

The European Union and the Contact Group on Piracy off the Coast of Somalia: A Case of Effective Multilateralism?

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Abstract

The call for solutions to global problems through effective multilateralism has been one of the main messages of the European Union during the past decade. This paper explores EU participation in the Contact Group on Piracy off the Coast of Somalia as an example of a multilateral initiative. First, the paper offers an outline of effective multilateralism and the activities of the Contact Group. It then examines developments related to three markers of effective multilateralism: scope of involvement, the role undertaken by the UN as a consequence of the group's activities and the extent to which the Contact Group facilitated the spread of international rules and norms related to piracy. The analysis showed that the EU is inclined to engage in international attempts at multilateralism but hints that in the future a change in the EU perception of multilateralism is likely.

Keywords

European Union, Effective Multilateralism, Contact Group, Piracy, Somalia

Introduction¹

Effective multilateralism is connected to a key document of the European Union (EU) – the 2003 European Security Strategy (ESS). The strategy envisioned the creation of an “effective multilateral system” and set as an objective of the EU² the “development of a stronger international society, well-functioning international institutions and a rule-based international order” (European Council 2003: 9). At the heart of such an order would be cooperation and partnerships among states, supported and driven by the United Nations (UN) and other international organizations (IOs). Ideally, the web of these partnerships and international fora would increase the possibilities for finding solutions to global problems and threats.

The question we try to answer here is: *How has the EU pursued effective multilateralism through its involvement in the work of the Contact Group on Piracy off the Coast of Somalia (CGPCS)?* The CGPCS was established in the peak of piracy attacks near Somalia. UN Security Council Resolution 1851 (2008:2-3) called for the establishment of “an international cooperation mechanism to act as a common point of contact between and among states, regional and international organizations on all aspects of combating piracy and armed robbery at sea off Somalia’s coast.” Although not formally a UN body, the Contact Group was formed in 2009 under this recommendation.

To study the case of the Contact Group, we rely on an interpretivist approach. We start by defining multilateralism and effective multilateralism. It should be underlined that we do not measure effectiveness, but rather examine how the CGPCS and EU’s participation in it fit into a specific understanding of effective multilateralism. This is elaborated on in the section on methodology, case selection and data sources. We argue that EU pursued effective multilateralism through participating in and chairing the Contact Group, which collaborated with the UN and facilitated the dissemination of international norms.

The case of the CGPCS was chosen because the group is regarded as a unique international experiment. Thus, an analysis of its activities could inspire innovative and creative solutions to international issues. It could also be indicative of the ability of the international community to work together. This is identified as a possible direction for future research in our concluding section. The conclusion also touches upon recent changes to the concept of effective multilateralism in the 2016 EU Global Strategy (EUGS).

Literature Review and Definitions

Multilateralism’s importance for the EU was reconfirmed by the Treaty of Lisbon. As per Article 21 (Treaty on European Union 2012), the EU “shall promote multilateral solutions to common problems,

¹ A draft version of this paper was presented at the ECPR General Conference which took place 7-10 September 2016 at the Charles University in Prague, Czech Republic, in an Open Section.

² Throughout this text, European Union, EU and Europe will be used interchangeably.

in particular in the framework of the United Nations” and “promote an international system based on stronger multilateral cooperation and good global governance”. Thus, multilateralism appears to be connected to two key pursuits and principles of the EU. First, it could facilitate peace and security in the world, since conflict between like-minded and collaborating partners is less likely. Second, it could increase adherence to international norms through reliance on UN and other IOs.

Here, a definition of multilateralism is needed. We hold with John G. Ruggie’s seminal claim that multilateralism can have both a nominal and a qualitative definition (1992). Therefore, we accept that multilateralism involves the collaboration of three or more actors (both state and non-state), but that it also means “an institutional form which coordinates relations among three or more states on the basis of “generalized” principles of conduct” (Ruggie 1992: 571). This aligns with William Diebold’s claim that even more important than the number of actors is the “kind of relationships that are instituted among them” (Ruggie 1995: 566). Both the quantitative and the qualitative dimensions of multilateralism are taken into account in our analysis.

