THE INTEGRATED MARITIME POLICY OF THE EUROPEAN UNION IN THE CONTEXT OF THE NEW OCEANIC PARADIGM

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Abstract

The Integrated Maritime Policy (IMP) of the EU is included within the new maritime policy initiatives arisen in the last years both in developed and developing countries. This article claims that these initiatives are the response to the new challenges in the oceanic domain. The IMP is the European answer to the new oceanic order. In the global context, the IMP competes with other emerging countries with dynamic economies, whose competitiveness rests on not so rigorous social and environmental standards. On the other hand, this article underlines the importance of maritime policies for security, as they contribute to a better governance of the oceanic domain which, to a great extent, falls outside the jurisdiction of the States.

Introduction

At a global scale, oceans are attaining an ever growing protagonist role in the political agenda, although not yet proportional to the overall importance of marine basins in the world and to the nature of environmental conflicts. These circumstances roughly coincide with the turn of the century, which could therefore be taken as the milestone which separates two visions or concepts of the oceans. The old paradigm connected with the geographic discoveries, the establishment of colonial empires, and the alliance between commerce and naval powers is giving way to a model based on competitiveness, innovation and knowledge. This new vision implies a loss of strategic interest in the traditional activities and a shift towards new technologies, energy security and global leadership (Fig. 1).

In this context take place, and are to be understood, the few but important initiatives undertaken by various States, both developed and developing, from the beginning of the 90's and more extensively since 2000. (Fig. 2). The initiatives are wide-ranging: new strategic visions, development of policies or new ocean laws with an integrating spin, or the establishment of new institutions for the development of integrated governance. In general terms, these strategic, political, legal and institutional structures are aimed at understanding the new role of the oceans and the way the States lean on the maritime domain to face up new world challenges. For the international community, the last decade of the 20th century —the UNCLOS was implemented in 1994— was the culmination of the modern age of maritime tradition whereby the oceans are considered as «commons», ruled by the mare liberum *principle and a public action which balances the differences among States. Thus, the «Area» was declared a common heritage of mankind and the «Authority» and the «Enterprise» were established. But, in turn, the UNCLOS gave rise to* maritime nationalisms *extending jurisdictions and reducing the common spaces: the high seas and the sea bottom.*

Developed countries are shaping a new vision of the oceans different from the 19th century naval vision; the environment is now a key factor (sustainability and regulations based on ecosystems), food security is replaced by energy security, and international leadership is based on innovation, knowledge and new technologies rather than on the former naval power-trade expansion connection. Developing countries, particularly emerging economies or BRIC countries— Brazil has formulated pioneering political proposals —have developed a traditional maritime thinking (Mahan revisited) influenced by the huge importance of maritime commerce in their economies, the enormous size of their port facilities, and the potential of the maritime territory and its resources (extended continental shelf). Their maritime project is aimed at making up for past shortages and at the appearance of a new need: to build up a military naval power.

The European Union, with a maritime dimension of a planetary scale (economic and territorial) has an intricate network of maritime policies (Fig. 3). Its oceanic strategic vision is being developed by the 2007 Integrated Maritime Policy, perhaps the most ambitious and most advanced policy in the international scene, based on a wide variety of EU social and environmental principles and long range strategic goals. In such an internationalised realm as the maritime domain, the feasibility of the IMP is determined by European competitiveness in front of nations with a high birth rate but poor social and environmental standards.

In this sense, the aim of this article is to offer some IMP perspectives in relation to: i) The initiatives developed by a growing number of nations; despite being some commonalities, the different models of economic and political development and the geopolitical readjustment of the international

community create great differences in the construction of these new public policies - an overview and interpretation of the most relevant policies is provided. ii) The strengths and weaknesses of the IMP in relation to the goals sought after and the principles governing it. iii) The environment where the IMP is to be implemented, characterised by a deep transformation of the main political actors and international leadership; the IMP must be confronted with the oceanic vision of its major competitors, the emerging nations. iv) The security dimension linked to the IMP; this policy, by its very nature, exceeds the EU framework and must, demands to be considered across the global oceans (the high seas and the area) within the context of multilateral cooperation. A significant part of the security at a global scale depends on an effective governance of the oceans, but only a small part of the international community have the assets to enforce it.

