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Maritime security cooperation in the Gulf of Guinea: prospects and challenges

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**UNIVERSITY OF
WOLLONGONG**



**MARITIME SECURITY COOPERATION IN THE GULF OF
GUINEA: PROSPECTS AND CHALLENGES**

A thesis submitted in fulfilment of the requirements
For the award of the degree

Doctor of Philosophy

from

University of Wollongong

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Australian National Centre for Ocean Resources and Security (ANCORS)
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2014

CERTIFICATION

I, Kamal-Deen Ali declare that this thesis, submitted in fulfilment of the requirements for the award of Doctor of Philosophy, in the Australian National Centre for Ocean Resources and Security (ANCORS), Faculty of Law, Humanities and the Arts, University of Wollongong, is wholly my own work unless otherwise referenced or acknowledged. The document has not been submitted for qualifications at any other academic institution.

Kamal-Deen Ali

January 2014

ABSTRACT

The Gulf of Guinea is a region of strategic importance and a major source of essential commodities for both domestic and industrial use, while its sea lanes connect trade from multiple continents. The maritime profile of the region also presents enormous opportunities for enhancing socio-economic development of member States and for delivering positive human development index across the region. However, there are increasing maritime security threats in the Gulf of Guinea that affect the peaceful uses of sea, impair the exploitation of coastal resources and also undermine regional and global security. Effective responses to these threats require a comprehensive approach, one which is based on regional and international cooperation.

This thesis examines the prospects and challenges of maritime security cooperation in the Gulf of Guinea. It analyses the concept of maritime security cooperation and develops a framework for explaining maritime security threats in the Gulf of Guinea. The thesis examines the responses to maritime security threats in the Gulf of Guinea by assessing the effectiveness of regional and international cooperative initiatives. The conclusion of the thesis is that current processes of maritime security cooperation in the Gulf of Guinea are inadequate and suffers multiple limitations. Appropriate responses must therefore be put in place to address the gaps. The thesis provides several suggestions for enhancing maritime security cooperation in the Gulf of Guinea.

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LIST OF ACRONYMS

ACE	Africa Coast to Europe
ACOTA	African Contingency Operations Training and Assistance
ACP	African-Caribbean-Pacific Group of States
ACRI	African Crisis Response Initiative
AQIM	Al-Qaeda in the Islamic Maghreb
AU	African Union
COPAX	Protocol relating to the Mutual Security Pact in Central Africa
CNOOC	China National Offshore Oil Corporation
CNPC	China National Petroleum Corporation
CRESMAC	Centre Régional de Sécurité Maritime de l’Afrique Centrale
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organisation
FCWC	Committee for West Central Africa
FPSOs	Floating, Production, Storage and Offloading units
GDP	Gross Domestic Product
GGC	Gulf of Guinea Commission
GPS	Global Positioning Systems
ICC	International Chamber of Commerce
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICJ	International Court of Justice
IMB	International Maritime Bureau
IMCO	Intergovernmental Maritime Consultative Organisation
IMO	International Maritime Organization
ISPS Code	International Ship and Port Facility Security Code
IUU	Illegal, Unreported and Unregulated
MARPOL	International Convention for the Prevention of Pollution from Ships
MDGs	Millennium Development Goals
MOWCA	Maritime Organisation for West and Central Africa
MODUs	Mobile Drilling Units
MTISC	Maritime Trade Information Sharing Centre
NATO	North Atlantic Treaty Organization
NEPAD	New Partnership for Africa Development
NOC	Naval Operations Concept
OAU	Organisation of African Unity
PCASP	Privately Contracted Armed Security Personnel
PLF	Palestinian Liberation Front
PSC	Private Shipping Companies
RPGs	Rocket Propelled Grenades
SALW	Small Arms and Light Weapons
SLOC	Sea Lines of Communication
SOLAS	International Convention for the Safety of Life at Sea

TFG	Transitional Federal Government
TOC	Transnational Organised Crime
UNCED	UN Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea
UNDOALOS	United Nations Division on the Law of the Sea
UNDP	United Nations Development Program
UNSC	United Nations Security Council
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Transnational Organized Crime Convention
UNTS	United Nations Treaty Series
US NSMS	United States National Strategy for Maritime Security
WACS	West Africa Cable System
WMD	Weapons of Mass Destruction

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CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND

The Gulf of Guinea region stretches from Cape Verde to Angola on the West coast of Africa, forming part of the Atlantic Ocean and its maritime system.¹ The sea lanes of the Gulf of Guinea connect maritime traffic from multiple continents, while the region's central location (particularly its proximity to Europe and America) makes it an important part of global trade. The Gulf of Guinea also possesses valuable goods, commodities and minerals, making it the subject of European expansionism and imperialism.² However, the region's geostrategic importance has endured into the post-colonial period, and particularly in the last decade due to increasing global dependency on the region's energy resources.³

¹ The Gulf of Guinea is defined in this thesis as comprising 25 States: 20 coastal States from Cape Verde to Angola, and 5 neighbouring landlocked States. The coastal States are Angola, Benin, Cameroon, Cape Verde, Congo, Cote D'Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mauritania, Nigeria, Sao Tome & Principe, Senegal, Sierra Leone and Togo. The landlocked States are Burkina Faso, Central Africa Republic, Chad, Mali and Niger.

² Generally on colonialism, the scramble for Africa and the Gulf of Guinea in particular, see Thomas Pakenham, *The Scramble for Africa: White Man's Conquest of the Dark Continent from 1876 to 1912*, New York, Hearst Corporation, 1991. Michael Crowder, *West Africa Under Colonial Rule*, London, Hutchinson, 1968. Adu A. Boahen, *Britain, the Sahara, and Western Sudan*, Oxford, Clarendon Press, 1964.

³ George F. Jedrzej and Manuel Paulo, "A New Scramble for African Oil? Historical, Political and Business Perspectives" *African Affairs* 106, 423, 2007, pp. 229-51. Douglas Yates, "The Scramble for Africa Oil," *South African Journal of International Affairs* 13, 2, 2006, pp. 11-31. Pierre Abramovici, "United States: the new scramble for Africa," *Review of African Political Economy* 31, 2004, pp. 685-90. Neil Ford, "Oil from Deep Waters (2): Africa - World's Greatest Deepwater Potential " *Platts Energy Economist Briefing*, 248, June 2002, 2-11. "A new scramble," *The Economist*, 27 November 2004.

The maritime profile of the Gulf of Guinea is also making an enormous contribution to the social-economic development of the region. In 2010, the Gulf of Guinea was the only developing region that registered an average growth rate of six per cent, with high-income gains of about ten per cent of the Gross Domestic Product (GDP) of some States.⁴ This growth is grounded in favourable international trade, with the shipping industry being the primary vehicle. Indeed, the 2011 World Bank Report shows that offshore oil and gas resources have substantially contributed to favourable economic indicators in the Gulf of Guinea, including increased capital inflows.⁵ Fisheries resources are also a major source of employment, especially in coastal communities, and equally contribute to poverty alleviation and food security across the region.⁶

However, since 2005 piracy has been on the rise in the Gulf of Guinea, with the region's maritime space being described as "Africa's other dangerous waters" and "pirates...new territory".⁷ In 2011, the Gulf of Guinea ranked second after the Indian Ocean in terms of frequency of piracy attacks.⁸ These violent attacks constitute a serious threat to global

⁴ World Bank, *Global Economic Prospects: Maintaining Progress and Turmoil*, vol. 3, Washington DC, June 2011, pp. 127-128. Angola, Congo Brazzaville and Gabon have experienced higher growth levels as a result of their offshore oil and gas industries.

⁵ World Bank, *Global Economic Prospects: Maintaining Progress and Turmoil*, vol. 3, Washington DC, June 2011, pp. 127-141.

⁶ FAO Report, *Increasing the Contribution of Small Scale Fisheries to Poverty Alleviation and Food Security*, 2007. FAO, *Achieving Poverty Reduction through Responsible Fisheries: Lessons from West and Central Africa*, *FAO Fisheries and Aquaculture Technical Paper*, 513, 2008.

⁷ Peter Pham, "Africa's Other Dangerous Waters: Piracy in the Gulf of Guinea," *World Defence Review*, 3 December 2009. Scot Baldauf, "Pirates Take New Territory: West African Gulf of Guinea," *The Christian Science Monitor*, 15 January 2010.

⁸See "Reports on Acts of Piracy and Armed Robbery Against Ships Annual Report – 2011," International Maritime Bureau, MSC.4/Circ.180, 1 March 2012. See also International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Reports from 2005-2010*. Page 26 of the 2008 Report (which analysed global piracy trends), indicated that Nigeria has the second highest number of serious piratical attacks in the world.

trade and the security of the region.⁹ The Gulf of Guinea is also confronted with a myriad of other sea-based threats. Transnational organised crimes undermine the security and stability of member States. Decades of illicit trafficking in narcotic drugs fuels crime and imperils governance institutions, illegal migration by sea frequently leads to maritime accidents and disasters, while illegal trafficking in weapons has also contributed to multiple internal conflicts and widespread instability.¹⁰ Moreover, food security in the region is being threatened by illegal fishing activities and unsustainable fishing practices.¹¹ This has the effect of placing the livelihood of coastal communities in jeopardy.

There are clearly multiple maritime security threats and challenges in the Gulf of Guinea. These threats are undermining the region's development agenda, threatening the security of international shipping, and above all, endangering regional and international security. Effective responses to these threats require a comprehensive response, one which is based on regional and international cooperation.

⁹ See United Nations Security Council, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011). See also United Nations Security Council, Resolution 2039 - Peace Consolidation in West Africa (Security Council 6727th Meeting, 29 February 2012).

¹⁰ United Nations Office on Drugs and Crime (UNODC), "The Globalization of Crime: a Transnational Organized Crime Threat Assessment," 2010. See also UNODC, "World Drug Report 2011. UNODC, "Cocaine Trafficking in West Africa," December 2007. UNODC, "Drug Trafficking as a Security Threat in West Africa," 2008.

¹¹ Mark Rowe, "Fishy Business" *Geographical*, August 2013. Eyiunmi Falaye, *Illegal Unreported and Unregulated Fishing in West Africa (Ghana and Nigeria)*, Marine Resources Assessment Group, 2008. MRAG and DEFID, "Illegal, Unreported and Unregulated Fishing" *Policy Brief* 8, 2009. See also David J. Agnew and Colin T. Barnes, *Economic Aspects and Drivers of IUU Fishing: Building a Framework*, 2004, Available: <http://www.oecd.org/dataoecd/17/7/29468002.PDF> (accessed 24 March 2011).

1.2 PREVAILING INTERNATIONAL AND REGIONAL RESPONSES TO MARITIME SECURITY COOPERATION IN THE GULF OF GUINEA

The United Nations (UN) Security Council has adopted two Resolutions which express deep concern over the spate of piratical attacks in the Gulf of Guinea region. The first Resolution was adopted in October 2011, the second in February 2012.¹² In November 2011, the UN Secretary General sent a special mission to the Gulf of Guinea to assess the piracy situation, and in February 2012, the UN Security Council convened a debate on the growing insecurity in the region.¹³

These developments demonstrate the enormity of the problem in the Gulf of Guinea, and also the concern of the international community with finding an effective solution to the region's security dilemma. In geostrategic terms, the developments also illustrate that the attention of the global community is steadfastly fixed on the Gulf of Guinea region. Indeed, 2011 saw a sharp decline in successful piratical incidents off the Horn of Africa, offering both a glimmer of hope and an opportunity to celebrate the success of international anti-piracy efforts (particularly in regard to the Somali piracy enterprise).¹⁴ However, 2011 also manifested an endemic piracy problem in the Gulf of Guinea.

¹² United Nations, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011). United Nations, Resolution 2039 - Peace Consolidation in West Africa (Security Council 6727th Meeting, 29 February 2012).

¹³ UN Security Council, "Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea," S/2012/45, 19 January 2012. United Nations, Security Council 6723rd Meeting, S/pv.6723, 27 February 2012.

¹⁴ A distinction is being made between total number of attempted hijacks and the number of successful hijacks. While total hijacks in the Indian Ocean remained high in 2011, according to the International

In a sense therefore, the Gulf of Guinea presents a paradox of opportunity and complexity to the international community. The opportunity, at least in principle, is that the international efforts that were successful in substantially suppressing the threat of piracy off the Somali coast can be applied elsewhere, such as in the Gulf of Guinea. Indeed, it should be easier for the international community to deal with the piracy situation in this region, as there are past experiences to draw on. In this way, the lessons learnt from combating the ‘horn pirates’ at both the strategic and enforcement levels could be migrated across the equator and applied to ‘gulf pirates’. The conundrum, however, is that many factors set the two situations apart.¹⁵ In the case of the Gulf of Guinea you will be dealing with multiple States with stable and legitimate governments – even if they are largely ineffective. Moreover the nature and drivers of piratical incidents in the Gulf of Guinea are different from those in the Horn of Africa.¹⁶ Above all, the Guinea of Gulf represents a different geostrategic environment.¹⁷

These contrasting dynamics demonstrate that even in the context of piracy, the Gulf of Guinea requires a unique and individual approach. Nonetheless, the multilateral processes commenced by UN suggest that an effective path is being charted to address the insecurity in the region. It is therefore necessary to assess whether the maritime situation in the

Maritime Organisation (IMO) only 15% were successful. See IMO, Acts of Piracy and Armed Robbery Against Ships - Annual Report 2011 (MSC.4/Circ.180. 1 March 2012).

¹⁵ Chapter 4 of this thesis offers a comparative analysis of piracy and armed robbery in the Gulf of Guinea and Somalia.

¹⁶ See chapter 4.

¹⁷ See chapter 6 and 7.

region is, in fact, being adequately dealt with. To this end, it is necessary to examine the context within which the current multilateral efforts will take place. This will be done by analysing the two Resolutions and the accompanying regional and international initiatives in some detail.

First, the Resolutions declare that the ongoing regional and international initiatives are on track to adequately address the maritime security situation in the Gulf of Guinea. For example, Resolution 2018 commends initiatives being pursued by member States of three regional organisations in the Gulf of Guinea: the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), and the Gulf of Guinea Commission (GGC), and also encourages the convening of a region-wide summit to bring together the political leaders of Gulf of Guinea States so that the issue can be further explored.¹⁸ The Resolution also recognises the support being offered to Gulf of Guinea States by member States of the international community and relevant international organisations, while calling for further assistance to bolster regional efforts. The content and wording of the second resolution, Resolution 2039, is even more emphatic.¹⁹ It describes initiatives being adopted by ECCAS member States as “comprehensive”²⁰, noting that steps are also being taken by

¹⁸ United Nations, Security Council Resolution 2018, 29 October 2011.

¹⁹ United Nations, Security Council Resolution 2039, 27 February 2012.

²⁰ The relevant paragraph is as follows: “Noting the ECCAS comprehensive joint maritime security architecture to counter piracy in the Central African subregion, including the strategy adopted by the ECCAS Peace and Security Council in February 2008, the establishment of the Regional Centre for Maritime Security in Central Africa (CRESMAC) in Pointe- Noire, Congo, as well as the multinational coordination centres in the region ...”. See United Nations, Security Council Resolution 2039, 27 February 2012.

ECOWAS to adopt an “integrated maritime strategy”.²¹ The Resolution further designates the Maritime Organisation for West and Central Africa (MOWCA) as another key regional platform for addressing the maritime security situation. Indeed, preceding the adoption of Resolution 2039, the UN Secretary General had unequivocally urged Gulf of Guinea States to take steps to implement the regional coast guard project pioneered by MOWCA.²² It was in between the adoption of these two resolutions, and entreaties by the UN Secretary General, that the assessment mission was sent to the Gulf of Guinea and the UN-convened debate was held on the floor of the Security Council.²³

A further reason for interrogating the comprehensiveness of the maritime security cooperative framework in the Gulf of Guinea is founded on the headings of the two resolutions, as well as the institutional mandate and *raison d'être* of the UN. Resolutions 2018 and 2039 are respectively titled “Piracy and Security in Africa” and “Peace Consolidation in West Africa”. These titles convey both a premise and a promise that a comprehensive maritime security solution is being sought for the Gulf of Guinea - one that will scope maritime security within the larger security and stability requirements of the region. As a matter of fact, the

²¹ The relevant paragraph is as follows: “Further noting the preparatory steps taken by ECOWAS towards developing a maritime security approach through an Integrated Maritime Security Strategy and an Integrated Maritime Plan...”. See United Nations, Security Council Resolution 2039, 27 February 2012.

²² UN News Centre, *Ban calls for integrated strategy against maritime piracy in Gulf of Guinea* 19 October 2011, Available: <http://www.un.org/apps/news/story.asp?NewsID=40103&Cr=gulf+of+guinea&Cr1> 9 December 2012.

²³ UN Security Council, “Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea,” S/2012/45, 19 January 2012. United Nations, Security Council 6723rd Meeting, S/pv.6723, 27 February 2012.

fundamental role of the UN, and particularly the UN Security Council, is to maintain international peace and security.²⁴ When discharging this responsibility, therefore, the UN cannot be seen to be acting in a fragmented manner. Every action mandated by the UN should be founded on the broader security and strategic requirements of the situation. It is precisely for this reason that in the area of conflict resolution, the UN has endeavoured to move beyond merely deploying peacekeeping forces to implementing broader peacebuilding and governance measures as part of its objective to restore peace, security and stability to struggling States.²⁵

By way of summary, Resolutions 2018 and 2039 (and their accompanying multilateral measures) have defined a context within which maritime security cooperation is to be executed, and that context has been deemed appropriate and responsive to the maritime security needs of the region. The Resolutions have thus charted a course for cooperative international engagement in the Gulf of Guinea, and have explicitly sanctioned ongoing regional and global efforts as being fundamental for the operationalisation of regional maritime security cooperation. It is therefore to be expected that regional States and the international community will implement both the broad and specific

²⁴ United Nations, Charter of the United Nations and the Statute of the International Court of Justice, San Francisco, 1945. See particularly Chapters 1, 6 and 7.

²⁵ For a comprehensive approach to UN peacekeeping, see Cedric De Coning and Karsten Friis, "Coherence and Coordination The Limits of the Comprehensive Approach " *International Peacekeeping* 15, 1, 2013, pp. 243-72. Richard Gowan, "The Strategic Context: Peacekeeping in Crisis, 2006–08," *International Peacekeeping* 15, 4, 2008, pp. 453-69. See also Espen B. Eide, "From Peacekeeping to Peacebuilding," *FIIA Report 14/2006*, 2006, pp. 43-52. Cedric de Coning, "United Nations and the Comprehensive Approach," *Danish Institute for International Studies* 14, 2008. Tom Woodhouse, "Conflict resolution and peacekeeping: Critiques and responses," *International Peacekeeping* 7, 1, 2000, pp. 8-26.

prescriptions that have emerged. Indeed, in June 2013, the Summit of Heads of State and Government of Gulf of Guinea States was convened in Yaoundé, Cameroon, as recommended by the two Resolutions.²⁶ As anticipated, the meeting was heralded a success, with the remarks of the UN Secretary General making news headlines.²⁷

However, what emerges from a thorough examination of the prevailing situation is that the processes being implemented inadequately address the state of insecurity in the Gulf of Guinea. Firstly, the Resolutions endorse multiple channels for addressing maritime security in the region, thereby creating confusion and disharmony with regional processes. Secondly, the prevailing maritime security cooperative agenda for the Gulf of Guinea centres on piratical attacks, thus failing to prioritise other dimensions of insecurity, such as depleting fisheries resources, which have substantial effects on the security and stability of the region. Thirdly, critical requirements that will contribute to durable maritime security outcomes, such as the nexus between land and sea in maritime security threats, as well as the governance-based dimensions of the region's insecurity, do not feature prominently in the cooperative dialogue.

²⁶ Summit of Heads of State and Governments of ECOWAS and ECCAS, Yaoundé, Cameroon on 24- 25 June 2013.

²⁷ *At UN-backed meeting, African States seek to combat piracy in Gulf of Guinea*, UN News Centre, Available: <http://www.un.org/apps/news/story.asp?NewsID=44440&Cr=piracy&Cr1=>, 29 December 2013. *Ban welcomes anti-piracy strategy adopted by leaders from West, Central Africa*, UN News Centre Available: <http://www.un.org/apps/news/story.asp?NewsID=45281>, 29 December 2013.

1.3 HYPOTHESIS

The hypothesis underlining this thesis is that the current approach to maritime security cooperation in the Gulf of Guinea is inadequate and suffers multiple limitations.

The thesis argues that the current maritime security cooperative processes in the region do not comprehensively address the relevant maritime security threats, thereby failing to provide an inclusive concept of security. It also demonstrates that current regional and international processes have not yielded a well-defined regional platform for maritime security cooperation, while critical factors that will contribute to enduring maritime security outcomes (such as enhanced legal frameworks for States and addressing the governance-based dimensions to maritime security), are being insufficiently prioritised in the cooperative process.

1.4 AIMS AND OBJECTIVES OF THESIS

To establish the hypothesis and defend the thesis statement, the central aim of this research is to provide a comprehensive analysis of the maritime security situation in the Gulf of Guinea, and to demonstrate the inadequacy of the current cooperative mechanisms which seek to address the maritime security needs of the Gulf of Guinea region. As a corollary to this central aim, the thesis examines critical factors that will contribute to effective maritime security cooperation and the delivery of robust maritime security outcomes in the Gulf of Guinea.

In furtherance of the above aims, the first objective of the thesis is to establish the strategic importance of the Gulf of Guinea and the vast array of maritime interests in the region. The second objective is to develop a conceptual framework for understanding the maritime security situation in the Gulf of Guinea, and to analyse the multiple maritime security threats in the region. The third objective is to establish the gaps in the prevailing regional and international approaches to maritime security cooperation in the Gulf of Guinea.

To achieve the above objectives, the thesis will answer the following mutually reinforcing questions: what is the strategic importance of the Gulf of Guinea maritime domain? What are the underlying interests of external actors and stakeholders in the region? How does the region's maritime domain contribute to the socio-economic development and long term security and stability of Gulf of Guinea States? What threats undermine these opportunities and what are the imperatives for addressing them? How effective are the national and regional response frameworks for maritime security, and what are the underlying challenges to regional cooperation? And finally, how adequate and viable is the contribution and support of the international community to maritime security cooperation in the Gulf of Guinea?

1.5 APPROACH AND METHODOLOGY

The main research approach employed in the thesis is the identification, collection, review and analysis of primary and secondary literature. The primary data which has been relied upon includes official reports and documents of relevant international and regional organisations, including conventions and agreements. Additional primary sources include national legislative instruments and policy documents. Secondary data sources which have been used in the thesis include books, published journal articles in print and electronic form, newspaper articles and critical commentaries, newsletters, press releases and information from internet sources. The thesis also relies on the author's experience as a naval officer in the Ghana Navy, along with the administrative and operational insights this role has afforded the author regarding maritime security dynamics in the Gulf of Guinea.

1.6 THESIS STRUCTURE

The thesis is presented in eight chapters. This introductory chapter highlights the inadequacies in the current approach to maritime security cooperation in the Gulf of Guinea, as well as the need for a comprehensive approach to the maritime security needs of the region. It also outlines the thesis methodology, structure and the significance and contribution of the thesis to the existing knowledge base.

Chapter two sets the overarching background for the thesis. More specifically, the chapter reviews various conceptions of the Gulf of

Guinea region, and adopts a working definition of the geographical scope of the region for the purpose of the thesis. The chapter analyses the socio-economic profile of the Gulf of Guinea, and also examines the geostrategic importance of the region from both a historical and contemporary perspective. Most importantly, however, the chapter examines the major contributions of the Gulf of Guinea's maritime domain to the region's socio-economic development and long term and security and stability. In doing so, the chapter highlights the interests of external actors and stakeholders, especially offshore oil and gas companies, as well as the opportunities and challenges that these interests present to the security and stability of the region.

Chapter three provides both a conceptual and empirical context for the thesis. Indeed, the chapter develops an analytical framework for understanding the concept of maritime security in the Gulf of Guinea, and provides an overview of maritime security challenges in the region. First, the chapter reviews the evolution of the concept of security in security studies, highlighting various dimensions of security. The chapter then analyses the link between general concepts of security (as they have evolved in security studies) and the concept of maritime security. Building on the analysis in the first two parts, the chapter goes on to provide unique insights into the evolution of the concept of maritime security, and also develops an analytical framework for applying the concept of maritime security to the Gulf of Guinea. The analytical framework is then used to outline the substantive maritime security threats which will be investigated in the thesis. These threats include: (i) piracy and armed robbery; (ii) threats to sustainable fisheries, including

illegal, unreported and unregulated fishing (IUU fishing); (iii) illicit trafficking in narcotic drugs by sea; (iv) illegal trafficking in arms by sea; and (v) illegal migration by sea.

The analysis of maritime security challenges is continued in chapter four, with a case study focusing on piracy and armed robbery in the Gulf of Guinea. The chapter highlights the complex nature of piratical attacks in the Gulf of Guinea, and distinguishes Gulf piracy from the Somali situation. The analysis examines the actors and drivers of piracy in the region, and traces the evolution of piracy from a fairly narrow base into an insidious regional threat. The chapter also examines the implications of piratical attacks for both regional and global security and concludes by developing a profile of Gulf of Guinea piracy, and illuminating the future trends and complexities of piracy in the Gulf of Guinea.

Chapter five examines the responses of Gulf of Guinea States to maritime security challenges by assessing the implementation of various international legal frameworks at the national level. Indeed, these international frameworks provide cooperative mechanisms and jurisdiction for addressing maritime security threats. Therefore, the chapter investigates the extent to which Gulf of Guinea States have responded to and implemented the requisite legal regimes.

Chapter six examines the four platforms being used for maritime security cooperation in the Gulf of Guinea, evaluating the responsiveness of these

platforms to the maritime security concerns in the region. In particular, the chapter examines the structural, geopolitical and governance-based challenges and limitations of the current frameworks. It also assesses which regional platforms are suitable for forging maritime security cooperation in the region, and presents policy recommendations for how the initiatives can be moulded to meet the maritime security requirements of the region.

Chapter seven examines the role and contribution of the international community to maritime security cooperation in the Gulf of Guinea. In doing so, the chapter examines the involvement of five key global players in the cooperative process: the United States, France, the United Kingdom, the European Union and China. The chapter analyses the strategic interests underpinning the maritime security partnerships of these actors, as well as the convergence and divergence of these interests *vis-à-vis* the relevant actors. The chapter then evaluates the positive and negative implications of these interests, concluding with a discussion of the limitations and challenges presented by the strategic partnerships.

The final chapter synthesises the results of the research to ascertain whether the findings support the thesis hypothesis – that is, that the current approach to maritime security cooperation in the Gulf of Guinea is inadequate and suffers multiple limitations. The conclusion reveals that the hypothesis has been established, and then proceeds to offer suggestions as to how maritime security cooperation in the Gulf of Guinea could be improved.

1.7 SIGNIFICANCE OF THE RESEARCH

The thesis is significant for three reasons. First, the thesis provides the needed intellectual input for understanding maritime security issues in the Gulf of Guinea, and for enhancing maritime security cooperation in the region. The thesis is the first piece of research to comprehensively analyse maritime security threats in the Gulf of Guinea, as well as the challenges to regional and international cooperation. Therefore, the thesis sets the scene for further research on Gulf of Guinea maritime security. Also, the limitations and gaps that the thesis identifies in the current cooperative initiatives will serve to guide regional States and the global community in adopting an effective maritime security cooperative framework for the Gulf of Guinea region.

Second, the thesis makes a unique contribution to the growing literature on maritime security. Contemporary literature on maritime security is generally focused on examining isolated maritime security threats, while the concept of security is largely applied in maritime security studies without being scrutinised. The thesis is one of the first studies to provide a detailed conceptual *and* empirical analysis of the diverse maritime security challenges in the Gulf of Guinea. The thesis thus lays the foundation for future research in this area.

Third, the thesis emphasises a novel approach to understanding maritime security challenges. While there is a tendency to view maritime security threats as being exclusively sea-based, the thesis emphasises the land-sea nexus and governance-based dimensions to maritime security threats.

The study will therefore fuel further research into how poor governance results in security threats at sea, while policy makers will be better placed to address the broader dynamics of maritime security challenges.

CHAPTER TWO

THE SEA AS THE GEOSTRATEGIC ESSENCE OF THE GULF OF GUINEA: A HISTORICAL AND CONTEMPORARY OVERVIEW

If we flow with life's lessons, we learn that the sea is what it is
Swahili Proverb

2.1 INTRODUCTION

The Gulf of Guinea has attracted profound global attention and interest in the last decade, due largely to its growing status as a source of global energy security.¹ The oil and gas factor has led to the region being characterised as a province of vast untold wealth,² the spotlight of Africa's greatness,³ the El Dorado of the globalised-corporate world,⁴ and, at the strategic level, as taking centre stage in the contest of the superpowers, especially between the United States of America (US) and China.⁵

¹ Sam Raphael and Doug Stokes, "Globalizing West African oil: US 'energy security' and the global economy," *International Affairs* 87, 4, 2011, pp. 903-21. Paul M Lubeck, Michael J Watts and Ronnie Lipschutz, *Convergent Interests: United States Energy Security and the 'Securing' of Democracy in Nigeria* (Massachusetts: February 2007).

² Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p. 1. See also "Oil Empires," *Africa Confidential*, 21 March 2002. "Africa drowns in a pool of oil", *Los Angeles Times*, 1 July 2003.

³ James Dao, 'Oil Puts Africa in Spotlight' *New York Times*, 20 September 2002.

⁴ Ricardo Soares de Oliveira, *Oil and Politics in the Gulf of Guinea*, Hurst, 2007, p. 9. Somini Sengupta, "The Making of an African Petrostate," *New York Times*, 18 February 2004.

⁵ George F. Jedrzej and Manuel Paulo, "A New Scramble for African Oil? Historical, Political and Business Perspectives " *African Affairs*, 106/423, pp. 229-51, Gal Luft, "Fueling the Dragon: China's race into the oil market " *Institute for the Analysis of Global Security*, 2004. Okbazghi Yohannes, "America's new frontier: Oil in the Gulf of Guinea," *The Black Scholar* 33, 2, 2003. James Hentz, "The Contending Currents in United States Involvement in Sub-saharan Africa", in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 23-40.

While this energy-security-geostrategic renaissance is important, and indeed strengthens the requirement for effective maritime security cooperation in the region, the analysis in this chapter will demonstrate that the maritime domain of the Gulf of Guinea has much wider significance, that it is a key enabler of socio-economic development, and that in both historical and contemporary context the maritime realm is indeed the geostrategic essence of the Gulf of Guinea.

The chapter is organised in four parts. First, the chapter will define the Gulf of Guinea region, and by so doing, adopt a working definition for the thesis. Second, the chapter summarises the demographic and socio-economic profile of the Gulf of Guinea region. Third, the chapter reviews the historical significance of the Gulf of Guinea, and finally, the chapter examines the contemporary importance of the Gulf of Guinea and the accompanying geostrategic interests.

2.2 DEFINING THE GULF OF GUINEA REGION

Prevalent references to the “Gulf of Guinea” in contemporary global dialogue, including in the official documentation of the United Nations (UN),⁶ may convey an impression of certainty about the geographical scope of the Gulf of Guinea. However, this is far from the case. The Gulf of Guinea is by no means a uniformly defined region, as depending upon the particular issue or interest at stake, the physical or geographical

⁶ See for example references to the “Gulf of Guinea” in a report of the UN. United Nations, *Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea*, UNSC S/2012/45 (19 January 2012).

scope of the Gulf of Guinea changes. These varied connotations of the region translate into conflicting policy perspectives, thus compounding the challenges of fostering effective maritime security cooperation. The discussion below examines the different perspectives on the Gulf of Guinea under three broad headings, resulting in a definition for the thesis.

2.2.1 The Gulf of Guinea in Academic Literature

One of the most cited works on the Gulf of Guinea is Ricardo de Oliveira's book, "Oil and Politics in Gulf of Guinea."⁷ Although the book has no specific definition of the Gulf of Guinea, it contains a map depicting eight coastal States,⁸ from Nigeria to Angola, and the landlocked States of Chad and the Central African Republic, as Gulf of Guinea States.⁹ In the absence of a clear definition, it can be inferred that the writer views the ten States as constituting the Gulf of Guinea region. James Forest and Mathew Sousa also provide an identical map in their book, "Oil and Terrorism in the New Gulf," but leave out the Central African Republic.¹⁰ Thus, although the authors differ on the total number of States that constitute the Gulf of Guinea, their shared focus on oil and gas resources leads to a common understanding of the Gulf of Guinea as a region of coastal and landlocked States banded together.

⁷ Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007.

⁸ The term "coastal State" is used here as a contrast to "landlocked State", and therefore includes the archipelagic States of Cape Verde and São Tomé and Príncipe.

⁹ Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p.9.

¹⁰ James J. F. Forest and Mathew V. Sousa, *Oil and Terrorism in the New Gulf: Framing U.S Energy and Security Policies in the Gulf of Guinea*, New York and Oxford Lexington Books, 2006, p. x-xii.

A contrary approach to the Gulf of Guinea can be found in the most recent security review of the International Crises Group.¹¹ The report centres on the same geographic space as the two books but defines and limits the Gulf of Guinea region to only eight coastal States.¹² Raymond Gilpin has a similar coastal inclination of the Gulf of Guinea and therefore defines the region as consisting only of littoral States.¹³ However, for Gilpin, the region comprises eleven States, from Ghana to Angola.¹⁴ According to Freedom Onouha, the Gulf of Guinea comprises nineteen States (from Gambia to Angola), all of which are coastal except one,¹⁵ while Kamal-Deen Ali and Martin Tsamenyi have broadened the coastal definition to include Cape Verde.¹⁶

2.2.3 Institutional Conceptions of the Gulf of Guinea

Institutional definitions and understandings of the Gulf of Guinea also differ remarkably.¹⁷ The Gulf of Guinea Commission (GGC) conveys

¹¹ See International Crises Group, "The Gulf of Guinea: The New Danger Zone " *Africa Report No. 196*, 12 December 2012 p. 2.

¹² Ibid. The Report, however, extrapolated the research analysis to cover Benin, Togo and Ghana.

¹³ Raymond Gilpin, "Enhancing Maritime Security in the Gulf of Guinea," *Strategic Insights* VI, 1, January 2007.

¹⁴ Ibid. p.2.

¹⁵ Freedom C. Onuoha, "The Geo-strategy of Oil in the Gulf of Guinea: Implications for Regional Stability," *Journal of Asian and African Studies* 45, 2010, pp. 370-71.

¹⁶ Kamal-Deen Ali and Martin Tsamenyi, "Fault Lines in Maritime Security: Analysis of maritime boundary uncertainties in the Gulf of Guinea," *African Security Review*, August 2013, pp. 1-16.

¹⁷ It is noted that the word "institution" has a deeper application and a different conceptual meaning in the field of international relations. The use of the word here is not intended to evoke the conceptual debate, if it does however, then it is used in the context of John Mearsheimer's view of institutions as formal organisations through which States interact. See John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, 3, 1994/95, pp. 5-49. For a discussion of institutions in the African context, see Samuel M. Makinda, "Terrorism, counter-terrorism and norms in Africa," *African Security Review* 15, 3, 2006, pp. 19-31. On institutions generally see Robert O. Keohane, *International Institutions and State Power: essays in international relations theory*,

the narrowest concept of the Gulf of Guinea region.¹⁸ Although the name of the Commission has in a way monopolised the phrase “Gulf of Guinea,” only eight States make up the Commission.¹⁹ The definition of the region by the International Hydrographic Organization (IHO) is also quite narrow, but broader than that of the GGC. The IHO defines the Gulf of Guinea in its 1953 publication titled “Limits of Oceans and Seas” as the area from Cape Palmas in Liberia to Cape Lopez in Gabon (0°38' S, 8°42' E).²⁰ The area encompasses the coastal domain of ten States and that has been maintained in the 2002 edition.²¹ Thus, Angola, Congo-Brazzaville and the Democratic Republic of Congo (DR Congo), all of which are very prominent in other conceptions of the region, fall outside the IHO definition.

Compared to the narrow views canvassed above, the Gulf of Guinea Current Large Marine Ecosystem (GCLME) Project defines the Gulf of Guinea as constituting sixteen coastal States, from Guinea to Angola.²² The Maritime Organization for West and Central Africa (MOWCA) provides an even broader outlook for the Gulf of Guinea.²³

Boulder, Colo Westview, 1989, Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, New York, Columbia University Press, 1977.

¹⁸ See chapter 6.

¹⁹ These members States are Angola, Cameroon, Congo, Equatorial Guinea, Gabon, Nigeria, and São Tomé and Príncipe.

²⁰ See International Hydrography Organization, *Limits of Oceans and Seas*, 3rd ed., 1953, p. 19.

²¹ The ten States whose coastal domain are covered in the IHO definition are Liberia, Cote d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Equatorial Guinea, São Tomé and Príncipe and Gabon. International Hydrographic Organization, “Limits of Oceans and Seas,” Draft 4th Edition 2002, Chapter 1.

²² “Gulf of Guinea Current Large Marine Ecosystem (GCLME) Project: Trans-boundary Diagnostic Analysis,” 2006, pp. 6-8.

²³ On MOWCA, see chapter 6.

Although MOWCA has no precise definition for the Gulf of Guinea, in practice the Organisation has deemed its twenty five member States to comprise the Gulf of Guinea region.²⁴ This can be discerned from the feasibility study on its integrated regional coast guard network, as well as the accompanying Memorandum of Understanding (MOU) on the coast guard network.²⁵ Although this broad definition is unique, it has commonalities with those conceptions of the Gulf of Guinea that includes landlocked States within the geographic scope of the region.²⁶

2.2.3 Evolving Global Concept of the Gulf of Guinea

There is an evolving global outlook for the Gulf of Guinea that differs in some respects from the definitions reviewed thus far. What this evolving concept shares with other notions of the Gulf of Guinea is the geographic element that the Gulf of Guinea is contiguous to the Atlantic Ocean. However, this evolving concept is marked by a shift in emphasis from defining the Gulf of Guinea region on the basis of physical limits towards a more functional perspective. Thus the emphasis is on securing the benefits that inure from the region, especially energy security and international trade.²⁷ The second element of the evolving concept of the Gulf of Guinea is the stress on regional frameworks as the means for

²⁴ The coastal States of MOWCA are Angola, Benin, Cameroon, Cape Verde, Congo, Cote D'Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mauritania, Nigeria, São Tomé and Príncipe, Senegal, Sierra Leone and Togo. The landlocked States are Burkina Faso, Central Africa Republic, Chad, Mali and Niger.

²⁵ MOWCA, Memorandum of Understanding on the Establishment of a Sub-Regional Integrated Coast Guard Network In West and Central Africa (MOWCA/XIII GA.08/8. 2008). IMO, Report on the Mission on Evaluation and Assessment of the Feasibility to Establish An Integrated Coast Guard Network in the West And Central African Region (TC/0046-01-2000. 15 February 2006).

²⁶ The landlocked States are Burkina Faso, Central Africa Republic, Chad, Mali and Niger.

²⁷ Fidelis Allen, "Oil and Security in the Gulf of Guinea: Reflections on the External and Domestic Linkages," *Journal of Sustainable Development* 5, 4, 2012, pp. 132-40. Cristina Barrios, "Fighting piracy in the Gulf of Guinea Offshore and onshore," *European Union Institute for Security Studies*, May 2013.

enhancing maritime security in the region. This underpins United Nations Security Council (UNSC) Resolutions 2018 and 2039.²⁸ The Resolutions view the Gulf of Guinea as synonymous with the member States of four key organisations, and treat the structures and institutional capacity of these organisations as the platform for delivering security to the region.²⁹ The four institutions are the Maritime Organization for West and Central Africa (MOWCA), the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), and the Gulf of Guinea Commission.³⁰

2.2.4 Thesis Definition and Scope of the Gulf of Guinea

Since the focus of this thesis is on challenges and prospects of maritime security cooperation, the thesis adopts a working definition of the Gulf of Guinea in the context of UNSC Resolutions 2018 and 2039, comprising twenty five States and four regional organisations. Indeed, the four regional organisations mentioned in the Resolutions are regarded as the drivers of maritime security cooperation, so this definition facilitates an evaluation of their suitability for delivering effective maritime security cooperation in the region.³¹

There are also conceptual justifications for the approach the thesis takes to the Gulf of Guinea. Both international relations and security studies

²⁸ United Nations, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011). United Nations, Resolution 2039 - Peace Consolidation in West Africa (Security Council 6727th Meeting, 29 February 2012).

²⁹ This point is examined in chapter 6.

³⁰ These institutions are examined in chapter 6.

³¹ See chapter 6.

literature regard “regions” and “inter-state cooperative frameworks” as both means and agents of global and regional order.³² The emphasis in these theoretical perspectives is on establishing a common approach and solving shared problems, rather than physical boundaries.³³ Similarly, concepts of ocean governance view regional institutions and inter-state frameworks as converging points for adopting appropriate responses to ocean management concerns generally,³⁴ and increasingly with regard to maritime security.³⁵ Therefore, the scope and definition of the Gulf of Guinea adopted in the thesis has both practical and conceptual

³² Acharya Amitav, ed., *Crafting Cooperation : Regional International Institutions in Comparative Perspective* Cambridge, Cambridge University Press, 2007. Maren Ihla, *How can we best account for the role of regional institutions in providing security? In reference to Sub-Saharan Africa*, München GRIN Verlag GmbH 2010, Nkechi Mgbeoji, *Collective Security – The Liberian Crisis, Unilateralism and Global Order*, Vancouver University of British Columbia Press, 2003 , Abbas Bundu, "Sub-regional Organizations and the Promotion of African Economic Integration: The Case of ECOWAS", in Ojomo M.A. and Adewale O, eds. *African Economic Community Treaty: Issues, Problems and Prospects*, Nigeria Institute of Advanced Legal Studies, 1993.

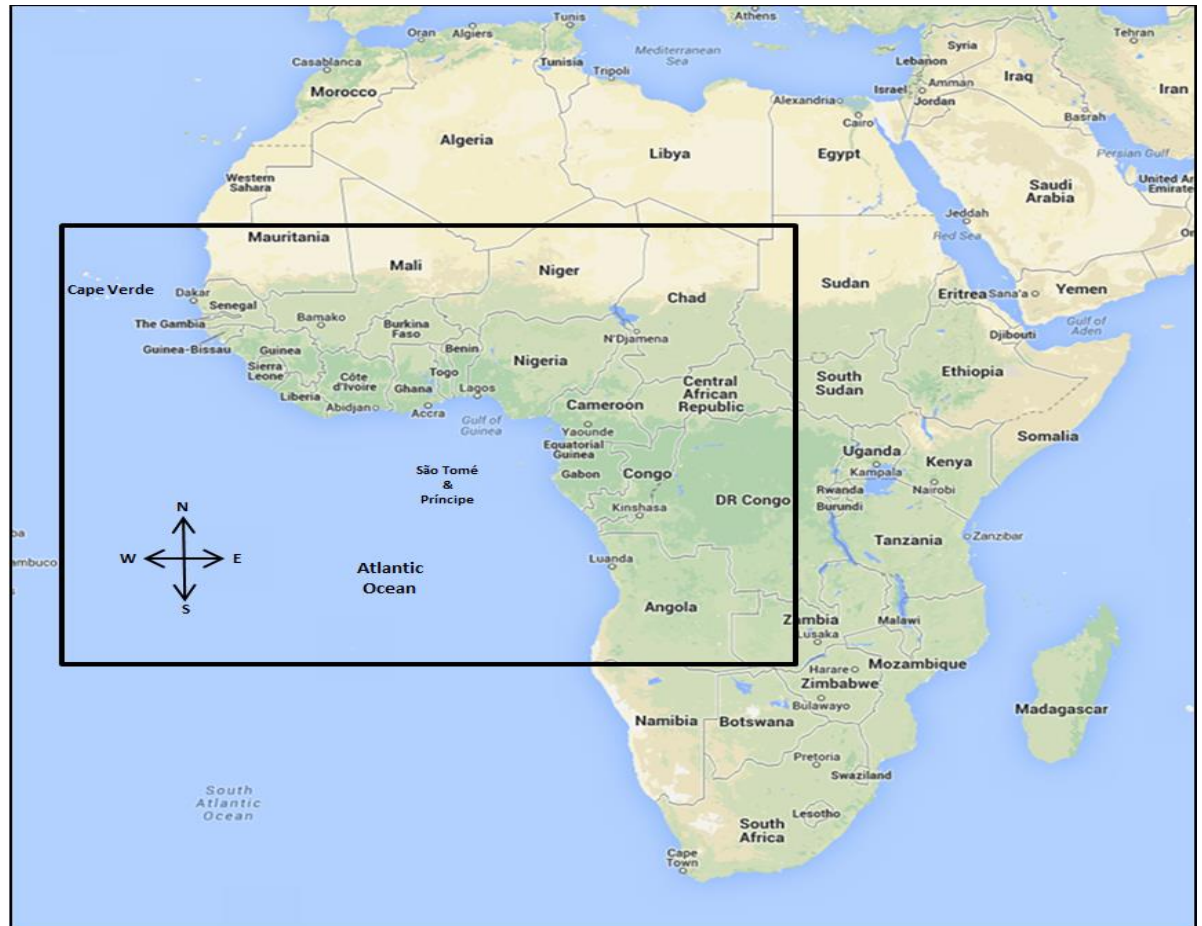
³³ Andrew Hurrell argues that there are no natural regions, and that the definition of “region” or “regioness” depends on the issue or problem area under investigation. Andrew Hurrell, "Explaining the Resurgence of Regionalism in World Politics," *Review of International Studies* 21, 1995, pp. 331-58. Generally on regionalism, cooperation and regional organisations, see Louise L. Fawcett and Andrew Hurrell, eds., *Regionalism in World Politics: Regional Organization and International Order*, Oxford, Oxford University Press, 1995. Nye S. Joseph, *International Regionalism: Readings*, Boston, Little Brown & Co, 1968. Crickard Fred, Fred Deveau and Katherine Orr, eds., *Multinational Naval Cooperation and Foreign Policy in the 21st Century*, Adershot, Ashgate, 1998.

³⁴ Aldaberto Vallega, "The regional approach to the ocean, the ocean regions, and ocean regionalisation – a post-modern dilemma," *Ocean and Coastal Management* 45, 2000, pp. 712-60. Elizabeth A. Kirk, "Maritime Zones and the Ecosystem Approach: A Mismatch," *Review of European Community and International Environmental Law* 8, 1, 1999, pp. 67-72. Tanaka Yoshifumi, "Zonal and Integrated Management Approaches to Ocean Governance: Reflections on a Dual Approach in International Law of the Sea," *International Journal of Marine and Coastal Law* 19, 4, 2004, pp. 483-515. Lewis L. Alexander, "Regional Arrangements in the Oceans," *The American Journal of International Law* 71, 1, 1977, pp. 84-109.

³⁵ Chris Rahman, *Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, with policy implications for New Zealand*, The Centre for Strategic Studies, New Zealand Victoria University of Wellington, 2009. Manoj Gupta, *Indian Ocean Region: Maritime Regimes for Regional Cooperation*, New York Springer, 2010. Catherine Zara Raymond and Arthur Morriën, "Security in the Maritime Domain and Its Evolution Since 9/11", in Rupert Herber-Burns, Sam Bateman and Peter Lehr, eds. Vol. 3 *Lloyd's MIU Handbook of Maritime Security*, CRC Press, 2008, pp. 3-12. Sam Bateman, "Capacity Building for Maritime Security Cooperation: What are We Talking About? ", in Peter Cozens and Joanna Mossop, eds. *Capacity Building for Maritime Security Cooperation in the Asia-Pacific*, New Zealand, Center for Strategic Studies, 2005, pp. 3-23. Mark J. Valencia, "Prospects for Multilateral Maritime Regime Building in Asia", in Sam Bateman, ed. *Maritime Cooperation in the Asia-Pacific Region: Current Situation and Prospects*, Canberra Strategic and Defence Studies Centre, 1999, pp. 27-68.

foundations. Figure 2.1 depicts the twenty five States of the Gulf of Guinea.

Figure 2.1: Map of the Gulf of Guinea



A look at figure 2.1 shows that five landlocked States- Burkina Faso, Chad, the Central African Republic, Mali and Niger, are included in the Gulf of Guinea region. These landlocked States depend on ports of neighbouring coastal States and the sea routes of the Gulf of Guinea for international trade. The case of Chad is even more peculiar. In addition

to general trade, Chad exports its oil through a pipeline laid to the coast of Cameroon.³⁶

2.2.5 Regional Organisations of the Gulf of Guinea

Chapter six of this thesis will analyse the maritime security frameworks of the four organisations mentioned in the last section, that is, ECOWAS, ECCAS, MOWCA and the Gulf of Guinea Commission (GGC). A detailed analysis of the evolution and structures of these organisations, as well as the dynamics of cooperation and conflict with the organisations is, however, outside the scope of this thesis. Nonetheless, to the extent that some of these undercurrents are relevant to understanding maritime security cooperative challenges in the Gulf of Guinea, they will be examined in chapter six.

However, it is important to clarify the membership of the four institutions at this stage. It should be noted that the twenty five member States of the Gulf of Guinea are also member States of MOWCA. ECOWAS has fifteen member States,³⁷ while States ECCAS has ten.³⁸ As indicated earlier, the Gulf of Guinea Commission has eight member States.³⁹ Since the twenty five member States of MOWCA also

³⁶ The Doba-Kribi pipeline, estimated to cost US\$ 4.2 billion, is the single most costly investment on the African continent. It is owned by a consortium of ExxonMobile, ChevronTexaco and Petronas.

³⁷ The States of ECOWAS are Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo.

³⁸ The States of ECCAS are Angola, Burundi, Cameroon, The Central African Republic, Chad, Congo-Brazzaville, DR Congo, Gabon, Equatorial Guinea and Sao Tomé and Príncipe. See "Economic Community of Central African States," <http://www.au.int/en/recs/eccas>, 28 September 2013.

³⁹ See chapter 6. The members of the Gulf of Guinea Commission are Angola, Cameroon, Congo, Equatorial Guinea, Gabon, Nigeria, and São Tomé and Príncipe.

constitute the twenty five States of the Gulf of Guinea, MOWCA occupies a special position as the biggest platform for discussing maritime security cooperation. However, unlike the other three organisations, MOWCA is not an inter-state political organisation, as its mandate is limited to the promotion of commercial shipping.⁴⁰

Although some reports suggest that the Republic of Rwanda has renewed its membership of ECCAS, the country is not listed in the official membership of ECCAS and is therefore excluded from the analysis in this thesis.⁴¹ The second point to note is that the Republic of Mauritania falls within the definition of the Gulf of Guinea by virtue of its membership of MOWCA, but Mauritania now belongs to the Arab Maghreb Union,⁴² having withdrawn its membership of ECOWAS in 2000.⁴³ As analysed in chapter six, this creates challenges for maritime security cooperation in the Gulf of Guinea, because while maritime security imperatives should be part of any evolving cooperative framework, the institutional framework to support the inclusion of Mauritania is lacking at the moment.

⁴⁰ See chapter 6.

⁴¹ Rwanda was originally a member State of ECCAS, but withdrew from the Community as a result of major disagreements with other member States, especially Angola. Indeed, the two States fought in opposite sides in the war in DR Congo. There have been reports that Rwanda has renewed its membership to the Community. However, Rwanda is not listed as a member State on the official website of ECCAS. See “Economic Community of Central African States,” <http://www.au.int/en/recs/eccas>, 28 September 2013.

⁴² Other member States of the Arab Maghreb Union include Algeria, Morocco, Tunisia and Libya.

⁴³ On the withdrawal of Mauritania, see ECOWAS, “Executive Secretary's Report 2000: chapter II,” <http://www.comm.ecowas.int/sec/index.php?id=es-rep2000-3-5&lang=en>, 14 October 2013. Generally on issues of ECOWAS integration including Mauritania, see Fumi Olonisakin, “ECOWAS: from Economic Integration to Peace Building”, in Thomas Jaye, Dauda Garuba and Stella Amadi, eds. *ECOWAS and the Dynamics of Conflict and Peace-building* Senegal, CODERSA, 2011, pp. 11-26. Kofi O. Kufuor, *The Institutional Transformation of the Economic Community of West African*, Ashgate Publishing, Aldershot, 2006, pp. 19-68.

2.3 SUMMARY OF THE SOCIO-ECONOMIC AND MARITIME PROFILE OF THE GULF OF GUINEA

The land area of the Gulf of Guinea is approximately 12,754,790 million square kilometres - three times the size of the European Union.⁴⁴ The estimated population of the region is 435.5 million people, with over one-third of the population living in Nigeria.⁴⁵ Fifteen States in the Gulf of Guinea are Francophone, having French as their national language.⁴⁶ Five are Anglophone, having English as their national language.⁴⁷ Four States are Lusophone, having Portuguese as their language,⁴⁸ while Equatorial Guinea is the only Spanish speaking State in the region. Table 2.1 summarises the socio-economic and maritime profile of the Gulf of Guinea.

⁴⁴ The European Union website (Europa) States the land size of the EU to be about 4 million km² with 503 million inhabitants. See Europa, "Size and Population," <http://europa.eu/about-eu/facts-figures/living/>, 2 July 2013.

⁴⁵ The official webpage of Nigeria simply States that its population is over 150 million people, but the CIA World Factbook gives a figure of 150.8 million people. See Federal Republic of Nigeria, <http://www.nigeria.gov.ng/2012-10-29-11-05-46>, 14 October 2013.

⁴⁶ The Francophone States were colonised by France. They are Benin, Burkina Faso, Cameroon, The Central African Republic, Chad, Congo Brazzaville, Cote d'Ivoire, The Democratic Republic of Congo, Gabon, Guinea, Mali, Mauritania, Niger, Senegal and Togo.

⁴⁷ The Anglophone States are English speaking. Four are former colonies of Britain: Ghana, Gambia, Nigeria and Sierra Leone. The fifth, the State of Liberia, was formed in 1847 when the United States returned ex-slaves and settled them in West Africa.

⁴⁸ Lusophone States are Portuguese speaking and former colonies of Portugal. They are Angola, Cape Verde, Guinea Bissau and São Tomé and Príncipe.

Table 2.1 Socio-economic and Maritime Profile of Gulf of Guinea

State	Population millions	Land Size , Km2	Coastline, Km	EEZ, Km2	GDP, Millions of US Dollars	Economic environment	Institutions	Infrastructure	Technology	Stability	Transparency	Remarks
						Global Competitive Index 2010/2011						
Angola	20	1,246,700	1,600	501,050	84,391	122	119	136	130	7.6	1.9	
Benin	8.8	112,622	121	30,024	6,633	82	87	133	122	5.9	2.8	
Burkina Faso	15.8	273,800	-	-	8,820	98	90	134	124	-	3.1	landlocked
Cameroon	19.4	475,440	402	14,693	22,394	53	107	126	118	6.9	2.2	
Cape Verde	0.5	4,033	965	796,840	1,648	102	56	109	79	5.5	-	
Central Af. Rep	5.0	623,000	-	-	-	-	-	-	-	7.8	2.1	landlocked
Chad	11.3	1,284,000	-	-	7,588	137	135	137	138	8.5	1.7	landlocked
Congo	4.5	342,000	169	40,499	11,898	-	-	-	-	6.3	2.1	
Cote d'Ivoire	20.6	322,463	515	174,545	22,780	94	133	99	102	7.8	2.2	
DR Congo	66	2,344,858	37	1,072	13,145	-	-	-	-	8.2	2.0	
Equ. Guinea	0.7	28,051	296	308,337	14,007	-	-	-	-	-	1.9	
Gabon	1.5	267,667	885	193,627	13,011	-	-	-	-	5.1	2.8	
Gambia	1.7	11,295	80	22,630	807	117	37	69	97	6.7	2.8	
Ghana	24	238,533	539	224,908	31,306	136	67	106	117	5.9	4.1	
Guinea	10	245,857	320	109,456	4,511	-	-	-	-	7.5	2.0	
Guinea Bissau	1.6	36,125	350	106,117	879	-	-	-	-	7.5	2.1	
Liberia	4	111,367	579	246,152	986	-	-	-	-	7.4	3.3	
Mali	14.5	1,240,000	-	-	9,251	65	109	121	128	7.0	2.7	landlocked
Mauritania	3.4	1,030,000	754	155,422	3,636	118	116	122	132	6.9	2.3	
Niger	11.5	1,267,000	-	-	5,549	-	-	-	-	7.5	2.6	landlocked
Nigeria	158.3	923,768	853	216,789	193,609	97	121	135	104	7.0	2.4	
São Tomé	.2	964	209	165,364	197	-	-	-	-	4.3	-	
Senegal	13.7	196,722	531	157,550	12,954	89	76	122	93	7.5	2.9	
Sierra Leone	6.4	71,740	402	159,744	1,905	-	-	-	-	7.2	2.4	
Togo	6.6	56,785	56	15,375	3,153	-	-	-	-	5.3	2.4	
TOTAL	435.5	12,754,790	9,663	3,640,194	475,058							

Data Interpretation: Global Competitive Index: Ranking out of 139 States. Stability: 10= highly unstable; 0 = Very stable. Transparency: 10= Clean; 1= Very Corrupt. EEZ: Limits are truncated at 200m water depth.

Data Sources: Data sources are indicated in the footnotes as follows: Population, Land Size, and Coastline,⁴⁹ EEZ Areas,⁵⁰ GDP,⁵¹ Global Competitive Index,⁵² Instability Index⁵³ and Transparency Index.⁵⁴

⁴⁹ Population, Land Size and Coastline data has been taken from official country websites. In cases where the information was not available on official websites, the data has been taken from the CIA World Factbook and the Nations Online Project, <http://www.nationsonline.org/>.

⁵⁰ Estimates of EEZ Areas are taken from the Sea Around Us Project. The estimates are truncated at the 200m water depth.

⁵¹ "World Bank Development Indicators 2010," World Bank, July 2011.

⁵² World Bank, Africa Competiveness Report 2011, World Bank 2011.

⁵³ "Country Stability Index, 2009/2010" *The Economist Intelligence Unit*, 2010.

⁵⁴ "Corruption Perception Index 2010," Transparency International.

The information in Table 2.1 conveys the socio-economic multiple challenges that confront the Gulf of Guinea. The Gulf of Guinea also ranks very low in terms of development indicators. The average position of the region in three areas of global competitiveness: economic environment, infrastructure and technology, is 110 out of 139 States globally.⁵⁵ Overlaid on the economic and developmental setbacks are a myriad of governance weaknesses. National institutions in the region are dysfunctional, with most States ranking in the upper limit of the global instability index, and no State in the region has attained even a mid-level rating for good governance or transparency.⁵⁶ All these factors impact on maritime security and the capacity for regional cooperation.⁵⁷

Despite the ailing socio-economic profile of the Gulf of Guinea, the region still has key strengths. This can be gleaned from the physical data in Table 2.1, which will be further explored in the next two parts of this chapter. The region has a vast land area and its tropical environment supports the growth of unique plantations and cash crops for export. The region is also a major import market for global goods and services, partly because of its growing population, and also due to the absence of domestic production. Many of the States in the region have vast areas of maritime jurisdiction (with 40 to 80 per cent of the total area of some States comprising maritime domains). Indeed, for some States, their total maritime area far exceeds their land area. These maritime spaces constitute a viable maritime estate which has in the last couple of years

⁵⁵ World Bank, *The Africa Competitiveness Report 2011*, World Bank 2011.

⁵⁶ The Economist, "Country Stability Index 2009/2010 " *The Economist Intelligence Unit*, 2010.

⁵⁷ See chapters 3, 4 and 6.

contributed to appreciable economic growth across the Gulf of Guinea region.⁵⁸

Therefore, the challenges and vulnerabilities of the Gulf of Guinea region co-exist with its potential.⁵⁹ Indeed, the combination of economically valuable mineral resources, essential commodities that are vital for international trade, important coastal living and non-living resources, and international sea lines for shipping, underpins the strategic significance of the Gulf of Guinea in historical and contemporary times. Indeed, the maritime border, more than anything else, have influenced the history and socio-economic dynamics of the region.

2.4 A GEOPOLITICAL HISTORY FROM THE OCEAN

This part examines the strategic importance of the Gulf of Guinea from a historical perspective. The argument underlying the analysis is that the Gulf of Guinea has been part of, and in some cases at the centre of, major transformations in the history of the world, and that the maritime domain of the Gulf of Guinea has been pivotal to the historical role and prominence of the region. The discussion is divided into four sections: early exploration and trade in the Gulf of Guinea, the Dutch-Portuguese commercial rivalry in the Gulf of Guinea and its influence on the evolution of the doctrine of *Mare Liberum*, slave trade and the industrial

⁵⁸ World Bank, "Global Economic Prospects: Maintaining Progress and Turmoil," 3, June 2011, pp. 127-41. African Development Bank, "Regional Integration Strategy Paper For West Africa 2011 – 2015," March 2011, pp. 3-7.

⁵⁹ World Bank, "Global Economic Prospects: Maintaining Progress and Turmoil," 3 June 2011, pp. 127-41.

revolution, and finally, the inseparable link between the quest for sea power by European States and the imposition of the system of colonialism.

2.4.1 Early Exploration and Trade

History shows that the activities of early humans were restricted to their immediate surroundings, and as a result, communities had little knowledge or awareness of each other.⁶⁰ In this primordial world, the influence possessed by any particular society ended at the outskirts of their territory, and feudal lords enjoyed limited wealth because they lived principally on land resources.⁶¹ This was largely the case until the Roman Empire rose to greatness, owing its growth to the opportunities afforded by the Mediterranean Sea.⁶² Since the Mediterranean Sea offered vast commercial and strategic military advantages, the city of Carthage also assumed prominence on the shores of present day North Africa.⁶³ Though it had little arable land, Carthage prospered because its ports had become regional centres for trade and commerce by 300 BC.⁶⁴ The centuries that followed saw the rise and fall of many kingdoms in different geographical locations; however, those kingdoms with access to

⁶⁰ On the early history of the human race, see T.V.N. Persaud, *Early History of Human Anatomy: From Antiquity to the beginning of the Modern Era*, Springfield, Charles C. Thomas, 1984

⁶¹ T.V.N. Persaud, *Early History of Human Anatomy: From Antiquity to the beginning of the Modern Era*, Springfield, Charles C. Thomas, 1984 p. 35.

⁶² Historians differ over the precise date of the Roman Empire or Republic. The general view is that Rome was founded in 753 BC and that the Republic began in 509 BC. See, Encyclopaedia Britannica, *Roman Republic*, Britannica Academic Edition Available: <http://www.britannica.com/EBchecked/topic/857952/Roman-Republic>, 26 February 2013.

⁶³ Encyclopaedia Britannica, *Carthage*, Britannica Academic Edition Available: <http://www.britannica.com/EBchecked/topic/97373/Carthage>, 26 February 2013.

⁶⁴ Ibid.

the sea were able to greatly expand their social, economic and political base, as well as display enduring growth and power. This was the case with many Pre-Westphalian Europeans settlements and kingdoms that subsequently became States.⁶⁵

In the case of the Gulf of Guinea, the great ancient empire of Ghana was located on the banks of the Atlantic coast, around present day Mauritania, and the sea anchored its socio-economic power.⁶⁶ Even the thirteenth century Mali Empire, though not in the precincts of the coast, relied on trade by rivers and also benefited from trade by sea. Thus, the Gulf of Guinea established patterns of interaction with the sea much earlier than the recorded discovery of the region by the great sailor Vasco Da Gama.⁶⁷ However, it was Vasco Da Gama's sea trip that increased awareness about the region, firmly linking it with other parts of the world, and from that point, the Gulf of Guinea became a place for achieving strategic objectives, with the sea as the primary vehicle.⁶⁸ In fact, the economic and commercial potential of the Gulf of Guinea expanded, leading to an increased focus on the region, and culminating

⁶⁵ On the United Kingdom, see David Howarth, *British Sea Power*, New York Carroll & Graf Publishing, 2003. See generally Sam J. Tangredi, ed., *Globalization and Maritime Power*, Canberra, , Institute for national Strategic Studies, National Defence Univeristy, 2002.

⁶⁶ Amy McKenna, *The History of Western Africa*, New York Britannica Educational Publishing, 2011, p. 3-11.

⁶⁷ Basil Davidson and Francis K. Buah, *A History of West Africa, 1000-1800*, Addison-Wesley Longman Limited, 1965. On Vasco Da Gama, see Tony Napoli, *Vasco Da Gama: Discovering the Sea Route to India*, New Jersey, Enslow Publishers, 2010.

⁶⁸ Jane Shute, *Ancient West African Kingdoms*, Chicago Heinemann Library, 2009.

in competition and contest between the early European powers, the Dutch and Portuguese.⁶⁹

2.4.2 Gulf of Guinea and the birth of *Mare Liberum* Doctrine

The treatise or doctrine of *Mare Liberum*, articulated in 1609 by Hugo Grotius, remains the most celebrated development in maritime strategic, legal and commercial thinking, and has its antecedents in events in the Gulf of Guinea.⁷⁰

As in the case of earlier empires, Portugal built its wealth and power by dominating trade. In order to retain its supremacy, Portugal tried to limit the trading opportunities of other nations.⁷¹ The assertiveness of Portugal was partly grounded in a 1493 declaration by Pope Alexander VI, which divided the world's oceans between Portugal and Spain.⁷² However, the Dutch, as commercial competitors of the Portuguese, went on to establish trade relations with the Gold Coast in 1598, and started spreading trade posts to the rest of the Gulf of Guinea.⁷³ The effective

⁶⁹ On the early European interest in the Gulf of Guinea, see Johannes Postma and Victor Enthoven, eds., *Riches from Atlantic Commerce: Dutch Transatlantic Trade, and Shipping, 1585-1871*, Leiden, Brill, 2003.

⁷⁰ *Mare Liberum* (The Free Sea or The Freedom of the Sea) was written by the Dutch jurist and philosopher Hugo Grotius in 1609. The full title of the treatise, which is *Mare liberum sive de iure quod Batavis competit ad Indicana commercia, dissertation*, canvassed the principle that the sea is incapable of being appropriated by any State, and that all nations are free to use it for seafaring trade. Later, in 1635, the Englishman John Selden wrote *Mare Clausum*, which literally translates as 'closed seas', to legitimise British control of the seas around Great Britain.

⁷¹ Daron Acemoglu, Simon Johnson and James A. Robinson, "The Rise of Europe: Atlantic Trade, Institutional Change and Economic Growth," *Centre for Economic Policy Research London*, Discussion paper 3712, 2003.

⁷² The declaration, *Inter caetera* or Papal Bull, was modified by a series of subsequent treaties between the two powers: Treaties of Alcáçovas (1479), Tordesillas (1494) and Saragossa (1526).

⁷³ Encyclopaedia Britannica, *West Africa*, Britannica Academic Edition, Available: <http://www.britannica.com/EBchecked/topic/640491/western-Africa/54843/The-rise-of-the-Atlantic-slave-trade>, 26 February 2013.

assertion of Dutch trade in the Gulf of Guinea heightened tensions between Portuguese and Dutch trading companies in other parts of the world. Portugal persisted with the enforcement of monopolistic methods in the East and West Indies. As part of their scheme of retaliatory measures, the Dutch seized a Portuguese ship, the *Santa Catarina*, in the Strait of Malacca in 1603.⁷⁴ This resulted in the famous treatise *Mare Librium* (Freedom of the Sea) by Hugo Grotius, with the jurist arguing in support of the right of the Dutch East Indian Company to trade in the Far East, and also justifying the capture and sale of the *Santa Catarina* as a prize.⁷⁵

Thus, the Gulf of Guinea was at the centre of the sequence of events that gave birth to *Mare Liberum*, the monograph that underpins the conceptual and strategic character of the sea. It was the commercial triumph of the Dutch in the Gold Coast that emboldened them to contest the Portuguese monopoly in other parts of the world. Indeed, evidence of the ensuing wars between these competing powers to control trade routes and ports in the Gulf of Guinea can be seen in the remnants of canons and guns on the shores of Elmina in Ghana, and other places in the region.⁷⁶

⁷⁴ See Arthur Cotterell, *Western Power in Asia: Its Slow Rise and Swift Fall, 1415 – 1999*, Singapore John Wiley, 2009, pp. 53-64. Dutch admiral Van Heemskerck, who seized the *Santa Catarina*, had actually sailed on behalf of the private Dutch Company *Verenigde Oost-Indische Compagnie*, known in English as the Dutch East Indian Company.

⁷⁵ See Johannes Tumfart, "On Grotius's *Mare Liberum* and Vitoria's *De Indis*, Following Agamben and Schmitt," *Grotiana* 30, 65-87, 2009. Christoph A Stumpf, *The Grotian Theology of International Law. Hugo Grotius and the Moral Foundations of International Relations* Berlin De Gruyter, 2006.

⁷⁶ The Battle of Elmina was fought in 1625. For a detailed examination of Portuguese and Dutch activities in West Africa, see Mark Meuwese, *Brothers in Arms, Partners in Trade: Dutch-Indigenous Alliances in the Atlantic World, 1595-1674*, Martinus Nijhoff, 2012. Jack Green and Phillip Morga, eds., *The Atlantic History: A Critical Appraisal*, New York, Oxford University Press, 2009. Harvey

2.4.3 Trans-Atlantic Slave Trade

No matter how the (in)famous transatlantic slave trade is regarded today,⁷⁷ it was the political economy of the world for about three centuries, and a large part of the human chattel came from the Gulf of Guinea, christened “the slave coast.”⁷⁸ Notable slave centres in the Gulf of Guinea included Badagry in Nigeria, Cabinda in the DR Congo, the Cape Coast in Ghana, and Launda in Angola.⁷⁹ From these forts, millions of coastal and hinterland dwellers of the Gulf of Guinea were shipped across the Atlantic Ocean and traded by mercantile and corporate interests.⁸⁰ Although the United States of America (US) stands out as the dominant endpoint, there were also key slave destinations in Europe and other parts of the world.⁸¹ The Atlantic Slave Trade was subsequently abolished in the early nineteenth century,⁸² but clearly the

M. Feiberg, *Africans and Europeans in West Africa: Elminans and Dutchmen on the Gold Coast during Eighteenth Century*, Philadelphia American Philosophical Society, 1989.

⁷⁷ For various commentaries on slavery and the slave trade, see Stephanie E. Smallwood, *Saltwater Slavery: A Middle Passage from Africa to American Diaspora*, Cambridge and London Harvard University Press, 2007, Gary B. Nash, *The Forgotten Fifth: African Americans in the Age of Revolution*, Cambridge and London Harvard University Press, 2006.

⁷⁸ Robin Law, *The Slave Coast of West Africa 1550-1750: The Impact of the Atlantic Slave Trade on an African Society* Oxford Clarendon Press, 1999. Kenneth Morgan, "Slavery and the transatlantic slave trade," *The International History Review* 30, 4, 2008, pp. 785-95.

⁷⁹ On slave handling and trade, see David Eltis, "Economic Relations Between Europe and Sub-Saharan Africa", in Olivier Pétré-Grenouilleau, ed. *From Slave Trade to Empire: European Colonisation of Black Africa 1780s-1880s*, New York, Routledge, 2004, pp. 24-34. William Clair, *The Door of No Return: The History of Cape Coast Castle and the Atlantic Slave Trade*, New York BlueBridge, 2007. Robin Law and Kristin Mann, "African and American Atlantic Worlds," *The William and Mary Quarterly: A Magazine of Early American History and Culture* 56, 307-334, 1999, p. 2.

⁸⁰ Joseph C. Miller, "A Marginal Institution on the Margin of the Atlantic System...", in Patrick Manning, ed. *Slave Trades, 1500-1800: Globalization of Force Labour*, London, Variorum, 1996, pp. 214-57.

⁸¹ The Royal African Company of UK alone shipped more than 300,000 Gold Coast inhabitants to slavery. See Robin. Law, ed., *The Royal African Company of England in West Africa, 1681-1699 - Sources of African History Series No. 5*, Oxford, 1997-2006. Kenneth Morgan, "Slavery and the transatlantic slave trade," *International History Review* 30, 4, 2008, pp. 785-95.

Gulf of Guinea was the source of the human labour that ensured increased production and economic prosperity in the destination States, turning otherwise poor and obsolescent Western economies into vibrant and powerful States.⁸³ The sea provided the means and platform for the whole enterprise.

2.4.4 The Industrial Revolution

The abolition of the slave trade facilitated the revival of transactions in natural goods, providing the impetus for the industrial revolution in Europe.⁸⁴ The survival of this new political economy depended on two additional pillars: secure markets for goods, and a reliable source of industrial raw materials. The Gulf of Guinea provided both.⁸⁵ Indeed, the annual value of trade from the region was over 3 million pounds sterling.⁸⁶ Among the valuable commodities bought from the region were ivory, gum, beeswax, wild coffee, peanuts, cotton, rubber, clothes, iron and steel. The Gulf of Guinea accounted for a sixth of the ivory

⁸² The legislation abolishing the slave trade in England was enacted in 1806. The United States passed a similar Act in Congress in 1807, practically abolishing the slave trade in that country. In 1794 and under the Jacobin Assembly, France had declared universal emancipation for slaves, but the trade in slaves continued until the relevant legislation in England and the United States was passed.

⁸³ Joseph C. Miller, "18th Century Atlantic Trade in Humans", in Manning Patrick, ed. *Slave Trades, 1500-18000: Globalization of Forced Labour*, London, Variorum, 1996, p. 237. Adu A. Boahen, *African Perspectives on Colonialism* Baltimore John Hopkins University Press, 1987, p. 27.

⁸⁴ Eric J Hobsbawm, *Industry and Empire*, Middlesex Harmondsworth, 1969, pp. 48-54.

⁸⁵ Joseph Schumpeter, *Imperialism and Social Classes*, Cleveland World Publishing Co., 1955, Vladimir I. Lenin, *Imperialism: The Highest Stage of Capitalism* Moscow Progress Publishers, 1983.

⁸⁶ Phillip Curtin, Steven Feierman, Leonard Thompson and Jan Vansina, *African History*, London Longman, 1978, pp. 419-420.

traded in London in 1860, and by 1891, modern day Ghana had become the leading producer of rubber in the whole of the British trading zone.⁸⁷

The industrial revolution inspired great transformations in Western empires, nonetheless, other parts of the world also profited from it. Within the Gulf of Guinea, new patterns of socio-economic expansion evolved, including a growing indigenous wealthy society and a regional system which has been positively described as a pluralistic regional environment.⁸⁸ Thus, the trade routes of the Gulf of Guinea and the larger Atlantic Ocean were important sea lines of communication, not just for the benefit of Europe, but also for West African inhabitants and rulers.⁸⁹

2.4.5 Seapower, the Berlin Conference and Colonialism

The above accounts of the historical significance of the Gulf of Guinea should not be understood as mere socio-economic engagements. On the contrary, they were the result of strategic thinking and emerging concepts of the time. Foremost among these concepts was the notion of “seapower” in the classical work of Alfred Thayer Mahan.⁹⁰ This was

⁸⁷ Adu A. Boahen, *Britain, the Sahara, and Western Sudan*, Oxford Clarendon Press, 1964, pp. 103-104.

⁸⁸ Albert O. Hirschman, "Rival Interpretations of Market Society...," *Journal of Economic Literature* 20, 1982, pp. 1465.

⁸⁹ This is exemplified in the message from the King of Dahomey (present day Benin), when he said: “God has created Black and White, each to inherit his designated territory. The Whiteman is concerned with commerce and the Blackman must trade with the White. Let the Blacks do no harm to the Whites and in the same way the Whites must do no harm to the Blacks”. Quoted from John D. Hargreaves, "The French Conquest of Dahomey " *History Today*, March 1980, pp. 5-9

⁹⁰ Alfred Thayer Mahan, *The Influence of Sea Power Upon History 1660-1783*, Annapolis Naval Institute Press, 1890.

followed by the restated concept of “maritime power” by Sir Julian Corbett.⁹¹ Inspired by these strategic edits, the mutual trade upon which the industrial revolution was anchored was soon to be obliterated by the quest for expansionism.⁹²

Mahan’s doctrinal ethos bounded naval power, conquest and trade as the inseparable instrument of national power and prosperity, and seapower was just an instrument for trade but also to establish dominion over territories across the world.⁹³ Indeed, Mahan’s ideas stimulated the rise of the British Navy to support British expansion and influence.⁹⁴ Mahan’s writings were also translated into all major languages of the time, and thus *Pax Britannica* was not just a hegemonic tool, it also spurred the ambition of other European powers to seek overseas territories. As German Emperor and strategist, Kaiser Wilhelm II, affirmed: “I am not just reading it but devouring it; and it is on board all my ships.”⁹⁵ Sir William Corbett’s “Some Principles of Maritime Strategy”, which emphasised maritime power in the context of maritime trade, further revolutionised strategic thinking and the desire of nations to gain control of territories abroad.⁹⁶

⁹¹ Sir Julian Corbett, *Some Principles of Maritime Strategy* London Longman, Green & Co, 1911.

⁹² Agneta Pallinder-Law, "Aborted Modernization in West Africa " *Journal of African History* 15 1974, pp. 65-82.

⁹³ Alfred Thayer Mahan, *The Influence of Sea Power Upon History 1660-1783*, Annapolis Naval Institute Press, 1890.

⁹⁴ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, London, Penguin Books Ltd, 1976, p. 149.

⁹⁵ Cited in David Howarth, "The Dreadnoughts", in *The Seafarers Collection*, Amsterdam, Time-Life Books 1979, p. 24.

⁹⁶ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Longman, Green & Co, London, 1911.

The Gulf of Guinea became representative of both the process and the product of the doctrines of “seapower” and “maritime strategy”, with all the major European powers of the time setting their eyes on the African continent. The Berlin Conference, which formalised colonial rule across Africa, was convened because of events in the region. Germany, widely considered a minor power at the time, had established political authority in Togo and Cameroon by hoisting flags.⁹⁷ This brought Germany to the brink of war with other European powers, especially Great Britain. The conference was therefore convened to formalise colonial possessions and to divide the rest of the continent.⁹⁸ Thus by 1890, the whole of the Gulf of Guinea was under colonial rule,⁹⁹ and as all the imperial powers were coastal States, they made use of the sea for the execution of their rule and administration.¹⁰⁰

Although the Berlin Conference is recorded in historical narratives as the meeting that partitioned the African continent, thereby placing emphasis on the land component, a careful reading of the Berlin Agreement shows that the maritime domain was as strategically important to the colonialist as the land. Article 4 of the Agreement stipulated that each power was to extend its coastal possessions inland, while Article 5 granted all signatory States the freedom of navigation through the sea to the Congo

⁹⁷ James A. Horton, *West African Countries and Peoples*, Edinburg, Edinburg University Press, 1964, p. 151.

⁹⁸ James A. Horton, *West African Countries and Peoples*, Edinburg, Edinburg University Press, 1964, p. 151.

⁹⁹ Boniface I. Obichere, *West African States and European Expansion* New Haven University Press, 1971.

¹⁰⁰ For an examination of the relationship between access to sea and colonialism, see John A. Gallagher and Ronald E. Robinson, "The Imperialism of Free Trade," *Economic History Review* 2nd Series, 1, August 1953, pp. 1-15.

and Niger rivers.¹⁰¹ It is clear from these two Articles that access to the sea coast was the foremost concern for the colonialist, and thus it was the sea, rather than the land, that held the key to the development of a colonial empire.¹⁰² It is for this reason that Britain, the most dominant power of the time, gathered for herself only coastal colonies in the Gulf of Guinea.¹⁰³ The French taxonomy of its colonies as *territoire d'outre mer* (or “oversees territory”) equally underscores the centrality of the sea to colonial rule.¹⁰⁴

The above analysis shows that the Gulf of Guinea has historically been a region of strategic importance. Indeed, economic and commercial gains were made from the region, the implementation of seapower concepts yielded great dividends, and imperialist ambitions were realised. It should also be mentioned in passing that the Gulf of Guinea was also

¹⁰¹ The Berlin Conference commenced in November 1884 and the Berlin Agreement was ratified on 26 February 1885. The major powers at the Conference were France, Germany, Great Britain and Portugal. However, other countries were also represented, including Austria-Hungary, Belgium, Denmark, Italy, the Netherlands, Russia, Spain, Sweden-Norway, Turkey and the United States of America. See Wolfgang J. Mommsen, Stig Forster and Ronald Robinson, *Bismarck, Europe, and Africa: The Berlin Africa Conference 1884-1885 and the Onset of Partition*, New York Oxford University Press, 1989. Thomas Pakenham, *The Scramble for Africa: White Man's Conquest of the Dark Continent from 1876 to 1912*, New York Hearst Corporation, 1991.

¹⁰² The importance of the sea has been emphasised by all great strategists and philosophers. This is reflected in the following statements paraphrased from the writings of Mahan: Small islands and peripheries are more important than large land masses, overseas colonies were vital for a nation's prosperity, colonial trade was the most treasured form of commerce, travel and traffic by water has always been easier and cheaper than by land and the rise of a country to world greatness without sea was almost unthinkable. Alfred Thayer Mahan, *The Influence of Sea Power Upon History 1660-1783*, Naval Institute Press, Annapolis, 1890.

¹⁰³ British Colonies in the Gulf of Guinea include Gambia, Ghana, Nigeria, Sierra Leone, and after the Second World War, Cameroon.

¹⁰⁴ See chapter 7 for an extensive analysis of the geopolitical angles to maritime security. Generally on France's political and conceptual engagement with Africa, see Christopher M. Andrew, "France: Adjustment to Change", in Hedley Bull, ed. *The Expansion of International Society*, Oxford, Clarendon Press, 1984. V.S. Sheth, "French Policy in Africa: An Assessment," *Africa Quarterly* 39, 2, 1999, pp. 69-87.

central to two other crucial events in world history - the First and Second World Wars, by providing troops for the war effort.

The above analysis shows that the geopolitical history of the Gulf of Guinea - whether viewed as beneficial or detrimental - has much to do with the sea. The 'positive' exploitation and use of global maritime commons, including the waters of the Gulf of Guinea, has historically allowed many States to rise to greatness. However, the same cannot be said for Gulf of Guinea States. In light of this fact, what lessons can Gulf of Guinea States draw from the prosperous nations that have come before them? As the Swahili proverb quoted at the beginning of this chapter states: "the sea is what it is". Thus, the benefits of the sea still abound, and it is not too late for Gulf of Guinea States to chart a geostrategic future based on the sea. This leads us into an investigation of the contemporary value and strategic derivatives of the Gulf of Guinea and its maritime space.

2.5 A GEOSTRATEGIC FUTURE IN THE OCEAN

There is a tide in the affairs of men, which, taken at the flood, leads on to fortune. Omitted, all the voyage of their life is bound in shallows and in miseries. On such a full sea are we now afloat. And we must take the current when it serves, or lose our ventures. **Shakespeare**¹⁰⁵

The Gulf of Guinea remains a region of great importance. In fact, global interest in the region is on the rise, and the maritime domain is once again central to this strategic outlook. The analysis of the contemporary

¹⁰⁵ Words of Brutus in the play "Julius Caesar" by William Shakespeare, Act 4, scene 3, 218–224.

status of the Gulf of Guinea will be discussed with reference to four specific areas: international trade and shipping, oil and gas resources, marine living resources, and finally, submarine cables and pipelines.

2.5.1 International Trade and Shipping

The world's oceans remain the most important means for global trade, with over 90 per cent of trade in goods and services being carried out by sea.¹⁰⁶ The emergence of containerised shipping has also made shipping quicker and safer, thereby placing it at the heart of global trade and transportation.¹⁰⁷ The total volume of goods loaded on ships in 2010 was 8.4 billion tons, a 7 per cent increase from the previous year.¹⁰⁸ Although Africa's share in overall maritime trade remains low (an estimated 7.5 per cent between 2006-2010, compared to, for example, 43 per cent for Asia),¹⁰⁹ maritime trade is still the most critical determinant of socio-economic development and long term stability in the Gulf of Guinea. This is demonstrated by an analysis of export and import trade in the region.

2.5.1.1 Export Trade

As in the case of many other developing economies, Gulf of Guinea States derive a substantial part of their Gross Domestic Product (GDP)

¹⁰⁶ On the contribution of the shipping industry to the transport of goods and the global economy, see Global Insight, "Valuation of the Liner Shipping Industry: Economic Contribution and Liner Industry Operations," December 2009.

¹⁰⁷ "The Intermodal Container Era: History, Security, and Trends," *Transport Research Board* 246, September- October 2006.

¹⁰⁸ UNCTAD, "Review of Maritime Transport 2011 ", 2011, pp. 7-8.

¹⁰⁹ See comparative figures at p. 8, UNCTAD, "Review of Maritime Transport 2011 ".

from the export of cash crops and mineral resources, but are also steadily increasing their share of trade in non-traditional products like pineapples, pawpaw and mangoes to both traditional and emerging markets.¹¹⁰ The tropical weather of the region, combined with its lush rainforests, ensures high yields of cocoa, cotton, groundnuts, shea-nuts and timber. Cote d'Ivoire and Ghana produce more than half of the world's cocoa.¹¹¹ Other States in the region also contribute substantially to global trade in cocoa. Between 2010 and 2011, global production of cocoa was estimated to have increased to a record figure of 4.3 million tonnes, with 3.2 million tonnes or 80 per cent being produced by Cote d'Ivoire, Ghana, Nigeria and Cameroon.¹¹² The Gulf of Guinea also abounds in precious stones and minerals.¹¹³ The world's largest deposit of cobalt is in DR Congo.¹¹⁴ Other mineral endowments in the region include gold, diamonds and titanium, as well as dense minerals like iron, bauxite and manganese. These resources attract significant interest and investment, even in the midst of conflict and instability.¹¹⁵ Table 2.2 represents the maritime trade of Gulf of Guinea States from 2006 to 2010.¹¹⁶

¹¹⁰ Christopher L. Delgado, "Agricultural Diversification and Export Promotion in sub-Saharan Africa," *Food Policy* 20, 3, June 1995, pp. 225-43. Sushant K. Singh, "India and West Africa: A Burgeoning Relationship," *Chatham House, London*, April 2007. Takkane Tsutomu, "Smallholders and Nontraditional Exports Under Economic Liberation: The Case for Pineapples in Ghana " *The Center for African Area Studies, Kyoto University*, March 2004.

¹¹¹ See International Cocoa Organization, Annual Report Rapport 2010-2011, p.2.

¹¹² International Cocoa Organization, Annual Report Rapport 2010-2011, p. 2.

¹¹³ Thomas Schlüter, *Geological Atlas of Africa*, Heidelberg Springer, 2008, p. 4-5. J.B. Wrigh, *Geology and Mineral Resources of West Africa*, London Allen & Unwin, 1985, p. 138-146.

¹¹⁴ "The Democratic Republic of the Congo," Special Publication of the Mining Journal, March 2010.

¹¹⁵ Generally on minerals and its relationship with governance and stability, see Richard Auty, *Sustaining Development in Mineral Economics: The resource curse thesis* London Routledge, 1993. Jeffrey Sachs and Andrew Warner, "The curse of natural resources " *European Economic Review* 45, 2001, pp. 827-38.

¹¹⁶ UNCTAD, Review of Maritime Transport 2011, UNCTAD, New York, 2011, pp. 176-177.

Table 2.2: Seaborne Trade in the Gulf of Guinea 2006-2010

Year	Goods Loaded				Goods Unloaded			
	Crude	Products	Dry Cargo	Total	Crude	Products	Dry Cargo	Total
	Millions of tons							
2006	224.6	15.2	46.1	285.7	7.5	15.9	69.7	93.2
2007	232.8	12.9	54.3	300.0	10.4	19.0	75.5	104.9
2008	246.0	14.9	63.2	324.5	8.5	16.3	70.4	94.3
2009	233.7	12.5	49.9	295.6	8.9	13.5	77.1	99.3
2010	220.8	11.1	63.0	295.6	8.4	13.7	87.6	115.8

Source: UNCTAD Review of Maritime Transport 2011.

A comparison of the import and export figures above makes the Gulf of Guinea region a net volume exporter of goods. The total goods exported for the five year period is about three times the quantity of imports.¹¹⁷ It is significant that dry cargo exports increased from 46.1 million tons in 2006 to 63 million tons in 2010, whilst exports of other products has been at appreciably high levels. The point to draw from these statistics is that maritime trade and shipping is contributing substantially to export drive, and a number of important interpretations can be made from this broad fact.

The first is that the sustainability of export trade is fundamental to the economies of Gulf of Guinea States. Export trade drives domestic production, generates employment, builds private capital, and it is also an essential source of revenue and foreign exchange for governments.¹¹⁸ Second, at the social level, export trade is vital to the wellbeing of citizens in the region. For example, poverty in Ghana's cocoa producing

¹¹⁷ See comparative figures of trade in UNCTAD, Review of Maritime Transport 2011, UNCTAD, New York, 2011, p. 176.

¹¹⁸ Jonathan Frimpong-Ansah, "Sub-Saharan Africa and the International Trade System", in Jonathan Frimpong-Ansah, Ravi Kanbur and Peter Svedberg, eds. *Trade and Development in Sub-Saharan Africa*, Manchester, Manchester University Press, 1991 pp. 35-73.

areas remains very low compared to the rest of the country.¹¹⁹ This positive development has a direct relationship with shipping, as the cocoa produced by these communities is integrated into global maritime trade, translating into a better standard of living for these communities and increasing the profile of the standard of living at the national level.¹²⁰ This will certainly aggregate into positive regional development in the future. Therefore, while the Gulf of Guinea is satisfying global needs with its exports, international trade and shipping is providing revenue and foreign exchange earnings for the region, which is crucial for regional security and stability. The stability and development of the Gulf of Guinea region is thus tied to the safety and security of international shipping.

2.5.1.2 Import Trade

The other side of the global trade equation in the Gulf of Guinea is import trade. The region's share of consumption of global goods and services is on the rise, from 93.2 million tons in 2006 to 115 million tons in 2010. Imports of dry cargo, including food and other industrial products, rose from 69.7 million tons in 2006 to 87.6 million tons in 2010, while the import of refined crude for domestic and industrial use went up by about 10 per cent within the same period. These rising imports may be interpreted in two ways: as a positive reflection of a

¹¹⁹ Christopher L. Gilbert, "Cocoa Market Liberalization in Retrospect," *Review of Business and Economics* 54, 2009, pp. 294-312. Stephen W. Barrientos and Kwadwo Asenso-Okyere, *Mapping Sustainable Production in Ghanaian Cocoa: Report to Cadbury*, Institute of Development Studies, University of Sussex, and University of Ghana, 2008. Clemens Breisinger and Xinshen Diao, "The role of Cocoa in Ghana's Growth and Poverty Reduction " *Paper Presented at the International Food Policy Research Institute, Accra, Ghana*, 19 November 2007

¹²⁰ Shashi Kolavalli and Marcella Vigneri, *Cocoa in Ghana: Shaping the Success of an Economy*, Available: <http://siteresources.worldbank.org/AFRICAEXT/Resources/258643-1271798012256/Ghana-cocoa.pdf>, 23 February 2013.

burgeoning middle class which has increased purchasing power, or a stern warning of the region's increasing dependence on external sources for its livelihood. However, both conclusions reiterate the importance of maritime trade as the primary mode for obtaining food and other basic necessities. Significantly, the import figures cement the Gulf of Guinea as an important market for the consumption of global goods.

2.5.1.3 Transit Trade of Landlocked States

The landlocked States of the Gulf of Guinea are equally dependent on international trade and shipping for economic growth and development. The main ports which are used to transfer goods to and from landlocked States are the Port of Abidjan in Cote d'Ivoire, the Port of Duala in Cameroon, the Port of Lome in Togo, and the Port of Tema in Ghana. Available figures show that roughly 4 per cent of the total cargo handled by these five ports in 2006 was transit cargo,¹²¹ and in 2008 the Port of Tema handled an estimated 865,000 tons of transit cargo from neighbouring landlocked States.¹²² It is important to note that the landlocked States of the Gulf of Guinea region also export a substantial quantity of goods for the international market. For example, exports of cotton from landlocked States in the ECOWAS sub-region accounted for 5 per cent of the global total in 2006.¹²³ These statistics indicate that maritime security in the Gulf of Guinea is as important to landlocked States as it is for their coastal counterparts.

¹²¹ Alan Harding, Gylfi Pálsson and Gaël Raballand, "Port and Maritime Transport Challenges in West and Central Africa," *Sub-Saharan Africa Transport Policy Program*, Working Paper No. 84, May 2007, pp. 21-24.

¹²² See Executive Summary, p. x, United States Agency for International Development, West Africa Transport Logistics Analysis Using FastPath: Tema–Ouagadougou Corridor Final Report, (USAID/West Africa. January 2010).

¹²³ "Atlas of Regional Integration in West Africa-Cotton," ECOWAS-SWAC/OECD, 2006, p.1.

2.5.2 The Gulf of Guinea and Global Energy Security

Oil and gas resources form the bedrock of global energy security. Indeed, the network of global transportation (cars, aeroplanes, trains and ships), depend on oil and gas, as does the military.¹²⁴ Although there are attempts to reduce dependence on fossil fuels (petroleum, coal and natural gas), petroleum remains the world's leading fuel, representing 33.6 per cent of global energy consumption.¹²⁵ In recent times, demand for liquid natural gas (LNG) has also outpaced fossil fuels like coal, owing to its environmentally friendly profile.¹²⁶ There are two critical determinants of global oil and gas energy security: first, the volume of reserves and supplies, and second, the ability to protect and ensure regular supplies. In the current global setting, the Gulf of Guinea commands both, with the region possessing additional advantages over other regions.¹²⁷ It is estimated that global dependence on the Gulf of Guinea for oil and gas supplies will rise by 30 per cent by 2040.¹²⁸

The rest of this section examines the significance of the Gulf of Guinea to global energy security. It will analyse the oil and gas reserves in the region and the comparative advantage of the Gulf of Guinea as a source

¹²⁴ Generally on the dependence of global transport system on oil and gas, see Phillip E. Cornell, "Energy Security as National Security: Defining Problems Ahead of Solutions," *Journal of Energy Security*, 19 February 2009.

¹²⁵ See page 2, British Petroleum, Statistical Review of World Energy (June 2011).

¹²⁶ See also, International Energy Agency, *World Energy Outlook 2010*, Paris 2010, p. 5. Available http://www.worldenergyoutlook.org/docs/weo2010/WEO2010_ES_English.pdf, 17 September 2011.

¹²⁷ Lubeck, Watts and Lipschutz, *Convergent Interests: United States Energy Security and the 'Securing' of Democracy in Nigeria*

¹²⁸ Mane D. Ondo, "Emergence of the Gulf of Guinea in the Global Economy: Prospects and Challenges" *IMF Working Paper WP/05/235*, Washington, DC: International Monetary Fund, 2005. David L. Goldwyn and Stephen J. Morrison, *Promoting Transparency in the African Oil Sector: A Report of the CSIS Task Force on Rising Energy Stakes in Africa*, Washington, DC: Centre for Strategic and International Studies, 2004.

of global energy security. The section will also examine the oil and gas interests of key global players in the Gulf of Guinea, and conclude with a discussion of oil power politics, as well as associated governance and security challenges.

2.5.2.1 Gulf of Guinea Oil and Gas Reserves

Global interest in the Gulf of Guinea has increased tremendously, largely due to vast discoveries of offshore oil and gas resources.¹²⁹ For many years, sizeable oil and gas reserves have been limited to a few regions, such as the Middle East, the Caspian Basin, the North Sea and the Americas.¹³⁰ Studies, however, indicate that the African continent has major oil reserves, particularly in the offshore and deep-water areas of the Gulf of Guinea.¹³¹ The discovery of oil offshore Congo-Brazzaville in 1969 gave some indication of the region's oil and gas potential, but the extent of such potential remained uncertain until the first deep-water oil discovery in offshore Angola in 1996.¹³² Since then, oil and gas discoveries in the ultra-deep water areas across the region have continued to occur, while onshore discoveries have also sharply risen.¹³³

¹²⁹ See Damian Ondo Mañe, *Emergence of the Gulf of Guinea in the Global Economy: Prospects and Challenges*, IMF Working Paper, WP/05/235, 2005, p.6. Jedrzej and Paulo, "A New Scramble for African Oil? Historical, Political and Business Perspectives ".

¹³⁰ The oil and gas reserves discussed in this section are "proven" reserves. According to the BP Statistical Review, "proven" oil and gas reserves are "those quantities [of oil and gas] that geological and engineering information indicates with reasonable certainty can be recovered in the future from known reservoirs under existing economic and operating conditions." See p.6, British Petroleum, Statistical Review of world energy, June 2010.

¹³¹ Neil Ford, "Oil from Deep Waters (2): Africa - World's Greatest Deepwater Potential " *Platts Energy Economist Briefing*, 248, June 2002, pp. 2-11.

¹³² Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p. 204. On oil activities in Congo, see John Clark, "Petro-Politics in Congo," *Journal of Democracy* 8, 3, 1997, pp. 62-76.

¹³³ Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p. 204.

Nigeria has the ninth highest oil reserves in the world,¹³⁴ with its daily production of over 2 million barrels in 2010 placing it in the top three oil producing nations according to the Organization of the Petroleum Exporting Countries (OPEC).¹³⁵ Angola's estimated output of 1.8 million barrels is also one of the highest in the world, and projections are for Angola to reach a daily output of 2 million barrels in 2014.¹³⁶ Nigeria and Angola, together with Congo-Brazzaville and Gabon, are mature oil producers, with a large part of their reserves and production being generated from offshore operations. In 2004, major oil reserves discovered in offshore Equatorial Guinea signalled that the region had become a key oil producing region.¹³⁷

The landlocked State of Chad is also a significant oil player on the world stage. It is estimated that Chad has oil reserves exceeding 900 million barrels, and its oil is carried by a pipeline from Doba in Chad to the Cameroonian coastal town, Kribi.¹³⁸ The 663 mile pipeline, which cost approximately \$US4.2 billion, is owned by a consortium consisting of ExxonMobile, ChevronTexaco and Petronas, and is regarded as the

¹³⁴ BP Statistical Review of World Energy," June 2011, p. 6.

¹³⁵ See "Worldwide Look at Reserves and Production " *Oil & Gas Journal* 108, 46, December 2010, pp. 48.

¹³⁶ United States Energy Information Administration, *Angola*, 8 January 2013, Available: <http://www.eia.gov/countries/analysisbriefs/Angola/angola.pdf>, 20 February 2013.

¹³⁷ For an analysis of the evolution of petroleum production in Cameroon, Chad, the Republic of Congo, Equatorial Guinea, and Gabon between 1994 and 2010, see Johannes Wiegand, *Fiscal Surveillance in a Petro Zone—The Case of the CEMAC* (Washington, D.C: International Monetary Fund, Working Paper 04/8, 2004).

¹³⁸ *Oil and Gas in West Africa*, The West Africa Resource Watch, Available: www.osiwa.org/attachment/22/oil%20and%20gas.pdf, 27 February 2012.

single most expensive private investment in Africa.¹³⁹ Cameroon's oil industry, which declined in the 1990s because of waning land-based reserves, has recently recovered due to an injection of funds following the discovery of new oil reserves in its offshore areas.¹⁴⁰

Benin, the Democratic Republic of Congo, Cote d'Ivoire and Ghana have also become oil producing States, further raising the oil profile of the Gulf of Guinea. Ghana announced its first oil discovery in 2005, and since then more discoveries have been made.¹⁴¹ According to the International Energy Outlook of 2011, Ghana's budding offshore oil industry made a positive contribution to global energy resource levels, and the trend is expected to continue.¹⁴² There have also been reports of offshore oil discoveries in Sierra Leone as well,¹⁴³ while both Senegal and Guinea have onshore oil fields, which strongly indicate that the two States may reap the benefits of the deep-water potential of the Gulf of Guinea.¹⁴⁴ The proven oil reserves for selected Gulf of Guinea States as

¹³⁹ Douglas Yates, "The Scramble for Africa Oil," *South African Journal of International Affairs* 13, 2, 2006, pp. 11-31, p. 22. See also Somini Sengupta, "The Making of an African Petrostate," *New York Times*, 18 February 2004.

¹⁴⁰ John Day, *Cameroun, West Africa's Latest Oil Battleground*, 25 March 2012, Available: <http://oilprice.com/Energy/Crude-Oil/Cameroon-West-Africas-Latest-Oil-Battleground.html> 20 March 2013.

¹⁴¹ Eni Oil Company, *Eni successfully drilled first oil delineation well of the Sankofa East oil discovery in offshore Ghana*, 17 January 2012, Available: http://www.eni.com/en_IT/media/press-releases/2013/01/2013-01-17-eni-sankofa-ghana.shtml, 20 February 2013. See also, PennEnergy, *Hess announces oil discovery offshore Ghana*, 12 December 2012, Available: <http://www.pennenergy.com/articles/pennenergy/2012/12/hess-announces-oil-discovery-offshore-ghana.html>, 20 March 2013.

¹⁴² United States Energy Information Administration, *International Energy Outlook 2011*, DOE/EIA-0484 (Washington D.C: Department of Energy, September 2011). See p. 2.

¹⁴³ BBC News, *Oil Discovered off Sierra Leone* 16 September 2009, Available: <http://news.bbc.co.uk/2/hi/africa/8259335.stm>, 9 September 2009.

¹⁴⁴ Drew Hinshaw, *Senegal Plans Offshore Oil Drilling in 2012 as West African Output Grows*, 2 September 2011, Available: <http://www.bloomberg.com/news/2011-09-02/senegal-plans-offshore-oil-drilling-in-2012-as-west-african-output-grows.html> 4 October 2011.

at 2011 is contained in Table 2.3 below. The significant thing to note is that the oil reserves in the Gulf of Guinea have tripled from 20.4 million barrels in 1990 to 59.22 million barrels in 2011. Almost all the States that have proven oil reserves also have huge deposits of gas, and in the case of Cote d'Ivoire, its proven gas reserves exceed its oil reserves.¹⁴⁵

Table 2.3: Proven Oil Reserves of Gulf of Guinea States

	1990	2000	2009	2010	2011 ¹⁴⁶
	Billion Barrels				
Angola	1.6	6.0	13.5	13.5	13.5
Congo Brazzaville	0.8	1.7	1.9	1.9	1.9
Equatorial Guinea		0.8	1.7	1.7	1.7
Gabon	0.9	2.4	3.7	3.7	3.7
Nigeria	17.1	29.0	37.2	37.2	37.2
Benin				0.08	0.08
Cameroon				0.20	0.20
DR Congo				0.18	0.18
Ghana				0.01	0.66
Cote d'Ivoire				0.10	0.10
Total of Estimates	20.4	39.9	58.0	58.7	59.22

Sources: Angola to Nigeria, BP Statistical Review of Energy Outlook June 2011
Benin to Cote d'Ivoire, Oil & Gas Journal, vol. 108, No. 46, Dec 2010

2.5.2.2 Comparative Advantages and Security of Gulf of Guinea Oil and Gas Reserves

Apart from having substantial oil reserves and the ability to meet the increasing demands of the global energy market, the Gulf of Guinea oil industry has several advantages over oil industries in other regions. In terms of quality, the oil from the region is classified as “sweet oil” due to

¹⁴⁵ *Oil and Gas in West Africa*, The West Africa Resource Watch, Available: www.osiwa.org/attachment/22/oil%20and%20gas.pdf, 27 February 2012.

¹⁴⁶ The estimates for 2011 represent a rollover of the 2010 estimates.

its low sulphur content, the low cost of refining the oil, and its limited environmental harm.¹⁴⁷ Moreover, the region's deep water exploration is regarded as the new frontier of energy security. There are two reasons for this. First, the absence of human habitation in the deep waters of the Gulf of Guinea renders the entire offshore area an exploitable zone. Second, problems with older technology which were previously seen as an impediment for extracting deep water reserves have been overcome.¹⁴⁸ The advent of new technology in the oil and gas industry has allowed the production, storage and processing of oil to take place offshore. Congo-Brazzaville is the first State in the world to boast a state-of-the-art system known as a Floating, Drilling, Production, Storage and Offloading (FDPSO) System.¹⁴⁹

The Gulf of Guinea also enjoys great advantages over other oil producing regions with respect to transportation. As noted by one energy expert: "There is a lot of excitement about West Africa oil industry, its politics may be complex but transportation and logistics are easier than the Persian Gulf."¹⁵⁰ This remark points to three distinct advantages of the Gulf of Guinea oil industry. First, the ease with which the oil can be exploited, processed, and loaded directly onto ships, compared to other regions where the resources are on land or in shallow waters. Second, the close proximity of the region to both Europe and the US, which are the

¹⁴⁷ United States Department of Energy, Available: <http://www.energy.gov/engine/content.do> 15 August 2010. See also Damian Ondo, *Emergence of the Gulf of Guinea in the Global Economy: Prospects and Challenges*, IMF Working Paper, WP/05/235, 2005, p. 5.

¹⁴⁸ See N. Ford, "Oil from Deep Waters (2): Africa: world's greatest deepwater potential," *Platts Energy Economist Briefing*, 248, June 2002, pp. 2-11.

¹⁴⁹ Harry Howard and Ken Hampshire, "First-ever Floating Drilling Production Storage and Offloading at work on Azurite field Development," *Offshore*, 1 November 2009.

¹⁵⁰ Statement attributed to Daniel Yergin (Chairman, Cambridge Energy Research Associates), see James Dao, "In Quietly Courting Africa, U.S. Likes the Dowry: Oil " *New York Times*, 19 September 2002

two major centres for oil consumption and trade worldwide. And third, unlike other regions, where vessels carrying oil have to pass through narrow straits or chokepoints (with attendant safety and security concerns),¹⁵¹ the open nature of the Gulf of Guinea makes it suitable and safe for use by all ships, including very large oil carriers.¹⁵²

There are three additional advantages of the Gulf of Guinea oil and gas industry. First, since production is offshore, the operation as a whole suffers less risk of being disrupted by civil unrest or violent attacks.¹⁵³ Second, the Gulf of Guinea oil and gas industry has led to a diversification of supply and dependency, a crucial determinant of energy security. With the exception of Nigeria and Angola, none of the Gulf of Guinea oil States are members of the Organization for Petroleum Exporting Countries (OPEC). Non-OPEC States have flexibility with regard to both output levels and the direction of trade.¹⁵⁴ It is also unlikely that there will be a general embargo of oil supplies by these States.¹⁵⁵ Third, market and investment analysts have noted that financial

¹⁵¹ The world's most important sea lanes, especially for oil transportation, are known as straits or chokepoints. Notable straits include the *Strait of Hurmuz*, leading out of the Persian Gulf through the Gulf of Oman and the Arabian Sea; the *Strait of Malacca*, linking the Middle East and Asia and also connecting the Indian Ocean to the South China Sea and the Pacific Ocean; the *Bab el-Manded*, connecting the Red Sea to the Gulf of Aden and the Arabia Sea; the *Panama Canal*, linking the Pacific Ocean to the Atlantic Ocean through the Caribbean Sea; and the *Suez Canal*, providing access from the Red Sea and the Mediterranean Sea.

¹⁵² For an analysis of the effects of "chokepoints" on safety and security of shipping, see United States Energy Information Administration, *World Oil Transit Chokepoints*, 22 August 2012, Available: http://www.eia.gov/countries/analysisbriefs/World_Oil_Transit_Chokepoints/wotc.pdf, 20 February 2013. See also John Noer, *Chokepoints: Maritime Economic Concerns in Southeast Asia*, Washington D.C. National Defense University Press, 1996.

¹⁵³ Stephanie Hanson, *Vying for West Africa's Oil*, Council on Foreign Relations, 7 May 2007, <http://www.cfr.org/angola/vying-west-africas-oil/p13281>, 4 November 2011.

¹⁵⁴ James J. F. Forest and Mathew V. Sousa, *Oil and Terrorism in the New Gulf: Framing U.S. Energy and Security Policies in the Gulf of Guinea*, New York and Oxford Lexington Books, 2006, p. 3.

¹⁵⁵ The observation is attributed to Robert Murphy, an economist specialist of the US State Department's Office for Africa. See Neil Ford, "United States Targets West African Oil," *Energy Economist*, August 2003, p. 1.

arrangements offered to transnational oil companies in the Gulf of Guinea, including higher shareholding and tax exemptions, are more favourable compared to other regions.¹⁵⁶

The above analysis underscores the strategic value of the Gulf of Guinea region in the context of global energy security. Indeed, energy security has become fundamental in the conceptualisation of security and maritime security partnerships in the Gulf of Guinea.¹⁵⁷ It is thus necessary to review the oil and gas interests of key global States in the region, as well as the transnational energy corporations that are reaping substantial benefits. Indeed, such a review will serve as the background to Chapter 6, which assesses the strategic underpinnings of international support to maritime security cooperation in the Gulf of Guinea.

2.5.2.3 United States Oil and Gas Interest in the Gulf of Guinea

The United States (US) is highly dependent on fossil fuels as a source of energy, with the US Department of Defence being the largest single consumer of oil and gas stocks.¹⁵⁸ Access to oil is therefore a matter of national security, but despite many years of oil diplomacy in the Middle East, US energy security in the region is still threatened by political instability, religious conflict and terrorist activities.¹⁵⁹ These factors,

¹⁵⁶ Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p. 221.

¹⁵⁷ See chapter 7.

¹⁵⁸ Drexel Kleber, "The United States Department of Defense: Valuing Energy Security," *Journal of Energy Security*, 18 June 2009.

¹⁵⁹ Energy Information Administration, *Energy Outlook 2005*, Washington D.C US Department of Energy-DOE/EIA-0484, April 2004, p. 28. Michael T. Klare, "Deadly Nexus: Oil, Terrorism, and America's National Security," *Current History*, December 2002, pp. 414-20. Forest and Sousa, *Oil and Terrorism in the New Gulf: Framing U.S Energy and Security Policies in the Gulf of Guinea*. p.3

combined with other problems, have compelled Washington to seek innovative solutions to energy security.¹⁶⁰

United States oil diplomacy in the Gulf of Guinea was ushered in by the visit of US Secretary of State Colin Powell to Angola and Gabon in September 2002.¹⁶¹ Not long after Powell's visit, President Bush met with leaders of oil producing countries in the region.¹⁶² These moves coincided with expert projections of an increase in global energy reserves, especially from deep water explorations in the Gulf of Guinea.¹⁶³ Current indications are that the Gulf of Guinea region will provide 25 per cent of US oil imports by 2015 and 40 per cent by 2025.¹⁶⁴

To fortify its energy security, the US will have to first secure access to reserves. Given its free market orientation, this task has been indirectly consigned to Corporate America. It should thus come as no surprise that US oil companies are mapped across the Gulf of Guinea. ChevronTexaco pumps about 60 per cent of Angolan oil, and also has a

¹⁶⁰ Analysts also cite the frustration of the US when Arab States used oil as a "weapon" in the 1973 Arab-Israeli conflict, placing an embargo on exports to the US, and also lobbying other members of the Organization of the Petroleum Exporting Countries (OPEC) to reduce supplies. Jay Hakes, "35 Years After the Arab Oil Embargo " *Journal of Energy Security*, 6 October 2008.

¹⁶¹ CNN News, *Powell promotes peace, sustainable development in Africa: visits Angola, Gabon's rainforests*, 5 September 2002, Available: <http://edition.cnn.com/2002/WORLD/africa/09/05/powell.angola/index.html>, 15 October 2013.

¹⁶² In September 2002, President Bush met with the leaders of Cameroon, Congo, Chad, Gabon, Equatorial Guinea, Nigeria and Sao Tome. He also visited Nigeria in July 2003.

¹⁶³ Energy Information Administration, *Energy Outlook 2005*, Washington D.C, US Department of Energy, DOE/EIA-0484, April 2004, p. 2. President G.W. Bush, in the State of the Union Address in 2006, indicated the US Strategic Plan is to decrease oil dependency on the Middle East, "State of the Union Address," Washington, D.C., 31 January 2006.

¹⁶⁴ Energy Information Administration, *International Energy Outlook 2004*, Washington D.C., Department of Energy. Centre for Strategic and International Studies, Promoting Transparency in Africa Oil Sector, March 2004, available online: <<http://csis.org/publication/promoting-transparency-african-oil-sector>>.

major presence in Congo-Brazzaville.¹⁶⁵ ExxonMobil, the world's largest oil company, and Amerada Hess and Marathon, both US companies, are prime movers in Equatorial Guinea's oil industry. ExxonMobil and Chevron also have a presence in São Tomé and Príncipe, and are equally seeking a considerable stake in Nigeria's oil and gas industry.¹⁶⁶ There are also reports of ExxonMobile trying to acquire a stake in Ghana's offshore Jubilee Fields.¹⁶⁷ These energy interests partly underline the maritime security interest and activities of the US in the Gulf of Guinea that will be examined in chapter seven.

2.5.2.4. Oil and Gas Interest of the European Union in the Gulf of Guinea

Member States of the European Union (EU) are highly dependent on oil and gas imports for domestic consumption.¹⁶⁸ In 2011 for example, the EU imported an estimated 80 and 60 per cent of its oil and gas consumption respectively.¹⁶⁹ Unlike the US that has substantial domestic oil and gas reserves, the EU has limited reserves, and local gas

¹⁶⁵ Sam Raphael and Doug Stokes, "Globalizing West African oil: US 'energy security' and the global economy," *International Affairs* 87, 4, 2011, pp. 903-21.

¹⁶⁶ "Nigeria and ExxonMobile in Row over Oil Licence Renewal," *Ordons News*, 17 May 2011. "ExxonMobile Believes Angola and Nigeria Need to Speed up Oil Output," *Alexander's Gas and Oil Connections*, 7 October 2004.

¹⁶⁷ Rakesh Sharma and Isabel Ordóñez, "Bid for Ghana Oil Field Rebuffed: Kosmos Energy of U.S. Rejects \$5 Billion Offer From Cnooc and GNPC," *Wall Street Journal* 2 November 2010. See also Toma Imirhe, *The Jubilee Oilfield Equity Imbroglia and the National Interest*, The Corporate Guardian, Available: http://www.thecorporateguardian.com/archives_detail.php?articleID=3, 1 February 2013.

¹⁶⁸ On EU Energy Security see, Michael Ratner, Paul Belkin, Jim Nichol and Steven Woehrel, *Europe's Energy Security: Options and Challenges to Natural Gas Supply Diversification* US Congressional Research Service, 20 August 2013).

¹⁶⁹ Michael Ratner, Paul Belkin, Jim Nichol and Steven Woehrel, "Europe's Energy Security: Options and Challenges to Natural Gas Supply Diversification," US Congressional Research Service, 20 August 2013 p. 5.

production in particular has declined over the years.¹⁷⁰ Meanwhile, there is a shift away from the use of coal towards oil and gas in a bid to address climate change, with gas being the preferred energy resource.¹⁷¹ This has made the EU increasingly dependent on Russian gas supplies, with the concomitant concern that Moscow may use its privileged position as a provider of renewable energy resources as a strategic weapon.¹⁷²

To fortify its energy security, individual EU States as well the Union's executive arm – the EU Commission – is looking at both renewal energy and emerging sources such as the Gulf of Guinea.¹⁷³ Nigeria and Equatorial Guinea are among the top eleven members of the Gas Exporting Countries Forum (GECF), also known as Gas-OPEC, which controls an enormous share of the global gas market.¹⁷⁴ As indicated earlier, Cote d'Ivoire is also making substantial gas discoveries, and many of the oil producing States in the region are moving from flaring gas to harnessing it for export.¹⁷⁵ In strategic terms, therefore, the Gulf of Guinea is not just seen as a region that can help meet the quantity and quality of EU's energy requirements, but also as a region that can help diffuse the EU's gas dependency on Russia.

¹⁷⁰ Michael Ratner, Paul Belkin, Jim Nichol and Steven Woehrel, "Europe's Energy Security: Options and Challenges to Natural Gas Supply Diversification," US Congressional Research Service, 20 August 2013, p.1

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ See speech of Günther Oettinger, EU Commissioner for Energy, *Europe's Energy Diversification and U.S. Unconventional Oil and Gas*, 18 July 2013, Natural Gas Europe, Available: Europe's Energy Diversification and U.S. Unconventional Oil and Gas, 26 December 2013.

¹⁷⁴ Other member States include Algeria, Bolivia, Egypt, Iran, Libya, Oman, Qatar, Russia, Trinidad and Tobago, the United Arab Emirates and Venezuela. Kazakhstan, Iraq, the Netherlands and Norway have the status of Observer Members. See <http://www.gecf.org/home>, 16 October 2013.

¹⁷⁵ Ricardo de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p. 204.

