

AN APPRAISAL OF THE REGIONAL EFFORTS OF THE GULF OF GUINEA COMMISSION IN CURBING MARITIME CRIMES AND INSECURITY

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Abstract

The Gulf of Guinea is an important maritime route for commercial shipping from Europe and America to West, Central and Southern Africa. Its proximity to Europe and North America for the transportation of the Low-Sulphur crude oil from the region underscores its importance in the global supply of energy. Apart from being a veritable transport route, the Gulf houses a great percentage of the worlds' total petroleum reserves. In addition to its rich biodiversity, several minerals such as uranium, copper, manganese and silver forms the mineral deposit found in the Gulf. Despite these foregoing economic importance of this area to the world and the coastal states surrounding it, the Gulf has over the years been a hub for illicit activities such as piracy, armed robbery, oil theft, oil bunkering, kidnapping, drug trafficking, waste dumping and illegal, unreported and unregulated fishing

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(IUU). To control these nefarious activities, certain regional arrangements have been put in place by the coastal states surrounding the Gulf. On top of the list is the Gulf of Guinea Commission which was established via a treaty in 2001. It is against this backdrop that this work appraised the incidences of maritime insecurity in the Gulf and the extent the Commission has carried out its task of shrinking maritime insecurity in the region. The work in its findings revealed amongst other things, that the apathetic participation of the member states was the major challenge faced by the Commission.

Keywords: Maritime Insecurity, Piracy, Gulf of Guinea Commission, IUU, Trafficking, Coastal States.

1.1 Introduction

A gulf is as a portion of the ocean that penetrates the land.¹ It can also be defined as a large inlet of an ocean similar to a bay but often longer and more enclosed by land.² The Gulf of Guinea which covers approximately an area of 2.35 million km² is the northeastern portion of the tropical Atlantic Ocean located off the western coast of Africa.³ Along the coast of the Gulf of Guinea are 16 coastal states-Angola, Benin, Cameroon,

¹ See Gulf of Guinea, <https://www.google.com/amp/s/www.worldatlas.com/amp/seas/gulf-of-guinea.html>. Accessed on 4th July 2021.

² Microsoft Encarta, 2009.

³ Gulf of Guinea (n.1).

Cote d' Ivoire, Democratic Republic of Congo, Republic of Congo, Equatorial Guinea, Guinea, Guinea Bissau, Gabon, Nigeria, Sao Tome and Principe, Togo and Sierra Leone.⁴With 60 percent of Africa's oil production, the Gulf of Guinea houses over 4.5 percent of the world's oil reserves and 2.7 percent of proven natural gas reserves. Two-thirds of these reserves are found within the exclusive economic zone of Nigeria⁵whose oil sector accounts for 75 percent of the state's revenue and 90 percent of total exports.⁶ The Gulf of Guinea also has one of the world's richest fishing grounds and represents almost 4 percent of global fish production. The fisheries sector is a critical source of employment for millions of people in the region. In West Africa alone, up to a quarter of jobs are linked to the fisheries sector.⁷The Gulf of Guinea represents 25 percent of African maritime traffic and it houses over 20 commercial seaports. Despite being rated as one of the World's richest regions in terms of unexploited natural resources, the Gulf of Guinea has become ill-reputed for piracy, armed

⁴ *Ibid.*

⁵ Exclusive economic zone (EEZ) is an area where sovereign states exercise jurisdiction over resources. The EEZ differs from territorial water in two respects. Firstly, jurisdiction of the coastal states within the EEZ only pertains to natural resources (fish, offshore oil and gas), while the coastal states have full jurisdiction within its territorial seas. Secondly, the maximum width of the territorial sea is 12 nautical miles from base lines, while the maximum width of the EEZ is 200 nautical miles (about 370 Km or 230 English miles).

⁶ P. Morcos, A Transatlantic Approach to Address Growing Maritime Insecurity in the Gulf of Guinea. <https://www.csis.org/analysis/transatlantic-approach-address-growing-maritime-insecurity-gulf-guinea>. Accessed on 9th August 2021.

⁷ *Ibid.*

robbery against ships and other illicit and unlawful activities. This incidence of piracy, kidnapping and armed robbery has made this maritime space one of the most dangerous and unstable in the world. Apart from the unsafe environment, illegal fishing, trafficking, and transnational organized crime pose a major threat to the economic development of the entire region.⁸



2.1 Maritime Insecurity in the Gulf of Guinea

1. Piracy and Armed Robbery against Ships.

Under article 101¹⁰ Piracy is defined as thus:

⁸ EU Maritime Security Factsheet: The Gulf of Guinea https://eeas.europa.eu/headquarters/headquarters-homepage/52490/eu-maritime-security-factsheet-gulf-guinea_en

⁹ Map of Gulf of Guinea. Source Google Map.

¹⁰ United Nations Convention on the Law of the Seas, 1982.

