

## I. Background

1. On 20 April 2015 the Foreign Affairs Council discussed the dramatic loss of life that had recently occurred in the Mediterranean off Libya. The FAC had a first exchange of views on a ten point plan presented by the Commission, which was welcomed by Member States as a good basis for further work.
2. The PSC on 22 April 2015 invited the EEAS and COM services to urgently present options for possible EU activity against smugglers of migrants across the Mediterranean, including expected challenges and drawing on lessons learned from EU NAVFOR ATALANTA.
3. At the Extraordinary European Council meeting of 23 April 2015, EU leaders invited the HRVP to propose actions in line with international law and respect for human rights in order to capture and destroy the smugglers' vessels before they can be used.
4. This CMC therefore builds upon the above tasking and develops a possible CSDP operation **to disrupt the business model of the smugglers, achieved by undertaking systematic efforts to identify, seize/capture and destroy vessels and assets before they are used by smugglers.**
5. The operation would be conducted in four phases, consisting of (1) a deployment and assessment phase, (2) an operational/seizure (of smuggled vessels) phase; (3) an operational/disruption phase, (4) a mission withdrawal and completion phase. A UNSCR CH VII is not required for the first phase. The legal basis should ideally be complemented by an invitation from the government(s) concerned.
6. It is important to provide a clear definition of the terms 'people smuggling' and 'human trafficking'. People smuggling involves migrants being facilitated with entry into a State through illegal means whereas trafficking must have the threat of or use of force, coercion, abduction, fraud or deception against a victim.
7. The focus of the CMC is on Southern Central Mediterranean region as this currently constitutes the main route for migrant flows into Europe. This CMC has been drafted in the absence of a PFCA for Migration in the region but draws upon, where appropriate, the relevant analysis contained in the PFCA for Libya (doc. 7886/15, dated 13 April 2015). The actions foreseen in this CMC complement the broader approach of the EU

and partners to the migration issue in the region, including through the actions of other relevant CSDP missions on land borders (e.g. EUCAP Sahel Niger).

8. **It is imperative that close cooperation with UNSMIL continues throughout the planning process.**
9. A map of the region is shown at Annex A for orientation purposes.

<b>II. <u>Situation</u></b>
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**General**

1. Libya currently has particular relevance in the illegal smuggling of migrants since it is estimated that over 80% of illegal smuggling activity entering into the Mediterranean occurs from there.

***Migration Situation***

2. The Central Mediterranean Route is the most widely used sea route for people, which is mainly due to the vicinity to Europe and the lawlessness in Libya. This route generally takes the migrants from the Libyan coast across the sea to mainly Malta and the Italian islands of Lampedusa and Sicily. Last year, more than 170 000 people used this route to reach Europe. Since 1 January 2015, Frontex already reported 10 237 illegal border crossings from the Central Mediterranean among which the most numerous are the Gambians (1401), Senegalese (1208), and Somalis (1107).
3. Migration routes across the Mediterranean are among the most dangerous in the world, in the past two decades more than 20 000 migrants have died. Most of the tragic accidents occurred when using the Central Mediterranean route. The year 2014 was a particularly lethal year with over 3 500 drowned migrants. The spring of 2015 has just started and there have already been more than 1 000 casualties, possibly up to 1 500 dead.
4. Some of the main departure points (e.g. Zuwara, Garabulli) are located in the western part of Libya that is under the control of the General National Congress. Before their dangerous journey to Europe, the migrants have travelled for a long time through the Sahel using various land routes starting as far as the Horn of Africa or Western Africa. These routes then converge in South-western Libya (Sabha). Many migrants remain in Libya for different periods of time, often to earn money for the rest of the journey.

5. In February 2015, the Italian Interior Ministry estimated that at least 200 000 refugees and migrants staying in Libya were preparing to depart to Europe.
6. There is a link between terrorism and trafficking (persons, arms, drugs). Libya is at the heart of many trafficking routes. The threat posed by Da'esh/ISIL-oriented groups in Libya has risen, as confirmed by the use of brutal tactics such as beheadings, executions and suicide bombings throughout the country. These groups have also taken over Sirte and attacked several oil terminals.

