



## MARITIME SECURITY AND DEFENSE IN THE GULF OF GUINEA: ISSUES, CHALLENGES AND PROSPECTS

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### Abstract

*This study examined the security issues which are challenges to the Gulf of Guinea in the face of the region's abundant natural resources. In order to address the issues with regional security, the study also examined the Gulf of Guinea's legal and security framework. The region faces several security issues, such as IUU fishing, armed robberies at sea, and piracy. Both primary and secondary sources of information were used in this study. ECCAS/ECOWAS/GoG Memorandum of Understanding on Security 2013, the UNCLOS, the Gulf of Guinea Treaty, and the Abuja Memorandum of Understanding on Port State Control, the African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter) 2016, and the CEMAC Merchant Shipping Code 2012 are among the primary sources. Books, journal articles, newspapers, magazines, mimeographs, monographs, and other pertinent resources obtained from the Internet are examples of secondary sources. Every piece of data gathered from these sources was examined for content. This study showed that the Gulf of Guinea's IUU fishing, piracy, as well as armed robberies at sea, have created significant security difficulties that make it difficult to peacefully exploit the abundant natural riches the region is endowed with. The investigation also showed that although there are many laws in place to protect the region's security, their enforcement and application have historically proven to be problematic. In light of sustainable development, this paper's recommendations for improving the law's efficacy as a tool to address security concerns were concluded, offering a solid foundation for the development of a blue economy in the area.*

**Keywords:** Crimes, Gulf of Guinea, Hydrocarbons, Ocean and Piracy

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## Background

UNCLOS, often referred to as the “constitution of the sea” which celebrated its 40th anniversary in December 2022, was ahead of time for resolving age-long problems and providing the foundation for good ocean governance. The Gulf of Guinea is one of the world's most hazardous maritime region; maritime insecurity has compromised the geostrategic importance of this portion of the Atlantic Ocean, threatening maritime trade, extraction of mineral resources, exploitation of hydrocarbons, and the stability of the States of the region. The issues and challenges bedeviling the Gulf of Guinea marine region include piracy, disagreement, and armed conflicts over maritime boundaries; IUU fishing; oil bunkering, drug trafficking, armed robbery, and pipeline vandalization. The weakness of the maritime policies of the Gulf of Guinea region and the lack of cooperation between member States have permitted criminal networks to intensify the activities of terrorists.

Over a thousand ships navigate the Gulf of Guinea daily, and the coastal States lose almost \$2 billion annually as a result of piracy. The world's most hazardous region for ships, seafarers, and maritime trade is still the Gulf of Guinea. In light of this, the resolution seeks to strengthen security. It is important to emphasize that maritime security in this region is essential to maritime security in the Atlantic.<sup>1</sup> The international community needs to address additional underlying destabilizing issues as well as hold perpetrators and facilitators accountable. Recall that in 2022, those crimes declined as a result of international cooperation; in April, a team from the United States and West Africa seized about 6,000 kilograms of cocaine valued at \$350 million on the black market.<sup>2</sup>

The States of the Gulf of Guinea must take the lead and be the main targets in the fight against armed robbery and piracy in the area. It is noteworthy that despite the ICC security apparatus, armed robberies and piracy in the Gulf of Guinea still pose a financial threat to the entire region because they interfere with trade, shipping, transportation, and government revenue. The expenses associated with armed robberies and piracy divert funds that could be utilized for local development.

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<sup>1</sup> S/RES/2634(2022)

<sup>2</sup> Ibid



The ninth-largest sea in the world, the Gulf of Guinea is a sizable concave gulf covering an area of roughly 590,000 square miles. The Gulf of Guinea has a coastline of nearly 3500 miles encompassing sixteen African maritime countries.<sup>3</sup> These nations possess an abundance of natural resources, both biotic and abiotic. Over time, the security challenges in the Horn of Africa have shifted to this region due to the abundance of natural resources.<sup>4</sup> Many of these countries depend on these natural resources as their major source of foreign earnings. With the increasing world demand of natural resources and with world attention focusing more on Africa, it is expected that over the next decade, governments in sub-Saharan Africa are expected to receive over USD 200 billion on revenue from oil.<sup>5</sup>

The Gulf of Guinea region is large, encompassing sixteen large West and Central African countries. From an oceanographic perspective, it stretches from the southern tip of the Guinea Current's strong upwelling zone to the northern seasonal boundary of the Benguela Ocean current. The Guinea Current Front, which separates the Guinea current from open ocean waters, is included in the GCLME in an east-west sense, as is the drainage banks of the major rivers. The abundant resources of the Gulf of Guinea have in the past years benefitted only a few elites while a bulk of the population in the region has been in misery. This has not been different with the fishing industry. As the locals witness their governments entering into agreements with foreign corporations that they perceive as pilfering their oil and hydrocarbons—which the region is endowed with—the revenues have been allocated to infrastructure and development. This has instigated the local population to involve in crime. They engage in actual resource theft through pipeline vandalism and illegal bunkering, when oil is taken straight from pipelines, processed, and sold in domestic and foreign markets, because they believe their resources are not accounted for. Thus, the wave of economic crime is high and it has affected the entire region.

