

# Center for Asia Pacific Strategy



## Panel Discussion Summary

### “Asia-Pacific Maritime Security and Rules-based Order in Action”

**Host Organization:** Center for Asia Pacific Strategy

**Date:** July 27, 2021

**Opening Remarks:** Mrs Hee-Eun Kim, President and CEO, Center for Asia Pacific Strategy

**Moderator:** Dr. John Hemmings, Assoc Prof, Daniel K. Inouye Asia-Pacific Center for Security Studies

**Panel Members:**

- 1) Admiral (Ret.) Scott Swift, 35th Commander, United States Pacific Fleet
  - 2) Mr. Chad Sbragia, Former Deputy Assistant Secretary of Defense for China, Office of the Secretary of Defense
  - 3) Dr. Peter Dutton, Interim Dean, Center for Naval Warfare Studies, US Naval War College
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#### Introduction

On July 27, 2021, the Center for Asia Pacific Strategy hosted “Asia-Pacific Maritime Security and Rules-based Order in Action,” the first of a four-part series of roundtable discussions that address current and future approaches to maritime security in the Asia-Pacific region. The discussion’s moderator was Dr. John Hemmings, Associate Professor at the Daniel K. Inouye Asia-Pacific Center for Security Studies, and panelists were Admiral (Ret.) Scott Swift, the 35<sup>th</sup> Commander of the US Pacific Fleet; Mr. Chad Sbragia, former Deputy Assistant Secretary of Defense of China at the Office of the Secretary of Defense; and Dr. Peter Dutton, the Interim Dean of Naval Warfare Studies at the US Naval War College.

Ms. Hee-Eun Kim, President and CEO of the Center for Asia Pacific Strategy, provided opening remarks and the overall structure for the discussion: the panelists would first explain the implication of the rules-based order on maritime security, then discuss how the People’s Republic of China (PRC) has been undermining the rules-based order through the employment of grey-zone and other tactics, and finally offer policy recommendations to strengthen the rules-based order in the Asia-Pacific maritime domain.

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**Differing Perspectives of the Rules-based Order**

Dr. Hemmings first posed to Dr. Dutton how the PRC, as a continental power, views the current maritime space around it.

Dr. Dutton explained that the PRC considers the maritime environment as essential to both its national security as well as outward projection of its power into the region and beyond. In doing so, the PRC has also been testing the limits of the existing rules – i.e. applicable international laws – that govern the global maritime order. These laws had been developed through the treaty process and reflected, among other documents, the United Nations Convention on the Law of the Sea (UNCLOS). In its approach, the PRC has been applying pressure on the interests of other states and stability of the region even as it is pursuing its national interests.

Dr. Hemmings then asked Mr. Sbragia how other countries in the Asia-Pacific, and specifically Southeast Asian nations- consider the rules-based order. Are they defensive of the order, or do they see opportunities in the PRC’s reinterpretation of key rules in the maritime space?

Mr. Sbragia posited that other regional actors support the current system despite its imperfections and are concerned with the degree to which the PRC is imposing itself and utilizing its comprehensive national power to coerce them to accept or tolerate aspects of PRC’s preferences. As these other regional actors face pressures and burdens in confronting China individually, the United States should identify ways to marshal them together to develop a collective approach to contest the PRC’s behaviors.

Dr. Hemmings returned to Dr. Dutton and asked how the PRC’s interpretation of the rules-based order differs from other countries.

Dr. Dutton highlighted the PRC’s sense of exceptionalism with which it chooses to ignore certain international laws that run counter to its strategic and policy objectives. The PRC may justify its actions by referring to historical claims, some of which are dubious or can otherwise be challenged by other countries who lay similar claims to the same areas. As the PRC was an active participant in the third UN Conference on the Law of the Seas and advocated for the establishment of exclusive economic zones, it is ironic that it is now undermining the treaty to serve its current interests.

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**Practical Implications of the Rules-based Order**

Dr. Hemmings then turned to Admiral Swift and asked to draw from his experience as a naval officer to explain the practical implications of the rules-based order in the Asia-Pacific maritime domain.

Admiral Swift began by critiquing the recent US tendency to lead the execution of US foreign policies with the Department of Defense rather than the Department of State. Turning to the PRC, he expressed that if the PRC cannot adopt an open economic or political system, it will continue to resort to force and coercion as its discourse or dialogue will not convince the international community to modify the rules-based system through established channels.

Dr. Hemmings posed a similar question to Mr. Sbragia, this time from the PRC perspective.

Following up on Dr. Dutton’s earlier comments, Mr. Sbragia explained that the PRC’s perspective is that when it was an active participant in the UNCLOS discussion, it was considered a weak country. Now that it is bigger and stronger, it wants to change the rules so that they reflect more of its preferences. The PRC now has an all-encompassing strategy to expand its maritime reach using all instruments of national power at its disposal. In 2013, the PRC issued a report on the “State Council institutional reform and transformation of government functions” plan, which, among other changes, would consolidate various state organizations relevant to the maritime domain to enhance and streamline their functions. In 2018, the PRC further reformed its foreign policy apparatus by reorganizing the Central Foreign Affairs Commission to include the Central Leading Small Group for Protecting Maritime Rights and Interests, which is responsible for coordinating all matters concerning maritime rights and interests across all organs of the PRC’s government.

