

The Asian Century

**What International
Norms and Practices?**



Conference Proceedings
12 September 2014
Ifri, Paris

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What International Norms and Practices?

Asia is now a nerve center for global economic activity and a theatre of some of the most pressing security concerns of our time. So important has Asia become to global affairs today, and ostensibly for the decades to come, that many have already dubbed the 21st Century as the “Asian Century”. Yet Asia today is increasingly divided among itself. As the geopolitics of Asia is transformed by the emergence of heavyweights such as China and India, what will be the legacy of the “Asian Century” on the creation of international norms and practices in the years and decades to come? Will norms that have emerged through trial and tribulation over the course of the last century or more be upended by new realities and power politics, or will the existing modus operandi of international relations be expounded and improved upon for the benefit of generations to come?

This is the central question that guided a one-day workshop held at the French Institute of International Relations (Ifri) in Paris on 12 September 2014. During this one-day exchange of ideas, some of the world’s preeminent thinkers debated a range of issues facing Asia today regarding security, trade, and the spaces in between. The Ifri Center for Asian Studies is pleased to offer you in this volume the reflections that our guests so generously prepared for these discussions. Far from being exhaustive, we hope this debate is part of an ongoing discussion to be held at Ifri, elsewhere in Europe, in Asia and across the globe on the consequences of a transforming Asia on international norms and practices.

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What International Norms and Practices ?

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12 september 2014

French Institute of International Relations (Ifri)

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About Ifri and the Center for Asian Studies

The French Institute of International Relations (Ifri) is a research center and a forum for debate on major international political and economic issues. Headed by Thierry de Montbrial since its founding in 1979, Ifri is a non-governmental and a non-profit organization. As an independent think tank, Ifri sets its own research agenda, publishing its findings regularly for a global audience. Using an interdisciplinary approach, Ifri brings together political and economic decision-makers, researchers and internationally renowned experts to animate its debate and research activities. With offices in Paris and Brussels, Ifri stands out as one of the rare French think tanks to have positioned itself at the very heart of European debate.

The Ifri Center for Asian Studies was founded in 2001 and has been headed by Françoise Nicolas since 2010. It provides documented expertise and a platform of discussion on Asian issues that seeks to accompany decision makers and explain and contextualize developments in the region for the sake of a larger public dialogue. The Center organizes closed-door roundtables, expert-level seminars and a number of public events, including an Annual Conference, that welcome experts from Asia, Europe and elsewhere around the world. The Center's researchers regularly participate in international conferences, particularly in Asia. Their work, as well as that of their partners, is regularly published in the Center's electronic journal, *Asie.Visions*.

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The Role of Diplomacy in Promoting Norms in the Asia-Pacific

H.E. Christian Lechervy

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The basic nature of diplomacy is to define and harmonize state and inter-state behaviors, and finally to define standards of understanding. This is a quasi-civilizational mission, and it has certainly been France's mission for decades.

Producing norms is at the heart of French foreign policy. The rule of law is both our political identity and our “DNA”. We have ancient roots in promoting universal values, born during the 18th century with the legacy of the 1789 Revolution and the establishment of our secular Republic. These roots constitute a requirement, a responsibility that comes with our permanent membership at the United Nations Security Council. They are also an expression of our civil law culture. Finally, they are an expression of our belonging to the policy space of countries that use in common the language of Molière.

In short, producing and promoting norms is the product of our culture, our history, our place among international institutions, our education, and finally – perhaps the most important for any diplomat – our political will. Many reasons justify our commitment to a world regulated by common and more precise standards, and the French often remain extremely cartesian with regard to confidence in the standards created by states or international organizations. Significantly, the building of international standards and their scrupulous respect for 60 years is a constituent instrument of European integration. In this context, our legislative efforts are closely linked to our passionate desire for peace on the European continent. We cannot abandon specific standards without undermining our democracy, especially nowadays, when a growing number of norms and standards result from the actions of civil society and NGOs. These standards are the foundations of our values and our international positions in the international arena.

Europe and France see the establishment of shared standards around the world as a major task for the future. In this perspective, dealing with Asia-Pacific is one of the major challenges we have to address. The first standard that we have to promote and implement is a standard of dialogue. Building a standard of transparent dialogue in Asia-Pacific is certainly urgent. It is better to settle disputes through law and legitimate international organizations than engage in confrontation and/or use force.

Europeans have built their continental institutions since 1945 according to one major axiom: avoid conflict. The fact that comparison is often made between international relations in Asia-Pacific today and in Europe at the eve of the First World War highlights the major concerns about the prospect of a military escalation. In this perspective, standards of dialogue should be implemented in order to avoid such developments. The pattern of dialogue is not as common as in the past in Northeast Asia: contacts at the highest level between Prime Minister Shinzo Abe and President Xi Jinping, and Prime Minister Abe and President Park Geun-hye are slow to register in the agenda. Therefore, I hope that the incoming APEC summit will revive some connections and will inscribe them in the mid and long term, as the lack of interconnections and interactions between leaders can only generate interstate misunderstanding. The strategic hesitations of the American administration, the modernization of Chinese military capability and the adjustment of Japanese defense policy can only accentuate this reality. It is more necessary than ever to implement dialogue in Asia-Pacific.

The peaceful development of powers must be ensured by law enforcement. This principle should be promoted even by intensive diplomatic pressure if necessary. In addition, transparency should be demanded from the more authoritarian regimes. The neo-authoritarian policies that we observe in some countries in the Asia-Pacific region are based on a range of opaque structures and processes: secret decision-making processes, opaque budgets and irrational instruments devoted to force and security systems. In a democracy, hiding a military program from citizens and other countries is hardly plausible. We have no reason not to develop expanded defense relations and areas of intelligence with market democracies, but transparency of public policy is essential to rebuild genuine strategic partnerships between states.

Indeed, two states establish a strategic partnership if and only if they trust one another in the long term. This is a *sine qua non* condition for joined-up policy. Therefore, I suggest that Asian countries adopt the common standards, which are referred to in statements and partnership agreements signed by states, beginning with references to democratic or market values. Of course, it is possible for even the closest states not to share the same values. We greatly regret, for example, that Japan has not yet abolished the death penalty, but at the same time Japan remains a strategic partner for France in Asia-Pacific, and more broadly in the international arena.

Transparency is not only a source of confidence; it is also a guarantee of effectiveness, especially in the area of public policy. It is unfortunate that one

of today's major official development assistance (ODA) donors refuses to publicize and to explain in concrete details its activities, particularly in Asia-Pacific. By hiding its projects, this donor raises questions, not to say suspicions, about its real political intentions. Coordinating actions with other donors is required and absolutely essential for aid efficiency.

The posture of opacity conceals a refusal to adopt common standards and therefore may be a deliberate challenge to existing institutions. In this perspective, we will face in the coming years competition between brand-new institutions – especially regarding financial cooperation – and established organizations such as the Asian Development Bank.

A policy of transparency is not an automatic source of efficiency, but opacity in any field is always worse: it generates mistrust or distrust for years and decades, and shows lack of attention to others. It suggests a new hierarchy of states, where the most powerful can abstain from reporting to the others. Such a world would make very difficult the management of our planet – for instance, in the field of climate change and management of natural resources. Universal standards must be defined, and not only through the cooperation of Western and Asian countries. We need more permanent universal instruments, led by legitimate international organizations with the support of, and a permanent dialogue with, civil societies and NGOs.

Finally, in the context of growing Asian investment in Europe, norms are particularly important. On the one hand, Asian companies produce more and more sophisticated products for the European market; on the other hand, Europeans offer more and more services to Asia, where consumers are demanding increased quality certification. We have to organize transparent interstate platforms of discussion. But this is impossible if the world is too divided. We have to be careful not to divide Asia from the rest of the world, and not to divide Asia itself into separate groups. In this perspective, a world regulated by standards will always be safer and more democratic than a world led by our emotions.

How Have Norms Shaped Asia? Implications for the Asian Century

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Asia's security order is in a state of flux. The post-Cold War arrangements for and understandings of regional cooperation are under stress from Chinese assertiveness, American rebalancing and the growing number of transnational challenges. Norms matter in how Asia responds to these challenges because the Asian security order is in many ways a fundamentally normative order; it is more ideational than material. Asia does not have a natural hegemon; it does not have a NATO, and it does not have an EU. Intra-Asian interactions and cooperation have been guided mainly by normative forces. Hence looking at what these normative elements are, how have they shaped Asia's past and how they might shape its future is an important exercise, with profound implications for Asian security.

My text will address two questions. First, which norms have shaped the Asian security order? Second and more important, what are the elements of continuity and change in Asia's normative environment and how might they shape the region's future?

But first, what are norms? Let me start with the famous definition by Martha Finnemore and Kathryn Sikkink, who define a norm as "a standard of appropriate *behavior* for actors with a *given identity*".¹ My definition of norms is simpler: Norms are principles of appropriate conduct.² International norms are principles that define what type of behavior is 'normal' and appropriate and what is not, for all relevant actors – both state and non-state - in international relations.

1 Martha Finnemore and Kathryn Sikkink, "International norm dynamics and political change", *International Organization* 52, 4, autumn 1998, pp. 887-917.

2 For example, Amitav Acharya, *Whose ideas matter? Agency and power in Asian regionalism*, Cornell University Press, 2009.

Types of norms that have shaped Asia

In discussing the norms that have shaped Asia, it is useful to divide them into three categories: (1) Traditional norms of international society, (2) Postcolonial norms, and (3) Postmodern norms.

The first type, the traditional norms of international society, are those whose origins could be traced to the Westphalian European state-system, and which are more or less enshrined in the charter of the United Nations. These norms include: non-intervention, sovereign equality of states, and peaceful settlement of disputes.

The second type, postcolonial norms, can be divided into two sub-categories: global and regional. The global norms arose with anti-imperial and anti-colonial movements, both in Europe and outside. The principal examples of such norms include self-determination, racial equality, and inviolability of colonial frontiers (*uti possidetis*).

The set of regional postcolonial norms have features that are unique to individual regions, although they may initially derive from and overlap with global norms and those of other regions. Sometimes they are adapted by local actors (states or regional institutions) from global norms by a process that I have called localization or “constitutive localization”. Some of these norms are also constructed by local actors with reference to some universal principles which are being violated by major powers, and which could address their exclusion or marginalization from global decision-making. This is a process I have called “norm subsidiarity”.

In Asia, the following five regional norms have been especially important:

1. Non-participation in multilateral military pacts, which was essentially a protest against SEATO (Southeast Asia Treaty Organization).

2. Regional solutions to regional problems – this was a corollary of nationalism, and was first expressed through the Asian Relations Conference in 1947 and the Bandung Asia-Africa Conference in 1955, as well as in the creation of ASEAN (1967) – especially the Indonesian approach to ASEAN through ZOPFAN (Zone of Peace, Freedom and Neutrality – 1971).

3. The ASEAN Way: informality, avoidance of legalism, consensus decision-making.

4. Open regionalism – this was and is reflected in Asia’s market-driven regionalism, in Asia-Pacific Economic Cooperation (APEC), and in most other forms of economic regionalism.

5. Cooperative security – an Asian “norm localization” of Europe’s Common Security idea. It implies “security with” as opposed to “security against” and stresses confidence-building and transparency measures.

Overall, these regional norms have been stabilizing for the region, and have been mostly positive in their implications. But they have also recently come under stress and in some cases been modified.

The third type of norms to affect Asia might be called postmodern norms, in the sense that they seek to limit, if not entirely transcend, the norms and practices of the Westphalian sovereignty. The most important among these norms are the responsibility to protect (R2P), transitional justice, and respect for human rights and democracy.

The norms that have shaped Asia, separated into the above three categories, are summarized below.

Asia's Normative Architecture

Traditional norms of international society Non-intervention, Sovereign equality of states, Peaceful settlement of disputes
Postcolonial norms <p><i>a. Global:</i> Self-determination, Racial equality, Inviolability of colonial frontiers (<i>uti possidetis</i>)</p> <p><i>b. Regional:</i> Non-participation in multilateral military pacts, Regional solutions to regional problems, ASEAN Way (informality, avoidance of legalism, consensus decision-making), Open (economic) regionalism, Cooperative security ("security with" as opposed to "security against")</p>
Postmodern norms Responsibility to Protect (R2P), Transitional justice, Respect for human rights and democracy

Asia's changing normative environment

Have these norms played a part in shaping Asia's international relations, and to what extent? Are these norms in Asia now changing? What would be the implications of these changes for the so-called Asian Century, if there is really going to be one?

Traditional norms

The first two of these norms have been robust in Asia. But non-intervention was even broadened to include indirect forms of outside intervention, including participation in Cold War military pacts. The equality-of-states norm has been institutionalized in Asian regionalism, which has thus led to the rejection of hegemonic forms of regionalism, or regional institutions dominated by any single great power in Asia.

But the third norm – peaceful settlement of disputes – has not been deeply ingrained. On the positive side, ASEAN members have taken a number of territorial disputes (Malaysia-Indonesia, Malaysia-Singapore, Thailand-Cambodia) to arbitration by the International Court of Justice or the International Tribunal for the Law of the Sea. The key challenge, of course, is the South China Sea disputes, where peaceful settlement so far remains elusive.

Generally, Asia and its regional institutions remain more wedded to traditional and postcolonial norms than the postmodern norms. They have been slow and selective in accepting norms such as R2P and transitional justice. They have been slow to dilute non-interference, and have done it in some areas only, as in ASEAN's approach to Burma, in developing financial cooperation against future shocks, and in adopting measures against certain types of non-traditional security challenges. This reluctance has adversely affected their credibility and performance, and will continue to do so. A greater localization of the new norms is crucial for the region's stability.

Postcolonial norms

As for the global postcolonial norms, Asia offers a striking example of the triumph of the racial equality norm, both in managing intra-Asian relations and Asia's relations with the outside world. Asian regional institutions show a greater acceptance of racial and cultural diversity than the EU. With minor exceptions, there is no clash of civilizations in Asia. Asia is really the burial place for Huntington's clash-of-civilizations thesis.

Less progress and commitment is seen with respect to the self-determination norm once decolonization was completed. The referendum in East Timor that led to its independence is a positive but rare example of the application of the self-determination norm in a postcolonial state in Asia. But elsewhere the norm remains contested and largely inapplicable in dealing with separatist movements such as in Tibet, Xinjiang, Kashmir, India's north-east, East Timor, southern Thailand, southern Philippines, and of course Burma/Myanmar. Most of Asia's internal conflicts have something to do with this.

The inviolability of the colonial frontiers norm has been generally respected in Asia. In south-east Asia, postcolonial boundaries have stabilized since Indonesian President Sukarno's challenge to the legitimacy of the Malaysian federation, thanks in part to ASEAN. But the norm has not been respected in two critical cases: by Pakistan in Kashmir and by China in its rejection of the McMahon Line drawn by the British for the India-Tibet border, a rejection that contributed to the Sino-Indian border war in 1962.

Changes to postcolonial regional norms in Asia have been slow, with mixed results. The norm against multilateral military pacts remains strong, despite increasing defense diplomacy in the region, such as the Shangri-La Dialogue and ADMM Plus (ASEAN Defense Ministers' Meeting). But these are confidence-building measures, and there is no military alliance, except for modest steps against non-traditional security threats. I believe this situation is good for regional stability as a NATO in Asia would be profoundly destabilizing. As for

“regional solutions to regional problems”, this norm became more flexible after the end of the Cold War, when ASEAN invited outside powers such as the US, Australia and the EU to participate in regional security dialogues. However, China is trying to reassert it now. Xi Jinping’s recent call for Asian solutions to Asian problems is an example. If this leads to greater Asian capacity to resolve its conflicts and address common challenges, then the result will be positive. But if it is a ploy to exclude the US from the region, it will be divisive and undermine Asia’s others norms which call for inclusiveness, such as open regionalism and cooperative security.

A similarly mixed situation exists with respect to the ASEAN Way (informality, avoidance of legalism, consensus decision-making). This is under severe stress, especially after the 1997 financial crisis. ASEAN is more legalized and institutionalized now. It adopted a charter and its secretariat has been strengthened, but this is a far cry from the EU bureaucracy. ASEAN will never become the EU of Asia. It does not aspire to. Hence its collective institutional capacity will be low. There is room for more without replicating the EU’s model and its problems.

Asia’s open-regionalism norm is also under challenge with the proliferation of bilateral and plurilateral trade agreements such as the Trans-Pacific Partnership or the China-ASEAN Free Trade Area. Its cooperative-security norm is even more challenged due to China’s recent assertiveness in the South China Sea and elsewhere. But, ironically, Asia remains ahead of Europe when it comes to the practice of cooperative security. In Europe, the norm of common security was weakened by NATO expansion, the fading of the Organization for Security and Co-operation in Europe (OSCE), Russian reassertion, and the EU’s rigid and mechanistic approach to membership expansion. Cooperative security remains alive in Asian institutions, such as the ASEAN Regional Forum (ARF). In other words, security in Europe has become more divisive and competitive than at any time since the end of the Cold War, undermining Europe’s claim to be a role model for Asia. This does not mean cooperative security in Asia is delivering strong results, but at least the region is still committed to it.

Postmodern norms (and premodern ones too)

The R2P norm has found slow and very conditional acceptance in Asia. Generally, Asian governments insist that the application of R2P must be based on the consent of the government of the country. This is also true of the transitional justice norm. The recent conviction of three Khmer Rouge leaders in Cambodia offers an example of a limited effort, locally organized but with UN authorization, to promote transitional justice in Asia. In Burma, opposition leader Aung San Suu Kyi has come out against transitional justice procedures that might involve the trial of the country’s military for past human rights abuses. Democratic Indonesia has been reluctant to deal with past atrocities committed by the Suharto dictatorship. There has been more progress in the promotion of human rights and democracy, with the creation of the ASEAN Inter-Governmental Commission on Human Rights. It is a good first step but its mandate is confined to human rights promotion through educational and

training activities, rather than through protection mechanisms. The Indonesian-organized Bali Democracy Forum is an interesting example of an inclusive and non-ideological approach to democracy promotion, but it remains rather low-key and without significant resources.

While it is fashionable to talk about desirable normative change as a shift from modern to postmodern norms, there are signs in Asia today of the emergence of what might be called *premodern norms*, which can have major consequences for building regional order. Leading this effort at norm (re)creation is China, which has put forth a set of ideas rooted in its traditional cultural values and historic political forms. Examples include the *Tianxia*, or “all is equal under heaven”, which dates back to the Zhou dynasty during the first millennium BC. Another concept is the “kingly way”, suggested by a leading Chinese scholar, Yan Xuetong. The idea of “kingly way” is a counter to the “way of might” which he associates with the American conception of benevolent hegemony. The difference is that “kingly way” embraces the “principles of fairness, justice and win-win cooperation”. According to Yan, the “kingly way” would “provide the world with values that transcend the American hegemony and practice such values so that most countries would embrace China’s rise”.³

While the Chinese ideas sound benign and are certainly worth exploring, the concern is that such norms hark back to historical Sinocentrism. They could be a means to legitimize Chinese dominance and recreate a very hierarchical regional order in Asia, akin to if not exactly replicating the old tributary system.

From India there are the norms propagated by King Ashoka, such as his concept of *Dhamma*, or the doctrine of righteousness, which called for replacing conquest by arms with conquest by virtue or morals. Again, such ideas should be debated, and their relationship with the currently universal principles of rights, justice and equality should be explored.

Conclusion

In conclusion, let me make two main points.

First, Asia is increasingly facing a major challenge in reconciling its traditional and postcolonial norms with new security challenges that call for a more rule-based approach to international relations, including the application of international law. A major example here is the Law of the Sea. China’s acceptance of this law as the basis for managing the territorial dispute in the South China Sea will be a key factor in Asian stability. China bases its South China Sea claim on historical grounds (dating back 2000 years), which means a claim with its roots in the tributary system. It also used history as a source of new norms to challenge those that it sees as dominated by the West. The West and other Asian claimants want China to resolve the dispute on the basis

3 Yan Xuetong, “New values for new international norms”, *China International Studies*, Vol. 38, Issue 1, January/February 2013.

of the international Law of the Sea. This is now a main source of normative contestation in Asia today, and has far-reaching implications for regional order.

