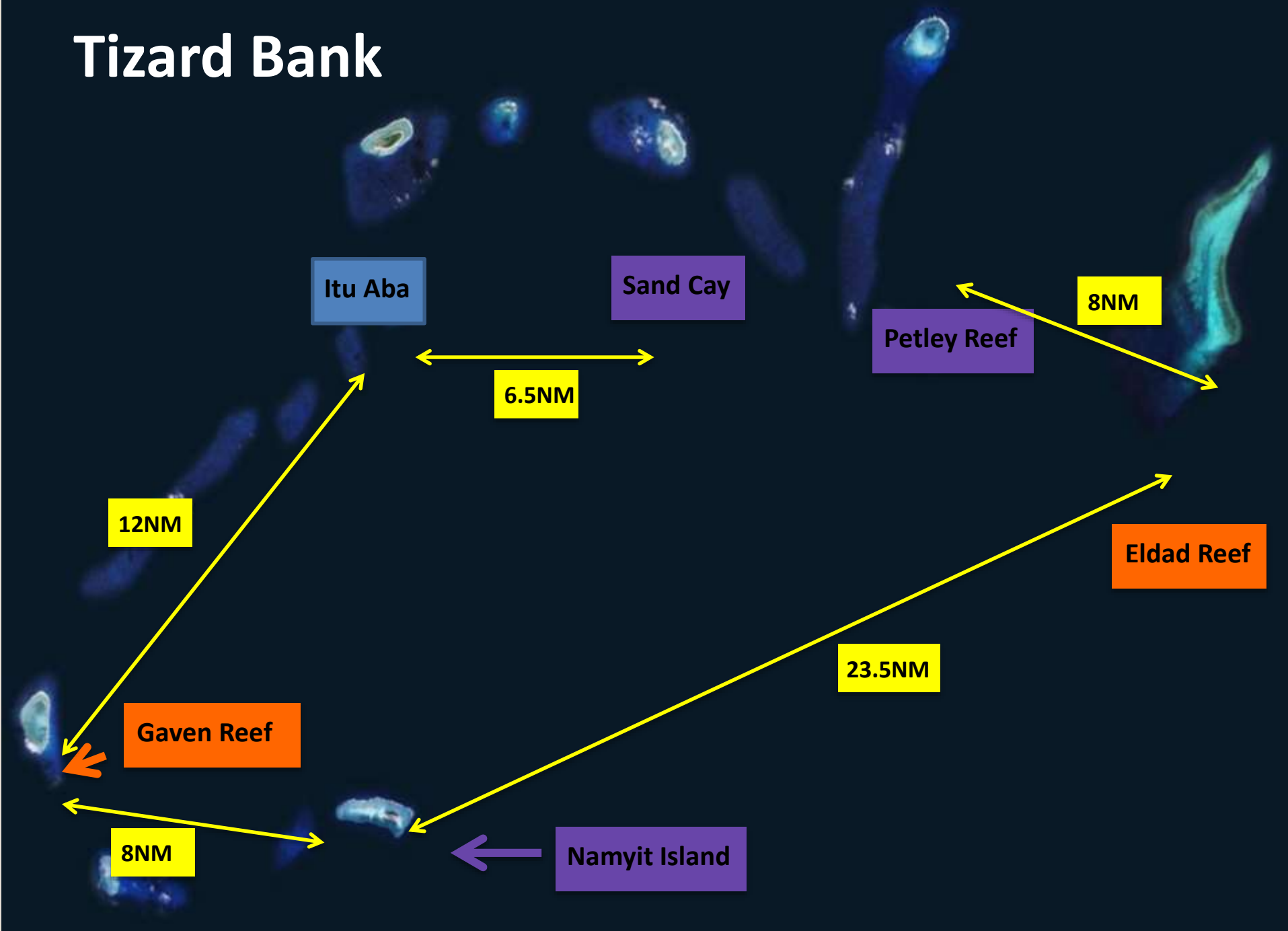
14 Feb, 2015



Reclamation on Gavin Reef



Tizard Bank



Reclamation on Johnson South Reef

13 March 2012



20 February 2013



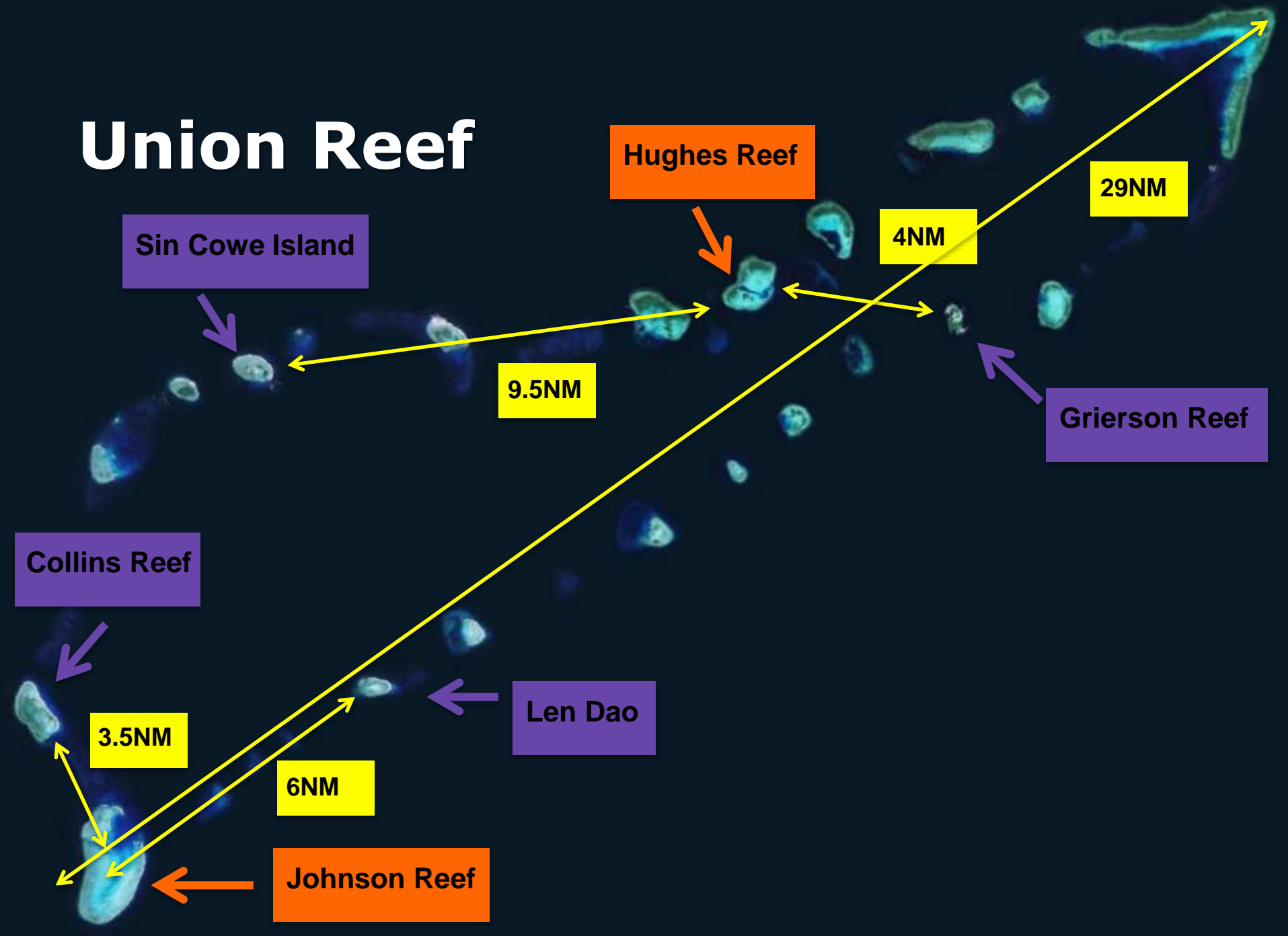
25 February 2014



11 March 2014



Union Reef



Mischief Reef Reclamation

19 July 2014



30 January 2015



Part 5

China's Reclamation Works: Implications for Submarine Cable Industry

What Reclamations will not change

1. Will not strengthen sovereignty claim to islands under international law because of protests
2. Will not change status of features
3. Will not enhance claims to maritime zones from features

What Reclamations May Change

- China's intention seems to be to change the status quo in the South China Sea and create a “new normal”
- When the reclamation works are completed, China will be able to assert control over large portions of the SCS and apply its national legislation

Philippines v China Arbitration

- Case brought by Philippines against China in Jan 2013 challenging China's maritime claims in the SCS
- China has refused to participate in the case but issued an official statement in December 2014 stating the reasons why it believed the Tribunal had no jurisdiction to hear the case
- Tribunal decided last week to schedule Oral Arguments on the issue of Jurisdiction in July 2015
- It seems clear the China will continue to refuse to participate and will not obey any ruling by the Tribunal

Implications for Laying of Cables

- China's law on mapping and surveys applies to cable route surveys in its EEZ or on its continental shelf
- China may require consent of laying of cable in its EEZ
- China's laws may also apply to “other areas where China exercises jurisdiction”
 - If China applies its laws to areas that are within the EEZ of Vietnam, the Philippines, or Indonesia, the cable industry may be subject to multiple permit requirements and could find itself in the middle of maritime disputes

Implications for Repair of Cables

- Uncertainties and disputes regarding maritime claims in the SCS may also affect cable repair operations
- China requires a permit for repair of cables in its maritime zones
- If China decides to extend its reach to all the areas within the nine-dash line, it could severely complicate the procedures for the repair of cables in the SCS

Part 4

Conclusions

Reclamations and UNCLOS

1. Sovereignty Disputes and Disputes over maritime claims in the SCS are likely to increase tensions in the next 2 years
2. The pending decision in the Philippines v China arbitration may clarify some of the legal issues but further complicate the dispute in other ways
3. China's current reclamation works are designed to create a “new normal” and thus could create more uncertainties as to the application of its laws and regulations to the laying and repair of cables in the SCS

Thanks for your Attention !

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