Towards Effective Maritime Security Cooperation in Addressing the Threat of Piracy and Armed Robbery Against Ships in the Gulf of Guinea: A Review of Extant Issues and Challenges[*]

Abstract

The Gulf of Guinea has remained in the limelight since the International Maritime Organisation in 2010 declared the sub-region as being among the most dreaded waters due to the persistence of piracy and armed robbery against ships. In response to these threats, states in the region have engaged in several individual state-based actions; as well as bilateral and multilateral arrangements targeted at addressing the maritime security problems. This article seeks to examine extant maritime security collaborations in the Gulf of Guinea and assesses their efficacy. Utilising desk-based methodologies, the paper posits that the maritime security concerns of the states in the sub-region mostly coincide, creating the need for close security alliances. However, the efficacies of the arrangements are adversely affected by pre-existing challenges. The article, among other suggestions, recommends that states address their respective state-centric problems and show commitment to running a single sub-regional framework as pathways to attaining effective curtailment of the threats.

Keywords: Gulf of Guinea, Maritime Security initiatives, UNCLOS

1. Introduction

The world's ocean represents an inclusive global interest flowing from the reality that it affects life everywhere and at different levels.[1] The governance of this global commons is a complex process that involves various state and non-state actors at different levels in the use of marine resources and environment, even as activities geared towards blue economic development occur within the jurisdictions and zones created by international law.[2] The use of the ocean by state(s) and non-state actors alike create(s) dire maritime security challenges that require attention to ensure peaceful and sustainable exploration and exploitation of ocean resources.

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[1] Natalie Klien, *Maritime Security and the Law of the Sea* (Oxford University Press 2011) 3-7.

[2] On the various maritime zones and jurisdictions, see generally the United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 397 (UNCLOS), arts 2, 3 -15; 33, 55-57; 86. See also Haijiang Yang, *Jurisdiction of the Coastal State Over Foreign Merchant Ships in Internal Waters and the Territorial Sea* (Springer 2005); Donald Rothwell and Others (eds), *Oxford Handbook on the Law of the Sea* (Oxford University Press 2015).

Notably, as a non-traditional concept in the post-cold war era, maritime security has developed from being a matter of safe transportation into a field of integrated and multi-sectoral linkages such that it now involves areas energy security, financial security, food security, information security and environmental security.[3] Hence, maritime security issues extend beyond illicit activities directed at vessels or maritime structures, to use of the high seas to perpetuate transnational organised crimes such as smuggling of persons, arms or illicit substances and even pollution of the environment.

The Gulf of Guinea maritime domain is not immune from insecurities. Pervasive incidence of threats in this domain has resulted in huge financial losses annually for states within and outside the region. For instance, between 2015 and 2017, the Gulf of Guinea was estimated about $777.1 million USD annually due to the threat of piracy and armed robbery against ships.[4] Similarly, the Africa Progress Panel, identified that West Africa loses about 1.3 billion USD annually to illegal, unregulated and unreported (IUU) fishing.[5] Furthermore, the security threats have significantly constrained investment prospects of the region over the years. These insecurities have created the imperative for security cooperation in the sub-region.[6]

This paper seeks to examine maritime security cooperation in the Gulf of Guinea. Focusing on the threat of piracy and armed robbery against ships, the paper posits that the maritime security concerns of states in the African sub-region mostly coincide, creating need for alliance among states, which currently exists. However, most states in the Gulf of Guinea are currently experiencing political and socio-economic challenges within and between each other that reflect in the individual and collective security initiatives, affecting their value. In order to achieve the effective curtailment of maritime insecurities in the Gulf of Guinea maritime domain, states need to focus on tackling individual state centric problems to improve the interdependent relationship created within security cooperative frameworks;

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[3]Aditi Chatterjee, 'Non-traditional Maritime Security Threats in the Indian Ocean Region' [2014] (10)*Maritime Affairs: Journal of the National Maritime Foundation of India* 77, 79; Jun Zhao,' Non-Traditional Maritime Security and International Cooperation' [2015] (45) *Hong Kong L.J.* 743, 744.

[4] United Nations Office on Drugs and Crime (UNODC), 'West Africa loses $2.3 billion to Maritime Crime in Three Years as Nigeria, UNODC rally multi-national efforts to thwart Piracy in the Gulf of Guinea' < https://www.unodc.org/nigeria/en/press/west-africa-loses-2-3-billion-to-maritime-crime-in-three-years-as-nigeria--unodc-rally-multi-national-efforts-to-thwart-piracy-in-the-gulf-of-guinea.html> accessed 3 May 2021.

[5] Africa Progress Panel, *Grain, Fish, Money: Financing Africa's Green and Blue Revolutions* (Africa Progress Report 2014) < https://reliefweb.int/report/world/africa-progress-report-2014-grain-fish-money-financing-africa-s-green-and-blue> accessed 3 May 2021.

[6]The words cooperation, partnership and collaboration in general usage describes two or more entities working together to achieve a common goal. This article employs the words 'cooperation', 'partnership' and collaboration interchangeably to refer to any action mutually undertaken and beneficial to parties for the eradication of maritime security in the Gulf of Guinea region.

commit to running a single regional security framework and attain global support that is essentially geared towards the interest of the sub-region.

To achieve its aim, the paper is divided into six sections, which include the introduction and the conclusion. Following an overview of the Gulf of Guinea maritime domain and its importance in global maritime discourse in section two, the third section identifies and examines key security initiatives within the region. Section four explores the challenges that exist in the execution of maritime cooperation in the region while section five considers the prospects of attaining security in the domain through proffering solutions to the earlier acknowledged constraints.

2. The Gulf of Guinea Maritime Domain

Diverse descriptions in both academic and non-academic literature exist as to the area that the Gulf of Guinea and its maritime domain encompasses.[7] Accordingly, Oyewole describes the sub-region as 'a geographical conception without a universal territorial definition.'[8] Notably, discussions in contemporary global circles, in connection to the existence of maritime security threats especially piracy in the sub-region, has created a significantly acceptable broad description of the Gulf of Guinea as consisting of coastal states in both west and central Africa.[9] This paper adopts this broad sense description of the domain as consisting of 17 coastal states and 2 island states, stretching from Senegal to Angola.

The Gulf of Guinea maritime domain provides an opportunity for sustainable blue economy development and growth for states within the African sub region and remains