Second, Asia is beginning to see new types of normative contestation. This is not going to be along the traditional East-West or West-East lines, as Kishore Mahbubani suggests.⁴ Those divisions will be blurred in Asia's emerging normative contestation, which will be as much, or even more, intra-Asian in nature. India and China might represent two opposites of this contestation. It does not mean that India will adopt the norms of the West and China those of the East. Reconciling these intra-regional struggles for defining appropriate conduct and developing institutions and practices to make them work will be a seminal challenge to the prospect for an Asian century.

4 Kishore Mahbubani, *The New Asian Hemisphere: The Irresistible Shift of Global Power to the East*, New York: Public Affairs, 2008.

Disputed International Norms in East Asia and Geopolitical Stability

Interpretations of the Law of the Sea in the Indo-Pacific Region and its Implications for Security

Asian Approaches to the Law of the Sea: With special reference to the territorial disputes in the South China Sea

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Introduction

Up to the mid-20th century, Asian states had been left outside the formation of international legal principles and rules.¹ They gradually began to feel a sense of inequity, and, at the time of the third United Nations Conference on the Law of the Sea in the early 1970s some Asian states dared to propose novel ideas for the Conference, notably the idea of “archipelagic states”, devised and proposed by Indonesia and the Philippines among others. This was undoubtedly one of the first signs of Asian contributions to the formation of some new ideas on the law of the sea.

On the other hand, some old-fashioned territorial claims in the Asian seas remained in the 20th century and have persisted into the 21st century. There seem to be two broad approaches to this particular problem: the Chinese approach on the one hand and the approaches of other Asian states on the other.² Whereas the ASEAN states – Vietnam, the Philippines and Malaysia among others – seem to have determined that “it is in their interests to bring their claims and positions into conformity with the UN Convention on the Law of the Sea (UNCLOS) and to base claims exclusively on the Convention”.³ Thus, in their submissions to the Commission on the Limits of the Continental Shelf, Malaysia and Vietnam did not assert any claim over any of the islands over which they claim sovereignty, and the Philippines’ 2009 Baselines Law draws baselines only around the main islands in the Philippines archipelago, not around the small islands it claims in the South China Sea west of its main archipelago. Furthermore, a 2012 statute of Vietnam

1 Take, for example, Japanese diplomatic delegation’s ignorance of what “full powers” consisted of in the treaty revision negotiations in Washington in 1872. See Miyoshi, Masahiro, “International Law in the Modern History of Japan: A Brief Description”, *Journal of Law and Political Science* (Aichi University), No. 136 (1994), pp. 9-11.

2 Though limited to the context of the South China Sea, some writers also mention this pattern of China vs. other Asian states in various Law of the Sea issues, especially with regard to territorial claims in that sea. See, for example, Dupuy, Florian and Dupuy, Pierre-Marie, “A Legal Analysis of China’s Historic Rights Claim in the South China Sea”, 107 *AJIL*, 124-141; Beckman, Robert, “The UN Convention on the Law of the Sea and the Maritime Disputes in the South China Sea”, *ibid.*, pp.142-163.

3 Beckman, *op.cit.* p.152.

specifically provides that islands that cannot sustain human habitation or economic life of their own shall have no exclusive economic zone (EEZ) or continental shelf.⁴

China, by contrast, seems to be moving to assert maritime claims based not just on the UN Convention on the Law of the Sea but also on history. Indeed, some Chinese statements suggest that China's historic sovereignty claim is to all of the islands, rocks, reefs and shoals in its claimed four archipelagos of Spratlys, Paracels, Pratas and Macclesfield Bank as well as Scarborough Reef, whether or not those insular features meet the definition of an island under international law. China states that its "sovereignty and related rights and jurisdiction in the South China Sea are supported by abundant historical and legal evidence".⁵

In the South Asian seas, India concluded continental-shelf boundary delimitation agreements in the Andaman Sea with Indonesia in 1974, 1977 and 1978 (together with Thailand), with Thailand in 1978 and 1993, with Myanmar in 1986 (concerning the territorial sea and the fishery boundary as well) and 1993 (together with Thailand), while Myanmar concluded with Thailand a territorial sea/continental-shelf/fishery boundary agreement in the Andaman Sea in 1980. More recently Bangladesh brought its maritime boundary disputes with Myanmar and India respectively in the Bay of Bengal to a third-party dispute settlement procedure.

Thus, broadly speaking, there seems to be an objective picture of China on the one hand and the rest of the Asian states on the other being opposed to each other, at least in respect of territorial and jurisdictional claims in the Asian seas and of dispute settlement.

The Chinese vs. Southeast Asian states' approaches to dispute settlement

When a dispute arises, as it tends unavoidably to arise over territories and boundaries, nobody doubts that it should be settled in a peaceful way between or among the states concerned. But experience shows that those states insist on their claims and even refuse to come to terms as to how it can or should be negotiated for settlement. Unfortunately, there are a number of disputes or overlapping territorial claims in the South China Sea, mainly between China and the individual neighboring states.

As I see it, the Chinese approach to maritime issues seems to be based on expansionism, although they flatly deny it. They assert that, as their economy has expanded, their maritime sphere of influence must of necessity expand accordingly. Their alleged rationale is that they are not simply claiming new

4 Davenport, Tara, "Southeast Asian Approaches to Maritime Boundaries", *Asian Journal of International Law*, Vol. 4, Issue 2 (July 2014), p. 326.

5 *Note Verbale* CML/8/2011 from the Permanent Mission of the People's Republic of China to the UN Secretary-General (14 April 2011).

territories but that their claims are based on historical title. Yet this seemingly expansionist trend has been supported by the Chinese Liberation Army, or its naval sector, as may be corroborated by a number of pieces of evidences.⁶

China has ratified UNCLOS, but in respect of its claims to sovereignty over some insular features or sea areas in the East China Sea and the South China Sea, it seems to consider its alleged historical bases much more important than the terms of UNCLOS or the relevant rules of general international law, and tends to ignore the legal positions claimed by the other neighboring states. Yet, quite recently, President Xi Jinping made a surprise statement in a diplomatic address at the People's Great Hall in Beijing, urging "the international community to jointly promote the rule of law in international relations".⁷ Speaking at a commemoration of the 60th anniversary of the Five Principles of Peaceful Co-existence of 1954, he went on to say: "We should urge all parties to abide by international law and well-recognized basic principles governing international relations and use widely applicable rules to tell right from wrong and pursue peace and development." He further stated that, in international society, there should be just one law that applies to all, and that there should not be "double standards" in handling international law.

This is a surprise statement by China's leader because, although it sounds quite normal and appropriate, it seems to be incompatible with what the Chinese Communist Party has been doing all these years. The most prominent contradiction is the claimed "nine-dash line", which covers a vast sea area – some 80 to 90 percent of the entire South China Sea. No basis in international law is supplied for the claim; instead, merely supposed historical grounds. In this sense, what President Xi said in June looks like a great contradiction.

A second contradictory behavior on the part of China is the sudden pressing in the 1970s of its claim to sovereignty over the Senkaku (or Diaoyu in Chinese) islands in the East China Sea. Beijing argues that they were discovered hundreds of years ago by Chinese sailors. However, China maintained complete silence when Japan incorporated the islands in Japanese territory through a cabinet decision in 1895 as a result of careful research as to whether they had been under control by any state over the previous hundreds of years. Nor did China lodge any protest whatsoever against Japanese control over the islands after that. However, in 1992 China enacted the Law of the Territorial Sea and the Contiguous Zone, stating that the Diaoyu islands were part of Chinese territory for the first time in its history. Before this legislation of 1992, which was seemingly enacted in a hurry to strengthen its weak legal position, the Chinese government had failed to mention the islands as part of Chinese territory.

6 See, for example, a number of well-researched studies (in Japanese) by Hiramatsu, Shigeo published in book form by Keiso-Shobo, Tokyo over the past twenty years or so.

7 *People's Daily Online*, Sunday, 29 June 2014.

Those two episodes eloquently show that China lacks a good sense of international law or the rule of law in the international community.⁸ Yet President Xi referred to international law and the rule of law – even though his government does not seem to have abided by international law.

On the other hand, China's neighboring states seem to be more or less prepared to observe and practice the rule of law as they should, since they have made a number of arrangements obliging them to move forward toward concluding binding agreements for settling international disputes in which they are involved. Thus, as early as 1976, the five original ASEAN members (Indonesia, Malaysia, the Philippines, Singapore and Thailand) agreed on the settlement of disputes “through friendly negotiations” in the Treaty of Amity and Cooperation in Southeast Asia.⁹

Twenty years later, China joined with the ASEAN states in making a joint statement on resolving disputes in the South China Sea,¹⁰ an interesting and hopefully encouraging development toward a multilateral dispute settlement scheme involving China. This joint statement was endorsed in the 2002 Declaration on the Conduct of Parties in the South China Sea, signed by ASEAN's 10 members and China, and has since been confirmed on several occasions. This declaration and other similar documents provide for *consultations* and *negotiations*, rather than arbitration or judicial settlement of disputes, an “ASEAN-style” or Asian-style method of dispute settlement. It may be a good sign of possible co-operation between ASEAN states and China for the settlement of territorial disputes in the South China Sea, based on an undertaking to refrain from any inhabiting of the currently uninhabited islands, reefs, shoals, cays and other features; a pledge to continue regular consultations on the observance of the declaration; and agreement to work for the eventual adoption of a genuine and binding code of conduct on the basis of consensus.

Consequently, what remains to be seen is how the parties to the 2002 declaration will implement its provisions. Despite some verbal commitments in the years that followed to move toward the conclusion of a binding agreement along the declaration's lines, there have been no signs of any meaningful movements in this direction. Instead, in this context, there has been some bad news: the China Marine Surveillance, China's ocean monitoring agency, said it would add 1,000 officers in 2011 to raise staffing to 10,000 and would

8 See the long interview with Francis Fukuyama (Stanford University), a well-known political scientist, titled “China: the Future of a Big Power without ‘the Rule of Law’”. In this interview by a Kyodo Press editor for the *Chuo-Koron* monthly magazine (March, 2014, p. 22), he comments: “While China is a powerful administrative State like Japan and South Korea, neither the rule of law nor democracy exists in it.”

9 Treaty of Amity and Cooperation in Southeast Asia of 24 February 1976, Art. 13: “[T]hey shall refrain from the threat or use of force and shall at all times *settle such disputes* [disputes on matters directly affecting them, especially those likely to disturb regional peace and harmony] among themselves *through friendly negotiations*.” 1025 UNTS 316 (emphasis added).

10 “ASEAN-China Co-operation Towards the 21st Century”: the 1997 Joint Statement of the Meeting of Heads of State/Government of the Member States of ASEAN and the President of the People's Republic of China of 16 December 1997, para. 8 states: “The parties concerned agreed to resolve their disputes in the South China Sea through *friendly consultations and negotiations* in accordance with universally recognized international law, including the 1982 UN Convention on the Law of the Sea” (emphasis added).

purchase 36 new ships over the next five years. The official *China Daily* reported on 2 May 2011 that the agency currently had 300 vessels of all types, along with 10 aircraft. For its part the Philippines stated in March 2011 that it was planning to acquire patrol ships, aircraft and a radar system to assert its claims.

Under these circumstances, in January 2013 the Philippines filed with the International Tribunal for the Law of the Sea a case against China concerning the maritime jurisdiction of the Philippines in the West Philippine Sea. A five-member tribunal has since been established, but China has refused to participate in the arbitration. This basic opposition of China to a third-party settlement seems to be a traditional position or a relic of the Communist Party's aversion to a third-party settlement. The ASEAN states in their relations with China suspect that the Chinese would like to exert strong influence or control over bilateral negotiations for the settlement of the dispute and exclude any possible intervention by a non-interested third party.

Conclusion

It is extremely unfortunate for Asian states to be in a situation of China vs. the other Asian states, at least in respect of maritime affairs, including territorial and jurisdictional claims among others. This should be unwelcome to China as well, because it seems to be increasingly unpopular not only among the other Asian states but also even among the states in the other parts of the world that have no immediate interests that conflict with those of China.

China has acceded to the 2002 Declaration on the Conduct of Parties in the South China Sea, which was signed for the purpose of eventually adopting a code of conduct with binding force on the signatories. Indeed, China has repeatedly indicated verbally a willingness to negotiate such a code, and the ASEAN member states seem to be well prepared to respond positively to it. China therefore needs to take more active steps toward the adoption of such a code. This could contribute to realizing a peaceful situation in the Asian seas.

Chinese Claims in the East China Sea and South China Sea:

A legal assessment of cartographic evidence*

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Introduction

In general it can be stated that People's Republic of China [hereinafter China] has over the last couple of years expressed a number of territorial and maritime claims in both the East and South China Sea. As these claims become more assertive, a number of Chinese scholars have come forward with legal arguments justifying these claims made by their government. In 2012 the present author published a paper¹ together with Marco Benatar that addressed the issue of cartographic evidence in international law as applied to Chinese claims in the South China Sea. Several months later, this paper received a rejoinder by Zhihua Zheng, a Chinese scholar.² The present contribution *inter alia* aims to present the different arguments used in both articles and to provide a rejoinder to Zheng's response.

The Chinese government has found it necessary to start clarifying its own legal position, either in response to maritime claims made by other states in the region, or as justification for its own actions undertaken there. In trying to unearth the exact legal nature of the Chinese claims in the area, these governmental clarifications are of course much more important than the opinions expressed by Chinese scholars from an international point of view because they constitute state practice on which other states in the region will be able to rely in order to determine their own positions and act accordingly.

The present contribution will zoom in on the Chinese claims in the South China Sea. It is divided into five parts. After a short introduction a second part

* This contribution is based on the oral presentation made by the author on 12 September 2014 at the occasion of the international conference organized by the *Institut français de relations internationales* entitled "The Asian Century: What international norms and practices?", Paris, France.

1 Erik Franckx/Marco Benatar, Dots and Lines in the South China Sea: Insights from the Law of Map Evidence, *Asian Journal of International Law*, vol. 2, issue 1, 2012, pp. 89-118. Hereinafter 2012 AsianJIL Article.

2 Zhihua Zheng, Legal Effect of Maps in Maritime Boundary Delimitation: A Response to Erik Franckx and Marco Benatar, *Asian Journal of International Law*, vol. 4, issue 2, 2014, pp. 1-19. Hereinafter 2014 AsianJIL Response.

will provide some background as to the origins of the recent rise of tension in the area. A third part will subsequently concentrate on the concrete responses that the 2012 AsianJIL Article received from a Chinese scholar. A fourth part will highlight recent clarifications provided by the Chinese government *urbi et orbi* in a series of letters sent to the Secretary-General of the United Nations for general distribution. A fifth and final part will draw some conclusions.

The origins of the controversy over Chinese claims in the South China Sea

In 2009, China submitted two identical letters on the same day to the UN Secretary-General outlining its legal claims in the South China Sea area.³ These letters were a direct reaction to respectively the Malaysian/Vietnamese joint submission on 6 May 2009,⁴ and the Vietnamese individual submission on 7 May 2009⁵ to the Commission on the Limits of the Continental Shelf (hereinafter CLCS). This body issues recommendations on the basis of which coastal states can subsequently establish the final and binding limits of their continental shelf beyond 200 nautical miles.⁶ These submissions to the CLCS by Malaysia and Vietnam can hardly be considered a provocation aimed at China, for these countries only made their submissions a couple of days before the deadline imposed on them by the conventional system.⁷ In reaction to

3 People's Republic of China, "Letter to the Secretary-General of the United Nations – CML/17/2009" (7 May 2009), available at <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf>; People's Republic of China, "Letter to the Secretary-General of the United Nations – CML/18/2009" (7 May 2009), available at <http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf>. Hereinafter Chinese letters of 7 May 2009.

4 Malaysia-Socialist Republic of Viet Nam, "Joint Submission to the Commission on the Limits of the Continental Shelf Pursuant to Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982 in Respect of the Southern Part of the South China Sea, Executive Summary" (May 2009), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/mys_vnm2009executive-summary.pdf>. As indicated by the letter of the Secretary-General of the UN, acknowledging receipt, this joint submission was made on 6 May 2009, available at <http://www.un.org/depts/los/clcs_new/submissions_files/mysvnm33_09/mysvnm_clcs33_2009e.pdf>.

5 Socialist Republic of Vietnam, "Submission to the Commission on the Limits of the Continental Shelf Pursuant to Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982, Partial Submission in Respect of Vietnam's Extended Continental Shelf: North Area (VNM-N), Executive Summary" (April 2009), available at <http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/vnm2009n_executivesummary.pdf>. As indicated by the letter of the Secretary-General of the UN, acknowledging receipt, this submission was made on 7 May 2009, available at <http://www.un.org/depts/los/clcs_new/submissions_files/vnm37_09/vnm_clcs37_2009e.pdf>.

6 United Nations Convention on the Law of the Sea. Multilateral convention, 10 December 1982, UNTS, vol. 1833, pp. 397-581. This convention entered into force on 16 November 1994, available at <www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf>, Art. 76 (8). Hereinafter 1982 Convention.

7 As many states had encountered difficulties in meeting the original deadline, namely 10 years after the entry into force of the 1982 Convention for each particular country (see 1982 Convention, Annex II, Art. 4), the states parties to the 1982 Convention decided in 2001 to use another starting point to determine this 10-year deadline, namely the date of adoption by the CLCS of its Scientific and Technical Guidelines. See Decision regarding the Date of Commencement of the Ten-Year Period for Making Submissions to the Commission on the Limits of the Continental Shelf Set Out in Article 4 of Annex II to the United Nations Convention on the Law of the Sea, Meeting of State Parties, UN Doc. SPLOS/72 (2001). As both Malaysia (14 October 1996) and Vietnam (25 July 1994) had ratified the 1982 Convention before the adoption by the CLCS of the above-mentioned Scientific and Technical Guidelines on 13 May 1999, their new common deadline became 12 May 2009.

these submissions, China objected by indicating its own territorial and maritime claims in the area, in support of which this country submitted, for the first time at the international level in state-to-state disputes, a map containing nine dashes, as depicted below.⁸

Map 1: The Chinese map featuring the U-shaped line



Source: People's Republic of China, "Letter to the Secretary-General of the United Nations – CML/17/2009" (7 May 2009) and People's Republic of China, "Letter to the Secretary-General of the United Nations – CML/18/2009" (7 May 2009). Hereinafter 2009 Map.

⁸ Hereinafter "U-shaped line".

The two Chinese letters to the UN Secretary-General presented the same argumentation: “China has indisputable sovereignty over the islands in the South China Sea and the *adjacent waters*, and enjoys sovereign rights and jurisdiction over the *relevant waters* as well as the seabed and subsoil thereof (see attached map). The above position is consistently held by the Chinese Government, and is widely known by the international community”.⁹

The concepts of “adjacent waters” and “relevant waters” are unknown to experts in the law of the sea as neither is to be found in the 1982 Convention.¹⁰ The use of this terminology can thus be qualified, as an exercise in what the French call a “flou artistique” – that is to say, a touch of deliberate soft focus in order to create confusion – since nobody can tell with any certainty what China really means by these notions.

The map supporting the Chinese claim immediately triggered strong international interest even among third states.¹¹ At the same time it aroused a flurry of attention by international scholars.¹² This considerable interest notwithstanding, the next part will remain focused on the 2012 AsianJIL Article and the 2014 AsianJIL Response. Starting with the arguments made in the original article, the critical remarks of the response will be addressed, followed each time by a rejoinder.¹³

Argumentation – Response – Rejoinder

The main reasoning of Zheng’s argumentation is that the U-line map has greater probative value than argued in the 2012 AsianJIL Article. He reach-

9 Chinese letters of 7 May 2009, *supra* note 3. Emphasis added.

10 This “Constitution for the Oceans” is binding today on 165 states and the European Union.

11 See for instance the communications by Indonesia specifically addressing the issue of the “nine-dotted-lines map”, available at <http://www.un.org/depts/los/clcs_new/submissions_files/mysvnm33_09/idx_2010re_mys_vnm_e.pdf>.

12 Almost an entire issue of the specialized journal *Ocean Development and International Law* was devoted to this map in 2012. In the order of appearance in the journal: Miyoshi Masahiro, China’s ‘U-Shaped Line’ Claim in the South China Sea: Any Validity Under International Law?, *Ocean Development and International Law*, vol. 43, issue 1, 2012, pp. 1-17; Keyuan Zou, China’s U-Shaped Line in the South China Sea Revisited, *Ocean Development and International Law*, vol. 43, issue 1, 2012, pp. 18-34; Thang Nguyen-Dang and Thao Nguyen Hong, China’s Nine Dotted Lines in the South China Sea: The 2011 Exchange of Diplomatic Notes Between the Philippines and China, *Ocean Development and International Law*, vol. 43, issue 1, 2012, pp. 35-56; Gau Michael Sheng-Ti, The U-Shaped Line and a Categorization of the Ocean Disputes in the South China Sea, *Ocean Development and International Law*, vol. 43, issue 1, 2012, pp. 57-69.

