

Korean Maritime Security & International Law

23-24 February 2016
Newport, Rhode Island



Tactical Maritime Security and North Korea



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The views expressed here are the author's alone and do not represent the views of the U.S. Government or the Department of Defense or the Department of the Navy

Northern Limit Line (NLL)

Origins of the NLL

Korean War Armistice

July 27, 1953

- * MDL, no sea boundary
- * 5 NWI to UNC control

NLL drawn Aug 30, 1953
-drawn by UN Command



Major Clashes

- June 1999
- June 2002
- Nov 2009
- 2010
 - * sinking of Cheonan
 - * shelling Yeonpyeong-do

Naval Balance

DPRK Vessels	Tot
Frigates	3
Patrol & Coastal Combatants	383
Mine warfare	24
Amphib landing ships & craft	267
Logistics and support	23
Submarines	73
* <i>Romeo</i>	20
* <i>Sang O</i>	32
* <i>Yeono/Yugo</i>	20
* <i>Sinpo (SLBM under development)</i>	1

ROK Vessels	Tot
KDX-I	3
KDX-II (Yi Sun-shin-class)	6
KDX-III (King Sejong the Great-class)	3
Dokdo (LPH)	1
KSS-I, Type 209 submarine	9
KSS-II, Type 214 submarine	4
Fast Attack patrol boats (PKM)	63
Patrol Killer, Guided Missile (PKG)	17
Frigates	11
Corvettes	18
Mine warfare	10
Logistics & support	24



Conventional Force Balance

	NK	SK	US
Troops	1.19 million	628,000	28,500
Tanks	4,060	2,418	116
Artillery	8,500 (5,100) (MRLs)	4,853+ (185)	45
Combat Aircraft	545	556	64



North Korea's Nuclear Weapons

- **Four tests: Oct 2006, May 2009, Feb 2013, Jan 2016**
- **16-20 warheads??**
- **Plutonium & enriched uranium?**
- **20-50-100 by 2020??**
- **Short & medium range missiles**
 - * **500 SCUDs & 150-200 Nodong missiles**
 - * **Musudan mobile IRBM; KN-08**
 - * **working on sub-launched missile**
 - * **working on long range missile**
- **Weaponize a warhead?**



Ballistic Missile Defense

Korea Air and Missile Defense (KAMD)

3 Aegis destroyers

- SM-2 interceptors

PAC 2 interceptors

-purchasing PAC 3s

“Kill Chain”

-Hyunmu-2 ballistic missile

-Hyunmu-3 cruise missile

-F-15s & F-16s



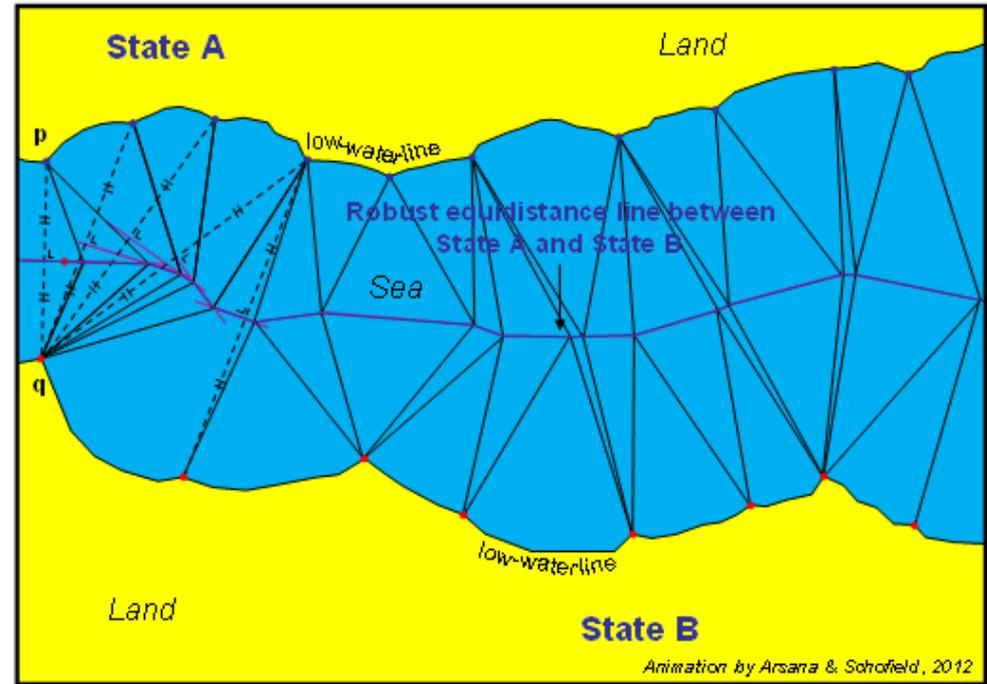
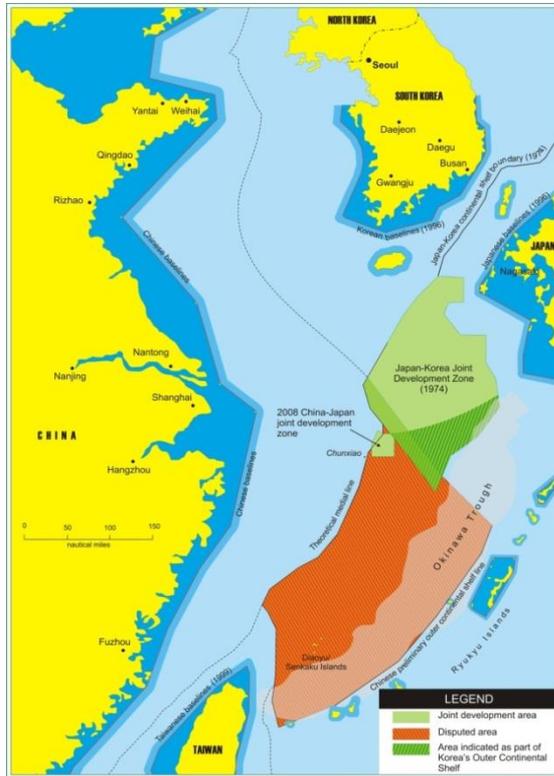
Deploy a US THAAD battery?



Conclusion

- 1. How should South Korea, the US, Japan and others respond to the increasing threat of North Korea's nuclear weapons and ballistic missiles? Maritime component of this effort?**
- 2. Should South Korea join the U.S. regional ballistic missile system?**
- 3. How can North Korea be deterred from conducting provocations?**
- 4. Should the ROK Navy devote more attention and resources to its coastal fleet or its blue-water navy? What is the proper balance?**
- 5. Does the ROKN need to devote greater attention to improving its anti-submarine warfare and mine countermeasure capabilities?**

Territory, Maritime Boundaries, Coastal Zones, Straits of Korea



Professor Clive Schofield

The Australian National Centre for Ocean Resources and Security (ANCORS)
Challenge Lead, Sustaining Coastal and Marine Zones
University of Wollongong, Australia

University of Wollongong



Outline

- Territorial issues
 - Dok do
- Applicable Law and Maritime Claims
- Maritime Delimitation
- leodo
- Straits
- ADIZ

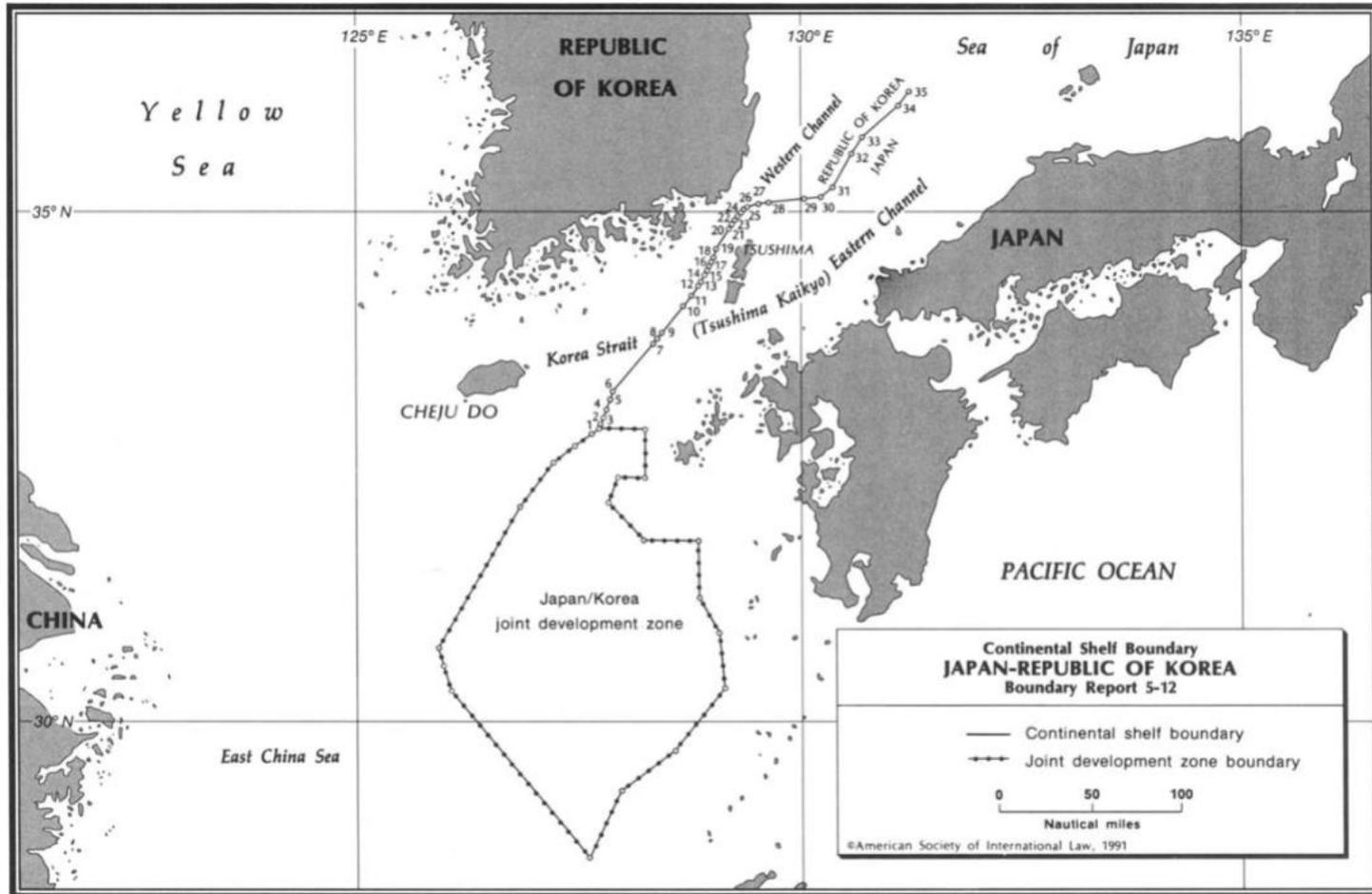
Dok do



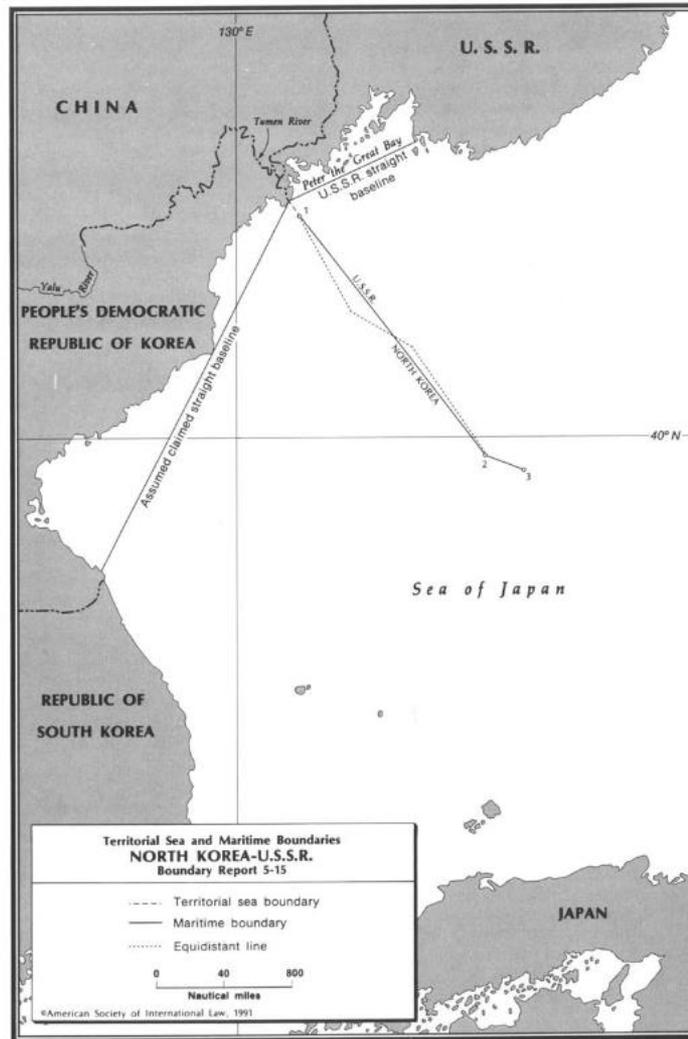
Applicable Law and Maritime Claims

- United Nations Convention on the Law of the Sea (UNCLOS)
 - Korea became a party on 29 January 1996
 - China became a party on 7 June 1996
 - Japan became a party on 20 June 1996
- Maritime Claims
 - All three States claim 12 nm breadth territorial sea and 200 nm EEZs
 - Overlapping continental shelf/EEZs to delimit

Existing Agreements

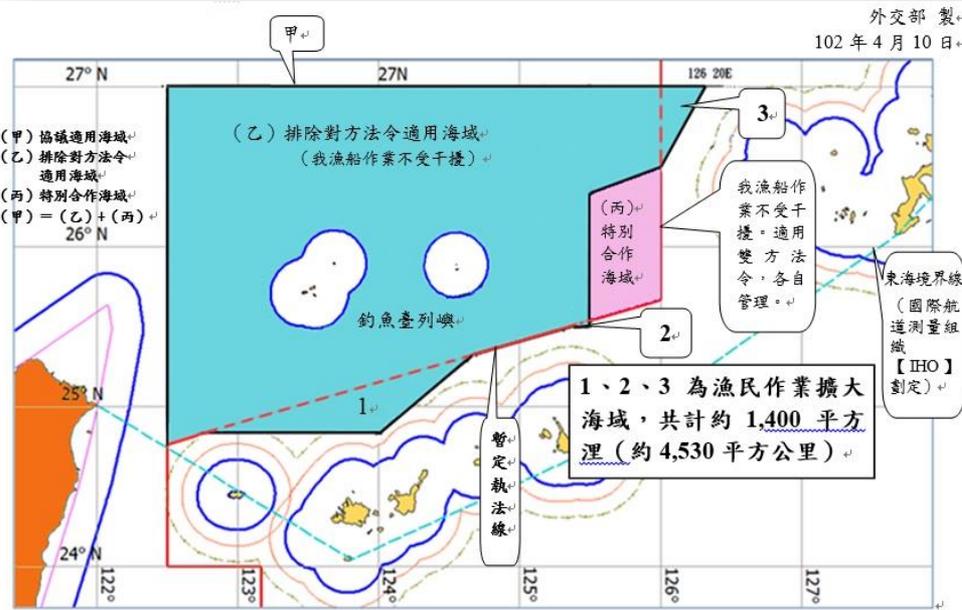
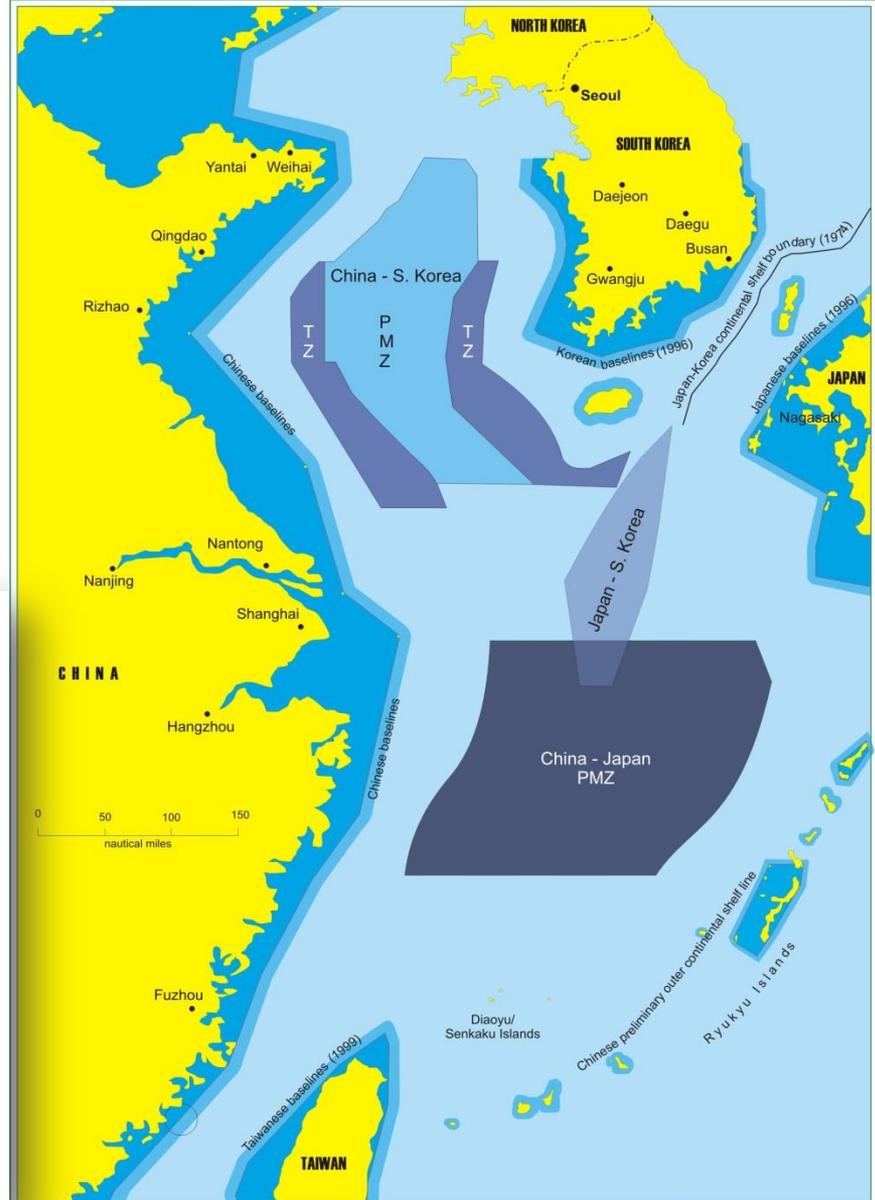


Existing Agreements

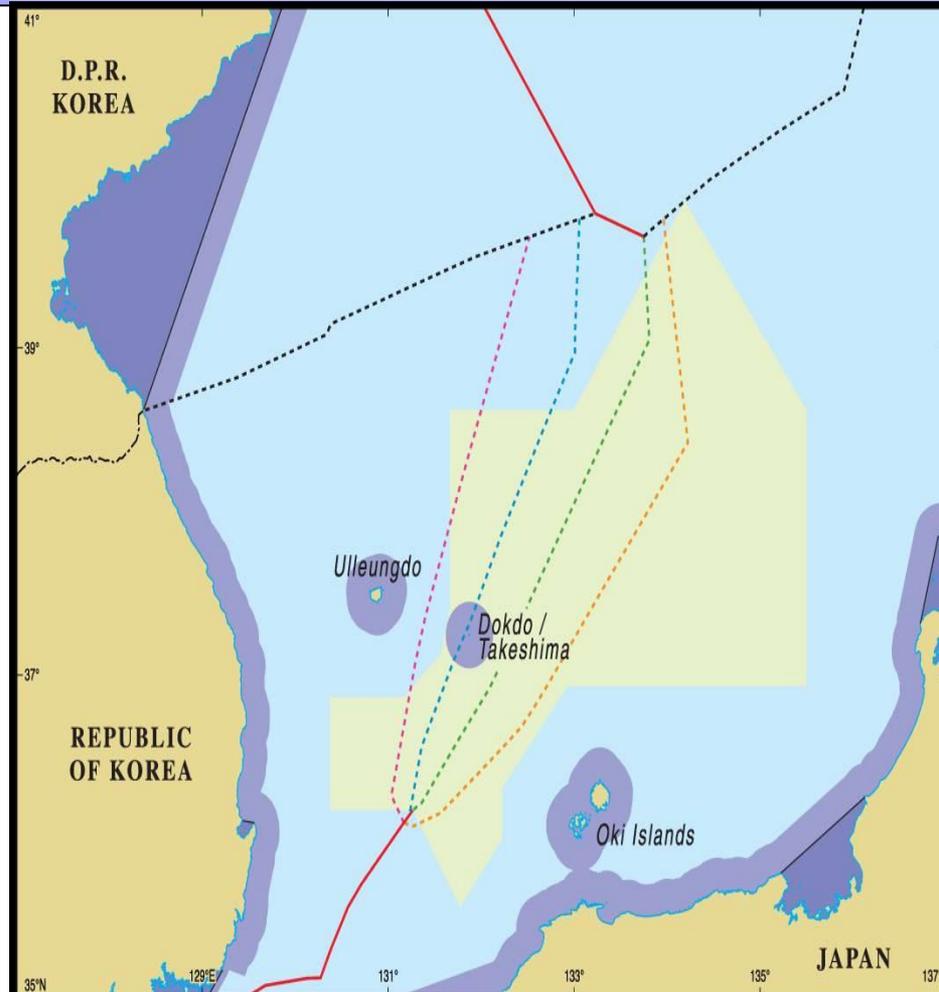


Existing Agreements

- Multiple joint fishing agreements
 - China – Japan (1997)
 - Japan – Korea (2000)
 - China – Korea (2001)
 - Japan – Taiwan (2013)



