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## MARITIME SECURITY: DEFINATION, MEANING AND CONCEPT

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**Abstract:** The concept of maritime security is multi-faceted and constantly evolving to meet changing threats and challenges. While there is no universally accepted definition, it generally includes the protection of a state's maritime interests, preventing threats to maritime safety, and protecting the marine environment. Common threats to maritime security include piracy, terrorism, illegal fishing, and human trafficking. However, addressing these threats is complex and challenging due to the vastness of the maritime domain, diverse stakeholders, lack of international consensus, and limited resources. Despite these challenges, maritime security is crucial to the global economy and the well-being of billions of people. Countries must work together to enhance maritime security and protect the interests of all.

**Keywords:** Maritime security, Maritime safety, Maritime threats, Maritime challenges, Maritime non-traditional threats, UNCLOS.

### 1. Introduction

Imagine the consequences if a cargo ship explodes and blocks harbors for weeks without using a dirty bomb in a major port. The economic impact would be staggering, with estimates suggesting a shutdown of Singapore Harbor could cost over \$200 billion annually. Additionally, an attack on a loaded petrol tanker in any harbor would devastate global trade and provide terrorists with an event comparable to 9/11, one of their objectives. To prevent all these threats, it becomes crucial to prioritize security.

Maritime security plays a role in safeguarding vessels, ports and coastal areas from risks such as piracy, terrorism, smuggling, illegal fishing and other criminal activities. In India, there are laws and regulations governing security. The Indian Maritime Security Act of 2002 establishes a framework to protect Indian territories from terrorism smuggling operations and other unlawful activities. This Act grants authority to the Indian Coast Guard and other relevant agencies to ensure security. Furthermore, the Indian Ports Act dating back to 1908, empowers the central government

to enact laws on security measures, including controlling operations related to smuggling prevention, order preservation, and property protection.

## **2. Conceptual Framework of Maritime Security**

The conceptual framework of security has evolved due to events, legal precedents, and international agreements. Its primary objective is not to protect vessels. Also, safeguarding ports and coastal areas while addressing national security interests, economic stability and environmental preservation concerns. Incidents of piracy and naval battles have heightened the importance of security. Nations have come to acknowledge the necessity of safeguarding waterways and commercial routes.

2.1. UNCLOS; The United Nations Convention on the Law of the Sea (UNCLOS), approved in 1982, governs all matters related to the oceans, including security. It delineates zones such as waters, exclusive economic zones and high seas, outlining both states' rights and responsibilities in ocean usage and protection. UNCLOS facilitates cooperation in safeguarding security and combating illicit activities.

2.2. International Ship and Port Facility Security (ISPS) Code; Adopted by the International Maritime Organization (I.M.O.) in 2002, this code establishes fundamental security standards for ships and ports to counter threats like terrorism, smuggling and unauthorized access. It requires security planning, drills and assessments to coordinate responses to potential security risks.

2.3. I.M.O. Conventions; The I.M.O. has established many conventions addressing security concerns. One example is the Suppression of Acts Against the Safety of Maritime Navigation (S.U.A. Convention), which aims to prevent and punish acts of terrorism or other unlawful activities against ships. Additionally, SOLAS (International Convention for Safety of Life at Sea) includes provisions on security.

2.4. Regional Collaborations; Various regional agreements and initiatives have been implemented to enhance security. Countries in East Africa and the Western Indian Ocean have signed the Djibouti Code of Conduct to combat piracy and armed robbery at sea. In Asia, various nations cooperate through the "Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)" to address security concerns.

Maritime security is vital as it is crucial in maintaining a secure marine environment. It also has implications as global businesses rely heavily on marine traffic that must be protected from piracy, smuggling and other illegal activities. Furthermore, environmental preservation is closely linked to security due to risks such as oil spills, illicit fishing and other threats that can harm the ecosystem in response to incidents like the 2008 Mumbai attacks, where navigation areas were restricted by the Indian Navy and Coast Guard to prevent attacks and ensure security in affected regions efforts have been made by India and other countries to address piracy issues off Somalia's coast. Naval escorts and increased patrols have proven effective in enhancing security and reducing incidents of piracy.

