



U.S.-China Economic and Security Review Commission
Staff Report

January 27, 2014

**China's New Fishing Regulations Seek to Justify and
Consolidate Control in the South China Sea**

by

Craig Murray
Senior Policy Analyst, Security and Foreign Affairs

Kimberly Hsu,
Policy Analyst, Security and Foreign Affairs

Disclaimer: This paper is the product of professional research performed by staff of the U.S.-China Economic and Security Review Commission, and was prepared at the request of the Commission to support its deliberations. Posting of the report to the Commission's website is intended to promote greater public understanding of the issues addressed by the Commission in its ongoing assessment of U.S.-China economic relations and their implications for U.S. security, as mandated by Public Law 106-398 and Public Law 108-7. However, the public release of this document does not necessarily imply an endorsement by the Commission, any individual Commissioner, or the Commission's other professional staff, of the views or conclusions expressed in this staff research report.

New Local Fishing Regulations Affirm Beijing's Intent to Boost Enforcement Authority in South China Sea

On January 1, 2014, the government of China's island province, Hainan, enacted new measures requiring all foreign ships to obtain approval from the Chinese government before entering "maritime areas" within Hainan's claimed jurisdiction.¹ Hainan claims to administer approximately 770,000 square miles of the South China Sea (SCS), including the contested Paracel Islands, Spratly Islands, Macclesfield Bank, and Scarborough Reef.^{2*}

- The regulations are part of the *Implementation Measures* that Hainan's legislature approved on November 29, 2013, to better align Hainan's maritime enforcement activities with China's national fisheries law, which was passed in 1986 and amended in 2000 and 2004.³ A Foreign Ministry spokesperson said the *Implementation Measures* will "strengthen the protection, proliferation, development, and rational utilization of fisheries resources; safeguard fisheries producers' lawful rights and interests; ensure the quality and safety of aquatic products; promote the sustainable and healthy development of the fisheries industry; and protect fisheries resources and the ecological environment."⁴
- According to Articles 35 and 37 of the *Implementation Measures*, "Foreigners and foreign fishing boats entering [Hainan Province's] jurisdictional waters to conduct fishery production or fishery resource survey activities must be approved by the relevant authorities of the State Council ... Those rejecting or obstructing fishery administration law enforcement personnel on official business according to law shall be punished by public security agencies in keeping with the provisions of [Chinese law]."⁵ Although the articles do not provide details on how violators will be "punished," official Chinese media suggest penalties could include seizure of their catches and fishing equipment and fines of up to 500,000 renminbi (approximately \$83,000).⁶

Countries with SCS claims have interpreted Hainan's new measures as continued regional assertiveness in a period of heightened tension, reinforcing their concern about a more activist Beijing. Furthermore, rigid Chinese enforcement of these regulations could impact U.S. lines of communication, freedom of movement, and freedom of action in the SCS.

- Philippine Defense Secretary Voltaire Gazmin said the Philippines "will not follow [China's] rules in our own territory. Why do we need permission from another country that does not own our fishing grounds?"⁷ Vietnam also rebuked Hainan's new measures. A Foreign Ministry spokesperson said the laws are "illegal and invalid" and "violate Vietnam's sovereignty" and called on China to "stop these wrongful acts and make practical contributions to the maintenance of peace and stability in the region."⁸
- A U.S. Department of State spokesperson warned Hainan's regulations are "provocative and potentially dangerous." She explained, "China has not offered any explanation or basis under international law for these extensive maritime claims ... Our long-standing position has been that all concerned parties should avoid any unilateral action that raises tensions and undermines the prospects for a diplomatic or other peaceful resolution of differences."⁹

Beijing has responded to international criticism by characterizing the *Implementation Measures* as "absolutely normal" and "routine" and emphasizing that they are consistent with China's existing fisheries laws and regulations.¹⁰ Although Hainan's *Implementation Measures* indeed do not appear to set forth new policy, subtle linguistic differences from previous iterations of the regulations suggest Hainan is taking a more pronounced stance regarding perceived foreign assaults on China's "maritime rights and

* See Appendix 1 for a map of the South China Sea.

interests.” Additionally, ambiguities exist in the regulations that provide Hainan with political and operational flexibility as it seeks to enforce China’s maritime claims in the SCS.