Political initiatives for ocean management: its evolution

The formulation and implementation of marine policies is still a novelty. Its insertion within the governmental political agenda depends, to a great extent, on the significance each nation attaches to maritime issues, as well as the economic relevance of the oceanic resources to their societies and their geopolitical and geostrategic interests. Although the first oceanic management projects date from the late 60's (1) and early 70's (appearance of the integrated approach, environmental concerns, first national and international agreements —Regional Seas Programme and MARPOL Convention among other—), it is in the 80's and 90's when two main processes take place: the generation of a new oceanic legal framework (the UNCLOS) and the formulation of new policies according to a new paradigm based on sustainability and governance (2). From those policies, new political and legal formulae emerged in leading countries which could be very well deemed as the spearhead of oceanic governance; these included developed countries (Australia, Canada, United States) and some emerging nations (basically Brazil, China and India).

__Australia__ showed as of the early 80's a deep concern about oceanic management issues (3) and in 1998 outlined Australia's Oceans Policy (4); __Canada__, however, started with a key judicial instrument: the Oceans Act of 1996 followed by the Oceans Strategy of 2002 (5). The __United States__ has also shown interest in maritime issues and the management of maritime spaces (the Coastal Zone Management Act of 1972 is a case in point) and has recently passed the Oceans Act of 2000 and a national oceanic policy (6) which deals with a wide variety of maritime aspects, from management to conservation of marine resources, pollution, marine science support, commerce, transport and, of course, the US leadership role in oceanic and coastal

*activities (7). The three countries share some interesting aspects. Apart from their size and, above all, the extensive maritime zones under their respective jurisdictions, these countries have faced in the last decades many economic and environmental challenges and an ever growing responsibility in their maritime spaces. Thus, the environmental protection and the sustainable use of the ocean, together with the preservation of living marine resources, are vital motivations for the implementation of national maritime policies. Those initiatives are complemented by others from economically developed countries such as **New Zeeland** (still a project), **Japan** (the Basic Act on Ocean Policy of 2007 and Basic Plan on Ocean Policy 2008), or **France** (Livre bleu. Stratégie nationale pou la mer et les oceans, 2009) with solid planning and important legal or institutional support.*

*In less developed nations, the situations are diverse and heterogeneous. Some countries enacted laws in the 80's and 90's like the **South Korean** Marine Development Basic Act of 1987, and the National Marine Policy of the **Philippines** in 1994. Other nations have joined the process, not without difficulties (8), in later dates; examples are the Estrategia Marítima Nacional of **Panama** (2004), the Política Nacional del Océano y de los Espacios Costeros of **Colombia** (2007). The so called emerging countries deserve a special mention, as early developments appear amongst them (the Política Nacional para os Recursos do Mar of **Brazil** (1980) and the 1982 Ocean Policy Statement of **India**).*

The EU Integrated Maritime Policy: weaknesses and strengths

The Green Book (2006), the Blue Book (2007) and the Action Plan (2007) of the IMP establish as the main driving forces for the transformation and development of the maritime activities the innovation, competitiveness and knowledge, including aspects such as quality of life in coastal areas, governance and maritime heritage (Fig 4) within a public policy framework with the highest social and labour standards among the international community. The European oceanic vision is, as a consequence, an option that must be made compatible with the demand for competitiveness (one of the reasons which triggered the IMP), efficiency, innovation and a profound renovation of the maritime sector, which is a contradiction in its own terms: globalization and advanced social practices do not give the impression of being compatible nowadays. If this approach was questioned when formulated in 2007, the current financial and economic crisis insinuates new doubts on its feasibility. The IMP philosophy, tightly connected to innovation, knowledge and technological developments may result in a paradox: at the same time that those elements are an opportunity to reactivate and guide our economic sectors (including new sources of energy), the need for new investments (9) may turn it unfeasible or, at least, slow it down.

The EU IMP includes a series of actions (Action Plan) which offer responses to the great global challenges and their repercussion on the oceans (10). Most actions are not feasible without substantial investments, and the responses to the precariousness of the labour market and the degradation of social policies, such as reinforcing the maritime careers and the creation of new labour models (and quality employment) in the maritime sector, must be undertaken in an economic situation dominated by emerging nations. National responses like the ones contained in the French Livre Bleu *suggesting a kind of re-nationalisation of the merchant fleet given the social and environmental degradation of the maritime sector, though part of a broader European effort, may have an uncertain outcome. The great challenge of the IMP is therefore to reconcile the social and environmental principles with the demand of being competitive in a global scene spurred on new economic, political and maritime powers.*

The IMP within the global context: BRIC nations as emerging maritime powers

The European Union, thanks to its maritime tradition, economic influence and extension (around 24 million square kilometers) may be considered a maritime empire *(11), but the global scenario is giving rise to new actors which challenge its leadership and the very feasibility of the IMP, which will have to take into account the vision and maritime orientation of the new competitors.*

The so-called emerging nations are playing an important role in the sphere of international relations and the management of the oceanic space. The needs derived from their high economic growth rates and from the areas of abject poverty have conditioned the maritime development of these countries. It is especially noteworthy the case of the BRIC nations (Brazil, Russia, India, China), which are formulating maritime policies and naval strategies aimed at facing the new environmental, economic and security challenges in ever larger jurisdictions.

