



Piracy in The Gulf of Guinea: Is the Trend Changing?

BACKGROUND

The Gulf of Guinea is the part of the eastern tropical Atlantic Ocean which spans through the West African coast: - from Cape Lopez in Gabon to Cape Palmas in Liberia. Its longitudinal frontiers extend, in no particular order, through about 17 countries such as, Gabon, Nigeria, Republic of Benin, Togo, Ghana, Republic of Congo, Democratic Republic of Congo, Liberia, Angola, Cameroun, Equatorial Guinea, Ivory Coast, Sao Tome & Principe. It covers a coastline of about 2.3 Million Square Kilometers and 5,700 Kilometers with vast economic wealth such as hydrocarbon, mineral and fisheries resources representing about 25% of African shipping traffic and about 20 commercial seaports thus making the area an attractive international maritime zone. Unfortunately, the Gulf of Guinea, has over the years, been the bane of piracy attacks and other related offences against FPSOs and sea-going vessels and crew members plying this coast.

There have been National, Regional and International efforts and collaborations to stem the tide of piracy attacks and other offences committed in the Gulf of Guinea. Nigeria, being the biggest economy in Africa accounts for most of the vast resources and shipping traffic in the area and most of the attacks are traceable to its territorial waters. Realizing the strategic importance of changing the narrative in the Gulf of Guinea, Nigeria has, in recent times demonstrated the Will and Might in curbing this age-long menace by the domestication and/or putting into effect the provisions of both the United Nations Convention on the Law of the Sea (UNCLOS), 1982 and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) 1988 and its' Protocols resulting in the enactment of the **Suppression of Piracy & Other Maritime Offences Act, 2019** (hereinafter the Piracy Act) as well as the launching of the Deep Sea Project amongst others.

Highlights of the Piracy Act

The Piracy Act saddles the Nigerian Maritime Administration & Safety Agency (NIMASA) with the responsibility of coordinating its smooth administration and application. One of the most striking attributes of the Piracy Act is the element of coordination, cooperation and dissemination of information expected amongst member States and Signatories to SUA Convention¹. The application of the Piracy Act extends to persons on board a vessel or aircraft or fixed/floating platform on or above the territorial and internal waters of Nigeria as well as International waters in relation to piracy². Where the case is in relation to other

¹ Section 17(4)(d)&(f) of the Piracy Act

² Section 3 defines Piracy to consist of: (a) illegal acts of violence, detention or depredation committed for private ends by a crew or any passenger of a private ship or aircraft and directed, in international waters, against another ship or aircraft or against a person, property on board the ship or aircraft, or against a ship, aircraft, person or property in a place outside the jurisdiction of any State; (b) acts of voluntary participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or aircraft; and (c)

offences under the Act, it would apply where the offender/alleged offender is found outside Nigeria but within the territory of a State Party to SUA Convention or any other Convention to which Nigeria is a State Party and the offence has been committed on board a vessel flying the flag of a State Party to SUA Convention.

The Attorney-General of the Federation (AGF) or a Law Officer from his office or NIMASA³ with the consent of the AGF can prosecute offenders at the Federal High Court⁴ under the Act. It is also interesting to note that proceedings may be commenced against a person where the alleged offence has a Nigerian element⁵ or an UNCLOS or SUA⁶ Convention element or involves several elements part of which relate to Nigeria.

The Piracy Act grants the Nigerian Navy,⁷ whilst using its designated ship or aircraft, the powers to seize, anywhere in Nigeria, in, on or above international waters or beyond the jurisdiction of any country, any vessel or aircraft reasonably believed to be a pirate-controlled vessel or aircraft or other vessel or anything associated with an offence under the Act as well as effect the arrest of persons or pirates onboard the vessels/aircrafts. Sections 10 and 12 of the Piracy Act criminalize acts of piracy or other unlawful acts as defined in Section 3 of the Piracy Act, and set the appropriate punishment respectively upon conviction.

act of inciting or intentionally facilitating an act described in subparagraph (a) or (b).

³ Nigerian Maritime Administration and Safety Agency (NIMASA).

⁴ The Federal High Court has exclusive jurisdiction in this regard.

⁵ i.e Where the ship concerned is a Nigerian ship, or offence was committed against a citizen of Nigeria, or the offender is a Nigerian.

⁶ i.e Where the alleged offence was committed, or the alleged offender is a national or resides, or the person against whom it was committed or the ship flies the flag etc: of a State Party to the SUA Convention.

⁷ Addressed as the relevant authority in Section 7(1) of the Act.