See also the agora that appeared in the *American Journal of International Law* a year later. In the order of appearance in the journal: Lori Fisler Damrosch and Bernard H. Oxman, Agora: The South China Sea. Editors’ Introduction, *American Journal of International Law*, vol. 107, issue 2, 2013, pp. 95-97; Zhiguo Gao and Bing Bing Jia, The Nine-Dash Line in the South China Sea: History, Status, and Implications, *American Journal of International Law*, vol. 107, issue 2, 2013, pp. 98-124; Florian Dupuy and Pierre-Marie Dupuy, A Legal Analysis of China’s Historic Rights Claim in the South China Sea, *American Journal of International Law*, vol. 107, issue 2, 2013, pp. 124-141; Robert Beckman, The UN Convention on the Law of the Sea and the Maritime Disputes in the South China Sea, *American Journal of International Law*, vol. 107, issue 2, 2013, pp. 142-163.

13 For a more elaborate exposition of these different arguments and counter-arguments, see Erik Franckx and Marco Benatar, The Argumentation on the Weight in the Law of Map Evidence of the Chinese U-Line in the South China Sea Refined, in: Vitaly V. Naumkin (ed.) *Security and Cooperation in the South China Sea*, Moscow, Institute of Oriental Studies of the Russian Academy of Sciences, 2014, pp. 224-239.

es this conclusion based on five lines of argumentation: First, the map is an expression of the state's will; second, it has the required level of accuracy; third, it passes the test of consistency; fourth, it is characterized by neutrality; and fifth, it has received general acquiescence. We will examine these five arguments one by one.

"The map is a clear expression of China's will"

The 2012 AsianJIL Article argues that, in international law in general, maps are not normally proof of title. As already stated by the sole arbiter in the Islands of Palmas/Mianguas case in 1928: "...only with the greatest caution can account be taken of maps in deciding a question of sovereignty..."¹⁴ Today, the International Court of Justice has further elaborated this cautious approach in what some have called a "definitive"¹⁵ opinion on the evidentiary value of cartographic evidence under international law:

"[M]aps merely constitute information which varies in accuracy from case to case; of themselves, and by virtue solely of their existence, they cannot constitute a territorial title, that is, a document endowed by international law with intrinsic legal force for the purpose of establishing territorial rights. Of course, in some cases maps may acquire such legal force, but where this is so the legal force does not arise solely from their intrinsic merits: it is because such maps fall into the category of physical expressions of the will of the State or States concerned. This is the case, for example, when maps are annexed to an official text of which they form an integral part. Except in this clearly defined case, maps are only extrinsic evidence of varying reliability or unreliability which may be used, along with other evidence of a circumstantial kind, to establish or reconstitute the real facts."¹⁶

A map, in other words, can never by itself constitute a legal title under international law, unless it expresses the will of a state. In order to express this will, states sometimes write into an agreement that the attached map forms an integral part of the consent reached between the parties. Yet in the great majority of inter-state cases maps receive very little evidentiary value under contemporary international law. As indicated, this rule has remained unchanged up to the present.

The 2014 AsianJIL Response has a two-pronged approach in this respect. It first argues that the territorial claims within the U-shaped line are established beyond doubt. But this is a totally different issue. The 2012 AsianJIL Article explicitly excluded the issue of territorial sovereignty over the islands and only focused on the evidentiary value under international law of the 2009 Map when the U-shaped line was first relied upon by China at the international level. Given that the map does not provide title, China's territorial claim will have to be as-

14 *Island of Palmas Case (Netherlands v. U.S.A.)*, Award of 4 April 1928, (2006) II Reports of International Arbitral Awards 829, 852-853.

15 Anna Riddell and Brendan Plant, *Evidence before the International Court of Justice*, London, British Institute of International and Comparative Law, 2009, p. 31.

16 *Frontier Dispute (Burkina Faso/Republic of Mali)*, (1986) I.C.J. Rep. 554 at 582 § 54.

sessed in light of the usual principles applicable to territorial disputes (discovery, occupation, critical date, *effectivités*, etc.).

Concerning the maritime claims, Zheng argued that, if some uncertainty in the Chinese position persisted, this was not the fault of China but rather of the 1982 Convention as its bears no clear indication about historic rights. Moreover, even outside the framework of the 1982 Convention there is no consistent understanding of historic rights under general international law. Even if, *arguendo*, the notion of historic title remains rather vague in the 1982 Convention, it seems to be tied to the territorial sea concept¹⁷ and was apparently not intended to apply beyond that limit.¹⁸ Yet, according to China, an overwhelming part of the South China Sea should be under its jurisdiction because of historical arguments. Nevertheless, it should be remembered that Beijing participated in the making of the 1982 Convention. These negotiations lasted for almost ten years, but China never raised the issue of historic title in the South China Sea. Finally, Zheng also argues in this respect that Chinese historic rights should not solely be analyzed in light of “Western” international law. One simply can refer to the decisions of the International Court of Justice and international arbitration tribunals for these bodies have already had ample opportunity to consider the roots of historic title by non-Western pre-colonial normative systems in their relation to territorial disputes.¹⁹

“The map is sufficiently accurate”

In the 2012 AsianJIL Article it was argued that there was unclear intent along with many technical imprecisions: Geographical co-ordinates of the segments are missing; inconsistencies exist as to their cartographic representation;²⁰ a very small scale is used; and the map has no datum in order to appreciate the exact location of the lines it contains.

The 2014 AsianJIL Response contended that this again was not China’s fault because the government was simply reproducing an old map, dating back to the 1940s. This explains why the 2009 Map does not comply with modern cartographic standards. Besides, it was argued, the U-shaped line was a median line, a kind of “undetermined maritime boundary”.

17 See for instance 1982 Convention, Art. 15.

18 Compare for instance under the 1958 conventional system, the Convention on the Territorial Sea and the Contiguous Zone (Multilateral convention, 29 April 1958, UNTS, vol. 516, 205, 206-224. This convention entered into force on 10 September 1964, available at <untreaty.un.org/ilc/texts/instruments/english/conventions/8_1_1958_territorial_sea.pdf>, Art. 12, and the Convention on the Continental Shelf (Multilateral convention, 29 April 1958, UNTS, vol. 499, 311, 312-320. This convention entered into force on 10 June 1964, available at <untreaty.un.org/ilc/texts/instruments/english/conventions/8_1_1958_continental_shelf.pdf>, Art. 6(1).

19 See for instance James D. Fry/Melissa H. Loja, The Roots of Historic Title: Non-Western Pre-Colonial Normative Systems and Legal Resolution of Territorial Disputes, *Leiden Journal of International Law*, vol. 27, issue 3, 2014, pp. 727-754.

20 Variations have for instance been found with respect to the endpoints of the different segments that make up the U-shaped line, varying between one and five nautical miles depending on the map. See for instance Daniel J. Dzurek, The Spratly Islands Dispute: Who’s On First?, *Maritime Briefing*, vol. 2, issue 1, 1996, p. 11.

But these arguments can first of all be countered by the fact that a median line is a highly technical construction of great precision. Furthermore, if a country intends to rely on old maps today, there seems to be no reason why this country should not update them to comply with contemporary cartographic standards that all countries nowadays master. The fact that China waited until 2009 to publish this map at the international level reinforces this argument, for it gave the country ample time to provide a more accurate representation of the U-shaped line. China's failure to make this effort is noteworthy.

“Different maps depicting the U-shaped line are consistent”

The 2012 AsianJIL Article observed that this U-shaped line has changed substantially over time. It was initially composed of 11 dashes. During the 1950s two dashes in the Gulf of Tonkin were apparently discarded. Finally, an electronic map placed online by the Chinese State Bureau of Surveying and Mapping on October 21, 2010, again adds one more segment to the North between Taiwan and the Ryukyu group, of which Yonaguni Island is the most western island, all belonging to Japan.²¹

The 2014 AsianJIL Response mainly argued that the two dashes in the Gulf of Tonkin had been removed because a boundary agreement had been reached between the parties. Moreover the newly added tenth dash is located outside the South China Sea and consequently of no relevance.

But this line of argumentation does not appear to be convincing because the two dashes were removed in the 1950s whereas the agreement between Vietnam and China in the Gulf of Tonkin was only signed on Christmas Day 2000. Besides, if the tenth dash extends the Ushaped line into the East China Sea, does this mean that China also has similar historic claims against Japan? This argument, in other words, only further complicates the understanding of the issue in the international arena.

“Neutrality of the map”

The 2012 AsianJIL Article pointed out that a general lack of neutrality is evident when considering the composition of the body responsible for drawing the U-shaped line. Indeed, the history of the U-shaped line can be traced back to an internal commission established by the Republic of China (ROC) government to reassert its position. Such a unilaterally-appointed and staffed governmental body can hardly be deemed impartial vis-à-vis other interested states in the South China Sea region.

In order to counter this argument, the 2014 AsianJIL Response relied on other maps, sometimes of Western origin but some of them even of Vietnamese origin, indicating that the islands on the inside of the line belonged to China.

21 See Chinese State Bureau of Surveying and Mapping, Map World, online: Map World <<http://www.chinaonmap.cn>>.

This argument does not detract from the fact that the origin of the map is clearly tied to a ROC governmental agency. Moreover the argument can easily be reversed, for many Chinese maps can be found that depict the Chinese imperium with as southern edge the southern tip of the Hainan peninsula.

“Acquiescence in the map”

The 2012 AsianJIL Article took note of the argument often made by Chinese scholars that the international community never raised any protest against the U-shaped line as a result of which general acquiescence exists by now. This line of reasoning was countered with the argument that states first must have knowledge of an intelligible claim endorsed by a third state on the international level before they will consider lodging an official protest. The temporal aspect of this reasoning implied that it was only after the transmittal of the 2009 Map to the Secretary-General of the United Nations that other states could and did react as mentioned above.

The 2014 AsianJIL Response countered this argument with a common sense approach. If the claim is normal, no protest is needed. But if the Chinese Ushaped line is as abnormal as asserted by some, would this not have provided a greater impetus and need for interested third states to react.

In reality, however, states refrain from protesting when they are uncertain about the exact maritime claim of another country. As long as any such uncertainty persists, states do not normally lodge a protest, as this is considered to be an unfriendly act. In such cases further clarifications will normally be requested from the state concerned. If these clarifications prove to be satisfactory, a state will refrain from lodging an official protest. If, on the other hand, they prove to be either unacceptable, or simply not forthcoming, states will rather be inclined to lodge such protest.

Recent governmental clarifications of the Chinese claims in the South China Sea

In May 2014, after the Haiyang Shiyu 981 incident,²² the Chinese government started to clarify its claim through a series of letters sent to the Secretary-General of the United Nations for distribution amongst its members. Vietnam retaliated in a similar manner. But unlike China, which always covered the territorial and maritime aspects of the matter in one and the same note, Vietnam consistently separated these issues by sending each time two separate notes instead.

²² In May 2014, the state-owned China National Offshore Oil Corporation moved its Haiyang Shiyu 981 oil platform to waters near the disputed Parcel Islands in the South China Sea. In response, Vietnam lodged protests and multiplied efforts to prevent the platform from establishing a fixed position.

Table 1: Chinese and Vietnamese exchange of letters

China	Vietnam
A/68/887 (27 May 2014)	
A/68/907 (9 June 2014)	
	A/68/942 (9 July 2014)
	A/68/943 (9 July 2014)
A/68/956 (28 July 2014)	
	A/68/980 (27 August 2014)
	A/68/981 (27 August 2014)

Source: All letters are available at <www.un.org/depts/los/general_assembly/other_general_assembly_documents.htm>

The incident of the oil platform between China and Vietnam in other words led to the publication and wide dissemination of several official statements, lifting part of the veil surrounding the legal argumentation advanced by the Chinese government to justify its claims in the South China Sea. As stated before, these letters have particular importance as they emanate from the Chinese government and thus represent state practice. The arguments developed in those letters depart somewhat from those expounded by certain Chinese scholars.

First of all, the Chinese government insists that there is no dispute between China and Vietnam concerning the Paracels. By doing so, Beijing tries to avoid the issue of sovereignty over the islands. This is of course a merely unilateral view, not shared by Vietnam. Properly seized courts and tribunals have had no difficulty in deciding this matter *in limine litis* whenever parties were in disagreement on this point. As a general rule, they apply a rather low threshold to determine the existence of a legal dispute.²³ In other words, whether or not a dispute exists between two states is simply not for one of the parties to decide unilaterally.²⁴

Secondly, China argues that the operation of the platform during the month of May 2014 south of the Paracels was fully legal because, in the absence of any sovereignty dispute, Vietnam has no reason to contest drilling in that area. However, in line with existing case law on the issue, the more plausible starting point appears to be to consider the area in question as being in dispute between the two parties. Having moved from the previous practice of 2D and 3D testing in the past to actual drilling in May 2014, this is however no longer

23 *Mavrommatis Palestine Concessions (Greece v. United Kingdom)*, Publications of the Permanent Court of International Justice, Series A, No. 2, 30 August 1924, 1, 11, available at <http://www.icj-cij.org/pcij/serie_A/A_02/06_Mavrommatis_en_Palestine_Arret.pdf>. Here the Court stated: "A dispute is a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons".

24 *Interpretation of Peace Treaties, Advisory Opinion*, (1950) I.C.J. Rep. 65 at 74. Here the Court stated: "Whether there exists an international dispute is a matter for objective determination.

business as usual as portrayed in the Chinese notes. As clearly explained in the arbitral award between Guyana and Suriname, when an area is in dispute, states should abstain from engaging in certain activities. As remarked by the Tribunal:

In the context of activities surrounding hydrocarbon exploration and exploitation, two classes of activities in disputed waters are therefore permissible. The first comprises activities undertaken by the parties pursuant to provisional arrangements of a practical nature. The second class is composed of acts which, although unilateral, would not have the effect of jeopardizing or hampering the reaching of a final agreement on the delimitation of the maritime boundary.

The Tribunal is of the view that unilateral acts which do not cause a physical change to the marine environment would generally fall into the second class. However, acts that do cause physical change would have to be undertaken pursuant to an agreement between the parties to be permissible, as they may hamper or jeopardise the reaching of a final agreement on delimitation. A distinction is therefore to be made between activities of the kind that lead to a permanent physical change, such as exploitation of oil and gas reserves, and those that do not, such as seismic exploration.²⁵

Thirdly, the Chinese government acknowledges that the legal framework that applies to the platform row is the 1982 Convention. But at the same time the argument that the oil platform was located in China's "contiguous zone" is puzzling for this maritime zone is unrelated to the exploration and the exploitation of the natural resources of the sea-bed and the subsoil.²⁶ Similarly, it is difficult to imagine how straight baselines can be drawn around the Paracels, as they do not meet the requirements for the lawful establishment of either straight²⁷ or archipelagic baselines.²⁸ In this respect, finally, especially the map attached as Enclosure 1 to the Chinese note A/68/907 of 9 June 2014 is noteworthy.

25 *Guyana v. Suriname*, Arbitral Tribunal Constituted Pursuant to Article 287, and in Accordance with Annex VII, of the United Nations Convention on the Law of the Sea, Award of 17 September 2007, paras 466-467 available at <www.pca-cpa.org/showpage.asp?pag_id=1147>. The actual drilling activities undertaken by the Chinese drilling rig in 2014 clearly fall under the first category.

26 1982 Convention, Art. 33. According to this provision coastal states may exercise the control necessary to prevent or punish infringements of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea.

27 1982 Convention, Art. 7.

28 1982 Convention, Arts. 46-47. As the Paracels do not constitute an independent state, they do not fit the definition of Art. 46 and are consequently excluded from the application of Art. 47. See Erik Franckx and Marco Benatar, *Straight Baselines Around Insular Formations Not Constituting an Archipelagic State*, in John Jenner & Tran Truong Thuy (eds.) *The South China Sea: Towards Sovereignty-based Conflict or Regional Cooperation?*, Cambridge, Cambridge University Press, 2015 (forthcoming).

Map 2: Locations of the Chinese company's operation



Source: A/68/907 (9 June 2014), p. 6.

The map shows where the platform was located. There are two red stars to be found because the platform was moved once. But especially the red line in front of the coast of Vietnam has to be noted, for it does not represent the territorial sea of Vietnam nor its contiguous zone but represents in fact one of the dashes of China's U-shaped line. What this line was meant to add to the Chinese legal argumentation in the letter on the basis of the 1982 Convention is once again far from clear.

Conclusions

First of all, the conclusion can be reached that the basic reasoning of the 2012 AsianJIL Article still stands. Even if the unclear U-shaped line had not provoked protest prior to 2009, protesting against concrete Chinese actions on the ground would sufficiently indicate lack of acquiescence to the map. Once the link between the U-shaped line and the maritime claims became apparent in 2009, states in the area did lodge appropriate protests making the Chinese argument of international acquiescence difficult to sustain.

China has recently started to justify some of its actions in the South China Sea by means of letters addressed to the Secretary-General of the United Nations. This implies that they are in fact addressed to the world community at large. Unfortunately, their concrete content has not yet fully clarified the Chinese legal position.

Finally, the importance of the acceptance by all states surrounding the South China Sea of the 1982 Convention as the governing legal framework can hardly be overemphasized. But because of the package deal approach, so essential to the 1982 Convention, it should be kept in mind at all times that cherry picking is simply not a viable option.²⁹

²⁹ 1982 Convention, Art. 309.

Committed to the Law of the Sea: In most ways, except for one

How the United States helps to preserve the international maritime order in East Asia, even though it has not yet joined the Law of the Sea Convention

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The views presented are those of the author and do not necessarily represent the official policy or position of the US Government, the Department of Defense, or any of its components.

Introduction

The world continues to witness an uncertain situation in the waters of East Asia, particularly in the South China Sea and the East China Sea. To resolve this overall situation, there is no “silver bullet”. Yet merely because there is *no* single solution that will resolve the entire situation does *not* mean that nations should take *no* steps to reduce tensions and positively address as many aspects of the situation as possible. In other words, there are definitely positive steps nations can take, including ones that build confidence between claimant and non-claimant states alike.

Some of these steps involve international rules and principles. Much has been said about the importance of a “rules-based” approach to resolving the international disputes in the waters of East Asia and reducing the risks that arise from those disputes.¹ The international maritime order is governed by the law of the sea and reinforced by rules and principles that, if followed by the nations involved, can help to manage and reduce tensions in geographic areas around the world, including in the waters of East Asia. A significant portion of the law of the sea is codified in the Law of the Sea Convention (the Convention – or UNCLOS).²

1 See, e.g., US Assistant Secretary of State Daniel R. Russel, Bureau of East Asian and Pacific Affairs, *Maritime Disputes in East Asia*, Testimony Before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific (5 Feb. 2014).

2 United Nations Convention on the Law of the Sea (UNCLOS), 10 Dec. 1982, 1833 UNTS 397.

The good news is that nearly all of the coastal states surrounding the disputed waters of East Asia have acceded as parties to the Convention.³ Many other nations located in the Asia-Pacific region have also acceded to the Convention.⁴ In fact, 165 out of 193 nations of the world have acceded to it.

One of the few nations of the world that is noticeably absent from that roll-call of state-parties to the Law of the Sea Convention is the United States. This official absence might cause some observers to question whether the United States is truly committed to the rule-set reflected in the Convention.

I will first acknowledge some of the significant ways in which the Law of the Sea Convention contributes to the international maritime order. Then, I will deconstruct the overall situation in the waters of East Asia, and show how a rules-based approach with the Convention can help to improve some of the specific aspects of that situation. And finally, I will discuss the US role in helping to preserve the international maritime order reflected in the Convention, notwithstanding its status as a non-party to the Convention. In the end, this presentation will demonstrate that the United States is committed to the legal regime reflected in the Convention in most ways except for one (i.e., accession).

