



Maritime Issues in the Indo-Pacific: Building a Shared Vision of “Free and Open”

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INTRODUCTION

Pacific Forum, the Yokosuka Council on Asia Pacific Studies (YCAPS), and Tama University's Center for Rule-making Strategies, with support from the US Embassy in Japan, organized a conference discussing maritime issues in the Indo-Pacific as they relate to the "Free and Open" concept. The event was hosted by the Center for Rule-making Strategies in Tokyo November 21-22, 2019. Approximately 35 senior officials, scholars, scientists, and security specialists attended in their personal capacity for an off-the-record discussion. The closed-door conference covered an array of maritime challenges including territorial conflicts, erosion of the rule of law, piracy and other criminal activities, unsustainable fishing practices, and environmental destruction. Synchronizing the efforts of uniquely qualified experts, this conference and its initiatives developed important messages for regional and global thinkers.

The conference provided a platform for professionals to address a multitude of growing concerns while creating an environment encouraging creative problem framing and problem solving. Following the conference, the experts in attendance were invited to submit short analytical commentaries for compilation into this volume. Key themes from this conference are outlined below.

There is an increasing pressure on the traditional US-led security architecture in the Indo-Pacific. This pressure stems from many factors, including evolving economic dynamics and maritime security challenges. Middle powers such as Japan, South Korea, and Australia will have an increasing level of responsibility in shaping the Indo-Pacific region by aligning in these two areas. Japan's pragmatic approach focuses on strengthening the law enforcement capacities of other regional partners while relying on Official Development Assistance (ODA) to serve as an important foreign policy tool. On this theme, Dr. Stephen Nagy's piece explores opportunities for maritime cooperation among middle powers in the Indo-Pacific. Dr. Raymond Yamamoto uses the changes in the distribution of Japan's ODA to demonstrate the Abe administration's Free and Open Indo-Pacific (FOIP) vision is not merely an update to previous ideas such as the Arch of Freedom Prosperity but a unique doctrine tailored to Japan's current strategic needs. Dr. SATO Yoichiro explores Japan's FOIP as a strategic approach employed by Japan's leadership to advance its goals in a region under realignment in response to the People's Republic of China's growing economic heft and more threatening posture.

Much of the conversation focused on China maritime activities, which were generally seen as detrimental to a FOIP. In particular, the South China Sea came up as a "flashpoint" or tension front. Dr. OTA Fumio (VADM JMSDF ret.) contrasts Japan's FOIP concept with Beijing's Belt and Road Initiative (BRI), arguing that—unlike FOIP—BRI is military-oriented, lacks rules, erodes the sovereignty of participants, imposes unsustainable financial burdens, and lacks transparency. Dr. ITO Go's contribution focuses on Chinese activities in Vietnam's Exclusive Economic Zone (EEZ) as exemplifying that nation's disruptive behavior.

Other discussions focused on the actions that states might take to address the range of regional maritime challenges. After examining China activities in the South China Sea through the lens of Chinese historical analogy, Vivian Ng argues that the US needs to take bold and unanticipated actions if it wants to disrupt current trajectories and seize the initiative. Dr. Asyurah Salleh points out that national competition exacerbates transnational maritime challenges such as environmental destruction. She unpacks the threats associated with fisheries mismanagement, arguing for a regional fishery management organization and other strategic actions while acknowledging international competition in the South China Sea restricts the range of options available. Finally, Margaret Jackson examines energy considerations for the US-Japan alliance in light of challenges to the flow of resources by sea and suggests the need for improved coordination in infrastructure investment and regional cooperation building.

The current approaches to the myriad of maritime concerns in the Indo-Pacific have been insufficient in securing a future in which the gathered experts are confident that a free and open system will be able to sustain regional peace and stability. Security, economics, environmental practices, and governance are fundamental considerations policymakers and the public must consider when developing a responsible maritime strategy. Reflecting the thoughtful discussion at the conference, the articles that follow provide an enlightened and expert perspective on the variety of themes addressed above. We hope our readers will consider new perspectives, revise their own perceptions appropriately, and engage in respectful and meaningful dialogue with other interested individuals.

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MARITIME COOPERATION BETWEEN MIDDLE POWERS IN THE INDO-PACIFIC: ALIGNING INTERESTS WITH CAPABILITY AND CAPACITY

BY STEPHEN R. NAGY

Dr. Stephen Nagy is a senior associate professor at the International Christian University in Tokyo; a distinguished fellow with Canada's Asia Pacific Foundation; a fellow at the Canadian Global Affairs Institute (CGAI); and a visiting fellow with the Japan Institute for International Affairs (JIIA).

The Indo-Pacific region is home to critical sea lanes of communication (SLOCs) and is the center of global trade both in terms of imports and exports and the flow of energy resources. These SLOCs are being challenged by territorial disputes in the East and South China Seas, by piracy in the South China Sea, Japan Sea, and Indian Ocean and by states eschewing international law. SLOCs in the Indo-Pacific region are also arteries in which illegal smuggling of energy resources, contraband and even materials for weapons of mass destruction are transported to rogue regimes such as North Korea.

The maritime character of the Indo-Pacific requires cooperation to ensure SLOCs remain free and open. Cooperation is equally critical to mitigate the growing number of highly destabilizing maritime events in the region and the collateral damage already occurring from climate change that will require increased maritime awareness, cooperation in humanitarian assistance and disaster relief (HA/DR). Deepening US-China security competition is placing pressure on middle powers to bandwagon with one of the power centers in the region: the US or China. Middle powers such as Australia, Canada, Japan, India, South Korea, ASEAN, and the EU do not want to see the region's maritime domain defined by US-China security competition. Subsequently, we are seeing middle powers aligning interests with their capabilities and capacities in the Indo-Pacific's maritime domain.

This essay is organized into four sections. The first introduces the concept of middle power and how middle power behavior is evolving as China and the US pressure them. The second examines key areas of convergence of middle power interests in the Indo-Pacific's maritime domain. The third section outlines areas of maritime cooperation that presently exist in the Indo-Pacific area. The fourth section elaborates on the potential for multilateralization through a focus on seven key areas. This section will highlight the importance of role division among middle powers leveraging each state's comparative advantage in capacity or capability. The last section will conclude by positing alternative maritime security cooperation that should be investigated as the region's institutionalization evolves.

Evolving Middle Powers

Middle power behavior has been defined in many ways. Neack understands middle powers to be “self-defined as states that commit their relative affluence, managerial skills, and international prestige to the preservation of international peace and order. Middle powers were the coalition builders, the mediators and go-betweens, and the peacekeepers of the world.”¹ Behavioralists argue that states such as Japan, Canada, India, South Korea, and Australia are middle powers as their behavior reflects “the tendency to pursue multilateral solutions to international problems, the tendency to embrace compromise positions in international disputes, the tendency to embrace notions of ‘good international citizenship’ to guide...diplomacy.”²

What is clear is that in an era of great power rivalry combined with a less predictable US partner, middle powers are migrating away from their traditional middle power agenda, focused on human rights, human security, and other forms of advocacy and international institution building. Today, a new middle power diplomacy (*neo-middle power diplomacy*) has emerged, including proactively aligning with other middle powers to provide public goods such as maritime security cooperation, the focus of this paper.

For clarity, this paper defines “neo-middle power diplomacy” as proactive foreign policy by middle powers that actively aims to shape regional order through aligning collective capabilities and capacities. What distinguishes neo-middle power diplomacy from so-called “traditional middle power diplomacy” is that neo-middle power diplomacy moves beyond the focus of buttressing existing international institutions and focusing on normative or issue-based advocacy such as human security, human rights or the abolition of land mines. In contrast, it focuses on making a contribution to regional/global public goods through cooperation with—and at times in opposition to—the middle powers’ traditional partner, the US. Areas of cooperation include but are not exclusive to maritime security, surveillance, HA/DR, and joint transits.

Converging Interests

Within the Indo-Pacific, there is growing convergence in concerns. Middle powers increasingly fret about China’s increasingly assertive behavior in South and East China Seas.³ The rebuke of the July 2016 Permanent Court of Arbitration’s decision denying China’s claims in the South China Sea also alarmed stakeholders in the region. However, it was the building and militarizing of artificial islands that left many concerned that China’s behavior could lead to a breakdown in the international rules-based order exemplified by the UN Convention on the Law of the Sea toward a “might is right” Machiavellian order in which large states dominate medium and smaller sized states.

¹ Laura Neack, “Pathways to Power: A Comparative Study of the Foreign Policy Ambitions of Turkey, Brazil, Canada, and Australia,” *Seton Hall Journal of Diplomacy and International Relations* 14, no. 2 (2013): pp. 53-73.

² Andrew F. Cooper, Richard A. Higgott, and Kim R. Nossal, *Relocating Middle Powers: Australia and Canada in a Changing World Order* (Vancouver: UBC Press, 1993).

³ Tomohiko Satake, “The Japan-Australia Contribution to a Liberal and Inclusive Regional Order: beyond the ‘China Gap.’” *Australian Journal of International Affairs* 70, no. 1 (2016): pp. 24-36.

The US' oscillating commitment, burden-sharing pressures, and "America First" foreign policy has also left longstanding allies with deep ambivalence as to the US' commitment to the region and ability to push back against expansionist policies.⁴ Disquietude over Chinese and US behavior remain core to middle power maritime interests in the region, but so do piracy, poaching, illegal immigration, and food security.⁵ Middle powers worry about unrestricted access to sea lanes and maritime trade and want to maintain the liberal international principles and institutions of freedom of navigation and a rules-based order.⁶

Middle powers and stakeholders in the Indo-Pacific hope that the region remains open, inclusive, and prosperous. Key commonalities articulated in Japan's Free and Open Indo-Pacific (FOIP) Vision, Australia's Indo-Pacific concept, ASEAN's Indo-Pacific Outlook, and the US' Indo-Pacific Strategy include establishing clear norms of maritime behavior, bolstering rules-based behavior in maritime domain, and promoting regional institutions (e.g., the Asia-Pacific Economic Cooperation, the Quad, ASEAN, and ASEAN-centered initiatives).

For middle powers, there is a shared view that they do not want a shared Indo-Pacific vision to be a securitized vision of the region, reminiscent of the Cold War's containment strategy against the Soviet Union. Middle powers' vision of the Indo-Pacific is one in which they continue to benefit from trade with China while using cooperation and collaboration to ensure the region's evolution includes their interests.

Areas of Cooperation

There is a plethora of cooperation opportunities between middle powers in the Indo-Pacific. These include UN sanctions enforcement, maritime awareness and surveillance, HA/DR, search and rescue, capacity building, joint exercises, and anti-piracy.

⁴ Bruce Stokes and Kat Devlin, "Japanese Views of U.S., Trump." *Pew Research Center's Global Attitudes Project* (Pew Research Center, November 12, 2018), <https://www.pewresearch.org/global/2018/11/12/views-of-the-u-s-and-president-trump/>.

⁵ Prakash Gopal, "Maritime Security in the Indo-Pacific: The Role of the US and Its Allies," *Maritime Affairs: Journal of the National Maritime Foundation of India* 13, no. 1 (2017): pp. 27-40 .

⁶ Michael Heazle and Yuki Tatsumi, "Explaining Australia–Japan Security Cooperation and Its Prospects: 'the Interests That Bind?'" *The Pacific Review* 31, no. 1 (2018): pp. 38-56.