Another notable example showcasing Indian commitment to security is the MV Alondra Rainbow case in 2003. The Indian Coast Guard successfully apprehended this vessel near Gujarat on suspicion of transporting drugs. This operation demonstrated India's security systems capability in combating drug trafficking.

The incident involving the MV Koyo Maru in 2002 showcased India's security's effectiveness and ability to combat piracy. When armed pirates hijacked the Japanese-owned vessel off the coast of Somalia, the Indian Navy swiftly responded by sending I.N.S. Tabar to rescue the crew and eliminate the threat. This demonstrated India's prowess in efforts to tackle piracy.

Another crucial aspect of security is the enforcement of the International Ship and Port Facility Security Code (ISPS Code). Under this code, member countries of the International Maritime Organization (I.M.O.) must enhance security measures at ports and for ships operating within their jurisdictions. Implementing the ISPS Code has effectively prevented security threats and criminal activities at ports.

In 2014 a maritime security issue arose from a fishing dispute between Tamil Nadu and Kerala fishermen. The conflict occurred when fishermen from one state entered another state's fishing waters resulting in violence. This incident highlighted the importance of maintaining security along state borders through surveillance and strict enforcement measures.

### **3. International Legal Instruments and Conventions on Maritime Security**

Furthermore, international legal instruments and conventions play a role in security law. These agreements serve as guidelines for ensuring safety and security. Notably

I. UNCLOS (Mahawar 2022) (United Nations Convention on Law of Sea), signed by more than 160 nations in 1982, is an international law governing ocean affairs. UNCLOS establishes zones, outlines the nation's rights and obligations concerning marine resource utilization and protection, and provides mechanisms for dispute resolution.

International cooperation for enhancing security commences with the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS is an agreement that governs the utilization and protection of oceans. It replaced agreements and customary laws in 1982 and 1994.

The primary objectives of UNCLOS are to establish standards for ocean governance of the nation's rights and responsibilities in maritime zones, foster collaboration between states and ensure the conservation and protection of marine ecosystems. Critical provisions include:

1. Definition of Maritime Zones; UNCLOS categorizes zones as seas, contiguous zones, exclusive economic zones (EEZs) and continental shelves. These designations determine the extent of the state's sovereignty, jurisdiction and resource rights over surrounding waters.

2. Freedom of Navigation and Overflight in High Seas; UNCLOS guarantees all governments the right to navigate through waters freely. It regulates passage through seas while safeguarding navigational 14 rights.

3. Exclusive Economic Zones (EEZs); According to UNCLOS, an EEZ extends up to 200 miles from a state's baselines. Within this zone, coastal states possess the rights for exploration and exploitation of resources—both living organisms and non-living resources—as well as conducting scientific research and ensuring environmental protection.

4. Continental Shelf; UNCLOS establishes boundaries for determining the limits of a coastal state's continental shelf beyond its EEZ.

These provisions form the foundation for cooperation in ensuring security by promoting responsible ocean stewardship among nations. Coastal states possess rights over the seabed and subsoil resources of their shelf.

II. The International Ship and Port Facility Security (ISPS) Code adopted in 2002 by the International Maritime Organization (I.M.O.), aims to address security risks and combat terrorism. It sets standards that ships and ports worldwide must adhere to, encompassing measures like security planning, training and audits.

The development of the ISPS Code was driven by concerns surrounding security after events like 9/11. Its primary objective is to promote uniformity and collaboration in security while ensuring stakeholder cooperation.

Key elements of the ISPS Code include;

1. Security Assessments; Ships and port facilities are required under the ISPS Code to conduct evaluations of security risks and vulnerabilities. These assessments contribute to the formulation of tailored security measures for each ship or port.