This has not only been in the oil industry but also in the fishing industry. The effect of IUU fishing has been a problem in the region. The Gulf of Guinea waters are expected to have the highest level

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<sup>3</sup>Halleon Durrel, “A Critical Appraisal of Natural Resources, Governance and Human Development in the Countries of the Gulf of Guinea” In CJDHR Vol. 3 No. 2 (2009) 27

<sup>4</sup> Experts gathered by the International Peace Institute claim that the region's continued instability in the Sahel region, weak governance, pollution, and economic hardship are the main causes of its supremacy.

<sup>5</sup> Halleon Durrel Op cit p.27.



of IUU fishing in the whole world. This accounts for 37% of the catch in the area, causing financial losses and jeopardizing the food security and way of life for coastal people.<sup>6</sup> In addition to causing harm to many vulnerable species, including sharks and turtles, trawlers also destroy habitats on the seafloor. Large captures made by illicit boats not only harm the environment but also reduce fish populations and prevent local artisanal fishermen from receiving seafood. Therefore, the mishandling of resources, the crime rate, and the absence of effective control have made economic suffering worse and exacerbated community discontent. The likelihood of people using violence to take their "rightful share" rises as they witness how their economies are being exploited by others.

Some of the problems facing the Gulf of Guinea are indigenous, but some are brought in from elsewhere. By associating local injustices with global jihad and giving marginalized communities a violent outlet, international terrorists have been able to gain support in West Africa. The Gulf of Guinea has been unstable due to the presence of terrorist groups close to the Sahel and the resulting flow of people and weapons brought on by events in North Africa.

Since insurgent organizations have discovered that conventional trade routes and informal economies make for convenient means of smuggling narcotics, persons, and goods into countries, international terrorism has spread along with the growth of transnational organized crime. Weak enforcement procedures, porous borders, and states with limited reach all contribute to the facilitation of this illegal conduit. The Gulf of Guinea has emerged as one of the world's most hazardous seas in recent years. In recent years, the Gulf of Guinea has experienced the same problems and volatility as the Horn of Africa. A significant regional issue endangering the growth of this strategically important economic zone and posing a threat to fishing and marine trade in the area is maritime insecurity. The finding of offshore hydrocarbon reserves has made this worse and elevated the Gulf of Guinea's geostrategic significance.

It is increasingly obvious that inadequate governance is the primary cause of the expanding crime wave in the Gulf of Guinea. The focus of maritime crime in the Gulf of Guinea sub region was Nigeria's Niger Delta. Terrorist activity has been fuelled by criminal networks thanks to the Gulf

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<sup>6</sup> Environmental Justice Foundation, "Pirate fishing Exposed, the Fight against Illegal fishing in West Africa and the E4" 2001. Accessed at <http://ejfoundaton.org/sites/default/files/public/pirate%20fishing%20Exposedpdf> 20/12/20212



of Guinea States' lax maritime policies and the member states' lack of collaboration. The Gulf of Guinea is currently facing a series of challenges ranging from piracy, IUU fishing to bunkering,<sup>7</sup> drug trafficking and marine pollution.

Cameroon's Maritime area located at the centre of the Gulf of Guinea which has been heralded as one of the world's most hazardous maritime region. Maritime insecurity has compromised the geostrategic importance of this maritime zone affecting maritime trade and stability of the States. One of the reasons for the dangerous nature of this area is the disagreement over maritime boundaries among States of the Gulf of Guinea<sup>8</sup>, which has precipitated armed conflicts, especially where these maritime zones contain significant economic potentials or are strategic transportation hubs.

Piracy is also prominent in this Gulf of Guinea region due to civil interest, poor governance, unemployment, political instability, and wealth distribution disparity plaguing the region. Since the region's abundant natural resources draw increased commercial and shipping activity, piracy in the Gulf of Guinea is also linked to the emergence of new users for these commodities. The governments of the Gulf of Guinea region's disregard for the fishing industry is another major factor contributing to piracy in the area. Local fishermen turned to pirate activities because they believed they would be more profitable and lucrative than their trade, as they were unable to compete with foreign fishing enterprises.<sup>9</sup> The unstable political climate in the CEMAC Sub

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<sup>7</sup> Oil theft, commonly known as illegal bunkering, is a major security problem in the Gulf of Guinea and primarily comes from Nigeria. The high seas have seen a rise in the frequency of both armed robberies and the theft of the region's significant petroleum resources. In the area's waterways, illegal bunkering and pipeline vandalism are frequent occurrences. The Nigerian government announced in the middle of 2012 that up to 400,000 barrels of oil were being stolen daily, costing the nation up to \$1 billion in lost income each month. An estimated 100,000 barrels of oil are lost each day due to theft or illegal bunkering; these barrels are then sold again on the black market. First, small, unnoticeable barges are used to transfer oil that has been extracted from onshore pipes. Armed bandits and pirates have even targeted thugs who transport oil workers to rigs. The security of the petroleum and petrochemical sectors is vital for Nigeria and other nations in the Gulf of Guinea sub region since these operations are expensive for governments. The harm done to the coastal ecosystem is frequently made worse by oil spills connected to oil theft.

<sup>8</sup> Similar to the Nigerian Sao Tome issue and the Cameroon-Nigeria border dispute settled by the International Court of Justice in 2002.

