

TACKLING PIRACY AND OTHER ILLEGAL ACTIVITIES IN NIGERIAN WATERS

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Nigeria has continued to attract international attention as a hot spot of maritime insecurity due to rising incidents of piracy and attacks against maritime assets. This article briefly discusses the challenge of maritime insecurity in Nigerian waters and suggests some responses that will enhance a remediation of the problem.

Key words: *national security; Nigeria; Gulf of Guinea; economic security; piracy; maritime security.*

1. INTRODUCTION

Nigeria presently accounts for a large volume of cargo and vessel traffic in the Gulf of Guinea and also in the West African Sub-region [1]. It is estimated that 96% of Nigeria's import cargoes are transported through maritime channels [2]. Nigeria is also a major producer and exporter of crude oil and natural gas with a majority of oil and gas reserves located in the Niger River Delta and offshore in the Bight of Benin, the Gulf of Guinea and the Bight of Bonny [3]. Consequently, a large portion of the infrastructure for the production and transportation of oil and gas is located within the Nigerian maritime sector. This also underscores the strategic economic importance of the maritime industry in Nigeria. However, Nigeria has begun to attract constant international attention as a hot spot of maritime insecurity [4] due to rising incidents of piracy and attacks against maritime assets in the oil and gas industry. Recent findings indicate that Nigeria records the second highest rate

of piracy and acts of maritime insecurity in Africa [5] - coming after Somalia in the Gulf of Aden, which has now gained international notoriety as one of the hottest spots of piracy in the world [6].

The United Nations Convention on the Law of the Sea (UNCLOS) defines "piracy" as of any of the following acts:

"(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 inciting or of intentionally facilitating an act described in subparagraph (a) or (b)." [7]

However, the above definitions of the UNCLOS do not appear to explicitly cover attacks against ships and maritime assets in territorial or coastal waters. The International Maritime Organization (IMO) attempts to provide a broad definition of “piracy” to include acts of armed robbery against ships or at sea which also encompasses attacks in territorial waters including internal waters and on vessels in port [8]. The International Maritime Bureau (IMB) also provides a broad definition of “piracy” as “an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act.”[9] Aside from explicit acts of piracy as defined above, other notable forms of illegal activities on Nigerian waters include: smuggling, armed extortion of vessels, kidnapping, oil infrastructure vandalism, illegal oil bunkering and crude oil theft. In this regard, “Nigerian waters” refers to the territorial waters of Nigeria including every part of the open sea within thirty nautical miles from the coast of Nigeria [10].

2. PIRACY AND OTHER ILLEGAL ACTIVITIES IN NIGERIAN WATERS - THE STATE OF THE PROBLEM

To some extent, within the last ten years, it appears that Nigerian waters have been characterized by the *Hobbesian* law of the state of nature - where life is nasty and brutish. A research published by the United States Naval War College in 2010 indicates that, out of 178

attacks reported in the Gulf of Guinea between 2003 and 2007, 137 of the attacks took place in Nigerian waters. In these attacks, it was also reported that about 237 foreigners and dozens of Nigerians were kidnapped in sixty separate attempts [11]. Also between December 2005 and 2009, Nigeria also recorded an enormous rise in piracy and other illegal activities in the form of oil infrastructure vandalism, kidnapping and militant takeover of oil infrastructure located in the coastal areas of the Niger Delta by militant groups. This state of affairs caused some oil service companies to withdraw from the country, while several multinational oil companies had to shut in production and declare *force majeure* on oil shipments. Consequently, Nigeria’s oil production capacity fell from 2.9 million barrels per day to about 1.7 and 2.1 million barrels per day [12]. Reports also indicate that the Nigerian Trawler Owners Association (NITOA) lost over 60% of their entire fleet to piracy between 2006 and May 2010, causing many fishing companies to close operations and even relocate to other countries [13]. Following the Federal Government’s declaration of an Amnesty programme for the Niger Delta militants in December 2009 there appears to have been a reduction in the spate of attacks against maritime assets in the oil and gas industry [14]. However, other forms of illegal activities such as smuggling, armed robbery, armed extortion of vessels, kidnapping of seafarers, illegal oil bunkering and crude oil theft appear to have continued unabated. Between January and September 2011, the *Nigerian Maritime Security Review* reported over 31 attacks on

