

RIPS International Security Webinar

China's increasingly assertive maritime expansion in the midst of the great power competition

- the territorial integrity of the Indo-Pacific regional countries at stake

Summary Paper

Editor

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Editor's Foreword

Today, we live in a globalized and interconnected world. We are connected not only through cyber space but also through maritime space. The connecting power of the sea is more important than its stopping power. Maritime transportation, underwater cables, marine environment – there are a large number of points to be studied and discussed on the connecting power of the sea.

In fact, the sea is one, and therefore the rule that governs the sea must be one, but there are a number of challenges at sea, particularly in the East and South China Seas, including China's increasingly assertive operations around Japan's Senkaku Islands in the East China Sea.

Japan defines itself as a maritime state in its National Security Strategy. It is an island nation scarce in natural resources and energy, and dependent much on foreign trade for its survival and prosperity. Oneness of the sea is critical for Japan. Importance of maritime security and the rule of law at sea cannot be overstated.

Insecurity of the Indo-Pacific is partly due to lack of an overarching multilateral security framework in this diverse region. The traditional and most important security framework is the US-centered alliance network and the Japan-US Alliance constitutes its integral part. In addition, we can see a number of important mini-lateral developments such as the Quad and AUKUS emerging right now. The Quad always emphasizes its engagement with ASEAN. ASEAN's roles in regional security will continue to be relevant. Also, we witness increasing engagements and attention of European countries to the Indo-Pacific region, including France, Germany and the UK, and even EU.

Today, the region is the frontline of the US-China rivalry. Japan is a frontline state. How to muster the efforts of like-minded countries for the rules-based maritime order is a critical issue for Japan, the entire region and the world.

With all these in mind, Research Institute for Peace and Security (RIPS) hosted an international security webinar "China's Increasingly Assertive Maritime Expansion in the Midst of the Great Power Competition" on February 8-9, 2022 as the territorial integrity of the Indo-Pacific regional countries are at stake. The two-day webinar including one session open to the public revolved

around the papers prepared by the participants and virtual roundtable discussion. The papers, as revised, follow in this volume.

RIPS hereby expresses its sincere gratitude to the contributors and to all those who made this meaningful event possible.

Finally, RIPS and the authors of the papers would be grateful if the views and proposals expressed in the papers, and discussion in the webinar could contribute to the enhancement of the rules-based maritime order of the Indo-Pacific.

Hideshi Tokuchi

President

Research Institute for Peace and Security

* Views expressed or implied in the papers are solely those of the authors and should not be construed to represent the views of RIPS or of the respective organizations they belong to.

Timetable

Tuesday, February 8, 2022 (Closed.)

Session 1:

Security Frameworks of the Indo-Pacific and Their Implication on the Regional Security

Chair: **Prof Ken Endo**, Professor of International Politics, School of Law, University of Hokkaido

Panelists:

- ✧ **Prof Caitlin Byrne**, Director, Griffith Asia Institute, Griffith University
- ✧ **Dr Valérie Niquet**, Head, Asia Department, French Foundation for Strategic Research
- ✧ **Prof Alessio Patalano**, Professor, War & Strategy in East Asia, Department of War Studies, King's College London

Session 2:

China's Maritime Expansion to the East and South China Seas and Regional Response

Chair: **Prof Hideshi Tokuchi**, President, Research Institute for Peace and Security

Panelists:

- ✧ **Adm Yoji Koda**, former Commander-in-Chief, Self-Defense Fleet, MSDF, Japan
- ✧ **Prof James Kraska**, Chair, Stockton Center for International Law, US Naval War College
- ✧ **Dr Shafiah Muhibat**, Deputy Executive Director for Research, CSIS Indonesia

Wednesday, February 9, 2022 (Open to the public.)

Session 3:

East Asian Maritime Security in the Context of the US-China rivalry

Chair: **Prof Hideshi Tokuchi**

Panelists:

- ✧ **Prof Ken Endo**
- ✧ **Dr Alexandra Sakaki**, Deputy Head, Asia Division, German Institute for International and Security Affairs (SWP)
- ✧ **Prof Mariko Kawano**, Professor of International Law, School of Law, Waseda University
- ✧ **Prof James Kraska**
- ✧ **Dr Collin Koh Swee Lean**, Research Fellow, S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University

Contributors

Ken Endo is Professor of International Politics, School of Law & former Dean of the Graduate School of Public Policy, Hokkaido University, Sapporo. He is also Adjunct Fellow, Japan Institute for International Affairs, Tokyo, Japan. After obtaining MA (cum laude) in European Studies at Katholieke Universiteit Leuven, Belgium, he obtained a D.Phil in Politics at St Antony's College, University of Oxford, in 1996. The subsequent appointments include: Visiting Professor, University of Tokyo (2003-16), Visiting Professor, National Chengchi University (2008, 18), Fernand Braudel Senior Fellow, European University Institute (2009-10), Visiting Professor & Japan Chair, Sciences po, Paris (2005 & 2010), Visiting Professor, University of International Business and Economics, Beijing (2015), Visiting Fellow, Ifri, Paris (2017), Taiwan MOFA fellow (2018). His main publications are: *The Presidency of the European Commission under Jacques Delors: The Politics of Shared Leadership* (Macmillan/St. Martin's, 1999) and *The End of Integration – The realities and implications of the European Union* (Iwanami, 2013, in Japanese), for which he was awarded the Yomiuri-Chuo Koron Yoshino Sakuzo prize in 2014. His recent book focused on the *European Complex Crisis* (Chuo-koron, 2016, in Japanese). He edited two tomes in Japanese: *A History of European Integration* (Nagoya UP, 2008), *A Documentary History of European Integration: Documents and Commentaries* (Nagoya UP, 2008). His recent publications also include: *The Frontiers of Global Governance* (Toshindo, 2008); *History and Thought of Global Governance* (Yuhikaku, 2010); *Sovereignty at the Present Times* (Chikuma, 2019). Professor Endo served as one of the two commissioning editors of Iwanami's 8 vols (c100 articles), on Japanese security (2014-15).

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and Diplomacy, Vo. 120, Nos. 1 & 2 (2021), pp. 212-223. Professor Kawano has been a member of various committees and others of the ministries of Japan, including, the Consultative Committee on Maritime Affairs, Ministry of Land and Transport (2007-, Chairperson, 2014-); the Headquarters for Ocean Policy of the Government of Japan (Councilor, 2012-2016); the Advisory Group on the Oceanic and Environmental Policy (2013-); the Advisory Group on the Ocean Policy and Ports (2014-); the Council on Customs, Tariff, Foreign Exchange and Other Transactions, Ministry of Finance (2015-, Chairperson of the Planning Committee, 2016-); and the Committee for the Guidelines of Cruise Ships (2020).

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Session 1:

Security Frameworks of the Indo-Pacific and Their Implication on the Regional Security

Chair

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Panelist

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Dr. Valérie Niquet

Prof. Alessio Patalano

Announcing AUKUS: Implications and Insights for Regional Security in the Indo-Pacific

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Introduction

The announcement of AUKUS—a security partnership between Australia, the UK and the US—made on 15 September last year by President Biden, from the White House sent ripples through Indo-Pacific security communities and indeed beyond.

With Prime Ministers Johnson and Morrison standing (virtually) beside him, Biden (2021) framed the partnership as one that represented their ‘enduring ideals and shared commitment to the international rules-based order; and an opportunity to recommit their resolve to deepen diplomatic, security, and defence cooperation in the Indo-Pacific region, including by working with partners, to meet the challenges of the twenty-first century.

The primary objective of AUKUS partnership is to provide Australia with nuclear-powered submarines (8 by 2040). More fundamentally it represents a technology sharing partnership with the commitment to jointly develop other technologies such as quantum computing, artificial intelligence and other undersea capabilities.

It would be true to say that many were taken by surprise with the AUKUS announcement. For some, it was a welcome show of global, and particularly US, solidarity for Indo-Pacific security and stability. For others, the announcement was unsettling, marking a return as some called out, to ‘an anglosphere of old’, while stoking concerns about a regional arms race. For others again, there was simply too little information provided to make a call either way. It’s worth noting that lingering concerns remain within Australian defence and security circles, as to whether the AUKUS—described as the ‘most complex endeavour Australia has ever embarked on’—will ever be realised in any tangible sense (Shepherd 2021).

There’s no question that policy-makers behind the AUKUS trio would have been aware of the sensitivities surrounding this new partnership. But it is clear from the extent of the immediate diplomatic fallout, particularly from France, and mixed responses from those across the region, that not enough had been done in the months and weeks prior to understand where the sensitivities might lie, let alone shore up more sufficient understanding of and support for the initiative.

Looking back the announcement provides important insights into the complex views and positions that need to be taken into account when thinking about the kind of frameworks needed support regional security and stability in the Indo-Pacific. It highlights the increasing global

interest and the role for global engagement in the Indo Pacific, while revealing the significance of underlying concerns. In this paper, I review these responses and their implications for Indo-Pacific regional security efforts.

The AUKUS partnership: Inspired or misguided?

The responses generated by the AUKUS announcement are striking in both tone and variation. In part this was largely due to the surprise factor brought about by the announcement itself, and revelations of the secret negotiations that preceded it. Secrecy and the tactics of surprise have their place in International relations and diplomacy, but general advice tends to suggest they be employed sparingly and with significant judgement. In this case the fact that the secret negotiations ran counter to, and ultimately extinguished a pre-existing A\$90 billion dollar deal between Australia and France for the supply of conventional attack submarines, made them all the more problematic. The fanfare surrounding the AUKUS announcement added to the surprise factor, and conveyed a strange mix of messages that seemed out of step with other recent but more coherent and inclusive efforts to establish a stability in the region.

French President Macron was predictably furious, recalling his Ambassadors from the US and Australia almost immediately. And while high level dialogues between Macron and Biden soon patched up the transatlantic relationship, France's relationship with Australia has remains on rocky ground.

China, too was upset. Foreign Ministry spokesperson, Zhao Lijian (2021) claimed that AUKUS was the result of an 'outdated Cold War zero-sum mentality and narrow-minded geopolitical perception' that 'intensified' a regional arms race and harmed international non-proliferation efforts. It is a message that has since been promoted, albeit with greater subtlety through China's public diplomacy efforts in the region (Huo and Maude 2021).

Despite suggestions that they had been 'left out', the response from QUAD partners India and Japan remained somewhat muted (Tatsumi 2021). Most likely this reflected the fact that they had received pre-briefings from Australia's defence and foreign affairs ministers who visited their QUAD counterparts immediately prior to the AUKUS announcement. Only new in his role at the time, Japan's Prime Minister, Kishida affirmed the need for dialogue to counter China's aggression in the region. Notably, Prime Minister Modi's subsequent and ongoing conversations with French President Macron play an important role in securing France's ongoing engagement and partnership in the region (Roy 2021).

Within Southeast Asia the responses were mixed. Malaysia came out most strongly against the partnership noting concern that AUKUS could be a catalyst for a nuclear arms race provoking others to behave more aggressively. Notably, Malaysia's defence minister reverted to China for further discussions. Indonesia too, noted 'deep concern' about the potential for a 'continuing arms

race and power projections into the region'. While Vietnam, Thailand and Singapore remained somewhat cautious and circumspect in their feedback, the Philippines notably welcomed the partnership, with Foreign Minister Teddy Locsin suggesting it would 'restore and keep balance rather than destabilise it' (Samonte, 2021).

Overall, Southeast Asian stated concerns can be addressed relatively simply. Pushing back against notions of an arms race, one only has to point to China's unprecedented and out-sized investment in its own military capability, including naval capabilities as well as its turn to less conventional, grey-zone tactics as providing the primary source of instability in the region. On concerns about nuclear proliferation, again the message is clear. While Australia is seeking out nuclear propulsion technology for its next generation of submarines, it has does not intend to acquire nuclear weapons, and had reaffirmed its commitment to nuclear non-proliferation.

Implications of AUKUS for Indo-Pacific Regional Security

So what might we take away from the response to AUKUS that will assist our framing of regional security in the Indo-Pacific into the future? Four key points emerge. Firstly, as Evan Laksmana was quick to point out, many regional responses revealed a fundamental misreading of the nature of the partnership. For example, India and Indonesia referred to AUKUS as a new security alliance, rather than simply the partnership for technology sharing that it actually is. Coupled with overblown concerns about AUKUS' contribution to the regional arms race and undermining of non-proliferation commitments it the various misunderstandings to emerge reflect the criticality of clear, coherent and consistent messaging in both private and public diplomacy, and the need to understand how messages are received. It is clear that in the case of AUKUS that these two way dimensions of diplomacy's communicative process were missing.