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[7]Samuel Oyewole, 'Supressing Maritime Piracy in the Gulf of Guinea: The Prospects and Challenges of the Regional Players' [2016](8) *Australian Journal of Maritime and Ocean Affairs* 132,134. The Gulf of Guinea is described as consisting of 10 states (Angola, Benin, Cameroon, Cote d'Ivoire, Equatorial Guinea, Gabon, Ghana, Nigeria, Sao Tome and Principe and Togo) referred to as Gulf States. See Sayed M Hasan and Daud Hassan, 'Current Arrangements to Combat Piracy in the Gulf of Guinea Region: An Evaluation' [2016] (47) *Journal of Maritime Law and Commerce* 171, 173. The subregion is defined as '...coastal states stretching from Senegal to Angola..' See Ifesinachi Okafor-Yarwood, 'The Guinea-Bissau–Senegal Maritime Boundary Dispute' [2015] *Marine Policy* 284. It has also been depicted in a map as eight coastal states from Nigeria to Angola, including the landlocked Chad and Democratic Republic of Congo. See Ricardo Soares de Oliveira, *Oil and Politics in the Gulf of Guinea* (Hurst 2007) 9. In Freedom Onuoha, 'The Geo-Strategy of Oil in the Gulf of Guinea: Implications for Regional Stability' [2010] (45) *Journal of Asian and African Studies* 369, 370 the author describes the Gulf of Guinea as consisting of ' a large number of states from west and central Africa namely-Gambia, Guinea-Bissau, Senegal, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Equatorial Guinea, São Tomé and Príncipe, Central African Republic, Gabon, Republic of Congo, the Democratic Republic of Congo (DRC) and Angola'. See also Kammal Deen-Ali and Martin Tsamenyi, 'Fault lines in maritime security analysis of maritime boundary uncertainties in the Gulf of Guinea', [2013] (22) *African Security Review* 95–119.
[8] Oyewole (nb 7).
[9] Okafor-Yarwood (n7); Hasan and Hassan (n7) (the authors confine the description to 10 coastal countries in West and Central Africa from Ghana to Angola); Kammal Deen-Ali, *Maritime Cooperation in the Gulf of Guinea: Challenges and Prospects* (Nijhoff 2015) 16-21; Michael Asiamah and Dimitrios Dalaklis , 'Exploring the Issue of Maritime Domain Awareness in Ghana' [2019] (18) *NMIOTC Interdictions Operations Journal* 20.

significant to global economic development. The sub region is among the most important global shipping lanes with port facilities there forming an essential part of the world's maritime transportation system.[10] Apart from being an important global trade route for the movement raw materials and finished goods, the sub-region is one of the most endowed globally in terms of hydrocarbon resources.[11] The oil and gas reserves within the Gulf of Guinea are vital to the energy markets of America, Europe and China.[12]

Regrettably, the potentials of states in the region to achieve blue economy development that translates to socio-economic enhancements are greatly undermined by multi-faceted risks that foster vulnerabilities in the maritime environment.[13] Existing risks include illicit illegal arms and drug trafficking, human trafficking, human smuggling, maritime pollution from vessels and oil exploration, illegal unreported and unregulated fishing, hostage taking; illegal oil bunkering, crude oil theft, and vandalising oil infrastructure.[14] Some of these risks form part of larger crimes framework, which makes the the effect of their persistence in the region have global consequences. Accordingly, the United Nations Office on Drugs and Crimes (UNODC) highlights that the 'various trafficking flows through the Gulf of Guinea continue to constitute a major breeding ground for transnational organized crime operating across the region and globally with devastating effects…'[15] The

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[10] Hasan and Hassan (n7)173; Asiamah and Dalaklis (n 9).

[11] Damain Ondo Mane, 'Emergence of the Gulf of Guinea in the Global Economy: Prospects and Challenges' *International Monetary Fund (IMF) Working Paper, WP/05/235 2005*, 4; Chinyere Anozie and others, 'Ocean Governance, Integrated maritime Security and its Impact in the Gulf of Guinea: A Lesson for Nigeria's Maritime Sector and Economy' [2019](11)(2) *African Review* 190, 196.

[12] Idahosa Osaretin, Energy Security in the Gulf of Guinea and the Challenges of the Great Powers , [2011] (27) *Journal of Social Science* 188; Chinyere Anozie and others (n 11) 196.

[13] Ken Ifesinachi and Chikodiri Nwangwu, 'Implementation of the Yaóunde Code of Conduct and Maritime Insecurity in the Gulf of Guinea' [2015] (5) *Research on Humanities and Social Sciences* 54;Okafor-Yarwood (n 7) 285.

[14] African Union Assembly, *2050 African Integrated maritime Strategy (2050 AIMS)* (2014), part II. par 16; A detailed description of these threats is outside the scope of this article. For in-depth discussions on the various threats see Mark Shaw and Others, *Comprehensive Assessment of Drug Trafficking and Organised Crime in West and Central Africa (Summary)* January 2014,<https://au.int/sites/default/files/documents/30220-doc-organized_crime_in_west_and_central_africa_-_july_2014_-_abridged_summary_english.pdf > 7; Charles Ukeje and Wullson Mvomo, *African Approaches to Maritime Security- The Gulf of Guinea* (Friedrich-Ebert-Stiftung 2013) 21; Bashir Malam,' Small Arms and Light Weapons Proliferation and Its Implication for West African Regional Security' [2014] (8) *International Journal of Humanities and Social Science* 260; Peter Chalk, The *Maritime Dimension of International Security: Terrorism, Piracy and Challenges for the United States* (RAND Corporation 2008)13; Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA) *The Nexus between Small Arms and Light Weapons and Money Laundering and Terrorist Financing in West Africa* (GIABA 2013) 3. See also Deen-Ali (n 9).
< http://www.giaba.org/media/f/613_519_GIABA%20SALW%20Nexus-final.pdf> accessed 1 January 2021.

[15] United Nations Office on Drugs and Crime (UNODC), 'Global Maritime Security Conference: Gulf of Guinea States Gather in Abuja to Tackle Maritime Crisis,' < https://www.unodc.org/nigeria/en/global-maritime-security-conference_-gulf-of-guinea-states-gather-in-abuja-to-tackle-maritime-crime-crisis.html> last accessed 3 May 2021.

most evident of the risks the region faces, is that of piracy and armed robbery against ships.[16] This threat is considered as most evident due to global concern about its overwhelming effect on international peace and security, Furthermore, the threat of piracy and armed robbery against ships can be viewed as an overarching criminality in the region from the context of its nexus with other maritime risks. Poverty and loss of livelihood are situations that may arise from the risks of IUU fishing and oil pollution. These situations are considered as factors that trigger the crime of piracy and armed robbery against ships.[17] Other maritime risks such as oil bunkering, hijacking, off shore vandilisation and kidnapping at sea are criminalities that may be conducted during the perpetuation of acts of piracy and armed robbery against ships.

Contemporary Gulf of Guinea region continues to receive global attention as the predominant and among the most dangerous crime region for the piracy and armed robbery, since the curtailment of piracy off the coast of Somalia.[18] Between 2009 and the end of 2019, the International Maritime Organisation (IMO) statistics reveal that an annual average of about 56 attempted and actual piracy and armed robbery against ship attacks occurred in and around the Gulf of Guinea.[19] According to the same source, there were at least 83 actual and attempted attacks in the region in 2020.[20] Majority of the attacks are linked to Nigeria.[21] There have also been few reports of attacks linked to other states in the sub-region, especially the state bordering Nigeria. Characteristically swift and often violent against seafarers, piracy and armed robbery attacks in this region have evolved from the initial predominant petro-piracy model to one increasingly involving incidents of attacks against all types of vessels to conduct kidnapping for ransom.[22] In 2020, aside from other acts of assault on crewmembers,

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[16] Asiamah and Dalaklis (n 9). This article adopts the universal definition of piracy, as distinct from acts of armed robbery against ships, provided for under UNCLOS (n2) Art 101. See also, Nigeria's Suppression of Piracy and other Maritime Offences Act 2019, ss 3 and 22.

[17] Hasan and Hassan (n7) 194-196.

[18] United Nations Security Council (UNSC), *8457th Meeting 05/02/2019* (S/PV. 8457), 6. <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_8457.pdf > last accessed 3 May 2021.

