Hybrid CoE Paper 32

Handbook on maritime hybrid threats, volume II: Contemporary scenarios and legal scans

Hybrid CoE

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Hybrid CoE Papers are finalized analyses of a topic related to hybrid threats, based on one or more research questions. They may be either conceptual analyses or based on a concrete case study with empirical data.

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The European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE) is an autonomous, network-based international expert organization dedicated to addressing hybrid threats. Hybrid CoE's mission is to enhance the security of its 35 Participating States, the European Union and NATO by providing expertise, training, and networks to counter hybrid threats. Its core values are excellence, integrity and respect. The Centre is located in Helsinki, Finland.

Contents

Foreword

In 2023 the "Handbook on Maritime Hybrid Threats" was updated to cover 15 scenarios and legal scans.[1] Much has happened since. Ships dragging anchors in the Baltic Sea and around Taiwan have caused numerous incidents of damage to Critical Undersea Infrastructure (CUI). The Russian shadow fleet has started to play an important role in feeding the war of aggression in Ukraine, drones have emerged as a persistent threat, and maritime militia manoeuvres have been tested. These threats may be seen as a series of tests: how does the method work technically, and what is the reaction of target states? Reactions to CUI damage have been mild.

Coastal states are gradually developing their interpretations of international law and joint operations in reaction to these threats. This has meant, for example, implementing Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) Article 25 as a solid ground to stop a vessel that is causing serious damage to CUI, even outside territorial waters. Operation *Baltic Sentry* was established as a NATO operation strengthening joint defences. Simultaneously, Russia aims to protect its shadow fleet by military means.

Sudden coordinated attacks against CUI, enforced by sabotage and cyberattacks on land, can cause cascading power transmission failures and other serious effects that paralyze entire societies. These can have serious societal, economic, and military consequences and would probably paralyse decision making in the affected states, the EU and NATO. In hindsight such an attack could be deemed comparable to an armed attack in its effects. Without clear evidence indicating the responsible perpetrators the targeted states would have difficulty in mounting an effective defence, and coalitions of states working through organizations such as NATO or the EU would probably be unable to respond.

Another risk to NATO's and the EU's credibility is posed by preplanned provoked escalation. It is foreseeable that a clash between a single NATO ally and a formidable opponent could lead to a de jure International Armed Conflict (IAC). The challenger may use the escalation as motivation for a limited military manoeuvre against this single state, create a fait accompli and then de-escalate to avoid provoking countermeasures such as the invoking of NATO's common defence. The presence of more allied flags could change the equation and provide the capacity to exercise escalation dominance with the support of allied states.

If these examples did not lead to an adequate and timely response, both would seriously challenge NATO's and its members' credibility as guarantors of security.

In 2026 the new "Handbook on Maritime Hybrid Threats" volume II was created to cover these most recent maritime hybrid threat developments. The aims are to:

- Challenge the earlier mainstream interpretation limiting jurisdiction of non-flag states to territorial waters and some exceptional cases.
- Point out the usefulness of making common interpretations among like-minded nations, especially where the legal framework is unclear.

1 See 'Handbook on Maritime Hybrid Threats: 15 Scenarios and Legal Scans', Hybrid CoE Paper 16, https://www.hybridcoe.fi/publications/handbook-on-maritime-hybrid-threats-15-scenarios-and-legal-scans/.

- Invite Euro-Atlantic states to enhance their national legislation to improve the ground for joint operations.
- Suggest NATO and the EU adopt a role in launching a status of alert when a coordinated attack is underway, but no attribution can yet be made. In the most serious cases this could change the legal setting, as states might face a threat equivalent to an armed attack. Proportionate countermeasures could then differ from those regarded as normal policing.

Briefly, this means introducing a legal escalation ladder and proposing 24/7 strategic readiness for intelligence-based coalition-level policing that can stop an imminent coordinated attack and reveal the perpetrators.

Unified interpretations of law, up-to-date national legislation, coordinated multi-flag operations, and shared situational awareness are key elements of the effective countering of hybrid actions and sanctions evasion.

To this end a group of scholars commissioned by Hybrid CoE has developed four sets of ad hoc escalatory scenarios involving shadow fleet vessels, drones and fishing vessels as platforms for launching hybrid attacks, each accompanied by a legal scan presented in a question-and-answer format. The scholars are:

- Dr **T.D. Gill**, Professor Emeritus of Military Law, University of Amsterdam
- Dr **James Kraska**, S.J.D., LL.M., J.D., Charles H. Stockton Professor of International Maritime Law and Chair, Stockton Center for International Law, U.S. Naval War College; Visiting Professor of Law and John Harvey Gregory Lecturer on World Organization, Harvard Law School
- Dr **Henrik Ringbom**, Professor of Maritime Law and the Law of the Sea, Åbo Akademi University, Finland, and Professor II (part-time) at the Scandinavian Institute of Maritime Law, University of Oslo
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The editors are very grateful to these experts for their difficult, insightful and even groundbreaking work.

Director of COI Vulnerabilities and Resilience in Hybrid CoE, Capt. (N) ret., Jukka Savolainen

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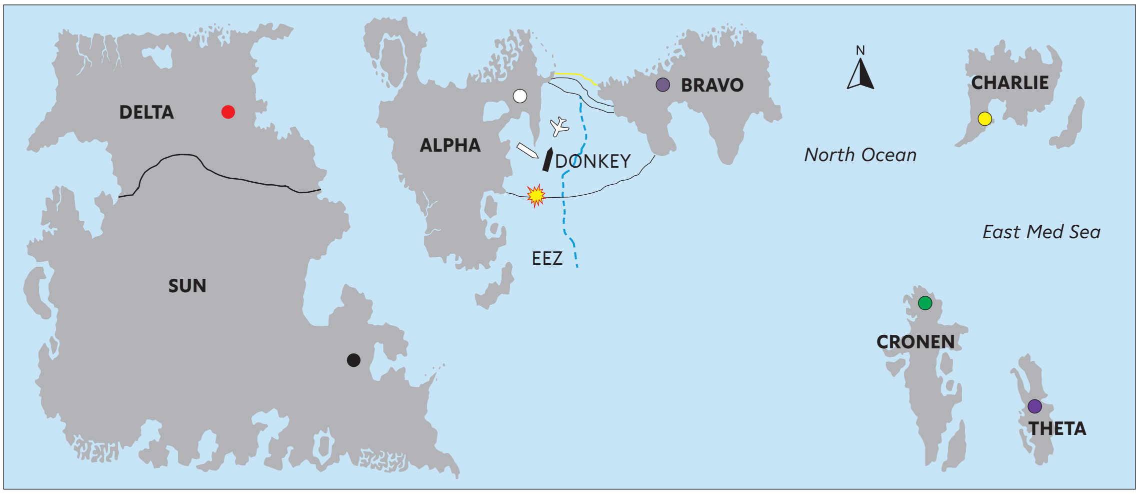
Scenario 1: Critical Undersea Infrastructure (CUI) disruptions

The following CUI scenarios involving nonmilitary vessels attacking, even in a coordinated way, subsea cables, power interconnectors and offshore infrastructure demonstrate a growing legal and operational challenge. The scenarios highlight the tension between the law of the sea, built around strong protections for freedom of navigation and exclusive flag state jurisdiction, and the increasing necessity for coastal states and their allies to act rapidly to prevent catastrophic damage to critical infrastructure.

MV *Donkey*

PHASE 1: Factual scene setter.



The telecommunication service provider *Saturnus Inc*. discovers that one of its cables between the countries **Alpha** and **Bravo** (both EU and NATO members) has lost connectivity.

The company informs **Alpha's** coast guard about the situation.

Patrols are sent to detect, identify and observe vessels passing through the area.

In **Alpha's** EEZ (Exclusive Economic Zone) a patrol flight detects the tanker *Donkey*, whose anchor is not in place. The anchor chain is down, so the anchor may be being dragged behind the tanker. *Donkey's* course and speed roughly match the assumption that it has damaged the cable. The coast guard observes that *Donkey* is approaching two other telecommunication cables connecting **Alpha** and **Bravo**. *Donkey* is flagged to **Sun**, a distant big power.

Donkey is contacted on VHF 16[2] by **Alpha** and is requested to stop, as it may be damaging undersea structures. It does not react to the request.

Legal scan

Q.1: Are there legal grounds for **Alpha** to request *Donkey*, which is navigating the EEZ, to stop?

A.1: Traditional interpretations suggest none of the exceptions to exclusive flag State jurisdiction under Part VII of UNCLOS is applicable in this scenario. While Article 58(2) of UNCLOS states that Article 110(1), on the right of visit, and Article 105, on the universal enforcement jurisdiction against piracy, etc., apply in the EEZ, there is no consensus on their interpretation in the context of scenarios such as the present one. For example, some scholars have argued that deliberate acts of sabotage against underwater infrastructure should be considered piracy within the meaning of Article 101(a)(ii) and therefore be subject to universal jurisdiction under Article 105. Others argue that submarine cables in the EEZ (or on the continental shelf) are not "property in a place outside the jurisdiction of any State" within the meaning of Article 101(a)(ii), interpreted in line with the object and purpose and drafting history of this provision, as well as its interpretation and application in state practice. Moreover, if the act of sabotage is attributable to a state (which may not initially be the case), it does not in any event constitute piracy given the requirement in Article 101(a) that the act be committed "for private ends".

Nor do traditional interpretations give coastal states enforcement jurisdiction in relation to the damaging of submarine cables under Parts V and VI of UNCLOS. More recently, however, some scholars have challenged such interpretations, observing that the right of coastal states to protect their cables and pipelines represents a gap in UNCLOS. According to these scholars provisions that may assist in plugging this gap include the duty of states to have due regard to the rights of coastal states in their EEZ (Art. 58(3) and various provisions related to the coastal state's jurisdiction over its continental shelf (Arts 79 and 81). If the anchor itself causes significant damage to the marine environment or natural resources in the EEZ or continental shelf, these scholars suggest enforcement jurisdiction could be based on Arts 56(1), 73 and 79(2). At the time of writing, however, these interpretations were not yet widely accepted or reflected in state practice.

Yet **Alpha** and **Bravo** may in any event request (meaning compliance is voluntary) *Donkey* to stop and tend anchor to avoid further damage. This would not amount to a violation of UNCLOS Arts 58(1), 58(2), 92(1) (compare Enrica Lexie Award[3]). They may also contact the flag state **Sun** to assist or even to consent to forcible non-flag state measures if *Donkey* does not observe the request.[4]

Q.2: Are there legal grounds for **Alpha** to force *Donkey* to stop? Are there legal grounds for **Alpha** to board the vessel, inspect its crew and collect evidence? If there are any such legal grounds (forced stopping, boarding, inspecting, and collecting evidence), are they also valid regarding country **Bravo** and its authorities?

A.2(a): Preventive measures:
As stated with respect to Question 1, at least under traditional interpretations of UNCLOS **Alpha** and **Bravo** would lack enforcement jurisdiction in **Alpha's** EEZ regarding damage caused by *Donkey* to submarine cables. However, with respect to stopping *Donkey* in the absence of cooperation by *Donkey* and/or its flag state **Sun**, there is a growing view in the literature and state policy that affected coastal states (in this case, **Alpha** and **Bravo**) may take the enforcement measures necessary to prevent damage to submarine cables. The

2 VHF Channel 16 (156.8 MHz) is the international maritime distress, safety and calling channel.

3 See Republic of Italy v. Union of India (Enrica Lexie Incident), PCA Award, 2020, https://pca-cpa.org/en/cases/117/.

4 One might also consider Article X of the 1884 Convention, which appears to contemplate certain protective measures in analogous situations; its relevance is limited, however, as it is unlikely to reflect customary international law, notwithstanding some supporting state practice.

legal basis for this right remains doctrinally obscure, with the most common view based on the customary international law doctrine of the state of necessity reflected in Article 25 of ARSIWA. According to this view **Alpha** and **Bravo** would be permitted to order *Donkey* to stop and heave anchor if this was the only way to prevent additional damage, and if such damage could be classified as a "grave and imminent peril" against an "essential interest". While the geographical and temporal frames for taking preventive action on this basis are not settled in international law, the exceptional nature of the state of necessity defence suggests that purely preventive action based on a mere possibility of damage would not be permitted.

If *Donkey* did not comply with the order and the danger of further damage remained, **Alpha** and **Bravo** would still be permitted based on a plea of a state of necessity to take the measures necessary to induce *Donkey* to stop and heave anchor, which, depending on the circumstances, could include boarding and seizing control of the vessel to prevent damage.

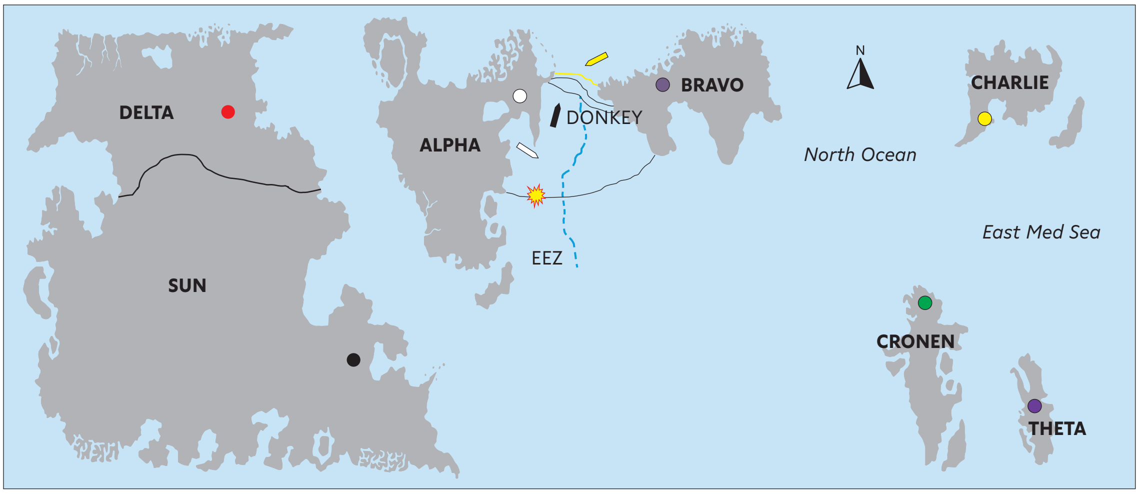
A.2(b): Enforcement measures:
Whether **Alpha** and **Bravo** would also be permitted to take repressive law enforcement measures on board *Donkey* is less certain. While the state of necessity, which concerns the prevention of harm, would normally be limited to measures to ensure the risk of further damage is eliminated, other rules regulate the right of states to take (criminal or administrative) enforcement and adjudicative measures against ships. Regarding enforcement jurisdiction generally, reference may be made to what was stated in relation to Question 1. Enforcement jurisdiction and adjudicative jurisdiction, however, do not always coincide in the law of the sea. Situations may therefore arise in which the coastal state does not initially have enforcement jurisdiction at sea, but may nonetheless exercise adjudicative jurisdiction over the relevant incident – for example, following a lawful extradition of the accused perpetrator to this state.

Adjudicative jurisdiction, including its geographical extent, is normally governed by national laws and based on principles of general international law. However, an exercise of adjudicative jurisdiction may be prohibited by certain rules of international law and restricted to certain states. For the present purposes in the event of collisions or "incidents of navigation", Article 97(1) provides for exclusive adjudicative jurisdiction of the flag state and the crew's state of nationality. It is contested whether the events outlined in the scenario may be considered an "incident of navigation". While supporters of a broad definition of "incident of navigation" would consider the accidental or negligent dragging of an anchor while navigating or manoeuvring the vessel to fall squarely within the scope of Article 97(1), supporters of a narrower interpretation would focus on whether the anchor was intentionally used in manoeuvring the ship at that moment. Regardless of this point of contention, a growing number of scholars consider that the exclusive right of the flag state to exercise adjudicative jurisdiction over a vessel under its registry can hardly extend to acts of *deliberate* sabotage, possibly even involving the flag state itself.

Article 113, which is the only provision dealing specifically with damage to cables, includes obligations for the flag state and states of which the perpetrator is "subject to its jurisdiction" to take legislative measures to address damage to cables and pipelines caused "wilfully or through culpable negligence". While some scholars consider "subject to its jurisdiction" to refer to the state of nationality (in line with the parallel logic of Art. 97(1)), others have a broader understanding that includes other bases of jurisdiction, resulting in obligations of other states. In any case Article 113 does not, like Article 97(1), include a prohibition of other affected states taking adjudicative measures against persons responsible for damage to cables or pipelines. This means other bases of jurisdiction under general international law could be a basis for such adjudicative actions by other states affected by the damaged cable or pipeline, as long as the incident is not covered by Article 97(1).

In the present case the fact that the damage occurred in **Alpha's** EEZ and continental shelf could provide additional jurisdictional grounds for it to take measures in certain circumstances, as indicated in the answer to Question 1 above.

PHASE 2: Charlie considers potential measures to stop *Donkey*



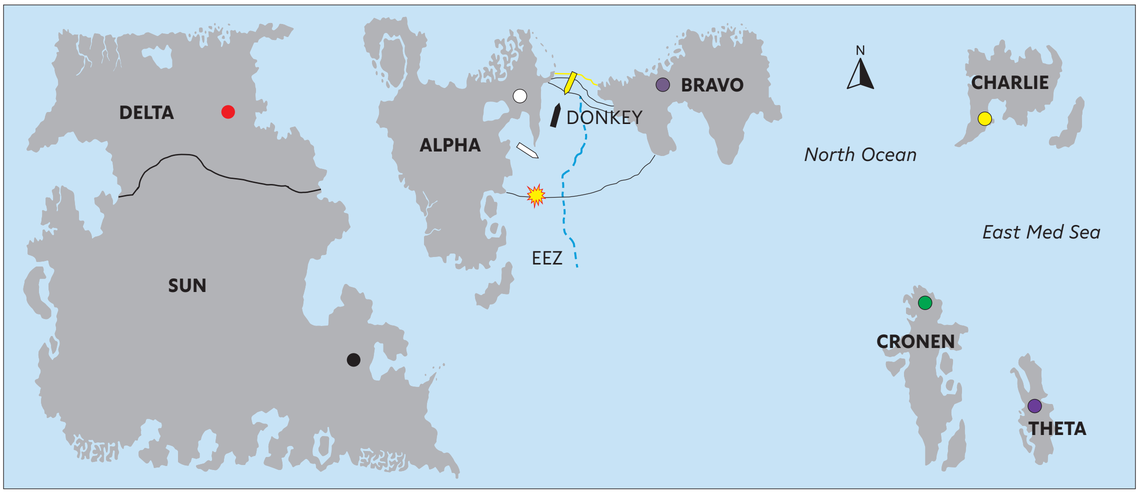
The damage of cables between **Alpha** and **Bravo** affects these countries because they are beneficiaries of the service. As described in Phase 1, they have some legal grounds at least to act to prevent further damage. If the nearest suitable enforcer at sea is a warship flagged to NATO ally **Charlie**, the best effect would be guaranteed if that vessel took the measures.