Table 1 Existing Middle Power Maritime Cooperation in the Indo-Pacific

Type of activities	Name of activities	Participating countries
Joint exercises	Nichi Gou/ Trident Haedoli/Wallaby Malabar RIMPAC	Japan - Australia South Korea-Australia India, U.S., Japan Multilateral
Strategic dialogue	Quadrilateral Security Dialogue (the Quad) Trilateral Security Dialogue Shangri-La Dialogue	U.S., Japan, Australia, India Japan, Australia, U.S. Multilateral
Maritime surveillance	Prevention of ship-to-ship transfers with North Korean-flagged vessels	Japan, Canada, New Zealand, France, Australia
Capacity-building	Capacity Building Assistance (CBA)	Japan, ASEAN

Source: Author

Currently, existing maritime activities among middle powers take the form of bilateral, trilateral, and multilateral cooperation. Key examples can be illustrated by Table 1 above. Here we see four broad categories of cooperation: 1) joint exercises 2) strategic dialogue 3) maritime surveillance, and 4) capacity building. In the case of joint exercises, we see that Japan and Australia are partners in at least three forms of joint exercises, the Nichi-Gou/Trident exercises, the Malabar exercises, and the RIMPAC exercises. These maritime activities strengthen interoperability and the development of shared practices and norms, and provide valuable experience in joint operations in the maritime environment.

Strategic dialogues between stakeholders in the region are also important for developing shared norms and visions of the Indo-Pacific's maritime domain. The Quadrilateral Security Dialogue (the Quad), the Trilateral Security Dialogue, and the multilateral Shangri-La Dialogue are fora that allow a variety of states to share their concerns for the region and ideas for the region's maritime development.

In the 2019 Shangri-La Dialogue, Prime Minister Lee Hsien Loong of Singapore exemplified this practice by highlighting in his speech that ASEAN countries do not want to choose between the US and China when it comes to the Indo-Pacific's maritime challenges.⁷ The 2019 State of Southeast Asia Report echoes Lee's Shangri-La speech, conveying the strong message that ASEAN countries see the region not only being challenged by an increasingly assertive China but also by an increasingly mercurial US.⁸

⁷ "PM Lee Hsien Loong at the IISS Shangri-La Dialogue 2019," Prime Minister's Office Singapore, May 31, 2019, <https://www.pmo.gov.sg/Newsroom/PM-Lee-Hsien-Loong-at-the-IISS-Shangri-La-Dialogue-2019>.

⁸ Tang Siew Mun Moe Thuzar, Termsak Chalermphanupap Hoang Thi Ha, Pham Thi Phuong Thao, and Anuthida Saelaow Qian. *The State of Southeast Asia: 2019 Survey Report*. (2019).

Bilateral, trilateral, and multilateral dialogue contributes to shared norms. Yet actual maritime security operations are important litmus tests to determine what capabilities and capacities are deployable in the region. Existing maritime security activities include maritime surveillance operations in the Sea of Japan to prevent ship-to-ship transfers with North Korean vessels.⁹ Currently these operations are handled unilaterally by Canada, France, New Zealand, Japan, and Australia.

Potential for Multilateralization

The existing track record of bilateral and trilateral cooperation in the maritime domain of the Indo-Pacific suggests that further multilateralization of existing institutions and cooperative maritime activities is feasible. Key candidates include: enlargement of the Quad to include new members; multilateralization of existing bilateral/trilateral cooperation to include like-minded countries; regularization of HA/DR activities in South China Sea, East China Sea and Taiwan Strait; joint transits in the South China Sea, East China Sea, and Taiwan Straits to bolster each other's claims under international law; regularization of middle power diplomacy on rules-based maritime law; capacity building in Southeast Asia and the South Pacific in maritime law enforcement, maritime surveillance and coastguard capabilities; institution-building supporting ASEAN unity and centrality; and bolstering rules-based behaviors. To promote further multilateralization of existing institutions and cooperative maritime activities, role division among middle powers will be essential, with a specific focus on capacity and capability. By capacity, we mean total resources that can be directed to multilateral cooperation. By capability, we mean a focused skillset such as maritime awareness, signal collection, or ship-to-ship refueling that enhances the overall capacity of a multilateral cooperative activity.

Examining Japan, we can glean how multilateral cooperation can be promoted through a formula that considers both capacity and capability. In Japan's case capacities are extensive, being a large ODA and FDI provider and having experience in infrastructure building. A 2015 report also ranked its military as the world's fourth most powerful despite its constitutional limitations.¹⁰ At the level of capability, according to Japan's Ministry of Defense white paper¹¹ (2018), Japan has experience in HA/DR and search and rescue activities, peacekeeping operations in Cambodia and Timor-Leste, maritime surveillance activities focusing on countering illicit ship-to-ship transfer with North Korean-flagged vessels, anti-piracy operations in Somalia and the Gulf of Aden, and defense capacity building assistance with ASEAN.

⁹ "Monitoring and Surveillance Activities by Canada against Illicit Maritime Activities Including Ship-to-Ship Transfers." Ministry of Foreign Affairs of Japan. May 24, 2019. https://www.mofa.go.jp/press/release/press4e_002454.html.

¹⁰ "The End of Globalization or a More Multipolar World?" September 2015. Credit Suisse. <https://www.credit-suisse.com/media/assets/corporate/docs/about-us/research/publications/the-end-of-globalization-or-a-more-multipolar-world-report.pdf>.

¹¹ Japan Ministry of Defense/Self-Defense Forces. *Defense of Japan 2018*, 2018. https://www.mod.go.jp/e/publ/w_paper/pdf/2018/DOJ2018_Full_1130.pdf

The character and scope of these activities are constrained by Japan's pacifist constitution, but they illustrate what one middle power can contribute to maritime security cooperation in the Indo-pacific.

With each middle power in the Indo-Pacific having different capacities, capabilities and constraints, multilateralization of maritime security cooperation must be informed by these constraints and built through a role division among middle powers. Through this role division, security coordination among middle powers can create a critical mass of capacity and capability that can serve each respective middle power's security interests in contributing to the Indo-Pacific region's stability.

UNDERSTANDING ABE'S FREE AND OPEN INDO-PACIFIC VISION THROUGH JAPAN'S DEVELOPMENT ASSISTANCE

BY RAYMOND YAMAMOTO

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In August 2016, Prime Minister Abe Shinzo first mentioned a Free and Open Indo-Pacific (FOIP; *jīyū de hirakareta indotaiheiyō*) at the Sixth Tokyo International Conference on African Development in Nairobi. Abe's conference speech highlighted the value of free and open oceans connecting Asia and Africa.¹ Since then, FOIP has been an influential concept, also adopted by the United States in 2017 to describe its engagement in the Indo-Pacific.² However, despite the popularity of the term, there has been no agreement regarding the definitive meaning of FOIP.

Security analysts, especially in the US, have interpreted FOIP primarily as a strategy to counter the growing military and economic influence of China in Asia and elsewhere. The 2019 US Department of Defense's Indo-Pacific Strategy Report reinforced this view, recognizing China as a new power that "seeks to reorder the region to its advantage by leveraging military modernization, influence operations, and predatory economics to coerce other nations." According to the report, FOIP's main rationale is to "compete, deter, and win in this environment" through more "lethal" force and investments.³

The same rationale is popularly believed to be behind Japan's FOIP as well. Such an interpretation is understandable considering former concepts such as the Arc of Freedom and Prosperity (AFP; *jīyū to han'ei no ko*). AFP was a concept endorsed during Abe's first term in 2006-2007 and significantly influenced by the Ministry of Foreign Affairs (MoFA) officials Yachi Shotaro and Kanehara Nobukatsu, well-known China critics and strong supporters of US-centered Japanese foreign policy. The novelty of the AFP was the introduction of ideological values such as "freedom and democracy" in Japan's foreign policy, once famous for its pragmatism. In essence, the AFP envisaged strengthening the Japan-US partnership thereby dismissing rapprochements with China and Russia—countries understood as threatening to peace, stability, and freedom of navigation in the

¹ Prime Minister of Japan and His Cabinet, *Address by Prime Minister Shinzo Abe at the Opening Session of the Sixth Tokyo International Conference on African Development (TICAD VI)*, Tokyo, Japan, August 27, 2016, http://japan.kantei.go.jp/97_abe/statement/201608/1218850_11013.html.

² CSIS, *Defining Our Relationship with India for the Next Century: An Address by US Secretary of State Rex Tillerson*, 2017 <https://www.csis.org/analysis/defining-our-relationship-india-next-century-address-us-secretary-state-rex-tillerson>.

³ U.S. Department of Defense, *Indo-Pacific Strategy Report - Preparedness, Partnerships, and Promoting a Networked Region*, Washington, DC, June 2019. <http://media.defense.gov/2019/Jul/01/2002152311/-1/-1/1/DEPARTMENT-OF-DEFENSE-INDO-PACIFIC-STRATEGY-REPORT-2019.PDF>.

Indo-Pacific Ocean. Is FOIP merely a continuation of the AFP? Analyzing Japan's Official Development Assistance (ODA),⁴ this paper concludes that FOIP is not a continuation but rather a significant adjustment to the former ideology-based AFP.

Japan's ODA and FOIP

For postwar Japan, ODA has been one of the country's most important foreign policy tools. Traditionally, Japan used it to reestablish its relationships with its neighboring countries after the war, secure natural resources while developing markets abroad, and move its production sites to countries with cheaper labor. ODA has recently become an important tool for increasing the country's security engagement in Asia.⁵ Its continuous utilization for new objectives represents a valuable indicator of the country's foreign policy direction.

Japan's ODA is also central to the FOIP, which is based on three pillars:

1. Promotion and establishment of the rule of law, freedom of navigation, free trade, etc.
2. Pursuit of economic prosperity (improving connectivity and strengthening economic partnership including Economic Partnership Agreements/Free Trade Agreements and investment treaties)
3. Commitment to peace and stability (capacity building in maritime law enforcement, HA/DR cooperation, etc.)

The security-centered understanding of FOIP leads to the emphasis of ODA measures seemingly attempting to balance the growing power of China. One prominent example is the systematization and extension of maritime law capacity building supported by ODA, which had already begun in the early 2000s.⁶ Under FOIP, ODA is not only used to train and educate personnel but also to finance patrol vessels provision to coastal states (Indonesia, Malaysia, Philippines, Sri Lanka, and Vietnam) alongside Japan's sea lines of communication. The provision of patrol vessels was a controversial move because they belong in the same category as other military vehicles or weapons due to their bulletproof navigation bridge.⁷ Because ODA should not be used to finance military equipment, Japan's engagement in a legally grey area has been commonly interpreted as a willingness to actively partake in the US quest to counter the growing military power of China.

Compared to the capacity building measures of maritime law enforcement, the engagement in promoting economic prosperity in the Indo-Pacific by financing economic

⁴ This paper utilizes a broad understanding of the term development assistance, which includes all types of transactions contributing to the economic development of a country, also those not fulfilling the DAC definition of Official Development Assistance.

⁵ Raymond Yamamoto, 'The Securitization of Japan's ODA: New Strategies in Changing Regional and Domestic Contexts', in *Japanese Development Cooperation - The Making of an Aid Architecture Pivoting to Asia*, ed. André Asplund and Marie Söderberg (New York: Routledge, 2016), 72-89.

⁶ John F. Bradford, 'Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses', *Contemporary Southeast Asia* 26, no. 3 (2004): 480-505.