Twenty two per cent of the total oil and gas production in the Gulf of Guinea is traded and consumed in the EU.¹⁷⁶ In terms of specific EU States, the French company TotalFinaElf controls large offshore oil activities in Congo, and also has sizeable investments in the offshore fields of Angola, Gabon, Cote d'Ivoire and DR Congo.¹⁷⁷ Perenco (an Anglo-French oil and gas Company), has extensive investments in Cameroon's offshore fields.¹⁷⁸ Other examples of EU corporate interests in the region include Shell (Dutch), which controls almost half of Nigeria's production; Eni (Italy) and Maersk (Denmark), which have substantial offshore oil productions in Angola; and Tullow (Ireland), the operator of Ghana's offshore Jubilee fields.¹⁷⁹ Moreover, in 2011 and 2013, Eni announced that it had made multiple energy resource discoveries in offshore Ghana.¹⁸⁰

2.5.2.5 China's Energy Activities in the Gulf of Guinea

In the past two decades, China has been on the path of rapid development and industrialisation. This growth, coupled with high household demands, has resulted in an insatiable need for all types of energy – coal, gas and oil. Chinese energy consumption increased by

¹⁷⁶ ECOWAS-OECD, *Atlas on Regional Integration in West Africa: Oil and Gas* (ECOWAS. 2006), p. 22.

¹⁷⁷ Sam Raphael and Doug Stokes, "Globalizing West African oil: US 'energy security' and the global economy," *International Affairs* 87, 4, 2011, pp. 903-21.

¹⁷⁸ Sam Raphael and Doug Stokes, "Globalizing West African oil: US 'energy security' and the global economy," *International Affairs* 87, 4, 2011, pp. 903-21.

¹⁷⁹ Sam Raphael and Doug Stokes, "Globalizing West African oil: US 'energy security' and the global economy," *International Affairs* 87, 4, 2011, pp. 903-21.

¹⁸⁰ *Eni Confirms Commercial Potential of Oil Discovery in Ghana*, 21 January 2013, Available: <http://www.ventures-africa.com/2013/01/eni-confirms-commercial-potential-of-oil-discovery-in-ghana/>, 24 January 2013. *Eni makes a new hydrocarbon discovery offshore Ghana*, 28 July 2011, Available: http://www.eni.com/en_IT/media/press-releases/2011/07/2011-07-28-eni-makes-new-hydrocarbon-discovery-offshore-ghana.shtml, 24 January 2013.

11.2 per cent in 2010, and with a net consumption of 20.3 per cent of the global total, in 2011 China surpassed the US as the world's largest energy consumer.¹⁸¹ Based on current trends, China's share of global energy is projected to grow to 150 per cent by 2020.¹⁸² Although China produces oil and gas domestically, the nation's production is woefully insufficient compared to its consumption.¹⁸³ Thus, just as the Sino-Soviet split in 1960 created energy supply challenges for China, and major efforts had to be made to change the tide, China has reverted to a similar position of vulnerability.¹⁸⁴ This has led to an intense search for energy supplies beyond the Middle East.¹⁸⁵

As in the case of the US, China's focus is now on Africa to secure long-term energy supplies.¹⁸⁶ Indeed, in 2005 China's oil import dependence on Africa exceeded 30 per cent, and this figure is expected to increase to 50 per cent by 2020.¹⁸⁷ China has a two-prong approach to securing current and future energy security in the Gulf of Guinea. The first is to invest in oil exploration, the second is to secure oil supplies as part of

¹⁸¹ British Petroleum, *Statistical Review of World Energy*, June 2011, p. 2. Available at http://www.bp.com/assets/bp_internet/globalbp/globalbp_uk_english/reports_and_publications/statistical_energy_review_2011/STAGING/local_assets/pdf/statistical_review_of_world_energy_full_report_2011.pdf, accessed 22 May 2012.

¹⁸² International Energy Agency, *World Energy Outlook 2010*. See also Gal Luft, "Fueling the Dragon: China's race into the oil market" *Institute for the Analysis of Global Security*, 2004.

¹⁸³ Fereidun Fesharaki and Kang Wu, *Outlook for Energy Demand, Supply, and Government Policies in China*, Honolulu East-West Center, 29 July 1998.

¹⁸⁴ Erica S. Downs, *China's Quest for Energy Security*, Rand Corporation, 2000, p. 12. Generally on China's energy activities and vulnerability, see Fesharaki and Wu, *Outlook for Energy Demand, Supply, and Government Policies in China*.

¹⁸⁵ Xu Yihe, "China's Dependence on the Middle East May Increase" *Asian Wall Street Journal*, 30 March 1999, pp. 25.

¹⁸⁶ Stephanie Hanson, "China, Africa, and Oil," *United States Council on Foreign Relations Special Report No. 46*, 6 June 2008.

¹⁸⁷ "China Increases Security of Supply with Energy Deals in Nigeria and Kenya," *Global Insight*, May 2006.

loan arrangements with governments. China's State-owned companies - China National Offshore Oil Corporation (CNOOC), China National Petroleum Corporation (CNPC) and China Petroleum and Chemical Corporation (Sinopec), are competitively acquiring oil reserves across the region.¹⁸⁸ The entry of Chinese oil companies into the Gulf of Guinea commenced in 1997, when CNPC acquired exploration licences in the Chad Basin, followed by two oil blocs in Nigeria's Niger Delta region in 1998.¹⁸⁹ This opened the way for more acquisition of offshore acreage and an expansion of Chinese corporate oil trading across the Gulf of Guinea.¹⁹⁰ A substantial part of the national share of the annual oil production of Congo-Brazzaville is now being bought by CNPC, whilst Sinopec has purchased a major stake in the SIR refinery in Cote d'Ivoire.¹⁹¹

China's "loans for oil" diplomacy started in the Gulf of Guinea, with a package of US\$2 billion to Angola in 2004. This allowed Sinopec to bid for two deep water blocs off the Angolan coast.¹⁹² Then, in 2006, CNOOC acquired a share in Nigeria's future oil production, with a US\$2.3 billion loan for infrastructure development.¹⁹³ The most recent

¹⁸⁸ See Stephanie Hanson, "China, Africa, and Oil," *United States Council on Foreign Relations No.46*, 6 June 2008.

¹⁸⁹ See Erica Strecker Downs, *China's Quest For Energy Security*, Rand Corporation, 2000, p.22.

¹⁹⁰ Dilip Hiro, "China Rising: Have Cash, Buy Oil " *YaleGlobal*, 9 October 2009.

¹⁹¹ For an analysis of Congo's oil industry, see Ian Taylor, "China's oil diplomacy in Africa," *International Affairs* 82, 5, 2006, pp. 937-59. United States Energy Information Administration, Available: <http://www.eia.gov/countries/cab.cfm?fips=CF> 28 September 2012. Dilip Hiro, "China Rising: Have Cash, Buy Oil," *YaleGlobal*, 9 October 2009.

¹⁹² Stephanie Hanson, "Vying for West Africa's Oil," *US Council on Foreign Relations*, 7 May 2007.

¹⁹³ BBC News online, *China's Hu urges more Africa ties*, Available: <<http://news.bbc.co.uk/1/hi/world/africa/4949688.stm>>, 10 October 2011, BBC News online, *China's Hu urges more Africa ties*.

case of this Chinese scheme is the Government of Ghana entering into an arrangement for a US\$3 billion Chinese loan, the re-payment terms of which include the supply of oil to China.¹⁹⁴

2.5.2.6 Oil Power, Governance and Maritime Security

The analysis in this section demonstrates that the Gulf of Guinea is a key player in securing global energy needs, and it is likely that this will be the case into the foreseeable future. Indeed, this situation has increased the visibility of the region on the world stage, placing it on the edge of a geopolitical renaissance.¹⁹⁵ This geopolitical regeneration presents economic and political advantages to the region. Whereas growth in other parts of the world has waned in recent years (and particularly from 2009 to 2011), the average rate of economic growth in the Gulf of Guinea has remained high, mostly due to favourable oil and gas trade.¹⁹⁶ Angola, Congo Brazzaville and Gabon - all of which are highly dependent on offshore oil production, experienced a rate of economic growth exceeding ten per cent.¹⁹⁷ According to development analysts,

¹⁹⁴ See "US\$500m Chinese Loan for Railway Rehabilitation," *Daily Graphic*, 4 March 2012. BBC World Service, *China's Global Reach: Lending more than the World Bank*, 9 December 2011, Available: <http://www.bbc.co.uk/news/business-16092634>, 23 May 2012. Reuters Africa, "Ghana parliament approves \$3 billion Chinese loan" Available: <http://af.reuters.com/article/ghanaNews/idAFL5E7JQ25D20110826> 6 February 2012. See also, "Controversial 3 Billion Dollar Chinese Loan" Available: <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=22753314>, 6 February 2012.

¹⁹⁵ Pierre Abramovici, "United States: the new scramble for Africa," *Review of African Political Economy* 31, 2004, pp. 685-90. See also, "A new scramble," *The Economist*, 27 November 2004. A. Lake, C. Todd Whitman, et al., "More than Humanitarianism: A Strategic US Approach toward Africa," US Council on Foreign Relations, Independent Task Force Report No. 56, 2006, p. 9. See Howard W. French, "Commentary – China and Africa," *African Affairs* 106 (2007): 127–132.

¹⁹⁶ World Bank, *Global Economic Prospects: Maintaining Progress and Turmoil*, vol. 3, Washington DC, June 2011, p. 128. World Bank, *Global Economic Prospects: Maintaining Progress and Turmoil*, vol. 3, Washington DC, June 2011, 128-141.

¹⁹⁷ Bank, "Global Economic Prospects: Maintaining Progress and Turmoil", p. 128.

these economic indicators are translating into job creation and a fast growing middle class.¹⁹⁸

On the flipside, the Gulf of Guinea's newfound oil wealth and economic potential also calls for a degree of caution. If the lessons of history are anything to go by, the exploitation of the region's oil and gas resources can lead to gaping governance challenges, potentially outweighing any socio-economic gains.¹⁹⁹ In fact, years of exploitation of mineral resources has hardly benefitted Gulf of Guinea States. On the contrary, it has instigated conflicts in Angola, DR Congo, Liberia and Sierra Leone, just to name a few, and there is no reason to believe an oil resource boom would produce a different result.²⁰⁰ Indeed, Nigeria is in its fourth decade of oil exploration and wealth, yet the country is still at the bottom of the global development index. While the country has enjoyed considerable oil wealth, a large proportion of Nigeria's population lives in poverty, while corruption is rife within political spheres and the governing class.²⁰¹ Oil has also brooded conflict and crime in the Niger Delta region, with consequences beyond Nigeria.²⁰² Equatorial Guinea

¹⁹⁸ World Bank, *Global Economic Prospects: Maintaining Progress and Turmoil*, vol. 3, Washington DC, June 2011, p. 129.

¹⁹⁹ William Reno, "Clandestine Economies, Violence and States in Africa," *Journal of International Affairs* 53, 2, Spring 2000, pp. 433-59. Martin Evans and Ni Paix ni Guerre, "The Political Economy of Low-Level Conflict in the Casamance," *Overseas Development Institute, Background research for HPG Report 13*, February 2003, pp. 11-13.

²⁰⁰ Abiodun Alao, *Natural Resources and Conflict in Africa: The Tragedy of Endowment*, Rochester, NY University Rochester Press, 2007. Ian Bannon and Paul Collier, "Natural Resources and Violent Conflict: Options and Actions," *World Bank*, 2003. See also John Markakis, *Resource conflict in the Horn of Africa*, London Sage, 1997.

²⁰¹ Christina Katsouris and Aaron Sayne, "Nigeria's Criminal Crude: International Options to Combat Export of Stolen Oil," *Chatham House*, September 2013. Obi N. I. Ebbe, "The Political-Criminal Nexus: The Nigerian Case," *Trends in Organized Crime* 4, 3, Spring 1999, pp. 29-59. Paul Collier, *The Bottom Billion*, New York Oxford University Press, 2007.

²⁰² See chapter 4 of thesis.

and Gabon also face similar governance challenges, with long term implications for stability.²⁰³

The second major concern is the realpolitik of oil power. The much-talked about geopolitical renaissance of the Gulf of Guinea may have other, more significant implications. Many commentators view the Gulf of Guinea as the new political battleground of the US and other rising powers, especially China.²⁰⁴ As these States are frantically trying to secure their energy security in the region, oil diplomacy is ongoing for both States, partnerships are being forged, and in some cases arms sales and defence support is added to the equation.²⁰⁵ While the US and China have been given visibility in commentaries and discussions, the historical analysis of the Gulf of Guinea presented in this chapter, and the political reality of the region, still make European States (especially France) a major force in the Gulf of Guinea.²⁰⁶ These competing external

²⁰³ Douglas A. Yates, *The Scramble for African Oil: Oppression, Corruption, and War for Control of Africa's Natural Resources*, Pluto Press, 2012.

²⁰⁴ Nicholas Shaxson, *Poisoned Wells: The Dirty Politics of Africa Oil*, Basingstoke Pelgrave Macmillan, 2008. Carlos J. Moreno, "Oil and Gas Exploration and Production in the Gulf of Guinea: Can the New Gulf be Green?," *Houston Journal of International Law* Volume 31, Issue 2, 2009. Michael Elliott, "China Takes on the World," *The Times*, 11 January 2007.

²⁰⁵ Richard A. Bitzinger, "Arms to Go: Chinese Arms Sales to the Third World," *International Security* 17, 1992, pp. 84-111. Robert Manson, "Do We Want to 'Kill People and Break Things' in Africa? A Historian's Thoughts on Africa Command," *Strategic Studies Quarterly* 2, 1, Spring 2008, pp. 97-130. Kevin Rosner, "China, China, Everywhere," *Journal of Energy Security* July 2011. Stephanie Hanson, "China, Africa, and Oil," *United States Council on Foreign Relations Special Report* No. 46, 6 June 2008

²⁰⁶ James Hentz, "The Contending Currents in United States Involvement in Sub-Saharan Africa", in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 23-40. Rachel Utely, "Not to Do Less but to Do Better: French Military Policy in Africa," *International Affairs* 78, 1, 2002, pp. 129-46, p.41. Tony Chafer, "Franco-African Relations: No Longer So Exceptional?," *Africa Affairs* 101, 404, 2002, pp. 343-63. Phillipe Vasset, "The Myth of Military Aid: The Case of French Military Cooperation in Africa," *SAIS Review of International Affairs* 17, 2, 1997, pp. 165-80.

interests can strain regional cohesion, create conflict among States, and turn the region once again into a sphere of major power rivalries.²⁰⁷

Although the aforementioned geopolitical and governance challenges deserve attention, and must be factored into the wider dialogue of development and stability in the Gulf of Guinea, this thesis proceeds on the optimistic note that, Gulf of Guinea States can harness both petrodollars and petro-power to project and develop the region. A key imperative for achieving this is effective regional maritime security cooperation. Indeed, such cooperation must be fostered between States in the region to deal with increasing threats to critical offshore energy infrastructure.²⁰⁸

2.5.3 Gulf of Guinea Marine Living Resources

Marine living resources are a vital component of the maritime estate of the Gulf of Guinea.²⁰⁹ In the 1970s, when there was little scientific information about the offshore oil and gas potential of the Gulf of Guinea, fisheries resources were the major motivation for Gulf of Guinea States, and indeed other African States, seeking to extend their jurisdiction and control further into sea. This issue was canvassed at the

²⁰⁷ Jeremy Keenan, "Terror in the Sahara: the Implications of U.S. Imperialism for North & West Africa," *Review of African Political Economy* 101, 2004, Yates, *The Scramble for African Oil: Oppression, Corruption, and War for Control of Africa's Natural Resources*. Markakis, *Resource conflict in the Horn of Africa*.

²⁰⁸ See chapters 3 and 4.

²⁰⁹ Jacqueline Alder and Ussif Rashid Sumaila, "Western Africa: A Fish Basket of Europe Past and Present," *Journal of Environment & Development* 13, 2, June 2004, pp. 156-78.

Third United Nations Conference on the Law of Sea (UNCLOS III),²¹⁰ and resulted in the recognition of the Exclusive Economic Zone (EEZ). The EEZ regime offers Gulf of Guinea States sovereign rights over living resources up to 200 nautical miles from their baselines.²¹¹

2.5.3.1 Socio-economic Importance of Fisheries

Location, climatic situations and sea conditions are also important determinants of fish productivity.²¹² Luckily, the Gulf of Guinea is situated close to the equator, where the natural upwelling of the sea supports very high fish productivity, especially from Sierra Leone to Mauritania.²¹³ In addition to shrimp and other demersal species, the Gulf of Guinea is very rich in pelagic stocks such as sardine and tuna, which are important for both industrial and artisanal fishing sectors.²¹⁴ In terms of revenue, Senegal, Gambia and Sierra are net exporters of fish, and their fisheries revenue contribution to overall export merchandise in 2008 was 9.7 per cent, 6.9 per cent and 4.7 per cent respectively.²¹⁵

²¹⁰ Martin Tsamenyi and Kamal-Deen Ali, "African States and the Law of Sea Convention: Have the benefits been realized?," *Ocean Yearbook* 26, 2012, pp. 113-60. Nasila S. Rembe, *Africa and the International Law of the Sea*, Netherlands Sijthoff and Nordhoff, 1980. Tayo O. Akintoba, *A case Study of the 1982 Law of Sea Convention and the Exclusive Economic Zone*, African States and Contemporary International Law, ed. Shigeru Oda, London, Martinus Nijhoff 1996. David Attard, *The Exclusive Economic Zone*, New York, University of Oxford Press, 1987.

²¹¹ See Part V of the United Nations Convention on the Law of the Sea, 1833 *U.N.T.S.* 397. The full text of the Convention is reprinted in 21 International Legal Materials 1261 (1982). The Convention opened for signature at Montego Bay, Jamaica, on 10 December 1982, and came into force on 16 November 1994. It has 164 ratifications as at 24 September 2012.

²¹² Birane Samb, "Case Study on Small Pelagic Fish Resources in North West Africa " *FAO Fisheries Report No. 695, Supplement*, 2002, pp. 133-42.

²¹³ Jacqueline Alder and Ussif Rashid Sumaila, "Western Africa: A Fish Basket of Europe Past and Present," *Journal of Environment & Development* 13, 2, June 2004, pp. 156-78.

²¹⁴ Birane Samb, "Case Study on Small Pelagic Fish Resources in North West Africa" *FAO Fisheries Report No. 695, Supplement*, 2002, pp. 133-42.

²¹⁵ See FAO, "Total Value of International Trade of seven Fishery Commodity groups, by Continent, by Countries or Areas," *Yearbook of Fisheries* 2008, pp. 52-53.

Although fisheries may have a less direct contribution to foreign exchange revenue compared to offshore oil and gas resources, fisheries nonetheless support broader socio-economic development in the Gulf of Guinea. The first element of the wider impact of fishing is on food security.²¹⁶ Inadequate food, including sources of protein, is a key threat to the survival and food security of many people in developing countries.²¹⁷ The contribution of fish to dietary protein requirements ranges from 34.4 per cent in DR Congo to 63.9 per cent in Ghana, and is as high as about 80 per cent in São Tomé and Príncipe.²¹⁸ Fishing is also a source of employment for coastal communities, and recent data shows a positive reduction in poverty across most fishing communities in the Gulf of Guinea.²¹⁹ In this regard, it is significant that women who would otherwise have no source of income, and thus suffer serious challenges relating to food, health care, child care and mortality, are empowered by the fish trade.²²⁰ The New Partnership for Africa Development (NEPAD) and the Millennium Development Goals (MDGs) – two strategic instruments aimed at improving the livelihood of people in Africa - have

²¹⁶ See page chapter 3 of thesis.

²¹⁷ FAO, State of Food Insecurity, (Rome. 2004). See also Brookings Institute, *Food Security in Sub-Saharan Africa: Africa Human Development Report 2012* Available: <http://www.brookings.edu/events/2012/07/20-africa-human-development>, 21 February 2013.

²¹⁸ Raymond Gilpin "Enhancing Maritime Security in the Gulf of Guinea", Strategic Insights, Vol. VI, Issue 1 (Naval Postgraduate School, CA: January 2007). See also FAO, "Disposition of fishery Production - Developing Countries," *Yearbook of Fisheries*, 2008.

²¹⁹ See FAO, "Achieving poverty reduction through responsible fisheries: Lessons from West and Central Africa", *FAO Fisheries and Aquaculture Technical Paper 513*, 2008. See also, FAO Report, *Increasing the Contribution of Small Scale Fisheries to Poverty Alleviation and Food Security*, FAO 2007.

²²⁰ FAO, Food Security and Agricultural Development in Sub-Saharan Africa: Building a case for more public support, Rome, FAO 2006, Rome, 2006, p.52. 75. See also Duncan Thomas and John Strauss, "Health and wages: evidence on men and women in urban Brazil," *Journal of Econometrics* 77, 1997, pp. 159-85.

noted the centrality of sustainable fisheries to the human security needs of the continent.²²¹ When judiciously managed, the fishing sector can also engineer the growth of other sectors of the economy, including food processing and fertilizer industries.²²²

2.5.3.2 External Interest in Gulf of Guinea Fisheries

Although fisheries resources within the EEZ are generally subject to the control of Gulf of Guinea States, there are nonetheless major foreign interests in fisheries as well. The reasons for this are found in the legal framework of UNCLOS, as well as the specific arrangements entered into by Gulf of Guinea States.

First, Articles 63 and 64 of the United Nations Convention on the Law of the Sea (UNCLOS) stipulate special management and access regimes for the category of fisheries known as shared species and highly migratory species. Tuna, which is of very high economic value, falls within the category of highly migratory species. The result of this categorisation is that these species do not fall under the exclusive control of Gulf of Guinea States. Therefore, States outside the Gulf of Guinea have access rights to tuna in the region, with the access quotas being managed within

²²¹ NEPAD Fish for All Summit, Abuja, Nigeria 25 August 2005. UNDP, Millennium Development Goals Report 2009. See also, Environmental Justice Foundation (EJF), *Pirates and Profiteers* 3, Available: http://www.ejfoundation.org/pdf/pirates_and_profiteers.pdf, 20 February 2013.

²²² FAO, "Study and Analysis of Feeds and Fertilizers for Sustainable Aquaculture Development," FAO Fisheries Technical Papers Series 497, 2007.

the framework of the International Commission for the Conservation of Atlantic Tunas (ICCAT).²²³

The second reason for foreign interest in Gulf of Guinea marine living resources is partly economic and partly historical. The historical connection between EU States and the Gulf of Guinea is not just limited to politics, but entails a unique fisheries relationship. Indeed, most EU States have fishing licensing and access arrangements in the Gulf of Guinea.²²⁴ In recent times, however, other distant fishing nations, especially China, Korea and Taiwan, have managed to secure fishing access arrangements with Gulf of Guinea States. This has contorted the interest in fisheries and created competition in the region, with serious implications for maritime security and maritime security cooperation in the Gulf of Guinea.²²⁵

2.5.4 Submarine Cables and Pipelines

Though less discussed in comparison to other issues, the sea is the most important medium for bridging the technology gap in the Gulf of Guinea. The exponential growth of technology and telecommunications infrastructure in the region in the last decade demonstrates that the

²²³ See pages 21-22, ICCAT, Statistical Bulletin 2012, (Madrid. July 2012). See also the International Convention for the Conservation of Atlantic Tuna, signed in Rio de Janeiro, Brazil, on 14 May 1966 and entered into force on 21 March 1969. For details on ICCAT see <http://www.iccat.int/en/contracting.htm> ,

²²⁴ Wolfgang Scharm, "Tensions between the EU and West Africa off Africa's coasts: Are EU access agreements harming Africa's artisanal fisheries?," *Agriculture & Rural Development* 2, 2005, pp. 38-40. Vlad M. Kaczynski and David L. Fluharty, "European policies in West Africa: Who benefits from fisheries agreements?," *Marine Policy* 26, 2002, pp. 75-93.

²²⁵ See chapters 3 and 7 of this thesis. Chapter 3 elaborates on the implications of foreign fishing licences for maritime security. Chapter 7 argues that the EU gives less priority to issues of IUU fishing in its maritime security partnership with the Gulf of Guinea although EU fishing interests is part of the equation of concerns of sustainable management and use of fishing resources in the Gulf of Guinea.

regime governing submarine cables (as set out in UNCLOS) is being utilised.²²⁶ Submarine cables have long been recognised as the most reliable, effective and cheapest form of transmitting voice and data information, and hence UNCLOS recognises the right of all States to lay submarine cables.²²⁷ But for many years neither the governments of Gulf of Guinea States nor private sector actors took full opportunity of the right, resulting in a digital gap in the region and thus high cost for telecommunication services.²²⁸

However, the seascape is now changing, with more subsea cables landing in the region.²²⁹ This breakthrough started with the arrival of the South Atlantic 3/West Africa (SAT 3) Cable in 2001, connecting eight States in the Gulf of Guinea. These States include Cote d'Ivoire, Gabon, Ghana, Nigeria and Senegal.²³⁰ The Main One Cable and the Glo Cable landed in 2010, with mega bandwidths connecting the region with other head cables in Portugal and the United Kingdom.²³¹ Two additional

²²⁶ UNCLOS, Articles 58, 79 and 112-115.

²²⁷ UNCLOS, Article 112. For details on the legal regime of submarine cables see, p.174 Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999 p. 71-101.

²²⁸ Generally on access to submarine cables in West Africa, see *Access to Submarine Cables in West Africa: Assessment Report* 2012, West African Telecommunication Assembly, Available: http://www.itu.int/ITU-D/projects/ITU_EC_ACP/hipssa/events/2012/Kigali%20docs/Reports/ARTAO_final-e_3%20Assessment%20Report.pdf, 23 February 2013.

²²⁹ Anne Look, *New Submarine Cables Set to Revolutionize West African Internet*, 8 April 2012, Voice of America, Available: <http://www.voanews.com/content/new-submarine-cables-set-to-revolutionize-west-african-internet-146722315/180123.html> 23 March 2013.

²³⁰ Steve Song, *African Undersea Cables - A History*, 1 March 2011, Available: <http://www.slideshare.net/ssong/african-undersea-cables-a-history>, 23 February 2013. For more information on SAT 3, see the project website at <http://www.safe-sat3.co.za/>, 23 February 2013.

²³¹ The Main One Cable stretches from Portugal to South Africa, landing at a number of West African States. For more on the cable see the company website, <http://www.mainonecable.com/>, 23 February 2013. The Glo cable is owned by the mobile telecommunication company Glo. The cable landed in Nigeria in 2009 and in Ghana in 2010.

cables landed in 2012 - the West Africa Cable System (WACS)²³² and the Africa Coast to Europe (ACE) System.²³³ These cables have allowed the Gulf of Guinea to engage in faster, more efficient communication. At the same time, they represent costly investments involving global companies and strategic partnerships.

Given the centrality of communication and technology to the modern world, the protection and security of these cables is as important as the protection afforded to traditional maritime interests such as shipping. A related piece of critical offshore infrastructure in the Gulf of Guinea is the West Africa gas pipeline.²³⁴ This 678 kilometre pipeline, which cost an estimated US\$1 billion to construct and install, carries gas from Nigeria to Benin, Togo and Ghana. This gas is heavily relied on for electricity production in both the domestic and industrial sector.²³⁵

2.6 CONCLUSION

The analysis in this chapter has demonstrated that the Gulf of Guinea is a region of great strategic importance – both historically and in contemporary times. Indeed, the region remains an integral part of the

²³² Global Telecoms Business, *West Africa Cable System 'completed'*, February 2012, Available: <http://www.globaltelecomsbusiness.com/article/2983212/West-Africa-Cable-System-completed.html>, 28 February 2013.

²³³ News Africa, *Africa's ACE undersea cable now operational*, December 2012, Available: <http://www.itnewsafrika.com/2012/12/africas-ace-undersea-cable-now-operational/>, 28 February 2013.

²³⁴ For more on the West Africa Pipeline see, West Africa Gas Pipeline Company, *About the Pipeline*, Available: http://www.wagpco.com/index.php?option=com_content&view=article&id=122&Itemid=84&lang=en, 14 March 2013.

²³⁵ Ernest Abankroh, *West Africa Gas Pipeline Project* Available: <http://www.naruc.org/international/Documents/1B-Final%20Final%20Cotonou%20Workshop%20NARUC%20Presentation%20%20ea.pdf>, 16 March 2013.

global system of maritime trade, and its sea routes connect and sustain international shipping. Exports and imports are important sources of revenue and foreign exchange for Gulf of Guinea States, and are also pivotal to realising the socio-economic requirements of the region, including food security.

The analysis also demonstrates that while fisheries resources continue to make a substantial contribution to the socio-economic development of Gulf of Guinea States, offshore oil and gas reserves have more of a strategic importance for the region. Indeed, current and future global energy security depends on the secure exploitation of the enormous reserves that the region holds. Governments in the Gulf of Guinea also have an opportunity to address the developmental deficits in the region through the judicious application of oil and gas revenue. The realisation of these shared objectives depends on effective maritime security. However, the analysis has also revealed that there are competing regional and external interests at stake in the Gulf of Guinea, and these constitute important variables for understanding the dynamics of maritime security cooperation in the region.

The analysis has therefore provided the background for analysing maritime security dynamics in the rest of the thesis. The next chapter will demonstrate that there are mounting insecurities in the Gulf of Guinea which threaten the strategic imperatives and socio-economic opportunities analysed in this chapter. The analysis will be scoped within an analytical framework that focuses on the concept of security, and following on from that, the concept of maritime security. Proceeding in this way will allow a link to be forged between, on the one hand, the

historical and strategic importance of the Gulf of Guinea region, and on the other, the emerging tensions and shortfalls in the construction of a durable maritime security agenda that will equitably bind the interests of actors.

CHAPTER THREE

THE CONCEPT OF MARITIME SECURITY AND AN OVERVIEW OF MARITIME SECURITY CHALLENGES IN THE GULF OF GUINEA

3.1 INTRODUCTION

This chapter has two primary objectives. It will examine the concept of maritime security and its application in the Gulf of Guinea region. The chapter will also analyse maritime security challenges in the Gulf of Guinea and their implications for national, regional and global security. The chapter is organised in four parts. First, the chapter will examine the concept of security in the field of security studies and its relevance to maritime security cooperation. Second, the chapter will analyse various approaches to the concept of maritime security, and in doing so, adopt an independent approach to the evolution of the concept of maritime security. Third, the chapter will develop an analytical framework for maritime security cooperation in the Gulf of Guinea. Finally, the chapter will provide an overview of maritime security challenges in the Gulf of Guinea and their implications for national, regional and global security.

3.2 RELATIONSHIP BETWEEN THE CONCEPT OF SECURITY AND MARITIME SECURITY COOPERATION

Maritime security cooperation entails the collective pursuit of “security” by States in a maritime context. Indeed, the presumption is that cooperating States have common security interests to protect. This raises two fundamental questions. First, what is the meaning of security in the context of interstate relations? Second, can States share a concept of

security, or have common security interests? Several other issues can then be raised from these two questions: by what process or means is the cooperation being pursued? What are the prevailing threats to the security? What are the objectives of security cooperation? And, for whom and what purpose is security being sought?

To answer the above questions, it is necessary to examine the concept of security in the field of international security studies, as well as its relationship with the notion of maritime security cooperation.

3.2.1 A State-Centric Approach to the Concept of Security

The traditional view of security has been espoused by realist schools of international security studies. According to this view, ‘security’ is a state-centric concept and an objective outcome of an anarchical society.¹ This view of security has two strands - classical and revisionist.

Classical realism views interstate relations as intrinsically anarchical due to the absence of a commanding sovereign.² Thus, self-interest and power are the most relevant considerations, with States being in competition with each other to maximise their autonomously defined

¹ The word “anarchical” has been popularised by the work of classical realists like Hedley Bull, Kenneth Waltz, Andrew Hurrell and Stanley Hoffman. See Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, New York, Columbia University Press, 1977. Kenneth N. Waltz, *Theory of International Politics*, Reading Addison-Wesley, 1979. Kenneth N. Waltz, *Man, the State, and War: A theoretical analysis*, New York, Columbia University Press, 2001. Andrew Hurrell, *The International Politics of the Environment: Actors, Interests, and Institutions*, Oxford, Clarendon Press, 1992.

² Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, New York, Knopf, 1985, p. 31.

interest.³ In this environment, the chief security interest of a State becomes its national security, which is threatened by the interests, policies, ambitions and values of other States.⁴ Therefore, the ability of a State to defend itself against another State, or at the very least dissuade the other State from attacking it, becomes a measure of its security.⁵ It is in this sense that security is referred to as the “irreducible minimum, the necessary element of...interests vis-à-vis other units.”⁶ To guarantee this irreducible minimum, States must maintain enough military might to withstand adversaries, or enter into alliances with other States.⁷ But since power is dynamic in nature, and alliances can be fragile, it is clear that there can be no permanent guarantee of security.⁸ Also, the very measures designed to achieve security yield *insecurity*, resulting in a “security dilemma” where real security becomes an illusion, or at best is merely transient.⁹

³ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, New York, Columbia University Press, 1977, p. 5.

⁴ Arnold Wolfers, "National Security" as an Ambiguous Symbol," *Political Science Quarterly* 67, 1952, p. 485. See also Kenneth N. Waltz, *Theory of International Politics*, Reading, Addison-Wesley, 1979.

⁵ Michael Mastanduno, "Preserving the Unipolar Moment: Realist Theories and US Grand Strategy after the 'Cold War'," *International Security* 21, 4, 1997, pp. 49-88. John J. Mearsheimer, "A Realist Reply," *International Security* 20, 1, 1995.

⁶ Hans Morgenthau, *The Problem of the National in Politics in the Twentieth Century*, Chicago University of Chicago Press, 1971, pp. 204-237, p. 219. The term “anarchical” was popularised by Hedley Bull. See, Hedley Bull., *The Anarchical Society: A Study of Order in World Politics*, Columbia University Press, New York, 1977.

⁷ Stephen M. Walt, "The Renaissance of Security Studies," *International Studies Quarterly* 35, 2, 1991, pp. 211-39. Kenneth N. Waltz, *Theory of International Politics*, Reading, Addison-Wesley, 1979. Kenneth N. Waltz, *Man, the State, and War: A theoretical analysis*, New York Columbia University Press, 2001.

⁸ On views on how alliances and military means are inadequate for long term security see, Robert O. Keohane, *International Institutions and State Power*, Boulder Westview Press, 1989.

⁹ Eugene F. Carroll, "Nuclear Weapons and Deterrence", in Gwyn Prins, ed. *The Nuclear Crisis Reader*, New York, Vintage 1984, p. 13. Gwyn Prins, "Introduction: The Paradox of Security", in Gwyn Prins, ed. *The Choice: Nuclear Weapons versus Security* London, Chatto and Windus, 1984, Richard Little, *The balance of Power in International Relations: metaphors, myths, and models*, Cambridge, Cambridge University Press, 2007, p. xiii. See also Paul T. V., *Power Versus Prudence: Why Nations Forgo Nuclear Weapons*, Quebec McGill-Queen's Press, 2000. Lawrence W. Prabhakar,

The second strand of the traditional approach to security is equally state-centric, but its main focus is on sovereignty and territorial integrity.¹⁰ Security in this setting is judged by the ability of a State to extend or maintain control over its territorial boundaries. This view of security still puts emphasis on the military and related institutions.¹¹ In short, in a state-centric approach to security, issues such as the balance of power, deterrence and sovereignty, become sub-elements in the dialogue on security construction. It is this traditional view of security that has dominated the field of international security studies for most of the twenty-first century.

3.2.2 Broader Concept of Security

Some international relations schools, however, have not shared the state-centric view of security. These dissenting interpretations have affirmed that society is not as violent as the realist approach proclaims.¹² Proponents of this contrary view argue that, in practice, States can accommodate each other and are very much concerned with threats and security outcomes outside of war.¹³ This broader approach to security

Joshua H. Ho and Sam Bateman, eds., *The Evolving Maritime Balance of Power in the Asia-Pacific : maritime doctrines and nuclear weapons at sea* Singapore, Institute of Defence and Strategic Studies, 2006.

¹⁰ Jessica T. Matthews, "Redefining Security," *Foreign Affairs* 68, 1989, pp. 162-77. Richard H. Ullman, "Redefining Security," *International Security* 8 1983, pp. 129-53. Martin Shaw, "There Is No Such Thing as Society: Beyond Individualism and Statism in International Security Studies," *Review of International Studies* 19, 1993, pp. 159-75.

¹¹ Michael Sheehan, "Military Security", in Alan Collins, ed. *Contemporary Security Studies* Oxford, Oxford University Press, 2007, pp. 147-59, p.50. See also Alan Collins, *The security dilemmas of Southeast Asia*, New York, Macmillan, 2000. Kenneth N. Waltz, *Realism and International Politics*, New York, Routledge, 2008.

¹² This group is led by Robert Keohane and Charles Doyle, see Robert O. Keohane, *International Institutions and State Power*, Boulder, Westview Press, 1989. Michael W. Doyle, *Ways of War and Peace: Realism, Liberalism, and Socialism*, New York, Norton 1997.

¹³ Ann J. Tickner, "Re-visioning Security", in Ken Booth and Steve Smith, eds. *International Relations Theory Today*, Oxford, Polity, 1995, pp. 175-97.

has gained prominence since the end of the Cold War,¹⁴ and emphasises the stress caused by security threats, as well as the preference for multilateralism as a source of security and stability.¹⁵ This approach to security has been espoused in the 1994 Human Development Report, as well as the 1995 Report of the Commission on Global Governance, where security is viewed as a “public good.”¹⁶ According to this conception, security should yield societal benefits, such as enhancing people’s livelihoods and affirming human dignity, and should also be understood both as an ingredient of socio-economic development and a measure of progress. Over time, this notion has moulded into the concept of *human security*.¹⁷

This fundamental shift in the notion of security has facilitated other important interpretations of the concept. Research has shown that the main threats to human health and safety are not military attacks or interstate conflicts, but basic issues such as food shortages,

¹⁴ Ann J. Tickner, "Re-visioning Security", in Ken Booth and Steve Smith, eds. *International Relations Theory Today*, Oxford, Polity, 1995, pp. 175-97.

¹⁵ On the issue of non-traditional security, see Michael E. Brown, ed., *Grave New World: Security Challenges in the 21st Century*, Washington D.C., George Town University Press, 2003. See also Michael W. Doyle, *Ways of War and Peace: Realism, Liberalism, and Socialism*, New York, Norton, 1997.

¹⁶ United Nations Development Programme, Human Development Report. (New York: Oxford University Press, 1994). "The Report of the Commission on Global Governance," United Nations, 1995. See also "The UN's Role in Global Governance," *Ralph Bunche Institute for International Studies* Briefing Note No. 15, August 2009.

¹⁷ On human security, see Sabina Alkire, *Concepts of Human Security, Human Insecurity in a Global World*, Cambridge, Harvard University Press, 2003, pp. 15-39, Barbara von Tigerstrom, *Human Security and International Law: Prospects and Problems* Oxford Hart Publishing, 2007. David Roberts, "Human Security or Human Insecurity? Moving the Debate Forward," *Security Dialogue* 37, 2006, pp. 249-61. Astri Suhke, "Human Security and the Interest of States," *Security Dialogue* 30, 3, 1999, pp. 265-76. Neil S. MacFarlane and Yuen F. Khong, *Human Security and the UN: A Critical History*, Bloomington, Indiana University Press, 2006.

environmental disasters, epidemics and violent crimes.¹⁸ This wider interpretation of security threats has been emphasised by the 2004 UN High-level Panel Report on Threats and Challenges, as well as the 2005 UN Secretary General Report on Development and Security.¹⁹ The concept of security has since expanded to cover *food security*, *environmental security* and threats from non-State actors.²⁰ Despite criticism being levelled against the concept of human security and its subfields, it continues to form part of international security discourse.²¹

3.2.3 Embedded Elements in the Concept of Security

Before examining some embedded elements in the concept of security, it is important to clarify two issues. The first concerns the relationship between the traditional approach to the concept of security and its restatements. It must be made clear that the shift in emphasis in the concept of security should not be interpreted as a rejection of, or a decline in, the role of States in providing security. Indeed, States remain at the centre of seeking and promoting security, but this is not an end in itself, but rather a means of protecting the interests of citizens and

¹⁸ Daniel Deudney and Richard Matthew, *Contested Grounds: Security and Conflict in the New Environmental Politics*, New York, State University Press, 1999, pp. 61-187.

¹⁹ United Nations, "Report of the High-level Panel on Threats, Challenges and Change," 2004. United Nations, "In Larger Freedom: towards Development, Security and Human Rights for All," 2005.

²⁰ Simon Dalby, "Security and Environment Linkages Revisited" in Hans Günter Brauch et al., eds., *Globalisation and Environmental Challenges: Reconceptualising Security in the 21st Century*, Springer-Verlag, Berlin, 2006. Graham Allison and Gregory F. Treverton, eds., *Rethinking America's Security: Beyond Cold War to New World Order*, New York, Norton, 1992. Barry Buzan and Barry R. Jones, eds., *Change and the Study of International Relations: The Evaded Dimension*, London, Pinter, 1981.

²¹ On critical views to human security, see Roland Paris, "Human Security: Paradigm Shift or Hot Air", *International Security* 26, 2, 2001, pp. 87-102. Yuen Foong, "Human Security: A Shotgun Approach to Alleviating Human misery," *Global Governance* 7, 3, 2001. On critical views on environmental security, see Marc A. Levy, "Is the Environment a National Security Issue?", *International Security* 20, 2, 1995, pp. 46-54.

society in general.²² Thus, in the evolution of the concept of security, it is only recently that other important elements of security have been recognised – elements that were originally ignored or not prioritised.²³ It is this broader understanding of security, where the policies and decisions of States are subject to questioning, that ensures that the security needs of citizens and the international system as a whole are satisfied.²⁴

The second point to clarify is the meaning of specific terms, such as ‘threat’ and ‘challenges.’ Generally, the word ‘threat’ is used to signify a fear or anxiety over possible harm.²⁵ However, in the context of security studies, a ‘threat’ refers to the probability of damage to the values or vital interests of a State, a community of States, or society.²⁶ Drawing on the earlier discussion on the concept of security, it is evident that the terms “security threats” and “security challenges” are largely

²² Barry Buzan, "Peace, Power and Security: Contending Concepts in the Study of International Relations," *Journal of Peace Research* 21, 1984, pp. 109-25, David A. Baldwin, "The concept of security," *Review of International Studies* 23, 1, 1997, pp. 5-26.

²³ Rob Micrae, "Human Security in a Globalized World", in Micrae R. and Hubert D., eds. *Human Security and the New Diplomacy: Protecting People, Promoting Peace*, McGill-Montréal & Kingston, Queen's University Press, 2001.

²⁴ See Dharam Ghai, "Economic Globalization, Institutional Change and Human Security " *United Nations Research Institute for Social Development, Geneva*, November 1997. Mary Kaldor, *Human Security*, Cambridge, Polity Press, 2007. Azizur Rahman Khan, "Globalization and the Developing World: An Essay on the International Dimensions of Development in the Post-Cold War Era " *United Nations Research Institute for Social Development, Geneva*, 1992. John H. Dunning, *The Globalisation of Business*, London, Routledge, 1993.

²⁵ Hans Gunter Brauch, "Concept of security Threats, Challenges, Vulnerabilities and Risks", in Hans Gunter Brauch, Ursula O. Spring and Czesla Mesjasz, eds. Vol. 3 *Globalization and Environmental Challenges: Reconceptualizing Security in the 21st Century*, Berlin, Pringer, 2007, pp. 61-100.

²⁶ Hans Gunter Brauch, "Concept of security Threats, Challenges, Vulnerabilities and Risks", in Hans Gunter Brauch, Ursula O. Spring and Czesla Mesjasz, eds. Vol. 3 *Globalization and Environmental Challenges: Reconceptualizing Security in the 21st Century*, Berlin, Pringer, 2007, pp. 61-100. Romana Sadurska, "Threats of Force," *American Journal of International Law* 82, 1988, pp. 239-57. See also David A. Baldwin, "The concept of security," *Review of International Studies* 23, 1, 1997, pp. 5-26.

synonymous, and represent strands of a common security concern. With these clarifications, we can proceed to analyse the embedded elements in the concept of security.

To give practical effect to the concept of security, its various sub-elements or constituents must be examined. Indeed, Barry Buzan has noted that the concept of security is less relevant unless it has a frame of reference.²⁷ For this reason, Buzan has advocated the idea of “levels of security” and “dimensions of security” as tools for understanding and applying the concept of security.²⁸ “Levels of security” comprise *individual security* (i.e. the security of groups and communities), *national security* and *international security*.²⁹ Since the end of the Cold War, however, regional institutions have become veritable sources of security, and the international system as a whole is viewed as consisting of regions.³⁰ Therefore, the typology of levels of security should include *regional security*.³¹ Buzan also conceives of security as having three

²⁷ Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Boulder, CO Rienner, 1991, p. 26.

²⁸ Barry Buzan, "Is International Security Possible", in Ken Booth, ed. *New Thinking about Strategy and International Security*, London, Happer Collins, 1991. See also Barry Buzan, *People, States and Fear: The National Security Problem in International Relations*, Hemel Hempstead, Harvester Wheatsheaf, 1983.

²⁹ On the application of Barry Buzan's idea to the concept of maritime security, see Chris Rahman, "Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, *Centre for Strategic Studies, New Zealand, Discussion Paper No. 07/09*, 2009, p. 6.

³⁰ See chapter 2 of this thesis. See also Acharya Amitav, ed., *Crafting Cooperation : Regional International Institutions in Comparative Perspective*, Cambridge, Cambridge University Press, 2007. Maren Ihlau, *How can we best account for the role of regional institutions in providing security? In reference to Sub-Saharan Africa*, München GRIN Verlag GmbH 2010, Nkechi Mgbeoji, *Collective Security – The Liberian Crisis, Unilateralism and Global Order*, Vancouver, University of British Columbia Press, 2003 , Abbas Bundu, "Sub-regional Organizations and the Promotion of African Economic Integration: The Case of ECOWAS", in Ojomo M.A. and Adewale O, eds. *African Economic Community Treaty: Issues, Problems and Prospects*, Nigeria Institute of Advanced Legal Studies, 1993.

dimensions: *societal security*, *economic security* and *environmental security*.³² It is prudent to add *food security* to this list, especially if we view this dimension from the perspective of Gulf of Guinea States and Third World countries in general.³³ Indeed, food security has become central to the global dialogue on survival and development, particularly in light of declining food supplies, the increasing global population, and the aggravating effect of environmental factors on agriculture and food production.³⁴

There are other applications of the concept of security which lie outside traditional security studies, some of which are relevant for this thesis. A typical example is the notion of transnational security threats or simply *transnational security*.³⁵ The focus of transnational security is on organised crime, where the actors are not States but carry out their activities across State boundaries.³⁶ These organised groups or sub-state actors, as they are known in the literature, are in fact contra-state because their activities threaten the security of States and other dimensions or

³¹ David A. Lake and Patrick M. Morgan, *Regional Orders: Building Security in a New World*, Pennsylvania, Penn State Press, 1997 p. 3. Barry Buzan has similarly recognised the importance of regional dimensions to security discourse; see Barry Buzan and Ole Waever, *Regions and Powers: The Structure of International Security* Cambridge Cambridge University Press, 2003, p. 219-253.

³² Barry Buzan, "Is International Security Possible", in Ken Booth, ed., *New Thinking about Strategy and International Security*, London, Happer Collins, 1991.

³³ On the need to expand the concept of security to take into account Third World concerns, see Samuel M. Makinda, "African Thinkers and the Global Security Agenda", in *Rethinking Global Security: An African Perspective?*, Nairobi, Heinrich Böll Foundation, 2006, pp. 21-39. On food security, see Simon Maxwell and Stephen Devereux, eds., *Food security in sub-Saharan Africa*, London, International Development Group, 2001.

³⁴ At the global level the UN Committee on Food Security (CFS) was established in 1974. There is now also The High Level Panel of Experts on Food Security and Nutrition (HLPE), created in October 2009, to look into issues of food security.

³⁵ Saša Đorđević, "Understanding transnational organized crime as a Security threat and Security Theories," *Carl Schmitt and Copenhagen School of Security Studies* 13, 2009, pp. 39-52.

³⁶ Saša Đorđević, "Understanding transnational organized crime as a Security threat and Security Theories," *Carl Schmitt and Copenhagen School of Security Studies* 13, 2009, pp. 39-52.

levels of security.³⁷ The ‘transnational security’ terminology has also been used in environmental studies, where it is used interchangeably with trans-boundary threats to refer to environmental impacts which are felt beyond the place of origin of the incident.³⁸

A question that logically flows from the above analysis is: what is the interaction between the various levels or dimensions of security? In answering this question, one must contemplate both vertical and horizontal interactions. In practice, these levels of security may overlap significantly, and should at times be expected to be in conflict with one another.³⁹ This is chiefly the case when individual security is posited against national security, national security against regional or international security, and also in balancing environmental security concerns with national security.⁴⁰ In all these instances, elements of security are in competition with each other.

The above explanation of competing security interests introduces two other important elements of the concept of security: the *securitisation of security* and the notion of *regime security*. As is the case with other security concepts, the debate on the securitisation of security is vast.

³⁷ See Frank G. Madsen, *Transnational Organized Crime*, Abingdon Routledge, 2009. Sayaka Fukumi, *Cocaine Trafficking in Latin America: EU and US Policy Responses*, Burlington Ashgate Publishing 2008.

³⁸ Christopher Jaspardo and Jonathan Taylor, "Climate Change and Regional Vulnerability to Transnational Security Threats in Southeast Asia," *Geopolitics* 13, 2, 2008, pp. 232-56.

³⁹ On this interaction and areas of conflicts see, Hasan Mahmud, Muhammad M. Quaisar, Abdus Sabur and Sharmin Tamanna, "Human Security or National Security: the Problems and Prospects of the Norm of Human Security," *Journal of Politics and Law* 1, 4, 2008, pp. 67-72, Jon Barnett, *The Meaning of Environmental Security: Ecological Politics and Policy in the New Security Area*, London Zed Books, 2001. Brian Shaw, "When are Environmental Issues Security Issues?," *Woodrow Wilson Centre for International Scholars* Spring 1996.

⁴⁰ Marcus D. King, "Factoring Environmental Security Issues Into National Security Threat " PhD Thesis, The Fletcher School of Law & Diplomacy, 2008.

According to the Copenhagen School of Security (which pioneered the concept), the securitisation of security refers to the labelling of something as a security threat in order to justify extraordinary countermeasures or validate rule-breaking behaviour.⁴¹ While this description of the concept is intelligible, further elucidation of the concept by the School has been viewed with scepticism.⁴² Nonetheless, the concept provides an analytical framework for understanding the struggle between different security concerns, particularly where the pursuit of one security concern is used as a justification for curtailing others, or where other equally important security concerns are deemed less relevant by an actor because of specific preferences or interests.⁴³

Unlike other forms of security, *regime security* has not received much attention in the field of security studies. In terms of categorisation, regime security sits within the wider discourse on regime survival theory, and centres on the construction of security by political leaders for the purpose of perpetuating their political power or gaining political legitimacy.⁴⁴ However, to avoid making this objective apparent, national

⁴¹ The Copenhagen School includes Barry Buzan, Ole Wæver and Jaap de Wilde. See Barry Buzan, Ole Wæver and Jaap De Wilde, *Security: A New Framework for Analysis*, Boulder, Colo Lynne Rienner 1998, Ole Wæver, "Securitization and Desecuritization", in R.D Lipschutz, ed. *On Security*, New York, Columbia University Press, 1995, pp. 46-86. See also Michael C. Williams, "Words, Images, Enemies: Securitization and International Politics," *International Studies Quarterly* 47, 4, 2003, pp. 511-31.

⁴² Matt McDonald, "Securitization and the Construction of Security," *European Journal of International Relations* 14, 4 2008, pp. 563-87.

⁴³ Barry Buzan and Ole Wæver, "Macrosecritization and Security Constellations: Reconsidering Scale in Securitization Theory," *Review of international studies* 35 2, 2009, pp. 253-76. Ralf Emmers, "Securitization", in Alan Collins, ed. *Contemporary Security Studies*, Oxford, Oxford University Press, 2007, pp. 109-25. Jef Huysmans, "Revisiting Copenhagen: Or, On the Creative Development of a Security Studies Agenda in Europe," *European Journal of International Relations* 4, 4, 1998, pp. 479-505.

⁴⁴ Perhaps the famous work on regime security has been written by Amitav Acharya, see Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem* Abingdon

security becomes the public facade or “mask”⁴⁵ that is employed. A prime example of regime security is the political preoccupation with military expenditure, as well as the creation of institutions and structures that protect the political elite.⁴⁶ Another example is where leaders give less credence to those aspects of security that have a wider societal benefit, instead prioritising those aspects that directly benefit them. For this reason, regime security is ubiquitous in States where there is dictatorship, lack of accountability or where corruption is rife. Academic discourse on regime security also extends to concerns on how to subject security institutions in developing Countries, especially the military, to democratic culture and governance.⁴⁷

3.2.4 Concept of Security Cooperation

The concept of security cooperation could well be embodied in the discussion on the elements that comprise the security concept. However, it deserves a separate examination here since the thesis is focused on regional security cooperation.

The theories of security analysed in sections 3.2.1 and 3.2.2 are also applicable to the idea of security cooperation. Indeed, opinions as to whether interstate cooperation is possible or not, and the strength of the

Routledge, 2009. Amitav Acharya, "Human Security and Global Order", in John Baylis, Steve Smith and Patricia Owens, eds. *The Globalisation of World Politics*, Oxford, Oxford University Press, 2007.

⁴⁵ Amitav Acharya, "Human Security and Global Order", in John Baylis, Steve Smith and Patricia Owens, eds. *The Globalisation of World Politics*, Oxford, Oxford University Press, 2007, p. 10.

⁴⁶ See Richard Jackson, "Regime Security ", in Alan Collins, ed. *Contemporary Security Studies*, Oxford,, Oxford University Press, 2007, pp. 146-64, p.53.

⁴⁷ See for example Kumi Ansah-Koi, "The Security Agencies and National Security in a Decade of Liberalism ", in Kwame Boafo-Arthur, ed. *Ghana: One Decade of the Liberal State*, London Zed Books, 2007, pp. 186-204.

outcomes that can be achieved, largely depend on what views are held about the concept of security in the first place.⁴⁸ From a realist perspective, self-reliance is the most prudent form of security, not cooperation.⁴⁹ Therefore, security cooperation should only be used as a transient measure to ward-off a common threat, and should cease once the threat is no longer imminent.⁵⁰ Indeed, the realist approach views cooperation as unsustainable, because even States that are compelled to form an alliance may covertly be enemies, and will prefer to seek their exclusive security as soon as practicable.⁵¹ According to this conception, security cooperation itself is a threat, since one party may detect weaknesses in the other, and later seek to exploit them.⁵²

Modifications of the realist position on security cooperation have produced the idea of security communities.⁵³ According to this restatement, States have the option to choose between an amalgamated security community, on the one hand, and a pluralistic security community on the other.⁵⁴ An amalgamated security community is where the pursuit of shared security concerns demands the formal

⁴⁸ On security cooperation, see Walter Carlsnaes, Thomas Risse-Kappen, Thomas Risse and Beth A Simmons, eds., *Handbook of International Relations*, London, SAGE Publications, 2002.

⁴⁹ Joseph Grieco, "Understanding the Problem of International Cooperation: The Limits of Neoliberal Institutionalism and the Future of Realist Theory", in David Baldwin, ed. *Neorealism and Neoliberalism: The Contemporary Debate*, New York, Columbia University Press, 1993, pp. 301-38, p.15.

⁵⁰ Kenneth N. Waltz, *Theory of International Politics*, Reading, Addison-Wesley, 1979, p.111.

⁵¹ John J. Mearsheimer, "Back to the Future: Instability in Europe After the Cold War," *International Security* 15, 1, 1990, pp. 5-56.

⁵² John J. Mearsheimer, "Back to the Future: Instability in Europe After the Cold War," *International Security* 15, 1, 1990, pp. 5-56.

⁵³ Emmanuel Adler and Michael Barnett, *Security Communities*, Cambridge, Cambridge University Press, 2000 .

⁵⁴ Karl Deutsch, Burell Sidney, Kann Robert, Lee Maurice and Richard V. Wagenen, eds., *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience*, Princeton, Princeton University Press, 1957.

merger of States into a composite unit.⁵⁵ In the case of a pluralistic security community, States retain their independence, but still converge around very structured arrangements whose *raison d'être* is military action and defence.⁵⁶ Further shifts in the realist view occurred following the Cold War. Indeed, interstate security cooperation was now seen as a feasible, but not ideal or rational choice.⁵⁷ Thus, according to the realist approach, intergovernmental institutions such as the UN are not favoured; indeed they are seen as structures for interaction rather than organisations with any durable value for peace and stability.⁵⁸

However, the evolution of the concept of security has resulted in liberal theories on security cooperation dominating the discourse.⁵⁹ This has resulted in interstate cooperation being viewed as a feasible choice, paving the way for intergovernmental institutions to promote shared interests and values outside the scope of war.⁶⁰ All forms of cooperation, from bilateral to multilateral, are now accepted as useful means of

⁵⁵ Emmanuel Adler and Michael Barnett, *Security Communities*, Cambridge, Cambridge University Press, 2000, pp. 8-15.

⁵⁶ Emmanuel Adler and Michael Barnett, *Security Communities*, Cambridge, Cambridge University Press, 2000, pp. 8-15.

⁵⁷ Charles Glaser, "Realist as Optimist: Cooperation as Self-Help," *International Security* 19, 3, 1994/95, pp. 50-90. Joshua S. Goldstein, "Great-power Cooperation under Conditions of limited Reciprocity: From empirical to formal Analysis," *International Studies Quarterly* 39, 4, 1990, pp. 453-77.

⁵⁸ John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, 3, 1994/95, pp. 5-49.

⁵⁹ In this context, "liberal" theories of security include the constructionist model. See Emmanuel Adler, "Seizing the Middle Ground: Constructivism in International Relations," *European Journal of International Relations* 3, 3, 1997. Douglas T. Stuart and Stephen F. Szabo, eds., *Discord and Collaboration in a New Europe*, Washington DC., Foreign Policy Institute, John Hopkins University, 1994.

⁶⁰ Emmanuel Adler, "Seizing the Middle Ground: Constructivism in International Relations," *European Journal of International Relations* 3, 3, 1997. David A. Lake, "Beyond Anarchy: The Importance of Security Institutions," *International Security* 29, 1, 2001, pp. 129-60.

solving common security concerns.⁶¹ This has provided the impetus for global institutions to be used as platforms for promoting security dialogue,⁶² with regional organisations and structures being regarded as a source of durable security cooperation.⁶³ In essence, States that are not pre-occupied with achieving dominance can attain stability and development through responsive security cooperation.⁶⁴

In the context of the Gulf of Guinea, regional security cooperation is structured within the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS). Chapter six will examine the role of these two bodies, and other regional organisations, in the context of maritime security. Suffice to say, despite the usefulness of interstate cooperation generally, and security cooperation in particular, cooperative structures are still subservient to the realities of State sovereignty and the conflicting interests of States.⁶⁵ Also, where security cooperation in a defined region

⁶¹ David A. Lake, "Beyond Anarchy: The Importance of Security Institutions," *International Security*, Vol. 29, No. 1, pp. 129-160. William T Tow, Ramesh Chandra Thakur and In-Taek Hyun, *Asia's Emerging Regional Order: Reconciling Traditional and Human Security*, United Nations Univ, 2000.

⁶² Michael Barnett and Martha Finnemore, *Rules for the World: International Organization in Global Politics*, Ithaca NY, Cornell University Press, 2004. Peter J. Katzenstein, *A World of Regions* Asia Europe in American Imperium Ithaca NY Cornell University Press, 2005. Edward Newman, Ramesh Thakur and John Tirman, eds., *Multilateralism Under Challenge? Power, International Order, and Structural Change*, Tokyo, United Nations University Press, 2006.

⁶³ Lisa A. Martin and Berth A. Simmons, "International Organizations and Institutions", in Walter Carlsnaes, Thomas Risse and Beth A Simmons, eds. *Handbook of International Relations*, Singapore, SAGE, 2012, pp. 326-51. David A. Lake, "Beyond Anarchy: The Importance of Security Institutions," *International Security* 29, 1, 2001, pp. 129-60. Robert O. Keohane, "International Institutions: Two Approaches," *International Studies Quarterly* 32, 4, 1988, pp. 379-96.

⁶⁴ Amitav Acharya, "Beyond Anarchy: Third World Instability and international Order after the Cold War", in Stephanie Neuman, ed. *International Relations Theory and the Third World*, New York, St. Martin's Press, 1998, pp. 159-211. See also Kal Holsti, "International Relations Theory and Domestic War in the Third World", in Stephanie Neuman, ed. *International Relations Theory and the Third World*, New York, St. Martin's Press, 1998.

⁶⁵ Sam Bateman, "Regional Efforts for Maritime Security Cooperation", in Dachoong Kim, Seo-Hang Lee and Jin-Hyun Paik, eds. *Maritime Security and Cooperation in the Asia-Pacific Towards the 21st Century*, the Institute for East and West Studies, 2000, pp. 215-42. Douglas Paal, "Future Security in

requires the participation of extra-regional partners, questions concerning the degree of interest the external participants have in the long-term security of the region ought to be investigated.

3.2.5 Relating the Concept of Security to Maritime Security

It can be deduced from the analysis above that the concept of security has conceptual and practical relevance to maritime security and maritime security cooperation. Thus, rather than embarking on an extensive theoretical comparison, the author intends to raise practical questions, using the Gulf of Guinea as the context, to highlight how the concept of security is relevant to the study of maritime security.

Since the United Nations Security Council (UNSC) has addressed the question of Gulf of Guinea maritime security through its resolutions, it is appropriate to start at the global level. One may ask: what concept of security is projected in Resolution 2018 of October 2011, and how broadly has the concept been framed?⁶⁶ Does the title of the Resolution - "Piracy and Security in Africa", convey the security concerns of Africa, or is the Resolution chiefly concerned with the security of the world in Africa? When the Resolution commends the international community for offering support to improve maritime security in the region, does that amount to an endorsement that the support has solved the maritime security threats in the region? Are there other, equally important security

the Asia Pacific: A Clash of Economic Interests?", in Bunn Nagara and Cheeah S. Ean, eds. *Managing Security and Peace in the Asia-Pacific*, Kuala Lumpur, ISIS, 1996, pp. 29-38. Stivachtis Ioannis, *Human and State (In)Security in a Globalized World: An Introduction to International Relations and Security Studies*, Kendall Hunt Publishing, 2012.

⁶⁶ United Nations, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011).

threats that are being ignored? If piracy constitutes a threat to international and regional security, is it the case that the support being offered by external actors is geared towards meeting other strategic objectives independent of the piracy threat itself?

Similar issues can be raised when the spotlight is turned on Gulf of Guinea States. Do Gulf of Guinea States share a common concept of security? What about a common concept of maritime security? What dimension or level of security is piracy a threat to? And is it likely that this will be the same for all Gulf of Guinea States? Is it possible that non-maritime security concerns may nonetheless impact on maritime security cooperation? Are there elements in the concept of security - for example, disputed maritime boundaries, which have the capacity to undermine a common concept of maritime security? Is good governance understood as an element of security? And will governance concerns be part of the dialogue on enhancing maritime security?

These questions will be addressed in the thesis, and the answers they elicit will undoubtedly demonstrate the conceptual and empirical links between the concept of security and maritime security cooperation.

3.3 CONCEPT OF MARITIME SECURITY

This part examines the concept of maritime security. It will assess the application of the concept of security in maritime security literature. This will be followed by an examination of various definitions and approaches to the concept of maritime security. Finally, this section will analyse the evolution of the concept of maritime security.

3.3.1 The Concept of Security in Maritime Security Literature

The questions raised in the previous section reveal the links between the concept of security and maritime security cooperation. It should therefore be expected that maritime security literature will demonstrate these links in an effort to provide a better understanding of the dynamics of maritime security cooperation. However, this is generally lacking in the literature. One explanation for these missing links is that writers and researchers see them as axiomatic. However, the absence of any such discussion can potentially impede the success of maritime security cooperation, particularly in a regional and multilateral context. Based on a review of the relevant literature, three authors have addressed the relationship between the two concepts: one very remotely, another indirectly, and the third directly.

Geoffrey Till's book, *Seapower: A Guide for the Twenty-First Century*,⁶⁷ is primarily about naval strategy, covering naval concepts of war and the projection of naval power, which are traditional issues of security. Even so, Till dedicates chapter eleven of his book to an analysis of "maintaining good order at sea." The chapter stipulates four attributes of the sea: the sea as a resource, the sea as means of transportation, the sea as a means of gaining and exchanging information, and the sea as an area of dominion.⁶⁸ The book analyses key threats to these attributes, including piracy and illicit drug trafficking by sea. The book also notes

⁶⁷ Geoffrey Till, *Seapower: A Guide for the 21st Century*, New York, Routledge, 2009.

⁶⁸ Geoffrey Till, *Seapower: A Guide for the 21st Century*, New York, Routledge, 2009, pp. 286-321.

that “the concept of ‘security’ has widened...from traditional, ‘hard’ national defence concerns to issues of marine safety”.⁶⁹ Although this statement is made in passing, and no further discussion of a conceptual link is provided, Till has shown by this statement that the bounds of the concept of security has expanded to include maritime security concerns.

A number of phrases in the opening chapter of Nathalie Klein’s book suggest the importance of interrogating the concept of security in the study of maritime security.⁷⁰ In highlighting the scope of the book, Klein indicates her ultimate objective: to establish how security interests have influenced the development of the law of the sea.⁷¹ Klein goes on to state that maritime security should not be understood simply as a legal term of art, but must be considered in the broader perspective of international relations.⁷² The book discusses some concepts in security studies, including human security,⁷³ and also expands on various definitions of maritime security (which we shall return to later). However, Klein provides no deeper analysis of the interface between concepts of security and maritime security. Nonetheless, it is clear from Klein’s approach in the book that the concept of security, as espoused in security studies, is relevant to the maritime domain, but the extent to which it is relevant remains in doubt.

⁶⁹ Geoffrey Till, *Seapower: A Guide for the 21st Century*, New York, Routledge, 2009, p.286.

⁷⁰ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford Oxford University Press, 2011.

⁷¹ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p.1.

⁷² Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p.2.

⁷³ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, pp.6-7.

In contrast to the above approaches, Chris Rahman has provided a comprehensive analysis of the concept of security and its interface with maritime security.⁷⁴ Rahman's work commences with a detailed examination of the general concept of security, and then proceeds to review the evolution of the concept of security, the various applications of the concept, as well as its constituent elements.⁷⁵ The paper also analyses the relationship between the concept of security and the concept of maritime security. In doing so, Rahman postulates that maritime security may be seen as a dimension of security in its own right, and furthermore, that each of the dimensions of security may be applicable to the maritime environment.⁷⁶

This thesis adopts a position similar to that of Rahman. In particular, the author takes the view that the levels and dimensions of security in security studies have comparable application to the concept of maritime security. It is argued that since the ocean environment serves the political, economic and strategic objectives of States, the dynamics that surround the pursuit of all interstate interests will similarly be reflected in the maritime realm. According to this conception, it is possible to investigate how maritime security threats affect national security, regional security, economic security or even food security, and how these security concerns may compete with one another. We can equally

⁷⁴ Chris Rahman, "Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, with policy implications for New Zealand," *Centre for Strategic Studies, New Zealand, Discussion Paper No. 07/09*, 2009.

⁷⁵ Chris Rahman, "Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, *Centre for Strategic Studies, New Zealand, Discussion Paper No. 07/09*, 2009, pp. 5-27.

⁷⁶ Chris Rahman, "Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, *Centre for Strategic Studies, New Zealand, Discussion Paper No. 07/09*, 2009, p. 29.

examine the competing interests of various actors that occupy these levels and dimensions of security. Indeed, the analysis of the historical and contemporary significance of the Gulf of Guinea in chapter two has already provided empirical evidence of the strategic importance of the sea to Gulf of Guinea States (and the international community as a whole), but it has also alluded to the conflicts that may exist between States in pursuit of these interests.

The above conceptual position will be further developed in the next section of this chapter, and also employed in later chapters to interrogate these shared but competing interests.

3.3.2 Definitions and Approaches to the Concept of Maritime Security

Since the concept of security has been conceived in different ways, it follows that a diverse range of approaches to the concept of maritime security will emerge. Indeed, differing interests, political perspectives, organisational viewpoints and cultural sensibilities will produce varied perspectives and applications of the concept of maritime security.⁷⁷ Kenneth Hawkes' definition of maritime security – that is, as measures employed to prevent crime and sabotage, can be regarded as the shipping industry's perspective of maritime security.⁷⁸ This can be contrasted to the approach outlined in the United States National Strategy for Maritime Security (US NSMS), which looks at a broad spectrum of

⁷⁷ Chris Rahman, "Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, *Centre for Strategic Studies, New Zealand, Discussion Paper No. 07/09*, 2009, p. 29.

⁷⁸ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p. 8.

maritime security threats including terrorism and the proliferation of weapons of mass destruction (WMD).⁷⁹ After reviewing various approaches to maritime security, Natalie Klein has defined maritime security as “the protection of a State’s land and maritime territory, infrastructure, economy, environment and society from certain harmful acts occurring at sea.”⁸⁰

The author’s review of the various definitions of, and approaches to, maritime security reveals that three factors account for the differences: time, interests and actors. Definitions of the concept will differ because maritime security is an evolving notion, and thus earlier definitions may not take into account newer dimensions. Maritime security may also be defined based on a particular interest or subject. Such a definition may ignore other dimensions completely, because those dimensions are not material to the subject. Thirdly, the orientation of an actor or participant will affect the definition or approach to maritime security, and to that extent, an actor’s definition may be constructed in competition with, or in opposition to, other dimensions of security.

3.3.3 Evolution of the Concept of Security

The above analysis of the main factors which account for different approaches to the concept of maritime security marks the first point of departure of this thesis with contemporary literature on maritime security. The second point of departure is that this thesis traces the

⁷⁹ United States, National Strategy for Maritime Security, 2005.

⁸⁰ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p.11

evolutionary process of the concept of maritime security. It is the author's view that this provides a holistic approach and enables a better understanding of the concept of maritime security.

3.3.2.1 Maritime Transportation Security

The traditional concern of maritime security has been maritime *transportation*, although the scope of this concern has changed over time. From the perspective of the shipping industry (and in particular ship operators) perspective, maritime security involves adopting and implementing measures designed to protect a ship and its cargo from threats.⁸¹ These threats have historically included piracy, sabotage and the theft of cargo, and with the exception of piracy, have customarily been regarded as 'safety' issues rather than 'security' threats.⁸² Hence, at the global institutional level, the Maritime Safety Committee of the International Maritime Organization (IMO) has served as the forum for discussing concerns and responses to *maritime transportation security*.

3.3.2.2 *Mare Clausum* and National Security

The second phase in the evolution of the concept began when coastal States perceived activities in waters close to their shores as threats to their national security.⁸³ The core security threats for coastal States include possible attacks from enemy vessels, espionage and gunboat

⁸¹ Catherine Zara Raymond and Arthur Morriën, "Security in the Maritime Domain and Its Evolution Since 9/11", in London Sam Bateman Rupert Herber-Burns, and Peter Lehr, ed. Vol. 3 *Lloyd's MIU Handbook of Maritime Security*, CRC Press, 2008, pp. 4..

⁸² Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p.8.

⁸³ Albert G. De Lapradelle, "Le droit de l'Etat sur la mer territoriale " *Revue Générale de Droit International Public* 5 1899, pp. 264-347

diplomacy.⁸⁴ Thus, Britain's attempt to safeguard itself against these threats was justified by the doctrine of *Mare clausum*, with the nation arguing for a right to exercise controls over the water belt close to its shores.⁸⁵ Responses to these threats resulted in the territorial sea regime, where sovereignty-security measures can be exercised.⁸⁶ Subsequently, the breadth of the territorial sea was considered insufficient for security controls, because ships outside the territorial sea could still partake in activities that are inimical to the interests of coastal States, such as drug trafficking and trading in prohibited items and uncustomed goods.⁸⁷ The concept of the contiguous zone thus evolved to create a policing and enforcement jurisdiction beyond the territorial sea.⁸⁸

3.3.2.3 Offshore Energy Security

Although a number of developments were responsible for the broadening of the concept of security, all are grounded in changes to the international law of the sea. First, by the 1940s scientific evidence had pointed to large deposits of hydrocarbon material in the sea bed, and thus

⁸⁴ In international politics, "gunboat diplomacy" refers to the pursuit of foreign policy objectives with the aid of conspicuous displays of military power - displays that imply or constitute a direct threat of warfare, should terms not be agreeable to the superior force. For a discussion of "gunboat diplomacy" See James Cable and Julian Oswald, *American Gunboat Diplomacy 1919-1991*, Sydney Palgrave Macmillan, 2003. Kenneth J. Hagan, *American Gunboat Diplomacy and the Old Navy 1877-1899*, California, Greenwood Press, 1973.

⁸⁵ John Selden, an English Scholar, espoused the doctrine of *Mare Clausum* (literally translated as 'closed seas') in 1635 to legitimise British security controls of the seas around Great Britain. *Mare Cclausum* was therefore opposed to *Mare liberum* which argued for the freedom of the seas analysed in chapter 2.

⁸⁶ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999 p. 71-101.

⁸⁷ Early academic writings indicating that the territorial sea was insufficient for security include; Edwin D. Dickinson, "Jurisdiction at the maritime frontier," *Harvard Law Review* 40, 1926, pp. 1-29. Phillip C. Jessup, *The Law of Territorial Waters and Maritime Jurisdiction*, New York, Jennings, 1927, William E. Masterson, *Jurisdiction in Marginal Seas*, New York, Macmillan 1929. G. Gedel, "La mer territoriale et la zone contigue," *Recueil des Cours* 48, 1934, pp. 241-73.

⁸⁸ Shegeru Oda, "The Concept of the Contiguous Zone," *International and Comparative Law Quarterly* 11, 1, 1962, pp. 131-53.

the maritime domain became a growing source of energy supplies.⁸⁹ This inspired the 1945 proclamation by US President Harry Truman - that the seabed contiguous to the US and its resources were subject to US sovereignty.⁹⁰ Other States followed the US, making similar declarations and setting into motion a chain of events which would eventually lead to a customary international law rule.⁹¹ The Continental Shelf Convention of 1958, and subsequently the United Nations Convention on the Law of Sea (1982) made the continental shelf and its oil and gas deposits the exclusive national interest of States.⁹² Indeed, this provided the impetus for their inclusion in the national security interest of coastal States. Thus, both the control and access to offshore oil and gas resources became a matter of national security.

Second, the exploitation of offshore oil and gas resources has been enabled by a complex system of offshore structures and facilities, collectively referred to as offshore installations or platforms.⁹³ Unlike ships that are mobile, these platforms are fixed to the seabed, thus increasing their vulnerability to accidents and intentional attacks. A

⁸⁹ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p. 143.

⁹⁰ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p. 144. Proclamation No. 2667, Concerning the Policy of United States with respect to Natural Resources of the subsoil and seabed of the Continental Shelf. Ann L. Hollick, "US Oceans Policy: The Truman Proclamation " *Virginia Journal of International Law* 17 1976/77, pp. 23-35

⁹¹ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p. 144.

⁹² See chapter 5. "Convention on Continental Shelf, 1958, in force 10 June 1964," *UN Treaty Series* 499. United Nations Convention on the Law of the Sea (UNCLOS), 1833 *U.N.T.S.* 397. The full text of the Convention is reprinted in 21 *International Legal Materials* 1261 (1982). The Convention opened for signature at Montego Bay, Jamaica on 10 December 1982 and came into force on 16 November 1994. It has 164 ratifications as at 24 September 2012.

⁹³ On offshore installations see Anil K. Thayamballi, *Ship-Shaped Offshore Installations Design, Building, and Operation* Cambridge University Press 2009.

combination of these factors gave rise to legal and practical concerns relating to *offshore energy security*.⁹⁴

The third development is very much related to the second. Earlier, in 1961, a mutinying crew took control of the *Santa Maria* cruise ship,⁹⁵ and then in 1985 the *Achille Lauro* was hijacked by supporters of the Palestinian Liberation Front (PLO) as part of the Israeli-Palestinian conflict.⁹⁶ The hijacking of the *Achille Lauro* pointed to a more serious threat to the security of shipping - terrorist hijackings.⁹⁷ The international response to this threat, and threats to offshore energy installations, resulted in two international instruments in 1988 which expanded the scope of the concept of maritime security.⁹⁸

3.3.2.4 The Exclusive Economic Zone Concept and Further Dimensions of Maritime Security

It is not clear when *marine environmental security* became a dimension of the maritime security concept, but the regime of the Exclusive Economic Zone (EEZ) can be regarded as the catalyst.⁹⁹ The adoption

⁹⁴ Stuart Kaye, "International Measures to Protect Oil Platforms, Pipelines and Submarine Cable from Attack," *Tulane Maritime Law Journal* 31, 2, 2007, pp. 377-423. Hossein Esmaeili, *The Legal Regime of Offshore Rigs in International Law*, vol. Dartmouth, Ashgate, 2001. Natalino Ronzitti, "The Prevention and Suppression of Terrorism Against Fixed Platforms on the Continental Shelf", in Natalino Ronzitti, ed. *Maritime Terrorism and International Law*, Dordrecht, Martinus Nijhoff, 1990, pp. 91-97.

⁹⁵ As part of political agitation in Portugal, the *Santa Maria*, a Portuguese liner was seized by a section of its crew in 1961 while on a voyage carrying over 600 passengers. , w. On developments of the mutiny see "Crew of Santa Maria Threatens Mutiny as Food and water Run Low," *News Sentinel*, California, 2 February 1961.

⁹⁶ See chapter 5.

⁹⁷ Andrew L. Liput, "An Analysis of the Achille Lauro Affair: Towards an Effective and Legal Method of Bringing International Terrorists to Justice," *Fordham International Law Journal* 9, 2, 1985, pp. 328-72.

⁹⁸ See chapter 5.

⁹⁹ See Jon Barnett, *The Meaning of Environmental Security: Ecological Politics and Policy in the New Security Area*, Zed Books, London, 2001. See pages 65ff, Robert B. Clark, *Marine Pollution*, Oxford,

and coming into force of the United Nations Convention on the Law of Sea (UNCLOS) 1982, strengthened the scope of existing maritime security jurisdiction, for example in the territorial sea and the contiguous zone.¹⁰⁰ It also extended jurisdiction and enforcement measures over living resources and the conservation and management of the marine environment.¹⁰¹ Since the concept of security is a product of the construction of particular interests, the extended interest of States into the sea has necessarily yielded a concept of security to protect that interest.¹⁰² Marine environmental security can equally be seen as a product of an environmentalist agenda – one that aims to protect the earth and its resources, particularly following the UN Conference on Environment and Development (UNCED).¹⁰³ From a national viewpoint, however, the EEZ regime serves as the anchor for marine environment security.¹⁰⁴

3.3.2.5 Naval Constabulary Roles and the Construction of Maritime Security

The analysis thus far has shown that ‘soft security’ interests at sea have expanded from maritime transportation security to include broader dimensions of security. In a national setting, these different dimensions

Oxford University Press, 2001. See also GESAMP, Impact of Oil and Related Chemicals and Wastes on the Marine Environment, GESAMP Report and Studies No. 50 (London: IMO Publication 1993).

¹⁰⁰ See chapter 5.

¹⁰¹ See chapter 5.

¹⁰² Jon Barnett, *The Meaning of Environmental Security: Ecological Politics and Policy in the New Security Area*, Zed Books, London, 2001, pp.2-16. The view that navies must prioritise environmental and conservation issues has been argued by Gwyn Prins and Robbie Stamp, *Top guns & toxic whales : the environment & global security*, London, Earthscan Publications, 1991.

¹⁰³ UN Conference on Environment and Development (UNCED), also known as the Earth Summit, was held in Rio de Janeiro, Brazil, from 2-14 June 1992.

¹⁰⁴ Jon Barnett, *The Meaning of Environmental Security: Ecological Politics and Policy in the New Security Area*, Zed Books, London, 2001, pp.2-16.

would be treated as separate segments of maritime or ocean governance concerns and administered by different national agencies. In contrast, navies and coastguards (being the response and enforcement arms of these dimensions of security), adopt a composite approach in their constabulary roles.¹⁰⁵ This is often reflected in operational concepts that provide an expansive definition of maritime security operation.¹⁰⁶

The conceptual framework that underpins naval constabulary roles influences the concept of maritime security in three ways. First, rather than seeing maritime security in segments, naval concepts provide a composite approach to the definition of maritime security – one which embodies all aspects of the duties to be performed. Second, this approach is situated in the context of national security, which accords with the institutional role of navies. Third, the concept of maritime security is assimilated into naval strategy or ‘hard security.’ Thus, while sea lines of communication security (SLOC-security) may be viewed simply as the protection of shipping, as far as navies are concerned, it is embedded in the concept of Naval Control of Shipping (NCS) that co-locates SLOC-security with concepts of sea denial and power projection.¹⁰⁷ For example, the 2010 US Naval Operations Concept (NOC) referred to the role of the Navy in war as “conduct[ing] sea control operations...to

¹⁰⁵ Generally on constabulary roles see Martin Tsamenyi, "Constabulary Arrangements for Enforcement of Australia's Maritime Jurisdiction," *Australian Journal of Maritime and Ocean Affairs* 4, 1, 2012, pp. 11-17. James J. Carafano and Martin E. Anderson, *Trade Security at Sea: Setting National Priorities for Safeguarding America's Economic Lifeline*, Washington, D.C Heritage Foundation, 2006.

¹⁰⁶ See for example U.S. Navy Dept., *Naval Operations Concept 2010: Implementing the Maritime Strategy*, (Washington, D.C: 2010).

¹⁰⁷ Ivan T. Luke, "Naval Operations in Peace Time: Not Just “Warfare Lite”," *Naval War College Review* 66, 2, 2013, pp. 12-26. Phil Johnston, "Security of maritime trade: a cooperative and coordinated approach for Indo-Pacific region," *Australian Journal of Maritime and Ocean Affairs* 4, 1, pp. 1-11.

enforce freedom of navigation, sustain unhindered global maritime commerce, prevent or limit the spread of conflict, and [to] prevail in war.”¹⁰⁸ Furthermore, the NOC considers sea control to be essential to “all naval missions.” These operational concepts directly link sea control, a war fighting concept, with the constabulary role of the US Navy.¹⁰⁹

This, in essence, represents a securitisation of ‘soft security,’ but that is the reality of how navies view and deliver maritime security. Indeed, because naval tasks – whether they be militaristic, diplomatic or related to law enforcement - are delivered as part of a spectrum of activities, even when textual differences are made apparent, the objectives and outcomes are fused.¹¹⁰ Ivan Luke has described the overlaps in the US NOC 2010 as the inappropriate inclusion of roles in one domain, into another.¹¹¹ But in my view it is more of a structural and conceptual issue founded on the indivisibility of naval capabilities and operational posture, and also on the constant interaction of military and non-military aspects of the sea as combined elements of sea power.¹¹²

There is also a tendency to label this defence construction of maritime security as a post-9/11 phenomenon, but this is not the case, as events after the 9/11 attacks have added new dimensions to the concept.

¹⁰⁸ U.S. Navy Dept., *Naval Operations Concept 2010: Implementing the Maritime Strategy* (Washington, D.C: 2010), p. 52.

¹⁰⁹ Ivan T. Luke, "Naval Operations in Peace Time: Not Just 'Warfare Lite'," *Naval War College Review* 66, 2, 2013, p.16.

¹¹⁰ See for example, Australian Navy, *Australian Maritime Doctrine*, 2010, p. 100.

¹¹¹ Ivan T. Luke, "Naval Operations in Peace Time: Not Just 'Warfare Lite'," *Naval War College Review* 66, 2, 2013, p.16.

¹¹² Geoffrey Till, *Seapower: A Guide for the 21st Century*, New York, Routledge, 2009, pp.33-37.

Western naval power has historically revolved around mercantile trade, and similarly mercantile trade has thrived on naval support.¹¹³ Navies have equally exploited ‘soft security’ concerns in distant waters for strategic ends.¹¹⁴ As Martin Murphy has noted: “once pirates begin to prey on international trade, they attract the interest of States, and States throughout history have used piracy suppression as a device to further foreign policy objectives.”¹¹⁵ These extra-strategic objectives have the tendency to make external engagement with, and support for, maritime security problematic.¹¹⁶

3.3.2.6 Post-9/11 Maritime Security

The final phase of the evolution of the concept of maritime security occurred as part of the broader security dynamics following the terrorist attacks on the World Trade Centre in New York on 11 September 2001. Indeed, the concept of maritime security changed dramatically as a new approach to maritime security was adopted by the US and this influenced the overall global outlook. This new approach is characterised by an expansion in threat perception and the scope of maritime security, a diminishing land-sea interface, and an extension of the response space for maritime security. It is within this new environment that Natalie

¹¹³ Geoffrey Till, *Seapower: A Guide for the 21st Century*, New York, Routledge, 2009, pp.33-37.

¹¹⁴ Charles E. Pirtle, "Military Uses of the Ocean and the Law of the Sea in the New Millennium" *Ocean Development and International Law* 31, 2000, pp. 7-45.

¹¹⁵ Martin Murphy, "International Cooperation against Piracy: China's role, problems, and prospects," *World Maritime University Journal of Maritime Affairs* 11, 2012, pp. 71-81, p. 78.

¹¹⁶ BilyanaTsvetkova, "Securitizing Piracy Off the Coast of Somalia," *Central European Journal of International & Security Studies* 3, 1, 2008, pp. 44-63. . Carrie Byrne, *The two sides of the Somali piracy coin: An examination of the rise and perpetuation of piracy in Somalia* 16 May 2011, Consultancy Africa Intelligence, Available: http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=763:the-two-sides-of-the-somali-piracy-coin-an-examination-of-the-rise-and-perpetuation-of-piracy-in-somalia&catid=91:rights-in-focus&Itemid=296, 26 January 2013.

Klein's definition of maritime security as "the protection of a State's land and maritime territory, infrastructure, economy, environment and society from certain harmful acts occurring at sea" seems apt.¹¹⁷

The successful hijacking of aircrafts by terrorists also heightened fears that ships could be hijacked, particularly since security arrangements at seaports are generally lax compared to those of the aviation industry.¹¹⁸ The US also became concerned that ships could be used as a means for attacking States, by loading them with destructive biological, chemical or nuclear (BCN) weapons.¹¹⁹ Hence, the threat to maritime security was no longer limited to attacks at sea, but also extended to attacks on land from the sea.¹²⁰ The US responded to these threats by enhancing security in overseas seaports, and also by screening ship cargo and containers. To this end, the US launched the Container Security Initiative (CSI) and the Customs-Trade Partnership against Terrorism (C-TPAT).¹²¹ Many States subsequently joined these programmes, creating a broad countersecurity regime.¹²²

¹¹⁷ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p.11

¹¹⁸ IMO, "Review of Measures and Procedures to Prevent Acts of Terrorism which Threaten the Security of Passengers and Crews and the Safety of Ships," Resolution A.924 (22) 20 November 2001.

¹¹⁹ On the US assessment of post-9/11 threats, see John F. Frittelli, "Maritime Security: Overview of Issues," *United States Congressional Research Service*, Order Code RS21079, 5 December 2003.

¹²⁰ United States Government, *National Strategy on Maritime Security*. (Washington DC, September 2005), p. 4.

¹²¹ On US post-9/11 responses, see John F. Frittelli, "Port and Maritime Security: Background and Issues for Congress," *United States Congressional Research Service*, Order Code RL31733, Updated 27 May 2005. Boske B. Leigh and Lyndon B. Johnson, "Port and Supply-chain Security Initiatives in the United States and Abroad," *United States Congressional Research Service*, 2006.

¹²² Joann Peterson and Alan Treat, "The Post-9/11 Global Framework for Cargo Security," *Journal of International Commerce and Economics*, March 2008, pp. 1-30.

At the multilateral level, the US pushed for global instruments to be adopted to counter these new types of threats.¹²³ The US also promulgated a number of strategic documents which underpin its approach to maritime security and maritime security cooperation.¹²⁴ Suffice to say, the post-9/11 dimension of maritime security is partly global and partly US-centric.¹²⁵ This deduction is not to suggest that the spectrum of responses adopted by the US at the multilateral level is meant to satisfy the exclusive maritime security needs of the US. Rather, the conclusion is to highlight just how far the US has conditioned and influenced not just the notion of maritime security, but security generally in a post-9/11 environment. Indeed, this raises serious concerns about the quality and durability of the new approaches to security.¹²⁶

3.3.4 The 2008 Oceans and the Law of Sea Report and the Harmonisation of Maritime Security

Three important points emerged from the analysis of the evolution of the concept of maritime security in the preceding section. First the discussion shows that the concept of maritime security has broadened over time. Second, that the maritime interest (or location) of a State may

¹²³ Shirley V. Dcott, "Whose Security is It and How Much of It Do We Want: The US Influence on the International Law against Maritime Terrorism", in Natalie Klein, Joanna Mossop and Donald R. Rothwell, eds., London, Routledge, 2010, pp. 76-93.

¹²⁴ See chapter 7.

¹²⁵ Shirley V. Dcott, "Whose Security is It and How Much of It Do We Want: The US Influence on the International Law against Maritime Terrorism", in Natalie Klein, Joanna Mossop and Donald R. Rothwell, eds., London, Routledge, 2010, pp. 76-93. p.80.

¹²⁶ See for example, Samuel M. Makinda, "Terrorism, counter-terrorism and norms in Africa," *African Security Review* 15, 3, 2006, pp. 19-31. Robert O. Keohane, "The Public Delegitimation of Terrorism and Coalitional Politics", in Ken Booth and Tim Dunne, eds. *Worlds in Collision: Terror and the Future of Global Order* London, Palgrave, 2002, pp. 141-51. Thomas L. Freedman, "The Third World War?," *Survival* 43, 4, 2001. Philip B. Heymann, "Dealing with Terrorism," *International Security* 26, 3, 2001/2002.

determine what threats are of priority to the State. Third, that there is no consensus on all the elements of maritime security.

Therefore, one of the objectives of the UN Secretary General's report on oceans and the law of the sea, 2008, was to provide a global overview of maritime security.¹²⁷ The report noted that the concept of maritime security varies significantly, and as such, there is no single definition of the concept that is universally applicable.¹²⁸ Nonetheless, the report identified seven threats that are generally accepted as maritime security threats: (i) piracy and armed robbery against ships; (ii) terrorists acts involving shipping, offshore installations and other maritime interests; (iii) illicit trafficking in arms and weapons of mass destructions; (iv) illicit traffic in narcotic drugs and psychotropic substances; (v) smuggling and trafficking of persons by sea; (vi) illegal, unreported and unregulated fishing; and (vii) intentional and unlawful damage to the marine environment.¹²⁹

Although this shift from defining the concept of maritime security to listing maritime security threats was intended to garner international consensus, the approach has some shortcomings. These will be analysed in the next section as part of the background to the framework that has been developed and applied in the thesis.

¹²⁷ United Nations, Report of the Secretary-General, Oceans and the law of the sea, (A/63/63, 10 March 2008).

¹²⁸ United Nations, Report of the Secretary-General, Oceans and the Law of the Sea, (A/63/63, 10 March 2008), para. 39.

¹²⁹ See paragraphs 54-107, United Nations, Report of the Secretary-General, Oceans and the Law of the Sea, (A/63/63, 10 March 2008)

3.4 THESIS APPLICATION OF THE CONCEPT OF MARITIME SECURITY TO THE GULF OF GUINEA

At the regional level, maritime security cooperation requires clarity of policy objectives and outcomes.¹³⁰ Regional States must define the core interests to be protected, the processes for doing so, and also identify the critical responses that will contribute to enhanced cooperative efforts. As demonstrated in the analysis of the concept of security, maritime security threats have effects beyond national and regional boundaries. Therefore, regional maritime security cooperation should accommodate external participation and third party roles. Thus, what we have are three levels of action: national, regional and global. Harmonisation of these levels reinforces the need for a common understanding of the concept of maritime security and a well-defined cooperative process.

This thesis has developed a framework for the purpose of enhancing maritime security cooperation in the Gulf of Guinea. The framework is analysed in the three sections that follow. The first section argues for a broader concept of maritime security and also develops a concept of maritime security cooperation for the Gulf of Guinea. The second section develops a maritime security threat path which explains the nature and impact of maritime security threats, while the third section develops a framework for particular maritime security concerns in the Gulf of Guinea region.

¹³⁰ Generally on challenges of regional maritime security cooperation, see Sam Bateman, "Solving the "Wicked Problems" of Maritime Security: Are Regional Forums up to the Task?," *Contemporary Southeast Asia* 33, 2011, pp. 1-28.

3.4.1 Analytical Framework for Maritime Security Cooperation in the Gulf of Guinea

As indicated earlier, the UN approach to maritime security has some limitations. Indeed, the approach has the potential to hamstring the broader conceptualisation of some aspects of maritime security, particularly the security interest in fisheries. It is a fact that the profound interest of States in shipping, and also in offshore energy resources, is what has yielded the concepts of maritime transportation security and offshore energy security. Indeed, the classification of these concerns as 'security interests' has promoted broader governance and protective measures.

In the case of fisheries, there has been a reluctance to classify the broad concerns of the sector as maritime security issues. Instead, illegal, unreported and unregulated fishing (IUU) has been singled out as the threat to be addressed through cooperative responses. This narrow approach excludes key concerns such as decreased access to food and the impact of foreign fishing license agreements on the livelihood of coastal communities in developing countries. In regard to the human security dimensions of fisheries, it has been noted that seafood constitutes the primary source of protein for over 100 million people in Southeast Asia. Moreover, the fishing industry represents the main source of employment for countless individuals and communities.¹³¹ Evidently, the connection between depleting fisheries resources, declining food

¹³¹ Chris Rahman, "Concepts of Maritime Security: A strategic perspective on alternative visions for good order and security at sea, *Centre for Strategic Studies, New Zealand, Discussion Paper No. 07/09*, 2009, p 9. See also Meryl J. Williams, "Enmeshed: Australia and Southeast Asia's Fisheries," *Lowy Institute Paper 20, Lowy Institute for International Policy*, 2007.

supplies and the economic dimensions of maritime security are all very much apparent in the Gulf of Guinea.¹³²

As will be demonstrated in the last part of this chapter, there are multiple causes of depleting fisheries resources in the Gulf of Guinea, one of which is the impact of foreign fishing licences.¹³³ This point is perhaps best illustrated by Geoffrey Till:

Already, most world fishing grounds are under severe pressure, and many local fishing communities around the world are further threatened by the advent of highly mechanised distant-water fishing fleets from elsewhere, which have moved into new fishing grounds, because they have exhausted their own. European Union fishing boats operating off the coast of Senegal, Mauritania and other parts of West Africa are a typical example. Here, as elsewhere, licences are granted by struggling Third World governments desperate for immediate capital with inadequate means of supervising the activities they have allowed off-shore. In effect, they feel they have to mortgage their future for the sake of the present.¹³⁴

The above quote vividly portrays the threat posed by depleting fisheries resources to human security, societal security, food security, and even national and regional security. Indeed, the alarm bells of this threat have been sounding for over a decade, yet little has been done to rectify the

¹³² On the impact of foreign fishing agreements on West African States, see Vlad M. Kaczynski and David L. Fluharty, "European policies in West Africa: Who benefits from fisheries agreements?," *Marine Policy* 26, 2002, pp. 75-93.

¹³³ Chris Cummins, *The David and Goliath Battle For African Fish: Is European hunger for fish destroying lives in West Africa?*, 6 May 2011, Available: <http://fm4.orf.at/stories/1682425/>, 28 October 2013. Vlad M. Kaczynski and David L. Fluharty, "European policies in West Africa: Who benefits from fisheries agreements?" *Marine Policy* 26, 2002, pp. 75-93.

¹³⁴ Geoffrey Till, *Seapower: A Guide for the 21st Century*, New York, Routledge, 2009, p.288.

situation.¹³⁵ Such concerns should be the subject of global maritime security dialogue at the UN, but the restrictive approach to maritime security being adopted in the Gulf of Guinea, as reflected in the UN Security Council resolutions, clearly impedes this.¹³⁶ In fact, the approach is even more restrictive when the scope of the IUU concept is fully analysed. This will be done in the next part of this chapter.

It could be argued that concerns over foreign fishing arrangements have been overstated. After all, the granting of foreign fishing licences is a deliberate choice made by governments, and should therefore not be classified as a security threat. Such an argument, however, is based on a limited application of the concept of security. The fact that choices are deliberate, or even consensual, does not prevent the choices from being security threats. Indeed, the Cold War was a product of deliberate choices and policies of governments, yet it constituted a global security concern. A number of Gulf of Guinea States have made deliberate choices regarding the governance and management of natural resources, but such choices have resulted in conflicts and threats to national, regional and even global security. Furthermore, if any or all of the States in the Gulf of Guinea were to transfer or sell their offshore oil reserves to one nation (e.g. China), such action would surely be treated as a threat to global energy security, despite the consensual nature of the transaction.

¹³⁵ "EU fishing fleets devastate Third World," *Guardian*, 7 October 2002. Vlad M. Kaczynski and David L. Fluharty, "European policies in West Africa: Who benefits from fisheries agreements?" *Marine Policy* 26, 2002, pp. 75-93. "We need to start caring about fish, or there won't be any left to eat," *Guardian*, 31 October 2005.

¹³⁶ Chapter 1 has analysed the two resolutions: UN Security Council Resolutions 2018 and 2039.

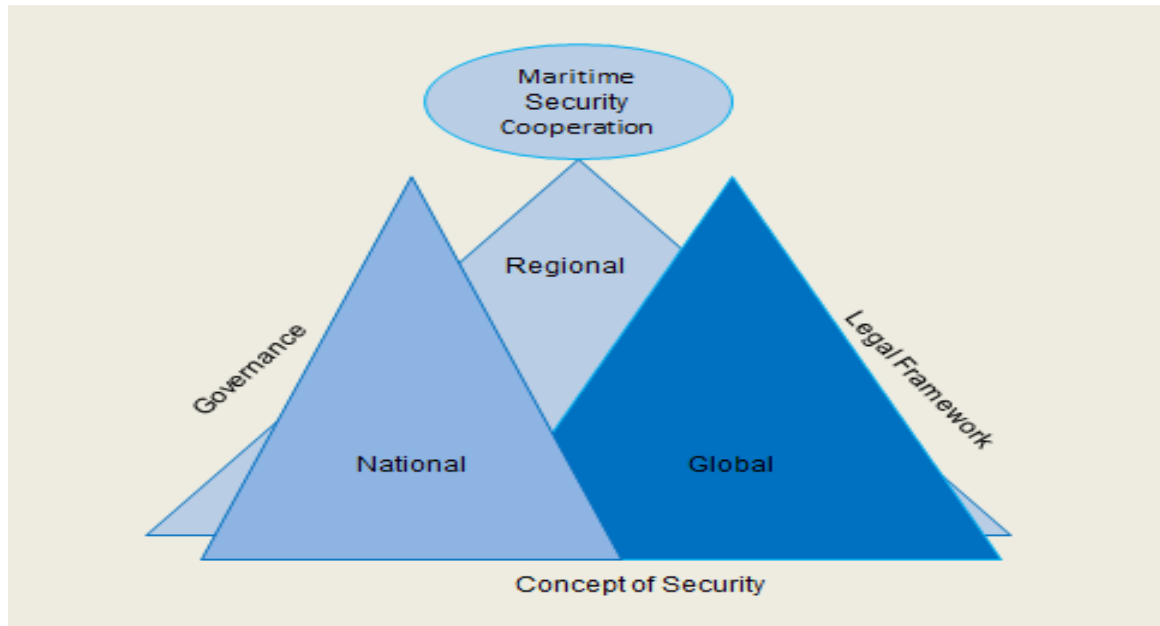
Our decision to quote Till at length is not to suggest that the depletion of fish stocks in the Gulf of Guinea is solely attributable to foreign fleets. Rather, the point being established is that the singling out of IUU fishing inadequately addresses one of the major concerns of maritime security in the region. In other words, an important dimension of maritime security - one with similar consequences to piracy, has not been properly situated within the maritime security agenda of the Gulf of Guinea.¹³⁷

Figure 3.1 represents the conceptual framework that has been developed in the thesis for enhancing maritime security in the Gulf of Guinea. It recognises three key components of the maritime security process: adequate national capacity, effective regional frameworks and viable global support. It also has three critical success indicators: improved governance, adequate legal frameworks and a durable maritime security concept. We may refer to it as the 3layer 3indicator framework. The three overlapping triangles show that maritime security is a shared responsibility, but they equally denote the three levels of security analysed in the concept of security: national, regional and global. Ideally, maritime security cooperation would involve a leveraging and coordination of efforts at the national, regional and global level.¹³⁸

¹³⁷ BilyanaTsvetkova, "Securitizing Piracy Off the Coast of Somalia," *Central European Journal of International & Security Studies* 3, 1, 2008, pp. 44-63.

¹³⁸ Mark J. Valencia, "Prospects for Multilateral Maritime Regime Building in Asia", in Sam Bateman, ed. *Maritime Cooperation in the Asia-Pacific Region: Current Situation and Prospects*, Canberra, National Defense University. Mark J. Valencia, "Regional Maritime Regime Building: Prospects in Northeast and Southeast Asia," *31 Ocean Development and International Law*, 3, 2000, pp. 223-47. Sam Bateman, "UNCLOS and its Limitations as the Foundation for a Regional Maritime Security Regime," *Institute of Defence and Strategic Studies Singapore*, Working Paper 111, April 2006. Sam Bateman, "Capacity Building for Maritime Security Cooperation: What are We Talking About? ", in Peter Cozens and Joanna Mossop, eds. *Capacity Building for Maritime Security Cooperation in the Asia-Pacific*, New Zealand, Center for Strategic Studies, 2005, pp. 3-23.

Figure 3.1 Framework for Maritime Security Cooperation¹³⁹



The analysis of the evolution of the concept of maritime security has already emphasised the role of legal frameworks in defining and contributing to maritime security. Chapter five will put this in context by reviewing the implementation of maritime security legal frameworks in the Gulf of Guinea. However, the adequacy of legal frameworks is not a sufficient condition for enhancing maritime security. If maritime security cooperation is to yield positive outcomes and have long term benefits, governments in the Gulf of Guinea must accept that improving governance is an integral element of the concept of maritime security.¹⁴⁰ External actors should equally embrace a broader concept of security - one that enhances the long term security of the region.

¹³⁹ I am grateful to my wife, Sauda Ahmed Seinu, for her illustration of this concept.

¹⁴⁰ See chapters 4 & 6.

The core elements of the framework are summarised below:

National Effort: *Strength and capability of maritime forces, Legal frameworks and enforcement, Institutional Coordination, Quality of Governance.*

Regional Effort: *Quality of Regional Frameworks, Funding, Shared Concept of Security, Coordination of efforts.*

Global Effort: *Inclusive Concept of Security, Coordination of effort, Support to Governance, Funding.*

Governance: *Institutional Strengths, Quality of leadership, Resource management, Accountable and transparent processes, Security sector reform.*

Legal Framework: *Ratification of international frameworks, Effective national legislation, Implementation and enforcement of international frameworks, Availability of judicial processes.*

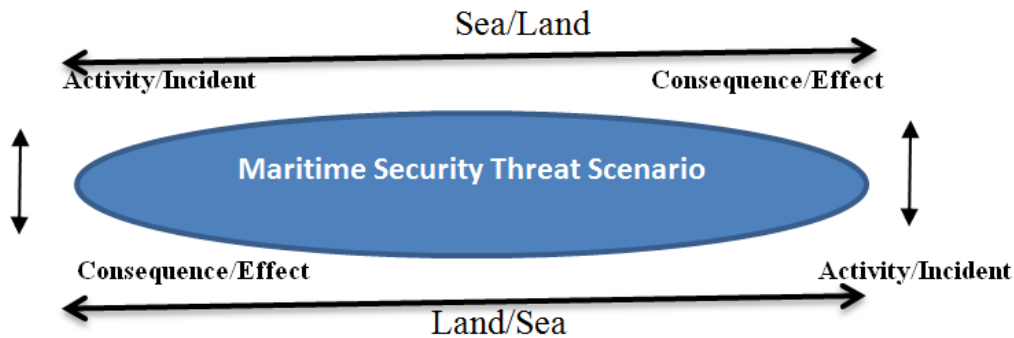
Concept of Security: *Broad concept of security, Governance as inclusive element of security, Priority given to regional security concerns.*

The analysis in the rest of the thesis, more so chapters five, six and seven, will cover these core elements.

3.4.2 Gulf of Guinea Maritime Security Threat Path

The purpose of the maritime security threat path is to explain the nature and impact of maritime security threats. A maritime security threat can be conceived as embodying two components: an activity and its effect. The activity is ordinarily generated or caused by human action, and the effect or impact is also felt on humans, although there may be intermediary consequences. Thus, the consequence of a maritime security threat is equally as visible as the activity or incident that generates it, and because of this dual visibility, both may in fact be referred to as ‘the threat’. This relationship is represented in Figure 3.2, from which four threat paths can be analysed.

Figure 3.2 Maritime Security Threat Paths



First, a threat activity and the consequence of the threat can both occur at sea. Piracy and illegal fishing activities properly fit into this scenario. In the case of piracy, a piratical attack (activity) may result in a disruption to navigation, damage to a ship, as well as injury to crew members - all sea-based consequences. But the real effect is the undermining of various dimensions of security, for example, transportation security and economic security. Indeed, piracy has the potential to undermine or threaten multiple dimensions of security.

The second conceptualisation of the threat path is where the activity or incident occurs at sea (or from the sea), but the consequence or effect takes place on land. Illicit trafficking in narcotic drugs and weapons fits into this description. Illicit trafficking (the activity) is carried out at sea, while the consequences (which include danger to human life and national security) are felt on land.

The third interpretation is where activities on land contribute to disorder at sea, in which case the consequences will be felt on land *and* at sea. In fact, all disorder at sea has some connection with the land. For example,

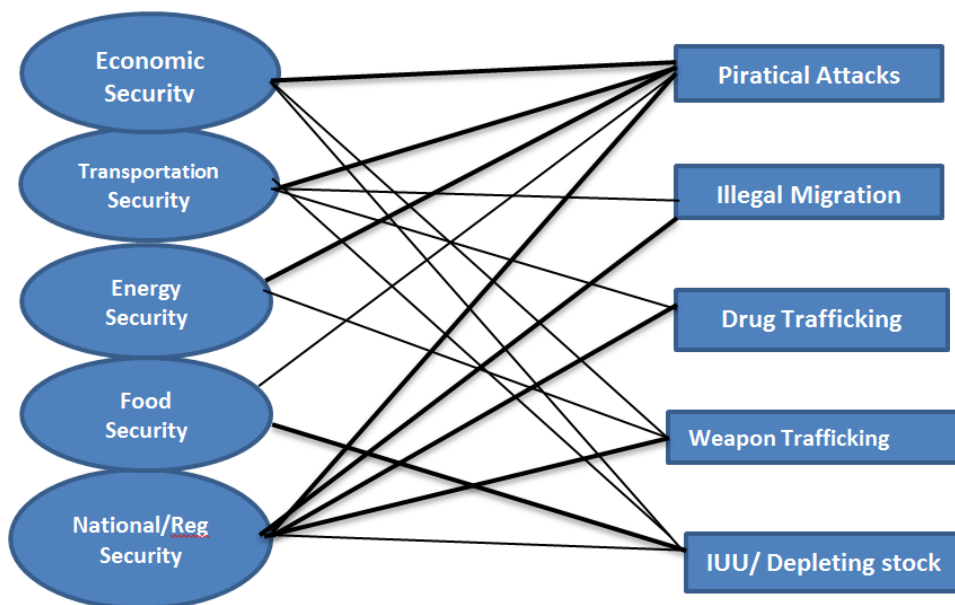
poor governance can result in civil protests and then escalate into insurgency, which in turn can threaten offshore energy installations.

Finally, and more importantly, the threat relationship in Figure 3.2 is mutually reinforcing, thus leading to continuous insecurity unless all components of the land-sea nexus are addressed.

3.4.3 Thematic Concerns of Gulf of Guinea Maritime Security

The third model, Figure 3.3 below, is derived from a practical application of the first and second models examined above to the analysis of the geopolitical importance of the Gulf of Guinea in chapter two, overlaid with the concept of security espoused in the early parts of this chapter. The model identifies five components of the concept of security, and depicts their relationship with five threat sources. It also shows primary and secondary effects which combine to create a web of interaction.

Figure 3.3: Thematic Concerns of Gulf of Guinea Maritime Security



Although the threats and dimensions of security are vertically denoted, in practice they are indivisible. The dimensions relate and overlap, while the threats may intersect or morph into one another. For example, the economic security of Gulf of Guinea States is tied to resources, and is therefore linked with energy security. Moreover, food security in the Gulf of Guinea centres not just on sustainable fisheries, but the food security requirements of the region as a whole, which in turn is dependent on international trade and shipping (as discussed in chapter two). Hence, there are inextricable links between food security, economic security and transportation security.

The rest of the thesis proceeds on the basis of these three, mutually reinforcing models.

3.5 OVERVIEW OF MARITIME SECURITY CHALLENGES IN THE GULF OF GUINEA

This part of the chapter examines the maritime security threats and challenges in the Gulf of Guinea. It provides a practical discussion of the implications of the threats and thematic areas identified in Figure 3.3. Although the analysis goes into considerable detail, it is nonetheless an overview of the case study presented in the next chapter. It needs to be emphasised that although reference will be made to some of the root causes of the maritime security threats, the thrust of the analysis is on the implications of the threats to security and stability.

3.5.1 Piracy and Armed Robbery at Sea

In the last decade, piracy and armed robbery at sea have become the chief maritime security threats, mainly due to their impact on international trade and SLOC security.¹⁴¹ Indeed, global attention has centred on Southeast Asia, especially the Malacca and Singapore Straits, where piratical attacks have become commonplace.¹⁴² Piratical attacks in the Indian Ocean have also become a global concern, especially from 2005 and peaking in 2008.¹⁴³ This prompted a series of UN resolutions targeting Somalia, the source of many piratical activities.¹⁴⁴ However, as the global response to the problems in the Indian Ocean was unfolding, piracy and armed robbery in the Gulf of Guinea was gaining momentum. This prompted the two UN Security Council Resolutions expressing concerns about piratical attacks in the Gulf of Guinea, and calling for regional States to take remedial action.¹⁴⁵

Chapter four will examine the threat of piracy and armed robbery in the Gulf of Guinea. This detailed case study is justified by the historical significance of piracy and armed robbery as a maritime security threat,

¹⁴¹ The importance of global trade is discussed in chapter 2.

¹⁴² Eric Frecon, "Piracy in the Malacca Straits: notes from the field," *International Institute for Asian Studies* Newsletter 36, 2005.

¹⁴³ On Somali piracy, see Martin Murphy, *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa*, New York Columbia University Press, 2012. Roger Middleton, *Piracy in Somalia: Threatening Global Trade, Feeding Local Wars*, London Chatham House, 2008. Thilo Neumann and Tim René Salomon, "Fishing in Troubled Waters - Somalia's Maritime Zones and the Case for Reinterpretation," *American Society of international Law* 15, 9, 15 March 2012.

¹⁴⁴ On Somali piracy resolutions, see United Nations, Security Council Resolution 1846(6026th Meeting 2 December 2008). United Nations, Security Council Resolution 1851(6046th Meeting. 16 December 2008).

¹⁴⁵ United Nations, Resolution 2018 - Piracy and Security in Africa(Security Council 6645th Meeting. United Nations, Resolution 2039 - Peace Consolidation in West Africa(Security Council 6727th Meeting. 29 February 2012).

as well as the complex dynamics and implications of the crime on critical dimensions of maritime security (as illustrated in Figure 3.3).

3.5.2 Illicit Drug Trafficking in the Gulf of Guinea

The 2008 UN Secretary General's Report on Oceans and the Law of the Sea identified the illicit trafficking in narcotics and psychotropic substances as a maritime security threat.¹⁴⁶ Indeed, a year earlier the International Drug Control Board assessed illicit drug trafficking in the Gulf of Guinea, concluding that it had become a region-wide phenomenon.¹⁴⁷ This section examines the nature, trends and dynamics of drug trafficking in the Gulf of Guinea, as well as its implications.

3.5.2.1 Drug Vessels and Transshipment at Sea

For over two decades the Gulf of Guinea has been a major hub of drug trafficking.¹⁴⁸ The multiple sea approaches to the region, coupled with governance and structural weaknesses, has made the Gulf of Guinea an attraction for organised crime.¹⁴⁹ The region is a key link in what has become known as the "cocaine triangle" – consisting of South America, Africa and Europe.¹⁵⁰ Cocaine originating from South America is usually transported by mother-ships and brought directly into ports, or

¹⁴⁶ United Nations, Report of the Secretary-General, Oceans and the Law of the Sea, (A/63/63, 10 March 2008), Para 82.

¹⁴⁷ International Narcotics Control Board, "International Narcotics Control Board Report 2007," pp. 52-54.

¹⁴⁸ UNODC, "Cocaine Trafficking in West Africa ", December 2007, pp. 21. See also UNODC, *Drug Trafficking as a Security Threat in West Africa*, 2008, Available: <<http://www.unodc.org/documents/data-and-analysis/Studies/Drug-Trafficking-WestAfrica-English.pdf>>. , 10 August 2011.

¹⁴⁹ Dimpho Motsamai, "Guinea Bissau as an Emerging Narco State in West Africa: Implications for Security and Development," Global Insight, *Institute for Global Dialogue*, 83, September 2008, p.2.

¹⁵⁰ Eric Pape, "West Africa: The New 'Drug Triangle,'" *Newsweek*, 29 August 2005.

transhipped at sea into smaller vessels and canoes, covertly landing the drugs along beaches and remote parts of the coast.¹⁵¹ These drugs are then distributed within Africa, and subsequently trafficked using multiple channels into European and other markets.¹⁵² In 2009, the United Nations Office on Drugs and Crime (UNODC) estimated that 35 metric tonnes of cocaine landed in Africa, with some 21 metric tonnes being transferred to Europe. The remainder was most likely left as payment for network members or consumed locally.¹⁵³

Drug entry points were originally restricted to a few States in the Gulf of Guinea, but are now well established across the entire region.¹⁵⁴ As early as 1993 a Nigerian drug baron was convicted for importing 250 kilograms of heroin from Thailand by sea.¹⁵⁵ In 2000, Cape Verdean authorities intercepted a ship heading from the Caribbean with 2.3 tonnes of cocaine, and three years later, a consignment of 7.2 tonnes heading to Spain from Cape Verde and Senegal was intercepted.¹⁵⁶ Approximately 588 kilograms of cocaine was seized in the Port of Tema, Ghana, in 2004,¹⁵⁷ and in 2006, a large quantity of cocaine was brought into Ghana

¹⁵¹ See UNODC, *Cocaine Trafficking in West Africa: The Threat to Stability and Development with Special Reference to Guinea-Bissau*. (Vienna: UNODC, December 2007). UNODC, "The Globalization of Crime: A Transnational Organized Crime Threat Assessment," 2010.

¹⁵² UNODC, "Transnational Organized Crime in West Africa: A threat Assessment," February 2013.

¹⁵³ UNODC, "World Drug Report," 2011, pp. 40-41. See also, UNODC, "The Globalization of Crime: A Transnational Organized Crime Threat Assessment," 2010.

¹⁵⁴ International Narcotics Control Board, "International Narcotics Control Board Report 2007."

¹⁵⁵ Stephen Ellis, "West Africa's International Drug Trade," *African Affairs* 108, 431, 2009, pp. 171-96, p.92.

¹⁵⁶ Flemming Quist, "Drug trafficking in West Africa 2000–2004 in an International Perspective," UNODC Workshop on West African Organized Crime (Dakar: 2–3 April 2004).

