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EUNAVFOR MED operation SOPHIA
SHADE MED Working Groups on Operations and CIS OUTCOME
OHQ Rome – 15 March 2016

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Mr. GOUSSOT (CMPD/EEAS) opened the session of the Working Groups and provided introductory remarks underlining the importance of identifying common denominators, useful to all actors present in the Mediterranean basin, through the open and stimulating environment provided by the SHADE MED initiative.

1. WORKING GROUP ON OPERATIONS

a. Executive Summary

The WG provided an opportunity to exchange views about information exchange among actors operating in ENFM Area of Operations (AOO).

All representatives acknowledged that relevant information is already shared at tactical level to a certain extent, but mainly peer to peer when needed. The proposal to feed an UNCLAS common chat open to IMRCC, NGOs and White Shipping (to enhance situational awareness, de-confliction, promote aviation safety and improve effectiveness of rescue operations) was welcomed by all participants.

b. Discussion

- ENFM representative opened the Working Group and made the following comments:
  - Situational awareness is vital for de-confliction and mutual support at tactical level;
  - There is the possibility to establish a common UNCLAS chat set by ENFM, in line with a Maritime Security Centre wider project to be set in the Joint Operation Centre;
  - Aviation safety and effectiveness in Rescue activities are common denominators of ENFM, Operation MARE SICURO, Operation ACTIVE ENDEAVOUR and Operation TRITON, even if SAR is not an explicit task to some of them.
- ITA Navy representative stated that the info sharing was already happening at satisfactory level but mainly point to point among actors. He agreed about the possibility to establish a common UNCLAS platform (taking the "Mercury System" as an example) where any actor can place info on a voluntary basis, including Civilian Organisations (Owner Shipping Association) involved in Migration Phenomena. Even if PSNs of military units are generally classified, as they are perishable, they could be released.
- MARCOM representative mentioned the overarching need for a wider than tactical "experience sharing" (Observations/Lessons) focused on the Maritime Security Operation (MARCOM specific interest) perspective. They agreed with the UNCLAS info sharing but they remarked that care should be taken when vetting of data regarding Military Operations over UNCLAS systems.
- The FRONTEX representative was requested by the chairman to provide an insight about FRONTEX different Organizational Elements (HQs in Warsaw, Pratica di Mare and Catania). He also provided, as asked by MARCOM reps, an overview of the JORA (Joint Operation Reporting Application) System that uses an internet based software to share all the info between FRONTEX assets.

c. **Conclusion and way ahead**
   - ENFM OHQ will perform a study to establish a common UNCLAS chat in line with a Maritime Security Centre wider project to be set in the Joint Operation Centre; the subject will be shared with all Non-military Organizations (including Owner Shipping Association) involved in Migration Phenomena;
   - All representatives will determine their organizations' views on info sharing in ENFM AOO and report suggestions for improvement in the next meeting;
   - All participants expressed their satisfaction and appreciation for the establishment of such an initiative.

d. **Participants**
   - ENFM OHQ CJ3, CJ6, CJ9, IT Coast Guard LNO
   - MARCOM: OF-4 McRAE (CJ3) and OF-4 ANGHELONE (CJ9)
   - FRONTEX: Mr. GANEA (Ops division - Sea border sector)
   - ITA Navy: OF-3 FAGNANI (IT Navy OPS/PLAN Department)

2. **COMMUNICATION AND INFORMATION SYSTEM WORKING GROUP**

a. **Executive Summary**
   The Working Group analysed all aspects related to the implementation of a network for information exchanging and particularly technical pre-requisites to be taken into account in order to facilitate the setting up of a platform enabling UNCLAS information sharing.

b. **Discussion**
   - After the welcoming address to all participants, ENFM representative illustrated the OHQ network architecture and the characteristics of the ICT systems already in use, particularly with regards to the Service-oriented infrastructure for MARitime Traffic (SMART), very similar to MERCURY system, already in use in Op. ATALANTA able to provide mainly three main services: chat, common operating picture and document posting. With some improvements, already developed by ENFM CJ6 in a technical requirement, the SMART is now ready to replicate the same services.
   - The discussion moved to the SMART. The ITA Navy representative explained that a WEB version (Internet Based) will also be available soon. This Functional Area Service (FAS) will utilize "https:" internet protocol and the most advanced security means, even though it is an UNCLAS network. ENFM in close cooperation with the Italian Navy will be able to start the test phase of the system by the beginning of April 2016. The FOC will be achieved in about 30 days. The system will require "access credential" and will be used by military and civilian authorities (basically those invited to the first SHADE MED) on a voluntary basis.
   - MARCOM representative shortly described a project running at the moment within the NATO community to distribute MSA. Timing is not completely determined at the moment, since the project is under evaluation at SHAPE.
   - The ITA Navy representative stressed the difficulty in achieving a clear and reliable Maritime Situational Awareness, in the sense that a lot of effort should be done in order to

put together the maximum amount of data inputs from different sources (ground sensors, reports, etc.). Summarizing, SMART (improved version) could be a common unclassified platform for de-confliction, alerts, real-time coordination.

