



The United States, China, and the Global Commons

By Julianne Smith and Wu Chunsi February 20, 2014

The global commons—four distinct areas that no one state controls but on which all rely—present a unique challenge to the world’s major powers. Whether it is in the area of maritime, air, space, or cyber, most of the larger players are actively working to gain advantages over the others but with few international norms of behavior, limited rules of engagement, and few forums for brokering disputes. As a result, each of the four domains has become vulnerable to intrusion, exploitation, and attacks by competitors, creating significant friction among a group of stakeholders that should be fostering new cooperative agreements. For China and the United States, the challenges surrounding the global commons are particularly acute, especially in the area of cyber. Without enhanced cooperation, dialogue, and greater agreement on international norms, the issues associated with the global commons could cast a dark shadow on U.S.-Sino cooperation even in seemingly unrelated areas.

Sometimes self-interest and global goodwill coincide

The global commons theme was raised throughout the 2013 U.S.-China High-Level Dialogue simply because it touches so many areas. It was also addressed in a separate, albeit abridged, session toward the end of the two-day discussion. Because time was somewhat short, that session focused almost exclusively on cyber issues—in part because the maritime issues were covered in an earlier session on military and security. Before launching into the highly charged issue of cyber, though, an American participant opened the global commons session by stressing more broadly that sometimes “self-interest” and “best interest” actually have the good fortune of coinciding. He pointed to the U.S. and Chinese coast guards, which—acting in their own self-interest—regularly bring benefits to a much wider community. He also noted how helpful the Chinese had been in enacting various aviation security measures following the attempted Christmas Day bombing. Similarly, the H7N9 virus could have had a catastrophic impact on global supply chains, but thanks to Chinese foresight, that crisis was averted. These examples obviously show promise, particularly for those actively engaged in the pursuit of a new model of major power relations. But as participants soon learned, the specific issue of cyber presents a number of thorny challenges.

Public fields with more actors

The reason that the United States and China must stress the cooperative—rather than competitive—side of global commons issues is that they are public and nonexclusive in nature, and more and more actors are entering the domains. Restrained by science, technology, and economic resources, most countries lacked the capability to meaningfully use the domains of the high sea, air, outer space, and cyberspace for a relatively long period of time. With the development of economic globalization and progress in science and technology, however, the situation changed dramatically. More and more actors are entering these strategically important fields. They are not only sovereign states but also nongovernmental actors; not only industrialized countries but also developing countries; not only Western countries but also countries with various cultures and customs. The interactions across the global commons have become much more complex. But countries need to adapt to these changes because it is impossible to completely close off the areas belonging to the global commons and refuse entry for new interested parties.

Common interests and different preferences

As big countries become more and more dependent on the access to the global commons, the United States and China both cherish the security and openness of the global commons. It would be misleading to overinterpret the competition between the two countries in these areas. Competition is secondary after cooperation and can be managed, but it will require more mutual understanding and coordination at the working level.

The United States and China are actually at different stages of using the above-mentioned four areas of the global commons, which is especially true for the first three areas. First, the United States began to strategically use the global commons areas much earlier than China. China has also engaged in the high seas, airspace, and even outer space for many years, but it was not until very recently that China showed that it has the capability to use these areas strategically. Second, the United States has much more experience than China with international institutions, laws, and customs as they relate to the global commons. The United States basically formed the current international system after the World War II. Third, there is also some distance between the United States and China in technology and capability. On the whole, the United States and China interact and identify with the global commons in different ways. The United States is the established power and China is the emerging power. These different relationships with the global commons may lead the United States and China to have different perspectives on how to approach and manage these issues.

The general theory of China and United States in different development stages can also be applied to the area of cyberspace, although the U.S.-China distance might be relatively smaller on the issue of cyberspace, considering the technology was actually invented not that long ago and the domain does possess fairly unique characteristics. The United States still moves ahead in the usage of cyberspace in its relations with China, but the distance between the two countries on technology and capability may not be as large as that of other areas. China-U.S. relations in cyberspace show especially sharp contrast. On the one hand, the two countries may share incentives for cooperation on the issue of cyberspace, but on the other hand, competition might also be more tense than in other areas because they are not that far apart in technological capabilities.

Cyber as biggest hurdle

After a brief opening discussion on the general subject of the global commons, participants then turned to their attention to cyber, which everyone agreed was rapidly becoming one of the more sensitive issues in the bilateral relationship. American participants began with a reminder that, at least for the United States, any discussion of cyber issues must be part of a broader discussion on intellectual property rights, or IPR. Some of the Chinese participants responded with skepticism, stressing how hard it is for the Chinese to accept U.S. accusations that the Chinese government is actively engaging in cyber-enabled IPR theft. But American participants warned about the dangers of failing to address this problem both for China itself and the U.S.-China relationship more broadly.

