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Way Forward

South China Sea



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Way Forward for South China Sea Dispute

While addressing some legal issues, PCA's ruling can not resolve all other conflicts, differences and competing interests. Rather, the disputes are best handled through consultations and negotiations under the prevailing Asian culture that values a non-confrontational approach and a mutually understanding mindset.

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The G20 Summit hosted by Chinese President Xi Jinping will help alleviate current problems in a troubled world and become yet another milestone of a rising China.



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Time for Reset and Realism in the South China Sea

As China's commercial and security interests expand, the Chinese Navy, like its U.S. counterpart, may also wish to conduct more passages through international sea lanes. Anti-piracy cooperation off the coast of Somalia is an example that could show a path to compromise without harming either country's security goals.

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Commotion from the July 12 award in the South China Sea ruling by the Permanent Court of Arbitration in The Hague is simmering down. It's time to turn the page and move forward.

Still at odds, the Philippines and China are showing willingness to engage in bilateral talks. After all, our Hong Kong-based contributor Teresa Cheng argued, the conflicts in the South China Sea are best handled between sovereign states directly involved, and the winning recipe, fittingly, will be the prevailing Asian tradition featuring a non-confrontational approach, compromising sentiments, and a mutually understanding mindset.

Also at stake is the U.S.-China relationship. In the last issue of *Digest*, we cautioned that the two countries should stay on a steady course even when the patrols by the U.S. Navy warships appear to be close to torpedoing the ties. We continue to advocate for moderation when it comes to managing major differences and disagreements between the two powers.

The South China Sea is a common thread for this issue. Dan Steinbeck insists that uncertainty and friction may increase in the Asia Pacific in the wake of the arbitration award. National University of Singapore professor Sajjad Ashraf believes the ruling will pressure China to seek negotiated solutions with various claimants — and exhibit its benign intentions of doing so.

Chinese hospitality and diplomatic skills will be on full display on September 4 and 5 when President Xi Jinping hosts world leaders for the

G20 Summit in the “City of Heaven”, Hangzhou. Focus contributor Chen Xiangyang offers a preview of what the world can expect from this important international gathering that focuses on finding solutions to the global economic woes.

Also in this issue, Chinese scholar Cui Liru discusses of the ins and outs of the strategic competition between China and the U.S., and this prompts Alek Chance, an Institute for China-America Studies research fellow, to argue that there is a risk the two countries will be able to promote a win-win international order while suspecting the other of “power politics.” This is the sort of dialogue the *Digest* is all about.

Challenges can transform into opportunities of real engagement. In spite of his critical comments on the U.S. Navy’s “Freedom of Navigation” patrols in the South China Sea, Zhou Bo, a Chinese military researcher, indicates that two navies can indeed find a path to compromise without harming either country’s security goals, citing the bilateral anti-piracy cooperation off the coast of Somalia as just one example.

Another area of real engagement is cyber security. Professor Joseph Nye of Harvard, in his article titled “Is Cyber Arms Control Possible”, offers a timely reminder that it remains possible for the United States and China to work together to achieve something unprecedented, similar to what the nuclear arms-control agreements have done for global security.



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Way Forward for South China Sea

The award in the Philippines v China case opens a chapter of a much broader and long-term relations between the states. While addressing some legal issues, it can not resolve all other conflicts, differences and competing interests. Rather, the conflicts are best handled between the two states through friendly consultations and negotiations under the prevailing Asian culture and core values of a non-confrontational approach, compromising sentiments, and a mutually understanding mind-set.



Teresa Cheng

Chairperson,
Hong Kong International
Arbitration Centre

Way forward for South China Sea dispute: “friendly consultations and negotiations by sovereign states directly concerned”[1]

United Nations Conventions on the Law of the Sea (“UNCLOS”) is one of the most relevant international instruments in today’s current disputes that spread from Southeast Asia to the United States. There are 168 states that have ratified or acceded to UNCLOS. The U.S. has not yet acceded to UNCLOS. The result of the Philippines vs. China arbitration might provide an excuse for those advocating for the U.S.’ non-accession.

The Philippines initiated the arbitration against China on 22 January 2013. China contended in public statements that the ad hoc arbitral tribunal set up under Annex VII of UNCLOS did not have jurisdiction over the claims made by the Philippines as the subject matter of the claims related to territorial sovereignty and maritime delimitation, matters excluded from the jurisdiction of the compulsory dispute mechanism of UNCLOS.

The Award on Jurisdiction and Admissibility was published on 29 October 2015. The arbitral tribunal ruled, inter alia, that it had jurisdiction on matters relating to whether the maritime features were rocks or islands. On 12 July 2016, the Award on the merits and the

jurisdiction of the remaining claims, including that of the legality of the nine-dash line, was published. The tribunal ruled that it had jurisdiction over these claims, with the exception of one, which the tribunal found concerned military matters, and hence outside its jurisdiction.

The fundamental basis of any arbitration is the consent of the parties involved. As in other international arbitration, this ad hoc tribunal has the power to rule on its own jurisdiction. But unlike commercial arbitrations, this tribunal’s ruling on jurisdiction would not be subject to a *de novo* review by a court exercising supervisory jurisdiction over the arbitral tribunal. It is therefore of paramount importance that any ruling on jurisdiction must be predicated on sound legal and factual basis.

The fact that states challenge the jurisdiction of international courts or arbitral tribunals purportedly seized of a dispute is not unique to this case. In *Nicaragua v USA*, the USA disputed jurisdiction of the International Court of Justice (ICJ). The United Kingdom challenged the jurisdiction of the UNCLOS arbitral tribunal in the *Chagos* case brought



The Chinese government refused to respond to the case, and also refused to attend the hearing in The Hague when the Philippine team made its arguments.

by Mauritius. In *The Arctic Sunrise* case, Russia also disputed jurisdiction of the UNLCOS tribunal.

For a tribunal to have jurisdiction in an arbitration conducted under Annex VII of UNCLOS, there are a few fundamental conditions that have to be met. First, a dispute must be identified from the exchanges or conduct of the parties. Second, the dispute must be found to have existed before the initiation of the arbitration. Third, the condition precedents to arbitration must be satisfied. In other words, parties must have complied with any agreed mechanisms of dispute settlement and/or an exchange of views before initiating arbitration. Fourth, the identified disputes must then be characterized as to verify if it is precluded from the compulsory dispute settlement mechanism by reason of the limitations set out in Article 297, or by the exceptions declared by the state under Article 298.

In 2006, China made a declaration under Article 298 that stated no tribunal shall have jurisdiction over disputes “concerning... Articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles.... or any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory.” This exclusion is one of the grounds for China’s contention against the tribunal’s jurisdiction.

Rock or Island?

Is there a dispute over whether the islands in South China Sea (e.g. Tai Ping Island, also known as Itu Aba) are “rocks” or “islands” at the commencement of the arbitration?

When finding it had jurisdiction in the October 2015 award, the arbitral tribunal did not cite any evidence to

show that the Philippines and China had ever discussed, let alone disputed, whether the specific “maritime features” identified in the claims were “rocks” or “islands.” The tribunal relied on an assumption that parties in dispute on territorial sovereignty and overlapping maritime boundaries must also be disputing whether features are “rocks” or “islands,” and thus subject to its jurisdiction.

No dispute, thus no negotiation on the issue of whether features are rocks or islands?

The fact that there was no dispute on the issue of whether, for instance, Tai Ping Island is a rock or an island means that the two states have not discussed, negotiated, or exchanged views on such matters. The pre-condition for arbitration naturally cannot be said to have been satisfied.

Breadth of the exclusion under Article 298

The wording of Article 298 was widely drafted, and so were the exclusions declared by each state under it. The segregation of one “aspect” of a sovereignty dispute is arguably artificial, and taking it out of context. The determination of the nature of the maritime feature necessarily “concerns” (meaning “has a bearing on” according to *MV Louisa*) and “relates to sea boundary delimitation,” a matter excluded from the tribunal’s jurisdiction under Article 298. By adopting such an artificial approach, instead of characterising the dispute by reference to where the relative weight of the dispute lies in deciding if the dispute primarily concerns

sovereignty or sea boundary delimitation, the tribunal effectively clothed itself with jurisdiction to rule on the sea boundary delimitation. This may undermine the trust states have placed on the dispute settlement mechanism, and disrupt the international legal order enshrined in UNCLOS.

Tai Ping Island is now “Tai Ping Rock”

Tai Ping Island (*Itu Aba*) has a long history of human habitation with many structures that have long existed on the island. The evidence was brought to the tribunal’s attention in an *amicus curiae* brief before it.

After the Second World War and the treaties that stemmed from it—such as the Cairo Declaration, the Potsdam Declaration and the Treaty of San Francisco—all the islands in the South China Sea were returned by Japan to China. Since then, if not earlier, China has indisputably exercised jurisdiction over these islands and the adjacent waters, including Tai Ping Island, and have stationed civilians and government officials there. This happened with the involvement of major states, including the U.S.

Having seized jurisdiction to decide the issue of rock or island under Article 121, the tribunal decided in the July 2016 award that whether a maritime feature is rock or island depends on the objective capacity of the feature—whether in its natural condition, the feature can sustain either a stable community of human inhabitation or economic activity that is not dependent on outside resources.

It has been said that such an interpretation is a re-definition of Article 121 of UNCLOS. A plain reading of Article 121 does not incorporate these additional qualifications of independence of outside resources, etc. There appears to be no evidence from the *travaux préparatoires* that suggest this was the intention of the states either.

The tribunal's decision does not seem to make logical sense. Article 121 as drafted, positions "rock" as the subset of "island." The tribunal's decision reverses this. Practically speaking, some island states, which, in their natural condition, do not have adequate resources such as potable fresh water to sustain a stable community of human inhabitation may now be considered "rocks," and by Article 121(3), will be deprived of an exclusive economic zone or continental shelf.

More interestingly, in a roundabout way, the tribunal concluded that, after deciding all the maritime features to be "rocks," these "rocks" do not have an exclusive economic zone and have no overlapping maritime boundaries. Therefore, presumably, the tribunal could justify its earlier decision that it had jurisdiction.

Some have criticised the interesting finding that Tai Ping Island is a "rock" as an attempt to avoid facing the inherent jurisdictional defect: If Tai Ping Island were found to be an "island," it would have an exclusive economic zone of 200 nautical miles, resulting in overlapping maritime boundaries of dispute, and thereby meaning that the tribunal does not have jurisdiction in the first place.

Nine-dash line

In 1948, China's official map shows the eleven-dash line. In 1953, China illustrated in its map the nine-dash line, with two dashes at the Gulf of Tonkin removed. According to the award, this was challenged 61 years later when some states objected to the *Notes Verbales* of China stating that it had sovereignty over the islands in the South China Sea and adjacent waters, and enjoyed sovereign rights and jurisdiction over the relevant waters.

One would have thought that it is clear that the disputes between the parties relating to the nine-dash line are clearly of territorial sovereignty and concerning sea boundary delimitation. Nonetheless, the tribunal concludes that it has jurisdiction to decide if the nine-dash line is illegal. The question of jurisdiction is said to turn on whether the claim of China is based on historic rights or historic title.

The tribunal found that the claim was based on historic rights because, *inter alia*, there was navigational freedom afforded in waters and air space within the nine-dash line, and that the 2011 *Note Verbale* of China to the UN claiming "historic titles including sovereign rights and jurisdiction" within the nine-dash line was a result of "an error in translation or an instance of imprecise drafting."

The concept and ambit of historic rights is a specific area governed by principles of general international law. In the Preamble of UNCLOS, the States Parties affirmed, "...matters not regulated by

this Convention continue to be governed by the rules and principles of general international law.” The tribunal rightly finds that UNCLOS does not include any express provisions preserving or protecting historic rights. In other words, historic rights are a matter not regulated by UNCLOS. The tribunal finds that UNCLOS nonetheless supersedes the historic rights of states that have acceded to UNCLOS, and thus, the historic rights of China over the nine-dash line have been extinguished. This rationale is difficult to fathom given the plain reservation of the applicability of general principles of international law in the Preamble.

Way forward

In *Nicaragua v USA*, the ICJ ordered the U.S. to pay monetary compensation to Nicaragua. The U.S. did not comply with the judgement of the ICJ and instead resorted to negotiation with Nicaragua. Ultimately, in exchange for certain aid from the U.S., Nicaragua passed a law to forego its claims for the judgement debt against the U.S..

The tribunal in the *Chagos* case ruled in favour of Mauritius, declaring the March 2015 award that the Marine Protection Area unilaterally introduced by the UK in the Indian Ocean in 2010 as illegal. The UK does not accept the ruling of the award and has not complied with it. Again, she resorted to negotiation with Mauritius with a view to settle the disputes. The last meeting was in November 2015, and it is reported that further meetings between the two states are expected to take place.

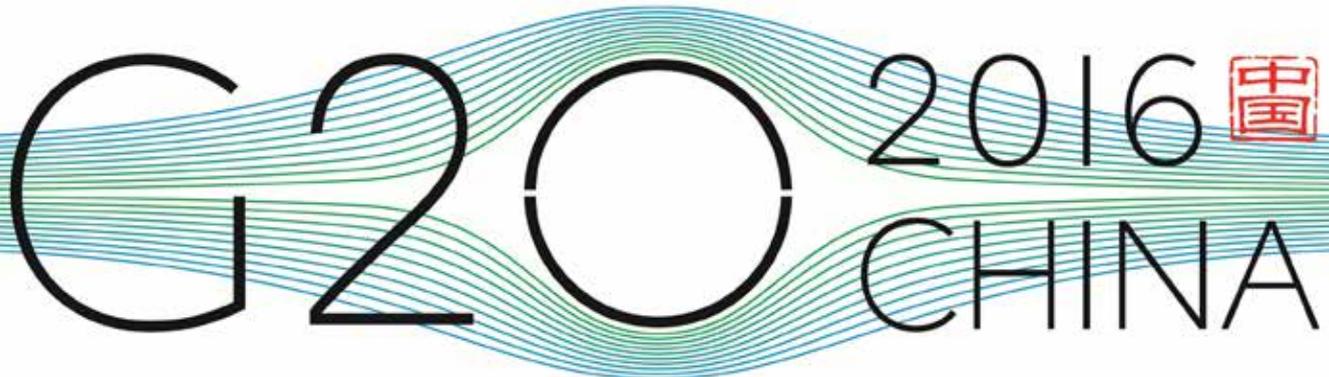
These two cases illustrate that states sometimes embark upon negotiation to

resolve the true disputes and conflicts with the other state notwithstanding the publication of an award or judgement. Understandably, this will bring about a win-win situation to the states involved, maintain regional peace, and enhance stability and prosperity for the benefit of the relevant states and their nationals.