- (a) any illegal acts of violence or 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:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) 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;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Armed robbery against ship is defined as 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 on board such a ship, within a State's internal waters, archipelagic waters and territorial sea.¹¹ Armed robbery against ships may also entail inciting or intentionally facilitating any of the foregoing acts.¹² The striking difference in the foregoing definitions of piracy and armed robbery against ship which appear to have the same ingredients is that while piracy is

¹¹ Resolution A.1025 (26), IMO's Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships.

¹² *Ibid.*

committed on the high sea, armed robbery against ships is perpetuated within the territorial waters.¹³

The presence of piracy and armed robbery in the Gulf of Guinea has brought a ruinous impact on the economic and social development of the area. To curb this ugly trend, huge amounts of money have been spent on the fight on piracy and armed robbery in the region. The amount spent by naval and counter-piracy forces of countries in the region are estimated to be between \$348 and \$370 million dollars while the estimated amount spent on security equipment and guards is estimated to be between \$150.9 and \$225.4 million dollars.¹⁴ These disturbing increase in piracy and armed robbery activities in the Gulf of Guinea have also increased insurance premiums. This high cost premium is the major reason some ship owners chose not to report the incidents- because of the fear of increase in the insurance cover. These ship owners also refrain from reporting these illegal activities because in some cases their ships might be detained for investigations.¹⁵ Apart from the high premium incurred by

¹³ See S 3 and 4, Suppression of Piracy and other Maritime Offences Act, 2019.

¹⁴ Oceans Beyond Piracy Report, The State of Maritime Piracy 2013, page 54, available at: www.oceanbeyondpiracy.org Cited in D.E, Madanda, The Gulf of Guinea Piracy: Impact and Effectiveness of Control Measures *Journal of Law, Policy and Globalization* 2016 (25), 109.

¹⁵ A. Younevitch et al, 'Analysis: West Africa Piracy issue to stay long term, may affect Regional Trade' edited by Jonathan Fox. Available at: Platts.com/latest-news/shipping/London/analysis-west-africa-piracy-issue-to-stay-long-26005753 Cited in D.E, Madanda, The Gulf of Guinea

ship owners, there is also the increase of crewing cost. Obviously, crew members would not be interested to work in such a dangerous and risky environment and to entice them; ship owners in most cases are left with no other alternative than to pay exorbitant crew wages.

According to a recent report¹⁶ by the International Maritime Bureau,¹⁷ in respect of piracy and armed robbery activities going on in the Gulf of Guinea, incidence of robberies at the anchorages were reported in Angola (Luanda), Ghana (Takoradi) and Guinea (Conakry). The report also revealed that incidence of robbery reduced in Equatorial Guinea, Cameroon (Ideano and Douala) and Cote d' Ivoire (Abidjan). Regrettably, the report shows that Gabon, Nigeria, Togo, Sao Tome & Principe and Benin still remain areas of high risks. While

Piracy: Impact and Effectiveness of Control Measures *Journal of Law, Policy and Globalization* 2016 (25), 109.

¹⁶ ICC International Maritime Bureau (IMB), Piracy and Armed Robbery Against Ships, Report for the Period 1st January – 31st March 2021.P 20.

¹⁷ The ICC International Maritime Bureau (IMB) is a specialized division of the International Chamber of Commerce (ICC). The IMB is a non-profit making organization established in 1981 to act as a focal point in the crime against all types of maritime crimes and malpractice. The International Maritime Organization (IMO) in its resolution A 504 (xii) (5) and (9) adopted on 20th November 1981 as Inter alia urged governments, interest groups and organization to incorporate and exchange information with each other and the IMB with a view of maintaining and developing a coordinated action in combating maritime fraud. Outrage in the shipping industry and the alarming growth in piracy prompted the creation of the IMB piracy reporting center (IMB PRC) in Kuala Lumpur Malaysia in October 1992.

kidnapping of crew occurred more than 70 nautical miles¹⁸ off shore of Gabon, in Togo (Lome) there were reports of attacks in anchorages, vessels were robbed and the crews kidnapped. In Nigeria (Lagos/Apapa, Bayelsa/Brass/ Bonny Island/Port Harcourt), the report showed that pirates/ robbers who were well armed attacked, hijacked and robbed ships far from the coast, rivers, anchorages, ports and surrounding waters.¹⁹ In an earlier report by the International Maritime Bureau, the number of kidnappings at sea reported in the Gulf increased by 40 percent between 2019 and 2020, with the Gulf accounting for approximately 95 percent of global kidnappings. With these increasing incidents of piracy and armed robbery, the Gulf of Guinea has surpassed other dangerous spots like the Gulf of Aden and the Horn of Africa to emerge as the leading hub for global piracy and armed robbery.

