

# PATRAM 2010

## Risks and regulations in the transport of nuclear material by sea

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## Existing matrix of regulations

- IAEA Regulations
- Convention on the Physical Protection of Nuclear Material + guidance
- INF Code – SOLAS, IMDG Code
- ISPS Code
- Civil Liability – Paris, Vienna, Brussels and 1971 Convention

## Gaps in the Matrix

- No single international instrument comprehensively deals with nuclear security and safeguards
- Raises questions of international law and public policy
- Creates gaps and uncertainties



## Vulnerabilities – Piracy & Terrorism

*“Transport of nuclear material is probably the operation most vulnerable to an attempted act of unauthorized removal of nuclear material or sabotage...”*

- Somalia, Nigeria, Malacca
- Self defence capabilities v sophisticated pirates
- *Pacific Swan / M-Star* – vulnerability?

## Vulnerabilities – Right of Innocent Passage

- Territorial waters
  - Coastal state sovereignty
  - Right to innocent passage
- *Pacific Pintail*
- Environmental protection provisions v right to innocent passage

## Vulnerabilities – Safe Havens and Ports of Refuge

- *The Erika* and the *The Prestige*
- “*Not in my backyard!*”
- Risk of pollution v increased likelihood of more serious incident

## Vulnerabilities – Civil Liability

- Conventions should clarify liability
- Liability generally falls on the operator
- Nuclear incident:
  - On the high seas?
  - Involving non-contracting states?
- Contractual allocation of nuclear civil liability
  - A satisfactory solution?