Legal scan

Q.3: Can **Charlie** assume the same rights and take the same measures on behalf of **Alpha** and **Bravo** to stop *Donkey*? Can **Charlie** take measures of its own volition? Would a request from **Alpha** or **Bravo** be sufficient to justify the measures?

A.3: Generally speaking, states may request other states' assistance in taking enforcement actions at sea. Numerous "shiprider agreements", which involve placing duly authorized officers of one state on the enforcement assets of another, exist for this purpose. In the absence of such agreements there is also the possibility of other forms of enforcement cooperation (for example, through bilateral or multilateral treaties). If such cooperation was catered for, both domestically and either bilaterally with **Charlie** or within their NATO arrangements, **Alpha** and **Bravo** could request the warship flying the **Charlie** flag to take measures on their behalf. In that case the jurisdictional rights and obligations of the requesting state **Alpha** or **Bravo** would apply to those enforcement measures. A one-off request to the warship without formal support from the states would not have the same effect but would probably suffice for authorizing enforcement actions. The request's endorsement in the respective states' domestic legislation would also be necessary.

PHASE 3.1: Charlie stops *Donkey*



Based on a request from **Alpha**, the **Charlie**-flagged warship forces *Donkey* to stop. The ship faces a delay of a week. **Sun** protests and supports the shipping company's claims for financial compensation.

Legal scan

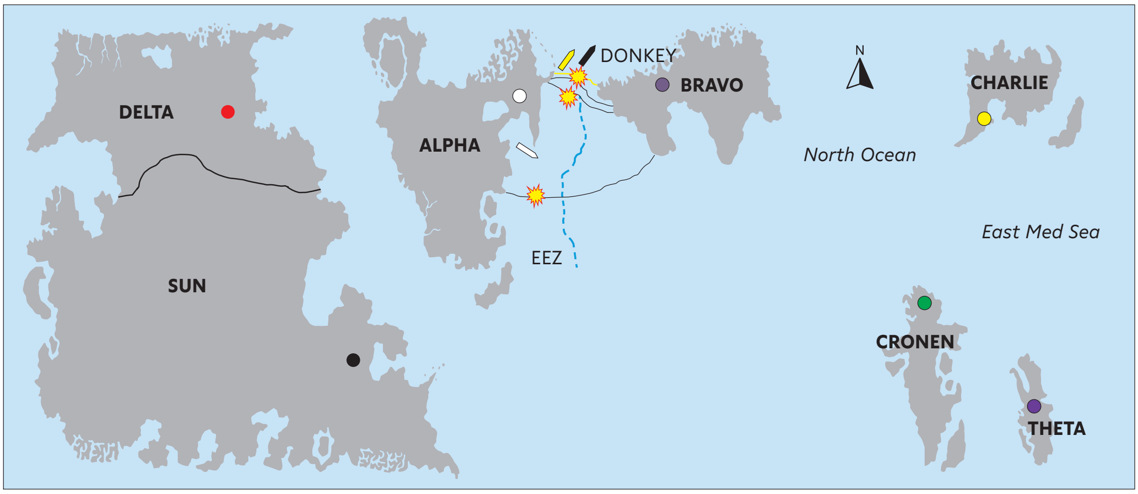
Q.4: Can **Charlie** or **Alpha** be held responsible? If so, against whom and in which instances should compensation claims be addressed?

A.4: According to the scenario it was not the flag state **Sun** but the shipping company operating *Donkey* that seeks financial compensation for the delay caused by the stopping of *Donkey* by a **Charlie** warship at **Alpha's** request. The claims at issue are thus not based directly on international law but typically on the domestic law provisions concerning state liability for the conduct of government authorities. The chances of such claims' success therefore depend largely on the domestic legal system of the state in which (and against which) the claims are litigated. It is typically most appropriate to direct the compensation claim at the state responsible for the enforcement action taken (here: **Alpha** – compare Art. 6 ARSIWA), not the state which has merely rendered the enforcement assistance (here: **Charlie**), unless the compensation claim is based on the assisting state's particular conduct that cannot be attributed to the requesting state (for example, excessive force far beyond what was requested: compare Art. 7 ARSIWA).

Additionally, it is possible for the flag state to make a claim against the states involved in the interception based on there having been no violation of UNCLOS. The notion of compensation for unfounded and/or illegal interception may be found in various UNCLOS provisions, though none is directly applicable to this scenario (e.g. Art. 110(3), Art. 111(8), Art. 106, Art. 232). Moreover, the right of the injured (flag) state to claim restitution, including compensation where appropriate, is well established under customary international law, as reflected in ARSIWA. If the states involved are UNCLOS states parties, this claim could be made under Part XV of UNCLOS before an Annex VII arbitral tribunal or, if there are matching declarations of the relevant states under Article 287(1) of UNCLOS, to the International Tribunal for the Law of the Sea, the International Court of Justice or (unlikely in this scenario) a special arbitral tribunal under Annex VIII. As freedom of navigation (Art. 58(1) UNCLOS) and exclusive flag state enforcement jurisdiction (Art. 92(1) UNCLOS) in the EEZ are rights of the flag state itself, not of the vessel, there is (based on the jurisprudence of the International Tribunal for the Law of the Sea (ITLOS[5])) no need first to exhaust local remedies in domestic proceedings under Article 295 of UNCLOS. Nor would such a claim fall under any limitations of or exceptions from compulsory jurisdiction under Article 297 or Article 298 of UNCLOS respectively. The mere fact that a warship was involved in the enforcement activity does not render the operation "military activities" under Article 298(1)(b) of UNCLOS (which would, moreover, require declarations of **Alpha** and **Charlie** under that provision).

5 ITLOS is an independent international court established under the United Nations Convention on the Law of the Sea (UNCLOS) to adjudicate disputes concerning the interpretation and application of UNCLOS. See International Tribunal for the Law of the Sea, 'The Tribunal', https://www.itlos.org/en/main/the-tribunal/the-tribunal; and United Nations Convention on the Law of the Sea, 1982, https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

PHASE 3.2: Charlie does not stop *Donkey*



Instead of the development in Phase 3.1, the **Charlie**-flagged warship requests instructions through its national chain of command. Active measures are not supported because of legal, political and financial risks. The warship remains in the vicinity of *Donkey*, observing and documenting its voyage but not commanding or compelling it to stop. This results in further damage to two telecommunication cables and one power cable. This case is later critically analysed within NATO: **Alpha**, **Bravo** and **Charlie** are all formally involved in a joint NATO operation whose aim is to protect undersea infrastructure against damage. The political will becomes clear: in future operations the nations should be fully prepared for mutual support and take enforcement measures on each other's behalf.

Legal scan

Q.5: What can be done to improve operational readiness? How can **Charlie** be assured that it can safely take enforcement measures on behalf of **Alpha**? Could the NATO operation's Rules of Engagement contribute to resolving the issue? Should some legal bases and procedural arrangements be legislated at national level?

A.5: Several steps should be taken to improve a coordinated and timely response.

First, the cooperating states (**Alpha**, **Bravo** and **Charlie**) should adopt, where this has not yet been done, national legislation that allows their respective coast guard/naval vessels and aircraft to conduct maritime interception (stopping, boarding and diversion) of nonstate vessels engaged in deliberate or reckless acts that damage, or are likely to damage, CUI. Such legislation should contain provisions empowering the cooperating states' public vessels to act on each other's behalf (either by themselves or by reference to an international agreement to that effect). The legal basis or bases for the Maritime Interception Operations (MIO[6]) can include emergency action based on the customary international law rule reflected in Article 25 of ARSIWA in relation

6 Maritime Interception (or Interdiction) Operations (MIO) is an operational term referring to various types of operations involving interception, boarding, and in some cases inspection and arrest of vessels outside the context of naval warfare. It can include law enforcement, enforcement of (UN) embargoes and sanctions, and other related types of operations involving interception at sea that are not conducted in the context of the exercise of belligerent rights during an armed conflict.

to data and telecommunication cables, or enforcement jurisdiction in relation to offshore resources or marine pollution, depending on the type of infrastructure in question and the circumstances.

If the MIO is based on Article 25, the remedial action will be limited to halting ongoing or impending damage by the offending vessel (see answer to Question 2). In exercising potential jurisdiction over natural resources or marine pollution, the vessels conducting the MIO could arrest the offending vessel, escorting it to port for inspection and adjudication by a competent court.

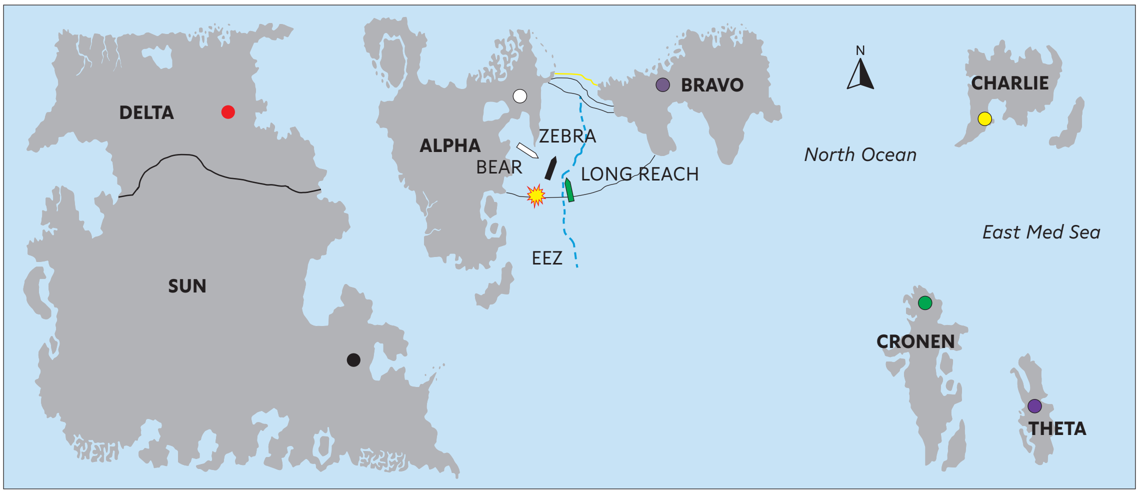
In such a case any law enforcement cooperation between states would require a clear allocation of authority to exercise jurisdiction on each other's behalf and instructions on how to conduct the investigation, arrest, and transfer of the detained vessel and its executive officers to the partner state's custody in accordance with its national law.

Alongside these steps the cooperating states, acting either trilaterally or through NATO, would need to adopt operational directives such as Rules of Engagement (ROE)[7] setting out how to conduct the operation in accordance with legal and navigational safety requirements. As such MIOs are conducted under the "law enforcement paradigm", they should reflect the requirements set out in applicable human rights instruments on the use of force, and the navigational safety requirements provided for under the law of the sea and maritime law.

7 Rules of Engagement (ROE) are operational directives issued by a higher authority to operational commanders on a mission's objectives (mandate), the permissible application of force and its application's modalities. They reflect operational, policy and legal considerations, but are not legal instruments in themselves, though violation of ROE can have disciplinary or legal consequences for the person(s) responsible.

MV *Zebra*

PHASE 1: Factual scene setter



Cronen (non-EU, non-NATO) accuses NATO of preparing to block free navigation along its coast. **Cronen** announces that its navy will start protecting merchant shipping bound in and out of its main port.

Underwater cables between **Alpha** and **Bravo** are again damaged, and the **Sun**-flagged tanker *Zebra* is found with its anchor dropped in **Alpha's** EEZ, its speed and course matching the earlier damage. A **Cronen**-flagged destroyer, *Long Reach*, follows *Zebra* closely. The **Alpha** authorities call *Zebra* on VHF 16 and request it to stop, as it is probably dragging its anchor. Simultaneously, they prepare to stop the vessel.

Zebra does not respond to the calls and maintains its course and speed. An **Alpha** coast guard offshore patrol ship *Bear* approaches *Zebra*.

As *Bear* approaches *Zebra* and requests it to halt, *Zebra* calls *Long Reach* on VHF 16 for assistance against an imminent attack. *Long Reach* calls *Bear* and warns it not to unlawfully interfere with free navigation outside **Alpha's** own territorial waters.

Legal scan

Q.1: Does the presence of **Cronen's** warship *Long Reach* change the legal setting, or can Bear start compelling *Zebra* to stop?

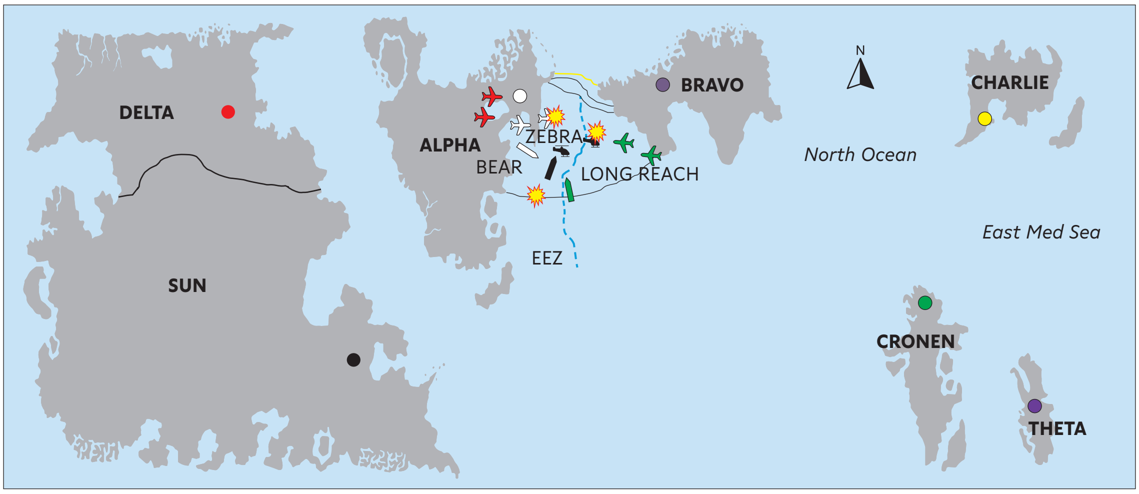
A.1: The presence of the **Cronen** warship does not alter the legal setting. Assuming there is clear evidence that the tanker is (probably) engaged in damaging the CUI in **Alpha's** EEZ, **Alpha** has the right to take the necessary action to halt ongoing or prevent impending damage to data or communication cables based on the customary international rule reflected in Article 25 of ARSIWA (see Phase 1) or to exercise jurisdiction based on the law of the sea provisions in relation to natural resources, depending on the type of CUI in question (telegraph cables, power cables traversing the sea, or cables and pipelines connected with offshore infrastructure) and the factual context, as set out above. If it has entered into cooperation agreements with partner states (**Bravo** and **Charlie**), they can assist or act on **Alpha's** behalf pursuant to these agreements.

The presence of the **Cronen** warship does, however, alter the operational and political situation. If the **Cronen** warship is likely to take forcible action to impede the exercise of the MIO by the coast guard vessel, it would make sense from both a policy and operational perspective to provide sufficient support in the form of vessels/aircraft to enable the MIO to proceed without interference. A failure to carry out the operation successfully, or the creation of an armed fait accompli, would probably represent a worse outcome than refraining from attempting to intercept the tanker without a reasonable chance of success.

Q.2: Does *Long Reach's* announcement change the legal situation?

A.2: The warning issued by the **Cronen** warship does not alter the legal situation in relation to the tanker's MIO. Assuming there is clear evidence that the tanker is engaged in damaging the CUI in **Alpha's** EEZ, Alpha has the legal authority to proceed with the MIO. The warning by a **Cronen** warship makes it likely that the damage to **Alpha's** CUI is attributable to **Cronen** because it is either directing the unlawful conduct (damaging CUI) or has adopted it as its own (compare Art. 8 and Art. 11 of ARSIWA).

PHASE 2.1: Alpha boarding of *Zebra*



Alpha decides to act. Two helicopters approach the scene and prepare to board *Zebra*. *Long Reach* calls *Bear* on VHF 16, claiming that *Bear* is attacking and issuing a warning of use of force. Simultaneously, it makes an aggressive manoeuvre and collides with *Bear*. *Bear's* bow hits the left side of *Long Reach's* hull. *Long Reach* sends out a mayday, calling for help because it has been rammed by an **Alpha** coast guard vessel. Shortly afterwards *Long Reach* warns the **Alpha** helicopters not to approach, and it fires a few rounds of warning shots. One helicopter is hit and taken down into the sea. The other remains in the vicinity to search for possible survivors.

Two **Cronen** fighter jets fly over the scene and start circling the vessels. This takes them into **Alpha** and **Bravo** airspace several times. **Delta**, a NATO country, is supporting **Bravo's** air surveillance, and two of their jets approach the area. **Alpha** also sends its fighter jets in a demonstration of territorial integrity.

Long Reach calls on an international aviation emergency channel: "This is *Long Reach*, unlock your radar." It fires an AA missile that hits one of **Alpha's** jets. The jet goes down, and the pilot is killed.

Legal scan

Q.3: Is there an IAC between **Alpha** and **Cronen**? If so, from when (the ramming, the downing of the helicopter or the downing of the plane)? What could be the next measures? Casualties and damage occurred between only **Alpha** and **Cronen**. Is NATO automatically involved in this conflict, or is it a bilateral issue between **Alpha** and **Cronen**?

A.3: First, the question of the existence of a legal basis for **Cronen's** and **Alpha's** actions must receive attention.

Alpha's conducting of an MIO in international waters (**Alpha's** EEZ) based on either customary international law reflected in Article 25 of ARSIWA or coastal state jurisdiction in relation to natural resources or artificial installations (if the cable was connected to offshore installations such as offshore wind farms or oil platforms) is a lawful exercise of government authority and cannot plausibly be classified as an armed attack on either the tanker's flag state or **Cronen**.