The Law of the Sea Convention

The 1982 Law of the Sea Convention sets forth a comprehensive legal framework governing uses of the oceans. For example, it established for the first time a maximum breadth of the territorial sea.⁵ In addition, it provided for exclusive jurisdiction of coastal states over economic activities out to 200 miles from shore.⁶ And it set forth an internationally agreed definition of the continental shelf and the procedure to maximize legal certainty regarding the extent of the continental shelf.⁷

The Law of the Sea Convention, together with the 1994 Agreement relating to deep seabed mining and 1995 Agreement relating to fish stocks, provides a public order in the world's oceans. It reaffirms and codifies critical provisions for all of the rights, freedoms, and uses of the sea and airspace. These include the traditional freedoms of navigation and overflight and other internationally lawful uses of the sea in exclusive economic zones and the high seas beyond, as well as the rights of innocent passage, transit passage, and archipelagic sea lanes passage closer to shore. Together, this regime of rights, freedoms,

3 Taiwan, the sole remaining claimant, has not acceded to UNCLOS, as it is not recognized by the United Nations as a nation-state.

4 Russia acceded to the Convention on 12 March 1997, India on 29 June 1995, Indonesia on 3 February 1986. See "Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements as at 20 September 2013".

5 UNCLOS, art. 3 (establishing the right of a coastal state to claim a territorial sea with a breadth of 12 nautical miles).

6 UNCLOS, Part V (establishing the right of a coastal state to claim an exclusive economic zone with a breadth of 200 nautical miles).

7 UNCLOS, Part VI (establishing the right of a coastal state to claim non-living resource rights in the continental shelf).

and uses of the sea enables vessels – including warships and commercial vessels alike – to navigate and operate in the maritime domain, thereby ensuring the mobility on which international trade and global economy depend. It is also the foundation on which the rules for sustainable international fisheries are based. And it provides the legal framework for exploring and exploiting mineral resources on and beneath the seabed beyond areas of national jurisdiction. The Convention also established several international institutions, which are now up and running.⁸ Due to the comprehensive manner in which the Convention has contributed to the international maritime order, it has deservedly lived up to the name it was given by Ambassador Tommy Koh at the time of its birth: “A Constitution for the Oceans”.⁹

The international maritime order in East Asia

One aspect of the situation in the waters of East Asia involves the tension between the interests of coastal states and the interests of user states. Some of the coastal states in East Asia have enacted maritime claims that are excessive, in that they are not consistent with provisions of the Convention.¹⁰ The Convention reflected a negotiated bargain, which effectively balances the sovereignty, sovereign rights, and jurisdiction of coastal states, with the freedom of the seas of user states. This freedom of the seas includes all of the rights, freedoms, and lawful uses of the sea recognized in international law. The Convention includes the basic structural legal foundations on which all states must base their maritime claims, including the maritime zones generated from land features.

A second aspect of the situation in the waters of East Asia involves competing territorial and maritime claims, including unresolved maritime boundaries. Due to geographic limitations in the region, the size of the water space located between many of the neighboring coastal states in East Asia does not allow for those states to claim the full breadth of maritime zones, such as a full 12-mile territorial sea and a full 200-mile exclusive economic zone. The Convention includes important provisions related to the delimitation of maritime boundaries of states with opposite or adjacent coasts (UNCLOS, art. 15 and 74).

A third aspect of the situation in the waters of East Asia involves the ways in which nations may resolve their disputes with other nations. While the United Nations Charter has long called upon nations to resolve their international disputes by peaceful means, the Law of the Sea Convention specifies the legitimate means of dispute resolution for resolving maritime disputes. These provisions have guided coastal states around the world, including in the

8 The Commission on the Limits of the Continental Shelf, the International Seabed Authority and the International Tribunal for the Law of the Sea.

9 Amb. Tommy T.B. Koh, “A Constitution for the Oceans”, 10 December 1982.

10 See J. Ashley Roach and Robert W. Smith, *Excessive Maritime Claims*, Brill Academic Publications, 3rd ed., 2012.

Asia-Pacific region, on how to resolve disputes of maritime boundaries. They include bilateral agreements, such as the agreements between the governments of China and Vietnam in the Gulf of Tonkin in 2000 and, more recently, between the Philippines and Indonesia in May 2014. The Convention provisions have also formed the basis for resolving maritime boundary disputes via third-party forums, such as the 2012 International Tribunal for the Law of the Sea (ITLOS) case between Bangladesh and Burma, and more recently, the July 2014 Arbitration Tribunal case between India and Bangladesh. What is clear in the Convention is that negotiations and third-party forums are *both* legitimate ways of resolving disputes by peaceful means.

A fourth aspect of the situation in the waters of East Asia involves the risk to life and property when vessels encounter one another on the open seas. The Convention assigns the specific responsibilities to flag states for effectively policing the vessels under their respective flag registries. These responsibilities include ensuring the safety of navigation. Article 94 of the Convention, entitled “Duties of the Flag State”, is often overlooked in the discussion of how the law of the sea can help improve the situation in the waters of East Asia. Yet this mini-legal regime within the larger legal regime of the Convention obligates flag states to implement these international obligations into their national laws and regulations, ensure their vessels follow international standards of behavior, are trained to adhere to those standards, and will be investigated and held to account if they fail to follow those standards. Thus, even if the claimant states surrounding the waters of East Asia are unable to resolve their territorial and maritime disputes in the near future, they nonetheless have an obligation to ensure that their government and non-government vessels do not engage in unsafe activities that could escalate into incidents that undermine regional stability.

The role of the United States

Helping to negotiate a balance of interests in the Convention's text

Some nations in the world see themselves as either coastal states or as maritime states, but the United States views itself as both. The United States has one of the longest coastlines of any coastal state in the world, which makes it entitled to one of the largest sets of maritime zones of any coastal state. At the same time, the United States has long been a maritime power, with the world's largest navy and a commercial shipping industry, both of which reach every corner of the globe. For these reasons, the United States has basic and enduring national interests in the oceans, including in the waters of East Asia. Among these national interests are the freedom of navigation, a respect for international law, the security and stability of the region, and unimpeded commerce and economic development.¹¹ One of the greatest enablers of pro-

11 For a recent reference, see US Assistant Secretary of State Daniel R. Russel, Bureau of East Asian and Pacific Affairs, *Maritime Disputes in East Asia*, Testimony Before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific (5 Feb. 2014).

tecting those US interests around the world, including in the waters of East Asia, is the international maritime order largely framed by the Law of the Sea Convention.

During the ten years of international negotiations of the Convention, the United States played a significant role in the drafting and negotiating process. Yet President Reagan – who was the US president at the time the Convention was concluded in 1982 – decided not to push for US accession to the Convention.¹² The rationale for his decision at that time was similar to the thinking of some other nations who initially opposed it: specifically, they considered provisions of Part XI of the Convention concerning deep seabed mining to be flawed.

Those concerns went away in 1994, when the nations of the world concluded the Agreement Relating to the Implementation of Part XI. The then President, Bill Clinton, submitted the Convention and the Agreement to the US Senate, and recommended that the Senate give its advice and consent on both.¹³ Two decades later, however, the Convention and the Agreement continue to sit in the queue of pending treaties before the business of the US Senate.

Attempting repeatedly to join to the Convention within the US constitutional system

On several occasions over the past two decades, US presidential administrations have made a push for the US Senate to give its advice and consent to accession to the Convention, but without success. What is important to recognize is that these efforts have included presidential administrations of both political parties in the United States: President Obama,¹⁴ both Presidents Bush,¹⁵ and President Clinton.¹⁶ The most recent such effort was by the Obama Administration two summers ago. During that effort, an unprecedented number of senior leaders of the Executive Branch of the US Government testified before the US Senate Foreign Relations Committee in support of US ratification.¹⁷

Yet, as with many democracies in the world, the constitutional power of the US Government to enter treaties is a power that is shared between the executive branch and the legislative branch. For the United States to accede to an international treaty, the US Constitution requires an affirmative vote by two-thirds of the 100 members (i.e., 67 members) of the US Senate. And, in

12 US President Ronald Reagan, *Statement on United States Oceans Policy* (10 March 1983).

13 See US President Bill Clinton, Message from the President of the United States: Letter of Transmittal, S. Treaty Doc. No. 103-39 (1994).

14 For example: US President Barack Obama, *National Security Strategy*, May 2010.

15 For example: US President George W. Bush, *President's Statement on Advancing US Interests in the World's Oceans*, 15 May 2007.

16 For example: US President Bill Clinton, Message from the President of the United States: Letter of Transmittal, S. Treaty Doc. No. 103-39 (1994).

17 For a transcript of the committee testimony by all of these senior US officials in support of US accession to the Convention, see *The Law of the Convention (Treaty Doc. 103-39), Hearings Before the S. Committee on Foreign Relations*, 112th Cong. (2012).

the summer of 2012, the Obama Administration's effort to successfully ratify the Convention was brought to a screeching halt, when 34 members of the US Senate publicly indicated¹⁸ that they would oppose the Convention if it was brought to the Senate floor for a vote – thereby making a two-thirds vote a numeric impossibility. Two years later, even though there is a different Senate in office than the one in 2012, 32 of those 34 opponents are still seated in the Senate. Thus, the odds of a US Senate vote to provide its advice and consent on the Convention in the near future remain questionable.

In my personal opinion, the United States should join the Convention as a State Party. Legally, accession would enable the nation to enjoy the legal benefits that the Convention affords a party as a matter of conventional law, with more durable certainty. Politically, US accession would further demonstrate to other nations the US commitment to the rules-based and balanced approach of rights and responsibilities that the Convention reflects. More important than what I personally believe, the executive branch of the US Government supports and has long supported US accession to the Convention, in particular when discussing the ongoing situation in the waters of East Asia. In May of this year, President Obama acknowledged this challenge for the United States in his speech before the graduating cadets at the US Military Academy.¹⁹ He stated: "You see, American influence is always stronger when we lead by example ... We can't try to resolve problems in the South China Sea when we have refused to make sure that the Law of the Sea Convention is ratified by our United States Senate, despite the fact that our top military leaders say the treaty advances our national security."

In short, the noticeable absence of the United States in the roll-call of member-states to the Law of the Sea Convention continues to handicap US efforts in the international community to promote the rules-based approach reflected in the Convention, particularly in the ways it can aid in resolving maritime-related disputes in the South China Sea. Yet, as a US citizen, I fully respect the US Senate's constitutional role in the treaty-making process.

Respecting the Convention's rules as customary law

US accession to the Law of the Sea Convention in the immediate future might not be possible. Yet US presidents of both political parties have taken the maximum possible action within their legal authority to respect the law of the sea, by declaring that many of the rules contained in the Convention reflect customary international law, and by acting accordingly. Moreover, US military commanders and forces are instructed to adhere to customary international law, including that reflected in the Law of the Sea Convention. On a more practical level, this author always has a copy of the Convention on his office desk and routinely relies upon many of the rules of law contained therein

18 For example, see: Letter from 31 US Senators to Senate Majority Leader Harry Reid, available at: <http://heritageaction.com/stoplost/senators-oppose-lost-in-letter-to-majority-leader-harry-reid/>

19 US President Barack Obama, Remarks at the United States Military Academy Commencement Ceremony, West Point, New York (28 May 2014).

as a reflection of customary international law when advising his military commander-clients and their staffs on law of the sea matters.

Preserving the Convention's regime as both a maritime state and a coastal state

To further demonstrate its support for the Convention's legal regime, a succession of US presidents over the past three decades have directed a multi-agency US Freedom of Navigation Program to preserve the nation's rights, freedoms, and lawful uses of the sea and airspace throughout the world. Of note, this US interest in freedom of navigation has included maintaining that freedom in the waters of East Asia, as demonstrated by a combination of public statements, diplomatic correspondence, and operational activities. Through the 1980s, 1990s and 2000s, the US Department of State has diplomatically protested and the US Department of Defense has operationally challenged excessive maritime claims asserted by nations in East Asia that are inconsistent with the Convention. These US efforts to preserve the legal regime reflected in the Convention are transparently documented in the US Department of Defense's *Annual Freedom of Navigation Reports* and its *Maritime Claims Reference Manual*, both of which are available to the public on the Internet.

At the same time, the United States has demonstrated support for the Convention's legal regime through its actions as a coastal state, to include respecting all of the rights, freedom, and lawful uses of the sea and airspace exercised by other states. For example, when vessels and aircraft from foreign militaries, such as Russia²⁰ and China,²¹ conduct military activities in and over the US exclusive economic zone, the United States has fully respected this "other internationally lawful use of the sea" by foreign militaries reflected in the Convention.

Conclusion

Whether acting as a maritime state or as a coastal state, the United States has demonstrated its respect for the legal regime and maritime order reflected in the Law of the Sea Convention. Given this history of words and actions by the US Government, a question worth considering is: How many nations in the world have done as much as the United States to preserve the legal regime reflected in the Convention? Or, to phrase the question another way: Assuming that US accession to the Convention in the near future is not possible, what more could the United States do in order to demonstrate its commitment to the legal regime reflected in the Convention and the maritime order in East Asia?

20 For example, in the summer of 2010, the *Washington Times* reported that Russian bombers were conducting air operations over US airspace; Bill Gertz, "Inside the Ring", *Washington Times*, 7 July 2010.

21 In recent years, China's Navy has conducted military activities in the US EEZ around Guam and Hawaii, and the United States has not challenged China's freedom to engage in such military activities. US Dept. of Def., *Annual Report to Congress: Military and Security Developments Involving the People's Republic of China*, 2013. Most recently, China's Navy operated a surveillance ship in the US EEZ around Hawaii during the Rim of the Pacific 2014 Exercise; William Wan, "Chinese Spy Ship Lurks Around U.S.-Led Pacific Naval Drills", *Washington Post*, 21 July 2014.

Competing Identities, Arms Races and Proliferation

Revisiting the Asian Values Debate in the mid-2010s: Competing identities and the case for cooperation or conflict

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National identity divides are showcased across the Asia-Pacific in prominent bilateral relations – Sino-US, Sino-Japanese, and South Korean-Japanese – as well as others that are drawing less attention. They signify that efforts to reconstruct one state's identity are inextricably linked to denigrating another's identity.¹ This contrasts sharply with the hope, just a decade or so ago, that some sort of East Asian community would arise based on a vision of some shared aspects of regional identity. I call these inversely related patterns “widening national identity gaps”, where countries define their own identity in ways that are directly contrary to, even demonizing of, another's identity, without respecting it and trying to reduce the boundaries between them. Rather than national interests guiding foreign policy and public opinion, we are seeing these emotionally charged reconstructions of what a nation stands for – its past, its present and its destiny – in the forefront in our decade.

Looking back to the lively debate on Asian values of the 1990s, how should we interpret accelerating clashes in national identity? Is there a basis for a revival of interest in values that are shared, perhaps as part of a joint search for an East Asian community – a theme that was popular in the 2000s? Have the intensifying demands for distinct national identities, which target other states with “alien” values, made it less likely that international norms will be embraced in the region? These questions bear heavily on the prospects for cooperation or conflict in a region increasingly integrated economically, but suffering from deepening conflicts over territory, security, and geopolitical objectives. Behind such conflicts are insistent claims about national identity rooted in arguments about history, civilizations, or distinct regional destinies.

The Asian values debate, centered in Southeast Asia states (Singapore and Malaysia, above all), was sandwiched between two other debates about Asian distinctiveness. One was the Japanese debate, gathering steam in the

1 Gilbert Rozman, ed., *National Identities and Bilateral Relations: Widening Gaps in East Asia and Chinese Demonization of the United States*, Washington, DC and Stanford, CA, Woodrow Wilson Center Press and Stanford University Press, 2013.

1980s, about how Japan's values and its cultural identity would lead to a kind of regional challenge to US-led identity, making of Japan the champion of Asia as a cultural leader and not just as an economic one. The other is the more recent Chinese emphasis on how Eastern civilization led by China will unite Asian states against a civilization based in the West, serving imperialism or American hegemony, not developing states. In all three cases, the goal has been to rally Asians against continued US leadership and provide a foundation – along with recent economic dynamism – for regional cooperation or even integration. What distinguished these appeals for “Asian values” was the appearance of one champion after another, each perceived as having ulterior motives, and the insistence on a particular historical narrative apart from shared claims that Confucianism or some offshoot of it is the key to stronger state authority, less individualism, greater thirst for education, and other virtues, which are contrasted with undesirable US-centered values.

The bursting of the Japanese “bubble” economy eroded Japan's claim to make “harmony” the central value in the region. But that wasn't the only thing that eroded Japanese claims. Japan was driven heavily by a different set of values. The sense of Japanese distinctiveness, of Japan's own history being justified made Japan's effort to win over partners more unlikely.

The Asian financial crisis undercut the appeal of Asian values, which were associated with both the South Korean “economic miracle” and Southeast Asian dynamism before 1997. In essence, the thinking was that the end of the Cold War meant the rise of Asia; that it would rise as one, and that, since there was no particular central power in Asia, different countries would rise together without going through some of the challenging struggles that other regions endured.

In the case of the discrediting of Chinese civilizational triumphalism, the starting point is not economic collapse, but a combination of hyperbolic narratives about a glorious past (a 180-degree turn from the Maoist view of the Confucian era), insistence by the Communist Party that it is the sole champion of Eastern civilization (as if communism all along was devoted to harmony rather than class struggle), and aggressive rejection of “universal values.” In each case, there was no regional unity behind the boosters of the extravagant claims. No matter how much sympathy was given to the overall effort to distinguish the region from the United States and the West, Japan let its revisionist view of history, former Prime Minister Mahathir of Malaysia let his anti-cosmopolitan thinking, and President Xi Jinping is letting his communist view of the past cast doubt on appeals to speak for a wider, regional perspective.

Rather than a joint search for shared values within East Asia or affirmation of the values suitable for an international community, China has led the way in insisting that its values represent the developing world and the Asian heritage in questioning the course of modern history centered on the West. Japan and South Korea have no prospect of forging a joint sense of values with China, and take for granted shared values with the United States and the West while behaving in a manner that brings differences to the surface, and sharply con-

trasting their own values with the other's. Japan in particular is reaffirming those universal values strongly, although at the same time Prime Minister Abe's leadership raises more questions about how to establish shared values with South Korea, which I regard as the most important challenge for Japan in becoming a champion of binding regional and universal values.

In the driver's seat is China. What has happened over the last ten or fifteen years has largely been a reaction to China. What is China seeking? How has its views evolved? What's driving it? In the early 1990s, despite the shadow of the Tiananmen massacre, neighbors were hopeful that the end of international communism would prompt a return to Confucianism as a regionally inclusive theme. In the early 2000s they were again optimistic that China's embrace of regionalism would lead to a joint search for a vision for the projected East Asian community. Such hopes have been dashed since China's abrupt policy shifts in 2009. This was not really unexpected. You could see this trend building from the late 1980s. Under Xi Jinping, the concept of the "China dream" – calling for the rejuvenation of one nation, not a region – is placed in the forefront.

It has become clear that the stark choice of our times is either acceptance of China's claim to define Asian values or reaffirmation of internationalization based on recognized universal values. Countries resist recognizing the limitations inherent in this narrow dichotomy, and Russia has joined that dichotomy, with Moscow expressing what overlaps heavily with the Chinese debate about civilization, identity and challenging the West. Those in China who would keep open the possibility that the state can either work within the existing international community or endorse "the ASEAN Way" as the driver of a regional community are marginalized and under increasing pressure. The Japanese public has increasingly supported an enhancement of Japanese power that embraces the international community. . I think that their growing responsibility for international security norms is a welcome sign of this, but right in the midst of all this they are also befuddled by the effort to enliven Japanese revisionism.

So how do we build up Obama's "rebalancing", which all the countries surrounding China except for a tiny number appear to be embracing? How do we strengthen the fundamental alliance between the United States and Japan so that the value part of that alliance comes fully into the picture? These, I believe, are the challenges that we all face. There is a case for cooperating more heavily in support of an overlapping regional and international identity without giving way to any of these notions of Asian values. But as countries build up their own national identity in response to greater challenges, the danger from demonizing one's neighbors is intensifying.

American leadership is lacking in articulating a vision of an Asia-Pacific community embedded in the international community, which would complement Obama's "rebalancing". South Korea's narrow focus on Northeast Asia and its hesitation to recognize the Chinese challenge and Japan's potential for partnership weakens its leadership potential. ASEAN leadership rests on

whichever of the ten countries is the upcoming host, which has weakened it of late. The combination of Chinese usurpation of Asian values and fragmented support for universal values leaves a vacuum, now being filled by narrowly reconstructed national identities targeting neighbors or the United States, and thus failing to unite nations.

