

**EUNAVFOR MED operation SOPHIA
SHADE MED01-2017 Working Group**

1. OPERATIONAL WG.

a. Summary.

The OPERATIONAL WG led by ITA CINCNAV (supported by ENFM CJ3) discussed ways to share operational and tactical information among OMS, ENFM Op. SOPHIA, Op. TRITON, Operation Sea guardian (OSG), U.S. Navy 6th Fleet, military and civilian activities in order to avoid duplication of effort and to share intentions for operating areas.

b. Discussion.¹

The Chairman welcomed all the participants to this SHADE MED WG and proposed the agenda and objectives for the meeting. After two sessions of meetings three main topics were discussed and all participants agreed with the following:

Enhancing cooperation and de-confliction:

- Proposed CINCNAV HQ as coordinating & de-confliction POC in CENT MED especially for what concerning patrolling areas.
- Use of SMART as the tool to enhance the unclassified information sharing.

Improving Maritime Situational Awareness among OMS, OP SOPHIA, TRITON, OSG, C6F, military and civilian activities:

In order to avoid duplication of effort and to share intentions for operating areas a monthly VTC unclassified about “de-confliction in CENT MED” open to Shipping and non-military agencies was proposed.

Improving information sharing by:

- Submitting schedules of civilian assets, flights including RPAS.
ITA CINCNAV as proposed POC for coordination and de-confliction in CENT MED should be responsible for this task.
- Submitting pictures, videos and collected data for possible coordinated reactions against illegal activities.
- Sending this info to CINCNAV HQ at cincnav.coan@marina.difesa.it for dissemination if feasible.

c. Conclusion and way ahead.

The Operational WG finalized with the following conclusions:

- De-confliction and info sharing are common interests for all parties in CENT MED.
- Greater awareness of Shipping and non-military operations is a critical issue.

¹ The minutes and the conclusion of the Operational Working Group have been elaborated by CJ3 ENFM in close coordination with ITA CINCNAV.

- Proposed CINCNAV HQ as POC for de-confliction and information sharing in CENT MED.
- Proposed a monthly unclassified VTC with all the actors involved.

2. **SMUGGLERS BUSINESS MODEL AND EFFECTS WG.**

a. **Summary.**

The SMUGGLERS' BUSINESS MODEL WG chaired by CJ2 and CJE was discussing the smugglers' Business Model TTPs and their adaptation and ways to counter the smugglers' activities. Improved information sharing with agencies and organizations and especially with the EUROPOL's European Migrant Smuggling Centre is key here.

b. **Discussion.**

- This report reflects the thoughts, discussions and findings of the overall WG and does not simply represent thoughts of the WG leaders.
- ACOS CJ2 provided with an overview of what is known about the SBM. Key themes included the evolution of the smugglers TTPs through TTP1 to the current TTP 4, Op SOPHIA current actions against the SBM and also the financial aspect of the SBM. Op SOPHIA has had a disrupting effect on the SBM, with 110 smugglers arrested and 452 boats disposed of.
- For the WG to get an appreciation of the SBM at the tactical level, the NGO representative was asked to describe their interactions with the smugglers. The NGO stated that firstly they do not have any interactions with the smugglers; however, he could give his understanding of the SBM from what he has heard through experiences of the migrants. The main point he made was the relationship between the smuggler and the "client" has deteriorated over the last year and now violence is a key factor and this is increasing. In addition, the NGO has noticed an increased ability of the smugglers to launch multiple boats at once, highlighting an increased logistical ability and/or in an effort to overwhelm any evidence collection activities.
- The LNCG were then asked to explain their interaction with the SBM. When the LNCG encounter migrant vessels, once the migrants know that they are LNCG, they always resist. With regards to the reports of the LNCG shooting at migrants, the LNCG stated that they only at times fire warning shots in an effort to control/safeguard the migrants ('when they see us they all stand up and come to one side of the ship...'). When the migrants start to panic and moving on an overcrowded boat, there is a real danger that the boat will capsize. The LNCG referred to the TTP slide shown in the presentation and confirmed the presence of Jackals. There are many of these smugglers and the LNCG state they are often attacked and the situation is very dangerous for them. The LNCG were asked if they could describe their interaction with the SBM on the shore or coastline, however, they stated that if they go within 2nm of the shore, they will most likely be attacked. On the SBM, the LNCG stated that all smuggling networks are inter-connected.

