

## The Road Ahead in the War against Maritime Terrorism

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**Abstract** :Maritime terrorism is here to stay and rather ironically, the jurisprudential regime<sup>ii</sup> at the International Level is effete to state the least. The causative factors, vis a vis, maritime terrorism, are relatable to political and/or ideological moorings that are geared to cause destruction at sea. Since 9/11 there has been a plethora of terror attacks that are land-based, and Europe, Asia and India in particular has been at the receiving end. From London to Kashmir, and from Mumbai to Manila, terror acts have been eventuated on by rabid ideological outfits and as a matter of detail, in matters to do with the Mumbai attacks, the sea was used to carry the bombs et al, from Pakistan, and thereafter prime targets in Mumbai were attacked. Nonetheless, insightful research points to the fact that rabid ideological outfits look at cheap and easier ways to carry out mass destruction and with reference to the seas, this research initiative, which serves as a bedrock with reference to writing this Article has clearly deciphered that the deep-sea rigs would become the prime targets in the near future due to the relatively low costs at which the attacks can be eventuated on in order to ensure that humungous destruction can be perpetuated on the planet, people and profits. The study reveals that there is a lack of an apposite maritime security strategy, across geographies and with the UNCLOS stipulations being effete, unpoliced maritime waters are a stark raving reality. As an addendum, the rather poor coordination between the various enforcement agencies make the realms of dee-sea rigging particularly vulnerable to maritime terrorism. The authors of this research initiative earnestly believe that the contents of this Article would serve to forewarn the comity of nations in matters to do with ensuring that proper and appropriate safeguard measures need to be in place, even though it would mean and denote, that much financial investment and political will would be required to eventuate the aforementioned into reality. The UNCLOS, the IMO Et Al must be made to do the needful. Period.

### Objectives

This Article, quintessentially, aims to highlight various extant lacunae, in terms of security lapses and the effete jurisprudence in all things to do with deep-sea rigging and whilst doing so, the vulnerabilities are showcased

*even whilst making a case in point that a pragmatic and highly workable solution is the need of the hour. The future of the fragile maritime ecological systems are at stake and this research initiative cogitates on the legal rubric by which the planet can be saved and given that rabid ideological outfits are ever eager to perpetuate horrendous maritime disasters, of the kind enunciated in the Article, unless the UNCLOS and the IMO get to work diligently in certain seminal matter on an urgent basis, the maritime terrorists could end up being one up in the game.*

**Key Words:** *Maritime Terrorism, Deep—Sea Rigs, International Treaty Regime, United Nations Organization Et Al, One Ocean Concept, Binding and Registrable Agreement.*

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## I. Introduction

Given the contumacy and calumny that pervades geopolitics and geo-economics today, even a 101 study in matters to do with terrorism per se, it would become very obvious that the maritime verticals are ‘sitting ducks’ for rabid ideological outfits to unleash their vileness. As a natural corollary, the realms of Maritime Terrorism, provide for multitude opportunities to eventuate on grand-scale destruction, and for sure, the future isn’t what it used to be as the realms of deep-sea rigging could be used to devastate the planet, people and profits. Given that over 70 % of the planet comprises of the oceans and seas and that they are interconnected, the situation is indeed alarming to state the least. Hence, there is an urgent necessity to ensure that the United Nations Organization and its specialized affiliates do something concrete to thwart the vilest menace of Maritime Terrorism. Violence at sea could assume many forms but indubitably, the blowing up of oil rigs would be the vilest of it all as it can create humungous damages. Thus, the topic was narrowed down to examining seminal issues that would emerge by the blowing up of deep-sea rigs, given that in the aftermath of 9/11, suicide bombing had become a stark raving reality. The aforementioned, clearly pointed to the fact that the traditional concepts of law enforcement would be effete. When a suicide bomber who is adept at diving and using sophisticated maritime equipment, dies whilst doing his or her work, the traditional concepts of law would be effete to handle the situation. Mere criminal proceedings would not deter any Rabid Ideological Outfit from planning and eventuating on the devastation of maritime assets and it is quite obvious that catching the purveyors of hatred would be an extremely difficult proposition. Hence, it is of pivotal signification to ensure that Maritime Terrorism is prevented forthwith. In our humble opinion, there has not been one significant work thus far in matters to do with safeguarding deep-sea rigs in the way in which the issue needs to be addressed, and this singular fact had increased our commitment manifold towards researching the topic threadbare; it ebbed out of our passion to save the fragile marine ecological systems. As we went through our research for this initiative, it became very obvious to us that there hardly exists any awareness at all about Maritime Terrorism despite the fact that there is hardcore evidence to believe that the blowing up of deep-sea rigs would be a fait accompli sometime in the near future. In fact, we did cogitate a lot in matters to do about the lack of awareness and whether it was reflected in the maritime security regulations scheme of things. Are there enough safeguards with respect to preventing Maritime Terrorism? We did ask ourselves this question several times and after we went through a decisive research exercise, in the matter, we were bewildered to find that we had more and more queries on the subject than answers, so much so, that we decided to work astutely on the subject.

### 1.01 An Overview

Given that the title of the Article is ‘THE ROAD AHEAD IN THE WAR AGAINST MARITIME TERRORISM’, the research-initiative is all about ideating in matters centric the plausibility ... and the issues that would have to be dealt with in the aftermath of an act of maritime terrorism. The hypothetical exemplar used to hone in on seminal issues is centered on a BP type fiasco (Deepwater Horizon) in the Gulf of Mexico being eventuated on by a rabid ideological outfit and extant jurisprudential complexities and intricacies have been highlighted, as it is - a seminal overview of the complexities and intricacies that plague the arena and the Semantic Jurisprudence has been dealt with and it has been articulated that despite some efforts by the UNCLOS, the IMO Et Al, , the confoundment in actuality, should make any researcher question the judicial verve and functional alacrity of the present mechanisms to appositely handle core issues of security. As a matter of detail, Grave Security issues with respect to safety zones and the ironical legalese, as it exists today have been highlighted even whilst, the emphasis has been on establishing the present quandary.

It would be apt to point out at this juncture that rather poignantly many of the present-day scholars who have penned a number of ‘articles in leading journals’ on maritime terrorism haven’t got their ABCs alright. As an indicative archetype that is emblematic of ‘many leading journal articles’ in the realms of maritime terrorism, most of the authors have missed the woods for the trees in that they have completely ignored the one-ocean concept. Any destruction would majorly have an adversative effect as an act of maritime terrorism would

simply damage the planet. The possible destruction of the fragile marine ecological system is that which has to be stymied ... and when deep sea rigs are blown up by rabid ideological groups, humungous damage is caused to the marine environment. 'Small areas' like the EAC region have been the focus of many of these scholars, as they study acts of maritime terrorism, and by doing so, they do not realize that a part does not rank much below in order of importance and signification when compared to the whole due to the interconnectedness of the oceans per se ... and quintessentially, what is at stake are the fragile marine ecological systems. In fact, missing the woods for the trees has become the norm with most scholars unnuanced in the elemental aspects of interconnectivity, as they have been oblivious to the one ocean concept, and when a heinous act like that of blowing up a deep-sea rig is eventuated on, the immediate impact will be in the vicinity but over a period of time, the hazardous substances and chemicals can find their way thousands of miles away, thanks to the interconnectivity of the oceans. Various scientific studies have pointed to the fact that the fragile marine ecological systems would literally take billions of years to get restored and a mad act of a rabid ideological outfit, eventuated at a very low cost, could in effect be causative of horrendous ecological damages. Ironically, whilst the authors who focus on particular regions like the EAC believe that their articles are wake up calls, the reality is that they ought to be woken up from their deep slumber and made to realize the importance and signification of the one ocean concept. In fact, they have to come to terms with the fact and the dire requirement of the hour in that the Maritime Domain Awareness Program would be an effete exercise unless the domain upholds the one ocean concept.

And finally, the Legal Prescriptions for Facing the future have been articulated in the form and content of a Binding & Registrable Agreement.

#### 1.02 A survey

Any exercise in juxtaposition, as between land-based and maritime terrorism, would in certitude, provide for an insight withreference to the heightened possibilities of rabid ideological outfits eventuating on maritime terror and the reasons are centered on their new-found realization that they can carry out maritime attacks with relative ease. Many research reports point to the fact that the United States is the much fancied destination of the rabid ideological outfits to target their ire, and in the aftermath of the September Eleventh, the United States has bolstered its land based security apparatus to such an extent that it has become an almost impossible proposition to mount a land-based attack; as a natural corollary, the vastness of the oceans and seas would seem to be an 'attractive proposition', given the severe lacunae in the jurisprudence governing, safety zones et al, and the complexities of the extant laws; contemporary and future acts of maritime terrorism can severely cause ecological destruction, apart from effectuating huge losses to corporations and governments even whilst, vilely causing the death of many. Whilst this article pays seminal cognizance to the triple P destruction that would be caused by an act of maritime (seabed) terrorism, the emphasis would, be pronounced on showcasing ecological issues. The fact of the matter is that many of the rabid ideological outfits have developed core competencies in destroying assets in the maritime verticals and unless security issues and the laws are made robust, unimaginable losses would soon become a reality, and given the vast oceans and the innumerable offshore oil and gas E & P initiatives, it is high time that the UNCLOS & the IMO took notice of the same and do what is elementally required of them. In particular, an enunciation and an explication of maritime terrorism would inherently and integrally involve calculated violence, unlawful detention and depredation of a horrendous and vile kind, involving the maritime verticals. The intention of it being to foster the enhancement of vile political and ideologically ill-fated ends, and in effect, whilst there have been a multitude of opinions as to what in reality constitutes political-ends, the overall consensus seems to be harping on a study of what constitutes illegal political gains (acts of terrorism). Nonetheless, as maritime terrorists have doubled as mercenaries and have worked for groups actively engaged in acts of illegal economic activity to bolster their acts of maritime terror, a definitional perspective could get complicated to that extent. Jurisprudentially, universal jurisdiction is conferred for acts of maritime terrorism, as maritime terrorism is being increasingly connoted, as a universal menace, by courts across jurisdictions and geographies. A groundswell of well researched legal opinion and a plethora of treaties of rather recent vintage have, all seminally, articulated on the need to treat these reprehensible acts, as acts against the letter and the spirit of the UN Charter, and as a natural and logical upshot, they have all been geared to advocate on the need to enforce the universal-jurisdiction premise. Several treaties, with global ramifications, have been tailored made to combat the menace of maritime terrorism, and as a matter of much scholastic interest, ingenious legal justification and innovative jurisprudential systems have been evolved to provide for international jurisdiction with reference to acts of maritime terror committed on high-seas. The recent origins of the treaties together with common law pronouncements of recent vintage have sometimes created conflict of laws and it has led sometimes to stupefaction in so far as jurisdiction issues are concerned. The elemental query that needs to be addressed, in no

uncertain terms, rests clearly on tackling the issue as to whether international treaties provide for a foundational perspective with respect to high-seas jurisdiction, and as a logical upshot, whether claims based on torts against third party defendants would be on a sound footing? The colossal vileness, with which, the aggrandizement perpetuates into heinous reality, against any maritime asset is the defining hallmark of maritime terror, and whether it is a motivated attack against a port or the destruction of an offshore rig or the destroying of a military-maritime asset, every aspect of the maritime zone that falls prey to villainous motivated attacks, to achieve some political and ideologically ill-fated end, comes under the rubric of Maritime Terrorism. Pragmatically, the phraseology Maritime Terrorism simply denotes the ushering in of unwarranted force and the perpetuation of heinous violence against innocent victims/targets in a highly unprovoked manner, in the maritime realms. The victims/targets can range from offshore rigs to various other maritime assets and passengers and/or technical personnel and crew members and the overriding intention of the unprovoked attack is to achieve, some (vile ideation) vainglorious and nefarious political ends or to drive home the dastardly nuances of some rabid ideological outfits. The entire gamut of marine logistics would come under the purview of maritime terrorism and the bottom-line of terror groups would always be centric to fostering reprehensible ideological and/or vile political ends via the rubric of effectuating attacks on strategic assets, both onshore and offshore. Perhaps, it is time for the United Nations Organization to usher in a seminal piece of regulation in the form and content of a Binding and Registrable Agreement that would incorporate the elemental nuances of the treaty-regime, and thereafter, formalist approaches of the judiciary could pave the way for meaningful outcomes in these rabidly extraordinary times. Maritime Terrorism, as the name suggests, is the arena at the intersection of the marine and terror worlds, and in effect, it is, by definition, a vile and causative act that devastates the planet, people and profits. The effectual analysis of legal responsibilities associated with maritime terror attacks would require the deployment of sagacious techniques that would plan, organize, direct, coordinate and report on the vital and pivotal legal issues involved in the identification of the defendants, the explication of the nature of the injuries, the devastation caused in definitive terms, zeroing in on the plaintiffs and the gamut of their likely claims, and most importantly, the jurisprudential basis on which an exercise in rational exuberance can be gone through with reference to firmly establishing the grounds on which suits may be instituted. The keystone premise being that the main protagonists who play the role of plaintiffs in such gory scenarios like that of maritime terror attacks would be those directly harmed – the planet to the extent the environment is destroyed, people to the extent to which they are killed or maimed and property to the extent to which they are damaged or destroyed. The contumaciousness, calumny and confusion would metamorphose into matter-of-fact difficulties with reference to identifying and closing in on potential defendants and as the goriness of maritime terror is intrinsically unplumbed at the present time, the jurisprudential road ahead to face uncertain times would need to be perceptive and perspicacious, and in the highest and best interests of the various stakeholders. The issue of third-party liability is compounded by the fact that in establishing a causal connection that is legally actionable, it would, by definition, have to be set on the bedrock of the tenets of adjectival law as well. Thus, an omnibus Binding and Registrable Agreement under the aegis of the UN Treaty Series would be apposite to fight the menace of maritime terror.