The case for cooperation in support of an overlapping regional and international identity is becoming more compelling. Security is imperiled. Rival proposals for regionalism are in doubt, and, even if they succeeded, could have a divisive effect. As noted above, the risks arising from the demonization of neighbors are escalating. Idealists may still hope that a grand understanding between Chinese and US leaders will turn things around, but we have seen no such outcome from the effort to build on Xi's "new type of major power relations", which added to worries in the region, notably in Japan. In 2014 the only real hope came from US-led diplomacy with South Korea and Japan. If Prime Minister Abe and President Park's mutual antipathy continues to be beyond US repair efforts, and the Obama administration persists in seeking to put out fires rather than formulating strategies, then there is no reason to think that the recent drift will be reversed.

From the European point of view, the response to Russia is crucial, because Russia is also saying now that it is predominantly an Asian power. It is moving strongly toward Asia, but what is it going to do with Asia? Will it work with China in forming a joint community? In this context, it is up to countries in Europe to make clear how far they support the US rebalance in Asia and how much they are committed to the joint effort in Asia to manage the new challenges in that region. The question also arises as to what extent Asian countries can support the European community and the United States in dealing with Russia's challenge to the western community. Meanwhile, despite Japan's earlier hesitation, it has inevitably moved toward supporting the joint effort against Russia over Ukraine. Other questions include: Can France support the struggle that Japan and others are facing in East Asia? And can Japan support the struggle that countries in the Western sphere are facing? These are the new challenges. We are no longer in the middle of the Cold War, in a polarized world where we had to work together as partners from the West and East against the Soviet threat and for a time the Chinese threat. The essential question that we now face is: Are Asia and Europe two separate spheres or are we all part of an international community that we need to build up together?

Racing for Arms in Asia: Implications for the balance of powers and norms

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China is a major trigger for arms races in Asia

The Asia-Pacific region or the Indo-Pacific region is vast and full of inter-state tensions and conflicts. The region has six nuclear states, if we count North Korea and Russia. According to *Military Balance 2014*, the total amount of defense expenditures that the Asian region spent in 2013 was \$322 billion, and that of the United States was \$600 billion. If the two regions are added to make up the Indo-Pacific region, the total amount of defense spending is \$922 billion, or 59% of the whole world's defense expenditure (about 21% for Asia and 38% for the US). The Asia-Pacific region is becoming a dangerous region.

Table 1: Defense expenditures by region, 2013

	\$bn	% of world defense expenditures
Canada	16	1
United States	600	38.5
Asia	322	20.7
Europe	279	17.9
Russia and Eurasia	78	5
Middle East and North Africa	168	10.8
Latin American and the Caribbean	71	4.6
Sub-Saharan Africa	23	1.5
TOTAL	1,557	100

Source: *The Military Balance 2014*, p. 492

Inter-state conflicts tend to initiate arms races. If nations are economically rich and technologically confident, they can afford to acquire sufficient arms to compete with their opponents. If they are not so confident, they tend to seek the support of their friends or regional and international organizations such as ASEAN and the United Nations. All of them seek the balance of power in their own ways.

Prominent inter-state politico-security frictions in Asia today include India-Pakistan, India-China, ASEAN-China, China-Taiwan, China-US, Japan-China, Japan-South Korea, North-South Korea, and North Korea-US relations. Out of the arms races directed by these nine conflicting relations, only two races are taking place between somewhat "equal rivals": the India-China rivalry and the China-US rivalry. The other races are between unequal parties. If a race is between unequal parties, it is not even a race. Some of the ASEAN members, being harassed or alarmed by China's assertive actions in the South China Sea, have sought to possess submarines, coastguard ships, fighters and radar systems to deter China's naval activities. However, ASEAN nations do not expect to compete with China, because the latter is too strong. The Philippines has strengthened security ties with the United States and has been provided with three coastguard ships by Japan. Vietnam will soon receive six ships from Japan. They are not running an arms race with China, but they are preparing themselves for potential hedges against China's naval activities. They also want to acquire these modern arms, partly, for national prestige.

Japanese-Chinese relations today are in difficult conditions. Japan dismisses China's claims for the Senkaku Islands because it was only in 1971 that China suddenly started to claim the islands. In November last year, China unilaterally established its Air Defense Identification Zone (ADIZ) in the East China Sea, a zone that overlaps with Japan's ADIZ and covers the Senkakus. Japan alone cannot cope with China's encroaching expansionism in the Western Pacific. The Abe government decided in July 2014 to expand Japan's security role by reinterpreting its constitution and by strengthening its security ties with the United States. Again, Japan is not in an arms race with China, but is seeking to deter Chinese power in East Asia.

As we see here, inter-state conflicts do not always initiate arms races. Nonetheless, an Asian arms race is, to some extent, being triggered by China, which has grown its military potential impressively, through a double-digit increase in its defense budget over the last two decades and the accumulation of a large quantity of modern naval and air force weapons. Triggered by China and helped by the general economic growth of Asia, most Asian countries have also increased their defense budgets.

Some specialists may argue that this is the "weaponization" of Asia. Such a claim may be only partially substantiated. Recent reports show that arms industries have grown in South Asia and are growing in some ASEAN countries such as Singapore and Indonesia. However, on the whole, Asia's military spending is still relatively low, about 1.42% of GDP, compared to 3.7% for the US, 2.69% for Russia and Eurasia, and 5.01% for the Middle East and North Africa. Nonetheless, China's military spending is overwhelming. Its budget for 2013 was \$112 billion, or 34.7% of Asia's total. This is an officially announced figure; China's actual spending is speculated to be two or three times larger. Besides, its official budget for 2014 is \$137 billion.

Table 2: Military expenditures by country and region, 2013

	\$bn	%GDP
United States	600	3.7
China	112*	1.24
India	36.3	1.84
Japan	51	0.99
Russia and Eurasia	78	2.69
Middle East and North Africa	168	5.01

* Defense budget; defense expenditure for 2012 was \$146bn

Source: *Military Balance 2014*, pp. 230, 488, 492

Implications of arms races for the regional balance of power

Visible and low-level arms races taking place in sub-regions collectively affect the balance of power of the Indo-Pacific region. The Pakistan-China alignment, together with Beijing's growing influence in Sri Lanka, Bangladesh and Nepal, has surrounded India with "a string of pearls". India has thus sought to retain the balance of power by leaning closer to the United States, Japan and Australia. As was mentioned earlier, the absence of a visible arms race in the South China Sea appears to give China a favorable balance of power, but those Southeast Asian nations that are affected by China's assertive claims have developed strong security ties with the US, Japan and Australia. The US signed a new military cooperation agreement with the Philippines, while Japan has provided patrol ships to Manila and may do so to Vietnam as well. However, the balance of power over the South China Sea is likely to remain favorable to China because of geographical proximity to its homeland.

China has sent naval ships, fighters and reconnaissance planes around the Senkaku Islands. Using an international strait between Japan's southwestern islands, Chinese naval ships and military planes frequently go out to the Pacific, attempting to establish their presence. In November 2013 the People's Liberation Army (PLA) set up an Air Defense Identification Zone (ADIZ) over the East China Sea, as was mentioned before. Despite these naval and air activities by China, the balance of power in the East China Sea is still favorable to the Japanese-US alliance.

Sub-regional arms races in the Korean peninsula complicate the balance of power. The arms race between North and South Korea favors the south in that South Korea has superior arms, facilities and level of training. The US-South Korea alliance also is crucial in maintaining a favorable balance of power. Kim Jong-un's unpredictable behavior is, however, a source of concern, as he has nuclear arms in his hands.

On the whole, high- and low-level arms races, through which China's influence is fast expanding, sustain the regional balance of power in favor of the United States and its like-minded partners.

Implications of arms races for regional norms

Increasing armaments in the region strongly suggest the need to control the rate of defense budget growth. For this purpose conflicting states need to build or restore trust between and among themselves. The region also has to reach agreements on a formula for solving bilateral and regional conflicts.

The Indo-Pacific region severely lacks regional norms. There is a long list of concepts and conferences that suggest, or indicate the potential for confidence-building measures, preventive diplomacy measures, and regional arms-control agreements. Among three prominent sub-regional organizations in Asia, ASEAN works far better than the six-party talks and SAARC (South Asian Association for Regional Cooperation). With ASEAN sitting in "the driver's seat", a few important institutions have emerged: ASEAN's bilateral summits with non-ASEAN countries in the Indo-Pacific region; the ASEAN Regional Forum (ARF); the ASEAN Defense Ministers Meeting Plus (ADMM Plus); the East Asia Summit, and so on. Meetings are a first step for finding solutions. Yet there is no actual mechanism for settling disputes. ASEAN and China, for example, have been negotiating on a code of conduct to set principles for settling disputes in the South China Sea. But there is no end of the negotiations in sight. Japan has proposed to establish "a bilateral maritime mechanism" with China to prevent incidents at sea. So far, China has declined to discuss this. However, at the Western Pacific Naval Symposium held in April 2014, China did accept the proposed Code for Unplanned Encounters at Sea. This is an encouraging development.

A few international norms introduced by the United Nations are actually functioning in the region fairly satisfactorily. The truce agreement among the UN forces, PLA and North Korea's People's Army over the 38th parallel, signed in 1953, and another truce agreement between India and Pakistan over Kashmir, signed in 1972, have managed to prevent hostilities from breaking out along the truce line, despite sporadic violations. The UN Security Council's resolution for sanctions against North Korea for developing nuclear arms and long-range missiles is also working. UNCLOS provides the principal rules in setting national demarcations such as territorial waters and EEZ. The International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea have played crucial roles in their respective areas. The Missile Technology Control Regime (MTCR), which started with a US initiative in 1987, functions fairly well, too. It has now 37 members, but China and North Korea are not members, although China pledged in 1992 to "adhere" to MTCR policies. This is not working perfectly, but reasonably satisfactorily.

On the other hand, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) has failed miserably in Asia, as India and Pakistan went nuclear by

refusing to join the “non-nuclear club” while North Korea, which had acceded to NPT in 1985, withdrew from it in 2003 and went nuclear in 2006. The Indo-Pacific region has a long way to go before achieving regional norms of settling regional tensions.

Concluding remarks

The Indo-Pacific region has many tensions and conflicts, which stimulate sub-regional arms races. However, some small states tend not to choose competition with a big state, typically China. Instead, they seek stronger security ties with the United States and Japan. Thus there is no arms race in the South China Sea.

As many countries become economically richer, they tend to acquire more expensive arms, intensifying arms races. Although most sub-regional arms races grow out of binational or sub-regional tensions, the balance-of-power games at sub-regional level grow to become a region-wide balance-of-power game. The US-China rivalry is in the center of the regional balance of power.

States in the region should strive to introduce regulations and treaties to prevent sub-regional tensions from developing into armed conflicts. The rule of law should prevail in the region, but it is difficult when a big state such as China is eager to change the regional order by force. It is, therefore, important to encourage China to play a responsible role in developing norms and to see the value and utility of the rule of law prevailing over the use of force.

Nuclear Norms and Practices in the Asia-Pacific Region

Does Asia have its “own nuclear values”?

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From a normative point of view, three out of Asia's four nuclear countries (China, India, North Korea, Pakistan) remain outside the main international framework. They are not parties to the Non-Proliferation Treaty (NPT), have not ratified the Comprehensive Test-Ban Treaty (CTBT) and do not belong to the Nuclear Suppliers Group (NSG).

The debate on nuclear proliferation resembles the debate on the climate-change problem. Highly industrialized countries tell Asian countries that they have to reduce or stop increasing their greenhouse-gas emissions. But Asian countries say that the highly industrialized countries have benefited from the growth of greenhouse gases. This is not an artificial parallel, but says something profound about the rise of Asian countries on the international scene, the emergence of China and India in particular, and the various implications. The current dialogue between Western countries and these two big emergent countries in the nuclear realm resembles the one that is taking place concerning climate change.

Asian nuclear countries subscribe to many *de facto* norms. In the field of nuclear doctrine, they all subscribe to the most important norm, which is deterrence. This was not a given in the 1990s, when scholars were thinking about what it would mean to have new emergent nuclear nations appearing on the international scene; it was not clear whether they would follow a doctrine of deterrence or not. But they did – and they still do. Even North Korea, at least on paper, professes to have a doctrine of deterrence. There are other *de facto* norms to which Asian countries subscribe, including in the area of testing. Apart from North Korea, no Asian country has tested since 1998. This is a sign of the fact that Asian countries consider that they are bound by a set of *de facto* political norms. But the main question is: To what extent is Asia different from the “old nuclear world” (the United States, Europe and Russia)?

First of all, there is no real “Asian way” in the nuclear realm, because there is a diversity of doctrines and practices. When you examine details, there is a large diversity. As regards doctrine, these range from an absolute “no first use” for China (at least on paper – but political statement creates realities) to an “early first use” option in the case of Pakistan. In terms of nuclear control, it

ranges from an apparently very tight civilian and political control in India to *de facto* military control in Pakistan.

Several Asian countries, particularly India and Pakistan, claim that they think differently regarding nuclear military power. I consider this kind of statement as a “self-serving rationalization”. In my opinion, to a large extent China, India, Pakistan and North Korea consider their nuclear weapons in much the same way that Russia does. I call it “nuclear nationalism”, where nuclear weapons capability is bound up with national political identity, or at least the image that these countries want to project on the international scene. If there is any difference of approach, it may be between the current nuclear culture of Western countries (the United States, France and the United Kingdom) and all the others.

However, there are two common points: a “relaxed” nuclear operational posture (at least for now) and the increase of ballistic and nuclear arsenals.

Taking a prospective approach, will Europe's past be Asia's future? Are Asian countries just catching up, and will they find themselves in a situation that will more or less resemble what happened in the East/West context? The four Asian nuclear countries have not reached the point where they are satisfied with the level of their nuclear arsenal. They are only now beginning to transition to nuclear weapons “at sea”, which may profoundly alter their nuclear practices, doctrines and strategies – as well as profoundly alter nuclear stability in Asia. Also, there is a learning curve in nuclear matters. For the learning curve on both sides, what happened in 2001 and 2002 in South Asia may have been the equivalent of the Cuban missile crisis.

Prospects for arms control do not bode well. In the nuclear realm, arms control is fundamentally a bilateral process. It is difficult to imagine a multilateral arms-control regime. Maybe there will be some form of arms control in the India-Pakistan context, but the massive presence of China will preclude going far along that path.

In any case, it is clear that the main nuclear dangers today arise in Asia, because of the combination of four elements: the strength of nationalism, the multilateral character of the Asian nuclear scene, the absence of a territorial and a strategic *status quo*, and the fact that Asian nuclear countries are still, and will be for a number of years, on the path of building up rather than stabilizing. Despite what is happening in Europe, despite what is happening in the Middle East, the real nuclear risks arise in Asia, and that will remain the case for a long time.

How are Asian Powers Going to Reshape International Norms and Practices?

Asian Powers and Norms for Trade

Asian Approaches to the International Trade System

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The current situation concerning the international trading system could best be described as incredibly messy, confusing, opaque and chaotic. The trading system that was set in place by the General Agreement on Tariffs and Trade (GATT) in 1947, and inherited by the World Trade Organization (WTO) in 1995, has effectively broken down. There is no global trade order. There is disorder. There are no trade wars, but nor is there trade “peace”.

While the export-oriented Asian “miracle economies” – Japan, the “Four Dragons” and China – greatly benefited from the system, their “success” in part accounts for the current systemic failure. What would seem to be, at the moment at least, the “coup de grâce” to the WTO and its Doha Development Agenda (DDA) was delivered by another Asian power, India (albeit not a major export power¹) through its refusal to endorse the implementation of the Bali Trade Facilitation Agreement. Next year, 2015, will mark the 20th anniversary of the WTO – and fourteen years since the launching of the DDA, but on the basis of current trends there will be nothing to celebrate – unless there is some sudden dramatic and unexpected breakpoint.

The situation is further exacerbated by the “geopoliticization” of trade. Virtually all Asian nations have neighborhood issues. These have been to some extent overcome in East Asia, where nations involved in territorial disputes still engage in cross-border trade and investment, but that is not the case in South Asia. One of the most egregious examples is the paucity of trade between India and Pakistan, much of which is smuggling. Moreover, the rise of nationalism in the region must be mentioned.

This geopoliticization is visible in a number of trade initiatives. The Trans-Pacific Partnership (TPP) is above all geopolitical, reflecting the US’s “Pivot to Asia” policy for containing China, while providing Tokyo with an opportunity to strengthen its relationship with Washington.² The proposed

1 Whereas China is the world’s No. 1 export nation, India comes in 17th behind Japan (5th), South Korea (7th), Hong Kong (12th), Singapore (13th) and Taiwan (16th).

2 Jean-Pierre Lehmann, “Mega-regionals: a geopolitical perspective”, *Mega-regional Trade Agreements*:

China-Korea-Japan FTA has been languishing for decades, due to the fraught relations between Japan and its two major geographic and economic neighbors.³ The goal of creating an integrated ASEAN Economic Community in 2015 may be jeopardized by growing intra-ASEAN tensions, local politics, and disagreements over China policies. Finally, the Asian trade picture is hardly uniform. As a generalization, it can be said that, while East Asia is highly active in global trade,⁴ South Asia is far less present.

Historical patterns and dynamics

The history of the Eurasian continent can be written in terms of trade. Throughout much of the continent's history, "globalization" – the cross-border movement of goods, capital, knowledge and people – was driven more by Asians than by Europeans. Europeans were more on the receiving end.

The great break in the prevailing Eurasian historical patterns of trade and power, comparable to the seismic effect arising from China's sudden rise in the late 20th/early 21st centuries, was the emergence of the Portuguese sea-borne empire at the turn of the 15th/16th centuries.⁵ The Portuguese (followed by the Spaniards, the Dutch, the British and the French) developed navigational technologies and significant strides in cartography that propelled them to circumnavigate the globe and "discover", then colonize, the New World. This, to put it in contemporary jargon, was a game-changer. Whereas Europeans had been peripheral in the Eurasian trade paradigm, they became central and ultimately predominant, especially following Western Europe's industrial revolutions. This was the new paradigm that lasted for the ensuing centuries and may only now, possibly, be changing.

Thus, whereas, according to the calculations of the late Angus Maddison,⁶ Western Europe's share of global GDP amounted to some 18% in 1500 and Asia's close to 70%, by 1913 the figures were 50% for the West (Western Europe 35% + US 15%), while Asia's had dwindled to 22%. In the course of the late 18th and 19th centuries, all of Asia (with the exception of Japan, which we will come back to) was dominated by European (predominantly British) trade policy. Britain used India as a market for its industrial goods and controlled sale of Bengali opium to China, which led to the Opium Wars (1839-1842

Game-Changers or Costly Distractions for the World Trading System? World Economic Forum: http://www3.weforum.org/docs/GAC/2014/WEF_GAC_TradeFDI_MegaRegionalTradeAgreements_Report_2014.pdf

3 Jean-Pierre Lehmann, "The China-Japan-Korea Triangle", *The Globalist*, 010313: <http://www.theglobalist.com/storyid.aspx?StoryId=9918>

4 This applies not only to cross-border trade in goods and services, but also to the dynamics of the 21st century global supply chains. Jean-Pierre Lehmann, "China and the Global Supply Chain in Historical Perspective", World Economic Forum Global Agenda Council on the Future of Trade: *The Shifting Geography of Global Value Chains*, 2012: http://www3.weforum.org/docs/WEF_GAC_GlobalTradeSystem_Report_2012.pdf

5 C.R. Boxer's *The Portuguese Seaborne Empire* (1969) remains a masterpiece, as is his earlier *The Dutch Seaborne Empire* (1965).

6 Angus Maddison, *The World Economy*, Vol I: *A Millennial Perspective*, and *Historical Statistics*, Vol II (2006).

and 1856-1860) and the genesis of China's long century of humiliation and economic collapse.⁷

The historical experience of some two centuries could lead quite logically to the view that trade and imperialism are synonymous.⁸ It is not, therefore, surprising that, as Asian (and Latin American and African) nations sought to remove the imperialist yoke in the 1950s and 1960s, anti-trade policies of autarky and import-substitution industrialization arose. This was especially strong in India, where the latter was a key component of "Nehruvian socialism". Indian economic policy has undergone quite substantial change following the reforms instituted in 1991. Nevertheless, there is an atavistic legacy of suspicion vis-à-vis trade and globalization that remains to this day.

