

STRATEGIES TO COMBAT MARITIME PIRACY IN GHANAIAN WATERS

By

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The neighbourhood effect of the piracy menace in the Gulf of Aden and off Somali waters has afflicted the Gulf of Guinea (GoG) which has gained the notoriety of being the most dangerous maritime region currently. This is a reputation which does not measure up to Ghana's aspirations of leveraging on the concept of the Blue Economy as its new development paradigm. Piracy poses a considerable threat to maritime security. However, it is a phenomenon which does not occur on every busy sea lane. Waters mostly affected are those around states which have been marked with the label 'weak', 'fragile' or 'failed'. Ghana, in the middle of the GoG does not deserve this governance categorization.

The twin phenomenon of maritime piracy and armed robbery in the waters off West Africa have become established criminal activities of substantial concern to the maritime domain, and a real threat to international relations, international trade and maritime security. Even though it is fundamentally dangerous, piracy remains a profitable activity for thousands of unemployed people living in desperately poor coastal neighbourhoods and beyond. These people find the risk worth taking.

The GoG is touted as the most dangerous stretch of sea for pirate attacks in the world, according to the International Maritime Bureau (IMB). The IMB reported that 62 sailors were taken hostage or abducted in the area in the first half of 2019, accounting for 73 percent of kidnappings and 92 percent of hostage-taking at sea worldwide. The threats of piracy to maritime safety and security transcend borders and have the proclivity to affect international global trade; Africa's pursuit for a Continental Free Trade Area cannot be successful without a secured maritime domain. Piracy and armed robbery, in addition to the other ills of illegal fishing, oil thefts, and human, weapons and drug trafficking in the Gulf of Guinea continue to pose a significant threat to regional and international shipping.



Map of Gulf of Guinea. Photo Credit:- <https://images.app.goo.gl>

The question begging for immediate resolution is what effective strategies is Ghana as a sovereign littoral state adopting to protect commercial and other shipping and prevent this menace from the Ghanaian maritime space. This paper examines issues relating to the perspectives of International community, States and Ship Owners; implications for navies, and international trade. The piracy threat is analysed, and models for total protection of merchant vessels are evaluated. The paper then seeks to present the Writers' views and proposes the need for Ghana to be assertive in using her Navy efficaciously to police and prevent all acts of piracy and armed robbery in its territorial waters, particularly with commercial shipping at anchorages and approaches to the ports in Ghana. This work ends with conclusions and recommendations for strategy and policy crafting, planning, formulation and implementation



Ghana Navy Sailors in Anti-Piracy Training. Photo Credit: Alamy.com

The paper however does not seek to delve deep into the punishment leg of the approaches to addressing the maritime piracy challenge, but rather concentrate on the prevention and deterrence approaches of the military component of the national maritime anti-piracy strategy to be advocated for.

Perspectives-International Community, States and Ship Owners

- **International**

Piracy is an international crime when it is committed on the high seas and provides for universal jurisdiction. The basic reason for regarding piracy as an international crime is the protection of one of the most significant principles of

the Law of the Sea (LOS), namely; the freedom of the seas and particularly the freedom of navigation for commercial ships, which applies both to the high seas and the territorial waters. The United Nations Convention on the Law of the Sea (UNCLOS) still offers the basic legal framework to face contemporary piracy, but this is not enough.

No international convention solely dedicated to the eradication of piracy has been developed even though piracy was the first to be recognized as a crime against international law and subject to universal jurisdiction. In the famous 'Lotus Case', piracy was described as 'an offence against the law of nations' and pirates as 'the enemy of mankind whom any nation may in the interest of all capture and punish.

The International Maritime Organisation (IMO) an agency of the UN neither endorses nor condemns the use of armed personnel on board merchant ships, but leaves the decision to the ship owner subject to the law of the flag state. The IMO and various national governments advised the shipping community to follow 'Best Management Practices' (BMP). The BMP include preventive, evasive, and defensive measures that ship owners are recommended to implement and follow. The BMP Guidance which serve as an interim solution, is a list of guidelines to assist in evading, daunting or suspending pirate attacks in high risk areas such as the GoG. Furthermore, the BMPs include measures such as evasive manoeuvring to ensure ship safety. Other recommendations given to deter pirates ranged from physical barriers such as razor wires, electrified barriers, water spray and foam monitors, security alarm systems, use of closed circuit televisions, safe muster points and safe lock citadels.