The awards in the *Philippines v China* case are not an end, but a chapter of a much broader and long-term relations between states. The award at best resolves some legal issues but cannot possibly be dispositive of all other conflicts, differences, and interests of the relevant states. These can only be properly and comprehensively addressed through the means that the relevant states involved in the South China Sea have in fact adopted through the November 2002 Declaration on the Conduct of Parties in the South China Sea, where China and the ASEAN states agree to “undertake to resolve their territorial and jurisdictional disputes... through friendly consultations and negotiations by sovereign states directly concerned.”

These differences or conflicts are best resolved directly between the two states under the prevailing Asian culture and core values of a non-confrontational approach, compromising sentiment, and a mutually understanding mind-set.

[1] 2002 Declaration on the Conduct of Parties in the South China Sea, article 4.


 The logo features the text 'G20 2016 CHINA' in a large, black, sans-serif font. The letters are set against a background of wavy, light blue and green lines that flow across the image. To the right of the year '2016', there is a red square seal with white Chinese characters.

G20 2016 CHINA

A Chance to Reboot Economy, U.S.-China Ties

The G20 Summit hosted by Chinese President Xi Jinping will help alleviate current problems in a troubled world and become yet another milestone of a rising China. Despite US fickleness toward emerging countries, the summit may usher in a new era of global governance in which China will emerge as a leader with the world's major powers, old and new, working together for common benefit.

The much-anticipated 11th G20 Summit will take place in China's Hangzhou on Sept 4 and 5. President Xi Jinping will host the gathering with leaders of the other G20 members, leaders of a number of developing countries invited by China, and top officials of international organizations to discuss matters important to global economic cooperation. By going all out to prepare for the event at this moment of worldwide chaos, China has demonstrated its growing sense of responsibility as a major global power.

One, the worldwide lack of order is illustrated by five complex and interconnected variables that are changing or reshaping global and regional landscapes:

The first is aggravation of global power imbalance caused by events such as the unexpected "Leave" win in the Brexit



Chen Xiangyang
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 Contemporary
 International Relations*

None of the previous G20 summits will match the Hangzhou Summit in terms of complexity of background.

referendum in the UK, the political turmoil and economic depression in BRICS member Brazil, and EU's fraying unity and dwindling influence.

The second is increasing difficulty in global economic recovery. The selfish conduct of major Western powers has effectively sapped the globalization process, giving rise to fierce debates on rules that govern the world. Monetary policies of the major economies are contradictory, making desired synergy elusive. The US, by vigorously pushing the TPP and TTIP, is trying to build a "fence of rules" against the emerging countries. The downward pressure on the world economy continues to mount with the IMF and others scaling down their global growth forecasts constantly.

The third is unbridled perpetration of ISIS and other extremist groups and the spread of terrorism around the world. Taking advantage of the refugee crisis, ISIS is stepping up its penetration of Europe with a great deal of success.

The fourth is rising populism in a large number of Western countries, evidenced by widespread anti-immigrant, anti-globalization and other radical sentiment. The ongoing US presidential election campaign is most incredible, with Donald Trump securing the Republican nomination

and vigorously advocating "America first", trade protectionism and self-imposed isolation by way of shirking international responsibilities.

The fifth is rising geopolitical rivalry of major world powers. The US is throwing its weight around and trying to fish in troubled waters. In Europe, the US has gotten its European allies to pressure Russia on the issue of Ukraine while taking steps to beef up NATO. Russia, on the other hand, has intervened in the Syrian crisis with handsome gains. With Turkey making a diplomatic turnaround after the failed coup, the Mideast has become a theater showing a more assertive Russia making inroads and a weakening US in retreat. Two hot spots stand out in the Asia-Pacific — the US-sponsored deployment of the THAAD missile-defense system in ROK and a self-styled freedom of navigation farce by the US in the South China Sea, both designed to contain China.

With all of the above, we can say that none of the previous G20 summits will match the Hangzhou Summit in terms of complexity of background.

Two, with China going all out to prepare for the event, the G20 Hangzhou Summit is likely to become one of the best in history.



Hangzhou is dubbed the “City of Heaven” in China.

Against the backdrop of exceptional complexity in the world, China, as host of the 2016 G20 Summit, has chosen to press forward and provide the gathering with a thoughtful, targeted and ambitious program.

In China’s view, the summit should focus on the world’s core challenges and salient problems, taking on the “symptoms” in order to stabilize global growth and working on the “root causes” in order to search for long-term growth drivers. This is designed to transform G20 from being a mechanism of “crisis management” to one that can govern with long-term effectiveness, promoting global growth and international cooperation in the economic field.

To that end, China has proposed that “Towards an Innovative, Invigorated, Interconnected and Inclusive World Economy” be the theme of the Hangzhou Summit and set “exploring more efficient growth models through innovation,

improved global economic and financial governance, stronger international trade and investment, and inclusive and interconnected paths of development” as principal items on the agenda. Both the theme and agenda items have been warmly received by G20 membership.

China is determined to work with other G20 members to achieve the following 10 results: formulating the “G20 Blueprint for Growth-Related Innovation”; formulating an action plan to implement the UN’s 2030 Agenda for Sustainable Development; formulating the priority areas, guiding principles and target system of structural reform; formulating the strategy for global trade growth; formulating the guiding principles for global investment policies; deepening reform to the international financial institutional framework; initiating a three-in-one anti-corruption cooperation (institution, education and supervision); launching the cooperation initiative in support of industrialization in Africa and the least-developed countries;

In China's view, the summit should focus on the world's core challenges and salient problems, taking on the "symptoms" in order to stabilize global growth and working on the "root causes" in order to search for long-term growth drivers.

formulating an action plan for business startups; and promoting the earliest possible coming into force of the Paris Agreement on Climate Change.

Three, with the US attitude towards the G20 and Washington's China policy becoming less positive in recent years, the Hangzhou Summit may instill greater harmony in China-US relations.

There has been a noticeable change of US attitude toward the G20. When global financial crisis first struck in 2008, the US desperately needed a helping hand from the emerging countries, so it launched the G20 summit in September that year. Eight years later, the US seems to have forgotten the painful experience and has begun to push them away while still asking for their help.

Increasingly aloof to reforms of the global economic governance system, the US fears it will lose its traditional dominance and goes around introducing new, West-dominated regimes that exclude countries like China.

Under such circumstances, the G20 Hangzhou Summit may bring about a much-needed new opportunity for China-US cooperation. In his

telephone conversation with U.S. Secretary of State John Kerry on Aug 5, Chinese Foreign Minister Wang Yi said that the forthcoming meeting in Hangzhou between President Xi Jinping and President Obama would be a top highlight in bilateral relations. He further called for joint efforts to stay focused on the right direction of a new model of major-country relationship, working for closer cooperation, effective management of differences and a successful meeting of the two presidents and ensuring a steady and sound development of China-US relations in the US election year. Secretary Kerry agreed that the meeting would be critically important and pledged coordinated US efforts to ensure its success.

The G20 Summit in Hangzhou, in my view, will help alleviate current problems in a troubled world and become yet another milestone of a rising China. The summit may usher in a new era of global governance in which China will emerge as a leader with the world's major powers, old and new, working together for common benefit.





Time for Reset and Realism

After the South China Sea arbitration ruling, uncertainty and friction may increase in the region. However, the economic promise of China's rise and the Asian century will only materialize with peace and stability in the region.



Dan Steinbock
Research Director,
India China and
America Institute

On July 12, the international court in The Hague ruled in the dispute between China and the Philippines over the South China Sea. In international media, the ruling of the Permanent Court of Arbitration (PCA) has been characterized as a sweeping rebuke of Chinese claims in the South China Sea.

But in international relations realism, the ruling and its implications are inherently ambiguous, which means greater uncertainty and possible volatility in the region.

Legal ambiguity, policy realism

First, despite the focus of the UN Convention on the Law of the Sea (UNCLOS), the PCA is not a UN agency, as the UN itself noted

after the ruling. Nor is its ruling enforceable, even though it is likely to shape regional stances. Second, China refused to participate in the arbitration because, in Beijing's view, the tribunal had no jurisdiction over the case. Yet, China resists militarization in the region and seeks cooperation with the members Association of Southeast Nations (ASEAN). Third, Philippine Foreign Affairs secretary Perfecto Yasay has made clear Manila's readiness to start a conversation with China, though building on the arbitration. The diplomatic refrain was consistent with President Rodrigo Duterte's pronouncement that Manila would not "flaunt or taunt" if it is seen to win the arbitration case.

Finally, the US has strongly supported international arbitration and the rule of law. Yet, the US record on international law is highly mixed; it has often acted unilaterally against international law, including through regime change, invasions and coups d'etat; and Washington has refused to ratify the UNCLOS, which in Beijing creates an impression that the US wants China to abide by rules it rejects.

Indeed, from the standpoint

of international affairs realism, it is vital that, historically, no permanent member of the UN Security Council has complied with a ruling by the PCA on an issue involving the Law of the Sea, as Graham Allison recently stressed. Nor have any of the five permanent members of the UN Security Council ever accepted any international court's ruling when they believed it infringed their sovereignty or national security interests. So, those observers who argue that China's rejection of the Court's decision would turn it into an international rogue state imply that the US, the UK, Russia and France already are pariah states.

But why did arbitration become necessary when the outcome was relatively clear in advance?

International arbitration and the US pivot

The geopolitical context of the arbitration process is the US pivot to Asia. Historically, the policy framework of the Obama administration's rebalancing stems from 2011, when the then-US Secretary of State, Hillary Clinton, first framed the US economic, trade and military 'pivot to Asia,' which would rely on a hybrid

In this setting, the internationalization of the arbitration, irrespective of its bilateral goals, served the geopolitical pivot as well.



"If it's favorable to us, let's talk." -- On July 5th, 2016, President Duterte said he was willing to talk with China over the South China Sea dispute in a speech before the Philippine Air Force in Pampanga province.

regional strategy of bilateral security alliances, deeper relationships with rising powers, regional multilateral institutions, trade and investment, broad military presence, and advancing democracy and human rights.

As the execution took off and the Pentagon's objective became to transfer 60 percent of US naval assets to the Asia Pacific by 2020, Beijing began to view the pivot as a façade for a de facto containment, which harkens back to Washington's policy against the Soviet Union during the Cold War. At the same time, Washington has strengthened economic, political and military ties with its old allies in Southeast Asia, such as Japan, South Korea and Australia, while developing bilateral and multilateral alliances with emerging powers, including India and rising ASEAN powers.

However, the rebalance has proved fragile. In trade, the Trans-Pacific Partnership (TPP) is still opposed

by many in Southeast Asia. Despite tough talk, US security assistance actually declined by 20 percent in the region in 2011-15. In this setting, the internationalization of the arbitration, irrespective of its bilateral goals, served the geopolitical pivot as well.

In February 2013, Manila, stating that all other venues had been exhausted, initiated international arbitration under the UNCLOS — unilaterally, as Beijing saw it. To deepen the bilateral US-Philippine relationship, President Benigno Aquino III (whose six years in office ended this year) and his Foreign Affairs Secretary Albert del Rosario achieved a deal to allow US forces to return to the Philippines, which they had left in 1992 following the end of the brutal Marcos era that the Reagan White House had supported. In 2014, Washington and Manila signed a 10-year defense pact. And last spring — amid the presidential campaigns — the two also agreed on locations for five new military bases, including one

in the South China Sea.

The idea was to establish a strong ex post facto legacy that would bind the new Philippine president in 2016. What changed the baseline scenarios was the strong election triumph in May of Davao Mayor Duterte.

Duterte's agenda

In the Aquino era, the Philippines became Southeast Asia's growth leader, but wealth did not filter to ordinary Filipinos in a nation where every third person still lives under or close to the poverty rate. With its 10-point economic program, the Duterte administration seeks to raise infrastructure spending to 5 percent of the GDP starting in 2017. More jobs will be created particularly through foreign direct investment (FDI) by adjusting the foreign ownership cap of local companies to 70 percent from the 40 percent.

Strategically, Duterte hopes to bring peace to the volatile Southern Philippines; by cooperation and increasing federalism, not by force. "It is not that the Middle East is exporting terrorism to America. America imported terrorism," he said in a recent speech to Mindanao's Muslims in Southern Philippines. Cognizant of the 2002 Meiring case, he is wary of US efforts at a strategy-of-tension in the Philippines and the

broader region.

From the Chinese perspective, Duterte's economic program emulates China's historical growth miracle. The goals are also highly complementary with Beijing's "One Belt One Road" (OBOR) initiatives in the region. In foreign policy, the Aquino administration sought to balance with the US against China. In contrast, Duterte favors a balancing act between the two powers. He seeks broader and deeper bilateral economic cooperation with China and joint exploration of regional resources, without alienating Washington – a tightrope act that has been the key to success in the region since Singapore's Lee Kuan Yew.

Four scenarios, only one solution

As the dust settles, Manila and Beijing may have to choose between four generic scenarios. In turn, these outcomes can be reinforced – or undermined – by the U.S. and the ASEAN members.

The Destabilization Scenario is the most dangerous bilaterally and in the region. It is predicated on the failure of talks, hardening attitudes and the rising probability of accidental conflicts in South China Sea. In the risky and costly Regional Dead-End Scenario, China would refuse cooperation with the Philippines,

In foreign policy, the Aquino administration sought to balance with the US against China. In contrast, Duterte favors a balancing act between the two powers.

