Maritime Security Cooperation in the Gulf of Guinea: A Role for Cooperative Sovereignty

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A thesis submitted in partial fulfilment of the requirements of the University of Greenwich for the Degree of Doctor of Philosophy

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DECLARATION

I certify that the work contained in this thesis, or any part of it, has not been accepted in substance for any previous degree awarded to me, and is not concurrently being submitted for any degree other than that of Doctor of Philosophy being studied at the University of Greenwich. I also declare that this work is the result of my own investigations, except where otherwise identified by references and that the contents are not the outcome of any form of research misconduct.

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ABSTRACT

Maritime security is a serious and ongoing concern to the Gulf of Guinea region. Interregional maritime security cooperation is of relatively recent origin and legislation, agreements and organisational infrastructure are still being developed. Previous research has identified a number of challenges to cooperation but there remain questions surrounding how sovereignty impacts maritime security cooperation. This thesis asks what conception of their role by states could best enable effective maritime security cooperation.

Cooperative sovereignty – sovereignty that includes a responsibility and authority to cooperate – is put forward as a means to promote effective maritime security cooperation. The decision to consider cooperative sovereignty flows from the fact that states claiming space and therefore claiming sovereignty, and sovereign rights over living and non-living resources, have corresponding duties.

The thesis examines literature, legislation and policy documentation together with fieldwork research. Findings are that maritime security threats are of common concern, transboundary and these limit the capacity of states to act unilaterally. Further, maritime delimitation is a complex process and cooperation based on settled boundaries is unrealistic in the short to medium term. Unsettled maritime boundaries in particular raise issues of sovereignty, jurisdiction and resource control between states that could hinder regional cooperation. Thirdly, development of effective national legislation and enforcement capacity to create or harmonise positions across the region is in progress but is limited. The conclusions support reframing the role of states in the maritime space. Case studies illustrate state practice where cooperative sovereignty could create a more effective cooperative environment.

Reframing how states understand their rights and responsibilities in the maritime space could better promote effective maritime security cooperation in a context where this is critical to security, economy and development.

CONTENTS

List of Abbreviations

AIMS 2050: 2050 Africa's Integrated Maritime Strategy (AIMS 2050)

AIS: Automatic Identification System

APSA: African Union Peace and Security Architecture

AU: African Union

AU-IBAR: African Union – Inter-African Bureau for Animal Resources

BIICL: British Institute of International and Comparative Law

CCAMLR: The Convention for the Conservation of Antarctic Marine Living Resources

CECAF: Fishery Committee for the Eastern Central Atlantic

CEWS: Continental Early Warning System

CLCS: Commission for the Limits on the Continental Shelf

COREP: Regional Fisheries Committee for the Gulf of Guinea (Comité Régional des Pêches du Golfe de Guinée)

CRESMAC: Regional Centre for African Maritime Security (Central Africa)

CRESMAO: Regional Centre for African Maritime Security (West Africa)

CRIMGO: Critical Maritime Routes Gulf of Guinea

CS: Continental Shelf

CSC: Continental Shelf Convention

DOALOS: Division for Ocean Affairs and the Law of the Sea

DRC: Democratic Republic of Congo

ECCAS: Economic Community of Central African States

ECOWAS: Economic Community of West African States

EEZ / FZ: Exclusive Economic Zone / Fisheries Zone

EU: European Union

FAO: Food and Agriculture Organisation

FCWC: Fisheries Committee for the West Central Gulf of Guinea

FOMUC: Force multinationale de la Communauté économique et monétaire de l'Afrique centrale (later renamed MICOPAX: Mission de consolidation de la paix en Centrafrique)

G7 + + FOGG: G7 Friends of the Gulf of Guinea Group

GDP: Gross Domestic Product

GGC: Gulf of Guinea Commission

GoG: Gulf of Guinea

GoGIN: Gulf of Guinea Inter-Regional Network

ICC: Interregional Coordination Centre

ICJ: International Court of Justice

ILC: International Law Commission

IMB: International Maritime Bureau

IMO: International Maritime Organisation

INN/ IUU: Illegal, Unreported and Unregulated (fishing)

IPOA-IUU: The International Action Plan-Illicit, Undeclared, Unregulated fishing

ISPS: The International Ship and Port Facility Security Code

ITLOS: International Tribunal of the Law of the Sea

JDZ: Joint Development Zone

MCC: Multinational Coordination Centre

MCS: Monitoring, Control, Surveillance

MDAT-GoG: Maritime Domain Awareness for Trade-Gulf of Guinea

MOC: Maritime Operations Centre

MOWCA: Maritime Organisation for West and Central Africa

MPA: Marine Protected Area

MTISC-GoG: Maritime Trade and Information Sharing Centre for the Gulf of Guinea

NIMASA: Nigerian Maritime Administration and Safety Agency

nm: Nautical Miles[1]

OAU: Organisation for African Unity (forerunner of AU: African Union)

OBP: Oceans Beyond Piracy

OED: Oxford English Dictionary

PCA: Permanent Court of Arbitration

PSI: Proliferation Security Initiative

PSMA: Port State Measures Agreement

REC: Regional Economic Community

RFMO: Regional Fisheries Management Organisation

RHIB: Rigid Hull Inflatable Boat

RMAC: Regional Maritime Awareness Capability (programme)

RPFS (PRSP): Regional Plan for Fisheries Surveillance in the South West Indian Ocean (Plan régional de surveillance des pêches dans le Sud-Ouest de l'océan Indien

RUSI: Royal United Services Institute

SAR Convention: International Maritime Organization, International Convention on Maritime Search and Rescue

SOLAS: Safety of Life at Sea Convention

SUA: Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf

TS: Territorial Sea

UN: United Nations

UNCLOS I: First United Nations Conference

UNCLOS II: Second United Nations Conference

UNCLOS III: Third United Nations Conference

UNCLOS: United Nations Conference / Convention on the Law of the Sea

UNESCO: The United Nations Educational, Scientific and Cultural Organization

UNGA: United Nations General Assembly

[1] As Schofield points out at FN 5 of 'Parting the Waves: Claims to Maritime Jurisdiction and the Division of Ocean Space' (2012) 1(1) Penn State Journal of Law & International Affairs 40 'It is acknowledged that technically "nm" denotes nanometres rather than nautical miles, for which the correct abbreviation is "M." However, "M" is often taken to mean metres and "nm" is widely used as an abbreviation for nautical miles in this article. It is also worth pointing out that "nm" is used for nautical miles by authorities such as the United Nations Office of Ocean Affairs and the Law of the Sea.'

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Part I

Chapter One: Introduction

This thesis concerns maritime security cooperation in the Gulf of Guinea region. This region continues to be beset by maritime security challenges. Piracy cost the region over $800m in 2017[1] and illegal fishing costs estimated by a group of six states of the region reach $300m[2] annually. The International Maritime Bureau reporting for the first six months of 2018 found that the Gulf of Guinea accounted for 46 of 107 incidents and all reported kidnap incidents.[3] The thesis addresses the concept of sovereignty in this context. It tests whether reframing the concept of sovereignty as cooperative sovereignty could promote more effective maritime security cooperation.

The original contribution of this thesis is to argue that by reconceptualising sovereignty to include a responsibility and authority to cooperate, 'cooperative sovereignty',[4] states can develop effective maritime security cooperation. Analysis and research fieldwork identified that in fact legal agreements are in some cases yet to be drafted and this is therefore the time at which the basis upon which decisions are taken can be investigated. No new overarching international legal instrument is proposed, not least because revisions to instruments such as the United Nations Convention on the Law of the Sea (UNCLOS)[5] would require major global political will. The focus is on adopting a revised perspective on states' role for achieving maritime security. As states in this region increasingly recognise the importance of the sea and have ever greater capacity to engage in activity in, on and from it, the impact of sovereignty for a secure maritime space is worthy of consideration.

This introduction sets the context for the thesis; it introduces the research aims, questions, methodology and thesis structure.

[1] Oceans Beyond Piracy, 'The State of Maritime Piracy 2017' (One Earth Future Foundation 2018) West Africa Section.
[2] West Africa Task Force, 'The Problem of Illegal Fishing in West Africa' (West Africa Task Force 2016) 1.
[3] ICC International Maritime Bureau, 'ICC-IMB Piracy and Armed Robbery Against Ships Report – 01 January – 30 June 2018' (ICC International Maritime Bureau) 25.
[4] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000) 5.
[5] UN General Assembly, Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 397.

1.1 The Gulf of Guinea: definition and context

Figure One: Map Gulf of Guinea (Microsoft)

The Gulf of Guinea forms part of the eastern tropical Atlantic Ocean off the western African coast, and extends westward from Cap López, near the Equator, to Cape Palmas at longitude 7° west. The coastline of the Gulf of Guinea forms part of the western edge of the African tectonic plate.[6]

The region comprises states members of different Regional Economic Communities (RECs): the Economic Community of West African States (ECOWAS),[7] Economic Community of Central African States (ECCAS)[8] and maritime organisations: Maritime Organisation of West and Central Africa (MOWCA)[9] and the Gulf of Guinea Commission

[6] Information taken from Encyclopaedia Britannica, 'Gulf of Guinea' (Last Updated: Dec 11, 2007) <http://www.britannica.com/EBchecked/topic/248843/Gulf-of-Guinea> accessed 03 June 2015.
[7] For more information, see website of ECOWAS <http://www.ecowas.int/> accessed 13 April 2015.
[8] For more information, see website of ECCAS <http://www.ceeac-eccas.org/index.php/fr/> accessed 13 April 2015.
[9] For more information, see website of MOWCA <http://www.amssa.net/framework/MOWCA.aspx> accessed 13 April 2015.

(GGC).[10] The GGC, with an original membership of eight states, has been called too narrow by commentators.[11] A successful membership application by Ghana has increased this to nine.[12] GGC openness to new members means this cannot be a settled indicator of what it understands the region to be.[13] Vreÿ defines the Gulf of Guinea as 'roughly demarcated by Angola in the south and runs north towards Cameroon and then west via Nigeria towards Liberia and Sierra Leone on its western perimeter'.[14] By the word 'roughly' Vreÿ speaks to the vagueness of the definition.

The United Nations 2008 report defined the region: '[…] geographical area that stretches from Guinea in the north western part of the African continent to Angola in the south-central part of the continent.'[15] The Yaoundé Code of Conduct focusing on maritime security in the Gulf of Guinea has 25 signatory states and includes landlocked states.[16] This demonstrates that the band of states that comprise the region is fluid.[17] It is argued that certain states generally form part of any definition and this thesis draws from the definition offered by Vreÿ, that the geographical remit of the Gulf of Guinea will begin from Liberia in the West and end with Angola in the South East. This definition of the Gulf of Guinea includes specific members of the two adjoining RECs. The definition includes member states of the GGC – the organisation specifically tasked with addressing maritime security. This group of states together or in differing combinations is charted as the Gulf of Guinea.[18]

The maritime profile of the region is rich and diverse. It is a major trade route, energy producer and fisheries region. The Atlantic Council notes 'the area is strategically located along important trade, transit, and immigration routes of increasing significance to global

[10] For more information, see website of Gulf of Guinea Commission <http://www.golfedeguinee2013.cm/ggc> accessed 13 April 2015.
[11] Crisis Group, *The Gulf of Guinea: The New Danger Zone* (Report N°195 12 December 2012) 27.
[12] 'Nigeria Emerges as New Chair of Gulf of Guinea Commission' *Newsdiaryonline* (23 November 2017) <http://nigeriafarmersgroup.org/nigeria-emerges-as-new-chair-of-gulf-of-guinea-commission/> accessed 29 December 2017.
[13] The Gulf of Guinea Commission (n10).
[14] Francois Vreÿ, 'Turning the Tide: Revisiting African Maritime Security' (2013) 41(2) Scientia Militaria, South African Journal of Military Studies 1, 9.
[15] United Nations Security Council, Report of the United Nations assessment mission on piracy in the Gulf of Guinea (7 to 24 November 2011) UN Doc S/2012/45 11.
[16] Angola, Benin, Cameroon, Cape Verde, Chad, Congo, Côte d'Ivoire, The Democratic Republic of the Congo, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, São Tomé and Príncipe and Togo.
[17] The definition of the Gulf of Guinea as fluid is stated by Crisis Group. Evidence of maritime security cooperation is broader than the GGC and commentators have argued that the GGC is not sufficiently inclusive. See: Crisis Group Africa Report N°195 (n11) 27.
[18] For example: United Kingdom Hydrographic Office, Chart Q6114 (Edition 2).

commerce and security.'[19] The hydrocarbon potential in the region is globally significant and increasing. Nearly seventy per cent of African oil production is located in the Gulf of Guinea.[20] Fisheries represent security in its wider sense as a food and human security issue. The United Nations Food and Agriculture Organisation states that this region derives higher than the global average of nutritional intake from this resource.[21] This region is a major fisheries exporter. The United Kingdom imports a significant volume of fish from the region, including £50 million worth of stock from Ghana alone.[22] Both the states themselves, their populations, the international community, industry and other organisations have cause to be invested in achieving maritime security in the region.

Seablindness (the absence of a focus on maritime activities and issues occurring or emanating from the maritime space) has been decreasing. Efforts are being made towards regional cooperation. In June 2013 states of ECOWAS, ECCAS and the GGC concluded the Yaoundé Process through a Declaration,[23] a Memorandum of Understanding[24] and the adoption of the Yaoundé Code of Conduct. This Code advocates a common regional approach 'Concerning the Repression of Piracy, Armed Robbery Against Ships and Illicit Activity in West and Central Africa'.[25] This is currently being evaluated with a view to

[19] John Raidt and Kristen E Smith, 'Advancing U.S., African, and Global Interests: Security and Stability in the West African Maritime Domain' (Atlantic Council 2010) 9.
[20] Freedom C Onuoha, *Piracy and Maritime Security in the Gulf of Guinea: Nigeria as a Microcosm* (Al Jazeera Centre for Studies Report 12 June 2012) 3.
[21] Moustapha Kébé and James Muir, 'The sustainable livelihoods approach: new directions in West and Central African small-scale fisheries' Chapter 1 in Lena Westlund, Katrien Holvoet and Moustapha Kébé (eds), *Achieving poverty reduction through responsible fisheries – Lessons from West and Central Africa* (FAO Technical Paper 513 FAO 2008) 48.
[22] UK Chamber of Shipping, *How the lack of security in the Gulf of Guinea affects the UK's economy* (July 2014) 7.
[23] Declaration of the Heads of State and Government of Central and West African States on Maritime Safety and Security in their Common Maritime Domain (Yaoundé 25 June 2013).
[24] Memorandum of Understanding among The Economic Community of Central African States (ECCAS), The Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission (GGC) on Maritime Safety and Security in Central and West Africa (Yaoundé 25 June 2013).
[25] 'Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships and Illicit Activity in West and Central Africa' (Yaoundé 25 June 2013). Signatories: Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, the Central African Republic, Chad, Congo, Côte d'Ivoire, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, São Tomé and Príncipe, Senegal, Sierra Leone, and Togo. The Code built upon prior calls for action by the United Nations Security Council. UN Security Council, Security Council resolution 2018(2011) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea], 31 October 2011, S/RES/2018(2011) and UN Security Council, Security Council resolution 2039 (2012) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea], 24 May 2012, S/RES/2039(2012) argue for a regional lead on growing maritime insecurity in the Gulf of Guinea region.

implementing a permanent arrangement. Establishment of interregional cooperative architecture is ongoing.

The region recognises that it suffers significant maritime security threats, defined non-exhaustively in the Yaoundé Code of Conduct as piracy, armed robbery at sea, and transnational organised crime: money laundering, illegal arms and drug trafficking, illegal oil bunkering, crude oil theft, human trafficking, human smuggling, maritime pollution, IUU fishing, illegal dumping of toxic waste, maritime terrorism and hostage taking, and vandalisation of offshore oil infrastructure. Regional bodies have to varying extents concluded plans or memoranda of understanding with the objective of securing the Gulf against challenges to maritime activity that refer to the need to establish maritime boundaries.[26] This record of cooperation across traditional organisational lines is of recent origin and there are challenges in overcoming a historic separation of competences.[27] There are also challenges stemming from the differing priorities of states in their respective maritime domains. States rely on the sea for different purposes. For example Onohua finds that 'Among the major oil-producing countries in the GG region […] are Nigeria, Angola, Equatorial Guinea, Cameroon, Republic of Congo, Gabon, and, by extension, Chad. São Tomé and Príncipe has recently joined this group of countries.'[28] The significant contribution of hydrocarbons to a country's economy ensures that it will be a central tenet of national focus on maritime security where exploration is offshore. There is a recognition in recent literature of the interconnectedness of maritime security threats but the starting position of states with different dominant maritime industries still reflect their priorities.

[26] ECCAS, ECCAS Protocol on Maritime Security (French) <http://www.africa-union.org/root/ua/conferences/2010/avril/psc/07avril/African_Union_Member_States_06-07_April_2010_Experts_Meeting_on_Maritime_Security_and_Safety_Strategy-Documentation/ECCAS_Protocol.PDF.>; ECOWAS Integrated Maritime Strategy (EIMS), at the 43rd ordinary session of the ECOWAS Authority of Heads of State and Government held in Abuja, Nigeria in July 2013, regional leaders directed the ECOWAS Commission to facilitate the adoption of the ECOWAS Integrated Maritime Strategy and the establishment of Pilot Model Zone E within the framework of the strategy; MOWCA/XIII GA.08/8, Item 6.2.1.1.c of the Agenda, Original: FRENCH. Version: English. Maritime Organisation of West and Central Africa: 13th Session of the General Assembly, Dakar 2008, 29 – 31 July 2008, Dakar, Republic of Senegal. Available at Law of the Sea Bulletin, No. 68 (2008); Treaty on the Gulf of Guinea Commission (http://library.fes.de/pdf-files/iez/02115/appendix.pdf); Declaration of the Heads of State and Government of Central and West African States on Maritime Safety and Security in Their Common Maritime Domain **(**Yaoundé Declaration June 2013).

[27] Interview EU-EEAS Adviser-0915.

[28] Freedom C Onuoha, 'The Geo-strategy of Oil in the Gulf of Guinea: Implications for Regional Stability' (2010) 45(3) Journal of Asian and African Studies 369, 370.

This complexity links together with the region's varied legal systems and the unsettled status of maritime relations between neighbouring states.

It is possible to focus on one of these issues alone as an influencing factor. However it is the argument of this thesis that the fundamental basis for state action must be addressed. The content of sovereignty as a driver of state action could be a valuable tool in focusing state action on what will be demonstrated to be necessary cooperation.

1.2 Research aim and questions

The aim of this thesis is to determine whether cooperative sovereignty, a reframing of how states understand their sovereignty in the maritime space, could promote effective maritime security cooperation. To achieve this a series of questions will be answered.

1. What is the status of regional security cooperation? (Chapter Two)
2. What is the role of sovereignty in the maritime space? (Chapter Two)
3. Could sovereignty be reframed to promote more effective maritime security cooperation? (Chapter Three)
4. Is there a legal duty to cooperate or instead a responsibility and authority to cooperate? (Chapter Three)
5. Is cooperative sovereignty necessitated by an interdependence created by maritime security threats? (Chapter Four)
6. Could cooperation occur across settled maritime boundaries or pursuant to clear obligations pending delimitation? (Chapter Five)
7. Does the concept of maritime security as an inclusive interest foster an effective environment for maritime security cooperation? (Chapter Six)
8. Is there evidence that the concept of cooperative sovereignty could promote more effective maritime security cooperation? (Chapters Seven and Eight)

1.3 Methodology

This thesis is primarily concerned with international law. However analysis of context to the legal agreements and state actions is essential. This thesis is therefore informed by international relations scholarship and empirical research through interviews and conversations undertaken in and outside the region. Slaughter, Tulumello and Wood describe how interdisciplinary research is effective for international law:

> […] (1) to diagnose international policy problems and to formulate solutions to them; (2) to explain the function and structure of particular international legal institutions; and (3) to examine and reconceptualize particular institutions or international law generally.[29]

This thesis responds to point (1) in revising how maritime security cooperation may be approached and point (3) in reconceptualising how states conceive of their sovereignty in this area. The authors consider the role of interdisciplinary research for the concept of sovereignty[30] arguing that 'both IR and IL scholars have examined how the fundamental categories of the international system are historically and culturally contingent artefacts.'[31] There were further reasons for a decision to deviate from a strict doctrinal approach for this thesis.

Firstly, though the subject can be understood as a legal issue it does not operate in a vacuum. Many of the issues analysed here have roots in law but are informed and impacted by state relations and regional politics. There are clear ties between the policy and legal actions of the states under consideration. Much of the activity undertaken in respect of maritime security is not defined in the law of the sea. Maritime boundary delimitation involves law as well as politics. Secondly the sensitivity of this subject limits publication of and access to international agreements, and in some cases they have not been concluded. For these reasons it was also important to adopt an inductive, qualitative approach. This type of research enables practitioners to inform the research. This is critical where there is insufficient data to rely upon and even were data available it would not establish context. Thirdly this approach enables consideration of a wider range of documents to inform the research. The thesis demonstrates states have not adopted legislative frameworks that enable a comprehensive doctrinal analysis.

1.3.1 Method

This thesis analyses the relevant sources of international law, as listed in Article 38(1) of the Statute of the International Court of Justice:

> a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

[29] Anne-Marie Slaughter, Andrew S. Tulumello, and Stepan Wood, 'International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship' (1998) 92 American Journal of International Law 367, 373.
[30] ibid 389.
[31] Slaughter, Tulumello and Wood (n29) 389.

b. international custom, as evidence of a general practice accepted as law;[32]

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

In addition to the evidence from the sources of international law, secondary research includes reports by organisations, academic articles and comment pieces that describe the context in which the legal development occurs. Empirical research in the form of interviews and documentation from key stakeholders enables a contemporaneous insight into the realities of the region.

Desk-based research involved library research and research at the Commonwealth Secretariat and the United Kingdom Hydrographic Office. This developed the theoretical position. It provided information regarding delimitation in the region and provided background information for chapters looking at how maritime security may be understood in the region. International relations scholarship situated this in context, and brought out nuances that dominate state relations in the region.

Linking this research with interviews and attendance at high-level meetings and conferences within and outside the region enabled findings to be drawn from multiple sources to support and enrich the research. It was important to undertake further research as academic writing on the specific subject of maritime security cooperation in this region is limited and a great deal of information and knowledge is held by a relatively small number of individuals in the region.

Interviews enabled discussion of both the ongoing arrangements and the methods for managing the maritime space with regional states and external partners. The in-region interviews were scheduled to coincide with the African Union Extraordinary Summit in Togo. Attending the African Union Extraordinary Summit on Maritime Security and Safety and Development in Africa and participating on a panel: *Law and Regulation of Maritime Safety and Security in Africa* was an opportunity to meet and discuss matters relevant to this research with leaders and experts working in this field. This engagement further informed knowledge and understanding of the region and the complex nature of the task states face. It provided insight into the interplay between the continental and regional approaches to

[32] Identification of custom is discussed in Chapter 7 of Marci Hoffman and Mary Rumsey, *International and Foreign Legal Research: A Coursebook* (Martinus Nijhoff Publishers 2008).

maritime security. The criteria for selection of research states were to include the following situations where ideas of maritime space and sovereignty could be tested:

- Example of a situation of undelimited maritime space;
- Example of maritime space where successful cooperation has occurred;
- Example of disputed maritime space.

This supported selection of functional zones to address piracy and armed robbery at sea (Chapter Seven), and the issue of illegal fishing (Chapter Eight).[33] Findings may have wider application however this thesis does not propose findings are more widely applicable.

The methods were a combination of semi-structured interviews, and telephone and email conversations that answered specific questions. They were also an opportunity to identify and request access to documentation that was not accessible through secondary desk-based research. The semi-structured interview method is defined as: 'the researcher has a list of questions or fairly specific topics to be covered, often referred to as an *interview guide*, but the interviewee has a great deal of leeway in how to reply.'[34]

This interview method was appropriate to subject matter and participant type. The breadth of the subject makes the use of structured interviews too restrictive and will not allow for use of additional questions where needed. Likewise, the subject matter cannot be adequately dealt with in an unstructured interview environment. The sensitivity of maritime security may prevent participants being sure of the information they can provide without guidance. Participant type also supported this choice of method. The participants in this research were high level officials. Using structured interviews would not allow participants to answer openly where they wish to or may allow participants to provide official answers. The participants also have limited time to meet with the researcher and so an unstructured method would have been inappropriate.

Semi-structured interviews were carried out in the UK before fieldwork in the region. There was also one unstructured interview, and email correspondence. Research fieldwork in the region was undertaken during September-October 2016. Semi structured interviews were undertaken with government officials, naval personnel and international officials. Throughout the fieldwork and particularly during the African Union Extraordinary Summit a series of conversations and meetings contributed additional insights. In the period

[33] The issue is defined in Chapter Four. Dispute over the definition is discussed in Chapter Eight.
[34] Alan Bryman, *Social Research Methods* (4th ed, Oxford University Press 2012) 438.

following, an additional semi-structured interview was held and several emails exchanged. A number of email exchanges were undertaken with individuals working on fisheries, with interviewees to follow up on interviews and with staff of regional and international institutions to enquire about documentation and progress of international agreements.

The research focused on distinct stakeholders. Firstly government officials, particularly from Foreign and Defence Ministries, secondly the Navy and thirdly the Coast Guard each have a role in a state's official and operational management of maritime space. The fieldwork began by identifying and seeking contact with individuals of these stakeholder groups. These interviews offered insight into the grounds for current practice and the nature of operations. The Coast Guard role in maritime security cooperation was not as prominent as the region's navies, whose role is to a significant extent coast guarding. The stakeholder groups were limited to government officials and naval personnel. Interviews conducted with UK and EU institutions provided context.

