

Law of the Sea and Korea

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INTRODUCTION

1

International Legal Affairs Bureau

Main office within the Korean Government in charge of public international law issues (except trade·investment law)



2

Director-General

Deputy Director-General

Director of Treaties
Division

Director of International
Legal Affairs Division

Director of Territory
and Oceans Division



INTRODUCTION

3

International Legal Affairs Bureau

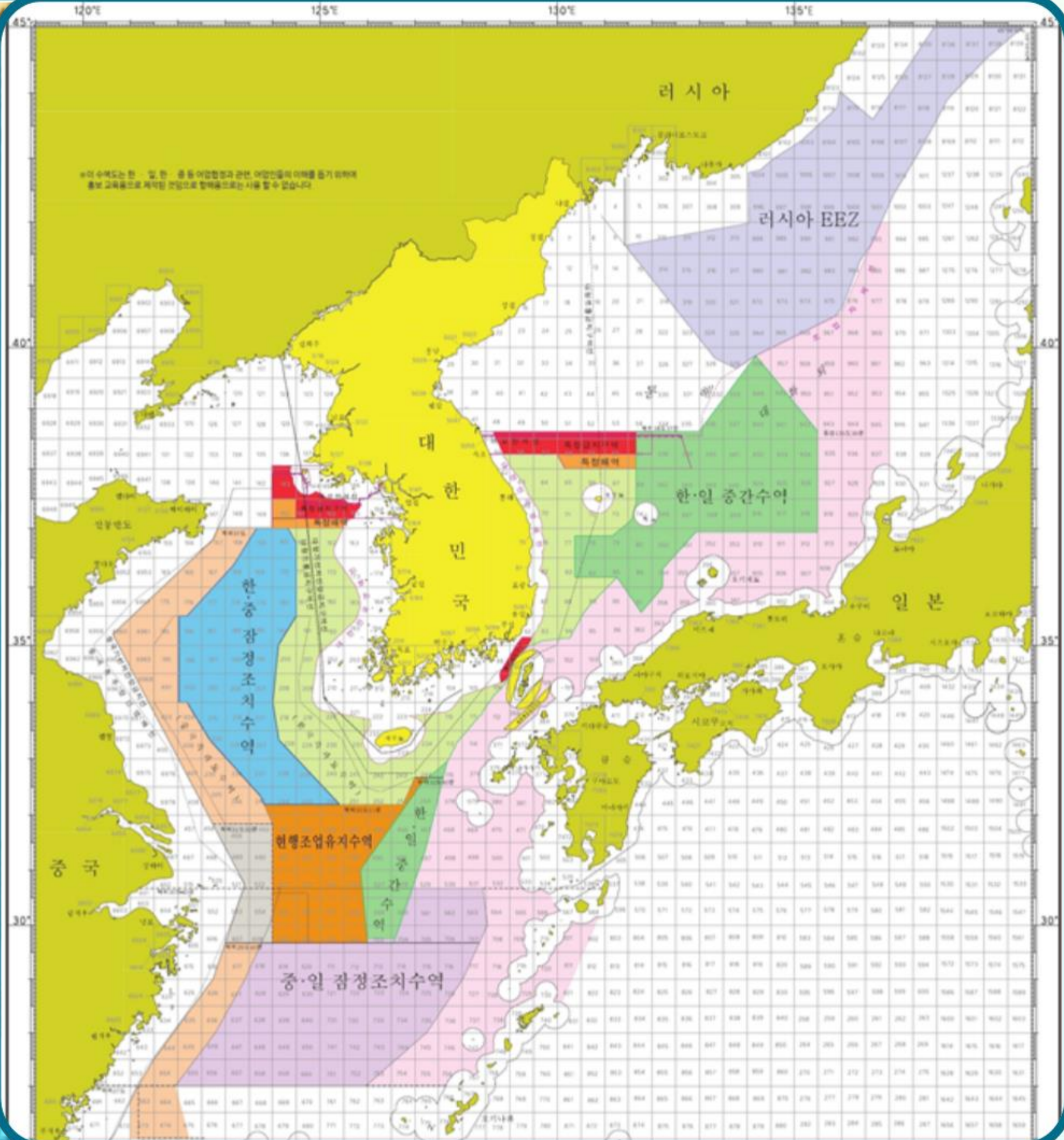
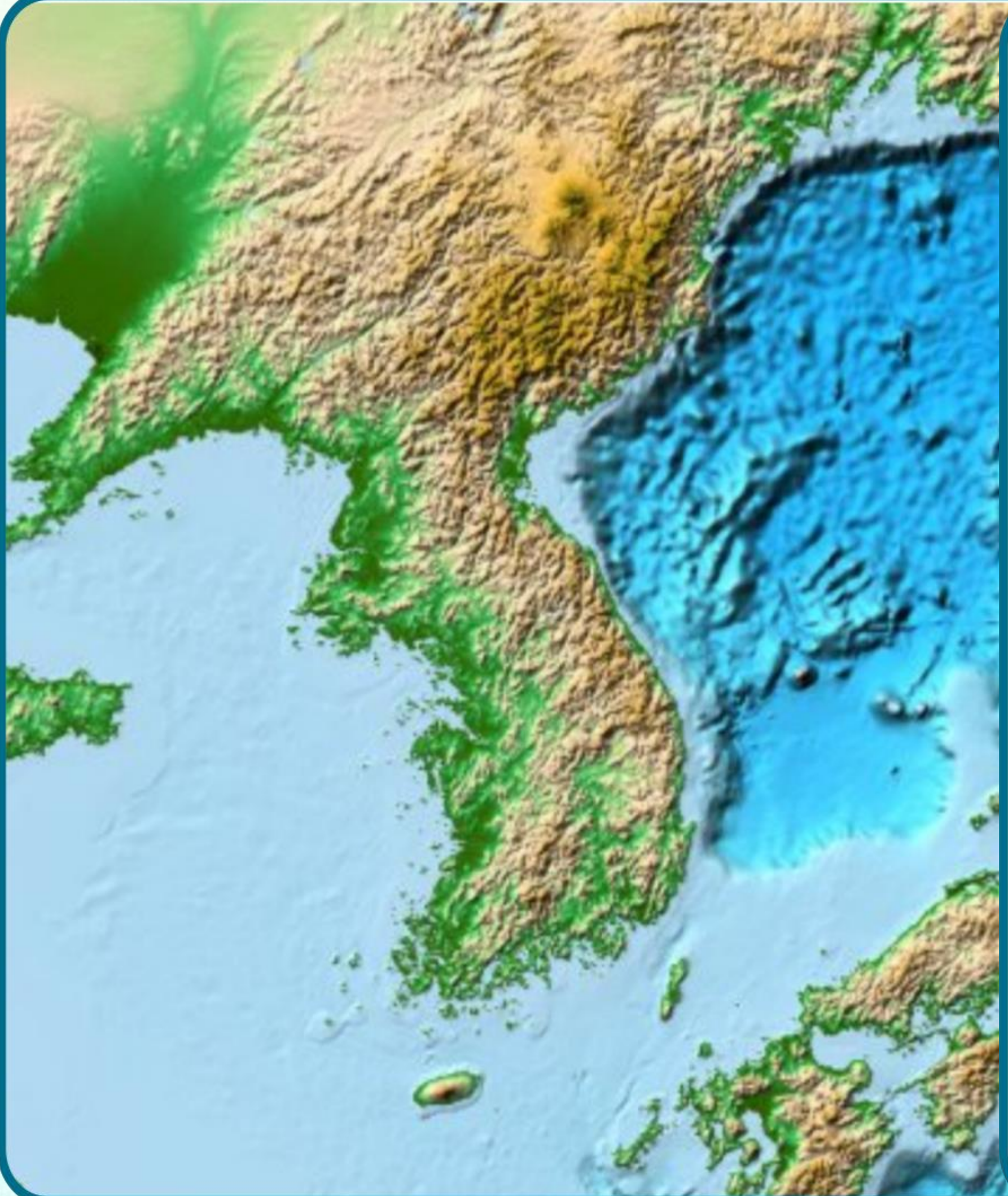
- Overseeing/managing Korea's treaty-making process under the Constitution
- Providing legal advice for foreign and security policy
- Supporting major diplomatic negotiations
- Participating in multilateral norm-making
- Overseeing the implementation/application of UNCLOS
- Leading negotiations on maritime delimitation
- Raising public awareness in collaboration with the academic community