Except in the case of **Russia** *(12), which will probably try to restore its lost maritime capability as a great naval power, the other three (Brazil, India and China), which have already made political formulations applying to the maritime spaces, share certain features and try to establish ad-hoc institutions and rules, and implement policies in the maritime domain which may allow them to acquire a protagonist role which they are already assuming in economic and geopolitical issues. In this way, environmental challenges, the protection of sea lines of communication and the management of offshore resources, are important goals for the BRICS. The* **Brazilian** *Política Nacional para os Recursos do Mar (amended in 2005) proposed to underline the goal of sustai-*

*nability of maritime activities and the attainment of social related objectives (like job creation), complementing the goals of the Política Marítima Nacional of 1994 (development of a national maritime culture, rationalization and profit in maritime activities, environmental protection, and safeguard of national maritime interests). The current Oceanic Policy of **India**, on its part, is also based on the sustainable use of oceanic resources as a way to benefit society (13). The fourth of these nations, **China**, has tried to implement a sustainable marine management regime from the 70's on, coinciding with Deng Xiaoping's economic reforms and the creation of five Special Economic Zones in the coast. The serious demographic, environmental, energy (14) and natural disasters prevention problems in the sea-coastal sphere (which had already pushed for the National Marine Development Plan, 1994) have increased, and demand new instruments (China Oceans Agenda 21, White Book on the Development of Chinese Marine Issues) for efficient responses to economic development needs and improvements in the quality of life and maritime environmental issues which are dangerously beginning to get worse.*

In any case, it is a fact that the emergence of these powers in the international scene will result in a geopolitical and strategic reshuffle, a strong competition (commercial, industrial, naval) for the traditional powers and changes in the planning of the IMP. The EU will be forced to compete with nations where economic challenges and the search for international prestige have more weight than environmental and social-labour issues (more "permissiveness" in these two areas may force the EU to ease the conditions and restructure/adapt its maritime sectors), and where a more naval approach is growing again; something that the European security arrangements must take into account (15).

IMP and security

Security is intrinsic to IMP but with different angles; from defence (which is expressly excluded from this policy (16)) to food security (biodiversity, and illegal, undeclared or unregulated fishing), but with a vital core around security in shipping (European Commission: Third Maritime Safety Package, 2009). *All those angles concur in one general action: ocean governance (17). In this sense, the concept of security is tightly connected with ocean governance in the sense that power and capability to enforce it determine the feasibility of maritime economy, the wellbeing of the environment, the regeneration of living resources, the exercise of essential rights as free shipping and the access to overseas areas beyond national waters: rights and duties (States responsibility in the protection of common spaces) which demand universal rules to enjoy them and to sanction violators. To govern 40 % of the planet*

(18) made up of seas and oceans is a challenge the international community must face and is the main goal of maritime policies.

In so far as national maritime policies include all territorial waters of a State up to the exclusive economic zone or the external limit of its continental platform beyond 200 miles, they are included within the foreign action of the State since national rights and the rights of third States concur in those spaces. For this reason, oceanic issues have traditionally been connected with the exclusive action of the central State. Although this is being modified by the political decentralisation process and by an increasing use of the maritime spaces and their resources (19), the maritime environment is still being considered as a transition territory (from full sovereignty exercised overland to a free access space open to all nations) where many challenges and risks come from. For the European Union and its IMP this circumstance is considerably worsened since this political entity has the greatest oceanic projection of all the international community. As a consequence, «... the IMP cannot be limited to just a European policy» (20). Besides, it is not only a policy which clearly goes beyond the European continent and extends where EU nations have jurisdictional waters, but this policy and the EU institutions have important responsibilities in the governance of spaces outside the national jurisdiction. And this is, no doubt, a key security issue: the contribution to the governance of a large part of the planet (40% of high seas and their areas). The question of piracy clearly illustrates the reach of one of the issues that this responsibility should address, but it is not the only one if we keep to the above mentioned document, where the global oceanic challenges are dealt with (climate change, biodiversity, marine resources, shipping competition, naval shipbuilding and work regulations of marine labour force). With an international community which is mainly set up by States without proper assets and capabilities to intervene in oceanic issues, the EU is part of the limited group of political entities which can exercise the necessary governance of the oceans. The EU leadership and its security are linked to the maritime domain (21).