− All participants agreed to state that the main focus should be set on the following elements (common denominators):

- Enhancement of situational awareness & shared picture through access to respective databases and resources;
- Ability to communicate with military, and commercial maritime community;
- Exchange of experiences, lessons learned and mutual support.

c. <u>Conclusion and way ahead</u>

− The desired outcome, i.e. the establishment of a platform offered as a "collaboration portal" in order to facilitate sharing of information regardless of its origin and field of expertise, was achieved. ENFM OHQ CJ6 Branch elaborated a possible technical solution to meet the requirements.

− The SMART testing phase, enabling instant exchange of unclassified information between actors, can start by the beginning of April, offering availability of services to users in a limited performance level (mission-tailored). Initial Operational Capability (IOC) will be declared by the 2nd week of April, followed by an exhaustive test run in close co-ordination and co-operation with ITA Navy. The testing phase is scheduled to be completed by the end of April, marking also the next milestone - the declaration of Full Operational Capability (FOC) of the system in regards with information sharing (exclusively unclassified level).

d. <u>Participants</u>

− ENFM OHQ: OF-5 ELIA (OHQ ACOS CJ6)
− MARCOM: OF-3 DI BENEDETTO (CJ6)
− ITA Navy: OF-4 CAPORASO (C4I MARITELE)

EUNAVFOR MED operation SOPHIA
SHADE MED – Working Groups Outcomes

1. SMUGGLERS' BUSINESS MODEL WORKING GROUP (4 April 2016)

d. Executive Summary

The Smugglers' Business Model WG and the Effects on Countering Smugglers' Business Model WG were combined to use the first meeting of the group to establish a common understanding of the business model. In the second half of the meeting, also counteractions were briefly discussed. Some of the participants were active in expressing their views. All in all, the meeting was a good start to future exchanges.

e. Discussion

The meeting was initiated by ACOS CJ2 introducing the SHADE MED idea, process, foundation of WGs and the main topics. This was followed by CJ2 presentation on the smuggler' business model.

In the discussion after the briefings the following issues were discussed:

– MARCOM representatives enquired about the ratio of wooden boats versus rubber boats, future outlook. CJ2 briefers informed that the ratio has gone down from 30%-70% in 2015 to 10%-90% in 2016. Probabilities are that this percentage will be maintained throughout 2016.

– Various attendees asked questions related to the Libya Coast Guard activities, action against or in support of smuggling and trafficking, CJ2 ACOS further explained the modus operandi of these so called Coast Guards based in the Libyan West coast.

– NCA representative explained the financial traces of smuggler networks and the roles of different authorities in tracking these he also gave an overview of the overall financial significance of the smuggling business.

– IOM representative explained the situation faced by migrants in Libyan detention centres and the abuse they suffer.

– EU COM representative enquired about what kind of resources the Libyan Coast Guard would require to become a threat to smuggling. It was explained by CJ2 briefers that this is a complex issue, but once an official Coast Guard is formed they will probably need both capacity building and training.

– CJ2 ACOS also briefed about the idea of building a prototype of a smuggler but none of the participants had an immediate input.

f. Conclusion and way ahead

– Understand Smugglers' Business Model TTPs and their adaptation.

– Analyse deeply the ratio wooden boats and rubber boats in order to develop future outlook.

– Evaluate which resources the Libyan Coast Guard would require to effectively counter the smuggling.

– Develop and build a prototype of a smuggler.

– Scan the financial traces of smuggler networks and find the roles of the different authorities in tracking these.

– Produce an overall assessment on financial significance of the smuggling business.

g. Participants

- Armed Forces of Malta: OF2 Keith MIZZI,
- Directorate-General Migration and Home Affairs: Mr. Alberto VOLPATO,
- MARCOM: OF3 Vladimir JEVTIC,
- MARCOM: OF4 Rainer SCHRAMMEN,
- ITA Coastguard: OF4 Andres TASSARA,
- ITA Coastguard: OF4 Marco MINCIO,
- ITA Navy: OF3 Francesco FAGNANI,
- IOM: Mr. Flavio DI GIACOMO,
- ITA Polizia di Stato: Ms. Maria Pia MARINELLI,
- ITA MFA: OF4 Paolo UNALI,
- National Crime Agency: Mr. Miles BONFIELD,
- ENFM OHQ CJ1, CJ2, CJE, CJ4, CJ7, CJ9.