⁷ Japan Ministry of Economy, Trade and Industry, *Japan's Policies on the Control of Arms Export*. http://www.meti.go.jp/policy/anpo/securityexportcontrol1_3_1.html.

infrastructure in the fields of transportation, electricity, and production has often been underestimated. Japan has been increasingly focusing its ODA on Asia, devotedly supporting the “Connectivity Plan” ASEAN declared in 2010. The plan aims to promote regional integration especially in the economic sense through the seamless movement of goods, services, investment, capital, and skilled labor to enhance trade and production networks.⁸ According to the 2017 ODA White Paper, Japan aims to extend connectivity to South Asia as well as East Africa, thus eventually combining “Two Continents” and “Two Oceans.”⁹ Japan has not only been using ODA for the purpose of connecting distant regions, but more frequently also other financial contributions that do not fulfill the OECD’s Development Assistance Committee (DAC) definition of ODA requiring a grant element of at least 25%.¹⁰

Economic versus Security Interests

Abe’s ODA focus has primarily been driven not by a strong desire to counter China’s influence, but by economic interests and the idea of reviving the stagnating Japanese economy through the Revitalization Strategy (*saikō senryaku*), commonly known as “Abenomics.” Abe’s new policy direction, adopted after 2012, is a departure from his first term strategies fixated on security-related policies, which probably significantly contributed to his past loss of public support. The fact that Abe has since become the longest-serving prime minister in Japan’s history highlights the domestic success of his latest economy centered approach. The figures for Japan’s infrastructure investment and defense spending reflect this prioritization.

In 2015, Japan’s infrastructure investments amounted to ¥20 trillion (about \$180 billion)—double the sum of 2010. The projection of the 2020 expenditure is ¥30 trillion.¹¹ ODA spending related to security such as patrol vessels provided to littoral states of the Indo-Pacific will be a very small fraction of this sum, amounting to less than ¥40 billion (about \$365 million) by the year 2020.¹² It is difficult to determine which ODA projects are strictly security-related, but looking at the general defense expenditures indicates that the Abe administration is cautious about drastic changes in the field of security despite its institutional power. Therefore, it remains unclear how much priority the security objectives in Abe’s foreign policy have, especially when looking at the ODA figures as well as at the defense budget in general. Since Abe took office in 2012, the defense budget has grown only from ¥4.71 trillion in 2012 to ¥5.26 trillion in 2019.¹³ Defense spending remains below 1% of GDP, a line set by Prime Minister Miki Takeo in 1976 to protect

⁸ ASEAN, *Master Plan on ASEAN Connectivity* (Jakarta: The ASEAN Secretariat, 2011); ASEAN, *ASEAN Economic Community Blueprint 2025* (Jakarta: The ASEAN Secretariat, 2015).

⁹ Japan Ministry of Foreign Affairs, *White Paper on Development Cooperation 2017*, 2017. <http://www.mofa.go.jp/policy/oda/white/2017/html/index.html>.

¹⁰ The definition has changed in 2018. Loans with 10-15 percent grant element will be accepted by the DAC as ODA after 2018. See OECD, ‘Official Development Assistance – Definition and Coverage’, <http://www.oecd.org/development/financing-sustainable-development/development-finance-standards/officialdevelopmentassistancedefinitionandcoverage.htm>.

¹¹ Kantei, ‘*keikyō infura senryaku kaigi* [Infrastructure Strategy Council]’. <http://www.kantei.go.jp/jp/singi/keikyou/>.

¹² Japan Ministry of Foreign Affairs, Official Development Assistance, *anken kensaku* [ODA Project Search], <http://www3.mofa.go.jp/mofaj/gaiko/oda/search.php>.

¹³ Japan Ministry of Defense, *Defense Budget*, https://www.mod.go.jp/e/d_act/d_budget/index.html.

Japan's image from possible accusations of fostering great military ambitions. For reference, the recommended defense budget of NATO members is 2% of GDP.

Japan's foreign economic strategy is further backed by the Infrastructure Strategy Council (*keikyō infura senryaku kaigi*) established in March 2013. It consists of the prime minister; MoFA; the Ministry of Economy, Trade and Industry (METI); the Ministry of Land, Infrastructure, Transport and Tourism (MLIT); and the minister in charge of economic revitalization. The council has been pivotal in advocating higher infrastructure investments and the use of ODA in a more "Japanese Way" (*nihon hōshiki*), which refers to the country's traditional development approach of providing primarily loans as well as private investments for economic infrastructure.¹⁴ Appointing Tanigaki Sadakazu in 2014 and Nikai Toshihiro in 2016 as LDP Secretaries-General indicates Abe's devotion to his economy oriented general strategy. Tanigaki and Nikai belong to liberal factions of the LDP (Kochikai and Shisuikai) that support an economy centered foreign policy and good relations with China. Both were strong opponents of the AFP, preferring a strategy more open toward cooperation with China.¹⁵

Conclusion

FOIP has served as a useful concept for Japan, having motivated a greater commitment in the Asia-Pacific region and allowing the perception of Japan and the US as collaborators working toward the same goal despite different approaches. Whereas the US remains driven toward balancing China, Japan's objectives argued in this paper are strengthening the economy by improving connectivity and supporting economic partnerships, particularly in Asia. Japan clearly wants to avoid being entangled in the growing conflict between the US and China.

Still, although it remains less central in quantitative terms compared to Japan's economic aspirations, the aspect of security should not be ignored altogether. Japan has been using ODA to support the capacity building of coast guards with equipment and training. However, it is noteworthy that the vessels were either financed through loans tied to Japanese companies or refurbished decommissioned vessels, indicating only a very low financial commitment. In terms of security in general, Japan's ODA has been primarily focused on uncontroversial "non-traditional" fields, including HA/DR, peace operations, or counterpiracy patrols, fields that are not welcomed but are tolerated by China.

Looking at the role of Japan's ODA in FOIP, it becomes clear that the Abe administration has adopted a very pragmatic approach. The security approach strengthening law enforcement capacities through the provision of vessels and training has been an inexpensive method satisfying the US expectations of fairer burden-sharing without alienating China. As the October 2018 meeting between Abe and Chinese President Xi Jinping showed, Japan remains interested in cooperating with China in the field of

¹⁴ Kantei, '*keikyō infura senryaku kaigi* [Infrastructure Strategy Council]'.

¹⁵ Karol Zakowski, Beata Bochorodycz, and Marcin Socha, 'New Pillar of Japan's Foreign Policy: Arc of Freedom and Prosperity and Values-Oriented Diplomacy', in *Japan's Foreign Policy Making: Central Government Reforms, Decision-Making Processes, and Diplomacy*, ed. Karol Zakowski, Beata Bochorodycz, and Marcin Socha (Cham: Springer International Publishing, 2018), 122.

infrastructure, which has only been possible due to the vagueness of FOIP's definition. In times where Japan's relations with China and the US seem uncertain, Japan will do its best to avoid pursuing an exclusive strategy. By analyzing Japan's engagement in FOIP, this paper concludes that the country is pursuing a hedging strategy by keeping the "right distance between the US and China."¹⁶ In other words, FOIP is a way to keep the US engaged in the region at a minimum cost.

¹⁶ Narushige Michishita and Richard J. Samuels, 'Hugging and Hedging: Japanese Grand Strategy in the 21st Century', in *Worldviews of Aspiring Powers: Domestic Foreign Policy Debates in China, India, Iran, Japan and Russia*, ed. Henry R. Nau and Deepa Ollapally (Oxford, New York: Oxford University Press, 2012), 146–80.

FREE AND OPEN INDO-PACIFIC: THE REGION IN JAPAN'S PERSPECTIVE

BY SATO YOICHIRO

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Prime Minister Abe Shinzo of Japan reiterated his vision of a “Free and Open Indo-Pacific” (FOIP) in his first meeting as prime minister with US President Donald Trump in 2017. The “Indo-Pacific” replaced the previously more common regional concept of “Asia-Pacific” in Japan’s official statements, symbolizing the growing significance of the Indian Ocean region and its connectivity with Pacific Asia. The significance of the new greater regional conceptualization is characterized by the relative value placed on economic influence, in balance with rising security concerns within the region. Given multiple ongoing boundary disputes, the region is currently undergoing a major transformation of its security framework. The change centers around the “Quad” (or Quadrilateral Security Dialogue of the US, Japan, Australia, and India), supplemented by additional “alignments” with other regional partners.

The Indo-Pacific as the World’s Economic Engine

During the 1970s, Japan’s economic ascent led to global recognition of its status as the world’s third economic pillar, after the United States and Western Europe. Japan’s membership in such international forums as the Organization for Economic Cooperation and Development (OECD), the Group of Seven (G7), and the Trilateral Commission made it the sole representative of “developed” Asia. Since the 1990s, the rapid economic ascent of the newly industrializing economies of East Asia, most notably China, has gradually diluted Japan’s dominating regional presence. Yet the overall significance of the region globally in terms of combined economic weight has risen.

The efforts at regional economic integration in East Asia have invited mixed feelings in the United States. Initially, it urged the United States to pursue the North American Free Trade Agreement (NAFTA) to improve its global competitive edge through increased efficiency. When some East Asian states proposed an East Asian Economic Group in the mid-1990s, a fear of exclusion among US export interests prompted the United States to re-engage East Asia economically. The US, however, never fully embraced multilateral free trade negotiations with East Asia despite its membership in the Asia-Pacific Economic Cooperation (APEC) until 2010, when President Barack Obama officially brought the country into Trans-Pacific Partnership (TPP) negotiations. The door to China’s participation in TPP negotiations was kept open, but made contingent on China’s acceptance of a “high quality” (i.e., liberal) free trade agreement. The conditional economic engagement of China under Obama’s “Rebalance to Asia” strategy was

accompanied by a growing concern over China's military modernization and US efforts to strengthen its alliances and seek new strategic partnerships in the region.

Japan welcomed Obama's decision to bring the US into TPP negotiations. Japan, despite its growing economic integration with East Asia, was increasingly skeptical of a regional multilateral free trade agreement without the US for three reasons. First, a multilateral free trade agreement that did not include the US or China was unattractive because Japan's gains from tariff concessions would be smaller than those for smaller economies. The US is a major final destination of Asian exports, including Japan's. Second, the East Asian grouping of the Association of Southeast Asian Nations (ASEAN) Plus 3 members was increasingly falling under the domination of China, which would likely result in a half-hearted free trade agreement that allowed many exemptions in China's favor. Third, a free trade negotiation with China in a trilateral format that included Korea had stalled over cooling political relations.¹ Lacking momentum, negotiations over a greater East Asian free trade agreement were on hold. The US joining in TPP negotiations was a blessing for Japan.

Japan prioritized TPP negotiations over trilateral negotiations with China and Korea and the greater East Asian negotiations extending to the 10 ASEAN members plus India, Australia, and New Zealand. The rationale behind this approach was to leverage agreement in TPP against China and Korea in the other negotiations, including the Regional Comprehensive Economic Partnership (RCEP) negotiations that started in 2012 among 16 "East Asian" countries. The United States and Japan both saw strategic utility in offering improved market access to Vietnamese and Malaysian exports via the TPP framework. The growing dependence of these Southeast Asian countries on the Chinese market could be slowed down, if not reversed, through lower tariffs in the US market.

US President Donald Trump's decision to pull the US out of the TPP negotiations in the final stage was a huge blow to Japan's free trade negotiation strategy. However, Japan quickly salvaged most of the agreements with other members and managed to repackage them under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) without the US. Yet the CPTPP lacked political weight to be leveraged against China in other trade negotiations. Meanwhile, the RCEP negotiations suffered from India's withdrawal in November 2019. Japan has expressed uncertainty about the RCEP without India². Meanwhile, Japan had to sign a partial bilateral trade agreement with the United States, which lowered the tariffs on US meat and other products to the CPTPP-member level but did not include US concessions on automobile tariffs that had been agreed upon in TPP negotiations.