[19] Data culled from International Maritime Organisation(IMO)'s Global Integrated Shipping Information System(GSIS) <https://gisis.imo.org/Public/PAR/Default.aspx.> last accessed 3 May 2021. Notably, the IMO statistics for 2018 and 2019 record 82 and 67 attempts respectively. These figures are among the highest recorded in the region during 2009-2019 range.

[20] Ibid.

[21] Marc-Antoine Pérouse De Montclos, 'Maritime Piracy in Nigeria: Old Wine in New Bottles?' [2012](35) *Studies in Conflict & Terrorism* 534; Hasan and Hassan (n7) 171; Osatohanmwen Eruaga and Max Mejia, 'Regulating the Carriage of Firearms by Private Maritime Security Actors' [2020] (7)(2) *Journal of Territorial Maritime Studies*,76.

[22] Osatohanmwen Eruaga and Maximo Mejia, 'Piracy and Armed Robbery against Ships: Revisiting International Law definitions and Requirements in the Context of the Gulf of Guinea' [2019] (32) *Ocean Yearbook* 477-496.

there were at least 16 reported cases of kidnapping for ransom where victims were held hostage for periods ranging from a few days to several weeks[23] before release.

States in the region are unable to individually address the increasing level of criminality.[24] Due to the sheer vastness of the Gulf of Guinea maritime domain and low operational readiness, states have neither the individual capacity nor capability to establish a dominant maritime security presence outside of territorial waters. This makes collective and coordinated action imperative.

3. Maritime Cooperation in the Gulf of Guinea

The principle of state sovereignty has as a corollary, the responsibility placed on States to address security threats within their territory.[25] This includes the seawards aspect of the state's territory as specified under arts 2 and 3 of UNCLOS.[26] The peculiarity of the maritime domain, in contrast with sovereign territory on land, creates a situation in which threats are not usually restricted by physical territorial boundaries. Several studies have revealed that the immediate effects of maritime security threats occur and concentrate easily over a distance.[27] The result is that the level of security of each state interacts with that of other states located in that same region, forming the basis of a security complex.[28] The mere fact that states located within a region share similar maritime security threats makes cooperation and interdependence in this context of addressing the risks, imperative. Furthermore, in as much as states and state neighbours experience the immediate effect of security threats, the interdependence of world economies due to globalisation creates an imperative for states and international agencies outside the established threat region to contribute to security. This creates avenue for the existence of multi-cooperative security frameworks.

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[23] Kidnapped crew in the *AM Delta* Incident of 16 November 2020 as reported in IMO Circular 297 were held hostage for a period of 37 days. < https://gisis.imo.org/Public/PAR/Incident.aspx?Action=View&ID=9440>

[24] UNSC (n 18) 4.

[25] *Miranda v Arizona,* 384 U.S. 436, 539 (1966). Section 14(2) (b), Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) clearly manifests the monopoly of government over issues of security by providing that 'the security and welfare of the people shall be the primary purpose of government'.

[26] Art 2(1) UNCLOS provides that

> the sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea. Art 3 provides that Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

[27] Barry Buzan and others, *Security: A New Framework for Analysis* (Lynne Rienner Publishers 1998)11-12. The author discusses the regional security complex theory based on a systematic regional arrangement.

[28] Ibid. The author defines a security complex as a set of states whose major security perceptions and concerns are so interlinked that their national security problems cannot reasonably be analysed or resolved apart from one another.

3.1. Imperatives for Maritime Security Cooperation under International Instruments.

In general, UNCLOS (which exists to governs all international maritime matters, including maritime security challenges) envisages and spells out the need for cooperation in suppressing maritime threats in several of its provisions.[29] For instance, with respect to acts of piracy, art 100, places an obligation on states to 'cooperate to the fullest possible extent' for its repression. Similarly, several other international instruments align with the idea of cooperative security within the maritime domain.[30] Additionally, goal 17 of the Sustainable Development Goals indicate the importance of strategic partnerships and cooperation for socio-economic development.

Cooperation among states requires appropriate coordination to avoid wastage of resources while effectively achieve the objective of the addressing maritime risks in the sub-region. Accordingly, the United Nations Security Council (UNSC) while emphasising the need for cooperation, stresses that 'coordination at the regional level is essential for the development of a maritime strategy to tackle maritime security threats'.[31] The 2050 AIMS similarly highlights that its principles and values hinges on coordinated collaboration and cooperation among member states in the sub-regions, as part of its guiding philosophies in the quest to promote the safe and sustainable maritime development.[32]

3.2. Extant Maritime Security Regime Dynamics in the Gulf of Guinea.

Several regime-dynamics exist in the region for the protection of the maritime domain. They include individual states initiatives, bilateral and multilateral agreements among member states; agreements with states and donor agencies outside the sub-region; and sub-regional arrangements.[33] These security regimes do not occur in isolation rather, they overlap as a result of their ultimate aim, which is threat eradication.

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[29] For instance, UNCLOS art 100 places an obligation on states to cooperate to the fullest possible extent for the repression of piracy in areas outside their jurisdiction; art 118 requires cooperation among states in the conservation and management of resources in the high sea; art 108 obligates 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.

[30] For instance, see IMO, 'Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships', MSC.1/Circ.1333 (26 June 2009); IMO, 'Revision of the Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic', Res A.872(20), 6 February 2006; Interim Measures for combating unsafe practices associated with the trafficking or transport of migrants by sea, MSC/Circ.896/Rev.1(12 June 2001)8; African Union (n 14) IX, par. 24.

[31] United Nations Security Council (UNSC) , Resolution S/RES/2039, 29 February 2009.

[32] Pt VII, par 25.

[33] Although the paper is particularly concerned with the regimes that extend beyond individual state efforts, the paper still considers these initiatives as essential on the basis that individual security arrangements are interlinked with cooperative regimes within or external to regional arrangements.

a. <u>State Initiatives</u>

Following increase in maritime domain awareness, individual states in the region have committed themselves to the improvement of their security capabilities and capacities[34] These state-centric commitments are quite visible in the states such as Nigeria, Ghana and Benin, where the maritime criminalities are palpable. The commitments of the various states are evidenced by the acquisition of operational vessels for sea patrol purposes and the introduction of policies such as tightening border security; targeted legislations or regulations; and deploying special units to handle specific threats.[35]

b. <u>Bilateral and Multilateral Arrangements</u>

In terms of bilateral and multilateral arrangements, Gulf of Guinea member states have entered into several understandings among themselves and with other states outside the region.[36] Examples of these understandings include the 2011 Nigeria-Benin Joint Naval Patrol Agreement (Operation Prosperity);[37] the yearly *Obangame Express* orchestrated by the US Naval Forces (Africa Command); the Maritime Domain Awareness for Trade Gulf of Guinea (MDAT-GoG) jointly managed by France and the United Kingdom;[38] as well as the GoG Maritime Security Programme (GoG MSP) initiated by the Danish government.[39] These arrangements are aimed at eradicating maritime insecurities through various approaches such as improving the legislative framework for addressing maritime security crimes; enhancing information sharing culture as well as human and technical capacity building.[40]

The importance of these understandings were glaring in the apprehension of pirates and the rescue of hostages from the hijacked panama flagged vessel *MT Maximus* in 2016.[41]

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[34] Hasan and Hassan(n 7) 200.