In 2019, 111 acts of piracy were recorded as against the recorded 25 incidents in the Indian Ocean. The same year also witnessed a decline in oil prices and a general shift from hijacking for cargo theft to kidnapping for ransom. In the same year, it was reported that 146 people were kidnapped, compared to 60 in 2017.²⁰ IMB's latest global piracy report records 38 incidents since the start of 2021 – compared with 47

¹⁸ Nautical miles are used to measure distance travelled through the water. A nautical mile is slightly longer than a mile on land, equaling 1.1508 land-measured (or statute) miles. Nautical miles are based on the earth's longitude and latitude coordinates with one nautical miles equaling one minute of latitude.

¹⁹ IMB Report (n.), P 20.

²⁰ Morcos (n.16)

incidents during the same period last year. In the first three months of 2021, the IMB Piracy Reporting Centre (PRC) reported 33 vessels boarded, two foiled attacks, two vessels fired upon, and one vessel hijacked.²¹

Despite a drop in the number of reported piracy incidents for the first quarter in 2021, violence against crew is on the rise in comparison to previous years. Since the start of 2021, 40 crew have been kidnapped compared to 22 crew in the first quarter of 2020.²² A crew member was also killed in the first quarter of 2021. According to the report, the Gulf has continued to be particularly perilous for seafarers with 43% of all reported piracy incidents occurring in the region.²³ In addition, the Gulf accounted for all 40 kidnapped crew incidents, as well as the sole crew fatality in the region. The latest recorded kidnapping occurred on 11 March 2021 when pirates kidnapped 15 crew from a Maltese flagged Chemical Tanker, 212 nautical miles south of Cotonou, Benin. In another incident, a fishing vessel hijacked on 8 February 2021 was used by pirates as a mother vessel to facilitate other attacks.²⁴ According to the IMB Director, Michael Howlett:

²¹ Gulf of Guinea Remains World's Piracy Hotspot in 2021, According to IMB's Latest Figures, <https://iccwbo.org/media-wall/news-speeches/gulf-of-guinea-remains-worlds-piracy-hotspot-in-2021-according-to-imbs-latest-figures/>, Published on 14th April 2021 and accessed on 9th August 2021.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

Pirates operating within the Gulf of Guinea are well-equipped to attack further away from shorelines and are unafraid to take violent action against innocent crews.....It's critical that seafarers remain cautious and vigilant when travelling in nearby waters and report all incidents to the Regional Authorities and the IMB PRC. Only improved knowledge sharing channels and increased collaboration between maritime response authorities will reduce the risk to seafarers in the region.²⁵

Pirate activity in the Gulf of Guinea differs to that in the Indian Ocean. While Somali pirates concentrate on kidnap for ransom and extortion of money from ship-owners, in the Gulf of Guinea pirates launch attacks primarily from Nigeria, with the aim of stealing cargo, equipment or valuables from a vessel and its crew. Although kidnapping of crew-members happens in the Gulf of Guinea, it is rarer than in the Indian Ocean.²⁶ Thus, acts of piracy and armed robbery against ships along the coastal water of West African countries is largely characterized by the stealing of cargo, cash and other valuable things in the ships.

2. Illegal, Unregulated and Unreported Fishing (IUU)

Another dangerous upshot of maritime insecurity in the Gulf of Guinea is the incidence of illegal, unregulated, and

²⁵ *Ibid.*

²⁶ M.F., Mohammed, Piracy in the Gulf of Guinea, Causes, Efforts and Solutions, Regional Maritime Security Institute.

unreported (IUU) fishing, which has devastating physical, environmental and economic effects on the biodiversity of the region. Like most West African countries, Nigeria's coastal waters is richly blessed with diverse species of fish which contribute to the food and economic security of the people.²⁷ Thousands of foreign fishing vessels sail through African waters every year, seeking to tap the continent's rich fish stocks. Many of these vessels under the guise of innocent passage, exploit Africa fisheries illegally. These illegal fishing activities include fishing without a license, fishing in protected areas, catching beyond the permitted limit, catching protected species or using prohibited fishing gear that poses harm to the biodiversity.²⁸ West African waters are estimated to have the highest levels of IUU fishing in the world. This accounts for up to 37 percent of the region's catch, resulting in pecuniary losses and compromising the food security and source of revenue for the coastal communities.²⁹ Trawlers also damage seabed habitats and trap large numbers of vulnerable species,

²⁷ I. Okafor-Yarwood., S.V Bhagwandas., Study: In Nigeria, Illegal Fishing is Linked with Crime and Piracy, <https://www.maritime-executive.com/editorials/study-in-nigeria-illegal-fishing-islinked-with-crime-and-piracy>, published on 6th June 2021 and accessed on 9th August 2021.

²⁸ Illegal Fishing in Africa is threat to human Security, <https://stopillegalfishing.com/press-links/illegal-fishing-africa-threat-human-security/> Accessed on 9th August at 4:25 PM.

