

# Defending Philippine Sovereign Rights in the West Philippine Sea

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.

# Importance of the South China Sea



US\$5.3 trillion in ship-borne goods traverse the South China Sea annually, accounting for almost one-half of the world's shipborne trade in tonnage. Four leading exporting countries use the South China Sea for their maritime trade - China, Japan, South Korea and Taiwan. Sixty-five percent of South Korea's petroleum imports, 60% of Japan and Taiwan's petroleum imports, and 50% of China's petroleum imports pass through the South China Sea.\* Twelve percent of the annual global fish catch comes from the South China Sea, worth US\$21.8 billion. Two billion people live in 10 countries bordering the South China Sea, and hundreds of millions of people depend on fish from the South China Sea for their protein. The maritime areas close to the coast of countries bordering the South China Sea are rich in oil and gas. The South China Sea is also rich in methane hydrates - which China considers its future source of energy.\*  
<https://www.businessinsider.com.au/why-the-south-china-sea-is-so-crucial-2015-2>

# Importance of Sandbars and Rocks Above Water At High Tide



A sandbar or rock, **above water at high tide even by a few inches**, is an island entitled to a 12 NM territorial sea around it (Article 121, UNCLOS). This amounts to 155,165 hectares of maritime space, more than twice the land area of Metro Manila of 63,600 hectares, and more than twice the land area of Singapore of 70,000 hectares. All the fish, oil, gas and mineral resources within this huge area belong to the state that has sovereignty over the rock or sandbar.

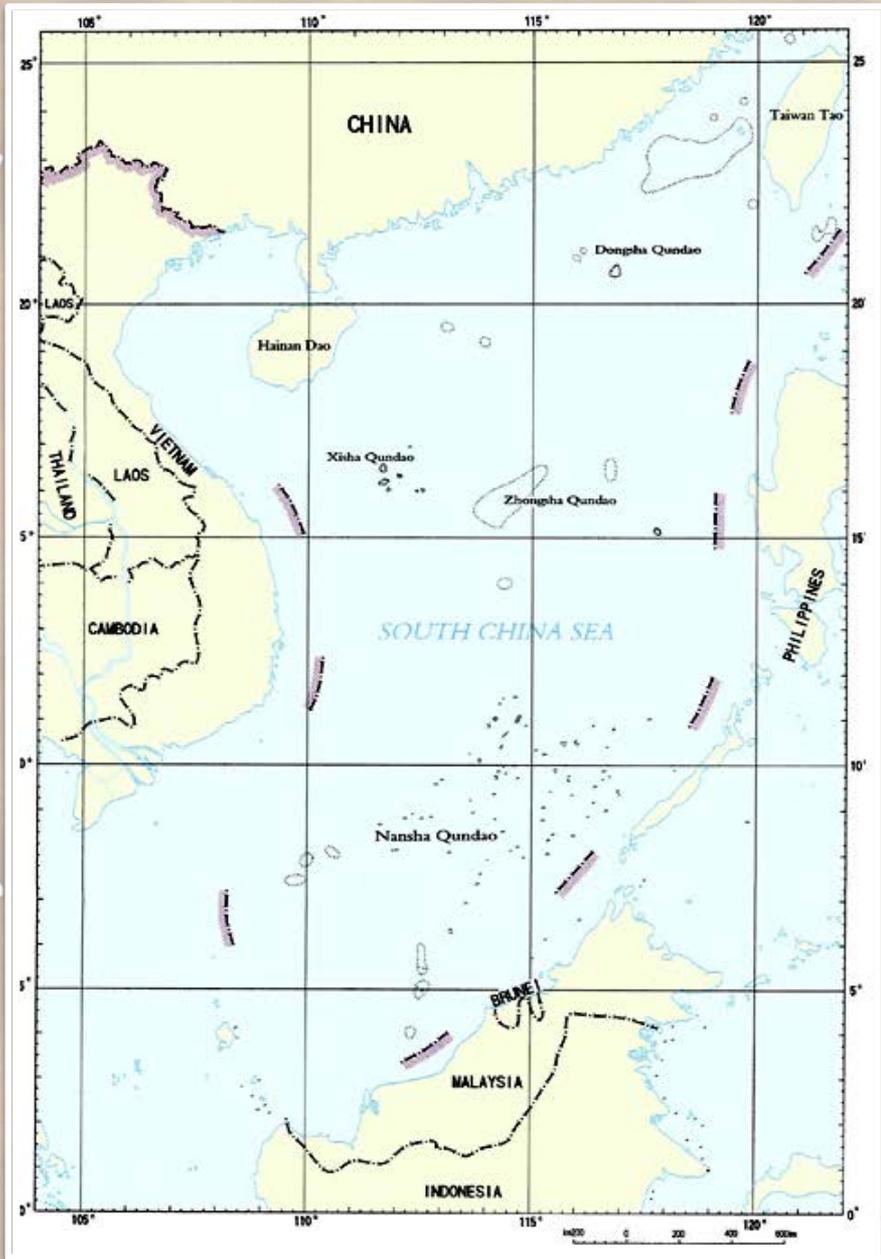
# China's Historical Narrative To Claim the South China Sea

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“Chinese activities in the South China Sea date back to over 2,000 years ago. China was the first country to discover, name, explore and exploit the resources of the South China Sea Islands and the first to continuously exercise sovereign powers over them.”

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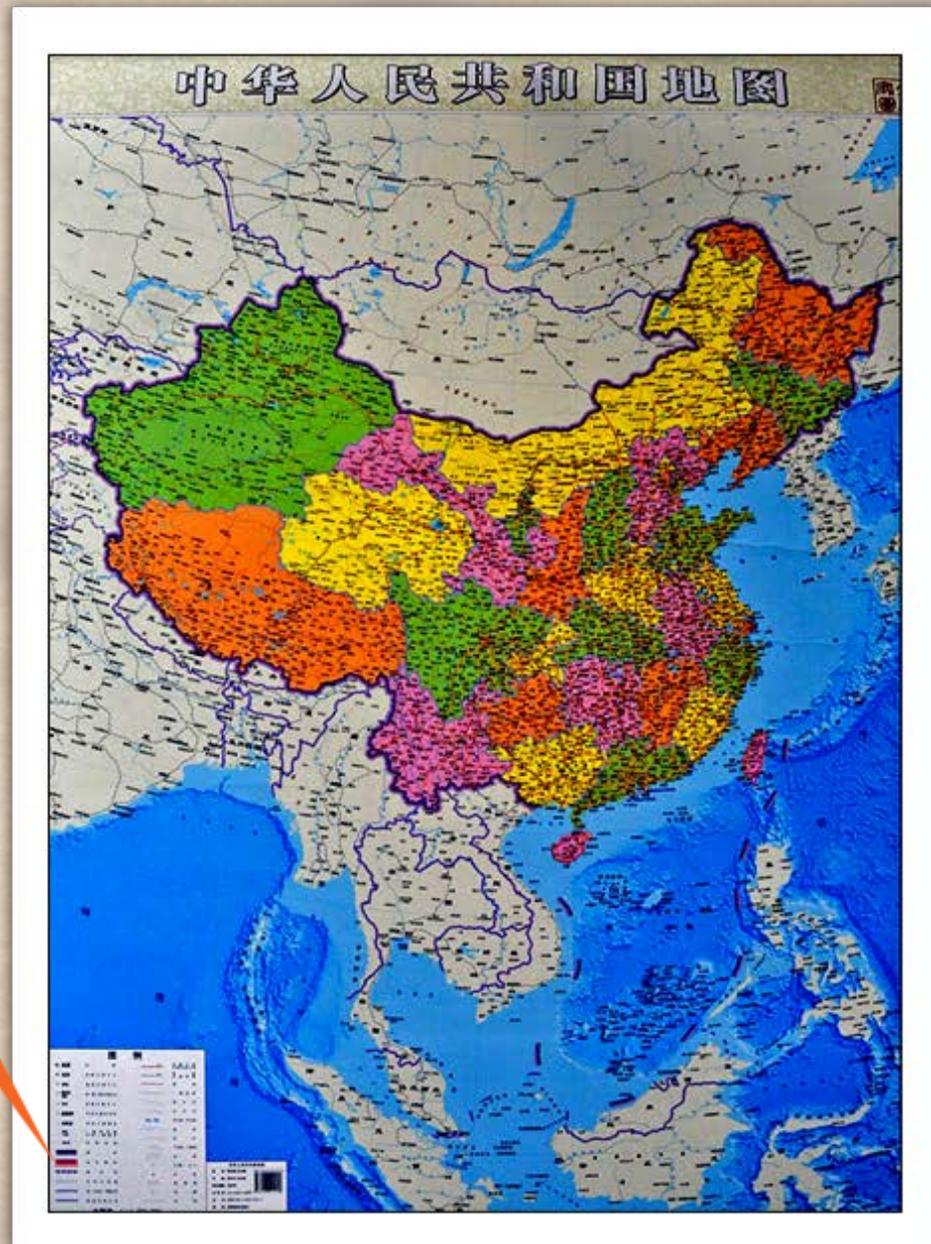
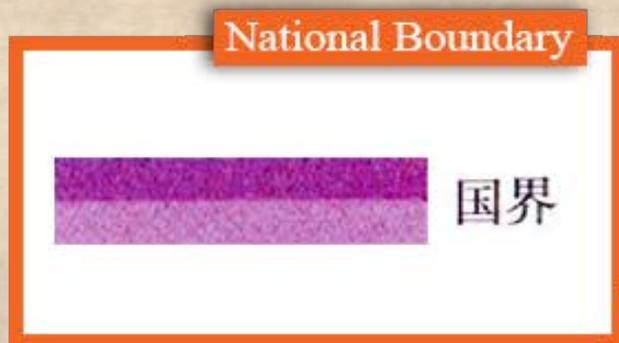
*(China's Position Paper of 7 December 2014 submitted to the Arbitral Tribunal)*



## Nine-dashed Line Map Submitted by China to United Nations on 7 May 2009

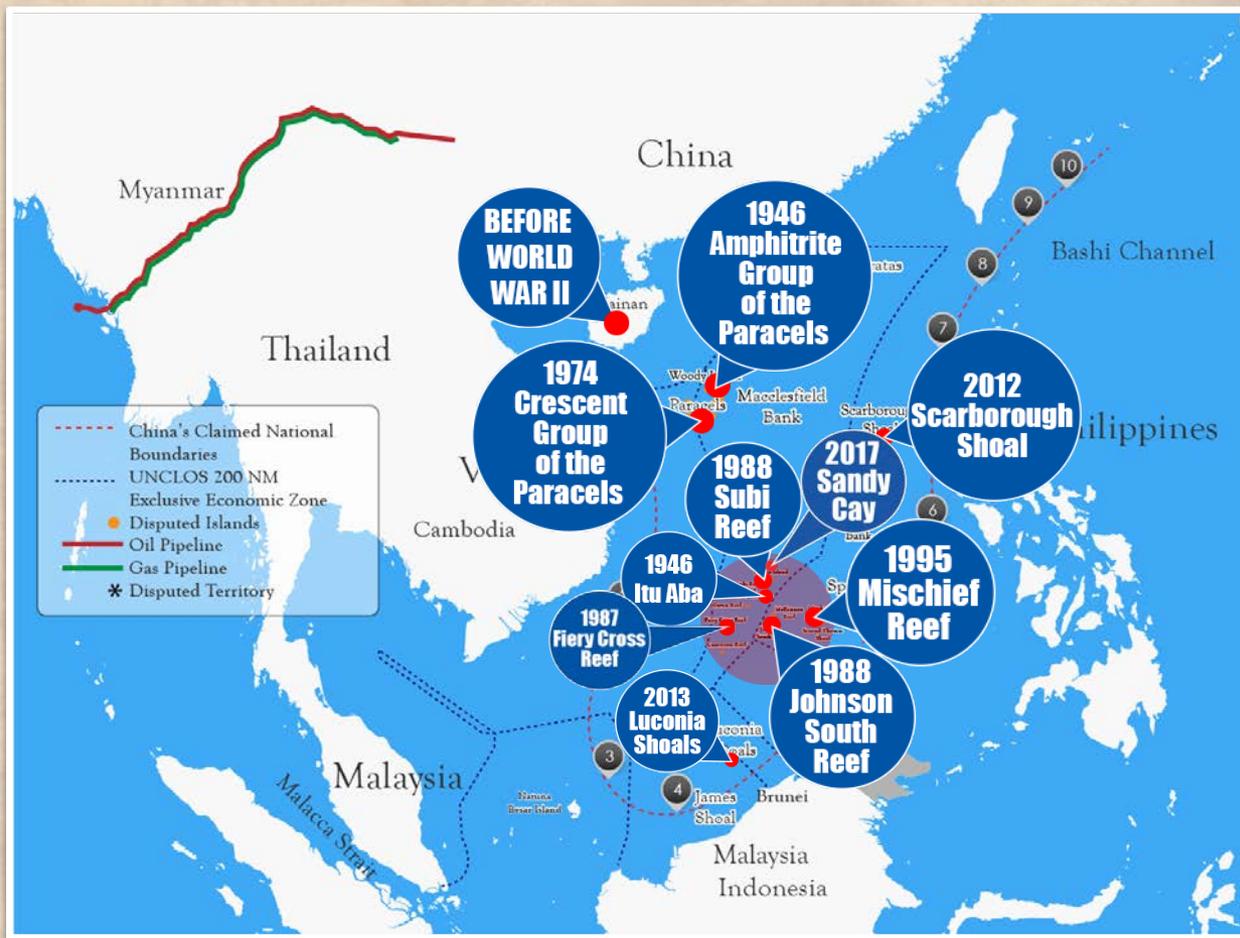
“China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.” - China’s *Note Verbale* of 7 May 2009

China's Air & Naval Bases in  
The Spratlys Will Enforce  
China's "National Boundary"  
In the South China Sea



# China's Creeping Expansion in the SCS from 1946 to 2017

Before World War II, China's southernmost defense perimeter was Hainan Island. Before the war, China did not have a single soldier or sailor stationed in any SCS island outside of Hainan Island. In 1946, right after the war, China (Kuomintang) took over the Amphitrite Group of the Paracels and Itu Aba in the Spratlys following the defeat of the Japanese, moving China's defense perimeter southward. China vacated Itu Aba in 1950 until 1956, when Taiwan re-occupied Itu Aba. In 1974, China forcibly dislodged the South Vietnamese from the Crescent Group of the Paracels. In 1987, China installed a weather radar station in Fiery Cross Reef. In 1988, China forcibly evicted Vietnam from Johnson South Reef, and seized Subi Reef from the Philippines, moving further south China's defense perimeter in the Spratlys.



In 1995, China seized Mischief Reef from the Philippines, just 125 NM from Palawan and 594 NM from Hainan. In 2012, China seized Scarborough Shoal from the Philippines, just 124 NM from Luzon. In 2013, China seized Luconia Shoals from Malaysia, just 54 NM from Sarawak's coast. In 2014, China started island-building on rocks and submerged areas in the Spratlys to construct air and naval bases. In 2017, China seized Sandy Cay from the Philippines.

## Separated by a “Narrow Body of Water”

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Chinese Foreign Minister Wang Yi stated in February 2016 in Washington DC, that China and the Philippines are very close neighbors separated by just a “**narrow body of water**” - referring to the sliver of territorial sea and EEZ between the Philippine coastline and the nine-dashed lines.

China considers the nine-dashed lines as the common border between China and the Philippines, running 1,700 kilometers very close to the territorial sea of the Philippines, just 64 kilometers off the coast of Balabac Island in Palawan, the southernmost island in Palawan, 70 kilometers off the coast of Bolinao in Pangasinan, and 44 kilometers off the coast of Y’ami (Mavulis) Island in Batanes, the northernmost island in Batanes.



# Chinese Ambassador Zhao Jianhua's Opinion Article\*



Zhao Jianhua (The Philippine Star) - November 15, 2018 - 12:00am

MANILA, Philippines — Being separated by only a narrow strip of water, China and the Philippines have been close neighbors for centuries, sharing not only geographic proximity, but also blood bonds, cultural affinity and a long and sincere traditional friendship. Time really flies and it has already been more than two years since H.E.