<sup>9</sup> The Gulf of Guinea's security status is precarious due to a number of pirate-related incidents. These include, among other things, aerial assaults off the coast of Somalia in November 2005; the prevalence of piracy throughout Africa has grown to an alarming degree. A total of 237 ships were assaulted by pirates between 2005 and 2011, and millions of dollars were taken as ransom. Nicholas claims that in recent years, the issue of maritime piracy has taken on a very



unsettling aspect. Developments in the Gulf of Aden and off the coast of Somalia on the African continent have demonstrated that the threat can seriously impede regional development. Pirates are gradually fleeing the region into weaker areas like the Gulf of Guinea as the international community concentrates attention on preserving maritime sanity in the Gulf of Aden. This trend has significantly changed as a result of increased international naval operations against pirates along the Somali coast. The average ransom per vessel increased from approximately 150,000 USD in 2005 to approximately 4.7 million USD in 2011, and the total amount paid in ransom reached an all-time high of 135 million USD in 2011. Since 2012, the Gulf of Guinea has progressively evolved into their runaway pirates' playground. The region is now the second-most hazardous piracy zone on the African continent, according to the UN Security Council, which also reports a considerable increase in piracy events and related criminal activity. A total of 58 attacks were reported in the region during the first ten months of 2011, up from 45 incidents in 2010, according to the Security Council's report from 2013.

Attacks by pirates were once prevalent in the lawless Horn of Africa; however, the governments of the neighbouring nations are generally highly stable and functional, which should make it exceedingly difficult for this canker to get established throughout the region. As a result, the Gulf of Guinea has emerged as one of the world's most hazardous marine regions in just ten years. A significant regional issue that is endangering the growth of this important economic area, maritime trade in the near term, and the stability of coastal states in the long term is maritime insecurity. These states must close the security gap in their territorial seas and offer a coordinated response to this threat if they hope to prevent violent transnational crime from destroying the maritime economy and coastal states, as it has done on the coast of East Africa. The Gulf of Guinea nations need to push for active collaboration between the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS), take the lead in advancing security, and implement a novel strategy centered on enhancing both economic governance and security.

Because of several events involving pirates, the security situation in the Gulf of Guinea is unstable. These include, among other things, the aircraft attacks off the coast of Somalia in November 2005; the rate at which piracy has proliferated throughout Africa is concerning. Between 2005 and 2011, pirates attacked 237 ships in all, demanding millions of dollars in ransom. According to Nicholas, there has been a noticeable shift in the disturbing nature of the maritime pirate situation in recent years. Events in the African Continent's Gulf of Aden and off the coast of Somalia have shown that the threat can significantly obstruct regional growth. As the international community focuses attention on maintaining maritime sanity in the Gulf of Aden, pirates are increasingly moving out of the region and into weaker locations such as the Gulf of Guinea. Due to intensified international naval operations against pirates along the Somali coast, this tendency has shifted substantially. The total sum paid in ransom hit an all-time high of 135 million USD in 2011, with the average ransom per vessel rising from roughly 150,000 USD in 2005 to over 4.7 million USD in 2011. The Gulf of Guinea has gradually transformed into their playground for escaped pirates since 2012. The UN Security Council, which also notes a significant increase in pirate incidents and associated criminal activities, ranks the area as the second-most dangerous piracy zone on the African continent. The Security Council's 2013 report states that during the first ten months of 2011, there were 58 attacks reported in the region, compared to 45 occurrences in 2010. Pirate attacks used to be common in the chaotic Horn of Africa, but since the governments of the bordering countries are usually very stable and well-functioning, it should be very difficult for this canker to spread throughout the region. As a result, in just ten years, the Gulf of Guinea has become one of the most dangerous marine locations in the world. Marine insecurity is a major regional problem that is jeopardising the expansion of this key economic area, marine trade in the near future, and the stability of coastal governments in the long run. If these states want to avoid the fate of East Africa, where violent transnational crime destroyed the maritime economy and coastal states, they must seal the security vacuum in their territorial seas and provide a concerted response to this menace. The countries that make up the Gulf of Guinea must actively promote cooperation between the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS), take the initiative to advance security, and put into practise a new plan that focuses on improving security and economic governance. The high rate of maritime ownership in the Gulf of Guinea is a result of the region's rising geostrategic prominence, which is hampered by a number of overt and latent disputes despite its wealth in natural resources. The issue of piracy in the Gulf of Guinea demanded immediate attention in 2012 due to the sophisticated and growing nature of criminal activities in the area. The disastrous effects of piracy on maritime navigation and the economies of the member states were brought to light during an open debate titled "Peace and Security in Africa: Piracy in the Gulf of Guinea," which Nigeria, in



Region provides criminals with an ideal platform to operate along the Gulf of Guinea coasts of Cameroon, Equatorial Guinea, Gabon, and other nations.

Through coordinated efforts, the Gulf of Guinea has been working assiduously to crack down on piracy. The fact that the nations of the Gulf of Guinea established an Inter-Regional Coordination Centre (ICC) for Maritime Security and Safety on September 11, 2014, with its headquarters located in Yaoundé, Cameroon, is a clear indication that the nations are ready to make their maritime zones safe. Seaborne trade is the lifeblood of the economies of Cameroon and other CEMAC nations.

