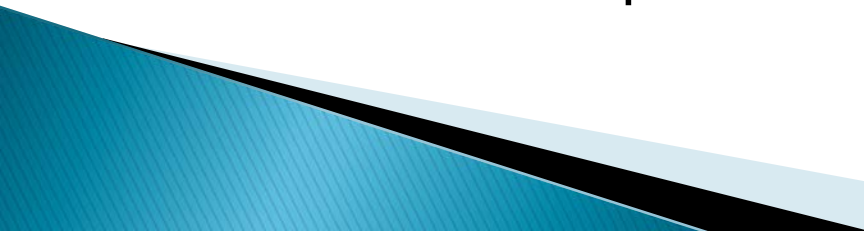


“hd

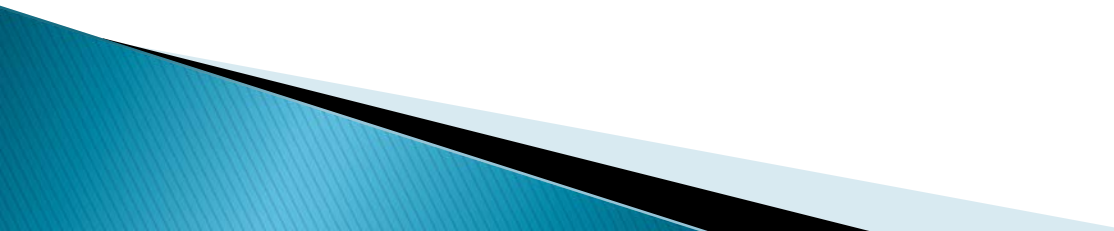
# The Common Operating Principles

Centre for Humanitarian Dialogue  
March 2018

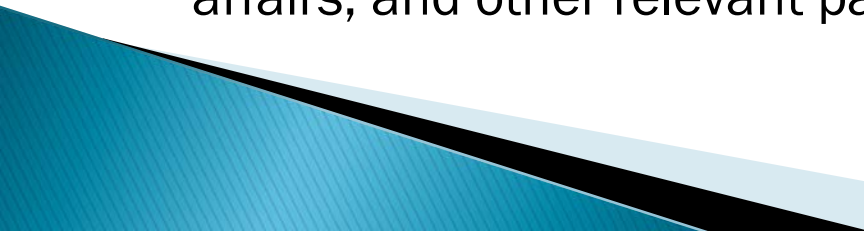
# Key assumptions of the project

- ▶ A permanent, political solution on the South China Sea dispute will take the relevant actors a significant amount of time to reach
  - ▶ In the interim, there is the potential for incidents or misunderstandings to occur at sea that may increase tensions to the point of conflict
  - ▶ All actors want to avoid conflict, and therefore, have an interest in developing mechanisms to prevent incidents and promote safety at sea
- 

# Key goals of the project

- ▶ Convene a dialogue between operational experts in order to brainstorm ways for operational cooperation and confidence-building
  - ▶ Support the development of a mechanism(s) to prevent incidents, reduce tensions, promote predictability, and promote safety at sea
- 

# What have we achieved?

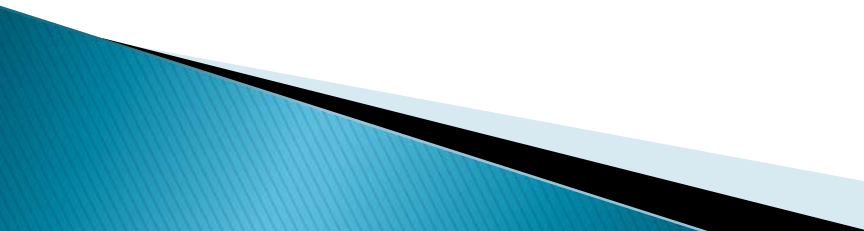
- ▶ Seven experts meetings – Singapore (May 2015), Kuala Lumpur (September 2015), Beijing (Dec 2015), Cebu (May 2016), Beijing (Dec 2016), Hanoi (May 2017), Beijing (Dec 2017)
  - ▶ One training and simulation on the Code for Unplanned Encounters at Sea (March 2016)
  - ▶ Three maritime law enforcement study groups (May 2016, December 2016, May 2017)
  - ▶ One table-top exercise on the Common Operating Principles (Oct 2017)
  - ▶ Participation and support of senior and working-level experts from navies, coast guards, ministries of defense, ministries of foreign affairs, and other relevant parts of government
- 







# Major points of consensus

- ▶ Preventing incidents at sea involving military or civilian vessels is of mutual interest
  - ▶ Humanitarian treatment of all fishermen is of mutual interest
  - ▶ Encounters at sea involving maritime law enforcement vessels and fishing vessels are a key source of tension
  - ▶ Therefore, “rules of the road” for encounters at sea that involve maritime law enforcement vessels and fishing vessels should be reviewed
- 

# Rules of the road for maritime law enforcement and fishing vessels

Encounters at sea involving maritime law enforcement vessels and fishing vessels are a key source of tension



Expansion of the Code for Unplanned Encounters at Sea



# Major lessons learned

Parts of the CUES are not applicable to maritime law enforcement agencies.