international shipping assets within Nigerian waters- with most attacks concentrated in the Niger Delta, the Bakassi Peninsula and the Calabar River [15]. Also in the first two months of 2012, the IMO reported 10 incidents of attacks against international shipping assets [16]. In September 2012, the IMB reported that about 37 foreign ships were attacked in Nigerian waters [17]. Additionally, the International Energy Agency (EIA) also released a report in the month of November 2012 which disclosed that Nigeria loses about 7 billion US Dollars every year due to crude oil theft [18]. As a result of insecurity in Nigerian waters, Liberia, Norway and the Panama Maritime Authority have also raised their International Shipping and Port Facility Security (ISPS) Code Security levels from I to II for ships operating in the Nigerian coastal waters and ports [19]. Thus, acts of piracy and illegal activities on Nigerian waters pose grave challenges to national security and economic stability and also constitute a hindrance to trade and investment which is required for economic growth in Nigeria. Due to maritime insecurity, the transportation of goods through maritime channels is exposed to higher risks which are also factored into shipping costs and marine insurance premiums. For example, in April 2012, the International Bargaining Forum (a global labour federation for the transportation industry representing 600,000 seafaring members) designated the territorial waters of Nigeria as a high risk area due to pirate attacks. This implies that seafarers have the right to refuse to enter Nigerian waters and are entitled to double their daily basic

wage, as well as death and disability compensation while within Nigerian waters [20]. The eventual result is that all these costs are transferred to consumers in the form of high prices for imported goods.

3. CHALLENGES AND SOLUTIONS

A major factor that is responsible for increased pirate attacks and illegal activities on Nigerian waters can be traced to underdevelopment and poverty in the Niger Delta area. The failure of successive regimes to timely address underdevelopment, poverty and environmental degradation in the Niger Delta enabled the emergence of several ethnic militant groups as self help mechanisms for environmental and political agitation and also for more equitable distribution of Nigeria's oil revenues in favor of the oil producing areas. However, to a great extent, the objectives of these militant groups have been eroded by corruption and greed. Militant groups now engage in organized criminal activities that cause maritime insecurity such as pirate attacks, armed robbery, hostage taking, armed extortion of vessels, oil bunkering and oil theft [21]. These groups easily recruit youths due to massive unemployment and the poor social economic situation in Nigeria. It is noted that these militant groups are usually backed by powerful politicians, government officials and members of the armed forces to engage in the theft of crude oil [22]. Consequently, the government appears to lack the political will to tackle acts of maritime insecurity where such will affect the vested

interests of these organized criminal groups. Another major factor that is responsible for piracy and illegal activities on Nigerian waters is that the Nigerian Navy lacks the capacity to provide an effective and credible deterrent for such acts. It is noted that this lack of capacity is linked to lack of planned and preventive maintenance, lack of equipments and spare parts, lack of adequate training (such as coxswain and seamanship skills), lack of fuel, poor maintenance of weapon systems and poor supply of ammunition [23]. This state of affairs has also been linked to the overwhelming neglect of maritime security forces in terms of funding and personnel strength when compared to land-based forces. For example, a research published in 2010 revealed that the Nigerian Army has about 62,000 soldiers, while the Nigerian Navy has about 8,000 soldiers [24]. Another notable factor is that the law enforcement and justice systems are very weak in Nigeria as there has not been any remarkable effort to investigate or prosecute individuals suspected of taking part in or sponsoring acts of piracy and other illegal activities on Nigerian waters. This appears to have encouraged organized criminal groups to continue their activities with impunity.