The security focus of the research increased requests of anonymity. A further consideration was sampling. For in-region research purposive snowball sampling was adopted as a recruitment approach.[35] The impact of this is addressed below in the section on limitations. This approach reflected the realities of the subject matter and stakeholders, and the wide variation in titles and location of responsible individuals (particularly in the region). The research has relied on contacts between individuals to build on the base of initial contacts.

Persons interviewed came from major stakeholder groups and represented governments, naval forces and international organisations who are designing and implementing regional maritime cooperation. The majority of interviews were prepared and structured on the basis of questions submitted prior to interview. In a minority of interviews prepared uniform question lists were not submitted to participants in advance. This did not detract from the outcome of the interviews. The interviews were in the majority of cases undertaken over an extended period of time and participants took time at the outset to read and consider the proposed questions. Furthermore, the semi-structured nature of interviews reduced the disparity between the interviews. The participants being interviewed were familiar with the subjects under discussion. The area of maritime security cooperation is a highly sensitive and politicised issue. Information sheets and consent forms were designed to enable discussion of concerns in advance of participation. Interviews were transcribed. Anonymity

[35] ibid 458.

and data handling was consistent with those provisions approved by the University of Greenwich Research Ethics Committee. The results of the empirical research are used throughout the thesis, particularly in the case study chapters, and elsewhere to draw out or challenge the literature.

1.3.2 Limitations

There is limited literature specific to the questions pursued in the research. Legislation, bilateral and multilateral agreements were not always obtainable and as uncovered through fieldwork in some instances are yet to be written. This was interesting to learn and a further demonstration of the novelty of the research. The nature of the research limited the publicly accessible information regarding personnel. This impacted the ability to determine all participants in advance. The use of the snowball effect was necessary and ultimately effective but would not have been preferred to identifying and notifying all participants in advance. The relatively small size of the potential participant group limited issues of representativeness.

The number of interviews conducted and the institutions visited and the opportunity to coincide the fieldwork with the African Union Extraordinary Summit ensured the strength of the research. However additional time would have enabled meetings with directly-affected communities in the region, which though not required for the research would have provided broader insight.

Several aspects of maritime security are outside the scope of this thesis. This thesis recognises that the issue of maritime security is a broader picture than that presented here. It understands that inter-agency cooperation at a national level is a key part of effectively marshalling resources. This was made even more apparent during in-region fieldwork. Land-based elements of maritime security, particularly criminal justice system operation, ensure a run-through from capture to prosecution that acts as a deterrent. This thesis acknowledges that the threats are interlinked and responses to one may not be effective against all. It further recognises that regulation beyond waters of national jurisdiction requires a wider international response. What the present thesis aims to establish is the possibility for states in this region to view their role in promoting effective maritime security cooperation as something which they have a responsibility and authority to achieve.

1.4 Thesis outline

This thesis comprises five Parts. Part I comprises this introduction. Part II comprises the Chapter Two literature review that identifies scholarship on maritime security cooperation and sovereignty to situate the thesis and lead into discussion of cooperative sovereignty. Sovereignty is a concept that is both legally and politically charged. Sovereignty is a matter which has been prominent throughout codification of rights in the law of the sea. For this reason this thesis seeks to determine whether the actions of states can be seen as evidence of cooperative sovereignty or have the potential to benefit from such reframing of sovereignty. In this part the thesis draws from the ideas and approach put forward by Perrez,[36] who proposes in the context of international environmental law that traditional sovereignty is exclusionary and inconsistent with reality and that the appropriate response is to reconceptualise sovereignty. Chapter Three continues this association with Perrez's approach in its analysis of the concept of cooperative sovereignty and why it is being put forward as a means to promote effective maritime security cooperation. It then analyses whether there is a normative shift in the relevant legal frameworks supportive of the idea of a duty of cooperation or a responsibility and authority to cooperate.

Part III presents evidence about the Gulf of Guinea. Chapter Four outlines the regional threat picture. It highlights threat interdependence. It details the maritime profiles of states and the links established to promote maritime security cooperation. The inadequacy of relying upon this reality to promote effective maritime security cooperation in the region is demonstrated in Chapters Five and Six.

Maritime delimitation is a barrier to the achievement of a regional maritime security strategy.[37] Ali and Tsamenyi state that '[C]ertainty over maritime boundaries is germane to an effective maritime security regime in the Gulf of Guinea.'[38] Their work highlights three difficulties - cooperative challenges; jurisdictional uncertainties; and conflicts and instability - that unresolved maritime boundaries may create.[39] Chapter Five demonstrates that maritime security has not spurred states to address maritime delimitation either through

[36] Perrez (n4) discussed in Chapter 2 and 3.
[37] See for example PV Rao, 'Managing Africa's maritime domain: issues and challenges' (2014) 10(1) Journal of the Indian Ocean Region 113, 116.
[38] Kamal-Deen Ali and Martin Tsamenyi, 'Fault lines in maritime security' (2013) 22(3) African Security Review 95, 104.
[39] ibid 102-3.

negotiation, provisional arrangements or third party dispute resolution. Therefore reliance on maritime security cooperation across settled boundaries is unrealistic. Chapter Six analyses the domestic legal frameworks on which activities are established in the maritime space and the extent to which cooperation for maritime security in legislative and enforcement terms or moves towards this can be identified. It concludes that the evidence supports a reconceptualization of sovereignty to include a responsibility and authority to cooperate, or 'cooperative sovereignty'.

Part IV introduces case studies that are indicative of the potential impact for cooperative sovereignty. Chapters Seven and Eight respectively address multinational cooperation zones to tackle piracy and armed robbery at sea, and counter-illegal fishing efforts. Chapter Seven focuses on an example of cooperation in an undelimited maritime space where some success has been achieved amidst the possibility of disputes over maritime space. This system is a valid case study of relatively recent origin which has not received a great deal of attention in academic literature. The Chapter Eight case study concerns illegal fishing. This is a transboundary resource issue. There is an increasing focus on fisheries as a maritime security threat and as a component of transnational organised crime. This has caused states to develop mechanisms that make illegal fishing an interesting case study for reframing sovereignty. The case study also addressed the example of disputed maritime space. The West Africa Task Force which the case study addresses included the waters of Ghana and Côte d'Ivoire whose dispute was recently settled before a Special Chamber of the ITLOS.

In Part V, Chapter Nine presents conclusions on this research.

Part II

Chapter Two: Key Concepts and Literature Review

2.1 Introduction

This chapter firstly draws from international relations literature to briefly highlight the unsettled definition of key concepts. It secondly analyses Gulf of Guinea security cooperation and emerging maritime security cooperation literature. Section 3 introduces literature on sovereignty that demonstrates its changing nature and relevance to this work. This establishes the basis for the discussion of cooperative sovereignty. This chapter addresses Research Questions One: what is the status of regional security cooperation? And Two: what is the role of sovereignty in the maritime space?

2.2 Clarifying key concepts

2.2.1 Security

Security is an unsettled international relations concept; this is best demonstrated by reference to some of the many attempts at definition. The realist school focuses on external, military threats to the state:

> […] a nation is secure to the extent to which it is not in danger of having to sacrifice core values, if it wishes to avoid war, and is able, if challenged, to maintain them by victory in such a war.[1]

Later schools broadened and deepened security analysis.[2] Three schools known as Critical Security Studies retain a role for the state and do not establish a definition.[3] The Welsh School emphasises human security and human emancipation.[4] The centrality of emancipation to the theory has been criticised because its meaning is not entirely clear, however Sheehan argues that this is in part because the theory is a work in progress.[5] The Paris School understands security in terms of practice by examining the conduct and process

[1] Walter Lippmann, *U.S. Foreign Policy: Shield of the Republic* (Little, Brown and Company 1943) 51, discussed in Columba Peoples and Nick Vaughan-Williams, *Critical Security Studies: an introduction* (2nd ed, Routledge 2015) 4.
[2] Peoples and Vaughan-Williams (n1) 7.
[3] Barry Buzan, *People, States, and Fear* (2nd ed, Lynne Reinner Publishers 1991) 14.
[4] Barry Buzan and Lene Hansen, *The Evolution of International Security Studies* (CUP 2009) 36.
[5] Michael Sheehan, *International Security: An Analytical Survey* (Lynne Reinner Publishers 2005) 158.

of everyday security to determine how security is constituted.[6] This includes but does not prioritise the state, and overrides the internal / external divide in its coverage of all security practitioners.[7] The Copenhagen School[8] is recognised for emphasis on regional security and regional security complexes[9] as a means of conceiving how states may be affected collectively, and second the concept of securitisation, which acts as an organising tool.[10] Buzan establishes three levels – individual, state and international, that can be the object of a threat and five sectors which may be impacted: political, military, economic, societal, and environmental.[11] This broader analytical approach to security goes beyond only state and military concerns. The present work seeks to understand security in this broader sense but agrees with Rahman that Buzan's framework approach does not fit in the maritime context.[12]

2.2.2 Maritime security

Sloggett highlights:

> At the start of the twenty-first century a wider definition of maritime security is appropriate in the light of the use of the maritime domain, both to launch terrorist attacks and also to move the weapons, materials and money needed to support the activities of those engaged in transnational crime and terrorism.[13]

There is no settled definition.[14] The state-focused definition of Klein, Mossop and Rothwell that maritime security is 'the protection of a state's land and maritime territory,

[6] Didier Bigo, 'When two become one: Internal and External Securitisations in Europe' in Morten Kelstrup and Michael Williams *International Relations Theory and the Politics of European Integration* (Routledge 2000) 173.
[7] The Paris School is discussed in: Rita Floyd, 'When Foucault met security studies: a critique of the 'Paris School' of security studies (Paper presented at the 2006 BISA annual conference 18-20 December at the University of Cork Ireland) 10; Christopher S. Browning and Matt Macdonald 'The future of critical security studies: Ethics and the politics of security' (2011) 19(2) European Journal of International Relations 235, 240.
[8] See discussion in Barry Buzan and Ole Waever, *Regions and Powers: The Structure of International Security* (CUP 2003).
[9] ibid 10.
[10] Matt McDonald, 'Securitisation and the Construction of Security' (2008) 14(4) European Journal of International Relations 563.
[11] Barry Buzan, 'New Patterns of Global Security in the Twenty-First Century' (1991) 67(3) International Affairs 431, 433.
[12] Christopher Rahman, 'Concepts of Maritime Security: A Strategic Perspective on Alternative Visions for Good Order and Security at Sea, with Policy Implications for New Zealand' (Centre for Strategic Studies: New Zealand, Victoria University of Wellington) 29.
[13] Dave Sloggett, *The Anarchic Sea: Maritime Security in the Twenty-First Century* (Hurst & Company 2013) 53.
[14] Christian Bueger, 'What is maritime security?' (2015) 53 Marine Policy 159.

infrastructure, economy, environment and society from certain harmful acts occurring at sea'[15] is broad but consistent with the focus of this thesis.

The fact that its meaning will vary 'across actors, time and space' leads Bueger to call the search 'an unproductive quest'.[16] Bueger therefore seeks to look at maritime security through a matrix in relation to other concepts,[17] a securitisation framework[18] that focuses on how threats are constructed, and practice theory which asks what states do when they tackle maritime security issues.[19] This approach does not therefore settle a definition.

Rahman conceptualises maritime security through 'Five Prisms': 1. Security of the sea itself 2. Ocean governance 3. Maritime border protection 4. Military activities at sea 5. Security regulation of the maritime transportation system.[20] Rahman imposes a caveat that despite his division these prisms overlap, intersect and 'to a certain degree, represent different aspects of the same problem'.[21]

Ali[22] approaches maritime security in three parts: to highlight the land-sea nexus threat path that explains the nature and impact of the threats;[23] a thematic framework;[24] and a three layer-three indicator cooperation framework which Ali defines as necessary for enhanced maritime security cooperation. The three layers comprise: national, regional and global, and three 'critical progress indicators' are: governance, concept of security and legal framework.[25] The threat path discusses how maritime security may occur in three pathways: firstly acts and consequences may occur and be felt at sea; acts may occur at sea and the consequences be felt on land; lastly the acts occur on land and the consequences are felt at sea.[26] Ali concludes that all aspects must be addressed to create a secure maritime

[15] Natalie Klein, Joanna Mossop, and Donald R Rothwell, 'Australia, New Zealand and Maritime Security' in Natalie Klein, Joanna Mossop, and Donald R Rothwell (eds), *Maritime Security: International Law and Policy Perspectives from Australia and New Zealand* (Routledge 2010) 1, 8.
[16] Bueger (n14) 163.
[17] Bueger (n14) 160.
[18] Bueger (n14) 161.
[19] Bueger (n14) 162.
[20] Rahman (n12) 31.
[21] ibid.
[22] Kamal-Deen Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges,* (Publications on Ocean Development; volume 79 Brill | Nijhoff 2015).
[23] ibid 85.
[24] Ali (n22) 86.
[25] Ali (n22) 312.
[26] Ali (n22) 85-6.

environment.[27] Ali's thematic concerns of maritime security in the Gulf of Guinea links five maritime security components with five threat sources:

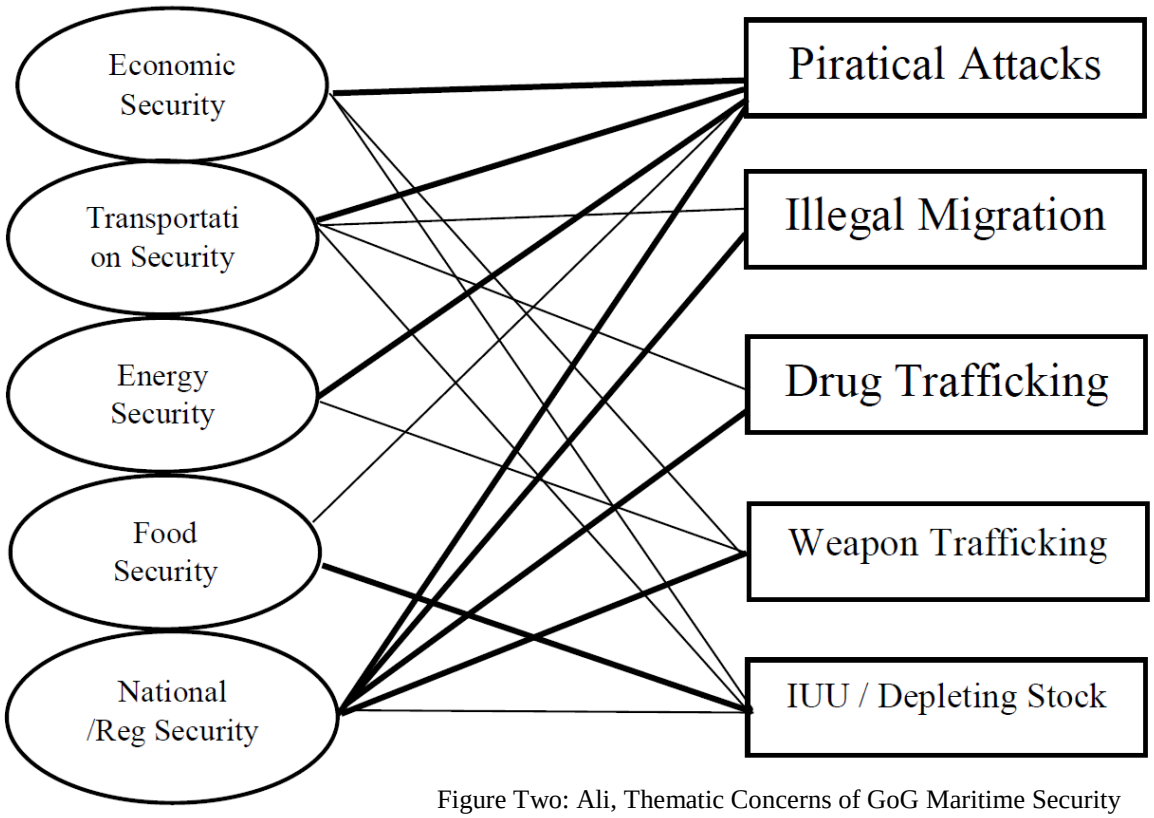

Figure Two: Ali, Thematic Concerns of GoG Maritime Security

The author acknowledges an issue in this framework: that the individual security components cannot be isolated from one another.[28] This is also true of the threats. The concept of national / regional security is arguably comprised of military security but is also impacted the security types reflected in the framework. This framework outlines a structure and demonstrates the complexity of the task.

Sloggett acknowledges '[…] it is a globalised era where so many things are becoming ever more tightly coupled, and differentiating maritime security from wider-ranging political, military and economic issues is difficult.'[29] This supports his division of maritime security into seven 'dimensions': state-on-state; trade protection; resource management; smuggling; terrorism; disasters; and oceanography.[30] Slogget's definition is broader than Ali's. This befits the global rather than regional focus. Maritime terrorism, which is a global concern has not manifested in the region that is the focus of Ali or of this work. All authors adopt a

[27] Ali (n22) 86.
[28] Ali (n22) 86.
[29] Sloggett (n13) 33.
[30] Sloggett (n13) 36-7.

negative, threat-focused approach to determining maritime security. This has also been adopted by institutions.

The Centre for International Maritime Security defines the object of a threat – a nation – but does not specify the nature of the threat or whether it must be external to a state: […] freedom from the risk of serious incursions against a nation's sovereignty launched from the maritime domain, and from the risk of successful attack against a nation's maritime interests.[3132] This definition does however link security to state sovereignty.

In the 'Constitution for the Oceans'[33] the United Nations Convention on the Law of the Sea (UNCLOS)[34] maritime security is not covered as a discrete subject. No definition is given and explicit references to security within the text are limited.[35] Part VII of the Convention provides for some matters characterised as maritime security concerns.[36]

The United Nations Secretary General's 2008 Report[37] defines maritime security 'threats': piracy and armed robbery against ships;[38] Terrorist acts involving shipping, offshore installations and other maritime interests;[39] Illicit trafficking in arms and weapons of mass destruction;[40] Illicit traffic in narcotic drugs and psychotropic substances;[41] Smuggling and trafficking of persons by sea;[42] Illegal, unreported and unregulated fishing;[43] and Intentional and unlawful damage to the marine environment.[44] This enables selection of issues. It has

[31] Centre for International Maritime Security, 'What is International Maritime Security? (*Centre for International Maritime Security*, 8 September 2012) <http://cimsec.org/what-is-international-maritime-security/2698> accessed 20 October 2014.
[32] Maritime Domain as a term is frequently utilised without further definition leading to confusion of the precise meaning in any particular context. In its narrower definition, maritime domain is the maritime space under the control of a state, following from the definition of 'domain': 'An area of territory owned or controlled by a particular ruler or government' (*Oxford English Dictionary online*, OUP 2016) <http://www.oxforddictionaries.com/definition/english/domain> accessed 20 February 2016. However maritime domain is frequently understood in a broader sense, beyond the maritime space actually within the control of a state. References to maritime domain will be understood as relating to the former.
[33] T Koh, 'A Constitution for the Oceans' Remarks by Tommy B. Koh, President of the Third United Nations Conference on the Law of the Sea, xxxvii <http://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf> accessed 19 April 2015.
[34] UN General Assembly, Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 397.
[35] Stuart Kaye, 'Freedom of Navigation in a Post 9/11 World: Security and Creeping Jurisdiction' in David Freestone, Richard Barnes and David Ong, *The Law of the Sea: Progress and Prospects* (OUP 2006) 348.
[36] UNCLOS Ch VII.
[37] Secretary General of the United Nations, 'Report of the Secretary-General on Oceans and the Law of the Sea' (10 March 2008) UN Doc. A/63/63 para 39.
[38] ibid para 54.
[39] Secretary General Report (n37) para 63.
[40] Secretary General Report (n37) para 72.
[41] Secretary General Report (n37) para 82.
[42] Secretary General Report (n37) para 89.
[43] Secretary General Report (n37) para 98.
[44] Secretary General Report (n37) para 107.

the advantage that states can choose to focus on issues of greater relevance to themselves. However, flexibility risks a narrow focus dictated by interests. This particular concern manifests in this work where, as Chapter Four outlines, states suffer threats to varying degrees and therefore consensus may be undermined. The International Maritime Organisation (IMO) Maritime Strategy for West and Central Africa states that to manage natural resources effectively, states must 'overcome major challenges in their maritime domain',[45] tackling:

> illegal activities such as piracy and armed robbery against ships; illegal oil bunkering and theft of crude oil; threats to offshore oil and gas production; illegal, unreported and unregulated fishing; arms, drug and human trafficking; environmental damage caused by dumping of toxic waste and discharge of oil and other pollutants; and general threats to navigational safety.[46]

The IMO recognises that it operates in a wider context, particularly referencing the Yaoundé Code of Conduct of 2013.[47] This Code provides:

> "Transnational organized crime in the maritime domain" includes but is not limited to any of the following acts when committed at sea: (a) money laundering, (b) illegal arms and drug trafficking, (c) piracy and armed robbery at sea, (d) illegal oil bunkering, (e) crude oil theft, (f) human trafficking, (g) human smuggling, (h) maritime pollution, (i) IUU fishing (j) illegal dumping of toxic waste (k) maritime terrorism and hostage taking (l) vandalisation of offshore oil infrastructure.[48]

This Code has been praised for its breadth and recognition of the increasing challenge of IUU fishing, as opposed to the narrower Djibouti Code of Conduct on which it is based.[49] It may be argued that an exclusionary definition is not necessarily the objective, and instead attempts should be made to reflect current realities. This may be the reason for the list approach identified in the UN Secretary General's 2008 report. This list approach has been

[45] International Maritime Organisation, *Implementing Sustainable Maritime Security Measures in West and Central Africa* (January 2014) para 6.
[46] ibid.
[47] IMO (n45) para 11, referring to Code of conduct concerning the repression of piracy, armed robbery against ships, and illicit maritime activity in West and Central Africa.
[48] Code of conduct concerning the repression of piracy, armed robbery against ships, and illicit maritime activity in West and Central Africa, 5.
[49] Timothy Walker, 'Fewer pirates, different risks: Africa needs to rethink its approach to maritime security' (10 March 2014) <http://www.issafrica.org/iss-today/fewer-pirates-different-risks-africa-needs-to-rethink-its-approach-to-maritime-security> accessed 12 April 2015.

replicated in the more recent 2014 European Union Gulf of Guinea Action Plan which also recognises the complexity of the issue:[50]

> The threats take various forms, are often interlinked across borders and can, collectively, lead to contagious criminal activity and linkages with terrorist networks, putting at risk the stability of states and reducing their chances of successful economic development or of reducing poverty, to which the EU is committed. The main threats include:
>
> a) illegal, unreported and unregulated fishing, illicit dumping of waste, and piracy and armed robbery at sea', including kidnap b) trafficking of human beings, narcotics, arms and counterfeit goods, and smuggling of migrants c) oil theft ("illegal bunkering"), and criminal acts in ports.[51]

To address the interlinked and multifaceted nature of the challenge in the region, it is preferable to use a list. However a non-exhaustive list is unhelpful when arguing for maritime security to be accepted as an area to which cooperative sovereignty is applicable. This is important where states are asked to balance competing interests and concerns. The list of threats that the Yaoundé Code of Conduct identifies is said to be non-exhaustive. However for the purposes of this thesis this list will define maritime security.

2.2.3 Cooperation

Keohane defines cooperation as 'mutual adjustment of policies by two or more states'[52] which Franke finds to be generally accepted[53] in the international relations field. Perrez defines cooperation:

> Cooperation has to be distinguished from parallel interests or harmony. In situations of harmony the actors independent and self-interested policies automatically promotes the attainment of the others goals, cooperation requires that the behaviour of the different actors has to be brought into conformity one with another through the process of negotiation and coordination. Thus cooperation occurs when the actors adjust their behaviour to the preferences of the others or the common overall preferences and thereby are willing to act against their own short-time self-interest.[54]

This thesis focuses on maritime security cooperation. This is defined as cooperation between states to combat threats to their respective land and maritime territory, infrastructure,

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[50] Council of the European Union, 'Council conclusions on the Gulf of Guinea Action Plan 2015-2020' (Doc No: 7168/15).
[51] Council of the European Union, 'EU Strategy on the Gulf of Guinea, Foreign Affairs Council meeting Brussels' (17 March 2014) 2.
[52] Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press 1984) 51-4.
[53] Benedict Francke, *Security Cooperation in Africa: A Reappraisal* (First Forum Press 2009) 12, fn18.
[54] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000) 260.

economy, environment and society from certain harmful acts occurring at sea,[55] these acts being those stated in the Yaoundé Code of Conduct. It is recognised that cooperation may include a range of activities including information sharing, intelligence gathering and joint patrols. It does not limit the mechanisms used or the duration or number of states involved. It is proposing that the greatest number of states involved is optimal because it reflects the threat realities but does not rule out cooperation between fewer numbers of states as these are potentially a bridge to wider cooperation. This is consistent with van Rooyen that cooperation is essential to 'optimally use scarce resources'.[56] Gullett and Shi find:

> There are two general scenarios in which coastal states could benefit from a high level of bilateral or multilateral security cooperation. The first is in circumstances where it would endeavour to enforce its laws regarding conduct aboard a foreign vessels which attempts to escape arrest by fleeing to waters of another State or the high seas. International cooperation is needed because the jurisdictional rights and protections of neighbouring States must be respected. The second scenario is where a coastal State has insufficient surveillance and enforcement assets to police its maritime zone and would benefit from sharing resources with its neighbours.[57]

High level cooperation is also required where sovereignty and jurisdiction are unsettled.