Relying on several scholars’ influential works on multilateralism, Koops (2011: 67-68) distinguishes between *traditional multilateralism* as a “long-term organizing principle” and *new multilateralism* as a “short-term threat response”. He further concludes that EU’s effective multilateralism “seeks to integrate the norms, rules, and institutions of ‘traditional multilateralism’...with a more pragmatic, actively interventionist and even more military-gearred culture akin to some form of output oriented ‘new multilateralism’” (Koops 2011: 81). An important observation could be made here. Due to the appearance of new actors and new threats, it is likely that EU’s understanding of (effective) multilateralism is and will be changing.

This leads us to second needed definition – that of effective multilateralism as envisaged by the EU. Based on literature on EU external action, Robert Kissack (2010: 17) identifies “four clusters of research” about what effective multilateralism is. In this paper, we adopt the approach characteristic of the third cluster, namely “looking at different spheres of multilateral activity and assessing EU performance by a set of project-wide measures” (Kissack 2010: 18). This approach is pursued by Katie Verlin Laatikainen and Karen E. Smith, who argue that “(m)ultilateralism is both an institutional form and a policy objective (or principle)” as the term signifies the cooperation among states with and through IOs (2006: 5). The authors also suggest three ways to define EU effectiveness – “EU effectiveness as an international actor,” “EU effectiveness at the UN,” and “EU contribution to the UN’s effectiveness” (Laatikainen and Smith 2006:10). Another observation about EU’s effective multilateralism, which we rely on when discussing the CGPCS as an area of multilateral activity, is provided by Jan Wouters, Sijbren de Jong, and Philip De Man (2010). On the grounds of major EU documents, they contend that effective multilateralism is

“primarily as a form of governance that should produce noticeable effects whilst being embedded within strong, negotiated, and enforceable multilateral regimes” (2010: 15).

EU officials have contributed to the conceptualization of effective multilateralism. Some two years after the presentation of the ESS, Javier Solana, then EU High Representative for Common Foreign and Security Policy, praised effective multilateralism as a “highly successful” concept, but admitted that with the intensification of threats, it became “hard sell in practice” (Solana 2005). He also hinted that regional organizations are “natural allies” in the quest for effective multilateralism, although not all of them are worthy of the same level of EU support (Solana 2005).

In a speech about UN cooperation with regional organizations, the former High Representative Catherine Ashton pointed out EU actions that could be placed under the umbrella of effective multilateralism. Ashton (2013) specified that the instruments of the EU’s comprehensive approach, Europe’s mediator role in international issues and its close work with various partners could be seen as manifestations of effective multilateralism.

As visible from EU documents and cited research, the UN provides an important framework for both the pursuit of effective multilateralism and its analysis. The EU envisions an increased role of the UN in international affairs and making its own voice heard in the UN environment. This is reminiscent of a question asked by Sven Biscop and Edith Drieskens (2006: 118), namely “whether the EU has been successful in translating its support for the UN at the strategic level into policy practice”. We are thus interested to see if in the case of CGPCS, the EU has utilized the tools, the resources and the forum of the UN to work towards reducing Somali piracy.

This is connected to a useful distinction by Kissack (2010: 20) between multilateralism as a means and as an end, which do not appear to be mutually exclusive. When an actor pursues multilateralism as an end, it encourages strengthening multilateral institutions and using them whenever possible. When an actor uses multilateralism as means, it works towards “formal and informal norms of behavior”, trying to accomplish a concrete goal (Ibid.). Rules’ embeddedness is a major component of the Effective Multilateral Order, which Biscop and Renard (2012: 189-190) define as “an inclusive rule-based order, driven by cooperation, reciprocity and shared objectives, rather than by competition and zero-sum politics”. The authors then assert that the EU could play a role in the construction of this order – as both a model and a leader – but to do that, it must be strategic, proactive and innovative (Biscop and Renard 2012: 193-194).