¹⁵⁷ Flemming Quist, "Drug Trafficking in West Africa 2000–2004 in an International Perspective," *UNODC Workshop on West African Organized Crime, Dakar, 2-3 April 2004*.

by a fishing vessel.¹⁵⁸ According to the UNOCD, the amount of cocaine intercepted in the ECOWAS segment of the Gulf of Guinea by Spanish and British navies in 2006 and 2007 amounted to 9.9 tonnes and 5.7 tonnes respectively.¹⁵⁹ While West Africa is the main entry point for drugs into the Gulf of Guinea, the sea coast of Angola, which is further south, is also a notorious route for Brazilian drug networks.¹⁶⁰

3.5.2.2 The Switch from Cocaine Ships to Shipping Containers

The interception of multiple vessels transporting cocaine at sea has led to drug traffickers changing their tactics. To escape detection (and thus reduce the risk of losing large shipments), drug cartels are increasingly using shipping containers to transport drugs.¹⁶¹ Through this method, drugs are trafficked by being deceptively labelled as legitimate goods or concealed in legitimate goods within shipping containers. Eleven seizures of cocaine trafficked in this way were made in 2011, amounting to a staggering 6 tonnes.¹⁶² Since only a limited number of containers are actually inspected globally, more cocaine could be coming into the Gulf of Guinea through this method than through traditional channels. Indeed, the quantity seized in 2011 indicates that drug trafficking is more likely

¹⁵⁸ UNODC, "Drug Trafficking as a Security Threat in West Africa," November 2008, pp. 1. See also Helena Selby, *Ghana: MV Benjamin 77 Parcels of Cocaine Docket On Asem Dake Before A-G*, 9 March 2012, allAfrica, Available: <http://allafrica.com/stories/201203091286.html>, 10 April 2012.

¹⁵⁹ See pages 2-5 of UNODC, *Cocaine Trafficking in Western Africa: Situation Report* October 2007, Available: <http://www.unodc.org/documents/data-and-analysis/Cocaine-trafficking-Africa-en.pdf>, 10 August 2011.

¹⁶⁰ Audra K. Grant, "Trafficking in Africa", in Kimberley L. Thachuk, ed. *Transnational Threats: Smuggling and Trafficking in Arms, Drugs, and Human Life*, Westport, Praeger Security International 2007, pp. 117.

¹⁶¹ UNODC, "Transnational Organized Crime in West Africa: A threat Assessment." February 2013.

¹⁶² See page 12, UNODC, "Transnational Organized Crime in West Africa: A threat Assessment." February 2013.

increasing than declining. This raises questions about the response measures and capacity of Gulf of Guinea States to tackle this problem.¹⁶³

3.5.2.3 Implications of Drug Trafficking For National and Regional Security

The security and stability challenges posed by drug trafficking in the Gulf of Guinea have been succinctly stated by the Executive Director of UNODC as follows:

West Africa...has become a hub for cocaine trafficking. Ships and planes loaded with cocaine are coming from Latin America into poorly guarded ports and airfields in West Africa. This is more than a drugs problem. It is a serious security threat.¹⁶⁴

Two broad implications of drug trafficking can be drawn from the above statement. The first is the impact of drug trafficking on national and regional security. The second is the transnational security dimensions of drug trafficking, and its symbiotic relationship with other types of organised crime. Both have disastrous outcomes for maritime security generally and in particular for long term national and regional stability.

Drug trafficking constitutes a serious threat to the security and stability of the Gulf of Guinea region.¹⁶⁵ It has the potential to destroy

¹⁶³ See chapter 5 and 6.

¹⁶⁴ UNODC, "Drug Trafficking as a Security Threat in West Africa." November 2008, p.1.

¹⁶⁵ See A. Costa, Executive Secretary of UNODC, page 9, UNODC, Transnational Trafficking and Rule of Law in West Africa. (Vienna: UNODC, 2009). See also UNODC, Cocaine Trafficking in West Africa: The Threat to Stability and Development with Special Reference to Guinea-Bissau. (Vienna: UNODC, December 2007), pp. 23-29. ECOWAS, ECOWAS Ministerial Conference on Drug Trafficking as a Security Threat to West Africa—Aide Memoire. (Abuja: ECOWAS, September 2008).

communities, corrupt State institutions and affect the stability of the State system as a whole.¹⁶⁶ Guinea-Bissau is a microcosm of this fact.¹⁶⁷ Although a small State in terms of landmass, Guinea-Bissau has many islands. Indeed, the regime of islands under UNCLOS recognises the right of a coastal State to claim maritime spaces for these islands, including an EEZ.¹⁶⁸ This vast maritime estate should have been of great benefit to Guinea-Bissau, but a lack of maritime enforcement of maritime spaces, coupled with corruption, has turned Guinea-Bissau into a “narco-State” or “narco-coast.”¹⁶⁹ This description epitomises the fact that the national budget of Guinea-Bissau is estimated to be the value of just 2.5 tonnes of cocaine, a small fraction of the annual quantity of cocaine believed to be trafficked through the country.¹⁷⁰

The UN has indicated that Guinea-Bissau has moved from being a mere drug transit State into a consumption market.¹⁷¹ Indeed, the instability and intense political conflicts that characterise the State are generally regarded as a product of the struggle to access the cocaine trade and drug

¹⁶⁶ UNODC, *Cocaine Trafficking in West Africa: The Threat to Stability and Development with Special Reference to Guinea-Bissau*. (Vienna: UNODC, December 2007), pp. 23-29.

¹⁶⁷ The head of UNODC has described the country as being “under-siege” and on the “verge of collapse”. See, Address by Mr Costa, Executive Director of UNODC at the International Conference on Drug Trafficking in Guinea-Bissau, Lisbon, 19 December 2007, <http://www.unodc.org/unodc/en/frontpage/assisting-guinea-bissau.html> (accessed 16 August 2011).

¹⁶⁸ See Regime of Islands in Art 121 of UNCLOS.

¹⁶⁹ Dimpho Motsamai, “Guinea Bissau as an Emerging Narco State in West Africa: Implications for Security and Development,” *Global Insight, Institute for Global Dialogue*, 83, September 2008, pp. 1-8, p.1.

¹⁷⁰ UNODC, “Cocaine Trafficking in West Africa: The threat to Stability and Development with special reference to Guinea-Bissau,” (Vienna: December 2007), p. 10. Dirk Kohnert, “Democratization via Elections in an African “Narco-state”? The Case of Guinea-Bissau,” *German Institute of Global and Area Studies*, Working Paper No.123, February 2010.

¹⁷¹ UN, Security Council, Doc. SC/9468, 7 October 2008.

money.¹⁷² The assassinations of the President of Guinea and the head of army in 2009 have both been linked to cocaine politics.¹⁷³ However, Guinea-Bissau is not the only country associated with cocaine politics. The proceeds of the State's cocaine trade are widely believed to finance unsavoury political activities in other Gulf of Guinea States, including Ghana.¹⁷⁴ In this way, cocaine money provides the perfect means for drug networks to infiltrate the corridors of power, compromising governance structures in the region, including law enforcement agencies.¹⁷⁵

However, the greater threat posed by illicit drug trafficking is its connection with transnational organised crime (TOC) in the Gulf of Guinea.¹⁷⁶ Organised criminals, including terrorists, sustain their activities through money raised from their participation in drug trafficking, or from money supplied directly by drug traffickers.¹⁷⁷ In 2009 Ghanaian authorities arrested three Malians on drug charges,

¹⁷² Dimpho Motsamai, "Guinea Bissau as an Emerging Narco State in West Africa: Implications for Security and Development," *Global Insight, Institute for Global Dialogue*, 83, September 2008, p.1. James Cockayne and Phil Williams, "The Invisible Tide: Towards an International Strategy to Deal with Drug Trafficking Through West Africa," *International Peace Institute, New York*, October 2009, pp. 1-37. Boubacar S. Barry, Gacitua M. Estanislao and Wodon Quentin, "Conflict, livelihoods, and poverty in Guinea-Bissau," *World Bank Working Paper* 88, 2007. See also Eric Gable, "Conclusion: Guinea-Bissau yesterday ... and tomorrow," *African Studies Review* 52, 2, 2009, pp. 165-79.

¹⁷³ Davin O'Regan, "Cocaine and Instability in Africa: Lessons from Latin America and the Caribbean" *Africa Security Brief No. 5, Africa Centre for Strategic Studies*, July 2010, pp. 1-8, p.2.

¹⁷⁴ Stephen Ellis, "West Africa's International Drug Trade," *African Affairs* 108, 431, 2009, pp. 171-96.

¹⁷⁵ Kwesi Aning, "Organized Crime in West Africa: Options for EU Engagement," *International Institute for Democracy and Electoral Assistance* 2009, p.1.

¹⁷⁶ See Kwesi Aning, "Are There Emerging West African Criminal Networks? The Case of Ghana," *Global Crime* 8, August 2007, pp. 193-212

¹⁷⁷ Kwesi Aning, "Are There Emerging West African Criminal Networks? The Case of Ghana," *Global Crime* 8, August 2007, pp. 193-212, p.95. UNOCD, "Cocaine Trafficking in West Africa: The threat to Stability and Development with special reference to Guinea-Bissau," (Vienna: December 2007).

subsequently extraditing the men to the US on the basis of alleged links with Al-Qaeda in the Islamic Maghreb (AQIM).¹⁷⁸ This raises the possible forging of alliances between drug traffickers and terrorists in the Gulf of Guinea.¹⁷⁹ The African Marine Commando, a militant group in Cameroon which is deeply involved in the maritime drug trade, has also been noted to have conducted piratical attacks.¹⁸⁰ There are also reports of militias in the Niger Delta region of Nigeria having accepted cocaine as in-kind payment for services rendered to drug traffickers.¹⁸¹ These examples parallel the connection between pirates and the al-shabab in Somalia.¹⁸²

The above trends suggest the presence of dangerous, transnational organised crime partnerships in the Gulf of Guinea - a situation that needs to be addressed urgently. The analysis also demonstrates that any attempt at addressing maritime security in the Gulf of Guinea must be holistic, as there is interaction between the different facets of threats. However, UN Resolutions 2018 and 2039 treated piracy as an isolated maritime security threat.¹⁸³ Indeed, although Resolution 2039 mentioned

¹⁷⁸ Davin O'Regan, "Cocaine and Instability in Africa: Lessons from Latin America and the Caribbean," Africa Security Brief No. 5, Africa Centre for Strategic Studies, July 2010, p. 2.

¹⁷⁹ Davin O'Regan, "Cocaine and Instability in Africa: Lessons from Latin America and the Caribbean," Africa Security Brief No. 5, Africa Centre for Strategic Studies, July 2010, p. 2.

¹⁸⁰ See International Crises Group, *The Gulf of Guinea: The New Danger Zone*, Africa Report No. 195, pp.13-14.

¹⁸¹ Mike McGovern, "Confronting Drug Trafficking in West Africa," testimony before the Subcommittee on African Affairs, United States Senate, June 23, 2009.

¹⁸² Bruno Schiemy, "Unholy High seas Alliance," *Jane's Terrorism and Security Monitor*, 31 October 2008. The paper notes that the maritime knowledge and criminal networks of pirates makes them ideal for supporting weapons traffickers. Somali sources detail three arms shipments that were brought in by pirates as evidence of this co-operation.

¹⁸³ United Nations, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011). United Nations, Resolution 2039 - Peace Consolidation in West Africa (Security Council 6727th Meeting, 29 February 2012).

drug trafficking as a possible threat to peace and security in the Sahel region, the entirety of recommendations and action plans in the Resolution are directed at combating the threat of piracy and armed robbery at sea. Any cooperative processes built on the Resolutions would therefore set a narrow maritime security framework for the Gulf of Guinea. Chapter five will also assess the extent to which Gulf of Guinea States have implemented international instruments that address the subject of illegal drug trafficking.

3.5.3 Illegal Migration by Sea

There are two related issues involved in illegal migration by sea: migrant smuggling and people trafficking.¹⁸⁴ Migrant smuggling involves facilitating the illegal entry of persons into a State for financial or other material benefit.¹⁸⁵ Migrant smuggling is undertaken with the consent of the migrant who anticipates better living conditions at the point of destination.¹⁸⁶ This can be contrasted with trafficking of people, where the objective is to put the trafficked persons in some form of servitude, for example, forced prostitution.¹⁸⁷ In a legal context, however, both

¹⁸⁴ The Protocol against the Smuggling of Migrants by Land, Sea and Air, 2004, defines “Smuggling of migrants” to mean “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.” See Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly Resolution 55/25, entered into force on 28 January 2004. There are 129 Parties as at 26 May 2011, with 31 from Africa.

¹⁸⁵ Article 3(a), Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 (UN A/55/383).

¹⁸⁶ Raimo Väyrynen, “Illegal Immigration, Human Trafficking, and Organized Crime,” *United Nations University, Discussion Paper O. 2003/72*, 2003, pp. 1-25 p.1. See also David Kyle and Rey Koslowski, eds., *Global Human Smuggling: Comparative Perspectives*, Baltimore, Johns Hopkins University Press, 2001.

involve entry into a State in breach of its migration laws. Migrant smuggling accounts for the bulk of illegal migration by sea, but the two crimes are very much related and are often perpetrated by the same or related criminal networks.¹⁸⁷ Thus, persons who willingly embark on illegal migration can quite easily end up in bondage or servitude.¹⁸⁹

In the context of the Gulf of Guinea, migrants intending to enter Europe often walk long distances, while others are transported by fishing vessels to congregate at Cape Verde and Senegal (the main transit countries in the Gulf of Guinea), or to other transit States including Algeria, Libya and Morocco.¹⁹⁰ They are then put on boats or fishing vessels which travel through the Canary Islands or the Strait of Gibraltar on route to Spain or Malta, the chief ports of entry into Europe.¹⁹¹ Almost 32,000 irregular migrants were detected through the Spanish route in 2006, with 35,000 being detected in 2008.¹⁹² It has been noted in a 2012 report that approximately 11 per cent of illegal immigrants into Europe originate from countries in the Gulf of Guinea.¹⁹³ While these people undertake the journey voluntarily, it nonetheless exposes them to exploitation and

¹⁸⁷ Article 3(a), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 (UN A/55/383). See also Kevin Bales, *Disposable People. New Slavery in the Global Economy* Berkeley CA University of California Press, 1999.

¹⁸⁸ Mark J. Miller, "The Sanctioning of Unauthorized Migration and Alien ", in David Kyle and Rey Koslowski, eds. *Global Human Smuggling: Comparative Perspectives*, Baltimore, MD, Johns Hopkins University Press, 2001, pp. 318-36, p.21.

¹⁸⁹ Liz Kelly, "You Can Find Anything You Want: A Critical Reflection on Research on Trafficking in Persons within and into Europe," *International Migration* 43 1/2, 2005, pp. 236-65, p.38.

¹⁹⁰ UNODC, "Transnational Organized Crime in West Africa: A Threat Assessment," February 2013, pp. 26-30. 2013, pp. 26-30.

¹⁹¹ UNODC, "Transnational Organized Crime in West Africa: A Threat Assessment." 2013, pp. 26-30.

¹⁹² UNODC, "Transnational Organized Crime in West Africa: A Threat Assessment." 2013, pp. 26-30.

¹⁹³ Para 78-99, UNODC, Global Report On Trafficking In Persons - 2012.

the perils of the sea, while providing a great profit to organised criminal groups who arrange for their passage.

Although the Gulf of Guinea is the source, rather than the destination, of illegal migration, this activity can still be classified as a maritime security threat to the region. The criminal syndicates involved in these operations often use unseaworthy vessels, thus running the risk of the vessels sinking or becoming distressed at sea, thereby creating further maritime security challenges. The crime also puts the lives of people from the region in peril, while creating a lucrative trade for the people smugglers.

3.5.4 Declining Fisheries as a Maritime Security Threat

The significance of fisheries as a source of food security in the Gulf of Guinea has been addressed in chapter two. In reality, however, the majority of States in the Gulf of Guinea are net importers of fish, despite having large areas of maritime space.¹⁹⁴ For example, Cote d'Ivoire and Nigeria are among the principal importers of fish globally.¹⁹⁵

As the above heading indicates, this section intends to broadly analyse the maritime security dimension of fisheries in the Gulf of Guinea. Yet it must be conceded that a discussion of the causes of declining fish stocks is outside the scope of this section. Therefore, the analysis will focus on Illegal, Unreported and Unregulated (IUU) fishing, while seeking to

¹⁹⁴ FAO, "Total Value of International Trade Of Seven Fishery Commodity Groups: By Continent, by Countries or Areas," *Yearbook of Fisheries* 2008, 2010, pp. 52-53.

¹⁹⁵ FAO, "Principal Importers of Fish," *Yearbook of Fisheries* 2008, 2010, pp. 42.

outline some threat dimensions beyond IUU fishing. To put the analysis in context, we will first review the statistics that reveal the economic cost of IUU to developing countries and the Gulf of Guinea. This will be followed by an examination of the meaning and scope of IUU fishing. Then we will analyse the threats to fisheries beyond the IUU factor. Finally, the larger security threats posed by depleting fish stock in the Gulf of Guinea will be examined.

3.5.4.1 Scale and Cost of IUU Fishing in the Gulf of Guinea

It is estimated that between US\$9 billion and US\$24 billion is lost to IUU fishing globally, with the level of illegal fishing in the Gulf of Guinea being 40 per cent higher than the global average in 2009.¹⁹⁶ Some reports put the financial losses from IUU fishing in the Gulf of Guinea at US\$1 billion.¹⁹⁷ In Sierra Leone, Guinea and Guinea Bissau, illegal fishing accounts for 50 to 60 per cent of total stock catch.¹⁹⁸ It is estimated that Guinea loses US\$105 million annually to illegal fishing, while Sierra Leone loses US\$29 million and Liberia US\$12 million.¹⁹⁹ The EU was initially thought to be the destination for illegal catches, but there are now indications that Asia has become a major market, and there is an increasing involvement of Chinese and South Korean vessels in IUU fishing activities off the Gulf of Guinea.²⁰⁰

¹⁹⁶ MRAG and DEFID, "Illegal, Unreported and Unregulated Fishing " *Policy Brief* 8, 2009. Policy Brief 8, 2009.

¹⁹⁷ Karin Brulliard, U.S. Outreach on Rough Seas off Western Africa, *Washington Post*, 21 May 2009.

¹⁹⁸ See page 39, Marine Resources Assessment Group Ltd., *Review of Impacts of Illegal, Unreported and Unregulated Fishing on Developing Countries* 2005, Available: http://www.imcsnet.org/imcs/docs/iuu_fishing_synthesis_report_mrag.pdf, May 2011 2011.

¹⁹⁹ Mark Rowe, "Fishy business " *Geographical*, August 2013.

²⁰⁰ Karin Brulliard, U.S. Outreach On Rough Seas Off Western Africa, *Washington Post*, 21 May 2009.

In May 2013 two South Korean vessels - *Premier* and *Solevant*, reportedly negotiated an out of court settlement for illegal fishing in Sierra Leone, with South Korea reportedly paying a fine of US\$2 million.²⁰¹ This fine reflects the illegal gains from IUU fishing and the corresponding losses to Gulf of Guinea States. Given the socio-economic fragility of the region, as reflected in the lack of basic human needs such as access to health care, adequate food supplies, education and shelter, the economic losses attributed to IUU fishing could substantially enhance the livelihood of many people.²⁰² Chapter five will evaluate the extent to which Gulf of Guinea States have implemented international frameworks designed to combat IUU fishing. However, there is a tendency to view the international framework for addressing IUU fishing as comprehensively dealing with fisheries governance concerns. Therefore, the term ‘IUU fishing’ must be analysed so that its scope can be appreciated.

3.5.4.2 The Concept of IUU Fishing and Its Limitations

The term ‘IUU fishing’ has been attributed to the work of Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) in 1997.²⁰³ However, the term remained undefined until it was adopted

²⁰¹ “The Government of Liberia and Dongwon Industries Agree on an Out of Court Settlement of 2 Million USD for IUU Tuna Fishing,” Fishery Committee of West and Central Gulf of Guinea, 2 May 2013.

²⁰² UNDP, “Human Development Report 2010” (New York, 2010). WHO, “Micronutrient deficiencies 2011” (Geneva, 2011). “The State of the World’s Children 2012” (UNICEF, 2012). Richard Valdmanis and Simon Akam, *Illegal fishing plunders and strains West Africa*, 15 March 2012, Reuters, Available: <http://www.reuters.com/article/2012/03/15/us-westafrica-fishing-idUSBRE82E0HD20120315>, 2014 5 January.

²⁰³ CCAMLR, Report of the Sixteenth Meeting, 27 October – 7 November 1997, p.8. William Edeson, “The International Plan of Action on Illegal Unreported and Unregulated Fishing: The Legal Context of a Non-Legally Binding Instrument”, *International Journal of Marine and Coastal Law* 16 4, 2001, pp. 603-623, p.605.

and used in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) in 2001.²⁰⁴ Though the IPOA-IUU definition is widely used, it is still regarded as lacking clarity in many areas.²⁰⁵ Thus, unless the meaning of IUU fishing is properly understood, it can be easily be misapplied.²⁰⁶

To properly understand the meaning and scope of the term ‘IUU fishing’, it is important to note that the term has three separate components: ‘illegal fishing,’ ‘unreported fishing,’ and ‘unregulated fishing.’ Each of these components is described in the IPOA-IUU in relation to fishing in areas that are subject to a State’s national jurisdiction and on the high seas.²⁰⁷ The analysis in this section is concerned with the definitions that deal with fishing in waters that are under the national jurisdiction of a State. From a coastal State point of

Generally on IUU, see Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010. Blaise Kuemlangan and Michael Press, "Preventing, Deterring and Eliminating IUU Fishing: Port State Measures," *Environmental Law and Policy* 40, 6, 2010, pp. 262-68. *Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing*, Paris, France OECD, 2004. Evelyn Meltzer, *The Quest for Sustainable International Fisheries : Regional Efforts to Implement the 1995 United Nations Fish Stocks Agreement*, Ottawa NRC Research Press, 2009.

²⁰⁴ FAO, International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), Rome, Italy, 2 March 2001, endorsed by the FAO Council on 23 June 2001.

²⁰⁵ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 38. William Edeson, "The International Plan of Action on Illegal Unreported and Unregulated Fishing: The Legal Context of a Non-Legally Binding Instrument" *International Journal of Marine and Coastal Law* 16 4, 2001, pp. 603-623, p.620.

²⁰⁶ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff 2010, p. 57. See also William Edeson, "The International Plan of Action on Illegal Unreported and Unregulated Fishing: The Legal Context of a Non-Legally Binding Instrument " *International Journal of Marine and Coastal Law* 16 4, 2001, pp. 603-23.

²⁰⁷ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff 2010, p. 38.

view, ‘illegal fishing’ refers to activities conducted by foreign or national vessels in waters under the jurisdiction of a State without the permission of the State or in contravention of its laws.²⁰⁸ “Unreported fishing” refers to fishing activities which have not been reported, or have been misreported to the relevant national authority.²⁰⁹ While illegal and unreported fishing is concerned with illegal conduct in waters under national jurisdiction, “unregulated fishing” refers only to high seas fishing or fisheries managed within the Regional Fisheries Management Organization (RFMO) framework.²¹⁰ Thus, “unregulated fishing” describes fishing in a manner that is not consistent with or contravenes the conservation and management measures of a RFMO.²¹¹

²⁰⁸ 3.1 ***Illegal fishing*** refers to activities: 3.1.1 conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations; 3.1.2 conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or 3.1.3 in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

²⁰⁹ 3.2 ***Unreported fishing*** refers to fishing activities: 3.2.1 which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or 3.2.2 undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

²¹⁰ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p.48.

²¹¹ 3.3 ***Unregulated fishing*** refers to fishing activities: 3.3.1 in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or 3.3.2 in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law. 3.4 Notwithstanding paragraph 3.3, certain unregulated fishing may take place in a manner which is not in violation of applicable international law, and may not require the application of measures envisaged under the International Plan of Action.

Put simply, IUU fishing in a national context is fishing in violation of national fisheries laws.²¹² Even from this description it is clear that the concept is very limited and its application very narrow. Technically therefore, if there are weaknesses in the legislation of a State, it is perfectly legitimate for other States to exploit these legislative loopholes - for example, by using a fishing method that is *prima facie* destructive, while maintaining that the activity is not IUU fishing. Therefore, while conservation groups or Non-Governmental Organizations (NGOs) may describe a situation as IUU fishing, flag States of fishing vessels can stand their ground, arguing that the conduct does not fall within the description of IUU fishing.

3.5.4.3 The Need for a Broader Approach and the Governance Dimension to IUU Fishing

The analysis above demonstrates that addressing fisheries concerns through the international framework for IUU fishing is highly inadequate. Depleting fisheries should be examined from the perspective of food security instead. This approach will allow threats and issues on all levels – national, regional and global, to be addressed. An examination of maritime security cooperative frameworks in the Gulf of Guinea will show that, thus far, States in the region have adopted a narrow approach to IUU fishing governance.²¹³ External partners have also tended to avoid addressing concerns of depleting fisheries, and when they do, they focus exclusively on the issue of IUU fishing,

²¹² Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 38-39.

²¹³ See chapter 6.

ignoring broader threats to the sustainable access to fisheries resources (particularly by coastal communities in Gulf of Guinea States).²¹⁴

The above argument does not suggest that external factors are solely responsible for depleting fisheries and illegal fishing activities in the Gulf of Guinea. Indeed, analysis in chapter five will show that even the requisite framework for addressing IUU fishing is poorly implemented by Gulf of Guinea States.²¹⁵ Reports have also cited corruption and the complicity of government officials as a factor undermining fisheries management measures.²¹⁶ Moreover, there are indications that vessels flagged by some Gulf of Guinea States are engaging in IUU fishing activities within the region. In a report to Congress in 2013, the US government listed Ghana as an IUU fishing State because vessels flagged by Ghana are in flagrant violation of measures for combating IUU fishing.²¹⁷ For the same reason, the EU is reported to have placed a ban on tuna exports from Ghana, and possibly also Cape Verde, Cote d'Ivoire and Senegal.²¹⁸

²¹⁴ See chapter 7.

²¹⁵ See also Rachel Baird, "Illegal, Unreported and Unregulated Fishing: An Analysis of the Legal, Economic and Historical Factors Relevant to its Development and Persistence," *Melbourne Journal of International Law* 13 5, 2, 2004, pp. 299-334. David J. Agnew and Colin T. Barnes, *Economic Aspects and Drivers of IUU Fishing: Building a Framework*, 2004, Available: <http://www.oecd.org/dataoecd/17/7/29468002.PDF>, 24 March 2011.

David Hunter, James Salzman and Durwood Zaelke, *International Environmental Law and Policy*, Richmond Foundation Pr, 2002, p. 674. FAO, *The State of World Fisheries and Aquaculture*, 2002, Available: http://www.fao.org/docrep/005/y7300e/y7300e04.htm#P733_30672, May 20 2011.

²¹⁶ FAO, Fisheries and Aquaculture Report No. 910, 2009, Para 55.

²¹⁷ See page 23, United States, Improving International Fisheries Management: Report to Congress Pursuant to Section 403(a) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (NOAA Fisheries, January 2013).

²¹⁸ *West African Canned Tuna Now A Major Risk For Importers* 4 March 2013, Atuna, Available: <http://pna.atuna.com/ViewArticle.asp?ID=12561>, 13 November 2013.

3.5.4.4 Implications of Declining Fisheries in the Gulf of Guinea

The socio-economic consequences of depleting fisheries in the Gulf of Guinea have already been alluded to. However, the nexus between declining fisheries and regional security and stability need to be examined. Fundamental to this nexus is the fact that fishing is a social activity.²¹⁹ Therefore, the consequences of depleting fisheries are far reaching. The first flow-on effects from a decline in fisheries stock include unemployment, social unrest and poverty, particularly in coastal communities.²²⁰ These factors, coupled with the deplorable socio-economic indicators analysed in chapter one, lead to increased social dislocations. Indeed, research has shown that the threat of HIV/AIDS is more acute in fishing communities where fisheries are in decline.²²¹ This vulnerability may also lead to malevolent behaviour at sea, with those people previously engaged in the fishing sector searching for an alternative source of income - a situation criminals can easily exploit.²²² Research conducted in Southeast Asia suggests that unemployed fishermen increasingly become involved in the theft of vessels and canoes.²²³ A decline in fisheries has equally been shown to contribute significantly to piracy off the coast of Somalia.²²⁴

²¹⁹ FAO, State of World Fisheries and Aquaculture, 2010, p.142

²²⁰ "Global Consequences of Overfishing," Fisheries and Oceans Canada, 2009, <http://www.dfo-mpo.gc.ca/international/isu-global-eng.htm>, accessed 16 March 2013.

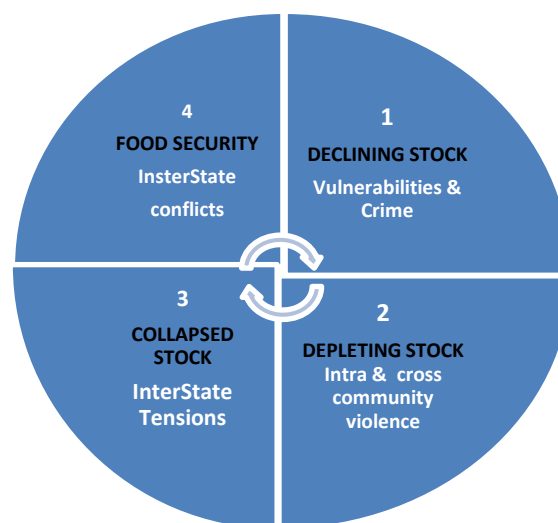
²²¹ FAO, Impact of HIV/AIDS on Fishing Communities, http://www.fao.org/hivaids/publications/Policy_Brief-Final_En.pdf, . Regional Programme: Fisheries and HIV/AIDS in Africa: Investing in Sustainable Solutions, 8 September 2010, CGIAR Project, <http://ongoing-research.cgiar.org/factsheets/regional-programme-fisheries-and-hiv-aids-in-africa-investing-in-sustainable-solutions/>. Ann Gordon, HIV/AIDS in the fisheries sector in Africa, World Fish Centre, http://www.worldfishcenter.org/resource_centre/HIV-AIDS-AfricaFisherySector.pdf,

²²² See similar views expressed in respect of IUU fishing in Southeast Asia, Rachel Baird, Transnational Security Issues in the Asian Maritime Environment: Fisheries and Piracy, http://www.griffith.edu.au/_data/assets/pdf_file/0011/246089/Baird.pdf, 9 July 2013.

²²³ Jason Abbot and Neil Renwick, "Pirates? Maritime Piracy and Societal Security in Southeast Asia," *Pacifica Review* 11, 1, 1999), pp. 7-24, p.15. Also Adam J. Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies*, Singapore, Institute of Southeast Asian

The UNODC has confirmed that fishing vessels and fisherfolk in West Africa are involved in drug trafficking and people smuggling.²²⁵ There are also reports of unemployed fishermen in Senegal threatening to resort to piracy if issues surrounding IUU fishing and foreign fishing licences are not resolved by the government.²²⁶ Indeed, even if these fishermen choose not to engage in piracy due to the increased risks, they may nonetheless turn to drug trafficking or other types of organised crime. Applying this situation to Figure 3.4 below, fishing communities and States fall into the first quadrant, with declining fish stocks leading to vulnerability in fishing communities and an increased crime rate in susceptible States.

Figure 3.4: Fisheries as a Threat to Regional Security and Stability



Studies, 2007. Eric Frecon, "Piracy in the Malacca Straits: notes from the field," *International Institute for Asian Studies, Newsletter* 36, 2005.

²²⁴ See chapter 4.

²²⁵ UNODC, *Transnational Organized Crime in the Fishing Industry*, Issue Paper, 6 April 2011.

²²⁶ John Vidal, "Senegal's fishing community will act on foreign fleets if government doesn't," 2 April 2012, <http://www.guardian.co.uk/global-development/2012/apr/02/senegal-fishing-community-act-foreign-fleets> (accessed on 26 September 2012).

Further depletion of fish stocks may also create tension among fisherfolk within and across State boundaries.²²⁷ This trend may be exacerbated by the growing oil and gas interests that lie in close proximity to fishing grounds in the Gulf of Guinea – interests that are ripe for exploratory activities.²²⁸ Finally, as fishing communities struggle to catch their last fish at sea, interstate conflicts will likely result. Indeed, research already points to food scarcity and competition for resources as the main drivers of small and large scale conflicts.²²⁹

3.5.5 Offshore Energy Security Concerns and Challenges

The contribution of the Gulf of Guinea to global energy security has been extensively analysed in chapter two. Thus, the safety and security of offshore energy platforms is a major concern. The objective of this section is to examine the general challenges to the security of offshore platforms in the Gulf of Guinea. The next chapter will analyse specific attacks on offshore platforms as part of the case study on piracy and armed robbery in the region.

²²⁷ Abiodun Alao, *Natural Resources and Conflict in Africa: The Tragedy of Endowment*, New York University Rochester Press, 2007, p. 229. See also “Management of Conflicts in Tropical Fisheries Ghana Final Report,” <http://www.oceandocs.net/bitstream/1834/198/1/CONFLICTS-GHANA.pdf>, accessed 16 March 2013. “Workshop on Conflicts in Coastal Fisheries in West Africa,” IDAF Programme Technical Report No.53, Cotonou, Benin 24-26 November 1993.

²²⁸ Nana Kow, “Ghana’s oil exploration affects fishing in Western Province,” Oil Ghana, <http://ghanaoilonline.org/2012/07/ghanas-oil-exploration-affects-fishing-in-western-province/>, accessed 16 March 2013. “Fishing and the Offshore Oil Industry: A Delicate Imbalance,” Pulitzer Centre, <http://pulitzercenter.org/articles/ghana-oil-fishing-industry-sekondi-takoradi>, accessed 16 March 2013.

²²⁹ Bernice Lee, Felix Preston, Jaakko Kooroshy, Rob Bailey and Glada Lahn, *Resource Futures* (London: Chatham House, 2012). See in particular p. 152.

3.5.5.1 The Nature of Offshore Oil and Gas Infrastructure

In 2011, the Gulf of Guinea's deep-water petroleum industry was described as the most active in the world, with the level of offshore activities projected to increase in the coming years.²³⁰ Offshore oil and gas extraction comprises two key phases: exploration and production. Each phase involves the use of platforms that are vulnerable to deliberate attacks and accidents.²³¹ To put the analysis of safety and security concerns in context, it is important to briefly explain the nature of offshore oil and gas development, as well as the types of offshore platforms that are used in the Gulf of Guinea.

The exploration phase of offshore oil and gas development normally commences with a seismic survey. This is carried out with the use of ships that have been specifically designed for this purpose.²³² This is followed by drilling the seabed using mobile drilling platforms. These platforms may be semi-submersible or submersible, and are generally referred to as mobile drilling units (MODUs).²³³ A key feature of MODUs is their mobility, and as a result they are regulated like ships

²³⁰ Brian Handwerk, *The Next Prospects: Four Offshore Drilling Frontiers*, 19 April 2011, National Geographic, Available: <http://news.nationalgeographic.com.au/news/energy/2011/04/110418-future-of-offshore-drilling/>, 16 March 2013. *West Africa Offshore Oil & Gas Activity Map 2010/14*, Infield Systems Limited, Available: <http://www.infield.com/demodisk/pdf/westafricawallmap.pdf>, 16 March 2013.

²³¹ Generally on offshore oil and gas infrastructure see, William Graff, *Introduction to Offshore structures: Design, Fabrication, Installation*, Houston, Gulf Publishing Co Ltd, 1981.

²³² Generally on offshore oil and gas development, see *Trends in Product Transportation for Future Offshore Oil and Gas Developments* January 2012, The Australian Pipeliner, Available: http://pipeliner.com.au/news/trends_in_product_transportation_for_future_offshore_oil_and_gas_developments/065636/, 13 March 2013.

²³³ For details on MODUs see, International Association of Classification Societies, *Requirements Concerning Mobile Offshore Drilling Units*, 2007, Available: http://www.iacs.org.uk/document/public/Publications/Unified_requirements/PDF/UR_D_pdf149.PDF, 12 August 2011.

under international conventions and frameworks.²³⁴ This also explains why MODUs are susceptible to the same security risks and vulnerabilities as ships.

The second phase of activity in offshore energy exploration is production. Successful detection of oil and or gas in commercial quantities will typically be followed by the establishment of one or more oil wells. Production will then be carried out using fixed platforms.²³⁵ In fact production from these wells and floating platforms will usually be continuous, and may last for over fifty years. This results in significant human activity taking place on board production platforms, with larger platforms boasting accommodation and living facilities for hundreds of personnel.²³⁶

Extracted oil and gas is mostly processed in the Gulf of Guinea by the use of Floating, Production, Storage and Offloading units (FPSOs). These are either converted double hull oil tankers or structures specifically designed for this purpose.²³⁷ Indeed, this technology is widely regarded as one of the greatest technological breakthroughs in the industry, as it has made deep sea oil and gas production viable.²³⁸ Built in 2007, Nigeria's *FPSO Agbami* is the largest in the world, with a

²³⁴ MODUs are accordingly regulated by key IMO Conventions such as SOLAS, MARPOL and the ISPS Code.

²³⁵ See *Trends in Product Transportation for Future Offshore Oil and Gas Developments*, The Australian Pipeliner, January 2012.

²³⁶ *Trends in Product Transportation for Future Offshore Oil and Gas Developments*, The Australian Pipeliner, January 2012.

²³⁷ Neil Ford, *The star of the Gulf of Guinea*, July 2005, Available: http://findarticles.com/p/articles/mi_qa5327/is_311/ai_n29195790/, 12 August 2011.

²³⁸ Ibid.

storage capacity of over 2.1 million barrels.²³⁹ Meanwhile, Angola's *Dalia FPSO*, located 80 nautical miles offshore, has a capacity of 2 million barrels.²⁴⁰ *FPSO Nkrumah* serves the Jubilee oil fields offshore Ghana,²⁴¹ while *FPSO Serpentina* is being used in the Zafiro oil fields of Equatorial Guinea.²⁴² As an alternative to FPSOs, extracted crude may be kept in a Floating Storage Offloading unit (FSO) and then transferred ashore for processing.

3.5.5.2 Safety and Security Concerns of Offshore Infrastructure

Two significant security concerns stem from the nature and processes of offshore oil and gas development: investment security and the physical vulnerability of offshore infrastructure.²⁴³ Summarising the possible impact of an accident or attack on Ghana's offshore oil and gas platforms, Martin Tsamenyi and Kwame Mfodwo have noted:

Incidents in the...offshore oil and gas industry would...put pressure on regional security arrangements; increase operating costs through increased security requirements...and higher insurance premiums; provide adverse

²³⁹ *FPSO Agbami*, off the coast of Nigeria (Niger Delta) is said to be the largest in the world. It has a processing capacity of 250,000 barrels of oil per day and a storage capacity of 2.1 million barrels of oil. The contract for building it was awarded in 2005 and it arrived in the oil field in 2007. See, <http://www.offshore-technology.com/projects/agbami/> (accessed 16 August 2011).

²⁴⁰ Located in ultra-deep waters of Angola (about 80nm), *Dalia* is one of the world's largest deep water oil developments. The *Dalia FPSO* floating production, storage and offloading (FPSO) vessel used in the field is 300 meters long, 60 meters wide and 32 meters high. It weighs in at an equally impressive 416,000 metric tons, nearly 30,000 metric tons for the topsides alone. Its living quarters can accommodate up to 190 people. See, <http://www.total.com/en/our-energies/oil/exploration-and-production/projects-and-achievements/dalia-940847.html> (accessed 12 August 2011).

²⁴¹ The FPSO *Kwame Nkrumah MV21* is installed in approximately 1,100 meters water depth on the Jubilee Field. It has been named after the first president of the country and arrived for operations in June 2010.

²⁴² FPSO *Serpentina* was built in 1974. It was delivered to the Zifiro fields on 1 November 2005 under the order of Equatorial Guinea Inc., an ExxonMobil subsidiary ExxonMobil subsidiary.

²⁴³ American Petroleum Institute, *Security Assessment Vulnerability Methodology for the Petroleum and Petrochemical Industries*, 2nd ed., 2004.

publicity, impacting negatively on public and business confidence...More importantly it could negatively affect investment in the country as a whole.

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Although the summary above is from the perspective of a single country, it nonetheless characterises regional and global security dimensions.²⁴⁵ Every activity in the oil and gas production process requires substantial financial investment. For example, the cost of a single FPSO can be upwards of US\$800 million.²⁴⁶ Moreover, offshore oil platforms are exposed to different levels of physical risks across the activity chain, such that a single incident of violence or interference directed at offshore oil and gas infrastructure can have serious consequences.²⁴⁷ At the general level, accidents from commercial and fishing vessels are a concern,²⁴⁸ with higher level risks encompassing deliberate attacks by pirates, insurgents or terrorists.²⁴⁹ FPSO's are particularly vulnerable to violent actions because of their large size, predictable location and high

²⁴⁴ Martin Tsamenyi and Kwame Mfodwo, "Developing Capacity for Addressing Safety, Security and Marine Pollution Concerns arising from oil and Gas Industry", *National Conference on Positioning the Transport Sector for Successful Exploration of Ghana's Oil and Gas*, Accra, 15-16 July 2009, p. 3.

²⁴⁵ For concerns regarding the adequacy of safety zones, see Australian Government, Offshore Oil and Gas Resources Security Sector Inquiry (Office of the Inspectorate of Transport Security, June 2012). Anthony Bergin and Sam Bateman, "Things Could Turn Ugly in Troubled Waters to Our North: Doubts Surface about the Safeguarding of Australia's Offshore Oil and Gas Installations," *The Australian* 28 July 2012.

²⁴⁶ *Trends in Product Transportation for Future Offshore Oil and Gas Developments*, The Australian Pipeliner, January 2012.

²⁴⁷ Australian Government, *Offshore Oil and Gas Resources Security Sector Inquiry* (Office of the Inspectorate of Transport Security, June 2012). Peter Maass, *Crude World: The Violent Twilight of oil*, Vintage Books, 2009, p. 53-75. Amanda East and Bill Bailey, "Australia's Oil Refining Industry - Importance, Threats and Emergency Response," *Security Management*, 2008. Assaf Harel, "Preventing Terrorist Attacks on Offshore Platforms: Do States Have Sufficient Legal Tools?," *Havard National Security Journal* 4, 1, 2013, pp. 143-49. See also Salah Honein, *The Intenational Law relating to Offshore Installations and Artificial Islands: An Industry Perspective*, London, Lloyd's of london Press, 1991.

²⁴⁸ Stuart Kaye, "International Measures to Protect Oil Platforms, Pipelines and Submarine Cable from Attack," *Tulane Maritime Law Journal* 31, 2, 2007, pp. 377-423.

²⁴⁹ See chapter 4.

value.²⁵⁰ As demonstrated in the analysis in chapter two, oil and gas are strategic global commodities.²⁵¹ Therefore, any interference with the supply chain in any part of the world will have global consequences.

3.5.6 Illicit Trafficking in Weapons

The final maritime security concern to be discussed in this chapter is illicit trafficking in weapons. The contribution of small arms and light weapons (SALW) to instability in the Gulf of Guinea is palpable.²⁵² Liberia and Sierra Leone are still lurking in the shadows of years of conflict in which thousands of lives were lost and State institutions completely dismantled.²⁵³ The fragility of Angola's future is also rooted in decades of conflict.²⁵⁴ Fighting is still ongoing in DR Congo, the Central African Republic and Mali. Many other States, Nigeria being the most recent one, are in the throes of violence perpetuated by the prevalence of SALW.

²⁵⁰ Hans Tino Hansen, "Distinctions in the Finer Shades of Gray: The "Four Circles Model" for Maritime Security Threat Assessment", in Rupert Herbert-Burns, Sam Bateman and Peter Lehr, eds. *Lloyd's MIU Handbook of Maritime Security*, CRC Press, 2008. Torbjorn Thedeen, "Setting the Stage: The Vulnerability of Critical Infrastructures", in Konstantin Frolov and Gregory Baecher, eds. *Protection of Civilian Infrastructure from Acts of terrorism*, Springer, 2006. Mikhail Kashubsky, "Offshore Petroleum Security: Analysis of Offshore Security Threat, Target Attractiveness, and the International Legal Framework for the Protection and Security of Offshore Petroleum Installations," University of Wollongong, PhD Thesis 2011.

²⁵¹ Generally on oil as a strategic commodity, see Daniel Yergin, ed., *The Prize: The Epic Quest for Oil, Money and Power*, London, Free Press, 2008.

²⁵² Confort Ero and Angela Ndinga Muvumba, "Small Arms, Light Weapons", in Adekeye Adebajo and Ismail Rashid, eds. *West Africa's Security Challenges: Building Peace in a Troubled Region*, Boulder, Lynne Rienner Publishers, 2004, pp. 223-43. Adedeji Ebo, *Small Arms Control in West Africa (Monitoring the Implementation of Small Arms Controls*, 2003).

²⁵³ On conflicts in Liberia and Sierra Leone, see Adekeye Adebajo, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea Bissau*, International Peace Academy Occasional Papers, Covenant Garden, London Lynne Rienner 2002.

²⁵⁴ On war in Angola, see Antoine Rozès, "Angolan Deadlock: Chronicle of a War with no Solution," *African Security Review* 10, 3, 2001. Angola's Foreign Minister has stated that the country is now in a position to play a major role in the Gulf of Guinea, see Justin Pearce, "Diary: Angola's Georges Chicoti asserts foreign policy strength and business potential," *Royal Africa society*, 12 March 2012.

While weapons proliferation is a major factor in communal violence, impoverishment and underdevelopment,²⁵⁵ it is difficult to establish the percentage of weapons being circulated due to illicit trafficking, and the percentage of weapons coming in by sea.²⁵⁶ However, research has indicated that the maritime corridor is a source of illicit arms trafficking.²⁵⁷ Indeed, an insurgent group leader in Nigeria has been reported as saying that arms can easily be purchased from ships anchored off the coast of Nigeria.²⁵⁸ Also, speedboats are reported to be involved in transferring arms from ships into Guinea-Bissau, Gabon and Cameroon.²⁵⁹

Countering illegal trafficking of weapons in the Gulf of Guinea requires regional and global cooperation. Such a cooperative process will also entail the implementation of relevant international instruments that addresses the issue of illegal trafficking in weapons, particularly the United Nations Transnational Organized Crime Convention (UNTOC)²⁶⁰ and the Protocol against Illicit Manufacture and Trafficking in

²⁵⁵ Francis L. Keili, "Small arms and light weapons transfer in West Africa: a stock-taking," *Disarmament Forum*, 2008, pp. 1-8, p.1.

²⁵⁶ Francis L. Keili, "Small arms and light weapons transfer in West Africa: a stock-taking," *Disarmament Forum*, 2008, p. 4.

²⁵⁷ See pp. 23-24, Nicolas Florquin and Eric G. Berman, eds., *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, Geneva, Human Security Network, 2005.

²⁵⁸ Nicolas Florquin and Eric G. Berman, eds., *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, Geneva, Human Security Network, 2005, p.24.

²⁵⁹ Nicolas Florquin and Eric G. Berman, eds., *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, Geneva, Human Security Network, 2005, p.24.

²⁶⁰ United Nations Convention against Transnational Organized Crime, adopted by General Assembly Resolution 55/25 of 15 November 2000, Palermo, Italy, entered into force on 29 September 2003, hereinafter referred to as UNTOC.

Firearms.²⁶¹ Chapter five will assess the extent to which Gulf of Guinea States have responded to these frameworks. It is also worthy of note that the UN Security Council Resolution 2039,²⁶² has at least, indicated the threat posed by illegal trafficking in weapons to the security of West Africa and the Sahel regions.²⁶³ However, this is only in the preamble as the subject was not addressed in the substantive paragraphs of the Resolution which concentrated on piracy.

3.6 CONCLUSIONS

This chapter has shown that maritime security cooperation in the Gulf of Guinea primarily requires a well-developed conceptual framework. As the analysis has revealed, however, there are key shortcomings in the current application of the concept of maritime security in the Gulf of Guinea. The chapter has developed a cooperative framework that takes into account the fundamental maritime security requirements of the region. This framework recognises three key components of the maritime security process: adequate national capacity, effective regional frameworks and viable global support. The framework also has three critical progress indicators: improved governance, adequate legal frameworks and a durable maritime security concept. The proper implementation of this framework to maritime security cooperation in

²⁶¹ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001, adopted by General Assembly resolution 55/255, 31 May 2001, entered into force 3 July 2005.

²⁶² The relevant paragraphs reads as follows: *Expressing* its concern about the serious threats to international peace and stability in different regions of the world, in particular in West Africa and the Sahel Region, posed by transnational organized crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea.

²⁶³

the Gulf of Guinea will yield effective outcomes and also ensure long term security and stability.

The analysis in this chapter has also demonstrated that multiple maritime security threats and challenges exist in the Gulf of Guinea. Illicit drug trafficking, the proliferation of weapons and illegal migration by sea all affect the good order of the oceans, and also pose serious challenges to the security of Gulf of Guinea States. Furthermore, although the issue of depleting fishery resources has been given less priority within the cooperative framework of the region, it constitutes a serious threat to long term security and stability of the region. Finally, concerns over the safety and security of offshore platforms have the potential to endanger the socio-economic interests of Gulf of Guinea States, while at the same time undermining global energy security.

Despite the persistent nature of these maritime security threats in the Gulf of Guinea, they cannot be viewed in a vacuum. Indeed, the pervasiveness of these security challenges suggest that governance and institutional frameworks are either weak or have been compromised. It is, in fact, a reflection of the inability of States in the region to provide and maintain security as a public good. The next chapter provides a case study of piracy and armed robbery in the Gulf of Guinea. The rest of the thesis examines how well the cooperative framework developed in this chapter is being implemented in the Gulf of Guinea region.

CHAPTER FOUR

A CASE STUDY OF PIRACY AND ARMED ROBBERY IN THE GULF OF GUINEA

4.1 INTRODUCTION

The objective of this chapter is to analyse the nature and dynamics of the threat of piracy and armed robbery in the Gulf of Guinea, as well as its implication for regional and global security. The chapter begins by examining the legal and conceptual framework of piracy and armed robbery. This is followed by an overview of piratical attacks that have occurred in the Gulf of Guinea. The chapter then analyses the anatomy of Gulf of Guinea piracy, its evolutionary tracks and contrast the paradigm of Gulf of Guinea piracy with contemporary piracy concepts. The chapter also examines the implications of Gulf of Guinea piracy for regional and international security, summarises the profile of Gulf of Guinea piracy, and concludes with analysis of future projections.

4.2 LEGAL, CONCEPTUAL AND INSTITUTIONAL ASPECTS OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

Although piracy and armed robbery against ships have similar maritime security implications, the two activities have different conceptual and jurisdictional ramifications. This section examines the legal, conceptual and institutional bases of piracy and armed robbery at sea. The first two sections will define and clarify the jurisdictional and conceptual

foundations of piracy and armed robbery at sea, while the third section will examine institutional approaches to the two crimes.

4.2.1 Nature, Definition and Jurisdiction over Piracy

The concept of piracy has deep historical roots and has evolved over time. Indeed, some ancient kingdoms and their rulers were beneficiaries and perpetrators of piratical activities, with pirates generally being regarded as noble people.¹ However, piracy was subsequently considered a heinous crime and a threat to the good order of the oceans, and was thus outlawed in many kingdoms.² This crystallised into a rule of customary international law that made piracy a universal crime, thus allowing every State to exercise jurisdiction over pirates.³ This principle of customary international law finds its most lucid expression in the 1982 United Nations Convention on the Law of the Sea (UNCLOS).⁴ Articles 100-107 of the Convention require State parties to cooperate in the repression of piracy. Article 101 defines “piracy” as:

¹ For an historical account of piracy, see Anne Perontin-Dumon, "The Pirate and the Emperor: Power and Law", in C.R. Pennel, ed. *Bandits at Sea: A Pirate Reader*, New York, New York University Press, 2011, pp. 25-55, Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* New York Zone Books, 2009. Jack A. Gottschalk and Brian P. Flanagan, *Jolly Roger with an Uzi: The Rise and Threat of Modern Piracy*, Annapolis US Naval Institute Press, 2000.

² Harry D. Gould, "Cicero's Ghost: Rethinking the Social Construction of Piracy", in Michael J. Struett, Jon D. Carlson and Mark T. Nance, eds. *Maritime Piracy and the Construction of Global Governance*, New York, Routledge, 2013, pp. 23-46.

³ Gerhard O.W. Mueller and Freda Adler, *Outlaws of the Ocean: The Complete Book of Contemporary Crime on the High Seas* New York Hearst Marine Books, 1985, p. 288. Thomas A. Walker, *A History of Law of Nations*, vol. I, Cambridge Cambridge University Press, 1899. Terence Fokas, "The Barbary Coast Revisited: The Resurgence of International Maritime Piracy," *University of San Francisco Maritime Law Journal* 9 1997, pp. 427-60.

⁴United Nations Convention on the Law of the Sea (UNCLOS), 1833 *U.N.T.S.* 397. The full text of the Convention is reprinted in 21 *International Legal Materials* 1261 (1982). The Convention opened for signature at Montego Bay, Jamaica, on 10 December 1982, and came into force on 16 November 1994. It has 164 ratifications as at 24 September 2012.

(a) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act inciting or of intentionally facilitating an act described in sub-paragraph (a) or (b).

The above definition may appear simple at first glance, upon close examination, however, it becomes clear that the wording contains complex issues and nuances. The key elements of the offence of piracy are therefore analysed below.

4.2.1.1 A Crime of Universal Jurisdiction

Piracy is unique in its conceptual and legal underpinnings in that it is an offence over which States have universal jurisdiction.⁵ Under international law, the jurisdiction of States may be classified into four

⁵ Eugene Kontorovich, "Universal Jurisdiction and the Piracy Analogy," *Harvard International Law Journal* 45, 1, 2004, pp. 183-237, Jose L. Jesus, "Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects," *International Journal of Marine and Coastal Law* 18, 2003, pp. 363-400.

different types - territorial, nationality, extra-territorial and universal.⁶ The concept of territorial jurisdiction is founded on the sovereignty of States over their territory. According to this idea, States have control over all matters in their territory, thus making territorial jurisdiction the primary mode of jurisdiction.⁷ In exercising territorial jurisdiction, States have the right to enact and enforce laws and regulations, as well as punish those who violate such laws in their territory.⁸ In relation to maritime domains, coastal States enjoy similar territorial jurisdiction in their ports and internal waters, and pre-eminent jurisdiction in their territorial sea.⁹

Nationality jurisdiction is based on the binding relationship between a State and its citizens, such that citizens remain subject to the jurisdiction of their State even when they are outside its territory.¹⁰ Similarly, States have jurisdiction and responsibility over vessels flying their flag, regardless of the location of the vessel. However, a coastal State may have concurrent or overriding jurisdiction where the vessel is in its ports or territorial sea, or otherwise engages in activities over which UNCLOS

⁶ It is noted that there are varying views on the classification of jurisdiction under international law. Some commentators refer to only two types of jurisdiction - prescriptive and enforcement, preferring to treat territorial, nationality, extra-territorial and universal jurisdiction as examples of *the exercise* of the other two types of jurisdiction. Other writers discuss only territorial and nationality jurisdiction, treat the other two as exceptions. It is important to note, however, that the classification of jurisdiction adopted in this chapter does have the support of several commentators.

⁷ Donald R. Rothwell, Stuart Kaye, Afshin Akhtarkhavi and Ruth Davis, *International Law: Case and materials with Australian Perspective*, New York Cambridge University Press, 2011, p. 335-346.

⁸ The right to legislate is often referred to as an example of prescriptive jurisdiction, whilst enforcement jurisdiction refers to the right to investigate, arrest, prosecute and punish perpetrators for violations.

⁹ UNCLOS, Articles 2, 21, 27 and 28. See also Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999 p. 71-101.

¹⁰ This principle was elaborated in the *Nottebohm Case* (Liechtenstein v Guatemala) ICJ Reports 4 [1955].

vests primary jurisdiction in coastal States.¹¹ However, where a vessel is on the high seas, only the flag State will have jurisdiction over the vessel, except in exceptional circumstances provided by UNCLOS.¹²

Extra-territorial jurisdiction is largely a derivative of territorial and nationality jurisdiction, and can only be exercised in special circumstances. For example, an offence outside the territory of a State may nonetheless affect or impact on the State, thus allowing it to assume jurisdiction in respect of the activity.¹³ This head of jurisdiction is sometimes referred to as the protective principle.¹⁴

In contrast to the other three forms of jurisdiction, universal jurisdiction is a unique creation of international law, vesting States with the right to legislate and take enforcement measures over crimes that neither relate to their territory nor their citizens.¹⁵ These crimes are considered heinous, and thus the objective of universal jurisdiction is to suppress or prevent their commission. International law has long treated piracy as a crime of universal jurisdiction, along with slave trading, war crimes,

¹¹ For example, the rights of coastal States in the Contiguous Zone, Article 33; in the EEZ, Articles 55 and 73; and over the Continental Shelf, Article 77.

¹² UNCLOS, Article 92.

¹³ See *Attorney-General of the Government of Israel v Eichmann* 36 International Legal Materials 5 (1961).

¹⁴ An example is the *Barcelona Traction Case*, where the ICJ upheld the right of Belgium to claim jurisdiction to protect the investment interest of its nationals who were principal shareholders in a company. *Barcelona Traction Case (Belgium v Spain)* ICJ Reports 3 [1970].

¹⁵ Rothwell, Kaye, Akhtarkhavari and Davis, *International Law: Case and materials with Australian Perspective*.

genocide and crimes against humanity.¹⁶ Pirates may therefore be arrested and prosecuted by the legal system of any State, irrespective of the flag of the vessel attacked, the flag of the vessel used to commit the piracy, or the nationality of the pirates.¹⁷ In practice, however, States may show reluctance in taking counter-piracy measures. This posture may be informed by practical constraints (including logistics), or dictated by a national policy that justifies prosecution of non-nationals only when a well-defined national interest (political, security or economic) is affected.¹⁸ Prosecution may also be stalled because of the inadequacy of the domestic legal framework of the State concerned.¹⁹

4.2.1.2 Acts of Violence, Detention, Depredation and Facilitation

For the crime of piracy to be made out, it must involve acts of violence, detention or depredation directed against a ship, goods on board the ship or persons on board the ship.²⁰ This requirement is generally less

¹⁶ Cherif M Bassiouni, "The History of Universal Jurisdiction and Its Place in International Law", in Stephen Macedo, ed. *Universal Jurisdiction: National Courts and the Prosecution of Serious Crimes Under International Law*, Philadelphia, University of Pennsylvania Press, 2004. Recent acknowledgement of the applicability of universal jurisdiction in regard to heinous crimes can be found in the ICJ's ruling in Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v Belgium) ICJ Reports 3 [2002].

¹⁷ Robin Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, pp.209-211. See also *United States v. Brig Malek Adhel* (2 How), 1844, and *United States v. Smith*, 18 (5 Wheat.), 1820.

¹⁸ Amber Ramsey, *Barriers to Prosecution: The Problem of Piracy*, September 2011, Civil-Military Fusion Centre, Available: https://www.cimicweb.org/Documents/CFC%20Anti-Piracy%20Thematic%20Papers/CFC_Anti-Piracy_Report_Prosecution_Aug_2011_FINAL.pdf, 20 September 2013, Christiane Ahlborn, *Adjudicating Somali Piracy Cases – German Courts in a Double Bind*, 13 January 2013, Blog of Cambridge Journal of International and Comparative Law, Available: <http://www.cjicl.org.uk/index.php/cjicl-blog/adjudicating-somali-piracy-cases--german-courts-in-a-double-bind>, 20 August 2013.

¹⁹ Diana Chang, "Piracy Laws and the Effective Prosecution of Pirates," *Boston College International and Comparative Law Review*, 2010, pp. 273-188.

²⁰ UNCLOS, Art 101(a).

contentious than the other elements of the offence. However, it must be emphasised that the crime of piracy does not require that goods, property or money be stolen. A close reading of UNCLOS reveals that Article 101 treats the very act of violence or depredation against a ship, its crew, or goods on board the ship as piratical acts, provided the other elements of the crime are present. Hence, domestic legislation seeking to incorporate the piracy provisions of UNCLOS should be broad enough to encompass assault, injury or damage committed in a piratical context.²¹ Article 101 also classifies the act of inciting or intentionally facilitating piracy, as well as voluntary participation in the operation of a pirate ship, as piratical acts.²²

4.2.1.3 Committed on the High Seas

Fundamental to the definition and exercise of jurisdiction over piracy is the place of the offence (*locus delicti*).²³ For an act of violence or depredation to be classified as piracy, the activity must take place on the “high seas” or a “place outside the jurisdiction of any State.”²⁴ In this context, “high seas” includes the contiguous zone and the Exclusive Economic Zone (EEZ),²⁵ while the expression “in a place outside the jurisdiction of any State” contemplates regions such as Antarctica, which is not subject to the jurisdiction of any State.

²¹ Eugene Kontorovich, "A Guantanamo on the Sea: The Difficulty of Prosecuting Pirates and Terrorists," *California Law Review* 98, 2010, pp. 243-76. Chang, "Piracy Laws and the Effective Prosecution of Pirates."

²² UNCLOS Art 101(b)(c).

²³ Robin Churchill and Vaughan Lowe, *Law of the Sea*, Manchester University of Manchester Press, 1999.

²⁴ See generally, Thomas A. Walker, *A History of Law of Nations*, vol. I, Cambridge, Cambridge University Press, 1899.

²⁵ UNCLOS, Articles 55, 58 and 88-115.

A recent decision by the United States Appellate Court, *United States v Ali*, involving the trial of a Somali ransom negotiator for pirates, provided a perceptive interpretation of the scope of the “high seas” requirement for an offence of facilitating piracy.²⁶ In the Court’s view, since the phrase “on the high seas” has been used in Article 101(a) (which covers acts of violence or depredation), but is missing in Article 101(c) (which focuses on inciting or facilitating the crime of piracy), the two sections must be interpreted differently.²⁷ The Court took the view that while the offence of facilitating piracy must be in aid of acts committed on the high seas, the charge of facilitating (or aiding and abetting) is not contingent on the person having physically participated in the crime on the high seas. Rather, it is sufficient that the person has played a role in facilitating the offence.²⁸ This reasoning may be criticised as overstressing the bounds of Article 101,²⁹ but the interpretation is logical, well-grounded and a potent tool for combating piracy networks in a regional and global context.³⁰

4.2.1.4 Private Ship or Aircraft against Private Ship or Aircraft

Another element required for the crime of piracy is what is often referred to as the “ship to ship” rule. This element demands that acts constituting

²⁶ *United States v Ali*. District of Columbia Court 11 June 2013.

²⁷ *United States v Ali*. District of Columbia Court 11 June 2013, p.20.

²⁸ *Ibid.*

²⁹ Jonathan Bellish, *The Possible Unintended Consequences of United States v. Ali*, 10 July 2013, Blog of European Journal of International Law, Available: <http://www.ejiltalk.org/the-possible-unintended-consequences-of-united-states-v-ali/>, 19 September 2013.

³⁰ Jonathan Bellish, *A High Seas Requirement for Inciters and Intentional Facilitators of Piracy: Jure Gentium and Its (Lack of) Implications for Impunity*, Available: <http://ssrn.com/abstract=2226030>, 19 September 2013. Douglas Guilfoyle, *Piracy on dry land: now with added case law*, 5 July 2013, Blog of the European Journal of International Law, Available: <http://www.ejiltalk.org/piracy-on-dry-land-now-with-added-case-law/>, 19 September 2013.

piracy be committed by the crew or passengers of a private ship (or aircraft) against another ship or aircraft. At first glance, this “ship to ship” requirement does not appear to create any difficulties. After all, piracy is a maritime crime and is thus expected to be committed at sea. However, this requirement excludes situations where crew members or passengers hijack a ship on which they are on board. It also excludes attacks committed on offshore installations that do not qualify as a ship.³¹ Examples of these types of hijacking include the *Santa Maria* and *Achille Lauro*. In the case of the *Santa Maria*, her crew mutinied and took control of the ship,³² while the *Achille Lauro* was hijacked by persons who illegally hid within the ship.³³ Both incidents fell outside the definition of piracy, although they posed serious threats to the security and safety of the shipping industry and the crews on board. It also follows that, with the exception of coastal States, the ability of States to invoke jurisdiction over attacks on fixed offshore energy platforms is circumvented, despite the strategic nature of these installations.³⁴ Attempts to cure these jurisdictional gaps led to the Convention for the Suppression of Unlawful Acts Against the Safety of

³¹ Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, New York Cambridge University Press, 2009, pp 254-259.

³² In 1961 the *Santa Maria*, a Portuguese liner carrying over 600 passengers, was seized by several crew members as part of a political agitation. For developments on the mutiny, see “Crew of Santa Maria Threatens Mutiny as Food and water Run Low,” *News Sentinel*, California, 2 February 1961.

³³ On 7 October 1985, members of the Palestine Liberation Front hijacked the Italian cruise ship *Achille Lauro* off the Egyptian coast and demanded the release of Palestinian prisoners held in Israel.

³⁴ Fixed platforms are, however, treated and regulated as ships in certain instances. For example, the International Convention for the Prevention of Pollution from Ships (MARPOL) 1973 treats fixed platforms as ships for the purpose of pollution control. See Chester Brown, “International Environmental Law in the Regulation of Offshore Installations and Sea Bed Activities: The Case for a South Pacific Regional Protocol,” *Australian Resources and Energy Law Journal* 17, 2, 1998, pp. 109-37. Hossein Esmaeili, *The Legal Regime of Offshore Rigs in International Law*, vol. Dartmouth, Ashgate, 2001.

Maritime Navigation, 1988 (SUA 1988) and its Protocols, which will be analysed in the next chapter.

4.2.1.5 Committed for Private Ends

The most problematic element of the crime of piracy is the requirement that the act be committed for “private ends” (*lucri causa*).³⁵ This requirement is problematic for two reasons. First, it is difficult to prove the private motive of a crime. Second, it restricts the scope of piratical acts, such that a person may escape conviction on grounds that the piratical acts were committed for public ends. The *Achille Lauro* incident is a classic example of the difficulty associated with the “private ends” requirement. Assuming the ship to ship requirement had been met, there was still the issue of whether the crime qualified as piracy, since the hijackers were purportedly acting on behalf of the Palestinian Liberation Organization.³⁶

The difficulties associated with the *lucri causa* element are exacerbated by the fact that UNCLOS provides no clarification as to what amounts to “private ends”. And although the expression has been equated with some kind of economic or financial motivation, there is nothing in the wording of Article 101 to suggest that the benefit obtained must be pecuniary in nature.³⁷ Indeed, as Douglas Guilfoyle has argued, the expression

³⁵ Maximo Q. Mejia Jr, "Modern Piracy at Sea: Selected Legal Aspects," *International Proceedings of Economics Development an Research* 48, 21, 2012, pp. 96-100.

³⁶ Malvina Halberstam, "Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety," *American Journal of International Law* 88, 1988, pp. 269-92, p.91.

³⁷ Karen K Clark, "Maritime Piracy: Nature, Impact and Legal Frameworks for Prosecution," *International Journal of Criminal Justice Sciences* 4, 1, 2009, pp. 13-22. Malvina Halberstam, "Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety," *American Journal of International Law* 88, 1988, pp. 269-92.

“private ends” may have been used to echo the expression “private ship” (which is also used in Article 101), and to clarify the fact that piratical acts sponsored by a State do not amount to piracy.³⁸

4.2.2 Armed Robbery at Sea-Nature, Definition and Jurisdiction

In contrast to piracy, the phrase “armed robbery against ships” or “armed robbery at sea” (or simply “sea robbery”), denotes robberies or acts similar to piracy that are undertaken within the territorial sea, internal waters, ports or anchorages.³⁹ Since the sovereignty of coastal States extends to these maritime spaces, jurisdiction over armed robbery against ships comes under the exclusive authority of these States.⁴⁰

Since the crime of armed robbery against ships comes under the exclusive jurisdiction of coastal States, UNCLOS has no provisions dealing with the offence. Therefore, the particular acts that constitute the crime must be expressed in the domestic legal system of coastal States.⁴¹ This has both positive and negative implications. On the negative side, States will have varying and sometimes conflicting approaches to the exercise of jurisdiction which can hamper maritime security

³⁸ Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, New York, Cambridge University Press, 2009, pp. 254-259. See also Alfred P. Rubin, *The Law of Piracy*, Honolulu University Press of the Pacific, 2006.

³⁹ Lawrence Azubuike, "International Law Regime Against Piracy," *Annual Survey of International & Comparative Law* 15, 2010, pp. 43-60.

⁴⁰ UNCLOS, Article 2. See also Article 49 in the case of archipelagic States.

⁴¹ See generally Robin Geiss and Anna Petrig, *Piracy and Armed Robbery at Sea: The Legal Framework for Counter-Piracy*, Oxford, Oxford University Press, 2011.

enforcement.⁴² Conversely, it could be argued that the exclusive jurisdiction of coastal States over armed robbery at sea gives such States the opportunity to enact their own legislation, thus circumventing the difficulties inherent in the definition of piracy under international law. In practice, however, the concept of exclusive jurisdiction has fettered attempts to combat armed robberies against ships. This is because the legislative and enforcement capacity of many coastal States is weak, yet sovereignty considerations proscribe unilateral intervention by other states.⁴³

4.2.3 Implications of the Somali Experience for the Future Development of the Law on Piracy and Armed Robbery at Sea

As alluded to in the last paragraph, international efforts aimed at combating the activities of Somali pirates have been hampered by legal and conceptual challenges.⁴⁴ These challenges have been compounded by the fact that the State of Somalia claims a territorial sea of 200 nautical miles.⁴⁵ Indeed, such action is inconsistent with the 12 nautical miles stipulated by international law, thus adding to the difficulty in

⁴² Martin Murphy, "Piracy and UNCLOS: Does International Law Help Regional States to Combat Piracy", in Peter Lehr, ed. *Violence at Sea: Piracy in the Age of Global Terrorism*, New York,, Routledge, 2007, pp. 155-82.

⁴³ For a discussion on how exclusive jurisdiction over piratical acts in the territorial sea compromises law enforcement and the interests of other states, see James Kraska, *Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy* California Praeger, 2011. Ruwantissa Abeyratne, "The responsibility of Somalia for the acts of the Somali pirates," *Journal of Transportation Security* 2, 3, 2009, pp. 63-76.

⁴⁴ Generally on Somali piracy see, Martin Murphy, *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa*, New York Columbia University Press, 2012.

⁴⁵ Law No. 37 on the Territorial Sea and Ports, of 10 September 1972, available at http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/SOM_1972_Law.pdf, 15 July 2013. See also Tullio Treves, "Piracy, Law of the Sea, and Use of Force: Developments off the Coast of Somalia," *European Journal of International Law* 20, 2, 2009, pp. 399 – 414.

implementing counter-piracy measures. Additionally, the Somali State has been subject to widespread violence and instability for many years, and has often been without a functioning government. As a result, it has not been practically possible for the State to combat acts of piracy and armed robbery.

To obviate the above legal and practical difficulties, the UN Security Council adopted Resolution 1846, granting authority to naval forces to enter Somali territorial waters and use “all necessary means” to repress piracy.⁴⁶ Additional resolutions were also adopted, including Resolution 1851, which permits the pursuit of pirates into Somali land territory.⁴⁷ Though the resolutions do not stipulate specific measures, their scope has been interpreted as including the right to seize and dispose of boats, vessels, arms and related equipment being used by the pirates or robbers, as well as the right to arrest and prosecute such offenders.⁴⁸

In maritime security literature, these resolutions have been described as creating the regime of “reverse hot pursuit”.⁴⁹ Arguably, the resolutions reflect a progressive development in the law on piracy and armed

⁴⁶ See Paragraph 10(a), United Nations, Security Council Resolution 1846(6026th Meeting 2 December 2008).

⁴⁷ Resolution 1851 contained a more robust mandate, authoring interested states to undertake operations within Somali land territory to interdict those using Somali land to plan and facilitate piracy. See United Nations, Security Council Resolution 1851(6046th Meeting. 16 December 2008).

⁴⁸ See Paragraph 10(b) of UNSC Resolution 1846, 26 December 2008.

⁴⁹ Sam Bateman, "UNCLOS and its Limitations as the Foundation for a Regional Maritime Security Regime," *Institute of Defence and Strategic Studies Singapore*, Working Paper 111, April 2006.

robbery against ships.⁵⁰ This view, however, can be rebutted on grounds that the resolutions were meant to address a specific situation, and are not intended to have a wider application.⁵¹ Also, since the resolutions required the permission of the Transitional Federal Government of Somalia, it is possible to argue that the resolutions merely reflect existing principles of international law – namely, the exclusivity of territorial jurisdiction, with the caveat that States have the right to waive their sovereignty and exclusive jurisdiction.⁵² The resolutions may also be construed as an exercise of the authority of the Security Council on matters of peace, rather than a new direction in international law.⁵³ No matter which one of these positions is taken, the fact remains that the Somali resolutions have brought a new dimension to countering piracy and armed robbery against ships, and may be able to be replicated in other situations.⁵⁴

⁵⁰ For views on resolutions as new developments in international law, see Douglas Guilfoyle, "Somali Pirates as Agents of Change in International Law-making and Organization," *Cambridge Journal of International and Comparative Law* 1, 3, 2012, pp. 81-106. Douglas Guilfoyle, *Piracy off Somalia: A sketch of the legal framework*, April 2009, Blog of European Journal of International Law, Available: <http://www.ejiltalk.org/piracy-off-somalia-a-sketch-of-the-legal-framework/>, 16 July 2013.

⁵¹ See for example paragraph 11 of UNSC Resolution 1851, 16 December 2008.

⁵² The counter-argument is that the requirement of prior permission is often inserted in such resolutions merely for political expediency, as the actions of the Security Council under Chapter VII of the UN Charter are enforceable without the consent of the particular State.

⁵³ Articles 25 and 39, Charter of the United Nations, San Francisco 1945. Generally on the effects of Security Council decisions, see Bruce Russett and James Sutterlin, "The UN in a New World Order," *Foreign Affairs*, Spring 1999, pp. 69-83. Jules Lobel and Michael Ratner, "Bypassing the Security Council: Ambiguous Authorizations to Use Force, Cease-Fires and the Iraqi Inspection Regime," *American Journal of International Law* 93, 1, 1999, pp. 124-54. John Quigley, "The "Privatization" of UN Enforcement Action: A Threat to Multilateralism," *Michigan International Law Journal* 17, 1996, pp. 249-84. Ted Galen, ed., *Delusions of Grandeur: The United Nations and Global Intervention*, Washington Cato Institute, 1997. Dan Sarooshi, *The United Nations and the Development of Collective Security*, Oxford Oxford University Press, 1996.

⁵⁴ Elizabeth Andersen, Benjamin Brockham-Hawe and Patricia Goff, *Suppressing Maritime Piracy: Exploring the Options in International Law*, Washington, D.C. American Society of International Law & Academic Council on the United Nations System, 2010.

4.2.4 Institutional Approaches to Piratical Incidents

The International Maritime Organization (IMO) and the International Maritime Bureau (IMB) are the key global institutions whose activities are centred on ensuring the safety and security of ships. Both organisations collate, analyse and publish reports on piracy and armed robbery that are relied on globally for research and policy decisions.

4.2.4.1 International Maritime Organization

The International Maritime Bureau (IMO), previously known as the Intergovernmental Maritime Consultative Organisation (IMCO), was established in 1948 to regulate shipping and navigation safety.⁵⁵ All coastal States in the Gulf of Guinea are members of the IMO.⁵⁶ The IMO adopts the definition of “piracy” provided by UNCLOS, but has also formulated a definition of “armed robbery against ships” which is cast in similar terms to the UNCLOS definition of piracy, except that it only applies to piratical acts landward of the outer limit of the territorial sea.⁵⁷ Notwithstanding the similarity of the two definitions, the IMO maintains separate data on the two crimes and distinguishes between successful attacks and attempted attacks.

⁵⁵ "Convention of the Intergovernmental Consultative Organization," 6 March 1948, 89 UNTS 48. Ademuni-Odeke, *Protection and the Future of international Shipping*, Dordrecht Martinus Nijhoff, 1984.

⁵⁶ IMO, Member States, <http://www.imo.org/About/Membership/Pages/MemberStates.aspx>, 17 July 2013.

⁵⁷ The IMO Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships, adopted pursuant to Resolution A.1025(26), defines "Armed robbery against ships" as any of the following acts: (a) any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea; (b) any act of inciting or of intentionally facilitating an act described above". See IMO, IMO, Resolution A.1025(26) - Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery Against Ships (. 18 January 2010).

Since a definition of “armed robbery against ships” is missing under international law, the IMO’s definition provides an opportunity for member States to adopt a uniform approach to combating the crime. The IMO’s practice of keeping separate information on piracy and armed robbery is equally important for a number of reasons. Since this information is publicly available, a close examination of piracy trends can guide States and the shipping industry to take protective and remedial measures. Logically, the closer the incidents are to the coast of a State, the greater the likelihood that the perpetrators are from that State or have networks in that State.⁵⁸ This will allow coastal States to take steps to arrest the growing piracy rates. Ships traversing the coast or calling into port will also be alerted to take protective measures, while neighbouring States may be better placed to increase their own security capabilities, thus preventing the spread of piracy and armed robbery in the area. Moreover, in a cooperative context, continuous robberies in the territorial sea or port area of a particular State reflect a decline in the enforcement capacity of that State. Therefore, neighbouring States and the global community may assist the State to strengthen its capacity to prevent further threats to global trade.

However, by mirroring the UNCLOS definition of piracy for armed robbery at sea, the IMO has transposed the challenges associated with the legal concept of piracy onto the concept of armed robbery at sea. Thus, member States of the organisation who fail to separate the two

⁵⁸ Section 4.4 of this chapter, however, demonstrates that piratical incidents in the Gulf of Guinea region defy this logic.

concepts may limit their legislative and enforcement jurisdiction for armed robbery.

4.2.4.2 International Maritime Bureau

The International Maritime Bureau (IMB) is a branch of the International Chamber of Commerce (ICC) that provides a wide range of services to the shipping industry, including marine insurance cover and risk analysis.⁵⁹ Despite its private industry character, the IMB plays an important role in facilitating maritime traffic and preventing shipping related fraud. The IMO has recognised the vital role played by the IMB, and in 1981 urged member States of the IMO to cooperate with the IMB in the performance of its functions.⁶⁰

Since 1992, the IMB has monitored piracy and armed robbery offences through a network of reporting points, with the main centre being located in Kuala Lumpur, Malaysia.⁶¹ Compared to the IMO, however, the IMB has a different approach to the definition and reporting of piracy and armed robbery offences. Though the IMB has taken note of the definition of “piracy” in UNCLOS, as well as the definition of “armed robbery against ships” formulated by the IMO, the IMB does not generally distinguish between the two crimes. Indeed, it simply defines piracy as an “act of boarding or attempting to board any ship with the intent to commit theft or any other crime and with the attempt to or

⁵⁹ For details on the IMB, see <http://www.icc-ccs.org/icc/imb>.

⁶⁰ IMO, Resolution A504 (XII) of 20 November 1981.

⁶¹ See IMB Piracy Reporting Centre, <http://www.icc-ccs.org/piracy-reporting-centre>, 22 July 2013.

capability to use force in the furtherance of that act.”⁶² Therefore, although the reports published by the IMB categorise maritime attacks as either “actual” or “attempted” attacks, they treat all incidents as piracy attacks, irrespective of the location of the incident.⁶³

The IMB’s approach of not distinguishing between reported incidents of piracy and armed robbery is problematic, as it confuses the jurisdictional powers of States. Nonetheless, the reports of the IMB, much like those of the IMO, provide a useful analysis of incidents that are relevant for understanding the trends and evolution of piracy. For this reason, the discussion in this thesis relies on the IMO reports as the primary basis for analysis, supported by the IMB reports. It should be noted, however, that because of the varied approaches of the two institutions, there are occasional discrepancies in the reports, especially in the figures showing the total number of attacks.

4.3 OVERVIEW OF PIRACY AND ARMED ROBBERY IN THE GULF OF GUINEA

Although piratical attacks form part of the history of the Gulf of Guinea,⁶⁴ piracy in the region has not been a matter of global concern

⁶² This definition is contained in successive IMB piracy reports. See, for example, IMB, *Piracy and Armed Robbery Against Ships - Annual Report 2009*, p. 3.

⁶³ Dana Dillon, "Maritime Piracy: Defining the Problem," *SAIS Review* 25, 1, 2005, pp. 115-64.

⁶⁴ For example, the Ijaw and Itsekiri groups of present day Nigeria conducted raids against each other’s trading canoes and vessels until the Itsekiri were able to turn the tide between 1890-1900, mobilising over 100 canoes and 20,000 sea fighters. These raids or “piracy” attacks were, however, offshoots of contests between coastal kingdoms to control and influence trade and commerce. See P. C. Lloyd. ‘The Itsekiri in the Nineteenth Century: An Outline Social History’. *The Journal of African History*, Vol. 4, No. 2, 1963, pp. 225-6. See also Ukoha Ukiwo. ‘From ‘Pirates’ to ‘Militants’: A

until recently. Within a short space of time, starting from 2005, the Gulf of Guinea has seen a rising trend in piratical incidents. In terms of total figures, the number of attacks rose from 23 in 2005 to 43 in 2006, peaking at 60 attacks in 2007. For reasons that will be discussed in depth in the next section, the number of incidents decreased to 50 in 2008 and 36 in 2009, but have since swelled to 47 in 2010, 61 in 2011 and 56 in 2012. Table 4.1 shows the frequency of piracy and armed robbery incidents in the region.

Table 4.1: Piracy Statistics in the Gulf of Guinea

	2005		2006		2007		2008		2009		2010		2011		2012	
	Y	X	Y	X	Y	X	Y	X	Y	X	Y	X	Y	X	Y	X
Ship Location																
Beyond	1		5	5	9	3	2	4	7	6	6	4	1	9	1	7
In Territorial	4	1	8		2	5	1	1	1	4	1	4	1	5	8	7
In Port Area	16	1	13		1		2	3	8	2	1	2	1	3	1	3
Steaming/Drift	2		7		13		4		17		20		19		24	
No. Persons																
1-4	14		15		18		18		9		13		9		11	
5-10	3		6		10		9		13		18		16		13	
11 –25			4		10		11		5		8		15		18	
Not Stated	6		7		22		12		4		7		21		14	
Consequences																
Actual	13		22		35		24		20		23		32		36	
Threatened	10		9		25		26		16		24		29		30	
Weapons Used																
Guns	8		13		26		20		16		17		24		23	
Knives	11		12		18		10		8		14		19		18	
Others/Not	2		6		16		20		12		16		18		25	
Type of Ship																
Tanker – Oil,	18		8		29		23		18		22		28		26	
Carrier – Bulk,	12		13		13		11		12		5		12		10	
Offshore	2		7		12		8		3		8		7		8	
Container Ship	1		2		3		8		2		3		4		4	
Fishing Vessel			1								3		3		2	
Total	21	2	26	5	5	8	4	8	3	1	3	1	4	1	3	1
	23		31		60		50		36		47		61		56	

Legend: Committed (Y) and Attempted (X)

Source: Collated by Author from IMO Piracy Reports: 2005-2012

Historical Perspective on Anti-State and Anti-Oil Company Mobilization among the Ijaw of Warri, Western Niger Delta'. African Affairs, Vol. 106, No. 425, p. 592. John Darnton, 'Pirates plying Nigerian Seas', New York Times, 9th January 1977.

It can be seen from the above statistics that piratical incidents are not just limited to port areas and the territorial sea, but also extend to the high seas. Furthermore, the trends reveal that piratical attacks in all three maritime areas are on the increase. Robberies in the territorial sea rose from 5 in 2005 to 31 in 2007. The region recorded only one attack on the high seas in 2005, but this number jumped ten-fold the following year, with the rate of successful attacks on the high seas also increasing. Indeed, as early as 2006 pirates hijacked a Russian oil tanker, *Shkotov*, about 60 nautical miles off Guinea, brandishing automatic rifles and Rocket Propelled Grenades (RPGs).⁶⁵ In March 2011, pirates fired on and damaged the *Star Gamma* 85 nautical miles off Nigeria.⁶⁶ It is important to note that 15 out of 21 high seas attacks in 2012 were successful, and more than half of the total attacks in 2012 were on moving vessels. The situation is even worse than the statistics depict, because unlike other regions, it is thought that only half of the incidents of piracy in the Gulf of Guinea are actually reported by ships' captains and operators, mainly due to fears of reprisal attacks on their next visit.⁶⁷ Notwithstanding the limited reports, since 2009 the Gulf of Guinea

⁶⁵ The IMO report on the attack on the *Shkotov* (Oil Tanker, Russian Federation) gave the following details: the incident took place on 22/05/2006 about 60 nautical miles from Conakry. Two speedboats approached the ship underway and six pirates armed with automatic rifles and RPGs boarded. They held the cook hostage and forced him to take them to the Master's cabin. The pirates disembarked after forcing the Master to surrender about USD\$3,000. IMO, "Reports on Acts of Piracy and Armed Robbery against Ships: Acts reported during May 2006," MSC.4/Circ.87, 20 June 2006.

⁶⁶ *Star Gamma* Bulk carrier Marshall Islands, 20/04/2011, Around 85 NM South of Lagos, Nigeria: Pirates in a skiff chased and fired on the ship underway. Master raised alarm, activated SSAS, sent distress message and increased speed. Ship sustained some bullet marks. Eventually the pirates abandoned the attempted boarding. See IMO, "Reports on Acts of Piracy and Armed Robbery Against Ships: Acts reported during April 2011," MSC.4/Circ.171, 23 May 2011.

⁶⁷ See, page 41 of International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report 2009. See also Neptune Maritime Security, "Analysis - Pirates Eye Share of Gulf of Guinea Riches," July 29, 2011, <http://neptunemaritimensecurity.posterous.com/analysis-pirates-eye-share-of-gulf-of-guinea>, 22 August 2011.

region has been considered the new piracy ‘hotspot’ after Somalia.⁶⁸ Indeed, experts have now stipulated that the area 200 nautical miles from the coastlines of some Gulf of Guinea States constitutes a piracy risk zone.⁶⁹

The above overview shows that Gulf of Guinea piracy is not a localised issue. Indeed, the incidents of attacks are increasing while trends are getting complex. There is therefore a need to have a much deeper understanding of the dynamics. This is examined in the next part of the chapter.

4.4 UNDERSTANDING THE ANATOMY OF GULF OF GUINEA PIRACY

This part analyses the nature and drivers of piratical attacks in the Gulf of Guinea. The first section categorises the Gulf of Guinea region into piracy hotspots and enclaves, the second section examines the immediate factors accounting for the rising threat of piracy in the Gulf of Guinea, while the third section analyses the evolution and spread of piratical attacks in the Gulf of Guinea.

⁶⁸ Peter J. Pham, "Africa's Other Dangerous Waters: Piracy in the Gulf of Guinea " *World defence Review*, 3 December 2009. IMB, *Piracy and Armed Robbery Against Ships - Annual Report 2009*, p. 41. Scott Baldauf, "Pirates take new territory: West African Gulf of Guinea," *The Christian Science Monitor*, 15 January 2010.

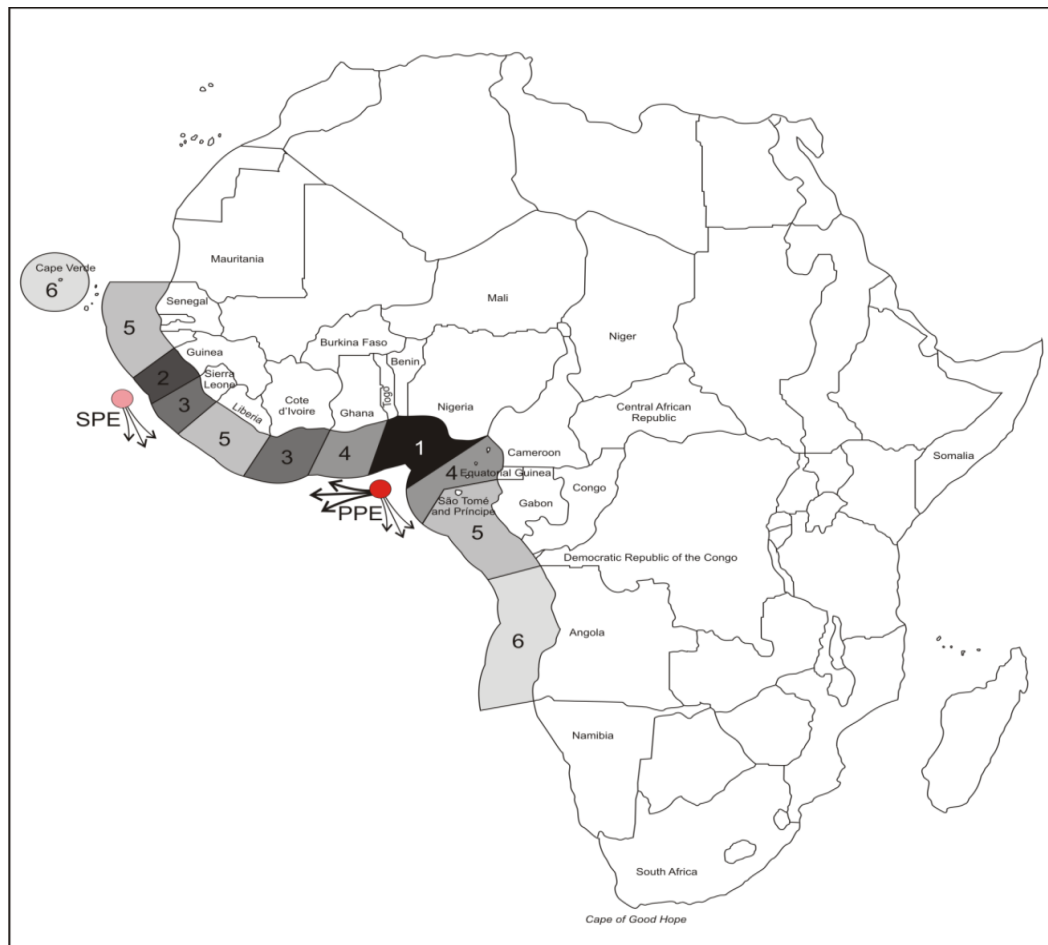
⁶⁹ The Joint War Committee, which specialises in maritime risk analysis, has put the coasts of Benin and Nigeria at the highest level of risk (known as a “war-risk zone”). The risk zone extends 200 nautical miles from the entire coastline of Nigeria and also from parts of the coastline of Benin.

4.4.1 Piracy Hotspots and Enclaves

Although the information in Table 4.1 covers the entire Gulf of Guinea region, two points must be emphasised when explaining the phenomenon of piracy in the region. First, incidents of piracy and armed robbery have not taken place across the whole Gulf of Guinea region between 2005 and 2012. Second, even in areas where high incidents have been recorded, the nature of the attacks, as well as the trends associated with the attacks, have changed with time. It is therefore necessary to categorise the Gulf of Guinea maritime domain into piracy hotspots and enclaves.

The categorisation of certain areas in the Gulf of Guinea as “piracy hotspots” is based on the frequency of incidents and the degree of violence employed in the attacks, while the categorisation of other areas in the region as “piracy enclaves” is based on where pirates are residing or launching their operations. This classification is depicted in Figure 4.1 below, with “1” indicating the most dangerous coast or hotspot, and “6” being the least dangerous area. Primary piracy enclaves are represented by “PPE”, while secondary piracy enclaves are denoted by “SPE”.

Figure 4.1: Gulf of Guinea Piracy Hotspots and Enclaves



Angola and Cape Verde receive category 6 classifications as there are very few reported piratical incidents off the coasts of these States. Moreover, there is a trend towards fewer piracy attacks off the coasts of neighbouring States. Incidents in category 5 States (Democratic Republic of Congo, Congo-Brazzaville, Gabon, Gambia, Ghana, Guinea-Bissau, Liberia, São Tomé and Príncipe and Senegal) include theft from ships in ports and anchorages, as well as occasional robberies in the territorial sea. Attacks off the coasts of Cameroon and Equatorial Guinea have declined substantially since 2009, thus downgrading the piracy risk of these two States from category 3 to category 4. Recent multiple attacks in Cote d'Ivoire have increased the piracy risk of this State to category 3,

with Sierra Leone falling into the same category, but for a different reason. Although Sierra Leone has had fewer piracy attacks off its coast compared to Cote d'Ivoire, the nature of these attacks have been more violent.

Guinea receives a category 2 classification due to the number and severity of attacks taking place. Since 2006 attacks off the coast of Guinea have been characterised by the heavy use of weapons and violence. In May 2006 two ships, *Shkotovo* and *Maersk Belfast*, were attacked at 60 and 25 nautical miles off the coast of Guinea by pirates using automatic rifles and RPGs.⁷⁰ Though the *Shkotovo* was underway, the pirates successfully boarded the ship, showing a high level of sophistication. The *Isola Verde* (an Italian tanker) was boarded by armed robbers whilst underway in November 2009,⁷¹ and *Songa Emerald* (a Marshall Islands tanker) was attacked in February 2010.⁷² More recently, armed pirates attacked the Maltese vessel *Constanza*, anchored 20 nautical miles off Guinea, causing damage to the ship.⁷³ The frequency and similarity of these attacks suggests the existence of a piracy base in

⁷⁰ IMO, "Reports on Acts of Piracy and Armed Robbery against Ships: Acts reported during May 2006." The incident involving *Maersk Belfast*, Chemical tanker - United Kingdom, 02/05/2006, was described as follows: "The chemical tanker drifting 25NM off the port received a VHF call by someone claiming to be from Conakry port. The caller asked the ship to rig the pilot ladder as the pilot was on the way. Soon after, the D/O noticed a grey boat containing five pirates being launched by a mother fishing vessel nearby. The pirates in the boat, armed with automatic weapons and wearing life jackets, pretended to be officials and demanded that the pilot ladder be lowered. As the ship was not expecting to berth until the following day, the Master raised the alarm and the crew activated fire hoses. The boat followed the ship for a while and returned to the mother ship. The Master reported the incident but no action was taken."

⁷¹ IMB, "Piracy and Armed Robbery against Ships - Annual Report 2009," pp. 70-71.

⁷² For details of the attack on *Songa Emerald* and other vessels in 2010, see IMB, "Piracy and Armed Robbery against Ships - Annual Report 2010," pp. 65-70.

⁷³ IMO, "Reports on Acts of Piracy and Armed Robbery against Ships: Acts reported during August 2012 " MSC.4/Circ.188, 29 October 2012.

Guinea and its surrounds, hence the State's classification as a secondary piracy enclave.

Nigeria, together with Benin and Togo, receive a category 1 classification, and are thus the most dangerous coasts in the Gulf of Guinea. However, Nigeria stands out as the epicentre of Gulf of Guinea piracy, and is therefore considered a primary piracy enclave. Indeed, Nigeria alone accounts for 80 per cent of reported piracy incidents in the Gulf of Guinea.⁷⁴ The analysis in section 4.4.3 will demonstrate the transformation of piracy from a specific threat in the Nigerian enclave into a regional threat. To appreciate this evolutionary process, it is important to first provide the context of Gulf of Guinea piracy showing the immediate dynamics that has led to the spate of piratical attacks.

4.4.2 The Paradigm of Gulf of Guinea Piracy

This section provides the answers two important questions: (i) what fundamentally drives piracy, especially in the primary enclave that accounts for over 80 per cent of reported piracy incidents in the Gulf of Guinea?; (ii) who are the primary actors responsible for these activities? Answers to these questions lie in the transmutation of an insurgency into a ravaging piracy network. This is analysed in the following sections.

⁷⁴For details of the frequency and severity of attacks off the Nigerian coast, see IMB, Piracy and Armed Robbery against Ships -Annual Reports 2005-2010. Page 26 of the IMB 2008 Report, which analysed global piracy trends, cited the coast of Nigeria as the area with the second highest number of serious attacks in the world. See also UNODC, "Transnational Organized Crime in West Africa: A Threat Assessment," February 2013, pp. 26-30.

4.4.2.1 The Movement for the Emancipation of Niger Delta

The Movement for the Emancipation of Niger Delta (MEND) is a loose coalition of militant groups that emerged in 2005 in the Niger Delta Region of Nigeria, ostensibly seeking a greater share of oil revenue for the region.⁷⁵ The Joint Revolutionary Council surfaced in 2006 as an umbrella organisation for MEND and other splinter groups;⁷⁶ nonetheless MEND continued to be the most dominant and cohesive of these insurgent groups.⁷⁷ While MEND claims to fight for ‘community’ interests, intense criminality dominates its practical existence and activities.⁷⁸ Indeed, expatriate workers are regularly kidnapped for ransom at each *okrika*, a MEND term representing the area or axis of control of a subunit or splinter group.⁷⁹

At the strategic level, the MEND insurgency gained increasing notoriety for attacks on critical installations in the Niger Delta region, starting with

⁷⁵ Nigeria is a Federal State and the Niger Delta region is made up of a number of Nigerian States including Delta State, Bayelsa State, Endo State, Ondo State and Rivers State. The swampy coastal areas and deep seas bordering the Niger Delta are one of the world’s richest oil and gas regions. John H. Enemugwem, "The Niger Delta of Nigeria: A World Class Oil Region in Africa, 2000-2006," *Africana* June 2012, pp. 166-81.

⁷⁶ The Joint Revolutionary Council (JRC) emerged as an umbrella organisation for MEND, the Niger Delta People’s Volunteer Force (NDPVF), and the Martyrs Brigade. The JRC was used as a platform to claim responsibility for attacks and release public statements. See, “Country briefing - Nigeria: April 2009 to March 2010,” *Janes Terrorism Monitor*, 7 May 2010.

⁷⁷ Stratfor Global Intelligence provides insightful analysis on the genesis and nature of MEND, see, *Nigeria's MEND: A Different Militant Movement* 19 March 2009, Stratfor Global Intelligence, Available: http://www.stratfor.com/analysis/20090316_nigerias_mend_different_militant_movement 16 August 2011. Stephanie Hanson, *MEND: The Niger Delta’s Umbrella Militant Group*, 22 March 2007, US Council on Foreign Relations, Available: <http://www.cfr.org/nigeria/mend-niger-deltas-umbrella-militant-group/p12920>, 2 March 2010.

⁷⁸ Ilufoye S. Ogundiya, "Domestic Terrorism and Security Threats in the Niger Delta Region of Nigeria," *Journal of Social Science* 20, 1, 2009, pp. 31-42.

⁷⁹ *Okrika* is a MEND term used to describe areas of control. Each *okrika* is regarded as semi-autonomous and controlled by a leader or commander. Stratfor Global Intelligence provides insightful analysis on the genesis and nature of MEND, see, *Nigeria's MEND: A Different Militant Movement*

onshore oil pipelines and later offshore oil platforms.⁸⁰ The Federal Government of Nigeria responded with the establishment of a Joint Task Force (JTF) of security agencies to counter the activities of the insurgency. Despite the robustness of the JTF, MEND continued to be lethal, successfully engaging and killing government forces in multiple gun battles.⁸¹ For example, three Navy personnel were missing and feared dead in 2007, nine were killed in June 2008, and three were killed in April 2009.⁸²

4.4.2.2 Rising Threat and Amnesty Pact

After almost four years of insurgent attacks, the Federal Government of Nigeria entered into negotiations with MEND in late 2008, resulting in a formal amnesty proclamation in June 2009.⁸³ This rapprochement was influenced by the increasing threat posed by insurgents to oil security, as epitomised by the successful attack on the *Bonga* Floating Production and Storage and Offloading unit (*Bonga FPSO*) in 2008.⁸⁴ The attack had serious implications for Nigeria, the wider Gulf of Guinea region,

⁸⁰ For a detailed analysis of these attacks, see pages 89-142 Mikhail Kashubsky, "Offshore Petroleum Security: Analysis of Offshore Security Threat, Target Attractiveness, and the International Legal Framework for the Protection and Security of Offshore Petroleum Installations," University of Wollongong, PhD Thesis 2011.

⁸¹ See, "Country briefing - Nigeria: April 2009 to March 2010," *Janes Terrorism and Security Monitor*, 7 May 2010. Arild Nodland, "Guns, Oil, and 'Cake': Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes and David Rosenberg, eds. *Piracy and Maritime Crime: Historical and Modern Case Studies*, Newport, Naval War College Press, 2010, pp. 191-206.

⁸² "NIGERIA: 3 Naval Men Feared Killed by MEND," *IntelliBrief*, 7 April 2007. "Nine Nigerian navy members killed in fresh attack," AFP, 10 June 2008. "3 Nigerian navy soldiers killed, 2 gunboats captured," *Panapress*, 3 April 2009.

⁸³ The First Amnesty Proclamation was issued on 25 June 2009. See Oscar E. Ubhenin, "The Federal Government's Amnesty Programme in the Niger-Delta: An Appraisal," *Yönetim Bilimleri Dergisi* 21, 1, 2013, pp. 179-203.

⁸⁴ For a detailed analysis of the *Bonga* incident and its effect on global energy and insurance industries, see, Mikhail Kashubsky, "Offshore Energy Force Majeur: Nigeria's local Problems with Global Consequences" *Maritime Studies*, May-June 2008, pp. 20-26.

and beyond. The *Bonga* attack marked a highpoint in a series of threats to energy security in the Gulf of Guinea, and represents a new chapter in global asymmetric threats.

Indeed, excluding the attack on the *Aban VII* off the coast of India in 2006,⁸⁵ the Gulf of Guinea has recorded the highest number of attacks against offshore platforms in the world, with all such attacks taking place off the coast of Nigeria.⁸⁶ The *Bulford Dolphin*, a mobile drilling rig, was attacked in April 2007 by insurgents.⁸⁷ In May 2007 the *Mystras* was also attacked, and three days later *Trident VIII* was targeted.⁸⁸ In addition to the physical damage and personal injury inflicted by the insurgents, these incidents impact on the operation of the platforms themselves.⁸⁹ The attack on the *Mystras* was indeed very significant, as it marked the second FPSO attack in two years.

⁸⁵ The *Aban VII* was located outside the territorial sea of India and was boarded by pirates in 2006. IMB, "Piracy and Armed Robbery Against Ships - Annual Report 2006," pp. 53.

⁸⁶ Kashubsky, "Offshore Petroleum Security: Analysis of Offshore Security Threat, Target Attractiveness, and the International Legal Framework for the Protection and Security of Offshore Petroleum Installations." p. 35.

⁸⁷ The *Bulford Dolphin* (Singapore) was attacked on 1/4/2007, 64 kilometers off the Nigerian coast. The kidnapped worker was released 4 days later. See p. 66, IMB, "Reports on Piracy and Armed Robbery Against Ships - Annual Report 2007." The IMB report identifies the name of the rig as *Bueford Dolphin*, but the author's research (which included a review of the IMO annual report for 2007, MSC.4/Circ.115 10 April 2008), has confirmed that the correct name of the rig is *Bulford Dolphin*.

⁸⁸ The *Mystras*, a FPSO, was attacked on 3/5/2007, whilst the *Trident VIII*, a mobile offshore drilling rig, was attacked on 05/05/2007. In both cases people were kidnapped. IMO, Reports on Acts of Piracy and Armed Robbery against Ships - Annual Report 2007 (MSC.4/Circ.115. 10 April 2008). See also page 67, IMB, "Reports on Piracy and Armed Robbery Against Ships - Annual Report 2007."

⁸⁹ S Bajpai and Jai Gupta, "Securing Oil and Gas Infrastructure," *Journal of Petroleum Science and Engineering* 55, 2007, pp. 174-86.

These incidents boosted the confidence of the insurgents, culminating in the attack on the *Bonga* FPSO in June 2008 – a major hub of the oil giant Royal Dutch Shell – about 120 kilometres offshore.⁹⁰ After the incident, Nigeria's oil production dropped to the lowest in 25 years, whilst global oil prices soared.⁹¹ The *Bonga* incident also heightened global fears that even deep-sea energy installations were not safe from insurgent and terrorist activities.⁹² In a statement released after the attack, MEND affirmed that their grand objective was to disable oil export operations, describing the attack as a humiliating security breach for the Nigerian Military and warning that their "next visit [would] be different."⁹³ Soon after, the Nigerian Government and MEND group leaders came to the negotiation table and an amnesty pact was entered into. The arrangement involved insurgents laying down their weapons in return for monthly allowances and skills training.⁹⁴ However, some commentators have opined that members of the insurgent leadership were accommodated in

⁹⁰ Offshore Technology, *Bonga Deepwater Project, Niger Delta*, Available: <http://www.offshore-technology.com/projects/bonga/>, 18 August 2011. For a detailed analysis of the *Bonga* incident and its effect on global energy and insurance industries, see Mikhail Kashubsky, "Offshore Energy Force Majeur: Nigeria's local Problems with Global Consequences " *Maritime Studies*, May-June 2008, pp. 20-26.

⁹¹ Alexander Kwiatkowski and Julie Ziegler, *Shell Shuts Nigeria's Bonga Oil Field After Attack* 19 June 2008, Available: <http://www.odac-info.org/node/2954>, 18 August 2011. Jeff Veil, *Nigeria - The Significance of the Bonga Offshore Oil Platform Attack*, 24 June 2008, *The Oil Drum*, Available: <http://www.theoil Drum.com/node/4196>, 12 August 2011.

⁹² On threats to offshore energy, see Mikhail Kashubsky, *Protecting Offshore Oil and Gas Installations: Security Threats and Countervailing Measures*, August 2013, *Journal of Energy Security*, Available: http://www.ensec.org/index.php?option=com_content&view=article&id=453:protecting-offshore-oil-and-gas-installations-security-threats-and-countervailing-measures&catid=137:issue-content&Itemid=422, 2 January 2014.

⁹³ See "Observing the Offshore "Bonga" Attack," *Information Dissemination*, 27 June 2008, <http://www.informationdissemination.net/2008/06/observing-offshore-bonga-attack.html>, 5 September 2013.

⁹⁴ Ordinary members of the insurgency were to receive approximately \$400 a month. This amount exceeds the monthly income of most public sector workers in Nigeria and in the region generally. See International Crises Group, "The Gulf of Guinea: The New Danger Zone " *Africa Report No. 196*, 12 December 2012.

luxurious hotels alongside high-ranking politicians and influential people, all while arrangements were being made for them to receive juicy financial ‘pay-offs’.⁹⁵

The amnesty led to the demobilisation of insurgent forces and the organisational structure of MEND, as well as a decline in its activities, starting from the latter part of 2008.⁹⁶ Interestingly, in the same period piracy attacks in the Gulf of Guinea decreased from a high of 60 incidents in 2007 to 50 incidents in 2008, reaching a low of 36 cases in 2009 (as shown in Table 4.1).⁹⁷ A review of piracy reports of the International Maritime Bureau (IMB) for 2009 and 2010 showed that there were few or no occurrences of piratical incidents in the last and first quarter of 2009 and 2010 respectively.⁹⁸ However, the amnesty arrangement became tenuous thereafter, partly because the amnesty

⁹⁵ Insurgent leaders reportedly lived in the executive suite of Abuja’s Hilton hotel for months, regularly meeting and dining with politicians and influential people. In 2011, former insurgent leaders Ekpumopolo and Dokubo-Asari allegedly received \$US22.9 million and \$US9 million respectively from the Nigerian National Petroleum Company (NNPC) as an annual payment for offering protection to critical oil infrastructure. See Drew Hinshaw, *Nigeria's Former Oil Bandits Now Collect Government Cash* 22 August 2012, Wall Street Journal, Available: <http://online.wsj.com/news/articles/SB20001424052702304019404577420160886588518>, 2 January 2014.

⁹⁶ Between 1 April 2009 and 31 March 2010, Jane's Terrorism and Insurgency Centre (JTIC) recorded 75 successful attacks in Nigeria, an average of 6.3 attacks per month. In late June, the Nigerian Federal Government launched an amnesty programme with MEND. By August, attacks had decreased, with many militants embracing the amnesty programme, including some senior commanders. See Jane’s Terrorism and Security Monitor, “*Country briefing - Nigeria: April 2009 to March 2010*” 7 May 2010.

⁹⁷ See also IMB, *Piracy and Armed Robbery Against Ship Annual Report 2009*, pp. 31-33. Only three attacks occurred between April and June 2009. This period coincides with the commencement of the amnesty arrangement. Then, between October and November 2009 there were 7 recorded attacks. Although this figure is low compared to the same period the previous year, it shows that the number of attacks started to rise by the close of the year due to dissatisfaction and frustration within MEND. Indeed, it has been proposed that around this time younger insurgents began accusing senior commanders of corruption and betrayal.

⁹⁸ IMB, *Piracy and Armed Robbery against Ships Annual Report 2010*, pp. 97-98.

‘cake’ had not been divided between all actors (and certainly not in sizes that were satisfactory to all members of the insurgency).⁹⁹ Splinter groups thus announced an intention to resume normal campaigns,¹⁰⁰ and once again piracy attacks became prevalent for the remainder of 2010. By the close of 2011, the Gulf of Guinea had recorded 61 piracy incidents, a sharp contrast to the low figures of 2009.

4.4.2.3 Insurgency, Criminality, Piracy and Security Complex

The above analysis, as well as the discussion in the next section, gives credence to the fact that the creeks of the Niger Delta region harbour dangerous pirates that threaten the security of sea lines of communication in the Gulf of Guinea. Components of MEND that are no longer pursuing their normal activities – such as attacking offshore oil platforms, kidnapping offshore workers for ransom and extorting money from oil companies, have turned to piracy as their principal criminal activity. This insurgent-piracy is symptomatic of the nexus that often exists between different kinds of organised crimes.¹⁰¹ In the case of the Gulf of Guinea, however, piracy is committed with impunity, and rather than remaining in a symbiotic relationship, insurgents have fully transformed into pirates.

⁹⁹ Arild Nodland, "Guns, Oil, and 'Cake': Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes and David Rosenberg, eds. *Piracy and Maritime Crime: Historical and Modern Case Studies*, Newport, Naval War College Press, 2010, pp. 191-206.

¹⁰⁰ See, "MEND Threatens 'onslaught' on Nigerian Oil Trade," *Jane's Terrorism and Security Monitor*, February 2010. See also "MEND Threatens more Violence " *Jane's Terrorism and Security Monitor*, October 2010.

¹⁰¹ John T. Picarelli, "The Turbulent Nexus Of Transnational Organised Crime And Terrorism: A Theory of Malevolent International Relations," *Global Crime* 7, 1, 2006, pp. 1-24. Chris Dishman, "Terrorism, crime and transformation," *Studies in Conflict and Terrorism* 24 1, 2001, pp. 43-58

While noting that piracy is crime and must be treated as such, it is still essential to investigate the broad scope of actions and complexities surrounding the piracy threat. It may for instance be argued that the Niger Delta piracy represents a trade-off of one element of security for another. The lessons of history are replete with examples of States adopting a range of policy options (including partnerships), that they would not have made but for their need to safeguard against a particular threat.¹⁰² It has been posited, for example, that in the fight against piracy in Somalia, Western States (including the United States), initially refrained from adopting robust measures against the leadership of some Somali clans¹⁰³ who were known to be key sponsors of piracy.¹⁰⁴ Indeed, this was to prevent the disintegration of the authority and organisational structure of these clans, which would otherwise have created an exploitable power vacuum for the al-Shaabab islamist militants. Indeed, this example reflects the balancing of maritime security interests with broader security and strategic concerns.

At any point in time, much so prior to the amnesty process, the Niger Delta insurgency posed threat to five critical security interests: the national security of Nigeria, the investment security of oil companies,

¹⁰² David Pilling, *US and Pakistan odd bedfellow in 'war on terror'*, 11 May 2011, Financial Times, Available: <http://www.ft.com/cms/s/0/1f26fc5e-74a9-11e0-8988-00144feabdc0.html#axzz1WlhdCDq8>, 12 August 2011.

¹⁰³ The clans are the Hawiye (southern coast), Darod (in Puntland), Ishaak (in Somaliland) and the Rahanwen (in the south). These clans account for some 85 percent of the population. See, Raymond Gilpin, "Counting the Costs of Somali Piracy," *United States Institute of Peace*, June 2009, http://www.usip.org/files/resources/1_0.pdf, (accessed 5 August 2011). See also The International Expert Group on Piracy off the Somali Coast, Final Report, November 2008.

¹⁰⁴ Raymond Gilpin, "Counting the Costs of Somali Piracy," *United States Institute of Peace*, June 2009, http://www.usip.org/files/resources/1_0.pdf, (accessed 5 August 2011).

global energy security, regional security, and finally, the security of shipping. These five segments of security are in many ways interlinked. Insurgent activities impact negatively on Nigeria's economic interests and stability, which are key components of national security. Insurgent attacks equally threaten the investment interests of oil companies, as well as global energy security, the safety and security of shipping, and regional stability. In the case of Nigeria, safeguarding national security becomes paramount following incidents such as the *Bonga* attack, with the security of shipping a lesser concern. Oil companies initially secured their investment interests by succumbing to the extortion attempts of insurgent groups.¹⁰⁵ The amnesty arrangement then became an assurance, albeit a temporary one, of Nigeria's national security, oil investment security, and by extension, Nigeria's oil contribution to global energy security. In an effort to protect these security interests, regional security and the security of shipping are left in peril. This situation may be regarded as unintended, or viewed as Nigeria sacrificing one element of security interest for the other. Indeed, as far as the shipping industry was concerned Nigeria had "no political will to combat the problem of piracy."¹⁰⁶ Although this statement is open to varying interpretations, the shipping community was most likely expressing the view that there was a political nexus to the increasing piratical attacks. The analysis in the next section demonstrates how the Niger Delta piracy has evolved into a regional threat.

¹⁰⁵ Anna Dunin, *The Niger Delta: Where Oil is a Curse* 8 August 2011, Geopolitical Monitor, Available: <http://www.geopoliticalmonitor.com/the-niger-delta-where-oil-is-a-curse-4435> 22 August 2011. See also Dennis Naku, *MEND Calls for Probe of Amnesty Committee* 10 June 2011, allAfrica.com, Available: <http://allafrica.com/stories/201106100863.html> 22 August 2011.

¹⁰⁶ The Director of IMB remarked in 2009 that "unlike Somalia, Nigeria has an effective government and the strongest Navy in the region. What is worrying is that there appears to be no political will to combat the problem of piracy off their waters and coast." IMB, *Piracy and Armed Robbery against Ships - Annual Report 2009*, p.41.

4.4.3 Evolution of Insurgent-Piracy from the Primary Piracy Enclave into a Regional Threat

This section will examine the evolution of the Niger Delta insurgency from its origins as a primary piracy enclave (PPE) into a regional piracy threat. This evolution encompasses not only changes in time and space, but also in tactics, trends and transnational dimensions. As in many instances of criminal morphing, the exact dates of the transitions are difficult to pinpoint, but the patterns are nonetheless discernible. The sections that follow summarise the evolution of piracy in eight stages – beginning in 2005 and concluding with the hijacking of the *Orfeas* in October 2012.¹⁰⁷

4.4.3.1 Opportunistic Piracy

The first phase of Gulf of Guinea piratical attacks may be described as “opportunistic piracy.” This taxonomy applies to piracy incidents up until 2005, but also extends to attacks as recent as 2007. Two-thirds of attacks during this period took place in ports and anchorages, interspersed with robberies in the territorial sea.¹⁰⁸ It needs to be emphasised that the description of this phase as “opportunistic” is not based on the capability of the actors, but rather relates to sea robbery as a subsidiary activity. The attention of insurgents during this period was on attacking offshore platforms, extorting money from oil companies and

¹⁰⁷The *Orfeas* is an oil tanker that was successfully hijacked by pirates off Cote d’Ivoire. It was held for two days, sailed near the Niger Delta region and its refined oil cargo was siphoned. IMO, Reports of Acts of Piracy and Armed Robbery Against Ships-Acts Reported During October 2012 (MSC.4/Circ.190. 21 January 2013).

¹⁰⁸ See IMB, Piracy and Armed Robbery Against Ship Annual Reports 2005-2008.

kidnapping expatriate workers for ransom. However, ships were also hijacked and crews kidnapped for ransom.

Piracy reports during this period indicated that attacks in the region would be dominated by gangs of hijackers using speedboats and armed with heavy weapons. The use of speedboats can be contrasted with Somali piracy, where fishing vessels and skiffs are the principal platforms.¹⁰⁹ In 2006 four crew members of the *Northern Comrade* (a Norwegian Tug) were kidnapped for ransom.¹¹⁰ In May 2007 over forty people armed with guns in six speedboats attacked the *Dlb Cheyen*. The Nigerian military engaged the pirates in a shootout, but the pirates nevertheless kidnapped the crew of the ship.¹¹¹ In the same month another ship, the *Oloibiri*, was attacked using explosives and its crew were again kidnapped for ransom.¹¹² It is clear from these incidents that in hijacking ships, the *modus operandi* of insurgent groups was to kidnap expatriate oil workers on land and offshore for ransom. Moreover, the level of professionalism exhibited by the pirates clearly precludes the possibility that such attacks were perpetrated by members of impoverished coastal communities.

