



3RD ASIA
MARITIME SECURITY FORUM

**Can the Interests of
Coastal States and User States
be Reconciled?**

November 13, 2015
Ottawa • Canada

Co-organized by:



Institute for **China-America** Studies

AGENDA

Friday, November 13, 2015

IDRC • W. David Hopper Room • 150 Kent Street
Ottawa, Ontario
Canada

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- 8:30 Registration
- 9:00 Welcoming Remarks
Gordon Houlden, Shicun Wu
- 9:10 **Panel 1:** Geopolitical Challenges: When Power Politics
Outweighs Regional Cooperation
Chair: Peter MacArthur
Speakers: Michael McDevitt, Brett Witthoef, Feng Zhu, Masahiro Akiyama
- 10:40 Health Break
- 10:55 **Panel 2:** Legal Challenges: When International Law
Encounters National Interests
Chair: Catherine Boucher
Speakers: Shunji Yanai, Myron Nordquist, Ted L. McDorman, Nong Hong
- 12:25 Luncheon
- 13:15 **Panel 3:** Economic Factors: Can Common Interests Drive
Regional Cooperation?
Chair: David Drake
Speakers: Murray Hiebert, Wendell Sanford, Xiaodong Xu
- 14:30 Health Break
- 14:45 **Panel 4:** Reconciling the Interests of Coastal States and User
States: Policy Options
Chair: Graham Shantz
Speakers: Fu-Kuo Liu, Sukjoon Yoon, Marius Grinius, Kazumine Akimoto
- 16:15 Concluding Remarks
Gordon Houlden, Shicun Wu



GORDON HOULDEN

DIRECTOR
CHINA INSTITUTE, UNIVERSITY OF ALBERTA

Professor Houlden is the Director of the China Institute, Professor of Political Science and Adjunct Professor of the Alberta School of Business at the University of Alberta. He is also a Member of the International Development Research Centre's (IDRC) Board of Governors. He attended the University of Calgary where he received his B.A., and subsequently did graduate work at Carleton University in Ottawa, and at the University Nacional in Lima, Peru.

Professor Houlden joined the Canadian Foreign Service in 1976, and served in Ottawa in the East Asian, China, Caribbean, Latin American and Defence Relations units. Abroad he has been posted to Havana, Hong Kong (twice), Warsaw, Beijing (twice - most recently as Minister 2001-2004), and as Executive Director of the Canadian Trade Office in Taipei (2004-2006). Twenty-two of his years in the Canadian Foreign Service were spent working on Chinese economic, trade and political affairs for the Government of Canada. His last assignment before joining the University of Alberta in 2008 was as Director General of the East Asian Bureau of the Department of Foreign Affairs and International Trade, responsible for Greater China, Japan, the Koreas and Mongolia.

Under Professor Houlden's leadership, the China Institute has focused on contemporary China studies, with an emphasis on Canada's trade, investment and energy linkages with the People's Republic of China, as well as regional security issues, including maritime issues involving the Canadian Arctic and the South China Sea.



CHINA
INSTITUTE

SHICUN WU



PRESIDENT
NATIONAL INSTITUTE FOR SOUTH CHINA SEA STUDIES

Shicun Wu has a PhD in history and is President and senior research fellow of China's National Institute for South China Sea Studies, Deputy Director of the Collaborative Innovation Center of South China Sea Studies, Nanjing University, and member of the Foreign Policy Advisory Group of the Ministry of Foreign Affairs of China.

Dr. Wu's research interests cover the history and geography of the South China Sea, maritime delimitation, maritime economy, international relations and regional security strategies. His main single-authored books include *What One Needs to Know about the Disputes between China and the Philippines* (Current Affairs Press, 2015), *What One Needs to Know about the South China Sea* (Current Affairs Press, 2015), *Solving Disputes for Regional Cooperation and Development in the South China Sea: A Chinese perspective* (Woodhead Publishing, 2013), *A Study on the South China Sea Disputes* (Hainan Publishing House, 2005) and *The Origin and Development of the Nansha Disputes* (Ocean Press, 1999). His main edited books include: *UN Convention on the Law of the Sea and the South China Sea* (Ashgate, 2015), *Non-Traditional Security Issues and the South China Sea-Shaping a New Framework for Cooperation* (Ashgate, 2014), *Recent Developments in the South China Sea Dispute: The Prospect of a Joint Development Regime* (Routledge, 2014), *Securing the Safety of Navigation in East Asia: Legal and Political Dimensions* (Woodhead Publishing, 2013), *Maritime Security in the South China Sea* (Ashgate, 2009), *Selective Studies on World Famous Island Economic Bodies* (World Knowledge, 2006) and *Collection of Documents Relating to South China Sea Issues* (Hainan Publishing House, 2001).