2.3 Literature review: security cooperation

Security cooperation has been primarily land-focused and organised between Regional Economic Communities (RECs). The Maritime Organisation for West and Central Africa (MOWCA) and the Gulf of Guinea Commission (GGC) have had limited impact. Concerns of hegemony also factor as a limitation upon cooperative efforts. This section considers literature on security cooperation activities of each institution before addressing maritime security cooperation literature.

2.3.1 Institutions: the Economic Community of West African States (ECOWAS)

'[…] *when Nigeria sneezes, ECOWAS catches cold…'*[58]

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[55] Definition taken from Klein, Mossop and Rothwell (n15).
[56] Captain (SAN) Frank C van Rooyen, 'Africa's Maritime Dimension: Unlocking and Securing the Potential of its Seas – Interventions and Opportunities' (2007) 16(2) African Security Review 109, 117.
[57] Warwick Gullett and Yubing Shi, 'Cooperative Maritime Surveillance and Enforcement' in Robin Warner and Stuart Kaye (eds), *Routledge Handbook of Handbook of Maritime Regulation and Enforcement* (2015) 378.
[58] This saying is often used, modified and adapted to purpose. It was recently attributed to the-then incoming President of Nigeria General Muhammadu Buhari National Daily, 'ECOWAS to deploy 250 observers for Nigeria's election' <http://nationaldailyng.com/test/index.php/news/politics/2862-ecowas-to-deploy-250-observers-for-nigeria-s-election> accessed 27 January 2016.

Security cooperation at a general, thematic level is covered.[59] Works concern collective security[60] and regional security,[61] organisational methods that have increased since the end of the Cold War. A majority of the literature focuses on ECOWAS and its operations. Notable among the works is the positivity maintained about security cooperation.

Abass and Sarooshi discuss the delegation of power to regional collectives ECOWAS and the Economic Community of Central African States (ECCAS). The focus of the authors differs somewhat from this work. Both authors address the subject of the delegation of a power to regional arrangements. In this thesis, the focus of cooperation is for the most part on decisions outside of this framework, grounded in a recognition at the regional level of the need to combat a specific threat. Abass[62] in his book considering developments in collective security looks at the move toward an acceptance of regional action as a manifestation of collective security and is overwhelmingly positive. His definition of regional organisation is broad:

> a notion encompassing entities, which may, but not necessarily belong to a geographically determinable area, having common and disparate attributes and values, but which seek the accomplishment of common goals.[63]

The author is optimistic about the role of regional organisations, citing ECOWAS as a demonstration of the new mechanism for delegation of collective security.[64] This work highlights a traditional division between RECs, and a traditional focus on land security. The relative lack of experience in maritime security is informative. Whilst representing an opportunity for states to gain experience in peace and security cooperation, a comparative lack of formalised ongoing cooperative activity is a challenge to capacity.

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[59] Jozef Goldblat, 'Maritime security: the building of confidence' (United Nations. Institute for Disarmament Research (1992)); Sam Bateman (ed), 'Maritime Cooperation in the Asia-Pacific Region: Current Situation and Prospects' (Canberra Papers on Strategy and Defence No. 132); Armin Steinbach, 'Cooperation in maritime security and the sovereignty implications' (2008) 14 IJML 339; Ruijie He, 'Coast guards and maritime piracy? Sailing past the impediments to cooperation in Asia' (2009) 22(5) The Pacific Review 667.
[60] Collective security, as distinct from security cooperation is defined as: '[…] in broad terms as a system where a collective measure is taken against a member of a community that has violated certain community-defined values. There are three decision-making elements: first; a determination of the values the system is directed at maintaining; second, a decision as to when a value has been breached; and third, what action should be taken to try and restore observance of the value.' Danesh Sarooshi, 'The Recourse to Force by The United Nations: The Contributions of Thomas M. Franck' (2010) 104 American Society of International Law Proceedings 399.
[61] Border security in Africa research included Celestine Bassey and Oshita O. Oshita, *Governance and border security in Africa* (Malthouse Press Limited 2010).
[62] Ademola Abass, *Regional organisations and the development of collective security: beyond chapter VIII of the UN Charter* (Hart 2004).
[63] ibid 25.
[64] Abass (n62) 23.

Sarooshi addresses a similar theme of the process for delegation of power to regional arrangements.[65] The work of ECOWAS as a regional arrangement, with emphasis on Nigeria as a key driver of regional security is highlighted.[66] These works focus on land security matters and reflect the overwhelming focus on land security in practice. It also raises the idea of the importance of a regional hegemon – Nigeria – as a major influencer on cooperation. The pivotal role of Nigeria is reflected in the focus on this state in a number of works. These represent a challenge to maritime security cooperation where a cooperation regime necessitates different actions and different state groupings.

Francis reviews the regional security system in West Africa.[67] In tracing the history of collective security interventions Francis makes the point that sovereignty concerns of member states are an underlying issue.[68] Like Sarooshi, his argument places Nigeria at the centre of regional peace and security,[69] and in noting that the domestic Nigerian support of collective security at the regional level varies, also states that where members do not have large budgets the systems may face sustainability challenges.[70] Suggestion of possible Nigerian reluctance or reticence is also made elsewhere.[71]

The positivity of Abass is reflected by Francis who acknowledges the efforts to develop regional security cooperation in spite of myriad economic, political and security challenges.[72] It serves to highlight the continued entrenchment of cooperation in two communities. Tavares[73] reviews the work of ECOWAS and in common with others reviews the operational history of the organisation and states that 'military interventions have been

[65] Danesh Sarooshi, *The United Nations and the development of collective security: the delegation by the UN Security Council of its chapter VII powers,* (Oxford: Clarendon Press 1999), chapter 6.
[66] See for example WO Alli, 'The Role of Nigeria in Regional Security Policy' (Friedrich-Ebert-Stiftung (2012)); Adekaye Adebajo & Ismail Rashid (eds), *West Africa's Security Challenges: Building Peace in a Troubled Region* (Lynne Reinner Publishers Inc 2004); R Tavares, 'Regional clustering of peace and security' (2009) 21(2) Global Change, Peace & Security: formerly Pacifica Review: Peace, Security & Global Change 153; The Stanley Foundation, 'Capturing the 21st century security agenda: prospects for collective responses' (Muscatine: The Stanley Foundation 2004).
[67] David J Francis, *Uniting Africa: Building Regional Peace and Security* (Ashgate Publishing Ltd 2006).
[68] ibid 176.
[69] Francis (n67) 176.
[70] Francis (n67) 176.
[71] Elizabeth Ifedayo Tolu, 'Nigeria's Security Interest in West Africa: A Critical Analysis' (2013) 1(6) Journal of Research and Development 41.
[72] Francis (n67) 240.
[73] Rodrigo Tavares, *Regional Security: The Capacity of International Organizations* (Routledge 2009).

marred by controversy'.[74] The author cites the capacity challenges of the organisation but argues that the future can be viewed positively if it can be sustained.[75]

This position is supported by Obi.[76] Obi undertakes a comparative analysis of ECOWAS operations to identify the challenges needed to be overcome in order to create 'a sustainable, people-rooted Economic Community of West African States peace and security agenda for West Africa.' In concluding, the author highlights 'resource, institutional, managerial and leadership gaps' that hinder peace and security cooperation and in common with other authors Nigeria's role as a key component of regional security.[77] The positivity expressed by Abass and Sarooshi regarding cooperation remains valid in general terms. It is functioning and as Tavares suggests, could be sustainable. Evidence from previous cooperation however has reflected the imbalance seen among member states.[78] The literature in this area mirrors the historical focus on land-based security, the importance of specific states, and a clear division from ECCAS.

2.3.2 Institutions: ECCAS

Security cooperation undertaken through ECCAS is comparatively recent and low-level.[79] Noting the various agreements and meetings convened since the organisation's establishment in 1983, Sarkin finds the key actions took place in 2004: 'In 2004 the structure of the planning element's regional headquarters was decided. That same year, states agreed that the ECCAS standby brigade will comprise 2,177 troops.'[80] The slow development of this aspect of the ECCAS mandate is a concern. As a key actor in maritime security efforts, any capacity challenges could hamper the REC; the absence of a continued engagement on security issues limits the ability to determine firstly how the states traditionally interact on this subject, and to conjecture how a novel system may function.

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[74] ibid 43.
[75] Tavares (n73) 45.
[76] Cyril I Obi, 'Economic Community of West African States on the Ground: Comparing Peacekeeping in Liberia, Sierra Leone, Guinea Bissau, and Côte d'Ivoire' Chapter 4 in Fredrik Soderbaum, Rodrigo Tavares (eds) *Regional Organizations in African Security* (Routledge 2013).
[77] ibid 62.
[78] Saley Idrissa Ibrahim, Zarina Othman, Nor Azizan Idris, 'The decay and withering away of ECOWAS's role in West African Regional security' (2014) 10(3) Malaysian Journal of Society and Space 188, 194.
[79] Ali states that ECCAS security cooperation came into practice in 2004. Ali (n22) 235.
[80] Jeremy Sarkin, 'The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect' (2009) 53(1) Journal of African Law 1, 30.

Sarkin's view coheres with Meyer.[81] Meyer focuses on the transfer of the operations in the Central African Republic. Clear challenges are highlighted; the peace mission was established under the Central African Economic and Monetary Community, a central African regional community with no mandate for such matters. This decision was taken because ECCAS at the time did not have a completed reform process to enable it to take responsibility.[82] The transfer of responsibility to ECCAS occurred only in late 2007, when the Force Multinationale en Centrafrique (FOMUC) mission was renamed La Mission de consolidation de la paix en Centrafrique (MICOPAX). The mission budget is largely funded by the EU.[83] This work most clearly raises the continued issue of capacity. As is indicated by Meyer, ECCAS is only more recently undertaking a security cooperation function; this is less established and tested than that of ECOWAS. When inter-regional cooperation and coherence is anticipated, there is a risk of imbalance due to relative inexperience. This work also highlights the complex relationship between RECs and external partners. As new and existing partnerships seek to cooperate for maritime security the status of external actors in regional and bilateral relationships will need to be identified and where possible, harmonised.

2.3.3 Maritime security institutions: MOWCA

MOWCA was established in 1975 with a focus on maritime transport. Its mandate was enlarged in 1999 to handle all regional maritime matters.[84] This included piracy.[85] This twenty-five state membership spans a wide area. It is not the coordinating institution for maritime security.

MOWCA's major maritime security innovation is a focus of literature. Nanda details the MoU which established a Sub-Regional Integrated Coast Guard Network in West and Central Africa.[86] He praises the many obligations that the MoU sets out that include

[81] Angela Meyer, 'Regional Conflict Management in Central Africa: From FOMUC to MICOPAX' (2009) 2(2-3) African Security 158.
[82] ibid 161.
[83] Meyer (n81) 169.
[84] African Maritime Safety and Security Agency, 'Maritime Organisation for West and Central Africa' <http://www.amssa.net/framework/MOWCA.aspx> accessed 19 December 2017.
[85] Ved P Nanda, 'Maritime Piracy: How Can International Law and Policy Address This Growing Global Menace' (2011) 39 Denver Journal of International Law & Policy 177, 191.
[86] Memorandum of Understanding on the Establishment of a Sub-Regional Integrated Coast Guard Network in West and Central Africa,13th Sess., July 29-31, 2008, MOWCA, MOWCA Doc. MOWCA/XIII GA.08/8 <http://www.un.org/depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin68e.pdf> 51.

harmonisation of legislation, regional hot pursuit and other measures aimed at effective cooperation.[87] The challenge of the Network has been implementation, with a minority of states not having signed the MoU. Sumser-Lupson discusses these challenges. She notes the representative states adopted a motion to amend the 100 percent adoption rule to a 75 percent adoption rule in order that those states who wished could begin implementation of the network.[88] Sumser-Lupson also highlights themes undermining the Network which recur elsewhere, interoperability of technology systems and the challenges of the interplay between coast guard / navy assets and personnel.[89] The key point raised in respect of the latter concern is that the threats have caused a 'blurring the boundaries between maritime civil and military operations'[90] and that financial realities require a reassessment and repurposing of naval assets to fit the new situation.[91]

This is an argument put forward by Trelawny that 'Navies and other stakeholders need to identify all of the core functions and derived tasks which need to be done in order to progress the integrated coastguard concept.'[92] The states of the Network need to drive the process.[93]

Ali discusses the ongoing failure to implement the Network, referring to it as 'a complicated bureaucratic concept with serious structural issues'.[94] The author highlights that the MoU does not provide MOWCA with institutional authority and that the network is outside the framework of the RECs and would be competitive.[95] Ali also highlights the incursions on sovereignty and jurisdiction that operationalisation would have in the region. The greatest of these is that the project would be run by a Technical Committee of Evaluation and patrols organised by Coordinators to whom states must submit requests.[96] He concludes that there is a great difficulty in envisaging successful implementation of the Network.[97] This work together with others speak to the complexity of institutional mandates in the region. This is

[87] Nanda (n85) 191-2.
[88] K Sumser-Lupson, 'Implementing an Integrated Coast Guard Network in West and Central Africa to Combat the Rise of Armed Robbery in Territorial Waters' in E. Bossé, E. Shahbazian, G. Rogova (eds), *Prediction and Recognition of Piracy Efforts Using Collaborative Human-Centric Information Systems* (IOS Press 2013) 17.
[89] ibid 20.
[90] Sumser-Lupson (n88) 20.
[91] Sumser-Lupson (n88) 21.
[92] Chris Trelawny, 'The Naval Contribution to Sustainable Development in West and Central Africa (2007) 152(5) The RUSI Journal 70, 73.
[93] ibid 74.
[94] Ali (n22) 229.
[95] Ali (n22) 239.
[96] Ali (n22) 241.
[97] Ali (n22) 242.

most evidenced by the fact that the zonal system proposed for MOWCA does not correspond to the system established under the interregional architecture.[98]

2.3.4 Maritime security institutions: GGC

Established in 2001, the GGC currently comprises nine states. Its objective is maritime security cooperation. This body has not been nominated to expand its membership and lead on cooperation. Sullivan notes the GGC pushed unsuccessfully for a greater role in 2011 when it promoted the idea of an expansion to include all ECOWAS and ECCAS States.[99] Onuoha[100] considers refocusing the GGC. This was also discussed in a Chatham House Meeting by the Foreign Minister of Gabon[101] covered later in this work. Onuoha proposes that the GGC be used for engagement on energy, and that broadening consultation frameworks to include suppliers such as China could benefit states by avoiding tensions over access and supply of resources.[102] This demonstrates the GGC's still unsettled role. Ibrahim highlights that the institution has been stymied in other initiatives possibly because of sovereignty concerns. This concerned specifically the Gulf of Guinea Guard Force.[103] Ali questions why an organisation with a relevant mandate has not led the field.[104] The major challenge is interstate rivalries;[105] the author focuses on the role of Nigeria as a state balancing its national interests with the work of the GGC. This ties into the earlier discussion of the role of Nigeria and the need to recognise interstate affairs as running alongside multinational bodies. Several conclusions can be drawn from this literature. Firstly, the countries under consideration cut across traditional lines of security cooperation. Secondly, the RECs to differing extents suffer lack of capacity and political will. Thirdly, security cooperation has been land-focused. Fourthly, neither MOWCA nor the GGC have been widely impactful.

[98] MOWCA's network would comprise four zones, the interregional architecture has six zones.
[99] Jimmie E Sullivan (Lt Col, USAF), 'Maritime Piracy in the Gulf of Guinea, Regional Challenges and Solutions' (Joint Military Operations Department, Naval War College 2 November 2011) 10.
[100] Freedom C Onuoha, 'The Geo-strategy of Oil in the Gulf of Guinea: Implications for Regional Stability' (2010) 45(3) Journal of Asian and African Studies 369.
[101] HE Noël Nelson Messone, Minister of Foreign Affairs, Republic of Gabon Gabon's Foreign Policy: What Role in Regional Peace and Development? (Chatham House Research Event 26 October 2017).
[102] Onuoha (n100) 380-1.
[103] S Ibrahim, 'To patrol is to control: Ensuring situational awareness in Africa's maritime exclusive economic zones' (2009) 18(3) African Security Review124, 127.
[104] Ali (n22) 240.
[105] Ali (n22) 249.

2.3.5 Maritime security cooperation: emerging literature

Vreÿ identifies: 'Although discussions on African security matters are not difficult to trace in the literature, the maritime nexus of African insecurity has received less attention.'[106] Academic works examine maritime security cooperation at a concern at the continental level.[107] Engel in his work on the African Union's Peace and Security Architecture[108] considers the challenge of owning maritime security at the continental level. He argues that at a critical stage, 2010 to 2014, the AU did not act effectively on maritime security, 'As a result, this policy aspect has neither politically nor institutionally been integrated into the APSA'.[109] The idea that either the regional, continental or international level can be isolated is not argued, but it is clear that there remains an expressed expectation of regional leadership.

Gibson[110] makes a key link:

> Good laws are a necessary pre-condition for the achievement of maritime security, but they will only be effective if there is also the political will and the practical capacity among seafaring nations to carry them out.[111]

Rao[112] outlines the maritime challenges faced on both the continent's East and West coasts and cites political will as a key precursor to success. This theme is also central to the work of Ibrahim,[113] who looks at the question of will and capacity to meet maritime security challenges,[114] relevant both to the continental and to the regional maritime security context. Ibrahim discusses the challenges through a lens of piracy and armed robbery at sea. He argues that a baseline of security cooperation must begin with situational awareness[115] and

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[106] Francois Vreÿ, 'Securitising piracy' (2011) 20(3) African Security Review 54, 60.
[107] See amongst others: Francois Vreÿ, 'Turning the Tide: Revisiting African Maritime Security' (2013) 41(2) Scientia Militaria, South African Journal of Military Studies 1; Paul Musili Wambua, 'Enhancing regional maritime cooperation in Africa: The planned end state' (2009) 18(3) African Security Review 45; United Nations Regional Centre for Peace and Disarmament in Africa, Lomé, Togo, Workshop on the Role of Border Problems in African Peace and Security: A Research Project (United Nations, New York, 1993); The Brenthurst Foundation, Maritime Development In Africa: An Independent Specialists' Framework (Discussion Paper 2010/03).
[108] Ulf Engel, 'The African Union, the African Peace and Security Architecture, and Maritime Security' (2014) 7(3) African Security 207.
[109] ibid 216.
[110] John Gibson, 'Maritime security and international law in Africa' (2009) 18(3) African Security Review 60.
[111] ibid 70.
[112] PV Rao, 'Managing Africa's maritime domain: issues and challenges' (2014) 10(1) Journal of the Indian Ocean Region 113.
[113] Ibrahim (n103)124.
[114] Ibrahim (n103) 127.
[115] Ibrahim (n103) 127.

that multilateral naval cooperation is ultimately the means of securing the maritime domain.[116] The literature suggests that agreements concluded between neighbouring states or with external institutions / states cannot be isolated from the international relations context.

Anyimadu also adopts a comparative approach, drawing on lessons learned in the Indian Ocean applicable to the Gulf of Guinea.[117] She recognises the different contexts but argues that there are transferrable lessons. Key measures referenced that are of relevance include the harmonisation of a position on private armed security[118] and development of measures to minimise impact from underreporting.[119] The message that reduction of piracy is attributable to a mix of methods[120] is transferrable to the present context but what is under-discussed in the paper is the unique mix of threats that states face and the differing degrees to which they suffer such threats. The Yaoundé Code of Conduct lists a number of threats and therefore efforts to combat piracy must be cognisant of matters not present in the Indian Ocean.

Vreÿ outlines the maritime threats present from the Gulf of Aden to the Gulf of Guinea.[121] As solutions to these threats the author proposes amongst other ideas that cooperation with non-state actors 'shows promise'.[122] It is recognised that a major role could be created for non-state actors, particularly private security and oil companies. This thesis however focuses on state actors. This is because the established aims and planned progress continue to centre on relations between states, with alternative actors playing a limited role. There is a case for pursuing multi-strand solutions however Vreÿ notes this remains 'somewhat controversial'.[123]

Documentation specific to practice in the Gulf of Guinea region is limited. Discussion has taken place in recent policy literature, published by organisations working in or with an

[116] Ibrahim (n103) 129.
[117] Adjoa Anyimadu, 'Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean' (Chatham House Paper July 2013).
[118] ibid 11.
[119] Anyimadu (n117) 10.
[120] Anyimadu (n117) 17.
[121] Francois Vreÿ, 'Bad order at sea: From the Gulf of Aden to the Gulf of Guinea' (2009) 18(3) African Security Review 17.
[122] ibid 26.
[123] Vreÿ (n121) 21.

interest in the region. These documents will be sources of information in subsequent chapters.

Walker discusses maritime security in the context of Gulf of Guinea and West Africa.[124] He argues that the maritime security agenda has progressed but should be broadened to focus on IUU fishing. Walker approaches this as an important human security concern. It is argued here that the need to combat illegal fishing is a human security concern, but it should be a concern for states even where their security focus is narrower. It is a security concern that links into a number of other maritime crimes that states face. Chalfin adopts an interesting standpoint for her discussion of maritime security. It is clear that economic matters play a significant role in maritime affairs. Chalfin argues that the Ghanaian maritime territorial objectives were modified to meet the needs of petroleum companies.[125] This challenge of vested interests and competing priorities runs through the narrative, and can be applied in the context of capacity building and management of fisheries. It is a subject that impacts particularly on the idea of the basis upon which cooperation is founded, discussed at Chapter Three.

Ukeje reports on a 2014 conference *African Approaches to Maritime Security: The West and Central African Perspectives* which looked at challenges and opportunities in the maritime domain and their implications for governance, security and development.[126] In his reflections, the author highlights lessons learned including joint management of resources 'in the growing number of cases where maritime boundaries are disputed […].'[127] Ukeje rightly states that enforcement as a standalone approach is inadequate. He argues that this should be combined with 'developmental interventions that privilege socio-economic and political emancipation of citizens across the 30-odd countries in the Gulf of Guinea.'[128] While not disputing the real importance of such initiatives, this work diverges from Ukeje here. It argues that when faced with the reality of resource availability and capacity, the Gulf of Guinea states should focus in the immediate term on cooperation to secure the maritime space, and build in such important interventions in the medium to long term.

[124] Timothy Walker, 'Maritime security in West Africa: Aiming for long-term solutions' (2013) 22(2) African Security Review 85.
[125] Brenda Chalfin, 'Governing Offshore Oil: Mapping Maritime Political Space in Ghana and the Western Gulf of Guinea' (2015) 114(1) The South Atlantic Quarterly 101.
[126] Charles Ukeje, 'The Abuja Declaration and the challenge of implementing a maritime security strategy in the Gulf of Guinea and the South Atlantic' (2015) 11(2) Journal of the Indian Ocean Region 220.
[127] ibid 229.
[128] Ukeje (n126) 231.

Ukeje argues that the role of external partners should be supportive of regionally-led initiatives, rather than in control of a region which 'has become the latest theatre for what has been described as the 'new scramble' for natural and energy resources'.[129] Ukeje's positioning of regional states as leaders in this work is accepted but a further issue is to understand how to create effective maritime security cooperation. This is not a universally-held view; Wardin and Duda argue that the international impacts require a greater role for the international community including in 'reconstruction of the internal structures' of the weak, dysfunctional and fragile states who are the location of piracy organisations.[130] This proposal would represent a major incursion and go beyond the bounds of cooperation. Gilpin details the threats facing the region and the means through which states are attempting to combat these. The author references the issue of delimitation, arguing it could cause armed conflict and at a lower level impede efforts to cooperate.[131] He offers a structural assessment of the required programme for the region:

> A strategic approach for the Gulf of Guinea requires consistency between domestic and partner initiated programs, as well as significant regional collaboration given the trans-national character of most threats and vulnerabilities. Thus, an effective strategy must incorporate national, regional and global realities. While the precise configuration would largely be country-specific, effective strategies would broadly adhere to a four-fold framework encompassing: demonstrable political commitment, increased operational efficiency, transparent regulatory systems, and heightened public awareness.[132]

This departs some way from an exclusive focus on regional approaches. This could be seen as a more pragmatic approach to dealing with maritime security questions, particularly because of divergence in capacity. It aligns with the arguments of Ukeje however in that it does not privilege international actors. The position of international actors in this realm is echoed by Ibrahim: 'African nations must recognise that the main driving force is the protection of the interests of these foreign powers, over and above every other consideration.'[133] This is reflected from a different perspective by Schofield and Ali.[134] Schofield and Ali address piracy challenges in the context of Somalia and the Gulf of Guinea. Contrasting the regions, the authors note the growth in the rate of Gulf of Guinea

[129] Ukeje (n126) 232.
[130] K Wardin and D Duda, 'Effectiveness of Measures Undertaken in the Gulf of Guinea Region to Fight Maritime Piracy' in Adam Weintrit and Tomasz Neumann (eds), *Safety of Marine Transport: Marine Navigation and Safety of Sea Transportation* (CRC Press 2015) 221.
[131] Raymond Gilpin, 'Enhancing Maritime Security in the Gulf of Guinea' (2001) VI(1) Strategic Insights 5.
[132] ibid 9.
[133] Ibrahim (n103) 128.
[134] Clive Schofield and Kamal-Deen Ali, 'Combating Piracy and Armed Robbery at Sea' in Robin Warner and Stuart Kaye (eds), *Routledge Handbook of Maritime Regulation and Enforcement* (Routledge 2015).

incidents and the complexity of attacks.[135] The focus issues are legislative deficit and progress on delimitation of maritime boundaries.[136] In respect of international actors the authors caution:

> Multiple cooperative initiatives are currently being unpacked in the Gulf of Guinea region to which national administrators and regional institutions are required to respond and implement. This overcrowds national and regional policy, adversely affecting maritime security decision-making and coordination.[137]

Fiorelli discusses the role of the United States.[138] His analysis attributes the continued threat of maritime piracy in the region to challenges of governance and capacity.[139] Fiorelli situates the United States as the actor that should 'spearhead' capacity building but not at the tactical or security level.[140] The recognition that this external actor cannot be at the forefront of all aspects of cooperation is grounded upon international, and national US financial and reputational considerations.[141] However it raises in a singular context the concerns that other authors have put forward about relying on international actors taking the lead in this area: specifically that there will be national considerations and interests brought into the picture that may be prioritised above the needs of the regional states. The discussion of Fiorelli when placed alongside the discussion of Ukeje and others strengthens the proposition that the most appropriate solution is a successful regional approach. This is argued in the literature that specifically calls for this, and literature that indirectly recognises this by its indication of a conflict between national interest of international actors and the needs and priorities of the region. This thesis considers how to overcome the challenge of sovereignty present in this situation that limits the development of a regional approach.