[35] For instance, Nigeria's recently commissioned the Integrated National Security and Waterways Protection Infrastructure (otherwise known as the Deep Blue Project- DBP) and the enactment of the Anti-piracy legislation are examples of the country's commitment to improving security. Similarly, Ghana has prepared a national maritime security strategy and established an inter-ministerial National Maritime Security Committee (NMSC) to improve maritime security within its territory. See generally Hasan and Hassan (n7) 209; Freedom Onuoha, 'Maritime Security and the Gulf of Guinea: Nigeria as a Microcosm' (2012) *Al-Jazeera Centre for Studies* 1, 10; ibid, 200- 209, where the authors identify the tightening of border security and deployment of special forces to respond to the threat of piracy. The authors also discuss extensively various purchases made by states in the region.

[36] Onuoha (n 35); Hasan and Hassan (n 7) 209. Non-regional states involved in cooperation for the enhancement of maritime security in the Gulf of Guinea region include the United States, France, United Kingdom and Norway.

[37] Onuoha (n 35); Hasan and Hassan (n 7) 209.

[38] <https://gog-mdat.org/home>

[39] Jessica Larsen and Christine Nissen, *Reconciling international priorities with local needs: Denmark as a new security actor in the Gulf of Guinea*, (DIIS Report No. 2018:08), (Danish Institute for International Studies 2018).

[40] Ibid.

[41] International Maritime Organisation(IMO) GISIS: < https://gisis.imo.org/Public/PAR/Incident.aspx?Action=View&ID=7279>; Nathan Herring, 'West Africa Piracy

The rescue was made possible through United States and France assistance in tracking down the vessel as it transited the coastal waters of several states in the GoG during the Obangame 2016 exercise.

The IMO, as the UN specialised agency responsible for safe and secure shipping continues to contribute immensely to individual and regional maritime security by working in close cooperation and coordination with other UN bodies, international partners and development partners.[42] Measures utilised by the IMO include establishment of a maritime security trust fund for the region to support the integrated coastguard project, capacity building through its integrated technical cooperation programme (ICTP), technical assistance on request by governments in the Gulf of Guinea and assistance in the implementation of IMO maritime security instruments.[43]

c. Regional Maritime Security Initiatives

Several regional maritime security initiatives (RMSIs) exist in the region alongside individual states, bilateral and multilateral approaches to security. RMSIs create partnerships of willing nations with varying capabilities and capacities to identify, monitor, and intercept transnational maritime threats under existing national and regional laws. Such initiatives occur usually within security frameworks. The RMSIs are anchored on the principle of collective security, as shown in the framework of Asia's *Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia* and the *Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden (the Djibouti Code of Conduct)* of the Gulf of Aden- Western Indian Ocean maritime domain.[44]

Case Highlights U.S. Capacity Building Efforts', (United States Africa Command Media Room 11 March 2016)< http://www.africom.mil/media-room/article/28044/west-africa-piracy-case-highlights-u-s-capacity-building-efforts> last accessed 2 January 2020.

[42] The UN bodies which the IMO works closely with for this purpose include the United Nations Office on Drugs and Crime (UNODC), Food and Agriculture Organisation and the United Nations High Commissioner for Refugee. International partners include Interpol and World Custom Organisation (WCO) and states such as Japan, France, US Africa Command, China, the United Kingdom, the European Union, Norway and the G8++ Friends of the Gulf of Guinea also play a vital role as development partners. See IMO, 'Implementing Sustainable Maritime Security Measures in West and Central Africa' (September 2015) < http://www.imo.org/en/OurWork/Security/WestAfrica/Documents/IMO%20WCA%20Strategy%20September%202015_English_final.pdf> last assessed 4 May 2021.

[43] Ibid.

[44] A discussion of the RMSIs of Asia maritime domain and the Gulf of Aden and western Indian Ocean is beyond the scope of this paper. However, analysis of these regional arrangements can be found in Noel Morada, 'Regional Maritime Initiatives in the Asia Pacific: Problems and Prospects for Maritime Security Cooperation' (1st Berlin Conference on Asian Security, Berlin 4-5 September 2016); IMO, (Maritime Safety Division), 'Djibouti Code of Conduct' August 2014-Novemeber 2015. <http://www.imo.org/en/OurWork/Security/PIU/Documents/DCoC%20Newsletter%20(2015).pdf>last accessed 4 May, 2021.

In the Gulf of Guinea region, fostering cooperation occurs along existing sub-regional frameworks of the Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Maritime Organisation of West and Central Africa (MOCWA) as well as the Gulf of Guinea Commission (GGC).

The Economic Community of Central African States (ECCAS) projects a joint maritime security architecture geared towards countering maritime security threats through its Maritime Security Protocol. In 2008 and 2009, the Peace and Security Council of the ECCAS adopted a resolution and subsequently a Protocol to establish a Regional Centre for Maritime Security in Central Africa (CRESMAC) in Pointe Noire, Congo.[45] Dividing the domain into three zones, the Protocol obligates members to collectively enhance maritime security through a three-tier security framework (national, zonal and regional) for sharing of information, implementation of joint surveillance and harmonise legal regimes for the eradication of maritime security concerns.[46]

The Economic Community of West African States (ECOWAS) architecture on maritime security is contained in the ECOWAS Integrated maritime strategy (EIMS)- adopted in 2014. The ECOWAS regime also requires member states to coordinate their activities and pool resources for the purpose of maritime security.[47] Fashioned along the line of the ECCAS model the EIMS divides the ECOWAS covered domain into three zones (E, F and G) for the purpose of coordination by multinational maritime coordination centres (MMCCs).[48] The EIMS establishes a regional centre (MRC) to coordinate the activities of the three zones. The pilot for the region is Zone E, which consists of the coastal waters of Nigeria, Benin and Togo considered as the choke point of illicit maritime activities in the region.[49]

The formation of the Gulf of Guinea Commission (GGC) occurred majorly to enable its eight member states exploit off shore resources in a secure and beneficial manner. The GGC however has as part of its objective responding to maritime security concerns affecting

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[45] Protocole Relatif a La Strategie de Securisation des *Intérêts* Vitaux en mer des Etats de la CEEAC du Golfe de Guinee (Kinshasa 24 October 2009).

[46] Ibid, Art 5-7. The maritime zones are designated as Zones A, B and D.

[47] Economic Community of West African States (ECOWAS), *Integrated Maritime Strategy (EIMS) and Implementation Plan 2014*.

[48] Zone E (consisting of Nigeria, Niger, Benin and Togo) is currently operational while Zone F made up of Burkina Faso, Côte d'Ivoire, Ghana, Guinea, Liberia as well as Sierra Leone; and Zone G, consisting of Cape Verde, the Gambia, Guinea Bissau, Mali and Senegal) are yet to begin operations. See Adeniyi Oshinowo, 'Combating Piracy in the Gulf of Guinea' (2015) *African Security Brief* 4.