²⁹ Environmental Justice Foundation, "Pirate Fishing Exposed: The Fight Against Illegal Fishing in West Africa and the EU," 2012, available at <http://ejfoundation.org/sites/default/files/public/Pirate%20Fishing%20Exposed.pdf>. Cited in *Insecurity in the Gulf of Guinea: Assessing the Threats, Preparing the Response: Reports from a round table discussion* organized on June 6, 2013, by the International Peace Institute (IPI).

such as sharks and turtles, in their catch. In addition to the environmental damage, the large catches made by these illegal boats deplete fish stocks and deny fish to local, artisanal fishermen.³⁰ To curb this illegal fishing activities, some west African countries- Liberia, Cote d' Ivoire, Ghana, Togo, Benin and Nigeria via the Fisheries Committee for the West Central Gulf of Guinea³¹ recently launched the Regional Monitoring , Control and Surveillance Centre (RMCSC) to monitor fishing and related activities in the Gulf of Guinea. In furtherance of their duties and obligation, the center is equipped with vessel tracking system which has the ability to collect data on authorized fishing vessels across the region.³²

3. Trafficking

Due to the poor security architecture in the Gulf of Guinea, the region has over the years become a dedicated route for transnational organised crimes which include various forms of trafficking. These uncontrolled trafficking activities have devastating effects globally especially on the reputation of the coastal states in the region. For instance, the strategic position of the Gulf as a veritable maritime route has turned the region into a transit hub for cocaine originating from Andean countries.³³ Due to the absence of adequate coastal monitoring

³⁰ *Ibid.*

³¹ This is an intergovernmental organization that promotes cooperation in fisheries management amongst the countries.

³² S. Oriere., New Monitoring Center Boosts War against IUU in the Gulf of Guinea. <https://www.seafoodsource.com/news/environment-sustainability/new-monitoring-center-boosts-war-against-iuu-in-gulf-of-guinea>, Accessed on 12th August, 2021.

³³ These countries are Bolivia, Colombia, Ecuador, Peru and Venezuela.

capacities, ports, the Western Atlantic Coast and the Gulf have become important transshipment platforms. This ugly trend has been facilitated by the growing bonds between drug cartels in Colombia, Venezuela and Brazil with their counterparts having strong base in Guinea-Bissau, Ghana and Nigeria.³⁴ Moreover, these collusions between the drug traffickers and corrupt state officials has allowed local political and military actors to generate large profits by acting as gatekeepers of the transatlantic drug trade.³⁵ Also, according to a report from the United Nations Office on Drugs and Crime (UNODC),³⁶ the West African opioid epidemic is primarily fueled by the smuggling of tramadol by sea. The report also revealed that the amount of tramadol seized in Nigeria - mostly at its ports, rose from less than eight tons in 2014 to close to 150 tons in 2018. In the whole of West Africa, more than 430 tons of tramadol have been seized within 2014 and 2017, with a larger percentage of the seizures being recorded in Benin, Cote d'Ivoire, Ghana, Guinea, Niger, Nigeria and Togo.³⁷ An aspect

³⁴ J.L, Carbera., A. Moser., Transatlantic Drug Trafficking-Via Africa.https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_3_Narcotics.pdf, Accessed on 10th August 2021.

³⁵ *Ibid.*

³⁶ UNODC, through its Country Office in Nigeria, has been cooperating with the Federal Government, its specialized agencies, the judiciary, as well as select State Governments, civil society and the private sector in making Nigeria safer from drugs, crime and terrorism.

³⁷ Global Maritime Security Conference: Gulf of Guinea States Gather in Abuja to Tackle Maritime Crime Crisis, https://www.unodc.org/nigeria/en/press/global-maritime-security-conference_-gulf-of-guinea-states-gather-in-abuja-to-tackle-maritime-crime-crisis.html, Accessed on 10th August 2021 at 12:08. See also, NDLEA raises concern over rising drug trafficking by sea in W/Africa, <https://www.vanguardngr.com/2020/07>

of trafficking recently dominating the center stage concerns wildlife and forestry products, including ivory, pangolin scales and rosewood. According to media reports, in 2018 and early 2019 more than 37 tons of mostly pangolin scales were seized and all allegedly originated from Lagos sea ports.³⁸

3.1 The Gulf of Guinea Commission

The Gulf of Guinea Commission was established via a treaty signed in Libreville, Gabon, on 3rd July 2001, comprising Angola, Republic of Congo, Democratic Republic of Congo, Gabon, Equatorial Guinea, Cameroun, Nigeria and Sao Tome and Principe.³⁹ The Commission has a framework of consultation among the coastal states of the Gulf of Guinea for cooperation, development and expansion as well as for the prevention, management and resolution of conflicts that may arise from the delineation of maritime borders and the economic and commercial exploitation of natural resources within the territorial boundaries. The Commission is also equipped with the framework for the resolution of any dispute that may arise within the intersections of the Exclusive Economic Zones (EEZ) of the contracting States. The Commission provides an institutional framework for cooperation amongst the contracting countries bordering the Gulf with a view of defending their common interest and to promote peace and socio-economic development founded on

[/ndlea-raises-concern-over-rising-drug-trafficking-by-sea-in-w-africa/](#)

Published on 1st July 2020.

