

AN OVERVIEW OF MARITIME LAWS - INDIA



CMDE UDAI RAO(RETD)

**(FORMER PRINCIPAL DIRECTOR NAVAL INTELLIGENCE
FORMER DIRECTOR CABINET SECRETARIAT)**

- I AM NOT A LAWYER – BUT A SAILOR
- TO UNDERSTAND MARITIME LAW -YOU MUST FIRST UNDERSTAND MARITIME OPERATIONS
- TIME WAS WHEN COMMANDING OFFICER OF WARSHIP WAS LAST WORD IN LAW ENFORCEMENT
 - SATCOM& GPS HAVE MADE THINGS BETTER , BUT MORE DIFFICULT
 - PRACTICAL APPROACH REQUIRED
 - APPLICATION IS IMPORTANT

➤ MARITIME LAW ,ADMIRALITY LAW , LAW OF SHIPS & SHIPPING –
PRIVATE IN NATURE- SHIP OWNERS, CLIENTS, EMPLOYEES

➤ UNCLOS 82

➤ OTHER MARITIME LAWS

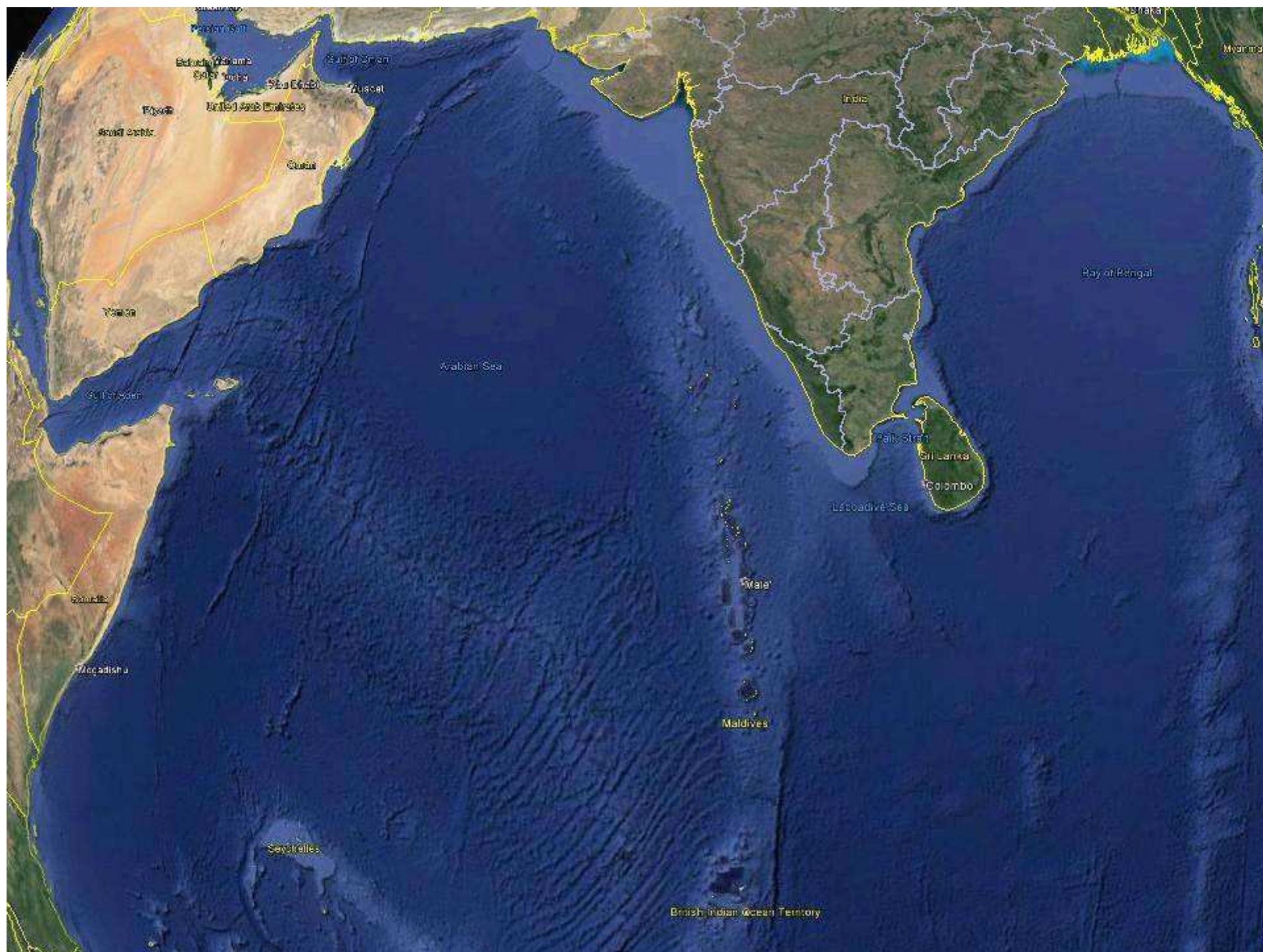
BLUE PLANET

FIVE
OCEANS



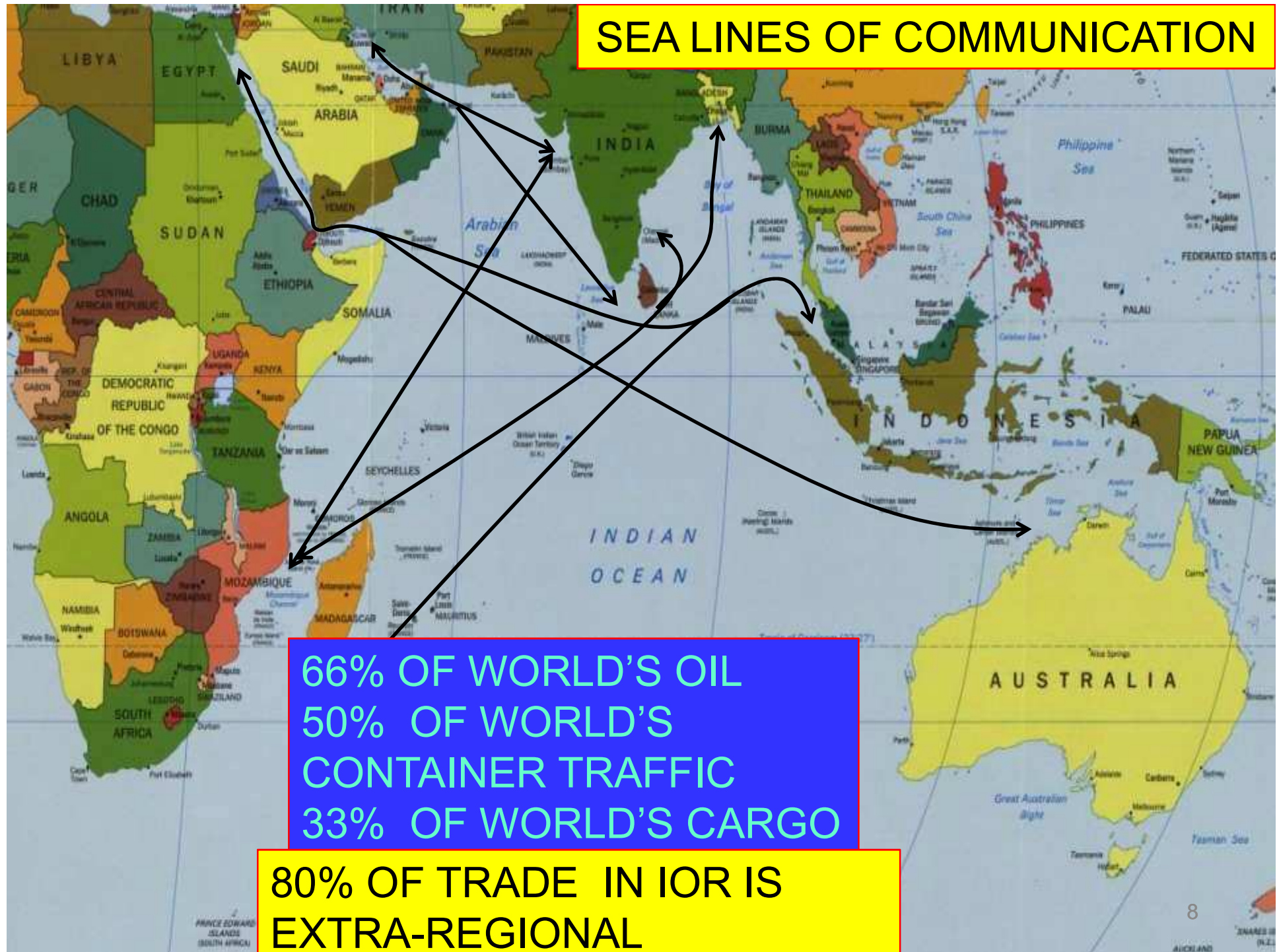
BLUE PLANET

- OCEANS COVER OVER 70% OF THE EARTHS SURFACE
- REMOTE AND AMORPHOUS
- RESOURCES FOR OCEAN GOVERNANCE AND POLICING CAN NEVER BE ENOUGH

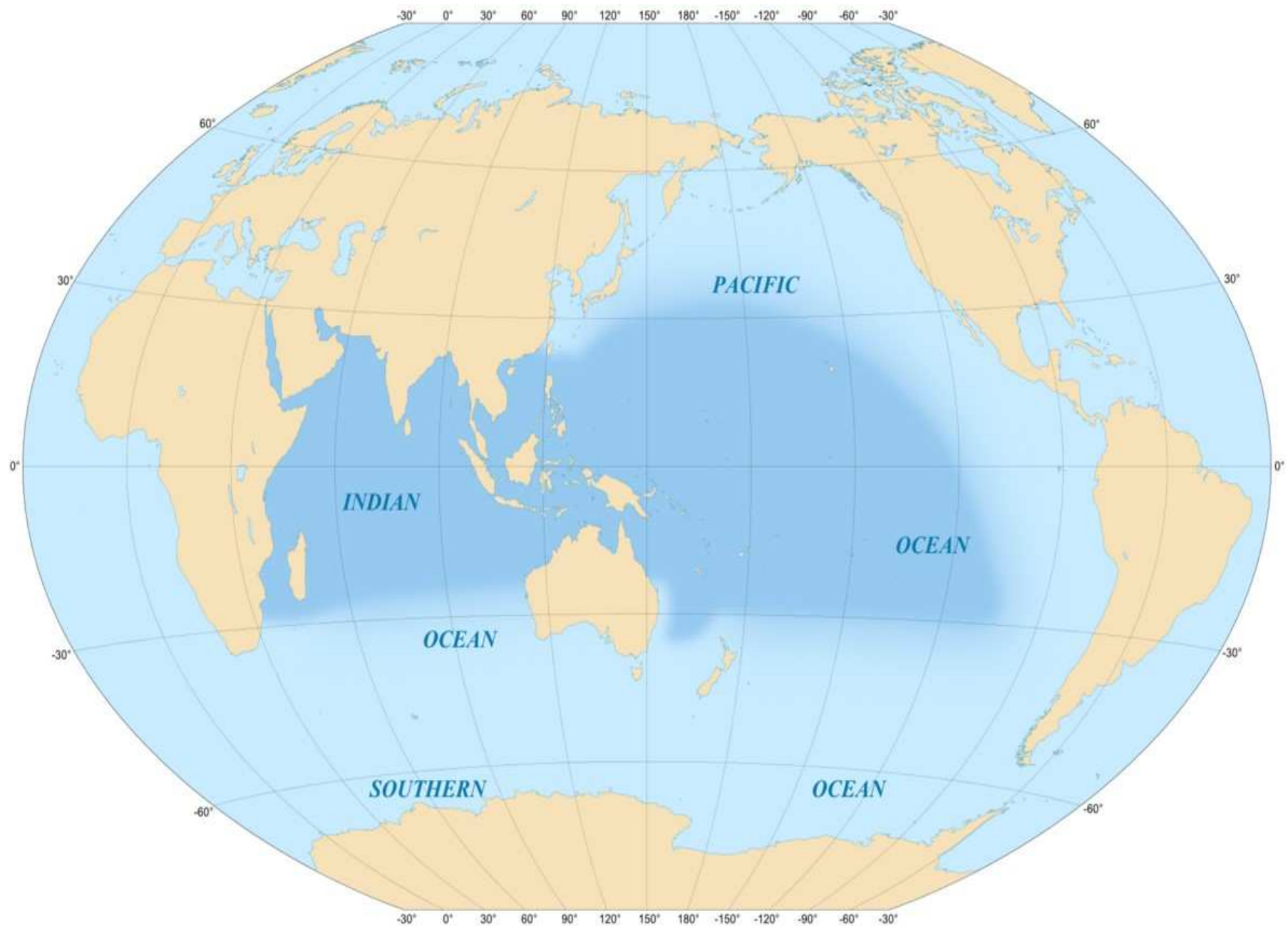




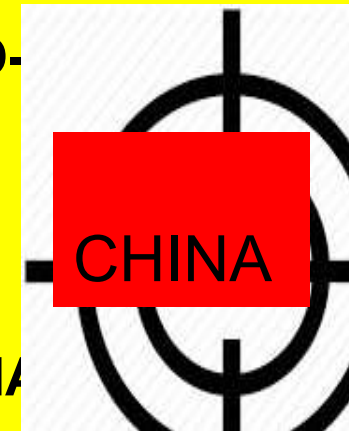
SEA LINES OF COMMUNICATION



INDO –PACIFIC



- FREE , OPEN, PROSPEROUS AND INCLUSIVE INDO-
- RESPECT INTERNATIONAL LAW
- ENSURE FREEDOM OF NAVIGATION,OVERFLIGHT,MAJORITY



