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The EU and the Sea. A Security Perspective

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Abstract

In an era of geopolitical tensions, the EU is emerging as a security actor. This is particularly evident in the maritime domain. Analysing EU counter-piracy operations, this TEPSA brief identifies the EU's characteristics as a maritime security actor, not least vis à vis the existing security alliance of NATO, and highlights points for consideration as the EU continues to increase its defence and security policy cooperation.

Introduction

For a decade, the EU has worked on a strong maritime security profile. Two naval missions are on-going, addressing piracy in the Indian Ocean and human smuggling in the Mediterranean. Maritime strategies and action plans have been devised as a

central part of EU external action within the Common Security and Defence Policy (CSDP) framework.¹ And a new initiative is in the making called 'coordinated maritime presence', allowing Member States to fly EU flags on national naval deployments outside of CSDP operations.²

The activities in the maritime domain are part of the EU's broader ambition of consolidating its policy integration on security and defence. Indeed, the 2016 EU Global Strategy for Foreign and Security Policy was an important milestone for the development of its identity as an international security provider.³

With 22 EU Member States also being NATO allies, what distinguishes the EU from Europe's existing security organisation, and what role should the EU play in pursuit of its new security agenda? This brief identifies the EU's characteristics as a

¹ See Larsen (2019) for a discussion.

² https://eeas.europa.eu/headquarters/headquarters-homepage/66784/remarks-high-representativevice-president-federica-mogherini-press-conference-following_en, accessed 17.03.2020.

³ EUGS (2016). This was followed by other initiatives, such as the activation of the governmental Permanent Structured Cooperation (PESCO), the establishment of the industrial European Defence Fund (EDF) and the voluntary capability development procedure Coordinated Annual Review on Defence (CARD).

maritime security actor. It then suggests that a comprehensive approach is the EU's strength and an enhanced focus on geopolitical tensions should provide the way forward.

The EU at sea: response to Somali piracy

When Somali piracy escalated in the mid-2000s, the UN Security Council passed Resolution 1816 (2008) encouraging the international community to suppress piracy in the western Indian Ocean. Three naval forces were established, alongside a range of independent deployers.

“Since there is no international court with the mandate to prosecute maritime piracy, the international community realised that a sustainable mechanism was needed to ensure the prosecution of piracy suspects.”

The first naval fleet was the EU's Operation ATALANTA, established by the Council with the mandate to protect World Food Programme (WFP) vessels delivering humanitarian aid to Somalia and to safeguard other vessels off the coast of Somalia.⁴

The second naval fleet was established in January 2009 under the US-led Combined

Maritime Forces (CMF), which already had several maritime operations in the region and now created a specific counter-piracy mission.⁵ The third was Operation Ocean Shield established in August 2009 under the auspices of the Standing NATO Maritime Groups, which was likewise present in the Indian Ocean escorting WFP vessels.⁶

Interestingly, major naval powers such as France, the UK and Germany, chose the newly established EU NAVFOR over Europe's existing military alliance, NATO. Furthermore, the non-EU NATO ally Norway opted for EU's Operation ATALANTA over NATO's Operation Ocean Shield.⁷

Since there is no international court with the mandate to prosecute maritime piracy, the international community realised that a sustainable mechanism was needed to ensure the prosecution of piracy suspects. A burden-sharing agreement was devised, in which the regional states of Kenya, the Seychelles and Mauritius undertook piracy prosecution in their national courts.

To facilitate this, naval states firstly needed to enter into transfer agreements with prosecuting states setting out the conditions and roles of the jurisdictions involved. Secondly, since the regional prosecuting states were developing countries, naval coalitions needed to ensure that international standards were met during detention and trial. Regarding transfer, the High Representative of the EEAS negotiated bilateral agreements with

⁴ EU (2008). In 2009, this mandate was broadened to include the monitoring of (illegal) fishing activities (EU 2009).