[49] See Charles Ukeje and Wullson Mvomo, (n 14) 25.

the member states.[50] In 2013, the Commission adopted its integrated Maritime Strategy.[51] The Ministerial Conference on Maritime Security in the Gulf of Guinea organised by the GGC in March 2013, laid the foundation for a more comprehensive security frame work strategy tagged the Yaoundé Code of Conduct

The Maritime Organisation of West and Central Africa (MOCWA) comprising of twenty-five member states, has a with the broad objective handling all maritime matters that are regional in character.[52] In 2008, MOWCA adopted a memorandum of understanding (MoU) to establish an integrated Coastguard Network. The goal of the Network as stated in art 7 is

> ... to allow the parties to promote and make joint efforts as far as their maritime activities are concerned, 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.[53]

The Coastguard Network funded by member states with support from donor agencies and countries consists of four zones and two coordinating centres (CC) for information sharing as shown in the table below.[54]

Zone 1	Mauritania, Senegal, Gambia, Guinea Bissau, Cape Verde *Coordinating Centre : Centre Dakar, Senegal*
Zone 2	Guinea, Sierra Leone, Liberia, Cote D'Ivoire and Ghana *CC Centre Abidjan, Cote D'Ivoire*
Zone 3	Togo. Benin, Nigeria, Cameroon, Equatorial Guinea *CC: Centre Lagos, Nigeria*
Zone 4	Gabon, Sao Tome and Principe, Congo, Congo DR, Angola *CC: Centre Pointe Noire, Congo*

Table 1: Maritime Zones for Coastguard Network under the MOCWA MoU

Notably, the harmonisation of the commitments of respective sub-regional frameworks to address security threats gave rise to the Yaoundé Code of Conduct as the

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[50] Treaty of the Gulf of Guinea Commission, Art 6; Samuel Oyewole, 'Supressing Maritime Piracy in the Gulf of Guinea: The Prospects and Challenges of the Regional Players' (2016) 8 Australian Journal of Maritime and Ocean Affairs 132, 137.

[51] Assembly of Heads of State and Government, *Gulf of Guinea Commission (GGC) Integrated Maritime Strategy* (Malabo 10 August 2013).

[52] Deen-Ali (n 9) 232.

[53] Maritime Organisation of West And Central Africa, *Memorandum of Understanding on The Establishment of a Sub-Regional Integrated Coast Guard Network in West And Central Africa* (MOWCA Coastguard MoU), art. 7.

[54] Ibid, arts 12 and 28.

implementation vehicle for an overarching architecture for maritime safety and security in the Gulf of Guinea.

d. The Yaoundé Code of Conduct: An Integrated Security Framework for the Gulf of Guinea.

Following the prompt from UNSC[55] and inspired by the *Djibouti Code of Conduct*[56] the member states of MOCWA, ECCAS, GGC and ECOWAS in an integration of sub regional security frameworks, adopted the *Code of Conduct for the Suppression of Piracy, Armed Robbery Against Ships and Illicit Maritime Activity in West and Central Africa* (Yaoundé Code)[57] as a common regional strategy. The Yaoundé Code focuses on repression of transnational crimes within the maritime domain of Gulf of Guinea.[58] The Signatories to the Code intend to cooperate for the purposes of rescue, interdiction, investigation, and prosecution of transnational crime committed within the region, taking into account the relevant international standards and practice.[59] The provisions of the code make it clear that they are to be carried out in a manner consistent with international principles of sovereignty of state and non-interference in domestic affairs of each state.[60]

To implement the provisions of the code, the *Memorandum of Understanding among Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS) and Gulf of Guinea Commission (GGC)* and *Additional Protocol to the Memorandum of Understanding among ECCAS, ECOWAS and GGC on safety and security in central and west Africa Maritime Space* (Additional Protocol) establishes a maritime interregional coordination centre (MICC) in Cameroun for enhancing cooperation within the regional maritime centres for Central Africa (CRESMAC) and West Africa (CRESMAO), already, provided for under maritime security frameworks of ECCAS, ECOWAS.[61]

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[55] UN, *Resolution 2018- Peace and Security in Africa, (Security Council 6654th Meeting* , 31 October 2011 and UN, Resolution 2039 Peace Consolidation in West Africa 29 February 2012.

[56] *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).

[57] See *Code of Conduct for the Suppression of Piracy, Armed Robbery Against Ships and Illicit Maritime Activity in West and Central Africa,* Preamble, 3.

[58] The 'regressionist' focus is evidenced in the provisions of art. 6 to 8, See Ken Ifesinachi and Chikodiri Nwangwu(n13)56.

[59] Yaoundé Code, art 2.

[60] Yaoundé Code, art 3.

[61] *Memorandum of Understanding among Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS) and Gulf of Guinea Commission (GGC) Yaoundé Code* (Yaoundé Code) art 2 and art 5; *Additional Protocol to the Memorandum of Understanding among ECCAS, ECOWAS and GGC on safety and security in central and west Africa Maritime Space* (Additional Protocol) art 1 and 2.
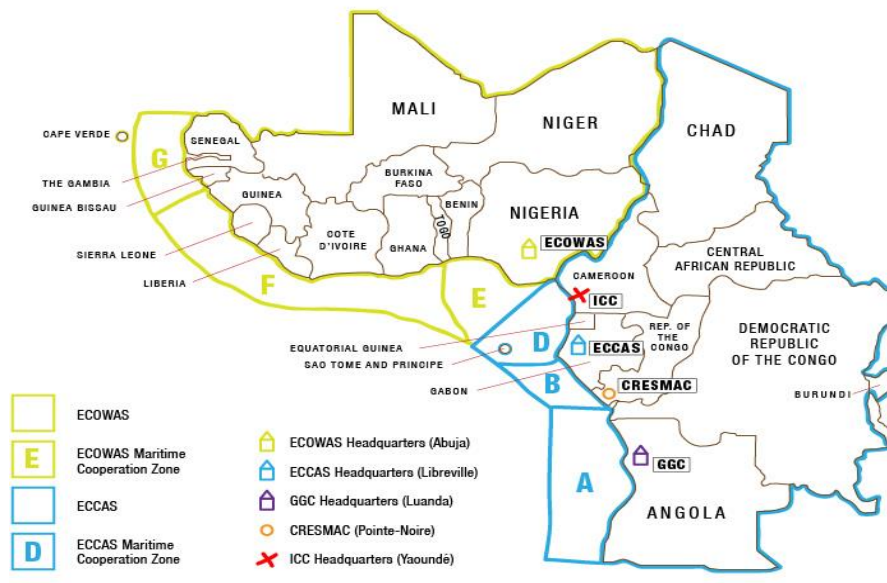
Figure 1: Yaoundé Architecture as a common strategy for the Gulf of Guinea.[62]

4. Challenges to Maritime Security Collaboration in the Gulf of Guinea.

Despite the increased maritime security collaboration in the Gulf of Guinea, maritime security issues related to the threats of piracy and armed robbery against ships persist in the region. The factors responsible for the persistence of insecurity in the region have links to the geopolitical environment. They include maritime boundary disputes, poor governance, neglect of maritime domain, poor legal framework for enforcing maritime security measure as well as the existence of multiple regional security regimes.

