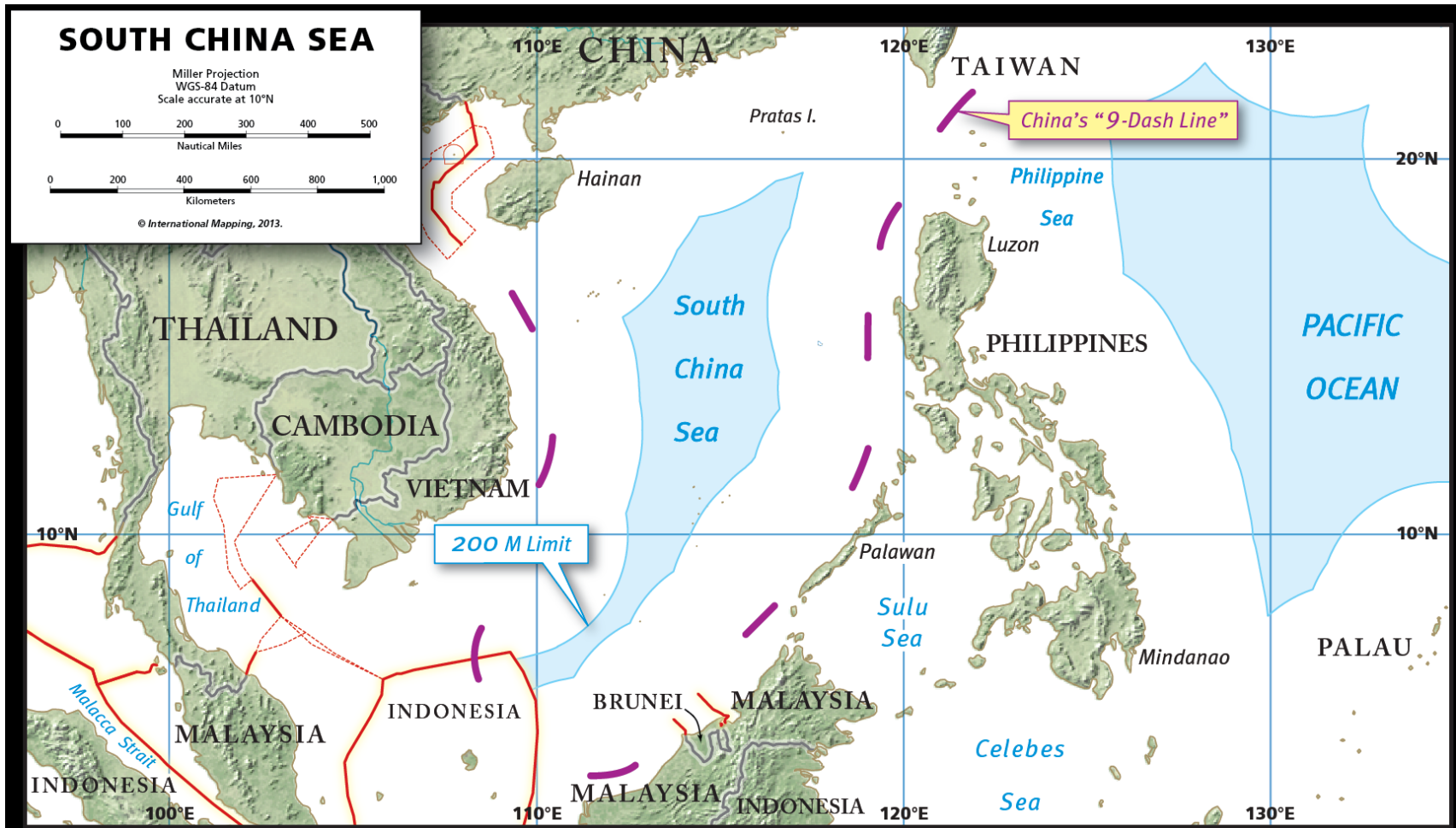


The South China Sea Arbitration