But ultimately these issues, while politically convenient, reflect fairly superficial concerns, and this brings me to the second point. For many in Southeast Asia, the underlying issue: how to manage complex relationship with China, is more difficult to address. When it comes to issues of regional security, and notwithstanding growing concerns about China's aggressive influence in the South China Sea, many Southeast Asian nations continue to actively avoid any positioning that reflects a binary stance on China and the US. As John McCarthy (2021) observes, 'In ASEAN, not all would eschew big Australian boats. But few see merit in further injections into the region of mutual Chinese-American hostility.' While this may be a significant issue for other diplomats seeking to build partnerships in the region, it also suggests a significant challenge to the relevance of ASEAN centrality that many of the region's leaders actively promote. As former Indonesian foreign minister, Marty Natalegawa observes, 'AUKUS is a reminder to ASEAN of the cost of "dithering and indecision" in a fluid strategic environment (Choong and Storey 2021)

Thirdly, the very nature of the AUKUS partnership, and the rift it created with France reflects

an increasing global interest—particularly from European actors—in engaging in Indo-Pacific regional security. Regional security architecture will and should be crafted to draw on the strategic heft that others have to offer to the maintenance of a shared order. Once again there is a delicate balance to be found here with many European partners having to support a global presence while also managing their own difficult colonial legacies within the region.

Finally there is an issue about how more Indo-Pacific partners might benefit from the technology sharing approach that AUKUS represents. While Biden has unambiguously ruled out any extensions to the AUKUS partnership, there are questions to be asked about how AUKUS might reinforce other minilateral partnerships and alignments — ‘the Quad as well as trilateral groupings like Australia- Japan-U.S., India-Japan-U.S., and Japan-South Korea-U.S., to name a few — that have been blossoming in the Indo-Pacific region between the U.S. and its allies and partners’ (Tatsuma 2021). This is a point that Japan’s former Prime Minister, and leading architect of the Indo-Pacific has also raised in recent months (Smith, 2021). Technology partnerships need not be constrained to traditional military applications, but will find application towards a range of emerging security threats, including energy, food, climate and health security.

Conclusion

The expansive Indo-Pacific—a concept which draws varied and slightly different interpretations depending on perspective—offers a rich backdrop for today’s discussion. In her rebuttal of the AUKUS critiques, Australia’s foreign minister, Marise Payne (2021) made the following points on Australia’s perspective:

We can have friends in more than one linguistic sphere, on more than one continent, of more than one political persuasion. It is not one or the other. We must and will seize every opportunity, whether that is AUKUS, the rapid and positive evolution of the Quad, our strategic partnership with ASEAN, our energetic work as a member of the Pacific Islands Forum and with the European Union on the Indo-Pacific, or the strong bilateral friendships we have forged across the region.

...leaders and foreign ministers have been speaking in cautionary tones for several decades now about the nature of change that would come to pass in the twenty-first century. The reality is, that it is here and we are very much living in the midst of it – and for the most part remain insufficiently prepared.

These points speak to the core of the challenge facing Indo-Pacific nations in crafting a security frameworks that offer a better fit for the current realities of a diverse and contested region. Today

many across the region are looking beyond traditional horizons to identify shared interests and values, and to build new partnerships and alignments where there is a convergence or complementarity between them. It is this dynamic geometry of the Indo Pacific that is so striking and underpins the regional stability and security of the Indo-Pacific.

AUKUS, despite its poor public handling, reflects this reshaping. For those involved in its conception, it represents a long-term initiative aimed at restoring regional balance and pushback on China's military build-up and assertiveness. By more firmly binding the US and UK into the region, the partnership offers further ballast and strategic heft to the emerging geometry of Indo-Pacific regional order. At the same time it highlights an ongoing lack of buy-in from ASEAN states—deemed central to Indo-Pacific, and risks alienating key partners—especially Japan and India.

More will be required to demonstrate how AUKUS might deliver mutually-reinforcing benefit to existing frameworks and the multiple shared interests of the wider region, not just to the three that have signed up to it.

References

- Joseph Biden, Scott Morrison and Boris Johnson (2021) 'Remarks by Remarks by President Biden, Prime Minister Morrison of Australia, and Prime Minister Johnson of the United Kingdom Announcing the Creation of AUKUS', The White House, Washington D.C., 15 September.
- William Choong and Ian Storey (2021) 'Southeast Asian Responses to AUKUS: Arms Racing, Non- Proliferation and Regional Stability', Fulcrum: Analysis on Southeast Asia, 22 October.
- Fangyuan Huo and Richard Maude (2021) 'Chinese Digital Diplomacy in Southeast Asia During the Pandemic', Asia Society Policy Analysis, 21 September.
- John McCarthy (2021) 'Australia is Again Snuggling up to Powerful Friends', Asialink Insights, 27 September.
- Marise Payne (2021) 'AUKUS does not Turn our Back on Asia; It is About Building Relationships', Editorial, Department of Foreign Affairs and Trade, 27 September.
- Mauro Gia Samonte (2021) 'On AUKUS, Did Locsin Speak for the President?' Manila Times, 3 October.
- Tony Shepherd (2021) 'Australia's Aukus nuclear submarines could cost as much as \$171bn, report finds' The Guardian, 14 December.
- David Sanger (2021) 'Secret Talks and a Hidden Agenda: Behind the US Defence Deal that France Called "Betrayal"'The New York Times, 17 September.

Michael Smith (2021) 'Japan wants in on AUKUS', Australian Financial Review, 19 November.

Yuki Tatsumi (2021) 'AUKUS: Lessons for Japan's Defence Industry', The Diplomat, 28 September.

EU and France in the Indo-Pacific

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On April 19, 2021, the European Union (EU) published its "EU Strategy for Cooperation in the Indo-Pacific". This document departs from a traditionally more exclusively European focused posture. As well, the mention of "strategy" expresses a new awareness for security issues far away from its shores and surrounding territories and threats perceptions (Middle East, Balkan, Russia, terrorism, etc.)

In scope, the EU vision of the Indo-Pacific spans a large territory, from the East coast of Africa to the Pacific. The EU follows France's broad conception of the Indo-Pacific.

For Europe

The Indo-Pacific plays a major role and is an important factor in the preservation of Europe's global interests. The EU, contrary to a common vision, is already a major player in the Indo-Pacific: It is the first investor in the region. With the Connect EU-Asia policy launched in 2018, the EU plays a role in quality infrastructure building, a direct answer to China BRI, and a vehicle for cooperation with countries in the region like Japan. Global Gateway will also open new fields of cooperation with like minded countries in the Indo-Pacific.

In that sense, the EU cannot be indifferent to, nor excluded from, the Indo-Pacific. As the EU Indo-Pacific strategy mentions: the EU has a big stake in the Indo-Pacific. To the EU, the Indo-Pacific is where the World's economy and strategic center of gravity is.

At the economic level

As the Strategy reminds us, 60 % of the world population is in the Indo-Pacific, 60 % of the world GDP is produced in the Indo-Pacific, and the region until last year was the source of the 2/3rd of the world economic growth, still led by the PRC.

The EU is the principal investor in the region, in high-quality, sustainable development projects. The EU is also a major trade partner to all the major economies in the region, particularly China (first market for Chinese products) and Japan.

At the crossroad between the economic and the strategic, the Indo-Pacific is also a major purveyor of vital supplies, as demonstrated during the Covid 19 pandemics: semi-conductor, medicine, medical supply. It raises the issue, shared with countries in the region, of the necessity to build a more resilient supply chain.

At the strategic level

The EU is hugely dependent on a safe supply-chain, and the security of vital sea lanes of communication that cross the Indo-Pacific from Japan and China to Europe across the Indian Ocean. These SLOC are vulnerable to natural (typhoons, tsunamis) and man-made disruptions (piracy, conflicts). This is particularly the case in the Indian Ocean, east of Africa, with the threat of piracy (the EU is contributing to the safety of these sea lanes with operation Atalanta), in South East Asia around the strait of Malacca, but also in the South and East China Sea and the Taiwan Strait, under direct pressure from China's claims and nearly constant naval presence.

Vision of China

The Vision of China in Europe has changed drastically since the mid-2010s, with an accelerating deterioration of China's image in the last two years. Of course, the Covid 19 pandemic plays a role, but also the aggressive diplomacy implemented by China. Lithuania is the latest example. The lack of reciprocity in trade also plays a role. The situation in Hong Kong and the Xinjiang province has been officially condemned at the EU level, and the EU adopted sanctions against Chinese officials on Xinjiang. The EU parliament published a resolution in favor of Taiwan and stability in the Taiwan strait, and condemned China's constant military exercises in Taiwan ADIZ. In that context, the investment agreement signed in 2020 with the PRC has almost no chance of being ratified by the EU Parliament.

According to the EU definition (close to the US one), China is a partner on some issues like the environment, but also a competitor, and a systemic rival. Despite talks of decoupling, in some strategic sectors, China is still perceived as an opportunity (as is the case in Japan) but also as a major source of instability and disruption.

What the EU can do

EU Indo-Pacific Strategy supports an "open and rule-based regional architecture", a definition close to Japan's Free and Open Indo-Pacific concept. It decided to "increase its strategic focus, presence, and action in the region."

One example is the proposal to coordinate naval presence in the area among the EU Member States, a proposal launched by then-Defense Minister Le Drian at the Shangri-La Dialogue as soon as 2016. In 2021, Germany sent for the first time a frigate, Bayern, in the region. France sent the nuclear submarine Emeraude as well as a Frigate, Tonnerre (joint exercise with JMSDF) in the framework of the Jeanne d'Arc missions. France also conducted joint exercises on land with Japan. In 2019 the Charles de Gaulle ACC also was on a mission in the Indo-Pacific to participate in the international coalition against Daesh in Operation Inherent Resolve. It also trained with

partners in Australia, Egypt, United States, India, Indonesia, Japan, Malaysia, Singapore. Since 2016, France has sent vessels in the Indo-Pacific every year, to support its resident naval presence in the Pacific that can be mobilized, in coordination with allies, in safety and security missions like is the case after the Volcano eruption in Tonga.

The EU strategic interests in the Indo-Pacific focuses on ocean governance, including freedom of navigation and rule of law, health issues, and environmental issues. In terms of partnerships, the EU claims to be inclusive but also focuses on partnerships with countries or entities that share the same values like Japan, India, South Korea, and the ASEAN, an important partner for the EU multilateral agenda in the region.

France in the Indo-Pacific

Not all countries are exactly on the same page on the importance of the Indo-Pacific for Europe. Some countries, for historical or economic reasons, in Easter Europe, the Baltic countries, or southern Europe tend to focus more on immediate threats related to Russia, or potential economic gains from China despite some backlashes in recent months. The 17+1 (now 16+1) group is less solid with the departure of Lithuania. Italia and Greece are not as enthusiastic about BRI as they used to be. Some countries however tend to play on two sides: supporting exclusively the US led NATO security format and weary of the concept of strategic autonomy supported by France and Germany; and at the same time remaining close to China for economic or ideological reasons. This is typically the case of Poland; whose president was the only European head of States to be present at the winter Olympics opening ceremony in Beijing.

In Europe, France has been at the forefront of the Indo-Pacific strategic interest and strategy. And this will not change despite frustrations like AUKUS.

As we all know, France is an Indo-Pacific power with territories (and 1,5 million people) in the Indian Ocean and the Pacific and more than 8000 forward deployed military. France's presence in the Pacific has been comforted by the referendum in New Caledonia in December 2021, that rejected independence.

As a result of these territories, France's EEZ is the second in the world, after the United States.

As is the case for Europe, France economic interests are related to the stability and prosperity of the region.

France was the first EU state to present an Indo-Pacific strategy, with defense guidelines in 2018 when president Macron delivered a memorable speech in Australia. France has extended interests and objectives in the region, from the economy to sustainable development, maritime safety, and anti-terrorism. On defense and security, France has the ambition to contribute to stability in the region. Focusing on maritime security, the respect of international law and freedom of navigation, sharing information to increase maritime awareness, deepening interoperability with regional

partners through joint exercises, and organizing rescue missions through the FRANZ mechanism in the Pacific for instance.

The focus is also on developing partnerships with countries that share the same values: Japan, India, Indonesia a major actor in SE Asia, Singapore, South Korea but also Australia when the situation will permit.

China is also mentioned as an essential partner, indispensable on some global issues, but also problematic on human rights, lack of reciprocity, aggressive posture in the East and the South China Sea, and the Taiwan Strait.

AUKUS as a realpolitik minilateral framework and its significance for the Indo-Pacific security

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In September 2021, Australia, the UK, and the US jointly announced a new defence and security pact, also known as AUKUS. This new defence pact was driven by the Australian desire to replace its submarine force with a fleet of nuclear-powered boats, and materialised in the form of a wider agreement on technology and science cooperation for the purpose of enhancing national defence.