\* <https://www.philstar.com/opinion/2018/11/15/1868747/working-together-reinforce-three-pillars-golden-age-china-philippines-relations>

## President Xi: Admiral Zheng He Was in Manila

President Xi Jinping wrote an article titled “Open Up New Future Together for China-Philippines Relations.” This was published in Chinese and Philippine newspapers before his November 2018 visit to Manila. President Xi Jinping claimed:

“Over 600 years ago, Chinese navigator Zheng He made multiple visits to the Manila Bay, Visayas and Sulu on his seven overseas voyages seeking friendship and cooperation.”\*

- *Open up a New Future Together for China-Philippine Relations;*  
<http://www.chinadaily.com.cn/a/201811/19/WS5bf25430a310eff303289914.html>



## Open up new future together for China- Philippines relations

679  
SHARES



Xi Jinping (The Philippine Star) - November 19, 2018 - 12:00am

# Open up a New Future Together for China-Philippine Relations

**2051**  
SHARES

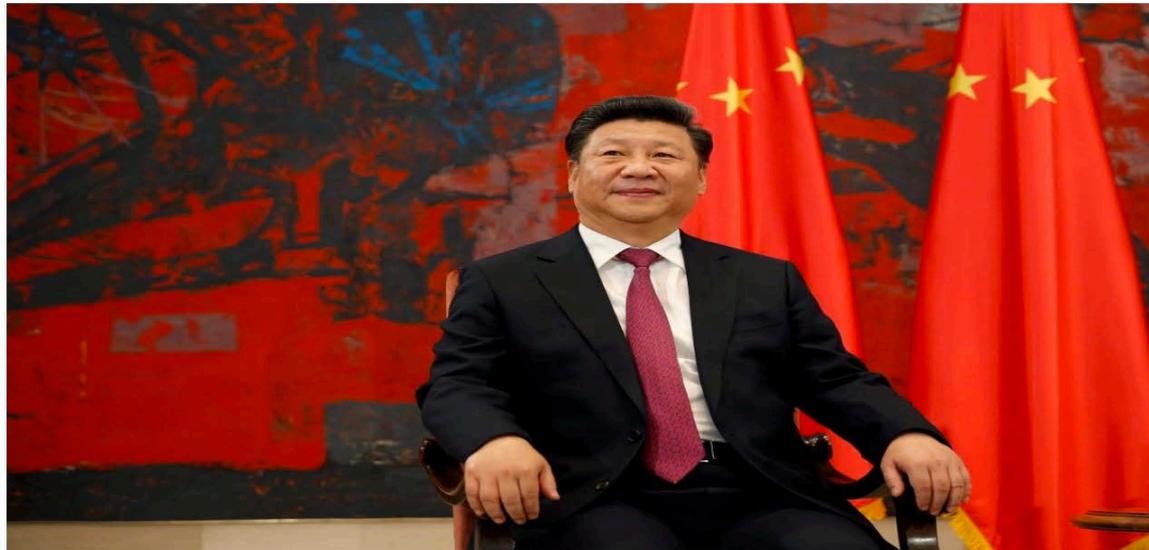
Share it!



Published November 19, 2018, 7:35 AM

**By Xi Jinping***President of the People's Republic of China*

I will soon pay a state visit to the Republic of the Philippines at the kind invitation of President Rodrigo Duterte. I am full of expectations as I am about to set foot on this beautiful land, an ever-growing nation and home to an honest and friendly people. I wish to convey my cordial greetings and best wishes to the people of the Philippines.



# Admiral Zheng He Never Visited the Philippines

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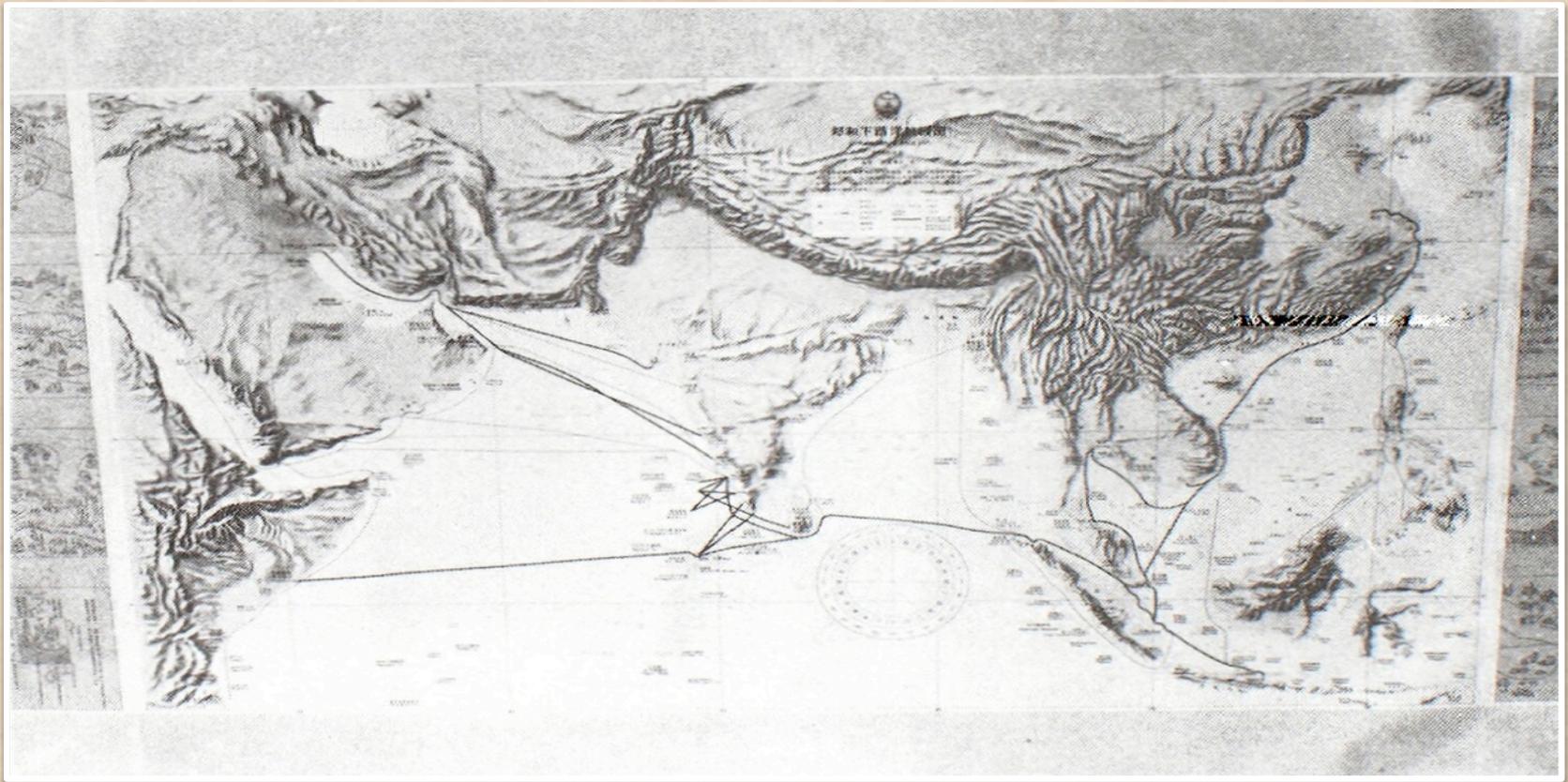
Zheng He never visited the Philippines at any time during his seven voyages. Professor Hsu Yun Ts'iao wrote:\*

"When Professor Chiao-min Hsieh of the Catholic University of America wrote that Zheng He supposedly visited the Philippines, he thought that Chan Cheng, which appeared in accounts written by members of Zheng He's expedition, was an old Chinese name for the Philippines. However, the word Chan Cheng was actually the Ming Dynasty name for a Malay state in Indo-China."\*

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\* Hsu Yun-Ts'iao, *Did Admiral Zheng He Visit the Philippines?* *Admiral Zheng He and Southeast Asia*, Leo Suryadinata ed, 2005, pp. 136-41. Published by International Zheng He Society of Singapore.

# Route of of Zheng He's Voyages



Compiled by Zhu Jianqui of the Naval Hydrographic Institute, People's Republic of China; see Zhu Jianqui, *A Brief Discussion on Zheng He's Nautical Charts*, *International Hydrographic Review*, Monaco, LXV(1), January 1988.

# National Geographic Traces Zheng He's Route

## 7 THE VOYAGES OF ZHENG HE

BETWEEN 1405 AND 1433 the seven voyages of Zheng He touched 30 modern-day countries in Africa and Asia. The fleet sailed to East Africa on Zheng He's sixth and seventh voyages, and an advance party may have gone farther, reaching Mozambique or even the Cape of Good Hope. A total of 100,000 people—passengers, troops, and crew—participated in these trips, which were intended as diplomatic missions rather than voyages of discovery. Over 300 foreign envoys, including nine kings, were brought back to China on Zheng He's ships, facilitating commerce across a huge swath of Asia and kindling new relationships with Islamic and African lands.

### EAST MEETS WEST IN 500 YEARS OF EXPLORATION

ca 1000 Leif Erikson sets foot on Newfoundland.

ca 1050 Chinese sailors first use liquid compass.

1000-1100 Chinese junk dock in the Persian Gulf and Red Sea.

1278 Led by Genghis Khan, the Mongols take Peking.

1278 Marco Polo visits China in the time of Kublai Khan.

1420-1430 Extension of the Great Wall, construction of the Forbidden City, and transfer of the capital to Peking

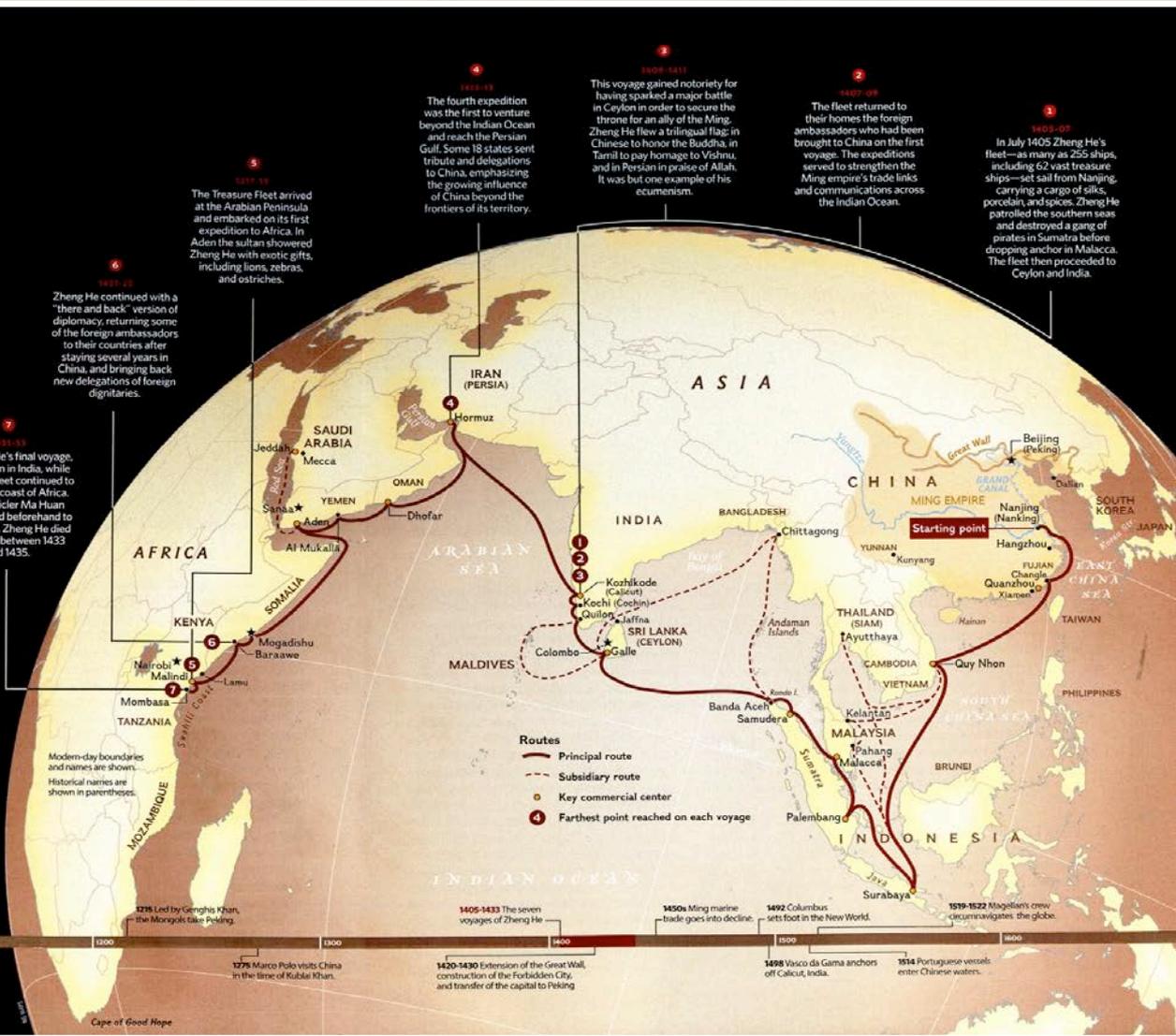
1450s Ming marine trade goes into decline.

1492 Columbus sets foot in the New World.

1498 Vasco da Gama anchors off Calicut, India.

1519-1522 Magellan's crew circumnavigates the globe.

1814 Portuguese vessels enter Chinese waters.



- 1405-1433**  
The Treasure Fleet arrived at the Arabian Peninsula and embarked on its first expedition to Africa. In Aden the sultan showered Zheng He with exotic gifts, including lions, zebras, and ostriches.
- 1405-1413**  
The fourth expedition was the first to venture beyond the Indian Ocean and reach the Persian Gulf. Some 18 states sent tribute and delegations to China, emphasizing the growing influence of China beyond the frontiers of its territory.
- 1407-09**  
This voyage gained notoriety for having sparked a major battle in Ceylon in order to secure the throne for an ally of the Ming. Zheng He flew a trilingual flag in Chinese to honor the Buddha, in Tamil to pay homage to Vishnu, and in Persian in praise of Allah. It was but one example of his ecumenism.
- 1409-17**  
The fleet returned to their homes the foreign ambassadors who had been brought to China on the first voyage. The expeditions served to strengthen the Ming empire's trade links and communications across the Indian Ocean.
- 1409-17**  
In July 1405 Zheng He's fleet—as many as 255 ships, including 62 vast treasure ships—set sail from Nanjing, carrying a cargo of silks, porcelain, and spices. Zheng He patrolled the southern seas and destroyed a gang of pirates in Sumatra before dropping anchor in Malacca. The fleet then proceeded to Ceylon and India.

**1417-22**  
Zheng He continued with a "there and back" version of diplomacy, returning some of the foreign ambassadors to their countries after staying several years in China, and bringing back new delegations of foreign dignitaries.

**1424-25**  
On Zheng He's final voyage, he stayed on in India, while part of the fleet continued to the Swahili coast of Africa. The chronicler Ma Huan disembarked beforehand to visit Mecca. Zheng He died sometime between 1433 and 1435.

Modern-day boundaries and names are shown. Historical names are shown in parentheses.

- Principal route
- - - Subsidiary route
- Key commercial center
- ④ Farthest point reached on each voyage

Cape of Good Hope

# On Whether China Has Historic Rights In the South China Sea

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The Arbitral Tribunal ruled that all historic rights in the EEZ, ECS and high seas were extinguished upon effectivity of UNCLOS:

“[A]ny historic rights that China may have had to the living and non-living resources within the ‘nine-dash line’ were **superseded**, as a matter of law and as between the Philippines and China, by the limits of the maritime zones provided for by the Convention.”

In short, “there was no legal basis for China to claim historic rights to resources within the sea areas falling within the ‘nine-dash line’.”

