

DSEI Japan 2019

Outline

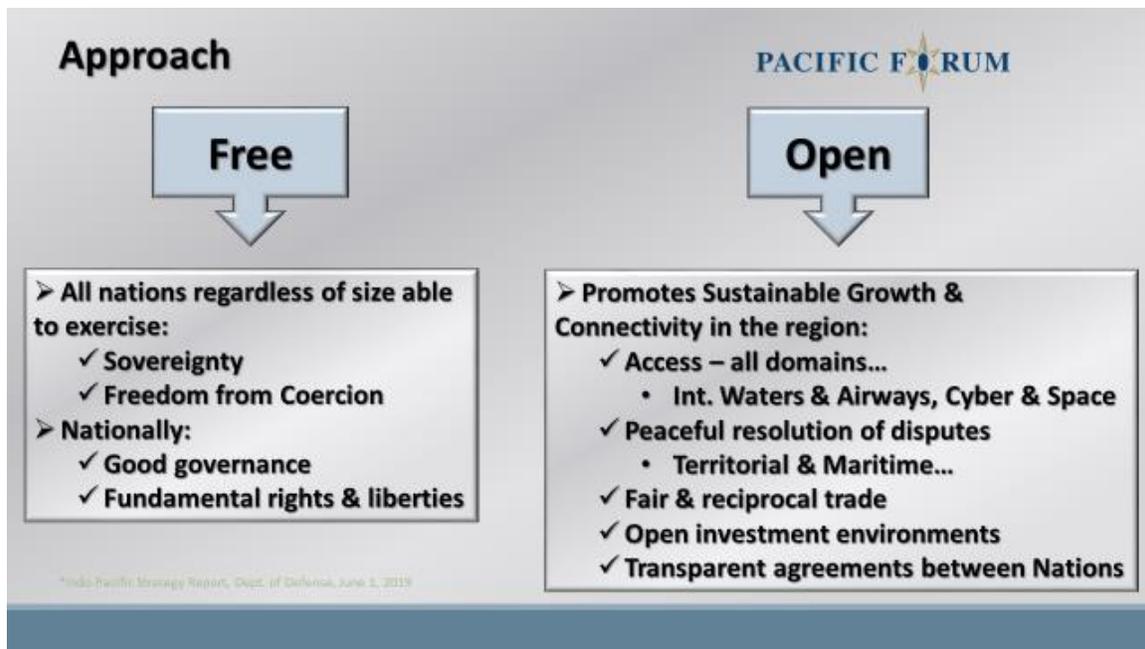
Freedom of Navigation in the Indo-Pacific Region: Maintaining and Strengthening an Open & Stable Maritime Order

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OVERVIEW

- **Vision & Principles for a Free & Open Indo-Pacific.** [Announced by Pres. Trump in 2017, APEC Summit in Vietnam]
 - **US commitment to: safe, secure, prosperous and free region → benefitting *all* nations. Vision is *consistent* with common principles underpinning the current international order – principles that have a *shared responsibility* to be upheld.**
 - **Respect for sovereignty & independence of all nations;**
 - **Peaceful resolution of disputes;**
 - **Free, fair, and reciprocal trade based on open investment, transparent agreements, and connectivity;**
 - **Adherence to international rules & norms, including those of freedom of navigation & overflight;**