This caution certainly appears vague, subjective and anecdotal, and could be interpreted differently. The IMO is effectively saying that countries should take their destiny into their own hands. Currently, no international conventions or regulations state what force and measures can be used lawfully to defend against a pirate attack. Despite the lack of existing binding regulation, The Baltic and International Maritime Council (BIMCO) created the GUARDCON, a standard form contract between ship owners and the security contractors that aims to set minimum requirements for the use of armed guards on board.

Furthermore, under article 107 of the LOSC, a seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorised to that effect.

Thus, the lacuna in international and state legislation for dealing with issues and challenges of maritime piracy has become glaringly disturbing and need to be filled as quickly as possible to address the international trade interest, national maritime governance interest and reputation, as well as the interests of ship owners.

- **State**

Coastal states do not wish to be tagged with the ignominious expression that 'lawlessness ashore equals lawlessness at sea'. It is to be noted that in accordance with customary international maritime laws and practices, there is no legal disposition allowing the presence of armed guards and the existence and use of weapons on board any commercial ship.

Furthermore, several states face challenges when arrested pirates are brought to their shores for trial and issues such as applicable jurisdiction are raised. However, the territoriality and the flag state principles of international maritime law clearly determine that a state can judge all offences which are committed in the country according to its own domestic penal law, regardless of the nationality of the offender or victim, and that all acts committed on board a ship are subject to the penal law of the country whose flag is flown by the vessel concerned. Ghana's situation is no different from the disposition anywhere in the world. Anything contrary must have the highest level of specific authorization and permission from the Maritime Authority or Administration and the international community.

- **Ship Owners**

The shipping industry believes that piracy and potential terrorist risks should be addressed by the international community. Thus, governments have a vital interest to maintain security in order that the normal daily business and commerce can thrive. Maritime security is inherently governmental and states fear a loss of authority when challenged. The concepts of Flag States and flags of conveniences or open registries cannot be used to side step this contemporary and internationally accepted maritime convention even though it is their responsibility to protect the crew under its flags. However, self-remedy has been adopted by a number of shipping companies, which have employed armed personnel to protect their ships.

Implications for the Navy



*Ghana Navy
Special Forces
Poised for
Anti-Piracy
Operations.*

*Photo Credit:
Ghana Navy*

The problem of maritime piracy has huge impact on all facets of the nation's development. It is therefore right and just for the military to intervene to restore sanity to the use of the sea for trade and development. Due to the increasing threats from pirates across the world particularly in the GoG, adding that the issue of maritime security in Ghana's territorial waters should be taken seriously is an understatement.

The power of the state at sea rests with the Navy. Navies are the security providers at sea and collectively have the role of guaranteeing good order at sea whenever and wherever needed. Their pivotal role in contributing to the socio-economic development of every coastal state is complex, multi-faceted, and interdisciplinary as in commerce, fishing, tourism, and the legal exploitation of both living and non-living marine resources. Thus, navies are expected to ensure freedom of navigation at sea, free access to the sea lanes of communication and the safeguarding of economic interests of the territorial sea.

The crucial question to be addressed in order to contextualize piracy is whether or not the phenomenon should be considered as a local issue rather than an international or regional threat that requires a military response. Piracy has clearly become a naval problem to be solved by a military response and navies are the main actors in charge of counter-piracy.

In the context of Ghana, the Navy operating in international waters fall under multiple legal regimes. The Navy enforces both international and Ghanaian laws at sea. Additionally, the Navy may be expected to express its inability to government to take up the task in view of the limited manpower and static and mobile maritime platforms for its various missions due to budgetary constraints. Several suggestions have been made by maritime experts and stakeholders advocating for the establishment of a Maritime Security Fund from which monies could be sourced to equip and operationalize the Ghana Navy (GN) and the other security agencies. Additionally, it could be debated that the use of outsourced naval personnel may be fraught with particular problems as any state hiring out military personnel risks 'becoming embroiled in disputes beyond their control'.

