



USINDOPACOM Legal Vigilance Update

Issue #45, 23 August 2025

PREVAIL

Teammates,

Below please find the 45th edition of U.S. Indo-Pacific Command's (USINDOPACOM) Legal Vigilance Update (LVU). To access previous LVUs, please visit <https://www.pacom.mil/Contact/Directory/Jo/Jo6-Staff-Judge-Advocate/>.

Quote of the Week:

"PRC vessels collided into each other Aug 11 while conducting dangerous maneuvers near Scarborough Reef. We condemn this latest reckless action by China directed against vessel *BRP Suluan* and commend Philippine Coast Guard for their professionalism and their offer to render assistance."

Amb. MaryKay Carlson, U.S. Ambassador the Philippines
[U.S. Embassy in the Philippines's Post \(Facebook, Aug. 12, 2025\)](#)

- 22 August 2025: following the 11 August collision of two PRC vessels near Scarborough Shoal, China Coast Guard (CCG) and People's Liberation Army – Navy (PLAN) forces are currently conducting a show of force near Second Thomas Shoal in the Philippine exclusive economic zone (EEZ).

- **Bottom-line:** China's unilateral show of force is destabilizing and exacerbates tensions in the South China Sea. ***Second Thomas Shoal is an internationally recognized low tide elevation that forms part of the EEZ and continental shelf of the Philippines.***

- References:

- [Philippines Condemns China's Swarm of forces near disputed shoal and vows to defend the territory \(AP News Aug. 22, 2025\)](#)
- [Philippine Defense Secretary Gilberto C. Teodoro, Jr. Press Conference \(22 Aug 2025\)](#)

- Key points:

- China's forces have a demonstrated history of provocative, reckless, and destabilizing actions around Second Thomas Shoal.
 - [On 17 June 2024](#), CCG personnel forcibly prevented resupply of Philippine forces stationed on Second Thomas Shoal, using knives and axes to damage resupply vessels and destroy equipment which led to the maiming of a Philippine sailor. This June 2024 incident followed increasingly aggressive CCG actions at Second Thomas Shoal, including unsafe maneuvering, ramming, use of water cannons, lasers, and unsafe helicopter operations between 2021 and 2023.
- The 2016 Arbitral Tribunal on the South China Sea (binding on the China and the Philippines) found that Second Thomas Shoal is a low tide elevation that is clearly within the Philippines' EEZ.



PRC Forces near Second Thomas Shoal – August 2025

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- Specifically, the Tribunal found: “*Second Thomas Shoal [is] located within 200 nautical miles of the Philippines’ coast on the island of Palawan and [is] located in an area that is not overlapped by the entitlements generated by any maritime feature claimed by China. It follows therefore, that, as between the Philippines and China, Mischief Reef and Second Thomas Shoal form part of the exclusive economic zone and continental shelf of the Philippines.*” (paragraph 647)

- Customary international law (as reflected in Article 58 of the UN Convention on the Law of the Sea) establishes that all States enjoy freedom of navigation and overflight in another coastal State’s EEZ, but also mandates that “States shall have due regard to the rights and duties of the coastal State” when exercising those freedoms.
- In a statement on 22 August 2025, Philippine Defense Secretary Gilberto C. Teodoro, Jr. explained: “China’s actions and its nebulous territorial claims in the disputed waters are a matter not only of concern, but of condemnation because these are gross violations of international law.”
- Secretary of State Marco Rubio recently marked the nine-year anniversary of the South China Sea Arbitral Tribunal, noting that “***[s]ince the 2016 ruling, China has ignored the decision, continuing to assert unlawful and expansive maritime claims and taking increasingly aggressive actions against its neighbors.*** Beijing’s expansive claims directly infringe on the sovereign rights and jurisdictions of Vietnam, the Philippines, Malaysia, Brunei, and Indonesia, and undermine peace, stability, and prosperity in the Indo-Pacific.”



CCG use of water cannons near Second Thomas Shoal – October 2023

- 22 August 2025: U.S. lawmakers urge UN International Civil Aviation Organization (ICAO) to oppose China’s unilateral decision to extend a flight route in the Taiwan Strait.