## Did China Actually Own, Possess and Control The South China Sea Since 2,000 Years Ago?

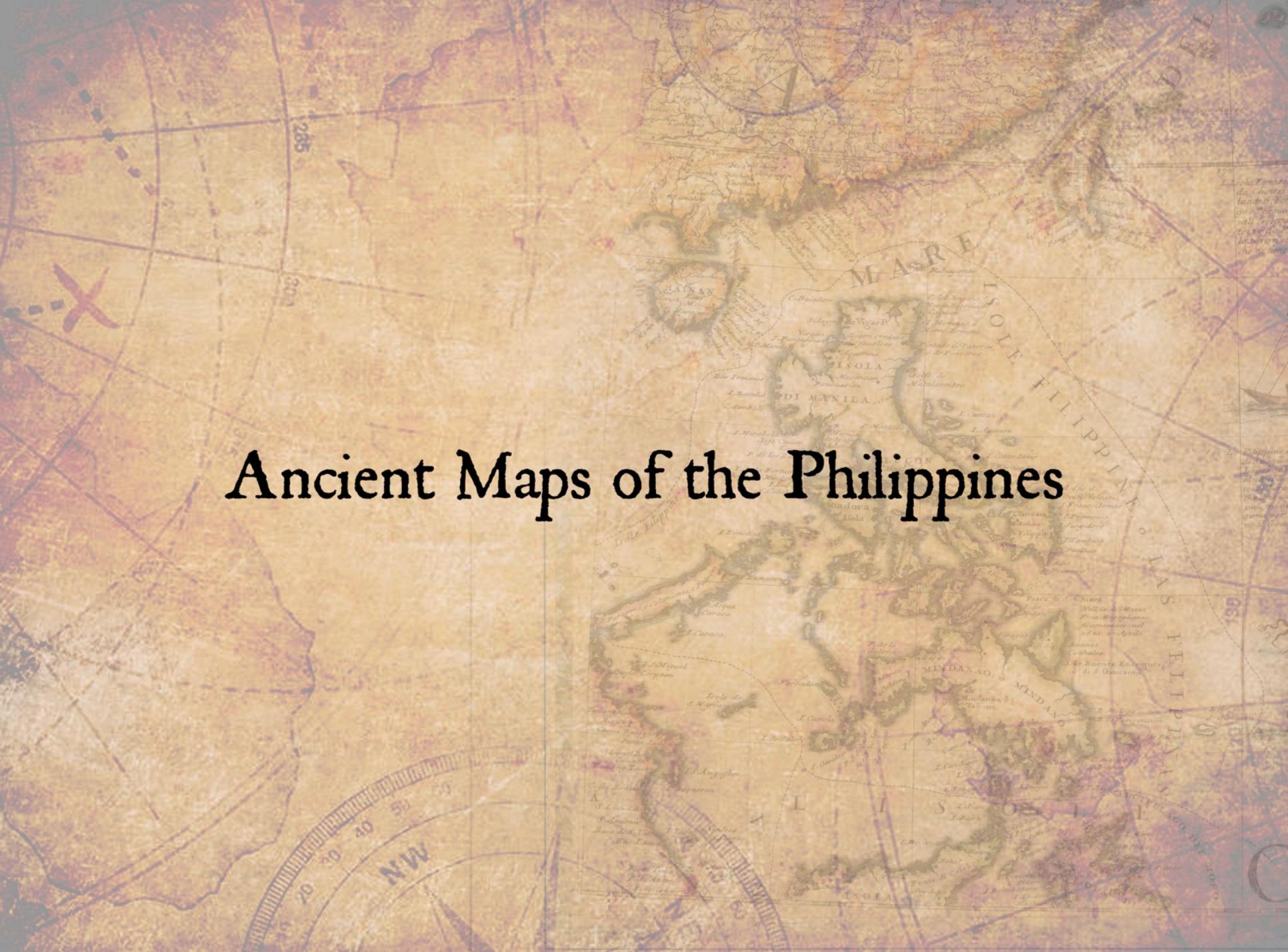
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But did China ever historically own, possess and control the South China Sea and its islands since 2,000 years ago? **Did China, as matter of fact, have historic rights in the South China Sea before the effectivity of UNCLOS?**

## Over 170 Ancient Maps Submitted to Arbitral Tribunal

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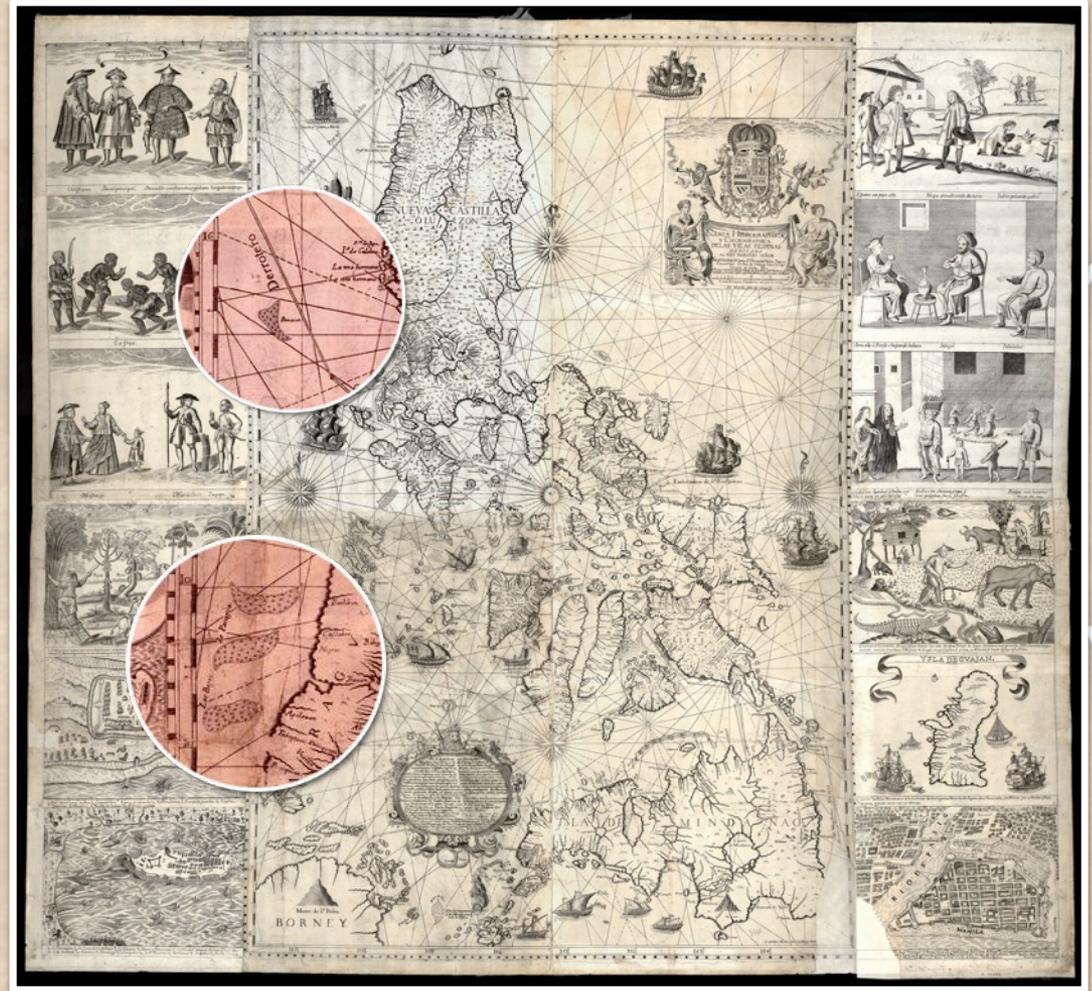
The Philippines submitted to the Tribunal over 170 ancient maps, including (1) Chinese maps from the Song to the Qing dynasties; (2) Philippine and Southeast Asian maps, and (3) European maps of Asia. This is the highest number of ancient maps ever submitted to an international tribunal. The purpose in submitting these maps, together with official documents of China after the Qing dynasty, was to show that China never owned or controlled the South China Sea at any time in its history.



# Ancient Maps of the Philippines

# 1734 Carta Hydrographica y Chorographica de las Yslas Filipinas

Printed in 1734 in Manila by the Jesuit Pedro Murillo Velarde. This is the oldest map that gives a name to Scarborough Shoal as *Panacot*, a Tagalog word for danger. This is also the oldest map that gives a name to the Spratlys as “*Los Bajos de Paragua*,” literally the shoals of Paragua. Paragua is the Spanish name for the island of Palawan. (The Spratlys are named after Richard Spratly, the British captain of the whaling ship *Cyrus* whose crew sighted Spratly Island on 29 March 1843.) This map, an official Spanish Government map, shows Scarborough Shoal and the Spratlys as part of Philippine territory during the Spanish regime. This map carries the signatures of two Filipinos, Francisco Suarez who drew the map, and Nicolas dela Cruz Bagay who engraved it. This map, 44 x 47.24 inches in size, is considered the “mother of all Philippine maps.” This digital reproduction is from the World Digital Library.



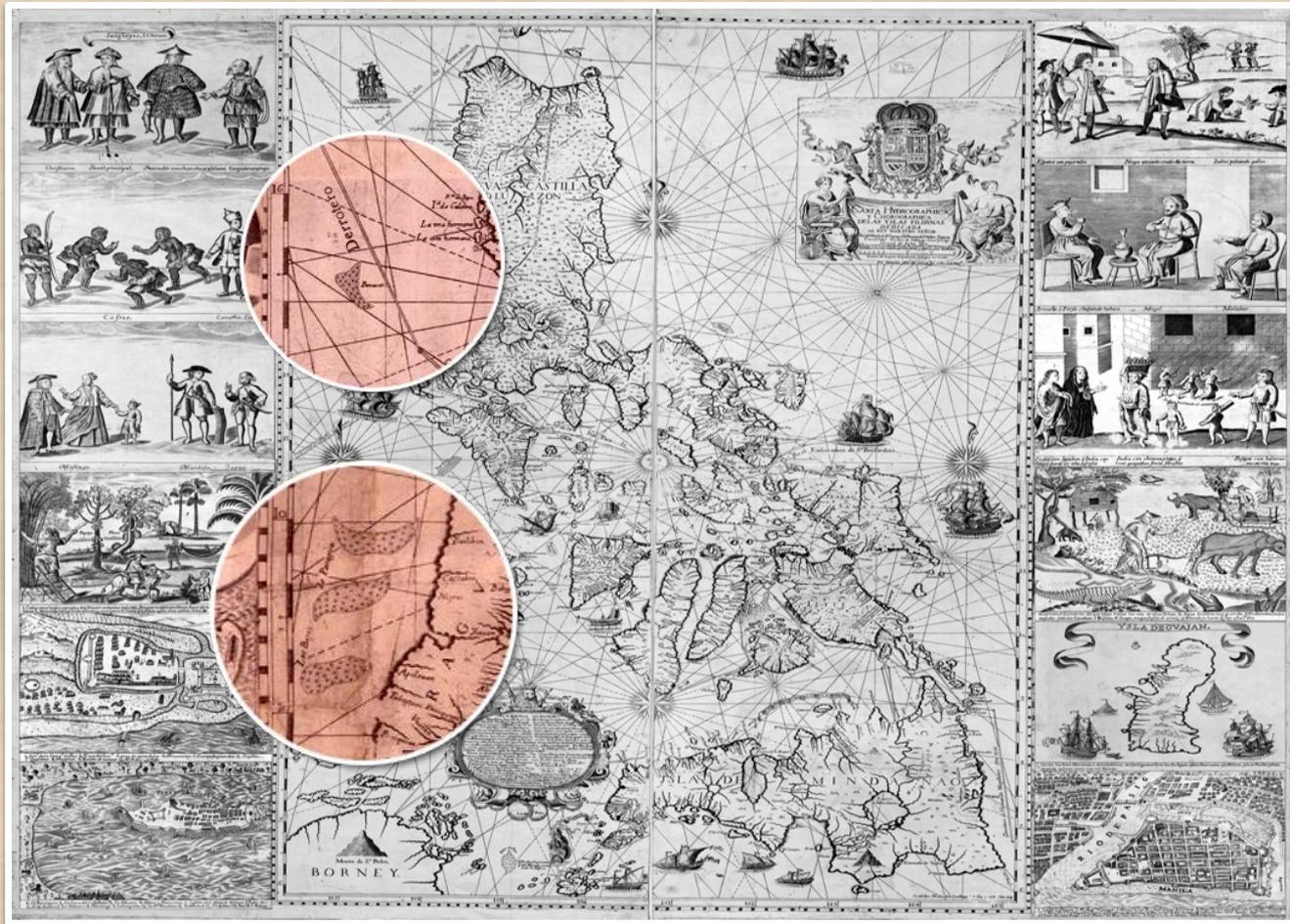
(Source: <https://www.wdl.org/en/item/10089>, from the National Library of Spain); Size: 112 x 120 cm or 44 x 47.24 inches.

# Cartouche on Upper Right Side



On the upper right side of the map is a cartouche crowned by the Spanish royal coat of arms. An angel with a trumpet flanks each side. Below is a curtain held by two female allegories unfurling the title of the map. The map is an official map of the Philippines since it was made upon the instruction of King Philip V of Spain in 1732 to Governor-General Fernando Valdes Tamon, who commissioned the Jesuit priest Pedro Murillo Velarde to make the map.

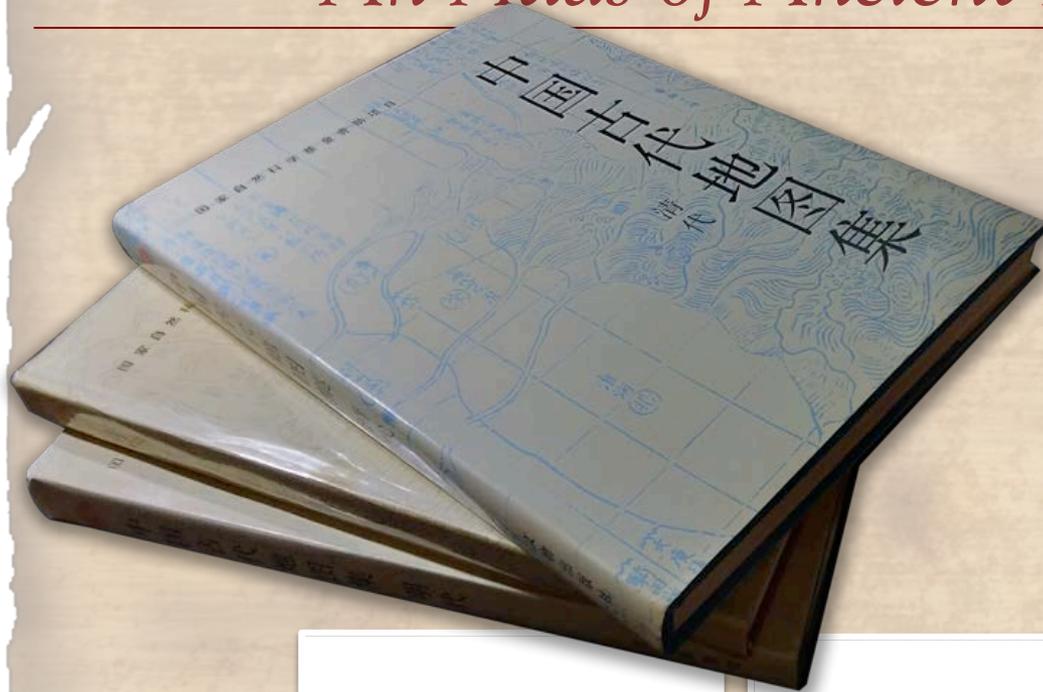
# 1734 Carta Hydrographica y Chorographica de las Yslas Filipinas



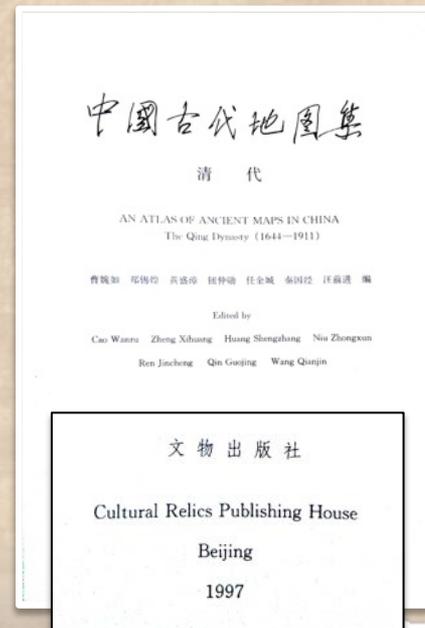
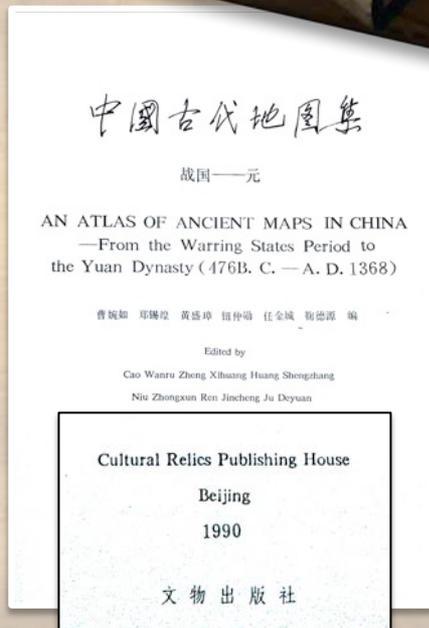
The 1734 Murillo Velarde Map of the Philippines is an **official** Spanish Government map showing Philippine territory during the Spanish regime. This map shows *Panacot* (Scarborough Shoal) and *Los Bajos de Paragua* (the Spratlys) as part of Philippine territory. Note the inscription on the bottom right of the map itself: “Lo esculpió Nicolás de la Cruz Bagay, Indio Tagalo en Manila Año 1734.”



