

Maritime Security and the EU

Piracy, terrorism, illegal trafficking, state disputes and climate change constitute significant threats to international maritime security. The EU participated in missions in Bosnia, Northern Macedonia, Kosovo, the Democratic Republic of Congo and elsewhere. Nevertheless, it was not involved in maritime operations for years, although the 2003 European Security Strategy clearly states the likelihood that Member States' warships could be involved in areas such as the Mediterranean or the Black Sea. This situation was reversed in November 2008 when, with Operation Atalanta (EU NAVFOR), the EU provided distinct signs of presence and action against piracy and sea terrorism. It could be said that this initiative in naval operations, including the safe delivery of humanitarian aid to the Horn of Africa, has added another dimension to the EU's role in international military missions. Until recently, the EU stood behind NATO's institutional role in relation to security operations in the region. Despite this, it seems that today the European Union, as regards the protection of sea routes, is gaining confidence and its own independent role and military activity in the international security issues of Europe, Africa and Asia.

Keywords: European Union, maritime security, piracy, terrorism, military activity

Acronyms

A2AD	Anti-access/area denial
AShM	anti-ship missiles
ASEAN	Association of Southeast Asia Nations
EEAS	European External Action Service
EEZ	Exclusive Economic Zone
MS	Member State
n.m.	nautical mile
SAM	surface-to-air missiles
UNCLOS	United Nations Convention on the Law of the Sea
UNODC	United Nations Office on Drugs and Crime

Introduction

There is no commonly accepted interpretation of what “security” means in international relations (BALDWIN 1997: 5–6). However, most studies focus on the political priorities of states in their attempt to define this concept, where in these cases the threat that each state or alliance of states face is considered a matter of security (BROWN 1977; MATTHEWS 1989: 162–177; ULLMAN 1983: 129–153; ROMM 1983; TICKNER 1995: 175–197; BOOTH 1991: 313–326).

With the end of the Cold War, this assessment seems to have been treated with scepticism by some scholars and has been redefined, especially by those who consider that the safety of the individuals themselves should be given priority. Rothschild, for example, believes that throughout human history security has had to do primarily with the safety of individuals (ROTHSCHILD 1995: 53–98).

Another view focuses on the security of human societies (SHAW 1994: 159–176), while, according to a different opinion, the issue is approached from the security of the individual himself first, then proceeding to human communities, societies, organisations, states and ending with the international system (BUZAN 1991). An additional point that has appeared recently prioritises the protection of the planet, rather than the people who live on it, giving priority to ecology and the position that humans are a part of nature which they must protect for their safety (HOMER-DIXON 1999).

When the discussion comes specifically to maritime security, as a part of international security, the fact is interesting that it considers all the dimensions presented earlier; meaning state, individuals, societies and ecology. Moreover, taking the fact into consideration that almost 80% of the world's trade is transported by sea and the percentage of industries that rely on safe and clean waters, it is obvious that an international actor wishing to play a central role in international developments should focus on the safety and protection of the sea routes and securitise every aspect arising from Maritime Security. In such a context of Maritime Security, the main features of the peaceful resolution of international disputes are also pertinent, especially taking into account aspects of general international law and the law of the sea.

The strategic position of Europe, surrounded by the Black Sea, the Mediterranean, the Atlantic Ocean and the Arctic, in accordance with the changes that the 9/11 attack brought to the perspectives of international security, as well as the financial competition between the big economies of the Northern Hemisphere (the USA, Russia and China) are signals for the necessity of the EU to act more independently in order to protect the wellbeing of its citizens and of its member states.

Law of the Sea

The European Union (EU) has long expressed the hope that the United Nations Convention on the Law of the Sea (hereinafter: UNCLOS), which was adopted by the Third United Nations Conference on the Law of the Sea and opened for signature (together with the Final Act of the Conference) at Montego Bay, Jamaica, on 10 December 1982, has the potential of becoming a useful means for promoting co-operation and stable relations between all countries in these fields, governing all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters (UN 1982). More specifically, with a view to the maintenance of peace, justice and progress the EU has formally endorsed the UNCLOS since 1998 and, despite any deficiencies and flaws requiring rectification, the European Economic Community has declared on signing

the UNCLOS that it constitutes, within the framework of the Law of the Sea, a major effort in the codification and progressive development of international law in the fields to which its declaration pursuant to Article 2 of Annex IX of the UNCLOS refers.

