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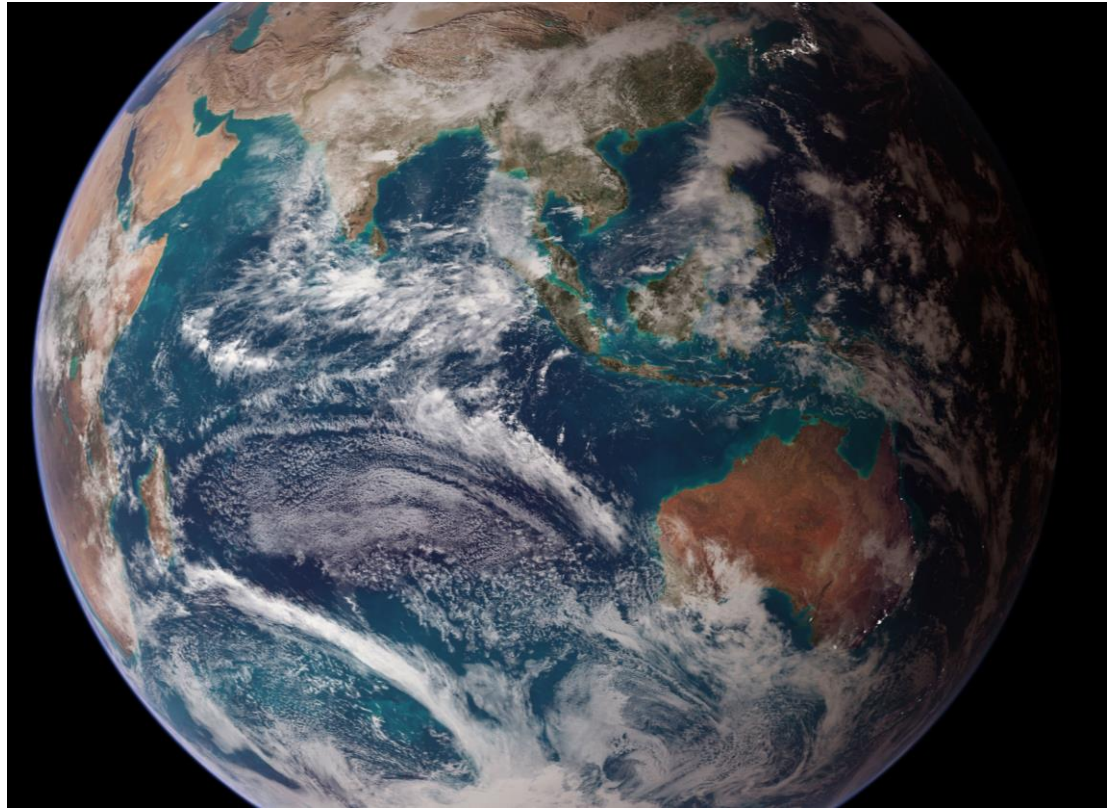


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Report

**Asia and the rules-based international system:
perceptions, challenges and ideas for change**

Monday 13 – Wednesday 15 March 2017 | WP1537

Held in Singapore

In association with:





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This meeting dealt with the key questions of how Asian countries perceive their stakes in the rules-based international system (RBIS), of how they might like to see RBIS evolve to better serve their interests, and of what kind of role they might play in promoting that evolution. In the 21st century, Asian states have become more prominent and influential in many of the issues that are critical to international security and economic development. As Asia assumes greater significance within the international system, it becomes more important for actors in the region to exchange views and ideas on how the regional and global systems should be organised. This is especially true as China emerges, the US appears to decline, and there is considerable uncertainty over the nature of the economic and political principles guiding the evolving system.