AUKUS was a once in a generation moment in international affairs in that it represented the first framework to be established in the aftermath of the two decades of war against non-state actors. Indeed, in this respect AUKUS signals that realpolitik diplomacy in the Indo-Pacific to meet state on state competition replaced stabilisation operations in the Middle East and central Asia as the main focus of Anglo-American security practice. Crucially, the pact reminded us of the three reasons why the this region is the fulcrum of this decisive shift of focus in action and priorities.

AUKUS is a statement about a shared worldview. It stemmed from Canberra's genuine concerns over regional stability which found receptive audiences in London and Washington. It built upon a common belief that Indo-Pacific prosperity depends upon its societies and economies remaining open, growing connected on the basis of respect of the rule of law and civil liberties. Indeed, in June 2021, the UK and the US specifically renewed their commitment to an international order based on such ideals with the New Atlantic Charter. The charter was not an attempt to protect a failing American order from Chinese ascent; rather, it renewed the appeal of the values underwriting its transformation.

This is why both countries took very seriously Australia's concerns over a politically revisionist China. Economic coercion, military and constabulary assertiveness in the East and South China Seas, as much as interference in domestic politics fundamentally changed the Australian government's mandate on national security. The Australian public does not desire war with China, but it does consider Beijing's predatory behaviour as increasingly unrestrained and damaging to a prosperous and stable region. Canberra's determination to pursue 'nuclear legs' for its submarines to increase operational flexibility and enhance their mission spectrum would not exist without such a changed perception.

This leads to the second point about AUKUS' broader strategic significance. The pact is not a NATO-styled alliance to contain China. It has no Article V-like provision or automatic collective defence mechanism. It is not the brainchild of a Cold War mentality, contrary to Global Times claims. Minilateral formations like AUKUS, much as the Quadrilateral Security Dialogue, or Quad, are issue-led forums for action. They are the realpolitik answer to the security questions of like-minded state actors operating under the shadow of major power competition. AUKUS does not suggest that a binary mentality informs its signatories. On the contrary, it rewards a form of diplomacy that is nimble and adaptive, inclusive in thinking about frameworks and specific in pursuing agendas.

In this regard, AUKUS is also different from the Quad, in that it has a much sharper focus on a specific issue – the role of technology in future defence capabilities – and therefore is designed to build upon a much higher degree of convergence and trust among its members.

Against this background, AUKUS addresses the geopolitical centrality of maritime security to Indo-Pacific stability. The region's highways of physical and digital connectivity as much as military manoeuvre and power projection do not rest on tarmac and antennas. They rely on salty water and undersea cables. Nuclear powered submarines, therefore, provide stealth platforms with continuous power supply to support advanced intelligence and surveillance sensors and cutting-edge conventional military capabilities. They represent also a down payment on the capacity to integrate future capabilities derived by autonomous and automated vehicles and artificial intelligence.

Indeed, the UK and US announcements sought to emphasise this point through language that confirmed the commitment to NPT provisions in the technology transfer. The main aim was to plant the seeds for Australia's contribution to the Indo-Pacific long-term conventional maritime balance, not to risk weakening the nuclear order.

This point highlights the third reason for AUKUS's importance. The pact is a window into what the recent UK integrated review defined as the country's convening power. AUKUS is the first significant proof of Britain's ability to convene partners and favour action on the critical geopolitical questions of today. When the Australian navy chief approached his British counterpart, the UK government mobilised its resources to favour the negotiation at the G-7 in Cornwall. More importantly, Prime Minister Johnson insisted in casting this collaboration over submarines as a first step into a more long-term cooperation over science and technology for the

purpose of defence.

AUKUS has not been without critics. There are numerous questions about how the technology transfer will be implemented and how capability gaps in Australian submarines will be addressed. The recent visit by the UK Defence and Foreign Secretaries to Australia has confirmed the commitment that both sides have in making AUKUS work; yet details remain still limited.

Relatedly, the longer term impact of French outrage over the abrupt end of the agreement with Canberra will require careful political attention. Lawyers will have to establish the terms of foul play over how Australia ended the submarine contract. Yet political trust between Paris and the three capitals has been eroded and the journey to rebuild it should be a priority. France is an Indo-Pacific resident power and a like-minded partner; the success of realpolitik minilaterals will also depend on how partners like France, Japan, and India relate to them. This is why it was important for Prime Minister Johnson to stress, in the aftermath of reactions in Paris, that the pact is not an exclusive affair to keep the door open to mend ties.

Commentators have argued that AUKUS is a displacement activity that fails to recognise the weakened nature of western democracies. Nothing could be further from the truth. The priorities of global security have changed. AUKUS reflects a realisation that there is no prosperity without security in a world in which the former is function of the latter for revisionist regimes to survive. It highlights how, at a time of renewed geopolitical competition among states, minilateralism leveraging hard capabilities to ensure international stability will be crucial to the security architecture. It showcases how medium global powers like the UK – as much as Australia, France, or Japan – will have renewed opportunity to play a role by convening concerted action.

AUKUS is therefore not a framework meant to replace existing components of the regional architecture; rather, it adds to it with a clear answer to a specific problem, that of technology in military affairs. The development of the next generation of Australian submarines represents AUKUS' first collaborative project and therefore this is unlikely to be open to other partners. Yet, on the wider theme the pact covers, the intension is seemingly clear to promote partners' engagement.

Of no less relevance, AUKUS represented – from a UK perspective in particular - the first deliverable on the ambitious agenda of 'persistent engagement' of the UK with the Indo-Pacific. As such, it suggests that in addition to France, a new actor is seeking to develop the means to be able to be more directly involved in the shaping of the regional strategic environment. Above all,

AUKUS confirms that the expanses of the Indo-Pacific are where the future of international politics is being shaped and why everybody else should pay attention to them.

Session 2:

China's Maritime Expansion to the East and South China Seas and Regional Response

Chair

Prof. Hideshi Tokuchi

Panelists

Admiral Yoji Koda

Prof. James Kraska

Dr. Shafiah F. Muhibat

China's Maritime Expansion to the East and South China Sea and Regional Response

Yoji KODA

Former Commander-in-Chief, Self-Defense Fleet, MSDF, Japan

1. China's maritime expansion during last two decades

China has been actively and eagerly carrying out self-righteous maritime expansion maneuvers that challenge today's long familiarized and established concept of "Free use of sea" since turn of the century. We call this concept "Free and Open Indo-Pacific" today. At the same time, judging from China's maritime activities in recent years, it is true that there is no remedy which can confine China's one-sided determination to be a hegemonic power in this region by all means and at any cost. In this context, it seems more difficult than before to convince China to alter its course toward a more internationally cooperative posture. However, it is still necessary and important to keep contacting and talking with China for establishing a stabilized maritime security order in the region, especially in the East and South China Seas.

2. True and real characters of China

Through our observation of China's foreign policies, especially its maritime policies over the East and South China Seas during last two decades, there is one clear lesson learned from China's maneuvers in these periods. It is the fact that China does not obey or follow established international laws, regulations and norms (including UNCLOS), customary international law and other various common sailors' seafaring rules.

There seem to be three models in China's case.

Case One: China follows international norms only when these norms clearly support China's internal intentions and maneuvers.

Case Two: China sometimes uses unique rhetoric when its maneuvers are not supported by other maritime powers. In this case, China says it follows today's international norms, but with a different interpretation that explains and justifies its un-supported policy. Thus, China is pretending as if it is in full compliance with today's norms, while using a different interpretation.

Case Three: As the final case, China uses a kind of "Holier-than-thou" tactic when the international community firmly and clearly denies, and does not accept, China's willful attempts and maneuvers. In this case, China completely ignores the norms and disagreements from the international community. China solely pushes its maneuvers ahead to establish its

national objectives, regardless of hard responses from the international community. So, China can be seen as being similar to the Middle Kingdom of ancient Chinese Dynasties which ruled entire Asia, except Japan. One common characteristic of the ancient dynasties is “I/My dynasty is the rule.”

With regard to our observation over the real nature of China in the security arena in recent years, there are two schools of thought, as described below.

2.-1 First School: An “Optimistic School”

There is a group of people who see the real character of China as a nation which still has some potential and intent to fully follow current international norms and customs, and to get along with the international community. If view is correct, China is a nation that is still worth negotiating with and building cooperation.

2.-2 Second School: A “Pessimistic School”

There is another thought that China has a policy objective to establish a system of "Sino-centrism", by persisting in self-righteous maneuvers that are based on China’s historical and religious consciousness. In this regard, China does not hesitate to ignore international norms and customs, when necessary. Thus, China behaves as if China itself is the basis for the laws and regulations that rule international community. If this view is correct, then China is a nation that is not worth negotiating with.

Judging from China’s major international actions since the turn of the century, specifically around 2015-2017, there seems to be extremely limited opportunities for the international community to convince China to change its current self-righteous international maritime maneuvers through diplomatic negotiations. Therefore, I am convinced that China is a nation which belongs to the abovementioned Second School of thought.

In this regard, China is not a nation which can be easily convinced about the values of international regulation and norms. However, diplomatic contacts with China should be our business of first priority; and at the same time, we need our military capability to back-up our diplomacy when we talk with China.

We should never spoil China, and should not repeat our mistakes that allowed China’s willful attempts of establishing many de-facto situations in maritime theaters by keeping silent and doing nothing toward China.

3. East and South China Sea issues

In addition to a huge merchant shipping fleet, which supports China’s national and economic

prosperity, PLA and PLA-Navy (PLAN) have been aggressive in expanding maritime activities to establish China's national objectives. These water-areas stretch from East and South China Seas to outer Northwest Pacific and Indian Oceans. PLAN also deploys small naval units to European and African waters, as well as to the Middle East, and Pacific Islands and South American waters. Additionally, both the Arctic and Antarctic Oceans are not excepted from Chinese attention. These water areas and networks of sea-lanes have been China's indispensable key life-lines, and basis for national survival and prosperity, for the last two decades.

Having said this, however, there are several serious geopolitical issues generated by China's expansion of maritime activities, both in global and regional scale. Among them, East and South China Seas issues have been getting hopelessly bogged-down in recent years among local coastal nations, as well as with geographically-removed nations, such as Japan and USA. These disputes are typically categorized into the below four groups.

3.-1 Territorial ownership of maritime features and building artificial islands

3.-2 Free Use of Sea/Freedom of Navigation/Maritime activities as fundamentals of human society

3.-3 China's claimed Nine-dashed line in the South China Sea

3.-4 Hidden elements behind above three issues

- ✓ Competition over said-to-be rich maritime resources, and China's intent to build a monopoly
- ✓ Formulation attempt of Code of Conduct in the South China Sea to force U.S. out of the area

4. Recommended courses of action

4.-1 Stop China from making further "De-facto gains"

In order to realize and establish this objective, it is necessary for both Japan and U.S. to show our determination, backed by strong and integrated military power. It is, needless to say, that Australia and India, if possible, should be also invited into this framework.

One thing which should specifically be mentioned here is Japan's role and increasing responsibility to maintain the presence of U.S. forces in this region, both in ordinary times and during contingencies. This is especially relevant, because the potential size of U.S. forces deployed in this region to deter China in contingency will be overwhelmingly large, and could be almost the same size as seen during 1st Gulf War in 1990-91. If this is the case, Japan's role to fully support U.S. 5-6 CVBGs, 4-5 MEF/ARGs, more than 1,000 fighters and over 1,200 support aircraft, will be key to deter China's adventurism. These logistic support and joint operational capabilities between JSDF and U.S. Forces will be essential to deter, and prevail over, China in a

future crisis.

4.-2 Establish Cooperative posture among regional nations

ASEAN nations have been in difficult positions, caught between U.S. and China. Of course, both Japan and U.S. should not force ASEAN nations to make their position clear by choosing either U.S. or China. But what is important and necessary is a policy to establish better relationships with the ASEAN nations. Without their support, even if it is "silent", Japan-U.S. maneuvers in the region would be more difficult.

4.-3 Geography: Tight and semi-closed nature of the East and South China Seas

When we see a large map and picture of this region, one thing we should keep in mind is the geographic-fact that both the East and South China Seas are tightly-closed waters, with only few chokepoints in a surrounding "1st Island Chain". These few chokepoints are the only passage for both Chinese military and merchant shipping to connect with outer seas and oceans. Another fact is that the "1st Island Chain" is not Chinese territory at all. In this context, this naturally-provided strategic geography could, if we wisely develop our plan, surely be a China's Achilles heel for its own security planning and economy.

