

IMPLEMENTATION OF THE INTERNATIONAL MARITIME CONVENTIONS AND THE CHALLENGES OF MANAGING NIGERIA'S MARITIME DOMAIN

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Abstract

Disruption in maritime transportation and access can reduce economic investment, constrict energy flows, global trade, critical infrastructure and the protection of maritime resources as well as hamper security, law enforcement and humanitarian operations. Thus, the insecurity in the Nigeria's maritime domain has constituted a threat to the development and sovereignty of the country. This study examines implementation of the international maritime conventions and the challenges of managing Nigeria's maritime domain. The study utilized securitization theory. It employed the use of both primary and secondary methods. The primary method includes distribution of questionnaire accompany with well structured interviews. Secondary sources of data reviewed existing literature from journals, online articles, and research projects. The study reveals that even though Nigeria has rectified and are party to many international conventions they are yet to establish the necessary legal and institutional frameworks at the national level which will enable these conventions to be applied locally in line with the provisions of the constitution as an aid for the prosecution of crimes in that regard. It has been established that pirates and other criminals most times exploit this laxity and loopholes in the law to operate almost with impunity. Findings also show that the implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain are presently being undermined by multifaceted domestic, sub-regional and international threats and vulnerabilities. These challenge Nigeria with limited capacity and expertise for maritime security. The study recommended that creating an enabling environment for maritime security would require sustained political will and that government will need to improve its capacity by acquiring the appropriate equipment, technology and trained personnel to implement maritime security strategies.

Keywords: Conventions, Domain, International, Maritime, Piracy, Safety and Security.

INTRODUCTION

No less than 80 percent of the world's trade is carried out globally through sea. This signifies the significant role the sea plays in the economic development of many nations. This represents around 93,000 merchant vessels, 1.25 million seafarers and almost six billion tons of cargo yearly (Bowden, 2010). These figures show an increase in seaborne trade in recent times. Presently, the International Communities have witnessed one of the world's oldest crimes against sea trade- sea piracy.

A number of security regimes spearheaded by International Maritime Organization (IMO) and United States of America (USA), have been introduced at the local and international level to secure the oceans, ships, maritime trading routes and maritime trade. Notable examples of these include: International Ship and Port facility Security (ISPS) code, the Maritime Transportation Security Act of 2002 (MTSA), the Advance Manifest System (AMS/24 hour rule), the Container Security Initiative (CSI), the Technology Asset Protection Association (TAPA), Suppression of Unlawful Act against safety of Navigation (SUA), the U.S. Customs-Trade Partnership Against Terrorism (C-TPAT), and the Smart and Secure Trade-lane (SST) program. The introduction and administration of these instruments have defined security regimes at sea, in ports and associated transportation networks. It also provided a legal framework for further maritime security cooperation at regional and global level.

According to the report of the International Maritime Bureau (IMB) during the first three quarters of 2009, the coast of Nigeria is said to rank as the second most perilous in the world in terms of attacks, with 20 reported (IMB, 2013). This is more obviously linked to militancy in the Niger Delta with traces of spreading into adjoining countries through organised criminal groups and divergent separatist sects. This means that Nigerian

maritime security has a direct bearing on the state's capacity to secure its national assets, which is a vital asset for the country. These threats, coupled with the inability of the Gulf of Guinea countries to adequately manage their maritime security have led to a call for regional approaches and external support. UNSC Resolutions "2018" of 31 October 2011 and Resolution "2039" of 29 February 2012 laid the groundwork which expresses concern posed by piracy and armed robbery at sea and threats to the security of maritime sea lines of communication (Smith-Windsor and Pavia, 2013).

More recently, African initiatives to encourage wider regional and international approaches to tackle maritime insecurity have taken a new dimension. The meeting of Heads of States of three key regional organisations in the Gulf of Guinea (Economic Community of Central African States), the Economic Community of West African States (ECOWAS) and the Gulf of Guinea States (GGC) on 24 and 25 June 2013 at Yaoundé in Cameroon adopted the "Code of Conduct on the Prevention and the Suppression on Acts of Piracy, Armed Robbery against Ships and other Illicit Activities carried out at sea in Central and West Africa" (Smith-Windsor and Pavia, 2013).

Accordingly, various institutions and structures have been put in place at national and multilateral levels to ensure the protection and peaceful mutual benefit of the resources in the Gulf of Guinea (GoG). However, the bases, compositions and peculiarities of colonial and neo-colonial influences of the institutions and their constituents have been stumbling blocks to significant progress of their efforts at neighbourhood cooperation and in particular collective maritime security. The groups comprise mixtures of English, French, Portuguese, Spanish and Belgian colonial heritages (Yates, 2014). Rivalry, suspicion and fierce assertion of sovereignty have also undermined their capacity for cohesion. Consequently, efforts at collective security reflect plenty of motion but no movement as common issues begging to be addressed remains ignored. The International Maritime Organization (IMO), in April 2017, outlined a strategy to enhance maritime security in West and Central Africa that could counter piracy, armed robbery against ships and other illicit activities (IMO, 2017). Yet, Nigeria's maritime domain is still bedeviled by gross insecurities.