2. EFFECTS ON COUNTERING SMUGGLERS' BUSINESS MODEL WORKING GROUP (4 April 2016)

a. Discussion

The second session started with the CJ5 briefing on measuring the effect of EUNAVFORMED counteractions to hamper the smuggler business model. In the ensuing discussion the following topics were touched:

- EU COM representative stated that there must be a justifiable way to break the smuggling and trafficking business model. He enquired about the possibility to come up with an agreement like the one signed between the EU and Turkey once GNA government is in power. He further said that ideally migrants should be stopped at Libya's borders before entering Libya
- IOM representative and other attendees expressed doubt about the GNA asking for EU assistance and UNSC passing a mandate to EUNAVFORMED. Further to that, IOM representative said that Libya according to international law is not a country to which migrants can be returned against their will. Since it is not a safe place. This argument was agreed upon by almost all attendees.
- IOM representative also criticised the Turkey EU agreement type harsh solutions, but all attendees said that Europe needs to find a solution.
- The figures of migrants in Libya vary. IOM representative said that according to some assessments, 80 percent of migrants in Libya do not want to go to Europe, but prefer to stay in Libya. Also there is indication of migrants wanting to go back to their countries, disillusioned by their life in Libya.

b. Conclusion and way ahead

- Identify and share ways to counter the smugglers' activities.
- Process possible solution to stop the migrants at Libya's borders before entering Libya and to avoid departure of illegal migration from Libya.

– Analyse the different motivation of the migrants in Libya, facilitating the ones who want to go back to their countries and helping the others forced to go to Europe.

c. **Participants**
   – Armed Forces of Malta: OF2 Keith MIZZI,
   – Directorate-General Migration and Home Affairs: Mr. Alberto VOLPATO,
   – MARCOM: OF3 Vladimir JEVTIC,
   – MARCOM: OF4 Rainer SCHRAMMEN,
   – ITA Coastguard: OF4 Andres TASSARA,
   – ITA Coastguard: OF4 Marco MINCIO,
   – ITA Navy: OF3 Francesco FAGNANI,
   – IOM: Mr. Flavio DI GIACOMO,
   – ITA Polizia di Stato: Ms. Maria Pia MARINELLI,
   – ITA MFA: OF4 Paolo UNALI,
   – National Crime Agency: Mr. Miles BONFIELD,
   – ENFM OHQ CJ1, CJ2, CJE, CJ4, CJ7, CJ9.

3. **SEARCH AND RESCUE WORKING GROUP** (5 April 2016)

a. **Executive Summary**
   The Working Group analysed many interesting aspects related to the process to identify POD and to establish common agreements and procedures. It has been highlighted the actual complexity of the political and social situation in Libya as an important factor that work against the possibility of establishing agreements.

b. **Discussion**
   – After the welcoming address to all participants, ENFM representative fostered the discussion on the base of the initial points of the plenary session.
   – ITA Coast Guard representative specifically illustrated that smuggling TTPs are quickly evolving practices. In this respect migrant' perception of the position at sea is the originating factor of the distress call. It was also noted as the consideration that fishing vessels are safer than other small boats is not always true. Indeed, there are some circumstances where those vessels with deck can even be more dangerous for migrants. In the broader vision MRCC Rome is coordinating the vast majority, if not all SAR events in the central Mediterranean Sea. Since there is not an effective rescue coordination authority in Libya, MRCC is envisaging strategies to maximize SAR capability through liaisons down to the maximum extent. As a common practice all disembarkations currently take place in Italy since there is no other available option.
   – ICS delegate stated that MRCC is the authority who decides where is the POS (Place of Safety) for every single SAR event, and then masters of the ships have to follow their instructions. He also mentioned that commercial ships face very high safety risks when the numbers of rescued migrants are high, while on-board civil vessels there are frequently 20 and 25 crew members. ICS addressed the clear need for more guidance on how to react

in the case commercial ships are involved in SAR operations. The organisation recently issued guidance on "ensuring the safety and security of seafarers and rescued persons". Copies of the booklet were distributed to the working group participants. ICS envisaged that collaboration of costal states is a necessity when dealing with migrants disembarkations.

– EU Commission representative stated that currently there is no possibility to reach agreement between EU and Libya similar to the one between EU and Turkey. He added that there is some thinking about places of safety in Libya but no further steps have been so far developed for obvious reasons. In addition migration management support teams can be deployed in the hotspots to help member states in case of very high number of migrants rescued in short period of time. The measure can address extraordinary situations when the disembarkation points are overcrowded.

– MOAS responsible detailed their long lasting experience in the Central Mediterranean where over two summers (2014 and 2015 they have assisted over 12,000 persons in distress). MOAS raised the value or otherwise of exchanges with the Local Authorities (mayors, coast guards) of Libyan coastal cities from where the most boats migrants depart from stating that this could mitigate some critical events and in a wider vision play a pivotal role in saving lives at sea.. MOAS has two ships currently operating in SE Asia and in the Aegean Sea. The SAR NGO operate where the need is most acure and is currently is in the process of assessing the situation in the central Mediterranean Sea and afterwards it will be taken a decision about future engagement in SAR operations in the Mediterranean region.

– SEA EYE delegate described the effort payed by the organisation to ensure the survival of refugees with their ship at sea. The coordination mechanism to enhance the effectiveness of the SAR activities at sea is crucial to prevent loss of lives.