4.-4 Newcomers

In addition to traditional powers, such as U.S., Japan, Australia, as well as regional nations, some NATO nations have started revealing strong concerns over developments of China's related maritime issues. UK, France, Germany and Canada have shown their concerns to Beijing by sending not only diplomatic signals, but also deploying some military units to the region. This new development is an augmenting trend to deter China from moving towards dangerous adventurism that would damage the existing tight-rope-walking type regional security stability situation.

5. Summary

In order for us to deter China, what is important and necessary is an integrated effort by both diplomatic measures, backed by robust and determined military capabilities of like-minded nations. We should never repeat the same mistake that we made in the past years in the East and South China Seas by sending passive "Green Lights" to China.

International Law Analysis to Strengthen Deterrence in the Senkaku Islands

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- China has been undeterred in the South China Sea and the East China Sea in its persistent, low-intensity campaign to absorb maritime and island territories
- China's actions violate two fundamental norms of international law – the proscription against the threat or use of force and the breach of international obligations under the law of state responsibility

Violation of the Norms on the Use of Force

China's maritime claims in the East China Sea violate the most fundamental norms of international law – principally, article 2(4) of the Charter of the United Nations, which proscribes that “[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

- ✓ China's actions surrounding the Senkaku Islands are a threat of the use of force against the territorial integrity of Japan
- ✓ China's campaign is designed to undermine the political independence of Japan by decoupling it from its alliance with the United States
- ✓ China's activities are inconsistent with the Purposes of the UN, as set forth in article 1 of the Charter
 - China is aggressive in diminishing international peace and security and preventing Japan from fulfilling its obligations under the UN Charter to (1) take collective measures with the United States for the removal of threats to the peace and for the suppression of acts of aggression; (2) bring about by peaceful means adjustment or settlement of international disputes under the “principles of justice and international law” by attempting to compel a neighbor to divest from territory lawfully acquired some 130 years ago; and (3) creating conditions that “might lead to a breach of the peace.”

China's aggression has violated article 2(4) of UN Charter because it demonstrates a series of hostile acts or demonstration of hostile intent

- ✓ The Paramilitary Activities Case (Nicar. v. U.S.) (ICJ 1986) held that states may use self-defense against aggression only in cases where it rises to a threshold of “gravity” or “scale and effects” that are tantamount to a conventional invasion
- ✓ The Oil Platforms Case (Iran v. U.S.) (ICJ 2003) held that states may not cumulate a series of low-level attacks into forming a single, cohesive campaign of aggression that triggers the right of self-defense
- ✓ The United States and Israel (and presumably Russia and China) do not accept the holdings of the ICJ in the Paramilitary Activities Case of the Oil Platforms Case
 - The United States was repudiated in both cases for using force against low-intensity aggression because the Court held that the acts of aggression did not trigger the right of self-defense
 - The ICJ held that the U.S. rationale for the use of force in self-defense did not meet the criterion of the two cases, even if Nicaragua or Iran had acted in violation of article 2(4).
 - Article 51 of the UN Charter permits the use of force in self-defense when the attack is tantamount to a conventional attack

Violation of the Norms of State Responsibility

Regardless of the legality of the use of force against low-intensity threats or attacks, China is internationally responsible for its internationally wrongful acts

- ✓ Wrongful acts are those that (1) consist of an act or omission that is (2) attributable to the state under international law and (3) constitutes a breach of an international obligation of the state.
- ✓ Internationally wrongful acts may be attributed to the state if they are conducted by any organ of the state or private persons whose conduct is attributable to the state

Whether an internationally wrongful act is governed by international law and the law of state responsibility is not affected by its characterization as lawful by internal (domestic) law of China, such as the China Coast Guard Law, *Alabama Arbitration* (a state cannot rely on its internal law as an excuse for not performing its international obligations)

Flag states have a duty to ensure that vessels that fly their flag comply with internationally accepted standards, article 94, UNCLOS

- ✓ Flag states are obligated to ensure that vessels flying its flag are not involved in IUU fishing, ITLOS Advisory Op on Fisheries
- ✓ The flag State has a “due diligence obligation” to take all necessary measures to ensure

compliance and to prevent IUU fishing by its fishing vessels

- ✓ China must exercise “due regard” for the rights of coastal states in the coastal state EEZ, South China Sea Award, para. 756

Flag states are responsible for damage caused by their warships or other government ships operated for non-commercial purposes, article 31, UNCLOS

Warships enjoy sovereign immunity, article 95, 96, UNCLOS

- ✓ “Warship” means a ship belonging to the armed forces of a State; bearing the external marks distinguishing such ships of its nationality; under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent; and manned by a crew which is under regular armed forces discipline.

China’s presence operations, including the purported exercise of maritime law enforcement jurisdiction inside the territorial sea, contiguous zone, and exclusive economic zone of Japan constitute internationally wrongful acts attributable to China

- ✓ The operations by Chinese fishing fleets, including the maritime militia, are directed by and attributable to China
- ✓ The operations by ships of the China Coast Guard are immune from the jurisdiction of foreign states and enjoy sovereign immunity if they are owned or operated by the state and are on government, non-commercial service
- ✓ China’s maritime militia are an “organ of the state” and they are part of the People’s Armed Forces but it is a question of fact whether they are owned by the armed forces or under the exclusive control of the armed forces
- ✓ If Chinese maritime militia are not an “organ of the state,” China still may be responsible for their conduct if they are empowered by the state of China to exercise elements of governmental authority under international law, if their master and crew are acting in that capacity, ILC Articles, art. 4
- ✓ The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of that State in carrying out the conduct, ILC Article, art.

8

Consequences flow from the breach of an international obligation – the obligation to cease the illegal conduct and the obligation to make reparations against the injured state

- ✓ If cessation or reparations are denied to the injured state, it may unilaterally impose countermeasures
 - Countermeasures are measures, otherwise unlawful, taken against another state by way of response to an unlawful act by that state
 - Self-defense is not a suitable analogy since it is conceived as an inherent right in situations of armed attack
- ✓ Countermeasures include the suspension of any normal legal obligation to induce compliance or until such time as reparations have been made
- ✓ Collective countermeasures may also be permitted, although it is not clear whether states that are not directly injured may join an injured party in collective countermeasures. Countermeasures may be taken by a state “at the request and on behalf of any state injured by the breach, to the extent that the state may itself take countermeasures.”
- ✓ Japan and the United States should think strategically and discuss and implement options concerning the imposition of collective countermeasures against China to deter aggression and unwind China’s campaign against the Senkaku islands. This use of general international law is a mechanism that will strengthen deterrence and reduce the risk of escalation that could lead to armed conflict.

Indonesia-China Relations: Some Updates on the North Natuna Sea

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Looking at the history of Indonesia's foreign policy, the "*bebas aktif*", or "free/independent and active", doctrine has served as a permanent compass in guiding Indonesia's foreign affairs since its independence. This translates to a number of distinct policies in the past, including the establishment of Association of Southeast Asian Nations (ASEAN). Amidst the ongoing international changes, Indonesia has been quite comfortable maintaining this.

Indonesia, like most other Southeast Asian nations, has traditionally followed a policy of nonalignment, or neutrality, to maintain good relations with both the United States or China with the aim to simultaneously accrue benefits from both relations. Despite negative news about Chinese investments in the country and episodes in the North Natuna Sea, relations between Indonesia and China have seen some positive developments in the past year. At the onset of COVID-19 pandemic, in the first half of 2020, China became Indonesia's main supplier of much-needed personal protective equipment, and later on when vaccines became available in late 2020, China provided Indonesia with millions of Sinovac doses. Meanwhile, economic relations continued to expand, with China remaining as Indonesia's number one trading partner. In 2021, the two countries also agreed to increase infrastructure and maritime projects with a specific focus on Indonesia's less developed eastern islands.

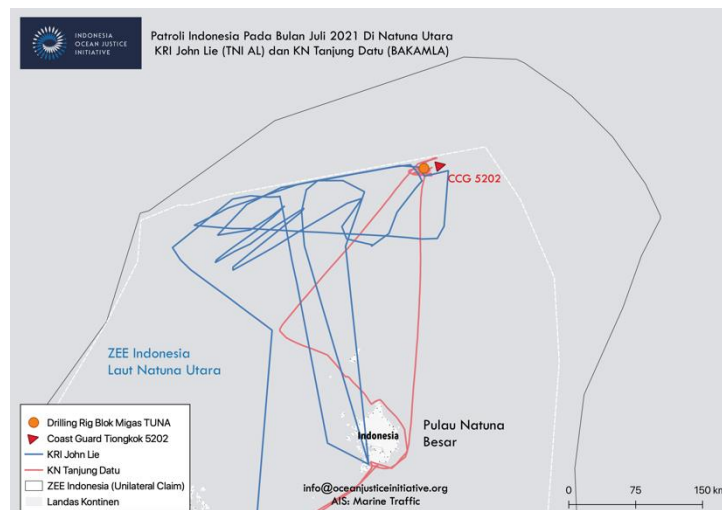
In addition to economic ties and health cooperation, interesting initiatives also occurred on the military front. In 2021, the Indonesian and Chinese navies conducted a joint military exercise in the waters near Jakarta to improve coordination during emergencies at sea. Two of China's guided-missile frigate ships and two Indonesian warships were reportedly conducting joint exercise. The Chinese navy also assisted Indonesia to search for the wreck of the submarine KRI Nanggala-402 in April 2021.

These developments on the military front took place despite the ongoing standoff in the North Natuna Sea, which occurred several times throughout 2021, when there was an escalation of Chinese Coast Guard (CCG) ships interfering Indonesia's Economic Exclusive Zone (EEZ). Most notably, the interference is discovered by oil exploration activity that was conducted by Indonesia in Tuna block from July 2021 to November 2021. It was found that CCG ships conducted

harassment manoeuvres to the oil exploration activity in Tuna block. Moreover, China was also conducting illegal maritime survey activity through Chinese ship Haiyang Dizhi 10 since August to October 2021. Let's go through some of these incidents.

China Coast Guard #5202. CCG 5202 was detected on North Natuna Sea, near the Tuna block area on 17 July 2021. It is suspected that the ship has shut down AIS before entering Indonesia's EEZ since 25 June 2021. The CCG 5202 was then followed by patrol ships from BAKAMLA, KN, Tanjung *Datu*, and ships from the Indonesian Navy and KRI John Lie. The CCG 5202 left Tuna Bloc by 8 August 2021 and was replaced by the CCG 5305.

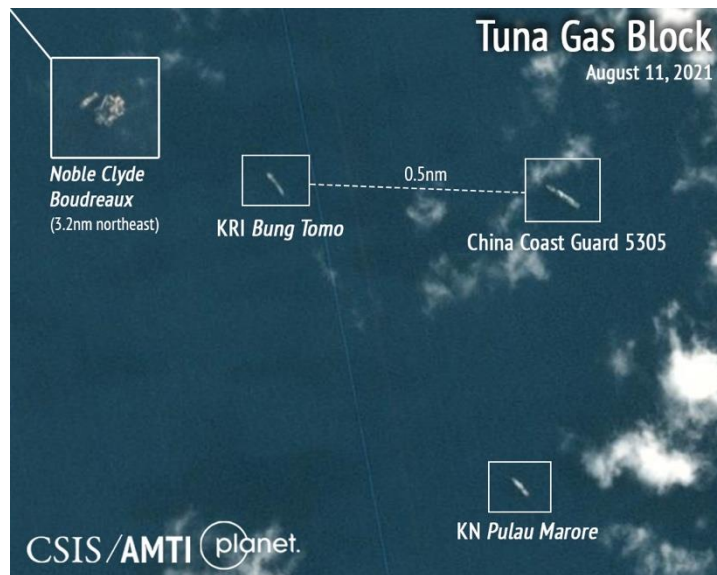
Picture 1: Position of CCG 5202 in July 2021



Source: Indonesia Ocean Justice Initiative, “Ancaman IUUF dan Keamanan Laut Indonesia - Juli 2021” (2021), <https://oceanjusticeinitiative.org/2021/08/02/ancaman-iuuf-di-indonesia-juli-2021/>

China Coast Guard #5305. CCG 5305 was detected entering Indonesia's EEZ zone from the early of August 2021 to the end of September or early of October 2021. The ship is followed by ships from Indonesian Navy, KRI *Bung Tomo*, and patrol ships from BAKAMLA and KN *Pulau Marore*. CCG 5305 was then replaced with CCG 6305.