Shipping is also an essential component of the important drivers of the economy where high percentage of its international cargo trade is facilitated by sea. The 2014 UK Chamber of Shipping shows that 45 seafarers have lost their lives and 459 seafarers have been held hostage in the past decade. It was also presented by the report that an estimate of 60% of the attacks have been taken place on Nigeria territorial waters in 2013 and there seems to be an increase in violent attacks. An estimate of about 5000 vessels of other nationalities calling at Nigeria ports every year and statistics from Nigeria shows that 3000,000 barrels of oil are stolen every single day (UK Chamber of Shipping, 2014). It is against this background that this study is guided by the following research questions: how has the implementation of the International Maritime Conventions impacted on the security of Nigeria's maritime domain? And what are the challenges facing the implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain?

Conceptual Review

International Maritime Organization (IMO)

The International Maritime Organization (IMO) is a specialized agency of the United Nations (UN) which has been tasked with the responsibility of adopting and implementing numerous regulations to govern maritime safety, maritime security, oil pollution and environmental protection (IMO, 2019). Similarly to IMO (2019) definition, Basaran (2016) lamented that, indeed, the IMO is the main international institution charged with the responsibility of ensuring that the shipping industry and its operations prevent further harm and damage to our global environment

According to the International Maritime Organization (IMO, 2019i) the IMO is a specialized agency of the United Nations (UN) which was initially established out of a growing need by many countries to effectively promote and manage maritime safety through international shipping regulations. In 1948 in Geneva, an

international conference was held resulting in the adoption of the Convention on the Intergovernmental Maritime Consultative Organization - its name at the time was the Inter-Governmental Maritime Consultative Organization (IMCO) - which formally established the IMO (United Nations Treaty Collection, 2019). In 1958, this convention entered into force and the first organization meeting of the IMCO took place the following year. In 1982 the name IMCO was officially changed to the International Maritime Organization (IMO, 2019i). Today, the IMO has 174 Member States which represent most countries in the world including the main maritime powers (IMO, 2019ii).

Maritime Domain

Maritime security is concerned with activities relating to criminality, such as armed robbery and piracy, drug trafficking, smuggling and other transnational crimes. According to Feldt, Roeli, and Thiele (2013), maritime security is a “combination of preventive and responsive measures to protect the maritime domain against threats and intentional unlawful acts” (Kuma, 2015). This definition is significant in the sense that it laid emphasis on preventive and responsive measures in overcoming maritime threats.

Lamara (2010) referred to maritime security as the security from terrorism, piracy and similar threats, as well as effective interdiction of all illegal activities at sea such as pollution of the marine environment; illegal exploitation of sea resources; illegal immigration; and smuggling of drugs, persons, weapons and other matters that can be used for terrorist activities. Maritime security, therefore, relates to maritime defence, environmental protection and management, offshore installation security, security of aquatic organisms as well as security of ships, crew, passengers and cargo. Transnational forces and irregular challenges continue to be the primary threat today and in the foreseeable future, especially in the maritime domain. “Maritime Security” has to be distinguished from “Maritime Safety”. “Maritime Security” is the combination of preventive and responsive measures to protect the maritime domain against threats and intentional unlawful acts. Key words are: preventive and responsive measures, aiming at both law enforcement as a civilian and military requirement and defense operations as a military, in this case naval requirement. “Maritime Safety” is the combination of preventive and responsive measures intended to protect the maritime domain against, and limit the effect of, accidental or natural danger, harm, and damage to environment, risks or loss (Jesugbamila, 2010).

Nevertheless, Maritime security in this study, is the state wherein the country’s marine assets, maritime practices, territorial integrity and coastal peace and order are protected, conserved and enhanced through internal or in combination with external mechanisms.

Maritime Safety

Maritime safety is concerned with life and property issues in the maritime domain, such as prevention of accidents and pollution and the reliability of ships and their equipment. To this end, the IMO has adopted several regulations and conventions to improve operational safety of seagoing vessels, with the International Convention on Safety of Life at Sea (SOLAS) convention standing out as the most important of all (Dalaklis, 2017). Thus, maritime safety is concerned with accidents without criminal intent, whilst maritime security concerns incidents with criminal motives. Certain researchers conclude that maritime safety and maritime security complement each other and also have shared goals.

Maritime safety is the safety of life and property at sea, and the safety of the marine environment from pollution by ships. Maritime safety relates to safety of ships, crew, passengers and cargo as well as the prevention of marine environmental pollution. The safety of life and property at sea is of utmost importance to IMO and the international maritime community.

Empirical Review of Related Literature

Brown and Okorie (2015a) studied Crime and Seasonality in Nigeria: A Spatio-Temporal Discussion in Uyo Urban. Routine activity theory was adopted. Using a qualitative research approach, it was revealed that pirates and other criminals most times exploit this laxity and loopholes in the law to operate almost with impunity.

Recently, Nigeria purportedly domesticated the SUA Convention of 1988 with the accompanying protocols through the provision of Section 215(h) MSA136 of 2007 by “enacting or incorporating the SUA Convention by reference. Much as it is quite desirable to domesticate the SUA Convention, and the protocols thereto, the laid down procedure in the constitution must be complied with at all times. It is therefore doubtful, whether the procedure adopted in domesticating the SUA in Nigeria is right in the light of the following provisions: Section 12 of the 1999 constitution provides that “No treaty between the Federation and any other country shall have the force of law unless to the extent to which any such treaty has been enacted into law by the National Assembly”. The study maintained that, with political will, security can be ensured in the maritime sector. However, the implementation of the international maritime conventions and the challenges of managing Nigeria’s maritime domain from 2009-2022 were not explored.