¹⁰⁹ On Somali piracy tactics, see Martin Murphy, *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa*, New York, Columbia University Press, 2012.

¹¹⁰ IMO, Reports on Acts of Piracy and Armed Robbery Against Ships - Acts Reported during August 2006(MSC.4/Circ.91. 11 September 2006).

¹¹¹ The *Dlb Cheyen* was attacked on 08/05/2007, 10km off Escravos, Delta State Nigeria. See IMO, Reports on Acts of Piracy and Armed Robbery Against Ships - Acts Reported during May 2007(MSC.4/Circ.103. 9 July 2007).

¹¹² IMO, Reports on Acts of Piracy and Armed Robbery Against Ships - Acts Reported during May 2007(MSC.4/Circ.103. 9 July 2007).

4.4.3.2 Widening the Enclave

In the same the period, and up to until 2009, there were signs of another trait emerging in Gulf of Guinea piracy. Unlike Somalia, where pirates set out hunting for victim ships,¹¹³ pirates in the Gulf of Guinea undertake calculated attacks by converging on locations of interest. Attacks by insurgents during this period expanded beyond the South and West coasts of Nigeria, with westerly swarms targeting vessels off the coast of Benin, while those to the south targeted ships beyond the neighbouring coast of Cameroon.

In 2008 ten armed men in military clothing boarded the *Elbia*, a cement carrier off the Island of Bioko in Equatorial Guinea. The men identified themselves as Nigerian rebels, demanded food from the ship's crew, and after six hours on board disembarked into speedboats.¹¹⁴ In the same year, heavily armed pirates with RPGs kidnapped the crew of a French tug off the coast of Cameroon.¹¹⁵ The 2008 IMB Piracy Report referred to these pirates as "Nigerian rebels," "Nigerian militants" and "Protectors of the Bonny River."¹¹⁶ It is equally instructive that the President of Equatorial Guinea, in alerting the international community

¹¹³Research focusing on Somali piracy has identified seven phases involved in piracy operations. They are: (i) reconnaissance and information gathering; (ii) coordinated pursuit; (iii) boarding and takeover; (iv) steaming to safe area; (v) negotiations; (vi) ransom payment; and (vii) disembarkation and safe passage. Pirates in the Gulf of Guinea, however, operate differently, though some of the tactics and phases may be similar. See Raymond Gilpin, "Counting the Costs of Somali Piracy," *United States Institute of Peace Working Paper*, June 2009, p. 5. http://www.usip.org/files/resources/1_0.pdf, 5 August 2011. Roger Middleton, "Piracy in Somalia: Threatening Global Trade, Feeding Local Wars," *Chatham House Briefing Paper*, October 2008, 5.

¹¹⁴ The *Elbia* was boarded on 31/01/2008, (03° 12.00' N 008° 36.00' E), Equatorial Guinea off Bioko Island. IMB, "Piracy and Armed Robbery Against Ships - Annual Report 2008," pp. 62- 63.

¹¹⁵ IMB, Piracy and Armed Robbery against Ships - Annual Report 2008, p. 28.

¹¹⁶ IMB, Piracy and Armed Robbery against Ships - Annual Report 2008, pp. 62-69.

to this new piracy threat in the region, made specific reference to the “growing number of attacks by rebels and smugglers.”¹¹⁷

The point to note is that these surges signalled the ability of insurgents to extend the intensity and scope of their activities. This was demonstrated by the alleged involvement of Niger Delta insurgents in a sea-borne attack targeting the Presidential Palace of Equatorial Guinea in February 2009.¹¹⁸ The incident was the catalyst for the establishment of a sub-regional maritime security framework by member States of the Economic Community of Central African States (ECCAS).¹¹⁹ Despite the challenges confronting the ECCAS maritime framework,¹²⁰ it nonetheless weakened the southern surges of rebel forces, resulting in fewer piracy attacks in the southern segment of the Gulf of Guinea.

4.4.3.3 The Pursuits and Violence

In 2009 insurgent piracy tactics evolved once again. Pirates started hunting and attacking vessels, albeit selectively, and often with a high incidence of violence. Once a high value target was identified, gangs of pirates in speedboats would shadow the vessel further out to sea, and at the most vulnerable location the vessel would be violently attacked.

¹¹⁷ See, *Equatorial Guinea Warns U.S. and Europe Not to Ignore Growing Security Threat in Gulf of Guinea*, 15 October 2009, U.S. Newswire, Available: <http://www.prnewswire.com/news-releases/equatorial-guinea-warns-us-and-europe-not-to-ignore-growing-security-threat-in-gulf-of-guinea-64412887.html>, 10 December 2010. See also, Afrol News, *Growing Piracy in Gulf of Guinea* 16 October 2009, Available: http://www.ocnus.net/artman2/publish/Dark_Side_4/Growing-Piracy-in-Gulf-of-Guinea.shtml 22 August 2011.

¹¹⁸ See *Africa Research Bulletin* 18155, 16 February-15 March 2009.

¹¹⁹ See Chapter 6 of this thesis.

¹²⁰ See Chapter 6 of this thesis.

These types of attacks ensured quick outcomes, while at the same time compensating pirates for the absence of sanctuaries where vessels could be kept during ransom negotiations.¹²¹ A review of the IMB Piracy Report for 2009 gives startling accounts of violence. In February 2009 grenades were thrown at an oil tanker (the *Front Chief*) killing a crew member, while the crews of other vessels including the *Emirates Swam*, the *Sevastopolskaya* and the *Buhta* suffered serious injuries during similar attacks.¹²² These incidents parallel Gulf of Guinea historical records which show that pirates employ violence and killing to sustain their operations.¹²³

4.4.3.4 Full Scale Insurgent-Piracy

The transition from insurgency into full-scale piracy is a post-amnesty phenomenon. Indeed, following insurgent disengagement from the amnesty deal in 2010,¹²⁴ attacks have become more prevalent, resulting in a higher number of reported incidents between 2010 and 2013.¹²⁵ Indications of these brazen attacks include the chasing of, and firing

¹²¹ Puchala sees sanctuaries as very important for sustained piracy activity. Donald J. Puchala, "Of Pirates and Terrorists: What Experience and History Teach," *Contemporary Security Policy*, 26, 1, 2005, 1-24 at p. 7.

¹²² IMB, "Piracy and Armed Robbery Against Ships - Annual Report 2009," pp. 66-72.

¹²³ Alexander O. Exquemelin, *The Buccaneers of America* Annapolis, MD Naval Institute Press, 1993, p. 263-274. See also, Neil Renwick and Jason Abbot, "Piratical Violence and Maritime Security in Southeast Asia " *Security Dialogue* 30, 2, 1999, pp. 183-96.

¹²⁴ "MEND Threatens 'onslaught' on Nigerian Oil Trade," *Jane's Terrorism and Security Monitor*, February 2010. See also "MEND Threatens more Violence" *Jane's Terrorism and Security Monitor*, October 2010.

¹²⁵ For example, on 2/7/2010 the *MV BBC Polonia* (Antigua) was attacked whilst underway off Port Bonny, Nigeria. The pirates kidnapped 11 crew members who were released two days later. It is believed that a ransom was paid. See also attacks on *Argo* (Lithuanian) and *North Spirit* (St Vincent & Grenadines) where a ransom is believed to have been paid. See pages 27 and 66 of International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report 2010.

upon, the *Elbtank Germany* for over an hour, as well as the shadowing of *Cape Bon* for two days in both February and March 2011.¹²⁶

4.4.3.5 Mother ships and Oil Cargo

As piracy itself has become a primary activity, as opposed to a corollary of another exploit, Gulf of Guinea pirates have devised new measures to boost their exploits. Indeed, a variant of the “mother ship” concept has emerged, with pirates hijacking fishing vessels to store fuel for extended operations, similar to Somali piracy methods. But in the case of the Gulf of Guinea, this technique has largely been a deception measure, allowing pirates to get close to target vessels without arousing suspicion. In April 2011, pirates using skiffs chased and fired at the *Star Gamma* about 85 nautical miles off Nigeria.¹²⁷ And a month earlier an oil tanker was approached three times by suspected pirates in a fishing vessel.¹²⁸

Furthermore, as pirates are seeking higher and quicker returns, oil tankers (and particularly those that carry refined oil), have become prime

¹²⁶ *Elbtank Germany*, Chemical tanker (Liberia), attacked on 10/02/2011, 00:45 LT, Approx. 50NM Off Lagos, Nigeria. Pirates attempted boarding using a heaving line attached to a hook. The Master raised alarm, activated SSAS alert, increased speed and took evasive manoeuvres. They fired and pursued for about one hour before abandoning the chase. IMO, Reports on Acts of Piracy and Armed Robbery Against Ships February 2011 (MSC.4/Circ.168 14 March 2011). *Cape Bon* - Oil tanker, Marshall Islands, 21/03/2011, Pirates in a fishing trawler approached the ship underway over two days. Master changed direction many times and increased speed. Eventually pirates abandoned attempted boarding. IMO, Reports on Acts of Piracy and Armed Robbery Against Ships March 2011(IMO, MSC.4/Circ.170 14 April 2011).

¹²⁷ *Star Gamma* Bulk carrier Marshall Islands, 20/04/2011, Around 85 NM South of Lagos, Nigeria - Pirates in a skiff chased and fired on the ship underway. Master raised alarm, activated SSAS, sent distress message and increased speed. Ship sustained some bullet marks. Eventually the pirates abandoned the attempted boarding. IMO, "Reports on Acts of Piracy and Armed Robbery Against Ships: Acts reported during April 2011."

¹²⁸ *Irene Theresa* Oil tanker, Marshall Island, 26/03/2011 Lome, Togo, Robbers in a fishing vessel and speed boats approached the ship on three occasions in one hour. Master raised alarm, notified port control and moved the ship 70 NM off shore and crew used fire hoses. Robbers moved away (IMO, MSC.4/Circ.170 11 April 2011). .

targets.¹²⁹ The cargo is invariably siphoned into smaller tankers - a novel method of assisting piracy vessels, and then sold illegally within and outside the Gulf of Guinea.¹³⁰

4.4.3.6 Regional Threat and Piracy Networks - Invasion of Benin's Coast

The regional threat of piracy first became apparent following multiple attacks off the coast of Benin in June and July 2011. Of course, piratical incidents off the coast of Benin are by no means new,¹³¹ but unlike earlier cases, the June-July attacks represent an invasion of Benin's coastal space. When these incidents (which are reproduced in Table 2 below), are compared to the piracy profile analysed in the last part of this chapter, it is clear that Nigerian pirates have expanded the scope of their activities to the coast of Benin.

¹²⁹ The majority of vessels targeted in 2012 in the Nigerian and neighbouring coasts were tankers, see IMB, "Piracy and Armed Robbery Against Ships Annual Report 2012 ". See also International Crises Group, "The Gulf of Guinea: The New Danger Zone," *Africa Report 195*, 12 December 2012, pp. 13-14.

¹³⁰ Patrick Dele Cole, a politician from the oil-rich Niger Delta region, has stated that 90% of the oil stolen from tankers is being shipped out of the country illegally, see Ghana Oil Watch, *Stolen Nigeria oil 'goes to Balkans and Singapore*, 23 October 2012, Available: http://ghanaoilwatch.org/index.php/ghana-oil-and-gas-news/2754-stolen-nigeria-oil-goes-to-balkans-and-singapore?utm_medium=twitter&utm_source=twitterfeed#.UIb50O7G828.facebook, 1 December 2012. Christina Katsouris and Aaron Sayne, "Nigeria's Criminal Crude: International Options to Combat Export of Stolen Oil," *Chatham House*, September 2013.

¹³¹ See, IMB, Piracy and Armed Robbery Against Ships – Annual Report 2010, p. 27 and 71.

Table 4.2 Piratical Attacks off the Coast of Benin – June and July 2011

Date	Ship	Description of Incident	Location
08/06/11	<i>Aristofanis</i> Chemical tanker Liberia	Armed robbers hijacked the ship at anchor and forced the crew to sail to an unknown location. Crew members were forced to discharge part of the cargo of the ship into another vessel. The robbers stole the ship's property and escaped.	Port
14/06/11	<i>New Ranger</i> Chemical tanker Malta	Robbers hijacked the ship at anchor and forced the Master to sail to an unknown location. The robbers stole the ship's property and escaped	Territorial Sea
24/06/11	<i>Paterna</i> Chemical tanker Malta	Twelve armed pirates hijacked the ship, taking all crew members hostage. The pirates sailed the ship to an unknown location, harassed the crew, then stole the ship's cash and property before escaping	High Seas
24/06/11	<i>Sp Atlanta</i> Tanker Marshall Islands	Ten 10 robbers armed with guns and knives in a speed boat approached the ship at anchor. Four robbers boarded and stole the ship's cash and the crew's personal belongings. Some crew members were threatened while others were beaten	Territorial Sea
24/06/11	<i>Silvaplana</i> Tanker Greece	Four robbers in a speed boat boarded the ship during ship-to-ship operations. They captured the 2 nd engineer and the Master and beat them. They also stole the ship's property and the crew's personal belongings before escaping	Territorial Sea
30/06/11	<i>Freja Hafnia</i> Product tanker Singapore	Armed robbers in a speed boat boarded the ship during ship-to-ship operations. The robbers stole the ship's property and the crew's personal belongings	Territorial Sea
06/07/11	<i>Varg Star</i> Tanker Bahamas	Ten robbers armed with guns attempted to board the ship at anchor using a hook attached to a rope. Alert crew raised the alarm. Master sent Mayday message via VHF and informed Cotonou signal station and the Navy. The next day the same robbers attempted to board the ship. The crew were alerted and parachute flares were fired. The pirates escaped	Territorial Sea
16/07/11	<i>Aegean Star</i> Product tanker Liberia	Armed robbers in a boat boarded the ship at anchor. The robbers remained on the ship for 63 hours. Some crew members were injured. The robbers stole the ship's cargo and damaged navigation and radio equipment	Port
24/07/11	<i>Rbd Anema E Core</i> Product tanker Italy	Armed pirates hijacked the ship during ship-to-ship operations, taking 23 crew members hostage	High Seas
31/07/11	<i>Gotland Sofia</i> Chemical tanker Bahamas	Ten robbers armed with guns boarded the ship at anchor during ship-to-ship operations. The robbers fired towards the bridge. The crew retreated to the engine room until the robbers left the vessel.	Territorial Sea

Source: IMO Piracy Reports June and July 2011 (MSC.4/Circ.173, 11 July 2011 and MSC.4/Circ.174, 8 August 2011)

Two significant trends have emerged from the incidents above, the first of which defies normal risk analysis regarding the safety and security of ships. It is customary for ships in port areas to be shielded from violent piratical activities, and crews in these areas will normally lower their security threshold, risking only minor robberies and minimal violence usually perpetrated by intrastate criminals. However, the description of incidents in Table 4.2 challenges that assumption, with pirates actively entering port areas to hijack vessels. In the case of the *Aristofanis*, the tanker was subsequently sailed to open seas where its cargo was discharged onto another vessel.

The second piracy trend that has emerged from Benin is the growing network of transnational criminals in the Gulf of Guinea. This is evident from the report on the hijacking of the *Duzgit Venture* in April 2011, as reported in the IMB Annual Piracy Report. Fourteen pirates in two boats boarded the tanker underway, took control of the vessel and ordered the Master to sail to Gabon. The captain was forced to sail the vessel all the way to the coast of Gabon, where the pirates planned to transfer the oil onto a barge. Having failed to meet with the barge, the captain was forced to sail off Warri, Nigeria, to lighten the cargo. After a series of unsuccessful attempts to get a vessel to transfer the cargo, the pirates disembarked into fast boats, kidnapping the captain and another crew member.¹³²

¹³² IMB, "Piracy and Armed Robbery against Ships - Annual Report 2011," pp. 53-54.

This incident reflects the growth in piracy networks in the Gulf of Guinea, networks that facilitate the sale of stolen cargo. The pirates were clearly working in conjunction with other actors located 4,000km from the point of the hijacking, with the pirates successfully commandeering the hijacked ship across the coastal spaces of five States.

4.4.3.7 Togo in the Claws-Consequences of Operation Prosperity

The piratical invasion of the coast of Benin had a staggering impact on the State's economy. Indeed, insurance companies declared the coast of Benin a high-risk zone.¹³³ As a result, shipping activities plummeted, with the port sustaining a revenue loss of US\$81 million in 2011.¹³⁴ The State's fishing industry also received a heavy blow, losing US\$1 million a month.¹³⁵ The President of Benin took two diplomatic steps in response to the crisis. At the multilateral level, he sent a request to the UN Secretary General requesting the support of the international community to fight piracy off the coast of Benin.¹³⁶ Second, he sought the support of his counterpart in Nigeria to combat transnational crime, especially

¹³³ In August 2011 the London Insurance Group, as well as the Joint War Committee, added Benin to the list of high-risk countries, leading to higher insurance premiums for ships using the coast and ports of Benin. See also BBC News, "Piracy soars' off coast of Benin," 11 August 2011, <http://www.bbc.co.uk/news/world-africa-14499784>, accessed 10 December 2012.

¹³⁴ The report of the UN stated that ships entering the Port of Cotonou declined by 70 per cent. See UN Security Council, "Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea," S/2012/45, 19 January 2012, p. 5.

¹³⁵

¹³⁶ See UN Security Council, "Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea," S/2012/45, 19 January 2012, p. 2. See also Yusuf Mohammad Bala, "Economic, Political and Social implications of Piracy in the Gulf of Guinea: Nigeria as a Case Study," *International Conference on Piracy at Sea*, (Malmö, Sweden 17-19 October 2011).

piracy.¹³⁷ In August 2011, the two States launched joint patrols, code-named *Operation Prosperity*.¹³⁸

Within months of *Operation Prosperity* being launched, a UN Secretary General Assessment Team that had been dispatched to the Gulf of Guinea observed that the joint patrols had led to a reduction in piracy attacks off the coast of Benin.¹³⁹ This was corroborated by the Military Chief of Benin in a separate interview.¹⁴⁰ However, these assessments failed to view the progress made in a regional context. The fundamental question that should have been asked is: what has been the effect of *Operation Prosperity* on the region's immediate neighbours – namely, Nigeria and Benin? Table 4.3 is a compilation of selected piracy cases from the coasts of Nigeria to Cote d'Ivoire from June 2011 to August 2012.

Table: 4.3 Piracy Incidents in Togo Involving Gangs with Guns and Speed Boats within 1 year of *Operation Prosperity*

2011								2012							
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Nigeria	-	1	1	-	3	-	1	3	3	2	-	2	3	1	1
Benin	6	4	3	2	-	-	-	-	1	-	-	-	-	1	-
Togo	-	-	-	5	1	-	-	-	-	-	4	-	-	3	3

Source: Compiled by Author from IMO Reports

¹³⁷ See "Benin seeks Nigeria's help to fight sea pirates," *Next Newspapers*, 12 August 2011.

¹³⁸ See Chapter 6 of this thesis.

¹³⁹ UN Security Council, "Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea," S/2012/45, 19 January 2012, p. 6.

¹⁴⁰ "Nigeria-Benin anti-piracy patrols 'successful' " *DefenceWeb*, 18 October 2011.

Although the data in the Table is limited and does not unequivocally point to one conclusion, it nevertheless shows a rise in piracy incidents off the coast of Togo – thus signalling another phase in Gulf of Guinea piracy. Indeed, since the launch of *Operation Prosperity* there has been a steady decrease in piracy incidents off the coast of Benin, but also a corresponding rise in piratical cases off the coast of Togo.¹⁴¹ Interestingly, attacks off the Togolese coast coincide with few or no reported incidents off the coasts of Nigeria and Benin. Some of these attacks have occurred deep in the port areas of Togo, similar to the earlier attacks in the port of Benin.¹⁴² On 4 April 2012, ten robbers in a boat attempted to board a ship in port, but having been detected, the pirates moved towards a different ship; meanwhile another speedboat with robbers moved towards a third ship.¹⁴³ On 12 April 2012, robbers armed with machine guns attacked a ship in the territorial sea of Togo, and less than three weeks later, a product tanker hijacked off the coast of Togo was sailed to an unknown location, only to be released five days later.¹⁴⁴ These incidents suggest that *Operation Prosperity* has actually pushed piratical attacks further to the west.

This phenomenon has been made easier by the short coastlines of Benin and Togo, tactically allowing pirates to treat the two coasts as a single

¹⁴¹ For details of incidents in the months under review, see IMO, MSC.4/Circ.178(20 December 2011). IMO, MSC.4/Circ.179(10 January 2012). IMO, MSC.4/Circ.181(10 February 2012). IMO, MSC.4/Circ.182(30 April 2012).

¹⁴² IMO, Reports of Acts of Piracy and Armed Robbery Against Ships - September 2011 (MSC.4/Circ.176. 1 November 2011).

¹⁴³ IMO, Reports of Acts of Piracy and Armed Robbery Against Ships – April 2012 (MSC.4/Cir.184, 22 June 2012).

¹⁴⁴ Ibid.

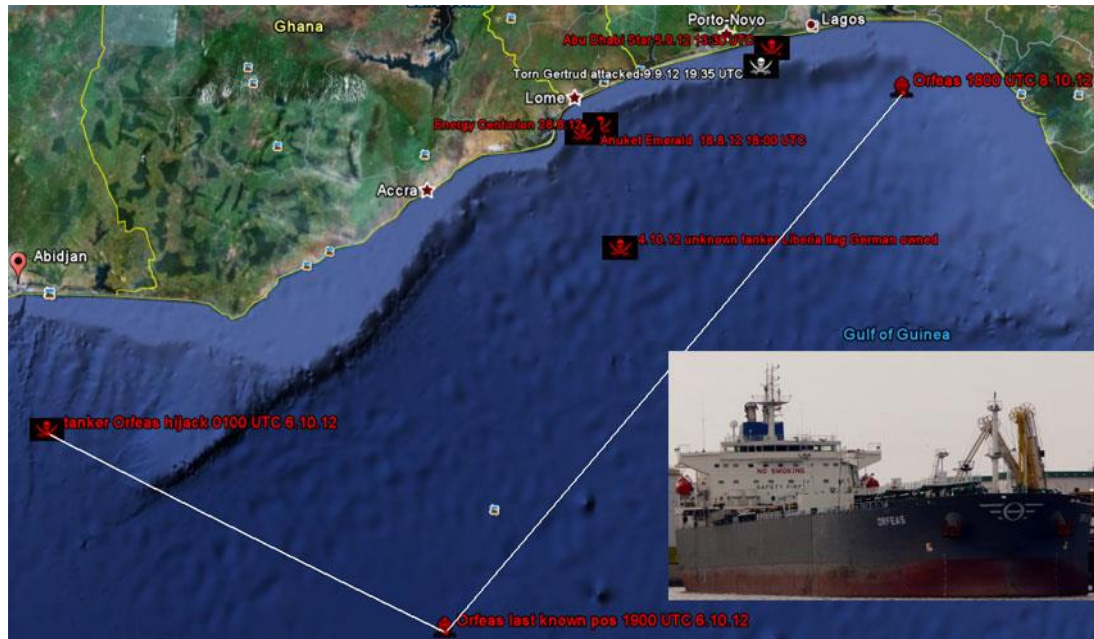
operational space. This is demonstrated by two reported incidents in September 2011. On 14 September at 4.15am, armed robbers attacked the *Abu Dhabi Star*, a Singapore flagged chemical tanker, a few nautical miles off Lome, Togo, but aborted the attack after being noticed. Four hours earlier, at 23.52pm, two gangs of pirates had hijacked tankers undertaking ship-to-ship operations, the *Mattheos I* and the *Northern Bell*, 62 nautical miles off Benin. The pirates succeeded in sailing the *Mattheos I* to an unknown location, but the crew of the *Northern Bell* regained control of the ship. Taking into account the time, location and distance between the two incidents, it is likely that that the same gang that aborted their attack on the *Northern Bell* off Benin sailed towards Togo, setting their sights on the *Abu Dhabi Star*.

4.4.3.8 Cote d'Ivoire under Siege – Nowhere is Safe

The hijacking of the *Orfeas* in October 2012 marks the seven-phase evolution of piracy from a primary enclave in the Niger Delta into well entrenched regional piracy. Figure 4.2 illustrates the hijacking of the vessel and its movements thereafter.¹⁴⁵

¹⁴⁵ IMO, Reports of Piracy and Armed Robbery Against Ships - Acts Reported During October 2012 (MSC.4/Circ.190. 21 January 2013).

Figure 4.2: The Hijacking of the *Orfeas*



Source: Maritime Bulletin, 9 October 2012, posted at <http://www.odin.tc/news/read.asp?articleID=1419>, accessed 9 December 2012.

The *Orfeas* was hijacked on 6 October 2012 off Cote d'Ivoire. After gaining control of the vessel, the pirates sailed over 2,000km to the coast of the Niger Delta, stole the ship's oil cargo, and released the vessel two days later.¹⁴⁶ This incident shows that attacks in the western area of the Gulf of Guinea are becoming more brazen. The incident encapsulates most of the tactics already discussed, but also brings to the fore the additional sophistication of Gulf of Guinea piracy. Soon after the hijacking, the pirates drew the vessel into deeper seas. This allowed them sufficient time to make contact with their criminal networks, while at the same time ensuring the ship was out of reach of a possible rescue. In

¹⁴⁶ IMO, Reports of Piracy and Armed Robbery Against Ships: Acts Reported During October 2012, MSC.4/Circ.190, 21 January 2013.

December 2012, armed pirates with machine guns attacked another oil tanker in the port area of Cote d'Ivoire.¹⁴⁷

It is clear from the above analysis that piracy in the Gulf of Guinea is well established. Therefore, though the numbers of attacks in the region are still less, when compared to the figures recorded in the highpoints of the piracy situations in Somalia and Indonesia, it is essential for the paradigm of Gulf of Guinea piracy to be examined in the context of contemporary piracy concepts. This will illuminate relationship between piratical dynamics in the Gulf of Guinea with the broader global understanding.

4.5 SITUATING GUINEA PIRACY WITHIN CONTEMPORARY PIRACY THEORIES AND PROVIDING FOR THE GOVERNANCE DIMENSION

A number of theories aimed at explaining the causes and drivers of piracy have been proposed. Four concepts have particularly gained prominence: (i) piracy as a social problem; (ii) piracy as a symptom of failed states; (iii) the business model of piracy; and (iv) the piracy cycle. The analysis below demonstrates the relevance and limitations of applying these theories to Gulf of Guinea, and then provides the

¹⁴⁷ The chemical tanker *Madonna 1*, Panama, was attacked on 23/12/2012. The pirates injured the crew, damaged the ship's communication equipment and stole ship's property and the crew's personal belongings. See IMO, Reports on Acts of Piracy and Armed Robbery Against Ships - December 2012 (MSC.4/Cir.192. 24 January 2012).

governance dimensions to Gulf of Guinea piracy which though relates to some of the theories still has distinctions on its own.

4.5.1 Piracy as a Social Problem

The social theory of piracy, which is divided into classical and revisionist camps, argues that poverty is the primary driver of piracy.¹⁴⁸ The classical argument is that piracy represents an uprising of disadvantaged and impoverished coastal communities against those that enjoy major benefits from the sea, especially maritime trade.¹⁴⁹ The revisionist camp supports the classical hypothesis, while asserting that poverty creates a malignant environment that is exploited by pirates and criminal networks.¹⁵⁰

The social theory of piracy has been used to account for piracy both in Indonesia and Somalia.¹⁵¹ In the case of Somalia, it has been argued that following the overthrow of the Siad Barre regime in 1991, poverty became endemic, mainly due to the collapse of fishing cooperatives that previously employed local fishermen and supported the livelihood of

¹⁴⁸ Abdi Ismail Samatar, Mark Lindberg and Basil Mayani, "The Dialectics of Piracy in Somalia: the Rich Versus the Poor," *Third World Quarterly* 31, 8, 2011, pp. 1377-94. See also Guo Xinning, "Anti-Terrorism, Maritime Security, and ASEAN-China Cooperation: A Chinese Perspective" *Trends in Southeast Asia Series* 15, 2005.

¹⁴⁹ Abdi Ismail Samatar, Mark Lindberg and Basil Mayani, "The Dialectics of Piracy in Somalia: the Rich Versus the Poor," *Third World Quarterly* 31, 8, 2011, pp. 1377-94.

¹⁵⁰ Sarah N. Katherine, "Piracy in Somalia: Targeting the Source," *Global Security Studies* 2, 3, 2011, pp. 22-29.

¹⁵¹ See Eric Frecon, "Piracy in the Malacca Straits: notes from the field," *International Institute for Asian Studies Newsletter* 36, 2005.

coastal communities.¹⁵² Moreover, foreign fishing trawlers began to illegally plunder the rich fishing grounds off Somalia, and toxic waste from European industrial plants started being dumped off the Somali coast.¹⁵³ In light of these events, local fishermen formed vigilante groups to protect the Somali coast. This public motive gave way to private interest and eventually criminality, especially when it became clear that accepting bribes from those involved in the illegal fishing and dumping, as well as theft and extortion, provided lucrative sources of income.¹⁵⁴ Proponents of the social theory also refer to correspondence from the Transitional Federal Government to the United Nations Security Council (UNSC), with Somali authorities asserting that the illegal exploitation of Somali resources by foreign fishing interests served to legitimise piracy activities among the local population.¹⁵⁵

Applying the social theory to the piracy situation in the Gulf of Guinea has both strengths and limitations. Poverty, unemployment and illegal fishing are major issues confronting the region, and indeed have

¹⁵² See Mohammed A. Waldo, *The Two Piracies in Somalia: Why the World Ignores the Other?*, 2009, Available: http://wardheernews.com/Articles_09/Jan/Waldo/08_The_two_piracies_in_Somalia.html, 28 August 2011.

¹⁵³ Andrew Mwangura, *Somalia: Pirates or Protectors?*, 2010, Available: <http://www.towardfreedom.com/africa/1985-somalia-pirates-or-protectors?format=pdf>, 28 August 2011. See also Roger Middleton, *Piracy in Somalia: Threatening Global Trade, Feeding Local Wars*, London Chatham House, 2008.

¹⁵⁴ Mohammed A. Waldo, *The Two Piracies in Somalia: Why the World Ignores the Other?*, 2009, Available: http://wardheernews.com/Articles_09/Jan/Waldo/08_The_two_piracies_in_Somalia.html, 28 August 2011. generally Peter Eichstaedt, *Pirate State: Inside Somalia's Terrorism at Sea*, Chicago Lawrence Hill Books, 2010.

¹⁵⁵ See UN, S/2008/769, Letter dated 10 December 2008 from the Chairman of the Security Council Committee established Pursuant to Resolution 751 (1992) Concerning Somalia addressed to the President of the Security Council.

implications for ocean resource management and stability.¹⁵⁶ But, there is neither evidence of a direct link between poverty in coastal communities and piracy, nor the direct engagement of unemployed fishermen in piracy. The closest example of this assertion, are threats made by Senegalese fishermen in March 2012 to resort to piracy if the government failed to address issues of illegal fishing and foreign fishing licenses.¹⁵⁷ Therefore, the classical formulation of the social theory which places emphasises on poverty, inadequately explains the increasing threat of piracy in the Gulf of Guinea. However, the restatement of the social theory by revisionist camp is of relevance to the piracy syndrome in the Gulf of Guinea. The analysis in sections 4.3 and 4.4 demonstrates that the Niger Delta insurgency is a product of socio-political dynamics in the Niger Delta region. There are two possible classification of the insurgency: it may be regarded as a legitimate process that became criminal; or a criminal group that exploited a legitimate process.¹⁵⁸ Both of these descriptions accords with the revisionist school of the social theory.

¹⁵⁶ Mark Rowe, "Fishy business " *Geographical*, August 2013. Morgan Bazilian, Ijeoma Onyeji and Peri-Khan Aqrawi, "Oil, Energy Poverty and Resource Dependence in West Africa," *Journal of Energy & Natural Resources Law* 31, 1, 2013, pp. 33-53. Bruce W. Laughlin, "Expeditionary Strike Group and the Gulf of Guinea," Marine Corps University, 2005.

¹⁵⁷ John Vidal, *Senegal's fishing community will act on foreign fleets if government doesn't*, 2 April 2012, Available: <http://www.guardian.co.uk/global-development/2012/apr/02/senegal-fishing-community-act-foreign-fleets> 26 September 2012. John Vidal, "Will overfishing by foreigners drive Senegalese fishermen to piracy?," *The Guardian* 3 April 2012.

¹⁵⁸ On discussion of the insurgency-crime-social grievances nexus in the Niger Delta see, Arild Nodland, "Guns, Oil, and 'Cake': Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes and David Rosenberg, eds. *Piracy and Maritime Crime: Historical and Modern Case Studies*, Newport, Naval War College Press, 2010, pp. 191-206. Ilufoye S. Ogundiya, "Domestic Terrorism and Security Threats in the Niger Delta Region of Nigeria," *Journal of Social Science* 20, 1, 2009, pp. 31-42. *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa*, Martin Murphy, *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*, Hurst, Londo, 2010, pp.111-123.

4.5.2 Piracy as a Symptom of Failed States

The social theory of piracy is often discussed alongside a second construct – one that seeks to account for piracy by viewing it as a symptom of “failed states.”¹⁵⁹ According to this theory, pirates are non-state actors (along with mafia groups, militias and drug cartels) that spring up and thrive due to state failure.¹⁶⁰ Somalia has again served as the perfect testing ground for this theory.¹⁶¹ During the period that Somali pirates caused havoc with international shipping, the Somali State had been divided into territories and controlled by combatants and other groups that generally lacked domestic, regional and international legitimacy to combat crime, including piracy.¹⁶² The international

¹⁵⁹ Kerstin Petretto, "Weak States, Offshore Piracy in Modern Times " *East African Human Security Forum Discussion Paper*, March 2008, Stig J. Hansen and Atle Mesoy, "The Pirates of the Horn: State Collapse and the Maritime Threat," *Strategic Insights* 3, 1, 2006. Ger Teitler, "Piracy in Southeast Asia: A Historical Comparison " *Maritime Studies* 1, 1, 2001 p. 77.

¹⁶⁰ On this see, Robert Kaplan, "The Coming Anarchy," *Atlantic Monthly*, February 1994, pp. 44-76, Robert I Rotberg, ed., *When States Fail: Causes and Consequences*, Princeton, NJ, Princeton University Press, 2004, Robert Kaplan, *The Coming Anarchy: Shattering the Dreams of the Cold War*, New York Random House, 2000. Kenneth F. McKenzie, *The Revenge of Melians: Asymmetric Threats and the Next QDR*, Washington DC National Defense University Press, 2000. Frank G. Hoffman and Sam J. Tangredi, "Characteristics and Requirements of the Evolving Security Environment", in Sam J. Tangredi, ed. *Globalization and Maritime Power*, Honolulu, Hawaii, University Press of the Pacific, 2004, pp. 25-40. Jaap H. De Wilde, "Security Levelled Out: The Dominance of Local and Regional ", in Dunah Pal, Kados Gabor and Williams J. Andrew, eds. *New Forms of Security: Views from Central, Eastern and Western Europe*, Dartmouth, Aldershot, 1995, pp. 85-102. See also Barry Buzan and Ole Waever, *Regions and Powers: The Structure of International Security* Cambridge Cambridge University Press, 2003, pp. 219-253.

¹⁶¹ For a comprehensive discussion, see Murphy, *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa*, Martin Murphy, *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*, Hurst, London, 2010.

¹⁶² Some researchers, however, have opined that piracy attacks were at such low levels up until 2006 because of the control and deterrent effect provided by the Islamic Union of Courts (IUC) - a Somali fighting group which was in control of most of the territory. The defeat of the IUC with the help of external powers then led to an increase in piracy from 2006-2008. Other commentators originally attributed the decline to the monsoon season, but this was later proved not to be the case, as pirates were able to operate in subsequent monsoon seasons. Martin Murphy has analysed the various arguments and come to the conclusion that many factors have resulted in an increase in piracy including the complicity of unpaid security forces, a decrease in the number of security forces, as well as the use of substandard ships. Martin Murphy, *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa* (Columbia University Press, New York, 2012). See especially pages 110-115.

community also had difficulty responding to the situation, as no engagement could be made with legitimate authority.¹⁶³

While noting that the concept of “failed state” is a contested subject,¹⁶⁴ there are linkages to draw from the “failed state” rankings of some Gulf of Guinea States with piracy dynamics in the region. Nigeria has systematically slipped from a relatively strong position of number 54 in 2005 to number 14 in 2011, thus joining the top twenty fragile countries in the global “failed state” ranking.¹⁶⁵ During the same period piratical attacks, as shown by the statistics and analysis in this chapter, has steadily increased to a high point in 2011. It is equally important that Guinea, which is the secondary piracy enclave in the Gulf of Guinea, has equally ranked in the top twenty of fragile countries of the world since 2005.¹⁶⁶ Piracy in the Gulf of Guinea can therefore be situated within the “failed state” concept.

The above deduction may equally be queried on the basis of the same statistics and trends that has been analysed earlier. As illustrated in

¹⁶³ See generally Michael Bahar, "Attaining Optimal Deterrence at Sea: A Legal and Strategic Theory for Naval Anti-Piracy Operations," *Vanderbilt Journal of Transnational Law* 40, 1, 2007, pp. 1-86. Bibi Van Ginkel and Frans-Paul Van Der Putten, *The International Response to Somali Piracy: Challenges and Opportunities*, Leiden Martinus Nijhoff, 2010.

¹⁶⁴ Generally on world order and failed states and the contested issues surrounding the concept and ranking, see Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century*, Ithaca, NY Cornell University Press, 2004. Stewart Patrick, "Weak States and Global Threats: Fact or Fiction," *The Washington Quarterly* 29, 2, 2006, pp. 27-53.

¹⁶⁵ The details are as follows: 54(2005), 22 (2006), 17 (2007), 11(2008), 15(2009), 14(2010), 14(2011). See, “Failed State Index: 2005-2011,” Peace for Fund, <http://global.fundforpeace.org/>, 15 September 2013.

¹⁶⁶ The details are as follows: 16(2005), 11(2006), 9 (2007), 11(2008), 9(2009), 9 (2010), 11(2011). See, “Failed State Index: 2005-2011,” Peace for Fund, <http://global.fundforpeace.org/>, 15 September 2013.

Figure 4.1, piratical incidents off the coasts of the Democratic Republic of Congo (DR Congo), Guinea-Bissau and Liberia are generally limited to robberies in ports, yet these States are among the most fragile in the Gulf of Guinea.¹⁶⁷ Indeed, DR Congo has consistently been placed in the top five “failed states” of the world from 2005 to 2011,¹⁶⁸ but has low incidents of piracy. Nonetheless, this contrast should not dismiss the application of the “failed state” concept to the Gulf of Guinea; first because the correlations in the case of Nigeria and Guinea are too strong to disregard; and second, the concept is better explained when viewed in the context of governance. This is examined below after analysing the “business model” and “piracy cycle” concepts.

4.5.3 Business Model of Piracy

Research into the world of Somali piracy has revealed that piratical activities are supported by transnational networks of individuals, groups and even professionals.¹⁶⁹ Some of these networks provide funds to sustain piracy, while others supply logistical equipment including weapons, Global Positioning Systems (GPS) and fuel directly to pirates.¹⁷⁰ In return, financiers profit from the ransoms extorted by

¹⁶⁷ For example, DR Congo and Guinea-Bissau are listed among the top failed states in a 2013 Failed States Index, see Foreign Policy, *Failed States*, March 2013, Available: http://www.foreignpolicy.com/failed_states_index_2012_interactive, 4 March 2013.

¹⁶⁸ See, “Failed State Index: 2005-2011,” Peace for Fund, <http://global.fundforpeace.org/>, 15 September 2013.

¹⁶⁹ Roger Middleton, “Piracy in Somalia: Threatening Global Trade, Feeding Local Wars,” *Chatham House Briefing Paper*, October 2008. See also Raymond Gilpin, “Counting the Costs of Somali Piracy,” *United States Institute of Peace Working Paper*, June 2009, pp. 8-10.

¹⁷⁰ “Pirates Have Better Equipment ” *Fairplay*, 2 November 2006. Roger Middleton, “Piracy in Somalia: Threatening Global Trade, Feeding Local Wars,” *Chatham House Briefing Paper*, October 2008.

pirates, which is estimated to be in the millions of dollars.¹⁷¹ However, does the business model of piracy fit into the case of the Gulf of Guinea?

The classical case of the Somali piracy business which operated along the lines of ransom payments does not fit well into the Gulf of Guinea. Although there are multiple cases of crews being kidnapped, with pirates demanding ransom payments for their release,¹⁷² it is very doubtful whether the quantum and frequency of money extorted could sustain a piracy business model of the Somali type. The analysis of the evolution of piracy in section 4.4.3, however, points to a different piracy business model in the Gulf of Guinea, which is based on the hijacking of oil tankers and selling the cargo.¹⁷³ Indeed, oil tankers are prime targets of pirates and there is a growing organised criminal market within and outside the Gulf of Guinea that facilitates the crime.¹⁷⁴

4.5.4 The Piracy Cycle

The last of the four theories, the piracy cycle, has been used by both historical and contemporary researchers to explain the phenomenon of

¹⁷¹ See Lauren Ploch, Christopher M. Blanchard, Ronald O'Rourke, Chuck R. Mason and Rawle O. King, "Piracy off the Horn of Africa " *US Congressional Research Service*, 2009, pp. 2.

¹⁷² The IMB report indicates that a ransom was paid for the release of the crews of *MV BBC Polonia* (Antiguan flag), *Argo* (Lithuanian Flag) and *North Spirit* (St Vincent & Grenadines flag). See, pages 27 and 66 of the International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report 2010. See also IMO, Msc.4/Circ.91 11 September 2006, where a ransom was demanded for the release of the kidnapped crew of *Northern Comrade*, a Norwegian flagged Tug.

¹⁷³ The majority of vessels targeted in 2012 in the Nigerian and neighbouring coasts were tankers, see IMB, "Piracy and Armed Robbery Against Ships Annual Report 2012 ".

¹⁷⁴ Christina Katsouris and Aaron Sayne, "Nigeria's Criminal Crude: International Options to Combat Export of Stolen Oil," *Chatham House*, September 2013, pp. 2-12. See also International Crises Group, "The Gulf of Guinea: The New Danger Zone," *Africa Report 195*, 12 December 2012, pp. 13-14.

piracy.¹⁷⁵ The hypothesis underlying this theory is that piratical activities often go through a criminal cycle, starting with attacks by “coastal peasants” who, over time, aggregate into “organized groups” and threaten the security of shipping, until they are ultimately defeated by powerful navies.¹⁷⁶

As with the other theories, the piracy cycle theory has limitations when applied to the Gulf of Guinea, nonetheless, it is still of relevance in understanding the piracy dynamics in the region. The classical hypothesis of concept will not fit into the Gulf of Guinea because the analysis of trends and evolution does not show attacks by “coastal peasants” graduating into “organized groups.” In fact, even if we liken attacks by “coastal peasants” to robberies in ports (which researchers often refer to as “subsistence piracy”),¹⁷⁷ the inadequacy of the piracy cycle theory becomes clear. This is because the statistics in Table 4.1 do not exhibit a gradual transformation of robberies in ports or coastal surrounds into full scale offshore piracy. More so, the MEND insurgency cannot also be described as “coastal peasants.” The relevance of the piracy cycle, however, lies in analysis of the evolution of piracy discussed in section 4.4.3. In the context of the wider region and the global community, the Niger Delta piracy is a localised crime or threat that has become a threat to regional and international security.

¹⁷⁵ See Philip Gosse, *The History of Piracy*, New York, Burt Franklin, 1968, p. 1-2.

¹⁷⁶ Donald J. Puchala, "Of Pirates and Terrorists: What Experience and History Teach " *Contemporary Security Policy* 26, 1, 2005, pp. 1-24. See also Philip Gosse, *The History of Piracy*, New York, Burt Franklin, 1968, p. 1-2

¹⁷⁷ This is referred to as “subsistence piracy” by Hansen, see Stig J. Hansen, "Modern Piracy as a Subject of Academic Enquiry," *International Relations*, 19 December 2008, pp. 2. <http://www.e-ir.info/?p=593>, 3 August 2011.

4.5.5 The Governance Factor in Gulf of Guinea Piracy

While the four piracy theories discussed above have relevance in explaining current and future trends of piracy in the Gulf of Guinea, it is better to account for the rising threat of piracy from the broader political and governance-based dynamics of the region. Indeed, chapter six will examine the governance nexus to maritime security in general terms. However, in order to fully explain the piracy paradigm in the Gulf of Guinea, the governance nexus should also be discussed here.

The 2006 United Nations Niger Delta Human Development Report provides an incisive description of the socio-economic conditions of the people of the Niger Delta.¹⁷⁸ The Report noted that the region has “dismal health and health service delivery”, that the people are living in “predominantly poor quality [housing]”, and that nearly all school facilities are in “a state of extreme disrepair”. The Report summed up the situation by stating that there was increasing “disillusionment and frustration” among inhabitants in the region, as well as “deepening deprivation and environmental devastation” across the Niger Delta.¹⁷⁹ Considering the tremendous amount of oil wealth generated by the Niger Delta region, the dismal social picture painted by the UN Report is difficult to comprehend. However, for the people of the Niger Delta resentment would be at its height in such an environment, leading to

¹⁷⁸ United Nations Development Programme, Niger Delta Human Development Report, 2006, pp. 19-34.

¹⁷⁹ United Nations Development Programme, Niger Delta Human Development Report, 2006, pp. 19-34.

restiveness, conflict and crime.¹⁸⁰ This brings the piracy anatomy in the Niger Delta close to the sociological school that seeks to explain piracy from the point of view of social issues.

However, it is the author's view that while each of four piracy concepts offers insights into the piracy situation in the Gulf of Guinea, a governance approach provides an all-embracing explanation and analytical framework to the piracy paradigm in the Gulf of Guinea. Indeed, the governance-maritime security nexus is important for understanding the causality of threats and also for devising appropriate responses to the plethora of maritime security threats in the region. As analysed in chapter two, Nigeria is among the top oil producing countries in the world, receiving millions of dollars in oil revenue each year. Thus, it is the failure of successive governments to sufficiently cater for the governance and developmental needs of the people that has resulted in the poor socio-economic conditions in the Niger Delta.¹⁸¹ In fact, some research suggests that the quantity of oil that has been spilled in the Niger Delta region from oil exploitation in the last fifty years¹⁸² is more than fifty times the volume of the oil that spilled from the *Exxon*

¹⁸⁰ Sheriff Folarin, "Niger-delta: Environment, Ogani Crises and the state," *The Constitution* 7, 1, 2007, pp. 37-61. John Vidal, *Niger delta oil spills clean-up will take 30 years, says UN*, 4 August 2011, The Guardian, Available: <http://www.theguardian.com/environment/2011/aug/04/niger-delta-oil-spill-clean-up-un>, 4 January 2014.

¹⁸¹ Ibaba S. Ibada, "Violent Conflict and Sustainable Development in Bayelsa State," *Review of African Political Economy* 36, 122, 2009, pp. 555-73. Oscar E. Ubhenin, "The Federal Government's Amnesty Programme in the Niger-Delta: An Appraisal," *Yönetim Bilimleri Dergisi* 21, 1, 2013, pp. 179-203

¹⁸² For a detailed analysis of these environmental impacts, and their concomitant effects on the people of the Niger Delta, see Joseph Effiong, "Oil and Gas Industry in Nigeria: The Paradox of the Black Gold", in Dorceta E. Taylor, ed. *Environment and Social Justice: An International Perspective*, Emerald Group Publishing, 2010, pp. 324-49. See also "Nigeria: Petroleum Pollution and Poverty in Niger Delta," Amnesty International Report 2009.

Valdez accident of 1989 - one of the greatest environmental disasters the world has ever witnessed.¹⁸³ This poor environmental management has led to serious pollution and environmental degradation, limiting the opportunity of people to earn a living from both farming and fishing grounds.¹⁸⁴ As shown by the analysis in the earlier sections, it was only after insurgent attacks starting posing a threat to the economic security of Nigeria (and also global energy security), that an amnesty process was initiated. Therefore, bad governance lies at the centre of the piracy problem; not just of social issues but also of environmental stewardship. Chapter six will analyse the facets of this governance deficit in the Gulf of Guinea.

4.6 IMPLICATIONS OF GULF OF GUINEA PIRACY FOR REGIONAL AND INTERNATIONAL SECURITY

Although the Niger Delta insurgency, which accounts for a substantial number of piratical attacks in the Gulf of Guinea, has its roots in insurgency, there is no doubt that ‘insurgency’ now qualifies as ‘piracy’ in both legal and practical contexts. The analysis has demonstrated that vessels are attacked for the economic and personal benefit of the perpetrators. Ransom payments are exacted, equipment, money and

¹⁸³ *Exxon Valdez* was an oil tanker that struck a reef off the coast of Alaska, United States, on 24 March 1989, spilling oil over large areas of the coast. It is estimated that 10.9 million gallons of its 53 million gallon cargo was spilled, covering over 1,100 miles of the coastline of Alaska. See *Exxon Valdez Oil Spill*, 9 June 2010, The Encyclopedia of the Earth, Available: <http://www.eoearth.org/view/article/152720/>, 5 January 2014..

¹⁸⁴ See Oscar E. Ubhenin, "The Federal Government's Amnesty Programme in the Niger-Delta: An Appraisal," *Yönetim Bilimleri Dergisi* 21, 1, 2013, pp. 179-203, p. 182. Sheriff Folarin, "Niger-delta: Environment, Ogani Crises and the state," *The Constitution* 7, 1, 2007, pp. 37-61. Joseph Effiong, "Oil and Gas Industry in Nigeria: The Paradox of the Black Gold", in Dorceta E. Taylor, ed. *Environment and Social Justice: An International Perspective*, Emerald Group Publishing, 2010, pp. 324-49.

personnel effects are rampantly stolen, and increasingly part or all of a vessel's cargo (especially refined oil), is siphoned and sold within and outside the Gulf of Guinea.

This penultimate section of the chapter examines the impact and implication of piracy and armed robbery in the Gulf of Guinea. Although the analysis will compile the trends and developments that have emerged from the rest of the chapter, the discussion will be conducted within the context of the dimensions and levels of security examined in chapter three.

4.6.1 Transportation Security

Guaranteeing the safety of shipping has been a traditional concern for maritime security, but advancements in technology and the advent of globalisation has added new dimensions and challenges to this task.¹⁸⁵

The security of international shipping now depends on multiple factors, including effective performance of flag State responsibilities, efficient managers and operators, as well as reliable and affordable insurance. However, the safety and security of ships and their crew remain the fundamental requirement for maritime transportation security. Table 4.4 contains information on 43 vessels belonging to sixteen different flag States that were attacked and boarded in the Gulf of Guinea in 2012 alone.

¹⁸⁵ See Chapter Three Section 3.2. See also, Thean Potgieter and Reiner Pommerin, eds., *Maritime Security in Southern African Waters*, Stellenbosch Sun Press, 2009, p. 70, D.S. Grewal, "Identification and Formulation of Maritime Security Management System from the Shore Side: An Interim Report", in Detlef Nielsen, ed. *Maritime security and MET* Southampton, WIT, 2005.

Of particular interest is the column that specifies high risk activities associated with the attacks. Indeed, in almost all the attacks the safety and security of the ship and its crew were put at serious risk. The piratical attacks outlined in the table resulted in multiple injuries, kidnappings, as well as the death of three crew members. Moreover, the prevalent use of weapons (including explosives) in the commission of the crimes represents an aggravating risk factor. Many of ships suffered damaged to their hull, and in most cases, the navigation and communication equipment of the vessels was damaged, disabled or stolen.

Table 4.4: Nationality of Vessels Attacked in 2012

Flag State/ No. of Vessels	Names of Vessel	Risk Activities
Bahamas - 2	Withheld, Orfeas	Firing, Comms equipment damage
Curacao - 2	Breiz Klipper, UAL Transporter	Injuries, kidnapping, firing, damage
Denmark-2	Withheld, Withheld	
Germany	Olivia	Injuries
Isle of Man/UK -1	Energy Centurion	Firing
Italy - 1	Asso Ventuno	Kidnapping
Liberia - 8	Hansa Cloppenburg, Gallia, Zouzou, Hellespont Drive, SCF Provider, Ermer, Withheld, Wappen von Hamburg	Ship equipment stolen Navigation equipment damaged
Luxemburg - 1	Bourbon Liberty	
Malta - 3	Grand, Costanza, Marciana	Vessel damage
Marshall Islands - 2	Argos, SP Brussels	
Nigeria	WAO Brass	
Norway-1	Spar Rigel	Firing
Panama - 8	Saphina, BW Rhine, Fourseas, Emmanuel Geo Endeavour, Madonna , Nord Sincere, Anuket Emerald	Death, injuries, firing Vessel damage Comms equipment damage
Philippines -1	Season Trader	Vessel damage
St Kitts & Nevis - 2	Stormbas II Jascon 33	2 deaths, injuries,
Singapore -7	Pacific Amethyst, Ursula, Ark Charly , Pacific Retriever, Maersk Harmony, Pacific Raider, Abu Dhabi Star	Comms equipment disabled

Source: IBM Annual Piracy Report 2012.

4.6.2 Global Trade and Economy

In addition to impairing the safety and security of shipping, piracy and armed robbery negatively impacts on global trade and economic development. While international law requires a ship to sail under the flag of one State,¹⁸⁶ in practice a single ship can represent layers of different interests cast around multiple States. For example, the nationality of the beneficial owner of a ship is often different from the ship's flag State. Moreover, the ship may be financed, managed and insured by individuals or companies in another state, and manned by a crew of multiple nationalities. A further layer of complexity is added if one considers that ships on international voyages often carry cargo to multiple destinations, particularly in the case of containerised shipping and bulk cargo ships transporting crude oil.

Each of the above interests represents a layer of corporate and national investment that aggregates into a global economic trade interest. As a result, a threat to any of these interests translates into a global economic cost. This explains why piracy and armed robbery constitute a major threat to the global economy. Piratical incidents affect the timely delivery of goods and also lead to higher insurance premiums. Money is also lost through ransom payments, and ships incur extra security costs when purchasing additional equipment and/or employing maritime security guards. Furthermore, in an attempt to avoid pirates, ships burn extra fuel, increasing operational costs even further. Although there is no consensus on the exact cost of piracy to the global economy, one report

¹⁸⁶ UNCLOS, Article 92.

conducted in 2012 put the annual cost of Somali piracy at between US\$0.9 to 3.3 billion per annum.¹⁸⁷ A similar report commissioned by the One Earth Future Foundation in 2011 put the combined cost of piracy at between US\$6.6 to \$6.9 billion per annum.¹⁸⁸

4.6.3 Energy Security

The analysis in chapter two demonstrated the global reliance on the Gulf of Guinea region as a current and future source of energy security. To ensure the continuous delivery of oil and gas supplies to the international market, good order at sea is paramount. This includes safe drilling and exploration for reserves, as well as securing production infrastructure and transportation networks. An important point demonstrated by the analysis of the evolution of piracy and armed robbery in this chapter is the interrelated risk posed by insurgency and piracy to the security of shipping and critical offshore energy infrastructure.

Piracy and armed robbery disrupt the production activities of oil platforms, and also impact greatly on the safety of oil tankers. In turn, this affects the availability of oil supplies to the international market. For example, as a result of the attack on the Bonga facility in June 2008, Nigeria's oil production dropped substantially, pushing up already volatile oil prices from US\$110 per barrel in May that year to US\$130 in

¹⁸⁷ Timothy Besley and Thiemo Fetzer, "The Welfare Cost of Lawlessness: Evidence from Somali Piracy," London School of Economics, London and Institut d'Analisi Economica, Barcelona, October 2012, p.11.

¹⁸⁸ "The Economic Cost of Somali Piracy 2011," Working Paper, One Earth Future Foundation, 2011.

July.¹⁸⁹ Top energy experts have therefore described insecurity in the Gulf of Guinea as a key threat to global energy security.¹⁹⁰

4.6.4 Economic Losses and Food Security in the Gulf of Guinea

Threats to maritime transportation and energy resource investments will undoubtedly have ramifications for economic and food security in the Gulf of Guinea. As indicated earlier, port revenue in Benin declined by US\$81 million in 2011 due to piratical attacks, with the country's fishing industry suffering a US\$1 million a month loss in the wake of the attacks.¹⁹¹ Indeed, Nigeria's Maritime Administration estimates the State's financial loss due to pirate activities to be US\$3.5 billion annually.¹⁹²

The rise in piratical attacks is also pushing up the cost of shipping in the Gulf of Guinea. In August 2011, Lloyds and other insurers placed part of the Gulf of Guinea in the same high-risk category as Somalia.¹⁹³ The

¹⁸⁹ Fuad Al-Zayer (OPEC Data Services), "The 2008 OPEC Annual Statistical Bulletin," 8 July 2009, http://www.opec.org/opec_web/static_files_project/media/downloads/publications/ASB08presentation.pdf (10 October 2013). Jeff Veil, "Nigeria - The Significance of the Bonga Offshore Oil Platform Attack," The Oil Drum, 24 June 2008, <http://www.theoil Drum.com/node/4196>, (12 August 2011).

¹⁹⁰ See, for example, comments by Daniel Yergin, Chairman of Cambridge Energy Research Associates, quoted in Graham Bowley, "One Reason Gas Is Emptying Your Wallet: Nigeria," *New York Times*, 29 June 2008.

¹⁹¹ See pages 4-5, United Nations, Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea, Security Council S/2012/45, 19 January 2012.

¹⁹² "NIMASA Seeks Legal Backing to Fight Piracy," *This Day*, 14 February 2013, H:\My Documents\Back from GHANA\THESIS 3RD DRAFT\NIMASA Seeks Legal Backing to Fight Piracy, Articles THISDAY LIVE.mht, 26 July 2013.

¹⁹³ United Nation Security Council, Piracy in the Gulf of Guinea - October 2011 Monthly Forecast, 30 September 2011, http://www.securitycouncilreport.org/monthly-forecast/2011-10/lookup_c_gIKWLeMTIsG_b_7751803.php, 7 February 2013.

International Transport Workers Federation (ITF) similarly declared the Gulf of Guinea to be a high risk area when reviewing the wages and working conditions of crews.¹⁹⁴ Available figures show that in the case of Somalia, insurance costs alone increased from US\$500 per voyage in 2008 to US\$20,000 in 2009 because of piracy.¹⁹⁵ It is important to note that these are the direct (and thus easily verifiable) costs associated with piracy. The real economic and social costs of piracy are much higher. Furthermore, as analysed in chapter two, Gulf of Guinea States depend heavily on imports. Therefore, high shipping costs will translate into more expensive prices for imported goods, including food, which may result in a worsening of social and economic conditions.

A second overlap between piracy and food security in the Gulf of Guinea can be seen in the attacks on fishing vessels. In 2007 the Agricultural and Allied Workers Union of Nigeria reported that over forty-four fishing personnel had been killed by pirates, and that fishing vessels had routinely been robbed of their goods and property.¹⁹⁶ Subsequently, in 2008, the Association withdrew over 170 fishing vessels from service due to the increasing threat to the security of its members, and as a form of protest against the lack of protection being afforded by Nigeria's Federal Government.¹⁹⁷

¹⁹⁴ International Transport Workers Federation, Annex 2 to ITF Circular No. 068/S.17/D.20/SS.7/2012, 1 April 2012.

¹⁹⁵ United Nation Security Council, Piracy in the Gulf of Guinea - October 2011 Monthly Forecast, 30 September 2011.

¹⁹⁶ See, Vanguard (Lagos), December 2007.

¹⁹⁷ This Day (Lagos), 13 February 2008.

4.6.5 Regional and National Security

All the threats analysed above ultimately impact on the national security of individual Gulf of Guinea States, as well as the security of the region as a whole. However, such threats also have the capacity to directly affect national and regional security.

A general way of stating this fact is to say that piracy, like all criminal activities, undermines national security. But there are more nuanced ways of analysing the nexus, and MEND provides a good example. Even when piratical attacks were in their infancy, and regarded as opportunistic, they still posed significant national security threats. As these attacks increased in sophistication, involving not only theft but extortion attempts, kidnapping and ransom demands, they provided a source of funding for insurgents, allowing them to sustain their livelihoods. As a result, insurgent groups were able to focus on their primary objective – creating political instability, thereby creating more serious security threats.

The second point to note is that piratical attacks should be seen as both a transitional and growing threat. Indeed, this can be seen in the case of insurgents practicing the rudiments of piracy as part of their political campaigns, and later turning to it on a full-time basis. National security assessors may have disregarded piracy's incubation period as of little consequence, but that in itself has become a national and regional security threat. It is important to note that there is always a tendency for transnational crimes to blend together or overlap with each other. Indeed,

there are already reports of insurgents in the Niger Delta accepting cocaine as payment for undisclosed services.¹⁹⁸ Drug traffickers could thus start using the services of pirates to ferry drugs in their speedboats, in a similar way that fishermen are currently used to transport drugs in the region.¹⁹⁹ These are threats and trends that have serious implications for national and regional security. But the situation has the capacity to become even more complex.

In 2009, maritime security concerns in the Gulf of Guinea came to a head following an alleged sea-borne attack targeting the Palace of the President of Equatorial Guinea. The attackers were thought to be insurgents from Niger Delta who regularly engaged in piracy activities in neighbouring coasts.²⁰⁰ The incident also generated tensions between Equatorial Guinea and Cameroon, leading to a temporary suspension of trading activities between the two States. This was because the attackers were said to have sailed from, and retreated to, a port in Cameroon.²⁰¹ A second incident occurred in Cameroon in 2011, when Niger Delta pirates and insurgents attacked and robbed a bank, killing several people in the process.²⁰² Although the perpetrators of these incidents may not always be identified and brought to justice, one thing is known: the incidents highlight the interface of attacks between ships and offshore assets,

¹⁹⁸ Mike McGovern, "Confronting Drug Trafficking in West Africa," testimony before the Subcommittee on African Affairs, U.S. Senate Committee on Foreign Relations, June 23, 2009.

¹⁹⁹ UNODC, "Transnational Organized Crime in the Fishing Industry," *Issue Paper*, 2001.

²⁰⁰ Africa Research Bulletin 18155, 16 February-15 March 2009.

²⁰¹ Africa Research Bulletin 18155, 16 February-15 March 2009.

²⁰² Divine Ntaryike, "Cameroon detains 9 for pirate bank robbery," *Associated Press* 20 April 2011. "Cameroon 'bank robbers' killed in speed-boat chase," *BBC News*, 22 March 2011

creating a new, seaborne asymmetric threat to national and regional security.²⁰³

4.7 PIRACY PROFILE AND FUTURE PROJECTIONS

Given the far reaching implications of piratical attacks in the Gulf of Guinea, effective counter-piracy measures must be adopted by regional States and international community to address the situation. Indeed, counter-piracy initiatives in the Gulf of Guinea must take into account the emerging piracy profile of the region. The *modus operandi* of pirates must also be understood, and emerging trends closely monitored. Therefore, this concluding section summarises the piracy profile in the Gulf of Guinea as well as the future projections.

4.7.1 Profile of Niger Delta Pirates

By the close of 2012, the evolving piracy profile had crystallised, with the details summarised in Table 4.5 below.

²⁰³ Generally on asymmetric attacks or warfare see, Vijay Sakhuja, "Asymmetric Warfare And Low Intensity Maritime Operations: Challenges For Indian Navy," *Observer Research Foundation Occasional Paper*, 2006.

Table 4.5 Profile of Gulf of Guinea Piracy

Subject	Description/Outcome
<i>Platforms</i>	Speedboats – These were already being used by insurgents. They are ideal for piracy because of their speed and manoeuvrability. Generally faster than victim ships and naval ships.
<i>Grouping</i>	There can be up to 40 pirates in multiple speedboats. Large numbers are ideal for overpowering crew.
<i>Weapons</i>	AK 47s, machine guns, RPGs, grenades and knives. Able to stop ships underway with strong fire power.
<i>Violence</i>	High level of violence and injury to crew. Instils fear and ensures quick outcome of attacks.
<i>Reach/Range</i>	South – Nigeria to Equatorial Guinea (over 1,550km). West – Nigeria to Cote d'Ivoire (over 2,000km).
<i>Time</i>	Pirates operate both day and night, but are shifting towards night operations. An element of surprise is achieved through night attacks.
<i>Target ships</i>	Oil and product tankers, with the objective of stealing refined oil cargo. Other vessels attacked for money and valuables.
<i>Mother ship</i>	Hijacked fishing vessels are occasionally used on a resupply basis or as a decoy when approaching targeted ships.
<i>Assisting Ships</i>	Tankers used to transfer stolen oil cargo.
<i>Ransom</i>	Not a prime motivation, but still employed as a supplementary activity.
<i>Networks</i>	Stolen oil sold within and outside the region. Timing of attacks suggest prior information about location of oil tankers

The above profile has emerged from the discussion of the seven phases of piracy, with the main focus being on the primary piracy enclave. However, Gulf of Guinea piratical activity is marked by fluidity and increasing complexity. Effective responses should therefore be scoped within the broader maritime security context of the region, with particular attention being paid to developments in the way piratical activities are being carried out (and their links to criminal networks). The following trends should be closely watched in both the primary and secondary piracy enclaves.

4.7.2 Increasing Trends in Piracy and Criminal Oil Networks

Unlike Somalia, where multilateral counter-piracy efforts have led to a steady decline in successful attacks since 2009,²⁰⁴ the Gulf of Guinea has seen an escalation in attacks. Pirates in the region have mastered the geography and shipping profile of the Gulf of Guinea, making attacks easier to perpetrate. The IMO reported 13 attacks in the Gulf of Guinea between January and February 2013 alone, with 8 of the attacks taking place on the high seas.²⁰⁵ If this trend continues, the region will record over 100 incidents in 2013, twice the yearly average of the last 8 years, and more than half of these will be committed on the high seas.

The maritime security profile of the Gulf of Guinea shows that distance is not a limiting factor for piratical activities. Conversely, long-range attacks give pirates more time to plunder ships and transfer stolen cargo. Clearly, there is no area in the Gulf of Guinea too remote or too secure to dissuade pirates from their marauding activities. Indications of a widening primary piracy enclave became apparent in July 2013, when an oil tanker was hijacked near the Port of Gabon, and subsequently sighted under the control of the hijackers off the coast of Nigeria.²⁰⁶ This

²⁰⁴ It is important to distinguish between attempted attacks and successful attacks. Although the number of attacks in the Horn of Africa and the wider Indian Ocean continue to increase, the rate of success has declined tremendously, especially on the East African coast, due to the presence of foreign forces. On the declining state of Somali piracy, see Bruce Legge, *Countering Somali Piracy – Success, Failure or Status Quo?*, 27 July 2012, Combined Maritime Forces, Available: <http://combinedmaritimeforces.com/2012/07/27/countering-somali-piracy-success-failure-or-status-quo/>, 14 September 2013.

²⁰⁵ IMO, Reports on Acts of Piracy and Armed Robbery against Ships-January 2013, (MSC.4/Circ.194. 19 March 2013). IMO, Reports on Acts of Piracy and Armed Robbery Against Ships-February 2013, (MSC.4/Cir.195. 21 March 2013).

²⁰⁶ "Pirates hijack tanker off Gabon as shipping risks spread," *defenseWed*, 19 July 2013. "Pirates leave hijacked ship, all 24 Indians on board safe," *The Times of India*, 23 July 2013.

incident shows once more that oil tankers will continue to be targeted by pirates because the financial rewards for the pirates, their accomplices, as well as the buyers of the stolen oil, are extremely high.²⁰⁷ However, while pirates hunt for these high value targets, all other vessels become susceptible to piratical attacks. Therefore, the oil factor is indeed a critical determinant of the future of maritime security in the region.

4.7.3 Other Piratical Groups within the Primary Piracy Enclave

It is important to note that the situation in the primary piracy enclave is even more complicated than this analysis has highlighted. Indeed, there is a history of attacks by two other organised groups in neighbouring Cameroon – groups that are completely removed from the Niger Delta insurgency. The first is the Bakassi Freedom Fighters (BFF), a group that is opposed to Nigeria returning the Bakassi Peninsula to Cameroon.²⁰⁸ The BFF attacked an oil tanker in 2008, kidnapping the crew and detaining them for ten days, before successfully negotiating a ransom payment.²⁰⁹ The second group, the Africa Marine Commando (AMC), kidnapped a Chinese fishing crew in 2010, accepting a ransom for their

²⁰⁷ Christina Katsouris and Aaron Sayne, “Nigeria’s Criminal Crude: International Options to Combat Export of Stolen Oil,” *Chatham House*, September 2013, pp. 2-12.

²⁰⁸ The return of the Bakassi Peninsula by Nigeria to Cameroon follows the decision of the International Court of Justice, *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Judgment of 10 October 2002. See generally Hilary V. Lukong, *The Cameroon-Nigeria Border Dispute: Management and Resolution, 1981-2011*, African Book Collective, 2011.

²⁰⁹ The *Sagitta*, a supply ship (France) was attacked on 31/10/2008, off Bakasi Peninsula within the territorial sea of Cameroon. The kidnapped crews were released on payment of a ransom on 11/11/2008. See IMB, “Piracy and Armed Robbery Against Ships Annual Report 2008.”

release.²¹⁰ There have not been any other discernible cases of piratical attacks by the BFF or the AMC, partly because of robust responses from the Cameroon government – responses which have included lethal force being used against group members.²¹¹ However, the groups are far from being dismantled, with reports indicating that the AMC was involved in the kidnapping of local officials in 2011.²¹²

4.7.4 Deepening Piratical Attacks in the Secondary Piracy Enclave

Another concern is the future safety of the coasts of Guinea and Sierra Leone. Indeed, the trajectory of incidents in this enclave is worrying, with a high level of violence often being employed. There is also a very close correlation between reported piratical incidents off the coast of Guinea and incidents in neighbouring Sierra Leone – a portent sign of organised criminal activity in the area. In March 2007, pirates armed with machine guns boarded the *Atropos*, which was underway 40 nautical miles off Sierra Leone.²¹³ In August the same year, thirty pirates armed with guns boarded a United Kingdom registered product tanker off Guinea.²¹⁴ Later, in December, pirates armed with AK47s and wearing military-like uniforms fired upon and boarded a tanker off

²¹⁰ *New Pirates group Africa Marine Commando group*, 17 March 2010, Close Protection World, Available: <http://www.closeprotectionworld.com/maritime-security-forum/29002-new-pirates-group-africa-marine-commando-group.html>, 13 July 2012.

²¹¹ Chris Rawley, *Africa Marine Commando on the Rise*, 7 April 2011, Available: <http://www.informationdissemination.net/2011/04/africa-marine-commando-on-rise.html>, 13 July 2012.

²¹² See International Crises Group, *The Gulf of Guinea: The New Danger Zone*, Africa Report No. 195, pp.13-14.

²¹³ IMB, *Piracy and Armed Robbery Against Ships Annual Report 2007*, p. 65.

²¹⁴ *Wappen Von Leipzig*, Oil Tanker, see IMB, *Piracy and Armed Robbery Against Ships Annual Report 2007*, p. 69.

Sierra Leone.²¹⁵ In August 2010, ten pirates armed with AK47s again attacked a ship off the coast of Guinea,²¹⁶ and more recently in 2012, a Maltese cargo ship, the *Costanza*, was attacked 20 nautical miles off Guinea by armed pirates with AK47s, with the ship sustaining damage.²¹⁷ Indeed, these are indications of entrenched piratical activities. As attacks from the secondary enclave spread southwards, a piracy arch with the primary enclave will be formed, leading to a very grave situation at sea – one which has far reaching consequences for regional security.

4.7.5 Threats Beyond Piracy

While the Gulf of Guinea grapples with a spate of piratical activity, new transnational actors are gaining notoriety in the region. Indeed, the extremist Islamist group, Boko Haram,²¹⁸ whose activities were previously confined to the northern part of Nigeria, has broadened its operations. In August 2011, the group claimed responsibility for a suicide attack on the United Nations Office in Nigeria, killing 18 United

²¹⁵ The tanker *Jamal Massry* is Gambian registered. See IMB, Piracy and Armed Robbery Against Ships Annual Report 2007, p. 74.

²¹⁶ IMB, Piracy and Armed Robbery Against Ships Annual Report 2010, p. 55.

²¹⁷ IMO, Reports on Acts of Piracy and Armed Robbery Against Ships – August 2012, IMO, MSC.4/Cir.188, 29 October 2012). See also the hijacking of the *Marciana*, a general cargo ship, Malta, in October 2012 (IMO, MSC.4/Cir.190, 21 January 2013).

²¹⁸ “Boko Haram” translates to “western education is bad”. The group is an extremist Islamic sect in Northern Nigeria that is waging a war against the Government of Nigeria, demanding the institutionalisation of Islamic rule in Nigeria. According to the United States Peace Institute, the group is not in the same category as other terrorist groups as it is not targeting western interests. See, Andrew Walker, *What Is Boko Haram?* United States Peace Institute, May 2012, <http://www.usip.org/publications/what-boko-haram>, 14 March 2013.

Nations staff and injuring over one hundred others.²¹⁹ This attack dramatically changed earlier assessments of the group that viewed their threat as limited.²²⁰ In June 2013, following repeated attacks on major cities and towns in Nigeria, the Government of Nigeria officially declared Boko Haram a terrorist group,²²¹ with the Nigerian Minister of Defence emphatically describing the group as a franchise of Al-Qaeda.²²²

To date, there have been no reports of Boko Haram having launched maritime attacks. And although a strike on an onshore pipeline in February 2012 by a group “want[ing] to register their presence” raised fears that Boko Haram may have been targeting strategic oil assets, no connection with the group has been established.²²³ Nevertheless, the possibility of Boko Haram or another terrorist group - such as Al-Qaeda in the Islamic Magreb (AQIM), targeting offshore oil and gas installations in the Gulf of Guinea cannot be discounted.²²⁴ Indeed, the

²¹⁹ Vanguard Newspaper, *UN House Bombing: Boko Haram Claims Responsibility*, 27 August 2011, Nigerian Bulletin Available: <http://nigerianbulletin.com/2011/08/27/un-house-bombing-boko-haram-claims-responsibility-vanguard/>, 30 August 2011. See also, Bashir Adigun, *UN Headquarters Car Bombing in Nigeria kills 18*, 27 August 2011, The Associate Press, Available: <http://www.google.com/hostednews/ap/article/ALeqM5gOTyKRMih695bDlsnpuxCVTWxYWA?docId=25af455aab4440aeb6acaeccf757547b>, 30 August 2011.

²²⁰ See *Jane's Terrorism and Security Monitor*, 7 May 2010. Gwynne Dyer, *Nigeria and Boko Haram: Islamist extremists threaten democracy and Muslim-Christian unity in Africa's largest country* 29 August 2011, Available: <http://www.thespec.com/opinion/columns/article/586023--nigeria-and-boko-haram>, 30 August 2011.

²²¹ “Jonathan officially declares Boko Haram a terrorist organization,” *Premium Times*, 4 June 2013.

²²² Hon. Erelu Olusola Obada, “Nigeria’s Defence Priorities: Domestic Stability for Regional Security,” *Chatham House*, 18 July 2013, pp. 4. See also Ola Awoniyi, “Nigeria Defence Chief says Boko Haram has ties to Al-Qaeda,” AFP, 23 February 2012.

²²³ *Militants claim attack on Eni oil pipeline* 5 February 2012, BusinessDay, Available: <http://www.businessdayonline.com/NG/index.php/news/76-hot-topic/32640-mend-claim-attack-on-nigeria-eni-oil-pipeline>, 14 March 2013.

²²⁴ The AQIM operates in the Sahel or Maghreb region of Western Africa, falling largely within Chad, Mali, Niger and Senegal. See Anneli Botha, “Terrorism in the Maghreb the Transnationalisation of Domestic Terrorism,” ISS Monograph Series, No 144, South Africa, June 2008. See also UNSC Report, “Peace and Security in Africa,” May 2013 Monthly Forecast,

high value of these assets, coupled with their vulnerability, make them attractive targets.²²⁵

4.8 CONCLUSIONS

This chapter has demonstrated that piracy presents a major risk to the geostrategic advantages of the Gulf of Guinea. The analysis has shown that piratical attacks are on the increase, that the trends and dynamics of such attacks are becoming more complex. The analysis of the future projections for the region also reveals deepening piracy trends and widespread insecurity. These trends have enormous implications for maritime security in the Gulf of Guinea. Without doubt, piracy and armed robbery is a significant threat to the safety and security of international shipping, undermining global energy security, and also impacting on national and regional security.

It is evident from the examination of the evolution of piracy that although pirates operate with impunity, the counter-piracy measures adopted by States have largely been ineffective. The analysis has also demonstrated that unless national and bilateral initiatives are coordinated

http://www.securitycouncilreport.org/monthly-forecast/2013-05/peace_and_security_in_africa.php?print=true, 5 September 2013.

²²⁵ Hans Tino Hansen, "Distinctions in the Finer Shades of Gray: The "Four Circles Model" for Maritime Security Threat Assessment", in Rupert Herbert-Burns, Sam Bateman and Peter Lehr, eds. *Lloyd's MIU Handbook of Maritime Security*, CRC Press, 2008. Torbjorn Thedeem, "Setting the Stage: The Vulnerability of Critical Infrastructures", in Konstantin Frolov and Gregory Baecher, eds. *Protection of Civilian Infrastructure from Acts of terrorism*, Springer, 2006. Amanda East and Bill Bailey, "Australia's Oil Refining Industry - Importance, Threats and Emergency Response," *Security Management*, 2008.

within a regional framework, pirates will merely transfer their activities to neighbouring coasts or modify their tactics, which will ultimately compound regional and global insecurity. More worrying, however, is the fact that apart from piracy, other serious maritime security threats exist in the Gulf of Guinea.

It is indeed clear from the analysis in this chapter, as well as that in the previous chapter, that the enhancement of maritime security in the Gulf of Guinea requires: (i) the effective exercise of jurisdiction and enforcement by Gulf of Guinea States; (ii) effective regional cooperation; and (iii) viable global engagement and support; and more importantly (vi) appreciating the land-sea nexus to maritime security and addressing the governance dimensions to insecurity. The next chapter will assess the extent to which Gulf of Guinea States have implemented pertinent international instruments and frameworks which form the basis for the exercise of maritime security jurisdiction. Chapters six and seven will then proceed to assess regional and global cooperation in the Gulf of Guinea region.

CHAPTER FIVE

IMPLEMENTATION OF INTERNATIONAL FRAMEWORKS FOR ENHANCING MARITIME SECURITY IN THE GULF OF GUINEA

5.1 INTRODUCTION

The analysis in chapter three demonstrated the role of international frameworks in defining the scope and content of the concept of maritime security. Additionally, international legal and policy frameworks serve as tools for asserting jurisdiction at the national level, and as cooperative mechanisms for addressing maritime security challenges. Therefore, the degree of implementation of maritime security frameworks in the Gulf of Guinea is a measure of national and regional capacity and commitment to combat maritime security threats.

This chapter will examine how effectively Gulf of Guinea States have implemented key multilateral frameworks that seek to address various aspects of maritime security. The chapter is divided into five parts. First, the chapter will analyse the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which is the primary international legal treaty governing ocean use and governance, assessing its implementation in the Gulf of Guinea. The next four parts will examine the implementation of selected frameworks that have direct bearing on the maritime security threats analysed in chapters three and four. Each part will focus on three objectives: (i) reviewing the background of the relevant international

framework or instruments; (ii) analysing the content of the framework and its relevance to maritime security in the Gulf of Guinea; and (iii) assessing the implementation of the framework in the Gulf of Guinea.

5.2 IMPLEMENTATION OF THE LAW OF THE SEA CONVENTION IN THE GULF OF GUINEA

The importance of UNCLOS¹ as a charter of global order and maritime security is highlighted in its preamble, which declares it to be an instrument for the "maintenance of peace", for promoting "peaceful uses of the seas and oceans", and for enhancing "equitable international economic order."² These principles anchor the normative and institutional arrangement of the Convention, and equally demonstrate that it is indeed the "constitution of the oceans" and an embodiment of the political, economic and security needs of States.³

To properly situate the framework of the Convention in this chapter, a brief examination of its background is necessary. It is important to note that this historical review is being carried out from the perspective of African States in order to assess whether Gulf of Guinea States have

¹United Nations, United Nations Convention on the Law of the Sea (UNCLOS), 1833 *U.N.T.S.* 397. The Convention opened for signature at Montego Bay, Jamaica, on 10 December 1982, and came into force on 16 November 1994. The Convention has 166 Ratifications as at 29 October 2013. The full text of the Convention is reprinted in 21 International Legal Materials 1261 (1982).

² The reference to the "realization of just and equitable international economic order" in the Preamble has been understood by many commentators as a fulfilment of the "New International Economic Order" doctrine that was fought for by developing countries, especially newly independent African States. See Barbara Kwiatkowska, *The 200 Mile Exclusive Economic Zone in the New Law of the Sea* 2, Dordrecht, Martinus Nijhoff, 1989. Harry J. Johnson, *The New International Economic Order* Graduate School of Business University of Chicago, 1976.

³ The description of the Convention as the constitution of the world's oceans was used in an address by the President of the Conference that adopted the Convention, Tommy T.B. Koh. The address is posted at http://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf, 23 August 2013.

subsequently utilised the opportunities provided by the Convention for securing vital maritime security interests.

5.2.1 African States and the Evolution of the 1982 Law of the Sea Convention

UNCLOS evolved from three international conferences held under the auspices of the United Nations (UN).⁴ This section summarises the participation of African States in the three conferences and the negotiations that crystallised into the adoption of UNCLOS.

5.2.1.1 First Law of the Sea Conference and the 1958 Conventions

The First United Nations Conference on the Law of the Sea (UNCLOS I) was convened by a resolution of the UN General Assembly in 1957.⁵ UNCLOS I was held from 24 February to 27 April 1958, barely a year after Ghana had liberated itself from colonial rule.⁶ Thus Ghana and Liberia, together with five other African States, took part in UNCLOS I, which was attended by eighty-six States.⁷ Four Conventions and an

⁴ The analysis in this part relies heavily on a publication co-authored by the author, Martin Tsamenyi and Kamal-Deen Ali, "African States and the Law of Sea Convention: Have the benefits been realized?," *Ocean Yearbook* 26, 2012, pp. 113-60.

⁵ The Conference was convened by the UN General Assembly Resolution 1105(XI) of 21 February, 1957. The *travaux préparatoires* and proceedings of the Conference can be found in "Official Records of the UN Conference on the Law of Sea," vols. I to VII, UN publication, Sales No. 58, V.4, vols. I to VII.

⁶ Ghana had independence on 6 March 1957, and was the first country in the Gulf of Guinea to have independence.

⁷ Other African States at the Conference included Egypt, Ethiopia, Tunisia, Sudan and South Africa.

Optional Protocol were adopted at the end of the conference.⁸ These Conventions were subsequently ratified by three Gulf of Guinea States at various stages following their independence – namely, Nigeria, Sierra Leone and Senegal.⁹ In contrast, none of the African States that participated in the conference (with the exception of South Africa) ratified any of the Conventions. Indeed, this was a clear indication of the dissatisfaction of African States with the 1958 law of the sea regime.¹⁰

Many African States refrained from ratifying the 1958 law of the sea framework because the Conventions were geared towards entrenching the interests of developed States to the disadvantage of developing States (and particularly African States that had just emerged from many years

⁸ "Convention on Territorial Sea and Contiguous Zone, 1958 " *UN Treaty Series*, 516, pp. 205, in force 10th September 1964, "Convention on the High Seas, 1958 " *UN Treaty Series* 450, pp. 11, in force 30th September 1962, "Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958," *UN Treaty Series* 559, pp. 285, in force 20th March 1966, "Convention on Continental Shelf, 1958, in force 10 June 1964," *UN Treaty Series* 499, "Optional Protocol on Compulsory Settlement of Disputes, 1958," *UN Treaty Series* 450, pp. 169, in force 30th September 1962 .

⁹ Nigeria achieved independence on 1/10/1960 and ratified the Conventions as follows: Territorial Sea and Contiguous Zone, 26/6/1961; Convention on the High Seas, 26/6/1961; Convention on Fishing and Conservation of Living Resources of the High Seas, 26/6/1961; Convention on the Continental Shelf, 28/4/1971. Sierra Leone achieved independence on 27/4/1961 and ratified the Conventions as follows: Convention on the Territorial Sea and Contiguous Zone, 13/3/1962; Convention on the High Seas, 13/3/1962; Convention on Fishing and Conservation of Living Resources of the High Seas, 13/3/1962; Convention on the Continental Shelf, 25/11/1966.

Senegal achieved independence on 4/4/1960 and ratified the Conventions as follows: Convention on the Territorial Sea and Contiguous Zone, 25/4/1961; Convention on the High Seas, 25/4/1961; Convention on Fishing and Conservation of Living Resources of the High Seas, 25/4/1961; Convention on the Continental Shelf, 28/4/1961. Senegal subsequently renounced three of the Conventions. The details of registration of the denunciations are as follows: Convention on Territorial Sea and Contiguous Zone, 9 June 1971 (see, No. 7477, UN Treaty Series, vol. 781, p. 332); Convention on Living Resources of the High Seas, 9 June 1971 (see, No. 8164, UN Treaty Series, vol. 781, p. 332); Convention on Continental Shelf, 1 March 1976 (see, No. 7302, UN Treaty Series, vol. 997, p. 486). The denunciations were to take effect 30 days after registrations of the notices of denunciation.

¹⁰ Martin Tsamenyi and Kamal-Deen Ali, "African States and the Law of Sea Convention: Have the benefits been realized?" *Ocean Yearbook* 26, 2012, p. 117. See generally Tayo O. Akintoba, *African States and Contemporary International Law: A Case Study of the 1982 Law of Sea Convention and the Exclusive Economic Zone* The Hague, Martinus Nijhoff 1996.

of colonial rule).¹¹ Indeed, this is illustrated by the design of the Continental Shelf Convention.¹² After providing that the seaward limit of the continental shelf is the distance where the depth of the sea is 200 metres, Article 1 introduced an additional criterion, allowing States to extend the limit of the shelf “to where the depth of the superjacent waters admits of the exploitation of the natural resources.”¹³ This additional window rendered the exact limit of continental shelf indefinite, and since exploitability of marine resources is dependent upon technological innovation, the Convention was, in essence, a tool for developed States to annex large areas of the seabed.¹⁴

Also, developing States generally sought an extension of the territorial sea beyond the customary law limit of 3 nautical miles, but this was opposed by developed States who viewed it as a fetter on their military and fishing interests.¹⁵

¹¹ Tayo O. Akintoba, *African States and Contemporary International Law: A Case Study of the 1982 Law of Sea Convention and the Exclusive Economic Zone*, The Hague, Martinus Nijhoff, 1996, p.68. See also Nasila S. Rembe, *Africa and the International Law of the Sea*, Netherlands Sijthoff and Nordhoff, 1980.

¹² "Convention on Continental Shelf, 1958," in force 10 June 1964, *UN Treaty Series* 499.

¹³ Article 1 of the Convention on the Continental Shelf, *UN Treaty Series Vol. 499*, p. 311.

¹⁴ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p.147.

¹⁵ On the evolution of the territorial sea, see Robin Churchill and Vaughan Lowe, *Law of the Sea*, Manchester University Press, 1999, p.71-81.

5.2.1.2 Second Law of the Sea Conference - No Convention Adopted

Due to demands placed on the UN General Assembly by developing States for a new ocean regime, the Second United Nations Conference on the Law of the Sea (UNCLOS II) was held in 1960.¹⁶ Cameroon and Guinea, together with Ghana and Liberia, were among the ten African States that participated in the conference.¹⁷ The core objective of UNCLOS II was to resolve conflicting claims to territorial seas and fisheries zones.¹⁸ Whilst some States were still considering the maximum limit of the territorial sea to be 6 nautical miles, African States proposed a 12 nautical mile territorial sea limit at UNCLOS II.¹⁹ In fact, most of the African States at the conference had already enacted domestic legislation claiming a territorial sea of 12 nautical miles and beyond, or were in the process of doing so.²⁰ Due to irreconcilable differences, UNCLOS II ended without the adoption of a Convention after six weeks of deliberations.

¹⁶ General Assembly per Resolution 1307 (XIII) of 10 December 1958 requested the Secretary-General to convene a Second United Nations Conference on the Law of the Sea to consider the topics of the breadth of the territorial sea and fishery limits - issues which had not been agreed upon in the 1958 Conventions. The Conference was held from 17 March to 26 April 1960 and adopted two resolutions in its Final Act (A/CONF.19/L.15).

¹⁷ Eighty-eight States were at UNLOS II. The ten African States in attendance were Cameroon, Ethiopia, Ghana, Guinea, Liberia, Libya, Morocco, Sudan, Tunisia and South Africa. See UNCLOS II Official Records, pp. 13–24.

¹⁸ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p.14.

¹⁹ See Statements by African States at UNCLOS II, UNCLOS II, Official Records, A/CONF. 19/8, Ghana p.33 paragraph 12; Tunisia p.91 Paragraph 34; Sudan p. 110 paragraph 15; Libya p.123 paragraph 22.

²⁰ For a commentary on these claims, see Ashley J. Roach and Robert W. Smith, *United States Responses to Excessive Maritime Claims*, London and Boston, Martinus Nijhoff, 1996, p. 151-158.

5.2.1.3 Third Law of the Sea Conference and UNCLOS 1982

The failure of participating States to reach a consensus at UNCLOS II resulted in the 1960s and 1970s being a period of intense contestation, with developed and developing States trying to secure their respective interests.²¹ However, in the absence of a prevailing governance regime for the oceans, developed States were (predictably) better placed to derive maximum benefits from the zeitgeist of ‘self-help’ and unilateralism.²² Using the Organisation of African Unity (OAU)²³ as a platform, African States demanded the development of a normative framework that would cater for their interests.²⁴ In order to add momentum to their demands, African States united with other developing States under the umbrella of the ‘Group of 77’. This alliance of sorts was designed to gain attention on the floor of the UN and on the international stage in general.²⁵ In 1972, the Yaoundé Regional Seminar declared the right of African States to establish an economic zone beyond the territorial sea.²⁶ In the same year, and under the leadership of

²¹ Robert L. Freidheim, “The ‘Satisfied’ and ‘Dissatisfied’ States Negotiate International Law,” *World Politics* 18, 1965, p. 21.

²² Michel Virally, “Sources of International Law,” in Max Sorensen, ed., *Manual of Public International Law*, New York, St. Martin’s Press, 1968, p. 137. See also Ram Prankash Anand, “Tyranny of the Freedom of the Seas Doctrine,” *International Studies* 12, 1973, pp. 416-29. Richard Falk, “The New States and the International Legal Order,” *Recueil des Cours*, vol. 2, 1966, pp. 16-17.

²³ On OAU, see chapter 6.

²⁴ See in particular Resolutions CM/250 (XVI) and CM/238 adopted at the Seventeenth Ordinary Session of the Council of Ministers, Addis Ababa, Ethiopia, 15 to 19 June 1971.

²⁵ The Group of 77 was initiated on the basis of a Joint Declaration of Developing Countries, General Assembly Resolution 1877 of 1963, UN Doc A/5587. The Group commenced work on 15 June 1964, with 77 developing countries sitting on the sidelines of the First Session of the United Nations Conference on Trade and Development (UNCTAD) in Geneva. In October 1967, the Group of 77 adopted the “Charter of Algiers”, which recognised the Group as a permanent institutional structure with Chapters and Liaison Offices in Nairobi, Paris, Rome, Vienna and Washington. Although the membership of the Group expanded with time, when UNCLOS III convened in 1974, the Group’s membership was approximately 120 States. The original name of the Group has been retained due to its historic significance.

Kenya, the concept of the Exclusive Economic Zone (EEZ) was formulated and presented at the United Nations Seabed Committee, which was meeting in Geneva.²⁷ Then, the Addis Ababa and Mogadishu Declarations of 1973 and 1974 gave final force to the African position.²⁸ These Declarations emphatically stated the right of African States to an EEZ and the reciprocal recognition of the EEZs of other States.²⁹

While the above developments were taking place, the Third United Nations Conference on the Law of the Sea (UNCLOS III) was convened, with its first substantive session taking place in 1974, and enduring until 1982.³⁰ Meanwhile, the concept of the EEZ had already received endorsement from African and Latin American States, as well as many other developing States.³¹ These endorsements were so widespread that the concept of the EEZ was considered a rule of customary international

²⁶ See, Conclusions in the General Report of the African States Regional Seminar on the Law of the Sea, held in Yaoundé, Cameroon, June 1972, UN Leg. Ser. B/16, p.601. The Yaoundé Regional Seminar was held from 20th to 30th June 1972 in Yaoundé, Cameroon.

²⁷ See, UN Doc. A.AC. 138/SC.II/L.10, 1973. The Draft Articles are reproduced in *International Legal Materials* 12, 1973, p.33.

²⁸ Martin Tsamenyi and Kamal-Deen Ali, "African States and the Law of Sea Convention: Have the benefits been realized?" *Ocean Yearbook* 26, 2012, p. 121.

²⁹ Declaration of OAU Council of Ministers held in Addis Ababa, Ethiopia, 17-24 May 1973, and the Mogadishu Declaration of the Twenty First Ordinary Session of the OAU, Mogadishu, Somalia, 6 to 9 September 1974. The text of the Declarations are reproduced in the document titled "Conservation and Utilization of Living Resources of the EEZ: Legislative History of Articles 61 and 62 of the United Nations Convention on the Law of Sea", United Nations, New York, 1995, p. 9.

³⁰ The Third United Nations Conference on the Law of the Sea (UNCLOS III) was convened pursuant to General Assembly Resolution 2750 C (XXV) of 17 December 1970. The conference was to commence in 1973 but was postponed to the following year to allow the completion of the work of the UN Seabed Committee which was to form part of the preparatory documents for UNCLOS III.

³¹ The EEZ concept also received support from a few developed States, particularly Canada, East Germany, West Germany and Norway. See United Nations, Summary of Records of Meeting - First Session, UNCLOS III Official Records vol. I, United Nations, New York, 1973. See also Edward L. Miles and William T. Burke, "Pressures on the United Nations Convention on the Law of the Sea Arising from New Fisheries Conflicts: The Problem of Straddling Stocks," *Ocean Development and International Law* 20, 1989, pp. 343-57.

law even before UNCLOS III was finalised.³² The EEZ later received detailed expression in Part V of the 1982 Law of the Sea Convention. The demands of African States also led to the creation of Part XI of UNCLOS, which created a juridical regime that prevents unilateral national appropriation and control of the deep seabed. This area is commonly referred to as the Common Heritage of Mankind.³³

5.2.2 Overview of the Framework of the Law of the Sea Convention

UNCLOS was adopted on 30 April 1982 by one hundred and thirty votes to four, with seventeen abstentions.³⁴ However, there was still some opposition, largely from developed States, to Part XI of the Convention that dealt with the deep seabed. Thus, it was only after the re-negotiation of Part XI³⁵ that the Convention entered into force in 1994.³⁶ The main body of UNCLOS consist of 320 Articles dealing with a plethora of

³² Thus in the 1985 Libya/Malta Case, the ICJ stated emphatically that it was “incontestable that...the EEZ...is shown by the practice of States to have become part of customary law.” See [1985], ICJ Report, p. 33. See also Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p.161. Generally on the evolution of the concept of the EEZ, see David Attard, *The Exclusive Economic Zone in International Law*, Oxford University Press, Oxford, 1987.

³³ The concept or doctrine of the Common Heritage of Mankind broadly asserts that certain rights or resources should not be enjoyed by some States to the exclusion of others. For a discussion of the concept in the context of developing States and the law of sea, see Kemal Baslar, *The Concept of the Common Heritage of Mankind in International Law*, The Hague Martinus Nijhoff 1998, p. 210-216. Edwin Egede, *Africa and the Deep Seabed Regime: Politics and International Law of the Common Heritage of Mankind* Heidelberg, Springer, 2011.

³⁴ Israel, Turkey, the United States and Venezuela voted against the adoption of the Convention. Belgium, Bulgaria, Belarus, Czechoslovakia, the German Democratic Republic, the Federal Republic of Germany, Hungary, Italy, Luxembourg, Mongolia, the Netherlands, Poland, Spain, Thailand, Ukraine, the USSR and the United Kingdom abstained from the vote.

³⁵ The instrument of modification is the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, 20 July 1994.

³⁶ United Nations Convention on the Law of the Sea, 10 December 1982, entry into force 16 November 1994. See 1833 *U.N.T.S.* 397. Reprinted in 21 *International Legal Materials* 1261 (1982). The Convention has 166 Ratifications as at 29 October 2013.

issues including the delimitation of maritime boundaries, the control and management of living and non-living resources, the protection of the marine environment, shipping and navigation, marine scientific research (MSR), the transfer of technology, the protection of underwater archaeological objects, as well as the rights and obligations of States relating to the peaceful use of the sea. The Convention has 9 Annexes, covering various subject matters. Also Annexed to the Convention is the Agreement Relating to Part XI, which modifies Part XI of the main Convention.³⁷

On the whole, UNCLOS can be characterised in two ways. In one respect it creates very specific rights and obligations for States; in other respects it is a 'framework convention' in the sense that its proper implementation requires interstate cooperation and the adoption of additional instruments.³⁸ Indeed, all the instruments being examined in the rest of this chapter are related to the Convention. However, it suffices at this stage to summarise the maritime zones designated by the Convention. Such a summary is necessary for assessing the implementation of those provisions of the Convention that deal directly with maritime security and boundary delimitation. Other aspects of the Convention will be reviewed in other parts of the chapter.

³⁷ Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of Sea, 20 July 1994, reproduced in 33 *International Legal Materials*, 1309, 1994.

³⁸ On the further implementation of UNCLOS, see Hans Corell, "Oversight of the Implementation of the Global Ocean Regime: The Role of the United Nations' ", in Davor Vidas and Willy Østreng, eds. *Order for the Oceans at the Turn of the Century*, Netherlands, Kluwer Law International, 1999. Tullio Treves, "The Role of Universal International in Implementing the 1982 UN Law of the Sea Convention", in Alfred H. A. Soons, ed. *Implementation of the Law of the Sea Convention Through International Institution*, Honolulu, Law of the Sea Institute, 1990.

5.2.2.1 Territorial Sea and the Protection of Sovereignty and Security Interests

UNCLOS gives coastal States the right to claim a territorial sea not exceeding 12 nautical miles from the baselines.³⁹ The sovereignty of coastal States extends to the territorial sea and the air space above the territorial sea.⁴⁰ By implication, all resources in the water column and seabed of the territorial sea are subject to the exclusive control of the coastal State. The sovereignty jurisdiction of coastal States in the territorial sea is a potent tool for security jurisdiction and enforcement.⁴¹ Whilst ensuring that the right of innocent passage is not fettered,⁴² Gulf of Guinea States can enact and enforce laws aimed at protecting homeland security and safeguarding the territorial sea itself.⁴³ Such laws may include the prohibition of illicit trafficking in narcotics,⁴⁴ as well as “[any crime] that disturb[s] the peace of the country or the good order of the territorial sea.”⁴⁵ This broad legislative and enforcement jurisdiction is a veritable tool for combating the maritime security threats analysed in chapters three and four.

³⁹ UNCLOS, Article 3.

⁴⁰ UNCLOS, Article 2. See also Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p.77.

⁴¹ G. Marston, “The Evolution of the Concept of Sovereignty over the Bed and Subsoil of the Territorial Sea”, *British Yearbook of International Law*, 48, 1976-77, pp. 321 at p. 332.

⁴² Requirements relating to Innocent Passage are contained in Article 19.

⁴³ See in particular UNCLOS Articles 2, 21 and 27. See also Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p.95. Jose L. Jesus, “Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects,” *International Journal of Marine and Coastal Law* 18, 2003, pp. 363-400.

⁴⁴ UNCLOS, Article 27(1)(a).

⁴⁵ UNCLOS Article 27 (1)(b).

5.2.2.2 Policing and Enforcement Rights in the Contiguous Zone

In addition to the territorial sea, coastal States may establish a contiguous zone not exceeding 24 nautical miles from the baseline from which the territorial sea is measured.⁴⁶ Thus, where a coastal State claims both the maximum area of the territorial sea and the contiguous zone, its contiguous zone will stretch from the end of the twelfth nautical mile to the twenty-fourth nautical mile. The legal regime of the contiguous zone permits coastal States to exercise policing and enforcement powers to prevent the infringement of customs, fiscal, immigration and sanitary regulations.⁴⁷ Thus the regime of the contiguous zone provides an additional layer of protection with respect to national and maritime security. In practice, measures that fall within contiguous competence will also be relevant for security, especially immigration and customs controls.⁴⁸

5.2.2.3 Enforcement Jurisdiction on the High Seas

The high seas regime guarantees a number of maritime security enforcement rights which are also applicable in the EEZ.⁴⁹ Key among these is jurisdiction over piracy and illicit traffic in narcotics.⁵⁰ An

⁴⁶ UNCLOS, Article 33.

⁴⁷ Article 33(1) of UNCLOS states: "In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to: (a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea; (b) punish infringement of the above laws and regulations committed within its territory or territorial sea".

⁴⁸ On the relevance of the contiguous zone for the protection of security interests, see Shegeru Oda, "The Concept of the Contiguous Zone," *International and Comparative Law Quarterly* 11, 1, 1962, pp. 131-53. Edwin D. Dickinson, "Jurisdiction at the maritime frontier," *Harvard Law Review* 40, 1926, pp. 1-29.

⁴⁹ UNCLOS Article 58(2) states: "Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part."

⁵⁰ For Piracy, see Articles 100-107; and for illicit traffic in narcotics, see Article 108.

essential element of the exercise of high seas jurisdiction is the requirement to cooperate.⁵¹ In a regional context, this necessitates the adoption of regional agreements and cooperative structures. The next section will assess how Gulf of Guinea States have implemented the legal framework on piracy, while Part 5.4 will assess the framework relating to the suppression of trafficking in narcotics.

5.2.2.4 Protection of Resources and Security Interests in the EEZ and on the Continental Shelf

As discussed earlier, the EEZ was central to the demands of African States before and during the law of the sea conference. The EEZ regime is now embodied in Part V of UNCLOS, with Article 57 recognising the right of Gulf of Guinea States to claim an EEZ up to 200 nautical miles from the baseline.⁵² Within the EEZ, coastal States have “sovereign rights” for the purpose of exploring and exploiting, conserving and managing the living and non-living resources of the sea and seabed.⁵³ This right is particularly relevant for fisheries protection, and will be examined in further detail in Part 5.5 of this chapter.

5.2.2.5 Framework for Maritime Boundary Delimitation

The provisions relating to maritime boundary delimitation are an important part of the UNCLOS framework. Indeed, it is only when neighbouring coastal States are able to agree on their respective maritime

⁵¹ For example, Articles 100 and 108 impose a duty to cooperate in the suppression of piracy and illicit trafficking in narcotics.

⁵² Since the territorial sea limit is 12 nautical miles, properly speaking the breadth of the EEZ is 188 nautical miles.

⁵³ UNCLOS, Article 56.

boundaries that there can be certainty of the breadth of their maritime zones, and by extension, certainty of the areas over which jurisdiction can be exercised.

As a general rule of international law, interstate boundaries or frontiers are to be settled or delimited through agreement between the States concerned.⁵⁴ This principle has been retained in UNCLOS with regard to maritime boundaries.⁵⁵ In the context of Gulf of Guinea States and other ex-colonies, the principle of *uti possidetis juris* (which has been cardinal in the consolidation of post-independent State boundaries) is equally relevant for maritime boundary delimitation.⁵⁶ By the application of the principle, every State is entitled to possess those areas and boundaries that they held immediately prior to independence.⁵⁷ Thus, coastal States are expected to lay claim to the maritime spaces appurtenant to their land territory.⁵⁸ What UNCLOS has done is to lay down the principles to be employed in negotiating and agreeing on maritime boundary limits. In the case of the territorial sea, the

⁵⁴ Brian Opeskin and Martin Tsamenyi, "The Law of the Sea", in Sam Blay, Ryszard Piotrowicz and Martin Tsamenyi, eds. *Public International Law: An Australian Perspective*, New York, Oxford University Press, 2005, pp. 324-50, p.38. This principle is succinctly stated in the *Gulf of Maine Case* [1985] ICJ Reports, para 112.

⁵⁵ For example, Article 74(1) of UNCLOS, which deals with the delimitation of the EEZ, provides: "The delimitation of the EEZ between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution."

⁵⁶ For an exposition of the principle, see Boubacar N'Diaye, "Mauritania, August 2005: Justice and democracy, or just another coup?," *Africa Affairs* 105, 420, pp. 421-41. The ICJ also applied the Principle in the *Frontier Dispute between Burkina Faso and Republic of Mali*, I.C.J. Reports 1986, p. 554.

⁵⁷ Ian Brownlie, *Principles of Public International Law*, Oxford, Oxford University Press, 1998, p. 132. See also, Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World*, Leiden & Boston Martinus Nijhoff, 2005, p. 339.

⁵⁸ It is arguable that, before colonialism, African Kingdoms defined territories and areas of jurisdiction on the basis of decisions made by Kings. See, Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries* vol. I, VI vols. Boston and London, Martinus Nijhoff, 1993, p. 641-68.

Convention stipulates the medium line as an appropriate maritime boundary, while EEZ and continental shelf boundaries are to be delimited on the basis of equity.⁵⁹

5.2.3 Assessment of the Implementation of UNCLOS in the Gulf of Guinea

The evaluation of the implementation of UNCLOS in this section is limited to three areas: (i) an examination of the status of ratification of UNCLOS and the appropriate exercise of jurisdiction provided by the Convention; (ii) an analysis of the implementation of piracy provisions at the national and regional level; and (iii) the delimitation of maritime boundaries.

5.2.3.1 Ratification of the Law of the Sea Convention and the Exercise of Appropriate Jurisdiction

Many States in the Gulf of Guinea ratified UNCLOS within a few years of its adoption, while others did so soon after its entry into force.⁶⁰ Following Liberia's ratification of the Convention on 25 September 2008, and that of Congo-Brazzaville on 9 July 2008, all Gulf of Guinea States are now party to the Convention. These ratifications are significant because UNCLOS now serves as a uniform ocean relations instrument in the region, and as a result, national legislative and policy frameworks

⁵⁹ UNCLOS, Articles 15, 74 and 88. On the application of these principles to maritime boundary delimitation in the Gulf of Guinea, see Kamal-Deen Ali and Martin Tsamenyi, "Fault Lines in Maritime Security: Analysis of maritime boundary uncertainties in the Gulf of Guinea," *African Security Review*, August 2013, pp. 1-16.

⁶⁰ For the purpose of this thesis, no distinction has been made between ratification and accession to international legal instruments. Both shall be referred to as ratification.

must be in conformity with its provisions. Table 5.1 shows the status of ratification and the accompanying declaration of maritime zones of coastal States in the Gulf of Guinea. Although not listed in the Table, it is noteworthy that four out of the five landlocked States in the Gulf of Guinea have also ratified the Convention.⁶¹

Table 5.1 Status of Ratification of the Law of the Sea Convention in the Gulf of Guinea

State	Date of Ratification	Territorial Sea(NM)	Contiguous Zone (NM)	EEZ /Continental Shelf (NM)
Angola	5/12/90	12	24	200
Benin	16/10/97	200		
Cameroon	19/11/85	12		200
Cape Verde	10/8/87	12	24	200
Congo	9/7/08	12	24	200
Cote d'Ivoire	26/3/84	12		200
DR Congo	17/2/89	12	24	200
Equatorial Guinea	21/7/97	12		200
Gabon	11/3/98	12	24	200
Gambia	22/5/84	12	18	200
Ghana	7/6/83	12	24	200
Guinea	6/9/85	12		200
Guinea Bissau	25/8/86	12		200
Liberia	25/9/08	200		
Mauritania	17/7/96	12	24	200
Nigeria	14/08/86	12		200
São Tomé & Príncipe	3/11/87	12		200
Senegal	25/10/84	12	24	200
Sierra Leone	12/12/94	12	24	200
Togo	16/4/85	30		200

Source: Compiled from UNDOALOS Status of Ratification

It should be noted, however, that merely ratifying a Convention does not allow a State to derive the benefits and protection afforded by the Convention. What is essential is for State Parties to incorporate the rights

⁶¹ The chronology of ratification by landlocked States is as follows: Mali: 16 July 1985, Burkina Faso: 25 January 2005, Chad: 14 August 2009, and Niger: 7 August 2013. The Central African Republic is yet to ratify the Convention.

and obligations provided by the Convention into domestic legal and policy frameworks.⁶² It is only by so doing that the requisite jurisdiction provided by the Convention can be asserted for the protection of legitimate State interests.⁶³ Gulf of Guinea States have generally failed in this regard. The first jurisdictional gap is evident from a review of Table 5.1. It can be seen that half of the States in the Gulf of Guinea have failed to declare a contiguous zone. As analysed in the preceding section, the policing authority embodied in the regime of the contiguous zone is important for preventing threats to national and maritime security.⁶⁴ Thus, by failing to declare a contiguous zone, a large number of States in the region have circumscribed an essential element of their jurisdictional competence.

It can also be seen from Table 5.1 that Benin and Liberia have claimed a territorial sea of 200 nautical miles, while Togo has claimed a 30 nautical mile territorial sea limit. Indeed, the breadth claimed by all these States far exceeds the 12 nautical miles stipulated by UNCLOS.⁶⁵ And

⁶² Mohammed Dahmani, *The Fisheries Regime of the Exclusive Economic Zone*, Netherlands and Boston, Martinus Nijhoff 1987, p. 84. Generally on the relationship between international and domestic law and the requirement of incorporation, see Dinah Shelton, ed., *International Law and Domestic Legal Systems: Incorporation, Transformation*, Oxford, Oxford University Press, 2011. Ali Kamal-Deen, "Legal and Policy Dimensions of Coastal Zone Monitoring and Control: The Case in Ghana", *Ocean Development and International Law* 35, 2004, pp. 179–194.

⁶³ Mohammed Dahmani, *The Fisheries Regime of the Exclusive Economic Zone*, Netherlands and Boston, Martinus Nijhoff 1987, p. 84. Ali Kamal-Deen, "Legal and Policy Dimensions of Coastal Zone Monitoring and Control: The Case in Ghana", *Ocean Development & International Law*, vol. 35, 2004, pp. 179–194.

⁶⁴ See chapter 3, Section 3.3.2.2. See also Oda, "The Concept of the Contiguous Zone." Dickinson, "Jurisdiction at the maritime frontier." Phillip C. Jessup, *The Law of Territorial Waters and Maritime Jurisdiction*, New York Jennings, 1927, William E. Masterson, *Jurisdiction in Marginal Seas*, New York Macmillan 1929. G. Gedel, "La mer territoriale et la zone contigue," *Recueil des Cours* 48, 1934, pp. 241-73.

while these excessive claims are borne out of the ocean politics and contestation of the 1970s (as analysed in section 5.2.2.3),⁶⁶ the declarations are patently inconsistent with the current regime, and would thus need to be modified to ensure compliance with the Convention. Doing so would enable the appropriate exercise of jurisdiction by the States concerned, as well as facilitate harmonious negotiation and delimitation of maritime boundaries.

5.2.3.2 Implementation of Framework on Piracy

The case study in chapter four extensively analysed the phenomenon of piracy in the Gulf of Guinea, as well as the accompanying threats to key dimensions of security. The analysis also covered the definition of piracy and the extension of the concept of universal jurisdiction to piratical acts. By way of summary, Article 100 of UNCLOS encapsulates two interrelated obligations regarding piracy. States are required to repress piracy at the national level, and also cooperate with other States in the suppression of piracy at the regional and international level.⁶⁷ To give practical effect to the first obligation, Gulf of Guinea States are required to enact and enforce laws covering all aspects of the crime of piracy.⁶⁸ With respect to the second obligation, cooperative structures should be

⁶⁵ Though Robert W. Smith, eds., *International Maritime Boundaries*, vol. VI, VI vols., Leiden and Boston, Martinus Nijhoff, 2011, at page 4264 allude to a most recent legislation of Benin in which Benin claimed 12nm territorial sea 200nm EEZ, there is no public availability of the said legislation.

⁶⁶ As a way of influencing ocean regime changes in the 1970s, African states at the Ibadan conference in Nigeria in November 1971, agreed that all African states should extend their territorial sea to 200 NM and adopt legislation enforcing fisheries and pollution issues in the zone.

⁶⁷ Article 100 of UNCLOS provides: "All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State."

⁶⁸ See chapter 4, sections 4.2.1.2 and 4.2.1.3. See also Eugene Kontorovich, "A Guantanamo on the Sea: The Difficulty of Prosecuting Pirates and Terrorists," *California Law Review* 98, 2010, pp. 243-76. Diana Chang, "Piracy Laws and the Effective Prosecution of Pirates," *Boston College International and Comparative Law Review*, 2010, pp. 273-188.

established which, at a minimum, will facilitate the sharing of information, and also possibly lead to joint patrols in the region.

A review of the national legislation database of the United Nations Division on the Law of the Sea (UNDOALOS) shows that Liberia and Togo are the only States in the region that have enacted piracy legislation.⁶⁹ Moreover, it is only since January 2013 that Nigeria is reported to have initiated a process for the enactment of a law to combat piracy and other maritime crimes.⁷⁰ The UN Assessment Mission to the Gulf of Guinea also observed that the definition of the crime of piracy in the national laws of Benin was out-dated and not consistent with the provisions of UNCLOS.⁷¹ In summary, there is a legislative deficit with respect to the crime of piracy in the Gulf of Guinea. Thus, even if Gulf of Guinea States are able to conduct patrols off their coasts, the efficacy of such patrols would be seriously undermined by the absence of domestic legislation to prosecute and punish activities that pose a threat to maritime security. This will likely result in what has been termed “catch and release syndrome” - a situation which manifested in the early periods of Somali piracy when counter-piracy forces frequently released apprehended pirates because of challenges with prosecution, thus entrenching further insecurity.⁷²

⁶⁹ See Penal Code of Liberia, 2008, and Code de la Marine Marchande, Togo, 1971, UNDOALOS, Legislation and Treaties Data Base, <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/index.htm>, 1 January 2013.

⁷⁰ See “NIMASA Seeks Legal Backing to Fight Piracy,” *This Day*, 14 February 2013.

⁷¹ See page 5, United Nations, Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea, Security Council S/2012/45, 19 January 2012.

⁷² For a discussion of the “catch and release” syndrome, and the difficulties associated with piracy prosecution in Somalia, see Eugene Kontorovich, “A Guantanamo on the Sea: The Difficulty of

5.2.3.3 Implementation of UNCLOS Framework for Maritime Boundary Delimitation

To enhance maritime security in the Gulf of Guinea, each State would need to effectively police and enforce order within its coastal domain. Therefore, certainty of maritime boundaries plays a crucial role in the operational and policy content of maritime security at both the national and regional level. On the contrary, where there are boundary uncertainties or overlapping boundary claims, States would be unable to assert their jurisdiction, or may in fact be competing for jurisdiction. Whichever is the case, maritime security cooperation and enforcement would be impeded, thus creating weaknesses which pirates and other illegal actors may exploit.⁷³ It is also possible for maritime boundary disagreements to escalate into conflicts, which in turn can threaten the peace and stability of the Gulf of Guinea region.

The three sections below assess the impact of maritime boundary delimitation on maritime security cooperation in the Gulf of Guinea. The first section summarises the status of maritime boundary delimitation in the region. The second demonstrates how delimited maritime boundaries have contributed to greater stability and security, while the third section assesses the negative implications of maritime boundaries that have not been delimited.

Prosecuting Pirates and Terrorists," *California Law Review* 98, 2010, pp. 243-76. Elizabeth Andersen, Benjamin Brockman-Hawe and Patricia Goff, *Suppressing Maritime Piracy: Exploring the Options in International Law*, Available: <http://acuns.org/wp-content/uploads/2012/06/SuppressingMaritimePiracyExploringOptionsIntlLaw.pdf>, 27 July 2013.

⁷³ Clive Schofield, "The Trouble with Islands: The Definition and Role of Islands and Rocks," in Seoung-Yong Hong and Jon M. Van Dyke, *Maritime Boundary Disputes, Settlement Process, and the Law of the Sea*, Leiden & Boston: Martinus Nijhoff, 2009, p.22.

