

The US Free and Open Indo-Pacific Initiative: Maintaining Free Trade Connectivity Across Asia

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There was doubt and confusion regarding the US Free and Open Indo-Pacific (FOIP) strategic initiative after President Donald Trump announced a new direction in US policy toward Asia called Free and Open Indo-Pacific (FOIP) at the APEC summit meeting in November 2017. The US provided little forewarning and few details were forthcoming until an April 2018 State Department briefing.

This new US FOIP policy initiative was met with skepticism because for decades US policy had been China-centric in the sense that under the principle of "engagement" the US used assistance and cooperation to make China into a "responsible stakeholder" in the US-led rules-based order. Moreover, the most recent bold new direction in US Asia policy, President Barak Obama's 2011 strategic "pivot" or "rebalancing" toward Asia, turned out to be more rhetoric than reality because it did not actually change US engagement strategy.

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As had previous administrations, the Trump administration entered office determined to get

tough with China and restore strategic flexibility to US foreign policy, but it had no actual blueprint in hand when FOIP was announced. Instead, FOIP was being improvised by the new administration after the US realized that engagement strategy was dangerously out-of-date, much as cold war policy was improvised by a new Truman administration when rising tension and conflict with the Soviet Union in Europe suddenly transformed that country from a wartime ally into a revisionist great power rival in 1946.

In the midst of many domestic and foreign policy distractions, the US today is quickly adjusting its relationship with China. Recall that when Obama hosted Xi Jinping at the White House in September 2015, China was feted as a strategic partner, despite mounting tensions under the surface of the relationship. By the end of 2017, the US had come to view China as a great power advancing a hostile agenda. A revolution in strategic outlook has produced FOIP.

Though FOIP is still being amended and fine-tuned today, its main outlines can be discerned from FOIP initiatives already taken; from long-standing principles have guided US policy toward Asia historically; and how a changed global and regional situation has called forth a

network-oriented regional strategy that will differ in method and partnerships, but will remain focused on traditional US policy principles and aims in Asia.

FOIP initiatives to date

The first concrete step taken to advance FOIP was the revival of diplomatic consultations among the Indo-Pacific Quad powers. A working level meeting took place just after the APEC meeting on the sidelines of the 2017 East Asia Summit in Manila. Quad consultations were begun in 2007 but were cut short within a year by Chinese objections. Their revival and institutionalization is a clear sign that the regional strategic landscape has changed.

Guiding values were democratic governance; free and open trade access; respect for international norms; and opposition to bullying and despotic behavior.

The next milestone was the publication of the US National Security Strategy in December 2017. This changed the strategic focus from Islamist terrorism to China and Russia, "near peer" states with advanced military capabilities and revisionist policy agendas. China's powerful and coordinated efforts to deny US access and undermine the rules-based order in Asia made the Indo-Pacific the report's top regional focus.

Additional evidence of a changed US strategic perception of China came with the advent of trade war, which began in January 2018 with US tariffs imposed on all steel and aluminum imports, trade sectors mainly disrupted by Chinese dumping practices. This was followed in March 2018 by US tariff threats targeting Chinese imports unless China agreed to reduce barriers to US trade and investment in China. The US followed through with its threats in July and in September announced new tariff threats to coerce China into market-opening moves.

Meanwhile, in April 2018 the State Department gave a press briefing on FOIP to reveal that an inter-agency working group convened under the National Security Council was formulating a

whole-of-government effort to ensure that the US and other like-minded nations continued to enjoy free and unhindered transit through international waters and airspace; free and open access to trade and investment opportunities; and rights and protections under the rules-based order. By mid-2018, FOIP's trade and assistance orientation was explained by Secretary of State Michael Pompeo.

The various structural elements of FOIP came together in speeches that Vice President Mike Pence gave in November 2018 when he attended the East Asia Summit and the APEC Summit. The overarching aims were regional peace and prosperity among nations enjoying freedom and sovereign independence.

The US would contribute to these ends strategically, economically, and politically: maintain stability and provide traditional and non-traditional security assistance to friends; provide economic aid and investment; and advocate democracy, human rights, and the rule of law. Guiding values were democratic governance; free and open trade access; respect for international norms; and opposition to bullying and despotic behavior. To defend these values the US would commit time and energy to develop relevant national capabilities and pursue partnerships with like-minded nations throughout the Indo-Pacific.

The enactment of FOIP into legislation began with the BUILD (Better Utilization of Investment Leading to Development) Act that was signed into law by president Trump in October 2018. This refashioned an outdated export and foreign investment agency into the US International Development Finance Agency capitalized at \$60 billion.

Its purpose is to catalyze international public-private partnerships to finance and construct three types of infrastructure in the Indo-Pacific: digital connectivity & cybersecurity; trade-related infrastructure; and energy plants and infrastructure.