- The representative of the International Committee of the Red Cross provided an awareness of human smuggling across the Aegean Sea. Although admittedly there was a lack of insight in particular when it came to the detail of the SBM, the issue of human smuggling in the Aegean had been reduced to approximately 150 migrants per day, a trickle compared to previously.
- The Head of the European Migrant Smuggling Centre (EUROPOL) detailed that within just 3 years they have compiled a list of 50.000 individuals linked to people smuggling. He stated that what he was trying to achieve through this WG was an information exchange from the LNCG, partners and also military (who tend to over-classify information).
- The Special Representative of INTERPOL to the EU provided a comparison of challenges faced between the migration situation and the Somalia piracy mission. The main problem with the latter was with information sharing. The information existed but was held within “different silos” and wasn’t shared. Furthermore he was realistic on resource prioritisation; counter-terrorism would always be ahead of counter-smuggling.
- As the Operation Commander presented the “First European Observatory on Human Traffickers and Migrant Smugglers” is of great interest of all the actors within CMR and its vicinity. This Observatory and the change of information between the different actors in the area are still under development.
- In the closing stages, the WG split down into smaller group in order to have multiple smaller discussions that could go into greater detail. This worked particularly well. Each of the groups provided their key lessons learned / areas to focus on going forward in order to affect the SBM.

c. Conclusion and way ahead.

- The key takeaways / lesson learned was that although it is likely that information sharing has improved as a result of the last SHADE MED, the fundamental way to have an effect on the SBM, in our current position, is improved information sharing with agencies / organisations. A focal point of this information sharing should be the EUROPOL’s European Migrant Smuggling Centre. In addition to this information exchange could be improved by:
 - an increase in exchange officers between agencies / organisations;
 - scope possibilities for information collected by EUNAVFOR MED and Libyan authorities to reach EUROPOL;
 - create “flow chart” for migrant debriefs so separate agencies know what information is available;
 - basic format standardisation. If all agencies use same format, information sharing would be more effective.
 - although the Migration Observatory was not the focus of prolonged discussion, the use of such an institution should be considered as a beneficial way ahead.
- It was apparent that there are many agencies / organisations interested in the SBM, but a joined up approach is lacking. Other key takeaways include:

- the need for engagement not just at the operational levels, but also at the strategic and the tactical;
 - the establishment of a Joint Task Force/Joint Investigation Team with a solid legal basis;
 - follow the supply chain and the money trail to track the criminal network.
- Overall, as with the outcomes of last year’s SHADE MED there was broad agreement that the most effective way to disrupt the SBM would be to address the problems at source. This would include assisting sub-Saharan African countries and also Libya.

3. **COMMUNICATION AND INFORMATION SYSTEM WG.**

a. **Summary.**

The COMMUNICATION AND INFORMATION SYSTEM WG was led by ENFM CJ6. The WG identified the need to make the already operational collaboration platform SMART a common knowledge in the SHADE MED community and to promote the capabilities and benefits of the system in multiple ways. To achieve this goal the Maritime Information Exchange Manual will be finalised and shared within the SHADE MED community.

b. **Discussion.**

- ENFM ACOS CJ6, as Chairman of the WG, opened the session and provided introductory remarks underlining the importance of the availability of a collaboration platform for information exchange, open to the stakeholders in the Central Mediterranean Sea.
- ENFM representative briefed on the developments and activities which took place since the last SHADE MED conference. The SMART system, provided by ENFM, is operational since 2016. A little more than 100 credentials to get access to the SMART system were submitted on request of SHADE MED community members. But unfortunately the SMART system is not used frequently. Possible reasons for this situation were discussed and analyzed. The lack of knowledge of the system was identified as main reason. Many stakeholders are not aware of the system and its functionalities, even though the SMART system had been described in detail during the last two SHADE MED conferences.
- Another point of discussion was the identification of UNCLASS information to share in the SHADE MED context. It is necessary to get this “*request for information*” from the people who work in operations branch. These requirements are the sound baseline to identify the best system for support respectively to develop the SMART system further in the right way.

c. **Conclusion and way ahead.**

- The SMART system as collaboration platform for the SHADE MED stakeholder is operational. As next step, it is important to make the system a common knowledge in the SHADE MED community. There is a need to promote the capabilities and benefits of the system in multiple ways. Extensive information should facilitate the necessary

SMART awareness in the SHADE MED community. Core message: “Use SMART as the best way to share information in the SHADE MED community”.

This task should be achieved by CJ6 promoting the Maritime Information Exchange Manual distribution.

- Shipping community usually has difficulties to use SMART system because they have a weak connectivity to internet due to not enough band width. To fill this gap and enable the info sharing between the shipping community and the OHQ, OHQ Joint Operation Center (JOC) point of contacts can be shared with all stakeholders using SMART account credentials:

TELEPHONE: Area code +39064691 – numbers: 9828; 9821; 9830; 9816

WEBSITE: <https://eu.mission.marina.difesa.it>

EMAIL: joc_watchkeeper1@euohq.difesa.it

This task should be achieved including these points of contacts in the Maritime Information Exchange Manual. Until the Manual was released, OHQ Joint Operation Center will spread this information with the shipping community.

