

# The “Rules-Based Order”: Conflicting Understandings

Advocacy for a rules-based order has come to define the foreign policy of various countries. What this concept entails, however, remains vague, and significant differences in respective understandings persist. From the perspective of its proponents, part of the term’s utility may lie in its ambiguity. The question is whether the new terminology can contribute to a common understanding of the essential rules, norms, and institutions that should govern international relations.

By Boas Lieberherr

Policymakers and strategists increasingly refer to the “rules-based order” (RBO). A variety of governments and institutions, including the US, Australia, Japan, India, Canada, France, Germany, Switzerland, the EU, the Association of Southeast Asian Nations (ASEAN), and the Quadrilateral Security Dialogue (Quad), are using the concept. Germany’s 2020 Indo-Pacific Guidelines refer to the RBO 17 times and Australia’s 2016 Defense White Paper 56 times. The latest joint leaders statement of the Quad – a cooperation format between the US, Australia, India, and Japan – reaffirmed their “resolve to uphold the international rules-based order where countries are free from all forms of military, economic and political coercion.”

The growing popularity of the RBO has not always brought greater clarity as to what this concept entails. A clear definition of the RBO does not exist. All actors remain vague about what they mean by the term, and major differences exist between their respective understandings. With its appeal to an order based on rules, one might think that the RBO is a reference to international law – i.e. legally binding rules that are based on and require the consent of each individual state. Germany stands



US Secretary of State Antony Blinken discusses “strengthening the rules-based international order” with Chinese Foreign Minister Wang Yi in Alaska in March 2021. *Frederic J. Brown / Reuters*

out among the countries examined in this analysis in that it links the RBO directly to the UN Charter. Although international law is part of all understandings, the term includes other aspects. It also encompasses what is usually referred to as “soft law” – legally non-binding political commitments, such as a code of conduct. US and Australian interpretations are even broader. US primacy and the US’ military alliances in the Asia-Pacific are part of their

understandings of the RBO, which they claim has existed for more than six decades. India takes a different viewpoint. It interprets the RBO less as something that already exists and more as something that has yet to be developed. China and Russia reject the concept because they associate it with a US-led world order.

Russia’s large-scale invasion of Ukraine in 2022, which builds on its illegal annexation

of Crimea and military aggression in the Donbas in 2014, have heightened the sense of crisis over global power dynamics and have been described as blatant violations of the RBO. However, the emergence of the RBO has been closely linked to the rise of China. The “Indo-Pacific” has emerged in the same context. Today, the RBO and the Indo-Pacific are often used in conjunction. The Indo-Pacific is a geopolitical construct that imagines the Indian Ocean and the Asia-Pacific as a connected strategic, diplomatic, and security space with the latent balancing power of India at its heart to contain a rising China (see [Strategic Trends 2022 – Indo-Pacific: The Reconstruction of a Region](#)). All Indo-Pacific advocates agree in their strategy papers on their political commitment to strengthening the RBO. Hence, the advocacy of the RBO takes place against the backdrop of a more ambitious and aggressive China and a changing global balance of power. It is also linked to different ideas and visions of international order.

As several states consider the preservation of the RBO a core objective of their foreign policy efforts, link it to their nation’s security and prosperity, and implement a variety of policies under the banner of preserving the RBO, a better understanding of the concept can provide a basis for a more informed debate. The following analysis will shed light on the interpretations of four major RBO proponents – the US, Australia, Germany, and India – and briefly explore the views of countries that are critical of the term.

### Conceptualizing Order

A RBO can be understood more generally as a joint commitment by states to conduct their activities in accordance with an existing set of rules. Many advocates argue that what they perceive as the currently existing RBO is under increasing pressure. This raises the question of what institutions, rules, and ideas govern the current international system in the first place. However, conceptualizing order is a difficult undertaking. The most prominent term to describe the order that emerged after the Cold War is the “liberal international order” (LIO). Central aspects of that order are free trade, multilateral institutions such as the UN and the International Monetary Fund, growth of democracy, and liberal values. Political scientist John Ikenberry characterized this order along three pillars: the security order that also includes US-led

alliances, the economic order, and the human rights order. Disorder is evident when the three pillars become unbundled, and their benefits can be obtained without buying into a set of responsibilities, obligations, and shared values.

Scholar Alastair Iain Johnston suggests that the LIO consists of eight suborders that are contested by states to varying degrees – the most important of which are constitutive, military, trade, political and social development. China and the US both defend certain orders and challenge others. China shows medium to high support for six out of eight orders. For instance, Beijing strongly supports the con-

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stitutive order embodied in the UN system but challenges the political and social development order, as they encompass aspects such as human rights and political values. The US is also in conflict with a number of international institutions and norms, for instance the International Criminal Court and the International Court of Justice. Washington opposes several conventions that China supports such as the Convention on the Rights of Persons with Disabilities. Johnston argues that the terms LIO and RBO are increasingly used interchangeably, with the latter being used mainly in the context of China.

