

Evaluating the ISPS Code's Role in Securing Maritime Trade Amid Regional Conflicts: Insights from Gaza and the Russia-Ukraine War

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Abstract

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The escalating conflict between Palestine and Israel has significantly impacted the maritime sector. A decline in ship traffic and import-export volumes has disrupted international trade. Houthi attacks on commercial vessels in November 2023 have exacerbated the stability of global maritime trade. The majority of shipping companies have mitigated this risk by diverting their routes to the Cape of Good Hope. This has triggered an increase in shipping costs and insurance premiums, leading to global inflation. A similar situation occurred in the Black Sea during the Russia-Ukraine war in 2022. Ukraine suffered damage to its ports, which led to a drop in wheat exports. However, countries in the region initiated the Black Sea Grain Initiative (BSGI), based on the International Ship and Port Facility Security (ISPS) Code under the International Convention for the Safety of Life at Sea (SOLAS), which successfully helped restore maritime trade. The purpose of this research is to examine the reliability of the ISPS Code in addressing maritime security threats in high-intensity regional conflicts such as the Gaza conflict, by comparing the successful application of the code in the Black Sea during the war. By using the normative juridical research method through a comparative approach, and by using primary legal sources. The results show that the ISPS Code needs improvement, as it lacks contemporaneous and mandatory provisions, making full compliance difficult.

1. Introduction

The attack on Israel by Hamas on October 7, 2023, caused a significant escalation in the prolonged conflict between Palestine and Israel.¹ Bloomberg Economics states that the global oil prices have surged as a impact of the conflict, leading to a decline in global economic growth of around 1.7%, causing a loss of \$1 trillion due to a worldwide recession.² The consequences of the escalating conflict have also affected important sectors in the economy, especially the maritime sector, as the conflict is located near maritime areas 80% of international trade, a vital aspect closely tied to a country's economic growth, is conducted via shipping.³ Furthermore, maritime countries contribute around 92% to the value of global trade, making international trade mainly driven by maritime activities. After the October 7 tragedy in Gaza, maritime trade in the Mediterranean Sea and the Red Sea have been fatally

¹ "Trade in the Shadow of War on Gaza 2023-2024," *International Journal of Inspiration, Resilience & Youth Economy* 8, no. 2 (November 1, 2024): 91–110, <https://doi.org/10.18576/ijye/080203>.

² Ruth Endam Mbah et al., "The Social, Economic, and International Relations Impact of the 2023 Israel-Hamas War," *Advances in Social Sciences Research Journal* 11, no. 2 (February 20, 2024): 224–36, <https://doi.org/10.14738/assrj.112.16499>.

³ Mengqiao Xu et al., "Estimating International Trade Status of Countries from Global Liner Shipping Networks: Shipping Network and International Trade," *Royal Society Open Science* 7, no. 10 (October 1, 2020), <https://doi.org/10.1098/rsos.200386>.

affected.⁴ The Red Sea contributes about 12% to international trade via the Suez Canal, as a requisite bottleneck connecting the Mediterranean Sea to the Red Sea, has undergone a 36% decline in vessels traffic, despite being a key passage for commercial ships from around the world. This situation has been aggravated by the Houthi attacks on commercial vessels using missiles, helicopters, drones, and other advanced technologies. One remarkable case regarding the attack was the seizure of the M/V Galaxy Leader on 19 November 2023, which brought the UN Security Council to issue a statement that condemned the attack and called on states, regional, and subregional organizations to cooperate in addressing such issues.⁵

Moreover, in Resolution 2722 (2024), and continued on Resolution 2768 (2025), the Security Council commends the endeavors of the Member States in strengthening maritime security to ensure the safety and security of commercial vessels in the Red Sea, whilst also fortifying any effort needed in capacity building of the Yemeni Coast Guard through implementing measures regarding technical assistance within the framework of the International Maritime Organization (IMO).⁶⁷ This shows that the UN necessitates states' contribution in implementing international frameworks regarding maritime security in order to address the root causes of the Red Sea crisis.

On a bigger scale, the Houthi attacks have further impacted the Gulf of Aden, an area that is highly important for the shipping network from Europe and which experienced a decrease in shipping activity, from around 4.83 million tons in December 2023 to around 2.13 million tons in February 2024.⁸

Supply chain disruptions have also befallen following the Houthi attacks, remarkably affecting countries in the conflict area, such as Cyprus. As an Eastern Mediterranean country, Cyprus saw an 18.4% decrease in import value from 2023 to 2024,⁹ despite the country's reliance on energy imports.¹⁰ Egypt and Jordan also discerned the impact, both of which, located near the Red Sea, depend on energy imports from Israel.¹¹ The disruption was further

⁴ Sergiy Kivalov, "Current Threats to Sustainable Shipping – from War Risks to Climate Changes," *Lex Portus* 10, no. 2 (2024): 15–24, <https://doi.org/10.62821/lp10202>.

⁵ Press Release Security Council, "Security Council Press Statement on Anniversary of Houthi's Unlawful Detention of Galaxy Leader Crew," United Nations, November 18, 2024, https://press.un.org/en/2024/sc15904.doc.htm?_gl=1*100suj*_ga*MTk2OTM5MjU0OS4xNjIwNDIzNTgz*_ga_TK9BQL5X7Z*MTczMjczODgyMi4xMTQ3LjEuMTczMjczOTUyMC4wLjAuMA.

⁶ Security Council, "Resolution 2722 (2024) Adopted by the Security Council at Its 9527th Meeting, on 10 January 2024," in *9527th Security Council Meeting* (United Nations, 2024), [https://docs.un.org/en/S/RES/2722\(2024\)](https://docs.un.org/en/S/RES/2722(2024)).

⁷ Security Council, "Resolution 2768 (2025) Adopted by the Security Council at Its 9836th Meeting, on 15 January 2025," in *9836th Security Council Meeting* (United Nations, 2025), [https://docs.un.org/en/S/RES/2768\(2025\)](https://docs.un.org/en/S/RES/2768(2025)).

⁸ E. Rodriguez-Diaz, Juan Ignacio Alcaide, and R. Garcia-Llave, "Challenges and Security Risks in the Red Sea: Impact of Houthi Attacks on Maritime Traffic," October 1, 2024, <https://doi.org/10.20944/preprints202410.0053.v1>.

⁹ Republic of Cyprus, "Foreign Trade Statistics: March 2024 (Final Data) And April 2024 (Provisional Data)," June 10, 2024, <https://www.gov.cy/en/energy-commerce-and-industry/foreign-trade-statistics-march-2024-final-data-and-april-2024-provisional-data/>.

¹⁰ Andrey Afanasiev et al., "Emerging Alternatives in Megaproject Management: The Pioneering LNG Energy Project in Cyprus," *SSRN Electronic Journal*, 2024, <https://doi.org/10.2139/ssrn.4782564>.