Overlapping Claims and Impact of Dok do on Maritime Delimitation

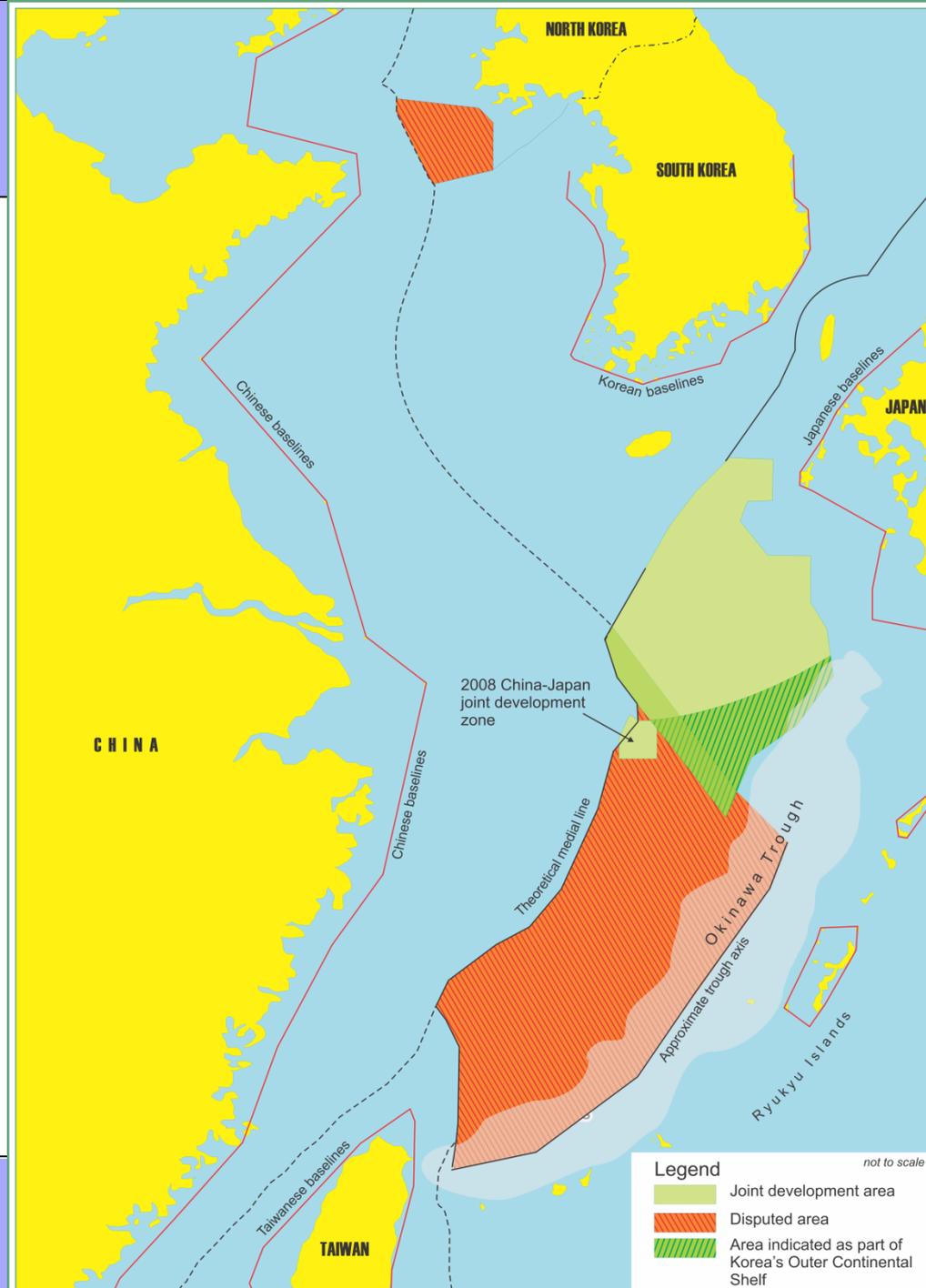


- Internal waters
- Territorial sea
- Fishery cooperation zone
- Agreed boundary
- Full effect to Dokdo / Takeshima median line (Korean sovereignty)
- Full effect to Dokdo / Takeshima median line (Japanese sovereignty)
- No effect to Dokdo / Takeshima median line
- Japan - Korea mainland mainland median line
- Other median line

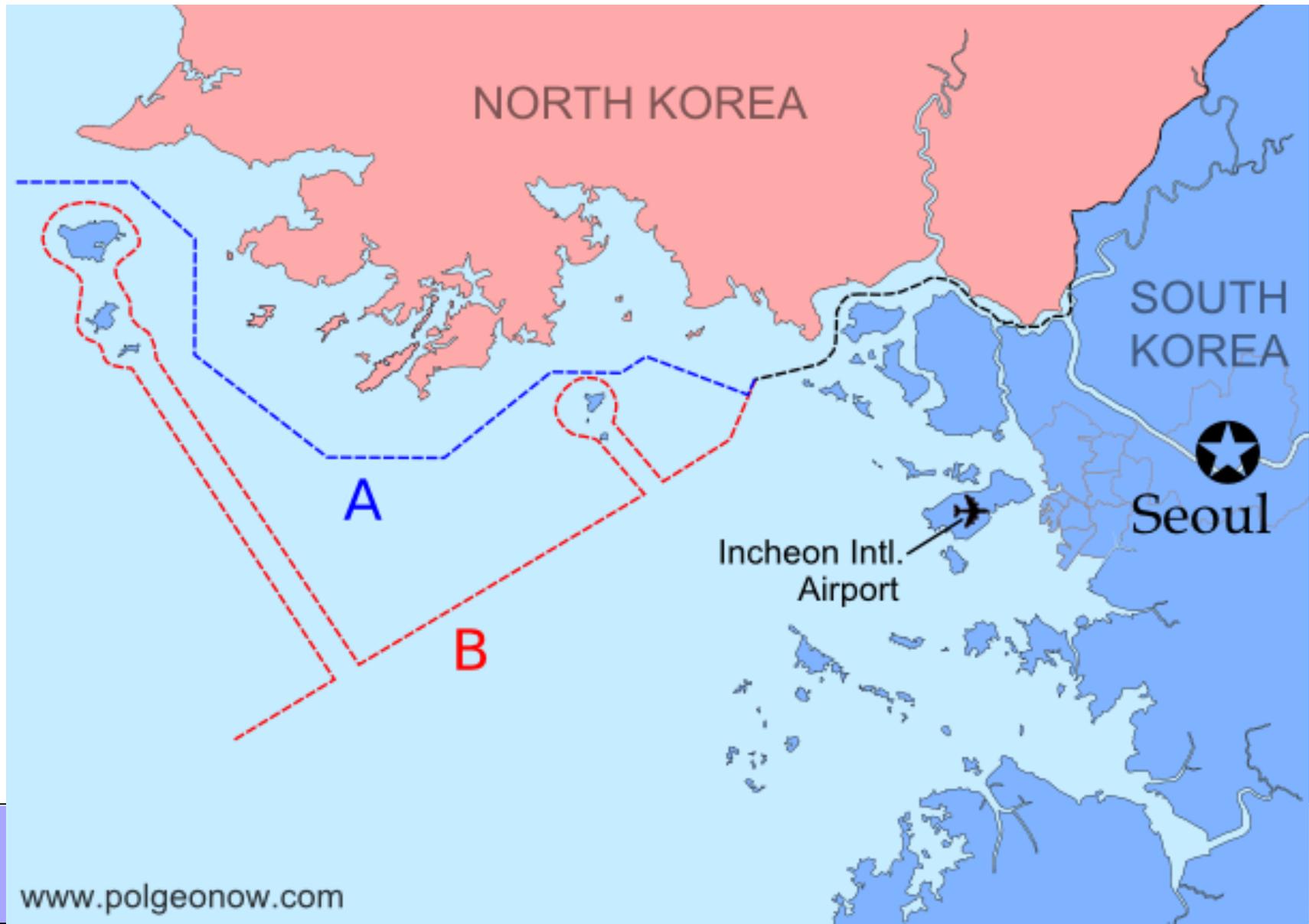
Source: IBRU Uni

East China Sea

- Overlapping claims to maritime jurisdiction



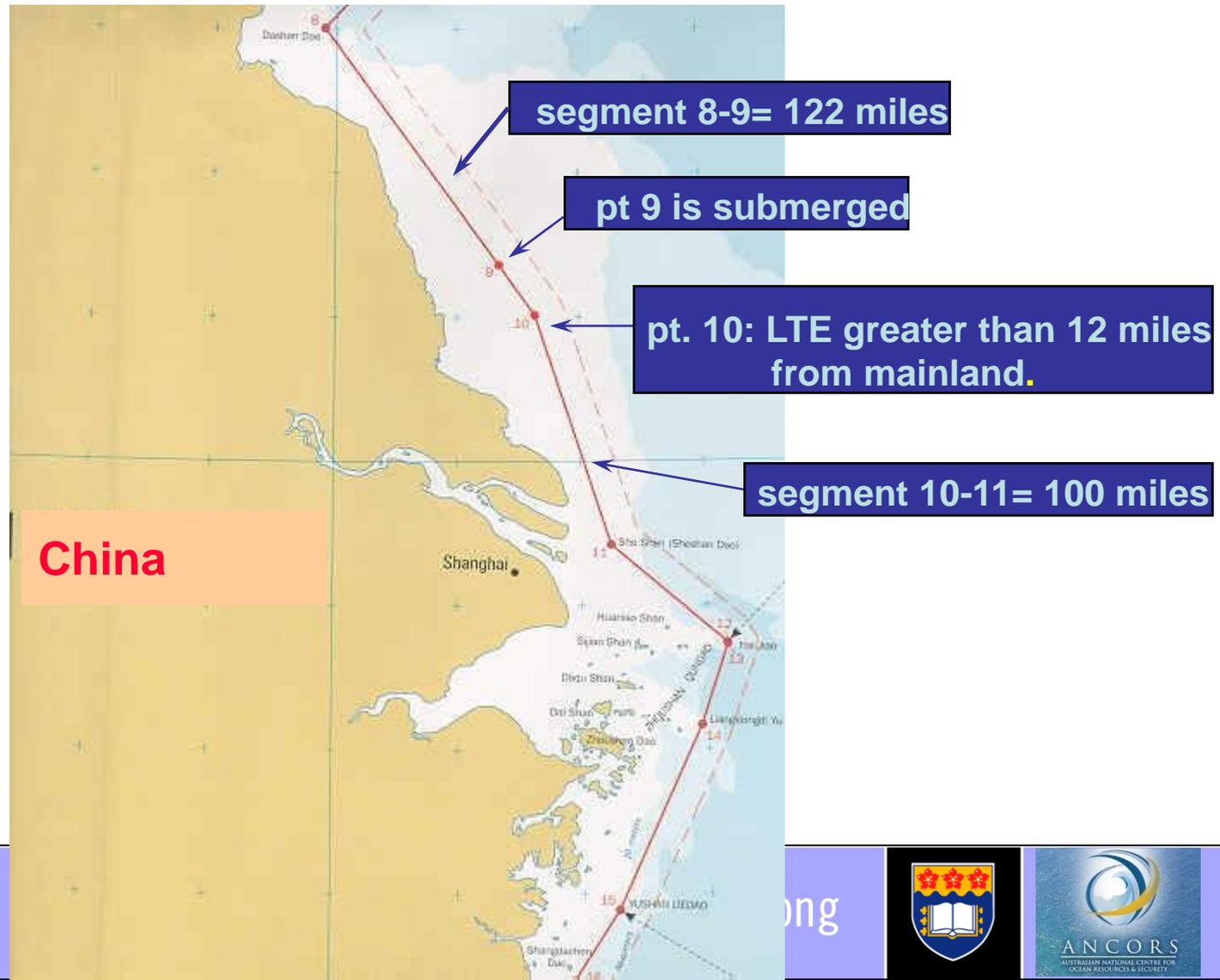
Northern Limit Line



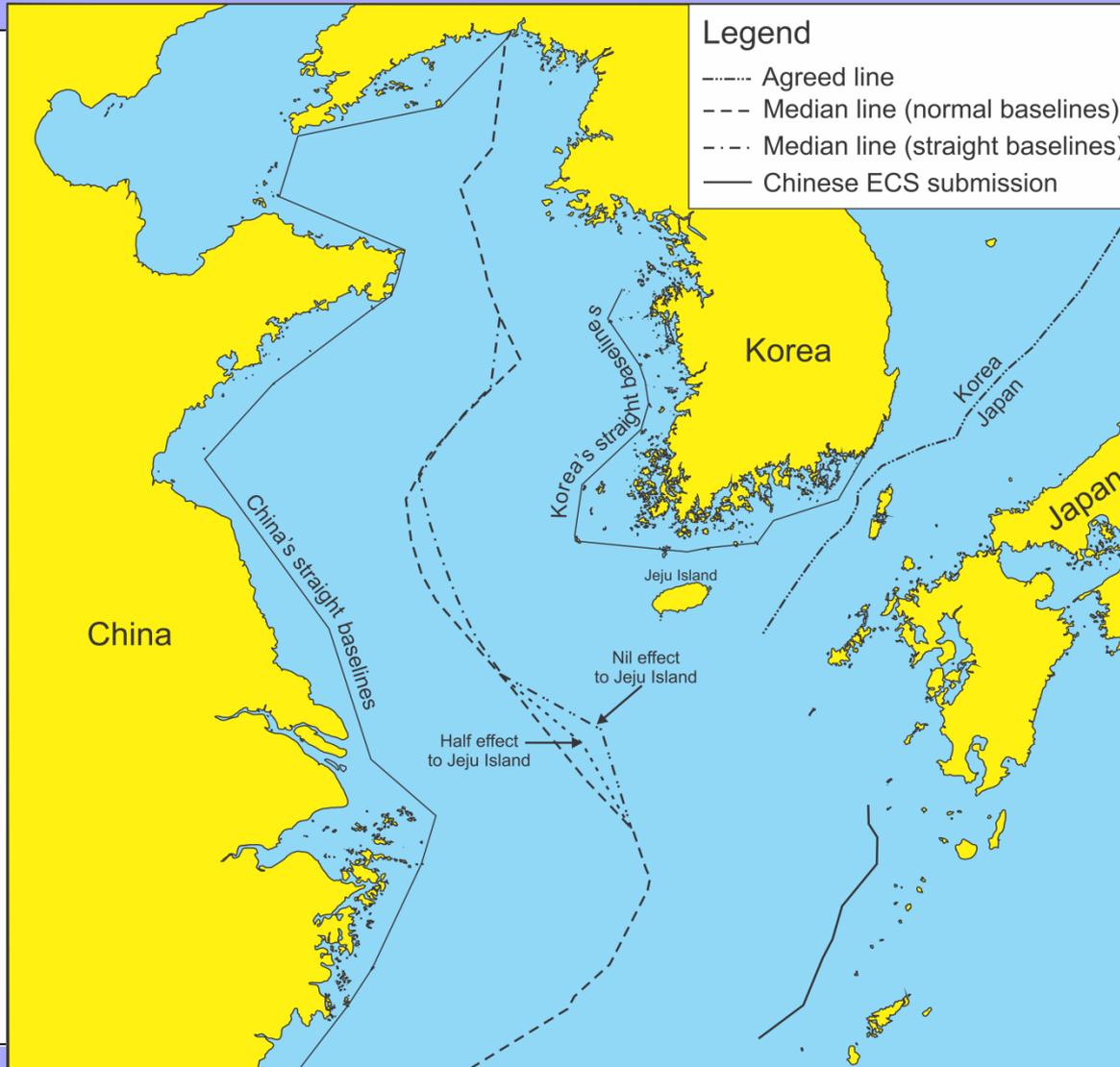
Korea's Straight Baselines

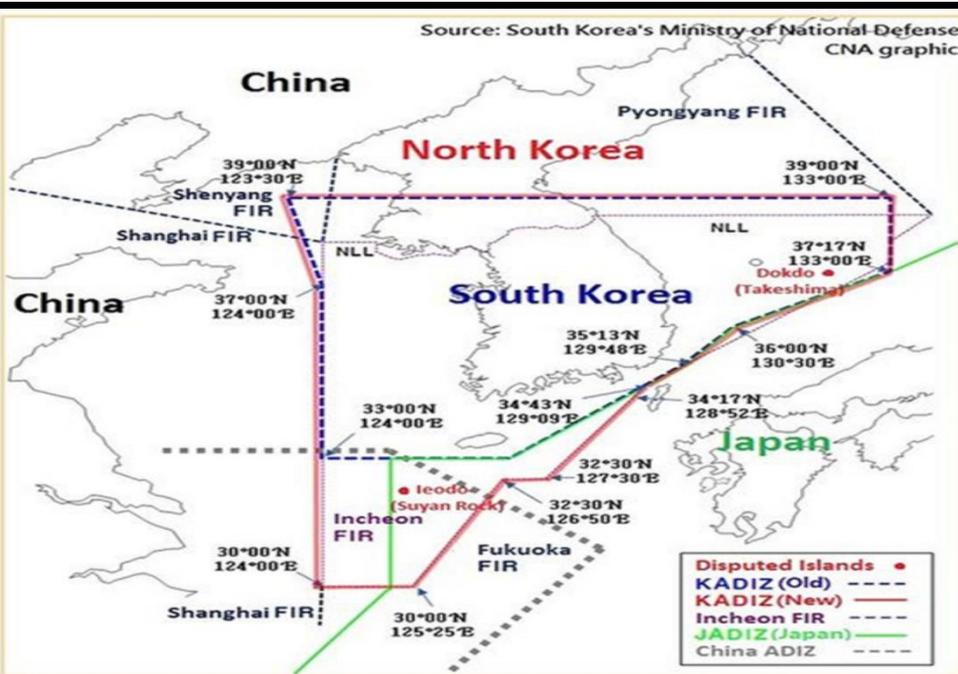


Segment of China's Straight Baseline System

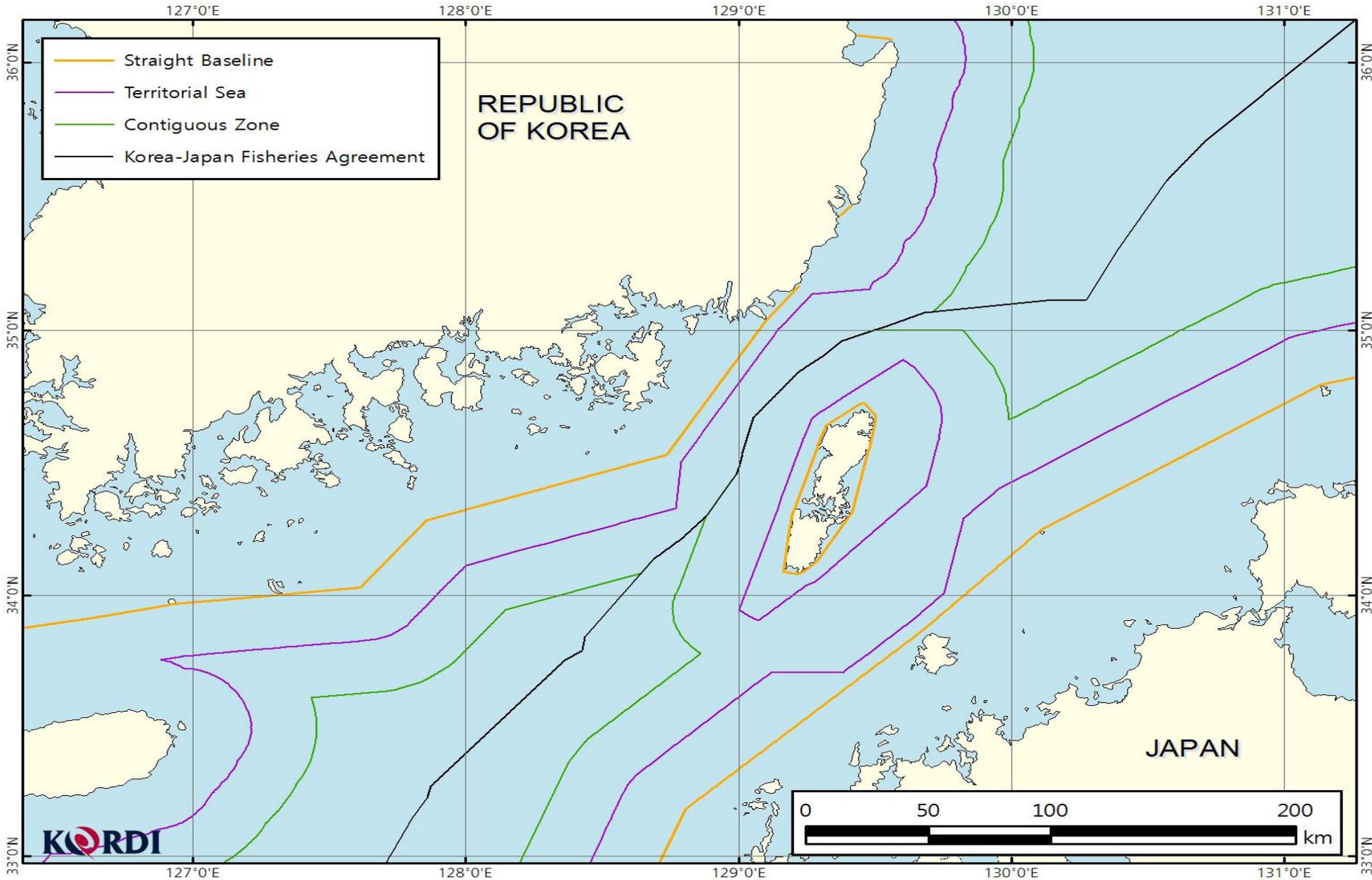


Provisional and Adjusted Lines





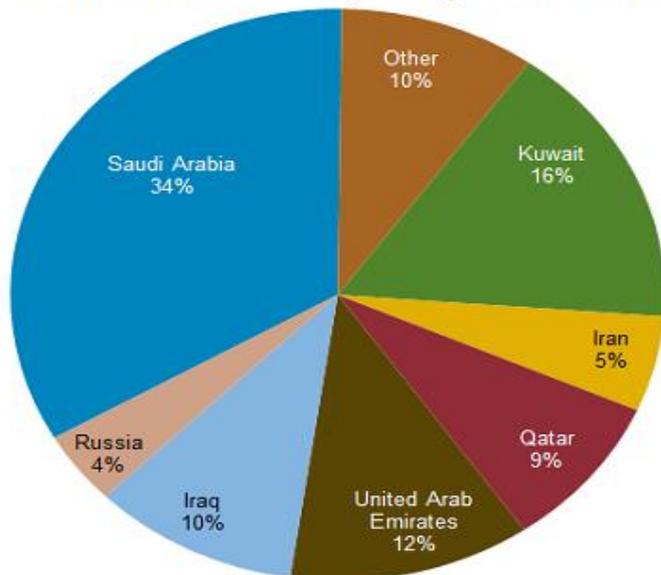
The Straits of the Korea and Jeju Strait