– MSF officer indeed confirmed that places of safety (POS) currently cannot be located in Libya or in places where the rights of migrants are not appropriately recognised. To this respect the Non-refoulement principle and the necessity to deliver rescued people to a place where they are not in danger are the guiding requisites.

– IT Navy representative detailed the legal implications of the recent EU agreements and the range of applicability to current Italian disembarkation points and to SAR activities. He also detailed the Non-refoulement principle applicability and its technical implications. Legal mechanisms to apply for protection after disembarkation are taking place at the POS.

c. Conclusion and way ahead

– Common practices envisaged by the convening agencies are an asset that can be further exploited to enhance the management of the phenomena process. All partners conduct deep liaison to save lives at sea as well as to protect their crew. Coordination among international actors is therefore of high value.

– Interaction with Libyan local authorities, if and when it will be possible, can be pivotal to countering the smuggling of human lives as well as addressing migration phenomena with creating premises for envisaging POS in the South Mediterranean region.

– All representatives agreed to further provide their views in the upcoming events in the aim to consolidate a common vision on place of safety and how to enhance common practices.

e. Participants

- International Chamber of Shipping (ICS): Mr. John MURRAY
- EU Commission: Mr. Alberto VOLPATO
- Migrant Offshore Aid Station (MOAS): Mr. Martin XUEREB
- SEA EYE: PD Dr. Ursula PUTZ
- Médecins Sans Frontières (MSF): Mr. Tommaso FABBRI
- ITA Navy: OF5 Jean Paul PIERINI
- ITA Coastguard OF4 Sirio FAÈ
- MARCOM: OF4 Reiner SCHRAMMER
- ENFM OHQ CJ3, CJ9, IT Coast Guard LNO.

4. MIGRATION WORKING GROUP (5 April 2016)

a. Executive Summary

The WG provided an opportunity to exchange views about migration phenomenon among key actors operating in the Mediterranean. All representatives acknowledged that relevant information is already shared to a certain extent (SOPs, reports, booklets, research studies, emails), nevertheless there is the need to get a better situational awareness.

b. Discussion

- ENFM representative opened the Migration Working Group and invited the participants to contribute to the following points: Monitoring Human Rights of migrants; Cooperation and coordination with civilian actors; Providing assistance to people in need of international protection; Sharing lessons identified on migrants handling and developing Best Practices
- CINCNAV delegate pointed out that they are not directly involved in monitoring of human rights (HR), the monitoring of HR at sea is difficult because migrants, very often, do not have identification documents; moreover validation of the information provided is problematic as well. As soon as possible a list of migrants with nationality, sex and minors is provided to the relevant authorities.
- IOM delegate stressed the need to protect vulnerable categories. Young women are subject to violence and sexual exploitation in all phases of their way through Africa. The delegate stated that they are responsible for monitoring human rights of migrants at the ports of disembarkation. They have developed many SOPs and Best Practises (e.g. Migration Focus on Integration; Xenophobia and Discrimination; Management of migrants; Migrants and Humanitarian Crises: Lessons from Libya) that are available at www.publications.iom.int.
- EASO representative stated that although they don't have a mandate for monitoring human rights, they have collaborated on the development of several tools (e.g. EASO Practical Guide: Evidence Assessment, EASO Practical Guide: Personal Interview the people needs) and organised a Forum (Consultative Forum 15-16 March 2016) to get closer other civil organisations. EASO agreed on the need to provide a common tool to share most important information about operations in the Mediterranean Sea.

- MARCOM: suggested that some IT tools are already available and could be adapted to improve information sharing and collaboration between civilian and military organisations in ENFM AOO.
- MSF responsible stated that there is a need to improve and make easier information exchange on different issues among all the actors involved in SAR operations. In addition he raised the need to consider the difference of mandate between civilian and military organisations or governmental and non-governmental agencies. Several concerns were raised on disembarkation procedures and first reception arrangements.
- IT MoI delegate confirmed how is important to map and share information with local authorities and prefectures. Currently it is difficult to understand actors involved in different activities, responsibilities, procedures and point of contacts.
- IT MFA representative stressed that it is important to share information and collaborate with third countries, possibly sending security experts that can provide safety and security assessments of the situation.
- ICS member presented their vast experience in the management of migrants as they published many documents on Best Practises at Sea (e.g. Large Scale Rescue Operations at Sea, IMO-UNHCR-ICS Rescue at Sea, Guide to Principles and Practice as Applied to Refugees and Migrants) that are available at www.ics-shipping.org/free-resources/safety-and-operations.
- ITA CG representative stated that MRCC is responsible to coordinate SAR operations and that, due to the complexity of the activities, there are many issues related to the management of migrants. They are not directly involved in monitoring of human rights as they are not allowed to enter TTW. It was recommended that any SOPs need to be coordinated between all the actors involved taking in consideration different roles, responsibilities and issues.