The Japanese exception

In the course of the 19th and 20th centuries a handful of Western nations conquered and controlled the entire planet. The *only* exception was Japan. Following a dramatic policy-induced transformation in the course of the 1870s, the likes of which were not replicated until arguably the Chinese reforms under Deng Xiaoping launched in the late 1970s, Japan not only survived the Western imperialist age intact but indeed emerged within a few short decades as an industrial and imperial power in its own right.

While Japan indubitably set a model of economic growth, development and management in Asia, it has also created geostrategic confusion. Japan's success over the last century plus arises not just from emulating the West but in many respects also from joining the West. Like the major Western nations, it became an industrial power and also a colonial and imperialist power. However, whereas the British and the French extended their imperialist powers in the far-flung continents of Asia and Africa, Japan colonized or otherwise subjugated its neighbors: Korea, China and, briefly, much of Southeast Asia during World War Two.⁹

In the course of the post-war decades of the American century and the Cold War, in the conflict between "East" and "West", Japan was part of the "West". It was the first Asian nation to join the Organisation for Economic Cooperation and Development (OECD) – in 1964, the same year as the Tokyo Olympics – and remained the only one until joined by South Korea more than thirty years later (1996). Japan joined the GATT the following year, 1965,

7 For a recent very good academic work on the opium wars, see Julia Lovell, *The Opium War: Drugs, Dreams and the Making of China* (2012).

8 Especially during the 1950s to the 70s, there was quite an abundant literature on the perils of developing and decolonizing countries engaging in foreign economic activities, including both trade and investment. Most influential was the Argentine economist Raúl Prebisch (1901-1986), who developed the "dependency theory": when "peripheral" countries engage in trade with the "metropolitan" powers, they will ineluctably be drawn into a neo-colonialist state of economic subservience and dependence.

9 Jean-Pierre Lehmann, "Japan needs to rethink its Asian diplomacy", East Asia Forum, July 2014: <http://www.eastasiaforum.org/2014/07/15/japan-needs-to-rethink-its-asian-diplomacy/>

and subsequently became a member of the informal ruling “Quad” – US, EU, Australia and Japan.

While Japan provided, as noted, a model of development and also invested heavily in the economies of East Asia, it never developed – unlike Germany in Europe, or North America, or indeed China recently – as a market for exporters, including Asian exporters of manufactured goods. What applies to Asian goods and services in Japan does so even more egregiously in respect to people. There are Asian workers in Japan, but they are almost invariably relegated to the so-called 3-D jobs (dirty, dangerous and dull), and they remain few in number.

Thus while Japan was undoubtedly highly successful in participating actively in the European (19th) and American (20th) centuries, it remains unclear how it is adapting to the so-called Asian century. The contrast between Germany in Europe and Japan in Asia is enormous. As recent commemorations of the 100th anniversary of the outbreak of World War I (1914) and the 70th anniversary of D-Day, in which Germany took part, vividly illustrate, Germany is at peace with Europe and can be deemed a good, indeed excellent European. As regards Japan in Asia, the Yasukuni shrine and its numerous visitors of a high political level stand in sharpest possible contrast.¹⁰

China & India and globalization

While Japan survived, indeed thrived, in the 19th and early 20th European/Western centuries, India and China, as noted above, were major victims. During the first few decades after Indian independence (from 1947) and liberation in China (1949), both countries followed essentially autarchic economic policies, hostile to both foreign trade and foreign investment. Both China and India were founding members of the GATT (1948). Though China was made a permanent member of the UN Security Council after the war (by virtue of having been an ally of the victorious powers during World War II) after 1949 the US insisted it should be represented by the “Republic of China” (RoC) and not by the People’s Republic of China (PRC). Thus Taipei also took over also Beijing’s membership of the GATT, but then left. China is, therefore (to my knowledge), the only country to have exited the GATT/WTO, which made it much harder for Beijing when it sought to rejoin in the 1980s.

China’s economy was battered by the mindless excesses of the Cultural Revolution, while India, entrapped in the “License Raj”, wallowed in what was referred to as the “Hindu rate of growth”. India’s poor economic performance up to the 1980s contrasted with the increasingly fast-growing economies of East Asia. Out of the 13 economies that the Commission of Growth and Development¹¹ identified as having experienced an average of 7% annual growth

10 For an incisive comparison of Germany and Japan and the legacy of World War II, see Ian Buruma, *Wages of Guilt: Memories of War in Germany and Japan*, 1994.

11 “The Growth Report: Strategies for Sustained Growth and Inclusive Development”, *Commission on*

for a sustained 25 years (1961-2005), nine were East Asian: China, Hong Kong, Indonesia, Japan, South Korea, Malaysia, Singapore, Taiwan and Thailand. In contrast, until the 1990s, India's average annual growth hovered at a mediocre 3–4%.

Both China and India embarked on radical economic reforms, though with considerable difference in terms of both timing and intensity. China's date from 1978, India's from 1991. China's metamorphosis is well encapsulated by the writings of Chinese economist and reformer Zheng Bijian, who said that "the most important strategic choice the Chinese made was to embrace economic globalization rather than detach them from it".¹² The term "embrace" says it all in respect to China's unprecedented rapid escalation to great-power trading status and impact on globalization.¹³ While India's post-1991 reforms were greeted with exuberant glee in some liberal Indian business and intellectual circles,¹⁴ "embrace" of globalization is hardly the operative term for India generally: many in politics, the bureaucracy, academia, civil society and even business remain suspicious of globalization, and even outright hostile.¹⁵

Though it became fashionable in the last decade to draw comparisons between China and India, and the term "ChIndia" was coined, in reality the disparities are huge and likely to become even greater. For example, whereas Chinese and Indian GDP per capita were roughly even in the mid-80s, thirty years later China's (\$6,500) is four times that of India (\$1,500). By virtually any economic or social indicator – poverty reduction, literacy, nutrition, life expectancy, etc – China has left India in the dust.

China has become a great trading power: 35 countries (including Japan, South Korea, Australia, Brazil, Peru, etc) have more than 15% of their exports going to China. China is the first source of imports to many more countries. Not only in trade but also in investment, the world is increasingly "pivoting" to China.¹⁶ It is not only the scope of China's global economic reach, but perhaps especially the speed at which it has taken place, that is remarkable. In 2000 China's share of global exports was less than 4%; by 2013 it had trebled to 12%.

Growth and Development (2008): <http://naturalresourcecharter.org/content/commission-growth-and-development-2008-%E2%80%98-growth-report-strategies-sustained-growth-and-inclu>

12 Zheng Bijian, "China's Peaceful Rise to Great Power Status", *Foreign Affairs*, 2005.

13 Jean-Pierre Lehmann, "China's Global Tectonic Shifts: The Dawn of a New Era", *World Financial Review*, 1112: <http://www.worldfinancialreview.com/?p=2517>

14 See for example Gurcharan Das, *India Unbound*, 2000.

15 See Patrick French, *India: An Intimate Biography of 1.2 Billion People*, 2011.

16 "The Global Pivot to China", YaleGlobal, 27 May 2014: http://yaleglobal.yale.edu/content/global-pivot-china?utm_source=ListServe&utm_campaign=8edad78b9c-YG_ListServe9_15_2010&utm_medium=email&utm_term=0_1f70465ad6-8edad78b9c-111832002

Concluding remarks

We have to recognize the current alarm bells and signals, which are very disturbing. We are seeing the demise of the United States, which cannot lead anymore, and certainly not in the global trading agenda. It is China's turn to play an important role as a leader on the international scene, partly because China is actually the most vulnerable country and the most dependent on the rules-based trading system in terms of access to food, markets, minerals and so on.

Europe is definitely in a “post-war” environment. European countries started to build a scheme of cooperation after World War II. To preserve stability in East Asia, Asian countries should try to build some cooperation mechanisms right now. One source of inspiration could be the Atlantic Charter of 1941, a brief document of one page with eight points. Point No. 4 stipulates: “Fourth, they will endeavor, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.” This point is a game-changer. Trade must be used as a means of peace rather than a means of war. This is not something that is inherent in trade. The idea that trade leads to peace is credible only if it is associated with rules, as expressed in Point No. 5: “Fifth, they desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security.”

It is time to consider a specific charter that Asian countries could build together in order to implement the so-called “globalization with Chinese characteristics” – which will allow the peaceful rise of China.

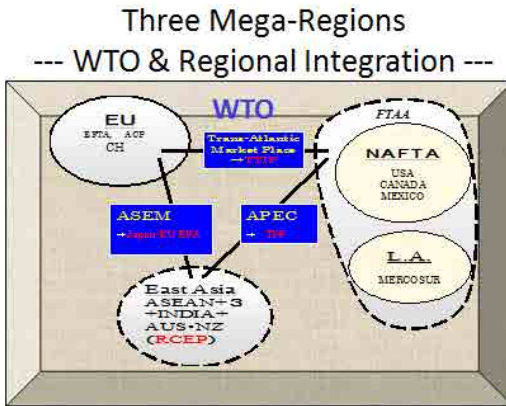
TPP versus RCEP: What future norms for free trade in the Asia Pacific?

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The world economy consists of three “mega regions”: one including the European Union (EU) together with countries like Switzerland and the African-Caribbean Pacific countries; the North America Free Trade Agreement (NAFTA) area that consists of the three countries (the United States, Canada and Mexico), and East Asia, comprising the ASEAN+6 (Japan, China, Korea, Australia, New Zealand and India).

Figure 1: Three Mega-Regions – WTO and Regional Integration



Among these three mega regions, bilateral interregional cooperation frameworks respectively operate, the most visible being Asia Pacific Economic Cooperation (APEC), which links East Asia and the countries of NAFTA, as well as some Latin American countries on the pacific rim. From the premises of the APEC, the Trans-Pacific Partnership Agreement (TPP) has been negotiated since March 2010. Likewise, the Trans-Atlantic cooperation has been stepped-up to the Trans-Atlantic Trade and Investment Partnership (TTIP),

a bilateral FTA to be negotiated between the US and the EU. Within the Asia-Europe Meeting, the Japan-EU FTA has been under negotiation since March 2013. Also, the World Trade Organization (WTO) provides a common background, which is useful for implementing intensive economic integration, despite the limbo due to the stagnation of the Doha Development Agenda. Nevertheless, the WTO retains a very important function in terms of dispute settlement that covers not only trade in goods but also trade in services, intellectual property (IP) and other trade-related issues.

The new mega FTAs such as the TPP, the Japan-EU FTA, and the TTIP currently being discussed thus have been developing from non-binding cooperation frameworks to binding trade agreements. Those initial frameworks are being upgraded to legally binding frameworks. Such development will certainly further enforce the fundamental multilateral rules embodied in the WTO, such as competition policies, investment measures, trade-related intellectual property, etc. These FTAs go beyond the existing rules of WTO and to some extent replace the rule-making process that has been in serious trouble in the Doha Round negotiations.

The regional trade organization of East Asia

The East Asian trading area is organized according to two main frameworks: ASEAN+3 (the 10 countries of the Association of Southeast Asian Nations plus Japan, China and Korea), originally proposed by China in 2004, and ASEAN+6 (with India, Australia and New Zealand added), promoted by Japan in 2006, which is the foundation for the Regional Comprehensive Economic Partnership (RCEP) trade integration project. Japan wanted India, Australia and New Zealand to be included because they are deeply involved in regional business transactions and the production network of the economic entities active in the region. Moreover, these countries share values with Japan, such as democracy, rule of law, human rights and market-economy principles. Japan might feel more comfortable with those three countries being part of the agreement negotiations, as they could add some political weight to redress the overwhelming presence of China.

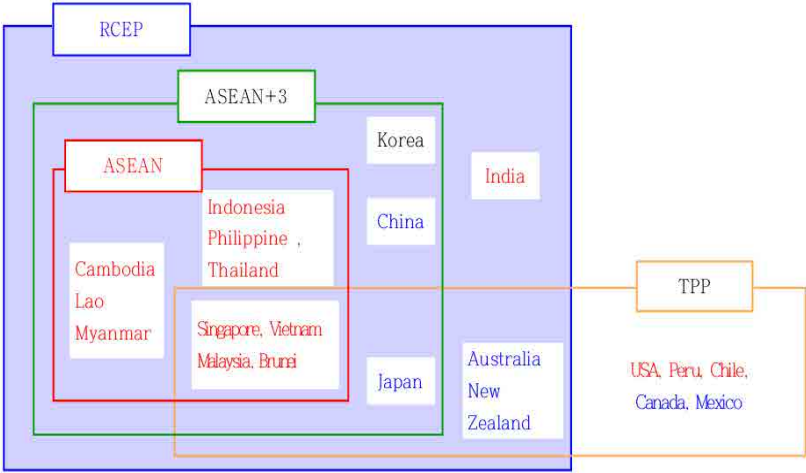
Parallel to the RCEP discussions, negotiations are continuing to form the Trans-Pacific Strategic Partnership Agreement (TPP), an interregional FTA among a dozen Asia-Pacific¹ countries with high-level commitment to tariff elimination as well as to new rules on investment, competition, IP and so on.

Some Asian countries are joining the discussions on both the RCEP and TPP frameworks. There seems to be a division within ASEAN between countries still refraining from joining TPP, such as Indonesia, and countries such as the Philippines and Thailand, which have already indicated their interest in participating in the TPP. The TPP would represent 26% of world trade value,

1 So far, Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam have joined the negotiations.

and account for 38% of global Gross Domestic Product (GDP). The RCEP would represent 28.4% of global trade.

Figure 2: Membership and economic importance of regional integration frameworks



	Trade (2012)	Trade (2012)	GDP (2011)	GDP (2011)
	Billion US \$	Share (%)	Billion US \$	Share (%)
JCK FTA	6,619	17.9	14,280.9	20.4
RCEP	10,470	28.4	19,929.9	28.5
TPP	9,545	25.9	26,593.4	38.0
TTIP	15,602	42.3	32,686.5	46.8
World	36,890	100.0	69,899.2	100.0

GDP: Gross Domestic Product
JCK FTA: Japan-China-Korea FTA

Source: Korean Institute for Economic Policy (KIEP), 2013

The TPP's original four countries – New Zealand, Chile, Singapore and Brunei – stipulated that it was open to APEC's 21 members. In a sense we can say that TPP arises from APEC. One of APEC's objectives, defined in 1994 and shared by the 21 members, is to create an area of free trade and free movement of investment by 2020. There are several ways and means to achieve this goal: through ASEAN+3 or ASEAN+6, which have been superseded by the RCEP, JCK (Japan, China, Korea) trilateral FTA and TPP. Among them, the TPP seems to be much more advanced in terms of maturity. The countries discussing the TPP have already held more than 20 rounds of negotiations since March 2010, and Japan joined them in July 2013.

Japan's trade integration strategy

Japan is simultaneously engaging in the discussions for RCEP and TPP. As Figure 2 shows, 45.8% of Japanese exports and 30.8% of its foreign direct investment (FDI) were exported to states engaged in RCEP negotiations in 2012.

In 1995, Japanese manufacturers first started FDI abroad in ASEAN countries such as Thailand, Malaysia, Singapore and the Philippines; then, little by little, they established a network of production across the East Asian countries. Goods and services are being traded across national boundaries, which has created an enormous value chain – what I would call a *de facto* business agreement or FDI-induced integration in East Asia.

If we take the automobile industry for instance, India has begun to be included in the supply chain among RCEP countries and is performing as an exporting hub of completed cars, along with Thailand. India is very much part of the development of East Asian economic integration.

To increase exports to growth markets both inside and outside the East Asia region, the unification of corporate supply chains is essential. At present, each FTA has its own set of regulations (e.g. rules of origin), and the differences between these regulations hinder corporate activities. By unifying these regulations into a single set of simple, easy-to-use rules for corporations, RCEP will facilitate the establishment of a transnational supply-chain network. This is partly why RCEP is important for Japan, to secure and consolidate the merits of the production network in that region, including India, Australia and New Zealand.

Figure 3: The significance to Japan of the Pacific-Asia region

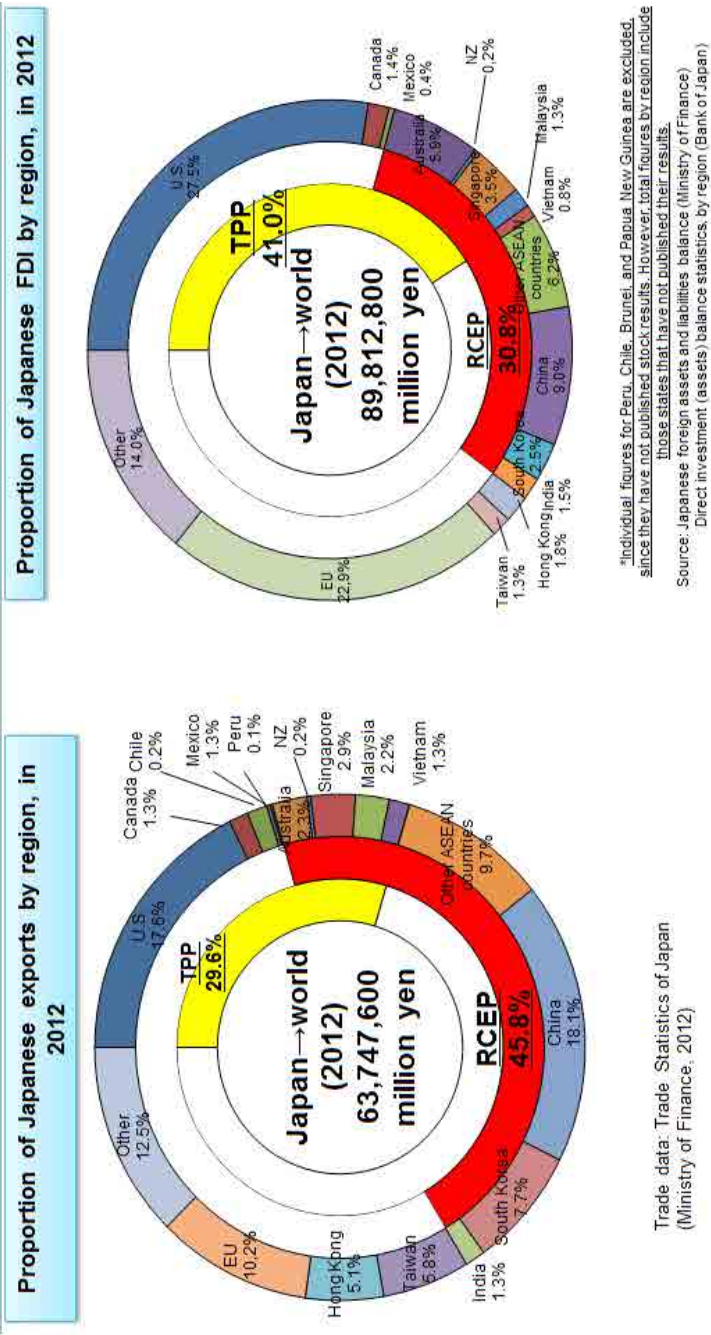
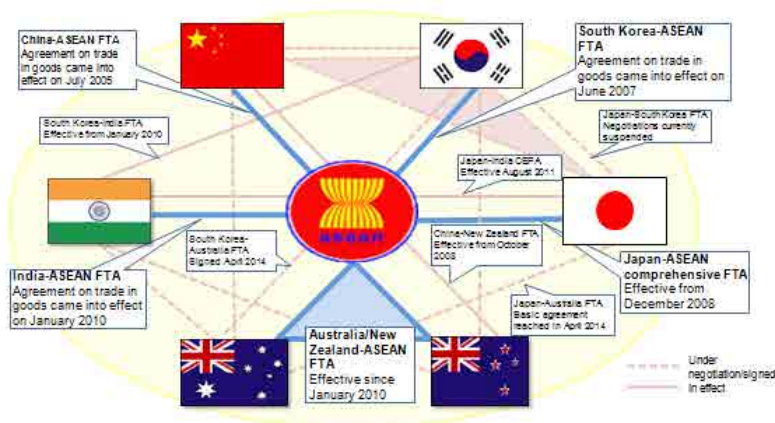


Figure 4: The Regional Comprehensive Economic Partnership (RCEP)



Source: Ministry of Economy, Trade and Industry (METI), Japan, 2014

The significance of RCEP and TPP to Japan

RCEP is an economic partnership between ASEAN and those states that already have FTAs with ASEAN, namely Japan, China, South Korea, India, Australia and New Zealand. It covers approximately half of the world's population and one-third of its GDP. It aims to create a high-quality, comprehensive economic partnership agreement, and draw up regulations for an advanced supply chain in the East Asian region. In May 2013, the first round of negotiations took place, with the intention of finalizing an agreement by the end of 2015.

