

Under the Global Initiative to Galvanize Political Commitment to International Humanitarian Law (Global IHL Initiative), Egypt, Indonesia and the International Committee of the Red Cross (ICRC) are pleased to present the:	在“激励对国际人道法做出政治承诺的全球倡议”（简称“国际人道法全球倡议”）下，埃及、印度尼西亚和红十字国际委员会荣幸呈上：
WORKSTREAM 7	工作领域 7
THIRD STATE CONSULTATION ON NAVAL WARFARE	海战规则 第三轮国家咨商
<i>For legal advisers from ministries of foreign affairs and defence in capitals and representatives from Permanent Missions in Geneva</i>	邀请来自各国首都外交部和国防部的法律顾问以及各国常驻日内瓦代表团的代表参会
THURSDAY, 12 FEBRUARY 2026	星期四，2026 年 2 月 12 日
10:00–13:00 (UTC+1)	10:00–13:00 (UTC+1)
FORMAT: IN PERSON (GENEVA) AND ONLINE (ZOOM)	会议形式：线下（日内瓦）和线上（ZOOM 网络会议）
Background	背景
The naval warfare workstream of the Global IHL Initiative is creating a space for states to reflect upon several critical humanitarian issues emerging from contemporary armed conflict at sea. It is seeking understanding and agreement from states on good practices to apply the law and uphold humanity in naval warfare. The third all-state consultation builds on the first two consultations, in June and November 2025, as well as on the expert discussion held in Jakarta in May	国际人道法全球倡议下的海战规则工作领域为各国共同探讨当代海上武装冲突中的若干关键人道问题创设了对话空间，力求围绕在海战中适用法律和维护人道方面的良好实践促成各国达成理解与共识。第三轮全体国家咨商基于以下会议：于 2025 年 6 月和 11 月分别举行的前两轮咨商；以及 2025 年 5 月在雅加达举行的专家讨论会，会上讨论了有关海上武装冲突的

<p>2025, which dealt with general questions on the humanitarian impact of armed conflict at sea and with rules and principles governing the conduct of hostilities at sea. This consultation will explore the existing law and good practices around searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked and dead, as well as around the treatment of detainees at sea.</p>	<p>人道影响的一般性问题以及规制海上敌对行动的规则和原则。本轮咨商将探讨关于搜寻、收集、撤离和照顾伤者、病者、遇船难者和死者以及海上被拘留者待遇的现行法律和良好实践。</p>
<p>1. International law obligations around the protection of persons at sea</p>	<p>2. 保护海上人员的国际法义务</p>
<p>International law, including both the law of the sea and IHL, provides a framework for ensuring the protection of people at sea. Within the law of the sea, the International Convention for the Safety of Life at Sea¹ obliges a ship's master to provide assistance to people in distress at sea, while the International Convention on Maritime Search and Rescue obliges states to ensure that assistance be provided to any person in distress at sea.² The Convention on the High Seas and the United Nations Convention on the Law of the Sea (UNCLOS)³ oblige states to require the master of a ship sailing under their flag to render assistance to any person found at sea and in danger of being lost, in so far as can be done without serious danger to the ship, crew or passengers.⁴ Other treaties, such as the Salvage and Facilitation of International Maritime Traffic Conventions and the Chicago Convention on Civil Aviation, may also be applicable. UNCLOS also requires coastal states to provide assistance in such search and rescue. The duty to assist people at sea is one of the core traditions of seafarers and is also reflected in customary law. Consideration should be given to the question of whether, during an armed conflict at sea, belligerents may be bound by that duty in situations not covered by the Second Geneva Convention(e.g. in neutral waters or</p>	<p>包括海洋法和国际人道法在内的国际法为确保海上人员得到保护提供了法律框架。在海洋法框架下,《国际海上人命安全公约》⁵规定船长有义务为海上遇险人员提供救援,《国际海上搜寻救助公约》⁶也规定各国义务保证对任何海上遇险人员提供救援。《联合国海洋法公约》⁷规定各国义务要求悬挂该国旗帜航行的船舶的船长,在不严重危及其船舶、船员或乘客的情况下,救助在海上遇到的任何有生命危险的人。⁸其他公约也可适用,例如《国际救助公约》和《便利国际海上运输公约》以及规范民用航空领域的《芝加哥公约》。《联合国海洋法公约》也要求沿海国在此种搜寻和救助中提供援助。救助海上人员的责任是海员的一项重要传统,也同时体现在习惯法之中。应就下述问题进行思考:在海上武装冲突期间,交战各方在《日内瓦第二公约》未予规范的情形中(例如,在中立国水域或非国际性武装冲突期间)是否受该义务约束;以及中立国履行其义务时面临的挑战。</p>

¹ Adoption: 1 November 1974; entry into force: 25 May 1980:

[https://www.imo.org/en/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-\(solas\)-1974.aspx](https://www.imo.org/en/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-(solas)-1974.aspx), all links accessed 15 December 2025.

² Adoption: 27 April 1979; entry into force: 22 June 1985:

[https://www.imo.org/en/about/conventions/pages/international-convention-on-maritime-search-and-rescue-\(sar\).aspx](https://www.imo.org/en/about/conventions/pages/international-convention-on-maritime-search-and-rescue-(sar).aspx).

³ Adoption: 10 December 1982; entry into force: 1 November 1994:

https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en.

⁴ Adoption: 29 April 1958; entry into force: 30 September 1962:

https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxi-2&chapter=21.

⁵ 通过日期: 1974 年 11 月 1 日; 生效日期: 1980 年 5 月 25 日。网页链接: [https://www.imo.org/zh/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-\(solas\)%2c-1974.aspx](https://www.imo.org/zh/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-(solas)%2c-1974.aspx), 所有网页均于 2025 年 12 月 15 日访问。

⁶ 通过日期: 1979 年 4 月 27 日; 生效日期: 1985 年 6 月 22 日。网页链接: [https://www.imo.org/zh/about/conventions/pages/international-convention-on-maritime-search-and-rescue-\(sar\).aspx](https://www.imo.org/zh/about/conventions/pages/international-convention-on-maritime-search-and-rescue-(sar).aspx).