¹¹ United Nations Development Programme, "Expected Socioeconomic Impacts of the Gaza War on Neighbouring Countries in the Arab Region," 2023,

endured by the United States and Europe in general, both of which hinge on the Red Sea shipping route for essential supplies.¹²

Shipping companies have responded to the maritime situation in the Red Sea by implementing mitigation efforts. Just about 20% of global shipping lines have espoused substitute routes, opting to sail through the Cape of Good Hope in Africa to desist the Red Sea. Others have plumped for different alternatives: the Northern Sea Route and the India-Middle East-Europe Corridor (IMEC).¹³ However, the immense vulnerability derived from the Gaza conflict is also destroying the IMEC's connectivity, impeding the corridor's trade prospects.¹⁴ Shifting routes as a mitigation effort have led to soared shipping cost, higher insurance premiums, and delayed shipments. To alleviate these impacts, some shipping lines have decided to use older vessels to reduce costs. Nonetheless, this has commenced other risks, such as leaks and sinking.

Increased insurance premiums affect shipping lines that continue to use the Red Sea route, as this precipitates the imposition of war risk insurance.¹⁵ The utilization of this clause in the context of the Gaza conflict would only introduce greater risks, as the high costs associated with war-like risks in Gaza could lead to marine insurance companies being impotent to cover them, conceivably resulting in insolvency.¹⁶ The uncertainty arising from these mitigation efforts has brought up the need for long-term solutions, especially in high-intensity regional conflicts such as the Gaza conflict. That said, the key to foreshortening the impacts of this conflict lies in law enforcement and actions.¹⁷

A comparable situation has also occurred in the Black Sea due to Russia's invasion of Ukraine in February 2022. The war has escalated since then, leading to a decrease in export activity, particularly in the trade of wheat, oil, and food products from Ukraine, as the country's logistics infrastructure has been damaged by Russia.¹⁸

The excessive decrease in export of wheat caused by the war has impacted food security in many countries, as both Ukraine and Russia account for a quarter of world's wheat exports,

<https://www.undp.org/sites/g/files/zskgke326/files/2024-03/expected-socioeconomic-impacts-gaza-crisis-neighbouring-countries-arab-region-policy-brief-english-summary.pdf>.

¹² Syamsul Maarif and Pujo Widodo, "The Red Sea Crisis: Implications of The Houthi Attack on Maritime Trade and Global Security," *International Journal Of Humanities Education And Social Sciences (IJHESS) E-ISSN*, vol. 4, 2024, <https://ijhess.com/index.php/ijhess/>.

¹³ Theo Notteboom, Hercules Haralambides, and Kevin Cullinane, "The Red Sea Crisis: Ramifications for Vessel Operations, Shipping Networks, and Maritime Supply Chains," *Maritime Economics and Logistics* (Palgrave Macmillan, March 1, 2024), <https://doi.org/10.1057/s41278-024-00287-z>.

¹⁴ Syed Rizwan et al., "Global Conflicts and Economic Corridors: Impact of Palestine and Ukraine on Key Trade Routes," *Journal of Development and Social* 5, no. 3 (n.d.): 2709–6262, [https://doi.org/10.47205/jdss.2024\(5-III\)63](https://doi.org/10.47205/jdss.2024(5-III)63).

¹⁵ Carmen Vicente, Carmen Vicente War, and By Carmen Vicente, "War Risk Insurance6912 NEPTUNUS® Law Review© War Risk Insurance," *Risk Insurance. Neptunus*, vol. 1, 1995, <https://shs.hal.science/halshs-03290863v1>.

¹⁶ Richard L. Kilpatrick, "REVISITING the FIVE-POWERS WAR RISK EXCLUSION," *International and Comparative Law Quarterly*, July 1, 2024, <https://doi.org/10.1017/S0020589324000204>.

¹⁷ International Chamber of Shipping, "ICS Maritime Barometer Report 2023-2024," 2024.

¹⁸ M. Ilchuk et al., "Black Sea Region in World Grain Trade and Problematic Aspects of Development," in *IOP Conference Series: Earth and Environmental Science*, vol. 1254 (Institute of Physics, 2023), <https://doi.org/10.1088/1755-1315/1254/1/012128>.

making it nonviable to find equivalent wheat-producing countries to replace them.¹⁹ This, in particular, severely affects developing countries such as Nicaragua, the Republic of Congo, and Niger, which are heavily dependent on wheat imports from both countries.²⁰

To address the threats to the smooth flow of wheat trade through shipping, ports in the Black Sea have strengthened their maritime security policies, along with the presence of NATO through the NATO Navigation Center (NSC).²¹ Georgia, as one of the impacted countries alongside Ukraine, has enhanced its maritime security by fostering cooperation between local authorities and external stakeholders, since the country has sought to become a central transit site in the Silk Road project.

The Black Sea Grain Initiative (BSGI), an agreement between Russia, Ukraine, and Turkey and witnessed by the United Nations (UN) to ensure the safety and security of vessels in maritime trade in the Black Sea,²² as a remarkable decision in enhancing maritime security in the Black Sea during the war, is considered successful in building maritime resilience and trade recovery, as evidenced by the increase in export volumes from Ukraine in January 2024. This immense attention to maritime security in the Black Sea is compelled by economic needs.²³ It is pursued to maintain competition in maritime trade.

However, in the context of the Gaza conflict, maritime security is considered vulnerable, as the Houthi launched an attack on a commercial vessel in the Red Sea. The lack of maritime security in the conflict area has burdened the disruption of international trade and exacerbated global inflation, affecting retail sellers in the United States. Countries in the Horn of Africa, which have strong connections with the Gaza conflict due to their geographical vicinity, have neglected the enhancement of maritime security. Paradoxically, the parties that have vigorously participated in strengthening maritime security in the conflict area are the United States and the United Kingdom.

The absence of countries' contributions to enhancing maritime security in the Gaza conflict zone would only cause the initiatives of the United States and its allies to broaden the scope of the conflict due to a power struggle. The most important aspect of maintaining maritime stability is the strengthening of maritime security.

Maritime security was defined within the scope of the International Convention for the Safety of Life at Sea (SOLAS) after the 9/11 incident, reflected in the establishment of the International Ship and Port Facility Security Code (ISPS Code), which was adopted as an

¹⁹ Krzysztof Ziolkowski, "The Impact of the Russia-Ukraine Conflict on World Trade," *The Business and Management Review*, vol. 14, 2023.

²⁰ Mahesh Kumar Singh et al., "Impact of Ukraine-Russia War on Global Trade and Development: An Empirical Study," *Acta Academiae Beregsasiensis. Economics*, no. 1 (October 3, 2022): 80-92, <https://doi.org/10.58423/2786-6742/2022-1-80-92>.

²¹ Lepl - David Aghmashenebeli National Defence Academy Of Georgia, "Nuclear Powers, Their Ambitions And Potential Threats," International Collection Of The Papers Of The Scientific-Practical Conference (Gori, November 9, 2023), https://eta.edu.ge/uploads/konferenciebis_krebulebi/2023-11-09.pdf.

²² the Russian Federation and Ukraine The Republic of Türkiye, "Initiative on the Safe Transportation of Grain and Foodstuffs from Ukrainian Ports," The Secretary-General of the United Nations § (2022).