NHSCS

中国南海研究院

National Institute for South China Sea Studies

9:10

Panel 1

Geopolitical Challenges: When Power Politics Outweighs Regional Cooperation

PETER MACARTHUR

Chair



DIRECTOR GENERAL, SOUTH, SOUTHEAST ASIA AND OCEANIA
FOREIGN AFFAIRS, TRADE AND DEVELOPMENT CANADA, GOVERNMENT OF CANADA

Peter MacArthur is Director General, South, Southeast Asia and Oceania Bureau in Foreign Affairs, Trade and Development Canada based in Ottawa. He oversees diplomatic missions spanning the Indo-Pacific including India, ASEAN and Australia. From 2009 to 2012 he was Director General, Global Business Opportunities. From 2004-2009 he served as Minister (Commercial) and Senior Trade Commissioner at the Embassy of Canada in Tokyo. Prior to Japan, Peter was Director, China Division and worked in a number of headquarters positions ranging from Deputy Director, Policy and Strategic Planning to Director, Trade Commissioner Service Overseas Operations. Prior to Japan, Peter served in five other diplomatic assignments: Moscow, New Delhi, Mumbai, Hong Kong, and Canberra as the Canadian exchange officer to the Australian Department of Foreign Affairs and Trade. He is graduate of McGill University and studied at l'Université Laval and at l'Institut d'Etudes Politiques, Paris, France.

MICHAEL McDEVITT

SENIOR FELLOW, STRATEGIC STUDIES, THE CENTER FOR NAVAL ANALYSES

Rear Admiral Michael McDevitt, US Navy (Ret) is a Senior Fellow at the CNA Corporation, a not-for-profit federally funded research center in Washington D.C. His most recent research focus has been the maritime security issues along the Indo-Pacific littoral and the maritime dimension of China's national strategy. During his navy career, Rear Admiral McDevitt held four at-sea commands, including an aircraft carrier battle-group. He was the Director of the East Asia Policy Office for the Secretary of Defense during the George H.W. Bush Administration. He also served for two years as the Director for Strategy, War Plans and Policy (J-5) for US CINCPAC. Rear Admiral McDevitt concluded his 34 year active duty career as the Commandant of the National War College in Washington D.C.



ABSTRACT

SPRATLY ISLAND BUILDING AND U.S. POLICY OPTIONS

The most pressing maritime issue in East Asia is what to do about China's island building in the Spratly Island chain. China's creation of artificial Spratly islands has upset an over 20 year long live and let live environment among the five governments (China, Taiwan, Vietnam, Malaysia, and the Philippines) physically occupying islands and other features in the Spratlys. During this period of "coexistence", all of the occupiers made modest improvements to the features they hold, largely to improve the quality of life for the unfortunates assigned to these outposts in order to buttress sovereignty claims. But the reality today is that China has changed the previous "strategic balance" in the Spratly

Island chain by creating facilities that will, when complete, overshadow the garrisons and defensive capabilities of the features occupied by Vietnam, the Philippines or Malaysia. This appears to be a new step by Beijing in a long term campaign that it hopes will eventually lead to de facto control over the Spratlys.

Geopolitical Challenges: When Power Politics Outweighs Regional Cooperation



BRETT WITTHOEFT

SENIOR RESEARCH ANALYST, MARITIME FORCES PACIFIC
DEPARTMENT OF NATIONAL DEFENCE, GOVERNMENT OF CANADA

Brett Witthoef is the senior analyst in N39 - International Engagement, at Maritime Forces Pacific (MARPAAC) HQ at CFB Esquimalt, Canada's west coast naval formation. During his time at MARPAAC, Brett has been involved in several international events, including organizing and co-hosting the first-ever navy-to-navy talks between Canada and South Korea, participating in navy-to-navy talks between Canada and Japan, serving as a geopolitical advisor at the Rim of the Pacific 2012 naval exercise, and organizing and hosting MARPAAC's long-running and successful Maritime Security Challenges conference series. He provides geopolitical briefings to a range of Royal Canadian Navy (RCN) officials, including Commander RCN, Deputy Commander RCN, and Commander MARPAAC. Brett's primary research interests are Northeast Asian traditional and non-traditional security issues, and developments in the South China Sea.

"I'M DISINTERESTED IN YOUR INTERESTS": MOVING BEYOND TONE-DEAFNESS IN THE SOUTH CHINA SEA

Lord Palmerston argued that nations don't have permanent friends or allies, only permanent interests; he was only partially correct. True, some interests are enduring, such as the state preserving its existence, but other interests evolve over time, reflecting new economic and geopolitical circumstances. China is in the midst of such an evolution, as it moves from its traditional land-centric view to greater involvement in regional and global maritime issues. Currently, China is between phases, as Beijing tries to advance its interests both as a coastal state and as a blue-water state, even when such interests sometimes conflict with international maritime law and the interests of its

neighbours and the regional power, the US. Unfortunately, all sides are guilty of articulating their interests in non-negotiable terms - and sometimes conflating them with rights - resulting in actors talking past each other and limiting the probability of regional cooperation. However, there is the possibility that middle powers, such as South Korea and Canada, which also have both coastal and blue-water interests, could provide an example for international maritime norms and law to evolve so that conflict might be avoided.

ABSTRACT

FENG ZHU

EXECUTIVE DIRECTOR, CHINA CENTER FOR COLLABORATIVE STUDIES OF SOUTH CHINA SEA
NANJING UNIVERSITY

Feng Zhu is currently Executive Director of China Center for Collaborative Studies of the South China Sea, Nanjing University. He is also a senior research fellow at the China Center for Peace and Development, and Professor at Peking University's School of International Studies. He writes extensively on regional security in East Asia, the nuclear issue in North Korea and China-US military and diplomatic relations. As a leading Chinese security expert, Professor Zhu's recent books include *International Relations Theory and East Asian Security* (2007), *China's Ascent: Power, Security, and Future of International politics* (co-edited with Professor Robert S. Ross, 2008), *China-Japan Security Cooperation and Defense Communication: the Past, Present, and Future* (Tokyo: Aiji Press, 2011). His upcoming book is *The China-US Relations and the World Order* (co-edited with Professor. G. John Ikenbery and Prof. Wang jisi, MacMillan, 2014).