〈Contents〉

- ① Maritime Claims and Delimitation Negotiations
- ② Two Koreas' Maritime Areas: Special Relationship?
- ③ Right of Passage and Freedom of Navigation
- ④ Some Observations



〈Maritime Claims and Delimitation Negotiations〉

ROK ratified UNCLOS in 1996

- So did Japan and China
- 200 NM EEZ claims from all three countries
- resulting in overlap of maritime claims surrounding the Korean Peninsula

※ Arts. 74(3) & 83(3) : Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.



〈Maritime Claims and Delimitation Negotiations〉

Provisional arrangements of a practical nature under Arts. 74(3) & 83(3)

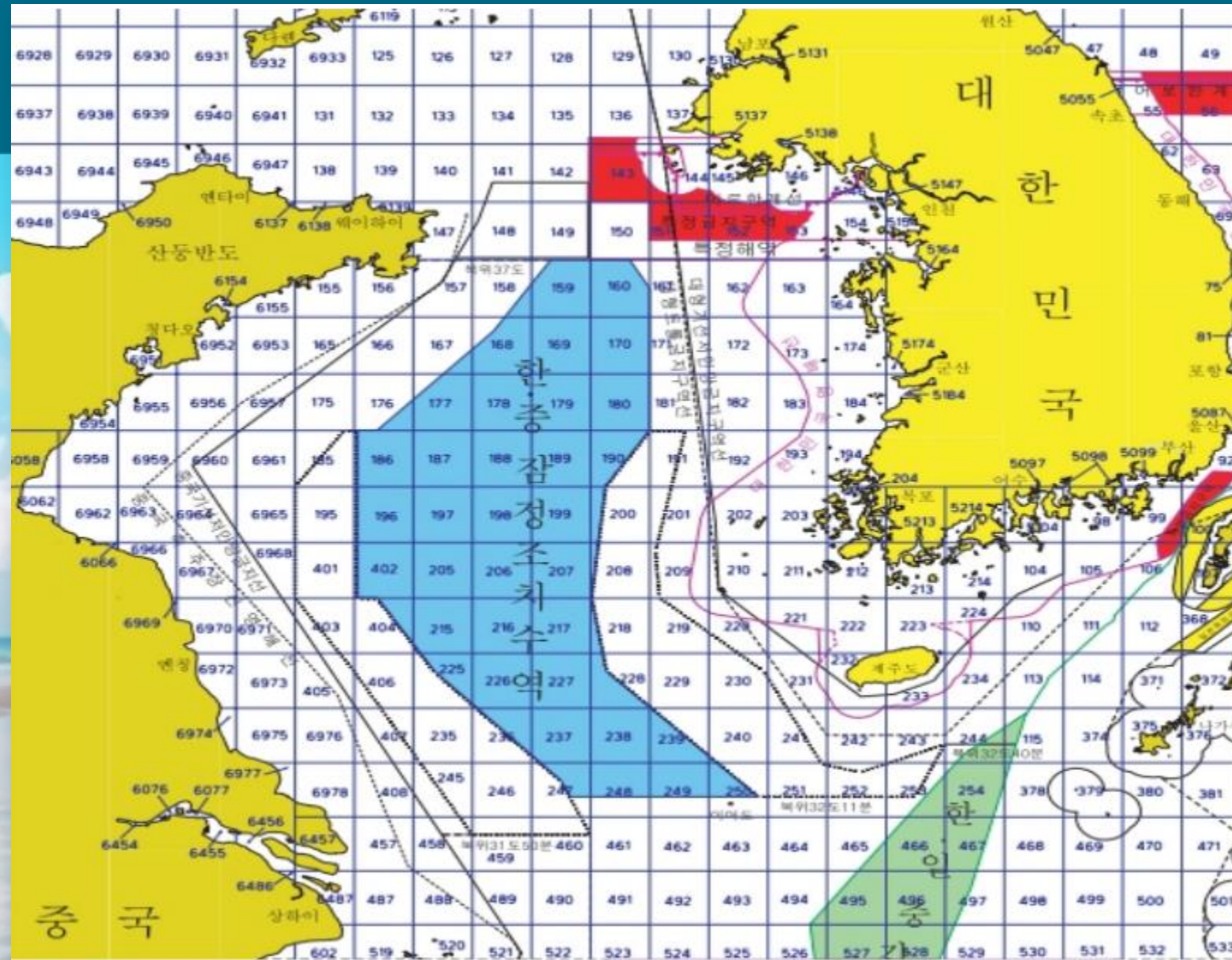
- Fisheries Agreements ▶
- cf. JDZ Agreement between Korea and Japan ▶