In the long-term, the Stabilization Scenario is the most preferable trajectory to Manila, Beijing, Washington and the ASEAN. It is predicated on a Sino-Philippine bilateral conversation that will result in a true dialogue that could reduce the weight of geopolitical issues, while supporting mutual gains in economic development.



On August 10-11, 2016, Philippine Former President and Special Envoy Fidel V. Ramos met in Hong Kong with his old friends - Madam Fu Ying (Chair, Foreign Affairs Committee of China's National People's Congress) and Professor Wu Shicun (President, China's National Institute for South China Sea Studies) - in a friendly atmosphere.

which would corner the Duterte administration to rely even more on U.S. security assurances. But what China would gain at the expense of the Philippines, it would lose regionally.

In the reverse Polarization Scenario, China would signal cooperativeness but Manila would take a step back, perhaps forced by domestic opposition or external pressure. That would boost military cooperation between the US and the Philippines, but undermine Duterte's economic agenda. Worse, it would force Beijing to resort to tougher defensive measures in the region.

In the long-term, the Stabilization Scenario is the most preferable trajectory to Manila, Beijing, Washington and the ASEAN. It is predicated on a Sino-Philippine bilateral conversation that will result in a true dialogue that could reduce the weight of geopolitical issues, while supporting mutual gains in economic development.

China and the Philippines have now a historical window of opportunity to reset their bilateral relations in a way that could re-energize economic and strategic progress in the entire region. It requires cool, caution and compromise, on all sides. It won't be easy. But alternatives are worse.

Can China and the U.S. Agree on Freedom of Navigation?



USS Lassen went on patrol around the disputed Spratly archipelago on October 27, 2015. (US Navy)

There can be no winner in the tug-of-war between China and the U.S. over freedom of navigation. Both countries agree to this fundamental principle of international maritime law, but interpret it differently. China believes that American military activities, such as the close-in reconnaissance and surveillance by the U.S. Navy in China's Exclusive Economic Zone (EEZ), infringe on China's security interests and therefore cannot be simply categorized as freedom of navigation. The U.S. maintains that its military activities fall within the freedom of navigation and other internationally lawful uses of the sea. The increased sail and flight of American ships and aircraft in the South China Sea in the name of freedom of navigation just make the waters more troubled.

Such differences in interpretation are not surprising. Negotiations on the United Nations Convention on the Law of the Sea (UNCLOS) took nine years. The final text is an inclusion, but also a necessary compromise, of the interests of over 140 countries that are involved in the negotiations. Understandably, controversies arise.

As China's commercial and security interests expand, the Chinese Navy, like its U.S. counterpart, may also wish to conduct more passages through international sea lanes, even if they are in the territorial sea of other countries. Anti-piracy cooperation off the coast of Somalia is an example that could show a path to compromise without harming either country's security goals.

Zhou Bo

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Could there be a way out? Theoretically one of the ways for China to establish equilibrium is to reciprocate with similar and frequent close-in surveillance and reconnaissance against the U.S. territories, especially the continental U.S. But China doesn't have such a military capability. More

missions and during evacuation of Chinese and foreign nationals. About one-third of international waters are EEZs. As a result of China's growing interests overseas and international obligations, the Chinese Navy will have to enter other countries' EEZs more often. The Chinese Navy will



Two Chinese fighter jets J-11s intercepted a U.S. EP-3 reconnaissance plane over the South China Sea on May 17, 2016. (Xinhua Photo)

importantly, it doesn't harbor such a desire. Such an exchange of hostility in the name of freedom of navigation will only look like another Cold War.

Another way out is for China and the U.S. to meet halfway. Like the U.S., China may wish to have a wider global common at sea. This thought stems first from an increasing need for China to enter other countries' territorial sea or EEZs. So far the Chinese Navy has entered the territorial sea of Somalia, Syria and Yemen and the EEZ of Libya in different UN-mandated

also conduct more passages through international sea-lanes, even if they are in the territorial sea of other countries. Eventually, China may prefer to have a more flexible view of freedom of navigation.

A compromise was already made in the 14th Western Pacific Naval Symposium (WPNS) in Qingdao in 2014. Twenty-one member states unanimously agreed to adopt a new edition of *Code for Unplanned Encounters at Sea* (CUES). CUES offers safety procedures, a basic communications plan and maneuvering instructions when

The increased sail and flight of American ships and aircraft in the South China Sea in the name of freedom of navigation just make the waters more troubled.

The U.S. certainly enjoys freedom of navigation in the South China Sea, but its sailing within 12 nautical miles off China-controlled islands and reefs can only be a provocation in that these waters are not internationally recognized sea-lanes.

naval ships or naval aircraft of one state meet casually or unexpectedly with a naval ship or naval aircraft of another state. Previously China vetoed a draft that describes how naval vessels should avoid meeting each other unexpectedly in territorial waters. This is impossible, because Chinese law requires a foreign military ship to have approval of the Chinese government first before it is allowed to enter into Chinese territorial waters. In other words, there is no likelihood for a foreign military vessel to have an “unplanned encounter” with any Chinese naval vessels in China’s territorial waters. At the 14th WPNS, all parties agreed not to mention “territorial sea” any more, therefore the new edition of CUES became a technical brochure without geographic limitation that could bring in political disagreement.

CUES is now being discussed at the Indian Ocean Naval Symposium (IONS) too, and is likely to be adopted as well. If agreed, 22 member states of the IONS will voluntarily observe the same procedures. The global common in both the Pacific and the Indian Oceans will become bigger for all countries, including China.

If China needs to enter other countries’ EEZs and territorial seas more often, it invites two questions: first, would China allow foreign military vessels to enter Chinese EEZs more easily? Secondly, would China revise its law one day to allow foreign military vessels to conduct

innocent passages in its territorial waters without approval?

On the first question, although China is opposed to American surveillance and reconnaissance in its EEZ for security reasons, PRC Law on the EEZ and the Continental Shelf doesn’t require notification of the Chinese government.

On the second question, the fact is that most of the countries in the world, especially the developed countries, don’t require approval for foreign military vessels to conduct innocent passage in their territorial waters. Although China is still a developing country, it is also the second-largest economy in the world. If it were possible for China to accept a foreign military vessel’s innocent passage without approval one day, accepting CUES, which diminishes geographic limitation, would look like the first step in that direction. The Rules of Behavior (ROB) for Safety of Maritime and Air Encounter signed bilaterally between China and the U.S. are in line with the rules of CUES. There is no specific geographic limitation either.

But one needs to bear in mind a major difference. Whenever the Chinese naval vessels enter the territorial sea of other countries, usually the vessels would conduct transit passage rather than innocent passage in the international sea-lanes. Transit passage doesn’t need approval of the littoral states. Because of China’s sensitivity to its own sovereignty,

it wants to show full respect to the sovereignty of other nations. That is why China maintains that its naval vessels' passage through Tanaga Pass of the U.S. and Tokara Strait of Japan is transit passage, even if American and Japanese law allows innocent passage.

Currently there is no way for China and the U.S. to agree on American military activities in China's EEZ, let alone in China's territorial sea. In China's view, such activities are not for peaceful purposes, representing a security risk. Quite a few dangerous encounters have happened. Both sides pointed fingers at each other. For China, such encounters are not "unplanned" because the U.S. naval activity is obviously "planned". The danger is if China sees such intrusion by the U.S. as planned, then its willingness to abide by CUES or ROB can only diminish, and the danger of an incident or even conflict will grow. Although UNCLOS doesn't specifically restrict military activities by one country in the EEZ of another country, as claimed by the U.S., it doesn't justify them either, as claimed by China. However "due regard for rights and duties of the coastal states" and "for peaceful purposes" are clearly stated, which touch a chord with the Chinese side.

The U.S. is challenging China in the South China Sea on an issue in which it claims to have no position. The U.S. certainly enjoys

freedom of navigation in the South China Sea, but its sailing within 12 nautical miles off China-controlled islands and reefs can only be a provocation in that these waters are not internationally recognized sea-lanes. Harping on the legitimacy of such passages is a misinterpretation, if not abuse, of freedom of navigation, to say the least.

Although the award of the South China Sea arbitration is in favor of the Philippines, it is hardly a game-changer given China's declared position of non-acceptance. If the U.S. takes advantage of the verdict and increases its military activities in the South China Sea, it will only irk China all the more. Even if China doesn't respond militarily, it will surely cost Sino-U.S. cooperation elsewhere.

Sino-U.S. cooperation on freedom of navigation is possible when it is not at the cost of the security of the other side. Rather than in the vicinity of their territories, it could start elsewhere around the globe. The cooperation between China and the U.S. in the Gulf of Aden and Somali Basin is a good example: it is counter-piracy; it is also maintenance of sea lines of communication and preserving freedom of navigation.

If the U.S. takes advantage of the verdict and increases its military activities in the South China Sea, it will only irk China all the more. Even if China doesn't respond militarily, it will surely cost Sino-U.S. cooperation elsewhere.



Tragedy and The Hague

The Hague Tribunal recently issued a decision that will most likely become a tool in the hands of the defenders of the status quo. How events will develop will depend on Duterte's disposition, China's diplomatic sagacity, and America's response. If China and the Philippines are unable to meet somewhere in the middle, it is the "law" that China will reject after a legal test without fairness or perspective.



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After much anticipation and speculation from the chattering classes, the Hague Permanent Court of Arbitration has issued its award in the South China Sea arbitration case Philippines v. the PRC. The Tribunal's decision concurred with the Philippines on virtually every question that it considered within its jurisdiction, systematically rejecting China's claims and censuring its behavior. The Tribunal's decision will be analyzed without end, but its five principal rulings are clear. First, the so-called "nine-dash line" does not grant China any historic rights to resources in the South China Sea. Second, according to the Tribunal, none of the land features in the Spratly Islands are in fact islands: a handful are rocks, which generate 12-mile territorial seas, but no feature generates an exclusive economic zone. Third, China has violated the Philippines' rights in its exclusive economic zone by constructing artificial islands and allowing Chinese

But herein lays the danger of the Hague ruling: it may become a cause célèbre that is used as a sort of “red line” for the U.S. as it works to enforce the Tribunal’s decision through propaganda, pressure on China, and revived regional alliances.

fishermen to fish in the Philippines’ waters. Fourth, China has unlawfully harmed the region’s reefs and ecosystem. Finally, China’s land-reclamation during the course of the dispute constituted tampering with evidence.

The Chinese Foreign Ministry, which has never acknowledged the Tribunal’s jurisdiction in the matter, responded simply: “The award is null and void and has no binding force.” Other commentators have observed that no permanent member of the UN Security Council has ever complied with a ruling by the PCA on an issue involving the Law of the Sea. China’s rejection of the decision is not something uniquely Chinese but standard great-power behavior. Still others point out that America’s position—which enjoins Chinese acceptance of the decision—is contradictory not simply because the U.S. has not signed UNCLOS, nor even because it has never submitted itself to the jurisdiction of an international court in a matter it deems a vital interest, but because its defense of the “rules-based order” is selective: the U.S. challenges “excessive maritime claims,” except when it doesn’t.

It is true that in refusing to recognize the Tribunal’s jurisdiction China has acted no differently than other great powers. It is also true that the U.S. is in no position to criticize China’s decision as it is itself unwilling to submit to the authority of the Hague Tribunal in maritime matters. Furthermore, the U.S. has politicized the issue by opposing, with the garb of legality, Chinese actions that

are in fact perfectly legal — e.g., declaring a ADIZ in the East China Sea or reclaiming land in the South China Sea.

But this does not matter.

What matters is the belief that there is something called a “rules-based order” and that the U.S. is the Sheriff that enforces this order, while its allies are the posses that back its enforcement activities. Since the 1990s, the U.S. has been wary of China’s rise and eager to maintain the military primacy that protects its order. Since 2010, when Hillary Clinton injected the U.S. into the South China Sea dispute, and thereafter as the “pivot to Asia” was implemented, America’s opposition to China’s rise has intensified as China was increasingly seen as violating “Asia’s widely-supported and time-tested, rules-based operating system.” The decision of the Hague Tribunal codifies this perception and confirms the belief of the U.S. elite that a newly powerful China is unashamedly violating international law and norms.

China’s rejection of the Tribunal’s decision, and presumably its continuation of land-reclamation and other activities in the South China Sea, will now become evidence that China is rejecting Asia’s “operating system” and seeking to overturn the region’s order, which “elevates principle over strength, consent over coercion, and the global commons over protected spheres.” China will increasingly be seen by America and

its allies as a “rogue” state that needs to be put in its place. American foreign policy gurus have already been outlining how the U.S. should respond: reduce economic cooperation, strengthen China’s neighbors, and boost American military spending and deployments in the region. Advocates of this grand strategic paradigm (“balancing”) do not yet entirely control U.S. foreign policy. But herein lays the danger of the Hague ruling: it may become a *cause célèbre* that is used as a sort of “red line” for the U.S. as it works to enforce the Tribunal’s decision through propaganda, pressure on China, and revived regional alliances.

What does this mean practically? How the Philippines will respond under its new President Rodrigo Duterte is admittedly an open question. He has shown signs of being a pragmatic leader willing to make a mutually beneficial deal with China and does not seem to have the anti-China persona of his predecessor. Let us then suggest two scenarios.

If Duterte does make a deal with China—perhaps along lines he has previously suggested—then the decision of the Tribunal will have become irrelevant: the maritime dispute will have been solved through diplomacy rather than law, and the new *de facto* arrangement will have replaced the *de jure* ruling of the Tribunal. A China eager to sweep the Tribunal’s findings under the rug would also be eager to negotiate and would therefore

ensure any agreement was sweet for the Philippines. Duterte, meanwhile, can plausibly claim that the Hague arbitration wasn’t his idea and commit, going forward, to working with the PRC to resolve differences.

