

Maritime safety and security in the Gulf of Guinea

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The Gulf of Guinea is rich in both living and non-living marine natural resources. Living resources directly support the livelihood of many coastal communities as an important source of income and protein, while oil and gas reserves are fundamental to support the growth of emerging economies. Despite access to and control of these resources being strategic for States in the Gulf of Guinea to ensure energy and food security, most States have managed to delimitate substantial part of their respective maritime boundaries, either through delimitation treaties or compulsory settlement mechanisms. Some States in the region have also implemented provisional arrangements of a practical nature, such as joint development agreements, dealing with both living and non-living marine natural resources, without prejudice of the delimitation of maritime boundaries or States' claims. Disputes concerning prompt release cases and the applicability of provisional measures involving States outside the region have also been settled through compulsory settlement mechanisms. Also worth noting is the fact that States that presented submissions for the extension of their continental shelf in the Gulf of Guinea were not met with substantial objections by neighbouring States. As a result, despite of the complex geographical characteristics of the Gulf of Guinea, the greater part of the maritime areas where coastal States exercise rights of sovereignty and jurisdiction and respective obligations are defined. Such rights and obligations include those applicable to the development of living and non-living marine natural resources; the use, operation, removal and decommissioning of offshore installations and structures; the protection and preservation of the marine environment; and maritime security. The region is also fruitful in adopting regional cooperative structures dealing with safety and security, even though substantial fragmentation at the global, regional, sub-regional and bilateral levels have not always resulted in efficiency. These organizations include the Economic Community of West African States, the Economic Community of Central African States, the Gulf of Guinea Commission, and the Maritime Organization of West and Central Africa.

The said living and non-living marine natural resources of the Gulf of Guinea are also highly coveted by States outside of the region, particularly as global fish stocks are dwindling and the world's demand for fossil fuels continues to grow. This has often led to illegal, unreported and unregulated fishing, as well as illegal oil bunkering and theft of crude oil. In addition to security concerns, such activities have had a damaging effect on the valuable marine ecosystems of the Gulf of Guinea. Pollution from land-based sources is also reaching alarming levels, due to growing industrialization and urbanization as parts of the population leave rural areas to concentrate in cities, mostly close to the coastline. In the case of pollution caused by seabed activities and

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seeing that oil and gas companies operating in the Gulf of Guinea are often vehicles of parent-companies based in other countries, a possible way of rendering liability regimes more effective and ensuring compliance could be to adopt national laws allowing a case to be brought against parent-companies for acts of pollution caused by those vehicles.

Polluting activities in this region are taking place mostly in the maritime areas closer to the coast, without States fully implementing international rules and regulations applicable to seabed activities and the use, operation, removal and decommissioning of offshore installations and structures. These include, for example, those included in the United Nations Convention on the Law of the Sea, legal instruments of the International Maritime Organization or regional instruments such as the 1981 Abidjan Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region. Furthermore, there is a significant lack of control by port States. For example, coastal States of the Gulf of Guinea have not complied with the minimum 15% inspection level of ships that call at port established in the 1999 Memorandum of Understanding on Port State Control for West and Central African Region. In 2013, only few countries had fulfilled this objective, even though the overall total 7.3% inspection level was better than the 5.3% one registered in 2012. In addition, there is deficient reporting by national authorities of substandard ships and sharing of information. Therefore, the data made available does not necessarily reflect the full dimension of pollution from shipping in the Gulf of Guinea. Nonetheless, States remain responsible for their obligations to protect and preserve the marine environment as port, coastal and flag States. A manner of increasing the level of control could be achieved, for example, by entering into boarding agreements, even though this seems unlikely considering recent documents such as the Declaration of the Heads of State and Government of Central and West African States on Maritime Safety and Security in their Common Maritime Domain, or Africa's Integrated Maritime Strategy 2050, which make no reference to this possibility. Cooperation could also be enhanced in detaining and banning substandard ships.

Maritime transport is essential for the economies of West and Central Africa as the overwhelming majority of their exports and imports, including of oil and gas by large oil tankers, are carried out by sea. The fact that States in the Gulf of Guinea are not able to efficiently ensure maritime security has resulted in an increase of criminal activity, such as: piracy, armed robbery, threats to offshore oil and gas production; arms, drug and human trafficking. Similar to pollution, this phenomenon transcends national boundaries and has global implications. It cannot be efficiently addressed solely by national authorities of the States of the Gulf of Guinea, seeing that these do not have the means to deal with the root causes of such criminal activities or to successfully repress them. Indeed, despite regional efforts, many initiatives dealing with maritime security measures in West and Central Africa have achieved limited results. These include, for example, the 2013 Code of Conduct Concerning the Repression of Piracy, Armed Robbery against Ships, and Illicit Maritime Activity in West and Central Africa, or the African Union's Integrated Maritime Strategy 2050. Moreover, it does not seem likely that international community as a whole would

reach an agreement on the extension of universal jurisdiction to other criminal activities. As a result, States must seek efficient means of cooperation to ensure that the existing international legal regimes applicable to maritime safety and security are applicable in the Gulf of Guinea. Indeed, despite the success achieved by the use of private military security companies and armed personnel on board ships in recent years, it does not *outsource* States' responsibility for ensuring maritime security. The aforementioned cooperative efforts must not neglect combating criminality from land-to-sea, since these are essentially land-based activities. For example, in the case of piracy, States should prosecute pirates and those that aid them, render their infrastructure ineffective or making money transfers impossible. Only through international cooperation and the adoption of a comprehensive approach will it be possible to safeguard maritime safety and security in the Gulf of Guinea.

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