In particular, the UNCLOS proceeds from the basic principle that the states which are parties will settle any dispute between them concerning its interpretation or application by peaceful means in accordance with the UN Charter and, to this end, it further confirms that disputes relating to the UNCLOS must be settled in accordance with justice. Importantly, the scope and exercise of the competence that the EU Member States have transferred to the EU under the EU Treaties with regard to rules and regulations under the UNCLOS is, by its very nature, subject to continuous development with the EU itself having exclusive competence for certain matters while only sharing competence with its Member States for certain other matters.

States' disputes

Maritime security constitutes a complex dimension concerning the security of states (and other non-recognised autonomous/sovereign regions and entities). The reason for this is twofold. First, the nature of the maritime environment in which a state strives to exercise some form of sovereignty – the waters of the seas – and, second, the economic, social, political, logistical and environmental incentives and risks that access and proximity to the world's seas presents. As such, competitive dynamics abound in the maritime realm within the traditional context of hard security, with maritime territorial disputes at the centre of flashpoints and frictions between the major and lower tier powers of the world. The confidence that the EU builds, through operations at the high seas, seems to be expanded also in operations that have to do with states' disputes in order to protect vital interests of the member states.

To understand the importance of territorial and sovereignty issues for states and other state-like actors, we must first understand the importance of the maritime environment. The seas of the world comprise almost three quarters of the Earth's surface and aside from some closed or easily closed-down features, create in practicality a vast global highway of connectivity. This domain is exploited by states in a variety of aspects, as avenues for trade, for economic output (fishing, mining, etc.), for logistics and for military purposes. However, it is distinctly different from other physical spaces where states can exercise their territorial sovereignty in that it is not hospitable for human life and also virtually void of any distinctive features, which comes from the "uniformity of its surface" (SPELLER 2018: 17). The exercise and further exploitation of territorial and other sovereignty thus becomes highly more complicated than the practices of sovereignty on land surfaces that sub-state, state and supra-state entities have come accustomed to. It relies on complex and often costly – and as such, highly valuable – platforms created specifically to practice and protect a state's sovereignty in the maritime domain, such as surface and sub-surface vessels, stations or rigs and other forms of platform-based presence in the environment that the seas and the oceans of the world present. Incentives for the economic exploitation

of a state's sovereign access to the maritime domain come in many forms – fishing, mining – but the most important of them is the nature of the world oceanic highways as an avenue for trade.

Water, as a medium of transportation holds two important advantages, namely, the access it provides to the economic centres of the globe and the means of highly energy-efficient transportation for large quantities of cargo. The latter stems from the physical characteristics of water as a means of transport, as it can support the logistical movement of large quantities of immensely heavy cargo with the fraction of the energy needed to move such quantities on land and especially by shipping. Most significantly, almost two thirds of the world's crude oil and petrochemical supplies are transported by sea. The geographic location of economic and population centres also highlights the importance of maritime connectivity as more than 40% of the world population live within a 100 km radius of the coastlines of the globe and – especially in the developed world – the largest centres of urban and economic concentration are within this coastal swath (UNR Seas 2007). Understandably, access to and, potentially, the denial of access to other entities of the maritime domain have traditionally been at the centre of greatest power strategic traditions and parallel to this, normative and other efforts to guarantee safe and prosperous access to all of mankind based on the rule of law have permeated discussion on the world seas as global maritime commons.

The area of the maritime domain over which a state may exercise some form of sovereignty – both coastal and offshore, such as distant islands and adjacent waters – are thus of vital strategic importance and as such, many actors would strive to maximise their possible access to the sea. Not surprisingly, interstates dispute with aspects of some form of maritime territorial control such as the sovereignty over offshore islands, for example, are abundant in the international system. The most important aspiration to mitigate these contested phenomena and manage them under circumstances governed by norms and the rule of law, have been the UN Convention on the Law of the Sea (UNCLOS). Interestingly enough, by codifying and extending the territorial sea to 12 nautical miles (22.2 km) a further 12 n.m. contiguous zone (24 n.m., 44.4 km) and the 200 n.m. (370 km) Exclusive Economic Zone (EEZ), the UNLOS has greatly increased the surface of the world oceans legally under some form of state sovereignty. Also, by providing the 12 n.m. territorial sea (and the 24 n.m. contiguous zone and EEZ) based in some cases on the shoreline of offshore islands, it has vastly increased the legal enclosing of the seas (SPELLER 2018: 21), and, as such, the political and strategic value of such distant island features for actors striving to create ever larger areas of the maritime domain under their sovereignty.