## **II. Maritime Terrorism in Context**

The recent capture of global terrorist Abd al-Rahim al-Nashiri, one of the strategists of the Al Qaeda's nautical strategy, simply revealed that the Rabid Ideological Outfit has invested heavily in training deep sea divers, so as to ensure that a plethora of under-water gadgets – submersibles, motor-propelled sleds et al – and human torpedoes are available to strike under-water targets, and with reference to the same, deep-sea rigs would assume prime signification for given the low costs involved in effectuating the destruction, maximum devastation could ensue to the planet, people and profits.

Fundamentally, the very basis of this Article would require an appropriate definition of what constitutes 'Maritime Terrorism.' Given that providing for a definitional perspective even with regard to 'Terrorism' has always been a highly contumacious and complicated issue, 9/11 has in actuality made the debate more acerbic and venomous, and as such it ought to be recognized that the definition always comes with a problem. Who brings forth the definition makes all the difference – nonetheless, after some painstaking work, we would like to proffer a definitional perspective in the next paragraph. The other issue of signification, vis a vis, Maritime Terrorism, is the one posed by the differentiating factor in that there has to be a distinct difference made out as between Maritime Terrorism and Piracy. Both are in effect examples of "Violence at Sea," but they are vastly different in terms of devastation of the fragile marine ecological systems, and as such, the devastation caused by the blowing up of a deep-sea rig in International Waters could result in humungous damages to marine ecology. Piracy, relatively speaking, is a much lesser crime than Maritime Terrorism and it is almost akin to comparing a petty thief with Nuclear Saboteur.

The somber irony with reference to providing for a definitional perspective in matters to do with Terrorism per se is that even a bystander can lucidly articulate on what constitutes terrorism when he sees it, but

when it comes to the experts, they have grave difficulties apropos getting to agree on a common definition. When the Permanent Members of the United Nations Security Council and the members of the G 8 have professed an almost identical definition, the vast majority of Third World countries decried the same and in fact they wanted the definitional perspective to be inclusive of a category called freedom-fighters. The Permanent Members and the G 8 insensitively dubbed it as the ‘so called freedom-fighters’ leading to much concertation amongst the Third World countries. When nations or groups struggle for the legitimate realization of their aspirations with reference to self-determination, it certainly should be seen as an exercise of their fundamental rights centric to self-governance or independence and not in any other way. The comity of nations would have to recognize that ‘One man’s freedom-fighter is another man’s “terrorist” and it has to be recognized by the comity of nations that such grave issues have to be handled with equanimity and a sense of bipartisanship. The situation can get to be polemic and problematical when nations become insensitive to the concept of a peaceful global order. In the world of Corporate Governance, the credo these days, since the crash of circa 2008, has been to cooperate with the competition – co-optation as it is called and a similar mentality amongst all the members of the United Nations alone would provide for an egalitarian order. If the aforementioned is ignored, in the days to come, we will see a terribly acerbic order – one that will be more conducive for eventuating on war than enabling a peaceful order. A half-hearted stance has been taken by member states of the United Nations and in effect, it meant that a few conventions were drawn up and as a logical upshot, certain acts were clearly proscribed. Whilst terrorism is one of them, we still have to face gray areas with regards to its definition! Additionally, the glaring lacuna was that the conventions did not result in Binding and Registrable Agreements. In fact, a plethora of UN treaties, many of them non-binding instruments, have been signed which clearly delineate on terrorism, but the delineation is with specific reference, and up and until now, there is just no consensus ad idem in matters to do with evolving an acceptable definition of terrorism. As a matter of detail, a handful of treaties are de facto enforceable and they are the ones centric to hijacking and hostage taking. It is indeed sad that the United Nations has neither the gumption nor the spine to enunciate on an acceptable definition and the reason is simple – many skeletons will fall from the cupboards of the permanent members! Not providing for a proper definitional perspective just means one thing - a major hindrance has been created with reference to evolving countermeasure operations against terrorism per se. The United Nations had to only look into its precursor, the League of Nations, which enunciated of a definition of terrorism. And whilst critics may always find fault, in our humble opinion, it is indeed a good starting point on which a holistic definition could have been built upon. Instead, the effete ways that characterize the functionality of the United Nations have resulted in circularity in all things to do with defining terrorism and very often, in a plethora of United Nations documents convolutedness has ensued. In fact, the United Nations can learn from the United States in that the FBI has taken a leaf out the book of the League of Nations in that it describes terrorism as “the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.” In fact, most occidental authors and ‘scholars’ tend to resort to this definition as it emanated from the FBI, and justify it on various grounds with the main point being that the definitional perspective encompasses attacks against both civilian and state targets. They do not understand that the term ‘unlawful’ that has been used at the very beginning of the definition is both polemical and problematical as it is not inclusive of terrorist acts that can be justified. When justification becomes a part of the definitional perspective, it tends to be out-of-context, as the word is used primarily as the *raison d’etre* of an event and in effect it does not need to be part of the definition of the event per se. Such usage could have multiple meanings depending on who uses the same. As an addendum, only political and social causes restrict its meaning and very often, terrorists are groups of rabid ideological outfits that have their genesis in misinterpreted theological undertows. As a matter of detail, 9/11 was perpetuated by a Rabid Ideological Outfit and perhaps, it also had the tacit connivance of certain rogue states and hence, it would be wise for the United Nations Organization to adopt a definition akin to the one penned as follows: “terrorism is the calculated use of force and the perpetuating of violent acts against the planet, people and profits in order to intimidate or coerce any government, the populace, or any segment thereof in furtherance of political, social, ideological or theological aims and objectives.” Subsuming the aforementioned definition to meet the needs of the realms of Maritime Terrorism, it would simply denote that the definitional perspective simply places much prominence on the fact that an act of terrorism indeed goes far beyond the immediate act of attacking deep-sea rigs et al, namely, the maritime targets, and that the objectives are far more than just economic – in effect, devastating the planet and murdering people are the two other facets that would assume greater signification, and considering the fact that once the fragile marine ecological systems are devastated, it would take billions of years to reconstitute, a singularly vile act of an rabid ideological outfit would simply devastate the planet like nothing else. For the purposes of this Article, we would be using the definitional perspective as aforementioned.

The realms of Maritime Terrorism, as a logical upshot of the aforementioned, have not been defined as yet, and despite the UNCLOS and the IMO having several conventions, nothing substantial has emerged, and given the characterization of the aforementioned dispensations, nothing noteworthy will emerge as well as by a

somber irony of fate, they have not been sensitive to the need to rivet Binding and Registrable Agreements. Despite the aforementioned, academicians have indulged in exercises of irrational exuberance by choosing to highlight Article 3 of the SUA convention and even a plain reading of the article is suggestive of its non-exhaustive nature. All Article 3 contains are issues to do with certain offenses against maritime navigation and to extrapolate such a non-exhaustive articulation and make it out to be a definitional perspective apropos Maritime Terrorism Per Se is indeed a figment of their imagination and considering the fact that even Ivy League scholars have indulged in such ill-thought off exercises, it actually raises more questions than answers! Article 3, for the record, shies away from even using the word “terrorism” and how these ‘scholars’ managed to read the word in the Article simply points to the falling standards of research, even at Ivy League Schools. In our considered opinion, a mere itemization of cognizable offences, would lead no one anywhere in matters to do with providing for a comprehensive definitional perspective, because in the absence of lucidly delineating on the intention per se, the cognizable offenses relatable to Maritime Terrorism Per Se, can hardly be explicated on. Intention, and for that matter, even a word of much lesser connotation, namely that of motivation, does not find any mention whatsoever in the language of Article 3 of SUA! Another definitional perspective, with reference to Maritime Terrorism, that is quite popular, amongst numerous scholars is as follows: “the undertaking of terrorist acts and activities (1) within the maritime environment, (2) using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel, (3) against coastal facilities or settlements, including tourist resorts, port areas and port towns or cities.” The irony of this definition is that it is reflective of circularity and other definitional perspectives have been dubbed as ‘violence at sea’ in the territorial waters of a state or violence effectuated on against maritime assets by international organizations, non-state actors or rogue states for the purposes of fostering their vile ideation centric to achieving nefarious political ends, driving home the dastardly nuances of their ideologies or for simply making known to mankind at large that their ‘religious predilections’ are the first amongst theologies. Maritime Terrorism is for sure not the bastion of non-state actors for a plethora or rogue states are heavily involved, either directly or indirectly, and this Article pays cognizance to the aforementioned in no uncertain terms. The definitional perspective that we would like to uphold is as follows: “ the threat and/or the use of force, in order to destruct the maritime realms, and the vileness, as mentioned above, can be used to devastate a plethora of assets ranging from ports, wharf, vessels, cargoes, mainly in the territorial waters of a state, and/or it could be directed at maiming of murdering crew, passengers, et al, or in its vilest form, it could be used in a specific and scientific way to devastate the fragile marine ecological systems by destructing offshore drilling units and deep-sea rigging installations.” In short, it would denote, destruction to profits, people and in its extreme avatar, the planet itself. This Article is primarily meant to deal with the third case scenario involving the destruction of the fragile marine ecological systems via blowing offshore drilling units and deep-sea installations.

Given that the title of the Article is ‘THE ROAD AHEAD IN THE WAR AGAINST MARITIME TERRORISM.’ the Article is about the extant and effete legalese in all things to do with safeguarding deep-sea installations. The hypothetical exemplar used to hone in on seminal issues is centered on a BP type fiasco (Deepwater Horizon) in the Gulf of Mexico being eventuated on by a rabid ideological outfit and the liability issues that would emerge have been dealt with threadbare. Extant jurisprudential complexities and intricacies have to be dealt with and it has been articulated that the confoundment in actuality, should make any researcher question the judicial verve and functional alacrity of the present mechanisms to appositely handle core issues of recompense and restoration in the aftermath of Maritime Terrorism. As a matter of detail, Grave Security issues with respect to safety zones and the ironical legalese, as it exists today define the present quandary.

### **III. Deep Sea Rigs and Security Lacunae**

#### **Current Legal Regime and Unresolved issues - Towards an Improved Legal Regime**

There are some seminal issues that would have to be dealt with in matters to do with thwarting the devastation of deep-sea rigs and hence prevent the gravest act of Maritime Terrorism from becoming a reality. The first is to have the apposite security regulations in place – increasing the width of safety zones, coordinated approaches et al and the second is to recognize that the seas and the oceans are (the property of mankind) are interconnected. Thirdly, it has to be recognized that the UNO and its agencies are indeed effete at the present time in all things to do with safeguarding deep-sea rigs and that there is a dire need to overhaul the composition and workings of the UNO even whilst ensuring that both the UNCLOS and the IMO are astutely sensitized of this grave threat to humanity. Finally, it is time that the comity of nations recognizes that unless there is a Binding and Registrable Agreement, vis a vis, the prevention of Maritime Terrorism and God forbid, , should an event be materialized by the vileness of the Rabid ideological Outfits, then the recompense regime centric to the planet, people and profits should be firmly in place. As a natural corollary, International Law is a central subject of this Article and for sure, since the interconnectivity of the oceans and seas is a stark raving reality, the probe has been centric to finding out methods to make soft law work. Given the interconnectivity of the maritime realms, International Security would have to be paid much cognizance and as a logical upshot,

International Law, via an ingenious agreement must be made to tackle certain national issues as well, for any rogue state, by causing enormous damage to its territorial waters could in effect set off humungous damage to the deep-sea – International Waters! This scholastic initiative primarily addresses the International Dimensions of Maritime Terrorism caused by the devastation of deep-sea rigs and whilst doing so the significant sources of International Law, vis a vis, the thwarting of Maritime Terrorism, namely that of the United Nations Organization, The United Nations Security Council, The United Nations Convention of the Law of the Sea, The International Maritime Organization, the International Convention for the Safety of Life at Sea, The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, the SAFE Framework, The International Ship and Port Facility Code, The Convention on Facilitation on International Maritime Traffic, The Seafarers' Identity Documents Convention (2003), The International Seabed Authority, MARPOL Et Al have been studied threadbare for their efficacy. The United Nations Security Council and its operations and the misguided objectives of the IMO in so far as its neglect of the realms of deep-sea rigs and offshore installations are concerned have particularly been highlighted with a view to identifying flaws and the reasons for their effeteness have been delineated. The core issue being that this scholastic initiative has taken into account 'how' the international regulations have been eventuated on and why its enforcement per se has been lackadaisical when it involves nations other than the permanent members of the Security Council? Is there a need to do away with bilateral agreements in matters to do with environmental protection and the safeguarding of deep-sea rigs as the clean-up and restoration costs are humungous? How could a solution be riveted? Would a Binding and Registrable Agreement under the aegis of the United Nations serve as a panacea to the malaise of the Maritime Verticals? God forbid, should an event like that of the Deepwater Horizon be perpetuated by Rabid Ideological Outfits in International Waters, is the present International regime capable of handling the situational-dictates like the United States did in the Gulf of Mexico? As a matter of detail several methods that the United States has adopted are trailblazers in so far as the thwarting of Maritime Terrorism is concerned and it would be astute for the aforementioned enunciation centric to the Binding and Registrable Agreement to incorporate the salient features. Internationalizing the core issue of interconnectivity would be a condition-precedent in matters to do with sensitizing the comity of nations about the humungous disasters that are just waiting to happen. Even in this, a leaf can be taken out of America's book in that they have looked after themselves very well indeed as their terror fighting systems are all interrelated and well-coordinated. As indicative archetypes, albeit in the cargo verticals, the rule in the United States is that there needs to be an advanced notification of ninety-six hour with reference to arrivals and for cargo, there needs to be compliance with reference to the twenty-four advance stipulation. Additionally, the Container Security Initiative and the Customs-Trade Partnership Against Terrorism for ensuring supply chain security are two seminal measures that have proved to be enabling. Given that the Americans are extremely zealous in terms of upholding the elemental tenets of the Proliferation Security Initiative, it would certainly be hard for rabid ideological outfits to smuggle in weapons of mass destruction. Ironically, despite the United States being a very powerful permanent member of the United Nations Security Council, nothing much has emanated in terms of universalizing their prescriptions for the safeguarding of international waters. It would be most astute to incorporate the salient features of American regulations into the Binding and Registrable Agreement that this scholastic initiative, after conducting much insightful research, has very strongly recommended. Whilst the ESMA provides the European Commission and Member States with some scientific guidance in matters to do with EU legislation on Maritime Terrorism, it ought to be noted that the realms of Maritime Terrorism apropos deep-sea rigs have universal connotation and merely playing pander to national and/or regional aspirations is, without a doubt, an exercise in irrational exuberance.