Other Implications

In addition to the implications for the Navy, the menace of piracy has many other repercussions. These include; high insurance premium, reputational damages, delays and infringing trade facilitation, financial loss and numerous legal suits, among others.

The economic costs of piracy, which are often underestimated especially collateral and indirect costs, have definitely become a much larger portion of direct ones, including ransoms. The direct losses due to robbery and ransom payments are aggravated by indirect losses, such as loss of hire, contractual penalties due to delayed delivery, additional pay for sailors, higher insurance premiums, or costs

incurred in the fight against piracy. In addition, pirate attacks also entail the risk of environmental disaster.

The maritime insurance industry has been strongly influenced by the rising number of pirate attacks, with an increase of its shipping rates and premiums, particularly those for high-risk piracy zones including shipping through the GoG. The cost of piracy may become extravagantly high for ship owners and operators who may shy away from providing vessel protection.

Perhaps the most important of all is the reputational damage that piracy brings to the state. The fact that the waters are infested with pirates is enough disincentive for shipping to avoid entry into anchorages and ports of these coastal states. This is substantially bad for international and regional trade, foreign investment and bad publicity for the state.

Threat Analysis



A Commercial Vessel Attempting to Ward Off Pirates/Armed Robbers. Photo Credit:- SeaTrade - Images.app.goo.gl

- **The Phenomenon**

Piracy constitutes more than one problem. The phenomenon includes a full gamut of illegalities such as; armed robbery, stealing from the crew, cargo theft, ransom taking and hijacking a ship and demanding ransom for the vessel or the kidnapped crew, petro-piracy, unreported and petty piracy, drug and weapons smuggling as adjuncts to piracy. Five types of counter-piracy responses and perspectives can also be identified. If considered as a threat, piracy represents a threat to freedom of the sea as well as to local populations and requires extraordinary military response. From a legal perspective, it is

considered as a crime which requires law enforcement operations. From the industry perspective, piracy is considered as a cost centre in the operations of international shipping which induces significant industry responses. Piracy can also be viewed from a development and humanitarian perspectives as a source of suffering, and secondary issue requiring humanitarian responses.

Pirates in the GoG are flexible in their operations so it is difficult to predict a precise area where a ship might fall victim to piracy. The GoG region has a very complicated piracy profile with dynamic and evolutionary tracks that pose serious law enforcement and jurisdictional challenges. There is a new paradigm in piracy, one that draws on sophisticated tactics and new technology. The pirates are highly mobile and equipped with technology and heavy weapons. They can move from the territorial waters of one country to another, or to the high sea, quickly. It is therefore very difficult for any single state to deter and prevent their activities. The pirates in the GoG comprise unemployed fishermen or seamen who are driven by poverty, who are not identifiable unless caught when preparing or committing pirating acts. Thus, counter-piracy responses must be apt, innovative and wide-ranging.

The areas off the coasts of Ghana, Cote D'Ivoire, Nigeria, Togo and Benin can be regarded as areas where counter-piracy management practices should be considered. In the context of piracy in the GoG and particularly in Ghanaian maritime jurisdiction, ships are most vulnerable whilst at anchorage and in the approaches to the main ports.

- **Threat Assessment Criteria**

It is underscored that certain criteria are relevant in any threat/risk assessment of piracy in the GoG. The nature of the threat i.e. who the pirates are, what they want to achieve, how they attack, how they board their victim vessels, the weapons they use, etc. are very essential to a better appreciation of the analysis. Background factors shaping the situation such as visibility, sea-state, traffic patterns, other commercial ships, fishing activities in the location are relevant focus of analysis. The possibilities for co-operation with military (escorting, employment of Vessel Protection Detachments, registering with authorities etc.). The ship's characteristics/vulnerabilities/inherent capabilities to withstand the threat (freeboard, speed, general arrangement etc.), Ship's procedures (drills, watch rosters, chain of command, decision making processes etc.)

