

4th Asia Maritime Security Forum

REVISITING AND INNOVATING MARITIME SECURITY ORDER IN THE ASIA-PACIFIC

November 2–4, 2016
Nanjing, China





Co-organized by:



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Wednesday November 2, 2016

18:30	WELCOME DINNER
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Forum Agenda

Thursday November 3, 2016

8:00	REGISTRATION
8:40	WELCOMING REMARKS Representative of Nanjing University Leaders ZHU Feng , China Center for Collaborative Studies of the South China Sea, Nanjing University, China Gordon HOULDEN , China Institute, University of Alberta, Canada
9:10	KEYNOTE ADDRESS WU Shicun , National Institute for South China Sea Studies, China
9:15	PANEL I: GEOPOLITICAL SITUATION AND SECURITY CHALLENGES Chair: WU Shicun , National Institute for South China Sea Studies, China Brett WITTHOEFT , Maritime Forces Pacific Department of National Defence, Government of Canada, Canada GAO Xiang , Ocean Policy Research Institute, The Sasakawa Peace Foundation, Japan Rommel C. BANLAOI , Philippine Institute for Peace, Violence and Terrorism Research, the Philippines Sourabh GUPTA , Institute for China-America Studies, United States
10:45	HEALTH BREAK

Thursday November 3, 2016

11:00	PANEL II: ROLE OF INTERNATIONAL LAW IN MARITIME DISPUTE SETTLEMENT Chair: Gordon HOULDEN, China Institute, University of Alberta, Canada Etty R. AGOES, Universitas Padjadjaran, Indonesia Phillip SAUNDERS, Schulich School of Law, Dalhousie University, Canada Michael Sheng-ti GAU, Institute of the Law of the Sea, Taiwan Ocean University HONG Nong, Institute for China-America Studies, United States; China Institute, University of Alberta, Canada ZHENG Zhihua, Joint Institute for Maritime Law and History at East China University of Political Science and Law, China
12:30	LUNCH
13:30	PANEL III: FUNCTIONAL COOPERATION Chair: ZOU Keyuan, Lancashire Law School, University of Central Lancashire, United Kingdom Aldo CHIRCOP, Faculty of Law, Dalhousie University, Canada Sorajak KASEMSUVAN, Asian Peace and Conciliation Council, Thailand David ARASE, Hopkins-Nanjing Center, Nanjing University, China ZOU Xinqing, School of Geographic and Oceanographic Sciences, Nanjing University, China LI Linqun, China Center for Collaborative Studies of the South China Sea, Nanjing University, China
15:00	HEALTH BREAK
15:15	PANEL IV: AFTER THE ARBITRATION RULING: HOW WE CAN MOVE ON Chair: ZHU Feng, China Center for Collaborative Studies of the South China Sea, Nanjing University, China Wendell SANFORD, Oceans and Environmental Law, Foreign Affairs Canada, Canada LIU Fu-Kuo, Institute of International Relations, Taiwan Chengchi University YU Tiejun, School of International Studies, Peking University, China LI Mingjiang, S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore Jennifer HSU, Department of Political Science, University of Alberta, Canada
17:00	WRAP UP
18:30	DINNER

Friday November 4, 2016

9:00	ROUNDTABLE DISCUSSION: POLICY PROPOSALS ZHU Feng, China Center for Collaborative Studies of the South China Sea, Nanjing University, China Gordon HOULDEN, China Institute, University of Alberta, Canada
11:30	CLOSING REMARKS WU Shicun, National Institute for South China Sea Studies, China Phillip SAUNDERS, Faculty of Law, Dalhousie University, Canada Gordon HOULDEN, China Institute, University of Alberta, Canada ZHU Feng, China Center for Collaborative Studies of the South China Sea, Nanjing University, China

Chair Biographies (in alphabetical order)



Gordon HOULDEN

Director, China Institute, University of Alberta, Canada



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.

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. During

his time as CIUA's Director, he served as a Board Member for the Province of Alberta Asia Pacific Advisory Council (2012-2014) and Governor and Human Resources Committee Chair for the International Development Research Centre's (2013-2016).

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.

WU Shicun

President, National Institute for South China Sea Studies, China



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).

ZHU Feng

Executive Director, China Center for Collaborative Studies of the South China Sea,
Nanjing University, China

Zhu Feng 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, China-US military and diplomatic relations. As a leading Chinese security expert, Professor Zhu's recent book includes *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 Prof. G. John Ikenbery

and Prof. Wang jisi, MacMillan, 2014). He sits on a couple of editorial boards of scholarly journals, consults independently for the Chinese government and the private sector, and comments frequently on television and radio and in the print media on Chinese foreign affairs and security policy. Professor Zhu began his undergraduate studies at the Department of International Politics at Peking University in 1981 and received his Ph.D. from Peking University in 1991.



ZOU Keyuan

Harris Professor of International Law, Lancashire Law School,
University of Central Lancashire, United Kingdom



Zou Keyuan is Harris Professor of International Law at the Lancashire Law School of the University of Central Lancashire, United Kingdom. He specialises in international law and Chinese law.