At the first RCEP ministerial meeting in August 2013, agreement was reached on the principle of mutual tariff concessions. In addition, it was agreed that tariff modalities would be established before the second ministerial meeting in August 2014. At the most recent round of negotiations, a working group was held on each of the following: trade in goods, trade in services, investment, competition, intellectual property, economic and technical cooperation, and legal and institutional matters.

Most of the items negotiated under RCEP and TPP are the same: market access, rules of origin, trade facilitation, investment, competition policy, and IPR. The elements that are missing in the RCEP discussions are government procurement, environment, labor and electronic commerce. TPP is a little bit ahead of RCEP in terms of coverage of these issues. In RCEP, market access improvement and development is much less emphasized than in the TPP negotiations. Moreover, there is no agreement so far in RCEP concerning principles, including the final liberalization targets, the initial offer and subsequent negotiations following the initial offer. In addition, China and Korea seem to be reserved about tariff elimination (Beijing is supporting elimination of tariffs

beyond 10 years), while India in particular wants to have tariff reduction as well as phasing-out over 10 years instead of elimination. For its part, ASEAN attaches importance to a higher level of “immediate elimination of tariffs” if an RCEP agreement comes into force.

Guiding principles and objectives of the RCEP

Level of ambition

- The RCEP will have broader and deeper engagement, with significant improvements over the existing ASEAN+1 FTAs, while recognizing the individual and diverse circumstances of the participating countries.
- Tariff negotiations will be conducted on a comprehensive basis. Such negotiations should aim to achieve tariff elimination on a high percentage of both tariff lines and trade value.

Scope of the EPA

- RCEP will cover: Trade in Goods, Trade in Services, Investment, Economic Cooperation, Intellectual Property Rights (IPR), Competition, Dispute Settlement, and Other Issues covered by FTAs among RCEP participating countries.

Membership

- The RCEP agreement will have an open-accession clause to enable the participation of any ASEAN FTA partner that did not participate in the RCEP negotiations and any other external economic partners after the completion of the RCEP negotiations.

Timeline

- Negotiations commenced in early 2013 and it is aimed to complete them by end 2015.

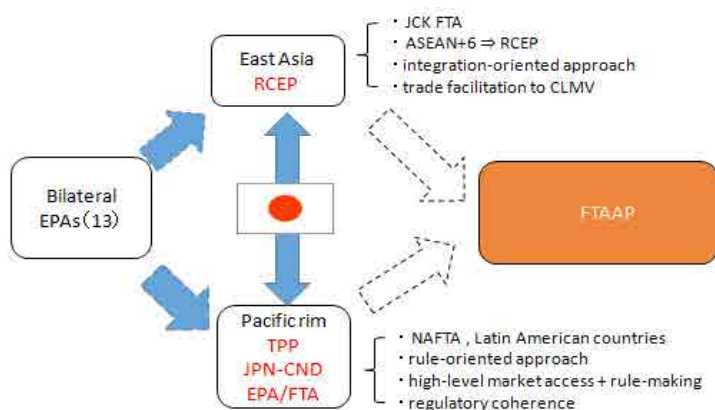
It is important that RCEP includes India. At the same time, India itself is a problem because Delhi has a reserved position concerning both trade liberalization and liberalization of investment. For instance, in the case of rules of origin, India requires that the FDI companies meet two criteria; the Change-in-Tariff Classification criteria and the Value-added criteria at the same time, which is called “the Compound Rules of Origin”. None of the other countries are demanding this.

Japan as a pivotal center between RCEP and TPP

Japan has already concluded 13 economic partnership agreements and has two different strategic directions: one is RCEP covering East Asia; the other

is TPP across Asia-Pacific. In this sense, Japan's FTA policy aims to multilateralize regionalism. The TPP is an "ultimate FTA" with the ultimate trade partner of Japan: the USA. The RCEP provides a legal framework for securing "de facto business-driven integration", and the Japan-China-Korea FTA represents missing parts of the jigsaw puzzle. Japan is also engaging in discussions for an FTA with the EU to reinforce the Asia-Europe partnership. All these efforts help to multilateralize the preferential deals with a view to strengthening the WTO.

Figure 5: Japan's FTA/EPA strategy



CLMV: Cambodia, Laos, Myanmar and Vietnam

Concluding remarks

East Asia is now moving from *de facto* business-driven integration to *de jure* institution-driven integration. Both the RCEP and the TPP are important instruments for the region of Asia-Pacific. They are complementary to each other. The RCEP, which includes India, has enormous potential but the speed of the negotiations needs to be accelerated. TPP is ahead of the RCEP in shaping the trade architecture in Asia-Pacific. RCEP matters more to India and the Indian Ocean Rim countries. Japanese companies and multinationals in India as well as India's local companies are starting to expand their business transactions across the Middle East, Africa and Southeast Asia through price competitiveness and the business network.

Remarks on the Genesis and Essence of the “Mega FTAs”

Françoise Nicolas

Director, Center for Asian Studies, Ifri

If we look at the last 50 years or so, what we observe is that trade has been doing rather well under the General Agreement on Tariffs and Trade (GATT) and that it has been doing relatively less well under the World Trade Organization (WTO). Overall, trade and the multilateral trading system were doing quite well until the mid-1990s – and then everything changed.

The interesting thing is that a number of developing countries that had actually thrived thanks to this multilateral trading system started questioning it. Over time, a disagreement arose between the most advanced countries, which wanted to impose the same rules on everybody, and the emerging economies, which had been doing quite well with the system, but did not want to be treated in exactly the same way as the others. To be more specific, they insisted on some flexibility regarding their trade obligations. The dispute between the two camps increased over time and, as a result, the developing countries, which had been the major beneficiaries of the multilateral trading system, were, ironically, the ones that provoked deadlock in the multilateral trading negotiations. These countries are blocking the negotiations because they do not want a number of issues to be included on the agenda. These issues are, of course, the most complex ones; tariffs are not at stake; rather, the non-tariff barriers (NTBs), intellectual property rights (IPRs), and issues related to (but not 100%) trade are used as brakes to the discussions. As a result, the WTO is in a kind of coma, and will not awake from its coma anytime soon. There was a little ray of hope at the end of last year with the Bali deal, but any hopes were dashed recently. For the time being we are stuck. This is why we are facing another form of management of trade, which led to the “mega FTAs” – or, alternatively, preferential trade agreements (PTAs) or “mega trade deals”.

These mega-deals – Trans-Pacific Partnership (TPP); *Transatlantic Trade and Investment Partnership* (TTIP); Japan-EU FTA, and Regional Comprehensive Economic Partnership (RCEP) – are not all of the same kind.

TPP, TTIP and Japan-EU FTA belong to one category. These deals are actually genuine rule-setting mechanisms. The degree of commitment imposed through these deals is relatively high. As a result of these deals, new rules should emerge. And these rules will actually deal with a number of issues, not only regarding the traditional trade issues, but also with IPR, government pro-

curement, and state-owned enterprises (as far as the TPP is concerned) – a number of issues that are related to trade but are not what are usually called purely trade issues. This first category of deals is very likely to reshape the world trading system. It may thus be a real game-changer. The snag is that these deals will create a risk of economic fragmentation. They might not do so if they were purely compatible. But this is not necessarily the case. If they are not mutually compatible, if they do not follow exactly the same principles, they may lead to fragmentation. This risk of fragmentation might be mitigated if these deals were easily amenable to multilateralization. But this does not seem to be the case: the countries that are pushing these deals do not seem ready to accept more members, even though they claim that these are open agreements.

This first category of mega deals are rule-setting mechanisms as they involve a high degree of commitment (“high-quality deals”). RCEP is totally different. It is much more flexible, reflecting perhaps not the ASEAN way but at least a much more flexible kind of commitment, and it accepts long transition periods. The countries within RCEP will not be treated in exactly the same way, at least not immediately, contrary to the more demanding trade deals of the first category. The major argument behind the promotion of RCEP is that the final deal would be easy to reach through simple merging of the five ASEAN+1 FTAs already in place (ASEAN+China, +Korea, +Japan, +Australia-New Zealand, +India). But if this idea looks good on paper, in practice it looks much more complicated as the content and degree of commitment of these various FTAs are not the same. Among the various ASEAN+1 FTAs, the less comprehensive deal is the ASEAN-India FTA, while the FTA between ASEAN and Australia-New Zealand is extremely ambitious. The merging of the two FTAs would be quite difficult and thus unlikely to happen anytime soon. To sum up the arguments: the RCEP is of a different nature and it will be extremely difficult to implement.

Interestingly, some East Asian countries are following the two aforementioned options at the same time: the first-category “high-quality deals” and RCEP. For instance, Japan is involved in the TPP, in RCEP, and in the negotiations for a FTA with the EU. The strategy followed by Japan is obviously an inside strategy of seeking increasing integration in the various mechanisms, whereas some other countries are only involved in RCEP. The Japanese strategy does not appear to be in any way contradictory, because RCEP is not in a position to compete with the TPP and, as explained earlier, is not in the same league.

An EU Perspective on Asian Powers and Norms for Trade

Viorel Isticioaia Budura

Managing Director for Asia and the Pacific at the European External Action Service

I recall a symbolic moment, which proved that the Asian countries can gather and work together. It was in the wake of the Fukushima disaster, when the Chinese, Japanese and South Korean leaders met in this very city of Fukushima to discuss cooperation. In my official capacity as head of the Asia Department of the European External Action Service, I have met twice a year with the South Korean, Chinese and Japanese representatives involved in trilateral cooperation in Seoul, where the Trilateral Cooperation headquarters are based. Having shared our own experience of European integration after the Second World War, I stated that starting to build a scheme of cooperation in Northeast Asia could be a good step forward. The issue of “economic complementarity” is often raised in this context. But the European Union has first to manage interdependence, or, in some cases and with regards to China, inter-dependency.

The European Union is currently negotiating Free Trade Agreements (FTAs) that will cover two-thirds of its overall trade. These agreements are “mega changers”, and we are working in order to help implement these systemic changes.

Despite its current difficulties, the World Trade Organization (WTO) remains the most relevant framework in the long term for market opening. It is the only platform able to drive systemic change. We should avoid a proliferation of bilateral FTAs that presents a real risk of fragmentation. They also present some limits in dealing with issues with a general “behind the borders” impact, such as domestic subsidies and regulatory reforms. In this perspective, the Transatlantic Trade and Investment Partnership (TTIP) is an attempt to address this kind of comprehensive challenge together with the United States of America.

We believe that the reason behind why the WTO is facing difficulties today lies precisely in the rise of emerging countries and in the large-scale transformation of the global economy this rise is implying. One of the most contentious issues remains what should be the respective contributions of the WTO members. There is a need for the emerging economies to engage in a more responsible and direct way in this debate. Emerging economies are now serious players and they have to take their responsibilities and become serious, constructive consensus-builders. They have not succeeded yet in convincing

their partners in the WTO to recognize their new role. It may take time to digest these changes, including the agreements reached a few months ago in Bali. This was a positive step forward, and it is now important to try to develop a better atmosphere for negotiations within the WTO.

It is understandable that China or Brazil cannot accept rules that were developed without their participation. In January 2014, the EU launched a major negotiation process with China: the EU-China Investment Agreement. During his visit to Europe, including his first visit to the EU headquarters in Brussels, President Xi Jinping expressed his wish to implement an FTA with the EU. We believe that the China-EU Investment Agreement that we are currently negotiating could be the first step, once the conditions are right, towards a FTA in longer-term perspective. The EU also engages in high-level economic dialogue with China at the level of the Commission, as well as other forms of engagement with China and other partners in the region.

The global economic architecture faces challenges. We are looking forward to seeing what will happen in 2015 as regards global economic governance. Important meetings relating to several different areas have already been scheduled, such as trade negotiations in Doha and a climate summit in Paris, and several regional FTAs (TTIP, EU-Japan, and TPP) may come to a conclusion. FTAs are the result of the political will to increase international cooperation. In this regard, they may inspire global and regional agreements, including in Asia.

Trade and Conflict:

The risks of interdependence and the coercive use of economic power

Is Economic Interdependence a Stop-gap for Regional Conflict in 21st Century Asia?

John Ravenhill

Director, Balsillie School of International Affairs and Professor at Political Science, University of Waterloo

Introduction: the East Asian paradox

Asia poses a paradox for students of international conflict. Several factors suggest that it is a part of the world that is particularly “ripe for rivalry” (Friedberg, 1993). The Asian region has more territorial disputes than any other part of the world (Fravel, 2014), a potential source of conflict that has become of more concern as Asian states have increasingly acquired the military capabilities to pursue territorial claims. The region has the highest concentration of nuclear weapons in the world; three states – China, India and Pakistan – are all acknowledged nuclear powers, while North Korea is widely believed to possess some nuclear weapons. In addition, two other nuclear powers, the United States and Russia, have an ongoing security presence in the region. The sustained rapid economic growth of many countries in the region has given rise to new challenges of accommodating changes in power relativities while simultaneously fuelling nascent arms races. And yet East Asia, the part of the region on which this presentation focuses, has experienced no significant armed conflict since the China-Vietnam war of 1979: for the seemingly potentially more volatile Northeast Asian region, no sustained conflict has occurred since the end of the Korean War in 1953.

Alternative explanation for the paradox: Realists vs Liberal Institutional arguments

What is the reason for East Asia's three and a half decades of peace? Analysts in the realist tradition emphasize the importance of power balances and alliances, particularly the security guarantee that the United States, as an “offshore balancer” (Mearsheimer, 2001), has provided for many Asian countries for more than half a century through the San Francisco system (Calder, 2004). As Pempel (2013: 9) suggests, such arguments are intuitively plausible and, indeed, impossible to refute because East Asia in the last half century has never experienced a situation in which the counterfactual applied, that is, a period without the alliance system being in place. The ongoing US presence in the region undoubtedly plays a role. For more than a quarter of a century, however, Asian allies (not least Taiwan) have had good reason not to have complete faith in the US security

guarantee as Washington became preoccupied with security issues elsewhere and the American public grew increasingly tired of overseas adventures.

If these considerations gave rise to increasing insecurity, they were not reflected in an increasing share of national budgets devoted to military expenditure. In most countries this declined across the region in the two decades after 1990; in several instances (most notably in Southeast Asia, but also Taiwan), military expenditures expressed as a percentage of GDP halved over that period (Table 1).¹ Most East Asian countries devoted a smaller share of their GDP to military expenditure than the world average (2.4% in 2013, according to SIPRI data).

More broadly, the experience of East Asia in the last quarter of a century provides little support for conventional realist expectations of state behavior in a time of power transition. In the words of Alistair Iain Johnston (2012: 59), which cover the range of predictions that can be derived from a largely indeterminist realist approach to power balancing, “there has been little evidence of vigorous balancing by China against the United States, vigorous balancing against China by weaker states, a vigorous Chinese effort to replace US hegemony, or vigorous US efforts to contain China’s rise”.

Table 1: East Asian military expenditures as a percentage of GDP

	1988	1995	2000	2005	2010	2013
Brunei	6.6	5.5	5.7	2.6	3.2	2.5
Cambodia	1.3	3.6	2.2	1.2	1.6	1.6
China, P.R.	..	1.7	1.9	2.1	2.1	2
Indonesia	0.9	0.8	..	0.8	0.7	0.9
Japan	0.9	0.9	1	1	1	1
Korea, South	4.5	3	2.6	2.6	2.7	2.8
Laos	..	6.1	0.8	0.4	0.2	..
Malaysia	2.4	2.8	1.6	2.2	1.6	1.5
Mongolia	6.3	1.6	2	1.2	0.9	..
Myanmar	2.1	3.7	2.3	1.6	..	4.5
Philippines	2.5	2.3	1.6	1.3	1.2	1.3
Singapore	4.8	4.4	4.6	4.4	3.5	3.4
Taiwan	5.3	4.2	2.7	2.2	2.1	2.2
Thailand	2.9	2.3	1.5	1.1	1.6	1.5
Vietnam	7.1	2.6	..	1.9	2.5	2.3

Source: SIPRI Military Expenditure Database: http://www.sipri.org/research/armaments/milex/milex_database

1 Of course, the rapid economic growth of many East Asian economies means that many have increased their overall levels of military expenditure even though its share of GDP may have fallen.

On one issue, I do share the view of authors in the realist tradition: their identification of the weakness of regional institutions in Asia. Although ASEAN has played a useful role in confidence-building among its member states (Acharya, 2001) and in engaging the great powers within the region (Goh, 2007/08; Goh, 2011), it has proved to be far better at promoting conflict avoidance than conflict resolution. Even ASEAN's strongest supporters had difficulty in explaining the failure of the July 2012 summit of the grouping's foreign ministers to agree on a communiqué adopting a common position on China's provocative activity in the South China Sea. Moreover, there are still no effective region-wide institutions; rather we see a hub and spokes arrangement with ASEAN, a weak hub, linked by bilateral arrangements to Northeast Asia, India and Oceania. The geographical boundaries of the "region" remain contested. The major regional groupings (APEC, the East Asia Summit) reflect the longstanding preference of key Asian countries to define the region in terms of the Asia-Pacific rather than as an exclusively "Asian" entity. In addition, the inclusion of India in the East Asia Summit and in the negotiations for a Regional Comprehensive Economic Partnership adds even greater heterogeneity to the "region" and is a complicating factor that works against deeper institutionalization. In short, explanations for East Asia's peace from the liberal institutionalist tradition are unpersuasive.

Another explanation: the case for economic interdependence

What, then, explains East Asia's avoidance of conflict over much of the last half century? For me, the explanation lies in the incentive structure created by the manner of incorporation of East Asian countries into the global economy. Transformations in the character of economic interdependence have had a profound impact on interactions among states in East Asia because they have significantly increased the costs of inter-state conflict. How groups conceive of their interests inevitably shapes the strategies that they adopt. In turn, the relationship between interests and ideas is one of multiple feedback loops. My answer, therefore, to the question that the organizers posed to me in the title they gave me for the paper – Is economic interdependence a stopgap for regional conflict in 21st Century Asia? – is a resounding "No". The growth of interdependence is not a mere stopgap (according to the *Oxford English Dictionary*, a "temporary way of dealing with a problem"). Rather, it has brought about a permanent transformation of interests in the region.

Changes to East Asian economies' integration in the global economy have both quantitative and qualitative dimensions. Trade became far more important for most East Asian economies over the last half century but especially in the years since the mid-1980s (Table 2).²

2 The ratio has fallen back in some countries over the last decade, a reflection of the slower rates of growth associated with the global financial crisis. It remains substantially higher, however, than it was for most European countries immediately before the First World War.

Table 2: Share of exports of goods and services in GDP (%)

	1960	1965	1970	1975	1980	1985	1990	1995	2000	2005	2010
China	n.a.	n.a.	n.a.	n.a.	n.a.	9.2	14.7	20.2	23.3	37.1	29.4
Indonesia	15.0	5.5	13.5	24.0	34.2	22.2	25.3	26.3	41.0	34.1	24.6
Japan	10.7	10.5	10.6	12.5	13.4	14.1	10.3	9.1	10.9	14.3	15.2
Korea, Rep.	3.2	8.3	12.9	25.3	30.2	29.8	25.9	26.7	35.0	36.8	49.4
Malaysia	50.6	41.8	41.4	43.0	56.7	54.1	74.5	94.1	119.8	112.9	93.3
Philippines	11.9	19.4	21.6	21.0	23.6	24.0	27.5	36.4	51.4	46.1	34.8
Singapore	162.9	123.3	126.1	137.1	202.1	152.4	177.2	181.2	189.2	226.1	199.3
Thailand	15.7	16.5	15.0	18.4	24.1	23.2	34.1	41.8	66.8	73.6	71.3
Vietnam	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	36.0	32.8	50.0	63.7	72.0

Source: World Bank, World Development Indicators:

<http://data.worldbank.org/indicator/NE.EXP.GNFS.ZS>

The mid-1980s were an important turning point. Many economies, especially those in Southeast Asia, began a process of unilateral liberalization of trade in response to the collapse of commodity prices in the first half of the decade. The transformation of their trade patterns was reinforced by the growth in production networks that followed the currency realignments brought about by the 1985 Plaza Accord. And, the construction of a new regional division of labor was profoundly affected by China's opening to the world after 1978.