It must be emphasized that characteristics of the piracy threat affecting Ghana that the Navy must keep tabs on are actionable intelligence from; Regional Reporting Centres such as the Multi-national Maritime Coordination Centre (MMCC), The Bureau of National Investigation (BNI), INTERPOL, UNODC Counter-piracy Programme, Shipping Association, The IMB, commercial intelligence providers, local sources e.g. ships' agents, fisherfolk, etc.

- **Concept of Operations (CONOPs)**

The following may be typical pirates' CONOPs in the GoG.

- Pirates operating in the GoG attack and seize vessels using violence in order to subdue the crew, mainly for looting of cargoes, ship's stores and steal personal belongings and other valuables. Once this has been done they may kidnap key individuals e.g. the Master and Chief Engineer then negotiate their ransom to maximise their profits from the attack or hijack. Violent shipboard robberies can take place as a result of a previously unsuccessful attack on another vessel.

- It is however argued that no ship has been successfully hijacked when armed guards have been stationed on board. Ship owners, ship operators and cargo interests believe that armed security personnel are the most effective measure to defend against the threat of pirate attacks in high-risk areas. The reason is deterrence. It has been suggested that the presence of armed guards on board sends a clear signal to potential attackers that the vessel and crew are capable of taking strong defensive measures to protect themselves, significantly increasing the perceived risks of an assault on the vessel. In the circumstances, it is contended that pirates will instead opt to attack ships with weaker defences, particularly in busy shipping areas.

- Additionally, the concept of using guard vessels or floating armouries on the high seas, from which guards collect their guns before embarking on a voyage, to get around laws banning weapons in ports could emerge. Floating armouries are commercially available vessels which operate as static or mobile offshore logistics facilities for PMSCs to store weapons and accommodate personnel. For instance, at the beginning of 2016, there were at least eight in the Red Sea and seven around the Gulf of Oman. These vessels could be stationed somewhere in the GoG or other waters prone to piracy and would carry weapons and armed guards, who transfer to merchant vessels of clients contracting their services and escort them through the high risk zone. The possibility of confrontations with various port authorities in the eventuality of having to operate from a port, where weapons and armed individuals would be frowned upon is real. Others have patrol boats, armed with machineguns, which they lease out.

With this assessment it could be emphasized that the best approach to protecting vessels from pirate attacks is to meet force with force on board.

Models for Total Protection of Merchant Vessels



Credit: Getty Images.

With the benefit of the experiences of the piracy nightmares off the coast of Somalia, the drastic reduction in attacks from 2009 up to 2013, was due to several successful naval missions, the adoption of preventive measures on board a growing number of commercial vessels, including the use of private security armed guards. Despite the essential function of navies in maintaining law and order at sea, the role of armed personnel on board commercial ships has been a traditional and controversial subject.

There are no explicit laws forbidding the arming of merchant vessels, whether arming by means of contracted armed security personnel, the direct arming of the crew, or through the use of military forces. It is however understood that IMO does not intend to endorse or to institutionalize the militarisation of commercial ships supposedly due to the plethora of legal and other underlying liabilities. These on-board protection choices should be seen as temporary measures lasting until the state has entirely fulfilled its obligation to protect commercial ships and taken different appropriate tools against the perpetrated acts of piracy.

Any counter-piracy strategy with the focus on protecting the ship, the crew and cargo particularly at the ships' most vulnerable moments such as the anchorage and approaches to ports can consider four main options. These are; arming the crew, the use of, armed guards provided by Private Military and Security Companies (PMSCs), Vessel Protection Detachments (VPDs), armed naval guards, and the hybrid model of using armed naval/military guards as VPD units on board commercial and on escort vessels.