The contemporary international system is home to a high number of inter-state disputes that have relevance to the maritime domain, such as disputed islands, disputed maritime territory and certain demarcation lines or even the specific naming of a body of water (i.e. the Republic of Korea vs. Japan dispute over the use of the Sea of Japan or the Yellow Sea). There are ongoing disputes over maritime territory, sovereignty of islands and other issues in every part of the globe; we can find such issues regarding countries of all continents as well as the complex demarcation of territories of the Arctic and Antarctica. There are, however, stark differences in how intensive, risk prone and disposed

towards potential escalation each regional maritime dispute might be. Disputed maritime sovereignty issues in Europe and especially between EU member states do exist, such as the Gulf of Piran dispute between Croatia and Slovenia, or the uninhabited Rockall islands off the coast of Ireland and the United Kingdom (where Denmark is also a claimant in the dispute), but are managed within the frameworks of legal arguments and arbitrations under the rule of law and common norms for settling such disagreements. Some maritime disputes are present in the regional neighbourhood of the EU, such as islands, features and the territory of the Sea of Azov between Ukraine and Russia, or maritime disputes in North Africa, the disputes between Turkey and Greece, also involving Cyprus, as well as disputes between Turkey and Israel. However, as evident with the Ukraine–Russia disputes, most of these maritime state disputes are either part of a larger issue of territorial and other conflicts between states or are marginally intensive disputes, making them less pressing issues of regional security in close proximity to the EU. Some EU member states do have maritime disputes in their territories outside of Europe, a remnant of colonial past, one obvious historic example would be the Falkland Islands debate – although the U.K. is no longer a member –, but in recent decades these lingering disputes have not presented major possibilities for escalating security crises on the terms of threatening the territorial integrity of Member States. There are some instances where the EU can be a highly proactive player in security issues with a dimension of maritime domain centred on state actors. Since the uprising of 2011, Libya faces an ongoing conflict and instability posing a threat to the security of the region. On 17 February 2020, the EU’s Foreign Affairs Council decided to launch a new operation in the Mediterranean focused on the implementation of the UN Security Council Resolution on the arms embargo on Libya. The operation named IRINI (Greek for peace) was launched in March 2020 and is mandated to carry out inspections of vessels on the high seas off the coast of Libya implementing the UN arms embargo on the country (EEAS 2020b).

There are, however, some major maritime inter-state disputes in some regions outside of Europe that do present a significant risk regarding not only regional, but global stability. The two most significant areas are the South China Sea and the East China Sea disputes, most of which are between the People’s Republic of China and other claimants or de facto sovereign holders of disputed islands, features or maritime territory. In the East China Sea, the most significant dispute is centred around the uninhabited Senkaku/Diaoyu islands, claimed by Taiwan and China, but under the sovereignty of Japan. The decades old dispute has developed into a complex conflict with the use of naval, coast guard and other, “hybrid” forms of state-on-state pressure, mainly by China, to contest the Japanese sovereignty over the islands, fuelling a strategic reconfiguration of Japanese defence policy towards limited maritime deterrence (BARTÓK 2020). In the South China Sea, Beijing articulated a claim based on historic grounds with the “nine-dash-line” demarcation, in practicality claiming sovereignty over the entirety of the South China Sea, putting China in conflict with the coastal countries of the Association of Southeast Asian Nations (ASEAN), such as Vietnam, the Philippines, Malaysia and Indonesia. While East Asia is geographically distant from Europe, the EU has noticed the destabilising potential of these maritime disputes and the strategic focus of the EU towards the region has

articulated that the economic prosperity of Europe is tangent on the peace and stability of the East Asian region (BARTÓK 2019: 152–153).

Maritime disputes between states present varying levels of destabilising potential, some of them, however, are right at the centre of global great power competition, especially in East Asia, where China is in dispute with a host of U.S. allies in the maritime domain. As such, these maritime disputes between states of East Asia will be at the heart of future developments of global security issues. The factor that merits some degree of caution is the ongoing arms race between East Asian countries, fuelled by the shifting military balance between China and the United States. This arms race is highly focused on naval platforms, coast guard vessels, aircrafts A2AD¹ weapon systems and situational awareness capabilities, all of which increase the potential risk of escalation when it comes to maritime inter-state disputes.

The EU as a mostly distant and outside player has a very important role as a normative actor in shaping dispute settlement norms within the framework of a rules-based order. As such, the most important challenge for Europe is how much influence it can have in global maritime disputes in order to help prevent the escalation of disagreements into “hybrid” or other forms of conflict.