& CONNECTIVITY

- RULE BASED ORDER
- EQUAL ACCESS TO COMMON SPACES ON SEA AND IN THE AIR
- ELEPHANT IN THE ROOM IS CHINA

UNCLOS

Law of the Sea Conferences

- Hague Conference (1930)
- Geneva UNCLOS I (1958)
- Geneva UNCLOS II (1960)
- UNCLOS III (1973-82)

UNCLOS- 82

- PRINCIPLE OF SOVEREIGNTY –(SAFE GUARD INTERESTS OF COASTAL STATE)
- RIGHT OF INNOCENT PASSAGE
- PRINCIPLE OF FREEDOM OF THE SEAS
- COMMON HERITAGE OF MANKIND
- HIGH SEAS JURISDICTION NOT SPECIFIED .

UNCLOS-82

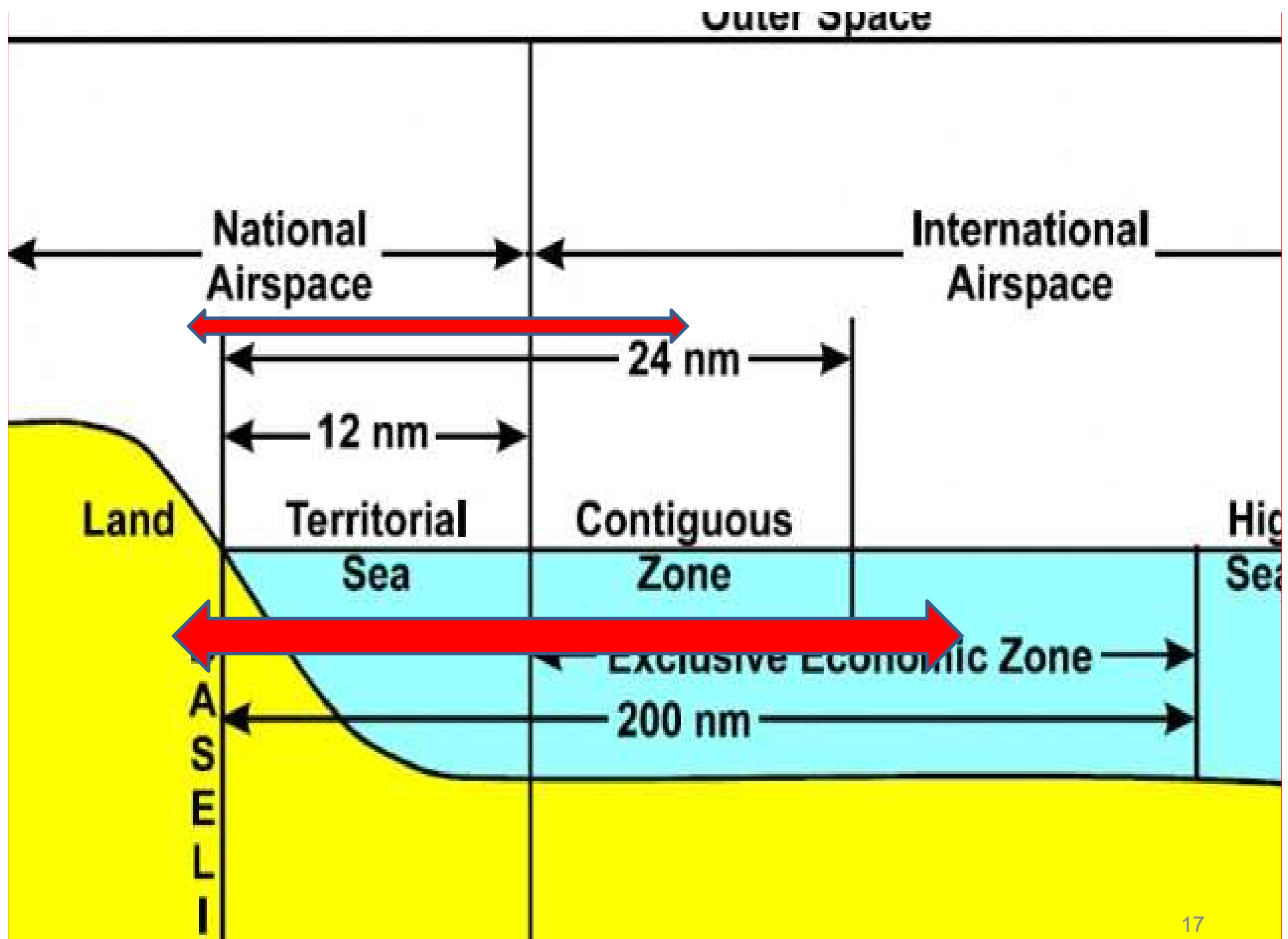
- 20 YRS IN MAKING
- UMBRELLA LAW
- PACKAGE DEAL
- GENERAL – 167 COUNTRIES
- AMBIGUITY
- OPEN TO INTERPRETATION
- FAVOURS TECHNOLOGICALLY DEVELOPED COUNTRIES
- LAWFARE
- MIGHT IS RIGHT

TERRITORIAL WATERS , CONTINENTAL SHELF,EEZ,AND OTHER MARITIME ZONES ACT OF 1976

UNCLOS- 82 EXCLUSIVE ECONOMIC ZONE



EEZ 200 NM
PARALLEL INDIA IN THE WATER
BLUE ECONOMY- CBD

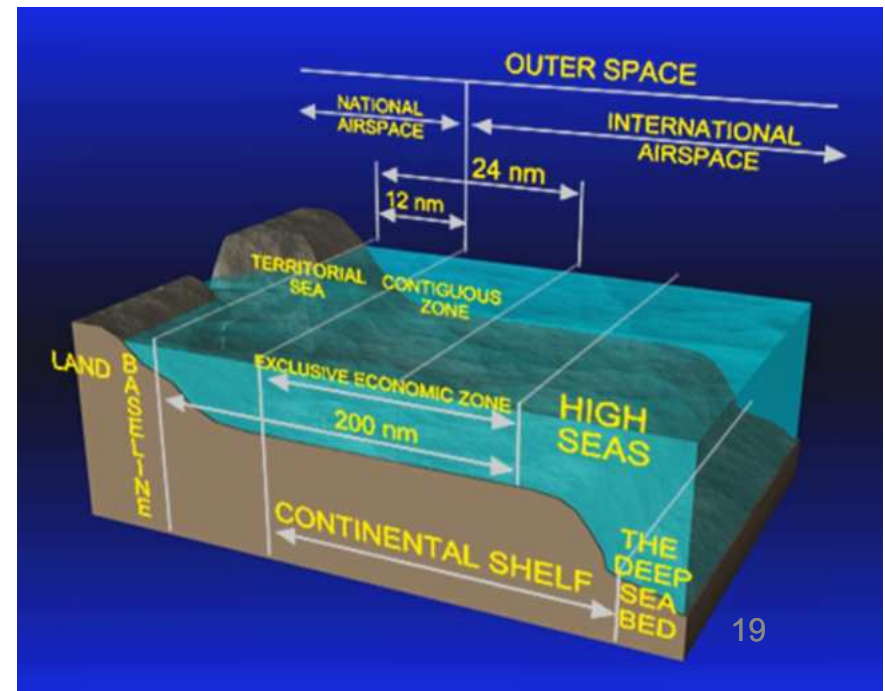


Baselines

- The Normal Rule (UNCLOS Art. 5)
 - ,...the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as shown by the appropriate symbols on Large scale charts officially recognized by the coastal state

Territorial Sea

- Maximum breadth of 12 nm (UNCLOS Art. 3)
- **Coastal state sovereignty** subject to:
 - Right of Innocent Passage (UNCLOS Art. 17-19)
 - No right of overflight
 - Assistance Entry (UNCLOS Art. 18)
 - Persons, ships or aircraft in danger or distress



Contiguous Zone

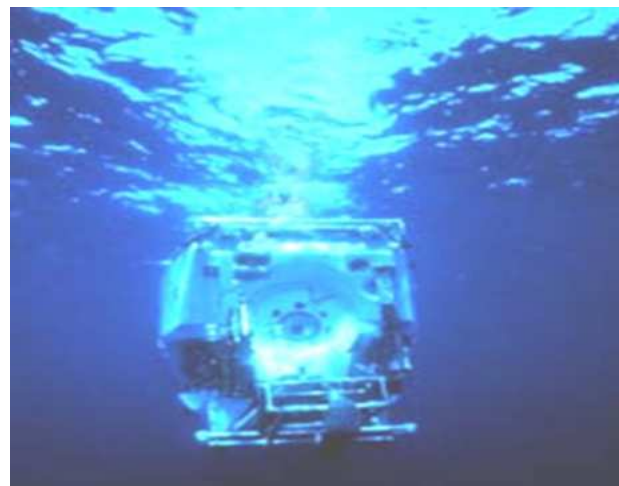
- Law Enforcement Zone
- Maximum 24 nm from Baseline
- Coastal State may enforce laws regarding
 - Customs
 - Fiscal
 - Immigration
 - Sanitation



CZ

EEZ

- Maximum 200 nm
- Sovereign rights over living and non-living resources
- Jurisdiction over off-shore structures, MSR and protection of environment



➤ TERRITORIAL WATERS

➤ HIGH SEAS

➤ COASTAL STATES – RESERVATIONS - WHAT CAN BE
DONE OR CAN NOT BE DONE –EEZ

➤ - SECURITY OR COMMERCIAL INTERESTS IN MIND

ART 58: Within the EEZ, all States enjoy high seas freedoms of “navigation and overflight . . . laying of submarine cables and pipelines and other internationally lawful uses of the seas related to those freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and which are compatible with the other provisions of the Convention.”

INTERPRETATION

ART 56:

In its EEZ, the coastal State has certain “sovereign rights” with respect to natural resources, and “jurisdiction” over the establishment and use of artificial islands, installations and structures, over marine scientific research, and over the protection and preservation of the marine environment.”

These provisions might preclude naval activities that potentially interfere with or harm these coastal State interests. A frequently cited example is that of a weapons exercise, test or placement, such as the use of mines that might potentially harm a natural resource.

UNCLOS

Restrictions on Military Activities

- UNCLOS limitations
 - Art. 19 & 20 Territorial Sea limitations
 - Art. 39 & 40 International Straits limitations
 - Art. 52 & 54 Archipelagic Waters limitations
- Similar limitations **NOT** included in Part V (EEZ provisions)
- Security interests **NOT** included in Part V

High Seas

- Exclusive Flag State jurisdiction (UNCLOS Art. 92)
 - Exceptions – right of visit (UNCLOS Art. 110):
 - Piracy
 - Slave trade
 - Unauthorized broadcasting
 - Stateless vessels
 - Assimilated stateless vessels (two or more flags)

UNCLOS 1V ?

- EEZ 200- 350nm
- CLIMATE CHANGE –CHANGE IN BASELINES
- SCS IMBROGLIO
- HIGH SEAS JURISDICTION- WEAK AREA
- NEED TO RESOLVE CONTROVERSIAL ISSUES OF MILITARY OR SECURITY NATURE
- NEED TO REVIEW UNCLOS ?
- UNCLOS IV ?

