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**WORLD MARITIME UNIVERSITY**

Malmö, Sweden

**INVESTIGATING THE IMPLEMENTATION OF  
THE ISPS CODE IN THE REPUBLIC OF  
AZERBAIJAN**

By

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The Republic of Azerbaijan

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The Kingdom of Bahrain

A dissertation submitted to the World Maritime University in partial  
fulfilment of the requirement for the award of the degree of

**MASTER OF SCIENCE**  
**In**  
**MARITIME AFFAIRS**

**(MARITIME SAFETY AND ENVIRONMENTAL ADMINISTRATION)**


2019

## Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

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20.09.2019

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## **Acknowledgments**

We thank Allah for bringing us together to work as a team and enable us to accomplish this task in perusing our Master degree. The accomplishment of this research effort was not possible without the help and the support of the World Maritime University (WMU) and its faculty, especially Associate Professor Dimitrios Dalaklis who supervised the research paper and added to its value through his guidance and advice. It is also the help of Captain Gudrat Gurbanov, the Director of the State Maritime Agency of the Republic of Azerbaijan, Major general Ala Seyadi, the Director of Bahrain Coast Guard, and The Nippon Foundation, especially the chairman Dr. Yohei Sasakawa; to them all, we would like to express our gratitude and appreciation.

Our time in the WMU was enjoyable and informative, during this period we have gained a strong maritime knowledge that will definitely benefit our maritime organizations as well as our respective States. Through our solid friendship, we built during the 14 months of studies in the University, such benefits will also be reflected on a global level. It was a great opportunity for us to study at the WMU, and to be taught by experts and maritime specialists on various topics concerning the maritime field; we are honored to be part of such unique entity like the WMU and hoping to maintain our network of friendships regardless of our physical location.

Studying in an environment away from home could be challenging; however, the care and attention we have received from the university's faculty, administration personnel, and all other staff on the personal level is truly a blessing as they made us feel welcomed and like being at home. Finally, our profound gratitude goes to our family and friends for providing us with continuous support and encouragement during our studies.

**Natig Hasanov**

**Mohamed Farhan Alsulaiman**

**20 September 2019**

## **Abstract**

Title of Dissertation: **Investigating implementation of the ISPS Code in the Republic of Azerbaijan**

Degree: **Master of Science**

After the 9/11 terror attacks in the US, security became a primary concern for the shipping industry. This catastrophic event raised the awareness of the international maritime community, including the International Maritime Organization (IMO) of the need for a new global legal framework that addresses security risks and establishes mitigation measures to enhance the security level within the maritime field. At the same time, this new intervention should influence the existing safety measures, especially within the context of the International Convention for the Safety of Life at Sea (SOLAS).

SOLAS was amended in 2002, and security issues became an inseparable part of the Convention. The International Ship and Port Facility Security Code (ISPS Code) was made part of SOLAS Chapter XI-2 – Special measures to enhance maritime security, that entered into force in 2004.

The ISPS Code was adopted with the objective of establishing international cooperation between contracting governments, governmental agencies, national administrations, as well as shipping companies and port facilities for evaluating and identifying security threats to ships and port facilities. Furthermore, the Code describes the duties and liabilities of all concerned parties responsible for maritime security at national, regional, and international levels.

The Republic of Azerbaijan has been an IMO member state since 1995 and party to SOLAS since 1997. The State Maritime Agency (SMA) is the authorized Organization for the implementation of the provisions of SOLAS and the ISPS Code on behalf of the Government of the Republic of Azerbaijan. The SMA is fully provided with national policy, legal acts, and regulations for implementation and enforcement of the ISPS Code.

The aim of this dissertation was to examine the level of conformity with the requirements of the ISPS code at the port facilities of Azerbaijan. The research also touched upon the different safety and security measures within the different port facilities. Finally, it identified areas that were suitable for further improvement.

**KEYWORDS:** Maritime security, SOLAS, the ISPS Code, Port Facility Security Plan, Port Facility Security Officer, Verification, Training, Certification.

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## List of abbreviations

<b>AIS</b>	Automatic Identification System
<b>BTC</b>	Baku-Tbilisi-Ceyhan pipeline
<b>CCTV</b>	Closed circuit televisions
<b>COLREG</b>	The Convention on the International Regulations for Preventing Collisions at Sea
<b>CSO</b>	Company Security Officer
<b>EEZ</b>	Exclusive Economic Zones
<b>FSC</b>	Flag State Control
<b>GISIS</b>	Global Integrated Shipping Information System
<b>III Code</b>	IMO Instruments Implementation Code
<b>ILO</b>	International Labour Organization
<b>IMO</b>	International Maritime Organization
<b>IMSAS</b>	IMO Member State Audit Scheme
<b>ISM Code</b>	International Safety Management Code
<b>ISPS Code</b>	International Ship and Port Facility Security Code
<b>ISSC</b>	International Ship Security Certificate
<b>LL</b>	The International Convention on Load Lines
<b>LRIT</b>	Long-range Identification and Tracking
<b>LRIT National Centre</b>	Long-range Identification and Tracking (LRIT) National Centre
<b>MARPOL</b>	the International Convention for the Prevention of Pollution from Ships,
<b>MSC</b>	Merchant Shipping Code of the Republic of Azerbaijan
<b>PFSA</b>	Port Facility Security Assessment
<b>PFSP</b>	Port Facility Security Plan
<b>PFSO</b>	Port Facility Security Officer
<b>PSC</b>	Port State Control
<b>PSO</b>	Port Security Officer

<b>RO</b>	Recognized Organizations
<b>RSO</b>	Recognized Security Organization
<b>SOLAS</b>	International Convention for the Safety of Life at Sea
<b>SSA</b>	Ship Security Assessment
<b>SSP</b>	Ship Security Plan
<b>SSO</b>	Ship Security Officer
<b>STCW</b>	The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
<b>SUA Convention</b>	The Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation
<b>The COM</b>	The Cabinet of Ministers of the Republic of Azerbaijan
<b>The MOJ</b>	The Ministry of Justice of the Republic of Azerbaijan
<b>The SMA</b>	The State Maritime Agency under the Ministry of Transport, Communications and High Technologies of the Republic of Azerbaijan
<b>Tonnage</b>	The International Convention on Tonnage Measurement of Ships
<b>UN</b>	United Nations
<b>UNCLOS</b>	United Nations Convention on the Law of the Sea
<b>US</b>	United States of America
<b>VTS</b>	Vessel Traffic Services
<b>WMD</b>	Weapon of mass destruction

# 1. Introduction

## 1.1 General overview

There are two very important terms that describe risks and threats in the maritime field: “safety” and “security”. These words sound fundamentally synonymous; however, it is necessary to differentiate their meaning and impact in the maritime sector. It is indicative, according to Mejia (2002), that safety is designed to protect people from maritime accidents caused by unsafe operation of ships; on the other hand, security aiming at protecting the crew and ship from criminal intent. In short, safety concerns unintentional acts against ships, crews, or environment; in contrast, security involves intentional act against maritime actors.

For example, the International Convention for the Safety of Life at Sea (SOLAS) relates to safety at sea, the Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and the International Ship and Port Facility Security Code (ISPS Code), which is the SOLAS chapter XI-2, apply to security at sea. According to Dalaklis (2017), the International Safety Management Code (ISM) is about mitigating the maritime risks with reference to the safety scope whereas the (ISPS) code is about the security side of the maritime operations. Furthermore, maritime security can be defined as “protecting measures against threats, piracy, unlawful acts and other types of attacks are taken by actors of maritime industry such as ship owners, operators, and administrators of vessels, port facilities and other maritime organizations” (Mejia, 2002).

The importance of maritime safety and security is well recognized at the global level, especially after various maritime incidents that caused major harm to human beings, property and the marine environment. Holding a pivotal role, the UN started to pay attention to the ships` security against piratical attacks in 1982 through UNCLOS.

For example, Part VII, Section I, from Article 100 to 108, consists of relevant provisions against piracy attacks and other crimes at sea. All States shall cooperate in the suppression of unlawful traffic in narcotics and psychotropic substances carried by ships on the high seas and, in addition, combat piracy (UN, 1982).

Various tragic maritime incidents and accidents through the course of history have raised the international community's awareness of the need for specific regulations to prevent these events from reoccurring. These incidents have had a massive impact on human safety and have resulted in an enormous number of casualties all around the world. For example, the accident of the Herald of Free Enterprise in 1987 resulted in 193 losses of lives which triggered the International Safety Management Code (ISM Code). Such events require international cooperation to enhance maritime safety and security in order to protect human life and property. Furthermore, there are other major negative results; for instance, the global economy has had its share of loss, especially when a leading shipping organization in a certain state loses its market share.

It is well known that the impact of the September 11 terrorist attacks in the United States was catastrophic in terms of loss of lives and property damage. After these attacks, security became a primary concern for the shipping industry. This catastrophic event raised the awareness of the international maritime community. The UN specialized agency that is responsible for regulating maritime safety and security is the International Maritime Organization (IMO). Under its auspices, the international maritime community works hard to create rules and regulations that will help the different states to organize, monitor, and protect their national and international maritime activities.

It is true that adoption or entry into force of international maritime conventions or codes has followed disastrous maritime accidents or dangerous threats to human life. For instance, the Achille Lauro hijacking incident happened on 7 October 1985; the Italian flagged MS Achille Lauro passenger vessel was hijacked off the coast of

Egypt by four armed men who represented the Palestine Liberation Front. After that incident, Resolution A.584 (14) “Measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews” was adopted by IMO. Afterwards, taking into consideration the UN’s request on passenger vessel safety and security, IMO worked on a new convention and in March 1988 the SUA Convention was adopted. The Convention came into force on 1 March 1992 (IMO, n.d.). The main purpose of the Convention is to ensure that relevant measures are taken against unlawful acts against ships. Additionally, the Convention includes the hijacking of ships; acts of violence against people on board; and destruction or damage of ships (SUA, 1982).

The purpose of this research effort is to examine the implementation of the ISPS Code in the Republic of Azerbaijan, recognizing the importance of maritime security for the shipping industry and economy of the State. The Republic of Azerbaijan has been an IMO member state since 1995 and party to SOLAS since 1997. The State Maritime Agency (SMA) is the authorized Organization for the implementation of the provisions of SOLAS and the ISPS Code on behalf of the Government of the Republic of Azerbaijan.

## **1.2 Background**

The International Convention for the Safety of Life at Sea (SOLAS) is a paramount legal toolbox created by the Member States of the IMO, and it relates both to the security and safety of commercial ships. According to Chapter XI-2 of SOLAS, Administrations of Contracting States shall set security level and ensure the provision of security levels information to ships flying under their flags and port facilities within their territories (SOLAS, 1974). After the terror attacks on 11 September 2001 in the US, the International Maritime Organization (IMO) decided to pay more attention to maritime security. Furthermore, the IMO organized a Diplomatic Conference on 9-13 December 2002. Several amendments were adopted to SOLAS, as well as the new ISPS Code by this Conference (IMO, 2012).

After the adoption of amendments to SOLAS and the ISPS Code, the contracting governments started to improve homework of maritime security, in particular on board ships and at port facilities. Security incidents can be reduced by effective implementation of the ISPS Code and successful cooperation of government authorities and by the cooperation of different maritime stakeholders like shipping companies and port facilities. After the 9/11 terror attacks, everybody started to worry about the vulnerability of ships, especially the possibility of shipping being used as a vector for terrorist attacks. As a result, the IMO Assembly in November 2001, called for an assessment of the current international regulations on ships and port facilities against terrorist attacks and development of measures and procedures preventing these terror acts as well as improvement of security offshore and ashore. The main goal was to reduce threats to vessels, crew, cargo, port facility personnel on board and in port areas, as well as to enhance the security of ships and port facilities, to minimize the possibility becoming a target of international terrorism (IMO, n.d.). The ISPS Code entered into force on 1 July 2004.

The ISPS Code applies to different types of ships, such as passenger ships, cargo ships and high-speed passenger crafts of 500 gross tonnage and above, which are engaged on international voyages. Moreover, it applies to mobile offshore drilling units, as well as port facilities that are serving the mentioned ships operating on international voyages (ISPS, 2002). The ISPS Code is divided into two parts: mandatory Part A and recommendatory Part B. Part A contains detailed requirements on security for governments, port facilities and shipping companies and Part B presents recommendations on how to implement these requirements. Part A includes contracting governments' obligations for determining the Designated Authority to conduct duties and responsibilities on maritime security, which are mentioned in the Code. These responsibilities include setting up maritime security levels and ensuring the implementation of maritime security measures in all ports (Nordfeld & Dalaklis, 2018).

Furthermore, there are many objectives for the ISPS Code, but the ones standing out are establishing international cooperation among contracting governments, and also between governmental agencies, as well as national administrations. Additionally, shipping companies and port administrations, in respect of evaluating and dealing with security threats to ships and port facilities, can also be part of this cooperation. Moreover, the Code determines the duties and liabilities of all concerned parties that are handling the responsibility of maritime security and safety of the ports and ships at national, regional, and international levels.

### **1.3. Aims and objectives**

The Republic of Azerbaijan, as an IMO member state, applied the ISPS code as part of SOLAS within its local port facilities as it ratified the convention. However, the degree of conformity with the Code remains unknown unless it is suitably measured and tested. Therefore, the aims and objectives of this research were mainly to examine the level of conformity with ISPS Code regulations and guidelines at the port facilities of Azerbaijan. The research also briefly examined the different safety and security measures within the different port facilities and shipping yards; moreover, it aimed to create an accurate benchmark of how safe and secure these economically sensitive posts are. Additionally, this research located in certain areas that are suitable for further improvements.

### **1.4. Research questions**

The research effort aimed answering the following questions:

1. What is the level of conformity with the ISPS Code within Azerbaijan's port facilities?



2. What security measures that have been taken to secure the different port facilities and surrounding areas?
3. Why is it vital to assess the security level within the port facilities and what will define areas for improvements?
4. How could the State Maritime Agency in Azerbaijan secure the vulnerabilities within its port facilities?

### **1.5. Literature review**

In order to achieve the main goals and objectives, and answer the research questions, a review of the relevant literature is required. To that end, previous studies on the implementation of the ISPS Code will be reviewed and summarized.

The literature review will start from general books and articles on maritime security, and international instruments on maritime security, such as SOLAS, SUA Convention and ISPS Code. For a deep understanding of the legal framework regulating security measures against unlawful acts, it is necessary to define the basic international conventions and codes controlling security issues. Then, national legislation on security measures and implementation of the ISPS Code will be reviewed and summarized.

It is necessary to point out here that while reviewing research, related to maritime security, no studies have been found discussing the implementation of ISPS Code in Azerbaijan neither in English nor in Azerbaijani. Moreover, the Caspian Sea is a special case in which some of the IMO instruments are required, whereas other instruments are not. This dissertation was the first research effort in respect of the implementation of the ISPS Code in Azerbaijan and its main purpose is to clarify the effects of the implementation of the ISPS Code in that State.

Nevertheless, it has to be mentioned that after the 9/11 attacks in the US, security issues became one of the first goals for the IMO. Focusing on the adoption of various IMO resolutions and guidelines on security measures during the last 15 years is necessary in order to understand the importance of security measures.

For a better understanding of the difference between safety and security issues and to provide detailed information on security, including the international legal framework, research conducted by Maximo Quibranza Mejia will be useful.

On the other hand, for the clarification of the concept of “terrorism”, studies of Christopher (2015) will be reviewed; moreover, for a better understanding of the definition of “counterterrorism” and measures which might be taken against terrorism again a study of Christopher (2015) will be helpful.

The Guide to Maritime Security and the ISPS Code, which was published by IMO in 2012, dealing with maritime security issues is a comprehensive guide for a better understanding of international instruments related to security measures. The abovementioned book covered Chapter XI-2 of SOLAS, ISPS Code, and guidelines on how to carry out security measures. This literature provides a legal framework on the minimum standards for protecting port facilities and ships from unlawful acts. Nevertheless, this dissertation will provide clarification on national legislation on security issues and will also define significant legal challenges related to security measures.

Furthermore, in order to define challenges and fill the gaps for the purpose of implementing international and national legislation regulating security issues, this dissertation paid attention to various data resources from annual reports, official records, and electronic database of national legal acts. In order for the ISPS Code provisions to be implemented in the Republic of Azerbaijan, it has to be integrated into the national legislation; therefore, the purpose of studying the national legislation is to define the level of harmonization between national regulations and international instruments represented by the ISPS Code.

## **1.6. Methodology**

The research was based on two different techniques, in which both qualitative and quantitative research methodologies were used. The two mentioned techniques enriched the research and boosted the clarity of the findings.

A literature review based on International Conventions, Codes and National Legislation of the Republic of Azerbaijan on maritime security was conducted; furthermore, articles by experts on maritime security from books, journals and websites were used to study the applicable global standard for the ISPS Code.

The qualitative research methodology was used to describe and analyze the information and collected data from all sources within the different port facilities. Such analysis provided a strong base on which a comparison was made between what has been implemented and what has not been implemented so far, regarding the SOLAS convention and the implementation of the ISPS code within the different port facilities of Azerbaijan.

The quantitative research methodology involved primarily data collection; these data were gathered from maritime authorities and governmental agencies. The statistics are reliable sources that will reflect the level of security within the port facilities and onboard ships visiting them; for instance, the increase or decrease of security incidents will help in defining the effect of implementing high-security measures as required by the ISPS Code. The nature of the collected data was numerical statistics and documents about the ships and the port facilities operating within the Republic of Azerbaijan. Additionally, data were used to examine which of the ISPS Code principles and guidelines are being implemented, and such data was gathered from the annual reports of the State Maritime Agency in Azerbaijan. Research interviews and questionnaires distributed among the auditors of the Maritime Agency and the

security guards at the port facilities and the crew of the ships that were moored to the port facilities were a major data source.

The data collection was performed through two different interviews with managerial level personnel, as well as a questionnaire targeting seafarers, security guards, and port personnel. The data collection was conducted according to the guidelines of the Research Ethics Committee of World Maritime University. Finally, the interview and survey questions, information sheets, tables and diagrams about statistics, attached as an annex to the dissertation are mainly for the purpose of answering research questions numbers 2, 3 and 4. The comparison between the national legislation in the Republic of Azerbaijan and the information collected through the interviews and questionnaires was aimed at answering question number 1.

The researchers could not travel to Azerbaijan to collect extra data; moreover, the lack of time was another limitation for the researchers. However, the limitation of the biased information was compensated for by carrying out two interviews with different managerial personnel. Furthermore, there were some difficulties in collecting data about security breaches and measures on maritime security from the stakeholders due to confidentiality.

