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## International Law's Role in a Strat-Dominated World – Part 3<sup>1</sup>

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### Footnotes:

<sup>1</sup> The authors wish to thank Viktoriia Lapa, Stéphanie Balme, and Giacomo Tagiuri for comments on earlier drafts. The views expressed and all remaining errors are the authors' own.

<sup>2</sup> Attributed to Lao Tzu, Tao Te Ching, Verse 31.

<sup>3</sup> Arthur Appleton and Justin Frosini, "International Law's Role in a Strat-Dominated World," *SAIS Europe Journal of Global Affairs* 26 (Spring 2023), <https://www.saisjournal.eu/article/84-Arthur-Appleton-and-Justin-Frosini-International-Laws-Role-in-a-Strat-Dominated-.cfm>.

<sup>4</sup> Arthur Appleton and Justin Frosini, "International Law's Role in a Strat-Dominated World – Part 2," *SAIS Review of International Affairs*, March 18, 2024, <https://saisreview.sais.jhu.edu/international-laws-role-in-a-strat-dominated-world-part-2/>.

<sup>5</sup> Except for Belarus and North Korea, no nations bordering Russia voted against the 23 February 2023 UN General Assembly Resolution A/ES-11/L.7 calling for Russia's withdrawal from Ukraine, UN News, "UN General Assembly calls for immediate end to war in Ukraine", <https://news.un.org/en/story/2023/02/1133847>. Iran, which does not share a border with Russia, abstained.

<sup>6</sup> WTO rules are set forth in the Agreement Establishing the World Trade Organization (WTO). The full text is available here: [https://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm](https://www.wto.org/english/docs_e/legal_e/legal_e.htm).

<sup>7</sup> Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, Volume 1399, I-23391, United Nations Treaty Series, 61 (1994), entered into force on 27 May 1985, <https://treaties.un.org/doc/Publication/UNTS/Volume%201399/v1399.pdf>.

<sup>8</sup> Joint Declaration, paragraph 3(2).

<sup>9</sup> Joint Declaration, paragraph 3(3).

<sup>10</sup> Joint Declaration, paragraph 3(5).

<sup>11</sup> Joint Declaration, paragraphs 1 and 3(12).

<sup>12</sup> U.S. Department of State, "2023 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet) - Hong Kong," 1-2, <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/china/hong-kong/>.

<sup>13</sup> The People's Republic of China has long viewed Taiwan as a renegade province, a view rejected by Taiwan.

<sup>14</sup> United Nations Convention on the Law of the Sea (UNCLOS), Montego Bay, 10 December 1982, [https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=\\_en](https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en) (Dates of Signature and Ratification); [https://treaties.un.org/doc/Treaties/1994/11/19941116%2005-26%20AM/Ch\\_XXI\\_06p.pdf](https://treaties.un.org/doc/Treaties/1994/11/19941116%2005-26%20AM/Ch_XXI_06p.pdf) (Convention).

<sup>15</sup> The dispute settlement provisions under UNCLOS are set forth in Part XV. Compulsory jurisdiction is dealt with in Section 2 of Part XV. Jurisdiction when a party fails to appear is treated in UNCLOS Annex VII Article 9 (Default of appearance),

<sup>16</sup> The South China Sea Arbitration (*The Republic of Philippines v. The People's Republic of China*), <https://pca-cpa.org/en/cases/7/>.

<sup>17</sup> Both China and Taiwan rely on the 'nine-dash line' to support their expansive territorial claims in the South China Sea. The 'nine-dash line' is predicated on a post-World War II Taiwanese map under which Taiwan and China both claim sovereignty over the Spratly and Paracel Islands.

<sup>18</sup> Press Release, Permanent Court of Arbitration, "The South China Sea Arbitration (The

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Republic of The Philippines v. The People's Republic of China)," 12 July 2016, <https://pcacases.com/web/sendAttach/1801>.

<sup>19</sup> Tensions owing to China's aggressive behaviour persist in the South China Sea, with Vietnam over the Paracel Islands, Malaysia and the Philippines over the Spratly Islands, and with Brunei over Louisa Reef.

<sup>20</sup> A United States Special Operations Command White Paper entitled "The Gray Zone" defines Grey Zone challenges as "competitive interactions among and within state and non-state actors that fall between the traditional war and peace duality." 9 September 2015, <https://publicintelligence.net/ussocom-gray-zones/>.

<sup>21</sup> The Japan Times, "Philippines, U.S., Australia and Japan hold joint military drills in disputed South China Sea," 7 April 2024, <https://www.japantimes.co.jp/news/2024/04/07/japan/politics/japan-australia-philippines-us-south-china-sea-exercise/>.