Since its creation, the EU has tried to spread and support internationally certain norms. This has resulted in its seminal description as a normative power (Manners 2002). The process of norms conception and promotion has been studied in detail by Martha Finnemore and Kathryn Sikkink (1998). According to

them, there are norm entrepreneurs that may not benefit from a norm's emergence, but they nevertheless support the norm because they "believe in the ideals and values embodied in [it]" (Finnemore and Sikkink 1998: 898). In this sense, the pursuit of multilateralism, as both a means and an end, could be viewed as a way to disseminate norms within a community of actors.

Methodology, Sources and Selected Case

This case study is intended as an interpretive one. It does not seek a quantitative measurement of effectiveness. Instead, it examines how concrete activities of the CGPCS and EU's participation in them fit into the understanding of effective multilateralism discussed above. It does not aim to test a theory but to analyze the translation of an idea (that of effective multilateralism) into specific policies and initiatives. In this sense, we study the EU's contribution to a "multilateral activity" (Kissack 2010: 18) that is the Contact Group.

On the basis of studied literature and definitions provided by key EU documents, we identified three aspects or characteristics of the work of the CGPCS to concentrate upon. We analyze and explore those as markers of effective multilateralism. The first relates to the *scope of involvement* – in terms of participation and input – of international state and non-state actors in the group, including the extent of EU's involvement. This marker is linked to the quantitative dimension of multilateralism. We examine how many and what kind of actors took part in the activities of the Contact Group since its creation. Thus, we recognize that the number of actors supporting an initiative or a norm is important, and could influence their dissemination. The second marker is the *role taken on by the UN* as a consequence of the group's activities. The formulation of this marker is informed by the discussion of the UN as a persistent framework for multilateral initiatives and the EU's positioning of the UN in the core of effective multilateralism in its documents. The third marker involves the ability of the Contact Group to facilitate the *spread of international rules and norms* related to piracy. This is in line with the understanding of the EU as a normative power and the idea of the existence of norm entrepreneurs. It is also linked to Ruggie's and Diebold's understandings of the qualitative dimension of multilateralism.

The analysis is based on examining documentary evidence from the work of the CGPCS. The selection of texts we studied includes plenary session minutes³, press releases, reports and evaluation documents related to the Contact Group's activities and EU's participation. These texts present the focus of the CGPCS' activities, its approach, as well as some concrete results of its work.

³ The CGPCS Communiqués from 19 plenary sessions were accessed on the website Lessons from Piracy, Section Archive. The summaries of seven meetings of Working Group 2 (5 March 2009, 5-6 May 2009, 26-27 August 2009, 26-27 November 2009, 15 March 2012, 24 April 2012, 10-11 April 2013) were retrieved from the websites of the International Maritime Organization and the Maritime Administration agency within the U.S. Department of Transportation. All these websites are included in the List of References as single entries.

The CGPCS⁴ is a close to unique result of international cooperation. Since the intensification of the piracy crisis in Somalia, the UN Security Council has issued a number of Resolutions. The first one, UN Security Council Resolution 1816 (2008: 2-3) calls for States to: i) “increase and coordinate their efforts to deter acts of piracy and armed robbery at sea”; ii) in doing so cooperate with other States, regional organizations, other organizations like the International Maritime Organization (IMO); (iii) to always make sure that their actions are “consistent with applicable international law including international human rights law”. The description of the CGPCS that follows is based on documents published by the *Lessons Learned Project* (LLP), which since 2015 has also been the official website of the CGPCS.⁵

Despite being established pursuant to a Security Council Resolution, the Contact Group is not part of the UN system. It was formed to concentrate all counter-piracy efforts near Somalia and encourage cooperation in finding a solution to the problem. It was dedicated to fighting piracy alone and does not deal with other problems in the region. CGPCS is “complementary to the UN-system” and the Security Council (through its Resolutions) ensures its legitimacy. The chairmanship of the CGPCS is voluntary and rotating, as it was taken up by the following countries: Turkey, Singapore, Netherlands (2011); UAE, Spain, India (2012); USA (2012); EU (since 2014 and the first organization to chair the Contact Group); Seychelles (since 2016). The lack of a standing secretariat, bureaucracy and a budget of its own are its distinctive features. Originally, there were five Working Groups, formed as per problematic areas identified by group participants.⁶ As of September 2016, two working groups remain – one on capacity building, co-chaired by the UK and Indian Ocean Commission and a second on “Operations” with co-chairs Japan, Seychelles and UAE. A Legal Forum, a successor of former Working Group 2, is co-chaired by Portugal and Mauritius.