- Previous iterations of Hainan’s *Implementation Measures* (from 1993 and 2008) required “vessels not originated from provincial ports” to obtain permission from the Chinese government before entering areas administered by Hainan. However, the new version for the first time explicitly mentions “foreigners and foreign fishing boats.”¹¹
- The language in the *Implementation Measures* corresponds with China’s national fisheries law, which states: “Foreigners and foreign fishing vessels that wish to enter the waters under the jurisdiction of the People’s Republic of China to engage in fishery production or survey of fishery resources shall be subject to approval by the competent department under the State Council and shall observe the provisions of this Law and of other relevant laws and regulations of the People’s Republic of China.”¹²
- Ambiguities in the *Implementation Measures* could provide greater flexibility for both provincial and central government authorities to enforce the national fisheries law against foreign fishermen. For example, while the regulations require approval from “the relevant authorities of the State Council” for foreign vessels to fish in waters under Hainan’s claimed jurisdiction, they lack further detail on how and from whom to obtain such approval. Nor is the most recent document as specific as previous iterations regarding illegal fishing activities to be regulated or their penalties.¹³

Hainan’s New *Implementation Measures* in the Context of China’s SCS Strategy

The timing of the announcement – only six days after China unilaterally declared an air defense identification zone (ADIZ) over the East China Sea (ECS)¹⁴ – as well as China’s increasing national-level coordination on maritime policy suggest the central government in Beijing may have shaped and directed Hainan’s *Implementation Measures*.¹⁵ Regardless of Beijing’s role in the local regulations, Hainan’s actions complement and reinforce China’s whole-of-government strategy to incrementally consolidate control over the SCS.

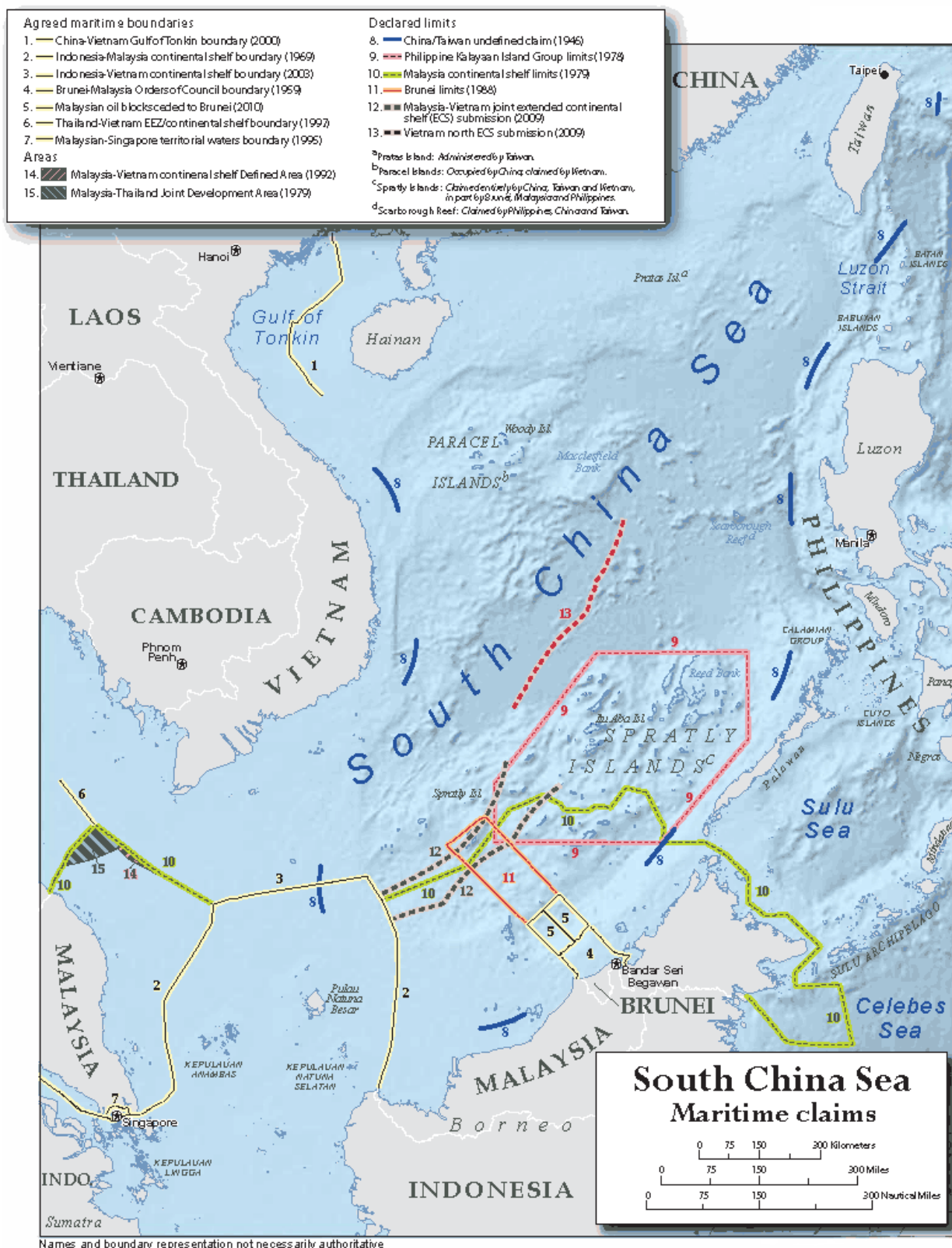
- China has been strengthening its military and law enforcement presence in the SCS, including a sharp increase in extended naval deployments and near-continuous maritime law enforcement (MLE) patrols near disputed areas, as demonstrated in the Scarborough Reef standoff with the Philippines and the Senkaku Islands row with Japan.¹⁶
- China is improving its ability to coordinate naval and MLE operations. According to official Chinese media, the People’s Liberation Army (PLA) Navy in 2013 created “a set of scientific and effective interaction mechanisms” with China’s MLE agencies, establishing “a line of maritime defense” with Chinese military and civilian forces.¹⁷ In October 2012, China conducted what appears to have been the first joint PLA Navy-MLE exercise to focus on enforcing China’s maritime claims.¹⁸
- China previously had six chief MLE agencies, all with separate and sometimes overlapping missions. In June 2013, China officially consolidated four of these six agencies into the new China Coast Guard in an effort to address longstanding shortcomings in its coordination of maritime policy and centralize control of China’s MLE operations.¹⁹
- China’s MLE agencies altogether operate approximately 110 ocean-going ships and 1,050 patrol craft and smaller boats.²⁰ While most of these ships previously were unarmed, those subordinated