²³ S.O. KRAMSKYI and I.Yu. LABUNETS, "Conceptual Provisions Of The Formation Of Cargo Flows Of Maritime Transport Of Ukraine In The Security Measure In The Post-War Period," *Economic Innovations* 25, no. 4(89) (December 20, 2023): 68-78, [https://doi.org/10.31520/ei.2023.25.4\(89\).68-78](https://doi.org/10.31520/ei.2023.25.4(89).68-78).

amendment to SOLAS in 2004, focusing on developing counter-terrorism measures for ships and ports. The ISPS Code consists of two parts: Part A, which encompasses mandatory security measures for ships and ports that must be implemented by contracting governments, and Part B, which provides voluntary guidelines for the implementation of Part A.²⁴ Through its risk-based approach, the ISPS Code is beneficial for ships and ports in developing security risk assessments and enhancing human resources to address maritime security threats.²⁵ In the Black Sea during the Russo-Ukrainian War, the ISPS Code was carried out with raising the implementation level to level 2.²⁶ Notwithstanding, to date, the ISPS Code in the Gaza conflict zone has only been explicitly implemented by flag states of vessels passing through the Suez Canal and the Red Sea. For instance, San Marino, through the San Marino Maritime Navigation Authority, has instructed all ships to strictly apply ISPS Code level 3.²⁷

Based on the explanation above, there are several previous studies that discuss similar themes including the first research conducted by Yudhanto, Guruh Dwi, Supriadi, and Yanuar Dwi Legowo. With the title "Optimizing the Role of Intelligence in Countering Potential Threats of Maritime Terrorism in the Malacca Strait." This panellation discusses the potential threat of maritime terrorism in the Malacca Strait caused by several factors, such as economic, political, and geographical location. This research also states that there is a need for intelligence to strengthen cooperation with national and international intelligence partners to improve intelligence capabilities in dealing with potential maritime threats.²⁸ The second research was conducted by Suwarno, Panji, Siswo Hadi Sumantri, and Fauzi Bahar. "Reconstruction of Indonesian Maritime Security in the Context of Realizing Regional Resilience (Study in Natuna Regency for the 2019-2020 Period)" this research focuses on how to maintain Indonesian Maritime Security in the Context of Realizing Regional Resilience and free from maritime conflicts.²⁹ The third research was conducted by Sarlini, Heti, Dewi Yanti, Serly Santika, and Jelita Silvia Hutabarat. With the theme "Military and Politics in Indonesia

²⁴ Juei-Cheng Jao and Jason C T Chuah, "Cyber and AI Security Challenges for LNG Maritime Transport and Terminals – Responses in Law and Standards," *The Journal of World Energy Law & Business* 16, no. 4 (July 24, 2023): 354–66, <https://doi.org/10.1093/jwelb/jwad014>.

²⁵ Adriana Nordfjeld et al., "Proposing a Mathematical Dynamic Model to Develop a National Maritime Security Assessment and Build a National Maritime Security Plan," *Article in Journal of Maritime Research*, 2023, 123–32, www.jmr.unican.es.

²⁶ Lepl - David Aghmashenebeli National Defence Academy Of Georgia, "Nuclear Powers, Their Ambitions And Potential Threats," International Collection Of The Papers Of The Scientific-Practical Conference (Gori, November 9, 2023), https://eta.edu.ge/uploads/konferenciebis_krebulebi/2023-11-09.pdf.

²⁷ la Navigazione Marittima e l'Omologazione Autorità per l'Aviazione Civile, "DIRECTIVE No. 02/2023 SEC 2.3 Protective Measures For Ships Flying The San Marino Flag While Navigating, Being At Anchor Or Being Moored In Sea Areas Large 100 (One Hundred) Nautical Miles Off The Coasts Of The State Of Israel And Off The Gaza STRIP.," December 12, 2023, <https://www.smsr.sm/wp-content/uploads/2023/12/DIRECTIVE-No.-02-2023-SEC-2.3-ISRAEL-GAZA.pdf>.

²⁸ Yudhanto, Guruh Dwi, Supriadi, and Yanuar Dwi Legowo. "Optimalisasi Peran Intelijen Dalam Penanggulangan Potensi Ancaman Terorisme Maritim Di Selat Malaka." *Inovasi Manajemen Bisnis* 6, no. 2 (2024): 21–33. <https://journalpedia.com/1/index.php/imb/article/view/1132>.

²⁹ Suwarno, Panji, Siswo Hadi Sumantri, and Fauzi Bahar. "Rekonstruksi Keamanan Maritim Indonesia Dalam Rangka Mewujudkan Ketahanan Wilayah (Studi Di Kabupaten Natuna Periode Tahun 2019-2020)." *JURNAL KETAHANAN NASIONAL* 27, no. 1 (2021): 65–89. <https://doi.org/https://doi.org/10.22146/jkn.62028>.

in the Context of Maritime Tensions in the South China Sea.”³⁰ The equation of this research with the author is the same, the same discusses how to secure conflict tensions that occur in the waters, the difference lies in the research conducted by the author focusing more on international trade, while the author's research above focuses more on politics.

On that account, this paper aims to examine whether the application of maritime security regulations, such as the ISPS Code, can alleviate the impact of high-intensity regional conflicts like the Gaza conflict, by linking related issues in the Black Sea during the Russo-Ukrainian War and analysing the implementation of maritime security policies in the region. To address this, it is important to determine the intersections emerging between the Gaza conflict and the Russo-Ukrainian War, given that both are regional conflicts. This paper will conclude by evaluating the extent to which international legal frameworks, like the ISPS Code, can address the legal needs arising from high-intensity regional conflicts such as the Gaza conflict.

2. Methods

The Study employs a normative juridical method, analyzing the effectiveness of the ISPS Code in addressing shipping issues in high-intensity regional conflicts, such as the Gaza conflict, through comparative approaches by obtaining lessons from the implementation of the code in the Black Sea during the Russo-Ukrainian war. Using primary legal sources, including the ISPS Code, UN Resolutions, IMO Resolutions, journal articles, and reports, the study analyzes the consideration of revitalizing the ISPS Code as an international legal framework for maintaining maritime stability in regional conflicts.

3. Results and Discussion

3.1. The Intersections between the Gaza Conflict and the Russia-Ukrainian War: Impact on International Trade and Maritime Activities

International maritime law, such as the United Nations Convention on the Law of the Sea (UNCLOS), plays an important role in regulating peaceful passage rights, exclusive economic zones (EEZs), and the rights and obligations of states in times of conflict. Here are some of the key aspects governed by UNCLOS. The right of innocent passage allows foreign vessels to pass through a country's territorial sea without having to seek permission, provided they do not engage in activities that could undermine the peace, order or security of the coastal state. The coastal state has the right to set criteria for peaceful passage and issue laws and regulations related to peaceful passage.

An EEZ is an area of sea that lies beyond a country's territorial sea, where the coastal state has sovereign rights to manage marine natural resources. Coastal states have the right to regulate and supervise economic activities in the EEZ, including fishing and exploitation of other natural resources.

