THE IRISH MARITIME FORUM

POSITION PAPER

THE NAVY FACILITATING DIPLOMACY

REVIEW OF FOREIGN POLICY AND EXTERNAL RELATIONS

3rd February 2014
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Introduction

The Irish Maritime Forum (TIMF) is an independent and non-political collegiate group of thirty professionals who have a wide range of experience in the maritime domain. TIMF members hold, or have held, positions at the highest level in national and international maritime organisations.

The vision of TIMF is to increase awareness of the importance of Ireland’s Maritime Dimension in the national interest. We particularly wish to encourage the Department of Foreign Affairs to consider the use of the Navy to augment Foreign Policy in all maritime matters and foreign trade missions as the need arises.

We are an island nation and we claim the largest maritime domain to landmass of any Northwest European State. **92% of Ireland is under water.** This domain contains natural resources with a potential value of several Trillion Euro including mineral deposits, fossil fuels, marine life, fisheries and wind and wave energy.

We are a small trading nation living on an island and 99% by volume (45 million tonnes) and 92% by value (128 billion euro) of everything we import or export is transported by sea. The curtailing of freedom of navigation, such as the threat posed by piracy, would have a severe detrimental effect on our economy.

The sea and air traffic between Northern Europe and the USA passes close to our shores and through or above waters over which we have jurisdiction and for which we have responsibility.

TIMF is encouraged by the content of the joint statement of the Taoiseach and Minister for Agriculture, Food and the Marine included in the report entitled “Harnessing our Ocean Wealth”, specifically:

“**We are determined to put behind us the days of underachievement in the marine area. We want to make our ocean wealth a key component of our economic recovery and sustainable growth, generating social, cultural and economic benefits for all our citizens.**”

Historical Context

For an island nation Ireland has a remarkable lack of interest in or knowledge of the sea and matters maritime. For example in 2007, our ocean economy supported 1% of the total workforce. However, the equivalent figures in neighbouring countries are UK 2.2%, Netherlands 2.2%, Portugal 3.3% and Norway 6%. In spite of the Government’s efforts we have a long way to go.

Before 1922 Irish mariners and seafarers were to be found throughout the world. In many of the world’s navies Irish mariners achieved distinction through professionalism, skill and
daring. The names of Barry and Browne are recognised with pride by the US and Argentine Navies, as are Beaufort and Crean by our nearest neighbour.

We believe that the genesis of the lack of interest in Ireland's maritime development, and in particular Naval development, can be found in the treaty negotiations of 1921.

In a letter written by David Lloyd George to Éamon de Valera dated 20JUL21 the very first condition for a possible peace treaty was enunciated as follows;

“The common concern of Great Britain and Ireland in the defence of their interests by land and sea shall be mutually recognised. Great Britain lives by sea-borne food; her communications depend upon the freedom of the great sea routes. Ireland lies at Britain’s side across the sea ways North and South that link her with the sister nations of the Empire, the markets of the world and the vital sources of her food supply. In recognition of this fact, which nature has imposed and no statesmanship can change, it is essential that the Royal Navy alone should control the seas around Ireland and Great Britain, and that such rights and liberties should be accorded to it by the Irish State as are essential for naval purposes in the Irish harbours and on the Irish coast.”

Erskine Childers prepared a memorandum on the British proposals and noted;

“To prohibit an island from maintaining any kind of naval defence, and to place its naval defence exclusively under the control of another power is to deny its existence as a free nation.”

A British memorandum of 27OCT21 stated “Of supreme importance [is that] Ireland will have no Navy.” By December this stance had modified somewhat to include an additional statement which found its way into Article 6 of the Treaty.

Article 6 stated “Until an arrangement has been made between the British and Irish Governments whereby the Irish Free State undertakes her own coastal defence, the defence by sea of Great Britain and Ireland shall be undertaken by His Majesty’s Imperial Forces”. Article 6 permitted only “such vessels as are necessary for the protection of the Revenue or the Fisheries”. In addition provision was made for a review of this arrangement after five years but this was never carried out, collapsing at the preliminary discussions in April 1927. Thus were sown the seeds for the current unsatisfactory situation.

It is important to note that Erskine Childers and both sides of the treaty negotiations appreciated the value of naval forces and of Ireland’s strategic position for the future prosperity of their respective states.

The hasty formation of the “Marine Service” at the commencement of World War II as an element of the Directorate of Operations at Army Headquarters reflected the lack of appreciation of how a Navy should be constituted within a defence organisation. The subsequent establishment of the “Naval Service” in 1946 as a permanent branch of the Defence Forces did not address this imbalance, whereby an inordinate emphasis was placed on the land defence of this island to the detriment of naval defence. Thus, the position of Irish Naval Defence, within Defence Forces planning and command, was set in stone at a time when Ireland had turned her back on the sea, and exercised jurisdiction over a mere three nautical miles from shore, this in turn having been determined by the
range of early 19th century cannon-shot. While Naval resources have been increased in the interim, the planning and command structure remains as it was in the 1940’s. This undesirable situation leads to the underuse of a valuable instrument for Irish diplomacy.