PAPER TITLE

South China Sea disputes and geopolitical wrestling: Could military tension de-escalate?





MASAHIRO AKIYAMA

PRESIDENT AND SENIOR FELLOW, THE TOKYO FOUNDATION

Graduated from the Faculty of Law of the University of Tokyo in 1964 and entered the Ministry of Finance. Mr. Akiyama's professional career in government includes budget examiner in MOF's Budget Bureau, head of the Banking Investigation Division in MOF's Banking Bureau, chief of the Nara Prefectural Police Headquarters, and councilor in MOF's Secretariat. Moved to the Defense Agency in 1991, he served as director general of the Defense Policy Bureau and the Finance Bureau, and administrative vice-minister of defense before resigning from the agency in 1998. He was visiting scholar at the Kennedy School of Government of Harvard University in 1999, and was chairman of the Ocean Policy Research Foundation from 2001 to 2012. Has also been professor at Rikkyo University and visiting professor at CISS, Peking University. Mr. Akiyama assumed his current position in June 2012.

POWER POLITICS IN THE EAST AND SOUTH CHINA SEAS

Disputes and conflicts related to maritime security have recently become conspicuous in the East and South China Seas. Tensions in the region are rising due to territorial disputes, arguments over the delimitation of the EEZ and continental shelf, confrontation over the exploitation and exploration of maritime resources, different views regarding the freedom of navigation, and over- and illegal fishing.

Territorial disputes in the South China Sea surfaced just after the end of World War II, when many newly independent nation-states awakened to their sovereign rights over maritime areas and made overlapping claims to territories and territorial seas.

UNCLOS entered into force in 1994 and introduced such new concepts as the territorial sea, exclusive economic zone, and continental shelf, leaving coastal states to settle some competing claims through bilateral negotiations. The United States maintains that UNCLOS guarantees the right to navigate and operate freely in the EEZs of other coastal states, but China has different ideas, banning the military ships of noncoastal states from entering into its EEZ without prior permission. It has created landfills in the South China Sea and claims the waters around these artificial islands as part of its territorial sea, which the US does not recognize.

There are many factors behind each security conflict, and it is important to have an awareness of the power politics affecting these conflicts and disputes. A realistic view of power politics is the only way to find a solution.

Legal Challenges: When International Law Encounters National Interests

**CATHERINE BOUCHER****Chair**

DIRECTOR, OCEANS AND ENVIRONMENTAL LAW DIVISION
FOREIGN AFFAIRS, TRADE AND DEVELOPMENT CANADA, GOVERNMENT OF CANADA

Catherine Boucher joined the Foreign Service and the then-Department of Foreign Affairs and International Trade in 1997. From 1999 to 2002, she was assigned to Canada's Consulate General in Boston as vice-consul and trade commissioner. In Brussels, from 2005 to 2009, she was responsible for Security and Defense issues as First Secretary in Canada's Mission to the European Union. In Ottawa, she has served as legal officer in the Criminal, Security and Treaty Law Division (2002-2005) and in the Treaty Law Division (2009-2010). Since 2010, she has worked in the Oceans and Environmental Law Division of the Department of Foreign Affairs, Trade and Development, first as deputy director for the oceans law section and since 2014 as Director.



SHUNJI YANAI

JUDGE, INTERNATIONAL TRIBUNAL FOR LAW OF THE SEA (ITLOS)

Shunji Yanai is a judge of the International Tribunal for the Law of the Sea (ITLOS) (2005-) and former President of the Tribunal (2011-2014). Before joining ITLOS, Judge Yanai had a long career in the Ministry of Foreign Affairs of Japan, assuming key posts as Director-General, Treaties Bureau/Law of the Sea Headquarters; Vice-Minister for Foreign Affairs; and Ambassador of Japan to the United States. After retirement, he taught public international law at Chuo University and Waseda University of Japan. As President of ITLOS, he led the Tribunal during its busiest years in which the Tribunal produced two orders prescribing provisional measures of protection and two judgments on the merits.

ABSTRACT

CAN UNCLOS SETTLE MARITIME DISPUTES?

The UNCLOS, which established a new order of the sea, contains complex provisions such as those concerning the continental shelf, the EEZ and the seabed beyond the limits of national jurisdiction (the Area). It is fair to say that these detailed provisions leave room for differing manners of interpretation and implementation. Thus, cooperation among States parties to the UNCLOS and the support of the institutions such as UN, ITLOS, ICJ, the Commission on the Limits of the Continental Shelf (CLCS) and the International Seabed Authority (ISA) are indispensable for preventing disputes over law of the sea matters, peacefully settling any that nevertheless arise, and establishing the rule of law over the seas and oceans. The UNCLOS established an innovative, complex yet flexible system of dispute settlement. Under

UNCLOS, a State party can choose one or more of the four means for the settlement of disputes concerning the interpretation or application of the UNCLOS, namely ITLOS, ICJ, an Annex VII arbitral tribunal or an Annex VIII arbitral tribunal. It is gratifying to note that the feared fragmentation of judgments has not occurred among these fora. It is, however, worrisome to observe some cases where one of the parties to a dispute has not appeared in the compulsory dispute settlement procedures. One cannot expect the sound management of judicial or arbitral dispute settlement procedures without the support of States parties concerned to the UNCLOS.

