

The New Developments in Regimes For International Shipping Concerning The Maritime Security Enhancements and the Evaluation of the Use of The Turkish Straits Within This Framework

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I. Introduction

September 11th terrorist attacks have clearly shown that no country in the world is free from terrorism, and that maritime activities cannot be exempt from this danger either. Any ship can be used as a weapon itself or as a carrier of weapons and it can be used to carry weapons of mass destruction. Although terrorist attacks of September 11th brought the maritime security enhancement issue to the international agenda, it has been a subject of interest in the past.

Maritime security can be threatened in many ways. The threat is not limited to terrorist actions, transport of financial support and shipping of conventional weapons, but it also includes drug trafficking, human smuggling, piracy and robberies. International community has reacted to such threats in various ways. Connections of these threats with organized crimes and terrorism have been obvious recently. However, considering the legal basis, they are not so different from smuggling, piracy and robberies on the sea in terms of the reactions against them.

After the US intervention in Afghanistan, some Taliban and El-Kaide militants fled through sea. This situation clearly shows that El-

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Kaide owns vessels that may enable them to carry money, weapons and bombs for the use in terrorist actions¹. It also been alleged that some States used their sea vehicles to carry conventional weapons that might be allocated to terrorists. Similarly, States and some non-governmental traders may use the same vehicles to ship weapons of mass destruction, their constituent part and also dangerous substances for the use in production of these weapons.

The complex structure of international terrorist organizations, the identification of different types of terrorism on sea and the way they are classified all contribute to the conflicts among States. For instance, it has been reported that there is growing concern that El-Kaide is involved in piracy attempts near Malaka Straits towards the ships carrying radioactive substances². What distinguishes this piracy from a terrorist action is the presence of dangerous substances that may be used in the production of weapons of mass destruction. The current international regulation only concerns jurisdiction and prosecution issues. In other words, it doesn't refer to the possible uses and conveyance of the hijacked cargo³. We can infer from these developments that there is a threat observed in the system for carrying cargo containers. The fact that an increasing number of serious attacks have been done on the ships that pass by a State's maritime zones and the ones anchored in the ports also has contributed to the growing concerns about maritime security; for example, the suicide-bomb attack to *USS Cole*, which killed 17 people and wounded 39⁴. This attack was realized on October 12th 2000 towards the ship anchored for fuelling in the Port of Aden. The other similar actions were the bombing of a Philippine-flagged ferry in February 2000 and the crashing of a small fishing boat full of explosives to *Limburg*, a French super vessel, in the area 12 miles away from the coast of Yemen. In the first event explosion killed 45 people and in the second one fire caused a crack in the vessel and killing a number of the crew member and wounding others. These cases should be analyzed and carefully examined not only in terms of the number of casualties and damage but also in terms of their economic, political and strategic outcomes. Likewise, such events

¹ A. Roach, "Initiatives to Enhance Maritime Security at Sea", 28 *Marine Policy* 41-66 (2004).

² J. Romero, "Prevention of Maritime Terrorism: The Container Security Initiative", 4 *Chicago Journal of International Law* 598 (2003).

³ J.S.C. Mellor, "Missing the Boat, The Legal and Practical Problems of the Prevention of Terrorism", 18 *American University International Law Review* 341, 376-87 (2002).

⁴ *Ibid.*, fn.8.

threaten peacefully performed maritime trade and increase the risk of collision, thus harming both, environment and economy. When criminals control a ship, they lower the original flag and hang another country's flag. Therefore, this situation causes problems not only for the country of that new flag, but also for the crew, protection and indemnity clubs (P & I Clubs), the ship owner and coastal States.

This paper will try to research the international regulations concerning such actions and the applicability of measures included in such regulations for the Turkish Straits.

II. The New Developments in International Regulations Concerning The Maritime Security Enhancements

The concerns about the illegal actions that threaten the security of the ship, passengers and the crew increased after the reports of ships hijacked, blown up and grounded. Passengers were threatened with the weapons and some were even killed. *Achille Laura* case, which occurred in 1985, brought the maritime security enhancement issue to the agenda of the 14th General Meeting of International Maritime Organization (IMO).

A proposal made at this meeting gained a wide support and as a result, the resolution numbered A/584(14) was approved and it was decided that certain measures should be taken to prevent illegal actions. IMO's Maritime Security Committee was encouraged to develop detailed, practical and technical measures.