#### **IV. The Next Terror Targets – Deep Sea Rigs**

The Next Terror Targets: eventuating illegally on catastrophes akin to the BP fiasco in the Gulf of Mexico. Forestalling such Cataclysm by Rabid Ideological Outfits (Terror Groups) on Deep-Sea Rigs is the dire need of the hour:-

##### **4.01 Eventuating illegally on catastrophes akin to the BP fiasco in the Gulf of Mexico**

Blowing up offshore rigs and indulging in sub-aquatic terrorism is the new order and the central exemplar and illustrative enunciation of this Article, and whilst this section focuses on providing for a cognitive perspective with reference to major issues centric to sub-aquatic terrorism, the subsequent section of this Article would focus on the Legal Prescriptions for facing the future - safeguarding deep-sea rigs under the rubric of International Jurisprudence. Vast ecological and environmental damages, grave employment/ physical well-being concerns and seminal entrepreneurial stupefaction would cause huge losses, and as a logical consequence, the respective governments and entities across verticals would have to bear the brunt of the astronomical costs that would be involved in the resurrection, rehabilitation and recompense schemes that would inevitably have to be effectuated in the aftermath of rabid ideological outfits blowing up Deep-Sea Rigs. The rabid ideological outfits would only have to spend on training their cadre in deep sea diving and in the handling of explosives in

sub-aquatic realms or in the blowing up of speedboats/vessels in the zones of safety, and as a vast plethora of deep-sea rigs are completely and comprehensively open to attack, they become extremely vulnerable targets. Only one of a handful of intellectuals in the public domain to have got it right thus far is Senator Jim Webb as he has openly advocated for the implementation of protective measures, very much akin to the requirements that have been stipulated by the Nuclear Regulatory Commission (ellipsis: NRC) in that the NRC now requires that atomic generators withstand plane crashes!! In an official communiqué to President Barack Obama he has stated as follows: ‘ While Congress will continue to scrutinize BP and regulatory agencies, I write to urge you to also be vigilant against deliberate acts, such as an attack or sabotage, that could similarly devastate the region.’

The metamorphosis of terrorism in its maritime hues – from blowing up vessels to blowing up offshore rigs and sabotaging the sub-aquatic systems - contemptible acts causing damage to the surface of the seabed; the British Petroleum (ellipsis: BP) disaster could not have come at a better time for the rabid ideological groups as it has in many ways fomented their thought-processes in the matter – something that could have been in the drawing board for a while now, and as a natural corollary, something which they would be wanting to desperately experiment with and the BP fiasco would have inevitably got them all enthused to eventuate on sub-aquatic terror strikes. Quintessentially, the BP disaster has proffered, in concrete terms, a newer and a most cruel and sadistic prospect for rabid ideological outfits to eventuate on their evil designs aimed at destructing the planet, people and profits.

Vilely engineering the destruction of a deep-sea rig would be vexatious and very detrimentally causative in that as a major source of energy is cut-off, major issues centric to the economy would crop up, and as the devastation would leave its ineffaceable scar on the ecology, the fragile ecological systems would be comprehensively damaged. Given that the largest of the marine industrial verticals is that of the offshore oil and gas industry, energy, ecological and economic issues would naturally be badly hit when any rabid ideological outfit gets to strike a deep-sea rig. Dimensional issues, that would be definitional with reference to the characteristics that inherently govern the parameters of location would provide for a leeway of an opportunity for rabid ideological outfits to eventuate on strikes, on Deep-Sea Rigs, literally at will, for the sheer fact remains that patrolling issues are complicated and other surveillance systems are very difficult to operate in a sustentative way. Hence, it would be very difficult, if not unworkable, to make the Deep-Sea Rigs less susceptible to attack, and in the security-regime, as it exists, rabid ideological outfits are certain to eventuate on major dastardly attacks in order to destroy the energy sources, the ecological systems and the economy.

Facts are stubborn things and the fact remains that Deep-Sea Rigs proffer an easy way to eventuate on sub-aquatic terrorism, and though offshore drilling operations may not be sprouting anytime soon off the coast of Virginia on account of the BP blowout, the state’s senior US Senator says that even for those operating elsewhere, safety, security and the adoption of protective measures should be the catchphrase to stave off threats from rabid ideological outfits. Protecting the sub-aquatic realms and shielding Deep-Sea Rigs should assume paramount importance, and just as Senator Webb made his case to the President he did likewise with the Defence Secretary Robert Gates, Secretary of Homeland Security Janet Napolitano and Interior Secretary Kenneth Salazar – in a similarly worded note about the oil rich gulf coast, Senator Webb had got to state that ‘While Congress will continue to scrutinize BP and regulatory agencies, I write to urge you to also be vigilant against deliberate acts, such as an attack or sabotage, that could similarly devastate the region.’ As a matter of chronicling interest, Senator Webb favored the exploration of oil and gas in the waters off Virginia, but after the Deepwater Horizon disaster, he totally and comprehensively supported a Presidential initiative that delayed it until the appropriate safety and environmental concerns were fully addressed. The bottom-line being that security and safety issues that are at the heart of offshore drilling are of grave importance at the present time for the lack of appropriate surveillance could simply denote that the fragile ecological systems that take billions of years to form would simply be ruined in a jiffy by the vile and despicable acts of any of the rabid ideological outfits. The national security, and more principally, the energy security of the United States would be severely endangered and given that the Deepwater Horizon unpleasant episode has caused the severest ecological, economic and health issues, it is time for the UNCLOS and the IMO to provide for sensible preventive action in the form and content of astute antiterrorism governance – the regulations of the UNCLOS and the IMO must contain the salient features of the Antiterrorism Act and the Alien Tort Statue. Up and until now, no other disaster has caused so much ruination of the environment and in particular the fragile ecological system than the Deepwater Horizon occurrence, and given the fact that there are numerous Deep-Sea Rigs operating in the Gulf of Mexico and in other ocean locales, across geographies, the UNCLOS and the IMO must do all it can to promote astute mechanisms to stymie the plausibility of any terror attack. Evidence gathering mechanisms must be adroit to bring the perpetrators who plan such attacks to book via the rubric of inchoate offenses, and indeed, as part of their exercises, the United Nations office of Counterterrorism, in assessing the vulnerability of Deep-Sea Rigs, particularly in the context of the distinct possibility, of rabid ideological outfits mounting dastardly attacks, could help in the evolution a set of appropriate safeguard mechanisms, and after assessing the same under the provisions that guarantee freedom from unlawful searches et al, the same would have to be

implemented without more ado. Authentic reports place the value of the offshore energy verticals at astronomical levels, and as a natural corollary, various stakeholders, ranging from energy consumers to employees would be adversely affected even whilst it would be harshly ironic to draw attention to the issue centric to loss of revenues. The rabid ideological outfits, and purveyors of terror, in its maritime hues, know the aforementioned only too well, and when issues centric to the priceless marine ecological systems are taken into account, the relative ease with which the destruction of a deep-sea rig can be effectuated only makes for a very disturbing realization as the simple fact remains that the destruction of even one deep-sea rig can be causative of humongous damage to the planet, people and profits, and increasingly, as the terror groups get to realize the aforementioned, maritime terrorism, in the form and content of the vile destruction of Deep-Sea Rigs, are indeed terror acts just waiting to happen. What would be of seminal interest to the rabid ideological outfits and terror groups would rest in the fact that the devastation would wreak humongous damages, and in every way, they would be achieving their vile objectives - given the fact, that these deep-sea offshore rigs are very difficult to protect, the jobs that the terrorist have on hand can virtually be eventuated on, en passant. The bottom-line being that deep-sea rigs are extremely vulnerable to terror attacks, and given the isolation of these rigs and their distances from the shore, the entire scenario proves to be something that the terror groups have been waiting for, in order to eventuate on their most hideous and vile plans. The scenario gets all that more complicated when the realization dawns that Deep-Sea Rigs are widely scattered across the vast oceans and the seas. Additionally, the very nature of the exploration and storage facilities centric to deep-sea rigs are inherently in the realm of a highly inflammable domain, and hence, given that terror groups are ruled by the vilest of intentions, the probability of eventuating on an attack becomes all that much more certain, and given the fact that these rigs/platforms are firmly fixed to the seabed, sub aquatic terrorism of the most horrific type is here to stay. As a matter of chronicling interest, security agencies across geographies have indeed highlighted on the grave threat perception that exists with reference to blowing up deep-sea rigs and the information has been alarming in that it is specific about certain rabid groups acquiring even advanced capabilities to eventuate on the dastardly sub aquatic attacks en passant.

The future clearly isn't what it used to be and the fact of the matter remains that given the new-found realizations centric to the unprotected defencelessness of deep-sea rigs, they can be attacked literally on any side and in any location; terror attacks on deep-sea rigs are bound to become a stark raving reality unless emergent preventive measures are adopted and adapted as soon as plausible. The highly dangerous and hazardous assertions, as aforementioned, require perceptive security policy prescriptions that would have to be well researched in terms of eventuating on pragmatic approaches to uphold the safety and protection of deep-sea rigs.

## **V. The Vulnerability of Deep-Sea Rigs**

5.01 The future clearly isn't what it used to be

The fact of the matter remains that given the new-found realizations centric to the unprotected defencelessness of deep-sea rigs, they can be attacked literally on any side and in any location; terror attacks on deep-sea rigs are bound to become a stark raving reality unless emergent preventive measures are adopted and adapted as soon as plausible. The highly dangerous and hazardous assertions, as aforementioned, require perceptive security policy prescriptions that would have to be well researched in terms of eventuating on pragmatic approaches to uphold the safety and protection of deep-sea rigs.

Since this Article is based on an illustrative exemplar (a hypothetical scenario) which expounds on a BP type fiasco in the Gulf of Mexico being perpetuated by a rabid ideological outfit (act of maritime terrorism), uprightness with reference to perpetuating the letter and spirit of the research initiative would necessitate a meticulous enunciation of the vulnerability of Deep-Sea Rigs with reference to being attacked even whilst paying cognizance to the intentions of the vilely rabid ideological outfits in carrying out these attacks would be of much seminal signification. In fact, there are various intelligence reports that have cited the aforementioned as a distinct possibility.

5.02 Safeguarding deep-sea rigs under the rubric of International Jurisprudence - The UNCLOS and the protection of deep-sea rigs:-

5.021 Territorial Waters:

At this juncture it is very important to note that very often, all and sundry, diplomats and jurists, refer to the phraseology 'territorial waters' to denote any area of water over which a coastal state would have jurisdiction over, and by doing so, they are erroneously including other water bodies like that of internal waters, the contiguous zone, the exclusive economic zone and the continental shelf as part of the territorial sea. Given the explication as aforementioned coupled with the fact that an apposite delineation can be proffered with reference to what constitutes the territorial sea, bewilderment abounds when conflicts still occur as coastal states have been sometimes known to be highly argumentative about some fundamental issues like that of claiming an entire gulf as its territorial waters et al, and when such views are antipodal to the definitional perspectives as

provided for by the United Nations Convention on the Law of Sea, contumaciousness abounds and prevails in no uncertain terms.

Colloquially referred to as territorial waters and jurisprudentially as the territorial sea (as defined by the United Nations Convention on the Law of Sea), it is nothing more than a strip of coastal waters that extends to twelve nautical miles (22.2 Kilometers and 13.8 Miles) from the shores of a coastal state (the usual indicator is that of the low-water mark along the shoreline). By a definitional perspective provided by the United Nations Convention on the Law of Sea, the territorial sea is considered a part and parcel of the respective coastal state and as such it integrally constitutes sovereign territory, and the aforementioned has a seminal influence on the innocent passage of vessels, especially foreign ones, in that the rule is to allow innocent passage and the exception lies in its proscription. With reference to this Article, it would be of vital interest to note that the pristine sovereignty of a coastal state would in certitude extend to seabed and the sub-aquatic realms. The territorial sea extends, as aforementioned, to twelve nautical miles from the shoreline of a coastal state, and should it overlie another coastal states' territorial sea, then it has been established in international jurisprudence that the border would be taken to be the middle point as between the shorelines of the respective coastal states, and such delineation (and adjustments as well should the states in question agree otherwise), are often referred to as delimitation exercises in international maritime jurisprudence.

