Regulation of autonomous and remote shipping from the national security point of view

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Duties of government vessels while in Finnish Territorial Waters -

- A government aircraft of a foreign state may enter Finnish erritory and stay in the country only under the terms of an international treaty binding on Finland or on the basis of permission, unless otherwise provided in sections 2 and 3. The same applies to a government vessel of a foreign state, except in cases of innocent passage (Territorial surveillance act, section 5)

- A submarine or other underwater vehicle of a foreign state must navigate on the surface in Finnish territorial waters unless it has been granted permission to dive. (Territorial surveillance act, section 5)

Restrictions in a restricted area (Territorial surveillance act, section 17)

- Without permission, the following activities are not allowed in a restricted area:

- 1) scuba diving or other underwater activity which does not normally form part of navigation;

- 2) fishing with fishing tackle dragged along the bottom or heavy tackle anchored at the bottom, such as a seine, trawl or large bow net;

- 3) anchoring a vessel other than a pleasure craft outside an anchorage marked on Finnish sea charts, unless this is necessary for reasons of navigational safety, force majeure or an emergency;

- 4) movement in a public water area outside a public fairway within 100 metres of land areas which are used by the Defence Forces and where landing is marked as forbidden by law.

Temporary suspension of waterborne traffic (Territorial surveillance act, section 26)

The Ministry of Defence may, for reasons necessary for national security, prohibit waterborne traffic in a restricted part of Finnish territorial waters for a maximum of seven days at a time if the use of military force by a territorial surveillance authority in such waters or the effects of the use of military force may endanger the safety of seafarers.

Repelling hostile activity(Territorial surveillance act, section 34)

The Defence Forces and the Frontier Guard are responsible for taking necessary action without delay to repel any hostile activity which poses an immediate and grave threat to national security. In such a case, such military means of force must be used as may be considered justified in view of the danger of the activity and other aspects affecting assessment of the overall situation. The Ministry of Defence must be immediately notified of such action.

The term 'hostile activity' refers to:

1) armed military activity illegally targeted at Finnish territory or performed in Finnish territory by a foreign state;

2) entry of an armed warship or military aircraft of a foreign state or a military vehicle of a foreign state into Finnish territory in spite of a warning given by a Finnish territorial surveillance authority;

3) entry of a submarine or other underwater vehicle of a foreign state into Finnish territorial waters without permission otherwise than on the surface;

4) intelligence operations and electronic interference illegally targeted by a foreign state at objects in Finnish territory which are important for national security;

5) electronic jamming illegally targeted by a foreign state at a Finnish government vessel or government aircraft;

6) unlawful use of Finnish territory by a foreign state in an activity referred to in subparagraphs 1 to 5 against a third state.

Sea is sea, a ship is a ship and government is government – what will autonomous and remote shipping change?

Maybe very little?

- Authorities do have right to act regardless of status of the threat
- If remotely operated ship is acting too close to restricted areas, it is breaking current legislation already.
- If Autonomous Underwater Vehicle is used for electronic jamming or intelligence gathering, it is conducting a hostile act and can be countered accordingly
- If Ministry of Defence will declare area closed for sea traffic, it will apply to all traffic, manned or not

-> Legislation seems to be neutral on the issue of the manning

But what about in the practice?

- If duty to obey rules and regulations is imposed to master, can it effectively be implemented if master is in Singapore?

- What kind of devices have right to innocent passage?

- If there is a threat standard procedure is to act gradually. Hailing, warning, etc – use of force is only last resort and to be used very cautiously.
  - But if there is person onboard will there be effective reaction?
  - Last action before use of force is warning shots, can they be observed?

- Does the knowledge of the fact that no persons are onboard lower the threshold to use force? Force must be reasonable taken into consideration the circumstances – with no risk of casualties balancing might be done differently

Duties of shipowner

- The shipowners responsibilities remain same regardless of the mode of the shipping

- However shipowner is responsible of maintaining systems sufficient to enable ship to operate within regulations
    - Normal due diligence like any other ship
    - Also systems required for effective remote shipping

- In case of failure to control ship, what kind of fail safe mode is required?

- Are there cases when authorities can demand right to navigate the ship? Immediate danger of collision, environmental hazard?

Use of Autonomous Vessels by authorities

- Is the mission dull, dirty or dangerous? Use drones!

- However is that drone a warship?

- UNCLOS article 29

   For the purposes of this Convention, 'warship' means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

- It is not stated that commanding officer must be physically present – however s/he must still exist