MYRON NORDQUIST

ASSOCIATE DIRECTOR AND EDITOR, CENTER FOR OCEANS LAW AND POLICY, UNIVERSITY OF VIRGINIA

Myron H. Nordquist earned his S.J.D. from the University of Virginia School of Law and was the first Senior Fellow at the School's Center for Oceans Law and Policy. Dr. Nordquist now serves as the Associate Director and Editor of the Center for Oceans Law and Policy, and as the Senior Fellow for the Center for National Security Law at the University of Virginia School of Law. Professor Nordquist was a professor of law at the United States Air Force Academy from July 1993 until December 1998. During the 1995-1996 academic year, he was the Charles H. Stockton Professor of International Law at the United States Naval War College. He was Deputy and then Acting General Counsel of the Department of the Air Force from September 1990 until July 1993.



ABSTRACT

U.S. PERSPECTIVE: WHY IS THE U.S. NOT A PARTY TO UNCLOS?

This paper focuses on the legal challenges when international law encounters national interests. The author discusses the case of the U.S. not being a Party to UNCLOS. The reasons are rooted in the U.S. domestic political context in which the U.S. Senate has not acted for several decades to give its advice and consent as required by the U.S. Constitution for the U.S. to ratify the Convention.

**TED L. McDORMAN**

PROFESSOR, FACULTY OF LAW, UNIVERSITY OF VICTORIA

Ted L. McDorman is a Professor in the Faculty of Law at the University of Victoria in Victoria, British Columbia, Canada. From 2002-2004 and again from 2011 to 2013, Professor McDorman was “academic-in-residence” in the Legal Affairs Branch of the Canadian Department of Foreign Affairs and International Trade in Ottawa where he was involved in a number of Arctic, law of the sea and environmental matters and represented Canada at several international fora. Professor McDorman has over 125 publications in the areas of ocean law and policy, international trade law and comparative constitutional law. Since 2000, he has been the editor-in-chief of *Ocean Development and International Law*. A recent relevant publication is: *International Law and Politics of the Arctic Ocean: Essays in Honor of Donat Pharand* (Suzanne Lalonde and T.L. McDorman, eds) (Leiden/Boston: Brill-Nijhoff, 2015).

ABSTRACT

**WHEN INTERNATIONAL LAW AND NATIONAL INTERESTS
DIVERGE IN THE AREA OF THE LAW OF THE SEA :
A CANADIAN STORY WITH CURRENT LESSONS?**

Concerning a number of international law of the sea issues stretching back to the late 1960s Canada has found itself with national interests that conflicted with or, to put it more gingerly, did not fully accord with the then prevailing understanding of the international law of the sea. This presentation will relate some of this story and seek to draw some lessons/conclusions related to the overall panel topic of the legal challenges that arise when international law encounters national interests.

NONG HONG

EXECUTIVE DIRECTOR, INSTITUTE FOR CHINA-AMERICA STUDIES;
RESEARCH FELLOW, CHINA INSTITUTE, UNIVERSITY OF ALBERTA

Dr. Nong Hong heads the Institute for China-America Studies (ICAS), an independent, non-profit academic institution launched by the Hainan Nanhai Research Foundation. She also holds a joint position of research fellow with the China Institute at the University of Alberta (CIUA), National Institute for South China Sea Studies (NISCSS), and the China Center for Collaborated Studies on the South China Sea, Nanjing University (CCSCS). Dr. Hong received her PhD of interdisciplinary study of international law and international relations from the University of Alberta, Canada and held a Postdoctoral Fellowship in the University's China Institute. She was ITLOS-Nippon Fellow for International Dispute Settlement (2008-2009), and Visiting Fellow at the Center of Oceans Law and Policy, University of Virginia (2009) and at the Max Planck Institute for Comparative Public Law and International Law (2007).



WHEN INTERNATIONAL LAW ENCOUNTERS NATIONAL INTERESTS: CHINESE PERSPECTIVE

China ratified UNCLOS on 15 May 1996, which was considered by many of the then officials and scholars as “a victory of the long-term struggle of the third world countries for equal maritime right and against the superpowers’ maritime hegemony.” China has been supporting the notion of Exclusive Economic Zones during the negotiation of the 1982 United National Convention on the Law of the Sea. Scholars in China, however, have recently called for a second review on the EEZ concept in the context of China’s claims in the South China Sea. The competition between the rights

drawn from the new regime of EEZ in UNCLOS and the rights that China desires based on its U-shape line and general international law has become the core issue between China and other claimant states. This paper argues that China needs to carefully articulate its maritime claims in the framework of UNCLOS on the one hand, and also needs to explain how its rights are justified from the principles of customary international law.

Panel 3

Economic Factors: Can Common Interests Drive Regional Cooperation?