The "Free and Open" Indo-Pacific approach in Japan's economic strategy aims at a rules-based (not power-based) economic order for broad regional integration. Both China and

¹ Srinivasa Madhur, "China-Japan-Korea FTA: A Dual Track Approach to a Trilateral Agreement," *Journal of Economic Integration* 28, no. 3 (September 2013): pp. 375-392, <https://www.jstor.org/stable/41959041>.

² Brahma Chellaney, "RCEP without India Isn't to Japan's Liking," *The Japan Times*, December 17, 2019, <https://www.japantimes.co.jp/opinion/2019/12/17/commentary/japan-commentary/rcep-without-india-isnt-japans-liking/>.

the US are viewed as bullies in this regard. Japan is attempting to engage these two bigger economies within multilateral negotiations for trade rule-making and strategically leverage these negotiations. Moreover, Japan's free trade strategy to prioritize the TPP was harmonized with its plan for diversified security partnerships.

Growing Military Spending and Maritime Boundary Disputes

The Indo-Pacific region is home to many long-standing disputes, and some are intensifying. Among those, maritime boundary disputes in the East China Sea and the South China Sea have direct security implications on Japan, due to its dependence on sea trade. China has a growing military budget and emphasizes its new "strong sea power" orientation. In addition to general naval modernization, China has reorganized its coast guard functions, allocating more resources to them. The Chinese approach is viewed in Japan as a sophisticated salami-slicing tactic, with which para-military conflicts and legal precedence-setting are used to expand China's maritime territorial control.

Japan does not have any territorial claims in the South China Sea, but the ongoing disputes among China and Southeast Asian claimants have several implications for Japan. The aforementioned sea lane interests make Japan a direct stakeholder. Moreover, the Chinese salami-slicing approach in the South China Sea parallels the same behavior in the East China Sea, where the Japan-controlled Senkaku Islands face increasing Chinese challenges. A Chinese public vessel intentionally violated the territorial waters (12 nautical miles) around the Senkakus for the first time in 2008³. Similar incursions have continued intermittently in the contiguous zones (24 nautical miles off the islands). Japan's decision to purchase one of the Senkaku group of islands from its private owner in 2012 was met with a spike in incursions. Despite the improvement in overall political relations between the two countries, Chinese incursions continue at a stable pace.

The Quad

Japan has promoted quadrilateral cooperation with the US, Australia, and India under the shared purpose of preserving a "Free and Open Indo-Pacific." In Japan's view, the concept entails three strategic objectives.

The first objective broadly supports a rules-based order internationally as well as domestically. Internationally, this refers to resolving conflicts based on international law. Domestically, the objective supports strengthening the rule of law, as opposed to authoritarian governance employing strongman tactics.

The second objective specifically supports resolution of maritime disputes based on the international Law of the Sea and the principle of "freedom of navigation." Japan's economy is dependent on extensive commercial sea-lanes, cutting through disputed waters in the East China and South China Seas and exclusive economic zones of other

³ "Trends in Chinese Government and Other Vessels in the Waters Surrounding the Senkaku Islands, and Japan's Response," Ministry of Foreign Affairs of Japan, https://www.mofa.go.jp/region/page23e_000021.html.

states in the Indian Ocean. Free trade is best protected under this law and its legal principles. Japan's alliance with the United States—the greatest naval power—also supports the present legal order—an international compromise dictated by US interest—as opposed to revisionist attempts by China with its Nine-Dash Line claim to encircle the South China Sea as its own.

The third principle is multilateralism in trade rules. This Japanese identity as a strong supporter of trade multilateralism has been consistent due to its high reliance on international trade and openness of the export markets. As Japanese companies started multinational operations, a free and open investment environment has also become a crucial component to economic success. Japan's "economic partnership agreements" (EPAs) are a package of which free trade agreement is a part.

If the Quad is to be a coherent political alliance, encompassing both economic and security cooperation, the US pullout from TPP and its subsequent bilateral bullying of trade partners, including its own allies, is highly problematic. India's difficulty, due to domestic politics, in joining a truly open free trade agreement also hurts the Quad's cohesion. Nevertheless, the Quad is showing increasing solidarity as a coalition of maritime powers in support of freedom of navigation. Trilateralization of the previously bilateral military exercises among the Quad members is evident, as is their increased sharing of more sophisticated military information.

Regional Partners

In addition to Quad cooperation, Japan has enhanced cooperation with like-minded powers in Southeast Asia and beyond. Most notably, aiding the coast guard capacity of Southeast Asian countries increasingly encompasses a "balancing" purpose against China's coast guard buildup and bullying of the South China Sea's littoral states. The ongoing bilateral gifts of patrol ships to the Philippines and Vietnam are accompanied by invitations of coast guard officers from the Indo-Pacific region and even from the West African coast for training in Japan. Development assistance to the Pacific Islands and the East African coast is also being more closely coordinated with Quad members, as the "debt trap" of China's aid (gaining concessions for military facilities in exchange of forgiving debts) concerns all Quad members.

Conclusion

Japan's new greater regional conceptualization of "Indo-Pacific" is built on the growing economic weight of the region and the security rivalries within it. Rather than being passive to the ongoing geopolitical tectonic shift, Japan is proactively attempting to shape its surrounding environment. The Japanese "vision," as FOIP is officially characterized, has a tangible strategy, although it also has ambiguity, shortcomings, and contradictions, both within Japan's own formulation and in coordination with other Quad members. Moreover, how much cooperation may result with Japan's new strategic partners is a question in an exploratory stage.

THE DIFFERENCE BETWEEN BRI AND FOIP

BY OTA FUMIO

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At the 14th Annual Tokyo-Beijing Forum Oct. 14-15, 2018, former Japanese Minister of Foreign Affairs Kawaguchi Yoriko said Chinese Belt and Road Initiative (BRI) policy makers and Japanese Free Open Indo-Pacific (FOIP) advocates should be working together. This was reiterated by Tokyo University's Professor Takahara Akio at the school's symposium on July 6, 2019. However, significant differences between the two concepts make cooperative ventures aligned with both the BRI and FOIP exceptionally difficult.

BRI is PLA-oriented

In 2014—one year after Xi Jinping announced the Belt and Road (BRI) initiative—China's state-run *Global Times* newspaper carried a map entitled, "Estimated Chinese Naval Oversea Bases and Ports in the Next 10 Years." Interestingly, they used the word "Theater" (战区) for the Pacific, Indian, and African Oceans on their map. The map shows two ports—Port Moresby in Papua New Guinea and Chongjin in North Korea—facing the Pacific Ocean and one—Sihanoukville in Cambodia—facing the Gulf of Thailand. Facing the Indian Ocean are 11 ports: Rada in Thailand; Kyaukpyu in Myanmar; Chittagong and Dhaka in Bangladesh; Hambantota in Sri Lanka; Maldives; Gwadar in Pakistan; Seychelles; Djibouti; Mombasa in Kenya; and Dar es Salaam in Tanzania.

In December 2015, about 20 specialists from China's National Defense University (NDU), Defense Department, General Staff Office, Foreign Investment Bank, and Oil Company joined a conference at China NDU. They concluded that the People's Liberation Army (PLA) should deploy overseas bases. Two China NDU scholars argued that 12 supply ports were needed in the Indian Ocean for PLA Naval deployments. They requested Chinese merchant shippers obtain rights to use foreign ports for commercial purposes and for those arrangements to enable them to become PLA Navy supply bases.² The 12 ports these China NDU scholars suggest were Sihanoukville and the 11 ports facing the Indian Ocean shown on the *Global Times* map.¹

¹ 独家网, "从一篇军事报道看纳米比亚网友对中国的又爱又恨," 返回独家网首页 (Global Times, November 25, 2014), <http://www.dooo.cc/2014/11/32969.shtml>.

Figure 1: Estimated Chinese Naval Overseas Bases and Ports



In addition to Port Moresby in Papua New Guinea, as shown on the *Global Times* map, China has extended its reach to Luganville Wharf in Vanuatu.² These areas are very important geostrategic positions to cut the sea lines of communication between the US and Australia. In contrast, the Port Vila Lapetasi International Multipurpose Wharf Development Project in Vanuatu, jointly developed by the Japan International Cooperation Agency (JICA), Australia Aid, and the Asian Development Bank, was a free, open, and transparent project.³ In addition, it is valuable to draw attention to a space complex in Argentina controlled by China Satellite Launch and Tracking Control General, an organization originally subordinated to PLA's General Armament Division and now under the command of the Strategic Support Force.

² Hiromichi Takahashi, "OBOR," *Hatou* 43:4 (2018), 98-99.

³ Daniel Kliman, Rush Doshi, Kristine Lee, and Zack Cooper, *Grading China's Belt and Road*, Center for New American Security, April 2019. 23.

BRI is Not Rules-based

The China's disregard of the Permanent Court of Arbitration's 2016 decision nullifying its ownership claim to the South China Sea based on Beijing's "nine-dash line" argument proves the country does not follow a rules-based order. This disregard for rules can also be seen in Indonesia's Jakarta-Bandung High-Speed Railway project, developed by Chinese companies in clear violation of the Indonesia's guidelines for environmental protection in foreign investment and cooperation.⁴ China has also been targeting lower ranking countries of the TRACE Bribery Risk Matrix as key BRI partners.⁵

The Japanese approach to FOIP is very different. Its policy is to establish and strengthen a FOIP through three complementary lines of policy: first, promote the establishment of the rule of law, freedom of navigation, and free trade; second, to pursue the economic prosperity of all nations in the region; and third, to sustain commitment to peace and stability.⁶

BRI Erodes National Sovereignty

BRI participants are subjected to Chinese neo-colonialism with Chinese firms (sometimes state-owned enterprises) exploiting natural resources, importing colonies of Chinese laborers, and extending extra-territorial deployments of Chinese security forces. For example, at Sihanoukville in Cambodia, China created a Special Economic Zone (SEZ) which received 1 million Chinese visitors—half of the city's total population.⁷ In 2016, China also created an SEZ in Kyaukpyu Port in Myanmar.⁸ Near the other ports, we can observe similar phenomena, though to varying degrees of intensity. These Chinese colonies transfer no skills to local workers.⁹ Many infrastructure projects are inequitable and are not profit sharing arrangements.

In the realm of security, China has exported surveillance cameras to African countries such as Zimbabwe, Zambia and Kenya to assist with exclusive control over the data of their citizens.¹¹ Famously, the data is also sent back to the Chinese government through secret electronic "back doors."¹⁰ After the attack on the Chinese consulate in Karachi in November 2018, *The Maritime Executive* carried an article suggesting the next stages of this erosion of sovereignty, "Security Forces May Accompany China's Belt and Road Abroad."¹¹

⁴ Kliman, Doshi, Lee, and Cooper. *Grading China's Belt and Road*. 19.

⁵ TRACE International, "TRACE Bribery Risk Matrix" <https://www.traceinternational.org/trace-matrix>

⁶ Japan Ministry of Foreign Affairs, *Free and Open Indo Pacific*, <https://www.mofa.go.jp/mofaj/files/000430632.pdf>.

⁷ Cambodia Sihanoukville Special Economic Zone. <http://www.ssez.com/en/company.asp?Ione=3>.

⁸ Kliman, Doshi, Lee, and Cooper. *Grading China's Belt and Road*. 17.

⁹ Eliza M. Johannes, "Colonialism Redux," *Proceedings*, US Naval Institute. Vol. 137/4/1,298. April 2011, 60-64.