In 1985, United Nations invited IMO to study the problem of "*terrorism aboard or against ships*".

These developments led to the approval of "*Convention on the Suppression of Unlawful Acts Againsty the Safety of Maritime Navigation*" (SUA)⁵. The Convention is applicable if the ship is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States. The main objective of this Convention is to take appropriate measures against people committing illegal actions towards ships.

⁵ 27 ILM 668 (1998) Turkey has been one of the parties in the Convention and Protocol. *Turkish Official Gazette*, 26 January 1998-23242.

These actions include taking control of the ship by force or threat of force or any form of intimidation; In addition commitment of any of the following acts that endanger or are likely to endanger safe navigation of that ship: an act of violence against a person on board; destroying a ship or damaging a ship or its cargo; placing or causing to be placed on a ship a device or substance likely to destroy the ship or cause damage to the ship or its cargo; destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation; or communicating information which is known to be false.

The Convention requires Contracting States to extradite criminals or to initiate prosecution against them⁶.

Attempts by the international community to ensure Maritime Security have accelerated after the approval of security requirements for governments, port authorities and maritime companies stated in compulsory part A of *International Convention for The Safety of Life At Sea* (SOLAS) as well as the *International Ship and Port Facility Security Code* (ISPS Code). This Code provides some guidance concerning on how to realize requirements stated in the optional part B of the same Convention, which was held in London in December 2002⁷. During the conference on Maritime Security new provisions were approved in 1974 SOLAS Convention and in the Code in order to enhance security on sea. These new requirements draw an international framework that will ensure cooperation in identifying illegal actions on ships and port facilities that threaten Maritime Shipping Security as well as deterrence of such actions.

The Code is mainly a risk management activity dictating that a risk analysis should be carried out when deciding on appropriate security measures. This activity focuses on both reducing the possibility of the occurrence of dangerous actions and minimizing the negative effects of the ones that already occurred. In order to initiate the process it is necessary to carry out security assessments composed of three factors. First of all, inventories and infrastructures that are crucial for port facilities should be identified and their value should be determined. Similarly, areas and buildings that may lead to economic and environmental dam-

⁶ *Ibid.*, arts.3/1, 10/1.

⁷ The requirements of this code, which will be effective as of July 1 2004, will be realized by The Maritime Undersecretariat in Turkey, <http://www.denizcilik.gov.tr> (6.6.2004).

age and considerable loss of lives in case of an attack should also be subject to similar procedures. Furthermore, recent threats towards facilities and infrastructures should be determined in order to prioritize measures. Finally, the vulnerability of the facilities that are potential target due to weaknesses in terms of physical security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure and other areas should be examined and evaluated. When these issues are completed, the accurate risk assessment can be realized.

The concept of "*risk management*" can be realized through the fulfillment of requirements concerning minimum functional security on ships and port facilities. As for ships, it refers to the availability of ship security plans, security officers, company security officers and certain onboard equipment. Similar measures are also required for port facilities. In addition to these measures, monitoring and controlling access to ports, monitoring people and cargo activities as well as availability of communication devices are also required. Each ship and port may create unique risks, the method to follow in fulfilling the special requirements forwarded by the Code should be determined and finally approved by the Administration and the Contracting Governments. The security level on ship and port facilities will be established by the Contracting Government in an appropriate way. As emphasized in the beginning of the Code, since the threat is increasing, therefore the only counter-action is to reduce vulnerability. The following are suggested ways of achieving this result. Ships should implement a system of survey, verification, certification and should be subjected to the control their security measures implementation. Similarly, port facilities are required to report to the Contracting Governments approved port security plans including security information as well as details concerning their location and contacts to IMO.

According to the requirements of the Code, States should designate a Ship Security Officer for each ship and a Company Security Officer for each company.

These international documents are very important for a global system of maritime security. The responsibility of "company security officer" is to realize ship security assessment, to prepare ship security plans for the approval by the administration and finally to ensure the availability of the documents on the ship. The ship should have International Ship Security Document showing that they fulfilled SOLAS and ISPS Code

requirements. When a ship enters a port of a Contracting Government, this Government has the right to perform necessary controls and to apply certain measures when deemed appropriate. Even though the ship is subject to controls, they cannot be extended to the application of "ship security plan" with the exception of limited circumstances. Each Contracting Party should ensure the completion of the Port Facility Security Assessment for each port facility within its own territory which serves ships engaged on international voyages.