Piracy, armed robbery and the potential for terrorism

The necessity for the EU’s presence in security operations could be seen as part of a broader framework of changes in security issues created at the end of the Cold War. The pressure of other international actors, like the USA, for example, for a stronger European presence is explained as imperative or necessary to protect Western interests and to change the views that the EU will remain under the auspices of NATO not being able to develop an independent defence and security policy.

Possible problems with shipping, especially oil tankers, could pose significant problems to Western economies and could prove a potential parameter of extremist movements. During the last decade, the activities of piracy have increased the likelihood of terrorists being involved in such operations. The possibility of a terrorist attack at sea, as it is an area without clear boundaries and rules, has preoccupied researchers of violence (MURPHY 2007). Some scholars identify pirates with terrorists as “enemies of humanity”, as they operate outside the bounds of legal behaviour (THORUP 2009: 401–411). However, in the conclusion of their research, they do not suggest an absolute identification of the pirate with the terrorist, as the two acts – piracy and terrorism – are not identified mainly due to the intentions of the perpetrators behind each act. That is, while piracy was originally a form of private use of force, it could be part of general terrorism as a means for financing activities. Moreover, the sea has not historically been a main area of terrorist activities (WILKINSON 1986; JENKINS et al. 1986).

¹ Anti-access/area denial weapon systems – mostly defensive devices like anti-ship missiles (AShM), or surface-to-air missiles (SAM).

However, Abu Musab al-Suri, one of Al-Qaeda's leading ideologues, in his book *Global Islamic Resistance Call* speaks about the need to hit ships in the Mediterranean not only because of the strategic and economic importance of the region but also because of the importance of the following seas to the West (Strait of Hormuz, Suez Canal, Bab al-Madeb, Strait of Gibraltar/Maḍīq Jabal Ṭāriq) (AL-SURI 2007). There were also reports of suicide attacks on Western-interest shipping in the Mediterranean using small tanker boats in the Strait of Gibraltar and yachts carrying tourists from Israel to Turkey (PERCIVAL 2005: 9; SEZER 2005; The New York Times 2005).

Further, the kidnappings of EU citizens and the deaths of some of them have identified piracy with terrorism, leading to the British Government's view that "ransom is not paid to terrorists" (BBC News 2008). Sharing the same view, French President Nikolas Sarkozy authorised the French Special Forces to attack pirates inside Somali territory after the abduction of the ship "Le Ponant" in April 2008 (Radio France Internationale 2012).

Moreover, on 6 October 2002, the suicide bombers' attack against the French oil tanker "M/V Limburg" in the Gulf of Aden caused a short-term collapse of navigation in the Gulf, an oil price rise of 40 cents per barrel and a cost of 3.8 million to the economy of Yemen (SHEPPARD 2003: 55). This is an example that causes worries as for the capabilities of extremist groups to cause extensive damage to specific countries' economies. Also on 12 October 2002, an Al-Qaeda attack against the USS Cole in the port of Aden killed 17 U.S. Marines. Finally, sea attacks coming from Tamil Tigers against the authorities in Sri Lanka, as well as sea attacks of the Free Aceh Movement in Indonesia contribute, in some cases, to the further identification of piracy with terrorism.

At the height of the Piracy crisis in 2011, some 736 seamen were held hostage at one time and 32 ships remained seized off the coast of Somalia (EEAS 2020a). These developments constituted great challenges to the EU's role on issues of international security. A significant development for the EU was the implementation of Operation Atalanta in 2008. It was the first Maritime operation of the EU in which individual Member States united under the EU flag. In the context of the operation violence can be used, within an institutional framework, at sea on the national waters of other countries in order to protect the interests of the European Member States but also to protect the local population in order to secure humanitarian aid (EEAS 2020a).

Finally, and as for what concerns the high seas crime, Yury Fedotov, Executive Director of the United Nations Office on Drugs and Crime (UNODC) has recently stated that: "Maritime crime involved vessels, cargoes, crews and illicit money flows from many regions. With its reach spanning from sea to coast guard offices, courtrooms and prisons, the Office works to curb cocaine trafficking in the Atlantic, heroin trafficking in the Indian Ocean, migrant smuggling in the Mediterranean, and piracy and armed robbery at sea in the Gulf of Guinea. These crimes pose an immediate danger to people's lives and safety, they undermine human rights, hinder sustainable development, and as this Council has recognized, they threaten international peace and security" (UN 2019). Following the UN's efforts, the EU supports maritime security programs in the Gulf of Guinea and security efforts at the Horn of Africa.