Long Reach's forcible interference with the MIO therefore lacks any legal basis, and the threat and subsequent use of armed force illegally interfere in **Alpha's** lawful exercise of preventive rights or jurisdiction, violate the immunity of **Alpha's** coast guard vessel (Article 58(2) in conjunction with Article 96 of UNCLOS) and constitute a breach of the prohibition of the use of force under Article 2(4) of the UN Charter.

Long Reach's ramming of the coast guard vessel is unlawful, but on its own it falls short of an armed attack under Article 51 of the UN Charter unless it is likely to cause serious damage.

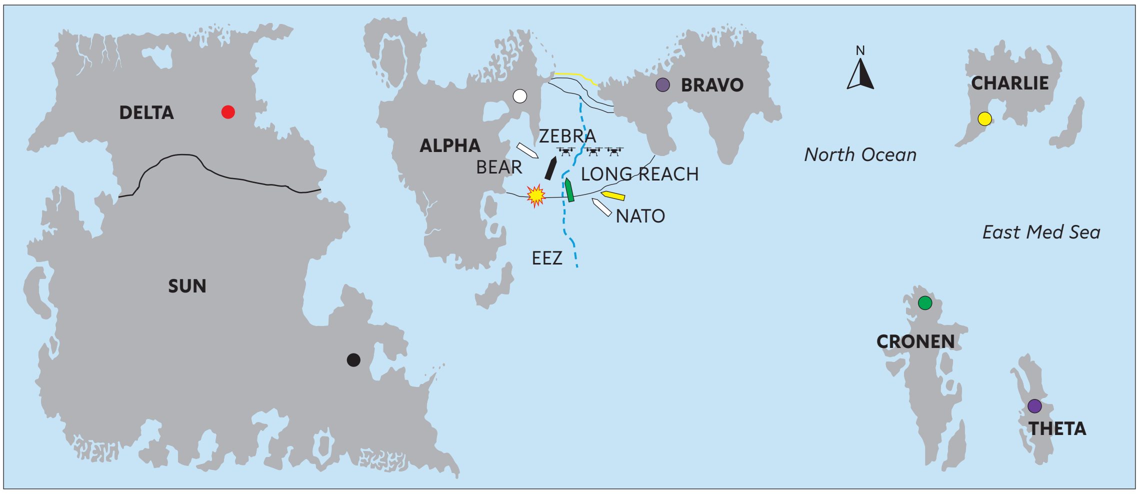
Opening fire on the helicopters, however, is a clear breach of the prohibition of the use of force, and the dispatch of the **Cronen** fighter jets and the downing of the **Alpha** fighter jet together constitute an armed attack under Article 51 of the UN Charter, which allows necessary and proportionate defensive measures.

If **Alpha** and the states cooperating with it had reached a previous agreement regarding mutual support in the event of an armed confrontation with **Cronen**, any or all of them could exercise the defensive measures based on the collective right of self-defence under Article 51 of the UN Charter and customary international law. This would also be the case if NATO had determined that an armed confrontation between **Alpha** and **Cronen** would trigger Article 5 of the NATO Treaty. Such a determination could be reached provisionally in advance or after the armed confrontation. In the case of a prior determination dormant ROE could be adopted that would empower the cooperating states to assist each other if the trigger event occurs.

While opinions differ as to whether maritime or aerial incidents that are limited in their temporal and geographical scope trigger an IAC under the international humanitarian law/law of armed conflict (IHL/LOAC), the rules of IHL applicable to the situation would in any event apply for the duration of the incident. Persons shot down or engaged in the rescue of survivors are therefore immune from attack, as long as they do not engage in a hostile act.[8]

8 Jann Kleffner, 'Human Rights and International Humanitarian Law: General Issues', in T.D. Gill and D. Fleck (eds), *The Handbook of the International Law of Military Operations*, 2nd ed., Oxford University Press (2015), 35–62 on p. 38.

PHASE 2.2: Alpha boarding of *Zebra*



The same factual scene as set out above applies, but in support of the coast guard ship *Bear* there is a warship of the same nationality (**Alpha**) and a **Charlie** warship. Both warships are participating in the NATO operation to protect critical infrastructure.

Bear gives *Zebra* the command to stop, while the warships remain silent but in position to offer support if required. NATO surveillance drones are also in the vicinity, and they continue to record the events.

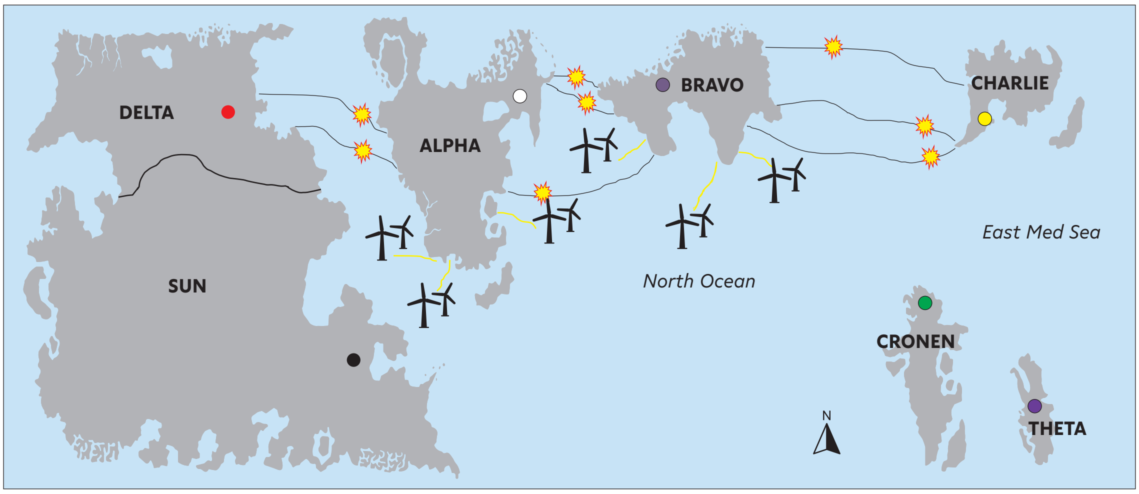
Legal scan

Q.4: Compared with phase 2.1 above, does this multinational task force's presence change the deterrence posture and possibly prevent *Long Reach* starting its aggressive manoeuvring? Does this increase the risk of **Cronen** facing a coalition of nations or even the whole of NATO? How should different units express themselves tactically to improve deterrence (should the warships engage in the situation by radio)? Could the allied state **Delta's** fighter jets produce similar benefits, and how should they engage in the situation?

A.4: The questions posed above are operational- and policy-oriented, not legal in nature. Essentially, the presence of additional assets to support the coast guard vessel in its task would be likely to change the equation and provide **Alpha** and the states cooperating with it the capacity to exercise escalation dominance: to be in a position to deter or exert superior force if necessary in the event of an armed incident. Provided the force posture is not provocative and confined to conducting the mission of protecting the coast guard vessel from unlawful interference, it is perfectly lawful to offer support and signal a resolve not to countenance unlawful interference.

Coordinated attack against Critical Undersea Infrastructure (CUI)

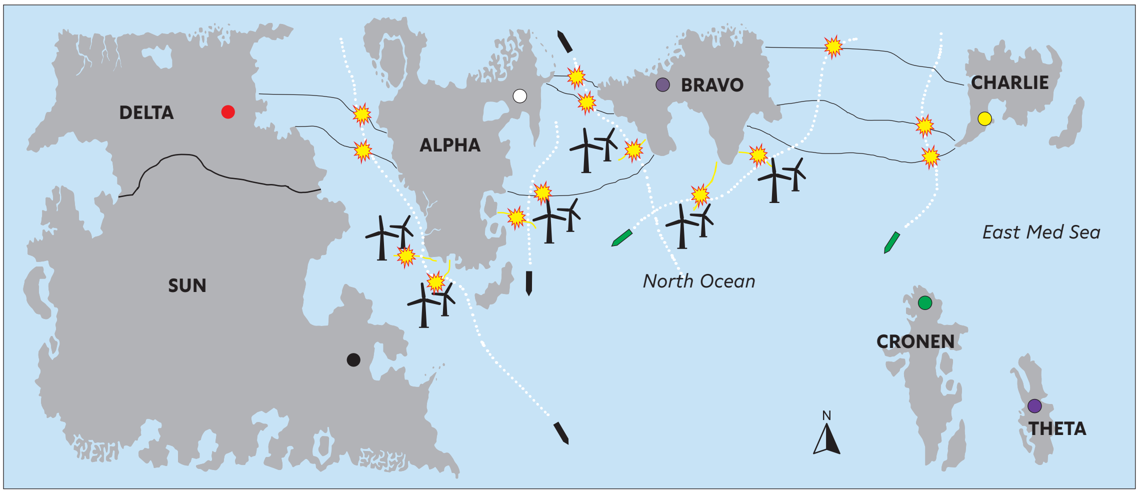
PHASE 1: Factual scene setter



One night several undersea telecommunication cables in the North Ocean, as well as in the East Med Sea, connecting mainly **Alpha**, **Bravo and Charlie**, lose connectivity.

By 09:00 CET, cable operators' reports indicate a total of **eight cable failures**.

PHASE 2: Attacking wind farms in the North Ocean



At 10:00 CET media reports show that the electricity grid is partly down in the **Alpha** and **Bravo** area.

By noon the disturbances seem to have increased, and the reason for the grid malfunction is reportedly the almost simultaneous damage to power supply lines from the **North Ocean wind farms**.

Intelligence reveals some **shadow fleet ships** in the vicinity of undersea telecommunication cable hubs in both the North Ocean and East Med Sea. In some cases these ships' crews are mainly **Cronen** nationals; in others their nationality is uncertain. The ships are not properly insured. They may be regarded as potential threats against infrastructure.

Legal scan

Q.1: Can randomly stopping and searching vessels or based on intelligence-related suspicion be legally justified in the given situation, and what would be the legal basis, if any? Would a NATO or EU (or mutual) issued statement about a possibly ongoing attack against European and Euro-Atlantic infrastructure facilitate the legal considerations of individual states?

A.1: Based on the given facts, the interception and taking of any law enforcement measures aimed at securing CUI from further damage would be justified under the legal bases outlined in the *Donkey* and *Zebra* cases above, though enforcement jurisdiction exists more clearly in the present scenario with respect to the power cables connecting the offshore wind farms. Damage to offshore power cables provides the coastal state, within whose maritime zones the offshore wind farm connected with the relevant power cable is located, with both prescriptive and enforcement jurisdiction to take measures, including the arrest of vessels engaged in such activity in their EEZ or on their continental shelf.[9] Damage to data and communications cables would allow MIO based on Article 25 of ARSIWA.

A coordinated set of incidents aimed at the disruption or destruction of CUI with (potentially) severe and protracted effects

9 See Third Interim Report, ILA Study Group on Cables and Pipelines under International Law (2024. paras. 65–68, pp. 22–23, affirming that coastal states have jurisdiction over non-living resources as recognized by the International Law Commission in its Draft Articles on the Law of the Sea 1956, 'Articles Concerning the Law of the Sea with Commentaries' in *Yearbook of the International Law Commission*, Vol. II, p. 265 at 297. The ILA report also refers to the *Arctic Sunrise* Arbitration (Netherlands v. Russian Federation) Award on the Merits, PCA Case No. 2014–02, 14 August 2015 paras. 324–326 and 314, where the Tribunal affirmed that coastal states have jurisdiction over activities that affect the exploitation of non-living resources. The report is available at https://www.ila-hq.org/en/documents/ilathi-1.

could constitute an armed attack under Article 51 of the UN Charter and would justify the taking of defensive measures to halt the attack. This could include the interception, boarding and diversion to port of vessels reasonably suspected deliberate sabotage of CUI. Where necessary, such measures could involve the use of graduated and proportionate force to halt vessels engaged in harmful sabotage of CUI. This could include warning shots, disabling shots, nonconsensual boarding, and in the last resort (potentially) lethal force in the event of armed resistance or interference. In such a case the states could act collectively based on Article 5 of the NATO Treaty. Article 42(7) of the EU Treaty also expresses a mutual assistance commitment, but as it only applies to the territory of EU member states, it is probably less relevant to such a situation.

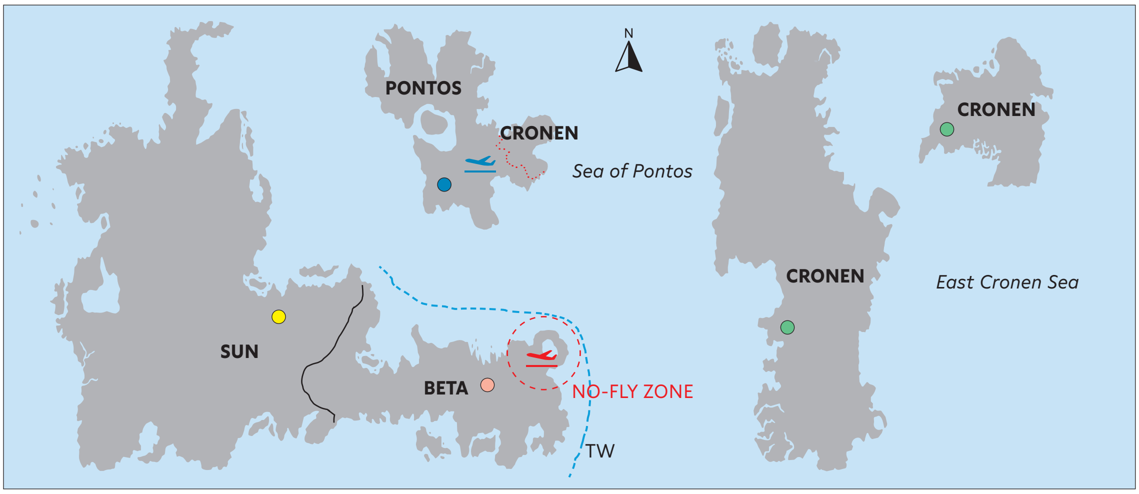
Key takeaways

This set of scenarios demonstrates a strong trend in international law and state practice: the protection of CUI is viewed as an essential national and collective interest. While the law of the sea remains important, states increasingly rely on principles such as state of necessity, self-defence, collective defence, and national legislation to eliminate existing legal gaps and proceed to preventive measures where attacks reach sufficient scale and effect. The key factors of lawful action are clear evidence, attribution, necessity, proportionality, and effective international coordination.

Scenario 2: Drone interference

The interference scenario of drones launched from nonmilitary vessels acting as floating platforms for hybrid threat operations against a state, ranging from the disruption of its aviation to intimidatory kinetic attacks against government vessels, demonstrates the growing legal and operational challenges unmanned systems pose. The following scenario highlights the tension between the law of the sea, built around strong protections for freedom of navigation, and the increasing necessity for coastal states and their allies to act rapidly to prevent drone hybrid operations.

Phase 1: Factual scene setter

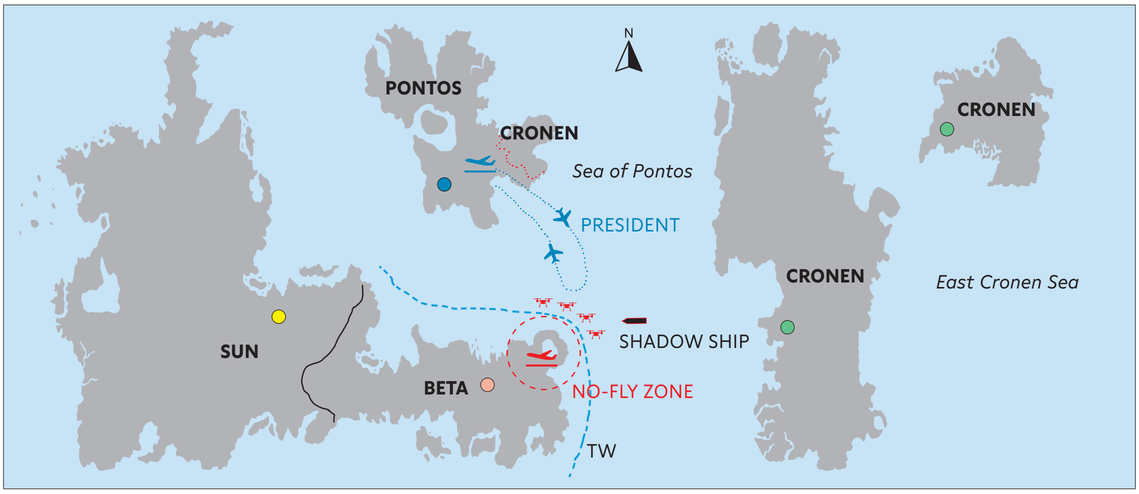


Pontos, a non-EU and non-NATO state, has been engaged in an IAC following a war of aggression initiated by **Cronen**, another non-EU and non-NATO country. The situation has received significant international attention, particularly due to the involvement of **Sun**, a major global power and a close ally of **Cronen**. **Sun's** political and strategic alignment with **Cronen** has further complicated the geopolitical landscape, increasing tension and raising concerns about regional stability.

In response to the ongoing conflict **Pontos** has sought international support to sustain its defence and resilience. Among its key partners is **Beta**, an EU and NATO member state that has emerged as a strong supporter of **Pontos**.

Amid these developments the president of **Pontos** has announced an official two-day visit to **Beta**, signalling the importance of their bilateral relationship. Given the heightened security risks associated with the conflict and the visit's high-profile nature, **Beta** has taken precautionary measures to ensure security. Specifically, **Beta's** aviation authority has declared a temporary no-fly zone extending 12 nautical miles from the coastline surrounding the capital and its main international airport. This restriction will remain in effect for the duration of the president's stay.

PHASE 2: Unidentified drones disrupt Pontos's presidential flight



The night before the visit, just before midnight, four unidentified drones, possibly carrying explosives, are detected just outside **Beta's** territorial sea, northeast of the capital's airport. Their location and timing coincide precisely with the expected flight path of the commercial aircraft transporting **Pontos's** president.

The fact that the drones have their navigation lights on leads the authorities to suspect that their intention is to disrupt the aircraft's arrival rather than to remain covert.

This violation of flight security results in the aircraft aborting its landing at **Beta's** airport, and it returns to **Pontos**.

Based on satellite imagery and radar data, **Beta's** authorities find that the drones may have been launched by a tanker vessel sailing suspiciously 30 nautical miles east of the incident. The vessel is operating outside **Beta's** territorial sea but within its EEZ. Because the tanker's Automatic Identification System (AIS[10]) is deactivated, **Beta's** authorities are unable to confirm its name and flag.

Legal scan

Q.1: Do **Beta's** authorities have the right to shoot down the drones and pursue the tanker vessel based on the facts described?