UNCLOS regulates the rights and obligations of states in times of conflict, including the right of hot pursuit of foreign vessels suspected of violating the law. In the context of the Gaza conflict and the Russia-Ukraine war, port attacks or blockades can have a significant impact on international trade and maritime security. Therefore, it is important to understand the

³⁰ Sarlini, Heti, Dewi Yanti, Serly Santika, and Jelita Silvia Hutabarat. “Militer Dan Politik Di Indonesia Dalam Konteks Ketegangan Maritim Di Laut China Selatan.” *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. June (2024): 124–30. [https://doi.org/https://doi.org/10.5281/zenodo.11418338](https://doi.org/10.5281/zenodo.11418338).

principles of the law of armed conflict and the applicable maritime insurance legal regime in such contexts.

The Black Sea Grain Initiative (BSGI) is a multilateral agreement signed by Ukraine, Russia, Turkey and the United Nations (UN) on July 22, 2022. The agreement aims to facilitate the export of grains and foodstuffs from Ukraine via the Black Sea, which was blocked due to the war between Russia and Ukraine.

BSGI can be categorized as an international agreement that has a mixed legal nature. It is not strictly a treaty, but rather a political agreement bound by the commitments of the parties. Although there is no clear legal framework like a treaty, BSGI has strong legal elements, such as, Political commitment: The parties have demonstrated strong political commitment to implementing the agreement, as evidenced by the signing of the agreement and the establishment of the Joint Coordination Center in Istanbul. Legal framework: The agreement has a clear legal framework, including provisions on shipping procedures, vessel inspections, and safety of navigation. Supervision and monitoring: The PKG acts as a supervisory and monitoring body for the implementation of the agreement, ensuring that the parties comply with the agreed terms.

In practice, the BSGI has demonstrated effectiveness in facilitating grain exports from Ukraine, despite some challenges and disputes arising during its implementation. Therefore, it is important to continue monitoring and evaluating the implementation of the BSGI to ensure that the agreement achieves its goal of promoting global food security.

The Black Sea countries, such as Ukraine, Russia, Romania, and Bulgaria have long dominated the international wheat trade, primarily through shipping, as delineated by the high volume of commercial vessels traffic at ports in the region. Ukraine is the leading wheat exporter among these countries, with 90% of its exports carried by sea. However, since the outbreak of the Russo-Ukrainian War in 2022, wheat exports from Ukraine have deranged due to damage to the country's essential ports.³¹

The outbreak of the war also caused a 28.4% decrease in vessel traffic in the Black Sea, including a 25% drop in goods trade and a 33% decline in exports.³² However, the inception of an initiative between Ukraine, Russia, and Turkey, with the UN as the intermediary, marked a partial settlement to ensure the smooth, peaceful, and secure trade of wheat in the region.³³

a. Shipping Issues

The situation in the Black Sea during the Russo-Ukrainian War mirrors that of the Red Sea during the Gaza conflict. The blockade of ports in the Black Sea has led to rocketed shipping costs, including fuel, shipping fees, vessel costs, and acclimations to profit margins.³⁴ This also caused shipment delays due to the detention of vessels in ports during the blockade,

³¹ Susanne Wengle, "Russia's War on Ukrainian Farms: The Black Sea Theater," *Russian Analytical Digest* 304 (2023): 7-11, <https://doi.org/10.3929/ethz-b-000643679>.

³² George -Cosmin Partene et al., "Analysis Of Maritime Container Traffic In The Ports Of The Black Sea Basin," accessed February 23, 2025, <https://icmie-faima-upb.ro>.

³³ Wengle, "Russia's War on Ukrainian Farms: The Black Sea Theater."

³⁴ Gabriel Fernandes, Pedro Teixeira, and Tiago A. Santos, "The Impact of the Ukraine Conflict in Internal and External Grain Transport Costs," *Transportation Research Interdisciplinary Perspectives* 19 (May 1, 2023), <https://doi.org/10.1016/j.trip.2023.100803>.

and resulted in a pileup of insurance premiums.³⁵ Many marine insurance companies remain ambivalent about covering shipping risks arising from the war. Many of them have explicitly rejected dispensing coverage for commercial vessels against war risks due to the uncertainty of the situation.

Protection and Indemnity Clubs (P&I Clubs) in the Black Sea region have made efforts to advance coverage for commercial vessels against damage, restraints, and other war-related risks. However, in the process, marine insurance companies have encountered obstacles in obtaining support and certainty from relevant stakeholders. Nevertheless, the BSGI has highlighted the importance of maritime security, foregrounding the need to amplify maritime security policies.

b. Mitigation Efforts

In response to the shipping issues arising from the outbreak of the Russo-Ukrainian War in 2022, shipping lines in the Black Sea set out to opt for using substitute ports. However, this effort did not settle the issues. Instead, it created new problems due to the incapacity of these ports in handling the large volume of vessels.³⁶

To date, such mitigation efforts, including shifting from sea transport to land transport (e.g. trains), have only increased costs and proven insufficient in the matter of export volume capacity, particularly in Ukraine's case. Thus, they accentuate that alternative solutions in regional conflicts provide only temporary relief. The best approach is to develop a strategic plan to alleviate the impacts and proselytize peace and security. This requires international cooperation and diplomatic efforts to ensure consistency.

3.2. The ISPS Code as an International Legal Framework in Securing International Trade through Maritime Amidst Regional Conflicts

The ISPS Code (International Ship and Port Facility Security Code) can be categorized as a hybrid legal instrument that has elements of both hard law and soft law.

1. Hard Law: The ISPS Code has elements of hard law as it is part of the International Convention for the Safety of Life at Sea (SOLAS) 1974, adopted by the International Maritime Organization (IMO). Countries that ratified SOLAS 1974 are required to implement the ISPS Code.
2. Soft Law: The ISPS Code also has soft law elements as it provides flexibility to governments and the maritime industry to implement security measures appropriate to their needs and circumstances.

Governments entering into contracts with private parties such as shipping companies and port authorities should consider the legal implications arising from the ISPS Code. Some of the legal implications to consider are:

1. Government Responsibilities: Governments have the responsibility to ensure that the ISPS Code is implemented effectively and that the security measures taken do not jeopardize the safety and security of ships and ports.

³⁵ Mariami Kakabadze, "The Black Sea Grain Initiative : Analysing the Emerging, The Black Sea Grain Initiative : Analysing the Emerging, Implementation and Challenges Implementation and Challenges," n.d., https://commons.wmu.se/all_dissertations.

³⁶ Andrej Dávid, Stanislav Blaško, and Peter Ficzere, "The Impact of the War in Ukraine on Inland Water Transport in the Danube Region," in *Transportation Research Procedia*, vol. 74 (Elsevier B.V., 2023), 188-93, <https://doi.org/10.1016/j.trpro.2023.11.129>.