The BUILD Act was followed by the Asia Reassurance Initiative Act passed in December and signed into law in January 2019. It provided \$1.5 billion annually to fund inter-agency FOIP

initiatives with an annual reporting requirement on progress made in advancing transparent and accountable governance; promoting trade, investment, and development; and enhancing regional traditional and non-traditional security. The quick enactment of FOIP policy measures into legislation that enjoyed surprising bipartisan support and fast-track passage through an otherwise gridlocked Congress indicates that a national consensus supports FOIP.

The Defense Department issued the Indo-Pacific Strategy Report in June 2019. The main tasks it set for the US military in the Indo-Pacific centered on three goals: military modernization in response to China's rapid advance in this area; broader and better cooperation with existing and new security partners; and networking these relationships in ways that served FOIP's core strategic objectives, i.e., maintaining free transit across the high seas and free trade under the international rule of law. The themes of partnership-building and three-pillar assistance to maintain the rules-based order were brought together in a relatively clear and comprehensive State Department report on FOIP published in November 2019.

Abiding US policy principles in Asia

From its earliest days as a British colony, the US viewed Asia in terms of trade opportunity. A key event leading to the American Revolution was the Boston Tea Party (1773), in which Chinese tea carried by a British merchant vessel was dumped into Boston harbor to protest the inability of Americans to trade directly with China. Soon after California joined the Union in 1850, US president Milward Fillmore dispatched Commodore Matthew C. Perry to open Japanese ports to US steamships plying a new trade route from California to China in 1852. Perry more or less fulfilled his mission in 1854 when he signed the Treaty of Kanagawa with the Japanese shogunate. During the Spanish-American War of 1898 the US seized the Spanish colony in the Philippines. It was a hypocritical move by the former British colony, but it was done not so much to build a colonial empire as to secure leverage over other powers

carving the world up into exclusive colonial possessions.

Even though China was not sufficiently liberalized when it asked for membership in the WTO, the US allowed it to join in exchange for its pledge to liberalize its economy

The US vision of international order in Asia was established by the Open-Door Notes of 1899 and 1900. At a time when the Europeans and Japan were carving out economic spheres of interest in China, the US notified these powers that it expected them to provide fair and equal foreign trade access and to respect the sovereignty and territorial integrity of China (i.e., not carve it up into exclusively administered colonial territories). Acting as the predominant power in Asia after WW I, the US convened the Washington Naval Conference to bind the imperial powers to arms limitations in the Five Power Treaty and to the Open-Door principles in the Nine-Power Treaty (1922).

When the onset of the Great Depression destroyed this incipient Asian order, the US aided China in its war against Japanese imperialism (1937-45) in order to defend Open Door principles and got dragged into WW II. After the war, the US continued to pursue Open Door principles by opposing the recolonization of Asia by returning European powers in principle (though this was complicated by the cold war conflict); recognizing the sovereignty and territorial integrity of post-colonial states; and promoting free trade principles.

An important new phase of US policy in Asia began after China began reform and opening up under Deng Xiaoping. The US welcomed communist-ruled China into the free trade system and provided it with assistance in the hope that increasing prosperity would overcome its mistrust and persuade it to join the community of liberal market economies. Even though China was not sufficiently liberalized when it asked for membership in the WTO, the US allowed it to join in exchange for its pledge to liberalize its economy over the course of its

15-year accession agreement to meet the market economy membership standard.

A belated realization: But in 2016 when the 15-year period ended, China demanded the privileges of market economy status even though it had stopped bold reform well before reaching this standard and in fact was moving in the opposite direction with such initiatives as Made in China 2025. In the same year, China angrily rejected the authority of the Permanent Court of Arbitration at the Hague to rule in a compulsory arbitration case brought by the Philippines regarding the legality of China's 9-dash line sovereignty claim and associated enforcement actions including artificial island construction in the EEZ claimed by the Philippines.

The court's ruling was based on the UN Convention on the Law of the Sea that both nations had signed and ratified. Nevertheless, despite the finding that its sovereignty claim had no basis in law, China intensified its enforcement efforts employing the PLA Navy to regulate and actively limit the well-established right of vessels to freely and without hindrance transit this heavily used and vitally important high seas waterway. These actions showed a callous disregard of international law; harmed sovereignty and territorial integrity of the Philippines and other similarly affected South China Sea coastal states; and illegally sought to limit the right of all states to free and unhindered access to international sea lanes that controlled trade access to Asian markets.

Finally, China's Belt and Road Initiative inaugurated in 2013 was intended to be a system of trade, investment, and digital connectivity embracing Eurasia and surrounding regions of Africa and Oceania to ensure China's continuing rise. It has been opaquely managed by China and its state-owned enterprises rather than in accordance with transparent multilateral and multi-stakeholder institutional governance principles. It has been sold to others as a better alternative for countries that wished to develop their economies through increased trade with China.