(a) <u>Maritime Boundary Disputes</u>

States delineate their maritime territorial extent by means of coordinates, which ought to comply with the legal framework on maritime zones as provided by international law. Art 1, 3 and 5, UNCLOS provide that coastal states generally have territorial sovereignty over waters not exceeding twelve nautical miles from the base line, which is normally the 'low-water line along the coast as marked on the large-scale charts officially recognised by the coastal state.'[63] States are also entitled to enjoy sovereign rights within the area not exceeding two hundred nautical miles from the baselines from which the breadth of the territorial sea is

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[62] Thierry Vircoulon, "Gulf of Guinea: A Regional Solution to Piracy?" International Crisis Group's In Pursuit of Peace Blog, September 4, 2014< https://www.crisisgroup.org/africa/west-africa/gulf-guinea-regional-solution-piracy> last accessed 4 May 2021.
[63] Some states have enacted domestic legislation pursuant to the provision of UNCLOS to establish the extent of its territorial sea and Exclusive Economic Zone. See Nigeria's Exclusive Economic Zone Act, Cap E17 LFN 2004, Nigeria's Territorial Waters Act Cap T5 LFN 2004; Ghana's Maritime Zones (Delimitation) Act, 1986,

measured.[64] Pursuant to the provisions of UNCLOS, several states enacted domestic legislation declaring the extent of their territorial sea and EEZ. For instance, s1 of the Nigerian Territorial Act states that

> (T)he territorial waters of Nigeria shall for all purpose include
> every part of the open sea within twelve nautical miles of the coast
> of Nigeria (measured from low water mark) or of the seaward
> limits of inland waters.

The failure of states to adhere to the provisions of international law regarding the definition and the delimitation of maritime boundaries manifests in poor maritime border demarcation. Poor maritime border demarcation gives rise to contentions between states, potentially creating room for maritime disputes. For instance, while Ghana has ratified UNCLOS and declared the extent of its territorial waters in its domestic legislation, there was no implementation (until 2018), of the provisions of UNCLOS with regards to definition and delimitation of her boundary with the adjacent state of Cote d'Ivoire, in line with the provisions of art 15 of UNCLOS 1982. Poor maritime border demarcation gives rise to contentions between states, potentially creating room for maritime disputes.

Although the prevalence of boundary disputes is not peculiar to the Gulf of Guinea, the sub-region has experienced a fair share of these disputes.[65] Examples of these maritime disputes include Nigeria/Cameroon Land and Maritime Dispute, Guinea/Guinea-Bissau, Guinea-Bissau and Senegal, Gabon and Equatorial Guinea, Nigeria and Sao Tome and Principe. Yarwood opines that the independence of countries from colonial powers heralded several land and maritime boundary disputes in the Gulf of Guinea region.[66] These disputes exist in spite of the decision of the African Union to maintain pre-colonial border status quo following the international law principle of '*uti possidetis juris*'.[67] Walker notes that compared to land border disputes, 'issues relating to both maritime boundary delineation and management were largely neglected but have been increasingly exacerbated in recent times as

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[64] UNCLOS 1982, art 57. It should be noted that a state is not obligated to declare the maximum limit of 12 nautical miles for its territorial sea or 200 nautical miles for its EEZ.

[65] There are several on-going maritime boundary disputes globally- The on-going maritime disputes between countries China and its neighbours over Senakuku Islands to the long stretch of archipelagos in the South China Sea that comprise hundreds of islets provides a glaring example.

[66] Okafor-Yarwood (n7) 286.

[67] *Black's Law Dictionary* defines the legal doctrine of *uti possidetis juris or uti possidetis de jure* as "The doctrine that old administrative boundaries will become international boundaries when a political subdivision achieves independence". This principle was stated most directly in the ICJ's 1986 decision in the Frontier Dispute (Burkina Faso/Republic of Mali) case. See Frontier Dispute, Judgment (1986) I.C.J. Reports 554, 565 [20].

a result of growing interest in exploring and exploitation of natural resources.[68] In September 2014, Ghana filed a memorial in the International Tribunal for the Law of the Sea (ITLOS), seeking a declaration that there was no encroachment on Cote d'Ivoire's territorial waters.[69] The territory in dispute has huge oil reserve prospects, which Ghana was exploiting. A decision on the dispute was provided in 2017.

As long as these disputes remain unsettled, state parties would remain largely uncooperative in collaborations, including those relating to the maritime domain. Furthermore, the resolution of maritime dispute does not guarantee subsequent cooperation between the disputing states since there is usually a dissatisfied party at the end. Thus, the existence of disputes imperil both short and long term implementation of maritime policies and strategies capable of improving regional security.[70]

   b. <u>Poor Governance</u>

The resource-laden states in the region experience poor governance that manifests in under developed economies, inequitable income distribution as well as inadequate qualified human capital.[71] Most of the states in the region portray the worst indices of development.[72] This is because the region is replete with weak and fragile states characterised by mounting corruption, falling standards of living, growing human right abuses, and internal conflicts.[73] The internal conflicts and political violence at home or in the neighbour countries have a negative impact on economic growth and development through the destruction of productive infrastructure.[74]

Several states located within the region are unable to perform basic sovereign obligations and duties. According to the 2020 Human Development Index (HDI) ranking, only two out of the twenty-three states that are signatories to the Yaoundé Code fall within the medium human development range of between 106 and 138, with Niger being the lowest ranked state

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[68] Timothy Walker, 'Why Africa Must Resolve its Maritime Boundary Disputes' (2015) Institute for Security Studies Policy Brief 80< http://dspace.africaportal.org/jspui/bitstream/123456789/35220/1/PolBrief80.pdf?1> last assessed 5 May 2021.
[69] The memorial is based on Article 287 Annex VII of UNCLOS.
[70] Deen-Ali and Tsamenyi(n7)119; Okafor-Yarwood,(n9)284. See also Hasan and Hassan(n7)187 where the authors opine that poor maritime border demarcation in the region contributes to maritime crimes in the region.
[71] Eruaga and Max Mejia (n 21) 426.
[72] Ken Ifesinachi and Chikodiri Nwangwu (13) 56.
[73] Freedom Onuoha, (n7)369, 381; Eruaga and Max Mejia (n 21) 426.
[74] Abdoulaye Diop and Others, "Governance and Weak Institutions? An Empirical Study on the ECOWAS Countries?, (2010) (2) *African Development Review* 265. The authors assert a relationship between variables reflecting the rule of law, government effectiveness, property rights, accountability, regulatory burden, trade liberalization policies and political violence and growth per capital GDP and conclude that these variables are inimical to development.

in the low human development category.[75] Onuoha asserts that because 'most of the states in the region are weak and fragile, state managers tend to pursue regime security by investing more in arms and weapons. In so doing, human development and social wellbeing are marginalised.'[76] The prevalence of poor governance in these states underpins illegal maritime activities in the region as opportunities for legitimate livelihood witness a downward spiral.[77]

    c. <u>Neglect of maritime-centric approach to security.</u>

Until recent times, the focus of states within the region has been on threats emanating from land, leading to neglect of potential maritime security issues. This resulted to poor maritime domain awareness and 'policy blindness towards coastal waters as a focus of security and sustainable development planning'.[78] Additionally, several countries in the region have major internal and stability challenges, which distract attention from maritime security issues. As such, even with the escalation of maritime threats and efforts to curtail them in the region, Ukeje and Ela opine that the appreciation of the nexus between land and maritime security remains inadequate as the absence of a clear vision of maritime governance and sea culture constrain states from making the linkage between land and maritime security.[79]

    Due to poor appreciation of the nature of the maritime domain and the nexus between land and sea security over the years, there is limited maritime competence and a tendency to apply tactics of handling land-based threats to the maritime domain. An analysis of the naval capabilities of states in the region as shown below reveals that only Nigeria has the capabilities to exercise sea control within the limits of the EEZ.[80]

Serial	Rank	Countries	Capacity
1.	Global Navies	None	Global expeditionary and force projection capabilities
2.	Ocean Going Navies	None	Expeditionary and Force Projection Capabilities

[75] See United Nations Development Programme (UNDP), *Human Development Index 2020: The Next Frontier Human Development in the Anthropocene* (UNDP 2021).