### *Summary*

7. The situation described above has **extremely serious implications for the EU and requires urgent action**. In response, the European Council of 23 April 2015 identified four priority areas; strengthening our presence at sea, fighting traffickers in accordance with international law networks; preventing illegal migration flows and reinforcing internal solidarity and responsibility.
8. Within the above context it is self-evident that CSDP alone cannot address the smuggling networks problem, but must be part of a broader and longer-term approach.

### **Current EU engagement on migration**

9. Since March 2015, **Italy** has deployed a naval force in the Central Mediterranean Sea to carry out surveillance and maritime security operations.
10. FRONTEX has extended its Joint Operation TRITON in the Central Mediterranean until the end of 2015 to continue supporting Italy at its maritime borders with border surveillance activities. FRONTEX is supporting the Italian authorities in collecting intelligence on people-smuggling networks operating in the countries of origin and transit of the migrants. The operational area of TRITON covers the territorial waters of Italy as well as parts of the SAR zones of Italy and Malta.
11. With the tripling of its budget for 2015 and 2016 (which will require EU Parliamentary approval), FRONTEX intends to increase significantly ongoing TRITON and POSEIDON SEA joint operations as well as EPN INDALO.
12. POSEIDON SEA aims to implement coordinated operational activities by ensuring an adequate operational response in tackling irregular migration flows from the Western Turkish coast and Egypt towards Greece and Italy.

13. EPN INDALO focusses on implementing activities to control irregular migration flows from North African and Sub-Saharan countries towards the Southern Spanish coast.
14. The size of the area of FRONTEX operations in territorial waters will increase and consequently FRONTEX has, at the time of drafting, launched a Call for Contributions to Member States to provide additional assets and human resources for these operations.
15. In March 2015, EUROPOL established the Joint Operational Team (JOT) Mare, which tackles organised criminal groups who are facilitating migrants' journeys across the Mediterranean Sea to the EU. JOT Mare combines EUROPOL's unique intelligence resources and Member States' capabilities to carry out coordinated and intelligence-driven actions. JOT Mare aims to intensify the exchange of information with FRONTEX, INTERPOL and participating EU Member States. EUROPOL will also support Italian authorities in building up a mobile office and in relation to intelligence led-policing.
16. In addition, the Italian Navy is protecting its coastguard vessels employed in search and rescue (SAR) activity against the actions of criminal organisations and countering illicit trafficking including preventing the reemployment of the boats used by the traffickers.

#### **Engagement of the International Community (IC) on Migration**

17. IOM and UNHCR have been the most active players in the region in supporting refugees and migrants (especially in Libya and Syria and in the respective neighbouring countries), including through financial support by the EU. Their activities go beyond the Maghreb region, extending also to East and West African nations.
18. Following the outbreak of fighting in Tripoli in mid-July 2014, UNHCR initiated and leads the Libya Protection Working Group (PWG) for UN agencies and NGOs working temporarily in Tunis. The PWG is aimed at coordinating protection activities and responses to the humanitarian needs inside Libya.
19. UNHCR is working to expand the protection space in Libya by increasing registration and refugee processing activities.
20. Of major concern to UNHCR is the growing number of refugees and asylum seekers using Libya as a transit/departure point for migration to Europe, as well as the systematic detention of refugees and asylum seekers inside the country. UNHCR works to provide core relief items and medical assistance to detainees arrested for irregular entry into Libya or following rescue at sea efforts.