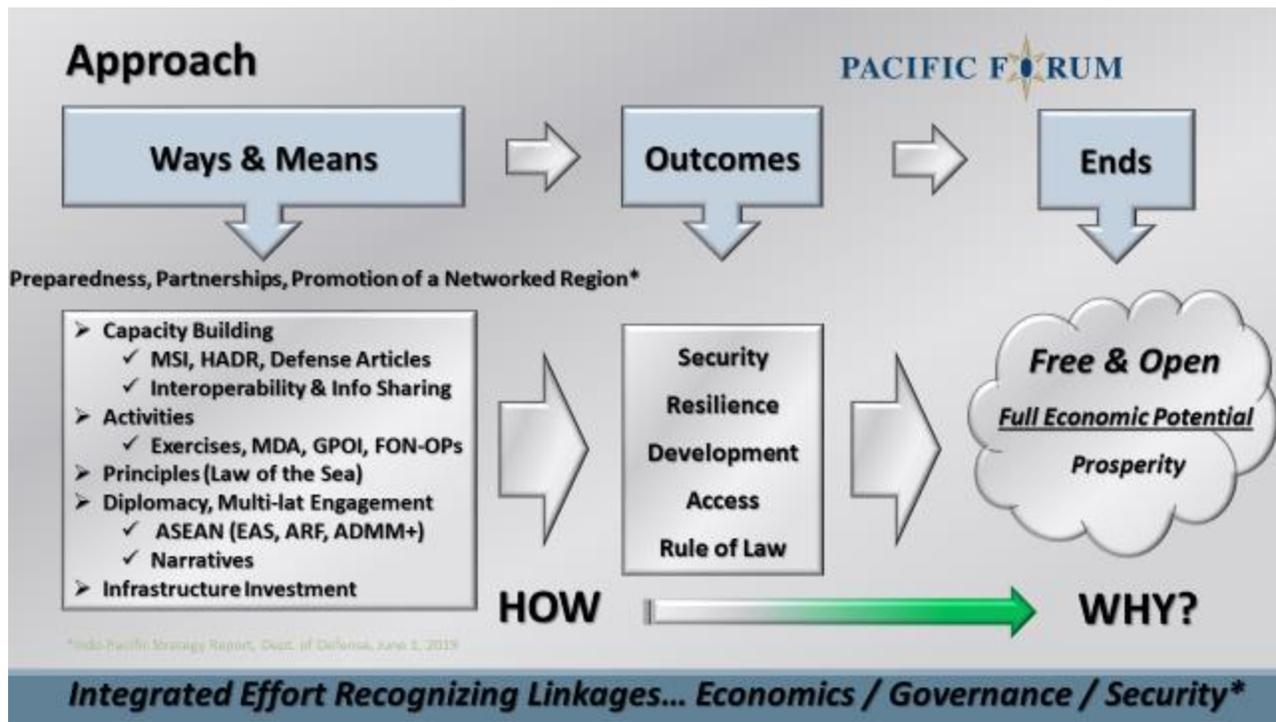


- The vision recognizes linkages between *Economics, Governance, and Security*... all part of the competitive landscape throughout the region...

- **ECONOMIC SECURITY = NATIONAL SECURITY**
- **To achieve the vision:**
 - Uphold the rule of law
 - Encourage resilience in civil society
 - Promote transparent governance
 - *All of which expose malign undermining influences...
- **Rejects Hegemony**: No one nation can or should dominate the Indo-Pacific
- **A significant part of the vision recognizes the region's need for greater investment, to include infrastructure investment...**
 - Indo-Pacific Business Forum (SecState/SecCommerce/USAID) working new initiatives to expand US Public & Private Investment in:
 - Indo-Pacific Infrastructure
 - Energy Markets
 - Digital Economy
 - New development partnerships with: Japan/Aus/Canada/EU
 - > Resources & Authorities via BUILD ACT
 - Coord w/Japan \$10B in Regional Energy Investment
 - US-ASEAN Smart Cities Partnership
 - 5 Country Partnership for Electrification of Papua New Guinea
 - Indo-Pacific Transparency Initiative → Attract High Quality Investment
 - ARIA (Asia Reassurance Initiative Act)

HOW TO EXECUTE THE VISION OF A FOIP – US Defense Strategy [Indo-Pacific Strategy Report, June 1, 2019]

- **Combining... [More Lethal Joint Force] + [More Robust Constellation of Allies & Partners]**
- **By Pursuing:**
 - Preparedness
 - Peace through strength & employing effective deterrence
 - Combat-credible forces forward postured
 - Ensure effectiveness (lethality) vs. high-end adversaries
 - Partnerships
 - Grow the unique network of allies & partners ...a force multiplier to achieve peace, deterrence, interoperable warfighting capability
 - Reinforce established alliances & partnerships + expand & deepen relationships with new partners who share respect for sovereignty, fair & reciprocal trade and rule of law
 - Promotion of a Networked Region
 - Strengthening alliances & partnerships into "networked security architecture" to uphold rules-based order + cultivate intra-Asian security relationships to deter aggression, maintain stability, and ensuring free access to common domains
 - Characterized by:
 - Shared Values
 - Habits of Cooperation
 - Compatible & Complementary Capabilities
- **Key Linkages (noted above) → Requiring Integrated Effort Across:**
 - Economics
 - Governance
 - Security



MSI – An Example of Capacity Building

- Indo-Pacific Maritime Security Initiative (MSI) ...NDAA for FY2019 extended authorities through Dec 2025
 - Authorizes provision of Training, Equipment, Supplies, Small-Scale Construction to:
 - Philippines/Vietnam/Indonesia/Malaysia/Thailand/Sri Lanka/Bangladesh
 - To enhance their ability to: “sense, share, and contribute” to maritime security & MDA
 - Build a common Regional Maritime Picture
 - Empower to observe & control more effectively their sovereign maritime spaces –individually and jointly...
 - Increased information-sharing, inter-operability, multi-national maritime cooperation;
 - Connecting Maritime Command & Control Centers
 - Fund common ISR platforms
 - Upgrades to Coast Guard Cutters (eg. Philippines & Vietnam) to increase interoperability
 - Increased scope of SEACAT Exercises (improving comms, interdiction & VBSS capabilities)
 - Inherently builds capacity for HADR as well...