[76] Onuoha (n 73) 381.

[77] Ifesinachi and Nwangwu, (n 13) 56; Ukeje and Ela. (n 14).

[78] Ibid, 23.

[79] Ukeje and Ela(n14) 29.

[80] Dele Joseph Ezeoba, ' Security in the Gulf of Guinea – Focus on Nigeria and Regional Maritime Defence Frame Work', (Gusau Institute conference on 'Security in the Gulf of Guinea,' Abuja, 1 September 2015). See also Sayed Hasan and Hassan (n7) 201 (where the authors note that while the Nigerian Navy is considered as strong, compared to the navies of other States in the region, it still suffers from insufficient sound operational platforms); Deen-Ali(n9)245 (where the author notes that the personnel strength of the navies of the region is inadequate to patrol the vast maritime domain).

3.	Contiguous navies	Nigeria	Offshore defence capabilities that fall within the EEZ
4.	Littoral/Coastal Navies	Ghana, Cameroon, Angola and Equatorial Guinea	Primarily territorial defence with limited offshore defence capability
5	Constabulary Navies (Patrol and Coastal Combatants)	DRC, Cote D'Ivoire, Benin, Gabon and Togo	Limited capability for coastal and inshore operations; emphasis on constabulary functions.
6.	Token Navies	Guinea Sierra Leone	Unable to patrol territorial seas effectively impotent in the EEZ
7.	No Navies	Sao Tome and Principe/ Liberia	Limited

Table 2: Assessment of Naval Capacity of states in the Gulf of Guinea maritime domain.[81]

In the absence of sufficient investment by states in the region in maritime capabilities, there is capacity gap resulting in ill-governed maritime space.

    d.   <u>Weak legal framework for security management and poor enforcement within existing frameworks</u>

Curtailing maritime crimes to improve security requires appropriate legal framework for establishing jurisdiction under which apprehension and prosecution of criminals takes place. This is in line with the concept of legal certainty of actions, which requires that the law of a state must ascribe crime and punishment for an act to be criminal under its jurisdiction.[82] The existence of a legal framework guides law enforcement and standard procedures for operation. UNCLOS requires state parties to develop the appropriate legal atmosphere for the suppression of maritime threats such as piracy, illegal trafficking of arms, drugs as well as the conservation of natural resources.[83] Several other international and regional instruments also place obligations on state parties to develop the appropriate legal atmosphere both at national and regional levels for other specific maritime threats. For instance, the *Convention for the Suppression of Unlawful Act Against the Safety of Maritime Navigation* requires parties to

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[81] Dele Joseph Ezeoba, ' Security in the Gulf of Guinea – Focus on Nigeria and Regional Maritime Defence Frame Work', (Gusau Institute conference on 'Security in the Gulf of Guinea,' Abuja, 1 September 2015).
[82] Cherif Bassiouni, 'Sources and Theory of International Criminal Law' in Cherif Bassiouni, *International Criminal Law: Crimes* (2nd edn, Transnational Publishers, 1999) 33.
[83] See UNCLOS 1982, art. 100, 108 and 118.

create and establish jurisdiction over criminal offences identified in the treaty, which are against the safety of navigation.[84]

Many states have failed to enact domestic legislation to establish institutional structures and processes necessary for ensuring effective maritime security. This is arguably the major obstacle to the effectiveness of the UNCLOS and other relevant maritime instruments, which require domestication and implementation at the national level. The absence of specific laws criminalising piracy in several states within the region is a vivid example of the existence of a poor legal framework. Countries such as Angola, Democratic Republic of Congo, Guinea Bissau and Ghana do not possess any specific anti-piracy legislation.[85] Accordingly, one observes a disconnect between the enthusiasm of the governments in the region to participate and be state parties to major international maritime treaties and initiatives on the one hand, and their ability and willingness to implement and enforce the obligations and standards embodied in those treaties and initiatives on the other hand. [86]

In yet some other instances, there is fundamental weakness in enforcement of laws for the protection of the maritime domain.[87] As Burger notes, the existence of (good) laws does not necessarily translate to proper enforcement.[88] In 2019, Nigeria enacted the Suppression of Piracy and other maritime Offences (SPOMO) Act, making it among the few states in the sub region to establish one.[89] Although it is still early years in the life of the SPOMO Act, there are arguably certain pitfalls associated with the legislation that creates doubt as to whether it would in the long run, achieve its purpose of combating piracy and related maritime offences. A major problem is the apparent lack of clarity in roles and responsibilities which the that with the SPOMO Act presents. The Act places the responsibility for gathering intelligence,

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[84] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (adopted 10 March 1988, entered into force 1 March 1992) 1678 UNTS 201 (SUA) art 6. See also Yaoundé Code, art 4 which states that signatories 'intend to develop and implement as necessary,(a) appropriate national maritime security policies;(b) national legislation, practices and procedures for security of ports and (c)national legislation for the effective protection of the marine environment.'

[85] Angola repealed Law 7/78, Law on Crimes Against State Security, which defined and criminalized piracy. Nigeria is yet to enact piracy legislation although there is a pending piracy bill at the National Assembly; Ghana is in the process of drafting an appropriate legislative framework.

[86] Aliyu Ahmed-Hameed, 'The Challenges of Implementing International Treaties in Third World Countries: The Case of Maritime and Environmental Treaties Implementation in Nigeria' [2016] (50) *Journal of Law, Policy and Globalization* 22, 26.

[87] Ukeje and Ella (n 19) 19.

[88] Christian Burger, 'Learning from Piracy: Future Challenges of Maritime Security Governance' [2016] (1) *Global Affairs.*

[89] Togo's anti-piracy legislation (Law No. 2016-004 on the fight against piracy, other illicit acts and the exercise by the state of its police powers at sea.) was enacted in March 2016.

patrolling waters and investigating offences on 'law enforcement and security agencies.'[90] However, the law is not specific on which law enforcement agencies are responsible for these functions. Such an oversight may hamper its enforcement and deepen inter-agency rivalry.

All the above scenarios presented create a dent in curtailing maritime security threats in the subregion as the lower the risk of getting caught and punished for maritime crimes, the higher the likelihood that such crimes will occur.[91]

e. Uncoordinated multifarious approach to Regional Maritime Security

The region presently operates a multi-regional security framework, which requires commitment from its member states in the curtailment and eradication of maritime security. Scholars argue that the existence of several sub regional security framework weakens the objectives of attaining a regional security framework.[92] This is because, the existing regional framework overlap in purpose but not necessarily in institutional structures relevant for achieving security.[93] The commitment of states to multi-regional frameworks creates saturation of resources and multiplication of institutions. Given that states in the region fall within the bracket of underdeveloped and developing economies, commitment to the creation and funding of several institutions as required under the various framework amounts to spreading both financial and human capacity too thin.[94]

The Yaoundé code creates a security framework for the region, which appears to unite the previously existing security regimes. Art. 19 of the Yaoundé code provides that it '*supersede any bilateral or multilateral or cooperative mechanism concluded by signatories to repress piracy and armed robbery against ships'*. However, the code does not fully address pre-existing initiatives in the sense that it focuses only on consolidating initiatives that focus on piracy and armed robbery at sea. Ali argues further that the code, is expressed in very general terms with little normative content.[95] Hence, the Yaoundé Code is potentially another 'add-on' to the already existing security framework.