21. IOM is seeking to enhance capacities to address key issues in migration, such as counter-trafficking, and assisted voluntary return of mostly sub-Saharan African migrants, who are in irregular circumstances or in detention in the country. IOM works with the authorities and concerned African embassies in its programming, ensuring a dignified and safe passage for those who choose to return home with IOM.
22. Management of migration has been of the key areas of EU engagement in Libya throughout the last years (EUR 42.7 million committed between 2011 and 2014). Each EU funded programme entails different areas of interventions, however support to migration management is focussing on three sub-sectors: human rights based migration management; countering irregular migration; assistance to people in need of international protection/stranded migrants.
23. After the deterioration of the security situation last year and in order to respond to the needs of people fleeing fighting areas in Libya, EU migration support has been refocused to guarantee emergency care and support for stranded migrants, refugees, asylum seekers and displaced people in Libya and in the neighbouring countries. Due to the very volatile political context the institutional support programmes are on hold with the exception of training activities targeting the Libyan Coastal Gard (SeaHorse Programme, EUR 4.5M).
24. Since the beginning of the crisis in 2014, the EU funded programme START (EUR 9,9 M) implemented by IOM has supported the evacuation and repatriation of 788 stranded migrants (around 4,000 additional cases have been identified by IOM) and the distribution of Non Food Items and Hygiene kits to 1100 stranded migrants and to 2600 displaced families across Libya. Two new programmes to be implemented by the International Federation of Red Cross in coordination with the Libyan Red Crescent have been signed and are expected to start delivering assistance to migrants (EUR 6,25 M) and to IDPs and at risk groups (EUR 2,9 M) in the coming weeks.

### **Other actors' engagement**

25. INTERPOL plays an important role in combating illegal migration, particularly in relation to countries of origin, as INTERPOL is the only international information-sharing and analysis hub for police worldwide. INTERPOL contributes to the European Multidisciplinary Platform against Criminal Threats (EMPACT) to enhance cooperation with source and transit countries and is actively participating within Europol's JOT

Mare. Moreover INTERPOL collects and analyses data and intelligence to identify potential links to other crimes such as terrorism and trafficking in human beings and provides information on vessels being used to transport illegal migrants.

26. At the time of drafting, INTERPOL is likely to continue its participation (through data analysis and provision of non-personal data) in the three joint operations with FRONTEX.
27. NATO's Operation Active Endeavour currently remains at a low tempo with no vessels tasked on operations. NATO bodies are currently considering the 2014 Periodic Mission Review of Operation Active Endeavour. If agreed by the North Atlantic Council, the Operation would transition to a non-article 5 Maritime Security Operation. In addition, the OPLAN could be revised in order to envisage another four additional possible tasks for the Operation, including maritime interdiction and freedom of navigation which might have relevance to the EU.

### **III. EU Approach**

#### **EU Political Interest**

1. The continuing tragic loss of life amongst migrants attempting to cross the Mediterranean requires a swift response from the European Union together with all the countries involved in the flow of people if this problem is to be solved. In addition to the humanitarian consequences, the security and stability implications for the region are a source of great concern as is the need to prevent links between criminal networks and terrorist organisations. This situation also illustrates clearly the callous disregard for human life of the people smugglers and traffickers. It is our shared responsibility to tackle the causes of displacement and forced migration, put a stop to the activities of those who are exploiting the persons in need for personal gain, and prevent such tragedies being repeated. In addition to the emergency measures adopted by the European Council of 23 April 2015, the European Commission is preparing a European Agenda on Migration which will develop a more systemic and geographically comprehensive approach.