## **2. The legal framework on maritime security**

### **2.1. Maritime security and terrorism**

States around the world and their respective maritime administrations are facing various maritime security threats such as terrorism, piracy, and armed robbery, which are different in nature and severity. These security threats are associated with maritime operations and deemed to be a huge challenge to the international community which requires international cooperation. In September 2001, people woke up to a tragic event perpetrated by a terrorist group that shocked humanity and caused a large number of fatalities and massive property damage. “It was September 11 attacks, which highlighted the vulnerability of the world’s transport system to attack, triggering the introduction of a raft of new laws and conventions ... to enhance maritime security” (Herbert-Burns et al., 2008). This event raised the awareness of the international community to the need for a legal framework that addresses the security risks and establish mitigation measures to enhance the security level within the maritime field and at the same time reassesses the existing safety measures, especially in the International Convention for the Safety of Life at Sea (SOLAS).

Maritime safety was the main concern of the shipping industry in the past; however, the type of risk associated with maritime activities could also be categorized under the security threats. There is a difference between (maritime) safety and security, although the consequences might be somehow the same for safety accidents and security incidents. Nevertheless, the distinction between the two could be seen

through the intention; for example, a safety accident is unintentional, whereas a security incident is intentional. “Maritime safety refers to preventing or minimizing the occurrence of accidents at sea that may be caused by ... unqualified crew or operator error, whereas maritime security is related to protection against unlawful and deliberate, acts” (Klein, 2011).

The concept of maritime security can be defined in many different ways depending on the perspective of the organization and the nature of its business. The military/naval definition is different from the ship operator’s definition and it is also different from the shipping industry’s definition. According to Klein (2011), the naval concept in the United States focuses on the aims of maritime security, starting from navigation freedom and protecting the resources of the seas and oceans, adding to that securing the maritime environment from illegal activities such as piracy and drug trafficking. The military perspective is not far from other maritime stakeholders like ship’s operators; however, they look at maritime security from different angles. “For operators in the shipping industry, maritime security is particularly focused on the maritime transport system and relates to the safe arrival of cargo ... without interference or being subjected to criminal activity” (Klein, 2011).

The maritime sector is facing a myriad of dangers, and before any mitigation measures can be put in place, the type and nature of risks must be defined; therefore, a list of possible risks must be made. According to Christopher (2015), some of the threats to maritime security are as follows:

- A- Cargo theft
- B- Violence at the workplace
- C- Economic espionage
- D- Maritime piracy activities
- E- Maritime terrorism
- F- Security guards with poor training

## G- The crime of conspiracy whether it is an internal conspiracy or commercial conspiracy

Maritime security threats target ports, port facilities and ships. Therefore, the security risks could be divided into two different areas; the first one is the port facilities, where the cargo is delivered and/or stored, and the second is at sea when the ship is making its way through the waters. However, maritime security threats do not differentiate between these two areas. For example, violence at the workplace is one of the security threats, and such a threat could take place onboard ships or at port facilities. Therefore mitigation measures might not be the same as some measures might be applicable onboard ships but not at port facilities. The effectiveness of the mitigation measures is dependent on the awareness of the maritime risks and threats, understanding of their nature and of their impact on the whole shipping system, including recognizing the most dangerous maritime threats (Christopher, 2015).

### **2.1.1. Maritime Terrorism**

Terrorism is one of the most important security threats to the maritime environment, and it is expanding the ways it is being performed, and the areas that might be targeted. According to Galletti (2012), piracy, terrorism, and organized crime are the major risks to the transportation world deliberately carried out by human being's activities. Commercial ports and commercial ships are not the only targets for terrorists; in fact, even oil pontoons and platforms are vulnerable to terrorist attacks. Adding to that, military warships are also considered targets for terrorism, having an example of what happened to the United States naval ship USS Cole when it was attacked by terrorists on the 12<sup>th</sup> October 2000 while it was near Yemen. Moreover, terrorist techniques are becoming increasingly sophisticated, and they are using the latest technologies to perform their attacks. "The threat of maritime terrorism has increased with the progression of technology and the easy way to dispose of speed vessels, made of inflated boats" (Uzer, 2012).

Maritime terrorism is a real threat to shipping companies, ports, and the different states in general, yet there is no specific definition of maritime terrorism that is accepted by the international community. However, there are some definitions that pinpoint the major elements of maritime terrorism specified by academics and maritime specialists. For instance, ships, ship's cargo, crew and passengers all get affected by maritime terrorism and that is supported by the definition of Karim (2016) in which he defined maritime terrorism as follows:

*Any illegal act directed against ships, their passengers, cargo or crew or against seaports with the intent of directly or indirectly influencing a government or group of individuals.*

It is clear that maritime terrorism is a major concern to governments; however, there is no adequate statistical data to show the increase in the number of attacks on ships or ports. The data available on maritime terrorism is sometimes limited to an area or a specific time period: "The data at hand at the time certainly provided interesting numbers for the period between 1960 and 1983, during which 47 ships were attacked, 11 were hijacked, and 12 were sunk or destroyed" (Galletti, 2012).

### **2.1.2. Maritime Piracy**

Piracy is another major threat to international shipping and its routes around the world, and there are areas that are considered too dangerous for ships to pass through as the number of piracy incidents is high compared to other regions. The main question is, what is piracy? And how different is it from an armed robbery in the maritime sector? "Piracy can only be committed against ships on the high seas or in the Exclusive Economic Zones (EEZ) of states" (Guilfoyle, 2013). Maritime piracy attacks may take place in the open seas and, according to Guilfoyle (2013), under UNCLOS, attacks on ships in areas like ports, internal waters, and territorial waters are considered as armed robbery but not as acts of piracy.



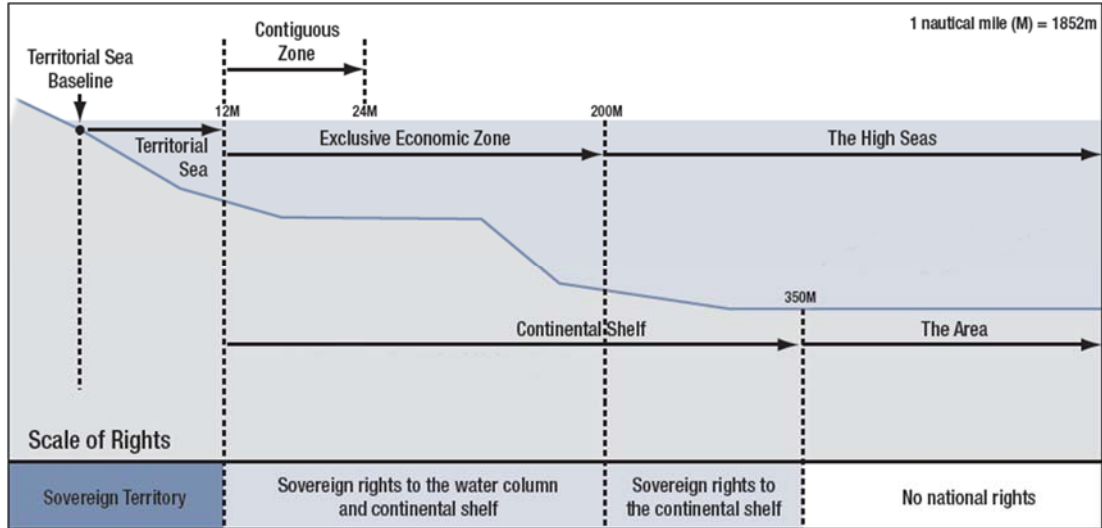


Figure 1: Territorial waters under UNCLOS in terms of geographical area.

Source: <http://www.vliz.be/>

Figure 1 shows the delimitation of maritime zones, in which a crime can be categorized to be piracy or an armed robbery based on the zone it took place at. The crime is deemed to be piracy if the geographical area in which it took place is more than 12 nautical miles from the baseline of the territorial waters, which covers the EEZ and the high seas. It is deemed to be armed robbery if it takes place less than 12 nautical miles from the baseline, which covers the territorial waters.

Due to the huge impact of piracy on commercial shipping, mitigation measures should be put in place and followed by the different maritime administrations to protect ships from pirates and to protect ships' crews and their cargo. Hence, international legislation is required to deal with such an international threat. As a start, UNCLOS has helped the states to understand the nature of piracy and armed robbery at sea. Article 101 of UNCLOS defines piracy as:

*Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft.*

Piracy and armed robbery take place in areas that are under state's sovereignty which enables the states to take all necessary measures to protect their ships against such threats; however, the challenge is on the international level where more cooperation among the international community is needed to come up with stronger mitigation measures to deal with piracy attacks and to protect international shipping as UNCLOS alone might be inadequate.

The difference between maritime terrorism and maritime piracy is reflected through the chosen targets, motives, and techniques used to commit the crime. "Motives or aim, preferred targets, tactics and operational reach, are all factors where distinctions and similarities between pirates and terrorists could be noted" (Joubert, 2013). Through the mentioned criteria, the differences between the two crimes are evident. For instance, in regard to motive, the pirate chooses their target based on the financial value of the target and the level of vulnerability, whereas the terrorist chooses their target based on the level of political influence. Another distinction between the two crimes is the techniques or tactics used; in the case of terrorists, they tend to choose complex tactics, unlike pirates whose tactics are simple. "The preferred modus operandi of pirates is an armed attack on large ships - such as tankers and cargo ships - with the objective of hijacking the vessel and kidnapping its crew for ransom" (Dalaklis, 2012).

### **2.1.3. Cargo theft (armed robbery)**

The maritime transportation system is facing different types of security threats. Some of the maritime security threats may take place onboard ships on the high seas and some may take place on land such as in the state's port facilities. One of the major

security threats to the maritime environment that may take place in ports is cargo theft. “Cargo theft has boomed since the advent of the maritime container- an unfortunate by-product of the efficient transport of single box carrying tones of valuable merchandise” (McNicholas, 2016). The process of moving the cargo from the producer to the customer is challenging as the cargo might not arrive at its final destination, because it might encounter different security threats before reaching its buyer. Ports and port facilities are often not adequately protected from these security threats, considering that they have valuable cargo that is worth billions of dollars to be loaded, offloaded, or stored, and such cargo can be stolen if proper security measures are not put in place.

Cargo theft is a serious challenge and an important security threat to State governments and their maritime administrations, and it has a huge impact on the shipping system. Understanding how costly cargo theft is will help the international community to realize how important it is to come up with mitigation measures and security plans to protect the ports and port facilities. “Worldwide, the theft of goods in transit likely approaches \$50 billion a year or more” (Christopher, 2015). Such numbers reflect the reported theft, which means it could be even higher as there is occasion of thefts that have not been recorded or even reported. Since cargo theft has an impact on the shipping industry as a whole rather than on a specific state, that gives a clue on how important international cooperation is to protect all ships and ports to secure the shipping industry and work for the benefit of the world states economies. One example of how such maritime threats could affect the shipping industry as a whole is the insurance rate; cargo theft can affect the insurance rate of the cargo shipped, and cause it to fluctuate.

The critical fact about maritime security which makes it a big challenge to the international community is that such threats are deliberate, and the people who are committing such illegal acts do not hesitate to cause harm and damage to the maritime environment. Those people also have advantages to reach their goals because they have the time to choose their targets, and they have the time to plan and

decide when and where to attack. Adding to that, cargo theft might get help from inside the port either from a single employee (insider) or a group, which makes the crime easier without the need to take long planning and execution. According to Talley (2013), the cargo thief without the help of an insider may take weeks to observe the characteristics of the warehouse, and monitoring the working hours, access points and the security measures that are visible to the public.

There is no doubt of the importance of international maritime trade to the international community, and the contribution of such trade to global economies is evident. Ninety percent of world trade is carried by ships to different ports all around the world; therefore, any security threat or attack on the shipping lanes, ships or ports will affect the whole transportation system, and in turn, will affect the different states' economies. "A terrorist attack to the main port may not only cause damage to the port itself but would also paralyze, at least for a certain amount of time, world maritime trade" (Zamparini, 2014). The effort of countering maritime security threats by each state alone and without international cooperation tends to fail more than to succeed because the international community shares the same concern, and their cooperation is required. The security threats, especially terrorism and piracy, could take place anywhere, but the effect will be on a global scale. With that being said there is a need for a legal framework that unifies mitigation measures and increases information sharing in order to increase the level of readiness to deal with maritime security threats.

## **2.2. International regulations affecting the security of ships and port facilities**

### **2.2.1. United Nations Convention on the Law of the Sea (UNCLOS) 1982**

UNCLOS should be considered as very influential legal frameworks that deal with states' maritime aspects, and its provisions specify the duties and responsibilities of

the different states, as well as their rights in regard to the seas and their usage. “It 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” (Christopher, 2015). For example, Article 24 of UNCLOS specifies that one of the duties of the state towards the maritime community is to announce navigational dangers within its territorial waters. Although UNCLOS is a United Nations convention, it is a wide legal framework that supports the IMO legal instruments to the point that both frameworks have no clash or overlap. “Overlapping or potential conflict between IMO’s work and that of UNCLOS have been avoided by the inclusion in several IMO conventions of provisions” (Nordquist et al., 2012).

In describing the rights and responsibilities of states, UNCLOS uses the wording “competent international organization” with a link to IMO. According to Nordquist et al. (2012), some of the UNCLOS provisions that use the term “competent international organization” actually refer to the party that develops shipping standards and rules around maritime safety and navigation efficiency. For example, “states, acting through the competent international organization ..., shall establish international rules and standards to prevent, reduce and control pollution of the marine environment” (UN, 1982). Such a positive connection between the legal international instruments actually strengthens the provisions as they support each other with no discrepancy, hence the situation works for the benefit of a higher level of maritime safety and security.

UNCLOS deals with issues related to the stocks of fish that are targeted by the large fishing fleets, and issues concerning the protection of the marine environment such as pollution created by ships, especially oil tankers. However, it does not include detailed information regarding the maritime security threats associated with these maritime activities. Furthermore, it does not provide any guidance on how to monitor, control, and mitigate those threats. Article 211 Para 1 under UNCLOS clearly identifies the responsibilities of states in respect of marine pollution;

however, there is no specific guidance on how to meet such requirements. It is left for the states to decide. According to Christopher (2015), the provisions of UNCLOS give the signatory states the right to control all the maritime activities on issues like innocent passage, pollution, maritime trade, and navigational and transit issues. It is worth mentioning that, UNCLOS 1982 has touched upon areas of maritime security threats such as terrorism. The articles provide definitions and responsibilities of the world's states towards terrorism but did not give any specific measures or steps on how to counter such threats. "All states shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any state" (UN, 1982).

UNCLOS provisions cover a wide range of maritime issues that concern maritime activities that are on, under and above the water, yet the details on how these issues must be administered are not included within the provisions. "The LOSC doesn't contain comprehensive and detailed rules regulating specific uses of the sea, such as navigation, fishing, the mining of minerals... the laying of cables and pipelines" (Rothwell et al., 2015). According to Chrysochou & Dalaklis (2018), it is very important for the states to use the sea in a rational and functional way in conformity with the provisions of the 1982 Law of the Sea Convention. The provisions of UNCLOS work as a legal framework to help the signatory nations to manage the mentioned activities in an efficient way, for example dividing the sea areas into different zones like, the territorial sea, exclusive economic zone (EEZ), internal waters, international waters or open seas helps the signatory states to control and manage their resources as well as protect them from pollution or any other threats that might not be mentioned in UNCLOS.

The benefits of dividing the sea into different areas of "responsibility" could be seen through how states categorize maritime security threats, for example armed robbery or piracy, which are mainly attacks on ships. However, the important difference between these two concepts is the geographical area where the crime took place, which is well defined through UNCLOS, because in fact both threats (piracy and

armed robbery) are similar in nature. For instance, if the attack takes place in the territorial water as specified by UNCLOS, then the act is considered armed robbery, whereas if the attack happens in the open sea, as also defined by UNCLOS, then the act is piracy. Such division helps the signatory states to legally exercise their power and sovereignty to protect their waters and resources.

### **2.2.2. The International Convention for the Safety of Life at Sea (SOLAS) 1974**

The SOLAS 1974 provisions aim to enhance maritime safety to protect human beings, property, and the marine environment through setting up minimum standards on how the ship is constructed and built, and the type of safety equipment that should be onboard ships, for example equipment for navigation, communication and for emergency situations like fire systems. Moreover, SOLAS also contains provisions concerning the carriage of dangerous goods as these types of products could cause destructive harm to people and property if they are not handled appropriately. Other provisions included concern safe navigation in chapter five and many other provisions that cover a wide range of safety aspects on board ships. According to Dalaklis (2017), SOLAS describes minimum standards for the construction, equipment, and operation of ships matching with safety.

Throughout the years, changes to the SOLAS 1974 provisions have been made by addition or amendment, and all these efforts were to enhance maritime safety. Although SOLAS 1974 helped a lot in increasing the level of safety onboard ships, the nature of risks is changing along with the new types of ships and new technologies. Therefore, the need for a more up to date legal framework is evident. The need for continuous updates is because the SOLAS provisions have to cover all aspects of maritime safety, including the new systems, whether they are advanced navigational equipment, communication equipment or any other technology that is being used in the maritime domain and needs to be regulated. However, sometimes the IMO has been criticized for the adoption of new regulations after maritime

disasters occur; therefore, to minimize risks of shipping operations strict, rules and regulations need to be adopted before accidents take place (Dalaklis, 2017).

It is important to mention the possibility of having these latest technologies and other advanced maritime equipment in the wrong hands; terrorist groups or pirates can easily get hold of such technology and use it for their crimes. The Automatic Identification System (AIS) for example, can be used by terrorists or pirates to have enough information about the ship that is sailing within their region, which makes them vulnerable and to easy target. In addition, it is very difficult to prevent criminals from possessing such technologies and using them against commercial ships, and there are no mitigation measures within SOLAS to deal with such security threats; therefore, the safety measures within the provisions of SOLAS itself are inadequate.

Within SOLAS a number of different codes have been added when SOLAS has been revised, such as the International Ship and Port Facility Security Code (ISPS Code) and the International Safety Management (ISM) Code. The ISPS Code was one of the major legal provisions embedded in SOLAS in order to deal with maritime security threats that were not included in the first version, and that resulted in stronger mitigation measures internationally agreed and adopted to protect the shipping industry and the world's economies.

It is the responsibility of the IMO member states to make sure that the SOLAS provisions are being implemented on the ground and not just on paper, and these responsibilities are specified within the provisions. Some of these responsibilities concern the safety in ports and some concern ships, for instance, the security level a port is working at should be specified by the IMO member states as required by the provisions, and the security level information should be passed on to ships approaching the state's ports. "Contracting government shall set security levels and ensure the provision of security level information to port facilities ... and to ships prior to entering a port or while in a port within their territory" (IMO, 1974). These



provisions transfer to the contracting government the responsibility of deciding the security level for its respective ports. However the exact measures to be taken in order to protect the ports against maritime threats are not specified by the SOLAS provisions, and that is another proof that SOLAS 1974 by itself is not enough to deal with maritime security threats.