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[90] SPOMO Act, section 17(3).
[91] Burger(n 88).
[92] Deen Ali (n 14).
[93] The ECCAS strategy sets up has a regional coordination centre for maritime security, divided into three zones (A, B and D) from Angola to the maritime border of Cameroun for the purpose of joint patrols and surveillance of maritime space. The MOWCA sets up a coastguard network which divides the geographical area covered by the sub-regional body into four zones for the purpose of information sharing also. At the time the coastguard network was proposed, the ECCAS maritime protocol was already in existence and there was no reference to the ECCAS protocol. See MOWCA art 12.
[94] Art 8 of the ECCAS envisages regional tax, a fraction of penalties collected by member states; contribution from national shipping organisations and international donor support as sources of funding of the joint patrol. Art 28 MOWCA Coastguard MoU envisages funding from member states and international donor support.
[95] Deen Ali, *(*n 7) 4.

f. <u>Varying Capacity Development Across States.</u>

The variance in capacity of the respective states in the Gulf of Guinea region has severely hampered the effective coordination of resources to improve security. The impact of this disparity is evident from the current state of the Yaounde Architecture system. Although the Memorandum of Understanding for the Yaoundé Code was signed since 2015 and it hinges on pre-existing security frameworks, the integrated maritime security strategy till date remains partly operational. Only the multinational maritime cooperation centre (MMCC) in Zone D (in Cameroun) has reached full operational capability. The pilot MMCC in Zone E (Benin) has an initial operational capability and the MMCC in Zone F (Ghana) has been established and equipped but is still only manned by Ghanaians. Consequently, interoperability and cooperation between the MMCCs is at its minimum, with no real time Maritime Situation Picture exchanged between the MMCCs.

5. Towards more effective collaboration for the curtailment of maritime insecurities in the Gulf of Guinea - The prospects of attaining maritime security in the region.

Maritime security is imperative for states both within and outside the region to harness potentials of the Gulf of Guinea. Despite the identified constraints to implementation of maritime security cooperation in the region, it would be wrong to conclude that the initiatives have been of no impact. The increase in naval interventions in the later part of 2013 has resulted in a decline in the number of successful piratical attacks and hijacking incidents from 64 in 2012 to 35 in 2015.[96] The reduction in figures is an indication that the prospect of a maritime crime free region is achievable aptly addressing identified challenges. Ali opines that the attainment of maritime security in the region must consist of three layers- national capacity improvement, effective regional framework and viable global support.[97]

The spread of maritime crimes, especially piracy and its associated economic losses, spurred the existence of national initiatives and awareness of cooperative security frameworks to tackle maritime threats collectively. Such expanded awareness is a requisite first step to solving threats in the maritime domain because it creates the room for states to approach threats in the maritime domain from a maritime-centric perspective.

Maritime scholars opine that it is crucial that countries in the region set aside disparities in order to collectively fight threats currently presenting enormous challenges to

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[96] Figures adapted from IMO Cir. 180 (Annual piracy report 2011); MSC Cir.193 (2012), MSC. Cir.208(2013), MSC Cir.219 and Mic. Cir. 232 (Annual report 2015).
[97] Deen Ali (n 7), 312.

both human and national security of their individual countries.[98] A major step in achieving total commitment is to tackle the problem of maritime disputes. This will ensure a strong positive political and economic relationships between previously disputing states. Yarwood suggests amicable settlement of disputes through joint management agreements as an alternative to seeking outright delineation as was done in the Guinea -Bissau/Senegal Agreement of October 1993 [99] and the Nigeria/Sao Tomé and Príncipe Joint Development Treaty signed in 2001.[100]

The security initiatives of the region reveal that reliance on extra-regional resources and affiliation for assistance to boost local development caters for funding constraints as well as provides human capacity and technical training that states require to improve security. Effectiveness of the international support requires an environment of mutual trust that all parties involved would fulfil their respective obligations. To this end, states within the region need to commit to the enactment of relevant regulatory framework and establish institutional structures to provide clarity in the maritime security engagements.

Since maritime insecurities are connected to problems occurring on land, there is a clear need for coastal states to address the various socio-economic issues, which bedevil their respective polities.[101] Regional maritime security should not be limited to tackling offshore transnational economic criminality while on-shore structural problems fester. Seen from the perspective of economic deprivation, there should be a close connection between security and development policies of the states.[102] Since instability in the states is a recognised factor contributing to the growth of maritime security threats, domestic stability in the individual states could translate to regional stability.

Multi-regional security initiatives saturating the efforts in tackling maritime threats as a constraint can easily be addressed. The region requires a comprehensive framework with an empirical and conceptual foundation rather than the existence of several regional maritime security frameworks. As they stand presently, the security frameworks do not identify nor address the 'on-shore' - 'off-shore' criminality nexus. Although the extant Yaoundé Code lacks specifics as to the implementation of cooperation in the region, it possesses prospects for

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[98] Freedom Onuoha (n7) 369; Kamal-Deen Ali (n 7) 4.

[99] The "Management and Co-operation Agreement" is aimed at providing among other things, the joint exploitation, management and administration of both petroleum and fishing activities. See Okafor-Yarwood (n 7), 289.

[100] Ibid.

[101] Burger(n88) The writer argues that factors such as corruption, economic dislocation and cultural acceptability emphasizes that development policies are crucial in addressing maritime insecurity.

[102] Ibid. Burger however notes that coordinating or even integrating security and development policies and actors is very complex.

strategic integration if viewed as an opportunity to provide the single framework that the region requires.[103] Therefore, it is in the interest of the region to ensure proper amplification and implementation of the measures contained in the Code. Ali however opines that other regional security frameworks can still contribute positively to security in the region *without occupying the driver seat* with respect to maritime crimes.[104] This suggestion does not derogate from the funding and institutional duplication constraints which such arrangements places on the states. As such, it remains in the interest of regional security to tackle this aspect of the regional security framework.

Capacity building plays a key role in the attainment of optimal performance and output. Shouldering the responsibilities of ensuring effective regional security through patrols and intelligence requires significant and continuous capacity building in the areas of institutional competence, development of logistics and manpower. States within the region should invest in adequate funding of their various naval forces. Inadequacy in military capability on the part of any member state in the region creates room for inefficient security within their immediate maritime space and that of the region, making the efforts of strong navies to a large extent, an exercise in futility. Hence, it is imperative that the navies across the region continue to engage in regular and joint military exercises to help boost operational development through an understanding of modern combat techniques.

6.   Conclusion

The strategic importance of the maritime domain to blue economy growth of the region and global development makes the subject of considering maritime security initiatives in the region imperative. An examination of the security collaborations reveal that certain constrains affects adversely their effective use in the eradication of maritime insecurities. Despite the constraints, there are prospects of achieving security in the maritime domain, which hinges on effectively addressing the identified challenges. What is essentially required is reforms at national and regional levels which acknowledge the constraints and works towards overcoming them in order to attain maritime security within the Gulf of Guinea.

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[103] Deen Ali (n 7) 244.
[104] Ibid. He suggests that the GGC should focus on exercising its treaty obligation of promoting effective offshore exploration and exploitation to the benefit of maritime security.