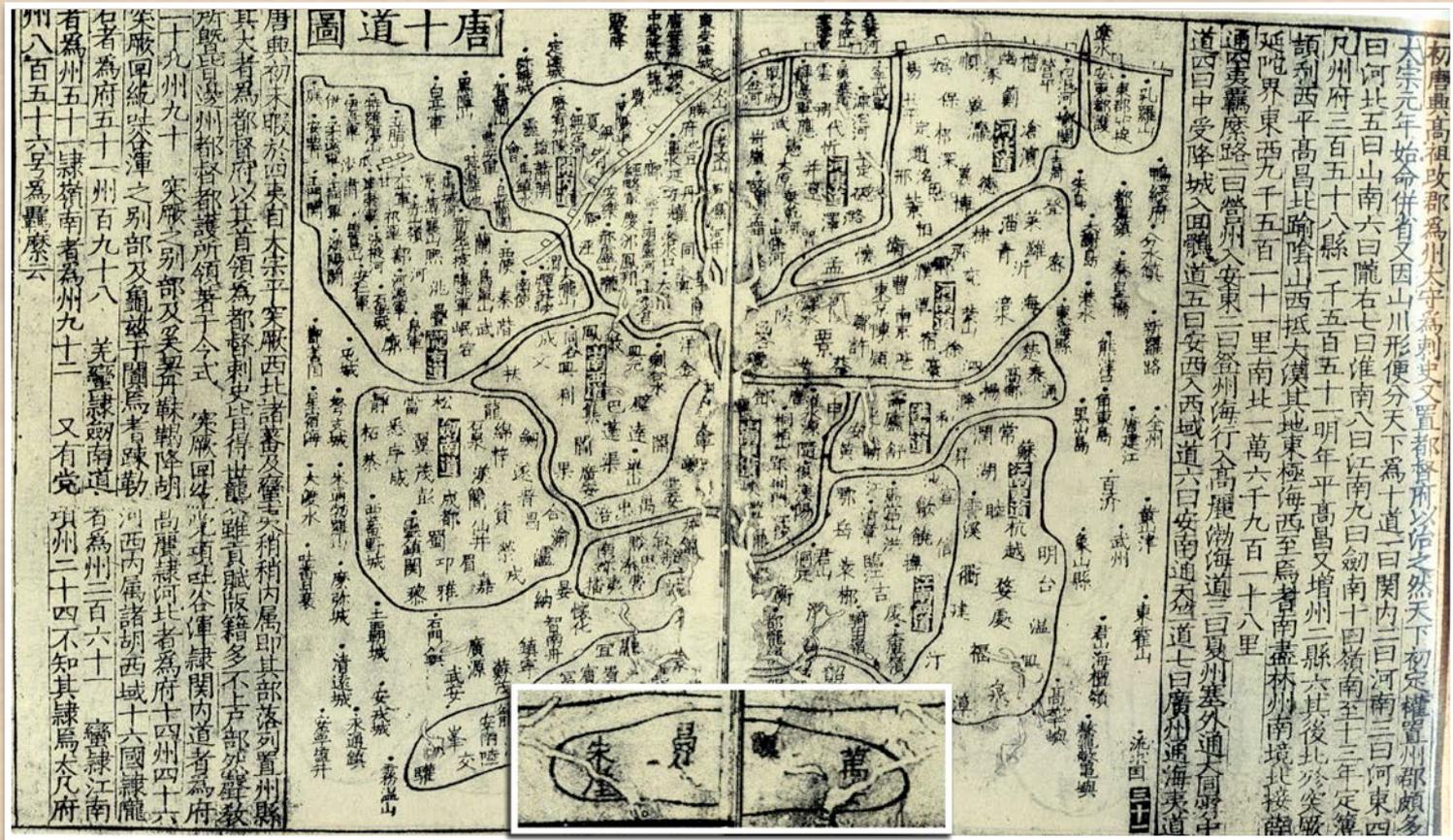
# An Atlas of Ancient Maps in China



Published by the Cultural Relics Publishing House, Beijing, 1990. The Cultural Relics Publishing House is a publishing arm of the State Bureau of Cultural Relics of China.



# 1098-1100 AD Map of the Ten Dao of the Tang Dynasty



This map, named *Shi Dao Tu*, shows Hainan Island as the southernmost territory of the Tang Dynasty. This map is from the atlas *Li Dai Di Li Zhi Zhang Tu* (*Geographic Atlas of All Dynasties*), compiled either by Su Shi or Shui Anli, between 1098 and 1100 AD. Source: *An Atlas of Ancient Maps in China – From the Warring States Period to the Yuan Dynasty (476 BC – 1368 AD)*, Cultural Relics Publishing House, Beijing, 1990, Map 97. The Cultural Relics Publishing House is a publishing arm of the State Bureau of Cultural Relics of China.

# 1136 AD “Hua Yi Tu”

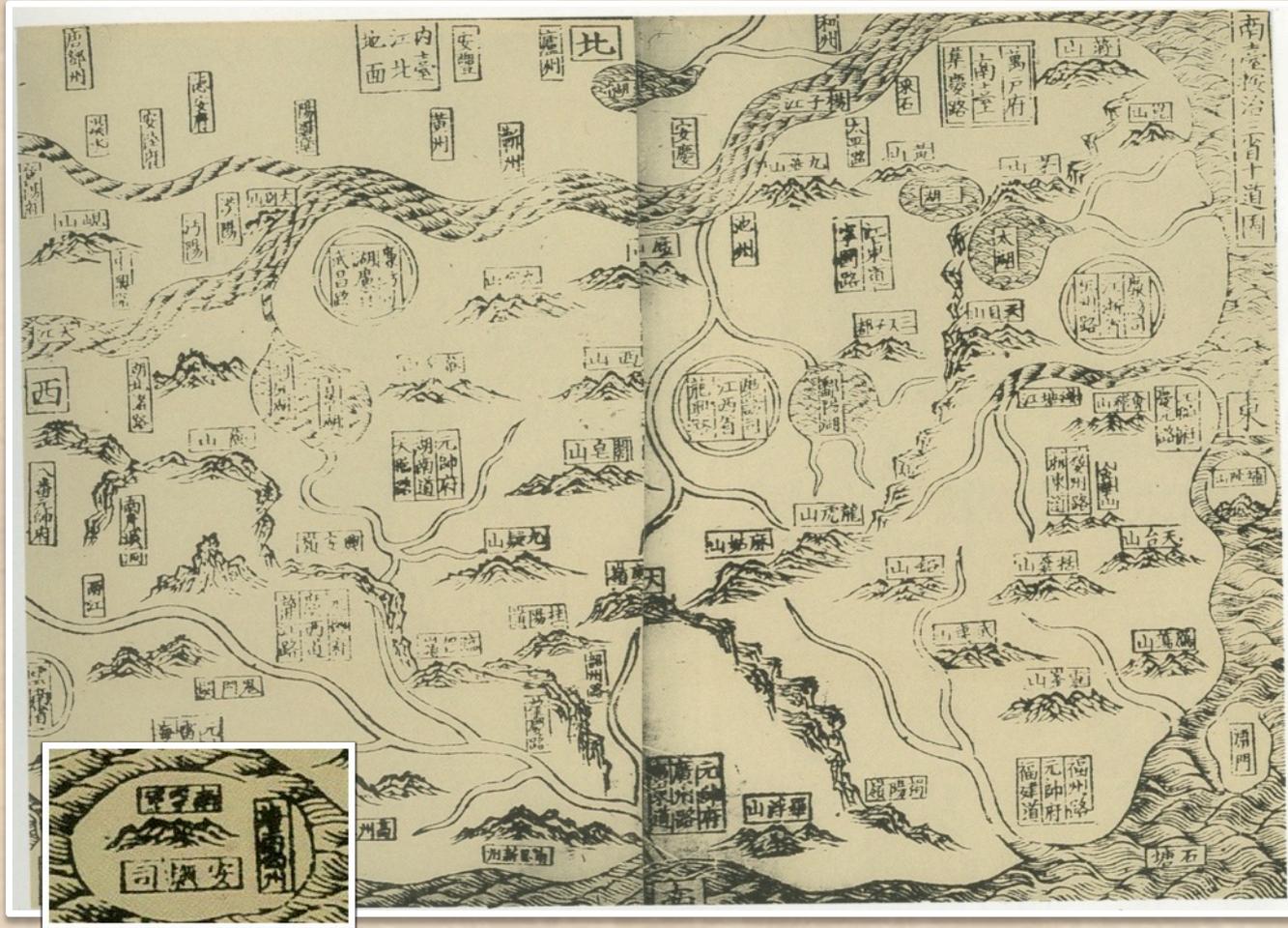
Engraved in stone in Fuchang 1136 CE during the Nan Song Dynasty. This map of China was published in 1903(?) in France from a rubbing of the stone engraving. The stone map is now in the Forest of Stone Steles Museum in Xi'an, China. The stone map shows Hainan Island as the southernmost territory of China. The annotations on the sides of the map are not part of the stone engraving. This digital reproduction is from the U.S. Library of Congress. (Source:

<https://www.loc.gov/item/2002626771>)

This is map number 60 in *Atlas of Ancient Maps in China - From the Warring States Period to the Yuan Dynasty (476 BCE - CE 1368)*, published in Beijing in 1990 by the Cultural Relics Publishing House.



# 1343 Nan Tai An Zhi San Sheng Shi Dao Tu



This block-printed *Map of the Ten Dao under the Three Ministries* was published, together with 20 other maps, by Zhang Xuan in 1343 during the Yuan Dynasty (1279–1368). The map shows Hainan Island as the southernmost territory of the Yuan Dynasty. Source: *An Atlas of Ancient Maps in China – From the Warring States Period to the Yuan Dynasty (476 BC – 1368 AD)*, Cultural Relics Publishing House, Beijing, 1990, Map 193.

# 1389 “Da Ming Hun Yi Tu “or The Great Ming Dynasty Amalgamated Map

Published in 1389(?) during the Ming Dynasty (1368-1644). Painted in color on silk, this map shows Hainan Island as the southernmost territory of China. The original of the map is with the First Historical Archive of China in Beijing. This digital reproduction is from Wikimedia Commons, which sourced its copy from the library of the Hong Kong Baptist University. (Source: <https://commons.wikimedia.org/wiki/File:Da-ming-hun-yi-tu.jpg>)

This is map number 1 in *An Atlas of Ancient Maps in China - The Ming Dynasty (1368 - 1644)*, published in Beijing in 1994 by the Cultural Relics Publishing House.



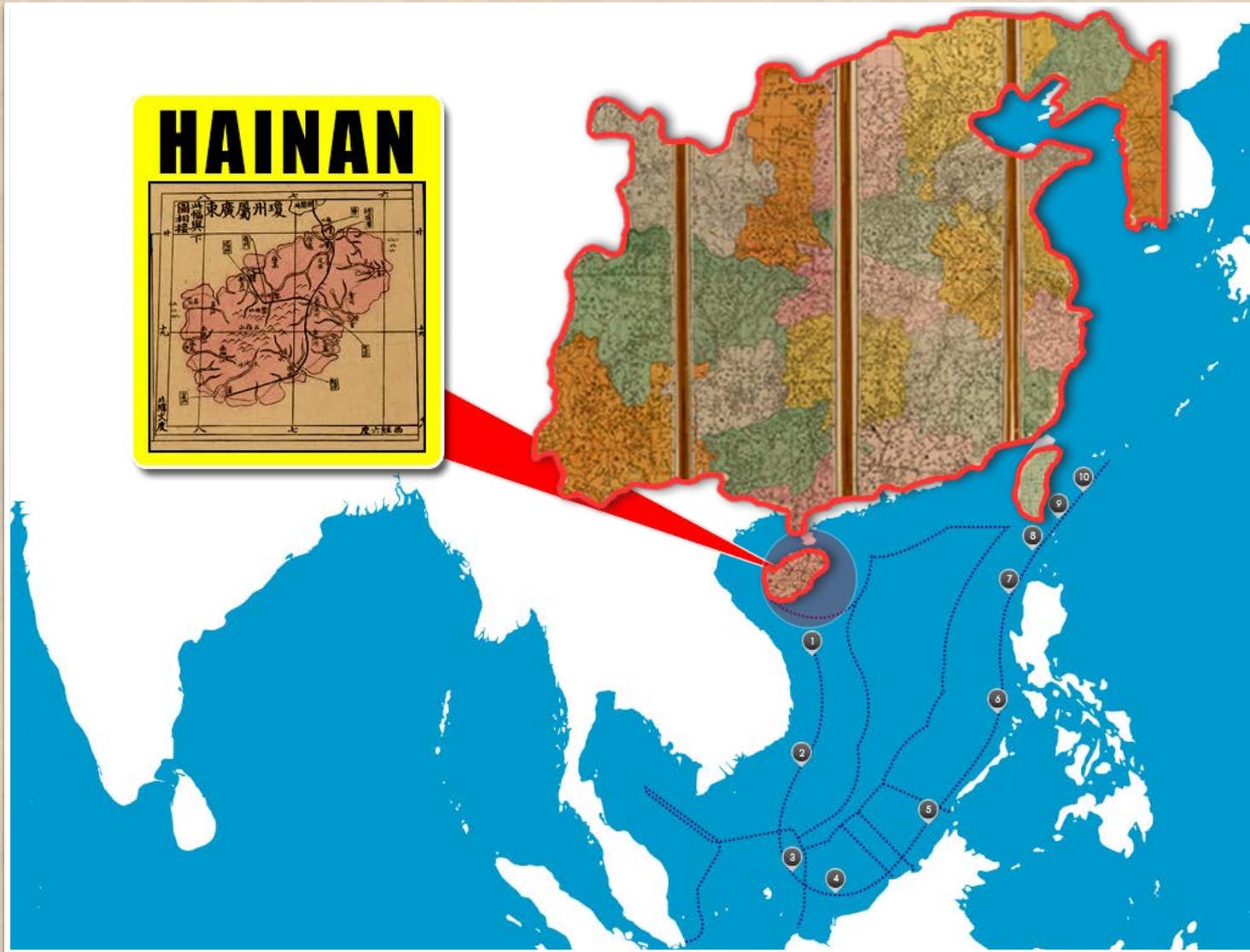
# Huang Yu Quan Tu or The Complete Map Of the Imperial Territory of the Qing Dynasty



129 皇輿全圖(清會典)  
*Huang Yu Quan Tu* (Complete Map of Imperial Territory  
of the Qing Dynasty)

This is map number 129 in *An Atlas of Ancient Maps in China - The Qing Dynasty (1644-1912)*, published in Beijing in 1997 by the Cultural Relics Publishing House, People's Republic of China.

# China's Southernmost Territory Through the Dynasties - Hainan (1894)



# Chinese Territory Ended in Hainan Island

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Thus, the Philippines declared before the Tribunal:

“The Philippines submits that Chinese historic maps dating back to 1136, including those purporting to depict the entirety of the Empire of China, consistently show China’s territory extending **no further south than Hainan.**”\*

\* Para 195, Award of 12 July 2016, The South China Sea Arbitration.

# Expansion of Southernmost Territory of China Started in 1932

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- In 1932, the French occupied the uninhabited Paracels. China sent a *Note Verbale* to the French Government on September 29, 1932 protesting the French occupation of the Paracels. In its *Note Verbale*, 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*

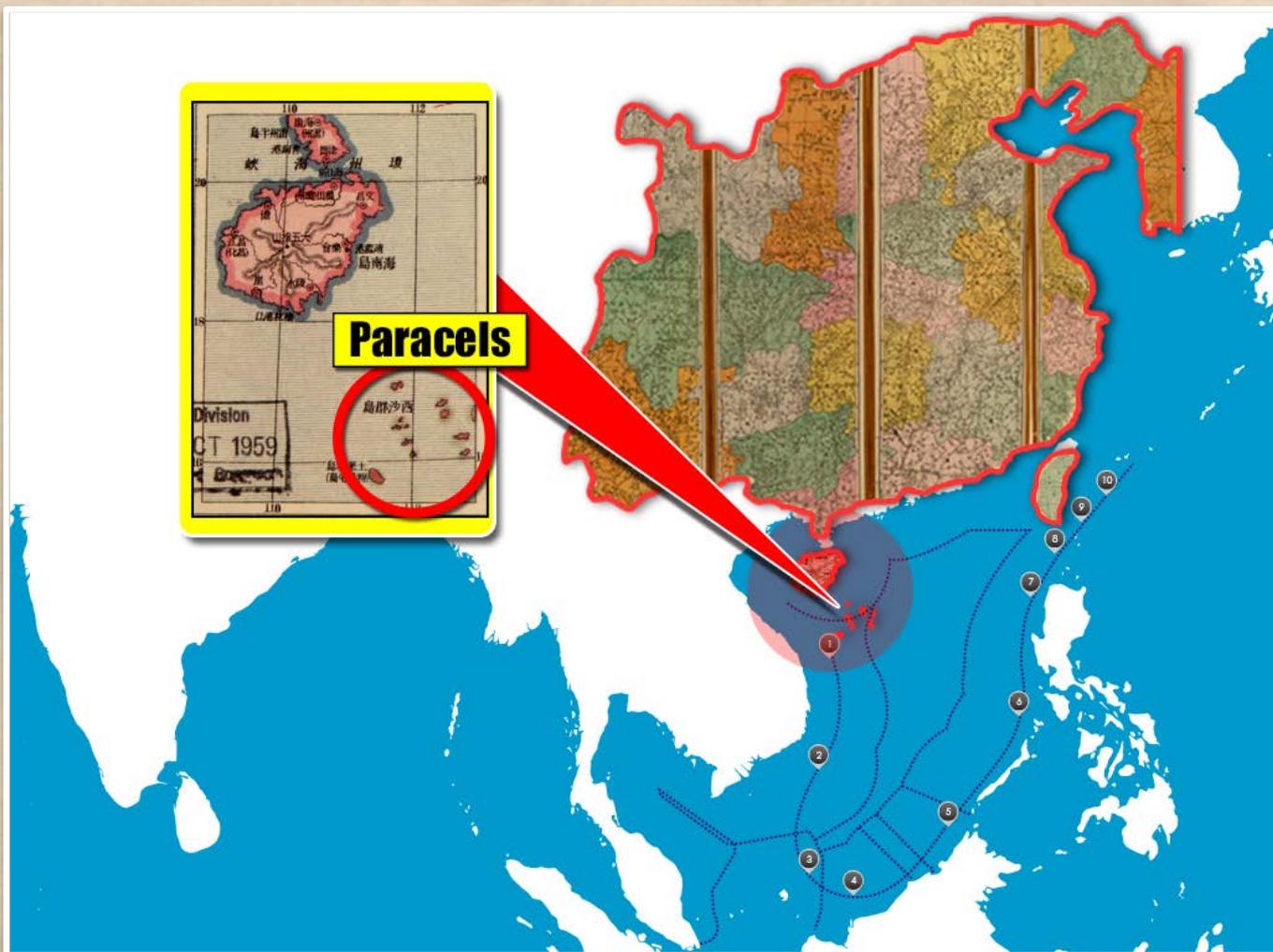
On the instructions of its Government, the Legation of the Chinese Republic in France has the honor to transmit its Government’s reply to the Foreign Ministry’s Note of 4 January 1932 on the subject of the Paracel Islands.”