Dr. Hemmings then asked Dr. Dutton to explain PRC’s consideration of the seas as a land-based power.

Dr. Dutton emphasized that as a continental power, the PRC is expanding into the maritime domain from that standpoint – i.e. focusing on possession and control as opposed to defending or strengthening an open order. Even though UNCLOS does discuss the possession of coastal states, it also retains the open character of the maritime domain so that all states can pursue their interests actively and freely.

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Admiral Swift added that the international rules-based system has a working adjudication system that has enabled various countries, including Vietnam, the Philippines, and the United States, to challenge and defend claims through discourse and dialogue. The PRC, on the other hand, utilizes force and coercion as its historical claims are not compelling. To rely on force and coercion, the PRC needs a strong military, which explains its investments in military capabilities. Also, when the United States typically discusses the PRC, what it often actually means is the Chinese Communist Party (CCP), which is focused on maintaining and strengthening its legitimacy as well as ensuring that the PRC’s sovereignty is never contested again.

Dr. Hemmings asked Admiral Swift to continue by discussing US Freedom of Navigation Operations (FONOPS).

Admiral Swift identified a disconnect between the PRC and US public affairs efforts surrounding a US FONOPS. Whereas in the PRC, the Foreign Minister or the Foreign Ministry spokesperson characterizes the PRC’s issues with a specific FONOPS, on the US side, the vast majority of the responses are issued by the Seventh Fleet public affairs officer. This strategic disconnect in responses causes concern and uncertainty for the allies and partners of the United States. As FONOPS are conducted in support of US foreign policy, the Department of State should be commenting on these operations.

Dr. Hemmings then shifted focus by asking all three panelists to explain the PRC’s ability to bend or at times disregard the rules-based order.

Admiral Swift started by comparing the United States’ and PRC’s ability to formulate strategies. Put simply, the United States does not have a grand strategy, and its formulation is a necessary first step from which a regional strategy can then be developed. The PRC, with its authoritarian government, can utilize its centrality to quickly develop a strategy and through its control of the media and other apparatus, issue messages and directives to its people.

Mr. Sbragia added that the PRC has been improving its integration of all of the organs of PRC’s national power. In the Scarborough Shoal, for example, the PRC has been utilizing its military, non-military, and paramilitary assets altogether in applying economic coercion on neighboring countries. The PRC is adept

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at applying various available tools to achieve its political end-state, which both encompasses other types of end-states – e.g. economic, diplomatic, military – and supersedes them.

Dr. Hemmings asked Dr. Dutton to share his thoughts on the common strategic vision for dispute resolutions.

Dr. Dutton pointed out various methods of dispute resolution processes including bilateral negotiations, multilateral negotiations, and adjudications and arbitration. The PRC has been circumventing these processes by claiming that its grievances are in accordance with its domestic laws, to which they refer to justify the use of force and coercion to control its claims. To counter the PRC’s grey-zone tactics, the United States should strengthen its allies, partners, and friends that support the international order.

**Policy Recommendations**

Dr. Hemmings asked all three panelists to share any policy recommendations for the United States.

Admiral Swift reiterated that the PRC’s challenge to the rules-based order is a collective issue among nations that support the international system and that within the United States, the response needs to be a whole-of-government effort and not just from the US military. Changing the international rules-based system is okay, but it must be changed through discourse and dialogue and not through force and coercion.

Mr. Sbragia recommended that the US Department of State should lead the US response to PRC’s challenges to the rules-based order. The Department of Defense’s primary mission is to deter and defeat aggression but utilizing it as a tool of expressing international law is shifting the Department of Defense’s focus away from its primary mission. Also, as the United States conducts FONOPS against other countries, and not just the PRC, that claim territories in international waters, the United States should encourage those countries to submit their cases through the UNCLOS procedures to highlight the importance of the rule of law and distinguish them from the PRC. Finally, the United States should employ other instruments of national power, including economic and not just military, in conjunction with its allies and partners, to discourage the PRC from pursuing force and coercion.

**Closing Comments**

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In closing, Dr. Hemmings asked the three panelists to summarize their final thoughts.

Dr. Dutton emphasized that the United States needs to continue to reinforce the common strategic vision discussed earlier. From the economic standpoint, the United States needs to recognize the inextricability of the economic relationship between the PRC and many countries in the Asia-Pacific, including the United States. In light of that, the United States should help other countries consider their longer-term interests while finding opportunities to ease their economic pressure from the PRC. Finally, to the PRC, the United States should offer three reassurances: the US not trying to undermine the CCP, it is not trying to prevent the PRC’s rise, and it welcomes PRC into a position of responsible stakeholder.

Mr. Sbragia discussed the need to reframe the issue from that of a bilateral US-PRC to one that involves the global order. By characterizing it as a challenge to the global system, other countries can reaffirm their stakes in the system and consider how their national interests are affected by this challenge.

Admiral Swift stressed that the United States must “think strategically, plan operationally, and act tactically.” The United States has previously been doing all three in a tactical manner without an established vision. Admiral Swift agreed with Dr. Dutton and stated that the PRC’s rise can be beneficial to the United States and rest of the world, but it must rise in accordance with the rules-based system. If the PRC has disagreements with the system, the international community can discuss what should be changed via dialogue and discourse.

Dr. Hemmings closed the session by thanking the panelists for their expert knowledge and discussion and the Center for Asia Pacific Strategy for hosting the event.