to the China Coast Guard under the new structure may now be authorized to carry light weapons.²¹ Furthermore, China's MLE force, like the PLA Navy,²² is in the midst of a modernization program and by 2015 will introduce at least 30 new ocean-going ships and more than 100 smaller patrol boats. Most of these units will be larger and more capable than previous ones, and some will have the ability to embark helicopters. MLE agencies also will continue to acquire decommissioned ships from the PLA Navy – a practice that has increased in recent years.²³

- Infrastructure improvements to Hainan Island and China's outposts in the SCS are enhancing China's ability to sustain its naval, MLE, and commercial presence in the region. For example, China since 2011 has established a cellular communications network covering all of the Spratly Islands,²⁴ completed a major naval base on Hainan that includes submarine tunnel facilities and is able to accommodate China's most advanced submarines and surface ships,²⁵ and significantly expanded and upgraded the military and civilian infrastructure on Woody Island – the largest island in the Paracel Islands, which Vietnam also claims.²⁶
- In July 2012, Beijing inaugurated a new prefecture-level city government on Woody Island and approved the establishment of a division-grade military garrison responsible for defense of the city. The city's claimed jurisdiction includes the Paracel Islands, Spratly Islands, Macclesfield Bank, and Scarborough Reef.²⁷
- In November 2012, China introduced a new passport design that has a watermark of a national map that includes popular tourist sites in Taiwan, China's nine-dash line claims in the SCS, and border areas disputed with India as part of China's territory. Countries disputing the depiction of China's territory denounced China's new passports, and some are not stamping the new passports and instead are issuing separate visa sheets.²⁸
- In November 2012, Hainan issued new maritime regulations allowing China to board, inspect, and expel foreign vessels "illegally" entering Chinese territorial waters.²⁹ However, unlike the *Implementation Measures*, the 2012 regulations only apply to a 12 nautical mile zone within Hainan's announced baselines. According to Wu Shicun, director of Hainan's Foreign Affairs Office and president of China's National Institute for South China Sea Studies, the provision was designed to curb Vietnamese fishing activity near the Paracel Islands.³⁰
- In January 2013, China's official Sinomaps Press issued a new national map that includes China's SCS claims. The new map depicts the entire SCS on the same scale as mainland China, rather than using insets to illustrate China's claimed island groups as it had in previous editions.³¹ One Sinomaps editor said the changes in presentation served to "elevate the [Chinese] peoples' consciousness of national territory and safeguard China's maritime rights and interests."³²