XXXXX

“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]

# “Southernmost Part of Chinese Territory” – the Paracels



The Paracels - “These groups lie 145 nautical miles from Hainan Island, and form the southernmost part of Chinese territory.” *China’s Note Verbale to France of 29 September 1932*

# China's Republican Constitutions\*

## Adopted Past Dynasties' Territory

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### 1. 1914 Provisional Constitution of the Republic of China:

“The territory of the Republic of China continues to be the territory of the *former empire*. (referring to the Qing Dynasty – Ed)” [Regulations of the Republic of China Concerning Rule Over Tibet, China No. 2 History Archives, International Press, 1 January 1999]

### 2. 1924 Constitution of the Republic of China:

“The territory of the Republic of China continues to be the *traditional territory*.”

### 3. 1937 Constitution of the Republic of China:

“The territory of the Republic of China continues to be the territory it *owned in the past*.”

### 4. January 1, 1947 Constitution of the Republic of China:

“The territory of the Republic of China shall be that encompassed by its *traditional boundaries*.”

\* Regulations of the Republic of China Concerning Rule Over Tibet, China No. 2 History Archives, China International Press.

# Regulations of the Republic of China Concerning Rule Over Tibet

## Regulations of the Republic of China Concerning Rule Over Tibet

Handwritten text in Chinese characters, likely a document or manuscript related to the regulations mentioned in the title. The text is arranged in vertical columns, typical of traditional Chinese writing. The characters are somewhat faded and difficult to read in detail, but they appear to be a formal document.

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

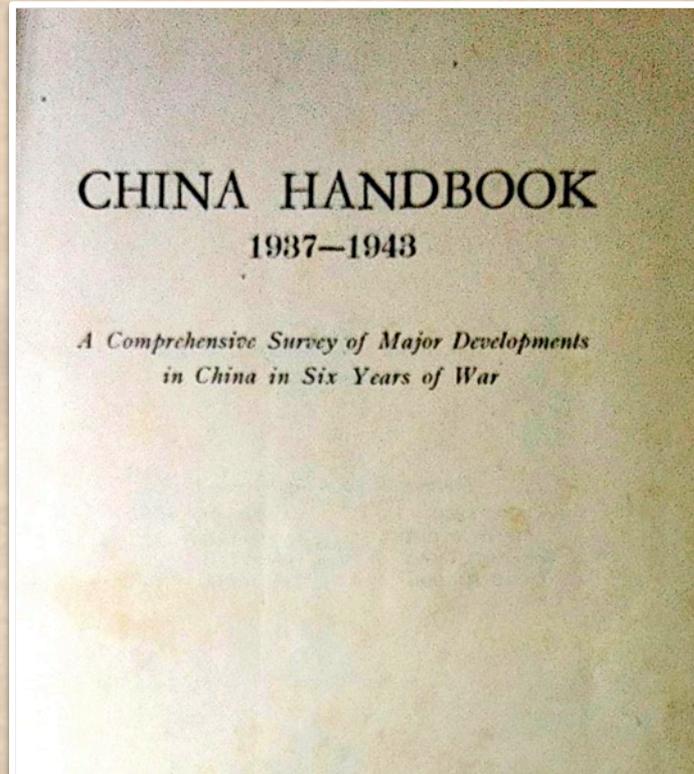
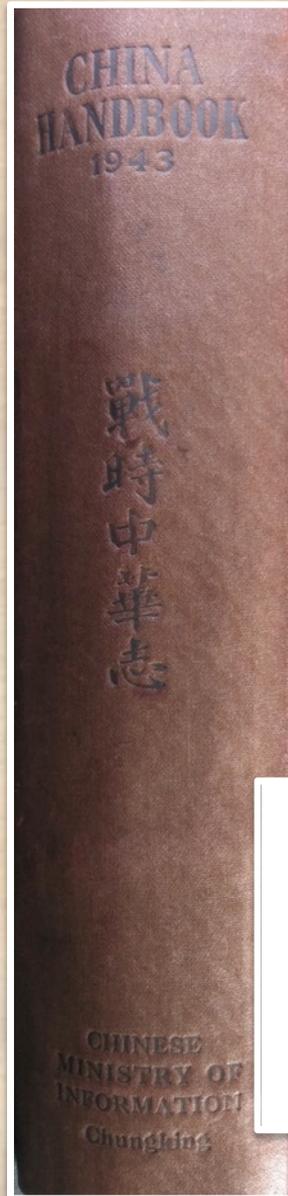
## 1943 China Handbook (1937-1943)

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In July 1943, the Chinese *Ministry of Information* of the Republic of China published the *1943 China Handbook*. Chapter 1 of the Handbook defined the territory of China as follows:

“The territory of the Republic of China extends from latitude 53° 52’ 30” N. (Sajan Mountains) to 15° 16’ N (Triton Island of the Paracel Group to the South of Hainan) and from longitude 73° 31’ E. (the eastern fringe of the Pamirs) to 135° 2’ 30” E. (the confluence of the Amur and Ussuri Rivers).”

# 1943 China Handbook (1937-1943)



Published by  
THE CHINESE MINISTRY OF INFORMATION  
P. O. BOX 107, CHUNGKING, CHINA  
*July, 1943*

## 1946 China Handbook (1937-1945)

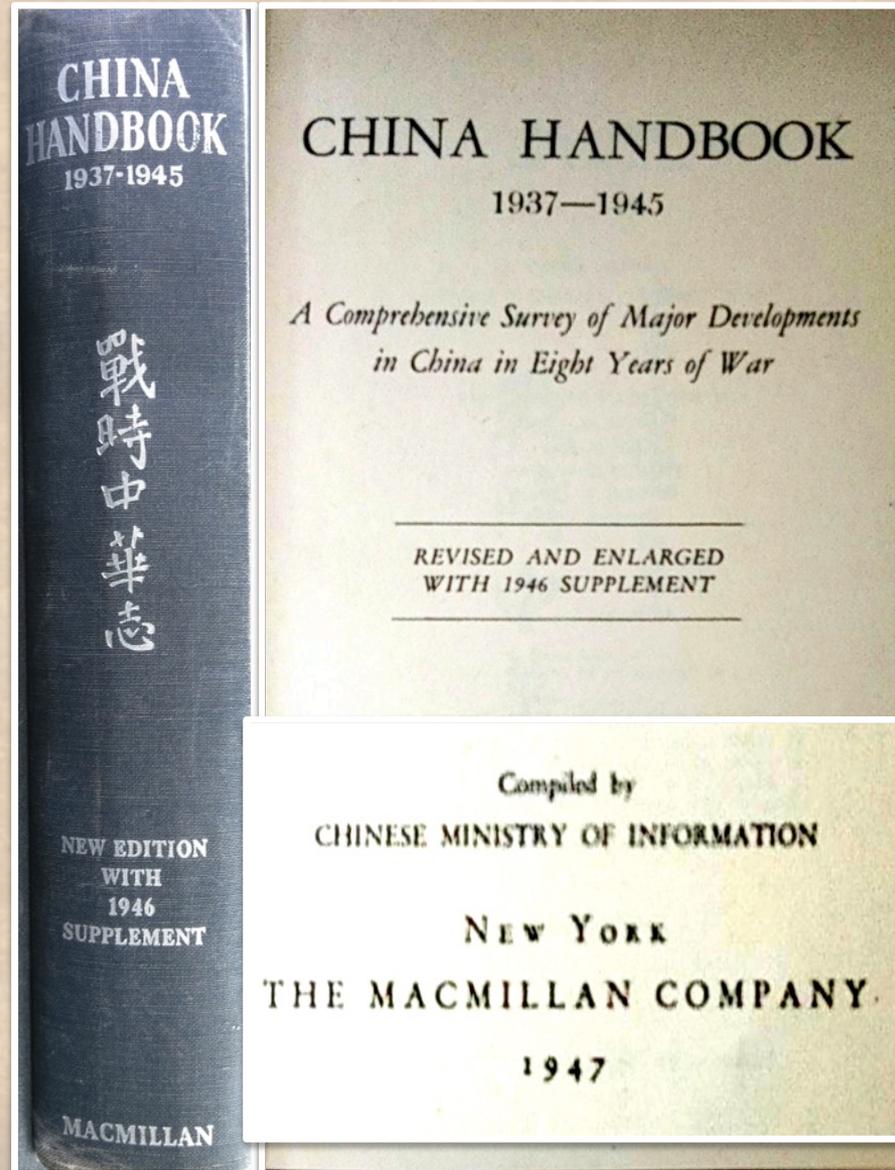
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China's *Ministry of Information* revised the *China Handbook* in 1946. Chapter 1 of the revised Handbook defined the territory of China as follows:

“The territory of the Republic of China begins in the north from latitude 53° 52' 30" N. (Sajan Mountains) and in the east from longitude 135° 2' 30" E. (the confluence of the Amur and the Ussuri Rivers). The southernmost and westernmost boundaries remain to be settled as the Pamirs on the west constitute an undemarcated area among China, the U.S.S.R. and the British Empire, and the sovereignty of the Tuansha Islands (the Coral Islands) on the south are contested among China, the Commonwealth of the Philippines and Indo-China. The northern section of the boundary between China and Burma remains to be demarcated.”

# 1946 China Handbook (1937-1945)

It was only in this 1946 *Handbook* that China started to claim the Spratlys.



# China's 1947 Nine-Dashed Line Map

The Chinese Government circulated this map internally in China in late 1947. In February 1948, China published this map in an atlas of national administrative districts. This map gives Chinese names to geologic features in the Spratlys but the names are transliterations from English names found in a British map. Scarborough Shoal appears in this map but without a name, unlike all the other features that China claimed in this map.

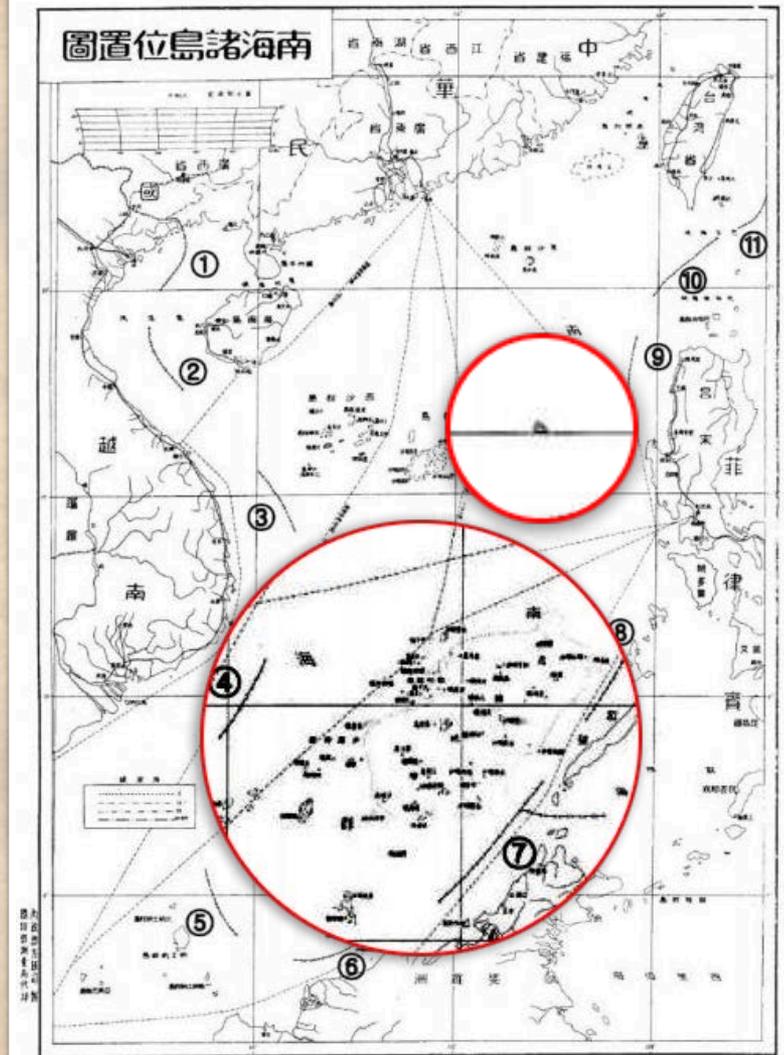


Figure 1. "Map of the Location of the South China Sea Islands" released by the ROC Government. (Source: See a reproduction of the original U-shaped lines map issued by the ROC Government on December 1946 in Nien-Tsu Alfred Hu, "South China Sea: Troubled Waters or a Sea of Opportunity", Figure 2, p. 6, in this Special Issue.)

# Chinese Sovereignty Markers in the Paracels

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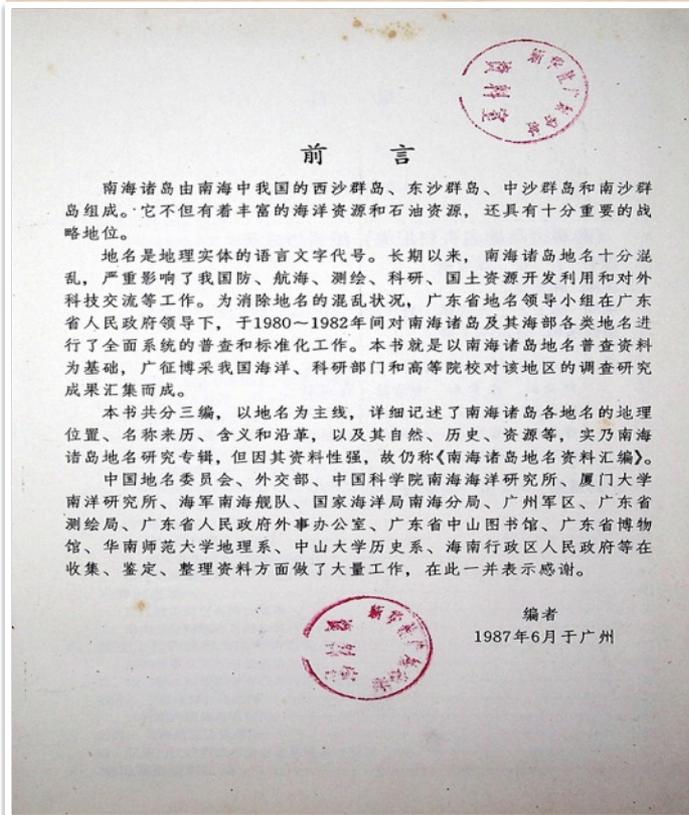
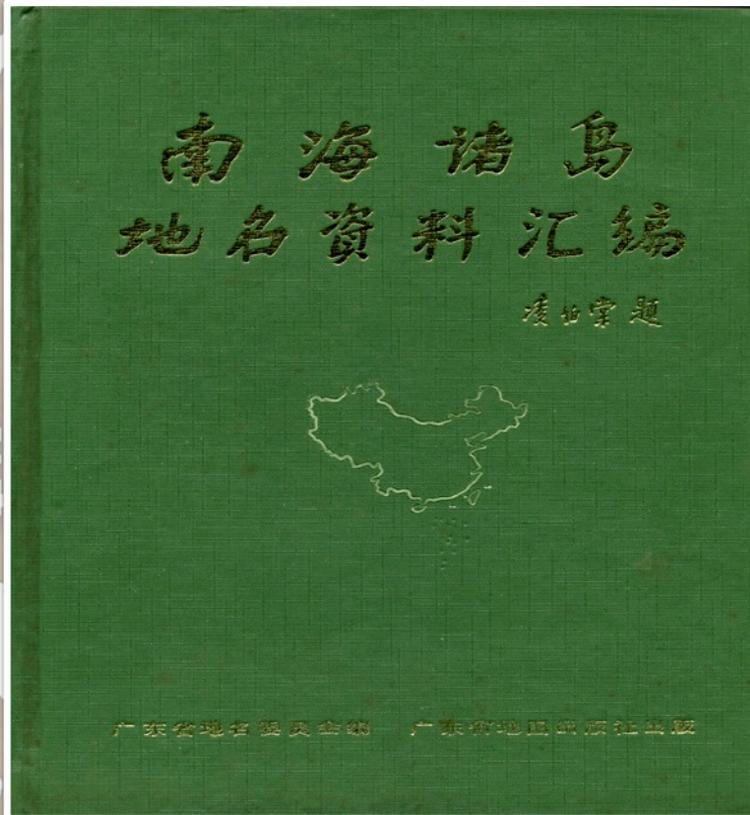
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Steles from the Guangxu reign (1882-1902) on one of the Xisha Islands

Source: Thomas H. Hahn Docu-Images.

<http://hahn.zenfolio.com/xisha/h1D468115#h1d468115>

# “Compilation of References on the Names Of All Our Islands of Nan Hai”



Published in 1987 by the Committee of Place Names of Guangdong Province. This book contained an interesting Annex and Editor's Note.

In June 1937, the chief of Chinese military region No. 9, Huang Qiang, was sent by the Kuomintang Government to the Paracels with two ostensible missions: first, to check reports that the Japanese were invading the islands; and second, to assert Chinese sovereignty over them.