Combating piracy and guaranteeing maritime security in the Gulf of Guinea can be effectively achieved through multilateral cross-border measures aimed at settling political disputes and establishing statehood. Also, states of CEMAC should ensure continuous presence at sea by well-trained and fully equipped maritime security forces to minimize piracy and raids at sea.

After having made reference to other serious maritime problems affecting the Gulf of Guinea such piracy, robbery at sea, vandalisation of pipelines and oil bunkering, the problem of IUU fishing remains stringent. The other problems are being tackled even by regional and national laws. In the subsequent sub-section, IUU fishing shall be examined.

### **Illegal, Unregulated and Unreported Fishing in the Gulf Guinea**

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its capacity as the president of the Security Council, organised on October 19, 2012. Following a lengthy debate, it was agreed that everyone should shoulder some of the blame for stopping piracy. Furthermore, the Permanent Representative of Benin to the United Nations highlighted that "if it was not addressed properly, piracy could jeopardize socio-economic development and foreign investment in the region." The most disturbing scenario was revealed by Jensen Jones, who hypothesised a potential link between piracy and other criminal and terrorist organisations operating in the region, such as Al Qaeda in the Islamic Maghreb, the Niger Delta Avengers, and the Movement for the Emancipation of the Niger Delta (MEND), as well as criminal actors engaged in the smuggling of people, weapons, and drugs within West Africa.

Aware of the necessity to safeguard the security situation, the sub region has taken a wide range of national and international activities. In addition, stakeholders have shown admirable initiative in addressing issues pertaining to maritime security.





Combating illegal<sup>10</sup>, unregulated<sup>11</sup> and unreported<sup>12</sup> fishing (IUU) has emerged as a problem in the fishing industry not only in the Gulf of Guinea but also other regions of Africa, Caribbean and the Pacific (ACP) Region. This increasing phenomenon requires collaboration in the form of intra-regional or bilateral relations between countries. Following years of silence regarding the possibility of drastically reducing the practise, a number of positive developments and accomplishments have been reported, suggesting that stronger political will among the ACP countries can lead to the implementation of creative, cooperative, and comprehensive measures to combat IUU fishing. Sustainable fishing is not always ensured by adequate fisheries regulations. Because of financial incentives, the total permissible catches are frequently set overly high. As a result, overfishing could arise from unduly generous bilateral fishing agreements with far-off ocean fleets. In high waters or close to the coast, IUU fishing is carried out by large industrial fishing vessels or small-scale commercial fishers. It can even bear some resemblance to lawful fishing operations. According to MRAG 2005, IUU fishing activities can be separated into three categories:

- a) Illegal fishing, also known as poaching: Vessels involved in this type of operation operate within an EEZ without the necessary permits. Although this kind of IUU is the most evident, it is also most likely the most difficult to stop without adequate oversight and surveillance powers.
- b) Fishing outside of the parameters established by a license, such as the kind of equipment used, the designated area, and the number of catches allowed.

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<sup>10</sup> "Illegal fishing" refers to activities carried out by foreign or domestic vessels in state-owned seas against the rules and regulations of that state, or without the agreement of that state. A State that operates in a manner that is against the conservation and management measures adopted by the organisation, as well as pertinent provisions of applicable international law, national laws, or international obligations—including those that cooperating states have taken to an applicable RFMO in violation of those laws—may occasionally be seen flying the flag of a state that is a party to an applicable regional fishery management organisation.

<sup>11</sup> In the region covered by a relevant RFMO, unregulated fishing is defined as activities carried out by vessels without nationality, those flying the flag of a state that is not a party to the organisation, or fishing entities in a way that is inconsistent with or in violation of the conservation and management measures of that organisation.

<sup>12</sup> Unreported fishing is defined as fishing operations that are conducted in a region that is governed by a relevant RFMO and that have either not been reported to the appropriate national authority in violation of national laws and regulations, or have been misreported in violation of that organization's reporting procedures.



- c) It is also considered IUU fishing activity to report only a portion of the captures or to fail to disclose the whole amount of catches and the species that were loaded.

The negative effects of IUU fishing may extend to a number of topics that will be discussed subsequently. Even with appropriate regulations according to a sustainable model in a particular area of the sea, such as an EEZ or high seas, IUU fishing can nevertheless jeopardize the ecosystem's current state.

### **Legal Framework for Maritime Security and Defence in the Gulf of Guinea**

The legal framework shall be looked into from the perspectives of international and regional legal and institutional frameworks. We shall take time to distinguish whether these regimes are binding or non-binding and also bringing out strengths and weaknesses of these instruments.

### **International Binding/Non-Binding Policy Framework**

The international legal and policy framework enforcing maritime security and safety include:

#### **The United Nations**

Resolving piracy and armed robbery at sea under national law, as well as investigating, prosecuting, or extraditing those who commit these crimes and those who encourage, finance, or knowingly assist them, in compliance with applicable international law, is what the Security Council unanimously adopted on May 31, 2022.<sup>13</sup> The United Nations Security Council further demanded that national maritime security plans be created and carried out in accordance with international law. This would mean establishing a unified legal system to prevent and repress armed robberies and marine piracy, as well as to prosecute and sentence those found guilty.

In addition to pressuring regional organisations like the AU, ECCAS, ECOWAS, and GGC to improve sub-regional, regional, and international cooperation on maritime safety and security in the Gulf of Guinea and to further operationalize the Yaoundé architecture, the Security Council encouraged bilateral and multilateral partners to provide adequate legal and operational support.