³⁸ *Ibid.*

³⁹ See Preamble and Art 2, Gulf of Guinea Commission Treaty. Ghana has recently joined.

dialogue, consensus, ties of friendship, solidarity and fraternity.⁴⁰ Although paralyzed by political lethargy and lack of funding, the GGC began operations in 2006, when the first Summit of Heads of State and Government was held in Gabon.⁴¹

4.1 Objectives of the Commission

Under the establishment treaty, the Commission is saddled with the task of strengthening ties of cooperation among member States,⁴² creating conditions of mutual confidence conducive to the harmonious development of States,⁴³ and the promotion of close consultation in the exploitation of the natural resources of the Gulf.⁴⁴

The Commission is also expected to promote sectoral co-operation within the framework of the treaty establishing the African Economic Community,⁴⁵ to harmonize the respective policies of states regarding matters of common interest, particularly those concerning the exploitation of natural resources.⁴⁶ and to protect, preserve and improve the natural environment of the Gulf of Guinea and cooperate in the event of natural disaster.⁴⁷

⁴⁰ Maritim Africa.

⁴¹ <https://enactafrica.org/enact-observer/can-the-gulf-of-guinea-commission-step-up-to-maritime-threats> Accessed on 11th August, 2021.

⁴² Art 3 (n.38).

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

Finally, the Commission is empowered to formulate a concerted immigration policy,⁴⁸ strengthen cooperation in the areas of communications and maritime with a view to facilitate ties and trade among member States,⁴⁹ develop a wide communications network and to ensure the integration of transport networks amongst the member states.⁵⁰

5.1 Organizational Structure of the Commission

The Gulf of Guinea Commission has the following organs: Assembly of Heads of states and Governments, Council of Ministers, Secretariat and the Ad Hoc Arbitration Mechanisms.⁵¹

(a) Assembly

This is the supreme organ of the Commission. It is composed of Heads of State and Government or their duly authorized representatives. It meets once a year,⁵² in ordinary session, and at any time, in extraordinary session, if it is approved by two thirds majority of the Commission's Member States.⁵³ The Assembly is saddled with the task of defining the general policy and the major guidelines of the

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ Art 6 (n.38).

⁵² Although the GGC Treaty requires that at least one summit takes place every year, this has not been attained. the second summit took place in November 2008, the third summit took place in August 2013, while its fourth summit was held in November 2017 in Abuja, Nigeria.

⁵³ Art 7 (n.38).

Commission,⁵⁴ examine the report of the Council and take relevant decisions,⁵⁵ establish any organ of the Commission or specialized committee,⁵⁶ adopt the budget of the Commission,⁵⁷ Appoint and remove the Executive Secretary⁵⁸ and decide on the location of the headquarters of the Commission.⁵⁹The Assembly takes decisions by consensus or, failing that, by a majority of 2/3 of the States present. To meet and legitimately deliberate, its required quorum is 2/3 of the Commission's member States.⁶⁰

(b) Council of Ministers:

The Council is composed of the Ministers of Foreign Affairs or any other Minister or authority designated by the member states. The Council has a mandate to meet twice a year in ordinary session and at any time, in special session, by the request of any member state and subject to the agreement of the majority of 2/3 of member states. The Council is answerable to the Assembly.⁶¹The council is saddled with the task of preparing the sessions of the Assembly,⁶²developing and proposing appropriate general policy measures and implementing cooperation policy in accordance with the general policy defined by the

⁵⁴ Art 8 (a) (n.38).

⁵⁵ Art 8 (c) (n.38).

⁵⁶ Art 8 (e) (n.38).

⁵⁷ Art 8 (f) (n.38).

⁵⁸ Art 8 (g) (n.38).

⁵⁹ Art 8 (h) (n.38).

⁶⁰ Art 9 (n.38).

⁶¹ Art 12 (n.38).

⁶² Art 12 (a)(n.38).

Assembly. Every decision of the Council is by consensus and in a situation where they fail to arrive at a unanimous decision, the decision is taken by a majority of two thirds of the States present. It is pertinent to mention that to meet and deliberate legitimately, the required quorum is 2/3 of the Commission's Member States.⁶³

i. Secretariat:

The Secretariat is headed by an Executive Secretary⁶⁴ appointed by the Assembly for a term of three years and renewable once.⁶⁵ The tasks of the Secretariat includes to ensure the proper functioning of the Commission, implement the decisions of the Assembly and Council, prepare reports, decision on projects and agreements, for consideration by the Assembly and the Council, formulate recommendations likely to contribute to the functioning, effective and harmonious development of the Commission, assume the role of custodian of the documents and the Commission's assets and to prepare the budget of the Commission.⁶⁶

ii. The Specialized Committees:

The Assembly establishes Specialized Committees to address, by the request of the Assembly or the Council, the specific issues pertaining to the achievement of the

⁶³ Art 13 (n.38).

⁶⁴ The Executive Secretary at the time of this work is a Nigerian-Florentina Ukonga.