⁷ 通过日期: 1982 年 12 月 10 日, 生效日期: 1994 年 11 月 1 日。网页链接: https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en.

⁸ 通过日期: 1958 年 4 月 29 日; 生效日期: 1962 年 9 月 30 日。网页链接:

https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxi-2&chapter=21.

during non-international armed conflicts) , and to the challenges faced by neutrals attempting to fulfil their obligations.	
Within IHL, the Second Geneva Convention, to which all states are party, explicitly mandates that belligerents “without delay, take all possible measures to search for and collect the shipwrecked, wounded and sick” and to search for and collect the dead after an engagement. This obligation is impartial, applying to all individuals regardless of which side of the conflict they are on. ⁹ Additional Protocol I extends this protection to civilians who are wounded, sick or shipwrecked at sea. The Second and Third Geneva Conventions set out obligations in relation to recording and accounting for the enemy wounded, sick, shipwrecked and dead taken aboard (detained on) vessels, and the Fourth Geneva Convention also provides for the protection of wounded, sick and shipwrecked civilians. For non-international armed conflicts, Article 3 common to the Geneva Conventions provides that “[t]he wounded and sick and shipwrecked shall be collected and cared for” and Additional Protocol II also explicitly codifies the duty to search for, collect and care for the wounded and sick and dead at sea and on land. Rule 112 of the ICRC’s study on customary IHL also relates to the collection of the dead in non-international armed conflicts.	在国际人道法框架下，各国均为缔约方的《日内瓦第二公约》明确规定交战各方“应立即采取一切可能之措施以搜寻并收集遇船难者、伤者与病者”并在每次战斗后搜寻并收集死者。这是一项公正的义务，适用于所有人且不论其属于冲突何方。 ¹⁰ 《第一附加议定书》将这一保护延申适用于在海上受伤、患病或遇船难的平民。《日内瓦第二公约》和《日内瓦第三公约》针对被收容于（或拘留于）船只上的敌方伤者、病者、遇船难者及死者，规定了记录其相关信息并确保其下落可行的义务，《日内瓦第四公约》也为平民伤者、病者和遇船难者提供保护。就非国际性武装冲突而言，日内瓦四公约共同第 3 条规定“伤者、病者及遇船难者应予收集与照顾”，《第二附加议定书》也明确编纂了搜寻、收集与照顾海上和陆上伤者、病者及死者的责任。红十字国际委员会《习惯国际人道法研究》规则 112 也涵盖了在非国际性武装冲突中收集死者的内容。
Despite these legal obligations, states face significant practical difficulties in implementation, some of which are addressed below. Other considerations and challenges may be discussed during the consultation.	虽然存在上述法律义务，但各国在履行义务时仍面临重大实际困难，下文讨论了其中部分问题。其他考量和挑战可留待咨商期间讨论。
3. Searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked and dead	4. 搜寻、收集、撤离和照顾伤者、病者、遇船难者和死者
Becoming shipwrecked at sea, no matter the reason, is oftentimes deadly. When any vessel is attacked or damaged during an armed conflict at sea, people on board the vessel may become wounded, sick or shipwrecked or die. Modern search and rescue operations at sea face numerous challenges in peacetime, let alone in armed conflicts. These include the sheer scale of the ocean, the difficulty of locating individuals in vast, dynamic environments, dangers posed by marine wildlife, the absence of food and fresh	无论由于何种原因，在海上遭遇船难往往都会造成致命后果。任何船舶在海上武装冲突期间遭到攻击或损害时，船上人员可能会受伤、患病或遇船难，乃至死亡。现代海上搜救行动在和平时期已然面临多重挑战，遑论武装冲突期间，这些挑战包括：本就广袤无垠的海域，在广阔多变的环境中对人员进行定位的困难，海洋野生生物带来的威胁，食物和淡水不足的问题，以及天气和海洋状况带来的危害。

⁹ Second Geneva Convention, Art. 18; Fourth Geneva Convention, Art. 16; ICRC study on customary IHL, rule 112: <https://ihl-databases.icrc.org/en/customary-ihl/rules>.

¹⁰ 《日内瓦第二公约》第 18 条；《日内瓦第四公约》第 16 条；红十字国际委员会《习惯国际人道法研究》规则 112，网页链接：<https://ihl-databases.icrc.org/zh/customary-ihl/rules>。

water, and the dangers posed by weather and sea conditions.	
Search and rescue are made infinitely more perilous by the presence of active hostilities, long-range weaponry and naval mines. These threats not only endanger those in distress but also place rescue personnel and vessels at high risk, potentially hindering or preventing a timely and effective response. Vessels that collect and care for the wounded, sick, shipwrecked and dead may be in dangerous zones of the conflict and will need to ensure that they can move quickly out of the line of fire. Perhaps they should have universally recognized means of identification to indicate the presence of protected persons ¹¹ on board and to ensure safe passage without harm.	实际战斗、远程武器和水雷的存在导致搜寻和救援工作更为危险。这些威胁因素不仅危及遇险人员，也导致救援人员和救援船舶面临极高风险，可能会妨碍或阻止及时有效的应对行动。收集并照顾伤者、病者、遇船难者和死者的船舶可能处于冲突的危险地带，需要确保其能够快速驶离交战区域。此类船舶或需配备使普遍认可的识别手段以示明船上存在受保护人员， ¹² 并确保安全通过而不受伤害。
The humanitarian consequences of these operational challenges are stark. Without swift and coordinated action, individuals left in the water or stranded on damaged vessels can quickly succumb to fatigue, any injuries, exposure or drowning. The importance of rapid search and rescue responses is therefore paramount, as the survival window for those in distress is often very short. In such situations, special consideration should be given to the specific risks and distinct needs of certain groups, such as people with disabilities, older people, children and migrants. ¹³	上述行动挑战的人道后果极为突出。若无法快速开展协作行动，落水者或被困于受损船舶的人员可能很快就会因为疲劳、伤势、环境暴露或溺水而丧命。因此，快速开展搜救响应行动至关重要，因为遇险者的存活窗口期往往很短暂。在此种情况下，需要特别考虑残疾人、老年人、儿童和移民等特定群体所面临的特殊风险和不同需求。 ¹⁴
There is a significant disparity between the rapid pace of technological innovation in maritime search and rescue and persistent systemic and cooperation challenges. While technologies such as drones, AI and advanced satellite systems are improving capabilities and reducing response times, long-standing issues like delayed distress reporting and the lack of unified coordination continue to hinder effective operations. Another challenge arises when new technologies, such as drones or unmanned maritime systems, are used for hostilities. In such instances, belligerents may face difficulties in immediately fulfilling their obligations. To address this, measures will need to be put into place to ensure that obligations can be met.	海上搜救技术创新的快速发展与系统性协作方面持续存在的挑战之间存在着重大差距。虽然无人机、人工智能和先进卫星系统等技术正在提升应对能力并缩短响应时间，但遇险报告迟延、缺乏统一协调体系等长期存在的问题仍在持续妨碍行动的有效开展。无人机或海上无人系统等新技术在敌对行动中的使用还会带来额外的挑战。在此种情况下，交战各方可能难以迅速履行其义务。为此，需要采取措施确保义务能够得到履行。
The Second Geneva Convention sets out the possibility of calling on the “charity” of commanders of neutral merchant vessels to support belligerents in fulfilling their obligations. ¹⁵ However, these neutral vessels may	《日内瓦第二公约》载明了呼吁中立国商船船长以“慈善精神”支持交战各方履行其义务的可能性。 ¹⁶ 然而，这些中立国船舶可能因对支持交战一方相关的担忧或对遭到攻击的恐惧而不

