



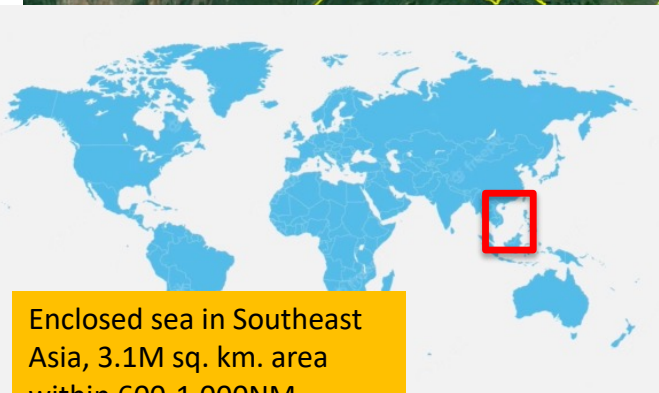
UNIVERSITY OF THE PHILIPPINES
COLLEGE OF LAW

Extended Continental Shelf Claims in the South China Sea: Prospects and Futures

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The South China Sea



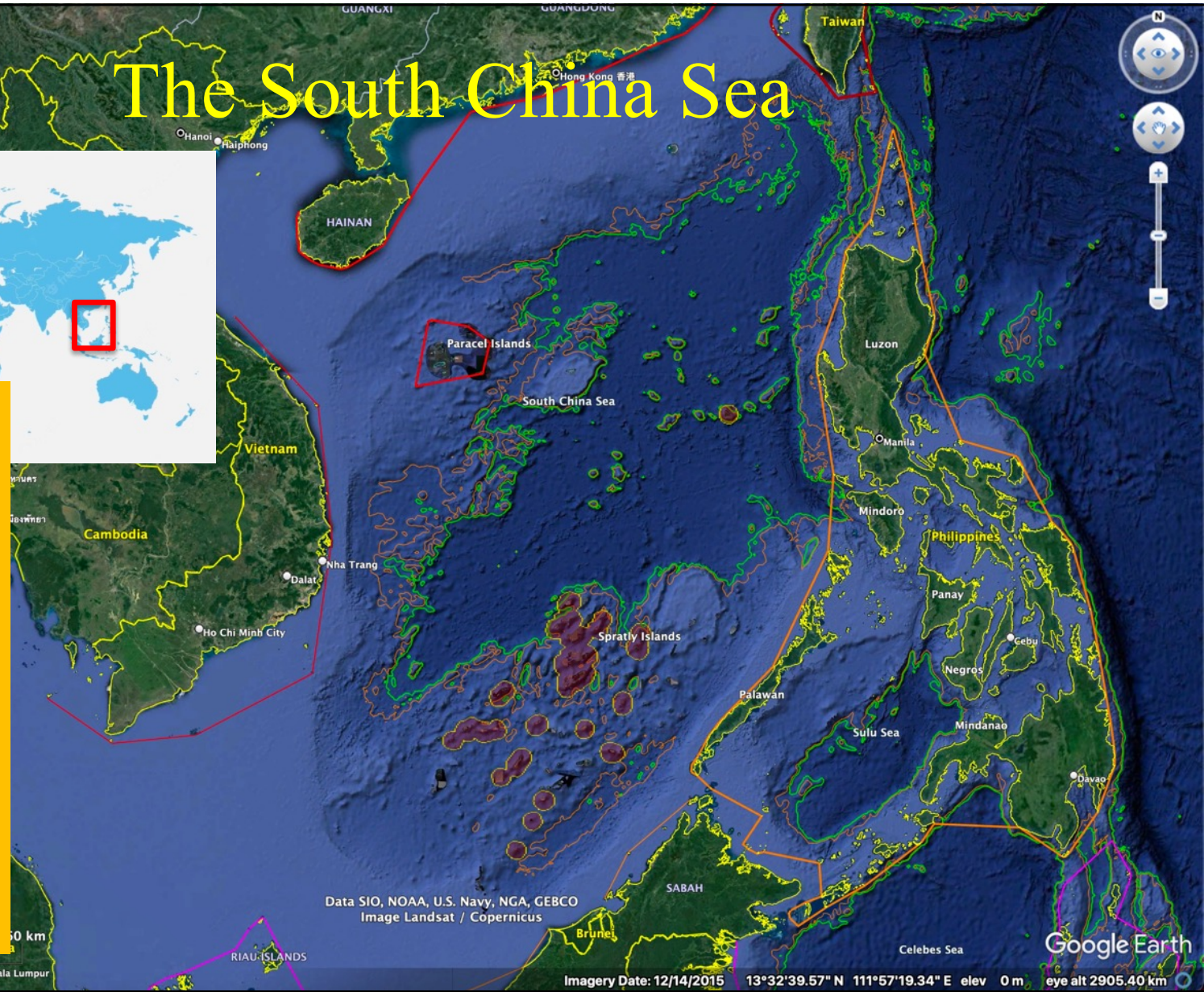
Enclosed sea in Southeast Asia, 3.1M sq. km. area within 600-1,000NM