Declaration in accordance with paragraph 1 of Article 298 (2006)

: “In accordance with paragraph 1 of Article 298 of the Convention, the Republic of Korea does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a), (b) and (c) of Article 298 of the Convention.”



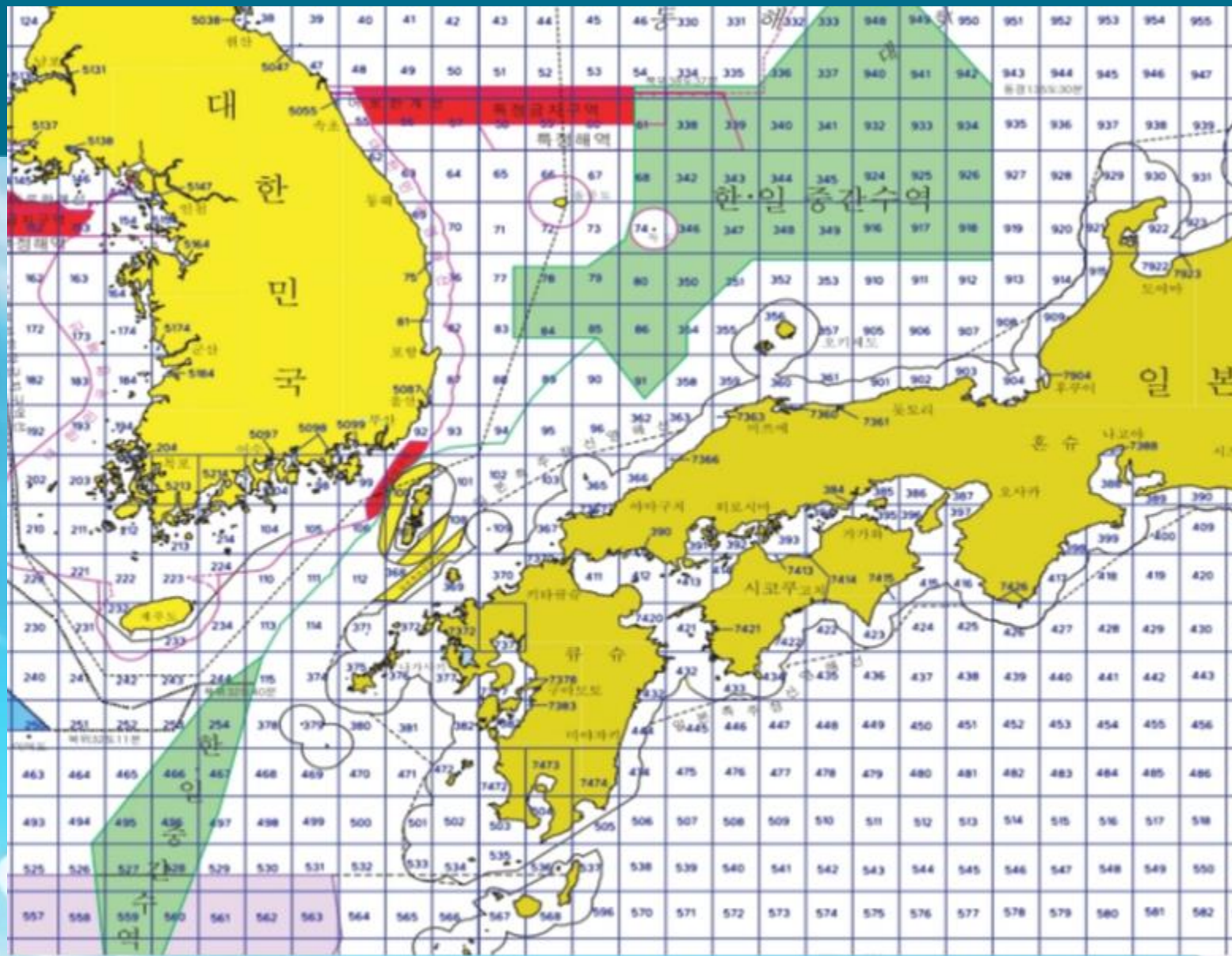
〈Maritime Claims and Delimitation Negotiations〉



