



U.S. Indo-Pacific Command International Military Law and Operations Conference

Cooperating to Defend the Rules-Based International Order in the Indo-Pacific

Colleagues,

As I reflect on our time with you in Bali, I keep coming back to the view from the stage. Our speakers, panels, and presentations were all insightful, but it was the participation of each of you --- our most representative group of legal advisors assembled in 34 years --- that made this event so special. Thank you again for the time spent to attend and for your contributions to such a memorable and important event.

This record of proceedings is a summary of the events of this conference as well as our assessment of key takeaways and the resolutions we have made going forward. Any mischaracterizations below are unintentional and the result of our oversight. Please contact me directly to ensure any necessary corrections.

I look forward to your feedback as we continue our cooperation to defend the rules-based international order in this region. As one senior national representative remarked, "if our collective goal is to deter conflict, we should never underestimate the power of great lawyers."

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-- RECORD OF PROCEEDINGS -

Nearly 200 delegates from more than 30 countries gathered for the 34th annual International Military Law and Operations Conference (MILOPS 23) in Bali, Indonesia, 31 July – 3 August 2023. MILOPS 23 featured the highest level of international participation in the conference's history and an unmatched slate of prominent speakers and attendees. Keynote addresses were delivered by Admiral John C. Aquilino, Commander, U.S. Indo-Pacific Command (USINDOPACOM); Lt Gen (ret) Muhammad Herindra, Deputy Minister of Defense (MINDEF), Indonesia; the Honorable Dr. Kevin Rudd, Australia's Ambassador to the United States and former Prime Minister of Australia; the Honorable Yohannes Abraham, U.S. Ambassador to the Association of Southeast Asian Nations (ASEAN); and Vice Admiral Darse E. "Del" Crandall, U.S. Navy Judge Advocate General (JAG).

The theme for MILOPS 23 was *Cooperating to Defend the Rules Based International Order in the Indo-Pacific*. Consistent with this theme, participants engaged with leading experts and contributed to panel discussions and a syndicate exercise to expand cooperation and uphold international law, rules, and norms. Topics discussed at MILOPS 23 included serious and sustained challenges to the rules-based international order, such as Russia's illegal invasion of Ukraine and its implications on Indo-Pacific security; excessive maritime and territorial claims in the South China Sea; and security impacts of climate change.



MILOPS 23 addressed these challenges through dialogue that forged person-to-person ties, built consensus on regionally significant aspects of international law, and advanced mechanisms for continued collaboration. Highlights were as follows:

- In his opening remarks, Ambassador Abraham set the scene for discussions to follow, noting that “the relationships built in this room are based not just on a shared profession of law, but on shared values, shared respect, and a shared commitment to maintaining peace and stability.” He went on to underscore U.S. support for ASEAN centrality and Indonesia’s role as an “anchor of peace and prosperity” in the region.
- Deputy MINDEF Herindra’s address emphasized collaboration and “transparent discussion” to achieve peaceful resolution of disputes. “These collaborative actions should become our commitment and determination,” he said. During a bilateral session with Admiral Aquilino, Deputy MINDEF Herindra commented that “America is [Indonesia’s] counterpart in maintaining regional stability.” Admiral Aquilino replied, “we will continue to maintain regional security; and of course, we will continue to do so, together with you.”

- Admiral Aquilino’s address served as a call to action to “prevent conflict.” The rules-based international order (RBIO) is “under attack,” he said. He went on to challenge all MILOPS 23 participants to defend international law, rules, and norms, and to publicly oppose actions that threaten regional peace and security. “No one is better suited to interpret and uphold international law than the people in this room,” he said.



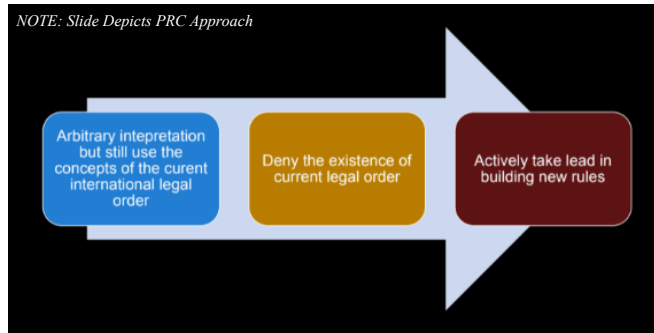
- Ambassador Rudd’s remarks underscored the complexity and breadth of challenges across the Indo-Pacific region. He touched on the People’s Republic of China’s (PRC) strategy and

ambitions; the effects of climate change on regional security; and the unique challenges facing pacific island nations. Like other keynote speakers, he emphasized the benefits of cooperation in maintaining peace and security. “It pays to hunt in packs, or sing as a chorus” he said.

