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**Australian Government**
Defence**Ministerial Background Brief**

MS23-900733

FOR: Deputy Prime Minister

CC: SEC, VCDF, ASSOCSEC, CJOPS, CN, DEPSEC SP&I, CPERS, CDI, FASMECC, FASIP

OPERATION ARGOS: INTERACTION WITH PEOPLE'S LIBERATION ARMY - NAVY**Key Issues:**

On 14 November 2023, HMAS *Toowoomba* experienced an unsafe and unprofessional interaction with a shadowing People's Liberation Army – Navy (PLA-N) warship in the East China Sea, within the Japanese Exclusive Economic Zone (EEZ) while transiting from Operation ARGOS operating areas to Sasebo, Japan.

Three divers from *Toowoomba* suffered minor injuries, likely when subjected to SONAR pulses from a PLA-N Sovremenny-class destroyer (DDG 139) while the divers were clearing fishing nets fouling *Toowoomba's* propellers. The divers have undergone a medical assessment and no long term medical impacts are anticipated.

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Media Considerations:

This incident will generate significant media interest if released into the public domain. Defence has developed reactive talking points for your use, which are being provided to your office separately.

Minister comments:**Cleared by:**General Angus J Campbell
Chief of the Defence Force

16 November 2023

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Primary Contact OfficerAir Vice-Marshal Stephen Chappell
Head Military Strategic Commitments

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Alternate Contact OfficerMr Bernard Philip
First Assistant Secretary
International Policy Division

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s33(a)(i)

Sensitivity: Yes.

1. Australian Defence Force (ADF) activities under Operation ARGOS are a demonstration of our commitment toward upholding the rules-based global order that has underpinned regional prosperity for decades.
2. s33(a)(iii)
3. If the PLA-N SONAR transmission was done intentionally, with foresight that ADF personnel would likely be injured, s33(a)(iii) While the danger associated with the use of active sonar in proximity to divers is well known and should be understood by professional mariners, we are unable to verify whether the PLA-N intended to cause harm.

Financial Impacts: No.

Systems/legislation/deregulation: No.

Consultation: Yes.

4. Lieutenant General Greg Bilton, Chief of Joint Operations, Joint Operations Command.

Attachment:

Attachment A Operation ARGOS Storyboard: HMAS *Toowoomba* – Unsafe and Unprofessional Interaction With PLA-N Vessel.

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Background:

5. Operation ARGOS is Australia's military contribution to multinational enforcement of United Nations Security Council (UNSC) sanctions against North Korea. Since April 2018, Australia has periodically deployed maritime surveillance aircraft and naval vessels to work alongside five-eyes and other partners (such as Japan, Republic of Korea, and France) to monitor and deter illicit ship-to-ship transfers of sanctioned goods.
6. On 14 November 2023, *Toowoomba* experienced fouling of her propeller and drive shaft due to the entanglement of fishing nets while transiting through the East China Sea. At the time, *Toowoomba* was assigned to Operation ARGOS and was within the Japanese EEZ, approximately 150 nautical miles (NM) from Chinese territorial waters and 120NM from the nearest Japanese territorial waters.
7. While *Toowoomba* was stopped in the water to undertake diving operations to clear the fouling and avoid damage, a PLA-N Sovremenny-class destroyer (DDG 139) that had been shadowing *Toowoomba* closed to within a distance of approximately 1,500 metres. This occurred despite repeated requests via marine radio and visual signals to remain clear of *Toowoomba's* position while diving operations were underway, which were acknowledged by DDG 139.
8. *Toowoomba* had signalled she was Not Under Command (NUC), which, in accordance with the Code for Unplanned Encounters at Sea (CUES – an international agreement that China and Australia are signatory to), is a condition whereby a vessel through some exceptional circumstance is unable to manoeuvre and is therefore unable to keep out of the way of another vessel.
9. At 1439 AEDT, with divers in the water, *Toowoomba* detected DDG 139 radiating its SONAR. *Toowoomba* quickly withdrew divers from the water and announced completion of diving operations in accordance with CUES. Given the short timeline from detection of the sonar until withdrawal of divers from the water, there was no verbal escalation of language, or highlighting that DDG 139 was transmitting on SONAR and endangering personnel in the water. A detailed account and placemat is provided in Attachment A.
10. Following exposure to the SONAR, three divers were medically assessed, s47F
s47F We do not anticipate any long term medical impacts of the minor injuries. The SONAR transmission from DDG 139 was assessed as safe platform to platform. Notwithstanding, given clear knowledge that *Toowoomba* had divers in the water as indicated by CUES announcements and signals, which was acknowledged by the PLA vessel, the transmission of sonar at that range is assessed as unsafe and unprofessional conduct.
11. *Work, Health and Safety Act 2011* reporting requirements are being met.
12. This is the first occasion that an ADF member has likely sustained an injury as a result of an unsafe or unprofessional action by the PLA-N s33(a)(i)
13. s33(a)(iii)
s33(a)(iii) DFAT and PM&C were consulted in this course of action.
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Operation ARGOS Storyboard: HMAS *Toowoomba* – Unsafe and Unprofessional Interaction With PLA-N Vessel – 14 Nov 23

Overview: HMAS *Toowoomba* (*TOW*) experienced an unsafe/unprofessional interaction with a People's Liberation Army- Navy (PLA-N) Destroyer (DDG 139) in the East China Sea 14 Nov 23, while undertaking Operation ARGOS. *TOW* was within the Japanese Exclusive Economic Zone when her propellers were fouled by fishing nets. To reduce risk of further damage, *TOW* stopped in the water and deployed the ships organic diving team to clear the obstruction. DDG 139 was shadowing *TOW* in the East China Sea. DDG 139 was informed via marine radio utilising the Code for Unplanned Encounters at Sea (CUES), signal flags and Not Under Command (NUC) shapes of *Toowoomba's* intentions to undertake diving operations. Throughout the duration of the dive DDG 139 remained in the vicinity of *Toowoomba*. At 1439 AEDT, DDG139 commenced radiating SONAR, requiring *TOW* to immediately withdraw divers from the water. Divers were medically assessed s47F however, there are no anticipated long term medical impacts.

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