Korea-China

- DG level consultations over two decades
- formal negotiations launched in 2015

〈Maritime Claims and Delimitation Negotiations〉



Korea-Japan

- Agreement concerning the Establishment of Boundary in the Northern Part of the Continental Shelf (1978) : the only maritime boundary agreed upon around the Korean Peninsula
- DG level consultations from 1996 until 2010

〈Two Koreas and Special Relationship〉

Basic Inter-Korean Agreement of 1991

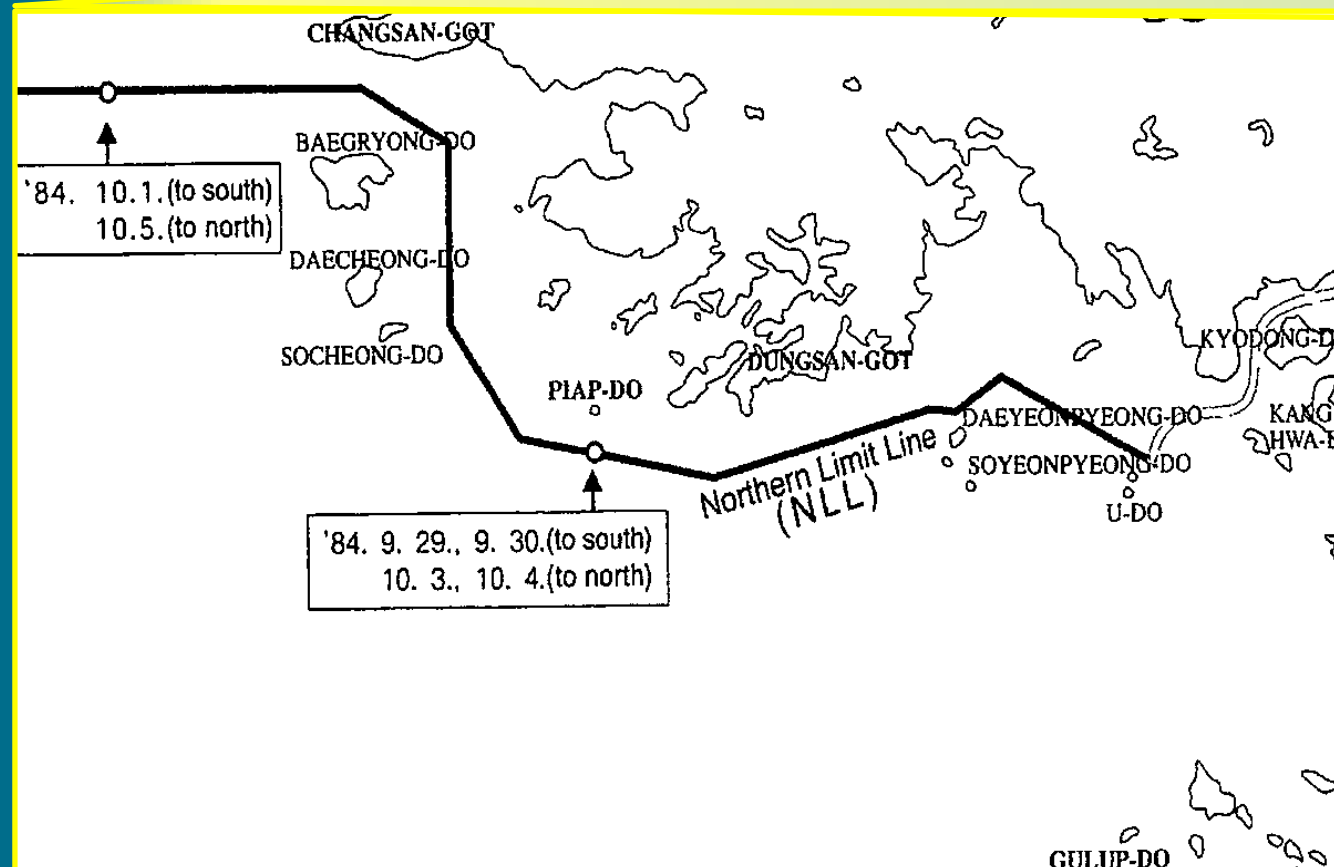
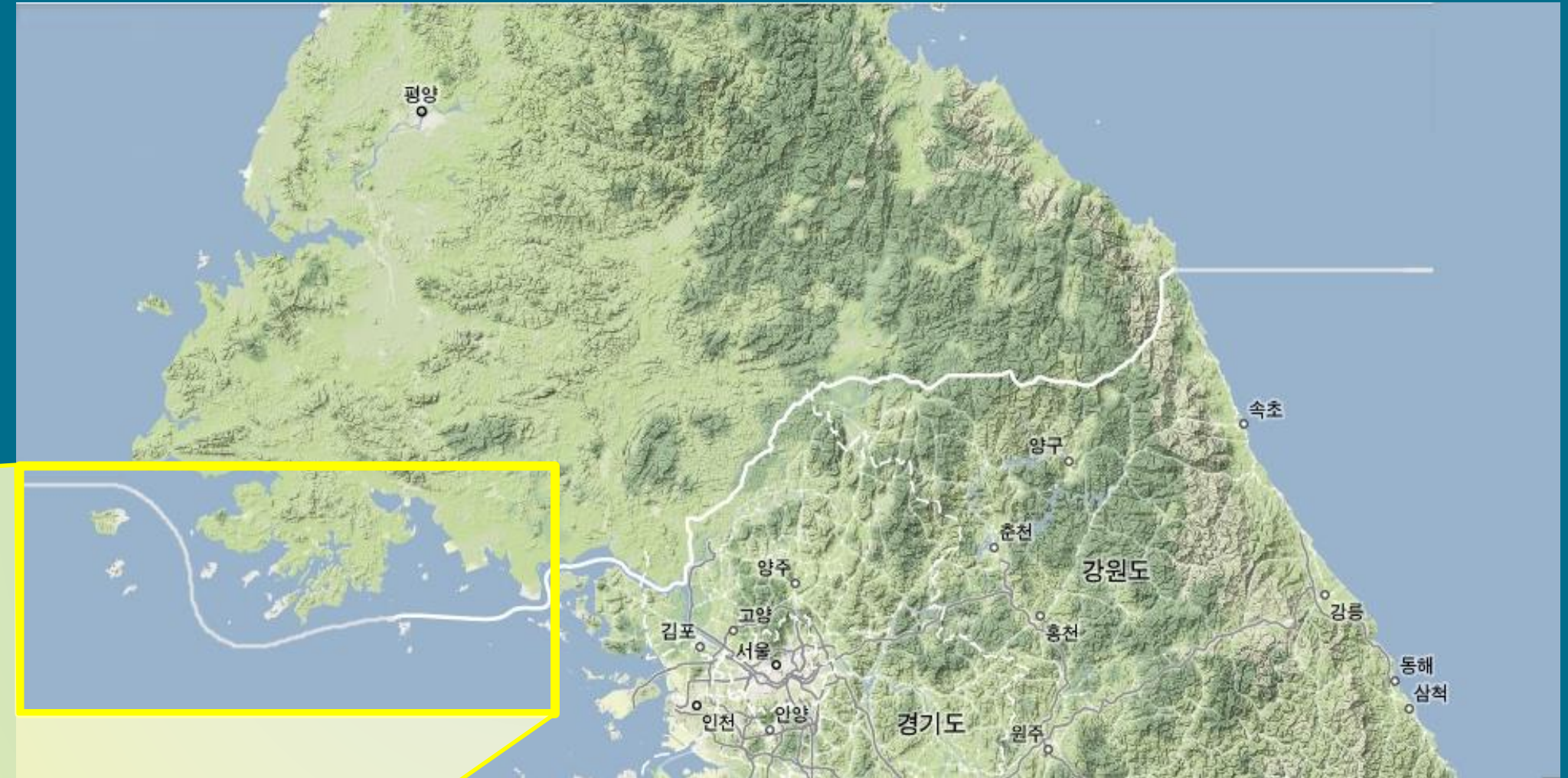
: “Recognizing that their relations, not being a relationship between states, constitute a special interim relationship stemming from the process towards reunification.”