As an exemplar that has been much cited in several research initiatives, the incident in the Gulf of Sidra occupies prominence as Libya had, and erroneously at that, claimed that the entire gulf was its territorial waters, and as a result for such a preposterous stance, the United States had to intervene on a couple of occasions to eventuate on its right of free navigation (1981 and 1989).

Safeguarding deep-sea rigs in the territorial sea -

At this juncture, it would be prudent to provide for a definitional perspective with reference to what exactly constitutes territorial sea, and as the word would suggest, it is the extent of the sea bordering the state's territory, and as such, it extends up till twelve nautical miles from the shoreline. The fact remains that a state has sovereign rights up till twelve nautical miles, and as a logical extrapolation, the state has unqualified and wide-ranging powers to control every activity centric to extraction of natural resources et al. This would, in certitude, be inclusive of deep-sea rigs et al, and all activities that are concomitant with the construction of platforms to extract oil and gas from the sea bed – all sub aquatic developmental activities would come under the supervisory control of the state, in exercise, of their right of eminent domain up and until twelve nautical miles.

The jurisprudential bottom-line being that states have every right under the rubric of the territorial waters paradigm to effectuate on meaningful measures to stymie rabid ideological outfits and terror groups from entering their waters, and as no one 'can complain' due to the inherent non-innocent passage, deep-sea rigs can be protected from being targets of floating bombs! Activities, not having a direct and straightforward connection to plain shipping can be stymied by the respective coastal states, and as a logical extrapolation, any activity that could be seen to be detrimental to deep-sea rigging would not only have to be proscribed, it would also, be enabling, in that, it would allow the respective coastal state to resort to force in order to enforce the proscription. Ejusdem generis, the aforementioned would also have a direct and unswerving bearing on everything to do with communication infrastructure over the territorial waters, and should any tampering be attempted by rabid ideological outfits, the respective coastal state can take the sternest action needed, and the communications' angle assumes grave and seminal signification as the normal penchant of the rabid ideological outfits is to first destruct the communications infrastructure before getting to destroy the deep-sea rigs. Article 19 (2) of UNCLOS is explicit in that it uses the phrase 'any other facilities or installations', and given the specificity with which the words have been used, it would be inevitable to construe both the communications infrastructure and the deep-sea rigs as an indubitable part and parcel of what constitutes 'any other facilities or installations'.

The law of sea provides for all coastal states to exercise control of a comprehensive nature with reference to its territorial sea limits, and inherent to the rights possessed by the states concerned is the power to bring forth all such measures that are considered reasonable for the fortification of the area in every sense of the word. As a natural corollary to the aforementioned, the states can in every which way possible, do all that they can in the area, to ensure that they stymie attacks by rabid ideological outfits/terror groups, and this would primarily mean and denote, given the exigencies of the situation (a function of intelligence reports) that preventing terror attacks of deep-sea rigs would assume a most important responsibility. The authority of a coastal state over deep-sea rigs owned by entities incorporated in their state would be total and this situation would be very much akin to the flag status of the vessels in that vessels carrying a flag of a state that are navigating on their own territorial waters would be under total control, and as vessels could be used as floating bombs to devastate deep-sea rigs, foreign vessels would by definition be brought under a safety and security net in order to ensure much needed protection. The requirements are clearly aligned to meet the security needs of the respective coastal states and any exercise with rational underpinnings would by definition have to satisfy

Article 19 (2) of the UNCLOS- the article specifically delineates on a list of actions, in the territorial waters, by vessels carrying foreign flags, that would be considered elementally detrimental to the interest of the respective coastal state. The article is clear and concisely worded and it leaves no room for any doubt with reference to the intention of providing for protection to the coastal state from unwarranted intrusions that would cause unnecessary stupefaction to the authorities of the coastal state in connection with the safe conduct of all activities in their territorial waters, and by definition, it would involve the safe and secure conduct of deep-sea operations.

Nonetheless, the International Maritime Organization (ellipsis: IMO) has provided for certain advisory premises that in effect state that restrictions on sea lanes would be allowed, only subject to its concurrence. Sea lanes issues need to be handled with alacrity, as any confusion could lead to collision, and when dealing with maritime terrorism, the authorities concerned must ensure that they do not end up unnecessarily complicating issues so as to be detrimental to global shipping. The fundamental point to note is that in so far as any of the apprehensions concerning the territorial sea, the prime authority to address the concerns would be the respective coastal states, and as a natural corollary, any act that is seen as a threat to deep-sea rigs can be thwarted by the use of force. Albeit, the existence of certain restrictions as enunciated above, coastal states can exercise their rights with legitimate authority to stymie any attack on deep-sea rigs, and as they get beyond their territorial waters, their authoritative rights diminish considerably and increasingly at that.

As a judiciously deciphered inferential deduction from the aforementioned, it would very much be within the prerogative of the coastal states to engage in all such acts that would be necessary to safeguard deep-sea rigs from the onslaught of narcissistic rabid ideological outfits within their territorial waters. Inchoate offences at targeting deep-sea rigs would also come under the ambit of Article 19 (2), and given the potential of the attempt to cause huge devastation, the respective coastal state, can in certitude, take all necessary and vital steps to safe-guard the deep-sea rigs. As part of their measures at safeguarding, they could certainly examine the benefits of preventing access to their territorial waters to vessels owned by suspected rouge outfits, and the primordial and concomitant issues would be that of the information they have, their sources, and the evidentiary basis of the same. Given that they do have information that is alarming, the next logical step would be to ensure that a proper safeguarding system is implemented forthwith, and with reference to the same, the respective coastal state would have all the rights by virtue of Article 25 (3) of UNCLOS to evolve on fleeting stratagem (based on elemental and necessary considerations with respect to protecting their deep-sea rigs), and it could with certitude include bringing forth meaningful acts like that of suspending all passage of foreign vessels in its territorial waters. As a corollary benefit of the primordial right to suspend passage, the respective coastal states can exercise their discretion to eventuate on a no-go zone near all deep-sea rigs, and this would be a progressive and preventive measure, and a measure aimed at sending the right signals to the rabid ideological outfits. Given that the entire gamut of operations of both foreign and domestic vessels would be under the supervision and control of the domestic state, the state has every right conceivable under UNCLOS to regulate and conduct surveillance operations with respect to all electronic equipment, communications and navigation devices and systems, and in certitude, they can use their powers to effectuate a sensible control regime of the maritime areas close to deep-sea rigs et al. Most states are into forming safety zones near deep-sea rigs, and the sea lanes are simply closed to passage of vessels - this has been done as a protective measure and the safety zones would have marine patrols in circumambulation, so as to ensure, that the area is safeguarded and attacks are stymied. Nonetheless, counterintelligence mechanisms should be adept in identifying intelligence information with respect to any moves by the marine patrols and/or private sector service providers themselves playing the role of terrorists. In this scheme of things, it would be of paramount signification to regulate sea lanes astutely, and contemporarily, geographical surveillance systems can be programmed to establish better and more efficacious surveillance systems – as a matter of much jurisprudential interest, establishing geographical surveillance systems would indubitably uphold the tenets of the doctrine of reasonableness – something at the heart of establishing negligence in torts! Article 22 of UNCLOS clearly and categorically stipulates that coastal states have the sole prerogative to usher in a seminal regulatory regime in accordance to emergent situations, and in any case, they have the right to unilaterally restrict the movement of vessels carrying perilous substances, both from the viewpoint of the security and ecological angles. The regulatory regime would in certitude be specific about the need for vessels to stay away from designated sea lanes, and by definition, these designated sea lanes would be in the surrounding areas of the deep-sea rig installations.

3.022 The Contiguous Zone, the Exclusive Economic Zone and the Continental Shelf: -

#### The Contiguous Zone

The area that lies after the territorial zone is known as the contiguous zone, and by definition, it extends to twelve nautical miles from the outer edge of the territorial limit. In effect, the area that lies between, the twelfth and twenty fourth nautical miles, from the shoreline, is the Contiguous Zone. The theoretical

underpinnings of the eminent domain would be of some consideration, and the sovereign rights that could be unequivocally upheld in the territorial zone would lose much of its prowess in the contiguous zone, and the coastal state can only get to effectuate on certain prerogatives when faced with issues such as immigration, dumping of waste and fiscal issues et al. The alarming issue, in so far as deep-sea rigs are concerned is that vessels with all types of flags can navigate the waters of the contiguous zone, subject, of course, to the issues highlighted above, and as a natural corollary, vessels operated by the rabid ideological outfits could also find their way through the waters of the contiguous zone, much to the detriment of those deep-sea rigs that could be located in the area and its vicinity. The elemental jurisprudential signification of a state's jurisdiction in the contiguous zone is dovetailed to issues such as immigration, dumping of waste and fiscal issues et al, and as the contiguous zone is in certitude a part of the state's Exclusive Economic Zone ( ellipsis: EEC) on declaration as such, the rights that any state would have with reference to protection of their deep-sea rigs in the contiguous zone is akin to the jurisprudential nuances that govern the protection of deep-sea rigs in the Exclusive Economic Zone.

This 'limited control' has been zeroed in to be matters governing customs, fiscal, immigration and sanitary laws, and any foreign vessel, found to be in contravention of the aforementioned, would naturally attract liabilities and penal actions. Theoretically, should a coastal state choose to claim a territorial sea that is less than the stipulated twelve nautical miles, then it could, and correspondingly at that, choose to extend its contiguous zone proportionately. Overlapping of contiguous zones could pose a problem, as the technique to address the issue is unfortunately not the midpoint formula that is in vogue with reference to similar problems in the territorial waters, but via the process of negotiations, and in so far as the United States is concerned, the contiguous zone extends as per the stipulations of the United Nations Convention on the Law of Sea (United States Vice President announced the contiguous zone on 24<sup>th</sup> September, 1999).

The stretch of water that lies beyond the outer contours of the territorial sea, up and until a distance of twenty-four nautical miles (44.4 Kilometers and 27.6 miles), is the area that has been delineated as the contiguous zone (United Nations Convention of the Law of Sea). In simple words, it is the water area that lies after the twelfth nautical mile from the shoreline and up and until the twenty fourth nautical mile, and from a jurisprudential perspective, it is an area where the respective coastal state can only exercise restricted sovereign rights, and hence, only limited control would be possible.

#### The Exclusive Economic Zone

In an exercise involving an analogous examination of the salient features of the contiguous zone with that of the exclusive economic zone, certain pivotal issues would be brought to fore, and of primary signification, would be the comprehension that the exclusive economic zone has been delineated to be the area adjacent to the territorial sea and extends to two hundred nautical miles from the shoreline. The important point to note is that in the area that comprises the exclusive economic zone, the respective coastal states would have several seminal sovereign rights with reference to utilization of the natural resources centric to the sub aquatic realms. Nonetheless, any other state would have the right of free ingress and egress even whilst they would have the freedom of navigation, subject of course, to the jurisdiction as espoused by their flag state along with the superseding authority of the coastal state in the exercise of the state's exclusive jurisdiction. The superseding authority of the coastal state in the exclusive economic zone has to be read with due regard to the rights of vessels of other nations, and within the contours of the exclusive economic zone, the coastal states' authoritative prescriptions with respect to effectively eventuating on installations of deep-sea rigs would be untouchable and all-encompassing - in effect, they would have seminal authority to own, operate and license out deep-sea rigs as they have the last word with reference to deciding the course of action to be followed in matters to do with the sub aquatic realms of their Exclusive Economic Zones (in keeping with the dictates of the One Ocean concept – that all of mankind has to take care of all the oceans and seas in equal verve).

The elemental issue of cognizance from a perspective of this Article, is that the exclusive economic zone is an area that comes under the purview of the respective coastal state, and as a natural corollary, the coastal state concerned has indeed the control of oil and gas exploration initiatives housed in the area. Nonetheless, as it cannot, by virtue of the strictures of the United Nations Convention of the Law of Sea, proscribe innocent passage within its exclusive economic zone, and viewed from a security perspective, given that the zones of safety are a mere five hundred meters in width, the vulnerability of attacking deep-sea rigs is indeed very high. Prior to 1982, there was a lot of arbitrariness prevailing in that coastal states could entirely and on an adhoc basis extend the limits of their territorial waters so as to enable efficacious control in the areas that are presently delineated as the exclusive economic zones. The protection of deep-sea rigs in exclusive economic zones is of prime signification.

The standardized definitional perspective with reference to the exclusive economic zone in essence states that it is the area that lies between the outer fringes of the territorial sea to a maximum of two hundred

nautical miles (370 Kilometers and 230.2 miles) into the sea, and by virtue of the definition, it is, with certitude, inclusive of the contiguous zone (United Nations Convention on the Law of Sea).