The Group regularly meets for plenary sessions, which also have rotating chairs. Until August 2016, there have been 19 plenary sessions. Decisions are taken by consensus but the group discourse talks about recommendations rather than decisions. The discussions and recommendations of the groups thus reach the highest levels of national government but are also taken into account by IOs like the IMO and the UN. For example, the work of the CGPCS is referred to in many UN SC Resolutions on Somalia.

⁴ This section on the paper is based on a previous unpublished paper of the author entitled *New Approaches to Old Challenges: The Case of the Contact Group on Piracy off the Coast of Somalia*. The paper was presented in April 2016 at the ECPR Joint Sessions Scuola Normale Superiore, Scuola Superiore Sant’Anna and University of Pisa, Pisa, Italy. The main documents on the basis of which the description is made are: European Union External Action Service Presentation 2015, Tardy ed. 2014, and Zach, Seyle, and Madsen 2013.

⁵ The website of the project is: <http://www.lessonsfrompiracy.net/>

⁶ Working Group 1, chaired by the United Kingdom occupied itself with military cooperation and capacity building. The Denmark-chaired Working Group 2 worked on legal issues, while South Korea chaired Working Group 3 on the cooperation with shipping industry. Egypt chaired Working Group 4 on public diplomacy and advocacy. The last Working Group dealt with disrupting financial flow and piracy networks and is led by Italy.

The group has been described as an example of informal or experimental governance and as an “innovative multi-stakeholder governance model” (EEAS n.d.), a “fluid network structure” (Zach, Seyle and Madsen 2013: 32). Christian Bueger identifies several elements that make the Group stand out from other similar contact groups: 1) there are no formal members, but stakeholders of different backgrounds; 2) the separation of the plenary from the working groups which guaranteed better focus on the separate issues and the birth of “transnational networks of experts”; 3) the extremely narrow and specific mandate of the Group; 4) the more ‘relaxed’ way of communication during the meetings that created “an experimental and creative atmosphere” (Bueger in Tardy ed. 2014: 80-81). These features, some – more general, others – more specific, make the CGPCS an interesting subject of examination. The success of at least some of its initiatives would turn it into a model for future multilateral formations.

CGPCS – The Findings

The Scope of Involvement

The number of participants in any organization, coalition, etc. cannot be the single, sufficient indicator for their success. At the same time, the number of members is important because it enhances the legitimacy of the organization. An increase in membership could signify that more states adhere to an organization’s ideas, rules, and recommendations. The same applies to the Contact Group we study. While it is the final results that matter the most, we cannot disregard the number of actors that committed diplomatic, financial, consultancy and other resources to its work.

Immediately after the formation of CGPCS, two criteria for participation were set. The group welcomed actors that have committed resources or regional states affected by piracy. Later, these criteria were removed and the group is now open to all interested parties. As of 2016, more than 80 participants (60 states and 20 organizations), including regional organizations, private sector, NGOs and even an individual take part in group’s activities. It is important to note that the group-related discourse talks about *participants* rather than *members* of the CGPCS. This reflects the more informal character and setting of the group. State and non-state actors are expected to contribute to the extent they consider necessary or is commensurate with their expertise.

We should note two interesting categories of group participants. The first is the group of small regional states like the Seychelles, Djibouti and Mauritius. Within the context of the Contact Group, they are given the chance to assume key roles in counter-piracy efforts. For example, currently⁷ the Seychelles chairs the group, while Mauritius co-chairs with Portugal its Legal Forum, which stockpiles information on the legal aspects of piracy and counter-piracy. Portugal is a good example of the second interesting category of countries, namely the one of old maritime powers. Countries like Spain, Portugal, the Netherlands and

⁷ As of October 2016.

the UK have the opportunity, as part of the EU and by themselves, to share their experience in fighting pirates. For instance, at the third meeting of Working Group 2 (WG2), Portugal presented a paper on the possibility for establishing a Somali special chamber (“hybrid court”) for the prosecution of pirates, while Spain chaired the CGPCS in the past.