EEZ- SOME INCIDENTS

FONOPS



USS JOHN PAUL JONES

- 07 APRIL 2021
- FONOPS 130NM WEST OFF LAKHSHWADEEP
- PUBLIC ANNOUNCEMENT –WEBSITE
- US- INDIA COOPERATION
- VIOLATION OF DOMESTIC LAWS
- PRIOR CONSENT
- US HAS NOT RATIFIED UNCLOS 82

- UN HAS NOT CHARGED **US** WITH OVERSEEING IMPLEMENTATION OF UNCLOS
- CONTROVERSIAL ISSUES - MILITARY / SECURITY - RESOLUTION?
- CHINA - FAIT ACCOMPLI SITUATION – SOUTH CHINA SEA
- CHINA REJECTED UN COURT OF ARBITRATION VERDICT ON CASE FILE BY PHILLIPINES -2016
- WHAT IS THE MESSAGE FOR INDIA
- RULE BASED INTERNATIONAL ORDER ?

YUAN WANG 5



SATELLITE AND MISSILE TRACKING SHIP

YUAN WANG 5

- SRI LANKA - HAMBANTOTA -99 YEARS LEASE – CHINA
- POLITICAL , DIPLOMATIC, MILITARY ,SOCIAL MEDIA FLUTTER
- INDIA HELPING CHINA - ECONOMIC CRISIS
- SRI LANKA SOVEREIGN NATION AND REQUIRES CHINA FOR DEBT RESTRUCTURING – IMF LOAN
- MSR EQUIPMENT IF FITTED CAN BE USED FOR MILITARY OR HYDROGRAPHIC SURVEY WHICH IS ILLEGAL
- SHIP AT SEA MORE DANGEROUS THEN IN HARBOUR

DEPLOY **INS DHRUV** TO SOUTH CHINA
SEA- VISIT VIETNAM

First Satellite And Nuclear Missile Tracking Ship

INS Dhruv





NO WAR DECLARED
SPECIAL MILITARY OPS
LAW OF ARMED CONFLICT
BLOCKADE OF SEVASTOPOL AND KERCH STRAIT
TREATY OF MONTREAUX 1936

ATTACK ON SHIPS AND SEA FARERS – GENEVA
CONVENTION

GLOBAL SUPPLY CHAIN
FOOD – WHEAT , CORN
INSURANCE

Locations of Chinese Military Drills

Shortly after U.S. House Speaker Nancy Pelosi's arrival in Taipei on Aug. 2, China announced plans to hold live-fire drills in six maritime areas near Taiwan. Pelosi is scheduled to conclude her visit on Aug. 3, while the Chinese military drills will take place Aug. 4-7.

- Live-fire drill regions in August 2022
- Live-fire drills areas in 1995 and 1996 (Third Taiwan Strait Crisis)



Sources: Ministry of National Defense, Ocean Affairs Council and China's Xinhua News Agency

MARITIME SCIENTIFIC SURVEY (MSR)

(CONTROVERSIAL IN EEZ)



USS BOWDITCH - MARINE SCIENTIFIC SURVEY (MSR)

MARINE SCIENTIFIC SURVEY

- MSR- CATALYST FOR LAW OF SEA
- LAW OF SEA - CAN DRIVE MSR
- COOPERATION BETWEEN STATES
- TRANSFER OF TECHNOLOGY AND FRUITS OF MSR

- MARINE SCIENTIFIC SURVEY
- HYDROGRAPHIC SURVEY
- MILITARY SURVEY

- EQUIPMENT MAY BE SIMILAR
- ULTIMATE USE MAY BE DIFFERENT

- RESOURCES , CRUDE , MINERAL,
- SUBMARINE OPERATIONS

- MSR MAY AFFECT ECONOMIC , COMMERCIAL AND SECURITY INTERESTS OF STATES

US- CHINA- Seizure of Underwater Drone – Dec 2016

- PLAN submarine rescue ship illegally seized US UUV deployed by USNS Bowditch Dec 17
- 50 nm NW of Subic Bay, Philippines
- Drone returned Dec 20 after US protest
- Sovereign immune vessel



CHINESE VESSELS IN IOR

- CHINESE RESEARCH SHIP **SHI YAN 1**- SIGHTED CARRYING OUT HYDROGRAPHIC AND OCEANOGRAPHIC SURVEY OFF A&N IN DEC 2019
- INDIAN NAVY CHASED THE VESSEL AWAY

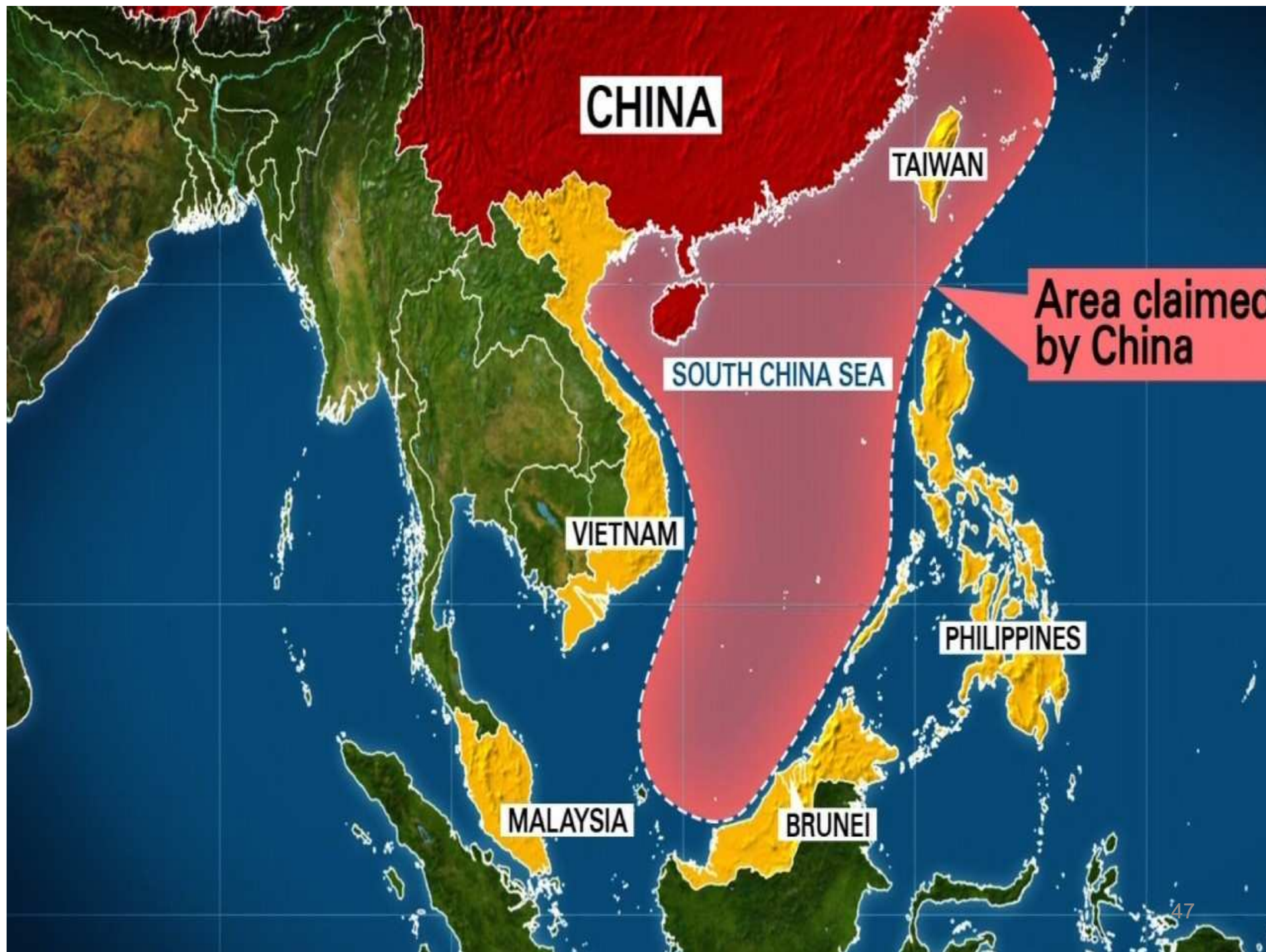


CHINESE RESEARCH VESSELS IN IOR

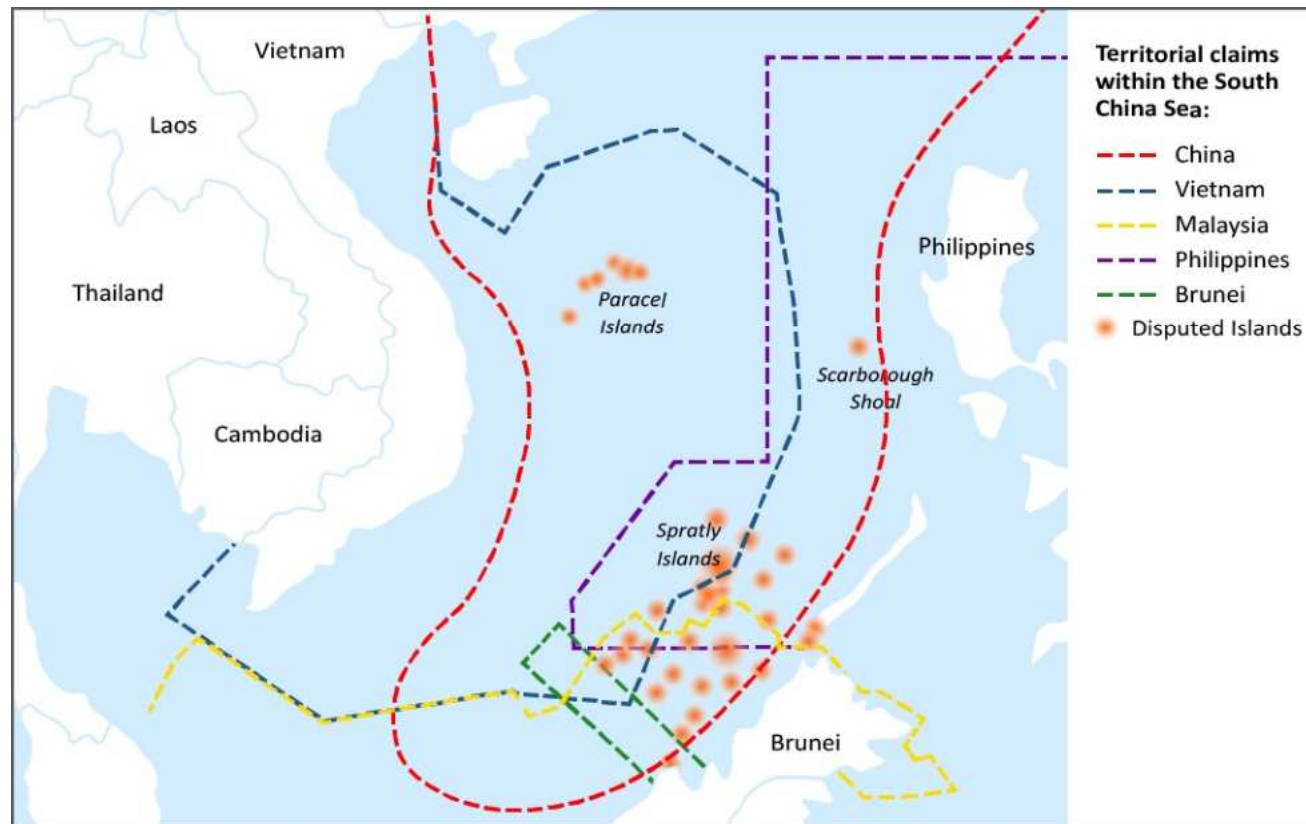
- CHINESE RESEARCH SHIPS SIGHTED /DETECTED CARRYING OUT HYDROGRAPHIC AND OCEANOGRAPHIC SURVEY IN IOR .
- VISITED KARACHI AND SRI LANKA
- CAN ALSO USE UNMANNED UNDERWATER VEHICLES