- Vice Admiral Crandall focused on legal cooperation as a means to defend the RBIO and said “I encourage you to build trust and a culture of legal transparency by asking each other hard questions about issues on which we may disagree,”. In closing, he recommended “coordinating and synchronizing legal positions to build strength in numbers” and “taking advantage of this venue to form relationships, build legal networks, and establish mechanisms for communication and information sharing.”
- During the first substantive presentation of MILOPS 23, Rear Admiral Samuel H. H. Kowaas, Deputy Director of Information, Law, and Cooperation (Indonesia) described the ASEAN Coast Guard Forum’s recent efforts as an example of cooperation to advance regional maritime security. By spotlighting the ASEAN Coast Guard Forum’s emphasis on information sharing, capacity building, and regular dialogue, Rear Admiral Kowaas foreshadowed several key themes that consistently arose throughout MILOPS 23.
- The first MILOPS 23 panel discussion dealt with lessons-learned from Russia’s illegal invasion of Ukraine. Moderated by Dr. Ian Ralby and featuring legal experts from Ukraine and Romania, the panel served as a stark reminder of the fragility of the RBIO in the face of current threats and challenges. As one panelist remarked, Russia’s blatant disregard for international law underscores the need for all nations to “be ready.” To preserve peace and security in the Indo-Pacific region, Dr. Ralby suggested that MILOPS 23 participants consider “the law as an asset.”
- Day 2 of MILOPS 23 commenced with a memorable panel moderated by Cleo Paskal and featuring senior leaders from the Pacific Island nations of Palau, Fiji, Nauru, Tuvalu, and the U.S. state of Hawaii. One panelist remarked that climate change is an “existential threat” and “the most important security issue for many island nations.” To protect the sovereign rights of nations whose territories are threatened due to rising sea levels, one panelist advocated for “freezing maritime boundaries,” and noted that the United States has already come out in support of such action. The panelists also spoke to other unique challenges facing island nations, such as IUU fishing and maintaining maritime domain awareness in vast exclusive economic zones. “Without the fish, we have nothing,” remarked one of the panelists.
- Shifting to the threat posed by the Democratic People’s Republic of North Korea’s (DPRK) nuclear and ballistic missile activities, a panel moderated by Captain Ian Park (U.K. Royal Navy) with representatives from Japan, the Republic of Korea (ROK), and the U.S. based Atlantic Council discussed integrated deterrence and the responsibility of all nations to enforce unanimously approved U.N. Security Council Resolutions. The panelists agreed that robust tri-lateral (U.S., ROK, Japan) cooperation is necessary. One panelist remarked that nations must consider deterrence models focused on “denial” (rather than “punishment”) of nuclear and ballistic missile resourcing as well as “sub-regime” legal accountability.



- Mr. Neil S. Silva from the Institute for Maritime Affairs and the Law of the Sea (University of Philippines) moderated a panel on legal developments in the South and East China Seas. Expert panelists hailed from Singaporean, Japanese, and Vietnamese government or academic institutions, respectively. Discussion centered on the PRC's exploitation of the law to advance excessive maritime claims – a methodology depicted by one panelist in the inset graphic. The panelists agreed that the international community must reject the PRC's excessive claims, but as one panelist put it, "it cannot be all about legality" i.e., defending the RBIO requires "winning the narrative" via integrated, whole-of-government information strategies that galvanize public opinion and political support.



- Professor Jay L. Batongbacal (Director University of Philippines Institute for Maritime Affairs and Law of the Sea) built on the preceding panel with a presentation on Philippine sovereign rights in the South China Sea (SCS). Professor Batongbacal predicted intensified PRC "micro-aggression" and other coercive activities in the years ahead. To counter this, he recommended increased legal cooperation between nations in the form of transparency and consensus-building, particularly around the 2016 SCS Arbitral Tribunal Award.
- Ms. Sindhura Polepalli, a Maritime Legal Consultant for the Directorate General of Shipping in India's Ministry of Ports, Shipping and Waterways followed Professor Batongbacal with a detailed overview of the Dispute Settlement Framework under UNCLOS. Her comments highlighted the enshrined methods for peaceful resolution of maritime disputes.

- On the morning of day 3, Commander Tim Boyle (USINDOPACOM) moderated a panel titled "law as a domain of strategic competition" featuring leading practitioners of counter-lawfare, legal operations (NATO), and legal transparency (Philippines Coast Guard). In describing the Philippines ground-breaking transparency initiative, Commodore Jay Tarriela of the Philippines highlighted the need to deter aggression by "leveraging the power of public opinion." As Commander Boyle noted, "competition in the legal domain means that we must consider the law not just in terms of compliance, but in terms of opportunity...opportunity to expand the competitive space by leveraging legal information, legal instruments, legal institutions, and legal cooperation to advance our common interests and deny potential adversaries from gaining the legal high ground."

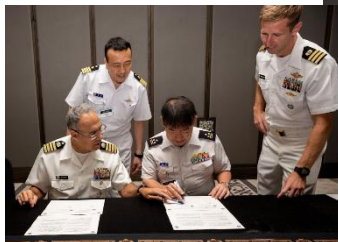


- In keeping with the theme of emerging domains of competition, Professor Dale Stephens provided an update on the forthcoming release of the "Woomera Manual on the International Law of Military Space Activities and Operations." The manual is expected to reflect customary law and practice based on input during the drafting process from 24 countries and the International Committee of the Red Cross. Professor Stephens' presentation also foreshadowed a new manual specific to Indo-Pacific air and maritime legal matters, which is in the early stages of development between the University of Adelaide and the University of Hawaii.