¹⁰ Charlie Campbell, "The Entire System Is Designed to Suppress Us.' What the Chinese Surveillance State Means for the Rest of the World," *TIME USA*, November 21, 2019. <https://time.com/5735411/china-surveillance-privacy-issues/>

¹¹ "China to take over Kenya's main port over unpaid huge Chinese Loan," *The Marshall Islands Registry*, November 22, 2019.

At the first Tokyo Global Dialogue on December 2, 2019, Toshimitsu Motegi, Japan's Minister of Foreign Affairs, explained FOIP in terms that place it in stark contrast to BRI. He stated that "free and open" means providing options. Many countries do not have any options because they are unable to pull away from China for fiscal and domestic policy reasons.

BRI Delivers Unsustainable Financial Burdens

In response to international criticism, Xi announced financial leading principles at the second BRI Forum for International Cooperation in April 2019, promising transparency, clean governance, widely accepted rules, and standard commercial and fiscal sustainability. However, Xi's words should not be trusted readily, as he also promised the US president that China would not militarize its features in the South China Sea and then proceeded with the development of military facilities on more than 27 islands and reefs in the South China Sea.

The BRI's record stands in contrast to Xi's promises. Based on a Statista map in 2019, there were seven states for which loan debt to China comprises more than 25% of their 2017 GDP. These are Djibouti, Niger, Republic of the Congo, Kyrgyzstan, Laos, Cambodia, and Maldives.¹² The map did not mention the Luganville Wharf in Vanuatu, where debt-to-GDP ratio might reach 30%.¹³ In addition, Hambantota in Sri Lanka is under an unfair 99-year lease empowered by debt entanglement. Chongjin in North Korea and Mombasa in Kenya have also been Chinese targets. Many projects in Thailand, Malaysia, Nepal, Pakistan, Myanmar, and Bangladesh were canceled or scaled back because they could not pay for them.

China's approach to BRI is like that of a rogue moneylender, whereas the Japanese approach is more aligned with that of a qualified bank. Both approaches can coexist, but they cannot work together. In 2018, Japanese Prime Minister Abe Shinzo stated four conditions for Japan to participate in BRI. He said procurement must be fair and transparent, initiatives must have economic availability, it must be financed by repayable debt, and it must not harm the soundness of the debtor nation's finances. So long as this remains Japan's policy, cooperation with BRI will be impossible.

BRI Lacks Transparency

Chinese investment is usually delivered by working with dictators, taking advantage of local corruption and ignoring open-bid processes. Examples include Kyaukpyu Port in Myanmar, Luganville Wharf in Vanuatu, the Jakarta-Bandung High-Speed Railway, the Coca Codo Sinclair Hydroelectric Dam in Ecuador, and the Space Complex in Argentina. All are shrouded in mystery.

¹² Katharina Buchholz, "The Countries Most in Debt to China," Statista. October 14, 2019. <https://www.statista.com/chart/19642/external-loan-debt-to-china-by-country/>

¹³ David Wroe, "China eyes Vanuatu military base in plan with global ramifications," *The Sydney Morning Herald*. April 9, 2018. <https://www.smh.com.au/politics/federal/china-eyes-vanuatu-military-base-in-plan-with-global-ramifications-20180409-p4z8j9.html>

In 2015, I presented on “Chinese Influence over the Western Hemisphere” at the alumni security seminar of US National Defense University (NDU) in Cartagena, Colombia. When I made a remark about the Chinese Space Complex in western Argentina, one NDU graduate from Argentina mentioned that construction began before the local assembly approved it. Another graduate from Argentina stated that the agreement document between China and Argentina had secret clauses that they were requesting to open.

This shrouded nature of BRI projects is a direct enabler of their environmental destruction. These include the creation of coal power plants in Vietnam, Pakistan and Kenya.¹⁴ Dam and rail projects in Indonesia have been criticized for not having undergone adequate environmental assessment. Myanmar suspended Chinese investment in the Myitsone Dam because of insufficient attention to environmental concerns.¹⁵

Japan’s Role

Japan has adopted a leadership position based on principled values diplomacy. Originally, FOIP was proposed by Japan and the US adopted a similarly defined strategic outlook with the same name. This history contrasts with the US Trans-Pacific Partnership (TPP). The TPP is based on rules, anti-corruption, and the protection of intellectual property, and was originally championed by the US. When the US withdrew from the TPP, Japan seized its principals to lead negotiations on the TPP 11 and the Japan-EU Economic Partnership Agreement. Japan tried to persuade India to remain in the Regional Cooperation Economic Partnership to prevent Chinese domination.

In international security, Japan has shown its presence and contributed capacity building activities throughout the Indo-Pacific. The Japan Maritime Self Defense Force independently conducted the Indo-Southeast Asian Deployment (ISEAD) in 2018. Rear Adm. Fukuda Tatsuya took command of ISEAD onboard *JDS Kaga*, an *Izumo*-class helicopter carrier, which visited India, Indonesia, Singapore, Sri Lanka, and the Philippines with *JDS Inazuma* and *Suzutsuki*. The three ships conducted naval exercises with recipient nations.¹⁶

The following year, Rear Adm. Hiroshi Egawa conducted the Indo-Pacific Deployment (IPD) onboard *JDS Izumo* with *JDS Murasame*. They visited Brunei, Malaysia, the

¹⁴ ‘China is both the best and worst hope for clean energy’, *Science*, December 04 2018.

¹⁵ Basten Gokkon, “Environmentalists are Raising Concerns over China’s Belt and Road Initiative,” *Pacific Standard*. July 18, 2018. <https://psmag.com/environment/environmental-concerns-over-chinese-infrastructure-projects>.

¹⁶ Japan Ministry of Defense, Maritime Self-Defense Force, “Indo-Southeast Asia Deployment 2018,” October 22, 2018, <https://www.facebook.com/JMSDF.PAO.ENG/posts/indo-southeast-asia-deployment-2018-22-oct-the-isead-task-group-2018-is-in-port-/254070842119874/>

Philippines, Singapore, and Vietnam.¹⁷ These deployments have been useful strategic communication tools demonstrating Japan’s commitment to support, but not interfere with, its partners’ security.

In conclusion, the differences between BRI and FOIP are based on values. Though Xi stresses a “community of common destiny” and claims that the BRI is a “win-win project,” the Chinese approach is hegemonic and authoritarian. In contrast, the FOIP initiative is based on respect for recipient nation’s sovereignty, international law, and transparency.¹⁸

¹⁷ Japan Ministry of Defense, Maritime Self-Defense Force, “Indo-Pacific Deployment 2019(IPD19).” <https://www.mod.go.jp/msdf/en/operation/IPD19.html>.

¹⁸ US State Department, “A Free and Open Indo-Pacific: Advancing a Shared Vision,” November 3, 2019. <https://www.state.gov/a-free-and-open-indo-pacific-advancing-a-shared-vision/>.

POWER AND INTERNATIONAL LAW FOR CHINA: OCEAN GOVERNANCE IN THE SOUTH CHINA SEA

BY ITO GO

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Since June 16, 2019, according to the Asia Maritime Transparency Initiative, the Chinese coast guard vessel Haijing 35111 has been patrolling the waters off the coast of southeastern Vietnam northwest of Vanguard Bank on Vietnam's continental shelf.¹ On July 3, China dispatched the survey vessel Haiyang Dizhi 8, two coastguard ships, and a helicopter to carry out a seismic survey of a large swathe of seabed northeast of the Vanguard Bank. These actions severely violate Vietnam's Exclusive Economic Zone (EEZ) and jurisdiction over its continental shelf.

In press statements released July 16 and 19, Vietnam's Foreign Ministry spokeswoman Le Thi Thu Hang clearly defined the nature of the violation that "the Vanguard Bank is entirely within Vietnam's EEZ, that is specified in line with the 1982 United Nations Convention on the Law of the Sea (UNCLOS), to which Vietnam and China are parties."² In response, China's Ministry of Foreign Affairs released a statement July 17 insisting that the area in question falls within Beijing's so-called "nine-dash line." However, this claim was negated by the Permanent Court of Arbitration's July 12, 2016 award. In the statement, China's Foreign Ministry spokesperson Geng Shuang requested Vietnam to "earnestly respect China's sovereign rights and jurisdiction over the relevant waters, and do not take any move that may complicate matters." China has tried, in vain, to defend the survey vessel group's infringement into Vietnamese waters. China's actions have gone against international law and the 2011 agreement it reached with Vietnam.

An award the Permanent Court of Arbitration (PCA) rendered formed in line with Annex VII of the 1982 UNCLOS in 2016 concludes that "there was no legal basis for China to claim historic rights to resources within the sea areas falling within the so-called 'nine-dash line.'" All parties to the case, including China, were required to comply with the tribunal's final, legally binding, ruling, Japanese Foreign Minister Fumio Kishida said in a statement shortly thereafter.

China's dissatisfaction with the PCA's ruling has been expressed not within the court, but in direct actions by investigation ships and coast guard vessels within Vietnam's EEZ. Its

¹ On Haijing 35111's activities, see <https://amti.csis.org/china-risks-flare-up-over-malaysian-vietnamese-gas-resources/>

² David Hutt, "Vietnam Takes a Stand in the South China Sea," *Asia Times*, August 6, 2019, <https://www.asiatimes.com/2019/08/article/vietnam-takes-a-stand-in-the-south-china-sea/>

actions have also gone against a 2011 agreement it reached with Vietnam on the basic principles of handling maritime issues and designating the South China Sea the “sea of peace.” This agreement included seeking mutually acceptable, fundamental, and long-term solutions to maritime disputes on the basis of respecting international law, including the 1982 UNCLOS.

In Xi Jinping’s “Thought on Socialism with Chinese Characteristics for a New Era,” Beijing highlights the “Five Principles of Peaceful Coexistence” that it seeks in international relations.³ The five principles are mutual respect for sovereignty and territorial integrity; mutual non-aggression; mutual non-interference in each other’s internal affairs; equality and mutual benefit; and peaceful co-existence. The dispatch of survey vessel Haiyang Dizhi 8 to operate in Vietnam’s EEZ clearly violated these principles. It has also demonstrated that China is behaving more in line with the Brezhnev Doctrine, which enabled a socialist hegemon to exert extra-territorial interference against the sovereignty of other socialist countries.

China has faced strong opposition from the international community for its unlawful activities. In a statement titled “Chinese Coercion on Oil and Gas Activity in the South China Sea,” released on July 19, 2019, US State Department spokesperson Morgan Ortagus condemned “China’s repeated provocative actions aimed at the offshore oil and gas development of other claimant states threatens regional energy security and undermines the free and open Indo-Pacific energy market.” She added that “the United States is concerned by reports of China’s interference with oil and gas activities in the South China Sea (SCS), including Vietnam’s long-standing exploration and production activities.” She also said that China’s “reclamation and militarization of disputed outposts in the South China Sea, along with other efforts to assert its unlawful South China Sea maritime claims, including the use of maritime militia to intimidate, coerce and threaten other nations, undermine the peace and security of the region.” Furthermore, she said that “China’s growing pressure on ASEAN countries to accept Code of Conduct provisions that seek to restrict their right to partner with third party companies or countries further reveal its intent to assert control over oil and gas resources in the South China Sea.” The statement also stated “the United States firmly opposes coercion and intimidation by any claimant to assert its territorial or maritime claims.” It further described China’s actions as “bullying behavior” and called on it to refrain from engaging in this type of provocative, destabilizing activity.⁴

International researchers have also criticized China’s violation of Vietnam’s EEZ and continental shelf. Ryan Martinson, an assistant professor at the US Naval War College, said the Haiyang Dizhi 8 carried out “a seismic survey of Vietnam’s exclusive economic zone” in waters just west of Vietnam’s Truong Sa archipelago, also known as the Spratly Islands. Collin Koh, a research fellow at the S. Rajaratnam School of International Studies at Nanyang Technological University in Singapore, said China’s act would escalate the

³ On the Chinese version of the five principles, see <http://www.xinhuanet.com/politics/2018lh/index.htm>. The English version is also available in http://www.xinhuanet.com/english/2018-03/17/c_137046261.htm.