Major artery of global maritime trade

Bounded by 6 littoral States (CN, PH, MY, BR, ID, VN) and Gulf of Thailand

Potential overlapping entitlements to continental shelf among all littorals except ID

Territorial and maritime disputes

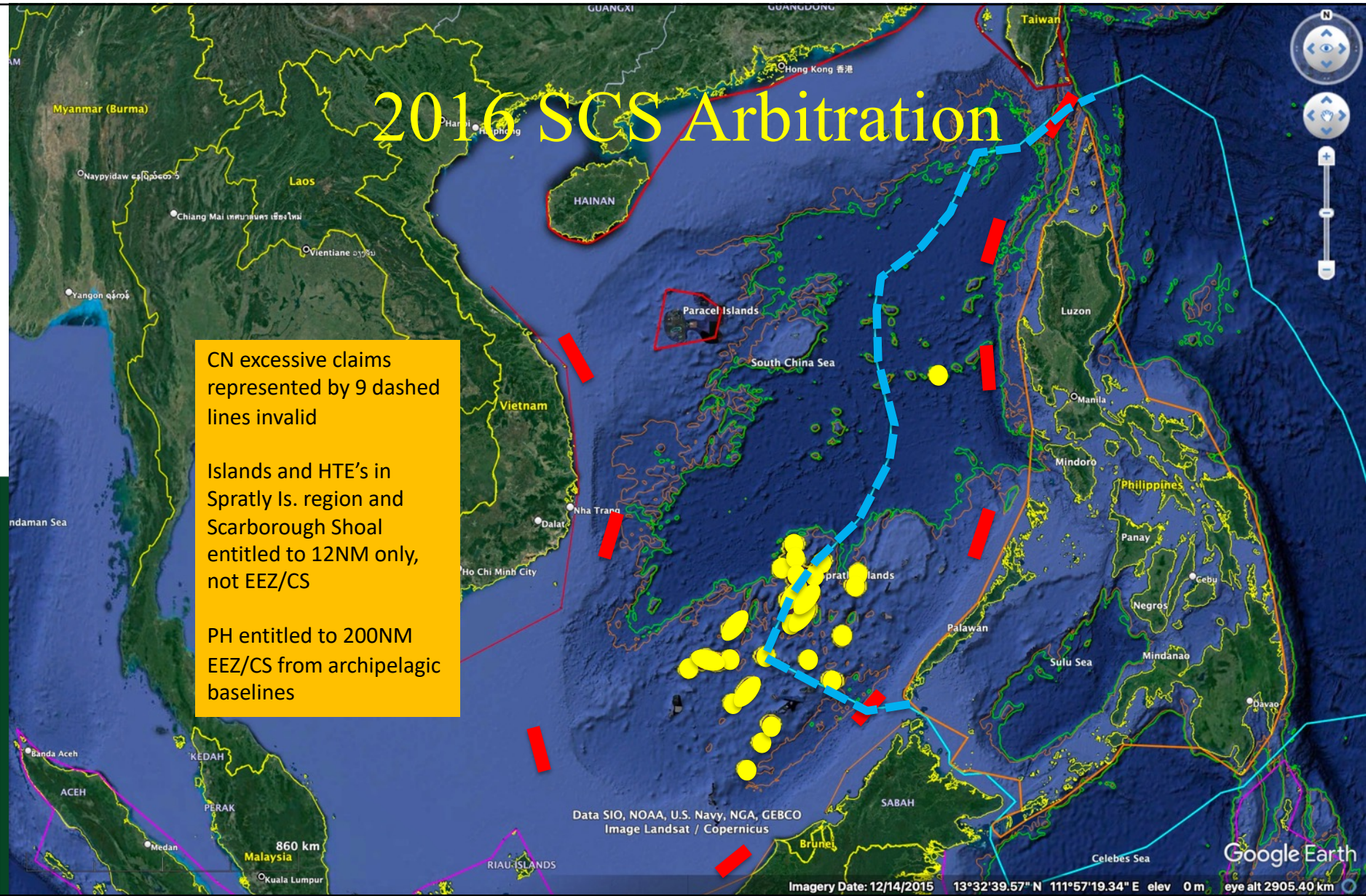


2016 SCS Arbitration

CN excessive claims represented by 9 dashed lines invalid