Osinowo echoes the call for a regional approach.[142] Osinowo looks at piracy and repeats arguments about the need for greater political commitment[143] and coordination in response.[144] Osinowo discusses the issue of private companies both in terms of national

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[135] ibid 282.
[136] Schofield and Ali (n134) 284-5.
[137] Schofield and Ali (n134) 287.
[138] Matthew Fiorelli, 'Piracy in Africa: The Case of the Gulf of Guinea' (Kofi Annan International Peacekeeping Training Centre Occasional Paper No. 37).
August 2014).
[139] ibid 11.
[140] Fiorelli (n138)11.
[141] Fiorelli (n138)11.
[142] Adeniyi Adejimi Osinowo, 'Combating Piracy in the Gulf of Guinea' (2015) Africa Security Brief No. 30.
[143] ibid 4.
[144] Osinowo (n142) 3.

management and design of a harmonised regional response. The many issues that use of private security companies raises represent an ongoing challenge. The use of private security companies particularly appeals to external actors concerned with capacity of regional states to enforce security but it is controversial.[145] It has been identified as a challenge because of differing national responses[146] that hinder a harmonised response, the mechanics of regulating security companies and regulation of armed personnel on vessels.[147]

This is a complex space which pits differing concerns against each other. Zems takes an alternative approach. He argues that that greater attention should be paid to the potential for criminal intelligence instead of a singular focus on security intelligence as a counter to the threats in the region.[148] The balance of agencies is a layer of complexity that is in fact a greater consideration in enforcement. Vogel considers the role of navies and coastguards in Africa, though his focus is principally on the Nigerian context.[149] Vogel argues that the states are 'currently misaligned to meet the security threats they face.'[150] The privileging of navies as navies is inconsistent with the primarily coast guard role they are required to perform. The methods to rectify this are needs assessment, interministerial cooperation and capacity building.[151] These solutions are relevant here but also applicable in maritime security more broadly. The same solutions are consistently proposed to maritime insecurity. Vogel's paper was produced in 2009; a later assessment by Oyewole, writing in 2016, speaks to the increased harmonisation seen in forums also referenced here[152] and details successes in combatting piracy.[153] His assessment recognises continued challenges including inconsistent resourcing across the region and that:

> '[E]ven the most equipped navies and coast guards in the region have to struggle to maintain significant presence offshore. The monthly fuel bill of the Nigerian Hamilton-class NNS Thunder was announced as US$1 million. In this way, the cost of maintaining sufficient security presence is beyond the economic capacity of many states in the region.

[145] The Royal Institute of International Affairs (Chatham House), 'Maritime Security in the Gulf of Guinea: Report of the conference held at Chatham House, London, 6 December 2012' (March 2013).
[146] Douglas B Stevenson, 'Piracy in West Africa' Maritime Security Review (10 October 2014).
[147] There is an interesting discussion of the challenges of this area in Yvonne Dutton, 'Gunslingers on the High Seas: A Call for Regulation' (2013) 24 Duke Journal of Comparative & International Law 107.
[148] Mathias Zems, 'The Challenges of Deploying Criminal Intelligence in Maritime Security in the Gulf Of Guinea' (2015) 20 (4) IOSR Journal Of Humanities And Social Science 49, 50.
[149] Augustus Vogel, 'Navies versus Coast Guards: Defining the Roles of African Maritime Security Forces' (2009) 2 Africa Security Brief.
[150] ibid 5.
[151] Vogel (n149) 5-6.
[152] Samuel Oyewole, 'Suppressing maritime piracy in the Gulf of Guinea: the prospects and challenges of the regional players' (2016) 8(2) Australian Journal of Maritime & Ocean Affairs 132.
[153] ibid 139.

> Even the NN have sometimes resorted to negotiate with the ship owners to share the operational cost in cases of response to distress call against pirate attacks.'[154]

These concerns and others continue in the 2017 work of Hassan and Hasan which focuses not on maritime security as a whole but on piracy.[155] The evaluation of national, regional and international level offers a broad range of proposals for combatting piracy including military cooperation and private military security companies.[156] The authors focus on the role of Nigeria in the piracy context. Their work determines '[T]he piracy issue in the Gulf of Guinea is therefore purely a Nigerian problem';[157] as this thesis demonstrates the 'piracy problem' is in fact geographically more widespread and as such necessitates all states of the region to cooperate. The review of regional arrangements finds in common with this thesis:

> Despite continued efforts to foster maritime cooperation, the formulation of a successful maritime regime in West Africa is limited by the sensitive issue of national sovereignty. Many states in the region are strongly protective of their sovereignty and are usually unwilling to approve any cooperative activities that might compromise their sovereign rights. This emphasis on sovereignty makes regional integration in security matters particularly difficult. Weaker countries are particularly cautious about their stronger neighbours' (especially Nigeria's) ability to project influence in the region.

The evaluation also highlights challenges with respect to regional,[158] interregional cooperation[159] and the limited extent of cooperation in operational terms.[160] In analysing the Yaoundé Code, the authors consider the capacity of signatories:

> […]Implementation requires significant legal and institutional adjustments at the national level. Differences in the wealth and capacity of signatories are expected to affect their implementation capabilities at the national level.[161]

This recent text particularly continues concerns raised elsewhere about national level capacity. This literature review demonstrates that all of these matters that negatively impact potential cooperation, are part of a continuing complex state of affairs. The present work queries whether a solution may require reframing of the concept of sovereignty.

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[154] Oyewole (n152) 141.
[155] Daud Hassan and Sayed Hasan, 'Effectiveness of the Current Regimes to Combat Piracy in the Gulf of Guinea: An Evaluation' (2017) 10 African Journal of Legal Studies 35–65.
[156] ibid 37-39.
[157] Hassan and Hasan (n155) 47.
[158] Hassan and Hasan (n155) 52
[159] Hassan and Hasan (n155) 54
[160] Hassan and Hasan (n155) 56.
[161] Hassan and Hasan (n155) 62.

Security delivery has been a particularly prominent issue in the context of piracy. One reason why it is promoted is the limitation of state maritime domain awareness (MDA). Ali argues maritime domain awareness, is crucial to cooperation to tackle security challenges:

> […] the success and efficacy of both regional and global response will depend on a sound knowledge of the operational environment, awareness of the actors, and most crucially, understanding of how the situation has evolved.[162]

This is echoed in Ali's analysis of Ghanaian communications systems.[163] He argues that sustained success for the communications system would necessitate all ships in Ghanaian waters being required to install specific equipment. This is unlikely to be accepted by other states and so a regional agreement is proposed.[164] Upscaling effective national initiatives to the regional level is a means of continuing regional leadership on maritime security. The development of the maritime security architecture could support such efforts. In other work, Ali proposes that a robust legal framework is critical to success of any maritime architecture.[165] This has been recognised in the region. It would have been preferable for cooperation to be founded on an existing strong legal framework because harmonisation would have removed some of the obstacles to a seamless approach to maritime security. It is also possible for this to function as a spur to push states to update legal frameworks.

Delimitation is politically sensitive and has a crucial role for security.[166] Ali and Tsamenyi argue that a series of challenges to states cooperating to combat maritime security flow from lack of certainty in maritime delimitation, a point referenced in Chapter One.[167] As highlighted, the value of concluding maritime boundaries is not disputed. This work demonstrates that measures outside of delimitation are necessary, are operating, and can be supported by reframing how states understand their role in ensuring maritime security.

Ali's key text on maritime security in the Gulf of Guinea addresses many questions with which this thesis is concerned.[168] This thesis does not seek to repeat this comprehensive

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[162] Kamal-Deen Ali, 'The Anatomy of Gulf Of Guinea Piracy' (2015) 68(1) Naval War College Review 94.
[163] Kamal-Deen Ali, 'Legal and Policy Dimensions of Coastal Zone Monitoring and Control: The Case in Ghana' (2004) 35 Ocean Development and International Law 179.
[164] ibid 189.
[165] Kamal-Deen Ali, 'Anti-Piracy Responses in the Gulf of Guinea: Addressing the Legal Deficit' Chapter 7 in Carlos Espósito, James Kraska, Harry N. Scheiber, Moon-Sang Kwon (eds), *Ocean Law and Policy: Twenty Years of Development Under the UNCLOS Regime* (Brill | Nijhoff 2016) 208.
[166] ibid 104.
[167] Kamal-Deen Ali & Martin Tsamenyi, 'Fault lines in maritime security' (2013) 22(3) African Security Review 95.
[168] Ali (n22).

analysis of maritime security cooperation in the region, but instead takes up a question that falls from this work: how to overcome sovereignty concerns that are a roadblock to cooperation. The necessity of overcoming barriers is shown through economic argument:

> The truth is that the cost of maritime security enforcement is very high, and most States in the Gulf of Guinea would be hard pressed to finance enforcement activities considering the fragile state of their economies. This situation is made more difficult by the lack of real commitment and support from the international community.[169]

The question of capacity is addressed in Chapter Six of the thesis. Analysis of fleet capacity builds on Ali's work. The ideas of the author regarding the international community align with the views of Ukeje and others that regional initiatives have the greatest chance of success. Assessment of compliance with relevant international legal frameworks offers insight into states' positions. The present work asks how states in the region have responded through legal frameworks to specific threats of piracy and illegal fishing. Through legislative analysis the discussion about how far maritime security has spurred states to progress their legal frameworks is further developed. Ali's position that low ratification of international instruments impedes state capacity to act is confirmed.[170] Chapter Six adds to this discussion by considering current national level legal frameworks and efforts to develop frameworks to tackle piracy and illegal fishing. Ali argues that a heavy focus on piracy has left the critical issue of fisheries inadequately addressed.[171] This is reflected in the literature that this review has identified as relevant to the subject of maritime security cooperation in the Gulf of Guinea. A review of legislation and policy provides insight into the current status of this area and considers the idea that fisheries is the neglected threat overshadowed by the threat of piracy and armed robbery at sea.

Ali undertakes a comprehensive review of international actors operating in the region.[172] This is not repeated because the focus of the thesis while recognising the presence of international actors concerns itself with regional states. Ali addresses the matter of delimitation as one which presents a challenge to states seeking to cooperate.[173] The status of delimitation in the region as at 2013 is outlined.[174] The author chooses to discuss two possible outcomes of delimitation – cooperation and conflict – through case studies of

[169] Ali (n22) 246.
[170] Ali (n22) chapter 7.
[171] Ali (n22) 7.
[172] Ali (n22) Chapter 9.
[173] Ali (n22) 176.
[174] Ali (n22) 178-181.

respectively Senegal - Guinea Bissau[175] and Nigeria – Cameroon.[176] The conclusion reached is that implementation of the UNCLOS framework – delimitation or provisional arrangements - is central to maritime security.[177] The present work draws out the role of delimitation further, tying this to the sovereignty concerns that Ali highlights and that finding a means to cooperate by recognising the barrier that delimitation can pose is central to success in this area. This thesis links the issue of delimitation and sovereignty further in Chapter Five discussing the current status of delimitation and the regional resort to alternative measures. It focuses in Chapter Seven on functional zones that Ali also references, which manage the space differently.[178]

Ali concludes: (1) Current processes for maritime security cooperation in the Gulf of Guinea do not address adequately the multiple security threats in the region. (2) Poor governance contributes significantly to maritime security threats in the Gulf of Guinea, but the current cooperative framework does not address the land-sea nexus of maritime security concerns. (3) The relevant legal framework for maritime security in the Gulf of Guinea is poorly developed, and this undermines the effectiveness of maritime security enforcement and regional and international cooperation. (4) Prevailing regional cooperative processes lack coordination and have suffered several setbacks. (5) International support for maritime security cooperation in the Gulf of Guinea is inadequate, uncoordinated, and in some cases driven by national interests that affect its overall effectiveness.[179]

Ali analyses a variety of subjects of direct relevance to this research. These include an examination of the relative strengths of existing regional platforms that could act on maritime security issues,[180] and an assessment of implementation of maritime legal frameworks across the region[181] and the status of delimitation.[182] Ali raises a central concern of this thesis in his conceptualisation of maritime security '[…] despite the usefulness of interstate cooperation generally, and security cooperation in particular, cooperative

[175] Ali (n22) 182.
[176] Ali (n22) 185.
[177] Ali (n22) 186.
[178] Ali (n22) 237 to be discussed further in Chapter Seven.
[179] Ali (n22) 311-12.
[180] Ali (n22) Chapter 8.
[181] Ali (n22) Chapter 7.
[182] Ali (n22) 176-186.

structures are still subservient to the realities of State sovereignty and the conflicting interests of States.'[183] This idea is addressed in this thesis.

2.4 Literature review: sovereignty as a limited concept

Review of the literature highlights the recent shift toward maritime security cooperation. Sovereignty is in some cases recognised as relevant to cooperation efforts but the literature does not interrogate the impact and alternative conceptions of sovereignty. Murphy argues 'the primary obstacle that inhibits inter-state cooperation anywhere is concern over sovereignty'.[184]

This part discusses key works on sovereignty as a limited concept. This establishes the basis for the succeeding chapter on cooperative sovereignty. Jackson argues that though criticised, '[…] the concept of "sovereignty" is still central to most thinking about international relations and particularly international law.'[185] Perrez finds:

> […] international law is based on the principle of sovereignty, that sovereignty is the most important if not the only structural principle of international law that shapes the content of nearly all rules of international law, that the international legal order is merely an expression of the uniform principle of external sovereignty, that sovereignty is the criterion for membership in the international society, and that sovereignty in sum is the 'cornerstone of international law' and the 'controlling principle of world order'.[186]

2.4.1 State sovereignty

Sovereignty concerns power and authority. It is an 'essentially contestable concept'[187] that has been analysed in great detail.[188] Sovereignty has internal and external aspects. The

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[183] Ali (n22) 71 referring to Sam Bateman, 'Regional efforts for Maritime Security Cooperation' in Dachoong Kim, Seo-Hang Lee and Jin-Hyun Pak (eds), *Maritime Security and Cooperation in the Asia-Pacific towards the 21st Century* (Institute for East and West Studies 2000) 215.
[184] Martin N Murphy, 'Piracy and UNCLOS: Does International Law Help Regional States Combat Piracy?' in Peter Lehr (ed), *Violence at Sea: piracy in the age of global terrorism* (Routledge 2007) 167.
[185] John H Jackson, 'Sovereignty - Modern: A New Approach to an Outdated Concept' (2003) 97 American Journal of International Law 782.
[186] Perrez (n54)13.
[187] Samantha Besson, 'Sovereignty in Conflict' in Colin Warbrick and Stephen Tierney (eds), *Towards an International Legal Community: The Sovereignty of States and the Sovereignty of International Law* (BIICL 2006) 132.
[188] See among others: Martin Loughlin, 'Ten Tenets of Sovereignty' in Neil Walker (ed), *Sovereignty in Transition* (Hart Publishing 2003); Martin Loughlin, 'Why sovereignty?' in Richard Rawlings, Peter Leyland and Alison Young (eds), *Sovereignty and the Law: Domestic, European and International Perspectives.* (OUP 2013) 34-49; Richard H. Steinberg, 'Who is Sovereign' (2004) 40(2) Stanford Journal of International Law 329; Besson, 'Sovereignty' in Rüdiger Wolfrum (ed), *Max Planck Encyclopaedia of Public International Law* (Max Planck Foundation for International Peace and the Rule of Law 2012) 369;

former is the allocation of power and authority within the legal system of a state, and the latter is state sovereignty *vis-à-vis* other states.[189] It is necessary to understand sovereignty as both an international law and international relations concept.

Steinberger argues'[The] basic unit is still the sovereign State, in most cases more or less of the nation-State kind, strictly maintaining sovereignty as a principle of international law.'[190] This focus makes it important to define the sovereign state. The concept of sovereign statehood is generally stated to date from the Peace of Westphalia and understood as a system of autonomous states independent from intervention by other states. A definition of the entities that hold international legal sovereignty is provided by the Montevideo Convention 1933, that the state should possess: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states.[191]

The Westphalian conception of sovereign states is defined according to four points. These are that there is no higher authority than international law; an ability and competence to resolve autonomously as a state the life within its borders; the freedom to deal independently with affairs protected by non-intervention and mutual respect of territorial integrity.[192]

These are not fixed concepts. Clapham argues that sovereignty changes with the development of international law.[193] The evolution of the international system has led authors to identify limitations and include aspects and duties in what it means to be a sovereign state holding international legal sovereignty. Of relevance is the question of an evolving standard of what constitutes sovereignty. What are now Gulf of Guinea states were not recognised as such for a long period. The idea of sovereign statehood – being Christendom, and then of 'civilised nations' and throughout which territories were colonised

Stephen Krasner, *Organised Hypocrisy* (Princeton University 1999); Eric Engle, 'Beyond Sovereignty? The State After The Failure Of Sovereignty' (2008) 15(1) ILSA Journal of International & Comparative Law 33.

[189] Christopher Greenwood 'Sovereignty: A View from the International Bench' in Richard Rawlings, Peter Leyland and Alison Young (eds), *Sovereignty and the Law: Domestic, European and International Perspectives.* (OUP 2013) 252-3.

[190] Helmut Steinberger, 'Sovereignty' in R. Bernhardt (ed), *Encyclopaedia of Public International Law, Vol. IV* (Elsevier, 2000) 522.

[191] Convention on the Rights and Duties of States [Montevideo Convention] December 26 1933 165 LNTS 19 Article 1.

[192] Perrez (n54) 137.

[193] Andrew Clapham, 'National action challenged: sovereignty, immunity and universal jurisdiction before the International Court of Justice' in Mark Lattimer and Philippe Sands (eds), *Justice for Crimes against Humanity* (Hart Publishing 2003) 305.

and later governed as mandate countries[194] challenges even the idea of sovereign statehood as applicable.

2.4.2 Sovereignty is limited

Krasner proposes that state sovereignty is 'hypocrisy'. Arguing in 1999 that the Westphalian state does not reflect reality, this questioning of international legal sovereignty held by Westphalian states is evidenced by Krasner through violations of the principle of non-intervention in internal affairs of a state, something antithetical to the promoted idea of sovereignty.[195] Krasner also recognises the recognition of sovereignty of states who do not fit all of the Montevideo Convention criteria.[196]

Independent states free from influence of other states is inconsistent with state practice, international norms, and with the origin of sovereignty. Sovereignty held by states is not to be understood as being free from all constraint. Bodin's arguments are the 'first systematic expression of the principle of sovereignty as the key foundation for the exercise of state power'.[197] Bodin's understanding of sovereignty was developed in opposition to the church and imperial power,[198] it perceived society as one of separate sovereign states,[199] but this sovereignty was limited by divine law and natural law and the state's own promises.[200]

Vitoria, Suarez and Gentili each limit the freedom and independence of states by reference both to the divine and to international norms.[201] They subordinate the sovereignty of a state to a higher law. Vitoria states this as 'it is not permissible for one country to refuse to be bound by international law, the latter having been established by the authority of the whole world'.[202] Suarez also promotes global community; Ferreira-Snyman highlights that in his work *De Legibus ac Deo Legislatore*, Suarez distinguishes natural law and positive international law arguing that the former cannot be amended but that the states in this

[194] See the discussion of Gerry Simpson 'The Globalization of International Law' Chapter 14 in Christian Reus-Smit and Tim Dunne (eds), *The Globalization of International Society* (OUP 2017).
[195] Stephen D Krasner, *Sovereignty: Organized Hypocrisy* (Princeton University Press 1999) 52.
[196] ibid 70.
[197] Claus D Zimmermann, *A Contemporary Concept of Monetary Sovereignty* (Oxford University Press 2013).
[198] Perrez (n54) 25-8.
[199] FH Hinsley, *Sovereignty* (C A Watts and Co. Ltd 1966) 181.
[200] Perrez (n54) 25-8.
[201] Perrez (n54) 30.
[202] Fransico de Vitoria, *Reflexiones* (1557) in James Brown Scott, *The Spanish Origins of International Law* (Clarendon Press 1934).

community create and subject themselves to international law.[203] Gentili makes a number of claims that both act to limit sovereignty and foreground the work of Grotius.[204] Importantly for this research, among the limitations Gentili recognises a right and duty to act for humanitarian reasons[205] and to protect freedom of the seas.[206] Grotius[207] furthers the ideas of Bodin[208] though he diverges from Bodin in stating that states could not be bound by natural law and instead must be subordinate to legality based on the will and practice of states. This legality was not seen as satisfactory and would be achieved by 'approximation of the positive law of nations to the natural law'.[209]

Although an oversimplification, 'The year of the Peace of Westphalia, 1648, is given as the decisive date for the transition from the vertical, imperial model to the horizontal, interstate model [of sovereignty]'.[210] The development of independent and autonomous states with absolute sovereignty is incorrect. Sovereignty even at this point in time was limited by the idea that states were part of a community and bound by higher law. This is a reflection of cooperation and sovereignty. Perrez finds cooperative aspects of the treaty of Westphalia to include dispute settlement mechanisms[211] and an obligation to keep the peace.[212] Even at this point where a shift to a new system occurs, sovereignty is not conceived of as unbound. This is especially true in maritime space. Kraska and Pedrozo state:

> The treaty of Westphalia was an epochal document, recognizing sovereignty over land areas under individual autonomous rulers and ushering in the modern nation state. Whereas the complex treaty recognised that states exercise complete authority and are responsible for maintaining security inside their borders, it was manifest that no nations could exercise sovereignty over the oceans.[213]

[203] MP Ferreira-Snyman, 'The Evolution of State Sovereignty: a Historical Overview' (2006) 12(2) Fundamina 1, 7.
[204] Theodor Meron, 'Common Rights of Mankind in Gentili, Grotius and Suarez' (1991) 85 American Journal of International Law 110, 127.
[205] ibid 115.
[206] Meron (n204) 114.
[207] Perrez (n54) 34.
[208] Hinsley (n199) 182.
[209] Hinsley (n199) 188-90.
[210] Thomas Franck, 'Theme Panel III: Multiple Tiers of Sovereignty: The Future of International Governance' in 'The American Society of International Law Proceedings of the 88th Annual Meeting (Washington, D.C. April 6-9, 1994) 51.
[211] ibid.
[212] Article 123 of the Treaty of Peace between France and the Empire, signed at Münster, known as Treaty of Münster, reprinted in The Consolidated Treaty Series Vol 1 at 271, discussed in Perrez (n54) 23.
[213] James Kraska and Raul Pedrozo, *International Maritime Security Law* (Brill 2013) 17.

The succeeding period is characterised as exceptional, with unrestrained states in the work of Hobbes[214] who argued for the concept of autonomous independent states existing in a state of nature. This has been limited through the ideas of Rousseau[215] and of Locke.[216] These approaches also reflect a functional attempt to address circumstances.

The First World War, interwar period and the Second World War demonstrated that states could not be understood as independent, autonomous and unlimited.[217]

Sovereignty and international law

Since this period, with increasing focus on sovereignty as a concept in international law, states are no longer independent and autonomous in absolute terms and cooperation is a constant. Loughlin defines sovereignty as a political concept that is expressed through law.[218] Greenwood identifies international law as: '[…] a product of the exercise by states of their sovereignty in such a way as to impose obligations upon themselves.'[219] He also refers to limitations through cases such as the *Island of Palmas* that defines sovereignty in state relations:

> Sovereignty in the relations between States signifies independence. Independence in regard to a portion of the globe is the right to exercise therein, to the exclusion of any other State, the functions of a State.

This concept of primacy of independence undermines the idea that independence is exercised as a right and cannot be exercised contrary to the international rights of other sovereign states.[220] In noting the example of international organisations, Greenwood makes the point that any such power derives from treaties, freely entered into by states. Steinberger cites the *Wimbledon* case as evidence of the complementary nature of sovereignty and international law:

> The Court declines to see in the conclusion of any Treaty by which a State undertakes to perform or refrain from performing a particular act an abandonment of sovereignty. No

[214] Marshall Missner (ed), Thomas Hobbes, *Leviathan* (Routledge 2008).
[215] Jean-Jacques Rousseau, *The Social Contract* (1762) (Penguin 1968).
[216] John Locke, *Second Treatise of Civil Government and A Letter Concerning Toleration* (B. Blackwell, 1948).
[217] See Perrez (n54) 45 and generally, discussion of International Law in the Inter-war Period by Martti Koskenniemi, History of International Law, World War I to World War II (Max Planck Encyclopaedia of Public International Law June 2011).
[218] Loughlin, 'Ten Tenets of Sovereignty' (n188) 57.
[219] Greenwood (n189) 252-3.
[220] Greenwood (n189) 254.