### **2.2.3. Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) 1988**

The SUA Convention was a result of an extra effort by the international community to protect ships and people onboard from maritime security threats. The terrorist assault and hijack of the Italian flagged MS Achille Lauro by four terrorists raised awareness of the need for a new international regulation to deal with terrorist acts that involve different nationalities. This incident showed that the intention of harm was evident towards the security of the people on board the ship and the ship itself because the terrorists made it clear that they would kill the passengers if their demands were not accepted and fulfilled. The incident also highlighted the difficulty of dealing with such complicated situations that involve different nationalities, especially from the legal point of view where no specific regulations exist that could be taken as guidelines to solve the issue. The ship was Italian, and the passengers were from different nationalities. Adding to that, the incident took place in another country's waters, so the main question is who is responsible for the protection of the ship and its passengers? And which state will press charges on the terrorist group or person and carry on the trial process?

For that reason, the International Maritime Community adopted the SUA Convention in Rome in 1988 during the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation. The primary goal of this Convention is to have an international legal framework on relevant actions against the people who impose unlawful acts against ships (IMO, n.d.). According to Article 6 of the

Convention, each Party State shall carry out necessary measures for establishing its jurisdiction against criminal acts on board ships flying its flag, in its territorial waters, and by a national of that State.

The SUA convention increased the level of cooperation within the international community to protect people and ships from terrorist attacks by addressing other types of offenses that were not included in other international legal instruments. According to Nordquist et al. (2012), the SUA convention has widened the list of offenses by adding three more groups. The first group is about crimes related to maritime terrorism, such as using a vessel as a weapon to initiate a terrorist attack; the second group concern the system of delivering Weapons of Mass Destruction (WMD), and the third new group are those of offenses are those related to the transport by sea of persons who have violated the law under the provisions of the SUA Convention.

The study of the Achille Lauro case informed legislators from the international community of other maritime security threats that need to be included in the provisions of international instruments; such new threats are not limited to the hijacking of ships and jeopardizing the safety of the people on board but go beyond that by looking at the whole maritime transportation system. The SUA Convention specifies several offenses that are deemed to be unlawful under the articles of the convention, and according to the International Maritime Organization (IMO) (1988), the deliberate offenses include damaging a ship or destroying it or the cargo it carries, taking over a ship by threat or force, and harming a human being onboard a ship.

The different international legal instruments cover a wide range of security threats, and these instruments are a reflection of a certain incident. However, the nature of maritime threats could be different even if their target is the same, such as the maritime shipping industry and its transportation system. For instance, the Achille Lauro incident touched upon the threat of using the maritime transportation system

by terrorists to transfer weapons of mass destruction (WMD) and using ships as a tool to attack seaports. This was not the only case to trigger concern of the international community concerns. The incident of September 11<sup>th</sup> 2001 raised the alarm of maritime security threats and vulnerable targets. According to Kraska (2017), after the 9/11 attacks, there was an evident major concern about the possibility of further tragic attacks that could target the maritime field. These concerns centered on the vulnerability of the maritime transportation system and the possibility of using ships to smuggle people or weapons of mass destruction and use them to attack the infrastructure of seaports and oil tankers for instance.

### **3. The International Ship and Port Facility Security Code (ISPS Code)**

#### **3.1 Brief background about the ISPS Code**

The terrorist attack on 11<sup>th</sup> September 2001, which destroyed the World Trade Center in New York drove the international community to reassess the international regulations concerning the safety and security of commercial ships, seafarers and ports as they became vulnerable targets to security threats, especially the threat of terrorism. The 11<sup>th</sup> September attack was the reason behind the birth of the ISPS code as enhanced security measures which were adopted by the IMO member states: “Global fears of terrorist threats ... spurred the IMO to critically review its agenda concerning vessel and port security facility and resulted in the adoption of the International Ship and Port Facility Security (ISPS) code” (Christopher, 2015).

The importance of ship and port security goes beyond the national level, and the September 11<sup>th</sup> terrorist attack proved that such maritime security threats have a global effect and are not limited to a single state. Therefore, the protection of commercial ships and ports is not the responsibility of a single state; it is the responsibility of the international community. Commercial ships and port facilities became a target of terrorist groups, and the international community realized that the chances of having more attacks on ships and ports were higher, especially after September 11<sup>th</sup>, and the need for stronger cooperation was a need more than an option. “A wide range of maritime terrorist threats and risks were considered

possible in the aftermath of 9/11, including attacks against ships and maritime infrastructure” (Herbert-Burns et al., 2008).

Due to the fact that maritime security has become a high priority for the international community, there is a need for a legal framework that addresses maritime security threats and establishes preventive measures to counter these threats. Moreover, the success of this legal framework requires international cooperation. In 2002, the IMO developed new maritime regulations for the control of maritime terrorism risk and mitigation of these types of risks with the goal to enhance security in the maritime field and at the facilities through the ISPS Code (Nordfeld & Dalaklis, 2018). “The ISPS code contains detailed security-related requirements for governments, port authorities, and shipping companies” (Wu & Zou, 2013). The ISPS code is the result of the IMO member states` efforts to deal with maritime security. It allocates every contracting government-specific roles play within the maritime domain and specific responsibilities for the protection of ships and ports, which will eventually benefit the maritime industry as a whole. “The objectives of this code are ... to establish the respective roles and responsibilities of the contracting governments, government agencies, local administrations, and the shipping and port industries” (IMO, 2002). According to Dalaklis (2017), the primary goal of the ISPS is that it enables maritime stakeholders to discover the maritime security threats, and enables them to develop security measures, and gather information related to security.

Maritime security threats affect all stakeholders involved in the maritime field, including public stakeholders (governmental sector) and private stakeholders (private sector like shipping companies). Therefore enhancing maritime security is not only a task for contracting governments, it is also the responsibility of shipping companies carrying on maritime activities. According to Dalaklis (2017), one of the primary goals of the (ISPS) is to establish roles and responsibilities for governments, in line with ship and port industries to mitigate the threats of the maritime security. Private sector activities such as the transport of goods and people (cruise ships) and fishing are also vulnerable to the threat of security incidents. Therefore, their contribution

towards maritime security is needed. The international community has acknowledged the importance of the involvement of the private sector through the provisions of the ISPS Code that specify certain roles and responsibilities that have to be carried out by the shipping companies.

The ISPS code was aimed at strengthening the security measures taken by the IMO Member States to protect their ships and ports; however, there was a challenge of maintaining an effective flow of shipping lanes and cargo transport with new and more restricted measures to control maritime activities. According to McNicholas (2016), the way the United States and the International Maritime Organization responded to this attack was through the implementation of mitigation measures to protect the commercial ships and ports, and these measures had a major impact on the maritime supply chain and the process of moving cargo from one place to another.

The process of carrying out security inspections of every ship that comes to a port is unrealistic, and that is due to a large number of ships that are coming alongside the ports, especially in the areas where shipping density is high like in the United States of America (USA), China, and Europe. Moreover, the process of inspecting each ship will have negative consequences for shipping companies, because delaying commercial ships will result in financial loss, and that is not the aim of the ISPS code. Therefore, international cooperation and intelligence or information sharing between the IMO Member States will help in reducing any negative impact caused by new regulations.

### **3.2 An overview of the ISPS Code**

The ISPS Code provisions were embedded in the SOLAS 1974 Convention, and this gave the ISPS code a pioneering value over other legal instruments or codes in terms of security. Such importance was due to the fact that the ISPS Code was not

considered a new convention that needed to be ratified by the IMO member states right from the beginning, and injecting the Code within SOLAS means the member states that ratified SOLAS are the ones ratifying the ISPS Code. Although the adoption of the ISPS code was on the 12<sup>th</sup> of December 2002, it came into effect on the 1<sup>st</sup> of July 2004. The ISPS Code, through its provisions, specified the types of ships it regulates. Such ships are the ones engaged in international voyages, starting from passenger ships (including high-speed passenger craft), cargo ships (including high-speed craft of 500 gross tonnages and above), mobile offshore drilling units, and including port facilities serving such ships (IMO, 2012).

The provisions of the Code are mainly pushing towards a high level of protection for ships and ports, yet there are no precise security measures detailing what should be put on board the ships or in the port as tools and equipment to protect them. “It is necessary to point out that the ISPS Code does not specify detailed measures that each port and ship must undertake to ensure the safety of the vessel/facility against terrorism” (Dalaklis, 2017). The structure of the ISPS Code was set into two different parts, Part A and Part B. Part A contains provisions that are deemed to be mandatory, and Part B contains guidelines that are useful for states’ maritime administrations to enable them to comply with the provisions. However, part B guidelines are not mandatory. “Whereas part A of the code establishes the mandatory provisions, the non-mandatory ... part B comprises guidelines about how to comply with the mandatory requirements of part A” (Nordfjeld & Dalaklis., 2018).

The mandatory provisions in the ISPS Code part A contain the objectives of the code, functional requirements, definitions, applications, security levels, and the responsibilities of both contracting governments and shipping companies. Under the ISPS code, there are three different security levels, and they are as follows:

- **Level one** (Minimum appropriate protective security measures shall be maintained at all times).

- **Level two** (Further specific protective security measures shall be maintained for a period when the security incident is imminent).
- **Level three** (Further specific protective security measures shall be maintained for a specific period when the security incident is imminent).

The major areas that the ISPS Code successfully included allocate specific responsibilities to the main maritime stakeholders, which are the contracting governments and shipping companies. Contracting governments and the various shipping companies are two of the major players in the maritime field; therefore, the IMO member states acknowledged the importance of cooperation among the stakeholders in order to enhance the security level by establishing specific responsibilities and roles within the ISPS Code. Although the responsibilities are specified by the provisions of the ISPS Code, how these responsibilities are carried out by the contracting government or the shipping companies is left for them to decide, and that was the purpose of the guidelines in Part B.

Part B contains guidelines for the contracting governments and the shipping companies; these guidelines are very helpful to enable those major players to meet the requirements of the ISPS Code provisions. Although these guidelines are helpful and they are part of the ISPS Code, they are not mandatory. The contracting governments and shipping companies are free to consider them or take other steps as they see fit to meet the provisions of the Code. For instance, under the ISPS provisions in part A, the Port Facility Security Plan (PFSP) has to be created and maintained, but it does not specify what information it should involve or how the plan should be structured. However, Part B helps the designated authority in terms of what detailed information the plan should have. The PFSP should specify what security measures are to be taken in order to protect the port's facilities, and that includes the operational and physical measures. "The Port Facility Security Plan should indicate the operational and physical security measures the port facility should take to ensure that it always operates at security level 1" (IMO, 2002).



### **3.3 Responsibilities of the contracting governments**

The contracting governments have different responsibilities under the ISPS code, and one of the main responsibilities is the process of deciding which administrative authority will take charge of the maritime security aspects in each IMO member state. The nominated authority will handle the maritime responsibilities specified under the ISPS code, and one of these responsibilities is deciding on the security level the port must work at, “The regulation requires Administrations to set security levels and ensure the provision of security level information to ships entitled to fly their flag” (Dalaklis, 2017). It is also the responsibility of the authority nominated by the contracting government to make sure that the security level decided by them is being applied on the ground rather than just on paper, which means their responsibilities, goes beyond the decision-making process to the control process.

Moreover, the port facility security plan and the port security plan, which are required by the ISPS Code, must be approved by the maritime authority after revising it; needless to say, the control process after the approval is also a vital step. Another responsibility for the contracting government is the process of recruitment for the ports under their authority. They should recruit a qualified Port Facility Security Officer (PFSO), and a Port Security Officer (PSO), and having these two types of security officers is required by the ISPS Code provisions. “The code also establishes the obligation for contracting states to demand port and port-terminal operators (port facilities) to hire correctly certified port security officer (PSO) and Port Facility Security Officer (PFSO)” (Nordfjeld & Dalaklis, 2018). Additionally, it is the responsibility of the contracting governments to make sure that all port facilities under their authority are in compliance with the provisions of the ISPS Code and have carried out a Port Facility Security Assessment (PFSA).

Part A of the ISPS Code clearly states that it is the responsibility of the contracting governments to carry out the PFSA, and the provisions also state that they have the option to delegate the assessment process to a security organization that they recognize as a reliable entity to carry out the task. Although the contracting government is able to delegate the process of PFSA, such a privilege is not open to other obligations. For instance, the task of approving the PFSA cannot be delegated to other security organizations because it is against the provisions of the ISPS code stated in Part A: “Contracting governments may delegate to a recognized security organization certain of their security-related duties ... with the exception of approving a Port Facility Security Assessment and subsequent amendments to an approved assessment” (IMO, 2002).

The process of securing the port facilities is not an easy task, and that is where the ISPS can be of help to the contracting governments to touch upon areas that could be vulnerable to maritime security threats. The contracting governments under the provisions of the ISPS Code have to control all port access points and monitor these points around the clock to prevent unauthorized people from getting through. The Designated Authorities of the Member States can apply different security levels for different ports and port facilities to secure their territorial waters (Nordfjeld & Dalaklis, 2018). Moreover, they have to supervise all the port operations and take full control of all activities within the port. With that comes continuous surveillance of the port using all necessary resources and equipment, starting with closed-circuit televisions (CCTV) and ending with security guards. The control duties are for all the areas within the port, including the cargo handling areas and the storage areas.

The control and monitoring processes can be effectively applied when other ISPS provisions are put in place, and the best example is the PFSA and the PFSP; however, the contracting government shall carry out testing activities to assess the effectiveness of security measures within the PFSP. “Contracting Governments shall, to the extent they consider appropriate, test the effectiveness of the Ship or the Port Facility Security Plans” (IMO, 2002). The PFSP may require an update from time to

time, especially after new maritime security incidents take place or new information is received by the contracting governments regarding imminent danger. Such new incidents must be recorded and documented, and this is one of the main tasks of the PFSO.

### **3.4 The obligations of shipping companies under the ISPS Code**

Understanding the maritime environment and the security risks involved within it is a fundamental factor in implementing the ISPS Code provisions. In order to effectively implement these provisions, cooperation among stakeholders is vital. “The ISPS code follows a risk management approach and obliges ships, shipping companies, and ports to install their risk management systems” (Wendel, 2007). The responsibility of protecting ships and ports from maritime security threats is not limited to the contracting governments or their designated authorities; it is also the responsibility of other stakeholders, for example, ship companies and ship operators.

Under the ISPS code provisions in Part A, shipping companies are required to have a Ship Security Plan on board the ships they own, as well as a Ship Security Officer who has specific responsibilities under the ISPS code. “The ISPS framework includes requirements for Ship Security Plans (SSP), Ship Security Officers (SSO), Company Security Officers (CSO), certain onboard equipment” (Dalaklis, 2017). The process of nominating a Ship Security Officer (SSO) and the qualifications they must have is for the shipping company to decide, as the ISPS code does not specify the conditions and the qualifications of recruitment. Similarly, the details of the security measures within the Ship Security Plan (SSP) are left for the shipping company to decide. “Each ship shall carry on board a ship security plan approved by the administration. The plan shall make provisions for the three security levels” (IMO, 2002).

For further elaboration, the ISPS code requires the shipping companies to have a Ship Security Plan (SSP) on board the ships; however, there is neither a specific security plan nor detailed procedures and measures to be followed during emergencies within the plan. “The security framework is established in accordance with the ISPS code, which requires the implementation of a ship security plan, containing a policy, risk assessment procedures, and self-protection practices” (Cubbage & Brooks, 2012). The SSP must be approved by the flag state that the ship is registered under, and such approval is given after revising it and making sure that it has all the information required by the ISPS code, such as the restricted areas onboard the ship with the measures of preventing unauthorized personnel from entering them, as well as measures of denying access to the ship for unauthorized personnel.

The Ship Security Plan (SSP) is best built upon a Ship Security Assessment (SSA), which is also a mandatory task for the shipping company under the ISPS Code because the SSA studies the type of ship operations that are being carried on board, the security threats that the ship is likely to encounter, and specifies the ship’s vulnerabilities and weaknesses. Based on the information of the SSA, the SSP will be structured on solid ground, and the security measures will be set by the shipping company, not by the ISPS Code mandatory provisions. However, the guidelines in Part B of the Code can be of help to the company when structuring the SSP. The task of generating the SSA and the SSP has to be carried out by qualified personnel or security officers who have the proper skills to carry out such tasks. It is the company’s responsibility to hire qualified people able to accomplish the tasks under the ISPS Code. However, these qualifications are not specified by the Code. “For ships the ISPS framework includes requirements for: ship security plans (SSP); ship security officers (SSO); company security officers (CSO); certain onboard equipment” (Dalaklis, 2017).

The different security officers that shipping companies are required to have under the ISPS Code are the Company Security Officer (CSO), and Ship Security Officer

(SSO). The shipping company has to nominate a Ship Security Officer (SSO) who is designated to be onboard their ships and to take charge of the security aspects. Moreover, they should have a ship security plan that contains information regarding what should be done during a security incident and how to carry on the proper response to the incident. It is the responsibility of the SSO to make sure that the plan exists and that it is executed in a way that protects people, property, and the marine environment.

## **4. The implementation of the ISPS Code in Azerbaijan**

### **4.1 General maritime security overview of Azerbaijan**

The Republic of Azerbaijan is located on the coast of the Caspian Sea, which is an enclosed sea, and surrounded by the Russian Federation to the north, the Islamic Republic of Iran to the south, Kazakhstan and Turkmenistan to the western sides and Azerbaijan to the east. The Caspian Sea is the biggest enclosed sea between Asia and Europe, which became the most important region for its geopolitical strategy after the collapse of the Soviet Union. Furthermore, the sea has one of the richest oil and gas reserves in the world. Azerbaijan has approximately 713 km coastline on the Caspian Sea and has transport links through the Volga-Don channel to the Black Sea and the Mediterranean Sea (The SMA, 2016). Figure 2 shows map of the Caspian Sea and its boundaries with adjacent coastal states.

Given its geopolitical location, maritime transport plays an essential role in the sustainable development and welfare of Azerbaijan. Maritime transport is considered less expensive and environmentally friendly compared with other types of transportation. The enactment of legal acts on the maritime sphere by Azerbaijan has strengthened the effectiveness of the shipping industry. Azerbaijan became a member of IMO in 1995 and ever since the State has acceded the majority of IMO Conventions. Due to geographically strategic location of Azerbaijan, as well as its rich oil and gas resources, shipping companies play a significant role in the development of the country's economy.



Figure 2: The map of the Caspian Sea.

Source: [https:// www.worldatlas.com/](https://www.worldatlas.com/)

Furthermore, the region is rich in strategic oil and gas pipelines. A Baku-Tbilisi-Ceyhan pipeline (BTC), which started construction in 2002, and with a capacity to transport 1 million b/d, was inaugurated in 2005. This was not only an important project for Azerbaijan, but also a vital project for the region and Europe for export of the Caspian Sea oil to the world. The mentioned pipeline, which cost 4 billion USD is 1730 km in length, reaching the Turkish coast of the Mediterranean sea. In 2010, Kazakhstan and Turkmenistan also joined BTC to export their oil. Furthermore, since 2007, another vital project in the region, a Baku-Tbilisi-Erzurum gas pipeline has served to export Caspian Sea gas to Europe (Ibrahimov, R, 2010).