He has published about 50 peer reviewed English papers in more than 20 international journals including Asian Yearbook of International Law, Asia-Pacific Journal of Environmental Law, Chinese Journal of International Law, Columbia Journal of International Affairs, Criminal Law Forum, International Journal of Marine and Coastal Law, International Lawyer, Journal of Environmental

Law, Journal of International Maritime Law, Journal of International Wildlife Law and Policy, Journal of Maritime Law and Commerce, Lloyd's Maritime and Commercial Law Quarterly, Marine Policy, Maritime Policy and Management, Netherlands International Law Review, Ocean Development and International Law, Ocean Yearbook, Singapore Journal of International and Comparative Law, and Yearbook Law and Legal Practice in East Asia.

Speaker

Biographies & Abstracts (in alphabetical order)



Etty R. AGOES

Professor of International Law, Universitas Padjadjaran, Indonesia



Dr. Agoes who is member participant at the UN General Experts Meeting on Marine Scientific Research (since 2009) started her career by being a lecturer at the Faculty of Law, Universitas Padjadjaran in 1974. Then she became Director of the Indonesian Center for the Law of the Sea and Marine Affairs (ICLOS) of the faculty in 1986. From 1989-2000 she served as Executive Director of the Center of Archipelago, Law and Development Studies (PSWN).

Settlement of Disputes under International Law : the Indonesian Experience

Article 279. of the 1982 United Nations Convention on the Law of the Sea put upon States the obligation to settle disputes between them concerning the interpretation or application of the Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter, i.e. through negotiation, inquiries, mediation, conciliation, arbitration, exchange of views between the parties or judicial settlement. In the early 1990s Indonesia and Malaysia were locked in a long- running dispute over the ownership of two tiny islands of Sipadan and Ligitan in the Sulawesi Sea. The dispute originated

in 1969 when the two countries were negotiating to delimit the boundary of their continental shelf. The dispute arose when the two countries could not agree on the sovereignty of the two islands. At the early stage of the dispute, the two countries tried to avoid settlement of disputes through adjudication by carrying it out through direct bilateral negotiations. However after years of negotiations, the two sides were unable to come into any agreement. It was then they decided to bring the dispute before the ICJ. It can be said that the settlement of disputes through the ICJ was very much new as far as maritime security governance in Southeast Asia was concerned.

David ARASE

Professor of International Politics, Hopkins-Nanjing Center, Nanjing University, China

Before joining the Hopkins-Nanjing Center in 2011, Dr. Arase was Professor of Politics at Pomona College in Claremont, CA. In the past three years, in addition to teaching at HNC, he has been a visiting research fellow at the National Institute for Defense Studies in Tokyo and the Yusof Ishak Institute of Southeast Asian Studies in Singapore. He has published four books and many articles and commentaries on East Asian politics and international relations. His most recent book (co-edited with T. Akaha), *The US-Japan alliance: balancing soft and hard power in East Asia* (Nissan Institute/Routledge, 2010), was awarded the 2011 Ohira Memorial Foundation Special Prize. Forthcoming in Spring 2017 is another edited volume, *China's Rise and East Asian Order* (Palgrave), and a single authored book on China's prospects for predominance in Eurasia is under contract with Palgrave.



Getting from win-lose to win-win in the South China Sea: Advancing functional cooperation under conditions of zero-sum conflict

The start of functional cooperation among parties trying to manage zero-sum conflicts, if it leads to frustration and failure, may exacerbate rather than ameliorate the conflict that these parties are experiencing. For functional cooperation to be helpful in moving a conflict situation toward stability, it must be approached strategically, both in terms of preparation and the nature of proposed cooperation. This paper

presents a few general principles useful for thinking about functional cooperation in the South China Sea. The discussion then moves on to functional areas and modes of cooperation that could be seriously considered and concludes with a discussion of what should be cautiously avoided for the time being.

Rommel C. BANLAOI

Chairman, Philippine Institute for Peace, Violence and Terrorism Research, the Philippines



Rommel C. Banlaoi, PhD, is the Chairman of the Board of the Philippine Institute for Peace, Violence and Terrorism Research (PIPVTR) and Director of its Center for Intelligence and National Security Studies (CINSS). He is currently a Senior Lecturer at the Department of International Studies, Miriam College and currently the Vice President of the Philippine Association for Chinese Studies (PACS). Because of his contribution to peace research and national security education, he received the Philippine Peace Prize Award in 2011. He also received the “Kahanga-hangang Pilipino (Outstanding Filipino)” Award in December 2012 for his contribution to national security studies, peace research and local government capacity building. On 18 February 2016, he was awarded for Outstanding Contribution to Humanitarian and Social Cause at the World Corporate Social Responsibility (CSR) Congress held in Mumbai, India.