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<sup>13</sup> S/RES/2634(2022)



It is noteworthy that the Gulf of Guinea continues to be a worldwide hotspot for piracy, which in turn presents a challenge to the entire globe, ten years after the Council passed Resolution 2039 (2012), its last resolution on maritime piracy and armed robbery in the region.

### **United Nations Convention on the Law of the Sea (UNCLOS)**

The UNCLOS which was established in 1982 and came into force November 16, 1994, is the most comprehensive maritime agreement. It is the seas' constitution and the product of a never-before-seen attempt to codify the development of international law. It is divided into seventeen parts with roughly 320 articles each, as well as nine annexes that cover a variety of topics under UN jurisdiction. The document delineates the entitlements and obligations of nations concerning: (1) the contiguous zone and territorial sea; (2) straits utilised for international navigation; (3) States that are archipelagic; (4) the exclusive economic zone; (5) the continental shelf; (6) the high seas; and (7) the island regime." Seas that are fully or partially enclosed; 9) landlocked states' freedom of movement and access to the sea; 10) the seabed area; and 11) the preservation and conservation of the marine environment (12) scientific and maritime research; (13) the creation and dissemination of marine technologies; and (14) the resolution of conflicts."<sup>14</sup>

UNCLOS combines the codification of Customary International Law and other substantive rules into a single document instead of separating issues through additional protocols. UNCLOS is an umbrella convention that brings internal rules, regulations and implementing bodies within the same canopy.

UNCLOS celebrated its 40<sup>th</sup> anniversary in November 2022 and has protected the marine environment and fisheries resources against depletion, which were erroneously regarded as inexhaustible, in appropriable, and non-degradable. The World Bank defines the blue economy as the sustainable use of marine resources for economic development, improving human well-being, and creating jobs while protecting the health of the marine ecosystem. This has sparked the idea of the blue economy, also known as the ocean economy.<sup>15</sup> The marine environment has been

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<sup>14</sup> UNCTAD, The Legal and Institutional Framework Governing Ocean-Based Economic Sectors in Barbados, 2019 accessed at <<https://unctad.org/system/files/official-document/ditc-ted-26022018-Oceans-Barbados-LegalStudy-OETS.pdf>> 21/06/2022

<sup>15</sup> [https://www.un.org/regularprocess/sites/www.un.org.regularprocess/files/rok\\_part\\_2.pdf](https://www.un.org/regularprocess/sites/www.un.org.regularprocess/files/rok_part_2.pdf) Accessed 27/06/2022

threatened by pollution, over-exploitation, and habitat destruction. Many fish species are depleting, and the entire marine environment is experiencing a dwindling fortune due to the above-stated mishaps.

UNCLOS has two implementation agreements, which were subsequently adopted in 1994 and 1995, respectively, which include:

- Adopted in 1995, the United Nations Fish Stocks Agreement (UNCLOS of December 10, 1982) governs the conservation and management of straddling fish and highly migratory stocks. It came into force on December 11, 2001.
- The Agreement relating to the Implementation of Part XI of the UNCLOS 1982, which was adopted in 1994 and went into effect on July 26, 1996.

UNCLOS adopted two legal strategies in the conservation and management of natural resources that is jurisdictional via different zones and the species approach. UNCLOS resolved a century-long debate concerning the jurisdictional boundaries of the world oceans. Governance of IUU fishing can be gleaned from an international as well as regional in nature. At the international level, the UNCLOS III established the following against IUU fishing: establishment of an EEZ of 200 nautical miles offshore, granting each coastal nation the authority to govern and utilize all of the resources within its jurisdiction. Overexploitation of the fish stocks in the EEZ is not acceptable. The Total Allowable Catches for fish species in each coastal state's waters should be determined by that state. A negotiated agreement between the two States allows distant water fleets from other nations to fish for fish excess, or fish that the country is unable to harvest itself. Only viable fish stocks determined by the nation possessing the EEZ may be used with this excess.<sup>16</sup> Thus States that are parties to the UNCLOS are required to follow the regulations set by it.

However, UNCLOS has been in existence for forty years and is general in nature. There is need to revise this regime to be able to resolve the issues fronting this sector. Reliance should be paid to specific and specialized regimes to resolve sectorial issues.

## Food and Agricultural Organisation

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<sup>16</sup> Avital Dobo op cit P. 12



In addition to UNCLOS III, 170 nations are controlled by the FAO's Code of Conduct for Responsible Fisheries, which was established in 1995. A "... framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment" is what the Code of Conduct aims to provide.<sup>17</sup> The FAO published the International Plan of Action in 2001 with the goal of preventing, discouraging, and ending illicit, unreported, and unregulated fishing. It was built in accordance with the recommendations made by the Code of Conduct for Responsible Fisheries.<sup>18</sup> Fisheries management is made more difficult by the overexploitation of fish stocks in the Gulf of Guinea and their straddling characteristics. Since the 1960s, the local fishing business and the distant water fleet have been fishing in the area in a way that is driving the environment into complete collapse. IUU is seen as a high priority in the GCLME, having an impact on the loss of marine resources.<sup>19</sup> FAO regimes are mostly non optional allowing the permissive will of States which have allowed loopholes in the sector. At times some of the countries are not under an obligation to ratify some of the law thus allowing the leeway to some of the persistent issues such as the IUU fishing.