- **Bottom-line:** a bipartisan group of U.S. lawmakers called for Taiwan’s participation in ICAO’s upcoming 42nd assembly in September and also urged ICAO to clarify its position on China’s unilateral move in July 2025 to open a third extension of the M503 flight route in the Taiwan Strait.

References:

- [U.S. lawmakers call for Taiwan’s participation in ICAO assembly \(Focus Taiwan, Aug. 22, 2025\)](#)
- [David Shepardson, US lawmakers urge ICAO to oppose China move to extend flight route near Taiwan \(Reuters, Aug. 22, 2025\)](#)

Key points:

- On July 6, 2025, China unilaterally announced the opening of the W121



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extension to the M503 flight route, which runs just west of the unofficial median line in the Taiwan Strait. This is the third such extension, following China's unilateral announcement of W122 and W123 routes in 2024.

- **ICAO's Air Traffic Services Planning Manual stipulates that establishing and changing flight routes should be done "only after they have been coordinated with all parties concerned."**
- In a letter to ICAO this week, a bipartisan group of U.S. lawmakers wrote that "unilateral changes disregard international aviation procedures and ICAO's own standards, which emphasize the importance of coordination and risk mitigation in shared airspace."
- Urging ICAO to allow Taiwan to meaningfully participate as a guest at the ICAO assembly, the lawmakers warned that China's unilateral action "places civilian aircraft dangerously close to Taiwan-administered airspace."
- **The U.S. expects cross-Taiwan Strait differences to be resolved by peaceful means, free from coercion, in a manner acceptable to the people on both sides of the Strait—and that issues related to civil aviation and safety in the Taiwan Strait should be decided through dialogue between both sides.**
- The U.S. has a longstanding policy of supporting Taiwan's meaningful participation in international organizations.

- 21 August 2025: new webinar examines China's distortion of UN General Resolution (UNGAR) 2758.

- **Bottom-line:** in a webinar posted by Small Wars Journal, **a panel of experts from the European Values Center for Security Policy details how China has "instrumentalized" and distorted UNGAR 2758 as part of its misrepresentative campaign to coerce Taiwan**, and proposes "actionable solutions for countering the Chinese Communist Party's political warfare."

- References:

- [404: Taiwan Not Found//Chinese Distortion of the UN Resolution 2758 \(European Values Center for Security Policy, streamed live on May 29, 2025\)](#)

- Key points:

- UNGAR 2758 (adopted on October 25, 1971) recognized the People's Republic of China's representatives to the UN as "the only legitimate representatives of China to the United Nations," expelling Taiwan from the UN.
- **Contrary to CCP assertions, however, UNGAR 2758 did not support China's claim of territorial sovereignty over Taiwan.**
- Nevertheless, China conflates its "one-China principle" (and the contention that it maintains territorial sovereignty over Taiwan) with UNGAR 2758 to attempt to provide international legitimacy to its sovereignty claims.



2758 (XXVI). Restoration of the lawful rights of the People's Republic of China in the United Nations

The General Assembly,
Recalling the principles of the Charter of the United Nations,

Considering that the restoration of the lawful rights of the People's Republic of China is essential both for the protection of the Charter of the United Nations and for the cause that the United Nations must serve under the Charter,

Recognizing that the representatives of the Government of the People's Republic of China are the only lawful representatives of China to the United Nations and that the People's Republic of China is one of the five permanent members of the Security Council,

Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it.

*1976th plenary meeting,
25 October 1971.*

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- The webinar “initiates a critical examination of [China’s] strategic misrepresentation of UNGAR 2758,” concluding that “a critical long-term objective of [China’s] distortion is to internalize the Taiwan question, allowing Beijing to frame any future international intervention in a cross-Strait conflict as an illegal interference in its domestic affairs, thus preempting international support for Taiwan.”
- ***International articulation of the facts of UNGAR 2758—i.e. that it does not establish or affirm China’s claim that Taiwan is an inalienable part of China’s territory, nor does it bar Taiwan from membership in international organizations where statehood is not a requirement—can serve an important function in countering China’s lawfare.***