When the Republic of Azerbaijan gained its independence on 18<sup>th</sup> October 1991 and became part of the international community, it became a member of various international organizations. Azerbaijan became a member of the United Nations on 2<sup>nd</sup> March 1992; following that period, the Republic of Azerbaijan continued to be a

member of different specialized agencies of the United Nations, including the International Maritime Organization (since 15<sup>th</sup> May 1995) and the International Labour Organization (ILO). Becoming a member of the IMO means another new independent State joined the international maritime community (The SMA, 2016).

Azerbaijan realizes the importance of maritime safety and security, as well as environmental protection. For that reason, the State ratified one of the biggest IMO conventions, SOLAS, which was adopted on 22<sup>nd</sup> April 1997 by the national law no 275- IQ (The SMA, 2016). After the adoption of the ISPS Code by the IMO in 2002, and entry into force in 2004, Azerbaijan as a Contracting State to SOLAS started to implement the provisions that are required by the Code for developing security measures on ships registered under its flag, as well as at the port facilities along the east coast of Azerbaijan.

According to the Merchant Shipping Code of the Republic of Azerbaijan, the State Maritime Agency under the Ministry of the Transport, Communications and High Technologies of the Republic of Azerbaijan is an authoritative body on executing maritime transport policy (Merchant Shipping Code, 2006). Moreover, the ISPS Code principles are implemented by the State Maritime Agency (Statute of the Agency, 2018).

The State Maritime Agency required all port facilities to implement the requirements of the ISPS Code. Although there were only four port facilities implementing the requirements of the Code at the beginning, the number of declared port facilities has been increasing steadily. Currently, eight declared port facilities are accepting ships engaged in international voyages and mobile offshore drilling units (IMO, 2019). Figure 3 shows the port of Baku, which includes declared port facilities, such as “Baku International Sea Trade Port” CJSC, Zykh Dry Cargo Sea Port, and Puta Sea Port.



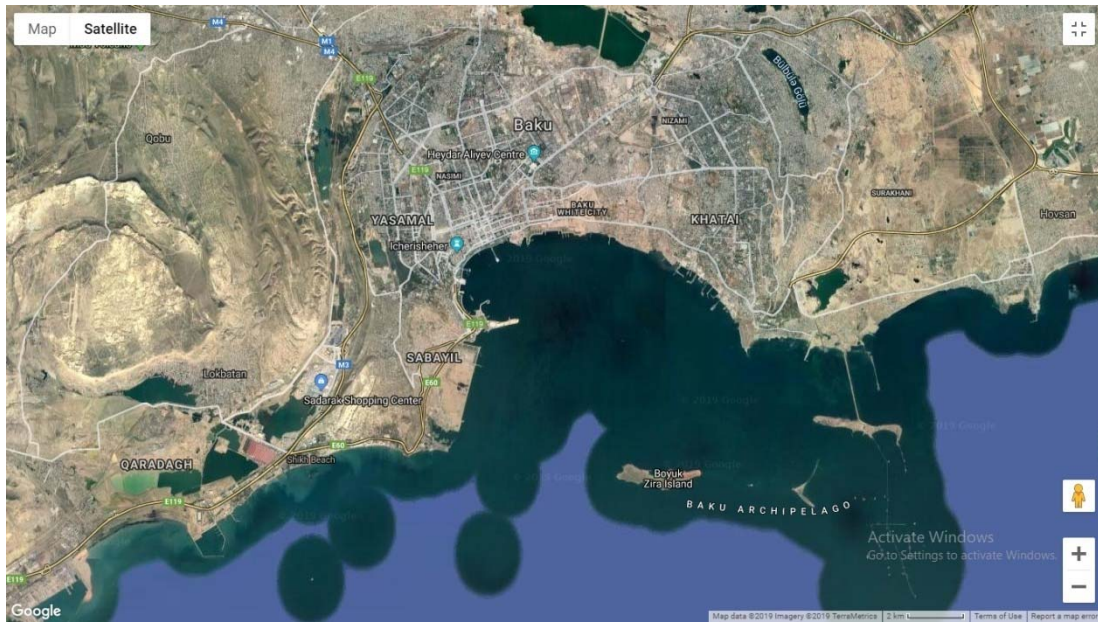


Figure 3: The map of the port of Baku.

Source: <http://www.worldportsource.com>

The requirements of the ISPS Code were also implemented on passenger and cargo ships engaged in international voyages, as well as mobile offshore drilling units and International Ships Security Certificates were issued to those ships. Currently, the requirements of the ISPS Code are implemented on more than 150 ships owned by 10 Shipping Companies in Azerbaijan. The inspectors of the Agency conduct initial, renewal, intermediate, and additional verifications each year.

There are also several training and education courses for gaining knowledge of security measures for the maritime industry. Information on security measures and procedures are provided to crew of ships, shipping company members, and port facility security guards by the State Maritime Academy of the Republic of Azerbaijan, and different training centers (The SMA, 2018).

#### **4.2. National legislation on maritime security**

The Republic of Azerbaijan has adopted more than 250 national rules and regulations regarding the maritime industry, marine protection, marine transportation, safety and security at sea, and welfare of seafarers through its Parliament, President, Cabinet of Ministers, State Maritime Agency and the other Governmental Organizations (MOJ, 2019). The fundamental national law in the maritime field within the Republic of Azerbaijan is the Merchant Shipping Code of the Republic of Azerbaijan (MSC) which includes all types of maritime procedures. However, MSC covers indirect provisions on maritime security. According to 6-1 and 18 Articles MSC, all Azerbaijan flagged international seagoing vessels shall be issued International Ship Security Certificates as is required by the ISPS Code.

On the other hand, the Republic of Azerbaijan adopted “The Law on Sea Ports” on 18 April 2014 for regulating the construction of seaports, the operations of these ports and control of these ports by the State in the territorial waters of Azerbaijan. Article 13 of the relevant law directly addresses the security of port facilities, which includes ensuring security measures during unlawful acts against port facilities, investigation procedures of these unlawful acts and following international rules and regulations on maritime security. Furthermore, Azerbaijan as a Contracting State to SOLAS, which includes Chapter XI-2 – Special measures to enhance maritime security, started to implement the requirements of the ISPS Code within the territorial waters after the Code entered into force in July 2004. During the early years, the provisions of the ISPS Code and Chapter XI-2 were applied directly to national rules as a part of national legislation. However, since 2014, the Government has adopted two relevant Regulations which directly address maritime security and security of port facilities.

The provisions of the ISPS Code and national legislation on port facility security affected the Baku port and eight port facilities, which are described in Table 1 (IMO, 2019).

<b>№</b>	<b>Port</b>	<b>Port facility name</b>	<b>Description of business model</b>	<b>Initial approval</b>	<b>Last updated</b>
1.	Baku	“Baku International Sea Trade Port” CJSC	A passenger ship, passenger high-speed craft, cargo high-speed craft, oil tanker, bulk carrier, cargo ship	10/07/2004	15/02/2017
2.	Baku	“Cenubtikintiservis” OJSC	A passenger ship, passenger high-speed craft, cargo high-speed craft, oil tanker, mobile offshore drilling unit, cargo ship	28/06/2004	04/03/2014
3.	Baku	Heydar Aliyev Baku Deepwater Jackets Factory	Mobile offshore drilling unit, cargo ship	12/04/2005	04/03/2014
4.	Baku	“Azerbaijan Caspian Shipping” CJSC, Caspian Sea Oil Fleet	A passenger ship, passenger high-speed craft, cargo high-speed craft, oil tanker, mobile offshore drilling unit, cargo ship	16/08/2004	28/12/2018
5.	Baku	Putra Sea Port	Cargo high-speed crafts, an oil tanker, bulk carrier, cargo ship	28/02/2014	15/02/2017
6.	Baku	Zykh Dry Cargo Sea Port	Cargo ships	24/05/2015	14/02/2017
7.	Baku	“Baku Hovsan	Cargo ships	17/09/2018	Not updated

		International Sea Port” OJSC			
8.	Baku	Zira Sea Port	Mobile offshore drilling unit, cargo ship	10/10/2018	Not updated

*Table 1: Declared port facilities in the Republic of Azerbaijan.*

*Source: [https:// www.gisis.imo.org/](https://www.gisis.imo.org/)*

Although, “Baku International Sea Trade Port” CJSC is the biggest port facility in Azerbaijan in size, however, Heydar Aliyev Baku Deepwater Jackets Factory and “Azerbaijan Caspian Shipping” CJSC, Caspian Sea Oil Fleet are considered the busiest port facilities for receiving different types of ships. Zyxh Dry Cargo Sea Port is considered a more risky port facility because it is adjacent to Zyxh Shipyard without any boundaries or fences between them. From table 1, it is clear that four of the port facilities' security plans are updated, in regard to the second port facility and the third are relatively updated, whereas the seventh and the eighth were approved in 2018.

As mentioned above, the State Maritime Agency is responsible for ensuring implementation and compliance with the ISPS Code at all security levels in the Republic of Azerbaijan. Moreover, the Agency is responsible for decision-making, coordination, and execution of all security changes and attending all types of security operations together with national security services, police, navy, national border services, and emergency services (“The Statute on”, 2018).

According to 4.3 Article of “Regulations on the ensuring of the security during unlawful acts at the ports”, which was adopted by the Decree of Cabinet of Ministers on 1 October 2015, during unlawful acts occurring at port facilities, a command post shall be established under the command of the Ministry of Internal Affairs, which shall include the State Maritime Agency, Port Facility Security Officer, and other national security services depending on the characteristics of the unlawful act.

Securing passengers and crew, defusing persons who hijacked the ship, and carrying out security measures for securing other ships and port facilities are the main duties of this command post. Furthermore, during terror acts, security operations against these acts shall be conducted according to the provisions of “The Law on the Suppression of Unlawful Acts against the Terrorism.”

In the “Regulations on the security of ports and port facilities”, it is clearly mentioned that the SMA is responsible for conducting and approving PFSA, which includes the security risk evaluation of port facilities which has to be used for developing the PFSP. After the completion of the PFSA the port facility shall develop the PFSP and present it to the SMA for revision and approval. Upon approval, the auditors shall verify implementation and compliance of the Plan at the port facility; moreover, a Statement of Compliance of a Port Facility shall be issued to the port facility (COM, 2014). PFSPs of all port facilities are reviewed by SMA every five years. Qualified auditors of the SMA carry out PFSA, review, and approval of PFSP, and conduct initial, annual and intermediate verifications at the port facilities. These auditors also carry out the implementation of requirements on maritime security on ships that fly the flag of the Republic of Azerbaijan. The SMA records revision and approval of PFSA and PFSP, and these records are kept for five years. After five years, the records are handed over to the archive of the SMA.

The SMA has not authorized any Recognized Security Organization (RSO) to perform PFSA, develop PFSP, revision, and approval of PFSP or to conduct verifications and audits. These measures give extra pressures, duties, and responsibilities to the SMA for doing verifications, revisions and approvals of PFSP and SSP, PFSA and SSA with a short list of qualified staff. However, for protection of the national security policy, the SMA is not planning to authorize any RSOs to carry out maritime security measures, as it is the responsible Organization according to the provisions of “The Statute on the State Maritime Agency under the Ministry of the Transport, Communications and High Technologies of the Republic of Azerbaijan” adopted by the Decree of the President on 22 May 2018. On the other

hand, the SMA has given permission to various training and education centers to provide courses and training regarding the provisions of the ISPS Code and maritime security. In those centers, ship crew and the port facility personnel gain knowledge on the essential requirements of SOLAS Chapter XI-2, the ISPS Code and national legislation. Nevertheless, according to the SMA requirements, CSO and PFSO should attend extra training for better learning of the ISPS Code requirements. However, the SMA is not only the national authority for the protection of port facilities and the security of territorial water borders. The SMA does not have such power and resources to carry out protection functions. These functions are conducted by other Governmental Organizations, such as the navy, police, border services, and national security services.

The Port Facility Security Officer (PFSO) is in charge of development of the PFSA and PFSP, as well as for ensuring compliance with all requirements of the ISPS Code and national legislation on maritime security and instructions described in the PFSP, such as drills, training, exercises of security personnel, verifications and audits of port facility, review, and amendment of PFSP and the other procedures are defined in the PFSP. The PFSO should be appointed by the head of the port facility and should be under the head of the port facility and should have overriding authority for the maritime security and protection of the port facility. After assigning the PFSO, the documentation and competence of the person relevant to the position is verified by the SMA.

During security incidents, the PFSO shall attend for suppression and investigation of these events for improvement of the port facility and maritime security, which is described in the PFSP and shall report to the SMA and record these security incidents.

After receiving the information about the security incident at the port facility, the SMA must follow the provisions of “Regulations on the ensuring of the security during unlawful acts at the ports”:

- The SMA with the other national security services shall check the authenticity of the report, verify the information, collect extra data, analyze them and, after evaluation of the risks carry out following measures:
  1. If the report is not accurate, port operations shall continue properly;
  2. If there is a high risk of the security incident, instructions shall be given to the ships and the port facilities about changing of security levels; additionally, security measures shall be strengthened on the vessels, in the port facilities and in adjacent areas to the port facilities;
  3. Moreover, all types of vehicles within the areas of a port facility shall be removed and access to restricted areas shall be restricted; additionally, extra security measures shall be carried out as described in the PFSP.

The port facilities of Azerbaijan accept non-SOLAS vessels and ships that are not engaged in international voyages that fly the flag of the Republic of Azerbaijan. There are no mandatory IMO regulations for regulating the security of these types of ships. However, IMO developed “Non-mandatory Guidelines on security aspects of the operation of vessels which do not fall within the scope of SOLAS Chapter XI-2 and the ISPS Code” in 2008 by the document MSC.1/Circ.1283. The Guidelines states that:

*Member States and other authorities may wish to engage with operators of non-SOLAS vessels and relevant organizations in developing security initiatives with respect to education, information sharing, coordination, and outreach programmes. Member States and other authorities may wish to consider establishing programmes to improve vessel operators` security awareness and to promote links with the Administration`s maritime security services.*

Although IMO did not adopt any mandatory regulations on the security of non-SOLAS vessels, the Government of Azerbaijan has gone further and developed national legislation that covers these types of vessels. In other words, the provisions

of “Regulations on the ensuring of the security during unlawful acts at the ports” apply to all ships registered in the State Ships Registry and Bareboat-charter Registry of the Republic of Azerbaijan and sailing under the State flag regardless of size as well as foreign-flagged ships within the areas of the port facilities of Azerbaijan.

On the other hand, during inspections of international seagoing Azerbaijan flagged and foreign-flagged ships by Flag State Control and Port State Control, if non-conformity is found on the security of ships or International Ship Security Certificate, the ships are detained immediately by FSC or PSC and reported to the SMA. After preventive measures are carried out onboard the ships are permitted to continue their operations.

To ensure the safety and security of ships, international regulations require the carriage of special shipborne equipment on board, including the Automatic Identification System (AIS). There is a particular requirement in the SOLAS Chapter 5, Regulation 19 which states that:

*All ships of 300 gross tonnage and upwards engaged on international voyages and cargo ships of 500 gross tonnage and upwards not engaged on international voyages and passenger ships irrespective of size shall be fitted with an automatic identification system (AIS).*

However, according to the national legislation of Azerbaijan, all ships regardless of size, type, operation area, and voyage plan shall be fitted with AIS (MOC, 2015). This increases safety and positively impact security. Besides, for ensuring safety and security of ships flying the flag of the Republic of Azerbaijan, a Long-range Identification and Tracking (LRIT) National Centre was established in 2011. The main functions of the LRIT National Centre are to track ships, regulate marine traffic, and control navigation rules in the territorial waters. For effective implementation of safety requirements and ensuring the safety of navigation in the territorial waters, the Centre for Safety of Navigation under the State Maritime Agency was established with the Presidential Decree on 14 March 2014. In addition,



the conduct of vessel traffic services (VTS) also belongs to the duties and responsibilities of the LRIT National Centre. According to the Statute of LRIT National Centre, the Centre carries out VTS to ensure the safety of life at sea, effective and safe navigation, and protection of the marine environment in conformity with relevant IMO instruments.

Furthermore, the Conformance of Long-range Identification and Tracking documents are issued to the national ships which are engaged in international voyages after verification of competence of relevant shipborne equipment on board. In addition, one of the duties of FSC, PSC, and ISPS auditors is to verify availability of Conformance of Long-range Identification and Tracking document on board ships.

Furthermore, there are special provisions in the national legislation of the Republic of Azerbaijan on the fines and sanctions for the breaking rules and regulations on maritime security. According to Article 307 and 315 of The Code of Administrative Violations of the Republic of Azerbaijan, port facilities operated without Statement of Compliance of a Port Facility and ships operated without an International Ship Security Certificate shall be subject of the sanctions by the relevant national authority.

In addition, Tables 2 and 3 illustrate the national rules and regulations that directly or indirectly address maritime security within the territorial waters of the Republic of Azerbaijan.

<b>№</b>	<b>Act</b>	<b>Name of legislation</b>	<b>Date of adoption</b>	<b>Description</b>
1.	The national law number 96- VQ	The Code of Administrative Violations of the Republic of Azerbaijan	29 December 2015	The fines and sanctions for breaking the rules and regulations on the maritime security

2.	The national law number 945- IVQ	The Law on Sea Ports	18 April 2014	Ensuring security measures during unlawful acts against port facilities, investigations procedures of these unlawful acts and following international rules and regulations on maritime security
3.	Decree of the President	The Statue on the State Maritime Agency under the Ministry of the Transport, Communications and High Technologies of the Republic of Azerbaijan	22 May 2018	The duties and responsibilities of the SMA for conducting maritime security measures.
4.	Decree of the Cabinet of Ministers	Regulations on the security of ports and port facilities	16 October 2014	The provisions on the conduct of PFSA, verifications of the port facilities, revision, and approval of PFSP.
5.	Decree of the Cabinet of Ministers	Regulations on the ensuring of the security during unlawful acts at the ports	1 October 2015	The provisions on the security measures during unlawful acts against the port facilities.

6.	Decree of the Cabinet of Ministers	Regulations on the navigation at the territorial waters of the Republic of Azerbaijan	8 September 2015	To control of ISSC of all Azerbaijan flagged and foreign international seagoing vessels
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*Table 2: Direct regulations which affect maritime security in the Republic of Azerbaijan.*

*Source: Authors, 2019.*

<b>№</b>	<b>Act</b>	<b>Name of legislation</b>	<b>Date of adoption</b>	<b>Description</b>
1.	The national law number 146- IIQ	Merchant Shipping Code of the Republic of Azerbaijan	22 June 2001	All Azerbaijan flagged international seagoing vessels shall be issued ISSC.
2.	Decree of the Cabinet of Ministers	Statue on the inspections of the ships	4 April 2013	Inspection of availability of ISSC on board
3.	Decree of the Cabinet of Ministers	Statue on the Sea Ports Captains	4 April 2013	Inspection of availability of ISSC on board
4.	Decree of the Cabinet of Ministers	Statue on the Ships Agents	8 July 2015	To provide PSC with the necessary documentation of ships which is required by maritime security
5.	The State Maritime Agency	The statute on the Minimum Safe Manning of Ships	27 February 2013	During establishing appropriate minimum safe manning for ships the provisions of SSP shall be taken into

				consideration by the SMA and the shipping companies
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*Table 3: Indirect regulations which affect maritime security in the Republic of Azerbaijan.*

*Source: Authors, 2019.*

Overall, the mentioned national legislations are strong enough to secure the ports facilities which are located in Azerbaijan and Azerbaijan flagged international ongoing ships; however, with more special security measures applied on non-SOLAS vessels will definitely enhance the security level further.

