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Sent: Friday, December 13, 2024 3:35 PM
To: Santicola, Ian CDR USN INDOPACOM PCJ0 (USA)
Subject: INDOPACOM Legal Vigilance Update #12 (13 Dec 2024)
Signed By: [REDACTED]

Teammates,

Below please find the 12th edition of INDOPACOM's Legal Vigilance Update.

- 13 December 2024: U.S. Department of State released a progress report on the National 5-Year Strategy for Combatting Illegal, Unreported, and Unregulated (IUU) fishing.
 - **Bottom-line:** the United States is committed to combatting IUU fishing at home and abroad, and this State Department update provides a progress report on actions taken to date under NSM-11 and the National 5-Year Strategy.
 - References:
 - [Fact Sheet, U.S. Efforts to Combat Illegal Fishing and Associated Labor Abuses](#) (Department of State Office of the Spokesperson, Dec. 13, 2024)
 - [Carolyn Gruber, Madelyn MacMurray, and Sally Yozell, Fight IUU Fishing with the Tools of Today and Tomorrow](#) (Stimson, Nov. 21, 2024)
 - Key legal points:
 - ***IUU fishing is a serious global problem that threatens the health and stability of ocean ecosystems and fisheries***, food security, and economic growth, while undermining law-abiding fisherfolk and communities that depend on them in the United States and around the world.
 - The People's Republic of China (PRC) has the largest global distant water fishing (DWF) fleet in the world.
 - According to [the Stimson Center](#), “recent analysis of activities by China’s DWF fleet in the South-West Indian Ocean illustrates ***direct contradictions between China’s stated goals of supporting a sustainable blue economy in the region and the realities on board many of its fishing [vessels].***”
 - Stimson reports: “Of the 95 PRC-flagged longliners authorized to target tuna in the region, 47% are linked to cases of IUU fishing and human rights abuses. In interviews with fishers who work onboard the fleet, 100% reported abusive working and living conditions, 96% reported excessive overtime, and 55% reported instances of physical violence.”
 - Through capacity-building initiatives with partner governments, the U.S. promotes stronger rules for fisheries to promote sustainable fishing and to counter human rights abuses.
 - Operationally, ***the U.S. works to strengthen the surveillance and enforcement capacity of partners***; for example, the U.S. Coast Guard supports partner enforcement actions through [bilateral maritime law enforcement agreements](#), many of which include shiprider provisions that enable law enforcement officers from a coastal state to embark another country’s vessel to support the coastal state’s law enforcement action.

- 12 December 2024: PRC-flagged vessels remains anchored in the Baltic Sea as joint investigation into cable severing continues.
 - **Bottom-line**: the PRC-flagged merchant vessel Yi Peng 3 remains anchored with German and Danish coast guard vessels nearby, as it is reportedly suspected of having dragged its anchor at the time and in the vicinity of the cable severing. Sweden has requested PRC cooperation with the investigation.
 - References:
 - [Michael Schwartz and Henrik Pryser Libell, Chinese-Flagged Ship Suspected of Cutting Cables Remains Halted Weeks Later \(The New York Times, Dec. 12, 2024\)](#)
 - Key legal points:
 - The 1884 International Convention for the Protection of Submarine Telegraph Cables makes it an **offense to damage submarine cables** (willfully or by culpable negligence) and permits a State that suspects a violation to demand that the responsible ship produce official documents proving the nationality of the vessel.
 - According to Christopher P. Maier, a U.S. assistant secretary of defense, “Russia realizes that it cannot match the United States militarily after the setbacks it had in Ukraine and is looking for other ways to pressure and disrupt the Western countries. We therefore expect to see more types of sabotage and other disruptive and subversive incidents.”
 - This is the **not the first time that a PRC-flagged vessel has been suspected of involvement in disruption of critical undersea infrastructure**. The New York Times reports: “Taiwanese officials have [suggested](#) that Chinese ships may have dropped their anchors and dragged them to intentionally sever cables servicing Taiwan, and last year a Chinese-flagged ship called the Newnew Polar Bear dropped its anchor and [cut through a gas pipeline](#) between Finland and Estonia. That ship was allowed to sail into international waters before authorities had a chance to investigate. Officials appear unwilling to give the Yi Peng 3 the same opportunity.”
- 12 December 2024: United States establishes two task forces to counter PRC censorship and coercion.
 - **Bottom-line**: consistent with Fiscal Year 2023’s National Defense Authorization Act, President Biden established the China Censorship Monitor and Action Group (Task Force) to monitor and address the effects of any efforts by the PRC to censor or intimidate United States persons exercising freedom of speech, as well as the Countering Economic Coercion Task Force to address the increasing use of economic coercion by countries of concern (including the PRC) and develop concrete recommendations to deter future coercive economic behavior.
 - References:
 - [White House Memorandum on the Establishment of the China Censorship Monitor and Action Group](#)
 - [White House Memorandum on the Establishment of the Countering Economic Coercion Task Force](#)
 - Key legal points:

- China Censorship Monitor and Action Group – per 22 USC §3363, the Task Force shall “oversee the development and execution of an integrated Federal Government strategy to monitor and address the impacts of efforts directed...by the [PRC] to censor or intimidate, in the United States or in any of its possessions or territories, any United States person, including United States companies that conduct business in the [PRC], which are exercising their right to freedom of speech.”
- Countering Economic Coercion Task Force – per 22 USC §3362, Congress expressed a sense that:
 - “the [PRC’s] increasing use of economic coercion against foreign governments, companies, organizations, other entities, and individuals requires that the United States devise a comprehensive, effective, and multilateral response;” and
 - ***“PRC coercive economic practices create pressures for the private sector to behave in ways antithetical to United States national interests and competitiveness.”***
- The Countering Economic Coercion Task Force shall “oversee the development and implementation of an integrated...strategy to respond to [PRC] coercive economic practices,” including monitoring/evaluating impacts of PRC coercion, facilitating coordination among Federal departments/agencies as well as allies/partners/private sector entities, and forming policy recommendations for the implementation of response options to instances of PRC coercive economic practices.
- 10 December 2024: Japan hosts inaugural United States-Japan-Philippines Trilateral Maritime Dialogue.
 - **Bottom-line:** All three nations expressed serious concerns about the PRC’s dangerous and unlawful behavior in the South China Sea and reaffirmed their commitment to upholding international law as reflected in the 1982 Law of the Sea Convention (UNCLOS).
 - References:
 - [*The Inaugural United States-Japan-Philippines Trilateral Maritime Dialogue \(Office of the Spokesperson of the Department of State, Dec. 10, 2024\)*](#)
 - [*Japan-U.S.-Philippines Maritime Dialogue \(Ministry of Foreign Affairs of Japan, Dec. 10, 2024\)*](#)
 - [*Seth Robson, US, allies send message to Beijing over South China Sea clashes with the Philippines, \(Stars and Stripes, Dec. 11, 2024\)*](#)
 - Key legal points:
 - The U.S., Japan, and the Philippines seek to enhance coordination and collective responses following the PRC’s repeated blocking and harassment of Philippine vessels operating within the Philippine EEZ.
 - The ***PRC’s unlawful and dangerous behavior threatens the freedoms of navigation and overflight of all nations.***
 - In light of ongoing PRC aggression in the South China Sea, the three nations expressed a preference for a peaceful settlement.
- 10 December 2024: Australia and Nauru Sign Strategic Partnership Treaty.

