

Enhancing International cooperation and the dynamics of maritime security

Save Our Seafarers

**stop piracy
now!**

**Stop disruption
to world
shipping**

**Oppose kidnap &
torture of
innocent seafarers**

By

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introduction

- **21st century**, the sea the **world's second living domain**. Ocean provides **people with food**, minerals and other resources
- **Increasing globalization** highlights the **importance** of the **sea for mankind's** survival and development. **80% of world trade** transported by international shipping.
- Problem of **maritime security** has existed for **hundreds of years**. For long time **no legal ways** to deal with these problems
- there is now a need for all states to play a role in maritime security and **No single nation** can address this task alone

Definition of Maritime Security

- ▶ Maritime security: Yet, **no international consensus** over the definition of maritime security has emerged. **Buzzwords** allow for the international coordination of actions, in the absence of consensus
- ▶ *“Experience demonstrates that **multilateral cooperation arrangements**, between and among states, regions and institutions can provide means to **reduce risk** of unprovoked attacks on innocent ships, including through **coordinated patrol** in high risks areas; **information sharing** and **training**; **intelligence exchange**; and **hot pursuit**, following attack. Lets maintain and increase our efforts to do so.” **Mr. Efthimos E. Mitropoulos, IMO Secretary General, 2010**”*

International and regional Rules & Conventions on maritime security

- 1979 Convention against the Taking of Hostages (“**Hostages Convention**”)
- 1988 Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (“**SUA Convention**”),
- 2000 United Nations Convention against Transnational Organized Crime (“**UNTOC**”),

These **three conventions** will be referred to as “the Conventions”) should be used *in conjunction* with **UNCLOS to establish an effective legal framework** for the apprehension, prosecution and punishment of perpetrators of acts of kidnap of crew and ship-hijacking.

- **1982** United Nations Convention on the Law of the Sea (“**UNCLOS**”) is *prima facie* the applicable legal framework governing kidnapping of crew and hijacking of ships on the basis that these acts can, in certain circumstances, fall under the UNCLOS definition of piracy;

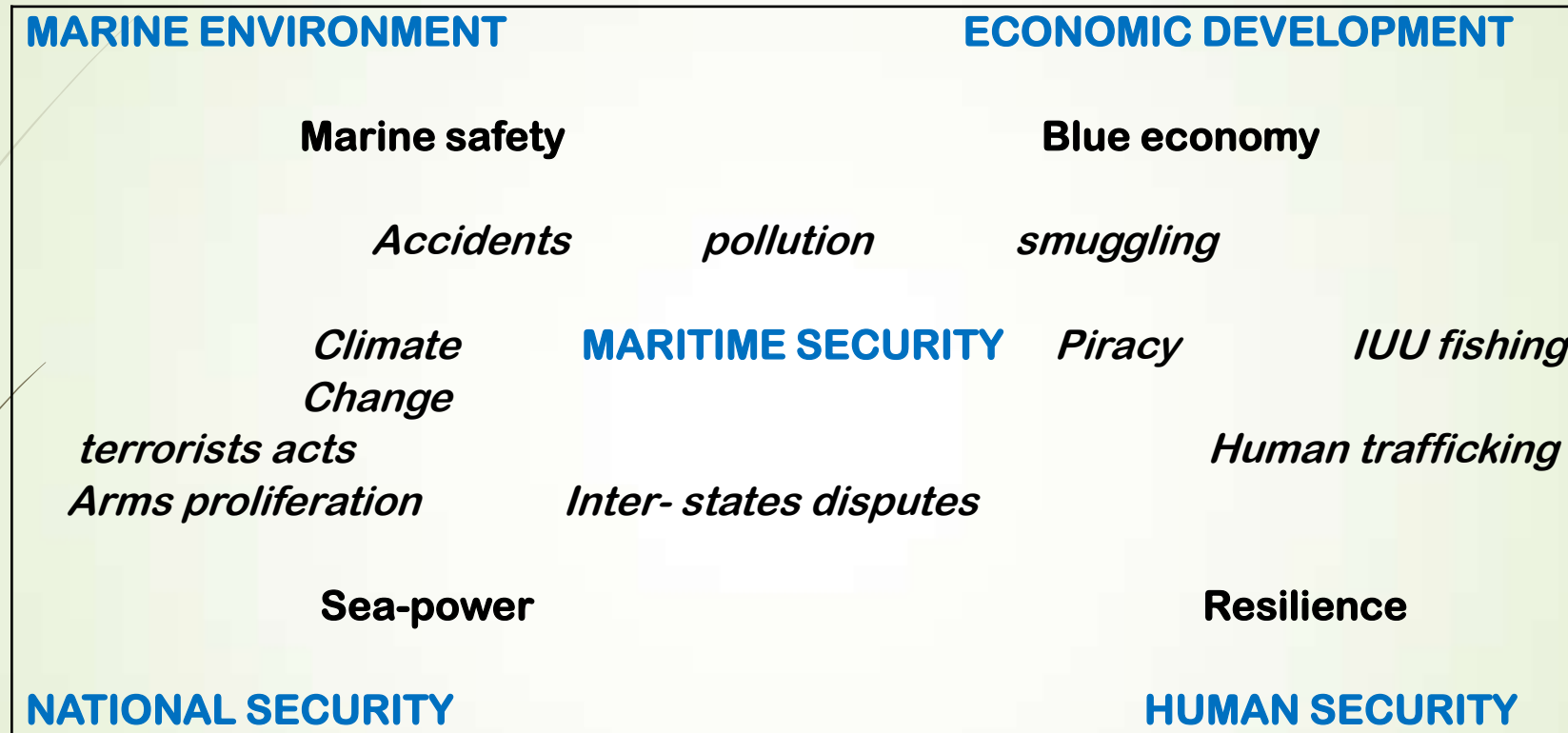
International and regional Rules & Conventions on maritime security