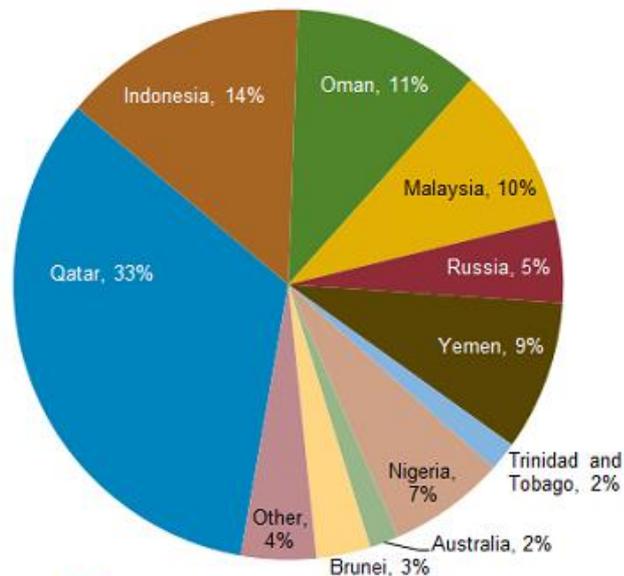
The Importance of Straits and Freedom of Navigation to Korea: Energy Dimensions

- Reliant on imports to service 97% of energy demand
 - 2nd largest importer of LNG globally (2013)
 - 4th largest importer of coal
 - 5th largest net importer of petroleum and other liquids
- Heavily reliant on Middle Eastern sources

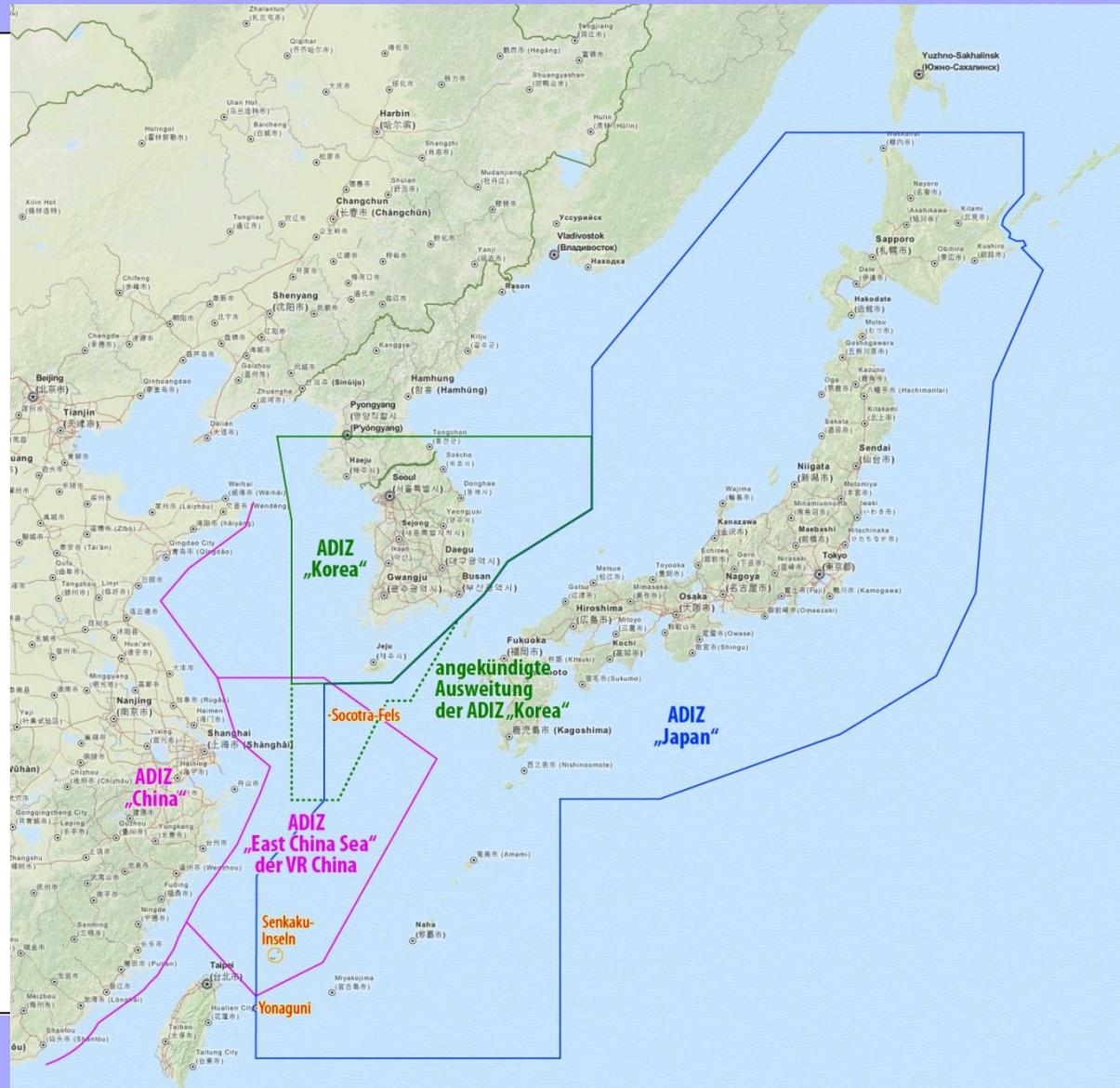
South Korea crude oil imports by source, 2013



South Korea LNG imports by source, 2013



Air Defence Identification Zones (ADIZ)



TERRITORY, MARITIME BOUNDARIES, COASTAL ZONES, STRAITS OF KOREA AND ADIZ

**WORKSHOP ON
KOREAN MARITIME SECURITY & INTERNATIONAL LAW**

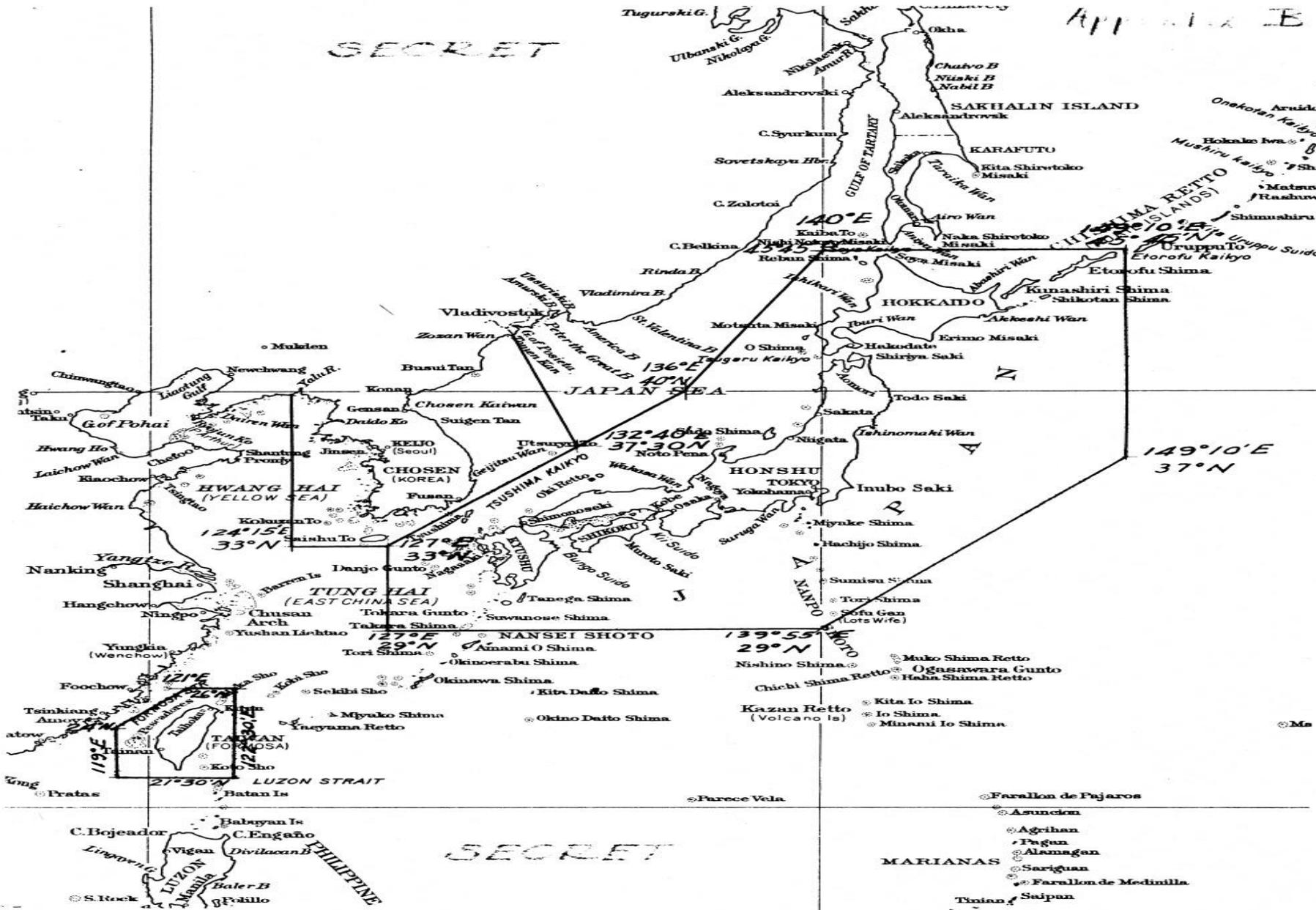
U.S. NAVAL WAR COLLEGE & KOREA MARITIME INSTITUTE

23 JUNE 2016

**PROF. SEOKWOO LEE
INHA UNIVERSITY LAW SCHOOL
LEESEOKWOO@INHA.AC.KR**

SECRET

APPENDIX B



SECRET

Territorial Disposition of The 1951 San Francisco Peace Treaty



PACIFIC OCEAN

NORTHWESTERN SHEET

SOUNDINGS IN FATHOMS
HEIGHTS IN FEET

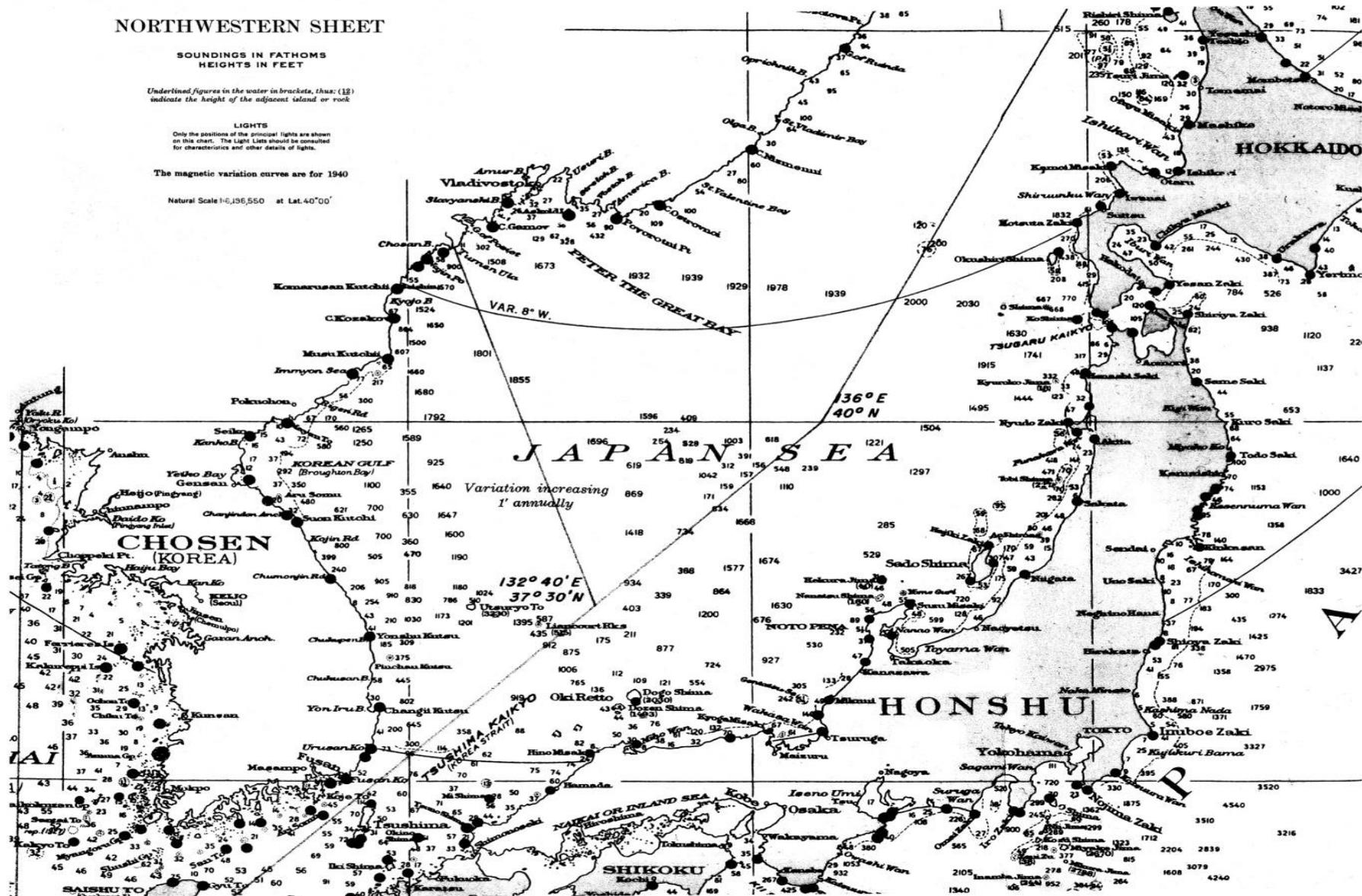
Undertlined figures in the water in brackets, thus: (12)
indicate the height of the adjacent island or rock

LIGHTS

Only the positions of the principal lights are shown
on this chart. The Light Lists should be consulted
for characteristics and other details of lights.

The magnetic variation curves are for 1940

Natural Scale 1:6,136,550 at Lat. 40° 00'



Signing of the San Francisco Peace Treaty, September 1951, by U.S. Secretary of State Dean Acheson, with John Foster Dulles looking over his shoulder



Treaty of Peace with Japan

Signed at San Francisco,

8 September 1951

Initial entry into force: 28 April 1952

CHAPTER II TERRITORY

Article 2

- (a) Japan recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.**
- (b) Japan renounces all right, title and claim to Formosa and the Pescadores.**
- (c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 5 September 1905.**
- (d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nations Security Council of 2 April 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan.**
- (e) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.**
- (f) Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.**

Reforms

8. MR. DORT stated that there was strong feeling in E that the economic and social reforms, such as those contained in legislation, should be spelled out in the treaty. E believes that they are fundamental and are no less appropriate for inclusion than some of the political requirements.

9. MR. DAVIES expressed the feeling of Mr. Kennan that it is unrealistic to write in specific terms which we might not be able to enforce in the future. S/P would like to see the treaty kept as simple as possible, with a full use of annexes.

Territorial Sections

10. Reference was made to the suggestions of Professor Reischauer of Harvard which have not yet been incorporated, stressing the proper psychological approach to the Japanese. MR. BUTTERWORTH commented that our war deaths and the need for Senate ratification should also be kept firmly in mind in connection with the treatment of reforms, territories, etc.

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War Criminals Clause

14. MR. HAMILTON explained that this material had been left in because of certain known war criminals who are still at large, but that the scope is limited in time.

General Drafting Changes

15. MR. FISHER said that Mr. Metzger of his office would discuss certain detailed proposals for change of language in the treaty with Mr. Hamilton.

Under-sea

SECRET

-3-, 495, November 14, from Tokyo

The following are our preliminary comments concerning those provisions which we consider of high importance:

Article 4: Presumably security provisions will affect

The following are our preliminary comments concerning those provisions which we consider of high importance:

view questions permanent boundary and fisheries.

Article 6: Recommend reconsideration Liancourt Rocks (Takeshima). Japan's claim to these islands is old and appears valid. Security considerations might conceivably envisage weather and radar stations thereon.

Article 14: Query: Should Japan be committed to recognize treaties of little or no direct concern to

Article 6: Recommend reconsideration Liancourt Rocks (Takeshima). Japan's claim to these islands is old and appears valid. Security considerations might conceivably envisage weather and radar stations thereon.

Article 43: We are somewhat skeptical concerning proposed arbitral tribunal by reason of its being an extension into era of peace, presumably for many years, of forced means of adjudication.

Article 48: Recommend deletion or rewording this article to state a principle rather than an enforced administrative measure.

Article 49: Question the necessity for this a

CSB:RT

SEBALD

SEBALD

SECRET

United States Political Adviser
for Japan

Tokyo, November 19, 1949.

AFFAIRS

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

United States Political Adviser
for Japan

11PW(Peace)/11-1949

DIVISION OF

NORTHEAST ASIAN AFFAIRS

Tokyo, November 19, 1949.

No. 806

NOV 19 1949

SECRET

DEPARTMENT OF STATE

secret

Subject: Comment on Draft Treaty of Peace with Japan.

Subject: Comment on Draft Treaty of Peace with Japan.

With reference to this Mission's telegram no. 495 of November 14, 1949, giving General MacARTHUR's and my reactions to the draft treaty of peace with Japan dated November 2, 1949, I now have the honor to convey to the Department a more detailed exposition of this Mission's views with respect both to the document as a whole and to its individual articles and annexes.

with good pride and conscience. After long consultation together, however, I and the other concerned officers of the Mission are agreed that careful attention to the psychology and other particularities of the Japanese people and attentive cognizance of Far Eastern political complexities will suggest means whereby the draft treaty might be made more nearly to conform with the underlying requirements which we believe should govern the efforts of the United States in bringing about a Japanese peace settlement.

THIS DOCUMENT IS RETURNED TO
DCMR
Central 740.0011 PW (PEACE
FILES

-2-

All other considerations, we feel, are of secondary importance and should formally be provided for in the treaty itself only if useful in reaching and achieving these three United States objectives.

My idea of a workable treaty with Japan is that it should be a ringing declaration of peace; it should be a document of historic stature reflective of the high concepts of the Atlantic Charter; it should be broad and general in scope and dignified with an enduring philosophical approach, sublimating to the greatest extent possible the harsh and temporary realities of property settlements, commercial arrangements, and all the legal technicalities which can only clutter and obscure the principal objectives. So far as realities permit, I believe the treaty should be a simple but inspiring document. I feel it is important, too, that we bear in mind the crucial fact that we are dealing with Orientals with whom the proper psychological approach and manner of procedure are of cardinal importance. I would accordingly suggest that, since property settlements and commercial and legal arrangements must admittedly have a place, considera-

cial arrangements, and all the legal technicalities which can only clutter and obscure the principal objectives. So far as realities permit, I believe the treaty should be a simple but inspiring document. I feel it is important, too, that we bear in mind the crucial fact that we are dealing with Orientals with whom the proper psychological approach and manner of procedure are of cardinal importance.

... I would accordingly suggest that, since property settlements and commercial and legal arrangements must admittedly have a place, consideration, and provides inadequate balance for the subsequent recital of the stern realities which a defeated nation must face. It may perhaps be reasonable also to suggest that there be included in the treaty some recognition of the economic and social problems Japan must solve in the future if its democratic development is to withstand the inevitable temptation to seek more expedient totalitarian solutions. Even a modicum of recognition for meritorious achievement and some sympathetic mention of the acute problems this nation must hereafter face would, it is believed, not be misplaced in a treaty which we hope may be instrumental in giving Japan maximum usefulness in the family of nations. Omission of such recognition in a document which of necessity must have some severe provisions could well sow the seeds of a resentment which might eventually make itself manifest in the pattern of future Pacific wars. In putting forth these suggestions we have no interest in making the treaty "soft", or merely palatable for the Japanese; we are looking at it from the cold practical viewpoint of American interest in a treaty which will draw out of the Japanese willing cooperation and support in achieving American ends.

It would

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Authenticity
NND 760650
ANT NARA Date: 6-23-77

Enclosure to Tokyo's
Despatch No. 806,
November 19, 1949.

-3-

Etorofu Island and Uruppu Island", and that this be accompanied by a footnote to the effect that "It is the hope of the United States that the Soviet Union will not seek to annex Etorofu, Kunashiri, Shikotan, or Habomai Islands. The claim of their forming a part of the Kuril Islands is historically weak, and they are of far greater navigational and fishing importance to Japan than to any other possessor". Concordantly with this expression, the islands listed in our proposed Article 3 as belonging to Japan would include specifically Etorofu, Kunashiri, Shikotan, and Habomai Islands.

With regard to the disposition of islands formerly possessed by Japan in the direction of Korea it is suggested that Liancourt Rocks (Takeshima) be specified in our proposed Article 3 as belonging to Japan. Japan's claim to these islands is old and appears valid, and it is difficult to regard them as islands off the shore of Korea. Security considerations might also conceivably render the provision of weather and radar stations on these islands a matter of interest to the United States.

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Article 19. It is strongly recommended that this entire Article be deleted.

Articles 20

SECRET

UNCLASSIFIED

DEPARTMENT OF STATE

OFFICE OF THE SECRETARY

September 11, 1950

September 11, 1950

GROUP 5
Declassified following *42 CFR 1.101* *Herbert Levin*
RS/R DW 5-22-72
Mr. Matthews

The present text is purely tentative and this will be kept clear at all times. Also some provisions are in which we may want to subtract, and others are not in which we may want to add, and this is done consciously in order to have a certain bargaining position.