In contrast, if the Philippines insists on the substitution of law for diplomacy, that is to say the full implementation of the Tribunal’s award, then China will be forced to react assertively to demonstrate its great power status. No rising great power—certainly not the U.S. in its day—could meekly accept such condemnation. To do so would engage domestic nationalists, yes, but more importantly would signify impotence in the face of international pressure. Meek acceptance would also permit the establishment of a precedent whereby any neighboring state could litigate against China to assert its own interests. Chinese power would hence come to mean nothing, for in the law all states are equal. This notion of sovereign equality is accepted by no great power: that is why, for instance, the U.S. historically “intervened” frequently in Central America and continues to meddle at its pleasure—e.g., Libya—today.

A forceful Chinese response could include a declaration of an ADIZ in the South China Sea or the occupation of Scarborough Shoal, and even building on it. The U.S. Defense Department is widely speculated to have come up with planned responses to such a Chinese reaction.

China, in contrast, is pursuing a set of territorial claims that originated not with the PRC but the ROC. The claims are not new, and by and large China has pursued them peacefully.

How events will develop will depend on Duterte's disposition, China's diplomatic sagacity, and America's response.

Likely this would involve lots of anti-Chinese rhetoric, more naval patrols, “freedom of navigation operations,” and perhaps new defense cooperation with the Philippines. In the long run, a much more disturbing outcome is probable: a new agreement between the Philippines and the U.S. to permanently station U.S. naval forces—perhaps a whole aircraft carrier fleet—at the old U.S. base at Subic Bay. Already 6000 U.S. Navy personnel are rotating through annually and aircraft carriers are docking there. Intense U.S. positioning and use of Subic Bay would indicate that America is committed to challenging China in the South China Sea. This challenge would become the propeller of the U.S.-China relationship, and the direction of propulsion would be towards conflict. Crises would follow, as would trade restrictions and the end of global cooperation. If we were unlucky, a naval spat could turn into a war.

All this because of some Hague Arbitral decision? Not precisely. All this because of a paradigm shift towards containment, a shift facilitated by the legalism of American foreign policy elites—the same legalism decried by E.H. Carr and George Kennan half a century ago. Contemporary historical consciousness

has been blind to America's own past, and, regardless, judges all Chinese actions by a presentist standard that would make the most Whiggish historian blush. When the U.S. was at China's stage of development, it was busy conquering Hawaii, Cuba, Puerto Rico, and the Philippines and enforcing its own *mare nostrum* in the Caribbean. It had long already stolen half of Mexico. Why the territorial acquisitions of 1898, asked Kennan? “The American people of that day, or at least many of their more influential spokesmen, simply liked the smell of empire and felt an urge to range themselves among the colonial powers of the time, to see our flag flying on distant tropical isles, to feel the thrill of foreign adventure and authority, to bask in the sunshine of recognition as one of the great imperial powers of the world.”

China, in contrast, is pursuing a set of territorial claims that originated not with the PRC but the ROC. The claims are not new, and by and large China has pursued them peacefully. Nor is China looking for a colonial empire. Nonetheless, China is condemned because it is tried by a standard—indeed, a standard of civilization—that requires new great powers to act in precisely the

Already there is talk of China withdrawing from UNCLOS. This “law,” admittedly, has not been followed by any previous rising power.

By substituting law for politics, the U.S. and its posse have forced China into a position where it must choose between its national prestige and status as a great power and its commitment to act according to accepted norms. It's no mystery China will act as all great powers act and choose the former.

same manner as small powers. This is utopian and dangerous, but it is just this that is codified in the Tribunal's decision. International politics is not and should not be conducted according to the *diktat* of the mighty—this is one of the great lessons of Thucydides' history of the Peloponnesian War. But neither can the realities of power be wished away, replaced by legal rulings, or stricken by a principle of equality. Any such attempt is likely to actually break the international community that the law intended to sustain. Carr put it this way: "There must be a clear recognition of that play of political forces which is antecedent to all law. Only when these forces are in stable equilibrium can the law perform its social function without becoming a tool in the hands of the defenders of the status quo. The achievement of this equilibrium is not a legal, but a political task."

The Hague Tribunal this week issued a decision that will most likely become a tool in the hands of the defenders of the status quo. How events will develop will depend on Duterte's disposition, China's diplomatic sagacity, and America's response. If the China and the Philippines are unable to meet somewhere in the middle, it is the "law" that China will reject. Already there is talk of China withdrawing from UNCLOS. This "law," admittedly, has not been followed by

any previous rising power. But because it today represents the whole package of contemporary norms, it is likely to serve as a test case for American elites in determining whether China is a revisionist power. By substituting law for politics, the U.S. and its posse have forced China into a position where it must choose between its national prestige and status as a great power and its commitment to act according to accepted norms. It's no mystery China will act as all great powers act and choose the former. The tragedy of the situation is that this will be interpreted as a general rejection of the status quo and will lead to intensified conflict. But the truth of the matter is not that China will have been tested and found wanting; it is that China will not have been tested fairly at all.

Historical Archives on South China Sea

“...Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the First World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and The Pescadores, shall be restored to the Republic of China. Japan will also be expelled from all other territories which she has taken by violence and greed.”

Cairo Declaration, November 27, 1943

“(b) Japan renounces all right, title and claim to Formosa and the Pescadores.”
“(f) Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.”

Treaty of Peace with Japan, aka Treaty of San Francisco, September 8, 1951

Recognizing People’s Republic of China was the only lawful representative of China to the United Nations, in place of the Republic of China.

UN General Assembly Resolution 2758, October 25 1971

“8. The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.”

Potsdam Declaration, July 26, 1945

“It is recognized that under Article 2 of the Treaty of Peace which Japan signed at the city of San Francisco on 8 September 1951 (hereinafter referred to as the San Francisco Treaty), Japan has renounced all right, title, and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratly Islands and the Paracel Islands.”

Sino-Japanese Peace Treaty, April 28, 1952

“3. The Government of the People’s Republic of China reiterates that Taiwan is an inalienable part of the territory of the People’s Republic of China. The Government of Japan fully understands and respects this stand of the Government of the People’s Republic of China, and it firmly maintains its stand under Article 8 of the Potsdam Proclamation.”

Joint Communiqué of the Government of Japan and the Government of the People’s Republic of China, September 29, 1972



Chance of Quiet Diplomacy Opens with The Hague Ruling

Though The Hague ruling pertains to the Philippines-China dispute, it will bolster similar claims by other states against China's nine-dash line; it will increase pressure on China to seek a negotiated resolution to the overlapping claims; and it will circumscribe China's South China Sea claims. In response, China must assure the ASEAN states of its benign intentions, dispelling impressions of a hegemonic outlook.



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In a landmark ruling, The Hague-based International Court of Arbitration has upheld the Philippines' claim against China over much of the contested South China Sea. The Court rejected China's publicly held position that it had historically exercised exclusive control over the Sea and its resources. The tribunal, on the contrary, ruled that China had violated the Philippines' sovereign rights and had caused "severe harm to the coral reef environment" by building artificial islands. Other claimants in the area are China's Taiwan, Malaysia, Vietnam, Brunei and Indonesia.

China believes that the U.S. Pivot to Asia concept, launched in 2012 and under which 60 percent of U.S. naval capacity is to be located in the Pacific by 2020, is an attempt to contain China's rise. China is also wary of U.S. maneuverings and potential partnerships with Japan, India, Vietnam and the Philippines as a way to maintain control of the SCS.

China, refusing to recognize the Court's jurisdiction, boycotted its proceeding and issued a defiant statement that reads, "The award is invalid and has no binding force. China does not accept or recognize it." Urging China to respect the Court's findings, Washington called upon countries bordering the Sea to avoid "provocative statements or actions." The Philippines Foreign Secretary (minister) who welcomed the decision urged "restraint and sobriety" among all concerned. Earlier, he had indicated that the Philippines will be ready to enter into bilateral negotiations with China after the judgment for joint exploration of the Sea's resources.

Covering an area of nearly 4 million square kilometers, \$5 trillion, or one-third of commercial shipping, passes through the South China Sea, making it as one of the most important trade arteries in the world. With an estimated 11 billion barrels of oil, 190 trillion cubic feet of natural gas and 12 percent of global fisheries catch;

the Sea is an obvious battleground amongst countries of the region and afar.

The Chinese claim, represented by the Nine-Dash Line, predates Communist rule in China. It covers all the land features in the Sea, which includes 'low tide elevation, rocks' and small 'islands.' Each of these has different sea entitlements around them. China is now accused of building 3,200 acres (or 13 square kilometers) of territory by reclaiming land and building structures over it.

Though the ruling pertains to the Philippines-China dispute, it will bolster similar claims by other states against China's Nine-Dash Line; it will increase pressure on China to seek a negotiated resolution to the overlapping claims; and it will circumscribe China's claims in the Sea. Any other course will be damaging to China's international standing.

In the Philippines, the change of presidency seems to signal change of approach towards

China's stand on jurisdiction over much of the Sea is therefore a natural consequence of China's growing economic power and its need to secure its back yard. It will be folly to underestimate China's tenacity in pursuit of its national interests.

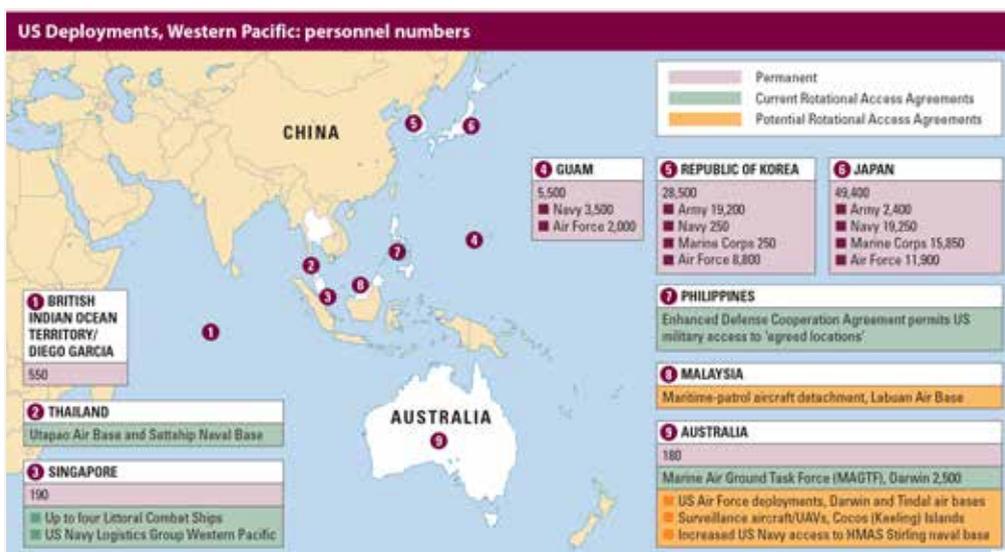
resolution of differences with China. For former President Aquino, whose term expired on June 30, confronting China became a kind of personal mission. Meanwhile, President Rodrigo Duterte sent conciliatory signals while campaigning for the presidency. Now, weeks into power, Philippines Foreign Secretary Yasay Jr. revealed that the administration is in the process of nominating a special envoy to discuss easing of tensions with China. But, given the clear ruling in the Philippines' favor, there will be limits as to how far it can go.

China believes that the U.S. "pivot to Asia" concept, launched in 2012 and under which 60 percent of U.S. naval capacity is to be located in the Pacific

by 2020, is an attempt to contain China's rise. China is also wary of U.S. maneuverings and potential partnerships with Japan, India, Vietnam and the Philippines as a way to maintain control of the SCS.

Washington's rhetoric of 'world leadership' or 'prominence' in the western Pacific has its self-fulfilling momentum and results in pushback from several states. China, uniquely placed among them, does not agree with the existing U.S.-based order.

The freedom of navigation issue in the South China Sea has therefore become a test of Washington's ability to maintain its predominant role in the western Pacific region.



The Obama administration's foreign policy rebalance or "pivot" to Asia has been widely interpreted in China as an attempt to contain its rise. (Source: The Military Balance 2015)



On April 5, 2016, China's Ministry of Transport held a completion ceremony for the construction of a lighthouse on Zhubi Reef, of Nansha Islands in the South China Sea. [Xinhua Photo]

The U.S. actions in support of UNCLOS are hollow, as the U.S. itself is not a member of the Convention. China has never interfered with commercial shipping and has assured at the highest level that there will never be a problem in the future. When China's own economic rise depends upon freedom of navigation in the Sea, it will not interfere in commercial shipping.

China's stand on jurisdiction over much of the Sea is therefore a natural consequence of China's growing economic power and its need to secure its back yard. It will be folly to underestimate China's tenacity in pursuit of its national interests.

While China's reclamation over the 'rocks and land features' may be provocative, the U.S. actions of challenging the Chinese through freedom of navigation, including two carrier-based deployments, are equally provocative. Such actions can spill into an armed conflict even by accident.

Everyone recognizes that China will not relent on its position, and they cannot wrest control of the islands Beijing now occupies within its Nine-Dash Line. China will also not want to be seen as the bad boy in the region and will more likely be privately accommodative of other's positions on gaining economic advantage of their exploration's claims. China's ambitions need a friendly neighborhood. It must assure the ASEAN states of its benign intentions, dispelling impressions of a hegemonic outlook.

All parties need to remember Professor Hans J. Morgenthau's famous rule of diplomacy: Never put yourself in a position from which you cannot advance without grave risks, or from which you cannot withdraw without losing face.

China's ambitions need a friendly neighborhood. It must assure the ASEAN states of its benign intentions, dispelling impressions of a hegemonic outlook.



Asia is famous for its multiple civilizations and their core value systems that have guided Asian nations since ancient times. Recent decades have seen China making great contributions to regional economic growth and unity with its peaceful and rapid development. Common development will always be the hallmark of this great region.



He Yafei

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Asia Needs Unity, Not Fragmentation

The last few decades have witnessed the economy in Asia growing at a faster pace than in most regions in the world, especially with China's economic "miracle", making it possible for the global political and economic landscape to shift tectonically in favor of emerging nations.