THE SOUTH CHINA SEA AS A CASE STUDY

- Any discussion of Freedom of Navigation in the Indo Pacific writ large, should start with a recap of what’s going on in the South China Sea, because it’s emblematic of trends — contrary to broadly accepted international norms, customs and practice. In sum, a *billboard* for what’s not right, but also instructive on the many aspects to be addressed in the broader pursuit of maintaining and enhancing a free & open maritime order in the Indo-Pacific.

NARRATIVES & COUNTER NARRATIVES

- Here, facts are important, as we’re amidst a *battle of the narrative* and some – specifically revisionist powers – equate the support of long established international norms, *inclusive norms*, as somehow akin to “containment and/or constraining one’s rightful rise.” This argument surfaces; often raised by China. This is a misrepresentation, though, a highly selective argument built to suit a single country’s aspirations. It also brings to

question the principle of Sovereign Equality... why should the assertion of universal rights, in accordance with existing norms, be considered “containment?” ...unless it inconveniently clashes with some uni-lateral assertion?

- Immediate Questions Raised:
 - What about the Philippine’s rightful rise? ...Vietnam’s? ... Malaysia’s? ...and Indonesia? ... those rights are upheld in the existing international order
 - What of their rights to develop natural resources in their respective EEZs and seek their full economic potential?
- An additional, perhaps more subtle, *counter narrative* on the issue of international norms being undermined, is that *policy responses and activities* by the US, to the issues at stake in the SCS are the province of “great power competition” a purported special category unto itself – and therefore the “business, outcome, result ...of the *inevitable* and natural struggles” of an emerging power seeking its rightful place vis-à-vis the status quo power seeking to preserve its status.
 - this too, is an argument that chooses to reframe the context of the issues at stake in the SCS. The *values* and *broadly shared equities* being undermined are “The Main Thing” not the disputants... whether these disputants be small... medium... or large in size and/or power. The disputants clearly shape the nature and severity of the dispute... they don’t, however, define the fundamental contention at stake.
- What we *are* seeing, specifically, is Power -raw power- vs Rule of Law

FONOPS DEFINED

- Up front in this discussion, it’s also useful to define *objectively* what “Freedom of Navigation Operations” (FONOPs) are. FONOPs are conducted for a variety of specific reasons, either to challenge uni-lateral assertions contrary to norms, to reinforce one’s rights, or some combination of both. In general, they’re conducted to reinforce the rights of overflight and navigation among several regimes and zones provided for in UNCLOS.
 - FONOPs are not the “be all and end all” of activities undertaken in the SCS – they are *an essential minimum* exercise -however- to uphold and support the rule of law... especially under circumstances where “Power” vs. “Rule of Law” are significant dynamics in play.
 - In this context, FONOPs become an international responsibility, an imperative to conduct regularized assertions, in the face of unilateral actions seeking to change the status quo. FONOPs in the SCS are undertaken in an effort to avoid “sleeping on one’s rights.” There’s well-established history of their conduct globally.
 - Undertaken by sovereign state vessels (appropriately armed to protect themselves) ... FONOPs represent assertions in the interests of *defending* norms... not *subverting* them... A significant distinction to the claim that FON-Ops are disruptive and destabilizing acts...
 - The fact that numerous nations have voiced support for, and undertaken various forms of FONOPs, is noteworthy.
 - The fact that France and UK support the exercise of these rights in the Indo-Pacific speak to the global equities at stake in this region.

SCS CONTEXT

- **Context of the South China Sea:**
 - **Location & Significance**
 - International Sea lanes
 - Multi-national Resources
 - Energy (rich in oil & gas)
 - Rich in fish
 - SCS concerns are global concerns (not confined to ‘just’ the region)

SCS SIGNIFICANCE: Beyond the Indo-Pacific, navigation-related issues are of global consequence. Sea lanes equate to trade... unimpeded/unrestricted sea-lanes equate to freedom of access, trade and association...

- **Issues in play in the SCS...**
 - ...sea space beyond the territorial seas of any nation... and associated passage rights
 - Disputed features
 - Overlapping EEZ claims (based on those disputed features)
 - Unilateral acts (significant militarization of features and projection of lethal capabilities)
- **Permanent Court of Arbitration (PCA) July 2016 award found in favor of the Philippines**
 - No legal basis for China to claim historic rights to resources within the sea areas falling within the “nine-dash line.”
 - Ruled on the status of features (none of the Spratly Islands were capable of generating extended maritime zones)
 - Philippine sovereign rights in its EEZ were violated
 - Harm to the marine environment (severe harm to the coral reef environment had been caused)
 - Confirmed aggravation of the dispute on the part of the Chinese
 - Did not attempt to resolve specific disputes regarding territorial sovereignty

A Billboard for Relevant Issues & Trends. There are at least 10 Reasons why the SCS is useful in a larger discussion of the value of maintaining & enhancing a Free & Open Maritime Order... each invites inevitable questions ...*and also opportunity for cooperation, collaboration, stewardship and progress*

1. A Globally Significant Strategic Trade Route [...significance of what passes *through* these waters]

Question: What would happen if this route were blocked? Why are long range weapon systems being placed here?