### **IV. Description of the EU Action(s)**

## Mission

1. The tasking derived from the European Council is for a CSDP operation **to disrupt the business model of the smugglers, achieved by undertaking systematic efforts to identify, seize/capture, and destroy vessels and assets before they are used by smugglers.**
2. Analysis of this tasking highlights the following key issues to shape further planning:
  - The CSDP action will need an executive mandate and could be military and joint (e.g. naval and air) in nature;
  - It will be, by definition, part of a broader comprehensive EU approach to disrupt the business model of smugglers;
  - Close liaison with UNSMIL and other key partners will be required to underpin effective cooperation, coordination and information operations. The potential to utilise the newly-established Liaison and Planning Cell in Tunis could be explored in this regard.
  - On the High Seas, under the current provisions of the United Nations Convention on the Law of the Sea (UNCLOS) directly relevant to the operation's tasking, ships are subject to exclusive jurisdiction of the flag State unless there are reasonable grounds to suspect that they are engaged in certain prohibited activities (piracy, slave trade or unauthorised broadcasting) or are without nationality. In the case of smuggling of migrants, the measures that can be undertaken against the ship are rather limited (monitoring, stopping, boarding and search) and do not authorise a warship to seize the vessel, make it unusable or destroy it. The UN Protocol against the smuggling of migrants by land, sea and air however authorises “appropriate measures” beyond boarding and search may be taken either by the flag State, or by another State if the ship is without nationality in accordance with domestic and international law, subject to the respect of a number of safeguards laid down by the Protocol. Patrolling and coercive action in the sovereign waters of countries in the region (territorial waters and internal waters) may be undertaken only if they are authorised by the respective Governments, or in the absence of such an authorisation, by a UN Security Council Resolution adopted under Chapter VII of the UN Charter. On the high seas, the adoption of a UNSCR under Chapter VII would allow (i) to circumvent the absence of assent of the flagship in order to board, search, seize and possibly destroy (ii) not to rely on domestic measures in order to seize and possibly destroy ships without nationality.

- The operation will need to be phased and will be heavily dependent on intelligence. The sharing of this intelligence with other associated actors will be fundamental to the overall approach;
  - The ability to seize/capture and destroy vessels before their use by smugglers will need to focus on activity inside Libya's internal and territorial waters, and the coast, to be most effective, but this could limit the operation's ability to conduct its tasks and therefore the possibility to capture and destroy vessels on the high seas is also retained to allow flexibility;
  - Non-compliant boarding operations against smugglers in the presence of migrants has a high risk of collateral damage including the loss of life;
  - The obligation to assist and rescue any person at sea in distress in accordance with international law (UNCLOS and SOLAS) could be faced by the assets of the EU operation (but is not a formal part of a mission). Nonetheless, the rescue of migrants must be undertaken where encountered. The subsequent issue of the management of the migrants and refugees on board of an EU military vessel participating in the CSDP operation and their processing thereafter will require full compliance with international human rights law (e.g. non refoulement, asylum requests etc). Details will need to be developed in further planning. (see Legal Framework);
  - The arrest of smugglers may be a situation faced by the EU operation. The subsequent issue of management of arrested smugglers requires agreed protocols (e.g. hand-over to competent authorities) which will need to be developed in further planning. (see Legal Framework);
  - The tasks of FRONTEX and the envisaged CSDP operation are different. The CSDP operation should therefore not be misconstrued as a substitute for, or a geographical extension of, FRONTEX operations, but rather it should be seen as a complementing and enabling element of the EU comprehensive approach.
1. The added value of a military operation is both in its surveillance and intelligence capacities and also the ability to conduct the seizure and/or physical destruction of smugglers' assets, including vessels, fuel dumps and other logistic facilities.
  2. **The Mission is therefore defined to be "To provide surveillance, intelligence gathering and sharing, and assessment of smuggling activity towards and through the Southern Central Mediterranean Area, and to stop, board, search and dispose of, possibly through their destruction, trafficking vessels and assets before use and**



**thereby contribute to EU efforts to disrupt the business model of trafficking networks''.**

### **The Regional Perspective**

3. Diplomatic engagement with the regional countries, the LAS and the AU will be required throughout to support planning, foster engagement for the operation, broader migration issues, and to ensure coordination with UNSMIL's efforts.