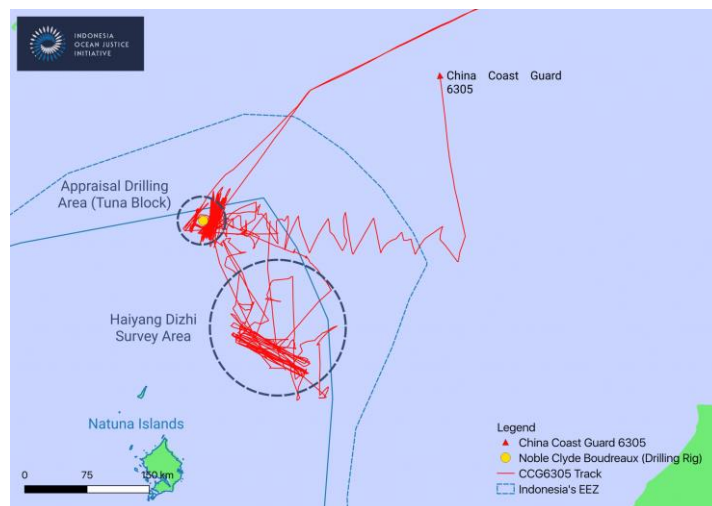
Picture 2: Position of CCG 5305 on 11 August 2021



Source: CSIS Asia Maritime Transparency Initiative, 2021, <https://amti.csis.org>

China Coast Guard #6305. The CCG 6305 was detected entering Indonesia’s EEZ around the middle of October 2021 to 20 November 2021. The ship escorted Chinese maritime survey ship, Haiyang Dizhi 10.

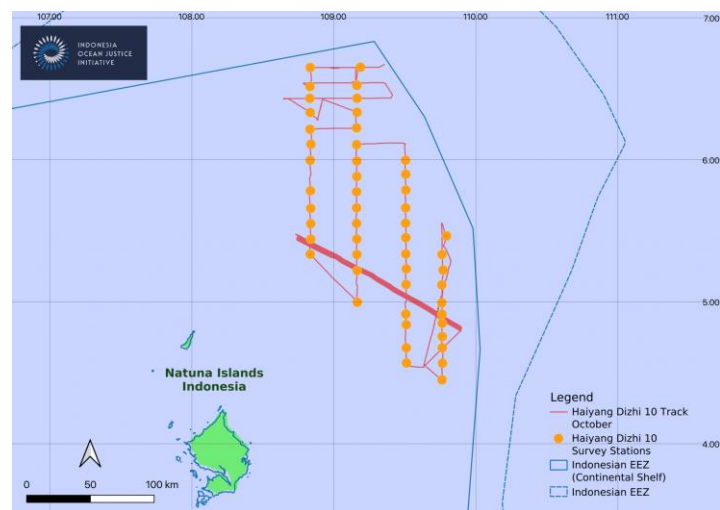
Picture 3: Position of CCG 6305, October-November 2021.



Source: Indonesia Ocean Justice Initiative, “Ancaman IUUF dan Keamanan Laut Indonesia - Oktober & November 2021” (2021), <https://oceanjusticeinitiative.org/2021/12/03/ancaman-iuuf-dan-keamanan-laut-indonesia-oktober-november-2021/>

Illegal Maritime Survey Activity: Hai Yang Di Zhi 10. On 31 August 2021, a Chinese-flagged research ship was suspected on conducting maritime survey activity on Indonesia’s EEZ. The ship has visited more than 50 survey station points and has stopped at least for 30 minutes before moving to the next points. The CCG 4303 ship escorted the Haiyang Dizhi 10 ship until mid-September 2021, and it was replaced by the CCG 6305 ship until they finish the activity.

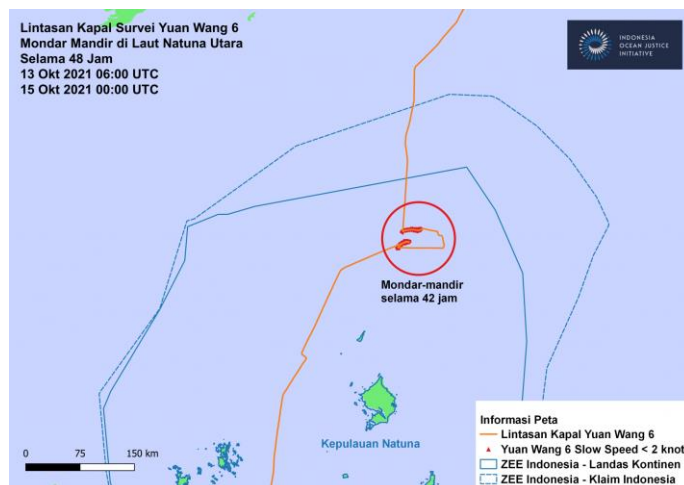
Picture 4: Position of Hai Yang Di Zhi 10, August 2021



Source: Indonesia Ocean Justice Initiative, “Ancaman IUUF dan Keamanan Laut Indonesia – Agustus 2021” (2021), <https://oceanjusticeinitiative.org/2021/09/02/ancaman-iuuf-dan-keamanan-laut-indonesia-agustus-2021/>

Illegal Maritime Survey Activity: Yuan Wang 6. On October 2021, a survey ship *Yuan Wang 6* was detected entering Indonesia’s EEZ. The ship was observed circling the North Natuna Sea area for approximately 42 hours before moving to leave Indonesia's EEZ on October 15, 2021. The activity was carried out in conjunction with the survey conducted by *Hai Yang Di Zhi 10*.

Picture 5: Position of Yuan Wang 6, 13-15 October 2021



Source: Indonesia Ocean Justice Initiative, “Ancaman IUUF dan Keamanan Laut Indonesia – September & Oktober 2021” (2021), <https://oceanjusticeinitiative.org/2021/10/21/ancaman-iuuf-dan-keamanan-laut-indonesia-september-oktober-2021/>

Following each of these incidents, there were considerably minimal political responses from Indonesia, as the government prefers to downplay the incidents. On October 1, 2021, Foreign Ministry’s Spokesperson, Teuku Faizasyah issued a statement: "The diplomatic communication mechanism continues to be used by Indonesia to discuss various issues of concern, including maritime issues, with China.”¹

On October 4, 2021, Head of Indonesian Naval Information Service at Indonesian Navy, First Admiral Julius Wijdojono commented on the presence of Hai Yang Di Zhi 10: “The (research) ship is outside national jurisdiction. There is no violation information yet.”² On the presence of the KRI Bontang tanker in the North Natuna Sea, he added: "KRI Bontang is here because of its function as a liquid logistics aid ship, especially considering that there are several KRIs operating in the Natuna Sea.”³

On October 14, 2021, Coordinating Minister for Maritime Affairs and Investment, Luhut Binsar Pandjaitan, said in a remarks in Washington DC, “We respect freedom of navigation in the Natuna Sea.”⁴ Furthermore he said that the government had discussed the issue with their counterparts

¹ “Kapal China Diduga Meriset di Natuna,” Kompas, 3 October 2021.

² “TNI AL: Tidak Ada Pelanggaran Kapal Riset China di Natuna,” CNN Indonesia, 4 October 2021, <https://www.cnnindonesia.com/nasional/20211004185539-20-703272/tni-al-tak-ada-pelanggaran-kapal-riset-china-di-natuna>

³ Ibid.

⁴ “Indonesia Ambil Sikap Hati-Hati Perihal Keberadaan Kapal Survei China di Natuna,” Benar News, 19

in China, and that they had agreed to disagree in some areas, but he insisted that things are manageable so far. Minister Luhut likened the skirmishes to issues among siblings: “It's like being brothers; there are problems from time to time, but don't make it a huge deal.”⁵

On December 22, 2021, the Head of Indonesian Maritime Security Agency (Bakamla), Vice Admiral Aan Kurnia, said in a press conference in Jakarta, "Indonesia will always be present on the North Natuna Sea to protect the country's sovereign rights from threats from other countries.”⁶ He argued that Bakamla also conducted ‘diplomacy’, meaning to reach out to maritime security agencies of countries in the region and outside the region. Similar to Minister Luhut, Vice Admiral Aan Kurnia also likened the problem to disputes among siblings.⁷

From these comments/statements, it is apparent that Indonesia continues to pursue a non-confrontational approach. Rather, the government stresses on the diplomatic process that has been established with China to resolve various existing problems.

Going back to, As I explained at the beginning, Indonesia has been making continuous efforts to maintain good relations with both China and the US, hence the current line of policy is to be expected. Nonetheless, if indeed the two Chinese survey ships did conduct marine surveys in the Indonesian EEZ, the Chinese government must provide access and information as required by UNCLOS Articles 246, 248, and 249. In this regard, the Indonesian government has the right to know what the Chinese ships Hai Yang Di Zhi 10 and Yuan Wang 6 were up to, thus should seek an explanation for the two ships' conduct in the Indonesian EEZ, as well as the disruptions created by CCG vessels' oil and gas exploration activities.

The COVID-19 pandemic has had some impacts on the South China Sea, among others on the postponement of Code of Conduct negotiations, on the lack of funding resources for Southeast Asian claimants to maintain their sea patrol or coast guards, and on the need for Southeast Asian states to seek closer ties with China on both health and economic cooperation. Recent incidents have shown a declining trend on the peace and stability on the South China Sea, thus it is in the interest of all regional actors that the dialogue and negotiation process could resume soon.

October 2021, <https://www.benarnews.org/indonesian/berita/china-natuna-indonesia-10192021172522.html>.

⁵ Ibid.

⁶ “Bakamla tegaskan Indonesia akan selalu hadir di Laut Natuna Utara,” Antara, 22 December 2021, <https://www.antaraneews.com/berita/2600649/bakamla-tegaskan-indonesia-akan-selalu-hadir-di-laut-natuna-utara>.

⁷ Ibid.

Session 3 (Webinar):

East Asian Maritime Security in the Context of the US-China rivalry

Chair

Prof. Hideshi Tokuchi

Panelists

Prof. Ken Endo

Dr. Alexandra Sakaki

Prof. Mariko Kawano

Prof. James Kraska

Dr. Collin Koh Swee Lean

How to check an ever more powerful and assertive China in the Indo-Pacific Region

Ken Endo

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Peace impossible, war improbable. This formula by Raymond Aron during the cold war looks charitable in the face of the fierce US-China systemic rivalries. I am not claiming that the war is imminent; yet, it may not be far-fetched to think of the possibility, given the growing power and assertiveness of China as well as the US' will and capability to stop it, while peace is certainly unlikely for the time being in East Asia. Here, there are a number of security challenges but, for the lack of space/time, the focus is made on China, notably the prospect of war and peace.

It is almost ritual to stress the growing power of China, military or economic. Its military expenditure rose from 9.93 billion USD in 1990 to 252.3 billion in 2020, more than a 25 times increase, according to the SIPRI. Concomitantly, the number of nuclear warheads is on the rise, while the middle range missile capabilities have been strengthened. This latter is particularly serious for Japan, as it is probably targeted at our soil and bases, inclusive of the US'.

The scope of an expanded military activities by China ranges from the consolidation of control over the South China Seas to the increasingly frequent intrusion of the warplanes into the Taiwanese Air Defense Identification Zone (ADIZ). In the meantime, the share of the Chinese GDP in the world reaches 18.33% by 2020. The prospect of a China overtaking the US by or during the 2030s is real.

A catch-up by a newly emergent power is nothing new. Just as the case of the historical precedents, the catching-up is about to equalize the caught-up in terms of power indicators: military, economy, finance, technology etc. The former aspires to change the status quo, made up by the latter. The latter is in the state of denial, anger, and anxiety keen to protect its prerogatives. It is thus justifiable to trace the historical precedence back to the Peloponnesian war à la Graham Allison. To manage the process however remains far trickier than to analyse it.

Most of the proposed solution points to the re-building of military strengths, renewed economic investments, tightened export and technological controls, and revigorated alliances and new alignments, so as to regain some sort of balance vis-à-vis an ever growing China. Certainly, these

measures are badly and urgently needed. It requires Japan, for instance, to try to fill the widening gap in close cooperation with the allied and likeminded. It means a lot, even if we confine ourselves to the military aspects: increasing the budget and personnel, operationalizing and upgrading the SDFs, planning and exercising on the contingencies, reinforcing the attacking capabilities, lifting the constitutional constraints, etc.

At the same time, nonetheless, we cannot stop thinking here. Having emphatically admitted the need to run counter to China, both militarily and politically, for a decade or so from now on, I would like to stress the three points in order to reduce the risk of war and sustain a relatively liberal world order: 1) US remains superior but less dependable, 2) the long-term thinking of arms control and reduction, 3) the usage of free trade mechanism at once to check and to maintain relations with China.