Key points

- There is no monolithic view of RBIS within Asia. What RBIS means to different states and actors varies depending on their historical experiences, national interests, and positions of power within the system. There is widespread concern though that great powers obey international rules only when it suits them.
- The smaller, weaker states of the region, primarily members of the Association of Southeast Asian Nations (ASEAN), nonetheless recognise that they are better off with a RBIS, which affords them some protection from the perceived hegemonic tendencies of the great powers and provides them with leverage to push back. The great powers suffer at least some reputational costs for transgressing the rules of the international system.
- The United States comes in for considerable criticism over “rules violations” such as its military interventions in Iraq and Libya as well as for its non-ratification of the UN Convention on the Law of the Sea (UNCLOS). China is the great power of major focus and concern for its behaviour within the region, notably in the South China Sea and in the ways that Beijing deploys its economic weight.
- While the “liberal” international order emphasises, inter alia, the importance of democracy and human rights, many Asians would argue that RBIS should not be about asserting these values but rather about delivering transparency, predictability and stability. Human rights are important, but Asians resist having human rights norms and standards dictated to them by Western states.
- Chinese participants strongly supported the idea of RBIS, but challenged how some of those rules are interpreted and perceived. They disagreed with the notion that the US really holds the “moral high ground” in following and maintaining RBIS.

- American participants conceded the uncertainties surrounding the actions and policies of the new administration in the US, but asserted this could be a new opportunity for ASEAN states to influence Washington as well as to play a stronger role in shaping the future of their region.
- The relationship and shifting balance of power between the US and China provided the underlying context for much of the discussion, highlighting the role of power and assumptions about power in international and Asian relations.
- The perception of a shifting balance of power to the detriment of the United States is leading many observers to focus more on ASEAN's role in providing its members with a regional voice and influence. They are pressuring ASEAN to play a stronger regional leadership role, even if that means reconsidering and reforming long-held ASEAN practices.
- Smaller powers may be developing more of an interest in working together to shape and constrain the actions of great powers, including by ensuring that larger costs are incurred by powerful states that violate rules. Changes to rule-making, institutions and institutional behaviour in Asia will, however, be incremental and gradual. Even if there is no consensus on the establishment of an agreed set of rules, dialogue is useful for signalling and coordination.
- Given the security tensions in the region, it is important and even urgent to start developing more, and more robust, confidence-building measures (CBMs). These should focus initially on issues that do not affect national sovereignty or disputed territory, such as establishing hot lines that are actually manned and answered when rung, managing overfishing and illegal exploitation of maritime resources, maritime search and rescue, illegal migration, and extending maritime codes of conduct to non-military maritime actors such as fishing fleets and coast guards.
- Asian states are at very different levels of economic development. The region may thus arguably need a mix of multilateral economic agreements. The Regional Comprehensive Economic Partnership (RCEP) envisages looser, less demanding rules that can more readily accommodate states at different levels of development than a Trans Pacific Partnership type agreement more suited to economically advanced countries.
- The Belt and Road Initiative (BRI) is a source of both interest and concern within the region, due to suspicions that China may try to use BRI as an instrument of hegemonic control. In pursuing BRI China should implement open and transparent rules, make reliable information available to all, and support inclusive governance that treats partners as peers.
- Asians understand and accept that their region has taken on increased global power and hence a greater role in either strengthening or disrupting global order. There is much pessimism about current trends, however, and considerable uncertainty over whether sufficient progress can be made in areas such as stronger collaboration within ASEAN or the establishment of CBMs to compensate for an evolving and more fluid regional balance of power.

Rules and institutions

1. There is a common belief in Asia on the value of rules and institutions, but a lack of consensus on what form these should take. There is a common desire for an order that promotes "peace and stability" but disagreement about how to achieve these goals. This is largely due to conflicting interests and relationships. Rules can help to shape these interests and relationships, but rules are useful only insofar as they are legitimate.
2. There is recognition that the region is undergoing change through China's rise and the

possible decline of the US. This change is likely to be gradual.