¹¹ A definition of “protected persons” is found in the *San Remo Manual*, paras 161-168: <https://ihl-databases.icrc.org/en/ihl-treaties/san-remo-manual-1994/article-161-168?activeTab=>.

¹² 《圣雷莫海战法手册》对“受保护人员”进行了定义，第 161 条至 168 条：<https://ihl-databases.icrc.org/zh/ihl-treaties/san-remo-manual-1994/article-161-168?activeTab=>。

¹³ Note that the ICRC’s understanding of the term “migrants” includes refugees, asylum seekers, stateless persons and migrants deemed to be in an irregular situation by public authorities: <https://www.icrc.org/en/law-and-policy/protected-persons-migrants-refugees-asylum-seekers>.

¹⁴ 请注意红十字国际委员会认为“移民”一词包含难民、寻求庇护者、无国籍人员和被公共当局视为处于非正规状态的移民，网页链接：<https://www.icrc.org/zh/law-and-policy/protected-persons-migrants-refugees-asylum-seekers>。

¹⁵ Second Geneva Convention, Art. 21.

¹⁶ 《日内瓦第二公约》第 21 条。

<p>be reluctant to provide support in an armed conflict environment (owing to concern around supporting a belligerent or for fear of attack). Furthermore, they may not be able to respond appropriately (owing to a lack of facilities, resources and training) or there may not be integrated coordinating systems in place for such requests. There are considerable gaps in understanding by belligerents and neutrals as to how neutral vessels and/or states are to search for, collect, evacuate and care for the wounded, sick, shipwrecked and dead, and these issues could benefit from further consideration.</p>	<p>愿在武装冲突环境下提供支持。此外，它们也可能因缺少设施、资源和培训而无法采取适当应对措施，或针对此种请求缺乏整体协调体系。交战各方和中立国对于中立国船舶和/或中立国应如何搜寻、收集、撤离和照顾伤者、病者、遇船难者和死者，仍存在显著的认知空白，这些问题值得进一步探讨。</p>
<p>5. Care for the wounded, sick and shipwrecked and respect for the dead</p>	<p>6. 照顾伤者、病者和遇船难者以及尊重死者</p>
<p>Once rescued, the wounded, sick, and shipwrecked must be provided with humane treatment and appropriate medical care, without adverse distinction. Providing timely and appropriate medical care in austere, unstable environments on board ships is extremely challenging, especially for severe combat wounds. Vessels that collect the wounded, sick and shipwrecked may not have the capacity to provide such treatment. Without timely provision of medical care, people face the risk of death or worsening health conditions that could complicate long-term recovery. Another challenge lies in safely evacuating these individuals to a place of safety (such as a neutral port) far from the active combat zone, which can require complex diplomatic and logistical arrangements.</p>	<p>一旦得到救援，伤者、病者和遇船难者必须获得人道待遇和适当的医疗照顾，且不得有所歧视。然而，在动荡艰苦的船上环境中提供及时且适当的医疗照顾（尤其是对于严重战伤而言）极具挑战性。收集伤者、病者、遇船难者的船舶可能不具备提供此种医疗救治的能力。如果医疗救助无法及时到位，人们将面临死亡风险，或健康状况恶化，导致长期康复更为困难。另外，将这些人员安全撤离至远离实际交战地带的安全区域（例如中立国港口）也是一大挑战，这可能会需要进行复杂的外交和后勤安排。</p>
<p>Once they have been rescued from the immediate danger, individuals facing specific risks may require specialized medical care, or psychosocial support – resources often unavailable on standard merchant vessels and other neutral vessels; measures should be taken to remove them as quickly as possible to shore. Children, especially those unaccompanied by an adult, are at higher risk of trauma, exploitation and drowning. Migrants, who may increase in number in conflict environments, face compounded dangers owing to their frequent reliance on unseaworthy vessels. The risks they face are further exacerbated by legal and political complexities, which can delay or discourage assistance, prolonging distress and increasing fatalities among those already in peril. Steps may also need to be taken to mitigate challenges arising from language barriers.</p>	<p>从紧迫危险中获救后，面临特殊风险的人员可能需要得到专业的医疗救助或社会心理支持，而普通商船和其他中立国船舶往往不具备这些资源，因此应采取措施尽快将这些人员转移至岸上。儿童，尤其是无成人陪伴的儿童遭受创伤、剥削和溺水的风险更高。移民（冲突环境下移民人数可能增多）往往依赖不适航的船舶，因此面临多重叠加风险；法律和政治上的复杂性进一步加剧了他们所面临的风险，可能导致相关救援行动延误或受阻，延长险情持续时间并导致身处危难之人的死亡数量上升。此外，还需要逐步采取措施降低语言障碍带来的挑战。</p>
<p>The dead must be respected and their dignity preserved, including by preventing their despoilment and respectfully disposing of their remains. This can present logistical challenges related to ensuring proper storage of the dead onboard. The ICRC's 2017 Commentary on the Second Geneva Convention proposes that "[t]he preferred option is the return of the remains of the deceased to their families so that they may bury them in accordance with their religious beliefs and</p>	<p>必须尊重死者并维护其尊严，包括防止死者被剥劫并以保有其尊严的方式处置遗体。在船上妥善保存死者遗体时，可能面临后勤方面的挑战。红十字国际委员会 2017 年发布的《〈日内瓦第二公约〉评注》提出“最可取的方式是将死者遗体归还遗属，以便他们按照其宗教信仰</p>