Post-Arbitration Geopolitical Situation in the South China Sea: Security Implications and Policy Options for the Duterte Administration

Despite its legal victory, the Philippine government continues to face its lingering security dilemma in the South China Sea. This is attributed to the fact that the problem in the South China Sea is not only legal. The tribunal decision has tremendous security implications not only for the Philippines and China but also for other claimants and even non-claimants, as well, in the South China Sea. This paper examines the security aspect of the post-arbitration geopolitical situation in the South China Sea. It describes the current security policy approach of the new Philippine administration under President Rodrigo Roa Duterte, particularly

its reading of the current and emerging security environment in the South China Sea. This paper also examines the security implications of the arbitration award for the Philippines by identifying key security issues that the Philippines needs to address, and the new security dilemma that it needs to overcome, under the present situation. Finally, this paper describes the policy options of the Duterte government to ameliorate the Philippines' security dilemma in the post-arbitration security environment in the South China Sea.

Aldo CHIRCOP

Professor, Faculty of Law; Research Fellow, Centre for Foreign Policy Studies,
Dalhousie University, Canada

Aldo Chircop, JSD, is Professor of Law and Canada Research Chair in Maritime Law and Policy at the Schulich School of Law, and Research Fellow at the Centre for Foreign Policy Studies, Dalhousie University, Halifax, Nova Scotia, Canada. He was previously Chair in Marine Environment Protection at the International Maritime Organization's World Maritime University in Malmö, Sweden. Professor Chircop's teaching and research interests are in the fields of Canadian and international maritime law, international law of the sea, regulation of Arctic shipping, and comparative coastal and ocean law and policy. He is a member of the Nova Scotia bar.



Maritime Cooperation in the South China Sea: Promoting Core Interests and Common Pursuits

With over a trillion dollars in annual international maritime trade, international navigation is arguably one of the most important uses of the South China Sea. It is critical to the well-being of both of the region's coastal States and the international community. International shipping produces economic benefits, but also necessitates a wide range of services and produces environmental impacts. It is important for services and regulation to be undertaken in an efficient manner to avoid unnecessary disruption. Moreover, because shipping is the most globalized industry, it requires

effective cooperation at both global and regional levels.

While there is currently substantial global and regional cooperation of benefit to the South China Sea, such as in the areas of port State control inspections, routing measures and search and rescue, there is room for further cooperation at the regional and sub-regional levels. The presentation discusses the status of present maritime cooperation at various levels and explores possible scaling-up of regional cooperation in maritime safety and environment protection.

GAO Xiang

Research Fellow, Ocean Policy Research Institute, The Sasakawa Peace Foundation, Japan



Dr. Gao Xiang is a research fellow of the Ocean Policy Research Institute (OPRI), Sasakawa Peace Foundation (SPF). She received her PhD in international public policy at Osaka University. Dr. Gao specializes in China's ocean policy, Chinese foreign policy and security Policy. At OPRI, she is currently undertaking the program of promotion on the maritime security exchange, the Arctic governance program and the integrated coastal management program. Her recent research interests are in the area of ocean governance in East Asia, with a focus on the construction of a regional cooperation framework; and Japan's basic plan on ocean policy.

Japan's Defense Capacity Building Assistance: A New Effort of Engagement towards ASEAN Countries

Since 2012, Japan's Ministry of Defense (JMOD) started its foreign capacity building assistance (CBA) program with the goal of creating a stable regional and global security environment. The background and reason of the start of the CBA program is due to the increasingly complex security environment in the South China Sea. First, over the past few years the coastal states of ASEAN have been calling for Japan's assistance in the areas of humanitarian assistance, disaster relief, and maritime security for its own capacity building. Second, China's rapid procurement on its maritime power makes a gap between the China Coast Guard and the PLA Navy and Air Force on the one hand and ASEAN countries on the other hand. Third,

at the same time, Japan desires to maintain a favorable balance of power in the South China Sea by itself or through bilateral and multilateral channels. Japan worries not only about the sea-lanes, which are vital for the Japanese economy, but also about the Chinese behavior, on the South China Sea dispute, between China and ASEAN, which could serve as prototypes for dealing with maritime disputes with Japan in the East China Sea. As a consequence, helping to build ASEAN's maritime security capacity is being emphasized by the Japanese government as a balancing act to China. Above all, Japan's engagement towards ASEAN countries is now being formulated in line with a regional security-oriented approach.

Michael Sheng-ti GAU

Professor, Institute of the Law of the Sea, Taiwan Ocean University

Prof. Michael Sheng-ti Gau has degrees of LL.B. (Taiwan University), LL.M. (Cambridge), LL.M. (KCL), and Ph.D. (Leiden) all specialized in public international law. He is teaching at Institute of Law of the Sea in Taiwan Ocean University. Professor Gau has been legal advisor for and commissioned by Ministry of the Interior, Fishery Agency of Council of Agriculture, Ministry of Economics, Ministry of Health, and Ministry of Foreign Affairs on numerous research projects on law of the sea legal issues, negotiations in Regional Fisheries Management Organizations like ICCAT, SPRFMO and WCPFC, as well as WTO fishery subsidies negotiations, and Taiwan's participation in IGOs like ICAO, OIE, WHO etc.