- 1) The story of an American decline runs for decades. This time, it may be more serious than the previous times, as the US itself is deeply divided and China is the opponent. Yet, as it stands, the US commands an impressive lead. Its 2020 military budget is three times bigger than China's. It is true that the US as the world power can allocate only the limited resources to East Asia, as opposed to China, it has accumulated military resources (and experiences) over the decades. Politically, too, it has a number of allies, whose combined resources surpass the Chinese ones. The US also remains a superb site for technological innovations. There are speculations that the US will take over an ageing China, in terms of economic size, even after the latter becomes the world's largest economy. Thus, we must assess the trends carefully so as not to be excessively pessimistic.

The source of concerns come more from inside the US. As its people are polarized, the governing elites are increasingly inner-looking. Its narrow world view undermined the capacity to view things in the long-term, and to care about its allies. We have witnessed this last year in the processes of its withdrawal from Afghanistan and of establishing AUKUS. Its lack of attention to, let alone of interest in, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) causes an uneasy feeling at Tokyo, as China goes on a diplomatic offense by applying for the partnership. Noticeably, these took place under the (rather professional) Biden -- not Trump -- administration.

We would better assume a still powerful but increasingly undependable US for the time being.

This entails serious implications. Amongst them is the defense of Taiwan – a pivotal island

for the Indo-Pacific maritime security. Without the determination and sufficient resources on the part of the US, it would be impossible to stop the long-term ambition of Beijing to ‘unify’ Taiwan. South Korea is generally not interested in Taiwan, while Australia is a little far, let alone the European countries. Here, Japan has a vital role to play some role in keeping stability in the region.

- 2) The world enters into yet another phase of arms race, akin to the interwar period or the cold war. In view of the visible expansion of military capabilities on the part of China, we need to pour the material and human resources to check it. Yet, in so doing, an endless escalation of arms race should be avoided. This is because security is not the only value, even if it is seen a primary one. Liberty, rule of law, and human rights are important, as is with the quality of life. As Barry Buzan puts it, the logical endpoint of security is paranoia. Unfortunately, it is not hard to see the concrete examples around, as the educational institutions and cultural activities are being targeted at under the name of security. We should thus pursue security, to the extent that maintaining security is compatible with these other important values; beyond the point of equilibrium, we need to think twice, as it involves incalculable costs and harms other values that we cherish.

We must ensure our own military expansion lead to peace in which other values survive. While it would take much energy and time, we should persuade China the ongoing arms race could and should be mitigated for mutual interests and use our plan of a military expansion in order to bring them into arms control and reduction negotiations, in such a way as the double track decision by the NATO in the late 1970s did. This would reduce the risk of security dilemma, lessen the possibilities of accidental military clashes, and thus create a less tense atmosphere for coexistence.

It could start from a non-imminent issue such as AI weapons. Yet eventually it must cover the more pressing issues like middle range missiles and nuclear warheads.

- 3) Where goods don't cross borders, they say, soldiers do. It may well sound naïve in recent days, as the economic statecraft is high on the agenda, yet a mutually beneficial mechanism of trade and investment remains a traditional way to assuage the prospect of a war. One of the most recognizable differences between the cold war and the current periods lies in the depth of economic and financial interdependence amongst the conflictual parties. The US and China never closed the back channels in the economic and financial arenas, even at the height of confrontations. The sanctions the US poses on China always stops short of full scale

punishments, in particularly in the banking and financial sectors.

On January 1 this year, the Regional Comprehensive Economic Partnership (RCEP) agreement came into effect as it was ratified by 10 of the 15 signatories in the Indo-Pacific region (and on February 1, South Korea ratified it too). This grouping will establish a free trade zone with a GDP that accounts for 30% of the world's total. This is more than twice the size of the CPTPP, which was promoted by Japan.

Of particular significance about the RCEP is its integration of the three major economies of Japan, China, and South Korea. From auto parts to frozen rice, the interdependence between Japan and China will be deepened further. It is also significant that South Korea, which has high tariff rates, will immediately eliminate around 40% of its tariffs. Over the next 20 years, about 90% of tariffs will be eliminated in the region. With this setup, the construction of an intra-regional value chain that includes the Association of Southeast Asian Nations (ASEAN) will also be deepened. A team from the United Nations Conference on Trade and Development (UNCTAD) has calculated that Japan will benefit most from this agreement.

It would be foolish to renounce the economic benefits as well as the possibilities to maintain the relations with China, as is widely perceived by the member countries. Japan, too, would gain from this economic re-alignment. Here, it should act carefully not to alienate the US, the ally for its own security, yet the opportunities opened up by the RCEP as well as the CPTPP go beyond the binary view of whether one should choose the US or China.

So far, the US does not openly oppose the RCEP. With it, Japan and other members secure the basis of economic interdependence. In this context, the CPTPP can be seen an additional framework of a higher order, as it aims to reduce tariffs more aggressively and to enhance the regulatory standards and qualities. China, which applied to join the CPTPP, has for the first time in a long time put itself in the position of being a "demandeur." This composition is not bad for Japan. After all, Japan led the establishment of CPTPP and has veto power as a current member, it has little to lose even if China does not join it, as the RCEP is already in place.

There is room for Japan and the rest of the world to take advantage of this opportunity to correct and mitigate the China problem. For instance, Tokyo should take this opportunity to move to prevent China from unilaterally deviating from universal rules. During the past decade or so, China has baffled many countries with its coercive economic diplomacy. The list includes Japan over rare earth materials and Norway over salmon in 2010, South Korea

over tourism in 2017, Australia over barley, coal, and other items in 2020, and Lithuania over industrial products in 2021. This is an act of economic punishment for political differences, backed by China's huge market and purchasing power. It is necessary and desirable for Japan and the world to put some kind of a stop to it, for instance, by obtaining a protocol banning a de facto delay in import and by allowing other members to take counter-measures collectively.

In light of China's traditional tendencies, this is a difficult enough task on its own, but it is also important to additionally work to bring some relief to political and military matters. In urging a gradual reduction in the establishment of military bases, the flying of warplanes, the intrusion of (armed) fishermen and public vessels in politically disputed areas, as well as in calling for a stop of the human rights abuses in Xinjiang and Hong Kong, it would do no harm to bring up the CPTPP membership application. To use a rather cold-hearted metaphor, take as much as you can before you let them into the room, and if the tactic does not work, let them stand in the hallway forever.

Thus, we should make political use of new economic re-alignments in our favour.

The military and economic expansions of China as well as its growing assertiveness cause great tensions in East Asia. Ostensively these involve risks, to which we must run counter, particularly in the alliance with the US and other likeminded countries. Yet, in so doing, we must equally carefully manage the art of counterbalancing. First we must recognise our own strength properly. Second, overdoing it militarily would dent our own economy, quality of life, and indeed security too. Third, when trying to regain military balance, we would better propose a joint reduction of arms in the future, persuading China on the mutual interests in controlling the arms race. These also help ourselves not to militarise our own societies. And finally, the means to balance against a growing power of China are not confined to the military. The opportunities opened by CPTPP and RCEP must be used wisely.

European Maritime Engagement in the Indo-Pacific and Germany's Role: Taking Stock

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The past few years have witnessed a flurry of European maritime security engagement in the Indo-Pacific, including East Asia: Since 2018, the UK has revived its naval presence in this region through a number of limited deployments, such as patrols in the South and East China Seas. Most recently, the UK dispatched a carrier strike group with the HMS Queen Elizabeth to the Indo-Pacific between May and December 2021. The group was accompanied by a Dutch frigate throughout the journey. France, which already had some naval assets in the region tasked mainly with patrols of French exclusive economic zones (EEZs), has also sent naval deployments to the Indo-Pacific region, including its sole aircraft carrier Charles de Gaulle and accompanying ships in 2019. Germany followed suit by sending its frigate Bayern to the Indo-Pacific from August 2021 to February 2022, making it the country's first ship in the East Asian region in almost twenty years.

This paper briefly discusses European motivations for their maritime engagement in East Asia and then focuses on Germany's perspective in the context of its Indo-Pacific Guidelines. The Federal Republic is still in the process of clarifying and setting out its role in the Indo-Pacific – including in maritime affairs – against the background of conflicting policy goals. Even if limited, Germany's maritime engagement has significance for the region.

Europe's Motivation

This unprecedented level of European maritime engagement with the region is based on the recognition that Europe cannot sit on the sidelines amid mounting tensions and challenges in the Indo-Pacific. Not only has the world's center of economic gravity shifted to this region, it is also the center stage of US-Chinese geopolitical and geostrategic competition. Against that background, the Indo-Pacific is the decisive region where “the shape of tomorrow's international order will be decided,” according to the German Indo-Pacific Policy Guidelines.¹

The maritime sphere in particular has become a focal area in European approaches to the Indo-Pacific. While European countries since 2008 focused primarily on the Western part of the Indo-

¹ Federal Government of Germany, Policy Guidelines for the Indo-Pacific, September 2020, available at <https://singapur.diplo.de/blob/2392874/e1da28f15fa2da7adbc9886ca5a52b76/policy-guidelines-for-the-indo-pacific-data.pdf>

Pacific through contributions to the anti-piracy operation ATALANTA in the Indian Ocean, attention over recent years has shifted more towards maritime issues in East Asia, where US-China rivalry is particularly pronounced and Chinese challenges to international rules are persisting. The announcement of the AUKUS submarine deal between the US, Australia and the UK in September 2021 has confirmed to Europeans the growing naval competition in the area.

Germany's Indo-Pacific Approach and Maritime Interest

Germany was the second European country after France to issue policy guidelines on the Indo-Pacific in September 2020. The guidelines represent a whole of government approach and thus comprehensively cover various policy fields, including economics and trade, security, environmental issues, and people-to-people exchanges.

With regards to maritime domain, the guidelines reflect Germany's vested interest in open and secure maritime trade routes and in the preservation of the rules-based order, in particular the UN Convention on the Law of the Seas (UNCLOS). Given that 20 percent of German trade is conducted with the Indo-Pacific region and most of that trade is seaborne, maritime security is of "vital importance to Germany," according to the Guidelines.² When Germany (or likewise other European countries) address the need for maritime security in the South China Sea, their perspective is shaped much more directly by economic considerations when compared to the United States, which is commercially less reliant on those waterways.³ Like other European countries, Germany approaches maritime security from a comprehensive perspective that covers not just inter-state conflicts and naval competition, but also transnational problems such as piracy, maritime terrorism, pollution and environmental issues such as biodiversity.

Frigate Bayern's deployment

Through its deployment of the frigate Bayern, Germany has sought to deepen security cooperation with regional partners through joint exercises and dialogue, thereby gaining a better understanding of the security issues in the region. Amongst the highlights of the deployment, the frigate's participated in the multilateral efforts to monitor the UN sanctions regime on North Korea and also joined the ten-day Annual Exercise 2021 in the Philippine Sea led by Japan together with ships from the US, Australia and Canada.

While Germany's deployment of the frigate Bayern to the Indo-Pacific has generally been received positively in the region, some specific aspects of the deployment have been criticized: Firstly, the Angela Merkel government initially planned to include a port call in Shanghai after

² Ibid.

³ See also: CSIS/ China Power Project, 'How much Trade transits the South China Sea?', available at <https://chinapower.csis.org/much-trade-transits-south-china-sea/>.

stops in Japan and South Korea. Many observers viewed this as sending an ambiguous message to China, whose assertiveness poses a profound challenge for the region.⁴ The port call never materialized however, because China denied entry after being briefed about the intentions of Germany's Indo-Pacific deployment.

Secondly, Germany was also criticized for sending a lone frigate rather than joining the British carrier group (like the Dutch frigate), despite Berlin often preaching the importance of multilateral endeavors. Berlin has not provided an official explanation about this decision. Some insiders argue that this was simply due to practical constraints, because Germany's frigate was not available for the scheduled period of the British deployment, which started in May. However, the initial German plan for a port call in Shanghai may have also been a factor. Finally, there was some criticism about the specific route that Germany chose for its frigate, sticking to the main commercial shipping lanes in the South China Sea and bypassing the Taiwan Strait and thereby avoiding steps that would have been clearer signals to China.⁵

Significance of German Engagement

While these criticisms may be justified, it would be shortsighted to dismiss the significance of Germany's maritime engagement in the Indo-Pacific. First, one needs to recognize that Germany's Indo-Pacific maritime engagement signifies a significant shift in the German mindset: Until recently, Berlin approached the Indo-Pacific region from a more detached position than France or Britain. Whereas France has defined itself as a resident power with territories and citizens in the region and Britain has drawn on strong historical linkages such as through the British Commonwealth, Germany's focus was on commercial interests. Against that background, Germany is now building its security engagement with the region, but starting from low ground. In that sense, the Indo-Pacific deployment of the frigate has helped to foster greater awareness in Germany about regional dynamics and provide stimulus for further cooperation with partner countries.