## Planting of Antedated Markers in the Paracels

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Page 289 of the 1987 Compilation contains an Annex which was Huang Qiang's *Confidential Report of 31 July 1937*, which documents the planting of antedated markers in the Paracels. Huang Qiang went to the Paracels in June 1937 but the markers he planted were dated from 1902 to 1921. The Annex states, *inter alia*:

1. "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*';"
2. At the northern shore of Bei Dao (North Island), a tablet can be found with the inscription '*Commemorating the Inspection of 1902*.'"
3. "(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'."

# Planting of Antedated Markers in the Spratlys

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Page 291 of the 1987 Compilation contains the *Editor's Note* stating that the “stone tablets on these two islands might have been erected by the Taiwanese Navy in 1956,” not in 1946 as indicated on the stone tablets. This documents the planting of antedated markers in the Spratlys, thus:

“Xiyue Dao (West York Island) is located 44 NM northeast of Taiping Dao (Itu Aba 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 in December 1946.” (Page 66)

“A stone tablet was erected at the center of Nanwei Dao (Spratly Island), with the inscription “Nanwei Dao (Spratly Island)” and “Erected in December 1946.” (Page 72)

## China's Historical Narrative on Scarborough Shoal

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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:

# 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.

## 1980 Official Document of China's Ministry of Foreign Affairs

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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

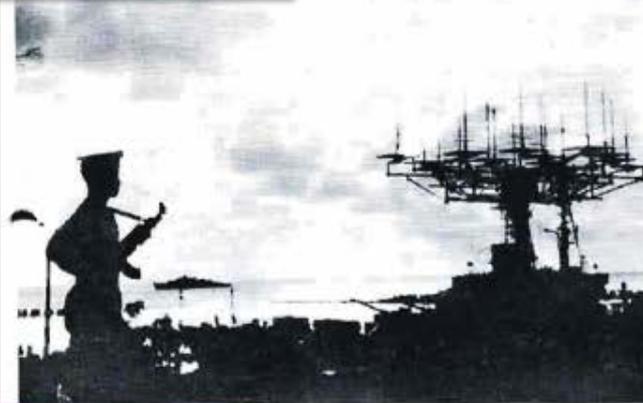
A CHINESE WEEKLY  
OF  
NEWS AND VIEWS

China's Indisputable  
Sovereignty Over Xisha  
And Nansha Islands

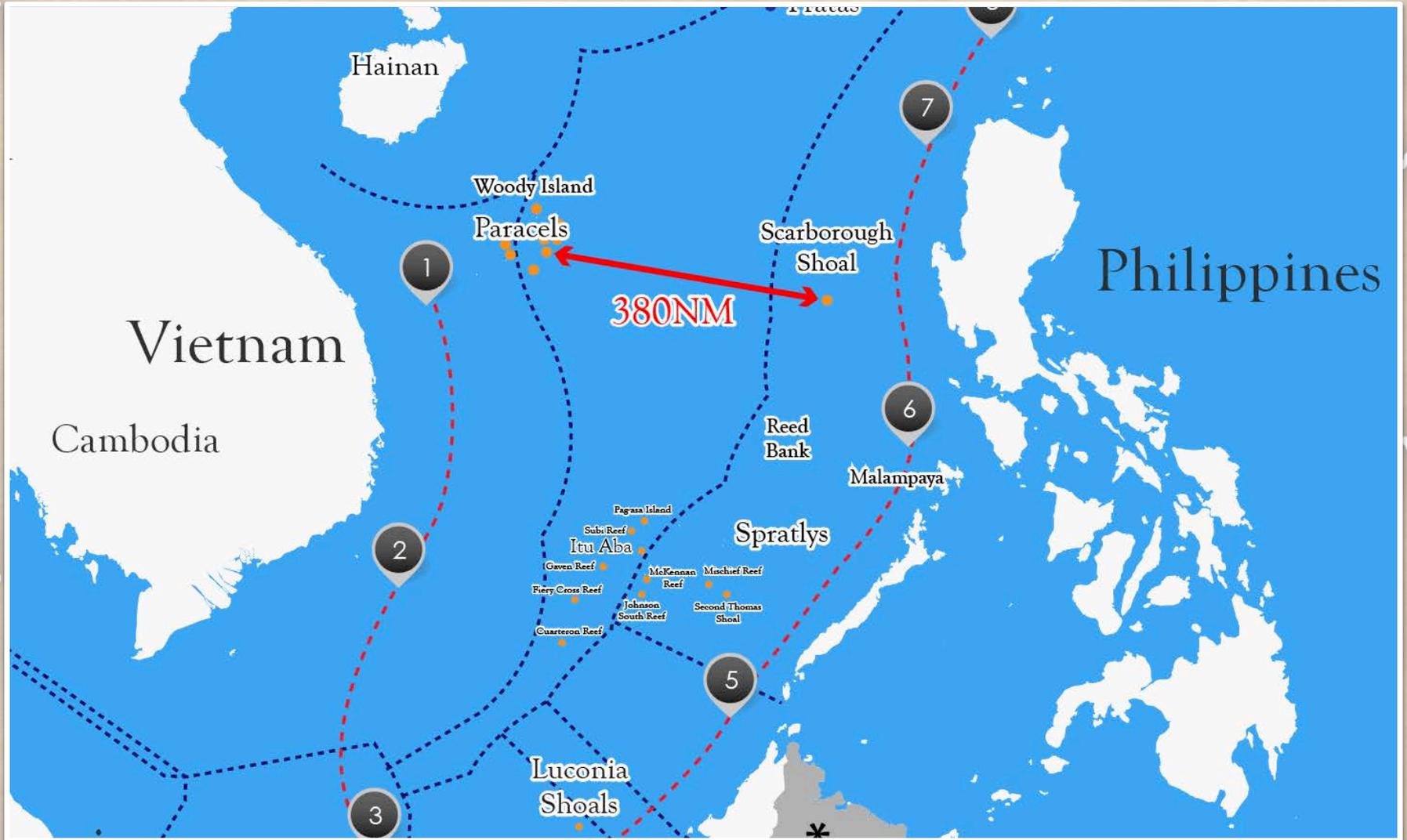
China's Indisputable  
Sovereignty Over Xisha  
And Nansha Islands.

●  
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)

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.



## Legally and Physically Impossible Claim

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*Legally*, China cannot now claim that Scarborough Shoal is the Nanhai Island that Guo Shoujing visited in 1279 because China had already used this argument against Vietnam in 1980.

*Physically*, the massive astronomical observatories that Guo Shoujing erected in other places in China could not possibly fit on the tiny rocks of Scarborough Shoal.

# Ruling on China's Claim to Ownership of the South China Sea Since Over 2,000 Years Ago

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“[T]here was no evidence that China had historically exercised exclusive control over the waters [of the South China Sea] or their resources.”\*

“The Tribunal is unable to identify any evidence that would suggest that China historically regulated or controlled fishing in the South China Sea, beyond the limits of the territorial sea.”\*\*

Thus, China never had historic rights in the South China Sea.

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\* Summary of the Final Award, Press Release of the Tribunal dated 12 July 2016, PHCN 20160712 Press Release No. 11.  
\*\* Paragraph 270, Final Award of the Tribunal dated 12 July 2016, <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>

# Scarborough Shoal (Bajo de Masinloc)

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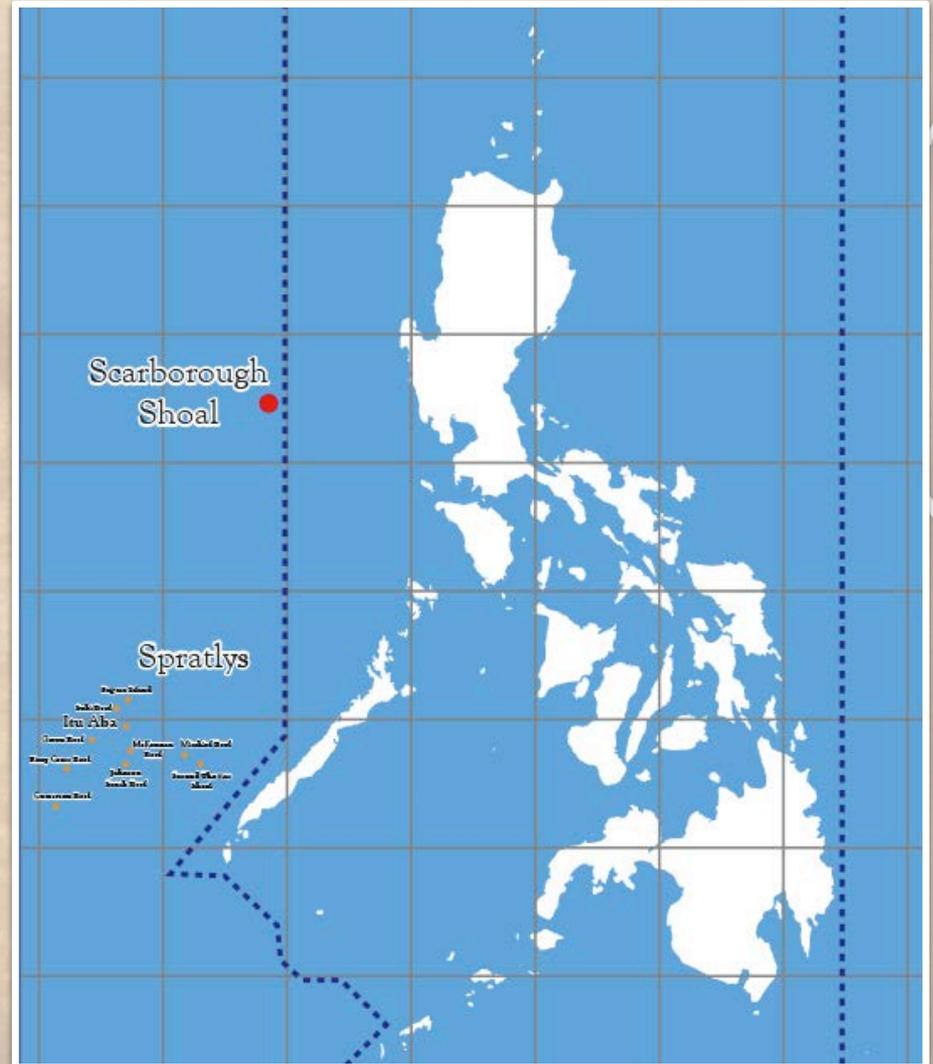


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The lagoon of Scarborough Shoal has an area of 150 square kilometers or 15,000 hectares, almost as large as Quezon City which has an area of 16,531 hectares.

# 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 lies outside of the treaty lines.



## China's Argument Why Philippines Does Not Have Sovereignty Over Spratlys and Scarborough Shoal

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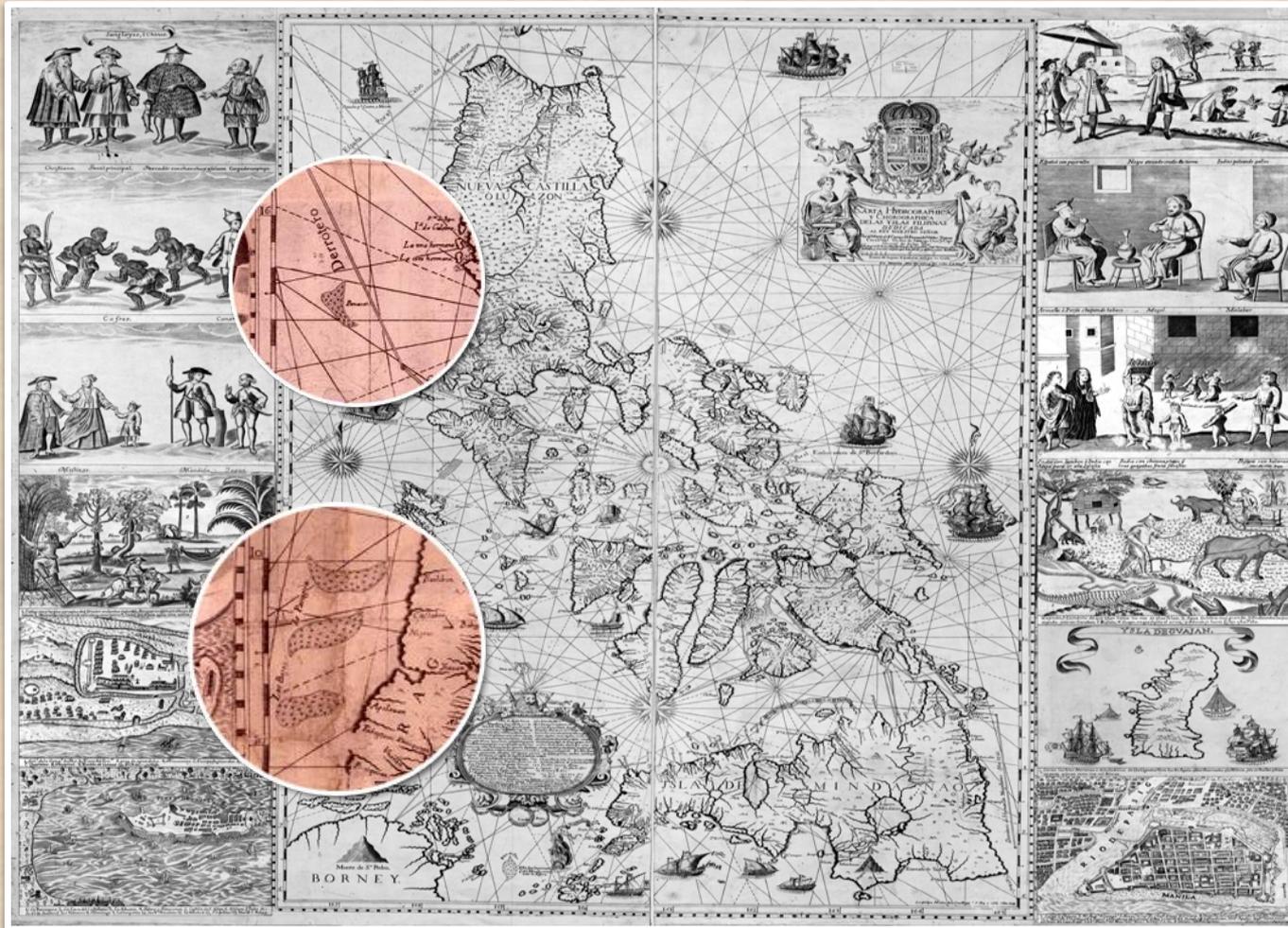
Chinese Foreign Minister Wang Yi stated: "The three treaties that stipulate the Philippines' territory, the first in 1898, the second in 1900 and the third in 1930, all regulated the Philippines' western boundary line at 118 degrees east longitude. Areas in the west of the 118 degrees east longitude do not belong to the Philippines. But the Nansha islands claimed now by the Philippines, the Huangyan Islands, are all in the west of the 118 degrees east longitude." *Speech on 25 February 2016 at the CSIS, Washington, D.C.*

## 1900 Treaty of Washington between Spain & United States\*

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- 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, under the 1900 Treaty of Washington, Spain ceded to the United States **all territories, to which Spain had title or claim of title, lying outside the lines of the Treaty of Paris. These territories outside the lines, west of the 118 degrees east longitude, included Scarborough Shoal and the Spratlys.**
- *\*Treaty between Spain and the United States for Cession of **Outlying Islands of the Philippines**, signed on 7 November 1900.)*

# 1734 Carta Hydrographica y Chorographica de las Yslas Filipinas



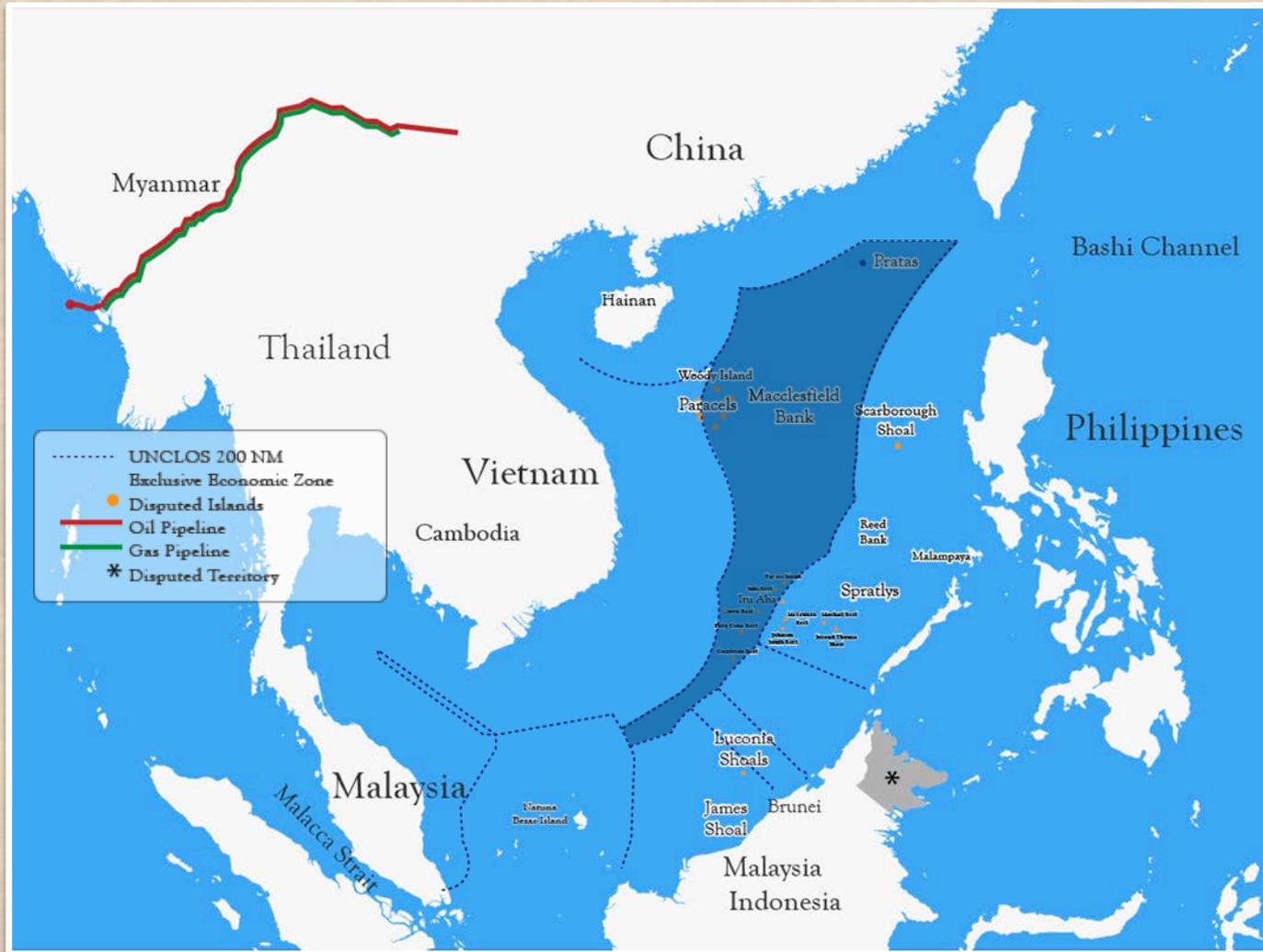
The 1734 Murillo Velarde Map of the Philippines is an official Spanish Government map showing Philippine territory during the Spanish regime. This map shows *Panacot* (Scarborough Shoal) and *Los Bajos de Paragua* (the Spratlys) as part of Philippine territory. Note the inscription on the bottom right of the map itself: “Lo esculpió Nicolás de la Cruz Bagay, Indio Tagalo en Manila Año 1734.”