2. Contracts with Private Parties: Governments should ensure that contracts with private parties such as shipping companies and port authorities contain clear provisions on the responsibilities and obligations of each party in implementing the ISPS Code.
3. Monitoring and Enforcement: Governments should have effective surveillance and enforcement mechanisms in place to ensure that the ISPS Code is implemented consistently and that violations are appropriately addressed.

In the context of the Gaza Conflict and the Russia-Ukraine War, governments should consider the legal implications arising from the ISPS Code in contracting with private parties. This can help ensure that security measures taken do not compromise the safety and security of ships and ports, and minimize the risk of loss and damage.

Some of the points that will be discussed by the author include:

- a. Main Elements of the ISPS Code

The ISPS Code was established based on IMO Resolution A.924(22), which was alluded to in the consideration section of the 2002 amendment of SOLAS 1974.³⁷ The 9/11 incident set in motion the formulation of the code, which raised concerns within IMO about the potential for further attacks in port areas that could jeopardize ship crews and passengers.³⁸

The code consists of two parts: Part A, which contains mandatory requirements, and Part B, which provides guidelines for implementing the requirements in Part A.³⁹ The scope of Part A focuses on functional requirements such as risk assessments, cooperation between contracting governments, communication protocols between ships and ports, entrance restrictions for ships and ports, and the prevention of felonious weapons and dubious equipment in ships and ports.⁴⁰ It also includes the accountability to develop security plans for ships and ports, as well as to provide training and drills for security personnel.⁴¹ Furthermore, Part A outlines three security levels: Level 1 for fundamental protective security measures, Level 2 for exalted protective measures, and Level 3 for impeccable protective and specific security measures.⁴²

³⁷ International Maritime Organization, "RESOLUTION MSC.153(78) (Adopted on 20 May 2004) Amendments To The International Convention For The Safety Of Life At Sea, 1974, AS AMENDED" (International Maritime Organization, 2004), [https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/MSCResolutions/MSC.153\(78\).pdf](https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/MSCResolutions/MSC.153(78).pdf).

³⁸ International Maritime Organization, "Resolution A.924(22) Adopted on 20 November 2001 Review Of Measures And Procedures To Prevent Acts Of Terrorism Which Threaten The Security Of Passengers And Crews And The Safety Of Ships" (International Maritime Organization, 2001), [https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.924\(22\).pdf](https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.924(22).pdf).

³⁹ Jao and Chuah, "Cyber and AI Security Challenges for LNG Maritime Transport and Terminals – Responses in Law and Standards."

⁴⁰ "Part A Mandatory Requirements Regarding the Provisions of Chapter XI-2 of the Annex to the International Convention for the Safety of Life At Sea, 1974, as Amended" (2004), https://www.classnk.or.jp/hp/pdf/activities/statutory/isps/code/ISPS_CodeA.pdf.

⁴¹ Part A Mandatory requirements regarding the provisions of chapter XI-2 of the Annex to the International convention for the Safety of life At Sea, 1974, as amended.

⁴² Part A Mandatory requirements regarding the provisions of chapter XI-2 of the Annex to the International convention for the Safety of life At Sea, 1974, as amended.

On the other hand, the scope of Part B mirrors that of Part A but proffers more detailed execution guidelines. For instance, it demarcates the requirements for hiring security personnels, which contracting governments are obligated to appraise under Part A.⁴³ The interrelations between IMO and contracting governments are outlined in the ISPS Code, which compels IMO to assess the content of the convention, including modifying it in situations where updating provisions is ineluctable.⁴⁴ Contracting governments, in return, are bound to implement the provisions of the convention fully, by developing domestic regulations, instructions, decrees, and other necessary expedients in maritime affairs.⁴⁵

In outline, the ISPS Code provides four main constituents: contracting governments, shipping companies, ports, and ships, while contracting governments playing the primary role in bearing responsibility under the code.⁴⁶ This includes overseeing ports in their territory and flag state vessels. They are obliged to set security levels and supervise related information for their flag state vessels, thus issuing the Ship Security Certificate (SSC) in regard to the compliance of shipping companies and their vessels with Part A of the ISPS Code.

On the other hand, as the second layer of the constituents of the code, shipping companies, ports, and ships, are obliged to implement Part A of the code, including developing and carrying out Port Facility Security Assessments (PFSA) by appointing Port Facility Security Officer (PFSO). Moreover, shipping companies and their vessels are required to ensure that the shipmaster is available to appoint the crew by having a designated Company Security Officer (CSO) and Ship Security Officer (SSO), who carry out the Ship Security Assessment (SSA), which is bound by the acceptance of the pertinent administration.

To understand the necessity of the contracting governments' role in the ISPS Code, the related technical implementation of the code relies on their responsibilities, including the imposition of port and ship security level, let alone developing, reviewing, and approving PFSA and SSA, and providing requirements for the appointment of PFSO and SSO. Therefore, contracting governments hold the responsibility of applying control and compliance measures under the code. Nevertheless, in practice, many of them exercise their responsibilities through a Recognized Security Organization (RSO), though contracting governments are still obliged to adopt a national series of measures for implementation.

Civilian ports and ships subject to the ISPS Code (International Ship and Port Facility Security Code) are still protected as civilian objects under the law of armed conflict. Although civilian ports and ships have security measures implemented through the ISPS Code, this does not automatically change their status as civilian objects.

Under the law of armed conflict, civilian objects, including civilian ports and ships, are protected from attack and unnecessary damage. Attacks on civilian objects can be considered

⁴³ "PART B Guidance Regarding the Provisions of Chapter XI-2 of the Annex to the International Convention for the Safety of Life at Sea, 1974 as Amended and Part A of This Code" (2004), https://www.classnk.or.jp/hp/pdf/activities/statutory/isps/code/ISPS_CodeB.pdf.

⁴⁴ Yvonne Baatz et al., *Maritime Law Fourth Edition*, ed. Yvonne Baatz (New York: Informa Law from Routledge, 2018).

⁴⁵ "International Convention For The Safety Of Life At Sea, 1974" (1974), <https://www.ifrc.org/docs/idrl/I456EN.pdf>.

⁴⁶ Stephen Girvin, "The Commercial Implications of the ISPS Code," n.d., <https://ssrn.com/abstract=3120940>.

a violation of international humanitarian law if there is no clear and proportionate military objective. Civilian ports and ships can lose protection as civilian objects if they are used for significant military purposes, such as:

1. Use for military purposes: If a civilian port or vessel is used for military purposes, such as as a military base or to transport military personnel or materiel.
2. Participation in hostile acts: If a civilian port or vessel directly participates in a hostile act, such as attacking opposing forces.

In cases where civilian ports or ships lose protection as civilian objects, they should still be treated with respect and should not be subjected to disproportionate or unnecessary attacks.