Notwithstanding the enactment of the Piracy Act in 2019 and other regional and international interventions, recent report by International Maritime Bureau⁸ shows that there have been increased piracy attacks and other related offences committed in the maritime domain with about 95% of all piracy and armed robbery attacks in the world in 2020 being recorded in the Gulf of Guinea alone. The Report shows that piracy and armed robbery against ships rose from 162 in 2019 to 195 in 2020 in the whole world with the 3 incidents of vessel hijackings and nine out of the 11 vessels fired upon taking place in the Gulf of Guinea. Another Report of the International Maritime Bureau⁹ shows that on March 11, 2021, pirates attacked and boarded a Maltese-flagged Chemical tanker off the coast of Benin and kidnapped 15 crew members. The Report also shows in specific terms that 2020 recorded the kidnap of 130 crew members in 22 separate incidents as against 121 crew members kidnapped in 2019 from 17 recorded incidents.

Given the negative effects piracy and other maritime offences such as kidnapping of the crew have on the economy resulting in high insurance premium, freight, negative business rankings, amongst others, maritime stakeholders vehemently deplored the deteriorating state of security in the Gulf of Guinea and charged the government to do more by increasing security patrol by equipping the Navy and other security

⁸ "Gulf of Guinea Records Highest Ever Number of Crew Kidnapped in 2020, According to IMB's Annual Piracy Report" issued on January 13, 2021 and available on <https://www.icc-ccs.org/index.php/1301-gulf-of-guinea-records-highest-ever-number-of-crew-kidnapped-in-2020-according-to-imb-s-annual-piracy-report> accessed on Wednesday July 28, 2021 at 10.20 am. Also Reported by Guardian Nigeria as "Fresh fears of piracy on Nigerian waters in 2021" | The Guardian Nigeria News - Nigeria and World News — Business — The Guardian Nigeria News – Nigeria and World News, "Approximately, 95 per cent of the global kidnappings during that period occurred in the Gulf of Guinea, involving 80 crewmembers being kidnapped in 14 attacks off Nigeria, Benin, Gabon, Equatorial Guinea and Ghana" accessed on Wednesday July 28, 2021 at 10.51am.

⁹ Latest Gulf of Guinea Piracy Attack Alarming, Warns IMB available on <https://www.icc-ccs.org/index.php/1305-latest-gulf-of-guinea-piracy-attack-alarming-warns-imb> accessed on Wednesday July 28, 2021 @ 11.23am.

personnel with the state of art military hardware to secure the waters.

Measures to Address the Increase in Piracy Activities in the Gulf of Guinea

i) The Launch of the Deep Blue Project

In response to calls by the maritime stakeholders and global yearnings for enhanced efforts and commitments to combat the menace of piracy incidents and guarantee safety of seafarers and property in the Gulf of Guinea maritime zone, the Federal Government of Nigeria on June 10, 2021 launched the Integrated National Security and Waterways Protection Infrastructure generally known as the Deep Blue Project.

NIMASA is charged with the coordination of the Project with its objectives to be realized through a dedicated unit: the Maritime Security Unit comprising of personnel and officers from the Nigerian Navy, Air Force, Army, Police, the Department of State Services and NIMASA. The Project, which is meant to secure Nigeria and the Gulf of Guinea's maritime environment from land, sea and air includes the establishment of a Command, Control, Communication, Computer and Intelligence (codenamed C4i) Centre based in Lagos for intelligence and data gathering and information sharing.

It is worthy of note that the Government of Nigeria has acquired various security equipments as well as engaged in the training of security personnel aimed at curtailing acts of piracy such as coastal surveillance vehicles, patrol ships, patrol aircrafts, armored vehicles, unmanned aircrafts etc. *Bloomberg*¹⁰ reported that the

¹⁰ *Nigeria Fights Gulf of Guinea Sea Piracy Deploying Drones, Choppers - Bloomberg*, accessed on Wednesday July 28, 2021 @ 12.31pm

Nigerian government through the **Blue Sea Project**, recently unveiled boats, vehicles and aircrafts worth \$195m to spearhead anti-piracy attacks in the Gulf of Guinea which includes “two special-mission vessels, two aircraft, three helicopters, four drones, 16 armored vehicles and 17 interceptor boats.”

ii) Regional & International Collaboration

It will be recalled that as part of efforts to secure the Gulf of Guinea, the constituent coastal States met at the Yaounde Summit in 2013 and set up a maritime security framework known as the Yaounde Process with three regional coordination centers in Abidjan, Point-Noire and Yaounde to create awareness on the maritime security challenges in the region through data collection and information sharing arrangement.