<p>practices”.¹⁷ The Commentary adds that burial on land “ought to be preferred over burial at sea for humanitarian reasons”, as the latter makes it “virtually impossible” to recover human remains and confirm identity and makes it difficult for families to access burial places.¹⁸ If burial is only possible at sea for operational reasons, it must be individual burial as far as circumstances permit, and the dead of all sides must in any case be respected and protected, including against despoilment. Before burial (whether on land or at sea), the parties to the conflict must carefully examine the bodies, if possible in a medical examination, “to confirm death, establish identity and enable a report to be made”.¹⁹ Identifying those who have perished at sea can present unique and often grim challenges. Salt water and marine life accelerate the decomposition of bodies, which can make physical identification difficult if not impossible. In practice, it may be that collecting vessels do not have the necessary personnel on board to carry out this examination carefully and respectfully, including to establish identity. They also may not have the correct facilities for storing the dead onboard.</p>	<p>和习俗予以安葬”。²⁰《评注》补充道“基于人道原因，陆上埋葬应优先于海葬”，因为后者会导致“几乎无法”找回遗体并确认死者身份，且遗属也很难前往死者安葬之地。²¹如果出于行动原因只能进行海葬，条件允许时必须分别单独举行葬礼，不论何种情况都必须尊重并保护各方死者，包括防止死者被剥劫。在葬礼（不论陆上埋葬或海葬）之前，冲突各方必须详细检查遗体，可能时进行医学检查，“目的是确定死亡，证明身份并便作成报告”。²²然而，海上死者身份识别工作往往面临着独特而严峻的挑战。海水和海洋生物会加速遗体分解，可能会导致很难、甚至无法通过身体特征进行身份识别。实践中，负责收集死者的船舶可能并未配备必要人员，无法对遗体进行保有死者尊严的详细检查（包括确认死者身份）；它们可能还缺乏在船上保存死者遗体的适当设施。</p>
<p>To ensure that relevant obligations can be met, states need to be prepared to put in place the appropriate processes and systems in peacetime, to ensure they have the necessary personnel, facilities and equipment aboard vessels and to carry out proper training for such personnel. There may also be a need for further practical guidelines and documentation to support belligerents’ compliance with relevant obligations (or that of neutral states and/or masters of neutral vessels if “charitably” assisting).</p>	<p>为确保相关义务得到履行，各国需要在平时时期做好准备，建立适当的程序和制度，以确保船舶配备必要人员、设施和设备并为此类人员提供适当培训。同时还有必要进一步制定实践指南并进行文件记录，支持交战各方（或中立国和/或以“慈善精神”提供协助的中立国船舶船长）遵守相关义务。</p>
<p>7. Accounting for the wounded, sick, shipwrecked and dead</p>	<p>8. 查明伤者、病者、遇船难者和死者的下落</p>
<p>Once people have been collected from the sea, whether dead or alive, and evacuated from areas of military operations, their details must be recorded. There is a firm obligation to record any details that may assist in the identification of wounded, sick, shipwrecked and dead enemy personnel (including categories under the law of naval warfare, such as merchant mariners in some instances) that have fallen into the hands of a belligerent.²³ Once recorded, such information must be</p>	<p>一旦人员（无论生死）被从海上收集并撤离军事行动区域，必须记录其详细信息。就落入交战一方手中的敌方伤者、病者、遇船难者和死者（包括海战法下的各类人员，如某些情形下的商船水手）而言，记录任何可以证明其身份的详细信息是一项不容推卸的义务。²⁵完成记录后，此类信息必须“尽速”转达本国国家信</p>

¹⁷ ICRC, *Commentary on the Second Geneva Convention: Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, ICRC, Geneva / Cambridge University Press, Cambridge, 2017, para. 1823: <https://ihl-databases.icrc.org/ihl/full/GCII-commentary>.

¹⁸ *Idem*, para. 1825.

¹⁹ *Idem*, para. 1835.

²⁰ 红十字国际委员会，《〈日内瓦第二公约〉评注：改善海上武装部队伤者病者境遇之日内瓦公约》，红十字国际委员会，日内瓦/剑桥大学出版社，剑桥，2017年，第1823段：<https://ihl-databases.icrc.org/zh/ihl-treaties/gcii-1949>。

²¹ 同上，第1825段。

²² 同上，第1835段。

²³ Second Geneva Convention, Art. 19.

