

From: [REDACTED]
To: [REDACTED]
Subject: INDOPACOM Legal Vigilance Update #14 (22 Dec 2024)
Date: Sunday, December 22, 2024 6:04:12 AM
Attachments: [image002.png](#)

Teammates,

Below please find the 14th edition of INDOPACOM's Legal Vigilance Update. We wish you and your teams a happy holiday season and look forward to our continued collaboration in 2025.

- 10 December 2024: France pledges unwavering support for the Philippines' pursuit of rules-based order in the South China Sea.
 - **Bottom-line:** Secretary General of the French Ministry for Europe and Foreign Affairs Anne-Marie Descotes reiterated support for the Philippines' position on the South China Sea during high-level diplomatic consultations in Manila.
 - References:
 - [Christina Chi, France backs Philippines on South China Sea in high-level talks \(Philstar, Dec. 10, 2024\)](#)
 - [Gabriel Dominguez, With rare Asia carrier deployment, France seeks greater interoperability \(The Japan Times, Dec. 17, 2024\)](#)
 - Key points:
 - France indicated that incidents in the South China Sea are “high and frequent” on its bilateral agenda with the Philippines.
 - France expressed support for the 2016 UNCLOS arbitral tribunal award and international law.
 - France has historically condemned the PRC's claims in the South China Sea and joined the UK and Germany in filing a joint *note verbale* in 2020 to protest the PRC's claims.
 - France regularly sails its naval vessels through the South China Sea to support freedom of navigation for all States, and has participated in joint military exercises with Japan and the U.S. in the region.
 - ***For the first time in four decades, France will deploy the Charles de Gaulle carrier strike group (CSG) to the Indo-Pacific in 2025 to maintain security and stability.***
 - The carrier strike group at various points will be reinforced by U.S., Greek, Portuguese, Italian, Moroccan, British, Australian, Canadian, and Japanese military vessels.
 - France plans to increase the number of assets and personnel operating in the South Pacific by 2030.
 - The French deployment to the Indo-Pacific follows that of Italy's aircraft carrier *Cavour* in August 2024. In addition, the UK plans to deploy the *Prince of Wales* aircraft carrier in 2025 to the region.

- These deployments represent growing international support for regional stability against the backdrop of increasingly aggressive PRC behavior.
- **13 December 2024:** Philippines considers new arbitration case against PRC under UNCLOS.
 - **Bottom-line:** the Philippines is reportedly considering a new arbitration case against PRC under UNCLOS, aiming to hold Beijing accountable for its aggressive actions in the South China Sea and seeking broader international support.
 - References:
 - [Kathrin Hille, Philippines considers new UN case against Beijing over South China Sea activity \(Financial Times, Dec. 11, 2024\)](#)
 - Key points:
 - The Philippines is reportedly exploring options to initiate a second arbitration case against PRC under UNCLOS using [Annex VII](#) arbitration procedures. This is the same mechanism the Philippines leveraged to bring about the [2016 arbitral tribunal award](#), which invalidated PRC's dashed-line claim and is legally binding between the PRC and the Philippines.
 - Philippine officials are reportedly advocating for a multilateral approach, with the aim to involve other UNCLOS signatories to increase international pressure on PRC and enhance prospects for enforcement.
 - The Philippines is reportedly gathering evidence to support claims that PRC's actions violate its obligations under UNCLOS. Potential claims may address:
 - Destruction of Fisheries Resources: Evidence of PRC's environmental degradation caused by island-building and reclamation activities.
 - Harassment of Vessels: PRC's use of force against Philippine and other foreign vessels in the South China Sea.
 - Violations of Sovereign Rights: Interference with Philippine resupply missions to the *Sierra Madre* (Second Thomas Shoal) and disruption of fishing activities within the Philippine Exclusive Economic Zone (EEZ).
 - The PRC has falsely labeled the 2016 arbitral tribunal ruling as "null and void" and has consistently failed to align its actions and its territorial and maritime claims in the South China Sea with international law as reflected in UNCLOS.
 - ***On Dec. 16, 2024, the Philippine Senate ratified a [reciprocal access agreement](#) with Japan, enabling both nations' militaries to deploy in each other's territory—a strategic move aimed at countering PRC's growing***

aggression in the region.