TIMF is also of the opinion that the perception by the then EEC that Ireland did not have the will to develop our fisheries contributed to the unfavorable terms and conditions agreed for Ireland.


Legal Status of Irish Navy Ships

The United Nations Convention on the Law of the Sea (UNCLOS) provides a definition of a warship in Article 29

“For the purposes of this Convention, "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.”

Article 95 states

“Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.”
Thus all ships of the Irish Navy are warships under Article 29 and have complete immunity on the high seas under Article 95. They have the right of innocent passage within the Territorial Seas of another State and are considered sovereign territory, similar to an embassy, within the Internal Waters of another State. These are unique characteristics which should be taken into consideration when deciding Foreign Policy on maritime issues.

Collective Security Cooperation

The Irish policy of supporting UN military missions has been very successful over the years and reflects great credit on all concerned. However, while 37 missions have been undertaken by Ireland since 2000, there has been no deployment, despite requests, of Naval assets to such missions. Such a commitment, which would normally be short-term, would confirm Ireland’s recognition of its international obligations as a maritime nation by helping to keep open sea lines of communication, ensuring supply chain security, reducing shipping and insurance costs and enhancing Ireland's declared determination to improve its maritime position.

Only once, to our knowledge, have the Defence Forces, not UN or EU, used an Irish Naval ship in a military role overseas, when LÉ. Niamh transported the arms, vehicles and equipment for an army reconnaissance team to Liberia in advance of the deployment of Irish troops to a peacekeeping mission. The reconnaissance team flew in and used Niamh as a secure and sovereign base from which to operate. The ship provided a communications link to Ireland and more importantly could have extracted the recce team, using the ships weapons if necessary, had the volatile security situation deteriorated to the point where the safety of the reconnaissance team was placed in jeopardy. This was a perfect example of using the versatility of a warship in furtherance of Ireland’s interest which, in this case, was the deployment of a peacekeeping mission.

On 13SEP12 the European Parliament adopted a report entitled EU Cohesion Policy Strategy for the Atlantic Area which stated;

"Whilst this proposed approach will largely focus on helping communities living and working on the Atlantic coast deal with new economic realities, it also recognises that the EU shares responsibility for stewardship of the world's oceans. Broadly speaking the strategy will cover the costs, territorial and jurisdictional waters of the five EU Member States with an Atlantic coastline – France, Ireland, Portugal, Spain and the United Kingdom as well as international waters reaching westward to the Americas, eastward to Africa and the Indian Ocean, southward to the Southern Ocean and northward to the Arctic Ocean. In addition to actions concerning the five EU Member States, both at a national and local level, engagement is also sought with other EU states that use this space and with international partners whose waters touch it."

This last paragraph is a clear invitation to the five EU Atlantic coastline states, which includes Ireland, to become actively involved in joint EU maritime missions in EU and international waters. Such an involvement would move Ireland from the periphery to the centre of EU maritime operations and to the centre of decision making, consequently enhancing our diplomatic influence in maritime and other areas.
TIMF contends that Ireland must be in a position to fulfill her obligations of security of her own maritime domain but also to participate fully with her EU partners in the stewardship of the world’s oceans, particularly those mentioned in the report above.

Self Sufficient and Flexible

Naval Flexibility as an Instrument of Foreign Policy

As part of the Comprehensive Approach to Somalia, in December 2008 the EU launched the European Union Naval Force (EUNAVFOR) Somalia – Operation Atalanta within the framework of the European Common Security and Defence Policy (CSDP) and in accordance with relevant UN Security Council Resolution (UNSCR) and International Law in response to the rising levels of piracy and armed robbery off the Horn of Africa and in the Western Indian Ocean.

The possible involvement of the Navy in this UN mandated EU Naval operation to protect merchant shipping was apparently dismissed on the grounds that no Irish merchant ships were, or likely to be, affected. This shows poor understanding of modern international trade, where the flag of a merchant ship rarely reflects the ownership of the vessel, its operators, its cargo or its crew. The cargo onboard can be bound for any country and a Panamanian flagged container ship en route, for example, from Rotterdam to Shanghai, can have several large consignment of goods from Irish exporters. Another factor is that
interference in shipping, such as that caused by piracy, increases operating and insurance costs with a consequent increase in global freight rates. It would be futile to hope that these costs would not be passed on to the consumer in the supermarket or at the petrol pumps. These are serious factors for an island nation absolutely dependent on international seaborne trade and absolutely dependent on imported energy.