Ifesinachi and Nwangwu (2015) assessed the Implementation of the Yaounde Code of Conduct and Maritime Insecurity in the Gulf of Guinea. Neo-functionalism theory was used. Historical and descriptive design was used in analyzing data gotten from secondary source. The study discovered that there are challenges of developing but immature institutions, absent or unsuitable policy frameworks, lack of political will, insufficient coordination and lack of synergy across the spectrum of players concerned with maritime security. Inconsistency in policy formulation and implementation has been the bane of governance within the maritime sector. These issues above all undermine the potentials for effective maritime security in the country over and above the more traditional problems of low technology base, dearth of finance and capacity limitations. The study believes that these more serious organisational issues are more complex, more difficult to and take longer to resolve than the traditional problems hence the traditional challenges must take a back seat in this perspective. The implementation of the international maritime conventions and the challenges of managing Nigeria’s maritime domain from 2009-2022 have not been effectively addressed.

Ezeobi (2018) studied Securing Nigeria’s Maritime Domain: An Empirical Analysis. Structural-functionalism was adopted as a theory. Data were collected through the use of questionnaire and it was evidently revealed that the Nigerian government through some of its several agencies has to certain extent been proactive in the quest of finding adequate solutions to the malaise of piracy and insecurity on our waters. The present status of Nigeria’s maritime laws, whereas cannot be said to have attained the desired optimal level, but with concerted implementation has the potentials to drastically reduce the security risks on our waters. It remains a fundamental and unfortunate phenomenon with legislations in Nigeria that while enough laws are on the books, the degree of their implementation is not matched with the rate at which the laws are churned out. The institutions and agencies with Constitutional or legal bases for exercising maritime security roles in Nigeria include the Nigerian Navy, Nigerian Maritime Administration and Safety Agency (NIMASA), Marine Police, Nigerian Customs Services, Nigerian Immigration Services, Nigerian Ports Authority. There is also recently, the Presidential Implementation Committee on Maritime Safety and Security (PICOMMSS) and the National Security and Civil Defence Corp (NSCDC). However, the study did not discuss the implementation of the international maritime conventions and the challenges of managing Nigeria’s maritime domain from 2009-2022.

The above analyses by scholars laid emphasis on institutions responsible for the management of maritime security in Nigeria as well as the provisions provided in IMO conventions. They didn’t capture, comprehensively, the extent which the implementation of the International Maritime Conventions has impacted on the security of Nigeria’s maritime domain. Analysis also shows that much emphasis have been place on the challenges facing the development of indigenous shipping without regards to the challenges facing the implementation of International Maritime Conventions and the management of Nigeria’s maritime domain. This is a gap that this study attempted to address.

Theoretical Framework

This study is rooted in the securitization theory which was originally proposed by Buzan, Waever and Jaap (1998). The framework posits that there is a genuine logic to threat construction, hence such processes can be

analyzed through a generic framework aims that draw on a certain generic grammar. In this grammar an issue, such as piracy, is presented to be an existential threat to a certain referent object, for instance the nation state or international trade. Such claims are only successful if they are presented by actors that have the authority to speak about security and if a relevant target audience accepts such threats.

Threat construction usually comes along with a proposal for measures that should be taken to protect the reference object from the threat. For Buzan and Waever (1998), it is a specific characteristic of security, that counter-measures are extraordinary and often extreme. They might involve military instruments up to the scale of military conflict or a significant cutback of civil liberties.

Drawing on the securitization framework to understand maritime security leads to two potential tracks of investigation (Buzan, Waever and Jaap, 1998). First, the question can be addressed by which securitization claims 'the maritime' has become an issue that is securitized. This implies to ask how the contemporary understanding of the oceans and the sea as a space of insecurity and threats has come about and how it has changed over time. Writing a genealogy will be the likely outcome considering that the discourse of the oceans as a zone of danger and uncertainty can be traced at least back to the Antique.

Such an analysis provides a grand picture of how and why 'the maritime' is a source of insecurity or a reference object that requires to be protected. The second track is a fine-grained analysis of how different issues have been securitized to form the maritime security agenda. A careful reconstruction of the issues on the laundry list of maritime security is the outcome and attention given to the question of who securitizes issues towards which audience and with what kind of reference objects in mind (Buzan, et al., 1998).

For deciphering different (and competing) political interests it is particularly revealing to ask which reference objects are entailed in maritime securitizations. What are the reference objects that actually have to be protected from the maritime security threats? The majority of international actors defines maritime security by identifying a number of threats that the concept includes. If the precise phrasing differs across agencies, the 2008 UN Secretary General's Report on Oceans and the Law of the Sea provides an outline of the threats commonly included. The report differentiates between seven.

- (1) Piracy and armed robbery,
- (2) Terrorist acts,
- (3) The illicit trafficking in arms and weapons of mass destruction,
- (4) The illicit trafficking in narcotics,
- (5) Smuggling and trafficking of persons by sea,
- (6) Illegal, unreported and unregulated fishing and
- (7) Intentional and unlawful damage to the marine environment.

