

Santicola, Ian CDR USN INDOPACOM PCJ0 (USA)

From: Santicola, Ian CDR USN INDOPACOM PCJ0 (USA)
Sent: Thursday, November 21, 2024 6:23 PM
To: Santicola, Ian CDR USN INDOPACOM PCJ0 (USA)
Subject: INDOPACOM Legal Vigilance Update #10 (21 Nov 2024)
Signed By: [REDACTED]

Teammates,

Good afternoon. Below please find the 10th edition of INDOPACOM's Legal Vigilance Update.

- 17/18 November 2024: two undersea fiber-optic cables reportedly severed in quick succession in Baltic Sea; investigations launched.
 - **Bottom-line:** Finnish and Swedish authorities are investigating the severing of two undersea fiber-optic cables—one that connected Denmark and Lithuania, the other Finland and Germany—with authorities reportedly probing possible Russian involvement and closely scrutinizing a PRC-flagged merchant vessel that sailed over the two severed data cables in the Baltic Sea around the time that the cables were severed.
 - References:
 - [*Finnish authorities open probe into ruptured undersea cable between Finland and Germany* \(Associated Press, Nov. 20, 2024\)](#)
 - [*Miranda Bryant and Pjotr Sauer, Swedish police focus on Chinese ship after suspected undersea cable sabotage* \(The Guardian, Nov. 20, 2024\)](#)
 - [*Bojan Pancevski, Sune Engel Rasmussen, and Benoit Faucon, Chinese-Registered Ship Is Held in Baltic Sea Sabotage Investigation* \(The Wall Street Journal, Nov. 20, 2024\)](#)
 - [*Lisa O'Carroll, Russian spy ship escorted away from area with critical cables in Irish Sea* \(The Guardian, Nov. 16, 2024\)](#)
 - [*Submarine Cables – International Framework* \(National Oceanic and Atmospheric Administration\)](#)
 - Key legal points:
 - Finland's National Bureau of Investigation said it opened a criminal investigation into the rupture of the C-Lion1 cable on suspicion of "aggravated criminal mischief and aggravated interference with communications." Sweden has reportedly also opened an investigation into the matter.
 - Germany's defense minister said on Tuesday, "We have to assume, without certain information, that the damage is caused by sabotage."
 - PRC-flagged merchant vessel Yi Peng 3 reportedly passed the two cables on Sunday and Monday about the time it is believed they were severed.
 - The Danish Navy has reportedly shadowed the Yi Peng 3 since it was located in waters between Sweden and Denmark, saying "[t]he Danish Defence can confirm that we are present in the area near the Chinese ship Yi Peng 3."
 - Notably, under ***the 1884 International Convention for the Protection of Submarine Telegraph Cables***:
 - it is "a punishable offense to break or injure a submarine cable, willfully or by culpable negligence, in such a manner as might

interrupt or obstruct telegraphic communication, either wholly or partially” (Article II), and

- “when officers commanding ships of war...have reason to believe an infraction of the [Convention] has been committed by a vessel other than a vessel of war, they **may demand from the captain or master the production of the official documents** proving the nationality of the said vessel.”

- 18 November 2024: U.S. Secretary of Defense visits Republic of the Philippines.
 - **Bottom-line**: Secretary of Defense Lloyd J. Austin III underscored the United States' enduring commitment to the U.S.-Philippine mutual defense treaty as he surveyed the growing defense cooperation between the two nations.
 - References:
 - [Joseph Clark, Austin Caps Two-Day Visit to Philippines With Showcase of Growing Defense Cooperation \(DoD News, Nov. 19, 2024\)](#)
 - [Press Release, Joint Press Release on the Visit of U.S. Secretary of Defense Austin to the Philippines \(Nov. 19, 2024\)](#)
 - Key legal points:
 - Secretary Austin met with Philippines' President Ferdinand Marcos Jr. and Secretary of National Defense Gilberto C. Teodoro, Jr., during which they highlighted the need for deeper coordination to address challenges in the South China Sea, where lawful operations by the Philippines have encountered repeated harassment by the People's Republic of China.
 - Secretary Austin underscored continued **U.S. support for the Philippines in defending its sovereign rights and jurisdiction**.
 - Secretary Austin underscored that the U.S. is "profoundly committed to the defense of the Philippines," and that the United States' commitment to its mutual defense treaty with the Philippines remains "ironclad."
 - The Secretary said: "And let me say again that the **mutual defense treaty** applies to armed attacks on either of our armed forces, aircraft or public vessels, including our coast guards, anywhere in the South China Sea."
 - Secretary Austin also convened an official signing ceremony for the newly established **General Military Information Agreement, or GSOMIA**, that provides a legal framework enabling enhanced and expanded sharing of information and defense technology between the two countries.
 - The GSOMIA serves as a foundation for further enhancing interoperability between U.S. and Philippine forces and paves the way for additional security agreements in the future.
 - 19 November 2024: international community strongly condemns unjust sentencing of “NSL 47” under Hong Kong’s National Security Law.
 - **Bottom-line**: on 19 November, a Hong Kong court sentenced dozens of pro-democracy leaders to years in prison following a unjust trial based on a vague PRC-imposed national security law designed to silence peaceful political expression.
 - References:
 - [Koh Ewe and Phoebe Kong, Hong Kong jails 45 pro-democracy campaigners for subversion \(BBC, Nov. 19 2024\)](#)