Tackling piracy and illegal activities in Nigerian waters will require the creation of employment opportunities and the improvement of social and economic conditions in the country especially in the Niger Delta area. This measure will reduce the continuous drift of youths into piracy and maritime criminality as a means to earn a living. There is also

the need for maritime security forces to partner with coastal communities in securing Nigerian waters. The government will also have to improve funding and capacity building in maritime security forces such as the Navy, Air force, Customs and Marine Police rather than contracting out the provision of maritime security services to private security firms [25]. There is also the need to implement efficient radar coverage systems for Nigerian waters, as well as technological systems such as Community Vessel Traffic Monitoring Information Systems, Integrated Maritime Surveillance Systems with satellite communications solutions and Automatic Identification Systems for vessels, in order to enhance vessel monitoring, as well as the early detection and prevention of pirate activity. It is imperative that Nigeria and other states in the Gulf of Guinea consider establishing a viable multilateral naval security framework to tackle the rising trend of piracy in the Gulf of Guinea. There is also a need for law enforcement authorities to investigate and prosecute individuals suspected of taking part in or sponsoring piracy and maritime criminality in Nigeria, as this will serve a deterrent. Finally, given that corruption has been the bane of Nigeria, effectively tackling piracy and illegal activities in Nigerian waters will also require the effective enforcement of anti corruption laws and a high level of patriotism from all stakeholders. There is no doubt that piracy and maritime criminality have a great potential to cause enormous harm to national and economic security in Nigeria. This very fact underlies

the need for the government to work towards addressing these issues with a sense of urgency.

NOTES & REFERENCES

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[3] See Energy Information Administration (EIA), *Country Analysis Briefs – Nigeria* (August, 2011).

[4] See Adjoa Anyimadu, *Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean* (Chatham House: London, July, 2013), p.4.

[5] See, F. Korthals Altes, et al, *Combating Piracy At Sea a Reassessment of Public and Private Responsibilities* (Advisory Council on International Affairs: The Hague, Netherlands, December 2010) pp.12-13, 18-19.

[6] See Office of Naval Intelligence, United States, "(U) Somalia and the Gulf of Guinea: Piracy Analysis and Warning Weekly (PAWW) Report for 11 – 17 July 2013", *Maritime OPINTEL Report* (18 July 2013), available at <http://www.oni.navy.mil/intelligence_Community/piracy/pdf/2013717/PAWW.pdf>. See Stefan Mair (Ed) *Piracy and Maritime Security* (German Institute for International and Security Affairs: Berlin, March 2011). See International Chamber of Commerce, *Piracy and Armed Robbery against Ships: Annual Report 1 January–31 December 2007* (London: International Maritime Bureau, 2008), pp. 5–6.

[7] See article 101 UNCLOS. For an analysis of the definition of "piracy" under article 101 of the UNCLOS, see Geneva Academy of International Humanitarian Law and Human Rights, *Counter piracy under International Law* (University of Geneva: Netherlands, August 2012) pp.11-15.

[8] See Stefan Mair (Ed) *Piracy and Maritime Security* (German Institute for

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[9] See International Chamber of Commerce, *Piracy and Armed Robbery against Ships: Annual Report, 1 January–31 December 2006* (London: International Maritime Bureau, 2007), p. 3.

[10] See section 1 (1) of the Nigerian Territorial Waters (1967).

[11] See Arild Nodland, "Guns, Oil, and "Cake" Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes, and David Rosenberg, (Eds) *Piracy and Maritime Crime Historical and Modern Case Studies* (Naval War College Press: Newport, Rhode Island, USA, 2010), p.196.

[12] See Energy Information Administration (EIA), *Country Analysis Briefs – Nigeria* (August, 2011).

[13] See Nigerian Ships and Ports Communications Company, *How NITOA Lost over 60% of Trawlers to Piracy in Four Years*, (2010) available at <<http://www.shipsandports.org/news.php>>.