### Ground Zero Australia

The term RBO entered the official political discourse in 2008, when the international system was shattered by the global financial crisis. During a visit to the US, then-Australian Prime Minister Kevin Rudd called on Beijing “to make a strong contribution to strengthening the global and regional rules-based order.” The term then appeared in the 2009 Australian Defense White Paper.

A year later, US Secretary of State Hillary Clinton also referred to the RBO – again in connection with Australia and China. A joint US-Australian statement called for “the enhancement of an international rules-based order, both within our region and for the world.” Clinton commented on the statement, saying that the US wants China to take on more responsibility and adopt a rules-based approach toward its neighbors. In 2011, she explained that “we have to *create* a rules-based order, one that

is open, free, transparent, and fair [emphasis added].” In the US, the meaning of the term shifted in the following years from an aspiration for all countries to a sixty-year-old entity that was juxtaposed with Chinese actions. In 2012, US Secretary of Defense Leon Panetta stated that “China also has a critical role to play (...) by respecting the rules-based order that has served the region for six decades.” US Secretary of State Rex Tillerson affirmed five years later that “we will not shrink from China’s challenges to the rules-based order.”

### Whose Rules, Which Rules?

Today, the RBO has found a prominent place in the diplomatic lexicon of various countries. The understanding of the RBO by four key proponents – the US and Australia, where the concept originated, Germany as a leading European country, and India, a pivotal actor in the Indo-Pacific – illustrates the overlaps and differences of their viewpoints.

In the US, the term has been in use since the Obama administration. The 2015 National Security Strategy (NSS) was the first to link US primacy to the RBO, stating that “strong and sustained American leadership is essential to a rules-based international order that promotes global security and prosperity.” Former US President Donald Trump reportedly did not like the concept of the RBO. The term did not appear in the 2017 NSS, but senior officials in his administration continued to use it. The 2022 NSS of the Biden administration describes the RBO as respecting states’ sovereignty and territorial integrity, providing a fair way of economic exchange and promoting prosperity, and enabling cooperation on shared challenges. This is juxtaposed with aggression, coercion, and external interference. According to the NSS, China and Russia pose a threat to the RBO with the intention to remake it. There are several references to international law, the UN Charter, as well as the need to modernize the UN, although they are not mentioned in the context of the RBO.

Australia is one of the most vocal proponents of the RBO. The term assumes a prominent role in Australia’s Defense White Papers since 2009, the 2013 National Security Strategy and the Foreign Policy White Paper 2017. The first two Defense White Papers (2009, 2013) stated that the UN and its Charter “are central” to the RBO. At the same time, they also acknowledged that the strategic underpinning of the RBO is the “global leadership

role played by the US since the end of World War II.” Interestingly, the direct link between the RBO and the UN Charter disappeared in Australia’s official documents after 2013, allowing the term to be described more broadly. According to the most recent Defense White Paper published in 2016, the RBO means “a shared commitment by all countries to conduct their activities in accordance with agreed rules which evolve over time, such as international law and regional security arrangements.” This order “supports the peaceful resolution of disputes, facilitates free and open trade and enables unfettered access to the global commons to support economic development.” Moreover, the governance framework of the RBO “has helped support Australia’s security and economic interests for 70 years.”

Germany’s Indo-Pacific Guidelines, published in 2020, place the UN Charter, human rights conventions as well as arms control and non-proliferation treaties at the heart of their conception of the RBO. The need for such an order is embedded in the recognition that the Indo-Pacific is “key to shaping the international order in the 21st century” and that a deepening bipolarity between the US and China could negatively affect Germany’s prosperity. While the Guidelines emphasize inclusivity and de-escalation, implementation has placed a strong focus on security and defense cooperation with partners such as Australia and Japan. In 2022, Federal Minister for Foreign Affairs Annalena Baerbock reiterated Germany’s commitment to the RBO that is “based on the Charter of the UN, on the principles of self-determination, respect for freedom and human rights, and the principle of international cooperation.”

India’s use of the RBO occurred against the backdrop of the rise of China, the emergence of the Indo-Pacific, and a new government led by Prime Minister Narendra Modi who was willing to replace old foreign policy concepts with new ones. Modi’s address at the Shangri-La Dialogue in 2017 is the most important reference point for his government’s conceptualization of the RBO (and the Indo-Pacific). For India, the sovereignty and territorial integrity of states as well as the equality of all nations is central to the RBO. According to Modi, however, the RBO must first “evolve, through dialogue,” and “the rules and norms should be based on the consent of

all, not on the power of the few.” This is likely directed not only at China but also at the US and its allies. India sees the current international system as dominated by the West and is calling for reform of the UN Security Council and better representation in institutions such as the International Monetary Fund and the World Bank. While not directly linked to the RBO, Modi also assured that Delhi will engage the world with an “absolute commitment to international law.”

