

Subject:

INDOPACOM Legal Vigilance Update, 19 Aug 2024

Date:

Monday, August 19, 2024 5:02:30 PM

Attachments:

[image001.png](#)

Teammates,

Below is the first USINDOPACOM “Legal Vigilance Update” – which is designed to provide near real-time information on current PRC lawfare actions. These updates are not designed to be comprehensive, but rather provide immediate updates on PRC lawfare activities that threaten the international order and undermine sovereign rights.

- 19 August 2024: PRC Coast Guard Rams Two Philippine Coast Guard vessels near Sabina Shoal in the South China Sea.
 - **Bottom-line:** on 19 August, PRC ships employed reckless maneuvers to impede lawful Philippine operations in the South China Sea, deliberately colliding with two Philippine Coast Guard ships, causing structural damage and jeopardizing the safety of the crew onboard.
- References:
 - [U.S. Support for the Philippines in the South China Sea – Department of State Press Statement](#)
 - [Chinese and Philippine ships collide at Sabina Shoal in South China Sea - The Washington Post](#)
 - [Philippines, China trade blame after vessels collide in South China Sea | Reuters](#)
- Key legal points:
 - Sabina Shoal is a low tide elevation under international law, meaning it does not generate a territorial sea or other maritime zone.
 - When operating in this area, all nations may lawfully exercise freedom of navigation and overflight in accordance with UNCLOS and principles of customary international law.
 - International law (as reflected in UNCLOS) requires that states exercise due regard for the safety of navigation and the rights/interests of other states.
 - Article IV of the 1951 U.S.-Philippines Mutual Defense Treaty extends to armed attacks on Philippine armed forces, public vessels, or aircraft – including those of its Coast Guard – anywhere in the South China Sea.
 - The PRC’s reckless actions on 19 August 2024 harkens back to its aggressive maneuvering toward Philippine vessels in the vicinity of Scarborough Shoal in 2012, conduct that the 2016


Arbital Tribunal determined “created serious risk of collision and danger to Philippine vessels and personnel” and “violated Rules 2, 6, 7, 8, 15, and 16 of the COLREGS and [breached] Article 94 of the Convention.”

- 19 August 2024: PRC Conducts Patrols in the Taiwan Strait.
 - **Bottom-line:** the PRC continues to assert ambiguous claims to sovereignty/jurisdiction in the Taiwan Strait.
 - References:
 - [Integrated patrols signal Beijing ‘asserting claims’ in Taiwan Strait, South China Sea | South China Morning Post \(scmp.com\)](#)
 - [Chinese vessels patrol Taiwan Strait to close jurisdictional gap: Experts - Focus Taiwan](#)
 - Key legal points:
 - As part of its gray zone operations, the PRC has historically overstated the scope of its legal authorities in the Taiwan Strait.
 - Beyond 12nm from the PRC’s lawful baseline, all nations may lawfully exercise freedom of navigation and overflight in accordance with UNCLOS and principles of customary international law. This includes the Taiwan Strait.
 - The PRC’s vague assertions of sovereignty, sovereign rights, and jurisdiction over the Taiwan Strait should be viewed in the context of the PRC’s other ambiguous and excessive maritime claims – such as its unlawful “dashed line” claim that was firmly rejected in 2016 by the UN Arbitral Tribunal.

For more information on USINDOPACOM’s legal vigilance and counter-lawfare program, see: <https://www.pacom.mil/Contact/Directory/Jo/Jo6-Staff-Judge-Advocate/>

All the best.
V/r Ian

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