Maritime policies, as public policies generated and implemented by the States, have an internal angle —management of spaces and resources under national sovereignty— but there also exists a foreign angle, since the States must face the management of wider jurisdictional areas which demands more responsibilities and obligations with a view to the preservation of resources and environmental protection, and the security and integrity of such spaces (which in turn requires more international cooperation). In so far as they are «foreign policies», maritime policies are drafted and implemented based on specific values and expectations and they take into account the existing international reality of each moment. Nowadays, the international political agenda includes aspects which are ever more complex and interdependent; so much so that it is impossible to sort out topics like conflicts, security, economic

globalisation and the transnational progresses so characteristic of the global agenda (22). The most accepted discourse as regards to international relations exceeds the state centralised perspective and contemplates trans-border and global facts (23) (clear examples are marine environmental issues, management of migrant living resources, and shipping), incorporating «low politics» to the agenda (socio-economic issues, environment) although keeping alive the geopolitical concerns or «high politics» (power distribution, international leadership, assets for the control and security of national spaces) and, of course, the geo-economic concerns. In all likeliness, the current oceanic policies and strategies are well adapted to such an approach. (Table 1).

Paradoxically, although security and defence issues are not included in the IMP, it is in those fields were interesting advances are being made. There are existing examples in the EU like the European Security Strategy *(24) where different institutions and organisations (the Spanish Institute of Strategic Studies; Naval Warfare College; EU Institute for Security Studies, etc) are striving to assess the possibilities of implementing specific mechanisms for protecting the security of spaces and maritime activities; surveillance and protection missions have already been carried out successfully (ATALANTA operation). In this way, the ministries of Defence of the EU and their respectives Naval Staffs are in line with what other naval forces have been doing for some time (25). In the coming years we may likely witness the formation of, at least, three main pillars of the European oceanic management: an environmental pillar (Marine Strategy); a political pillar (the IMP itself) and a security and defence pillar (a naval security strategy?; an enhancement and reorientation of EUROMARFOR?) capable of facing wide-ranging tasks such as the protection of economic and technological flows; environmental protection; border control operations; or human relief (26) in catastrophes, all in harmony with a new and broader concept of security (27).*

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(1) In 1996 the USA passed the Marine Resources and Engineering Development Act which, among others, established the Commission on Marine Science, Engineering and Resources —or Stratton Commission—. This commission presented in 1969 its well known report Our Nation and the Sea.

(2) For an assessment of the most recent evolution regarding ocean Management see Smith (1994) and Vallega (2001 a, 1-20, 2001 b).

(3) This concern appears in legal instruments such as the Offshore Constitutional Settlement (1979) or the Coastal Waters Act (1980).

(4) See Commonwealth of Australia (1998).

(5) See Fisheries and Oceans Canada (2002).

(6) The US oceanic policy Project appears in the report An Ocean Blueprint for the 21st Century (US Commission on Ocean Policy, 2004; Tibbetts, 2005).

(7) The Oceans Act establishes the new ocean policy will promote «...the preservation of the role of the United States as a leader in ocean and coastal activities, and, when it is in the national interest, the cooperation by the US with other nations and international organizations in ocean and coastal activities» (Oceans Act of 2000, section 2.8).

(8) The feasibility of any oceanic Management programme or policy must take as it starting point a series of minimum requirements such as political will to undertake that strategy, a legal framework, sufficient economic-financial assets, social support, qualified technical teams (and specialized agencies) and appropriate technical-scientific information about the specific spaces where the policy is going to be applied. It is clear that the first four requisites constitute a basic environment without which the ocean policy would be unfeasible and unsuccessful. Unfortunately, in the less developed countries, to the difficulties inherent to the formulation, design and implementation of ocean policies, other structural deficiencies in legal, institutional, financial and political practicalities are to be added.

(9) In this sense, it is enlightening the US administration initiative known as Ocean Research Priorities Plan de la Joint Ocean Commission (2009) proposes an Ocean Investment Fund to identify sources of revenue and a budget for the coastal-marine environment.