- [Kanis Leung, Foreign governments criticize Hong Kong's sentencing of 45 activists. Beijing defends it \(Associated Press, Nov. 19, 2024\)](#)
- [Press Statement, U.S. Department of State, Unjust Sentencing under Hong Kong's National Security Law \(Nov. 19, 2024\)](#)
- Key legal points:
 - The pro-democracy advocates were among 47 people charged under a Beijing-imposed national security law in 2021.
 - The 45 defendants sentenced were aggressively prosecuted, and many now face life-altering imprisonment simply for their peaceful participation in political activities which are protected under the Basic Law of Hong Kong.
 - Many states and international bodies condemned the sentencing, including Australia, Britain, the EU, the UN, the U.S., Amnesty International, and Human Rights Watch.
 - In response, the U.S. Department of State is taking steps to impose new visa restrictions on multiple Hong Kong officials responsible for implementation of the Hong Kong National Security Law, pursuant to Section 212(a)(3)(C) of the Immigration and Nationality Act.
 - ***The U.S. continues to urge the PRC government and Hong Kong authorities to uphold Hong Kong's judicial independence, cease the use of vague national security laws to silence those peacefully expressing their political views, and restore the openness that was so crucial to Hong Kong's vitality and success.***
- 19 November 2024: Philippine Defense Secretary condemns PRC actions that crowd out Philippine access to its own exclusive economic zone (EEZ).
 - **Bottom-line:** the PRC continues to flout the 2016 Arbitral Tribunal in its use of aggressive tactics to deny the Philippines access to its own EEZ.
 - References:
 - [Christina Chi, Philippines condemns China's fake fishing boats as US ramps up defense aid \(Philstar.com, Nov. 20 2024\)](#)
 - Key legal points:
 - Philippine Secretary of National Defense Gilberto C. Teodoro, Jr. said that the PRC has increasingly intensified its efforts to deny the Philippines access to its EEZ, noting that the PRC has “really placed a lot of these pseudo-military vessels disguised as Coast Guard vessels and maritime militia vessels in the areas west of the Philippine Sea.”
 - The 2016 Arbitral Tribunal determined that the PRC's expansive South China Sea maritime claims are inconsistent with international law, and firmly rejected any PRC territorial or maritime claim to areas determined by the Tribunal to be part of the Philippines' EEZ and continental shelf.
 - The 2016 arbitral decision (a unanimous, final, and legally binding ruling as between the PRC and Philippines) also determined that ***the PRC's harassment of Philippine fisherfolk in the Philippine EEZ is unlawful.***
 - The U.S. continues to call on the PRC to abide by the 2016 arbitral ruling, to cease its dangerous and destabilizing conduct, and to comport its conduct as well as its territorial and maritime claims in the South China Sea to the international law of the sea as reflected in UNCLOS.

- 21 November 2024: U.S. Department of Defense releases Vision Statement for a Prosperous and Secure Southeast Asia.
 - **Bottom-line:** Secretary of Defense Lloyd J. Austin III laid out a new Defense Department vision for ensuring a prosperous and secure Indo-Pacific through enhanced collaboration among Southeast Asian nations as he met with key defense leaders in Vientiane, Laos.
 - References:
 - [Press Release, U.S. Department of Defense Vision Statement for a Prosperous and Secure Southeast Asia \(Nov. 21, 2024\)](#)
 - [Brandi Vincent, How the first-ever DOD vision statement for Southeast Asia prioritizes technology \(DefenseScoop, Nov. 21, 2024\)](#)
 - Key legal points:
 - Secretary Austin said, “The United States welcomes a strong ASEAN that speaks with a powerful voice on key issues and plays a leading role in upholding shared principles and international law.”
 - The Secretary also said that ***the principles on which the ASEAN Outlook on the Indo-Pacific is based “are complimentary with those in the United States’ Indo-Pacific Strategy, which seeks to promote sovereignty, transparency, good governance, and a rules-based international order in conjunction with our allies and partners.”***
 - The DoD’s key lines of effort to advance the collective capacity of ASEAN and individual Southeast Asian nations are:
 - Domain Awareness and Defense (including ongoing efforts to improve the capability of Southeast Asian partners to detect and identify activity within their sovereign airspace, including their EEZs and Air Defense Identification Zones);
 - Exercises;
 - Education and Training;
 - Defense Industrial Capacity Building;
 - Defense Institutional Capacity Building; and
 - Defense Mitigation of Climate Impacts.

Thank you for your continued participation in our Counter-Lawfare community of interest.
V/r Ian

CDR Ian Santicola, JAGC, USN
U.S. Indo-Pacific Command
Chief, National Security Law
Director, Counter-Lawfare Center





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