> doubt any convention creating an obligation of this kind places a restriction upon the exercise of the sovereign rights of the State, in the sense that it requires them to be exercised in a certain way. But the right of entering into international engagement is an attribute of State sovereignty.[221]

States identified as sovereign should be seen as possessing limited sovereignty, and it is not inconsistent to see states as international law subjects linked to each other. Greenwood concludes that it is no longer possible to view statehood in the international order as only involving obligations that the state chooses to undertake.[222] This is echoed by Sterio who argues that the fourth prong of sovereign statehood, the capacity to engage in international relations should be subdivided and include 'the need for recognition by both regional partners, as well as the Great Powers; a demonstrated respect for human/minority rights; a commitment to participate in international organizations, and to abide by a set world order.'[223] Sterio's argument supports a contested, fluid concept. Brus addresses whether in order to manage many interdependencies we have to rethink sovereignty.[224] He argues that the conclusion must be that states will remain the most important actors in international law and international relations, but they have to adapt to the changing circumstances in international society.[225]

The concept of sovereignty in international law is also expressed by Crawford, who defines sovereignty as 'the basic constitutional doctrine of the law of nations.'[226] He references sovereignty as expressed 'in terms of the co-existence and conflict of sovereignties' but also as an idea of 'sovereignty as discretionary power within areas delimited by law.'[227] The United Nations (UN) efforts at defining sovereignty within international law and placing limitations on sovereignty represent major shifts towards the second notion of sovereignty Crawford outlines. Fassbender speaks of arguments that the UN Charter can be seen as gradual effort towards a 'constitution' of fundamental values and the rules and procedures

[221] *SS Wimbledon*, PCIJ Series A no 1, 17 August 1923, 25, cited in Helmut Steinberger, 'Sovereignty' in R. Bernhardt (ed), *Encyclopaedia of Public International Law, Vol. IV* (Elsevier, 2000) 512.
[222] Greenwood (n189) 267.
[223] Milena Sterio, 'A Grotian Moment: Changes in the Legal Theory of Statehood' (2011) 39 Denver Journal of International Law & Policy 209, 234.
[224] Marcel Brus, 'Bridging the Gap between State Sovereignty and International Governance: The Authority of Law' in Gerard Kreijen, Marcel Brus, Jorri Duursma, Elisabeth de Vos and John Dugard (eds), State, Sovereignty, and International Governance (OUP 2002) 1.
[225] ibid 22.
[226] James Crawford, *Brownlie's Principles of Public International Law* (8th ed, OUP 2012) 447.
[227] ibid 447-8.

so that 'a peaceful co-existence and cooperation of all nations of the world is ensured'.[228] The Charter introduces the concept of 'sovereign equality' of states.[229] Limitations on rights claimed by sovereign states are significant and include for the first time the prohibition on the threat or use of force against the political independence or territorial integrity of a sovereign state[230] and the exception for self-defence[231] and action authorised under Chapter VII.[232] Primary responsibility for international peace and security is conferred upon the United Nations Security Council[233] and the decisions of this organ are binding upon United Nations member states.[234] The obligation to comply with UNSC resolutions does not require the Security Council to act under Chapter VII powers.

Sovereignty is critical to the Charter's operation, and one which the United Nations has increasingly used in the context of addressing 'not only the effectiveness but also the legitimacy of governmental power'.[235] This entails adjustment (expansion) of its role and impact upon the limitations set out in Article 2, including Article 2 (7). Article 2 (7) speaks to non-intervention in 'matters which are essentially within the domestic jurisdiction of any state' and the absence of a requirement upon states to submit such matters to settlement under the Charter; however this limitation is subject to a qualification with respect to international peace and security.[236] Nolte highlights that:

> Article 2 (7) was originally intended to strengthen the protection of States against incursions by the new collective security organization into their domestic affairs. In practice, however, Art. 2 (7) has been increasingly eroded and emptied of substance.[237]

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[228] Bardo Fassbender, 'Ch.I Purposes and Principles, Article 2 (1)' in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds), Nikolai Wessendorf (Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed, OUP 2012) 156.
[229] Bardo Fassbender, 'Ch.I Purposes and Principles, Article 2 (1)' in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds), Nikolai Wessendorf (Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed, OUP 2012) 135.
[230] United Nations, *Charter of the United Nations* (24 October 1945) 1 UNTS XVI Article 2(4).
[231] ibid Article 51.
[232] Article 39 provides "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."
[233] Article 24 (1).
[234] Article 25.
[235] Thilo Rensmann, 'Reform' in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds), Nikolai Wessendorf (Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed, OUP 2012) 51.
[236] Andreas Paulus, 'Ch.I Purposes and Principles, Article 2' in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds), Nikolai Wessendorf (Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed, OUP 2012).
[237] Georg Nolte, 'Ch.I Purposes and Principles, Article 2 (7)' in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds), Nikolai Wessendorf (Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed, OUP 2012) 310.

Arguments concerning Article 2(7) were raised in the *Tadić* case.[238] In response, the Appeals Chamber declared: 'It would be a travesty of law and a betrayal of the universal need for justice, should the concept of State sovereignty be allowed to be raised successfully against human rights'.[239]

The limitation of sovereignty within international law is evidenced through responsibility to protect. However at the 2005 World Summit, the responsibility upon states to protect populations was limited to genocide, war crimes, ethnic cleansing and crimes against humanity.[240] As Vashakmadze recognises 'state sovereignty continues to constrain the Security Council action.'[241] Nolte recognises:

> Today, States rarely allege that the principles of sovereignty and domestic jurisdiction provide a shield against the dealing by the UN with systematic violations of human rights. The debate in the aftermath of the Kosovo intervention over the 'responsibility to protect' has, however, given rise to principled invocations of sovereignty and non-interference.[242]

While the UN plays a major role in establishing sovereign power within 'areas delimited by law' and so represents a significant limitation on sovereignty it is not absolute and has not rendered unnecessary argument for including responsibility and authority to cooperate within sovereignty.

The section has addressed the historical evolution of the concept of sovereignty, arguing that from its inception it has been limited and has been so increasingly within international law. However sovereignty retains a central international law and international relations role. Despite limitations, sovereignty remains an exclusionary concept. Sovereignty is limited deliberately because it serves a purpose:

> […] the 20th Century traditional definition of sovereignty as inherently limited freedom and independence subject to international law is again functional, as it seems to serve best the general interest of peace, welfare and prosperity. [243]

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[238] *Prosecutor v. Dusko Tadić a/k/a "Dule", Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction Judgment* (2 October 1995) para 2.
[239] ibid para 58.
[240] Mindia Vashakmadze, 'Responsibility to Protect' in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds), Nikolai Wessendorf (Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed, OUP 2012) 1209.
[241] ibid 1231.
[242] Nolte (n237) 298.
[243] Perrez (n54) 65 discussing Albert Bleckmann, *Allgemeine Staats- und Völkerrechtslehre: Vom Kompetenz- zum Kooperationsvölkerrecht* (Carl Heymans 1995) 738.

Sovereignty may be used to block effective cooperation to tackle common challenges. This could be addressed by reframing sovereignty to focus on its function, and including responsibility and authority to cooperate within the concept.

2.4.3 Sovereignty at sea is limited

De Nevers notes that sovereignty at sea is evolutionary, and responsive to maritime security[244] but that the law in this field remains wedded to the sovereignty norm.[245] Sovereignty has been an ordering principle at sea[246] whether in the sense of 'positive sovereignty' the capacity to act and protect interests, or 'negative sovereignty': freedom from interference.[247] The rights of states are differentiated under UNCLOS. Guilfoyle emphasises the distinction to be made between sovereign zones and zones with sovereign rights of jurisdiction.[248] This thesis concerns activities in a coastal states' territorial waters and action over the defined areas of sovereign rights and jurisdiction of the contiguous zone and of the EEZ. Chapter Five discusses the zonal system in greater depth. Their inclusion here is to highlight the link to sovereignty. Sovereignty in the law of the sea involves jurisdiction. Mann defines jurisdiction as 'an aspect or an ingredient or a consequence of sovereignty'.[249] Lowe defines jurisdiction as: '[…] the limits of the legal competence of a State or other regulatory authority (such as the European Community) to make, apply, and enforce rules of conduct upon persons.'[250]

Types of jurisdiction include legislative jurisdiction: the capacity to make law, and enforcement jurisdiction: the capacity to enforce laws.[251] The traditional bases upon which jurisdiction may be exercised are the territorial principle, nationality principle, protective principle and universal jurisdiction.[252] The territorial principle concerns the exercise of jurisdiction within a state's territory. The nationality principle enables exercise of

[244] Renée de Nevers, 'Sovereignty at Sea: States and Security in the Maritime Domain' (2015) 24(4) Security Studies 597.
[245] ibid 625.
[246] De Nevers (n244) 601.
[247] De Nevers (n244) 602.
[248] Douglas Guilfoyle, 'An Introduction to Zones of Maritime Jurisdiction' <https://prezi.com/1dtzmiyuq_mr/an-introduction-to-zones-of-maritime-jurisdiction-1-of-3/> accessed 10 February 2016.
[249] FA Mann, 'The doctrine of international jurisdiction revisited after twenty years' (1984) III Recueil de Cours Academie de Droit International (Martinus Nijhoff Publishers 1985) 20.
[250] Vaughan Lowe and Christopher Staker, 'Jurisdiction' Chapter 11 in Malcolm Evans, *International Law* (3rd ed, OUP 2010) 313.
[251] Malcolm Shaw, *International Law* (CUP 2003) 572.
[252] Christopher Staker, 'Jurisdiction' in Malcolm Evans, *International Law* (OUP 2018) 291.

jurisdiction over a state's nationals. The protective principle enables jurisdiction where an essential interest of the state is concerned. Universal jurisdiction is limited, intended to address crimes above a threshold of severity, or serious crimes which might otherwise go unpunished.[253] Enforcement jurisdiction is more clearly tied to territory within international law, although as Staker highlights this is less clear in cases of the high seas and EEZs of other states.[254]

Bases of jurisdiction in the law of the sea are functional.[255] Gavouneli discusses jurisdiction in the law of the sea context in her work on functional jurisdiction.[256] She states '[T]he casual reader of the Law of the Sea Convention – assuming that such a rare beast exists – would find striking the lack of any reference therein to the traditional bases of jurisdiction.'[257] Gavouneli highlights that jurisdiction is allocated through functions that are within the remit of the 'coastal state', the 'flag state' and the 'port state' and in Article 192 'states'.[258] The holder of jurisdiction remains the state, something that is a reality as well as de jure in the context of the law of the sea. As Peppetti points out: 'International law regards these forms of jurisdiction as a prerogative of sovereign states and, because control over territory is the hallmark of sovereignty, the traditional limits of jurisdiction mirror territorial boundaries.'[259] Jurisdiction is critical for law enforcement; its variation across zones challenges maritime security and presents a further reason for states to cooperate.

Coastal states' internal waters and territorial waters are sovereign territory. In territorial waters, the authority of the state is subject only to the right of innocent passage.[260] Where the territorial sea forms part of an international strait there is a right of transit passage.[261]

[253] ibid 296-302.
[254] Staker (n252) 311.
[255] Tanja E Aalberts and Thomas Gammeltoft-Hansen, 'Sovereignty at sea: the law and politics of saving lives in mare liberum' (2014) 17 Journal of International Relations and Development 439, 443.
[256] Maria Gavouneli, *Functional Jurisdiction and the Law of the Sea* (Martinus Nijhoff Publishers 2007).
[257] ibid 33.
[258] Gavouneli (n256) 33. At 34, the author makes the point that no definition is made to distinguish the three categories of states.
[259] Jon D Peppetti, Building the Global Maritime Security Network: A Multinational Legal Structure to CombatTransnational Threats (2008) 55 Naval Law Review 73, 99.
[260] UNCLOS Section 3.
[261] ibid Article 38.

Jurisdiction is limited[262] and differs from the scope of rights exercisable in its land territory.[263]

Beyond these zones are zones where the coastal state may exercise sovereign rights. The area outside the territorial sea is high seas save for the rights and obligations reserved to states. Where a state has established a contiguous zone this extends to laws relating to customs, fiscal, sanitary and immigration matters.[264] The complex relationship between legislative and enforcement jurisdiction is made clear by Lowe:

> although a state's customs laws may be stated to apply to all vessels within, say, twenty-four nautical miles of its coast, the state may enforce that law against foreign vessels only if the vessel subsequently comes into one of the state's ports.[265]

In the EEZ is where what is characterised as the 'enforcement gap' the disparity between the stated intention, and capacity to enforce is likely to be most pronounced.[266] Kraska finds 'the close proximity of land and density of people, ships, and resources makes the EEZ an epicenter of piracy'.[267] Article 56(1) of UNCLOS sets out the rights and jurisdiction of the coastal state in the EEZ. These rights of coastal states are exercisable beyond their territory, something Marie Jacobsson highlights 'runs counter to the classical interpretation of the meaning of sovereignty according to which a State cannot impose extraterritorial obligations on other states.'[268] The zone enables both prescriptive (for example for fishing limits) and enforcement (for example to ensure compliance with safety zones) jurisdiction for a limited range of matters.[269] This is a further demonstration of the evolutionary nature of sovereignty

[262] Daniele Fabris, 'crimes committed at sea and criminal jurisdiction: current issues of international law of the sea awaiting the '*Enrica Lexie*' decision' (2017) 9(2) Amsterdam Law Forum 5, 15.
[263] Gavouneli (n256) 39.
[264] UNCLOS Article 33.
[265] RR Churchill and AV Lowe, *The Law of the Sea* (3rd ed Juris Publishing and Manchester University Press 1999) 12.
[266] Patricia Jimenez-Kwast, Maritime Policing: A Sea of Change? From the Exercise of Sovereignty over Maritime Space towards the Enforcement of the Global Oceans Legal Framework (Paper given at The State of Sovereignty 20th anniversary conference, Durham University, 1-3 April 2009).
[267] James Kraska, *Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy at Sea* (Praeger 2011) 126.
[268] Marie Jacobsson, 'Sovereignty at Sea – Illusion or Reality?' in R A Herr (ed), *Sovereignty at Sea: From Westphalia to Madrid* (Wollongong Papers on Maritime Policy No 11 Centre for Maritime Policy Wollongong and The Australian Institute of International Affairs (Tasmanian Branch 2000) 40.
[269] AL Morgan, 'The new law of the sea: Rethinking the implications for sovereign jurisdiction and freedom of action' (1996) 27(1-2) Ocean Development and International Law 5, 10.

at sea. The Convention does not explain the distinction between sovereign rights and jurisdiction differentiated in this Article. This thesis adopts the approach of Treves:

> "Sovereignty", "sovereign rights" and "jurisdiction" are rights to conduct certain activities to the exclusion of others, in opposition to the freedoms recognized to States in the high seas which are rights to claim non-interference by other States.[270]

The challenge of the enforcement gap increases with distance from the coast. Balancing national security and sovereignty in the EEZ is not a new concern. Since the declaration of a 200 nautical mile zone by some states,[271] the EEZ has been at times seen by states who claim it as a zone that should be securitised. Kraska recognises that there is a move to broaden out from economic security of resources to 'an even more guarded stature'.[272] He defines these as bald attempts to push sovereignty further out to sea.[273]

It will be argued that potential inconsistency in agreements such as the Yaoundé Code of Conduct where cooperation and respect for sovereignty are both referenced can perhaps be overcome through cooperative sovereignty. This argument will be bolstered by the idea that the high seas are common concern, and that all states have an interest in the security of the seas. The status of the high seas has been understood variously as *res nullius, res communis*, or *res publica*. O'Connell writes that the 'three theories each have some plausibility but equally they distort the emphasis that should be properly placed upon the Freedom of the Seas.'[274] The sea as *res nullius* is in modern context understood in opposition to *res communis*.[275] *Res communis*, that the space is owned in common rather than being incapable of being owned is a theory upon which it is possible to base an argument that sovereignty should include responsibility and authority to cooperate. *Res publica* is seen as somewhat a middle ground by O'Connell. The author argues that this theory's central tenet is that in the modern era it is possible to exert power across the sea and therefore coordination is necessary.[276] This thesis argues that the idea of cooperative sovereignty follows clearly from the idea of *res communis*. The idea that the sea is belonging to everyone in common is

[270] Tullio Treves, The Legal Nature of Coastal States' Rights in the Maritime Areas under UNCLOS, paper presented at International Symposium on the Law of the Sea: The Rule of Law in the Seas of Asia (Tokyo, Ministry of Foreign Affairs 12 and 13 February 2015) 4.
[271] James Kraska, *Maritime Power and the Law of the Sea* (OUP 2011) 291.
[272] ibid 304.
[273] Kraska (n271) 291.
[274] P O'Connell, *The International Law of the Sea* (Oxford University Press 1984) 792.
[275] ibid 792-3.
[276] O'Connell (n274) 794.

consistent with the idea that as sovereign states they may have a duty and responsibility to cooperate, if not a legal obligation.

2.4.4 Traditional sovereignty does not ensure maritime security cooperation

The elements of the traditional concept of state sovereignty: that there is no higher authority than international law; the ability and competence to resolve autonomously as a state the life within its borders; freedom to deal independently with affairs protected by non-intervention; and mutual respect of territorial integrity are not consistent with maritime security realities. Following the approach of Perrez this section considers how the traditional concept does not respond effectively to the modern context.

Regarding no higher authority than international law: the space international law occupies has intensified. As well as instruments speaking directly to maritime security threats there are a number of instruments that touch on security issues that have a bearing on maritime security. These include crew labour, vessel and equipment standards. These do not adjust the position of states vis-à-vis international law, but they make international law more onerous. This chapter demonstrates the decreasing scope for independent decisions in this area.

The ability and competence to resolve autonomously as a state the life within its borders is challenged by the threat situation. Where on land it may be possible to erect border walls and conduct enforcement to drive threats from your homeland, at sea this is unrealistic. Chapter Four demonstrates the cross boundary nature of threats. It is submitted that even with adequate legislation and immense enforcement capacity, the origin of threats in other states' territory or the transit of threats between states limits the ability and competence of a state.

The case of maritime security is not an accepted ground for intervention under international law. Waldock speaks in general terms to argue that intervention may be lawful where there is immediate threat of injury, failure by the territorial sovereign to protect the interests of other states and the intervention is limited strictly to achieving such protection.[277] As a maritime security example, the incidence of Nigeria being one known point of origin for

[277] CHM Waldock, 'The regulation of the use of force by individual states in international law' (1952) 81 Recueil des Cours Académie de Droit International 467 referenced in Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2006) 266.

pirate vessels is unlikely to provide a basis for intervention by other states. Furthermore the seas are a negotiated space and UNCLOS distinguishes sovereignty from sovereign rights.

'[T]he principle of territorial integrity is an important part of the international legal order and is enshrined in the Charter of the United Nations, in particular in Article 2, paragraph 4'.[278] It is arguable that the transboundary threats challenge territorial integrity – whether this is resources, criminals launching from one state to commit acts in another state or pollution and ecosystem damage. Chapter Four demonstrates that the idea that single states can contain problems so that territorial integrity is not impacted is largely unsupported.

Maritime security has been highlighted as an issue that a traditional conception of sovereignty is ill-equipped to tackle. This is supported by evidence of Chapter Four which details the interdependence of maritime security threats in the region that create interdependent states and Chapter Five which demonstrates that maritime security cooperation is complicated by limited delimitation. Chapter Five demonstrates that although where sovereignty begins and ends is perhaps unresolved, sovereignty and sovereign rights and jurisdiction are claimed. To cooperate to tackle security threats is consistent with a decision to exercise international legal sovereignty to limit one's independence and autonomy as a member of the international society of states, and instead to act as a member of a cooperative sovereign international community pursuant to an understanding of the high seas as res communis.

2.4.5 Cooperative sovereignty

Nagan defines cooperative sovereignty: '[T]he principle of cooperative sovereignty recognizes the limits of traditional sovereignty and sees the prospect of strengthening the sovereignty of the state, through cooperation, to realize common objectives and common interests.'[279] Besson discusses cooperative sovereignty:

> This form of sovereignty triggers duties of cooperation on the part of entities which cannot ensure protection of all the values they should protect, as much as on the part of entities which can help the former protect the values they share. They should all be seen as working towards the same end […].[280]

[278] International Court of Justice, *Accordance with international law of the unilateral Declaration of Independence of Kosovo, Advisory Opinion* (2010) ICJ Reports 437, para 80.
[279] Winston P Nagan, 'The Crisis of the Existing Global Paradigm of Governance and Political Economy' (2014) 2(2) CADMUS 52, 64.
[280] Besson, 'Sovereignty in Conflict' (n187) 13.

Besson's acknowledgement of competence allocated to achieve common goals is consistent with ideas presented herein. Perrez arguing for the role of cooperative sovereignty in international environmental law situates cooperative sovereignty as an idea of interdependent states who have a duty to cooperate under international law[281] and that a responsibility and authority to cooperate flows from sovereign statehood. Cooperative sovereignty is not antithetical to the law of the sea. States who assert a claim to space should be able to maintain order in this space. Traditional sovereignty, which focuses on rights in zones is not promoting effective maritime security cooperation. Cooperative sovereignty for maritime security cooperation is compatible with key freedoms provided by the Convention, specifically navigation, innocent passage and military freedoms. Reading a responsibility to cooperate into sovereignty one does not impede these freedoms. By enabling the maritime space to be more effectively secured navigation will be less high risk; innocent passage is not affected because states do not engage with vessels that do not impact the peace, good order or security of the state. Rights of military vessels are similarly unaffected; the application of cooperative sovereignty to maritime security simply enables states to develop more effective practice.

Cooperative sovereignty is presented in the below cases as a means of organising international action on areas of competence. The common thread is that new challenges require new approaches. Many of the factors outlined here are equally applicable to maritime security.

Zimmerman argues for cooperative sovereignty as monetary sovereignty. Basing this on the increasing interdependence of national economies and financial markets integration, he argues that effectiveness requires cooperation among sovereign states.[282] Zimmerman proposes: 'Depending on the nature of the precise task at issue and the existing economic circumstances, the appropriate level of governance for the exercise of a given sovereign power in the realm of money and finance could be a multilateral international organization like the IMF, an economic and monetary union or one of its organs on the regional level, a yet to be created institution, or merely the nation state or any of its sub entities.'[283] The author raises points of transparency and accountability necessary to any shift from a state-based exclusionary practice; he concludes that interdependence and integration nonetheless

[281] Perrez (n54) 264.
[282] Claus Zimmerman, *A Contemporary Concept of Monetary Sovereignty* (Oxford University Press 2013) 31.
[283] ibid 32-3.

necessitate that states refrain from use of monetary sovereignty in the sense of traditional sovereignty to block monetary stability and financial stability and integrity. Several of the points raised in this context apply in maritime security cooperation. Interdependence and the risk that traditional sovereignty hinders stability and system integrity are applicable to maritime security cooperation.

Besson discusses the European Union as a third way of interpreting sovereignty rather than choosing between the state and sovereignty, and the idea of rejecting or saving sovereignty.[284] Besson situates the European Union as an exercise of sovereignty which becomes reflexive and dynamic as it searches for the best allocation of power in each case.[285] Her assessment of this through a lens of cooperative sovereignty is that: 'cooperative sovereignty implies allocating competences to those authorities that are best placed to ensure the protection of shared sovereign values and principles.'[286] This thesis diverges from Besson whose work looks at a more integrated institutional framework. However in the context of maritime security it is to be argued that even if not more widely, states have identified common goals and concerns, and that these are evidenced in accords, strategies and codes.

Water security has been the focus of Magsig, who argues that the perception of security has widened and deepened and this establishes new values that must be supported by international law.[287] Magsig situates cooperative sovereignty as a means to overcome state centrism and any conflict between environment and sovereignty by situating the idea of water as a 'common regional concern'.[288] It is argued that the idea of common regional concern is also ongoing in the Gulf of Guinea though this is an example of the challenges of expecting 'common regional concern' to translate into cooperation.

The major work on cooperative sovereignty was undertaken by Perrez. Perrez introduces the concept of cooperative sovereignty in an international environmental law context, arguing that cooperative sovereignty is befitting the factual reality.[289] There is a symmetry here with the work of Perrez. The interconnected nature of threats facing states in the maritime domain

[284] Besson 'Sovereignty in Conflict' (n187) 135.
[285] Besson 'Sovereignty in Conflict' (n187) 168.
[286] Besson 'Sovereignty in Conflict' (n187) 176.
[287] Bjørn-Oliver Magsig, 'From state centrism to cooperative sovereignty: Water security and the future of international law' (Discussion Paper 1347 Global Water Forum December 2013) 2.
[288] ibid 3.
[289] Perrez (n54) 113.

has been identified in multiple contexts in the Gulf of Guinea.[290] This is the assessment of the maritime security picture in Chapter Four. Perrez cites international environmental law as an area where challenges cannot be resolved when traditional notions of sovereignty are upheld. After identifying flaws in the argument that sovereignty is not consistent with cooperation Perrez reviews 'The New Reality',[291] arguing that interdependence has increased and matters in one state cannot be said to have no impact externally,[292] whether this concerns trade, immigration, markets or climate change.[293] Perrez argues that the role of cooperative sovereignty answers these. It does so by situating sovereign states as having the task and function – and therefore the authority and the responsibility - to promote and to safeguard the wellbeing of the peoples.[294] The ideas of Perrez are treated further in the following chapter and regional evidence is the subject of Chapters Four – Six. The role for cooperative sovereignty in other areas of state agendas that has been previously proposed, most notably in the context of international environmental law has clear symmetries with the matters under discussion in this thesis.

The maritime security threat picture that Chapter Four identifies and which creates interdependent states finds the case for its application. Chapter Five identifies that universal delimitation has not been achieved in the region and the complexities of the process and the reasons against delimitation render universal delimitation unlikely. This principal way of managing the maritime space, through provisions of UNCLOS, assumes jurisdiction that is linked to delimited space. Security cooperation outside of delimited space is inadequately provided for. Chapter Six focuses on domestic legal reform and enforcement capacity development to analyse whether actions based on a traditional conception of sovereignty is producing effective maritime security cooperation.