Table 1: Tabular Illustration of Securitization Theory and its Application on the Management of Nigeria's Maritime Domain

Unit	Explanation	Examples from Nigeria's case
Referent Object	This unit is presented as if being threatened by the securitized issue and that must be protected.	Primary Securitization: Nigeria's maritime domain and Nigerian People.
Functional Actors	The actor(s) that influence the securitization process without being a securitizing actor or other predetermined units.	U.N and I.M.O.
Audience	This is the unit that must be convinced about the security definition.	Nigerian People and International Community

High-Level Decision Makers	This is the unit, which makes the security definition and convinces audience(s) with discursive efforts.	Primary Securitization: Head of the executive, minister of defense, minister of interior, High ranking generals Counter-Securitization: Pirates.
Security Professionals	This is the unit, which implements security measures and leads to the routinization and normalization of security.	Primary Securitization: Nigerian Navy and Maritime Police (in some cases paramilitary groups).
Sufferers	This is the group/individual human beings that are insecure through security practices.	Nigerian People.
Opposition	This is the group, which opposes the security definition without a counter-securitization.	Primary & Counter-Securitization: Opposition parties, human rights activists and different NGOs

Source: Compiled by the researcher from Buzan (1991) and Buzan, Waever and De Wilde, (1998).

The securitization framework is relevance to the study as it laid emphasis on maritime security by identifying a number of threats that the concept includes. These are: Piracy and armed robbery, terrorist acts, the illicit trafficking in arms and weapons of mass destruction, the illicit trafficking in narcotics, smuggling and trafficking of persons by sea, illegal, unreported and unregulated fishing and intentional and unlawful damage to the marine environment as provided by the 2008 UN Secretary General's Report on Oceans and the Law of the Sea. All these threats describe the nature of Nigeria's maritime domain. Hence, the justification for its adoption as a framework for analyzing International Maritime Organization and the security of Nigeria's maritime domain.

METHODOLOGY

The research design that was adopted in this research is mixed design. The total population for this research work is **1,360** (National Bulletin of Nigerian Bureau of Statistics, October (2021) consisting of staff of the Nigeria Maritime Administration and Safety Agency (NIMASA), Headquarter, Lagos, Marine and Operations Department, Nigeria Ports Authority (NPA), Headquarter, Lagos, Nigerian Navy (Operation Command) Headquarter, Lagos, Nigerian Marine Police, Lagos station, Regional Center for Maritime Security in West Africa, Abuja, Nigerian Shippers' Council (NSC), Abuja and United Nations Office, Abuja. The Cochran statistical model for determining sample size was employed to arrive at a definite population size using its statistical formula and template for reducing large samples to workable standard which is 400.

The study utilized cluster and systematic sampling techniques. Stratified Random Sampling was used to select the respondent from the five institutions mentioned above. This study adopted the cluster sampling technique due to the heterogeneous nature of the population. Again, cluster sampling technique was adopted because; it produces estimates of overall population parameters with greater precision and ensures that a more representative sample is derived from a relatively heterogeneous population. Purposive sampling technique was also used to select respondents for face to face interviews.

Both qualitative and quantitative secondary sources were used for data collection in the study. Primary sources include the use of questionnaire and interviews, while secondary sources were also explored from voluminous articles and obtained from surrogate sources such as Wiley Online and JSTOR Libraries, including informed views from internet sources like Google Scholar. There were also a few collections of past and recent reports and issues of International Crisis Group, Piracy daily, Maritime Security Review and International Fleet Review which has proved very effective. Descriptive statistics was used to present data on frequency table, figures and charts. While Weighted Mean Score was used as one of the techniques of analysis. Decision rule was applied to accept or reject conflict in responses. Information from interview and secondary sources were analyzed using content analysis.

DATA PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS

From the four hundred (400) copies of a structured questionnaire distributed to officials of Nigeria Maritime Administration and Safety Agency (NIMASA), Headquarter, Lagos, Nigeria Ports Authority (NPA), Headquarter, Lagos, Nigerian Navy (Operation Command) Headquarter, Lagos, Nigerian Marine Police, Lagos station, Regional Center for Maritime Security in West Africa, Abuja, Nigeria's Shippers Council (NSC) and United Nations Office Abuja, a total of three hundred and eighty - seven (387) were validated for data analysis, resulting in 97% response rate. For the interview, the respondents were specialists with requisite knowledge of the subject matter and are heading the relevant divisions, departments, units and associations within the selected bodies. The interview results were supplemented with information from extant literature, including newspapers, magazines, reports, and official documents.

Table 2: Description of variables used in the security and assessment of Nigeria's maritime domain

Initials	Variable Name	Variable Description
PSM	Port security measures	Latent exogenous variable
PP	Port performance	Latent endogenous variable
PSI	Port security incidents	Latent endogenous variable
PSM1	There are adequate security measures in ports	Manifest variable
PSM2	Ports/Terminal complied to ISPS code	
Implementation		Manifest variable
PSM3	There are measures in place to ensure compliance to ISPS code	Manifest variable
PS1	Human Trafficking	Manifest variable
PS2	Drug trafficking	Manifest variable
PS3	Arms and Ammunition	Manifest variable
PS4	Contraband items	Manifest variable
PS5	Cargo theft	Manifest variable
PS6	Armed robbery	Manifest variable
PS7	Attack on vessels	Manifest variable
PS8	Missing of containerized cargoes	Manifest variable
PS9	Stowaways	Manifest variable
PP1	Cargo throughput	Manifest variable
PP2	Vessel traffic	Manifest variable

Source: Researcher's own elaboration based on survey data (January 2023).

Division of Statistics and Scientific Computation Inc. (2012) stated that manifest or observed variables are directly measured by the researchers, while latent or unobserved variables are not directly measured but are inferred by the relationship or correlations among measured variables in the analysis. Port security incidents were captured by the manifest variables shown in the table 2, while port performance variables were captured by manifest variables: volume of cargo throughputs and vessel traffic. The description of all the endogenous, exogenous and manifest variables is listed in the table above. Questions relating to port security incidents namely: cargo theft/pilferage, stowaways, armed robbery, attack on vessels in port and trafficking etc are variables that were considered as manifest variables. For the latent endogenous variable, port performance using IMO conventions were employed.