Furthermore, Beijing's recent actions and rhetoric suggest China may be preparing to declare an ADIZ in the SCS. Following China's announcement of an ADIZ in the ECS, a Ministry of Defense spokesperson said China will establish additional ADIZs "at the right moment after necessary preparations are completed."³³ Luo Yuan, a retired PLA major general and one of China's most frequently quoted military commentators in Chinese media,³⁴ said China has the "need to set up [a] South China Sea Air Defense Identification Zone."³⁵

Appendix 1: South China Sea: Maritime Claims



Source: U.S. Department of State. From U.S. Energy Information Administration, *South China Sea*, February 2013.
<http://www.eia.gov/countries/regions-topic.cfm?fips=SCS>.

¹ Xinhua Wang, “PRC Approves ‘Measures Requiring Approval of Foreign Fishing in Hainan-Administered Waters,” December 1, 2013. OSC ID: CHR2013120355920828.

² Hainan Maritime Safety Administration – Official Internet Site, accessed January 21, 2014. http://www.hnmsa.gov.cn/news_2489.aspx.

³ Standing Committee of the People's Congress of Hainan Province, *Hainan Province Implementation Methods for the “Fisheries Law of the People's Republic of China,”* November 29, 2013. OSC ID: CHR2013120668352964.

⁴ China Ministry of Foreign Affairs, *Transcript of PRC FM Spokesman News Conference*, January 9, 2014. OSC ID: CHN2014010945134512.

⁵ Standing Committee of the People's Congress of Hainan Province, *Hainan Province Implementation Methods for the “Fisheries Law of the People's Republic of China,”* November 29, 2013. OSC ID: CHR2013120668352964.

⁶ Li Xiaokun and Zhang Yan, “Fishing rules are ‘normal practice,’” *China Daily*, January 10, 2014. http://usa.chinadaily.com.cn/china/2014-01/10/content_17227341.htm; Xinhua Wang, “PRC Approves ‘Measures Requiring Approval of Foreign Fishing in Hainan-Administered Waters,” December 1, 2013. OSC ID: CHR2013120355920828.

⁷ Agence France-Presse, “Defense Chief: Philippines to Defy China Fishing Rule,” January 16, 2013. <http://www.defensenews.com/article/20140116/DEFREG03/301160037/Defense-Chief-Philippines-Defy-China-Fishing-Rule?odyssey=mod%7Cnewswell%7Ctext%7CFRONTPAGE%7Cp>.

⁸ Vietnam Ministry of Foreign Affairs, *Statement of Vietnam Ministry of Foreign Affairs Spokesman Luong Thanh Nghi on 10 January*, January 10, 2014. OSC ID: SER2014011308097222.

⁹ U.S. Department of State, *Daily Press Briefing*, January 9, 2014. <http://www.state.gov/r/pa/prs/dpb/2014/01/219509.htm#CHINA>.

¹⁰ China Ministry of Foreign Affairs, *Transcript of PRC FM Spokesman News Conference*, January 10, 2014. OSC ID: CHN2014011045169534; China Ministry of Foreign Affairs, *Transcript of PRC FM Spokesman News Conference*, January 9, 2014. OSC ID: CHN2014010945134512.

¹¹ Taylor Fravel, “Hainan’s New Fishing Rules: A Preliminary Analysis,” *Diplomat*, January 10, 2014. <http://thediplomat.com/2014/01/hainans-new-fishing-rules-a-preliminary-analysis/>; OSC Graphic, *China: Hainan Province Requires Foreign Fishing Vessels to Gain Permission Before Entering Waters*, December 20, 2013.

¹² China National People’s Congress, *Fisheries Law of the People’s Republic of China*, January 20, 1986 (amended August 24, 2004). http://www.china.org.cn/china/LegislationsForm2001-2010/2011-02/14/content_21917138.htm.