A 2018 OECD report on BRI uses statistical analysis to conclude on page 33 that BRI is

designed to "develop markets for its products via hardware connectivity"; "alleviate industrial excess capacity at home"; "move quickly up the value-added chain", and "create a global platform that will facilitate trade and investment with the countries involved in the Initiative, with China playing a central role"; and "the important point to note is that China's BRI is precisely focused on changing [the relative importance of the US and China as trade partners] via connectivity investment." Thus, it would seem that BRI has become a scheme to capture global market share from the West and make developing country partners into economic satellites.

This revisionist agenda was already too established and too bold and assertive to be overlooked when Donald Trump took office in 2017 and met Xi Jinping at Mar-a-Lago to set a new bilateral agenda.

The impetus for FOIP: It must be admitted that by the time it launched FOIP in late 2017, the US was late to realize that China was unwilling to become the market economy and strategic partner it had hoped for when it welcomed China into the World Bank in 1980, gave China MFN status in 1994 despite its illiberal political and economic institutions, and allowed China to join the WTO in 2000. Despite the character that the party-state revealed during the Tiananmen tragedy in June 1989, hubristic post-cold war triumphalism caused the US foreign policy establishment to believe that a continuing American "unipolar moment" meant that China's convergence with western liberal values and institutions through peaceful evolution was just a matter of time.

After China stopped "hiding intentions and biding time" in the era of Xi Jinping, it advanced a number of demands, e.g., the US must cede to China equal global status and recognize China's governance prerogatives in Asia and gain in return peaceful cooperative relations and a continuing (subordinate) presence in Asia according to a "new type of great power relations" formula; that China be respected as Asia's rule-maker and security guarantor of a

China-sponsored "community of common destiny" platformed on BRI; and that the world accept as historically inevitable China's movement to the center of world governance by 2049.

This revisionist agenda had become too entrenched and too bold and assertive to be overlooked by the time Donald Trump took office in 2017 and met Xi Jinping at Mar-a-Lago. The subsequent failure to achieve a modus vivendi made it painfully clear to the wider foreign policy establishment in the US that China had turned from being the largest beneficiary into the greatest threat to Open Door principles in Asia since pre-WW II Imperial Japan sought to turn Asia into the Greater East Asian Co-Prosperty Sphere.

Viewed in historical perspective, the US turn to FOIP is not a radical change; rather, it chooses to maintain traditional Open-Door principles, i.e., free and equal trade access as well as respect for the sovereignty and territorial integrity of states under a rules-based order, rather than give up on them and let China turn Asia into an exclusive sphere in which China-centric governance designates rules and obligations that others must follow.

FOIP in a new global and regional context

The defense of Open Door principles against China's revisionist agenda cannot be a simple replay of WW II or cold war era strategies. Great power war is something to be prevented in an era of nuclear weapons; and after the cold war the world has become far too interconnected and interdependent to be re-divided into separate and disconnected armed camps.

Globalization has irreversibly ended division and isolation between groups and individuals, giving them the freedom to choose with whom to associate and whom to trust. Already two-thirds of humanity are connected through ownership of personal digital devices able to access social media, and no country or major business is willing to lose digital and logistical connectivity with the rest of the world. Everyone values the freedom, flexibility, and choice provided by a globally connected world. But these new circumstances do not produce a world of harmony. Competition and rivalry

remain a fact of life. Strategy must adapt to the new circumstances. In such a world, all-out war or rigid cold war alliances and exclusive blocs are sure losing strategies. So, what would constitute a winning strategy against a powerful and disciplined strategic competitor such as China in a globalized world? The time has come for the US to begin consultations among like-minded Indo-Pacific stakeholders who freely choose to protect their mutual relations and their interest in maintaining the rules-based order. But in an interconnected world in which liberal stakeholders, including even the US, do not wish to entirely sever ties with China, coordinated action can happen only when and where shared interest can produce agreement to cooperate.

The US sees China as a revisionist great power that is working to regulate access to the Indo-Pacific to serve its own values and interests; undermine the rules-based order; create an exclusive economic sphere dependent on the Chinese economy; and construct a hierarchical and coercive China-centered system of governance under the CPC.

The time has come for the US to begin consultations among like-minded Indo-Pacific stakeholders

This agenda threatens the openness, interconnected-ness, and freedom to trade that form the basis of an Open-Door order. Therefore, the US has decided to act to maintain free and unconditional lawful access to and among Indo-Pacific economies. It also wants to maintain open markets and free trade principles. This means existing trade-related treaty obligations and commercial contract principles need to remain respected norms. It also requires a continuing ability to freely transit Indo-Pacific sea lanes for trade and other lawful purposes--not only for the US but for everyone (including China) as a public good.