- International and national organizations tried to improve **MS** through various **rules and conventions**, such as **Safety of Life at Sea (SOLAS)** and convention for the **suppression of unlawful acts (SUA)** against the safety of maritime navigation
- Legitimacy of intern of external interventions is founded in the notion that such interventions are in the interest of the **Global community**
- 2004 **U.S.** pioneered this development when launching a national Maritime Security Policy.
- 2011 **NATO** included maritime security as one of its objectives in its Alliance Maritime Strategy

International and regional Rules & Conventions on maritime security

- 2011 & 2012 UNSC **Resolutions 2018 2039**, calling for the development and implementation of **regional, sub-regional & national** maritime safety and security strategies;
- 2014 **UK, EU and AU** have launched ambitious maritime security strategies.
- **IMO:**
 - Maritime Safety Committee (**MSC**) of the IMO included maritime security in their list of tasks
 - The **Code of Conduct** for the **Suppression** of Piracy, Armed Robbery of Ships and illegal maritime activities in West and Central Africa;

Maritime security matrix



The matrix provides moreover a basis for **scrutinizing** what actors include and exclude in their concept of maritime security

International community and maritime security

- ▶ Under **Chapter VII** of the United Nations Charter, the Council renewed its call upon **States and regional organizations** that had the **capacity to fight ongoing sea crimes** by deploying naval vessels, arms and military aircraft and through seizures of boats, vessels and weapons used in the commission of those crimes
- ▶ Other maritime strategies including those of the US, NATO, the EU, the AU or the UK equally emphasize the importance of **multilateralism and joint coordinated responses**.
- ▶ Maritime security threats are **transnational and perpetrators operate across boundaries**,

UNCLOS

- UNCLOS sets out the **basic legal framework governing acts of piracy**
- **Article 100**, provides that: *“all States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.”*
- Under Article 101 of UNCLOS, piracy consists of any of the following acts
 - 1. *Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft and directed:*
 - a) *On the **high seas**, against another ship or aircraft, or against persons or property on board such ship or aircraft;*
 - b) ***Against a ship**, aircraft, persons or property in a place outside the jurisdiction of any state.*
 - 2. *Any act of voluntary participation in the **operation of a ship** or of an aircraft with knowledge of facts making it a pirate ship or aircraft;*
 - 3. *Any act of **incitement or of intentional facilitation** of an act described in Subparagraph 1 or Subparagraph 2 of this article.*

► Rights and obligations of States with respect to the suppression of piracy under UNCLOS

-Under **Article 105**, a warship of any flag or other ship on government service has the power to seize, on the high seas, a pirate ship or a ship under the control of pirates and arrest the persons and seize the property on board

-Under **article 110**, a warship is entitled to board a foreign ship on the high seas if there are reasonable grounds for suspecting, *inter alia*, that the ship is engaged in piracy.

