



MARITIME SECURITY CENTRE OF EXCELLENCE
Working Together for Maritime Security



USE OF FORCE IN PROTECTING OFFSHORE CRITICAL INFRASTRUCTURE

WWW.MARSECCOE.ORG





USE OF FORCE IN PROTECTING OFFSHORE CRITICAL INFRASTRUCTURE

by
Cdr. (TÜR N) Özden KORAL ¹

1-) LLM in Law of War and Armed Conflict, Legal Adviser in Maritime Security Centre of Excellence (MARSEC COE) (legad@marseccoe.org).

The author would like to acknowledge the helpful comments of Assoc. Prof. Dr. Bleda Kurtdarcan from Galatasaray University, Ph.D. Pelin Manti from Istanbul University, Captains Mehmet Cengiz Ekren, Francisco Cavaco, Didem Sarıođlu, and Commander Deniz etikli from MARSEC COE, as well as the anonymous reviewers. Their valuable contributions greatly assisted in the finalization of this paper.

Disclaimer: This document, a product of the Maritime Security Centre of Excellence (MARSEC COE), is intended solely for the recipient's use. Any unauthorized reproduction, distribution, or disclosure to third parties without the explicit consent of MARSEC COE is strictly prohibited. The views presented in the articles of this paper are those of the author alone and do not represent the opinions or policies of NATO or MARSEC COE. The Centre is not liable for any loss or harm arising from the use of the information contained in this paper and does not endorse or take responsibility for the content of external sources, including websites referenced in this paper.

Use of Force in Protecting Offshore Critical Infrastructure

Commander Özden KORAL (Türkiye - Navy)*

Contents

Abstract	1
1. Introduction	2
2. An Inquiry of the Relevant International Law Sources	6
a. Safeguarding Offshore Critical Infrastructure: ROE and the Interplay of Laws.....	7
b. Force Authorization for OSCI Protection: Challenges and Implications.....	11
c. NATO's Legal Challenges in Protecting Maritime Critical Infrastructure.....	13
3. A Review of Diverse National Law Sources	16
4. The Legal Framework Question: Bilateral Agreements? NATO ROE? Or something else?	19
5. Guidance for NATO Maritime Assets Operating within the Current Legal Framework.....	20
6. Conclusion	22

Abstract:

Protection of offshore critical infrastructure (OSCI) is a growing global concern, underscored by recent incidents such as sabotage of the Nord Stream pipelines.¹ As OSCIs play a pivotal role in transporting vital resources, the international community faces the challenge of developing a comprehensive legal framework to ensure their safeguarding. This paper outlines the legal aspects surrounding the establishment of Rules of Engagement (ROE) for NATO forces tasked with protecting OSCIs. The study explores the challenges of formulating effective ROE by examining the complexities of national interests, legal frameworks and risk perceptions among NATO members. The paper sheds light on the intricate considerations affecting safeguarding maritime assets by analysing international norms, conventions and insights gathered from a panel discussion at the Third Maritime Security Conference conducted in June 2023 at MARSEC COE. The conclusion highlights the absence of a legal foundation for tailored ROE, presenting a challenge to international security efforts. The paper emphasises the need for extensive discussions and negotiations within NATO to establish a coherent and unified approach to ROE, addressing legal, political and operational complexities. The jurisdictional perspective further complicates matters, requiring potential new codification efforts in the law of the sea in order to navigate multinational/private/state-owned operator interests. The alliance's commitment to robust discussions is essential to meeting the new challenges posed by protecting maritime critical infrastructure in a rapidly evolving security landscape.

Keywords: *Protect Offshore Critical Infrastructure (OSCI), Rules of Engagement (ROE), Use of Force, Maritime Security, Pipelines, Sea Lines of Communication, Gas Platforms, Offshore Wind Farms.*

* Author Data: LLM in Law of War and Armed Conflict Department, Legal Adviser in Maritime Security Centre of Excellence (MARSEC COE) (legad@marseccoe.org).

The author would like to acknowledge the helpful comments of Assoc. Prof. Dr. Bleda Kurtdarcan from Galatasaray University, Ph.D. Pelin Manti from Istanbul University, Captains Mehmet Cengiz Ekren, Francisco Cavaco, Didem Sarioğlu, and Commander Deniz Çetikli from MARSEC COE, as well as the anonymous reviewers. Their valuable contributions greatly assisted in the finalization of this paper.

¹ The Balticconnector is the first gas interconnector between Finland and Estonia, aiming to end the gas isolation of Finland by connecting it to the rest of Europe. Construction occurred between 1 Aug 2014 - 31 Mar 2018. More details are available on the Balticconnector Project web page (<http://balticconnector.fi/en/>) and from the European Climate, Infrastructure and Environment Executive Agency of the European Commission (available at: https://cinea.ec.europa.eu/featured-projects/balticconnector_en).



MARITIME SECURITY CENTRE OF EXCELLENCE
“Working Together for Maritime Security”