### **Regional Binding and Non-Binding Legal and Institutional Frameworks**

At the level of the region, the legal and institutional regimes include:

#### **1. The Gulf of Guinea Treaty**

The Gulf of Guinea Commission was established under the Treaty to guarantee collaboration. Ensuring that their natural resources are made available for member states' economic and social advancement is the primary goal of the pact.<sup>20</sup> The creation of shared policies among member states is required, with a focus on issues related to environmental protection, hydrocarbon

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<sup>17</sup> FAO (1995) Code of Conduct for responsible Fisheries? FAO's Fisheries and Aquaculture Department. Online URL <http://www.fao.org/docrep/002/y1224e/y1224e00.htm>.

<sup>18</sup> International Plan of Action to prevent, defer and eliminate Illegal, unreported and unregulated fishing

<sup>19</sup> GCLME "Strategic Action Programme. Interim Guinea Current Commission Executive Secretariat Azera," Ghana. Accessed at <http://15CC.gclme.org/downloads/gclmesap.pdf> 12/09/2014

<sup>20</sup> The Gulf of Guinea Treaty's Article 5 establishes the Gulf of Guinea Only sovereign States bordering the Gulf of Guinea are eligible to join the commission; these states must also agree to be bound by the treaty's rules. Furthermore, companies are not eligible to join the treaty.

exploitation, fisheries and mineral resources, peace and security, and the flow of people and products.<sup>21</sup>

## **2. The Yaoundé Code of Conduct**

The Gulf of Guinea States have committed to establishing a national maritime safety committee or other system through the Yaoundé Code of Conduct. This will allow the states to coordinate related activities between the various agencies, companies, port operators, and other entities that are involved in improving maritime safety and search and rescue procedures, or that are in charge of their implementation and enforcement. Many of the states have not yet done this.

This legal regime is not binding thus making it optional for States to be bound or not. The only persuasive reason for its implementation is the compelling nature of the maritime issue here.

## **3. Yaoundé MoU on Maritime Safety and Security in Central and West Africa**

The United Nations Security Council Resolution 2039 of February 29, 2012, urged ECCAS, ECOWAS, and GGC to collaborate in order to develop a legal strategy to combat piracy, armed robbery, and other illicit activities. This was in response to the Declaration of August 30, 2011, and Resolution 2018 of October 31, 2011, which denounced acts of piracy and armed robbery of the Gulf of Guinea. The Multilateral agreement between ECCAS<sup>22</sup>, ECOWAS<sup>23</sup>, and GGC<sup>24</sup> with the objective was to strengthen cooperation and coordination of their activities with a view of ensuring safety and security in the maritime areas of the two regions. The signing of the Memorandum of Understanding occurred during a period of severe instability in the maritime region of Central and West Africa due to acts of piracy, armed robbery, and other illicit activities. These activities posed a threat to regional integration and the long-term sustainable development of the Gulf of Guinea region. From its name, this legal regime is not binding thus making it optional for States to be bound or not. The only persuasive reason for its implementation is the compelling nature of the maritime issue here.

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<sup>21</sup> The Gulf of Guinea countries are urged by the Security Council's adopted Resolution 2634(2022) to make armed robbery and piracy at sea crimes under their national legal systems.

<sup>22</sup>General Secretariat Headquarters located at Hausts de Guegue District P.M.B 2112 Libreville, Republic of Gabon

<sup>23</sup> Commission with Headquarters located at 101, Yakubu Gowon Crescent Asokoro District P.M.B. 401 Abuja, Federal Republic of Nigeria

<sup>24</sup> Executive Secretariat with Headquarters at 43, 2 ANDAR, Rua Pereira Guileme Ingles, Luanda, Angola

### **The Inter-Regional Coordination Centre (ICC)**

In 2013, the presidents of state and governments of ECCAS, ECOWAS, and GGC established the Regional Centre to coordinate the safety and security of the marine region in Central and West Africa. The Centre is in charge of enhancing mutualisation, collaboration, coordination, and systems interoperability initiatives as well as putting the regional safety and security plan into action within the shared marine area of Central and West Africa.<sup>25</sup>

The ICC which is based in Yaoundé has created a “unique strategic framework” to address maritime criminality and promote growth, governance, safety, and security. Along with coordinating training and practices, facilitating information exchange between. It seeks to support Member State navies and the harmonisation of texts on maritime law enforcement, including those pertaining to the fight against piracy, armed robbery, and other illicit acts committed at sea, as well as sea pollution and environmental protection. It also aims to strengthen the capabilities of civilian and military personnel in the regions in terms of maritime law enforcement.<sup>26</sup>

The Inter-regional Coordination Centre comprises five divisions for the performance of its duties which include: Division of Political Affairs and International Cooperation, Division of Information Management and Communications, Division of Training and Practice, Division of Legal Affairs and Judicial Cooperation, and Division of Administration and Finance<sup>27</sup>

According to the ICC, States designate statutory personnel to the various positions of responsibility that are theirs in the centres (CRESMAC, CRESMAO, CMC Zone A, D, E, F and G) that constitute the Maritime Safety and Security Architecture. Furthermore, the ICC would like the ECCAS, ECOWAS and GGC States that have not yet done so to set up their inter-ministerial authorities in charge of maritime security. In addition, the ICC would like ECCAS, ECOWAS and GGC States to encourage and facilitate the exchange of information between operational maritime centres and to activate Zone A and Zone G as soon as possible to complete the security system. Furthermore, the ICC proposes that ECCAS, ECOWAS and the GGC strengthen the presence of naval and air

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<sup>25</sup> <http://icc.gog.org>

<sup>26</sup> Ibid

<sup>27</sup> Ibid



units in the naval groups of Zones A, D, E, F and G. Lastly, the ICC would recommend that the GGC States, ECCAS, and ECOWAS give their respective operational maritime centres the financial, human, and detection tools they need to successfully complete their missions.