2. Region where int. law (customary int. law & norms) incubates & is tested in parallel w/Treaty Law

Question: Is coercion being employed challenging international norms?

3. A region where *Competition* is playing out among large & small countries [eg. territorial and sea claims...]

Question: Can more be done to resolve long-standing territorial disputes?

4. A region where some *Cooperation* is also playing out among large & small countries-- [eg. “Rules of Behavior MOU;” CUEs]

Question: Can more be done to build collaboration, cooperation, transparency and confidence building in this *shared space*?

5. Evolving means of persuasion & coercion on display... [eg. intimidation, militarization, grey zone & cabbage tactics]

Question: Are these techniques acceptable? Will they become common-place globally?

6. A location ripe for the development of multi-lateral regional mechanisms... [fisheries management, energy resource extraction...]

Question: Can a truly cooperative and equitable regional resource-related architecture be created in the SCS?

7. A location where “Power vs. rule of Law” are in tension ... [eg. freedom of access at risk, intimidation by state & quasi-state vessels, shadowing, conduct of “sovereignty patrols” ...]

Question: Are the actions occurring here --unilateral changes to the status quo-- a sign of more to come?

8. A location ripe for environmental stewardship ... [coral damage, island building, destructive shellfish harvesting...]

Question: Is the environmental health of the SCS understood? What is the state of its fisheries? Are they being managed effectively? What is their impact on the Pacific writ large?

9. Maritime affairs are global affairs ... [what happens in the SCS does not stay in the SCS...]

Question: Left unanswered, do uni-lateral changes in the SCS portend more challenges globally to international norms? Is this the sign of diminishing “rule of law?”

10. A litmus test for behavior and the “say” – “do” gap ... [eg. construction of “fishing shelters” → to “rescue & safety facilities...” → to full-sized bomber capable airfields, garrisoned troops, missile systems... what is the true intent?]

Question: What’s next?

ENDURING TRANSNATIONAL CHALLENGES

- Terrorism
- Illicit Arms & Weapons Proliferation
- Drug, Human, Wildlife Trafficking
- Piracy, Sea crimes
- Natural Disasters in the “Ring of Fire” (Monsoons, Typhoon, Floods, Earthquake, Tsunamis, Volcanic Activity)
- Climate Change, sea-level rise
- Immigration
- Illegal, Unreported, Unregulated Fishing
- Full range of environmental and resource stewardship

SO WHAT? ADDRESSING TRANSNATIONAL CHALLENGES → THE CONDITIONS FOR BLUE ECONOMIES TO THRIVE

- The foregoing discussion has enumerated the many aspects --that contribute and relate-- in order for *Blue Economies* to thrive – *to reach their full potential...*
 - Each in varying degrees
 - Not all may apply to each nation
 - Require internal and external effort -- from and between coastal states

COMPARATIVE AND COMPATIBLE VISIONS & INITIATIVES IN THE INDO-PACIFIC

- Free & Open Indo-Pacific Vision
- Pacific Step Up (Australian Initiative for the Pacific Islands)
- Act East (India)
- New Southern Policy (ROK)
- ASEAN Outlook on the Indo Pacific:
 - ...An Outlook to guide *Cooperation* in the Region
 - ...Promote an enabling environment for *peace, stability & prosperity...*
 - ...uphold rules-based regional architecture ...promote closer economic cooperation

- ...enhance ASEAN's community-building process and strengthen existing ASEAN-led mechanisms
- Implement existing & exploring other ASEAN priority areas for cooperation → MARITIME COOPERATION
 - Geopolitical challenges in the region also include maritime issues: unresolved maritime disputes; unsustainable exploitation of maritime resources; maritime pollution;
 - Maritime cooperation areas:
 - Peaceful settlement of disputes; promoting maritime safety & security;
 - Freedom of navigation & overflight; addressing trans-national crimes;
 - Trafficking in persons, illicit drugs, sea piracy & robbery;
 - Sustainable management of marine resources, maritime connectivity;
 - Protect livelihood of coastal communities, support small-scale fishing communities;
 - Develop blue economies, promote maritime commerce;
 - Address marine pollution, sea-level rise, marine debris,
 - Marine environment and biodiversity, green shipping;
 - Marine science collaboration, research & development, capacity building,
 - Managing marine hazards, raising awareness on marine and ocean-related issues;

CLOSING

- This vision is eminently reasonable – it seeks to uphold international norms and conditions, broadly shared, to pursue prosperity and one's full potential.

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