According to the IMF, based on Purchasing Power Parity (PPP), the biggest four economies in the world today are China, the US, India and Japan. Three are in Asia. What drives economic growth is population. By 2025, three-quarters of the world's population will live in Asia, while the US and Europe will account for only 5% and 7% respectively. In 2012, the US Senate Intelligence Committee forecast that by 2030 Asia will surpass the US and Europe combined in terms of "global strength" indexed in GDP, population, military expenditure and technological input. The growth in Asia has contributed to narrowing the gap in wealth between East and West, which

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in turn has moved global governance from “West domination” to “sharing of power between East and West”.

As far as Asia is concerned, intra-regional trade has long reached the benchmark of 50% of its total external trade, and regional economic integration has gained traction for which political stability and Asian unity is the key.

However, troublesome geopolitical developments have emerged in recent years. Notably the US, as the most influential external power, has engaged in its “Pivot to Asia” with “Asia-Pacific rebalancing” while entering periodic strategic retrenchment worldwide. As a result, geopolitical tussles including disputes on islands and reefs in the South China Sea have intensified, creating “fragmentation” of Asia and East Asia in particular. The strange regional phenomenon of assuming that “economic growth relies on China while security depends on the US” continues. Moreover, with strong American support, its allies like Japan and the Philippines have been emboldened enough to directly challenge the core interests of China in the South China Sea and East China Sea, driving up the tension in the region and disrupting regional economic integration.

The first case that comes to mind about Asia fragmentation is obviously the internationalization and politicization of South China Sea disputes. The political farce staged by the Philippines might be over, but its “hangover” remains and tensions are still high. American direct involvement and saber-rattling in the South China Sea has shown no signs of receding.

There are only two options on this tricky issue:

1. Confrontational with continued “off-shore balance” by the US as the Philippines, Vietnam and others will persist in pushing the envelope.
2. A return to political negotiation, adopting the “dual track” approach as suggested by China. In view of the current circumstances, the second option will not easily gain momentum.

Another case is regional strategic balance, which is now being undermined and a dangerous arms race is under way. In this connection, there are two things worth mentioning: First, the US is completing its deployment of missile defense systems (MDS) close to Chinese territory in East Asia, including the most recent decision by the US and ROK to deploy the THAAD system with advanced X-band radar on

ROK soil, which poses a threat to China's nuclear deterrence capability, thus breaking the delicate and important regional strategic balance. Second, with a closer Japan-US military alliance, Japan is pursuing "normal big-power" status through militarization and loosening the constraints of its Peace Constitution and Yalta arrangements, which worries its neighbors including China and the ROK.

Asian unity sustaining its continuous growth is now being tested and threatened by "fragmentation" (described by Zheng Yongnian of Singapore as "Mid-Easternization of Asia"). If unchecked, Asia's economic growth and cohesion could be compromised which is undoubtedly bad news to Asia and to the world at large.

Needless to say, positive developments in Asia always outweigh negative ones. As long as Asian nations proceed from their fundamental interests and overcome various obstacles, the "fragmentation" will fade away eventually. At present, they should focus on the following areas inter alia for immediate action:

1. To speed up regional integration by streamlining all sorts of FTAs and start negotiation on an APEC-wide FTA with a view to creating a better environment for trade and investment for the benefit of

promoting sustained economic growth both in Asia and the world.

2. To make strenuous efforts to maintain regional strategic balance and prevent further arms race. American deployment of missile-defense systems surrounding China in East Asia no doubt undercuts strategic balance in the region. It would be wise for the US and its

American deployment of missile-defense systems surrounding China in East Asia no doubt undercuts strategic balance in the region.

allies to reconsider and rescind that deployment, because in the end it will also hurt their security. Political dialogue needs to begin for real and with urgency to walk countries concerned through the zigzags of geo-political landscape.

3. To start diplomatic dialogue and negotiation on the issues of the South China Sea, the nuclear problem of the Korean Peninsula

“Fragmentation” is something that is temporary while Asian unity and common development will always be the hallmark of this great region.

and regional counter-terrorism. As I put it above, the best approach to the South China Sea is certainly the “dual track” negotiation and dialogue between and among parties. This is the only viable way to settle the disputes and avoid possible confrontation. On the Peninsular nuclear issue, it is of utmost importance to restart political negotiation as soon as possible. It cannot afford further delay. On counterterrorism, regional cooperation will benefit all parties and increase strategic trust that is sorely lacking.

Asia is famous for its multiple civilizations and their core value systems that have guided Asian nations since ancient times. Recent decades have seen China making great contributions to regional economic growth and unity with its peaceful and rapid development. We need to take a historic view of what is happening today. “Fragmentation” is something that is temporary while Asian unity and common development will always be the hallmark of this great region.



The Boao Forum for Asia (BFA) held its 3rd members and partners activity in July 2016. BFA is dedicated to promoting Asian countries to achieve common development through further integration of regional economy.

Managing Strategic Competition Between China and the U.S.

China believes that it can cultivate a relationship with the U.S. based on peaceful co-existence. However, the South China Sea is proving a collision point between U.S. hegemony and Chinese interests in safeguarding its own security and development.



Cui Liru

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The China-U.S. standoff in the South China Sea has attracted more attention than the China-Philippines and China-Vietnam territorial disputes. China-U.S. military interaction in the South China Sea has become a focus of public opinion as it draws the media limelight. But for those engaged in strategic studies and decision-making in both countries, a truly important subject for deliberation is the future orientation of China-U.S. relations.

The South China Sea and a New Pattern of China-U.S. Relations

It was a significant strategic decision for the U.S. to openly intervene militarily in the South China Sea. Even if we continue to consider

American and Chinese military actions in the South China Sea as regional developments, their strategic intentions are beyond doubt: a consolidating momentum of competition between both countries as strategic rivals in the Asia-Pacific.

The peculiar complexity of China-U.S. relations derives from such a fact: They are two enormous countries that are dramatically different, yet they have become more interconnected.

The so-called historical changes China-U.S. relations are undergoing include changes in both the pattern of this particular relationship as well as those in the broader

China-U.S. relations have been proceeding simultaneously in the dimensions of both competition and cooperation: On one hand they are each other's main strategic rival, on the other hand they are important partners that need each other.

international order. Those changes have two layers of significance: One refers to changes in comparative strengths; another refers to changes in the way other nations relate. China's rise resulted in changes in the comparative strengths of China and the U.S.; meanwhile, China's rise has taken place as it integrated with the rest of the world and actively participated in the process of globalization. One of the most important consequences of the integration is that the two countries have become each other's most important stakeholders.

China-U.S. relations have been proceeding simultaneously in the dimensions of both competition and cooperation: On one hand they are each other's main strategic rival, on the other hand they are important partners that need each other. Such a pattern of relationship between two major countries is unprecedented in history.

For decision-makers in Beijing and Washington, how to evaluate the complicated dimensions of this new pattern is of vital importance.

It goes without saying that the competitive aspect of China-U.S. relations has grown prominent under the new pattern. The perception of containment in U.S.-China strategy continues to expand, which is most obviously reflected in U.S. military moves in the South China Sea. This seems to indicate that implementation of the U.S. pivot to the Asia-Pacific has entered a new phase, with an intention to regionally contain China. At the same time, we have seen another dangerous tendency: The Pentagon has constantly escalated its moves in the South China Sea, and some senior military officials are increasingly provocative verbally. It takes further observation to judge whether this will mean fresh changes in U.S.-China strategy.

However, some Washington insiders have stated in explicit terms that the U.S. has decided to take more targeted and comprehensive measures to "counter" so-called Chinese moves to "change the status quo." Evidently, the so-called concern about "freedom of navigation" is only a pretext for the truer intention of preserving U.S. dominance in the Asia-Pacific.

The main reason for worsening China-U.S. strategic competition in the Asia-Pacific

is that the U.S. sees itself as guardian of international order in the region and the rise of China increasingly as an inevitable challenge that has to be preemptively stopped, and contained. If the act of the U.S. pivoting to the Asia-Pacific follows such a course, it will solidify the two countries' structural contradictions, and bilateral relations may thus eventually slide into the "Thucydides' trap".

Structural contradictions

Structural contradictions between China and the U.S. include problems on two levels. On one level, there is a divergence in political systems and ideologies.

On another level, a contradictory relationship between major strategic rivals has gradually taken shape in recent years. The theoretical expression of China-U.S. structural contradictions from the realistic perspective is: The power structure between a main rising power and a main incumbent power will inevitably lead to a relationship between two main rivals.

However, that analysis fails to appreciate the significant development of economic interdependence between countries, neglects the obviously increasing functions of domestic factors in the new pattern of relations, and therefore fails to interpret the new changes in China-U.S. relations in a dynamic manner. Over-emphasis of structural contradictions, especially by letting structural contradictions dictate policy

deliberations, may amplify disagreements, worsen negative feelings, inspire inclinations for confrontation, and create bigger difficulties for improving China-U.S. ties.

Danger of Mearsheimer theory

The core argument of John J. Mearsheimer's classic *The Tragedy of Great Power Politics* is that a "security dilemma" is an unavoidable structural problem between great powers. He concludes that, for great powers, vying for hegemony is the best choice in the pursuit of security. He further induces that this is an inevitable goal of China's rise; therefore confrontation is inescapable between China and the U.S. On such a basis, he advocates that the U.S. needs to carry out total containment of China in a Cold-War manner. In his interpretation of the Obama administration's rebalancing of Asia, he claims Obama's strategic measures center on containing China, yet they have concealed realistic moves with liberalist rhetoric. Given his authoritative scholarly impacts in international studies, his theories have exerted considerable negative influence on academic and diplomatic circles in both countries. His own intentions aside, Mearsheimer's theories and proposals are actually providing a foundation for the U.S. to implement power politics and preserve its hegemony, which is why they have been favored by hardliners in the U.S.

The new pattern of relations between China and the U.S. is a complex body of contradictions and dynamics. Simplistically,

Evidently, the so-called concern about "freedom of navigation" is only a pretext for the truer intention of preserving U.S. dominance in the Asia-Pacific.

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diagramming China-U.S. relations has been an elusive puzzle in the past few years. Too many experts in both countries have resorted to the approaches adopted by Hollywood blockbusters and interpreted the disagreements and tensions between China and the U.S. as rising structural contradictions that resulted from changes in their comparative strengths. This has led to cross-validation of corresponding “threat” theories in both countries.

In the U.S., the mention of “China’s rise” is usually associated with “challenging U.S. leadership,” “threatening US security interests,” or “stealing American jobs,” which has almost become synonymous with a vague “China threat.” On the other hand, experts, scholars, and think tanks constantly release theses and research reports, arguing that the U.S. is not in decline, that it remains strong, that the U.S. should always maintain its position as the No.1 world power with continued dominance in Asia.

In China, there is the popular assumption that the decline of the U.S. is already a fact, and that the U.S. is increasingly bogged down in domestic and international difficulty; therefore, in order to prevent China from taking its place, the U.S. is beginning to contain China’s development in an all-round manner, disseminating “China Threat” theories, instigating neighboring countries to make trouble for China, creating an Asian version of the NATO to hedge and contain China, and plotting to create a financial crisis in China. Thus it is reasonable to conclude that a “new

cold war” against China has begun.

Those advocating containment of China are mainly counting on unrivalled U.S. military superiority. This is also why the ghost of the Cold War keeps haunting us. Evidently, preaching all-round containment of China on the pretext of preserving national security isn’t without political support in the U.S.

U.S. military hegemony

Obviously there are significant divergences between Chinese and American understanding of the new pattern of their relations. This won’t change in the short term. What matters now is how the two countries can work together to make sure China-U.S. relations don’t deviate from their due course and avoid missing the goal of cooperation that conforms to both sides’ interests in the face of the complicated conditions brought about by changes.

Nowadays in America, it has been a trend and predominant way of strategic thinking to approach China-U.S. relations from the perspective of those between a rising power and an incumbent power. Coping with the so-called challenges from China has become a popular political slogan on the campaign trail in present-day America. The U.S. pivot to the Asia-Pacific is taking on an increasingly thick military coating.

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A New Type of Major-Country Relations

Seeking common ground while shelving differences is an effective, important principle that previous Chinese and U.S. governments have followed over a long period. The principle remains a precious legacy that must not be abandoned. The changed pattern of China-U.S. relations has actually included some favorable conditions, which makes it possible for us to take one step forward from the previous principle of seeking common ground while shelving differences.

The Chinese side has put forward three principled ideas while the U.S. side has reservations regarding the practical issues they may involve. In the practical issues troubling China-U.S. relations, the core interests China has identified may inevitably come into conflict with the vested interests the U.S. wants to preserve; the principle of mutual respect China advocates may contradict U.S. hegemony in certain circumstances. Instead of evading it, we should take a pragmatic attitude to such differences.

The mega trend of the development of international relations demonstrates that, actively or passively, the U.S. will eventually change its policy of hegemony. Whether the U.S. can retain its hegemony in the long term will rest on developments of factors in two aspects. One is the cost of retaining hegemony; the other is the benefit of forsaking it. As the world enters an era of multi-polarization, U.S. hegemony faces challenges from multiple aspects, of which the China-U.S. relationship

is only one important component. However, as long as the benefits of maintaining hegemony outweigh the corresponding cost, the U.S. won't spontaneously give it up.

To China, adhering to the path of peaceful rise means it will co-exist peacefully with U.S. hegemony under certain conditions. That is why relation — “no confrontation” has become a basic consensus between the two parties. Likewise, “win-win cooperation”, as another principled idea, calls on both sides to gradually explore the path and form of its implementation — an ideal goal for the China-U.S. relationship.

At the latest Bo'ao Forum for Asia, Dr. Henry Kissinger reiterated that China-U.S. relations are a special kind, which are only to a certain extent consistent with the characteristics of the relationship between the rising power and incumbent power the “Thucydides' Trap” refers to. The international-relations background that the specific concept of the “Thucydides' Trap” requires doesn't exist in current China-U.S. relations. China has no intention to take the U.S.' place to become the world's superpower.

China-U.S. cooperation is of vital significance for international political order. Kissinger further proposed that the spirit of the Shanghai Communiqué might also apply to the South China Sea issue. He believes that what needs to be done is to find some fields for cooperation between short-term specific tactics and long-term strategic goals. This is in conformity with the basic idea of new-type major-country relationship.

