

GUIDELINES FOR AIR MILITARY ENCOUNTERS

Introduction

1. The rising growth, development, and prosperity of countries in the Asia-Pacific has led to an increase in maritime and air traffic in the region. Specific to the air domain, the International Air Transport Association (IATA) estimates that commercial air traffic will double to 7.2 billion passengers in 2035, with more than 50% of this growth – or an additional 1.8 billion passengers – coming from the Asia-Pacific. With prosperity, regional countries are also modernising their militaries, including air forces, both for their own upgrading as well as to meet the demands arising from new regional security challenges. Looking ahead, defence expenditure in the Asia-Pacific is projected to rise by 23% to more than US\$530 billion in 2020. These trends will increase congestion in the air.

2. Since its establishment in 2006, the ADMM has made significant progress in promoting strategic dialogue and cooperation against common regional security challenges. Today, the ADMM cooperates in wide ranging areas from HADR to crisis communications, and crossed a milestone last year when we commemorated the 10th anniversary of its establishment.

3. Recognising that the safety and security of air lanes are important for the growth and prosperity of countries, it is important to consider developing a set of guidelines that military aircraft can practise. These guidelines will help reduce the likelihood of encounters or incidents spiralling into conflict in the event of a miscalculation. Such guidelines would help reinforce the spirit of the ASEAN Political-Security Community Blueprint 2025, which calls on all ASEAN Member States to promote shared values and norms as well as principles of international law, in building a rules-based community. Such guidelines will also adhere to the existing aviation standards promulgated by the Convention on International Civil Aviation (the Chicago Convention), the International Civil Aviation Organisation (ICAO), and the International Code of Signals (ICS) which all ADMM-Plus countries have subscribed to, and observe recognised international principles concerning military and state aircraft governed by the 1982 United Nations Convention on the Law of the Sea. Such guidelines will also complement the Code for Unplanned Encounters at Sea (CUES) adopted by the Western Pacific Naval Symposium, which naval aircraft of ADMM-Plus countries already observe.

4. This paper puts forth a broad set of principles for guidelines on air encounters between military aircraft, as well as operational guidelines.

Principles

5. The guidelines shall be non-binding, voluntary, and serve as a practical confidence building measure for the militaries to improve operational safety in the air.

6. The guidelines shall be applicable for unintentional encounters in flight between military aircraft over high seas, ensuring safe separation to avoid creating a safety hazard. To determine safe separation, military aircraft should comprehensively consider their own national rules, and relevant international guidance.

7. The guidelines shall reaffirm the principles of Article 2 of the ASEAN Charter.

8. The guidelines shall respect the independence, sovereignty, territorial integrity of all States.

9. The guidelines shall be based on ASEAN principles of transparency and mutual trust, and shall be in accordance with relevant national laws, rules, and regulations, and international laws.

10. The guidelines shall reaffirm States' commitment to resolve disputes through peaceful means without resorting to the threat or use of force in accordance with internationally/universally recognised principles of international law, including the United Nations Convention on the Law of the Sea (UNCLOS).

11. The guidelines shall uphold all existing maritime and aviation arrangements between States, as well as between States and other organisations including, but not limited to, UNCLOS and CUES.

Adoption and Review

12. The above framework consisting of principles for the air guidelines, as well as operational guidelines on abiding by existing aviation conventions and rules, safe and professional communications, standard flight procedures, encouraging mutual trust and confidence in the air, and contingencies and emergencies will be submitted for the ADMM's adoption through the ADSOM WG and ADSOM.

13. This set of guidelines is also available for implementation by non-ASEAN Member States' military aircraft.

14. The framework as well as operational guidelines are evolving documents, and may be reviewed and revised with the consensus of the ADMM. Any derivatives, or annexes, to operationalise the guidelines are to be negotiated at a later stage with thorough consideration to applicable situations.

Conclusion

15. As key stakeholders in the region, it is the responsibility of militaries among ASEAN Member States, to ensure the safe and smooth conduct of encounters between our military aircraft, particularly in light of increasing air traffic in the region. This will help to promote a safe, secure, and peaceful operating environment in the region to allow the benefits of the global commons to be shared and enjoyed by all.

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Annex on Observing Existing Aviation Conventions and Rules

1. Military aircraft¹ should, as necessary, operate consistent with existing and relevant aviation conventions and rules. This includes the Convention on International Civil Aviation and its Annexes, as well as UNCLOS. In particular, subject to international law, military aircraft are entitled to the rights and freedom of navigation, overflight, and other internationally lawful uses of the sea related to those freedoms in high seas.

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¹ Military aircraft include manned and unmanned fixed-wing aircraft, rotary-wing aircraft, and helicopters of militaries.

Annex on Safe and Professional Communications

1. Military aircraft that encounter each other in flight should ensure navigation safety through professional airmanship, including the use of appropriate communications. The relevant references for communication and contact between military aircraft are the ICAO Annexes², ICS, and the Radio Regulations of the International Telecommunications Union.
2. Military aircraft should communicate actively, including with the appropriate air traffic services units, in the interest of flight safety, through providing details such as identity, and any other information related to flight safety should their aircraft be engaged in an activity that could affect the safety of nearby military aircraft.
3. Military aircraft shall establish two-way communication as necessary and in accordance with relevant international aviation rules and conventions.
4. Military aircrew should refrain from the use of uncivil language or unfriendly physical gestures.
5. Communications between military aircraft during an emergency may be conducted in accordance with the Convention on International Civil Aviation and its Annexes.

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² ICAO Annex 2, and 10.

Annex on Standard Flight Procedures

1. When military aircraft intentionally approach other military aircraft for the purpose of identification, interrogation, verification, or escort, the pilots should operate with professional airmanship and exercise prudence for the safety of other approaching military aircraft. Meanwhile, each military aircraft should avoid reckless manoeuvres.
2. To determine safe separation, military aircraft should comprehensively consider relevant international guidance, and factors including the mission, meteorological considerations, and flight situation.
3. Military aircraft should refrain from interfering with the activities of other States. However, military aircraft always enjoy the rights and freedom of navigation, overflight, and other internationally lawful uses related to those freedoms in high seas.

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Annex on Encouraging Mutual Trust and Confidence in the Air

1. The aircraft commander of a military aircraft is responsible for determining whether his or her aircraft is threatened by another aircraft. That determination could be made through communicating actively with other military aircraft in the vicinity and with the appropriate air traffic services units that operate in the area.
2. Pilots should also consider the potential ramifications before engaging in actions that could be misinterpreted.
3. A prudent pilot should generally avoid: (a) actions that impinge upon the ability of other military aircraft to manoeuvre safely; (b) approaching other military aircraft at an uncontrolled closure rate that may endanger the safety of either aircraft; (c) the use of a laser in such a manner as to cause harm to personnel or damage to equipment onboard other military aircraft; (d) actions that interfere with the launch and recovery of other military aircraft; (e) aerobatics and simulated attacks in the vicinity of other military aircraft; and (f) the discharge of signal rockets, weapons, or other objects in the direction of other military aircraft encountered, except in cases of distress.

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