3. "Who makes the rules?" is a major consideration and even a question of some contentiousness. The approach to rule-making should utilise existing institutions (i.e., the East Asia Summit, Asia Pacific Economic Cooperation forum, ASEAN) to reinforce the status quo or to recommend reforms. New, emerging issues should be addressed through collective action. This will be a long-term process, meaning it is not necessarily useful for short-term crises. Challenges arising from shocks to the system should be addressed on an ad hoc basis.
4. States should have faith in the existing system of rules and institutions, which have an historical basis. They should consider a broader region-wide mechanism than ASEAN for integrating Southeast Asia with South and East Asia. There may be potential areas of collaboration, such as joint development projects, between the regions.

The relationship between rules and power

5. Order is a fundamental prerequisite for a functioning international system. Order conditions behaviour, controls violence and prevents conflict. Order precedes freedom, but the kind of order also affects individuals by shaping the core human aspiration of how a person structures his/her own life.
6. Is there a tension between rules-based and power-based international systems? Some observers argue that the two are at odds; others maintain that rules must be based in power. Hegemonic actors develop rules that serve their interests but which can also be broadly beneficial to order in the system. There is a triangular relationship between rules, power and order.
7. A rules-based system is one that is predictable and patterned around commonly-understood principles of behaviour. It should reduce the possibilities of conflict. It implies accord on the basic norms and standards of an international society of states.
8. The post-World War II global order was established by Western powers, but non-Western states participated in its negotiation and creation. This is particularly the case for treaties and the institutions around them that did not emerge until some decades following the end of the Second World War, such as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and UNCLOS. After signing onto international laws and treaties states are committed to accept the associated obligations.
9. The rules-based system has benefited small, medium and emerging powers. Some elements of the system are no longer serving emerging powers, or not to the same extent. This has led to a demand to alter some elements of the system in order to accommodate changes in the international environment.
10. The system is filled with "grey areas" where the rules are unclear. Any new rules must be adjusted to cover the grey areas that were not addressed in the past. There should be a collective determination of new rules, especially with the involvement of small to medium powers.
11. Asian states need to be willing to speak out in defence of international laws and norms even when those are violated in areas outside of Asia. The global system needs to be supported by all parts of the world.
12. The rules of the international system have been underpinned by US power. However, the US has also acted in ways that seriously undermine those rules, most significantly when it invaded and occupied Iraq. This willingness of powerful states to flaunt the rules of the system undermines its credibility and invites further defections from and abuse of the system.
13. Over the past decade, the nature of the international system has changed. Globalisation continues but is highly contested. RBIS defies easy categorisation. It is unipolar, bipolar or multipolar depending on the issue under consideration. The state is

being reinvented and reconceptualised, but power is also slipping away from states. There is in some cases a lack of clarity on which states are friends and which are adversaries. The current system could be eroded gradually, as various states chip away at existing norms through minor infractions that eventually reach a critical mass and fatally undermine those norms.

14. There is a need to reconfigure the international system to bring in new powers and reform the system to account for their viewpoints and interests, even as they take on responsibilities for the public good. The G20 may be able to serve as a forum wherein these issues can be discussed.
15. The international system is now at a defining moment. The system was established based on a combination of rules, derived from international law, and balance of power. With China's rise and the United States' relative decline, the balance of power in Asia has become considerably more fluid.
16. At least some of Asia's small and medium-size countries have become more impatient with violations of rules, in particular violations that seem to go unpunished beyond reputational harm. Two major questions for Asia going forward is whether stronger adherence to rules can compensate to some degree for the greater uncertainty surrounding the balance of power in the region, and whether small and medium sized powers in the region are able to play a significant role in promoting this stronger adherence by acting collectively to increase the costs of violations.