²⁵ 《日内瓦第二公约》第19条。

transmitted “as soon as possible” to their National Information Bureau for forwarding to the other party through the ICRC’s Central Tracing Agency. ²⁴	息局，以通过红十字国际委员会中央寻人局转送另一方。 ²⁶
These obligations are part of the framework in place to prevent people from going missing. If families know the fate of their loved ones, this can help reduce tensions and foster confidence-building measures, facilitating peacebuilding.	上述义务是防止人员失踪的现有框架的组成部分。如果家人知晓亲人下落，这将有助于缓解紧张局势并促进采取建立信任的措施，推动和平建设进程。
The obligation to record and transmit information on enemy personnel is conferred on parties to an international armed conflict but also on any neutral state that may receive or find, among others, deceased individuals in its territory. ²⁷ Belligerent states must also record the details of their own personnel whom they may have collected and cared for. ²⁸ There are also obligations to ensure that civilians who may be collected (migrants at sea, people on vessels which may have come under indirect attack, and civilians on enemy vessels) be identified and their information recorded so that they do not go missing. Under the Fourth Geneva Convention, parties to armed conflicts are obliged to account for certain protected persons in their hands and, based on Article 16, parties must “facilitate the steps taken to search” for wounded and dead civilians. Moreover, Additional Protocol I provides for the exchange of information to facilitate the search for all missing and dead civilians, ²⁹ and under customary law parties must record all available information on the deceased and must take all feasible measures to account for people reported missing as a result of the conflict and must provide their families with any information on their fate. ³⁰ It may also be necessary to gather information from those rescued as to who else was with them on a vessel that has sunk as well as the details of the vessel itself if they are not collected, as this is sometimes the best and only source of information on people who have gone missing and are never to be seen again. Complying with the legal obligations at sea in an armed conflict involves coordination, communication, logistics and preparedness to address the relevant people on board and in the water.	不仅国际性武装冲突各方负有记录并转达有关敌方人员信息的义务，任一中立国对于可能在其领土内所收容或发现的人员，包括死者，也承担这一义务。 ³¹ 各交战国还必须记录其可能收集并照顾的本国人员的详细信息。 ³² 此外，对于可能被收集的平民（海上移民，可能受到间接攻击的船舶的船上人员，敌方船舶上的平民），也有义务确保其身份得到识别、信息得到记录，从而避免其失踪。依据《日内瓦第四公约》，武装冲突各方有义务确保落入其手中的部分受保护人员的下落可知，且根据第 16 条，各方必须“对于寻觅”平民伤者和死者“之各项步骤（……）予以便利”。此外，《第一附加议定书》对互送信息以便利搜寻所有失踪和死亡平民进行了规定， ³³ 且根据习惯法，各方必须记录所有与死者相关的可得信息，并且必须采取一切可能措施查明因冲突而被报告失踪之人的下落并向其家人提供任何与其命运有关的信息。 ³⁴ 此外，可能还有必要从获救者处收集信息，了解与之同处沉船之上的其他人的信息，以及有关船舶本身尚未收集的信息，因为这有时是与失踪后再无音信之人相关的最重要且唯一的信息来源。遵守海上武装冲突相关的法律义务涉及协调、沟通、后勤和准备工作，以应对与相关船上和落水人员的有关问题。

²⁴ Second Geneva Convention, Art. 19; see also the Third Geneva Convention, Art. 122.

²⁶ 《日内瓦第二公约》第 19 条；另见《日内瓦第三公约》第 122 条。

²⁷ First Geneva Convention, Arts 4 and 6; ICRC, *Commentary on the First Geneva Convention: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, ICRC, Geneva / Cambridge University Press, Cambridge, 2016, para. 1544: <https://ihl-databases.icrc.org/ihl/full/GCI-commentary>. Articles 4 and 16 should be read together.

²⁸ Second Geneva Convention, Chapter II; ICRC study on customary IHL, rule 116.

²⁹ Additional Protocol I, Art. 33.

³⁰ ICRC study on customary IHL, rule 117.

³¹ 《日内瓦第一公约》第 4 条和第 6 条；红十字国际委员会，《〈日内瓦第一公约〉评注：改善战地武装部队伤者病者境遇之日内瓦公约》，红十字国际委员会，日内瓦/剑桥大学出版社，剑桥，2016 年，第 1544 段：<https://ihl-databases.icrc.org/zh/ihl-treaties/gci-1949>。第 4 条和第 6 条应一并解读。

³² 《日内瓦第二公约》第二章；红十字国际委员会《习惯国际人道法研究》规则 116。

³³ 《第一附加议定书》第 33 条。

³⁴ 红十字国际委员会《习惯国际人道法研究》规则 117。

Once the dead have been collected, their personal details must be recorded, with a view to identification, and transmitted so that they can be accounted for, as outlined above. Personal belongings and identity documents (like identity discs) are often lost or damaged in maritime incidents. As such, bodies must be collected and details recorded as quickly as possible and in a way that follows forensic standards and best practices. While DNA analysis is a powerful tool, it may be complicated by the degradation of genetic material in a marine environment, and it may be impossible to find a match if the person collected is a migrant or a member of enemy armed forces.	如上文所述，死者被收集后，必须记录其个人信息（以便识别其身份）并转达相关信息，以确保其下落可知。个人物品和身份证明文件（如身份牌）在海上事件中往往会丢失或损坏。因此，必须遵循法医学标准与最佳实践，尽快收集遗体并记录详细信息。虽然 DNA 分析是一项强大的工具，但海洋环境中遗传物质发生降解可能会增加分析难度，并且当所收集遗体属于移民或敌方武装部队人员时，可能无法成功进行匹配。
During a non-international armed conflict, common Article 3 and customary IHL apply as well as, potentially, Additional Protocol II. In these conflicts, IHL confers a similar obligation on parties to record all available information on the deceased prior to their disposal to enable identification.	非国际性武装冲突期间，共同第 3 条和习惯国际人道法均适用，《第二附加议定书》也可能同时适用。在此类冲突中，国际人道法同样规定，各方有义务在处置死者遗体前记录所有可得信息，以便进行身份识别。
Speed and accuracy are required for recording identifying details. ³⁵ This can pose problems if those collecting information do not have the necessary training, forms or procedures in place. ³⁶	记录有助于识别身份的详细信息时必须迅速准确。 ³⁷ 如果信息收集人员未经过必要培训，亦无记录应采用的表格或工作流程，就可能会出现问題。 ³⁸
9. Detention at sea	10. 海上拘留
Once the wounded, sick and shipwrecked are collected, cared for and identified, some of them may need to be detained as prisoners of war (POWs), civilian internees or criminal detainees (others who are collected may not be detainees at all and must also be treated well). While merchant vessels are generally considered civilian objects and are protected from attack, their crew, even if civilians, may be entitled to POW status if they are “members of the merchant marine and the crews of civil aircraft of the Parties to the conflict” who do not benefit from more favourable treatment under other provisions, or if they accompany the armed forces without being members thereof. ³⁹	伤者、病者和遇船难者得到收集、照顾且身份得到识别之后，其中部分人员可能会作为战俘、平民被拘禁者或因刑事原因受到拘留（其他被收集之人可能完全不会受到拘留但也须获得妥善待遇）。虽然商船通常视为民用物体并受到免于攻击的保护，但若其船员（即便是平民船员）属于“冲突各方之商船队之船员以及民航机上之工作人员”而依其他规定不能享受更优惠之待遇者，或伴随武装部队而实际并非其成员之人， ⁴⁰ 也可能有权享有战俘地位。
Any detainees must be held in line with IHL; where detainees are held for reasons unrelated to the conflict, detention must be in line with applicable human rights law. As the ICRC’s 2017 Commentary notes on detainees, “the shipwrecked, wounded and sick might initially find themselves on a hospital ship prior to detention on land. ... [T]hey may be diverted to a hospital ship immediately upon capture or transferred to a military hospital upon landing. Thus, the persons	对任一拘留者进行关押时必须遵守国际人道法；若被拘留者因与冲突无关原因受到关押，则拘留活动必须遵守适用的国际人权法。如红十字国际委员会在 2017 年《评注》中所述，“首先，遇船难者、伤者病者在被拘禁于陆上之前可能会先出现在医院船上。……他们被俘后，可能立即被转送至医院船或在登陆后被转移到军队医院。因此，与遇船难者、伤者病者接触的人可能更熟悉《日内瓦第二公约》而非