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1150

J.F.D.

S:JFDulles:kg

Enclosure

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DEC 5 1952

694 001 9-1-50
C. H. H. H. H. H.
[Redacted]

NOTES ON CERTAIN ISLANDS ADJACENT TO OR FORMERLY OCCUPIED BY JAPAN¹

1. Takeshima (Liancourt Rocks). This island -- or more properly a

OCCUPIED BY JAPAN¹

or more properly a pair

of islets and several rocks surrounding them -- is located at 37°N and 132°E to the north of Shimane Prefecture, Japan. It is a breeding ground for sea lions, and records show that for a long time Japanese fishermen migrated there during certain seasons of the year. Because of lack of open spaces and drinking water, however, there have not been any permanent settlers on Takeshima.

In 1905 the Japanese Government formally claimed the island as an integral part of Japan, apparently without protest from Korea, and placed it under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture. Following Japan's surrender, the Supreme Commander for the Allied Powers removed the island from Japanese jurisdiction; US armed forces now control the island and use it as a bombing range.

2. Dagelet (Matsu-shima, Utsuryo-to, or Ul-lung). This island has historically been Korean; the Japanese Government, after its annexation of Korea, retained Dagelet under the jurisdiction of the Governor-General of Korea. Administratively it had belonged to Kangwon-do until 1914, when it was transferred to Kyongsang-pukto. With an area of about 28 square miles, the island in 1935 had a population of 11,760 including some 500 Japanese.

3. Rebun-to. This island, situated at 45°N and 141°E, has always belonged to Hokkaido and remains under Japanese jurisdiction at the present; claims for it by foreign powers are unlikely. As of August 1948, there were

1. This report is based for the most part on Japanese language references available in the Department of State and the Library of Congress. Studies prepared within the Department of State and by the Japanese Foreign Office on some of the islands have also been consulted.

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3.

18. Reparations was generally agreed to be a dead issue.

19. Territories to be taken from Japan need not be mentioned in a Peace Treaty.

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23. From the point of view of the Pacific Community generally, all the enforcement machinery in the world could not guarantee security against Japanese aggression. The political disadvantage in interfering in Japan's internal affairs would outweigh any benefits derived from an attempt to write security guarantees into the treaty.

24. With reference to any American bases, India was opposed to any arrangement for such bases to be included in a Peace Treaty but there appeared to be no objection to Japan's making separate arrangements as a sovereign nation once the Treaty were in effect.

You will note that many if not most of the above points have already been covered by reporting from this Embassy.

Sincerely yours,

Arthur
Arthur R. Ringwalt

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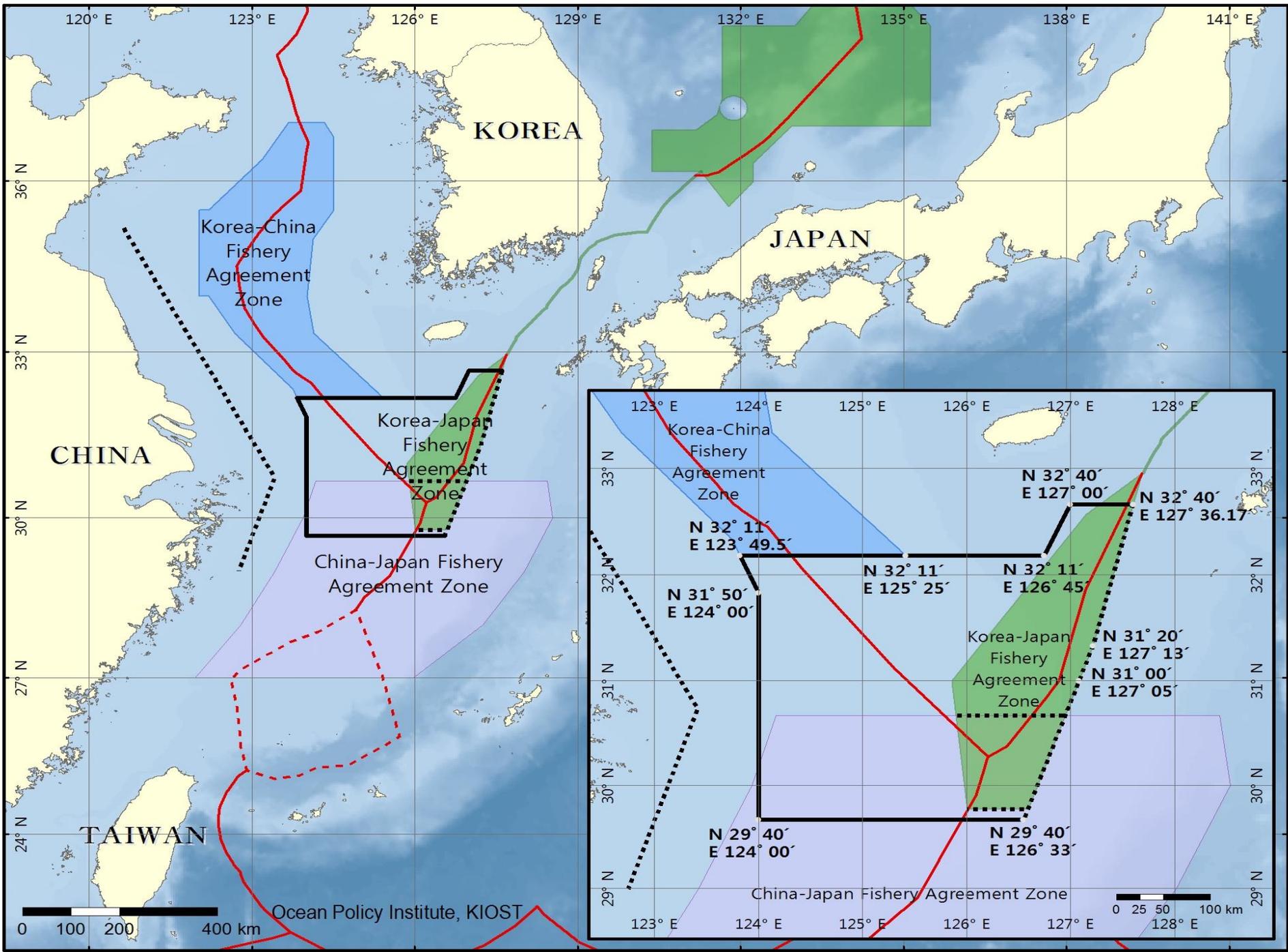
**Kurile Islands;
Diao-yu-tai/Senkaku Islands**

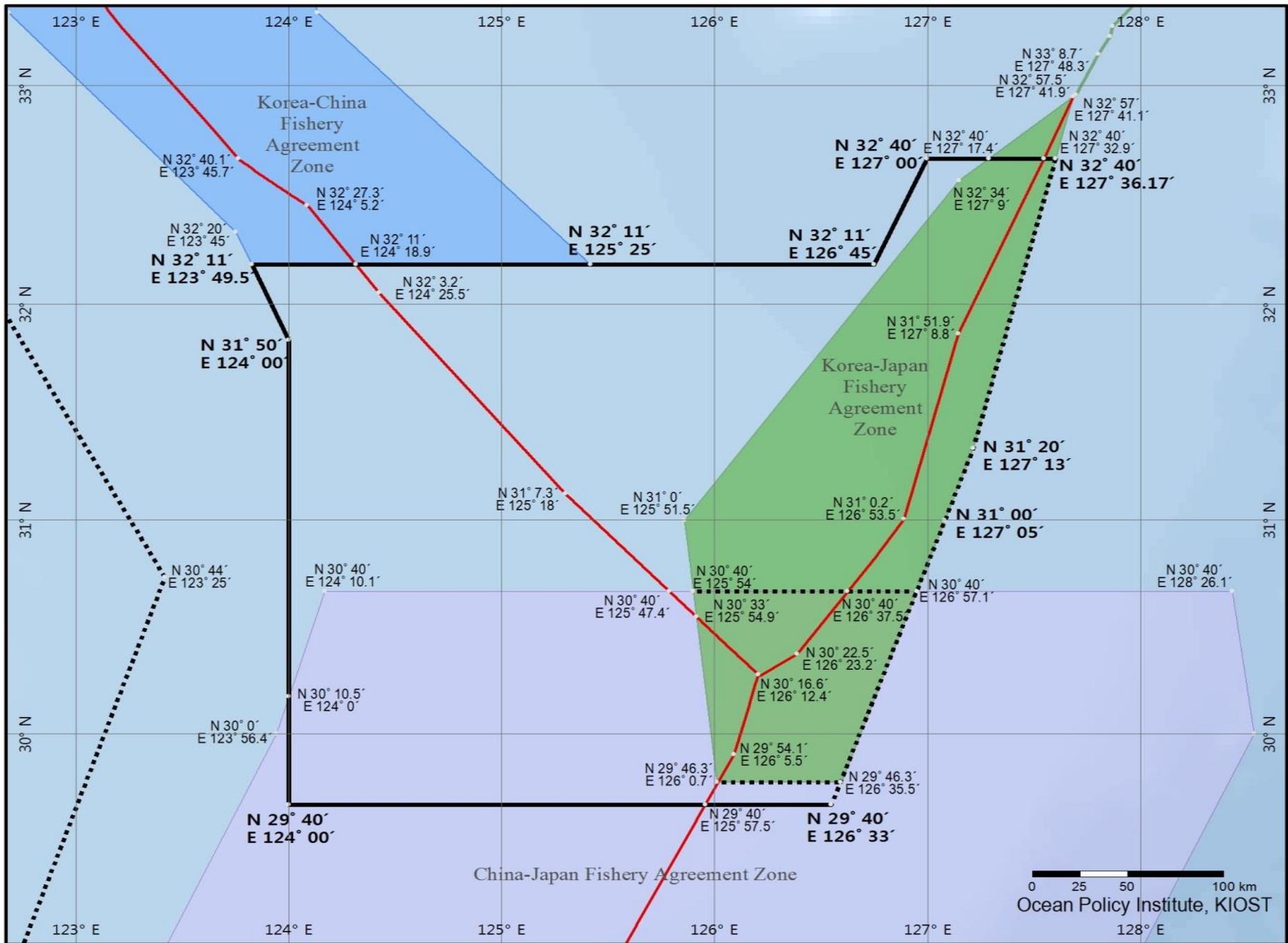
The U.S. position as to the Japan-Soviet negotiations was that if Japan recognized Soviet sovereignty over the Kurile Islands, the United States would have to reserve its rights under Article 26 of the San Francisco Peace Treaty to assert sovereignty over the Ryukyus.

**USDOS, “Memorandum of Conversation: Japanese-USSR Negotiations”, 1956/8/13,
[USNARA/ Doc. No.: 661.941/8-1356 CJC]**

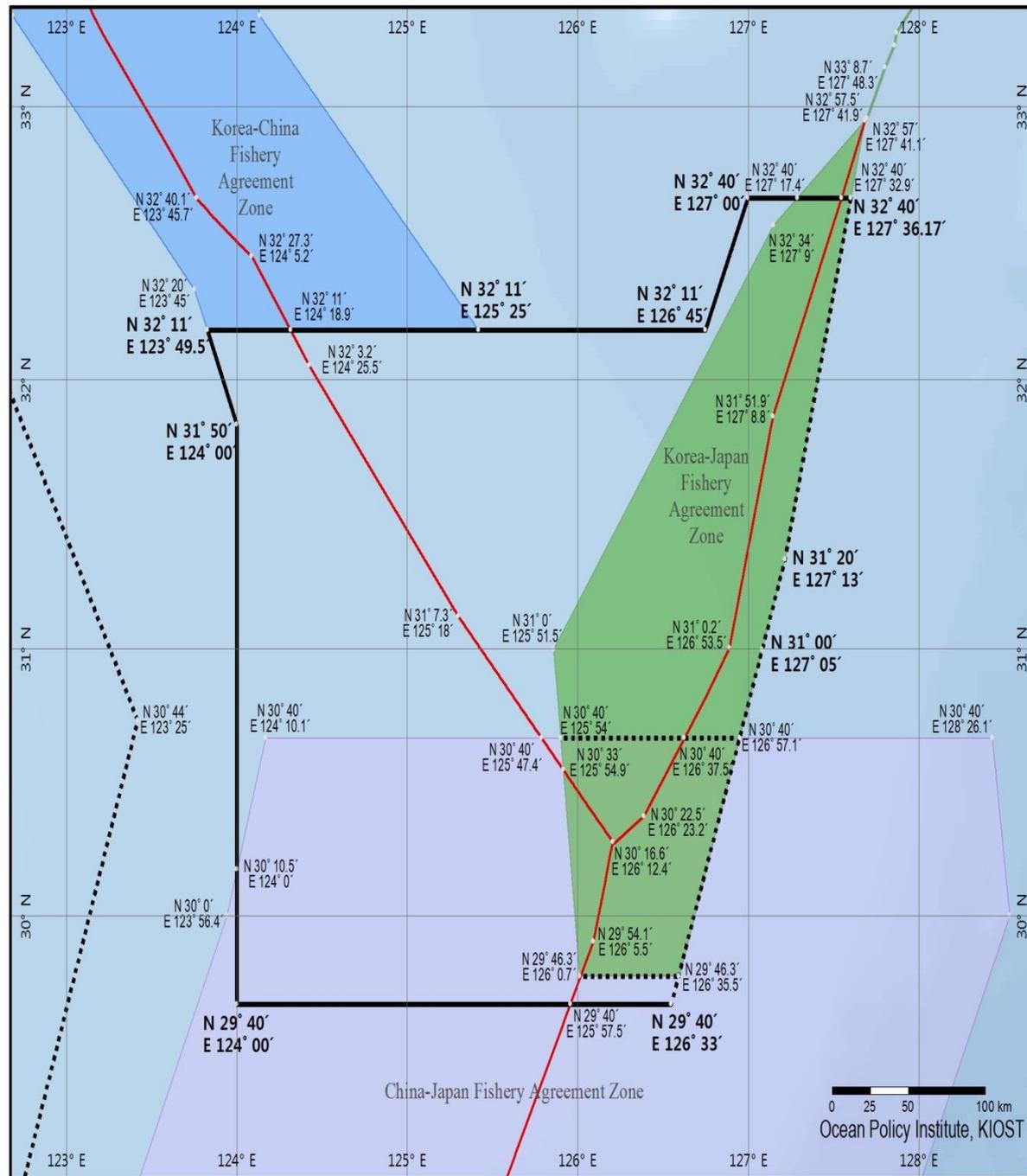
[Any] United States action supporting Japan's claim to the Kuriles might appear to reflect on our position under the San Francisco Treaty in the Ryukyus ... which Japan also renounced under the treaty; encouragement of Japanese irredentism in the north might also encourage it in the south; the hostile presence of the Soviet Union on Japan's northern border will serve as a constant irritant in their relations.

USDOS, "Memorandum from William J. Sebald (Deputy Assistant Secretary of State for Far Eastern Affairs) to Robert D. Murphy (Deputy Under Secretary of State for Political Affairs): Japan-USSR Relations", 1955/4/20, [USNARA/Doc. No.: 661.94/4-2055]

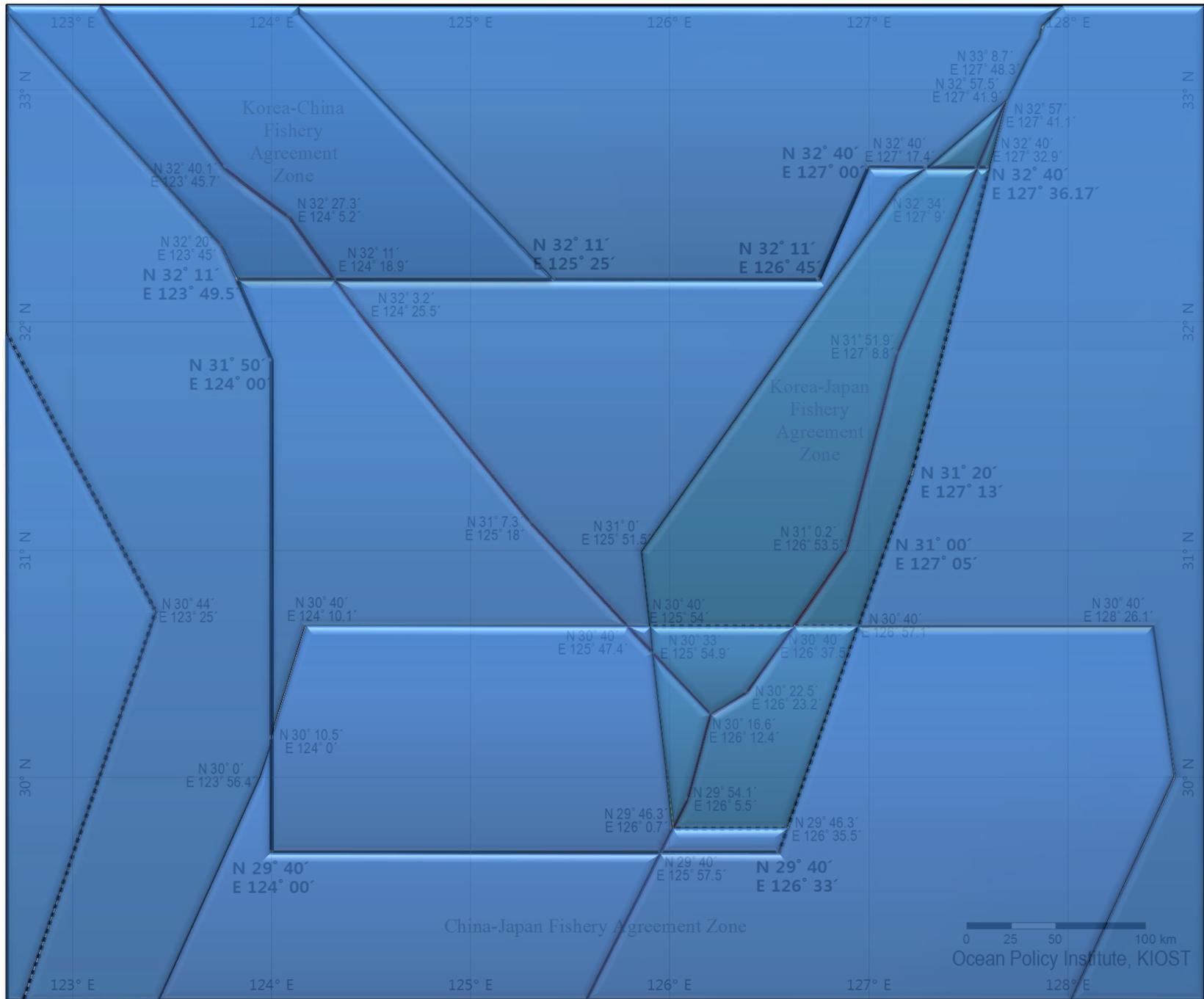


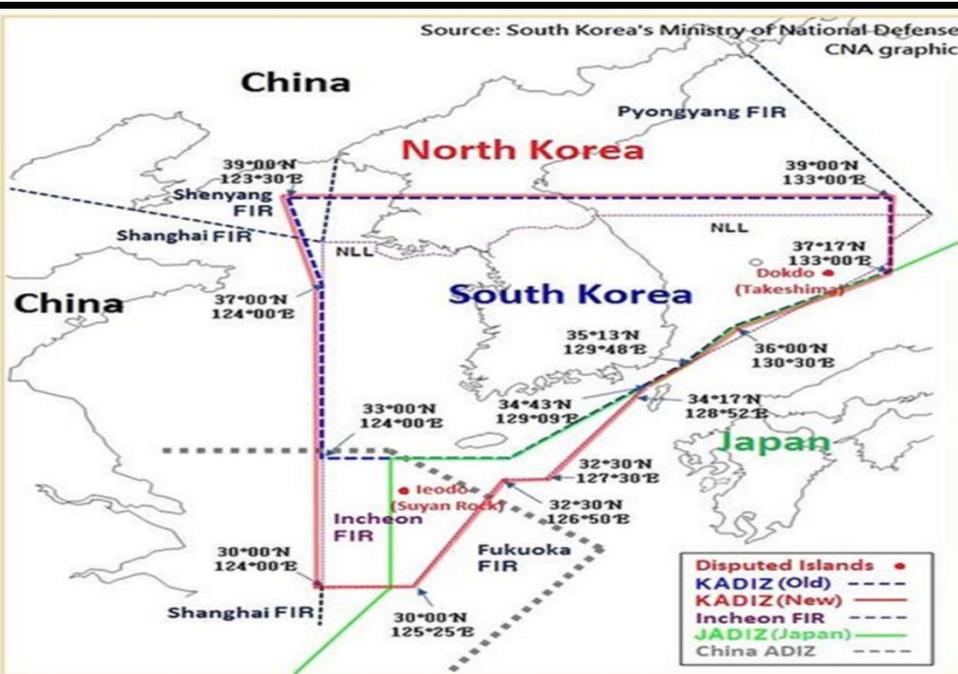


PMZ of **China-Japan Fisheries Agreement** is overlapped with the lowest boundary line of the Current Fishing Pattern Zone of the **Korea-China Fisheries Agreement**, and also overlapped with the lowest boundary line of the intermediate zone in southern Jeju which line is demarcated by Korea, of **Korea-Japan Fisheries Agreement**.



From the outset of three States' domestic laws on exercising sovereign rights in their own EEZ, all of three States declare 200 nm EEZ, but in case of overlapping claims of EEZ, the basic principle for Korea is: where there are separate agreements with foreign States, the agreement applies; but where no such agreement exists, law enforcement is refrained beyond the median line with the other State. In the other hands, China exercise without limit, but Japan exercise with limit to the boundary which is up to the median line.









