

# **TIME FOR A NEW APPROACH TO DEALING WITH INCIDENTS AT SEA?**

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# BACKGROUND

- Incidents at sea involving warships, patrol vessels, military aircraft, fishing vessels or research vessels have been occurring regularly
- risks of such a situation are increasing as naval activity in the region increases and more warships, patrol vessels and surveillance aircraft are deployed into disputed waters.
- More effective measures required?



# SOME CURRENT AGREEMENTS

- The 2001 Malaysian-Indonesian agreement for Preventing Incidents at Sea (MALINDO)
- WPNS Code for Unplanned Encounters between Ships (CUES)
- INCSEA agreements between Russia and the US, South Korea and Japan
- 2011 Agreement between China and Vietnam on basic principles guiding settlement of sea-related issues
- U.S.-China Memorandum of Understanding on Rules of Behavior for the Safety of Air and Maritime Encounters



# Some Other Regional Measures

- **Hot Lines (e.g. recent ASEAN hot line and hot lines between NE Asian coast guards)**
- **Crisis Management Mechanisms**
- **Information Sharing Centres (e.g. Singapore Navy's Information Fusion Centre (IFC) with international liaison officers)**
- **Bilateral Fisheries Agreements**
- **Other Bilateral Arrangements (e.g. Jakarta Treaty of 1982 between Indonesia and Malaysia provides Malaysia with a right of access and communication between East and West Malaysia)**



# Relevant Regional Forums

- *ARF Inter-Sessional Meeting on Maritime Security (ARF ISM).*
- *ASEAN Defence Ministers Meeting Plus (ADMM Plus) Maritime Security Expert Working Group (MSEWG).*
- *ASEAN Maritime Forum (AMF).*
- *Expanded ASEAN Maritime Forum (EAMF)*
- *Western Pacific Naval Symposium (WPNS)*
- *Heads of Asian Coast Guard Agencies Meetings (HACGAM)*
- *North Pacific Coast Guard Forum (NPCGF)*
- *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)*



# Indicative List of Issues for Prospective Agreement (1)

- *Non-Naval vessels and aircraft.* Existing agreements only apply to naval vessels and aircraft.
- *Submarines.* Existing agreements do not apply to submarine operations.
- *Prospective Policy Level Agreement.* Existing agreements are mainly documents covering actions at the tactical level.
- *Managing Incidents.* A 'whole of government' approach is important, including responsibility for actions of all national flag vessels both state and non-state.

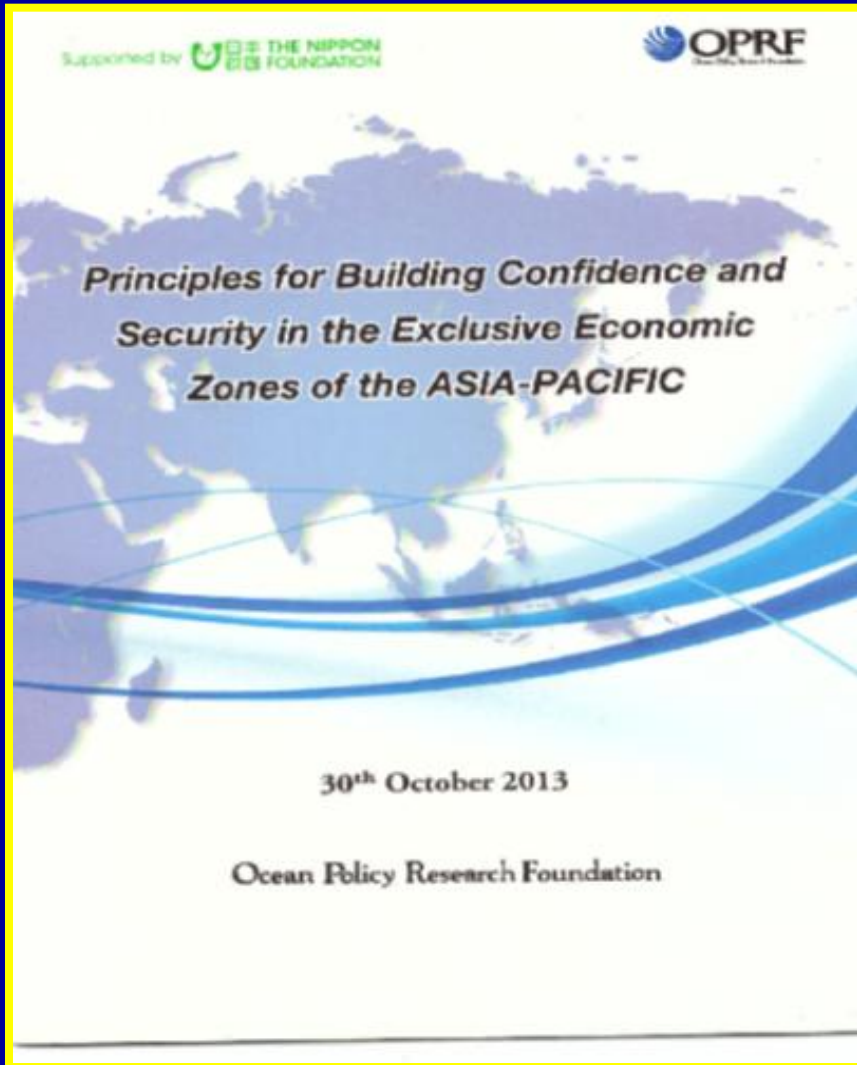


## Indicative List of Issues for Prospective Agreement (2)

- *Law enforcement operations.* Issues related to maritime law enforcement operations such as live fire or other actions endangering human life should not be used.
- *Regular consultative arrangements.* Important to discuss the state of play with agreements and follow up on incidents.
- *Law of the Sea issues.* Important but difficult, particularly EEZ issues.
- *Dangerous Behaviour.* An agreement might be possible to refrain from dangerous behaviour.



# CONSIDERATIONS



- Common understanding of Law of the Sea issues (e.g. OPRF Principles regarding EEZ)
- Division of responsibility between regional forums
- Terminology – a code, guidelines or principles