### **Legal Framework**

4. A Decision establishing the operation will be adopted by the Council. This Decision could make recourse to the modalities of Art. 44 TEU, i.e. entrust the task to a group of Member States. This Decision will be followed by a Council Decision launching the operation.
5. In accordance with International Conventions, the CSDP operation's assets will have the 'duty to assist and rescue' any persons found at sea who are in danger of being lost or in some sort of distress; this obligation will only be restricted by the considerations of the safety of the crew and of the assisting vessel.
6. The above obligation, which will be undertaken under the coordination of the competent Maritime Rescue Coordination Centre:
  - Covers 'any persons regardless of their nationality or status' - hence including asylum seekers and migrants whether regular or irregular, trafficked or smuggled;
  - Is unaffected by the mode of transport and whether it is carrying a flag or not;
  - Requires State parties to co-operate with the rescuing vessel to render assistance in rescue situations by taking the responsibility to care for the survivors, and allowing individuals who are rescued at sea in such circumstances to be delivered promptly to the closest safe harbour.
1. In line with the above, and due to the expected limited reception capacities on board of CSDP vessels, migrants/refugees rescued at sea will, in accordance with international law, need to be transported or towed in the safest conditions to pre-identified (in subsequent planning) ports of debarkation where local authorities will take the responsibility to care for the survivors and adopt the necessary measures in case of asylum seekers.

2. The CSDP operation will establish the necessary arrangements with FRONTEX operations and/or the host MS authorities for the possible transfer and processing of rescued persons for the case when this option provides safest and quickest treatment to the rescued people. The conclusion on such arrangements will also have an impact on Force Generation.
3. Further detail is shown at Annex B.

### **Operation Concept**

4. Prior to operation launch, early political engagement with relevant authorities in the region at the highest level to foster awareness and support of the intended CSDP action. This engagement is also relevant where countries act as a supply transit route for the passage of key enablers (e.g. boats and lifejackets) required by the smugglers. Engagement with LAS and AU will be required.
5. The operation could initially build upon efforts already provided or envisaged by MS bilateral contributions. It could also be complemented in this regard through these bilateral contributions and/or through the early tasking of the SATCEN under CFSP funding arrangements to provide imagery for the benefit of MS and FRONTEX as appropriate. This surveillance tasking would have the advantage that it could be done without the political consent of the countries in which the imagery was taken.
6. The Council might also decide in this case to use Art. 44 of TEU which foresees the possibility of entrusting a CSDP mission to a group of Member States. This would also require a standard Council Decision establishing the operation; however its management would be left to the relevant group of Member States.
7. **Phase 1 – Deployment and Assessment.** The following assumptions are made in order for the operation to be launched as soon as possible and to carry out its initial tasks on the high seas and international air space. Further assumptions for Phase 2 and 3 of the envisaged operation are made in paragraph 58 and paragraph 63 respectively:
  - MS provide the necessary resources to conduct the operation;
  - There are appropriate protocols agreed by involved agencies to allow the timely and efficient exchange of classified intelligence and other data on smuggling/trafficking networks;
  - There are appropriate arrangements in place with regard the management of smugglers and migrants taken on board EU assets.

1. Following force generation and mission launch, the CSDP operation would, in this and subsequent phases consist of the deliberate fusing of activities and information through the development and coordination of an inter-agency approach. It could therefore be developed on similar lines to the Joint Inter Agency Task Force in the Caribbean and the Maritime Security Centre Horn of Africa. It would benefit considerably from analysis of the appropriate lessons learnt from EUNAVFOR ATALANTA.
2. This approach would support the detection and monitoring of migration networks and routes, and specifically provide intelligence on smuggling activities. It could thus also provide a much-needed capacity to complement the activities of an expanded FRONTEX Op TRITON and possibly Op POSEIDON/Op INDALO, and thereby assist humanitarian efforts to save lives at sea.
3. This fusing of information could also be exchanged subject to the necessary protocols, including for investigation and prosecution purposes, and as implicit in the Decalogue actions, with relevant JHAs (e.g. EASO, FRONTEX, EUROPOL, and EUROJUST), INTERPOL, MS (and any bilateral maritime operations) and EU Delegations. Liaison with NATO could be required. The inter-agency approach could be extended, through the provision of suitable protocols, to include partner organisations such as IoM and also regional countries.
4. The provision of intelligence could be achieved through the dedicated use of aerial assets, including satellites, to provide persistent surveillance and potentially through close cooperation with the relevant national authorities operating along the coast. The area of operations would likely extend from the Southern boundary of Op TRITON towards Tunisia, Libya and Egypt (see paragraph 71) but will be assessed further in subsequent planning. The possibility to conduct surveillance in the internal and territorial waters and adjacent littoral zone of these countries would provide obvious advantages but would need host nation approval if using assets other than satellites. Issues concerning adherence to Human Rights and other legal arrangements would also need to be considered.
5. A military operation would have the advantages of drawing upon the existing expertise of an OHQ and access to intelligence provided through an established Recognised Maritime Picture. Close coordination with the civilian shipping associations and regional organisations would be required. Given the large area to cover, this option would need strong commitment from MS to boost surveillance capacities.