Another key point, emphasized by Ulrik Trolle Smed (2015: 7) in the analysis of Denmark’s role in the work of WG2, is the early inclusion of “outside expertise”, namely academia representatives like Dr. Douglas Guilfoyle and Associate Professor Birgit Feldtmann. Having scholars working alongside policy-makers and diplomats to achieve a solution to a problem could have numerous benefits. Scholars rely on specialized knowledge and, ultimately, add up to the de-politicization of a forum. This is also an opportunity for people from academia to have a voice outside conference halls and be on the field where strategies are negotiated and policies are forged. Undoubtedly, the *Lessons Learned Project*, initiated by a consortium of research institutions, is an important step in this direction.

The LLP is led by the *Counter-Piracy Governance Project* at Cardiff University, the two other Consortium members being the NGO *Oceans Beyond Piracy* and the EU autonomous agency *European Union Institute for Security Studies*. In 2014, the latter organized the Strategy Meeting of the CGPCS in the course of the EU chairmanship. The formal chairperson of the group during that time was Maciej Popowski, Deputy Secretary General of the European External Action Service (EEAS). It is important to stress that assuming the chairmanship is voluntary and does not follow a specific principle (regional, rotating, etc.). The EU was invited to take the presidency by other CGPCS participants. According to EU’s official position, chairing of the CGPCS would contribute to fulfilling one of its objectives: “zero ships and zero seafarers in the hands of Somali pirates” (Permanent Delegation of the EU to the UN Office 2013). However, to achieve this, cooperation with the international community and the involvement of the regional states was needed.

After passing the chairmanship on to the Seychelles in 2016, the EU was reported to have accomplished successfully its main goals – the reform of the CGPCS,⁸ the “zero-zero” priority and the documentation of the achievements (LLP) (European Commission and HRVP 2016: 6). There are two other points, which are even more important having in mind the topic of this paper. They were made in front of the European Parliament Subcommittee on Security and Defense by Dr. Marcus Houben, Head of the support team of the EU chairmanship of the Contact Group. The first one is that the EU was the first organization to chair the group and it chaired it as ‘One EU’, which was a working principle from the start of the presidency (Houben 2015: 3). This is a precedent which in the future could result in more and better possibilities for the EU to take on leadership and speak with one voice. The second argument

⁸ The decrease of the number of the Working Groups, which was mentioned earlier, the creation of the CGPCS Legal Forum, etc.

made by Dr. Houben, concerns the multilateral nature of the Contact Group. He points out that the CGPCS is “a multi-stakeholder governance model for complex international problems” which “offers a context and environment that fits the EU surprisingly well” (Houben 2015: 6). In essence, the EU is a multilateral environment trying to function and achieve results in another, larger, multilateral environment.

Taking into account the presence of a wide variety of actors, this environment also bears the characteristics of an epistemic community (Adler and Haas, 1992). As Adler and Haas (1992: 389) claimed, “[e]pistemic communities influence policymakers through communicative action [...] the negotiations of meanings, understandings, and beliefs are intertwined with the negotiations of actions at every step along the way”. In this relation, the documentation and the research functions of the Lessons Learned Consortium are very important, as the Consortium accumulates and disseminates knowledge and expertise related to the work of the CGPCS.

Hence, the extent of involvement of both the EU and other actors allows us to think of the CGPCS as a case of (effective) multilateralism. EU’s chairmanship indicates that the EU is eager to get involved in multilateral mechanisms, to set priorities, influence the agenda, and assume the leadership position.

What Role for the UN?

We have identified as a second marker of effective multilateralism the *role taken on by the UN* as a consequence of the Contact Group’s activities. Legitimacy is a suitable starting point for this section as well. The specific type of relation between the CGPCS and the UN has an element of legitimacy-bestowal and it works both ways. On one hand, CGPCS is legitimate since it was established on the basis of a UN Security Council Resolution on Somali piracy. On the other hand, the recommendations given by the Contact Group add weight to UN counter-piracy initiatives and activities. The reason is that these recommendations are product of discussions among states with significant stake and experience in the fight against piracy.