Reflections on the Legal Effects of the South China Sea Arbitration: With Special Reference to its Jurisdictional Rulings

On 22 January 2013 the Philippines initiated an arbitration against China under Part XV of and Annex VII to the 1982 United Nations Convention on the Law of the Sea. The goal of this arbitration, as said by the Philippines, was to seek a peaceful and durable resolution of its disputes with China in the West Philippine Sea through narrowing their disputes and reducing tensions. The targets under challenge were China's claims, maritime entitlements, land reclamation, enforcement actions and omissions within WPS claimed by the Philippines as its (but not China's) Exclusive Economic Zone and continental shelf. On 29 October 2015, the Permanent Court of Arbitration,

the Registry of this arbitration, released the "Award on Jurisdiction and Admissibility" (JA). JA allowed the Tribunal to entertain all Philippine Submissions in the merits phase. Finally, the Tribunal delivered the Award on the remaining issues of Jurisdiction and Admissibility as well as the Merits (MA) on 12 July 2016. The Tribunal's rulings on the merits were almost completely in Philippine favor. MA may create restraining impacts upon China's future South China Sea (SCS) policies and behaviors. Rejecting MA, China is expected to produce its legal response in due course. Examination of MA may become a hot topic as long as SCS confrontations continue.



Sourabh GUPTA

Senior Fellow, Institute for China-America Studies, United States



Sourabh Gupta is a specialist in the international relations of the Asia-Pacific. His areas of expertise include: analysis of key major power relationships in the Asia-Pacific region (China-U.S, China-Japan, China-India, U.S.-Japan, U.S.-India, Japan-India relations); political, security, and economic risk evaluation of key states in the Asia-Pacific region; and territorial disputes and maritime law-related developments in the Asia-Pacific region. His most recent study is an analysis of China's U-shaped line titled *The Nine Dash Line as a Possible 'Historic Rights' Line and its Basis in International Law*. He is a member of the United States Council for Security Cooperation in the Asia-Pacific (USCSCAP).

Reconciling Politics and Law in the Post-UNCLOS Order: Balancing interests and claims in the East and South China Sea

The disputes in the East and South China Sea are an illustrative example of 'Asia's paradox' – the disconnect between the region's growing economic interdependence on the one hand, and the relative lack of political-security cooperation on the other. The disputes have their provenance in the unfulfilled territorial provisions of the post-war San Francisco Treaty and the Republic of China-Japan Treaty of Taipei. UNCLOS' founding agnosticism to determining competing claims over land territory while at the same time basing permissible maritime claims on the 'land dominates the sea' principle has exacerbated, both, the sovereignty and sovereign rights and jurisdiction disputes in this body of water rife with territorial disputes. Further, the post-UNCLOS maritime order has privileged a legal-technical

approach to overlapping claims redressal which has gone against the grain of the win-win political approach to dispute management and resolution that had characterized the region's earlier international relations. The recent body of case law rendered by arbitral tribunals constituted under UNCLOS' dispute settlement chapter has added elements of, both, predictability and unpredictability to the interpretation of user State rights and coastal State responsibilities in a variety of functional areas. As such, the littoral States of the East and South China Sea – while paying due regard to this body of law - would be better off seeking win-win political approaches that prioritize their common political interest in managing and exploiting the resources of the sea in areas where their claims to jurisdiction overlap.

HONG Nong

Executive Director, Institute for China-America Studies, United States;
Senior Research Fellow, China Institute, University of Alberta, Canada

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 China Institute, 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).



The Role of UNCLOS in Maritime Dispute Settlement: from Theory to Practice

This paper attempts to answer such questions as, will the arbitration case resolve the dispute between the Philippines and China; what is the political and legal consequence following this; what is the value and role of the UNCLOS in maritime dispute settlements in the South China Sea; and, in a broader sense, what is the legal implication for a range of questions with relevance to international law. Such questions include: What does the SCS arbitration mean for the legal order of the sea?

What does the SCS arbitration case imply for Article 298 of UNCLOS? What does the SCS arbitration case imply for the future development of the judicial bodies under Article 287 of UNCLOS? What does the SCS arbitration case imply for the compliance mechanism with regard to the Arbitral Tribunal under Annex 7 of UNCLOS?

Jennifer HSU

Assistant Professor, Department of Political Science, University of Alberta, Canada



Jennifer Hsu is an Assistant Professor in the Department of Political Science at the University of Alberta, Canada. Her research broadly covers state-society and state-NGO relations, and the internationalisation of Chinese NGOs. She has recently commenced a new research project looking at Chinese development assistance in Southeast Asia. She has published in various high-ranking journals including *Journal of Contemporary China*, *Progress in Development Studies*, *The China Quarterly*, *Third World Quarterly* and *Urban Studies*. Her recent publications include a co-authored book *HIV/AIDS in China – The Economic and Social Determinants* and a co-edited volume *NGO Governance and Management in China*. Her monograph: *State of Exchange: NGOs and the Chinese Government* with the University of British Columbia Press will be released in early 2017.