³⁵ ICRC, *Commentary on the Second Geneva Convention*, 2017, para. 1717.

³⁶ *Idem*, para. 1718.

³⁷ 红十字国际委员会，《〈日内瓦第二公约〉评注：改善海上武装部队伤者病者境遇之日内瓦公约》，2017 年，第 1717 段。

³⁸ 见上，第 1718 段。

³⁹ Third Geneva Convention, Art. 4.

⁴⁰ 《日内瓦第三公约》第 4 条。

<p>who come into contact with the shipwrecked, wounded and sick will likely be more familiar with the provisions of the Second Convention than of the Third Convention.”⁴¹ When rescued combatants are collected on board a military vessel or cared for by an enemy party's medical personnel or on hospital ships, they fall into enemy hands and gain POW status under the Third Geneva Convention,⁴² resulting in the simultaneous application of both treaties until they are fully recovered. This status ensures humane treatment, including provision of medical care, food, hygiene and clothing, as well as protection from ill-treatment and pillage.⁴³</p>	<p>《日内瓦第三公约》的规定。”⁴⁴当获救战斗员被收集至军用船舶、由敌方医务人员照顾或在医院船上接受治疗时，他们就构成落于敌方手中并依据《日内瓦第三公约》获得战俘地位，⁴⁵此时两部条约同时适用，直至他们完全康复。战俘地位确保他们能够得到人道待遇，包括获得医疗照顾、食物、卫生条件和衣物，以及受到免遭虐待和抢劫的保护。⁴⁶</p>
<p>Even if not granted POW status, captured seafarers (captured mariners on neutral vessels) may still be protected persons under the Fourth Geneva Convention and therefore benefit from the associated treatment and protections. In a non-international armed conflict, common Article 3, and potentially Additional Protocol II, will apply. In any case, in both international and non-international armed conflicts, they are civilians and as such still protected by fundamental principles of humanity under customary IHL, including guarantees against violence to life and person, hostage-taking, outrages upon personal dignity and arbitrary detention. Their details should be recorded so that they can be accounted for, and they should be transported to a place of safety as soon as possible, whether to be detained as civilian internees or criminal detainees or released depending on their status. States should consider what a “place of safety” means and where one may be located in an armed conflict. If individuals are to be transferred to a place of safety, repatriated or transferred elsewhere, states must consider the issue of <i>non-refoulement</i>.⁴⁷</p>	<p>被俘海员（中立国船舶上的被俘水手）即便未获得战俘地位，仍可依据《日内瓦第四公约》构成受保护人员，且因此享受相关待遇和保护。非国际性武装冲突期间，应适用共同第 3 条，《第二附加议定书》也可能同时适用。不论何种情况，无论在国际性还是非国际性武装冲突中，他们都属于平民，因而始终受到习惯国际人道法中基本人道原则的保护，这些保障包括免受生命与人身暴力、免遭劫持、个人尊严免受损害以及免遭任意拘留。应记录其详细信息以便其下落可知，并且应尽快将他们移送至安全场所，作为平民被拘禁者或刑事被拘留者予以拘留，或根据其地位予以释放。各国应考虑“安全场所”的内涵以及武装冲突中应将其设于何处。如果要人员转移至安全场所、遣返或转移至其他地方，各国必须思考不推回的相关问题。⁴⁸</p>

⁴¹ ICRC, *Commentary on the Second Geneva Convention*, 2017, para. 1708.

⁴² Third Geneva Convention.

⁴³ The obligation set out in the Third Geneva Convention that detention can only take place on land implies that detention at sea must be as short as possible and raises questions around the acceptable length of “temporary” detention on ships for transit purposes.

⁴⁴ 红十字国际委员会，《〈日内瓦第二公约〉评注》，2017 年，第 1708 段。

⁴⁵ 《日内瓦第三公约》。

⁴⁶ 《日内瓦第三公约》所规定的义务，即战俘仅能拘留于陆上，暗示了必须尽可能缩短海上拘留时间，且引发了关于为转运目的而“暂时”进行船上拘留的可接受时长问题。

⁴⁷ The principle of *non-refoulement* is a fundamental customary international law obligation that prohibits states from transferring or removing individuals to a country where there are substantial grounds for believing they would be in danger of persecution (as defined in Article 33(1) of the 1951 Refugee Convention), torture, or other cruel, inhuman or degrading treatment or punishment. Article 3 of the 1984 United Nations Convention against Torture stipulates that no state party shall expel, return (*refouler*) or extradite a person to another state where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. Article 7 of the International Covenant on Civil and Political Rights has been interpreted as prohibiting the return of individuals to places where torture or persecution is feared.