In this paper, we center on one particular output of the CGPCS, in which the UN came to play a significant role. This is the opening of an *International Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia*, an idea first conceived in 2009. The recommendation for its establishment resulted from CGPCS discussions and the legal framework for the Trust Fund was developed by the competent WG2. The Trust Fund accepts voluntary contributions from states, businesses and other actors.⁹ The recipients of funds are UN agencies (United Nations Office on Drugs and Crime (UNODC),

⁹ On the website of the Trust Fund, one can find detailed information about the amount of contributions and the amount already given to finance various projects: <http://mptf.undp.org/factsheet/fund/APF00>

United Nations Development Program (UNDP), etc.) The respective UN agencies could have an Implementing Partner – national authorities, national, regional, or international organizations and NGOs.

The fund is not run by the CGPCS. In the beginning, it was managed by the UNODC, and after that by the UNDP's Multi-Partner Trust Fund (MPTF) Office. The allocation of the funds for projects is decided by a Board of Directors with rotating membership. As per the most recent CGPCS Communiqué (September 2016), the following countries as members of the Board for the period 2016-2017: Djibouti, Germany, the Netherlands (shared with Norway), Japan, Kenya, Seychelles, Somalia, United Kingdom, USA and UAE (CGPCS 2016: 7). Overall, the Trust Fund has been described by the CGPCS in its 16th plenary (2014: 6) as “a remarkably efficient mechanism”.

Approximately 22 million USD were dedicated so far to support initiatives like capacity-building, transfer of pirates to prisons in Somalia, and issues related to investigation, prosecution and detention. As per the revised Terms of Reference (2012: 2) of the Trust Fund, the collected finances should be used for: 1) expanding the possibilities of States and the private sector to make tangible contributions to combat Somali piracy; 2) payment of expenses associated with prosecution and detention; 3) expedited distribution mechanism to allow for the payment or reimbursement of short-term prosecution related expenses; and 4) support relevant legal capacity-building activities. The Terms of Reference also outlines the composition of the Board of Directors, from which we understand that the countries that enter it have ‘substantial contributions’ to counter-piracy efforts, as three of them should be from the region.

The UN Department of Political Affairs (acting as a Trust Fund Secretariat) prepares an annual Narrative Report, while the MPTF (as the Administrative Agent of the Trust) is responsible for the financial part. The reports are public, very detailed and present not only general information about Trust Fund activities but also information about the particular projects. According to the latest narrative report, between 21 December 2012 and 31 December 2015 were approved 28 projects, with the following implementing agencies: UNODC – 19, UNDP – 2, FAO – 3, the DOALAS – 1 and IMO – 3 (Trust Fund 2015:10-11). The management of international funds by the MPTF is by no means a new thing. Its multilateral essence is revealed in its very name – ‘multi-partner’. We believe that the decision to entrust the handling of funds and the implementation of projects to UN agencies is recognition of UN’s trustworthiness. Even if we discard trustworthiness as more of an intangible indicator, we could attribute the delegation of such duties to the UN’s significant project management experience and bureaucratic capacity. While a comprehensive study of the Trust Fund could potentially expose some deficiencies, the Fund emerges as a good illustration of a multilateral initiative.¹⁰

¹⁰ In January 2017 was published a “Strategic Review of the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia” prepared by Peter Bauman and Sarah Hanssen from Bauman Global. The report contains a very detailed

This is supported by a statement made by the EU at the UN Security Council on Somali Piracy. The EU representative encourages states to continue their contributions to the Trust Fund and calls UNODC-implemented programs “an example of successful coordination and cooperation between the EU, the UN and regional countries”, although recognizing that room for improvement exists (EU Delegation to the UN, n.d.). This observation is in line with EU’s positioning of the UN at the core of its conception of a multilateral order.