2. Security Plans; Shipowners and operators of port facilities must develop and implement security plans based on threat assessments. These plans encompass incident prevention, deterrence, and response strategies, addressing aspects such as access control, cargo handling procedures, employee identification protocols and communication systems.

3. Security training and drills play a role in implementing the ISPS Code. The code emphasizes training staff in security practices, ensuring they are well-equipped to identify and respond to threats. Additionally, it is recommended to conduct drills and exercises to assess the readiness and effectiveness of security measures.

4. The ISPS Code also places responsibility on governments to establish laws, regulations and oversight mechanisms for security. Governments are tasked with designating authorities to inspect and audit ships as port facilities ensuring compliance with the code's requirements. It is important to note that the ISPS Code applies not to ships but also extends its coverage to port facilities. As such, ships and port infrastructure must adhere to this code with member nations of the International Maritime Organization (I.M.O.) responsible for enforcing it.

III. Another significant international treaty related to security is the Safety of Life at Sea (SOLAS) convention adopted by I.M.O. in 1974. SOLAS primarily focuses on safeguarding lives at sea, with attention given in chapters XI I & XI II regarding security. These regulations mean that ships have security plans, conduct drills and promptly report any incidents that may compromise safety or security. SOLAS serves as a convention setting minimum safety requirements for ships operating in international waters. It aims not only to protect passengers but also to prevent accidents through stringent safety criteria and incorporating technological advancements over time. SOLAS aims to provide a framework to ensure the safety of ships and the well-being of passengers and crew members. It encompasses provisions;

1. Standards for Structure and Equipment; SOLAS outlines requirements for ship structure, stability, fire safety and lifesaving equipment. These standards ensure vessels are designed and maintained to withstand conditions and emergencies.

2. Safety Management; SOLAS mandates that ships have robust safety management systems to identify and mitigate risks. It emphasizes the implementation of safety plans, procedures, training programs and drills to enhance onboard safety.

3. Navigation and Communication; SOLAS regulates equipment, charts, voyage planning procedures and communication systems to minimize collisions at sea and improve communication between ships and shore authorities.

4. Emergency Response; SOLAS mandates that ships are equipped with firefighting capabilities, evacuation procedures, search and rescue measures, and sufficient lifeboats, rafts and other lifesaving equipment.

IV. Regional Agreements: regional agreements play a crucial role in addressing maritime security challenges. An example is the

a. Djibouti Code of Conduct, an accord covering ship piracy and armed robbery in the Western Indian Ocean and Gulf of Aden. This agreement promotes security through cooperation among nations by exchanging information and building capacity.

b. "The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, known as ReCAAP, plays a role in enhancing security across Asia. It effectively facilitates collaboration among member nations to combat ship piracy and armed robbery.

c. RMSI: Moving towards the Western Indian Ocean region, we have initiatives and frameworks to address piracy and ensure stability. The Combined Maritime Forces (C.M.F.) Maritime Security Patrol Areas (MSPA) Shared Awareness and Deconfliction (SHADE) as the Somalia Contact Group on Piracy are some examples of these Regional Maritime Security Initiatives (RMSI).

d. In 2013, the Gulf of Guinea Code of Conduct was established to suppress piracy, armed robbery and illicit marine operations within the region. This code seeks to strengthen cooperation among West and Central African countries to combat piracy and armed robbery through enhanced security effectively.

e. Moving further into the Asia Pacific region, we encounter the ASEAN Regional Forum (A.R.F.). This multilateral security discourse platform has actively addressed security concerns through communication, cooperation and confidence building among participating nations.



f. Lastly, we have organizations known as RFMOs responsible for managing fisheries resources while combating illicit activities such as unreported or unregulated fishing. The Indian Ocean Tuna Commission (IOTC) and Northwest Atlantic Fisheries Organization (NAFO) are examples that promote fishing practices alongside ensuring marine security in their respective regions."

g. During Operation Ocean Shield, the North Atlantic Treaty Organization (NATO) aimed to counter piracy and ensure security along the coast of Somalia. Through patrol coordination efforts and intelligence sharing, they successfully deterred pirate attacks. Safeguarded vulnerable vessels.