#### **4.3. The State Maritime Agency`s goals and functions as an executive body**

The 1st Article of “the Statue on the The State Maritime Agency under the Ministry of the Transport, Communications and High Technologies of the Republic of Azerbaijan”, which was adopted with the Presidential Decree on 22 May 2018, states that the State Maritime Agency is the executive body that carries out State control and regulation of maritime transportation within the territorial waters of Azerbaijan. The State Maritime Agency as a “National Maritime Authority” is in charge of maritime safety and security. Moreover, the duties and responsibilities of the Agency include control of safe navigation of ships and safe and secure operation of ports, investigation of maritime accidents, attendance at the maritime search and rescue processes, prevention of pollution from the ships, port state control and flag state control, registration of ships and certification of seafarers. As an essential part of maritime safety and security, the pilot service is also carried out under the SMA`s duties and responsibilities.

Moreover, according to the mentioned Statute, control of maritime security, verification and certification of international seagoing ships and port facilities are

conducted by the Agency. The SMA is a Central Executive Power for representing the Government at the International Maritime Organization with regards to the maritime safety, security and marine environmental protection; furthermore, the SMA has the authority to represent the State in negotiations on international conventions, and mutual and bilateral agreements in the maritime field.

Article 3 of “The Statute on the State Maritime Agency under the Ministry of the Transport, Communications and High Technologies of the Republic of Azerbaijan” adopted by the Decree of the President on 22 May 2018, states the functions of the SMA:

1. To attend to and, give feedback and suggestions on preparation of national legislation in the maritime field;
2. To participate in negotiations on international conventions, treaties, and agreements;
3. According to international conventions in the maritime domain, to issue certificates for ships agency services, and to give permission to training and education centers, as well as companies and the individual persons on maritime transportation;
4. To conduct Port State Control within the territorial waters of the Republic of Azerbaijan and Flag State Control for ships sailing under the flag of Azerbaijan;
5. To arrange safety of navigation and to control the implementation of rules and regulations on the safety of navigation in the territorial waters, as well as to control pilot services;
6. To conduct registration of the ships flying under the flag of the Republic of Azerbaijan, to conduct technical inspections on the ships and to issue ships certificates and documents which are required by the international conventions, codes and national legislation;
7. To authorize and to control the classification societies and the recognized organizations within the respective area;

8. To issue diplomas and seafarer identification documents to national seafarers;
9. To conduct marine casualty investigations;
10. To determine sea traffic and locations for installing navigational equipment;
11. To verify construction, re-construction, and modification of ports, port facilities, cargo terminals, as well as to give permissions for constructions of port facilities; moreover, registration of ports and port facilities;
12. To carry out relevant measures for the safety of life at sea and marine environmental protection as per IMO requirements;
13. To issue Statement of Compliance of a Port Facility to the port facilities with regard to the ISPS Code;
14. To carry out necessary measures for prevention of a discharge of oil and other hazardous substances to the sea from the ships regardless of flag;
15. To attend at search and rescue operations in territorial waters of the Republic of Azerbaijan, as well as to take part in search and rescue operations conducted by other coastal states;
16. To ensure fines and sanctions of companies and individuals for breaking national and international rules and regulations in the maritime field.

The structure of the SMA is shown in Figure 4.

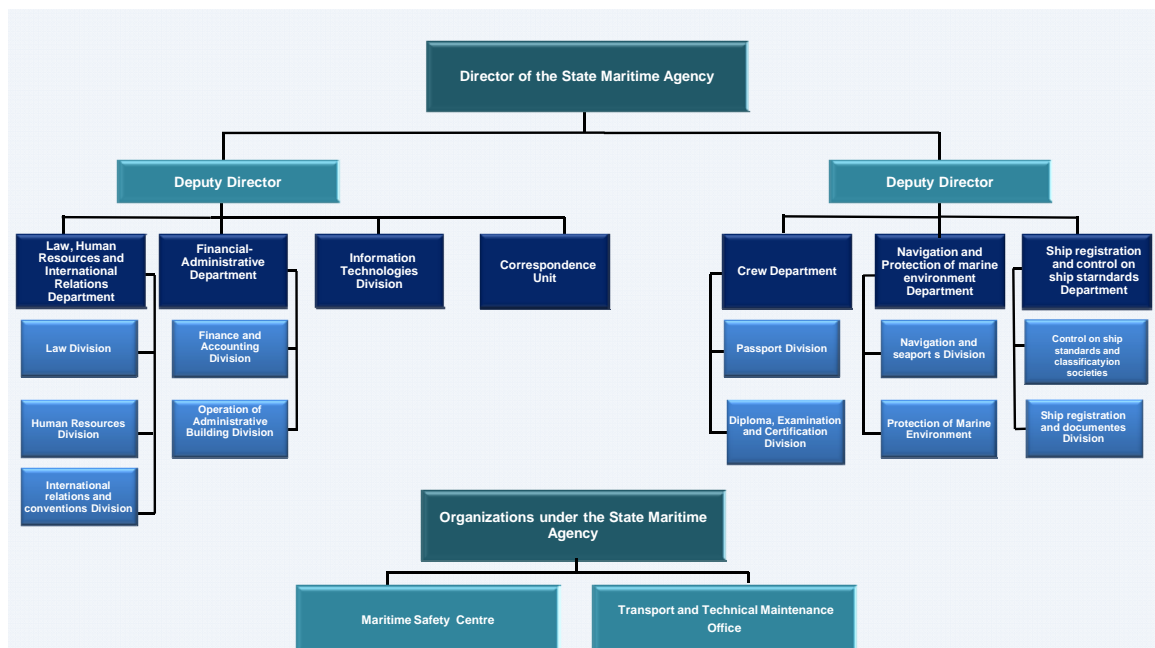


Figure 4: The structure of The State Maritime Agency of the Republic of Azerbaijan.

Source: [https:// ardda.gov.az/](https://ardda.gov.az/)

On the other hand, Harbour Masters are responsible for conducting Port State Control within the territorial waters. They provide safety of navigation and pilot services, control the implementation of rules and regulations on the safety of navigation in the territorial waters, and investigate marine incidents at ports and port facilities. According to “The Statute on the Harbour Masters”, adopted by the Cabinet of Ministers on 4 April 2013, Harbour Masters shall be assigned by the Director of the State Maritime Agency.

#### 4.4. Possible security threats for maritime security within the territory of Azerbaijan

Although the Caspian Sea is an oil and gas rich sea, the territorial waters of Azerbaijan are considered entirely secure. The sea area of Azerbaijan is busy with

ship traffic and oil and gas production, and its transportation and maritime infrastructure; moreover, the oil and gas industry covers the major part of the State's income. In spite of various oil terminals, oil and gas pipelines, and other oil installations, there are no thefts, attacks on important oil and gas installations or unauthorized access to these restricted areas. The Government ensures extensive security systems with the support of police, navy, border services, national security services, and private security services.

On the other hand, there are no threats, such as terrorism, piracy, vandalism or sabotage on the Azerbaijan side. However, there might be some security breaches, such as illegal migration, weapon smuggling, theft, or unauthorized access to port facilities and ships. Furthermore, mobile offshore drilling units, as well as fixed oil and gas platforms, which are operated for oil and gas production might be the target for security threats. For that reason, the SMA periodically controls security measures at the port facilities and on board ships and mobile offshore drilling units. Nevertheless, there are no security measures mentioned in the national and international legislation on the security of fixed oil and gas platforms operated at sea.

In addition, security threats to port facilities and ships might include transportation of drugs, psychotropic materials and other types of narcotic substances on board ships in cargo. For that reason, the Ships Security Plans (SSP) and PFSP cover special security measures against these types of threats. However, until now no security threats or incidents have been recorded on board of Azerbaijan flagged ships, or in the port facilities within the territorial waters of the Republic of Azerbaijan.

In general, the Government of Azerbaijan and the SMA have made good progress in regard to the implementation of SOLAS Chapter XI-2 and the ISPS Code; however, the data gathering will help to define areas for improvement in addition to specific areas that required fundamental changes. This will eventually give an indication as to the level of conformity between the ISPS Code and national legislation on maritime security.



## **5. The ISPS Code in Azerbaijan**

One of the main objectives of the ISPS Code is to ensure comprehensive security measures for ships and port facilities of the Member States against security threats and incidents. Article 1.2 of the ISPS Code states that the objective of the Code is:

*to establish an international framework involving co-operation between Contracting Governments, Government agencies, local administrations and the shipping and port industries to detect security threats and take preventive measures against security incidents affecting ships or port facilities used in international trade.*

It is necessary to mention that the five Coastal States adjacent to the Caspian Sea signed a multilateral agreement on cooperation in the field of security in the Caspian Sea on 28 November 2010. This Agreement includes provisions for combating terrorism, piracy, organized crime, weapon smuggling, transportation of drugs, psychotropic materials, and other types of narcotic substances on board ships as well as illegal migration. Although an agreement was signed among the Coastal States on security measures, there is no coordination or cooperation on the conduct of security actions (“Agreement on cooperation”, 2010). In addition, as a Contracting Government to the Code, the Government of the Republic of Azerbaijan adopted necessary security rules and regulations for the ships flying under its flag and the port facilities within its territorial waters against security threats. Furthermore, the State Maritime Agency is assigned as the responsible Organization for the implementation of these security measures.

### **5.1. The State Maritime Agency oversees the security of ships and port facilities**

The SMA has various duties and responsibilities for the implementation of the provisions of SOLAS Chapter XI-2, the ISPS Code and national legislation on maritime security:

- To exercise control and compliance with security measures;
- To verify the compliance of ships according to requirements of SOLAS Chapter XI-2, the ISPS Code and national rules and regulations, as well as to issue ISSC to Azerbaijan flagged ships;
- To check prepared SSP of the ships and to approve the plans;
- To verify the competence and documentation of the assigned PFSO for their position and to control their activities during the preparation of PFSP and the implementation of this Plan, as well as other necessary provisions on maritime security at the port facility;
- To conduct and approve PFSA, to approve PFSP and to issue the Statement of Compliance of a Port Facility to the port facilities;
- To set the relevant security level for the ships and the port facilities;
- To exercise approved SSP and PFSP;
- To communicate necessary information on maritime security and security incidents to the IMO, the shipping companies and the port facilities.

It is important to note that the security level within the area of the Republic of Azerbaijan is Security level 1 and has never changed from the beginning of the implementation of the Code until now. On the other hand, the SMA has never authorized any Recognized Organizations (RO) or Recognized Security Organizations (RSO) to implement of provisions of international requirements or to conduct security assessments, verification, and certification of ships, and the port facilities.

### **5.1.1. Verification**

The SMA controls the proper designation of Company Security Officers (CSO) for the companies that are operating ships to which SOLAS Chapter XI-2 and ISPS Code's provisions apply and Ship Security Officers for every vessel. Furthermore, the competence of CSO and SSO for their positions, together with carrying out duties and responsibilities properly, drills and exercises requirements by these officers are under control of the SMA.

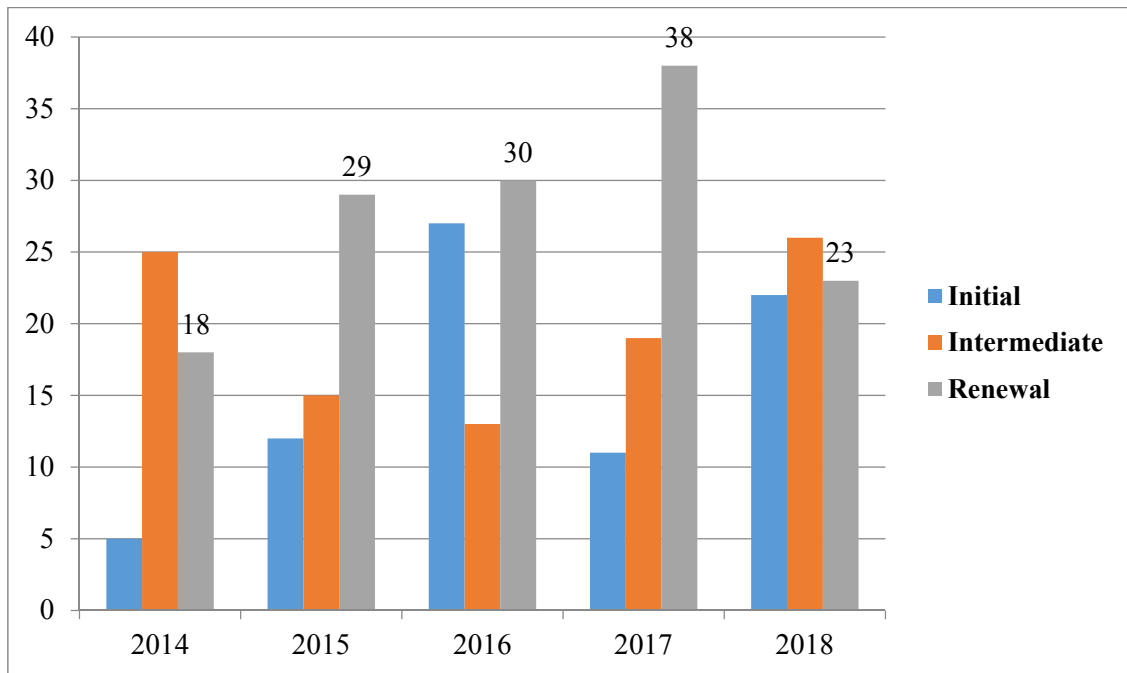
The SMA carries out initial, renewal, intermediate and additional, if it is necessary, verifications on board Azerbaijan flagged ships to verify the provisions of SOLAS Chapter XI-2 and the ISPS Code applied on board. On the other hand, to verify the port facilities' compliance with SOLAS Chapter XI-2, the ISPS Code and national legislation, the auditors of the SMA conduct initial and renewal verifications, as well as annual verifications in accordance with the requirements of "Regulations on the security of the ports and port facilities."

During verifications on board ships and at the port facilities, the SMA verifies:

- test effectiveness of approved SSP and PFSP;
- current security threats and patterns;
- competence of PFSO, CSO, and SSO for their position, their documentation on maritime security, their knowledge about provisions of relevant national and international rules and regulations regarding maritime security;
- knowledge of security personnel of the port facilities and ship crew on SOLAS Chapter XI-2, the ISPS Code, relevant national and international requirements on maritime security;
- existence of security and surveillance equipment and system, together with the capability of personnel to use this equipment and system;

- knowledge of security personnel on recognition of characteristics and behavioral patterns of people who might threaten security, as well as detection of weapons, dangerous substances, and devices;
- capability of assessing possible security threats which might be occurred during the ship and the port facility operations and knowledge minimizing these types of risks;
- ensuring the effective implementation of SSP where ships are sufficiently and efficiently manned and for protection of the port facilities and a sufficient number of security personnel and equipment are provided;
- documentation required for security measures is valid and not expired;
- ship`s crew and the port facility security personnel are familiar with security procedures; moreover, drills and exercises related to ship security and port facility security are conducted;
- knowledge of security personnel related to their duties and responsibilities;
- control of access to the ship and the port facility by security personnel (checking the ID cards, bags, and baggage of visitors, baggage of cars and trucks);
- conduct of internal audits for defining non-conformities and vulnerabilities;
- maintenance of records related to training, drills and exercises, security incidents, breaches of security, changes in security level, internal audits, periodic review of SSA, SSP, PFSA and PFSP, any amendments to the security plans;
- protection of restricted areas;
- handling of cargo;
- efficient operation of radio and telecommunication systems, computer systems and network;
- existence of Ship Security Alert System (SSAS) on board of ships;
- reporting procedures to the SMA about security incidents and breach of security;

- additional requirements required by SOLAS, the ISPS Code and national legislation.



*Figure 5: The numbers of verifications on board of Azerbaijan flagged ships carried by the SMA during 2014-2018.*

*Source: The Annual reports of the SMA.*

The verifications of the ships and the port facilities are carried out by five qualified auditors of the SMA. During the past five years, the SMA has carried out 313 verifications on board ships flying the flag of Azerbaijan, approved 130 SSPs, and conducted 6 PFSA and carried out 32 verifications at the port facilities and approved 7 PFSPs (The SMA, 2018). Figure 5 illustrates the number of initial, intermediate, and renewal verifications conducted on the ships flying the flag of the Republic of Azerbaijan during 2014-2018 by the SMA. The mentioned figure shows that 2017 was the highest workload during the last five years, and that was due to the volume of renewed verifications. It also shows that 2014 was the lowest workload in the

same period. Due to the fact that the number of Azerbaijan flagged international ongoing ships are considered small; therefore, workload ratio was acceptable.

### **5.1.2. Certification**

Certification is one of the vital parts of maritime security. It is not a coincidence that during amendments to SOLAS and the adoption of the ISPS Code in 2002, one of the urgent measures was the verification and certification of ships. With the “Early Implementation of the Special Measures to Enhance Maritime Security”, adopted by Conference Resolution 5, Contracting Governments and Administrations were recommended to apply verification and certification of ships and port facilities (IMO, 2002). Furthermore, Regulation 9 of SOLAS Chapter XI-2 mentions that every ship to which the ISPS Code and SOLAS Chapter XI-2 apply might be controlled at the other Contracting Governments` ports to verify that there is a valid International Ship Security Certificate (ISSC) onboard.

On the other hand, according to Article 19 of the ISPS Code, after the completion of the initial or renewal verification, ships shall be issued ISSC. This certificate shall be issued or endorsed by the Administration or recognized security organization fully authorized by the Administration. However, as mentioned above, the SMA did not authorize any RO or RSO for the verification and certification of Azerbaijan flagged ships and port facilities; therefore, all of these processes are carried out by the SMA. The Interim International Ship Security Certificate is issued for a maximum of six months, and the International Ship Security Certificate is issued for a period specified by the SMA not exceeding five years, as described in Article 19 of the ISPS Code. Besides, the SMA is responsible for ceasing the valid certificates of ships. The SMA can cease the certificate of a ship when the ship has missed intermediate verification, has been transferred to the flag of another State or has changed its operating company.

During 2014-2018, 215 Interim International Ship Security Certificate and International Ship Security Certificate were issued to ships flying the flag of the Republic of Azerbaijan after the completion of interim and renewal verifications. Figure 6 demonstrates the number of certificates of ships flying the flag of the Republic of Azerbaijan issued by the SMA during the past five years. Moreover, 6 Statements of Compliance of a Port Facility were issued to the port facilities operated within the territorial waters of Azerbaijan during the mentioned time.