A.1: Based on the given facts, it would appear likely that the drones were intended to disrupt the flight of **Pontos's** president when just outside **Beta's** airspace. Interference with a commercial airliner in flight, especially by armed aircraft, would violate Article 3(b) of the Convention on International Civil Aviation (also known as the Chicago Convention) if any weapons had been used or activated by the intercepting aircraft. In this case, however, the flight was apparently aborted en route, and the airliner returned to **Pontos** without further interference before reaching the expected point of interception. This falls short of an actual threat to use force against a civil airliner, and while it was clearly an interference with civil aviation, it did not amount to a threat of force under either the Chicago Convention or the UN Charter.[11] Acts of retorsion would be the appropriate response. If the drones had approached the airliner or activated any weapons or explosives they may have been

10 AIS is a vessel-tracking system that transmits a ship's identity, position, course, speed, and other navigational data to nearby vessels and shore-based authorities.

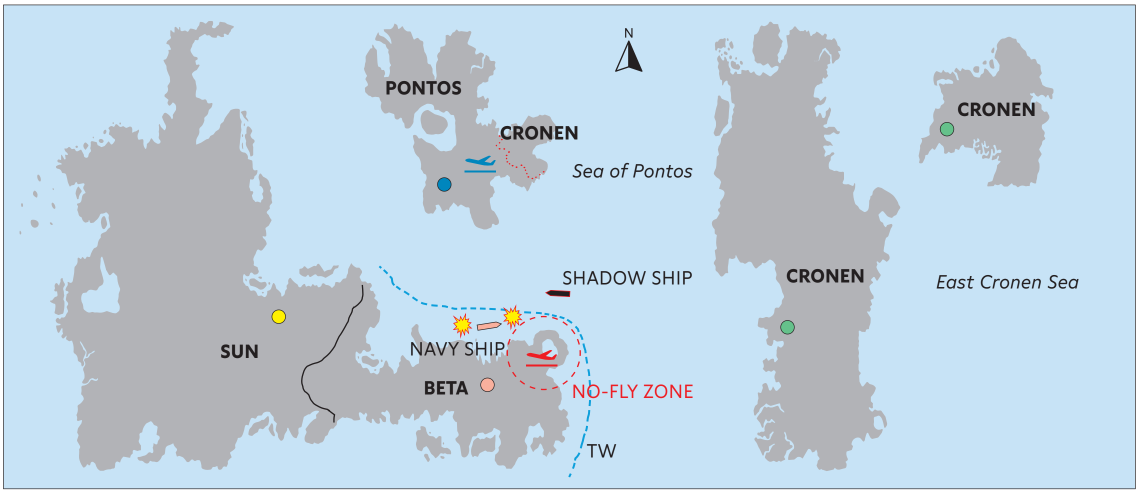
11 On the use of force in relation to civil aircraft see inter alia T.D. Gill & K. Tibori Szabo, *The Use of Force and the International Legal System*, Cambridge Univ. Press (2024), 299–301; M.N. Schmitt 'Air Law and Military Operations', in Gill & Fleck n. 4 above, 369–370.

carrying, the drones could have been shot down, despite being in international airspace. However, as it appears that the flight was aborted before reaching the interception point, and no attempt was made by the drones to approach the airliner, there would be no legal grounds for shooting them down.

Q.2: If **Pontos** formally requests that **Beta** shoot down the drones and pursue the tanker on **Pontos's** behalf, can **Beta** proceed?

A.2: A request by **Pontos** would not change the answer given above. If the drones had posed a threat to the airliner's safety, they could have been shot down. As this does not appear to have been the case, there would be no legal grounds for shooting them down outside **Beta's** airspace, with or without a request by **Pontos**.

PHASE 3: Unidentified drones target Beta's naval ship



Shortly after this, the drones violate **Beta's** airspace for approximately 15 minutes as they approach a **Beta** warship. The warship has been deployed within **Beta's** EEZ, 20 nautical miles west of the earlier air incident, for security reasons related to the **Pontos** president's visit.

Deck lookouts on duty spot the drones, which are clearly visible against the night sky due to their navigation lights.

It is reported that the drones move suddenly and aggressively around the warship before detonating in midair. One explosion occurs just forward of the bow; another just aft of the stern. No damage or casualties are reported.

Legal scan

Q.3: Do **Beta's** authorities have the right to pursue the tanker based on these facts?

A.3: The drones violated **Beta's** airspace, which extends above the territorial sea, and conducted threatening manoeuvres, arguably amounting to a mock attack, against the **Beta** naval vessel while it was in the adjacent EEZ. The unauthorized overflight of **Beta's** airspace constituted a violation of **Beta's** sovereignty (compare Art. 2(1) of UNCLOS), and **Beta** could assert jurisdiction over the ship under the doctrine of constructive presence. This doctrine provides an exception to the flag state's exclusive jurisdiction by deeming an offshore "mother" vessel to be constructively present within the coastal state's jurisdiction when it is operating alone or in tandem with other craft (such as boats or drones) and maintains a sufficient nexus to the coastal state through violations of its laws. The doctrine is recognized in the jurisdictions of some but not all states as a separate exception to flag state jurisdiction on the high seas.[12] Separately, the doctrine of constructive presence is incorporated into UNCLOS Article 111 concerning the right to hot pursuit, in which case the procedural requirements of hot pursuit would have to be fulfilled for any enforcement measures on the high seas to be lawful.

The coastal state may also exercise the right of hot pursuit under UNCLOS Article 111(1), which reflects customary international law. Under the doctrine of hot pursuit the coastal state may initiate and continue pursuit of any mothership and associated craft that commits violations inside the territorial sea (in this case a drone) outside the territorial sea, as long as either the mothership or associated craft is present in the territorial sea when the pursuit begins. Hot pursuit includes additional

12 See e.g. The Grace and Ruby (283 F. 475, D. Mass. 1922); United States v. 1,250 Cases of Liquor (The Henry L. Marshall) (286 F. 260, S.D.N.Y. 1922; affirmed 292 F. 486, 2d Cir. 1923); The Tenyu Maru (4 Alaska Rep. 129, D. Alaska 1910).

procedural requirements: a visual or auditory signal (which nowadays may include radio communication with the mother ship) must be given, and the pursuit must be uninterrupted.

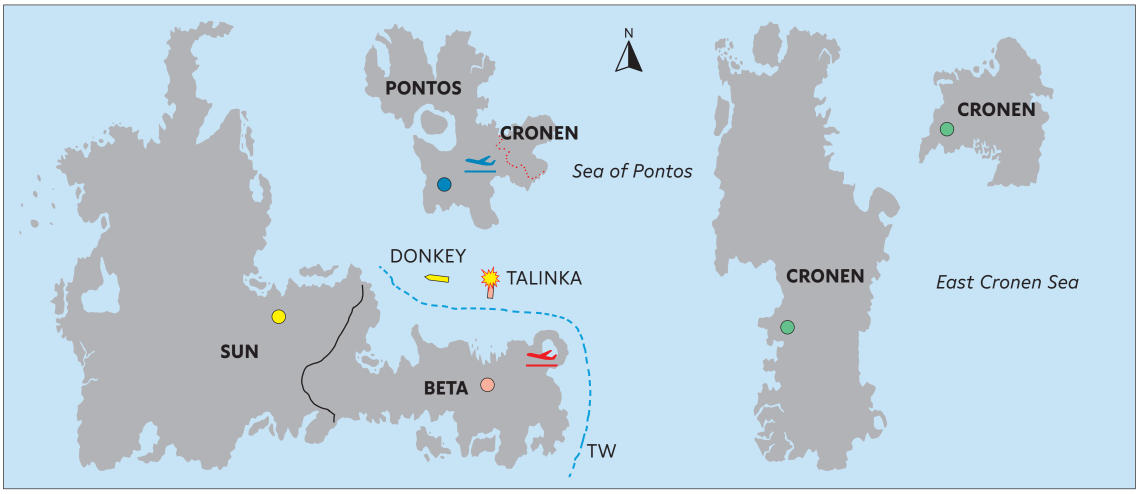
Arguably, the intimidation of the **Beta** warship occurred in the EEZ and would have allowed the shooting down of the drones when they approached it, but because the incident did not result in damage or casualties, there would be no grounds to use force against the tanker under the rubric of self-defence after the incident was closed. Likewise, it did not violate **Beta's** sovereign rights in the EEZ in relation to its resources, so this would provide no additional basis for the prosecution of the tanker's crew.

Q.4: If the drone explosions killed sailors, can **Beta** formally invoke NATO Treaty Article 5? Can NATO respond collectively under conditions of uncertain attribution?

A.4: If the drones targeted **Beta**, and this resulted in the death/injury of crew members and/or significant damage to the warship, this could constitute an armed attack under Article 51 of the UN Charter and Article 5 of the North Atlantic Treaty (Oil Platforms (Islamic Republic of Iran v. United States of America), Judgment, I.C.J. Reports 2003, p. 161, para. 72, at p. 195.[13]). If the members of NATO decided to accede to a request by **Pontos** for assistance in preventing further attacks on **Beta** or its vessels, this would be lawful under both the Charter and the NATO Treaty. Self-defence would consist of any measures necessary to ward off and if necessary prevent further attacks on **Beta** naval vessels, aircraft or commercial vessels in **Beta's** territorial waters, but could not include measures targeting the military ships or aircraft of any particular country until there was clear and credible evidence that the state in question was the author of the attack.

13 See Oil Platforms (Islamic Republic of Iran v. United States of America) https://www.icj-cij.org/case/90.

PHASE 4: Unidentified drones target Beta's CV *Talinka*



The following night two similar drones strike the deck of *Talinka*, which is flying **Beta's** flag. *Talinka* is sailing within **Beta's** EEZ, 30 nautical miles north of **Beta's** port, bound for **Pontos's** capital port.

Talinka immediately reports the incident via VHF Channel 16 and issues a distress call.

Beta's authorities can confirm that the drones were launched by *Donkey*, a false flag ship linked to **Sun**. It is also confirmed that *Donkey* is the tanker suspected of launching drones the previous night.

Legal scan

Q.5: Do **Beta's** authorities have the right to pursue *Donkey* based on these facts?

A.5: Based on these facts, it would appear that the tanker *Donkey* was responsible for an attack on a merchant vessel under **Beta's** registry. Opinions differ concerning whether an attack on an individual merchant vessel can constitute an armed attack under Article 51 of the UN Charter and customary international law, but unless there were significant damage or casualties, the incident viewed in isolation would probably not rise to an armed attack, though any damage sustained would be attributable to the state controlling the tanker, which would appear to be **Cronen** in cooperation with **Sun**.[14] Nevertheless, there could well be grounds for pursuit because the tanker had engaged in an act of violence against another ship. If there were a reasonable suspicion that *Donkey* was falsely flagged, it could be boarded on suspicion of being a stateless vessel, and if **Beta** had domestic legislation in place allowing exercise of criminal jurisdiction over stateless vessels, it could be arrested for facilitating both the previous violation of **Beta's** airspace by the drones and the attack on the container ship, and subject to proceedings before either a domestic or international tribunal. While some argue that all acts of violence at sea that cannot be conclusively attributed to a state can be deemed piracy, the more widely held opinion[15] is that such reasonably suspected state-sponsored hybrid threat activity does not fall within the rubric of piracy because it is not undertaken for "private ends".

Q.6: Do **Pontos's** authorities have the right to pursue *Donkey* based on these facts?

14 On the different opinions regarding attacks against merchant ships as armed attack under Article 51 and customary law, see inter alia T. Ruys, *Armed Attack and Article 51 of the UN Charter: Evolutions in Customary Law and Practice*, Cambridge Univ. Press (2010), 204–213.

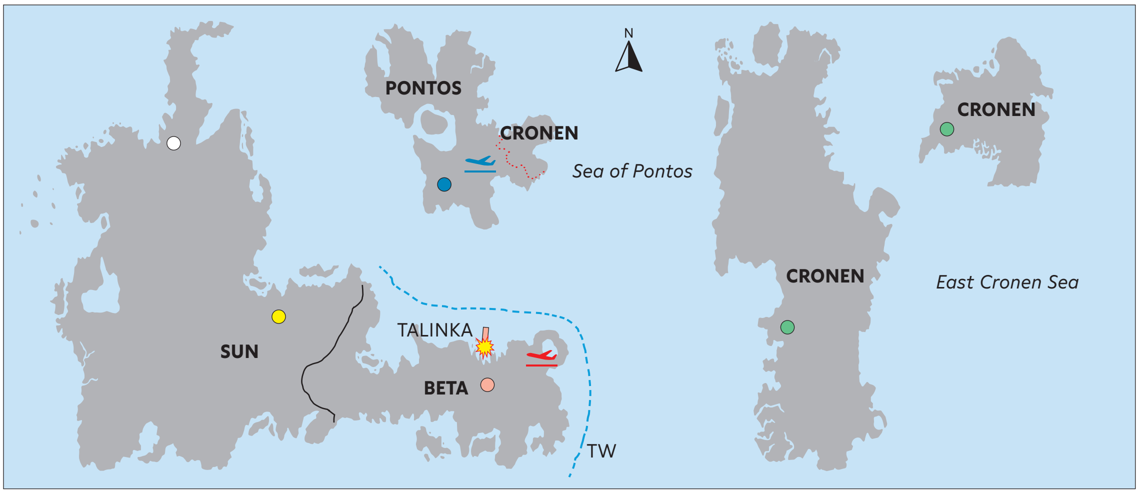
15 A Special Chamber of ITLOS confirmed (Heroic Idun case, 2026) that numerous transnational crimes did not qualify as piracy. See Heroic Idun (Marshall Islands v. Equatorial Guinea), 2026, https://www.itlos.org/en/main/cases/list-of-cases/the-m/t-heroic-idun-no-2-case-marshall-islands/equatorial-guinea/.

A.6: Pontos would have no jurisdiction over the events portrayed or based on the fact that the container ship was en route to a **Pontos** port.

Q.7: Would the answers differ if *Talinka* was a passenger ship rather than a container ship?
A.7: An attack on a passenger ship would probably constitute an armed attack under the UN Charter and customary international law, allowing proportionate self-defence measures. These could consist of boarding and taking control of the offending vessel.[16] The passenger vessel's flag state would be the state entitled to take self-defence measures. If a request to allies for assistance had been made, the states electing to provide assistance could support the defensive measures by the passenger ship's flag state.

16 See n. 8 above; see also Y. Dinstein, *War, Aggression and Self-Defence*, 6th ed. Cambridge Univ. Press (2017), 218–219.

PHASE 5: Attribution of incidents to Sun and Cronen



After eight hours of towing *Talinka* finally docks at **Beta's** port. Repairs are expected to take more than eight weeks, causing significant disruption to the **Pontos**–**Beta** supply chain.

In a public statement **Beta's** government spokesperson says that the **Sun**-flagged tanker *Donkey* was operating under **Cronen's** direction, adding that the incidents can be classified as hybrid attacks. The spokesperson also announces that **Pontos** and **Beta** have concluded an agreement to jointly deploy a standing naval force to escort all commercial ships transiting between the two states.

It is noteworthy that the incidents occurred only weeks after a **Beta** media outlet allegedly linked to **Cronen** raised significant concerns regarding **Beta's** security shortcomings ahead of its upcoming EU Council Presidency.

Legal scan

Q.8: Could **Cronen** use the narrative that it is at war with **Pontos** to legitimize its behaviour against Beta's naval vessel and *Talinka*?

A.8: Cronen cannot possibly justify violating **Beta's** airspace, staging a mock attack on a **Beta** warship and attacking a **Beta**-flagged container ship based on the fact that it is engaged in an IAC with **Pontos**. There is no connection between any of these events and the hostilities between the parties to the **Cronen**–**Pontos** conflict.

Q.9: Given that the drone operations were publicly classified as hybrid attacks attributed to *Donkey*, what legal consequences does **Sun** face?

A.9: If conclusive evidence were produced indicating that **Cronen** exercised control over the vessel and was responsible for the various incidents, it would bear responsibility under international law for any acts that constituted a violation of **Beta's** rights and amounted to acts of violence directed at **Beta's** nationals and vessels. As the flag state, **Sun** would prima facie bear co-responsibility unless it could persuasively show it had no involvement in planning, committing or assisting in the acts in question, as acts carried out by a vessel under its flag would otherwise be attributable to it as the flag state.

Q.10: The **Pontos**–**Beta** escort operation becomes permanent, and all escorted ships carry armed guards. Do these commercial vessels risk becoming military objectives?

A.10: If the joint **Pontos**–**Beta** escort operation were conducted by warships of the two states, **Pontos's** warships would constitute legitimate military objectives for **Cronen** while in **Pontos's** territorial waters and in international waters (i.e. not in **Beta's** territorial waters unless an ongoing armed conflict between **Beta** and **Cronen** had resulted from the incidents described above). **Beta's** warships would not be subject to attack simply based on escorting commercial ships under a neutral flag in international waters, assuming there was no ongoing IAC between it and **Cronen**. If they assisted **Pontos** vessels that came under attack, they would become legitimate military objectives, and if this were repeated and systemic rather than incidental, **Beta** would become a cobelligerent alongside **Pontos** (San Remo Manual,[17] paras 15, 67–71). If the convoy sailed under escort of both **Pontos** and **Beta** warships operating simultaneously alongside each other, the convoy could become a military objective according to the traditional interpretation of the law of naval warfare (San Remo Manual, para. 13(d)). If the "joint escort" did not involve the warships of **Pontos** and **Beta** operating alongside each other, however, the convoy escorted by **Beta** warships would not constitute a military objective (San Remo Manual, paras 67–71). The presence of armed guards on board the commercial vessels would not render them military objectives unless they had engaged in activity constituting direct participation in hostilities (e.g. giving targeting information to **Pontos** on the position of **Cronen** warships or aircraft) (San Remo Manual, para. 67(e) and (f)).

Q.11: Can repeated hybrid threat incidents (aviation disruption + naval intimidation + vessel strike) aggregate or accumulate into an "armed attack", even if each incident does not?

A.11: The "accumulation of events" mode of mounting an armed attack has received increasing acceptance from legal authorities and has been acknowledged by both the ILC and the ICJ as a possible mode of conducting an armed attack. The criteria for determining that a series of smaller-scale armed incidents can cumulatively amount to a single larger armed attack is that there is a clear temporal and geographical connection between them, and that the same author is responsible for the series of incidents directed against the same state(s). If such a connection is plausible, it would justify a larger-scale response by the defending state in terms of the proportionality criterion (a larger-scale attack permits a larger-scale defence if this is required to prevent recurring attack by the same author).[18]

Q.12: Can the entire sequence (airspace disruption + naval intimidation + shipping attack + information campaign) qualify as a single composite IWA under ARSIWA?