Role of culture and values in Asia's future

17. Pluralism, in terms of economic organisation, respect for individuals, and responsibility to the state, is important for the peace and prosperity of all states. Some rights are universal and inalienable, such as: the right to live, to basic education, to basic healthcare.
18. Human rights remain a source of contention between Western and Asian states. Both parties tend to agree that human rights are important and should be respected and protected. However, Asians resist having human rights norms and standards dictated to them by Western states. Western liberal values are particular to the West and emphasise priorities and perspectives that are, at the least, highly contested within Asia and between Asian peoples.
19. Asian states are determined to preserve and protect their sovereign rights. The history of being colonised combined with different cultural, ethnic and religious experiences means that Asian states continue to believe strongly in the Westphalian norms of state sovereignty as foundational to the global and regional systems. The concern with defending state sovereignty often complicates regional efforts at interstate cooperation in areas such as economic development, the joint exploitation of resources, and security cooperation. It is not clear that Asian states are prepared to accept in practice that compromising their national sovereignty can lead to greater security and prosperity.
20. In the South China Sea, all claimants assert that they are in favour of joint development but when the question is pressed they back away. Even on scientific research, much less hydrocarbon exploitation, there does not seem to be a genuine desire for collaboration due to a large extent to concerns over sovereign rights.
21. Open trade should be encouraged, along with the recognition that different states are at different levels of development and may require assistance. The national positions of states would need to be taken into consideration with regard to the speed and degree to which economic reform is implemented. Trade deals must be negotiated and implemented on a level playing field and in accordance with principles of mutual respect. Agreements negotiated and imposed unfairly will lead to discontent and resentment rather than stability and prosperity.

22. More inclusive multilateral systems and frameworks help to constrain hegemonic tendencies. These systems need to develop with the active involvement of small and medium-sized states. The hegemon needs to recognize that the support of small and medium states is in its interests, and should consider how it interacts with the smaller powers.
23. In all diplomacy, there is a need to show mutual respect and avoid humiliation. In Asia, the concept of “saving face” is an expression of this universal need; it only varies in degree.

Role of ASEAN in shaping RBIS in the Asian region

24. ASEAN provides a platform on which to propagate norms and values. However, ASEAN is limited; it is a collection of small to medium powers whose role is not to settle disputes, especially those involving major powers. The rules that it propagates appear to reinforce ideas of Westphalian sovereignty, which complicate unified regional action.
25. ASEAN learned to set aside conflicts, not resolve them. Economic self-interest has kept the ASEAN states relatively united, but is it enough to give the organisation the impetus to expand, strengthen its activities, and hold together in the future as the regional environment changes?
26. ASEAN plays a key role in creating and sustaining regional order. The ASEAN Way is being institutionalised through different fora and the great powers have signed the ASEAN Treaty of Amity and Cooperation (TAC).
27. ASEAN must do more though to earn its centrality in the future. It must be seen as more than an event organizer. ASEAN can be transformative if it is active and united.
28. ASEAN should develop a strategic perspective for the region, including by advancing its people-centred approach. If ASEAN wishes to avoid being dominated by the US or China, it must find ways to become a more institutionalised and unified independent actor.
29. ASEAN’s ability to become a more influential regional actor may require that it be able to enforce or extract some cost to states that break regional and organisational rules. ASEAN’s ability to impose stronger reputational costs on states that violate important regional norms may be a way for it to exercise greater influence over regional and extra-regional states.
30. “Legitimacy” requires that weaker states accept the propriety of the authority of a more powerful state. It cannot be imposed on weaker states by power alone. This need to be convinced gives smaller states influence they may be able to utilise to affect the actions of the powerful states.
31. ASEAN may need to consider operating on the basis of “ASEAN Minus X” or “coalitions of the willing”. These approaches would allow ASEAN states that share interests to cooperate under ASEAN’s auspices without the need for institutional unanimity. Under present conditions, any single ASEAN state can prevent the organisation from advocating on behalf of its other members. This has left ASEAN susceptible to political and economic pressure from China on ASEAN’s more vulnerable members.

Role of China in building a new RBIS

32. China has committed to supporting and reinforcing global norms around free trade, the control of climate change, and other areas of collective interest. It has taken the opportunities offered by the vacuum caused by the loss of American leadership on some of these issues to offer its own leadership. This may signal a shift in global power.
33. Many of China’s actions and attitudes, particularly the way in which it deals with other

states in disputes, make regional states suspicious of China's leadership aspirations. China has shown a willingness to use its economic power to punish and intimidate states that are pursuing policies that China deems detrimental to its core interests.