Secondly, Germany is likely to continue its path towards greater engagement with the Indo-Pacific region, including in the maritime sphere. In addition to the frigate's deployment, the German government has over the past two years already taken a series of smaller steps towards greater maritime engagement.⁶ These include for example German accession to the ReCAAP

⁴ See for example, Hans Kundnani/ Michito Tsuruoka, 'Germany's Indo-Pacific frigate may send unclear message,' Chatham House, May 4, 2021, available at <https://www.chathamhouse.org/2021/05/germanys-indo-pacific-frigate-may-send-unclear-message>.

⁵ There was also some discussion – at least within Germany – about the ship's tanker stop at Diego Garcia. The island is claimed by the UK, but sovereignty is contested under international law, thus casting doubts about Germany's stance on international law.

⁶ See also, Federal Foreign Office, 'One Year of German Government Policy Guidelines on the Indo-Pacific Region: Taking stock', September 13, 2021, available at <https://www.auswaertiges->

agreement (Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia) in August 2021, as well as a German training program for officials from ASEAN states in the interpretation and implementation of UNCLOS. Berlin has also sent for the first time ever liaison officers both to the Information Fusion Center (IFC) of the Singapore Navy and to the Enforcement Coordination Cell in Yokosuka to monitor the UN sanctions regime on North Korea. And finally, Germany is in discussion with the Philippine Coast Guard to equip and train them in conducting reconnaissance.

German military leaders have also shown strong support for further military engagements in the region in the coming years, including in the maritime sphere. While the German military is planning to send air force and cyber defense units to the region this year, the former head of German navy Vice Admiral Kay-Achim Schönbach has proposed sending two German ships to the Indo-Pacific in 2023, explaining that Germany is in discussions with Singapore, Japan and South Korea about the possible establishment of non-permanent logistic support hubs to facilitate deployments.⁷ While the new German government of Chancellor Olaf Scholz has not taken any position on this, the coalition government agreement at least signals continuity in terms of Indo-Pacific policy, including the strengthening of partnerships with countries like Japan.⁸

Thirdly, while it is true that German naval capabilities are limited after decades of defense budget austerity, thus posing challenges for German regular presence in the Indo-Pacific, Germany can make other contributions to regional maritime security. For example, Germany – like other European countries – can contribute to promote Asian countries’ maritime domain awareness and information sharing through cooperative frameworks. Germany and other European countries can also engage in international messaging to show unity among Western countries on maritime issues. Already in September 2020, Germany together with France and the UK issued a Note Verbale to the United Nations, presenting their legal position with respect to maritime claims in the South China Sea. The June 2021 G7 leaders statement also noted concern about “the situation in the East and South China Seas,” and opposition to “any unilateral attempts to change the status quo.”⁹ Such international messaging is of great significance, showing that European countries are not indifferent to the regional maritime dynamics and will cooperate more deeply with regional partners that share European goals.

[amt.de/en/aussempolitik/regionaleschwerpunkte/asien/indo-pazifik-leitlinien-fortschritt/2481700](https://www.auswaertiges-amt.de/en/aussempolitik/regionaleschwerpunkte/asien/indo-pazifik-leitlinien-fortschritt/2481700).

⁷ See Kay-Achim Schönbach, Speech at the 42nd IISS Fullerton Lecture, Singapore, December 21, 2021, available at <https://www.iiss.org/events/2021/12/42nd-iiss-fullerton-lecture>.

⁸ The coalition agreement is available here

https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag_2021-2025.pdf.

⁹ G7, ‘Carbis Bay G7 Summit Communiqué,’ June 2021, available at <https://www.g7uk.org/wp-content/uploads/2021/06/Carbis-Bay-G7-Summit-Communique-PDF-430KB-25-pages-3-1.pdf>.

International Cooperation and a Coordinated Approach to Maintain the Rule of Law at Sea

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Given the current circumstances of the East Asian maritime areas, a response in accordance with international law against excessive maritime claims is particularly important, and international cooperation and a coordinated approach for the maintenance of the rule of law at sea is essential.

In my argument, I would like to distinguish the international cooperation and the internationally coordinated approach. While “international cooperation” means the conduct collectively undertaken by States on the basis of some agreement or arrangement, a “coordinated approach” signifies the formulation of common interests or goals through diplomatic negotiations before such conduct is to be undertaken by respective States in consideration of the common interests or goals. It would be better if States could reach the agreement to pursue collective conduct under the framework of international cooperation. However, the vital interests of a State are directly reflected in the security issues, and, therefore, it may not be easy to reach an agreement, and in particular a multilateral agreement. Thus, the coordinated approach may work even more effectively in certain cases. Moreover, regular negotiations and consultation may lead to the mechanisms sufficient for international cooperation.

1. Impacts of the Arbitral Award of 2016 in the *South China Sea Arbitration* on the Circumstances of the Maritime Areas in Asia

In the arguments of the rule of law in the East Asian maritime security, I would like to note the impact of the Arbitral Award of 2016 in the *South China Sea Arbitration*, first. That Arbitral Award is rendered in the case between the Philippines and China with regard to the dispute in the South China Sea, but the findings of the Arbitral Tribunal have allowed for the political bases of criticism against unilateral expansion of the maritime entitlements and excessive maritime claims.

It is true that China has argued the illegality of the arbitral proceedings since the Notification was sent by the Philippines. However, I consider that the Arbitral Tribunal deliberately and thoroughly examined the arguments concerning its jurisdiction and the admissibility of the claims and successfully justified its exercise of jurisdiction to entertain the Philippines’ claims.

The decision on the merits of the Arbitral Award is also important. The Arbitral Tribunal found that China’s claim to historic rights in the maritime areas were contrary to the relevant provisions of the UNCLOS. It concluded that some of the maritime features are low-tide elevations and that no high-

tide maritime feature examined by the Tribunal generates the entitlement to the exclusive economic zone and continental shelf. It also found that China's conduct constituted a violation of the relevant rules of international law. It is necessary to note that the Arbitral Tribunal affirmed China's breach of obligations under the provisions relating to the protection and preservation of the marine environment by its conduct relating to the fishing activities and its construction activities.

Although China criticized the proceedings, the Arbitral Tribunal rendered the Award on the merits in accordance with international law within the jurisdictional restrictions of Part XV of the UNCLOS.

Interestingly, the Award included no decision regarding the remedies as the Philippines did not request the Tribunal to decide them. Therefore, the principal concern after this Award is how to ensure the respect for the findings of the Tribunal or the compliance with the legal rules that were found to be violated, rather than the implementation of remedies.

Since the Award, despite China's refusal to accept it, the conduct of many States has been based on the findings of that Award.

The United States has justified its conduct of Freedom of Navigation Operation by referring to the findings in this Award. Moreover, Secretary of State Antony Blinken emphasized the importance of compliance with the Arbitral Award and a rule-based approach to the dispute in the South China Sea in his address before the UN Security Council on 9 August 2021. The Award was referred to in the arguments in the Commission on the Limits of the Continental Shelf (CLCS) in response to the submission by Malaysia of the information on the continental shelf beyond 200 nautical miles. China submitted objections and the arguments were based on its own claims for the maritime areas and sovereignty over maritime features, which the Arbitral Tribunal did not admit. Indonesia, the United States, Australia, Malaysia, the United Kingdom, France, Germany, Japan, and New Zealand as well as the Philippines criticized China's arguments by referring to the findings of the Award and have urged China to comply with the Award.

2. Compulsory Jurisdiction of International Courts and Tribunals in Part XV of the UNCLOS and the Rule of Law at Sea

The United States, Australia, the United Kingdom, France, Germany, Japan, and New Zealand are neither parties to the *South China Sea Arbitration* nor disputing States in the South China Sea dispute. As is well-known, the basic principle of judicial settlement or arbitration is that the decision of an international court or tribunal has no binding force except between the parties and in respect of that particular dispute, as is set out in Article 59 of the Statute of the International Court of Justice (ICJ) or Article 296 of the UNCLOS. In fact, China criticized the arguments of those States because of the limited force of the Arbitral Award.

The response of these third States can be explained from the viewpoint of the historical background of judicial settlement or arbitration processes, which have developed in combination with the

development of international legal rules to prohibit the threat or use of force or to prevent the change of the *status quo* by unilateral forcible measures. Respect for the peaceful settlement of international disputes, in particular judicial settlement or arbitration, constitutes one of the fundamental principles of international law. While the direct effect of international court or tribunal engagement is the settlement of the specific dispute referred to it, there are also indirect effects. International courts and tribunals are expected to play roles to affirm the legality of the rules that are found to be violated and to ensure compliance with those legal rules. Through these roles, they may contribute to the prevention of disputes and the maintenance of the rule of law in the international community.

With regard to these indirect effects of international court and tribunal action, every State in the international community may have an interest in ensuring effective compliance with their judgments or awards. The response of international organizations and States other than the disputing States is important for the international community, which lacks mechanisms for the enforcement of the judgments and award of international courts and tribunals.

In this context, it is necessary to note the process of settling disputes after a judgment by the ICJ. Of course, it would be ideal if the disputing States would accept the ICJ's judgments. However, in many cases, the judgment did not directly bring the final settlement to the dispute. In many cases, the disputes were settled by post-judgment negotiations on the basis of the findings in the judgment. Moreover, the United Nations, regional organizations, or third States often assisted the disputing States in the post-judgment process. This signifies that the post-Judgment process is not restricted to the bilateral relations of the disputing States and international assistance may contribute to the final settlement of the dispute. In fact, sometimes even disputing States welcome the assistance of the third parties in the process of their negotiations.

The assistance of international organizations or third States in the post-judgment process may also be effective in the settlement of maritime disputes. Every maritime area constitutes a part of ocean unity, and the issues relating to the safety and security in each regional maritime area are related and mutually dependent. Thus, the State parties to the UNCLOS may have an interest in the implementation of the decisions of international courts or tribunals in accordance with Part XV. Moreover, even those not party to the UNCLOS may share the general interests in the compliance with the judgment or award of an international court or tribunal for the purposes of the maintenance of the rule of law at sea. As far as those States are able and willing to be involved in the situations, their conduct in accordance with international legal rules is essential and the importance of international cooperation and the coordinated approach should be emphasized.

3. International Cooperation and a Coordinated Approach in the Maritime Areas

International cooperation and a coordinated approach are not only sought for the purpose of the implementation of the decisions of international courts and tribunals, they are to be considered for

more practical purposes as well. The recent focus on the Indo-Pacific region by several States is worthwhile being specially noted.

The Indo-Pacific region has recently attracted particular attention among various States. Japan proposed the Free and Open Indo-Pacific Strategy for the first time in 2016 and has taken measures to enhance cooperation in that region, including addressing maritime issues. The United States has conducted the Freedom of Navigation Operation since 27 October 2015.

In addition to the measures taken respectively by each State, recent efforts to establish a regional or multilateral mechanism for substantive matters should be noted. Australia has conducted its own airborne surveillance operations in the South China Sea and the Indian Ocean since 1980. Australia, the United Kingdom and the United States have formed AUKUS in this region, and its strategic importance was taken up in the closed sessions held on 8 February 2022. Further, the “Quadrilateral Security Dialogue” established among Australia, India, Japan, and the United States may be the fruit of the efforts of those States to coordinate their policy and to enhance their cooperation. This forum constitutes a mechanism to facilitate the cooperation and coordination among States sharing common interests.

Following these States, European States have also enhanced their policy in this region because of its geopolitical importance. France presented in the 2017 Defence and National Security Strategic Review and issued the “France and Security in the Indo-Pacific” in 2019. The United Kingdom reviewed its strategic policy after Brexit and decided to enhance its commitments. These two States stand out for their actions, which demonstrate their assessment of growing defence and security challenges in the Indo-Pacific region. Following these States, Germany and the Netherlands under the framework of the European Union (EU) highlighted the geopolitical importance of this region and have started their involvement. The EU published the EU Strategy for Cooperation in the Indo-Pacific in the form of a Joint Communication to the European Parliament and the Council on 16 September 2021. The efforts to continue the close communication between the States in the Indo-Pacific region and Europe may be expected for further effective cooperation.

These phenomena of multilateralization of the involvement in the Indo-Pacific region may provide an effective forum for consultation to formulate common interests and goals by adjusting varying interests among the States concerned. In that sense, even the coexistence of a variety of mechanisms may contribute to the realization of the coordinated approach. It is true that the co-existence of multilateral mechanisms may cause the problems of conflicts of interests and competition. However, I think that, the positive effects of strong multi-phased initiatives for the coordination may yield some positive steps forward.