⁴⁸ 不推回原则是习惯国际法中的一项基本义务，该义务禁止各国将人员转移或驱离至有充分理由相信他们可能会面临以下危险的某一国家：遭受迫害（1951 年《关于难民地位的公约》第 33 条第 1 款对此作出定义）、酷刑或其他残忍、不人道或有辱人格的待遇或惩罚。1984 年联合国《禁止酷刑公约》第 3 条规定，如有充分理由相信任何人在另一国家将有遭受酷刑的危险，任何缔约国不得将该人驱逐、遣返或引渡至该国。《公民权利和政治权利国际公约》第 7 条被解读为禁止将人员送回其可能遭受酷刑或迫害的地方。

Objectives	目标
This consultation will aim to:	本轮咨商旨在：
<ul style="list-style-type: none"> ensure a common understanding of the existing law on searching for, collecting, evacuating, caring for and identifying the wounded, sick, shipwrecked and dead during an armed conflict at sea 	<ul style="list-style-type: none"> 就海上武装冲突期间搜寻、收集、撤离、照顾伤者、病者、遇船难者和死者并对其进行身份识别的现行法律，确保达成普遍共识
<ul style="list-style-type: none"> seek innovative ideas about how states can put into practice their existing obligations on the topics as outlined above 	<ul style="list-style-type: none"> 就各国如何履行其在上述主题下的现有义务，探讨创新思路 and 想法
<ul style="list-style-type: none"> explore how states (both neutral and belligerent) can coordinate with each other and other actors at sea to ensure all possible measures are taken in searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked, and dead, including how coastal rescue craft, hospital ships and other vessels can be mobilized in belligerents' efforts to ensure that they meet their obligations 	<ul style="list-style-type: none"> 探讨各国（中立国和交战国）能够如何相互协调并与其他海上行为体进行协作，确保采取一切可能措施以搜寻、搜集、撤离和照顾伤者、病者、遇船难者和死者，包括各交战国如何调动沿岸救护艇、医院船和其他船舶以确保履行其义务
<ul style="list-style-type: none"> examine how vessels can be protected in searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked and dead (e.g. civil-defence organizations, coast guards, other government vessels and potentially the ICRC and National Red Cross and Red Crescent Societies or neutral vessels which are appealed to) 	<ul style="list-style-type: none"> 研究如何保护从事搜寻、收集、撤离和照顾伤者、病者、遇船难者和死者工作的船舶（例如，民防组织、海岸警卫队、其他政府船舶，可能还有红十字国际委员会和各国红会的船舶，或者响应呼吁的中立国船舶）
<ul style="list-style-type: none"> develop an understanding of good practice in searching for, collecting, evacuating, caring for, identifying and accounting for the wounded, sick, shipwrecked and dead 	<ul style="list-style-type: none"> 就搜寻、收集、撤离、照顾伤者、病者、遇船难者和死者并对其进行身份识别和查明其下落，形成关于良好实践的理解
<ul style="list-style-type: none"> develop an understanding of good practice in the treatment and conditions of detainees as well as those civilians who are collected and need to be transported (including consideration of vulnerable individuals). 	<ul style="list-style-type: none"> 就被拘留者待遇和条件，以及被收集并需转移之平民（包括虑及弱势群体）的待遇和条件，形成关于良好实践的理解
Next steps	后续工作步骤
Following the three rounds of consultations, the co-chairing states and the ICRC will formulate concrete recommendations, which will be presented to all states for further discussion:	在完成三轮咨商后，各联席主席国与红十字国际委员会将制定具体建议，呈交各国以供进一步讨论：

<ul style="list-style-type: none"> On 1 April 2026, the first versions of the recommendations for all workstreams will be sent to all Permanent Missions in Geneva and published on the Humanity in War website. 	<ul style="list-style-type: none"> 2026 年 4 月 1 日，各工作领域第一版建议将发送至所有常驻日内瓦代表团，并发布于“战争中的人道”网站。
<ul style="list-style-type: none"> The fourth round of consultations will be held between 4 and 6 May 2026, in a hybrid format. During this round, all states will be invited to share comments on the first versions of the recommendations for each workstream, which will be discussed sequentially. 	<ul style="list-style-type: none"> 第四轮咨商将于 2026 年 5 月 4 日至 6 日期间以线上线下混合形式召开。该轮咨商期间将依次对各工作领域建议进行讨论，我们将邀请所有国家就每一工作领域的第一版建议提出意见。
<ul style="list-style-type: none"> On 1 June 2026, the second versions of the recommendations for all workstreams will be sent to all states and published on the Humanity in War website. 	<ul style="list-style-type: none"> 2026 年 6 月 1 日，各工作领域第二版建议将发送至所有国家，并发布于“战争中的人道”网站。
<ul style="list-style-type: none"> The fifth round of consultations will be held between 22 and 26 June 2026, in a hybrid format. All states will be invited to provide final comments on the recommendations. Following this round, the co-chairing States and the ICRC will finalize the recommendations for each workstream, which will be presented to all states in the second part of 2026. 	<ul style="list-style-type: none"> 第五轮咨商将于 2026 年 6 月 22 日至 26 日期间以线上线下混合形式召开。我们将邀请所有国家对建议文件提出最终意见。该轮咨商结束后，联席主席国与红十字国际委员会将最终确定每一工作领域的建议，并于 2026 年下半年呈交所有国家。
Participants	参与方
<ul style="list-style-type: none"> The consultation will be held in a hybrid format with participation in person and online. 	<ul style="list-style-type: none"> 咨商将以线上线下混合形式召开，开放现场参会和线上参会渠道。
<ul style="list-style-type: none"> The consultation is open to all states that are interested. There is a strong preference for capital-based military experts and representatives from relevant ministries in capitals well versed in the international law applicable to armed conflict at sea, and for representatives from Permanent Missions in Geneva. 	<ul style="list-style-type: none"> 咨商欢迎所有感兴趣的国家参会，尤其欢迎来自各国首都、熟悉海上武装冲突所适用的国际法的军事专家与相关部委代表，以及来自各国常驻日内瓦代表团的代表参会。
<ul style="list-style-type: none"> Other representatives with specific expertise in the subject matter (e.g. members of international organizations, civil society and academia) will also participate upon invitation. 	<ul style="list-style-type: none"> 就会议主题事项具备专业知识的其他代表（如国际组织、民间社会和学术界人员）也将应邀参会。
<ul style="list-style-type: none"> Please register no later than Friday, 6 February 2026, using the registration form. 	<ul style="list-style-type: none"> 请迟于 2026 年 2 月 6 日(星期五)通过注册登记表完成会议注册。