6. **Phase 2 – Operational/Seizure of Smugglers vessels.** The following assumptions are made for this phase:

➤ There is a legal basis under International Law complemented by Domestic Law measures, including appropriate judicial decisions (2000 UN Protocol against Smuggling) for the **seizure** of smugglers vessels and assets on the High Seas, it being understood that such a measure is feasible against a ship flying the flag of a State only with the consent of this State.

In the event that a smuggling vessel has no nationality/not flying a flag of a State, seizure is still possible under International Law on the high seas *provided that* the warship conducting the seizure is so authorized under its own national law. Even in the absence of a warship having its own national legal approval for such seizure, there is still a legal basis under International Law to allow the warship to board and search the smuggling vessel.

➤ Robust rules of engagement are authorized to enable seizure in a non-compliant situation.

1. In order to allow mission flexibility and deliver effect against the smugglers' business model, the operation could locate and intercept smugglers' vessels on the high seas and take action to stop and seize the vessels. This activity will be complemented by dedicated information operation to further deter smugglers.

2. Any action on the high seas could likely result in a requirement for SOLAS and other international obligations.

3. Coordinated planning with OP TRITON will be an essential element of this phase regarding the potential security and processing of the seized vessels, smugglers and migrants. In this regard, protocols and arrangements with potential countries of reception will need to be developed.

4. In the event that a UNSCR CH VII mandate is adopted and/or there is an invitation from the host government, the operation could have the ability to conduct the following:

➤ On the high seas **against ships the flag State of which has not given its assent or against ships without nationality.**

➤ In the respective sovereign territorial waters.

1. **Phase 3 - Operational/Disruption.** The following assumptions are made for this phase:

- **There is a UNSCR mandate under Chapter VII or a Libyan invitation to enter into the sovereign waters of Libya to act against smuggling ships;**
- There is a legal basis for the **destruction** of smugglers vessels and assets:
  - either through International Law, complemented by Domestic Law measures, including appropriate judicial decisions (2000 UN Protocol against Smuggling) for the **destruction** of smugglers vessels and assets on the High Seas, it being understood that such a measure is feasible against a ship flying the flag of a State only with the consent of this State;
  - or through a UNSCR adopted under chapter VII **against ships the flag State of which has not given its assent or against ships without nationality.**
- Robust Rules of Engagement (ROE) are authorised for the destruction of smugglers vessels and assets;
- For action outside Libya, necessary agreements are in place with Tunisia and/or Egypt).
  1. Following concerted assessment and identification of the smuggling network, the EU operation could focus on the deliberate targeting, seizure and possible destruction of smugglers' boats and assets in territorial waters to support the disruption of their business model. It could be complemented through dedicated information operations and an overt presence of ships and organic air assets in the vicinity of the coast to deter smugglers.
  2. Any destruction ashore, ideally underpinned by local consent and cooperation, could include action along the coast, in harbour or at anchor of smugglers assets and vessels before their use (including ships in transit to the identified migration embarkation points) subject to the existence of appropriate legal safeguards.
  3. Any action at sea could inevitably involve contact with both smugglers and migrants/refugees and consideration on how to deal with SOLAS responsibilities and other International Law obligations will be of paramount importance.
  4. Coordinated planning with OP TRITON on patrolling resources/schedules when operational areas are overlapping could allow synergies for TRITON to process migrants and the CSDP operation to provide security and processing of confiscated vessels as appropriate.