#### The Continental Shelf

At this juncture, the definitional perspective, in essence, would be that the continental shelf is the area that starts after the limits of the territorial zone and could go to the extent of two hundred nautical miles or beyond from the shoreline of the respective state, and as a matter of much jurisprudential interest, it would be absolutely in the sync of things to state that should the continental margin be a further distance away, then the continental shelf will extend till the outer edges of the continental margins. Even with reference to the Continental shelf, the respective coastal state would have the privileges that inherently come along with sovereign rights, insofar as exploration of oil and gas and the operation of deep-sea rigs are concerned, and as a logical upshot, the respective coastal states may build, own, operate and even transfer the privileges to engage in deep-sea rigging. Ejusdem generis, the regulations that would be applicable to deep-sea rigging in the Exclusive Economic Zone would apply in equal élan to similar operations in the continental shelf, and the respective coastal state will have every right centric to navigation in the continental shelf, though they would have to allow for safe passage of foreign vessels, subject of course to the reasonable restrictions that could be imposed. The whole gamut of providing for the safeguarding of deep-sea rigs in the Exclusive Economic Zone and the Continental Shelf is one that is best deciphered when an elemental study of the inception and sustained continuance of the zones of safety is gone through, and no momentous discussion can be commenced without a seminal reference to the strictures of the United Nations Conference of the Law of Sea – the bedrock principles . The earliest one was on the continental shelf and the highlights of the convention was the setting into motion of the codification process, in that, at the convention, a state's rights, was clearly and cogently delineated to include the elemental right of setting up deep-sea rigs to enable work in the sub-aquatic realms centric to taking out oil, gas and other natural resources from the seabed. It was, at this convention, in circa 1958, that the five-hundred-meter limit was arrived at with reference to the width of the safety zones, and should a hindsight 2020 exercise be indulged in right now, the participants would rue the fact that they did not provide for a wider safety zone, and this is primarily due to the enormous threat of terrorism that the maritime realms face presently.

The United Nations Convention on the Law of Sea, under Article 76, has indeed provided for a definitional perspective with reference to the jurisprudential meaning of the continental shelf, and for the record, the characterization provided for refers to the continental shelf of a coastal nation as the area that extends up and until the outer edge of the continental margin (the elemental aspect pertinent to describing the continental margin is centered on the zone of the ocean-floor that separates the thin oceanic crust from the thick continental crust). Taken together, the continental shelf, the continental slope and the continental rise are called the continental margin, and the changeover from the continental crust to the oceanic crust happens when the outer part of the margin called the continental rise forges towards the ocean. That which comprises of the underwater part of the continental crust is called the continental shelf, and the outer edges of the continental margin is indeed the outer point to which a coastal state can authorize deep-sea rigging. In accordance to the stipulations of the United Nations Convention on the Law of Sea, the continental shelf of a coastal nation extends to the outer edge of the continental margin – at least two hundred nautical miles from the point where the territorial sea ends, and not more than three hundred and fifty nautical miles from the shoreline – reference has also been made to a point at a hundred nautical miles from the 2500 meters of 8200 feet isobaths – an imaginary line connecting the depths of the seabed at 2,500 meters. Continental margins comprise of around twenty eight percent of the area under oceans, and the outer edge of the continental margin is indeed a series of lines joining points no more than sixty nautical miles apart and that which is no more than sixty nautical miles from the foot of the continental margin. When there is maximum change in the base of the gradient, it is known as the foot of the continental slope and in cases where the continental shelf extends far beyond two hundred nautical miles, it is known as the extended continental shelf. An extended continental shelf is a privilege accorded by the Commission on the Limits of the Continental Shelf and eight such privileges have been granted thus far and the United States is not one among them. The rights that coastal states would enjoy over the continental shelf are delineated in Articles 77 to 81, and by definition, every coastal state has control of all resources in its continental shelf and as a logical extrapolation, it would mean and denote that deep-sea rigging for oil and gas would simply come under the purview of the respective coastal state. The exact mapping of continental shelves ensures dispute resolution in cases where the placements of deep-sea rigs are questioned (akin to the dispute involving resources in the Arctic area).

The contumacious issues that had to be tackled were centered on vexatious matters centric to the respective coastal states' jurisdiction with respect to the extraction of oil and gas via using deep-sea rigs, and seminal discussions were engaged in by all parties concerned at the third convention of the United Nations Conference on the Law of the Sea – indeed a momentous convention. The primary concern of all the parties was about the width of the zones of safety and as almost all the coastal states were overly enthusiastic about the need

to be given greater freedom with reference to delineating on the need to have wider zones of safety, and persuasive premising was indeed resorted to by way of providing for a justification. Nonetheless, the need to harmonize the operations of two functionalities, quite literally antipodal to each other, namely that of extraction of oil and gas on the one hand and the unfettered movement of vessels on the other eventually led to the espousal of dull-witted thought-processes, and as an obvious end result, the prosaic five-hundred-meter rule was perfunctorily made to survive – really ironical! A pyrrhic victory of sorts was achieved by some of the more zealous signatories of the United Nations Conference on the Law of Sea when an adjunct reference was made to the possibility of evolving on wider zones of safety, albeit only via the adoption of ‘generally accepted international standards’, whatever the phrase was meant to denote; nonetheless, a prerequisite was centered on the unequivocal endorsement by the International Maritime Organization. The conditions in the initial version of the third United Nations Conference on the Law of Sea with reference to the width of the zones of safety were indeed unfocused and they were characterized by much obfuscation and scattered ideation. Hence, the signatories assumed that the width of the zones of safety was very much an issue that they would have to deliberate upon, and hence, a section of the signatories seemed to, by inferential deduction, be working in a way that enabled them to determine the width of the zones of safety. Nonetheless, they would have to ensure that the width would have to conform to the doctrine of reasonableness as established in international norms and some of the countries that were very proactive in voicing their assent were countries like Turkey, Greece, the United States, India and Indonesia et al. Expressing an antipodal view, many other states stated unambiguously that should any leeway be provided by which the respective coastal states could decide on the width of the safety zones, then it would lead to anarchism by the coastal states, and by virtue of gaining dominant positions, they could severely restrict navigability and thwart progressive moves aimed at establishing a fine balance between exploitation and navigation. This acerbic seesaw battle between the proponents of wider zones of safety and their vociferous opponents finally led to a situation where the 500-meter-zone of safety became an accepted reality by virtue of re-adoption.

Perfunctory thought processes, by the participants, caused them to equate the offshore arena with the onshore one, and by superimposing the regulations of on-shore oil production on the offshore arena, a clear disservice was done by the participants with reference to the issues of maritime threat perceptions and the fragile marine ecological systems. The ideation behind the creation of the zones of safety around deep-sea rigs had its genesis in the International Law Commissions’ cognitive exercises centric to the continental shelf and the findings of the cognitive exercises resulted in a seminal information memorandum that was submitted to the General Assembly of the United Nations in 1956, and as a matter of detailing interest, the International Law Commission provided for influential advice in that it was suggested that coastal states be granted the required authorization to build installations in the area that comprises their continental shelf, and as a natural corollary, they could exercise their discretion with reference to the creation of the zones of safety around the installations. In so far as the International Law Commission was concerned the issue of safety was given paramount signification due to the sheer vulnerability that was rampantly observable. Without a doubt, the continental shelf convention was the original attempt at codification and the fact of the matter remains that it established the primordial rights of the respective coastal states to set up deep-sea rigs et al. Nonetheless, as already pointed out the five-hundred-meter width was not properly deliberated on in keeping with the potentially threatening issues that could eventually crop up, and the glaring lacunae were centered on the two core aspects that were inappropriately addressed – namely, that of unique nature of the deep-sea rigging vertical and the issue of navigational safety, and of alarming signification rests the fact that despite fifty seven signatories to the continental shelf convention, there is contumaciousness galore with respect to the nature and operational issues of deep-sea rigs. Despite, it being such a contumacious topic, the subsequent United Nations Conference on the Law of Sea glaringly omitted to concentrate on finding an appropriate solution, and given the rising levels of acrimony amongst various signatories, the third United Nations Conference on the Law of Sea did address some issues in a threadbare manner.

Nonetheless, it has been premised by the protagonists of UNCLOS III that the drafters have indeed provided for a leeway to bring forth larger zones into reality, and in large part, reference was to Article 60 of the United Nations Conference on the Law of Sea.

Whilst at one end of the spectrum, the bone of contention is centered on subjecting international navigation to the unnecessary restrictions that would be caused by the safety zones, the bone of contention at the other end is centered on the safety of installations like that of deep-sea rigs, and the never ending tug of war between the proponents and the opponents has only ensured that the five-hundred-meter width subsists, whether it is geared to meet the eventualities that may crop up or not. Such a banal and prosaic stance has been the outcome of effete negotiating processes, and at the third conference of the United Nations Conference on the Law of Sea, even though that a number of signatories voluntarily offered to leave the issue of the width of the zones of safety to the coastal states to deliberate upon, games of one-upmanship stalled the eventuation of an agreement to that effect. A great opportunity was lost and the rule of five hundred meters continued to subsist,

despite its alarming shortcomings with reference to the protection of deep-sea rigs from being attacked by rabid ideological outfits/marine terrorists. The point in question is elementally centered on the role of the International Maritime Organization with reference to the exercise of its authoritative prowess when it comes to the creation of wider zones of safety, and given that the five-hundred-meter stipulation is not geared to handle newer eventualities in maritime terrorism like that of blowing up of deep-sea rigs et al, the IMO could be categorized as de facto dysfunctional. The alarming nature of their effete functioning can be viewed from the fact that the threat of intrusion into the five-hundred-meter zones of safety is for real, and despite the progressive and perspicacious advice that was proffered, the International Maritime Organization has done precious little thus far; given its track record in the area of granting permissions for the widening of the zones of safety, any exercise in inferential deduction would simply and straightforwardly decipher that the future wouldn't be any different – but that is exactly what has to be tackled efficaciously as the future of deep-sea rigging is intricately intertwined with that of safety and security, and given the fact that the threat posed by rabid ideological outfits to eventuate on maritime terror is for real, the future can only be tackled by widening the zones of safety considerably and in keeping with the exigencies of the situation as they crop up. Clearly, the International Maritime Organization must recognize that the future isn't what it used to be and unless and until they gear up to meet the threat of maritime terrorism ... that is posed by the rabid ideological outfits, the future of deep-sea rigging would indeed be fear-provoking, to state the least. As a natural corollary to the aforementioned, facing the future with élan would require bolstered zones of safety so as to ensure that deep-sea rigs are safeguarded appropriately and diligently.

Article 60 quintessentially contains a decisive mechanism for eventuating on installations like that of the deep-sea rig in the Exclusive Economic Zone/ Continental Shelf, and as a matter of detailing interest, proviso 4 of the Article delineates on the authoritative prowess of the relevant coastal state to effectuate on meaningful changes, vis a vis, the creation of sensible zones of safety around deep sea rigs that would meet the norms governing rational expectations. The need to uphold the doctrine of reasonableness is crucial as it would provide for even-handed outcomes (so much a part of the governing norms of this research initiative) and it would ensure the safety of the vessels and the deep-sea rigs. Quintessentially, it all boils down to the following: that the respective coastal state shall evolve the width of the zones of safety, and in doing so, they would, by definition, be astute in that they would subscribe to globally accepted standards and not resort blatantly to playing games of one-upmanship. As an inevitable consequence, the zones ought to be designed in such a way that there is a rational relation between the security-need and the objective sought to be achieved – that of protecting the deep-sea rigs, and anything in asstance to established norms, ought not to be resorted to. A core aspect hovers around an elemental stipulation in cases involving deep-sea rigs, and it has been established to be the need to uphold the 500-meter-rule – that the width of the zone of safety would not exceed five hundred meters and that the exception would be cases in which authorization is via adherence to generally accepted international standards or when there is an authoritative recommendation by a recognized global body. The obvious *raison d'être* of making a referral to the IMO (recognized global body) was to address the queries raised by countries like Turkey, Greece, the United States, India and Indonesia (as highlighted earlier on in this section) with reference to the sheer insufficiency of the zone of safety as it was allowed to be merely of five-hundred-meters width. As a natural corollary to the aforementioned, and in keeping with the sensitivities of the countries named above, the IMO was empowered to decide on the width as it would do away with the tendency of any country to conduct their affairs, with reference to establishing wider zones of safety, in a highly individualized manner bereft of any meaningful consultation whatsoever. One of the conspicuous ironies of international jurisprudence rests in the realization that the IMO, despite its standing and empowered status, just did not undertake any exercise in either deliberating on any recommendations with respect to requests for wider zones of safety, nor did it do anything to evolve a set of guidelines on which recommendations could be made, and given the fact that no generally accepted international standards have been expressed thus far, status quo prevails and the five-hundred-meter rule rules the roost presently in keeping with the dictates of the United Nations Conference on the Law of Sea, and rather sardonically, it rules the roost despite the sheer inadequacy of the five-hundred-meter zones of safety to safeguard deep-sea rigs from calamities and potential attacks by rabid ideological outfits (marine terror groups).

The bottom-line is clear in that despite many signatories working most zealously to effectuate meaningful change with reference to widening the zones of safety, the International Maritime Organization has done precious little, and the effeteness of its functionality has rendered the safety of deep-sea rigs susceptible to attacks by rabid ideological outfits as they can in a rather facile way engage in acts of maritime terror. The desperate need of the hour, as clearly delineated aforementioned is to usher in seminal changes that would at least make the zones of safety three nautical miles wide, at the least, and if for nothing else, the International Maritime Organization would have to do it in the supreme interests of safeguarding deep-sea rigs from attacks by maritime terrorists.

Presently, the major threat to the very existence of deep-sea rigs is caused by the possible intrusions of various vessels into the rather contracted five-hundred-meters zones of safety, and the effete functioning of the International Maritime Organization only makes matters worse and despite attempts at changing the scenario, via a plethora of resolutions, the ground realities are still very much the same. Over the years, several states, all early signatories of the United Nations Conference on the Law of Sea, have zealously crusaded for widening the zones of safety as they are simply inadequate to protect deep-sea rigs et al, and despite the outward show of authoritative prowess of the International Maritime Organization, not much has happened. Every trick in the trade has been tried by the signatories and some states have even demonstrated scientifically that to stave off collisions, the width of the zones of safety would have to be at least thrice the present stipulation and all such remonstrations have fallen on deaf ears. Frustrated states have even filed well researched proposals to enable the International Maritime Organizations' subcommittee on safety of navigation draft guidelines and till date wider zones of safety are more a myth than reality.