Map of former President Roh Moo-hyun's proposed West Sea Peace and Cooperation Zone



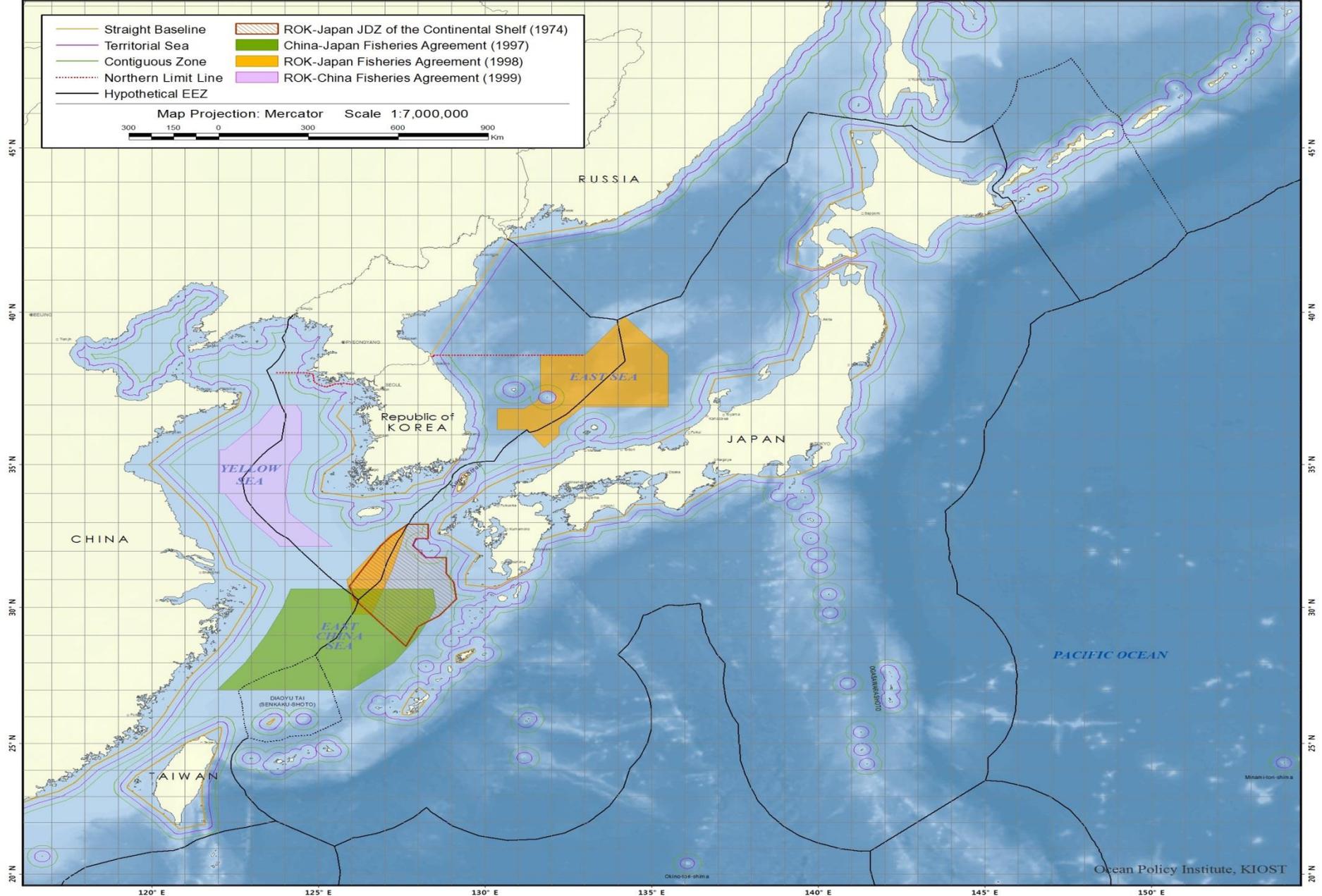
Northeast Asia Maritime Jurisdiction

120° E 125° E 130° E 135° E 140° E 145° E 150° E

Straight Baseline	ROK-Japan JDZ of the Continental Shelf (1974)
Territorial Sea	China-Japan Fisheries Agreement (1997)
Contiguous Zone	ROK-Japan Fisheries Agreement (1998)
Northern Limit Line	ROK-China Fisheries Agreement (1999)
Hypothetical EEZ	

Map Projection: Mercator Scale 1:7,000,000

300 150 0 300 600 900 Km



45° N
40° N
35° N
30° N
25° N
20° N

45° N
40° N
35° N
30° N
25° N
20° N

120° E 125° E 130° E 135° E 140° E 145° E 150° E



Vrije Universiteit Brussel

Maritime Law Enforcement The Naming of Sea Features: Legal Aspects

Prof. Dr. Erik Franckx
&
Prof. Nohyoung Park

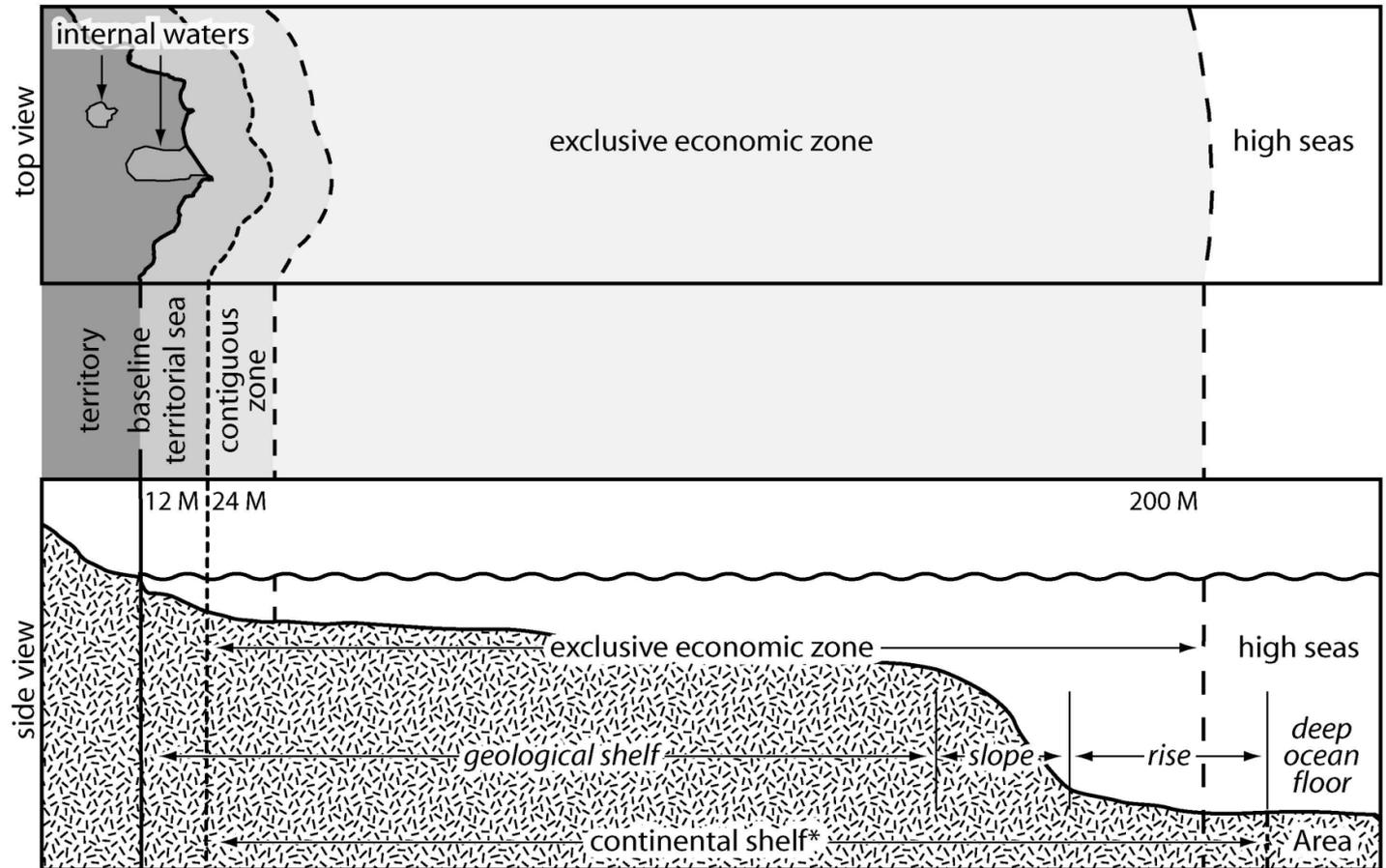
Korean Maritime Security & International Law
23-24 February 2016
Newport, Rhode Islands, USA

• Outline

1. Introduction
2. The role of the UNSecretariat
3. The role of the UNGEGN
4. The role of the IHO
5. The ICJ 2014 ICJ Whaling Case
6. Conclusions

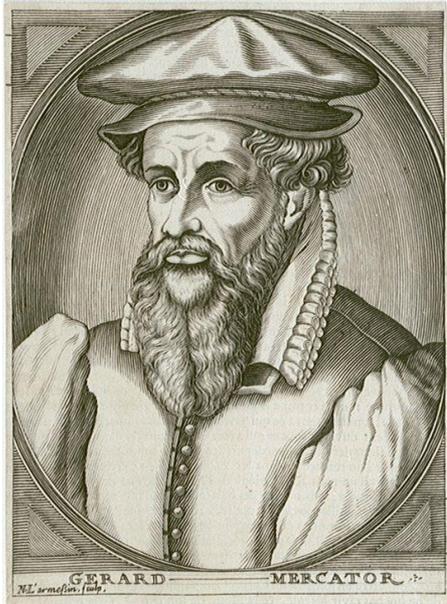
1. Introduction

- Exact problem under international law of the sea?



* The legal continental shelf extends at least to 200 M. In certain circumstances it may extend beyond 200 M.

1. Introduction



1. The Role of the UN Secretariat

— Argumentation of Japan

- Sea of Japan is standard geographical term in official UN publications
- Use is authorized by UN (most comprehensive and neutral organization)
- Simultaneous use infringes neutrality of UN
- Other IO should pay fullest respect

— Basis

- Japanese interpretation given to a UN Secretariat response of 10 March 2004 to an inquiry made by Japan

1. The Role of the UN Secretariat

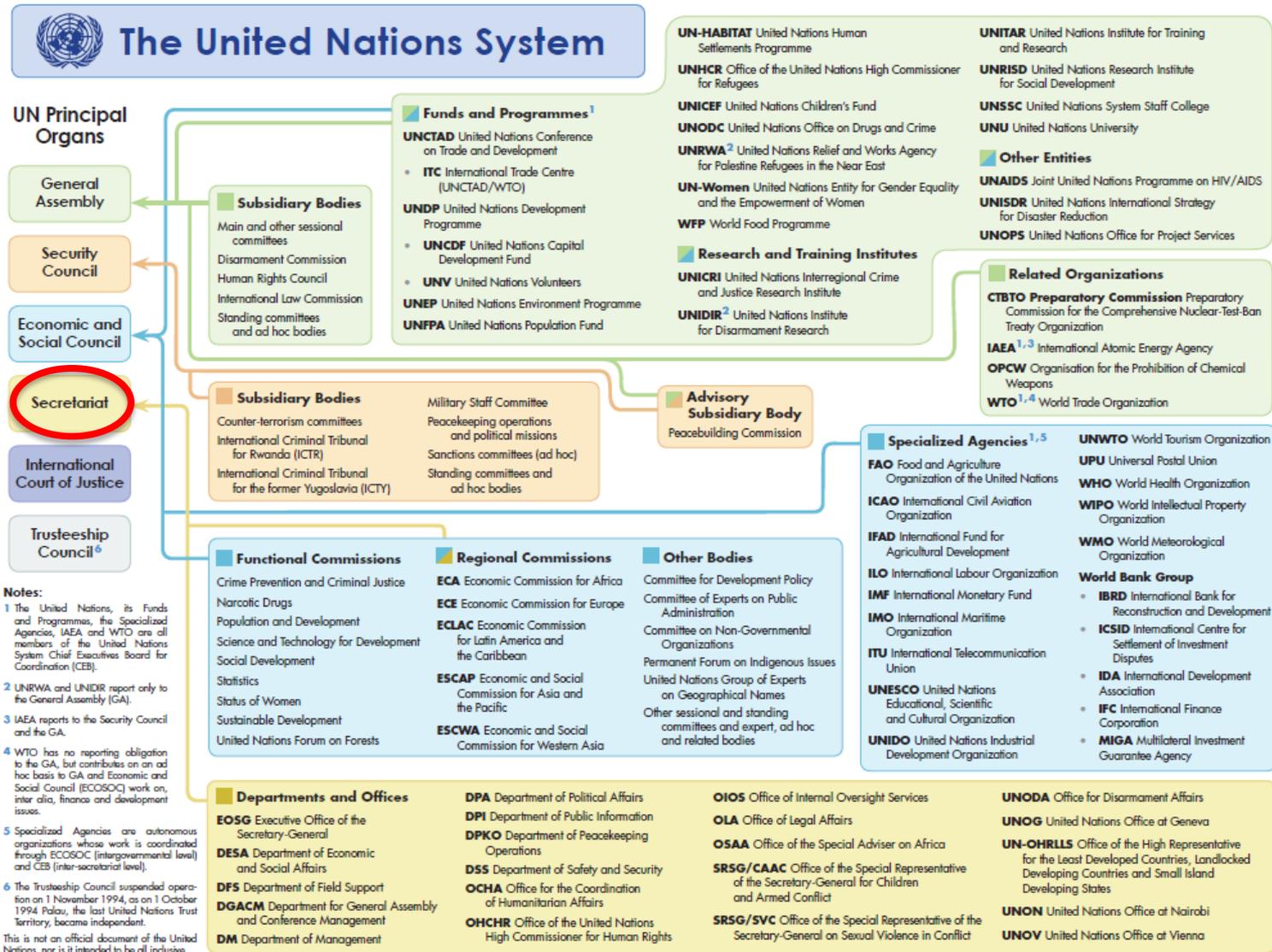
– Argumentation of Korea

- UN Secretariat \neq UN
- UN Secretariat has no authority to authorize use of name
- Even if UN Secretariat uses that name, this only binds the secretariat

– Basis

- United Nations law

1. The Role of the UN Secretariat

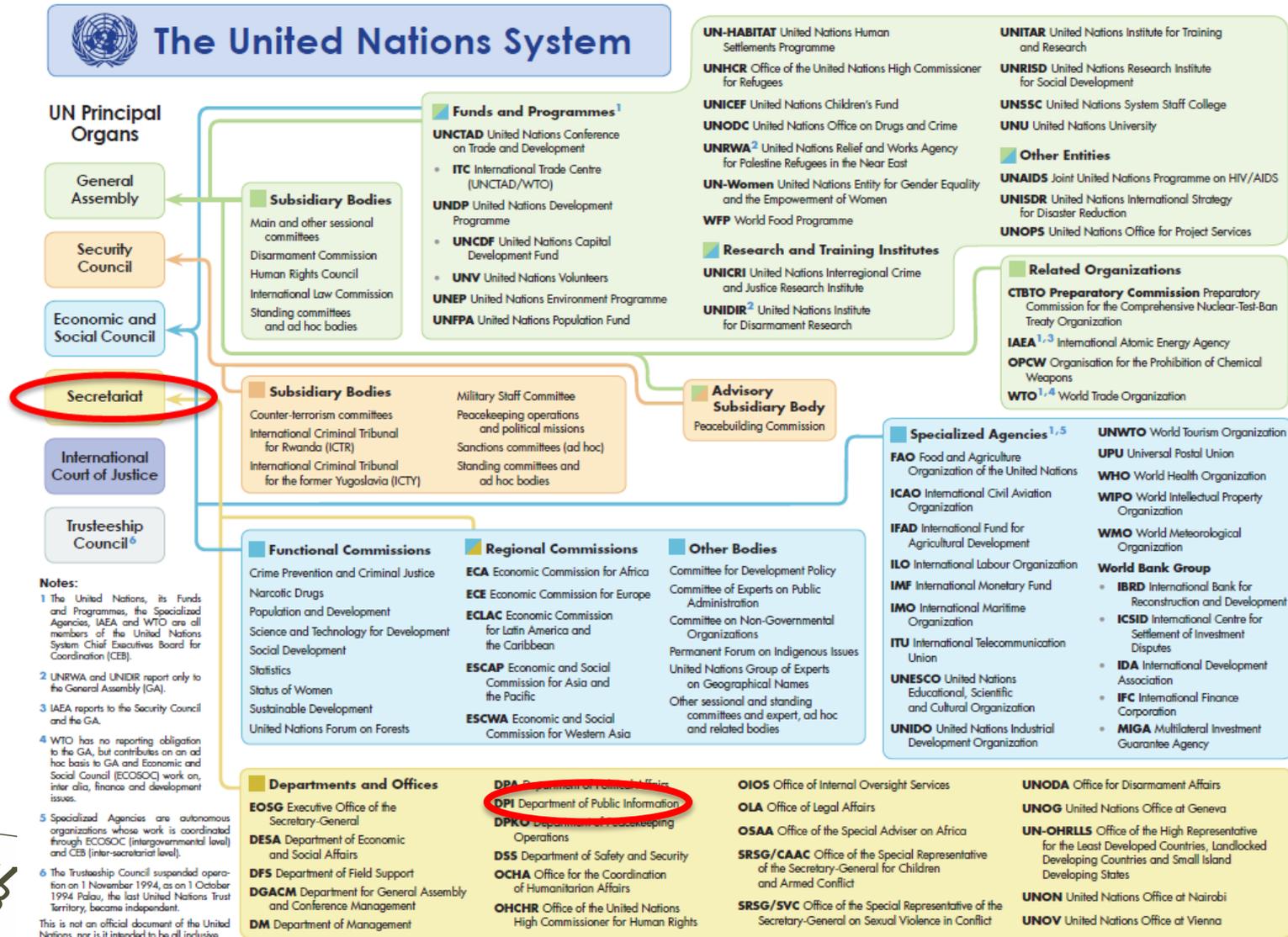


1. The Role of the UN Secretariat

– UN Secretariat

- Is only one of the organs of the UN
- Is international civil service
 - Do not receive instructions from national governments
 - Have to be impartial (cannot take sides)
- Its Department of Public Information has Cartographic Section

1. The Role of the UN Secretariat



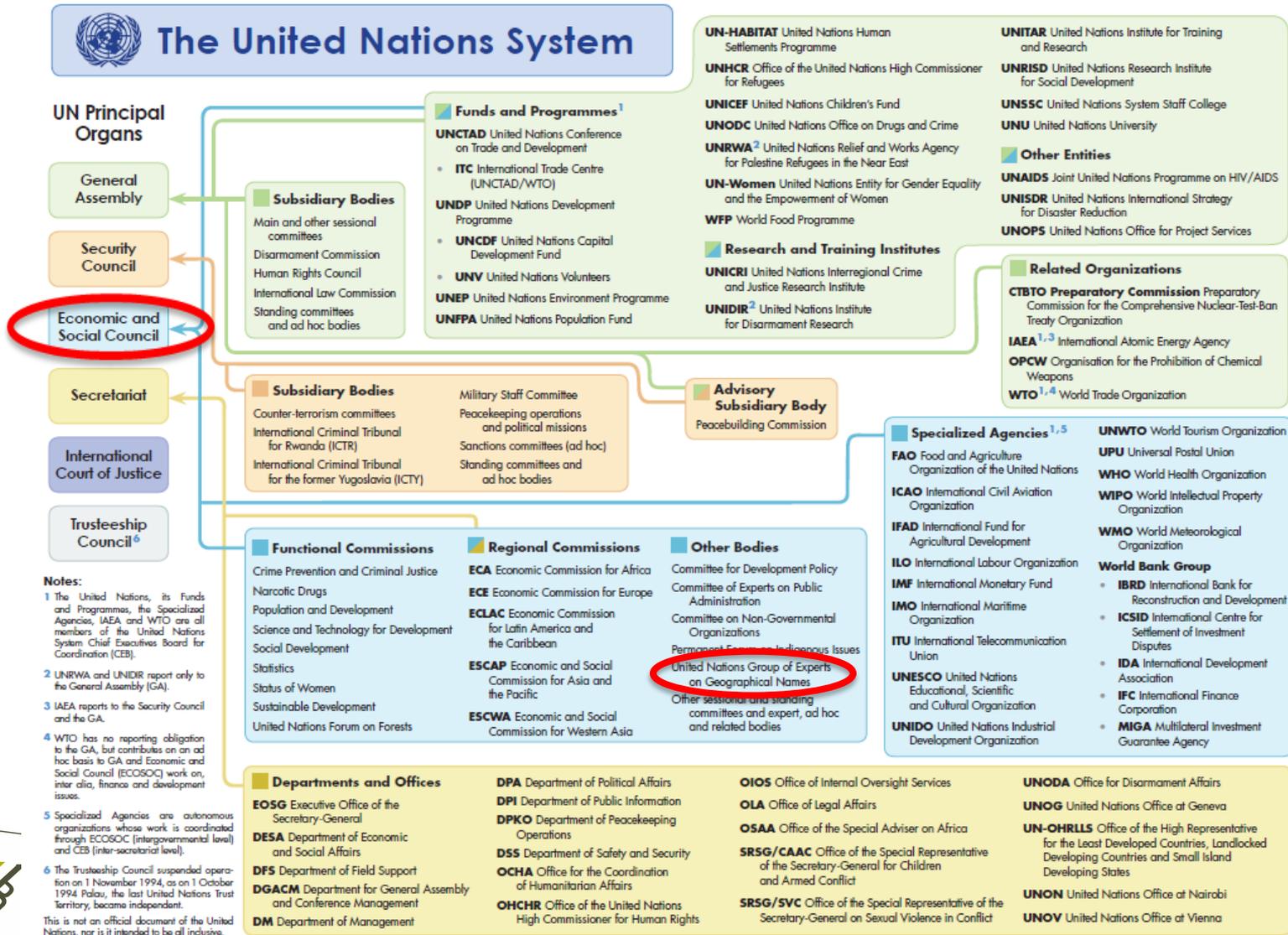
1. The Role of the UN Secretariat

– UN Secretariat

- Is only one of the organs of the UN
- Is international civil service
 - Do not receive instructions from national governments
 - Have to be impartial (cannot take sides)
- Its Department of Public Information has Cartographic Section
 - Has policy guidelines for use of maps in UN Documents/Publications
 - » Approval needed prior to publication
 - » Always disclaimer (not necessarily official endorsement by UN)
 - Not applicable to maps annexed to communications of MS