CHINA AT WAR - LAW OF THE SEA - IN SOUTH CHINA SEA



Nine-Dash Line – South China Sea



CHINESE ACTION

- 9 DASH LINE –ARBITRARY LINE WITH NO COORDINATES-
HISTORIC RIGHTS -UNILATERAL & AGGRESSIVE
- OVERLAPS THE LEGITIMATE EEZ OF OTHER COUNTRIES
– GRANTED BY UNCLOS 82
- CHINA CLAIMS 87% OF SCS
- CARTOGRAPHIC AGGRESSION
- MIGHT IS RIGHT . CHINA BROW BEATS OTHER CLAIMANTS
- USES ITS MARITIME MILITIA-(COAST GUARD, FISHING &
SURVEILLANCE VESSELS) NON -GREY FLEET -TO
HARASS NON- CHINESE VESSELS
- CHINESE COAST GUARD VESSEL 10,000T –BIGGER THAN
WARSHIPS OF MANY NATIONS

CHINESE ACTION

- AS PER UNCLOS 82 -ISLANDS ARE THOSE WHICH CAN SUPPORT HUMAN HABITATION OR ECONOMIC LIFE OF THEIR OWN AND GET EEZ OF 200NM
- ROCKS ,LOW TIDE ELEVATIONS & SUBMERGED FEATURES ARE NOT ISLANDS AND CAN AT BEST GET 12 NM TERRITORIAL SEA
- CHINA DREDGING AND RECLAIMING ROCKS , FEATURES -BUILDING STRUCTURES TO CREATE ISLANDS IN A BID TO GENERATE EEZ WHICH IS NOT TENABLE IN UNCLOS

MILITARIZATION OF FEATURES

- RECLAIMED ISLANDS MILITARIZED -
RUNWAYS, PORTS , SURFACE TO AIR MISSILES(SAM)
BATTERIES, ANTI AIRCRAFT GUNS , CLOSE IN
WEAPON SYSTEMS (CIWS) , COMMAND POSTS. ETC
- MORE THAN RESOURCES -STRATEGIC CONTROL OF
SCS- INTERNATIONAL SHIPPING LANES .

CHINESE ACTION (CONTD)

- PHILLIPINES TAKES CHINA TO PERMANENT COURT OF ARBITRATION(PCA) IN 2013 - SCARBOROUGH SHOAL DISPUTE
- VERDICT IN 2016 -NO LEGAL BASIS TO CHINA'S CLAIM OF HISTORIC RIGHTS WITHIN 9 DASH LINE
- CHINA REFUSED TO ABIDE BY THE VERDICT



WOODY ISLAND

NEW CHINA MARITIME LAW

CHINA'S Maritime Safety Administration, said that “operators of submersibles, nuclear vessels, ships carrying radioactive materials and ships carrying bulk oil, chemicals, liquefied gas and other toxic and harmful substances are required to report their detailed information upon their visits to Chinese territorial waters”.

NEW CHINESE MARIME LAW

Also that vessels that “endanger the maritime traffic safety of China” will be required to report their name, call sign, current position and next port of call and estimated time of arrival. The name of shipborne dangerous goods and cargo deadweight will also be required.

CHINA – ONE RULE FOR SOUTH CHINA SEA, ONE RULE FOR INDIAN OCEAN

INTERNATIONAL MARITIME CONVENTIONS

FOUR PILLARS OF MARITIME LAW

International Convention for the Safety of Life at Sea ([SOLAS](#)), 1974, as amended.

International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 ([MARPOL](#))

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers ([STCW](#)) 1978 as amended, including the 1995 and 2010 Manila Amendments

Maritime Labour Convention 2006

SHIPPING - TRANSNATIONAL CHARACTER

- BUILT IN ONE COUNTRY
- NATIONALITY - FLAG STATE
- REGISTERED ELSEWHERE
- OWNER IS A
- MANAGED BY B
- CHARTERED BY - C
- CONSIGNOR -D
- CONSIGNEE- -E
- STAFFED BY MULTINATIONAL CREW
- CARGO TRANSHIPMENT ENROUTE
- MARITIME LOGISTIC SUPPLY CHAIN -TENOUS
- DIFFICULT TO FIND OUT OWNERSHIP OF SHIP & CARGO AND INTENTIONS OF CREW



SOLAS CHAPTERS

CHAPTER I General provisions  Survey  Documentation  PSC	CHAPTER VI Carriage of cargo  MSDS  Loading/ Unloading/ Stowing
CHAPTER II-1 Construction - Subdivision and stability, machinery and electrical installations  Subdivision  machine/ electrical installation  Stability	CHAPTER VII Carriage of cargo  Packaged/ Bulk Dangerous Cargo  Chemical Bulk
CHAPTER II -2 Fire protection, fire detection and fire extinction  Protection  Detection  Extinction	CHAPTER VIII Nuclear ships  Nuclear Ship  Management and operation
CHAPTER III Life-saving appliances and arrangements  Survival Craft  Personal LSA  Muster Duty	CHAPTER IX Safety of high speed craft  ISM Code  Certification
CHAPTER IV Radiocommunications  GMDSS  Other Radio  Radio Personnel	CHAPTER X International code of signals  Ship  Special measures for maritime safety

International Convention for the Prevention of Pollution

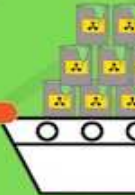


ANNEX I

Regulations for
of Pollution
(entered into fo
198

Regulations for the Control of
Pollution by Noxious Liquid
Substances in Bulk
(entered into force 2 October
1983)

ANNEX II



ANNEX III

Prevention of
Harmful Substan
Sea in Pack
(entered into fo

Prevention of Pollution by
Sewage from Ships
(entered into force 27
September 2003)

ANNEX IV



ANNEX V

Prevention of
Garbage fro
(entered into
December

INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS (STCW), 1978

- **PERSONAL SURVIVAL TECHNIQUES**
- **FIRE FIGHTING AND FIRE PREVENTION**
- **ELEMENTARY FIRST AID**
- **PERSONAL SAFETY AND SOCIAL RESPONSIBILITY**
- **PROFICIENCY IN SECURITY AWARENESS**





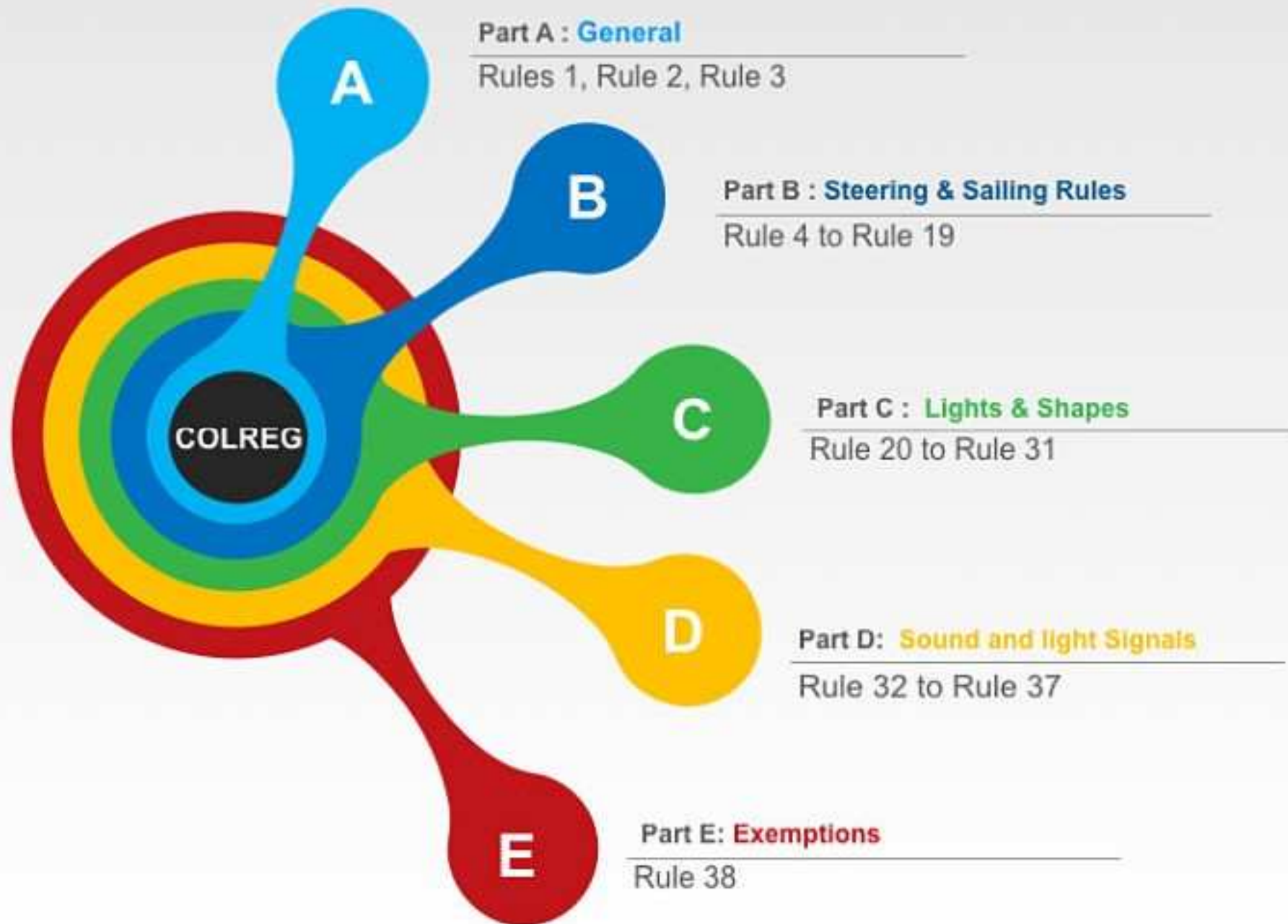




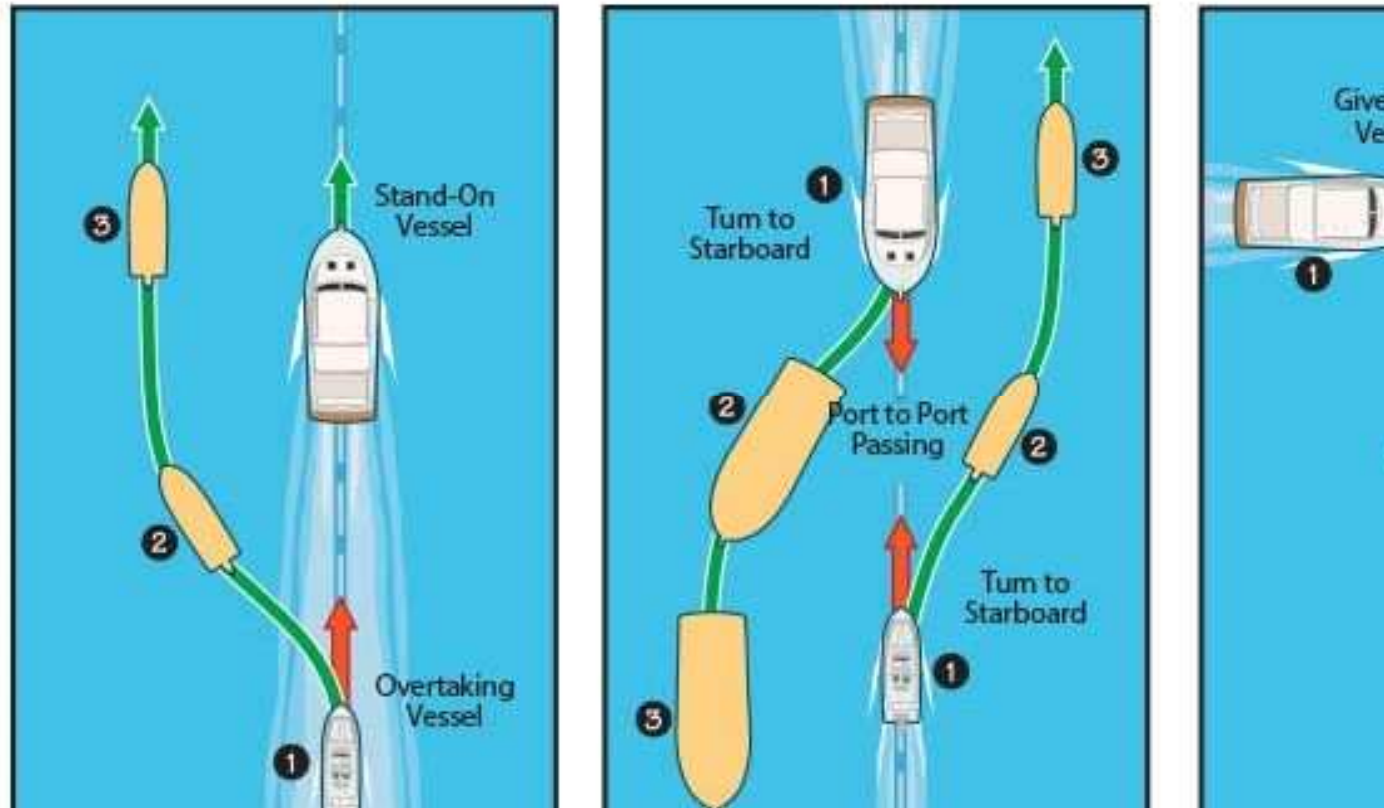
INTERNATIONAL REGULATIONS FOR PREVENTION OF COLLISION AT SEA 1972 (ROR)