It was also stated by a previous Minister for Defence that Irish Naval vessels were not suitable for this duty. This is not the case. Offshore Patrol Vessels similar to Irish OPVs are frequently deployed by other countries, such as Finland, Italy, France, Spain and Sweden and are regarded by EUNAVFOR staff as “another very valuable asset provided by Member States” and “very effective for coastal operations, surface surveillance, intelligence collection, escorting and interdiction.” Many countries which would not be considered to have major Navies have participated in the EU anti-piracy Operation Atalanta off Somalia. See Appendix 1.

Unfortunately piracy continues to be a scourge which is driving up shipping costs which will ultimately effect our economy. More importantly pirates continue to prey on innocent seafarers, incarcerating them for periods of up to several years, torturing Masters and Chief Engineers to put pressure on shipping companies to pay ransoms and ultimately murdering some of their hostages. As the problem recedes off the Horn of Africa, West African piracy is increasing. Utilising naval ships to combat piracy fulfills both a self interest and a humanitarian imperative.

Surely participation in EUNAفور, which was addressing a clear and present threat to EU shipping and a particular threat to Ireland’s supply chain of imports and exports, should have had a higher priority in the national interest than say Army participation in United Nations land based missions with no, other than reputational, obvious or tangible benefits to Ireland.

The contribution of an Irish Naval vessel to a UN mandated mission or in response to a natural disaster can produce the same diplomatic capital as the deployment of an Army contingent but can offer additional advantages. Naval vessels, due to their unique status under international law permit a nation state to exercise its sovereignty anywhere a naval vessel is capable of deploying.

It is widely accepted by military strategists that naval forces are tactically self-sufficient, flexible, have a long reach and are not dependent on host nation support. Ships can quickly depart from home waters to an area of interest, on taking up station they can quickly withdraw and, if required, can re-deploy simply by exercising freedom of navigation over 70% of the Earth's surface. Recent studies have shown that the overwhelming bulk of humanity is concentrated along the littoral bounding this ocean space on just 10% of the earths land surface. As of 1998, over half the population of the planet, about 3.2 billion people, live and work in a coastal strip just 200 kilometers wide while a full two thirds, 4 billion, are found within 400 kilometers of the coast. (Ref; Hinrichsen Don. Coastal Waters of the World; Trends, Threats and Strategies. Washington D.C . Island Press 1998. )

The attributes of naval ships, mentioned above, give political and military decision makers a wide range of choices to respond to or influence events in almost any part of the world.

For non-military operations, the Navy can assist in providing accommodation and medical support as well as support to diplomatic and economic interests. The Multi Purpose patrol vessel on which a decision is awaited as a replacement for L.É. Eithne would give the
Navy and the State greater capacity to intervene in natural disasters which are on the increase due to global warming and chiefly effect areas in the littoral.

**Irish Naval Foreign Deployments**

Maritime Security Cooperation

During the Irish Presidency of the EU in 2004, the Battlegroups 20 concept was adopted and has introduced the capability to deploy forces at high readiness. Since January 2007 two Battlegroups are required to be on stand-by for a period of six months at a time.

Ireland has participated in the Nordic Battlegroup (2008 and 2011) and participated in the Austrian/German Battlegroup which was on standby for the second six months of 2012. In January 2014 the Government authorised the preparation of two contingents for participation in EU Battlegroups in 2015 and 2016. To date, there has been no operational deployment of an EU Battlegroup. An opportunity to participate in the naval equivalent of the Battlegroup concept was missed when the cost of piracy to international trade and thereby to the Irish economy became apparent. Irish decision makers were unwilling to react positively and no Irish Naval vessel participated in an EU Naval Taskforce, Operation ATALANTA.

The Battlegroup concept is a contingency plan and has not been deployed while the EUNAVFOR Naval Taskforce has been constantly active since its inception and should have the highest priority from Ireland's perspective. Free riding on EU efforts to curb Piracy off Somalia is unlikely to win Ireland any friends or influence in Brussels.
Operation ATALANTA, combined with defensive measures which have been taken by merchant ships, has caused a sharp decline in reported piracy in the Gulf of Aden off the coast of Somalia. Attacks have reduced from 192 in 2010 to just 7 in 2013, according to the International Maritime Bureau, the global sea security agency on which the United Nations relies for maritime security statistics. However as piracy is unlikely to disappear entirely, in fact it is on the rise in West Africa, it would be prudent that Ireland should prepare for a naval deployment in the future. Up to 21JAN14 there had been 12 pirate attacks on merchant shipping worldwide.

The Defence White Paper 2000 states, “The Defence Forces must be able to operate seamlessly alongside other EU Member States.” It seems therefore quite anomalous that Ireland, as a leading maritime member state, has not seized the opportunity to develop this operational capacity within its Navy.