⁶⁵ Art 16 (n.38).

⁶⁶ Art 17 (n.38).

objectives of the Treaty.⁶⁷ The Assembly may, if it deems necessary, restructure the existing Committees or create new ones according to the needs of the Commission. Each Committee can, if necessary, create sub-committees to assist in fulfilling its mandate. The Committee determines the composition of the sub-committees.⁶⁸

iii Ad Hoc Arbitration Mechanism:

The creation of the ad hoc Arbitration Mechanism is geared towards ensuring the prevention, management and resolution of conflicts arising from border disputes and the economic exploitation and commercialization of the natural resources of the member states.⁶⁹ The members of the ad hoc Arbitration Mechanism are elected by the Head of States and Government. Each member State of the commission is entitled to have one representative within the Mechanism.⁷⁰ The Mechanism consists of a Chairperson and Vice chairperson who are chosen by the Assembly from among the members.⁷¹

⁶⁷ At the 4th GGC summit held in 2017, at Abuja, measures were adopted with a view of creating a more relevant role for the Gulf of Guinea Commission. Among the measures was a proposal for the establishment of specialised committees that would be grouped into these thematic areas, namely peace and security, movement of goods and persons, natural resources, oil, environment, fisheries, and finances.

⁶⁸ Art 15 (n.38). See also <https://cggrps.com/en/specialized-committee/>, Accessed on 12th August 2021.

⁶⁹ Art 1, Additional Protocol to the Gulf of Guinea Commission Treaty.

⁷⁰ Art 2 (n.68)

⁷¹ Art 3 (n. 68)

6.1 Strides of the Gulf of Guinea Commission

In Africa, a number of regional organizations share interests in maritime security; these include the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the Maritime Organization of West and Central Africa (MOWCA) and the Gulf of Guinea Commission (GGC). Amongst these various bodies, the GGC has the largest mandate for dealing specifically with maritime issues within the Gulf. Since its establishment in 2001 as a permanent framework for collective action, the Commission took up the mantle to ensure that peace, security and stability conducive to economic development became intrinsic qualities of the region. In furtherance to its allocated task of enthroning peace and security in the region, the Commission on 29th November 2012 signed the Luanda Declaration on Peace and Security in the Gulf of Guinea Region. The declaration states that in response to increasing maritime insecurity, GGC member states need to establish regional cooperation and inter-state dialogue. Since there are a number of trans boundary issues that require an inter-state approach, such as arms proliferation, crude-oil theft, terrorism and migration, the declaration advocated for the consideration of a permanent mechanism to enforce and monitor peace and security in the region.⁷² On 23rd July, 2021, the African Union (AU) and the Gulf of Guinea Commission at the AU headquarters in Addis Ababa in Ethiopia, signed a memorandum of understanding

⁷² A report based upon the presentations and discussions at a conference on ‘Maritime Security in the Gulf of Guinea’, held at Chatham House on 6 December 2012. P 5.

(MoU) to reinforce joint efforts of addressing maritime security and safety along the Gulf of Guinea.

Challenges of the Commission

The Commission in the discharge of its duties has encountered a lot of snags which include lack of funds, non-payment of annual dues by member countries, poor attendance at meetings or sending of low-level representation. The inability of member countries to contribute their subscription dues to the Commission has also stalled several activities and this has also prevented the implementation of certain strategies aimed at tackling the menace of maritime insecurity in the region. Due to this paucity of funds, the Commission had resorted to begging members for funds to organize trainings and other events for its staff. Identifying paucity of funds as the major challenge of the Commission, at the monthly meeting of the Lagos Maritime Security Zone, LMSZ, of the Port Facility Security Officers Forum, Dr. Franaka Attoh who stated that it was only Nigeria and Angola that was currently funding the Commission also opined thus:

The problem is resources; until member states of that Commission decide to inject resources in funding the Gulf of Guinea Commission, it cannot be really active in the sense that the Commission is supposed to protect the Gulf of Guinea corridor and the Gulf of Guinea corridor is so important to members' ocean going vessels carrying crude oil and other cargoes. Both manufactured and raw materials pass through it and unfortunately, member states of ECOWAS have not reasoned that

it is a corridor they must keep active. Apart from Nigeria that pays its subscription regularly and maybe Angola, some other member states do not pay their subscription regularly and that is why the Secretariat is inactive. Each time they want to have a major event, they will need to go round looking for organisations that will sponsor them to gather resources and that is usually not too good for an organisation that is so strategic for the economic survival of the West African sub-region.⁷³

In the same vein and in an earlier occasion-at the 10th Ordinary Session of the Council of Ministers of the GGC held in Abuja in 2017, the Executive Secretary, Ambassador Florentina Adenike Ukonga, bemoaned the non-revision of the GGC budget which has been static for the past eight years. According to her:

A budget that has been fixed at the same level for the past eight years and only realised by 25 percent in the last three years, definitely cannot lead to much achievement in realising the objectives of our organisation.⁷⁴

Apart from paucity of funds, bickering over maritime borders amongst member States has posed a great challenge to the development of the Commission. This squabble amongst

⁷³ <https://www.vanguardngr.com/2020/03/sea-piracy-paucity-of-fund-stall-activities-of-gulf-of-guinea-commission/>, Accessed on 9th August 2021.