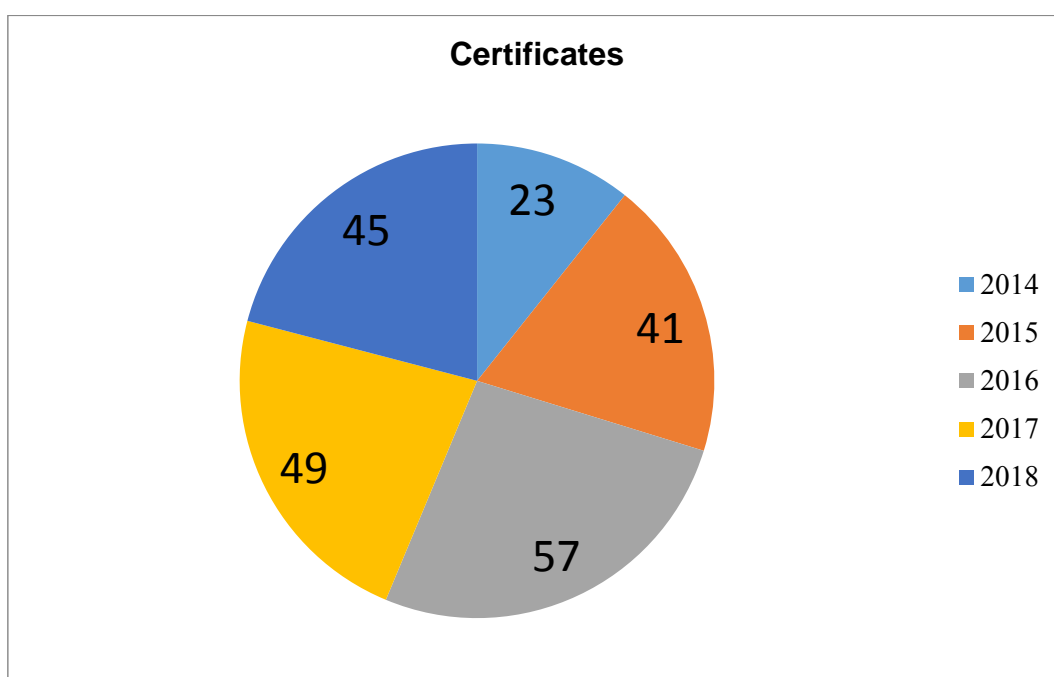


Figure 6: The numbers of certificates issued to Azerbaijan flagged ships by the SMA during 2014-2018.

Source: The Annual reports of the SMA, 2018.

## 5. 2. Increasing maritime security awareness

Security awareness is vital for safety, security, and health of ships` crew, personnel of ports and port facilities and other people whose work is directly or indirectly related to port and ship operations. Security awareness in the maritime industry

increased against all types of terror attacks and security incidents through SOLAS Chapter XI-2 and ISPS Code after the 9/11 terror attacks. Security awareness is an essential component of any security training program. All companies or port facilities should ensure security awareness training to provide personnel with the knowledge to determine abnormal or suspicious situations (“A guide to”, 2016).

“Security in ports. ILO and IMO code of practice” provides guidelines to develop and implement a port security strategy for identifying threats to security. The code of practice was prepared by IMO together with the International Labour Organization in 2004; moreover, the objective of this Code is to secure ports by facilitating governments, port personnel, and other stakeholders to reduce the risk or threats to ports by unlawful acts. Article 10 of the mentioned code states that:

*Security awareness is vital to the safety, security and health of port personnel and others having a place of work in the port, who should be made aware of their responsibilities to fellow workers, the port community and the environment. Appropriate training of personnel working in the port should maximize personal awareness of suspicious behaviour, incidents, events or objects when going about daily tasks, and the invaluable contribution to be made to the security of the port and its personnel by each individual. Clear lines for reporting such matters to supervisors, managers or appropriate authorities should be included.*

According to the Code, this type of training should cover particular roles and tasks at port facilities for security and law enforcement personnel, people who deal with cargo handling, storing, and transporting or come into contact with passengers, cargo and ships, as well as persons whose positions include administrative and support roles.

On the other hand, the necessity of security awareness is also mentioned in the ISPS Code. The duties and responsibilities of all PFSO, CSO, and SSO include enhancing security awareness and vigilance. Moreover, the IMO provides support, assistance,



and guidance regarding the process of the implementation of maritime security-related measures. For that reason, taking into consideration the gaps in implementation and application of the ISPS Code and for assisting development of national legislation on the implementation of SOLAS Chapter XI-2 and the ISPS Code, IMO developed “Guidance for Development of National Maritime Security Legislation” in 2016, which also provides guidelines on how to develop legislative acts on security awareness, drills and exercises. “Guidelines on security-related training and familiarization for port facility personnel”, adopted by the IMO in 2010 mentions that: “Port facility personnel are not security experts; however, they should see adequate security-related training or instruction and familiarization training to obtain necessary knowledge and ability to carry out their defined duties and responsibilities on maritime security”.

Public awareness is one of the vital elements to prevent security threats or mitigate the consequences of such incidents. According to provisions of national and international requirements, security awareness is the primary aim of Azerbaijan. In addition to international standards on security awareness, both “Regulations on the security of the ports and port facilities” and “Regulations on the ensuring of the security during unlawful acts at the ports” include provisions on security awareness and the implementation of closed security systems at port facilities. Enhancing the effectiveness of security measures via continuous training, drills, and exercises, as well as conducting audits to identify non-conformities, weaknesses, and vulnerabilities and correcting these items are significant requirements of both mentioned legislations. Furthermore, the SMA, shipping companies operating in Azerbaijan, port facilities, ships and other stakeholders are aware of and try to ensure security awareness among personnel. Moreover, ensuring the reporting of suspicious activities to responsible people and organizations might be helpful to combat unlawful acts.

In order to cope with security threats in the maritime field, an extensive security regime organized by the Government of Azerbaijan and security awareness

conducted by the SMA are useful to keep ships and port facilities safe and secure. It is not a coincidence that there have been no serious security threats in the territorial waters of the Republic of Azerbaijan or onboard Azerbaijan flagged ships since the beginning of the implementation of the ISPS Code. On the other hand, during annual verifications, the SMA controls periodical conduct of drills and exercises for awareness and preparedness against potential security threats. That proves the continuous revision of security measures and training programmes positively impact the security level in the port facilities of Azerbaijan and increase the readiness of the State to deal with the maritime threats.

### **5. 3. Achievements of ISPS Code in Azerbaijan**

The Government of the Republic of Azerbaijan has taken care of the ratification and implementation of IMO instruments since it became an IMO member in 1995. Azerbaijan has ratified 25 IMO instruments and seven international codes required by the chapters of SOLAS (IMO, 2019).

For that reason, the successful result of the IMO Member State Audit Scheme (IMSAS) in Azerbaijan in May-June 2017 was not a coincidence. After the audit on the effectiveness of the implementation of the SOLAS 1974 as amended, SOLAS Protocol 1988, the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78), MARPOL Protocol 1997, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW 1978), the International Convention on Load Lines, 1966 (LL 1966), LL PROT 1988, the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 1969) and the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 1972) only two findings were made and it was one of the best results among the IMO Member States (IMO,

2017). It was found that the implementation of the IMO instruments in the Republic of Azerbaijan had been carried out successfully.

After the ISPS Code entered into force in 2004 the implementation of the provisions of the Code within the area of Azerbaijan has been carried out effectively by the Government. It is necessary to mention that at the beginning of the implementation there were only 4 declared port facilities; moreover, the number of declared port facilities increased to 8 by 2018. Furthermore, the requirements of the Code have been implemented efficiently to the ships flying under the flag of the Republic of Azerbaijan. Currently, the requirements of the Code are applied to more than 150 ships belonging to 10 Shipping Companies. In an overall view, the implementation of the ISPS Code in Azerbaijan is successful. The security framework has been increased by the responsible organizations. Although no severe security threats have occurred, necessary security measures have been taken by the Government to mitigate the consequences of any potential security incidents.

In addition, for the promotion of maritime security, an effective security regime has been organized within the territorial waters of Azerbaijan and at the port facilities by the Government including police, border and customs services, national security services and the SMA. Various regulations adopted by the Government for effective implementation of the Code. In addition, some provisions amended to the necessary legal acts in the maritime field, facilitate the application of the Code. These regulations include identification and evaluation of necessary infrastructures for protection, identification of possible threats, weaknesses, and vulnerabilities to these infrastructures and selection of countermeasures for reducing vulnerabilities and mitigation of consequences.

There are some advantages to the implementation of the Code at the port facilities:

- ✓ higher safety and security, but lower risk;
- ✓ strict control at the port facilities, experienced and qualified personnel recruited to the port facilities;

- ✓ better documentation;
- ✓ excellent work conditions for personnel and ships.

However, there are also some disadvantages of the Code observed by ship and port facility personnel:

- ✓ more paperwork;
- ✓ extra expenses for security measures and documentation;
- ✓ slow work processes;
- ✓ extra personnel and various drills, training and exercises;
- ✓ cooperation with various stakeholders.

Furthermore, for the safe and secure operation of Azerbaijan flagged ships, the Government developed special requirements on AIS, which require AIS to be provided on board vessels regardless of size, type, and operation area. Additionally, the LRIT National Centre was established under the SMA for safety and security of those ships, as well as to ensure effective communication and cooperation between vessels, port facilities, and Governmental Organizations.

## **6. Analysis of the collected data**

### **6.1 Analysis of the two interviews data**

In order to strengthen the accuracy of the research findings, this research effort used two different methodologies, including interviews and surveys. The interview methodology involved human interaction between the authors and managerial level personnel; however, this interaction was limited to a video call with the personnel. One of the main challenges experienced in this research was face-to-face interview, as it was difficult for the authors to travel to the Republic of Azerbaijan to conduct a direct person-to-person interaction. Moreover, the second challenge was the information bias, and such a challenge is highly possible if the research was to be limited to a single interview because such information may include personal opinions rather than facts. Therefore, a second interview was conducted to overcome this problem. The managerial level personnel were chosen carefully in terms of the authority they hold and the experience they have, and such factors were taken into consideration in order to add valid, precise, and comprehensive information to the research.

Moreover, for the purpose of covering the majority of aspects relating to maritime security, the two personnel interviewed are responsible for different tasks and hold different positions. The first person interviewed was Mr. Seymour Mirzayev, who is head of Ship Registration and Control on Ship Standards Department and responsible for the security of ships, as well as the port facility security within the Republic of Azerbaijan. The reason for choosing Mr. Mirzayev was to acquire accurate

information from the national legislation point of view concerning the maritime industry, and specifically the security aspects of it. The second person interviewed was Mr. Bahram Rzayev, who is the Port Facility Security Officer (PFSO) of the port of Azerbaijan Caspian Shipping (CJSC) Caspian Sea Oil Fleet. The mentioned port facility is considered to be one of the busiest port facilities in Azerbaijan; moreover, it accepts passenger ships, cargo vessels, oil tankers, and mobile offshore drilling units. The aim behind choosing Mr. Rzayev was to get specific information from the operational side of what ISPS provisions were implemented on the ground.

### **6.1.1 The structure of the questions**

The questions were structured in a specific sequence to get as much detailed information as possible regarding the nature of the maritime security threats existing at the Caspian Sea area, as well as the type of security mitigation measures put in place in order to protect the ships and ports in that area (see Appendix 1). The first question was aimed at understanding the surrounding maritime environment and how the SMA is managing it, and the second question sought to clarify the efforts made by the SMA to plan, control, and monitor all the security measures within the different port facilities. Moreover, and due to the importance of the stakeholder's contribution to maritime security, it is very important to see how these stakeholders perceive the security measures set by the national legislation and the international regulations represented by the ISPS Code and that was the purpose of the third question.

Up to date security plans and continuous revisions are vital and required by the provisions of the ISPS code; therefore, the fourth question was aimed at establishing whether this requirement is being met and how often the security plan is being revised. The fifth question was intended to identify the nature of difficulties faced by the SMA in meeting the ISPS Code requirements, whereas questions six and seven were about the measures taken by the SMA to enhance the level of readiness of their

security guards through training programs and regular exercises. Since maritime security threats affect the region as a whole and are not limited to the Republic of Azerbaijan, international cooperation and regional cooperation are vital in countering these security threats. Therefore, the ninth and the tenth questions were aimed at evaluating the level of cooperation among the neighboring countries in that region in terms of information sharing and regional security exercises.

The eleventh question of the interview was aimed at understanding the effect of implementing the ISPS Code provisions on the daily working operations, including loading, unloading, and cargo handling, whereas the twelfth question tried to assess the authority level of the Port Facility Security Officer (PFSO) in terms of decision making and how the PFSO is involved in the planning process. The thirteenth question is linked with the first question in terms of understanding the surrounding maritime environment by defining the nature of security breaches as well as the frequency of these breaches if they exist. Question number fourteen is linked to the third question in order to see the value added by the other stakeholders in terms of their cooperation in creating a secure maritime working environment, whereas question fifteen was to clarify whether the different stakeholders are taking part in the security exercises conducted by the state or the maritime administration.

Part B of the ISPS code is a non-mandatory guideline that helps the maritime administrations to comply with the mandatory provisions of the code in Part A. Therefore, question number sixteen of the interview was aimed at clarifying whether the SMA in the Republic of Azerbaijan is applying the guidelines within its national legal framework to ensure a high level of conformity with the mandatory provisions. Question number seventeen is linked with question number twelve; however, this question aimed to study the security guards involved in the planning and whether their contributions and opinions are considered in the decision-making process. The last question was aimed at discovering how both interview participants personally value the ISPS code and its benefit towards enhancing the security level in their

ports. The information gathered through the two interviews was compared in order to make an accurate conclusion that benefits the recommendations.

### **6.1.2 Analysis of the data collected through the 1<sup>st</sup> interview**

The first interview was with Mr. Seymour Mirzayev, who added a valuable contribution to this research through his views and his answers to all the questions in Appendix 1. Mr. Mirzayev's answer to the first question was very clear in regard to the type of maritime threats that have a high likelihood to exist. He stated that the Caspian Sea and the areas around it are generally quiet, and it does not face major security threats like piracy, sabotage, or vandalism; however, threats like stowaways, weapons smuggling, and unauthorized access to port facilities are highly possible. In connection with question number thirteen, which is related to the statistics of security breaches, Mr. Mirzayev stated that there had not been a single security breach recorded so far. The responsibility of protecting the eight port facilities in the state is not limited to the Port Facility Security Officer (PFSO) and other security guards under his/her command. The government provides security protection through police officers, customs officers, and border services, which are extra security personnel that help the PFSO, as per Mr. Mirzayev's response to the second question.

He also stated that the extra security measures are causing problems with other stakeholders, and the Agency has received complaints from ships coming to the port facilities and from the truck drivers as well. In connection with question number eleven, Mr. Mirzayev said that the effects of the extra security measures put in place as required by the ISPS Code were both positive and negative. He elaborated that the positive effect was the trust gained from ship-owners and charterers that their cargo is secure and in safe hands; nevertheless, the negative effect was evident through the extra time needed for cargo handling which leads to a delay in the ship's operations. In regard to the Port Facility Security Plan (PFSP) and its review, Mr. Mirzayev stated that the PFSP is verified annually by the State Maritime Agency auditors



during annual verifications of the port facilities, and that is a requirement under the national legislation. Adding to that, the auditors verify the changes applied to improve the PFSP every five years as required by the provisions of the national legislation.

Mr. Mirzayev stated in his answers to number five, six, seven and fifteen, that the State Maritime Agency did not face any major challenges applying the ISPS Code provisions within the eight different port facilities in the state; however, a small number of security guards assigned to protect and secure the port facilities did not have adequate knowledge about the ISPS Code and its requirements; therefore, the Agency carried out training programs and exercises to familiarize the security guards with the ISPS Code provisions and guidelines. Mr. Mirzayev stated that there is an annual exercise that involves one of the shipping companies and one of the port facility's employees in which they familiarize all personnel involved in the exercise, such as shipping company personnel and the port security guards with the ISPS Code and the possible security threats. Moreover, on completion of each exercise, there is a report submitted by the Agency to the port management and the shipping company detailing the outcomes and giving recommendations for further improvement. He also said that shipping companies are the only stakeholder that takes part in the security exercises.

In response to questions number nine and ten, Mr. Mirzayev said that despite a multilateral agreement on cooperation in the field of security in the Caspian sea signed by five Coastal States, there is no cooperation among these states in regard to maritime security, not even information sharing. Moreover, there are no maritime security exercises between the neighboring states in that region. His response towards the authority that the PFSO has within the state's port facilities was clear on the importance of the PFSO and their role in the port, and that he/she has overriding authority in the decision-making process and has the power to decide what security equipment needs to be provided. In addition to that, the PFSO is an important member of any security investigation carried out by the port authority, and such

privilege is supported by the national legislation. Mr. Mirzayev stated that the ISPS Code provisions in Part A are the minimum requirements. Therefore, the national legislation was the major source of the security measures taken by the maritime agency to enhance security within the port facilities, and some of the guidelines in Part B were followed and applied in the state's port facilities as well.

According to Mr. Mirzayev, the security guards report to the PFSO whenever they experience any security issue within the port, and they inform the PFSO about any weaknesses or vulnerabilities they believe to be evident, which proves their contribution to the PFSP. Finally, Mr. Mirzayev believes that the ISPS Code has enhanced the level of security within the state's port facilities through the implementation of its provisions. For instance, after implementing the provisions, the port facilities increased the numbers of security guards, identified restricted areas and strengthened control at the access points.

### **6.1.3 Analysis of the data collected through the 2<sup>nd</sup> interview**

The second interview with Mr. Bahram Rzayev, PFSO of the port Azerbaijan Caspian Shipping (CJSC), was another source of information to this research effort as he answered from an operational perspective on what is being done on the ground compared to the requirements of the ISPS Code provisions. Mr. Rzayev's answer to the first question was similar to Mr. Mirzayev's in that he believes the region is not facing major maritime security threats such as terrorism or piracy, and the common types of threats affecting ships and port facilities are limited to stowaways, theft, and unauthorized access to the port and its facilities. Regarding security breach statistics, asked through question number thirteen, Mr. Rzayev said there had not been any serious security threats at the port facility. He also stated that there are different governmental entities working together to protect the port and its facilities. These entities are represented by police officers, national security services, custom, and

border services, and flag and port state control officers, in addition to the port facility's security guards.

Mr. Rzayev stated in his response to the third question that the stakeholders, specifically ship's crews, shipping companies, and truck drivers are complaining about the extra security measures concerning the inspections and the investigations, and he said that the port security personnel try to explain that such measures are vital for the safety of people and property. He added that the State Maritime Agency (SMA) controls all the activities within the port facility. Regarding question number four, Mr. Rzayev said that the Port Facility Security Plan (PFSP) is reviewed annually by the PFSO. Auditors also review the plan annually as required by the SMA in order to ensure the effective implementation of the PFSP. In addition to that, and as a PFSO, he submits a reviewed and amended relevant PFSP parts to the SMA every five years. Moreover, his response to the fifth question was that there are not many challenges in respect of implementing the ISPS Code provisions; however, the security guards' rotation process is creating a problem, as the newcomers are unfamiliar with the Code and its requirements.