- **Arming the Crew**

This choice is always contemplated. It is said that when the flag states and coastal states have failed in their mandate to protect against acts of violence at sea, then the last resort is self-defence by merchant ships. Direct arming of the crews would provide reliable and timely defence mechanisms; reduce the associated cost of anti-piracy strategies and most of all give the crew a more secured feeling. However, the ability of crew to bear arms remains the challenge to be determined and the knowledge that a merchant ship has highly sophisticated arms on board could endanger security and cause an overreaction by pirates when attacking the ship.

Arming of seafarers may have direct consequences such as being held criminally liable for injuries inflicted or the killing of persons at sea (be it pirates or fishermen or other users of the sea). Additionally, carrying arms proves to impede security measures as such ships may not be admitted in ports. Furthermore, seafarers are already too busy to be burdened with the responsibility of bearing arms to protect themselves and their ships. Ship owners are not in favour of arming sailors and arming merchant ships because of their concerns about liability, responsibility, accountability in respect of the safety and security of the crew and of the ship.

It must however be stated that with so many armed guards hired to secure merchant ships against piracy, if this is permitted in the GoG, there is a risk of a "mini-arms race" developing between pirates and the private security operators. Additionally, outsourcing private military personnel to perform anti-piracy operations raises questions of jurisdiction and accountability.

If permission is given to place arms on board merchant ships for protection of the ship, it makes the ship vulnerable to illegal activities; some seafarers may get the idea of smuggling illegal guns and ammunition amongst the legitimate lot. This could lead to the practice of gun trafficking as well.

- **Private Military and Security Companies (PMSCs)**

Despite the essential function of navies in maintaining law and order at sea, the role of armed personnel on board commercial ships has been a traditional and controversial subject. There is scepticism about the use of PMSCs to deter piracy in the IMO's BMPs.

Some agents and PMSCs offer former members of the security forces as armed guards for deployment on board merchant ships. Such services should only be contracted if a requirement exists following the risk assessment, and only as a supplement to ship protection measures outlined in BMP. However, using private armed guards in the Gulf of Guinea region is much more problematic than off Somalia, owing to the complex patchwork/collaged of legal, security, administrative, command and control interests that need to be addressed. For

instance, it is relevant to take cognizance of the fact that; private armed guards are prevented by law from operating inside territorial waters of coastal states in the GoG region, and authorities are known to enforce these regulations vigorously, state forces subcontracted by PMSCs should only be used if they are legitimate, and trusted, and whether ships carrying arms may attract potential criminals aiming to stealing these weapons.

States have traditionally been wary of private security providers. However, PMSCs have recently started to play an important role in protecting national merchant vessels, eventually replacing the military VPDs units provided by national Navies. Drawing on contemporary practicality, the increasing involvement of PMSCs in protecting national merchant ships is presented as an attempt to reduce the political costs associated with the use of military personnel abroad.

PMSCs should be vetted/registered/certificated to ensure their suitability to operate VPDs of armed naval guards on board vessels. A scheme should be designed for the accreditation of new private armies and navies springing up on the oceans.

- **Vessel Protection Detachments (VPDs)**

The model of Vessel Protection Detachments (VPDs), uniformed military personnel embarked on a vessel with explicit approval of the Flag State. Unlike private security actors at sea, VPD operators are trained to follow strict and defined rules of engagement through conventional military chain of command. VPD's are considered as a state organ that is granted with functional immunity, on board commercial vessel. The use of VPDs on-board appears to be more preferred than arming the vessel and the crew. Although VPDs may possess more powers than PMSC guards to better deal with the question of state responsibility over rescued suspected pirates.

The challenges of using VPDs are while they are operating on board a commercial vessel and sailing through territorial waters of some coastal states since the embarkation of armed military personnel on privately owned and operated vessels could diminish the merchant vessels' status under the right of innocent passage.

VPDs were used in high-risk waters of the Gulf of Aden and the Somali Basin to fend off piratical attacks. The detachments consist of a small number of armed military or civilian security guards. Their purpose is to deter pirates from attacking the vessel and, if that fails, to defend the vessel from actual attacks. These vessels show no designation that they carry VPDs. Most state-flagged commercial vessels operating in troubled waters have contract security guards on board. Some fishing vessels and cruise ships have commenced carrying VPDs upon request and payment of costs. The rules of engagement utilized by these detachments or 'sea marshals' are not made public.