⁷⁴ <https://www.vanguardngr.com/2017/11/ggc-budget-hampering-commission-effectively-meeting-objectives/>, Accessed on 12th August, 2021.

member states has hampered the desired unity amongst member states needed in the fight against maritime threats. Thus, without unity amongst the coastal states of the Gulf, the state of the Commission can be likened to a situation where two brothers killed themselves over their father's estate then paving way for a stranger to inherit same. The most widely publicised of these maritime border wrangle was a dispute between Nigeria and Cameroon over the Bakassi Peninsula, which was settled in an International Court of Justice ruling of 10th October 2002. Relatedly, ownership claims over the Mbanie Peninsula between Equatorial Guinea and Gabon came to a head in 2003 when Gabon laid claim to the Corisco Bay Islands of the peninsula. Further South of the Gulf of Guinea, Angola and the Democratic Republic of Congo also tussled over offshore oil reserves.⁷⁵

Prospects of the Commission

In addition to the plea by the Commission to the member States to fulfill their financial obligations, there are also plans to revitalize the Commission which is themed Strategy for the Revitalization of the Gulf of Guinea Commission. Rolling out an aspect of the plan at the fourth Assembly of Heads of State and Government of the Gulf of Guinea Commission (GGC). The Secretary of the Commission; Dr. Ukong stated that the first step is the creation of the peace and security committee, which will be saddled with the task of addressing issues related to drug trafficking, arms trafficking, maritime piracy, human

⁷⁵ Can the Gulf of Guinea Commission step up to maritime threats?, <https://enactafrica.org/enact-observer/can-the-gulf-of-guinea-commission-step-up-to-maritime-threats>, Accessed on 12th August 2021.

trafficking, development of security architecture for the maritime space, illegal bunkering, money laundering and other financial crimes. She further stated that the Immigration specialized committee will also be created. This specialized committee according to her is expected to deal with situations leading to illegal and irregular immigration, irregular requests for political asylum and issues related to the demarcation of borders among the states of the region. Finally, the creation of the oil and environment specialized committee with the obligation to address issues related to oil exploitation so that best practices can be applied in the region as well as issues of environmental pollution.⁷⁶

Other Regional Efforts Adopted in Curbing Maritime Insecurity in the Gulf of Guinea

The presence of security in the Gulf of Guinea can never be overemphasized because a secured and conducive marine environment is important for exploiting marine resources, securing livelihoods and development. It should, however, be framed within national and regional policy. Such an integrated strategy includes environmental protection, management of fish stocks, tourism and the transport needs of landlocked countries. Neglect could result in acute security challenges in the future (food insecurity due to overfishing or environmental degradation of the seas, for example). Apart from the creation of the Gulf of Guinea Commission by the coastal states the region has adopted other security measures to ensure that

⁷⁶ www.newsexpressngr.com/news/46671--Buhari-demands-improved-efforts-against-piracy-human-trafficking-Emerges-Chairman-of-Gulf-of-Guinea-Commission, Accessed on 12th August, 2021.

security of lives and goods are maintained in the Gulf. For instance, International Maritime Organisation (IMO) and the Maritime Organization of West and Central Africa (MOWCA), on 30th July 2008, adopted the MOU on the establishment of a Sub-Regional Integrated Coast Guard Function Network in West and Central Africa and provided a framework of cooperation and guidance for the implementation of the network. The MOU which was signed by fifteen coastal States in the region is geared towards initiating joint efforts in the domain of maritime activities to protect human life, enforce laws and improve the safety and protection of the environment.⁷⁷In 2009 the Economic Community of Central African States (ECCAS), adopted a protocol to secure its maritime interests in the Gulf of Guinea, and thereafter set up the Regional Centre for Maritime Security in Central Africa. The Economic Community of West African States (ECOWAS) joined in the initiative by establishing its own maritime strategy in March 2014 and the Regional Centre for Maritime Security in West Africa in 2015.⁷⁸

Despite these foregoing respective arrangements by the West and Central African States to curb maritime insecurity, reports of piracy and armed robbery against ships kept on surging. On June 25th, 2013, Heads of West and Central Africa States met in Cameroon's capital Yaoundé and adopted the Code of Conduct Concerning the Repression of Piracy, Armed Robbery

⁷⁷ Piracy and armed robbery against ships, <https://www.imo.org/en/OurWork/Security/Pages/PiracyArmedRobberydefault.aspx>, Accessed on 10th August 2021.