In an interview with an official of the Regional Center for Maritime Security in West Africa, Abuja on the 5/01/2023, he emphasized that:

The status of maritime law of a State is to a large extent gauged by its level of ratification/domestication of and compliance with these International Conventions and Protocols as well as the updating of its old laws to make them compatible with those Conventions. Nigeria currently is in category C of the International Maritime

Organization (IMO). And in this regard, Nigeria lagged behind due to its long period under military regime during which little or no attention was paid to the ratification and domestication of relevant maritime Conventions and Treaties. Even since the restoration of democratic rule, unnecessary politicking and bureaucracy have further delayed the ratification and domestication of some of these Treaties and Conventions. Happily, however, few of them have been ratified and domesticated and certain other proactive steps have been taken by the Federal Government in addressing the menace of piracy.

Confirming the above statements and more specifically, a member of Indigenous Shipping Association of Nigeria (ISAN) in an interview conducted on 10/01/2023 further explained that: Even though Nigeria has rectified and are party to many international conventions they are yet to establish the necessary legal and institutional frameworks at the national level which will enable these conventions to be applied locally in line with the provisions of the constitution as an aid for the prosecution of crimes in that regard. It has been established that pirates and other criminals most times exploit this laxity and loopholes in the law to operate almost with impunity. Recently, Nigeria purportedly domesticated the SUA Convention of 1988 with the accompanying protocols through the provision of Section 215(h) MSA136of 2007 by “enacting or incorporating the SUA Convention by reference. Much as it is quite desirable to domesticate the SUA Convention, and the protocols thereto, the laid down procedure in the constitution must be complied with at all times.

In a related study, Gabriel and Amarachukwu (2020) laments that it is therefore doubtful, whether the procedure adopted in domesticating the SUA in Nigeria is right in the light of the following provisions: Section 12 of the 1999 constitution provides that “No treaty between the Federation and any other country shall have the force of law unless to the extent to which any such treaty has been enacted into law by the National Assembly”. These are some of the laws that relate to breach and contravention of laws;

- a. Coastal and inland Shipping (CABOTAGE) Act 2003
- b. Merchant Shipping Act 2007
- c. NIMASA ACT 2007.
- d. International Convention for the Safety of Life at Sea (Ratification and Enforcement) Act, 2004.
- e. Nigerian Territorial waters Act 1967.

Gabriel and Amarachukwu (2020) further revealed that the major problems with these laws are that most of their provisions are archaic, obsolete and do not even contain provisions criminalizing or punishing acts of Piracy or the related offences of armed robbery at sea, or other illicit activities at sea. Despite the efforts by the international community as well as efforts at national levels, prosecutions of maritime crimes have not been quite effective.’ To this day, a significant number of captured suspects were released without facing justice despite the availability of overwhelming evidence with respect to the offence. This catch and release syndrome raises a question whether there is a duty to prosecute or extradite piracy suspects. Article 105 of the UNCLOS stipulating that the seizing state may decide upon the penalties to be imposed does not imply an obligation to try suspects arrested for piracy. Article 100 which urges states to cooperate to repress piracy does not entail a determination of the type of cooperation they engage in.

Table 3: The implementation of the International Maritime Conventions has impacted on the security of Nigeria’s maritime domain:

	Responses	Frequency	Total	Weighted Score
a.	Strongly Agree.	63 x 5	= 315	0.81
b.	Agree.	41 x 4	= 205	0.53
c.	Disagree	162 x 3	= 486	1.25
d.	Strongly Disagree	121 x 2	= 242	0.62
e.	Undecided	0 x 2	= 0	0.00
f.	Grand Total	387	1,248	3.21

Source: Field Data (January, 2023).

WS stands for Weighted Score. The weight attached scale are Strongly Agree = 5; Agree = 4; Disagree = 3; Strongly Disagree = 2 and Undecided = 1.

Decision rule applied to accept or reject conflict in responses:

1. Accept any element with weighted mean score value of 2.50 and above, and
2. Reject any element with weighted mean score value of less than 2.49 and below.

This means that, research hypotheses with more 4.00 weighted mean score value will be accepted as being valid while research hypotheses with less 3.9 weighted mean score value will be rejected as being invalid.

Table 3 analyzed whether the implementation of the International Maritime Conventions has impacted on the security of Nigeria's maritime domain. Data supplied by respondents show that an aggregate score of 286 total marks and weighted mean score of 1.25 indicated disagree constituting the 1st in ranking. The respondents who strongly agree indicated this through a total score of 318 marks and weighted mean score of 0.80 which rated the option 2nd while respondents who strongly disagree are rated 3rd with 242 marks and weighted mean score of 0.62. The respondents who agree with the proposition scored 205 marks and weighted mean score of 0.53 and this places same option 4th in the rating. Those who were undecided got no score rating last on the options. The implication of the above responses is that none of the element meets the decision rule of 2.50 and they are all less than 2.49 and as such they are not accepted. The decision rule stated above also mentioned that total "4.00 weighted mean score value will be accepted as being valid". This is also against the total weighted means score of 3.21 as culminated above. The implication is that the implementation of the International Maritime Conventions have not impacted on the security of Nigeria's maritime domain due to several challenges as discussed in table 5 in next section.