(10) See Suárez de Vivero, Rodríguez Mateos (2010)

(11) See Suárez de Vivero (2007)

(12) The guidelines of the Russian maritime policy have been recollected in the Maritime Policy Document of July 2001 (cleared by the President of the Russian Federation, V.V. Putin, Nº Pr-1387).

(13) The opportunities that the sea offer for economic development and the need to extend coastal management proceedings further into the high seas brought about the so called Ocean Policy Statement of 1982. This document is based on the idea that the use of living and non-living marine resources must be done in a sustainable way and benefiting the entire society.

(14) Most of the Chinese maritime policies try to address the requirements of the Fast and enormous commercial and industrial growth of Chinese coastal regions since the economic reforms of the 80's. Just consider how to satisfy a growing energy demand, which has fostered the search for fossil fuels underneath the seabed and has favoured specific regulations on the matter (Regulations concerning the Environmental Protection in the Exploration and Exploitation of Offshore Petroleum, 1983; Mineral Resources Law, 1986, amended 1996, several laws dealing with the various Chinese maritime jurisdiction in 1992 and 1998). These initiatives in support of the development of offshore petroleum will also be incorporated into the new National Maritime Development Programme (2001-2010) where the maritime sectors, specially the oil industry, are starting to be considered pillars of the national economy.

(15) See Severiano Teixeira, N. (2009, 147).

(16) The IMP does not refer to defence and security explicitly. Through the analysis of the key documents that support its implementation it may be concluded that those who promoted this policy declined establishing a any sort of guideline or coordination mechanism affecting a touchy national sovereignty an issue as defence. Notwithstanding this, when addressing topics such as coordinating the Member States coast guards, establishing the (maritime) borders surveillance and control, fostering a European maritime transportation space without barriers (and secure) or promoting the European international leadership in maritime issues (Commission of the European Communities, 2007), it is quite clear that, one way or another, a more effective and firm approach to maritime security will be required (Howorth, 2009).

(17) There are different definitions of «governance». Koolman and Bavinck (2005) propose: «Governance is the whole of public as well as private interactions taken to solve societal problems and create social opportunities. It includes the formulation and application of principles guiding those interactions» and care for institutions that enable them». As far as «ocean governance» is concerned, we could define it as a set of rules, practices and institutions that interact at all levels to ensure equity and sustainability in the allocation and management of maritime spaces and resources (Mann Borgese, Baillet, 2001); that is to say, a sort of «govern-

mental system» which would take into account formal and informal rules, old and new power structures (both state and other social actors: environmental NGOs, marine resources companies, maritime labour force, …), efficiency and equity in the exploitation of natural resources, and mechanisms to resolve conflicts affecting the access to the oceans, more so taking into account that the problems are more acute when independent actors are involved (Friedheim, 199, 748),

(18) The high seas represent 64.2% of the oceans; the area 59.4%. The high seas cover roughly 40% of the surface of the Earth. See Suárez de Vivero, Rodríguez Mateos (2007, 199-200).

(19) See Suárez de Vivero, Rodríguez Mateos, Florido del Corral (2009)

(20) See Commission of the European Communities (2009, 3)

(21) A simple analysis of the major European economic activities related with the seas (energy production and supply, port activities, maritime traffic, fisheries) helps to understand that the lack of effective security instruments might cause a greater dependency and the possibility of economic choke , as well as EU alienation in international affairs.

(22) As explained by J. Nye (2003), there is not a unique and straightforward international agenda, but rather a multidimensional one where three complementary contexts partake: one where the military might is unipolar and almost hegemonic (which would include naval, defence and security maritime policies); a second one where the economic power is multipolar (that is to say, the realm of economic maritime policies and leadership); and a third one where relations are clearly transnational, beyond governmental control and where power is widespread amongst different actors (applicable to socio-economic and environmental issues).

(23) As mentioned in the Report on the Implementation of the European Security Strategy (European Council, 2008).

(24) See European Council (2003).

(25) For the US see Department of the Navy (2007); for Australia see Department of Defence (2000).

(26) See Ries T. (2009)

(27) A concept of security which, in the maritime environment, has materialised in international agreements for the peaceful use of the oceans (Degenhardt, 1985, 221-223), a proposal for control and reduction of naval weapons (Haydon, 1991), de-nuclearised or de-militarised areas (Pepper, Jenkins, 1985, 165-167; Glassner, 1990, 108-110; López-Reyes, 1998), and the fleets functional shift (Barnaby, 1993; Morgan, 1994).

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