

From: [REDACTED]
Subject: INDOPACOM Legal Vigilance Update #3 (14 Sep 2024)
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Attachments: [image.png](#)
[Counter-Lawfare One Pager.pdf](#)

Teammates,

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

First, please see attached for a one-pager summarizing INDOPACOM's Counter-Lawfare program. This product is intended as an easy reference to help explain the purpose and approach of INDOPACOM's program. We encourage use of this one-pager to help inform and guide your own counter-lawfare efforts, and (as always) we welcome your feedback on this and all of our products. The one-pager is also available on INDOPACOM J6's website at this

link: <https://www.pacom.mil/Portals/55/Documents/Legal/Counter-Lawfare%20One%20Pager.pdf?ver=K1cakpJTSPGp5L5DZH8wIQ%3d%3d>

Now, for this week's key Legal Vigilance developments.

- 9 September 2024: Commander, U.S. Indo-Pacific Command holds call with PRC Southern Theater Commander.
 - **Bottom-line**: on 9 September 2024, Admiral Samuel Paparo, Commander of U.S. Indo-Pacific Command, held a video teleconference with Gen. Wu Yanan, the commander of the People's Liberation Army's Southern Theater Command.
 - References:
 - [Readout of Commander U.S. Indo-Pacific Command call with PLA Southern Theater Commander](#)
 - [Reuters - Top US, Chinese military brass hold first call to stabilise ties](#)
 - Key legal points:
 - During the call, Admiral Paparo underscored the importance of sustained lines of communication between the U.S. military and the PLA, noting that such discussions between senior leaders serve to clarify intent and reduce the risk of misperception or miscalculation.
 - Admiral Paparo also reinforced the PLA's obligation to comply with international laws and norms to ensure operational safety, and urged the PLA to reconsider its use of dangerous, coercive, and potentially escalatory tactics in the South China Sea and beyond.

- 12 September 2024: Germany Navy conducts a Taiwan Strait transit.
 - **Bottom-line:** on 12 September 2024, two German Navy ships (the frigate *Baden-Wurttemberg* and the replenishment ship *Frankfurt am Main*) exercised the high seas freedom of navigation through international waters of the Taiwan Strait.
- References:
 - [Deutsche Welle - German navy vessels sail through Taiwan Strait](#)
 - [Reuters - China condemns German navy's transit of Taiwan Strait](#)
 - [INDOPACOM Counter-Lawfare TACAID - Legal Status of the Taiwan Strait](#)
- Key legal points:
 - The Taiwan Strait includes a corridor beyond the territorial sea of any state in which all nations enjoy high-seas freedoms of navigation, overflight, and other internationally lawful uses of the sea and air.
 - As the German Defense Minister said during the transit, "International waters are international waters."
 - The PRC reacted with its standard legally baseless gray-zone argument that the Taiwan Strait "is not a matter of 'freedom of navigation', but of China's sovereignty and territorial integrity," and that the Taiwan Strait is Chinese waters "and there are no so-called 'international waters' at all."
 - Contrary to PRC claims, international law as reflected in UNCLOS makes clear that in the corridor of waters beyond a coastal state's territorial sea, all nations continue to enjoy high seas freedoms of navigation, overflight, and other internationally lawful uses of the sea.
 - This corridor of the Strait that is beyond the territorial sea and sovereign airspace of any coastal state is appropriately described as international waters/airspace.
 - Any PRC assertion of sovereignty over the entirety of the Strait is legally baseless and should be rejected.

Looking ahead:

- 15 September 2024: CBS' 60 Minutes will feature a report titled "Danger in the South China Sea."
 - The report will detail the PRC's increasingly aggressive behavior in the South China Sea.
 - For a preview of the report, see [here](#). INDOPACOM's Legal Vigilance

Update #2 (3 Sep) also detailed the PRC's increasingly dangerous and escalatory actions in the South China Sea.

- As a reminder, on 31 August 2024, the U.S. Department of State [said](#):

On multiple occasions throughout August 2024, the PRC has aggressively disrupted lawful Philippine aerial and maritime operations in the South China Sea, including at Sabina Shoal. The PRC's unlawful claims of "territorial sovereignty" over ocean areas where no land territory exists, and its increasingly aggressive actions to enforce them, threaten the freedoms of navigation and overflight of all nations. The United States reiterates its call for the PRC to comport its claims and actions with international law and to desist from dangerous and destabilizing conduct. The United States reaffirms that Article IV of the 1951 United States-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 leaders of Australia and Japan echoed this position in their [joint statement](#) following the Eleventh Australia-Japan 2+2 Foreign and Defence Ministerial Consultations (5 Sep 2024), in which they said:

We expressed serious concerns over recent developments in the South China Sea, including an intensification of China's dangerous and coercive activities towards the Philippines, which have occurred with high frequency. We opposed any coercive actions that could escalate tensions and undermine regional stability, including the militarisation of disputed features. We emphasised the importance of freedom of navigation and overflight and the peaceful resolution of disputes in accordance with international law, in particular the United Nations Convention on the Law of the Sea (UNCLOS) and reaffirmed that the 2016 South China Sea Arbitral Tribunal Award is final and legally binding on the parties to the dispute.

Thank you for your continued participation in our Counter-Lawfare community of interest, and all the best.

V/r Ian

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