Understanding the Role of the State in Regional Dynamics

This paper will examine how domestic institutions, including the state have come to shape regional dynamics, with particular reference to China and Japan. The role of the state in economic development is one of the key reasons for domestic stability across East Asia. However, the state is a central actor in destabilising regional stability when it comes to regional maritime issues. Asian nations have increasingly relied on marine resources and access to sea lanes to support their economic and geopolitical expansions. Prevailing academic discourse looking at the behaviour of states suggests that a complex interdependence should increase interstate co-operation. Yet, relatively minor infringements on sovereignty and

territorial claims have seemingly increased the risk of military and diplomatic conflicts escalating in the East and South China Seas (ESCS). On the high seas, states weakly regulate transnational activities, or protect citizens and corporate interests. Both domestic and international non-state stakeholders have held substantial sway in the complex realities of maritime governance, often shaping interactions that pose policy challenges and generating new norms and practices that parallel the functions of national governments. Thus, in addition to considering the role of the state in regional dynamics, this paper will also reflect on the impact of non-state stakeholders in promoting regional co-operation.

Sorajak KASEMSUVAN

Council Member, Asian Peace and Conciliation Council, Thailand

Dr. Sorajak Kasemsuvan holds an LL.M. degree from the University College, University of London and a Ph.D. in international law from the London School of Economics and Political Science. After his graduation, he began his career in the Ministry of Foreign Affairs of Thailand and subsequently joined the Faculty of Law, Chulalongkorn University in Bangkok. He became Director-General of the Mass Communication Organization of Thailand (MCOT) between 1999-2002, a state enterprise that runs national TV and radio station nation-wide, where in 2012 he also returned to become its Chairman of the Board of Directors. He served as Thailand's Vice Minister for Foreign Affairs, Vice Minister for Culture and for the Prime Minister's Office between 2002-2006.



Functional Cooperation in the South China Sea

The APRC has advocated functional cooperation in the South China Sea as one of the way-outs in the South China Sea disputes. Functional Cooperation could be well arranged within the framework of the ASEAN Declaration on the Conducts of the Parties in the South China Sea (DOC) and in compliance with UNCLOS 1982. Functional Cooperation would be undertaken in parallel with maritime delimitation negotiations, while the countries and the people concerned can enjoy economic and social benefits pending any final agreement.

LI Lingqun

Research Fellow, China Center for Collaborative Studies of the South China Sea, Nanjing University, China



Dr. LI Lingqun is a research fellow of China Center for Collaborative Studies of the South China Sea at Nanjing University. Dr. Li obtained her Ph.D degree in Political Science from University of Delaware, USA. Her research interests include great-power relations in the South China Sea, maritime security in East and Southeast Asia, regional maritime cooperation in the South China Sea and other enclosed and semi-enclosed sea areas, and the development of domestic maritime governance system in China. She is currently heading a project funded by National Social Science Fund of China which compares maritime cooperation practices in the South China Sea with those in the Mediterranean Sea and the Baltic Sea in Europe.

Maritime Cooperation in the SCS in Areas of Low Sensitivity

This paper explores the condition, basis and prospect of maritime cooperation in areas of low sensitivity in the South China Sea. The paper consists of four parts. It first outlines a number of reasons why the region is now in urgent demand for greater commitment and more efforts in maritime cooperation. Also reviewed are several emerging factors favorable to the speed up of cooperation between China and ASEAN. The paper then identifies potential areas for cooperation between China and ASEAN countries, which may include marine environment protection, marine scientific research, fishery conservation and safety of navigation. These areas are chosen for their relatively low sensitivity and increasing demand

for regional cooperation. The paper goes on to examine the groundwork that has already been laid in each of the identified area, including legal frameworks and instruments, participants, and related programs, either terminated or still in operation. Finally, the author evaluates the achievements of existing cooperative practices in the region and explores the weaknesses and obstacles hampering regional maritime cooperation from making major impact and progress. Drawing from the experience and practices in other semi-enclosed sea areas such as the Mediterranean Sea and Baltic Sea, the author make some policy proposals about how to deepen maritime cooperation in the South China Sea.

LI Mingjiang

Associate Professor, S. Rajaratnam School of International Studies,
Nanyang Technological University, Singapore

Dr. LI Mingjiang is an Associate Professor at S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University, Singapore. He is also the Coordinator of the China Program at RSIS. He received his Ph.D. in Political Science from Boston University. His main research interests include China-ASEAN relations, Sino-U.S. relations, Asia-Pacific security, and domestic sources of Chinese foreign policy. He is the author (including editor and co-editor) of 12 books. His recent books are *New Dynamics in US-China Relations: Contending for the Asia Pacific* (lead editor, Routledge, 2014) and *Mao's China and the Sino-Soviet Split* (Routledge, 2012). Dr. Li frequently participates in various track-two events on East Asian regional security.



How Could ASEAN Countries and China Better Manage the South China Sea Issue?

There have been too many tensions and conflicts in the South China Sea in the past few years. All parties involved recognize, to varying degrees, that efforts should be made to mitigate the problem and stabilize the South China Sea. China and ASEAN have been engaged in co-managing the security situation in the South China Sea since the 1990s. But, there are now many new challenges for China-ASEAN interactions in the South China Sea issue. This presentation seeks to provide some ideas as to how the two parties could work together more effectively to further stabilize the situation and engage in cooperation in the region.