Mr. Rzayev stated that in order for them to overcome the lack of knowledge of the new security guards about the ISPS code and its requirements, the port had to carry out additional training programs and exercises. In line with question six and seven, the port management carries out security exercises that involve security personnel, ships' crews, shipping companies' responsible security personnel, as well as SMA employees. He added that those exercises aim to increase the level of security awareness among the security guards and to discover the vulnerable areas within the port in order to take corrective actions with the help of the ships and the shipping companies. In regard to regional cooperation, Mr. Rzayev said that there is no information sharing between the regional states or any cooperation. This also applies to exercises, as there are no mutual regional security exercises between the neighboring states adjacent to the Caspian Sea.

In regard to the eleventh question, Mr. Rzayev said that the extra security measures in the form of inspections and investigations are causing delays in the port and in ship operations, which makes the ship and cargo owners unhappy; however, they trust that the port and its facilities are secured. In line with question number thirteen, he said that the annual exercises with the ships, ship companies, port facility personnel, and the SMA are a good opportunity to increase the level of cooperation and coordination, and from their attendance, it is evident that the stakeholders value the security measures taken by the port facility authority. Mr. Rzayev also stated that as a PFSO he was provided with security equipment by the port facility authority; however, he lacks the financial resources to recruit more security guards and to provide technologically advanced security equipment to protect the port and the areas around it. He added that their port facility makes use of the guidelines in the ISPS Code Part B in building their security measures, in addition to the mandatory provisions in Part A and the national legislations.

Mr. Rzayev said that security guards are contributing to the PFSP through their direct reporting to the PFSO or the police officers when they see vulnerable areas or whenever they come across security breaches such as unauthorized access. Finally, Mr. Rzayev believes that the ISPS code provisions with the national legislations provide a good opportunity to arrange security-related issues, and he added that by increasing the number of security guards, providing security equipment, and identifying vulnerable areas as examples of security measures, as required by the code and the national legislation, enhanced the security level at the port facility.

## 6.2 Analysis of the survey questionnaire

### 6.2.1 The structure of the questionnaire

The survey questions (Appendix 2) were chosen carefully to answer the research questions and to cover different specializations within two state port facilities, such as seafarers, security guards, and port facility personnel. The survey was conducted at two different port facilities; the first one is the Zyxh Dry Cargo Sea Port, and the second is the Azerbaijan Caspian Shipping (CJSC), Caspian Sea Oil Fleet. The number of people who participated in the research was 115 participants, of which seafarers represented more than 50%, and security guards accounted for more than 25%, and the rest represented port personnel, Azerbaijan Caspian Shipping Company, and Flag States surveyors, as shown in Figure 7. The experience of the participants in their respective fields varies. The majority have less than 10 years of experience, with a total number of 72 participants, whereas 19 participants have between 10 and 15 years' experience, and 24 participants have more than 15 years of experience.

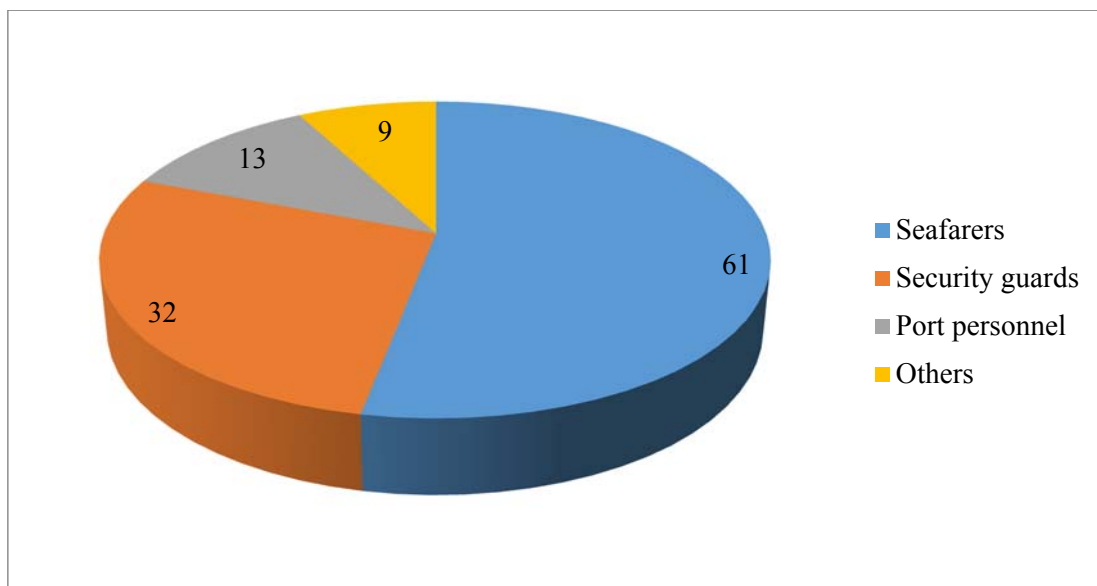


Figure 7: Occupation of survey participants.

*Source: Authors, 2019.*

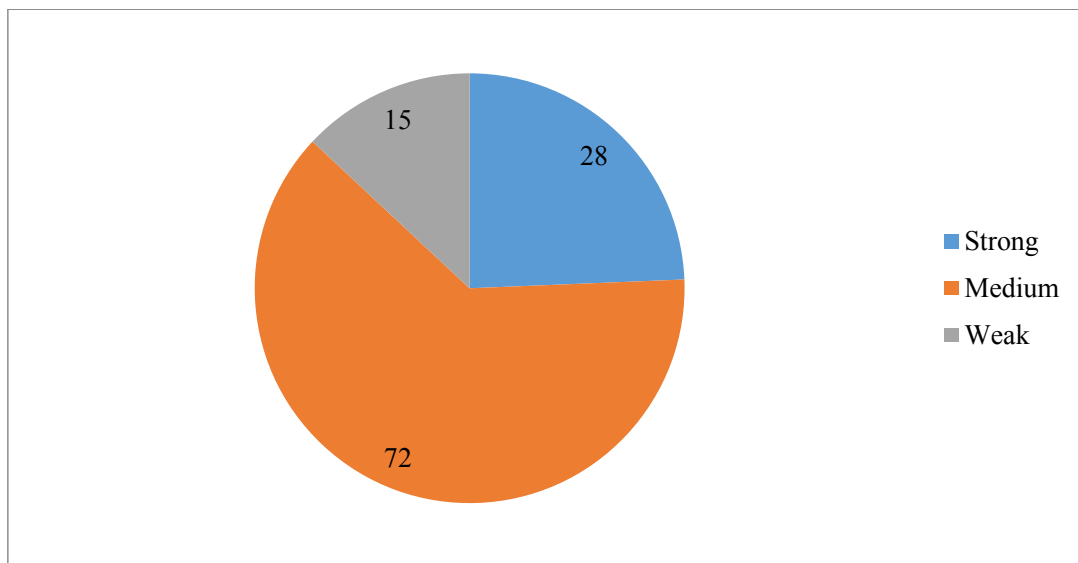
The survey questions examined the participants' familiarity with aspects of maritime security and their knowledge of the ISPS Code provisions and guidelines, especially for port facility security guards. It also examined the seafarers' perceptions regarding security measures and how these measures affect port operations, such as cargo handling, loading, and unloading. Questions one to three and question nine were common questions to all the participants regardless of their occupation or specialization, and these questions aimed at evaluating the participant's awareness of security threats and the mitigation measures taken by the port authority. However, questions ten to thirteen were exclusively for security guard personnel in both port facilities, and these questions targeted the readiness of the security guards to deal with the different security threats through training programs and security exercises, and also examined their level of knowledge about the PFSP, and their familiarity with the most sensitive and restricted areas in the port.

The last four questions of the survey (14, 15, 16, and 17) were exclusively for the seafarers, and those questions were intended to study how the seafarers perceive the security measures, and also to examine whether these measures are being implemented on the ground and apparent to all seafarers or not. Moreover, these questions were targeted to evaluate the level of cooperation and coordination between the ships and the port facility authorities in terms of security. The results of the survey were compared to the results of the two interviews to have accurate findings and to answer the research questions.

### **6.2.2 Analysis of the data collected through the questionnaire**

The results of the questions 1, 2, 3 ... 9 showed that the majority of the participants believe that the security level is neither strong nor weak. Specifically, 13% of the participants believe that the security level is weak, whereas 24% believe it is strong (see Figure 8). The results of the questions also show that 49 participants out of 115

believe that the security measures taken by the port authority have a negative effect on the port’s operations, and 44 participants believe there is no effect. Moreover, 86% of the participants stated that they are inspected when entering the port and the rest of the participants (14%) stated that they are not inspected, and with the inspection also comes to the identification card (ID) check. Such figure shows that the security level in the port facilities is very good; however, there is room for improvement through awareness campaigns, which will definitely enhance security by creating public awareness on the security threat. Eighty-seven percent of participants said that their ID cards are checked before they enter, and 12% said that they are not checked. According to the participants, the company personnel and the port employees are issued passcards.

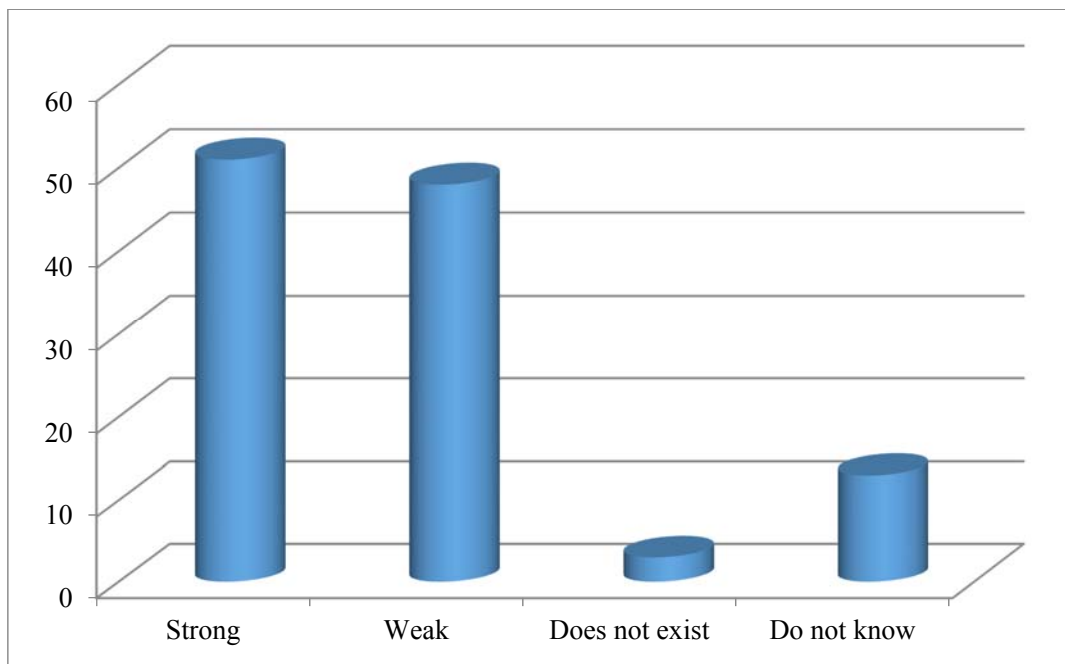


*Figure 8: Evaluation of the security level at the port facilities.*

*Source: Authors, 2019.*

In response to the seventh question, 94 participants said that they are not able to move freely within the port facilities without authorization, and that represents almost 82% of the total participants, which shows that the remaining 18%, representing 21 participants (port personnel and company employees), can easily move around the port. In regard to question number eight concerning the

communication and cooperation between the Port Facility Security Officer (PFSO) and the Ship Security Officer (SSO), 51 participants evaluated the cooperation as strong, whereas 48 participants evaluated it as weak, and the remaining participants were split into two categories. Three people said such cooperation does not exist and 13 people said they did not know whether there was cooperation or not (see Figure 9). Such a figure shows that the communication and cooperation between PFSO and SSO need to be improved with an indicative example of setting up a workshop. Survey question number nine concerning the availability of security equipment in the hands of security guards shows that 87% believe that the security guards are adequately equipped with security tools and equipment, and the remaining 13% believe otherwise.



*Figure 9: The communication and cooperation between the SSO and the PFSO.*

*Source: Authors, 2019.*

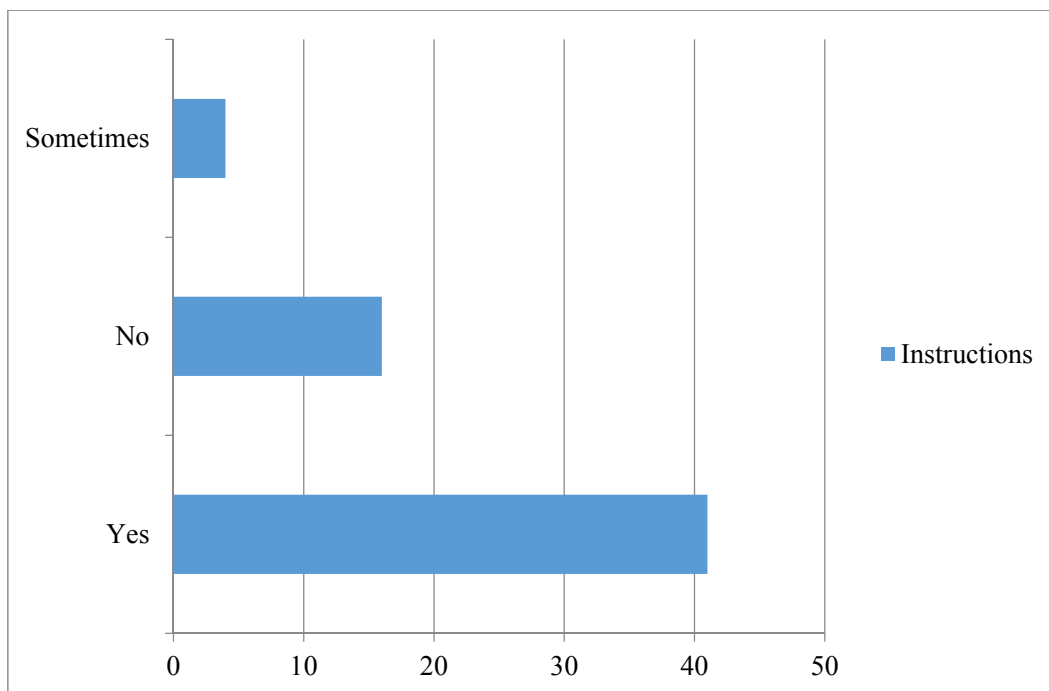
The survey questions number 10, 11, 12, 13 were exclusive to the participants who work as security guards at the two port facilities (Zykh Dry Cargo Sea Port, and the Azerbaijan Caspian Shipping CJSC, Caspian Sea Oil Fleet), and the number of the



security guard participants was 32. The responses of the security guards to the above-mentioned four questions were identical. For instance, in regard to their involvement in the security meeting, all the security guards stated that they sometimes take part in these meetings but not always. Moreover, all the security guard participants said that they had security training programs in order to improve their skills. That shows the skills of the security guards in terms of carrying out their duties and responsibilities is very good; nevertheless, there is room for improvement through advanced training courses for selected key personnel involved in the training programs. Furthermore, the responses to question 12 were also identical, in which all of the security guards stated that they were involved in security exercises to enhance the level of readiness to deal with security threats. In addition to that, all of the security guards acknowledged that they are fully aware of the most vital facilities within the port as they have been instructed and directed by the PFSO.

The last four questions of the survey (14, 15, 16, and 17) were exclusive to the seafarers, and their responses towards question fourteen were identical. They all agreed that the two port facilities, including the anchoring and berthing areas, are secured and adequately staffed with no vulnerable areas. In regard to question fifteen, 47 seafarers acknowledged that security guards are present every time they carry out cargo handling operations, whereas eight seafarers stated that there are no security guards visible to them when they do so, and the remaining 6 said that they sometimes see security guards. In their responses to question sixteen, 67% of the 61 seafarers stated that they get instructions from the Port Facility Security Officer regarding what is allowed and what is not allowed for them while they are berthing in the port, such as the areas they are allowed to move within and the shore leave process. Whereas 26% of them said they do not receive any instructions, and the remaining 7% stated that they sometimes receive instructions (see Figure 10). In regard to the last question, 37 seafarers out of the 61 said that they get information about the security level the port facilities are operating within, and the remaining 24 said that they do not get such information. In general, the security measures which were put in place by the government of Azerbaijan are working very well, as the

business model is relatively stable. The future changes are not expected to be tremendous as the fleet of the state is not expected to experience a dramatic increase in that small area nor the shipping density; therefore, the current system requires slight improvements to cope with the expected small changes. Such changes like improving the communication and cooperation issue between the different stakeholders as well as increasing the number of security guards.



*Figure 10: Statistics about getting any instructions from the port facility security guards while berthing to the port facility.*

*Source: Authors, 2019.*

The Republic of Azerbaijan has taken extra steps and has gone further than the IMO requirements in terms of security measures; however, the policy works in harmony with an international policy, which makes the Caspian Sea and the geographical areas around it more secure and stable.

## **7. Conclusion and Recommendations**

Through the general overview of the global maritime legal instruments and the analysis of the gathered information from the two interviews and the survey conducted in The Republic of Azerbaijan, there are several observations made that are related to the security aspects within the state's ports. Moreover, the process of comparing the findings of the research methods and the national legislation in line with the ISPS provisions was valuable in terms of assessing the conformity between the requirements of the ISPS code and what is being applied in eight local ports. Adding to that, the information gathered from the two interviews and the survey helped in answering the research questions. According to national legislation, the SMA is a Central Executive Power that is responsible for executing maritime transport policy, and also responsible for the implementation of and compliance with the ISPS Code at all security levels. In addition to that, the SMA is responsible for decision-making, coordination, and execution of all security changes and attending all types of security operations in line with national security services, police, navy, national border services, and emergencies services

The Republic of Azerbaijan, through the SMA, has implemented the ISPS code mandatory provisions in Part A to some extent, and made partial use of the non-mandatory guidelines in Part B. However, the implementation process was the following step after adopting national legislation that is compatible with the ISPS Code in order to enforce it within the local port facilities. The SMA, through its employees, is taking major steps in terms of supervision and monitoring on-ground security-related efforts to ensure the ports' compliance with the ISPS Code

provisions. These observations were part of the research findings, and there are other observations that helped in answering the research questions through the two different research methodologies used.