5. **Phase 4 - Mission Withdrawal and Completion.** As regards to Libya, it is assumed that following the formation of the GNU, the Libyan authorities will embark upon a programme to improve the capacities of the Libyan coastguard and related agencies to tackle migration smuggling. A contribution to this capacity delivery could be provided in due course following the regeneration of EUBAM Libya (as predicated in the ISR) together with complementing activities from other EU programmes and instruments.
6. As regards to Libyan coastguard and had reached an initial level of effectiveness through which it could demonstrate sufficient control of the Libyan coast to tackle the smuggling of migrants, the CSDP operation would start to handover its responsibilities and tasks to the Libyan authorities. The presence of the EU operation would become unnecessary allowing the OpCdr to propose the withdrawal of the operation.
7. The operation could then be formally and administratively closed down and concluded.

#### **Location of the Operation**

8. The operation could initially conduct its surveillance activities within a broad area delineated as follows (Refer Diagram at Annex A): Northern boundary of 36N, Western boundary 10E Eastern boundary 30E Southern boundary 28 N.

#### **Tasks**

9. The following tasks could be considered:
  - Conduct surveillance within the defined area to detect, assess and prevent smuggling;
  - Liaison/coordination with UNSMIL, NATO and regional authorities;
  - Establish strong, effective liaison and coordination with FRONTEX;
  - Establish close liaison with the Commission and in particular DG Home;
  - Data exchange with relevant/partner organisations including the provision of intelligence to neighbouring/ migration transit countries to contribute to migration transit route/activity awareness;
  - Assess the smuggling network situation (to the benefit of FRONTEX) within the defined area;
    - *Disrupt* smuggling operations and weaken the business model including through operations inside Libyan internal and territorial waters by:

- a) Deterrence provided by visible EU naval presence in the vicinity of the embarkation areas. A presence ashore might be envisaged if agreement was reached with relevant authorities;
  - b) Information operations;
  - c) The seizure and/or physical destruction of smuggling enabling assets (e.g. boats, fuel dumps, embarkation facilities) both within internal and territorial waters, at anchor, alongside or ashore.
- Protect, within means and capabilities, FRONTEX operation assets, if requested when in danger due to the presence of armed smugglers.

### **Integration of human rights and gender policies**

1. The CSDP operation will seek to comply with international human rights, humanitarian and refugee law and other relevant legislation. This will be done through ensuring that relevant resources are available at all levels of the operation. Special attention should be given to coordination of human rights and gender issues in coordination of CSDP and other European engagements.

### **Risk to mission personnel**

2. The existence of heavy military armaments (including coastal artillery batteries) and military capable militias present a robust threat to EU ships and aircraft operating in the vicinity and will have to be further assessed to provide robust Force Protection.
3. The terrorist presence in the region also constitutes a security threat.
4. Action taken ashore could be undertaken in a hostile environment.
5. The potential poor standard of health of migrants and smugglers/traffickers embarked in EU ships could present a medical threat to EU personnel.

### **Force Protection**

6. Force Protection measures will need to take into account the above security threats.
7. A threat assessment has to be conducted before the launch of the mission and updated throughout the whole duration of the mandate.

8. Force protection will be integral within the EU operation, taking into account the Threat assessment. To this end, EU elements will need robust means and proper accompanying ROE to address these challenges.
9. Force protection measures regarding presence or tasks in the Libyan territory should be coordinated with Libyan GNU (potential Libyan support).

#### **Risks to Mission accomplishment**

10. Early local involvement is essential to ensure buy-in and eventual follow-up by the respective authorities. Failing to obtain such consent will jeopardise the sustainability of mission accomplishments.
11. Kinetic action along Libyan coasts might oblige smugglers to shift their tactics and change their departure sites, eventually relocating them in neighbouring countries: close coordination with Tunisia and Egypt will be required.
12. Collateral effects of EU kinetic actions will need to be avoided but the risk remains. Any casualties as a result of EU action could trigger a negative response from the local population and the wider region, jeopardising support and follow-up.
13. Lack of assets committed by member States compared to the wide spectrum of the mission and possible caveats for their use.