LIU Fu-Kuo

Research Fellow, Institute of International Relations, Taiwan Chengchi University



Fu-Kuo Liu is Research Fellow at the Institute of International Relations (IIR), Chengchi University, Taiwan and Professor at the International Doctorate Program in Asia Pacific Studies (IDAS), College of Social Science, Chengchi University. He is also the Executive Director of the Taiwan Center for Security Studies at Chengchi University. He leads the publication of a policy-oriented monthly and currently serves as chief editor of *Strategic & Security Analyses* (Monthly published in Chinese) and a bimonthly *Strategic Vision* at IIR. He is also the CEO of the Association for Emerging Market Studies in Taiwan. His research focuses on Asia Pacific security, Asian regionalism, national security and the South China Sea, peace process across the Taiwan Strait, US strategy in Asia, Asian maritime security, and foreign and security policy. He received a Ph.D. in Politics from the University of Hull, the United Kingdom.

The South China Sea Arbitration and Beyond: A Hopeful Diplomatic Course

After the arbitration tribunal of the South China Sea gave the final award on July 12, 2016, it formally wrapped up legal campaign on the South China Sea between the Philippines and China. The release of final award means the end of the arbitration procedure. It has however started political and diplomatic campaign among parties concerned. Since the arbitration award is simply a legal opinion and has its limited legal binding effect, it will not automatically take effect. It all depends on how related parties respond to it and whether they want to implement it. Although international legal perspective may have its points of binding effect,

real international politik does normally takes it otherwise.

A realistic approach suggests that parties concerned would count on diplomatic negotiation and dialogues to manage the South China Sea disputes. Since China completely rejects the arbitration, it would be realistic to seek for a diplomatic way other than pushing for implementing the course of arbitration. Lately, to break through political deadlock, the Philippines and China have resorted to diplomatic talks with positive notes. It may suggest a likely course to settle disputes for the region.

Wendell SANFORD

Former Director Oceans and Environmental Law, Foreign Affairs Canada, Canada

Throughout his 35 year diplomatic career Mr. Sanford has had extensive involvement with the South China Sea. He was posted in Bangkok (1980-83) during the “Boat People” refugee crisis and participated in the formation of the South East Asia Program for Ocean Law and Management (SEAPOL). While on exchange assignment with the New Zealand Ministry of Foreign Affairs (1996-98) he led a team which began the negotiations to create the Western and Central Pacific Fisheries Convention and returned to the WCPFC to Chair the Technical and Compliance Committee while it drafted its regulatory framework (2006 -10). Mr. Sanford was Canadian High Commissioner in Brunei (2008 - 11) during the period when a critical bilateral maritime boundary agreement was entered into with Malaysia. At Foreign Affairs Headquarters in Ottawa Mr Sanford was legal officer on Canada’s UNCLOS 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) and Director and Deputy Director of the International Oceans and Environmental Law division (2004-08).



Moving On - There Has to be a Living from the South China Sea

It will take time for the strategic situation to stabilize in the South China Sea following the settling of the legal dispute by the Hague Arbitration Tribunal. Nonetheless it has been my experience that the way forward among the littoral nations is to identify their shared economic interests and promote development in a manner which will have financial benefit for the countries and their people. The key economic opportunities lie with fisheries and hydrocarbons. In neither instance would the joint venture model readily apply as sovereignty is no longer in dispute.

However, fisheries arrangements can be made successfully as has been demonstrated in earlier disputes: Canada - US George’s Bank, Canada - EU Northwest Atlantic Fisheries Organization; and Pacific Forum States - Distant Water Fishing States in the Western and Central Pacific Fisheries Organization. Hydrocarbons will be more difficult to address unless China is prepared to acknowledge the benefit of secured supplies east of Mallaca and ASEAN states are prepared to commit significant exports to China in quantities and at prices which would have to be largely predetermined.

Phillip SAUNDERS

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Phillip M. Saunders, QC, Associate Professor, Schulich School of Law, Dalhousie University Director of the Marine and Environmental Law Institute. Dean of Law and Weldon Professor of Law, 2005-2010. Research Fellow at the Centre for Foreign Policy Studies. Teaching and research interests in international marine and environmental law, maritime boundary delimitation, tort law, and international fisheries law. Professor Saunders was formerly with the International Centre for Ocean Development, as Senior Policy Advisor and Field Representative, South Pacific, delivering ocean development programmes in the South Pacific, Caribbean and Indian Ocean. He has advised states law of the sea in the South Pacific, the Caribbean, the Indian Ocean, Southern Africa, Southeast Asia, South Asia, Central America and Russia, including the negotiation of maritime boundary agreements and the drafting of oil and gas legislation.

The Role of International Law and Maritime Dispute Settlement

The Award of the Annex VII Tribunal in the South China Sea Arbitration, coupled with the earlier ruling on jurisdiction and admissibility, raises issues as to the appropriate role of an arbitral tribunal under UNCLOS, and more generally with respect to the place of formal adjudication in the settlement of maritime disputes. Adjudication is but one method of dispute settlement at international law, useful in some but not all cases, and is by no means the preferred option of most states. Reflecting this ambivalence, the establishment of a compulsory dispute settlement structure in UNCLOS was coupled with a number of jurisdictional limitations and exceptions to remove certain disputes from its scope. Whereas

previous decisions have shown deference to state interpretations of these “protective” limits, the SCS tribunal awards display a remarkably expansive approach to the jurisdiction of Annex VII tribunals. Particular problems include: the manner in which the Tribunal effectively constructed a dispute for the parties on a number of issues, and then proceeded to solve it for them; the virtual dismantling of the UNCLOS exception with respect to historic title; and the treatment of the status of island features in a manner apparently divorced from state practice. It remains to be seen whether future tribunals follow a similar course, or revert to a more cautious application of the jurisdictional provisions.