A.12: Article 15 of ARSIWA recognizes the possibility of a composite IWA. The notion of a composite IWA pertains primarily to a breach of a composite obligation arising from the same treaty or customary rule (e.g. a series of ongoing acts constituting genocide or a crime against humanity). According to the commentary a composite obligation such as the one provided in the above example should be distinguished from a series of breaches of "simple" obligations that are not directly linked by the same rule of international law that has purportedly been breached. In this case it seems more likely that the individual breaches would be treated as repeated breaches of "simple" obligations, but as they all pertain to a breach of **Beta's** sovereignty and rights to carry on normal commerce, they could also arguably constitute a composite breach. The acts in any case constitute an IWA individually, forming a pattern of wrongful conduct directed at the same state over a relatively short period, with the objective of coercing the target state and preventing it conducting normal relations and commerce with another. The injured state would be justified in taking countermeasures and other peaceful remedies for wrongful conduct as a means of safeguarding its rights, inducing compliance by the violating state(s) and cessation of further wrongful conduct, as well as of receiving appropriate compensation for any injury sustained.

17 See San Remo Manual on International Law Applicable to Armed Conflicts at Sea, 1994, https://www.onlinelibrary.iihl.org/wp-content/uploads/2021/04/14_SAN-REMO-EN.pdf.
18 On the accumulation of events as a mode of mounting an armed attack see inter alia Dinstein, n. 10, 211–212; Gill & Tibori Szabo, n. 6, 105–6; Ruys, n.8 168–175.

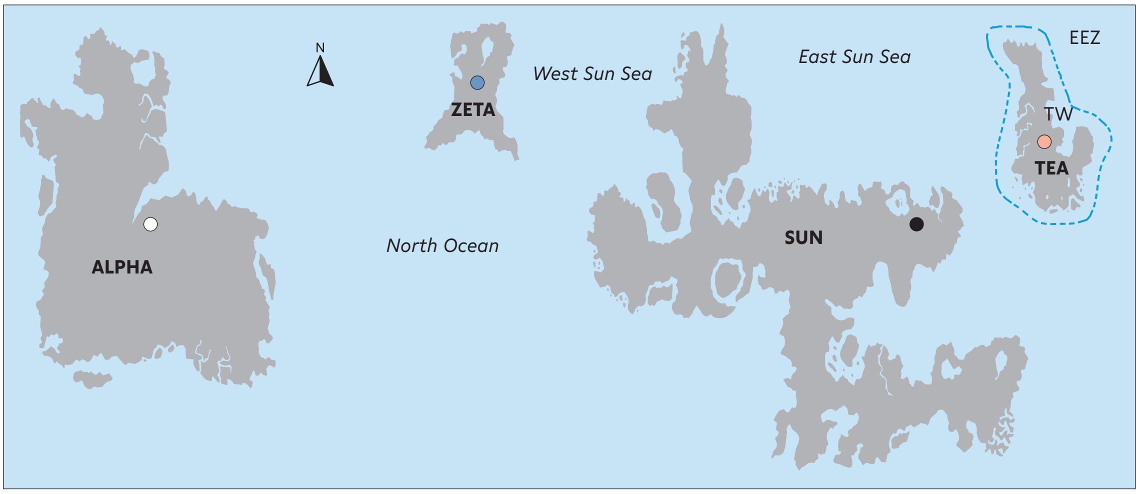
Key takeaways

This set of scenarios demonstrates that a state has increasing enforcement and self-defence rights as the drone incidents escalate. Attribution remains the critical factor for further responses, and the accumulation of drone operations may ultimately justify lawful broader defensive and countermeasure actions.

Scenario 3: Fishing boat disruption

This scenario demonstrates how a large-scale deployment of fishing vessels can become an instrument of a state for obstructing maritime access and coercing another state. It highlights the serious legal and operational challenges this hybrid threat activity poses, and what the victim state must consider if it is to respond lawfully.

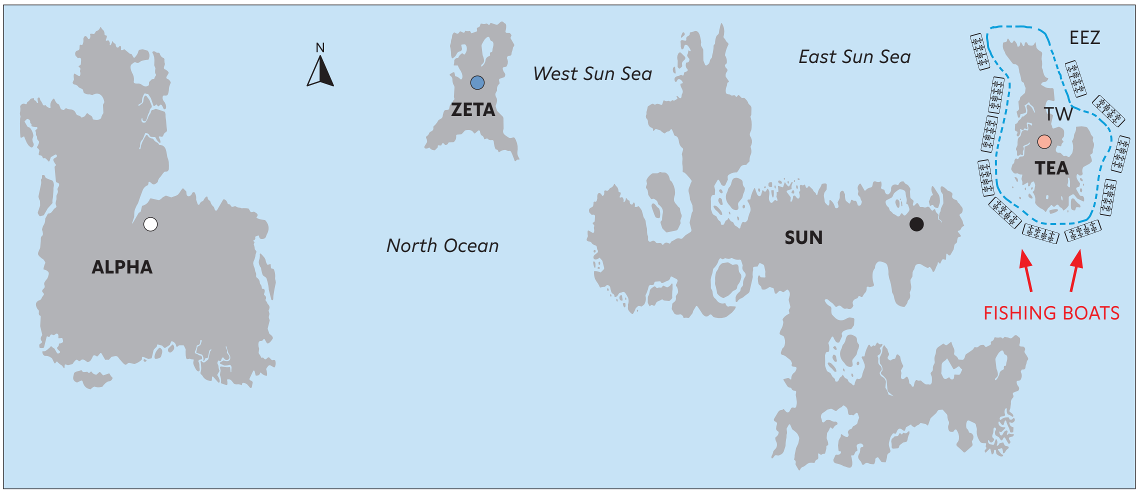
PHASE 1: Factual scene setter



Tea, a non-EU and non-NATO island state, has faced longstanding diplomatic and military pressure from **Sun**, which claims **Tea** as part of its territory based on historical arguments. This pressure includes large-scale military exercises and increased patrols by **Sun** outside **Tea's** territorial waters, and challenging **Tea's** sovereign rights in its EEZ, despite the fact that there is no overlap between the EEZ entitlements generated by the mainland of **Sun** and those of **Tea**.

Tea maintains close relations with **Alpha**, a NATO member state and strategic rival of **Sun**. While **Tea** is a state party to UNCLOS, neither **Sun** nor **Alpha** is a state party to the Convention, further complicating the region's legal and geopolitical dynamics.

PHASE 2: Sun deploys massive fishing fleet to assert control over disputed EEZ



Just before midnight on the previous night **Sun** quietly mobilizes thousands of fishing vessels, forming massive floating barriers that stretch at least 200 nautical miles, covering nearly 80 per cent of **Tea's** coastline within the disputed EEZ.

The vessels hold relatively fixed positions until the following morning, something abnormal for normal fishing activity, which typically involves movements in circles or back and forth. The ship-signals data are reliable and not spoofed. Commercial ship tracking-data suggest the density of the formations is forcing approaching cargo ships either to divert around the clusters or to zigzag through narrow gaps.

Tea's maritime and military experts analyse this mobilization, concluding that the scale and coordination demonstrates a nonmilitary means for **Sun** to assert control over the contested EEZ. They add that although **Sun's** fishing boats are relatively small, in a military contingency they could obstruct the movement of warships and act as missile and torpedo decoys, overwhelming radars or drone sensors with too many targets.

In a public statement **Tea's** government spokesperson says that the incident marks a bold step by **Sun** to test what civilians would do if told to muster a large number of fishing boats at scale to clog sea lanes and complicate military and supply operations in the event of a crisis. The spokesperson classifies the event as a potential hybrid attack, possibly in support of a quarantine blockade against **Tea**, noting that **Sun's** government has offered no public explanation of the vessels' activities.

The spokesperson further announces that a high-level meeting has been convened between the security services, defence forces and senior civil servants responsible for national security to discuss the incident and consider possible responses.

Legal scan

Q.1: What are the legal consequences if the formation of massive floating barriers stretching at least 200 miles and covering nearly 80 per cent of **Tea's** coastline within the disputed EEZ is attributed to **Sun** (a state actor)? Would **Sun** have violated international law?

A.1: Sun violated international law on multiple counts, assuming the fishing boats were acting under the direction or control of the **Sun** government. The obstruction of 80 per cent of **Tea's** coastline interfered substantially with the freedom of navigation by **Tea** and third states under customary international law, and with **Tea's** ability to access and use its EEZ, thereby infringing **Tea's** sovereign rights under customary international law. More importantly, an action on this scale plausibly constituted a de facto unlawful blockade. The degree of blockage, while not 100 per cent effective, posed a significant obstacle to access and egress by **Tea** to and from its coastline and a significant hazard for navigation. It was conducted without any lawful basis because it was based neither on a UNSC mandate nor on the lawful exercise of self-defence in response to an attack by **Tea**. Moreover, a blockade must be declared and may only be enforced by warships of an opposing state in an IAC, not by fishery vessels. There are no grounds under international law for resorting to the de facto blockade of another state as a measure to enforce a claim to all or part of its EEZ. A blockade is considered to constitute a use of force amounting to an armed attack or act of aggression in the absence of a legal basis to implement one under UNGA Res. 3314 (Definition of Aggression) of 1974.[19]

Q.2: Could **Sun** successfully argue that its actions were lawful by invoking a narrative based on historical rights or historical reasons?

A.2: No. The enforcement of a real or alleged historical maritime claim by means of the imposition of a blockade is prohibited under both the UN Charter and customary international law. Territorial and related disputes, including those related to alleged historical maritime claims, must be resolved peacefully under Article 2(3), 2(4) of the UN Charter through resort to peaceful means mutually agreed between the parties set out in Article 33.

Q.3: Could a **Tea** navy vessel or a law-enforcement vessel lawfully push back **Sun's** fishing boats? If so, would they be permitted to take such action pre-emptively, or only after the formation of the barriers had been established?

A.3: Yes, after due warning was given. This could be carried out under the rubric of law enforcement measures taken based on **Tea's** sovereign rights in its EEZ (if **Sun** had no valid claim to the EEZ or an overlapping EEZ entitlement), a necessity under the customary international law rule reflected in Article 25 of ARSIWA, or if the barrier was considered to amount to a blockade under Article 51 of the Charter and related customary law on the exercise of self-defence. Any use of force in pushing back the vessels forming the blockade would be limited to what was strictly necessary to achieve that end, and lethal force could only be used in these circumstances when life or the safety of the vessels engaged in the pushback was threatened. Such action could be taken once it was clear that a barrier was (on the point of) being formed.

Q.4: Could a **Tea** navy vessel or a law-enforcement vessel lawfully seize **Sun's** fishing boats on the grounds that they might form part of a potential hybrid attack or contribute to a quarantine or blockade against **Tea**, including forcibly stopping, boarding, inspecting, and collecting evidence?

A.4: In the event the barrier constituted a blockade, lawful self-defence measures could include the arrest of the fishery vessels that refused to vacate the blocking positions they had taken up and seizure of any relevant evidence that could be used in proceedings before a domestic court or international dispute settlement procedure. Moreover, **Tea** could take law enforcement measures based on its sovereign rights in its EEZ, provided that **Sun** had no valid claim to the EEZ, and no overlapping EEZ entitlement existed. Such measures could include boarding, inspection, arrest, and judicial proceedings as required to ensure compliance with **Tea's** laws and regulations adopted in conformity with international law.

Q.5: Could **Tea** request that its major ally, **Alpha**, deploy its naval standing force patrolling the broader East Sun Sea region to assist in seizing **Sun's** fishing boats (by forcibly stopping, boarding, inspecting, and collecting evidence) within the disputed EEZ for the reasons mentioned above?

19 According to the Newport Manual, a blockade is not considered an armed attack.

A.5: If **Tea** declared itself under attack as a consequence of the imposition of a blockade, it could request assistance under UN Charter Article 51 and customary law in relation to the exercise of self-defence in removing the blockade. It would probably only be necessary to receive such assistance if **Sun** was to forcibly intervene to prevent the removal of the blockading fishery vessels.-

Q.6: Would **Alpha** have the legal authority to order its navy to seize **Sun's** fishing boats on its own initiative without a request from **Tea**, based solely on security concerns and freedom of navigation arising from the incident?

A.6: No. There is no right to forcibly seize fishery vessels of another state in international waters, even when illegally blocking another state's coastline, in the absence of a request by the affected state or a direct threat to its own warships.

Key takeaways

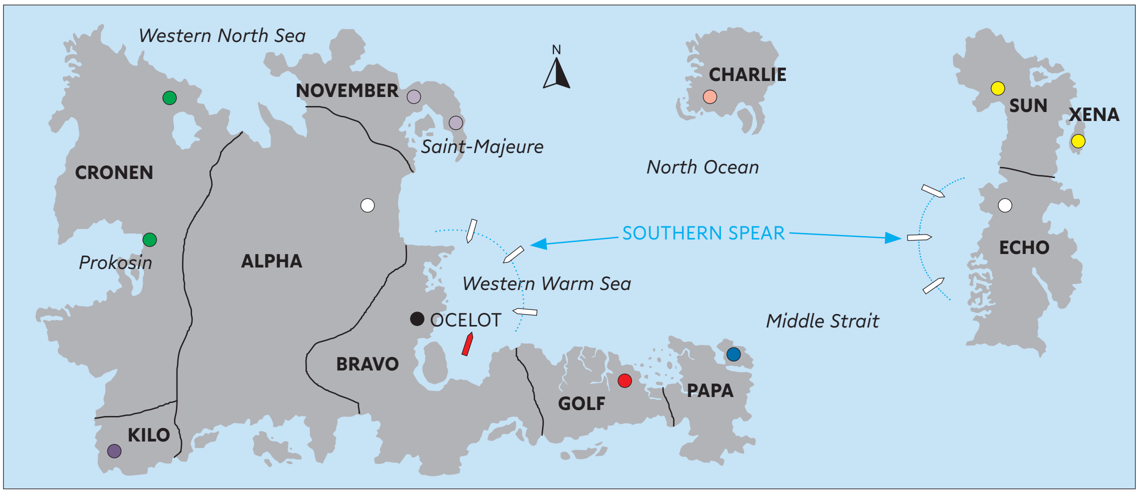
This scenario demonstrates a strong trend in international law and state practice: if the fishing fleet acts under a state's control, the operation may constitute an IWA, and potentially maritime coercion or a blockade. The victim state may take proportionate enforcement measures to restore maritime access according to the principles of necessity, proportionality and jurisdiction.

Scenario 4: Shadow fleet operations

The following five scenarios chart the legal architecture now emerging around shadow fleet enforcement, moving from peacetime interdiction of stateless vessels to the wartime law of blockade and prize capture. They demonstrate that statelessness underlies the sanctions regime in peacetime, and that the decisive legal questions cluster around the moment of boarding, as well as the jurisdiction of the boarding state thereafter.

MV *Ocelot/Serval*

PHASE 1: Factual scene setter

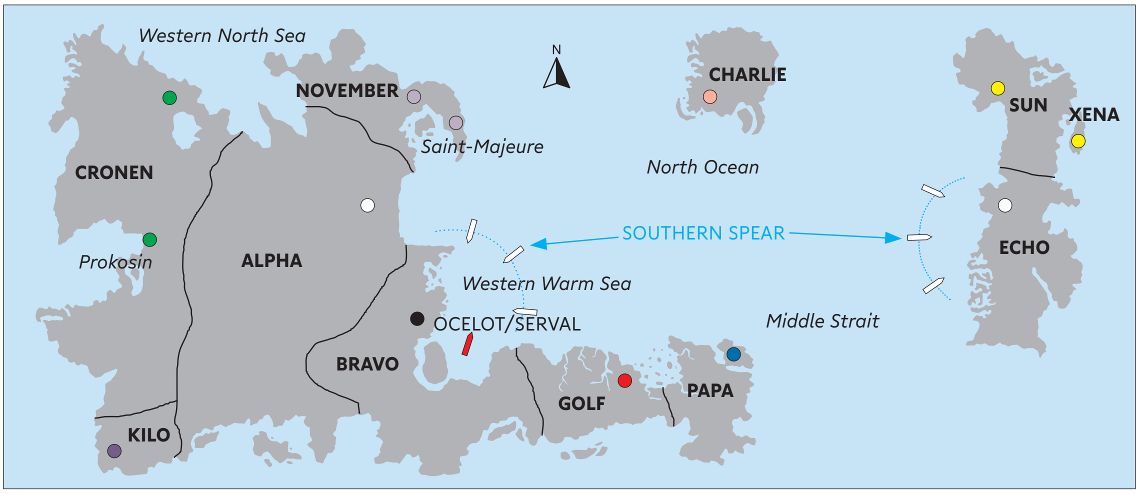


Located in the Western Hemisphere, **Alpha** is a major power with extensive unilateral sanctions authorities targeting terrorism-linked maritime activity. **Alpha** has designated **Echo**, located in the Middle Region, a state sponsor of terrorism. It has separately designated **Echo's** *Coyote Revolutionary Guard Force* and its proxy *Jackal* network organization Foreign Terrorist Organizations (FTOs).

Alpha has imposed an embargo, Operation *Southern Spear*, prohibiting the transport of **Echo** and **Bravo** petroleum and petroleum products, and it has sanctioned numerous vessels in connection with these states, including **Bravo's**. Like **Alpha**, **Bravo** is in the Western Hemisphere.

