MARITIME SECURITY OPERATIONS & THE REGULATION OF USE OF FORCE
1) MARITIME SECURITY OPERATIONS INVOLVE MARITIME INTERDICTON/INTERCEPTION (MIO) OPERATIONS

• These operations may have various legal bases and they may be conducted for varying purposes.

  e.g. They may be authorized by a Security Council Resolution in response to a threat to, or breach of the peace; or they may be conducted to suppress illegal activities like piracy, maritime terrorism, slave trade etc.

• MIO may take various forms and range from querying the master of the vessel to stopping, boarding, inspecting, searching, and potentially even seizing the cargo or the vessel. In legal parlance these operations are known as right of approach (*droit de reconnaissanc*) and the right of visit (*droit de visite*).
• MIO can only be exercised vis-à-vis ships when there are reasonable grounds for suspicion (i.e. more than a mere suspicion) that they are engaged in one of the activities triggering the right of maritime interdiction.
2) **MARITIME SECURITY OPERATIONS ARE NOT COMBAT OPERATIONS**

- These operations are considered as law enforcement activities. They occur primarily outside situations of armed conflict and are therefore regulated, by *international human rights law*, including in situations involving exchanges of fire.

- The use of force does not, in and of itself, give rise to the application of the law of armed conflict/international humanitarian law.
3) IN MARITIME SECURITY OPERATIONS THE USE OF FORCE IS STRICTLY LIMITED TO WHAT IS NECESSARY AND PROPORTIONATE

• The applicable legal basis and corresponding legal paradigm governing a given MIO provide general guidance as to the restriction on the use of force.
  
  ❖ In the context of law enforcement activities based on the law of the sea and relevant domestic law, the legal regime governing the use of force is that relating to law enforcement, and the use of deadly force will be restricted to situations in which armed resistance is encountered or imminent threat to the lives or safety of the boarding force or vessel or to third persons and vessels is encountered.
  
  ❖ With regard to the execution of a Security Council mandate imposing an embargo or other restrictions on navigation, the use of force will be governed by the mandate and the rules of engagement relating to the execution of the mandate.

• As a rule of thumb, in the context of MIO the use of force is strictly limited to that degree that is necessary to overcome resistance against the exercise of an interception, a boarding, an inspection, or an order to proceed on a given course. **Deadly force will be the exception rather than the rule.**
• In keeping with this general principles regulating the use of force during MIO, the normal practice to stop a ship at sea, as endorsed by the legal doctrine and recognized by the jurisprudence is as follows:

  ❖ first to give an auditory or visual signal to stop, using internationally recognized signals.

  ❖ Where this does not succeed, a variety of actions may be taken, including firing warning shots across the bow of the ship. Methods other than gun-fire are to be used *whenever possible* where the pursued vessel refuses to stop.

  ❖ Only after the appropriate actions fail or are not feasible in the circumstances ruling at the time that the pursuing vessel may, as a last resort, use gun fire, in form of a shot into the rudder to prevent the suspect ship from fleeing. Even in this case, appropriate warning must be issued and all effort should be made to ensure that life is not endangered.

• Boarding party must be trained, instructed and equipped with the appropriate weapons and ammunition to use deadly force in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime, only when less extreme are insufficient to achieve these objectives.
4) NAVAL COMMANDERS MUST OPERATE UNDER DETAILED RULES OF ENGAGEMENT

- International human rights governing the conduct of MIOs require that the right of life must be protected by law. States are under obligation to put in place an appropriate legal and administrative framework defining circumstances in which State agents may use force and firearms. This framework is the rules of engagement (ROE) or an equivalent form of instruction.

- These ROE or instructions must:
  - Be appropriate to the situation,
  - Incorporate an assessment of the surrounding circumstances including evaluation of the threat posed, and
  - Be sufficiently clear.