**DAVID DRAKE****Chair**

DIRECTOR GENERAL, INTERNATIONAL SECURITY & INTELLIGENCE BUREAU
FOREIGN AFFAIRS, TRADE AND DEVELOPMENT CANADA, GOVERNMENT OF CANADA

David Drake began his career in the Canadian Coast Guard. In 1981, he joined the United Nations Development Programme and was posted to the Islamic Republic of Mauritania. From 1983 to 1992, he worked for the Canadian International Development Agency in Indonesia, managing development assistance projects and programs, and at headquarters on global food and food aid issues.

Mr. Drake then spent a considerable period representing Canada in global environmental negotiations. From 1998-2003, he served as Director, Climate Change and Energy Division, at the Department of Foreign Affairs and International Trade, where he was co-head of Canada's delegations to international climate change negotiations. Mr. Drake served as Minister-Counsellor (Political and Economic) at the Embassy of Canada in Japan from 2003-2008. He then served as Director of Operations in the Foreign and Defence Policy Secretariat of the Privy Council Office. Mr. Drake was the Ambassador to the Arab Republic of Egypt from 2011 to 2014. He is currently the Director General for the International Security and Intelligence Bureau at the Department of Foreign Affairs, Trade and Development.



MURRAY HIEBERT

SENIOR FELLOW AND DEPUTY DIRECTOR OF THE SUMITRO CHAIR FOR SOUTHEAST ASIA STUDIES
CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (CSIS)

Murray Hiebert serves as senior fellow and deputy director of the Sumitro Chair for Southeast Asia Studies at the Center for Strategic and International Studies (CSIS) in Washington, D.C. Prior to joining CSIS, he was senior director for Southeast Asia at the U.S. Chamber of Commerce, where he worked to promote trade and investment opportunities between the United States and Asia. Mr. Hiebert joined the U.S. Chamber from the Wall Street Journal's China bureau, where he covered trade issues. Prior to his posting to Beijing, he worked for the Wall Street Journal Asia and the Far Eastern Economic Review in Washington, reporting on U.S.-Asia relations. From 1995 to 1999, he was based in Kuala Lumpur for the Far Eastern Economic Review. He covered the Asian financial crisis and also reported on developments in Singapore.

COMMON ECONOMIC INTERESTS COULD DRIVE COOPERATION IN THE SOUTH CHINA SEA

Shared economic interests in fishing and hydrocarbons could provide opportunities for the disputing parties in the South China Sea to cooperate and help reduce tensions in the region.

There are two regional examples of fisheries management agreements that could be expanded to reduce the chances for a conflict resulting from a fishing dispute: an agreement between Vietnam and China in 1994 and the Southeast Asia Fisheries Development Council. The scope and coverage of these measures could be expanded and their role bolstered to reduce the danger that a fishing dispute could provoke military conflict in the South China Sea.

Asia has also witnessed a number of joint developments in recent decades that helped countries manage petroleum

resources without compromising their claims. But exploitation of hydrocarbons is costly, so the lack of political and legal certainty in disputed areas of the South China Sea is a major disincentive for joint development. Disputing countries could decide to share their expertise and their sovereign rights in areas with overlapping claims.

In the South China Sea, there is a lack of clarity on the nature and extent of maritime claims which would be necessary for joint development to take place and there is a lack of trust between China and Southeast Asian claimants which would be necessary for joint development. As a result, joint development appears to be a non-starter in the current environment and likely will not be possible as long as claimants are unable to put aside conflicting claims and sovereignty issues.

ABSTRACT

Economic Factors: Can Common Interests Drive Regional Cooperation?



WENDELL SANFORD

FORMER DIRECTOR, CRIMINAL, SECURITY AND DIPLOMATIC LAW DIVISION
FOREIGN AFFAIRS, TRADE AND DEVELOPMENT CANADA, GOVERNMENT OF CANADA

During Mr. Sanford's 35 year career in the Canadian Foreign Service he has had extensive involvement with South China Sea issues. In 1980 - 83 he was posted to Bangkok during the "Boat People" refugee crisis and the creation of the Southeast Asian Program for Ocean Law and Management (SEAPOL). While on an exchange assignment within the New Zealand Foreign Ministry (1996-98) he led a team which began the negotiations to create the Western and Central Pacific Fisheries Convention and returned to Chair the WCPFC Technical Committee while it drafted its regulatory framework (2006 - 2010). Mr Sanford was High Commissioner to Brunei (2008 - 2011) during the period when a critical bilateral boundary agreement was entered into with Malaysia and while Canadian oil firms were drilling onshore in Brunei. At Foreign Affairs Headquarters in Ottawa Mr. Sanford was legal officer on Canada's Law of the Sea Prepcom delegation (1985 - 86) negotiating deep seabed mining issues. He was also Deputy in the Office of the Ambassador for Fisheries Conservation during the High Seas Fisheries Treaty negotiations (1992 - 94). He was Director of Oceans and Environmental Law from 2006 - 2008.

ARE THERE ANY ECONOMIC FACTORS WHICH MIGHT LESSEN CONFRONTATION IN THE SOUTH CHINA SEA?