The application of the ISPS Code does not directly affect the status of civilian ports and vessels as civilian objects under the law of armed conflict. However, security measures implemented through the ISPS Code can help reduce the risk of attacks and damage to civilian ports and vessels. In the context of the Gaza conflict and the Russia-Ukraine war, it is important to ensure that civilian ports and vessels subject to the ISPS Code remain protected as civilian objects under the law of armed conflict. This can help reduce the risk of damage and ensure the security of international maritime trade.

b. ISPS Code in Practice: Implementation in High-Risk Areas

To date, the implementation of the ISPS Code has had a sanguine impact in depleting maritime threats in high-risk areas, such as the Horn Of Africa,⁴⁷ in which the danger of the region has shifted international attention to the growing insecurity of waters off West Africa,⁴⁸ as demonstrated by the fact that Nigeria, Benin, and Togo are some of the areas with greatest peril of piracy and armed robbery, despite ongoing challenges in fully implementing the code.

In Nigeria, the indecent implementation of the ISPS Code led the US authorities to issue a warning, instructing shipping lines conducting business in the US not to enter Nigerian ports unless the country fully complied with the code. However, over time, the implementation of the code in Nigeria has contributed to the increased effectiveness and efficiency of its ports, due to the establishment of new national standards that include the development of maritime infrastructure and technologies, such as ship surveillance, interagency communication systems, and augmented security drills for personnel, in consonance with the code's requirements.⁴⁹

Despite the improvements and positive impacts, maritime authorities in Nigeria continue to have perturbations about full compliance with the ISPS Code, as the cost of compliance remains a significant drawback. Moreover, the recent incidents in 2019, when armed robbers managed to enter various ports in Nigeria, highlighted the deficient

⁴⁷ "University Of Piraeus Department Of Maritime Studies Postgraduate Studies M.Sc. Course Shipping Management Challenges Of The Isps Code In The Global Security Domain Panagiotis Souliotis MND18039," 2019, https://dione.lib.unipi.gr/xmlui/bitstream/handle/unipi/12454/SOULIOTIS_18039.pdf?sequence=1&isAllowed=y.

⁴⁸ Anyimadu Adjoa, "Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean," July 2013, www.chathamhouse.org.

⁴⁹ Lazarus I Okoroji and Wilfred I Ukpere, "The Effectiveness of the International Ship and Port Facility Security Code (ISPS) in Nigeria," *Article in African Journal Of Business Management* 5, no. 4 (2011): 1426-30, <https://doi.org/10.5897/AJBM10.1474>.

responsiveness from the country's maritime authorities. This led the US to blacklist some of Nigeria's ports. Consequently, it has been put forward that stakeholders, through relevant institutions, develop the appropriate policies to address these challenges, such as taking on a sensible approach to implementation.

c. Challenges and Critiques of the ISPS Code

As previously explained, the implementation of the ISPS Code in high-risk areas continues to face difficulties. However, this does not mean that the code is without hurdles in low-risk areas. In fact, Sweden, where ports are not widely exposed to terrorism or similar threats as in high-risk areas,⁵⁰ assumes that the implementation of the ISPS Code generates a heavy cross to bear and disadvantages. This is evidenced by slower progress of ports, which are hindered by the layered checks required by the code's provisions, a twofold increase in administrative documents, and a surge in operational costs for both ships and ports.

Generally speaking, the ISPS Code still has chasms that can only be addressed through periodic cooperation in gauging its implementation, in order to sift the code and ensure it aligns with global dynamics.⁵¹ Currently, the majority of shipping actors comply with the ISPS Code mainly by completing checklists, without making worthwhile efforts to supervise or improve their security systems.⁵² This is because they view the code as merely a set of interfering rules, and its implementation as a checklist activity with momentary priority. As a result, they assert that compliance with the code is only necessary to perpetuate their presence in the maritime industry.

The ISPS Code purveys a framework that comprises clear-cut requirements, but it does not definitely comprehend detailed standards to complement these requirements. For instance, the obligation for ships and ports to develop security plans, recruit security personnel, and implement security measures do not come with specific guidelines, leaving contracting governments to elucidate and implement these requirements intrinsically. There are no mandatory standards for fundamental regards such as access control, perimeter security, electronic surveillance, touchstone of security personnel, or communication protocols. Moreover, the code does not provide mandatory merits for security drills.

The inadequacy of enforceability in Part B of the ISPS Code presents a consequential issue, despite the fact that this section sufficiently elaborates on and explains important points.⁵³ As a result, for example, in the case of shipboard security risk assessments, the non-mandatory nature of the code has led relevant institutions in many countries to develop their own approaches. For instance, the United States Coast Guard (USCG) develops maritime security assessments that are not associated with the ISPS Code, while organizations such as

⁵⁰ Arsham Mazaheri Navetti, "How the ISPS Code Affects the Port and Port Activities," January 2008, <https://www.researchgate.net/publication/205014756>.

⁵¹ Isabelle Meau, "THE ISPS Code and the Influence on Shipping" (Faculteit Rechtsgeleerdheid Universiteit Gent, 2009).

⁵² Rupert Herbert-Burns, Bateman Sam, and Peter Lehr, "Lloyd's MIU Handbook of Maritime Security" (Boca Raton, 2009), <https://www.defence.lk/upload/ebooks/Lloyd-s-MIU-Handbook-of-Maritime-Security.pdf>.

⁵³ Jens-Uwe Schröder-Hinrichs et al., "Potential Consequences of Imprecise Security Assessment Potential Consequences of Imprecise Security Assessments," 2006, <https://www.researchgate.net/publication/242211778>.

the Det Norske Veritas (DNV) and Germanischer Lloyd (GL) develop assessments that are forthwith related to the code. This contrariety creates incertitude for shipping companies and may potentially lead to disputes. In this regard, shipping actors require certitude, especially in maritime security matters that presuppose liabilities.

In practice, as technology has evolved and the use of drones has proliferated, IMO has been compelled to consider these developments, as they could pose emerging threats to maritime security. This has led to calls for IMO to work jointly with port authorities, shipping companies, drone producers, and technology corporations to develop new maritime security standards.⁵⁴ Many PFSO have insisted that the ISPS Code itself needs to be reviewed, given that there has never been a substantial revision addressing specific technologies, particularly remote airborne and underwater technology. As a result, they deduce that consultation with stakeholders and intensified cooperation between port authorities, shipping companies, and technology firms is necessary to urge an update to the ISPS Code.

On many occasions, IMO has addressed the challenges in implementing the ISPS Code, such as when it accorded that the code would also apply to non-SOLAS vessels. However, this decision has been censured, as IMO is seen as failing to sort out the root issues, particularly the need for mandatory guidelines, owing to the fact that such directives remain non-mandatory.

d. Implementation of the ISPS Code in the Black Sea during the Russia-Ukraine War

Apparently, no studies have been carried out regarding the impact of implementing the ISPS Code in regional conflicts, which is the aim of this paper. Therefore, the previous discussion on the implementation of the code in high-risk areas is of the utmost importance. However, since the primary intention of this paper is to draw comparisons to situations similar to the Gaza conflict, it is compelling to analyze the implementation of the ISPS Code in the Black Sea during the Russo-Ukrainian War.