Islands and HTE's in Spratly Is. region and Scarborough Shoal entitled to 12NM only, not EEZ/CS

PH entitled to 200NM EEZ/CS from archipelagic baselines



Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image Landsat / Copernicus

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High Seas and Deep Ocean Floor (?)

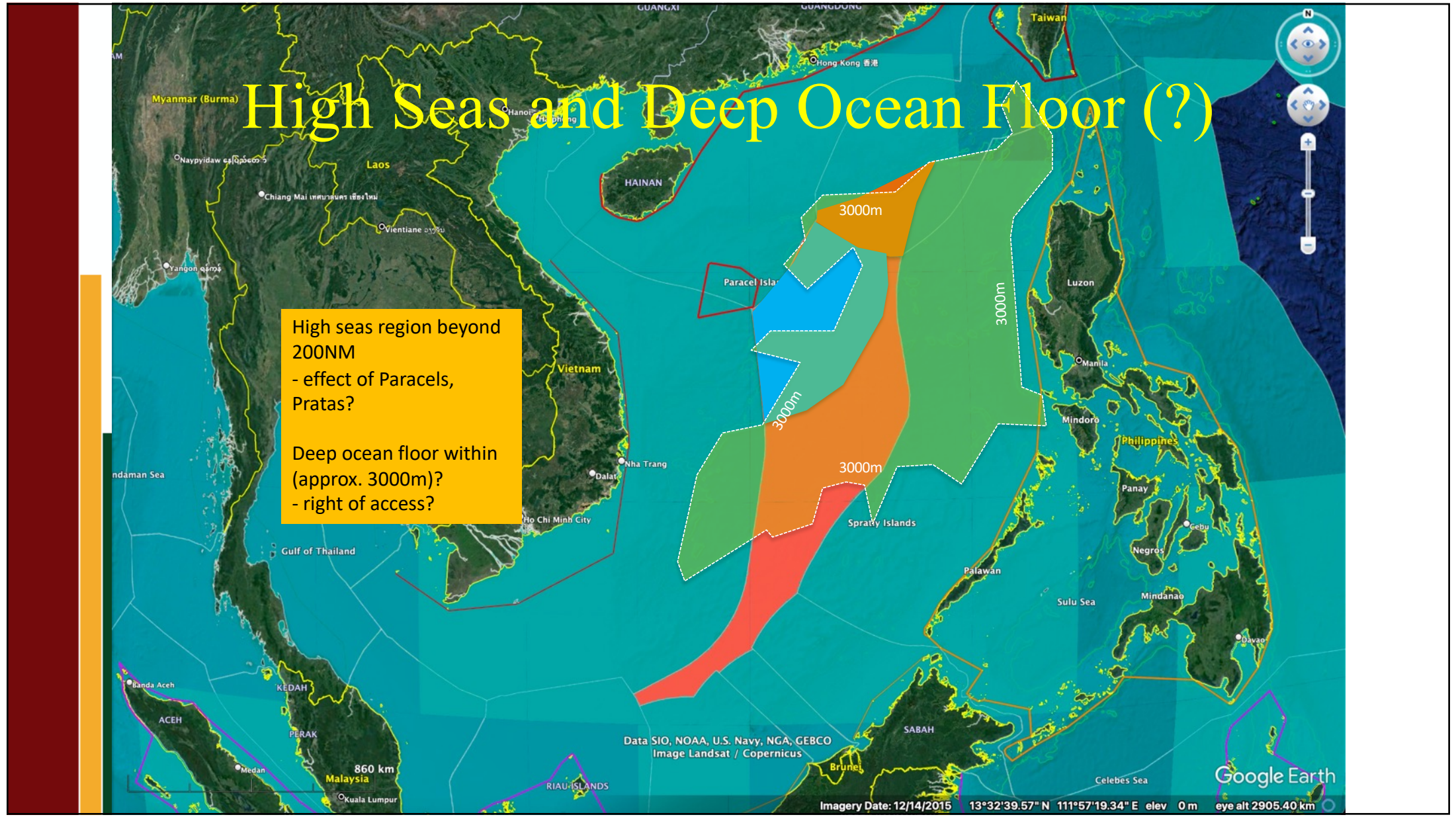
High seas region beyond 200NM
- effect of Parcels, Pratas?

