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**Subject:** INDOPACOM Legal Vigilance Update #9 (11 Nov 2024)  
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Teammates,  
Happy Veteran's Day. Below please find the ninth edition of INDOPACOM's Legal Vigilance Update.

- 8 November 2024: Philippines enacts Maritime Zones Act.
  - **Bottom-line:** the Philippines Maritime Zones Act (MZA) *aligns Philippine domestic laws with the 1982 UN Convention on the Law of the Sea (UNCLOS) and the 2016 Arbitral Tribunal ruling*, furthering Philippine leadership in upholding international law in the South China Sea.
    - **References:**
      - [News Release, Office of the President of the Philippines, PBBM inks 2 laws reinforcing PH rights over its maritime zones \(8 Nov 2024\)](#)
      - [Press Statement, U.S. Department of State, On the Philippines Maritime Zones Act \(8 Nov 2024\)](#)
    - **Key legal points:**
      - The MZA defines the Philippines internal waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone, and continental shelf in line with UNCLOS.
      - The enactment of the MZA by the Philippines is a routine matter that further clarifies Philippine maritime law, and is consistent with legislation enacted by fellow members of the Association of Southeast Asian Nations (ASEAN) over the years.
      - The U.S. values Philippine leadership in upholding international law, and calls on the PRC to abide by the 2016 arbitral ruling and to comport its maritime claims to the international law of the sea as reflected in UNCLOS.
- 8 November 2024: PRC publishes claimed baselines for Scarborough Reef.
  - **Bottom-line:** the PRC posted geographic coordinates for its claimed baselines around Scarborough Reef, with the PRC Coast Guard announcing shortly later "that it will continuously strengthen patrols and law enforcement in territorial waters" surrounding Scarborough Reef.
    - **References:**
      - [PRC Foreign Ministry Spokesperson's Remarks on China's release of the Baselines and Base Points of the Territorial Sea Adjacent to Huangyan Dao \(10 Nov 2024\)](#)
      - [PRC Ministry of National Defense, China Coast Guard vows to strengthen patrols, law enforcement in territorial waters off Huangyan Dao \(11 Nov 2024\)](#)
      - [China delimits a contested South China Sea shoal in a dispute](#)

[with Philippines \(The Washington Post, 10 Nov 2024\)](#)

■ **Key legal points:**

- The 2016 Arbitral Tribunal ruling found that Scarborough Reef is a high-tide elevation that generates a 12 nautical mile territorial sea, but cannot sustain human habitation or economic life and therefore has no exclusive economic zone or continental shelf.
  - Scarborough Reef is also claimed by the Philippines and Taiwan. The 2016 Arbitral Tribunal ruling did not make any judgment as to which State enjoys sovereignty over any land territory in the South China Sea (including Scarborough Reef). Similarly, the U.S. takes no position as to which country has sovereignty over the islands in the South China Sea.
  - The ***PRC has a documented pattern of operating its Coast Guard vessels in a dangerous manner in the South China Sea, including around Scarborough Reef.*** The 2016 Arbitral Tribunal found that, on 28 April 2012 and 26 May 2012, PRC law enforcement vessels operating in the vicinity of Scarborough Reef "created serious risk of collision and danger to Philippine vessels and personnel," in breach of the COLREGs and UNCLOS.
  - PRC law contains unlawful restrictions on the right of innocent passage within PRC-claimed territorial seas, including a requirement for foreign military ships to obtain permission from the PRC prior to entering territorial sea.
- 8 November 2024: U.S. Ambassador to the Philippines addresses Manila Dialogue on the South China Sea.
    - **Bottom-line:** Ambassador MaryKay Carlson voiced support for the Philippines and likeminded partners as they stand up for the rules-based order in the Indo-Pacific and "urge the PRC to cease escalatory and dangerous actions that impede the exercise of freedom of navigation and overflight from which all nations benefit."

■ **References:**

- [Ambassador MaryKay Carlson's Remarks at the Manila Dialogue on the South China Sea \(8 Nov 2024\)](#)

■ **Key legal points:**

- Ambassador Carlson reaffirmed U.S. support for "the historic 2016 Arbitral Tribunal decision, a milestone that affirmed the rights of the Philippines in the South China Sea as set out in [UNCLOS]."
- ***Calling out the PRC's "might makes right" approach, Ambassador Carlson hailed the 2016 Arbitral Tribunal ruling as concrete confirmation "that international law is more than just a concept and that it applies to all countries regardless of their relative economic or military power."***
- The Manila Dialogue on the South China Sea is "envisioned to

be an annual Track 1.5 process focusing on promoting adherence to international law and identifying sound, pragmatic, and actionable policy prescriptions for littoral states surrounding the South China Sea, as well as other interested state and non-state actors."