The South China Sea connects eight of the busiest ports in the world. More oil passes through the South China Seas choke-points (Mallaca, Singapore, Lombok and Sunda straits) than anywhere other than the Strait of Hormuz. The presentation will examine whether there are changes in trade patterns and opportunities for economic cooperation. Hydrocarbon exploration has been the major flash point

in recent years. Is there any economic incentive in the new "cheap oil" world to cooperate and lesson tensions? Finally fisheries have always been the major maritime interest in the South China Sea; do fisheries organizations exist, or could they be created, which would improve both the economic and political situation in the region?

ABSTRACT

XINYUE ZHANG

ASSISTANT RESEARCH FELLOW, NATIONAL INSTITUTE FOR SOUTH CHINA SEA STUDIES (NISCSS)

Xinyue Zhang received a M.A. degree in politics and contemporary history from the University of Nottingham. Her research interests include China's maritime history, maritime policy, international law concerning territorial acquisition, and international relations in the Asia-Pacific. As a young scholar, she has contributed in several national-level research projects.

Before joining the National Institute for South China Sea Studies in late 2012, she had served in the Foreign Affairs Office of Hainan Province for 9 years.



CHINA-ASEAN RELATIONS: ECONOMIC COMMONALITY AND COOPERATION

ABSTRACT

Economic cooperation within disputes is possible. Despite divergent national interests, economic commonality is playing an essential role in stimulating cooperation between China and ASEAN countries. By focusing on bilateral trade and investment, this paper argues for this assumption by placing China-ASEAN relations in a long-term political context. Enhanced economic cooperation may encourage political cooperation and bilateral confidence and vice versa. Such a working mechanism may bring possibilities to the practice of joint development exercises in the South China Sea.

14:45

Panel 4

Reconciling the Interests of Coastal States and User States: Policy Options



GRAHAM SHANTZ

Chair

DIRECTOR GENERAL, NORTH ASIA BUREAU
FOREIGN AFFAIRS, TRADE AND DEVELOPMENT CANADA, GOVERNMENT OF CANADA

Graham Shantz joined Canada's Department of External Affairs and International Trade in 1990. He has held various positions at the Department's headquarters, such as Acting Assistant Deputy Minister, Policy and Strategic Planning Branch; Director General, Policy Planning Bureau; Chief Negotiator for Canada's Foreign Investment Promotion and Protection Agreements; and Deputy Director, Investment Trade Policy Division.

Mr. Shantz served as Canadian Ambassador to Spain and Andorra from 2009 to 2012.

In Ottawa, Mr. Shantz has held management positions with the Privy Council Office and the Department of Finance Canada, and has served with the Canadian International Development Agency. He currently sits on the Board of Directors of the Asia Pacific Foundation of Canada and also sits on the Board of Directors of the Canada China Business Council.



FU-KUO LIU

EXECUTIVE DIRECTOR, MCSS CENTER FOR SECURITY STUDIES, TAIWAN CHENGCHI UNIVERSITY

Dr. Fu-Kuo Liu is Research Fellow at the Institute of International Relations (IIR), National Chengchi University, Taiwan and Professor at the International Doctorate Program in Asia Pacific Studies (IDAS), College of Social Science, National Chengchi University. He is also the Executive Director of the Center for Security Studies. He currently serves as the editor of *Strategic & Security Analyses* (monthly published in Chinese) and *Strategic Vision* (bimonthly) at IIR.

Dr. Liu was Chairman of Research Division of American and European Studies, IIR; Chairman of the Research and Planning Committee at the Ministry of Foreign Affairs, ROC; and consultative adviser of the Mainland Affairs Council, ROC. His research focuses on Asia Pacific security, Asian regionalism, national security and the South China Sea, US strategy in Asia, and Taiwan foreign and security policy. He received a PhD in Politics from the University of Hull, the United Kingdom.

RECONCILIATION OF MARITIME INTEREST: THE US AND CHINA IN THE SOUTH CHINA SEA

Over the last two decades, the United States and others have closely watched the rise of China especially in the maritime domain. Ever since the turn of new century, the US and China have engaged in disagreement on what specific rights coastal states and user states should have according to UNCLOS. In April 2001, the EP3 Hainan Incident showed an explicit difference between the US and China on interpretation of UNCLOS' freedom of navigation and overflight in EEZ. In 2009, the Impeccable case which occurred near the Hainan Island once gain stroke the nerve of the US and China's different argument on maritime rights in EEZ. After China conducted land reclamation over seven reefs in the Spratly Islands, the

US in October 2015 sent military airplanes and ships into Chinese alleged "territorial sea" of those artificial islands. Tension in the region jeopardizes stability.

Although many of comments highlighted the legality of coastal states vs. user states, the real point of debate now is more to do with power politics in the sea. This paper is to examine whether the US and China would be able to reconcile their maritime interests. As such, disputes over rights of military vessels in EEZ and certain rights of extended islands would have to be reconciled through political dialogue.