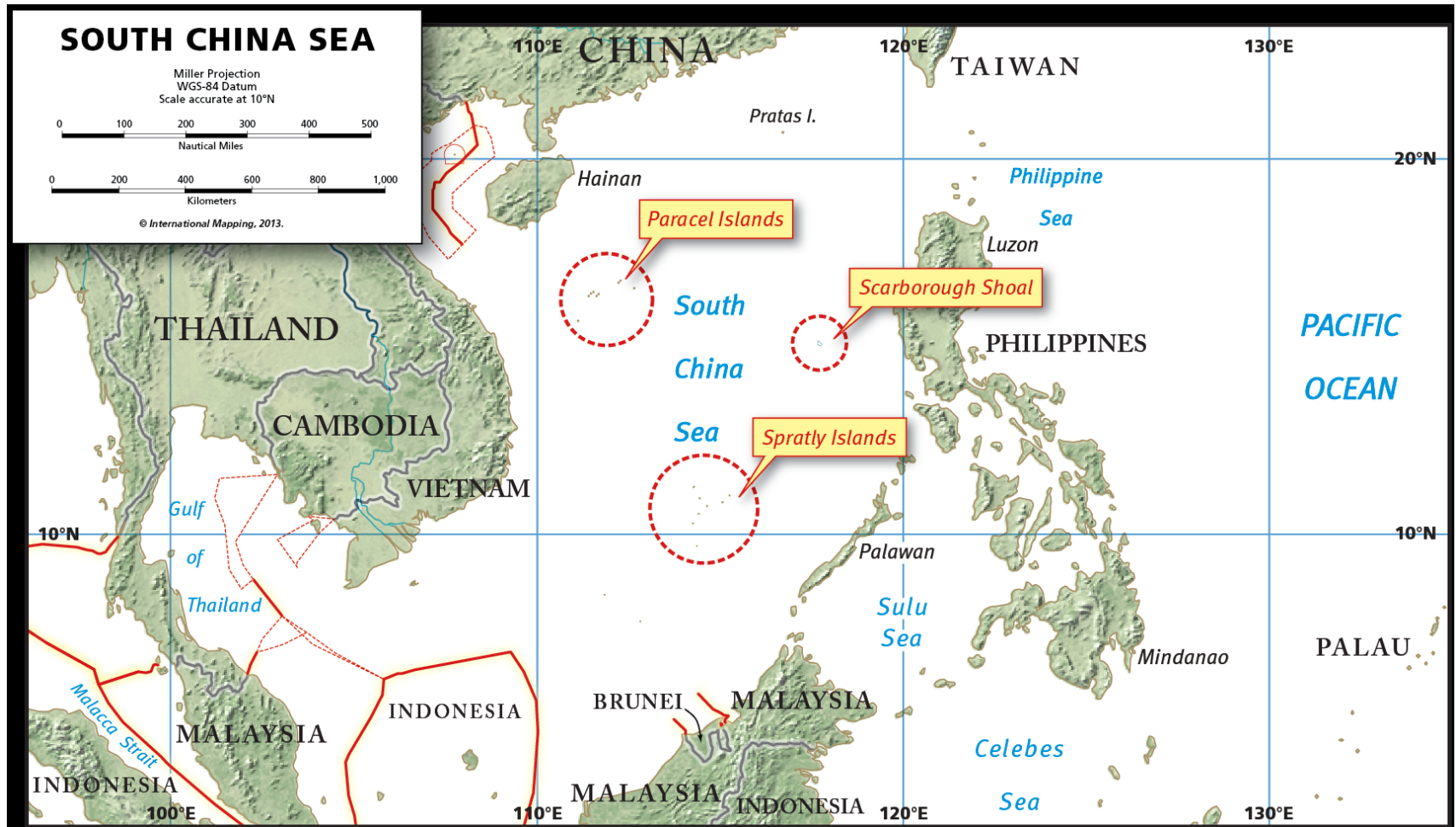
**Paul S. Reichler
Foley Hoag LLP
Washington, DC
11 July 2014**