In the eyes of at least one senior member of the American delegation, cyber economic exploitation is a shortcut around much-needed Chinese innovation. China's economic growth, he went on to say, will continue to rest in part on the country's ability to foster greater innovation at home by its own people. Chinese participants agreed and stressed that the protection of IPR is a priority for China as well. Other Americans focused on the negative impact cyber was having on the bilateral relationship, arguing that denials by the Chinese government that IPR theft is actually happening under its watch are rapidly eroding trust and confidence in the relationship.

Lexicon issues: The need to define cyber

As the discussion continued, it became clear that both sides were conflating a variety of cyber issues and sometimes talking past each other. In an effort to bring some clarity to the discussion, one of the American participants attempted to divide the subject of cyber into four separate baskets:

- Malicious attacks from unauthorized actors—a challenge for China and the United States in both the public and private sectors

- Espionage, which is practiced by both countries
- Offensive and defensive military action, for which China and the United States have virtually no doctrine or “rules of the road”
- Government-sanctioned targeting of commercially available information, such as IPR

The Americans at the table suggested that for the purpose of this dialogue, participants stay focused on the last category, which several members of the Obama administration—including President Barack Obama himself—have deemed entirely unacceptable. Some of the Americans at the table also urged the Chinese and American governments to work on developing a code of conduct that would prohibit governments from conducting this type of economic exploitation and protect both sides.

Some Chinese scholars pointed out that it is problematic to define cyberspace as the global commons in a general way. The global commons, according to its definition, are the areas beyond jurisdiction of sovereignty. Cyberspace, due to the high fluidity of information, shows a strong tendency for getting rid of government supervision. However, for a domestic audience, even the U.S. government emphasizes that the Internet is not a barbaric area and government has the right and responsibility to supervise and manage the domain. It is an oversimplification to define all cyberspace issues as part of the global commons.

Similar to land, sea, and airspace, it is clear that not the whole but some parts in each of the dimensions are part of the global commons. For example, in the dimension of land, the protection of the Antarctic—not the territories of sovereign states—is the issue of global commons; in the dimension of the sea, the issues on the high seas are global commons; and in airspace, the areas outside of territorial sky belong to the global commons. Therefore, it is incorrect to say everything in the dimension of cyberspace are issues of the global commons. The United States and China should seriously discuss the issue of how to define sovereign and nonsovereign issues in cyberspace. Only on this basis can the two countries explore more effective cooperation on the global commons in cyberspace.

Cyber lacks an institutional home

To the extent that China and the United States are interested in resolving some of the tension surrounding cyber issues, the two countries will need to find the right institutional home or homes. Unlike a number of other regional and functional issues in the relationship, cyber lacks an obvious institution in which the two countries can resolve disputes and broker new cooperative agreements. As one Chinese participant noted dur-

ing the dialogue, the United States and China have actually managed to have some fruitful conversations on this subject in bilateral channels. They have not, however, found a way to do so in military channels, although the participants were not entirely sure this was so bad. Perhaps more troubling, little work on cyber has been done globally, leaving all countries around the world—not just China and the United States—without an international framework that could help shape norms and standards.

Recommendations

Moving forward, participants in the dialogue offered the following recommendations:

- More generally, the two countries should view the global commons as an opportunity to cooperate on new emerging issues that—unlike other common challenges—lack decades of international agreements and cooperation.
- With the recognition that the global commons are areas relevant to security, prosperity, and happiness of all people, China and the United States—with the cooperation of other major powers—should agree that peaceful use is the overarching principle for major countries to explore the use of the global commons.
- China and the United States should not allow disputes in the area of the global commons to stop the positive momentum they have created in recent years. Having finally found a way out of the start-stop-restart cycle that was once commonplace, the two countries should be careful not to allow cyber disputes to break down the lines of communication and engagement.
- China and the United States should develop a bilateral task force to address some of the more contentious complaints about cyber activity.
- To show their goodwill and cooperation, China and the United States should keep the other side informed when they cooperate with third parties on the global commons.
- China and the United States, in cooperation with other major world players, should work to develop international structures that can help foster much-needed international norms and standards.
- In the area of maritime, participants agreed that it was best to focus on the less controversial areas of cooperation such as counterpiracy.

- In the global commons more broadly, Chinese and Americans should avoid the instinct to pursue cooperation strictly in defense channels. In some areas such as maritime and space, those channels are entirely appropriate. But in other areas such as cyber, it is important to take a whole-of-government approach that encourages the two countries to pursue cooperation in nondefense channels.
- Finally, both countries should reaffirm that that security and prosperity are best achieved through international cooperation and agreements.

Julianne Smith is a Senior Fellow and Director of the Strategy and Statecraft Program at the Center for a New American Security; she previously served as Deputy National Security Advisor to the Vice President of the United States. Dr. Wu Chunsi is an Associate Researcher and Deputy Director of the Department of American Studies at the Shanghai Institute for International Studies.