<sup>22</sup> Heather Mongilio, USNI News, "China Protests U.S. South China Sea Freedom of Navigation Operation," 24 March 2023, <https://news.usni.org/2023/03/24/china-protests-u-s-south-china-sea-freedom-of-navigation-operation>; America's Navy, "U.S. Navy Destroyer Conducts Freedom of Navigation Operation in the South China Sea", 10 May 2024, <https://www.navy.mil/Press-Office/News-Stories/Article/3771407/us-navy-destroyer-conducts-freedom-of-navigation-operation-in-the-south-china-s/>.

<sup>23</sup> Radio Free Asia, "Hunt for oil and gas increases risk of flashpoints in South China Sea, report says," 8 March 2023, <https://www.rfa.org/english/news/southchinasea/scs-oil-gas-03082023234738.html>.

<sup>24</sup> United Nations Office of the High Commissioner Human Rights (OHCHR), "OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China," <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assessment.pdf>.

<sup>25</sup> OHCHR, paragraphs 46-48, 51, 57, 68, 78, 85, 114, 128, and 142.

<sup>26</sup> PBS, "U.S. imposes sanctions on China over human rights abuses of Uighurs," 16 Dec. 2021, <https://www.pbs.org/newshour/world/u-s-imposes-sanctions-on-china-over-human-rights-abuses-of-uighurs>.

<sup>27</sup> Uyghur Human Rights Project, "U.S. Sanctions List," (updated March 2024), <https://uhrp.org/sanctions/>.

<sup>28</sup> Pursuant to the UFLPA, between June 2022 and March 2025, US Customs and Border Protection stopped 15,975 shipments valued at US\$ 3.67 billion. 8,941 shipments were denied entry into US commerce, and 5,678 were released. U.S. Customs and Border Protection (CBP) Uyghur Forced Labor Prevention Act Enforcement Statistics, June FY2022 to FY2025 to date", <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics> (updated monthly).

<sup>29</sup> In 2021 the European Union imposed travel bans and asset freezes on four Chinese officials. Although the EU has adopted new anti-coercion measures (that can be used in response to foreign economic pressure) it has not applied them in the Uyghur context.

<sup>30</sup> Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937, 6 November 2024. <https://data.consilium.europa.eu/doc/document/PE-67-2024-INIT/en/pdf>.

<sup>31</sup> Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>, 5 July 2024.

<sup>32</sup> United States Trade Representative, "2024 Report to Congress on China's WTO Compliance", (USTR 2024), January 2025, 2, <https://ustr.gov/sites/default/files/files/reports/2025/2024USTRReportCongressonChinaWTOCompliance.pdf>.

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<sup>33</sup> USTR 2024, 2.

<sup>34</sup> USTR 2024, 2-7.

<sup>35</sup> The TRIPs Agreement is part of the Marrakesh Agreement Establishing the World Trade Organisation (WTO Agreement), [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm).

<sup>36</sup> Office of the United States Trade Representative, "2024 Special 301 Report," (USTR 301), <https://ustr.gov/sites/default/files/2024%20Special%20301%20Report.pdf>. Pages 44-53 are devoted to China-related intellectual property concerns.

<sup>37</sup> USTR 301, 45-46.

<sup>38</sup> USTR 301, 46-47.

<sup>39</sup> USTR 301, 46-47.

<sup>40</sup> USTR 301, 48.

<sup>41</sup> USTR 301, 50.

<sup>42</sup> USTR 301, 50.

<sup>43</sup> USTR 301, 52.

<sup>44</sup> USTR 301, 51.

<sup>45</sup> USTR 301, 44. Monitoring is pursuant to Section 306 of the US Trade Act of 1974, as amended (19 U.S.C §2416).

<sup>46</sup> See European Commission, "Report on the protection and enforcement of intellectual property rights in third countries," (SWD 2023 153 final), 17 May 2023, 16-24, <https://circabc.europa.eu/rest/download/7099aee0-c68f-42c5-ae30-5350a879a30e>.

<sup>47</sup> On 4 April 2025, the Panel notified the WTO Dispute Settlement Body of its 2 April 2025 decision to grant the request of the parties to suspend the proceedings. WT/DS611/10, *China-Enforcement of intellectual property rights*, Suspension of Panel Work, Communication from the Panel, 4 April 2025, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/611-10.pdf&Open=True>.

<sup>48</sup> Despite US tariffs on Chinese products dating back to the first Trump administration, as well as a plethora of anti-dumping duties, there is presently little indication that China intends to make major changes to its trade regime to satisfy its Western trading partners.