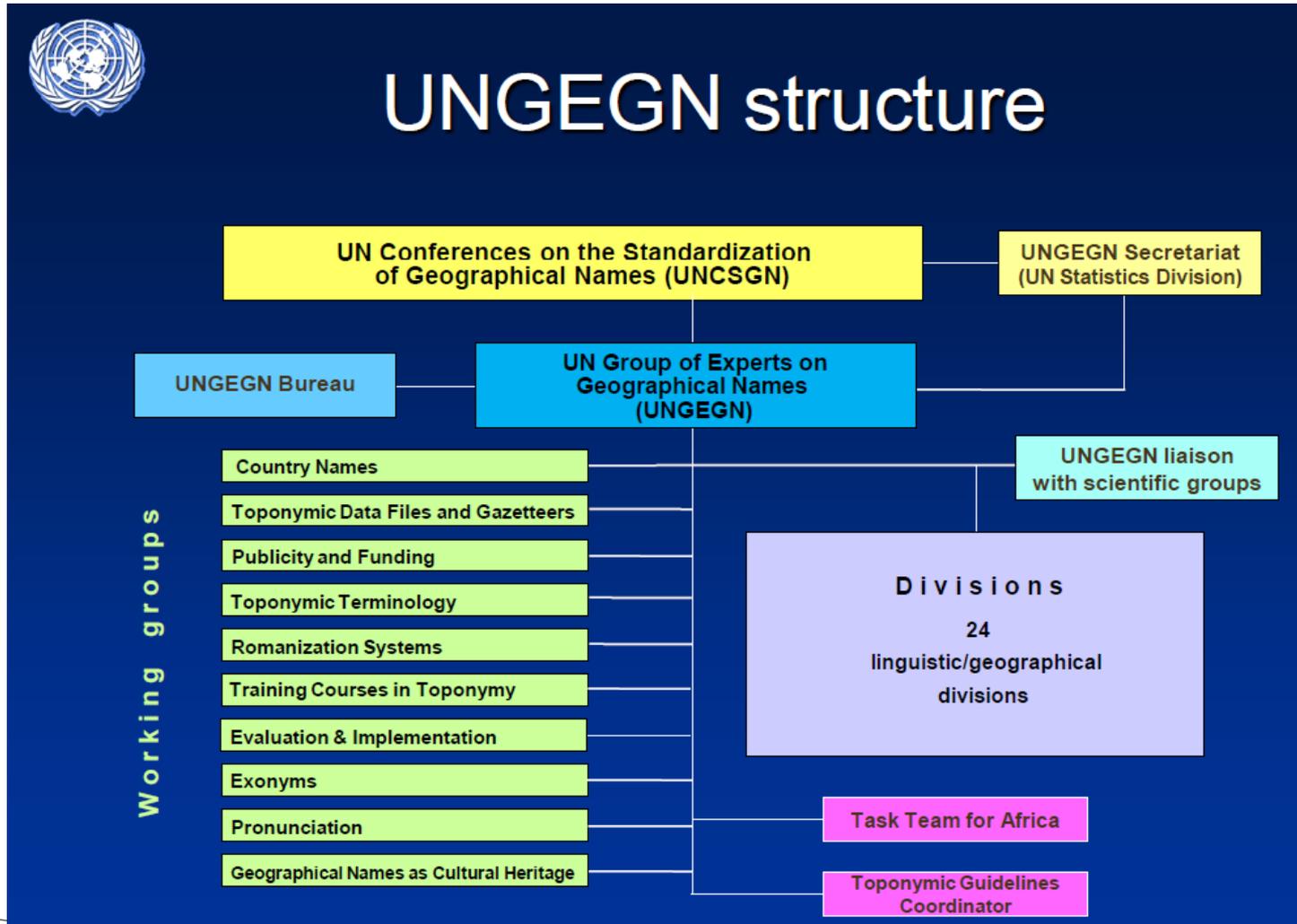
– UNGEGN

1. The Role of the UN Secretariat



Published by the United Nations Department of Public Information - DPI/2010 rev.3 - 13/02/2010 - August 2013

2. The Role of UNGEGN



2. The Role of UNGEGN

- UNGEGN
 - Outcome

Recommendations to UN Conferences on Standardization of Geographical Names

Recommendations to ECOSOC

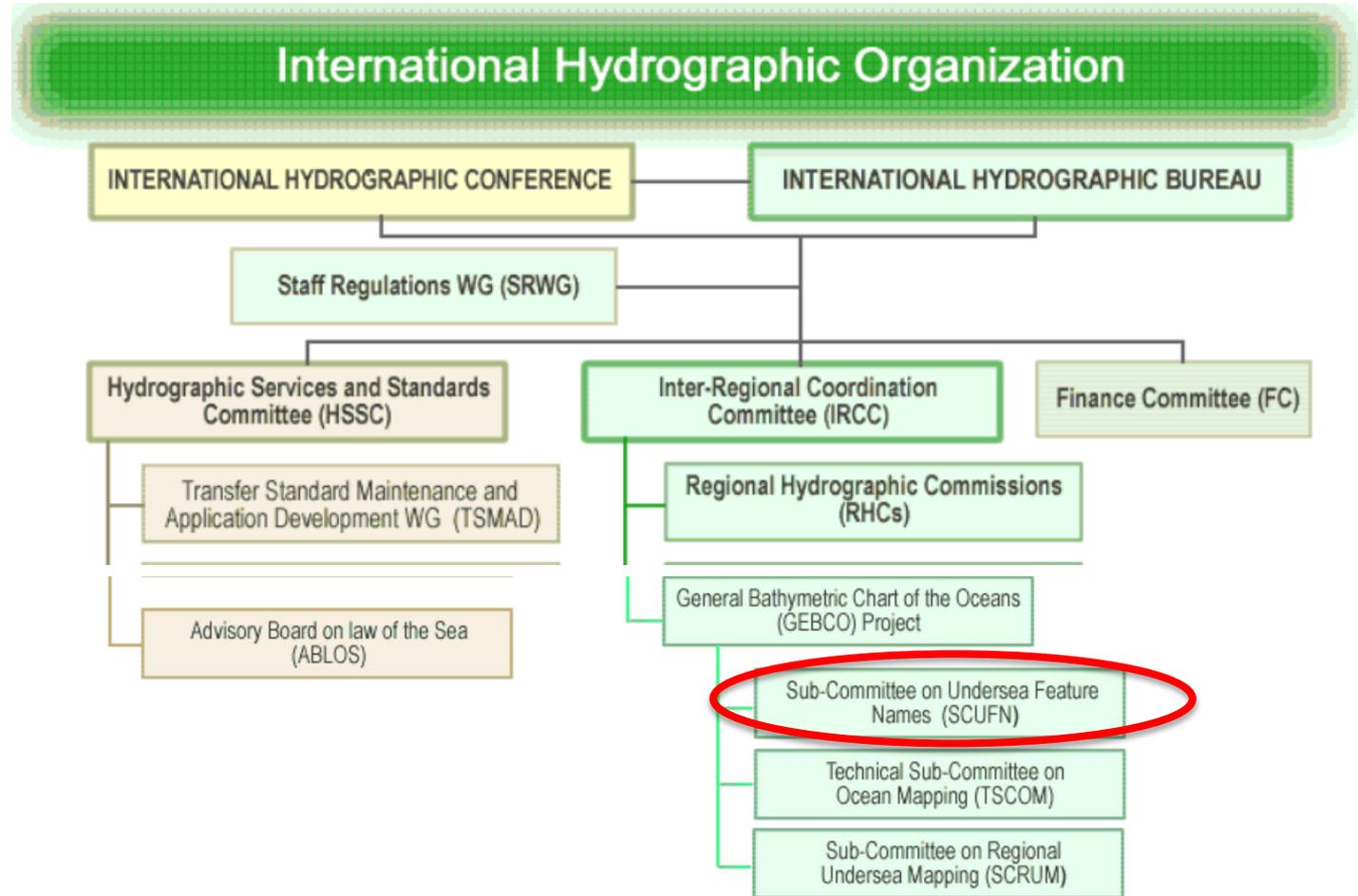
Recommendations to Member States to give them broadest possible publicity and exposure

Recommendations to GA

- Does not decide on names, but promotes consistent use

3. The Role of IHO

– Structure



3. The Role of IHO

– Structure

- Present-day
 - International Hydrographic Bureau – International Hydrographic Conferences
- Future
 - Assembly – Council - Secretariat

3. The Role of IHO

- IHO

- Outcome

Subcommittees (like SC on Undersea Feature Names) make Recommendations to the Committees

```
graph TD; A[Subcommittees (like SC on Undersea Feature Names) make Recommendations to the Committees] --> B[Committees make Recommendations to the Conferences]; B --> C[Conferences adopts "decisions" containing resolutions to be included the Repertory of Technical Resolutions];
```

Committees make Recommendations to the Conferences

Conferences adopts “decisions” containing resolutions to be included the Repertory of Technical Resolutions

- Cannot involve in questions of international policy and has no authority over national hydrographic offices

4. The ICJ 2014 ICJ Whaling Case

- Framework: 1946 IWC (°Commission; Scientific Commission)
- ICJ found, apparently based on Japan's acceptance of a duty to co-operate with Commission, a general obligation for all States parties to co-operate with Commission and Scientific Committee
- Organizational structure
 - Differences with 1931 and 1937 attempts
 - Schedule
 - Commission

4. The ICJ 2014 ICJ Whaling Case

- ICJ's argumentation
 - Novelties make 1946 IWC “evolving instrument”
 - Article VIII
 - Grants discretionary power
 - BUT still scrutiny whether granted “for purposes of scientific research”
 - Must Japan accept “resolutions” of Commission?
 - Normally not
 - Except those adopted with unanimity or consensus
 - But this latter category did not say that lethal methods can only be used when other methods are not available

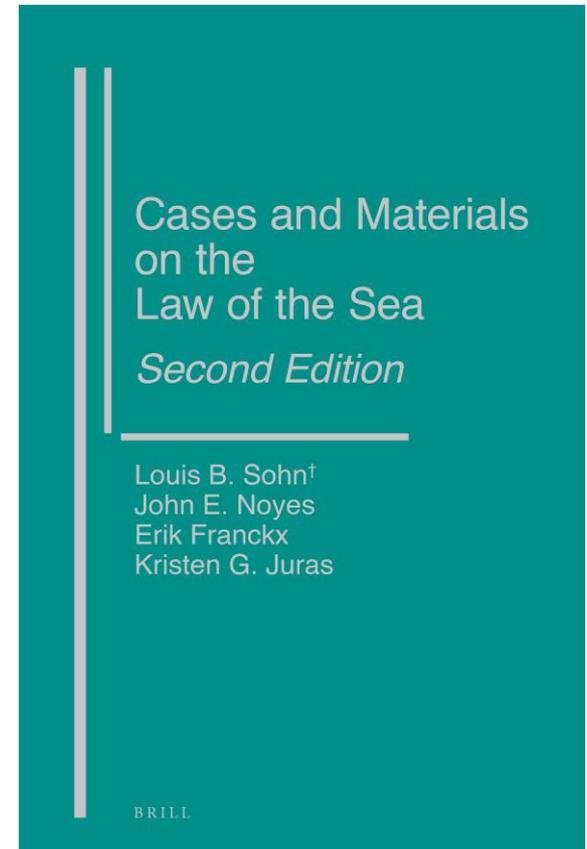
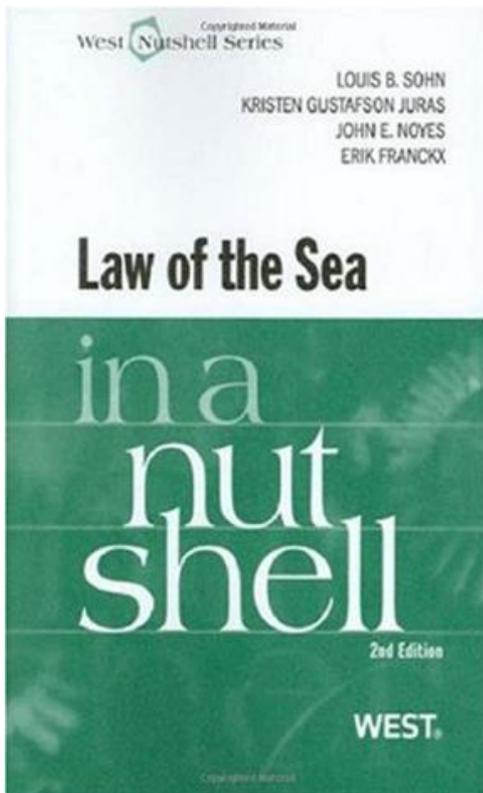
4. The ICJ 2014 ICJ Whaling Case

- ICJ's argumentation
 - Self-imposed standard of reasonableness
 - Japan should have seriously considered whether other methods could have been used instead, *quod non*
 - Should have reviewed its original research plan, *quod non*
- Appraisal
 - Dangers of Court relying on agreement of the parties

5. Conclusions

- Creation of IGO starting from 17th century fulfil a special need
- Certain IGOs receive more competence → more responsibilities
- Recent decision of ICJ tends to further enhance the functioning of conventional bodies
 - Applicable to UN Secretariat? Most certainly not
 - Applicable to UNGEGN? Probably not
 - Applicable to IHO? Maybe not today, but in near future
- But conferences of the parties can interpret the respective's body founding document through resolutions

The End



Exercising the Right of Self-Defense and Using Force in Response to North Korean Provocations

(Focused on the sea area near the NLL)

RADM(ret) Hyungsoo Bai
Captain(ret) Sukjoon Yoon

Contents

- ▶ Understanding the NLL , the Right of Self-Defense & the Use of Force
- ▶ ROK's Response to NK Provocations
 - Examples of Exercising the Right of “Unit Self-Defense”
 - . 1st & 2nd Battles of Yeonpyeong(1999, 2002)
 - . Battle of Daecheong(2009)
 - . *Cheonan* Sinking (2010)
 - . Bombardment of Yeonpyeong (2010)
 - ROK JCS & UNC/CFC/USFK Counter-Provocation Plan(2013)
- ▶ Recent North Korean Provocations & ROK's Military Responses
- ▶ Summary

Northern Limit Line (NLL)

- ▶ Disputed maritime demarcation line in the West Sea between the DPRK and the ROK
 - This line of military control acts as the de facto maritime boundary.
- ▶ **United Nations Command's position**
 - The NLL must be maintained until a new maritime MDL can be established through the Joint Military Commission on the armistice agreement.
- ▶ **South Korea's position**
 - The NLL is the effective maritime demarcation line, and is validated by the 1992 South-North Basic Agreement.
 - Until a new maritime nonaggression demarcation line is established, the NLL will be resolutely maintained, just like the terrestrial Military Demarcation Line, and all North Korean intrusions will be met by a determined response.
- ▶ **North Korea's position**
 - The NLL violates the Korean armistice agreement.
 - Seeks negotiations with U.S. on this issue.



The disputed maritime border between North and South Korea in the West Sea:^[21]

A: United Nations Command-created Northern Limit Line, 1953^[22]

B: North Korea-declared "Inter-Korean MDL", 1999^[23] The locations of specific islands are reflected in the configuration of each maritime boundary, including

- 1—Yeonpyeong Island
- 2—Baengnyeong Island
- 3—Daecheong Island

Understanding the Rights of “Unit Self-Defense” and “National Self-Defense”

▶ Right of Unit Self-Defense :

- Universally recognized as an inherent and independent right to defend oneself against hostile attack or the imminent threat of hostile attack.
- Not only a right but also an obligation for commanders at sea.
- Extends to the entire unit, including allied forces operating in the area and also civilians.

Understanding the Rights of “Unit Self-Defense” and “National Self-Defense”

▶ Use of Force in Exercising the Right of Unit Self-Defense :

- Required to comply with the principles of necessity, proportionality, and immediacy.
- Should be a Unit Commander’s last resort. Deadly force is to be used only when
all lesser means have failed or cannot reasonably be employed.
- * Cannot authorize a unit to attack an entity other than that responsible for the attack or
threatened attack, nor to take action to prevent future attacks.

Understanding the Rights of “Unit Self-Defense” and “National Self-Defense”

▶ Right of National Self-Defense :

- Generally considered to be a sovereign right.
- The decision to exercise the right is made at the highest levels of government,
and/or by other national security agencies.
- * National self-defense is only permitted when the U.N. Security Council is unable to
provide protection against an illegal attack.

Understanding the Rights of “Unit Self-Defense” and “National Self-Defense”

- ▶ **Use of Force in Exercising the Right of National Self-Defense :**
 - No requirement to act instantly without deliberation following an armed attack.
 - Instead, time is allowed to determine whether the use of force is necessary, and to exhaust reasonably available alternatives to the use of force, before deciding the appropriate response.
 - Member states are required to report all actions taken in national self-defense to the U.N. Security Council (Article 51 of the U.N. Charter).

Implementing the Right of Unit and National Self-Defense

in response to North Korean Military Provocations

Unit Self-Defense as an inherent right of the Unit Commander

▶ 1st (1999) & 2nd (2002) Battles of Yeonpyeong

- Political requirements for the unit commanders to prevent all-out war:

“Guard the NLL, No preemptive attacks, Repel NK attacks, Avoid escalation.”

- Directions to take actions in response to violation of the NLL:

“*Radio warning - Intercept maneuver - Warning shots - Threatening shots - Destructive shots*”.

☞ Unit Commander had insufficient time to use force in exercising right of self-defense.

→ Prompted ROE Change for NLL Intrusions: “*Radio Warning - Threatening Shots - Destructive Shots*”.

▶ Battle of Daecheong (2009) was conducted according to these New ROE.

Implementing the Right of Unit and National Self-Defense in response to North Korean Military Provocations

Deterrence as balancing Unit Self-Defense and National Self-Defense

▶ Cheonan Sinking (26 March, 2010)

- ROK Government began to consider Use of Force for National Self-Defense.

→ “Proactive Deterrence”:

- . Definite Counter in Exercising Self-Defense
- . Anticipatory Deterrence, Anticipatory Self-Defense

▶ Bombardment of Yeonpyeong (23 November)

- No Counter-Action taken at the level of National Self-Defense

→ Combined Counter-Provocation Plan developed



Implementing the Right of Unit and National Self-Defense in response to North Korean Military Provocations

▶ Counter-Provocation Plan at the level of National Self-Defense

- In March 2013, ROK Chairman of JCS and Commander of UNC/CFC/USFK agreed on “ROK JCS and UNC/CFC/USFK Counter Provocation Plan”.
 - . Initial Counter Actions supposed to be taken by ROK Military: “Prompt, Sufficient, Strike at Source”.
 - . If necessary, a subsequent combined attack will be conducted at the collective level of National Self-Defense.
 - . This will include exercising the right of “anticipatory or preemptive self-defense” intended to address emerging threats before they are fully realized, and future threats.
- 👉 Specific option to exercise right of national self-defense against North Korean provocations.
 - Expected to deter future provocations and prevent escalation of the situation.

Recent NK Provocations and ROK's Military

Response

Date	NK Provocations	ROK Counter-Actions
	Frequent intrusions by NK Warships near the NLL.	New ROE implemented
March 24, 2014	Unknown number of drones intruded over Seoul	
October 19, 2015	Group of soldiers intruded into DMZ	Warning shots fired
August 4, 2015	Mines laid in Southern area of DMZ, 2 ROK Army soldiers maimed	Loudspeaker broadcasts resumed
August 20, 2015	Rockets and shells fired over DMZ	Source targeted by artillery
January 3, 2016	NK drone intruded over DMZ	Shot down

last resort.

Summary

- ▶ The Right of Unit Self-Defense is recognized as an inherent and independent Right and Obligation of the Unit Commander under customary international law.
 - Any political directives can not impair Unit Commander's Right of Self-Defense.
 - There is effectively a feedback loop between on-scene commanders and national policy makers
- ▶ ROK's primary response remains the Use of Force at the level of Unit Self-Defense.
 - Any armed actions by the ROK for National Self-Defense must be discussed with the UNC.

Summary

- ▶ “ROK JCS and UNC/CFC/USFK Counter-Provocation Plan” is a last resort against North Korean military provocations.
 - Enforced USF will contribute to prevent from escalating of the situation.
 - If the hostile acts continue, deadly forces will be employed in exercising Right of National Self-Defense collectively.
- ▶ North Korea continues to provoke South Korea seeking new ways.
 - Need to find legitimate measures to Use of Force in Exercising the Right of Unit Self-Defense to adapt to the changing situations.



**Some salient points of the award on the merits in
the *Arctic Sunrise* case**

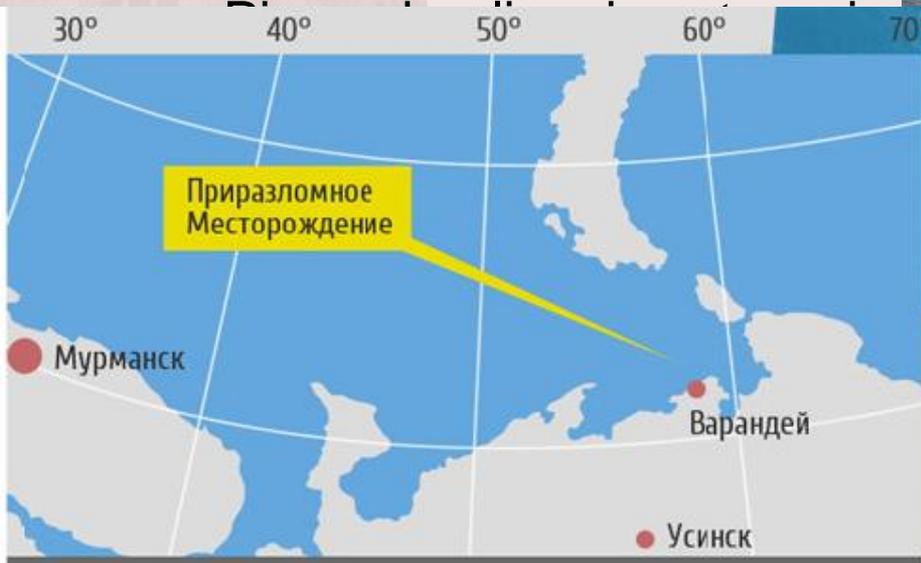
***Workshop on Korean Maritime Security & International Law
Stockton Center for the Study of International Law, U.S. Naval
War College & Korea Maritime Institute
February 23-24, 2016; U.S. Naval War College***

**Alex G. Oude Elferink
Netherlands Institute for the Law of the Sea
School of Law, Utrecht University, The Netherlands
K.G. Jepsen Centre for the law of the sea
University of Tromsø, Norway**



Arctic Sunrise case – Introduction

- LOSC Annex VII arbitration in Russian Federation
- Main issue arrest and detention in the Netherlands
 - Vessel exercising freedom of navigation
 - Exclusive jurisdiction of the Russian Federation at time of incident



national law
 arbitration
 in the
 just 20
 paper





Was a 3-nautical-mile zone a safety zone contrary to article 60(5) LOSC?