¹³ Isaac Kardon, “Hainan Revises Fishing Regulations in South China Sea: New Language, Old Ambiguities,” *China Brief*, January 17, 2014. http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews%5Btt_news%5D=41836&tx_ttnews%5BbackPid%5D=25&cHash=92ea9a23748ea174f7a3d452a9c44770#UuEiqRAo4dW; Taylor Fravel, “Hainan’s New Fishing Rules: A Preliminary Analysis,” *Diplomat*, January 10, 2014. <http://thediplomat.com/2014/01/hainans-new-fishing-rules-a-preliminary-analysis/>.

¹⁴ Kimberly Hsu, *Air Defense Identification Zone Intended to Provide China Greater Flexibility to Enforce East China Sea Claims*, U.S.-China Economic and Security Review Commission, January 14, 2014. <http://origin.www.uscc.gov/sites/default/files/Research/China%20ADIZ%20Staff%20Report.pdf>.

¹⁵ U.S.-China Economic and Security Review Commission, *2013 Report to Congress*, November 20, 2013, p. 278. http://www.uscc.gov/Annual_Reports/2013-annual-report-congress.

¹⁶ U.S.-China Economic and Security Review Commission, *2013 Report to Congress*, November 20, 2013, pp. 275-279. http://www.uscc.gov/Annual_Reports/2013-annual-report-congress.

¹⁷ *Renmin Haijun*, “PRC PLAN SSF Normalizes War Readiness Patrols of Spratlys, Forms Joint Mechanism with FLEC, CCG,” May 17, 2013. OSC ID: CHR2013081459588764.

¹⁸ Department of Defense, “China: PLA Activities Report 16-31 Oct 2012,” November 20, 2012. OSC ID: CPP20121120440020; CCTV-7, “PLA Navy-Locality Joint Maritime Exercise ‘Donghai Xiezuo-2012’ Starts,” October 18, 2012. OSC ID: CPP20121022075001.

¹⁹ U.S. Office of Naval Intelligence, *Regional MLE Overview*, written response to request for information provided to the U.S.-China Economic and Security Review Commission, Suitland, MD, June 24, 2013; China General Office of the State Council, *Guowuyuan bangongting guanyu yinfa guojia haiyangju zhuyao zhize nei she jigou he ren yuan bianzhi guiding de tongzhi* (Notice of the General Office of the State Council on Issuing Provisions on the Main Duties, Internal Organization, and Personnel Organization of the State Oceanic Administration), June 9, 2013. http://www.gov.cn/zwqk/2013-07/09/content_2443023.htm; and Jin Chang and Zhu Yu, “State Council Plans to Reorganize SOA, Set Up National Oceanic Commission; SOA to Protect Sovereignty, Enforce Laws in Name of PRC Coast Guard,” *Zhongguo Haiyang Bao*, March 12, 2013. OSC ID: CPP20130312680007.

²⁰ U.S. Office of Naval Intelligence, *Regional MLE Overview*, written response to request for information provided to the U.S.-China Economic and Security Review Commission, Suitland, MD, June 24, 2013.

²¹ Bonnie Glaser and Brittany Billingsley, "The Promise and Peril of China's New Coast Guard," *Diplomat*, August 7, 2013. <http://thediplomat.com/2013/08/07/the-promise-and-peril-of-chinas-new-coast-guard/>; Jane Perlez, "China, With Revamped Force, Make Presence Known in the East China Sea," *New York Times*, July 27, 2013. http://www.nytimes.com/2013/07/28/world/asia/chinese-with-revamped-force-make-presence-known-in-east-china-sea.html?_r=0.

²² Craig Murray, Andrew Berglund, and Kimberly Hsu, *China's Naval Modernization and Implications for the United States*, U.S.-China Economic and Security Review Commission, August, 26, 2013. http://origin.www.uscc.gov/sites/default/files/Research/Backgrounder_China%27s%20Naval%20Modernization%20and%20Implications%20for%20the%20United%20States.pdf.

²³ U.S. Department of Defense, *Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2013* (Washington, DC: 2013), p. 40.