The potential liabilities for the actions of the security guards are shared between governments, the commercial security companies, and the ship owners/operators. It must be underscored that only a few reported engagements between suspected pirates and embarked VPDs. All have ended with the pirates breaking off the attacks. There have been no reported casualties or damage on board the embarked vessels. Whilst the use of VPDs were common in the Gulf of Aden and the Somali waters, there is no indication to date that use of this model has expanded to other waters, such as off West Africa.

These models in the form of PMSC guards and VPDs both have their benefits and flaws as a solution to protect ships from piracy. VPDs appears preferable over PMSC guards from the context of ensuring accountability over the use of force and the ability to better manage post rescue issues. Whether states would promote the VPD model or not would depend on other progressive options or a combination model.

- **The Use of Armed Naval Guards**

With respect to the key operational issues, most ship owners' organizations have expressed preference for naval personnel and the reasons are obvious. In an incident resulting in casualties, the State would be fully involved if naval personnel are involved, thereby giving relief to the ship owners. There can be an interpretation that they belong to a 'vessel protection detachment' of the State, with obvious sovereign immunity. Members of a uniformed force are normally expected to be more disciplined than private players. On the other hand, private maritime security companies (PMSCs) also mostly engage former naval personnel. Ultimately, the performance of the individuals depends on their personal traits and their training. The selection of the guards and their training are, therefore, of crucial significance, irrespective of the source. The GN could be authorized by the GMA to train and recommend for certification and periodic audit of PMSCs in the provision of VPD guards. The scope of training required for PMSCs to be certified for them to operate armed guards as VPD/U on board vessels in the vulnerable locations /spaces of Ghanaian waters.

- **The Hybrid Model**

In order to address a pressing need of sanitizing the waters of a coastal state and restore shipping confidence in the GoG, a hybrid model of using armed naval/military guards as VPD units on board commercial and other vessels, and on escort vessels sailing in unsafe and territorial waters of a coastal state could also be adopted. This dual solution entails that the ship-owners shall be compelled to request protection, in a specific part of these high risk areas, particularly in territorial waters, anchorages and approaches to ports. The hybrid VPD units may comprise Navy personnel or personnel from the other security services but under the control of the Navy and whose activities must be carried out in conformity with the directives and rules of engagement of the

Ministry of Defence. The officer-in-charge of each VPD has the exclusive responsibility for military activity carried out against piracy.

Proposals

On the basis of the above analysis, the Writers make proposals for the domestic practices to combat maritime piracy based on the following established facts and international maritime conventions:

Facts

- Piracy is an international crime but the international system represented by the UN through the IMO has no substantive and binding laws for dealing with the phenomenon. Piracy constitutes still a real threat and the shipping industry cannot take the place of states, which should continue to exercise the essential role of policing the sea.
- Ghana is aware of the danger and potential damage of maritime piracy to the national economy. An act of piracy or armed robbery falls under the category of punishable crimes in Ghana. The issue is whether the government has done enough to combat and control piracy. Alternatively, it may be asked whether the country is obliged to do more to prevent and combat piracy within its territorial waters and waters adjacent to its territorial waters.
- Piracy is real in Ghanaian waters and infringes on trade facilitation, damages the state's reputation, creates delays in trade, causes financial loss, while numerous legal suits, have now become a maritime albatross around the neck of maritime policy makers.
- Piracy represents a threat to freedom of the sea and requires extraordinary military response. Navies are mandated to ensure freedom of navigation at sea, free access to the sea lanes of communication and the safeguarding of economic interests of the territorial sea. Thus, the power of the state at sea rests with the Navy and it is only the Ghana Navy that can legally bear arms in Ghanaian waters.
- The GN has a specialized unit (Special Boats Unit) that can be configured and used as the nucleus of the anti-piracy fight.
- Ghana as a sovereign littoral state has no effective strategies to protect commercial and other shipping, and prevent this menace from her maritime space.
- Actionable maritime intelligence is most vital in the piracy fight.
- Despite the essential function of navies in maintaining law and order at sea, the role of armed personnel on board commercial ships has been a traditional and controversial subject.