The Interregional Coordination Centre has a four-year programme with aims which include to:

- i. Strengthen the legal, judicial and judicial capacities of Member States in the domain of maritime safety and security.
- ii. Enhance the professional skills and competencies of law enforcement officers in the maritime sector.
- iii. Contribute to the exchange of information on securing the maritime space.
- iv. To contribute to the determination, delimitation, demarcation of maritime boundaries and the peaceful resolution of disputes.



## YAOUNDE MARITIME SECURITY ARCHTECTURE FOR THE GULF OF GUINEA



### The Yaoundé Maritime Security Architecture

The ICC encourages a national information sharing network operating under the auspices of ECCAS, ECOWAS, and GGC. Meanwhile the ICC based in Yaoundé, Cameroon takes the Leadership of the entire security architecture.

### CRESMAC (Regional Centre of Maritime Security in Central Africa)

CRESMAC is based at Pointe Noire in the Republic of Congo and represent one of the two regional security centres established by the Yaoundé Maritime Security architecture created in 2014 under

the authority of ECCAS. Their main aim is to ensure the training of its staff to support the centre and to develop its proper tools for the elaboration of statistics and analysis while also facilitating integration into the Yaris platform.

Under CRESMAC, we have the following Multinational Maritime Coordination Centres

- a. Multinational Maritime Coordination Centre **ZONE A** based in Luanda, Angola top carter for Angola, Republic of Congo and the Democratic Republic of Congo.
- b. Multinational Maritime Coordination Centre **ZONE D** based in Douala, Cameroon to carter for Cameroon, Equatorial Guinea, Gabon and Sao Tome and Principe.

### **West African Regional Centre for Maritime Security (CRESMAO)**

CRESMAO is based in Abidjan, Cote d'Ivoire and is responsible for coordinating activities in maritime zones E, F, and G, strengthening regional maritime cooperation, and facilitating the sharing of information and experiences with the centres as part of the implementation of the Yaoundé Architecture for Maritime Security and Safety (YAMS) and the ECOWAS Integrated Maritime Strategy (EIMS). Contribute to the establishment of the YAMS in the ECOWAS region during its initial phase by providing staffing, equipment, infrastructure, support, and networking.

Programmes for CRESMAO that are defined in accordance with ICC programmes include:

1. Exchanges with other actors and centres: exchange knowledge, best practises, insights gained, technology, and experience - Gaining more by giving and creating a trustworthy community scheme.
2. Education and Training: The Centres and other actors receive professional education and training - Development and research to support a resilient marine culture scheme.
3. Let us communicate while recovering from sea blindness and dispel the mist to promote mutual understanding of marine concerns. Scheme.
4. Record-keeping a move in the direction of harmonising laws both digital and tangible.

- Multinational Maritime Coordination Centre **ZONE E** based in Cotonou, Benin to serve Nigeria, Benin, Togo and Niger.
- Multinational Maritime Coordination Centre **ZONE F** based in Accra, Ghana to serve Ghana, Cote d’Ivoire, Liberia, Sierra Léone and Guinea.
- Multinational Maritime Coordination Centre **ZONE G** based in PRAIA, Cape Verde to serve Cape Verde, Senegal, Gambia and Guinea Bissau

**The main functions of ICC include:**

To put the regional marine safety and security plan into action in Central and West Africa's shared maritime area, strengthen community resource cooperation, coordination, mutualisation, and interoperability.

**Strategic Pillars:**

- i. Exchange of information and sharing experiences.
- ii. Harmonisation of laws concerning marine acts by the State.
- iii. Harmonization of education and training of maritime professionals particularly responsible for **maritime security first and other related missions** such as:
  - Increasing collaboration between the two regions in the fight against marine pollution and environmental protection;
  - Working with regional fish management agencies and the mining sector; - Researching the coherence between marine Rescue Coordination Centres and marine safety and security zones with the regions;
  - Educating the public about maritime issues; - Improving the quality of life for Gulf of Guinea locals;
  - Spread information on the risk level in the waters of the two regions in order to avert speculation regarding freight rates and insurance premiums;
  - Propose shared management of Exclusive Economic Zones, etc.

**Secondly, maritime safety and other related missions:**

- Arrange collaboration with global organisations dedicated to combating marine criminality;
- Collect, preserve, disseminate, and share data from CRESMAC, CRESMAO, and additional sources;
- Bring attention to the necessity for States to ratify conventions against piracy and other illegal acts committed at sea, etc.