c. **Conclusion and way ahead**
- Vulnerable categories during migration are constantly victims to violence. The attention of the international community is vital to advertise to the maximum effort the populace in the country of origin to make them aware of the risks and condition that the migration poses discouraging when possible such journeys.
- All representatives welcomed the proposal to improve information sharing, through an independent web portal. Situational awareness between civilian and military organisations is paramount, to this respect ENFM OHQ will assist and explore potential synergies to establish a common tool for collaboration and information sharing in the context on the next SHADE MED event.
- All participants expressed their full satisfaction and appreciation for the work done under the SHADE MED initiative.

d. **Participants**
- Médecins Sans Frontières (MSF): Mr. Marco BERTOTTO
- ITA MOI : Ms. Carmelita F. AMMENDOLA
- ITA MFA: OF4 Paolo UNALI
- EU Directorate-General Migration and Home Affairs: Mr. Alberto VOLPATO

- European Asylum Support Office (EASO): Ms. Ermina MARTINI
- International Chamber of Shipping (ICS): Mr. John MURRAY
- ITA Coastguard: OF5 Sandro GALLINELLI
- IOM: Ms. Simona MOSCARELLI
- UN High Commissioner For Refugees (UNHCR): Ms. Helena BEHR
- MARCOM: OF3 Vladmir JEVTIC
- ITA Navy (CINCNAV): OF4 Francesco MARRAS
- ENFM OHQ: CJ1, CJ3, CJ4, CJ6, CJ9, IT Coast Guard LNO.

5. **LEGAL WG** (6 April 2016)

a. **Executive Summary**
The WG provided an opportunity to exchange views and best practices among participants on several legal aspects of EUNAVFOR MED Op. Sophia.

Specifically, it has been examined the issue of the legal finish to prosecute suspected smugglers or traffickers eventually apprehended at sea in Libyan sovereign waters by ENFM units in subsequent phases of the operation. Among the possible solutions, it has been also discussed the possibility to invoke the International Criminal Court (ICC) jurisdiction for the traffickers of human beings as the "XXI century new slaveholders".

Respective experiences have been shared in the field of exchange of information and in the applicable procedures for the handling of personal data in the context of CSDP operations.

Lastly, UNCLAS legal aspects concerning the use of force in the conduct of the operation have been discussed, specifically the implementation of the so called "legal matrix" as a best practice.

b. **Discussion**
ENFM LEGAD opened the Working Group providing introductory the SHADE MED initiative and describing the agenda of the Legal Working Group.

ENFM LEGAD provided a general overview on the operation and then opened the discussion on the following topics.

- **Arrest and detention of suspected criminal apprehended at sea**
  - ENFM LEGAD described the issue of the legal finish to prosecute suspected smugglers or traffickers eventually apprehended at sea in Libyan sovereign waters by ENFM units in subsequent phases of the operation.
  - ITA CG representative provided his experience of Coast guard and the difficulty to manage the flow of migrants. He also stated that it was tricky to fight against traffickers who are always adapting their tactics and that the issue is also to fight the phenomena through a global approach.
  - ENFM LEGAD remembered that there is a European comprehensive approach including 10 key actions in which Sophia was the second. He indicates that the legal finish in the high seas is quite clear regarding the admitted competence of Italy for the current nations participating in the operation but the difficulty would arise in case of apprehension in Libyan TTW if the Op Sophia is authorized to reach the phase 2B. All

the possible options (legal proceedings in an EU country, transfer to Libyan authorities, prosecution in a third-State, apprehension by Libya itself) present legal challenges and rely on the consent of Libya.

- ATALANTA provided a feedback about the legal finish regarding their operation and pointed out that UNODC was a very fruitful partner to give relevant guidance regarding the appropriate conditions for legal proceedings in the country in charge of prosecuting (to assess the suitable conditions of detention and the compliance with a fair trial and to give guidelines regarding the evidences to be collected for a Court of justice).

The debate was then oriented on the way to facilitate the prosecution of the smugglers and to have a strong legal basis.

- ENFM LEGAD explained that another possible solution to be considered is the involvement of the International Criminal Court jurisdiction for the traffickers of human beings as the "XXI century new slaveholders". Indeed, ICC estimates that trafficking in certain circumstances might be considered enslavement. Then, the floor for a debate on the matter was opened.
- ENFM also pointed out that the reference to slavery would facilitate the possibility to prosecute the traffickers of migrants because it would be considered as a universal crime. A revision of the ICC statute might be envisaged in order to include the smuggling of migrants as enslavement.
- After a brief but fruitful discussion on the matter, the participants agreed that involving the ICC could be an interesting option but also that this option has advantages and disadvantages
- The main advantage would be the possibility for the ICC to prosecute if a single State cannot exercise it or is not capable to do so effectively. The main drawbacks is that smuggling of migrants and trafficking of human beings are distinct crimes: this implies that ICC solution would hardly be applicable to smugglers. Moreover, the need to amend the ICC statute might arise.