- **21 December 2024:** PRC-flagged vessel linked to Baltic Sea cable severing reportedly continues voyage after PRC does not allow Sweden's prosecutor to board vessel.
 - **Bottom-line:** The PRC-flagged merchant vessel *Yi Peng 3* had remained anchored under the watch of German and Danish coast guard vessels, amid mounting evidence that it dragged its anchor near the site and time of the undersea cable severing. European investigators recently boarded the vessel with a PRC-led team, but the PRC reportedly did not allow Sweden's public prosecutor to board.
 - **References:**
 - [Bojan Pancevski, *China Lets European Investigators Board Ship Suspected of Sabotage After Weeks of Secret Talks* \(The Wall Street Journal, Dec. 19, 2024\)](#)
 - [Karoline Rosenkrantz Paasch, *New underwater footage raises sabotage suspicions against Yi Peng 3* \(Scandasia, Dec. 18, 2024\)](#)
 - [Malte Humpert, *Russia Now Primary Suspect in 'Yi Peng 3' Baltic Sea Cable Incident* \(gCaptain, Dec. 16, 2024\)](#)
 - [Bojan Pancevski, *Brush With Russia in Baltic Points to New Flashpoint in NATO-Moscow Shadow War* \(The Wall Street Journal, Dec. 15, 2024\)](#)
 - **Key points:**
 - European investigators, with PRC's approval, boarded the *Yi Peng 3* in the Baltic Sea after weeks of secret negotiations involving Germany, Sweden, Denmark, Finland, and PRC. However, the PRC [reportedly](#) did not allow Sweden's prosecutor to board.
 - ***Investigators are probing possible Russian involvement, suspecting that the ship's Chinese captain or crew may have been bribed by Russian agents to damage European infrastructure.***
 - Recent underwater investigations using drones and divers revealed seabed markings consistent with human activity, which align with AIS tracking data of the *Yi Peng 3*'s movements directly over the damaged underwater cables.
 - According to Christopher P. Maier, Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, “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.”
 - 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.

■ Adjacent issue:

- Relatedly, on Dec. 16, 2024, [Estonia announced](#) that a group of twelve Western countries agreed to measures to "disrupt and deter" Russia's shadow fleet. The announcement signals strengthened global resolve against Russian sanction evasion.
 - The term "shadow fleet" refers to vessels used by Russia to move oil, arms, and grain in violation of international sanctions imposed on it as a result of the international armed conflict in Ukraine. The vessels are often old, uninsured, and with unclear ownership.
 - ***In addition to evading sanctions and funneling profits to Russia, these vessels pose a significant environmental hazard.*** On Dec. 15, 2024, [one shadow fleet vessel sank and another ran aground near the Kerch Strait](#) during a storm in the Black Sea, causing substantial environmental damage.
- Under new measures, Denmark, Sweden, Poland, Finland, and Estonia will [begin to check insurance documents](#) of suspected shadow fleet vessels passing through the English Channel, Danish Straits, Gulf of Finland, and the sound between Sweden and Denmark.
- Estonian leadership, backed by a unified coalition of Western allies, underscores a powerful commitment to coordinated maritime enforcement—upholding sanctions, safeguarding global shipping standards, and curbing Russia's ability to finance the international armed conflict in Ukraine with illicit oil revenue.

- 16 December 2024: Joint U.S.-ROK-Japan Symposium on Countering DPRK Illicit Maritime Activities.

- **Bottom-line:** senior officials, maritime enforcement authorities, and maritime industry stakeholders from the U.S., Republic of Korea (ROK), and Japan convened in Singapore to strengthen trilateral coordination in countering DPRK's illicit maritime activities. The symposium emphasized the importance of real-time information sharing, enhanced maritime interdiction, and legal frameworks to disrupt DPRK's evasion of UN sanctions.

■ References:

- [U.S. Department of State Press Release, Joint U.S.-ROK-Japan Symposium on Countering DPRK Illicit Maritime Activities \(Dec. 17, 2024\)](#)

■ Key points:

- The U.S., ROK, and Japan emphasized the need for close coordination to disrupt DPRK's evasion tactics, including ship-to-