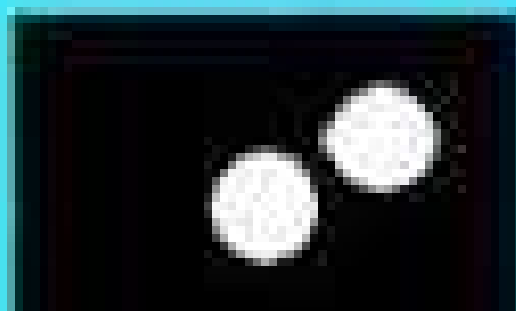
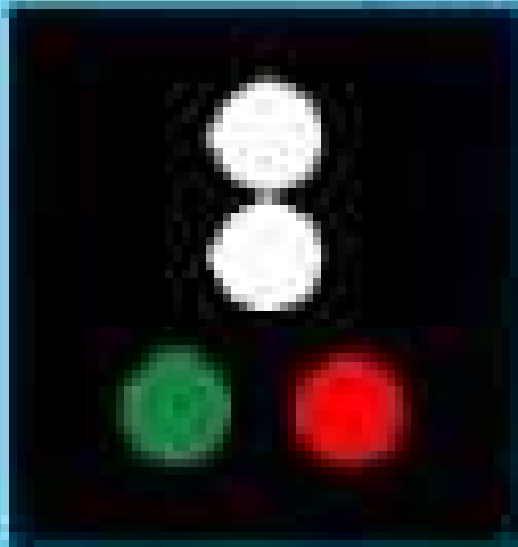
COLREG is divided into 5 Parts



➤ INTERNATIONAL REGS FOR PREVENTION OF COLLISION AT SEA 1972 (ROR)



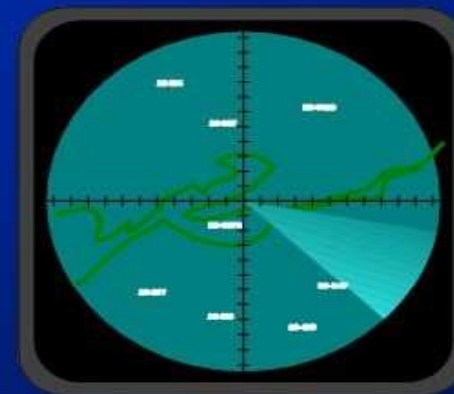
"Reading" Navigation Light (Vessels Underway)



Conduct in Restricted Visibility

(Rule 19)

- A vessel which **detects another vessel by radar** shall determine if risk of collision exists. If so, it shall take avoiding action.



- Every vessel which **hears the fog signal of another** shall reduce speed to the minimum at which it can be kept on course. It shall **if necessary take all way off** and, in any event, navigate with **extreme caution**.





FISHING VESSELS

- REGULATION OF FISHERIES - DIFFICULT TASK
- OVER 3 LAKHS REGISTERED VESSELS
- TRADITIONAL, MOTORIZED ,MECHANISED BOATS
- POSITIVE IDENTIFICATION AT SEA – REMAINS A PROBLEM

ILLEGAL, UNREPORTED AND UNREGULATED FISHING

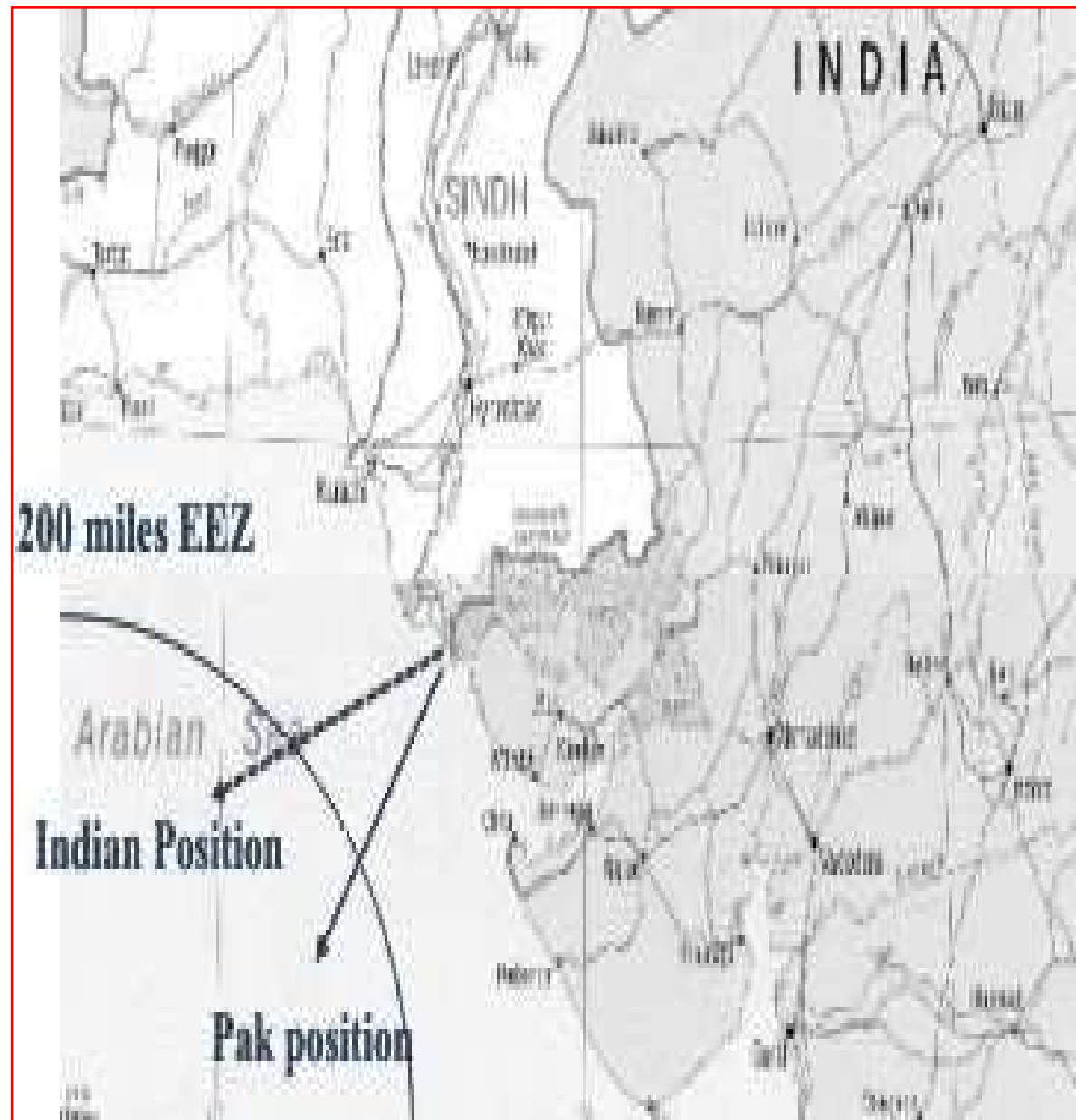
- VESSELS SWITCHING OFF AIS
- FISHING WITH ILLEGAL GEAR
- FISHING DURING MONSOONS
- FISHING IN EEZ WITHOUT LICENCE
- FISHING WITH LICENCE BUT NOT REPORTING CATCH
- TRANSHIPPING WITH OUT PERMISSION
- FISHING WITH EXPLOSIVES
- OVER FISHING

MARITIME ZONES –REGULATION OF FISHING BY FOREIGN FISHING VESSELS ACT OF 1981

- CHINESE TRAWLERS ARE A COMMON SIGHT CLOSE TO OUR EEZ
- INTELLIGENCE COLLECTION- MONITORING MISSILE FIRINGS OFF WHEELER ISLANDS ETC
- 20 CHINESE TRAWLERS BASED IN GWADAR





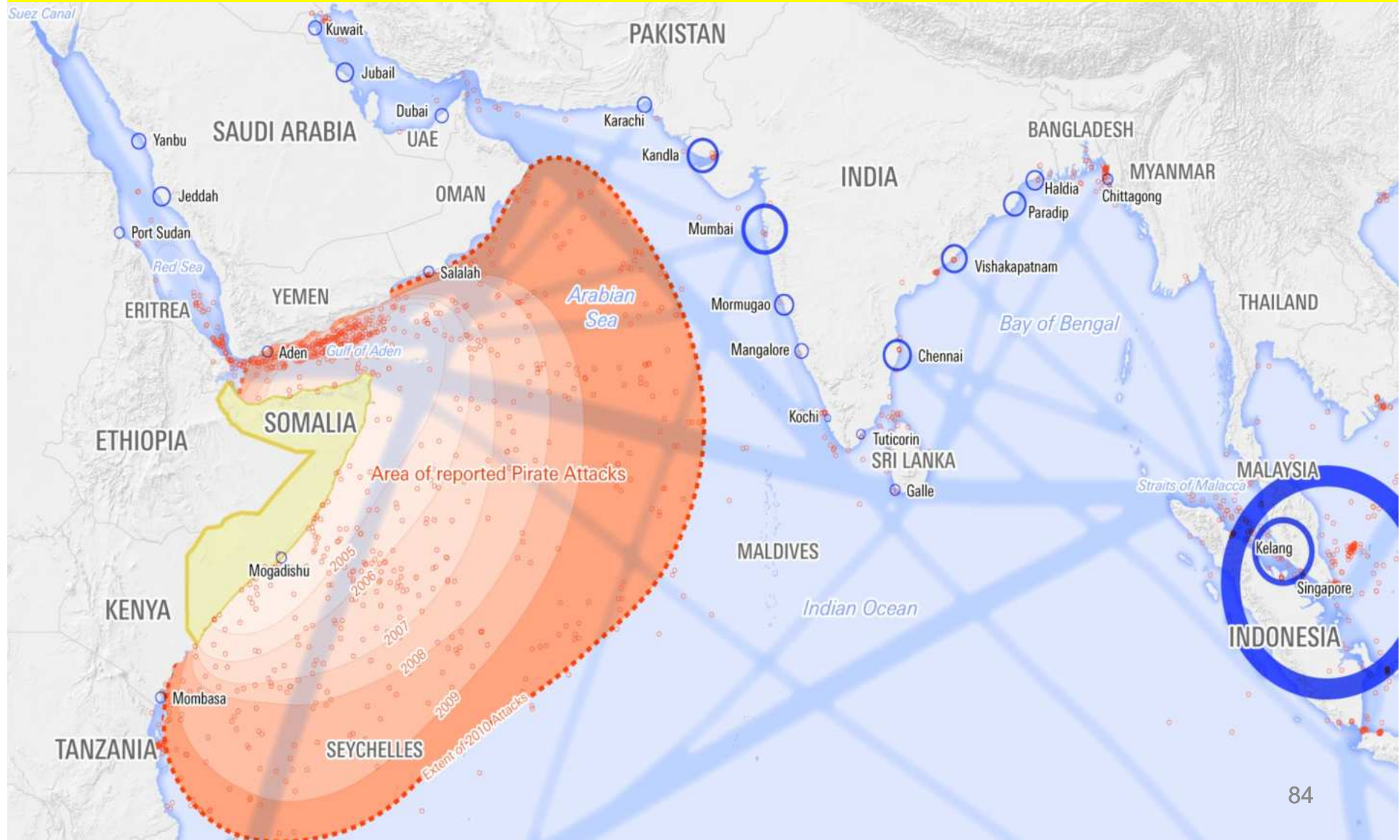


PALK BAY FISHING WARS



- GOVT HAS TOLD SUPREME COURT THAT **KACCHATIVU** WAS NEVER CEDED TO SRI LANKA .
- INDIAN SIDE OF PALK BAY OVERFISHED
- LEGALLY INDIAN FISHERMEN CAN NOT CROSSOVER THE IMBL TO FISH IN SRI LANKAN WATERS
- **POTENTIAL TO FLARE UP INTO BILATERAL DIPLOMATIC PROBLEMS .**