Deep ocean floor within (approx. 3000m)?
- right of access?

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Evolving Jurisprudence

Case	Year	Tribunal	Overlap	CLCS Submissions at time of judgment?	CLCS Recommendations at time of judgment?
Bangladesh/Myanmar	2012	ITLOS	Adjacent	Both filed	Not yet
Bangladesh v. India	2014	Annex VII	Adjacent	Both filed	Not yet
Ghana/Côte d'Ivoire	2017	ITLOS	Adjacent	Both filed	Recommendations made for Ghana
Somalia v. Kenya	2021	ICJ	Adjacent	Both filed	Not yet
Nicaragua v. Colombia	2023	ICJ	Opposite	Nicaragua filed	Not yet

Principles relevant to delimitation beyond 200NM

- Single continental shelf (Barbados/Trinidad & Tobago, 2006, etc.), but entitlement based on
 - *distance if within 200NM, and*
 - *natural prolongation if beyond 200NM (Nicaragua v Columbia, 2023)*
- Three stage delimitation procedure applies; unity of delimitation methodology within and beyond 200NM (Ghana/Côte d'Ivoire)
 - *Identification of “relevant coasts”*
 - Implicit non-consideration of small features (e.g., islands), submarine features*
 - Coastal length ratio for non-disproportionality test
 - *Coastal projections in seaward direction generate maritime claims* (Bangladesh/India)*
 - *Preference for applicability of equidistance/relevant circumstances method + ex post facto check on non-disproportionality (Bangladesh/India)*

Principles relevant to delimitation beyond 200NM

- Avoidance of inequitable results
 - *No cut-off effect: line should not cut off seaward projections from access to high seas (international seabed area) or unreasonably encroach on other States' entitlements (Bangladesh/India)*
 - *No refashioning of nature (Ghana/Côte d'Ivoire, etc.)*
- Under customary international law, a State's entitlement to a continental shelf beyond 200NM from the baselines of the territorial sea may not extend within 200NM from the baselines of another State (Nicaragua v Columbia, 2023)

