

## Shangri-La Dialogue 2017: the South China Sea and the end of a Rules-Based Order?

A key focal point of discussions at the June 2017 Shangri-La Dialogue (Security Summit) in Singapore was China and its actions in the South China Sea. Both the opening keynote address and the first two plenary sessions implicitly and/or explicitly responded to Beijing's construction and militarisation of artificial islands in the area and, for this purpose, placed a significant amount of emphasis on the need to maintain a rules-based order.

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As with Secretary Carter's speech, Mattis first highlighted how U.S. policy would be firmly anchored to a rules-based order; he recognised the many challenges that the region and the U.S. were collectively facing; and he outlined the approach that U.S. allies and partners could expect from Washington. In the case of the latter, he [declared](#)

that the ‘United States remains committed to protecting the rights, freedoms and lawful uses of the sea, and the ability of countries to exercise those rights in the strategically important East and South China Seas.’ He further provided the assurance that ‘we stand with our allies and the international community to address pressing security challenges’ and that the U.S. ‘cannot and will not accept unilateral coercive changes to the status quo.’ However, overall, the speech was equally notable for a lack of specificity regarding what the ‘region could expect’ from the United States *in response to* such ‘unilateral coercive changes.’

Washington’s unwillingness to commit itself to any tangible action beyond occasional Freedom of Navigation Operations (FONOPs) was further evident following a question by Christopher Roberts on the need for stronger action in the South China Sea. Roberts asked whether the U.S. would satisfy Manila’s concerns by providing an unconditional guarantee to apply its Mutual Defence Treaty with Manilla regarding the protection of the waters and features within its Exclusive Economic Zone (EEZ) – e.g. Scarborough Shoal. Further, Roberts also asked if the U.S. would consider a collection of regional coastguards to protect the resources within the now legally clarified EEZ of the Philippines (and potentially other claimant states). In his response, Secretary Mattis avoided any commitment regarding the application of the Treaty to the EEZ of the Philippines and instead stated that ‘adversarial approaches’ were not the way forward and that diplomacy was the key. However, a more meaningful and reassuring approach would have been to argue that the protection of the Philippines fisheries and corals reefs is a matter of ‘policing’ rather than an ‘adversarial activity’.

Despite the rhetoric of Secretary Mattis, many of the delegates would have understood that it is the White House that leads defence policy and, from the perspective of Washington, it is the Korean Peninsula and Beijing's cooperation on this issue that is the first priority. Hence, it took nearly five months of lobbying by the U.S. Defence Department before the new Administration 'permitted' the first Freedom of Navigation Operation (FONOP) in 2017 – just one week prior to the Security Summit. While some analysts have labelled the statements by Mattis to be particularly 'blunt', in the context of his overall speech (which first emphasised the Korean Peninsula issue and China's 'renewed commitment' for a constructive role there) – his wording was relatively constrained and could have gone much further given the seriousness of Beijing's transgressions.

By contrast, Australian Prime Minister Malcolm Turnbull, via his keynote address, was relatively stronger in his denunciation of Beijing and its non-compliance with explicit legal obligations (i.e. the foundation of a 'rules based international order'). According to Angus Grigg and Lisa Murray in '[Frenemies with Benefits: Turnbull's path from "Panda hugger" to "China hawk"](#)', the speech was viewed by some 'as the hardest-hitting foreign policy statement by an Australian leader in decades.' Turnbull referred to China thirteen times and even went as far as to say that countries should not take 'unilateral actions to seize or create territory or militarize disputed areas' and 'must compete within the framework of international law' rather than 'winning through corruption, interference or coercion.' There was also some signalling to the U.S. when he added that, '[i]n this brave new world we cannot rely on great powers to safeguard our interest' and, while acknowledging the benefits of cooperation 'with friends and

partners’, ultimately ‘we have to take responsibility for our own security and prosperity.’

A common theme across some of the panels, particularly the special session on ‘New Patterns of Security Cooperation’, was the emphasis placed on the continued importance of the role of ASEAN in regional peace, stability, and prosperity. In contrast to a rising tide of Western *and* Asian scholars and policy makers, senior officials such as the Australian Chief of Defence Force, Mark Binskin, maintained the continued relevance of ASEAN and its extra-regional institutions such as the ADMM Plus, the ARF, and the EAS. Binskin argued that instead of establishing a new security dialogue, the focus should be on improving what currently exists. However, as evidenced by European Union External Action Service (EEAS) representative’s emphasis on the building of confidence through trust, there was a general lack of understanding regarding the diversity of regional interests and, given ASEAN’s consensus based decision making system, the impossibility of a strong collective position on controversial geo-strategic matters. Thus, even the Minister of Defence of Malaysia, one claimant state that has sought financial gains through an accommodation with China, warned that ‘it is also prudent for optimism to be guarded’ regarding the finalisation of a Code of Conduct on the South China Sea. A security forum comprised of ‘like-minded’ states, who all share a common interest in the primary of treaty-based international law, is now well and truly necessary.

The dialogue unquestionably remains the single most important forum for delegates to publicly explain and question the policy positions of individual countries. While

Secretary Mattis made many broad statements about the continued commitment of the U.S. to the security and the economic future of the Asia-Pacific, he failed to provide anything of substance that would reassure key Asian states that the U.S. would follow words with actions. There are opportunities to do more and a request by claimant states for Coastguard assistance to police clearly undisputed waters in their respective EEZs, on the basis that they lack the capacity to do so themselves, is just one example.

Meanwhile, occasional FONOP operations may reinforce an image that the U.S. is doing something, but the reality is that they have not deterred Beijing from rapidly moving towards *de facto* control of the fishing and hydrocarbon resources across the maritime sub-region. Further, should the U.S. be fully committed to its public stance, then it should also enhance its moral authority regarding international law by ratifying UNCLOS as soon as possible.

A more cynical interpretation of the behaviour of both China and the U.S. could be that there is an undeclared understanding (*modus vivendi*) between the two countries and that the U.S. will continue to do FONOPS but will not go beyond this in countering Beijing's actions. China, in turn, will publicly protest but will also not seriously challenge such FONOPs (e.g. by way of economic means). Beijing is achieving all its goals in the South China Sea and has done so with very little tangible costs – even its chequebook diplomacy has largely counter-balanced significant damage to its soft power. In the long-term, Beijing's approach involves many risks regarding the future policy directions of countries such as Japan and India. However, these risks together and potential actions have not been adequately signalled to China in a way that would force Beijing to adjust the costs-benefit analysis of its current strategy. Further, despite

the strong words of the Australian Prime Minister, it will be difficult for such middle powers to act on those words in the absence of the leadership of one or more of the major powers.

Overall, the discussions at the SLD highlighted the extent of uncertainty and possible instability extant across the Indo-Pacific today – the critical driver of global economic development. Crucial differences still prevail between China, Russia, and other major and middle powers. Moreover, in the context of the South China Sea, several years of insufficient action by key countries – such as the U.S., Japan, and Australia – mean that the costs of reversing Beijing’s gains will now be much greater. However, while ‘red lines’ may be flagged, as with the politics of appeasement that precipitated the Second World War, there is little to indicate that any individual state, or collection of states, is currently willing to incur the perceived costs of correcting such wrongs. The dangerous precedents that have been set in the wake of developments in Crimea and the South China Sea will have long lasting consequences for the primacy of international law (and treaty based obligations) as well as the Summit’s much cited ‘rules based order’. As highlighted by Prime Minister Turnbull, such an order is designed to protect states, particularly the ‘small states’ and ‘the shrimps’, from the position that might makes right. Given these developments and considerations, the stage has truly been set for a more anarchical regional security environment.

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