The future framework of China-U.S. relations must be linked to jointly building regional order in the area. Politically, that means making the pursuit of peaceful co-existence in the region an important piece of the construction of new-type relations.

As a response to the claim that China-U.S. relations face the “Thucydides’ Trap” thanks to the challenge from China’s rise, China’s proposal was meant to indicate that China is unwaveringly committed to its path of peaceful development, and believes it can cultivate a China-U.S. state-to-state relationship featuring long-term peaceful co-existence against a new historical background. The concept of “new-type major-country relationship” is a typical Chinese characteristic, and it was coined to manifest a sincere political will along with tremendous determination.

The logic behind the proposal is: China unwaveringly adheres to the path of building a rich and strong country through peaceful development, which has already been evidenced by its development over the past few decades. Chinese history and cultural traditions uphold the philosophical ideal of harmony without uniformity, and its contemporary diplomacy has always centered on the principle of peaceful co-existence. Chinese and U.S. interests have increasingly been bound together deeply and broadly over time; confrontation doesn’t conform to their fundamental interests. China-U.S. cooperation is indispensable for peace and stability of the Asia-Pacific along with coping

with global challenges of the 21st century. This is utterly different from all the big-power confrontations that had occurred in history. As two major countries, China and the U.S. should and could transcend the divergences resulted from structural contradictions and work together to build a new type of relationship aimed at peaceful co-existence under new historical conditions.

The two countries need to apply a certain kind of “macro management” to their strategic competition in the new era. Besides enhancing risk management and control in the military field, there is now a more imperative need of a stable framework oriented at future development of bilateral ties. At the same time, China-U.S. strategic competition has become a significant problem concerning regional order in the Asia-Pacific.

The future framework of China-U.S. relations must be linked to jointly building regional order in the area. Politically, that means making the pursuit of peaceful co-existence in the region an important piece of the construction of new-type relations.

The U.S. pivot to the Asia-Pacific is taking on an increasingly thick military coating.



Rather than focusing on the nominees' rhetoric, Professor Timothy Webster explores their actions vis-à-vis China and the international economy during their respective careers. Whoever wins in November, the next administration will likely enact a China policy stressing economic engagement, person-to-person interaction, and cooperation on a wide range of global challenges — despite fundamental disagreements with China about a number of issues.



Timothy Webster

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Trump, Clinton and Washington's China Policy

With both major political parties having selected their candidates, the U.S. presidential campaign is in full swing. Over the next few months, Hillary Clinton and Donald Trump will outline platforms on foreign policy, economic revitalization, national security, and immigration. And if prior presidential campaigns are a sign of what is to come, the nominees will say much about China, U.S.-China relations, and international affairs more generally.

Presidential nominees have jostled over China for decades. In 1980, candidate Ronald

Reagan criticized President Jimmy Carter for formally recognizing China, and promised to renew “official relations” with Taiwan. (Reagan later disavowed this position.) In 1992, candidate Bill Clinton criticized President George H.W. Bush for “coddling” the “butchers of Beijing.” As President, Clinton pushed China on human rights, but his efforts are generally thought to have had little impact. In 2012, candidate Mitt Romney pledged to label China a “currency manipulator” on his first day as president.

In the present election cycle,

Donald Trump has far exceeded his Democratic rival in at least one measure: attacks on China. While announcing his candidacy last June, Trump asked, “When was the last time anybody saw us beating, let’s say, China in a trade deal? They kill us. I beat China all the time. All the time.” In fact, most experts agree that China’s accession to the WTO — which the Clinton team negotiated — was more difficult than that of any other country. Not that the Clinton administration would say they “beat” China. Earlier this year, Trump proposed a 45% tariff on imports from China to compensate for the devalued currency. Such a move would not only violate international trade law (something the United States is eager for China to comply with), it may also spark a trade war (something the United States is eager to avoid). In July 2016, apropos of the U.S.-China trade imbalance, Trump told a crowd in Indiana, “We can’t continue to allow China to rape our country, and that’s what they’re doing.”

As the ancient Chinese sage Confucius once said, “The gentleman is slow to speak, but quick to act.” As the 19th-century American sage, and first Republican President, Abraham Lincoln put it, “Actions speak louder than words.” Rather than focusing on the nominees’ rhetoric, we would

do better to examine their actions vis-à-vis China and the international economy during their respective careers. In spite of stark contrasts on various matters, Clinton and Trump share basic commonalities. Whatever they may say on the campaign trail — and their comments will surely grow more colorful in the run-up to November — both candidates have supported, and benefited from, free trade and globalization.

The 1980 construction of Trump Tower offers an early snapshot of Trump’s position on globalization. Located firmly in Manhattan, the tower’s construction was not isolated from the international economy. Trump selected the lowest bid to demolish a department store that once occupied the plot where Trump Tower now rises. Most of the 150 workers who showed up were Polish immigrants without proper documentation. According to one source, Trump fired them after learning they were working illegally, depriving many of the workers of their earned wages. Trump later denied knowing about the undocumented laborers. Even if we take him at his word, people at his development company, known as Trump Equitable, did not attach importance to hiring American workers, or treating these workers fairly. The incident says much

Unfortunately, people say stupid things about China during the presidential campaign. But if the past 40 years have taught us anything, it is how quickly their views evolve once they enter the White House.

The United States and China will continue to disagree fundamentally about a number of issues, from the South China Seas and cyber-security to human rights and religious freedoms. The U.S. president will, in all likelihood, accept the idea that cooperation ultimately triumphs over contestation.

about Trump's "America First" slogan. It should not lend Trump credence with the working class, but it does, however, say a lot about his attitudes towards globalization, immigrants, and the economically vulnerable.

Beyond American borders, Trump has extensive holdings in India, Panama, the Philippines, Turkey, and Uruguay. These luxury projects employ thousands of foreign workers, divert millions of dollars of investment from the United States, and contribute to our longstanding trade deficit. For those interested in buying multimillion-dollar apartments, brochures are available in English and Chinese. The Chinese version uses simplified characters of Mainland China, not traditional characters used in Taiwan and Hong Kong. If China is indeed "raping" us, they should do so in a Trump property.

Trump has also taken advantage of globalization in fields outside of real estate. The Donald J. Trump Collection purveys neckties made in China, shirts made in Bangladesh and Honduras, and suits made in Indonesia. These countries—Honduras and Bangladesh in

particular—have some of the lowest wages, and least effective labor protections, in the world. Like many multinational enterprises, the Trump Collection aims to produce clothing as cheaply as possible, without much concern for where it is produced, by whom, or under what conditions. I suspect Trump licensed these products, as opposed to building a factory to produce these goods. If so, he contracted out the manufacture of the clothes, affixed the Trump label, and then exported them to the United States. Trump did not "offshore" production because he never had manufacturing capacities in the United States in the first place. Nevertheless, the Trump Collection contributes to the U.S. trade deficit, denies manufacturing jobs to American workers, and erodes the real wages of working Americans, who compete against Chinese, Bengalis, and Hondurans.

What about Hillary Clinton? As a candidate in 2016, she has said little about China. She has, however, opposed the Trans-Pacific Partnership (TPP), an Asian-Pacific trade pact. During the Democratic National Convention, Terry McAuliffe — the Virginia governor and longtime

Clinton confidante — predicted Clinton's opposition to TPP would melt upon entering the White House. McAuliffe's observation created a minor stir for the Clinton campaign, which now had to double down on its opposition to the TPP. But if we take history as our guide, Hillary Clinton is far more of a free trader than her opposition to the TPP suggests. More pointedly, she is a globalist while in office, and a nationalist while seeking office.

As First Lady, she championed the achievements of the North American Free Trade Agreement (NAFTA), only to call it "flawed" when running to be the Senator of New Yorkers. Once elected, Senator Clinton voted to ratify free-trade deals with Singapore, Chile, Australia, and Morocco. But when she ran for president in 2008, she criticized trade deals with Korea and Colombia, only to seek their ratification as Secretary of State. Even in her own memoir, *Hard Choices*, Clinton went from endorsing TPP in the 2014 hard-cover version, to omitting mention of the TPP altogether in the 2015 paper-back version. Despite so many hard choices, Clinton is a fairly strong adherent to the basic tenets of globalization.

On China, Clinton has voiced serious concerns about the country's human-rights abuses, particularly those targeting women. Still, it would be difficult to imagine a major reversal on China policy because of its human-rights violations. President Bill Clinton adopted a very hard stance on Chinese human rights violations during his first term, only to soften it by the end of that term. Eventually, he signed permanent

normal trade relations with China, ending the annual ritual of reviewing China's human-rights record, and then approving trading relations. It is unlikely that China, far more powerful now than 20 years ago, will tolerate serious criticism of its human-rights record.

During the Republican National Convention, a group of Chinese diplomats — among them the impressive Ambassador Zhang Qiyue — visited my university, Case Western Reserve. After exchanging the requisite pleasantries, a Chinese consul asked about the upcoming elections. I responded, "Unfortunately, people say stupid things about China during the presidential campaign. But if the past 40 years have taught us anything, it is how quickly their views evolve once they enter the White House."

Whoever wins in November, the next administration will likely enact a China policy stressing economic engagement, person-to-person interaction, and cooperation on a wide range of global challenges. In so doing, the administration will continue along a trajectory set by the previous seven administrations. The United States and China will continue to disagree fundamentally about a number of issues, from the South China Seas and cybersecurity to human rights and religious freedoms. The U.S. president will, in all likelihood, accept the idea that cooperation ultimately triumphs over contestation.

American Liberalism and Exceptionalism

There is an apparent risk that the US and China will each believe that they promote a win-win international order while suspecting the other of “power politics.” However, what is really at stake is the question of which rules will govern a post-realpolitik order, and what kinds of power structures are necessary to support it. The diversity of ideas in each country should be seen as an asset: It can multiply opportunities for engagement.

In a far-reaching and stimulating essay in *China-US Focus*, Cui Liru addresses the dangers inherent in the changing structure of the US-China relationship. According to Cui, these dangers are exacerbated by what he calls “Mearsheimer theory.” He infers a predominance of the theory of offensive neorealism in American strategic thought, and notes with alarm its popularity in China as well. John Mearsheimer is well-known in both the US and China for his theory that hegemony is the best means for a state to maintain its security. In this view, international politics then “tragically” becomes an unavoidable, zero-sum contest between major powers vying for domination. Offensive realism, to Cui, provides a “foundation for the US to implement power politics and preserve its hegemony.”

This view of American foreign policy as being driven mainly by realpolitik motives is widespread in China. To be fair, the history of American behavior abroad provides many reasons to support this notion. Moreover, many American thinkers do in fact promote a hard-edged policy of maintaining hegemony or preventing the rise of other potential



hegemony. However, American foreign policy is not monolithic. Most American realists in fact complain bitterly about a deficit of hard-nosed realpolitik in US foreign policy. A proper consideration of other drivers of American behavior, especially the interrelated ideas of American exceptionalism and liberalism, gives a more accurate picture of American motives. Even though these features present other kinds of complications for the US-China relationship, a wider view of currents of thought in America can highlight areas of opportunity for building trust, or at least establishing better communication.

A look at current debate among American political scientists is very revealing in this regard. Contrary to what some might expect, academic realists have been increasingly critical of the notion of American “hegemony” and various practices associated with it: intervention, regime change, and ever-expanding alliance systems. For many years, a vocal group of realists has criticized the lack of restraint shown by the United States and has urged it to withdraw from an overextended position in the world. These so-called “offshore balancers,” led by scholars like MIT’s Barry Posen, contend that American security interests do not require foreign-

based troops, strong alliance commitments, and entanglements in areas like the Middle East (American predominance in the Western Hemisphere is typically taken for granted). In a recent Foreign Affairs article, John Mearsheimer himself, along with Stephen Walt, advocated a qualified offshore balancing strategy for the US—although he carved out an interesting exception for American policy towards China.

A significant feature of this critique of US foreign policy is its accusation that America’s “hegemonic” tendencies are not driven by sober considerations of power politics, but by foolish notions such as American exceptionalism and liberalism. The pursuit of security, in this view, would urge restraint, whereas liberalism leads America astray with reckless attempts to police the world or build nations, and aspirations to global leadership. Irrespective of the wisdom or folly of realism or liberalism, this critique of US behavior is surely right to identify those forces in American foreign policy that are not derived from realpolitik considerations.

American exceptionalism, the idea that the United States has a special place in world history, is widespread and often genuinely believed in the US. The notion can be seen as early as the 17th Century in John



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A proper consideration of other drivers of American behavior, especially the interrelated ideas of American exceptionalism and liberalism, gives a more accurate picture of American motives.

In a period in which a dominant American preoccupation with China is whether it “plays by the rules,” any Chinese gestures of restraining power according to institutional mechanisms will have genuine positive impact in important American quarters.

Winthrop’s idea of the “city on a hill,” it is repeated in Madeleine Albright’s notion of the US as the “indispensable nation,” and seen in President Barack Obama’s imperative that “America must lead” in the 2015 National Security Strategy. The idea that the United States is not an ordinary great power underpins many justifications for its widespread influence in international politics. Many American theorists of international affairs contend that American power is uniquely benign or acceptable to others—it is less threatening, less likely to incite balancing reactions, and is often welcomed. To Robert Kagan, this is because the US has a history of indifference to grand strategy—and the world more generally—and that it doesn’t act solely out of self-interest. To the neoconservatives of the previous presidential administration, it is because the US has inherent moral authority as a leading democratic state. To liberal internationalists, it is because of the American tradition of institutionalizing and legitimizing the exercise of its power. All readily admit that the US often violates these principles. None of these arguments are likely to be convincing to a

Chinese audience, but the important point is that these claims are sincerely believed by many Americans. Such ideas also lend credence to the offshore balancers’ contention that American hegemony is in fact driven by liberal idealism more than by power politics.