This work diverges from Perrez in that it argues that the duty of cooperation is not so well established in the present context as Perrez identifies in the international environmental law context. It argues that the idea of a responsibility and authority to cooperate is possible to

[290] See for example: Economic Community of Central African States, Economic Community of West African States, and the Gulf of Guinea Commission, *Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships, and Illicit Maritime Activity in West and Central Africa* (Yaoundé 2013).
[291] Perrez (n54) Chapter 3.
[292] Perrez (n54) 114.
[293] Perrez (n54) 115-129.
[294] Perrez (n54) 338.

read into the shifting international landscape, reflects how international community is developing, and is necessitated by the context.

2.5 The place in the literature for the thesis

Existing literature has covered maritime security cooperation and sovereignty and the works of Ali have been highlighted as of particular importance to this thesis. However this thesis addresses an evolving situation in a complex region and though various strands of the research have been addressed, there remain questions regarding solutions. This thesis takes forward a specific question of the interplay of sovereignty and cooperation with the aim of understanding how this could promote effective maritime security cooperation. In addressing sovereignty's impact on maritime security cooperation it builds on ideas and challenges highlighted by the existing literature, particularly the work of Perrez. It considers the role of cooperative sovereignty to promote effective maritime security cooperation in the region.

Chapter Three: Cooperative Sovereignty: Justification and Normative Basis

3.1 Introduction

States in the Gulf of Guinea simultaneously call for cooperation for maritime security and remain deferential to concerns that stem from traditional understandings of sovereignty. The conflict between cooperation and sovereignty can be seen in the Yaoundé Code of Conduct Article 2(3) that calls on Signatories to act consistent with 'the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States'. Article 2(4) furthers this limitation, reiterating that actions to combat maritime security threats that occur 'in and over the territorial sea of a Signatory are the responsibility of, and subject to the sovereign authority of that Signatory.' In a 2018 speech to the Royal Institute for International Affairs, the Nigerian Transport Minister called for cooperation amidst 'complicated transactions' 'within the limits of sovereignty and provisions of international law'.[1] International law may be identifiable, sovereignty is unclear and unhelpful.

This chapter progresses the discussion of cooperative sovereignty. It distinguishes cooperative sovereignty from other possible approaches to maritime security cooperation, arguing that cooperative sovereignty is a necessary step to promote effective maritime security cooperation. This is consistent with the view put forward in Chapter Two that sovereignty, regardless of limits increasingly placed upon sovereign states, remains a key element of international law which cannot be ignored. This chapter then analyses whether a legal obligation of cooperation exists. The chapter uses the sources of law as set out in Chapter One and concludes that a specific legal obligation to cooperate for maritime security cannot be identified. This supports the proposal that cooperative sovereignty be understood as a responsibility and authority to cooperate. This chapter answers Research Questions Three: could sovereignty be reframed to promote more effective maritime security cooperation? And Four: is there a legal duty to cooperate or instead a responsibility to cooperate?

[1] Rt Hon Chibuike Rotimi Amaechi, 'Nigeria's Role in Responding to Maritime Insecurity in the Gulf of Guinea' (Chatham House Africa Programme 23 January 2018) 3.

3.2 Distinguishing cooperative sovereignty

The discussion justifies the decision to pursue cooperative sovereignty.

3.2.1 Cooperative sovereignty versus traditional sovereignty

The overview of sovereignty literature in Chapter Two highlighted that traditional sovereignty has been defined as one of independence and autonomy of states. Even where this is limited the concept of cooperative sovereignty must be distinguished further. Jackson argues that '[N]ational government leaders and politicians, as well as special interest representatives, too often invoke the term "sovereignty" to forestall needed debate.'[2]

This chapter will justify discussion of cooperative sovereignty. Cooperative sovereignty speaks to the functions underpinning sovereignty. Status as a sovereign state includes allocation of powers but also duties to act. In the case of cooperative sovereignty this duty to act cooperatively is characterised as including the responsibility and authority of states to acknowledge common challenges and to cooperate to meet these.

3.2.2 Traditional sovereignty: maritime security as inclusive interest

Klein[3] considers how state interest may act as a spur to maritime security cooperation. Klein establishes oppositional concepts of exclusive and inclusive interest. Exclusive interest speaks to exclusionary state control over zones of maritime jurisdiction and its exclusive flag state jurisdiction on the high seas. The inclusive interest argument is that maritime security as an interest which should cause states to act in common rather than to the exclusion of each other is founded on the common challenges that states face and demonstrated by efforts towards cooperation and development of legislation, policy and activity that indicates a recognition of a common threat and means to deal with the issue cooperatively. Klein's proposition that the idea of maritime security can be seen as an inclusive interest is one that in the context of her own work underpins the possible effect of securitisation on the law of the sea framework and the potential benefit to maritime security cooperation. Klein acknowledges the impact of sovereignty for cooperation.[4]

Maritime security as inclusive interest would enable states to continue to cooperate on the basis of a traditional understanding of sovereignty. Maritime security as an inclusive interest

[2] John H Jackson, 'Sovereignty - Modern: A New Approach to an Outdated Concept' (2003) 97 American Journal of International Law 783.
[3]Natalie Klein, *Maritime Security and the Law of the Sea* (OUP 2011).
[4] ibid.

may be evolving in the region but it has not reached a point sufficient to found cooperation. Chapters Four, Five and Six evidence that maritime security as inclusive interest is not resulting in effective cooperative action by states. Whilst maritime security as inclusive interest could be argued to have prompted establishment of initiatives, it will be argued to be insufficient to sustain any effective effort.

3.2.3 Cooperative sovereignty versus shared sovereignty

Krasner defines shared sovereignty as involving '[…] engagement of external actors in some of the domestic authority structures of the target state for an indefinite period of time.'[5] Krasner discusses the concept of shared sovereignty[6] as an option to manage specific areas of the national agenda – for example oil revenue or monetary policy – in states with poor governance records.[7] The author's definition of shared sovereignty finds root in international structures[8] and three preconditions are set. These are that: there must be an international legal sovereign; the agreement must be voluntary; that an external party must not contribute large resources is set as a caution against an imbalance of power through finance.[9] This criterion is valid but to a lesser extent in the case of this work. Krasner's context concerns the USA, a global super power engaging with other states. In the context of the Gulf of Guinea some disparity may exist but this is not to the same extent as in the case Krasner proposes.

Krasner discusses the Chad-Cameroon pipeline negotiated between these countries and the World Bank. The author recognises the limited success of this example; the countries at the insistence of the World Bank created an International Advisory Group that was to visit the area and offer recommendations concerning governance, use of funds, and civil society engagement. This was implemented to avoid the resource curse that concerned the international oil companies and the World Bank.[10] The limited success of the International Advisory Group is highlighted as a cautionary tale for creating shared sovereignty in 'weak' states.[11] The second area has also been discussed by Marcella in a proposal to the U.S. Army War College. In this proposal the author argues that a continuation of treatment of Haiti with

[5] Stephen D Krasner, 'The Hole in the Whole: Sovereignty, Shared Sovereignty and International Law' (2004) 25 Michigan Journal of International Law 1075, 1091.
[6] Stephen D Krasner 'The Case for Shared Sovereignty' (2005) 16(1) Journal of Democracy 69.
[7] ibid 70.
[8] Krasner 'Case for Shared Sovereignty' (n6) 76.
[9] Krasner 'Case for Shared Sovereignty' (n6) 76.
[10] Krasner 'The Hole in the Whole' (n5) 1094.
[11] Krasner 'The Hole in the Whole' (n5)1095.

juridical and Westphalian sovereign equality is in fact a barrier to capacity building.[12] Marcella calls for cooperative sovereignty but the activities envisaged in the proposal, '[T]his would require a multiyear commitment by the United Nations (UN) to take over security and administrative responsibilities' it is argued are in fact shared sovereignty.

Both Marcella's and Krasner's examples are based on a negative perception, as summarised in Marcella's description 'it may be the only dignified alternative left […]'.[13] It will be argued that cooperative sovereignty is a positive move by states. This is in line with the argument of Perrez that states have a responsibility to cooperate as part of sovereignty. Cooperative sovereignty is a more proactive, positive decision by states. Perrez frames cooperative sovereignty by arguing that sovereignty must be viewed as functional, as authority and responsibility[14] and that a key aspect of such responsibility is cooperation.[15] Cooperative sovereignty is defined in opposition, 'as the opposite of acting autonomously'.[16]

3.2.4 Cooperative sovereignty versus international cooperation

International cooperation is the outcome which must occur between states. In pockets it is occurring, as will be highlighted in this work. International cooperation is a long-held and rehearsed argument in this region and in this context.[17] Where this work diverges is by arguing that sovereignty may be a block to activity that must be overcome and this may be achieved through cooperative sovereignty. To call for international cooperation is important but it does not deal with the underlying issue that states may hold an exclusionary perception of the maritime space. Cooperative sovereignty could address this.

3.2.6 Cooperative sovereignty versus cooperative security

Rahman discusses cooperative security in the context of South East Asia. Cooperative security processes entail 'proponents include the gamut of bilateral and multilateral ties not only in the traditional sectors such as security treaties and defence cooperation activities, but

[12] Gabriel Marcella, 'The International Community and Haiti: A Proposal for Cooperative Sovereignty' (commentary prepared for National Symposium: "The Future of Democracy and Development in Haiti" (Washington March 2005) 2.
[13] ibid.
[14] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000) 331.
[15] ibid 338.
[16] Perrez (n14) 8.
[17] Francois Vreÿ has written on this matter: 'Turning the Tide: Revisiting African Maritime Security' (2013 41(2) Scientia Militaria, South African Journal of Military Studies 1; 'Bad order at sea: From the Gulf of Aden to the Gulf of Guinea' (2009) 18(3) African Security Review 17.

also across a wider range of political and economic linkages.'[18] Rahman highlights the concept's requirement of inclusiveness and avoidance of great power dominance.[19]

The challenges to the use of this concept that support a focus on the more foundational concept of cooperative sovereignty can be identified in the critique that Rahman himself makes of cooperative security. He acknowledges that state frameworks and traditional balance of power and bilateral alliances are able to continue.[20] This remains within the traditional sovereign statehood idea that it is argued tends towards a threshold of need to cooperate and not that the concept of sovereign statehood includes a responsibility and authority to cooperate.

3.2.7 Cooperative sovereignty versus an ecosystem approach

The ecosystem approach focuses on marine living resources. There is no generally accepted definition of the approach however the Food and Agriculture Organisation of the United Nations (FAO) outlines:

> An ecosystem approach to fisheries strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.[21]

The approach is insufficient here. A position broader than an exclusionary nationalist approach is required. This is consistent with the ecosystem approach. However the ecosystem approach tackles this from an environmental perspective. Its position is founded on the idea that the marine environment cannot be managed in the artificially constructed UN Convention on the Law of the Sea (UNCLOS) zonal structure. The zonal structure is also critiqued here on the basis that its privileging of sovereignty impedes cooperation. It argues that security challenges, both environmental and others, are cross boundary and the absence of delimitation and provision for management in undelimited space impede cooperation. By reframing sovereignty as cooperative sovereignty, a prior issue is considered, arguing that sovereign states' perception of their authority and responsibility must be altered. This could flow into a preference for the ecosystem approach. The

[18] Christopher Rahman, 'Concepts of Maritime Security: A Strategic Perspective on Alternative Visions for Good Order and Security at Sea, with Policy Implications for New Zealand (Centre for Strategic Studies: New Zealand, Victoria University of Wellington 2009) 24.
[19] ibid.
[20] Rahman (n18) 25.
[21] FAO, Fisheries Report No 690, 'Report of the Expert Consultation on Ecosystem- Based Fisheries Management' (2002).

ecosystem approach proposes that states would cooperate because it better reflects the ecosystem, but this would be increasingly likely were states to consider a responsibility and authority to cooperate as part of sovereignty.

3.3 Cooperative sovereignty's normative basis

This section addresses whether there is justification for seeing cooperation forming a general international law obligation and also to a lesser extent within the *lex specialis* maritime security legal frameworks. This is not yet as explicit as the case of international environmental law and is not a clear legal duty accepted and able to be imposed upon states but rather indicates a shift in what states accept as being part of their sovereignty. This supports the argument that cooperative sovereignty as sovereignty including a responsibility and authority to cooperate is consistent with the international landscape.

3.3.1 General international law obligation of cooperation

This section considers whether there may be normative justification for claiming that there is a shift toward cooperation, perhaps even to the level of a legal obligation. Perrez states:

> […] while the obligation to cooperate may be most developed in the context of environmental concerns, the same shift from independence to cooperation has to occur similarly in the other areas of international law and politics as the basic forces behind this shift are not limited to environmental issues. Thus the states are everywhere being confronted with growing global interdependencies and with their declining ability to solve their most important tasks autonomously. Therefore, although focusing on international environmental law, the conclusions of this Chapter seem to be valid for public international law in general.[22]

Perrez argues that a sovereign state has authority and a responsibility to cooperate as part of its sovereignty[23] and that evidence of a general duty can be drawn from review of international law.[24] Arguments for possible bases for a general duty of cooperation begin from UN agreements. Article 1(3) of the UN Charter, states that among the purposes of the UN is the aim:

> To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for

[22] Perrez (n14) 259.
[23] Perrez (n14) 5.
[24] Perrez (n14) 343.

> human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.[25]

In his work on the international law of cooperation Wolfrum finds no general international law obligation to cooperate.[26] The author finds that the absence of legal expression given to Article 1(3) of the Charter by way of inclusion in the legal rules comprised in Article 2 indicates that this is not a legal obligation. In discussing the Friendly Relations Declaration,[27] the same author points to the absence of a law making function in the General Assembly as a reason for this not being the basis of a legal obligation.[28] Further, the reasons for the Declaration are broad; Keller notes this was an opportunity for states who had not been independent at the time of the drafting of the Charter to engage with the principles of the Charter.[29] Wolfrum states three aspects of international law that a general obligation would alter: transformation from international society to an international community; alteration of the rights and duties of states; and change of the status of subjects of international law to elevate the status of international organisations.[30] Such alterations would be a major change to what Wolfrum characterises as the individualist 'traditional international law'.

A shift from international society to international community may begin to be identified in the development of international law on an ever-broader range of areas of state competence and actions like humanitarian intervention, although an international community, conceived as a normative aim,[31] is not yet fully implemented. Rights and duties of states concerns the meaning of statehood; defining sovereignty as freedom and independence and autonomy within a society rather than a community of states is increasingly inconsistent with the realities of the modern system. The increase in the number of states and the increasing number of areas that are the subject of international concern in fact mean that decisions are increasingly made through state-based international organisations, following, as Dupuy

[25] United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI.
[26] Rüdiger Wolfrum, 'Cooperation, International Law of' in R Wolfrum (ed), *The Max Planck Encyclopaedia of Public International Law* (OUP April 2010) 791.
[27] UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV).
[28] Wolfrum (n26) 786.
[29] Helen Keller, 'Friendly Relations Declaration (1970)' in Max Planck Encyclopedia of Public International Law (OUP 2009) para 41.
[30] ibid 785.
[31] Pierre-Marie Dupuy, 'International Law: Torn between Coexistence, Cooperation and Globalization. General Conclusions' (1998) 9 European Journal of International Law 278, 282.

argued, that states 'remain the privileged instruments of cooperation'.[32] However at this point it is not possible to diverge from Wolfrum and conclude that a general international law obligation exists.

Further supporting this conclusion, Meyer discusses a general reticence for hard law. Meyer argues that soft law is proving an 'optimal' means of addressing problems where states face uncertainty in areas of common interest or where power is shifting among states.[33] This use of soft law to meet specific challenges coheres with the idea that a general legal obligation to cooperate is unrealistic for states who prefer the flexibility that hard law may not permit.[34] Other works support the idea that obligations accepted by states could be narrow rather than general, focused on specific issue areas, or for specific purposes.[35] Leb highlights state cooperation regarding international watercourses as an interaction 'because they are inevitably linked through these resources to one another's territorial space.'[36] To focus on specific areas where an obligation to cooperate could exist may also be pragmatic; in the context of complex international relations, it is arguable that a general international law obligation of cooperation would be amorphous and risk being undermined.

3.3.2 Maritime space

It is possible to focus on obligations of cooperation for specific matters. This section traces this concept of an obligation in the maritime space in the sources of law (as defined in Article 38(1) of the Statute of the International Court of Justice).

3.3.2.1 Custom

Custom is determined through evidence of state practice and opinio juris, as Shaw states 'this is where the problems begin'.[37] It is complex to determine which acts states undertake is relevant to custom. Shaw includes duration, consistency, repetition and generality in a

[32] ibid.
[33] Timothy Meyer, 'Shifting Sands: Power, Uncertainty and the Form of International Legal Cooperation' (2016) 27(1) European Journal of International Law 161, 162.
[34] It is contended that hard law and soft law should be seen on a continuum. For a discussion of this see: Gregory Shaffer and Mark Pollack 'Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance' (2010) 94 Minnesota Law Review 706, 716. See also: Kenneth W. Abbott and Duncan Snidal, 'Hard and Soft Law in International Governance' (2000) 54 International Organization 421 where this idea of a continuum is reflected in discussion of varying levels of precision, obligations and delegation of interpretation and enforcement set out by a law.
[35] See among others Mercedes Rosello, 'Cooperation and unregulated fishing: interactions between customary international law, and the European Union IUU fishing regulation' (2017) 84 Marine Policy 306 and Christina Leb, Cooperation in the Law of Transboundary Water Resources (CUP 2013).
[36] ibid Leb 13.
[37] Malcolm Shaw, *International Law* (7th edn, CUP 2014) 52.

non-exhaustive list of determining criteria.[38] Opinio juris, or the belief that an act is conducted or refrained from because of a belief of legal obligation, is subjective: 'one has to treat the matter in terms of a process whereby states behave in a certain way in the belief that such behaviour is or is becoming law.'[39] The challenges of identifying custom are noted by Shaw and others.[40]

Evidence may be found in declarations by states although negative statements will be limited, as states are not likely to declare what they will be able to simply refrain from. Furthermore, the relative recent beginning of engagement for maritime security cooperation must be borne in mind. The Declaration of the Heads of State and Government of Central and West African States on Maritime Safety and Security in their Common Maritime Domain specifically commit all states to cooperative efforts.[41] The commitments are declared to be based on the status of illegal activities in the Gulf of Guinea as 'violations of the law of the sea' and on obligations flowing from a number of international agreements.[42] This declaration is the clearest of the limited examples of states committing to cooperation that could be demonstrative of opinio juris. It does not satisfy the criteria Shaw outlines.

Duties of cooperation may be used to support a state aim. For example São Tomé and Príncipe in its declaration upon signature to UNCLOS considers that cooperation is required for straddling stocks and highly migratory species.[43] Angola makes a declaration that can be interpreted as a possible bar to cooperation. The state declared 'The Government of the People's Republic of Angola reserves the right to interpret any and all articles of the Convention in the context of and with due regard to Angolan Sovereignty and territorial integrity as it applies to land, space and sea[…]'.[44]

[38] ibid 54.
[39] Shaw (n37) 62.
[40] See amongst others Vaughan Lowe, *International Law* (Clarendon Law Series Oxford University Press 2007) and Rebecca Wallace and Olga Martin-Ortega, *International Law (*Sweet & Maxwell 2016).
[41] Declaration of the Heads of State and Government of Central and West African States on Maritime Safety and Security in their Common Maritime Domain (Yaoundé 25 June 2013).
[42] ibid.
[43] Division for Ocean Affairs and the Law of the Sea, 'Declarations and Statements: São Tomé and Príncipe' <http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#Sao%20Tome%20and%20Principe%20Upon%20signature> accessed 01 May 2018.
[44]Division for Ocean Affairs and the Law of the Sea, Declarations and Statements: Angola <http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#Angola%20Upon%20signature> accessed 01 May 2018.

The two United Nations Security Council Resolutions which speak to maritime security situation in the Gulf of Guinea address the matter of cooperation. The first, Resolution 2018 (2011) retains the traditional approach to sovereignty in *encouraging* interstate coordination and cooperation to address piracy and armed robbery at sea, particularly at the regional level, while *calling upon states* to take action which lies within their national competence.[45] The later Resolution 2039[46] alters in tone. It *stresses* the primary responsibility of the region's states to counter piracy and armed robbery at sea, and goes on to *urge* states to cooperate at the national and regional level.

As discussed in Chapter Two, the decisions of the Security Council are binding on member states. Where the resolutions establish a legal obligation of cooperation this would raise the potential for state responsibility, the concept that 'every internationally wrongful act of a State entails the international responsibility of that State.'[47] Such conduct may be an act or an omission[48] which, where attributed to the state, gives rise to responsibility unless circumstances which preclude wrongfulness are raised.[49] In the context of the two relevant UNSC resolutions,[50] the language used is important to determine whether the intention was to create a legal obligation.[51] It is argued that the language is exhortatory rather than mandatory.

The Security Council 'expresses concern', 'affirms importance' and 'encourages' states, regional organisations and the international community. Direct references are limited. In Resolution 2018 paragraph 4, the Security Council 'calls upon' states within the international community to issue advice to vessels sailing under their flag about appropriate action while sailing in the Gulf of Guinea and in paragraph 5 to states of ECOWAS, ECCAS and GGC, flag states and states of nationality of victims to cooperate in prosecutions.

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[45] UN Security Council, Security Council resolution 2018 (2011) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea] 31 October 2011 S/RES/2018(2011).
[46] UN Security Council, Security Council resolution 2039 (2012) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea] 24 May 2012 S/RES/2039(2012).
[47] International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, (ARSIWA), November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1 Article 1.
[48] ibid Article 2
[49] ibid Chapter V.
[50] UN Security Council, Security Council resolution 2018(2011) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea], 31 October 2011, S/RES/2018(2011) and UN Security Council, Security Council resolution 2039 (2012) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea], 24 May 2012, S/RES/2039(2012).
[51] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970),* Advisory Opinion, 1971 ICJ Reports 16, para 108-114.

In Resolution 2039 paragraph 3 the Security Council broadly 'stresses the primary responsibility of the States of the Gulf of Guinea' to counter piracy and armed robbery at sea and in paragraph 4 urges the convening of a regional summit.

The relevant act or omission, a failure to cooperate, could attract state responsibility where it is linked to an obligation established in international instruments, but it is argued is likely a high evidentiary burden and challenged particularly where obligations to cooperate that could be identified in the proceeding instruments discussed below are limited in scope.

Linking acts committed by others to the state requires attribution. Article 8 of ARSIWA states '[T]he conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.' The language followed the effective control test.[52] The concept of 'overall control' elaborated in *Tadić* where the state more generally assists the group and specific instructions are not required for each operation[53] is not used. In the Gulf of Guinea maritime security context demonstration of the requisite level of control by the state concerning failure to cooperate is argued to be limited both by the fact of limited cooperation obligations and challenges of demonstrating links between state and other actors.

In the maritime security context, state responsibility could be applicable to flag states, where a clear nexus can be identified between the state and other actors. Karim proposes attachment of state responsibility for maritime terrorism,[54] whereby negligently providing a flag to a terrorist organisation, or operating a registration system which could enable this, is capable of attracting state responsibility.

However although maritime terrorism is potentially more provable and could be understood in the context of failure to cooperate, it does not reflect the entirety of the complex maritime security environment of the Gulf of Guinea. In addition, the manner in which state responsibility is argued to be attached is one of demonstrable link to a state (flag state). Seeking to identify responsibility for various internationally wrongful acts or omissions

[52] As set out in *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) Merits, Judgment* 1986 ICJ Reports 14. The issue is discussed in Antonio Cassese, 'The Nicaragua and Tadić Tests Revisited in Light of the ICJ Judgment on Genocide in Bosnia (2007) 18(4) The European Journal of International Law 649, 663.
[53] Prosecutor v. Dusko Tadić (Appeal Judgement), IT-94-1-A, International Criminal Tribunal for the former Yugoslavia (ICTY) 15 July 1999, para 120.
[54] Saiful Karim, 'Flag State Responsibility for Maritime Terrorism' (summer-fall 2013) XXXIII (2) SAIS Review 127.

beyond this would necessitate a fragmented approach rather than the focus on regional action which has been proposed by this thesis, states themselves and the international community; this thesis focuses instead on a broader concept of sovereignty that comprises within it a responsibility and authority to cooperate for maritime security, understanding maritime security as the international relations concept outlined in Chapter Two.

In order to assess the development of custom this section focuses principally on developments through the United Nations General Assembly that are frequently passed by consensus. This is a recognised approach taken to determine custom.[55] The evidence of the Security Council Resolutions and the shift in the organ's language could support the wider shift identified in development of custom through the UN General Assembly. An annual review and evaluation of the implementation of the Convention, ocean affairs and the law of the sea has been carried out by the UN General Assembly since 1994.[56]

The annual resolutions address cooperation. The General Assembly notes its consciousness of 'the need to promote and facilitate international cooperation, especially at subregional and regional levels, in order to ensure the orderly and sustainable development of the uses and resources of the seas and oceans'.[57] This consciousness has been repeated through subsequent reviews.[58] The reviews have increased in detail and specificity. The 1999 review called upon states to 'cooperate fully with the International Maritime Organization to combat piracy and armed robbery against ships, including by submitting reports on incidents to that organization;'[59] in 2000 the review recognised 'the positive benefits for the marine environment that can be achieved through cooperative work within the regional seas programme of the United Nations Environment Programme'.[60] A statement used puts cooperation at the forefront of oceans affairs:

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[55] Shaw (n37) 63.
[56] United Nations General Assembly, 'Law of the Sea' A/RES/49/28 6 December 1994 page 4.
[57] ibid preamble.
[58] UN General Assembly Resolutions: A/RES/50/23 (5 December 1995); A/RES/51/34 (9 December 1996); A/RES/52/26 (6 November 1997); A/RES/53/32 (6 January 1999); A/RES/54/31 (24 November 1999); A/RES/55/7 (30 October 2000); A/RES/56/12 (28 November 2001); A/RES/57/141 (12 December 2002); A/RES/58/240 (23 December 2003); A/RES/59/24 (17 November 2004); A/RES/60/30 (29 November 2005); A/RES/61/222 (20 December 2006); A/RES/62/215 (22 December 2007); A/RES/63/111 (5 December 2008); A/RES/64/71 (4 December 2009); A/RES/65/37 (7 December 2010); A/RES/65/37 B (4 April 2011); A/RES/66/231 (24 December 2011); A/RES/67/5 (11 December 2012); A/RES/68/70 (9 December 2013); A/RES/69/245* (29 December 2014); A/RES/70/235* (23 December 2015); A/RES/71/257 (23 December 2016); and A/RES/72/73 (5 December 2017).
[59] A/RES/53/32 (6 January 1999) page 5 point 23.
[60] A/RES/54/31 (18 January 2000) page 3 Preamble.