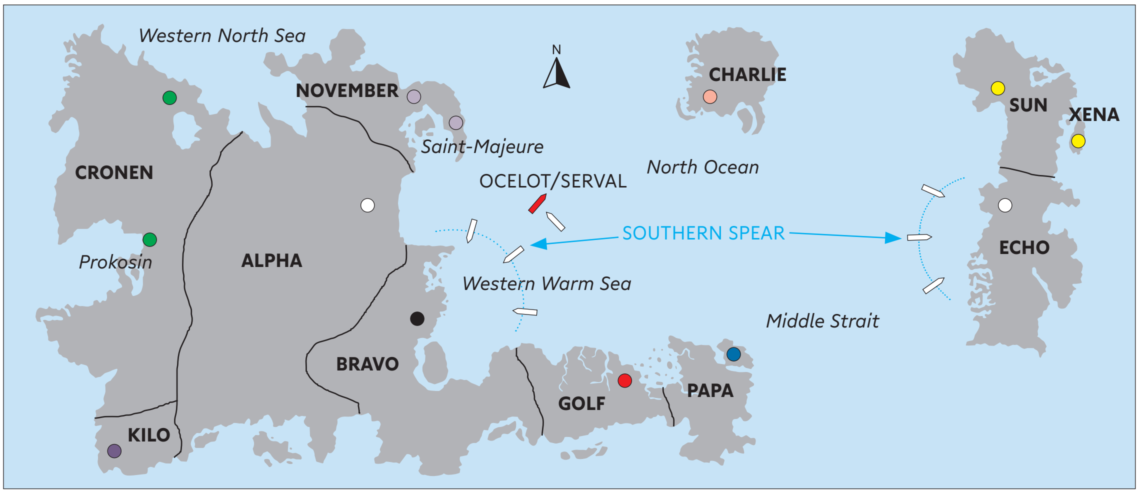
Alpha operates an extensive sanctions regime against international terrorism. Sanctioned individuals, companies and vessels may be designated on the Specially Designated National (SDN) list. In October 2022 **Alpha's** Office of Foreign Assets Control (OFAC) placed the oil tanker *Ocelot* on the SDN list for its role in facilitating oil shipments that generated revenue for the Coyote Revolutionary Guard Force and Jackal terrorist network.

PHASE 2: Renaming of *Ocelot*



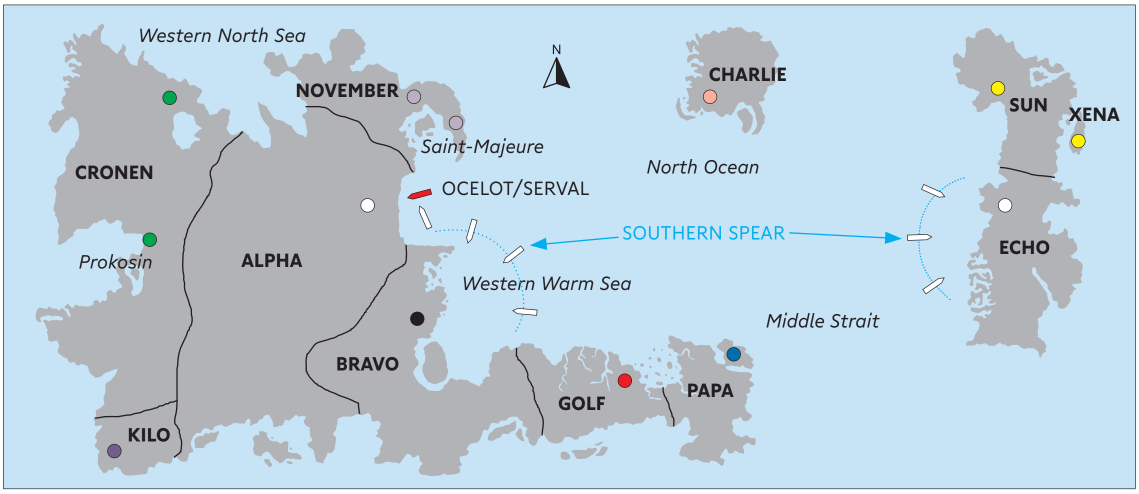
To avoid sanctions, *Ocelot* subsequently changes its name to *Serval* and continues operating in the shadow fleet. The vessel is observed flying the flag of **Golf**, a Western Hemisphere open registry. Upon enquiry by **Alpha**, however, the **Golf** authorities confirm that *Ocelot/Serval* is not registered with it.

PHASE 3: Boarding of *Ocelot/Serval*



On 10 December 2025 **Alpha** coast guard personnel, accompanied by **Alpha** Federal Bureau of Investigation (FBI) special agents acting pursuant to a federal arrest warrant issued in rem by an **Alpha** District Court, intercept *Serval* in international waters approximately 50 nautical miles off the coast of **Bravo**. The **Alpha** authorities exercise the right of visit under Article 110 of UNCLOS, determining *Serval's* **Golf** flag is fraudulent. The vessel cannot demonstrate valid registration with any state. **Alpha** coast guard and FBI personnel board and seize *Serval* without resistance from the crew.

PHASE 4: Forfeiture proceedings against *Ocelot/Serval*



Serval is escorted to an **Alpha** port to await sanctions forfeiture proceedings.

Legal scan

Q.1: Did **Alpha's** OFAC sanctions designation of *Ocelot/Serval* provide a standalone legal basis to board the vessel on the high seas?

A.1: Under UNCLOS a unilateral sanctions designation does not itself confer the right to board a foreign-flagged vessel on the high seas. The right of approach and visit is governed by UNCLOS Article 110, which inter alia permits warships to board vessels where there is reasonable ground to suspect the vessel is without nationality. **Alpha's** boarding authority was derived from its determination that the **Golf** flag was probably fraudulent, which would render *Ocelot/Serval* stateless, not from the OFAC designation alone.

Q.2: Did *Ocelot/Serval's* false flying of **Golf's** flag constitute a reasonable ground for suspecting that it was a stateless vessel, thereby triggering **Alpha's** right of visit?

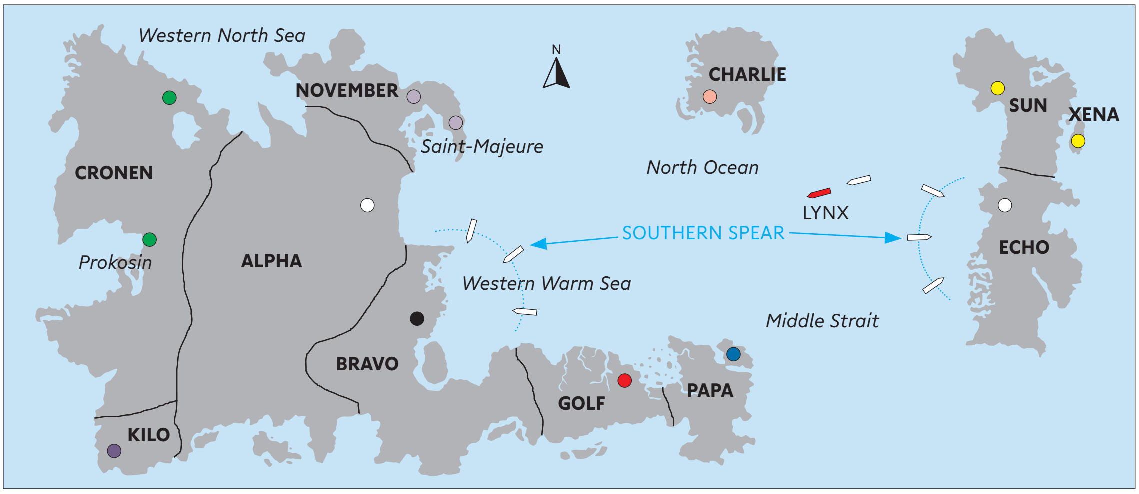
A.2: Under UNCLOS Article 92 ships must sail under the flag of only one state and are subject to its exclusive jurisdiction on the high seas. A vessel that fraudulently claims registry under a flag state that does not recognize the claim may be treated as stateless and without nationality under UNCLOS Article 110(1)(d). **Golf's** denial of valid registration confirmed the false claim. This situation constituted a reasonable ground for Alpha to suspect that the vessel was in fact without nationality, thereby allowing Alpha to exercise its right of visit and to board the vessel to verify its nationality, if any.

Q.3: Can **Alpha** exercise in rem jurisdiction over *Serval* and its cargo based on terrorism-related sanctions violations?

A.3: If a vessel is stateless because of the lack of a flag state, it enjoys no protections under UNCLOS and customary international law, such as the freedom of navigation and exclusive flag state jurisdiction. While UNCLOS does not in itself contain a legal basis for an exercise of jurisdiction over stateless vessels, it is widely accepted that any state can exercise jurisdiction based on its domestic law if it can claim a valid jurisdictional basis under general international law. States diverge, however, regarding the extent to which they can exercise jurisdiction. Some states maintain that the boarding state may exercise jurisdiction only over offences such as the stateless vessel status within the scope of the boarding operation itself. Other states take the position that once a stateless vessel is lawfully boarded and has been determined to be stateless, the boarding state may assert the full range of its domestic laws against that vessel. Under this view **Alpha's** domestic law, including forfeiture authority from sanctions violations, could provide jurisdiction for seizure and forfeiture proceedings.

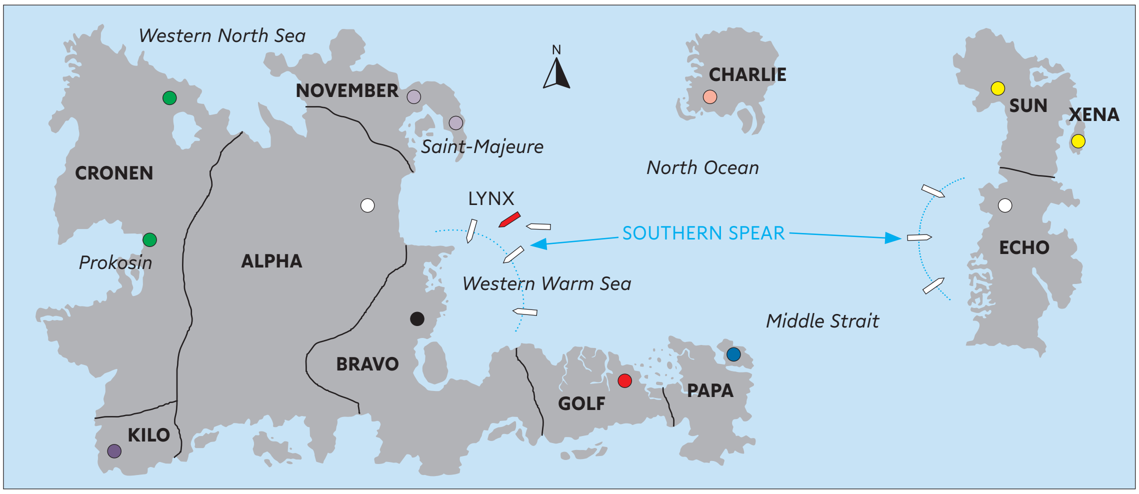
MV *Lynx/Panther*

PHASE 1: Factual scene setter



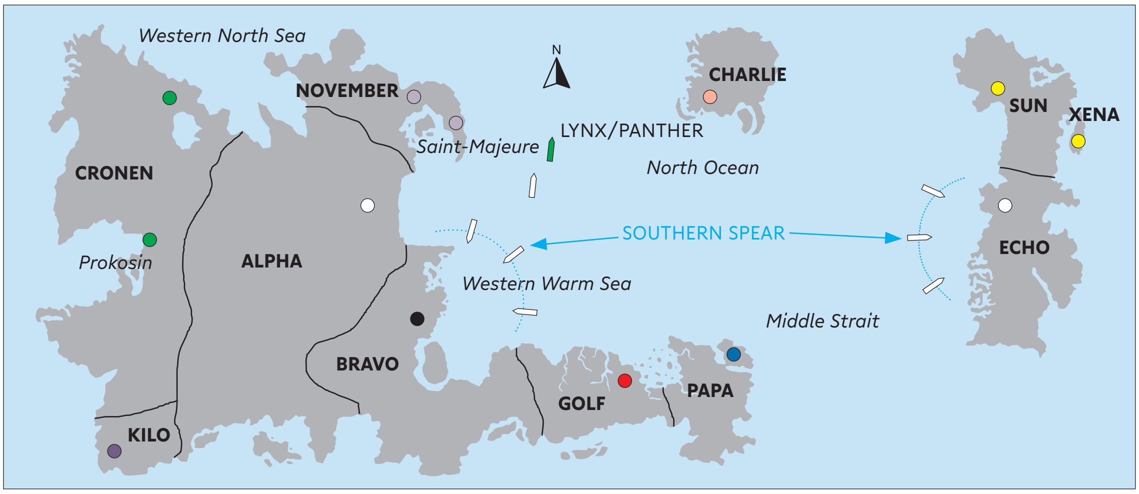
At the beginning of December 2025 **Alpha** naval forces observe the oil tanker *Lynx* operating in the North Ocean while flying the flag of **Golf**, an open registry. *Lynx* is a crude oil carrier with a capacity of approximately one million barrels. The vessel originated from **Echo**, a major sponsor of international terrorism, in the Middle Region. *Lynx* is transiting towards **Bravo**, carrying a cargo of petroleum in breach of **Alpha's** Operation *Southern Spear* sanctions regime. The **Alpha** authorities obtain an in rem arrest warrant from an **Alpha** federal court.

PHASE 2: Failed attempt to board *Lynx*



On 20 December 2025 **Alpha** coast guard personnel attempt to board *Lynx* in international waters in the Western Warm Sea. *Lynx's* crew refuse to comply, immediately fleeing into the open North Ocean instead.

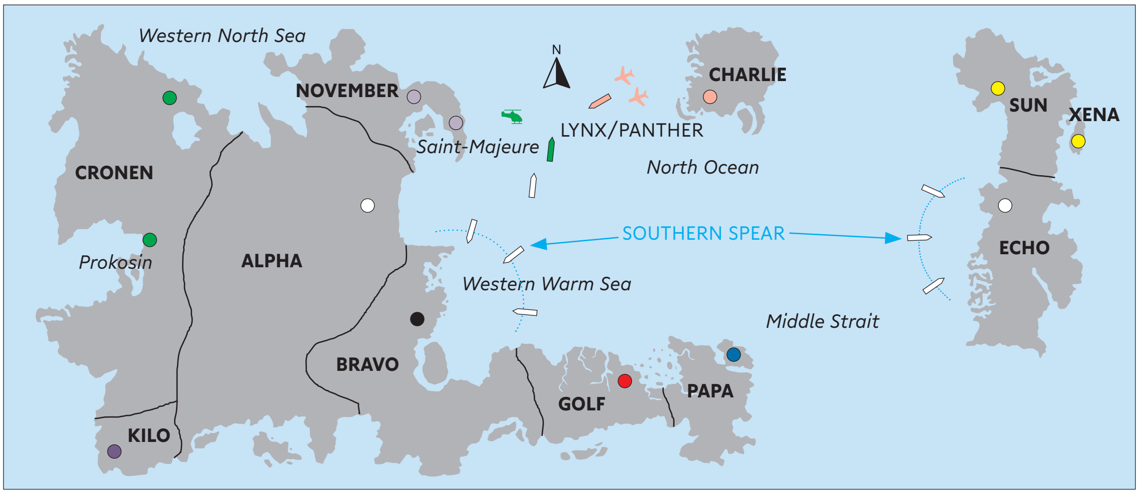
PHASE 3: Reflagging/renaming of *Lynx/Panther*



Golf deregisters *Lynx* while the vessel remains underway. During the subsequent multiweek pursuit across the North Ocean the *Lynx* crew repaint the hull in **Cronen** national colours, rename the vessel *Panther* and submit a provisional registration application to **Cronen**. **Cronen** is a major power in the North Region.

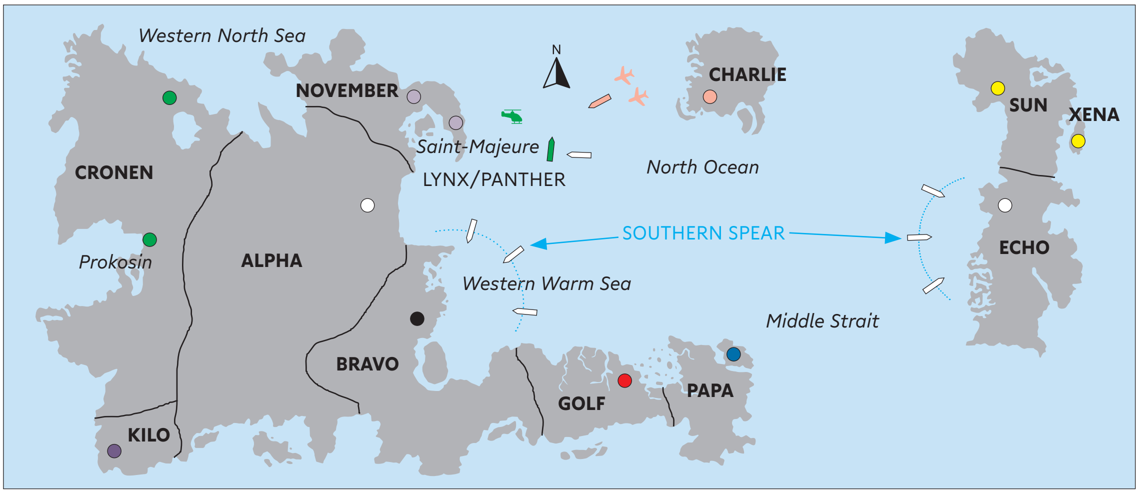
Cronen grants provisional registration to *Panther* mid-voyage, without conducting any inspection, certification under International Maritime Organization (IMO) standards, or an allegedly thorough verification of the vessel or its ownership.

PHASE 4: Pursuit of *Lynx/Panther*



Cronen issues a formal diplomatic protest, demanding that **Alpha** cease pursuit of *Panther*, asserting exclusive flag state jurisdiction over the vessel under UNCLOS Article 92. **Cronen** reportedly dispatches a submarine to monitor and escort *Lynx's* transit. The **Alpha** authorities, supported by **Charlie** Royal Air Force RC-135 and P-8 maritime surveillance aircraft and a Royal Fleet Auxiliary vessel, continue the pursuit of *Lynx* across the North Ocean. **Charlie** also permits **Alpha** military aircraft to use nearby **Charlie** government airports as staging bases for the operation.

