

San Remo Manual Update – Group of Experts Meeting in Tromsø, May 2022

General report

1. Introduction

The San Remo Manual Update Project aims at examining the 1994 San Remo Manual on International Law Applicable to Armed Conflict at Sea in order to weed out errors, fill gaps and take into account developments since 1994. To this end, a Group of Experts representing a broad range of nations is convened for the discussion of papers on specific issues.

The Tromsø meeting was a follow-up of a first meeting in Copenhagen in September/October 2019 and an online meeting in December 2020. No decisions were made at those meetings, several subjects had therefore to be re-examined.

The meeting of the Group of Experts was preceded by an open workshop, where the members of the Group of Experts also participated. Certain issues discussed at the workshop that had a direct bearing on the San Remo Manual, especially a presentation on prize law by Yoram Dinstein, were followed up in the Group of Experts.

2. Program (main points)

Wednesday, 4 May 2022

- Welcome (Deputy director general Kristin Bangsund, Ministry of Defence)
- Norwegian perspective of maritime warfare (Commodore Trond Gimmingsrud, Chief of Navy)
- General introduction and composition of the Group of Experts (Prof. Fausto Pocar)

Thursday, 5 May 2022

- What has been done so far and where do we go from here? (Arne W. Dahl)
- Conversion of merchant vessels (Sigrid R. Johansen, JAG Norway)
- Starvation of civilians (Prof. Gabriella Venturini)
- Maritime Zones (Discussion led by Martin Fink)

Friday, 6 May 2022

- Wrap-up meeting: The next session (discussion; Pocar in the chair). Assignment of papers.

3. Participation

A number of members of the Group of Experts sent their excuses in advance because of conflicting engagements, while emphasizing their commitment to the project and desire to attend future meetings. Others, registered for the meeting, were forestalled at the last minute from coming to Tromsø, although one such member (isolated by COVID-19) actually participated and made a presentation by video. Ultimately, 18 members and 4 observers were

physically present in the Tromsø session of the Group of Experts. This number does not count, of course, the many additional attendees of the preceding Workshop

4. Results

The Group of Experts was able to draw up a list of topics to be examined (some re-examined) in publishable papers citing primary sources, ending up with conclusions as to whether the relevant part of the San Remo Manual should be amended and if so, how. It is understood that the Black-Letter Rules of the Manual will be altered only if 80% of the members of the Group of Experts attending the meeting support the change. On the other hand, the Commentary of the Manual can be revised whenever a majority or a future Drafting Committee deems this necessary.

Most topics were assigned to experts who volunteered to write papers, a few were left to be assigned in the future.

Those experts who were not present are invited to write on topics of their choice.¹ It may also be possible to write a parallel paper on a topic which has already been assigned. As an example, one may mention that Sigrid Redse Johansen's paper on Conversion of Merchant Ships – a View from the North, will be supplemented by a paper giving a View from the East.

Experts who are interested in presenting such supplementary papers should inform the Steering Committee as soon as possible, so that work can be coordinated.

5. Issues left for future decision

It was decided to defer to a future session a final decision on the following three questions:

1. Whether to delete general Rules relating to the law of self-defence and action taken by the Security Council (Rules 3-9).
2. Whether to delete Rules strictly relating to air warfare (e.g., interception and capture of civilian aircraft) on the understanding that the Manual will still deal with issues such as aircraft targeted by warships.
3. Whether to address NIACs in a new special Section or to point out in each existing Section its respective relevance (or irrelevance) to NIACs.

6. Future meetings

The venue and date of the 2023 meeting has not been determined yet. It seems, however, clear that the final meeting of the project will take place in Italy.

Arne Willy Dahl

(for the Steering Committee)

Annex: List of papers to be written

¹ A number of papers have been distributed in electronic format, with comments from other experts provided in the margin. The original author could, for example, present a clean version showing his or her present view after having considered the comments that were given. It should, of course, be of publishable quality.

SRM Update Project – list of Papers to be written

Next meeting (2023):

- Start: proposals and commentary²
 - o Prize
 - o Starvation
 - o Conversion of vessels (a view from the north)
- Conversion of vessels (a view from the east)
- Maritime zones
- Blockades
- Neutral installations in the continental shelf
- Unmanned maritime devices
- Coalition warfare and interoperability

2024 meeting:

- Contraband
- NIAC
- Passenger ships/liners
- Hospital ships
- Submarine cables and pipelines
- Sea mines

2025 meeting:

- Submarine warfare
- Coastal bombardment
- Naval graveyards

No author for:

- Lawful targets – military objectives
- Shipwrecked and SAR
- Protection of the environment
- Perfidy and ruses of war
- Auxiliary Ships (this subject was added to the list by the Steering Committee)

² These papers are generally complete, but need conclusions with regard to possible amendments to the SRM.