At the conference, a number of important amendments for SOLAS were approved. These amendments include the installment of Automatic Information Systems⁸, display of the identification number and a Continuous Synopsis Record which provides an onboard record of the history of the ship in an easily observed location. The information displayed should include the name of the ship, its flag State, the date of the registration with that State, identification number, and owners' names and addresses.

In addition, IMO has taken the responsibility to extend the scope of SUA and its Protocol. Draft protocols were prepared for both documents⁹.

International Labor Organization revised the *ILO Convention No. 108* adopted in 1958¹⁰ to deal with the concern of the identification of seafarers and the facilitation of their exit from the port¹¹. This Convention was later replaced by "*Seafarer Identity Documents Convention No. 185*". What is required here is a biometric indicator based on a fingerprint template encoded in a bar code, which will be based on a uniform international standard and a digital or original authorized photo. Moreover, it is required that identification document should have a unique number and should include personal data stored in secure data bases that can be accessed electronically.

Within this framework, European Commission has taken into consideration the need for the security enhancements in maritime transport chain from the supplier to the consumer, and therefore approved a regu-

⁸ Automatic Systems enable security authorities to monitor and check the past records about ship owners and ships in order to identify whether these owners obey the security rules or not.

⁹ See for developments, < <http://www.Imo.org> > (6.6. 2004).

¹⁰ <http://www-ilo-mirror.cornell.edu/public/english/region/eurpro/london/download/fp9_1.pdf> (6.6. 2004).

¹¹ <http://www.trans-inst.org/updates_August_8_03.htm> (6.6.2004).

lation proposal suggesting the obligatory application of IMO-confirmed high level security standards on international maritime transport and port facilities in each European Union country¹². The statements concerning security regulations include the drawing of security plans, the designation of company and the ship security officers, They can be extended to the other ships used for domestic traffic. To ensure effective inspection, regulations also require the procedure of Commission during the inspection of security rules. In their revision, *Acquis Communautaire* referred to the conclusions of Diplomatic Conference held in IMO in December 2002 and extended the requirement of identification of seamen and the security of the whole intermodal transport chain to port zones. The Commission emphasizes a need to apply measures proven by international authorities in order to encourage third parties to recognize security levels and to have joint discussions where some ideas may be shared. These preventive precautions include ISPS Code and SOLAS Convention's special maritime security enhancement measures. Obligatory statements deal with the requirement that ships must be continuously identified through their identification numbers coded in an automatic identification system as well as in an alarm system for warning purposes in case of an attack.

Moreover active and passive security measures in three levels are required. These security measures should be related to the risk assessment on the ship or in the port facilities and require the issue of "*international ship security certificate*" as well as the regulations for personnel training applications. In addition, a declaration has been prepared to define responsibilities of ship owners and port authorities concerning the potential risk, property, environment and people in general. Responsibilities of various actors such as Contracting Government, company, captain, port authorities are clearly defined in that declaration. Similarly, it includes the interpretation of the Union about of the compulsory regulation brought by IMO concerning the issues such as applying an initial security control to the ships entering the European Union's ports. It even goes further by making suggested requirements compulsory for the purpose of increasing security level and eliminating differences that may occur as a result of different interpretations by member States. Declaration may also require the assignment of staff that is responsible

¹² Commission Of The European Communities, Brussels, 10.2.2004 Com(2004) 76 final 2004/0031 (COD), Proposal for a Directive Of The European Parliament And of The Council on enhancing port security. See: <http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0076en01.pdf> (6.6.2004).

for the security of the ship and also favors a quicker calendar compared to the one suggested by IMO. The reason for this quick calendar is to ensure the application of certain regulations. Finally, it suggests an inspection process for the application of national plans and its methods.

Above mentioned issues clearly show that the essence of the steps to be taken for the maritime security whose framework has been recently drawn by the international regulations is a risk management activity. This activity requires the realization of risk assessment in order to determine which security measurements are appropriate in certain circumstances. The concept of "*risk assessment*" can be realized through the fulfillment of minimum functional requirements for ship and port facilities. As for ships, these requirements include the presence of ship security plans, ship security officers, company security officers and certain security equipment. Port facilities are also subject to the same requirements. In addition to all, monitoring the control and observation areas and the activities of cargo and people as well as the availability of ready-to-use security communication devices are also required. However, only when this evaluation is completed can an effective risk assessment be realized. Can these main steps be applied on the basis of Montreux Convention? Before answering this question, legal position of the Turkish Straits should be briefly mentioned.