34. China's continuing unwillingness to accept international law in the form of UNCLOS and the ruling of the Arbitral Tribunal on the South China Sea dispute undermines international law and RBIS in the eyes of many regional and international actors.
35. China's dispute with South Korea over the latter's intention of deploying the Terminal High Altitude Area Defense (THAAD), an American anti-ballistic missile system, as protection against potential North Korean nuclear attacks, has led to China imposing economic and cultural sanctions on South Korea. This punitive response has further damaged China's regional leadership aspirations.
36. There are some indications that China is reconsidering its blanket opposition to the intervention of the international community in the affairs of sovereign states. However, it continues to have a limited view of when intervention may be acceptable.
37. To date, the BRI (also sometimes referred to as One Belt One Road, or OBOR) has not been strongly institutionalised. This means that China has, so far, not contributed much to constructing new rules for regional trade and investment. China should adopt this more active role as the BRI and other Chinese-led regimes acquire more prominent regional roles. This does not mean challenging existing rules but, rather, deciding how to integrate, potentially modify and give new momentum to the existing rules.

Role of the US in the rules-based system

38. The US was the single most important actor creating the post-WWII RBIS. The US provided leadership to the alliance system. Under US leadership, regional organisations became common parts of RBIS.
39. Historically, the US has supported the international trading system and provided regional security in the Asia Pacific. At present, those historical roles are being questioned by the new administration, exacerbating the already-existing regional uncertainty about US commitments to regional stability and security.
40. The US role in Asia has been viewed by regional states as largely constructive and stabilising, though, in the past, the US has sometimes acted in ways that have been extremely damaging to international order, such as in its decision to invade and occupy Iraq. In Asia, however, US core interests do not threaten the sovereignty of regional states, making the US the preferred regional hegemon for most states.
41. The US withdrawal from the Trans-Pacific Partnership (TPP) has created new opportunities for Asians and Europeans to step in and pursue economic opportunities but also to write the rules of the emerging system. Whatever the answers to the problems of the world economy, they are not found in economic nationalism.
42. The new US administration apparently wants to walk away from core tenets on which the international system is based. Whether or not it can do so remains to be seen. However, many of the policies and statements of the new US leadership undermine established international regimes and patterns of cooperation.

Confidence and security-building measures

43. Conflict management and prevention structures in Asia are very rarely or poorly institutionalised even where they exist. Asians have consistently rejected the idea that an organisation similar to the Organization for Cooperation and Security in Europe (OSCE) is possible in the Asian context. This rejection reflects both an Asian aversion to strongly institutionalised structures and the argument that the status quo in the Asian region is in motion. As such, an organisation that attempts to protect the status quo could not function effectively. China's conduct in the South China Sea and other

territorial disputes is held by many observers to indicate China's rejection of the status quo.