- Many stakeholders manage different type of UNCLASS information. To that end a working table should be arranged with all of them with a view to conform the information sharing to the different situational awareness.

4. CAPACITY BUILDING AND TRAINING ACTIVITIES IN LIBYA WG.

a. Summary.

The CAPACITY BUILDING AND TRAINING ACTIVITIES IN LIBYA WG was led by CJ7. Issues discussed were the process of selecting and vetting trainees, objectives of the training, measurements of effectiveness and de-confliction requirements.

b. Discussion.

The WG was led by ENFM ACOS CJ7. There were three main topics that were explored during the WGs sessions:

Selection trainees & vetting.

There was significant interest in how ENFM OP. SOPHIA selects its training audience. The process laid out in the MoU between ENFM and the Libyan Coast Guard and Navy was explained including some details concerning the vetting procedures. There was a useful discuss about where the combined training efforts are currently invested and the LNCG was clearly identified as the training main effort in order to save lives inside TTW.

Objectives and measuring effect.

A useful discussion involved the topic of selection of training objectives. ENFM explained the procedure currently in place with the LNCG. Essentially it is the LNCG who identify the training requirement through a designated body of Senior Officers (the Libyan Committee of Experts - LCoE) and then ENFM organize the training delivery through EU Member States. This procedure was deemed as both appropriate and effective. As a matter of fact, it was explained also how the training is continuously monitored by the OHQ training team and the LCoE through their representatives on the training facilities (Liaison

Officers and Tutors) and through periodic meetings, adjusting the training syllabus as required.

Further improvement in delivering an effective training that could also provide additional support to the LNCG in identifying its training requirement, would be through a monitoring system of the LNCG that could produce identify shortfalls to be discussed during periodic dedicate meetings between ENFM and Libyan Coast Guard and Navy representatives. This could be beneficial in identifying also other requirements of the LNCG in different areas or, more in general, sustainability. The future roll-out of monitors was welcomed by the WG, which asked also the possibility to evaluate the feasibility to share best practices with LNCG.

De-confliction.

The WG expressed the need to define a proper training de-confliction. Without formalized and transparent de-confliction, there is a risk for duplication or overlapping of training activities that could prove not beneficial for the final user (the LNCG). ENFM took the opportunity to explain that within its mission, training standardization is ensured through the deployment of Liaison Officers (who monitor the training progress and report to the OHQ) and that within EU a de-confliction system has been set up with the training provided by SEAHORSE.

It was clear anyway that there is scope for more comprehensive de-confliction across all stakeholders (UN, NATO, IAs, etc.). Given its impartiality, UNSMIL suggested would be best placed to coordinate this process through a training de-confliction committee.

c. Conclusion and way ahead.

After two sessions of meetings, the WG reached the following conclusions:

Training requirements:

- Initially identified and managed by LNCG.
- Prioritization is done according to LNCG needs.

De-confliction:

- There is a requirement to de-conflict capacity building efforts amongst all training stakeholders. This is to avoid inefficiencies, duplications or contradictions.
- This is formally done within the European environment but isn't inclusive of all stakeholders; IAs, NATO, UN and Bilateral efforts.
- Proposed that a X-Stakeholders Training de-confliction Forum, chaired by UNSMIL, is established.

Monitoring:

- Monitoring is required to measure training effect.
- It can be used also to inform future requirements.
- Observations from other stakeholders could be integrated to share best practices.

5. MIGRATION – SAR - SHIPPING WG.

a. Summary.

The MIGRATION – SAR - SHIPPING WG was chaired by ENFM CJ9. Common practices have been identified as an asset to be exploited to enhance awareness on the migration phenomenon. SAR NGOs focused mainly on practical issues at sea and seemed to very much appreciate ENFM operation. Shipping mainly addressed some SMART system discrepancies. All partners had the chance to liaise each other during all the SHADE Med long, also beyond the sessions. SAR NGOs agreed to keep on liaising with ENFM with the aim to consolidate a common vision on procedures and common practices.

b. Discussion.

- After welcoming all participants to the plenary session, the Chairman introduced CJ9 branch staff and let the attendees to introduce themselves. After that, Chairman fostered the discussion by showing a short presentation about EUNAVFOR Med mandate and main topics related to Migration, SAR and Shipping.
- Maritime military and civil operations (EUNAVFOR MED, FRONTEX, and SAR NGOs) in the Mediterranean Sea are not a pull factor for migrants. There is no relationship, smugglers operate either or not assets are at sea.
- The smugglers are adapting their TTPs to our tactics, but ENFM, collaborating with IMRCC and LNCG, every time adapt their manoeuvres to counteract them.
- Discussions about training and capacity building of the LNCG were carried out, concluding that could be a good tool to fill the gap given by the impossibility of entering in the LTTW.
- During the discussions, NGOs were encouraged to destroy/disabled the boats once the SAR operations were completed and whenever the circumstances allowed it, in order to make traffickers life more difficult.
- One important point addressed was the need of information sharing between all actors who work in JOA. At that end, all actors were encouraged to use SMART system as useful tool because the system fills the gap of communication between military, shipping, and NGOs boats.
- Some concerns were advanced by NGOs about the presence of “fishing boats” behind the migrants’ boats that are waiting to recover the outboard engine, underlining that ENFM mandate is to destroy the boats. So they asked if ENFM should provide also security during SOLAS events because most of the time, they have few assets at sea.

c. Conclusion and way ahead.