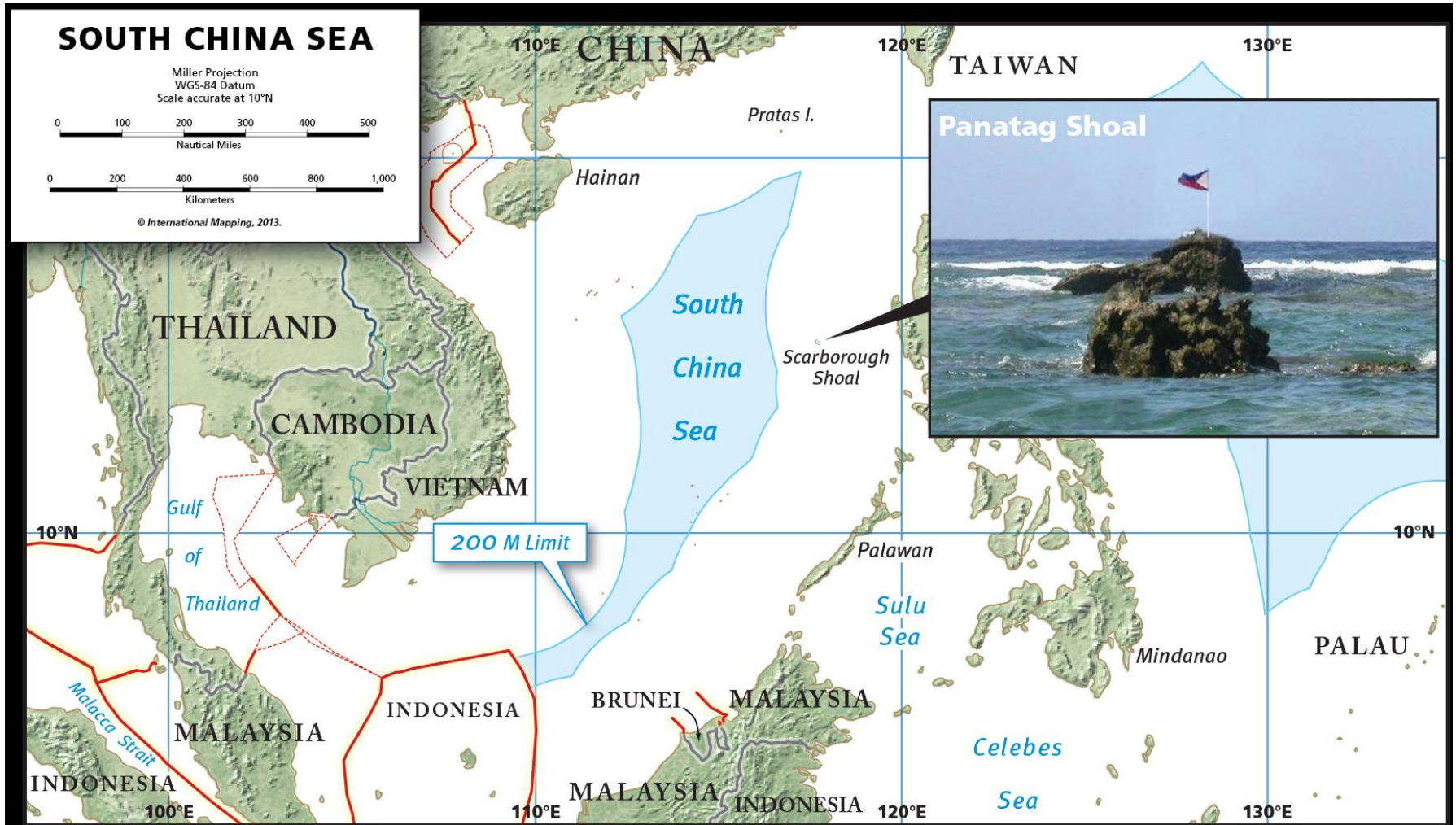
The “Nine-Dash Line”