PIRACY OFF SOMALIA SINCE 2008



INDIA - ANTI PIRACY MEASURES

- PIRACY FIRST ERUPTED OFF SOMALIA IN 2008
 - INDIAN ANTI PIRACY BILL INTRODUCED - AFTER A DECADE - 2018-
 - YET TO BE PASSED
 - LIFE IMPRISONMENT /DEATH PENALTY FOR PIRATES PROPOSED
-
- 10% OF GLOBAL SEAFARERS –INDIAN
 - TILL 2019 - 449 INDIANS DETAINED BY PIRATES: 416 RELEASED ; – 1 MISSING , 2 DIED

PIRACY- FACTORS

- NATIONALITY OF PIRATES
- NATIONALITY OF CREW
- NATIONALITY OF VICTIMS
- FLAG STATE OF PIRATE SHIP
- FLAG STATE OF VICTIM SHIP
- FLAGS OF CONVENIENCE (FOC)
- NATIONALITY OF SHIP OWNERS
- NATIONALITY OF CARGO
- DESTINATION STATE
- COASTAL STATE WHERE INCIDENT OCCURRED-JURISDICTION

- INTERNATIONAL AND INDIAN DOMESTIC LAWS- WEAK
- UNCLOS 82 - DEFINITION ,PENALTY NOT SPECIFIED
- HIGH SEAS -- NO NATIONAL JURISDICTION
- TOO MANY ACTORS –COORDINATION DIFFICULT
- RELUCTANCE TO PROSECUTE
- LACK OF MARITIME COURTS

CAPTURED PIRATES ONBOARD INDIAN NAVAL SHIP



MV ENRICA LEXIE /ITALIAN MARINES INCIDENT





PERMANENT COURT OF ARBITRATION - UNDER UNCLOS

- 31 MAY 20
- INDIA IS ENTITLED TO COMPENSATION
- BUT CAN NOT TRY THE ITALIAN MARINES
- DIPLOMATIC TUSSLE WITH ITALY& EU
- COMPENSATION RS 10 CRORES

FLOATING ARMOURY



FLOATING ARMOURIES

➤ **OCT 2013**

➤ SUPPRESSION OF UNLAWFUL ACTIVITIES (SUA) 1988/20

➤ INDIAN ARMS ACT 1959

➤ ENTERING TERRITORIAL WATERS WITH ILLEGAL FIREARMS

➤ EMBARKATION OF ARMED GUARDS NOT INTIMATED TO DG SHIPPING AS PER NOTIFICATION

➤ DID NOT HIRE A SHIPS AGENT

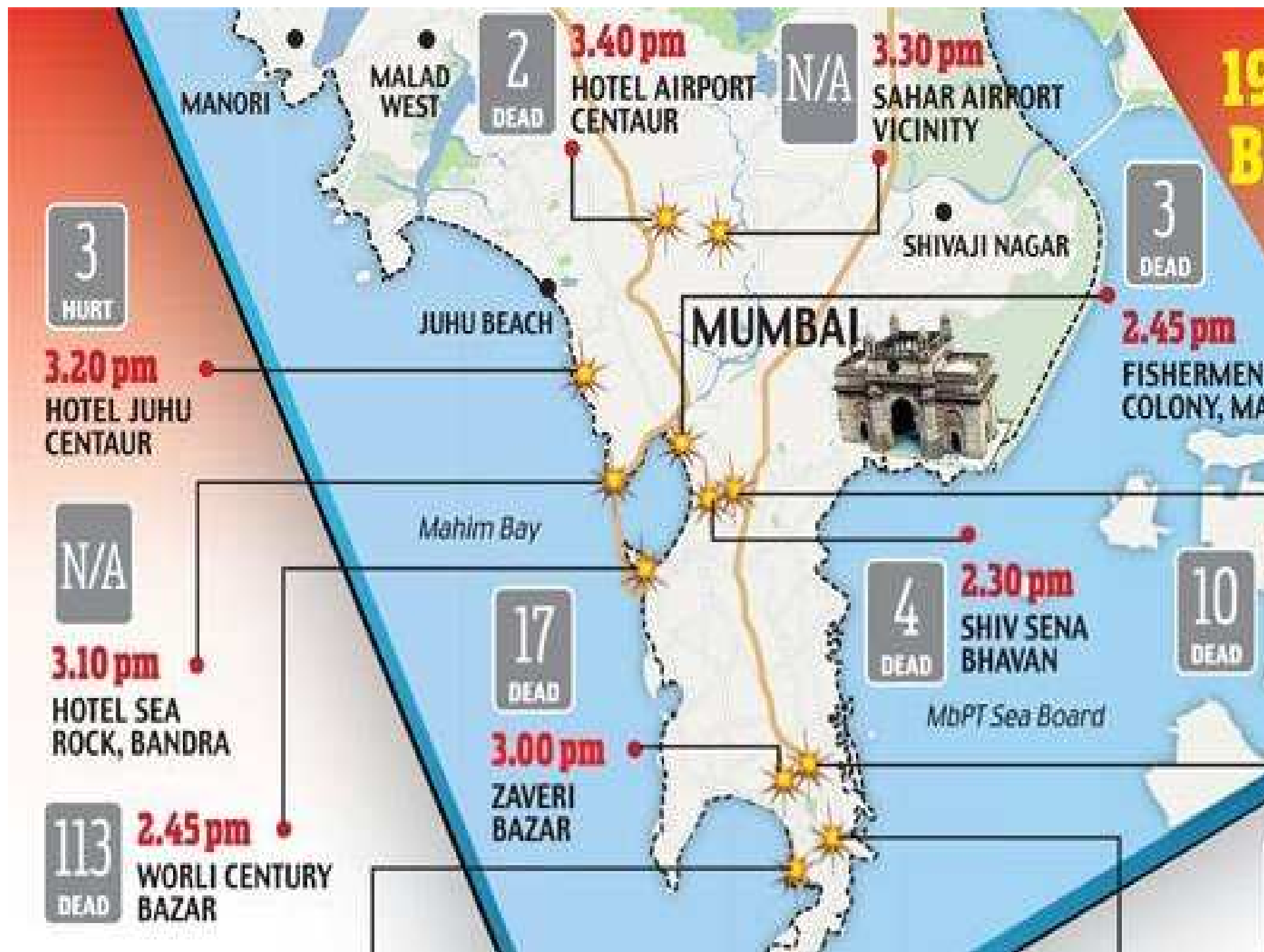
➤ ILLEGAL PROCUREMENT OF FUEL

➤ ESSENTIAL COMMODITIES ACT

➤ DID NOT HAVE FLAG STATE AUTHORISATION FOR ANI-PIRACY OPS

➤ **ACQUITTED - SEPT 2017-** prosecution had failed to prove that the ship entered the country's territorial waters with illegal weapons and without necessary permits.

Maritime terrorism



26/11



Combating Terrorism

- 2005 SUA Protocol adds new offenses to 1988 SUA Convention, including two terrorism-related offenses
 - Using a ship to commit a terrorist act
 - Intentional/unlawful release of substances such as chemicals, biological or radiological material
 - Transport of terrorist
 - Persons alleged to have committed offenses under any of the 12 UN terrorism convention



VBSS Legal Basis

Counter-Terrorism Operations

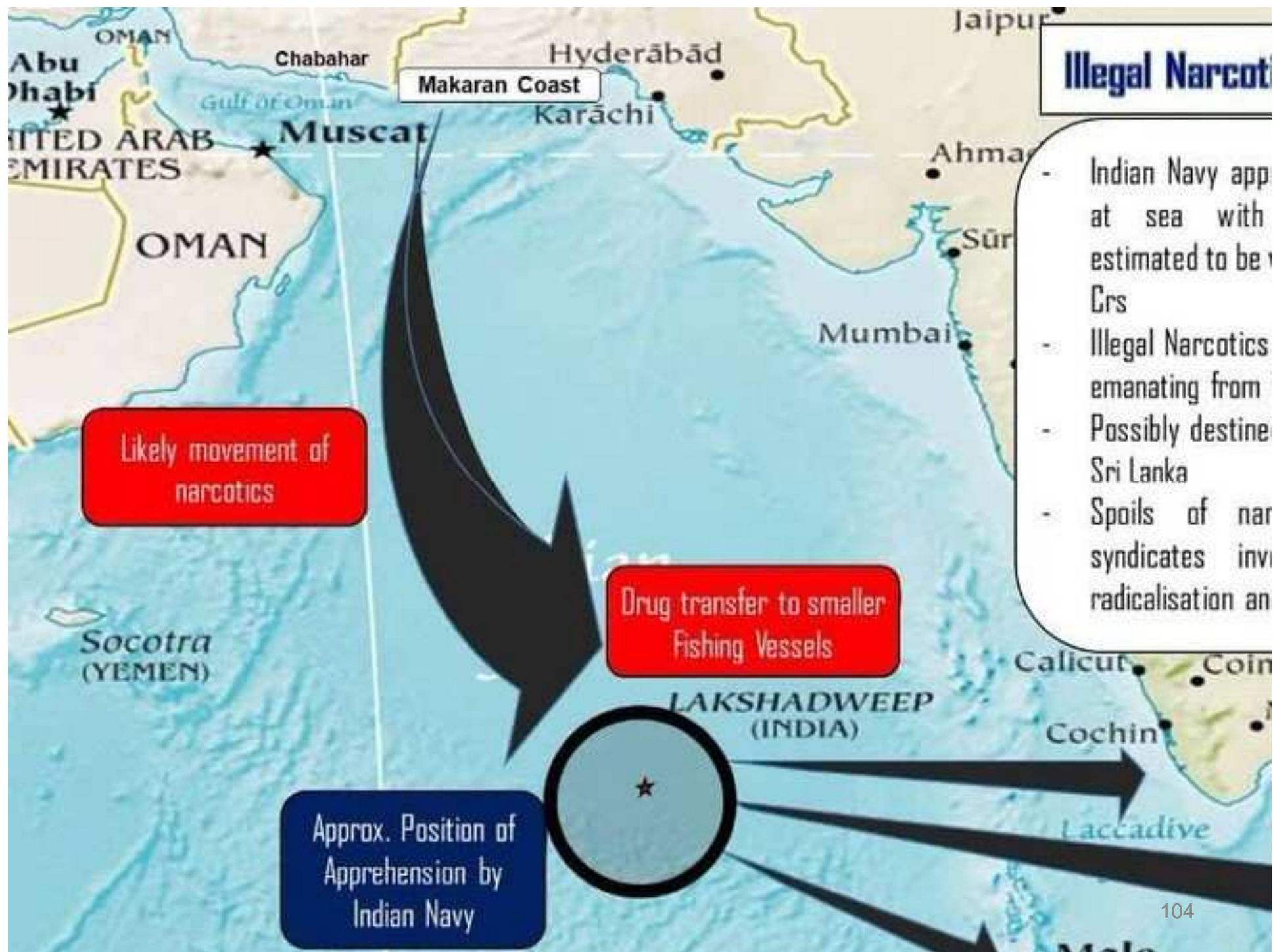
- Port/Coastal State authority
- Flag state/master consent
- Universal jurisdiction (UNCLOS)
 - Piracy, slave trade, unauthorized broadcasting, **stateless vessels**
- Multi-lateral/bilateral agreements (SUA)
- UNSCR (consensual or nonconsensual)
- Right of self-defense (Art. 51)
- Belligerent rights (blockade/visit & search)

DRUG SMUGGLING

DRUGS HAUL OFF LAKSHWADEEP

MARCH 2021

3 SRI LANKAN BOATS







HEROIN SEIZURE

MUNDRA PORT- SEPT 2021 -FROM AFGHANISTAN

3000 KG

21,000 CRORES



➤ THE NARCOTIC DRUGS AND
PSYCHOTROPIC SUBSTANCES (NDPS) ACT
1985

PEOPLE SMUGGLING

MEDIA REPORTS -NIA- INVESTIGATING HUMAN SMUGGLING OF SRI LANKANS VIA TUTICORIN TO MANGALORE & MADURAI AND ONWARD TO CANADA