- Netherlands considered that it contravened article 60(5) of the LOSC
- Tribunal did not concur (Award, para. 207 et seq.)
 - First caution note in Notices to Mariners “Vessels should not enter a safety zone of the marine ice-stable platform without permission of an operator of the platform”
 - Subsequently modified “Vessels are not recommended to enter a safety zone of the offshore ice-resistant platform [...] without the platform operator permission.”
 - Russian Federation’s actions do not seem to indicate that it was a safety zone in the sense of the LOSC
 - Confirmed by structure and content of Russian laws and regulations regarding safety zones, which provides for safety zones of maximum of 500 meters
- **No breach of article 60(5), but is the Russian approach in accordance with article 58 of the LOSC?**



Other recent practice that reveals tension with article 60(5)

- Haiyang Shiyou 981 – Notice MSA [2014] No. 24 (MSA-2014-6684) issued by Chinese Maritime Safety Authority
 - Passing vessels shall strengthen a lookout, and avoid traversing the area within 3 miles radius of the working ship, for the purpose of safety
- Russian Federation reportedly established a 4-nautical-mile safety zone around the survey vessel *Geolog Dmitry Nalivkin* in August 2013
- Other States require permission to enter a “restricted area” wider than 500 meters around installations
- **Need for further clarification of law relating to zones around installations (and vessels)?**



Redefinition of the regime hot pursuit?

- First order to stop probably given after RHIBs had left the safety zone (Award, para. 266)
 - The Tribunal notes, however, that, while Article 111(1) provides that the foreign ship “must be” in the relevant area at the commencement of the pursuit, the test is set out slightly less stringently in Article 111(4) (Award, para. 267)
 - The latter formulation suggests that the location of the foreign ship at the time of the first stop order should [...] be looked at from the perspective of the pursuing ship (*ibid.*)
- **Is it justified to put articles 111(1) and 111(4) on “equal footing”?**
- Clear marking and identifiability of ship/aircraft carrying out the pursuit
 - Although the helicopter was unmarked [save for red star on its bottom side] and the men descending from it did not, in the recollection of the crew of the *Arctic Sunrise*, identify themselves, the Tribunal is satisfied, in context, that the vessel was boarded by Russian officials. This is apparent from their subsequent actions (Award, para. 101)
 - **How does that relate to article 111(5) LOSC?**



Parameters for law enforcement by the Coastal State

- Coastal State has the right to take measures to prevent interference with its sovereign rights for the exploration and exploitation of the non-living resources of its EEZ (Award, para. 324)
- The coastal State should tolerate some level of nuisance through civilian protest as long as it does not amount to an interference with the exercise of its sovereign rights. Due regard must be given to rights of other States, including the right to allow vessels flying their flag to protest (Award, para. 328)
- **Is an unqualified standard of interference compatible with giving due regard?**
- For instance, article 78 LOSC uses the standard of “unjustifiable interference”



Russian position paper

- Posits that arrest could take place without hot pursuit being initiated from the safety zone, which is the position of the Award
- Submits that *Arctic Sunrise* was not exercising freedom of navigation but was deliberately violating “law and order”
- According to the position paper there is emerging State practice confirming the Russian Federation’s position
 - Paper discusses significant number of incidents
 - Paper ignores many relevant elements
- **Intention to redefine the law generally or solely argued for the purposes of this specific case?**

Enhancing Maritime Confidence-Building and Mutual Cooperation

- A Tangible and Worthwhile Approach-



**RADM(Ret.). Dr. Duk-ki Kim Republic of Korea Navy
Senior Research Fellow, Korea Institute for Maritime Strategy
Professor, Chungman National University**

**The Workshop on Korea Maritime Security and International Law
U.S. Naval War College(Newport), February 22-23, 2016**

Contents

I. Geo-Strategic Environment and Challenges

II. What are MCBMs?

III. MCBMs? and Mutual Cooperation Measures

IV. Prospects and Recommendations

Geo-Strategic Environment and Challenges(1/4)

Increasing Defense Budget and Naval Arms Build-up

	1985	1995	2005	2014	Change (Times)
Northeast Asia					
China	6.36	7.6	29.5	129	+ 20.3 ¹
Japan	14.2	50.2	44.7	47.7	+ 3.3
South Korea	4.4	14.36	20.7	34.4	+ 7.8
North Korea	4.2	2.2	1.9	-	-
Taiwan	4.1	9.55	8.0	10.1	+ 2.5
Indonesia	2.3	2.57	2.53	7.1	+ 3.1
Malaysia	1.8	2.41	2.47	5.03	+ 2.8
Thailand	1.5	3.9	1.95	5.69	+ 3.8
Philippines	0.5	1.0	0.84	0.5	+ 0
Singapore	1.2	4.0	5.57	10.0	+ 8.3
Persian Gulf					
Saudi Arabia	17.78	13.2	25.4	80.8	+ 4.5
Iran	13.4	2.5	6.2	14.8 ²	+ 1.1
Kuwait	1.87	3.1	4.27	4.84	+ 2.6
UAE	2.04	1.9	2.65	13.9 ²	+ 6.8

Geo-Strategic Environment and Challenges(2/4)

Balance of Naval Power in Northeast Asia

	China	Russia Pacific Fleet	Japan	Taiwan	South Korea	North Korea
Personnel	235,000 ₁	?	45,500	45,000	26,000 ²	60,000
Submarines	70	22	18	4	13	72 ³
Aircraft Carrier	1	–	2	--	--	--
Destroyers	17	9	38	4	12	--
Frigates	54	23	9	22	14	3
Amphibious Ships ₄	88	4	3	13	5	10

Notes

1. Includes conscripts (35,000). 2. Includes marines (27,000).
3. Includes *Yugo*- and *Yeone*-class small submarines for special operations.
4. Excludes landing crafts (LCU, LCM, LCAC).

Source: IISS, *The Military Balance 2015* (London: IISS, 2015).

Geo-Strategic Environment and Challenges(3/4)

Sea Disputes Affecting Maritime Cooperation

Nature of Disputes	Countries Involved	Occupying Countries
<p>Disputed in the South China Sea</p> <p>1. The Spratly Islands</p> <p>2. The Paracel Islands</p>	<p>China, Vietnam, Philippines, Malaysia, Taiwan</p> <p>China, Vietnam, Philippines, Taiwan, Brunei</p>	<p>China, Philippines, Vietnam, Taiwan</p> <p>China</p>
<p>Boundary Disputes in the Gulf of Tonkin</p>	<p>China-Vietnam</p>	
<p>Disputed Claims over the Yellow and East China Seas</p> <p>1. Pratas Reef</p> <p>2. Senkaku Island</p> <p>3. Penghu/Pescadores</p>	<p>China, Taiwan</p> <p>China, Japan, Taiwan</p> <p>China, Taiwan</p>	<p>Taiwan</p> <p>Japan</p> <p>Taiwan</p>
<p>South Kuril Islands</p>	<p>Russia, Japan</p>	<p>Russia</p>
<p>Disputed Claims over the East Sea</p> <p>1. Dokdo</p>	<p>Korea, Japan</p>	<p>Korea</p>

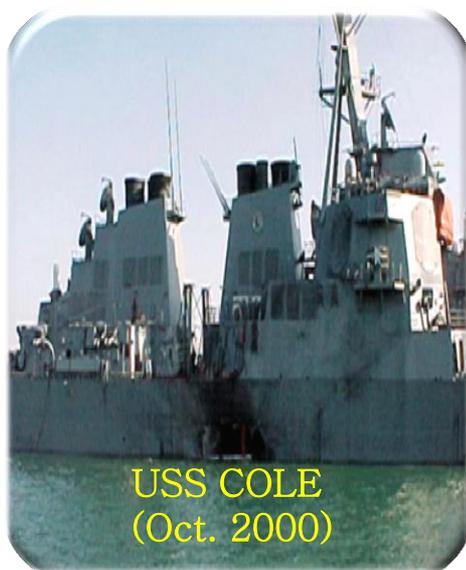
Geo-Strategic Environment and Challenges(4/4)

■ Man-Made/Natural Threats

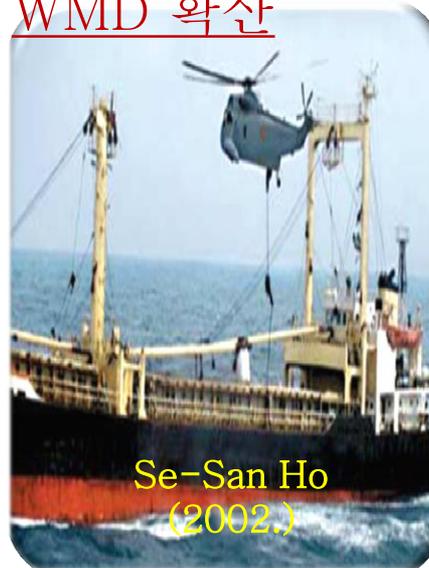
Piracy



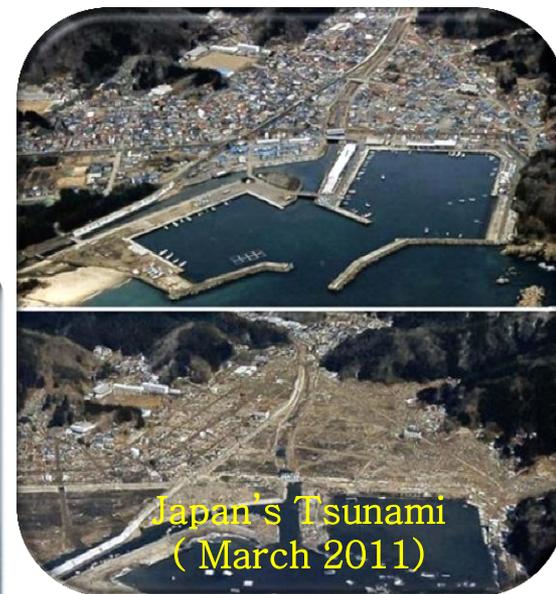
Maritime Terrorism



Proliferation of WMD 확산



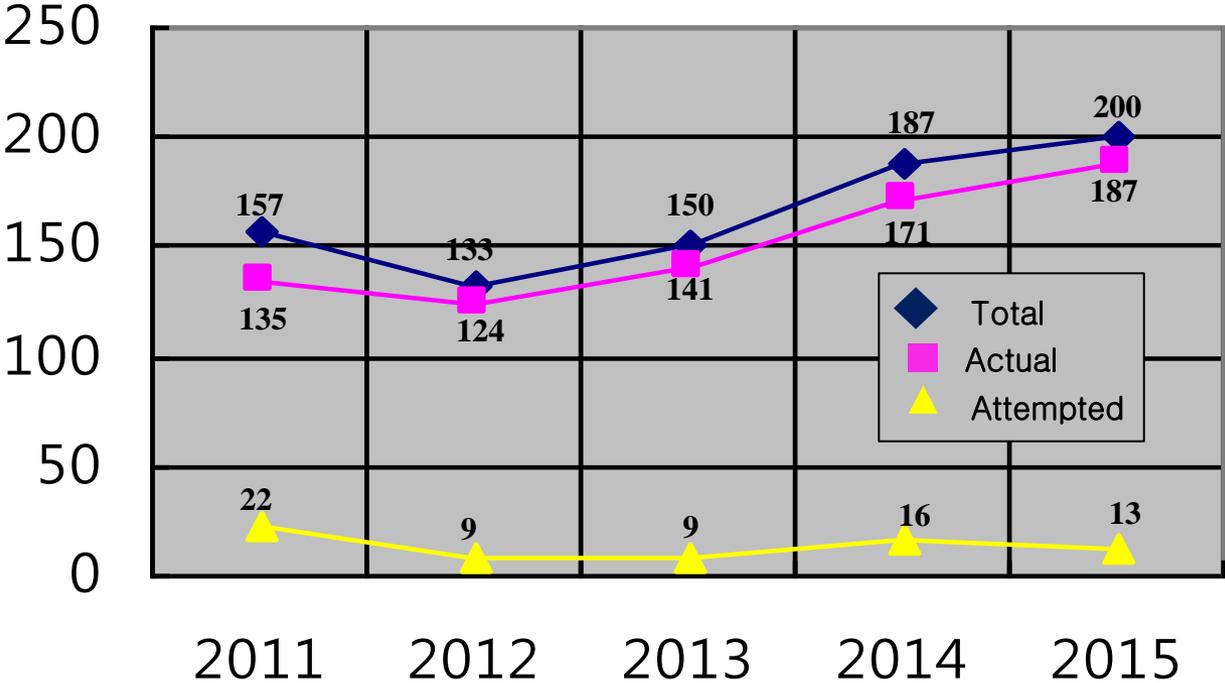
Natural Disaster



※ Currently, Increasing Number of sea related accidents such as Arms Robbery, Drug Trafficking, Refugees, Sea Pollution, etc.

The Status of Ships Incidents

Number of Incidents By Piracy and Armed Robbery against Ships in Asia (2011-2015)



Source: " . ReCAAP ISC, *Annual Report of Piracy and Armed Robbery against Ships in Asia 2015* (Singapore: ReCAAP ISC, 2015).

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About ReCAAP

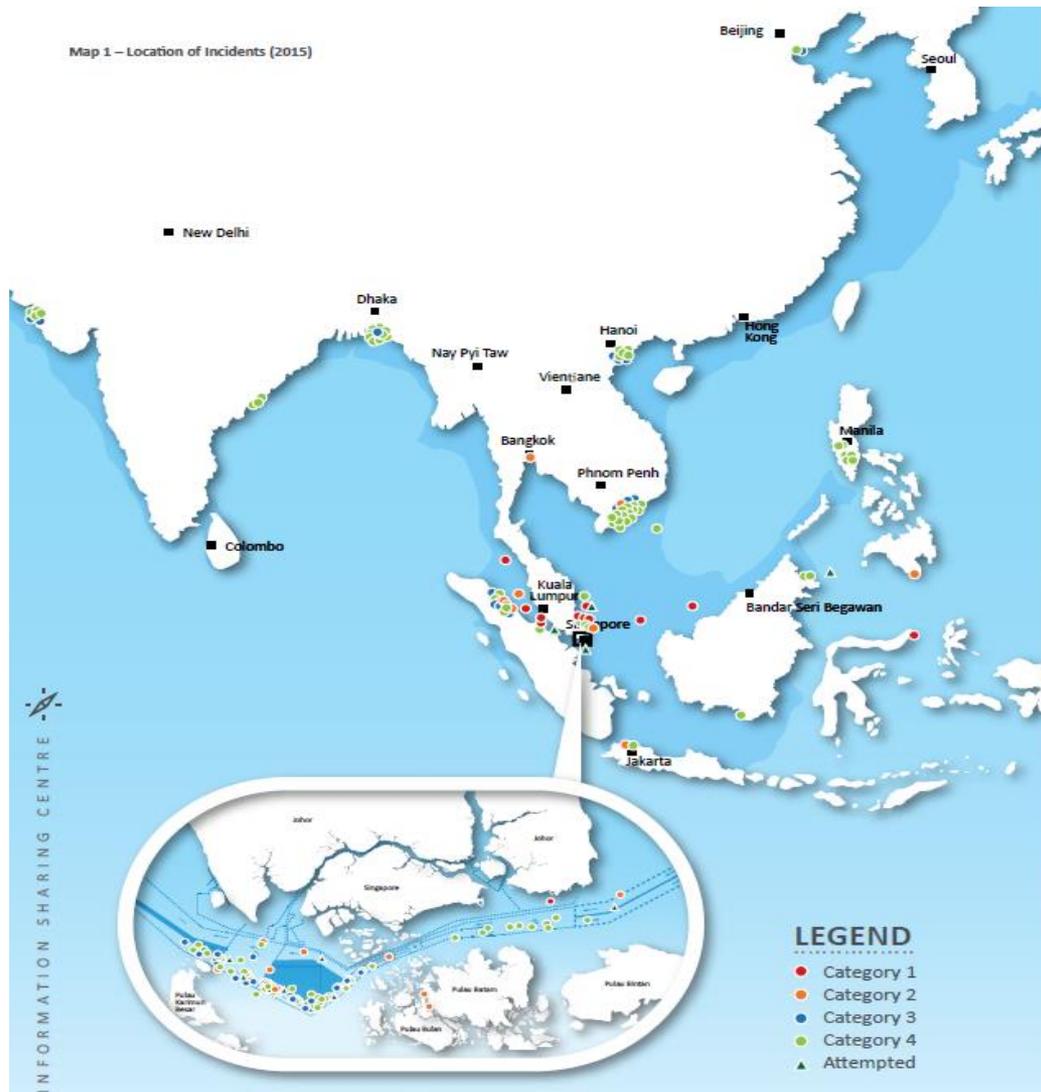


Background Information

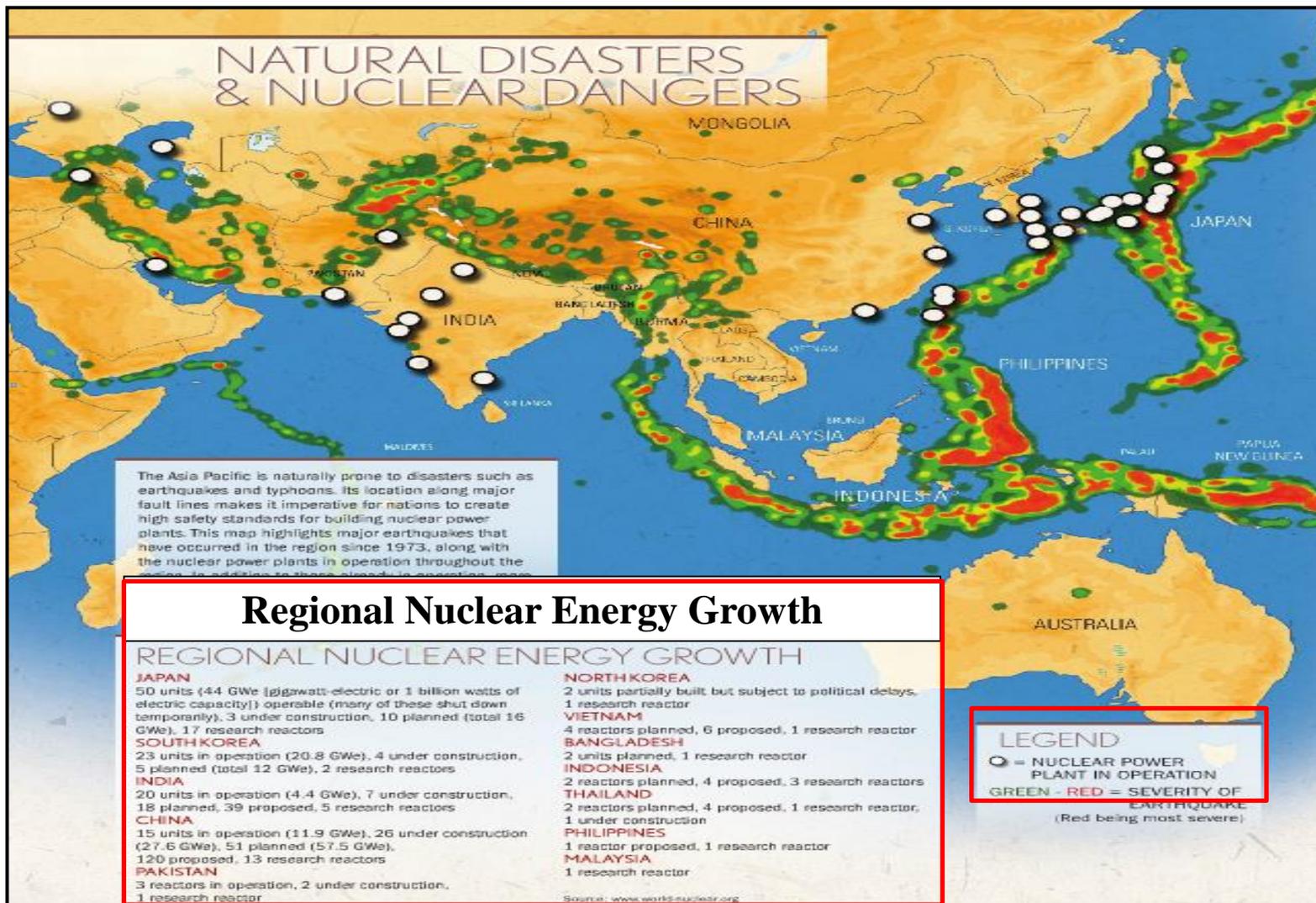
About the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), and the ReCAAP Information Sharing Centre (ISC)

The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) is the first regional government-to-government agreement to promote and enhance cooperation against piracy and armed robbery in Asia. It was finalised on 11 November 2004 and entered into force on 4 September 2006. To date, 20 States have become Contracting Parties to ReCAAP.