## **VI. Conclusion**

### **Findings & the Insightful Observations Et Al**

Given the title of the Article, this scholastic initiative has focused on the road ahead in the battle against Maritime Terrorism as the Future isn't what it used to be and the scholastic-initiative has been dovetailed to conceptualize the mechanism with regard to eventuating on the Rights-Duties-Obligations issues, in matters to do with handling acts of maritime terrorism. It is from an International jurisprudential perspective and the hypothetical exemplar that has been used to hone in on seminal issues, is centered on a BP type fiasco (Deepwater Horizon) in the Gulf of Mexico being eventuated on by a rabid ideological outfit and the Jurisprudential issues that would have to be dealt with have been articulated. Extant jurisprudential complexities and intricacies have been highlighted, as it is, and as a natural corollary, a seminal overview of the complexities and intricacies that plague the arena have been studied. Semantic Jurisprudence has been handled astutely and it has been articulated that despite some well-meaning agreements, the confoundment in actuality, should make any researcher question the judicial verve and functional alacrity of the present mechanisms to appropriately handle core jurisprudential issues with reference to Maritime Terrorism. Indeed, there are grave security issues with respect to safety zones and the ironical legalese, as it exists today points to a quandary of sorts. It has to be understood that the realms of maritime security are a core component of the International Peace and Ecological regimes and very sadly, there is just no standardized definition at the present time with reference to explicating on what constitutes maritime terrorism. This scholastic initiative has postulated a way out in the form of a jurisprudential technique that would be enabling with reference to addressing Maritime Terrorism issues astutely even whilst ensuring that the planet, people and profits are saved. The jurisprudential technique that has been advocated zealously is that of the Binding and Registrable Agreement and apropos the same, the French are lucid in their approach that a 'memorandum of understanding' is a good faith document that is non-binding, and the official directive is clear – that such non-binding instruments ought to be avoided. And the caveat is that French negotiators can recognize non-binding agreements but only those that fall within the rubric of multilateralism. In fact, a diligent perusal of the United Nations Treaty Series is indicative of the fact that the nomenclature 'Memorandum of Understanding' is rarely ever used in French bilateral agreements, and as an interesting point of view, the United Kingdom and Foreign and Commonwealth Office guidelines on Non-Binding Instruments is contained in a monograph titled 'Treaties and MOUs: Guidance on Practice and Procedures.' The Monograph referred to above is the second edition of circa 2000 that has been revised in circa 2014. The monograph depicts the binary trap that diplomats face whilst deciphering the nomenclature of a document – treaty or MOU – and the caveat is centric to the usage of the terminology in a vice-versa format. An instrument with a treaty sounding name could in actuality be an MOU and a MOU could in actuality be a treaty per se. Scully et al had proposed that there ought to be an instrument that is under the nomenclature of a Binding and Registrable Agreement as opposed to a Non-Binding Instrument, and via the rubric of the aforementioned, all instruments under the nomenclature of an MOU need not be non-binding per se. Scully et al have explicated on the textual features –

- A. Treaties in solemn form signed by the Head of State with full plenary powers.
- B. Treaties in simplified form signed by the External Affairs Minister with full plenary powers.
- C. Non-binding multilateral instruments (MOU, Accord, Charter et al) which are ideally to be avoided.
- D. Limited Agreements between Ministers in their realms of competencies that are not treaties and that on which caveats are operable.

A and B clearly operate in the realms of the Binding and Registrable Agreement and hence, there ought to be a multilateral Binding and Registrable Agreement effectuated on by all the members of the United Nations, inclusive of the Permanent members, wherein Maritime Terrorism issues are addressed threadbare and this would be inclusive of the remedial and recompense mechanisms – this is the final conclusion.

To reiterate on the final conclusion per se, the classic work by Mark Scully and others, could fast become a benchmark monograph with reference to understanding the elemental nuances of the realms of diplomacy in that it has been written to directly address the 585 – a crowd of personalities who have the power to bind their respective states under International Law. The fundamental bottom-line being that the crowd of 585 are indeed emblematic of the awesome prowess with reference to exercising the power to append signatures to International Treaty documents. Since 195 countries could be directly affected by the act of signing, the rights-duties-obligations equation, that is, at the heart of the treaty regime, assumes tremendous signification. The pragmatic consequences of appending a signature are stupendous to state the least and as a natural corollary, the empowered lot of 585 have the power to bind their respective states under the rubric of International Law. As an addendum, this research initiative provides the diplomatic community with the necessary intellectual wherewithal to enable them to draft treaties. As a logical consequence, much clarity has been provided for in a world that could become gravely complex.

Scully provides for an apt exemplar of bad drafting by citing the Qatar V Bahrain episode. By reading this pragmatic monograph, any government official could adequately educate himself or herself in the art and science of drafting and possibly understanding textual documentation in the diplomatic realms and he or she would get to know the legally binding nature of the document being handled.

Given the authenticity of the CIA world leader list, the fulcrum of diplomatic power is with the crowd of 595 and a hypothetical example involving the US President is timely and conveys the meaning of the supreme norm *Pacta Sunt Servanda*. It denotes that “agreements are to be kept” (Scully et al. 2015, 93). The aforementioned indeed has been explicated to be the doctrinal cornerstone of the Law of Treaties and as such, it would then mean that it is a fundamental principle of International Jurisprudence. The following verbatim quote states it all so very succinctly: “Article 26 of the Vienna Convention on the Law of Treaties of 1969 (hereafter VCLT)<sup>10</sup> did not deem it necessary to translate this expression. Instead, it offers this concise interpretation. as Dionisio Anzillotti comments - the international legal order is distinguished by the fact that, in this order, the principle *pacta sunt servanda* does not depend ... upon a superior norm; it is itself the supreme norm. The rule according to which “States must respect the agreements concluded between them” thus constitutes the formal criterion which distinguishes the norms of which we speak from other norms and gives unity to the whole; all norms, and only the norms, which depend upon this principle as the necessary and exclusive source of their obligatory character, belong to the category [of norms of international law]. The premise of Anzillotti’s argument is that States are legally bound by treaties because they have agreed to be bound by them; this is the prerequisite for legal obligations being created on the international plane. Consequently, consent and agreement are essential elements of the principle of *pacta sunt servanda*.”

Quintessentially, each and every treaty that is in subsistence, would be binding upon the respective parties and as such, the pragmatic diplomat would always have to analyze the situational dictates with great alacrity and perceptiveness. Scully et al have provided for valuable citations and it has been stressed that the entire gamut of diplomacy hovers around the *Uberrimae Fidei* facet of jurisprudential thought. A quality issue has been raised with reference to the role of “authoritative practices” of States and as such the implausibility of abandoning these practices has been appositely enunciated on. Consent and bonding are like the face and the obverse of a coin and as such the international society’s definition of treaties is something that all civilized nations ought to subscribe to – else, it would not gel well with the comity of nations. Indeed, “authoritative practices” could also be holding the sway, as in some cases, such practices could either negate or waive the fundamental requirement of consent between the parties and the treaty would still be deemed as valid per se. Whilst there could be exceptions like the Treaty of Versailles, which was procured by unlawful means such as resorting to coercion, there could also have been some instances wherein it has been concluded that a State provides for consent even though the treaty could have lacked the much needed constitutional verve!

Given the gamut of treaties and the processes involved, Scully et al have placed emphasis on the 1969 Vienna Convention of the Law of Treaties and indeed contemporarily, it would be quiet challenging to delimit the ‘realm of authoritative practices’ solely for the avowed objective of providing for a definitional perspective with reference to treaties. In fact, the authors have stated succinctly that axiomatically when it is stated that a treaty is legally binding, it does not portend an absolute agreement on what documents amount to a ‘treaty.’

The pragmatic connotations of the aforementioned could mean that parties to the agreement could differ with respect to the enforceability of a treaty under consideration since they could elementally differ on what constitutes the treaty; call it the draftsman’s error or the follies of having agreements that are not iron clad, there are indeed many ‘grey areas’ and that adds to the conundrum. Establishing lucidity is at the heart of the problem and when it could be unclear as to what a state ought to do, how could one expect the diplomat to exercise lucid thinking. A cluttered thought-process would inevitably lead to the usage of ambiguous language and in the absence of clarity, and without a binding dispute resolution clause, the agreements would be disputed at various forums such as the International Court of Justice, and even here, there is a problem because some states just do not agree that the International Court of Justice has mandatory jurisdiction. Scully et al make a

seminal point herein in that they ideate that the aforementioned is the reason why a community of States is revealed as truly fundamental. An important issue to be noted here would be centric to the constitutional rules in the various states and this will assume signification with reference to the verve of the treaty regime. Diplomats, across geographies tend to unofficially agree that ‘agreements, treaties and MOUs’ are indeed a confusing area, both in theory and practice, and this confusion is for real. As errors would have drastic consequences, much due-diligence is done all the time and very often too much of analysis leads to paralysis and not much headway is made with reference to effectuating on the treaty. Understand before you append your signature ought to be the catchphrase indeed and Scully et al have brilliantly cited exemplars with reference to the “Charter of Paris for a New Europe” (1990) and the “Copenhagen Accord” (2009). When a poorly understood agreement is given effect to, it could raise a plethora of polemical and problematical issues, and indeed the goal of Scully et al is laudable in that as they seek to simply enunciate on what makes an international instrument binding, they have explicated on the current terminology of international agreements. Much emphasis has been provided on a crucial area in that it has been emphasized that there is a need to shed light on the twilight zone that exist between formal treaties and non-binding instruments, and as a natural corollary, practical guidelines would ensue. The legal rubric of the Binding and Registrable Agreement is a condition-precedent in all matter to do with tackling the menace of Maritime Terrorism and whilst drafting and eventuating on the Binding and Registrable Agreement, the foregoing analysis must be paid heed to!