ABSTRACT



SUKJOON YOON

SENIOR RESEARCH FELLOW, KOREA INSTITUTE FOR MARITIME STRATEGY (KIMS);
FORMER NAVY CAPTAIN

Dr. Sukjoon Yoon is a member of the executive research committee of the SLOC Study Group-Korea and a member of advisory committee of the Korea National Diplomatic Academy (KNDA). His more than thirty years of commissioned service included thirteen years at sea as surface warfare officer and several command and staff appointments. He holds a PhD in international politics from Bristol University, UK. His recent works include: Sukjoon Yoon, "Maritime Asia: South Korean Perspective," in Geoffrey Till, ed. al., *The Changing Maritime Scene in Asia: Rising Tensions and Future Strategy Stability* (London: Routledge, forthcoming, 20015); Sukjoon Yoon, "The Abe Statement: A Korean Perspective" *The Diplomat*, August 25, 2015; and Sukjoon Yoon, "China's WW2 Victory Parade: Why Park is Attending?" *RSIS Commentary*, No. 185, 28 August 2015;

THE URGENT NEED FOR MARITIME PARTNERSHIP BETWEEN COASTAL STATES AND USER STATES

ABSTRACT

Maritime security in the Asia-Pacific region depends on finding a way to cope with the long-standing prejudices and distrust which pervade the region. An intelligent approach to the region's security must establish comprehensive maritime partnerships between the coastal states and user states. The concept of Asia-Pacific Region Maritime Confidence Security Building Measures (APR-MCSBM) is the best approach available, with the primary aims being to maintain freedom of navigation, the free flow of commerce, and international law. There are several reasons to be optimistic about APR-MCSBM. First, despite the military posturing in the region, there is no appetite for a serious military confrontation. Moreover, regional states wish to discover a practical means of preserving stability in the disputed seas. Crucially, no country wants to

see regional trade and economic relations damaged by crises. Only by including more countries whose economies and interests depend upon balance in the Asia-Pacific can feasible solutions be found. Coastal states and user states must take a step back from narrow and outdated perceptions of national core interests to take account of the undeniable fact that they are mutually interdependent. This is not to understate the difficulty of mitigating deeply entrenched policy positions among parties long polarized by intractable differences and misunderstandings. A more cooperative mindset is required, and the benefits of the APR-MCSBM approach need to be more widely acknowledged throughout the region. There is simply no alternative for building consensus and stabilizing the regional maritime security environment.

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Marius Grinius joined the Canadian Foreign Service in 1979 after serving 12 years in the Canadian Army. He was Ambassador to Vietnam (1997-99), to the Republic of Korea (2004-07) and to the Democratic People's Republic of Korea (concurrent 2005-07). He also served as Ambassador and Permanent Representative to the United Nations and the Conference on Disarmament in Geneva (2007-11).

Marius' Ottawa assignments at Foreign Affairs included desk officer for nuclear arms control and Director for Southeast Asia. Later he had two tours in the Privy Council Office (Social Policy Development and Security and Intelligence). In 2011-12 Marius was seconded to the Department of National Defence as Director-General International Security Policy.



OLD THINKING PREVAILS IN A NEW ASIA

ABSTRACT

The "Asia Paradox" refers to the ironic situation whereby, despite Asia's growing economic interdependence, the level of political and security cooperation remains low. Despite incentives to encourage even greater prosperity within a predictable and peaceful environment, potential military conflict could jeopardize Asia's economic successes. While maritime security remains a sub-set of Asia's security challenges that are based on historic strife, religious and ethnic turmoil and national geopolitical ambitions, maritime security challenges in the South China Sea and elsewhere in Asia need to be resolved before they descend into military conflict. That "gunboat diplomacy" is still required to make a point about freedom of navigation in the South China Sea is a manifestation of the failure to reach clear codes of

acceptable maritime conduct. That some key Asian states perceive a need for military alliances, that references need to be made to old ideas of "balance of power" and "spheres of influence" or unclear notions of "undisputed sovereignty", would indicate that much needs to be addressed beyond the reconciliation of interests between coastal and user states. Besides the classic military sense, maritime security should also encompass transnational crime, including narcotics trafficking and human smuggling, trans-boundary migration, religious and ethnic strife, piracy, secessionist movements, terrorism, cyber-attacks and human rights violations. If States can agree to cooperate to address these issues, perhaps they will also have the confidence to resolve other long-term security challenges.



KAZUMINE AKIMOTO

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Rear Admiral Kazumine Akimoto's service career began in 1967, when he joined the JMSDF. After completing the Command and Staff Course at the Maritime Staff College, he held several positions in the Maritime Staff Office (MSO) and the Operation Evaluation Office. Positions held include: Liaison staff with Patrol and Reconnaissance Force US 7th Fleet; Head, Flight Research and Development Division VX 51; Chief, Intelligence Section of the MSO Intelligence Department; Chief of Staff, Fleet Air Wing. Rear Admiral Kazumine Akimoto became a senior researcher at the National Institute for Defense Studies at the Japan Defense Agency (Ministry of Defense) in 1995. He retired from JMSDF and resigned from the National Institute for Defense Studies in 2000. Rear Admiral Kazumine Akimoto's field of study is maritime security and naval strategy.

RECONCILIATION OF THE DIFFERENT INTERESTS OVER MILITARY AND INTELLIGENCE GATHERING ACTIVITIES IN FOREIGN EEZS

Most maritime space in Asia is claimed by regional states as their EEZs. There are frequent disputes over interpretation and application of the articles of UNCLOS related to navigation freedom and limitations. To avoid accidental armed conflict, some regional or sub-regional agreement or arrangement, even memorandum on activities in foreign countries' EEZs, should be discussed and applied among related nations. Because of the possibility of armed conflict, the most important aspect is military and intelligence gathering activities in foreign EEZs.