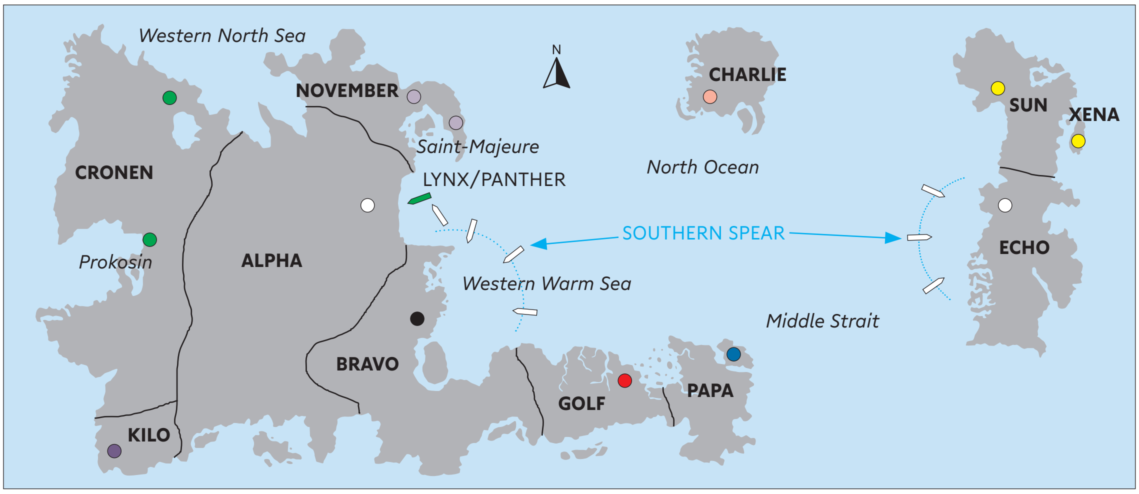
PHASE 5: Seizure of *Lynx/Panther*



On 7 January 2026 **Alpha** coast guard and navy personnel board and seize *Lynx/Panther* in international waters in the North Ocean, in the sea area between **November** and **Charlie**. Both **November** and **Charlie** are North Alliance members with **Alpha**. The **Alpha** authorities conclude that **Cronen's** mid-voyage provisional registration of *Lynx/Panther* is invalid, having been granted without inspection or verification, any prior genuine link between **Cronen** and the vessel, and for the purpose of evading active law enforcement. **Alpha** therefore maintains that *Lynx/Panther* remained a stateless vessel throughout the pursuit.

Cronen condemns the seizure as "piracy" and a violation of UNCLOS Article 87 (freedom of navigation). **Cronen** calls for the immediate release of the vessel and crew. **Charlie** publicly confirms that it provided preplanned support to **Alpha's** enforcement operation at **Alpha's** request and agrees with **Alpha** that *Lynx/Panther* was a stateless vessel when it was boarded.

PHASE 6: Forfeiture proceedings against *Lynx/Panther*



Lynx/Panther is subsequently escorted into **Charlie** waters for resupply before transit to **Alpha** for legal forfeiture proceedings.

Legal scan

Q.1: Was *Lynx* a stateless vessel when **Alpha** initially attempted to board it in the Western Warm Sea?

A.1: Golf deregistered *Lynx* while the vessel was underway. If deregistration had occurred before **Alpha's** boarding attempt, the vessel may have been stateless at that time. Even if **Golf** deregistered *Lynx* after the initial attempt, the fraudulent flying of a **Golf** flag that the vessel was not entitled to fly is independently sufficient to support a reasonable suspicion of statelessness under UNCLOS Article 110(1)(d) and customary international law. **Alpha** would therefore have been entitled to exercise the right of visit if *Lynx* had already been deregistered when it was boarded.

Q.2: Was **Alpha** entitled to maintain pursuit of *Lynx/Panther* across the North Ocean following the failed boarding?

A.2: UNCLOS Article 111 governs hot pursuit: it must begin when the foreign ship or one of its boats is within internal or archipelagic waters, a territorial sea or contiguous zone of the pursuing state, or within an EEZ. The pursuit originated in international waters following a failed boarding, not in **Alpha's** own maritime zones. **Alpha's** continued "pursuit" relied not on hot pursuit authority but on its claim that the vessel was a stateless ship subject to boarding wherever encountered. While UNCLOS does not contain a provision authorizing this form of "pursuit", it was lawful as long as a reasonable ground for suspicion remained that *Lynx* was stateless, as this continued to provide a sufficient basis for the right of visit under Article 110(1)(d).

Q.3: Did **Cronen's** provisional mid-voyage registration of *Lynx/Panther* restore flag state protection and defeat **Alpha's** boarding authority?

A.3: UNCLOS Article 91 requires each state to fix the conditions for the grant of its nationality to ships under its domestic law and a "genuine link" between the state and the ship. While **Cronen's** provisional registration was granted without inspection, verification of ownership, prior contact with the vessel, and transparently in response to active law enforcement pursuit, UNCLOS Article 91 does not explicitly prohibit a non-flag state refusing to recognize a grant of nationality by a flag state on this basis.

Notwithstanding the jurisprudence of ITLOS concerning the nationality of vessels and the virtually non-existent requirements of a "genuine link" between flag states and their vessels, state practice and the 2026 IMO Guidelines on the Registration of Ships require due diligence, best practices and effective implementation of IMO instruments to deter fraudulent reregistration.

Depending on the facts of each case, however, it is not entirely impossible that a grant of nationality in such circumstances might give rise to a reasonable suspicion that the grant of nationality had not (yet) come into effect, which might, at least according to some states and scholars, suffice for an exercise of the right of visit to confirm nationality. In the specific context of the "shadow fleet" some scholars have considered that another reason for refusing recognition may arise when the flag state manifestly fails to exercise effective jurisdiction and control over its ships, and clearly has no possibility or serious intention of conforming to the obligations under UNCLOS Article 94.[20] In this scenario **Cronen's** registration procedures appear to support the suspicion that effective jurisdiction and control over *Lynx/Panther* was very weak.

Q.4: Was **Alpha's** seizure of *Lynx/Panther* in the North Ocean lawful?

A.4: If it is assumed for the sake of argument that a reasonable suspicion of *Lynx/Panther's* statelessness remained throughout the voyage, the right of approach and visit under UNCLOS Article 110(1)(d) would have provided lawful grounds for boarding at any time by the authorities of any state, including **Alpha**. For **Alpha** to exercise enforcement jurisdiction over *Lynx* (including seizure), however, *Lynx* would indeed have had to be stateless, which, based on the facts of the case and the jurisprudence of ITLOS, is debatable. Assuming that *Lynx* could lawfully be considered stateless, **Alpha** could have seized it at least under the broadest view of the law concerning the exercise of jurisdiction over stateless vessels (which considers that unilateral sanctions create a sufficient jurisdictional link). According to this view the in rem arrest warrant obtained from an **Alpha** federal court, combined with **Alpha's** domestic law on stateless vessels and domestic forfeiture authority for sanctions violations, would provide a jurisdictional basis for the seizure. **Alpha** and its ally **Charlie** concluded that the registration was fraudulent. **Cronen** disputed this conclusion, asserting that states had sovereign discretion concerning registration conditions.

Q.5: What are the legal implications of **Charlie's** active support for **Alpha's** enforcement operation?

A.5: Charlie provided material assistance: RAF maritime patrol aircraft conducted surveillance; the RFA Tide Force provided naval support; and **Charlie** airports were used as staging bases for **Alpha** military aircraft. This makes **Charlie** a coparticipant in the enforcement action. If the boarding was lawful under international law, which is debatable given the facts of the case, **Charlie's** participation raises no additional legal concern. If it was not, however, **Charlie** could be co-responsible for any wrongful acts, depending on its role in the operation (in relation to **Alpha**).

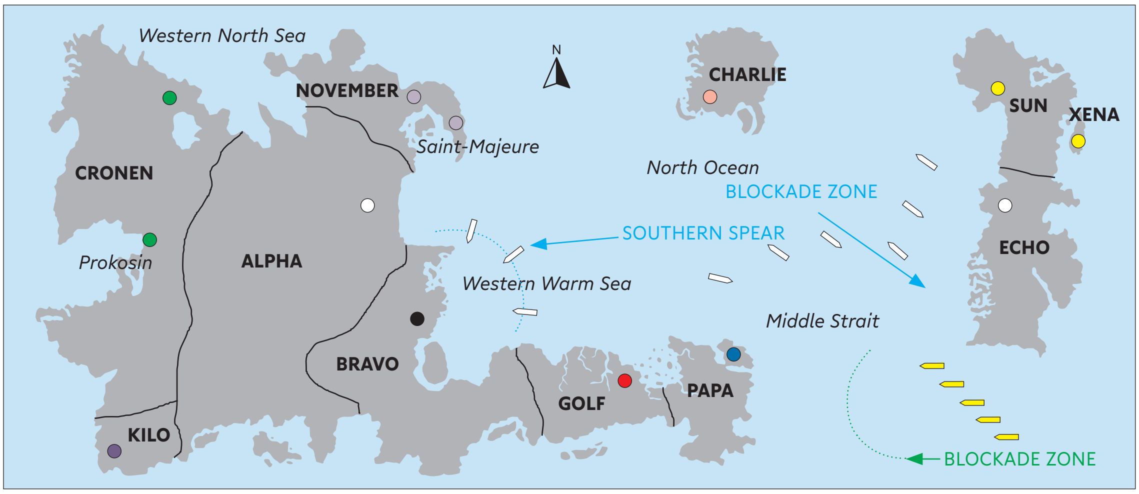
Q.6: Did **Cronen** violate UNCLOS Article 91 or 94 by issuing a provisional registration without a genuine link or flag state duties?

A.6: Given the broad discretion of flag states under UNCLOS Article 91, state practice and the jurisprudence of ITLOS on the questions of registration, and the "genuine link" between flag states and their vessels, it would be difficult to conclude that **Cronen** violated Article 91, especially given the very high standard for an abuse of rights under UNCLOS. A violation of the flag state's due diligence obligation to exercise effective jurisdiction and control in administrative, technical and social matters over its ships under UNCLOS Article 94(1) and (2) seems probable in this case, while a violation of the more technical requirements under Article 94(3), (4) and (5) depends on the standards of the ship. The facts given here do not permit a definitive conclusion on the ship's technical condition.

20 See e.g. E. Cavalcanti de Mello Filho, 'From "Flags of Convenience" to "Flags of Deceit": The Future of the Law Governing the Nationality of Ships', *International & Comparative Law Quarterly* (2025), Issue 74, 121–137.

MV *Jaguar*

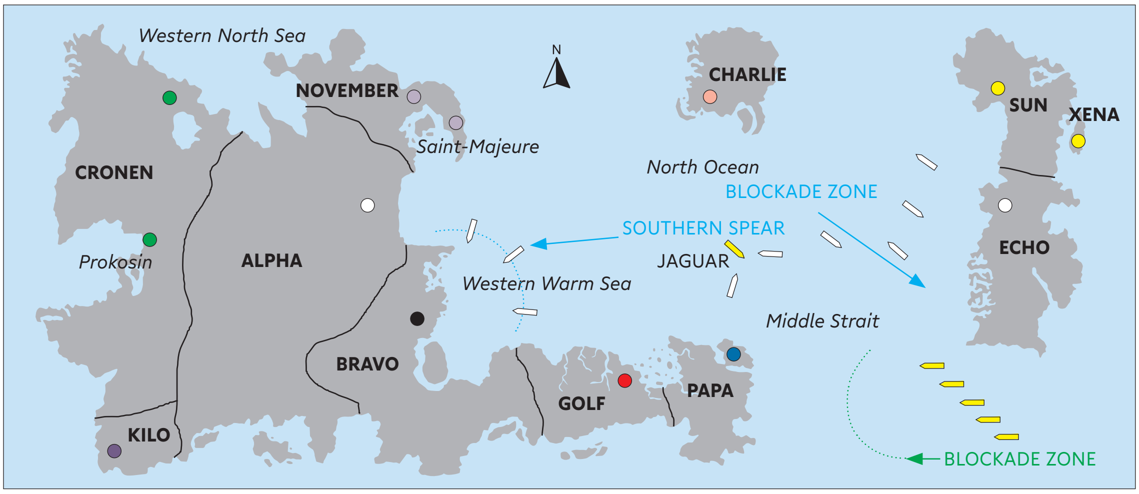
PHASE 1: Factual scene setter



By April 2026 **Alpha** and **Echo** are engaged in an IAC following the failure of diplomatic negotiations, and escalating **Echo**-sponsored attacks on **Alpha** forces and allied states in the East Region. **Alpha** has attempted to destroy **Echo's** nuclear weapons programme to prevent a breakout and **Echo's** armament with a nuclear weapon.

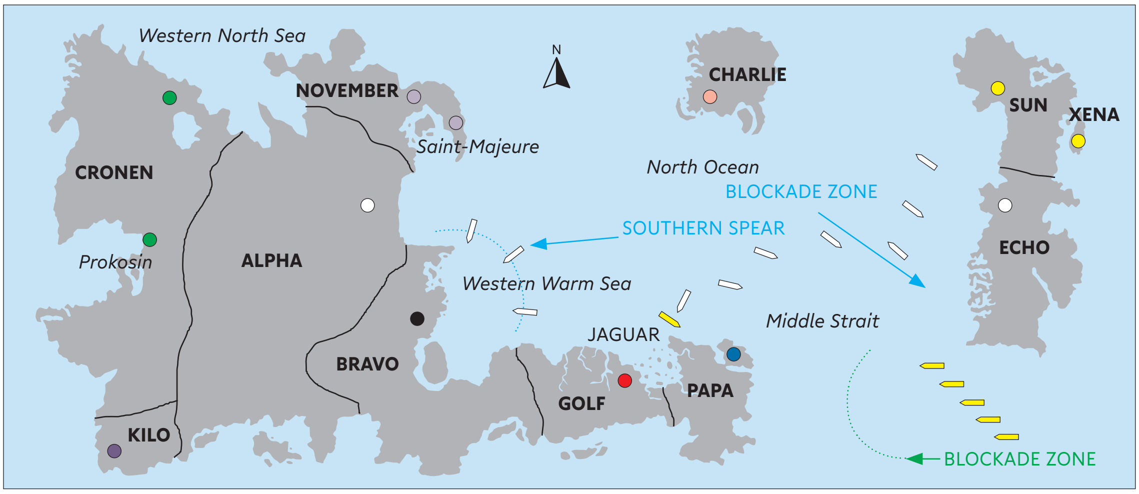
Echo's coastline is served by Middle Strait, an international strait subject to the regime of transit passage under UNCLOS Part III. **Echo** responds to **Alpha's** attacks by blockading Middle Strait. In response **Alpha** declares a formal naval blockade of **Echo**, specifying the blockaded coastline, ports and anchorage sites of **Echo**, providing advance warning to neutral shipping. **Alpha** naval forces are authorized to enforce the blockade in accordance with the law of naval warfare. **Alpha** Central Command publicly announces that any vessel entering or departing the blockaded area without prior authorization will be subject to interception, diversion and potentially prize capture.

PHASE 2: Seizure of *Jaguar*



On 19 April 2026 the **Echo**-flagged container ship *Jaguar*, previously designated an SDN asset by **Alpha's** OFAC, approaches the blockade zone. The **Alpha** navy destroyer on station issues repeated radio warnings to *Jaguar* over a six-hour period, advising the vessel to change course and warning that **Alpha** forces are prepared to subject it to disabling fire. The *Jaguar* crew is specifically warned to evacuate the engine room. The crew fails to comply with any warning and continues on course towards **Echo** in an attempted breach of the blockade. Following the six-hour warning period **Alpha's** destroyer fires several rounds from its 5-inch/54-calibre Mark 45 naval gun into *Jaguar's* engine room, disabling the vessel's propulsion. **Alpha** Marine Corps personnel then board and seize *Jaguar* as a prize of war.

PHASE 3: Prize court proceedings against *Jaguar*



Following the seizure of *Jaguar* the **Alpha** authorities tow the vessel to a secure anchorage outside the blockade zone. **Alpha** assesses the vessel as subject to prize capture as an enemy vessel (**Echo**-flagged) that has attempted to breach a lawful blockade. *Jaguar* has not previously been used for civilian purposes: its cargo consists of industrial goods, and it has no protected humanitarian character. The **Alpha** authorities begin to evaluate whether to convene prize court proceedings in the case of *Jaguar* in **Alpha's** District Court**.**

In May 2026, as part of a diplomatic confidence-building measure and to facilitate a ceasefire between **Alpha** and **Echo**, the two states meet in **Papa** to address the status of *Jaguar's* 22-member crew. The crew consists of nationals of **Echo** and several third-party states. The crew is transferred to **Papa** custody. **Alpha** retains physical control of *Jaguar*, pending resolution of the prize question.

Legal scan

Q.1: Was **Alpha's** use of disabling fire against *Jaguar* lawful under the law of naval warfare?

A.1: The law of naval warfare, as evidenced by state practice and restated by experts in the San Remo Manual on International Law Applicable to Armed Conflicts at Sea (1994) and the Newport Manual on the Law of Naval Warfare (2nd ed., 2025),[21] recognizes that force may be used against vessels attempting to breach a lawful blockade, provided they have received due warning and have failed to comply.[22] According to the approach taken in the Newport Manual a blockade is lawful if it is declared, notified, effective, and not designed solely to starve the civilian population. The San Remo Manual posits that in addition to these requirements a blockade is prohibited if "the damage to the civilian population is, or may be expected to be, excessive in relation to the concrete and direct military advantage anticipated from the blockade" (San Remo Manual, para. 102(b)). **Alpha's** formal declaration and public notification satisfy the announcement requirements. The six-hour warning period and specific crew evacuation notice satisfy proportionality and precautionary requirements. The use of naval gunfire calibrated to disable propulsion rather than to sink the vessel or endanger its crew reflects a measured escalation consistent with the principle of necessity.

21 See Newport Manual on the Law of Naval Warfare, 2nd ed., 2025, https://digital-commons.usnwc.edu/ils/vol105/iss1/1/.

22 See also 1909 London Declaration on the Laws of Naval War (especially Articles 2–3 on effectiveness of blockade and enforcement), https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2634&context=ils.

Q.2: Was **Echo**'s blockade lawful? Was **Alpha**'s naval blockade of **Echo** lawful?

A.2: A blockade is an act of war under the traditional law of naval warfare and requires a state of armed conflict. **Alpha** and **Echo** were engaged in declared hostilities, satisfying this threshold. **Echo** had no legal basis to blockade a strait used for international navigation, preventing the transit of neutral ships and aircraft. **Echo's** blockade of passage through Middle Strait has no recognized authority under UNCLOS even in wartime and is distinguished from a coastal blockade. **Alpha** may impose a blockade on **Echo** as a method of naval warfare but may not interfere with the transit of ships that are not bound for **Echo**. **Alpha** may interdict ships of all nations attempting to breach the **Echo** blockade, though it must be noted that the authors of the San Remo Manual argue that some vessel categories are exempt (those carrying food and other objects essential for its survival under the conditions of para. 103 San Remo Manual or medical supplies for the civilian population, see San Remo Manual para. 104).

Q.3: Can **Alpha** claim *Jaguar* as a prize of war?