Liberalism greatly shapes American perceptions of foreign affairs. The notion that non-democratic, authoritarian, or communist regimes are inherently illegitimate is deeply and sincerely felt by many Americans. The “rise of China” concern in the United States has been very much colored by ideological differences and suspicion of China’s government. Hawkish China experts in America frequently connect potential aggression on China’s part with the inherent nature of non-democratic regimes. The idea of the “democratic peace” (and its corollary, that non-democracies are untrustworthy) has permeated American thinking—even among otherwise unsentimental realists like Senator John McCain. Some analysts have also observed that many Americans are struggling with the dawning realization that China is unlikely ever to reshape its

What is really at stake is the question of which rules will govern a post-realpolitik order, and what kinds of power structures are necessary to support it.

domestic institutions along Western liberal lines. Consequently, this readjustment of expectations has led to real disappointment.

The institutional interests of actors like the Pentagon, the compromises inherent in establishing a bipartisan consensus on foreign policy, and other factors all combine with the interplay of realism and liberal idealism in American foreign policy. The result is a more complicated and, at times, more internally contradictory edifice than it may appear from abroad. While in important ways elements like liberalism make the US-China relationship more complicated, this complexity also means that the US is more susceptible to reassurance and more flexible in its positions than if it genuinely and consistently adhered to “Mearsheimer theory” as Cui fears.

In the eyes of many Americans, US power is tamed or legitimized by adherence to principle. Those who hold this view are receptive to others joining in this narrative. At the most recent IISS Shangri-La dialogue, Secretary of Defense Ashton Carter used the word “principle” thirty-six times in his speech, inviting all countries in Asia, including China, to share in a principled order. Whether

or not the US sometimes plays the hypocrite in this regard is not actually relevant to the important question of whether China can productively engage with this American narrative in order to reassure the US and others about the nature of its own power. In a period in which a dominant American preoccupation with China is whether it “plays by the rules,” any Chinese gestures of restraining power according to institutional mechanisms will have genuine positive impact in important American quarters.

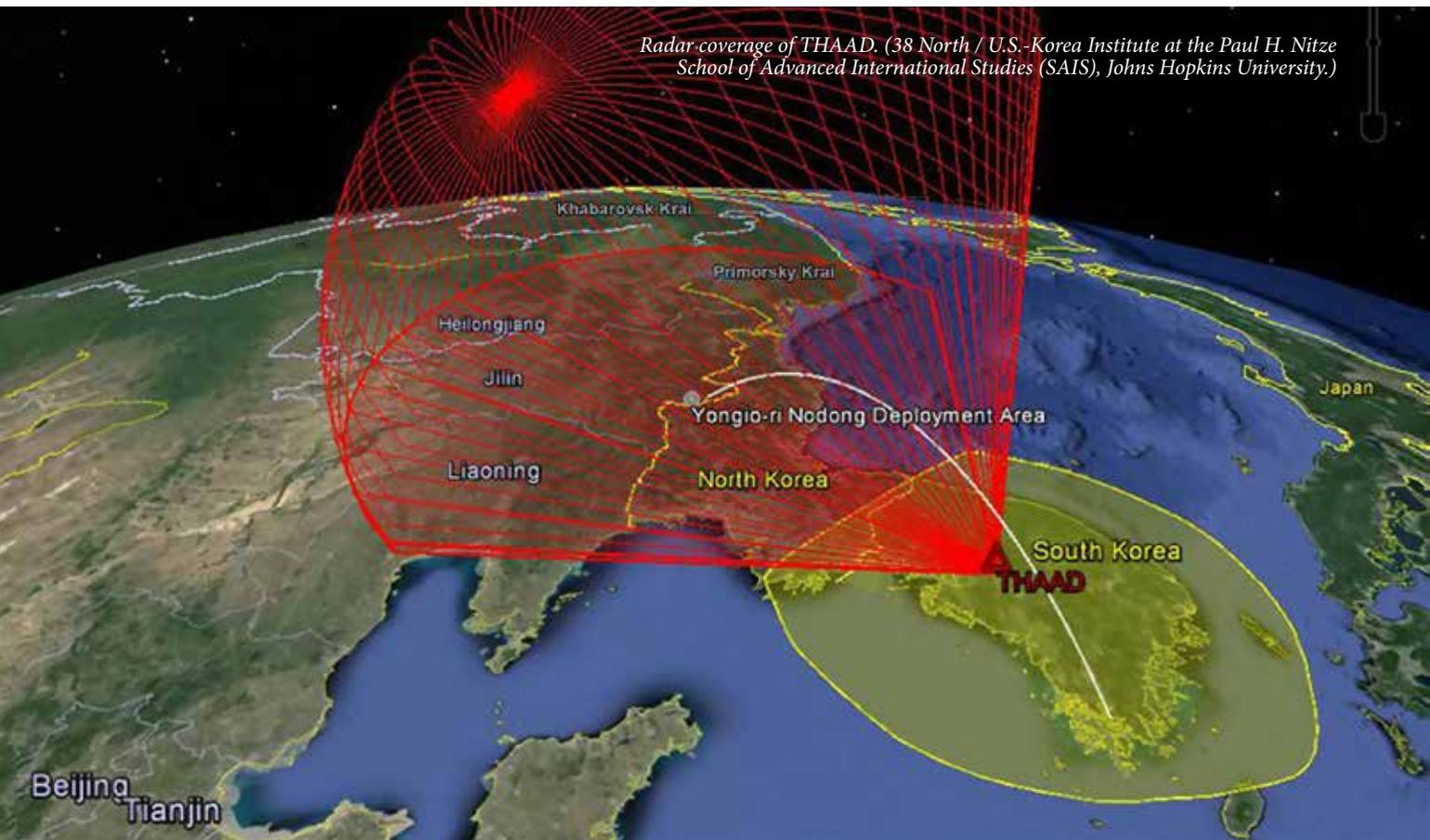
Along these lines, President Xi Jinping has helpfully put forth a vision of a “new model” of great power relations which includes an emphasis on “win-win” cooperation rather than power politics. Many Chinese have been disappointed with the tepid response this idea has received in the US. There are a few reasons for American ambivalence here. One simple reason is a suspicion that the notion is a rhetorical device to accomplish various ends. But a deeper reason can be seen in light of the idealist and liberal drivers of American foreign policy. The important point here is that many Americans believe that the US has already been pursuing a “new model” of international politics

since the end of the Second World War. According to this view, the United States provides an umbrella of security to facilitate win-win cooperation by protecting liberal rules of international trade and policing the global commons. This is done with an ultimate view towards reshaping the character of international politics. This idea was born out of a traditional American rejection of European *realpolitik*: prior to the First World War, the US sought to avoid it; by the end of the Second World War, the US sought to abolish it. In fact, part of Barry Posen's realist critique of what he calls "liberal hegemony" is that it is premised upon the very un-realistic assumption that this approach will eventually usher in a new era of international relations that transcends power politics.

There is an apparent risk that the US and China will each believe that they promote a win-win international order while suspecting the other of "power politics." However, the real issue is not a simple choice between mutually beneficial interactions and *realpolitik*. What is really at stake is the question of which rules will govern a post-*realpolitik* order, and what kinds of power structures are necessary to support it. Here the US and China have much work to do in order to find converging paths.

None of these observations are meant to deny that other currents of thought in America are more focused on the balance of power or "geopolitics," or attempts to maintain a "unipolar" world. At

the very least, America vacillates between power politics and idealism, as Henry Kissinger has observed. But for better or for worse, American conceptions of its interests are often informed by its idealist traditions. In this regard, it would be fruitful for Chinese scholars to seriously examine the opportunities presented by these idealistic currents of thought in American foreign policy, even where they sometimes reveal still deeper differences between the US and China. Americans must recognize that Chinese tend to view US foreign policy as being driven by the tenets of offensive realism. Seen in this light, the Chinese offering of a "new model" of relations might appear to be more of a genuine overture. The challenges to rendering the US and Chinese visions of international order more congruent are significant. Recognizing that the diversity of ideas in each country can multiply opportunities for engagement is a good place to start.



The Biggest Loser of THAAD

Seoul should fully understand the consequences of THAAD in the ROK, reverse the deployment decision and cooperate with countries concerned in an effort to force the DPRK to abandon its nuclear project and mitigate the tense situation in the Korean Peninsula. THAAD will only produce two winners: the U.S. and the DPRK.

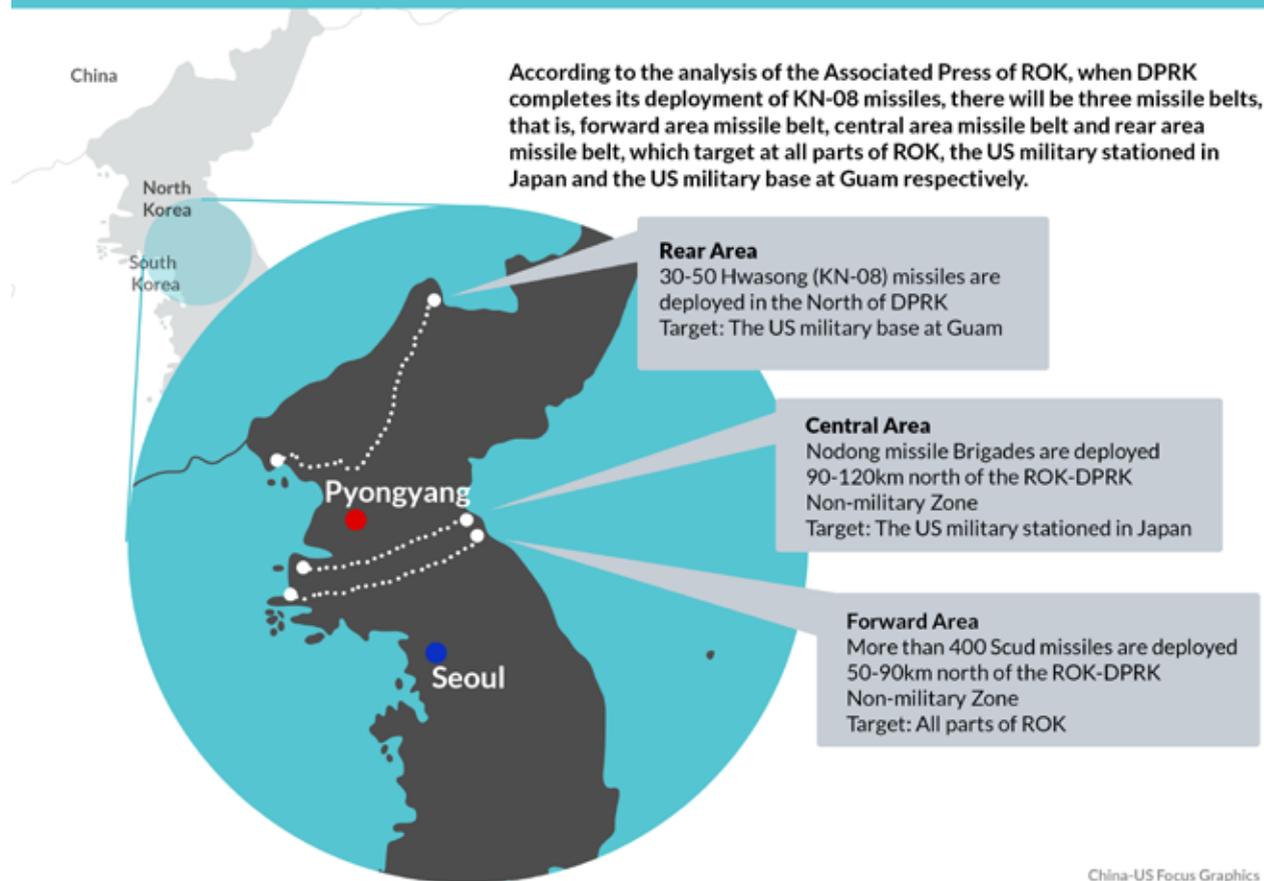


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On July 8, 2016, heedless of China's and Russia's strong opposition, the ROK and the US militaries issued a joint statement to announce the decision to deploy the Terminal High-Altitude Area Defense (THAAD) system in ROK. Five days later, the ROK Ministry of National Defense held news conference in Seoul to announce that the ROK and the US both decided to deploy a THAAD system at the Seongsan-ri region of Seongju County, Kyongsang Pukdo, Southeast of the ROK. Why do the ROK and the US persist in deploying THAAD in ROK despite China's and Russia's persistent opposition? Is

DEPLOYMENT OF DPRK MISSILES



it necessary to deploy THAAD in ROK? Can a THAAD system deter the DPRK from developing nuclear weapons? Let's see how powerful DPRK's missiles are and what a THAAD system can do there.

How Powerful Are DPRK Missiles?

According to the Military Balance 2016, the DPRK Army has 6+ Hwasong-13 (KN-08, reported operational), 10 Nodong (100+ msl), some Musudan and KN-02, 30+ Scud-B/Scud-C (200+msl), 24 Frog-3/5/7. The DPRK Navy has HY-1 and KN-01. The DPRK Air Force has Kh-23, Kh-25, R-3, R-60, R-37, PL-5, PL-7, R-23/24, and R-27R/ER. The Army's missiles are reportedly deployed in three areas: forward, central and rear areas (see the

sketch map). From the map we can see that DPRK could employ long-range missiles to attack the US military base at Guam, medium-range missiles to attack the US military stationed in Japan and short-range missiles to attack the ROK. Considering that the types, numbers and capabilities of the DPRK's short-range missiles are rather limited and the US military has already deployed 30-44 Patriot PAC-3 missile systems in the ROK, it is difficult for the DPRK's short-range missiles to pose a very grave threat to the ROK. The real, realistic and grave threats to the ROK are the DPRK Army and its 21,100 pieces of artillery, most of which are deployed along the 38°Line and can strike the Seoul area directly.