The regional efforts have attracted international support from European Union members, the United States of America and China by way of supply of military hardware, training, finance, naval support and patrol. For instance France has over the years maintained a permanent presence at sea through its ‘Operation Corymbe’ and also annually carry out several Naval exercises such as Grand African Navy’s Exercise for Maritime Operators (NEMO).¹¹ The 2020 NEMO exercise held on October 7, 2020 with the participation of 16 countries including the US, Italy, France, Brazil and the Gulf of Guinea countries¹² and witnessed the deployment of 30 ships and aircrafts. The United States of America also has its Africa Command

¹¹ Pierre Morcos “Transatlantic approach to Address Growing Maritime Insecurity in the Gulf of Guinea” February 1, 2021 published by the Center for Strategic and International Studies and available on <https://www.csis.org/analysis/transatlantic-approach-address-growing-maritime-insecurity-gulf-guinea> accessed on Wednesday July 28, 2021 at 9.40am

¹² Nigeria, U.S., 14 nations begin joint military operation in Gulf of Guinea | Pulse Nigeria, accessed on Wednesday July 28, 2021 at 5.24pm

(AFRICA) presence in the region which annually organizes ‘Obangame Express’ exercise and also deploys war ships in the region.¹³

iii) Judicial Enforcement of the Piracy Act

Also worthy of mention is the fact that the Government has since commenced prosecution of suspected pirates under and pursuant to the Piracy Act. In June 2020 the office of the AGF following the successful arrest by the Nigerian Navy in collaboration with NIMASA, commenced the first action under the Piracy Act, 2019 at the Federal High Court Lagos Division. The AGF filed a four count charge in Charge No. FHC/L/170C/2020 – Federal Republic of Nigeria v Frank Insort Abaka & 9 Ors who were allegedly involved in acts of piracy against a Chinese merchant vessel, **FV HAILUFENG II** which at the time, precisely on the 15th day of May 2020, was at the coast of Cote D’Ivoire within the Gulf of Guinea. His Lordship, Hon. Justice Ayokunle Faji of the Federal High Court, who presided over the matter, delivered the judgment of the Court on 23rd July 2021 convicting the said pirates and accordingly sentenced them to 12yrs imprisonment each coupled with a cumulative fine of N1m each. The Hon. Justice stressed that piracy has not only been an embarrassment to the nation but has also negatively impacted its economy hence he advocated for proportionate punishment to serve as deterrence to others. Whilst the conviction and sentence by the Federal High Court, being a court of first instance, may be subject to further scrutiny by the appellate court(s) as the convicted persons may wish to exercise their constitutional rights of appeal, this, has

¹³ Pierre Morcos “Transatlantic approach to Address Growing Maritime Insecurity in the Gulf of Guinea” February 1, 2021 published by the Center for Strategic and International Studies and available on <https://www.csis.org/analysis/transatlantic-approach-address-growing-maritime-insecurity-gulf-guinea> accessed on Wednesday July 28, 2021 at 9.40am

been applauded within the maritime industry as a step in the right direction.

Current Piracy Report

The current Report of the International Maritime Bureau for Q2 shows that the concerted efforts deployed by Nigeria and the collaborated efforts of the regional international supporters have started to yield positive result. The Report shows that 68 incidents of piracy attacks took place across the world in the first 6 Months of 2021 (the lowest since 1994) as against 98 recorded in the same period in 2019. The Report while expressing optimism on the declining attacks, highlighted the danger still faced by crew members in the Gulf of Guinea as the entire global kidnap of 50 crew members, the lowest since Q2 of 2019, took place in the region and the region represented 32% of piracy incidents in the world.¹⁴



¹⁴ “Piracy and Armed Robbery Incidents at Lowest Level in 27 Years, But Risks Remain to Seafarers, IMB Cautions,” available on <https://www.icc-ccs.org/index.php/1309-Piracy-and-armed-robbery-incidents-at-lowest-level-in-27-years-but-risks-remain-to-seafarers-imb-cautions> and accessed on Wednesday July 28, 2021 at 9.40am.

Conclusion

The Nigerian government especially its Ministries, Departments and Agencies such as NIMASA, the Navy and the AGF should sustain and keep up the good work aimed at maintaining the current trend in suppressing and/or eradicating acts of piracy and other related offences in the Gulf of Guinea in order to ensure safety of lives and properties, remove high freight and insurance premium, and restore economic integration and sanity within the maritime environment especially with the creation of African Continental Free Trade Area (AfCFTA). The Court has shown the will and the determination to expeditiously conduct criminal trials of pirates within a record time and strictly enforce the provisions of the Piracy Act.

It is expected that relevant security and maritime agencies of other countries within the Gulf of Guinea will continue to ensure adequate coordination with their Nigeria counterparts and international collaborators in bringing this scourge to a halt. A situation where the appropriate agencies of all the countries within the Gulf share useful security/privileged information and expeditiously carryout joint operations from time to time would not only curb the menace, but also be *in tandem* with requirements of the law and international conventions in effecting arrest and prosecution of persons suspected of carrying out these nefarious activities.



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