- The reality is dawning on States to revisit the denial and begin to rethink their positions in the national interest rather than satisfying some international or regional conventions which are not in tune with contemporary realities.
- There are no explicit laws forbidding the arming of merchant vessels, whether arming by means of contracted armed security personnel, the direct arming of the crew, or through the use of military forces.
- Four main protection models are available for selection. These are; arming the crew, the use of, armed guards provided by PMSCs, VPDs, armed naval guards, and the hybrid model of using armed naval/military guards as VPD units on board commercial and on escort vessels.
- The GN is exclusively mandated to enforce national and international maritime, customs, fishery and immigration laws among others. Its duties do not cover the provision of individual security for merchant ships.
- Despite various initiatives, neither the Ministry of Defence nor the GN has given formal approval for the GN-led initiative for the protection of individual merchant ships. The Navy providing security cover for individual vessels (for a fee) is outside its mandate and operational scope.

Proposals

- Since measures taken under the umbrella of international community solutions have not worked so far, there is a need to localize/nationalize the challenges of the piracy menace as they affect Ghana. Responding effectively to the challenge of maritime piracy remains a matter of strategic importance. Ghana needs a dynamic, proactive and revolutionary strategy for dealing with security challenges facing merchant vessels in Ghanaian waters. 'A Counter-Maritime Piracy Strategy for Ghana' document detailing the deterrence, prevention and punishment components of dealing decisively with the piracy challenge ought to be prepared to guide efforts.
- The GN could be asked to lead the 'war against maritime piracy' in Ghanaian jurisdiction. The service should be supported, resourced and mandated to present a deterrence posture that sends the positive signals to existing and potential criminals that their acts and deeds shall be severely dealt with. A tailor-made or a bespoke approach could be modelled to fix the problem.
- The GN could be authorized by the GMA to ensure uniform requirements of licensing, oversight, equipment management, and operational certification as well as training and proficiency in security tasks including marksmanship, vessel hardening, and other professional responsibilities for military armed guards to be used as a hybrid VPD personnel.

- Interested and qualified retired Ghana Armed Forces personnel could be engaged or hired under the direction of the GN to be part of the VPDs to be trained to protect all commercial shipping in Ghanaian waters against attacks by pirates. The GN could track former military personnel who are willing to become guns for hire at seas, where the law remains a quagmire of competing jurisdictions.
- The GN and a security company or ship could enter into a Memorandum of Understanding (MoU), under which armed naval personnel or a VPD would be placed on board either the merchant ship, fishing vessels or an escort vessel that flanks the merchant ship at anchorage, in port or during transit through Ghanaian waters.
- The GN could be mandated/employed to manage escort boats with embarked GN/military security teams or VPDs operating within the country's waters to get protection prior to entering any Port in Ghana. It must be added that employing the Navy, armed naval personnel and escort boats adds a huge amount to costs.
- In addition to having naval armed guards on board and as escorts, the insistence on implementing the BMPs of the Maritime Safety Committee could be most helpful.
- The success of policies and strategies to combat and repress piracy rests on strengthened cooperation at all levels. This includes cooperation not only in respect of maritime security measures, but also in terms of information sharing and in terms of the effective prosecution of pirates and of those who benefit from the proceeds of piracy.

Conclusion

Piracy remains a multifaceted phenomenon to be addressed with different means and under several perspectives, with a number of issues still requiring further action. The 1982 UNCLOS, The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) and other IMO perspectives have appreciable pitfalls which prevent their effectiveness in combating maritime terrorism and piracy.

Customarily, ship owners are not entitled to put armed guards on board their vessels to protect them from attacks by arms-bearing third parties. However, considering the increasing reported attacks of armed robbers at sea, kidnappings for ransom and other criminal occurrences in Ghana's waters, particularly, at anchorages and the approaches to ports and generally within 20 NM from ports, ship owners and operators have explored how to optimise the protection of both ships and cargo.