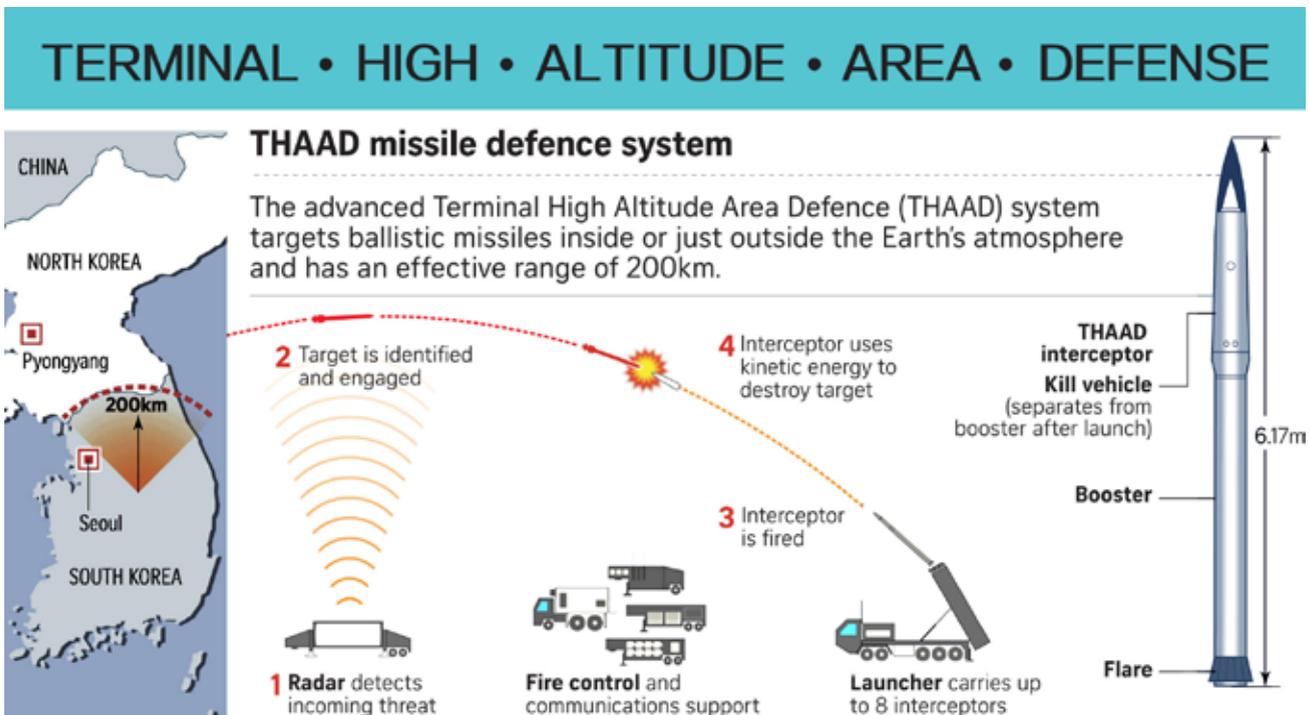
What Can THAAD Do?

A THAAD battery consists of nine launcher vehicles, each equipped with eight missiles, with two mobile tactical operations centers and an X-Band radar. A THAAD missile weighs 900kg with a length of 6.17m and a diameter of 34cm; it has an operational range of 30-200 km and an altitude range of 15-150 km. Its X-Band radar (AN/TPY-2) can detect and track a conventional ballistic missile within 4000km and a signal-reduced ballistic missile within 2000km. THAAD is designed for high-altitude intercept in a missile's terminal phase, meaning that it is optimized mostly to defend against medium- and intermediate-range ballistic missiles but is of little or no use against the short- and tactical-range ballistic missiles most likely to be employed against the ROK. Besides, THAAD can do nothing to deal with the real and

realistic threats posed by the DPRK's artillery. Therefore the deployment of THAAD in the ROK is mainly symbolic and can do little to improve the ROK's security environment.

The ROK Will Become the Biggest Loser of THAAD

Although the deployment of THAAD in the ROK can inflict greater military pressure upon the DPRK and reduce its likelihood to take risky actions, increase the ROK's sense of security and self-confidence, strengthen the US-ROK military alliance and enhance its missile-defense capabilities, it will cause the ROK to lose much more than what it can get. First, it will provoke the DPRK to accelerate its development of nuclear weapons and long-range missiles, which will pose a great threat to the ROK's security. Second, it will irritate and alienate



the DPRK further and further, which will make national unification even more remote. Third, it will force the ROK to join the US-Japan missile defense system, which will impair the ROK's military initiative. Fourth, it will irritate ROK-China and ROK-Russia relations, which might result in political and economic retaliations from both China and Russia and does not accord with the ROK's national interests. Last but not the least, it will split the ROK people because there have been large protests against the deployment of THAAD throughout the ROK since the day of the decision, which will undermine the national unity, national economic development and national comprehensive power of the ROK. Therefore if THAAD is finally deployed in ROK, the ROK will become the biggest loser.

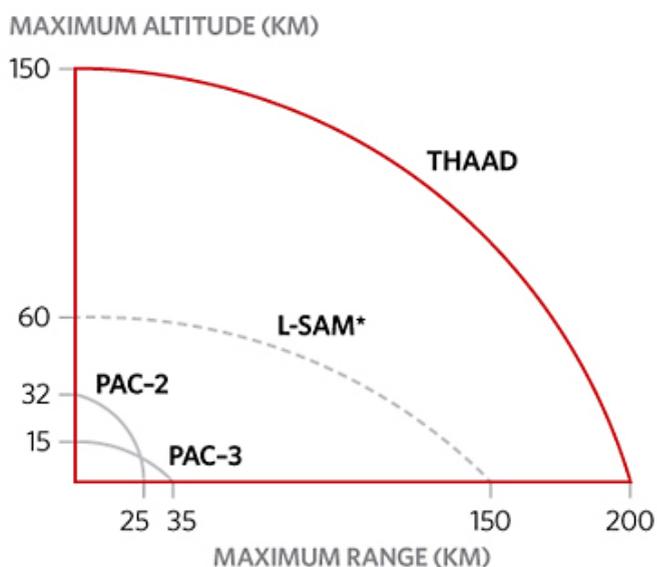
The US Will Become the Biggest Winner of THAAD

The benefits of THAAD in ROK are clearer for the US. As recently as a few years ago, the US began to sell the idea to deploy THAAD in the ROK. The benefits to Washington are as follows: Enhance military presence in the Asia-Pacific region as the US rebalancing strategy requires; consolidate the US-ROK military alliance so as to have a better control of military initiative in the Korean Peninsula; push the bilateral alliance into a multilateral alliance by creating a US-Japan-ROK missile defense system; establish a multi-tier missile system of low, medium and high altitudes together with THAAD, Aegis and Patriot missile systems in Northeast Asia; enhance the US strategic deterrence against China and Russia; facilitate arms trade to please armament corporations and promote the

FIGURE 2

THAAD Covers Larger Area

THAAD's superior maximum range and altitude would provide greater opportunity to intercept inbound missiles.



* In development; available in 2023 at the earliest.

Source: Heritage Foundation research and author's discussions with government, contractor, and private-sector missile defense experts.

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development of the US economy; consolidate its image as a counter-proliferation leader by being firm with the DPRK. However, the US will still suffer some losses, which may include: reducing Sino-American and Russian-American strategic trust, which will make future international cooperation more difficult; breaking the strategic balance in Northeast Asia; which will be detrimental to regional peace and stability; giving rise to a regional arms race or even a new cold war, which will be adverse to peace, stability and development of the world.



The DPRK Will Also Become a Winner of THAAD

THAAD in ROK will give the DPRK a lot of military pressure but will not make much difference because the DPRK has been under great military pressure from ROK and the US for a long time. Contrary to what the ROK and the US might expect, the DPRK will actually benefit from the deployment of THAAD. First, the DPRK will hasten its development of nuclear weapons and missiles under the excuse that its security is further threatened by THAAD. Second, THAAD will become a catalyst to strengthen the DPRK's military-firstism politics and its war preparation. Third, the DPRK will succeed in driving a wedge between China and the ROK by making use of the THAAD deployment. Fourth, the DPRK will succeed in undermining the cooperation among China, the US, ROK and Russia if THAAD is deployed. Fifth, Kim Jong-un will consolidate his power by emphasizing the threat from THAAD and the ROK-US alliance. In this sense, the DPRK will

also become a winner of THAAD.

China and Russia Will Strengthen Strategic Cooperation

THAAD in the ROK will endanger the national security interests of China and Russia. The great detection and tracking distance and high-target identification capability of a THAAD system will make the military activities and missile launching facilities within China and Russia exposed to the US and the ROK. If the X-Band radar in the ROK were networked with the two X-Band radars in Japan, its capability will be greatly enhanced, which would pose even greater challenges to China's and Russia's national security. Besides, THAAD in the ROK will greatly reduce Chinese and Russian strategic deterrence to the US. In face of the new security threat posed by THAAD, China and Russia could do nothing but strengthen their strategic cooperation in dealing with common security challenges.

The US should learn some lessons from the Cuba missile crisis and NATO's eastward expansion, understand and respect other countries' security concerns, and give up its attempt to deploy THAAD in the ROK so as to avoid a New Cold War.

It's Never Too Late to Mend

THAAD's threat to the peace and stability in Northeast Asia is as plain as the nose on your face.

Seoul should fully understand the consequences of THAAD in the ROK, alter the decision to deploy THAAD and cooperate with countries concerned in an effort to force the DPRK to abandon its nuclear project and mitigate the tense situation in the Korean Peninsula. It is much easier to change a decision than to change a reality.

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The DPRK should carry out all resolutions made by the UN Security Council, give up its ambition to get nuclear weapons, and seek better ways to ensure its national security and improve its economic situation. Perhaps Iran is a good example to follow.

China and Russia should further consolidate their strategic cooperation and coordination in dealing with international affairs, try to confront common security challenges together and adopt positive and concrete measures to promote peace, stability and development in Northeast Asia and the world.



Protesters attend the rally near the U.S. embassy in South Korea on July 13, 2016, to denounce deploying the U.S. military's THAAD anti-missile defense unit in Seongju county. (Photo by Chung Sung-Jun/Getty Images)

Is Cyber Arms Control Possible?



The first nuclear arms control agreements in the 1960s did not solve all the problems of controlling nuclear weapons. But after two decades of slow learning, those agreements started a process. Joseph S. Nye proposes that President Obama and President Xi's 2015 agreement on cyber espionage may do something similar for cyber security.



Joseph Nye
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As the recent report of the Global Commission on Internet Governance chaired by Carl Bildt makes clear, the Internet has become an indispensable enabler for economic and military activity that benefits us all, but also leaves us vulnerable and insecure. Now with the advent of cloud computing and the “Internet of Things” the attack surface is rapidly increasing. Part of the reason that we have not seen serious war yet is that deterrence works in cyber space. There are four major means of deterring:

punishment or reprisal for an attack; a strong defense that denies the attacker benefits at reasonable cost; entanglement so that an attacker hurts himself as well as the victim; and norms or taboos which impose costs on an attacker's soft power.

Cyber arms control is part of the normative process, but if it is modeled after the treaties that marked the nuclear era, it will fail. Those treaties spelled out in great detail how to manage and verify large, costly, observable weapons. In

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contrast, cyber weapons can be as simple as a few lines of code and are often difficult to distinguish from benign Internet transactions. Verification treaties would be extremely difficult.

Even if nuclear-style arms control treaties are not promising, it is possible to reach agreements on norms by which states limit their behavior. One example is the agreement not to attack certain aspects of the civilian infrastructure of another country in peacetime, which is in the 2015 report of a UN Group of Government Experts (GGE), and was later endorsed by the Group of 20. The GGE report also recommended a norm of helping any state that requests assistance at a time of attack, and a pledge not to interfere with computer emergency response teams.

When President Barack Obama and Chinese President Xi Jinping discussed rules of the road for cyber relations at their September 2015

summit, it represented a landmark for a new field. On the contentious issue of intellectual property, they reached an agreement not to use cyber means for commercial espionage. Recent reports by private cyber security firms, as well as comments by government officials, suggest that such commercial cyber espionage has tapered off in the ensuing year, though it is not clear how much of that change was caused by the summit declaration or preceded it.

Less contentious, and thus less in the news, the two presidents also endorsed the UN GGE report, indicating that even if formal arms control treaties are not promising, it is possible to reach agreements on rules of the road that limit state's behavior. The two presidents also discussed confidence-building measures such as "hot lines" for special high-level communication in case of crisis. In the following year, there have been cabinet-level cyber meetings.

Critics scoff at rules such as "no first use against certain civilian targets." What is to prevent cheating? The answer is self-interest.

Problems still remain related to the details of cyber theft of intellectual property; corruption of the supply chains that provide the chips that go into machines; disruption of undersea cables; spies or disloyal insiders, and many others.

Critics scoff at rules such as “no first use against certain civilian targets.” What is to prevent cheating? The answer is self-interest. If states find themselves vulnerable, and worry whether they fully comprehend the unintended consequences of their own cyber offense, and how to prevent conflict escalation, they may find that pledges of self-restraint during peacetime are in their mutual interest.

Norms against interference with certain civilian facilities in peacetime, or self-imposed limits on stockpiles of undisclosed vulnerabilities in code are not panaceas that will produce cyber security. Problems still remain related to the details of cyber theft of intellectual property; corruption of the supply chains that provide the chips that go into machines; disruption of undersea cables; spies or disloyal insiders, and many others. But it is worth remembering that the first nuclear arms control agreements – the Limited Test Ban Treaty of 1963 and the Non-Proliferation Treaty of 1968 – did not solve all the problems of controlling nuclear weapons. But after two decades of slow learning, those agreements started a process. Perhaps President Obama and President Xi’s modest start will do

something similar for cyber security. The progress reports nine months after their summit suggests that they may have taken some useful first steps.

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Based in Hong Kong, the China-US Exchange Foundation was established in 2008 by individuals who believe a positive relationship between the strongest developed nation and the most populous, fast-developing nation is essential for global wellbeing. The Foundation is a non-government, non-profit entity and is privately funded.

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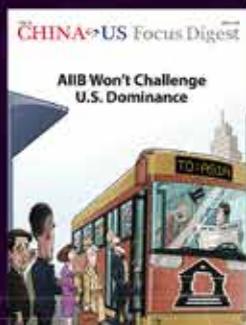
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