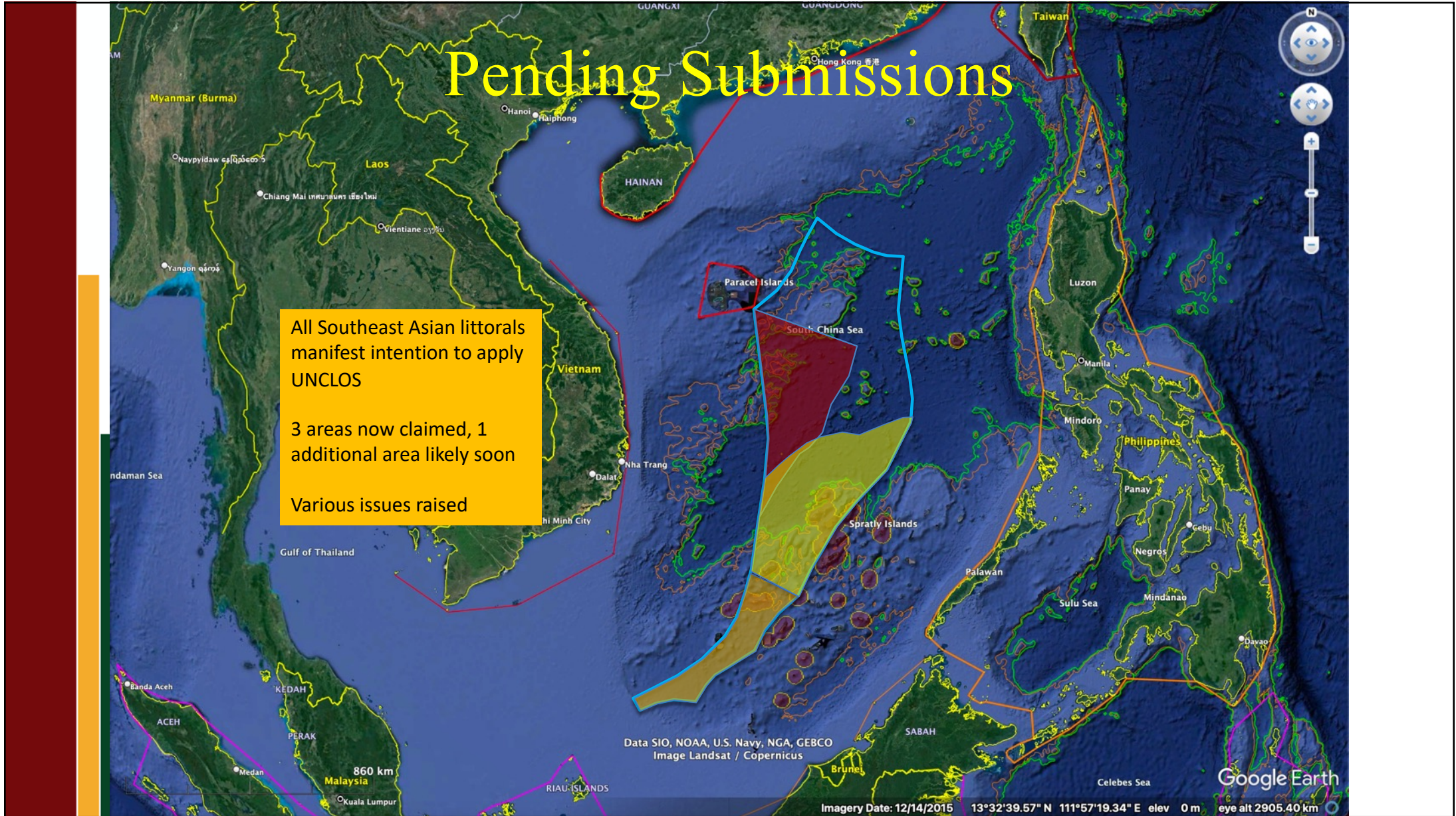
Pending Submissions

All Southeast Asian littorals manifest intention to apply UNCLOS
3 areas now claimed, 1 additional area likely soon
Various issues raised