Environmental issues

Conflicts and political violence

Another dimension has to do with the connection between climate change and illegal activities that affect the commercial sea roots. Climate change has gradually more negative impacts on the livelihoods of many countries and regions through water and land scarcity, food insecurity and migration. This dimension makes the affected population vulnerable not only to climate alterations but also to recruitments by illegal and violent groups. These groups can present alternative ways of life, economic motivations and a significant response to political anger and dissatisfaction (CHARALAMPOPOULOS 2020). This does not imply that there is a direct link between climate change and politics-related violence and conflict. However, large-scale environmental change, such as water scarcity, land scarcity and climatic change contributes to creating an environment in which these groups can thrive (NETT–RÜTTINGER 2016).

Further, violent groups are using natural resources as a weapon of war. In unstable environments these groups can use water, and other resources as a weapon of war and a means of political pressure. This tactic creates a dynamic for these groups taking into consideration the fact that the scarcer the resources become, the more power is given to those who control them (NETT–RÜTTINGER 2016).

Moreover, studies show that, as the climate is changing, so too are the conditions within which organised crime groups operate. As it was said before, this does not imply that there is a direct link between climate change and the violence and conflict that comes from those groups. However, large-scale environmental and climatic change contributes to creating an environment in which those groups can better develop their strategies.

Low levels of rural development, environmental scarcity, reliance on sensitive crops and the reduction of the global fish stocks make people vulnerable to the impacts of climate change, pushing them towards illicit activities like piracy, organised crime and recruitment by criminal groups.

Ice melting and security dilemmas in the Arctic

In August 2007, a submarine submerged at the North Pole and hoisted the Russian flag on the seabed. The activity upset the surrounding states and other international players (The Guardian 2007).

Rising temperatures have affected the ecologically sensitive area and are expected to have adverse effects if the polar ice cap and glaciers continue to melt at the same rate. On the other hand, companies and industries involved in mining natural resources (minerals, crude oil and natural gas), shipping, fisheries and tourism are positive about the effects of climate change in the Arctic in order to expand their business there, as the melting ice allows them to exploit natural resources in an area to which they did not have access earlier.

Three of the eight members of the Arctic Council are members of the EU. European countries pay considerable attention to the prospect of finding and exploiting Arctic resources. The European Security Strategy recognises the need to find more natural resources to meet needs (European Council 2009: 14).

According to NATO Secretary General Jens Stoltenberg, with China and Russia expanding their military presence in the Arctic, melting ice could increase geopolitical tensions between different powers in the world. The reopening of Soviet military facilities in the Arctic (Reuters 2013), of a NATO base in Norway (WATERFIELD 2020), and the increasing Chinese presence in the area change the security landscape of the region (KOH 2020).

Conclusions

The new international security challenges oblige international actors to play a more central and independent role in global developments. The interesting factor about Maritime Security is that it considers individuals, societies, states, international organisations and climate. Despite the fact that until recently the EU stood behind NATO's institutional role, in relation to security operations, it seems that on the occasion of the protection of the sea routes it is constructing a more independent and confident role. It is worth mentioning that this role is being developed within the frames of the United Nations Convention on the Law of the Sea (UNCLOS). The EU has long expressed the hope that UNCLOS has the potential of becoming a useful means for promoting co-operation and stable relations between all countries in these fields. The EU has a very important role as a normative actor in shaping dispute settlement norms within the framework of a rules based order. Maritime disputes between states present varying levels of destabilising potential, some of them, however, are in the very centre of global great power competition. The most important challenge for Europe is how much of an influence it can have in global maritime disputes. Further, and as the activities of piracy, during the last decade, have increased the likelihood of terrorists being involved in such operations, the necessity for a stronger European presence to protect Western interests in the open seas is clearer than ever. The security threats concerning Maritime Security are becoming more hazardous when one adds the factor of climate change. Violence, new sea routes in the Arctic Circle and environmental catastrophes are some of the issues a global power has to deal with. Beside the difficulties and the challenges, the European Union is constituted by Member States and civilisations which, taking advantage of the open sea and the strategic position of Europe, wrote some of the most important chapters in the history of mankind. Maybe it is now time for the European States to act together and find, once more, the sea current which will lead them to new glorious chapters of history.

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