# Without Nine-Dashed Line: High Seas and EEZs in South China Sea



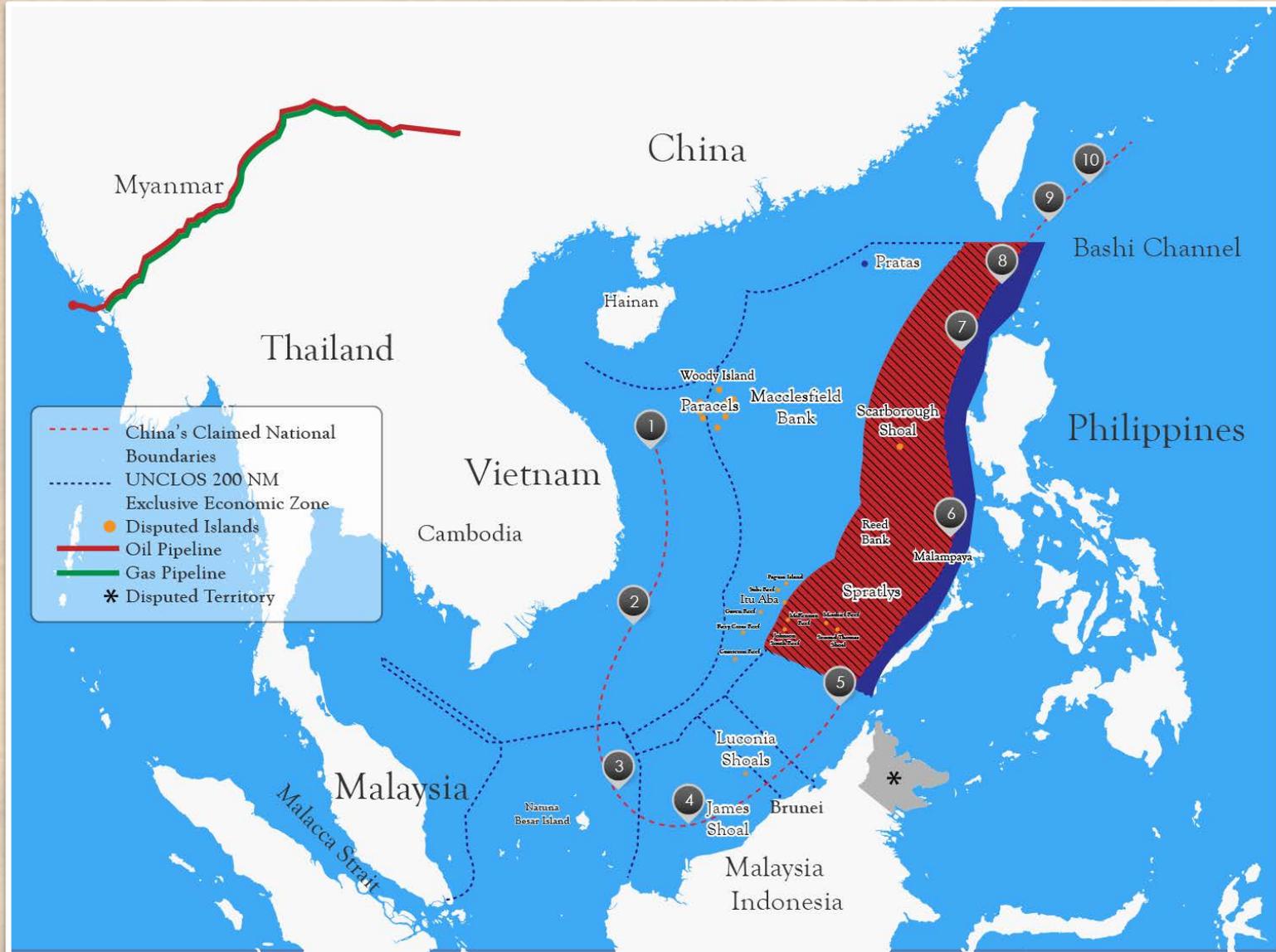
“[T]he Tribunal concludes that China’s claim to historic rights to the living and non-living resources within the ‘nine-dash line’ is incompatible with the Convention to the extent that it exceeds the limits of China’s maritime zones as provided for by the Convention.” (Para 261, Award of 12 July 2016)

# Without Nine-Dashed Line: High Seas and EEZs in South China Sea

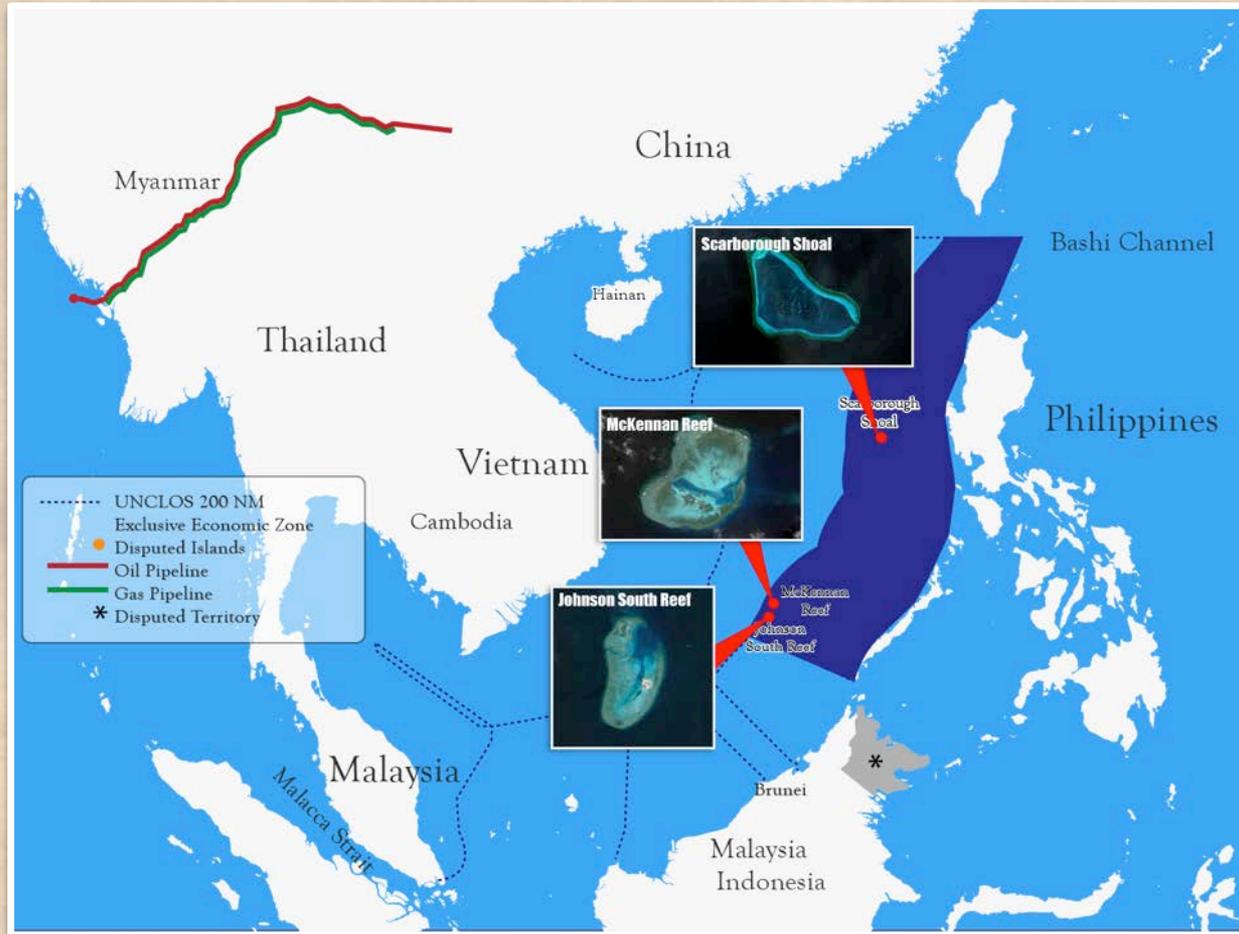


“[T]he Tribunal concludes that China’s claim to historic rights to the living and non-living resources within the ‘nine-dash line’ is incompatible with the Convention to the extent that it exceeds the limits of China’s maritime zones as provided for by the Convention.” (Para 261, Award of 12 July 2016)

# Disputed EEZ Area before the Ruling of Tribunal



# Disputed Area after the Ruling of Tribunal



The Tribunal ruled that McKennan Reef is above water at high tide. McKennan Reef and Johnson South Reef are the only Chinese-occupied high-tide features within the Philippine EEZ in the Spratlys. Scarborough Shoal, McKennan Reef and Johnson South Reef are thus the only disputed land features occupied by China within the entire Philippine EEZ. The Tribunal ruled that these three land features generate only a 12-NM territorial sea, with no EEZ.

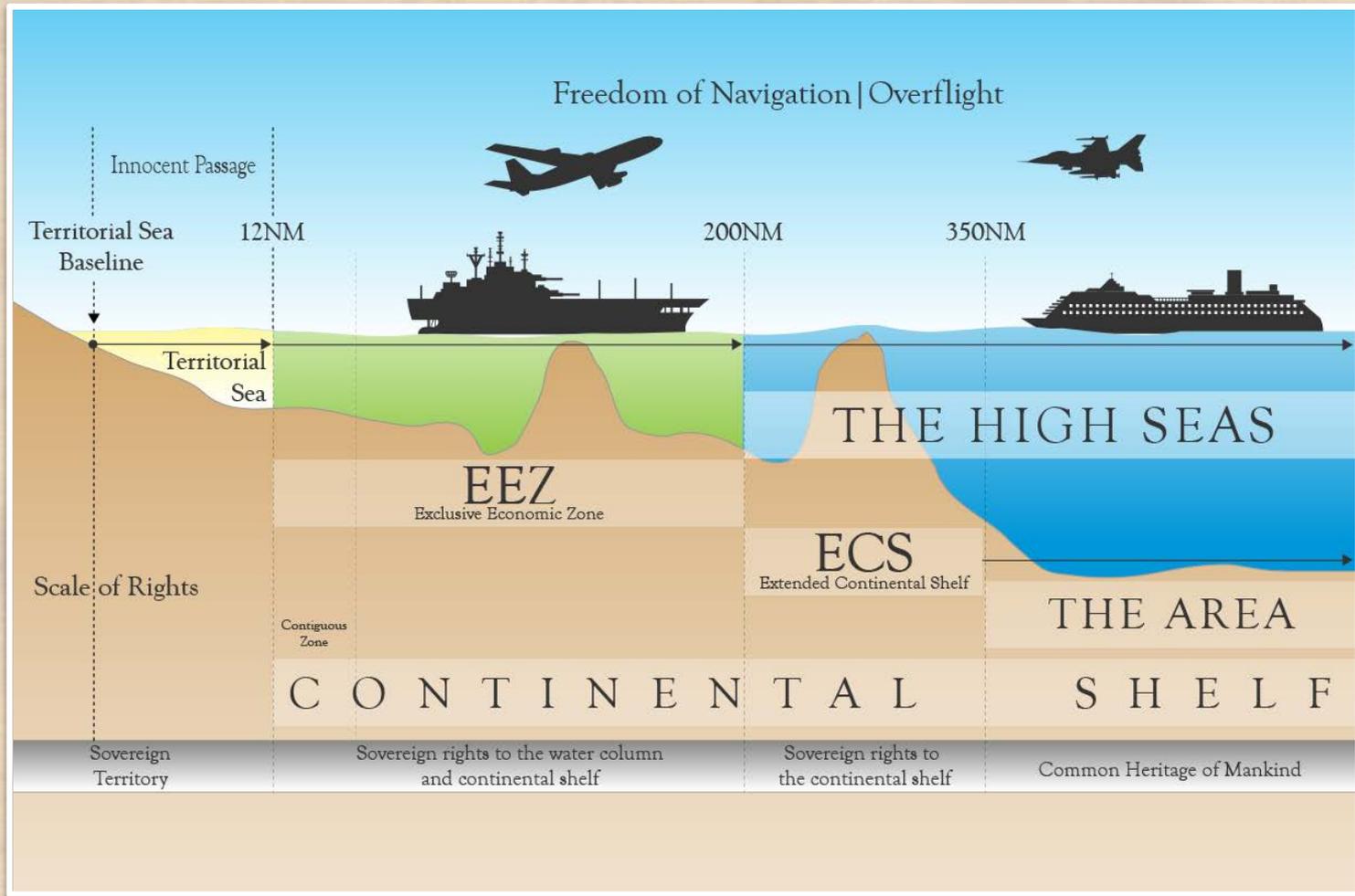
# The Philippines' EEZ in the South China Sea Is Larger than its Total Land Area

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The Philippine EEZ in the SCS has an area of about 381,000 square kilometers. Deducting the 4,650 square kilometers total territorial seas of Johnson South Reef, McKennan Reef and Scarborough Shoal, the Philippines has an EEZ of about 376,350 square kilometers in the SCS free from any Chinese claim.

This maritime area is larger than the total land area of the Philippines of approximately 300,000 square kilometers. All the living and non-living resources in this huge maritime area – the fish, oil, gas and other minerals – belong exclusively to the Philippines.

# Maritime Zones under UNCLOS



An island above water at high tide is entitled to a 12 NM territorial sea (Article 3 & 121(1), UNCLOS). If such island is capable of human habitation or economic life of its own, it is entitled to a 200 NM EEZ (Article 121(2), UNCLOS). If there is an outer continental shelf beyond 200 NM, the island is entitled to an ECS of 150 NM from the outer limits of its EEZ. The maximum maritime zone a coastal state can claim is 150 NM from the outer limits of its 200 NM EEZ (or 100 NM from the 2500 meter isobath (Article 76(5), UNCLOS), a limitation which does not apply to coastal states in the South China Sea based on the geology and geomorphology of the South China Sea). China is claiming maritime zones more than 150 NM from the outer limits of its EEZ, or more than 350 NM from its coastlines in Hainan Island or its mainland.