- Ms. Clare Duncan (Legal Advisor for East Asia and Pacific Affairs, U.S. Department of State) delivered a presentation on the U.S. One-China Policy. She emphasized that the United States “acknowledges,” but does not endorse the PRC’s position that Taiwan is part of China. The future of Taiwan, she said, “is a matter to be resolved peacefully by the people on both sides of the Taiwan Strait.” As Ms. Duncan described, the United States opposes any unilateral changes to the status quo from either side; does not support Taiwan independence; and expects cross-Strait differences to be resolved by peaceful means. In contrast, the PRC has not ruled out the use of force and posits via its “One China Principle” that Taiwan’s status as a part of China is resolved as a matter of history and law.
- Dr. Young Kil Park (Director Law of the Sea Research Division, Korea Maritime Institute) presented on the Limits of the Obligation of Self-Restraint Under UNCLOS in the East China Sea, noting the difficulties in challenging the PRC’s assertive activities in the ROK’s EEZ and potential legal courses of action (e.g. counter-measures) for the ROK and Japan to cooperatively push back on such activities.
- For the first time in over two decades, MILOPS 23 included a practical exercise during which 10 syndicate groups cooperatively developed legal and policy solutions against a range of realistic threats to the RBIO, from dangerous air intercepts to malicious cyber activity and violations of sovereignty by high-altitude balloons. Spokespersons from 10 different countries debriefed their respective group’s findings during a plenary session facilitated by Professor Dale Stephens. A common prevailing sentiment among the syndicates related to the deterrent value of exposing and opposing unlawful behavior. As one Indonesian junior officer stated, “if the world knows about it, it can change everything.”



- In another MILOPS first, three junior judge advocates (from Australia, the Philippines, and the United States) delivered a fresh perspective on legal cooperation from the “next generation” of legal advisors. Among the ideas presented by the junior officer contingent was the establishment of a consortium of regional legal advisors (“International Organization of Military and Security Law”) to cooperatively address common legal challenges.
- In addition to plenary sessions, MILOPS 23 participants held bilateral / multilateral breakout meetings, key leader engagements, and social events. These engagements afforded opportunities for participants to address issues in small-group settings and build lasting friendships.



- MILOPS 23 concluded with closing remarks by senior national representatives. All participants are strongly recommended to review the briefing by Rear Admiral Kresno Buntoro, the Director of Indonesia's National Legal Development Agency (BABINKUM). Due to an error by conference organizers on the U.S. side, he did not provide his presentation in person, nor was the presentation displayed at the



conference. RADM Kresno's presentation is available on the [MILOPS 2023 - APAN Community](#) page. As co-host of MILOPS 23, the Indonesian Ministry of Defense and representatives from across the Indonesian armed forces – including BABINKUM – played a critical role in the conference's success.

MILOPS 23 Key Takeaways and Resolutions

Delegates from participating nations and organizations:

- *Share an interest in preserving and upholding peace, security, and prosperity in the Indo-Pacific;*
- *Recognize that a fundamental principle of international law is the commitment to peaceful resolution of disputes;*
- *Appreciate that a threat to the principles of international law and the rules based international order anywhere, is a threat to peace and stability everywhere;*
- *Acknowledge the importance of legal cooperation to build legal consensus and oppose actions that are unlawful or otherwise threaten peace, security, and prosperity in the Indo-Pacific;*
- *Note the importance of continued transparent dialogue to build trust, converge divergent views, avoid misunderstanding, and pursue common goals;*
- *Acknowledge the need for transparency in upholding international law and the rules-based international order;*
- *Appreciate the existential threat posed by climate change and resolve to pursue efforts to cooperate further to support those nations whose security interests are most affected by climate change;*
- *Appreciate the threat to the rules-based international order posed by nuclear proliferation (ballistic missile and nuclear testing) in the region;*
- *Recognize that legal vigilance is required to understand and mitigate threats and challenges in the legal domain;*
- *Appreciate the key role of legal advisors in cooperating to ensure the legality and legitimacy of military operations and activities in support of regional peace and security;*
- *Note that coordinating and synchronizing legal positions builds strength in numbers and can have a deterrent effect;*
- *Resolve to continue to work together across national boundaries to expose and oppose flawed legal narratives and unlawful activities that undermine the rules-based international order;*
- *Resolve to cooperate to publicize instances of collective adherence to international law and the rules-based international order;*
- *Undertake to support each other's legal development by continuing to participate in combined exercises and legal exchanges;*
- *Resolve to develop legal products to document and solidify consensus and common understanding;*
- *Resolve to communicate and collaborate on combined efforts to build trust and a culture of legal transparency*