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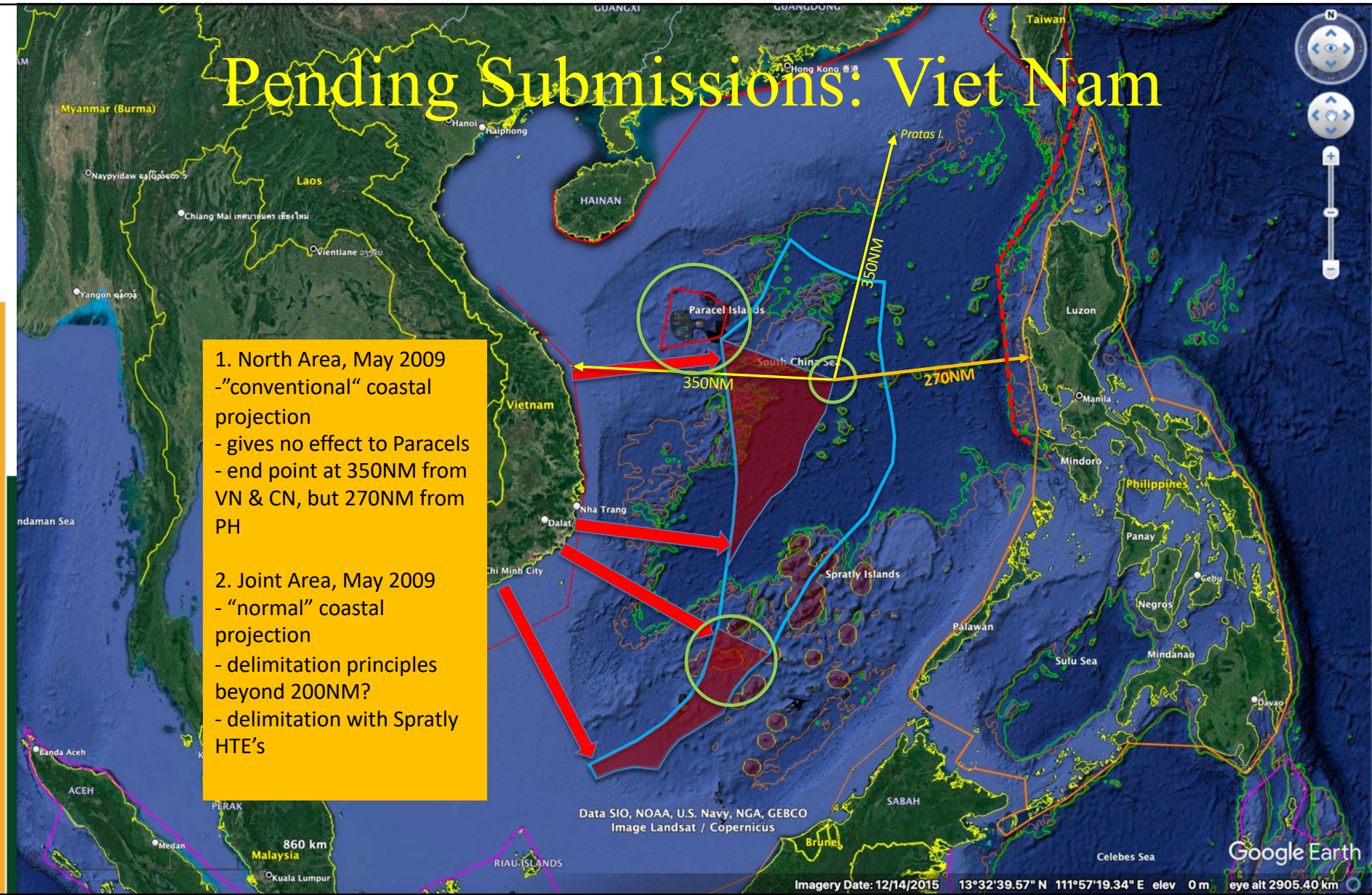
Pending Submissions: Viet Nam

1. North Area, May 2009
- "conventional" coastal projection
- gives no effect to Paracels
- end point at 350NM from VN & CN, but 270NM from PH
2. Joint Area, May 2009
- "normal" coastal projection
- delimitation principles beyond 200NM?
- delimitation with Spratly HTE's

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Pending Submissions: Malaysia

1. Joint Area, May 2009
- same issues as with VN
2. North Area, Dec 2019
- unusual projection; lateral shift vis-à-vis coast that cuts off PH EEZ/CS
- impact on PH-MY adjacent boundary line within 200NM?
- overlap with VN claim (North Area)
- delimitation with Spratly HTE's