# World's Naval Powers Will Sail and Fly in the High Seas and EEZs of SCS

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1. The United States says its military forces will continue to operate in the disputed South China Sea in accordance with international law. The US Chief of Naval Operations John Richardson said, "The US Navy will continue to conduct routine and lawful operations around the world, including in the South China Sea, in order to protect the rights, freedoms and lawful uses of sea and airspace guaranteed to all. This will not change."\* Just recently, U.S. President Donald Trump approved a Pentagon plan that requires regular challenges to China's excessive maritime claims in the South China Sea.\*\*
2. France is urging the 27-nation EU to coordinate naval patrols in the South China Sea to ensure a "regular and visible" presence in the disputed waters illegally claimed by China xxx. The French government said the protection of freedom of the seas is vital from an economic standpoint. It's also concerned a loss of this right in the South China Sea might lead to similar problems in the Arctic Ocean or Mediterranean Sea, said Defense Minister Jean-Yves Le Drian.\*\*\*

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\* <http://www.presstv.ir/Detail/2016/07/20/476110/US-Navy-South-China-Sea>

\*\* <http://www.breitbart.com/national-security/2017/07/20/trump-pentagon-south-china-sea-plan/>

\*\*\* <http://en.yibada.com/articles/147065/20160731/france-urges-european-union-join-patrolling-south-china-sea.htm>

## World's Naval Powers Will Sail and Fly in the High Seas and EEZs of SCS

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3. British Ambassador to the U.S. Kim Darroch stated that British Typhoon fighter jets that visited Japan in October 2016 flew over the South China Sea in their return flight to assert freedom of overflight. He added: “Certainly, as we bring our two new aircraft carriers on-stream in 2020, and as we renew and update our defense forces, they will be seen in the Pacific. And we absolutely share the objective of this U.S. administration, and the next one, to protect freedom of navigation and to keep sea routes and air routes open.”\*
  
4. Australian Defense Minister Marise Payne stated on 4 February 2017 at the Shangri-la Dialogue in Singapore that Australia military ships and aircraft will continue to “operate in the South China Sea, as they have for decades, consistent with the rights of freedom of navigation and freedom of overflight.”\*\*  
On 19 September 2017, Prime Minister Malcolm Turnbull announced that six Australian navy ships had left Australia on 4 September 2017 to conduct military exercises in the South China Sea. This is the biggest deployment of an Australian naval task force in 30 years.\*\*\*

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\* <http://www.reuters.com/article/us-britain-southchinasea-fighters-idUSKBN13R00D>

\*\* <http://www.defensenews.com/articles/global-allies-call-for-continued-us-patrols-in-south-china-sea>

\*\*\* <http://www.dailytelegraph.com.au/news/nsw/turnbull-orders-australian-warships-to-head-to-south-china-sea-for-military-exercises-drawing-criticism-in-chinese-media/news-story/df9779c3572ae0fbd26df3057642739f>

# Status of Mischief Reef - Not Land Territory

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“In relation to the merits of the Parties’ disputes, the Tribunal:

xxx

(3) **FINDS**, with respect to the status of features in the South China Sea:

xxx

c. that Subi Reef, Gaven Reef (South), Hughes Reef, **Mischief Reef** and Second Thomas Shoal, **are low-tide elevations**, within the meaning of Article 13 of the Convention.

xxx

(4) **DECLARES** that, as low-tide elevations, **Mischief Reef** and Second Thomas Shoal **do not generate entitlements to a territorial sea, exclusive economic zone, or continental shelf and are not features that are capable of appropriation.**”\*

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\* *Award of 12 July 2016, The South China Sea Arbitration, para. 1203, pp. 473-474.*

## Mischief Reef Forms Part of EEZ of Philippines

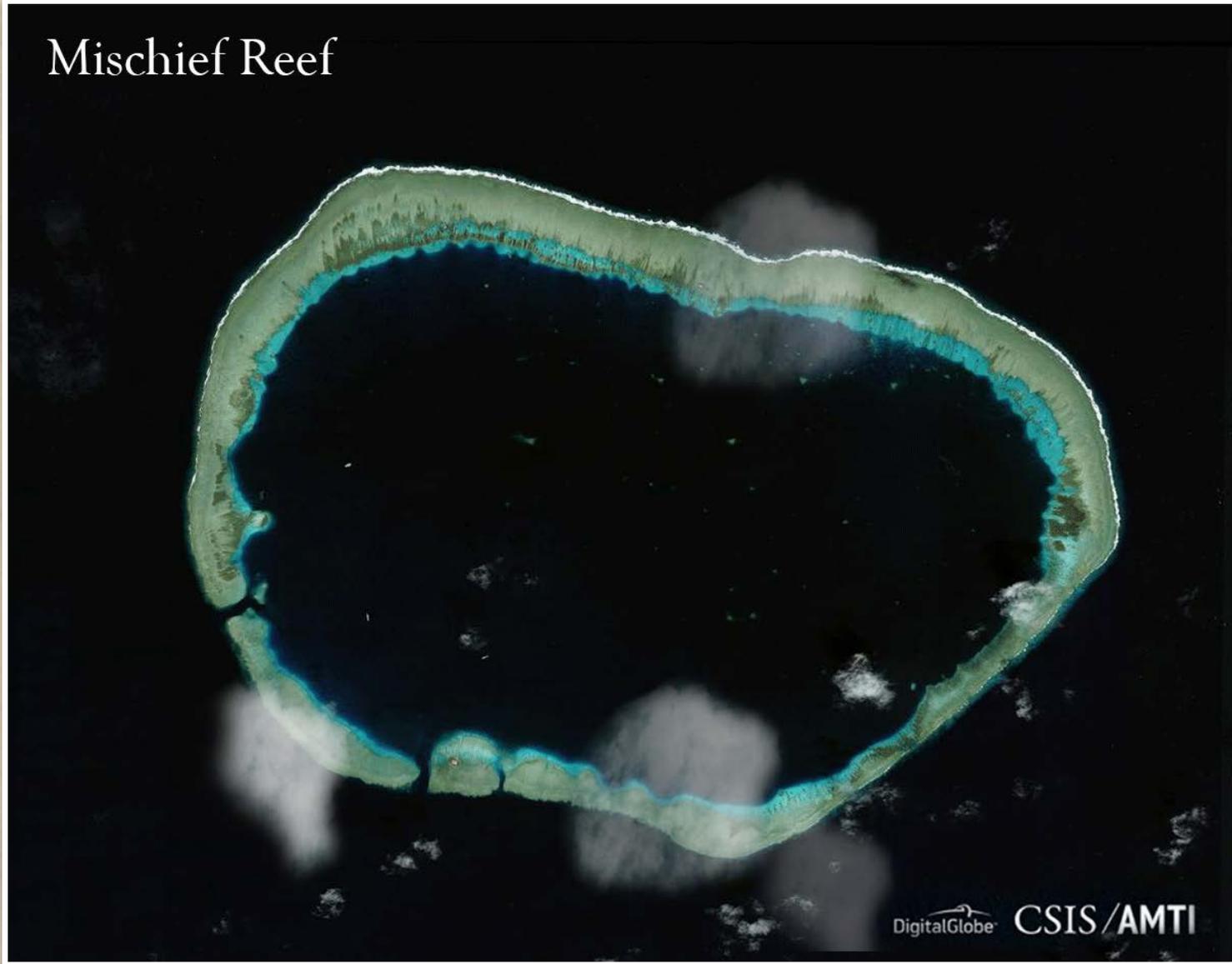
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“The Tribunal has held that *Mischief Reef* and Second Thomas Shoal are *low-tide elevations* located within areas where only the Philippines possesses possible entitlements to maritime zones under the Convention. *The relevant areas can only constitute the exclusive economic zone of the Philippines.* Accordingly, the Philippines – and not China – possesses sovereign rights with respect to resources in these areas, and the law relevant to Chinese fishing activities at these reef formations is the law governing fishing by the vessels of one State in the exclusive economic zone of another.”\*

\* Award of 12 July 2016, *The South China Sea Arbitration*, para. 735, p. 291.

# Mischief Reef – China's Pearl Harbor in SCS

Mischief Reef



<https://amti.csis.org/constructive-year-chinese-building/>

# Mischief Reef – China's Pearl Harbor in SCS

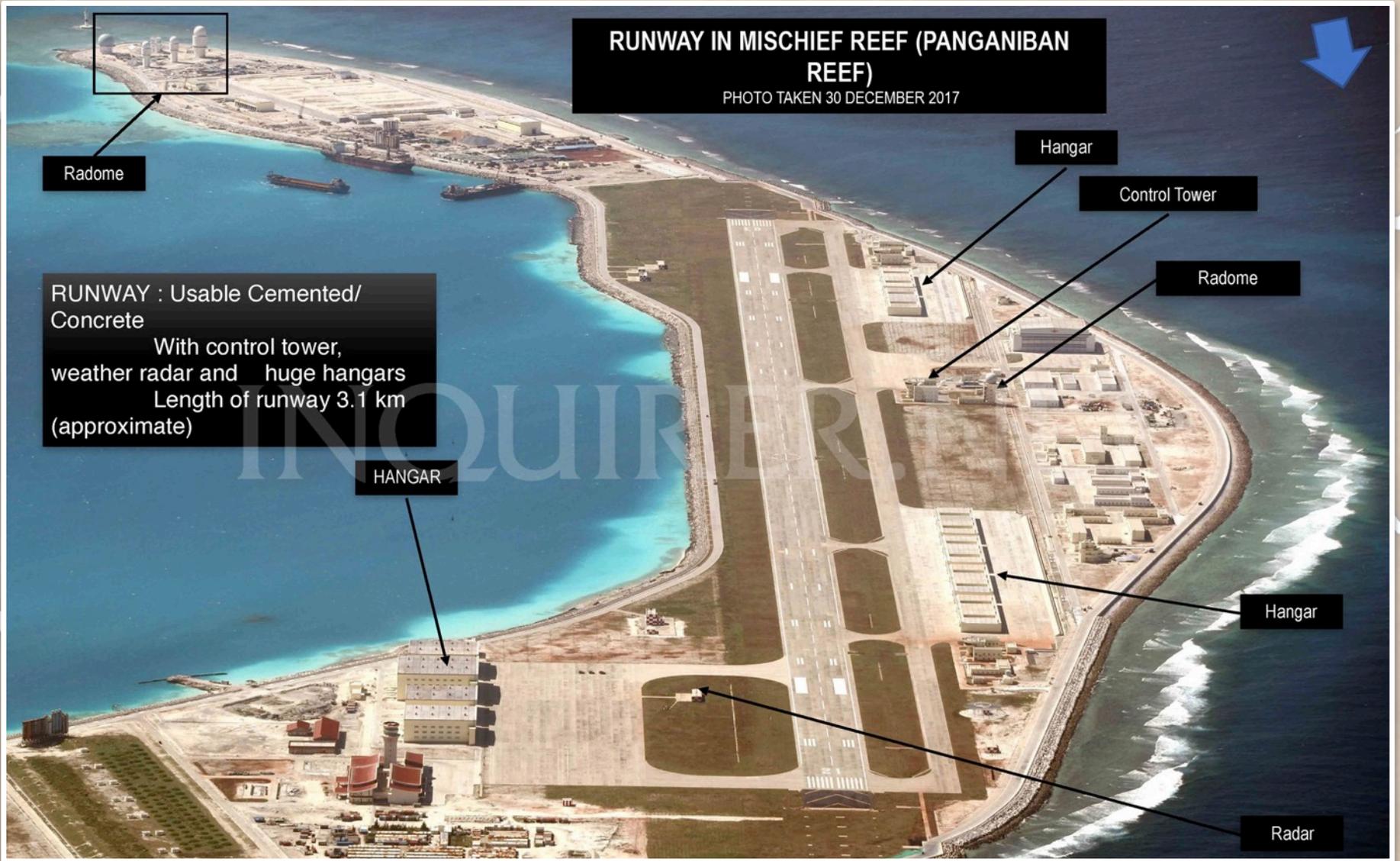
## Mischief Reef

Infrastructure completed in 2017



DigitalGlobe CSIS/AMTI

<https://amti.csis.org/constructive-year-chinese-building/>



**RUNWAY IN MISCHIEF REEF (PANGANIBAN REEF)**  
PHOTO TAKEN 30 DECEMBER 2017

Radome

RUNWAY : Usable Cemented/  
Concrete  
With control tower,  
weather radar and huge hangars  
Length of runway 3.1 km  
(approximate)

HANGAR

Hangar

Control Tower

Radome

Hangar

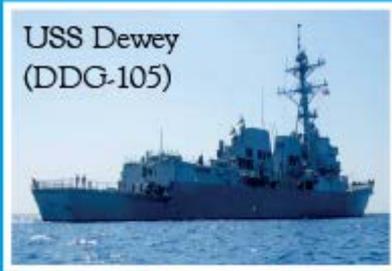
Radar

# Freedom of Navigation: Zig-Zag and Man Overboard Drill

May 24, 2017 | Spratly Islands FONOP

## Mischief Reef

Non-Innocent Passage



USS Dewey  
(DDG-105)

Zig-Zag Route



Conducted man  
overboard drill

Mischief Reef  
Low-Tide Elevation

12 nautical miles



# US Navy Poseidon P-8A Flies over Mischief Reef

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The crew also flew over the Mischief Reef in the South China Sea (Image: GETTY)

US Navy Poseidon P-8A flies over Mischief Reef on August 10, 2018.

# Freedom of Overflight Operations Over EEZ

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A US Navy Poseidon P-8A flew over Mischief Reef on August 10, 2018:

“Warning the aircraft that it was in Chinese territory – an argument an international arbitration tribunal ruled against two years ago – the Chinese military ordered the US Navy plane to “leave immediately and keep out to avoid any misunderstanding.”

xxx

“I am a sovereign immune US naval aircraft conducting lawful military activities **beyond the national airspace of any coastal state,**” the crew replied, adding, “In exercising these rights guaranteed by international law, I am operating with due regard for the rights and duties of all states.”\*

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\* <https://www.businessinsider.com/keep-out-china-warns-us-navy-plane-in-south-china-sea-2018-8>

# FONOPS Affirm Presence of EEZs in the South China Sea



*Provence Frigate*



*Auvergne Frigate*

“Like the US Navy, the French navy has an institutional culture of upholding its interpretation of UNCLOS, especially on the two contentious points: what is allowed during innocent passage, and **the right to maintain a naval presence in all exclusive economic zones.**”\*

\* *How the French military's 'political messengers' are countering Beijing in the South China Sea* by Mathieu Duchatel, <https://www.scmp.com/news/china/diplomacy-defence/article/2157702/how-french-militarys-political-messengers-are>

# UK Will Have “Unbroken Presence” in SCS



*HMS Sutherland*



*HMS Albion*

"We have also deployed two Royal Navy ships to the region – HMS Sutherland and Argyll and soon HMS Albion – meaning we will have an almost **unbroken naval presence** in the strategically critical Asia-Pacific this year," UK Foreign Office Minister Mark Field said.

"It is critical for regional stability, and for the **integrity of the rules-based international system**, that disputes in the region are resolved, not through force, militarization or coercion, but through dialogue and in accordance with international law," he said.\*

\*<https://www.philstar.com/headlines/2018/08/17/1843444/uk-commits-unbroken-naval-presence-asia-pacific>

# Japan's Helicopter Carriers Sail in South China Sea



MANILA, Philippines, August 22, 2018 – The Japanese Maritime Self-Defense Force (MSDF) will dispatch three ships to the South China Sea and the Indian Ocean, according to reports.

**Helicopter carrier Kaga and two escort naval vessels of Japan will leave for the South China Sea on August 26 and will be sailing until October 30, United Press International reported.**

The deployment of the 814-foot-long Kaga is seen as a Tokyo's response to Beijing's military presence in the South China Sea.

"The maritime area from the South China Sea to the Indian Ocean is important [for Japan]," MSDF chief Adm. Yutaka Murakawa said in a press briefing Tuesday.

**In 2017, Japan also deployed a similar fleet, including carrier Izumo, to the South China Sea and the Indian Ocean.**

\* <https://www.philstar.com/headlines/2018/08/22/1844889/japan-deploy-warships-south-china-sea>

# Indian Frigates Assert Freedom of Navigation In the South China Sea



In July 2018 an Indian naval task force composed of four warships – the guided missile frigates *INS Satpura* and *INS Sahyadri*; guided missile corvette *INS Kirch*; and support ship *INS Shakti* – sailed in the South China Sea and the North West Pacific in a two and one-half month deployment to assert freedom of navigation.

# Canadian Navy Conducts Freedom of Navigation in South China Sea



The Canadian frigate *HMCS Calgary* sailed in the South China Sea in November 2018 to join other naval powers in asserting freedom of navigation. In 2017, Canada sent the *HMCS Winnipeg* and *HMCS Ottawa* to sail in the South China Sea.

## Significance of Freedom of Navigation and Overflight Operations by Naval Powers in the South China Sea

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China refuses to accept there are EEZs of other coastal States around the high seas in the South China Sea. If China accepts there are such EEZs, then China will be admitting that it has no claim to the natural resources (fish, oil, gas, etc.) in such EEZs of other coastal states.

The freedom of navigation and overflight operations in the South China Sea by the world's naval powers affirm the existence of EEZs around the high seas of the South China Sea. Under UNCLOS, there is freedom of navigation and overflight in the high seas and EEZs.

# What Should the Filipino People Do Now?

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1. Encourage all navies of the world to exercise freedom of navigation in the high seas and exclusive economic zones of the South China Sea. This will affirm and enforce the ruling of the Tribunal that there are high seas and exclusive economic zones in the South China Sea. The waters in the high seas belong to all mankind, and the resources in the exclusive economic zones belong solely to the adjacent coastal states.
2. Ask the peoples of the world to help the Philippines, Vietnam, Malaysia, Indonesia and Brunei explain to the Chinese people that China has no historic claim to the South China Sea.
3. Continue resorting to the Rule of Law as embodied in UNCLOS. War is not an option, and has never been an option.

[www.imoa.ph](http://www.imoa.ph)

(Institute for Maritime and Ocean Affairs)