- 28 October 2024: PRC's detention of Vietnamese fisherfolk highlights aggressive pattern in South China Sea.
  - **Bottom-line**: the PRC has reportedly detained Vietnamese fishing boats and crew near the disputed Paracel Islands, sparking a formal protest from Vietnam and continuing a concerning pattern of PRC escalatory and destabilizing behavior in the South China Sea.
    - **References**:
      - [Damien Cave, \*Bullied by China at Sea, With the Broken Bones to Prove It\* \(The New York Times, 28 Oct 2024\)](#)
      - [Reuters, \*Vietnam urges China to free detained fishermen in South China Sea\* \(Reuters, 31 Oct 2024\)](#)
    - **Key legal points**:
      - Vietnam's Foreign Ministry condemned the PRC's actions as unlawful under UNCLOS.
      - The ***PRC's continued detentions and coercive rhetoric demonstrate a clear pattern of destabilizing actions that challenge freedom of navigation in the South China Sea***, impacting not only Vietnam but all nations reliant on this critical trade route.
      - PRC actions in the South China Sea reveal a deliberate strategy to assert dominance over disputed waters at the expense of established maritime norms. The international community's commitment to freedom of navigation is essential to counterbalance the PRC's escalatory posture and support the rules-based order in this region.
- 29 October 2024: French naval ship transits Taiwan Strait.
  - **Bottom-line**: a French naval vessel transited the Taiwan Strait on October 29, highlighting the continued support of the international community for freedom of navigation and adherence to the rules-based international order in the Indo-Pacific.
    - **References**:
      - [Reuters, \*French naval vessel passes through sensitive Taiwan Strait\* \(Reuters, 29 Oct 2024\)](#)
      - [INDOPACOM Jo6 TACAID on Taiwan Strait Transit](#)
    - **Key legal points**:
      - The Taiwan Strait encompasses a corridor of waters and airspace beyond the territorial sea and sovereign airspace of any coastal state. In this corridor, all nations enjoy high-seas freedoms of navigation, overflight, and other internationally lawful uses of the sea.
      - The French transit, like similar operations by the U.S. and it

allies, ***underscores the commitment to the rules-based international order in the Indo-Pacific and the peaceful resolution of cross-Strait relations.***

- 1 November 2024: Operation North Pacific Guard 2024 concludes.
  - **Bottom-line:** the U.S. Coast Guard, Canadian forces, and international partners have completed Operation North Pacific Guard, an annual mission to detect and intercept illegal, unreported, and unregulated (IUU) fishing in the North Pacific, promoting the rule of law at sea and ensuring sustainable management of marine resources.
    - **References:**
      - [Press Release, U.S. Coast Guard, Canadian forces, and international partners wrap-up Operation North Pacific Guard 2024 \(District 17, 29 Oct 24\)](#)
      - [Congressional Research Service report on IUU Fishing \(R48215, 8 Oct 24\)](#)
    - **Key legal points:**
      - IUU fishing poses serious threats to food security, regional stability, and marine conservation. It encompasses activities that defy conservation measures or national laws, exploiting high seas regions and undermining frameworks like UNCLOS and the FAO's Port State Measures Agreement (PSMA).
      - The Western and Central Pacific Fisheries Commission (WCPFC) and North Pacific Fisheries Commission (NPFC) are multilateral bodies that enforce conservation and management measures across the Pacific, aiming to regulate fishing activities.
      - Notably, the People's Republic of China (PRC) is a party to the WCPFC and has registered 26 China Coast Guard (CCG) vessels to operate in the WCPFC Convention Area. This registration aligns with the WCPFC's mandate to monitor fishing practices, but China's CCG presence has raised concerns given its history of aggressive maritime conduct (the WCPFC allows party states to conduct high-seas boardings and inspections of other party states' flagged vessels without requiring prior permission).
      - ***Operation North Pacific Guard employed air and sea patrols, electronic surveillance, and intelligence sharing to detect illicit fishing practices, including "dark vessels" that disable tracking systems.*** Under the PSMA and Regional Fisheries Management Organizations (RFMOs), such as the WCPFC and NPFC, ports can restrict access to vessels involved in IUU fishing, supporting cross-border enforcement of maritime law.
      - The U.S. Coast Guard leads in coordinating multinational anti-IUU efforts, which strengthen maritime law enforcement and support regional partners' capacity to counter IUU fishing.

Thank you for your continued participation in our Counter-Lawfare community of interest.

V/r Ian

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