### References & Endnotes

- [1]. Professor Laurent Cleenewerck is a faculty member at EUCLID University & Dr. Kishore Vaangal, PhD is a Thought Leader in the Environmental Realms.
- [2]. As an indicative reference point, the glaring lacuna in the United Nations Convention on the Law of Sea is that nowhere in the convention documents is there a delineation on the kind of safeguarding measures that a coastal state can get to effectuate inside the zones of safety, and as a natural corollary, given that numerous deep-sea rigs dot the exclusive economic zones, handling security matters astutely would be directly proportional to the level of safety provided by the respective coastal states.
- [3]. Challenges can be faced only by an understanding of international law, external (foreign\ ) affairs law and national security law. Unison of effort is required by all the stakeholders responsible for addressing international legal challenges. There is a dire necessity at the present time to promote a much greater understanding of the legal issues that pose global challenges – as an example, the civil liabilities in the aftermath of Maritime Terrorism and it is of primordial importance for all the stakeholders to promote the understanding of such grave legal issues. A better grasp of the legal challenges faced would be enabling, from a handling perspective, and for sure, it would pave the way forward for all the stakeholders to become perceptively sensitized in the crucial areas of jurisprudence as aforementioned – thereby, making them adept at facing the future with élan.
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- [6]. Stuart, Kaye, (May 2007), ‘Threats from the Global Commons: Problems of Jurisdiction and Enforcement, Melbourne Journal of International Law, 8 1.
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- [8]. The deep offshore is believed to contain more than 5% - an estimated 300 billion barrels - of the world’s liquid hydrocarbon resources, or 12% of total conventional oil resources. In 2013, Deepwater liquid reserves accounted for 6% of global production. That share is forecast to rise to close to 11% of conventional oil output, or 9 million barrels per day, by 2035. - For a generic overview, see: <http://www.total.com/en/energies-expertise/oil-gas/exploration-production/strategic-sectors/deep-offshore/challenges/deep-offshore-billions-barrels#sthash.a9y9eKTM.dpuf>
- [9]. For a generic overview, see: National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. Deep Water: The Gulf Oil Disaster and the future of Offshore Drilling, Report to the President 1-2 (2011)
- [10]. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. Deep Water: The Gulf Oil Disaster and the future of Offshore Drilling, Report to the President 1-2 (2011) - supra note 1, at 56, 243 wherein it has been discussed as to how the oil and gas industry made massive investments in oil and gas, yet they lacked the verve to invest likewise for bolstering safety measures, vis a vis, drilling and for oil-spill containment technology.
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- [13]. Elliott, Kathryn, (1991), “The New World Order and the Right of Self Defence in the United Nations Charter,” Hastings International and Comparative Law Review, volume 15, pages 55-81
- [14]. Rule 14(a) (4): Any party may move to strike the third-party claim, to sever it, or to try it separately. - Rule 14(a) (4): A third-party defendant may engage in third-party practice of his own. Rule 14(a) (5): [special rules regarding maritime or admiralty jurisdiction.- Rule 14(b): When a claim is asserted against a plaintiff, he may engage in third-party practice of his own.-Rule 14(c): [special rules regarding maritime or admiralty jurisdiction].
- [15]. The Council for Security Cooperation in the Asia Pacific (Ellipsis: CSCAP) Working Group has offered an extensive definition for maritime terrorism: “...the undertaking of terrorist acts and activities within the maritime environment, using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel, against coastal facilities or settlements, including tourist resorts, port areas and port towns or cities.
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- [22]. As a matter of detail, please visit <http://untreaty.un.org/English?Terrorism.asp>
- [23]. I am using the terminology Third World much against my wishes as it forms part of many of the research writings of occidental academicians. Personally, I would like to use the terminology that describes the aforementioned group as the developing nations.
- [24]. As a matter of detail, please visit <http://untreaty.un.org/English?Terrorism.asp>
- [25]. These treaties are read with UN Security Council Resolution 1540.
- [26]. The League of Nations, which was a very well-thought off initiative, ideated astutely with reference to defining Terrorism. At the Convention for the Prevention and Punishment of Terrorism in circa 1937, via Article 1 (2), terrorism was defined as “criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public.” This was never bought into force
- [27]. Security Council Resolution Number 1566 (2004) + UN GA Resolution 49/60 (1994).
- [28]. In fact, the law in Germany is lucid in that with reference to Criminal law and the Law of Torts, there is a very firm differentiation as between the elements of the offence and the affirmative defense and such a differentiation would be enabling in that an act which can be subsumed under the elements of the offence could still be justified on another level for obvious reasons. Such a definitional perspective provides for a holistic perspective, very much akin to the definition that is being advocated by me for the United Nations Organization to adopt.
- [29]. “The unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.”
- [30]. Valencia, 82.
- [31]. Alexander, 529.
- [32]. This definitional perspective has been provided for by The Council for Security Cooperation in the Asia-Pacific (CSCAP).
- [33]. This could happen anywhere – the territorial waters, the EEC or the Deep-sea.
- [34]. The emphasis would be on events in the deep-sea; nonetheless, by virtue of upholding the one-ocean concept, it would apply in equal élan to both the territorial sea and/or the EEC. In fact, the dissertation starts off by highlighting the interconnectedness of the seas and oceans and that it has to be recognized by one and all that the oceans and seas are the property of the planet. As a natural corollary, when a harmful act is effectuated on in any area, the rest of the areas are bound to be affected. Rather sadly, none of the organizations – the United Nations, the UNCLOS or the IMO have paid heed to the aforementioned.
- [35]. Mellor, Justin, (2002), ‘Missing the Boat: The Legal and Practical Problems of the Prevention of Maritime Terrorism’, 18, American University International Law Review. This Article assumes importance contemporarily as there is clearly a need for intelligence agencies to share information astutely on maritime threat perceptions.
- [36]. With regard to piracy, the pivotal issue raises a prime jurisprudential query: whether an act of piracy can be committed against a deep-sea rig in a strictly legal sense?? The answer lies in the legal treatment that is meted out to deep-sea rigs – would they be classified as installations or ships and the answer to the query would provide for demystifying the conundrum; nonetheless, the law of piracy can be used only in a very limited sense in so far as attacks on deep-sea rigs are concerned, as only when the deep-sea rigs are considered ships, would it be applicable! And on such a decisive issue, the UNCLOS has been effete. Period.
- [37]. The letter of the Senator to President Bush is quoted verbatim: “The Deepwater Horizon incident has caused the worst environmental disaster in our nation’s history. With dozens of wells operating in the Gulf of Mexico and elsewhere, we must employ policies that mitigate all types of risk. “I, therefore, request that you provide, as soon as practicable, your assessment of the vulnerability of offshore oil rigs to attack, the current framework for addressing such risks and your recommendations to Congress for deploying adequate resources and safeguards,” <http://www.jameswebb.com/>
- [38]. SCULLY, MARK., RODRIGUEZ, ROBERTO MIGUEL., & TOLLEFSEN, JOHN. ( 2015), “ Binding and Non-Binding Instruments in Intergovernmental Relations: A Diplomat’s Guide to Understand the Concepts of treaty, Memorandum of Understanding, and Ratification in Theory and Practice. As cited in page 25 of Mark Scully’s book on Binding and Non-Binding Instruments.
- [39]. The glaring lacuna in the United Nations Convention on the Law of Sea is that nowhere in the convention documents is there a delineation on the kind of safeguarding measures that a coastal state can get to effectuate inside the zones of safety, and as a natural corollary, given that numerous deep-sea rigs dot the exclusive economic zones, handling security matters astutely would be directly proportional to the level of safety provided by the respective coastal states.
- [40]. Prows, Peter, (2007), ‘Tough Love: The Dramatic Birth and Looming demise of UNCLOS Property Law (and What is to be Done About IT),’ Texas International Law Journal, 42: 241 – 309. See footnote 165.
- [41]. Enders, Walters & Olson, Eric (2010), ‘Measuring the Economic Costs of Terrorism’. Department of Economics Finance and Legal Studies, Culverhouse College of Commerce and Business Administration, University of Alabama, Tuscaloosa – paper available at <http://www.socsci.uci.edu/~mrgarfin/OUP/papers/Enders.pdf>
- [42]. As cited in page 25 of Mark Scully’s book on Binding and Non-Binding Instruments.
- [43]. For a generic overview, see the Bureau of Ocean Energy Management, Regulation and Enforcement, United States Department of the Interior, Report Regarding the Causes of the April 20, 2010, Macondo Well Blowout 21-22 (2011) – the report gives a step-by-step description of what is required to plug a well and how to do it! The entire report is available at <http://www.boemre.gov/pdfs/maps/DWHFINAL/pdf>
- [44]. Wehberg, Hans. (1959). “Pacta Sunt Servanda,” American Journal of International Law, Volume 53, Issue 4, 775-786. Pacta Sunt Servanda is directly relatable to a Binding and Registrable Agreement.
- [45]. Lindfors in Maritime Security Conference, 35.
- [46]. A better grasp of the legal challenges faced would be enabling, from a handling perspective, and for sure, it would pave the way forward for all the stakeholders to become perceptively sensitized in the crucial areas of jurisprudence as aforementioned – thereby, making them adept at facing the future with élan.
- [47]. CSI
- [48]. C-TPAT
- [49]. PSI
- [50]. Rabid Ideological Outfits are supported to a very large extent by certain rouge states and the Binding and Registrable Agreement must make those State Actors vicariously liable.
- [51]. Regulation (EC) No. 725/2004, Regulation (EC) No. 884/2005 and Directive 2005/65/EC.

- [52]. Mellor, Justin, (2002), 'Missing the Boat: The Legal and Practical Problems of the Prevention of Maritime Terrorism', 18, *American University International Law Review*. This Article assumes importance contemporarily as there is clearly a need for intelligence agencies to share information astutely on maritime threat perceptions.
- [53]. 'New worry: terrorists may blow up off-shore rigs' *Homeland Security News Wire* dated July 13th, 2010- article available at - <http://www.homelandsecuritynewswire.com/new-worry-terrorists-may-blow-shore-oil-rigs>
- [54]. Enders, Walters & Olson, Eric (2010), 'Measuring the Economic Costs of Terrorism'. Department of Economics Finance and Legal Studies, Culverhouse College of Commerce and Business Administration, University of Alabama, Tuscaloosa – paper available at <http://www.socsci.uci.edu/~mrgarfin/OUP/papers/Enders.pdf>
- [55]. Except of the letter of the Senator to President Bush is quoted verbatim: "The Deepwater Horizon incident has caused the worst environmental disaster in our nation's history. With dozens of wells operating in the Gulf of Mexico and elsewhere, we must employ policies that mitigate all types of risk. "I therefore request that you provide, as soon as practicable, your assessment of the vulnerability of offshore oil rigs to attack, the current framework for addressing such risks and your recommendations to Congress for deploying adequate resources and safeguards," <http://www.jameswebb.com/>
- [56]. Wrathall, Laurence Reza (2010), 'The vulnerability of subsea infrastructure to underwater attack: legal shortcomings and the way forward', *San Diego International Law Journal*, Volume 12, pages 223-225.
- [57]. DAVIS, MARK, (2012), 'LESSONS UNLEARNED: THE LEGAL AND POLICY LEGACY OF THE BP DEEPWATER HORIZON SPILL', 3 WASH. & LEE J. ENERGY, CLIMATE & ENV'T, 155.
- [58]. For a generic overview, see: National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. *Deep Water: The Gulf Oil Disaster and the future of Offshore Drilling*, Report to the President 1-2 (2011)
- [59]. The deep offshore is believed to contain more than 5% - an estimated 300 billion barrels - of the world's liquid hydrocarbon resources, or 12% of total conventional oil resources. In 2013, deepwater liquid reserves accounted for 6% of global production. That share is forecast to rise to close to 11% of conventional oil output, or 9 million barrels per day, by 2035. - For a generic overview, see: <http://www.total.com/en/energies-expertise/oil-gas/exploration-production/strategic-sectors/deep-offshore/challenges/deep-offshore-billions-barrels#sthash.a9y9eKTM.dpuf>
- [60]. For a generic overview, see: National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. *Deep Water: The Gulf Oil Disaster and the future of Offshore Drilling*, Report to the President 1-2 (2011) - supra note 1, at 56, 243 wherein it has been discussed as to how the oil and gas industry made massive investments in oil and gas, yet they lacked the verve to invest likewise for bolstering safety measures, vis a vis, drilling and for oil-spill containment technology.
- [61]. Stuart, Kaye, (May 2007), 'Threats from the Global Commons: Problems of Jurisdiction and Enforcement', *Melbourne Journal of International Law*, Volume 8, Issue 1.
- [62]. Mellor, Justin, (2002), 'Missing the Boat: The Legal and Practical Problems of the Prevention of Maritime Terrorism', Volume 18, *American University International Law Review*. This Article assumes importance contemporarily as there is clearly a need for intelligence agencies to share information astutely on maritime threat perceptions.
- [63]. For a generic overview, see the Bureau of Ocean Energy Management, Regulation and Enforcement, United States Department of the Interior, Report Regarding the Causes of the April 20, 2010 Macondo Well Blowout 21-22 (2011) – the report gives a step-by-step description of what is required to plug a well and how to do it! The entire report is available at <http://www.boemre.gov/pdfs/maps/DWHFINAL.pdf>
- [64]. For a generic overview, Singh, Jaswinder, (December, 2010), 'Countering Small Boat Terrorism in Territorial Sea,' *Naval Postgraduate School, Monterey, California* - available at: [file:///D:/Documents%20and%20Settings/Admin/My%20Documents/Downloads/10Dec\\_Singh.pdf](file:///D:/Documents%20and%20Settings/Admin/My%20Documents/Downloads/10Dec_Singh.pdf) - this monograph assumes importance as the small boats can be floating bombs and they can devastate offshore platforms and deep-sea rigs en passant.
- [65]. Juiyong, SHI, (2010), 'Maritime Delimitation in the Jurisprudence of the International Court of Justice,' *Chinese Journal of International Law*, Volume 9, issue 2, Pages 271-291.
- [66]. Kimmitt, Robert M. (2006, August 20). : Reagen and Gadhafi'. *The Washington Times*.
- [67]. With respect to Oil deposits/oil concessions and oil wells: In contrast to the approach in relation to fisheries, in the – *Cameroon v. Nigeria* case the International Court of Justice stated that "oil concessions and oil wells are not in themselves to be considered as relevant circumstances justifying the adjustment or shifting of the provisional delimitation line." (Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening), Judgment, I.C.J. Reports 2002, pp. 447-448, paragraph. 304.)
- [68]. "Ramming" involves loading a boat up with explosives and steering it into a target. "Expert says Islamic militants trained for sea attacks", *Reuters*, 21 January 2003.
- [69]. For a generic overview, see: Dana Goward, A & Nimmich, Joseph, L, (2008 ) ' Maritime Domain Awareness: – The Key to Maritime Security', *Legal Challenges to Maritime Security – University of Virginia Center for Ocean and Law Policy + Global Legal Challenges – Command of the Commons – Naval War College*, 2007.
- [70]. For a generic overview, see: Jenkins, Brian Michael, (1988, January), ' Potential Threats to Offshore Platforms', *TVI Report Volume 8 and the World Air and Seaport Defence and Security Handbook for 1989*. Article available at: <http://www.dtic.mil/dtic/tr/fulltext/u2/a216866.pdf> - additionally, see: For a generic overview, Singh, Jaswinder, (December, 2010), 'Countering Small Boat Terrorism in Territorial Sea,' *Naval Postgraduate School, Monterey, California* - available at: [file:///D:/Documents%20and%20Settings/Admin/My%20Documents/Downloads/10Dec\\_Singh.pdf](file:///D:/Documents%20and%20Settings/Admin/My%20Documents/Downloads/10Dec_Singh.pdf) - this monograph assumes importance as the small boats can be floating bombs and they can devastate offshore platforms and deep-sea rigs en passant – Page 8.
- [71]. The Convention, however, makes a clear distinction between "threat or use of force" and other military activities such as intelligence collection. Article 19(2) (a) mirrors the language of Article 301, providing that ships transiting the territorial sea in innocent passage shall not engage in "any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal state, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations". Article 19(2) (b)–(f) restricts other military activities in the territorial sea—Article 19(2) (c) specifically restricts ships transiting the territorial seas in innocent passage to engage in "any act aimed at collecting information to the prejudice of the defense or security of the coastal state". Intelligence collection is therefore not covered by Article 301 of the Convention. Rather, it is a lawful, non-aggressive military activity that is consistent with the UN Charter and can be conducted in the EEZ without coastal State notice or consent.
- [72]. Article 22 of the United Nations Conference on the Law of Sea quintessentially deals with Sea Lanes and traffic separation schemes in the territorial sea and clause 3 (a) deals in specificity with the advisory recommendations of a competent international organization – in this case, the International Maritime Organization.