[14] See Freedom C. Onuoha, *Piracy and Maritime Security in the Gulf of Guinea: Nigeria as a Microcosm* (Al Jazeera Centre for Studies, 12 June 2012) p.7.

[15] See Bergen Risk Solutions, *The Nigerian Maritime Security Review*, No.18, October 2011, p.2.

[16] See Alessi C., "Combating Maritime Piracy", *Council on Foreign Relations*, (13 March, 2012) available at <<http://www.cfr.org/france/combating-maritime-piracy/p18376>>.

[17] See The Punch Editorial Board, "Tackling piracy in Nigeria's territorial waters", *The Punch* (October 26, 2012).

[18] See FOX News (13/11/2012) *Energy Agency: Widespread Thefts of Crude Oil in Nigeria cost Country 7 Billion US Dollar a Year*; available at <foxnews.com/world/2012/11/13/energy-agency-widespread-thefts-crude-oil-in-nigeria-cost-country-7b-year/>.

[19] See Arild Nodland, "Guns, Oil, and "Cake" Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes, and David Rosenberg, (Eds) *Piracy and Maritime Crime Historical and Modern Case Studies* (Naval War College Press: Newport, Rhode Island, USA, 2010), p.196.

[20] See Freedom C. Onuoha, *Piracy and Maritime Security in the Gulf of Guinea: Nigeria as a Microcosm* (Al Jazeera Centre for Studies, 12 June 2012) p.9.

[21] See Muhammad Nura Inuwa, *Oil Politics and National Security in Nigeria* (A Master's Thesis submitted at the Naval Postgraduate School Monterey: California, December 2010) pp.39, 42-43. See generally, Elias Courson, *Movement for the Emancipation of the Niger Delta (MEND) Political Marginalization, Repression and Petro-Insurgency in the Niger Delta* (Nordiska Afrikainstitutet: Uppsala, 2009).

[22] See IRIN News Agency, UN Office for the Coordination of Humanitarian Affairs, "Conviction of Admirals Confirms Navy Role in Oil Theft," (6 January 2005), available at <<http://www.irinnews.org/>>.

[23] See Arild Nodland, "Guns, Oil, and "Cake" Maritime Security in the Gulf of Guinea", in Bruce A. Elleman, Andrew Forbes, and David Rosenberg, (Eds) *Piracy and Maritime Crime Historical and Modern Case Studies* (Naval War College Press: Newport, Rhode Island, USA, 2010), p.201.

[24] See David Mugridge, "Piracy Storm Brews in West Africa: Gulf of Guinea under Maritime Siege", *Defence IQ*, (18 August, 2010) available at <<http://www.defenceiq.com/sea/articles/piracy-storm-brews-in-west-africa-gulf-of-guinea-u/>>.

[25] In 2012, the Nigerian government through the Nigerian Maritime Administration and Safety Agency (NIMASA) awarded a \$103 million maritime security contract to secure Nigerian territorial waters for a ten year period to Messers Global West Vessel Specialist Nigeria Limited (GWVSL) a private company allegedly owned by Government Ekpemupolo, a former leader of the militant Movement for the Emancipation of the Niger Delta (MEND) despite an existing Memorandum of Understanding (MoU) between NIMASA and the Nigerian Navy. The development has been seriously criticized by several stakeholders as been detrimental to the development of the Nigerian Navy and other maritime security forces. See, "Fighting Tompolo at Inland Water Ways", *Insider Weekly* (September, 03, 2013) available at <<http://insiderweeklymagazine.com/ed462.php>>. See Francis Ugwoke, "Controversy over Maritime Security Contract", *Thisdaylive* (February, 05, 2012) available at <<http://www.thisdaylive.com/articles/controvesy-over-maritime-security-contract/108615/>>. See Bergen Risk Solutions, *Nigeria Maritime Security Review* (July, 2012) No 21, p.9.