Since the wheat trade in the Black Sea region is preeminent, as previously mentioned, Turkiye, Russia, and Ukraine initiated the Black Sea Grain Initiative Joint Coordination Centre (BSGI) to secure the shipping of wheat in the Black Sea, with mediation by the United Nations.⁵⁵ The ISPS Code served as a reference and foundation for this initiative, particularly Part A of the code, which is based on a provision stating that contracting governments can enter into multilateral agreements regarding the implementation of the code. This also includes a reference to Part B of the code, which empowers contracting governments to make discrete agreements on trade routes by dint of implementing Part A of the code.

The BSGI provides its own regulatory body, namely the Joint Cooperation Centre (JCC), which enforces stringent rules applied to vessels, along with general supervision conducted by representatives of the involved parties, consisting of one senior official and personnel, including inspection teams responsible for checking unauthorised vessels in the Black Sea.

⁵⁴ Aspasia Pastra et al., "BUGWRIGHT2 Remote Inspection Techniques in Medium and Small-Sized Scandinavian Ports," *Les Cahiers Scientifiques Du Transport - Scientific Papers in Transportation* 82 | 2024-Ports... (November 15, 2024), <https://doi.org/10.46298/cst.12547>.

⁵⁵ Raul Pedrozo, "Published by the Stockton Center for International Law The Black Sea Grain Initiative: Russia's Strategic Blunder or Diplomatic Coup? The Black Sea Grain Initiative: Russia's Strategic Blunder or Diplomatic Coup?" 421 (2023): 2023, <https://www.un.org/sg/en/content/sg/note-correspondents/2022-07-22/note-corre->.

Moreover, the initiative requires detailed vessel registration which shall be verified by the JCC, including rigorous authorisation of military vessels and unmanned aerial vehicles (UAV). In addressing the challenge of non-compliance, the BSGI includes a provision that obligates the involved parties to assist with security needs in an emergency situation upon JCC's request.

Challenges such as the increase in war risk insurance premiums and the hesitation of marine insurance companies to cover them have also been addressed. Under the definiteness of the BSGI operational procedures, along with intense participation of the UN, IMO, and private commercial firms, insurers are assured that sufficient coverage is available for operations in the Black Sea. This includes the role of the IMO in carrying out coordination between relevant stakeholders, which resulted in the drop of insurance premiums from 5% to 2%.

Predominantly, the BSGI has contributed to aggrandized maritime security in the Black Sea during the war. Technological threats and military issues have been addressed by the parties to the initiative, including endowing assistance to ship crews to ensure that maritime security is implemented under international maritime law. As a result, Ukraine managed to increase its wheat exports to 24.5 million tons in 2023, rebounding from a decline caused by hindered maritime operations due to the blockade by Russia.

Roughly 55% of developing countries expressed satisfaction with the increase in wheat exports from Ukraine. Moreover, around 1,600 commercial vessels have recommenced safe operations in the Black Sea. This success is propped up by the implementation of Level 3 security measures under the ISPS Code, with routine inspections carried out in the Turkish Inspection Area. In addition to the maritime security cooperation established through the BSGI, a new trade corridor was introduced, involving Romania, Bulgaria, and Turkey. This initiative has led to an increase in shipping volumes in the Black Sea and contributed to the development of secondary ports in Ukraine.

The contribution of flag states and shipping companies are two essential factors in the revival of maritime trade in the Black Sea. This is because the flag states' attempts to enhance regulations on vessel registration, along with the versatile and amenable actions of shipping companies, have played an epoch-making role in restoring the supply-chain in the conflict region.

The Joint Coordination Center (JCC) established within the framework of the Black Sea Grain Initiative has a unique legal status under international law. It is important to know about the legal status of the JCC. The JCC can be considered as a coordinative body established by agreement between Ukraine, Russia, Turkey and the United Nations (UN). The legal status of the JCC can be seen from several aspects:

- a. International Agreement: The JCC was established based on an international agreement between Ukraine, Russia, Turkey, and the UN, which provides a legal basis for its operation.
- b. Mandate: The JCC has a clear mandate to facilitate the export of grain and foodstuffs from Ukraine via the Black Sea, which provides a legal framework for its activities.
- c. Oversight and Coordination: The JCC serves as a coordinating and oversight body, ensuring that grain and food exports from Ukraine are conducted safely and effectively.

The legal status of the JCC has significant legal implications, including:

- a. International Responsibilities: The JCC has an international responsibility to carry out its mandate and ensure that grain and food exports from Ukraine are carried out safely and effectively.
- b. International Cooperation: The JCC facilitates international cooperation between Ukraine, Russia, Turkey and the UN, which can help improve security and stability in the region.
- c. Monitoring and Enforcement: The JCC has an important role in the monitoring and enforcement of international agreements, which can help ensure that parties comply with the agreed terms.

In the context of international law, the JCC can be considered a coordinating body that has a unique legal status and plays an important role in facilitating grain and food exports from Ukraine.

e. Implementation of the ISPS Code in the Red Sea during the Gaza Conflict

To date, unequivocal implementation of the ISPS Code in the Red Sea during the Gaza conflict has been evidenced only by the exertions of flag states through their maritime administrations. Woefully, collective endeavors, such as those seen in the Black Sea during the Russo-Ukrainian War, have only been implicitly represented by the work of the Djibouti Code of Conduct (DCoC), which facilitated cooperation involving foremost countries in the Gaza conflict area, such as Egypt, Jordan, and Yemen, with assistance from the IMO's Secretary-General. The ISPS Code in the cooperation is referenced to address maritime threats capacity building and its implementation.

Compared to the maritime security efforts in the Black Sea during the Russo-Ukrainian War, the Gaza conflict does not pertain to cooperation between countries within the conflict area, but rather between foreign countries. This is evident in the undiluted and overt act of defense taken by the Western coalition, including the US, Canada, France, Italy, Netherlands, Norway, and Spain, which have cooperatively implemented maritime security strategies in the Red Sea to enhance regional stability and secure trade routes. However, the presence of military forces, particularly from formidable countries like the US, has not been ample to resolve the maritime threats in the Gaza conflict area, where the situation continues to wither.⁵⁶ While the steps taken by the US and its allies remain salient, they would be inferior to achieve maritime stability in the Gaza conflict area due to the truancy of effective involvement from the countries in the Horn of Africa, a vital territory. Without their contribution, these efforts could merely widen the scope of the conflict by reason of the prominent role of the "West". In contrast, Israel, a vital state in the conflict area, has made efforts to maintain its maritime resilience.⁵⁷ This is possible because Israel optimizes its role under the ISPS Code in which its obliged to ensure maritime security at the national level, notably by providing compensation

⁵⁶ Barkhad Kaariye, "The Consequence Of-Involvement by Horn of Africa Countries on Houthi Attacks," Red Sea Maritime Security and Development Journal 1, no. 1 (October 2024): 1, www.abaarsotechuniversity.org.

⁵⁷ Nadav Goldenberg, Head of Marine and Aviation, and Phoenix Insurance Company Ltd., "Ensuring Maritime Security in Israel," *International Union of Marine Insurance*, September 15, 2024, <https://iumi.com/newsletter-september-2024/ensuring-maritime-security-in-israel/>.

for both Israeli and foreign vessels in Israel's economic waters through operational security and financial protection.

