

USINDOPACOM J06

Countering Legal Warfare

“Counter-Lawfare”



JUNE 2024

**This overview brief presents a conceptual approach developed at USINDOPACOM and does not necessarily reflect official U.S. government policy positions*



Background: Countering “Legal Warfare” (Counter-Lawfare)

ENSURING A FREE AND OPEN INDO-PACIFIC

- **INDOPACOM initiative began in April 2022**
- **Managed and coordinated by INDOPACOM legal office**
- **Contributes to integrated deterrence by reinforcing the rules-based international order and contesting efforts to undermine and reshape international law**
- **Seeks to deny potential adversaries from using “legal warfare” as a tool for coercion or pretext for aggression**
- **Consists of legal vigilance (monitoring/responding to trends in the legal environment), support to operations in the information environment, and legal partnership building**
- **Unique to USINDOPACOM, but nested within U.S. policy and joint doctrine**





Overview: USINDOPACOM Counter-Lawfare Initiative

ENSURING A FREE AND OPEN INDO-PACIFIC

Counter-lawfare consists of operations and activities that preserve legitimacy, build legal consensus, and expose and oppose unlawful action and misinformation that threatens the rules-based international order

"Legal Vigilance": The monitoring and assessment of the legal environment. Maintaining legal vigilance ensures USINDOPACOM and its allies and partners are able to identify threats (including PRC "legal warfare"), integrate across the combined joint force, and implement action to uphold the rule of law.

Objectives

- Build legitimacy through consensus (strength in numbers)
- Deny potential adversaries from gaining legal superiority

Lines of Effort (LOE)

1 – Information

Emphasize USINDOPACOM's adherence to the rule of law across the Information Environment.

Publicize behavior by adversaries that undermines the rule of law

2 – Partnership

Integrate with partner nation legal offices on efforts to promote and uphold the rule of law

Coordinate with partners in academia to promote and advance the rule of law

End-States

- Potential adversaries are deterred from undermining RBIO
- Legal environment is prepared in favor of U.S./ A&P → freedom of action

USINDOPACOM's counter-lawfare initiative supports integrated deterrence in accordance with the Commander's Theater Campaign Plan and the National Defense Strategy



Counter-Lawfare LOE 1: Support to OIE

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Tactical Aids (TACAIDs), combined information papers, and the legal office's quarterly newsletter, the Legal Vigilance Dispatch, are shared broadly and published [here](#) to highlight important legal issues affecting the Indo-Pacific region.

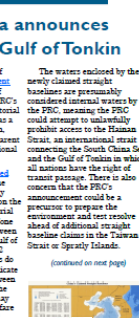
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USINDOPACOM J06/SJA TACAID SERIES

TOPIC: HIGH-ALTITUDE BALLOONS

BLUF

- The People's Republic of China's (PRC) high-altitude balloon (HAB) surveillance operations violated international law and the sovereignty of more than 40 countries across five continents.
- The PRC sought to justify violation of U.S. sovereignty by characterizing its HAB as a "civilian aircraft" used for "meteorological" purposes while blaming "force majeure" for "unintended entry" - not only are these claims false, they do not provide a legal justification even if true.
- Irrespective of the PRC's attempts at legal justification, HABs are aircraft under international law subject to the rules and norms governing safety of flight and observance of national boundaries.
- Under international law, every nation may:
- By propagating the which to execute
- There is no "near" international law the airspace / or
- In contrast to the compliance with



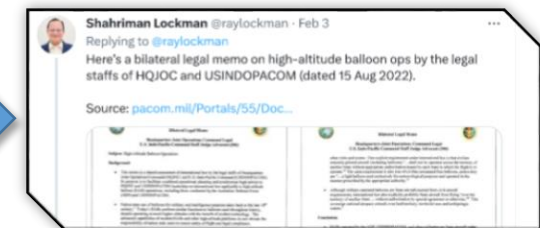
PH tells UN: Preserve rules-based global order