#### **4. Threats and Challenges to Maritime Security**

Various factors pose risks to safety, including piracy, armed robbery, marine terrorism, illicit fishing, human trafficking, drug smuggling and environmental concerns. Addressing these issues requires an examination of both national laws that aim to combat these dangers. It is important to note that significant ports in South and East Asia, such as Kobe, Tokyo, Yokohama Pusan Shanghai Kaohsiung, and Hong Kong Singapore, may be targeted by terrorists due to their significance. Additionally, mega ports like Los Angeles in the United States or Rotterdam in Europe can also be targets for activities.

The "U.N. Convention on the Law of the Sea" (UNCLOS) serves as a framework for addressing maritime issues. UNCLOS establishes—responsibilities concerning ocean usage and management among states. In order to ensure security effectively, laws on piracy suppression, prevention of illicit activities at sea and preservation of the marine environment are crucial. Numerous international treaties and agreements have been established to enhance security; for instance, SOLAS regulates safety, including measures against terrorism.

Two conventions address the issue of terrorism and maritime crimes; the "International Convention for the Suppression of Acts of Nuclear Terrorism" and the "International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation." Each country has its set of security laws, encompassing various offences such as piracy, armed robbery, smuggling, trafficking and environmental protection. In India, for instance, they have enacted the "Suppression of Acts against Safety of Marine Navigation and Fixed Platforms on Continental Shelf Act, 2002" to combat acts of terrorism in marine navigation. The jurisdiction for addressing security concerns and issues depends on laws and circumstances. Authorities in ratified states are responsible for enforcing laws and treaties related to maritime crimes. States can prosecute these crimes, flag states (where a vessel is registered) or states where an offence has occurred. Notably,

there have been developments in combating piracy in the Indian Ocean due to collaboration among Singapore, Malaysia and Indonesia in recent years. Thanks to their increased efforts and cooperation, piracy incidents have significantly decreased among states. The coordinated efforts of Indonesia, Malaysia, Singapore and Thailand in conducting air and sea surveillance operations known as "Eye in the Sky" and Malacca Strait Patrols involve information sharing. They have also sought assistance from India, the U.S. and Japan.

There are challenges in maritime security that include.

1. Piracy; To address piracy as a threat to security, Indian legislation introduced the "Suppression of Acts against the Safety of Maritime Navigation (S.U.A.) Act 2002". Section 3(2)(d) of this Act defines piracy and prescribes punishments for it—the Supreme Court case of the Republic Of Italy Thr. Ambassador Vs Union Of India & Ors established that Section 3(2)(d) makes piracy a cognizable and non-bailable offence.

2. Armed Robbery; Maritime security is also threatened by robbery at sea. Different jurisdictions often categorize robbery under piracy or general criminal statutes. In India, armed robbery at sea is covered by the S.U.A. Act, 2002, as the Indian Penal Code.

3. Maritime Terrorism; Addressing terrorism is a focus area for international efforts. The S.U.A. Convention and its 2005 Protocol specifically deal with terrorism offences. In the case United States v Hasan (2014), the Eastern District of Virginia successfully convicted a pirate under the S.U.A. Act for acts of piracy and related offences.

If a supertanker were to sink in the Strait of Malacca, it would disrupt commerce. Force ships to take a route through the Indonesian Sunda and Flores passage. This diversion would add 1,000 kilometers and two more days at sea, resulting in an expense increase of \$8 billion.

4. One primary concern for security is fishing, which involves activities that go against regulations and are not reported. The 1995 U.N. Fish Stocks Agreement plays a role in combatting this issue. While there are no specific case laws on fishing, individual countries have laws and regulations in place.