On the other hand, Yemen, as the pivotal state after the Houthi attacks, has tried to carry out the implementation of the ISPS Code with assistance from IMO, as evidenced by IMO's contribution in strengthening drills for port security personnel in the Gulf of Aden, under the provisions of the ISPS Code, as part of a regional maritime security program funded by the European Union (EU), in support of Djibouti, Ethiopia, Somalia, and Sudan.⁵⁸ However, the reluctance of merchant vessels around the world to sail back to the Red Sea shows that the highest responsibility given to coastal states to exercise control and amplify international cooperation of maritime security under the SOLAS 1974 and the ISPS Code has not been demonstrated, as shipping lines have preferred to wait for a prolonged period of stability, concerned for the safety and security of their crew and ship, despite the recent ceasefire in Gaza.⁵⁹

The shipping industry views the maritime security matters in the Red Sea as emerging from a rift between commercial shipping and navies, making it strenuous for the industry to conduct self-determining decisions in regard to intricate and dynamic regional security issues.⁶⁰ This has also led many shipowners in the Red Sea to prolong sustained vigilance, inducing significant costs for obtaining defensive equipment.⁶¹ Consequently, most shipping companies decide to hire private armed guards.⁶² The shipping industry thus looks forward to states to take punctual action to safeguard the maritime industry, rather than solely promulgating condemnations.

4. Conclusions

The ISPS Code and regional conflicts like the Gaza conflict are interrelated, as the code was established to address the needs of ships, ports, and shipping actors in dealing with maritime security threats. However, as previously discussed, the ISPS Code has restraints in its practical implementation, such as lack of enforceability and its inability to address the rapid development of technology, as seen in its operation in high-risk areas. During the Russo-Ukrainian War in the Black Sea, which shares similar maritime challenges with the Gaza

⁵⁸ International Maritime Organization, "Yemen Bolsters Port Security Capacity amid Ongoing Maritime Threats," International Maritime Organization, January 23, 2025, <https://www.imo.org/en/mediacentre/Pages/WhatsNew-2215.aspx>.

⁵⁹ Gokcay Balci, "Red Sea Crisis: Supply Chain Issues Set to Continue despite Gaza Ceasefire," The Conversation, January 31, 2025, <https://theconversation.com/red-sea-crisis-supply-chain-issues-set-to-continue-despite-gaza-ceasefire-248469>.

⁶⁰ Combined Maritime Forces, "Joint Maritime Information Center Meets with Cruise Ship Industry Officials to Discuss Red Sea Security," Combined Maritime Forces, February 26, 2025, <https://combinedmaritimeforces.com/2025/02/26/joint-maritime-information-center-meets-with-cruise-ship-industry-officials-to-discuss-red-sea-security/>.

⁶¹ Maritime News Daily Digest, "Red Sea's Ghost Fleet: The New Maritime Threat Reshaping Global Trade," Maritime Tales & Cutting Edge Sails, November 19, 2024, <https://sailorsspeaks.com/2024/11/19/the-evolving-maritime-security-landscapeusv-attacks-and-piracy-in-the-red-sea/>.

⁶² Declan Bush, "Red Sea Crisis Renews Interest in Armed Guards But a Somali-Style Boom Is Wide of the Mark for a Shrunken Industry," Lloyd's List, January 12, 2024, <https://www.lloydslist.com/LL1147920/RED-SEA-CRISIS-RENEWS-INTEREST-IN-ARMED-GUARDS>.

conflict, the ISPS Code played a pivotal function within the Black Sea Grain Initiative (BSGI), a maritime security initiative that furthered the recovery of maritime trade in the region. Despite the ISPS Code's limitations, it has proven to be a reliable foundation for this initiative, which successfully restored the situation to pre-conflict levels. Therefore, although the ISPS Code remains unstreamlined in addressing various maritime security threats, it is expected that the code could be relied upon.

The ISPS Code mandates contracting governments to implement its provisions, especially by fostering cooperation between countries and shipping actors, and by developing formal maritime security policies. The absence of cooperation between countries in the Horn of Africa underlines a gap in the efficacious implementation of the ISPS Code in the Gaza conflict area. If these countries acknowledge the urgency of bringing the maritime situation in the conflict area back to normal, they can pick up lessons from the strong international cooperation conducted in the Black Sea. Shipping actors, in the interim, must manage to enhance maritime security individually. By referring to the Best Management Practices to Deter Piracy and Enhance Maritime Security (BMP), shipping actors can enhance their maritime security individually. These guidelines, developed by a joint of international shipping organizations, undertake behavioral changes rather than high-cost implementation. This could facilitate smaller vessels with meager capitals to enhance their maritime security without having to meet high-cost implementation. The ISPS Code should be utilized to promote such applications, ensuring behavioral changes become mandatory rather than voluntary, as non-mandatory measures often miscarry full compliance, as evidenced by the lack of implementation of the ISPS Code in Sweden. Altering to mandatory compliance would address such gaps and fend off situations where shipping actors set aside security measures. Following the Houthis' attack on commercial vessels, shipping lines should improve the stipulations for their ship security personnel, primarily by enhancing drills and training. Since the ISPS Code lacks specific and mandatory qualifications for security drills, this can be addressed by two initiatives: international efforts to revise and/or update the code, and endeavors by shipping actors to develop their own training schemes. These measures would assist in creating a sturdy and proactive approach to maritime security in the Gaza conflict region. The use of drones by the Houthis also highlights the urgency of developing advanced technology provisions in maritime security. As the ISPS Code does not sufficiently address technological advancements, the IMO's role remains pivotal. Contracting governments, in cooperation with shipping actors, can uphold an improvement of the ISPS Code to pay attention to technological innovations and threats such as drones. This would ensure that the code remains pertinent in contemporary security contexts.

In the lack of joint security efforts in the Gaza conflict area, shipping lines decide to use private armed security, especially if they engage in using the Red Sea route for economic reasons. Hence, IMO should consider reform Part B of the ISPS Code to make provisions for armed personnel on ships mandatory, rather than voluntary. The current voluntary framework sets out the stakeholders to responsibly develop detailed drills for armed personnel, while coherent, mandatory provisions would provide effective compliance and a structured cost of application. Predominantly, to maximize the ISPS Code's role in addressing maritime security issues in regional conflicts like the Gaza conflict, the key should be a shift

from a voluntary to a fully mandatory regime. This would fortify shipping actors in implementing maritime security measures with conscientiousness, knowing that it is indispensable to comply with specific and congruous measures. For instance, shipping lines could feel assured in using the Red Sea route if the ISPS Code's improved provisions are applied and incorporated into contractual terms. A similar shift was attained with the amendment of MARPOL Annex VI, where the use of the term "should" was changed to "shall" to optimize ships' pollution prevention. This precedent denotes that a transformation from voluntary to mandatory provisions is feasible and can be a course of action toward ensuring more appropriate maritime security in regional conflicts, such as the Gaza conflict.

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