- [76]. Article 16 (3) of the Convention of the Territorial Sea and the Contiguous Zone - Article 16 (3) – “Subject to provisions in paragraph 4 ( paragraph 4: There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign state), the coastal state, may, without discrimination amongst foreign ships, may suspend temporarily in specified areas of its Territorial Sea the innocent passage of foreign ships, if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.”
- [77]. Article 21 (4) of the United Nations Convention on the Law of Sea: “ Foreign Ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.
- [78]. For a generic overview, see: Champion, Brian, (2008). ‘Spies (look) like us: The Early Use of Business and Civilian Covers in Covert Operations.’; *International Journal of Intelligence and Counterintelligence*, 21: 3, 530-564.
- [79]. Section 4, Article 33 of the United Nations Convention on the Law of Sea deals with the Contiguous Zone
- [80]. The Development of the Concept of the Contiguous Zone, *British Yearbook of International Law* (1981) 52 (1):109-169
- [81]. Article 33 (1) (a): In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal state may exercise the control necessary to prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea. Proviso (B) clearly and lucidly enunciates that there would be a punishment for infringement of the above laws and regulations committed within its territory or territorial sea.
- [82]. Section 4, Article 33 of the United Nations Convention on the Law of Sea deals with the Contiguous Zone (1 Nautical Mile = 1.151 Statute Miles)
- [83]. The Exclusive Economic Zone refers to Sovereign rights with reference to the coastal state's rights below the surface of the sea. The surface waters are however, international waters.
- [84]. Part V – Article 56 of the United Nations Convention on the Law of Sea – Exclusive Economic Zone - this is a sea zone wherein the coastal state has specific and special rights with reference to the exploration and use of marine resources; an exercise in definitional exuberance would be accommodative of issues centred on energy production, water and wind.
- [85]. A perceptive exercise in juxtaposition would be very helpful in that the difference between the territorial sea and the exclusive economic zone is that in the first case scenario, it inherently confers complete sovereignty over the waters, whereas in the second case scenario, the coastal states merely have a sovereign right with reference to the coastal state's rights below the surface of the sea. The surface waters, are however, international waters
- [86]. The exclusive economic zone or EEZ, is an area that lies beyond and adjacent to the territorial sea; nonetheless, it may not extend beyond 200 nautical miles from the territorial sea baselines. In the EEZ, a State has sovereign rights with respect to the seabed and its subsoil – the entire gamut of the sub aquatic realms! Additionally, the sovereign rights which a coastal state will be eligible to enjoy with regard to activities involving the economic exploitation and exploration of the zone, such as the tapping of renewable energy sources can be exercised en passant - production of energy from the water, currents and winds. Of contemporary signification would be the jurisdiction that a coastal state would enjoy over artificial islands, installations and other such installed structures.
- [87]. The exclusive economic zone is quintessentially the third phase and it has to be seen in perspective, as it is essentially an after-event approach. At the conclusion of UNCLOS 3, simply put a fourth maritime area was added to the territorial sea, contiguous sea and the continental shelf. This was christened the Exclusive Economic Zone (ellipsis: EEZ), and in effect, coastal states were allowed to exercise sovereign rights.
- [88]. Quintessentially, the continental shelf is an underwater landmass that extends from a continent, and as a logical upshot, the area would be known for its shallow waters- something known as a shelf sea.
- [89]. Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Judgment, I.C.J. Reports 1982- page. 61, paragraph 75 – ‘In the Tunisia/Libya case, the Court held that: “for the purpose of shelf delimitation between the Parties, it is not the whole of the coast of each Party which can be taken into account; the submarine extension of any part of the coast of one Party which, because of its geographic situation, cannot overlap with the extension of the coast of the other, is to be excluded from further consideration by the Court.’ Quintessentially, a function of the doctrine of reasonableness!
- [90]. ‘The term "continental shelf" is used by geologists generally to mean that part of the continental margin which is between the shoreline and the shelf break or, where there is no noticeable slope, between the shoreline and the point where the depth of the superjacent water is approximately between 100 and 200 meters. However, this term is used in article 76 as a juridical term. According to the Convention, the continental shelf of a coastal State comprises the submerged prolongation of the land territory of the coastal State - the seabed and subsoil of the submarine areas that extend beyond its territorial sea to the outer edge of the continental margin, or to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance.’
- [91]. "Ramming" involves loading a boat up with explosives and steering it into a target. "Expert says Islamic militants trained for sea attacks", Reuters, 21 January 2003.
- [92]. The Continental Shelf – Oceans and the Law of the Sea – United Nations - Division for the Oceans and the Laws of the Sea - Commission on the Limits of the Continental Shelf (CLCS) -“The continental margin consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.
- [93]. According to article 76 of the United Nations Convention on the Law of Sea, the coastal State may establish the outer limits of its juridical continental shelf wherever the continental margin extends beyond 200 nautical miles by establishing the foot of the continental slope, by meeting the requirements of article 76, paragraph 4-7, , of the Convention.
- [94]. “The definition of the continental shelf and the criteria by which a coastal State may establish the outer limits of its continental shelf are set out in article 76 of the convention. In addition, the Third United Nations Conference on the Law of the Sea (the "Conference") adopted on 29 August 1980 a "Statement of Understanding" which is contained in Annex II to the Final Act of the Conference.”
- [95]. Kaye, S. (2007). International measures to protect oil platforms, pipelines, and submarine cables from attack. *Tulane Maritime Law Journal*, 31, 2, 377-423.
- [96]. Prows, Peter, (2007), ‘Tough Love: The Dramatic Birth and Looming demise of UNCLOS Property Law (and what is to be done about IT),’ Volume 42, *Texas International Law Journal*, pages 241 – 309. The article examines whether UNCLOS would continue to serve in the future as the basis of property law for the sea. A cogent review of the development of UNCLOS has been gone through and a thorough analysis of the rights of coastal states, vis a vis, their offshore areas has been an area of focus. The juxtaposition of the claims of one state versus the rights of others has been eventuated on and an enunciation of a new model has been made with reference to evolving a consensual law of the sea. The crucial contribution of the article is with reference to the scholarly examination of the implementation aspects of article 76 on the legal continental shelf, and as a logical upshot, efficacy

- issues are indeed highlighted – the ‘verve’ of spatial regime governing seabed resources of certain kinds. The authoritative article indeed provides for an agenda to face the future in matters centred on the challenges of the law of the sea.
- [97]. They premised that the customized 500 meter demarcation was indubitably an exercise in irrational exuberance and incertitude it wasn't in keeping with the ground realities.
- [98]. The compulsions arose because the sixties saw deep-sea rigging become a major activity in the oil and gas verticals, and as a logical consequence of the same, clarity had to be provided for in the fast evolving and complex world of offshore deep-sea rigging
- [99]. The International Maritime Organizations' track record in appropriately granting permissions for wider zones of safety is abysmal, to state the least, and what is more bewildering is the fact that the International Maritime Organization is yet to even evolve a recommendatory set of rules that would serve as guidelines with respect to the creation of wider zones of safety.
- [100]. As an enunciatively perceptive exemplar, the IMO could RECOMMEND that all deepwater oilrigs be considered as installations as opposed to vessels; then, owners would just not have the option of choosing a flag of convenience. Whilst this would ensure that oil rig owners don't profiteer by way of lower fees and taxes, it would incertitude comprehensively preclude them from choosing a FLAG STATE WITH TOTALLY LENIENT SAFETY STANDARDS!
- [101]. Within the EEZ, the coastal State has exclusive jurisdiction over artificial structures and installations “including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations” (UNCLOS Article 56). Article 60(4) provides that the coastal State may establish reasonable safety zones around such structures in which it may take appropriate measures to ensure the safety both of navigation and of the structures themselves. Such zones may not exceed 500 meters. Russia has established a security zone around the Prirazlomnaya platform, in which navigation is prohibited. The Arctic Sunrise was boarded and detained after it had left the security zone. Under Article 111(2) of UNCLOS, Russia has the right to pursue a vessel suspected to have violated laws applicable within the safety zone established in accordance with UNCLOS beyond that safety zone. This indicates that if the prohibition on navigation in the safety zone around the platform is considered compatible with UNCLOS, then Russia would have been entitled to pursue the Arctic Sunrise beyond the safety zone.
- [102]. Kaye, S. (2007). International measures to protect oil platforms, pipelines, and submarine cables from attack. *Tulane Maritime Law Journal*, 31,2, 377-423
- [103]. Hence, Article 60 allows for wider zones of safety, and as a matter of detailing interest, proviso 5 in effect stipulates that the allowance is permissive, provided that generally accepted international standards are subscribed to or when an authoritative recommendation is made by a recognized global body.
- [104]. For a generic overview, see: Richards, Rebecca K., (2011), ‘Deepwater Mobile Oil Rigs in the Exclusive Economic Zone and the Uncertainty of Coastal State Jurisdiction. *Journal of International Business and Law*, Volume 10, Issue 2, Article 10.
- [105]. The Law of the Sea Convention defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources and The United Nations Convention on the Law of the Sea (UNCLOS), also called the Law of the Sea Convention or the Law of the Sea treaty, is the international agreement that resulted from the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place between 1973 and 1982. The Convention, concluded in 1982 (replaced four 1958 treaties) and UNCLOS came into force in 1994, a year after Guyana became the 60th nation to sign the treaty. As of August 2013, 165 countries and the European Union have joined in the Convention. The UNCLOS can effectuate on meaningful strictures en passant with reference to widening the safety zones, but rather unfortunately, opportunities have been allowed to slip by in a most nonchalant manner.
- [106]. A number of limitations and gaps in international countervailing measures have identified some problematic legal areas such as enforcement powers of coastal states against foreign flagged ships that may be used to carry out an attack. There is certainly scope for improvement in the international regulatory framework. It appears that the onus is on the IMO to make astute recommendations so that individual states can implement appropriate measures for the protection and security of offshore oil and gas assets in the EEC and continental shelf areas.
- [107]. In the absence of an international regulatory body directly concerned with offshore oil and gas activities, the IMO is considered to be the competent international organization authorized under UNCLOS to make recommendations on the extension of breadth of safety zones around offshore installations in the EEZ beyond 500m. The extension of safety zones beyond 500m was considered by the IMO in 2008-2010, but the IMO ultimately concluded that there was no demonstrated need to establish safety zones larger than 500m!!!
- [108]. Very much akin to the International Sea Bed Authority and in fact, the agency can be formed under the aegis of the United Nations Office of Counter Terrorism.
- [109]. Given that the one-ocean concept has to be upheld, the interconnectivity per se could ensure a rapid devastation process, and when the fragile marine ecological system of one ocean area is damaged, the evil effects of the same can quickly spill-over to the other oceans as well. This grave threat to the marine ecological systems is indeed a threat to the survival of mankind in itself and hence, an autonomous body, very much akin to the International Seabed Authority must be formed to thwart the threat of Maritime Terrorism. Perhaps, the United Nations office of Counterterrorism could form an autonomous agency to rivet the Binding and Registrable Agreement even whilst creating a tribunal to efficiently handle both the preventive measures and after-event recompense initiatives/redressal mechanisms.
- [110]. For a generic overview, see: National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. *Deep Water: The Gulf Oil Disaster and the future of Offshore Drilling*, Report to the President 1-2 (2011) - supra note 1, at 56, 243 wherein it has been discussed as to how the oil and gas industry made massive investments in oil and gas, yet they lacked the verve to invest likewise for bolstering safety measures, vis a vis, drilling and for oil-spill containment technology.
- [111]. See Felicia Schwartz, “Iran Nuclear Deal, if Reached, Wouldn't Be ‘Legally Binding,’ Kerry Says,” *Wall Street Journal*, March 11, 2015.
- [112]. Based on the Vienna Convention on the Law of Treaties, United Nations Treaty Series, vol. 1155 (1969) 331; as cited in page 21 of Mark Scully's book on Binding and Non-Binding Instruments.
- [113]. Ibid.
- [114]. Article 7 of the Vienna Convention on the Law of Treaties of 1969 states “By virtue of their functions and without having to produce full powers, the following are considered as representing their State (a) Heads of State and Ministers of Foreign Affairs, for performing all acts relating to the conclusion of a treaty... (b) heads of diplomatic missions, for the purpose of adopting the text of the treaty between the accrediting State and the State to which it is accredited; (c) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of the treaty in that conference, organization or organ.”
- [115]. Scully, Mark Et Al, (2015), “Binding and Non- Binding Instruments in Intergovernmental Relations,” *International Law and Treaty Law Series*, EUCLID University Press.

- [116]. Scully et al. 2015, 69.
- [117]. The Respected Jurist served as a Judge of the Permanent Court of International Justice.
- [118]. Agreements must be kept!
- [119]. Utmost Good Faith in the highest and best interests of the comity of nations and the vast expanse of the seas per se.
- [120]. Vienna Convention on the Law of Treaties, United Nations Treaty Series, vol. 1155 (1969) 331; as cited in page 21 of Mark Scully's book on Binding and Non-Binding Instruments.
- [121]. As cited in page 25 of Mark Scully's book on Binding and Non-Binding Instruments.
- [122]. Cassese, Antonio, (2001), "International Law," Oxford University Press.
- [123]. Given that the one-ocean concept has to be upheld, the interconnectivity per se could ensure a rapid devastation process, and when the fragile marine ecological system of one ocean area is damaged, the evil effects of the same can quickly spill-over to the other oceans as well. This grave threat to the marine ecological systems is indeed a threat to the survival of mankind in itself and hence, an autonomous body, very much akin to the International Seabed Authority must be formed to thwart the threat of Maritime Terrorism. Perhaps, the United Nations office of Counterterrorism could form an autonomous agency to rivet the Binding and Registrable Agreement even whilst creating a tribunal to efficiently handle both the preventive measures and after-event recompense initiatives/redressal mechanisms.
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