Human trafficking is another challenge when it comes to security. The 2000 U.N. Convention against Transnational Organized Crime, along with its Protocol to Prevent, Suppress and Punish Trafficking in Persons ( Women and Children), addresses this problem. In India, the Prevention of Immoral Trafficking Act (PITA) from 1986 focuses explicitly on combating trafficking.

Drug smuggling is also a concern that needs attention for security. The 1988 U.N. Convention against Illicit Traffic in Drugs and Psychotropic Substances plays a role in combating drug smuggling globally. In India, the NDPS Act from 1985 covers drug smuggling offences. The Supreme Court of India has ruled that the strict liability principle applies to NDPS Act offences in the State of Gujarat v. Mohanlal Jitamalji Porwal case.

To effectively address security threats and issues, both national legal frameworks must be evaluated. The challenges related to safety and security are effectively addressed through a combination of regulations and international rules such as UNCLOS and specific treaties. When enforcing these regulations, the jurisdiction is determined based on the issue involving the states with coastlines, flags and those responsible for offences.

### **5. Regarding security, states have responsibilities and responses**

These include taking measures and responding to threats in their waters, exclusive economic zones (EEZs) and international waters. Conventions impose these duties, national legislation and customary international law.

States should combat security threats such as piracy, armed robbery, terrorism, illicit fishing activities, human trafficking and drug smuggling. Their responsibility for maintaining law and order along coastlines and ensuring maritime safety and security is outlined in international law.

Collaboration among states is crucial in addressing marine security threats. This collaboration can involve exchanging intelligence information conducting patrols at sea, extradition procedures when necessary and providing aid. Both UNCLOS and regional agreements emphasize the importance of state cooperation to enhance security. (UNCLOS 1982)

States can prosecute offences committed within their waters or against their vessels. This includes acts of piracy committed by their nationals on the seas or in territorial waters. International collaboration in detecting and prosecuting organized security-related crime is facilitated by instruments like the U.N. Convention against Transnational Organized Crime and its Protocols. States may sometimes establish courts or tribunals dedicated to handling security matters. The International Tribunal for the Law of the Sea (ITLOS) deals with disputes concerning the interpretation and application of UNCLOS.

When it comes to their waters, exclusive economic zones (EEZs) and high seas states have responsibilities in terms of maritime security. These responsibilities include prevention, cooperation with states sharing information, and prosecuting. International conventions manage

maritime security issues to ensure safety and security at sea. Any state has the right to establish a tribunal to trial activities-related cases.

## **6. Conclusion**

Maritime security plays a role in safeguarding ships, ports and coastlines against piracy, terrorism, smuggling, illegal fishing and other unlawful activities. In India, laws such as the Indian Maritime Security Act, Indian Ports Act and Suppression of Acts Against the Safety of Maritime Navigation and Fixed Platforms on the Continental Shelf Act are in place to maintain security. These laws empower authorities to defend territories and preserve safety.

Some legal instruments and treaties impact marine security. UNCLOS governs ocean usage as protection measures with a focus on maritime security. The International Maritime Organization (I.M.O.)s ISPS Code provides ship and port security requirements to prevent terrorism and smuggling. The SOLAS convention addresses marine safety concerns, including aspects related to security.

Furthermore, regional agreements like the Djibouti Code of Conduct and initiatives such as ReCAAP contribute towards enhancing security within regions. Maritime security poses various challenges, including piracy, armed robbery, maritime terrorism, illegal fishing, human trafficking and drug smuggling. These issues are tackled through a combination of national laws. The jurisdiction for prosecuting these crimes depends on factors such as the location of the offence, the vessel's flag state, and the state's power.

To ensure safety, states are responsible for preventing and responding to threats within their waters, exclusive economic zones and high seas. This requires cooperation between nations in terms of intelligence sharing and joint operations. International conventions play a role in securing vessels, ports, and areas while safeguarding national security interests and economic well-being. Additionally, protecting the environment is also a part of maritime security efforts.

In order to effectively address these challenges, countries must have laws in place, active international collaboration, and regional initiatives.

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