⁴ U.S. Department of State. “Chinese Coercion On Oil And Gas Activity In The South China Sea.” Press release, July 20, 2019. <https://www.state.gov/chinese-coercion-on-oil-and-gas-activity-in-the-south-china-sea/>

situation into a clash and go against the image of a “responsible major power” China has been trying to shape.

In conclusion, China’s recent unlawful activities off the coast of Vietnam have been extremely dangerous, gone against international law, complicated and escalated tensions and undermined the peace and stability and freedom of navigation in the region. The moves have also undermined relevant parties’ efforts to conclude the Code of Conduct in the South China Sea. When China talks of a shared destiny for countries in a region, it envisions a future where power determines a country’s place in the region. China has become the world’s second largest economy, but its behavior in international relations follows 19th century style gunboat diplomacy which must be remedied if it is to have more influential international status.

A DIFFERENT PERSPECTIVE ON CHINA'S ACTIONS IN THE SOUTH CHINA SEA

BY VIVIAN NG

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Today, the free and open use of the sea is an important part of our international system. It is codified in the United Nations Convention on the Law of the Sea (UNCLOS) and ratified by most nations. While the US has not ratified UNCLOS, it is still in agreement with almost everything in UNCLOS; only some minor issues prevent the US from ratifying it domestically. In 2009, China reasserted its claim over the nine-dash line in the South China Sea.¹ This claim is not new, but this reassertion and actions taken to enforce the claim have brought the South China Sea and its many issues to the forefront. In this article, we will see how China's history can serve as a basis for understanding its present-day actions. We will then review the purpose of China's reassertion over its claim in the South China Sea and suggest how the US can respond.

Historical perspective to China's actions

China is a nation with a long history as a civilization, and its actions today are influenced by its complex history. It is therefore essential to see China's actions today from a historical perspective in addition to modern-day international relations theory. When analyzing how China deals with the South China Sea issue, China's Warring States period may offer an appropriate historical perspective, with a strong Qin state facing a number of smaller, less powerful states. Representing the smaller states was Su Qin, a political strategist who advocated a vertical alliance (aligned along a north-south axis) of the smaller states to stand up to the stronger Qin state. Zhang Yi, a Qin minister, advocated horizontal alliances (along an east-west axis) between Qin and individual states to draw them away from the vertical alliance, and thus undermine the overall strength of the vertical alliance. Eventually, the Qin state broke up the vertical alliance, becoming the first to fully unify China under a central government.²

¹ This claim over the nine-dash line is stated in the map attached to China's letter to the U.N Secretary-General CML/17/2009 dated May 7, 2009. The original text in Chinese as well as the English translation can be accessed through the website of the Commission on the Limits of the Continental Shelf (CLCS) at https://www.un.org/Depts/los/clcs_new/clcs_home.htm.

² For an introduction to Su Qin, Zhang Yi, and the Warring States in general, see *Legends of the Warring States* (selected, translated, and edited by J.I. Crump; published by Center for Chinese Studies, The University of Michigan in 1998). For a detailed discussion on pre-Qin thinking about inter-state behavior, see *Ancient Chinese Thought, Modern Chinese Power* (by Yan Xuetong; published by Princeton University Press in 2011).

The situation in the South China Sea is similar to the Warring States period: a single nation is much more powerful than several others. Modern China can be likened to the Qin, especially in its dealings with smaller nations in relation to territorial claims in the South China Sea. While smaller nations continue to use regional platforms—a modern form of the vertical alliance—to engage China, China prefers to deal with each nation separately. Any agreement with China formed through such dealings can undermine the greater collective effort; even with no outcome from separate dealings, that nations are dealing separately with China may seed suspicion and discord in the collective effort. China today may seek to create horizontal alliances by breaking nations away from the modern vertical alliance and aligning them with China’s policy.

However, China seems to draw on a different lesson from the same period in history when dealing with the US over the South China Sea. Here, China appears to be adopting the vertical alliance concept, continuing to stress that the region’s problems should be resolved by the region without external influence or interference. Against a stronger player, China seems to favor trying to get the smaller players into a semblance of “working on the issue.”

Hindering US Economic Recovery and US-Led Frameworks

The timing of China’s reassertion over its claim in the South China Sea is also worthy of review. China reasserted its nine-dash line claim in the South China Sea in 2009, when the world was still trying to recover from the Lehman Brothers bankruptcy.

This claim is not new. It originated from the days when the Republic of China (currently on Taiwan) controlled the Chinese mainland. As the sole superpower and global hegemon, the US is the biggest underwriter of the current international system, including UNCLOS. Enforcement of freedom of navigation is a key operation by the US Navy to ensure that the seas remain free and open for all nations to use. The forward-basing of troops in Japan as well as other military commitments in Europe, East Asia, and the Middle East are other examples of US commitment to the current international system and how it is supporting the security landscape.

At a time when the US was trying to consolidate resources to deal with its domestic financial issues after the Lehman bankruptcy, one suspects China may have used this claim to tie down US commitment in the western Asia-Pacific region and encourage US overextension. It is costly to operate a navy far from home. Any scale back in operations would greatly cut operating costs, money which could have been used in the US to help with economic recovery. However, the US cannot ignore so blatant a claim and disregard for international law (UNCLOS). Ignoring it would undermine the international system implemented under US leadership after World War II.

US commitment to the current system serves to ensure the system is stable and other nations observe its rules. China does not need to create a new global system; successfully creating a regional system that breaks away from the US-led global system can encourage other major powers to adopt a similar approach and create their own regional systems.

This sets the stage for a new system where regional systems coexist with global ones, undermining US hegemony.

Seizing the Initiative

China may not be looking into a long-term solution for the South China Sea. Similar to the issue of Taiwan and the Senkaku/Diaoyu Islands, ambiguity and unresolved issues can sometimes be used to one's advantage. The longer an issue remains unresolved, the more resources are drained from those who have to deal with it. Following this approach, all China needs to do is to be the one setting the pace, i.e. creating the issues. This sends others into a scramble to deal with them, always leaving them one step behind. Under such circumstances, the best response is to gain control of the pace and create issues for China to deal with.

One way for the US to seize the initiative is by encouraging a review of UNCLOS. The US can signal its willingness to engage China and India in revising UNCLOS to take into consideration the current global situation. This, of course, would be a US-led affair, and such a move may catch China off guard, leaving it scrambling to respond to the issue and putting the initiative on the US side. The US has not ratified UNCLOS and can legitimately argue its readiness to improve UNCLOS to make it something universal, accepted by everyone because it takes into consideration the current global situation and the new interests of emerging powers. Framed this way, it will be difficult for nations to avoid engaging in the discussion.

Leading a renegotiation of UNCLOS is just an example of the choices available to the US. It is uncertain if the US will ever be willing to try, but the key is to seize the initiative and be the one creating issues for China, instead of always reacting. Another could be creating a forum to discuss joint development of the South China Sea. Any new attempt by the US to take the lead in creating new frameworks for "free and open" use of the South China Sea presses China to react. While the eventual goal is to resolve issues related to the South China Sea, no rule says it must be a single solution; a set of different frameworks and platforms may provide solutions to different aspects of many issues, strung together with US leadership as the common factor.

In Summary

We have seen how China's history appears to influence how it deals with nations, both regional and extra-regional, regarding the South China Sea. The timing of China's reassertion of its claim suggests something beyond physical goals and hints at desire to hinder US economic recovery and undermine the current global system underwritten by the US. Nations should look to seize the initiative in resolving South China Sea issues so that China is not the one setting the pace. While this may not lead to the immediate resolution of issues, it would allow nations to shape the conversation and direction of approach, steering the resolution toward something in their favor.

PREVENTING THE TYRANNY OF THE COMMONS: A REGIONAL PERSPECTIVE TO FISHERY MANAGEMENT

BY ASYURA SALLEH

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Developments in the South China Sea are often viewed through the lens of territorial disputes and heightening state competition. While the United States persists with freedom of navigation operations to challenge what it regards as excessive maritime claims, China continues to develop artificial islands in disputed waters.¹ Meanwhile, claimant states such as Vietnam are increasingly entangled in heated major power tensions, as evidenced in repeated incursions along maritime boundaries by actors such as foreign fishermen and the maritime law enforcement agencies of other regional countries.² In these disputes, the region's fishery resources have fallen victim to the ongoing tyranny of these shared commons. If the rapidly depleting fishery stocks in the South China Sea remain under-addressed, the fishery crisis will have widespread negative consequences for the stability of the Indo-Pacific.

Less Fish, Less Food

Without sustainable fishery stocks in the South China Sea, the global supply of fish will suffer. An estimated 12% of global fish catch comes from the South China Sea, a body of water also hosting more than half of the world's fishing vessels at any one point in time.³ However, this food supply is being exploited at a harrowing rate. Fish stocks in the South

¹ Joseph Ditzler and Caitlin Doornbos, "US Warships Conduct Back-to-Back Freedom of Navigation Passes in South China Sea," *Stars and Stripes*, November 21, 2019, <https://www.stripes.com/news/pacific/us-warships-conduct-back-to-back-freedom-of-navigation-passes-in-south-china-sea-1.608209> and Jon Sharman, "China threatens to further fortify its man-made islands in disputed region as tensions with US escalate," *The Independent*, January 9, 2019, <https://www.independent.co.uk/news/world/asia/south-china-sea-us-military-bases-islands-spratly-paracel-us-tension-defence-a8719556.html>

² Huong Le Thu, "The Chinese Incursion into Vietnam's EEZ and Lessons from the Past," *The Maritime Executive*, August 20, 2019, <https://www.maritime-executive.com/editorials/the-chinese-incursion-into-vietnam-s-eez-and-lessons-from-the-past>

³ Angaindrankumar Gnanasagaran, "Fishy business in the South China Sea," *The ASEAN Post*, July 22, 2018, <https://theaseanpost.com/article/fishy-business-south-china-sea> and Fridtjof Nansen Institute, "Fish, not oil, at the heart of the South China Sea Conflict," *Fridtjof Nansen Institute*, October 24, 2017, <https://www.fni.no/news/fish-not-oil-at-the-heart-of-the-south-china-sea-conflict-article1556-330.html>

China Sea have shrunk by 95% since the 1950s, and the rate of loss is climbing.⁴ In the past two decades, global fish stocks have already fallen by 66-75%.⁵

The habitat needed to sustain these fishery resources is also perishing. Coral reefs, which provide safety and plankton for fish to feed on, have disappeared by 16% in the last 10 years.⁶ Due to poor practices that harm the marine environment in the South China Sea, such as giant clam harvesting, dredging, and artificial island building, over 160 square kilometers of coral reefs have been destroyed.⁷ The condition of fisheries in the Indo-Pacific is entering a perilous state in which illegal, unreported, and unregulated (IUU) fishing practices are diminishing the region's fishery stock and eradicating the marine environment needed to protect these resources.

IUU fishing practices in the region are becoming increasingly prevalent. These practices take the form of unauthorized methods like overfishing, cyanide bombing, or violation of license regulations. Overfishing can disrupt the South China Sea's delicate marine ecosystem, while unauthorized fishing practices can encourage indiscriminate fishing and damage protected areas. Additionally, fishing communities and companies violating license regulations with incomplete documentation or unpermitted fishing practices disrupt efforts to regulate the fishing catch.