III. The Evaluation of the Policy for Passage Through the Turkish Straits within the Framework of New Developments Concerning Maritime Security

Legal policy for the Turkish Straits, where often a heavy sea traffic is observed, was determined by a "*Convention Regarding the Regime of the Straits, 1936*"¹³. The Convention mainly adopts "*freedom of transit and navigation*" policy, without limit of time, which is clearly confirmed in Article 1¹⁴. As it is stated at the initial provisions of the Convention, this freedom enables the authorities to do certain arrangements in order to ensure the security of Turkey.

The Convention restricts Turkish sovereignty due to "*the freedom of transit and navigation*". Thus, Turkey reserves its rights concerning the issues out of the scope of the Convention.¹⁵ When the preparatory work

¹³ LNTS, Vol.173, p.213..

¹⁴ *Ibid.*, art.28/2.

¹⁵ S. Toluner, *Milletlerarası Hukuk Dersleri*, Beta, İstanbul 1989, p.165, 166.

of the Convention is examined, Turkey is known to emphasize persistently that it reserves the rights of its police and criminal and civil jurisdiction in order to eliminate the possibility for an interpretation and application that may give harm to Turkish sovereignty and the innocence of passage¹⁶.

The Article 12 of the proposal submitted by Turkish Representatives on June 22nd 1936 states that the provisions of this Convention cannot be interpreted and extended in a way which jeopardizes Turkish sovereignty over the areas mentioned in this Convention¹⁷. During the discussions on the proposal made by Turkish Government, Turkish Delegation stated the following: "*We believe that the sovereignty of Turkey should be reemphasized, outside mentioned in the proposal*". *Indeed it is worth considering the restrictions on the use of sovereignty. Therefore, every passage should be innocent and free from attack attempts. No one would disagree with the intervention of a coastal state when a passing vessel causes distress. This may include problems within the vessel and criminal action targeting the facilities or buildings on the coast by the vessel itself. In this case, the vessels should be subject to the application at international regulations*"¹⁸. (translated by the author)

As clearly mentioned in the minutes of Technical Committee: "*The problem for the Turkish delegation is not whether Turkey has sovereignty over the areas stated in the Convention, the problem is rather more concrete. The main concern of the delegation is that Turkey sacrifices certain rights concerning its sovereignty in the Convention. However, except these rights, Turkey won't agree with the allegations, based on general rules instead of provisions of the Convention, that passage way areas are out of the sovereignty of Turkey. This situation cannot be accepted by Turkey, who wants to reserve its rights on two issues that might be a concern for everybody. One of these is related to the general competence of Turkish police. This is not only an administrative one in fact it is a judicial one. Turkish police has the right to intervene to the*

¹⁶ S. Meray, O. Olcay, *Montreux Boğazlar Konferansı, Tutanaklar, Belgeler*, 1976, p.42, 64, 65, 81, 82, 240, 361.

¹⁷ *Ibid.*, p.452. United Kingdom objected this proposal stating that to place a provision like this can be interpreted as following: "*Turkey can avoid some responsibilities imposed by this agreement due to concerns about some threats against its sovereignty.*"

¹⁸ *Ibid.*, p.42.

ships which disturb the passage of other ships and accomplice the criminals as well as the right to search the ships where murders and other crimes are likely to be committed. Turkey considers an innocent passage that will not carry out the transportation of criminals; not to be prejudicial the good order of the coastal State"¹⁹. "The main concern of Turkish delegation is to maintain the rights of police and civil and criminal jurisdiction"²⁰.(translated by the author)

While using the rights of police, criminal and civil jurisdiction reserved in Montreux Convention, Turkey will take into consideration international standards and rules provided for the straits with the similar geographical situation. Turkey can use rights given to coastal States by the law, by evaluating the passage in terms of innocence. The issues not mentioned in Montreux Convention will be considered and arranged within the framework of these rules²¹. Since the law effective at the time of the conclusion of the Montreux Convention was "innocent passage" and transit passage is a new concept of international law provided for in the Law of the Sea Convention, 1982 "innocent passage regime" should be adopted.²²