Brett WITTHOEFT

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Brett Witthoeft 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, and has deployed on three different RCN ships to Asia-Pacific and Latin America to provide geopolitical advice to the ships' command teams and crews. Brett's primary research interests are Northeast Asian maritime security, Northeast Asian energy security, and developments in the South China Sea. He holds a BA in Pacific & Asian Studies from the University of Victoria, and a MPP from the University of British Columbia.



Heating Up, But Frozen Out: An Update on the Arctic

There has been growing interest in the Arctic in recent years as polar ice steadily retreats, not just among the Arctic states, but from countries well outside the Arctic Circle. The greatest interest has been shown in new shipping routes, as the Northern Sea Route (NSR) above Russia and Northwest Passage (NWP) above Canada and the US become navigable for longer stretches of the year and promise to cut shipping times and costs, but the Arctic also potentially holds significant

reserves of hydrocarbons and minerals. However, a critical evaluation of these emerging resources, particularly the viability of the NSR and NWP as significant shipping routes in the next two decades, finds that enthusiasm over them is likely excessive. Instead, the major drivers of Arctic activity are tourism and domestic and international geopolitics, though the latter are contained within an agreed-upon framework of rules and procedures, which support stability and temper posturing.

YU Tiejun

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Yu Tiejun is an associate professor in the School of International Studies (SIS) and Vice President of the Institute of International and Strategic Studies (IISS) at Peking University. Previously, he studied at the University of Tokyo in 1998-2000, and served as visiting fellow at the Center for International Security and Cooperation at Stanford University in 2005, and also as visiting scholar at the Fairbank Center for East Asian Research at Harvard University in 2005-06. Dr. Yu has co-edited *The Sino-Japanese Security and Defense Exchange: Past, Present, and Prospect* (Beijing: World Affairs Press, 2012, with Zhu Feng and Akiyama Masahiro). He is also the Chinese translator of *Myths of Empire* by Jack Snyder (2007) and *Discord and Collaboration: Essays on International Politics* by Arnold Wolfers (2006). His research interests include International Security, China-U.S.-Japan Relations, and China's National Defense Policy. He won the Excellent Teaching Award of Peking University in 2010.

After the Arbitration Ruling: How We Can Move On

This paper will discuss: (1) New Developments after the Arbitration Ruling including: discussion on China's insistence on its "Three No" position on the arbitration ruling: No Participation, No Acceptance and No Recognition; President Duterte's visit to China in October and the declaration of the Joint Statement of PRC and the Philippines (Article 40); the US Navy's new "FONO" practice: USS Decatur (DDG-73) conducted the operation near Chinese holdings in the South China Sea on Oct. 13, 2016; and, responses of the Others: ASEAN countries and Japan; (2) Policy Interpretation and Some Predictions including: how China's "Two Tracks" strategy made progress through shelving disputes and conducting bilateral talks on territorial and maritime right disputes and

multilateral negotiation on COC; The Philippines: back to the way of "putting aside the disputes and joint development"? while still depending on its future domestic development; discussion as to why the US will not take this change easily and the likely new round of rebalancing in this region after the election; and, Others: concerns, anxiety and seeking reassurance through alliance or partnership with US. Finally, this paper will discuss (3) How Can We Move On?: self-restraint of related countries: tidying up own rooms; further needs for strengthening crisis management mechanism at all levels; getting back to cooperative security and CBMs; taking substantial ways for joint development; and, building up a community of international law experts.

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Dr. ZHENG Zhihua is director of Joint Institute for Maritime Law and History at East China University of Political Science and Law (ECUPL). He is also deputy secretary general of Shanghai Law and Society Association. Dr. Zheng works in the fields of oceans law and policy. He is also a research fellow of Law and Society Center, KoGuan Law School of Shanghai Jiao Tong University. He served as senior editor of china oceans law review from 2010 to 2013 and was a visiting scholar at Göttingen University, Germany, in 2005-2007. He was appointed as Judge of Ningbo Maritime Court in 2004. He got qualification for admission to the Chinese Bar in 1998.



South China Sea Arbitration and Legalization of International Relation

Because of lack of check and balance, the arbitral tribunal is overly aggressive in pursuing the development of the Law of the Sea Convention. Especially in the circumstance of lack of consensus on some major legal issues, such as historic rights, characterization of island, appropriation of low-tide elevation and the legal nature of reclamation, aggressively Interpretation of the arbitral tribunal could infringe the rights of States parties. As result, it may not only be able to promote the development of international law, but also may cause the further fragmentation of the Convention, and induce more conflicts and disputes. It is important to note that many countries, including China, did not fully understand the complexity and ingenuity of the compulsory dispute settlement

mechanism of the convention. China has a very strong feeling of being cheated. The tribunal decided the case without necessary scrutiny and even deliberately expanded the jurisdiction. It may ultimately undermine the confidence of many states on the compulsory dispute settlement mechanism of the convention. The goal of the dispute settlement mechanism is to settle the dispute and to pursue justice, not is to aggravate the dispute. As matter of fact, the arbitration award may tie a dead knot for China and Philippines. If the case eventually make China to quit the Convention, it would be a huge setback to the law of the sea system.