### No Common Denominator

The US, Australia, Germany, and India show notable variation in their conceptions of the RBO. While all agree that a RBO represents a commitment by states to conduct their activities in accordance with agreed-upon rules, they reveal different understandings of what those rules entail. International law plays a role in all interpretations of the RBO. Hierarchically, the RBO seems to be constructed on international law, while also including other aspects such as non-binding norms, standards and procedures in various intentional fora and negotiating processes. This means that a RBO could theoretically include rules and norms to which certain states have not necessarily consented to.

Germany shows a comparatively narrow understanding of the RBO – of the four countries analyzed, it is the only actor that

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directly links it to the UN Charter. The conceptions of the US and Australia are broader. In their view, the RBO order is not only a system that includes institutions such as the UN and international law, but also US primacy and “rules that evolve over time,” such as US security alliances in the Asia-Pacific. Although the term was first used just over a decade ago, the RBO is understood to be an entity that has been in existence for more than 60 years. The US explicitly frames China and Russia as a threat to the RBO. The promotion of free trade and liberal democracy play a secondary role in the US’ and Australia’s conceptions. India seems to exist outside of the spectrum of narrow and broad understandings of the concept as it speaks of *evolving* a RBO through dialogue, based on the equality of all nations.

### Further Readings

Adam Breuer / Alastair Iain Johnston, “Memes, narratives and the emergent US–China security dilemma,” *Cambridge Review of International Affairs* 32:4 (2019), 429–455.

Christian Wirth, “Whose ‘Freedom of Navigation’? Australia, China, the United States and the making of order in the ‘Indo-Pacific,’” *The Pacific Review* 32:4 (2019), 475–504.

Lowy Institute, “Australia’s Security and the Rules-Based Order,” accessed 08.01.2023.

### Dissenting Voices

China and Russia reject the terminology of the RBO as they link it to a unipolar system led by the US. Chinese officials have emphasized “the international order underpinned by international law,” while rejecting the advocacy “by a small number of countries of the so called ‘rules-based’ international order.” From Beijing’s point of view, it is sufficient to describe the international order through international law and the UN system. China favors a multipolar world order centered on sovereignty and non-interference and dominated by its interpretation of human rights. Such an order could equally be rules-based, as it draws on parts of the UN Charter. In that regard, the China-Russia joint statement of February 2022 refers to “the United Nations-driven international architecture and the international law-based world order.” However, an order in which China’s vision predominates, as described above, would likely be different from one in which US preferences are more influential.

Competing formulations and criticism of the RBO seem to replicate the different understandings of existing rules, power structures, and global order. The dispute over the norm of freedom of navigation (FON), regulated in the UN Convention on the Law of the Sea (UNCLOS), provides a useful example. It illustrates the complexity of conflicts where a tug-of-war takes place between power and the interpretation of rules and norms. A central claim by the US and its allies is that China’s artificial island building and militarization efforts in the South China Sea challenge the FON. While there are legitimate concerns about China’s expansion in the South China Sea, a common understanding regarding FON in Asia is lacking. That is especially true for warships. China, India,

and other Asian coastal states try to restrict the activities of foreign military vessels in their Exclusive Economic Zones. India's position is closer to that of China than to that of the US. For this reason, the US also conducts freedom of navigation operations off the Indian coast. Conversely, the US

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and Australia favor an expansive interpretation of FON for warships. Even though the US abides by UNCLOS as customary law, it has not ratified the treaty and it technically exists outside of the regime.

### Between Ambiguity and Clarity

The term RBO contains a variety of meanings. It seems to be a political rather than an analytical term. China rejects it precisely because it considers the UN system to be a sufficient designation for the basis of the international order. The question is whether the widely divergent interpretations that are associated with the concept of the RBO will lead to a better shared understanding about the essential rules, norms, and institutions that should govern international relations. From the perspective of the RBO proponents,

however, the usefulness of the term may lie in part in its ambiguity. Despite conflicting understandings, it provides an overarching diplomatic terminology to address global power shifts triggered by China's rise,

among other factors. But its meaning depends on the user's perspective. In order to protect specific components of the international order such as international institutions, human rights, or a particular interpretation of FON, it could be more useful to specifically name the aspects that are threatened.

For more on perspectives on Euro-Atlantic security, see [CSS core theme page](#).

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