Location of Incidents (2015)



Natural Disasters and Nuclear Dangers in the Asia-Pacific

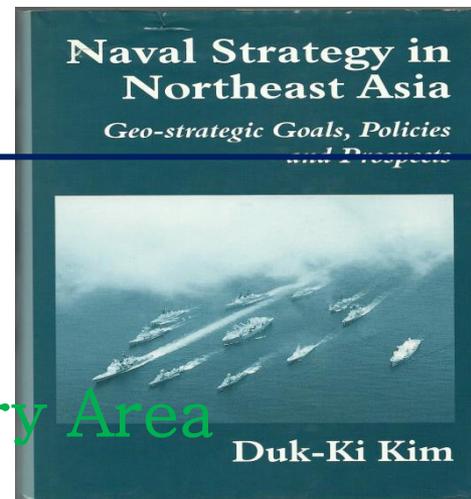


-About 100 Nuclear Reactors are operating

-More than 40 reactors are under construction and more than 250 are planned or proposed

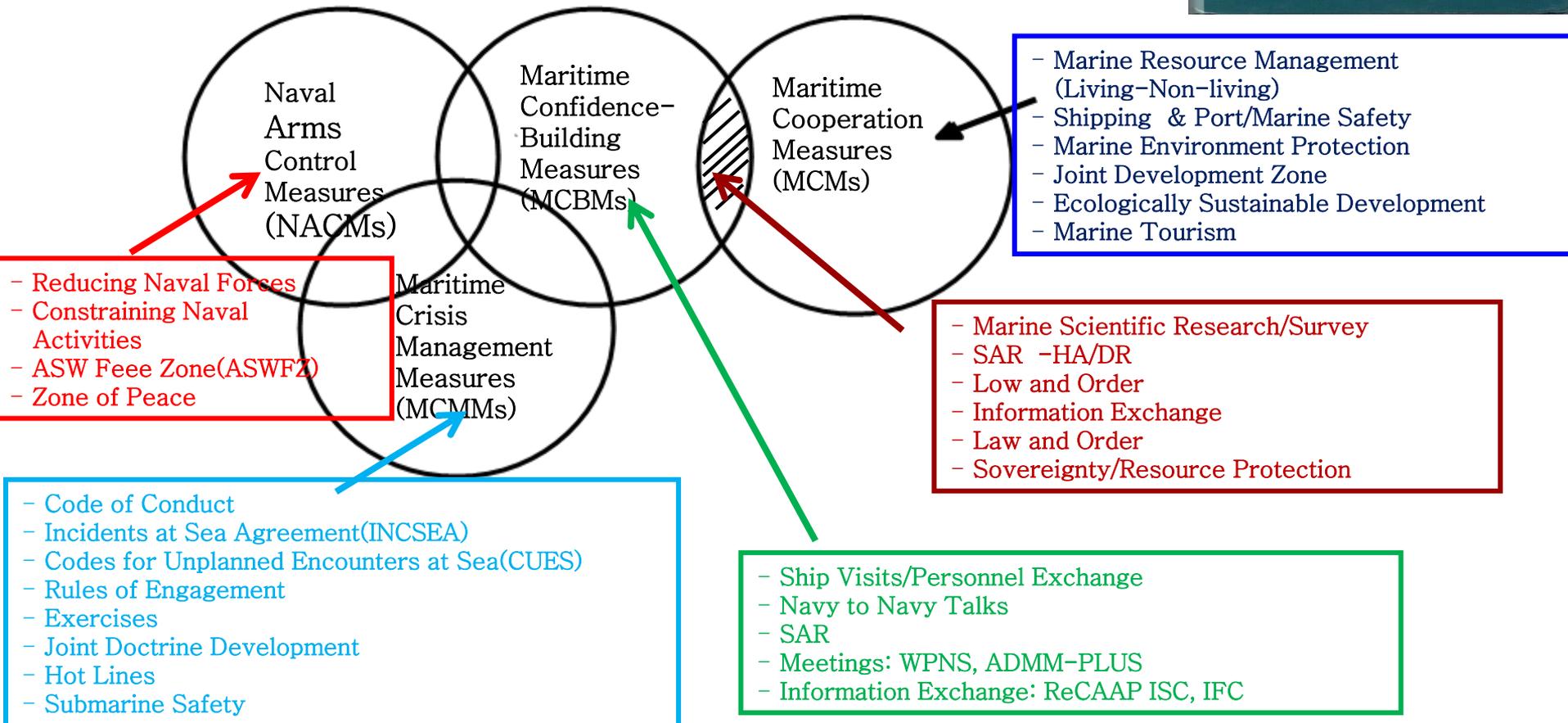
Source: Augh Ashton, "Fukushima Daiichi in Retrospect," *APD Forum*, 38(3)(2013), p. 27.

What are MCBMs?(1/2)



Cooperative Maritime Security Models

Naval(Military) Area / Non-NVAL(Military Area)



What are MCBMs?(2/2)

■ The Objectives and Roles of MCBMs

- ▲ ***Reducing the Risks and Threatening Elements of Naval Activities***
- ▲ ***Reducing to a Minimum the Danger of Miscalculation and Mistrust at Sea Related to Naval or Other Military***
- ▲ ***Enhancing Stability and Predictability at Sea***

The Dimensions of Naval/Maritime Cooperation

Naval Cooperation	Either or Both	Maritime Cooperation
- Ship Visit	- Marine Safety	-Regional Seas Programs
- Personnel Exchange	- Marine Scientific Research	- Resource Management (Living & Non-Living)
- Navy to Navy Talk	- Search and Rescue	- Shipping & Ports
- Exercises	- HA/DR	- Port State Control
- Joint Doctrine Development	- Data Bases	- Environment Protection
- INCSEA Agreement	- Information Exchange	- Joint Development Zones
- Transparency	- Education & Training	- Control of Ship and Land-based Pollution
- Hot Lines	- Maritime Surveillance	- Ecologically Sustainable Development
- Standing Forces	- Law and Order/Piracy	- Marine Tourism
- Marine Counter-Measures	- Terrorism	
- PKO		
- SLOC Protection		
- Submarine Safety		

Source: Sam Bateman, "Searching for Cooperation to Prevent Marine Contingencies in East Asia," a paper was presented to the 12th International Sea Power Symposium, co-hosted by ROKN, KIMS, SLOC Study Group-Korea, on Changing Maritime Security Environment in East Asia and Measures to Enhance Multilateral Cooperation, October 19, 2015, Seoul.

MCBMs? and Mutual Cooperation Measures(1/8)

Promoting Mutual Understanding

▲ *Port Visits and Military-to-Military Contacts*

▲ Meetings: Talks, Seminars, Forums.

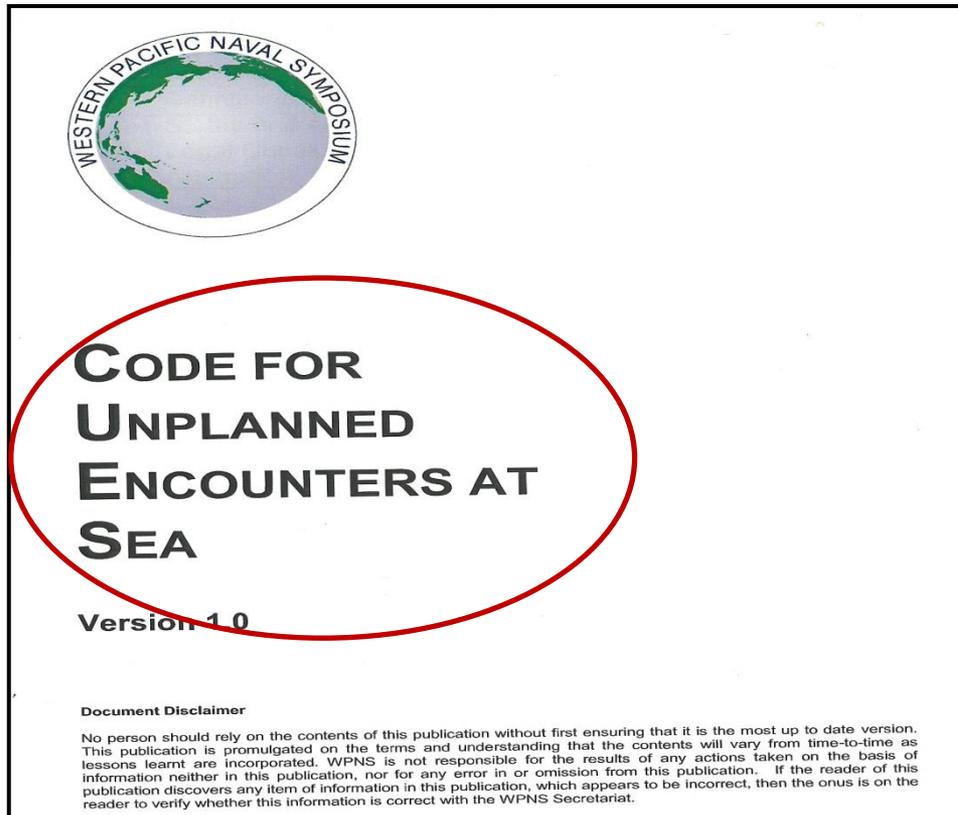
	Cooperation Meetings
U.S.-Korea	<ul style="list-style-type: none">- Navy-to-Navy Talk (2000~)- Intelligence Exchange Meeting (2000~)- Navy Strategic Dialogue (2014~)
Korea-Japan	<ul style="list-style-type: none">- Navy-to-Navy Talk (1999~)- Intelligence Exchange Meeting (2000~)- P-3 Exchange (2010~)- Fleet Exchange Program (2008~) (ROK 1ST FLT ↔ JMSDF Maizuru)- Hot Lines (2000~) (COMROKFLT ↔ JMSDF Command)
Korea-U.S.-Japan	<ul style="list-style-type: none">- Navy-to-Navy Talk (2010~2013)※ This talk was changed to four-party navy talk from 2014 (Australian Navy was included)
Korea-China	<ul style="list-style-type: none">- Fleet Commanders' Exchange (ROK 1^{ST/2nd} FLT ↔ PLAN East/North Sea Fleet)- Hot Lines (2007~) (ROK 2nd FLT ↔ PLAN North Sea Fleet)
Multilateral	<ul style="list-style-type: none">- Western Pacific Naval Symposium (WPNS)- WPNS Seminar for Officers of the Next Generation (SONG)- Navy-to-Navy Talk (2014~) (Korea, US, Japan, Australia)- Asia Pacific Naval College Seminar (APNCS)- International Sea Power Symposium (Korea, U.S.)

MCBMs? and Mutual Cooperation Measures(2/8)

■ Establishing Common Regional and International Norms for Preventing Incidents at Sea: INCSEA, SOP, CUES

▲ Incidents at Sea Agreement (INCSEA)

▲ Codes for Unplanned Encounters at Sea (CUES)



Regional Instruments Concerning Incidents at Sea (1/2)

- The 2001 **Malaysian-Indonesian** agreement for Preventing Incidents at Sea (MALINDO)
- 2002 Declaration on Conduct of Parties in the **South China Sea** (DOC)
- Western Pacific Naval Symposium (**WPNS**) Code for Unalerted Encounters between Ships (**CUES**)(2014)
- Bilateral ‘Cold War’ type INCSEA agreements between Russia and the US, South Korea and Japan(in 1972, 1993, 1993)
- **US-USSR** Joint Statement on Uniform Acceptance of Rules of International Law Governing Innocent Passage
- **US-USSR** Agreement on the Prevention of Dangerous Military Activities(1989)
-
- **US-China** Military Maritime Consultative Agreement (MMCA) of 1998
- 2011 Agreement between **China and Vietnam** on basic principles guiding settlement of sea-related issues

Regional Instruments Concerning Incidents at Sea (2/2)

- Memorandum of Understanding (MOU) between the **United States** of America Department of Defense and the People's Republic of **China** Ministry Of National Defense on **Notification of Major Military Activities Confidence-Building Measures Mechanism** (MOU-CBMM)
- The U.S.-**China** Memorandum of Understanding on the Rules of Behavior for the Safety of Air and Maritime Encounters (MOU-Rules).
 - Annex I: Terms of Reference for Safety of Air and Maritime Encounters
 - Annex II: Rules of Behavior for Safety of Surface-to-Surface Encounters
 - Annex III: Rules of Behavior for Safety of Air-to-Air Encounters

MCBMs? and Mutual Cooperation Measures(3/8)

Extending Coordinated Patrols and Joint Operations/ Exercises

Coordinated Patrols and Joint Operations for Preventing Piracy and Armed Robbery Activities

※ Status of Counter-Piracy Operations in the Gulf of Aden

	Number of Ships	Countries	Established
CTF-151	3~5	15 (ROK, U.S., UK, etc)	January 2009
CTF-465	6~12	13 (EU States)	December 2008
CTF-508	4~5	11 (NATO States)	March 2009
Single Ops	20	ROK, U.S., Japan, China, Russia, India, Malaysia, Thailand, Indonesia	
Total	33-42	-	
MPA	Approx. 20	U.S., Japan, Germany, Luxembourg, Japan, Singapore, Portugal	

MCBMs? and Mutual Cooperation Measures(4/8)

※ Status of Counter-Piracy Operations in the Gulf of Aden

	Cooperation Meetings
U.S.-Korea	<ul style="list-style-type: none">- ASW/MCSOF/MIW/SAR/SOF/EOD/Amphibious/Submarine/P-3/ CSG Exercises- Ship Anti-submarine warfare Readiness and Evaluation Measurement (SHAREM) (1994 ~)- SILENT SHARK (2007 ~)
Korea-Japan	<ul style="list-style-type: none">- Search And Rescue Exercise (SAREX) (1999 ~)
Korea-U.S.-Japan	<ul style="list-style-type: none">- SAREX (2008 ~)- Keen Sword (2011 ~)
Multilateral	<ul style="list-style-type: none">- Rime of the Pacific (RIMPAC) (1990 ~)- PACREACH (2000 ~)- CTF-151 (2009 ~) (In the Gulf Aden for countering piracy)- Proliferation Security Initiative (PSI) (2010 ~)- Pacific Partnership (2012 ~)- KOMODO (2014 ~) (hosted by the Indonesian Navy)- UN Peace-Keeping Operations (PKO)- HA/DR Operations

MCBMs? and Mutual Cooperation Measures(5/8)

▲ Joint Operations for HA/DR

Captain Cathan O'Connor, US Navy

※ Five Lessons Learned from HA/DR Ops in 2009–2011

- 1. If more than one component participates assign a joint task force and establish clear command-and-control relationships.***
- 2. Display all forces and internally displaced personnel on a “common operational picture.” Add lines of communication and government and military boundaries to show where additional coordination may be useful.***
- 3. Establish and maintain information management and knowledge management rules to streamline data flow between components.***
- 4. Aggressively use social media and web pages, accessible to the public in multiple languages, to disseminate empirical data and combat fear and confusion.***

MCBMs? and Mutual Cooperation Measures(6/8)

▲ Joint Operations for HA/DR

Captain Cathan O'Connor, US Navy

※ Six Lessons Learned from HA/DR Ops in 2009-2011

5. Use all sources to sense the environment. On a daily basis the commander must know what is needed. How are our actions impacting those most affected? Are we postured in the best way to assist the host nation?

6. Work closely with the host nation to establish communication objectives, share information, and coordinate media events and interviews.

▲ Coordinated Air and Sea Patrol (CORPAT 15) for Preventing Illegal Fishing

MCBMs? and Mutual Cooperation Measures(7/8)

▲ Joint Operations for HA/DR

Captain Cathan O'Connor, US Navy

※ Six Lessons Learned from HA/DR Ops in 2009-2011

5. Use all sources to sense the environment. On a daily basis the commander must know what is needed. How are our actions impacting those most affected? Are we postured in the best way to assist the host nation?

6. Work closely with the host nation to establish communication objectives, share information, and coordinate media events and interviews.

▲ Coordinated Air and Sea Patrol (CORPAT 15) for Preventing Illegal Fishing

MCBMs? and Mutual Cooperation Measures^(8/8)

■ Extending Maritime Information Sharing

- ▲ The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) Information Sharing Center (ISC)
- ▲ The Information Fusion Center (IFC)
- ▲ The Regional Maritime Information Exchange (ReMIX)

Prospects and Recommendations^(1/2)

■ The following pr-conditions are required for the success of MCBMs and mutual cooperation

▲ Equality and mutual respect is the first point

▲ Secondly, insist on mutual benefit and win-win results

▲ Thirdly, set up new concept of the maritime security

※ We should set up a common, comprehensive, cooperative and sustainable maritime security concept, and should not achieve one's own safe at the sacrifice of others' safe.

We should promote national and regional security through dialogue, and achieve lasting security through development.

In order to find a new path for maritime security, let's **make efforts together, benefit from together, win together and protects the sea together.**

Prospects and Recommendations^(2/2)

※ On balance,

this kind of maritime confidence-building measures and efforts must be **persistent** and **based on facts**, **not just words or document**, if they are to be credible.

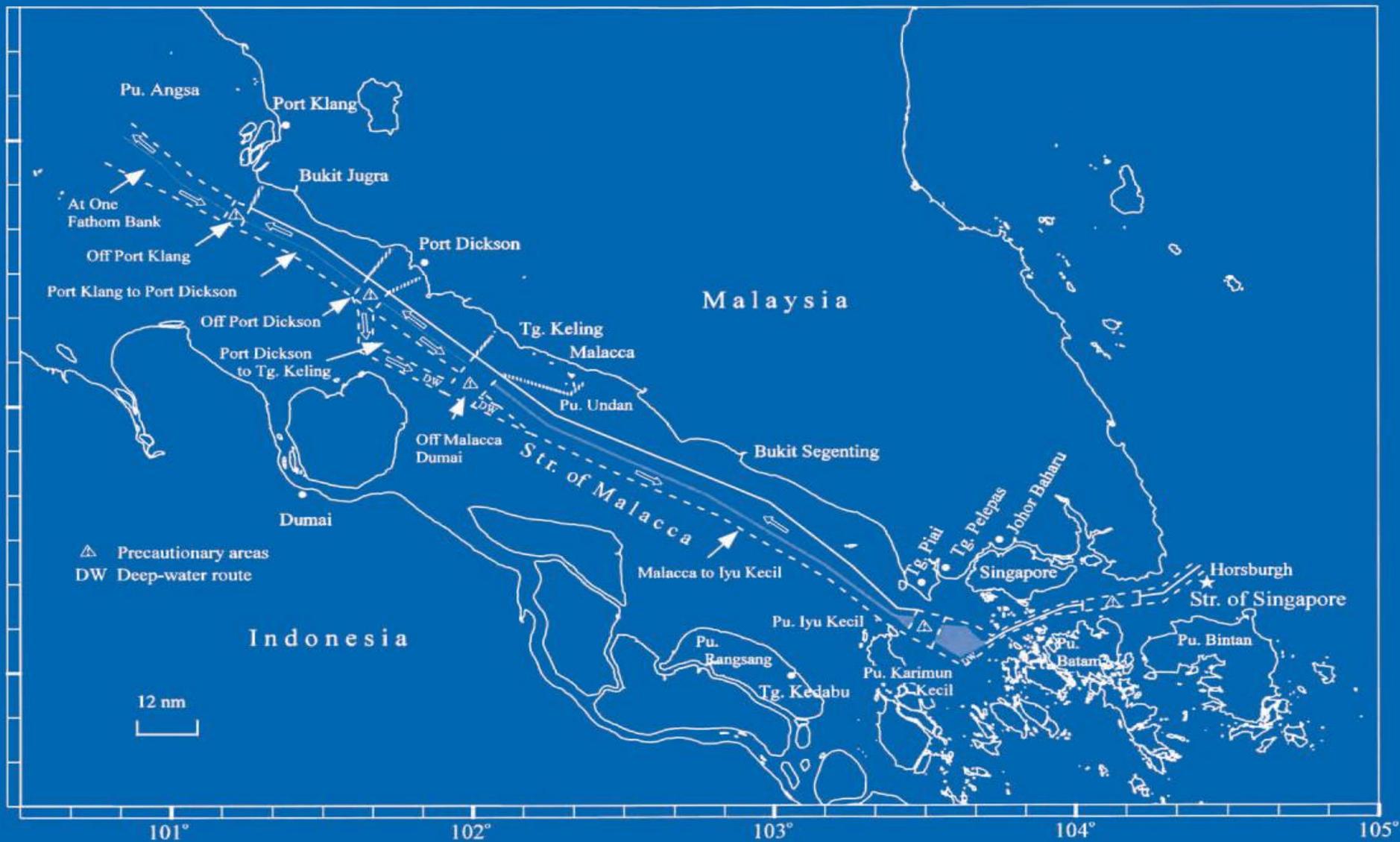
Strategic trust is very difficult to develop, but it is very easy to destroy.

Q & A





Malacca Strait and Singapore



Source: 전현석, "중·러 海上군사훈련, 한국 방공구역 침범," 한국일보, 20154. 5. 21. p. A5.

Closing Roundtable

Durability and development of national and international law

Professor Donald R. Rothwell

ANU College of Law, Australian National
University

Durability

1. Of the 1982 UN Convention on the Law of the Sea
2. Of the principles and norms of international law and their applicability in North East Asia and to Korea
3. Of the global international institutions with capacity to assist in the resolution of disputes
 - UNSC, ICJ, ITLOS, CLCS
 - ROK Article 298 Declaration exempting Article 298 (1)(a)-(c) matters
4. Of the existing mechanisms and frameworks that exist within the region
 - Status of the Armistice
 - North-East Asian Subregional Programme for Environmental Cooperation (NEASPEC)

National Law

1. What additional legal measures does ROK need to take to enhance maritime security
 - Hot Pursuit?
2. Are the existing legal mechanisms appropriate and consistent with UNCLOS
 - Distinctive maritime zones : Continental Shelf
 - Enforcement jurisdiction
3. Do those government agencies and departments with responsibility for maritime security require additional legal mechanisms to enhance their capacities

International Law

1. What additional efforts can ROK undertake to bring about a resolution of its maritime boundaries?
 - With DPRK regarding the NLL?
 - With PRC regarding the Yellow Sea/East China Sea
2. Are there opportunities for legal confidence building mechanisms?
 - Article 123 UNCLOS
 - Fisheries
 - Navigational Rights and Freedoms
3. Can formal dispute resolution mechanisms be utilized?
 - ICJ, ITLOS, PCA (ROK membership from 2000)
 - Land and Maritime disputes

Diplomatic and Legal Options

1. Regional Seas Agreement?
 - Marine environmental protection
 - Safety of life at sea
 - Emergency Prevention, Preparedness and Response
2. Nuclear Free Zone?
3. Zone of Friendship and Cooperation/MPAs?
 - Dokdo
 - Senkaku
4. INCSEA
5. Regional Cooperation
 - Via a Regional Economic Framework?
 - AsNEAN?