The quote from the Defence White Paper above, taken in conjunction with the Taoiseach’s own determination to “to put behind us the days of underachievement in the marine area” justifies a greater use of Naval assets to enhance Ireland’s reputation and bring Ireland into the centre of EU and world maritime affairs. TIMF urges that this should be a stated aim of the Department of Foreign Affairs in its future policy.

Supporting Irish Trade, Disapora Engagement and Promoting a Positive Image of Ireland

In recent years Irish Naval vessels supporting trade missions, in collaboration with Enterprise Ireland, have deployed as far East as Tokyo, as far West as Vera Cruz, as far North as Reykjavik and as far South as Cape Horn. The maxim that trade follows the flag is as true today as it was in the days of empire and naval vessels are an ideal tool in the instruments of spreading national influence and trade.

L.E. Niamh’s visit to the Americas in the summer of 2010 was an example of this engagement with the Diaspora. There is a legacy of good will towards Ireland in this large part of the world due to the significant part played by those of Irish descent, such as Browne and Barry, involved in national liberation movements. While in port Niamh was open to the public and many of Irish descent were emotionally moved by the experience of visiting this small part of Ireland that Niamh represented to them. At government level and in the military, which is a power broker in many of these countries, the visit was regarded as an act of friendship and goodwill which translates into leveraging Ireland’s diplomatic influence over and above our capacity as a nation of four million people.
In the context of supporting Irish Trade, TIMF is concerned by Ireland’s current dependance on foreign owned and flagged ships for the transport of our exports and imports which are so vital to our survival as an independent state. Once before Ireland found herself in such a position and was obliged, at the commencement of World War II, to hastily form Irish Shipping. TIMF would urge the Department of Foreign Affairs and Trade to act as a facilitator among the other interested departments to develop policies designed to encourage the registration of ships in Ireland, especially those that are Irish owned and those that ply their trade into our ports. This is not to recommend that our tricolour should become a flag of convenience but to underpin our position as a maritime nation.

**Neutralirty**

While a policy of neutrality has generally served Ireland well in the past it has had its limitations. Neutrality has been confused with passivity, forgetting that under international law it brings with it national obligations to prevent the use of its land and territorial seas by belligerents.

Benefiting from the protection of NATO’s shield during the Cold War Ireland saw no need to pursue an active neutrality and our foreign policy was to compensate for this by involving the Army in UN peacekeeping and security missions.

However this position diverted this island’s foreign policy in a continental as opposed to a maritime direction with the consequent loss of opportunity to use the versatility and flexibility that Naval ships can bring to foreign policy in a broader international dimension.

The maritime domain is now of growing importance to the Irish economy and the safety of our sea lines of communications is essential to us as a trading island nation. An active
neutrality in cooperation with our EU partners for the protection of freedom of navigation and supply chain security should be a priority in our foreign policy.

L.É Niamh in Tokyo. 
Furthest easterly position of an Irish Naval Ship.
Recommendations

The Irish Maritime Forum recommends that, when considering involvement in overseas deployment for Peace Support or Humanitarian purposes, Ireland should consider a broader palette of options, including Naval assets.

As an island nation we must play our part in EU maritime affairs, especially the protection of shipping, upon which our economy depends, and the security and stewardship of the oceans.

The use of Naval assets should be a stated aim of the Department of Foreign Affairs to enhance Ireland’s reputation and position her at the centre of EU and world maritime affairs.

TIMF would urge the Department of Foreign Affairs and Trade to act as a facilitator among the other interested departments to develop policies designed to encourage the registration of ships in Ireland, especially those that are Irish owned and those that ply their trade into our ports.

TIMF further recommends that decision makers bear in mind that we live on an island, are hugely dependent on seaborne trade and have a proud maritime heritage.
Appendix 1 Countries Making Naval Contributions to Operation Atalanta, The European Union International Anti-Piracy Force.

Belgium
Estonia
Finland
France
Germany
Greece
Italy
Malta
Netherlands
Portugal
Romania
Spain
Sweden
UK

It has been argued, including by a previous Minister for Defence, that Irish Naval vessels were not suitable for this duty. This is not the case. Offshore Patrol Vessels such as are operated by Ireland, are frequently deployed by other countries and are regarded at EU level as “another very valuable asset provided by Member States”. They are described by staff at the EU Anti-piracy headquarters as “very effective for coastal operations, surface surveillance, intelligence collection, escorting and interdiction.”

It should also be noted that naval contributions do not necessarily involve long-term commitments. Spain, for instance, deploys OPV’s regularly during the inter-monsoon periods (2-3 months).

OPV’s are/have been deployed to Atalanta by Finland, France, Italy, Spain and Sweden.