Despite the fact that the Caspian Sea is rich in oil and gas, the surrounding area including the Republic of Azerbaijan is not facing major security threats such as piracy, terrorism or sabotage. Such threats are unlikely to happen; however, there is a high possibility of encountering other security threats such as stowaways, smuggling of weapons, and unauthorized access to the state's port facilities. Although the area is rich in oil and gas, there are neither national nor international requirements regarding the protection of fixed oil and gas platforms. The statistics of security breaches support the fact that the Caspian Sea area is secure, as not a single incident has been recorded; however, that does not ensure the absence of security threats. In fact, it triggers the possibility of not keeping records of security incidents. The SMA has taken extra security measures in addition to the ISPS requirements in regard to assigning a PFSO and other security guards, and such extra measures are based on the national legislation in which other agencies (police officers, border service officers) are taking part in securing the different port facilities.

The security of the port facilities was enhanced through issuing pass cards to the port employees and the security guards as they are authorized to enter the port facilities to carry on their daily work; however, such passcards are not being inspected to see if the holder of the card is actually the authorized person, and that explains the survey participants' point of view in which only 24% believe that the security level is strong, whereas the majority believe it is neither strong nor weak. This issue can be resolved through training programs for the security guards and to familiarize them with the national and international policy. Furthermore, the survey showed that approximately 14% of the people entering the port are not being inspected, as they are pass cardholders, and without inspecting the information on the card and the person holding it, the possibility of unauthorized access is high.

The State's port facilities are applying the three levels of security in compliance with the ISPS code provisions; however, the cooperation among the neighboring countries in the region is very limited despite the fact that there is a regional agreement between the five Coastal States. Adding to that, there are no mutual security exercises on a regional scale to increase the level of communication and cooperation among the neighboring states, whereas on the local level there is good communication and an acceptable level of cooperation between the different stakeholders and the port authorities. Such cooperation is vital especially for the flow of information, which helps the states to increase the security of the ports and ships whenever there is an imminent threat, and shift from level one to level two, or three if necessary.

The PFSP is being tested and reviewed by the SMA at all of the state's port facilities, in compliance with the provisions of the ISPS Code. This process is being carried out annually by the SMA auditors, and also every five years as required by the national legislation, which shows that the SMA has taken an extra step to maintain an updated PFSP. Moreover, the SMA demands that the port facilities recruit a competent PFSO to carry out the security aspects within the port facility and assume responsibility for the PFSP and its implementation. The PFSO of each port facility has been given the authority to decide on the security equipment needed to fulfill the task. The PFSO is also involved in the security planning process and is part of the investigation team if there is a security incident within the port.

Although all the security guards involved in the survey confirmed their involvement in the training programs, the challenge as per the interviewed personnel was maintaining the presence of qualified security guards who are well familiarized with the code and its provisions during the rotation process. The survey results showed that security guards are being trained and getting involved in security exercises, but such programs are limited to the local stakeholders and do not involve regional stakeholders. In addition, 77% of the seafarers surveyed confirmed that security guards are well distributed around the port facilities, especially near the important

facilities. Moreover, the seafarers admitted that they receive instructions from security guards regarding what is allowed and what is not allowed in terms of movement within the port.

Overall, the implementation of the ISPS Code in Azerbaijan has been successful, and the security level has been increased by the responsible organizations. Various legal acts adopted by the Government for effective implementation of the Code, as well as some provisions, amended to basic national legislation in the maritime field facilitate the application of the Code. These regulations describe the identification and evaluation of necessary infrastructure for protection, identification of possible threats, weaknesses, and vulnerabilities to these infrastructures and selection of countermeasures for reducing vulnerabilities and mitigation of the consequences.

In general, the Government of Azerbaijan and the SMA have made significant progress in regard to the implementation of SOLAS Chapter XI-2 and the ISPS Code; however, there are some areas that require more governmental concerns and other areas in need of improvement.

First, regional cooperation and coordination are vital to enhance the security among the Coastal States and that will be achieved through regional cooperation by having annual maritime security workshops and exercises. Second, the importance of fixed oil and gas platforms to the national economy is undeniable, and due to the absence of national acts to protect such vital resources, there is a need for national legislation to nominate a governmental body to take charge of securing these fixed platforms and establishing specific security mitigation measures to be applied and monitored. Therefore, there is a need for short, medium and long term plans to overcome this issue. The short term plans are expressed through training programs, the medium-term plans are expressed by new legislation and the long term plan involves strengthening the infrastructure.

Third, the present level of communication between PFSO and SSO is not as effective as proven by the survey participants, half of whom believe that such communication

is weak. Therefore, this is an area for improvement through the PFSO, who should be instructed to have strong cooperation and communication with the SSO as required by Article 17.2 of the ISPS Code. This issue will be resolved through workshops between the mentioned stakeholders. Fourth, the security guard rotation process is causing a major problem, as the trained security guards are being moved and transferred continuously once they gain knowledge of the requirements of the ISPS Code and the national legislation on maritime security. Therefore, the security guards should be trained and maintain their positions; moreover, they should receive more advanced training programs to enhance their skills instead of repeating the same basic training programs with the new incoming security guards.

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## Appendices

### Appendix 1 – Interview questions.

Dear Ma'am/Sir,

The purpose of these interview questions is to have an idea on how adequate the security measures that are being taken within the Azerbaijani port facilities to protect the port and its facilities in line with the ships approaching it, and it also studies how these measures are identical with the ISPS code provisions and guidelines. The interview questions are chosen carefully to study the actual measures taking on grounds rather than on papers, and that will help in touching upon areas where more improvements should be made in order to enhance the level of security.

The results of the questionnaire will give a clue on the level of conformity with the ISPS code and also will help in specifying areas of weaknesses and/or vulnerabilities, which will be reflected positively on the enhancement of the security level within the different port facilities in your respected state. The questionnaire and the data collected will be confidential, and the documents of the questionnaire will be completely destroyed at the end of November 2019, and that includes both hard copies and soft copies as well, yet the findings will be used and analyzed in this research because they are the core of this study.

Interview Questions:

- 1- What is the nature of the security threats within your region that may affect the operations of the port facilities?
- 2- Is there any extra security measures put in place after implementing the ISPS code within the different port facilities in order to deal with these threats? Examples?
- 3- What is the perception of the different stakeholders on the extra security measures? Positive or negative? Do they cooperate to a complaint?

- 4- How often do you review the port security plan in order to meet the ISPS code requirements?
- 5- Are there any challenges that may work as obstacles to implement ISPS code?
- 6- Do you have an annual scheduled training program to increase the level of competency of your security personnel?
- 7- Are there annual exercises for the security personnel to increase their level of readiness to deal with security threats? What is the nature of these exercises?
- 8- Have you encountered any security breaches after implementing the ISPS code?
- 9- Is there any cooperation within the regional states regarding information sharing to have upfront intelligence on expected security threats?
- 10- Are there any mutual exercises within the region to increase the level of cooperation?
- 11- Has the implementation of the ISPS code affected the daily port operations? Positively or negatively? How?
- 12- Has the port facility security officer (PFSO) the power to decide on the resources (financial, human, equipment) he sees fit to meet the ISPS code requirements? What sort of support does he get?
- 13- According to the ISPS code definitions on security threats, have any of your port facilities encountered such threats? If yes, what is the statistics, and how was the response?
- 14- How do you value the cooperation of the different stakeholders (shipping companies, port facilities management, suppliers)?
- 15- Do the different stakeholders take part in the security exercises?
- 16- Do you apply the ISPS guidelines (Part B), or you stick to the main requirements as in Part A? do you apply extra measures more than what the ISPS code require?

- 17- Do the security personnel have a say in the implementation of the security plan? And on what sort of threats they face and readiness they require being at?
- 18- As a personal opinion, do you think the ISPS code raised the level of security within your port facilities? Please elaborate.

## **Appendix 2 – Survey questions**

Dear Ma'am/Sir,

The purpose of this questionnaire is to have an idea on how adequate the security measures that are being taken within the Azerbaijani port facilities to protect the port and its facilities in line with the ships approaching it, and it also studies how these measures are identical with the ISPS code provisions and guidelines. The questionnaire is anonymous, and the names of participants will not be included during the data collection process or the findings.

The results of the questionnaire will give a clue on the level of conformity with the ISPS code and also will help in specifying areas of weaknesses and/or vulnerabilities, and as a result, we can come up with valid and strong recommendations to enhance the level of security within the different port facilities in Azerbaijan. The questionnaire and the data collected will be confidential, and the documents of the questionnaire will be completely destroyed at the end of November 2019, and that includes both hard copies and soft copies as well, yet the findings will be used and analyzed in this research because they are the core of this study.

### Survey Questionnaire

1) Occupation:

A= security guard, B= seafarer, C=port personnel, D= other (please specify):

.....

2) Experience:

A=less than 10 years, B= 10 to 15, C= more than 15 years

3) How do you evaluate the security level at the port facilities?



A=Strong, B= weak, C= middle

4) Does the level chosen in Q3 affect the port's operations?

A=yes, B=no, C=don't know

5) Do you get inspected before entering the port?

A= yes, B= no, because (Min. 25, Max. 150). .....

6) Do you get your ID checked before entering the port facility?

A=yes, B=no, because (Min. 25, Max. 150). .....

7) Can you move freely within the port facility's sections, buildings, facilities, without an authorization?

A=yes, B=no, because (Min. 25, Max. 150). .....

8) The communication and cooperation between the Ship Security Officer and the Port Facility Security Officer is

A= strong, B= weak, C= doesn't exist, D= don't know, please elaborate: (Min. 25, Max. 150). .....

9) Do you think the security guards are adequately equipped (communication tools, vehicles, firearms) to undertake their duties in an effective manner?

A= yes, B= no, C= don't know

10) FOR SECURITY GUARDS ONLY: are you getting involved in the security meetings and planning?

A= yes, B= sometimes, C= never, please elaborate: (Min. 25, Max. 150).

.....

11) FOR SECURITY GUARDS ONLY: do you have security training programs to enhance and improve your skills?

A= yes, B = never. If yes, how often: .....

12) FOR SECURITY GUARDS ONLY: do you have drill exercises on security threats within the port facility?

A= yes, B= no, if yes, how often: .....

13) FOR SECURITY GUARDS ONLY: are you aware of the most vital assets and facilities within the port facility that has to be protected?

A= yes, B= no, C= I haven't been told

14) FOR SEAFARERS ONLY: In your opinions, do you consider port facilities, including anchoring and berthing areas, are adequately manned and secured or vulnerable to security threats?

A= Secure, B= vulnerable, because (Min. 25, Max. 150) .....

15) FOR SEAFARERS ONLY: while you are at the port facility, do you see port security guards supervising cargo handling?

A= yes, B= no, C= sometimes, please elaborate: (Min. 25, Max. 150)

.....

16) FOR SEAFARERS ONLY: Do you get any instructions from the port facility security guards on what is allowed and not allowed to do while berthing at the port facility? For example, areas to move within and process of shore leave?

A= yes, B= no, C= sometimes, please elaborate (Min. 25, Max. 150)

.....

17) FOR SEAFARERS ONLY: Do you receive any information from the port facility regarding the security level it is operating within while the ship approaching?

A= yes, B= no, C= sometimes, please elaborate: (Min. 25, Max. 150)

.....

## Appendix 3 – The form of International Ship Security Certificate

<b>AZƏRBAYCAN RESPUBLİKASININ NƏQLİYYAT, RABİTƏ VƏ YÜKSƏK TEKNOLOGİYALAR NAZİRLİYİ</b>		<b>MINISTRY OF TRANSPORT, COMMUNICATION AND HIGH TECHNOLOGIES OF THE REPUBLIC OF AZERBAIJAN</b>
<b>DÖVLƏT DƏNİZ AGENTLİYİ</b>		<b>STATE MARITIME AGENCY</b>
<b>GƏMİNİN “GƏMİ VƏ LİMAN VASİTƏLƏRİNİN MÜHAFİZƏSİ HAQQINDA BEYNƏLXALQ MƏCƏLLƏ”NİN TƏLƏBLƏRİNƏ UYGUN OLMASI HAQQINDA MÜVƏQQƏTİ ŞƏHADƏTNAMƏ</b>		
<b>INTERNATIONAL SHIP SECURITY CERTIFICATE</b>		
<b>№</b>		
<b>Gəmi və Liman Vasitələrinin Mühafizəsinə dair Beynəlxalq Məcəllənin (GLVM BM) tələblərinə uyğun olaraq AZƏRBAYCAN RESPUBLİKASININ NƏQLİYYAT, RABİTƏ, YÜKSƏK TEKNOLOGİYALAR NAZİRLİYİ yanında DÖVLƏT DƏNİZ AGENTLİYİ tərəfindən verilmişdir.</b>		
Issued under the provisions of the International Code for the Security of Ships and of Port facilities (ISPS Code) under the authority of the Government of the Republic of Azerbaijan by the STATE MARITIME AGENCY under the MINISTRY OF TRANSPORT, COMMUNICATION AND HIGH TECHNOLOGIES.		
<b>Gəminin xüsusiyyətləri:</b> Particulars of ship:		
<b>Gəminin adı</b> Name of ship		
<b>Qeydiyyat nömrəsi və ya çağırış signalı</b> Distinctive number or letters		
<b>Qeydiyyat Limanı</b> Port of registry		
<b>Gəminin tipi</b> Type of ship		
<b>Ümumi tutumu</b> Gross tonnage		
<b>BDT nömrəsi</b> IMO number		
<b>Şirkətin adı və ünvanı:</b> Name and address of the Company:		
<b>Şirkətin tanınma nömrəsi / Company identification number:</b>		
<b>BUNUNLA TƏSDİQ EDİLİR Kİ / THIS IS TO CERTIFY:</b>		
1	<b>gəminin mühafizə sistemi və gəminin mühafizəsinə aid hər bir texniki avadanlıq GLVM BM-nin A hissəsinin 19.1-ci bəlməsinə əsasən yoxlanılmışdır;</b> that the security system and any associated security equipment of the ship has been verified in accordance with section 19.1 of part A of the ISPS Code;	
2	<b>yoxlama zamanı müəyyən edilmişdir ki, gəminin mühafizə sistemi və gəminin mühafizəsinə aid hər bir texniki avadanlıq qənaətbəxş vəziyyətdədir və gəmi “Dənizdə İnsan Həyatının Mühafizəsinə dair Beynəlxalq Konvensiya”nın (SOLAS-74) XI-2-ci Fəslində və GLVM BM-nin A hissəsində göstərilən tələblərə cavab verir;</b> that the verification showed that the security system and any associated security equipment of the ship is in all respects satisfactory and that the ship complies with the applicable requirements of chapter XI-2 of the “Safety of Life at Sea” International Convention (SOLAS-74) and part A of the ISPS Code;	
3	<b>gəmi təsdiqlənmiş mühafizə planı ilə təmin olunmuşdur.</b> that the ship is provided with an approved Ship Security Plan.	
<b>Bu şəhadətnamənin əsaslandığı ilkin/yenilənmə yoxlamasının keçirildiyi tarix :</b> Date of initial / renewal verification on which this certificate is based: <span style="float: right;">«»</span>		
<b>Şəhadətnamə etibarlıdır:</b> This Certificate is valid until: <span style="float: right;">«»</span>		<b>Verilmə tarixi:</b> Date of issue: <span style="float: right;">«»</span>
<b>Verildiyi yer:</b> Issued at:  M.Y  Seal		<b>Dövlət Dəniz Agentliyinin direktoru</b> Director of the State Maritime Agency

## Appendix 4 – The form of Statement of Compliance of a Port Facility

AZƏRBAYCAN RESPUBLİKASININ NƏQLİYYAT, RABİTƏ VƏ YÜKSƏK TEKNOLOGİYALAR NAZİRLİYİ		MINISTRY OF TRANSPORT, COMMUNICATION AND HIGH TECHNOLOGIES OF THE REPUBLIC OF AZERBAIJAN
DÖVLƏT DƏNİZ AGENTLİYİ		STATE MARITIME AGENCY
<b>LİMAN VASİTƏLƏRİNİN MÜVAFIQLIYI HAQQINDA ŞƏHADƏTNAMƏ</b> STATEMENT OF COMPLIANCE OF A PORT FACILITY		
<b>№</b>		
<b>Gəmi və Liman Vasitələrinin Mühafizəsinə dair Beynəlxalq Məcəllənin (GLVM BM) tələblərinə uyğun olaraq AZƏRBAYCAN RESPUBLİKASININ NƏQLİYYAT, RABİTƏ, YÜKSƏK TEKNOLOGİYALAR NAZİRLİYİ yanında DÖVLƏT DƏNİZ AGENTLİYİ tərəfindən verilmişdir.</b>		
Issued under the provisions of the International Code for the Security of Ships and of Port facilities (ISPS Code) under the authority of the Government of the Republic of Azerbaijan by the STATE MARITIME AGENCY under the MINISTRY OF TRANSPORT, COMMUNICATION AND HIGH TECHNOLOGIES.		
<b>Limn vasitəsinin adı</b> _____		
Name of the port facility		
<b>Limn vasitəsinin ünvanı</b>		
Address of the port facility		
<b>BUNUNLA TƏSDİQ EDİLİR</b> ki, qeyd edilən limn vasitəsinin Konvensiyanın XI-2-ci Fəslinə və Gəmi və Limn Vasitələrinin Mühafizəsinə (GLVM) dair Beynəlxalq Məcəllənin A hissəsinə uyğunluğu yoxlanılmış və bu limn vasitəsi təsdiq olunmuş Limn vasitələrinin mühafizəsi Planına əsasən işlənməkdədir. Bu plan aşağıda göstərilən əməliyyat, gəmi və fəaliyyət növləri üçün (müvafiq olmayanı pozun) təsdiq edilmişdir. THIS IS TO CERTIFY that the compliance of this port facility with the provisions of chapter XI-2 of the Convention and Part A of the International Code for the Security of Ships and of Port Facilities (ISPS Code) has been verified and that this port facility operates in accordance with the approved port facility security plan. This plan has been approved for the following <specify the types of operations, types of ship or activities or other relevant information (delete as appropriate):		
<i>Sərnişin gəmisi / Passenger ship</i> <i>Yüksək sürətli sərnişin gəmisi / Passenger high-speed craft</i> <i>Yüksək sürətli yük gəmisi / Cargo high-speed craft</i> <i>Balker / Bulk carrier</i> <i>Neft tankeri / Oil tanker</i> <i>Kimyəvi tankeri / Chemical tanker</i> <i>Qaz tankeri / Gas carrier</i> <i>Özünə hərəkət edən qazma qurğuları / Mobile offshore drilling units</i> <b>Yuxarıda adı çəkilənlərdən istisna olaraq YÜK GƏMİLƏRİ / CARGO SHIPS other than those referred to above</b>		
Bu Müvafiqlik haqqında Şəhadətnamə (arxada göstəriləndi kimi) yoxlamalar keçirmək şərti ilə _____ tarixədək qüvvədədir. This Statement of Compliance is valid until _____ subject to verification (as indicated overleaf)		
<b>Verildiği yer:</b> _____ <b>BAKI / BAKU</b>		
Issued at		
<b>Verilmə tarixi:</b> _____		
Date of issued:		
		<b>Dövlət Dəniz Agentliyinin Direktoru / Director of the State Maritime Agency)</b>
		M. Y. Seal