Production networks (sometimes referred to as global value chains) have been the principal engines driving Asia's remarkable economic growth in the last quarter of a century. Their spread has led to high levels of intraregional trade, especially in mechanical and electrical components. Global production networks have, in the words of the WTO's former director general, Pascal Lamy, produced "a new paradigm where products are nowadays 'Made in the World'" (World Trade Organization, 2010). For economists, these new trends in production and trade have been driven primarily by technological developments, especially reductions in transport costs, and by the lowering or removal of border and other barriers to trade. Together these have enabled components to be moved at relatively low cost around the region in order to take advantage of differences in factor costs and concentrations of skills. These elements, often seen as the key features in what is portrayed as Asia's "market-led" development, have indeed been important. Nonetheless, the role of governments in facilitating the growth of production networks should not be overlooked. Their contribution over the last quarter of a century has taken many forms: the establishment of export-processing zones that permitted duty-free import of components for assembly into products that were subsequently exported, and which were the basis for the early footholds that many countries in the region, including China, gained in these networks;³ similar

3 In 2006, it was estimated that 40 million workers in China were employed in export processing zones; in 2009 roughly one-half of its exports came from these zones (World Trade Organization/IDE-JETRO, 2012: 21-2).

non-geographically specific provisions through duty-drawback arrangements; the unilateral lowering of tariffs; and government commitments in regional and global trading agreements, not least the 1996 Information Technology Agreement that freed up a substantial part of trade in the region's single most important export sector.

The “fragmentation” of production has arguably been more important in driving economic growth in East Asia than elsewhere in the world. World trade in components increased substantially in the first decade of the 21st century, up from 24% of global manufacturing exports in 1992–93 to 46% of the total in 2006–8. In the same period, the share of developing economies in network exports doubled, primarily because of growth that occurred in East Asia. In 2007–8, exports within production networks accounted for fully 60% of East Asia's manufacturing trade, in comparison with a world average of 51%. The figure for ASEAN was higher still, with more than two-thirds of its manufactured exports taking place within production networks (Athukorala, 2011). Production networks do not merely provide entrée to markets; they also provide access to the technological know-how essential to competing in the global economy. And, in some cases, foreign direct investment is also associated with the growth of networks. UNCTAD (2013: 20–21) calculations indicate that those countries with greater participation in GVCs experience higher rates of growth in per capita GDP.

With all the economies in the region more open than before, domestic welfare depends overwhelmingly on participation in production networks (“Factory Asia” in Richard Baldwin's terms). The increased importance of exports for economic growth together with the incorporation into global value chains has transformed the nature of interdependence and greatly increased the costs of a fracturing of links with the global economy that would result from inter-state conflict. My focus here has been on trade, but a similar logic applies to finance and investment. Last year, China's outward foreign direct investment approached \$100 billion for the first time, and was close to matching the figure for inward flows. China now has close to \$4 trillion in foreign exchange reserves, of which an estimated three-quarters are held in US dollar-denominated assets. While offering a potential source of leverage to China, such enmeshment with the global financial system also creates new sources of vulnerability.

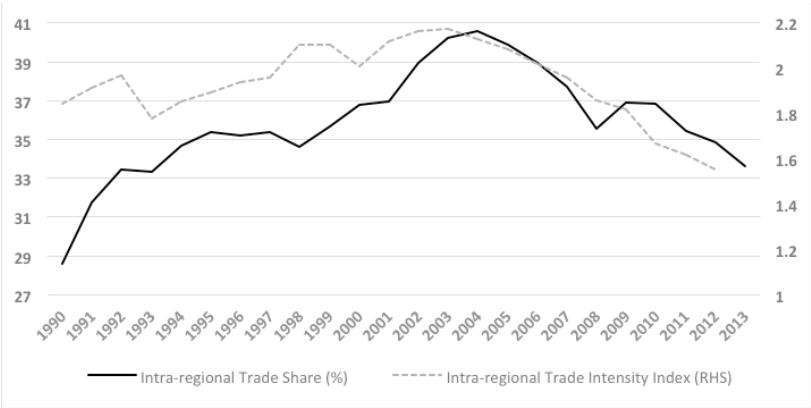
The legitimacy of East Asian regimes has long rested on their capacity to deliver economic growth; nowhere is this more true than in China where most economists estimate that the economy needs to grow by at least 7% annually to absorb the influx of migrants from rural areas. Political stability and economic growth are intimately intertwined. Where growth rates have faltered, regimes have come under increasing challenge – a notable example being the overthrow of the Suharto regime in Indonesia during the Asian financial crises.

Of course, economic “imperatives” have to be translated into policies in domestic political systems. The most persuasive argument on how changes at the global level are incorporated into domestic politics is found in the work

of Etel Solingen who examines how internationalizing coalitions have become the dominant political force in most countries in East Asia (for example, Solingen, 2003; 2007). The boundaries between the domestic and the international have become blurred as never before. As Solingen (2014: 62) concludes: “the political power of internationalizing constituencies is unprecedented (though not irreversible), strengthened by intra-industry trade and integrated production chains”.

Key interests in countries in the region thus have an overwhelming interest in ensuring that economic linkages are not disrupted by international conflict. And these linkages continue to be predominantly with countries outside the region. Contrary to some arguments that gained popularity at the start of the global financial crisis, East Asia is not becoming “decoupled” from the global economy. Even though the extension of global value chains across East Asia has meant that there is arguably more “double-counting” of the value of intra-regional exports in East Asia than anywhere else in the world, the share of intra-regional trade in overall exports is no higher than it was twenty years ago (Figure 1). Moreover, a more relevant indicator of the relative importance of intra-regional trade, the trade intensity index, shows a secular decline in this century.⁴ What we have seen is not a decoupling of East Asia from the global economy but a retriangulation of trade as China has emerged as the largest market for other East Asian economies, assembling components that are then sent primarily to extra-regional markets (Athukorala, 2011).

Figure 1: East Asia trade Integration



Source: Data from Asian Development Bank, Asia Regional Integration Center: <http://aric.adb.org/integrationindicators> accessed 29 August 2014

4 The trade intensity index is the ratio of intra-regional trade to the region's share in world trade. An index of more than one indicates that intra-regional trade is greater than expected, given the region's importance in world trade.

Conclusion

My argument rests on one pillar of the liberal approach to international relations: the role of increasing economic interdependence. One important question relates to the strength of this effect in the absence of the two other pillars of the liberal approach: strong institutions that bind member states to cooperative behaviors, and the presence of democratic regimes – the democratic peace argument (Haggard, 2014). The region continues to be characterized by substantial political heterogeneity, a factor that ensures that regional institutions will take a form different to the European experience. I have already noted the weakness of regional institutions. But, to some extent, the regional level is the missing middle in institutional collaboration in Asia. Over the last two decades, we have seen strong growth in the number of bilateral treaties in trade and investment that Asian countries have entered into. To be sure, some of these, especially in the trade sphere, are superficial in their provisions and appear to have been driven as much by political as by economic motivations (Ravenhill, 2010). The overall trend, however, is towards increasing density and deepening of cooperative arrangements. Meanwhile, East Asian countries have generally honored their commitments in multilateral economic institutions.

In the social sciences, nothing is inevitable. We deal with possibilities, with probabilities and with correlations. While multiple studies have found a high positive correlation between economic interdependence among countries and peaceful relations, we know that interdependence can also cause frictions and can itself be a source of leverage over partners. We know that China, for instance, would not tolerate a declaration of independence by Taiwan. Moreover, history is replete with examples of miscalculations and misperceptions on the part of decision-makers that have led to conflict. Nonetheless, the incentives against international conflict in East Asia are not just powerful but also unprecedented.

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The Geopolitics of Energy in the Asian Century: Enhancing cooperation with non-member Asian countries

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The engine of energy demand growth moves to Asia

By 2035, a geographical shift in energy demand will be observed. Global energy demand will increase by about one-third, and the largest share of this growth will come from the emerging economies of Asia. China is currently the main driver of this increasing demand, but in the 2020s the center of gravity will shift south to India and the countries of South-East Asia.

Figure 1: The engine of energy demand growth moves to Asia



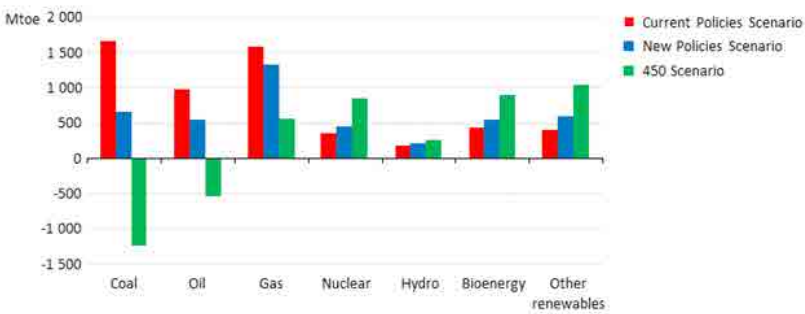
Source: IEA

Despite efforts to move to lower carbon energy production, the share of fossil fuels in today's global mix is above 80%, almost the same as it was 25 years ago. The strong rise of renewables is expected to reduce this share to only around 75% in 2035. Demand increases for all forms of energy, with gas growing the most.

According to the current policies scenario offered by *World Energy Outlook 2013*, coal will continue to grow and will overtake oil as the largest fuel source in the near future. Nevertheless, there are striking differences in demand for

fossil fuels across various scenarios, while global demand for renewable energy increases strongly in all cases.

Figure 2: Change in world energy demand by fuel and scenario,¹ 2011-2035



Source: *World Energy Outlook 2013*, IEA

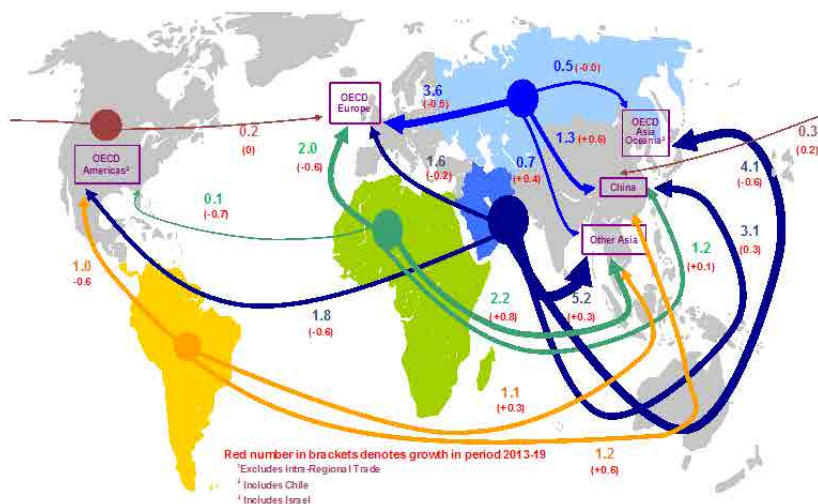
Asia and the Middle East are forecast to dominate the oil market growth

According to the *Medium-Term Oil Market Report* released by the International Energy Agency (IEA) in June 2014, global oil demand will grow by about 1.3 million barrels per year from 2013 to 2019. More than half of this demand growth is to come from Asia. China will still be the main driver of this demand growth, accounting for about 40% of global demand, but its share will gradually decrease (over the last six years, its share has been about 60%).

With such robust growth in Asia as well as increased oil production, the global crude trade map shifts further to the East. Up to 2019, Asia’s imports will increase by 2.6 million barrels per day (mbd) to 22.1 mbd – 65% of total international crude trade.

1 The *Current Policies Scenario* illustrates the outcome of our current course, if unchanged. It embodies the effects of only those government policies and measures that had been enacted or adopted by mid-2013. The *New Policies Scenario* takes into account broad policy commitments and plans that have already been implemented to address energy-related challenges, as well as those that have been announced, even where the specific measures to implement these commitments have yet to be introduced. The *450 Scenario* sets out an energy pathway consistent with the goal of having around a 50% chance of limiting the global increase in average temperature to 2°C, which would require the concentration of greenhouse gases in the atmosphere to be limited to around 450 parts per million of carbon-dioxide equivalent (ppm CO₂-eq). Source: World Energy Model Documentation, 2013 version, IEA: http://www.worldenergyoutlook.org/media/weowebsite/2013/WEM_Documentation_WEO2013.pdf

Figure 3: Crude exports in 2019 and growth in 2013-19 for key trade routes (million barrels per day)



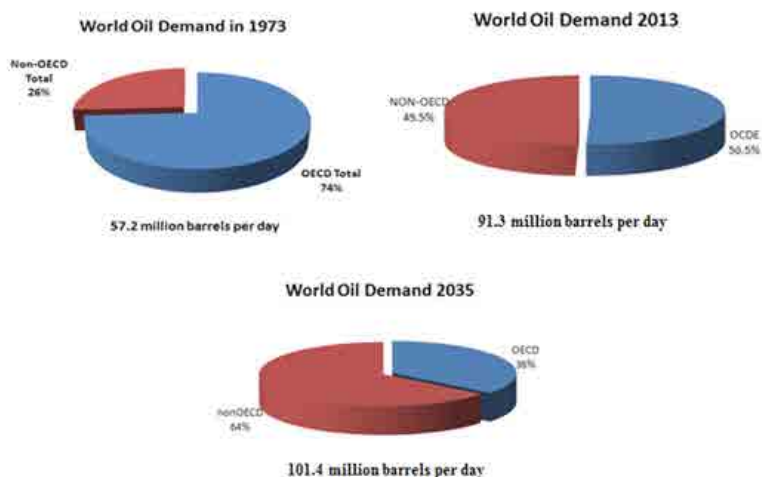
Source: IEA

Refinery capacity expansions continue as non-OECD oil demand increases

The dominance of Asia will not only express itself in the demand growth, but in the refining sector too. Most of the refining capacity additions come from the non-OECD Asia and Middle East countries, while the refineries in Europe and Japan continue to decrease. A total of 95% of new capacity comes from the non-OECD countries, of which Asia accounts for half.

The core mission of the IEA is to ensure oil security. It was established for that purpose immediately after the first oil shock in 1973. Oil demand at the time of the birth of the IEA was about 57 mbd, and three-quarters of oil production was consumed by OECD member countries. That is partly why the IEA was created within the framework of the OECD. Nowadays, consuming countries outside the IEA are of growing importance, with oil demand almost twice as big as that in 1974 (91 mbd), shared half between OECD and non-OECD countries. In 2035, the OECD share will have decreased to about one-third.

Figure 4: Growing importance of consuming countries outside IEA



Source: IEA

The core obligation of the IEA member countries is to have at least 90 days' worth of net imports of strategic petroleum reserve. But, with such changes, the theoretical coverage of the IEA strategic reserve stocks in terms of global demand will have to further decrease.

That is the reason why the IEA has been trying to work more and more in cooperation with the major non-OECD member emerging economies, such as China, India and ASEAN. The IEA is trying to enhance the energy security status of countries in developing Asia and to promote a multilateral framework to reach out more to emerging economies such as China, India, Indonesia, South Africa, Russia and Brazil.

Global gas demand rises by 2.2% per year, driven by Asian growth

According to the *Medium-Term Gas Market Report*² released in June 2014, the Asian developing economies and the Middle East will lead global gas demand growth (accounting for a 45% share of this growth) – with China accounting for 30% of the total demand. The domestic production of gas in China will also increase but not sufficiently to cover the demand, which will lead to increased imports.

² *Medium-Term Gas Market Report* 2014, June 2014, Paris, IEA: <http://www.iea.org/Textbase/npsum/MT-GMR2014SUM.pdf>

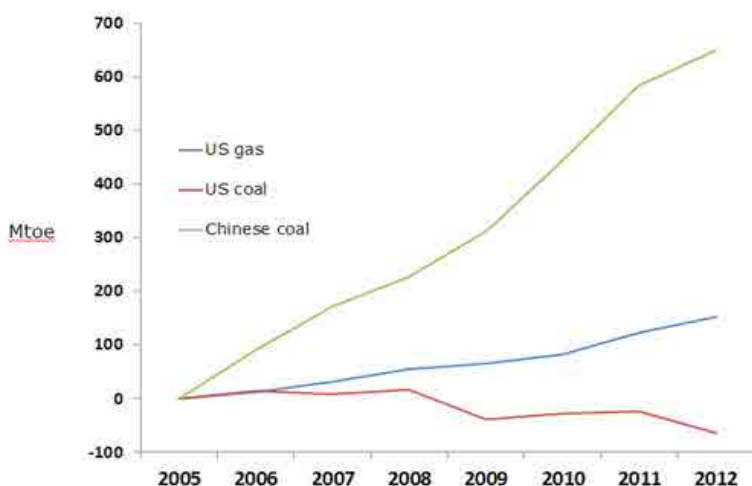
The non-OECD Asian gas demand will grow much faster than the supply. As a result, the region will move closer to the net importing regions. It has to be noted that imported liquefied natural gas (LNG) will be far more expensive than the current domestic gas prices in India and in many South Asian countries. This could lead to political difficulties.

As most of the new LNG will be consumed by Asia, global LNG trade will rise from 320 billion cubic meters (bcm) in 2013 to 450 bcm in 2019. According to the *Medium-Term Gas Market Report 2014*, in 2019 three-quarters of LNG will be consumed in Asia. Nevertheless, Asia lacks a well-developed network of gas pipelines and trading hubs, such as those in Europe and North America.

Asia is still suffering from structurally high gas prices. The regional gas price disparity is important and represents a drawback in terms of economic comparativeness. As a result, Asian countries may not be able to fully take advantage of the “good nature” of gas, with the lowest carbon intensity among the fossil fuels and flexibility in power generation. According to the IEA, Asia needs more liberalized markets to achieve more competitive price mechanisms. Nevertheless, even with more flexible and efficient energy markets, it would be very hard for gas to overtake coal in the power-generation sector.

We often hear and read about the drastic impact of the shale-gas revolution in the United States. But more than one-third of the additional global primary energy supply since 2005 has been provided by Chinese coal. Even currently, the coal consumed in China represents almost 15% of global primary energy consumption.

Figure 5: Change in energy production since 2005

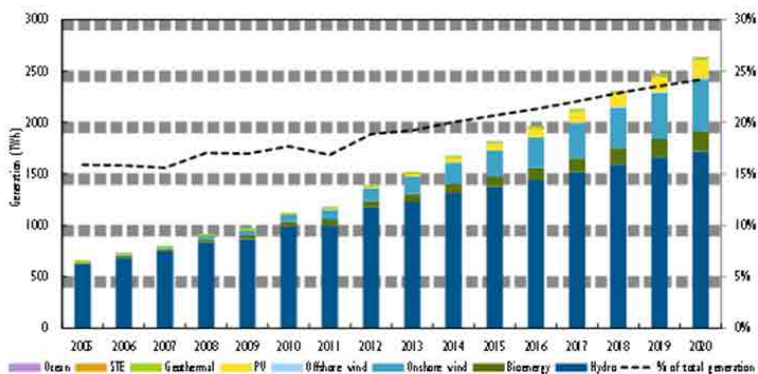


Source: IEA

The strong growth of renewable energy in non-OECD Asian countries

According to the *Medium-Term Renewable Energy Market Report 2014*,³ renewable electricity generation in non-OECD Asia (including China) will rise by 75% during 2013-20, with non-hydro sources playing a growing role. China will account for over 70% of this growth, driven by strong generation needs, pollution reduction goals and a favorable policy environment with ambitious targets. Some Southeast Asian countries have introduced policy support for enhanced use of biofuels for transport, with strengthened blending mandates (Malaysia, Philippines and Thailand)

Figure 6: Non-OECD Asia (including China): forecasted renewable generation (preliminary)



Source: IEA

The higher penetration of renewables will bring another energy security concern, that of electricity stability. The key is the flexibility of the entire power system, provided by well-interconnected grids, flexible power-generation sources, energy storage and good management of the demand.

Another challenge is energy efficiency, which presents a huge opportunity to limit consumption but that is still unrealized.

To conclude, as the center of gravity of global energy demand is shifting to Asia, there is a need for enhanced cooperation with non-member Asian countries regarding oil emergency response, flexible LNG markets, renewable growth and grid-integration, and energy efficiency.

³ *Medium-Term Renewable Energy Market Report 2014*, Paris, IEA: http://www.iea.org/w/bookshop/480-Medium-Term_Renewable_Energy_Market_Report_2014

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