



PHILIPPINES v. *CHINA* REVISITED:
OPTIONS & OPPORTUNITIES

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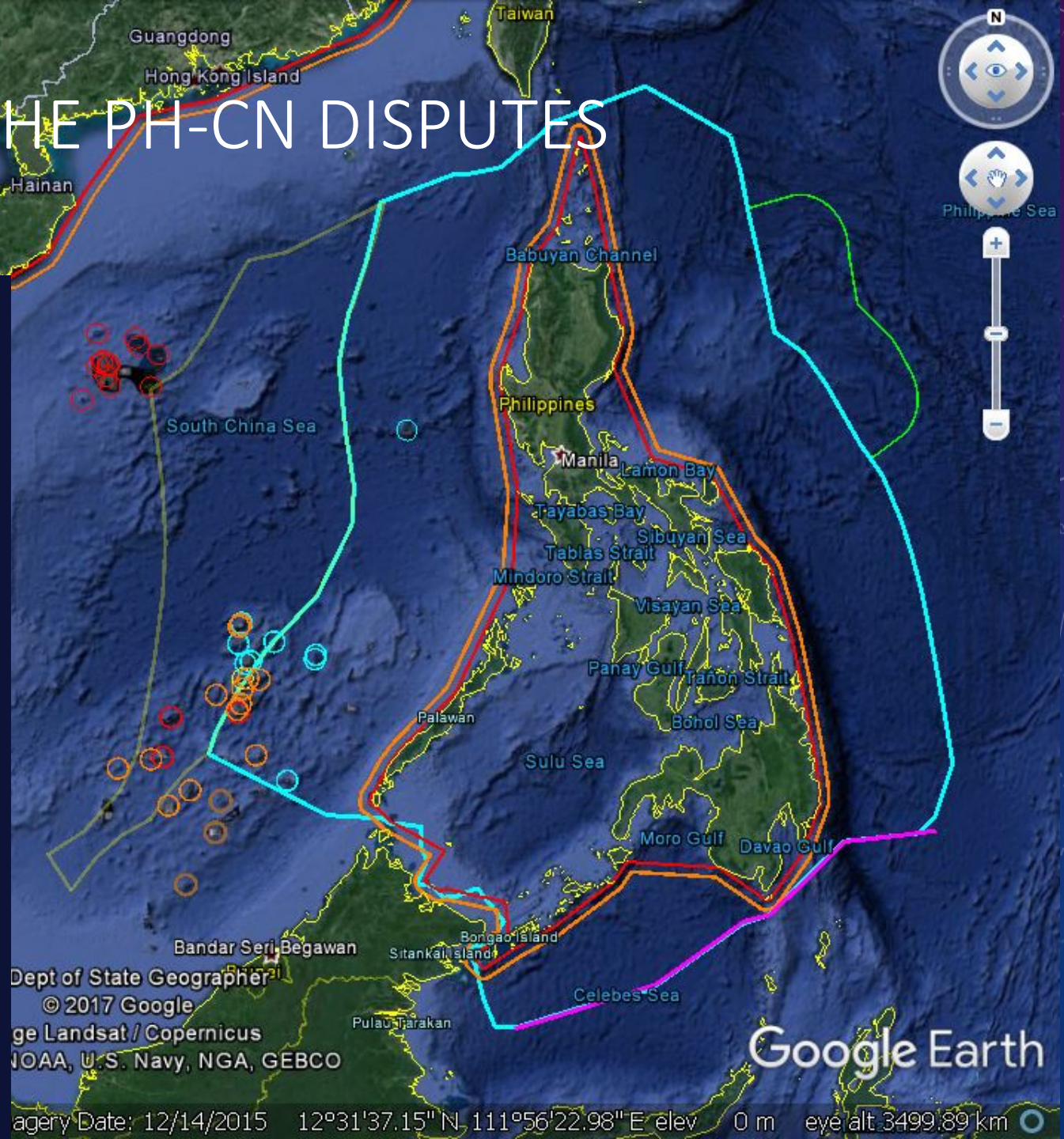
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CORE PHILIPPINE POLICY RE. ARBITRATION

- PH has NOT given up/renounced/abandoned the Arbitration Award
- Discussion of the Award is temporarily shelved pending efforts to improve PH-CN relationship
- The President publicly committed to discussing the Arbitration Award at a later time during his tenure.

STATUS OF THE AWARD & THE PH-CN DISPUTES

- The only authoritative interpretation of CN's 9DL claim (i.e. claim to natural resources w/n 9DL area)
 - Not consistent with UNCLOS
 - Not valid against PH EEZ/CS
 - Not valid historic claim
- No islands/rocks generate 200nm EEZ/CS; no overlap between CN EEZ/CS and PH EEZ/CS
 - Only 12nm enclaves remain legitimately disputed areas
- CN maritime assertion activities & artificial islands contravene obligations under UNCLOS & related IL



CN POSITION & ACTIONS

- CN will not accept/recognize/implement the Award
- CN continues to carry out/expand activities in the PH EEZ/CS
 - Fishing
 - Maritime law enforcement activities
 - Marine scientific research
 - Military activities



US Dept of State Geographer
© 2017 Google
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Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Google Earth

Imagery Date: 12/14/2015 12°31'37.15" N, 111°56'22.98" E elev 0 m eye alt 3499.89 km

BROADER IMPACT BEYOND THE AWARD

- Establishes an ideal moral standard
 - “fair” and “equitable” distribution of SCS
 - “right” and “wrong” in maritime claims
- Between PH and CN, creates basis of future determination of an internationally wrongful act (repeat of incidents already dealt with in Award)
- Enables differentiation between Political Accommodation and Legal Resolution

OPTIONS

- Resistance – parties refuse to budge, no improvement
- Capitulation – one party surrenders, one wins, other loses
- Cooperation – parties find means for mutual and reciprocal accommodation (some legal, some political) without prejudice to respective positions

OPPORTUNITIES

- CN continues to incur intangible costs for its refusal to abide by/act consistently with the Award
 - Incentive for adjustment and accommodation over the long term
- Newton's Third Law, similar in geopolitics: action = reaction (eg, The Quad; SEA States naval build-up; neighborhood)
 - Incentive for moderation and self-restraint
- Common interest among littoral States in environmental sustainability, productivity of the SCS, peace and stability
 - Incentive for basic cooperation in management of resources, activities

OPPORTUNITIES

- Convergence in practice and policies of ASEAN claimant States
 - Based on practice, all Southeast Asian States' maritime zones practice now consistent with/complement each other; CN "persistent objector"?
 - ASEAN claimants States now have basis for unified position and practice; needs support of external powers; CN still needs friendly neighborhood

RECOMMENDATION: “BORDERLESS INITIATIVES”

- FONO throughout SCS except within certain safety distances from occupied positions; no arbitrary/extended military exclusion zones
- Specific coordinated unilateral actions to stop degradation of marine environment
 - Protect habitats within areas of own control
 - Combat illegal trade in threatened/endangered species
 - Prevent further damage to marine habitats
 - Coordinated/joint oil spill response

RECOMMENDATION: “BORDERLESS INITIATIVES”

- Cooperative Search & Rescue, HADR, crisis management mechanisms
- MSR partnerships/cooperation projects
- SCS as a shared maritime commons: littoral States share ALL or nothing of SCS



THANK YOU VERY MUCH!

END OF PRESENTATION