Concluding Remarks

Excessive claims to or expansionism in the maritime areas affect the rule of law at sea, which should

be maintained in accordance with international legal rules. The mechanisms for international cooperation and a coordinated approach are required to maintain the rule of law and the order at sea based on international legal rules is essential in the current international community.

Post-COVID19 Maritime Security in Southeast Asia

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Taking Stock of the Post-Pandemic Situation

COVID-19 continues to rage on with little sign of conclusion. Still, save for a few holdouts such as China which has stuck with a “zero COVID” policy, countries worldwide have started to move on to what is effectively an endemic phase, seeking to live with and adapt to the contagion while ensuring life goes on as “normal” as possible. Last year has seen Asia, long regarded as the epicentre of the world’s shift in economic power balance, gradually making economic recovery. It is plausible to observe that in the foreseeable near future, governments around the region and the world in fact, seek to effectively contain the virus while pushing the momentum for economic recovery and future growth.

In this regard, Southeast Asia should not be seen as any different. By and large, even as it still grapples with the Omicron variant-driven pandemic wave, [the region has managed to eke out some economic growth last year](#). While uncertainties continue to persist, Southeast Asian countries still deal with a whole gamut of security challenges. COVID-19 adds new public health, global supply chain, food and social security complications to the equation. But the maritime domain continues to be fraught with enduring challenges. The pandemic brought about an observed increase in transnational crimes such as smuggling – at first, pandemic-related medical materiel, then later food – as well as drug and human trafficking.

Then in the South China Sea, there has been an obvious increase in incidences involving maritime coercion. Over the past two years amid the pandemic, China applied maritime coercion against its Southeast Asian rivals in the disputed waters, such as the case seen in intrusions into Indonesia’s North Natuna Sea exclusive economic zone, the West Capella drilling ship standoff with Malaysia, and Whitsun Reef with the Philippines. In the midst of these, the intensifying China-U.S. rivalry adds further complications. Last year is also unprecedented in witnessing an uptick of extraregional military presence in the SCS – [the United Kingdom’s Carrier Strike Group 21 deployment](#), [maiden SCS cruise by a French nuclear-powered attack submarine *Emeraude*](#), and [German Navy frigate *Bayern*](#).

Having taken stock of the Southeast Asian maritime security situation over the past two years since the COVID-19 outbreak, it would be timely to examine the constants and changes in the coming years.

Southeast Asia: Still Diverse and at Times Divergent

It is important to highlight that ASEAN is far from a monolithic organization, and Southeast Asia far from a monolithic region. It consists of countries with their own national contexts and interests – these underpin their maritime security concerns and priorities. This is often a point missed by some commentators, who may tend to view Southeast Asia otherwise, and would also still harbor the hope of a united ASEAN as a bloc. Suffice to say is that looking ahead, we would still have to live with a collection of 10 different countries that look out for their, at times parochial, national interests which are not necessarily in line with those of the bloc, over a variety of issues. The South China Sea is but just one example.

Where it comes to strategic issues such as Great Power rivalries and the SCS disputes, ASEAN does have some common guiding principles, if one would survey the slew of official declarations over the years. Generally, these principles would be: 1) adherence to international law, and where it pertains to the SCS in particular, UNCLOS; 2) freedom of navigation and overflight; 3) diplomacy, instead of threat or use of force in settling disputes; and 4) fostering confidence-building and practical cooperation. In the face of competing discourses on the “Indo-Pacific”, ASEAN also derived a collective answer – namely, the [ASEAN Outlook on the Indo-Pacific](#) that was promulgated in 2019. But these aside, basically each ASEAN member state pursues its policies towards the SCS, or lack thereof, in line with its national interests.

While some may bifurcate these ASEAN countries and their SCS interests within neat, geographically-delineated camps such as “mainland” versus “maritime” Southeast Asia, it would be apt to categorize the ten member states into claimants and non-claimants. Within the latter group, it is further divided into “interest” and “ambivalent” sub-categories. Obviously, Brunei, Malaysia, the Philippines and Vietnam are SCS claimants. Amongst the non-claimants, Indonesia has a SCS-facing seaboard in the North Natuna Sea and has been embroiled in its incidents with China (and Vietnam over unresolved overlapping EEZs). Singapore is another non-claimant but one with an abiding interest in the SCS. Cambodia, Laos and Thailand are largely ambivalent, preferring to prioritize their economically-beneficial relationships with China than the SCS, unless the issue falls directly onto their laps when they take over the ASEAN chairmanship. The same applies to Myanmar, with the added factor that this country has no Western Pacific but an Indian Ocean seaboard to start with. Post-coup Myanmar is now more aligned to Beijing than before.

SCS Disputes Just One of the Many Maritime Problems

It is crucial to emphasize that the South China Sea, while it is certainly an important dimension of maritime security in Southeast Asia, is far from being the only, and most pressing, such concerns in the region. To be sure, ASEAN countries regard the SCS as important given the

criticality of international sea lines of communications that ply through the area. But these far from constitute real, existential security concerns, perhaps with the exception of Vietnam's case. However, contrary to the impression shaped by the mainstream media reporting, the SCS may be a high-profile issue in Southeast Asian geopolitics, not least when seen in the evolving China-U.S. rivalry, it has been the daily occurrences of mainly transnational crimes and other unconventional security challenges in the maritime realm that seize the attention of many Southeast Asian countries.

In particular, the COVID-19 maritime security environment has made the situation more complicated for Southeast Asian countries. In terms of threats, COVID-19 meant that the regional governments have to pay greater attention to border surveillance and control. It is not just about sealing off the borders to foreign visitors. At sea, Southeast Asian maritime agencies find themselves having to keep out unauthorized entry that could thereby pose a COVID-19 risk. In addition, rampant smuggling has become a focal issue since the beginning of the pandemic. The first wave of such maritime problems involved the smuggling of medical materiel given the initial shortages faced by countries in the region, such as PPE kits and face masks. This was later supplanted by food smuggling, given global supply chain impact from the pandemic. At the same time, the [illegal drug trade](#) and [human trafficking](#), making use of the porous land and maritime borders in Southeast Asia, became enlarged security concerns.

Piracy and armed robbery against ships, long a perennial maritime security challenge in Southeast Asia that never goes away, remains a challenge. Just last year, the [Strait of Singapore saw an increase in incidents](#), although most of them were not serious ship-jacking episodes involving serious loss of property and casualties. And since the fall of Afghanistan to the Taliban in August, Southeast Asia has been bracing for the possible spill-overs and growing threat of resurgent transnational terrorism. In the wake of COVID-19, Southeast Asian countries will continue to focus their energies to address these maritime security challenges, even while some of them would still keep one eye on the SCS issues. The longstanding shortfalls in maritime security capacities further complicate attempts to try to devote equal amounts of attention to all these challenges at the same time.

Far from Being Pushovers

Despite their primary focus on daily, more persistent unconventional maritime threats, those concerned Southeast Asian parties in the SCS are far from pushovers. While much attention has been on Vietnam being arguably the most vocal in resisting irredentist Chinese claims and expansionism in the SCS, little has been paid to the other SCS parties. Pre-existing commentaries tend to portray some of them as submissive to Beijing over the issue. While it is true that such countries as Indonesia and Malaysia have assiduously sought to mute down the public rhetoric

over the disputes in order to avoid inflaming the problem and unnecessarily “rock the boat” with China given the immense economic stakes, they are far from pushovers.

In recent years as these Southeast Asian countries find themselves having to battle COVID-19 and address the socioeconomic aftermath, they also find themselves in the crosshairs of Beijing’s maritime coercion. The unease of these capitals is amply manifested in multiple outlets. The first was a spate of [note verbales submitted to the UN by Indonesia, Malaysia, the Philippines and Vietnam in 2020](#) – the very year that saw an evident uptick in the high-profile instances of Chinese maritime coercion against the Southeast Asian parties. The Philippines under the Duterte Administration may be seen as a “poster boy” of how Southeast Asian parties may try to set aside the disputes for improved ties with Beijing. However, Whitsun Reef incident in early 2021 created such a domestic backlash upon Manila, not least in demonstrating clearly that Duterte’s overtures to Beijing have failed to yield not only those promised investments, but also failed to check on China’s behavior in the disputed waters. Therefore, the Philippines has taken to reinvigorate its defense ties with the U.S., including Duterte’s order to revoke the abrogation of the Visiting Forces Agreement with Washington.

The Philippines is not the only Southeast Asian SCS party that has sought to engage interested extra-regional powers to serve as countervailing balance against Beijing in the SCS. Other Southeast Asian countries are also doing the same to varying extents. Besides the Americans, stepped up military presence in the SCS by other extra-regional powers, such as Australia, France, Germany, India, Japan and the United Kingdom has been generally welcome by Southeast Asian countries. After Australia, the UK and U.S. announced the formation of AUKUS, [China sought to mobilize Southeast Asian voices in opposition](#). The attempt may have failed to yield the desired results: while Indonesia and Malaysia initially voiced concerns about AUKUS, these rumblings have gradually died down especially after Australian senior officials in particular made special trips to the concerned countries to allay concerns. [Australia also elevated its ties with ASEAN to a comprehensive strategic partnership](#) not long after. [Indonesia engaged in a major naval exercise New Horizon with Australia](#), and [Malaysia inked a cybersecurity pact with Australia](#) as well. Such moves are far from an expression of rebuke at Canberra over AUKUS, while these Southeast Asian countries continued to engage in the defense and security realm with London and Washington. Clearly, AUKUS may have been perceived as a potentially effective counter against Beijing’s irredentist behavior.

Besides engaging extra-regional powers, Southeast Asian parties in the SCS do whatever practically possible to stand up to Beijing on the ground. Notwithstanding their perennial shortfalls, the [maritime forces of Indonesia, Malaysia and the Philippines have sought to emplace a standing counter-presence against China’s stationing of assets in those SCS areas of concerns](#). To be sure, the asymmetry in force capacity looks set to be enduring, but these Southeast Asian

countries do not appear willing to concede the ground to Beijing's effective administration and control of the disputed waters. Filipino maritime forces in particular carried out their duties stoically despite the odds stacked against them in the Philippine EEZ – overwhelming asymmetry in military and coastguard capacities vis-à-vis the Chinese, and Beijing's use of lawfare such as the new Coast Guard Law promulgated in last February. The [Philippine Coast Guard openly challenged and expelled presumed Chinese maritime militia vessels](#) on at least two reported occasions in the country's EEZ, without incident.

Concluding Thoughts

In summary, Southeast Asian countries have varying interests in the SCS, and these differ based on extant national interests that are prioritized over regional, bloc interests in the case of ASEAN. The SCS is also far from being the only maritime security problem Southeast Asian countries have to deal with – not least in the post-pandemic context. Generally Southeast Asian countries seek to exercise agency with an aim of preserving their strategic autonomy. On the one hand, they assiduously try not to be embroiled in the extant Great Power rivalries. But on the other, they would embrace cooperation with whichever external party (and those within Southeast Asia) as expedient for their economic and security interests. This is manifested in the SCS, where concerned parties strive to maintain cordial and economically-productive relationships with Beijing while reaching out to and engaging other interested extra-regional powers.

The post-pandemic context is important because it accentuates the pre-existing state of affairs. While wary of China's future intentions, Southeast Asian countries still regard it necessary to engage their vastly larger and more powerful northern neighbor – if only for the express purpose of jumping on the bandwagon of China's economic recovery to spur their own national recoveries and growths. Yet at the same time, these Southeast Asian countries would still prioritize national self-help in the SCS by implementing their military and coastguard buildup programmes as best as their post-pandemic fiscal health can allow. Ballooning debts, growing public clamour for more resources to be devoted to healthcare and social security all complicate moves to enlarge defense spending. Indonesia may have an opening following the loss of a submarine during a training mishap in April 2021, but the country's spending needs across a multitude of socioeconomic priorities does put into question the long-term sustainability of major defense acquisition programmes that would be financed mainly via borrowings. The Armed Forces of the Philippines is trying to finalize as many of its outstanding acquisition programmes before the end of the Duterte Administration, but it could not lay its hands on all capabilities desired, such as submarines.

Therefore, Southeast Asian countries would seek to continue to maintain and enhance their economic and strategic engagements with interested extra-regional powers. This fits nicely into

one of the known ASEAN principles of inclusivity in the regional security architecture, even if there is no concerted, coordinated efforts in this regard by the member states. The general welcome of such presence in the region, and in the SCS, should of course not be taken for granted. So long China continues to play the irredentist game in the region, routinely employing coercion against its smaller and weaker Southeast Asian neighbors, and in the context of intramural divergences over the SCS within ASEAN, the demand for countervailing external presence looks set to prosper in the coming years. This constitutes a strategic opportunity for extraregional players.