Environmental Protection

- UNCLOS Art. 211(5)
 - Coastal state laws must conform and give effect to generally accepted international rules and stds
 - MARPOL, SOLAS, STCW, OPRC, etc.
- UNCLOS Art. 220(6)
- UNCLOS Art. 236

MV X-PRESS PEARL



ICG FIGHTING FIRE ON MT NEW DIAMOND OFF SRI LANKA



INDIA DESPATCHES –
EQUIPMENT AND
COAST GUARD
TEAM

JAPANESE
TANKER MV
WAKASHIO



sea bed mining

INDIA HAS A PIONEER STATUS IN SEA BED

(INTERNATIONAL SEABED AUTHORITY)

DEEP OCEAN
MISSION –
SAMUDRAYAAN-
MATSYA-
SUBMERSIBLE-
6000 M

1080 NM





PROLIFERATION SECURITY ISSUES

(Sanctions Enforcement and the Proliferation Security Initiative)



M/V SO SAN INTERCEPTED WITH SCUD MISSILES



MV KU WUL SAN

- NORTH KOREAN VESSEL
- ENTERED KANDLA -1999
- FOUND CARRYING 170 TONS OF NUCLEAR COMPONENT
- HIDDEN UNDER CONSIGNMENT OF SUGAR
- BOUND FOR KARACHI FROM THAILAND
- ENTERED KANDLA –POSSIBLY DUE TO MACHINERY PROBLEMS





PROLIFERATION SECURITY

PROLIFERATION SECURITY

- MV DA CUI YUN
- HONG KONG FLAGGED SHIP – BOUND FOR KARACHI
- DETAINED IN KANDLA
- FEB 2020
- AUTO CLAVE USED IN BALLISTIC MISSILE LAUNCH DECLARED AS INDUSTRIAL DRYER
- WEAPONS OF MASS DESTRUCTION (PROHIBITION OF UNLAWFUL ACTIVITIES) ACT 2005

INTERNATIONAL SHIP AND PORT SECURITY CODE (ISPS)- POST 9/11

PORTS ARE THE INTERFACE BETWEEN SHIPS, CARGO &
CREW AND FOREIGN SHORES

INTERNATIONAL SHIP AND PORT SECURITY CODE(ISPS) – POST 9/11

- DESPITE CLAIMS, NO INDIAN PORT IS REALLY ISPS COMPLIANT
 - PORTS LIKE MUMBAI CAN EASILY BE PENETRATED EVEN TODAY – 13 YEARS AFTER 26/11
 - WATER FRONT SECURITY IS WEAK SPOT .
 - CISF
 - INDIAN REGISTER OF SHIPPING(IRS)
- 
- A map of Bombay Harbour, India, showing the coastline and various islands. Key locations labeled include Malabar Pt, Fort Al, Fort B, Fort C, Fort D, Fort E, Fort F, Fort G, Fort H, Fort I, Fort J, Fort K, Fort L, Fort M, Fort N, Fort O, Fort P, Fort Q, Fort R, Fort S, Fort T, Fort U, Fort V, Fort W, Fort X, Fort Y, Fort Z, Fort AA, Fort AB, Fort AC, Fort AD, Fort AE, Fort AF, Fort AG, Fort AH, Fort AI, Fort AJ, Fort AK, Fort AL, Fort AM, Fort AN, Fort AO, Fort AP, Fort AQ, Fort AR, Fort AS, Fort AT, Fort AU, Fort AV, Fort AW, Fort AX, Fort AY, Fort AZ, Fort BA, Fort BB, Fort BC, Fort BD, Fort BE, Fort BF, Fort BG, Fort BH, Fort BI, Fort BJ, Fort BK, Fort BL, Fort BM, Fort BN, Fort BO, Fort BP, Fort BQ, Fort BR, Fort BS, Fort BT, Fort BU, Fort BV, Fort BW, Fort BX, Fort BY, Fort BZ, Fort CA, Fort CB, Fort CC, Fort CD, Fort CE, Fort CF, Fort CG, Fort CH, Fort CI, Fort CJ, Fort CK, Fort CL, Fort CM, Fort CN, Fort CO, Fort CP, Fort CQ, Fort CR, Fort CS, Fort CT, Fort CU, Fort CV, Fort CW, Fort CX, Fort CY, Fort CZ, Fort DA, Fort DB, Fort DC, Fort DD, Fort DE, Fort DF, Fort DG, Fort DH, Fort DI, Fort DJ, Fort DK, Fort DL, Fort DM, Fort DN, Fort DO, Fort DP, Fort DQ, Fort DR, Fort DS, Fort DT, Fort DU, Fort DV, Fort DW, Fort DX, Fort DY, Fort DZ, Fort EA, Fort EB, Fort EC, Fort ED, Fort EE, Fort EF, Fort EG, Fort EH, Fort EI, Fort EJ, Fort EK, Fort EL, Fort EM, Fort EN, Fort EO, Fort EP, Fort EQ, Fort ER, Fort ES, Fort ET, Fort EU, Fort EV, Fort EW, Fort EX, Fort EY, Fort EZ, Fort FA, Fort FB, Fort FC, Fort FD, Fort FE, Fort FF, Fort FG, Fort FH, Fort FI, Fort FJ, Fort FK, Fort FL, Fort FM, Fort FN, Fort FO, Fort FP, Fort FQ, Fort FR, Fort FS, Fort FT, Fort FU, Fort FV, Fort FW, Fort FX, Fort FY, Fort FZ, Fort GA, Fort GB, Fort GC, Fort GD, Fort GE, Fort GF, Fort GG, Fort GH, Fort GI, Fort GJ, Fort GK, Fort GL, Fort GM, Fort GN, Fort GO, Fort GP, Fort GQ, Fort GR, Fort GS, Fort GT, Fort GU, Fort GV, Fort GW, Fort GX, Fort GY, Fort GZ, Fort HA, Fort HB, Fort HC, Fort HD, Fort HE, Fort HF, Fort HG, Fort HH, Fort HI, Fort HJ, Fort HK, Fort HL, Fort HM, Fort HN, Fort HO, Fort HP, Fort HQ, Fort HR, Fort HS, Fort HT, Fort HU, Fort HV, Fort HW, Fort HX, Fort HY, Fort HZ, Fort IA, Fort IB, Fort IC, Fort ID, Fort IE, Fort IF, Fort IG, Fort IH, Fort II, Fort IJ, Fort IK, Fort IL, Fort IM, Fort IN, Fort IO, Fort IP, Fort IQ, Fort IR, Fort IS, Fort IT, Fort IU, Fort IV, Fort IW, Fort IX, Fort IY, Fort IZ, Fort JA, Fort JB, Fort JC, Fort JD, Fort JE, Fort JF, Fort JG, Fort JH, Fort JI, Fort JJ, Fort JK, Fort JL, Fort JM, Fort JN, Fort JO, Fort JP, Fort JQ, Fort JR, Fort JS, Fort JT, Fort JU, Fort JV, Fort JW, Fort JX, Fort JY, Fort JZ, Fort KA, Fort KB, Fort KC, Fort KD, Fort KE, Fort KF, Fort KG, Fort KH, Fort KI, Fort KJ, Fort KK, Fort KL, Fort KM, Fort KN, Fort KO, Fort KP, Fort KQ, Fort KR, Fort KS, Fort KT, Fort KU, Fort KV, Fort KW, Fort KX, Fort KY, Fort KZ, Fort LA, Fort LB, Fort LC, Fort LD, Fort LE, Fort LF, Fort LG, Fort LH, Fort LI, Fort LJ, Fort LK, Fort LL, Fort LM, Fort LN, Fort LO, Fort LP, Fort LQ, Fort LR, Fort LS, Fort LT, Fort LU, Fort LV, Fort LW, Fort LX, Fort LY, Fort LZ, Fort MA, Fort MB, Fort MC, Fort MD, Fort ME, Fort MF, Fort MG, Fort MH, Fort MI, Fort MJ, Fort MK, Fort ML, Fort MM, Fort MN, Fort MO, Fort MP, Fort MQ, Fort MR, Fort MS, Fort MT, Fort MU, Fort MV, Fort MW, Fort MX, Fort MY, Fort MZ, Fort NA, Fort NB, Fort NC, Fort ND, Fort NE, Fort NF, Fort NG, Fort NH, Fort NI, Fort NJ, Fort NK, Fort NL, Fort NM, Fort NN, Fort NO, Fort NP, Fort NQ, Fort NR, Fort NS, Fort NT, Fort NU, Fort NV, Fort NW, Fort NX, Fort NY, Fort NZ, Fort OA, Fort OB, Fort OC, Fort OD, Fort OE, Fort OF, Fort OG, Fort OH, Fort OI, Fort OJ, Fort OK, Fort OL, Fort OM, Fort ON, Fort OO, Fort OP, Fort OQ, Fort OR, Fort OS, Fort OT, Fort OU, Fort OV, Fort OW, Fort OX, Fort OY, Fort OZ, Fort PA, Fort PB, Fort PC, Fort PD, Fort PE, Fort PF, Fort PG, Fort PH, Fort PI, Fort PJ, Fort PK, Fort PL, Fort PM, Fort PN, Fort PO, Fort PP, Fort PQ, Fort PR, Fort PS, Fort PT, Fort PU, Fort PV, Fort PW, Fort PX, Fort PY, Fort PZ, Fort QA, Fort QB, Fort QC, Fort QD, Fort QE, Fort QF, Fort QG, Fort QH, Fort QI, Fort QJ, Fort QK, Fort QL, Fort QM, Fort QN, Fort QO, Fort QP, Fort QQ, Fort QR, Fort QS, Fort QT, Fort QU, Fort QV, Fort QW, Fort QX, Fort QY, Fort QZ, Fort RA, Fort RB, Fort RC, Fort RD, Fort RE, Fort RF, Fort RG, Fort RH, Fort RI, Fort RJ, Fort RK, Fort RL, Fort RM, Fort RN, Fort RO, Fort RP, Fort RQ, Fort RR, Fort RS, Fort RT, Fort RU, Fort RV, Fort RW, Fort RX, Fort RY, Fort RZ, Fort SA, Fort SB, Fort SC, Fort SD, Fort SE, Fort SF, Fort SG, Fort SH, Fort SI, Fort SJ, Fort SK, Fort SL, Fort SM, Fort SN, Fort SO, Fort SP, Fort SQ, Fort SR, Fort SS, Fort ST, Fort SU, Fort SV, Fort SW, Fort SX, Fort SY, Fort SZ, Fort TA, Fort TB, Fort TC, Fort TD, Fort TE, Fort TF, Fort TG, Fort TH, Fort TI, Fort TJ, Fort TK, Fort TL, Fort TM, Fort TN, Fort TO, Fort TP, Fort TQ, Fort TR, Fort TS, Fort TT, Fort TU, Fort TV, Fort TW, Fort TX, Fort TY, Fort TZ, Fort UA, Fort UB, Fort UC, Fort UD, Fort UE, Fort UF, Fort UG, Fort UH, Fort UI, Fort UJ, Fort UK, Fort UL, Fort UM, Fort UN, Fort UO, Fort UP, Fort UQ, Fort UR, Fort US, Fort UT, Fort UU, Fort UV, Fort UW, Fort UX, Fort UY, Fort UZ, Fort VA, Fort VB, Fort VC, Fort VD, Fort VE, Fort VF, Fort VG, Fort VH, Fort VI, Fort VJ, Fort VK, Fort VL, Fort VM, Fort VN, Fort VO, Fort VP, Fort VQ, Fort VR, Fort VS, Fort VT, Fort VU, Fort VV, Fort VW, Fort VX, Fort VY, Fort VZ, Fort WA, Fort WB, Fort WC, Fort WD, Fort WE, Fort WF, Fort WG, Fort WH, Fort WI, Fort WJ, Fort WK, Fort WL, Fort WM, Fort WN, Fort WO, Fort WP, Fort WQ, Fort WR, Fort WS, Fort WT, Fort WU, Fort WV, Fort WW, Fort WX, Fort WY, Fort WZ, Fort XA, Fort XB, Fort XC, Fort XD, Fort XE, Fort XF, Fort XG, Fort XH, Fort XI, Fort XJ, Fort XK, Fort XL, Fort XM, Fort XN, Fort XO, Fort XP, Fort XQ, Fort XR, Fort XS, Fort XT, Fort XU, Fort XV, Fort XW, Fort XX, Fort XY, Fort XZ, Fort YA, Fort YB, Fort YC, Fort YD, Fort YE, Fort YF, Fort YG, Fort YH, Fort YI, Fort YJ, Fort YK, Fort YL, Fort YM, Fort YN, Fort YO, Fort YP, Fort YQ, Fort YR, Fort YS, Fort YT, Fort YU, Fort YV, Fort YW, Fort YX, Fort YY, Fort YZ, Fort ZA, Fort ZB, Fort ZC, Fort ZD, Fort ZE, Fort ZF, Fort ZG, Fort ZH, Fort ZI, Fort ZJ, Fort ZK, Fort ZL, Fort ZM, Fort ZN, Fort ZO, Fort ZP, Fort ZQ, Fort ZR, Fort ZS, Fort ZT, Fort ZU, Fort ZV, Fort ZW, Fort ZX, Fort ZY, Fort ZZ.