5.2.3.3.1 *State of Maritime Boundary Delimitation in the Gulf of Guinea*

Several maritime boundary agreements have been struck in the Gulf of Guinea. In some cases, States have opted for joint exploitation and development of resources,⁷⁴ usually referred to as a Joint Development Zone (JDZ).⁷⁵ A JDZ may be necessitated by a disputed maritime boundary claim, or where resources (typically oil and gas) straddle an actual or potential maritime boundary.⁷⁶ In practice, a JDZ is an important confidence building measure (CBM) that can lead to a final resolution of boundary issues.⁷⁷ Table 5.2 summarises the maritime agreements and JDZs in the Gulf of Guinea, with the remarks column outlining the strategic context underpinning the maritime boundary agreements.

⁷⁴ See for example Management and Cooperation Agreement between the Government of the Republic of Senegal and the Government of the Republic of Guinea-Bissau, 14 October 1993 (entry into force: 21 December 1995). See, Law of Sea Bulletin 31, 1996, p. 40. See also Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe, 21 February 2001, entered into force 16 January 2003, Law of the Sea Bulletin 50, 2003, p. 40.

⁷⁵ Zhiguo Gao, "The Legal Concept and Aspects of Joint Development in International Law," *Ocean Year Book* 13, 1998, pp. 108. Masahiro Miyoshi, "The Basic Concept of Joint Development of Hydrocarbon Resources on Continental Shelf " *International Journal of Estuarine and Coastal Law* 3 1988 pp. 1-18.

⁷⁶ Robin R Churchill, "Joint Development Zones: International Legal Issues," in H. Fox ed., *Joint Development of offshore Oil and Gas*, vol. II, London, British Institute of International and Comparative Law, 1990, p. 57. See also Chidinma B. Okafor, "Joint Development: An Alternative Legal Approach to Oil and Gas Exploitation in the Nigerian-Cameroon Boundary Dispute?" *International Journal of Marine and Coastal Law*, vol. 21, No. 4, pp. 489-522.

⁷⁷ For example, JDZ has been suggested as best solution for the Nigeria-Cameroon boundary conflict, see, Chidinma B. Okafor, "Joint Development: An Alternative Legal Approach to Oil and Gas Exploitation in the Nigerian-Cameroon Boundary Dispute?" *International Journal of Marine and Coastal Law*, vol. 21, No. 4, pp. 489-522. Generally on JDZ as a Confidence Building Measure, see Zhiguo Gao, "The Legal Concept and Aspects of Joint Development in International Law," *Ocean Year Book*, 13, 1998. Robin R. Churchill, "Joint Development Zones: International Legal Issues," in H. Fox ed., *Joint Development of offshore Oil and Gas*, vol. II, London, British Institute of International and Comparative Law, 1990.

Table 5.2: Overview of Gulf of Guinea Maritime Boundary Agreements

STATES	AGREEMENT/DATE	REMARKS
Cape Verde Senegal	Treaty on the Delimitation of the Maritime Frontier, 17/2/ 1993.	The agreement deepens existing peaceful relations. It also promotes joint fisheries management. ⁷⁸
Mauritania Cape Verde	Delimitation of the Maritime Frontier, 19/9/ 2003	The Cape Verde-Senegal agreement (see above), created a tri-junction favourable to Cape Verde. Mauritania agreed to the use of the tri-junction because of existing peaceful relations. ⁷⁹
Gambia Senegal	Treaty fixing Maritime Boundaries, 4/6/ 1975.	This early Treaty has helped reduce tension between the two States. ⁸⁰
Senegal Guinea-Bissau	Management and Cooperation Agreement, 14/10/ 1993. Protocol Establishing the Management and Cooperation Agency, 12/6/ 1995.	The combined effect of the two agreements is a JDZ. The JDZ covers an area that the ICJ declared to belong to Senegal. Senegal used the JDZ to secure strategic outcomes including securing Guinea-Bissau's support regarding the Casamance insurgency. ⁸¹
Equatorial Guinea São Tomé & Príncipe	Treaty Concerning Delimitation of Maritime Boundary, 26/6/ 1999.	This agreement has fostered investor confidence and an injection of capital into offshore oil and gas development. ⁸²
Nigeria Equatorial Guinea	Treaty Concerning Maritime Boundary, 23/9/ 2000. Protocol Implementing Article 6.2 of the Treaty of 23 September 2000, April 2002	A pool of oil straddles the Zafiro oil field of Equatorial Guinea and the Ekanga-1 reservoir on the Nigerian side. The 2002 Protocol has united the two fields, thus curtailing a volatile situation that was heading for conflict. ⁸³
Nigeria São Tomé & Príncipe	Treaty on Joint Development of Petroleum and other Resources, 21/2/2001	Nigeria suffers a setback to getting a full EEZ at a short stretch of its southwest coast abutting São Tomé. Nigeria has been able to use its weight to negotiate a JDZ. ⁸⁴

⁷⁸ Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. III, VI vols., Boston and London, Martinus Nijhoff, 2004, pp. 2279-2291, at p.79.

⁷⁹ See Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. III, VI vols., Boston and London, Martinus Nijhoff, 2004, pp. 2279-2291.

⁸⁰ For a discussion of the Agreement, see Jonathan I. Charney and Lewis M. Alexander, *International Maritime Boundaries*, vol. I, VI vols., Boston and London, Martinus Nijhoff, 2004, pp. 847-855.

⁸¹ This view has been expressed in Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. III, VI vols., Boston and London, Martinus Nijhoff, 2004, pp. 2252-2278, at p.2254.

⁸² Jonathan I. Charney and Robert W. Smith, eds., *International Maritime Boundaries*, vol. IV, VI vols., Hague and London, Martinus Nijhoff, 2002, pp. 2647-56 at p. 49.

⁸³ For a discussion of the Protocol, see David A. Colson and Robert W. Smith, eds., *International Maritime Boundaries*, vol. V, VI vols., Leiden and Boston, Martinus Nijhoff, 2005, pp. 3624-3637.

⁸⁴ Jonathan I. Charney and Robert W. Smith, eds., *International Maritime Boundaries*, vol. IV, VI vols., Hague and London, Martinus Nijhoff, 2002, pp. 2656-68.

Gabon São Tomé & Príncipe	Agreement on the Delimitation of Maritime Border, 26/4/ 2001	The agreement provides certainty for oil and gas development. ⁸⁵
Congo (Brazzaville) Angola	Protocol Approving Offshore Unitization Prospects 14K and A-IMI, 21/5/ 2002	The agreement, which considerably favours Angola, is regarded as a reward by President Sassou Nguesso to Angolan troops who helped restore him to power in 1997. ⁸⁶
DR Congo Angola	Agreement on the Exploration and Production of Hydrocarbon in the Common Interest Zone, 30/7/ 2007	The Common Interest Zone (JDZ) moves heavily towards Angolan waters with existing petroleum activity. Angola might have agreed to a JDZ to secure DR Congo support over Cabinda separatists. ⁸⁷

It is essential to situate these agreements within the broader security and stability requirements of the Gulf of Guinea. While some of the agreements have forestalled conflicts, others have strengthened existing relations, promoting shared economic interests and reflecting strategic objectives far removed from the maritime domain. An important conclusion to be drawn from all the three outcomes is that the delimitation of maritime boundaries contributes to peaceful relations and the strengthening of cooperation. This is underscored by the 1995 Senegal-Guinea Bissau agreement which has greatly enhanced cooperation between the two States.

⁸⁵ For a discussion of the Agreement, see David A. Colson and Robert W. Smith, eds., *International Maritime Boundaries*, vol. V, VI vols., Leiden and Boston, Martinus Nijhoff, 2005, pp. 3683-3693.

⁸⁶ For a discussion of the Protocol, see David A. Colson and Robert W. Smith, eds., *International Maritime Boundaries*, vol. VI, VI vols., Leiden and Boston, Martinus Nijhoff, 2011, pp. 4281-4295, at p. 4282-3.

⁸⁷ For a discussion of the Agreement, see David A. Colson and Robert W. Smith, eds., *International Maritime Boundaries*, vol. VI, VI vols., Leiden and Boston, Martinus Nijhoff, 2011, pp. 4270-4275.

5.2.3.3.2 Maritime Boundaries as an Instrument of Cooperation and Greater Security – the Case of the Senegal-Guinea Agreement

Senegal and Guinea-Bissau were involved in a very turbulent maritime boundary dispute which was finally resolved in 1995.⁸⁸ The history of the maritime boundary issue dates back to 1960, when their respective colonial powers, France and Portugal, reached an agreement on the limits of the territorial sea and the continental shelf.⁸⁹ The Agreement was concluded by diplomatic communication which explicitly stated that the exchange of letters was for the purpose of defining the maritime boundary between the Republic of Senegal (at that time an autonomous State within the *Communauté*) and the Portuguese province of Guinea-Bissau.⁹⁰ However, after independence, Guinea-Bissau disputed the validity of agreement. Subsequently, in 1989, Guinea-Bissau instituted two judicial proceedings in respect of the disputed maritime boundary - the first in a special Arbitral Tribunal agreed to by the Parties, the second at the International Court of Justice (ICJ). The outcome of both decisions favoured Senegal.⁹¹

Nonetheless, in 1993 Senegal entered into a JDZ agreement with Guinea-Bissau.⁹² Article 2 of the Agreement covers the sharing of

⁸⁸ For a discussion of the boundary issue, see Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. III, VI vols., Boston and London, Martinus Nijhoff, 2004, pp. 2279-2291.

⁸⁹ "Territorial Sea and Continental Shelf Boundary between Senegal and Guinea-Bissau," Exchange of Letters between Portugal and France, 26 April 1960.

⁹⁰ For a detailed discussion of the Treaty, see Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. I, VI vols, Boston and London, Martinus Nijhoff, 1993, pp. 867-874.

⁹¹ Case Concerning The Arbitral Award Of 31 July 1989 (Guinea-Bissau V. Senegal), ICJ Judgment of 12 November 1991.

⁹² Management and Cooperation Agreement between the Government of the Republic of Senegal and the Government of the Republic of Guinea-Bissau, 14 October 1993 (entry into force: 21 December

resources.⁹³ Access to fishing resources is on equal terms, while revenue from oil and gas is divided 85 per cent for Senegal and 15 per cent for Guinea-Bissau. However, the sharing arrangement only applies to oil already discovered on the Senegalese side. The Agreement also provides for the establishment of an intergovernmental authority to manage the exploration, prospecting and marketing of resources. Important, the Agreement requires Senegal and Guinea-Bissau to exercise enforcement and policing powers in the Zone, including search and rescue (SAR) operations.

In the broader context, the Senegal-Guinea Bissau JDZ is a clear example of how maritime boundary arrangements can have far reaching political and strategic consequences. Given that the ICJ decided the boundary issue in favour of Senegal, and that other indicators of State power (such as defence capabilities, economic strength, population size and national resources) also weighed heavily towards Senegal, it is hardly surprising that Senegal chose not to opt for a JDZ. However, it has been noted in the authoritative literature on maritime boundaries that Senegal might have accepted the agreement for an interest completely outside the maritime domain -,⁹⁴ namely, Guinea-Bissau's cooperation and support in fighting the Casamance insurgency.⁹⁵

1995) and Protocol to the Agreement of 14 October 1993 Concerning the Organization and Operation of the Management and Cooperation Agency, 12 June 1995 (entry into force: 21 December 1995). See, 31 *Law of Sea Bulletin*, 1996.

⁹³ See Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. III, VI vols. Boston and London, Martinus Nijhoff, 2004, pp. 2252-2278.

⁹⁴ This view has been expressed in Jonathan I. Charney and Lewis M. Alexander, eds., *International Maritime Boundaries*, vol. III, VI vols., Boston and London, Martinus Nijhoff, 2004, pp. 2252-2278, at p.2254.

⁹⁵ Since 1982 the Movement of Democratic Forces in the Casamance (MFDC) has waged war against the central government of Senegal, claiming independence for Senegal's southern province of Casamance. Casamance Province borders Guinea-Bissau, and Senegal has accused Guinea-Bissau of

In addition to the above observation, the larger strategic environment surrounding the JDZ agreement should be taken into account. Indeed, this can be traced back to the colonial history of the two States. The zeal of two colonial powers (France and Portugal) finalising a maritime boundary deal amidst anti-colonial struggle is testimony to their vested interest in the future of their (soon to be) independent Countries. However, when President Joao Bernardo Vieira of Guinea-Bissau took power by coup in 1980,⁹⁶ he remained on a collision course with former colonial power Portugal, and shifted his allegiance to France (including by joining the French monetary zone).⁹⁷ This led to geopolitical rivalry between France and Portugal, which at one point manifested in contestation between their navies off the coast of Guinea-Bissau.⁹⁸ At the regional level, Senegal acted as the conduit for achieving the greater France agenda, but Senegal also ceased the opportunity to make Vieira (and thus Guinea-Bissau), a strong ally.⁹⁹ Close relations with Bissau

offering direct support to the insurgents and allowing its territory to be used for launching attacks. See Martin Evans, *Senegal: Mouvement des Forces Démocratiques de la Casamance* (MFDC) (Briefing Paper), Chatham House, December 2004, <http://www.chathamhouse.org/publications/papers/view/107933> (accessed 6 June 2013); *Mouvement des Forces Démocratiques du le Casamance* (MFDC), Global Security, <http://www.globalsecurity.org/military/world/para/mfdc.htm> (accessed 6 June 2013).

⁹⁶ Until his assassination on 2 March 2009, João Bernardo Vieira was the President of Guinea-Bissau for two distinct periods: 1980-1999 and 2005-2009.

⁹⁷ The deposed leader, President Luis Cabral, was seen as an ally of Portugal. As part of radical measures to cease ties with Portugal, Vieira exchanged the Portuguese Peso for the CFA in 1997, and this worsened the country's relationship with Portugal. Succeeding events led to a civil war - one side led by Vieira with support from France, the other side led by Brigadier General Ansumane Mane with the support of Portugal.

⁹⁸ As civil war continued in Guinea-Bissau, on 31 January 1999 soldiers from Benin and Niger (acting as intervention troops of the ECOWAS Monitoring Group), were on board the French warship *Sirrocco* advancing towards Guinea-Bissau. On 2 February 1999, France was accused of using *Sirrocco* to bomb locations in Guinea-Bissau in support of Vieira. Portugal also deployed warships to the coast of Guinea-Bissau, including *Corte-Real*, in support of Brigadier General Ansumane Mane. This resulted in a naval standoff.

⁹⁹ Indeed, troops from Senegal and neighbouring Guinea intervened in the civil war in support of Vieira in 1998.

were also forged to counterbalance Gambia, which was perceived as a safe haven for the Casamance insurgency.¹⁰⁰

The important point to note from the analysis of the Senegal-Guinea Bissau example is that maritime boundary agreements are instruments for strengthening interstate relationships within and outside the maritime realm. Given that both Senegal and Guinea Bissau were aligned with France at the time of the negotiation of the JDZ, France's invisible hands would have contributed to the rapprochement. In the maritime context, the harmonious resolution of the boundary dispute, and the subsequent agreement that was reached, deepened maritime security cooperation between the two States and also facilitated joint policing and enforcement measures. In other respects, the JDZ strengthened the States relationship on wider issues of peace and security, further enhancing diplomatic ties. Thus the maritime boundary agreement did not just provide clarity of interest at sea; it also illuminated future relations and cooperation.

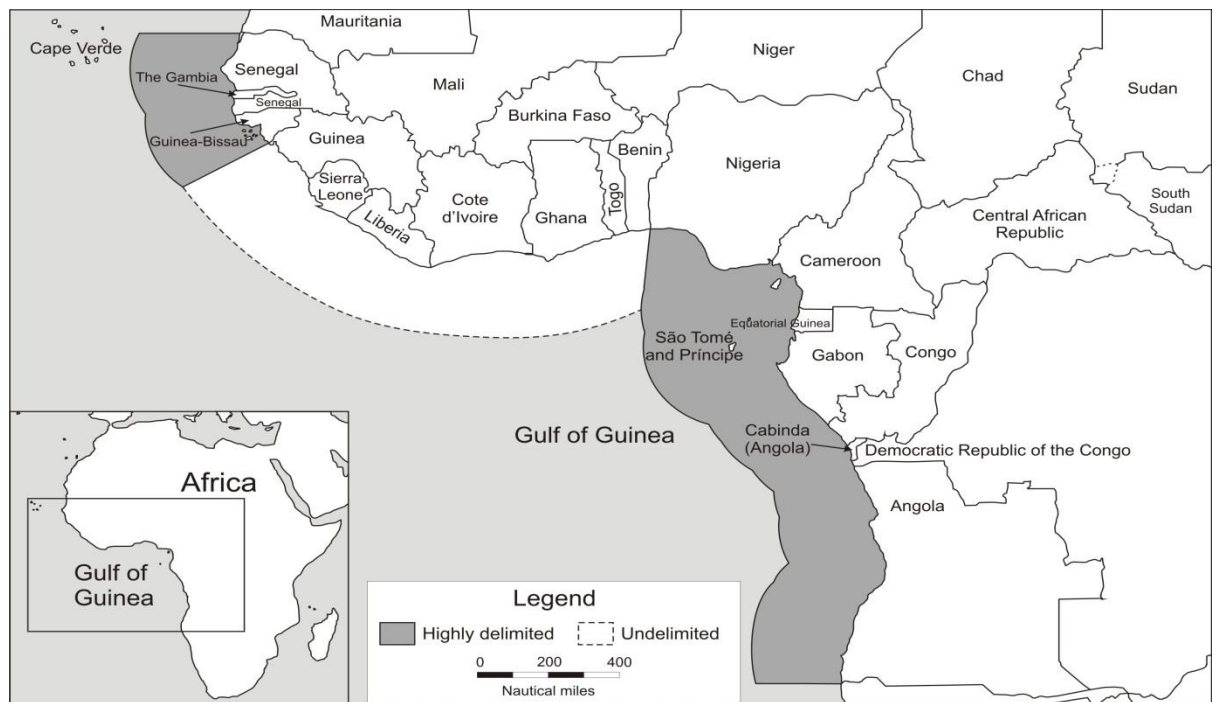
5.2.3.4.3 Maritime Boundaries as a Source of Conflict and Insecurity – the Case of Nigeria and Cameroon

The summary of agreements in Table 5.2 substantially resolved past and future maritime boundary disputes in the northern and southern segments

¹⁰⁰ Generally on Senegal-Gambia relations, including the Casamance issue, see F.A. Renner, "Ethnic Affinity: Partition and Political Integration in Senegambia", in A. I. Asiwaju, ed. *Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884-1984*, London, Hurst, 1985, pp. 71-86, Jeggan C. Senghor, *The Politics of Senegambian Integration, 1958-1994* New York, Peter Lang, 2008. Jesse H. Proctor, "The Gambia's relations with Senegal: The search for partnership," *Journal of Commonwealth Political Studies* 5, 2, 1967, pp. 143-60.

of the Gulf of Guinea.¹⁰¹ In contrast, there is not a single boundary agreement in the coastal region from Guinea to Benin (as depicted in Figure 5.1 below). This has negative implications for maritime security enforcement and cooperation, and is also a source of conflict between States.

Figure 5.1: Delimited and Un-delimited Areas of the Gulf of Guinea



Source: Kamal-Deen Ali and Martin Tsamenyi (2013)

Currently, a number of States in the Gulf of Guinea are either in the throes of internal conflicts or are recovering from the debilitating effects of such conflicts.¹⁰² In many ways, however, we may be witnessing a compounding of instability in the region, with interstate conflicts

¹⁰¹ Remaining in the southern zone are possible delimitations between Cameroon and Equatorial Guinea, Cameroon and São Tomé, Gabon and Congo-Brazzaville and Congo-Brazzaville and São Tomé.

¹⁰² Special mention should be made of Liberia, Sierra Leone, Cote d'Ivoire, Mali, Guinea and Guinea Bissau in this context.

erupting due to increased competition over offshore resources – particularly oil and gas. Indeed, such competition is particularly worrying, as sovereignty disputes have the capacity to quickly escalate into interstate conflicts.¹⁰³ The analysis in chapter three also demonstrated the relationship between depleting fisheries resources and conflicts in coastal communities. The case of Cameroon and Nigeria exemplifies how a combination of boundary uncertainties and resource interests can escalate into interstate conflicts, thus inhibiting maritime security cooperation.

As far back as the colonial period, the coastal communities of Cameroon and Nigeria have been at odds over fishing rights in the Bakassi Peninsula.¹⁰⁴ Thus, the agreements between colonial frontiers preserved the fishing rights of local communities, irrespective of the limits of colonial frontiers.¹⁰⁵ This approach was abandoned by Nigeria and Cameroon after independence, and at the same time the two States failed to delimit their maritime boundaries. The result was multiple conflicts between fishing communities living closely across national boundaries. This led to increasing tensions at the interstate level.¹⁰⁶ Expectations of

¹⁰³ For a discussion of oil and gas as a source of conflict, see Michael T. Klare, *Blood and oil: The dangers and consequences of America's Growing Petroleum Dependency*, New York, Metropolitan Books, 2004.

¹⁰⁴ L. O. Ekpenyong, "Potentials of Nigerian Boundary Corridors as Sources of International Economic Conflict," in *Borderlands in Africa*, A. Asiwaji, and P. O. Adeniyi, eds., (Lagos: 1989), p.293-305. Bawuro M. Bakindo, "The Mandara astride the Nigerian-Cameroon Boundary", in A. I. Asiwaju, ed. *Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884-1984*, London, Hurst, 1985, pp. 29-50.

¹⁰⁵ See for example, "Agreement between the United Kingdom and Germany respecting: (1) the Settlement of the Frontier between Nigeria and the Cameroons, from Yola to the Sea; and (2) the Regulation of Navigation on the Cross River," Signed in London, March 11, 1913.

¹⁰⁶ Bawuro M. Bakindo, "The Mandara astride the Nigerian-Cameroon Boundary", in A. I. Asiwaju, ed. *Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884-1984*,

financial revenue from oil resources in the undelimited zone increased the intensity of the disagreements, leading to sovereignty disputes and military confrontation.¹⁰⁷ Despite the maritime boundary ruling of the ICJ in 2002,¹⁰⁸ the issue still lingers, prompting further diplomatic interventions, including the establishment of a UN-sanctioned Commission to resolve the dispute.¹⁰⁹ The contrasting examples of Senegal-Guinea Bissau and Nigeria-Cameroon epitomise the significance of maritime boundary agreements to interstate cooperation in general, and maritime security cooperation in particular.

In summary, the analysis in this first part of the chapter has demonstrated that the effective implementation of the UNCLOS framework is crucial for enhancing maritime security in the Gulf of Guinea. The next four parts of the chapter will assess the implementation of other international frameworks which are essential for combating maritime security challenges in the Gulf of Guinea.

London, Hurst, 1985, pp. 29-50. See also Kevin Ngang, "Understanding the Bakassi Conflict. A Showcase of Conflict Prevention in Practice," *European Peace University Research Papers*, Issue 04/07, pp. 14-16, available at http://epu.ac.at/fileadmin/downloads/research/rp_0407.pdf, accessed 4 December 2012.

¹⁰⁷ See "Nigeria/Cameroon: Blundering into battle," *Africa Confidential* 35 (April 16 1994), 6. See also "More Anglophone Soldiers Killed in Bakassi Skirmishes," *Southern Cameroons Information Bulletin*, No. 96001(8 March 1996).

¹⁰⁸ Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria, Equatorial Guinea Intervening) [2002] ICJ Rep 303.

¹⁰⁹ *Secretary-General Encourages Cameroon, Nigeria to Maintain Forward-Looking Approach That Helped Overcome 'Delicate' Land, Maritime Boundary Dispute*, 22 November 2011, United Nations, Available: <http://www.un.org/News/Press/docs/2011/sgsm13962.doc.htm>, 12 December 2011.

5.3 IMPLEMENTATION OF THE FRAMEWORK FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF NAVIGATION AND FIXED PLATFORMS

The overview of maritime security challenges in chapter three has affirmed the presence of significant threats to the security of offshore energy platforms off the Gulf of Guinea. The case study on piracy in chapter four equally revealed the occurrence of piratical attacks in the Gulf of Guinea, while noting that the safety and security of shipping does not fall within the international law definition of “piracy”. The international framework which governs this category of threats is composed of the Convention for the Suppression of Unlawful Acts against the Safety of Navigation, as well as its three Protocols. Collectively, they will be referred to as the “SUA framework”.

This part will assess the implementation of the SUA framework in the Gulf of Guinea. The analysis will follow the order outlined in the introduction to this chapter. The first section will review the background to the SUA framework. The second section will examine the relevance of the framework to the Gulf of Guinea, while the third will assess the implementation of the framework in the region.

5.3.1 Background to the SUA Framework

The background to the SUA framework is rooted in attempts to remedy the gaps in the international law definition of “piracy”.¹¹⁰ As shown in chapter four, establishing jurisdiction over the crime of piracy requires

¹¹⁰ This has been examined extensively in chapter 4, section 4.2.

the incident to: (i) have taken place outside the territorial sea; (ii) involve two ships; and (iii) be motivated by private ends.¹¹¹ This definition excludes other violent attacks that endanger the safety and security of ships,¹¹² as well as attacks on offshore installations and platforms (which by their very nature are attached to the seabed and therefore not regarded as ships).¹¹³ Moreover, although the scope of the EEZ jurisdiction includes the safety of offshore platforms and installations,¹¹⁴ UNCLOS has not specified which acts constitute threats to safety, or how States may cooperate with one another to address these threats.¹¹⁵

Addressing these gaps was of prime importance to the international community, with the *Achille Lauro* incident serving as the impetus for the adoption of the first SUA framework in 1988.¹¹⁶ The *Achille Lauro* incident occurred on 7 October 1985, when a group of men aligned with the Palestine Liberation Front (PLF) secretly boarded and hijacked the

¹¹¹ UNCLOS, Article 101.

¹¹² See chapter 4 of this thesis, particularly section 4.2.1.2. See also Malvina Halberstam, "Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety," *American Journal of International Law* 88, 1988, pp. 269-292, particularly at p.290.

¹¹³ See chapter 4 of this thesis, particularly section 4.2.1.2. See also Stuart Kaye, "International Measures to Protect Oil Platforms, Pipelines and Submarine Cable from Attack," *Tulane Maritime Law Journal* 31, 2, 2007, pp. 377-423. Elizabeth Andersen, Benjamin Brockman-Hawe and Patricia Goff, *Suppressing Maritime Piracy: Exploring the Options in International Law*, Available: <http://acuns.org/wp-content/uploads/2012/06/SuppressingMaritimePiracyExploringOptionsIntlLaw.pdf>, 27 July 2013.

¹¹⁴ UNCLOS, Article 60(2).

¹¹⁵ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, pp.154-155.

¹¹⁶ Malvina Halberstam, "Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety," *American Journal of International Law* 88, 1988, pp. 269-92, p.91. See also Andrew L. Liput, "An Analysis of the Achille Lauro Affair: Towards an Effective and Legal Method of Bringing International Terrorists to Justice," *Fordham International Law Journal* 9, 2, 1985, pp. 328-72.

Achille Lauro - an Italian cruise ship off the Egyptian coast.¹¹⁷ The ship was carrying close to four hundred passengers representing more than twenty different nationalities.¹¹⁸ The hijackers demanded the release of Palestinian prisoners held in Israel, threatening to cause harm to the ship and its passengers if their request was not met. Eventually, the hijackers followed through with their threat, killing one of the passengers on board.¹¹⁹

The *Achille Lauro* hijacking demonstrated the ambiguous nature of the jurisdiction (and thus the lack of an international response) over some violent activities at sea. Since the hijacking was undertaken from within the ship, the act could not be classified as “piracy”, and thus only the flag State had clear jurisdiction over the incident. Other States affected by the incident could only establish jurisdiction by evoking the passive personality or protective principles (as analysed in chapter four). However, these bases of jurisdiction are generally only invoked in exceptional circumstances, and thus any action taken by a State under these heads of jurisdiction may have lacked international support.¹²⁰ It

¹¹⁷ "Ship Carrying 400 Seized; Hijackers Demand Release of 50 Palestinians in Israel," *New York Times*, 8 October 1985.

¹¹⁸ "Ship Carrying 400 Seized; Hijackers Demand Release of 50 Palestinians in Israel," *New York Times*, 8 October 1985.

¹¹⁹ Malvina Halberstam, "Terrorism on the High Seas: The *Achille Lauro*, Piracy and the IMO Convention on Maritime Safety," *American Journal of International Law* 88, 1988, pp. 269-92, p.269. See also Andrew L. Liput, "An Analysis of the *Achille Lauro* Affair: Towards an Effective and Legal Method of Bringing International Terrorists to Justice," *Fordham International Law Journal* 9, 2, 1985, pp. 328-372.

¹²⁰ Geoffrey R. Watson has rightly noted that many States (including the US) have traditionally opposed the passive personality principle. See Geoffrey R. Watson, *The Passive Personality Principle* 28, *Texas International Law Journal*, 1, 1993, p.2. See also Christopher L. Blakesley, "United States Jurisdiction over Extraterritorial Crime," *Journal of Criminal Law and Criminology* 73, 3, 1982, pp. 1109-63. John G. McCarthy, "The Passive Personality Principle and Its Use in Combatting International Terrorism," *Fordham International Law Journal* 13, 3, 1989, pp. 298-327.

was therefore imperative for the international community to adopt an appropriate framework so that States could combat such threats with confidence.¹²¹ With the *Achille Lauro* incident serving as the groundswell, in 1988 the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988 SUA Convention) was adopted, together with a Protocol. Two additional instruments have since been added, bringing the total number of instruments that compose the SUA framework to four.

5.3.2 Overview of the SUA Framework for Maritime Security

Although the four SUA instruments are interrelated, the relevance of the instruments to maritime security is better appreciated when they are examined separately. This is especially the case with respect to the 1988 Convention and the Protocol.

5.3.2.1 1988 SUA Convention

The 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988 SUA Convention) is the parent instrument in the SUA framework.¹²² The unique nature of the Convention lies in its Article 3, which creates a list of substantive offences. The Article makes it an offence for a person to: (i) seize or

¹²¹ On the process towards the SUA Convention, see Malvina Halberstam, "Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety," *American Journal of International Law* 88, 1988, pp. 269-92.

¹²² 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 10 March 1988, Rome, Italy, Entry into Force: 01 March 1992, 156 Parties as of 2 December 2010, 1678 UNTS 201 / [1993] ATS 10 / 27 ILM 672 (1988); hereinafter referred to as 1988 SUA Convention.

exercise control over a ship by threat or use of force or any other form of intimidation;¹²³ or (ii) perform an act of violence against a person on board a ship or an act of violence likely to endanger the safe navigation of that ship;¹²⁴ or (iii) place or cause to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship.¹²⁵ Attempting, abetting or facilitating any of above acts also constitutes an offence.¹²⁶ Article 5 obligates all State Parties to create offences with appropriate penalties on the basis of Article 3 and to prosecute offenders.¹²⁷

Articles 3 to 5 have been designed to address the difficulties associated with the treatment of the crime of piracy under UNCLOS.¹²⁸ Under the SUA Convention, an actual attack or threat of violence constitutes a crime, irrespective of whether it comes from within or outside the ship and regardless of the motive of the actors.¹²⁹ Article 6 deals with jurisdiction over SUA offences, and allows the flag State, coastal State or State of nationality of the offender to exercise jurisdiction over the offence. If such jurisdiction is not invoked, the State of nationality of any

¹²³ 1988 SUA Convention, Article 3(1)(a).

¹²⁴ 1988 SUA Convention, Article 3(1)(b).

¹²⁵ 1988 SUA Convention, Article 3(1)(b).

¹²⁶ 1988 SUA Convention, Article 3(1)(2).

¹²⁷ Donald R. Rothwell and Tim Stephens, *The International Law of the Sea*, Oxford Hart Publishing, 2010, p. 434.

¹²⁸ For a detailed explanation of the scope of the articles, see Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, New York Cambridge University Press, 2009.

¹²⁹ For a detailed explanation of the scope of these articles, see Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, New York, Cambridge University Press, 2009, p. 254-259.

victim of the crime, or any State that the offender seeks to compel to do or abstain from doing an act, can assume jurisdiction. These legal consequences and obligations remain the same irrespective of whether the offence is committed within or outside the territorial sea.

In contrast to the generally permissive language of international conventions, the 1988 SUA Convention imposes strong cooperative requirements on States. The Convention stipulates that a State Party in whose territory a SUA offender is found must take the person into custody, irrespective of whether the State wants to prosecute the offender or not.¹³⁰ The State must then extradite the suspect to a requesting State Party on the basis of an existing extradition treaty, or by using the Convention as the basis for extradition.¹³¹ Where the State fails to extradite the suspect, the State is “obliged without exception” to prosecute the criminal.¹³²

5.3.2.2 1988 SUA Protocol

The 1988 SUA Convention was adopted in conjunction with the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf 1988 (1988 SUA Protocol).¹³³ The Protocol mirrors the Convention in many ways, but focuses entirely on the safety and security of platforms that are attached

¹³⁰ 1988 SUA Convention, Article 7.

¹³¹ 1988 SUA Convention, Articles 10 and 11.

¹³² 1988 SUA Convention, Article 10.

¹³³ 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 10 March 1988, Rome, Italy, Entry into Force: 01 March 1992, 156 Parties as of 2 December 2010, 1678 UNTS 201 / [1993] ATS 10 / 27 ILM 672 (1988); hereinafter referred to as SUA Fixed Platform Protocol, 1988.

to the seabed.¹³⁴ In language that is reminiscent of the SUA Convention 1988, Article 2 of the 1988 Protocol creates substantive offences, including seizing or taking control of fixed platforms by force, damaging fixed platforms, as well as causing injury or death to persons on board fixed platforms.¹³⁵ The Protocol parallels the Convention by making all the Convention requirements regarding the compulsory exercise of jurisdiction, as well as the procedures relating to extradition, applicable to the Protocol.¹³⁶ This approach enhances the effectiveness of the Protocol in much the same way as the Convention and makes it an important instrument for addressing maritime security against offshore infrastructure.

5.3.2.3 The 2005 SUA Protocols

The final two instruments that comprise the SUA framework were both adopted in 2005 as Protocols to the 1988 SUA Convention and 1988 SUA Protocol.

Although the 1988 Convention and Protocol were far reaching in terms of the substantive offences they created, as well as the obligations they imposed on States, there were still concerns that the two instruments did not go far enough in responding to maritime security threats.¹³⁷ The

¹³⁴ For a detailed discussion of the 1988 Protocol, see Stuart Kaye, "International Measures to Protect Oil Platforms, Pipelines and Submarine Cable from Attack," *Tulane Maritime Law Journal* 31, 2, 2007, pp. 377-423.

¹³⁵ 1988 SUA Protocol, Article 2.

¹³⁶ 1988 SUA Protocol, Article 1. See also Natalino Ronzitti, "The Prevention and Suppression of Terrorism Against Fixed Platforms on the Continental Shelf ", in Natalino Ronzitti, ed. *Maritime Terrorism and International Law*, Dordrecht Martinus Nihoff, 1990, pp. 91-97.

¹³⁷ See generally Jose L. Jesus, "Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects," *International Journal of Marine and Coastal Law* 18, 2003, pp. 363-400.

primary criticism levelled against the instruments was that they were reactive rather proactive, providing States with the jurisdiction to punish offences without empowering them to take preventive actions.¹³⁸ This limitation became a major concern following the terrorist attacks against the United States on 11 September 2001.¹³⁹ As analysed in chapter three, the successful hijacking of aircrafts by terrorists heightened fears that ships could similarly be hijacked and used as weapons against other ships, or that terrorists would load destructive material onto containers and land them in ports of target States.¹⁴⁰

The international response to these post-9/11 maritime security threats was two new SUA instruments, both of which were adopted in 2005. The first was a Protocol to the 1988 Convention, which dealt with safety of shipping navigation,¹⁴¹ while the second was a Protocol to the 1988 Protocol, which dealt with the safety of offshore platforms.¹⁴² The 2005

¹³⁸ Justin S.C. Mellor, "Missing the Boat: The Legal and Practical Problems of the Prevention of Maritime Terrorism," *American University International Law Review* 18, 2, 2002, pp. 341-397, at p. 384. Donald R. Rothwell and Tim Stephens, *The International Law of the Sea*, Oxford Hart, Publishing, 2010, p. 435. Christopher C. Joyner, "Suppression of Terrorism on the High Seas: the 1988 IMO Convention on the Safety of Maritime Navigation," *Israel Yearbook on Human Rights*, 1989, pp. 357-67.

¹³⁹ Justin S.C. Mellor, "Missing the Boat: The Legal and Practical Problems of the Prevention of Maritime Terrorism," *American University International Law Review* 18, 2, 2002, pp. 341-97.

¹⁴⁰ These threats are outlined in a Resolution adopted by the IMO, see IMO, "Review of Measures and Procedures to Prevent Acts of Terrorism which Threaten the Security of Passengers and Crews and the Safety of Ships," Resolution A.924 (22) 20 November 2001. See also John F. Frittelli, "Maritime Security: Overview of Issues," *United States Congressional Research Service* Order Code RS21079, 5 December 2003.

¹⁴¹ 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 14 October 2005, London, UK, 28 July 2010.

¹⁴² 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 14 October 2005, London, UK, Entry into Force: 28 July 2010. The 2005 Protocol on Safety of Navigation has now been consolidated into the 1988 SUA Convention, with the consolidated document being referred to as the 2005 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005 SUA Convention). For ease of reference,

SUA Protocols have expanded the scope of offences in the 1988 SUA framework, while at the same time adding new preventive measures.¹⁴³ Article 2 of the Protocol to the SUA Convention extends the scope of offences to include causing serious injury or damage by the use of explosives, radioactive material or any kind of harmful biological, chemical and nuclear (BCN) material. Article 3 also prohibits the transport of these materials. However, it is Article 8 of the 2005 SUA Convention that has made radical changes to the SUA regime. It sets out cooperative measures for the suppression of the new SUA offences, including mechanisms for the boarding of ships on the high seas.¹⁴⁴ Thus, a State Party that has reasonable grounds for suspecting that an offence set out in the Protocol is being committed (or is about to be committed), may make a request to board the vessel, and the flag State is to respond expeditiously to the request.¹⁴⁵ Thus, in summary, the 2005 instruments have provided an enhanced regime to respond to terrorist-type attacks on ships and offshore platforms¹⁴⁶

5.3.3 Relevance of the SUA Framework to the Gulf of Guinea and an Assessment of the Status of Implementation

The relevance of the SUA framework to the enhancement of maritime security in the Gulf of Guinea has already been alluded to in the

however, many authors still treat the 2005 Protocol on Safety of Navigation as a separate instrument. I have adopted the same approach.

¹⁴³ For an extensive analysis of this issue, see Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p. 172-184. Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, New York Cambridge University Press, 2009, p. 254-259.

¹⁴⁴ 2005 SUA Protocol, Article 8.

¹⁴⁵ 2005 SUA Protocol, Article 8.

¹⁴⁶ Natalie Klein, *Maritime Security and the Law of the Sea*, Oxford, Oxford University Press, 2011, p. 175.

introduction. The instruments provide the means for securing offshore oil platforms, and by implication, energy security in the Gulf of Guinea. The 1988 SUA Convention also provides the basis for responding to insurgent-type attacks which the Gulf of Guinea is faced with.¹⁴⁷ Indeed, such attacks have the tendency of falling outside of the scope of UNCLOS, as they lack the “private motive” element. However, the 1988 SUA Convention has dispensed with the private motive requirement, thus giving Gulf of Guinea States the opportunity to effectively respond to these attacks. Also, as explained in the preceding section, State Parties to the SUA framework are under an obligation to prosecute offenders in their custody, even if the offence has not been committed off their coast. This solves the piracy conundrum discussed in chapter four, where Niger Delta pirates commit piratical attacks off the coasts of other States, using Nigeria as a safe haven. Under the SUA framework, Nigeria will be obligated to prosecute the pirates, or otherwise extradite them to any State that makes a request for extradition.

Despite the relevance of the SUA framework, the ratification and implementation of SUA instruments by Gulf of Guinea States has been unsatisfactory. The status of ratification is presented in Table 5.3. Only Cote d’Ivoire is a party to all the SUA instruments, but only since 2012. Angola, Cameroon, Congo, Gabon and Nigeria - all of whom are major oil producing States with substantial offshore infrastructure, have not ratified the 1988 SUA Fixed Platform Protocol. Indeed, this Protocol is

¹⁴⁷ Generally on the SUA framework and the suppression of terrorism, see Helmut Tuerk, "Combating Terrorism - The Suppression of Unlawful Acts Against the Safety of Maritime Navigation," *University of Miami International and Comparative Law Review* 15, 2008, pp. 337-67.

intended to help States safeguard the security of offshore oil platforms and installations.

Table 5.3: Status of Ratification of the SUA Convention and Protocols in the Gulf of Guinea

State	1988 SUA Convention	1988 SUA Protocol	2005 Protocol to the 1988 Convention	2005 Protocol to the 1988 Protocol
Angola				
Benin	31/8/06	31/8/06		
Cameroon				
Cape Verde	3/1/03	3/1/03		
Congo Brazzaville				
Cote d'Ivoire	23/3/12	23/3/12	23/3/12	23/3/12
DR Congo				
Equatorial Guinea	15/1/04	15/1/04		
Gabon				
Gambia	1/11/91			
Ghana	1/11/02	1/11/02		
Guinea	1/2/05	1/2/05		
Guinea Bissau	14/10/08	14/10/08		
Liberia	5/10/95	5/10/95		
Mauritania	17/1/08	17/1/08		
Nigeria	24/2/04			
São Tomé & Príncipe	5/5/06	5/5/06		
Senegal	2/2/04	9/8/04		
Sierra Leone				
Togo	10/3/03	10/3/03		

Sources: IMO Status of Multilateral Convention and Instruments as at June 30 2013.

Those States that have ratified the SUA instruments have generally failed to implement the instruments into their domestic legal system.¹⁴⁸ For example, although Benin, Cote d'Ivoire, Ghana and Nigeria have all ratified the 1988 SUA Convention, not one has incorporated the

¹⁴⁸ This has been confirmed in an address delivered at the UN by the Secretary General of the Maritime Organisation for West and Central Africa (MOWCA). See Magnus T. Addico, Maritime Security Threats and Responses in West and Central Africa (New York: UNICPOLOS, 23-27 June. 2008).

Convention under its national law.¹⁴⁹ According to the United Nations Division for Ocean Affairs and the Law of the Sea (UN-DOALOS), Liberia is the only State in the region to have taken steps to implement the 1988 SUA instruments domestically, having amended its penal code in 2008.¹⁵⁰ However, this still falls short of a comprehensive domestic regime, as Liberia has failed to ratify the 2005 Protocol to the SUA Convention. This instrument provides an enhanced regime for the protection of shipping, and is therefore crucial for Liberia, particularly if one considers its status as the second largest flag State in the world.¹⁵¹

The inadequate implementation of the SUA framework in the Gulf of Guinea has serious maritime security implications. Indeed, Gulf of Guinea States are incapacitated from taking enforcement measures at the national level, thus allowing threats to be made, and attacks to be perpetrated, on offshore platforms and the shipping industry as a whole. The decision to delay ratification and implementation of the relevant instruments also translates into compromised maritime security and cooperation at the regional level. Finally, the situation constitutes a threat to global security. Since 2004, the UN has emphasised the importance of the SUA framework for enhancing maritime security.¹⁵² It

¹⁴⁹ For Nigeria, see “NIMASA Seeks Legal Backing to Fight Piracy,” *This Day*, 14 February 2013. For Benin, see United Nations, Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea, Security Council S/2012/45, 19 January 2012. For Cote d’Ivoire and Ghana, see Interview with National Authorities, on file with Author.

¹⁵⁰ Liberia, An Act to Amend the Penal Code of 1976 Adding the Offences of Armed Robbery, Terrorism and Hijacking as Capital Offences, 22 July 2008.

¹⁵¹ Rating of flag States by the United Nations Commission on Trade and Development (UNCTAD) in 2012. See UNCTAD, “Review of Maritime Transport, 2012, p.44.

¹⁵² See United Nations, General Assembly Resolution 62/215, 14 March 2008, paragraph 67. United Nations General Assembly Resolution 61/222, 16 March 2007, paragraph 59. United Nations Security Council Resolution 1540, 28 April. 2004.

is therefore imperative for Gulf of Guinea States to ratify and implement the SUA instruments within their domestic legal and policy frameworks. This should be followed by the development of regional responses on the basis of the SUA instruments.

5.4 IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST ILLICIT DRUG TRAFFICKING

Chapter three illustrated that one of the most pressing security challenges in the Gulf of Guinea is drug trafficking. The international legal framework for suppressing drug trafficking is chiefly contained in the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (UN Drug Convention). This part evaluates the implementation of the framework in the Gulf of Guinea.

5.4.1 Background to the United Nations Convention against Drug Trafficking

Attempts to combat illicit drug trafficking by sea have traditionally been hampered by the need to balance the interests of States affected by such conduct with the interests of the State of nationality of the ship transporting the drugs - the flag State.¹⁵³ While States affected by drug trafficking may wish to take enforcement measures, such as boarding and searching ships on the high seas, flag States view such measures as an infringement of the freedom of the high seas doctrine (which vests exclusive jurisdiction over a vessel on the high seas with the flag

¹⁵³ This section draws heavily from the work of Douglas Guilfoyle, see Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, New York, Cambridge University Press, 2009, p.79-96.

State).¹⁵⁴ Article 108 of UNCLOS seeks to balance the rights States in this regard, merely directing them to “cooperate” in the suppression of illicit drug trafficking.¹⁵⁵ The 1988 United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances (1988 UN Drug Convention), which entered into force in 1990,¹⁵⁶ represents the cooperative framework contemplated by Article 108(1) of UNCLOS.

5.4.2 Framework of the UN Drug Convention

The UN Drug Convention obligates State Parties to establish criminal offences for a range of illicit trafficking activities, including the production, sale, purchase, transportation and possession of narcotic drugs.¹⁵⁷ Every State Party is to assume jurisdiction on the basis of the offences created, and to prosecute persons who commit trafficking offences in its territory or on board a vessel flying its flag.¹⁵⁸ To empower States to combat trafficking more effectively, Article 17 creates a framework for interdiction on the high seas, but this is premised on authorisation or permission being sought from the flag State. Where permission is granted, the requesting State may board and search the vessel, and if there is evidence of illicit trafficking, the State may take

¹⁵⁴ UNCLOS, Article 92(1) provides that “ships shall sail under the flag one State and ...be subject to its exclusive jurisdiction on the high seas.”

¹⁵⁵ Article 108 provides that: “(1) all States shall cooperate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions; (2) any State which has reasonable grounds for believing that a ship flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the cooperation of other States to suppress such traffic.”

¹⁵⁶ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988, Entry into force 11 November 1990, United Nations, Treaty Series, vol. 1582, p. 95.

¹⁵⁷ UN Drug Convention, Article 3(1)(a).

¹⁵⁸ UN Drug Convention, Article 4(1)(a).

appropriate measures with regard to the vessel, cargo and persons on board.¹⁵⁹

Although the UN Drug Convention has provided an improved framework for combating illicit drug trafficking (as compared to the UNCLOS regime), the Convention still has limitations when it comes to the execution of high seas enforcement measures - particularly with respect to interdiction, boarding, seizure and arrest procedures. First, as noted in the preceding paragraph, boarding on the high seas can only be carried out with permission from the flag State. Second, although the Convention requires flag States to respond “expeditiously” to boarding requests, this is subject to the qualification that the response be provided “within the means available” to the flag State.¹⁶⁰ A flag State can therefore exploit this proviso to refuse or delay the boarding. Even where a flag State is prepared to cooperate with a requesting State, the flag State may nonetheless have to abide by internal administrative processes to be able to respond to the request. This can lead to a compromising of intelligence and evidence, or even worse, the suspect vessel escaping altogether.¹⁶¹ Finally, a State that is heavily affected by drug trafficking (often referred to as the ‘destination State’), may wish to interdict vessels as close as possible to the ‘source State’, conceivably within the territorial sea to prevent vessels escaping in the open waters. However,

¹⁵⁹ UN Drug Convention, Article 17(4).

¹⁶⁰ UN Drug Convention, Articles 17(2) and 17(4) read together.

¹⁶¹ Such difficulties have been expressed by US law enforcement officials. See *Defining Customs Waters for*

Certain Drug Offences: Hearing before the Subcommittee on Crime of the Committee on the Judiciary, House of Representatives, 16 May 1985, Washington, DC, 1986. See William C. Gilmore, “Narcotics interdiction at sea: UK-US Cooperation,” *Marine Policy* 13, 1989, pp. 218-230.

the 1988 UN Drug Convention has completely steered away from such a boarding regime, most likely due to sovereignty concerns.

In view of the limitations of the UN Drug Convention, States have sought further cooperative frameworks at the bilateral and regional levels. These cooperative frameworks have indeed been encouraged by Article 17 of the UN Drug Convention, which calls on State Parties to enhance the effectiveness of the Convention through additional bilateral and regional agreements.¹⁶² Two such regional frameworks are the 1995 Council of Europe Agreement¹⁶³ and the 2003 US- Caribbean Area Agreement.¹⁶⁴

5.4.3 Assessment of Implementation of Counter-Narcotics Responses in the Gulf of Guinea

With the exception of Equatorial Guinea, all Gulf of Guinea States are party to the UN Drug Convention.¹⁶⁵ In 2008, Member States of the Economic Community of West African States (ECOWAS) also declared their political commitment to combating drug trafficking at a meeting in Cape Verde.¹⁶⁶ As demonstrated in chapter three, however, illicit drug

¹⁶² See Articles 17(4) and 17(9) of the 1988 UN Drug Convention. 17(9) provides: “The Parties shall consider entering into bilateral or regional agreements or arrangements to carry out, or to enhance the effectiveness of, the provisions of this article.”

¹⁶³ Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Council of Europe, Strasbourg, 31 January 1995.

¹⁶⁴ Agreement Concerning Co-operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, 10 April 2003.

¹⁶⁵ See UNODC, Status of Ratification and Accession as at 6 September 2013, available http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&lang=en, 6 September 2013. The author’s research has not pointed to why Equatorial Guinea has not ratified the UN Drug Convention.

¹⁶⁶ UNODC, “Regional Programme for West Africa 2010–2014,” 2010, pp. 135-45.

trafficking in the Gulf of Guinea is on the increase.¹⁶⁷ This suggests serious gaps in counter-narcotics responses in the region.

Table 5.4: Status of Ratification of UN Drug Convention, 1988

State	Date of Ratification
Angola	26 Oct 2005
Benin	23 May 1997
Cameroon	27 Feb 1989
Cape Verde	8 May 1995
Congo Brazzaville	3 Mar 2004
Cote d'Ivoire	25 Nov 1991
DR Congo	28 Oct 2005
Equatorial Guinea	
Gabon	10 Jul 2006
Gambia	23 Apr 1996
Ghana	10 Apr 1990
Guinea	27 Dec 1990
Guinea-Bissau	27 Oct 1995
Liberia	16 Sep 2005
Mauritania	1 Jul 1993
Nigeria	1 Nov 1989
São Tomé & Príncipe	20 Jun 1996
Senegal	27 Nov 1989
Sierra Leone	6 Jun 1994
Togo	1 Aug 1990

Source: United Nations Treaty Collection as at June 2013

Drug trafficking is thriving in the Gulf of Guinea due to multiple factors, including corruption and a lack of enforcement capacity.¹⁶⁸ This is accentuated by the absence of a dedicated regional cooperative mechanism for combating illicit drug trafficking. Indeed, the response to illicit drug trafficking in the region must be multifaceted, and the core requirement is for Gulf of Guinea States to pursue effective regional and

¹⁶⁷ This has been analysed in chapter three of the thesis.

¹⁶⁸ David E. Brown, The Challenges of Drug Trafficking to Democratic Governance and Human Security in West Africa, *The Letort Papers, Strategic Studies Institute, U.S. Army War College*, 2013, pp. 43-50.

international cooperation. As analysed in chapter three, illicit drugs enter the region concealed in containers, but larger quantities are trafficked through drug vessels and transshipment at sea. Vessels carrying large quantities of drugs may tranship the drugs within the EEZ of a member State, or in the immediate high seas area of the region. Smaller crafts assisting in the crime will then venture into the territorial waters of the region. In the case of drugs trafficked through the use of containers, cooperation with source States (and particularly port inspection officials) constitutes the most practical means for responding to the threat. In all these cases, joint action and the sharing of information within a regional framework would also prove useful.

Thus, there is a need for an effective, regional counter-narcotic framework that commits Gulf of Guinea States to sharing information and intelligence, as well as cooperative enforcement measures at sea. The UN and its agencies launched the West Africa Coast Initiative (WACI) in 2009 as a pilot drug watch programme.¹⁶⁹ Gulf of Guinea States can use the WACI platform as a base for building a counter-narcotic framework. However, for a framework to be durable and effective, ownership and commitment by regional States is critical. Pragmatism dictates that the framework should include extra-regional partners, especially EU States.

¹⁶⁹ The WACI is being piloted in four States - Cote d'Ivoire, Guinea-Bissau, Liberia and Sierra Leone. See United Nations Office for West Africa, West Africa Coastal Initiative, <http://unowa.unmissions.org/Default.aspx?tabid=841>, 31 July 2013.

In developing a regional framework, Gulf of Guinea States can draw from some of the structures in the 1995 Council of Europe Agreement and the 2003 US-Caribbean Area Agreement. For example, the Council of Europe Agreement has clarified ambiguities regarding the cost of enforcement - an issue that can undermine cooperative frameworks.¹⁷⁰ This has been done by specifying key measures for the suppression of drug trafficking which every State is obligated to enforce at its own cost, even when the enforcement is invoked by another State.¹⁷¹ In all other cases the requesting or intervening State will be responsible for the cost.¹⁷² Therefore, the principle of burden-sharing has been adopted under the Council of Europe framework – a principle which is absent from the UN Drug Convention. Similarly the US-Caribbean Area Agreement has key strengths which Gulf of Guinea States can draw on.¹⁷³ The Agreement not only requires States to act expeditiously in answering requests for verification of the identity of suspected vessels, but also stipulates four hours as the maximum delay period.¹⁷⁴ Also, the willingness of Caribbean States to cooperate with the US has led to surveillance assistance and capacity building programmes in the Caribbean region, including reforms in the security sector and the judicial system.¹⁷⁵

¹⁷⁰ Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Council of Europe, Strasbourg, 31 January 1995.

¹⁷¹ The key measures are in Articles 4 and 5, while the provision on cost is contained in Article 25 (1).

¹⁷² See Articles 9, 10, 25(1), 1995 Council of Europe Agreement.

¹⁷³ Agreement Concerning Co-operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, 10 April 2003.

¹⁷⁴ Articles 6(4) and (5).

¹⁷⁵ Liana Sun Wyler, International Drug Control Policy: Background and U.S. Responses, Congressional Research Service, 13 August 2013, p.17, <http://www.fas.org/sgp/crs/row/RL34543.pdf>, 6 September 2013,

5.5 IMPLEMENTATION OF INTERNATIONAL LEGAL AND POLICY FRAMEWORKS FOR FISHERIES GOVERNANCE IN THE GULF OF GUINEA

The socio-economic importance of fisheries in the Gulf of Guinea has been examined in chapter two. Chapter three also demonstrated the impact of declining fisheries on food security, as well as wider regional security implications. It is thus imperative for Gulf of Guinea States to implement measures that will address the causes of declining fisheries, as well as promote the sustainable management of fisheries resources in general.

This part examines the extent to which Gulf of Guinea States have implemented requisite international frameworks for fisheries governance. The frameworks being examined consist of binding and non-binding instruments, and together they serve as the key global legal and policy regimes for addressing fisheries governance concerns. The analysis is organised into three sections. The first section will examine the binding governance frameworks, the second section will examine the non-binding frameworks, while the third section assesses the implementation of the frameworks in the Gulf of Guinea.

5.5.1 Binding Fisheries Governance Frameworks

Four binding instruments on fisheries governance will be considered in this section: the UNCLOS fisheries framework, the FAO Compliance

Agreement, the UN Fish Stocks Agreement and the Port State Measures Agreement.¹⁷⁶

5.5.1.1 United Nations Convention on the Law of the Sea

As analysed in the first part of this chapter, the desire to control fishing resources was the catalyst for the evolution of the concept of the EEZ. Thus, UNCLOS recognises the sovereign right of coastal States to exploit and manage living resources in the EEZ.¹⁷⁷ This right co-exists with an obligation to take sound conservation measures and, in particular, to ensure that living resources in the EEZ are not endangered by over-exploitation.¹⁷⁸ To facilitate the realisation of the interests of coastal States in the EEZ, and the accompanying obligations, UNCLOS gives coastal States enforcement rights in the EEZ. These include the right to board and inspect fishing vessels, as well as the ability to arrest and prosecute persons for violations of fisheries regulations.¹⁷⁹ UNCLOS also entreats States to cooperate in the conservation and management of living resources, and in some cases, makes such cooperation obligatory.¹⁸⁰

¹⁷⁶ The analysis in this section relies heavily on the work of Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, Chapter Three.

¹⁷⁷ UNCLOS, Article 56.

¹⁷⁸ UNCLOS, Article 61(2). Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 58.

¹⁷⁹ Article 73 of UNCLOS states: “1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.”

¹⁸⁰ For example, Article 61(2) encourages regional, sub-regional and global cooperation, while Articles 63 and 64 make cooperation compulsory.

The rights and obligations of States regarding living resources also extend to the high seas. Under international law, all States - coastal and landlocked - enjoy the freedom of high seas fishing, and this has been codified in Article 87 of UNCLOS.¹⁸¹ The exercise of the freedom is, however, subject to a number of obligations. States must adopt measures for the conservation of high seas living resources, ensure that their nationals adhere to such measures, and they must also cooperate with other States in the management and conservation of high seas living resources.¹⁸²

5.5.1.2 FAO Compliance Agreement

The Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement) was adopted in 1993 as the first post-UNCLOS binding agreement for fisheries management.¹⁸³ A crucial issue successfully dealt with by the FAO Compliance Agreement was the reflagging of fishing vessels.¹⁸⁴ Under the Agreement, a vessel that is serving a suspension for violating fishing regulations is prohibited from re-registering (reflagging) under any other State unless the period of

¹⁸¹ UNCLOS, Article 87(1)(e).

¹⁸² UNCLOS, Articles 117 and 118. See also Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 59.

¹⁸³ FAO, Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, Rome, Italy, 24 November 1993, entered into force 24 April 2003.

¹⁸⁴ Robin R. Churchill and Vaughan Lowe, *The Law of the Sea*, Manchester, Manchester University Press, 1999, pp. 302-303.

suspension has ended.¹⁸⁵ This prohibition has crystallised into an important tool for combating IUU fishing in more recent fishery frameworks. It is important to note, however, that the governance regime of the FAO Compliance Agreement only covers fishing activities on the high seas.¹⁸⁶

5.5.1.3 United Nations Fish Stock Agreement

The United Nations Fish Stock Agreement was adopted in 1995 as the implementing instrument for Articles 63 and 64 of UNCLOS, entering into force in 2001.¹⁸⁷ The UN Fish Stock Agreement regulates the management of species of fish described as straddling stocks and highly migratory species.¹⁸⁸ Indeed, the very description of these species of fish, tuna being the most dominant,¹⁸⁹ shows that their management requires some form of interstate cooperation.¹⁹⁰ Thus, the UN Fish Stock Agreement creates a mechanism for managing these stocks through regional fisheries management organisations (RFMOs).¹⁹¹ The regime

¹⁸⁵ FAO, *Compliance Agreement*, Article III (5).

¹⁸⁶ FAO, *Compliance Agreement*, Article II (1).

¹⁸⁷ FAO, United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995, in force 11 December 2001.

¹⁸⁸ UNCLOS, Article 63 and 64. See also Robin R. Churchill and Vaughan Lowe, *The Law of the Sea*, Manchester, Manchester University Press, 1999, p.294. Edward L. Miles and William T. Burke, "Pressures on the United Nations Convention on the Law of the Sea Arising from New Fisheries Conflicts: The Problem of Straddling Stocks " *Ocean Development and International Law* 20, 1989 pp. 343–57.

¹⁸⁹ On highly migratory and straddling stocks, see FAO, "The State of World Highly Migratory, Straddling and other High Seas Fishery Resources and Associated Species," *FAO Technical Paper* 495, 2006.

¹⁹⁰ UNCLOS, Articles 63 and 64. Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999, p.294. Edward L. Miles and William T. Burke, "Pressures on the United Nations Convention on the Law of the Sea Arising from New Fisheries Conflicts: The Problem of Straddling Stocks," *Ocean Development and International Law* 20, 1989, pp. 343–57.

¹⁹¹ FAO, *UN Fish Stock Agreement*, Articles 8-14.

consists of a wide range of responsibilities, including vessel licensing, record keeping, catch verification, information sharing, as well as the monitoring, control and surveillance (MCS) of fishing vessels.¹⁹²

The UN Fish Stock Agreement also creates mechanisms for meeting the enforcement and capacity-building needs of developing countries.¹⁹³ Also, the duty of States to ensure conservation of straddling stocks is balanced by the need to ensure that conservation measures do not create vulnerability in the food and nutritional requirements of communities, especially the fishing communities of developing States.¹⁹⁴

5.5.1.4 FAO Port State Measures Agreement

To further enhance the sustainable conservation and governance of fisheries, consultations on the adoption of Port State Measures (PSM) commenced in 2007,¹⁹⁵ with the Agreement on Port State Measures (PSMA) to combat IUU fishing finally adopted in 2009.¹⁹⁶ In simple terms, PSMs involve the in port inspection of fishing vessels to ensure

¹⁹² UN Fish Stock Agreement, Part V. See also Lawrence Juda, "The United Nations Fish Stocks Agreement," *Yearbook of International Co-operation on Environment and Development* 2001/02, pp. 53-58. Moritaka Hayashi, "The 1995 UN Fish Stocks Agreement and the Law of the Sea", in Davor Vidas and Willy Østreng, eds. *Order for the Oceans at the Turn of the Century* Hague, Kluwer Law International, 1999, pp. 37-53.

¹⁹³ UN Fish Stock Agreement, Article 24(1) and Articles 25-27.

¹⁹⁴ UN Fish Stock Agreement, Article 24(2).

¹⁹⁵ FAO, Twenty-seventh Session of the Committee on Fisheries, Rome, Italy, 5-9 March 2007, FAO Fisheries Report No. 830, 2007.

¹⁹⁶ FAO, Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 22 November 2009.

compliance with fisheries governance and conservation measures.¹⁹⁷ The inspection should, at a minimum, cover the documentation of the vessel, the type of fishing gear being used, as well as the quantity and origin of the fish on board the vessel.¹⁹⁸ Since this inspection is carried out in port, it is regarded as more cost-effective than other types of enforcement measures.¹⁹⁹

5.5.2 Non-binding Fisheries Governance Frameworks

There are also a number of non-binding fisheries frameworks that are part of the governance framework for fisheries. Much like binding agreements, these non-binding frameworks are generally adopted at the meetings of FAO member States, or as technical guidelines by FAO special committees. Therefore, non-binding frameworks equally serve as key multilateral instruments for engagement at regional and global levels. Some of these non-binding instruments deal with specific fisheries governance concerns, such as the use of fishing driftnets,²⁰⁰ the regulation of fishing capacity,²⁰¹ as well as the conservation of seabirds and sharks.²⁰² Others have a wider application, especially the FAO Code

¹⁹⁷ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 164.

¹⁹⁸ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 163.

¹⁹⁹ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 64.

²⁰⁰ UN Resolution on Drift Fishing, Resolution 46/215, 1991, adopted by the UN General Assembly on 20 December 1991.

²⁰¹ FAO, *International Plan of Action for the Management of Fishing Capacity*, adopted at the twenty-third Session of FAO Fisheries Committee, Rome, Italy, 1991.

²⁰² FAO, *International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries*, adopted at the twenty-third Session of FAO Fisheries Committee, Rome, Italy, 1991. FAO,

of Conduct for Responsible Fisheries and the International Plan of Action against IUU Fishing (IPOA-IUU). These two instruments are examined below.

5.5.2.1 FAO Code of Conduct for Responsible Fisheries

The FAO Code of Conduct for Responsible Fisheries was adopted at the twenty-eighth Session of the FAO Conference in Rome, Italy, in 1995.²⁰³ Unlike the UN Fish Stocks Agreement (that deals with specified fish species), or the Compliance Agreement (that only regulates high sea fishing), the Code of Conduct for Responsible Fisheries targets the management of all fisheries, irrespective of type or geographical space.²⁰⁴ Although it is a non-binding instrument, its strength lies in the broad measures it provides, including market-based measures for combating IUU fishing.²⁰⁵

Like the UN Fish Stocks Agreement, the Code of Conduct also recognises the capacity building needs of developing States.²⁰⁶ An important trade principle in the Code of Conduct (which also has the

International Plan of Action for the Conservation and Management of Sharks, adopted at the twenty-third Session of FAO Fisheries Committee, Rome, Italy, 1991. FAO, *International Plan of Action for the Conservation and Management of Sharks*, adopted at the twenty-third Session of FAO Fisheries Committee, Rome, Italy, 1991.

²⁰³ FAO, *Code of Conduct for Responsible Fisheries*, adopted at the twenty-eighth Session of FAO Conference, Rome, Italy, 31 October 1995.

²⁰⁴ FAO, *Code of Conduct for Responsible Fisheries*, Principles 1-3.

²⁰⁵ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 67. Robin R. Churchill and Vaughan Lowe, *The Law of the Sea*, Manchester, Manchester University Press, 1999, p. 304. See also William Edeson, "Closing the Gap: The Role of Soft International Instruments to Control Fishing " *Australian Year Book of International Law* 20, 1999, pp. 84-104.

²⁰⁶ FAO, *Code of Conduct for Responsible Fisheries*, Principle 5.

effect of combating IUU fishing), is the requirement for States to ensure that trading in fish and fish products at both international and domestic levels accords with sound conservation and management practices. This is to be achieved by improving the identification of the origin of fish and fishery products traded.²⁰⁷

5.5.2.2 International Plan of Action against Illegal and Unreported Unregulated Fishing

The International Plan of Action against illegal unreported and unregulated Fishing (IPOA-IUU) was adopted in 2001 on the platform of the FAO as a holistic global instrument for combating IUU fishing.²⁰⁸ Although the IPOA-IUU is a non-binding instrument, it has been modelled in such a way that it links with many of the binding and non-binding instruments reviewed thus far.²⁰⁹ As indicated in chapter three, it was the adoption of the IPOA-IUU in 2001 that introduced the concept of IUU fishing into fisheries governance. An analysis of the various components of IUU fishing has already been undertaken in chapter three.²¹⁰ The IPOA-IUU lays down actionable plans for addressing the threat of IUU fishing - plans which essentially translate into coastal State, flag State and port State responsibilities.²¹¹

²⁰⁷ FAO, *Code of Conduct for Responsible Fisheries*, Principle 11.

²⁰⁸ FAO, International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), Rome, Italy, 2 March 2001, endorsed by the FAO Council on 23 June 2001.

²⁰⁹ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff 2010, p. 57.

²¹⁰ See chapter 3, particularly section 3.5.4.2.

²¹¹ See chapters 5, 6 and 7 respectively. Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010.

The IPOA-IUU requires coastal States to develop comprehensive legislation targeting all aspects of IUU fishing, including evidence gathering and ensuring that such evidence meets admissibility requirements in judicial and settlement processes.²¹² States must also develop strong mechanisms for the effective monitoring, control and surveillance (MCS) of fisheries.²¹³ The IPOA-IUU reinforces the flag State responsibilities imposed by the earlier instruments, and extends some of these obligations to coastal States. For instance, it stipulates that coastal States should not allow vessels to undertake fishing activities within their waters without a valid licence, and also proscribes transshipment of fish catches at sea.²¹⁴ The IPOA-IUU also sets out a wide range of Port State Measures (PSMs), including the inspection of documents authorising fishing and the inspection of catches to confirm the species, origin and quantity of the fish caught.²¹⁵

5.5.3 Assessment of the Implementation of Fisheries Governance Frameworks by Gulf of Guinea States

It is clear from the analysis above that the framework for fisheries governance is quite broad. Thus, the assessment in this part will focus on: (i) the status of ratification of the relevant binding instruments; (ii) the implementation of the IPOA IUU; and (iii) the implementation of

²¹² FAO, IPOA-IUU, para 16 &17.

²¹³ FAO, IPOA-IUU, para 24.

²¹⁴ FAO, IPOA-IUU, para 51.

²¹⁵ FAO, IPOA-IUU, Para 58.

Port State Measures. The last section will highlight other pertinent issues that impede effective fisheries governance in the Gulf of Guinea.

5.5.3.1 Ratification of Binding Instruments

The four binding instruments whose ratification is being assessed are those that have been analysed in Section 5.5.1: UNCLOS, the UN Fish Stocks Agreement, the FAO Compliance Agreement and the Agreement on Port State Measures. The assessment in Section 5.2.3.1 of this chapter has already shown that UNCLOS has been widely ratified by Gulf of Guinea States. However, as UNCLOS only provides a general jurisdiction for fisheries, it is the ratification and enforcement of the three other instruments (and particularly those that are binding), that actually affords effective fisheries governance measures and cooperation. Table 5.5 depicts the status of ratification of the binding instruments in the Gulf of Guinea.

Table 5.5 Status of Ratification of Binding Fishery Instruments

State	UN Fish Stock Agreement 1994	Compliance Agreement 1993	Agreement on Port State Measures 2009
Angola	X	7 Mar 2006	X
Benin	X	4 Jan 1999	X
Cameroon	X	X	X
Cape Verde	X	27 Jan 2006	X
Congo Brazzaville	X	X	X
Cote d'Ivoire	X	X	X
DR Congo	X	X	X
Equatorial Guinea	X	X	X
Gabon	X	X	X
Gambia	X	X	X
Ghana	X	12 May 2003	X
Guinea	16 Sep 2005	X	X
Guinea-Bissau	X	X	X
Liberia	16 Sep 2005	X	X
Mauritania	X	X	X

Nigeria	2 Nov 2009	X	X
São Tomé & Príncipe	X	X	X
Senegal	30 Jan 1997	8 Sep 2009	X
Sierra Leone	X	X	X
Togo	X	X	X

Source: FAO and UNDOALOS

It is clear from the Table that the ratification of binding fisheries instruments in the Gulf of Guinea is highly inadequate. The UN Fish Stocks Agreement came into force since 2001, but has only been ratified by four States.²¹⁶ Meanwhile, the Compliance Agreement has been ratified by only five States, despite having been in force since 2003.²¹⁷ Given the scanty ratification of these two instruments, it is not surprising that no Gulf of Guinea State has ratified the 2009 Agreement on Port State Measures which is yet to enter into force. The conclusion to be drawn from the ratification status of the above instruments is that national and regional fisheries governance responses in the Gulf of Guinea are highly deficient, contributing to illegal fisheries activities and depleting fish stocks in the region.

5.5.3.2 Implementation of the IPOA-IUU

The IPOA-IUU framework requires every State to develop a National Plan of Action (NPOA) which will constitute the policy platform for implementing the IPOA-IUU.²¹⁸ The NPOA should include a description

²¹⁶ FAO, United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995, in force 11 December 2001.

²¹⁷ FAO, Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, Rome, Italy, 24 November 1993, entered into force 24 April 2003.

²¹⁸ FAO, IPOA-IUU, para. 25.

of the country's situation with regard to IUU fishing, a list of activities to be undertaken in combating IUU fishing, the assignment of responsibilities with respect to particular activities and actions, a time frame and indicators for implementation of the activities, as well as an embedded plan for its revision.²¹⁹ FAO Resolution 6/2003 of December 2003 called on States to finalise their NPOAs by the end of 2004.²²⁰ However, as at December 2005, Gambia and Ghana were the only States in the region to be cited as having developed their NPOA.²²¹ A 2011 Report has also indicated that Benin has completed its NPOA.²²² Thus, more than a decade after the adoption of the IPOA-IUU framework, a majority of Gulf of Guinea States have failed to create actionable plans for its implementation. It is important to note, however, that the development and implementation of NPOAs in many States is constrained by funding.²²³ For example, the development of Gambia's NPOA was funded with assistance from the Global Environmental Fund (GEF),²²⁴ while Nigeria (which has the highest Gross Domestic Product in the region), has not dedicated funding for developing a NPOA or for combating IUU fishing generally.²²⁵

²¹⁹ FAO, Fisheries Report No. 792, 2006, Para 23.

²²⁰ FAO, Resolution 6/2003, FAO Council 124th Session, 9 December, 2003, Para 3.

²²¹ Report of Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – West African Subregion Accra, Ghana, 28 November - 2 December 2005, FAO, Fisheries Report No. 792, 2006, Para 50.

²²² ACP Fish II Project, Report on Support to the implementation of the FCWC regional plan of action on IUU fishing Project ref. N°CU/PE1/SN/11/011, 31 May 2011, p. 9. An earlier FAO Report indicated the development of a NPOA in Benin, see FAO, Fisheries and Aquaculture Report No. 910, 2009, Para 41.

²²³ FAO, Fisheries and Aquaculture Report No. 910, 2009, Para 30.

²²⁴ FAO, Fisheries Report No. 792, 2006, Para 58.

²²⁵ Cote d'Ivoire is specifically cited in the ACP Fish II Project, Report on Support to the implementation of the FCWC regional plan of action on IUU fishing Project ref. N°CU/PE1/SN/11/011, 31 May 2011, p.21.

Although the IPOA-IUU does not necessitate the adoption of Regional Plans of Actions (RPOA), subsequent initiatives and decisions have stipulated this to be a requirement.²²⁶ The World Summit on Sustainable Development held in Johannesburg in 2002 encouraged the development of RPOAs by the end of 2004, the same date set for NPOAs.²²⁷ Some reports have indicated that the Fishing Committee for West Central Africa (FCWC) developed a RPOA in 2009.²²⁸ However, the Plan does not appear in the FAO database or on the official web page of the FCWC. There is also no indication that any other Regional Fishery Management Organisation in the Gulf of Guinea has developed an Action Plan.²²⁹

5.5.3.3 Implementation of Port State Measures

The third outcome for the purpose of this assessment is the implementation of Port State Measures (PSMs).²³⁰ Since these inspections are carried out in port, they should be more cost-effective compared to other enforcement requirements. However, yet again Gulf of Guinea States have failed to adopt and implement the requisite PSMs.²³¹ In fact, most of the States in the region have been assessed as having no Port Inspectorates at all, while those that do have insufficient

²²⁶ Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries : The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing*, Leiden, Martinus Nijhoff, 2010, p. 98.

²²⁷ World Summit on Sustainable Development, Johannesburg, South Africa, 4 September 2000.

²²⁸ ACP Fish II Project, Report on Support to the implementation of the FCWC regional plan of action on IUU fishing Project ref. N°CU/PE1/SN/11/011, 31 May 2011.

²²⁹ FAO, International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, 2013, <http://www.fao.org/fishery/ipoa-iuu/npoa/en>, 12 September 2013.

²³⁰ FAO, Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 22 November 2009.

²³¹ ACP Fish II Project, Report on Support to the implementation of the FCWC regional plan of action on IUU fishing Project ref. N°CU/PE1/SN/11/011, 31 May 2011, p. 29.

numbers generally lack the requisite skills to conduct port inspections effectively.²³²

In light of the above discussion, it is clear that fisheries governance in the Gulf of Guinea is ineffective, and this is undermining sustainable fishing and creating a permissive environment for IUU fishing. This assessment also shows that the ability of Gulf of Guinea States to combat IUU fishing even in the immediate future is questionable.²³³ Global funding mechanisms for assisting developing States to implement the IPOA-UU is still being explored, but it is unlikely that enough funding will be made available.²³⁴ Hence, until Gulf of Guinea States take positive measures to effectively implement binding and non-binding fisheries management instruments, and also address the governance issues analysed in chapter three, fisheries resources will remain at risk of depletion, with serious consequences for food security as well as national and regional security.

5.6 IMPLEMENTATION OF THE INTERNATIONAL FRAMEWORK AGAINST TRANSNATIONAL ORGANISED CRIMES

The assessment of the implementation of the United Nations Transnational Organized Crime Convention (UNTOC) and its Protocols

²³² ACP Fish II Project, Report on Support to the implementation of the FCWC regional plan of action on IUU fishing Project ref. N°CU/PE1/SN/11/011, 31 May 2011, p. 8,24, http://acpfish2-eu.org/uploads/projects/id95/Report_FCWC_IUU_implementation%2030-06-2011_PM.pdf, 12 September 2013.

²³³ ACP Fish II Project, Report Support to the implementation of the FCWC regional plan of action on IUU fishing Project ref. N°CU/PE1/SN/11/011, 31 May 2011, p. 9.

²³⁴ FAO, Fisheries and Aquaculture Report No. 989, 2012.

has been purposefully chosen as the last subject matter to be discussed in this chapter. This is because the Convention and its three Protocols, collectively referred to as the transnational organised crime instruments (TOC instruments), are very relevant for combating all the maritime security threats analysed in chapters three and four, particularly illicit trafficking in drugs and weapons, as well as illegal migration by sea. This part examines the extent to which Gulf of Guinea States have implemented the UNTOC and its three Protocols.

5.6.1 Background to the Transnational Organized Crime Instruments

The analysis of the evolution of the concept of maritime security in chapter three demonstrated the context within which the doctrine of *mare clausum* was espoused in 1635.²³⁵ The doctrine was used to justify the British claim to a customs zone and the imposition of security measures along its coast in response to the illegal importation and trading of contraband goods, including narcotics by foreign ships and networks.²³⁶ This shows that the threat of transnational organised crime (TOC) is not a recent phenomenon. However, increasing globalisation has made both the effects and dynamics of TOC graver than before.²³⁷ Criminal networks are now able to execute crime across State boundaries with ease and speed, exposing the inadequacy of national efforts at

²³⁵ The Englishman John Selden espoused the doctrine of *mare clausum* (which literally translates as 'closed seas') in 1635 to legitimise British security controls of the seas around Great Britain.

²³⁶ Robin R. Churchill and Vaughan Lowe, *Law of the Sea*, Manchester, Manchester University Press, 1999.

²³⁷ *The Global Regime for Transnational Crime*, 25 June 2013, Council on Foreign Relations Available: <http://www.cfr.org/transnational-crime/global-regime-transnational-crime/p28656>, 12 November 2013.

combating TOC.²³⁸ Indeed, the advent of TOC in the contemporary world has called for a shift away from the piecemeal method of crime prevention that focuses on specific crimes to a potent approach that will target the drivers of organised crime.²³⁹

The most important step towards establishing a global framework on TOC was taken at the World Ministerial Conference in 1994 which called for a holistic global instrument on TOC.²⁴⁰ A series of multilateral engagements on the subject led to the adoption of the United Nations Transnational Organized Crime Convention (UNTOC) in 2000.²⁴¹ The objective of the Convention is to succinctly capture the words of the UN Secretary General - that “if crime crosses borders, so must law enforcement.”²⁴²

²³⁸ The Global Regime for Transnational Crime, 25 June 2013, Council on Foreign Relations Available: <http://www.cfr.org/transnational-crime/global-regime-transnational-crime/p28656>, 12 November 2013.

²³⁹ *The Global Regime for Transnational Crime*, 25 June 2013, Council on Foreign Relations Available: <http://www.cfr.org/transnational-crime/global-regime-transnational-crime/p28656>, 12 November 2013.

²⁴⁰ World Ministerial Conference on Organised Transnational Crime, Naples, Italy, 21 - 23 November 1994.

²⁴¹ United Nations Convention against Transnational Organized Crime, adopted by General Assembly Resolution 55/25 of 15 November 2000, Palermo, Italy, entered into force on 29 September 2003, hereinafter referred to as UNTOC.

²⁴² Kofi A. Annan, UN Secretary General, Forward to the UNTOC, available at UNODC, <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>, 12 August 2013.

5.6.2 Scope and Content of Transnational Organized Crime Instruments

The United Nations Transnational Organized Crime Convention (UNTOC) was adopted in 2000 and entered into force in 2003.²⁴³ The UNTOC covers a number of transnational crimes including money laundering,²⁴⁴ corruption by public officials²⁴⁵ and the obstruction of justice²⁴⁶ - all under the rubric of TOC. An organised criminal group is defined as a structured group of persons acting in concert with the aim of committing crimes in order to obtain some financial or other material benefit, whether directly or indirectly.²⁴⁷

An offence is regarded as transnational in character if it fits any of these descriptions: (i) the actions constituting the offence are committed in more than one State;²⁴⁸ (ii) the offence is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;²⁴⁹ (iii) the offence is committed in one State but involves an organised criminal group that engages in criminal activities in more than one State;²⁵⁰ or (iv) the crime is committed in one State but

²⁴³ United Nations Convention against Transnational Organized Crime, adopted by General Assembly Resolution 55/25 of 15 November 2000, Palermo, Italy, entered into force on 29 September 2003, hereinafter referred to as UNTOC.

²⁴⁴ UNTOC, Articles 6 and 7.

²⁴⁵ UNTOC, Articles 8 and 9.

²⁴⁶ UNTOC, Article 23.

²⁴⁷ According to Article 2(a), an “Organized criminal group” refers to “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.”

²⁴⁸ UNTOC, Article 3(2)(a).

²⁴⁹ UNTOC, Article 3(2)(b).

²⁵⁰ UNTOC, Article 3(2)(c).

has substantial effects in another State.²⁵¹ State Parties are required to enact laws against TOC, prevent the commission of organised crimes within their territories, as well as investigate and prosecute perpetrators of organised crimes.²⁵² The Convention also places great emphasises on international cooperation in combating organised crime. The prescribed cooperative measures include the identification and confiscation of proceeds of crime and mechanisms for initiating and responding to the extradition of suspects.²⁵³

Three Protocols have been adopted to supplement the UNTOC. Two of the Protocols - the Protocol to Prevent, Suppress and Punish Trafficking in Persons,²⁵⁴ as well as the Protocol against the Smuggling of Migrants by Land, Air and Sea,²⁵⁵ were adopted together with the Convention in 2000. The third Protocol - the Protocol against Illicit Manufacture and Trafficking in Firearms, was adopted a year later.²⁵⁶ The design of the three Protocols is similar to the parent Convention. The Protocols stipulate acts that constitute crimes in respective areas, obligating States to take preventive and enforcement actions, and to further indicate cooperative mechanisms to be adopted.

²⁵¹ UNTOC, Article 3(2)(d).

²⁵² UNTOC Articles 5-12.

²⁵³ UNTOC, Articles 13, 14 and 16.

²⁵⁴ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by General Assembly Resolution 55/25 of 15 November 2000. It entered into force on 25 December 2003. See 40 International Legal Material 353.

²⁵⁵ Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25, 15 November 2000, entered into force 28 January 2004. See 40 International Legal Materials, 2001, p. 384.

²⁵⁶ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001, adopted by General Assembly resolution 55/255, 31 May 2001, entered into force 3 July 2005.

The difference between the crimes of migrant smuggling and people trafficking has been examined in great detail in chapter three. As a summary, in the case of migrant smuggling organised criminals gain a financial or other material benefit by facilitating the illegal entry of people who voluntarily undertake a journey into another State.²⁵⁷ Meanwhile, the trafficking of people always has an element of deceit, with the objective of the crime being to put the trafficked persons in some form of servitude, typically prostitution or forced labour.²⁵⁸

5.6.3 Relevance of TOC Instruments to Gulf of Guinea and an Assessment of the Implementation

UNTOC is a very important instrument for combating maritime security threats in the Gulf of Guinea, particularly when its distinctiveness is appreciated. Unlike the other international frameworks reviewed in this chapter, UNTOC targets the sub-culture that promotes transnational crime: organised networks, corruption, money laundering and the obstruction of justice. The analysis of maritime security threats in chapters three and four, and also in the present chapter, has revealed elements of this sub-culture in the Gulf of Guinea. Indeed, drug trafficking thrives on organised networks, corruption and the complicity of public officials. The crimes of illegal migration and illicit trafficking

²⁵⁷ Article 3(a), Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 (UN A/55/383). Raimo Väyrynen, "Illegal Immigration, Human Trafficking, and Organized Crime," *United Nations University, Discussion Paper O. 2003/72*, 2003, pp. 1-25 p.1. See also David Kyle and Rey Koslowski, eds., *Global Human Smuggling: Comparative Perspectives*, Baltimore, Johns Hopkins University Press, 2001.

²⁵⁸ Article 3(a), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 (UN A/55/383). See also Kevin Bales, *Disposable People. New Slavery in the Global Economy* Berkeley CA University of California Press, 1999.

in persons and weapons are aided by the same sub-culture. The case study on piracy in chapter four revealed that piracy itself is an organised crime, while demonstrating that the trading of stolen oil cargo is promoted by organised networks within and outside the Gulf of Guinea. Even more ominous is the fact that piratical acts are increasingly being committed with the use of arms and weapons. Finally, although not always apparent, IUU fishing involves an element of organised crime, and has been known to flourish in corrupt environments.²⁵⁹

5.6.3.1 Status of Ratification of TOC Instruments

It is clear from the analysis above that ratification and implementation of UNTOC and its related instruments is crucial for enhancing maritime security in the Gulf of Guinea. However, there are serious gaps in the ratification of TOC instruments in the Gulf of Guinea.

Table 5.6: Status of Ratification of Transnational Organised Crime Instruments

State	UNTOC 2000	Protocol on Illegal Migration 2000	Protocol on Trafficking in Persons 2000	Protocol against Trafficking in Weapons 2001
Angola	1 Apr 2013	X	X	X
Benin	30 Aug 2004	30 Aug 2004	30 Aug 2004	30 Aug 2004
Cameroon	6 Feb 2006	6 Feb 2006	6 Feb 2006	X
Cape Verde	15 Jul 2004	15 Jul 2004	15 Jul 2004	15 Jul 2004
Congo Brazzaville	X	X	X	X
Cote d'Ivoire	25 Oct 2012	X	25 Oct 2012	X
DR Congo	28 Oct 2005	28 Oct 2005	28 Oct 2005	28 Oct 2005
Equatorial Guinea	7 Feb 2003	X	7 Feb 2003	X
Gabon	15 Dec 2004	X	22 Sep 2010	22 Sep 2010
Gambia	5 May 2003	5 May 2003	5 May 2003	X

²⁵⁹ Henrik O'sterblom, Andrew Constable and Sayaka Fukumi, "Illegal fishing and the organized crime analogy," *Trends in Ecology and Evolution* 26, 6, 2011, pp. 261-62, p.61. Bertrand L. Gallic and Anthony Cox, "An economic analysis of illegal, unreported and unregulated (IUU) fishing: key drivers and possible solutions," *Marine Policy* 30, 2006, pp. 689-95, p.94. See also Lyden Griggs and Gail Lugten, "Veil over the nets: unravelling corporate liability for IUU fishing offences," *Marine Policy* 31, 2007, pp. 159-68.

Ghana	21 Aug 2012	21 Aug 2012	21 Aug 2012	X
Guinea	9 Nov 2004	8 Jun 2005	9 Nov 2004	X
Guinea-Bissau	10 Sep 2007	X	10 Sep 2007	24 Sep 2013
Liberia	22 Sep 2004	22 Sep 2004	22 Sep 2004	22 Sep 2004
Mauritania	22 Jul 2005	22 Jul 2005	22 Jul 2005	22 Jul 2005
Nigeria	28 Jun 2001	27 Sep 2001	28 Jun 2001	3 Mar 2006
São Tomé & Príncipe	12 Apr 2006	12 Apr 2006	23 Aug 2006	12 Apr 2006
Senegal	27 Oct 2003	27 Oct 2003	27 Oct 2003	7 Apr 2006
Sierra Leone	X	X	X	X
Togo	2 Jul 2004	28 Sep 2010	8 May 2009	17 Jul 2012

Source: UN Treaty Collection as at 17 November 2013

As shown in Table 5.6, Congo Brazzaville and Sierra Leone are not Parties to any of the four instruments. Angola has ratified UNTOC but not the accompanying Protocols. Cote d'Ivoire and Ghana ratified the instruments almost a decade after UNTOC's entry into force, and even then the instruments have only partially been ratified. The ratification status of other States with regard to TOC instruments – such as Equatorial Guinea, Guinea, Guinea-Bissau, Gabon and Gambia – is equally incomplete.

As is the case with the other instruments discussed in this chapter, the practical implementation of the TOC framework dictates effective regional and international cooperation.²⁶⁰ The UN General Assembly has, in Resolution 55/25, called on regional organisations to ratify UNTOC and its Protocols.²⁶¹ Indeed, under the framework of UNTOC, regional organisations are required to set guidelines for the implementation of aspects of TOC instruments, including the promotion of cooperation among judicial and law enforcement authorities.²⁶² However, neither ECOWAS nor ECCAS are signatories to the instruments, making the contribution and commitment of these

²⁶⁰ See, for example, Article 17 of the Protocol on Smuggling of Migrants.

²⁶¹ United Nations, General Assembly Resolution 55/25, 15 November 2000, para. 8.

²⁶² See Article 7(3) and (4) of the UNTOC.

organisations to addressing corruption and organised crime highly questionable.

5.6.3.2 Implementation of Protocols on Illegal Migration

Given the high profile of organised crime, cooperation between Gulf of Guinea States and the EU is germane, especially on the issue of illegal migration (which often co-exists with human trafficking).²⁶³ Spain initiated the Africa Plan in 2006, cooperating with a number of African States on illegal migration, including Cape Verde and Senegal, which are regarded as frontline migration States in the Gulf of Guinea.²⁶⁴ The Spanish initiative is also coordinated under the EU border protection agency, Frontex.²⁶⁵ The engagement with Cape Verde has been largely successful, resulting in the conclusion of an EU-Cape Verde Mobility Partnership Agreement in 2008.²⁶⁶ Although Portugal (Cape Verde's former colonial power), is not an entry point for illegal migrants from the Gulf of Guinea, the State has been pivotal in the implementation of the Mobility Agreement.²⁶⁷ Action points in the Agreement include capacity building on maritime border control and enforcement measures, as well as a contribution by EU States to sea patrols off Cape Verde. In short, the EU-Cape Verde partnership has been successful in combating illegal

²⁶³ See chapter three.

²⁶⁴ "The Euro-African Ministerial Conference on Migration and Development," Rabat, Morocco, 10-11 July 2006.

²⁶⁵ EU, European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, Council Regulation (EC) No 2007/2004, 26 October 2004.

²⁶⁶ Council of the European Union, "Joint Declaration on a Mobility Partnership between the European Union and the Republic of Cape Verde," Brussels, 21 May 2008.

²⁶⁷ Meng Hsuan Chou and Marie Gibert, "The EU-Senegal Mobility Partnership: from launch to suspension and negotiation failure," *Journal of Contemporary European Research* 8, 4, , 2012, pp. 408-27, p.14.

migration by sea. However, there are concerns that Cape Verde's commitment to the Mobility Agreement has undermined its cooperation in ECOWAS.²⁶⁸ This is because the arrangement has limited the free movement of other ECOWAS citizens into Cape Verde - a prerequisite for regional integration.²⁶⁹

In contrast to the success story of Cape Verde, cooperation between the EU and Senegal on illegal migration has been chequered at best.²⁷⁰ Initial media reports in 2006 suggested a positive roadmap,²⁷¹ but the agreement was later limited to the return of Senegalese nationals only.²⁷² Within a few months the entire arrangement had stalled, owing to the alleged inhumane treatment of Senegalese migrants by Spanish officials.²⁷³ Following the incident, the government of Senegal came under intense pressure from its nationals to terminate the agreement.²⁷⁴

²⁶⁸ For an analysis of this issue, see José L. Rocha, "Cape Verde and ECOWAS: The Challenges of Regional Integration," *Portuguese Journal of International Affairs* 4, 2010, pp. 3-7.

²⁶⁹ José L. Rocha, "Cape Verde and ECOWAS: The Challenges of Regional Integration," *Portuguese Journal of International Affairs* 4, 2010. Hein de Haas, "International Migration, National Development and the Role of Government: the case of Nigeria", in Aderanti Adepoju, Ton van Naerssen and Annelies Zoomers, eds. *International Migration and National Development in Sub-Saharan Africa: viewpoints and policy initiatives in the countries of origin* Leiden, Brill, 2008, pp. 168-72.

²⁷⁰ Meng-Hsuan Chou, Marie Gibert, "The EU-Senegal Mobility Partnership: from launch to suspension and negotiation failure," *Journal of Contemporary European Research*, 8, 4, 2012, pp.408-427.

²⁷¹ "Senegal, Spain agree to joint patrols to stem illegal migration," IRIN, 25 August 2006, <http://www.irinnews.org/report/60468/senegal-senegal-spain-agree-to-joint-patrols-to-stem-illegal-migration>, 9 September 2013.

²⁷² Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, Cambridge, Cambridge University Press, pp.218-219 .

²⁷³ Federica Bicchi, "Our Size Fits All: normative power Europe and the Mediterranean," *Journal of European Public Policy* 13, 2, 2006, pp. 286-303.

²⁷⁴ *Spain, Senegal agrees anti-migrant moves but no deal*, 24 May 2006, Times of Malta, Available: <http://www.timesofmalta.com/articles/view/20060524/local/spain-senegal-agree-anti-migrant-moves-but-no-deal.53124>, 9 September 2013. Nils-Sjard Schulz, *The Plan Africa: Limits and Opportunities of Spanish Development Cooperation*, Available: http://www.fride.org/descarga/COM_Africa.limits_EN_sep06.pdf, 24 September 2013.

By the close of the year there were reports of a renewed plan, with Spain agreeing to grant work permits to Senegalese migrants, as well as a further US\$24 million to assist Senegal to combat illegal migration.²⁷⁵ This paved the way for patrols led by Frontex in Senegalese waters in 2007, and within three months of the patrols being initiated, almost a thousand illegal migrants were intercepted.²⁷⁶ It was hoped that Senegal and the EU would eventually agree on a more permanent arrangement in the form of a Mobility Partnership Agreement, but continued disagreement led to the suspension of the initiative in 2009.²⁷⁷

There is, however, a wider context to the question of cooperation between Gulf of Guinea States and the EU in combating illegal migration. And although this cannot be explored extensively in this chapter, it should form part of the assessment. During negotiations for the Cotonou Agreement in 2000 (which covers EU relations with the African-Caribbean-Pacific Group of States (ACP)), an article was inserted into the Agreement linking the question of migration with trade and development partnerships.²⁷⁸ This was vehemently opposed by Gulf of Guinea States in particular, but nonetheless the Article was

²⁷⁵ *Spain and Senegal in migrant deal*, 5 December 2006, BBC News, Available: <http://news.bbc.co.uk/2/hi/6208744.stm>, 9 September 2013. *Spain and Senegal agree to promote legal migration policy*, 11 October 2006, Workpermit.com, Available: http://www.workpermit.com/news/2006_10_11/eu/spain_senegal_promote_migration_policy.htm, 6 November 2013.

²⁷⁶ Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, Cambridge, Cambridge University Press, p. 218.

²⁷⁷ Meng-Hsuan Chou, Marie Gibert, "The EU-Senegal mobility partnership: from launch to suspension and negotiation failure", *Journal of Contemporary European Research* 8, 4, 2012, pp. 408-427.

²⁷⁸ See Article 13 generally and especially Article 13(5), "The Cotonou Agreement," Signed in Cotonou, Benin, 23 June 2000, revised in Ouagadougou, Burkina Faso, 22 June 2010.

included.²⁷⁹ Thus, while the EU and Gulf of Guinea States continue to pursue cooperative initiatives on illegal migration on the basis of the Cotonou Agreement, these initiatives are likely to be reluctantly agreed to because of the economic muscle of the EU.²⁸⁰

No matter what value judgement is formed from the analysis of this contested cooperation, it is imperative for Gulf of Guinea States to adopt a regional framework to address the issue of illegal migration. The analysis of the maritime environment of the Gulf of Guinea in chapters three and four demonstrates that different types of security threats are now starting to merge. Therefore, ignoring organised crime as it relates to illegal migration may prove to be the region's Achilles' heel. The same organised groups that profit from the illegal smuggling of persons into Europe may also be shipping illicit drugs or weapons into the Gulf of Guinea.²⁸¹ Thus, there is great value in fostering cooperation and positive engagement within *and* outside the region.

5.6.3.3 Implementation of the Protocol against Illicit Weapon Trafficking

²⁷⁹ For an extensive discussion, see Ole Elgström, "Lomé and Post-Lomé: Asymmetric Negotiations and the Impact of Norms," *European Foreign Affairs Review* 5, 2, 2000, pp. 175-95. Tine Van Crielinge, *The EU-Africa Migration Partnership: A case study of the EU's migration dialogue with Senegal and Ghana*, 22-25 April 2008, Paper Presented at EUSA Conference, Available: http://www.euce.org/eusa2009/papers/van%20crielinge_11C.pdf, 9 September 2013

²⁸⁰ Ole Elgström, "Lomé and Post-Lomé: Asymmetric Negotiations and the Impact of Norms," *European Foreign Affairs Review*, Vol. 5, No. 2, pp. 175-195. See also Aderanti Adepoju, "Migration Management in West Africa within the context of ECOWAS Protocol on Free Movement of Persons and the Common Approach on Migration: Challenges and Prospects", in Marie Tremolieres, ed. *Regional Challenges of West African Migration: African and European Perspectives*, Paris, OECD, 2009, pp. 17-48.

²⁸¹ UNODC, "Transnational Organized Crime in West Africa: A threat Assessment," February 2013. UNODC, *Global Report On Trafficking In Persons - 2012*.

Although trafficking in small arms and light weapons (SALW) has led to immense instability in the Gulf of Guinea, almost half of the States in the region have not ratified the protocol on illicit trafficking in weapons.²⁸² Indeed, attempts to implement the Protocol at the regional level have not been without their challenges. The 2010 implementation report by ECOWAS member States highlighted gains in awareness campaigns, capacity building, as well as the development of national legislation, but noted that little progress had been made on the substantive issue of reducing circulation of SALW.²⁸³ The case study on piracy in chapter four demonstrated the rampant use of weapons in piratical attacks, including AK47s, Rocket Propelled Grenades (RPGs) and explosives. That is a manifestation of a weak monitoring regime of SALW.²⁸⁴

On a positive note, member States of ECOWAS adopted a Convention on SLAW in 2006, while a similar instrument was adopted in 2010 for the ECCAS region.²⁸⁵ These frameworks can help address the issue of illegal trafficking of arms in the Gulf of Guinea if effectively

²⁸² See chapter 6. See generally Eboe Hutchful, "Understanding the African Security Crisis", in Abdel-Fatau Musah and Kayode Fayemi, eds. *Mercenaries: An African Security Dilemma*, London, Pluto Press, 2000, pp. 210-32. Eboe Hutchful and Abdoulaye Bathily, eds., *The Military and Militarism in Africa*, Dakar, CODESRIA, 1998.

²⁸³ ECOWAS, ECOWAS Small Arms Control Programme, Annual Report 2010. See also "Efficacy of Small Arms Control Measures and National Reporting: Learning from Africa," *Small Arms Research Notes* 33, August 2013. Available at http://www.smallarmssurvey.org/fileadmin/docs/H-Research_Notes/SAS-Research-Note-33.pdf, 24 September 2013.

²⁸⁴ Cyriaque P. Agnekethom, "Political and Institutional Dynamics of the Control of Small Arms and Light Weapons in West Africa," *Disarmament Forum*, 2008.

²⁸⁵ The ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials was adopted in Abuja, Nigeria, on 14 June 2006, and entered into force in September 2009. ECCAS, Central African Convention for the Control of Small Arms and light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair or Assembly, Kinshasa, DRC, 19 November 2010. See also OAU, Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, 2000. OAU, Decision on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, AHG/Dec.137 (LXX), July 1999.

implemented. There is, however, some disconnect between these regional initiatives and the global instruments. As indicated in the previous paragraph majority of Gulf of Guinea States have not ratified the global instrument for combating the trafficking of arms. Essentially therefore, the regional frameworks adopted by ECOWAS and ECCAS do not tie well with the overall global process for dealing with the threat. Since illegal trafficking in arms has global dimensions, Gulf of Guinea States will have to commit to the global process while taking steps to address specific regional concerns.

5.7 CONCLUSION

The analysis in this chapter has demonstrated a general lack of implementation of international frameworks for maritime security in the Gulf of Guinea. The analysis has also shown that the inadequate implementation of the requisite international frameworks hampers the enforcement of maritime security jurisdiction in the region. Indeed, the inadequate ratification and implementation of the relevant frameworks by Gulf of Guinea States limits their capacity to effectively combat maritime security threats, while simultaneously undermining their commitment to maritime security in the region.

These conclusions do not suggest that the frameworks by themselves provide sufficient solutions to maritime security challenges. Indeed, the discussion demonstrates that international frameworks are themselves a product of consensus building, and therefore have limitations. Nonetheless, they represent the most viable responses that can galvanize

bilateral, regional and global maritime security cooperation. Thus, failure to anchor maritime security responses to these frameworks constitutes a serious impediment to building regional security cooperation, and equally hinders global support and partnerships. The presence of undelimited maritime areas, which is itself a product of the inadequate implementation of UNCLOS, complicates the already weak cooperative environment, and is also a recipe for interstate conflict and regional instability.

Finally, with regard to the analytical and conceptual framework underpinning the thesis, this chapter has demonstrated that an effective legal framework enhances maritime security capacity at the national level, and is also an enabler of regional and global maritime security cooperation. Conversely, deficiencies in the legal framework encumber national response capabilities, creating dysfunctional cooperative outcomes.

CHAPTER SIX

PROSPECTS AND CHALLENGES FOR EVOLVING MARITIME SECURITY COOPERATIVE INITIATIVES IN THE GULF OF GUINEA

6.1 INTRODUCTION

The analysis in the preceding chapters has underscored the need for effective maritime security cooperation in the Gulf of Guinea. Indeed, regional cooperation is a useful platform for aggregating national responses, enhancing enforcement output, and enlisting international support and cooperation. A review of the Gulf of Guinea environment shows that four platforms are currently being used to pursue maritime security cooperation. These platforms have different institutional foundations, with the evolving initiatives covering different geographical scopes.

The United Nations Security Council (UNSC) has explicitly advocated these platforms and initiatives as collaborative mechanisms for enhancing maritime security in the Gulf of Guinea region.¹ However, notwithstanding the importance of maritime security cooperation, the wholesale sanctioning of ongoing initiatives without reviewing their content, context, structure and integrative strengths is neither beneficial for Gulf of Guinea States nor the international community at large. Also, from a practical perspective, the need for maritime security cooperation

¹ United Nations, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011). United Nations, Resolution 2039 - Peace Consolidation in West Africa (Security Council 6727th Meeting, 29 February 2012).

in the Gulf of Guinea cannot be divorced from the broader governance and political dynamics in the region. Indeed, the degree of maritime security cooperation that can be achieved is dependent upon both the nature of interstate relations and national socio-economic indicators.

It is against this backdrop that an assessment of the ongoing maritime security initiatives in the Gulf of Guinea will be conducted. As in the case of the earlier chapters, this chapter has both conceptual and empirical relevance to the thesis. Conceptually, this chapter investigates the strengths and limitations associated with the regional platform for maritime security cooperation, as well as the critical role of good governance in enhancing maritime security. Empirically, the chapter examines the ways in which Gulf of Guinea States are fostering regional maritime security cooperation, and the opportunities and challenges created by these initiatives. It is important to note that this chapter is concerned with cooperative initiatives being pursued only by Gulf of Guinea States, while the next chapter will examine interventions by external actors.

This chapter is organised in four parts. The first part will examine the context and content of the cooperative initiatives, while the remaining three parts will assess the structural, geopolitical and governance challenges associated with the evolving cooperative frameworks. The interaction between these different but coterminous challenges needs to be highlighted. Structural challenges relate to the operationalisation of cooperative frameworks, and some of these may be so fundamental as to

prevent the development or realisation of the initiative altogether. Geopolitical challenges may produce the same effect, especially where there is a high level of interstate contestation. Otherwise, geopolitical challenges largely affect cohesiveness and the effective delivery of results. The same can be said of governance challenges, although the negative impacts run much deeper and are felt long term. This implies that unless governance challenges are identified and addressed, States run the risk of investing time and resources in cooperative initiatives which may not produce the desired results.

6.2 COOPERATIVE PLATFORMS AND EVOLVING MARITIME SECURITY INITIATIVES

The four platforms that are being used to garner maritime security cooperation in the Gulf of Guinea are the Maritime Organization for West and Central Africa (MOWCA), the Gulf of Guinea Commission (GGC), the Economic Community for West African States (ECOWAS), and the Economic Community for Central African States (ECCAS). The four sections below will provide an overview of each of these institutional frameworks, as well as the maritime security objectives being pursued. This will provide the background for the analysis in the next part of the chapter.

6.2.1 The Maritime Organization for West and Central Africa and the Integrated Coastguard Network Project

The Maritime Organization of West and Central Africa (MOWCA) has twenty five member States. Of these, twenty are coastal, five are landlocked, and together they form the member States of the Gulf of Guinea region as defined in the thesis.² MOWCA is the successor organisation of the Ministerial Conference of Maritime Transport of West and Central African States (MINCONMAR), which was established in 1975 by the Charter of the Ministerial Conference of West and Central African States on Maritime Transport.³ MINCOMAR was one of several platforms established by developing States in the 1970s to secure equity in international trade by lobbying for an end to the shipping monopoly enjoyed by developed States. In particular, developing States advocated for a quota system so that their newly established shipping lines would be entitled to carry a percentage of the cargo loaded and offloaded in their ports.⁴

However, this objective was never met, as the national shipping lines of developing States would soon collapse under the pressure of increased

² See chapter 2. The coastal States of MOWCA are Angola, Benin, Cameroon, Cape Verde, Congo Brazzaville, Cote d'Ivoire, DR Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mauritania, Nigeria, São Tomé and Príncipe, Senegal, Sierra Leone and Togo. The landlocked States are Burkina Faso, the Central Africa Republic, Chad, Mali and Niger.

³ MOWCA, Charter of the Ministerial Conference of West and Central African States on Maritime Transport (Abidjan May 1975).

⁴ Generally on the contest between developed and developing States on shipping and maritime trade, see Alexander Yeats, *Trade Barriers Facing Developing Countries: Commercial Policy Measures and Shipping* London Macmillan, 1979, p. 184-93. Louise L. Fawcett and Andrew Hurrell, eds., *Regionalism in World Politics: Regional Organization and International Order*, Oxford, Oxford University Press, 1995. Karl Fasbender and Wolfgang Wagner, *Shipping Conferences, Rate Policy, and Developing Countries*, Hamburg Verlag Weltarchiv, 1973.

competition and globalisation.⁵ And although MINCONMAR continued to serve as a platform for discussing shipping issues, the attention of its Secretariat shifted largely to facilitating the implementation of shipping regulations adopted on the floor of the International Maritime Organization (IMO). Following a stakeholder meeting in August 1999, MINCONMAR was renamed the Maritime Organization of West and Central Africa (MOWCA),⁶ perhaps to reflect its affiliation with the International Maritime Organization (IMO).

Dialogue between MOWCA States on the establishment of a coastguard network commenced in 2001 at a meeting held in Abuja, Nigeria.⁷ At a second meeting jointly organised by MOWCA and the IMO in 2003, a consensus was reached to engage the services of a consultant to carry out feasibility studies on the coastguard programme.⁸ Pursuant to this decision, the Maritime Safety Committee of the IMO mandated that the IMO Secretariat provide funding for the feasibility study.⁹ The study involved visits and meetings in selected States,¹⁰ and a report with a draft convention for the establishment of a regional coastguard network was submitted in 2006.¹¹ However, the General Assembly of MOWCA

⁵ Awini Behnam, "The Ocean Trade in the New Economy: A Keynote Address," *Ocean Development & International Law* 35, 2, 2004, pp. 115-30, at p.18.

⁶ The decision to change the name of the organisation from MINCONMAR to MOWCA was taken at an extraordinary session of the General Assembly of Ministers of Transport held in Abidjan, Cote d'Ivoire, 4-6 August 1999.

⁷ On the history and processes underlying the coastguard network, see MOWCA, Establishment of MOWCA Integrated Sub-Regional Coast Guard Network(MOWCA Secretariat. May 2005).

⁸ Meeting of member States of MOWCA, Accra, Ghana, 17-19 March 2003.

⁹ See IMO, Report of the Maritime Safety Committee(MSC 78/26. 28 May 2004).

¹⁰ The States visited were Angola, Cote d'Ivoire, Ghana, Nigeria and Senegal.

¹¹ See IMO, Report on the Mission on Evaluation and Assessment of the Feasibility to Establish An Integrated Coast Guard Network in the West And Central African Region(TC/0046-01-2000. 15 February 2006).

instead adopted a Memorandum of Understanding (MOU) in 2008 – albeit one which provided a framework for establishing an integrated coastguard network.¹² There is no formal indication as to why the original idea of a convention was abandoned, but the author’s view is that the MOU was selected to avoid the more formal requirements associated with international conventions.

The overarching objective of the MOWCA coastguard project is to create a maritime law enforcement program under a unified administration for the whole of West and Central Africa.¹³ As part of this grand objective, a regional maritime information sharing centre will be established, allowing member States to share and exchange security related information.¹⁴ Article 12 of the MOU divides the coastguard network into four zones. Zone I comprises Mauritania, Senegal, Gambia, Guinea Bissau and Cape Verde. States in Zone II include Guinea, Sierra Leone, Liberia, Cote d’Ivoire and Ghana. Zone III is composed of Togo, Benin, Nigeria, Cameroon and Equatorial Guinea, while Zone IV includes Gabon, Sao Tome and Principe, Congo Brazzaville, DR Congo and Angola. Each zone will have a designated coordination centre, with the entire network being coordinated from two principal coordination centres.

¹²MOWCA, Memorandum of Understanding on the Establishment of a Sub-Regional Integrated Coast Guard Network In West and Central Africa, MOWCA/XIII GA.08/8. 2008, herein referred to as MOWCA Coastguard MOU, adopted at the 13th Session of the General Assembly of MOWCA meeting, held from 29 – 31 July 2008, Dakar, Senegal. See Law of Sea Bulletin(No.68. 2008).

¹³ Article 6(1), MOWCA Coastguard MOU 2008.

¹⁴ Article 6(2), MOWCA Coastguard MOU 2008.

The highest administrative body for the coastguard network is the Council of Ministers, which comprises ministers responsible for maritime transportation from each member State.¹⁵ Other important functions will be undertaken by a Committee of Representatives, with members drawn from each State Party.¹⁶ Article 11 provides for the office of a Principal Coordinator who is responsible for the general management of the coastguard network (and who also acts as the network's legal representative). Under the MOU, the Principal Coordinator and two deputies will be appointed by the Council of Ministers on the recommendation of the Committee of Representatives.¹⁷ However, the implementation of the project is equally entrusted to a Technical Committee of Evaluation, which is to be appointed solely by the Secretary General of MOWCA.¹⁸

The MOU also sets out rules governing the operation of assets and platforms associated with the coastguard network. The plan is for the coastguard network to acquire and operate relevant assets, including ships that will have distinctive markings and fly the flag of MOWCA.¹⁹ The network will be funded by financial contributions from member States, with donor organisations and donor countries providing additional financial support.²⁰ Any member State seeking the presence of ships in its zone must send a request with a “useful justification” to the relevant Zone Coordinators, who will then approve the request and plan

¹⁵ Article 8, MOWCA Coastguard MOU 2008.

¹⁶ Article 10, MOWCA Coastguard MOU 2008.

¹⁷ Article 10, MOWCA Coastguard MOU 2008.

¹⁸ Article 9, MOWCA Coastguard MOU 2008.

¹⁹ Article 15, MOWCA Coastguard MOU 2008.

²⁰ Article 28, MOWCA Coastguard MOU 2008.

the mission.²¹ The Zone Coordinators also have authority to contract out the maintenance and supply of ships to private companies.²²

Other aspects of the MOU will be analysed in the next part of this chapter, including the limitations and structural challenges of the evolving maritime security initiatives. However, it should already be apparent that the coastguard network is a complicated bureaucratic concept with serious structural issues, thus making its successful operationalisation highly improbable. Indeed, it is idealistic to expect States to surrender their sovereignty and law enforcement authority to Zone Coordinators that they have no control over. It is also impracticable to assume that States will contribute to the acquisition of very expensive assets like ships, and at the same time forfeit their absolute authority over the operation and deployment of such ships.

6.2.2 The Gulf of Guinea Commission

The Gulf of Guinea Commission (GGC) was identified in chapter two as one of the key regional organisations in the Gulf of Guinea whose maritime security cooperative initiatives would be analysed. Although the treaty establishing the Commission has defined its membership as the sovereign States bordering the Gulf of Guinea, the Commission only has eight member States: Angola, Cameroon, Congo-Brazzaville, DR Congo, Equatorial Guinea, Gabon, Nigeria and São Tomé and Príncipe.²³

²¹ Article 22, MOWCA Coastguard MOU 2008.

²² Article 18, MOWCA Coastguard MOU 2008.

²³ See Article III, Treaty of the Gulf of Guinea Commission, February 2001. The Treaty is not in force and research suggests that only Nigeria has ratified the Treaty thus far. However, James Forest and Mathew Sousa have indicated that the Treaty has also been ratified by São Tomé and Príncipe. See,

In numerical terms, the Gulf of Guinea Commission is the smallest of the six platforms being examined in this chapter, but strategically, the Commission is the nerve centre of the Gulf of Guinea region, especially when viewed in the context of global energy security interests.

In 2011, Nigeria and Angola accounted for 81 per cent of the total oil supply from the Gulf of Guinea region, with shares of 47 and 34 per cent respectively.²⁴ The output levels of other member States of the Commission are also quite high, especially when compared to other Gulf of Guinea States.²⁵ Therefore, from the perspective of energy resource security, it is the membership of the GGC that has gravitas in the Gulf of Guinea region.²⁶ This explains why the Commission features prominently in the literature on maritime security in the Gulf of Guinea.²⁷ Since energy security is a global concern, it is not surprising

Federal Republic of Nigeria, Act of Ratification and Enforcement of the Treaty Establishing the Gulf of Guinea Commission, 2004. James J.F. Forest and Mathew V. Sousa, *Oil and Terrorism in the Gulf of Guinea: Framing U.S. Energy and Security Policies for the Gulf of Guinea*, Plymouth Lexington Books, 2006, p. 67.

²⁴ Statistics contained in a report by Chatham House UK, see Chatham House, "Angola and the Gulf of Guinea: Towards an Integrated Maritime Strategy," *Chatham House*, November 2012.

²⁵ See chapter 2.

²⁶ Generally on geopolitical interests in Gulf of Guinea natural resources (including oil), see Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst and Company, 2007. Manuel Correia de Barros, "Can the Gulf of Guinea Develop a Common Regional Oil Policy? ", in Rudolf Traub-Merz and Douglas Yates, eds. *Oil Policy in the Gulf of Guinea: Security & Conflict, Economic Growth, Social Development*, Friedrich-Ebert-Stiftung, 2004, pp. 68-71. Howard W. French, "Commentary - China and Africa," *African Affairs* 106 2007 pp. 127-32. Pierre Abramovici, "United States: the new scramble for Africa," *Review of African Political Economy* 31, 2004, pp. 685-90. Richard Auty, *Sustaining Development in Mineral Economics: The resource curse thesis* London Routledge, 1993. Nicholas Shaxson, *Poisoned Wells: The Dirty Politics of Africa Oil*, Basingstoke Pelgrave Macmillan, 2008. Paul Collier and Anke Hoeffler, *Greed and Grievance in Civil War* Washington DC World Bank Development Research Group, 2000.

²⁷ See, for example, Ricardo Soares de Oliveira, *Oil and Politics in Gulf of Guinea*, London, Hurst, 2007, p. 1. Raymond Gilpin, "Enhancing Maritime Security in the Gulf of Guinea," *Strategic Insights* VI, 1, January 2007. Mark Lowe, "African Countries for More Security in the Gulf of Guinea," *Maritime Security Review*, 13 August 2012, Gbenga Oduntan, "The Emergent Legal Regime for Exploration of Hydrocarbons in the Gulf Of Guinea: Imperative Considerations for Participating States and Multinationals " *International and Comparative Law Quarterly* 57, 2008, pp. 253-302.

that the UN Security Council has advocated the role of the Commission in delivering maritime security in the Gulf of Guinea.²⁸

There are other cogent reasons underlying the role of the GGC as a viable platform for maritime security cooperation. First, the Treaty of the Commission expressly indicates that its objective is to promote peace and security, and to also serve as a forum for addressing joint security issues.²⁹ Second, the GGC is the only regional organisation in the Gulf of Guinea that is ‘entirely maritime’ (in the sense that all of its eight members are coastal States),³⁰ while the motivation behind the formation of the Commission was to exploit offshore resources in a secure and beneficial manner.³¹ Third, the moderate size of the Commission means that the prospects for achieving consensus on regional arrangements are quite high. Finally, unlike other regions in the Gulf of Guinea, increasingly access to oil revenue places member States of the GGC in a relatively better position to acquire the necessary logistics and cooperative platforms for maritime security, without the need for extensive support from the international community.

