



First round of Consultations on Workstream 7: Naval Warfare
New Zealand National Statement
Delivered by Commander Prema McIntosh, RNZN
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Thank you Chair,

New Zealand has a proud history of supporting the development and implementation of International Humanitarian Law.

New Zealand would like to thank the ICRC, alongside France, Brazil, China, Jordan, Kazakhstan, and South Africa for launching the Global Initiative to Galvanise Commitment to International Humanitarian Law.

We are pleased to participate in the Global Initiative, including the first round of consultations on Workstream 7: Naval Warfare, alongside colleagues from around the world.

While today's consultation revolves around the law of naval warfare, it is worth noting that as a small open country New Zealand places a premium on the peace and security rules in the UN Charter. The most essential of these protects our sovereignty, territorial integrity, political independence and prohibit the threat or use of force. It is important that we do not lose sight of the importance of those rules, and those in the United Nations Law of the Sea Convention which preserve the use of the high seas for peaceful purposes and oblige States to settle disputes by peaceful means.

We also would like to note our support for the restarting of discussions on revising the *San Remo Manual*. The maritime domain has evolved markedly since the manual was adopted in 1994, and it is critical that it be reconsidered considering both developments in State practice but also in the way in which naval operations are conducted currently.

The main issues when considering humanity in naval warfare? Specifically, civilian and civilian infrastructure in naval warfare?

The New Zealand Defence Force Manual of Armed Forces Law is clear in that its orders in relation to the law of armed conflict apply, with necessary modification to the maritime environment. Emphasis is placed on complying with the Law of Armed Conflict that:

- Prohibit or restrict the use of certain weapons;
- Prohibit or restrict the use of certain methods of combat, in particular missiles and projectiles, including those with over-the-horizon capabilities, torpedoes, sea mines and cluster munitions;
- Prohibit methods of warfare of a nature that cause widespread, long-term and severe damage to the natural environment;

- Require humane treatment of civilians and persons who are *hors de combat* through surrender, sickness, wounds, shipwreck; and
- Protect the transportation of wounded and sick medical equipment.

New Zealand then is clear in its application of international humanitarian law in the maritime domain, and that this includes the humane treatment of civilians and the application of the principle of distinction.

The impact on the civilian population from the second and third order impacts of naval warfare are also a particular issue, noting the volume of resources that move by sea, including food. Access to humanitarian aid will also be challenged should freedom of shipping be impacted. It is here that reminders as to the rights and obligations of neutral States are critical.

What areas of the law do you see as challenging to apply in modern naval warfare?

New Zealand considers that the modern maritime environment will make application of the law of naval warfare challenging. In particular, the increased use of civilians and civilian vessels, dual use objects (vessels and infrastructure) and uncrewed vessels, will make it challenging for modern navies to apply the principles of distinction and proportionality. It will not always be clear which vessels are always warships and therefore subject to attack and which are not.

Solutions to these Challenges

State consultations and other meetings such as these are one of the solutions New Zealand sees in meeting these challenges. States meeting to discuss the issues they see, and attempting to gain a common understanding of the regime will go some way to ensuring respect of the law of naval warfare and international humanitarian law writ large.

New Zealand again notes its support for an updated San Remo manual and hopes that all States will engage in this important work to find solutions to these challenges.

Conclusion

New Zealand has long been a champion of International Humanitarian Law. The idea of universal rules, of doing the right thing, and being a good global citizen have been at the centre of New Zealand's national and indeed international identity.

In accordance with our long-standing position, it is our hope that International Humanitarian Law remains at the forefront of conversations both globally and domestically. New Zealand acknowledges that the discussions in respect of the law as it applies in naval warfare are not as developed as those in respect of other areas and welcome these discussions.

We encourage all States to continue to participate in this important conversation.