The WG was well organized and successful. Common practices have been identified as an asset to be exploited to enhance ENFM awareness on the migration phenomenon. SAR NGOs focused mainly on practical issues at sea and seemed to very much appreciate ENFM operation. Shipping mainly addressed some SMART system discrepancies. All partners had the chance to liaise each other during all the SHADE Med long, also beyond the sessions. SAR NGOs agreed to keep on liaising with ENFM with the aim to consolidate a common vision on procedures and common practices.

Migration:

- Given that most of the migrants are economic and are not eligible for the resettlement program, there is a need to improve the training of the LNCG with this issue and to start a dialogue with Libyans authorities involved on the disembarkation points and detention centres, in order to be in line with the international human rights rules.

SAR:

- Enhance coordination with IMRCC and ENFM in order to address concerns on security expressed by NGOs operating in the grey zone 12/13 NM.
- In order to contrast the last smugglers' TTP on "saturating" NGOs SAR capacity at sea, there is a need to enhance in close coordination with EU the effectiveness (number) of the ENFM assets deployed. In addition there is a need to monitor it and understand whether this TTP will be implemented or not.

Shipping:

- Set up a small group of attendees to train the shipping companies in a scenario similar to ENFM JOA and SMART could be more efficient if ENFM distribute it to more assets.
- Consider to review the reporting system used with SMART.
- Consider to enhance the performances (speed and updating) of SMART.

6. LEGAL WORKING GROUP.**a. Summary.**

The LEGAL WG was chaired by EUNAVFOR MED LEGAD. The WG came to the common understanding that the current human rights violations of migrants in Libya, such as enslavement, forced work, torture, sexual slavery or deprivation of liberty could be considered, under some specific circumstances, as crimes against humanity and stressed that the current international and domestic legal response to HT/SM is ineffective and must complete the existing military and humanitarian responses.

b. Discussion.

- The main topic of this WG was "Migrant smuggling and human trafficking in Libya as a crime against humanity". It was a coherent follow-up to the SHADE MED 2-2016 LEGAL WG, whose topic was "Best practices in countering smugglers and traffickers: Discuss possible new interpretation of smuggling and trafficking crimes".
- The WG approached the topic discussing if human trafficking (HT)/migrant smuggling (SM) in Libya fitted the traditional definition of transnational crimes and if it could then be classified as a crime against humanity according to ICC Statute Art. 7. In that frame, the WG studied the concrete steps to be taken at the international level and identified the relevant actors (UN, EU, ICC, NGOs, etc) of the process. Finally, the group addressed the possible challenges, obstacles and consequences of recognizing HT/SM as a crime against humanity.

- The WG came to the common understanding that the current human rights violations of migrants in Libya, such as enslavement, forced work, torture, sexual slavery or deprivation of liberty could be considered, under some specific circumstances, as crimes against humanity. Indeed, Article 7 of the ICC Statute states that these conducts, regardless of the context of HT or SM, are considered as international crimes if the following requirements are met: migrants are seen as a “civilian population”, the perpetrators act on the basis of an organizational/state policy, the attack is widespread/systematic, and the perpetrators act with knowledge of the attack.
- The group stressed that the current international and domestic legal response to HT/SM is ineffective and must complete the existing military and humanitarian responses. Prosecution of these conducts as crimes against humanity would make prosecution possible by any State (universal jurisdiction), and would offer a possible solution to the legal finish of SM/HT.

c. Conclusion and way ahead.

The WG identified a number of actions which could be undertaken at the international and domestic levels to support and encourage this initiative and strengthen cooperation on investigation and prosecution:

- New UNSC resolution recognizing crimes against migrants in Libya as crimes against humanity/war crimes.
- New UNSC resolution with another referral to the ICC.
- Resolution adopted by the Conference of the Parties to UNTOC (regulating smuggling/trafficking protocols).
- Encourage/support cooperation on investigation/prosecution.
- WG of states/organizations developing this initiative.
- Promote a new definition of crimes against humanity through the International Law Commission (ILC).
- Prosecution by the ICC.
- Amendments to domestic criminal legislation.