⁵ <https://combinedmaritimeforces.com/ctf-151-counter-piracy/>, accessed 16.03.2020.

⁶ <https://shape.nato.int/page13984631.aspx>, accessed 16.03.2020.

⁷ Riddervold (2016).

the prosecuting states, which allowed states contributing to ATALANTA to hand over suspects to regional judiciaries.⁸

Regarding international standards, major donor programmes were initiated, in particular by the EU and UN. The European Commission implemented multi-year capacity-building programmes to improve conditions in the prisons and judicial systems of the prosecuting states.⁹ The programmes applied the EU's so-called integrated approach, combining diplomatic, security, trade, development and humanitarian instruments to address not only the symptoms of a crisis but to build the capacity of local security institutions and other societal structures in a sustainable manner.

Key Traits

The way the EU addressed the international challenge of Somali piracy arguably sets it apart from other security actors.

Agile responder: firstly, the EU was the first actor to establish a naval mission in response to the UN Security Council resolution. This is striking, given that the naval dimension of the CSDP had hitherto been dormant. In comparison, NATO and the CMF not only had the capabilities and the command structure in place; they were also already in theatre.

Broad responder: secondly, the EU was able to combine military and civilian instruments to address the problem of piracy comprehensively, seeking to suppress and

prevent it at the same time. In comparison, NATO and CMF only had military dimensions. Similarly, while the UN was also very active in the capacity-building of regional security sectors, it did not have the military capabilities at sea to complement activities on land like the EU did.

Legitimate responder: thirdly, the EU seemed the preferred framework. States that were both EU members and NATO allies contributed to ATALANTA over Ocean Shield – and even non-EU members did so. The EU's ability to enter into blanket transfer agreements through political dialogue arguably afforded the EU legitimacy as a security actor and, combined with its comprehensive approach, is likely to have played into states' decision to deploy assets to ATALANTA.¹⁰

Future prospects

ATALANTA ushered in a new area of priority for EU external action under the CSDP and established the EU as an agile, broad and legitimate security provider.

But since the days of Somali piracy, the global maritime domain is not only a theatre for combatting crime. It is increasingly turning into a theatre for geopolitical contestation. China is asserting itself militarily and economically in the Indian Ocean through its Belt and Road Initiative.¹¹ Russia is expanding its naval fleet and projecting its power in the Black

⁸ EU-Kenya (2009); EU-Seychelles (2009); EU-Mauritius (2011).

⁹ Including EU CAP Nestor in regional countries (later EU CAP Somalia), the MASE programme and later the Critical

Maritime Routes programme <https://criticalmaritimeroutes.eu/>, accessed 16.03.2020.

¹⁰ Riddervold (2016).

¹¹ Larsen (2018).

Sea¹² and the eastern Mediterranean.¹³ The Arctic is a new frontier for military presence. All of these developments are taking place in European spheres of interest.

If the EU consolidates its identity as an international security actor by sustaining a presence in the maritime domain, it needs to expand its strategic focus from maritime crime to include a more clearly defined

position vis-à-vis increasing political tensions at sea. This requires that the EU address explicitly in both strategies and operations its chosen posture vis à vis adversaries, leading the way through its agile, broad and legitimate security identity. It is a difficult balance to strike, but a necessary one – and an obvious place to start for the new Commission, which has proclaimed itself to be ‘geopolitical’.¹⁴

¹²<https://www.rferl.org/a/explainer-kerch-strait-skirmish-ukraine-russia-simmering-european-conflict/29621909.html>, accessed 24.08.2019.

¹³<https://www.rferl.org/a/russia-builds-up-mediterranean-fleet-amid-rising-tensions-over-syria->

[idlib-province-assad/29458959.html](https://www.politico.eu/article/meet-ursula-von-der-leyen-geopolitical-commission/), accessed 24.08.2019.

¹⁴ <https://www.politico.eu/article/meet-ursula-von-der-leyen-geopolitical-commission/>, accessed 17.03.2020.

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