In light of the above discussion, it is clear that the Secretariat of the GGC should be able to enlist national, regional and external assistance to develop a buoyant maritime security cooperative and enforcement

²⁸ See, for example, paragraph 3 of UN Security Council Resolution 2039, 29 February 2012.

²⁹ See Article VI, Treaty of the Gulf of Guinea Commission, 2001.

³⁰ This assessment also applies to MOWCA, as its membership includes landlocked States.

³¹ See Articles IV and V, Treaty of the Gulf of Guinea Commission, 2001.

framework. In reality, however, it has not been able to achieve this objective, with the Commission's shortcomings not being limited to maritime security concerns, but extending to the discharge of all its objectives. High level consultations between member States have produced very few tangible results, and programmes devised by technical committees of the Commission have scarcely been implemented.³² In advocating for the Commission to play a central role in maritime security, the Executive Secretary of the Commission, Mr Miguel dos Anjos da Cunha Lisboa Trovoadá,³³ asserted in August 2012 that collective security was a key driver behind the creation of the Commission, but bemoaned that little was being done on that front.³⁴ Interestingly, Mr Trovoadá had confirmed a few months earlier that there were major problems militating against the smooth functioning of the Commission's Secretariat.³⁵

Therefore, although the GGC commands great recognition, the organisation produces little or no concrete outcomes. Of course, the internal politics of organisations are usually complex, and multiple reasons may well account for the GGC's lacklustre performance. However, the author contends that the critical factor preventing the

³² Osita C. Eze and Rudolf Traub-Merz, "Interstate Conflict and Conflict Resolution in the Gulf of Guinea ", in Rudolf Traub-Merz and Douglas Yates, eds. *Oil Policy in the Gulf of Guinea: Security and Conflict, Economic Growth, Social Development*, Nigerian National War College, 2004, pp. 73-86.

³³ The Executive Secretary, Mr Miguel dos Anjos da Cunha Lisboa Trovoadá, previously served as the Prime Minister (1975–1979) and President (1991–2001) of São Tomé and Príncipe.

³⁴ "Gulf of Guinea Security," *Maritime Security Review*, August 2012. See also [allafrica.com, Angola: Gulf of Guinea Commission Told to Meet Security Challenges](http://allafrica.com/stories/201204100008.html) 9 April 2012, Available: <http://allafrica.com/stories/201204100008.html> 3 December 2012.

³⁵ "Gulf of Guinea Commission seeks Nigeria's support on security," *Blueprint*, 17 February 2012. "Growing security challenge: Nigeria to Partner the Gulf Of Guinea Commission " *NewsDiary*, 17 February 2012.

Commission from making progress is the geopolitical environment within which it is cast. This will be examined in second part of the chapter.

6.2.3 Maritime Security Initiatives of the Economic Community of West African States

Fifteen of the twenty five States in the Gulf of Guinea are part of the Economic Community of West African States (ECOWAS), which was established in 1975.³⁶ The formation of ECOWAS was, however, marked by serious diplomatic challenges. It has been argued that France regarded the formation of ECOWAS merely as a platform for Nigeria to increase its control in the region, thereby undermining France's dominance in West African politics (and especially in the Francophone enclave).³⁷ Internally, Cote d'Ivoire was deemed to be obstructing the formation of ECOWAS, partly in aid of the French agenda, but also because of a regional leadership contest with Nigeria.³⁸ However, the

³⁶ Treaty of ECOWAS, Lagos, Nigeria, 28 May 1975. A copy of the Treaty is in 14 *International Legal Materials* (1975) 1200. The coastal States of ECOWAS are Benin, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Nigeria, Senegal, Sierra Leone and Togo. The Landlocked States are Burkina Faso, Mali and Niger.

³⁷ Olusegun Obasanjo, *My Command*, London Heinemann, 1980, p. 152. Generally on the involvement of France and Nigeria in West African politics, see Bassey Ate, "The Presence of France in West-Central Africa as a Fundamental Problem to Nigeria," *Millennium Journal of International Studies* 12, 2, Summer, pp. 110-26. Daniela Krosiak, "France's Policy Towards Africa, Continuity or Change?", in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 61-82. Bola A. Akinterinwa, "The Role of France in Nigeria's Relations with its Neighbours " *Jerusalem Journal of International Relations* 12, 1, 1990, pp. 112-47. Yves Person, "French West Africa and Decolonization", in Prosser Gifford and William R. Louis, eds. *The Transfer of Power in Africa: Decolonization 1940-1960*, New Haven, , Yale University Press, 1982, pp. 141-72. Shaun Gregory, "French Military in Africa: Past and Present " *African Affairs* 99, 2000, pp. 435-48

³⁸ Olajide Aluko, "Oil at Concessionary Prices for Africa: A Case Study in Nigerian Decision-Making " *Africa Affairs* 75, 301, 1976, pp. 425-43 at p.36. See also Adekeye Adebajo, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea Bissau*, International Peace Academy Occasional Papers,

discovery of oil by Nigeria, followed by oil booms in early 1970s, propelled Nigeria into a stronger position to drive the formation of ECOWAS.³⁹

ECOWAS is the most structured regional organisation in Africa, and is widely regarded as a pacesetter on most subjects concerning integration across the African continent.⁴⁰ Indeed, the organisation has played a key role in resolving conflicts and crises in the territories of member States, even though its constitutive authority has largely been confined to economic cooperation.⁴¹ Whereas the role of other regional organisations has remained in the socio-economic realm, the ECOWAS Revised Treaty of 1992 deepened the political and security objectives of the organisation.⁴² This facilitated the adoption of a treaty in 1999 establishing the Peace and Security Mechanisms of ECOWAS, which

Lynne Reinner, London, 2002, pp. 30-32. Daniel Bach, "The Politics of West African Co-Operation: CEAOC and ECOWAS," *Journal of Modern African Studies* 21, 4, 1983, pp. 605-30.

³⁹ Adekeye Adebajo, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea Bissau*, International Peace Academy Occasional Papers, Lynne Reinner, London, 2002, p. 27. Olajide Aluko, "Oil at Concessionary Prices for Africa: A Case Study in Nigerian Decision-Making," *Africa Affairs* 75, 301, 1976, pp. 425-43 at p.36.

⁴⁰ On the pioneering role of ECOWAS in promoting the free movement of people, see Aderanti Adepoju, "Migration Management in West Africa within the context of ECOWAS Protocol on Free Movement of Persons and the Common Approach on Migration: Challenges and Prospects", in Marie Tremolieres, ed. *Regional Challenges of West African Migration: African and European Perspectives*, Paris, OECD, 2009, pp. 17-48. Clement A. Emenike, "Hegemony, Security and West African Integration: Nigeria, Ghana and the Transformation of ECOWAS," PhD Queens University, Canada, 1994.

⁴¹ On ECOWAS and conflict resolution, see Adekeye Adebajo, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea Bissau*, International Peace Academy Occasional Papers, Lynne Reinner, London, 2002. Mohamed Sirjoh Bah, *ECOWAS and the Dynamics of Constructing a Security Regime in West Africa*, PhD Dissertation, Queen's University at Kingston, 2004. Mark Husband, *The Liberian Civil War*, London and Portland, Frank Cass 1998. Chris Alden, "From Neglect to 'Virtual Engagement': The United States and the New Paradigm for Africa" *African Affairs* 99, 2002, pp. 355-71 and Nkechi Mgbeoji, *Collective Security – The Liberian Crisis, Unilateralism and Global Order*, Vancouver University of British Columbia Press, 2003

⁴² ECOWAS, Revised Treaty of the Economic Community of West African States, Cotonou, Benin, 24 July 1992, reprinted in 35 *International Legal Materials* (1996) 660.

has been replicated at the continental level by the African Union (AU) and also mirrored by other regional institutions across the continent.⁴³ Further integration occurred in 2006, when the ECOWAS Secretariat became a commission with enhanced powers.

These achievements go some way to explaining why ECOWAS has projected itself as both a “mature” organisation and “the master of its [own] destiny.”⁴⁴ However, in the context of maritime security cooperation, these attributes are lacking, with ECOWAS member States failing to develop a cooperative framework despite entreaties by the UN Security Council in Resolutions 2018 and 2039.⁴⁵ Indeed, the only tangible output in the region thus far has been the Nigeria-Benin joint patrols (code-named *Operation Prosperity*), which launched in August 2011.⁴⁶ The inability of this bilateral initiative to suppress piracy and armed robbery off the coasts of the two States has been discussed in chapter four. Analysis in that chapter also demonstrated how, despite *Operation Prosperity*, piratical attacks have burgeoned off the coasts of neighbouring States.

In a Meeting in July 2013, the Heads of State and Government of ECOWAS reaffirmed their determination to combat piracy and other

⁴³ ECOWAS, Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security, adopted at Lome, Togo, 10 December 1999.

⁴⁴ ECOWAS, “ECOWAS Commission at a Glance,” <http://www.comm.ecowas.int/>, 27 September 2013.

⁴⁵ UN, Resolution 2018, adopted at the 6645th Security Council Meeting, 31 October 2011 and Resolution 2039, adopted at the 6727th Meeting of the Security Council, 29 February 2012.

⁴⁶ UN Security Council, “Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea,” S/2012/45, 19 January 2012.

forms of transnational organised crime.⁴⁷ The Meeting further directed the ECOWAS Commission to facilitate the adoption of an ECOWAS maritime strategy, as well as the establishment of Pilot Zone E (which had been agreed on at the Yaoundé Summit of ECOWAS and ECCAS member States a month earlier).⁴⁸ These positive developments suggest that ECOWAS member States are taking steps to mirror the maritime security framework of ECCAS, which is analysed below.

6.2.4 Maritime Security Framework of the Economic Community of Central African States

The Economic Community of Central African States (ECCAS) has eleven member States, seven of whom are coastal States.⁴⁹ ECCAS was formed in the early 1980s, but due to protracted internal and interstate conflicts in the region, the administrative structures of the Community only became operational in 1999.⁵⁰ Security cooperation within ECCAS came to fruition in 2004, following the coming into force of the Protocol relating to the Mutual Security Pact in Central Africa (COPAX),⁵¹ which

⁴⁷ ECOWAS, Final Communiqué, Forty-third Ordinary Session of the ECOWAS Authority of Heads of State and Government, Abuja, Nigeria, 17-18 July 2013, paragraph 37 and 38.

⁴⁸ ECOWAS, Final Communiqué, 17-18 July 2013, paragraph 39.

⁴⁹ The coastal States of ECCAS are Angola, Cameroon, Congo-Brazzaville, DR Congo, Gabon, Equatorial Guinea and Sao Tomé & Príncipe. The landlocked States include the Central Africa Republic, Burundi and Chad. Rwanda was originally a member State of ECCAS, but withdrew from the Community as a result of major disagreements with other member States, especially Angola. Indeed, the two States fought on opposite sides during the war in DR Congo. Whilst some media reports have indicated that Rwanda has officially re-joined ECCAS, the official web page of ECCAS does not list Rwanda as a member State.

⁵⁰ See “Economic Community of Central African States,” <http://www.au.int/en/recs/eccas>, 28 September 2013.

⁵¹ ECCAS, Protocol Relating to the Establishment of a Mutual Security Pact in Central Africa (COPAX), Malabo, Equatorial Guinea, June 2002, entered into force January 2004.

is essentially the ECCAS version of the ECOWAS and African Union's Peace and Security Mechanisms.⁵²

In 2009, member States of ECCAS successfully adopted a Protocol on Maritime Security which laid down a structure for ECCAS maritime security cooperation.⁵³ The background to this Protocol has been discussed in the case study on piracy in chapter four. The case study showed that by 2008, Niger Delta insurgents had firmly extended their piratical activities off the coasts of Cameroon and Equatorial Guinea, both of whom are members of ECCAS.⁵⁴ Then, in 2009, there was an alleged seaborne attack targeting the residence of the President of Equatorial Guinea.⁵⁵ The incident heightened political tensions within ECCAS, as Equatorial Guinea suspected Cameroon of being complicit in the attack, particularly since the perpetrators were believed to have sailed

⁵² For an analysis of the AU Mechanisms for Peace and Security, see Omar Touray, "The Common Africa Defense and Security Policy," *African Affairs* 104, 417, 2005, pp. 635-56. Jakkie Cilliers, *The African Standby Force: An Update on Progress*, Pretoria, Institute for Strategic Studies, 2008. Jeffrey E. Marshall, "Building an Effective African Standby Force to Promote African Stability, Conflict Resolution and Prosperity," *Crisis States Discussion Papers No.16*, London School of Economics, April 2009. Eric Berman, "African regional organisations' peace operations: Developments and challenges " *African Security Review* 11, 4, 2002. Solomon A. Dersso, *The Role and Place of the African Standby Force within the African Peace and Security Architecture*, Pretoria, Institute for Strategic Studies, January 2010. See also Monde Muyangwa and Margaret A Vogt, *An assessment of the OAU Mechanism for Conflict Prevention, Management and Resolution, 1993-2000*, New York, International Peace Academy, 2002. Colin Legum, William Zartman, Steven Longdon and Lynn Mytelka, eds., *Africa in the 1980s: A continent in Crises*, New York, McGraw-Hill Book Company, 1989.

⁵³ See ECCAS, *Protocole Relatif a la Strategie de Securisation des Interest Vitaux en Mer des Etats de la CEEAC du Golfe de Guinea*(Yaoundé, Cameroon. 24 October 2009).

⁵⁴ See Chapter 4, Section 4.5.2.

⁵⁵ See Chapter 4, Section 4.5.2.

from a port in Cameroon.⁵⁶ At the same time, the insurgency in Niger Delta was identified as the source of the attack.⁵⁷

These events propelled the birth of the ECCAS maritime security framework, which is anchored to the Maritime Security Protocol.⁵⁸ That the Protocol has been adopted and ratified by the Heads of State and Government of ECCAS lends legal and political authority to the framework. Indeed, the preamble to the Protocol affirms that the maritime security cooperative framework being established is an offshoot of the broader ECCAS Peace and Security Mechanisms.⁵⁹ The Protocol commits member States to collectively enhance maritime security through the sharing of information, the implementation of joint surveillance and patrols, as well as the harmonisation of legal regimes.⁶⁰

Articles 5 to 7 of the Protocol set out a three-tier security structure composed of regional, zonal and national coordination centres. The Regional Coordination Centre, known by its French acronym CRESMAC (Centre Régional de Sécurité Maritime de l'Afrique

⁵⁶ See, *Africa Research Bulletin* 18155, 16 February-15 March 2009. See also Francois Vreÿ, "Bad order at sea : From the Gulf of Aden to the Gulf of Guinea," *African Security Review* 18, 3, 2009, pp. 17-30.

⁵⁷ See, *Equatorial Guinea Warns U.S. and Europe Not to Ignore Growing Security Threat in Gulf of Guinea*, 15 October 2009, U.S. Newswire, Available: <http://www.prnewswire.com/news-releases/equatorial-guinea-warns-us-and-europe-not-to-ignore-growing-security-threat-in-gulf-of-guinea-64412887.html>, 10 December 2010. See also, Afrol News, *Growing Piracy in Gulf of Guinea* 16 October 2009, Available: http://www.ocnus.net/artman2/publish/Dark_Side_4/Growing-Piracy-in-Gulf-of-Guinea.shtml 22 August 2011.

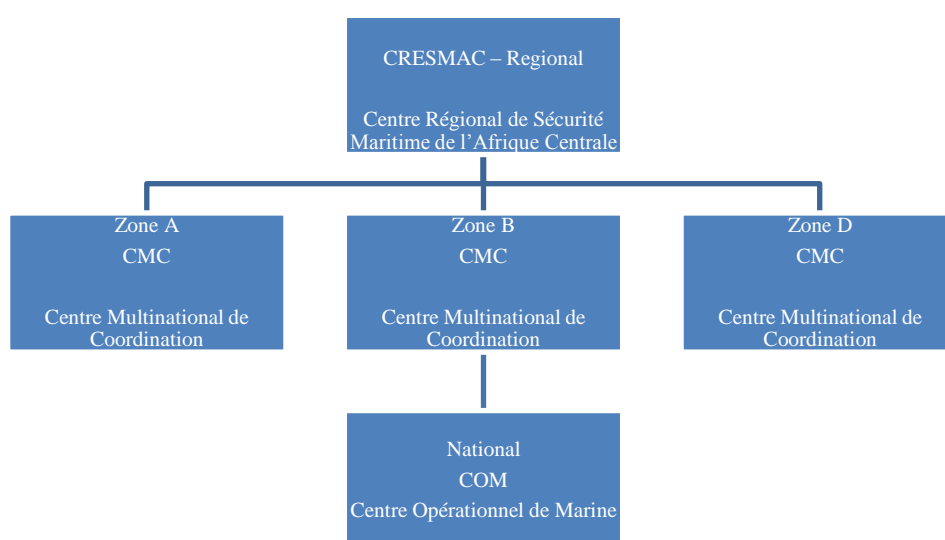
⁵⁸ ECCAS, *Protocole Relatif a la Strategie de Securitisation des Interest Vitaux en Mer des Etats de la CEEAC du Golfe de Guinea* (Yaoundé, Cameroon. 24 October 2009).

⁵⁹ See Preamble, *Protocole Relatif a la Strategie de Securitisation*, 2009.

⁶⁰ See Articles 3 and 4, *Protocole Relatif a la Strategie de Securitisation*, 2009.

Centrale), will be in DR Congo.⁶¹ The maritime space of ECCAS is divided into three zones, each with a Multinational Coordination Centre (Centre Multinational de Coordination - CMC). Each State will also have a national operations centre (Centre Opérationnel de Marine - COM) that will feed into the zonal centres. The structure is presented in Figure 6.1 below.

Figure 6.1: ECCAS Maritime Security Framework



Zone A: Angola, DR Congo; **Zone B:** Angola, Congo (Brazzaville), Gabon; **Zone D:** Cameroon, Equatorial Guinea, Gabon, São Tomé and Príncipe

At first glance, there appears to be several anomalies in the ECCAS framework, but these anomalies simply reflect subtleties in the region. It can be seen that the three zones are designated as A, B and D, rather than the expected A, B and C. It should also be noted that Angola forms part of Zone A and B, while Gabon appears in Zones B and D. The

⁶¹ The author's research shows that construction of the offices of CRESMAC has still not been completed.

motivation behind these particular arrangements can partly be discerned from Figure 5.1 in chapter 5. Angola has part of its territory (the resource rich Cabinda Province) separated from mainland Angola and lying to the west of DR Congo. Thus, the inclusion of Angola in Zones A and B enables it to administer the maritime security concerns of the Cabinda Province. Strategically, it also allows Angola to assert control over this particular area, thus forestalling any potential secession.⁶² A possible explanation for Gabon's inclusion in Zone D is the State's overlapping maritime boundary claims with Equatorial Guinea. Thus, the inclusion of Gabon in Zone D eschews any interpretation that such claims have been abandoned. The author's research suggest that the draft Protocol included Zone C for the same reason, thus allowing Gabon and Equatorial Guinea to share responsibility for that zone. However, the deletion of Zone C at the eleventh hour is unfortunate, as it has left a gap in the designation of the Zones.

It is the author's considered view that the structure of the ECCAS framework provides a functional approach to maritime security cooperation and enforcement. Indeed, situating maritime security within a broader regional political and security structure allows member States to act at the highest political level possible, and to concurrently draw on the strengths of the ECCAS institutional framework. Grouping States into zones is a prudent option as it allows larger regional interests to be promoted, while simultaneously taking into account local sensitivities and concerns. For example, when it became clear that an attack on the

⁶² For many years, the Cabinda Province has fought for self-determination and independence from Angola.

Presidency of Equatorial Guinea was imminent, Zone D States implemented the framework ahead of other ECCAS States, and indeed prior to the Protocol being finalised.⁶³ In summary, therefore, the arrangement respects national sovereignty, retains “the autonomy of national efforts to implement maritime security strategies and allows flexibility of partnerships while ensuring coordination among member States. Notwithstanding the author’s endorsement of the ECCAS framework, it still faces a number of challenges, and therefore cannot be said to be “comprehensive” (as the UN Security Council has described it to be).⁶⁴ These challenges are discussed as part of the analysis of the challenges and limitations of the four cooperative initiatives in the Gulf of Guinea.

6.3 STRUCTURAL CHALLENGES AND LIMITATIONS FOR EVOLVING COOPERATIVE INITIATIVES

An assessment of the structural challenges confronting the above cooperative initiatives can be guided by asking a number of pertinent questions. These include: (i) is there synergy between the evolving initiatives?; (ii) what level of political authority and support underpins the initiatives?; (iii) how effective are the supporting legal and enforcement structures?; (iv) are there inbuilt mechanisms for coordination at the national and regional levels?; (v) do the initiatives provide viable sources of funding?; and (vi) does the arrangement take cognisance of the sovereignty concerns of States?

⁶³ The “Accord Technique” for the operation of Zone D was adopted on 6 May 2009, while the main Protocol was adopted on 24 October 2009.

⁶⁴ United Nations, Security Council Resolution 2039, 27 February 2012.

6.3.1 Political and Institutional Authority

The successful implementation of the evolving cooperative initiatives chiefly depends on two factors: (i) the level of political authority that the cooperative arrangement commands; and (ii) the extent to which the mechanisms are kept within the bounds of sovereignty concerns. Unless these two requirements are satisfied, a cooperative initiative will remain a mere expression of policy intention. The fundamental point is that maritime security cooperation, like all forms of security partnerships, must earn the highest commitment of States. To be effective, it is not sufficient for some State representatives to be part of the process. Rather, it is crucial that the entire leadership team of States, and particularly those members responsible for foreign affairs and defence portfolios, be involved.

Of the four initiatives analysed in this section, the MOWCA coastguard concept has the greatest difficulty meeting the fundamental requirements mentioned above. The MOWCA initiative enjoys significant visibility and goodwill, primarily because it is geared towards the protection of shipping (the most dominant maritime activity), and also because it is anchored to the IMO. However, the main difficulty with enforcing regional maritime security through the leadership of MOWCA is that, as an organisation, MOWCA's *raison d'être* is the promotion of commercial shipping activities. Confronted by an apparent lack of institutional authority with regard to maritime security, MOWCA drafted a Convention to achieve this very objective, but as previously noted, the form of document eventually settled upon was a MOU. Article 1 of the

Draft Convention stated unequivocally that an international organisation known as the West and Central Africa Coast Guard was being created.⁶⁵ And although this phraseology was deleted from the final MOU (thereby removing the label of a supranational organisation), when the Draft Convention and the MOU are examined side by side, it is apparent that they are almost identical, the main difference being the type of document that was settled upon.

The jurisdictional difficulties posed by the structure of the coastguard network will be examined in due course. For present purposes, it suffices to say that the MOU has, in effect, established a regional security architecture that operates outside the framework of ECOWAS and ECCAS. Evidently, the operationalisation of such a textual mandate is impracticable, as it puts MOWCA into an institutional contest with ECOWAS and ECCAS, both of which have regional political and security functions. Even if the MOWCA initiative was to clear this hurdle at the regional level, it will nonetheless encounter similar challenges with respect to the national policies of States. Indeed, the coastguard concept would have to be administered and implemented at the national level by agencies responsible for maritime transportation, or at least coordinated by these agencies to achieve synergy with the regional coastguard structure. However, this policy approach contradicts the administrative arrangements in most Gulf of Guinea States, where

⁶⁵ See Article 1-1 of the Appendix to Part Three of “Report on the Mission on Evaluation and Assessment of the Feasibility to Establish An Integrated Coast Guard Network in the West And Central African Region,” IMO Programme TC/0046-01-2000, 15 February 2006.

security issues come under the portfolios of Defence, the Interior or National Security.⁶⁶

The Gulf of Guinea Commission (GGC) also suffers from a lack of political and institutional authority, but for different reasons. First, although the Treaty establishing the Commission was adopted over thirteen years ago, it is yet to enter into force, and the author's research suggests that the Treaty has only been ratified by Nigeria.⁶⁷ Not only does the Commission's authority hang in the balance, it also shows no sign of maturing in the future. One option would have been for the Commission to draw on the support of the broader regional political framework. However, seven of its members are in the ECCAS region, while Nigeria, who is its strongest member, is in the ECOWAS region. The analysis in the next section provides further insight into the historical and contemporary interstate disputes that prevent the Commission from earning the necessary political mandate to implement any meaningful maritime security cooperative initiative.

In stark contrast to the GGC, ECOWAS and ECCAS have the requisite institutional and political authority to foster security cooperation. It may well be that the preference for the GGC and MOWCA in certain quarters

⁶⁶ Generally on security arrangements in the Gulf of Guinea, see Alix J Boucher, "National Security policies and Strategies: A Note on Current Practice," *Stimson and Future of Peace Operations*, 12 December 2009. Peter Albrecht and Paul Jackson, *Security Sector Transformation in Sierra Leone, 1997-2007* (Birmingham: Global Facilitation Network for Security Sector Reform, February 2009).

⁶⁷ . See, Federal Republic of Nigeria, Act of Ratification and Enforcement of the Treaty Establishing the Gulf of Guinea Commission, 2004. However, James Forest and Mathew Sousa have indicated that the Treaty has also been ratified by São Tomé and Príncipe. James J.F. Forest and Mathew V. Sousa, *Oil and Terrorism in the Gulf of Guinea: Framing U.S. Energy and Security Policies for the Gulf of Guinea*, Plymouth, Lexington Books, 2006, p. 67.

is due to perceived difficulties with eliciting sufficient maritime security interest and response from regional political frameworks. For instance, it may be argued that ECOWAS and ECCAS are already ineffective in delivering the traditional objectives for which they were established, and therefore cannot be relied on to lead maritime security cooperation.⁶⁸ These are indeed legitimate concerns, but then again, dispensing with the maritime security roles of ECCAS and ECOWAS confounds pragmatic expectations. The fact that ECCAS has been able to activate a maritime security framework within a short space of time demonstrates the internal strengths available to the two institutions. Both organisations have established security structures that can be duplicated in the maritime space. In any event, if States are unable to effectively work through these existing political structures then surely the chances of embryonic arrangements delivering better results are quite remote.

6.3.2 Jurisdictional and Sovereignty Issues

In principle, interstate cooperation involves a degree of compromise by member States, as well as the surrendering of some level of autonomy.⁶⁹ This is done for the mutual interests of member States, and in expectation of greater benefits. Nonetheless, it is difficult to implement

⁶⁸ Generally on the assessment of the effectiveness of ECOWAS in delivering its traditional mandate of economic integration, see Dean M. Hanink and Henry J. Owusu, "Has ECOWAS Promoted Trade among Its Members?," *Journal of African Economies* 7, 3, 1998, pp. 363-83. Zubair Iqbal and Mohsin S. Khan, eds., *Trade Reform and Regional Integration in Africa* Washington DC, International Monetary Fund Publishing Service, 1998.

⁶⁹ Walter Mattli, "Sovereignty Bargains in Regional Integration," *International Studies Review* 2, 2, 2000, pp. 149-80, at p.50. See also Ernst B. Haas, "The Study of Regional Integration: Reflections on the Joy and Anguish of Pretheorizing," *International Organization* 24, 4, 1970, pp. 607-46. Karl Loewenstein, "Sovereignty and International Co-operation," *The American Journal of International Law* 48, 2, 1954, pp. 222-244.

cooperative arrangements that undermine the vital interests of States or which offend sovereignty sensibilities.

Article 7 of the MOWCA MOU declares the mission of the coastguard network as being the promotion of joint efforts and activities. However, upon closer analysis of the document, it is apparent that the initiative touches on core sovereignty issues. As shown in the earlier analysis, the coastguard network will have its own logistics (fixed and mobile), as well as training and repair facilities.⁷⁰ Moreover, although the MOU provides for a Representative Committee of State Parties,⁷¹ the project will be implemented by a Technical Committee of Evaluation, nominated by the Secretary General of MOWCA.⁷² Patrols are to be organised and dispatched by Zone Coordinators to whom State Parties must send requests when they require fleet service ships.⁷³ The practical effect of this structure is that the Representative Committee of States Parties is subservient to the Technical Committee appointed by the Secretary General of MOWCA. In addition, the authority of State officials has been ceded to the Principal and Zone Coordinators. Finally, as part of the funding arrangement for the project, State Parties are required to surrender fifty per cent of penalties and fines resulting from enforcement actions taken by the Network to the MOWCA Secretariat.⁷⁴

⁷⁰ See Articles 13-15, MOWCA MOU, 2008.

⁷¹ See Article 10, MOWCA MOU, 2008.

⁷² See Article 9, MOWCA MOU, 2008.

⁷³ See Article 22, MOWCA MOU, 2008.

⁷⁴ Article 28, MOWCA MOU, 2008.

In addition to the above sovereignty concerns there exists serious jurisdictional issues. According to the MOU, a ship assigned to a State for temporary use must fly the flag of the State, may be operated by its officials, but remains the property of the network and must still bear the distinctive marks, logo and emblem of MOWCA.⁷⁵ This begs the question: pursuant to what authority will enforcement measures be carried out? Under international law, enforcement measures (including counter-piracy measures) are to be undertaken by authorised officials of States using vessels bearing the distinctive marks of the State.⁷⁶ Officials are expected to operate in accordance with national law, and any liability they incur is attributable to the State.⁷⁷ In light of these requirements, how will the logo and emblem of the Network play out vis-à-vis those of the State? Will multiple marks be retained in the face of these legal issues, or will the State depend on the emblem and marks of the Network in utter disregard of its sovereignty and responsibility under international law? Furthermore, in the event of any ensuing proceedings, will liability rest with the flag State or MOWCA?

These sovereignty and jurisdictional issues, coupled with MOWCA's lack of political and institutional authority to conduct security cooperation, makes it very difficult for the coastguard initiative to be successfully implemented by MOWCA.

⁷⁵ Articles 15 and 16 MOWCA MOU, 2008.

⁷⁶ See Articles 100-111, and in particular Article 107, of UNCLOS.

⁷⁷ See, for example, Article 106 of UNCLOS. See also Phillip Wendel, *State Responsibility for Interference with Freedom of Navigation in Public International Law*, Heidelberg Springer, 2007. Fred W. Crickard, ed., *Multinational Naval Operations and Foreign Policy in the 21st Century*, Aldershot, Ashgate, 1998.

6.3.3 Multiplicity of Approaches and Deepening Uncertainty

There is also a lack of coordination and synergy between the various maritime security frameworks in the Gulf of Guinea. As analysed in the first part of this chapter, attempts at forging maritime security cooperation commenced on the back of the MOWCA platform, with the MOU being adopted in 2008 with the aim of establishing a coastguard network to service the entire Gulf of Guinea region. In 2009 the ECCAS framework was initiated and Zone D became operational, although there was no clear policy directive as to whether this was a replacement for, or a fulfilment of, the MOWCA project. More than a year later, MOWCA and the IMO jointly held a high level conference in Accra, Ghana, with the aim of implementing the coastguard initiative, but without reference to the ECCAS framework.⁷⁸ Meanwhile, on the sidelines, the GGC had been nursing its own approach, and these efforts continued into 2012, as evidenced by the visit of the Secretary General of the Commission to Nigeria.⁷⁹ But despite these consultations, all the member States of the GGC (with the exception of Nigeria) were already part of ECCAS. Therefore, the Secretariat should have treated the ECCAS maritime security framework as an adequate response to the maritime security needs of the region, but unfortunately this did not occur.

⁷⁸ See presentation by the IMO Deputy Director at the conference, Chris Trelawny, "Taking an International Approach to countering piracy and wider maritime crime in West Africa," December 2010, http://piracy-westafrica.com/uploads/files/2011/Chris_Trelawny.pdf, 30 January 2010.

⁷⁹ "Gulf of Guinea Commission seeks Nigeria's support on security," *Blueprint*, 17 February 2012. "Growing security challenge: Nigeria to Partner the Gulf Of Guinea Commission" *NewsDiary*, 17 February 2012.

Clearly, these conflicting approaches undermine the objectives of regional cooperation. Rather than amalgamating their strengths, regional institutions appear to be advancing their own agendas, and at the same time dissipating the already scarce resources available to member States. The most recent attempt at fostering a sense of synergy was the Yaoundé Summit of Heads of State and Governments of ECOWAS and ECCAS, held in June 2013.⁸⁰ The Summit adopted a Code of Conduct against Piracy and Illicit Crime in the Gulf of Guinea⁸¹ - one which has been applauded by the international community.⁸² However, despite the Summit being an important step towards harmonising maritime security cooperation,⁸³ the author's view is that a cautious approach should be adopted regarding the effectiveness of the Code, and that opportunity should be mistaken for achievement.

The Yaoundé Summit represented an opportunity for Gulf of Guinea States to approach maritime security cooperation with a clean slate, shaping a clear path of cooperation. However, it is the author's considered view that this opportunity has not been seized to the fullest extent possible. The Code of Conduct itself contains very general wording, has little normative content, and is still awaiting ratification

⁸⁰ Summit of Heads of State and Governments of ECOWAS and ECCAS, Yaoundé, Cameroon on 24-25 June 2013.

⁸¹ Article 12, Code of Conduct Concerning the Repression of Piracy, Armed Robbery against Ships, and Illicit Maritime Activity in West and Central Africa, adopted at Yaoundé, Cameroon, at the Summit of ECOWAS and ECCAS, 24-25 June 2013.

⁸² UN, *Security Council Welcomes Adoption of Code of Conduct by Regional Leaders to Prevent Piracy in Gulf of Guinea*, 14 August 2013, Available: <http://www.un.org/News/Press/docs/2013/sc11091.doc.htm>, 29 September 2013.

⁸³ *Ban welcomes anti-piracy strategy adopted by leaders from West, Central Africa*, UN News Centre Available: <http://www.un.org/apps/news/story.asp?NewsID=45281>, 29 December 2013. *At UN-backed meeting, African States seek to combat piracy in Gulf of Guinea*, UN News Centre, Available: <http://www.un.org/apps/news/story.asp?NewsID=44440&Cr=piracy&Cr1=>, 29 December 2013.

and implementation. Moreover, the platform is *ad hoc* and there is no indication that it can be sustained in the future. But perhaps the greatest indictment of the Summit is that it has no way of addressing parallel initiatives in the region, and has thus complicated maritime security cooperation in some ways. The preamble to the Code of Conduct refers to all the initiatives being pursued (e.g. ECOWAS and ECCAS), but does not indicate how the MOWCA coastguard network substantively relates to these initiatives. And in the case of the GGC, the Code of Conduct seeks to parallel the authority of the GGC with that of ECOWAS and ECCAS.⁸⁴ In this way, the Yaoundé Summit has tacitly approved all the cooperative initiatives in the region, thereby creating further uncertainty.

In much the same way that maritime security threats in the Gulf of Guinea require attention, so too does the *Zeitgeist* of duplication and confusion. Both the GGC and MOWCA have the potential to enhance maritime security cooperation in very positive ways, and without necessarily occupying the driver's seat. For example, MOWCA could engage Gulf of Guinea States more rigorously on the issue of ratification and implementation of relevant international frameworks, particularly those relating to the safety and security of shipping. MOWCA could equally capitalise on its association with the IMO to promote capacity building in the region. Meanwhile, the GGC could exercise its treaty objective of promoting the efficient exploitation of offshore resources to the benefit of maritime security. If member States are able to develop

⁸⁴ See, for example, Article 12(2), which adds the Secretary General of the Gulf of Guinea Commission as one of the authorities to be notified by States when undertaking enforcement action pursuant to the Code of Conduct.

and manage resources efficiently, the outcomes will positively enhance maritime security. Therefore, what needs to be promoted is a harmonised approach to maritime security.

6.3.4 Limited Capability and Funding

The operationalisation of cooperative maritime security in the Gulf of Guinea is seriously constrained by the limited capability of States. And although security sector funding is generally inadequate, the situation with respect to Navies and Coastguards is more problematic. Angola's allocation of resources with respect to the protection of its maritime estate is typical of Gulf of Guinea States. Angola has an estimated coastline of 1600km - the longest in the Gulf of Guinea. Its GDP is the second highest in the region, and much of that is derived from offshore resources. Yet the personnel strength of the Angolan Navy is only 1,000 (compared to 100,000 for its Army and 6,000 for its Air Force).⁸⁵ The amount of equipment possessed by the Angolan Navy is also very limited when contrasted with that of its Army.⁸⁶ The Nigerian Navy is similarly underfunded and has limited capability.⁸⁷ Its personnel strength is 8,000 - the largest in the Gulf of Guinea, but that is in sharp contrast to its 62,000-strong Army.⁸⁸

⁸⁵ "Chapter Nine: Sub-Saharan Africa," *The Military Balance*, 2012, pp. 421-22.

⁸⁶ "Chapter Nine: Sub-Saharan Africa," *The Military Balance*, 2012, pp. 421-22.

⁸⁷ See, "Nigerian Navy is underfunded, former Naval Capt. tells senate committee," 4 June 2013, <http://www.gejites.com/news/item/24792-nigerian-navy-is-underfunded---ex-naval-capt-tells-senate-committee>, 30 November 2013. See also "Senate Seeks Better Funding for Navy," *NBF News*, 18 June 2009, <http://www.nigerianbestforum.com/blog/senate-seeks-better-funding-for-navy/>, 30 November 2009.

⁸⁸ "Chapter Nine: Sub-Saharan Africa," *The Military Balance*, 2012, pp. 447-48.

A quick glance at the personnel strength of Navies and Coast Guards across the region reveals a worrying situation: Gambia 70, Benin 200, Sierra Leone 200, Guinea Bissau 350, Guinea 400 and Gabon 500.⁸⁹ Indeed, the author maintains that these personnel strength figures are inadequate to police the region's vast maritime estate.⁹⁰ Liberia represents another anomaly, not just for the Gulf of Guinea, but on how the global maritime community as a whole matches responsibility with maritime interest. Although Liberia is the second largest flag State in the world,⁹¹ its Coast Guard has a diminutive personnel strength of only 50, with 8 crafts under ten feet in length servicing the State.⁹² It is thus clear that in the Gulf of Guinea, the maritime responsibility exercised by States is not commensurate with the size of their maritime interest.

The embryonic ECCAS framework is equally being confronted with funding challenges. More than two years after adopting the ECCAS framework, the Regional Coordination Centre, CRESMAC, is not operational, and no patrols are being carried out in Zones A and B.⁹³ Article 8 of the Protocol envisaged four sources to finance the cost of the joint patrols: (i) a region-wide maritime security and safety tax; (ii) a percentage of the financial penalties collected by member States; (iii) contributions from national shipping organisations; and (iv) financial

⁸⁹ "Chapter Nine: Sub-Saharan Africa," *The Military Balance*, 2012, pp. 411-62.

⁹⁰ On the inadequate funding and capability of African Navies and Coast Guards, see Augustus Vogel, "Investing in Science and Technology to Meet Africa's Maritime Security Challenges," *ACSS Africa Security Brief*, No. 10, 2011.

⁹¹ See page 44, UNCTAD, "Review of Maritime Transport 2012," 2012.

⁹² "Chapter Nine: Sub-Saharan Africa," *The Military Balance*, 2012, p. 441.

⁹³ UN Security Council, "Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea," S/2012/45, 19 January 2012, p.13. International Crises Group, "The Gulf of Guinea: The New Danger Zone," *Africa Report 195*, 12 December 2012, pp. 13-14.

support from donors and international partners. However, thus far, no funding has been derived from the first three sources. Hence, the construction of offices to host CRESMAC is currently being funded with the aid of donor support.⁹⁴

There are two interrelated explanations for the weak state of maritime security logistics and resources in the Gulf of Guinea. The first is that Governments in the region are more concerned with land-based security issues. The second is that the Gulf of Guinea region suffers from ‘sea blindness’- the inability to appreciate the vast potential of maritime interests and resources for socio-economic development. ⁹⁵ Both interpretations have some merit. For example, the Continental Early Warning System (CEWS), which was established under the regional Mechanisms for Peace and Security, could be used as a tool for highlighting maritime security threats. However, its use has thus far been restricted to security issues on land, despite the debilitating effects of maritime security threats on the stability and security of the region.

It should, however, be emphasised that the two explanations canvassed above have understated the reality of the situation. The truth is that the cost of maritime security enforcement is very high, and most States in the Gulf of Guinea States would be hard pressed to finance enforcement activities considering the fragile state of their economies. This situation

⁹⁴ Information on file: Discussions with relevant stakeholders in the ECCAS region.

⁹⁵ Adjoa Anyimadu, "Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean," *Chatham House*, July 2013, pp. 7-8.

is made more difficult by the lack of real commitment and support from the international community. This point will be addressed in detail in the next chapter.

6.3.5 Inadequate Enforcement Framework and Interoperability Issues

Regional maritime security cooperation cannot take place in a vacuum. First, there must be laws, enforcement procedures and judicial processes at the national level to support physical patrols and surveillance activities. However, as demonstrated in chapter five, many States in the region have failed to ratify and implement the requisite international legal framework. Thus, there does not exist an adequate legal framework upon which jurisdiction can be asserted, and enforcement measures implemented. Second, the usefulness of cooperative initiatives depends on multilateral and bilateral legal frameworks covering issues such as the custody and transfer of suspects, evidentiary material and exhibits, as well as the extradition of persons from one State to the other. In the absence of these two important requirements, a maritime security framework may have the requisite structure to be functional, but will be largely ineffective in practice. Indeed, this is the case with the ECCAS framework.

Even where the above requirements are met, another critical determinant of cooperative enforcement must be present: interoperability.⁹⁶

⁹⁶ Generally on interoperability and the critical elements of Naval and Coast Guard operations, see Chris Rahman, "Naval Cooperation and Coalition Building in Southeast Asia and the Southwest

Interoperability is a broad subject which cannot be covered within the scope of the current analysis. However, the key elements that support interoperability include effective communication, common procedures and a culture of working together.⁹⁷ Indeed, these elements are lacking in the Gulf of Guinea because Navies and Coast Guards do not have a shared history of partnership.⁹⁸ In addition, they possess different operational procedures based on their respective colonial legacies, and more importantly, they do not share a common language – perhaps the most crucial factor in facilitating cooperative operational enforcement.

It is important for regional cooperative processes to grapple with these issues and work towards an effective solution. The US Africa Partnership Station (APS), together with a number of Exercises being supported by external partners, have the potential to enhance

Pacific: Status and prospects, *Royal Australian Navy Sea Power Centre*, Working Paper No. 7, October 2001.

⁹⁷ Generally on interoperability, see Fitz-Gerald, "Multinational Land Force Interoperability: Meeting the Challenge of Different Cultural Backgrounds in Chapter 6 Peace Support Operations", in Hugh Segal, ed. *Geopolitical Integrity*, Montreal IRPP, 2005, pp. 217-39. Charles Barry, "NATO's combined joint task forces in theory and practice," *Survival: Global Politics and Strategy* 38, 1, 1996.

⁹⁸ The only States whose Navies can be said to have worked together in an operational environment are Nigeria, Ghana, Senegal and Guinea, under the ECOWAS Monitoring Group operations in Liberia and Sierra Leone. Generally on ECOMOG operations, see Rasheed Draman and David Carment, "Managing Chaos in the West African Sub-Region: Assessing the Role of ECOMOG in Liberia," *The Norman Paterson School of International Affairs Occasional Paper No. 26*, 2001. Herbert Howe, "Lessons of Liberia: ECOMOG and Regional Peacekeeping " *International Security* 21, 3, 1997-98, pp. 145-76 . See also Christopher Tuck, *Every Car Or Moving Object Gone: The ECOMOG Intervention in Liberia*, 2000, African Studies Quarterly, Available: <http://www.africa.ufl.edu/asq/v4/v4i1a1.htm>, 13 December 2013. Michelle Pitts, *Sub-Regional Solutions for African Conflict: The ECOMOG Experiment*, 1999, The Journal of Conflict Studies, Available: <http://journals.hil.unb.ca/index.php/jcs/article/view/4379/5057>, 13 December 2013. Natalie E. Brown, *ECOWAS and the Liberia Experience: Peacekeeping and Self Preservation*, 1999, Available: <http://smallwarsjournal.com/documents/brown.pdf>.

interoperability, but these programmes are rolled out only once a year, and thus their impact is likely to be minimal.⁹⁹

6.3.6 Lack of Comprehensiveness

There is a relationship between the structural deficit discussed above, the analysis on inadequate enforcement framework in the preceding section, as well as the conceptual analysis relating to the concept of security in in chapter three. Indeed, the evolving cooperative mechanisms concentrate too heavily on combating piracy and safeguarding energy security, thereby neglecting other vital dimensions of maritime security, such as depleting fisheries. MOWCA's use of a regional coastguard network for maritime security only makes sense in the context of suppressing piracy, while the focus of the GGC has thus far been on energy security. It is therefore not surprising that the safety of global shipping and energy resource security are topics that sit comfortably with the objectives of these two organisations. The Code of Conduct adopted at the Yaoundé Summit is also largely targeted at combating piracy.

6.3.7 Maritime Boundaries Disputes

Finally, maritime boundary disputes make cooperative initiatives difficult to implement. This subject has been exhaustively examined in chapter five, but will also be highlighted here for completeness. A discussion of maritime boundary disputes also provides a suitable link to

⁹⁹ See chapter 7 for an analysis of the US African Partnership Station (APS) and other Exercises supported by the US and European States.

another challenge confronting cooperative initiatives – regional geopolitics.

6.4 GEOPOLITICAL CHALLENGES OF REGIONAL COOPERATION

In the last few years, there has been increased optimism about the prospects for maritime security cooperation in the Gulf of Guinea, with the evolving initiatives enjoying the fair winds of political harmony. Notwithstanding this, there are a series of geopolitical issues which maritime security cooperative frameworks must contend with. These geopolitical tensions have both historical and contemporary arteries, and their impact is not limited to security cooperation. However, unlike other cooperative domains, security cooperation does not have the luxury of time. The longer cooperation is hamstrung, the greater the opportunity for maritime security threats to manifest and organised criminal networks to prevail. Understanding the prevailing geopolitical issues thus allows the future of maritime security cooperation to be properly guided.

6.4.1 Nemesis of the Gulf of Guinea Commission

A discussion of interstate rivalries and tensions may initially sound a little fanciful, particularly in the absence of overt conflict or the exchange of ‘hot’ words between States. Furthermore, the evidence of interstate hostility is often anecdotal and open to interpretation, especially when the points of contention lie in the past rather than the

present. And yet these footprints from the past are the best indicator of the present relationship between States. Thankfully, in the case of the Gulf of Guinea Commission (GGC), there are clues which connect the past with the present, illuminating the remnants of interstate contests and rivalries.

The media headlines and news reports concerning the visit of the Executive Secretary of the GGC to Nigeria in February 2012 are noteworthy in this regard, as they point to the tensions and conflicts within the Commission.¹⁰⁰ One news caption read: “Gulf of Guinea Commission seeks Nigeria’s support on security”, while another proclaimed “Growing security challenge: Nigeria to Partner the Gulf Of Guinea Commission.”¹⁰¹ The fundamental question posed by these headlines can be simply stated: why is an organisation seeking the partnership or support of a member State to achieve its objectives? The answer to this question is that the Executive Secretary was making a frantic effort to bridge a political gap that exists within the GGC.

Fortunately, the content of the news reports further illuminates the point being made. According to the reports, the Executive Secretary informed the Nigerian Vice President of the inability of the Commission and its Secretariat to function effectively, whereupon the Vice President is said

¹⁰⁰ The Executive Secretary, Mr Miguel dos Anjos da Cunha Lisboa Trovoadá, previously served as the Prime Minister (1975–1979) and President (1991–2001) of São Tomé and Príncipe.

¹⁰¹ “Gulf of Guinea Commission seeks Nigeria’s support on security,” *Blueprint*, 17 February 2012. “Growing Security Challenge: Nigeria to Partner the Gulf Of Guinea Commission,” *NewsDiary*, 17 February 2012.

to have promised that “Nigeria will as a matter of urgency consider the pleas of the Gulf of Guinea Commission on its desire to perform its statutory duties”. The Nigerian Vice President also affirmed that he would “advise [the] President [of Nigeria] appropriately so that a decision shall be reached to allow the Secretariat to function optimally.”¹⁰² The purpose of this diplomatic dialogue was to enable the Executive Secretary to tacitly convey to the Vice President the fact that Nigeria was preventing the Commission from making progress, and interestingly, the Vice President confidently but indirectly acknowledged this fact. This illustrates that the future of the GGC rests largely in the hands of Nigeria – a situation which requires an appreciation of the history and politics of Nigeria and its immediate locale. This historical and political context will be examined below, and centres largely on Nigeria’s relationship with Equatorial Guinea.¹⁰³

Compared to Nigeria, Equatorial Guinea is a small State, yet the sour relations between the two countries have shaped the diplomacy and grand strategy of Nigeria.¹⁰⁴ Tensions between Nigeria and Equatorial Guinea heightened in 1976 over the alleged murder of Nigerian migrant

¹⁰² "Gulf of Guinea Commission seeks Nigeria's support on security," *Blueprint*, 17 February 2012. "Growing Security Challenge: Nigeria to Partner the Gulf Of Guinea Commission," *NewsDiary*, 17 February 2012.

¹⁰³ Chuks O. Iheme, "Security Challenges in the Gulf Of Guinea Sub-Region: Strategy for Nigeria," Masters Thesis, Naval Postgraduate School, 2008, p. 38-39.

¹⁰⁴ On the history of the sour relations between Nigeria and Equatorial Guinea, see also Akinjide Osuntokun, *Equatorial Guinea-Nigeria Relations: The Diplomacy of Labour*, Ibadan Oxford University Press, 1978. For further reading on Equatorial Guinea, see Marx Liniger-Goumaz, *SMALL is not always Beautiful: The Story of Equatorial Guinea*, London C. Hurst, 1988. Ibrahim K Sundiata, *Equatorial Guinea: colonialism, state terror, and the search for stability*, Boulder Westview Press, 1990, Rendall Fegley, *Equatorial Guinea*, Oxford Clío Press, 1991.

workers by Equatoguinean soldiers.¹⁰⁵ Then, in 1988, Equatorial Guinea tied a diplomatic knot with apartheid South Africa, leading to a massive influx of South African workers into Equatorial Guinea. The people and government of Nigeria realised this was more than mere labour diplomacy; Equatorial Guinea was procuring external support to countermand Nigeria's power and dominance.¹⁰⁶ Indeed, in addition to sending a large proportion of its labour force to Equatorial Guinea, the South African government was establishing a military base on Bioko Island - strategically located close to Nigeria.¹⁰⁷ It should be also noted that Nigeria was a core member of the African anti-apartheid team, and was thus engaged in a diplomatic battle with South Africa. For this reason, Nigeria regarded the South African military base in Equatorial Guinea as a serious national security threat.¹⁰⁸

In the same period, Equatorial Guinea established another partnership, this time with Israel. According to newspaper reports at the time, Nigeria looked at this relationship with an equal degree of suspicion.¹⁰⁹ Indeed, it is asserted that these events alerted Nigeria to the fact that it was not sufficient for the country's foreign policy to focus westwards on ECOWAS, but that it also needed have its neighbouring southern

¹⁰⁵ Ebenezer Obadare, "Constructing Pax Nigeriana? The Media and Conflict in Nigeria-Equatorial Guinea Relations," *Nordic Journal of African Studies* 10, 1, 2001, pp. 80-89, at p. 85. For an extensive analysis of this point, see Akinjide Osuntokun, *Equatorial Guinea-Nigeria Relations: The Diplomacy of Labour*, Ibadan, Oxford University Press, 1978.

¹⁰⁶ See Ebenezer Obadare, "Constructing Pax Nigeriana? The Media and Conflict in Nigeria-Equatorial Guinea Relations," *Nordic Journal of African Studies* 10, 1, 2001, pp. 80-89.

¹⁰⁷ Dureke, "Time to Annex Equatorial Guinea," *Daily Times*, 14 May 1988.

¹⁰⁸ "Enemy Next Door, South Africans in Equatorial Guinea," *Newswatch*, 30 May 1988.

¹⁰⁹ "The South African Threat, Israel, Cameroon, Malabo Connection," *African Concord*, 3 February 1987.

enclave strongly within its control. To this end, and through a series of strategic calculations, Nigeria succeeded in influencing the formation of the GGC.¹¹⁰

It may thus be argued that as far as Nigeria is concerned, the real purpose of the GGC was, and perhaps still is, to provide a strategic counter-balance to external influences in the region, , thus securing Nigeria's sphere of influence.¹¹¹ According to this conception, the GGC allows Nigeria to determine what decisions and alliances are made in the organisation, in which case Nigeria and its political leadership stands to make strategic gains regardless of whether the Commission makes progress or not.¹¹² However, this historical angle may not entirely explain the GGC's failure to make headway in the maritime security domain. All member States of the Commission rely heavily on oil revenue, and as illustrated in chapter 5, Nigeria has joint developments relating to offshore oil production with Equatorial Guinea and São Tomé and Príncipe.¹¹³ Thus, the security of offshore platforms is a shared concern, and this should spur Nigeria to heed the requests of the GGC Secretariat and the UN Security Council to develop a cooperative maritime security framework. But if such a framework fails to eventuate

¹¹⁰ For an analysis of Nigerian strategic diplomacy and future outlook, see Chuks O. Iheme, "Security Challenges in the Gulf Of Guinea Sub-Region: Strategy for Nigeria," Masters Thesis, Naval Postgraduate School, 2008, pp. 38-39.

¹¹¹ See Onje Gye-Wado, "The Proposed Gulf of Guinea Commission: Issues in Regionalism and International Law," *Current Jos Law Journal* 1, 1, 1995.

¹¹² For example, the GGC has been used by Nigeria as a platform to negotiate Joint Development Zones (JDZs) with Equatorial Guinea and São Tomé and Príncipe, the terms of which are deemed to favour to Nigeria. See chapter five, particularly Table 5.2.

¹¹³ Chapter 5, Table 5.2.

(and indeed the facts point towards no change in Nigerian policy in this regard), then there must be other considerations at play.

It is the author's view that there is both continuity and change within the GGC, giving Nigeria a firm belief in the security of its old policy of strategic rationalisation. Indeed, the motivation for Nigeria maintaining the status quo may well be on the rise. High oil reserves, increasing oil wealth, and the accompanying diplomatic leverage possessed by Equatorial Guinea are all reasons for Nigeria to be on the lookout for Equatorial Guinea and the serious challenges it poses to Nigeria's security and strategic interests.¹¹⁴ Nigeria may logically be keeping São Tomé and Príncipe on its radar as well. The irony of interstate relations is that 'small' States have the potential to be seen as a threat by their 'large' neighbours. This is because it is customary for smaller States like Equatorial Guinea and São Tomé and Príncipe to rely heavily on external partnerships and support. Moreover, the oil and gas endowments being received by these small States have made such partnerships easier to forge. This results in neighbouring countries becoming wary of the 'big' powers that lie behind 'small' States, with the partnerships being interpreted as a quest for power. Whether by coincidence or design, this presumption looks as though it is becoming a reality, with Equatorial Guinea said to be spending a substantial sum on defence equipment.¹¹⁵ Many naval assets have been acquired, with reports indicating that are

¹¹⁴ Although most of its citizens live in poverty, Equatorial Guinea has the highest per capital income in Africa. See, "Equatorial Guinea," CIA World Factbook 2012.

¹¹⁵ News reports suggest Equatorial Guinea is spending vast amounts of money on the acquisition of naval assets. According to *DefenceWeb* (17 January 2011), the Gross Domestic Product of Equatorial Guinea was US\$15.7 billion in 2008, and its defence budget was US\$8.4 billion in 2007.

being delivered from Israel, and corvettes from South Korea.¹¹⁶ This defence build-up has been canvassed in commentaries concerning the arms race being waged by Equatorial Guinea, with the State seeking to balance Nigeria's naval power and defend its maritime borders. One commentator has described the situation as follows: "one of the richest countries in Africa, Equatorial Guinea, is rapidly expanding its naval power. The fleet of the 600,000-strong country will be larger than that of 160 million-strong Nigeria."¹¹⁷ Although this comment exaggerates the danger that the military of Equatorial Guinea can pose to Nigeria, the description conveys the reality of interstate rivalry.

Angola, another key member of the GGC and host to the GGC Secretariat, may well represent another angle to the Commission's politics. As indicated earlier, Nigeria accounts for 47 per cent of oil supplies from the Gulf Guinea, while Angola accounts for 34 per cent.¹¹⁸ However, after ten years of being ravaged by civil war, Angola is growing steadily and views its financial and military strengths as instruments of influence.¹¹⁹ This foreign policy arm is not just limited to

¹¹⁶ See "Israel preparing to deliver two OPV to Equatorial Guinea Navy," *DefenceWeb* 17 January 2011. "Equatorial Guinea seeks to buy 3 corvettes from South Korea " *Stratsis Incite*, 31 December 2011. Available at <http://stratsisincite.wordpress.com/2010/12/31/equatorial-guinea-seeks-to-buy-3-corvettes-from-south-korea/>, accessed 7 December 2012.

¹¹⁷ *Africa's richest nation ready for war* 7 February 2012, Pravda.ru, Available: http://english.pravda.ru/hotspots/conflicts/07-02-2012/120436-equatorial_guinea-0/, 7 December 2012.

¹¹⁸ Figures quoted in a report of Chatham House, see Chatham House, "Angola and the Gulf of Guinea: Towards an Integrated Maritime Strategy," *Chatham House*, November 2012.

¹¹⁹ This was asserted by Angola's Foreign Minister in an Address at Chatham House, London, in February 2012. See Justin Pearce, "Diary: Angola's Georges Chicoti asserts foreign policy strength and business potential," *Royal Africa society*, 12 March 2012. Available at <http://africanarguments.org/2012/03/12/diary-angola-comes-to-town-%E2%80%93-georges-chicoti-asserts-foreign-policy-strength-and-business-potential%E2%80%93-by-justin-pearce/>, accessed 8 December 2012.

the ECCAS region, but is being extended to ECOWAS States including Guinea Bissau in what may be described as a carving out of the Lusaphone enclave.¹²⁰ The growing prowess of Angola is probably also being keenly watched by Nigeria. Finally, Nigeria's relations with Cameroon have been dented because of conflict over the Bakassi Peninsula.¹²¹

The above analysis has highlighted the regional politics within which the GGC operates. Regardless of its treaty objectives, therefore, the Commission remains a political platform with little outcomes. Indeed, the GGC is unlikely to make any substantial or enduring changes to the maritime security landscape in the region, thus heavy reliance on the Commission for effective maritime security results is misplaced.

6.4.2 ECCAS –Tensions and the Test Ahead

As previously explained, once Nigeria is taken out of the GGC, only ECCAS coastal States will remain. For these States, the 2009 ECCAS Maritime Security Protocol, together with the Technical Understanding that launched cooperative patrols in Zone D, provides the blueprint for the operationalisation of region-wide maritime security cooperation. However, a number of factors will determine the sustainability of maritime security cooperation among ECCAS member States.

¹²⁰ As stated in chapter 2, the Lusaphone States are colonies of Portugal. They include Angola, Cape Verde and Guinea Bissau.

¹²¹ See Chapter 5, especially Section 5.6.5.

Angola's growing economic and military strength represents both an opportunity and a challenge, and only time will determine where the pendulum will settle. However, the likelihood is that Angola's dominance will create a sense of insecurity in the entire region. Indeed, it is logical to expect smaller, neighbouring States to be wary of the potentially oppressive hegemony which Angola's increasing power represents. Second, Angola has a history of military interventions in two Congos - Brazzaville and Kinshasa, and this serves as a reminder of how Angola became a game changer in the region. The intervention in Congo-Brazzaville in 1999 brought the current President, Sassou Nguesso, to power for the second time.¹²² Nguesso has manipulated the political system to ensure that he remains in power until August 2016.¹²³ It is only after his exit that it will become clear what degree of harmony will exist between Angola and Congo-Brazzaville. Meanwhile, DR Congo is still reeling in decades of internal conflicts, while Cameroon and Equatorial Guinea are in the grips of Presidents whose terms have endured for more than two decades.

It is clear from the above discussion that there is a great deal of uncertainty surrounding future geopolitical stability in the ECCAS region. Indeed, patronage and personnel allegiances seem to be the main factors shaping the region's geopolitical environment. Thus, the vectors of regional cooperation may alter dramatically with changes in political leadership. This puts the future of maritime security cooperation on an uncertain path.

¹²² Michael Amoah, *Nationalism, Globalization, and Africa*, New York, Pelgrave Macmillan 2011, p. 146.

¹²³ Michael Amoah, *Nationalism, Globalization, and Africa*, New York, Pelgrave Macmillan, 2011, p. 147.

6.4.3 ECOWAS Region - Old Troubles in a New Phase

If ECCAS States are yet to pass an endurance test, as shown by the analysis above, can we safely say that the ECOWAS region has scored top marks based on the relative stability in the region and the longevity of its cooperative structures? And, at any rate, should we forecast a promising future where maritime security cooperation is the norm? It is argued that the outcome of maritime security cooperation in the ECOWAS region depends on three geopolitical factors: first, the history of geopolitical differences, and how these differences influence future behaviour and prospects for cooperation; second, the extent to which the ECOWAS Commission can reap the benefits of cooperation already established by member States; and finally (and more importantly), the challenges brought about by the new phase of security cooperation.

Although the present situation may not be as fraught as in the past, the Anglophone-Francophone divide in the ECOWAS region still exists, perpetuated by disparate languages and geopolitical orientations. Emphasising this point is perhaps akin to saying aloud what many are saying in whispers. Cote d'Ivoire is beginning to rebuild itself after years of conflict and civil war, the most recent clash being in 2011.¹²⁴ Indeed, the country's current President, Alassane Ouattara, was only able to occupy the seat of government following a military intervention by France that forced former President, Laurent Gbagbo, out of power.

¹²⁴ On the civil war and the political situation in Cote d'Ivoire, see International Crisis Group, "Côte d'Ivoire: Defusing Tensions," *Africa Report* N°193, 26 November 2012. Michael Amoah, *Nationalism, Globalization, and Africa*, New York, Pelgrave Macmillan, 2011, pp. 80-96. See also the following news reports, *Coming to a Crunch Rebel Troops are Gaining Ground*, 31 March 2011, The Economist, Available: <http://www.economist.com/node/18491660>, 3 December 2013. *Two Years After Civil War's End, Côte d'Ivoire Is Still Unstable*, 30 July 2013, The Atlantic, Available: <http://www.theatlantic.com/international/archive/2013/07/two-years-after-civil-wars-end-c-te-divoire-is-still-unstable/278210/>, 3 December 2013. *Ivory Coast: As it happened Friday*, 1 April 2011, BBC News, Available: <http://news.bbc.co.uk/2/hi/africa/9444119.stm>, 3 December 2013.

Gbagbo had repeatedly refused to relinquish power despite losing elections.¹²⁵ President Ouattara has already proclaimed in a recent interview that his country is “regaining its former stature in economic, political and diplomatic terms.” President Ouattara has further asserted that “France is a privileged partner [of Cote d’Ivoire] and we are delighted with that.”¹²⁶ This reinforces the strong influence of France in the ECOWAS region, but more importantly, the resurgence of an Ivorian-French partnership that has the potential to reignite a geopolitical contest with Nigeria.

Meanwhile, the fall-out from the political conflict in Cote d’Ivoire has affected relations with Ghana. The political leadership in Ghana is perceived by Cote d’Ivoire’s new government as being an ally of the former Ivorian President, Laurent Gbagbo, with Ghana accusing Cote d’Ivoire of sending mercenaries into Ghana to assassinate exiled Ivorian politicians.¹²⁷ There is also a maritime boundary dispute between Ghana and Cote d’Ivoire which seems to be deepening, with meetings and negotiations dating back as far as 2009 yielding no positive results.¹²⁸ The stakes look very high, with the Ivorian claim overlapping several areas where Ghana has already made oil discoveries.¹²⁹ Yet despite the

¹²⁵ On the elections and post-election dispute and conflict, see International Crisis Group, “Côte d’Ivoire: Defusing Tensions,” *Africa Report* N°193, 26 November 2012. See also “Standoff Set up with 2 Ivory Coast Presidents,” *New York Times*, 3 December 2010.

¹²⁶ “We are Regaining Our Former Glory - President Alassane Ouattara,” *New African*, 24 October 2013.

¹²⁷ *Ghana says Ivory Coast sent agents to kill exiles: U.N.*, 2 December 2013, Reuters, Available: <http://www.reuters.com/article/2013/12/02/us-ivorycoast-ghana-un-idUSBRE9B10SW20131202>, 3 December 2013

¹²⁸ *Ghana says yet to resolve maritime dispute with Ivory Coast*, 14 November 2013, Ghana Business News, Available: <http://www.ghanabusinessnews.com/2013/11/14/ghana-says-yet-to-resolve-maritime-dispute-with-ivory-coast/>, 3 December 2013

¹²⁹ See “Cote d’Ivoire lays claim to Ghana’s oil,” *Ghanaweb*, 4 March 2011, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=177840>, 30 October 2011.

two States being locked in a stalemate, they are expected to share a common patrol and surveillance zone in a future ECOWAS maritime security framework.¹³⁰

The above analysis shows that interstate cooperation and trust in the ECOWAS region is equally unsettled, and this has implications for the buoyancy of maritime security cooperation.

6.4.4 “New Security” and the Demands of New Relations

While this amalgamation of old and new geopolitical rifts will undoubtedly test the cooperative and institutional strengths of ECOWAS and ECCAS, it is important to keep in mind that maritime security cooperation is a relatively new concept - and not just for Gulf of Guinea States, but for the whole international community. Indeed, this kind of multilateral, integrated, multi-faceted cooperation is a “new security” concept that calls for a completely novel approach to geopolitical relations.

The present mechanisms which anchor regional and continental security cooperation are land centric, having evolved in response to ethnic and political conflicts within States. Indeed, to date, the cooperative security

“Cote d’Ivoire Claims Ghana’s Oil,” *Cross Crocodiles*, <http://crossedcrocodiles.wordpress.com/2010/03/04/cote-divoire-claims-ghanas-oil/>, 30 October 2011. “Ghana, Ivory Coast in war of words over oil,” *SweetCrude*, 29 October 2011, <http://sweetcrudereports.com/2011/10/29/ghana-ivory-coast-in-war-of-words-over-oil/>, 30 October 2011. See also, “Ghana-Ivory Coast border disputes created a climate of incertitude for international investors,” available at <http://neftegaz.ru/en/news/view/93796>, *Nettegaz.Ru* 30 October 2011.

¹³⁰ This can be deduced from the proposed ECOWAS “Zone E”, which has Nigeria, Benin, Togo and the landlocked State of Chad as member States. By implication, Ghana, Cote d’Ivoire and Liberia would also need to share a Zone.

strategies emanating from ECOWAS and ECCAS have focused on political consensus-building so that troops can be deployed to restore peace in violent conflicts. Such a task is completely different from maritime security cooperation.

To begin with, those who commit maritime crimes or benefit from the perpetuation of maritime security threats in the Gulf of Guinea will have connections with member States of the above organisations in one form or another, most likely as citizens. Therefore, any enforcement measures that are taken will very likely impact national sensibilities. Second, the type of cooperation being envisaged is geared towards addressing multiple threats, and will thus necessitate multiple national agencies working across multiple jurisdictional boundaries. Therefore, while information sharing and joint or coordinated patrols represent physical responses to maritime security threats, what is really required for effective maritime security cooperation is long and enduring interstate relations.

This new phase of security cooperation differs significantly from all forms of cooperation that have existed in the region thus far. Moreover, no precedent has been set for the kind of cooperative maritime security framework being contemplated by Gulf of Guinea States. The situation between Somalia and the Indian Ocean is somewhat analogous, but in that case the deployment was mandated by the UN Security Council and enforced by foreign navies. The task was also restricted to combating piracy and armed robbery, as well as protecting ships carrying food and

humanitarian aid to Somalia.¹³¹ Further efforts led to the adoption of the Djibouti Code of Conduct by the States bordering the Indian Ocean,¹³² but this initiative was again restricted to repressing piracy by the States concerned, and is yet to find expression in joint patrols.

A second example is the cooperative strategy to repress piracy between Malaysia, Singapore and Indonesia in the Malacca Strait, known as MALSINDO. The political tensions surrounding this particular initiative have led a large volume academic research and commentary.¹³³ But MALSINDO “cooperation” is again limited to combating piratical attacks, and its practical scope is restricted to the three States notifying each other of pending patrols (which is described generously in the

¹³¹ On Somalia and counter-piracy in the Indian Ocean, see Martin Murphy, *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa*, New York Columbia University Press, 2012. See also James Kraska, "Coalition Strategy and the Pirates of the Gulf of Aden and the Red Sea," *Comparative Strategy* 28, 31, 2009, pp. 97-216. James Kraska, *Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy* California Praeger, 2011. Bibi Van Ginkel and Frans-Paul Van Der Putten, *The International Response to Somali Piracy: Challenges and Opportunities*, Leiden Martinus Nijhoff, 2010.

¹³² The Code of Conduct Concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, (Djibouti 29 January 2009). On contentious issues surrounding anti-piracy deployments off the Somali coast and the Djibouti Code, especially from the South African perspective, see Phillippa Lewis, *South Africa as an Anti-Piracy Actor*, 6 November 2012, e-International Relations, Available: <http://www.e-ir.info/2012/11/06/anti-piracy-actors-south-africa/>, 18 November 2012. Leon Engelbrecht, "SADC adopts anti-piracy policy," *DefenceWeb*, 31 August 2011. Chris Szabo, "SADC Defence Conference 'historic'," *DefenceWeb*, 26 July 2011.

¹³³ See, for example, Sam Bateman, "Regional Efforts for Maritime Security Cooperation", in Dachoong Kim, Seo-Hang Lee and Jin-Hyun Paik, eds. *Maritime Security and Cooperation in the Asia-Pacific Towards the 21st Century*, the Institute for East and West Studies, 2000, pp. 215-42. David Martin Jones, "Regionalism's False Promise: ASEAN and East Asian Community", in David Martin Jones and Lii Yulyadi Arnakim, eds. *Regionalism and Political Development in Southeast Asia*, Malaysia, Department of Southeast Asian Studies University of Malaya, 2009, pp. 25-36. Carolin Liss, "The Privatisation of Maritime Security-Maritime Security in Southeast Asia: Between a rock and a hard place?," *Asia Research Centre and Murdoch University Working Paper No.141*, February 2007. Mark J. Valencia, "Prospects for Multilateral Maritime Regime Building in Asia", in Sam Bateman, ed. *Maritime Cooperation in the Asia-Pacific Region: Current Situation and Prospects*, Canberra Strategic and Defence Studies Centre, 1999, pp. 27-68. Muthiah Alagappa, "The Dynamic of International Security Cooperation in South East Asia: Change and Continuity," *Australian Journal of International Affairs* 45, 1, 1991, pp. 17-22. Malcolm Chalmers, *Confidence-Building in South-East Asia*, Boulder, Colo Westview, 1996.

literature as “coordinated patrols”).¹³⁴ Progress within the broader region has led to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).¹³⁵

The crucial point to note is that existing maritime security cooperative initiatives are unlike the comprehensive ECCAS framework (which is currently being mirrored by ECOWAS). So although a combination of necessity and optimism is propelling Gulf of Guinea States into this new form of maritime security cooperation, the limits and challenges of this novel approach have not been highlighted. Above all, the new model demands a fresh approach to geopolitical relations – one which is yet to gain popularity, as well as serious tact and a plethora of confidence building measures. Only if these ingredients are present will the emerging initiatives be likely to succeed.

6.4.5 The Mauritania Factor

Finally, the emerging cooperative initiatives will have to grapple with another geopolitical issue – one which centres on the role of Mauritania in the region. As stated in chapter two, Mauritania withdrew from ECOWAS in 2000 as a result of disagreements,¹³⁶ and is now a member

¹³⁴ It has been argued that there is very little coordination associated with these patrols. The interaction between States is largely limited to the exchange of schedules, with some assessments showing that not even this requirement is adhered to in practice. See John Braford, “The Growing Prospects for Maritime Security Cooperation in South East Asia,” *Naval War College Review* 58, 3, pp. 63-86, at p.66.

¹³⁵ “Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia,” 11 November 2004, entered into force on 4 September 2006.

¹³⁶ On the withdrawal of Mauritania, see ECOWAS, “Executive Secretary's Report 2000: Chapter II,” <http://www.comm.ecowas.int/sec/index.php?id=es-rep2000-3-5&lang=en>, 14 October 2013. Generally on issues of ECOWAS integration (including Mauritania), see Fumi Olonisakin, “ECOWAS: from Economic Integration to Peace Building”, in Thomas Jaye, Dauda Garuba and Stella Amadi, eds. *ECOWAS and the Dynamics of Conflict and Peace-building Senegal*, CODERSA, 2011, pp. 11-26. Kofi O. Kufuor, *The Institutional Transformation of the Economic Community of West African*, Aldershot, Ashgate Publishing, 2006, pp. 19-68.

State of the Arab Maghreb Union.¹³⁷ However, Mauritania is still a member State of MOWCA. It is clear from the analysis in chapter three that if ECOWAS States are to be successful in responding to maritime security threats, and particularly illicit trafficking in narcotics and illegal migration by sea, some form of cooperation must exist with Mauritania. There is also a further relationship between Mauritania and its immediate neighbouring States under a Sub-Regional Fisheries Commission (SRFC).¹³⁸

Therefore, while Mauritania continues to keep its political distance from Gulf of Guinea States, the importance of safeguarding the region's maritime security, and also of ensuring Mauritania's own fisheries interest, demands that Mauritania be integrated into the ECOWAS framework. This puts ECOWAS and Mauritania in a difficult situation, with Mauritania presenting a difficult geopolitical hurdle for ECOWAS States to overcome.

6.5 LAND-SEA NEXUS AND THE GOVERNANCE CHALLENGES FOR MARITIME SECURITY COOPERATION

While the above structural and geopolitical challenges deserve attention, it is important to note that the difficulty in responding to maritime security threats is really a manifestation of land-based governance limitations. In other words, good order at sea is a reflection of good order

¹³⁷ Other member States of the Arab Maghreb Union are Algeria, Morocco, Tunisia and Libya.

¹³⁸ The SRFC has eight members: Cape Verde, Gambia, Guinea, Guinea Bissau, Liberia, Mauritania, Senegal and Sierra Leone.

within States, and conversely, disorder within States will most likely find expression in maritime security threats, or at the very least, promote the escalation of such threats. Therefore, regional cooperative frameworks are not sufficient to enhance maritime security; what is required is good governance, and the viability of regional initiatives depends on the quality of governance at the national and regional levels.¹³⁹

It is noted that “governance” is a term that has multiple levels of meaning. The Commission on Global Governance has defined “governance” as the “ways individuals and institutions, public and private, manage their common affairs.”¹⁴⁰ To the United Nations Development Programme (UNDP), governance is “the exercise of economic, political, and administrative authority to manage a country’s affairs at all levels,”¹⁴¹ while the World Bank views it as “the manner in which power is exercised in the management of a country’s economic and social resources for development.”¹⁴² Governance has also been explained as “a form of order that occurs at various levels of social activity and interaction, from the village to the international system.”¹⁴³ The relationship between governance and security has been succinctly captured as follows: “governance, rather than government, more

¹³⁹ On governance and security in Africa, see Samuel M. Makinda and Wafula F. Okumu, *The African Union: Challenges of Globalization, Security, and Governance*, New York, Routledge, 2007. On governance and security generally, see Tom Rippon and Graham Kemp, eds., *Governance and Security as a Unitary Concept* Victoria, Agio Publishing House, 2012.

¹⁴⁰ Commission on Global Governance, *Our Global Neighbourhood: The Report of the Commission on Global Governance*, Oxford, Oxford University Press, 1995, p. 2.

¹⁴¹ UNDP, *Governance for Sustainable Human Development*, 1997, p.2.

¹⁴² World Bank, *Governance and Development*, 1992, p.3.

¹⁴³ Samuel M. Makinda, "Global Governance and Terrorism," *Global Change, Peace & Security* 15, 1, 2010, pp. 43-58, at p.45.

accurately captures the dynamics of security and insecurity on the African continent.¹⁴⁴ A synthesis of the concept of governance (as understood by the UN Economic and Social Council) and relevant literature elicits words such as “stability”, “legitimacy”, “accountability”, “transparency”, “competence” and “effective policymaking”.¹⁴⁵

The importance of these definitions and signposts for the purpose of this research is that they recognise governance as both a platform for producing responses to management concerns (including security), and as a measure or indicator of the performance of governments and institutions. In essence, good governance creates order within a State, thereby enabling the delivery of effective security. It also empowers a State to work more closely with regional partners in pursuing common security objectives. The five sections below examine a number of governance issues and their relationship with maritime security cooperation. Of course, given the multiplicity of governance issues in the Gulf of Guinea, the discussion is not exhaustive.¹⁴⁶ Nonetheless, the analysis seeks to show that the scoping of maritime security cooperation

¹⁴⁴ Alan Bryden, Boubacar N'Diaye and Funmi Olonisakin, eds, *Challenges of Security Sector Governance in West Africa*, Geneva, Centre for the Democratic Control of Armed Forces, 2008, p.8.

¹⁴⁵ United Nations Economic and Social Council, *Definition of Basic Concepts and Terminologies in Governance and Public Administration*, E/C.16/2006/4, 5 January 2006. Jon Pierre and Guy B. Peters, *Governance, Politics and the State*, New York St. Martin's Press, 2000. Jon Pierre, *Debating Governance: Authority, Steering, and Democracy*, Oxford, Oxford University Press, 2000.

¹⁴⁶ Generally on governance challenges in the Gulf of Guinea and other developing countries, see Alan Bryden, Boubacar N'Diaye and Funmi Olonisakin, eds, *Challenges of Security Sector Governance in West Africa*, Geneva, Centre for the Democratic Control of Armed Forces, 2008. William Easterly and Rose Levine, "Africa's Growth Tragedy: Policies and Ethnic Divisions," *Quarterly Journal of Economics* 111, 4, 1997, pp. 1203-50. Christopher Clague, ed., *Institutions and Economic Development: Growth and Governance in Less-Developed and Post-Socialist Countries*, Baltimore and London, John Hopkins University Press, 1997. Yi Feng, *Democracy, Governance and Economic Performance: Theory and Evidence*, Cambridge: MA MIT Press, 2005.

in the Gulf of Guinea can only be effective when governance issues are openly acknowledged and systematically addressed.

6.5.1 Instability, Political Leadership and Insecurity

The proclivity of the Gulf of Guinea region to both intrastate and interstate conflicts has been alluded to in the discussion of geopolitical challenges. It is axiomatic that instability creates disorder, which in turn undermines the fundamental interests of States, including maritime security cooperation. However, the impact of instability on maritime security deserves further analysis.

Conflict and instability reflect the inability of governments to maintain a peaceful and ordered society, and thus serve as a catalyst for further insecurity, including maritime security threats. At the same time, instability represents a high level of insecurity, which diverts the attention of the political leadership away from other types of threats, such as piracy, drug trafficking and other illicit activities. In the African context, there is clear evidence that once instability and disorder become pervasive, with malignant actors and illegal activities taking root, members of the political leadership become beneficiaries of illegal ‘services’, thereby compromising their authority (and hence ability) to fight crime.¹⁴⁷

¹⁴⁷ William Reno, "Clandestine Economies, Violence and States in Africa," *Journal of International Affairs* 53, 2, Spring 2000, pp. 433-59. Obi N. I. Ebbe, "The Political-Criminal Nexus: The Nigerian Case," *Trends in Organized Crime* 4, 3, Spring 1999, pp. 29-59. Horn Hansen and Dirk Steffen, "The Lull before the Storm: Maritime Piracy and Election Violence in the Niger Delta," *Journal of Maritime Security*, 15 March 2011.

For example, elements of MEND (the main piracy actors in the Gulf of Guinea), are alleged to have been used by Nigerian politicians to intimidate political opponents.¹⁴⁸ This symbiotic relationship tends to legitimatise other criminal acts perpetrated by these groups. Piracy and armed robbery attacks in the Gulf of Guinea have already reached record levels in 2013, and there are projections that the number of incidents will continue to increase in 2014 and 2015.¹⁴⁹ An important risk factor that feeds into these projections, but which is not explicitly mentioned in the literature, is Nigeria's presidential election in 2015. Election dynamics are likely to revitalise the relationship between the political elite and criminal groups, thus compromising the will and commitment of governments to combat piratical attacks, ransom kidnappings and the theft of oil offshore.

There is another important dimension to the governance-instability-maritime security chain in the Gulf of Guinea. As conflicts in the region are generally internal, governments of Gulf of Guinea States give less priority to their Navies and Coast Guards while overspending on land troops. Therefore, the dismal state of the region's Navies and Coast

¹⁴⁸ In 2007, a spokesman for MEND identified then Vice President Goodluck Jonathan, now President of Nigeria, as one of its patrons. *Global Market Brief: Uneasy Alliance in Nigeria*, 10 May 2007, Stratfor Global Intelligence, Available: http://www.stratfor.com/memberships/27593/global_market_brief_uneasy_alliances_nigeria 16 August 2011. See also, Martin Murphy, *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World* London, Hurst, 2010, p. 115-117. Horn Hansen and Dirk Steffen, "The Lull before the Storm: Maritime Piracy and Election Violence in the Niger Delta," *Journal of Maritime Security*, 15 March 2011.

¹⁴⁹ *White House concerned by increase in piracy in West Africa*, 24 October 2013, Reuters, Available: <http://www.reuters.com/article/2013/10/24/us-nigeria-piracy-whitehouse-idUSBRE99N0ZP20131024>, 5 December 2013. *The Rise and Rise of Piracy in the Gulf of Guinea*, 18 July 2013, Think Africa Press, Available: <http://thinkafricapress.com/politics/gulf-guinea-africa-new-piracy-hotspot>, 5 December 2013. *Attacks in West Africa to Double in 2014*, 25 November 2013, Paramount Group, Available: <http://www.paramountgroup.biz/pt/press-releases/506-pirate-attacks-in-west-africa-to-double-in-2014.html>, 5 December 2013.

Guards is a by-product of conflict and instability. Indeed, a survey of the region would reveal that Navies and Coast Guards have been absorbed into land forces especially during conflicts, thereby leaving the region's maritime borders and ocean space unprotected.

6.5.2 Institutional Effectiveness and Coordination

The effectiveness of regional maritime security cooperation depends on the competence of national institutions.¹⁵⁰ In turn, the efficacy of national institutions is contingent on stable and ordered governance structures. Thus, governance structures and public institutions have an interdependent relationship. Whereas weak governance produces poorly functioning public sector institutions, dysfunctional institutions tend to exacerbate governance problems, including the delivery of security objectives.¹⁵¹

Also, since maritime security is a shared responsibility between different national agencies, institutional coordination is vital for the realisation of regional cooperative objectives. However, the feasibility report commissioned by MOWCA and the IMO in 2006 indicated weaknesses in the coordination of national agencies across the Gulf of Guinea.¹⁵² The report revealed that in many instances there is hardly any engagement

¹⁵⁰ It is noted that the term "institutions" has different meanings in the field of international relations. The term is used here to refer to national agencies and bodies responsible for the administration of government business, and also regional and international organisations.

¹⁵¹ Terry M. Moe, "Political Institutions: The Neglected Side of the Story," *Journal of Law, Economics, and Organizations* 6, 990, pp. 215-53.

¹⁵² See Report on the Mission on Evaluation and Assessment of the Feasibility to Establish An Integrated Coast Guard Network in the West And Central African Region, IMO Programme TC/0046-01-2000, 15 February 2006.

between the multiple agencies charged with maritime security responsibilities, and in other cases national bodies have conflicting roles.¹⁵³ These institutional gaps need to be addressed to ensure effective maritime security cooperation.

6.5.3 Corruption and Lack of Transparency

Corruption is another important governance issue that impacts on maritime security. As shown in Table 2.1 in chapter two, the corruption index of Gulf of Guinea States is very high.¹⁵⁴ Corruption undermines the performance of public institutions, affects delivery of governance imperatives including security, while also promoting criminal conducts. Indeed, if politicians and other members of the ruling elite allow greed to dictate the way they conduct public affairs, the net effect will likely be the emergence of a national-regional psyche that views criminality as a rewarding enterprise.¹⁵⁵ It is therefore not surprising that the analysis in chapter three shows corruption as a factor that promotes illicit trafficking in narcotics and IUU fishing. Unless these governance issues are addressed as part of the regional cooperative process, the objectives of maritime security cooperation will be undermined.

There is also a relationship between corruption and the building of strategic partnerships to enhance maritime security in the Gulf of

¹⁵³ Report on the Mission on Evaluation and Assessment of the Feasibility to Establish An Integrated Coast Guard Network in the West And Central African Region, IMO Programme TC/0046-01-2000, 15 February 2006.

¹⁵⁴ See Table 2.1, chapter 2.

¹⁵⁵ William Reno, "Understanding Criminality in West African Conflicts," *International Peacekeeping* 16, 1, February 2009, pp. 47-61, p.53.

Guinea. As demonstrated earlier, Gulf of Guinea States are plagued with capability deficiencies when undertaking maritime security enforcement. It is therefore likely that regional States are looking to donor agencies and external partnerships to fund and support the cost of maritime security enforcement. One of the critical factors that will inform the preparedness of donors and partners to offer the necessary support is the presence or absence of corruption.

6.5.4 Governance of Offshore Resources

Chapter three has discussed the importance of fisheries to human security, and conversely, how depleting fisheries resources can be a source of multiple security threats. Hence, the governance of both living and non-living offshore resources is crucial to maritime security. The Niger Delta insurgency has its roots in agitations over the management of oil and gas resources.¹⁵⁶ Thus, the increasing offshore oil and gas discoveries in the Gulf of Guinea have the potential to be either a source of security or insecurity, depending on how Gulf of Guinea States manage such resources and the revenue they generate.

6.5.5 Security Governance, Culture and Reform

The final governance challenge to maritime security cooperation in the Gulf of Guinea is the governance of security itself. As illustrated in the

¹⁵⁶ See chapter four. See also Anna Dunin, *The Niger Delta: Where Oil is a Curse* 8 August 2011, Geopolitical Monitor, Available: <http://www.geopoliticalmonitor.com/the-niger-delta-where-oil-is-a-curse-4435> 22 August 2011. Emeka E. Okafor, "Dynamics of Niger Delta Struggles and the State Responses: The State of Terrorism and Terrorism of the State," *Journal of Sustainable Development in Africa* 13, 2, 2011, pp. 88-105. Ilufeye S. Ogundiya, "Domestic Terrorism and Security Threats in the Niger Delta Region of Nigeria," *Journal of Social Science* 20, 1, 2009, pp. 31-42.

analysis of the concept of security, the pursuit of security is optimised when it is directed at enhancing the welfare of society.¹⁵⁷ But this is only possible when the driving force behind the desire of governments to seek cooperation in the first place is the wellbeing of the people they represent.

Although the ECCAS maritime security framework is holistic in terms of the outcomes it seeks to secure, the analysis of its background demonstrates that it was the seaborne attack on the Presidential Palace in Equatorial Guinea that galvanised ECCAS member States into action. This illustrates how the political leadership of some States prioritises personal and regime security over other dimensions of security. It also raises two critical and opposing questions that must be answered. They are: (i) is maritime security cooperation mainly being driven by security concerns that directly impact on political authority and revenue?; and (ii) is there a genuine commitment by Gulf of Guinea States to address security issues, such as depleting living resources, that impact on communities and society at large?

The author asserts that it is critical to seek a governance approach that puts society at the heart of maritime security cooperation. This approach necessitates some changes in the security culture of certain States, as well as reforms to security sector institutions.¹⁵⁸

¹⁵⁷ See chapter three.

¹⁵⁸ The author adopts the definition of “security sector” provided by the OECD – that is, “those state institutions which have a formal mandate to ensure the safety of the state and its citizens against acts of violence and coercion.” OECD, ‘Security System Reform and Governance: Policy and Good Practice’, 2004. See also Paul Williams and Jurgen Haacke, “Security Culture, Transnational Challenges and the Economic Community of West African States,” *Journal of Contemporary African Studies*, June 12, 2008.

6.6 CONCLUSIONS

The analysis in this chapter has demonstrated that maritime security cooperation in the Gulf of Guinea is currently being pursued through multiple institutional frameworks. Indeed, this has resulted in a high degree of confusion, undermining the success of some cooperative initiatives. Moreover, although the relevant institutions have varying strengths and weaknesses, no assessment is being made by the relevant actors and the international community as to which regional frameworks are most suitable for achieving effective maritime security cooperation.

The analysis has also shown that despite the UN Security Council endorsing the GGC and MOWCA as platforms for maritime security cooperation, the two institutions are confronted with fundamental structural and geopolitical challenges that prevent them from playing a pivotal role in the region. Nonetheless, they still possess strengths that can supplement the institutional frameworks of ECCAS and ECOWAS – both of which have been shown to be more suitable platforms for cooperation. Indeed, ECCAS member States have already devised a framework for maritime security cooperation which is anchored in the broader political and economic structures of the region. This can be replicated by ECOWAS member States in the future.

Nonetheless, the analysis has demonstrated that there are three types of challenges – structural, geopolitical and governance-related – that need to be addressed in order for maritime security cooperation to be effective in the region. On the whole, therefore, the analysis in this chapter has supported the analytical and conceptual framework of the thesis.

CHAPTER SEVEN

INTERNATIONAL COOPERATION AND THE DYNAMICS OF MARITIME SECURITY IN THE GULF OF GUINEA

7.1 INTRODUCTION

The analysis in the preceding chapters has illustrated the convergence of maritime security interests in the Gulf of Guinea. Addressing these security concerns necessitates the participation of external actors and the building of international partnerships. The legitimacy of external interventions is also founded on the notion that such interventions are in the ‘interest’ of the global community. The role of external actors can also be justified on the basis of relevant UN Security Council Resolutions. These Resolutions implore the international community to support the adoption of comprehensive strategies by Gulf of Guinea States to address incidents of piracy and armed robbery in the region.¹ Moreover, as illustrated in chapter six, a number of Gulf of Guinea States have expressly requested the support and intervention of the international community to address the maritime security situation in the region.

There is therefore a convergence of interest in addressing the state of insecurity in the Gulf of Guinea. However, despite such convergence,

¹ United Nations, Resolution 2018 - Piracy and Security in Africa (Security Council 6645th Meeting, 31 October 2011). United Nations, Resolution 2039 - Peace Consolidation in West Africa (Security Council 6727th Meeting, 29 February 2012).

there exists a simultaneous *divergence* of interests, because the objectives and priorities of the various actors may differ. There may, for instance, be widespread agreement on the scope of maritime security threats, but differences of opinion regarding the order in which to address these threats. Also, as with other areas of State relations, maritime security cooperation may be underpinned by strategic motives or involve the trading of certain benefits and opportunities, thereby evoking competition or conflict among participants at different levels. The implication of this is that maritime security efforts may pull in different directions, while cooperative outcomes may not deliver durable security.

It is against this background that the contribution of external actors to maritime security regime building in the Gulf of Guinea will be examined. Consideration will also be given to the challenges and limitations that accompany these interventions. Drawing on the analysis of the strategic interests in the Gulf of Guinea in chapter two, and also the threat analysis in chapters three and four, the author has selected the United States, France, the United Kingdom, China and the European Union as the key actors for the purpose of the analysis.

There are additional strategic reasons underlying the scope of the chapter. Apart from being a global power, the United States has a dedicated maritime security cooperative engagement with the Gulf of Guinea, and thus it is important to assess the scope and context of this engagement. A combination of historical and contemporary connections,

which in some cases includes defence and security arrangements, makes France, the United Kingdom and the European Union important candidates for the chapter. Finally, China's growing economic interest in Africa, and in particular the presence of Chinese companies in the offshore oil and gas industry of the Gulf of Guinea, makes it an important candidate for interrogation.

The substantive analysis is organised in six parts. The first five parts will examine the interventions, policies and contributions of these actors, while the sixth part is devoted to an examination of the challenges and limitations of the interventions.

7.2 UNITED STATES AND MARITIME SECURITY IN THE GULF OF GUINEA

As the world's superpower, the United States (US) has a spectrum of maritime interests. This ranges from the protection of international trade and shipping, energy security, as well as combating transnational organised crimes (including drug trafficking, terrorism and the proliferation of weapons of mass destruction (WMD)).² These maritime security objectives are elucidated in key US policy documents that inform the country's maritime security engagements and policies in Africa, and in particular, its maritime security cooperative framework in

² Generally on US maritime security interests and responses, see John F. Frittelli, "Port and Maritime Security: Background and Issues for Congress," *United States Congressional Research Service Order Code RL31733*, Updated 27 May 2005. Boske B. Leigh and Lyndon B. Johnson, "Port and Supply-chain Security Initiatives in the United States and Abroad," *United States Congressional Research Service*, 2006. Joann Peterson and Alan Treat, "The Post-9/11 Global Framework for Cargo Security," *Journal of International Commerce and Economics*, March 2008, pp. 1-30.

the Gulf of Guinea. This section will review the relevant policy frameworks and instruments, as well as US maritime security activities and interventions in the Gulf of Guinea.

7.2.1 United States Maritime Security Policy Framework

*United States seapower will be globally postured to secure our homeland and citizens from direct attack and to advance our interests around the world.*³

The United States National Strategy on Maritime Security (NSMS) is the overarching maritime security policy document of the US.⁴ The NSMS was promulgated in 2005 as part of a suite of post-9/11 security responses. The language and strategic objectives outlined in the NSMS covers both ‘hard’ and ‘soft’ security issues.⁵ The opening paragraph of the Strategy notes that “the United States has a vital national interest in maritime security [and] must be prepared to stop terrorists and rogue States before they...threaten or use WMD or engage in other attacks against the US and allies and friends.”⁶ The paragraphs that follow also note that the security of the world’s oceans is important because they are “a source of food, mineral resources, and recreation, and they support commerce among nations.”⁷

³United States, A Cooperative Strategy for 21st Century Seapower. (Washington, October 2007).

⁴ United States, National Strategy on Maritime Security. (Washington DC, September 2005).

⁵ See analysis of the concept of security in chapter 3.

⁶ United States, National Strategy on Maritime Security, 2005, p. 1.

⁷ United States, National Strategy on Maritime Security, 2005, p. 1.

These contrasting quotations denote both the hard and soft security objectives of the NSMS. This dual strategic objective is to be achieved by blending public and private maritime security activities, and also through national, regional and international coordination.⁸ The Strategy commits the US to pursue cooperative initiatives as a fundamental part of its maritime security architecture.⁹ The underlying cooperative imperatives are reflected in the International Outreach Coordination Strategy adopted in November 2005, as well as the Cooperative Strategy for 21st Century Seapower, which launched in 2007.¹⁰ Whilst these strategic documents provide the policy framework for US maritime security activities and interventions in the Gulf of Guinea, the actual execution of the cooperative engagements is carried out by the United States African Command (AFRICOM) and its dedicated maritime platform – the African Partnership Station (APS).

7.2.2 Birth of the United States African Command

Although the US traditionally had five combatant military commands overseeing its military interests around the world, no single command was dedicated specifically to Africa, despite its significance as one of the largest continents in the world.¹¹ Indeed, responsibility for Africa was distributed among several Commands. The Indian Ocean region was

⁸ United States, National Strategy on Maritime Security, 2005, p.11.

⁹ United States, National Strategy on Maritime Security, 2005, p.13.

¹⁰ United States, International Outreach and Coordination Strategy. November 2005). United States, A Cooperative Strategy for 21st Century Seapower (Washington, October 2007)

¹¹ Northern Command (NORTHCOM) for North America, Southern Command (SOUTHCOM) for South America and the Caribbean, Central Command (CENTCOM) for the Middle East and South West Asia, European Command (EUCOM) for Europe, and the Pacific Command (PACOM) for the Far East and Pacific region.

assigned to the Pacific Command (PACOM), East and Southern Africa came under Central Command (CENTCOM), while North Africa and Sub-Saharan Africa (which includes the Gulf of Guinea) were administered by the European Command (EUCOM).¹² This dissemination of responsibility for Africa reflected the low strategic importance that the US attached to the continent.¹³

However, developments that have taken place since 1998 have led the US to reassess the continent, and particularly the Gulf of Guinea. These developments include the bombing of US Embassies in Kenya and Tanzania in 1998, the 9/11 terrorist attacks, as well as the growing status of Africa as a source of vital natural resources, including oil, gas and minerals.¹⁴ In line with this new strategic outlook, the US announced major funding for African security programmes in 2005.¹⁵ Then, in February 2007, the US African Command (AFRICOM) was created to

¹² For details on these Commands, see Office of the Secretary of Defence and Joint Staff, <http://www.dod.mil/pubs/foi/combattcomm.html>, 11 December 2013.

¹³ George B. N. Ayittey, *Africa in Chaos* New York St. Martin's Griffin, 1999, p. 347. David E. Brown, "AFRICOM AT 5 Years: The Maturation of a New U.S. Combatant Command," The Letort Papers, Strategic Studies Institute, U.S. Army War College, 2013, p. 4.

¹⁴ David E. Brown, "AFRICOM AT 5 Years: The Maturation of a New U.S. Combatant Command," The Letort Papers, Strategic Studies Institute, U.S. Army war College, 2013, p. 4. See also James Hentz, "The Contending Currents in United States Involvement in Sub-saharan Africa", in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 23-40. Jonathan Steveson, "Africa's Growing Strategic Resonance," *Survival* 45, 4, 2003, pp. 153-72.

¹⁵ Edward Harris, "United States outlines bigger effort to fight terrorism in Africa: Plan would Pour \$100m each year into some least-policed areas," *Associate Press*, 25 May 2005. Otto Sieber, "Africa Command: Forecast for the Future," *Strategic Insights* VI, 1, January 2007. Sean McFate, "US Africa Command: Next Step or Next Stumble," *African Affairs*, December 24, 2007, pp. 111-120. Milady Ortiz, "U.S. Africa Command: A New Way of Thinking," *National Security Watch*, March 13, 2008, p. 3.

focus exclusively on the African continent, with the Command becoming fully operational in October 2008.¹⁶

The original intention of the US was to locate AFRICOM in Africa - “where it can best interact with partner nations.”¹⁷ However, African States steered away from hosting the command, with many being opposed to the presence of the US military anywhere on the continent. Meanwhile, a negative campaign was being waged by diasporic African communities, further intensifying the anti-American sentiment.¹⁸ Eyebrows were raised when reports surfaced that Nigeria had endorsed AFRICOM, and was considering hosting the Command’s headquarters. However, not only did Nigeria indicate that it would not host the headquarters of AFRICOM, it also voiced its objection to AFRICOM being accommodated anywhere near its sphere of influence - namely, West Africa.¹⁹ This posture crushed the possibility of stationing

¹⁶ See White House, *President Bush Creates a Department of Defense Unified Combatant Command for Africa*, 6 February 2007, Available: <http://georgewbush-whitehouse.archives.gov/news/releases/2007/02/20070206-3.html> 8 October 2011. For an extensive analysis of the background and future of AFRICOM see David E. Brown, “AFRICOM AT 5 Years: The Maturation of a New U.S. Combatant Command,” *The Letort Papers, Strategic Studies Institute, U.S. Army War College*, 2013. Sean McFate, “U.S. Africa Command: A New Strategic Paradigm?,” *Military Review* 88, 1, January-February 2008.

¹⁷ This quotation is from the Policy Statement of President Bush on the launch of AFRICOM. See U.S. Library of Congress, *Africa Command: U.S. Strategic Interests, and the Role of the U.S. Military in Africa*, Washington, D.C Congressional Research Service, 7 December 2007.

¹⁸ Nigerian newspapers described the situation as an example of “American pomposity” and “US contempt for Nigeria,” while some Nigerian military leaders bemoaned that “Nigeria will be finished as a force.” See Arild Nodland, “Guns, Oil, and ‘Cake’: Maritime Security in the Gulf of Guinea”, in Bruce A. Elleman, Andrew Forbes and David Rosenberg, eds. *Piracy and Maritime Crime: Historical and Modern Case Studies*, Newport, Naval War College Press, 2010, pp. 191-206, p.202. See also John Liebhart, *The groundswell of Opposition to AFRICOM from African Bloggers*, 24 February 2008, Available: <http://globalvoicesonline.org/2008/02/24/african-bloggers-the-groundswell-of-opposition-to-africom/> 4 October 2011. Danny Glover and Nicole C. Lee, *Say No to Africom*, 19 November 2007, Available: http://www.thirdworldtraveler.com/Africa/Say_No_Africom.html, 24 September 2011.

¹⁹ allAfrica.com, *No USA Barack Or Base In Nigeria! Yes!*, 3 June 2008, Available: <http://www.nairaland.com/nigeria/topic-139364.0.html> 4 October 2011. Robert Manson, “Do We

AFRICOM in Liberia, even though Liberia had made a public declaration to host the Command's headquarters.²⁰ The US eventually made a policy shift by locating AFRICOM headquarters in Stuttgart, Germany, while the main body of the command operates from the US and other European States.²¹

The Mission Statement of AFRICOM states that the objective of the command is to "protect and defend the national security interests of the US by strengthening the defence capabilities of African States and regional organizations and, when directed, [to] conduct military operations, in order to deter and defeat transnational threats and to provide a security environment conducive to good governance and development."²² This Mission Statement conceptualises AFRICOM as a "combatant command plus."²³ What this means is that AFRICOM has been structured for the delivery of both hard and soft security. Indeed, it

Want to 'Kill People and Break Things' in Africa? A Historian's Thoughts on Africa Command," *Strategic Studies Quarterly* 2, 1, Spring 2008, pp. 97-130. See also Arild Nodland, "Guns, Oil, and 'Cake': Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes and David Rosenberg, eds. *Piracy and Maritime Crime: Historical and Modern Case Studies*, Newport, Naval War College Press, 2010, pp. 191-206.

²⁰ See, "U.S. AFRICOM Headquarters to Remain in Germany for 'Foreseeable Future'" " *International Herald Tribune*, 19 November 2008. Ezekiel Pajibo and Emira Woods, "African Command: Wrong for Liberia, Disastrous for Africa," *Foreign Policy in Focus*, 26 July 2007. *Making the case for Liberia to host Africom*, 19 November 2007, Liberia and Friends Journal, Available: <http://liberiaandfriends.blogspot.com.au/2007/11/making-case-for-liberia-to-host-africom.html>, 10 January 2014.

²¹ Some staff members are stationed at the MacDill Air Force Base in Florida, while others are based at the Joint Analysis Center of AFRICOM in Moles-Worth, England. Army and Navy Units are located in Naples, Italy. The Air Force is located in Kaiserslautern, Germany, while the Marine Corps is also based in Böblingen Germany. However, the US has since procured an operational base in Djibouti.

²² See *AFRICOM Mission Statement*, Available: <http://www.africom.mil/AboutAFRICOM.asp> 8 October 2011.

²³ David E. Brown, "AFRICOM AT 5 Years: The Maturation of a New U.S. Combatant Command," *The Letort Papers*, Strategic Studies Institute, U.S. Army war College, 2013, p. 21.

has capabilities and strategic responsibilities similar to traditional combatant commands, but is also supported by US civilian government agencies whose task it is to focus on issues of governance, development, and to track all other non-military interests.

7.2.3 The African Partnership Station

The African Partnership Station (APS) is one of the key platforms for meeting US maritime security objectives and other strategic goals in the Gulf of Guinea.²⁴ The APS was launched in 2007 with the deployment of *USS Swift* and *USS Fort McHenry* to the Gulf of Guinea. There has since been consistent APS deployments and presence in the region.²⁵ The APS may be viewed as a more functional replication of the West Africa Training Cruise (WATC), a traditional US cooperative maritime platform for joint sea exercises in West Africa. Unlike the WATC, however, the APS recruits personnel from the Gulf of Guinea for more extended periods, at times up to six months, during which time they are provided with training and taught essential skills relating to maritime security enforcement.²⁶ The APS is also used for delivering humanitarian assistance to coastal communities in the Gulf of Guinea.

²⁴ The APS originally came under the US European Command, but is now under the Africa Command. For details, see Commander US Naval Forces Africa, "About Africa Partnership Station," <http://www.c6f.navy.mil/about%20us.html>, 28 January 2013.

²⁵ Tim Fish, "United States Navy Announces further Support for Africa Partnership Station," *Jane's Defence Weekly* October 2008.

²⁶ See, Commander US Naval Forces Africa, "About Africa Partnership Station," <http://www.c6f.navy.mil/about%20us.html>, 12 December 2013.

Another strategic role of the APS may be *sea basing*. This can be inferred from the US Cooperative Strategy which requires US forward-deployed forces at sea to swiftly suppress conflicts in unstable regions, and to increase naval power in order to deter conflicts, aggressive transnational actors and rogue States.²⁷ Indeed, this strategic edict resonates with the concept of sea basing, which similarly advocates the use of US power at sea to influence events and situations on land that may affect US vital interests.²⁸ Analysing unstable situations in the Gulf of Guinea, as well as possible scenarios which may warrant intervention by naval platforms, has long been part of the work of the US intelligence community.²⁹ This Mission is now firmly situated in the Cooperative Strategy, with the APS being the most likely platform for execution. It is perhaps not a coincidence that the APS was deployed within a few months of the Cooperative Strategy being launched.³⁰ Therefore, the APS, much like AFRICOM, is an encapsulation of ‘soft’ and ‘hard’ security concepts in both a conceptual and practical context.

²⁷ US Government, “A Cooperative Strategy for the 21st Century Seapower,” October 2007, p. 11.

²⁸ The debate surrounding sea basing is elaborated by Geoffrey Till, “Naval Transformation, Ground Forces, and the Expeditionary Impulse: The Sea-Basing Debate ” *Strategic Studies Institute, U.S. Army War College*, December 2006.

²⁹ In 2005, US intelligence services had predicted governmental collapse and conflict in Nigeria, with the US considering possible options for intervening. See United States National Intelligence Council, Mapping Sub-Saharan Africa’s Future: Conference Summary. (Washington, D.C, March 2005). See also, Arild Nodland, “Guns, Oil, and ‘Cake’: Maritime Security in the Gulf of Guinea”, in Bruce A. Elleman, Andrew Forbes and David Rosenberg, eds. *Piracy and Maritime Crime: Historical and Modern Case Studies*, Newport, Naval War College Press, 2010, pp. 191-206. “US Senate Hears Concerns on Security, Corruption in African Gulf,” *Oil Daily*, 2004.

³⁰ See also Kathi A. Sohn, “The Global Fleet Station: A Powerful Tool for Preventing Conflict,” *Naval War College Review* 62, 1, Winter 2009, pp. 45-58. Nathan Hodge, “New US Army field manual focuses on stabilising failed states,” *Jane’s Defence Weekly*, October 2008.

7.2.4 Role of the United States in Promoting Maritime Security Cooperation in the Gulf of Guinea

Meanwhile, the US has been promoting regional maritime security cooperation and capacity building on various subjects of maritime security across the Gulf of Guinea. The first high profile consultation on regional maritime security cooperation was hosted in 2004 by the US European Command in Naples, Italy.³¹ In attendance were the Chiefs of Naval Staffs from Nigeria and Ghana, as well as senior ranking officers of other navies of Gulf of Guinea States. Also present was the UN Special Representative for West Africa. In November 2006, the US European Command sponsored a second Gulf of Guinea Maritime Security and Safety Ministerial Conference in Benin, with the US Assistant Secretary of State for African Affairs being in attendance.³² The objectives of the Conference were to achieve sub-regional consensus on threats to maritime safety and security (MSS), to forge high level consensus and political buy-in for a Plan of Action on maritime security, to identify and support time-sensitive measures for improving MSS, to promote regional collaboration and coordinate the active participation of relevant regional institutions, and lastly, to provide a justification and mechanism for coordinated and collaborative international assistance.

³¹ The Conference was held from 3-4 October, 2004. See United States European Command, *Maritime Security Conference Brings Gulf of Guinea Navies Together* 5 October 2004, Available: <http://www.eucom.mil/article/21949/Maritime-Security-Conference-Brings-Gulf-Guinea>, 1 February 2013.

³² United State European Command, *Framework for Action Plan adopted at Ministerial Conference* 15 November 2006, United State European Command Available: <http://www.eucom.mil/article/20998/framework-action-plan-adopted-ministerial>, 1 February 2013.

These meetings were crucial in helping the US to forge its strategic engagement with Africa. In other words, it can be argued that maritime security cooperation served as the catalyst for the US furthering its strategic interest in Africa and the Gulf of Guinea. Subsequently, in 2010 and 2011, the US sponsored another maritime security conference at the continental level, with the African Union (AU), the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS) all featuring prominently.³³

What is significant about these conferences is the profile and scope of the stakeholders involved. The US deliberately projected its maritime security dialogue through the US Africa Centre for Strategic Studies (ACSS), whose stated mission is to integrate and reflect African interests in US policy initiatives.³⁴ Thus, the ACSS has managed to congregate African participants from different sectors and backgrounds and cast them as stakeholders in the emerging US maritime security partnership. Other than Navies, key official and policy makers from sectors as diverse as fisheries, environmental science and technology, customs, shipping and ports, civil society and academia have been involved. It is the author's view that this broad consultative process can help cure the

³³ The theme of the first conference was "Africa Maritime Safety and Security - Towards Economic Prosperity," October 2010, Stuttgart, Germany. The second conference was dubbed "2011 ECCAS-ECOWAS Maritime Safety and Security - Toward Strategic Synergies in the Maritime Domains of West and Central Africa," 19–21 July 2011, Garmisch, Germany.

³⁴ See web page of Africa Centre for Strategic Studies, <http://africacenter.org/about/> 16 October 2011.

lack of coordination of maritime security measures at the national and regional levels in the Gulf of Guinea.³⁵

In addition to high-level African involvement, the conferences have attracted participation from the UN, the World Bank, the European Union (EU), the North Atlantic Treaty Organization (NATO), the International Maritime Organization (IMO) and the Chiefs of European Navies (CHENS). This high profile involvement serves to endorse and add momentum to the maritime security objectives of the US.

7.2.5 United States Logistics Support and Capacity Building

As a result of APS deployments, naval and other law enforcement officers across the Gulf of Guinea are benefiting from capacity building in critical areas of maritime security. Indeed, by sharing skills training across the APS platform, navies and coastguards can enhance the future interoperability of personnel and operations.

The US may also be able to play a role in enhancing the Maritime Domain Awareness (MDA) of Gulf of Guinea States. Effective MDA involves the collection, analysis and dissemination of information for the purpose of gaining a clear operational picture of maritime security threats, thus facilitating a better response to such threats.³⁶ Indeed, MDA is a key component of the US layered framework for maritime security,

³⁵ See chapter 6.

³⁶ United States, National Plan to Achieve Maritime Domain Awareness for the National Strategy for Maritime Security. (Washington DC, October 2005).

and MDA resources, platforms and experiences have the potential to improve the maritime security information and intelligence deficit in the Gulf of Guinea. Although some information may be classified, procedures can be developed for sharing what information can be made available to further collective interests.

The conclusion to be drawn from the profile of US military activities in the Gulf of Guinea, as well as the strategic packaging of its maritime security cooperative frameworks, is that the US is a major player in the evolving cooperative maritime security framework in the Gulf of Guinea.

7.3 FRANCE AND MARITIME SECURITY IN THE GULF OF GUINEA

The choice of France as the second subject of this chapter is in recognition of the fact that when it comes to political influence in Africa (and especially in the Gulf of Guinea), France is not just another European State – France stands alone.³⁷ Centuries of French engagement with the Gulf of Guinea has crystallised into a network of strategic interrelations, including with respect to maritime security. The analysis below will identify France's strategic and maritime security interest in the region, evaluate the framework for maritime security cooperation,

³⁷ Martin Guy, "Continuity and Change in Franco-African Relations," *Journal of Modern African Studies* 33, 1, 1995, pp. 1-20, p.6. See also Jakkie Cilliers, "Still ... France Versus the Rest in Africa?," *African Security Review* 10, 3, 2001. Jean-François Bayart, "Reflexion sur la politique africaine de la France," *Politique Africaine* 58, 1995, pp. 41-51.

and also assess the geopolitical perspectives of the French role in Gulf of Guinea maritime security.

7.3.1 France's Strategic and Maritime Security Interest in the Gulf of Guinea

The strategic and maritime security interest of France in the Gulf of Guinea is encapsulated in the very description of French colonies as *territoire d'outre mer* – that is, as the “overseas territory” of France. This taxonomy is not just a description of relative locations; it is in fact a conceptual understanding of how the overseas territories are an integral part of France. This concept has survived into the postcolonial era, with the country's foreign policy objectives constantly being adjusted to exert even greater control over the African continent.³⁸ The oft quoted remark of President Francois, that “without Africa France will no longer have [a] history in the twenty-first century”,³⁹ follows on from the assertion made his predecessor, that “I am dealing with African Affairs, namely

³⁸ Jean-François Bayart, "Reflexion sur la politique africaine de la France," *Politique Africaine* 58, 1995, pp. 41-51, p. 49. Generally on France's political and conceptual engagement with Africa, see Yves Person, "French West Africa and Decolonization", in Prosser Gifford and William R. Louis, eds. *The Transfer of Power in Africa: Decolonization 1940-1960*, New Haven, , Yale University Press, 1982, pp. 141-72. Christopher M. Andrew, "France: Adjustment to Change", in Hedley Bull, ed. *The Expansion of International Society*, Oxford, Clarendon Press, 1984. V.S. Sheth, "French Policy in Africa: An Assessment," *Africa Quarterly* 39, 2, 1999, pp. 69-87. John Chipman, *French Power in Africa*, Oxford, Blackwell, 1989.

³⁹ Quoted in John Chipman, *French Power in Africa*, Oxford, Blackwell, 1989, p. 9. See also Dorothy S. White, *Black Africa and de Gaulle*, Philadelphia Pennsylvania University Press, 1979. Emmanuel Ela Ela, "La Nouvelle Politique de cooperation militaire de la France en Afrique," *Defense Nationale* 56, 2, 2000, pp. 86-100.

France's interest in Africa.”⁴⁰ Indeed, these comments make doubly clear the importance of Africa to France.

Therefore, the strategic gains of France's engagement in the Gulf of Guinea go beyond economic and historical relations; indeed, they seek to maintain a leadership role for France. To demonstrate its commitment to the Gulf of Guinea, France has succeeded on many occasions in advancing EU initiatives for the development of the region, while at the same time monopolising the relative gains.⁴¹ There are, of course, debates and projections of a renewed French policy that would bring an end to this paternalistic approach to former colonies.⁴² In his 2007 election campaign, President Sarkozy promised a major shift in foreign policy with respect to former French colonies.⁴³ The 2010 Franco-African Summit was seen as a likely platform for a new policy directive to be unveiled, but ensuing events have demonstrated that a policy change is unlikely to occur.⁴⁴ While France may be praised for echoing Africa's voice for fairness in international affairs (including a demand

⁴⁰ This remark was made by President Giscard d'Estaing, a centre-right politician, who was also the French President from 1974 to 1981. Quoted in Martin Guy, "Continuity and Change in Franco-African Relations," *Journal of Modern African Studies* 33, 1, 1995, pp. 1-20, p.6.

⁴¹ On France-EU-Africa politics and relations, see Daniela Krosiak, "France's Policy Towards Africa, Continuity or Change?", in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 61-82. See also Douglas Yates, "France, The EU, and Africa", in Adekeye Adebajo and Kaye Whiteman, eds. *The EU and Africa: From Eurafrique to Afro-Europa*, London, Hurst, 2012.

⁴² See especially Daniela Krosiak, "France's Policy Towards Africa, Continuity or Change?" in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 61-82. Martin Guy, "Continuity and Change in Franco-African Relations," *Journal of Modern African Studies* 33, 1, 1995, pp. 1-20.

⁴³ Paul Melly and Vincent Darracq, "A New Way to Engage? French Policy in Africa from Sarkozy to Hollande," *Chatham House*, May 2013, pp. 4.