> Convinced of the need, building on arrangements established in accordance with the Convention, to improve coordination at the national level and cooperation and coordination at both intergovernmental and inter-agency levels, in order to address all aspects of oceans and seas in an integrated manner.[61]

There is an increased reference to cooperation, with the General Assembly urging cooperation in respect of illegal, unreported and unregulated fishing, sustainable development, the environment, safety of navigation, science and technology, piracy and armed robbery at sea.[62] Piracy and armed robbery at sea cooperation is of such concern that the General Assembly proposes changes:

> Recommends that, in its deliberations on the report of the Secretary General on oceans and the law of the sea at its second meeting, the Consultative Process organize its discussions around the following areas: (a) Marine science and the development and transfer of marine technology as mutually agreed, including capacity-building in this regard; (b) Coordination and cooperation in combating piracy and armed robbery at sea;

The calls for cooperation continue through annual reviews. The Assembly maintains its position that cooperation is essential and recognises where progress is made, for example at point 48 of A/RES/59/24 of 2005 the Assembly '[…]welcomes the progress in regional cooperation in the prevention and suppression of piracy and armed robbery at sea in some geographical areas, and urges States to give urgent attention to promoting, adopting and implementing cooperation agreements, in particular at the regional level in high-risk areas' and at point 93 notes 'the establishment of the Oceans and Coastal Areas Network (UNOceans), a new inter-agency mechanism for coordination and cooperation on issues relating to oceans and coastal issues'. Further regional cooperation successes are flagged where they occur.[63]

In 2006 the Assembly broadened the security areas for which cooperation is encouraged to include in addition to piracy and armed robbery at sea, 'smuggling and terrorist acts against shipping, offshore installations and other maritime interests'.[64] The breadth of responsibilities on states also increases. The Assembly in A/RES/61/222 of 2007 called on states to maintain review of the marine environment including with respect to current and future socio-economic aspects. In this it is possible to see the scale of responsibility in the

[61] A/RES/55/7 (27 February 2001).
[62] ibid.
[63] See A/RES/63/111 (12 February 2009) page 14 point 72, 91; A/RES/65/37 (17 March 2011) page 19 point 101.
[64] A/RES/60/30 (8 March 2006) point 50.

maritime space as diversifying. It also is mindful of the decisions of other bodies, referring to the cooperation achieved under the UN Environment programme to cooperate on issues of pollution from ships.[65] The cooperation achieved in capacity building, and training workshops is highlighted as examples of good practice.[66] The form of cooperation put forward by the Assembly also evolves. In A/RES/66/231 the Assembly emphasises at point 16 for 'the need to focus on strengthening South-South cooperation as an additional way to build capacity and as a cooperative mechanism to further enable countries to set their own priorities and needs'. There is an alteration of language over time. In its 2014 Resolution the Assembly notes at point 128:

> transnational organized criminal activities are diverse and may be interrelated in some cases and that criminal organizations are adaptive and take advantage of the vulnerabilities of States, in particular coastal and small island developing States in transit areas, and calls upon States and relevant intergovernmental organizations to increase cooperation and coordination at all levels to detect and suppress the smuggling of migrants, trafficking in persons and illicit trafficking in firearms, in accordance with international law.

And it specifically discusses the Gulf of Guinea in its 2015 Resolution A/RES/70/235, where it highlights both the challenges and the need to cooperate to resolve the threats:

> Expresses its deep concern at the continuing incidents of piracy and armed robbery at sea in the Gulf of Guinea, in particular violence against innocent crew members of vessels, notes the adoption by the Security Council of resolutions 2018 (2011) of 31 October 2011 and 2039 (2012) of 29 February 2012, supports the recent efforts to address this problem at the global and regional levels, recalls the primary role of States in the region to counter the threat and address the underlying causes of piracy and armed robbery at sea in the Gulf of Guinea, welcomes the adoption in Yaoundé on 25 June 2013 of the Code of Conduct concerning the Repression of Piracy, Armed Robbery against Ships, and Illegal Maritime Activity in West and Central Africa, and calls upon States in the region to implement the Code of Conduct as soon as possible and consistent with international law, in particular the Convention.

The cooperation achieved by the African Union's Extraordinary Summit is recognised in A/RES/71/257.[67] Cooperation is still being driven forward, for example at point 127 the Assembly:

> Recognizes continued national, bilateral and trilateral initiatives, as well as regional cooperative mechanisms, in accordance with international law, to address piracy,

[65] A/RES/62/215 (14 March 2008) page 12 point 60 referring to eighth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal UNEP/CHW.8/16, annex I, decision VIII/9.
[66] A/RES/63/111 (12 February 2009) page 8 point 21, 22.
[67] Page 24 Point 118.

> including the financing or facilitation of acts of piracy, and armed robbery at sea, and calls upon States to give immediate attention to adopting, concluding and implementing cooperation agreements at the regional level on combating piracy and armed robbery against ships.

In its latest Resolution A/RES/72/73 the Assembly is positive, at point 331 the Assembly:

> Notes with appreciation efforts and initiatives at the regional level, in various regions, to further the implementation of the Convention and to respond, including through capacity-building, to issues related to maritime safety and security, the conservation and sustainable use of living marine resources, the protection and preservation of the marine environment and the conservation and sustainable use of marine biodiversity;

These snapshots demonstrate a continued focus at the international level by the General Assembly in the period since the entry into force of UNCLOS to highlight, and seek to direct, state action towards cooperation. The calls for cooperation and the recognition of the need to cooperate covers an ever broader number of maritime issues over the period. The passing of Resolutions by consensus in the majority of cases indicates some recognition by states of their responsibility and authority to cooperate on maritime matters, and increasingly on maritime security.

It is important to mention also the IMO revised Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships (Resolution A.1025(26))[68] which replaced the earlier code Resolution A.922 (22). In this later code greater emphasis is put upon state cooperation in investigation of piracy and armed robbery at sea. This is evidence of growing expectation of cooperation in international organisations.

3.3.2.2 General principles

The role of general principles as a source of law could be seen as inferior to treaties and custom.[69] No universal definition is accepted[70] however they are a means of avoiding international dispute settlement bodies being unable to determine cases on the basis of absence of law.[71]

Case law provides insight into relevant principles. These include ideas drawn from the national level such as due process and ideas of equity. The principle of good faith is relevant; as Perrez notes this could be read to include a duty to cooperate because it must be

[68] IMO Resolution A. 1025(26) (2 December 2009).
[69] Lowe (n40) 87.
[70] Wallace and Martin-Ortega (n40) 26.
[71] ibid 25.

understood as being a cooperative rather than an exclusionary principle. In evidence of this Perrez cites among other cases the *Trail Smelter Case*[72] a transboundary pollution case between Canada and the United States wherein the tribunal indicated that states must exercise their rights with good faith.[73] Beng finds '[T]he principle of good faith which governs international relations controls also the exercise of rights by states.'[74] The context of transboundary harm is pertinent to the regional context, it is example of how the interdependence of states requires good faith and good faith requires cooperation to avoid transboundary harm.

Principles specifically relevant to the maritime space are the principle of the common heritage of mankind and the precautionary principle. Both of these principles require cooperation and run through UNCLOS and the 1995 UN Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea (UNCLOS) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

The principle of the oceans as 'common heritage of mankind' is reflected in Ambassador Pardo's address to the UN General Assembly.[75] The concept was employed in UNCLOS to govern activities on the deep seabed. This was not more widely applied because of potential interference with sovereignty.[76] However the concept has been expanded, thus entering into a greater number of areas traditional sovereignty would have blocked. It can be seen to be reframed by UNESCO in its declaration on the Responsibilities of the Present Generations Towards Future Generations where the organisation states a broad right to use the 'common heritage of humankind, as defined in international law' in the present on the basis it is not compromised irreversibly.[77] As no settled definition exists and emphasis is on avoiding future harm it is arguable that this declaration can be construed broadly. Indeed the idea of

[72] Perrez (n14) 281.
[73] Perrez (n14) 281.
[74] Bin Cheng, *General Principles of Law as Applied by International Courts and Tribunals* (Stevens & Sons, Ltd 1953) 121.
[75] Arvid Pardo, *Address to the 22nd session of the General Assembly of the United Nations, U.N. GAOR, 22nd sess*., U.N. Doc. A/6695 (18 August 1967).
[76] John E. Noyes, 'The Common Heritage of Mankind: Past, Present, and Future' (2012) 40 Denver Journal of International Law and Policy 447, 459.
[77] The General Conference of the United Nations Educational, Scientific and Cultural Organization, Declaration on the Responsibilities of the Present Generations Towards Future Generations (12 November 1997) Article 8.

common heritage has been proposed for fisheries,[78] marine genetic resources[79] and outer space.[80] These are proposed in the spaces beyond national jurisdiction but are indicative of cooperation being necessary in areas where national exclusive responses are inadequate. In the context of maritime security, the ocean as a whole can be understood as such.

The precautionary principle is reflected in the 1995 Straddling Stocks Agreement.[81] It requires states to manage and ensure optimal utilisation of stocks under their jurisdiction. It is also inherently cooperative. States that have a surplus are obliged to provide access to other states and to provide information to others about their stocks and cooperate in management.

3.3.2.4 Treaties

There are general obligations of cooperation reflected in law of the sea instruments. Selected examples are included here. The maritime space, which has always been a space where state capacity is limited, has been accepting of some need to cooperate. The idea of cooperation developed through treaties has been in response to incidents but increasingly the maritime space is subject to international agreements, of which UNCLOS is an example, where cooperation is developed on a preventive basis. Some agreements relate to cooperation for a specific purpose and therefore may be argued to indicate that in fact cooperation is the exception rather than the rule. Cooperation is therefore traced also in the governing framework for the oceans, UNCLOS.

The Safety of Life at Sea (SOLAS) Convention has clear obligations for cooperation but its focus is on a very discrete subject. SOLAS was first adopted in the wake of the Titanic disaster.[82] The specific obligation of cooperation relates to assistance to ships in distress.[83] An important 2002 amendment, the Chapter XI-2 Special measures to enhance maritime security includes in its Regulation XI-2/3 the International Ship and Port Facilities Security

[78] Andrew Puller, 'Fisheries, forests and the common heritage of Mankind" [2013] New Zealand Public Interest Law Journal 2.
[79] Nele Matz-Lück, 'The Concept Of The Common Heritage Of Mankind: Its Viability As A Management Tool For Deep-Sea Genetic Resources' 61-76 in Erik J. Molenaar and Alex G. Oude Elferink, *The International Legal Regime of Areas beyond National Jurisdiction Current and Future Developments* (Brill 2010).
[80] United Nations General Assembly, Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (UNGA Res 34/68) Article 11.
[81] Article 6.
[82] IMO, 'International Conference on Safety of Life at Sea, 1974' <http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO_Conferences_and_Meetings/SOLAS/SOLAS_CONF_1974/Pages/default.aspx > accessed 16 March 2018.
[83] International Convention for the Safety of Life at Sea, 1974 1184 UNTS 2, Chapter V Regulation 10.

Code. This Code, mandatory for SOLAS signatories, is specifically focused on maritime security; its obligations on states relate in particular to the improvement of national infrastructure.

A further example of the obligation of cooperation in a law of the sea treaty instrument is the 1979 Search and Rescue (SAR) convention.[84] This was to build upon the standing obligation to attend to vessels in distress. The IMO subsequently established 13 search and rescue areas to develop greater equality of provision for search and rescue. The Technical Annex of the Convention Chapter 3 addresses cooperation. Quite significant incursions on territorial space are envisaged:

> 3.1.2 Unless otherwise agreed between the States concerned, a Party should authorize, subject to applicable national laws, rules and regulations, immediate entry into or over its territorial sea or territory of rescue units of other Parties solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties. In such cases, search and rescue operations shall, as far as practicable, be co-ordinated by the appropriate rescue co-ordination centre of the Party which has authorized entry, or such other authority as has been designated by that Party.

Cooperation is also provided for:

> 3.1.8 Parties should enter into search and rescue agreements with neighbouring States regarding the pooling of facilities, establishment of common procedures, conduct of joint training and exercises, regular checks of inter-State communication channels, liaison visits by rescue co-ordination centre personnel and the exchange of search and rescue information.

Cooperation is also extended to assistance both in general terms and in the provision of equipment, vessels, aircraft and personnel where required.[85]

There is controversy over whether obligations that UNCLOS establishes are to be understood as exclusive or inclusive. Posner and Sykes review UNCLOS from an economic standpoint.[86] The authors view UNCLOS as a response to the need to manage access to seas and resources challenged by population growth, technology and economic development.[87] The authors put forward a view that places the ideas discussed above into the specific law

[84] International Maritime Organization, International Convention on Maritime Search and Rescue, 27 April 1979, 1403 UNTS 119.
[85] ibid, Annex 1 Chapter 3 Point 3.1.7.
[86] Eric Posner and Alan Sykes, 'Economic Foundations of the Law of the Sea' 2010 104 American Journal of International Law 569.
[87] ibid.

of the sea context. Discussing the allocation of authority to coastal states, they posit that '[…] in general, cooperation will not arise unless nations gain more from cooperation than from opting out of it.'[88] It finds that the allocation of authority to a single state – the coastal state – in the majority of cases is overridden by international cooperation only where this is considered essential. Further, international cooperation is said to be 'encouraged and facilitated'[89] rather than enforced or imposed. This is indicative of acknowledgement that at the time of the development of UNCLOS there existed no general legal obligation to cooperate.

Within UNCLOS are articles that have either a direct or an indirect bearing on matters of security. This provides a justification for reference to UNCLOS in respect of the maritime space generally, and for maritime security in particular. Relevant Articles are the subject of passage;[90] establishment of safety zones;[91] coastal state rights;[92] potentially dangerous vessels;[93] and conflicts regarding attribution of rights and jurisdiction in the EEZ.[94] Security as a theme is reflected most clearly in Part VII of the Convention on the High Seas. Article 88 reserves the high seas for peaceful purposes. Articles 91-99 comprise obligations that bear on security, specifically ship flagging,[95] the duties of flag states,[96] immunity of warships and government ships,[97] penal jurisdiction[98] and the duty to render assistance.[99] Articles 99-109 comprise the specific security threats contemplated by the UNCLOS. These security threats of prohibition on transport of slaves,[100] repression of piracy,[101] Illicit traffic in narcotic drugs or psychotropic substances[102] and unauthorised broadcasting[103] are threats that states are to cooperate in combating. Articles 110 and 111 define the actions that states can take, respectively the right of visit and the right of hot pursuit.

[88] Posner and Sykes (n86) 576.
[89] Posner and Sykes (n86) 570.
[90] Articles 19; 39(1)(b);42; 43; 44; 45; 52.
[91] Articles 60(4); 80.
[92] Articles 27;28;30.
[93] Article 23.
[94] Article 59.
[95] Articles 91-3.
[96] Article 94.
[97] Articles 95-6.
[98] Article 97.
[99] Article 98.
[100] Article 99.
[101] Article 100 – 107.
[102] Article 108.
[103] Article 109.

UNCLOS contemplates international cooperation. This is in discrete categories: cooperation for management of resources;[104] cooperation in navigation and distress situations;[105] cooperation in the Area;[106] and in respect of the environment;[107] the transfer of technology[108], the protection of archaeological and historical objects found at sea[109] and where space is yet to be delimited (this has been for resource management to date).[110] The Convention enables universal jurisdiction for certain acts[111] and cooperation in respect of specific maritime security threats.[112]

The Convention is the overarching source of state obligations at sea. Consideration of security and cooperation is present, though they do not directly engage with each other in a manner similar to later maritime security instruments discussed below. Disconnect between security concerns and jurisdictional and cooperation challenges in undelimited space are evident and under-accounted for by UNCLOS. It is important to note that UNCLOS is a convention of the 1970s. It cannot be expected that the Convention will reflect present circumstances. Specifically in the context of this work this is that universal delimitation has not been concluded to allow states to parcel and partition space, that threats would be containable within national limits, and that new threats would emerge that were not either contemplated or central to states at the time. This ties into the arguments of exception put forward by both Posner and Sykes and Wolfrum because it is the case that where UNCLOS remains the governing agreement, exceptions will include things that it is impossible could have been contemplated during its drafting.

Reference to cooperation in the maritime space has only intensified with increasing numbers of international agreements addressing maritime space. These come from different spheres and require different forms of cooperation. Monitoring by satellite is determined internationally.[113] Environmental matters at sea are an area where cooperation is

[104] Articles 61; 64; 65; 66; 69; 117; 118; 123.
[105] Articles 41; 43; 94(7); 98(2); 129; 130.
[106] Articles 144(2); 151(1)(b).
[107] Articles 197; 199; 200; 201; 226(2); 235(3); 243.
[108] Articles 266(1); 273; 276(2).
[109] Article 303(1).
[110] Articles 74 and 84.
[111] Article 105.
[112] Articles 100; 108; 109.
[113] Convention on the International Maritime Satellite Organization (INMARSAT) 1143 UNTS 105 and Operating Agreement on the International Maritime Satellite Organization (INMARSAT) (EIF 16 07 1979).

envisaged[114] this has broadened to consider biodiversity.[115] The management of biodiversity beyond national jurisdiction is an issue being tackled at the time of writing.[116] Routing of maritime traffic is a cooperative effort.[117] Fisheries is a matter where the international community has recognised that cooperation is essential.[118] Cooperation in the maritime space has increased such that dispute settlement is also managed through a specific dispute settlement body – the International Tribunal for the Law of the Sea (ITLOS).[119]

Agreements may address specific issues and be global or regional in focus. Cooperative mechanisms developed through treaties that address the maritime space are demonstrative of what was indicated at the outset of this section: the oceans are complex and the idea that states can control this space without cooperation is unrealistic. What has evolved over the 20th century in particular is the increase in uses of the space that need to be regulated, and the growing distance from the coastline that requires cooperation to ensure availability for all users.

3.3.3 Lex specialis: concrete treaty obligations of maritime security cooperation

Having discussed the prospect of a general duty to cooperate in international law and in the maritime space, this section addresses the possibility of obligations in the *lex specialis*. It will conclude by addressing the issue of acceptance and implementation of the instruments in the region. It is recognised that the proliferation and uptake of maritime security instruments does not reflect that of international environmental law. As with international law in the maritime space, this has been reactive and often issue-specific but there are an increasing number of issues covered and evidence of international agreements indicates movement on this towards a wide number of areas where cooperation may be understood to

[114] See for example International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990; Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol).
[115] See for example Protocol on Barcelona Convention concerning Specially Protected Areas and Biological Diversity in the Mediterranean (June 1995).
[116] See work of Preparatory Committee established by General Assembly resolution 69/292: Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (6 July 2015).
[117] Convention on Facilitation of International Maritime Traffic 1965.
[118] See for example The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 2167 UNTS 3.
[119] Statute of the International Tribunal for the Law of the Sea (Annex VI of the United Nations Convention on the Law of the Sea 1982) and Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea (18 December 1997).

form part of the landscape. This section addresses major maritime security instruments. It looks to the framework established by Perrez to analyse the level of obligation but rephrases these to reflect the different area:

a) Forms of cooperation with minimal effect on freedom and independence:
- Information exchange;
- Cooperative investigation, monitoring and assessment of common problems;

b) Forms of cooperation with some effect on freedom and independence:
- To provide technical and financial assistance;
- To enter into consultation or negotiations;

c) Forms of cooperation with significant effect on freedom and independence:
- To join an international treaty, organisation or regime; to cooperate in international institutions or organisations; to participate in common decision-making and accept common decisions;
- To participate in the adoption and implementation of common measures.[120]

The analysis conducted of maritime security instruments identifies that minimal effects of cooperation are more widespread and fewer states are party to later instruments that have more significant effects.

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988[121] (SUA) followed the *Achille Lauro* hijacking. The UN and the IMO issued a series of resolutions[122] but legal measures were determined necessary[123] and the governments of Austria, Egypt and Italy proposed a Convention that would apply to crimes of maritime terrorism.[124] SUA also represents a potential means of addressing armed robbery at sea, which will be discussed in Chapter Four. The 1988 Protocol specifically addressed security of fixed offshore platforms. It created substantive offences in Article 2 that include seizure of a platform[125] or its destruction[126] or acts of violence[127] and establishes compulsory

[120] Perrez (n14) at 262 creates a framework on which this is based.
[121] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988, 1678 UNTS 22.
[122] The history of the SUA Convention, Protocols and amendments are discussed in Helmut Tuerk 'Combating Terrorism At Sea - The Suppression Of Unlawful Acts Against The Safety Of Maritime Navigation' (2008) 15 University of Miami International & Comparative Law Review 337.
[123] ibid 340.
[124] IMO, 'Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf' <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/SUA-Treaties.aspx> accessed 16 March 2018.
[125] UN General Assembly, Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 10 March 1988, UNTS 1678 Article 2(1)(a).
[126] ibid Article 2(1)(c).
[127] SUA Protocol (n115) Article 2(1)(b).

jurisdiction for states parties.[128] The reasons for the 2005 Protocols included the terrorist attack of September 2001, which demonstrated again the risk posed by transportation, and also the increasing opacity of the container shipping industry where contents are not individually checked and where commercial emphasis on speed of transport of trade – over 90 percent of which travels by sea.[129] The 2005 Protocol greatly expanded the unlawful acts defined in SUA,[130] and also boarding[131] and extradition provisions.[132] The 2005 Protocol to the 1988 Fixed Platforms Protocol broadened the earlier instrument.[133] Obligations that states may accept in the latter instrument represent a more significant effect.

Flag state jurisdiction, territorial jurisdiction, active nationality are present as grounds of jurisdiction. The grounds of passive jurisdiction and the protective principle are also enabled. SUA does therefore allow a state to decide to claim for jurisdiction on a number of bases. This would mean that though unhelpful, the absence of delimitation would present less of an impediment should states actively seek to deal with the specific acts that violate provisions of this convention. This, as noted in the introduction to this chapter, is not common practice. The 2005 Protocol broadens the range of offences but does not alter the bases for asserting jurisdiction beyond requiring States Parties to establish jurisdiction where any of the new offences is committed.[134] Concerning cooperation, the Preamble of SUA speaks of:

> an urgent need to develop international co-operation between States in developing in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation and the prosecution and punishment of their perpetrators.

This can be seen within Articles which include a duty to cooperate in the prevention of offences as well as prosecution and extradition.[135] Examples include an exhortation in

[128] SUA Protocol (n115) Article 3.
[129] Tuerk (n122) 354.
[130] 2005 Protocol to the SUA Convention (SUA 2005); (Adoption 14 October 2005 / Entered into force 28 July 2010) Article 3*bis*.
[131] ibid Article 8*bis*.
[132] 2005 Protocol (n120) Article 11*bis, ter*.
[133] International Maritime Organization (IMO), Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 14 October 2005.
[134] 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London 14 October 2005) Article 6.
[135] James Kraska and Raul Pedrozo, *International Maritime Security Law* (Brill 2014) 805.

Article 12(1) that states shall offer 'the greatest measure of assistance in connection with criminal proceedings'.

Article 14 charges States Parties to act cooperatively concerning information sharing. Interestingly this may occur in advance of a specific state claiming jurisdiction. If managed effectively, this is a means of ensuring the state most able to act is in a position to do so. It does not address the challenge of determining jurisdiction where delimitation has not occurred. Article 13(1) of SUA is particularly relevant in that it addresses cooperation for the purpose of prevention:

> States Parties shall co-operate in the prevention of the offences set forth in Article 3, particularly by: (a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories; b) Exchanging information in accordance with their national law, and co-coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in Article 3.

The Article does not provide for enforcement of the obligation or impose minimum standards, instead urging 'all practicable measures' be adopted. It is nonetheless valuable in framing the manner in which states should act. It remains at the least significant effect level. The 2005 Protocol Article 8*bis* addresses the matter of boarding. This is particularly pertinent in the Gulf of Guinea because of the widely varying naval and maritime law enforcement capacity of states. The Article importantly makes for easier cooperation. The four-hour notice provision[136] is significant in demonstrating and developing trust, particularly between states who frequently interact with each other and where fleet capacity is a matter for concern. This enables states to notify the IMO Secretary General that it allows boarding and search if no response is received in four hours. It can also permit questioning to determine if an offence has been or is about to be committed. This is a further example of important cooperation mechanisms that SUA and the 2005 Protocol comprise that could assist states who are increasing their cooperation. It is optional but indicates community recognition of a need for greater effect on freedom and independence. Kraska and Pedrozo note however that the SUA Convention 'While […] a potentially strong instrument against

[136] Article 8*bis*5(d); 'The authorization and co-operation of the flag State is required before such a boarding. A State Party may notify the IMO Secretary-General that it would allow authorization to board and search a ship flying its flag, its cargo and persons on board if there is no response from the flag State within four hours. A State Party can also notify that it authorizes a requesting Party to board and search the ship, its cargo and persons on board, and to question the persons on board to determine if an offence has been, or is about to be, committed.' Discussed at IMO (n124).

international piracy and maritime terrorism, it must be exercised in order to have a beneficial effect.[137] This is also reflected in comment on the United Nations Convention on Transnational Organised Crime (UNTOC) discussed below. The limited implementation of SUA justifies the decision to focus on piracy through UNCLOS in Chapters Six and Seven.