A Coordinator in the Marine Environment Division, Legal Affairs & External Relations of the United Nations Office, Abuja in an interview explained that:

The sea has always been a potentially hazardous and dangerous working environment. Yet, ship operators today have new factors and new pressures to contend with. The structure of the global marketplace requires that goods and materials be delivered not only to the geographical location where they are required but also within a very precise timeframe. Today, goods in transit are carefully factored-in to the supply chain and, as a result, the transportation industry which embraces both shipping and ports has become a key component of a manufacturing sector which sets its store by providing a complete door-to-door service. As a consequence, safety and efficiency have now, more than ever before, become two sides of the same coin: accidents are not only undesirable outcomes in themselves; they also have a negative impact on the supply chain that is at the heart of the new global economy. Seen in this light, IMO's responsibility to ensure the highest practicable, globally acceptable, standards that will improve maritime safety and security and, at the same time, help prevent marine pollution takes on a new dimension (Interviewed 10/01/2023).

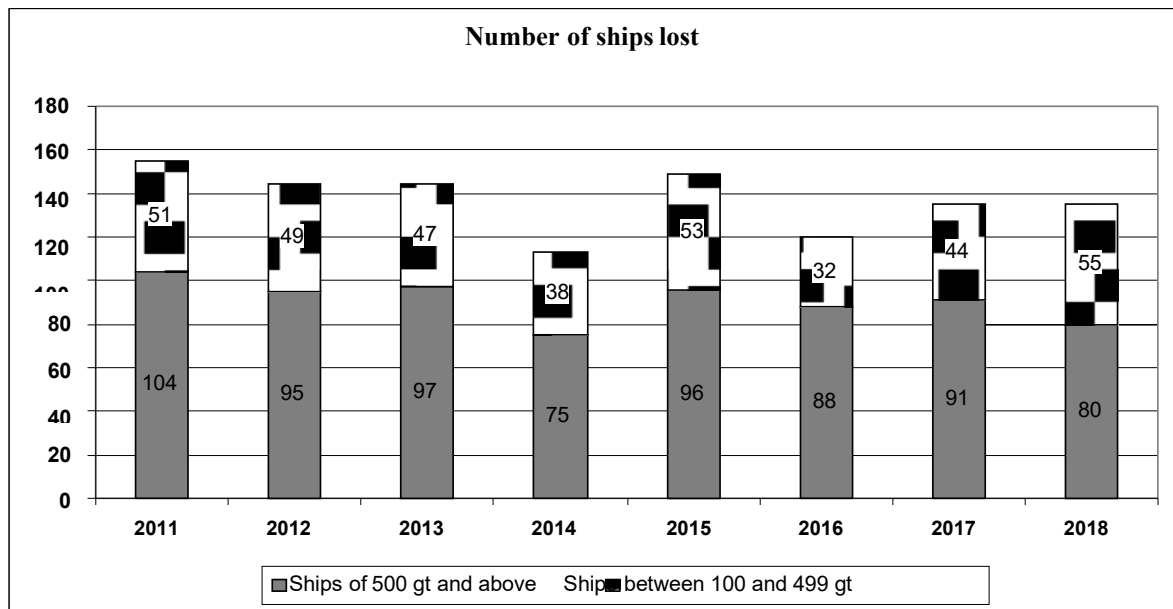
Again, the table and figure in this section are taken from the latest IMO document on performance indicators (CWGSP 10/2(a)) With respect to loss of lives, various time series are presented where a distinction is made for data received from LRF and data compiled by the IMO Secretariat.

Table 4: Loss of lives in the Gulf of Guinea (GoG) (2015-2022)

ITEMS	2015	2016	2017	2018	2019	2020	2021	2022
LRF raw data	248	308	248	664	470	1,825	525	1160
IMO Secretariat	117	1,274	198	592	173	n/a	n/a	1921

Source: (IMB, 2022)

Figure 1: Number of Ships Lost (2011-2018)



Source: Lloyd's Register Fairplay World Casualty Statistics and data extracts received from LRF (2019).

The list of shipping-related topics that fall under the aegis of IMO is huge. But there are, of course, some things that the Organization is not. It is not, for example, a police force; it does not have the mandate or the capacity to put teams of inspectors aboard ships and check their compliance with international standards. It is not operational in the sense that it does not follow incidents and accidents at sea, such as groundings, collisions, explosions etc. on a 24-hour basis, and it is not a court; there is an International Tribunal for the Law of the Sea, in Hamburg, but this is established under the United Nations Convention on the Law of the Sea (UNCLOS) which is not an IMO Convention. IMO does not get involved with issues such as territorial waters, EEZs or fishing rights. Again, these are regulated by UNCLOS and fall within the remit of other international organizations.

Table 5: Responses on the challenges facing the implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain:

Responses	SA(5)	A(4)	D(3)	SD(2)	U(1)	Total	WS
a. Corruption, underfunded law enforcement, legal and jurisdictional weakness.	181 x 5 = (905)	154 x 4 = (616)	22 x 3 = (66)	16 x 2 = (32)	14 x 1 = (14)	1,633	4.22
b. Lack of coordination among security & maritime regulatory agencies	156 x 5 (780)	201 x 4 = (804)	19 x 3 = (57)	11 x 2 = (22)	0 x 1 = (0)	1,663	4.30
c. Lack of legitimate employment and weak security apparatus	101 x 5 = (505)	99 x 4 = (396)	87 x 3 = (261)	79 x 2 = (158)	21 x 1 = (42)	1,362	3.78
d. Lack of political will to implement IMO conventions & weak penalties for pirates	221 x 5 = (1105)	119 x 4 = (476)	16 x 3 = (48)	18 x 2 = (36)	13 x 1 = (13)	1,678	4.33

Source: Field Data (January, 2023).