The Destabilizing Factor

The stability of the Indo-Pacific is at stake if the regional practice of IUU fishing continues unabated. Maritime security concerns are an extension of developments on land, and the region's fishery crisis is no exception to this rule. Political and governance factors such as weak license regulations, low levels of maritime enforcement, and inequitable distribution of economic resources in the Indo-Pacific's coastal states are some key drivers facilitating this crisis. Without strong governance on land that can ensure access to welfare services and necessary goods, the fishing community is pushed to resort to IUU fishing practices to secure more profit.

Consequently, cases arise in which fishermen from China's Xiangshan County venture into the South China Sea as species like eels and yellow croakers disappear from the East China Sea.⁸ This boosts the presence of Chinese fishing vessels around contested zones such as the Pagasa Islands, which grant these vessels more access to fishery resources but also stir jurisdictional concerns.⁹

⁴ Marina Tsirbas, "Saving the South China Sea Fishery: Time to Internationalise," *Policy Options Paper* 3, June 2017, <https://nsc.crawford.anu.edu.au/department-news/10725/saving-south-china-sea-fishery-time-internationalise>

⁵ Gregory B. Poling, "Illuminating the South China Sea's Dark Fishing Fleets," *Stephenson Ocean Security Project*, January 9, 2019, <https://ocean.csis.org/spotlights/illuminating-the-south-china-seas-dark-fishing-fleets/>

⁶ Ibid.

⁷ Ibid.

⁸ Shi Yi, "Xiangshan's Struggling Fishing Industry," *The Diplomat*, February 3, 2018, <https://thediplomat.com/2018/02/xiangshans-struggling-fishing-industry/>

⁹ Lucio Blanco Pitlo III, "In the South China Sea, Chinese fishing vessels around Thitu Island might net more than they bargained for," *South China Morning Post*, April 25, 2019, <https://www.scmp.com/comment/insight-opinion/article/3007415/south-china-sea-chinese-fishing-vessels-around-thitu-island>

The Fishery Crisis-Contested Claims Link

The link between the over-exploitation of fishery resources and unresolved sovereign claims in the region risks escalating territorial disputes in the South China Sea. State actors that associate the fishery crisis with the resolution of the territorial disputes are likely to prioritize sovereign interests over preserving the region's fishery resources.

Fishing nationalism tactics have been used to assert a claimant country's right to fish in a contested exclusive economic zone (EEZ) to strengthen its sovereign claim over this maritime zone. These tactics can include deploying fishing boats into contested fishing grounds or apprehending foreign fishing boats that enter these zones. Some recent examples of fishing nationalism tactics can be found near the Natuna Islands, such as the ramming incident between a Vietnamese fisheries surveillance vessel and an Indonesian naval vessel in April 2019, and Indonesia's plan to populate the area by sending more fishermen from the northern coast of Java to Natuna in January 2020.¹⁰

By securitizing the fishery crisis as an extension of the region's territorial disputes, maritime law enforcement agencies are inclined to adopt similar sovereign-based norms when managing the region's fishery crisis. These norms may uphold national interests, but also jeopardize shared regional resources. Such sovereignty-based approaches do not protect the migratory and fluid nature of fish which do not abide by territorial boundaries. While fish may spawn in one nation's EEZ, they can move to another EEZ during their juvenile stage and end their lives in a third nation's EEZ. Pursuing individual and aggressive IUU fishing practices would prevent fish from migrating to another zone; thus diminishing the sustainability of the region's entire fishery stock.

Associated Transnational Crimes

The security implications of IUU fishing are not simply geopolitical. An additional implication that remains under-addressed is the ability of IUU fishing to facilitate other transnational crimes. These crimes can wreak security, socio-economic, and health repercussions across the region. As a crime in itself, IUU fishing generates a global loss of up to \$83 billion every year.¹¹ However, declining fish stocks also push members of the fishing community to participate in other crimes that also require a fishing boat and a crew familiar with the region's waterways.¹² Consequently, drug trafficking, people smuggling, child labor, illegal transshipment, and illicit trade are some crimes that have intensified as IUU fishing grows.¹³ Waterways such as the Andaman Sea, linking

¹⁰ Greta Nabbs-Keller, "Indonesia-Vietnam Maritime Clash a sign of rising Indo-Pacific tensions," *The Strategist*, May 14, 2019, <https://www.aspistrategist.org.au/indonesia-vietnam-maritime-clash-a-sign-of-rising-indo-pacific-tensions/> and Stanley Widiyanto, "Indonesia mobilizes fishermen in stand-off with China," *Reuters*, January 6, 2020, <https://www.reuters.com/article/us-indonesia-china/indonesia-mobilizes-fishermen-in-stand-off-with-china-idUSKBN1Z51JR>

¹¹ Our Shared Seas, "Marine Fisheries," *Our Shared Seas*, 2020, <https://oursharedseas.com/2019-update/fisheries/>

¹² The Guardian, "Criminal gangs and drug traffickers operating within fishing industry are devastating tiny island states," *South China Morning Post*, <https://www.scmp.com/news/asia/australasia/article/2168875/criminal-gangs-and-drug-traffickers-operating-within-fishing>

¹³ *Ibid.*; Sean Murphy, "EJF: Thai human trafficking linked to IUU fishing, overfishing problems," *Seafood Source*, February 25, 2015, <https://www.seafoodsource.com/news/environment-sustainability/ejf-thai-human-trafficking->

Southeast Asia to the Indian Ocean Region, are also emerging as dangerous maritime routes facilitating the trafficking of drugs such as methamphetamine and *yaba* from Myanmar to both Bangladesh and Thailand.¹⁴

Strengthening Regional Fishery Management

As a phenomenon that afflicts the security, resource sustainability, and level of transnational crime in the Indo-Pacific, IUU fishing cannot effectively be tackled solely through approaches derived from sovereignty based norms. When pursuing a common resource management strategy, Indo-Pacific state actors should detach the fishery crisis from the region's territorial disputes. New norms revolving around regional coordination, a shared awareness of the consequences of the crisis, and a common desire to protect regional resources should instead be upheld.

These norms have been supported by scientific studies assessing the rate of exploitation of fishery resources and scope of damage to marine habitat in the South China Sea.¹⁵ However, not enough of this research has translated into policy relevant knowledge that can help key decision makers inform high-level agenda setting processes that take place in regional forums. For this reason, most policy implementations are not sufficiently evidence based and fall short of effectively protecting the region's fishery stocks.

According to a study by Michael Melnychuk et al., three significant factors are needed to achieve sustainable fishery management.¹⁶ The first is to conduct extensive stock assessments of the region's fishery resources, covering all maritime zones in the Indo-Pacific and including the participation of more of the region's scientific community. This assessment will help scientists identify over- and under-fished areas, and better understand the health and dynamics of fishery survival in the region. These findings can then be used to produce a science-based maximum sustainable yield that both fishery and maritime law enforcement authorities can enforce.

The second is to place stronger limits on pressures faced by the marine ecosystem and fishery resources. The region's fishery stock is threatened by a variety of pressures that can produce higher fish mortality rates and put the sustainability of the region's fishery

linked-to-iuu-fishing-overfishing-problems; The Guardian, "Vietnam boats using child labour for illegal fishing," *IUU Watch*, November 19, 2019, <http://www.iuuwatch.eu/2019/11/vietnam-boats-using-child-labour-for-illegal-fishing/>; The Pew Charitable Trusts, "Best Practices for Transshipment," *The Pew Charitable Trusts*, November 2017, https://www.pewtrusts.org/-/media/assets/2017/11/gtc_best_practices_for_transshipment.pdf and Farik Zolkepli, "RM171mil in goods seized in operations against smuggling, illegal fishing," *The Star*, July 3, 2019, <https://www.thestar.com.my/news/nation/2019/07/03/rm171mil-in-goods-seized-in-operations-against-smuggling-illegal-fishing>

¹⁴ Ei Ei Toe Lwin, "Organised crime syndicates target Southeast Asia to expand operations," *Myanmar Times*, July 19, 2019, <https://www.mmtimes.com/news/organised-crime-syndicates-target-southeast-asia-expand-operations.html>

¹⁵ Chen Zuo-Zhi, Lin Zhao-Jin, Qiu Yong-Song, "Evaluation of Sustainability of Fisheries Resources for South China Sea Based on the AHP," *Journal of Natural Resources* (February 2010), http://en.cnki.com.cn/Article_en/CJFDTotat-ZRZX201002008.htm

¹⁶ Michael C. Melnychuk, Emily Peterson, Matthew Elliot, and Ray Hilburn, "Fisheries management impacts on target species status," *Proceedings of the National Academy of Sciences (PNAS)* 114, no.1 (2017), pp.178-183

resources is at risk. To implement stronger limits, greater transparency and more involvement from all stakeholder groups is needed. This demands a whole-of-society approach in which maritime law enforcement authorities, civil society organizations, local government units, and the fishing community all play a role to play in sharing information and reducing IUU fishing practices.

Last, the comprehensiveness of maritime enforcement programs was found to impact the fishing mortality rate. This highlights the importance of maintaining well-equipped, responsive maritime law enforcement agencies in the Indo-Pacific. Information-sharing platforms and coordinating mechanisms are also necessary to strengthen cooperation between the region's coast guard agencies and produce coordinated solutions that can protect fishery resources.

Forging the Path Forward

Numerous suggestions, including establishing of a regional fishery management organization (RFMO), have been put forward as policy solutions for the region's fishery crisis. A RFMO would indeed provide an appropriate platform to tackle this transnational problem because of its ability to generate a shared threat perception of the fishery crisis, accumulate scientific and policy expertise from member states, and pursue solution-oriented strategies.

Like most regional organizations, an RFMO is also vulnerable to challenges such as governance problems, insufficient data, or inadequate management. However, such an organization has benefits. By prioritizing preservation of shared fishery resources in the region over national interests, a RFMO can prevent a tyranny of the shared commons. Some RFMOs that have already been established include the Northwest Atlantic Fisheries Organization, Southern Pacific Regional Fisheries Management Organization, and Southern Indian Ocean Fisheries Agreement. A study of the activities and mandates of these organizations can set the foundation for a similar RFMO in the Indo-Pacific focused on preserving fishery stocks in under-protected maritime zones in the Andaman Sea and the South China Sea.

While an RFMO offers the optimal solution to this crisis, other strategies can be adopted in the interim. First, educational programs, media outlets, and nationwide campaigns could better broadcast the security, political, and economic implications of IUU fishing. This will instill a region-wide awareness of the debilitating consequences of the fishery crisis. Second, a whole-of-society approach must be adopted in which all stakeholder groups exercise responsibility to preserve the region's fishery resources. While maritime law enforcement agencies may seek to strengthen their enforcement capabilities, local governments could implement more effective regulations and the fishing community could engage in more sustainable fishing practices. Last, stakeholder groups should increase support for the tools and agreements operating in the region. Bilateral initiatives like the 2016 Memorandum of Understanding between China and the Philippines seek to develop the fishery industry, and multilateral frameworks like the Southeast Asian Fisheries Development Center, which conduct research on regional fisheries, are needed

to protect stocks.¹⁷ Joint conservation projects such as the Turtle Island Heritage Protected Area, certifications by the Marine Stewardship Council, and multi-stakeholder initiatives such as the SeaChange IGNITE project are other tools that could benefit from increased regional support and awareness.¹⁸

Conclusion

It needs to be recognized that centuries of poor fishing practices have produced a dire fishery crisis that originated long before the South China Sea transformed into a contentious zone. To tackle this transnational problem, the fishery crisis needs to be detached from territorial disputes by employing new norms that focus more on regional coordination. A whole-of-society approach that includes law enforcement agencies, civil society organizations, and even fishing communities should thus be encouraged. Such a research-driven and inclusive policy approach can effectively deter IUU fishing practices, and in doing so, preserve fishery resources for the next generation. By working together through tools that are readily available in the region, the sustainability of fishery resources will no longer be subject to the tyranny of the shared commons but can instead be transformed into a shared benefit for all.