What kind of regulations do general international law of the sea rules cover? At this point the current problems, mainly the prescriptive and enforcement authority of the coastal State can be described by mentioning certain standards concerning environment, transportation and terrorism. Here, analyses regarding environment protection and transportation are more common. In other words, according to general international law, strait States can adopt laws or rules which regulate safety of navigation and maritime traffic, and enact international regulations regarding the discharge of oil and oily wastes and other noxious substances into the strait. They can also approve sea lanes and the traffic separation schemes in order to ensure safe passage. These routes should conform to international regulations and should be accepted by the competent international organization provided that they were agreed by coastal States.

¹⁹ *Ibid.*, p.326.

²⁰ *Ibid.*, p.327.

²¹ S. Toluner, "Boğazlardan Geçiş ve Türkiye'nin Yetkileri", *Boğazlardan Geçiş Güvenliği ve Montreux Sözleşmesi(B.G.G. ve M.S.)*, Milletlerarası Hukuk ve Milletlerarası Münasebetler Araştırma ve Uygulama Merkezi, 1994, p.13.

²² *Ibid.*, p.14.

Above mentioned international regulations are "The International Regulations for Preventing of Collision at Sea", 1972²³; "The International Convention For the Prevention of Pollution From Ships", 1973²⁴; articles concerning the ship-generated pollution in "The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter", 1972²⁵; and "The International Convention for the Safety of Life at Sea", 1974²⁶. These are regulatory agreements that cover technical and practical issues rather than the ones related to jurisdictional matters.²⁷ Considering the time when they were carried out, they left these issues to international law in order to catch up with new developments and to ensure the application of rules.

As a result, in order to prevent or minimize accident probability, Turkey accepted "Maritime Traffic Regulations for the Turkish Straits and the Marmara Region, 1994"²⁸, which covers three main issues here issues are report system, the establishment of traffic control centers and stations and the preparation of traffic separation schemes. Some of the provisions in the *Regulations* are repetitions of articles that are already present in the regulation²⁹, or the ones still being applied or not being criticized³⁰, although others are new. Even though the *Regulations* and the traffic arrangements it imposed are considered positive developments, some articles were discussed³¹ and even criticized for not con-

²³ Turkey has been a party in this agreement (Abbr: COLREG). See, *Turkish Official Gazette*, 29 April 1978 – 16273. The amendments of this regulation was approved with the Act dated 20.9.1984 numbered 84/8541. *Turkish Official Gazette*, 18 November 1984- 18579.

²⁴ Turkey has been a party in this Convention (Abbr: MARPOL). See, *Turkish Official Gazette*, 29 April 1978 – 16273.

²⁵ Turkey is not a party in this Convention. However, Black Sea and Mediterranean Regional agreements in which Turkey has been a party impose similar requirements for Turkey.

²⁶ Turkey has been a party in this Convention as of 25 May 1980, Decree No. 8/522 by the Council of Ministers, of 6 March 1980 (Abbr: SOLAS). See, *Turkish Official Gazette*, 25. May 1980-16998 V 19, 907.

²⁷ Eric Jaap Molenaar, *Coastal State Jurisdiction over Vessel-Source Pollution*, Kluwer Law International, 1998, p.110.

²⁸ See, *Turkish Official Gazette*, 11 January 1994 – 21815. See the statements of the Minister İbrahim Tez related this subject. "Boğazlar ve Marmara Su yolu", *Mülkiyeliler Birliği Dergisi*, C.XVIII, S.168, pp.32-33.

²⁹ Art.17, 27, 43 etc.

³⁰ Art. 24, 40, 41 etc.

³¹ B.G.G. ve M.S.

forming with the Montreux Convention, Articles 29 and 30 especially³². By considering these criticisms, “*The Regulations for the Administration of Maritime Traffic in the Turkish Straits*”³³, which includes new statements, was prepared and enacted. However, the criticisms continued on some issues; and problems were removed by taking these criticisms into consideration³⁴. As it is clearly mentioned, Regulations have been prepared within the framework of the Montreux Convention, and therefore it conform to the treaty’s spirit. The arrangement aimed at regulations is to give competence for regulation of maritime traffic and ensuring safety of the passage. This power is already given to coastal States and is a part of *police powers* reserved in Montreux by Turkey.