To conclude, a first step to move into this direction would be relevant and the proposition to organize a debate during the SHADE MED should be interesting in order to gain some supporters for following this idea at an upper level.

- **Legal basis for the exchange of information**
  - ENFM LEGAD recalled the various cooperation developed with European agencies (Europol, Eurojust, Frontex) and also the interest to collect and share information in the fight against the smuggling of migrants. This requires a strong legal framework, particularly for the collection of personal data.
    The Pedra project developed by FRONTEX and giving rise to a positive feeling from the European data protection supervisor is then presented.

- Participants confirmed that developing this project to other CSDP operations as ENFM or Atalanta seems appropriate to strengthen the legal framework and to develop common tools.
- Atalanta Legad will determine its organizations' views on following this project.

- **Rules of Engagement and use of force**
  - ENFM briefly introduced that the use of force is one of the most sensitive aspect for every military operation. The conditions are set out in the rules of engagement for strictly complying with the International law. In case of multinational operations, developing tools to concatenate the conditions imposed by each troops nations contributing is useful.
  - Indeed, ENFM showed to the participants the templates of the Legal matrix (without disclosing any classified information) which usefully summarize the rules of engagement regarding the several actions and countries.
  - Atalanta confirmed that such a spreadsheet is also used for their operation.

The participants conclude that this tool can be used for every CSDP operation.

c. Conclusion and way ahead
- Step up the cooperation with UNODC in order to facilitate the eventual transfer agreement between EU and Libya.
- The possible involvement of the ICC as a solution for the legal finish has been recognized as a valuable option to be further investigated in appropriate *fora*.
- Improve as practicable respective exchange of information.
- Continue to launch for ENFM a dedicated personal data project (in a similar fashion to the Frontex PeDRA experience) has been seen with interest by Op. Atalanta (the only CSDP mission represented)
- Use of the LEGAL matrix for every CSDP operation.

d. Participants
- DANISH EMBASSY: Mr. Rusmassen BERLING,
- Médecins sans Frontières: Ms. Caterina SPISSU,
- ITA Navy: OF3 Luca Giovanni CASTELLAMMARE,
- ITA Coast Guards: OF5 Sandro GALLINELLI,
- MARCOM: OF3 Vladimir JEVTIC,
- ATALANTA: OF2 Dominique BOURGNON DE LAYRE,
- ENFM OHQ LEGAD1, LEGAD3.

6. SHIPPING WORKING GROUP (6 April 2016)

a. Executive Summary
Upon Op Cdr's direction and guidance, the activation of the Shipping Working Group has occurred with the aim to:

- Gain overall understanding on how commercial vessels can support the counter-smuggling efforts
- identify possible ways in which commercial shipping can be incentivised to support the efforts, if required;
- identify potential means and procedures to allow ship owners to share information about smugglers' activities and migrants.

In general, the Working Group session offered a highly appreciated opportunity to the attendees to address the Commercial Shipping Community's perception of the migration phenomena and its associated challenges, to stress generic requirements regarding maritime security and exchange views about information exchange among involved actors operating in ENFM's Area of Interest.

Despite of the challenges identified in terms of fusing maritime domain information and its distribution, within the respective means and capabilities, to a wider audience of stakeholders, the introduction of an improved SMART platform and the possibility to have access to this network had been acknowledged as an important cornerstone on the roadmap to establish and share maritime situational awareness.

The Working Group analysed several aspects related to the incorporation of voluntary exchanged information on the unclassified SMART network, considering technical and procedural pre-requisites facilitating the setting up of ENFM's collaborative information sharing platform. The common desired goal was to portray ENFM's comprehensive approach regarding the initiated SHADEMED activities in line with a Maritime Security Centre wider project, define minimum required standards and possibilities for the commercial shipping community to contribute to enhancement of the maritime situational awareness. This initiative shall be considered as an enhancement of situational awareness capabilities with special focus on the ENFM's AOO, acknowledging the presence of an already established NATO Shipping Centre (NSC). In light of the established NSC and the Operation Active Endeavour, the incorporation of the improved SMART version will demonstrate ENFM's attempt to contribute to the Comprehensive approach with complementing not concurrent measures, within its means and capabilities. With respect to the roadmap of establishing an ENFM MSC, the provision of mission tailored sets of tools and services to interested participants marks a paramount milestone by augmenting Maritime Security and Freedom of Navigation. "**Shaping together a safe and secure environment**" with strong support of all respective actors will contribute in the mitigation of the expected impact of the migration phenomena on shipping companies and its respective vessels operating in ENFM's JOA.