⁴⁴ Paul Melly and Vincent Darracq, "A New Way to Engage? French Policy in Africa from Sarkozy to Hollande," *Chatham House*, May 2013, pp. 3-4.

for a permanent seat on the UN Security Council),⁴⁵ the central geopolitical message that President Sarkozy conveyed at the Summit was that France should speak for Africa and adopt a leadership role. Indeed, the change in policy that Sarkozy promised was couched in rather ambiguous language. Sarkozy pledged that he would “renegotiate” defence pacts with Africa. However, this was followed by the caveat that France would work with Africa to provide the “security system that Africa needs.”⁴⁶ In the three years following Sarkozy’s pledge, France has negotiated additional defence agreements⁴⁷ and increased its role in stabilising conflicts in the Gulf of Guinea – particularly in Cote d’Ivoire, Mali and the Central African Republic. France has also unequivocally declared Nigeria’s extremist group, Boko Haram, as a threat to its interest in the Gulf of Guinea region, and offered assistance to Nigeria to counter the group’s hostile activities.⁴⁸

Hence, to engage in a discussion of France’s maritime interest in the Gulf of Guinea is to focus on only one half of the picture. After all, the desire to dominate trade and control sea routes in the region underpinned colonial rule.⁴⁹ France is still a major trading partner in the Gulf of

⁴⁵ For commentary on the Summit see Robert Marquand and Scott Baldauf, "President Sarkozy urges revamped trade ties at Africa-France Summit " *The Christian Science Monitor* 1 June 2010.

⁴⁶ "French to Renegotiate Military Accords with Africa: Sarkozy," *The Sydney Morning Herald*, 29 February 2008.

⁴⁷ Côte d'Ivoire President Ouattara to sign military accord on Paris Visit, 25 January 2012, Available: <http://www.english.rfi.fr/africa/20120125-cote-divoire-president-ouattara-sign-military-accord-paris-visit>, 29 September 2012. On recent France-Cameroon defence and security relations, see Juliette Rousselot, "The Impact of French Influence on the State of Democracy and Human Rights in Cameroon," *Cameroon Journal of Democracy and Human Rights* 1, 4, 2010, pp. 51-79.

⁴⁸ "France to help Nigeria with Boko Haram militants," *DefenceWeb*, 14 November 2011.

⁴⁹ David Eltis and Lawrence C. Jennings, "Trade between Western Africa and the Atlantic World in the Pre-Colonial Era," *The American Historical Review* 93, 4, 1988 pp. 936-59.

Guinea, accounting for a quarter of EU investment in Africa in 2008, and it is also a recipient of half of Africa's investment in Europe.⁵⁰ The analysis in chapter two has also highlighted France's interest in Gulf of Guinea oil and gas resources, as well as the region's fisheries resources.

Maintaining order, control and security in the Gulf of Guinea should therefore be both a necessity for France and a demonstration of its status. The optimal foreign policy for France would be to assume a leadership role in all matters of security in Africa, with the country's ideal fallback position being not to relinquish that leadership role in any of its former colonies.⁵¹ It also needs to be emphasised that preserving this leadership role on maritime security, as well as other matters, is not just what France seeks for itself. It fits into the broader geopolitical interest of political leadership, particularly in Francophone Gulf of Guinea, where States seek to maintain a strong relationship with France.⁵²

⁵⁰ European Commission and African Union, *Africa-EU - economic indicators, trade and investment for 2008/2009* (European Commission 2009). On France's trade relations, see Ralph A. Austen, *Trans-Saharan Africa in World History*, Oxford Oxford University Press, 2010. Ralph A. Austen, *African economic history: internal development and external dependency*, London Heinemann, 1987.

⁵¹ See Tony Chafer, "French African Policy: Towards Change," *African Affairs* 91, 1992, pp. 37-51. John Chipman, *French Power in Africa*, Oxford Blackwell, 1989. Daniel Bach, "Francophone Regional Organization and ECOWAS", in Julius Okolo and Stephen Wright, eds. *West African Regional Cooperation and Development*, Oxford, Westview Press, 1990, pp. 54-55. Daniel Bach, "The Politics of West African Co-Operation: CEAO and ECOWAS," *Journal of Modern African Studies* 21, 4, 1983, pp. 605-30.

⁵² Jean-François Bayart, *La Politique Africaine de François Mitterrand*, Paris Karthala, 1984, p. 44-45.

7.3.2 France's Framework for Maritime Security Cooperation in the Gulf of Guinea

France has existing defence pacts and cooperative relationships with all Francophone States in the Gulf of Guinea.⁵³ The *Accord de Coopération* is the framework agreement protecting France's strategic interest in the region. The document also forms the basis for defence and security assistance.⁵⁴ The Accords generally uphold the authority of the Francophone State over internal security and external defence, with the proviso that France may be requested to play a role in both.⁵⁵ The Accords also underpin maritime cooperative initiatives, such as the establishment of the naval academy in Cote d'Ivoire, which serves as a training institution for all surrounding Francophone States.⁵⁶ Furthermore, the Accords provide for access to ports and the permanent deployment of forces (*mission de présence*), including naval components.⁵⁷

Following an increase in piratical incidents in the Gulf of Guinea in 2012, France deployed a surveillance frigate to the region and announced

⁵³ Shaun Gregory, "French Military in Africa: Past and Present " *African Affairs* 99, 2000, pp. 435-48, p. 438.

⁵⁴ Rachel Utely, "Not to Do Less but to Do Better: French Military Policy in Africa," *International Affairs* 78, 1, 2002, pp. 129-46, p.41.

⁵⁵ For a critique of these Accords, see, Phillipe Vasset, "The Myth of Military Aid: The Case of French Military Cooperation in Africa " *SAIS Review of International Affairs* 17, 2, 1997, pp. 165-80.

⁵⁶ The naval academy, *Ecole Militaire Préparatoire Technique* (EMPT), is located at Bingerville, Cote d'Ivoire, and was established by France as a regional merchant marine/naval training centre before Cote d'Ivoire gained independence. It was transferred to Cote d'Ivoire in 1961, but is still supported by France.

⁵⁷ See Rubin Luckham, "French Militarism in Africa " *Review of African Political Economy* 24, 1982, pp. 55-84. Shaun Gregory, "French Military in Africa: Past and Present " *African Affairs* 99, 2000, pp. 435-48.

anti-piracy training with Benin and Togo.⁵⁸ Earlier reports of a planned sea exercise with Gulf of Guinea States (including Ghana), signalled that France intended to expand its maritime security partnership in the region.⁵⁹

Beyond these measures, however, there is very little output from France towards enhancing maritime security in the region, both in terms of a precise policy framework and specific financial and logistics support. In an address to the UN Security Council in 2012, France promised to spend US\$ 1.6 million to reform the maritime security sectors of Togo, Benin and Ghana under a Priority Solidarity Fund.⁶⁰ Nonetheless, France still commands a privileged position in charting maritime security cooperation in the Gulf of Guinea. Therefore, any attempt - whether actual or perceived - to dislodge that leadership role will have implications for the progress of maritime security cooperation in the Gulf of Guinea. These dynamics are analysed in the evaluation of the challenges and limitations to external engagements in Part 7.7.

⁵⁸ "Nigeria pirates kidnap 6 Russians, one Estonian," *DefenceWeb*, 17 October 2012. Previous patrols by the French Navy in the Gulf of Guinea have led to the seizure of narcotics, including 800 kilograms of cocaine in 2007 and 2.5 tons of cocaine off the coast of Liberia in 2008. See UNOCD, *Cocaine Trafficking in Western Africa: Situation Report*, October 2007, p.14. See also "French Navy in Big Cocaine Seizure off West Africa," 1 February 2008, <http://www.stuff.co.nz/world/248016/French-navy-in-big-cocaine-seizure-off-West-Africa>, accessed 4 June 2012.

⁵⁹ See Ghana Government Official Portal, "Ghana, French Navy Undertake Joint Exercise," 22 January 2010, http://www.ghana.gov.gh/index.php?option=com_content&view=article&id=1165:ghana-french-navy-undertake-joint-exercise-&catid=28:general-news&Itemid=162, 11 November 2011.

⁶⁰ United Nations, Security Council 6723rd Meeting, 27 February 2012, p. 10.

7.4 UNITED KINGDOM AND GULF OF GUINEA MARITIME SECURITY

This section will examine the maritime security interest of the United Kingdom (UK) in the Gulf of Guinea, and also assess the country's maritime security cooperative framework for the region.

7.4.1 Status of the United Kingdom as a Maritime Nation and its Strategic Interest in Maritime Security

The status of the UK as a maritime nation is incontrovertible in both historical and contemporary terms. Indeed, this maritime destiny underscored the UK's *Mare clausum* crusade in 1635. As illustrated in chapter three, the *Mare clausum* principle was advocated by the UK to justify its exercise of exclusive sovereignty over the belt water contiguous to its coast for security purposes. In essence, therefore, the principle of *Mare clausum* is in direct opposition to *Mare librum* (the freedom of the seas concept), which was the dominant principle of the time. However, in the negotiations leading up to the adoption of UNCLOS in 1982 (in which the vicissitudes of *Mare clausum* were to find expression in an extended territorial sea and vested rights in the EEZ), the UK was again worried that the evolving regime would result in the “nationalization of roughly two-thirds of the earth's surface.”⁶¹

Although these two policy positions appear contradictory at first glance, they are both understandable and reconcilable from the perspective of

⁶¹ Statement attributed to former British Prime Minister Margaret Thatcher, as quoted by David Miliband, UK Member of Parliament for South Shields, in a recent presentation to celebrate the 30th Anniversary of the Law of Sea Convention. See Maritime UK, *Guest post: David Miliband on the Law of the Sea*, December 12, 2012, Maritime UK, <http://www.maritimeuk.org/2012/12/guest-post-countries-can-accomplish-great-things-together/>, 16 April 2013.

maritime nations. *Mare clausum* was championed to secure the immediate sea boundaries of the UK (in addition to other strategic reasons).⁶² But the antithesis to *Mare clausum*, the concept of *Mare liberum*, was equally crucial for British maritime trade and future naval power.⁶³

Today, as in earlier times, the UK is a dominant maritime nation. Indeed, London is the citadel of a maritime industry spanning ship ownership, ship operators, cargo interests, insurance companies, financial institutions and maritime security companies. The contribution of the maritime industry to the GDP of the UK in 2011 has been estimated at £31.7 billion.⁶⁴ Moreover, this figure may well represent just a fraction of the economic gains that the UK makes from the sea. Therefore, while the UK, like any other nation, has a vested interest in its own maritime domain, the security of the world's oceans (and the corresponding maritime activities that ensure this security), constitute the real strategic interest of the UK. The 2009 UK National Security Strategy has, in fact,

⁶² In addition to security concerns, it has been argued that the doctrine of *mare clausum* was intended to prevent Dutch fishers from coming close to UK waters, thus allowing the UK to develop its fishing industry and subsequently draw on fishing sector skills to enhance the capability and might of the Royal Navy. See Richard Barnes, "Revisiting the Public Right to Fish in British Waters," *International Journal of Marine and Coastal Law* 26, 2011, pp. 433-61.

⁶³ Generally on the maritime interest of the UK, see also Colin S. Gray, Maritime Strategy and British National Security, *Paper presented at The RUSI Future Maritime Operations Conference*, London, 3-4 June, 2009. Barry M. Gough, *Gunboat Frontier: British Maritime Authority and Northwest Coast Indians 1846-1849* Vancouver University of British Columbia Press 1984.

⁶⁴ See Oxford Economics, The economic impact of the UK Maritime Services Sector (Maritime UK, December 2012).

identified this particular interest as needing protection in order for the continued prosperity of the UK and its citizens.⁶⁵

7.4.2 United Kingdom Cooperative Maritime Strategy for the Gulf of Guinea

Compared to France, the UK has an arguably less paternalistic posture and interest in its colonial heritage.⁶⁶ Nonetheless, there are still very important strategic interests for the UK to protect in the Gulf of Guinea, including oil and gas resources (which have been analysed in chapter two). The 2010 UK Defence and Security Review outlined a range of risks in the region, including political instability and piracy, which endanger UK strategic interests and require the adoption of effective response measures.⁶⁷ In this respect, the core requirements would be to protect critical offshore infrastructure and facilitate the uninterrupted supply of oil and gas resources from the region into the global market.⁶⁸ The Defence and Security Review also highlighted drug trafficking and other transnational organised crimes as security threats that need to be addressed in the Gulf of Guinea.⁶⁹

⁶⁵ See pages 99-102, United Kingdom, National Security Strategy of the United Kingdom: Updated 2009 (June 2009).

⁶⁶ Christopher Clapham, *Africa and the International System: The Politics of State Survival*, Cambridge University Press, 1996, p. 88. Paul Williams, "Britain and Africa After the Cold War", in Ian Taylor and Paul Williams, eds. *Africa in International Politics: External Involvement on the Continent*, London and New York, Routledge, 2004, pp. 41-60 at p.43.

⁶⁷ United Kingdom, Strategic Defence and Security Review 2010, Cm 7948: October 2010, p. 50.

⁶⁸ United Kingdom, Strategic Defence and Security Review 2010, Cm 7948: October 2010, p. 50. See also Sam Raphael and Doug Stokes, "Globalizing West African oil: US 'energy security' and the global economy," *International Affairs* 87, 4, 2011, pp. 903-21.

⁶⁹ United Kingdom, Strategic Defence and Security Review 2010, Cm 7948: October 2010, P.44.

With the above strategic and maritime security interests, the UK is expected to contribute to maritime security in the Gulf of Guinea in both specific and comprehensive ways. Indeed, for many years the UK has provided capacity building services for EEZ management through the Ghana Armed Forces Staff College, with participation from other African States.⁷⁰ The UK also supports military training and capacity building initiatives in Sierra Leone and Gambia.⁷¹ However, these initiatives fall short of the interventions required to address the maritime security situation in the region.

Recent reports have, however, indicated that the UK (in partnership with the private sector), is establishing a Gulf of Guinea Maritime Trade Information Sharing Centre (MTISC), which will be stationed in Ghana.⁷² Moreover, two Royal Navy ships, HMS *Dauntless* and HMS *Rover*, are said to have conducted patrols along the Gulf of Guinea in 2012, providing training to navies and coastguards in the process.⁷³ The same source has also indicated that the UK is providing assistance to ECOWAS to develop a cooperative maritime security strategy.⁷⁴ These

⁷⁰ This training is carried out under the UK's International Military Assistance Training Team (IMATT) Project. The 2-3 week course covers EEZ management issues including pollution control, fisheries management and various aspects of law enforcement at sea. The author of this thesis has been both a participant and an instructor in the EEZ management course.

⁷¹ See UK News, "UK military train Sierra Leone maritime Defence force", 10 August 2011, <https://www.gov.uk/government/news/uk-military-train-sierra-leone-maritime-defence-force>, 17 January 2012.

⁷² *The Royal Navy's Response to Maritime Security concerns off West Africa*, Nautilus International, Available: <https://www.nautilusint.org/atwork/pages/RoyalFleetAuxiliary.aspx>, 24 January 2013.

⁷³ *The Royal Navy's Response to Maritime Security concerns off West Africa*, Nautilus International, Available: <https://www.nautilusint.org/atwork/pages/RoyalFleetAuxiliary.aspx>, 24 January 2013.

⁷⁴ *The Royal Navy's Response to Maritime Security concerns off West Africa*, Nautilus International, Available: <https://www.nautilusint.org/atwork/pages/RoyalFleetAuxiliary.aspx>, 24 January 2013.

interventions may mark the beginning of the UK bringing strong assets and capabilities to the maritime security table – assets and capabilities which the 2009 National Security Strategy touted as being available within the UK defence system to address security threats within and outside the UK.⁷⁵

7.5 THE EUROPEAN UNION AND GULF OF GUINEA MARITIME SECURITY

Although the analysis in the last two Parts has extensively covered two key States of the EU - France and the UK, it is still important to examine the relationship between the EU and the Gulf of Guinea in the context of maritime security cooperation. There are multiple reasons why this is crucial, but two factors will help illustrate the point. First, analysing the maritime security objectives of the EU in the Gulf of Guinea will reflect the wider European approach. Second, the EU has institutional maritime relations with Gulf of Guinea States, so it is necessary to assess the corresponding contribution that the EU brings to maritime security cooperation in the region.

7.5.1 Maritime Interest of the European Union in the Gulf of Guinea

The analysis in the previous chapters has outlined the maritime security interest of the EU in the Gulf of Guinea. Chapter two discussed both energy security and access to fisheries resources. Chapter three

⁷⁵ United Kingdom, National Security Strategy of the United Kingdom: Updated 2009, Cm 7590: June 2009, p.101.

examined the mutual interest of the EU and Gulf of Guinea States in combating transnational organised crime (with a particular emphasis on illicit narcotics trafficking and illegal migration by sea). Chapter four demonstrated the global impact of piratical attacks, while chapter five reinforced concerns surrounding illegal migration by examining the complications encountered by the EU and Gulf of Guinea States in seeking to harmonise their respective legal frameworks. The next section will therefore focus on the cooperative strategies, frameworks and contributions of the EU to maritime security in the Gulf of Guinea.

7.5.2 EU Maritime Security Cooperative Framework in the Gulf of Guinea

In 2005, the Chiefs of the European Navies (CHENS) released a strategic document titled “Vision for the Future Role of European Maritime Forces”.⁷⁶ Although the document identified Sub-Saharan Africa as a region where EU maritime forces will play a role in the future, it fell short of identifying how the contemplated responses will be executed.⁷⁷ In 2010 a second concept paper was released, highlighting new areas and regions where piratical attacks and acts of maritime violence are on the increase, thus posing a serious threat to global shipping.⁷⁸ Although the Gulf of Guinea was not explicitly mentioned in the paper, the profile and description of the piratical activities closely

⁷⁶CHENS, A Vision for the Future Role of European Maritime Forces, <http://www.chens.eu/products/ENV%202025.pdf>, accessed 19 June 2012.

⁷⁷CHENS, A Vision for the Future Role of European Maritime Forces, <http://www.chens.eu/products/ENV%202025.pdf>, accessed 19 June 2012, p.16.

⁷⁸CHENS, Maritime Operational Concept, 13 August 2010, p.5, http://www.chens.eu/products/CHENS_MOC_2010.pdf, accessed 19 June 2012.

resemble those in the Gulf of Guinea region. In the same year, the European Council called on the EU to actively contribute to a stable and secure global maritime environment.⁷⁹

These developments can be viewed as antecedents to the Critical Maritime Routes in the Gulf of Guinea (CRIMGO) project, which was launched by the EU in January 2013.⁸⁰ The €4.5 million project is designed to improve safety and security off the coasts of seven Gulf of Guinea States – namely, Benin, Cameroon, Equatorial Guinea, Gabon, Nigeria, São Tomé and Príncipe and Togo. As the analysis in chapter four has shown, the CRIMGO project covers both traditional and emerging high-risk piracy areas in the Gulf of Guinea.⁸¹ Therefore, the programme has the potential to enhance the counter-piracy capacity of Gulf of Guinea States. It is also appropriate that the scheme comes under the thematic Instrument for Stability (IfS), which links issues of instability and transnational threats with development concerns. The EU Africa Peace Facility (APF) that supports stability programmes in Africa (including peacekeeping missions), also falls within the ambit of the IfS.⁸² Thus, by locating the CRIMGO project and APF in one thematic instrument, the EU and Gulf of Guinea States have an opportunity to

⁷⁹ “Council Conclusions on Maritime Security Strategy,” 3009th Foreign Affairs Council Meeting, Luxembourg, 26 April 2010, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/113998.pdf, 8 June 2012.

⁸⁰ European Commission, New EU initiative to combat piracy in the Gulf of Guinea, Press release Ref IP/13/14, Brussels, 10 January 2013. See also “New EU initiative to combat piracy, January 11, 2013 by jo.chuter, Maritime Security Review.

⁸¹ See Chapter 4, especially the analysis on piracy hotspots, enclaves and the evolution of piratical attacks.

⁸² Since the establishment of the APF in 2004, over €740 million is said to have been spent with about € 600 on peacekeeping alone. See http://ec.europa.eu/europeaid/where/acp/regional-cooperation/peace/index_en.htm, accessed 27 September 2007.

synergise policy responses, thereby increasing the prospects for success of the two projects.

However, despite these purported strengths, there are major limitations associated with the substantive outcomes of the CRIMGO project and its conceptual underpinnings. This is factored into the analysis of the challenges and limitations of international support for maritime cooperation in the last part of the chapter.

7.6 CHINA AND GULF OF GUINEA MARITIME SECURITY

China features prominently in almost every discussion on evolving patterns in the global community. Thus, an analysis of future maritime security cooperation in the Gulf of Guinea must take into account the role that China could play. Indeed, as the summary below shows, China has strategic interests to protect in the region.

7.6.1 China's Maritime Security Interest in the Gulf of Guinea.

China's offshore energy interest in the Gulf of Guinea, as well as its fishing interest in the region, has been extensively outlined in chapters two and three. These interests, together with trade and other economic activities, constitute vital interests that can be endangered by increasing insecurity in the Gulf of Guinea. Indeed, after claiming responsibility for a bomb explosion near an oil refinery in 2006, the leadership of MEND warned the Chinese government and its oil companies to stay away from

the Niger Delta region. The militant organisation further stated that the Chinese government would be “placing its citizens in [MEND’s] line of fire” by investing in Niger Delta oil resources.⁸³

It is thus logical to expect China to have a strategic outlook on Gulf of Guinea maritime security, and in particular, to contribute towards enhancing maritime security in the region. However, unlike the other external actors that have been discussed in this chapter, China has unique challenges in seeking inclusion in the evolving maritime security initiatives in the Gulf of Guinea. In a strategic context, therefore, these difficulties translate as challenges to maritime security cooperation in the Gulf of Guinea. Since these issues cannot be ignored, it is important to understand the context within which China’s difficulties arise before analysing the geostrategic ramifications of China’s position in detail.

Generally, the contribution of a non-regional State in enhancing maritime security in the Gulf of Guinea may take one of four forms: training and military exercises, defence and security agreements, logistics support, or the execution and enforcement of maritime security rights under international law. The analysis in this chapter has shown that the maritime security engagements of the US, France, the UK and the EU are based on these channels. For example, the partnerships and engagements of the US and France are generally based on the first three

⁸³ See Julie Ziegler, "Nigerian Militants Claim Bomb Attack, Warns Chinese Companies," *Bloomberg*, 29 April 2006. Gal Luft and Anne Korin, *Energy Security Challenges for the twenty-first Century*, California Greenwood Publishing Group, 2009, p. 249. See also US Congressional Research Service, "Nigeria: Current Issues," Updated January 30, 2008.

options, while the fourth option is invoked when the tides of insecurity are high and key strategic interests are at risk. But where does this leave China? How does China relate to these four options?

7.6.2 China's Opportunities and Challenges in Participating in Gulf of Guinea Cooperative Frameworks

Although China does have general military-to-military relations with some Gulf of Guinea States,⁸⁴ it has no defence or security arrangements in the region. Indeed, the naval component of China's military, the People's Liberation Army-Navy (PLA-Navy), has neither a sea presence nor a record of joint training exercises in the Gulf of Guinea.⁸⁵ Recent counter-piracy deployments off the coast of Somalia have provided an opportunity for the PLA-Navy to gain experience on longer deployments and multilateral operations on African shores, but this represents an exception to the prevailing situation.⁸⁶ Furthermore, it is unlikely that the status quo will change anytime soon, mainly because of interoperability issues like doctrinal differences, as well as language and cultural barriers.

⁸⁴ Typical in this regard are offers of scholarships and training courses. Ghanaian officers, for instance, often undertake courses in Chinese training institutions.

⁸⁵ Generally on the Chinese Navy, see United States, *The People's Liberation Army Navy: A Modern Navy with Chinese Characteristics*, U.S. Office of Naval Intelligence, August 2009, Xu Qi, "Maritime Geostrategy and Development of the Chinese Navy in the Early Twenty-first Century " *China Military Science* 17, 4, 2004, pp. 74-81. See English translation by Andrew S. Erickson and Lyle Goldstein, *Naval War College Review* 59, 4, 2006. See also United States, *The People's Liberation Army Navy: A Modern Navy with Chinese Characteristics*, U.S. Office of Naval Intelligence, August 2009.

⁸⁶ "Escort Mission tests the Chinese Navy," *People's Daily*, 7 January 2009 . "Sailing to strengthen global security " *China Daily*, 26 December 2008. See also "Three-Point Naval Strategy," *IJSS Strategic Comments* 16, October 2010. Andrew Erickson and Lyle Goldstein, "Gunboats for China's New 'Grand Canals'?", *Naval War College Review* 62, 2, 2009, pp. 43-76.

China may, however, resort to logistics support or sales as a means of getting a footing in the Gulf of Guinea maritime security cooperative framework. Indeed, there are signs that this option is already being vigorously pursued. At a general level, China's defence sales to Africa have increased in the last two decades,⁸⁷ due largely to the low cost of hardware and attractive terms of payment.⁸⁸ In 2006 the Nigerian Navy ordered maritime patrol vessels from China, and in 2011 Ghana accepted delivery of four Chinese-built vessels. China also donated a riverine craft to DR Congo in 2011, and is reported to have offered a grant to Benin for the purchase of patrol boats.⁸⁹ And although there are debates surrounding the quality of Chinese defence equipment, these 'deliveries' represent an important contribution to maritime security regime building, particularly if one considers the poor state of logistics in the Gulf of Guinea region.⁹⁰

Logistics sales and support cannot, however, be a comprehensive solution to the types of threats the Chinese interest is exposed to in the Gulf of Guinea. A Chinese flagged ship carrying strategic cargo for

⁸⁷ Official data on defence sales, especially from China, are generally classified. The author's comments on this issue have thus been informed by public commentaries and general information, including from the sources cited in this footnote. See Ian Taylor, "China's oil diplomacy in Africa," *International Affairs* 82, 5, 2006, pp. 937-59. See also *Stemming Chinese Arms Sales to Africa*, March 2010, Defense Viewpoints, Available: <http://www.defenceviewpoints.co.uk/articles-and-analysis/stemming-chinese-arms-sales-to-africa>, 28 September 2012.

⁸⁸ Some commentators have expressed the view that African States are not getting value for money due to the poor quality of Chinese military hardware. See Richard A. Bitzinger, "Arms to Go: Chinese Arms Sales to the Third World," *International Security* 17, 1992, pp. 84-111. Wei-Chin Lee, "The Birth of a Salesman: China as an Arms Supplier," *Journal of Northeast Asian Studies*, 1987-88.

⁸⁹ See, "Nigeria-Benin anti-piracy patrols 'successful'" *DefenceWeb*, 18 October 2011, p. 3.

⁹⁰ For debates and views on the poor quality of Chinese military hardware, see Richard A. Bitzinger, "Arms to Go: Chinese Arms Sales to the Third World," *International Security* 17, 1992, pp. 84-111. Wei-Chin Lee, "The Birth of a Salesman: China as an Arms Supplier," *Journal of Northeast Asian Studies*, 1987-88.

China may be hijacked by pirates in the Gulf of Guinea. How will China be able to protect its interest in this scenario? This makes it imperative for China to explore possibly the last remaining avenue for protecting its interest – the exercise of enforcement rights under international law. However, this option presents fundamental legal and geostrategic challenges for China.

As analysed in chapter four, international law recognises the right of States to combat piracy on the high seas, and by extension, in the EEZ. International law also grants authority to military ships to exercise the right of visit in the process of enforcing law and order at sea.⁹¹ Furthermore, a military ship may engage in hot pursuit where the circumstances so permit.⁹² These rights, which are undoubtedly important tools for maritime security enforcement, are very much dependent on an equally important right or doctrine – the freedom of navigation. Indeed, this right is guaranteed to all States under international law.⁹³ And although the specific rights mentioned above cannot be exercised in the territorial sea, military vessels can deter criminal activities (including piratical attacks) in the territorial sea simply by exercising the right of innocent passage.⁹⁴

⁹¹ The right of visit simply means that the personnel of a military ship may stop, board and inspect a commercial ship on suspicion of an offence having been committed. See UNCLOS, Article 110.

⁹² UNCLOS, Article 111.

⁹³ UNCLOS, Articles 87 and 92.

⁹⁴ On the right of Innocent Passage in the territorial sea, see Article 19.

However, the freedom of the seas doctrine, and by extension the doctrine of freedom of navigation, may be regarded as hegemonic tools,⁹⁵ with States ascribing to this view possibly limiting the passage rights of other States off their coasts.⁹⁶ Indeed, this accords with China's strategic view, with China opposing some military activities in the EEZ, and taking the additional position that sovereignty jurisdiction in the territorial sea entitles China to receive notification for the passage of military vessels.⁹⁷ Strategically, therefore, China will shy away from prosecuting any maritime security enforcement rights off the coast of the Gulf of Guinea, as doing so would contradict its legal and strategic position on the law of the sea. It is equally unlikely that China will advocate freedom of navigation as the basis for maritime security measures in the Gulf of Guinea, because again this would not be in conformity with its core strategic principles, especially the policies of non-interference, peaceful rise, as well as the principle of development without hegemony.⁹⁸

⁹⁵ On the freedom of the seas doctrine as a hegemonic tool, as well as the politics of the sea, see Pirtle and Richardson respectively. Charles E. Pirtle, "Military Uses of the Ocean and the Law of the Sea in the New Millennium " *Ocean Development and International Law* 31, 2000, pp. 7-45. Elliot L. Richardson, "The politics of the law of the sea," *Ocean Development and International Law* 11, 1-2, 1982, pp. 9-23.

⁹⁶ Barbara Kwiatkowska, "Creeping Jurisdiction Beyond 200 Miles in the Light of the 1982 Convention and State Practice," *Ocean Development and International Law* 22, 1991, pp. 153-87. Barry Buzan, "The Coastal State Movement", in Finn Laursen, ed. *Toward a New International Marine Order* Hague, Martinus Nijhoff, 1982, pp. 15-22.

⁹⁷ See China's Declaration upon ratification (7 June 1996), available at http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#China Upon ratification.

⁹⁸ Generally on China's peaceful rise without hegemony doctrine, see *China's Peaceful Rise: Speeches of Zheng Bijian 1997-2005* Washington D.C. Brookings Institution Press, 2005. Wen Jiabao, "Turning Your Eyes to China," 10 December 2003. Steven L. Horrell, *China's Maritime Strategy: Peaceful Rise?*, Pennsylvania United States Army War College, 2008. Ross Terrill, *The New Chinese Empire* New York Basic Books, 2003. Bruce Swanson, *Eighth Voyage of the Dragon* Annapolis Naval Institute Press, 1982.

Therefore, if the increasing piratical incidents in the Gulf of Guinea pose a major threat to China's interest, China will have to seek out options outside the four broad tools analysed above to meet its maritime security objectives. A possible solution for China would be to advocate for some form of UN authorised enforcement, similar to the UN Security Council resolutions for Somalia (which gave other States a mandate to implement counter-piracy measures). However, this course of action raises another set of strategic difficulties for China. The Chinese leadership has repeatedly emphasised that the participation of PLA-Navy in combating piracy off the Somali coast was a discharge of China's UN obligation and not an attempt to secure its own hegemonic interest.⁹⁹ These statements are meant to convey the message that China is acting consistently with its peaceful rise doctrine. Therefore, from a policy perspective, it is unlikely that China will publicly advocate for any UN authorised operations, although such a course of action would be in China's best interests.

It is argued that pragmatism will lead China down the path of silent diplomacy in three ways. First, China may covertly push for a UN-led initiative that prescribes counter-piracy measures. This opaque diplomacy will help disguise China's policy shift. For Gulf of Guinea States, however, authorised intervention by the UN should be the least preferable option, as it epitomises the failure of national and regional efforts. Authorised intervention could also be viewed as a hegemonic

⁹⁹ See Yang Yi, "Joining Anti-piracy Battle a Responsible Move," *China Daily*, 23 December 2008, "Experts Debate China's Role in Somalia Mission" *China Daily*, 12 December 2008. See also Mingjiang Li, "China's Gulf of Aden Expedition and Maritime Cooperation in East Asia," *China Brief* 9, 1, 12 January 2009.

tool by some States, especially Nigeria. China would thus need to mask its policy moves very carefully to avoid losing friends in the region. A second option would be for China to collaborate more closely with US and other Western States, or at the very least be less critical of their policies in the Gulf of Guinea, even if such action may look hegemonic. By so doing, China may be able to share in the dividends of Western initiatives without being accused of jettisoning its own geostrategic principles. Thirdly, China may support efforts by Gulf of Guinea States to adopt a regional solution in the hope that the regional approach may make room for the participation of non-regional States, including China. But whereas Western States will be able to substantially exploit regional approaches through historical relations and alliances, China has little room to manoeuvre in this regard.

It remains unclear how a possible Sino-Gulf of Guinea maritime security partnership would evolve beyond logistics support. But there is certainly realpolitik at hand, and China will continue to find itself in a difficult situation should piratical attacks continue to increase in the Gulf of Guinea. The problematic nature of China involvement in the region's maritime security framework will also affect the evolving geostrategic environment.

7.7 CHALLENGES AND LIMITATIONS OF INTERNATIONAL CONTRIBUTION TO MARITIME SECURITY IN THE GULF OF GUINEA

The analysis thus far has centred on the contribution that external actors have made (and continue to make) to maritime security in the Gulf of Guinea. The discussion has also identified issues and challenges that may impact on the participation of particular actors in the evolution of maritime security cooperation in the region.

This section examines the broad challenges and contending currents associated with the participation and contribution of external actors to maritime security regime building in the Gulf of Guinea. Four important themes underpin the analysis: (i) the geostrategic undercurrents between external actors; (ii) the inadequacy of external support for maritime security in the Gulf of Guinea; (iii) the selective approach to maritime security adopted by some external actors; and (iv) the governance-based obligations of Gulf of Guinea States regarding maritime security. While the focus of the discussion will be on the selected actors, the issues and challenges under investigation are capable of being extrapolated, albeit with modification, to cover actors outside the scope of this chapter.

7.7.1 Multiplicity and Coordination

The effectiveness of maritime security outcomes depends on coordination, not only in regard to regional efforts, but also in respect of support services provided by third-party sources. Indeed, external actors, donor agencies and relevant international organisations should engage

with Gulf of Guinea States on a harmonised platform. However, the analysis of the role and contribution of external actors in the region points to the unpacking of initiatives with little or no coordination. The likely result will thus be a duplication of effort and a less than optimal utilisation of resources.

It is tempting to view the multiple interventions by numerous actors as an opportunity for Gulf of Guinea States to build capacity. However, the reality may be far from ideal. Multiple interventions tend to overstretch national administrators, who are then required to respond to and implement diverse partnerships. This ultimately overcrowds national policy, adversely affecting maritime security decision-making and coordination.

7.7.2 Cooperation, Compromise or Competition?

The assessment in the preceding section suggests the need for a comprehensive approach to the intervention of the international community on maritime security issues. But as the analysis in chapter six has shown, the regional situation itself is less than cohesive, and this may partly account for the coordination deficit between external partnerships. However, the lack of coordination could equally be due to differences in the strategic interests of the actors, or even competing geostrategic objectives. Therefore, it is important to explore this subject in some detail.

Drawing on the analysis of the maritime security activities of the five actors (the US, France, the EU, the UK and China), as well as their corresponding geopolitical relationship with the Gulf of Guinea, it is possible that France is in geo-strategic competition with both its fellow EU States and the US. This puts France at the centre of maritime security geopolitics in the Gulf of Guinea. Thus, it is imperative to assess whether France will serve as an enabler or an obstacle to maritime security cooperation in the region. To phrase the question more directly: will France view the maritime activities of the US and the UK in the Gulf of Guinea as an opportunity or an impediment?

In asking the above question, the author is not seeking to discount the significance of some important ongoing cooperative initiatives in the region. Indeed, the issue is being raised with full awareness of the increasing cooperation between France, the UK and the US on issues of peacekeeping in Africa. Such cooperation has facilitated the implementation of the US African Contingency Operations Training and Assistance (ACOTA) Program, which was initially launched in 1996 as the African Crisis Response Initiative (ACRI).¹⁰⁰ The relationship

¹⁰⁰ The African Crises Response Initiative was initially announced and designated by the US in 1996 as the African Crises Response Force. It was conceived as a force of 10,000 troops to be financed and equipped by the US and partner Western States, and with a charter to intervene in conflicts in Africa. Following disquiet from some African leaders (including open criticisms by President Mandela), the word "Force" was substituted with "Initiative." Although the original concept did not materialise, ACRI still formed the basis of US capacity-building for a good number of African militaries, including training on peacekeeping skills. In 2002, ACRI was restructured and named the African Contingency Operations and Training Assistance (ACOTA) Program. Generally on ACRI/ACOTA see Paul Omach, "The African Crises Response Initiative: Domestic Politics and Convergence of national Interest," *Africa Affairs* 99, 2001, pp. 73-95. "An American in Africa ...but will the Force be?," *East African*, 14-20 October 1996. Kwesi Aning, "African Crisis Response Initiative and the New African Security (Dis)order," *African Journal of Political Science* 6, 1, 2001, pp. 43-67. David Buchman, "France Broadens African Policy Focus," *Financial Times*, 8 April 1997. United States, *African Contingency Operations Training and Assistance (ACOTA) Program*, 6 February 2013, Available: <http://www.state.gov/r/pa/prs/ps/2013/02/203841.htm>, 16 December 2013. See also Jason

between the three States has also led to joint military exercises in the Gulf of Guinea region, including *Exercise Guidimakha*, which focuses on peacekeeping and counter-insurgency,¹⁰¹ and *Exercise Obangame Express*, an annual maritime security enforcement exercise, the most recent of which was conducted in February 2013.¹⁰² On several occasions French personnel have also embarked on US ships deployed for the African Partnership Station (APS) in the Gulf of Guinea. Finally, one may point to counter-piracy operations in the Indian Ocean (where Western States have operated under the umbrella of Joint Task Force 51), as further evidence of France's willingness to cooperate with fellow Western States regarding maritime security in the region.¹⁰³

The above examples of cooperation do not, however, repudiate the possibility of competition between France and other external actors. As the discussion in this chapter and elsewhere has shown, maritime security co-operation may serve as a conduit for attaining wider strategic interests. Thus, when it comes to charting a course for maritime security in the Gulf of Guinea, competition cannot be discounted. Indeed, the

Motlagh, "The Trans Sahara Counter-Terrorism Initiative: U.S. takes terror fight to Africa's 'Wild West'," *Centre for Research on Globalization* 30 December 2005.

¹⁰¹ Examples include *Exercise Guidimakha* in February 1998 (involving France, the UK, the US, Mali, Mauritania and Senegal), and *Exercise Komienga* in April of the same year (with participation from Togo and neighbouring States). France alone facilitated *Exercise Cohesion Kozah* 2001 from April 18 to 24. The exercise was jointly held in Ghana and Togo with participating troops from other States, including Benin, Burkina Faso, Chad, Cote d'Ivoire, Mali, Niger, Nigeria and Senegal.

¹⁰² *Exercise Obangame Express* was a US-led maritime security exercise involving the US Navy and Navies of Gulf of Guinea States, with participation from other European States. *Exercise Obangame Express* 2013 was conducted off the Cameroonian coast from 19-28 February 2013.

¹⁰³ CTF 151 is a multinational naval task force of the US, Western States and other Partner Nations operating in the Indian Ocean with a specific counter-piracy mission in accordance UN Security Council Resolutions 1816, 1838, 1846, 1851 and 1897. Command of CTF-151 is rotated between participatory nations on a four to six month basis. See "Combined Maritime Forces" website, <http://combinedmaritimeforces.com/ctf-151-counter-piracy/>, accessed 17 October 2012.

contest is not so much about whether there is room for all actors to participate; it is chiefly about who should lead and who should follow. As analysed earlier, France has always taken the lead on security issues in Africa, and in 2013 France spearheaded multinational interventions into Mali and the Central African Republic. Therefore, it is extremely unlikely that France would willingly defer its leadership role when it comes to African waters to any other State. On the contrary, history has shown that France will seek to maintain its control in the region if it has the capacity to do so.

A decade ago, critical commentaries on international relations suggested that the increased integration of France into both the EU and the North Atlantic Treaty Organization (NATO) would reduce France's unilateral security engagement and quest for leadership in Africa.¹⁰⁴ Indeed, the 1998 Saint Malo Declaration between France and the UK was interpreted as having two cardinal objectives.¹⁰⁵ First, to motivate France to share defence and security roles in Africa with the UK, and second, as a precursor to the implementation of the Treaty of Amsterdam, which sought create a Common Defence and Security Policy for the EU.¹⁰⁶ However, evidence that France would not share its entrenched security

¹⁰⁴ Tony Chafer, "Franco-African Relations: No Longer So Exceptional?," *Africa Affairs* 101, 404, 2002, pp. 343-63.

¹⁰⁵ Saint Malo is a city in France along the English Channel. The "Joint Declaration on Cooperation in Africa," was signed on 4 December 1998 on board *HMS Birmingham* after a series of discussions which took place on 3- 4 December 1998, led by Foreign Ministers Robin Cook and Hubert Védrine.

¹⁰⁶ European Union, Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (Amsterdam 2 October 1997). On EU Common Defence and Security Policy and the St Malo Declaration, See Gulnur Aybet, "The European Defence and Security Policy: Capabilities and Institutions", in Yannis A. Stivachtis, ed. *The State of European Integration*, Aldershot Ashgate, 2007, pp. 19-40.

role in Africa with the UK would soon become apparent.¹⁰⁷ In 2002 France adopted a domestic policy framework on security and peacekeeping in Africa. And although the framework provided for the coordination of military action in Africa between France and other EU States, decisions concerning security and peacekeeping in Africa were reserved for France alone.¹⁰⁸ This affirms the view that despite an overt commitment to policy revision, cooperation and compromise, France is likely to revert to unilateral action when it comes to security policy in Africa. The St Malo Declaration itself was perhaps a strategic move by Paris to balance the increasing attention of Washington on Africa, and to also buoy its declining post-Cold War strength.¹⁰⁹

Thus, if France can prevent other Western States from playing a significant role in Gulf of Guinea maritime security, it will most likely do so. However, with AFRICOM assuming a formidable capability and presence in the region, the military power and underlying strategic objectives of the US can no longer be curtailed.¹¹⁰ Pursuing regional maritime security cooperation is a costly endeavour, and realistically, it

¹⁰⁷ For an analysis of the Saint Malo Declaration and the French response, see Maartjet Rutten, "From St Malo to Nice " *Institute for Security Studies Western European Union* Chaillot Paper 47, 2001. David Houghton-Carter, *The Saint-Malo Declaration and its impact on European Security and Defence Policy after 10 years*, 9 January 2009 Defence Viewpoints, UK Defence Forum, Available: <http://www.defenceviewpoints.co.uk/articles-and-analysis/the-saint-malo-declaration-and-its-impact-on-esdp-after-10-years>, 16 December 2013.

¹⁰⁸ On this point and further analysis of the St Malo Declaration, see Maartjet Rutten, "From St Malo to Nice," *Institute for Security Studies Western European Union*, Chaillot Paper 47, 2001.

¹⁰⁹ It should be noted that the ACRI initiative had been launched by the US in 1996. See Rachel Utely, "Not to Do Less but to Do Better: French Military Policy in Africa," *International Affairs* 78, 1, 2002, pp. 129-46, p.41. See also JAC Lewis, "France Looks for Ways to Keep its African Influence Intact," *Jane's Defence Weekly* 26, 17 1996.

¹¹⁰ See generally Sean McFate, "U.S. Africa Command: A New Strategic Paradigm?," *Military Review* 88, 1, January-February 2008. Tristan McConnell, "U.S. military expands role in West Africa," *The Christian Science Monitor*, 2008.

is the US that has the personnel and resources to carry out such an operation. It can be inferred from the US programmes and engagements examined earlier in this chapter that Washington is poised for the top leadership position in Africa among extra-regional players.¹¹¹ This is where the US may be viewed as undoing France in its *pré carré* (sphere of influence).

According to the renowned Franco-Africa relations expert, Jean-François Bayart, France has always feared the undesirable effect of American influence in Africa.¹¹² This fear may have become a reality for France, because although existing defence and security agreements (*Accord de Cooperation*) provide significant leverage for France, the absence of similar agreements cannot completely constrain US seapower in the Gulf of Guinea. From a legal perspective, the US can rely on international law rights and obligations (including the freedom of navigation and the duty to suppress piracy) to pursue its maritime security objectives. Logistically, the US also has the platform and resources to sustain its security initiatives, and more importantly, international legitimacy from emerging UN Security Council Resolutions. Furthermore, the inability of Gulf of Guinea States to safeguard their own region, coupled with the US-led Somali counter-piracy experiment, are veritable public opinion tools for the US.¹¹³

¹¹¹ AFRICOM has engaged and sponsored many of the conferences and training programmes of EECAS and ECOWAS. See news items on ARICOM website <http://www.africom.mil/articleArchives.asp>.

¹¹² Jean-François Bayart, "Reflexion sur la politique africaine de la France," *Politique Africaine* 58, 1995, pp. 41-51, p. 49.

¹¹³ In this regard, the testimony of US Assistant Secretary of Defence for Special Operation, Mr Michael Sheehan, to the US Senate Armed Services Subcommittee regarding the capability of West

This evolving geostrategic environment can be viewed as a contest between a regional power whose presence on land is undisputable, and a global power that is forward-deployed in the littorals. All things being equal, Paris will remain committed to ECOWAS and ECCAS as platforms of action, while hoping that Washington keeps its burgeoning maritime security influence at an even keel. The diplomatic language from the Elysée Summit for Peace and Security in Africa will be that Gulf of Guinea States should be allowed to find a regional solution. As Mr Araud of France asserted during a UN Security Council debate: “it is up to [Gulf of Guinea] States...to identify a regional strategy”¹¹⁴ Of course, if France has any involvement in this “regional strategy”, it will undoubtedly involve France in a stewardship role. If, however, the battle for the control of regional institutions falls into the hands of the US, the most plausible policy choice for France would be to eschew a structured approach to regional maritime security cooperation in favour of more flexible arrangements. Indeed, in a US-France leadership struggle, France would likely seek to keep its continental authority intact, or at the very least secure its Francophone enclave.

African States to deal with recent conflict in Mali is instructive: “Right now, the ECOWAS force isn't capable at all. What you saw there, it is a completely incapable force. That has to change.” See “ECOWAS force in Mali is ‘incapable’: US official,” *Associate Free Press*, 9 April 2013. See also Dawit Giorgis, *Absent from Africa*, 13 August 2013, *The National Interest*, Available: <http://nationalinterest.org/commentary/absent-africa-8873>, 6 September 2013.

¹¹⁴ Submission of Mr Araud, France’s representative during a Security Council debate on piracy in the Gulf of Guinea: “Our political objective must clearly be to support the Gulf of Guinea States, which bear the primary responsibility for ensuring security of the maritime spaces within their jurisdiction. In this context, it is up to those same States...and regional organisations – ECOWAS, ECCAS and GGC - to identify a regional strategy.” See United Nations, Security Council 6723rd Meeting, 27 February 2012, p. 10.

However, it is important to note that there are other States that may challenge the superiority of France in the Gulf of Guinea. For example, the UK has its own provinces in the region, Nigeria is a sub-regional power to contend with, while China may possibly gain some ground in the very near future. It is in this way that the convergence of maritime security interests, national strategic objectives, as well as geopolitical counterbalancing can hold back the progress of regional maritime security cooperation and the delivery of human security imperatives.

7.7.3 In Search of Inclusive Maritime Security

The analysis in the last section focused on the geostrategic aspects of maritime security cooperation in the Gulf of Guinea. But even where the discussion is confined to maritime security *simpliciter*, there are still important edges to smooth out. “Maritime security” means different things to different partnership players. As a result, it is important to deconstruct the evolving cooperative initiatives so that the security inclinations of the various actors are made apparent.

Although the stated objective of the EU CRIMGO programme is to address maritime security concerns in Critical Maritime Routes in the Gulf of Guinea, the coasts of Guinea and Sierra Leone (which are high-risk piracy areas) are not included in the project.¹¹⁵ It is also curious that the rich fisheries area of the Gulf of Guinea (from Senegal to Liberia), where the EU has many fishing access agreements, has been excluded

¹¹⁵ Piracy trends in the Gulf of Guinea have been examined in chapter 4.

from the project.¹¹⁶ Indeed, this region is synonymous with IUU fishing activities.¹¹⁷ It is worth restating that in 2012 depleting fisheries stocks led to threats by Senegalese fishermen to resort to piracy if the government failed to address IUU fishing and foreign fishing licensing.¹¹⁸

The analysis in chapter three has demonstrated the overlap between sustainable fisheries, fisheries access and licensing arrangements, food security, maritime security, and the stability of the Gulf of Guinea region.¹¹⁹ Indeed, the EU should be interested in addressing these links, as EU fishing access arrangements form a significant part of the equation. However, the geographic scope of the CRIMGO project unfortunately stops short of that sub-region. Moreover, a good number of States in that enclave, particularly Liberia, Sierra Leone, Guinea and Guinea Bissau, suffer multiple setbacks – poverty, weak institutions and drug trafficking. If one considers that the EU thematic Instrument for Stability is the funding source for the CRIMGO initiative,¹²⁰ it is rather

¹¹⁶ On the economic importance of fisheries to this area, see Jacqueline Alder and Ussif Rashid Sumaila, "Western Africa: A Fish Basket of Europe Past and Present," *Journal of Environment & Development*, 13, 2, June 2004, pp. 156-78. See also FAO Yearbook of Fisheries, "Total value of international trade of seven Fishery Commodity groups, by Continent, by Countries or Areas," 2008, pp. 52-53. See FAO Yearbook of Fisheries, "Total value of international trade of seven Fishery Commodity groups, by Continent, by Countries or Areas," 2008, pp. 52-53.

¹¹⁷ See chapter 3.

¹¹⁸ See chapter 3. See also John Vidal, "Senegal's fishing community will act on foreign fleets if government doesn't," 2 April 2012, <http://www.guardian.co.uk/global-development/2012/apr/02/senegal-fishing-community-act-foreign-fleets> (accessed on 26 September 2012). See also John Vidal, "Will overfishing by foreigners drive Senegalese fishermen to piracy?" *The Guardian*, 3 April 2012, <http://www.guardian.co.uk/global-development/poverty-matters/2012/apr/03/overfishing-foreigners-senegal-fishermen-piracy>, (accessed 26 September 2012).

¹¹⁹ See chapter 3.

¹²⁰ See the analysis in Part 7.5 of this chapter.

surprising that the project is not seeking to synchronise maritime security concerns with the broader issue of regional stability and development.

The above questions demonstrate that something is amiss in the security objectives of the CRIMGO project. Further interrogation is warranted by a reflection on the project's name – Critical Maritime Routes in the Gulf of Guinea. Compared to the rest of the Gulf of Guinea, there is nothing uniquely “critical” about the “maritime routes” that fall within the scope of the project, except that the relevant States have rich deposits of oil and gas, and as a result many oil tankers use the sea routes.¹²¹ Therefore, it appears that the “critical” concerns that the CRIMGO project has been designed to address are energy security concerns - from both the perspective of offshore installations and oil vessels. This deduction should in no way undervalue the fact that addressing any type of maritime security threat in the Gulf of Guinea is worthwhile. Nonetheless, it is essential for policy makers in the Gulf of Guinea to have a clear understanding of what security objectives are being pursued, as well as an understanding of the overarching partnership framework and the ultimate purpose of the relevant security outcomes.

A review of the regional dialogue on maritime security suggests that energy security takes top priority, followed by the protection of shipping. As demonstrated in chapter six, this accounts for MOWCA and the GGC being priority partners with some external actors.¹²² Chapter six also

¹²¹ See chapter 2. See also chapter 4 on the analysis of piracy in the Gulf of Guinea

¹²² See chapter 6.

highlighted the fact that the Code of Conduct adopted by the Heads of State and Governments of ECOWAS and ECCAS is largely geared towards addressing piratical attacks. This selective approach to security has the potential to leave the Gulf of Guinea without durable security in other critical areas, such as food security..

It is also important to have a system in place that defines the priorities underpinning cooperative initiatives. For example, the maritime security interest of the US spans multiple areas - from counter-piracy to combating the proliferation of WMD. However, not all the maritime security interests presented by the US as requiring cooperation may be of immediate interest to Gulf of Guinea States. This may not sound too problematic when viewed in isolation, but where Gulf of Guinea States are required to fund part of the cost of security, questions may arise as to the direction and justification for the funding, as well as the ultimate gain which is being sought. Indeed, even if governments do not raise these issues, it is likely that civil society activists will. There is thus a need to clarify the content and scope of maritime security objectives for the purpose of maritime security cooperation.

7.7.4 Inadequate Logistics and Financial Support

While maritime security cooperation is arguably allowing some external actors to pursue wider strategic interests, there is no corresponding allocation of logistical support or funds to address maritime security threats. As shown in chapter six, the capability of navies and coastguards

across the region is minimal. Therefore, the expectation of regional leaders and institutions was that external support would be forthcoming. This was one of the factors that ballasted the MOWCA coastguard initiative for years, despite its apparent lack of authority for the type of security enterprise it sought to pursue.¹²³ The interest of some national heads of shipping administrations in the MOWCA initiative waned following a meeting in Accra, Ghana, in December 2011, where external partners made no commitment to fund or provide logistical support for the initiative, and indeed the presentation by the IMO ended with the remark: “African solution to African opportunities...[It’s] investment not aid.”¹²⁴

The ECCAS Protocol on maritime security equally stipulates donor support as one of the funding sources for joint patrols and other security activities.¹²⁵ However, evidence that the anticipated financial support has not been forthcoming can be found in the financial commitments that have been made to date. France has pledged only US\$1.6 million to support maritime security,¹²⁶ while funding for the EU CRIMGO project (which supports seven Gulf of Guinea States), is just €4.5 million. This amount is just a fraction of the annual cost of financing the Nigerian-

¹²³ See Article 28 of the 2008 MOWCA MOU, which lists contributions from international organisations and donor countries as one of the sources of funding for the coastguard network.

¹²⁴ See conference presentation by Chris Trelawny, Deputy Director of the IMO, “Taking an International Approach to countering piracy and wider maritime crime in West Africa,” December 2011, http://piracy-westafrica.com/uploads/files/2011/Chris_Trelawny.pdf, 30 January 2012. The author of this thesis had the benefit of attending the conference and interacting with many of the stakeholders.

¹²⁵ See, Article 8, Protocole Relatif a la Strategie de Securitisation, 2009.

¹²⁶ United Nations, Security Council 6723rd Meeting, 27 February 2012, p. 10.

Benin joint patrols (code-named *Operation Prosperity*), which has been estimated by the UN at US\$112 million.¹²⁷

Despite this dire financial predicament, the expectation and call for external support persists. The Summit of the Heads of State and Government of ECOWAS-ECCAS, held in June 2013, concluded with an appeal to international donors and Western governments for financial assistance.¹²⁸ The words of the Ivorian President were very instructive in this regard: “I urge the international community to show the same firmness in the Gulf of Guinea as displayed in the Gulf of Aden, where the presence of international naval forces has helped to drastically reduce acts of piracy.”¹²⁹ Of course, not all Gulf of Guinea States may share President Ouattara’s support for the presence of foreign naval forces in their waters. However, the hope is that counter-piracy initiatives in the Gulf of Guinea will get similar attention to those in the Indian Ocean, where among other projects, a Trust Fund has been established under the auspices of the IMO, with support from the UN.¹³⁰

¹²⁷ See UN Security Council, “Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea,” S/2012/45, 19 January 2012, p. 6. The UN Assessment Team stated that Benin’s monthly contribution to the joint operation is US\$466,000, which is only 5 per cent of the total cost of the operation. This means that the monthly total cost is US\$9.32million, of which Nigeria contributes US\$8.85million. This translates into an estimated annual cost of US\$112 million.

¹²⁸ Heads of State and Governments of ECOWAS and ECCAS, Yaoundé, Cameroon on 24- 25 June 2013. See, *African states join forces to tackle rising Gulf of Guinea piracy*, 26 June 2013, Available: <http://www.reuters.com/article/2013/06/26/cameroon-piracy-idUSL5N0F22XK20130626>, 16 December 2013.

¹²⁹ *West Africa seeks anti-piracy force*, 24 June 2013, BBC News, Available: <http://www.bbc.co.uk/news/world-africa-23033418>, 16 December 2013.

¹³⁰ The Trust Fund has been established to support the implementation of the Djibouti Code of Conduct for Combating Piracy in the Indian Ocean and the Gulf of Aden. Japan provided the seed money for the Fund, which was followed by financial contributions from many States including the Republic of Korea, France, the Marshall Islands, the Netherlands, Norway and Saudi Arabia. See IMO, Djibouti Code of Conduct Trust Fund,

Although it remains to be seen what tangible support will be made available by the international community, Gulf of Guinea States need to understand that the Indian Ocean region presents different geostrategic imperatives to the Gulf of Guinea. The wide multilateral support for counter-piracy initiatives in the Indian Ocean is driven by the region being an important artery of global shipping. For this reason, the Gulf of Guinea cannot be expected to engender the same level of response from shipping interests around the world.¹³¹ Moreover, unlike the Indian Ocean and the Gulf of Aden, which are shared by States on multiple continents, the Gulf of Guinea is largely bordered by member States of ECOWAS and ECCAS.

Therefore, notwithstanding the interest of other States in the region, tangible support is likely to remain paltry, and thus Gulf of Guinea States will largely need to provide their own security. The unspoken view operating in this context can be simply stated: it is extractive resources that make the region strategic, and Gulf of Guinea States are already receiving revenue from the mining sector and gas industries. To the extent that exploitation of these resources can continue with minimum disruption, oil and gas companies (and their governments), have no incentive to make a financial commitment beyond what is required to secure the production platforms. Indeed, most offshore platforms are

<http://www.imo.org/OurWork/Security/PIU/Pages/Project-Implementation-Unit.aspx>, accessed 16 October 2012.

¹³¹ The Indian Ocean links the shipping and trading routes of Asia, America, Australia and the entire Pacific region, as well as those of Europe and Africa. Apart from its significant trade routes, the Indian Ocean is of strategic value because it connects important Straits and narrow passages, including the Straits of Gibraltar, Hormuz and Malacca. Traffic to and from the Panama and Suez Canals also passes through the Indian Ocean.

protected by private security companies, and the costs incurred are treated as a tax deduction before royalty payments are made.

Thus, whereas piracy in the Gulf of Guinea is substantially a by-product of the poor management of Niger Delta oil resources and bad environmental practices by some transnational oil companies, the larger impact of piracy is felt by the economies of Gulf of Guinea States, which in turn has ramifications for the security and stability of the region. Based on the UN estimates referred to earlier, the annual cost of anti-piracy patrols undertaken by Benin is US\$5.6million. Indeed, this is the base cost for such patrols, and does not take into account related maritime security enforcement expenses. Benin's GDP is US\$6.7billion, and according to the World Bank, the country ranks 108 and 112 respectively in meeting basic health and education requirements out of 139 States globally.¹³² Thus, spending US\$5.6million on piracy patrols represents a huge diversion of resources for Benin, resources which could otherwise be directed towards other human security needs. Indeed, the fact that Benin needs to allocate such a vast sum to anti-piracy patrols may further deepen the country's social and economic fragility. The international community must therefore show a greater commitment towards supporting maritime security in the Gulf of Guinea.

¹³² See Table on socio-economic indicators in chapter 2. See also World Bank, *The Africa Competitiveness Report 2011* (World Bank/Africa Development Bank, 2011).

7.7.5 The Overlap between National Security, Governance Challenges and Sovereignty

The call by the Ivorian President, Alassane Ouattara, for a foreign naval presence in the Gulf of Guinea is not an isolated case. A similar plea was made by the President of Equatorial Guinea following the seaborne attack on his Presidential Palace in 2009. Indeed, the President warned the US and Europe not to ignore the growing number of “attacks by rebels and smugglers” off the Gulf of Guinea.¹³³ Then, in 2011, President Boni Yaya of Benin wrote to the UN asking for help to fight piracy off the coast of Benin.¹³⁴ This can be interpreted in the same light as the earlier demands.

The above comments by leaders of Gulf of Guinea States prompt several questions. They include: (i) do the leaders fully understand the sovereignty implications of having a foreign naval presence in their waters?; (ii) are the leaders ready to commit to transparent and open government if such a demand is made by the international community as a condition for addressing insecurity in the region?; (iii) if the results achieved by the foreign naval force do not meet the expectations (or serve the interests) of Gulf of Guinea States, will the leaders of such States object to the navy’s continued presence on the basis of national

¹³³ See, *Equatorial Guinea Warns U.S. and Europe Not to Ignore Growing Security Threat in Gulf of Guinea*, 15 October 2009, U.S. Newswire, Available: <http://www.prnewswire.com/news-releases/equatorial-guinea-warns-us-and-europe-not-to-ignore-growing-security-threat-in-gulf-of-guinea-64412887.html>, 10 December 2010. See also, Afrol News, *Growing Piracy in Gulf of Guinea* 16 October 2009, Available: http://www.ocnus.net/artman2/publish/Dark_Side_4/Growing-Piracy-in-Gulf-of-Guinea.shtml 22 August 2011.

¹³⁴ See UN Security Council, “Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea,” S/2012/45, 19 January 2012, p. 2.

security concerns?; and (iv) will other Gulf of Guinea States support the calls made by the leaders of Côte d'Ivoire, Equatorial Guinea and Benin? These are all legitimate issues to investigate.

It is argued that requests for a foreign naval presence are driven by short term interests, and that such forces are unlikely to enjoy long term support from Gulf of Guinea leaders, including those leaders who asked for the support in the first instance. In this regard, it should be noted that the deployment of foreign navies off the coast of Somalia was made possible by the fact that the Somali State was, and still is, in a state flux. It may even be argued that the foreign naval presence was viewed positively by the Transitional Federal Government because it provided the government with both security and legitimacy (the latter being seriously contested by opposing forces). This notion of embracing elements of foreign security that may, in reality, impinge on a State's sovereignty, but nonetheless serve domestic security or political objectives, can be situated on a conceptual spectrum of securitisation¹³⁵ to omnibanking.¹³⁶ While the traditional discourse on balance of power issues focuses on strategic alliances as against external threats, omnibanking looks at how alliances may be used to secure external or domestic objectives, with the latter being the essential motivation.¹³⁷

¹³⁵ See chapter 3.

¹³⁶ Steve R. David, "Explaining Third World Alignment," *World Politics* 43, 1991, pp. 233-56, p. 34. See also George T. Duncan and Fandolph M. Siverson, "Flexibility of Alliance Partner Choice in Multipolar System," *International Studies Quarterly* 26, 1982, pp. 511-38.

¹³⁷ Joel S. Migdal, *Strong Societies and Weak States: State-society Relations and the State of Capabilities in the Third World*, Princeton University Press, 1988, p. 10-41. Steve R. David, "Explaining Third World Alignment," *World Politics* 43, 1991, pp. 233-56, p. 34.

It is noted that the call for foreign anti-piracy forces by Gulf of Guinea leaders may not be intended to secure political gains. Nonetheless, the propensity and eagerness of the political leadership to sacrifice national sovereignty concerns can only be a move to secure short term goals. It is submitted that this policy choice is not in the interest of the international community, and certainly does not promote the long term security of citizens in the region. The reason for this can be succinctly stated: the policy itself is simply not durable. Indeed, Gulf of Guinea leaders may, in the future, raise the issue of sovereignty or use national security concerns as a refuge if the outcomes achieved by foreign security forces become unsuitable or unfavourable. For example, it is possible that persons connected to the corridors of political power may play a role in drug trafficking or transactions involving stolen oil cargo. Thus, when foreign States demand reliable and transparent governance, the political leadership may no longer be supportive of the *gens d'armes* they voluntarily invited.

External forces are also unlikely to provide a sustainable solution because unanimous support for such forces is unlikely to be forthcoming. Indeed, some States in the region may have genuine sovereignty concerns over the presence of foreign forces in their waters, and will not be prepared to compromise on such a sensitive issue. For example, not only would Nigeria view a foreign presence in its waters as undermining its power, it would also consider such an arrangement as tantamount to Nigeria being asked to submit its national security to foreign decision making. As analysed in chapter 4, the ravaging Niger Delta piracy emanates from Nigeria's governance deficit and national security

bargain. Nigeria would thus be sensitive to any process that seeks to set the insurgency back on its previous course, with the State also looking unkindly on the calls made by other leaders in the region for a foreign naval presence. Hence, such calls have the potential to affect intra-regional trust and cooperation.

Despite foreign security forces not being a feasible option, the situation in the Gulf of Guinea poses a serious threat to regional and global security. Nigeria must therefore commit to good governance and seek an effective response to maritime security. So too must other States. This is because the nexus between poor governance and insecurity in the region goes beyond piracy. As shown in chapter five, inadequacies in Ghana's fisheries governance has contributed to IUU fishing in the Gulf of Guinea, while drug trafficking thrives across the region because of institutional weaknesses and corruption.

7.7.6 Ownership versus Privatisation of Security

The sixth and final issue that will determine the progress of maritime security cooperation in the Gulf of Guinea is the question of private security companies (PSCs), or private maritime security companies (PMSCs) as they are known in the maritime sector. There are major differences of opinion regarding the proper use of armed PSCs on board vessels transiting between coastal States.¹³⁸ This has led to tensions and

¹³⁸ James L. Taulbee, 'Mercenaries, Private Armies and Security Companies in Contemporary Policy', in Daniel N. Nelson and Laura Neack (eds), *Global Society in Transition. An International Politics Reader*, The Hague: Kluwer Law International, 2002.

cooperative challenges in Southeast Asia, and a similar scenario is unfolding in the Gulf of Guinea.¹³⁹

Although PSCs are not entirely new, the US-led war in Iraq has placed them centre stage.¹⁴⁰ PSCs were used by the US and other Western States to provide a wide range of services in Iraq, including the protection of critical installations and escorting high level personnel.¹⁴¹ This was also the case in the Afghanistan war. Thus, PSCs are seen as part of the political economy surrounding these recent conflicts.¹⁴² A good number of PSCs are based in the US and the UK, with several having searchlight offices in other parts of the world.¹⁴³ The services of PSCs have been adapted for the Somali coast, where they serve as armed guards on board commercial ships transiting the coast (thereby safeguarding against piracy attacks), or on board specially operated vessels escorting commercial ships (much like navies or coast guards).¹⁴⁴

¹³⁹ For a discussion regarding the use of PSCs in Southeast Asia, see Carolin Liss, "Privatisation of Maritime Security in Southeast Asia", in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects* Springer, 2008, pp. 135-48.

¹⁴⁰ Carolin Liss, "Privatising Anti-Piracy Services in Strategically Important Waterways: Risks, Challenges and Benefits", *GrasSPP Working Paper*, University of Tokyo, 2009, p. 2.

¹⁴¹ Duncan Campbell, "Marketing the new 'Dogs of War'", 30 October 2012, *International Consortium of Investigative Journalists*, Available: <http://www.icij.org/project/making-killing/marketing-new-dogs-war>, 18 December 2013.

¹⁴² Duncan Campbell, "Marketing the new 'Dogs of War'", 30 October 2012, *International Consortium of Investigative Journalists*, Available: <http://www.icij.org/project/making-killing/marketing-new-dogs-war>, 18 December 2013. See also John Harriss, *Depoliticising Development*, London, Anthem Press, 2002. Joseph Stiglitz, *Globalisation and Its Discontents*, Camberwell, Penguin, 2002.

¹⁴³ Carolin Liss, "Privatising Anti-Piracy Services in Strategically Important Waterways: Risks, Challenges and Benefits", *GrasSPP Working Paper*, University of Tokyo, 2009, p. 2.

¹⁴⁴ For a description of the range of services offered by Private Maritime Security Companies and associated challenges and issues, see Carolin Liss, "Privatisation of Maritime Security in Southeast Asia", in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects*, Springer, 2008, pp. 135-48. See also Michael L. Mineau,

They also provide protection to offshore oil and gas companies. To facilitate the delivery of these services, PSCs operate a network of vessels at sea, some carrying large numbers of arms and personnel. In many respects, they resemble floating armouries, homes and offices.

There are contested views on the use of PSCs. Some industry practitioners and security experts strongly endorse PSCs as an effective means of protecting ships from piratical attacks.¹⁴⁵ The private shipping industry views PSCs as a solution to the ineffectiveness of navies and coastguards of developing States, and the associated problem of corruption in the delivery of security in those States.¹⁴⁶ Some countries, mostly developed States but also flag States, have adopted the same position.¹⁴⁷ These views certainly have some merit, as Navies and Coast Guards in the Gulf of Guinea are generally ineffective and corruption is a real concern.¹⁴⁸ Therefore, the proponents of PSCs in the Gulf of Guinea have legitimate grounds for their assertions.

"Pirates, Blackwater and Maritime Piracy: The Rise of Private Navies in Response to Modern Piracy," *Journal of International Business and Law* 9, 1, 2010, pp. 63-78.

¹⁴⁵ Carolin Liss, "Privatisation of Maritime Security in Southeast Asia", in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects*, Springer, 2008, pp. 135-448, p. 142.

¹⁴⁶ Carolin Liss, "Privatisation of Maritime Security in Southeast Asia", in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects*, Springer, 2008, pp. 135-448, p. 142.

¹⁴⁷ On the relative position of States, see Carolin Liss, "Privatisation of Maritime Security in Southeast Asia", in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects*, Springer, 2008, pp. 135-48. Carolin Liss, "Privatising Anti-Piracy Services in Strategically Important Waterways: Risks, Challenges and Benefits", *GrasSPP Working Paper, University of Tokyo*, 2009.

¹⁴⁸ See Table 2.1 in chapter 2, which shows the corruption index of Gulf of Guinea States.

However, the concept of PSCs, and the business model surrounding their use, has been met with opposition in some regions.¹⁴⁹ Indeed, the presence of armed guards in the territorial waters of some States is viewed as both a threat to national security and an infringement of sovereignty. There are also issues with transparency and public oversight over the operations of PSCs, with some reports accusing PSCs of secretly fostering further conflict and insecurity so they can remain in business.¹⁵⁰ Governments in Southeast Asia have also blamed PSCs and global marine insurance companies for exaggerating maritime security risks for their own financial benefit. For example, some estimates put the cost of engaging a four-man PSC team for a journey from Asia to Europe through the Gulf of Aden at \$50,000.¹⁵¹ Even the shipping industry is wary of this high cost.¹⁵² It is important to note, however, that the associated cost of engaging PSCs is ultimately borne by consumers.¹⁵³

There have also been some concerns with the operations of PSCs off the coast of Somalia. A UN report in 2012 showed that a number of PSCs

¹⁴⁹ Carolin Liss, "Privatisation of Maritime Security in Southeast Asia", in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects*, Springer, 2008, pp. 135-448.

¹⁵⁰ Carolin Liss, "Privatising Anti-Piracy Services in Strategically Important Waterways: Risks, Challenges and Benefits", *GrasSPP Working Paper, University of Tokyo*, 2009, p.6. Phillip Van Niekerk, *The business of war*, 28 October 2002, International Consortium of Investigative Journalist, Available: <http://www.icij.org/project/making-killing/business-war>, 18 December 2013.

¹⁵¹ Adjoa Anyimadu, "Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean," *Chatham House*, July 2013, p.10.

¹⁵² Adjoa Anyimadu, "Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean," *Chatham House*, July 2013, p.10.

¹⁵³ Carolin Liss, "Privatisation of Maritime Security in Southeast Asia," in Thomas Jäger and Gerhard Kümmel, eds. *Private Military and Security Companies: Chances, Problems, Pitfalls and Prospects*, Springer, 2008, pp. 135-448, p. 144. See also Duncan Campbell, *Marketing the new 'Dogs of War'*, 30 October 2012, International Consortium of investigative Journalist, Available: <http://www.icij.org/project/making-killing/marketing-new-dogs-war>, 18 December 2013.

were in violation of an arms embargo, and in some cases were unable to account for the arms in their possession.¹⁵⁴ This raised the possibility that the arms might have found their way into the hands of insurgent or rebel groups. Also, while PSCs have played a key role in reducing piratical incidents in the Indian Ocean, some experts argue that the combination of PSCs and naval forces creates complexity and confusion for ship owners, particularly those looking for simple security solutions.¹⁵⁵

In May 2012, the IMO adopted interim guidelines for the operation of PSCs, designated within the IMO as privately contracted armed security personnel (PCASP).¹⁵⁶ The IMO guidelines are meant to chart a common course for the use of PSCs, thereby alleviating some of the concerns analysed above. Ultimately, however, the IMO process cannot interfere with the sovereign right of States to decide whether or not to allow PSCs in their territorial waters.¹⁵⁷ Indeed, the announcement by the IMO that the guidelines had been adopted also indicated that there was opposition from some State representatives to the process.¹⁵⁸

¹⁵⁴ “Private Security Companies in Somalia are in violation of the arms embargo – UN,” Defence Web, 8 August 2012.

¹⁵⁵ *Protecting Ships From Somali Pirates - The Navy vs Private Security*, 3 November 2013, Forbes Transport and Logistics, Available: <http://www.forbes.com/sites/gcaptain/2013/03/11/protecting-ships-from-somali-pirates-the-navy-vs-private-security/>.

¹⁵⁶ IMO's 90th session of the Maritime Safety Committee (MSC) in May 2012.

¹⁵⁷ Coastal States enjoy sovereign rights in the territorial sea, which extends to a maximum of 12 nautical miles. However, because the EEZ is not a zone of sovereignty, the view may be taken that PSCs do not need the authorisation of coastal States to operate in their EEZ. It may, however, be argued that the presence of PSCs in the EEZ undermines the exclusive economic interest that coastal States enjoy in the EEZ, and therefore such operations are in violation of the sovereign rights of coastal States.

¹⁵⁸ IMO, “Guidance for private maritime security companies agreed by IMO’s Maritime Safety Committee”, <http://www.imo.org/MediaCentre/PressBriefings/Pages/17-msc-90-piracy.aspx>,

The above analysis shows that PSCs have the potential to either enhance maritime security in the Gulf of Guinea, or exacerbate national and human security problems. In this way, PSCs represent a double edged sword for governments in the region. Indeed, there are valid reasons supporting the use of PSCs, but their practical effect is that Navies and Coast Guards in the region will be less able to build capacity and skills, rendering them ill equipped and thus ineffective into the future. Some time ago, former French President Valéry Giscard d'Estaing asserted that France would have to take care of security in Africa because African States “do not have resources to build modern armed forces.” The former President further proclaimed that by allowing France to assume responsibility for Africa’s security, African governments will be able to “allocate resources to development projects.”¹⁵⁹ More than thirty years have passed since former President d'Estaing uttered those words, yet Africa enjoys neither peace nor security, has no professional armed forces unit, and has not enjoyed the benefits that accompany development. This nullifies the hypothesis of the former French President.

Given the opposing views on PSCs, Gulf of Guinea States need to adopt a clear policy position on the matter. The decision by Nigeria to suspend a number of PSCs has been received with disquiet by the private security industry.¹⁶⁰ Southeast Asian States have generally contested (and in

¹⁵⁹ French President Valéry Giscard d'Estaing (1974–1981). Statements quoted in Guy Martin, "The Historical, Economic, and Political Bases of France's African Policy," *Journal of Modern African Studies* 23, 2, 1985, pp. 189-208, p.05. See also Jean-François Bayart, "Bis repetita: la politique africaine de François Mitterrand ", in S Cohen, ed. *Mitterrand et la Guerre Froide*, Paris, Press Universitaire de France, 1998, pp. 251-93, p. 57.

¹⁶⁰ Mark Lowe, "Game Changer," *Maritime Security Review*, 7 May 2013.

some cases prevented) the operation of armed PSCs off their coasts, but it is important for governments to demonstrate greater responsibility in this area by bolstering the capability of their Navies and Coast Guards to forestall maritime security threats in the first place. The Somali example has also shown that even when using their best efforts, Navies and Coast Guards can only patrol a limited area of the coast.¹⁶¹ Therefore, it is likely that ship owners will continue to rely on the services of PSCs in high-risk situations.¹⁶² This highlights the need for Gulf of Guinea States to clarify the role of PSCs in the evolving regional cooperative initiatives.

There are reports of some Gulf of Guinea States making police and military personnel provide escort services to commercial vessels for a fee.¹⁶³ This practice, whether an option extended only to commercial vessels or an emerging national policy, is a delicate path to tread. Indeed, it amounts to the commercialisation of national security services, and can thus seriously undermine the long term security of region. It also puts the purpose of States' security institutions in dispute and disrepute, as they are likely to lose their public character. Indeed, the penchant of security institutions, especially militaries, to be in control of public affairs and to derive personal benefits from their public duties, has contributed

¹⁶¹ Michael L. Mineau, "Pirates, Blackwater and Maritime Piracy: The Rise of Private Navies in Response to Morden Piracy," *Journal of International Business and Law* 9, 1, 2010, pp. 63-78, p. 64.

¹⁶² Michael L. Mineau, "Pirates, Blackwater and Maritime Piracy: The Rise of Private Navies in Response to Morden Piracy," *Journal of International Business and Law* 9, 1, 2010, pp. 63-78, p. 64.

¹⁶³ States that have been specifically identified in this regard include Nigeria, Benin and Togo. Adjoa Anyimadu, "Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean," *Chatham House*, July 2013, p.11.

significantly to poor governance and human security problems in the Gulf of Guinea region.¹⁶⁴

By allowing the direct sale of security services, governments of Gulf of Guinea States are exacerbating governance problems and sponsoring unbridled corruption in security services. Indeed, such action sends the message that the stakes are high in the emerging maritime market. It may not take long for these police or military personnel to become the ‘praetorian guards’ of the ocean, assuming leadership positions so they can ‘properly’ administer what will undoubtedly become a thriving business enterprise. Governments should steer clear from this path, and instead raise the required revenue through established governmental channels, including taxes and royalties. Part of this revenue can then be used to equip and build the capability of security agencies, without turning them into tax collectors or salesmen.

7.8 CONCLUSIONS

The analysis in this chapter has demonstrated that there are both opportunities and challenges associated with the involvement of the international community in Gulf of Guinea maritime security. External actors and partnerships may either enhance maritime security cooperation or entrench insecurity in the region. Indeed, while the Gulf

¹⁶⁴ For an assessment of the evolution of the culture and professionalism of security agencies in the context of Ghana, see Kumi Ansah-Koi, "The Security Agencies and National Security in a Decade of Liberalism ", in Kwame Boafo-Arthur, ed. *Ghana: One Decade of the Liberal State*, London Zed Books, 2007, pp. 186-204. See also David C. Gompert, Olga Oliker, Brooke Stearns, Keith Crane and Jack Riley, "Making Liberia Safe: Transformation of the National Security Sector," *RAND Corporation*, 2007.

of Guinea epitomises “bad order at sea,” external actors may well represent “bad order from the sea.”

To contribute to greater security in the region, external partners must do three things. First, they must moderate their pursuit of exclusive national and geostrategic interests. Second, they must be committed to a broader and inclusive concept of maritime security, and thirdly, they should aim to provide meaningful logistics support and funding to Gulf of Guinea States. In turn, States in the region must show greater commitment to improving governance and developing necessary policy structures that will provide clarity on their maritime security engagement with the international community.

CHAPTER EIGHT

CONCLUSIONS

This thesis has examined the state of maritime security in the Gulf of Guinea against the hypothesis that current approaches to maritime security cooperation in the region are inadequate and suffer multiple limitations. The strategic importance of the Gulf of Guinea dates back to ancient times, and indeed the region remains vital to global security and commerce in the contemporary world. The Gulf of Guinea is a major source of essential commodities for both domestic and industrial use, while its sea lanes connect trade between multiple continents. There is also a growing global focus on the Gulf of Guinea due to increasing offshore oil and gas discoveries, as well as international dependence on the region for energy security needs. The maritime profile of the Gulf of Guinea is also making a significant contribution to the socio-economic development of member States. Indeed, if the opportunities afforded by the region's maritime domain are effectively harnessed, there is great potential for delivering positive human development outcomes for Gulf of Guinea citizens.

There is therefore a convergence of national, regional and international interests in the Gulf of Guinea. The key requirement for safeguarding these interests is effective regional and international maritime security cooperation. However, as the analysis in this thesis has shown, the current approaches to maritime security cooperation in the Gulf of Guinea are inadequate. Indeed, this conclusion supports the hypothesis

that has been put forward in the thesis. This chapter summarises the findings and conclusions of the research to demonstrate that the thesis hypothesis has been established. First, the chapter will state five conclusions from the research that support the thesis hypothesis. Second, the chapter will summarise the evidence and findings in support of each conclusion. Third, the chapter will provide suggestions for enhancing maritime security cooperation in the Gulf of Guinea.

Five key conclusions have been drawn from the thesis, supporting the thesis hypothesis. These are: (i) the current processes for maritime security cooperation in the Gulf of Guinea do not adequately address the multiple security threats in the region; (ii) poor governance contributes significantly to maritime security threats in the Gulf of Guinea, but the current cooperative framework does not address the land-sea nexus of maritime security concerns; (iii) the legal framework for maritime security in the Gulf of Guinea is poorly developed, and this undermines the effectiveness of maritime security enforcement and cooperation; (vi) regional maritime security cooperative processes lack coordination and suffer several setbacks; and, (v) international support for maritime security cooperation in the Gulf of Guinea is inadequate, uncoordinated, and possibly influenced by self-serving national interests that affect its overall effectiveness.

Inadequate Maritime Security Processes

The first conclusion which supports the thesis hypothesis is that the current processes for maritime security cooperation in the Gulf of

Guinea inadequately address maritime security concerns in the region. This conclusion has been substantiated by the findings in chapters two and three, and also by additional findings in chapters six and seven. Chapter two established the broad scope of maritime interests in the Gulf of Guinea – one which spans international trade and shipping, marine living resources, offshore oil and gas reserves, as well as the laying of submarine cables and pipelines. Chapter three then assessed the threats to maritime security in the Gulf of Guinea. This was accomplished by: (i) developing a conceptual framework for understanding the concept of maritime security; and (ii) providing an empirical analysis of maritime security threats in the Gulf of Guinea. The analysis has shown that while piracy is undoubtedly a significant maritime security concern in the Gulf of Guinea, there are other maritime security threats that equally undermine the security and stability of the region. Indeed, the analysis has uncovered decades of illegal trafficking in narcotic drugs into the Gulf of Guinea, with criminal networks constantly adjusting their *modus operandi* to sustain the drug trade. Organised criminals also exploit the Gulf of Guinea maritime domain for illegal trafficking in arms, thereby contributing to violent crimes and conflicts, while illegal migration by sea leads to maritime risks and disasters. Finally, illegal fishing contributes to depleting fisheries resources in the Gulf of Guinea. However, these threats have not been addressed by UN Security Council Resolutions 2018 and 2039. The analysis in chapters six and seven also revealed that concerns over the illegal trafficking of drugs and arms, as well as IUU fishing activities, have not been prioritised in regional and international cooperative initiatives. Thus, the findings in the thesis support the conclusion that the current processes for maritime security cooperation in the Gulf of Guinea do not comprehensively address

maritime security threats in the region, thereby failing to provide an inclusive concept of security.

Failure to address Poor Governance and the Land-Sea Nexus of Maritime Security Threats

The second conclusion in support of the thesis hypothesis is that poor governance by Gulf of Guinea States contributes significantly to maritime security threats in the region, and that the present processes for cooperation do not address governance concerns. This conclusion has been validated by the findings in chapters three and four, and by also by the findings in chapter six. The analysis in chapter three has shown that although there are different drivers of maritime security threats in the Gulf of Guinea, the common factor which accounts for the pervasiveness of these threats is ineffective governance - particularly corruption involving public officials and weaknesses in law enforcement. Meanwhile, the case study on piracy in chapter four demonstrated that the growing threat of piracy in the Gulf of Guinea is substantially driven by Niger Delta pirates, and that the activities of these actors have been spurred by Niger Delta insurgency. Chapter four also highlighted the interrelationship between governance failures and the inception and proliferation of Niger Delta piracy. The analysis in chapter six, however, revealed that the cooperative initiatives being pursued by Gulf of Guinea States mainly address piratical incidents as sea-based crimes, thereby neglecting the governance dimension of these crimes.

Poorly Developed Legal Frameworks

The third conclusion supporting the thesis hypothesis is that the requisite legal framework for enhancing maritime security in the Gulf of Guinea is poorly developed, thus presenting a setback for maritime security enforcement and cooperation. This conclusion rests on the findings in chapter five. Indeed, the chapter assessed the extent to which Gulf of Guinea States have ratified and implemented requisite international instruments that provide for the exercise of maritime security jurisdiction and cooperation. The conclusions reached were that Gulf of Guinea States have generally failed to ratify the relevant international instruments, and that in cases where the instruments have been ratified, many of the States have failed to implement them into their domestic legal and policy framework. For example, only Cote d'Ivoire has ratified the 1988 SUA Convention and its three Protocols. Moreover, despite illegal trafficking in weapons contributing to instability in the Gulf of Guinea, nine States are yet to ratify the Protocol against Trafficking in Weapons, which was adopted in 2001. Furthermore, although UNCLOS has been ratified by all Gulf of Guinea States, many of the States have not incorporated the Convention's framework for combating piracy into their domestic legal regime. Finally, in the context of fisheries protection, Gambia and Ghana are the only States in the region that have developed National Plans of Action against illegal, unreported and unregulated fishing (in accordance with the global framework that was adopted in 2001), while the 1993 FAO Compliance Agreement has only been ratified by five States – Angola, Benin, Cape Verde, Ghana and Senegal. There is therefore a gaping deficit in the legal framework for maritime security in the Gulf of Guinea. As a result, even if Gulf of

Guinea States were able to conduct patrols off their coasts, the efficacy of such patrols would be seriously undermined by the absence of domestic legislation to prosecute and punish perpetrators of sea-based crimes. Poorly developed legal frameworks also undermine regional and global cooperation, as there is no common basis for the exercise of maritime security enforcement.

An Uncoordinated Regional Cooperative Framework

The fourth conclusion supporting the thesis hypothesis is that regional cooperative initiatives are uncoordinated and suffer multiple setbacks. This finding was reached in chapter six, which assessed maritime security cooperative initiatives in Gulf of Guinea region. The analysis in that chapter showed that four regional organisations are concurrently serving as platforms for maritime security cooperation in the Gulf of Guinea: the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the Maritime Organisation for West and Central African States (MOWCA), and the Gulf of Guinea Commission (GGC). The analysis in chapter six further demonstrated that the evolving cooperative initiatives in the region are at different stages of development, with the ECCAS framework being the most established of the four. The analysis also identified three categories of challenges that confront the cooperative initiatives: structural, geopolitical and governance-based. Fundamentally, however, there is lack of coordination in regional processes. Therefore, while the ECCAS maritime security framework provides an effective structure for cooperation (and should certainly be

implemented by member States), the GGC continues to pursue a different cooperative agenda. Indeed, this is despite the fact that all the member States of the Commission, with the exception of Nigeria, are also members of ECCAS. The analysis in chapter six also demonstrates that although the Protocol establishing the ECCAS maritime security framework was adopted in 2009, MOWCA has continued to hold consultations and meetings to further its plan for a regional coastguard network, without any reference to the ECCAS framework. These conflicting regional initiatives undermine the processes of maritime security cooperation. Sadly, an examination of the outcome of the Summit of Heads of State and Governments of Gulf of Guinea, held in June 2013, illustrates that there is still no coordination between the various regional processes.

An Inadequate International Cooperative Framework

The final conclusion which affirms the thesis hypothesis is that international support for maritime security cooperation in the Gulf of Guinea is inadequate, uncoordinated, and possibly influenced by self-serving national interests, thus affecting its overall effectiveness. This conclusion is supported by the analysis in chapter seven, though the background to that conclusion has been established in earlier chapters. In particular, the analysis in chapter six has shown limitations in the regional capacity to address maritime security threats, thus the need for global cooperation and support. Meanwhile, the analysis in chapter seven has demonstrated that a number of programmes are currently aimed at enhancing maritime security in the Gulf of Guinea. For example, the US

is using its African Partnership Station (APS) programme for capacity building in the Gulf of Guinea. France supports maritime security initiatives (especially in Francophone States) through defence and security agreements. UK ships were on patrol in the Gulf of Guinea in 2012, provided training to Navies and Coast Guards in the region, while the European Union (EU) launched the Critical Maritime Routes in the Gulf of Guinea (CRIMGO) project in 2013, with the aim of improving maritime safety and security in seven Gulf of Guinea States.

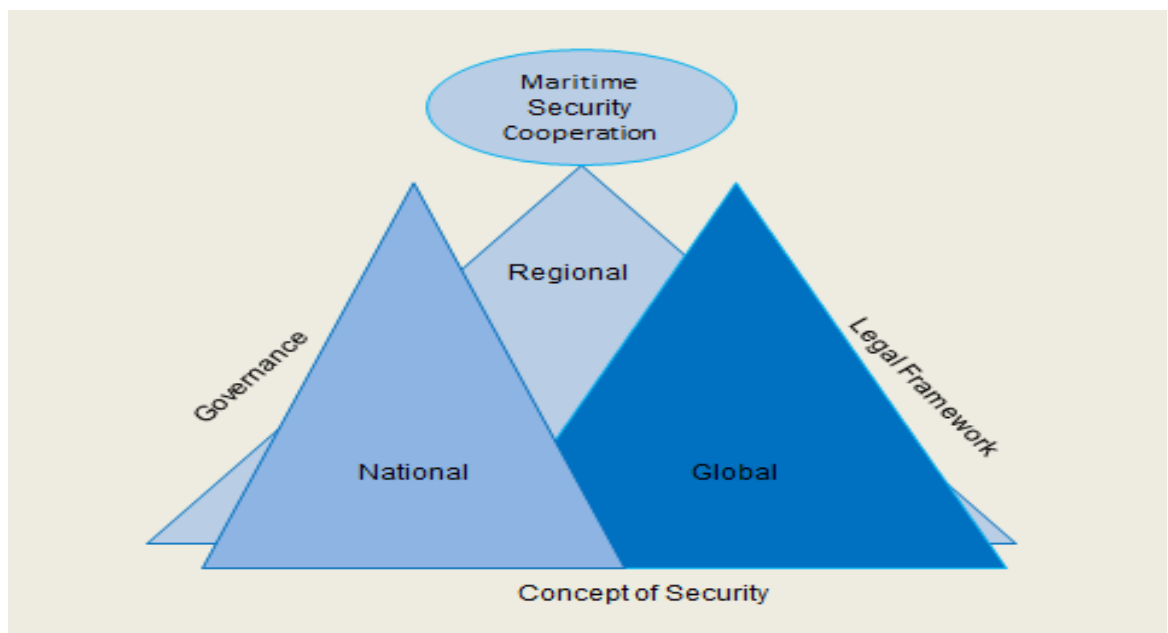
Although these partnerships are important for enhancing maritime security in the Gulf of Guinea, the available funding for these projects is inadequate. For example, the funding for the maritime security programmes of France in 2012 was a paltry US\$1.6 million, while only €4.5 million has been allocated for the EU Critical Maritime Routes in the Gulf of Guinea (CRIMGO) project. In comparative terms, these amounts represent a small fraction of the annual financial contribution made by Nigeria and Benin for their joint patrols, which has been estimated by the UN at US\$112 million. Moreover, the analysis in chapter seven has shown that there is no coordination between these external partnership programmes. Indeed, this has the potential to overstretch the resources of national administrators, who would be required to respond to and implement a diverse range of maritime security partnerships. While there is no clear explanation for the lack of synergy between these external programmes, the thesis has proposed competing national strategic objectives as a possible factor, particularly between the US and France - the two most dominant external maritime security partners. The analysis suggests that for the US, maritime

security cooperation is an avenue for establishing closer relations with Gulf of Guinea States, and for furthering defence and security interests. Therefore, it is possible that France may view US maritime security partnerships in the Gulf of Guinea as a threat to its long-term dominance in the region.

Towards a comprehensive Framework for Maritime Security in the Gulf of Guinea

Any proposal for enhancing maritime security cooperation in the Gulf of Guinea must be comprehensive. The framework devised for the thesis was developed in chapter three (Figure 3.1), and is reproduced below.

Framework for Maritime Security Cooperation



The framework identifies three key components of a comprehensive maritime security structure: effective regional cooperation, adequate

national capacity and viable global support. It also has three critical progress indicators: improved governance, adequate legal frameworks and an inclusive maritime security concept. The three overlapping triangles show that maritime security is a shared responsibility, but they equally denote the three levels of security analysed in the thesis: national, regional and international.

Flowing from the proposed framework, the enhancement of maritime security cooperation in the Gulf of Guinea will involve four critical requirements: (i) defining a functional regional platform for cooperation and its interaction with national and international components; (ii) incorporating the identified maritime security threats into the cooperative process; (iii) providing the requisite legal frameworks for maritime security jurisdiction and enforcement; and (vi) addressing governance concerns.

The first requirement recognises regional cooperation as a vital vehicle for addressing maritime security threats. However, the effectiveness of regional cooperation will very much depend on identifying the appropriate regional platform for cooperation. In other words, there is a need for an effective regional process that can enlist both national and international participation. Based on the conclusions reached in the thesis, ECOWAS and ECCAS are the most suitable regional platforms for developing cooperative frameworks in the Gulf of Guinea, while the GGC and MOWCA will play complementary roles. Indeed, if a well-defined process is formulated, national, regional and international efforts

can be galvanised to systematically address other limitations that have identified in the thesis, such as inadequate funding and the limited national capacity of Gulf of Guinea States.

The second requirement involves incorporating the maritime security threats identified in the thesis into the cooperative process. This will help address a critical gap in prevailing maritime security initiatives in the Gulf of Guinea, and also provide an inclusive concept of security for regional and international cooperation.

As demonstrated in the thesis, international legal and policy frameworks are essential tools for asserting maritime security jurisdiction and for promoting maritime security cooperation. The failure of Gulf of Guinea States to ratify and implement relevant maritime security instruments is a major obstacle to maritime security cooperation. Therefore, to effectively enhance maritime security in the region, Gulf of Guinea States will have to ratify and incorporate the relevant international instruments into their domestic legal and policy frameworks.

Finally, the land-sea nexus of maritime security cooperation is currently being neglected in the cooperative process of Gulf of Guinea States. It should, however, be stressed that maritime security threats are largely an expression of governance deficits in the Gulf of Guinea region. Thus, if maritime security cooperation is to yield positive outcomes with long-term benefits, governments in the Gulf of Guinea will have to commit to

improving governance as an integral part of the evolving cooperative process.

Although there are serious challenges facing the Gulf of Guinea, there is also the prospect for a bright and promising future. Effective maritime security is a *sine qua non* for harvesting the future prospects. The multilateral processes being embarked upon provide the hope that regional leaders, external partners and the UN are committed to ensuring effective maritime security. This thesis has identified gaps in current process of cooperation that will have to be addressed to ensure robust maritime security outcomes. Indeed, if the relevant stakeholders take heed of the recommendations canvassed in this thesis, the opportunity exists to alleviate poverty, halt instability, protect marine resources and strengthen regional ties while enhancing regional and global security.

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APPENDICES

APPENDIX 1 - UN Security Council Resolution 2018 (2011)

United Nations

S/RES/2018 (2011)



Security Council

Distr.: General
31 October 2011

Resolution 2018 (2011)

**Adopted by the Security Council at its 6645th meeting,
on 31 October 2011**

The Security Council,

Expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea pose to international navigation, security and the economic development of states in the region,

Recalling its statement of 30 August 2011 on piracy and armed robbery at sea in the Gulf of Guinea,

Expressing its concern over the threat that piracy and armed robbery at sea pose to the safety of seafarers and other persons, including through their being taken as hostages, and deeply concerned by the violence employed by pirates and persons involved in piracy and armed robbery at sea in the Gulf of Guinea,

Affirming its respect for the sovereignty and territorial integrity of the States of the Gulf of Guinea and their neighbours,

Further affirming that the provisions of this resolution apply only with respect to the situation in the Gulf of Guinea,

Affirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its articles 100, 101 and

105, sets out the legal framework applicable to countering piracy and armed robbery at sea, as well as other ocean activities,

Noting that applicable international legal instruments provide for parties to create criminal offences, establish jurisdiction, and prosecute or extradite for prosecution, persons responsible for or suspected of seizing or exercising control over a ship or fixed platform by force or threat thereof or any other form of intimidation,

Emphasizing the importance of finding a comprehensive solution to the problem of piracy and armed robbery at sea in the Gulf of Guinea,

Noting the efforts of the States of the Gulf of Guinea to address this problem, including joint patrols at sea and the activities of the Federal Republic of Nigeria and Benin Republic off the coast of Benin,

Also noting the need for international assistance as part of a comprehensive strategy to support national and regional efforts to assist States in the region with their efforts to address piracy and armed robbery at sea in the Gulf of Guinea,

Welcoming the contributions made by some Member States and international organizations in support of the maritime sector, including security, capacity-building and the joint operations of the States of the Gulf of Guinea,

Stressing that the coordination of efforts at the regional level is necessary for the development of a comprehensive strategy to counter the threat of piracy and armed robbery at sea in the Gulf of Guinea,

Noting that States in the region have a leadership role to play in this regard, supported by organizations in the region,

1. *Condemns* all acts of piracy and armed robbery at sea committed off the coast of the States of the Gulf of Guinea;

2. *Welcomes* the intention to convene a summit of Gulf of Guinea Heads of State in order to consider a comprehensive response in the region and *encourages* the States of the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS) and the Gulf of Guinea Commission (GGC) to develop a comprehensive strategy, including through:

- (a) the development of domestic laws and regulations, where these are not in place, criminalizing piracy and armed robbery at sea;
- (b) the development of a regional framework to counter piracy and armed robbery at sea, including information-sharing and operational coordination mechanisms in the region;
- (c) the development and strengthening of domestic laws and regulations, as appropriate, to implement relevant international agreements addressing the safety and security of navigation, in accordance with international law;

3. *Encourages* States of ECOWAS, ECCAS and the GGC, through concerted action, to counter piracy and armed robbery at sea in the Gulf of Guinea through the conduct of bilateral or regional maritime patrols consistent with relevant international law; and *requests* the States concerned to take appropriate steps to ensure that the activities they undertake pursuant to this resolution, do not have a practical effect of denying or impairing freedom of navigation on the high seas or the right of innocent passage in the territorial sea to vessels of third States;

4. *Calls upon* States, in cooperation with the shipping industry, the insurance industry and the International Maritime Organization (IMO) to issue to ships entitled to fly their flag, appropriate advice and guidance within context of the Gulf of Guinea, on avoidance, evasion and defensive techniques and measures to take, if under the threat of attack, or attack when sailing in the waters of the Gulf of Guinea;

5. *Further calls upon* States of ECOWAS, ECCAS and GGC, in conjunction with flag States and States of nationality of victims or of perpetrators of acts of piracy or armed robbery at sea, to cooperate in the prosecution of alleged perpetrators, including facilitators and financiers of acts of piracy and armed robbery at sea committed off the coast of the Gulf of Guinea, in accordance with applicable international law, including human rights law;

6. *Encourages* the international community to assist, upon request, the States concerned in the region, ECOWAS,

ECCAS, GGC and other relevant organizations and agencies in strengthening their efforts to counter piracy and armed robbery at sea, in the Gulf of Guinea;

7. *Welcomes* the intention of the Secretary-General of the United Nations to deploy a United Nations assessment mission to examine the threat of piracy and armed robbery at sea, in the Gulf of Guinea and explore options on how best to address the problem, and *looks forward* to receiving the mission's report with recommendations on the matter;

8. *Decides* to remain seized of the matter.

United Nations

S/RES/2039 (2012)*



Security Council

Distr.: General
29 February 2012

Resolution 2039 (2012)

**Adopted by the Security Council at its 6727th meeting, on
29 February 2012**

The Security Council,

Recalling its statement of 30 August 2011 and its resolution 2018 (2011) of 31 October 2011, on piracy and armed robbery at sea in the Gulf of Guinea,

Expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea pose to international navigation, security and the economic development of states in the region,

Recognizing that piracy and armed robbery at sea in the Gulf of Guinea affect littoral countries, including their hinterland areas and landlocked countries in the region,

Expressing its concern over the threat that piracy and armed robbery at sea pose to the safety of seafarers and other persons, including through their being taken as hostages, and deeply concerned by the violence employed by pirates and persons involved in piracy and armed robbery at sea in the Gulf of Guinea,

Affirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its articles 100, 101 and 105, sets out the legal framework applicable to countering piracy and armed robbery at sea, as well as other ocean activities,

Affirming its respect for the sovereignty and territorial integrity of the States of the Gulf of Guinea and their neighbours,

Further affirming that the provisions of this resolution apply only with respect to the situation in the Gulf of Guinea,

Recognizing the urgent need to devise and adopt effective and practical measures to counter piracy and armed robbery at sea in the Gulf of Guinea,

Emphasizing the importance of building on existing national, regional and extraregional initiatives to enhance maritime safety and security in the Gulf of Guinea,

Welcoming the initiatives already taken by States in the region and regional organizations, including the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Gulf of Guinea Commission (GGC) and the Maritime Organization for West and Central Africa (MOWCA), to enhance maritime safety and security in the Gulf of Guinea,

Noting the ECCAS comprehensive joint maritime security architecture to counter piracy in the Central African subregion, including the strategy adopted by the ECCAS Peace and Security Council in February 2008, the establishment of the Regional Centre for Maritime Security in Central Africa (CRESMAC) in Pointe-Noire, Congo, as well as the multinational coordination centres in the region,

Further noting the preparatory steps taken by ECOWAS towards developing a maritime security approach through an Integrated Maritime Security Strategy and an Integrated Maritime Plan,

Noting the importance of adopting a comprehensive approach led by the countries of the region to counter the threat of piracy and armed robbery at sea in the Gulf of Guinea and their underlying causes,

Also noting the need for international assistance as part of a comprehensive strategy to support national and regional efforts to assist States in the region with their efforts to address piracy and armed robbery at sea in the Gulf of Guinea,

Stressing that the coordination of efforts at the regional level is necessary for the development of a comprehensive strategy to counter the threat of piracy and armed robbery at sea in the Gulf of

Guinea, in order to enable the prevention and interdiction of such criminal activities and to ensure that persons engaging in piracy and armed robbery at sea are prosecuted and punished if convicted, with due regard for internationally recognized rules and principles of international law,

Reiterating that States in the region have a leadership role to play in countering the threat and addressing the underlying causes of piracy and armed robbery at sea in the Gulf of Guinea, in close cooperation with organizations in the region, and their partners,

Welcoming the contributions by Member States and international organizations in support of ongoing national and regional efforts to secure Gulf of Guinea coastal areas and conduct naval operations, including the joint patrols carried out by the Federal Republic of Nigeria and the Republic of Benin off the coast of Benin, and also welcoming further contributions, upon request,

Expressing its concern about the serious threats to international peace and stability in different regions of the world, in particular in West Africa and the Sahel Region, posed by transnational organized crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea,

Affirming its full commitment to promoting the maintenance of peace and stability in the Gulf of Guinea region,

1. *Welcomes* the report of the Secretary-General's assessment mission on piracy in the Gulf of Guinea, which was dispatched to the region from 7 to 24 November 2011;

2. *Encourages* national authorities, as well as regional and international partners to consider implementing the recommendations of the assessment mission, as appropriate;

3. *Stresses* the primary responsibility of the States of the Gulf of Guinea to counter piracy and armed robbery at sea in the Gulf of Guinea and in this context urges them through ECCAS, ECOWAS and the GGC to work towards the convening of the planned joint Summit of Gulf of Guinea States to develop a regional anti-piracy strategy, in cooperation with the African Union;

4. *Requests* the Secretary-General through the United Nations Office of West Africa (UNOWA) and the United Nations Office of Central Africa (UNOCA) to support States and subregional organizations in convening the joint Summit, as referenced in resolution 2018 (2011), to the extent feasible;

5. *Urges* States of the region of the Gulf of Guinea to take prompt action, at national and regional levels with the support of the international community where able, and by mutual agreement, to develop and implement national maritime security strategies, including for the establishment of a legal framework for the prevention, and repression of piracy and armed robbery at sea and as well as prosecution of persons engaging in those crimes, and punishment of those convicted of those crimes and encourages regional cooperation in this regard;

6. *Encourages* Benin and Nigeria to extend their joint patrols beyond March 2012, while the countries of the Gulf of Guinea continue to work towards building their capacities to independently secure their coastlines and *also encourages* international partners to consider providing support, as needed, in that regard and to the extent feasible;

7. *Encourages* the States of the Gulf of Guinea, ECOWAS, ECCAS and GGC, to develop and implement transnational and transregional maritime security coordination centres covering the whole region of the Gulf of Guinea, building on existing initiatives, such as those under the auspices of the International Maritime Organization (IMO);

8. *Encourages* international partners to provide support to regional States and organizations for the enhancement of their capabilities to counter piracy and armed robbery at sea in the Gulf of Guinea, including their capacity to conduct regional patrols, to establish and maintain joint coordination centres and joint information-sharing centres, and for the effective implementation of the regional strategy, once adopted;

9. *Requests* the Secretary-General to support efforts towards mobilizing resources following the creation of the regional strategy to assist in building national and regional capacities in close consultation with States and regional and extraregional organizations;

10. *Further requests* the Secretary-General to keep the Security Council regularly informed through UNOWA and UNOCA, on the situation of piracy and armed robbery at sea in the Gulf of Guinea, including on progress made regarding the joint Summit as well as by ECOWAS, ECCAS and the GGC to develop a comprehensive strategy to counter piracy and armed robbery at sea;

11. *Decides* to remain seized of the matter.