- **Bottom-line:** Australia and Nauru have entered a five-year strategic partnership treaty that strengthens Australia's influence in the Pacific region. As a counter to potential coercive PRC influence, the treaty limits Nauru's ability to enter security pacts with third parties without Australian consent.
 - References:
 - [Victoria Kim, *With an Eye on China, Australia Strikes a Deal With Nauru* \(The New York Times, Dec. 10, 2024\)](#)
 - [Rod McGuirk, *Nauru gives Australia a veto right over a range of pacts with other nations including China* \(Associated Press, Dec. 9, 2024\)](#)
 - [Stephanie Dziedzic, *Australia inks treaty with Nauru locking out growing Chinese influence* \(Australia Broadcasting Corporation, Dec. 8, 2024\)](#)
 - Key legal points:
 - Under the treaty, Nauru is required to consult with and obtain Australia's consent before entering into security partnerships or allowing foreign military access to its ports and infrastructure. Nauru must also consult with Australia before entering security-related partnerships with third parties, including in critical areas like telecommunications, banking, and cybersecurity.
 - In exchange, Australia will provide \$90 million USD in budget support and security assistance over five years, a significant investment relative to Nauru's small economy.
 - This treaty follows Australia's similar 2023 agreement with Tuvalu and **reflects efforts to counter any potential PRC efforts to enter into defense pacts with Pacific island nations.**
 - The move echoes regional concerns that arose from [China's 2022 security pact with the Solomon Islands](#), signaling Australia's intent to preemptively counter PRC influence in the Pacific.
- 8 December 2024: two Philippine Bureau of Fisheries and Aquatic Resources (BFAR) vessels reportedly targeted with a high-intensity laser by PRC-flagged vessel.
 - **Bottom-line:** an unidentified PRC-flagged vessel reportedly directed a "high-intensity laser" at a Philippine BFAR ship multiple times in the vicinity of Half Moon Shoal.
 - References:
 - [Frances Mangosing, *Chinese vessel hits BFAR ship with laser six times* \(Philippine Daily Inquirer, Dec. 9, 2024\)](#)
 - [Liz Lagniton, *China Fires High-Intensity Laser At Filipino Boat In West Philippine Sea* \(Maritime Fairtrade, Dec. 9, 2024\)](#)
 - Key legal points:
 - Half Moon Shoal sits within the Philippine exclusive economic zone (EEZ).
 - The 2016 Arbitral Tribunal ruling 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 laser incident occurred two days prior to an incident off of Scarborough Shoal during which a Chinese Coast Guard (CCG) vessel sideswiped and fired water cannons at a BFAR vessel.
 - The **PRC continues to engage in a pattern of unsafe, unprofessional, and unlawful behavior in the South China Sea.**

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December 2024: Canada and the United States separately highlight growing Russian and PRC threats in the Arctic.

- **Bottom-line:** in separate statements last week, Canada and the United States each addressed growing geopolitical challenges posed by Russia and China in the Arctic region.
 - References:
 - [Why is Canada scrambling to counter Russia, China in the Arctic \(Al Jazeera, Dec. 9, 2024\)](#)
 - [Canada to boost Arctic cooperation with US, cites Russia threat \(Reuters, Dec. 6, 2024\)](#)
 - [Ilya Gridneff, Canada bolsters Arctic security to counter Russia-China threat \(Financial Times, Dec. 7, 2024\)](#)
 - [Government of Canada, Canada's Arctic Foreign Policy \(updated Dec. 6, 2024\)](#)
 - Key legal points:
 - According to Canada's updated Arctic Foreign Policy document, "Canada is seeing a number of potential threats, including increased Russian activity in Canadian air approaches, China's regular deployment of dual-use—having both research and military application—research vessels and surveillance platforms to collect data, and a general increase in Arctic maritime activity."
 - Canada's Arctic Foreign Policy says ***"Russia and China are aligned in their desire to undermine the liberal-rules-based international system," and "because of sanctions and of its massive expenditures on its illegal war against Ukraine, Russia is increasingly reliant on China to fund and support the development of its projects in the Arctic."***
 - With respect to the PRC, Canada's Foreign Policy says: "China seeks to shape the international order into a more permissive environment for interests and values that increasingly deviate from Canada's commitment to a rules-based international system. China can be expected to use all the tools at its disposal to advance its geopolitical interests, including in the Arctic. Canada will challenge China when it ought to and cooperate when its interests align with China's."
 - At a separate Center for Strategic and International Studies (CSIS) event, U.S. Deputy Assistant Secretary of Defense for Arctic and Global Resilience, Iris Ferguson, [highlighted](#) PRC's current activities in the Arctic, including increased PRC-Russia cooperation and emerging hybrid threats.
 - In October 2024, PRC and Russia held their [first-ever joint patrol of the Arctic region](#), coming as close as 12 nautical miles to the Alaska coast, traversing through the Bering Strait just outside U.S. territorial waters off the Seward Peninsula. Also, several times this year PRC and Russian bombers have [flown in international airspace just off Alaska](#) in what is known as the Alaska Air Defense Identification Zone. To address gaps in U.S. presence and capability in the Arctic, the U.S. Coast Guard will [receive a commercial icebreaker](#) for Coast Guard use by the end of the year.
 - Both the U.S. and Canada strategies emphasize enhanced domain awareness, stronger alliances, and strategic deterrence as critical to preserving the Arctic as a stable and secure region.

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

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