b. <u>Discussion</u>

- Starting with the welcoming address to all participants, which was followed by a brief introduction of the attendees, Navy Captain ELIA (OHQ ACOS CJ6) resumed to visualize the comprehensive approach by providing a generic overview about the ENFM SHADE MED initiative as such and its concerted activities in line with the Maritime Security Centre project possibly being established in the near future. The second presentation aimed to portray the basic functions of the SMART system application, which is very similar to the MERCURY system, already in place within Operation ATALANTA.
- This system, created to improve the cooperation between Member Countries, Organizations and the Navies of EU Countries in the Mediterranean Sea, has recently had

technical improvements and now can replicate the same (and even more) functions and services of MERCURY such as chat, common operational picture (in real time, not a snapshot) and document posting. The system itself will be provided on a no cost basis; in order to access the platform, minimum technical requirements have to be fulfilled such as limited satellite capabilities (with 512 kbit/sec of bandwidth available) and an internet connection. Navy Captain ELIA emphasized the potential of SMART system as a powerful tool and common unclassified platform for alerts, de-confliction and real time coordination, able to share information between a lot of military and civilian organizations operating in the Mediterranean basin on a voluntary basis. The possibility of real time exchange of information and data at unclassified level is the major innovation of SMART system.

− After that, the discussion moved to the technical improvement of the SMART System, supported by provision of a live demonstration in order to underline the system's capabilities. Navy Captain ELIA stressed out that the displayed demonstration is still to be considered as a prototype version. He specified that the TEST PHASE of SMART will be completed by the 15th of April 2016. On the one hand, this "SMART Kick off Meeting" shall be used to promote the system amongst the Shipping Community; on the other hand opportunity is offered to the attendees for a quick feedback session, in particular on already identified rooms for improvement. These reported amendments will be made available in the improved version of SMART. By this time access to the final version on the Web will be granted. The system will require "access credential" and, under specified procedures, will be joined by military and civilian Authorities, on a voluntary basis. Everyone was very impressed by the potentiality of the system.

− Basically, it deems necessary to provide "crystal clear information" to the shipping community regarding specification on information in terms of type to be shared and procedures in exchanging such information. Then, an open discussion started among delegates.

− Cdr Rainer SCHRAMMEN and LtCdr (HRV) Vjekoslav PERISA (MARCOM) said that, following the experience in the Mediterranean Sea (Op. ACTIVE ENDEAVOUR), there is already in place a NATO Shipping Center. The new system (SMART) should be hopefully not concurrent but complementary to the NATO one; anyway they fully support our initiative.

− Mr. John MURRAY (International Chamber of Shipping- ICS), similarly to the Indian Ocean, found this type of cooperation between civil and military vessels interesting and suggested a unique coordination structure, a precise indication of the information to be shared and a clear procedure to be followed. He drew the audience's attention especially on the misled assessment of ENFM, that each vessel might be fitted with a high standard in terms of equipment and trained personnel. Reduced manpower and lack of equipment to report are key factors (restraints) to be considered prior to the development of a tailored to mission solution for the Shipping Community. Increasing the administrative burden whilst responding to a SOLAS in accordance with UNCLOS regulation shall be avoided. The value of this system had been clearly identified, but the major challenge might be the difficulty in accessing. The tools to be developed shall result in one automated, integrated and harmonized single channel solution, which enables the crew to respond/deal with all the information, taking limited number of personnel o/b of the vessels and different levels

of equipment (in terms of CIS) into consideration; Special attention was put on the linkup between SHADE and E-Navigation.

– Mr. Phil TINSLEY (BIMCO) agreed in general on the bullets provided by ICS representative. Given the future development options being considered for the current prototype version, there are concerns associated with the implementation in regard with the setup of common reporting procedures. Basically the enhanced provision of maritime security through increasing Maritime Situational Awareness had been identified as a real added value for BIMCO, in particular receiving updated information whilst transiting within the Area of Interest of ENFM. In order to promote the proposed system and to convince the Shipping community to contribute by reporting, concerns have been raised regarding the technical capabilities allowing them to join in. Therefore a reduced capacity in terms of limited number of personnel as well as technical fitting of vessels has to be taken into account by the military operators of well equipped, state of the art fitted multirole vessels. At least a simple reporting format including some sort of a checklist has to be developed allowing crews with limited capabilities due to lack of equipment to feed the system and contribute to the Situational Awareness in a coordinated manner within their means and capabilities.

– Mr. Luca SISTO (CONFITARMA), taking inspiration on that and being very impressed by the potentiality of SMART system, offered a test range at its premises as well as a ship to the OHQ in order to test and adapt the system to the requirements expressed by the merchant community (in particular by ICS and BIMCO). He also offered to provide a generic overview on the current EUROPEAN project "SIMONA" (Satellite assets Integration for Maritime Situation Awareness) during the next SHADE MED WG meeting in ROME.

– Navy Captain ELIA reassured all delegates that the required documentation regarding explanation on information to be shared and a clear procedure to be followed as well as a guide to use the SMART system will be produced. He has further stressed that the system will be useful for both organizations (Military and Civilians) through a mutual exchange of information. As a suggestion, possible information to be mutually shared are related to: distress events (SAR), smuggler and trafficker evidence, counter terrorism activity, illegal activity information, maritime situational awareness contribution, safety and security routes and navigation contribution and port security informative contribution.