By Anna Leah Gonzales

September 24, 2023, 1:34 pm

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The Washington Times

America's Newspaper

Pacific Command legal office prepares military forces for future fight with China

Military launches 'counter-lawfare' program to challenge Chinese military narratives



J06 Office of the Staff Judge Advocate

Key Appointments

Title Name



Counter-Lawfare LOE 2: Partnership Building

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Allies & Partners



Interagency



Academia, Think Tanks, NGOs



Legal Engagement Plans & OAs

- *MILOPS Conference*
- *Treaty Allies, Freely Associated States*
- *Institutional capacity building*

Strategic Legal Synchronization

- *Support to Department of State (Legal Diplomacy)*
- *Interagency coordination and collaboration*

Info Sharing & Collaboration

- *Indo-Pacific Legal Manual*
- *NDU, NWC, Service JAG schools*
- *Atlantic Council, CSIS, Hoover*

- *Legal vigilance*
- *Interoperability*
- *Legal resilience*
- *Legal readiness*
- *Institutional Capacity*
- *Access, basing overflight*
- *Agreements*
- *Alignment & consensus*
- *Reinforced customs and norms*
- *Rule of law*
- *Strength in numbers*
- *Legitimacy*
- *Deterrence*



Counter-Lawfare – Current Initiatives & Way Forward

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LOE 1 (Information): Transparency, Objectivity, Sharing

Where we are:

- Tactical Aids
- Legal Vigilance Dispatch
- Combined Projects
- Public Webpage
- Bi/multilateral Partnerships, NATO, Interagency, Academia

USINOPACOM J06/SJA TACAID SERIES

TOPIC: AIR INTERCEPTS

BLUF

- Open-source reports reflect an emerging trend of concerning air intercepts by the People's Liberation Army (PLA) against U.S. and allied aircraft operating lawfully in international airspace.
- International law requires that air intercepts be executed safely and with due regard for all nations' rights and freedoms in international airspace.
- Despite these obligations, reports indicate that PLA aircraft have executed exceptionally close approaches; engaged in reckless or aggressive maneuvers; and breached safety of flight protocols. In contrast, U.S. forces routinely conduct flight operations safely and in accordance with international law.

WHY THIS MATTERS

- These reports suggest an emerging pattern of behavior by the PLA that disregards international law and creates significant risks of mishap, collision, miscalculation, or loss of life. An unintended incident resulting from a dangerous air intercept could spark an international crisis.
- This reported trend is likely an element of a broader campaign by the People's Republic of China (PRC) to exert jurisdiction within its excessive maritime claims in the South and East China Seas.
- If left unchecked, the PLA's behavior could become a norm that erodes the force of international law, compromises the rules-based international order, legitimizes excessive claims, emboldens further non-compliance with international law and international safety norms, destabilizes the security environment across the Indo-Pacific, and foments risk of miscalculation.

J06 Office of the Staff Judge Advocate

Key Appointments

Position	Name
Chief of Staff Judge Advocate	Captain Christopher Pratt, U.S. Navy (rank to be determined)
Chief of Administrative Law	Colonel Heather Jacobs, U.S. Army

Print Office Contact

Phone: +1 (808) 477-0270 | Email: J06.jpac@pacom.mil

About the Office of the Staff Judge Advocate

The Office of the Staff Judge Advocate (J06) provides full spectrum legal support to integrated deterrence, legal force readiness, and counter-lawfare in support of USINOPACOM's Theater Campaign Plan. In keeping with USINOPACOM's Theater Campaign Plan, J06 is supporting the Indo-Pacific Free and Open Indo-Pacific, and is working to ensure a free and open Indo-Pacific.



USINOPACOM Office of the Staff Judge Advocate

Legal Vigilance Dispatch

Promoting the Rule of Law to Ensure a Free and Open Indo-Pacific

ISSUE 3, SPRING | APRIL 2023

SPECIAL POINTS OF INTEREST:

2nd Thomas Shoal: Provocations Against Philippines

July 6, 2023, a Chinese Coast Guard (CCG) vessel threatened the bridge of a Philippine Coast Guard vessel (PCG) in the Philippine Exclusive Economic Zone (EEZ). The Philippines filed a diplomatic protest against the CCG vessel's actions. A "Maritime Disputed Area" and a clear violation of Philippine sovereignty rights."