44. The Code for Unplanned Encounters at Sea (CUES) is useful in avoiding conflict, but also limited. These protocols often do not apply to non-military maritime actors, such as fishing fleets and coast guards, the kinds of vessels frequently involved in confrontations in the South China Sea.
45. Other measures are of limited utility. ASEAN is trying to negotiate with China a Code of Conduct (COC) for state behaviour in the South China Sea; despite the stated intention to establish a COC in 2017 the actual agreement may be several years away. Regional states involved in security disputes do not engage in joint military exercises, apparently to avoid giving a potential adversary too much information. Early warning systems, such as "hot lines," have proven to be of limited utility. In some cases, states on either end of the hot line do not answer the phone when it rings.
46. Three types of conflicts are at play in the region: multi-actor conflicts, non-traditional security conflicts, and conflicts driven by the actions of one party. The first two kinds of conflicts are amenable to confidence building on multilateral and bilateral levels, including outsider mediation and the use of sub-regional groups. For conflicts driven by one party, it can be difficult to reach agreement based on shared understanding or an acceptable status quo, making bilateral confidence building more difficult.
47. Uncertainties around security will remain a constant in the region, so efforts must focus on managing and mitigating that reality. Building a regional security framework would be extremely difficult, so specific CBMs should be used to deal with regional issues.
48. It is easier to make progress on CBMs that focus on technical "functional" issues such as search and rescue or illegal migration than on those that deal with issues of sovereignty or disputed territory. CBMs in the South China Sea could start with the ASEAN claimants cooperating to manage overfishing and the illegal exploitation of marine resources. The initial focus for this could be in the area determined by the July 2016 Arbitral Tribunal ruling to be outside the Exclusive Economic Zone (EEZ) of states.
49. These "simpler" CBMs can build relationships that will foster mutual cooperation and understanding over time. This may improve the climate for resolving more intractable issues. However, the evidence of transfer of benefits from simpler issues to more complex ones is inconclusive; technical CBMs can stall when they become more political. Thus, states should pursue progress on more intractable issues as well.
50. CBMs should be specific and manage expectations; a CBM that is perceived by the parties as having "failed" could worsen distrust. Where possible, parties should incorporate a shared baseline and establish clarity over shared interests and respective red lines. CBM arrangements should involve the right participants and include incentives for positive behaviours and costs/sanctions for infringements. They should include as well maintenance of a minimum level of communication. CBMs should be in place before a crisis peaks, making maximum use of the time before to build confidence.
51. There need to be clear "rules of the road" that states can follow when dealing with "incidents at sea." There are existing models, of varying efficacy, that can serve as guides in developing more effective norms of interaction.

Trade and investment

52. Asia wants economic growth. Outside of environmental destruction, poverty remains the most devastating of Asia's problems. Ten percent of ASEAN's population is still living in poverty. Asia relies on the international trading order to create the means by which to reduce poverty. This requires a RBIS that facilitates fair and open trade. However, Asian states also need accommodation for their different cultural values and

levels of economic development.

53. Asian states have a more relaxed idea of what are appropriate rules for trade and investment. These weaker rules help to accommodate different levels of development and politico-economic interests.
54. Asian states assert that the processes of interaction are more important than the short-term outcomes. This is a distinction between the “incrementalist” approach versus the “big leap” approach to international rule-making.
55. The Regional Comprehensive Economic Partnership (RCEP) is under negotiation. It is meant to accommodate states at different levels of development. As such, it is more sensitive to the political and economic weaknesses and hardships of developing world states than more rigorous and rigid Western-backed regional initiatives, such as the Trans Pacific Partnership (TPP) Agreement.
56. There is the possibility that as states develop, they begin to desire and expect stricter and more binding rules. This raises interesting questions: will the Asian Infrastructure Investment Bank (AIIB), the BRI, and China after it enters the OECD all become more rule-bound over time and as they develop? Right now, China has adopted a flexible approach to the BRI, but there are signs that it recognizes the need for more formal processes as the BRI evolves.
57. In dealing with the new American administration, Asian states should seek to preserve rules, both by “educating” the new American Administration in the desirability of the existing system and addressing financial imbalances in the US (such as the problem of not enough domestic demand). However, any interaction should be judicious. Asian states must also be willing to pressure China to alter its economic practices and deal with its problems of overcapacity and other industrial policies.
58. The vagueness and opaque nature of the BRI has raised regional suspicions that China intends to use the BRI as an instrument of control. China’s initial approach to the BRI has been clumsy, but there are signs it is evolving and learning to better manage its role on the regional stage.
59. The best way to deal with regional concerns over BRI is for China to implement open and transparent rules with reliable information made available to all. Other suggestions for ways in which China could alleviate regional concerns over BRI are to aim for inclusive governance that treats partners as peers, rules that guarantee a level playing field, the application of market principles, fiscal and environmental sustainability, and risk sharing. The latter could, for example, encompass equity-based and other more innovative public-private partnership (PPP) style models rather than old-fashioned loans requiring sovereign guarantees from the recipients.

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