APPENDIX 3 – MOWCA MOU on Establishment of Regional Coast Guard Network

MARITIME ORGANISATION OF WEST AND CENTRAL AFRICA



MOWCA

**13th Session of the General Assembly
Dakar 2008**

29 – 31 July 2008
Dakar, Republic of Senegal

MOWCA/XIII GA.08/8

Item 6.2.1.1.c of the Agenda
Original : FRENCH
Version : English

Mission Statement: “Towards a cost-effective Maritime Transport Service, high on safety, security and low on pollution”

<p>MEMORANDUM OF UNDERSTANDING ON THE ESTABLISHMENT OF A SUB-REGIONAL INTEGRATED COAST GUARD NETWORK IN WEST AND CENTRAL AFRICA.</p>	<p>MÉMORANDUM D'ENTENTE DU RÉSEAU SOUS- RÉGIONAL INTÉGRÉ DE GARDE-CÔTES DES ÉTATS D'AFRIQUE DE L'OUEST ET DU CENTRE.</p>
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<p>The Coastal Member States of the Maritime Organization of West and Central Africa (MOWCA) :</p> <ol style="list-style-type: none"> 1. Angola 2. Benin 3. Cameroon 4. Cape Verde 5. Congo 6. Congo DR 7. Côte d'Ivoire 8. Gabon 9. The Gambia 10. Ghana 11. Guinea 12. Guinea Bissau 13. Equatorial Guinea 14. Liberia 15. Mauritania 16. Nigeria 17. Sao Tome and Principe 18. Senegal 19. Sierra Leone 20. Togo 	<p>Les États côtiers membres de l'Organisation maritime de l'Afrique de l'Ouest et du Centre (OMAOC) :</p> <ol style="list-style-type: none"> 1. Angola 2. Bénin 3. Cameroun 4. Cap-Vert 5. Congo 6. Congo RD 7. Côte d'Ivoire 8. Gabon 9. Gambie 10. Ghana 11. Guinée 12. Guinée-Bissau 13. Guinée équatoriale 14. Libéria 15. Mauritanie 16. Nigéria 17. Sao Tomé-et-Principe 18. Sénégal 19. Sierra Leone 20. Togo
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<p>Landlocked Member States of MOWCA associated to the Memorandum :</p> <p>Burkina Faso Mali Niger Central African Republic Chad</p> <p>Considering the relevant provisions of United Nations General Assembly resolution 55/2 on the United Nations Millennium Declaration and, in particular, section II on Peace, security and disarmament; section III on Development and poverty eradication; section IV on Protecting our common environment; and section VII on Meeting the special needs of Africa</p> <p>Considering the United Nations General Assembly resolution A/RES/55/7 on Oceans and the Law of the Sea urging all States, and in particular coastal States, in affected regions to take all necessary and appropriate measures to prevent and combat incidents of piracy and armed robbery at sea, including through regional co-operation, and to investigate or co-operate in the investigation of such incidents wherever they occur and bring the alleged perpetrators to justice in accordance with international law;</p> <p>Considering the United Nations General Assembly resolution A/RES/59/24 on Oceans and the Law of the Sea also urging all States, in co-operation with the International Maritime Organization, to combat piracy and armed robbery at sea; and to carry on regional co-operation in the prevention and suppression of piracy and armed robbery at sea in some geographical areas, and urging States to give urgent attention to promoting, adopting and</p>	<p>Les États enclavés membres de l'OMAOAOC associés au Mémorandum :</p> <p>Burkina Faso Mali Niger République centrafricaine Tchad</p> <p>Notant les dispositions pertinentes de la résolution 55/2 de l'Assemblée générale des Nations Unies sur la Déclaration du Millénaire des Nations Unies et, en particulier, la section II "Paix, sécurité et désarmement"; la section III "Développement et élimination de la pauvreté"; la section IV "Protéger notre environnement commun"; et la section VII "Répondre aux besoins spéciaux de l'Afrique";</p> <p>Notant la résolution A/RES/55/7 de l'Assemblée générale des Nations Unies sur les océans et le droit de la mer, dans laquelle l'Assemblée prie instamment tous les États, en particulier les États côtiers, de prendre toutes les mesures nécessaires et appropriées, notamment dans le cadre de la coopération régionale, pour prévenir et combattre les actes de piraterie et les vols à main armée commis en mer, d'enquêter ou d'apporter leur concours aux enquêtes menées sur de tels incidents partout où ils se produisent et de traduire en justice les auteurs présumés, conformément au droit international;</p> <p>Notant la résolution A/RES/59/24 de l'Assemblée générale des Nations Unies sur les océans et le droit de la mer dans laquelle également l'Assemblée engage vivement tous les États à lutter, en coopération avec l'Organisation maritime internationale, contre les actes de piraterie et les vols à main armée commis en mer; et à poursuivre la coopération régionale en matière de prévention et de répression de la piraterie et des vols à main armée en mer dans certaines</p>
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implementing co-operation agreements, in particular at the regional level in high-risk areas;	régions, et engage vivement les États à s'employer d'urgence à promouvoir, adopter et exécuter des accords de coopération, en particulier au niveau régional dans les régions à haut risque;
Considering the United Nations General Assembly resolution A/RES/60/30 on Oceans and the Law of the Sea also urging all States, in cooperation with the International Maritime Organization, to combat piracy and armed robbery at sea by adopting measures, including those relating to assistance with capacity-building through training of seafarers, port staff and enforcement personnel in the prevention, reporting and investigation of incidents, bringing the alleged perpetrators to justice, in accordance with international law, and by adopting national legislation, as well as providing enforcement vessels and equipment and guarding against fraudulent ship registration,	Notant la résolution de l'Assemblée générale des Nations Unies A/Res/60/30 sur les océans et le droit de la mer, dans laquelle l'Assemblée engage vivement tous les États à lutter, en coopération avec l'Organisation maritime internationale, contre les actes de piraterie et les vols à main armée commis en mer en adoptant des mesures, y compris d'aide au renforcement des capacités, en formant les gens de mer, le personnel des ports et les agents de la force publique à la prévention et à la constatation des incidents et à la conduite d'enquêtes à leur sujet, en traduisant en justice les auteurs présumés conformément aux dispositions du droit international, en se dotant d'une législation nationale, en consacrant à cette lutte des navires et du matériel adaptés et en empêchant les immatriculations frauduleuses de navires;
Taking into account the Maritime Transport Charter for West and Central African States, adopted in Abidjan on May 7, 1975 and as amended on August 6, 1999;	Prenant en considération la Charte des transports maritimes des Etats de l'Afrique de l'Ouest et du Centre, adoptée à Abidjan le 7 mai 1975 et telle que modifiée le 6 août 1999;
Taking into account the Convention on the Institutionalisation of the Ministerial Conference of Central African States on Maritime Transport adopted in Accra on February 26, 1977 and as amended in Abidjan on August 06, 1999;	Prenant en considération la Convention portant création de la Conférence ministérielle des États de l'Afrique de l'Ouest et du Centre sur les transports maritimes adoptée à Accra le 26 février 1977 et telle que modifiée à Abidjan le 6 août 1999;
Taking into account the MOWCA resolution n°193/12/03 on maritime safety in West and Central Africa adopted in LUANDA on October 31, 2003, in particular	Prenant en considération la résolution No 193/12/03 de l'OMAOA adoptée à LUANDA le 31 octobre 2003 sur la sécurité maritime en Afrique de l'Ouest et du Centre,

<p>the setting up of an integrated sub-regional network of coastguards;</p> <p>Recognizing that the history of maritime security and safety as well as marine environmental protection in West and Central African Sub-region is full of incidents and accidents that expose the lack or inadequacy of response capability in the sub-region ;</p>	<p>en particulier la mise en place d'un Réseau sous-régional intégré de garde-côtes;</p> <p>Reconnaissant que l'histoire de la sécurité et de la sûreté maritimes ainsi que de la protection de l'environnement marin en Afrique de l'Ouest et du Centre est émaillée d'incidents et d'accidents qui ont mis en évidence l'absence de capacité de réaction de la sous région ou son inadéquation;</p>
<p>Appreciating the efforts carried out in these fields, by the United Nations, through the International Maritime Organization IMO, by the adoption of various conventions, including the Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (the 1988 SUA Convention), as revised, and the International Convention on Maritime Search and Rescue, 1979, as amended (SAR 1979), aiming at developing an international search and rescue (SAR) plan so that no matter where an accident occurs, the rescue of persons in distress at sea would be co-ordinated by a SAR organization and, when necessary, by co-operation between neighbouring SAR organizations; including also the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974), the Protocol of 1978 relating to the International Convention on the Prevention of Pollution from Ships, 1973, as amended (MARPOL PROT 1978), OPRC Convention, 1990, etc. which provisions should be implemented at shore and at sea, for the implementation of maritime navigation and marine pollution prevention and control;</p>	<p>Accueillant avec satisfaction les efforts déployés par les Nations Unies, par l'intermédiaire de l'Organisation maritime internationale (OMI), à savoir l'adoption de diverses Conventions dont la Convention de 1988 pour la répression d'actes illicites contre la sécurité de la navigation maritime (Convention SUA de 1988), telle que révisée, et la Convention de 1979 sur la recherche et le sauvetage maritimes (Convention SAR), telle que modifiée, visant à établir un plan international de recherche et de sauvetage (SAR) afin que, partout où un accident se produit, le sauvetage des personnes en détresse en mer soit coordonné par une organisation SAR et, lorsque nécessaire, moyennant la coopération entre les organisations SAR voisines, ainsi que la Convention internationale de 1974 pour la sauvegarde de la vie humaine en mer (Convention SOLAS de 1974), telle que modifiée, le Protocole de 1978 relatif à la Convention internationale de 1973 pour la prévention de la pollution par les navires, tel que modifié (MARPOL PROT 1978), la Convention OPRC de 1990, etc., dont les dispositions devraient être mises en oeuvre sur terre et en mer aux fins de la prévention et du contrôle de la pollution marine et de la navigation maritime;</p>

<p>Recognizing with deep concern the grave dangers to the safety and security of persons at sea and to the protection of the marine environment arising from unlawful acts against ships and in particular from acts of piracy or armed robbery;</p> <p>Also recognizing that national, regional and international efforts to combat terrorism also enhance the ability to combat organized crime and armed robberies against ships;</p> <p>Being aware that the fight against piracy and armed robbery against ships is often impeded by the absence of effective or adequate legislative and administrative arrangements for the investigation of reported cases of piracy or armed robbery against ships;</p>	<p>Constatant avec une vive inquiétude les graves dangers pour la sécurité et la sûreté des personnes en mer et pour la protection du milieu marin qui résultent des actes illicites commis à l'encontre des navires, et notamment des actes de piraterie ou des vols à main armée;</p> <p>Reconnaissant également que les initiatives nationales, régionales et internationales de lutte contre le terrorisme renforcent aussi la capacité de combattre la criminalité organisée et les vols à main armée à l'encontre des navires;</p> <p>Conscients que la lutte contre la piraterie et les vols à main armée à l'encontre des navires est souvent entravée par le manque de dispositifs législatifs et administratifs efficaces ou appropriés pour enquêter sur les cas de cet ordre qui ont été déclarés;</p>
<p>Being also aware that, when arrests are made, there is the absolute need for a legislative framework and of adequate guidelines for the conduct of investigation so as to allow for the prosecution, conviction and punishment of those involved in acts of piracy and armed robbery against ships.</p> <p>Recalling the obligations of States under United Nations Security Council resolutions 1373 (2001), 1540 (2004) and 1566 (2004);</p> <p>Recalling the provisions of the United Nations Convention on the Law of the Sea (UNCLOS);</p> <p>Recalling also the relevant provisions of the 1988 SUA Convention and the Protocol for</p>	<p>Conscients également que, dans le cas où sont effectuées des arrestations, il est absolument nécessaire de disposer d'un cadre législatif et de directives appropriées pour la conduite de l'enquête de façon à permettre la poursuite, la condamnation et le châtiment des personnes impliquées dans des actes de piraterie et de vols à main armée à l'encontre des navires;</p> <p>Rappelant les obligations des États en vertu des résolutions 1373 (2001), 1540 (2004) et 1566 (2004) du Conseil de Sécurité des Nations Unies;</p> <p>Rappelant les dispositions de la Convention des Nations Unies sur le droit de la mer de 1982;</p> <p>Rappelant également les dispositions pertinentes de la Convention SUA de 1988 et</p>

<p>the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (the 1988 SUA Protocol);</p> <p>Recalling further the need for ships, consistent with the provisions of UNCLOS, to provide assistance in response to a situation of persons in distress at sea;</p> <p>Recognizing also the vulnerability of transport networks, the important role energy shipping plays in the global economy, and the importance, in this respect, of enhancing safety, security, and environmental protection of the sea area along the Atlantic coast of the MOWCA Member States (hereinafter referred to as “the coast of West and Central Africa”);</p> <p>Recognizing further the need to balance maritime security and facilitation and to minimize any adverse effects on the free flow of commerce to and from ports in West and Central Africa and that enhanced maritime security along the coast of West and Central Africa will promote international trade, economic co-operation and sustainable economic development;</p>	<p>du Protocole de 1988 pour la répression d'actes illicites contre la sécurité des plates-formes fixes situées sur le plateau continental (le Protocole SUA de 1988);</p> <p>Rappelant en outre que les navires doivent, conformément aux dispositions de la Convention des Nations Unies sur le droit de la mer, prêter assistance dans les situations où des personnes sont en détresse en mer;</p> <p>Reconnaissant également la vulnérabilité des réseaux de transport, le rôle considérable que joue le transport de l'énergie dans l'économie mondiale et l'importance qu'il y a, à cet égard, à renforcer la sécurité, la sûreté et la protection de l'environnement de la zone maritime le long de la côte Atlantique des États membres de l'OMAOC (ci-après dénommée "la côte de l'Afrique de l'Ouest et du Centre");</p> <p>Reconnaissant en outre qu'il faut respecter un équilibre entre la sûreté maritime et les dispositions visant à faciliter la navigation et réduire au maximum tout effet négatif sur le libre mouvement du commerce à destination et en provenance des ports d'Afrique de l'Ouest et du Centre, et qu'une sûreté maritime renforcée le long des côtes d'Afrique de l'Ouest et du Centre favorisera le commerce international, la coopération économique et le développement économique durable;</p>
<p>Acknowledging the fact that the enhancement of security in the international maritime transport sector is an indispensable and fundamental condition for the welfare and economic security in West and Central Africa and is in the direct interest of all States;</p>	<p>Reconnaissant le fait que le renforcement de la sûreté dans le secteur des transports maritimes internationaux est une condition essentielle et fondamentale de la prospérité et de la sûreté économiques de l'Afrique de l'Ouest et du Centre et que tous les États y ont directement intérêt;</p>

<p>Further recognizing that the successful implementation and maintenance of compliance with SOLAS 1974 and the International Ship and Port Facility Security Code (the ISPS Code) require, <i>inter alia</i>, the early and efficient collection, assessment and exchange of security-related information;</p> <p>Also recognizing the need to set, in accordance with SOLAS 1974 regulation XI-2/7 on Threats to ships, security levels and to ensure the provision of security level information to ships operating in our territorial sea or having communicated an intention to enter our territorial sea, and where a risk of an attack has been identified, to provide advice to the ships concerned;</p> <p>Expressing great concern for the security of passengers and crews on board ships including small craft, both at anchor and underway, in the context of incidents involving terrorism and other unlawful acts against ships, and the associated risks to people on shore or populations in port areas as well as to ports, offshore terminals and the marine environment;</p> <p>Being convinced of the need for MOWCA Member States to co-operate and to take, as a matter of the highest priority, all necessary action to prevent and suppress any incidents which threaten the security in the international maritime transport sector;</p>	<p>Reconnaissant en outre que, pour assurer l'application et le respect permanent de la Convention SOLAS de 1974 et du Code international pour la sûreté des navires et des installations portuaires (Code ISPS), il faut, entre autres, procéder à la collecte, l'évaluation et l'échange rapides et efficaces de renseignements concernant la sûreté;</p> <p>Reconnaissant également qu'il faut, conformément à la règle XI-2/7 de la Convention SOLAS de 1974 relative aux menaces contre les navires, établir des niveaux de sûreté et veiller à ce que les renseignements sur ces niveaux de sûreté soient communiqués aux navires exploités dans les mers territoriales des États de l'Afrique de l'Ouest et du centre ou ayant fait part de leur intention d'entrer dans ces mers territoriales et, lorsqu'un risque d'attaque a été déterminé, informer les navires concernés;</p> <p>Se déclarant gravement préoccupés par la sûreté des passagers et des équipages à bord des navires, y compris des embarcations de faibles dimensions, qu'ils soient au mouillage ou en route, dans la perspective d'incidents incluant des actes de terrorisme et d'autres actes illicites à l'encontre des navires, ainsi que par les risques connexes pour les personnes à terre ou les populations se trouvant dans les zones portuaires et pour les ports, les installations portuaires au large et le milieu marin;</p> <p>Convaincus qu'il faut que les États membres de l'OMAOOC coopèrent et prennent, à titre hautement prioritaire, toutes les mesures nécessaires pour prévenir et réprimer tous les incidents qui menacent la sûreté du secteur des transports maritimes internationaux;</p>
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<p>Recognizing the importance of sustainable fisheries as potential means for creating and sustaining employment, providing food security and generating revenue for the national economies of MOWCA Member States, and that they contribute to economic growth and poverty reduction;</p>	<p>Reconnaissant l'importance que revêtent les pêcheries durables en tant que moyen susceptible de créer et de maintenir des emplois, d'assurer la sécurité alimentaire et de générer des recettes pour les économies nationales des États membres de l'Organisation maritime de l'Afrique de l'Ouest et du Centre, ainsi que leur contribution à la croissance économique et à la réduction de la pauvreté;</p>
<p>Desiring to move from words to action through full implementation of various international instruments for sustainable fisheries adopted or enacted in the past decades, including the 1995 Food and Agriculture Organization Code of Conduct for Responsible Fisheries, Governments in West and Central Africa should appreciate the social, economic and financial benefits of sustainable fisheries and provide financial, material and human resources to achieve defined objectives in protecting these resources and their environment;</p>	<p>Souhaitant concrétiser les mots par des actions en mettant pleinement en œuvre les divers instruments internationaux relatifs aux pêcheries durables, adoptés ou promulgués au cours des précédentes décennies, notamment le Code de conduite de 1995 pour une pêche responsable adopté par l'Organisation des Nations Unies pour l'alimentation et l'agriculture, les Gouvernements des pays d'Afrique de l'Ouest et du Centre devraient être conscients de l'intérêt social, économique et financier des pêcheries durables et fournir des ressources financières, matérielles et humaines pour atteindre des objectifs précis en matière de protection de ces ressources et de leur environnement;</p>
<p>Recognizing that among those rescued at sea may be refugees and asylum seekers who should in accordance with international law, specifically the 1951 Convention relating to the Status of Refugees, and its 1967 Protocol as well as the 1969 OAU Convention governing the specific aspects of refugee problems of Africa, be disembarked promptly at a place of safety where they are safe from prosecution or other human rights violation and where the asylum requests will be examined;</p>	<p>Reconnaissant que parmi ceux qui sont secourus en mer, il peut y avoir des réfugiés et des demandeurs d'asile qui devraient, conformément au droit international, précisément la Convention de 1951 relative au statut des réfugiés et son Protocole de 1967 ainsi que la Convention de l'OUA régissant les aspects propres aux problèmes des réfugiés en Afrique (1969), être débarqués au plus tôt en un lieu sûr où ils seront à l'abri de toute poursuite ou d'autres violations des droits de l'homme et où les demandes d'asile seront examinées;</p>

<p>Realizing that measures taken to control borders and restrictions on aliens' access to territory constitute a valid exercise of State sovereignty;</p> <p>Respecting fully the sovereignty, sovereign rights, jurisdiction and territorial integrity of the States which constitute the network, the principle on non-intervention, and the relevant provisions of international law, in particular, UNCLOS;</p>	<p>Conscient que les mesures prises pour assurer le contrôle des frontières et les restrictions d'accès des étrangers sur le territoire sont justifiées dans le cadre de l'exercice de la souveraineté d'un État;</p> <p>Respectant pleinement la souveraineté, les droits souverains, la juridiction et l'intégrité territoriale des États qui constituent le Réseau, le principe de non-intervention et les dispositions pertinentes du droit international, notamment la Convention des Nations Unies sur le droit de la mer;</p>
<p>Recognizing the potential benefits for the establishment of an integrated coast guard function network for the west and central coast of Africa across a wide range of activities, including the enhancement of maritime safety, security and environmental protection, law enforcement, and economic development;</p> <p>Recognizing that in the absence of a regional integration scheme, these conventions impose costly obligations in each West and Central African State in so far as each State develops its own regulation framework, set up its own shore installations and brings into service its own coastguard network mainly through its Navy or Maritime Administration;</p> <p>Conscious that the multiplicity of regulations and implementation procedures concerning their marine and coastal zones is not only expensive for the States taken individually, but also does not allow the States to take full advantage of economies of scale in guarding the coast and it also creates barriers and obstacles to shipping and trade ;</p>	<p>Reconnaissant l'intérêt que pourrait présenter la mise en place d'un Réseau intégré de garde-côtes le long du littoral des pays d'Afrique de l'Ouest et du Centre dans des domaines très variés, notamment le renforcement de la sécurité et de la sûreté maritimes et la protection de l'environnement, l'application des lois et le développement économique;</p> <p>Reconnaissant qu'en l'absence de dispositif régional d'intégration, les conventions imposent de coûteuses obligations à chaque État de l'Afrique de l'Ouest et du Centre, dans la mesure où chaque État élabore son propre cadre réglementaire, établit ses propres infrastructures à terre et met en service son propre réseau de garde-côtes, en s'appuyant principalement sur sa marine nationale ou son administration maritime;</p> <p>Conscients que la multiplicité des règles et des procédures d'application concernant leurs zones maritimes et côtières n'entraîne pas seulement des frais importants pour les États pris individuellement, mais également qu'elle ne leur permet pas de tirer pleinement parti des économies d'échelle en ce qui concerne les services de garde-côtes et qu'elle crée par ailleurs des obstacles et des barrières aux</p>

<p>Noting that, taking into account the considerable obligations posed by the 1979 SAR Convention, it had not been accepted or ratified by many Coastal states throughout the world including those of West and Central Africa and that the SAR Convention as amended clarifies the responsibilities of Governments and puts greater emphasis on the regional approach and co-ordination between maritime and aeronautical SAR operations ;</p> <p>Conscious that in the absence of a sub-regional agreement on the right of hot-pursuit across national borders, the sub-region lacks an effective means to pursuit and prohibit piracy and armed robbery acts;</p>	<p>transports maritimes et au commerce;</p> <p>Notant que, compte tenu des obligations considérables imposées par la Convention SAR de 1979, cette dernière n'a pas été acceptée ou ratifiée par nombre d'États côtiers à travers le monde, dont ceux de l'Afrique de l'Ouest et du Centre, et que la Convention SAR, telle que modifiée, clarifie les responsabilités des gouvernements et met davantage l'accent sur une approche régionale et sur la coordination entre les opérations SAR maritimes et aéronautiques;</p> <p>Conscients qu'en l'absence d'accord sous-régional sur le droit de poursuite à travers les frontières nationales, la sous-région manque de moyens effectifs de poursuivre et de combattre les actes de piraterie et les vols à main armée;</p>
<p>Recognizing that although most of MOWCA Member States, through their respective Navy, Marine Police and Merchant Marine Administrations, already perform some coastguard activities, however these activities are not co-ordinated for a regional response in case of crises transcending national boundaries ;</p> <p>Conscious that most of the IMO Conventions can only be implemented effectively on a regional or sub-regional basis and,</p> <p>Convinced that MOWCA Member States individual coastguard activities can take advantage of economies of scale derived from an improved and harmonized regional coastguard network and a strengthened co-operation and exchange of information</p>	<p>Reconnaissant que, bien que la plupart des États membres de l'OMAOC assurent déjà des activités de garde-côtes par l'intermédiaire de leur marine nationale, leur police maritime et leur administration de la marine marchande, ces activités ne sont pas coordonnées de manière à pouvoir intervenir à l'échelle régionale en cas de crise dépassant les frontières nationales;</p> <p>Conscients que la plupart des conventions de l'OMI ne peuvent être effectivement mises en œuvre que dans un cadre sous-régional ou régional et,</p> <p>Convaincus que les activités de garde-côtes des États membres de l'OMAOC pris individuellement peuvent tirer grand parti des économies d'échelle découlant de la mise en place d'un réseau régional de garde-côtes amélioré et harmonisé et d'une coopération renforcée, ainsi que des échanges d'informations;</p>

<p>Conscious that the issues of management of the seas and oceans are closely interrelated and need to be considered as a whole ;</p> <p>Affirming the duty of States to use the seas and oceans for peaceful purposes ;</p> <p>Acknowledging the importance of resolving sovereignty and jurisdictional disputes peacefully and without resort to force ;</p> <p>Supporting the will of MOWCA to foster a regional environment conducive to maintaining the peace, commerce and prosperity of the West and Central Africa;</p> <p>Taking into account IMO Resolution A.584(14) of 20 November 1985 on the development of measures to prevent unlawful acts which threaten the safety of ships and security of their passengers and crews ;</p> <p>Acknowledging the guiding principles for the Protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources set out in Chapter 17 of Agenda 21, agreed at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992 ;</p>	<p>Conscients du fait que les questions relatives à la gestion des mers et océans sont étroitement liées et doivent être prises en considération dans leur ensemble;</p> <p>Affirmant le devoir des États d'utiliser les mers et les océans à des fins pacifiques;</p> <p>Reconnaissant qu'il est important de résoudre les conflits de souveraineté et de juridiction par la voie pacifique et sans usage de la force;</p> <p>Appuyant la volonté de l'OMAOC de faciliter l'émergence d'un environnement régional propice au maintien de la paix, au commerce et à la prospérité de l'Afrique de l'Ouest et du Centre;</p> <p>Tenant compte de la résolution de l'OMI A.584 (14) du 20 novembre 1985 sur l'élaboration de mesures visant à prévenir les actes illicites qui compromettent la sécurité des navires et la sûreté de leurs passagers et de leurs équipages;</p> <p>Reconnaissant les principes directeurs énoncés dans le chapitre 17 d'Action 21, adopté à la Conférence des Nations Unies sur l'environnement et le développement de Rio de Janeiro en 1992, à savoir protection des océans et de toutes les mers - y compris les mers fermées et semi-fermées - et des zones côtières et protection, utilisation rationnelle et mise en valeur de leurs ressources biologiques;</p>
<p>Acknowledging the importance of seaborne trade in the West and Central Africa;</p> <p>Conscious of the interests which countries share in the marine environment, and in a spirit of cooperation, friendship and goodwill ;</p>	<p>Reconnaissant l'importance du commerce maritime dans la région de l'Afrique de l'Ouest et du Centre;</p> <p>Conscients des intérêts que les pays partagent en ce qui concerne le milieu marin, dans un esprit de coopération, d'amitié et de bonne volonté;</p>

<p><i>Conscious</i> of the need to develop a common approach to common maritime safety and security problems ; and</p> <p><i>Taking into account</i> of the recommendations of IMO/MOWCA forum held in Dakar from 23 to 25 October 2006 on the establishment of an integrated coast guard function network for West and Central African Countries;</p> <p><i>Convinced</i> that the following Memorandum of Understanding will promote regional maritime cooperation and a stable maritime environment, contribute to the peace, good order and continuing prosperity of the West and Central Africa ;</p> <p><i>Agree</i> to what follows:</p> <p>FIRST PART: DEFINITION, RELEVANT INSTRUMENTS, RIGHTS AND DUTIES:</p> <p><u>ARTICLE I</u> <u>DEFINITIONS</u></p> <p>1. For the purposes of the following Memorandum :</p> <p>State Party " or " Party " means West and Central Africa coastal State having signed or accepted this Memorandum of</p>	<p><i>Conscients</i> qu'il est nécessaire de mettre au point une approche commune pour résoudre les problèmes communs de sécurité et de sûreté maritimes; et</p> <p><i>Tenant compte</i> des recommandations du forum OMI/OMAOOC tenu à Dakar du 23 au 25 octobre 2006 sur la mise en place d'un réseau intégré de garde-côtes pour les États d'Afrique de l'Ouest et du Centre;</p> <p><i>Convaincus</i> que le présent Mémoire d'entente peut d'une part, promouvoir la coopération maritime régionale et un environnement maritime stable, et d'autre part, contribuer à la paix, à l'ordre et à la prospérité durable de l'Afrique de l'Ouest et du Centre;</p> <p><i>Conviennent</i> de ce qui suit :</p> <p>PREMIÈRE PARTIE : DÉFINITIONS, INSTRUMENTS PERTINENTS, DROITS ET OBLIGATIONS :</p> <p>Article 1 : DÉFINITIONS</p> <p>1. Aux fins du présent Mémoire d'entente :</p> <p>"État Partie" ou "Partie" signifie un État côtier de l'Afrique de l'Ouest et du Centre ayant signé ou accepté le présent Mémoire d'entente.</p> <p>"eaux archipélagiques" signifie les eaux fermées délimitées par les lignes de base archipélagiques d'un État archipel tracées conformément à l'article 47 de la Convention des Nations Unies sur le droit de la mer de 1982;</p> <p>"garde-côtes" signifie l'administration de droit public d'un État qui est chargée de l'élaboration et de la mise en œuvre des politiques relatives à la sauvegarde de la vie</p>
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<p>Understanding</p> <p>"archipelagic waters" means those waters enclosed by the archipelagic baselines of an archipelagic State drawn in accordance with Article 47 of UNCLOS ;</p> <p>"coastguard" means a public statutory agency in a State responsible for the development and implementation of policies on safety of life at sea, search and rescue interventions, maritime navigation police and marine pollution police ;</p>	<p>humaine en mer, aux interventions de recherche et de sauvetage, à la police maritime et à la surveillance de la pollution marine;</p>
<p>Competent Officer: An Officer of a State Party, competent to enforce legal provisions, to investigate infringements to these provisions and to prosecute or to report to a prosecuting Authority.</p> <p>Facility: Mobile or fixed facility of the Network</p> <p>"continental shelf" means the submarine area of seabed and subsoil as defined by Part VI of UNCLOS ;</p> <p>"enclosed or semi-enclosed sea" means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States, as defined by Part IX of UNCLOS ;</p> <p>"exclusive economic zone" means an area superjacent to the sea-bed, and subsoil, as defined by Part V of the UNCLOS ;</p>	<p>Fonctionnaire compétent : Fonctionnaire d'un État Partie, habilité à appliquer des dispositions juridiques, enquêter sur des infractions à ces dispositions et engager des poursuites devant les tribunaux ou rendre compte à l'autorité chargée de ces poursuites.</p> <p>Moyen : Moyen mobile ou fixe du réseau</p> <p>"plateau continental" désigne les fonds marins et leur sous-sol, tel que défini dans la partie VI de la Convention des Nations Unies sur le droit de la mer de 1982;</p> <p>"mer fermée ou mer semi-fermée" désigne un golfe, un bassin ou une mer entouré par deux ou plusieurs États et relié à une autre mer ou à l'océan par un passage étroit, ou constitué, entièrement ou principalement, des mers territoriales et des zones économiques exclusives de deux ou plusieurs États côtiers, telles que définies dans la partie IX de la Convention des Nations Unies sur le droit de la mer de 1982;</p> <p>"zone économique exclusive" désigne une zone surjacente au fond de la mer, et au sous-</p>

<p>“foreign sea” means a sea area where a State, as coastal State, is different from the State providing the flag of a given facility of the Organization ;</p> <p>“high seas” means those waters to which the provisions of Part VII of UNCLOS applies ;</p> <p>“marine environment” includes the oceans and all seas and adjacent coastal areas ;</p> <p>“piracy” as defined in Art 101 of UNCLOS means : (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed :</p>	<p>sol, telle que définie dans la partie V de la Convention des Nations Unies sur le droit de la mer de 1982;</p> <p>“mer étrangère” signifie une zone maritime où un État, agissant en tant qu'État côtier, est différent de l'État du pavillon d'un moyen de l'Organisation;</p> <p>“haute mer” signifie les eaux auxquelles les dispositions de la partie VII de la Convention des Nations Unies sur le droit de la mer de 1982 s'appliquent;</p> <p>“milieu marin” désigne les océans et toutes les mers et les zones côtières adjacentes;</p> <p>“piraterie”, telle que définie à l'article 101 de la Convention des Nations Unies sur le droit de la mer de 1982 désigne : a) tout acte illicite de violence ou de détention ou toute déprédation commise, par l'équipage ou les passagers d'un navire ou d'un aéronef privé, agissant à des fins privées, et dirigé :</p>
<ul style="list-style-type: none"> - on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft ; - against a ship, aircraft, persons or property in a place outside the jurisdiction of any State ; <p>(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft ;</p> <p>(c) any act inciting or of intentionally facilitating an act described in sub-paragraph (a) or (b).”;</p> <p>pollution of the marine environment means the introduction by man, directly or</p>	<ul style="list-style-type: none"> - contre un autre navire ou aéronef, ou contre des personnes ou des biens à leur bord, en haute mer; - contre un navire ou aéronef, des personnes ou des biens, dans un lieu ne relevant pas de la juridiction d'un État; <p>b) tout acte de participation volontaire à l'utilisation d'un navire ou d'un aéronef, lorsque son auteur a connaissance de faits dont il découle que ce navire ou cet aéronef est un navire ou aéronef pirate;</p> <p>c) tout acte ayant pour but d'inciter à commettre les actes définis aux lettres a) ou b), ou commis dans l'intention de les faciliter;</p> <p>on entend par “pollution du milieu marin” l'introduction directe ou indirecte, par l'homme, de substances ou d'énergie dans le</p>

<p>development of measures to prevent unlawful acts which threaten the safety of ships and security of their passengers and crews;</p> <ul style="list-style-type: none"> • United Nations General Assembly resolutions A/Res/55/2, A/Res/55/7, A/Res/59/24 and A/Res/60/30 • MOWCA Recommendations No 04/05; No 05/05; No 06/05 approving the establishment of four (4) coastguard zones in the sub-region for effective zonal coordination and the setting up of two principal coordinating centres for the region, adopted by the MOWCA Bureau of Ministers in Luanda, March 2005 and September 2007; • MOWCA Resolution n° 182/11/01 approving the proposal to establish an integrated Sub-regional Coast Guard network, adopted at 11th General Assembly of Ministers of MOWCA, Abuja, 4th June 2001; • International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 74); • The International Ship and Port Facility Security Code.(ISPS Code) Code ; • United Nations Convention on the Law of the Sea 1982 (UNCLOS) ; • International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78) ; 	<p>de mesures visant à prévenir les actes illicites qui compromettent la sécurité des navires et la sûreté de leurs passagers et de leurs équipages;</p> <ul style="list-style-type: none"> • Résolutions de l'Assemblée générale des Nations Unies A/Res/55/2, A/Res/55/7, A/Res/59/24 et A/Res/60/30 • Recommandations de l'OMAO No 04/05 ; No 05/05; n°06/05 approuvant l'établissement de quatre (4) zones couvertes par des garde-côtes dans la sous-région en vue d'une coordination efficace entre les zones et la création des deux centres principal de coordination pour la région, adoptées par le Bureau des Ministres de l'OMAO à Luanda, mars 2005 et septembre, 2007; • Résolution No 182/11/01 de l'OMAO approuvant la proposition visant à établir un réseau sous-régional intégré de garde-côtes, adoptée à la 11^{ème} Assemblée générale des Ministres de l'OMAO à Abuja le 4 juin 2001; • Convention internationale de 1974 pour la sauvegarde de la vie humaine en mer (Convention SOLAS de 1974) et son Protocole de 1978; • Code international pour la sûreté des navires et des installations portuaires (Code ISPS) ; • Convention des Nations Unies sur le droit de la mer de 1982; • Convention internationale de 1973 pour la prévention de la pollution par les navires, telle que modifiée par le Protocole de 1978 (MARPOL 73/78); • Convention sur le Règlement international de 1972 pour prévenir
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<ul style="list-style-type: none"> • Convention on the International Regulation for Preventing Collisions at Sea 1972; (COLREG 72) ; 	les abordages en mer (Convention COLREG de 1972);
<ul style="list-style-type: none"> • International Convention on Civil Liability for Oil Pollution Damage (CLC) 1969 as amended by the CLC protocol of 1992; • International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988; (SUA 88), as amended ; • Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988, (SUA Prot 88), as amended ; • International Convention on the preparation, the fight and the co-operation in case oil pollution (OPRC 90); • 1979 SAR Convention as amended • United Nations Food and Agricultural Program Code of Conduct for Fisheries; • 1951 Convention relating to the Status of Refugees, and its 1967 Protocol as well as the 1969 OAU Convention governing the specific aspects of refugee problems of Africa. <p>Article 3: RIGHTS AND DUTIES</p> <p>1. States recognize:</p> <ul style="list-style-type: none"> • the sovereignty and responsibilities of other States in respect of their 	<ul style="list-style-type: none"> • Protocole de 1992 modifiant la Convention internationale de 1969 sur la responsabilité civile pour les dommages dus à la pollution par les hydrocarbures (Protocole CLC de 1992); • Convention de 1988 pour la répression d'actes illicites contre la sécurité de la navigation maritime (Convention SUA de 1988), telle que modifiée; • Protocole de 1988 pour la répression d'actes illicites contre la sécurité des plates-formes fixes situées sur le plateau continental (Protocole SUA de 1988 tel que modifié); • Convention internationale de 1990 sur la préparation, la lutte et la coopération en matière de pollution par les hydrocarbures (Convention OPRC); • Convention SAR de 1979, telle que modifiée; • Code de conduite pour une pêche responsable de l'Organisation des Nations Unies pour l'alimentation et l'agriculture; • Convention de 1952 relative au statut des réfugiés (et Protocole de 1967) ainsi que Convention de l'UA y afférente. <p>Article 3 : DROITS ET OBLIGATIONS</p> <p>1. Les États reconnaissent :</p> <ul style="list-style-type: none"> • la souveraineté et les responsabilités des autres États en ce qui concerne

<p>internal waters, territorial seas, and archipelagic waters ;</p> <ul style="list-style-type: none"> • the sovereign rights and duties of other States with regard to exclusive economic zones and continental shelves; and • the rights and responsibilities of other States as provided by UNCLOS, other conventions, treaty obligations and general international law. 	<p>leurs eaux intérieures, mers territoriales et eaux archipélagiques;</p> <ul style="list-style-type: none"> • les droits souverains et les obligations des autres États en ce qui concerne leurs zones économiques exclusives et leurs plateaux continentaux; et • les droits et les responsabilités des autres États, tels que prévus par la Convention des Nations Unies sur le droit de la mer de 1982 et les autres conventions et traités et par le droit international général.
<p>SECOND PART: THE INTEGRATED NETWORK OF COASTGUARDS</p> <p>TITLE I: AT THE NATIONAL LEVEL</p> <p>Article 4: The States Parties take following obligations:</p> <p>1. to seek the establishment of a system for coordinating agencies with responsibility for national coastguard functions by each coastal Member State of MOWCA to develop and implement, as necessary:</p> <p>(a) appropriate national maritime security policies to safeguard maritime trade from all forms of unlawful acts;</p> <p>(b) national legislation, practices and procedures, which together provide the security necessary for the safe and secure operation of port facilities and ships at all security levels;</p> <p>(c) legislation which ensures effective protection of the marine environment.</p> <p>2. to establish, as necessary, a national system for co-ordinating the related activities between the departments, agencies, control authorities, and other organizations of the State, port operators, Companies and other</p>	<p>DEUXIÈME PARTIE : LE RÉSEAU INTÉGRÉ DE GARDE-CÔTES</p> <p>TITRE I : AU NIVEAU NATIONAL</p> <p>Article 4 : Les États Parties s'engagent à :</p> <p>.1 solliciter la création par chacun des États membres de l'OMAO d'un service national de garde-côtes pour élaborer et mettre en œuvre, selon qu'il conviendra :</p> <p>a) une politique nationale de sûreté maritime afin de protéger le commerce maritime contre toutes les formes d'actes illicites;</p> <p>b) une législation nationale, des règles pratiques et des procédures qui assurent conjointement les conditions nécessaires à la sécurité et à la sûreté de l'exploitation des installations portuaires et des navires à tous les niveaux de sûreté;</p> <p>c) une législation qui garantit une protection efficace de l'environnement marin.</p> <p>.2 mettre en place, le cas échéant, un système national en vue de coordonner les activités connexes entre les départements, institutions, autorités chargées du contrôle, et</p>

<p>entities concerned with, or responsible for the implementation of, compliance with, and enforcement of, measures to enhance maritime security and search and rescue;</p> <p>3. to establish, as necessary, a national system for harmonizing and co-ordinating security measures designed to enhance the security in the international maritime transport sector with those of other modes of transport ;</p> <p>4. to institute or improve a national mechanism for intra- and intergovernmental agencies and other relevant stakeholders to co-operate and co-ordinate on a coastguard function;</p> <p>5. to prosecute, in accordance with relevant domestic laws, perpetrators of all forms of piracy and unlawful acts against seafarers, ships, port facility personnel and port facilities;</p>	<p>autres organismes de l'État, exploitants portuaires, compagnies et autres entités chargées de mettre en œuvre, appliquer et faire appliquer les mesures visant à renforcer la sûreté maritime ainsi que la recherche et le sauvetage;</p> <p>.3 mettre en place, le cas échéant, un système national en vue d'harmoniser et de coordonner les mesures relatives à la sûreté destinées à renforcer la sûreté dans le secteur du transport maritime international avec celles qui s'appliquent à d'autres modes de transport;</p> <p>.4 mettre en place un mécanisme national, ou améliorer le mécanisme existant, permettant aux institutions officielles nationales et intergouvernementales et à d'autres parties prenantes concernées de coopérer et de coordonner l'action des services des garde-côtes;</p> <p>5. poursuivre en justice, conformément aux lois nationales applicables, les auteurs de toutes les formes d'actes de piraterie et d'actes illicites à l'encontre des gens de mer, des navires, des installations portuaires et du personnel qui y travaille;</p>
<p>6. Set up in each MOWCA member States the maritime Fund</p> <p>Article 5: Organization and operation</p> <p>The organization and the operation of the national structure come exclusively under the responsibility of each State in accordance with the laws and regulations in force.</p> <p>TITLE II: AT THE REGIONAL LEVEL</p> <p>Article 6: The Parties take following obligations:</p>	<p>6. créer, dans chaque État membre de l'OMAO, les fonds maritime.</p> <p>Article 5 : Organisation et fonctionnement</p> <p>L'organisation et le fonctionnement de la structure nationale relèvent exclusivement de la compétence de chaque État Partie conformément aux lois et règlements en vigueur.</p> <p>TITRE II : AU NIVEAU RÉGIONAL</p> <p>Article 6 : Les États Parties s'engagent à :</p>

<p>1. to seek the establishment of an integrated coastguard function network for West and Central Africa to develop and implement, as necessary:</p> <p>(a) appropriate regional maritime security policies to safeguard maritime trade from all forms of unlawful acts;</p> <p>(b) regional legislation, practices and procedures, which together provide the security necessary for the safe and secure operation of port facilities and ships at all security levels;</p> <p>2. to consolidate the existing, or seek to establish, as the case may be, a regional maritime information centre through which the States can share and exchange security-related information, for the aim of preventing or combating unlawful acts against seafarers, ships, port facility personnel and port facilities in the area and ensuring prompt response to any distress or security alert received from these ships;</p> <p>3. to seek ways for engaging States which trade with West and Central Africa and the shipping industry to support and enhance the safety, security and environmental protection in West and Central Africa;</p> <p>4. to combat piracy, armed robbery against ships, unlawful acts and transnational organized crime at sea by enhancing the regional maritime security strategies and multilateral co-operation in their</p>	<p>.1 s'employer à créer un réseau intégré de garde-côtes des pays d'Afrique de l'Ouest et du Centre pour élaborer et mettre en œuvre, selon qu'il conviendra :</p> <p>a) une politique régionale appropriée de sûreté maritime afin de protéger le commerce maritime contre toutes les formes d'actes illicites;</p> <p>b) une législation régionale, des règles pratiques et des procédures qui assurent conjointement les conditions nécessaires à la sécurité et à la sûreté de l'exploitation des installations portuaires et des navires à tous les niveaux de sûreté;</p> <p>.2 renforcer l'actuel centre régional d'information maritime, ou s'employer à en créer un, selon le cas, grâce auquel les États peuvent mettre en commun et échanger des renseignements relatifs à la sûreté en vue de prévenir les actes illicites à l'encontre des gens de mer, des navires, des installations portuaires et de leurs personnels se trouvant dans la zone, ou de lutter contre ces actes, et de garantir une intervention rapide dans tous les cas où sont reçues des alertes de détresse ou de sûreté provenant de ces navires;</p> <p>.3 rechercher des moyens d'inciter les États Parties qui font commerce avec l'Afrique de l'Ouest et du Centre ainsi que le secteur des transports maritimes à développer et à renforcer la sécurité, la sûreté et la protection de l'environnement en Afrique de l'Ouest et du Centre;</p> <p>4. lutter contre les actes de piraterie et les vols à main armée à l'encontre des navires, les actes illicites et la criminalité transnationale organisée en mer, en améliorant les stratégies régionales de sûreté maritime et en renforçant la coopération multilatérale aux fins de leur mise en oeuvre;</p>
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implementation;	
<p>5. to integrate any existing co-operative efforts or arrangements relating to combating unlawful acts against seafarers, ships, port facility personnel and port facilities and trans-national organized maritime crime, including those relating to collection, assessment, sharing and exchanging of security-related information and those relating to the co-operation and co-ordination among the institutions concerned, such as naval units, coastal patrol and law enforcement agencies, shipping companies, seafarers, and port authorities with a view of identifying any areas which may warrant improvements;</p>	<p>5. intégrer toutes les initiatives ou dispositifs de coopération existants qui ont trait à la lutte contre les actes illicites à l'encontre des gens de mer, des navires, des installations portuaires et de leurs personnels, et à la criminalité transnationale organisée dans les transports maritimes, notamment ceux qui concernent la collecte, l'évaluation, la mise en commun et l'échange de renseignements relatifs à la sûreté, ainsi que ceux qui portent sur la coopération et la coordination entre les institutions concernées telles que les unités navales, les services de recherche côtiers et les organes de la force publique, les compagnies de navigation, les gens de mer et les administrations portuaires afin de recenser tous les éléments qu'il y aurait lieu d'améliorer;</p>
<p>6. to improve international and regional co-operation with a view to ensure that pirates and persons committing unlawful acts against seafarers, ships and port facilities and port facility personnel do not evade prosecution;</p>	<p>6. améliorer la coopération internationale et régionale afin de garantir que les pirates et les personnes qui commettent des actes criminels à l'encontre des gens de mer, des navires et des installations portuaires et du personnel qui y travaille, n'échappent pas aux poursuites;</p>
<p>7. to take into account any existing legislative and administrative arrangements relating to the investigation of alleged piracy or armed robbery incidents and for the prosecution, conviction and punishment of those involved in acts of piracy and armed robbery against ships with a view of identifying any areas which may warrant improvement taking into account the guidelines for the suppression of piracy and armed-robbery against ships¹ developed by the International Maritime Organization;</p>	<p>7. prendre en compte tous les dispositifs législatifs et administratifs existants qui ont trait aux enquêtes sur les incidents présumés de piraterie et de vols à main armée ainsi qu'à la poursuite, à la condamnation et au châtement des personnes impliquées dans des actes de piraterie et des vols à main armée à l'encontre des navires, afin de recenser tous les éléments qu'il y aurait lieu d'améliorer en tenant compte des recommandations et des directives pertinentes sur la répression des actes de piraterie et des vols à main armée à l'encontre des navires formulées par l'Organisation maritime internationale;</p>
<p>8. to improve the capacity of national and</p>	

<p>regional training institutions for the training and development of relevant indigenous human capital for the operation of an efficient regional coastguard function network;</p> <p>9. to seek the commitment, consistent with the provisions of UNCLOS, of any military ship or other ships in the area capable of providing assistance, to respond to any situation of persons in distress at sea;</p>	<p>.8 améliorer les moyens des institutions de formation nationales et régionales aux fins de la formation et de la mise en valeur du capital humain local en vue de faire fonctionner un réseau régional efficace de garde-côtes;</p> <p>.9 obtenir l'engagement, conformément aux dispositions de la Convention des Nations Unies sur le droit de la mer, de la part de tous les navires de guerre ou autres qui se trouvent dans la zone et sont en mesure de prêter assistance, qu'ils interviendront lorsque des personnes sont en détresse en mer;</p>
<p>10. to become parties to and implement the provisions of, the International Conventions and Protocols related to the prevention and suppression of international terrorism and, in particular, the 1988 SUA Convention, the 1988 SUA Protocol, the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf; the United Nations Convention against Trans-national Organized Crime, 2000; and also to become parties to and implement the 1951 Convention relating to the Status of Refugees, and its 1967 Protocol as well as the 1969 OAU Convention governing the specific aspects of refugee problems of Africa;</p> <p>11. to ensure that, in seeking the fulfilment of the above objectives, a balance is maintained between the need to enhance maritime security and facilitation of maritime traffic and to avoid any unnecessary delays to international maritime trade in West and Central Africa;</p>	<p>10. devenir parties, dans les plus brefs délais, aux conventions et protocoles internationaux qui concernent la prévention et la répression du terrorisme international, et notamment la Convention SUA de 1988, le Protocole SUA de 1988, le Protocole de 2005 relatif à la Convention pour la répression d'actes illicites contre la sécurité de la navigation maritime et le Protocole de 2005 relatif au Protocole pour la répression d'actes illicites contre la sécurité des plates-formes fixes situées sur le plateau continental, la Convention des Nations Unies contre la criminalité transnationale organisée (2000); et aussi devenir parties en appliquant leurs dispositions, à la Convention de 1951 relative au statut des réfugiés et son Protocole de 1967 ainsi qu'à la Convention de l'OUA régissant les aspects propres aux problèmes des réfugiés en Afrique (1969);</p> <p>11 faire en sorte, en s'efforçant d'atteindre les objectifs ci-dessus, de respecter un équilibre entre la nécessité de renforcer la sûreté maritime et les dispositions visant à faciliter le trafic maritime, de façon à éviter de retarder indûment le commerce maritime international en Afrique de l'Ouest et du Centre;</p>

<p>12. to co-operate and collaborate with the sub-regional fisheries bodies and the Food and Agriculture Organization on preventing and combating illegal, unregulated and unreported fishing, and protecting fisheries resources for sustainable long term utilization to sustain livelihoods in West and Central Africa;</p> <p>13. to ensure that measures taken to control borders and restrictions and aliens access to territory are in compliance with international law including human rights and refugee law;</p> <p>14. to co-operate with the United Nations High Commissioner for Refugees with regard to the protection of asylum seekers and refugees at sea;</p>	<p>.12 coopérer et collaborer avec les organismes de pêche sous-régionaux et l'Organisation des Nations Unies pour l'alimentation et l'agriculture pour prévenir et éliminer la pêche illicite, non déclarée et non réglementée, et protéger les ressources halieutiques en vue d'une exploitation durable permettant de conserver les moyens de subsistance en Afrique de l'Ouest et du Centre;</p> <p>13. s'assurer que les mesures prises pour contrôler les frontières et les restrictions de l'accès des étrangers sur le territoire sont conformes au droit international, notamment aux droits de l'homme et au droit des réfugiés;</p> <p>14. coopérer avec le Haut Commissariat des Nations Unies pour les réfugiés (HCR) en ce qui concerne la protection des demandeurs d'asile et des réfugiés en mer;</p>
<p>15. to review periodically the progress of the efforts made in achieving the above objective and to share the result of the experience gained with MOWCA Member States; and</p> <p>16. to have the General Assembly of MOWCA and the Bureau of Ministers informed of efforts made in achieving the above objective, and of the international support provided in this regard.</p> <p>TITLE 2: MISSION AND ORGANISATION</p> <p>Article 7: Missions</p> <p>The goal of the Coastguard Function Network (the Network) is to allow the parties to promote and make joint efforts as far as their maritime activities are concerned,</p>	<p>15. examiner régulièrement l'état d'avancement des initiatives menées pour atteindre les objectifs susmentionnés et partager les résultats de l'expérience acquise avec les États Membres de l'OMAO; et</p> <p>16. tenir l'Assemblée Générale de l'OMAO et le Bureau des Ministres informés des efforts déployés pour atteindre les objectifs ci-dessus et du soutien international reçu à cet effet.</p> <p>TITRE 2 : MISSIONS ET ORGANISATION</p> <p>Article 7 : Missions</p> <p>Le Réseau de garde-côtes a pour mission de permettre aux États Parties de promouvoir et d'entreprendre, dans la mesure où leurs activités maritimes sont concernées, des</p>

<p>particularly those devoted to the protection of the human life, the enforcement of the laws, the improvement of safety and the protection of the environment.</p> <p>Article 8: Administrative organisation</p> <p>The highest body of administration of the Network is the Council of Ministers (hereafter called the Council).</p> <p>The Council of Ministers elects its bureau in accordance <u>with the Rules of Procedure of the Organisation</u></p> <p>The Council decides on the general policy of the Network, adopts the annual budget, appoints the Principal Coordinator and takes all other decisions envisaged by the memorandum. It can interpret the Memorandum.</p> <p>The Council meets twice (2) per annum. It can hold extraordinary meetings where necessary.</p> <p>The Principal Coordinator of the Network takes part in the meetings of the Council.</p> <p>The Secretary-General of MOWCA takes part in the meetings of the Council as observer.</p>	<p>actions communes visant notamment à la sauvegarde de la vie humaine en mer, au respect des lois, à l'amélioration de la sécurité et à la protection du milieu marin.</p> <p>Article 8 : Organisation administrative</p> <p>L'organe suprême de décision du Réseau est le Conseil des Ministres (ci-après dénommé le Conseil).</p> <p>Le Conseil des Ministres élit son bureau conformément au <u>règlement intérieur de l'Organisation.</u></p> <p>Le Conseil décide de la politique générale du Réseau, adopte le budget annuel, nomme le Coordonnateur principal et prend toutes autres décisions prévues par le Mémoire. Il peut interpréter le Mémoire.</p> <p>Le Conseil se réunit deux (2) fois par an. Il peut tenir des réunions extraordinaires en cas de besoin.</p> <p>Le Coordonnateur principal du Réseau participe aux réunions du Conseil.</p> <p>Le Secrétaire général de l'OMAOC participe aux réunions du Conseil en qualité d'observateur.</p>
<p>Article 9: TECHNICAL EVALUATION COMMITTEE</p> <p>The Technical Committee of Evaluation (hereafter) called the technical committee, is composed of experts nominated by the Secretary-general of MOWCA, in charge of steering the implementation and the progress of the Network</p> <p>Article 10: Committee of Representatives</p> <p>The Representatives of the Committee</p>	<p>Article 9 : Le Comité technique d'évaluation</p> <p>Le Comité technique d'évaluation (ci-après) appelé le comité technique, est composé d'experts nommés par le Secrétaire Général de l'OMAOC, chargé de suivre la mise en œuvre et l'évolution du Réseau</p> <p>Article 10 : Comité des représentants</p>

<p>(hereafter called the Committee) is composed of a Representative for each State Party. Each Representative can be assisted by two substitutes.</p> <p>The Representative of <u>a State Party is the Person in charge, in his/her country, of the general coordination of all the questions relating to the Network and the only person in charge of the connection between his Government and the Network, except for what relates to the capacity of the Council.</u></p> <p>The Committee assists the Principal Coordinator in the general administration of the Network. On a proposal from the Principal Coordinator, it decides principles of the work programme and the means of the Network. It adopts <u>the relevant operational</u> documents relating to the activity of the <u>Organisation</u>.</p> <p>It examines all the questions submitted to it by the Principal Coordinators and, <u>according to the cases, delivers opinions, decides or transmits to the technical evaluation committee.</u></p> <p>The Committee proposes to the Council the appointment of the Deputy Principal Coordinator and the Coordinator of zones.</p> <p>The committee of evaluation attends the meetings of the committee as statutory participant.</p> <p>The Representatives Committee elects its bureau in accordance with the rules of procedure of the <u>Organisation</u>.</p> <p>Article 11: Committee of Representatives</p> <p>The Principal Coordinator is the legal representative of the network. He/she is</p>	<p>Le Comité des Représentants (ci-après appelé le Comité) est composé d'un Représentant de chaque Etat Partie. Chaque Représentant peut être assisté de deux Représentants suppléants.</p> <p>Le Représentant d'une Partie est le Responsable, dans son pays, de la coordination générale de toutes les questions regardant le Réseau et seul chargé de la liaison entre son Gouvernement et le Réseau, à l'exception des questions relevant de la compétence du Conseil.</p> <p>Le Comité assiste les Coordonnateurs principaux dans la gestion du Réseau. Sur proposition des Coordonnateurs principaux, il décide (des principes) du programme d'activité des moyens du Réseau. Il adopte les documents opérationnels pertinents en relation avec l'activité du Réseau.</p> <p>Il examine toutes les questions qui lui sont soumises par les Coordonnateurs principaux et, selon les cas, donne les avis, décide ou transmet au comité technique d'évaluation.</p> <p>Le Comité propose au comité d'évaluation la nomination des Coordonnateurs principaux Adjoints et les Coordonnateurs de zones.</p> <p>Le comité d'évaluation assiste statutairement aux réunions du comité.</p> <p>Le Comité des Représentants élit son bureau conformément au règlement intérieur du Réseau</p> <p>Article 11 : Comité des représentants</p> <p>Le Coordonnateur principal est le représentant légal du Réseau. Il est</p>
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<p>responsible for its general management and can take the required measures to this end, in accordance with the provisions of this memorandum. He/she can delegate his powers to his Assistant and to the Coordinator of the zones in accordance with the directives approved by the Council.</p> <p>He/she is replaced by the Deputy Principal Coordinator when he/she is unavailable. He/she accounts for operational activities of the Network at each meeting of the Council.</p> <p>Article 12: Constitution of the Network</p> <p>The Network comprises four (04) Coastguard zones with respective four (4) Coastguard Zonal Coordinating Centres and two (2) Principal Coordinating Centres:</p> <ul style="list-style-type: none"> - Zone 1: Mauritania, Senegal, Gambia, Guinea Bissau, Cabo Verde. - Zone 2: Guinea, Sierra Leone, Liberia, Cote d'Ivoire, Ghana. - Zone 3: Togo, Benin, Nigeria, Cameroon, Equatorial Guinea. - Zone 4: Gabon, Congo, DRC, Sao Tome & Principe, Angola. <p>In each zone, a Coordinator is in charge of operations in his/her zone, according to Principal Coordinator's instructions and orders.</p> <p>Article 13</p> <p>The Network comprises fixed facilities and mobile facilities.</p> <p>Article 14: Fixed facilities include:</p> <ul style="list-style-type: none"> • operational facilities, devoted to gathering of information (such as radar stations) and anagement of operations and, in 	<p>responsable de sa gestion générale et peut prendre les mesures nécessaires à cette fin, conformément aux dispositions du présent Mémorandum. Il peut déléguer ses pouvoirs à son adjoint et aux Coordonnateurs de zone, conformément aux directives approuvées par le Conseil.</p> <p>Il est remplacé par le Coordonnateur principal adjoint en cas d'empêchement. Il rend compte, lors de chaque réunion du Conseil, des activités du Réseau.</p> <p>Article 12 : Constitution du Réseau</p> <p>Le Réseau comprend quatre (4) zones des garde cotes avec quatre (4) Centres de coordination de la zone et deux (2) Centres principal de coordination :</p> <ul style="list-style-type: none"> - Zone 1 : Mauritanie, Sénégal, Gambie, Guinée-Bissau, Cap Vert. - Zone 2 : Guinée, Sierra Léone, Libéria, Côte d'Ivoire, Ghana. - Zone 3 : Togo, Bénin, Nigéria, Cameroun, Guinée équatoriale - Zone 4 : Gabon, Congo, RDC, Sao Tomé-et-Principe, Angola <p>Dans chaque zone, les operations sont dirigées par un Coordonnateur, selon les instructions et ordres du Coordonnateur principal.</p> <p>Article 13</p> <p>Le Réseau comprend des moyens fixes et des moyens mobiles.</p> <p>Article 14 : Les moyens fixes comprennent :</p> <ul style="list-style-type: none"> • les moyens opérationnels, consacrés à la collecte des informations (comme les stations radar) et à la direction des
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<p>general, of all the activities of the Network;</p> <ul style="list-style-type: none"> • training facilities, devoted to improving the skills of the staff. Training facilities can be shared with another structure or created within the framework of an existing training centre; • Means, devoted to the maintenance and the operational support of the Network. <p>Article 15</p> <p>The logistic means of the Network include nautical and aeronautical means, and also terrestrial means. All the logistic means of the Network are subject to the operational rules envisaged by the second part of this memorandum. All the means of the Network have the same colors and distinctive marks adopted by the Council. Similar distinctive characteristics appear in the logo and emblem of the Network.</p> <p>Article 16:</p> <p>Each ship belonging to the Network flies the flag of the State Party where it is assigned. It is used only in its zone except temporarily for joint missions, reinforcements or replacements of other ships. The logistic means of the Network cannot be used for military missions of the flag State, except for peace or evacuation missions</p> <p>The logistic means are the property of the Network. It supplies them with fuel, makes the maintenance and assigns each one of them to a State Party which has the responsibility to equip and train the crew.</p>	<p>opérations, et d'une manière générale, des activités du Réseau;</p> <ul style="list-style-type: none"> • les moyens de formation, consacrés à l'amélioration des compétences du personnel. Les moyens de formation peuvent être partagés avec une autre structure ou être créés dans le cadre d'un établissement de formation existant; • Les moyens de soutien, consacrés à l'entretien et au soutien opérationnel du Réseau. <p>Article 15</p> <p>Les moyens mobiles du Réseau comprennent des moyens maritimes et aéronautiques et également des moyens terrestres. Tous les moyens mobiles du Réseau sont soumis aux règles d'exploitation prévues dans la deuxième partie du présent Mémoire. Tous les moyens du Réseau portent les mêmes couleurs et marques distinctives adoptées par le Conseil. Des caractéristiques distinctives semblables apparaissent dans le logo et l'emblème du Réseau.</p> <p>Article 16</p> <p>Chaque navire du Réseau bat le pavillon de l'État Partie à laquelle il a été affecté. Il est utilisé uniquement dans sa zone sauf, à titre temporaire, pour des missions conjointes, du renfort ou en remplacement d'autres moyens. Les moyens du Réseau ne peuvent pas être utilisés pour des missions militaires menées par l'État du pavillon, sauf pour des missions de maintien de la paix ou d'évacuation.</p> <p>Les moyens mobiles sont la propriété du Réseau qui les approvisionne en carburant, les entretient et qui affecte chacun d'eux à une Partie qui a la charge d'équipes et de former l'équipage.</p>
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<p>A part of the training of the crew however is organized and supported by the Network. While endorsing the responsibility to equip and train the crew, the Flag State can make arrangements with other States Parties in order to allow nationals to be embarked in the maximum proportion of a third of the officers and half of all the crew.</p> <p>Article 17</p> <p>However, if the agreement fixing the conditions of equipment and maintenance is accepted by the Network, a State Party can provide the network with logistic means as stipulated by the memorandum except for the right of ownership.</p> <p>In this case, the conditions of armaments, provisioning and maintenance are subject of an agreement between the Organization and the State Party</p> <p>Article 18</p> <p>The supply and the maintenance of ships can be conceded by the zones Coordinators to a private company with the consent of the Principal Coordinators.</p> <p>Article 19</p> <p>The Principal Coordinator and zone Coordinators are assisted by a permanent office including as much as possible agents of all the parties concerned. These offices include an operational center devoted to the collection of information and to the diffusion of information relating to the activities of the Organization</p> <p>THIRD PART: RULES OF OPERATIONS</p>	<p>Une partie de la formation des équipages est cependant organisée et supportée par le Réseau. Tout en assumant la responsabilité d'équiper et de former l'équipage, l'État Partie du pavillon peut passer des accords avec d'autres Parties pour que des nationaux de celles-ci soient embarqués dans la proportion maximale d'un tiers des officiers et de la moitié de tout l'équipage.</p> <p>Article 17</p> <p>Cependant, si l'accord fixant les conditions d'équipement et d'entretien est accepté par le Réseau, un État Partie peut mettre un moyen mobile à la disposition du Réseau, comme prévu par le présent Mémoire, sauf en ce qui concerne le droit de propriété.</p> <p>Dans ce cas, les conditions d'armement, d'approvisionnement et d'entretien font l'objet d'un accord entre l'Organisation et l'État Partie.</p> <p>Article 18</p> <p>Les tâches relatives à l'approvisionnement et à l'entretien des moyens peuvent être concédées par les Coordonnateurs de zone à une société privée avec l'accord du Coordonnateur principal.</p> <p>Article 19</p> <p>Le Coordonnateur principal et les Coordonnateurs de zone sont assistés par un bureau permanent comprenant autant que possible des agents de toutes les parties concernées. Ces bureaux comprennent un centre opérationnel consacré à la collecte d'informations et à la diffusion d'informations relatives aux activités de l'Organisation.</p> <p>TROISIÈME PARTIE: LES RÈGLES D'EXPLOITATION</p>
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<p>TITLE 1: IN NORMAL TIME</p> <p>Article 20: At national level Each State Party organizes at the national level, its surveillance missions in accordance with its laws and regulations in force.</p>	<p>TITRE I : EN TEMPS NORMAL</p> <p>Article 20 : Au niveau national Chaque État Partie organise, au niveau national, ses missions de surveillance conformément à ses lois et règlements en vigueur.</p>
<p><u>Article 21:</u> Zone cooperation agreement</p> <p>The States Parties, in addition to the provisions of the memorandum and its appendices, can sign bilateral cooperation agreements without prejudice to the agreement set up and organizing the specific functioning of each zone.</p> <p>Each time it is necessary, a State Party can benefit, through this agreement, from logistical and humane support of another State Party according to procedures they will have adopted.</p> <p>The same State Party can sign the same agreement with the other State Parties of the zone.</p> <p>Article 22: The missions are planned and ordered by the zone Coordinators.</p> <p>The States Parties via their representatives send to the zone Coordinators, with any useful justification, their requests for presence of the facilities in their sector.</p> <p>The programmes of missions ordered by the zone Coordinators are sent to the Representatives of the State parties of the zone.</p> <p>Article 23: The facilities must carry out constabulary missions in accordance with the</p>	<p>Article 21 : Accord de coopération au niveau de la zone</p> <p>Outre les dispositions réglementaires prévues par le Mémorandum et ses annexes, les États Parties peuvent signer des accords de coopération bilatérale sans préjudice de l'accord cadre mis en place et organisant le fonctionnement spécifique de chaque zone.</p> <p>Chaque fois qu'il est nécessaire, un État Partie peut dans le cadre de cet accord bénéficier du soutien d'un autre État Partie en moyens logistiques et en personnel, selon les modalités qu'ils auront arrêtées.</p> <p>Un État Partie peut signer le même accord avec tous les autres États Parties de la zone.</p> <p>Article 22 : Les missions sont planifiées et ordonnées par les Coordonnateurs de zone.</p> <p>Les Parties, par l'intermédiaire de leur Représentant, envoient aux Coordonnateurs de zone, avec toutes justifications utiles, leurs demandes concernant la présence des moyens dans leur secteur.</p> <p>Les programmes des missions ordonnées par les Coordonnateurs de zone sont envoyés aux Représentants des États Parties de la zone.</p> <p>Article 23 : Les moyens doivent servir à exécuter les missions de police dans le</p>

<p>law of the competent State Party for the given sector, and in accordance with UNCLOS.</p> <p>SAR missions are carried out according to provisions of SAR Convention and its protocols.</p> <p>Article 24: On request or with the authorization of a competent agent, a coastguard facility can carry out an act of police in a foreign sector, as if it were a facility of the State Party of this sector and in accordance with the applied laws. If the competent agent is not on board, his request or his authorization can be transmitted by any suitable means of communication. The reports of the embarked agents on board have the same legal force as a report carried out by a competent Officer.</p>	<p>respect du droit de l'État Partie compétent pour le secteur donné, et dans le respect de la Convention des Nations Unies sur le droit de la mer de 1982.</p> <p>Les missions SAR sont exécutées selon les dispositions de la Convention SAR et de ses documents d'application.</p> <p>Article 24 : Sur demande ou avec l'autorisation d'un agent compétent, un moyen peut exécuter un acte de police dans un secteur étranger, comme s'il était un moyen de l'État Partie de ce secteur et en conformité avec la législation qui y est en vigueur. Si l'agent compétent n'est pas à bord du moyen, sa demande ou son autorisation peut être transmise par tout moyen de communication approprié. Les comptes rendus des agents embarqués à bord du moyen ont la même valeur juridique qu'un compte rendu effectué par un fonctionnaire compétent.</p>
<p>Article 25: The States Parties take any appropriate measures to harmonize their legal status relating to the policing at sea.</p> <p>TITLE II: IN TIME OF CRISIS</p> <p>Article 26: In case of events (accidents, acts of piracy, marine pollution, and other illicit acts) in territorial waters under jurisdiction of a given zone, and requiring an external assistance, the Maritime Authority approaches at once the Principal Coordinator of the zone and informs the agency or agencies with responsibility for national coastguard functions.</p> <p>The Principal Coordinator concerned implements the action plan envisaged for this purpose and annexed at the present memorandum.</p>	<p>Article 25 : Les États Parties prennent toute mesure appropriée pour harmoniser leurs régimes juridiques relatifs à la police en mer.</p> <p>TITRE II : EN TEMPS DE CRISE</p> <p>Article 26 : En cas d'événements (accidents, actes de piraterie, pollution marine, trafic et autres actes illicites) ayant eu lieu dans les eaux sous juridiction d'une zone donnée et nécessitant une assistance extérieure, l'autorité maritime locale saisit aussitôt le Coordonnateur principal de la zone en vue d'informer les garde-côtes.</p> <p>Le Coordonnateur de la zone en question met en œuvre le plan d'action prévu à cet effet et annexé au présent Mémoire.</p>

<p>TITLE III: EMERGENCY PLAN</p> <p>Article 27: The Principal Coordinator works out a sub regional draft of emergency plan to be submitted to the approval of the Council. The Principal Coordinator is in charge of the implementation of the emergency plan thus adopted.</p> <p>FOURTH PART: FINANCIAL RESOURCES</p> <p>Article 28: The financial resources of the network include:</p> <ul style="list-style-type: none"> - regional maritime funds; - the normal or <u>extraordinary contributions decided by the Council;</u> - contributions of organizations or donor countries; - 50 % of penalties and confiscations resulting from the actions of the Network. <p>Article 29: Each State Party begins to pay its financial contribution to the Network in accordance with the decisions and procedures adopted by the council.</p>	<p>TITRE III : PLAN D'URGENCE</p> <p>Article 27 : Le Coordonnateur principal établit un projet de plan d'urgence sous-régional à soumettre à l'approbation du Conseil. Le Coordonnateur principal est chargé de la mise en œuvre du plan d'urgence ainsi adopté.</p> <p>QUATRIÈME PARTIE : RESSOURCES FINANCIÈRES</p> <p>Article 28 : Les ressources financières du Réseau comprennent :</p> <ul style="list-style-type: none"> - les fonds maritimes régionaux; - les contributions ordinaires <u>ou extraordinaires décidées par le Conseil;</u> - des contributions d'organisations ou pays donateurs; - 50 % des amendes et confiscations résultant des actions du Réseau. <p>Article 29 : Chaque État Partie s'engage à s'acquitter de sa contribution financière aux coûts de fonctionnement du Réseau, conformément aux décisions et procédures adoptées par le Conseil.</p>
<p>FIFTH PART: ENGAGEMENTS OF STATE PARTIES</p> <p>Article 30: Each State Party gives effect to the provisions of this Memorandum or its appendices, which constitute an integral part of the Memorandum, and will take any necessary measures to ratify or accept the relevant legal instruments for the implementation of the Memorandum.</p> <p>Article 31: Each State Party establishes an effective national organization of coastguard, by making sure that this organization is in conformity with the standards described in</p>	<p>CINQUIÈME PARTIE : ENGAGEMENTS DES ÉTATS PARTIES</p> <p>Article 30 : Chaque État Partie donne effet aux dispositions du présent Mémorandum ou de ses annexes, lesquelles font partie intégrante du Mémorandum, et prendra toutes les mesures nécessaires pour ratifier ou accepter les instruments juridiques pertinents pour la mise en œuvre du Mémorandum.</p> <p>Article 31 : Chaque État Partie établit une organisation nationale de garde-côtes efficace, en s'assurant que cette organisation est conforme aux normes décrites dans les instruments définis dans le présent</p>

<p>the instruments defined in this Memorandum.</p> <p>Article 32: Each State Party consults, cooperates and exchanges information with other States Parties in order to improve the objectives of the Memorandum.</p> <p>SIXTH PART: FINAL PROVISIONS</p> <p>TITLE I : OTHER PROVISIONS</p> <p>Article 33: Any State Party which has accepted the Memorandum can propose amendments or appendices to the Memorandum.</p> <p>In the case of amendment proposal to the Memorandum, the following procedure will apply:</p> <ul style="list-style-type: none"> a) the amendment suggested will be submitted to the principal Coordination Centre in order to be studied, at least six (06) weeks before the meeting of the Committee; b) the amendments will be adopted by a majority of two thirds of the Representatives of the States Parties in the Committee; c) if the amendment is adopted, it will be communicated by the principal Coordination Centre to the States Parties for acceptance. 	<p>Mémorandum.</p> <p>Article 32 : Chaque État Partie se consulte, coopère et échange des informations avec les autres États Parties en vue de mieux réaliser les objectifs du Mémorandum.</p> <p>SIXIÈME PARTIE : DISPOSITIONS FINALES</p> <p>TITRE I : DISPOSITIONS DIVERSES</p> <p>Article 33 : Tout État Partie, qui a accepté le Mémorandum, peut proposer des amendements ou des annexes au Mémorandum.</p> <p>Dans le cas d'une proposition d'amendements au Mémorandum, la procédure suivante s'appliquera :</p> <ul style="list-style-type: none"> a) l'amendement proposé sera soumis au Centre principal de Coordination pour étude, au moins six (6) semaines avant la réunion du Comité; b) les amendements seront adoptés par une majorité des deux tiers des Représentants des Parties présentes et votantes dans le Comité; c) si l'amendement est adopté, il sera communiqué par le Centre principal de Coordination aux États Parties pour acceptation.
<p>Article 34: An amendment is supposed to be accepted, either at the end of a period of six (06) months after adoption by the Representatives of the States Parties in the Committee, or at the end of any other period determined unanimously by the Representatives of the States Parties in the Committee, unless for the considered period an objection is communicated to the Secretariat by a State Party.</p>	<p>Article 34 : Un amendement est réputé avoir été accepté, soit à la fin d'une période de six (6) mois après adoption par les Représentants des États Parties dans le Comité, soit à la fin de toute autre période déterminée à l'unanimité par les représentants des États Parties dans le Comité au moment de son adoption, à moins que pendant la période considérée une objection soit communiquée au Secrétariat par un État Partie.</p>

<p>An amendment comes into force sixty (60) days after being accepted, or at the end of any other period determined unanimously by the Council.</p> <p>Article 35: In case of amendment or appendix proposals, the following procedures is followed:</p> <ul style="list-style-type: none"> a) the amendment or the appendix proposed will be submitted to the examination by the States Parties through the Principal Coordinator; b) the amendment or the appendix is supposed to be accepted at the end of a period of three (03) months from the date on which it was communicated by the Principal Coordination Centre, unless a State Party requests only the amendment in writing or the appendix is not examined by the Committee. In this case, the procedure specified in article 6.1.1 applies; c) the amendment or the appendix comes into force sixty (60) days after being accepted, or at the end of any other period determined unanimously by the States Parties. <p>Article 36: The Memorandum comes into force without prejudice to the laws and regulations derived from an international instrument.</p> <p>A Maritime Authority satisfying the criteria specified in this memorandum or its amendments or appendices can adhere to the Memorandum or its amendments or appendices with the agreement of all the States Parties which have accepted the Memorandum, its amendments or appendices.</p>	<p>Un amendement entre en vigueur soixante (60) jours après avoir été accepté, ou à la fin de toute autre période déterminée à l'unanimité par le Conseil.</p> <p>Article 35 : Dans le cas de propositions d'amendements ou d'annexes au Mémorandum, la procédure suivante est suivie :</p> <ul style="list-style-type: none"> a) l'amendement ou l'annexe proposé sera soumis à l'examen des États Parties par l'intermédiaire du Coordonnateur principal; b) l'amendement ou l'annexe est réputé avoir été accepté à la fin d'une période de trois (3) mois à partir de la date à laquelle il a été communiqué par le Centre principal de coordination, à moins qu'un État Partie ne demande par écrit que l'amendement ou l'annexe ne soit examiné par le Conseil. Dans ce cas, la procédure spécifiée à l'article 6.1.1. s'applique; c) l'amendement ou l'annexe entre en vigueur soixante (60) jours après avoir été accepté, ou à la fin de toute autre période déterminée à l'unanimité par les États Parties. <p>Article 36 : Le Mémorandum s'applique sans préjudice des droits et obligations découlant d'un instrument international, quel qu'il soit.</p> <p>Une autorité maritime, qui remplit les critères spécifiés dans le présent Mémorandum ou dans ses amendements ou annexes, peut adhérer au Mémorandum ou à ses amendements ou annexes avec l'accord de tous les États Parties qui ont accepté le Mémorandum, ses amendements ou annexes.</p>
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<p>Article 37: The Memorandum remains ready for signature to the West and Central Africa States and throughout a twelve (12) month period, in the headquarters of MOWCA.</p> <p>However, it comes into force in a given zone three months after all the States Parties of this zone have signed it.</p> <p>After the considerations mentioned above, the States Parties will be able to implement it if they satisfy the requirements contained in the Memorandum.</p> <p>Article 38: Any maritime Authority or Organization wishing to take part as observer will submit a written request to the Committee, and will be considered as observer with the unanimous agreement of the Representatives of the States Parties present and voting at the meeting of the Committee.</p> <p>Article 39: Each State Party, which has not yet done so, is invited to establish, specialized Government Agency which shall develop and execute on shore and at sea duties of maritime navigation and marine pollution polices, including search and rescue, combating piracy and unlawful acts against safety and security of maritime navigation.</p> <p>Article 40: In establishing such Agencies, States shall take account of the relevant international conventions and instruments on the aforementioned issues and the need to grant adequate enforcement powers to such Agencies. States shall take steps to harmonize their legal regimes regarding enforcement at sea</p>	<p>Article 37 : Le Mémorandum demeure ouvert à la signature des États de l'Afrique de l'Ouest et du Centre pendant une durée de douze (12) mois, au siège de l'OMAO.</p> <p>Toutefois, il entre en vigueur dans une zone donnée trois mois après que tous les États Parties de cette zone l'ont signé.</p> <p>Compte tenu des aspects susmentionnés, les États Parties peuvent mettre le Mémorandum en application s'ils satisfont aux exigences qui y sont énoncées.</p> <p>Article 38 : Une autorité maritime ou organisation souhaitant participer comme observateur soumettra au Comité une demande écrite, et sera admise comme observateur avec l'accord unanime des Représentants des États Parties présents et votantes à la réunion du Comité.</p> <p>Article 39 : Tout État Partie, qui ne l'a pas encore fait, est invité à établir un service gouvernemental spécialisé chargé de mettre au point et d'exécuter, à terre et en mer, les missions de police en matière de navigation maritime et de pollution marine, y compris la recherche et le sauvetage, la lutte contre la piraterie et les actes illicites commis contre la sécurité de la navigation maritime.</p> <p>Article 40 : En créant de tels services, les États Parties tiennent compte des conventions et instruments internationaux pertinents relatifs aux questions susmentionnées ainsi qu'au besoin de garantir des pouvoirs coercitifs adéquats à de tels services. Les États Parties prennent les mesures nécessaires pour harmoniser leurs régimes juridiques concernant l'application des lois en mer.</p>
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<p>MARITIME COOPERATION</p> <p>Article 41: States are invited to become parties to UNCLOS, SUA and other relevant instruments, noting that this will contribute to the strengthening of peace, security, cooperation, sustainable development and friendly relations.</p>	<p>COOPÉRATION MARITIME</p> <p>Article 41 : Les États sont invités à devenir Parties contractantes à la Convention des Nations Unies sur le droit de la Mer de 1982, à la Convention SUA et à d'autres instruments pertinents, dans le but de contribuer au renforcement de la paix, de la sûreté, de la coopération, du développement durable et des relations amicales.</p>
<p>Article 42: States Parties accept that a comprehensive concept of regional maritime security requires an integrated regional and multidisciplinary approach, necessitating cooperation and coordination of all interested bodies and activities.</p> <p>Article 43: States Parties agree to offer assistance upon request in a coordinated method to member States on capacity building in terms of equipment and personnel requirement for the establishment of and efficient performance of coastguard functions by a designated agency.</p> <p>Article 44: States Parties recognize the importance of cooperation for the management of the marine environment, particularly with respect to safety, security and maritime casualty for the West and Central Africa region.</p>	<p>Article 42 : Les États Parties admettent qu'une bonne compréhension du concept de sûreté maritime régionale implique une approche régionale et multidisciplinaire intégrée, nécessitant la coopération et la coordination de toutes les structures et activités concernées.</p> <p>Article 43 : Les États Parties s'engagent à apporter leur assistance aux États membres, sur demande et de manière coordonnée, afin de renforcer les capacités en matière d'équipement et de personnel, en vue de la mise en place et de l'exécution efficace des fonctions de garde-côtes par un service désigné.</p> <p>Article 44 : Les États Parties reconnaissent l'importance de la coopération pour la gestion du milieu marin dans la région de l'Afrique de l'Ouest et du Centre, particulièrement en ce qui concerne la sécurité et la sûreté maritimes, et les accidents maritimes.</p>
<p>MARITIME ROUTES</p> <p>Article 45: States Parties recognize the importance of freedom of navigation, in accordance with the provisions of UNCLOS,</p>	<p>ROUTES MARITIMES</p> <p>Article 45 : Les États Parties reconnaissent l'importance de la liberté de navigation, conformément aux dispositions de la Convention des Nations Unies sur le droit de</p>

<p>to the maintenance of seaborne trade in West and Central Africa.</p> <p>Article 46: Taking into account the promotion of the safety of navigation and the protection of the marine environment, States shall develop cooperative approaches to the maintenance and protection of maritime routes. Such co-operative approaches include exchanges of information and training in such areas as humanitarian assistance, search and rescue, marine safety, and law and order at sea. The exchange of information should include information on likely threats to, or security incidents relating to maritime routes.</p> <p>Article 47: Further implementation of this cooperative approach could include naval cooperation and the sharing of information resulting from maritime surveillance.</p>	<p>la mer de 1982, pour la poursuite des échanges commerciaux maritimes dans la région de l'Afrique de l'Ouest et du Centre.</p> <p>Article 46 : Eu égard à la promotion de la sécurité de la navigation et de la protection du milieu marin, les États Parties établissent des stratégies de coopération pour le maintien et la protection des routes maritimes. De telles stratégies de coopération prévoient l'échange d'informations et la formation dans des domaines tels que l'assistance humanitaire, la recherche et le sauvetage, la sécurité maritime et l'ordre public en mer. L'échange d'informations devrait inclure les renseignements sur les menaces potentielles ou les incidents en matière de sûreté concernant les routes maritimes.</p> <p>Article 47 : D'autres mesures de mise en œuvre de cette stratégie de coopération peuvent inclure la coopération maritime et le partage des informations résultant de la surveillance maritime.</p>
<p>HUMANITARIAN ASSISTANCE</p> <p>Article 48: States Parties recognize the benefits of working together on the prevention, mitigation and management of maritime natural disasters, including preparedness and early warning systems, the exchange of information, compilation of data bases, planning, disaster reduction and relief activities, as well as training and education programs.</p> <p>SEARCH AND RESCUE</p> <p>Article 49: States Parties are invited to promote greater sharing of maritime Search and Rescue (SAR) experience and expertise,</p>	<p>ASSISTANCE HUMANITAIRE</p> <p>Article 48 : Les États Parties reconnaissent les avantages découlant des initiatives communes de prévention, d'atténuation des effets et de gestion des catastrophes maritimes naturelles, notamment la préparation et les systèmes d'alerte rapide, l'échange d'informations, le regroupement des bases de données, la planification, la prévention des catastrophes et les activités humanitaires, ainsi que la formation et les programmes éducatifs.</p> <p>RECHERCHE ET SAUVETAGE</p> <p>Article 49 : Les États Parties sont invités à promouvoir un plus grand partage de leur expérience et expertise en matière de recherche et de sauvetage (SAR), et à</p>

<p>as well as facilitate coordination and cooperation in SAR training and procedures.</p> <p>Article 50: States Parties consult with regard to the ratification, implementation and participation in relevant conventions and instruments concerning maritime SAR.</p> <p>MARITIME SAFETY</p> <p>Article 51: States Parties shall promote navigational safety by measures such as:</p> <ul style="list-style-type: none"> - the edition of adequate cartography; - the publication and the diffusion of notices to sailors; - the use of appropriate navigational aids; - the notification of recommended shipping routes. <p>Article 52: States Parties express support for regional and international efforts to deal with the problem of sub-standard ships, including the establishment of regional systems of port state control.</p> <p>Article 53: States Parties consult each other with regard to the ratification, implementation and participation in relevant conventions and instruments concerning maritime safety.</p>	<p>faciliter la coordination et la coopération en matière de formation et de procédures SAR.</p> <p>Article 50 : Les États Parties se concertent en ce qui concerne la ratification, la mise en œuvre et la participation aux instruments et conventions maritimes pertinents en matière de recherche et de sauvetage.</p> <p>SÉCURITÉ MARITIME</p> <p>Article 51 : Les États Parties favorisent la sécurité maritime en prenant des mesures telles que :</p> <ul style="list-style-type: none"> - l'édition de cartes adéquates; - la publication et la diffusion d'avis aux navigateurs; - l'utilisation d'aides à la navigation appropriées; - la notification des routes maritimes recommandées. <p>Article 52 : Les États Parties expriment leur appui aux efforts régionaux et internationaux destinés à régler le problème des navires sous normes, y compris l'établissement de régimes régionaux de contrôle par l'État du port.</p> <p>Article 53: Les États Parties se concertent en ce qui concerne la ratification, la mise en œuvre et la participation aux instruments et conventions maritimes pertinents en matière de sécurité maritime.</p>
<p>LAW AND ORDER AT SEA</p> <p>Article 54: States Parties recognize the importance of cooperation in the maintenance and enforcement of law and order at sea, including the prevention of piracy, drug smuggling, and other crimes at sea, also recognize the rights of States Parties to enforce their domestic laws at sea to the</p>	<p>ORDRE PUBLIC EN MER</p> <p>Article 54 : Les États Parties reconnaissent l'importance de la coopération pour le maintien et le respect de l'ordre public en mer, y compris la prévention de la piraterie, du trafic de drogue et d'autres crimes en mer, et reconnaissent également les droits des États à appliquer leurs</p>

<p>extent allowed by international law.</p> <p>Article 55: States Parties recognize the right of hot pursuit and shall develop an effective mechanism thereof which shall take in consideration the provisions of Article III of this Memorandum.</p> <p>Article 56: States Parties are invited to institute regular meetings to enhance cooperation and coordination in their maritime enforcement activities.</p> <p>NAVAL CO-OPERATION</p> <p>Article 57: States Parties acknowledge the confidence-building benefits of naval cooperation, including increased personnel contacts and voluntary measures to promote naval transparency.</p> <p>Article 58: States Parties may wish to consider a framework of bilateral or multilateral instruments for the navy concerned in order to avoid the nautical incidents.</p> <p>MARITIME SURVEILLANCE</p> <p>Article 59: States Parties recognize that maritime surveillance may be conducted for peaceful purposes as part of the exercise of freedom of navigation and over flight in areas claimed as exclusive economic zone or continental shelf, and on the high seas. This should be conducted with consent and without prejudice to the jurisdictional rights and</p>	<p>lois nationales en mer dans les limites admises par le droit international.</p> <p>Article 55 : Les États Parties reconnaissent le droit de poursuite et mettront en place à cet effet un dispositif efficace qui tiendra compte des dispositions de l'article III du Mémorandum.</p> <p>Article 56 : Les États Parties sont invitées à instituer des réunions régulières pour renforcer la coopération et la coordination de leurs activités en matière d'application des règlements maritimes.</p> <p>COOPÉRATION MARITIME</p> <p>Article 57 : Les États Parties reconnaissent les avantages découlant de la coopération maritime pour ce qui est de créer un climat de confiance, y compris le renforcement des contacts entre personnels et les mesures volontaires visant à promouvoir la transparence.</p> <p>Article 58 : Les États Parties peuvent souhaiter disposer d'un cadre d'instruments bilatéraux ou multilatéraux applicables aux marines nationales concernées en vue d'éviter les incidents maritimes.</p> <p>SURVEILLANCE MARITIME</p> <p>Article 59 : Les États Parties reconnaissent que la surveillance maritime peut être exercée à des fins pacifiques, dans le cadre de l'exercice de la liberté de navigation et de survol des zones économiques exclusives ou des plateaux continentaux et de la haute mer. La surveillance maritime devrait être exercée avec l'accord de l'État côtier et sans préjudice de ses droits et responsabilités d'ordre juridictionnel dans sa zone économique exclusive ou sur son plateau continental, conformément à la Convention des Nations Unies sur le droit de la mer de 1982.</p>
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<p>responsibilities of the coastal State within its exclusive economic zone or over its continental shelf, as provided for under UNCLOS.http://aus-cscap.anu.edu.au/memo4.html - fn0#fn0http://aus-cscap.anu.edu.au/memo4.html - fn0#fn0</p>	
<p>Article 60: States Parties shall work towards developing arrangements for the sharing of surveillance information with other States Parties to this Memorandum.</p> <p>PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT</p> <p>Article 61: States Parties recognize their individual and collective obligation to protect and preserve the marine environment.</p> <p>Article 62: States Parties shall consult with regard to:</p> <p>(a) cooperation on a bilateral, sub-regional and regional basis in taking all measures necessary to prevent, reduce, monitor and control pollution of the marine environment from all sources ;</p> <p>(b) the ratification, implementation and participation in relevant conventions and instruments concerning protection, preservation and monitoring of the marine environment;</p> <p>(c) the implementation of Chapter 17 of Agenda 21, adopted at the 1992 United Nations Conference on Environment and Development (UNCED), particularly those program areas concerning integrated management and sustainable development, marine environmental protection and the strengthening of international cooperation, including regional cooperation and coordination; and</p>	<p>Article 60 : Les États Parties oeuvrent à la mise en place de mécanismes de partage des renseignements découlant de la surveillance avec d'autres États Parties au Memorandum.</p> <p>PROTECTION ET PRÉSERVATION DU MILIEU MARIN</p> <p>Article 61 : Les États Parties reconnaissent leur obligation individuelle et collective de protéger et préserver le milieu marin.</p> <p>Article 62 : Les États Parties se concertent en ce qui concerne :</p> <p>a) la coopération sur une base bilatérale, sous-régionale et régionale, en vue de prendre toutes les mesures nécessaires pour prévenir, réduire, suivre et contrôler la pollution du milieu marin due à toutes les sources;</p> <p>b) la ratification, la mise en œuvre et la participation aux conventions et instruments pertinents concernant la protection, la préservation et la surveillance du milieu marin;</p> <p>c) la mise en œuvre du chapitre 17 d'Action 21, adopté à la Conférence des Nations Unies de 1992 sur l'environnement et le développement (CNUED), notamment les programmes concernant la gestion intégrée et le développement durable, la protection du milieu marin et le renforcement de la coopération internationale, y compris la coopération et la coordination régionales; et</p>

<p>(d) the development and implementation of national, sub-regional and regional monitoring programs and contingency plans in response to pollution incidents in the marine environment.</p> <p>Article 63: States Parties consult at the bilateral and sub-regional levels in the formulation and harmonization of policies for the conservation, management and sustainable utilization of marine living resources that straddle maritime zones, or which are highly migratory, or occur in the high seas.</p>	<p>d) l'élaboration et la mise en œuvre de programmes de surveillance et de plans d'urgence nationaux, sous-régionaux et régionaux, pour faire face aux incidents de pollution du milieu marin.</p> <p>Article 63 : Les États Parties se concertent aux niveaux bilatéral et sous-régional pour formuler et harmoniser les politiques de conservation, gestion et utilisation durable des ressources biologiques marines qui sont situées de part et d'autre des zones maritimes, ou qui sont particulièrement migratoires ou bien qui apparaissent en haute mer.</p>
<p>Article 64: States Parties consult at the bilateral and sub-regional levels in the formulation and harmonization of policies for the exploration and exploitation of marine non-living resources which occur across two or more zones of national jurisdiction, especially in cases where a shared resource can be exploited, wholly or in part, from one or more of the zones of national jurisdiction.</p> <p>MARINE SCIENTIFIC RESEARCH</p> <p>Article 65: States parties are invited to cooperate, directly or through competent international, regional or sub-regional organizations, for the purpose of promoting studies, undertaking programs of scientific research and the exchange of information and data about the marine environment, particularly about pollution of the marine environment and changing sea levels.</p> <p>Article 66: States Parties are invited to consult on the harmonization of their respective procedures, in accordance with Part XIII of UNCLOS, for granting consent to proposed marine scientific research projects in their exclusive economic zones and on their continental shelves.</p>	<p>Article 64 : Les États Parties se concertent aux niveaux bilatéral et sous-régional pour formuler et harmoniser les politiques d'exploration et d'exploitation des ressources non biologiques marines qui sont situées de part et d'autre de deux ou plusieurs zones sous juridiction nationale, notamment dans les cas où une ressource partagée peut être exploitée, en tout ou en partie, à partir d'une ou plusieurs zones sous juridiction nationale.</p> <p>RECHERCHE SCIENTIFIQUE MARINE</p> <p>Article 65 : Les États Parties sont invités à coopérer, directement ou à par l'intermédiaire des organisations sous-régionales, régionales ou internationales compétentes, en vue de promouvoir des études, de conduire des programmes de recherche scientifique et d'échanger des informations et des données sur le milieu marin, notamment sur la pollution du milieu marin et l'évolution du niveau de la mer.</p> <p>Article 66 : Les États Parties sont invités à se concerter en vue d'harmoniser leurs procédures respectives en matière d'octroi d'autorisations pour les projets de recherche scientifique marine proposés dans leurs zones économiques exclusives et sur leurs plateaux continentaux, conformément à la partie XIII de la Convention internationale des Nations Unies sur le droit de la mer.</p>

<p>TECHNICAL COOPERATION AND CAPACITY-BUILDING</p> <p>Article 67: States Parties recognize the benefits of technical cooperation and capacity-building, and are invited to implement relevant programs in the maritime sector designed to build infrastructures, institutions and capabilities for policy formulation and implementation. This includes information sharing and development of database.</p>	<p>COOPÉRATION TECHNIQUE ET RENFORCEMENT DES CAPACITÉS</p> <p>Article 67 : Les États Parties reconnaissent les avantages de la coopération technique et du renforcement des capacités, et sont invités à mener à bien des programmes pertinents dans le secteur maritime pour mettre en place des infrastructures, des institutions et des capacités en vue de formuler et d'appliquer des politiques générales. Cela inclut le partage d'informations et la création de banques de données.</p>
<p>TRAINING AND EDUCATION</p> <p>Article 68: States Parties cooperate on the development and promotion of training and educational programs for the management of the marine environment, particularly for the maintenance of safety and law and order at sea, the preservation and protection of the marine environment, and the prevention, reduction and control of marine pollution. Such cooperation might include :</p> <ul style="list-style-type: none"> a) the offer of places on national training courses to other States, subject to payment of relevant costs; b) sharing curriculum and course information; c) the exchange of naval and law enforcement personnel, scientists and other experts; d) the exchange of views on maritime issues; e) holding conferences, seminars, workshops and symposiums on maritime subjects of common interest; and f) fostering cooperation among maritime training institutions and research centres. 	<p>FORMATION ET ÉDUCATION</p> <p>Article 68 : Les États Parties coopèrent en vue de mettre au point et de promouvoir des programmes éducatifs et de formation concernant la gestion du milieu marin, notamment le maintien de la sécurité et de l'ordre public en mer, la préservation et la protection du milieu marin, et la prévention, la réduction et le contrôle de la pollution marine. Cette coopération peut notamment consister à :</p> <ul style="list-style-type: none"> a) offrir des places dans les cours nationaux à d'autres États Parties, à condition de payer les coûts y afférents; b) partager les programmes et les informations sur les cours; c) échanger des personnels de la marine et de la force publique, ainsi que des scientifiques et d'autres experts; d) échanger des avis sur les questions maritimes; e) tenir des conférences, séminaires, ateliers et symposiums sur des sujets maritimes d'intérêt commun; et f) encourager la coopération entre les institutions de formation maritime et les centres de recherche.

<p>g) the offer of places on national training courses to other States, subject to payment of relevant costs;</p> <p>h) the exchange of naval and law enforcement personnel, scientists and other experts;</p> <p>i) the exchange of views on maritime issues;</p> <p>j) holding conferences, seminars, workshops and symposiums on maritime subjects of common interest; and</p> <p>k) fostering cooperation among maritime training institutions and research centres.</p>	<p>g) offrir des places dans les cours nationaux d'autres États, à condition de payer les coûts y afférents;</p> <p>h) échanger des personnels de la marine et de la force publique, ainsi que des scientifiques et d'autres experts;</p> <p>i) échanger des avis sur les questions maritimes;</p> <p>j) tenir des conférences, séminaires, ateliers et symposiums sur des sujets maritimes d'intérêt commun; et</p> <p>k) encourager la coopération entre les institutions de formation maritime et les centres de recherche.</p>
<p>States Parties are invited to institute regular meetings to enhance cooperation and coordination in their maritime enforcement activities.</p> <p>TITLE II: FINAL PROVISIONS</p> <p>Article 69: Any State Party can withdraw from the Memorandum by a written notification to the Committee sixty (60) days before.</p> <p>Article 70: The English, French and Portuguese versions of this Memorandum are authentic.</p> <p>This Memorandum is adopted and open to signature _____ in _____ Dakar, _____</p>	<p>Les États Parties sont invités à instituer des réunions régulières pour renforcer la coopération et la coordination dans leurs activités de mise en application de la réglementation maritime.</p> <p>TITRE II : DISPOSITIONS FINALES</p> <p>Article 69 : Tout État Partie peut se retirer du Mémorandum en le notifiant par écrit au Comité soixante (60) jours avant.</p> <p>Article 70 : Les versions anglaise, française et portugaise du présent Mémorandum font également foi.</p> <p>Le présent Mémorandum est adopté et ouvert à la signature à Dakar, le _____,</p>

Hereafter have signed The Representatives of the following States Parties:	Ont signé les Représentants des États Parties ci-après :
<ol style="list-style-type: none"> 1. Angola 2. Benin 3. Cameroon 4. Cape-Verde 5. Congo 6. D.R. Congo 7. Côte d'Ivoire 8. Gabon 9. Gambia 10. Ghana 11. Guinea 12. Guinea-Bissau 13. Equatorial Guinea 14. Liberia 15. Mauritania 16. Nigeria 17. Sao Tomé and Príncipe 18. Senegal 19. Sierra Leone 20. Togo 	<ol style="list-style-type: none"> 1. Angola 2. Bénin 3. Cameroun 4. Cap-Vert 5. Congo 6. Congo RD 7. Côte d'Ivoire 8. Gabon 9. Gambie 10. Ghana 11. Guinée 12. Guinée-Bissau 13. Guinée-équatoriale 14. Libéria 15. Mauritanie 16. Nigéria 17. Sao Tomé-et-Príncipe 18. Sénégal 19. Sierra Leone 20. Togo

APPENDIX 4 - ECCAS Protocol on Maritime Security Cooperation



ECONOMIC COMMUNITY OF CENTRAL AFRICAN STATES
(E.C.C.A)

COMUNIDAD ECONOMICA DE LOS ESTADOS DEL AFRICA CENTRAL
(C.E.E.A.C)

COMMUNAUTE ECONOMIQUE DES ETATS DE L'AFRIQUE CENTRALE
(C:E:E:A:C)

COMUNIDADE ECONOMICA DOS ESTADOS DA AFRICA CENTRAL
(C.E.E.A.C)

PROTOCOL

**RELATIF A LA STRATEGIE DE SECURISATION DES
INTERETS VITAUX EN MER DES ETATS DE LA CEEAC DU
GOLFE DE GUINEE**

Préambule

Nous, Chefs d'Etat et de Gouvernement des Etats membres de la Communauté Economique des Etats de l'Afrique Centrale (CEEAC) et

Le Secrétariat Général de la CEEAC, ci-après les Parties.

Vu le Traité instituant la CEEAC, signé à Libreville, le 18 Octobre 1983, notamment en son article 4 ;

Vu les dispositions pertinentes de l'Acte Constitutif de l'Union Africaine (U.A), signé au Togo, le 11 Juillet 2002 ;

Vu le Protocole relatif au Conseil de Paix et de Sécurité en Afrique Centrale (COPAX), signé à Malabo, le 24 Février 2000, ensemble le Pacte d'Assistance mutuelle entre les Etats membres de la CEEAC, signé à Malabo, le 24 Février 2000 et le Pacte de non-agression entre les Etats membres du Comité Consultatif Permanent des Nations-Unies sur les questions de sécurité en Afrique Centrale, signé à Yaoundé, le 08 Juillet 1996 ;

Ayant à l'esprit les dispositions de la Charte des Transports maritimes des Etats de l'Afrique Centrale, du 07 Mai 1975, telle que modifiée ;

Rappelant la Résolution n°193/12/03 de la CEEAC adoptée à Luanda, le 31 Octobre 2003 sur la Sécurité maritime en Afrique Centrale, en particulier la mise en place d'un plan de surveillance sous-régional ;

Prenant en compte la résolution CEEAC/CEDEAO sur la lutte contre la Traite des personnes de 2006 ;

Constatant avec une vive inquiétude les graves dangers pour la Sécurité et la sûreté des personnes et des biens et pour la protection du milieu marin qui résultent des actes illicites commis à l'encontre des navires, et notamment des actes de piraterie ou de vols à main armée ;

Reconnaissant que les initiatives internationales, régionales et nationales de lutte contre le terrorisme renforcent aussi la capacité de combattre la criminalité organisée et les vols à main armée à l'encontre des navires ;

Convaincues qu'il faut que les Etats membres de la CEEAC du Golfe de Guinée coopèrent et prennent toutes les mesures nécessaires pour prévenir et réprimer tous les incidents qui menacent la Sécurité du secteur des Transports maritimes ;

Conscientes de la nécessité de mettre les ressources naturelles et minérales de nos Etats au service du développement économique et du progrès social de nos peuples ;

Persuadées à cet effet que notre action commune et concertée est le gage d'une exploitation harmonieuse, rationnelle et pacifique de nos ressources naturelles ;

Tenant compte des recommandations du forum OMI/CEEAC tenu à Dakar du 23 au 25 Octobre 2006 sur la mise en place d'un plan de surveillance intégré de garde-côtes pour les Etats d'Afrique Centrale ;

Désireuses de conclure un Protocole définissant les conditions de mise en place et de gestion de la Stratégie de sécurisation de nos intérêts vitaux en mer, articulée autour du COPAX et favorisant une synergie avec la Commission du Golfe de Guinée(CGG) et la Communauté Economique des Etats de l'Afrique Occidentale(CEDEAO) ;

Conviennt de ce qui suit :

Chapitre 1^{er} : Définitions et instruments pertinents.

Article 1^{er} Définitions.

Aux fins du présent Protocole, on entend par :

« **Administrations** » : la Communauté Economique des Etats de l'Afrique Centrale.

« **Golfe de Guinée** » : la zone maritime de la CEEAC telle que définie par l'article 7.1 du présent Protocole ;

« **Stratégie de Sécurisation** » ou « **Stratégie** » : la Stratégie de Sécurisation définie à l'article 3 du présent Protocole ;

« **Etat Partie** » ou « **Partie** » signifie un Etat membre de la CEEAC ayant signé ou accepté le présent Protocole, le Traité instituant la commission du Golfe de Guinée et le Protocole relatif au COPAX ;

« **Etat Pilote** » Etat précisé à l'article 7 alinéa 2 du présent Protocole. ;

« **Piraterie** » : telle que définie à l'article 101 de la Convention des Nations-Unies sur le droit de la mer de 1982 désigne :

a) Tout acte illicite de violence ou de détention ou toute déprédation commise, par l'équipage ou les passagers d'un navire ou d'un aéronef privé, agissant à des fins privées, et dirigé :

-contre un autre navire ou aéronef, ou contre des personnes ou des biens à leur bord, en haute mer ;

-contre un navire ou aéronef, des personnes ou des biens, dans un lieu ne relevant pas de la juridiction d'un Etat.

b) Tout acte de participation volontaire à l'utilisation d'un navire ou d'un aéronef, lorsque son auteur a connaissance de faits dont il découle que ce navire ou cet aéronef est un navire ou aéronef pirate ;

c) Tout acte ayant pour but d'inciter à commettre les actes définis aux lettres a) ou b), ou commis dans l'intention de les faciliter ;

« Pollution du milieu marin » : l'introduction directe ou indirecte, par l'homme, de substances ou d'énergie dans le milieu marin, y compris les estuaires, lorsqu'elle a ou peut avoir des effets nuisibles tels que dommages aux ressources biologiques et à la faune et la flore marines, risques pour la santé de l'homme, entrave aux activités maritimes, y compris la pêche et les autres utilisations légitimes de la mer, altération de la qualité de l'eau de mer du point de vue de son utilisation et dégradation des valeurs d'agrément, telle que définie par l'article premier de la Convention des Nations-Unies sur le droit de la mer, de 1982. ;

Article 2 Instruments pertinents

1) Aux fins du présent Protocole, les « Instruments Pertinents » sont ceux énumérés ci-après, avec tous les Protocoles ou amendement y afférents ainsi que les codes obligatoires adoptés dans le Cadre de ces textes =

-Convention Internationale sur les lignes de change, 1966, (LL66) ; et son Protocole de 1988 ;

-Convention Internationale de 1974 pour la Sauvegarde de la vie humaine en mer (Convention SOLAS de 1974) ;

-Protocole de 1978 relatif à la Convention Internationale de 1974 pour la Sauvegarde de la vie humaine en mer ;

-Convention de 1973 pour la prévention de la pollution par les navires telle qu'amendée par le Protocole de 1978 ; (Marpol 73/78) ;

-Convention internationale de 1978 sur les normes de formation des gens de la mer, de délivrance des brevets et de veille ; telle qu'amendée (STCW 78/95) ;

-Convention sur le règlement international de 1972 pour prévenir les abordages en mer (COLREG 72) ; -

-Convention concernant les normes minima à observer sur les navires marchands, 1976 (Convention OIT n° 147) ;

-Convention de 1979 sur la recherche et le Sauvetage maritimes (Convention SAR de 1979) ;

-Convention internationale de 1992 sur la responsabilité civile pour les dommages dus à la pollution par les hydrocarbures, telle qu'amendée ; (CLC92) ;

-Convention internationale de 1972 pour la prévention de la pollution des mers par immersion de déchets (LDC72) ;

-Convention internationale de 1969 sur l'intervention en haute mer en cas d'accident, pouvant entraîner une pollution par les hydrocarbures et son Protocole de 1973 (intervention 69) ;

-Convention des Nations-Unies contre le trafic illicite de stupéfiants et de substances psychotropes adoptée à Vienne, le 19 Décembre 1988 ; (Convention de Vienne de 1988) ;

- Convention pour la répression d'actes illicites contre la Sécurité de la Navigation maritime signée à Rome, le 10 Mars 1988 (Convention SUA 1988) ; telle qu'amendée en 1988 et 2005 ;
 - Convention des Nations-Unies sur le droit de la mer signée à Montégo Bay, le 10 Décembre 1982 ;
 - Convention des Nations-Unies contre la criminalité transnationale organisée et son Protocole additionnel visant à prévenir, réprimer et punir la traite des personnes en particulier les femmes et les enfants (Convention de Palerme) 2000 ;
 - Convention de 1952 relative au statut des réfugiés et son Protocole de 1967 ;
 - Convention Internationale de 1990 sur la prévention, la lutte et la coopération en matière de pollution par les hydrocarbures (Convention OPRC 90) ;
 - Chartre des transports maritimes des Etats de l'Afrique Centrale du 07 Mai 1975 telle que modifiée en 1999 ;
 - Résolution n° 193/12/2003 de la CEEAC, adoptée à Luanda, le 31 Octobre 2003 sur la Sécurité maritime en Afrique Centrale ;
 - Code des douanes communautaires ;
 - Mémoire d'Abuja ;
 - Code Communautaire de la Marine Marchande adopté à Bangui le 03 Aout 2001 ;
- 2) Les Parties prennent les mesures nécessaires pour la mise en œuvre effective sur terre et en mer, des dispositions des instruments pertinents.

Chapitre 2 = Dispositions générales.

Article 3 Stratégie

- 1-Il est adopté une stratégie de Sécurisation des intérêts vitaux des Parties dans le Golfe de guinée.
- 2-La stratégie visée à l'article 3 alinéa 1 ci-dessus est articulée autour des six piliers ainsi qu'il suit :
 - échange et gestion communautaire de l'information, par la mise en place des mécanismes de recherche et d'échange des informations entre les états ;
 - surveillance communautaire du Golfe de Guinée, par la mise en place de procédures opérationnelles conjointes et des moyens interopérables de surveillance et d'intervention ;
 - harmonisation de l'action des Etats Parties en mer, au plan juridique et institutionnel ;
 - institutionnalisation d'une taxe Communautaire, sur la base des mécanismes existants ;

-acquisition et entretien des équipements majeurs, pour garantir une capacité opérationnelle ;

-institutionnalisation de la Conférence maritime des Parties au niveau de la CDS, afin de maintenir la mobilisation de tous les opérateurs et intéressés du milieu marin.

Article 4 Mission

La Stratégie est mise en œuvre par le Centre Régional de Sécurité Maritime de l'Afrique Centrale (CRESMAC) qui a pour mission d'assurer la maîtrise de l'espace maritime des Etats membres de la CEEAC du Golfe de Guinée, notamment par :

- La protection des ressources naturelles et des zones de pêche artisanale maritime
- La sécurisation des routes maritimes ;
- La lutte contre =
 - l'immigration clandestine ;
 - le trafic des drogues ;
 - la circulation frauduleuse des armes légères de petit calibre ;
 - la piraterie et la prise d'otages en mer ;
 - la pollution marine ;
 - les navires sous normes ; et toute autre mission nécessaire à la mise en œuvre de la Stratégie.

Article 5 Organes

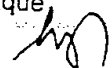
1 Aux fins de l'exécution des missions ci-dessus, les organes civilo-militaires suivants sont créés :

- a- Le Centre Régional de Sécurité Maritime de l'Afrique Centrale (CRESMAC) ;
- b- -Le Centre Multinational de Coordination (CMC) ;
- c- -Le Centre Opérationnel de Marine (COM).

2 Le CRESMAC est l'organe Stratégique, il est rattaché au Secrétaire Général de la CEEAC.

3 Le CMC est l'organe de Planification et de mise en œuvre opérationnelle de la Stratégie. Il est situé à l'Etat-major des Armées de chacun des quatre Etats Pilote de Zone : Angola, Congo, Gabon, Cameroun.

4 Le COM est l'Organe de mise en œuvre tactique de la Stratégie. Il est situé dans chaque Etat membre.

5 L'organisation, les attributions et le fonctionnement de ces organes font l'objet de règlements intérieurs distincts. 

Article 6 Droits et Obligations des Parties

1. Les règles d'engagement et les niveaux de sécurité pour les opérations sont définis par le Secrétariat Général de la CEEAC, de commun accord avec les Etats Parties.
- 2 Le Secrétariat Général s'engage, à rechercher des partenaires internationaux et nationaux pour le financement des opérations de sécurisation de la zone maritime de la CEEAC.
- 3 Les Etats participent à la mise en œuvre de la Stratégie notamment en offrant :
 - des moyens aéronavals et la gratuité des services ci-après :
Eau, électricité, lamanage, atterrissage stationnement, pilotage, téléphone, assistance portuaire et aéroportuaire, soins médicaux ;
 - un régime douanier d'exonération des taxes aux navires, aéronefs militaires ou civils affectés à la mission.
4. Les Etats s'engagent également à remplir les critères minimum de participation au système de sécurisation communautaire ; à harmoniser leur législation relative à l'environnement marin, à la sécurité et à la sûreté maritimes ; à mettre en place un Centre Opérationnel de Marine (COM); à animer un thème sur la sécurité maritime lors de la « Journée mondiale de la mer ».
5. Chaque Etat jouit de ses prérogatives régaliennes pour son action en mer. Sans préjudice des dispositions du présent Protocole, les Etats Parties peuvent conclure des accords bilatéraux, notamment en vue de renforcer les capacités nécessaires pour le contrôle des espaces marins sous juridiction nationale.
- 6- Les Etats Parties s'engagent à s'autoriser réciproquement la libre utilisation de leur espace aéromaritime dans le cadre du droit de poursuite et conformément aux différents textes le prévoyant.
- 7-Les parties s'engagent à se conformer aux instruments juridiques internationaux et à rendre effectifs leurs plans d'urgence nationaux. Ils souscrivent notamment aux codes AIS et autres programmes relatifs à la navigation maritime internationale.
- 8-Les Etats acceptent que les marins régulièrement en mission dans le cadre du présent dispositif embarquent comme personnel d'échange dans leurs unités à l'occasion des opérations de patrouilles maritimes et des contrôles en mer.

Article 7 Zone maritime de la CEEAC

1. La Zone maritime de la CEEAC s'étend sur 3:307 Km de la frontière de l'Angola avec la Namibie au sud (Lat. 17°28m27sS long. 11°45m09sE), jusqu'à la frontière entre le Cameroun

et le Nigéria (Lat.04°43m15sN 08°31m41s E), soit une superficie totale d'environ 1.224.912,9 Km².

2. Pour les besoins de la mise en œuvre de la Stratégie de Sécurisation, la zone maritime de la CEEAC est subdivisée en trois zones qui comprennent chacune un Etat pilote, comme ci-après =

a-Zone A : Angola ; RDC. Etat pilote : Angola ;

b-Zone B : Angola ; Congo ; Gabon. Etat pilote : Congo ;

c-Zone D : Cameroun ; Guinée Equatoriale ; Sao Tome et Principe ; Gabon. Etat pilote : Cameroun.

3. Le Centre Régional de Sécurité Maritime de l'Afrique Centrale est situé à Pointe Noire, République du Congo.

Article 8 Financement du mécanisme

1. Le système de financement du mécanisme mis en place comprend :

a- Une Taxe Communautaire de la Sécurité Maritime ;

b- Un pourcentage à percevoir sur les Taxes d'arraisonnement des navires ;

c-Des contributions : des exploitants maritimes ; des partenaires internationaux et nationaux.

2. Le Secrétariat Général détermine en collaboration avec les administrations étatiques compétentes les procédures de perception de ces ressources.

Article 9 Plan de montée en puissance

1. Il est élaboré un plan de montée en puissance du dispositif sécuritaire de l'espace maritime de la CEEAC.

2. Le Plan de montée en puissance est constitué de =

a- Un Plan général d'équipement et d'installation des organes du dispositif.

b- Un Plan général de surveillance de l'espace maritime ;

c-Un Plan général de formation des personnels ;

d-Un Plan général de financement du dispositif

3. Le Plan d'équipement est établi sur la base des acquisitions obligatoires des Etats Parties, des achats communautaires et des appuis des partenaires. Le Plan d'équipement est constitué des matériels majeurs et des infrastructures de base.

4. Le Plan de surveillance est réalisé en harmonie avec le Plan de financement ; il prend en compte la théorie des axes prioritaires et l'organisation de la zone d'opération ;
5. Le Plan de financement est annuel conformément aux dispositions du Règlement Financier de la CEEAC.
6. Le Plan de formation établi contient des programmes séquentiels en rapport avec :
 - les spécialités des postes
 - les plans étatiques de mise sur pied de leurs dispositifs respectifs.

Article 10 Conférence Maritime

1. Il est institué une Conférence Maritime annuelle du COPAX.
2. La Conférence Maritime du COPAX doit comprendre des représentants :
 - a- des opérateurs économiques maritimes et portuaires,
 - b- des ministères ayant des attributions maritimes,
 - c- des armateurs,
 - d- de la Commission du Golfe de Guinée,
 - e- de toute autre organisation invitée en fonction de ses compétences selon le thème retenu.
3. La Conférence Maritime du COPAX a pour mission notamment de sensibiliser sur la sécurité maritime, faire le bilan des activités maritimes dans le Golfe de Guinée, débattre des questions maritimes d'intérêt communautaire.

Chapitre 3 Dispositions diverses et finales

Article 11

Dans la poursuite des objectifs relatifs à la sécurisation des intérêts vitaux en mer du COPAX dans le Golfe de Guinée, le Secrétariat Général de la CEEAC coopère avec les institutions et organisations suivantes :

- a- la CEDEAO ;
- b- la Commission du Golfe de Guinée ;
- c- les Etats tiers et les sociétés multinationales qui exploitent ses espaces marins ;

Article 12 Règlement des différends

Les Parties s'engagent à régler leurs différends à l'amiable. A défaut, les Parties auront recours au mécanisme arbitral ou à tout autre mécanisme de règlement pacifique des conflits.

Article 13 Entrée en vigueur

1. Le Présent Protocole entre en vigueur dès sa signature par le Secrétaire Général de la CEEAC et par au moins trois Etats parties.
2. Tout Etat membre de la CEEAC qui n'est pas partie au présent Protocole à la date de son entrée en vigueur, peut adhérer au présent Protocole

Article 14 Amendements

1. Chaque partie peut proposer des amendements au présent Protocole.
2. Les propositions d'amendement sont soumises au Secrétariat Général de la CEEAC qui en communique copies aux parties dans les 30 (trente) jours suivant la date de réception.
3. Les représentants des Etats parties examinent les propositions et font des recommandations.
4. Les amendements entrent en vigueur dans les trente (30) jours suivant leur approbation par les parties.

Article 15 Dépositaire

Le Présent Protocole et tous les instruments d'adhésion sont déposés auprès du Secrétariat Général de la CEEAC qui en communique des copies certifiées conformes à toutes les parties et fait enregistrer auprès de l'U.A, de l'O.N.U et auprès de toutes autres organisations désignées par le Secrétariat Général de la CEEAC.

En foi de quoi, nous, Chefs d'Etats et de Gouvernements, de la CEEAC, avons signé le présent Protocole d'Accord.

Fait à Kinshasa, le 24 octobre 2009 en un original unique en langues anglaise, française, portugaise et espagnole, les quatre (4) textes faisant également foi.



Pour la République d'Angola
S.E.M. Assuncao Afonso De Sousa Anjos
Ministre des Relations Extérieures



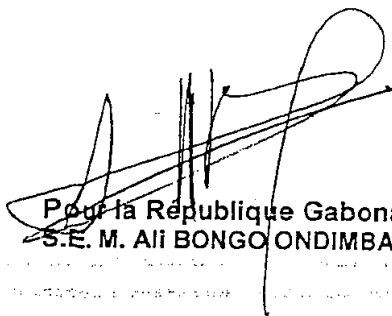
Pour la République du Congo
S.E. M. Denis SASSOU-N'GUESSO



Pour la République du Cameroun
S.E. M. YANG Philémon
Premier Ministre et Chef du Gouvernement



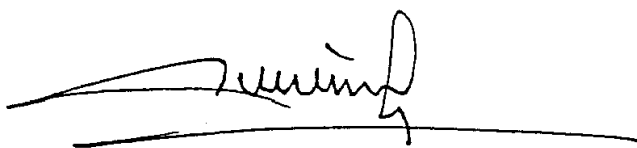
Pour la République Centrafricaine
S.E. M. François BOZIZE YANGOUVONDA



Pour la République Gabonaise
S.E. M. Ali BONGO ONDIMBA

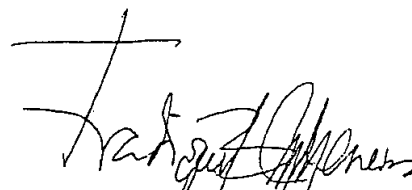


Pour la République du Tchad
S.E. M. Idriss DEBY ITNO



Pour la République de Guinée Equatoriale

S.E. M. Theodoro OBIANG NGUEMA MBASOGO

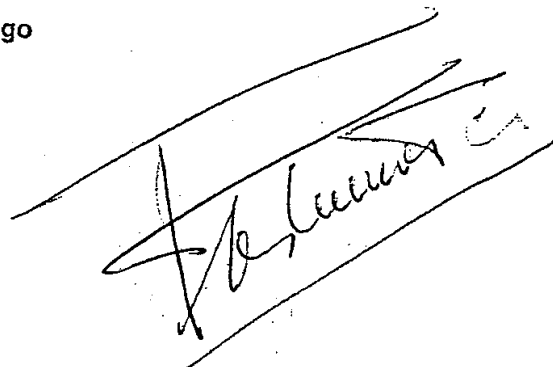


Pour la République Démocratique
de Sao Tome et Principe

S.E. M. FRADIQUE MELO DE MENEZES



Pour la République Démocratique du Congo
S.E. M. Joseph KABILA KABANGE



Pour le Secrétariat Général de la CEEAC
S.E. Général Louis SYLVAIN-GOMA

APPENDIX 5 – Treaty on Gulf of Guinea Commission

Treaty On The Gulf Of Guinea Commission

Article I Definitions

In this Treaty,

“Commission” means the “Gulf of Guinea Commission”;

“Council” means the Council of Minister of the Gulf of Guinea Commission; “Minister” includes the Minister of Foreign Affairs, and Other Ministers of the Parties, responsible for the activities within the scope of this Treaty;

“Senior Officials” include government officials of each Party designed as such, and accredited to the Commission.

Article II The Organization

An organization is hereby established (instituted) to be known as the “Gulf of Guinea Commission”, and hereinafter referred to as “the Commission”.

Article III Membership

Membership of the Commission shall be limited to sovereign States bordering the Gulf of Guinea.

Article IV Scope

(i) The Commission shall have within its purview the promotion of peace and security in the Gulf of Guinea, as well as the economic, social and environmental well being of its members;

(ii) The Commission shall regulate and harmonize the exploitation of the natural resources of the Gulf of Guinea, in particular, in such specific endeavours as fishing and oil exploration, and the exploitation of other resources yet to be tapped in the area;

(iii) With regard to sub-paragraph (ii) above, the Commission shall apply a collective approach that would enhance the common pooling of technological know-how for the development of the common heritage of the Gulf and reduce the costs of exploitation of all the resources.

Article V Aims

The Commission shall be a forum for addressing problems affecting Member-states in the following areas:-

- (a) environmental pollution of their common maritime zone;
- (b) border issues vis-à-vis delimitation of maritime borders and other conflicts arising in the overlapping Exclusive Economic Zones (EEZ);
- (c) security matters such as issue of Joint Border Patrol, Immigration and similar matters;
- (d) co-ordination of fishing activities in the Gulf.

Article VI Objectives

The objective of the Commission shall be:

- (a) to help achieve mutual confidence and trust amongst member-states;
- (b) to create an atmosphere in which mutually beneficial economic activities by citizens of member-states could be peacefully pursued;
- (c) to provide a framework for the monitoring and control of environmental degradation in the Gulf, as well as harmonization of the exploitation of natural resources in the overlapping areas of the EEZ, through the pooling of technological and infrastructural facilities and other cost-sharing strategies;
- (d) to co-ordinate and articulate common positions on issues of particular interests to the enhancement of peace and stability in the sub-region.

Article VII Institutional Framework

The Commission shall be recognized as an international legal “persona”.

Article VIII

- (i) For the purpose of achieving the aims and objectives laid down in Article V and VI above, the Commission shall encourage regular exchange of opinion (consultation) amongst the State Parties so as to facilitate concertation of views on various African

and international issues aimed at better understanding, security and stability within the sub-region;

(ii) to this end, there shall be created, the assembly of Heads of States and Government, and the Council of Ministers, notably Ministers in charge of: Foreign Affairs, Economy, Hydrocarbons, Fishing resources, Mines, Environment.

Article IX Assembly Of Heads Of State And Government

The assembly of Heads of State and Government of Parties to this Treaty shall be the governing and decision – making body of the Commission. It shall determine the objectives and principles governing programmes and activities to be carried out. A Summit Session shall be held once a year, in alphabetical rotation.

Article X Council Of Ministers

The Council of Ministers shall meet at last once a year, to harmonise views on issues and programmes to be tackled before the assembly of Heads of State and Government.

Article XI Protocols

Parties shall prepare and adopt additional protocols stipulating measures, procedures and standards for the purpose of clarifying and improving methods by which the provisions of this Treaty shall be implemented.

Article XII Relationship With Other Organizations

With a view to achieving the aims and objectives of this Treaty, the Commission shall co-operate through all appropriate means with relevant sub-regional, regional and international organizations, as well as with any other concerned institution.

Article XIII Settlement Of Disputes

The Parties shall endeavour to resolve any matter in dispute arising from the application or interpretation of this Treaty by negotiation, conciliation, arbitration or other peaceful means.

Article XIV Agreement Concludes By State Parties With Non-Party States

Parties may conclude economic, technical or cultural Agreements with third Parties outside the Gulf of Guinea Commission, provided that such Agreements are not incompatible with the provisions of this Treaty. Copies of such Agreements shall be transmitted to the Executive Secretary who shall inform the Council thereof.

Article XV Ratification, Acceptance, Approval Or Accession

This Treaty shall be subject to ratification, acceptance or approval by States, which have signed it and shall remain open for accession by other States of the sub-region in accordance with their respective legislative procedures.

Article XVI Depository Authority

The present Treaty and all instruments of Ratification, Acceptance, Approval or Accession will be deposited with the Minister of Foreign Affairs of..... (or whoever is chosen as depository) who shall transmit certified copies of this Treaty to all Parties and notify them of the dates of deposit of each Instrument of Ratification, Acceptance, Approval or Accession.

Article XVII

The Depository Authority shall register this Treaty with the Organization of African Unity, the United Nations Organization and such other Organizations as the Council may determine.

Article XVIII Entry Into Force, Amendment And Termination

- (i) This Treaty shall enter into force thirty (30) days following the deposit with the Minister of Foreign Affairs of the (or whoever is chosen) of the fourth Instrument of Ratification.
- (ii) For each of the States which ratifies, accepts, approves, or accedes after the entry into force, this Treaty shall enter into force thirty (30) days after the deposit by that State of its

Instrument of Ratification, Acceptance, Approval or Accession.

- (iii) This Treaty may be amended by four of the Parties, and such amendment shall enter into force within thirty (30) days after its adoption. The text of such amendment shall be circulated to all Parties at least sixty (60) days before voting.
- (iv) This Treaty shall terminate by a vote of four of the Parties, ninety (90) days after such a vote is taken. Notice of such termination shall be circulated to all Parties through the Executive Secretary, ninety (90) days before voting, and may be withdrawn at any time before the vote is taken.
- (v) After the termination of this Treaty, its provisions shall continue to govern all existing and unexpired projects or [...non-readable in copy....] within its framework.

Article XIX

This Treaty is made in four original languages which are English, French, Spanish and Portuguese Languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective governments for that purpose, have signed this Treaty.

DONE at.....this....day of.....19.....

Republic of Angola

Republic of Cameroon

Democratic Republic of Congo

Republic of Congo Brazzaville

Republic of Equatorial Guinea

Republic of Gabon

Federal Republic of Nigeria

Democratic Republic of São Tomé & Príncipe