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Future Submissions: Brunei

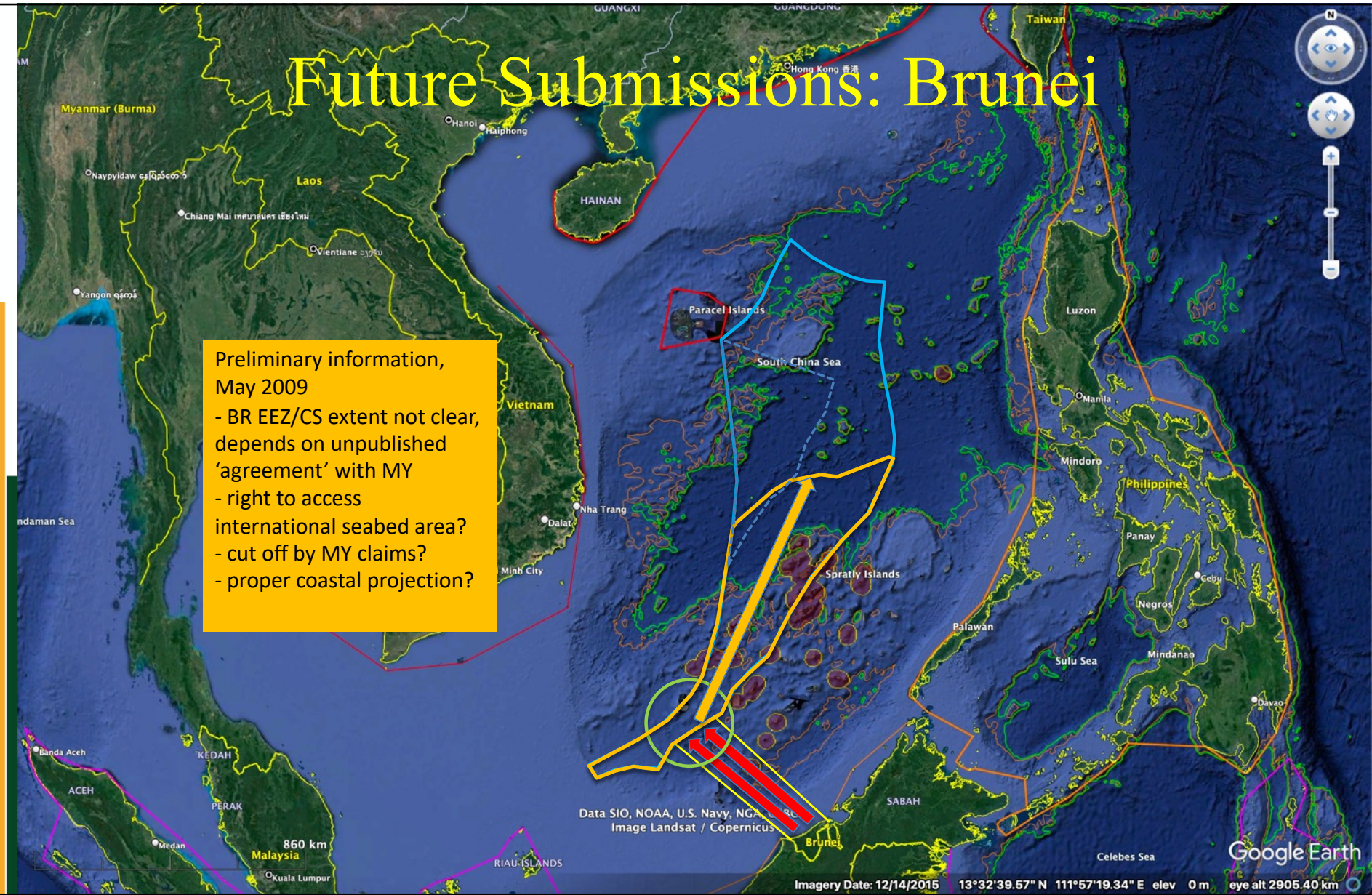
Preliminary information, May 2009

- BR EEZ/CS extent not clear, depends on unpublished 'agreement' with MY
- right to access international seabed area?
- cut off by MY claims?
- proper coastal projection?

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Future Submissions: Philippines

Reserved right to make partial submission, May 2009
Reiterated intention, Oct 2020
- "conventional" coastal projection would entitle PH to both areas claimed by MY (North area, plus most of Joint Area)
- cut-off of MY/BR claims?
- overlap with VN claim (North Area)
- delimitation principles beyond 200NM?

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Future Submissions: China (?)

CN persists in excessive claim and willing to use coercion to enforce it against smaller States