With respect to the second identified marker, it is difficult to establish a direct link between EU’s involvement in the CGPCS and the role of UN agencies as Trust Fund administrators and project beneficiaries. However, the fact that they were assigned with these responsibilities demonstrates that the resources and abilities of the UN are appreciated and utilized by its members and partners.

Norm Spreading

According to the 2015 Annual Report on the Trust Fund (2015: 11), one UNODC project focuses on guaranteeing prison conditions complying with international standards and human rights norms. This is a good starting point for the last proposed marker of multilateralism, namely the *spread of international rules and norms*. We argue that EU participated in the dissemination of certain norms through the CGPCS. In particular, we focus on norms contained in the United Nations Convention on the Law of the Sea (UNCLOS) and human rights standards.

UNCLOS itself is an attempt to regulate internationally sea-related matters. Interestingly enough, the EU is the only non-state actor to have ratified the Convention. This was done despite the fact that its Member-States are also parties to UNCLOS. Thus, the EU is required and expected to abide by the principles of the Convention. They are enshrined in a number of key EU documents on maritime issues – for instance, the EU Maritime Security Strategy. There, the full compliance with UNCLOS, as well as human rights standards, other treaties, etc. is listed as a guiding principle of the strategy and referred to as essential for “rules-based good governance at sea” (Council of the European Union 2014:5). Joining international bodies and international treaties into domestic law is a distinctive form of norm appropriation. Another form of norm spreading is encouraging other actors to embrace the respective norm as well.

An immediate example of how the Contact Group led to the expansion of UNCLOS is related to the criminal prosecution of captured suspected pirates. Here, we cannot present in detail the discussions on finding of a suitable method for prosecution. Suffice it to say, numerous options for prosecution were considered within the CGPCS: international and regional mechanisms, a piracy tribunal, hybrid courts

and informative SWOT Analysis of the Trust Fund. One of the strengths directly related to the Contact Group is that the Trust Fund enables it to “to take action via an effective funding and implementation mechanism” (2017:56).

and special chambers. One of the meetings of WG2 concluded that the most practical and acceptable model “would be a specialized/dedicated piracy chamber established within the existing domestic criminal justice system of one or more States and located in one or more States willing and able to undertake prosecution, including Somalia when this becomes possible” (Working Group 2 2009:4). Subsequently, several states in the region volunteered to try pirates in their domestic courts.

Seychelles was one of these countries and until the end of 2015 the number of pirates tried there was greater than in any other regional state (Malbrook and Uranie 2015). However, the process involved clarifying the legal foundations of counter-piracy trials. A praised output of the work of CGPCS (and WG2 in particular) was a legal toolbox to assist anti-piracy measures. An important element of the toolbox is the *Guidance for the Transfer of Suspected Pirates, Armed Robbers, and Seized Property to Seychelles*.¹¹ Furthermore, a comprehensive *Manual for Prosecutors* was published on the website of the Legal Forum. It contains extensive information about Somali history, relevant international law and a description of the entire process of capture, trial and transfer of Somali pirates, performed by the Seychelles.

Most importantly for us, in order to prosecute the pirates, the Seychelles had to amend its Penal Code, namely to expand the section on the crime of piracy. The Seychelles incorporated Articles 101 to 107 of UNCLOS,¹² which essentially represents transfer of international legal norms into domestic law. For instance, the Code amendments involved the application of the universal jurisdiction principle. However, the *Manual for Prosecutors* (2015: 40) also reminded that “the application of the Universal Jurisdiction principle to acts of piracy does not mean that the ‘normal’ rules for maritime law enforcement, the use of force, and international human rights law do not apply”.

Human rights standards concern the phenomenon of piracy in two ways. One of them encompasses the rights of suspected pirates, while the second one relates to the poor state of human rights in Somalia, aggravated by poverty, famine and humanitarian crisis. Here we are concerned with the first aspect, namely the rights that captured pirates are entitled to, among which right to free trial, prohibition of torture and cruel and inhumane treatment and capital punishment.

The EU and its Member-States have been consistently vocal on this issue. Compliance with human rights norms during transfer, handling and trials of suspected pirates occupies an important place in transfer

¹¹ The legal toolbox includes also a similar *Guidance for the Transfer of Suspected Pirates, Armed Robbers, and Seized Property to Kenya*.