¹⁷ Philippines Department of Foreign Affairs, “Joint Statement of the Republic of the Philippines and the People’s Republic of China,” *Republic of Philippines Department of Foreign Affairs*, October 21, 2016, <https://www.dfa.gov.ph/dfa-releases/10748-joint-statement-of-the-republic-of-the-philippines-and-the-people-s-republic-of-china-and-seafec/mfrdmd>, “Background on the Establishment of SEAFDEC/MFRDMD,” *Southeast Asian Fisheries Development Center*, 2015, <https://www.seafdec.org.my/about-seafdec-mfrdmd/>

¹⁸ ASEAN Clearing House Mechanism, “Turtle Islands Heritage Protected Area,” *ASEAN Clearing House Mechanism*, 2010, http://chm.aseanbiodiversity.org/index.php?option=com_content&view=article&id=137&Itemid=223; Marine Stewardship Council, *Working Together for Thriving Oceans: The MSC Annual Report 2018-19* (2019) https://www.msc.org/docs/default-source/default-document-library/about-the-msc/msc-annual-report-2018-2019.pdf?sfvrsn=e37c6f59_7 and SeaChange IGNITE, “SeaChangeIGNITE,” *SeaChange IGNITE*, 2020, <https://seachangesustainability.org/ignite/>

ENERGY CONSIDERATIONS IN THE US-JAPAN ALLIANCE

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Energy security is one of many maritime challenges the United States and Japan are working to address—both unilaterally and bilaterally. Both countries boast specific strengths that foster mutual cooperation and further benefit the Indo-Pacific region at large. In the last few years, the US and Japan each developed agendas for the Indo-Pacific region aimed at creating a “free and open” environment to achieve regional stability and economic prosperity. The respective frameworks include security and economic aspects, and the economic initiatives of the two countries specifically address three areas: energy, infrastructure, and the digital economy. Energy is a central pillar for economic development as well as a challenge that touches on issues from territorial disputes to freedom of navigation to protection of the global commons, and therefore must be included in discussions of how to establish a “Free and Open Indo-Pacific” (FOIP).

Energy and the US-Japan Relationship

The US and Japan come from different angles in how they approach achieving energy security as a prerequisite for economic prosperity. Japan is an energy importer, while the US has emerged as a net exporter of natural gas and, by early 2020, will also be a net exporter of oil. The US and Japan, however, have shared interest in expanding energy markets in the Indo-Pacific region, specifically for liquid natural gas (LNG), and promoting advanced coal technologies and nuclear energy as designated under the Japan-US Strategic Energy Partnership (JUSEP). JUSEP is one initiative under FOIP that underlines the importance of bilateral relationships in the region in the critical area of energy to promote fair competition and the secure flow of resources.

The energy field is a natural area for US-Japan cooperation because the needs and strengths of each country complement the other, both domestically and in coordinated activities involving third countries. The US must secure markets for oil and gas exporters, and Japan is eager to diversify its energy supply. The last decade saw US energy production increase by 28%, with production of crude oil increasing by 121% and natural gas production by 52% between 2007 and 2017. By 2017, the US accounted for 13% of total world production of crude oil and 20% of total world production of natural gas.¹ Japan, on the other hand, saw its energy self-sufficiency drop precipitously after the Fukushima Daiichi nuclear disaster in 2011. Since then, Japan has only brought nine of the 60 nuclear reactors across the country online and nuclear power makes up only 4% of

¹International Energy Agency, “Energy Policies of IEA Countries: United States 2019 Review,” International Energy Agency, https://webstore.iea.org/download/direct/2829?filename=united_states_2019_review.pdf.

total primary energy as of August 2019. Nearly 90% of Japan’s energy production comes from fossil fuels. Oil, making up nearly 40% of total energy supply in 2018, primarily comes from the Middle East.² Japan also has an interest in promoting LNG domestically and in Asia to attract imports, lower costs, and have a secondary market for any potential excess should more nuclear reactors come online in the future.

Despite the transactional nature of energy trade, the US and Japan’s cooperation goes beyond the import/export relationship. JUSEP and related US and Japanese foreign policies reflect a holistic approach to the energy situation in the Indo-Pacific and identify the benefit of increased engagement with other countries and institutions in the region. When operating in third-party countries, the US and Japan have distinct advantages. The US can leverage exporting experience while Japan can pass on lessons learned as an importing country. These complementary skillsets can benefit developing economies that look ahead at daunting energy challenges. The US and Japan have a significant role to play beyond advancing technology and helping secure energy access; they also must help in capacity building to promote and identify quality products and sustainable development plans.

Energy and the Indo-Pacific

The US and Japan have each developed broader multilateral initiatives under FOIP in the areas of energy and infrastructure. In 2018, the US launched Asia Enhancing Development and Growth through Energy (EDGE) with the goal of strengthening energy security for the US and its partners, promoting energy trade, and achieving universal energy access. A parallel initiative—the Infrastructure Transaction and Assistance Network—aims to help create a better investment environment and promote rule of law in third countries to attract private investment in infrastructure projects and assist nations in avoiding unfavorable contracts. In 2015, Japan announced the Partnership for Quality Infrastructure (PQI) to address the infrastructure gap in Asia, estimated at \$1.7 trillion annually by the Asia Development Bank. The US, when developing Asia EDGE, accounted for Japan’s strategic priorities and finance allocations and created policies to complement efforts including the \$10 billion the Japanese government set aside for LNG development.^{3,4} Therefore, the two countries, through several policy developments and subsequent memoranda of understanding, laid a foundation for cooperation on building energy infrastructure and opening energy markets in the Indo-Pacific region.

The necessity for energy infrastructure development in this region is indisputable. Energy is a fundamental need and countries are keen to expand capacity as quickly as possible. Japan has been a leader in Overseas Development Assistance for decades, especially in

² Japan. Ministry of Economy, Trade, and Industry, “Japan’s Energy 2018.” https://www.enecho.meti.go.jp/en/category/brochures/pdf/japan_energy_2018.pdf.

³ Yuka Obayashi and Jessica Jaganathan, “Japan to invest \$10 billion in global LNG infrastructure projects: minister,” *Reuters*, September 26, 2019, <https://www.reuters.com/article/us-japan-lng-conference-meti/japan-to-invest-10-billion-in-global-lng-infrastructure-projects-minister-idUSKBN1WB050>.

⁴ “Japan-U.S. Joint Statement on Advancing a Free and Open Indo-Pacific Through Energy, Infrastructure and Digital Connectivity Cooperation,” Ministry of Foreign Affairs, <https://www.mofa.go.jp/files/000418502.pdf>.

Asia. However, the last few years saw China overshadow Japan in infrastructure development with the launch of the Belt and Road Initiative (BRI). China's geostrategic approach is prompting an international reordering. The provision of infrastructure and development needs is an effective tool of economic statecraft, and thus far China wields it more sharply, but not without setbacks and criticisms of the mechanisms it uses. Initiatives such as Asia EDGE, PQI, JUSEP, and the recently announced Blue Dot Network by the US, Japan, and Australia designed to promote international infrastructure standards, are a series of efforts to ensure that all nations of the Indo-Pacific have the opportunity to build a sustainable and thriving community for the future.

Energy and the Maritime Domain

The foreign policy approaches of the US and Japan are in part direct responses to trends and projections for energy demand, which state that by 2040 the Indo-Pacific region will account for approximately 60% of global energy growth.⁵ To secure supply for this increasing energy demand, Indo-Pacific countries will require more resources from across the Pacific and Indian Oceans, improved energy infrastructure to receive and distribute resources, and protections for assets transiting through chokepoints or contested areas. This growing need presents an opportunity for Japan and the US, as leaders in the region, to increase efforts to preserve peace and ensure future prosperity.

The Indo-Pacific also encompasses contested areas for energy and mineral resource extraction, many of which lie within exclusive economic zones (EEZs). A common source of friction is the competing EEZ claims between Vietnam and China. China has challenged Vietnam for years and in 2019, sent a seismic survey ship with Coast Guard escorts into Vietnam's EEZ at least three times.⁶ The Philippines and Malaysia have had similar issues with Chinese oil and gas exploration and handle the disagreements in different ways. The Philippines is working with China to jointly develop oil and gas fields in the Philippine EEZ.⁷ Malaysia, meanwhile, is developing a dialogue mechanism with China to settle South China Sea disputes. The US and Japan, through bilateral and multilateral engagement with ASEAN nations, can promote such dispute settlement strategies and help build capacity for local law enforcement to protect sovereign claims and the resources that exist within their boundaries.

Finally, the impacts of climate change will potentially deepen existing tensions in the Indo-Pacific region and again require a multilateral effort in both mitigation and adaptation policies. Energy is directly linked to these drastic effects because energy production is one of the highest sources of carbon emissions, and ecosystems in the Indo-

⁵ U.S. Department of State, *A Free and Open Indo-Pacific Advancing a Shared Vision*, 2019.

<https://www.state.gov/wp-content/uploads/2019/11/Free-and-Open-Indo-Pacific-4Nov2019.pdf>.

⁶ David Brunnstrom and Doina Chiacu, "U.S. 'deeply concerned' by China's interference in Vietnam oil and gas activity," *Reuters*, August 23, 2019, <https://www.reuters.com/article/us-usa-vietnam-china/u-s-deeply-concerned-by-chinas-interference-in-vietnam-oil-and-gas-activity-idUSKCN1VC1T3>.

⁷ John Ruwitch, Martin Petty, Karen Lema and Neil Jerome Morales, "China's Xi sees bigger role for joint energy exploration with Philippines," *Reuters*, August 30, 2019, <https://www.reuters.com/article/us-china-philippines/chinas-xi-sees-bigger-role-for-joint-energy-exploration-with-philippines-idUSKCN1VK00M>.

Pacific have already started to suffer from ocean warming, such as the bleaching of coral reefs in the Great Barrier Reef and South China Sea. The energy technologies in which developing countries in the Indo-Pacific invest will determine the volume of carbon emissions in the future and the potential for surpassing a global temperature of 1.5 to 2 degrees Celsius. Japan and the US can play a significant role in assisting countries to develop energy policies that provide incentives for clean energy and through financing for clean energy projects.

Energy is a priority under economic initiatives related to trade and investment, but it is also as an element of regional security. “Free and open” in the context of energy means safe transit of resources by sea, open markets with transparent and fair practices, and respect for sovereign claims. Japan and the US have an interest in long-term engagement with regional partners on energy security, and through the implementation of US and Japanese regional policies, the two countries can achieve their strategic aim to uphold international rule of law and maintain preeminence in an evolving regional order. Increased cooperation between the US and Japan in LNG infrastructure and markets, nuclear power, and new technologies will help them maintain a competitive edge. A more coordinated approach to investing and sharing expertise in third countries in the region will help build regional partnerships. Creating a shared standard for high quality infrastructure will benefit developing countries and ensure sustainable growth and development. The US and Japan will succeed if their respective agendas are aligned with ASEAN nations and other Indo-Pacific countries, and promote an environment of cooperation, not competition.