► Armed Robbery Against Ships

UNCLOS **only applies to acts** of piracy that have taken place on the **high seas and in the EEZs** of States. Piracy under UNCLOS can only take place seawards from territorial waters. Attacks against ships in areas under territorial sovereignty such as ports, inland waters, archipelagic waters and territorial seas, are not considered acts of piracy governed by the UNCLOS regime but are defined by the **IMO as “armed robbery against ships”**:

“any illegal act of violence or detention, or any act of depredation, or threat thereof, other than an act of “piracy” committed for private ends and directed against a ship, or against persons or property onboard such ship, within a State’s internal waters, archipelagic waters and territorial sea

UNCLOS does provide coastal States with the **right to pursue foreign vessels outside of territorial waters** if the competent authorities have good reason to believe that the ship has violated the laws and regulations of that State

➤ Problems with UNCLOS

➤ 1. Limitations in enforcement jurisdiction

- UNCLOS has been described as “a very weak tool for preventing and suppressing attacks on ships” because the majority of attacks occur in areas under territorial sovereignty and the UNCLOS provisions on the enforcement powers of States against piracy cannot be used, such as, the right to arrest pirates as provided for in Article 105, and the right to visit vessels under Article 110. These rights only apply to acts of piracy on the high seas or the EEZ. The only State that can exercise these rights is the coastal State in which these attacks occur.
- A further limitation in UNCLOS in the suppression of piracy is the fact that the right of hot pursuit under Article 111 has to end when the offending vessel enters another state’s territorial waters.
- Notwithstanding the above limitations posed by UNCLOS, there has been a degree of regional co-operation in suppression of piracy

➤ 2. No obligation to prosecute or extradite under UNCLOS provisions on piracy

- Article 105 of UNCLOS does not place any obligation upon a seizing State to prosecute a suspected pirate and merely provides that the courts of the seizing State *may* decide upon the penalties to be imposed. Neither is there an obligation to extradite to another State which has

➤ 3. Problems in investigation and evidence collection for acts of piracy and armed robbery against ships

➤ 4. Inadequacy of national legislation

➤ 5. UNCLOS piracy provisions do not address the organization of acts of piracy on shore

Other UN Conventions and IMO

- ▶ **The SUA convention** The SUA Convention is generally recognized as **supplementing UNCLOS provisions on piracy**. The SUA Convention is considered an “**international crime**” convention in that it is part of a group of international conventions adopted to address transnational crimes.

- ▶ **The Hostages Convention**

- ▶ **UNTOC** The purpose of UNTOC is to combat “international or transnational crime”. Although like the Hostages Convention, UNTOC was not drafted with maritime offences in mind, its provisions can still be used to combat kidnap of crew or ship-hijacking

- ▶ **IMO** The IMO Directorate has a mandate which fits closely with enhancing international maritime security it is a logical candidate for consideration as a facilitator for aligning processes and coordinating standards that enables regions to build on existing international cooperatives frameworks to achieve global MSCA leading to improved maritime security
- ▶ IMO assisted ECOWAS, ECCAS and Gulf of Guinea Commission to develop the **Code of Conduct concerning the repression of piracy, armed robbery against ships, and illicit maritime activity in West and Central Africa**,
 - ▶ sharing and reporting relevant information;
 - ▶ interdicting ships and/or aircraft suspected of engaging in such illegal activities at sea;
 - ▶ ensuring that persons committing or attempting to commit illegal activities at sea are apprehended and prosecuted; and
 - ▶ facilitating proper care, treatment, and repatriation for seafarers, fishermen, other shipboard personnel and passengers subject to illegal activities at sea, particularly those who have been subjected to violence