- ship transfers and deceptive shipping practices.
 - Participants discussed the role of UN Security Council Resolutions (UNSCRs) as the legal foundation for maritime interdictions targeting DPRK's illicit activities.
 - The three nations plan to conduct follow-on engagements, workshops, and further coordination to sustain enforcement against DPRK's maritime evasion tactics.
 - Separately, on Dec. 16, 2024, the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) [sanctioned nine individuals and seven entities](#) that provided financial and military support to DPRK.
- 18 December 2024: High Seas Treaty transmitted to U.S. Senate for Advice and Consent to Ratification.
 - **Bottom-line**: the High Seas Treaty creates a legal framework to protect marine biodiversity in areas beyond national jurisdiction, enabling the creation of marine protected areas, requiring environmental impact assessments, and ensuring equitable access to marine genetic resources.
 - References:
 - [U.S. Department of State Press Release, Transmittal of the High Seas Treaty to the Senate \(Dec. 18, 2024\)](#)
 - Key points:
 - The High Seas Treaty operates as an implementing agreement under UNCLOS. Although the U.S. is not a party to UNCLOS, it supports the High Seas Treaty's objectives as consistent with customary international law and critical to advancing global marine conservation and U.S. strategic interests. ***The U.S. does not have to join UNCLOS in order to join the High Seas Treaty.***
 - The treaty has several provisions related to international marine conservation efforts. Specifically, the treaty:
 - introduces a coordinated approach to creating marine protected areas (MPAs) on the high seas;
 - requires that activities planned for the high seas undergo environmental impact assessments (EIAs) to evaluate potential harm to marine ecosystems;
 - emphasizes enhancing the capabilities of all nations, particularly developing countries, by facilitating access to marine technology and scientific knowledge;
 - establishes a framework for the fair and equitable sharing of benefits arising from marine genetic resources (MGRs) found in areas beyond national jurisdiction.
- December 2024: U.S. and Allied maritime activity in the Indo-Pacific.

- **Bottom-line:** The U.S. Navy conducted a [freedom of navigation operation \(FONOP\)](#) near Swallow Reef in the South China Sea and a port visit in Cambodia, while the Philippines successfully resupplied the *BRP Sierra Madre* at Second Thomas Shoal.
 - **References:**
 - [Mallory Shelbourne, U.S. Destroyer Performs South China Sea FONOP \(USNI News, Dec. 6, 2024\)](#)
 - [U.S. warship docks in Cambodia, a top Chinese ally, for first time in 8 years \(CBS News, Dec. 16, 2024\)](#)
 - [Philippines sends provisions to military personnel in South China Sea \(Reuters, Dec. 17, 2024\)](#)
 - **Key points:**
 - The *USS Preble* sailed within twelve nautical miles of Swallow Reef, which is claimed by the PRC, Vietnam, and Taiwan. The U.S. challenged excessive maritime claims requiring [permission or advance notice of innocent passage](#) while passing through a territorial sea.
 - The *USS Savannah* docked at the Cambodian port of Sihanoukville, the first port visit by a U.S. Navy vessel in eight years. The visit promoted bilateral cooperation and responses to shared maritime security challenges between the two nations. [Beijing responded](#) to the U.S. warship's visit to Cambodia by saying "such exchanges and collaborations in security and defense should contribute to promoting regional peace and stability, rather than the opposite."
 - The [U.S. has expressed concerns regarding PRC's involvement](#) in the expansion of Cambodia's Ream Naval Base, suggesting that this could enable a permanent PRC military presence in the Gulf of Thailand and enhance Beijing's strategic capabilities in the region. **On Dec. 20, 2024, [Cambodia granted Japan visitation rights to Ream Naval Base.](#)**
 - Between December 3 and December 14, the Philippines conducted a resupply mission to the grounded warship [BRP Sierra Madre](#) at Second Thomas Shoal. On December 4, China Coast Guard vessels fired water cannons and side-swiped a Philippine Bureau of Fisheries and Aquatic Resources (BFAR) vessel transporting supplies to fisherfolk at Scarborough Shoal.
 - These naval activities align with the commitment to promote a free, open, and rules-based Indo-Pacific region. They underscore the U.S. commitment to deter coercive behavior and to foster cooperation among allies and partners.
-



Royal Cambodian Navy personnel look on as the USS Savannah combat ship docks in Cambodia's southern port city of Sihanoukville on December 16, 2024. Agence France-Presse

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

NIPR: [REDACTED]

SIPR: [REDACTED]

DSN: [REDACTED]

COMM: [REDACTED]

VOSIP: [REDACTED]

Cell: [REDACTED]



The U.S. Indo-Pacific Command's Office of the Staff Judge Advocate delivers full-spectrum legal support to integrated deterrence, legal force readiness, and counter-lawfare in support of COMUSINDOPACOM's Theater Campaign Plan. For more information, including

USINDOPACOM's counter-lawfare TACAIDS, please visit
<https://www.pacom.mil/Contact/Directory/Jo/Jo6-Staff-Judge-Advocate/>.