Table 5 above analyzed responses on the challenges facing implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain: The data provided by the respondents show that "Lack of political will to implement IMO conventions & weak penalties for pirates" constitute the 1st in ranking; hence the option had an aggregate score of 1,678 marks and weighted mean score of 4.33 (Accepted). Another major impediment identified by the respondents as part of the challenges facing implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain is "Lack of coordination among security and maritime regulatory agencies". The respondents indicated this through a total score of 1,663 marks and weighted mean score of 4.30 (Accepted) which rated the option 2nd. "Corruption, underfunded law enforcement, legal and jurisdictional weakness" constitutes another challenge facing the implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain because the respondents rated this measure 3rd with 1,633 marks and weighted mean score of 4.22 (Accepted). Also rated by the respondents is the fact that "Lack of legitimate employment and weak security apparatus" as part of the challenges facing implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain. The respondents scored these factors 1,362 marks and weighted mean score of 3.78 (Accepted) and this place same option 4th in the rating. It is therefore safe to conclude from the analysis above that the challenges facing implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain are numerous and are valid base on the decision rule outlined above. Validating the above questionnaire result, an interview conducted with an official of the Regional Center for Maritime Security in West Africa, Abuja on the 05/01/2023, proves that: Inadequate laws and incapacity of government agencies have hindered effective prosecution of pirates and maritime criminals in Nigeria. Similar situation exists in many central and West African States. The absence of enabling municipal laws for prosecuting pirates, sea robbers and other criminals at sea pose a huge challenge, compounded by weak penalties and weak judicial processes within the country (Interviewed 05/01/2023).

The interviewee further elaborated that: Another major gap is the absence of enforcement mechanism for existing laws. The existing legislation is most times not enforced against offenders who breach these laws. There is a plethora of legislations on environmental law/protection, yet no legal action or step is taken against those whose actions result in degradation of the environment. Section 20 of the constitution states that "the state is empowered to protect and improve the environment and safeguard the water, air land forests and wildlife of Nigeria. With regards to the above provisions Nigeria has enacted several laws on environmental protection but the issues of enforcement remains a problem (Interviewed 09/01/2023).

Analysis in table 5 is corroborates with interview response supplied by the Director General of NIMASA. He explained that:

Nigeria fought a number of wars look at the Liberia war through, we went ad successfully come back victorious. Everybody respected us. So, today insecurity in Nigeria is the issue of coordination. History shows that all the relevant security agencies were aware that Osama Bin Ladi would attack the America Soil. However, because of rivalry between them they were relaxed up to the time Osama Bin Ladin attacked the America Soil, they had the information but they couldn't utilize it. So, I am saying that collaboration is the key. If at the end of the day we can all come together, collaborate and understand each other, we will defeat insecurity because that was what made the previous war we fought a success (Interviewed 09/01/2023).

The need to punish maritime crimes has necessitated the need to criminalize acts of piracy and other illicit maritime activities nationally. A clear and comprehensive definition of piracy in proper terms is required to determine its scope and bring it under criminal jurisdiction. The scope of this definition would align with the provision of the constitution of the federal Republic of Nigeria 1999 as amended, under section 36.

The result agrees with the position of Adongoi, Brown and Udensi (2017) which stated that there exist both a lack of legal authority and a lack of international will to prosecute pirates, two major obstacles to international anti-piracy procedure. Actually, Western nations prefer not to try pirates themselves because they often lack the

legal jurisdiction to punish those found guilty. Instead, they prefer that pirates be tried locally, requiring pirates to be transferred to local governments capable of prosecution. Instead of Western nations following through with this difficult and unpromising process, pirates are often simply freed. Without international efforts to end maritime piracy, however, unstable governments may not be capable of reaching a state of steadiness. More importantly, the lack of coordination nature of different initiatives aimed to treat security problems in the Gulf of Guinea presently block international efforts from being active.

Another participant who is among the Divisional Marine Officers of Nigerian Maritime Police, Lagos Port revealed that:

One of the biggest challenges to effective implementation of maritime security and maritime law enforcement measures is that they are seen as departmental issues – issues for the navy, or the coast guard, or the police, or the port authority, or the maritime authority, or customs and border control – with those agencies competing for scarce resources, rather than being part of a national, multi-agency response to developing the port and maritime sector (06/01/2023).

Table 6: Port State Control non-compliance rates (2014-2022)

Source: Annual reports of regional PSC

	Paris	Viña del Mar	Tokyo	Caribbean	Mediterranean	Indian Ocean	Abuja	Black Sea	Riyadh	USCG
2015	57.59%	41.44%	69.33%	n/a	n/a	51.85%	n/a	n/a	n/a	27.33%
2016	57.20%	35.50%	70.25%	n/a	n/a	48.92%	n/a	54.79%	n/a	24.34%
2017	55.00%	38.50%	73.62%	n/a	n/a	51.78%	77.28%	56.22%	n/a	19.17%
2018	53.59%	35.80%	67.27%	n/a	n/a	54.25%	9.24%	61.88%	n/a	22.75%
2019	51.25%	36.39%	68.48%	n/a	65.13%	55.16%	10.03%	62.93%	n/a	21.81%
2020	53.55%	46.20%	68.78%	n/a	70.52%	55.35%	n/a	69.39%	n/a	23.32%
2021	56.43%	53.34%	67.44%	n/a	n/a	54.68%	17.29%	72.42%	57.29%	26.58%
2022	58.00%	58.00%	69.07%	14.93%	n/a	54.47%	11.00%	67.89%	41.76%	24.60%

MoUs/ Agreement and United States Coast Guard (2022).