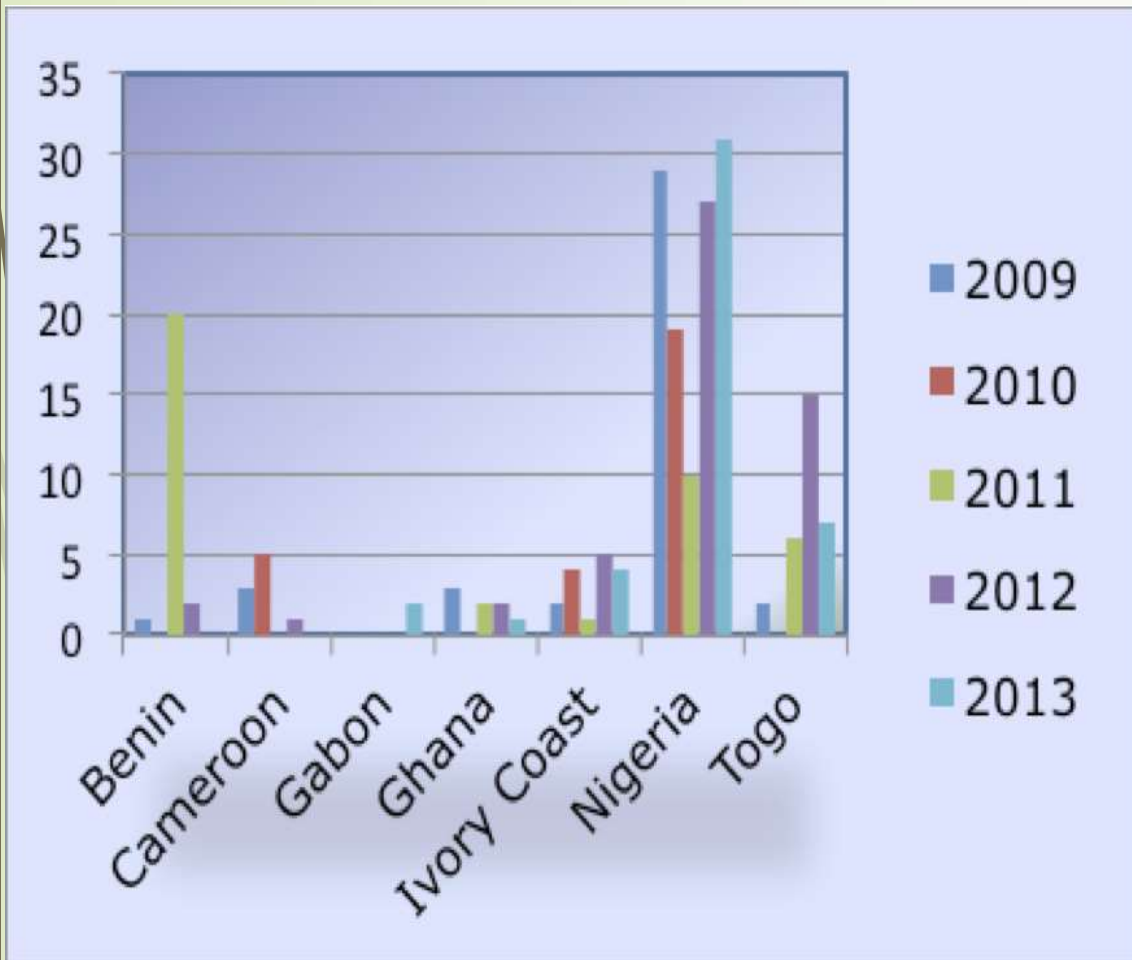
UNODC in West Africa

- UNODC started its work in West Africa with a **workshop for law enforcement and legal officials** from the Gulf of Guinea region, to **map the maritime risk** situation and identify areas for regional coordination and capacity building support
- UNODC also acts as a liaison between States and international organizations and **facilitates regional networks of cooperation** against organized crime around the world (Networks fighting criminal Networks).
- Specifically, UNODC is **supporting the establishment and implementation of regional network of Central Authorities and of Prosecutors**, such as the West African Network of Central Authorities and Prosecutors ([WACAP](#)) and the Network of Prosecutors against Organized Crime ([REFCO](#)).

UNODC in West Africa

- ▶ UNODC develops and delivers training to promote cooperation in the implementation of the **UNTOC** and its **supplementary Protocols** and actively contributes to conferences, meetings and specialized workshops at regional and international levels.
- ▶ UNODC continuously develops **new tools** to facilitate **international cooperation**, including manuals, an online directory of competent national authorities, a mutual legal assistance request writer tool, a **legal** database and best practices case law
- ▶ Following United Nations Security Council **Resolutions 2018 (2011)** and **2039 (2012)** the Maritime Crime Programme developed its "Strategy in Relation to Piracy, Armed Robbery Against Vessels, and Maritime Crime in the Gulf of Guinea Region

UNODC Maritime Crime Programme - West Africa



While piracy off the **Horn of African** has been **steadily declining** over the last two years, there has simultaneously been a **significant rise** in piracy, armed robbery against vessels, and other maritime crimes in the **Gulf of Guinea region**.