The Ocean Policy Research Foundation organized a series of international conferences from 2003 to 2005 inviting experts and published a proposal entitled Guidelines for Navigation and Overflight in the Exclusive Economic Zone. These Guidelines were met with some criticism due to concern that

they unduly restricted freedom of navigation and overflight available in an EEZ. As consequence, the Guidelines have not been discussed or endorsed by any regional inter-governmental forum.

Considering six years have elapsed since the Guidelines were published and the security environment of the seas in East Asia has drastically changed, OPRF organized a two year study project for reviewing the Guidelines in the year 2012 and 2013. As a result, Principles for Building Confidence and Security in the Exclusive Economic Zones of the Asia-Pacific was drawn up by the participants of the project, and largely focused on military activities and maritime surveillance. It is proposed that the Asian states consider drawing up a regional memorandum similar to the Principles.

ABOUT CIUA



CHINA
INSTITUTE



UNIVERSITY OF
ALBERTA

The China Institute at the University of Alberta (CIUA) was established in the fall of 2005 with an endowment fund of C\$37 million from the Government of Alberta. The endowment matched the appraised value of The Mactaggart Art Collection, donated to the University of Alberta Museums by local philanthropists Sandy and Cécile Mactaggart, under an agreement by the University that the funds so obtained would be used to create the China Institute, dedicated to enhancing understanding between Canada and China.

CIUA's mission is to promote scholarship at the University of Alberta, to enhance and support new research and teaching activities between Canada and China, and to promote cultural, scientific, and business exchanges.

CIUA's vision is to become known in China and internationally as a unique Canadian enterprise that stimulates outstanding China-related teaching and research initiatives and interdisciplinary collaboration. Spanning a wide range of disciplines, the Institute encourages the participation of undergraduate and graduate students, post-doctoral fellows, staff, and faculty from the University of Alberta and Chinese institutions.

CIUA works with its campus partners to promote China-related activities at the University of Alberta. Current research focus of the China Institute is on the rapidly evolving role of China in trade, energy, investment and foreign affairs in Canada, China, and in third countries. Particular focus is placed on Canada-China relations.

The major areas of activities include: seminars and lecture series on a variety of topics related to modern China's economics, diplomacy and history; scholarly exchange program; research on Chinese politics, economy, society and energy. Recent conferences organized by the China Institute include: the Public Policy Dimensions of Chinese Investment in Canada, Maritime Security Issues in the South China Sea and the Arctic and China and Canada in Africa.

ABOUT NISCSS



Located at the Jiangdong New District of Haikou City, the National Institute for South China Sea Studies (NISCSS) specializes in research on issues of the South China Sea (SCS). The NISCSS has come a long way since its founding as the Hainan Research Institute of South China Sea (HRISCS) in 1996. In July, 2004, the HRISCS was upgraded to the national level, changing its name to the National Institute for South China Sea Studies.

After nearly 20 years of exploration and development, the NISCSS has formed a systematic scope of research, including the strategy of the SCS; the geopolitics of the SCS; international law and the SCS disputes; peaceful settlement of the Spratly Islands dispute; resource development and environmental protection in the SCS; strategies, institutions and mechanisms for developing maritime economy, and the building of the maritime silk road in the 21st century.

The NISCSS is composed of six sectors: Research Centre for Oceans Law and Policy; Research Centre for Maritime Economy; Research Centre for Marine Science; Research Centre for Maritime Silk Road; Division of International Exchanges (including the 2013 established Beijing Office) and Administrative Office, with over seventy staff members and fifteen part-time senior research fellows from around the world.

The NISCSS has made great strides in academic research establishing cooperation with nearly one hundred think-tanks from over twenty countries and regions. Each year the research staff offers several hundred papers in Chinese or English and reports on policy recommendations. It has also established a series of famous academic projects, including Digital South China Sea, Professional Database on SCS Documents and Assessment Report on the Situation in the South China Sea. The NISCSS hosts a number of SCS-related academic conferences, including the Cross-Strait Forum on the South China Sea Issue and South China Sea-themed Sub-forum of Boao Forum for Asia. Today, the NISCSS has become an important base and think tank in South China Sea studies in China.

ABOUT ICAS

The logo for the Institute for China-America Studies (ICAS) features the letters "ICAS" in a white, serif font, centered within a dark blue rectangular background.

The Institute for China-America Studies (ICAS) is an independent, non-profit academic institution launched by the Hainan Nanhai Research Foundation. As a think tank based in Washington D.C., ICAS aims to facilitate better interaction and exchange between China and the United States by carrying out academic research projects and activities and strengthening dialogue with American universities, research institutions and the media as well as private and governmental organizations. ICAS seeks to act as a bridge between China and the U.S. to enhance mutual understanding and communication as the two countries advance their relationship, contribute to the well-being of people from both countries, and promote peace and stability in the Asia-Pacific.

The full name of the organization, "Institute for China-America Studies", is displayed in a white serif font on a dark blue background. The words "China-America" are highlighted in a red color.



CHINA
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NHSCS
中国南海研究院
National Institute for South China Sea Studies

Institute for **China-America** Studies