The establishment of port state control as a legal institution to enhance enforcement of international maritime legislation followed after the loss of the *Amoco Cadiz* off the coast of Brittany in 1978 (IMO, 2019). Since then, PSC evolved into an important instrument to enhance safety at and to prevent pollution. PSC can best be described to be the right of a country to inspect a vessel coming into its port. It is not an obligation according to the IMO conventions (e.g. SOLAS, MARPOL, STCW, Load Lines, etc.) but if a country decides to exercise this right, a set of IMO resolutions, namely IMO resolutions A.787(19), A.682(17) and A.822(21) are applied which cover the basic principles on how substandard vessel should be identified and be treated

DISCUSSION OF FINDINGS

The study discovers that International Maritime Conventions has no impact on the security of Nigeria's maritime domain as a result of weakness in the implementation exercise (inadequate technical capacity and human resources). The IMO is the source of approximately 60 legal instruments that guide the regulatory development of its member states to improve safety at sea and protect the maritime environment. However, in principle, the role of flag States is predominant in the enforcement of IMO conventions. Even though Nigeria has rectified and are party to many international conventions, they are yet to establish the necessary legal and

institutional frameworks at the national level which will enable these conventions to be applied locally in line with the provisions of the constitution as an aid for the prosecution of crimes in that regard.

The finding is in tandem with the submission of Stopford (2009) that, the enforcement of IMO conventions is up to the enforcement of the flag States as far as their own flagged ships are concerned. The IMO conventions are not actually laws, rather they are internationally agreed 'templates' that Member States use as a base for enacting their maritime legislation. This does not mean that all Member States should have exactly the same maritime law because some of the states modify and others do not even make them national legislation. But it helps to avoid inconsistent maritime legislation, and thus on important issues such as safety and environment most maritime countries now have almost the same maritime law.

Findings also show that the implementation of the International Maritime Conventions and the management of Nigeria's Maritime domain are presently being undermined by multifaceted domestic, sub-regional and international threats and vulnerabilities. These challenge Nigeria with limited capacity and expertise for maritime security. It was discovered that one of the biggest challenges to effective implementation of maritime security and maritime law enforcement measures is that they are seen as departmental issues – issues for the navy, or the coast guard, or the police, or the port authority, or the maritime authority, or customs and border control – with those agencies competing for scarce resources, rather than being part of a national, multi-agency response to developing the port and maritime sector.

The findings also supports the observations of other authors who studied maritime security such as Mohammed (2017) that, pauper governance, high depravity, and the lack of significative economic chances in the region obstruct the effectiveness of global anti-piracy practices and allow piracy to thrive, resulting in increased maritime insurance costs, higher global oil prices, and the growth of regional black markets.

CONCLUSION

Military strategy is the "art and science of employing the armed forces of a nation to secure national policy objectives by the application or threats of force." The emerging security threats in the Nigeria's maritime domain are significant and the time to address the problems by formulating a collective maritime strategy is now. Nigeria and member states of GoG need to muster the political will to properly fund their naval forces and to cooperate with each other and with other stakeholders to secure the sea areas critical to their economic future.

GoG states, especially Nigeria should adopt a zero tolerance policy to all forms of offshore bunkering activities. The surge in maritime crimes in GOG is inextricably linked to the illegal activities in the oil industry in that region. Effective security systems require effective procedures, appropriate equipment and, above all, adequately trained and motivated people. Successfully fighting the scourge of maritime crimes would involve the formulation and enforcement of national anti piracy laws which would clearly define acts under criminal headings and prescribe in clear terms, the full penalties for same. In addition, the mechanism for enforcement should be included. The IMO in recognizing the importance of domestic laws in the prosecution of pirates passed Resolution A.1025 (26) which encourages states to ratify enabling legislation that would codify their jurisdiction over piracy and establish procedures to facilitate the prosecution of pirates at sea.

RECOMMENDATIONS

- i. In order for IMO's strategy to succeed, it will need the full support of the port sector. A port sector supported by government, able to streamline procedures and remove excessive barriers to trade, to embrace new technologies, to root out the cancer of corruption and to treat safety, security and reputation as both desirable and marketable, will be a major driver towards stability and sustainable development. It is important, to point out however that the problem in the maritime industry in Nigeria lies both in the platitude of laws and capacity to enforce the laws. Most times the law

enforcement agents lack the capacity and necessary expertise to get sufficient evidence at sea for prosecution. This may be attributed to the nature of the sea generally which may be different from land based investigations.

- ii. Creating an enabling environment for maritime security would require sustained political will. Political will is needed to enact the relevant legislations, to strengthen the relevant institutions and enforcement mechanisms and devoting adequate financial and human resources to maritime security. Even where the right laws exist in the books, the ability to effectively prosecute offenders depends on the strength and independence of the judiciary; strong political will is needed to tackle a combination of corruption, inefficiency and capacity constraints which compromise the effectiveness of the judiciary. Strong political will is required of leaders and citizens in demonstrating an unwavering commitment to implementing comprehensive strategies. Also, government will need to improve its capacity by acquiring the appropriate equipment, technology and trained personnel to implement maritime security strategies.

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