Constitution of the Republic of Korea

Art. 3: The Territory of the Republic of Korea shall consist of the Korean Peninsula and its adjacent islands.

CONTENT 02

〈Two Koreas and Special Relationship〉



〈Two Koreas and Special Relationship〉



Northern Limit Line

“...the Northern Limit Line (NLL) has been an effective means of separating ROK and DPRK military forces and preventing military tension.”

〈Right of passage and freedom of navigation〉

Korean domestic laws incorporating UNCLOS

Right of Innocent Passage

Article 4 of the ENFORCEMENT DECREE OF THE TERRITORIAL SEA AND CONTIGUOUS ZONE ACT (Passage of Foreign Warships or Other Government Ships)

: If a foreign warship or another government ship operated for non-commercial purposes intends to navigate through the territorial sea, it shall notify the following particulars to the Minister of Foreign Affairs not later than three days (excluding public holidays) prior to its passage in accordance with the latter part of (1) of the Act, except in cases where the area of the sea through which the said ship navigates forms a strait used for international navigation in which no high seas lanes exist:

1. Name, type and official number of the ship;
2. Purpose of the passage; and
3. Passage route and schedule.



〈Right of passage and freedom of navigation〉

Restrictions of right of innocent passage?

- vessel with a rising sun flag
- vessel subject to UNSC sanctions
- stateless vessel

Freedom of navigation and overflight

- vital element of the global maritime legal order

JOINT DECLARATION ON THE STRATEGIC PARTNERSHIP BETWEEN THE REPUBLIC OF KOREA AND THE REPUBLIC OF THE PHILIPPINES (8 Oct. 2024)

: “Both countries share concerns about actions in the South China Sea that are inconsistent with the rules-based international order, which undermines peace and prosperity... Marking the 8th anniversary of the July 2016 South China Sea Arbitral Award, which sets out the legal basis for the peaceful resolution of maritime disputes between the parties to that proceeding, they reiterated their firm respect and due regard to the respective rights, jurisdictions, duties and freedoms of States, including freedom of navigation and overflight, in line with UNCLOS.”