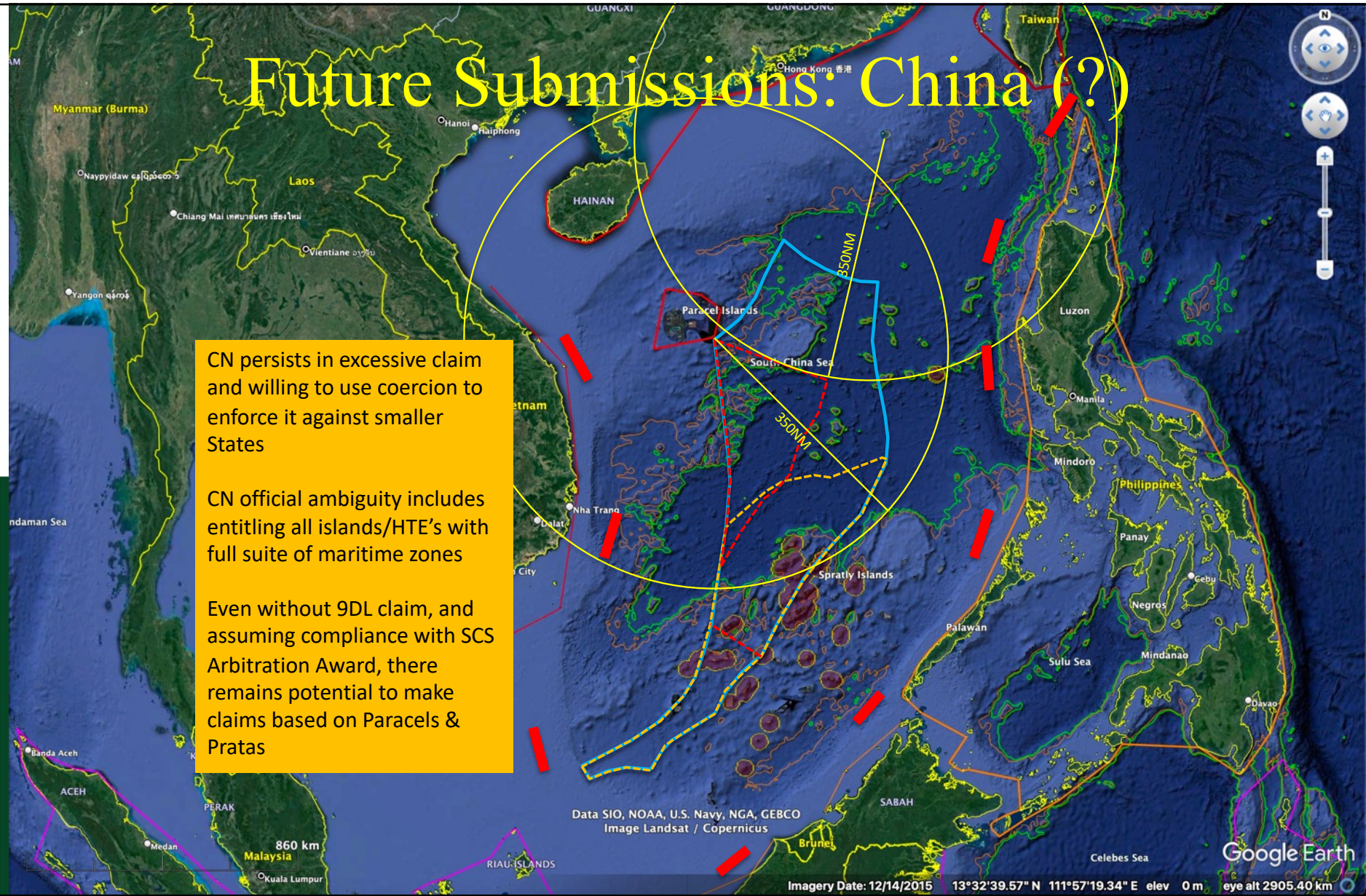
CN official ambiguity includes entitling all islands/HTE's with full suite of maritime zones

Even without 9DL claim, and assuming compliance with SCS Arbitration Award, there remains potential to make claims based on Paracels & Pratas

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Prospects and Futures

- ECS claims practice among smaller Southeast Asian States exhibit both convention and innovation to maximize claims within constricted sea space
 - *Determination of “proper” coastal projection?*
 - *Nature of natural prolongation*
- Claims declared without prejudice to future delimitation; establishment of entitlement appears to be primary goal as prelude to future delimitation negotiations ---seeds of future settlement?
- Geomorphological and geophysical characteristics, multiple overlaps based on coastal projections, present complications: difficult to resolve unless all parties involved

Prospects and Futures

- Major challenges:
 - *Southern area possibly subject to multiple entitlements*
 - *China and its insistence on excessive illegitimate claim, and willingness to unilaterally impose itself on smaller neighbors*
- Stalemate likely, leaving ECS claim areas open to unilateral activities and multi-lateral disputes



Thank you very much!

END OF PRESENTATION