FOIP strategy

As suggested by the Defence Department's Indo-Pacific Strategy Report, the US is implementing a cooperative partnership strategy

to engage countries large and small throughout the Indo-Pacific region that wish to maintain their mutual relations in areas of trade, governance, and security. The idea is to construct a flexible, scalable network of alliance and partnership relations managed according to international norms and providing public goods (strategic stability, traditional and non-traditional security assistance, trade, investment, development assistance, and rights protection) in the Indo-Pacific region. The US aim to maintain free and open trade connectivity managed according to existing liberal norms and institutions in the face of any natural or man-made threats that may arise.

Why bother? As a global power the US has the material and organizational capacity to engage like-minded nations inside and outside the Indo-Pacific region to build such a network. The need for such an effort arises from the nature of China's revisionist agenda.

China's concerted BRI, diplomatic, and military efforts aim to weaken and displace the rules-based order and exclude those who would defend it.

China has launched BRI, a regional economic and digital connectivity network under its exclusive governance that could negatively affect the interests of liberal Indo-Pacific stakeholders. China chooses strategic locations distributed throughout the Indo-Pacific for BRI projects. After Beijing engages developing country leaders in confidential bilateral consultations, official agreements are reached to build large-scale BRI infrastructure projects financed by equally large official loans. Such projects may not meet the most pressing local development needs or sustainability requirements, and China relies almost exclusively on its state-owned banks and enterprises to finance, design, build, and operate in these projects. A Deloitte report on BRI found that "a common complaint is that BRI has mainly benefited China's state-owned enterprises (SOEs). That is largely true..." BRI is policy-driven from Beijing. China's strategic intent is to build and control a connectivity network that attracts a growing share of the region's trade, financial, and digital throughput.

The other concerning fact has to do with the nature of Chinese governance. China's BRI creates local trade and investment opportunities in ways that exclude competitors, increase dependence on the Chinese state, and capture markets for Chinese firms--which is a natural extension of how the Chinese economy is governed. With respect to political governance, one sees in the South China Sea a template of regional governance that has little regard for international norms and the legal rights of others when these obstruct the party-state's narrowly self-interested pursuits--which again is a natural outgrowth of China's domestic political governance.

Network logic: In a globalized world in which everyone is able to freely connect to everyone else, actors will join networks that allow them to conduct desired transactions at acceptable cost, and when more than one network is available, actors will use the most convenient and efficient one available, and increasing numbers of users will create a network effect so that one network becomes the largest and most efficient one, and corners the market for connectivity services. A strategic risk for users is created if the network operator is unregulated by public authority and unmonitored by users. It may then manipulate what information and connections are available to network users, and what prices users must pay for connectivity services in order to extract rents and maximize its own gains at user expense.

A transparent, user-monitored, and publicly accountable rules-based order has allowed competitive markets and private enterprise to provide efficient and effective network solutions for countries, businesses, and people in the Indo-Pacific. It remains for now the Indo-Pacific network provider of choice.

But China's concerted BRI, diplomatic, and military efforts aim to weaken and displace the rules-based order and exclude those who would defend it. China seeks to create relations of critical dependence as it builds an alternative and opaquely governed connectivity network that serves China's own need for continuing development. The US and other liberal stakeholders cannot wait until the rules-based order becomes so weakened that it would be difficult to save it.

Development, defence, and deterrence: The US need not worry about stopping China's BRI efforts because the most successful and valuable users will prefer to rely on networks that are reasonably efficient, managed transparently, respectful of user rights, and are accountable to public authority--if such a network remains available to users.

Therefore, the focus of building a FOIP network of partnerships should be on reinforcing and strengthening efficient and high quality economic connectivity services under the rules-based order. This will require three things, all of which inform the US FOIP initiatives discussed above.

The first is providing economic development opportunity. If it is designed to serve local needs sustainably and is well constructed, the provision of infrastructure will renew relationships with a wide variety of developing countries. But such projects require concessional public financing (official development assistance) as well as a wide range of technical expertise and local political connections. Here is where the US must work with other Quad powers; international institutions such as the World Bank and ADB; a variety of private sector actors and foundations; and extra-regional stakeholders such as the Germany, the UK and France. Such an effort can mobilize quality resources on a scale more than sufficient to meet the BRI challenge.

Next is defence of the basic values and norms that protect the lawful rights of all actors, which constitute the rules-based order. The US and its partners need to model these norms and promote them to those willing to listen. Defence of the rules-based order also requires that those who violate it in harmful and obnoxious ways be called to account before the international community.

Finally, the unlawful use of coercion, including the use of military force, to obstruct physical, financial, and digital connectivity needs to be deterred. This means that a superior countervailing threat of force may be a necessary backstop, but also needed is a community of Indo-Pacific states invested in a

relationship network conducted in accordance with the rules-based order.

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