²⁴ CCTV-Xinwen, "Clip: China Extends Mobile Phone Signal Coverage to All Spratly Islands," May 18, 2011. OSC ID: CPP20110518338004; *Tech in Asia*, "Vietnamese Complain as Chinese 3G Comes to Disputed Spratly Islands," January 7, 2013. <http://www.techinasia.com/vietnamese-complain-as-chinese-3g-disputed-spratly-islands/>.

²⁵ U.S. Department of Defense, *Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2012*, May 2012, p. 22.

²⁶ Huang Yiming and Wang Qian, "Sansha welcomes new hospital," *China Daily*, July 24, 2013. http://usa.chinadaily.com.cn/china/2013-07/24/content_16820335.htm; Bree Feng, "An Island Outpost for China's Maritime Claims," *Sinosphere: Dispatches from China*, November 21, 2013. http://sinosphere.blogs.nytimes.com/2013/11/21/an-island-outpost-for-chinas-maritime-claims/?_php=true&_type=blogs&_r=0.

²⁷ Xinhua, "China to Deploy Military Garrison in South China Sea," July 20, 2012. OSC ID: CPP20120720968255; China Ministry of Foreign Affairs, *Ministry of Civil Affairs Announcement on the State Council's Approval To Establish the Prefecture Level Sansha City*, June 21, 2012. OSC ID: CPP20120621671001.

²⁸ Agence France-Presse, "US to raise passports row with China, calling it 'unhelpful,'" November 28, 2012. <http://www.scmp.com/news/china/article/1092764/us-raise-passports-row-china-calling-it-unhelpful>; Malcolm Moore, "China's neighbours protest its passport map grab," *Telegraph* (London), November 2, 2012. <http://www.telegraph.co.uk/news/worldnews/asia/china/9695732/Chinas-neighbours-protest-its-passport-map-grab.html>.

²⁹ Taylor Fravel, "Hainan's New Maritime Regulations: An Update," *Diplomat*, January 4, 2013. <http://thediplomat.com/china-power/hainans-new-maritime-regulations-an-update/>; Ben Blanchard and Manuel Mogato, "UPDATE 4- Chinese police plan to board vessels in disputed seas," Reuters, November 29, 2012. <http://www.reuters.com/article/2012/11/30/china-seas-idUSL4N0991Z020121130>.

³⁰ Jeremy Page, "China Sheds Light on New Sea Rules," *Wall Street Journal*, December 5, 2012. <http://online.wsj.com/article/SB10001424127887323717004578158992804807854.html>.

³¹ Euan Graham, "China's new map: just another dash?" *The Strategist: Australian Strategic Policy Institute Blog*, September 17, 2013. <http://www.aspistrategist.org.au/chinas-new-map-just-another-dash/>; Carlyle A. Thayer, "China's New 10-Dash Line Claim to the South China Sea," *Thayer Consultancy Background Brief*, July 18, 2013; and Peter Dutton, "Three Disputes and Three Objectives," *U.S. Naval War College Review* 64:4 (Autumn 2011): 64. <http://www.usnwc.edu/getattachment/feb516bf-9d93-4d5c-80dc-d5073ad84d9b/Three-Disputes-and-Three-Objectives--China-and-the>.

³² Xinhua Digest, "Xinban Zhongguo ditu yang lie Nanhai zhudao he Diaoyu dao, Zhuzhong xuanshi zhuquan" (New edition of China territory map depicts South China Sea islands and Diaoyu islands, Lays emphasis on the proclamation of sovereign rights), January 13, 2013. <http://world.people.com.cn/n/2013/0113/c157278-20182571.html>; Jiang Yan, "No More Downscaling for South China Sea Islands – Map Press Puts Out Vertical maps of China, Showing South China Sea Islands and Mainland on the Same Scale for the First Time," *Xinjing Bao*, January 7, 2013. OSC ID: CPP20130116047001.

³³ China Ministry of Defense, *PRC Defense Spokesman Responds To Questions on East China Sea Air Defense Identification Zone*, November 25, 2013. OSC ID: CHR2013112522697039.

³⁴ Andrew Chubb, "Propaganda, Not Policy: Explaining the PLA's 'Hawkish Faction' (Part One)," *China Brief*, July 26, 2013. http://www.jamestown.org/uploads/media/cb_07_26.pdf.

³⁵ Meng Ching-shu, Military Expert Urges China Set SCS Air Defense Identification Zone," *Wen Wei Po* (online), November 27, 2013. OSC ID: CHL2013112722005918.