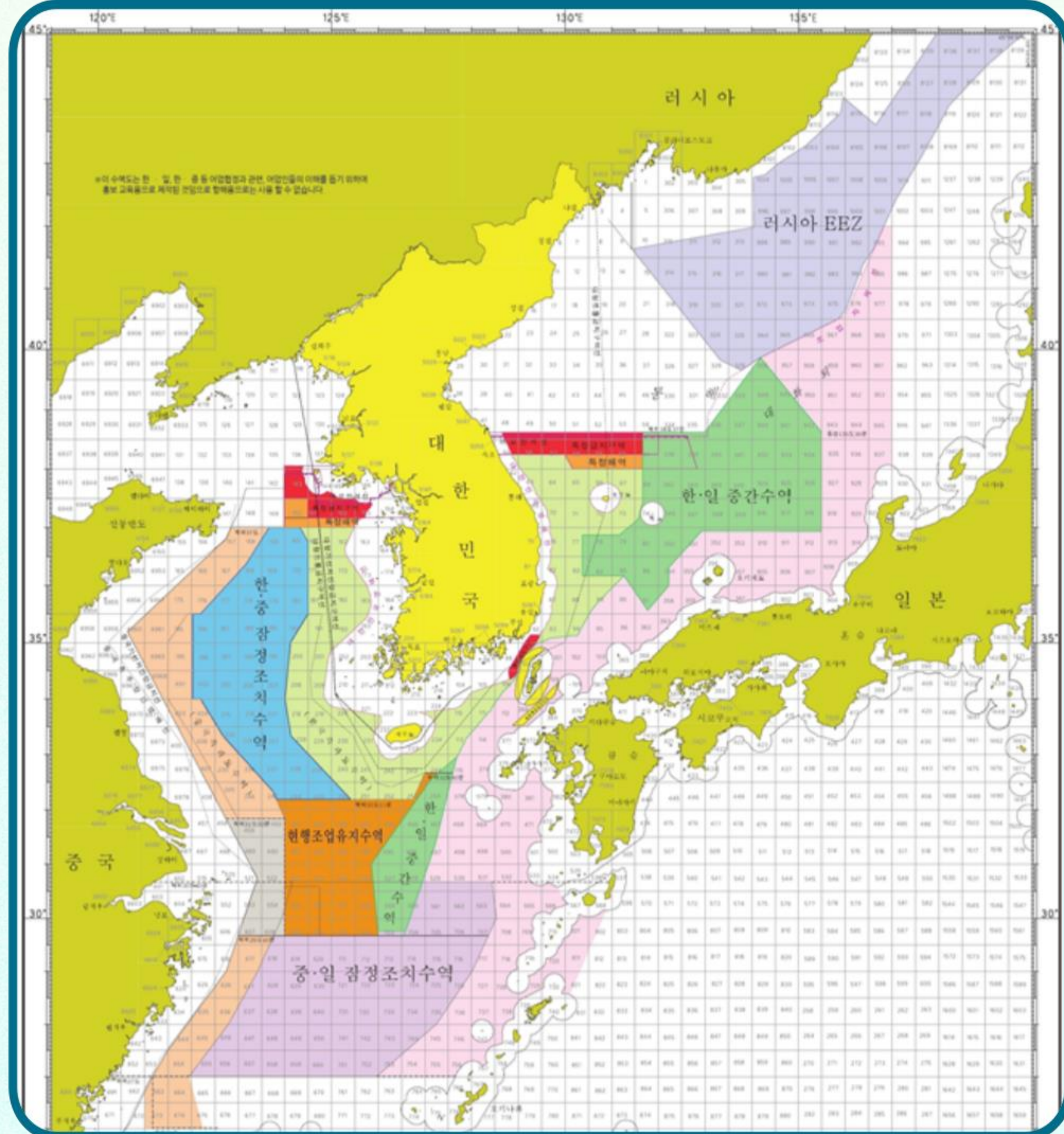
〈Some Observations〉

- ① UNCLOS as a legal foundation for peace and stability in Northeast Asia
- ② The importance of provisional arrangements
- ③ *Modus vivendi* and the status quo
- ④ Korea as a global pivotal state and international law of the sea



THANK YOU

Q&A



우리나라 대륙붕 해저광구 현황도