A new framework for MLEAs should be developed

Lack of knowledge of how other countries operate at sea can create misunderstanding and misperception



A common understanding of best practices and basic principles for operations at sea should be developed

# Rules of the road for maritime law enforcement and fishing vessels

Incidents involving Coast Guard and fishing vessels are a key source of tension

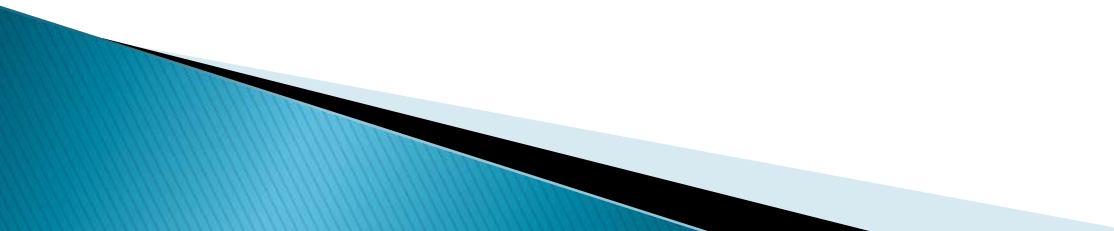
Expansion of the Code for Unplanned Encounters at Sea

A new framework for MLEAs should be developed

A common understanding of best practices and basic principles for operations at sea should be achieved

Develop common operating principles (COPs) for MLEAs

# Common Operating Principles COPs

- ▶ The COPs would be a set of baseline operating principles that could help provide guidance for MLE and fishing vessel behavior during encounters at sea
  - ▶ The goal of the COPs would be to prevent incidents, increase predictability, reduce tensions, promote safety, and promote good humanitarian practices during encounters at sea between MLE and fishing vessels
- 

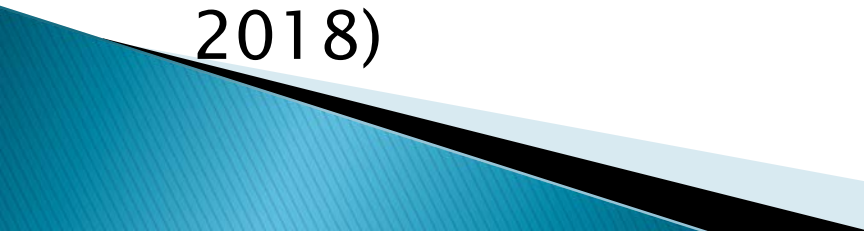
# Common Operating Principles

- ▶ **Principle of transparency and communication**
  - *Always be ready to acknowledge and respond by any means available*
  - *Always be ready to share intentions*
- ▶ **Principle of do no harm**
  - *Actions taken by Parties must always demonstrate the highest regard for the preservation of life at sea*
  - *When using force to exact compliance or for mission accomplishment only reasonable and necessary force should be used*
  - *Low levels of force to exact compliance or for mission accomplishment should be attempted before high levels of force or lethal force*
  - *High-level force to exact compliance or for mission accomplishment should only be applied when low-level force has proved ineffective or when it is reasonably judged that there is no alternative to achieve the lawful objective*
  - *The use of lethal force for exacting compliance or for mission accomplishment should be avoided*
- ▶ **Principle of due regard for good order at sea**
  - *Respect for and adherence to the United Nations Convention on the Law of the Sea (UNCLOS) and applicable customary international law at sea*
  - *Respect for and adherence to the International Convention for the Safety of Life at Sea (SOLAS) and the International Regulations for Preventing Collisions at Sea (COLREGS)*
  - *Respect for and adherence to applicable customary international law and other relevant international conventions to which the countries are Parties*



5<sup>th</sup> Maritime Law Enforcement Study Group (December 2017)

# References to the COPs

- ▶ Report of ASEAN Regional Forum Experts and Eminent Persons Working Group on Preventing and Managing Maritime Incidents (Feb 2017)
  - ▶ ASEAN Regional Forum Workshop on Best Practices in Implementing Safety of Navigation Instruments (12 Jul 2017)
  - ▶ Heads of Asian Coast Guards Agencies Meeting (HACGAM) Capacity Building Program “Law of the Sea and Maritime Enforcement Training” 5 Oct 2017
  - ▶ ARF Workshop on Enhancing Regional Maritime Law Enforcement Cooperation (18–19 January 2018)
- 



# What's next?

- ▶ Developing a set of Guidelines on application of the COPs
  - ▶ Sharing and consulting with a broader range of stakeholders
- 