Main Island Groups



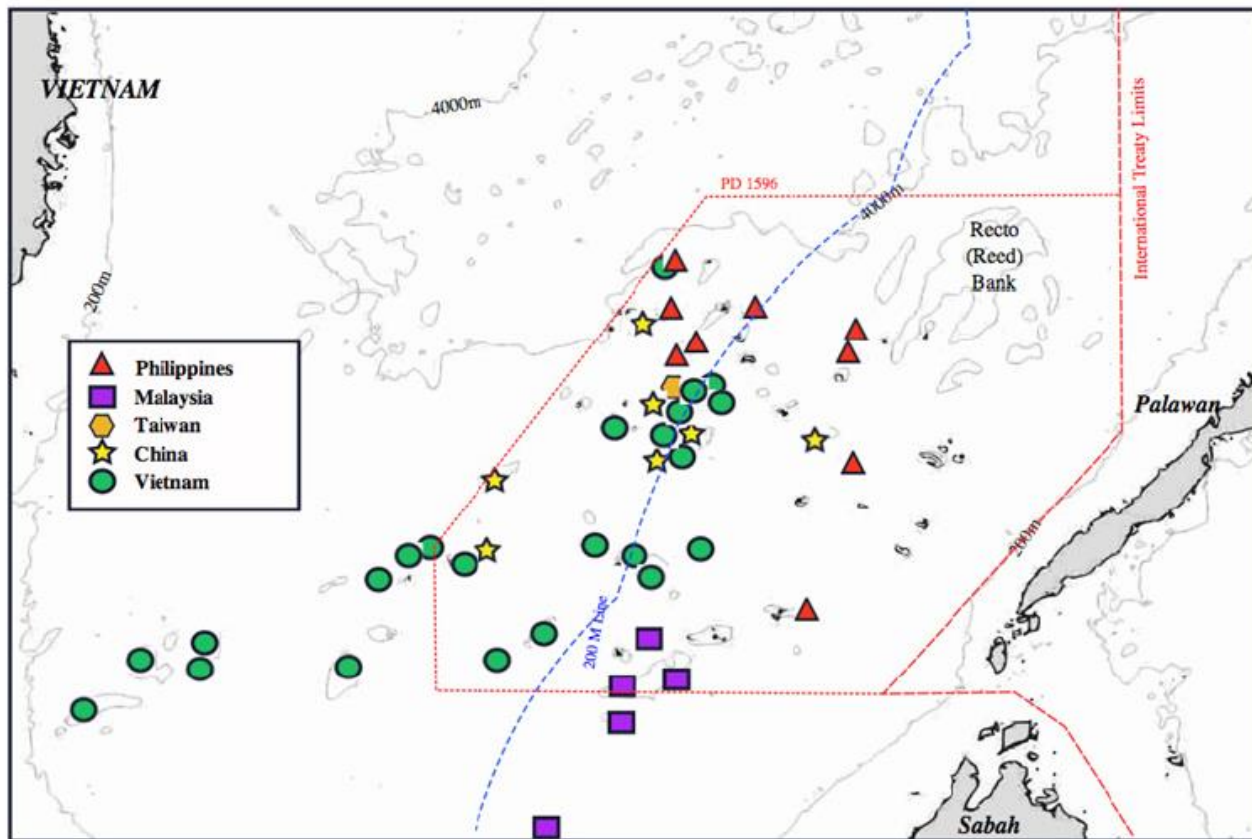
Scarborough Shoal



Scarborough Shoal



Claims in the Spratly Islands



Mischief Reef



McKenna (Hughes) Reef

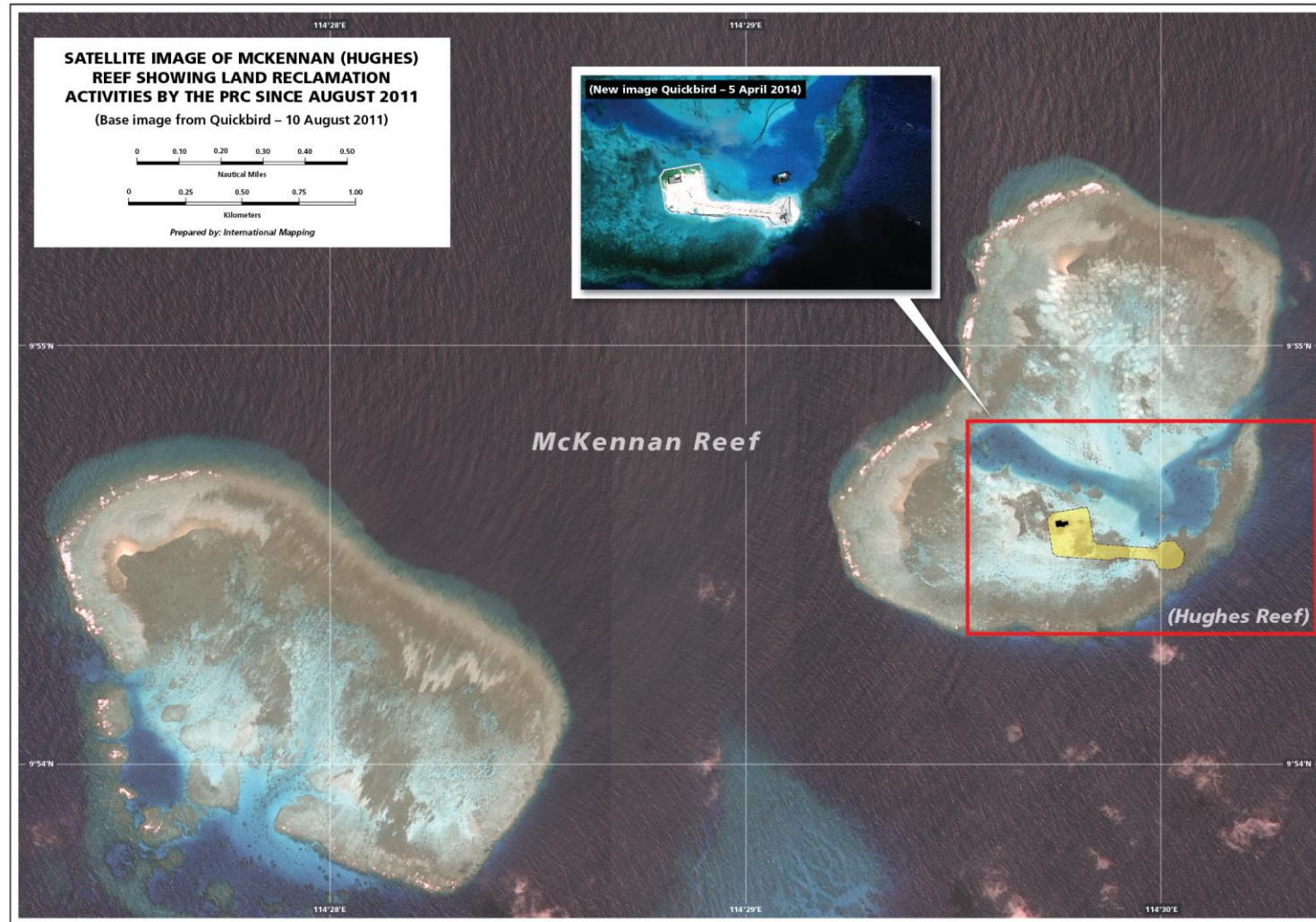
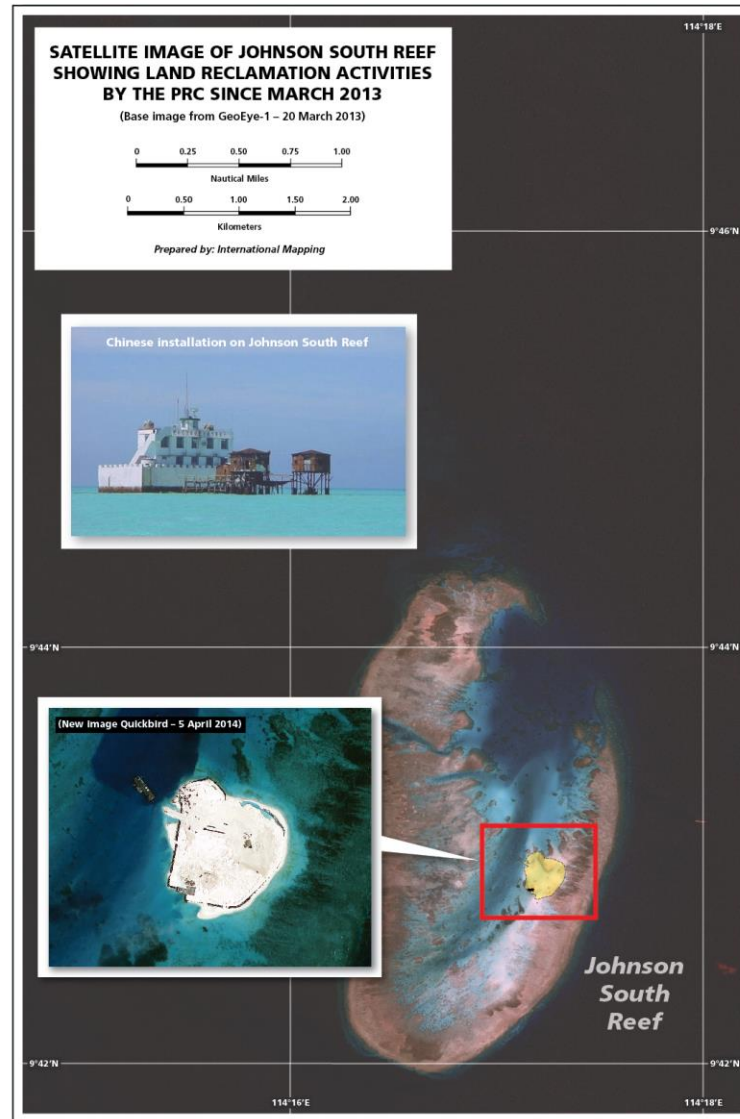


Figure 5.11

Johnson South Reef



UNCLOS Art. 286

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached ... be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

UNCLOS Art. 287

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

(a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;

(b) the International Court of Justice;

(c) an arbitral tribunal constituted in accordance with Annex VII;

[...]

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

UNCLOS Art. 288(1)

A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

UNCLOS Art. 298

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may... declare in writing that it does not accept [arbitration] with respect to one or more of the following categories of disputes:

- a) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles [...]**

UNCLOS Annex VII: Arbitration

Article 9

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

UNCLOS Annex VII: Arbitration

Article 11

The award shall be final and without appeal...It shall be complied with by the parties to the dispute.

Calendar

23 January 2013 – Commencement of Arbitration

February to July 2013 – Composition of Tribunal

31 March 2014 – Submission of Philippines' Memorial

15 December 2014 – China's Counter-Memorial

16 December 2014 – Tribunal's Questions to the Philippines

16 March 2015 – Philippines Answers to Questions

7-18 July 2015 – Oral Hearings before the Tribunal

January 2016 – Anticipated Issuance of Award