– Mr. John MURRAY (ICS) was very interested in these possible areas of cooperation and noted that it would be very useful to get information especially about port security.

– OF4 SANDRO FERRO (CINCNAV) suggested developing possible reporting procedures and courses of actions by taking the already existing NATO doctrine dealing with the relationship between NATO Navies and civilian marine community into consideration.

– OF4 Alberto BATTAGLINI (ITA COASTGUARD) emphasized that the overall responsibility in regard with coordination of sound and proper response of SAR activities in the Mediterranean Sea, covering the full spectrum, has been delegated to their respective authority.

– Dott.ssa Silvia MANCINI (MSF) noted that she was attending the WG session in an observer role for their humanitarian organization. She clearly pointed out, that MSF personnel, deployed to contribute to a consolidated and coordinated response to any SOLAS, are conducting their operation under the auspices of MRCC in concert with

FRONTEX on a coordination level. In her point of view, no clear benefit of information sharing for the organization had been identified, which is more the less related to limited CIS equipment. Their primary field of interest is to address any distress situation of refugees and/ or migrants and to promote a safe channel. Feeding of databases or fusing of information currently is not put with highest regard.

– Mr. Miles BONFIELD (NCA) noted that exchange of information is of highest interest for his organization regarding the possible prevention as well as the detection of criminal activities in the field of human trafficking, illicit trafficking of firearms and terrorism. On the long term a shared common operational picture will help the NCA to exploit useful data regarding migration flow, typology changes and perception of patterns in order to prevent opportunities for the organized crime. To react to the dynamic changes it is paramount in terms of intelligence to have respective data available, which will be supplementary to their situational awareness and assist in decision making process procedures.

– Dott. Alberto VOLPATO (DGMHA) welcomed the SHADEMED Initiative as such and highlighted the enhancement of Maritime Security through provision and sharing of a common operational picture to all respective voluntary contributing users. In fact this information exchange activities will assist their organization in performing valuable assessments in their respective field of expertise. Better knowledge development regarding migration flows (embarkation and disembarkation points) as well as updated information on harbour capacities and provision of harbour security will contribute to establish a safe and secure environment. This has to be considered for the next phases of the Operation in the light of the EU Comprehensive approach, which is also aiming to increase the capacities of Libyan Authorities to provide autonomous responses afloat and ashore in order to jointly tackle common challenges.

– All participants agreed to state that the main focus should be set on the following elements (COMMON DENOMINATORS):
  - Enhancement of situational awareness & shared picture through access to respective databases and resources;
  - Ability to communicate with merchant community;
  - Ability to receive general information from the maritime community;
  - Exchange of experiences, lessons learned and mutual support.

c. **Conclusion and way ahead:**
  – Pursuant to the live-demonstration of the SMART improved version (prototype version), the participants requested further details on this application in regards with minimum technical requirements as well as clear procedures to be followed in terms of reporting.
  – Taking limited technical communications capabilities into account (HF&VHF radio, Satellite phones) clear procedures in order to ensure the incorporation of received information, which had been transferred to the respective Crisis response centre of the shipping community by usage of Reach back capability, have to be developed together.
  – Merchant vessel community seeks for one automated, integrated and harmonized single channel solution which enables them to respond/deal with all the information, taking limited number of personnel o/b of the vessels and different levels of equipment (in terms of CIS) into consideration.

- The inputs, gained from feedback of possible voluntary civilian users, will result in the upgraded SMART application, currently scheduled to be presented at the 2nd SHADE MED Meeting in the mid of May.
- Enhancement of Situational Awareness to ensure maritime security was highly welcomed; updated port information, in particular details regarding harbour security and coordination has been noted as extremely useful.
- Receiving positive signals from the commercial shipping community clearly identifying benefits and added values, it has to be noted that mechanisms have to be installed enabling exchange/ transfer of information by using one single reporting system.
- The SMART system itself has to be promoted amongst the civilian shipping community.
- Considering CONFITARMA's availability, SMART, after FOC, will be tested at a Shipping Agency and on board of a commercial vessel in order to adapt the system to the requirements expressed by the merchant community.
- By closing the working group, all attendees expressed their satisfaction and appreciation on the establishment of such initiatives, aiming at the improvement of information sharing among different organizations.

d. Participants
- Baltic And International Maritime Council: Mr. Phil TINSLEY,
- CINCNAV:OF3 Sandro FERRO,
- International Chamber of Shipping: Mr. John MURRAY,
- MARCOM: OF4 Rainer SCHRAMMEN and OF3 Vjekoslav PERISA,
- Medecins Sans Frontieres (MSF): Dott.ssa Silvia MANCINI,
- National Crime Agency (NCA): Mr. Miles BONFIELD,
- Directorate General Migration and Home Affairs: Dott. Alberto VOLPATO,
- ITA Coastguard: OF4 Alberto BATTAGLINI,
- CONFITARMA : Dott. Luca SISTO e Capt. Domenico SAVIO,
- ENFM OHQ: CJ4, CJ6.