⁷⁸ Enact Africa (n.74).

against Ship and Illicit Maritime Activity in West and Central Africa. The Protocol was signed by ministerial level representatives of 22 States immediately afterwards. The Code builds on the existing Memorandum of Understanding on the Integrated Coastguard Function Network in west and central Africa and incorporates a number of elements of the Djibouti Code of Conduct.⁷⁹ In addition to the Yaoundé Code of Conduct, the Inter-Regional Coordination Centre (ICC) was also created. Also, on 23rd July, 2021, the African Union (AU) and the Gulf of Guinea Commission at the AU headquarters in Addis Ababa in Ethiopia, signed a memorandum of understanding (MoU) to reinforce joint efforts of addressing maritime security and safety along the Gulf of Guinea. The agreement includes operationalization of the integrated strategy for the Seas and Oceans Horizon 2050, dubbed AIM Strategy 2050, and the strategy of the Blue Economy of the 55-member Pan-African bloc.⁸⁰

⁷⁹ Also Known as the Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden. It was adopted on 29th January 2009 and amended in 2017 (Jeddah amendment) to include other illicit maritime activities like IUU and human trafficking. The member states are located in areas adjoining the Red Sea, Gulf of Aden, the East Coast of Africa and Island nations in the Indian Ocean. The signatories are Djibouti, Ethiopia, Kenya, Madagascar, Maldives, Seychelles, Somalia, United Republic of Tanzania, Yemen, Comoros, Egypt, Eritrea, Jordan, Mauritius, Mozambique, Oman, Saudi Arabia, South Africa, Sudan and UAE.

⁸⁰ AU, Gulf of Guinea Commission ink agreement on maritime security, safety, http://www.xinhuanet.com/english/africa/2021-07/23/c_1310081303.htm, Accessed on 12th August, 2021.

Nigeria, being the center of gravity in the region has demonstrated resoluteness and commitment in maintaining a secured environment in the Gulf of Guinea apart from being a State member of the Gulf of Guinea Commission, Nigeria has never reneged on any agreement brokered for the entrenchment of security in the gulf. For instance, Nigeria participated actively in the 2019 Exercise Obangame Express, a multi-national maritime exercise sponsored by the United States Military Africa Command (AFRICOM) and attended by 33 countries from West Africa, Europe and North America. The Exercise included weeks of maritime training to improve safety against pirates and to improve the monitoring of the coastline. The training which witnessed deployment of 2,500 personnel, 95 ships and 12 aircrafts was aimed at improving regional cooperation, maritime domain awareness, information-sharing practices and tactical interdiction expertise to enhance the collective capabilities of the Gulf of Guinea and West African nations to counter sea-based illicit activities.⁸¹ Interestingly, Nigeria has secured its first conviction of pirates under the new enacted Suppression of Piracy and other Maritime Offences Act, 2019. The Lagos Division of the Federal High Court *Per Justice Faji*, on July 23rd 2021 sentenced 10 pirates for hijacking a Chinese fishing vessel, FV Hai Lu Feng II, sometime in May, 2020.⁸²

⁸¹ From Sea to Land: Tackling Maritime Crime in the Gulf of Guinea, https://www.unodc.org/nigeria/en/from-sea-to-land_-tackling-maritime-crime-in-the-gulf-of-guinea.html, Accessed on 10th August 2021.

⁸² <https://guardian.ng/news/10-pirates-get-12-years-jail-terms-for-hijacking-chinese-ship/>, Accessed on 11th August, 2021.

6.1 Recommendations and Conclusion

Despite the establishment of the Gulf of Guinea Commission to tackle maritime insecurity, the problem of insecurity in the Gulf persists. This paper makes the following recommendations as viable solutions to maritime insecurity in the Gulf. The obligations expected of the member states of the Commission in furtherance to these recommendations can be bifurcated into two categories, thus; international obligations and national obligations. It is recommended that contracting states should honour agreements contained in any treaty that has been ratified and this should be done without any form of compulsion. There should be international cooperation between coastal states. This recommended cooperation enjoins coastal states to enact uniform municipal law outlawing piracy and other incidences of maritime insecurity. The law should be enacted in such a way that regardless the nationality of the offender and irrespective of the fact that the act was done within the EEZ of another state; any of the coastal states will have the jurisdiction to try an offender. The judicial system should be designed in such a way that the prosecution and appeals emanating from trials of offenders should be entertained in courts specifically created for maritime offences. The Gulf of Guinea Commission should also be armed with a legal machinery that can prosecute and convict offenders. Contributions by member states of the Commission should be done religiously because lack of funding has been identified as a major issue crippling the fight against maritime insecurity in the region. Member states of the Commission should organise, train and adequately equip coastal guards. The work has appraised the objectives and the goals of the Commission

toward the eradication of the maritime insecurity in the Gulf. The study carried out revealed that the Commission has not achieved much. The said failure can be attributed to the laissez-faire attitude of the contracting member States towards fulfilling their financial and contractual obligations. Despite the shortcomings of the Commission, there are elaborate plans to revitalize the Commission. This paper also made viable recommendations to ensure the eradication of maritime insecurity in the Gulf.