After September 11th terrorist attacks, the competence of coastal States has gained considerable importance not only in terms of navigational and environmental safety but also in terms of their security. Thus, an answer should be found for the following question. “Are there any security measurements to be taken against possible threats from ships or against terrorist attacks in Turkish Straits?” A research suggests that ships are subjected to risk when waiting in certain areas with heavy sea traffic³⁵. In this respect, vessels carrying LNG (*Liquid Natural Gas*) and passenger ships are reported to be ones with the highest possibility of being a target for future elements. The Turkish Straits that has heavy traffic of 50000 ships/per year is under risk. In addition, areas that may cause economic and environmental damage seems to be a factor to increase the risk of being a target in terms of risk assessment.

According to the rules of general international law, issues concerning features and cargoes of the ships, such as carrying dangerous cargo or the use of hazardous chemicals as fuel have not been taken into consideration for the determination of innocence of the passage. However, in order to ensure safe passage of vessels or ships operating with nuclear power or carrying harmful and dangerous materials or liquids coastal

³² *Ibid.*, S. Toluner, p. 19; Çağa, p. 55; G. Aybay, p. 64. Critiques were taken into consideration and these articles in “*The Regulations for the Administration of Maritime Traffic in the Turkish Straits*” were amended.

³³ See, *Turkish Official Gazette*, 6 November 1998 – 23515.

³⁴ See for the critiques and amendments, A.N. Tütüncü, “*Türk Boğazlarından Geçiş ve Deniz Çevresinin Korunması Sorunu*”, *Marmara Denizi 2000 Sempozyumu Bildiriler Kitabı*, 11-12 Kasım 2000 İstanbul, p.75.

³⁵ <<http://www.rand.org/randeuropa/news/seacurty/piracyterrorism.chalk.pdf>> (6.6.2004).

States are given IMO-initiated restricted rights such as requiring the use of sea lanes determined by this coastal State and the presence of documents dictated by international agreements, as well as the implementation of special measures when necessary³⁶.

Within this framework, following measures should be taken in the Turkish Straits in order to enhance maritime security in light of new regulations adopted with the support of IMO:

Ships should have their identification number coded in the automatic identity system International Ship Security Document showing that it conforms with requirements of SOLAS and ISP Code, a special synopsis record including information about the name and the flag of the ship, the day of registration ID number, the port they are registered, their owners and owners' addresses.

These measures are not against law and the spirit of Montreux, therefore the right of innocent passage. It is rather the continuation of already applied measurements taken in order to ensure the safety of passage.

Finally, as Toluner said "*It is possible to have some attempts in cooperation with competent organizations so that they may accept further measures such as having permission for the passage and obligatory insurance*"³⁷.

IV. Conclusion

Although September 11th terrorist attacks brought maritime security issue to the international agenda, the interest on this problem is not new. So far, international community has reacted to threats like drug trafficking, human smuggling, piracy and robberies in different ways. Their connections with organized crimes and terrorism have been obvious only recently. However, considering the legal basis, they are not so different from the other threats on the sea in terms of the reactions against them.

³⁶ 1982 UNCLOS, arts. 22/2 and 23.

³⁷ Sevin Toluner, "*Hukuksal Alanda Türkiye'nin Güvenlik İhtiyaçları Ne Şekilde Karşılabilir?*", *Dünyada Yeni Güvenlik Anlayışları, Türkiye'nin Durumu ve İhtiyaçları*, 13-14 Mart 2003, Harp Akademileri Basım Evi, İstanbul, 2003, p.257.

The new requirements such as the *SUA* and *SOLAS Convention* and *ISPS Code* draw an international framework that will ensure cooperation in identification of illegal actions on ships and port facilities that threaten maritime security as well as deterrence of such actions.

The essence of the steps to be taken for the maritime security whose framework has been recently drawn by these international regulations is a risk management activity requiring the realization of risk assessment in order to determine which security measurements are appropriate in certain circumstances. The term "*risk assessment*" can be realized through the fulfillment of minimum functional requirements for ships and port facilities.

These requirements are not against law and the spirit of Montreux Convention, they are rather taken to ensure the safety of passage which is within the competence of Turkey.