CONTAINER SECURITY



POST 9/11 -CONTAINER SECURITY

- **CONTAINERS(20 FT, 40 FT) -TROJAN HORSES
(TERRORISTS, WEAPONS & EXPLOSIVES ETC)**
- **PAUCITY OF ADEQUATE X-RAY MACHINES**
- **100% SCREENING IMPOSSIBLE**
- **TECHINT & HUMINT AT CONTAINER STUFFING/ DE-STUFFING CENTRES IS THE KEY.**
- **CUSTOMS PERSONNEL PLAY AN IMPORTANT ROLE .**

MARITIME ENFORCEMENT AGENCIES

INDIAN NAVY

INDIAN COAST GUARD

NEAR COAST /PORT

MARINE POLICE

INDIAN CUSTOMS

NAVAL SHIPS ON OPERATIONS

NAVY ACT 1957-
INTERNAL TO NAVY

➤ RULES OF ENGAGEMENT -(ROE)



- COAST GUARD ACT 1978 - INTERNAL TO ICG
- INDIA IS A SIGNATORY TO THE INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE (SAR), 1979, RATIFIED IN MAY 2001.
- ICG- NATIONAL MARITIME SEARCH AND RESCUE COORDINATING AUTHORITY
- NATIONAL OIL SPILL DISASTER CONTINGENCY PLAN (NOSDCP) 1993

INDIAN CUSTOMS



➤ CUSTOMS ACT 1978

STATE MARINE POLICE



JOINT OPS / BOARDING OF VESSEL

MOSTLY IN NEAR COAST /PORT

- INDIAN NAVY
- ICG
- MARINE POLICE
- CUSTOMS
- R& AW
- IB
- DRI

ACTS & LAWS RELATED TO MARITIME AND COASTAL SECURITY

- The Passport (Entry in to India) Act, 1920 (Central Act 34 of 1920).
- The Emigration Act, 1922.
- The Registration of Foreigners Act, 1939.
- The Merchant Shipping Act, 1958.
- The Customs Act, 1962.
- The Passport Act, 1967.
- The Code of Criminal Procedures, 1973.
- The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.
- The Maritime Zones of India (Regulations of Fishing by Foreign Vessels) Act , 1981 (MZI Act, 1981)and The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules 1982.
- Suppression of Unlawful Acts against Safety of maritime Navigation
- and Fixed Platforms on Continental Shelf Act, 2002.
- The Narcotic Drugs and Psychotropic Substances Act, 1985.
- Weapons of Mass Destruction(Prohibition of Unlawful Activities) Act 2005

- The Indian Penal Code 1860 (Central Act. 45 of 1860) dealing with offences against the State (Chapter-VI), offences relating to coins and currency. Government Stamps (Chapter-XII and XVII) and any other offences concerning National Security Economy of State or public health and safety.
- The Arms Act, 1959 (Central Act. 54 of 1959).
- The Explosive Act, 1884 (Central Act 4 of 1884).
- The Explosive Substances Act, 1908 (Central Act 6 of 1908).
- The Foreigners Act, 1946 (Central Act 31 of 1946).
- The Petroleum Act, 1934 (Central Act 30 of 1934).
- The Benami Transactions Prohibition Act- 1988 (Central Act 45 of 1988).
- The Immigration Act, 1983 (Central Act 31 of 1983) and Rules issued there under

CONCLUSION

- **IMPORTANCE OF MARITIME LAW WILL GROW WITH IMPENDING EXTENSION OF EEZ (200NM -350NM) , SAGARMALA PROJECT & BLUE ECONOMY & CHINESE AGGRESIVENESS .**
- **MORE EMPHASIS REQUIRED ON MARITIME LAW – LAW UNIVERSITIES**
- **IN AND ICG LAW OFFICERS RARELY CONSULTED**
- **COASTAL SECURITY BILL 2013- PUT UP TO THE PARLIAMENT BY NAVY /CG STILL PENDING.**
- **DOMESTIC ANTI PIRACY BILL TABLED IN 2018 NEED TO BE PASSED EARLY**
- **HIGH COURTS IN COASTAL STATES ARE FUNCTIONING AS MARITIME COURTS**
- **NATIONAL MARITIME SECURITY COORDINATOR APPOINTED**

THANK YOU



Coastal State Laws & Regulations

UNCLOS Art. 21

- Safety of navigation/regulation of traffic
- Protection of navigational aids and facilities
- Protection of cables and pipelines
- Conservation of living resources
- Fisheries laws
- Preservation of the marine environment
- MSR and hydrographic surveys
- Customs, fiscal, immigration or sanitary laws

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a) if the consequences of the crime extend to the coastal State; (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; (c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or (d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances. The phrase 'should not' seems to suggest that the exercise of criminal jurisdiction is no

INDIA AND PAKISTAN -AGREEMENT ON ADVANCE NOTICE ON MILITARY EXERCISES, MANOEUVRES AND TROOP MOVEMENTS.

➤ Any exercise involving six or more ships of destroyer/frigate size and above, exercising in company and crossing into the other's EEZ – 30 days

➤ The Naval ships and submarines belonging to the other country are not to close less than three Nautical Miles (NMs) from each other so as to avoid any accident while operating in international waters

Coastal State Competencies in EEZ

- Art. 56 - coastal state has
 - Exclusive resource-related rights in EEZ
 - Jurisdiction in EEZ over
 - artificial islands, installations and structures
 - marine scientific research (MSR)
 - protection and preservation of the marine environment
 - Due regard obligation –ART 56(2)
 - NO RESIDUAL COASTAL STATE SECURITY INTEREST

Territorial Sea

- Duties of the coastal state (UNCLOS Art. 24)
 - Not to hamper or deny innocent passage
 - Not to discriminate in form or fact against ships of any state or ships carrying cargoes to any state
 - To give appropriate publicity to dangers to navigation

Territorial Sea

- Rights of the Coastal State (UNCLOS Art. 25)
 - To prevent passage which is not innocent
 - E.g., submerged submarine
 - To prevent breach of conditions of port entry
 - E.g., Notification of Arrival, Hazardous Conditions, and Certain Dangerous Cargos - 96 hour advance notice
 - Temporarily suspend innocent passage in specified areas if essential for protection of its security
 - E.g., weapons exercise

**IN 2011 UN SECURITY COUNCIL UNANIMOUSLY ADOPTED
RESOLUTION 2009**

**RENEWES AUTHORIZATION FOR INTERNATIONAL NAVAL
FORCES FIGHTING PIRACY OFF COAST OF SOMALIA**

LAWS RELATING TO MARITIME DOMAIN

- **INTERNATIONAL REGS FOR PREVENTION OF COLLISION AT SEA 1972 (ROR)**
- **MARPOL -INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS (MARPOL)-1978**
- **SOLAS – SAFETY OF LIFE AT SEA 1974**
- **STCW – STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING-1978**
- **INDIAN MERCHANT SHIPPING ACT 1958**

- **SUPPRESSION OF UNLAWFUL ACTIVITIES (SUA) 1988/2005**
- **INTERNATIONAL SHIP AND PORT SECURITY CODE (ISPS)**
- **CUSTOMS ACT 1978**
- **NDPS ACT 1985**
- **PROLIFERATION SECURITY INITIATIVE (PSI)**
- **CONTAINER SECURITY INITIATIVE (CSI)**
- **RULES OF ENGAGEMENT (ROE)- navy specific**
- **INCIDENTS AT SEA (INCSEA)**

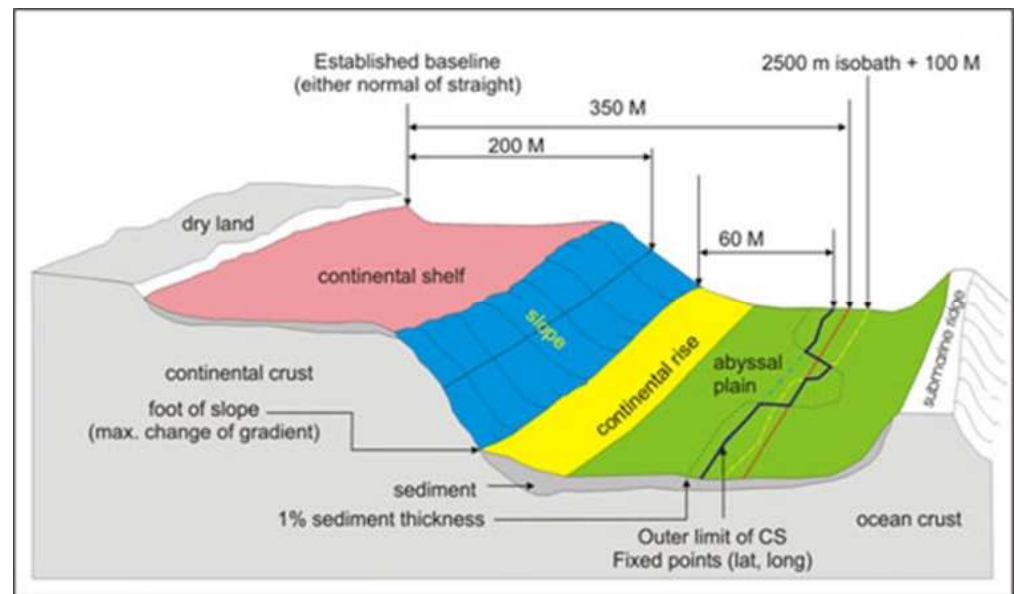
) if the consequences of the crime extend to the coastal State; (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; (c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or (d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances. The phrase 'should not' seems to suggest that the exercise of criminal jurisdiction is no

Due Regard – Art. 56(2)

- “In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have **due regard** to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.”

Continental Shelf

- Continental Shelf:
 - 200 nm or
 - outer edge of the continental margin ...
 - whichever is further
- Resource zone
- Does not affect legal status of waters



The Indian Contract Act, 1872
The Sale of Goods Act, 1930;
The Evidence Act, 1872;
The Indian Penal Code, 1860;
The Transfer of Property Act, 1882;
The Civil Procedure Code, 1908;
The Criminal Procedure Code, 1973;
The Limitation Act, 1963;
The Companies Act, 1956;
The Arbitration and Conciliation Act, 1996

INDIAN MERCHANT SHIPPING ACT 1958

MERCHANT SHIPPING BILL 2020

(INCORPORATING INDIAN MERCHANT SHIPPING ACT 1958 &
COASTING VESSELS ACT 1838)



THE INDIAN CARRIAGE OF GOODS BY SEA(COGSA) ACT
1925

INDIAN BILLS OF LADING ACT 1856

THE MARINE INSURANCE ACT 1963

CUSTOMS ACT 1962
THE MAJOR PORTS ACT 2021

THE MULTIMODAL TRANSPORTATION OF GOODS ACT 1993

Article 246. Marine scientific research in the exclusive economic zone and on the continental shelf 1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.

2. Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.

3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ..

Military Activities in the EEZ

- Recognized right:
 - Customary Law and State Practice
 - UNCLOS
 - IMO/IHO World-wide Navigational Warning Service (NAVAREA warning, para. 4.2.1.3.)
 - ICAO Rules and Recommendations (Annex 15 – Aeronautical Information Services, para. 5.1.1.1.)