Maritime Piracy has generated **renewed attention** in the Gulf of Guinea, with **22 pirate attacks** occurring off the coast of Benin in 2011. In **2012, Togo** became the **new hotspot** for attacks on petroleum tankers. These vessels are attacked because there is a **booming black market for fuel in West Africa**

Other organizations and Initiatives

- ▶ The **INTERPOL Working Group** has four strategic goals:
 - Enhance and develop the **capacity, capability** and **cooperation** of member countries to effectively enforce fisheries and crossover crimes;
 - Encourage and assist the **exchange of information** and **intelligence** related to fisheries crime among member countries;
 - Provide **analytical and operational support** to member countries in the enforcement of fisheries law and regulations;
 - Encourage and facilitate **networking, channels of communication** and **exchange of technical expertise** between member countries for the purpose of **fisheries law enforcement**



INTERPOL, the UN Dpt Political Affairs and the Dept of Peacekeeping Operations, UNODC established the West Africa Coast Initiative (**WACI**), which strives to create **Transnational Crime Units (TCU)** to **enhance national and international coordination**, as well as to enable intelligence-based investigations to combat the growing problem of illicit drug trafficking, organized crime, and drug abuse in West Africa (Guinea Bissau, Liberia, Sierra Leone and Côte d'Ivoire).

- ▶ **African Development Bank** : The AfDB annual meeting held in May 2014 highlighted the importance of increased commitment to protecting West African coastal waters from **illegal fishing**.
- ▶ **European Commission** : has created its own system to prevent, deter and eliminate illegal, unreported and unregulated fishing (Regulation 1010/2010 **IUU certificate**)

Organizations and Initiatives

IMO helped to develop the MoU on the Establishment of a Sub-regional Integrated Coast Guard Network in West and Central Africa, also referred to as the IMO/MOWCA MoU, which was adopted in Senegal in July 2008. **Tast Guard Function Network (the IMO/MOWCA MoU) – July 2008**

- **Inter-regional Coordination Centre (ICC):** IMO assisted ECCAS, ECOWAS and GGC in establishing the ICC, in accordance with the mandate established approved along with the adoption. On 5 June 2014, the three regional orga**2013 Code of Conduct**nizations signed the Additional Protocol to officially established, which is based in Yaoundé, Cameroon

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- ▶ **Maritime Trade Information Sharing Centre Gulf of Guinea (MTISC GOG):** Established by the [Oil Companies International Marine Forum \(OCIMF\)](#) as a pilot project, the MTISC-GoG came into operation in October 2014. The MTISC-GOG was located in the [Regional Maritime University](#) in Ghana and aimed to establish an affordable and sustainable regional maritime information sharing centre within the Gulf of Guinea which was fully supported by regional states and all relevant stakeholders
 - ▶ **Marine Domain Awareness for Trade - Gulf of Guinea (MDAT-GoG):** The French and UK authorities, taking into account their respective experience and the role of the former MTISC-GoG in the region, launched a new contribution to the maritime information network in the Gulf of Guinea by means of a virtual reporting centre.

technological solutions to enhance maritime crimes

- ▶ Maritime crime costs the West African region over \$2 billion annually and with the expansion of the Tema port set to make Ghana a maritime trade gateway to the West African sub-region, effective maritime security is now of paramount importance.
- ▶ to combat these threats, a combination of procedural and technological solutions is required and some of the most effective include:
 - ▶ **Armed guards** – Once considered almost as much of a threat to shipping as the pirates themselves, armed guards on larger merchant ships are now a common sight in West African waters
 - ▶ **UNCOSS: Underwater Coastal Sea Surveyor** – Costing \$5.1 billion and pioneered in Europe, the UNCOSS system is designed to detect explosive devices on the sea bed and in ports using a neutron sensor
 - ▶ **Ship Security Reporting System** – The SSRS improves maritime security by connecting maritime traffic to a dedicated anti-piracy response system based around a coalition of states working together
 - ▶ **Fast response boats** – Once the necessary intelligence has been gathered, potentially by the use of a SSRS style system, it is vital to be able to muster a rapid response to any maritime criminal act

technological solutions to enhance maritime crimes

- ▶ **Oil Bunkering** – 80% of oil companies claimed West Africa posed the biggest threat to business out of all African regions due to prevalence of so called “oil bunkering” or illegal oil refining.
- ▶ Countries along the gulf in West Africa are estimated to lose up to \$1 billion dollars per year because of this illegal refining.
- ▶ **Joint Security Task Forces** – Comprising of the Navy, the Nigerian Security and Civil Defense Corp, the Nigeria Maritime Administration and Safety Agency and other security operatives.
- ▶ **Drone Surveillance**
- ▶ **Long Range Patrol Vehicles** – Designed to operate for long periods in remote and difficult conditions, long range patrol vehicles present a viable answer to the problems of locating and then destroying well camouflaged illegal refineries.



**THANK YOU FOR YOUR
ATTENTION**