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Dr ZOU Xinqing is currently a Professor of the School of Geographic and Oceanographic sciences, Nanjing University. He earned his bachelor degree in the University of Nanjing and graduate degrees in China University of Geosciences. With 10 years' study in earth science and over 20 years' working experience in the field of ocean science, his research interests include: marine ecosystem assessment, coastal wetland ecosystem process, marine resource management etc. He has published over 130 peer reviewed journal articles in related areas. He used to take several concurrent academic and management positions: such as the conservation director for WWF-China, strategic advisory group member for WWF international and adjunct professor of Waterloo University etc.

Enhancing Scientific Cooperation in addressing East Asian maritime NTS issues

East Asian seas play remarkable roles in global ocean system. In this region, there are highest marine bio-diversity area - "coral triangle area", highest fishing harvesting area - Yellow Sea and the area with most complicated claims of sovereignty - South China Sea.

NTS threats are getting more and more serious in this region in recent decades. The collapse of fishery system in yellow sea, the degradation of the coral reef ecosystem in South China sea and the environmental problems in almost all coastal oceans are the pressure and treats to the local social and economic development.

Scientific research provides fundamental support for the marine ecosystem protection and sustainable utilization of marine resources. However, the current status of marine scientific research and its application in coping with marine NTS is not optimistic.

To respond the marine NTS treats, scientific cooperation network in this region should be built. Practically, a long term marine NTS prevention and responding program should be designed and agreed by involved nations. Following aspects should be considered as the program objectives: An integrated monitoring system should be built based on "sky - coast and ocean - computer" network, which will facilitate long term marine NTS prevention; The NTS data base should be built based on existed scientific research results and data from the integrated NTS monitoring system; The standards for marine NTS issues should be set up, which is essential for the functional marine NTS prevention; According to the marine NTS standards, marine NTS prevention and forecasting system should be designed and built, which should be widely applied by related nations.



Website:

nanhai.nju.edu.cn/wnglish

CHINA CENTER FOR COLLABORATIVE STUDIES OF SOUTH CHINA SEA STUDIES

The Collaborative Innovation Center of South China Sea Studies at Nanjing University was founded in July 2012. In May 2013, it was approved and became one of the first collaborative innovation centers being sponsored by the Ministries of Education and of Finance.

The Center was initiated by Nanjing University and has been greatly supported by the Chinese Ministry of Foreign Affairs, the People's Government of Hainan Province, and the State Oceanic Administration. It works in close collaboration with other research institutes, including the National Institute of South China Sea Studies, the Naval Command Academy, Renmin University of China, Sichuan University, the Institute of Geographic Sciences and Natural Resources Research of the Chinese Academy of Sciences, and the Institute of Border Studies of the Chinese Academy of Social Sciences. Driven by the demands of major national policies and aimed at the defense of China's maritime rights and security, the Center seeks to develop basic research as well as research on applicable countermeasures on South China Sea issues, offer services to the nation's strategic decision-

making on these issues, and provide intellectual support for the nation's development of "maritime power," mainly through collaborative innovation between disciplines and institutes—namely, between Arts and Sciences, military and civilian organizations, universities and institutes, and between universities—which is enabled by system and mechanism innovation.

Since its foundation, the Center has making full use of Nanjing University's particular edge in disciplines such as international relations, documentation and information, geographic information, oceanic and island research, border history, journalism and communication, and international law, and working in collaboration with domestic and international researchers from relevant fields. It has made special efforts to establish a cross-university, cross-institute and cross-regional innovative system for the development of talent, research and management. Incorporating "first-rate interdisciplinary groups," "first-rate talent training base" and "first-rate new-style university think tank" into one, the Center has become a new collaborative innovation body for South China Sea Studies as well as research on maritime security.



Website:

ualberta.ca/china-institute

CHINA INSTITUTE

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.

NATIONAL INSTITUTE FOR SOUTH CHINA SEA STUDIES



Website:
en.nanhai.org.cn/

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.


INSTITUTE FOR CHINA-AMERICA STUDIES



Website:

chinaus-icas.org

ICAS is an independent, non-profit think tank funded by the Hainan Nanhai Research Foundation in China. Based in the heart of downtown Washington, DC, ICAS is uniquely situated to serve as a bridge to facilitate the exchange of ideas and people between China and the United States. It achieves this through research and partnerships with institutions in both countries that bring Chinese and American academic scholars as well as policy practitioners together, and thereby provide a window into their respective worldviews. ICAS focuses on key issue areas in the US-China relationship in need of greater mutual understanding, identifies promising areas for strengthening bilateral cooperation in the spheres of Asia-Pacific economics, trade, international relations as well as global governance issues, and explores the possible futures for this critical bilateral relationship.



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