The US has affirmed that an armed attack on Philippine armed forces, aircraft, or public vessels in the South China Sea would involve U.S. Philippines Mutual Defense Treaty obligations. These obligations could extend to an attack on PCG vessels, its Marine detachment, or a Philippine public vessel transiting to support PCG force.

USINOPACOM continues to expand efforts with the Armed Forces of the Philippines (AFP) to prevent peace and stability and uphold international law. Among these efforts currently underway, USINOPACOM and AFP legal advisors recently met in Manila to plan legal engagements and cooperation for the coming year. These activities will serve to strengthen collaboration between legal advisors, counter-mine activity and legal warfare, and advance the rule-based international order. For additional details and sourcing, see J06 TACAID 2023.

Where we're going:

- Policy, Doctrine, EXORD
- Expanded Network
- Cross-sector Integration
- Indo-Pacific Legal Manual
- Expanded Legal Resilience / Capacity Building

Combined Legal Understanding Regarding the People's Armed Forces Maritime Militia (PAFMM)

1. This paper is a combined assessment of international law by the legal staffs of the Japan Joint Staff (JJS) and U.S. Indo-Pacific Command (USINOPACOM). Its purpose is to synthesize legal advice to JJS and USINOPACOM leadership. The views expressed reflect those of the JJS and USINOPACOM legal staffs.

2. The PAFMM is a reserve force of the People's Liberation Army (PLA) made up of mobilized personnel and a fleet of supposed fishing boats. Militia units operate around localities and vary widely in composition and mission.

3. Some PAFMM units – like the Sanhuo Militia – are integrated with the PLA Navy (PLAN) and Chinese Coast Guard (CCG) and equipped with steel-hulled ships with armories and water cannons. Government-subsidized local and provincial commercial organizations also operate militia vessels to perform official missions on an ad hoc basis outside of regular civilian commercial activities.

4. The PAFMM is obligated to follow international law, including customary international law reflected in the United Nations Convention on the Law of the Sea (UNCLOS). Despite this obligation, the People's Republic of China (PRC) uses the PAFMM to advance excessive claims and prevent other nations from exercising their rights under international law.

人民軍海上民兵 (PAFMM) に関する協同的法的理解

1. 本文書は、日本国統合幕僚監部 (JJS) 及び合衆国インド太平洋軍司令部 (USINOPACOM) の法律顧問による国際法上の協同的法的理解に基づくものである。本文書は、JJS 及び USINOPACOM の法律顧問に対する法的助言を一致させることである。ここに記載されている見解は、JJS 及び USINOPACOM の法律顧問の見解を反映したものである。

2. 人民軍海上民兵 (PAFMM) は人民解放軍 (PLA) の予備兵力で、動員された人員と船舶とを合わせた組織である。民兵は地域ごとに組織され、その構成や任務は様々である。

3. 三沙民兵のような一部の PAFMM は人民解放軍海軍 (PLAN) や中国海警 (CCG) と統合され、兵器や放水砲を備えた鋼製船の船体を装備している。政府が補助する地方組織や州組織は、民間の漁業の商業活動以外に、民兵船を運航し、臨時に公的な任務を遂行することもある。

4. PAFMM は、海洋法に関する国際連合条約 (UNCLOS) に反映されている慣習国際法を含む国際法に従う義務がある。当該義務にもかかわらず、中華人民共和國 (PRC) は、PAFMM を利用して過剰な主張を主張し、他国が国際法の下で権利行使するのを妨げている。

LOE 2 (Partnership): Resilience, Consensus, Strength in Numbers



Contact Info

USINDOPACOM Joint Operational Law Team
Organizational email: j06.pacom@pacom.mil
Office Phone: +1-808-477-7532