¹² These articles contain definition of piracy, pirate ships, procedures for seizure of such ships, etc. The Seychelles are also not the only country to adopt UNCLOS regulations. Due to increase of piracy incidents in West Africa, Gabon has also decided to incorporate these regulations. For more information in this regard: <https://www.unodc.org/weandcentralafrica/en/gabon-maritime-crime-legislation.html>

agreements concluded between the EU and regional states.¹³ As one of the main achievements of the CGPCS, the EU discerns the “functioning judicial and legal chain in the IO region to end the impunity of piracy”, based on a “sophisticated web of actions, transfer and repatriation agreements” (EEAS 2014). Discussions within the Contact Group facilitated the conclusion of these agreements.

Furthermore, the studied communiques make it clear that the agenda of CGPCS, and especially WG2, frequently included human rights considerations. For instance, at the 13th plenary (December 2012), the Contact Group “encouraged WG 2 to develop best practices for ensuring the protection of human rights during the detention and prosecution”. During the 14th plenary (May 2013), the “CGPCS welcomed the thorough discussions of human rights issues in WG2 and the plans to share best practices in this field, including on how to handle children suspected of piracy”. The analysed available summaries of the work of WG2 confirm that the issue of human rights was repeatedly discussed.

These developments demonstrate the CGPCS could be considered a multilateral formation that stimulated the spread of concrete definitions (piracy and universal jurisdiction) and standards (human rights). We believe that with respect to the third marker, the Contact Group clearly emerges as a case of effective multilateralism. It has served as a forum where internationally agreed rules and procedures were discussed, diffused and promoted.

Conclusion

The materials we used for this study are not sufficient to explore in detail EU’s input into every activity of the Contact Group. However, this analysis of the nature and activities of the CGPCS allows us to describe it as a productive multilateral instrument. The active participation of the EU indicates its readiness to engage in multilateral solution-seeking initiatives. The environment created by CGPCS was utilized by the EU and other actors to discuss and propose counter-piracy actions. We also see the group as a formation that allows its participants to seek solutions, build alliances, fulfill interests, share experience and spread beliefs.

This paper does not claim to be comprehensive. Rather, we consider this a starting point for a more detailed research into the CGPCS, similar bodies, and state and non-state actors’ participation in such bodies. It was our goal to examine how the work of the CGPCS and EU’s participation in it fits into EU’s vision of effective multilateralism. We consider EU’s decision to enter the group and assume the presidency, as well as its input in initiatives that result from or are linked to the group’s activities, as evidence for both the multilateral character of the CGPCS and the EU’s pursuit of multilateral

¹³ As an example, see Art. 3(5), Art. 4(1), Art. 4(8) and Art. 5 of the “Agreement between the EU and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer.” Link to the Agreement is provided in the List of References.

approaches. The Contact Group fits with the understanding of effective multilateralism supported here, as it actively collaborated with the UN and utilized its capacities, and facilitated the dissemination of international norms.

A major direction for future research concerns the changes that the concept of multilateralism is and will be going through within the EU. The 2016 EUGS has left out the attribute *effective* when talking about multilateralism, but continues to stress its primacy as a guiding principle for EU's external action. However, the strategy also includes civil society representatives as potential partners in multilateral frameworks. It also talks about the "revamping" of external relations, of searching for "like-minded countries and regional groupings" (EUGS 2016:8). In a recent speech to the UN Security Council, the current High Representative Federica Mogherini stated that the EU is "turning this commitment to multilateralism into practice, on a daily basis" (Mogherini 2016). Recounting the work done by the EEAS in "different multilateral formats," she reminded that "(f)ormats can change, and institutions must be reformed" (Ibid.). This might be read as an attempt for greater flexibility of the multilateral approach, which takes into account the specificities of any situation and actors involved.

The increasing scope and altered nature of global threats suggest a difficult path ahead for international cooperation efforts. However, cases like that of the CGPCS raise hopes that the international community is still capable of finding creative, innovative and productive solutions to global problems.

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