Procedure	程序事项
<ul style="list-style-type: none"> The working languages will be Arabic, Chinese, English, French, Russian and Spanish, with simultaneous interpretation. 	<ul style="list-style-type: none"> 会议工作语言为阿拉伯文、中文、英文、法文、俄文和西班牙文，会议提供同声传译。
<ul style="list-style-type: none"> We ask states to limit their statements to four minutes to ensure sufficient time for all participants to take the floor. At the end of the consultation, and after all participants that wish to contribute have done so, states and other participants will be given an opportunity to discuss ideas proposed by others. 	<ul style="list-style-type: none"> 请各国将发言时间限制在四分钟内，确保所有参与方都有足够时间发言。在咨商结束时，待有意发言的所有参与方发言完毕后，各国及其他参与方将有机会就他方提出的观点进行讨论。
<ul style="list-style-type: none"> When preparing their statements, participants are kindly requested to consider the guiding questions provided in the agenda below. 	<ul style="list-style-type: none"> 在准备发言内容时，请各参与方对以下议程中所示的引导性问题进行考虑。
<ul style="list-style-type: none"> The inclusive, constructive, non-politicized and solution-oriented nature of the discussions will be maintained throughout the consultation. While participants are encouraged to refer to their state's domestic practice during the consultations, they are asked to kindly refrain from discussing specific contexts or the practice of other states. 	<ul style="list-style-type: none"> 咨商全程的讨论将始终保持包容性、建设性、非政治化，并以解决方案为导向。鼓励各参与方在咨商会议中提及本国国内实践，但请避免讨论具体国家和地区或其他国家的实践。
<ul style="list-style-type: none"> To facilitate interpretation, we invite participants to share a copy of their statements by 6 February 2026, via email at ihlinitiative@icrc.org, with "Naval warfare third consultation" in the subject line. We also encourage participants to send their full written statements by email after the meeting. Unless confidentiality is explicitly requested, these statements will be published on the Humanity in War website. 	<ul style="list-style-type: none"> 为协助会议口译，请参会者于 2026 年 2 月 6 日前将发言稿通过邮件分享至 ihlinitiative@icrc.org，邮件标题栏请注明“海战规则第三轮咨商”。我们也鼓励各参与方会后通过电子邮件提交完整的书面发言稿。除非明确提出保密请求，上述发言稿均将通过“战争中的人道”网站公开发布。
<ul style="list-style-type: none"> The consultation will be recorded, but the recording will not be made public. 	<ul style="list-style-type: none"> 咨商会议将进行录像，但录像不会公开。
Agenda	会议议程
Naval Warfare	海战规则
Third Round of Consultations	第三轮咨商
10.00–13.00, 12 February 2026	10.00–13.00, 2026 年 2 月 12 日

ICRC Humanitarium, 17 avenue de la Paix, 1202 Geneva		红十字国际委员会人道中心（17 avenue de la Paix, 1202 Geneva）	
<i>*Depending on the number of statements given, all times set out below are subject to change.</i>		*以下所有时间安排均将基于发言数量进行调整。	
Registration and coffee / Login and connection	9:30–10:00	现场注册和茶叙/线上登录和接入会议	9:30–10:00
Opening of the meeting and introduction	10:00–10:30	会议开幕、情况概述	10:00–10:30
Guiding questions <ol style="list-style-type: none"> 1. What are the core challenges for belligerents in fulfilling their obligation to search for, collect, care for and evacuate the wounded, sick, shipwrecked and dead? How can these challenges be overcome? 2. What are the core challenges for neutral states and/or neutral vessels in supporting belligerents to fulfil their obligations? How can these challenges be overcome? 3. What steps/activities do states currently invest in, or need to invest in, to ensure that they meet their obligation to search for, collect and evacuate for the wounded, sick, shipwrecked and dead? 4. What steps/activities do states currently invest in, or need to invest in, to ensure that they meet their obligation to identify the wounded, sick, shipwrecked and dead? 5. What steps/activities do states currently invest in, or need to invest in, to ensure that they meet their obligation to protect detainees at sea? 6. What more do states need in terms of tools, training or good practice from other states with regard to these obligations? <p><i>In answering these questions states are invited to consider their own complex realities at sea, which may include long coastlines, dense ports, archipelagic sea lanes, maritime chokepoints, narrow straits and overlapping SAR responsibilities. They are also invited to consider how these challenges can be addressed while respecting the neutrality of assisting states</i></p>	10:30–12:30	引导性问题 <ol style="list-style-type: none"> 7. 各交战方在履行其搜寻、收集、照顾和撤离伤者、病者、遇船难者和死者的义务时面临哪些核心挑战？如何应对这些挑战？ 8. 中立国和/或中立国船舶在支持各交战方履行义务时面临哪些核心挑战？如何应对这些挑战？ 9. 各国当前正在或需要对哪些步骤/活动进行投入，从而确保履行其搜寻、收集和撤离伤者、病者、遇船难者和死者的义务？ 10. 各国当前正在或需要对哪些步骤/活动进行投入，从而确保履行其识别伤者、病者、遇船难者和死者身份的义务？ 11. 各国当前正在或需要对哪些步骤/活动进行投入，从而确保履行其保护海上被拘留者的义务？ 12. 就上述义务而言，各国在工具、培训或其他良好实践方面还存在哪些额外需求？ <p>回答上述问题时，邀请各国思考本国复杂的海上现实情况，可能包括海岸线漫长、港口密集、群岛海道、海上咽喉要道、海峡狭窄和搜救责任重叠。此外，还邀请各国思考如何应对上述挑战，与此同时尊重提供协助的国家和船舶的中立性，包括适当顾及中立沿海国和群</p>	10:30–12:30

<i>and vessels, including with due regard to the sovereignty and regulatory authority of neutral coastal and archipelagic states and to the application of the law of the sea.</i>		岛国的主权和监管权，以及海洋法的适用。	
Concluding remarks and next steps	12:30–13.00	总结发言和后续工作步骤	12:30–13.00