Ship owners have experienced a myriad of losses resulting from ships being delayed, detained or destroyed, expending monies for high ransoms for crew held hostages,

rapid increase of insurance premiums and in even more unfortunate cases, with the loss of lives.

It is established that the total eradication or significant reduction of piracy incidents has to be a consolidated effort at the national, regional and international levels, taking into consideration the root cause of the problem. However, this cooperative effort has been elusive due to the absence of commitment and the required resources. The fight has been reduced to ‘each for himself

Counter-piracy strategy with the focus on protecting the ship, the crew and cargo particularly at the ships’ most vulnerable moments such as the anchorage and approaches to ports can consider five options, namely; arming the crew, the use of, PMSCs, VPDs, armed naval guards, and the hybrid model of using armed naval/military guards as VPD units on board commercial and on escort vessels. The hybrid model is preferable in addressing the piracy canker in a proactive and localized manner.

On the basis of the analysis made, some proposals are made based on the established facts such as that, the power of the state at sea rests with the Navy and it is only the Ghana Navy that can legally bear arms in Ghanaian waters, that ‘A Maritime Counter-Piracy Strategy for Ghana’ document ought to be prepared to guide efforts and the GN could be asked to lead the ‘war against maritime piracy’ in Ghanaian jurisdiction.

Recommendations

The Writers make the following recommendations:

- Maritime security issues should be mainstreamed into the blue economy development agenda, and maritime piracy should be treated as a national security imperative that requires urgent attention.
In the absence of a comprehensive and binding international maritime legislation on maritime piracy, Ghana needs a dynamic, proactive and radical strategy for dealing with security challenges facing merchant vessels in Ghanaian waters; a ‘Counter-Piracy Strategy for Ghana’ document should be prepared under the auspices of the Ghana Maritime Authority (GMA) in collaboration with all maritime stakeholders. The GN should be authorized to work out the modalities for implementing Anti-Piracy Strategy.
- A ‘war against maritime piracy’ in Ghanaian maritime jurisdiction should be waged to protect shipping in Ghanaian waters with the use of its armed naval guards (either embarked or in escort vessels) at locations where such protection is required, and the GN should be mandated to lead the fight.
- The GN should be authorised to establish Vessel Protection Detachments/Units to be deployed on board vessels in Ghanaian waters within 20NM, including the anchorages and approaches to the main ports of Tema, Sekondi and Takoradi.

- The appropriate secondary legislation should be initiated by the Ministry of Transport and notices be issued by the Ghana Maritime Authority (GMA) to the shipping community (operators, cargo owners, and shipping agents) to the effect that any vessel transiting Ghanaian territorial waters and calling at any Ghanaian ports shall be required to request armed guards from the Maritime Authority. Vessels with foreign armed security guards on board shall be detained.
- It should be made mandatory for all vessels to request for VPD armed guards from the GN or its authorized agents before entering the territorial waters of Ghana. Any vessel that infringes this requirement shall either not be allowed entry into port or be severely sanctioned.
- Actionable maritime Intelligence should be pursued through an information-sharing network between stakeholders in the region to relentlessly pursue and thwart the malicious intentions of the pirates and armed robbers on shore.
- Individuals using “rogue vessels” to provide armed security escorts services to ships transiting through Ghanaian waters should be arrested and prosecuted.
- Cases of piracy and armed robbery at sea should be expeditiously handled by the special courts using the relevant and applicable provisions in the Criminal Offences Act, 1960 (Act 29) and other laws of the country.

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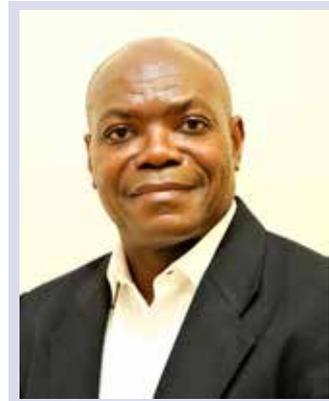
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