**1. Abuja Memorandum of Understanding (MoU) on Port State Control**

The International Maritime Organisation (IMO) arranged a Ministerial Conference in Abuja, Nigeria on October 22, 1999, where 16 West and Central African States signed the Abuja Memorandum of Understanding. The Abuja Memorandum of Understanding is a formal agreement that commits the participating nations to creating and executing a shared framework for their individual Port State Control operations. The primary accomplishment of this Memorandum of Understanding is the standardisation of Port State Control protocols and practises among all participating nations. This is done with the intention of eradicating substandard shipping practises from the region, protecting the marine environment from pollution, ensuring maritime safety and security, and enhancing the living and working conditions of ship crews. Additionally, it aims to promote regional cooperation and information sharing among participating nations.

Among the Abuja MoU's organs are:

1. The Ministers of Maritime Transport of the participating member nations convene at the Abuja Ministerial Conference, the highest decision-making body.
2. The Abuja Bureau, which advises the Committee on issues pertaining to the successful execution of the Memorandum of Understanding and gives guidance to the Secretariat and other working groups or subsidiary committees constituted under the memorandum.<sup>28</sup>

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<sup>28</sup> Ibid



## Conclusion

The breadth of this study reveals that numerous initiatives are underway to address security concerns through bilateral and international agreements in order to promote collaboration in the area. Due to its low sulphur content and the ease with which its offshore resources may be transported to global markets, the Gulf of Guinea is a popular destination. Furthermore, maritime boundary delimitation issues, such as the Congo - Angola - Democratic Republic of Congo over the Conclave of Cabinda, the Ghana vs. Cote D'Ivoire judgment delivered on September 23, 2017, Gabon vs. Equatorial Guinea land and maritime delimitation and sovereignty over Islands currently before the ICJ, and the Cameroon/Nigeria conflict over the Bakassi Peninsula resolved by the ICJ in 2002, have made the security situation in the region worse. Currently, this region's security architecture is being used to address high-level criminality.

The Gulf of Guinea region has great potential for a blue economy, but effective exploration and use of its abundant natural resources would require resolving security issues. Therefore, in order to maximise the potential of the blue economy and lift its citizens out of poverty, it is advised that the Gulf of Guinea countries ratify the Togo Charter on Maritime Security.

The ICC has suggested holding an assessment meeting to review the Yaoundé Architecture and Yaoundé Code of Conduct after ten years in order to ensure the peace that has been witnessed in the Gulf of Guinea since 2021. Reviewing the operation of Yaoundé Architecture in general and the regional centres in particular, with an emphasis on the 2024–2028 ICC Strategic Plan, will be greatly aided by such a forum

## Recommendations

The following suggestions are derived from the previously held conversation and are intended to lessen the frequency of criminal activity and maritime insecurity caused by piracy and other crimes related to the shipping and petroleum industries, as well as collaboration in the Gulf of Guinea.

1. Sanctions "of sufficient gravity as to deprive the offender of the benefits accruing from their illegal activities" need to be implemented in order to discourage IUU fishing, according to the 2005 Rome Declaration on IUU fishing. Asset seizures and the strongest possible prosecution in exchange for the most cooperation may be part of these penalties.

It is advised that all Member States report any IUU fishing operations to the African Union (AU) in order for the AU to implement more robust dissuasion tactics through all available channels.

2. The universal duty to cooperate in maritime security must also be effectively implemented as part of the 2050 African Integrated Maritime Strategy. To do this, AU Member States and Regional Fisheries Management Organisations must coordinate their efforts to guarantee that the terms of UNCLOS III's Articles 62, 63, 64, 117, and 118 are promoted and essentially met.
3. To the Gulf of Guinean Governments In order to reduce insecurity, Member states should make combating maritime crime a top priority. To do this, they should establish an inter-ministerial committee in each nation to develop a national marine plan that addresses both the current threat and the underlying causes of the issue. The Ministers of Social Affairs, Foreign Affairs, Defence, Territorial Administration, Transport, Economy and Finance, Labour, Fishing, and Natural Resources should be at least represented on these committees.
4. In order to combat criminality in the maritime and hydrocarbon industries, states should investigate the illicit fuel trade and identify the businesses engaged in illicit activity.
5. There must be more jobs along the shore in order to address the root causes of maritime crime. This can be accomplished, for example, by protecting small-scale fishing, supporting the regional fish processing industry, providing professional training to marginalised groups (youth without employment and ex-combatants), and repurchasing money confiscated from fuel smugglers to support development initiatives.
6. In order to monitor all operations within an EEZ, port authorities, maritime law enforcement organisations, and naval forces must all become more professional. They also need to improve their technology capabilities and intelligence networks.
7. States should conduct frequent surveillance flights and maintain continuous navy patrols in adjacent zones and territorial waters to bolster anti-piracy policies both on land and at sea. States should also collaborate closely with the maritime sector and IMO to develop best management practises that counsel ship owners, captains, and crews on counter piracy measures.



8. Cooperation connections between nations in the region must be strengthened. President-level bilateral agreements between immediate neighbours should be signed by states to expedite extraditions and promote tight coordination between law enforcement and various Maritime Administration Agencies in the fight against piracy.
9. States ought to fully engage in the ECCAS, ECOWAS, and GoG Treaties' initiatives to develop and pool resources for a maritime security policy.