A.3: Under the traditional law of prize, a belligerent state may seize enemy vessels and their cargos as prizes of war, subject to adjudication by a prize court. *Jaguar*, as an **Echo**-flagged vessel that attempted to breach **Alpha's** lawful blockade, qualifies as an enemy vessel subject to prize capture. Cargo aboard a vessel attempting to breach a blockade is also subject to condemnation, regardless of the neutral or enemy character of the cargo owner. Prize proceedings are required to confirm the lawfulness of the capture and determine the disposition of the vessel and cargo.

Q.4: What are the legal requirements for **Alpha** to establish and conduct prize proceedings?

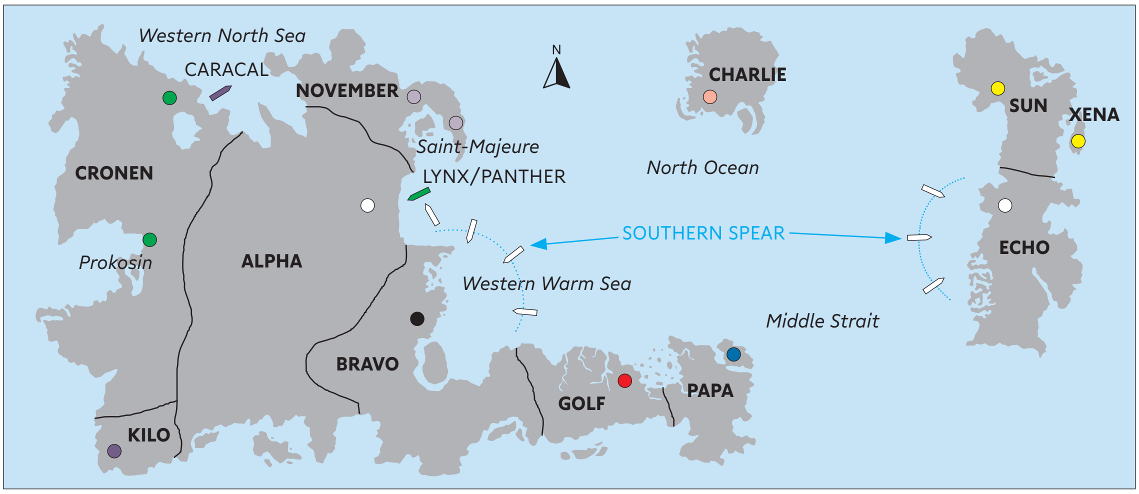
A.4: Under customary international law prize captures must be adjudicated before the capturing state's prize courts. **Alpha's** constitutional framework reserves prize jurisdiction to federal courts, and **Alpha's** Prize Act provides a statutory basis for prize proceedings.

Q.5: What are **Alpha's** legal obligations toward the crew of *Jaguar*?

A.5: Under the Third Geneva Convention (GC III) enemy combatant crews of seized enemy vessels may be detained for the conflict's duration as prisoners of war or released and repatriated, at the discretion of the nation that seized them. Civilian crew members who are nationals of neutral states are not subject to detention as prisoners of war and should be repatriated. The transfer of *Jaguar's* crew to **Papa** custody is consistent with GC III Article 12, which permits the transfer of prisoners to a cobelligerent or custodial state, provided the receiving state agrees to apply GC III protections. **Alpha** remains responsible for the treatment of transferred persons and may not transfer them to a state that would fail to apply GC III protections. **Alpha's** responsibility persists after transfer as the originating detaining authority.

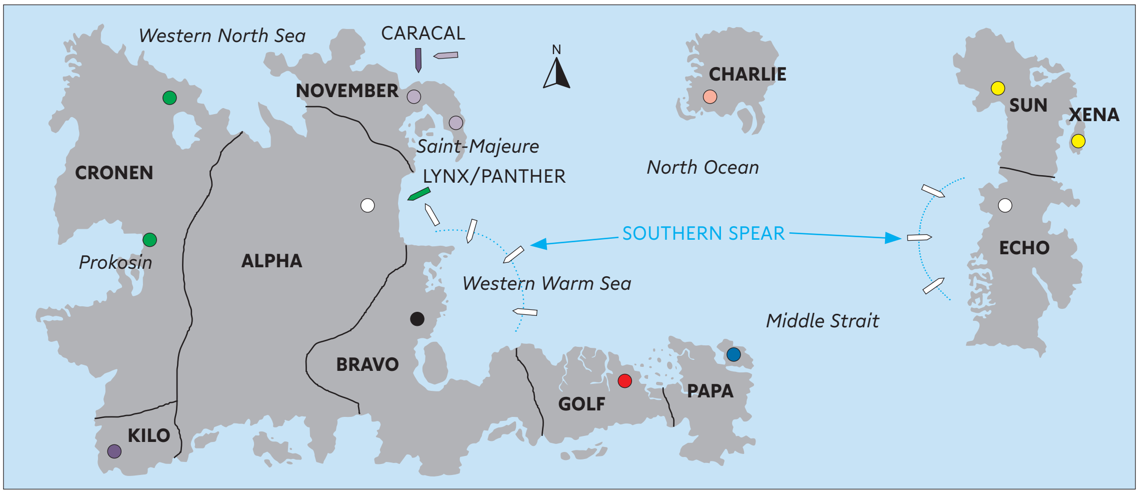
MV *Caracal*

PHASE 1: Factual scene setter



In January 2026, following **Alpha's** high-profile seizure of *Lynx/Panther*, **November**, a North Alliance ally of **Alpha** and **Charlie**, authorizes an independent enforcement action against a suspected **Cronen** shadow fleet tanker operating in the Western North Sea. The crude oil tanker *Caracal* is observed operating under a **Kilo** flag open registry, transporting petroleum cargo believed to originate from **Cronen**. The petroleum on board *Caracal* is being sold in breach of the North Alliance price cap regulations and **November's** own national sanctions implementing regulations. **November** intelligence assesses that the vessel is owned by a **Cronen**-linked entity subject to North Alliance asset-freezing measures.

PHASE 2: Forfeiture proceedings against *Caracal*



On 22 January 2026 a **November** navy task group intercepts *Caracal* in the Western North Sea. The interception is personally authorized by the president of **November**. The **November** naval authorities determine that *Caracal* is flying a **Kilo** flag it is not entitled to fly. The **Kilo** maritime registry authorities do not confirm any valid registration for *Caracal*. The **Kilo** maritime registry states that the registration documents presented by *Caracal* appear to be false. The vessel is also carrying cargo documentation that conceals the fact that the oil originated from **Cronen**.

November navy personnel board and seize *Caracal* without violent resistance. **Cronen** condemns the seizure and lodges a diplomatic protest. **Kilo** also files a formal diplomatic note asserting flag state rights over *Caracal*, notwithstanding its earlier inability to confirm registration. The **November** authorities initiate in rem forfeiture proceedings in **November's** courts.

Legal scan

Q.1: Was **November's** interception and boarding of *Caracal* lawful under UNCLOS?

A.1: November, as a party to UNCLOS, could exercise the right of approach and visit under UNCLOS Article 110(1)(d), which requires reasonable grounds to suspect statelessness. **Kilo's** initial denial of registration, combined with false documents and North Alliance intelligence on the vessel's **Cronen**-linked ownership, provided sufficient grounds for reasonable suspicion. The subsequent **Kilo** diplomatic note asserting flag state rights did not retroactively invalidate the reasonable suspicion of statelessness, which **Kilo** itself had initially confirmed. The interception and boarding of *Caracal* were therefore lawful under UNCLOS.

Q.2: Does the North Alliance sanctions framework provide an independent legal basis for **November** to board and seize foreign vessels on the high seas?

A.2: North Alliance regulations implementing sanctions against **Cronen** impose obligations on North Alliance member states to take measures against designated entities and prohibit sanctioned transactions. North Alliance sanctions law, however, does not independently confer on member states the right to board and seize foreign-flagged vessels on the high seas in the absence of UNCLOS boarding authority or flag state consent (see Article 92(1) UNCLOS).

Q.3: Was there a legal basis under international law for **November** to seize *Caracal*?

A.3: If *Caracal* was stateless despite **Kilo's** subsequent assertions, **November's** right to exercise enforcement jurisdiction and seize *Caracal* must be determined by reference to the general international law principles of jurisdiction discussed above. Under a liberal position on this question, which is not universally accepted, **November's** domestic sanctions law could serve as a basis for the seizure of *Caracal*. If it proves that the vessel was and remains of **Kilo's** nationality, however, the boarding of *Caracal* remains lawful, but its seizure was unlawful and violated **Kilo's** rights under UNCLOS (in particular Article 92(1)).

Q.4: What rights does **Kilo** retain as the asserted flag state of *Caracal*?

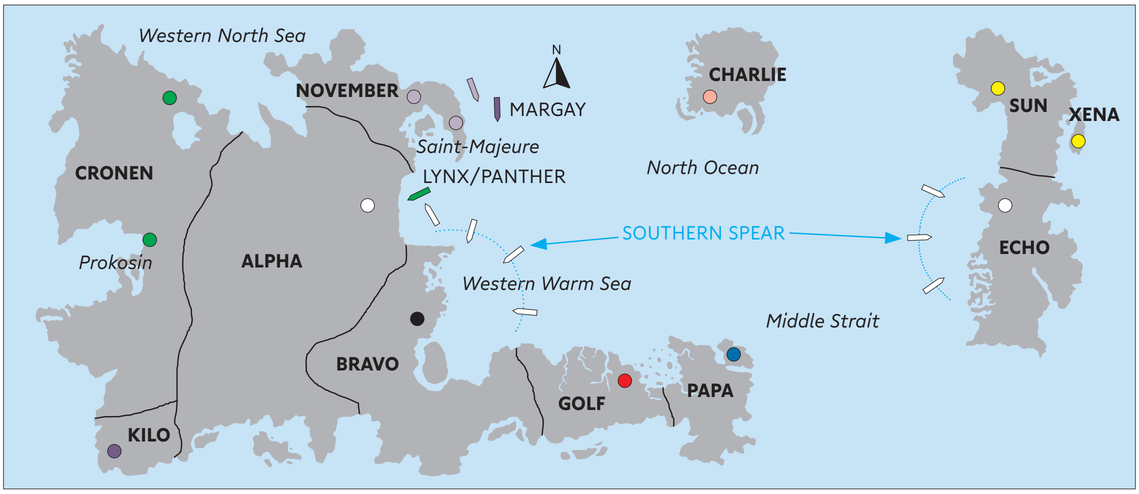
A.4: If **Kilo** genuinely registered *Caracal* and maintained a valid registration relationship, it retains flag state rights under UNCLOS, including the right to protest against the boarding, seek consular access for any **Kilo** nationals among the crew and submit its dispute with **November** to binding dispute settlement under Part XV of UNCLOS to have the vessel and crew released, and to receive compensation. If **Kilo** cannot prove that the vessel was validly registered and had its nationality (based on its own domestic legislation), however, **Kilo** cannot claim any flag state rights in relation to *Caracal*.

Q.5: Can **November** impose criminal penalties on *Caracal's* master or crew members?

A.5: **November's** potential exercise of criminal jurisdiction over *Caracal* depends on whether *Caracal* was indeed stateless and the position taken on whether the exercise of enforcement jurisdiction over stateless vessels based on domestic sanctions law is accepted as the correct interpretation of the relevant rules of general international law (see above). Assuming that both conditions were fulfilled, and that **November's** law provides for criminal penalties for violations of North Alliance sanctions, including imprisonment and substantial fines, and for enhanced penalties where the safety of boarding teams is endangered, **November** could impose criminal penalties (subject to the requirements of the respective criminal law).

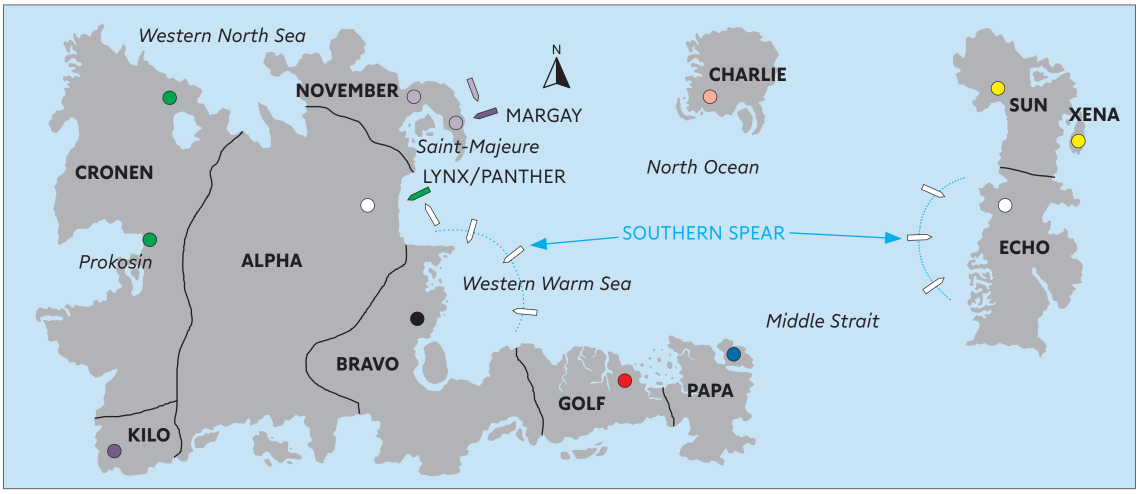
MV *Margay*

PHASE 1: Factual scene setter



In September 2025 **November** special forces intercept and board *Margay* approximately 12 nautical miles off the **November** coastline near the port of Saint-Majeure, outside **November's** territorial sea. *Margay* is not flying a flag or displaying any valid registration markings. The vessel has been observed operating dark, with its AIS transponder disabled. The ship proceeds dark for an extended period before being detected by **November** coastal surveillance.

PHASE 2: Boarding and criminal prosecution of *Margay*



On boarding, **November** special forces discover that the vessel is carrying a cargo of crude oil originating from **Cronen** valued at approximately 100 million **Alpha** dollars. The oil was loaded at the **Cronen** port of Prokosin. The cargo has been transported in breach of North Alliance Regulation No. 833/2014 and the **Cronen** oil price cap implemented by the G7 and associated states. The vessel's cargo documentation has been falsified to conceal the oil's **Cronen** origin.

Margay's master, a **Sun** national, denies knowledge of any sanctions violations, claiming the vessel is operating under an expired registration with a third-party registry. **Sun** is a distant and powerful state that has a loose security and economic relationship with **Cronen**. The **November** maritime and criminal authorities initiate criminal proceedings against the master and the vessel's operating company, based on the island of **Xena**, a semi-autonomous region of **Sun**. Following a trial before a **November** criminal court the master is convicted and sentenced to one year of imprisonment. The case attracts significant international attention as one of the first criminal convictions in a North Alliance member state of a foreign national for maritime sanctions evasion in connection with **Cronen** oil. **Sun** lodges a formal diplomatic protest contesting **November's** exercise of criminal jurisdiction over a **Sun** national.

Legal scan

Q.1: Was **November's** boarding of *Margay* lawful, and what was the applicable legal basis?

A.1: Given that *Margay* was not flying a flag and could not demonstrate valid registration with any state, there was a reasonable suspicion that it was stateless, so **November's** boarding of the vessel was lawful under UNCLOS Article 110(1)(d).

Q.2: Can **November** exercise criminal jurisdiction over the **Sun**-national master for sanctions violations committed on a stateless vessel?

A.2: Whether **November** could exercise criminal jurisdiction over the master of *Margay* depends on whether *Margay* was indeed stateless, and which position is taken on whether the exercise of enforcement jurisdiction over stateless vessels based on domestic sanctions law is accepted as the correct interpretation of the relevant rules of general international law concerning criminal jurisdiction (see above). Assuming that both conditions were fulfilled, it is irrelevant that the master of *Margay* was not a national of **November** but of **Sun**.

Q.3: What evidentiary and procedural standards apply to the prosecution of maritime sanctions evasion?

A.3: November courts applied **November** domestic criminal law and North Alliance sanctions regulations in the prosecution. Proof of knowledge of the cargo's sanctions status was required as an element of the offence. **November** prosecutors relied on the vessel's cargo documentation (including falsified origin certificates of **Cronen** oil), intercepted communications, AIS dark periods correlated with known **Cronen** loading ports, and satellite imagery. The defence argued that the **Sun**-national master was unaware of the cargo's **Cronen** origin and the applicable sanctions regime. The court rejected this argument, finding sufficient evidence of knowledge and citing the false documentation as indicating deliberate concealment. North Alliance member states are increasingly developing specialized prosecutorial frameworks for maritime sanctions evasion, and the *Margay* conviction is being studied as a model for future enforcement actions.

Key takeaways

This set of scenarios demonstrates that the right of visit under UNCLOS Article 110(1)(d) is broadly available against shadow fleet vessels because their defining features of false flags, fraudulent papers, opportunistic reflagging, and dark transits generate reasonable suspicion of statelessness. The unsettled legal questions lie beyond the boarding and are related to domestic legal authorities: whether statelessness opens a vessel to the full reach of the boarding state's domestic law; whether abusive registrations may be refused recognition; and how far assisting allies share responsibility for operations later found to be unlawful. As state practice and international adjudication resolve these questions, enforcement against the shadow fleet will remain lawful at sea but contested in the courtroom, except in armed conflict, where the law of blockade and prize prevails.

Conclusions

The scenarios and legal scans set out here serve to illustrate the many forms hybrid action can take in the context of maritime security, and the fact that while such action occurs in a proverbial "grey zone", it does not do so in a legal vacuum. International law is made up of various legal regimes with an interconnected system of rights and obligations, and an overarching methodology that sets out ground rules on identifying legal rules and methods for interpreting them, and setting out the legal consequences of a breach of an international obligation. While it is undeniable that significant gaps in protection against some forms of hybrid threat activity remain, the overall picture is not one of a lack of potential remedies. It is also a truism that enforcement in a decentralized legal system such as public international law has always been a challenge, even more so when state actors deliberately use the law as a screen for activity that is actually intended to infringe other states' rights and undermine the efficacy of the system itself. Even in such situations, however, there are considerably more legal options to counter such activity than is commonly thought. The first step in countering hybrid action aimed at undermining maritime security is to have a clear grasp of these potential legal responses and their application in real situations. This handbook aims to offer guidance on these legal options. It may serve as a guide in helping states formulate policies and coordinate strategies with like-minded partners to respond effectively to such challenges. The contributors hope it has made a worthwhile contribution to this.

Hybrid CoE

The European Centre of Excellence for Countering Hybrid Threats