#### **End State/ Exit Strategy/Duration**

14. The CSDP operation will "contribute to disrupting the business model of the smugglers in the Southern Central Mediterranean" but it should be noted that this action cannot by itself achieve a lasting solution to the smuggling of migrants.
15. Coordination with development programmes as part of a broad EU strategy to tackle migration in the region will be particularly important in this regard.
16. Exit strategy considerations would also need to take into account whether; the level of migrant smuggling had significantly decreased; that there was clear evidence that the smugglers business model had been disrupted and that the local authorities were able to generate and sustain sufficient organic capacity to deal with the issue. Given this, it is therefore suggested that the CSDP operation lasts for an initial period of one year.

<b><u>V. Organisation and Resources</u></b>
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## **Command and Control (C2)**

17. The Political and Security Committee (PSC) will exercise, under the responsibility of the Council and the HR, the political control and strategic direction of the operation.
18. The Operation commander will exercise command and control of the military operation and shall report to the PSC at regular intervals.
19. The EUMC will monitor the proper execution of the operation and the CEUMC will act as the primary point of contact for the Operation Commander.
20. Taking into account the complexity of the mission and the required permanent close liaison with all stakeholders (military and civilian), it is recommended to establish an EU OHQ at Military Strategic Level and an EU FHQ at Operational Level.
21. The EU OHQ could be set up either by using the currently activated OHQ in Northwood or by activating another OHQ. The OpCdr and the OHQ should be identified as soon as possible ahead of the Council Decision establishing the operation, particularly if a rapid response is envisaged, to permit parallel planning and thus the deployment timelines to be met.
22. Subject to further planning, the EU FHQ would be established afloat or ashore (with a Maritime Component Commander and possibly other Component commanders depending of the required forces).

## **Coordination**

23. Coordination arrangements between all EU actors involved in the area will have to be ensured, and mechanisms for their interaction will have to be defined in the framework of the operational planning. Specifically, clear delineation of mandate, tasks and area of responsibility with FRONTEX has to be established before the launch of the operation.
24. Coordination and information exchange mechanism and tools have to be set with EU delegations in the area, other CSDP missions as appropriate, FRONTEX, EUROPOL, EUROSUR, EASO and EUROJUST.
25. Early and continued coordination and/or liaison with UNSMIL, NATO, UNHCR, IOM and other partners will be required to achieve synergies.

## **Resources**

### **Indicative Composition**

26. The operation would require a broad range of air, maritime and land capabilities. These could include:
- Intelligence, Surveillance and Reconnaissance;
  - Boarding teams;
  - Patrol units (air and maritime);
  - Amphibious assets;
  - Destruction air, land and sea, including Special Forces units;
  - Command and control;
  - Logistic (including medical).
- Gendarmerie/Coastguard experts to provide a Rule of Law advisory capacity to the operation and to ensure proper compliance to legal requirements undertaken during the operation.

### **Financing**

1. The common costs of the military operation will be funded under the ATHENA mechanism, in full compliance with the existing ATHENA Decision. At the current stage of planning, with a number of uncertainties, critical elements for the determination of the reference amount such as type and size of assets to be deployed will need to be clarified before the estimation of any related reference amount.
2. A reference amount will be proposed by ATHENA in the framework of the preparation of a possible Council Decision establishing the operation.

### **Information Strategy**

3. The information strategy will be developed during subsequent planning.
4. Key elements should include:
  - Legality of the action under international law and adherence to human rights;
  - Support to UNSMIL;
  - Comprehensive nature of the EU action to support humanitarian efforts;
  - Emphasis on disrupting the smuggler's business model;

- Need for close coordination with broad variety of agencies, regional partners.

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Annexes:

- A. Map of Southern Central Mediterranean Region. (separate attachment).
- B. Legal Considerations.