The Proliferation Security Initiative (PSI) was launched in 2003 and addresses the trafficking of Weapons of Mass Destruction. As a political initiative rather than an international treaty or convention the PSI does not oblige states to comply but is indicative through signature and acceptance of the need to act cooperatively. This is because the Interdiction Principles[138] urge states to cooperate through development of national law and working together with other states. These are similarly low level obligations.

Hostage taking is the subject of an international convention.[139] The United Nations 1979 Hostages Convention Article 4 provides for cooperation:

> States Parties shall co-operate in the prevention of the offences set forth in article 1, particularly by: (a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts of taking of hostages; (b) Exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences

This is not specific to maritime space but is applicable to maritime security. It provides for general obligations, and specific cooperative measures – of information sharing and activity coordination – to be taken by states parties.

UNTOC[140] and related protocols[141] address a number of maritime security threats, though with a particular focus through protocols on drugs, weapons trafficking and illegal

[137] Kraska and Pedrozo (n135) 804.
[138] 'Statement of Interdiction Principles' (US Department of State) <http://www.state.gov/t/isn/c27726.htm> accessed 28 November 2016.
[139] International Convention against the Taking of Hostages 1979 1316 UNTS 206.
[140] UN General Assembly, United Nations Convention against Transnational Organized Crime: resolution / adopted by the General Assembly, 8 January 2001 A/RES/55/25.
[141] UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000; UN General Assembly, Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000; UN General Assembly, Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime, 31 May 2001 A/RES/55/255.

migration. The major value of these instruments is that they address the crimes that underpin maritime insecurity: particularly money laundering[142] and corruption.[143] The Convention entered into force in 2003. Article 3 defines a crime as transnational crime where it is committed in more than one State;[144] it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;[145] it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State;[146] or it is committed in one State but has substantial effects in another State.[147] Parties are to undertake a series of measures against offences and serious crime as defined in the Convention where they are transnational in nature.[148] This includes including the creation of domestic criminal offences.[149] Cooperation is recognised immediately: 'The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively'. This is to be realised through actions across investigation, enforcement and prosecution. It urges cooperation on matters including confiscation[150], extradition and transfer[151] and law enforcement.[152]

The Protocols are similar in style to the UNTOC[153] in requiring parties to take particular steps and to cooperate. The UNTOC is clear in its position on sovereignty and jurisdiction. Article 15 provides for territorial jurisdiction. It also provides for jurisdiction in the following cases:

> (a) The offence is committed against a national of that State Party;
> (b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or
> (c) The offence is:
> (i) One of those established in accordance with article 5, paragraph 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;
> (ii) One of those established in accordance with article 6, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an

[142] UNTOC (n130) Articles 6 and 7.
[143] UNTOC (n130) Article 8 and 9.
[144] UNTOC (n130) Article 3(2)(a).
[145] UNTOC (n130) Article 3(2)(b).
[146] UNTOC (n130) Article 3(2)(c).
[147] UNTOC (n130) Article 3(2)(d).
[148] UNTOC (n130) Article 3(1).
[149] UNTOC (n130) Articles 5, 6, 8, 23.
[150] UNTOC (n130) Article 13.
[151] UNTOC (n130) Articles 16–17.
[152] UNTOC (n130) Article 27.
[153] Kamal-Deen Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges* (Publications on Ocean Development; volume 79 Brill | Nijhoff 2015) 20.

offence established in accordance with article 6, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

The exercise of jurisdiction on this second set of grounds is subject to Article 4. Protection of Sovereignty. This Article challenges the use of the UNTOC and its protocols in undelimited space:

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

In the context of this transnational subject it is understandable that jurisdictional boundaries are emphasised. However in the context of undelimited maritime space, the obligations states are to carry out cannot always be assured to respect the principles of Article 4(1) and may cause states to refrain from acting. The Article 4(2) provision that a state's decision in its domestic law is the primary factor is a generally accepted principle but is undermined where the reach of a domestic law is unclear. The Global Initiative against Transnational Organised Crime reports on the limited uptake of the UNTOC:

[T]he most important reason why the UNTOC has not become the game-changing international legal instrument that many had hoped for is the apathy and indifference towards it shown by many signatory states. […] 10 years after the convention had been agreed to, the UNODC's executive director expressed his disappointment, saying that only 19 out of the 157 states parties had used the convention to facilitate international cooperation.[154]

This is an example of the need to align implementation with strong national level legal frameworks. Progress on this is discussed in Chapter Six.

The challenge of drug trafficking to Gulf of Guinea States is detailed in Chapter Four. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[155] was to establish international framework for the criminalisation of

[154] The Global Initiative against Transnational Organised Crime: Adopted 18 years ago, why has the UNTOC still not achieved its aim? (20 March 2018) <http://globalinitiative.net/adopted-18-years-ago-why-has-the-untoc-still-not-achieved-its-aim/> accessed 01 April 2018.
[155] UN Economic and Social Council (ECOSOC), United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 19 December 1988.

offences detailed in its Article 3. Like the UNTOC this Convention requires cooperation among state parties. This is expressed clearly in Article 3(10):

> For the purpose of co-operation among the Parties under this Convention, including, in particular, co-operation under articles 5, 6, 7 and 9, offences established in accordance with this article shall not be considered as fiscal offences or as political offences or regarded as politically motivated, without prejudice to the constitutional limitations and the fundamental domestic law of the Parties.

The cooperation modes are broad. Article 5(4) tackles cooperation for confiscation, its part b):

> Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the requested Party shall take measures to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph l of this article for the purpose of eventual confiscation to be ordered either by the requesting Party or, pursuant to a request under subparagraph a) of this paragraph, by the requested Party

And at f) 'The Parties shall seek to conclude bilateral and multilateral treaties, agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article.' Similar cooperation measures are envisaged in article 6 for extradition and article 7 for mutual legal assistance. Article 9 provides for cooperation generally and training and specifically in Article 9(3):

> The Parties shall assist one another to plan, and implement research and training programmes designed to share expertise in the areas referred to in paragraph 2 of this article and, to this end, shall also, when appropriate, use regional and international conferences and seminars to promote co-operation and stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

Further, the trafficking in the maritime context is expressly contemplated, in its Article 17 'Illicit Trafficking by Sea'. This direct addressing of a maritime security threat is of particular relevance. The obligations are of the most significant effect. However although they promote effort they do not require a result. Ali finds limitations in what would otherwise be a major step towards tackling illicit drug trafficking. High seas interdiction is subject to flag state permission or authorisation;[156] secondly this is to be expeditious 'within the means

[156] Article 4(b)(ii).

available' to the flag state.[157] The delay and bureaucracy dents the ability of states to enforce legislation established in line with the Convention.

Detailed discussion of fisheries practice is undertaken in Chapter Eight. There is increasing evidence of cooperation to tackle illegal fishing. The International Plan of Action to Prevent, Deter and Eliminate Illegal, Undeclared, Unregulated fishing (IPOA-IUU)[1] is a voluntary instrument that applies to all States and entities and to all fishers. It is promoted as a toolbox and was adopted in 2001 within the framework of the FAO Code of Conduct for Responsible Fisheries. It calls for national legislation and plans of action; cooperation; coastal state measures; port state measures; market-related measures.[1] This has not been a driving force for cooperation. The Port State Measures Agreement, adopted in 2009, is a key element of the IPOA-IUU.[1]The main purpose of the Agreement is to prevent, deter and eliminate IUU fishing through the implementation of robust port State measures.[1] Accession to the Agreement is a valuable means of harmonising practice across the region. The focus on ports means that neither delimitation nor jurisdiction is at issue because action is taken by a state upon a vessel entering its territorial jurisdiction. The Agreement is binding; cooperation provisions in Article 6 call for a general cooperation as well as specific activity: information exchange.[158] This is with other states, the FAO and international organisations and RFMOs. Parties are to take measures supportive of conservation and management measures adopted by other states and international organisations.[159] Cooperation shall be at the subregional, regional and global levels.[160] Specific provision is made in Article 21(5) for assistance to developing states to enable cooperation:

> Cooperation with and among developing States Parties for the purposes set out in this Article may include the provision of technical and financial assistance through bilateral, multilateral and regional channels, including South-South cooperation.

This Article is a recognition of the challenge of establishing cooperation and the intention to circumvent this as a basis for inaction. The cooperation obligations are again of a more significant effect but without sanction mechanisms for inaction.

[157] Ali (n153) 197 discussing Drug Convention Articles 17(2) and (4).
[158] Agreement on Port State measures to prevent, deter, and eliminate Illegal, Unreported and Unregulated fishing (2009) Article 6(1).
[159] ibid Article 6(2).
[160] Port State Measures Agreement (n148) Article 6(3).

Cooperation is required under a number of IMO instruments that deal with maritime security threats of pollution and illegal dumping of toxic waste. The MARPOL Convention[161] and its amendments are an effort to promote implementation and enforcement by states of standards for prevention of oil pollution. The 1990 International Convention on Oil Pollution Preparedness, Response and Co-operation strengthened cooperation on this area following the Exxon Valdez disaster.[162] Specific cooperative obligations include Article 5 where a state that receives a report of oil pollution must pass this to all states likely to be affected and Article 6 establishing national and regional preparedness and response systems. Articles 7, 8 and 9 specifically provide for cooperation, respectively for response, research and development, and technical assistance. Article 10 establishes an obligation to enter into agreement: 'Parties shall endeavour to conclude bilateral or multilateral agreements for oil pollution preparedness and response. Copies of such agreements shall be communicated to the Organization which should make them available on request to Parties.' This is a mid-level effect on states.

Toxic waste has been a particular concern to African states. The Basel Convention[163] addressed this subject but in this area regional treaties have been implemented. In the Bamako Convention[164] cooperation is explicitly required. In Article 10 intra-African cooperation is required. Article 11 provides that parties may enter into bilateral, multilateral or regional agreements[165] and also that parties shall promote south-south cooperation[166] and enter into cooperative arrangements with international institutions.[167] All states are party to the IMO Convention. It is the basis for the establishment and organisation of the International Maritime Organisation and states parties are obliged to accede to other conventions: including the instruments on maritime security.[168] These will have elements that could be applied to maritime security but do not specifically address the subject matter of state cooperation for the purposes of maritime security.

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[161] International Maritime Organization (IMO), The International Convention for the Prevention of Pollution from Ships (MARPOL) (2 November 1973).
[162] International Maritime Organization, 'Marpol – 25 years' (IMO October 1998).
[163] The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989 EIF 1992).
[164] Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (1991 EIF 1998).
[165] ibid Article 11 (1).
[166] Bamako Convention (n164) Article 11 (4).
[167] Bamako Convention (n164) Article 11 (5).
[168] IMO, 'Other conventions relating to maritime safety and security and ship/port interface' available at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/Default.aspx> accessed 28 November 2016.

This discussion of major instruments that address maritime security threats included in the definition of maritime security is instructive. Though cooperation is siloed this is not unusual for international agreements that address specific delineated subjects. They have developed in different times and contexts. Specific obligations of cooperation are present in the area of maritime security. They do not consistently involve a significant effect on state sovereignty, being more concerned with information exchange and assistance but it is clear that states have subjected a greater number of issues to international agreements comprising cooperation obligations. The analysis has not found an overarching specific legal obligation to cooperate for maritime security but rather it concludes that the landscape has shifted such that states can be said to have, and have accepted, a responsibility and authority to cooperate.

3.3.4 Status of international instruments

Treaties are only binding on parties. Ali demonstrated the status of international instruments regarding ratification and implementation is inconsistent.[169] Ali's 2013 analysis has not drastically altered at the time of writing. The following table indicates the status of international instruments at the time of writing.

[169] Ali (n153) Chapter 7.

International Agreement / State	Convention on the International Maritime Organisation 1948	The International Convention for the Prevention of Pollution from Ships 1973	International Convention for the Safety of Life at Sea 1974	International Convention against the Taking of Hostages 1979	The United Nations Convention on the Law of the Sea 1982	The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988	The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf 1988	The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988	The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal 1989	The International Convention on Oil Pollution Preparedness, Response and Co-operation 1990	Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa 1991	United Nations Convention against Transnational Organized Crime 2000	Protocol on Illegal Migration 2000	Protocol on Trafficking in Persons 2000	Protocol on Trafficking in weapons 2000	International Ship and Port Facility Security Code 2002	Proliferation Security Initiative 2003	Protocol of 2005 to The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988	Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 2009
Liberia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			
Cote d'Ivoire	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	
Ghana	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓				✓
Togo	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓				✓
Benin	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓				
Nigeria	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓			✓	
Cameroon	✓		✓	✓	✓			✓	✓	✓	✓	✓	✓	✓		✓				
Equatorial Guinea	✓	✓	✓	✓	✓	✓	✓		✓			✓		✓		✓				
Gabon	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓		✓	✓	✓				✓
Republic of Congo	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓					✓		✓	✓	
Democratic Republic of Congo	✓		✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓				
Angola	✓	✓	✓		✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			
Sao Tome et Principe	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓				✓

Sources: United Nations Treaty Collection, 'Multilateral Treaties Deposited with the Secretary-General: Status of Treaties' <https://treaties.un.org/pages/ParticipationStatus.aspx?clang=_en>; IMO 'Status of Conventions' <http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>; US Department of State, ' Proliferations Security Initiative Participants' <https://www.state.gov/t/isn/c27732.htm>; African Union, 'List of Countries which have Signed, Ratified/Acceded to the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa' <https://au.int/sites/default/files/treaties/7774-sl-bamako_convention_on_the_ban_of_the_import_into_africa_and_the_control_o.pdf>; Food and Agriculture Organisation of the United Nations, 'Agreement on Port State Measures (PSMA): Parties to the PSMA' <http://www.fao.org/port-state-measures/background/parties-psma/en/>.

Table One: International Instruments

The table does not reflect implementation. This is being addressed by states and together with agencies such as the UNODC[170] and IMO.[171] For example though accession to SUA is relatively widespread, implementation is a concern. The 2014 IMO West and Central Africa Strategy notes among a range of issues faced by signatory states to the Yaoundé Code of Conduct is the need to create implementing legislation for SUA[172] and undertakes to assist on this through technical assistance programmes.

The drive towards developing national legal frameworks consistent with international standards is reflected in regional declarations. The 2013 Yaoundé Code of Conduct Article 15 encourages signatories to 'incorporate in national legislation, transnational crimes in the maritime domain, as defined in Article 1(3) of this Code of Conduct, in order to ensure effective indictment, prosecution and conviction […]'. The Luanda Declaration of 2014 Article 3.1 recognises the importance of partnerships 'particularly with organizations like IMO and the United Nations Office on Drugs and Crime (UNODC), for training and legal assistance […]'.[173] The recent 2016 Lomé Charter[174] expressly continues this recommendation; its Article 8 provides 'Each State Party shall, where appropriate: a) harmonise its national laws to conform with relevant international legal instruments including UNCLOS, SOLAS and the Protocol of the 2005 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1 November 2005; […]'. These regional declarations indicate the intention to work toward compliance with international standards, to address national frameworks and partner with recognised agencies to achieve this. It is not disputed that being party to international agreements is the point at which obligations apply, it is proposed that many states are signatory to many of the *lex specialis* and recent international declarations from regional meetings and programmes of assistance indicates a push towards further compliance with international frameworks through legal reform at the national level.

[170] UNODC, 'Global Maritime Crime Programme' < https://www.unodc.org/unodc/en/piracy/atlantic-ocean.html> accessed 01 May 2018.
[171] IMO, 'IMO Strategy for implementing sustainable maritime security measures in West and Central Africa' (26 April 2017) <http://www.imo.org/en/OurWork/Security/WestAfrica/Pages/WestAfrica.aspx> accessed 01 May 2018.
[172] International Maritime Organization, 'Strategy for implementing sustainable maritime security measures in West and Central Africa' (January 2014) 15.
[173] Luanda Declaration on Maritime and Energy Security (Adopted Luanda 9 October 2015).
[174] African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter). Date of Adoption: October 15, 2016.

3.4 Conclusion

This chapter has achieved two goals. It has justified the choice of cooperative sovereignty as the preferred approach through comparative study of alternatives to promote effective maritime security cooperation. It has analysed whether there exists a legal duty of cooperation to underpin cooperative sovereignty. It has argued that there is a general duty of cooperation identifiable in the governing UNCLOS framework. There are specific, mainly minimal effect obligations of cooperation in the *lex specialis* but together these are insufficient to propose cooperative sovereignty as a legal obligation. The chapter concludes that cooperative sovereignty is a viable approach to the issue of maritime security cooperation and one which comprises a responsibility and authority to cooperate. The next chapter looks at the regional threat picture. It highlights the transboundary nature of the different threats to maritime security and also an interdependence that means states cannot, and acknowledge they cannot, manage these threats in an exclusionary way.

Part III

Chapter Four: Cooperative Sovereignty Necessitated by the Interdependence created by Maritime Security Threats

4.1 Introduction

This chapter addresses Research Question Five: Is cooperative sovereignty necessitated by interdependence created by maritime security threats? Evidence in the chapter examines how maritime security impacts food security, local and national economies, international relations, community lives and livelihoods. This chapter addresses threats identified in the Yaoundé Code of Conduct.[1] Section 4.2 focuses on the two threats that will be addressed by case studies. Section 4.3 analyses further threats. Though the Code has lapsed, the threats identified therein remain an important indicator. A persistent, trans-boundary and wide-ranging threat picture is identified. This supports the argument that there is a need to reframe how states conceive of their role in the maritime space. This is the first of the 'realities'[2] or evidence which support the argument that cooperative sovereignty is not only relevant but necessitated by regional context. In common with Ali[3] it argues that the various threats to maritime security need to be identified and incorporated into the concept of maritime security. They affect states in common and should fit into the idea of a concern for which states cooperate.

In Chapter Three maritime security as inclusive interest was distinguished as insufficient to promote effective maritime security cooperation. By looking at how different security threats manifest in the region the chapter could be read to potentially support the idea of maritime security as an 'inclusive interest'. In her work Klein contends that threats faced in common should spur states to act in common rather than to the exclusion of one another and that maritime security is such an interest. Her work recognises the potential benefit to maritime security cooperation of adopting an inclusive approach in part because it is not

[1] 'Code of Conduct Concerning the Repression of Piracy, Armed Robbery against Ships and Illicit Activity in West and Central Africa' (Yaounde 25 June 2013).
[2] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000) Part II.
[3] Kamal-Deen Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges,* (Publications on Ocean Development; volume 79 Brill | Nijhoff 2015).

necessarily appropriate to continue to view the common interest being served by maintaining the central tenets of freedom of the seas and flag state responsibility.[4]

Interdependence could support the idea that states in the region would implement international agreements, enact domestic legislation and organise fleet capacity to make most effective use of resources while not requiring cooperative sovereignty. Consistent with Klein, it is argued that designation as an inclusive interest is not the final step,[5] but how this causes states to act is what will lead to change. Section 4.4 will test through evidence of meetings and agreements since 2013 whether this is being achieved or whether inconsistent outcomes suggest a more fundamental reframing of sovereignty is required. The finding that interdependence has not fostered consistent efforts toward achieving effective maritime security cooperation in fact supports the case for reframing how states conceive of their role. This conclusion is then strengthened further by evidence of Chapters Five and Six.

Different states, differing priorities

States' priorities are closely linked to economic concerns. This does not fatally undermine commitments because there has been a recognition of interconnectedness around maritime security. However it cannot be ignored. There is hydrocarbon potential in the region but there is a recognition that diversification is necessary. Improving fisheries or development of port infrastructure indicates efforts at broadening the economic potential of the maritime space.

Liberia is the second biggest flag registry in the world.[6] It has not yet found oil.[7] Fisheries in 2014 were estimated at 12 per cent of GDP.[8] Côte d'Ivoire is an oil producer. It has a fisheries sector which provides direct employment to 70000 people, and indirect employment to 400 000 people.[9] Ghana is an oil producer and following the ITLOS case

[4] Klein, *Maritime Security and the Law of the Sea* (OUP 2011) 17.
[5] ibid 4.
[6] Front Page Africa Online, 'Liberia International Shipping Registry remains Second Largest' (25 March 2017) <http://www.frontpageafricaonline.com/index.php/business/3706-liberia-international-shipping-registry-remains-second-largest-registry> accessed 04 January 2018.
[7] Export.gov, 'Liberia-Oil and Gas' (12 July 2017) < https://www.export.gov/article?id=Liberia-Petroleum> accessed 04 January 2018.
[8] Republic of Liberia Ministry of Agriculture Bureau of National Fisheries 'fisheries and aquaculture sector policy and strategy' (Republic of Liberia 2014) 7.
[9] Food and Agriculture Organisation of the United Nations, 'Challenges to coastal fisheries communities in Abidjan, Côte d'Ivoire' (*Blue Growth Blog*) <http://www.fao.org/blogs/blue-growth-blog/challenges-to-coastal-fisheries-communities-in-abidjan-cote-divoire/en/> accessed 04 January 2018.

will be investing further in this sector.[10] Fisheries are a relatively minor part of the maritime economy; 2016 provisional estimates set this sector's contribution to Ghanaian GDP at 1.1 per cent.[11] Trade through Togo's port of Lomé is a critical revenue source. Annual fish production is inadequate for domestic need and the sector is underserved by the government.[12] Benin suffers similar fisheries challenges. Its production in 2015 was approximately 40,000 tonnes for an estimated need of 120,000 tonnes. Imports amounted to 142,353 tonnes in 2015.[13] Its oil sector has not been successful; its maritime economy is largely dependent upon the port of Cotonou.[14] Nigeria's maritime economy is dominated by the hydrocarbon sector. Port infrastructure is recognised to be poor[15] and fisheries are a limited sector.[16]

Cameroon has significant oil potential and trade through its ports, particularly Douala is key to the economy. Equatorial Guinea is an oil producer. It has sought to diversify its economy; this has included sales of Liquified Natural Gas[17] and fisheries sector development.[18] Gabon is a major oil-producer.[19] By 2016 estimates, the oil industry accounted for 45 percent of total revenue and approximately 85 percent of export revenue.[20] Gabon has sought to diversify. It has increased its network of marine protected areas (MPAs) from 1 percent

[10] Viktor Katona, 'Ghana Looks To Ramp Oil Production' (oilprice.com 11 November 2017) <https://oilprice.com/Energy/Crude-Oil/Ghana-Looks-To-Ramp-Oil-Production.html>; Africa Oil + Gas Report, 'Ghana, Exxon Mobil Sign Petroleum Agreement Tomorrow' (16 January 2018) <http://africaoilgasreport.com/2018/01/farm-in-farm-out/ghana-exxonmobil-sign-petroleum-agreement-tomorrow/> accessed 22 January 2018.
[11] Ghana Statistical Service 'Provisional 2016 Annual Gross Domestic Product' (April 2017 Edition) 5.
[12] Barthélémy Blédé and André Diouf, 'West Africa Report: Togo's maritime challenges: Why security remains a major issue' (Institute for Security Studies Issue 18 August 2016) 3.
[13] Kasseau Herman Gangbazo,'Etat Des Lieux Des Statistiques Halieutiques Au Benin Direction De La Production Halieutique' (17 June 2016) < https://fcwc-fish.org/fisheries/statistics/benin/933-benin-fisheries-statistical-summary-report-2016> accessed 05 January 2018.
[14] Barthélémy Blédé, Fatimata Ouédraogo and Ousmane Aly Diallo, 'West Africa Report: Benin's maritime security challenges in the Gulf of Guinea' (Institute for Security Studies Issue 12 June 2015) 6.
[15] MA Johnson, 'Developing blue economy through Nigeria's maritime industry' (17 October 2017) <http://www.businessdayonline.com/developing-blue-economy-nigerias-maritime-industry/> accessed 13 December 2017.
[16] Fisheries Committee for the West Central Gulf of Guinea, 'Nigeria fishery statistics - 2016 Summary report' (17 June 2016) <https://www.fcwc-fish.org/fisheries/statistics/nigeria/901-nigeria-fishery-statistics-2016-summary-report> accessed 20 January 2018.
[17] Central Intelligence Agency, 'The World Factbook: Equatorial Guinea' <https://www.cia.gov/library/publications/the-world-factbook/geos/print_ek.html> accessed 18 January 2018.
[18] FAO Regional Office for Africa, 'Equatorial Guinea-FAO partner for sustainable fishery resources' (1 September 2014) <http://www.fao.org/africa/news/detail-news/en/c/242211/> accessed 18 January 2018.
[19] Indexmundi, 'Country Comparison: Oil Production' <http://www.indexmundi.com/g/r.aspx?c=gb&v=88> accessed 27 July 2017.
[20] The Oil and Gas Year, 'Gabon Overview' <http://www.theoilandgasyear.com/market/gabon/> accessed 28 July 2017; US Energy Information Administration, 'Gabon' <https://www.eia.gov/beta/international/country.cfm?iso=GAB> accessed 28 July 2017.

initial coverage to 24 percent of its territorial sea and exclusive economic zone (EEZ),[21] with plans to expand this to just over 26 percent of its territorial sea and EEZ.[22]

The Republic of Congo is the fourth largest sub-Saharan oil producer; its proven oil reserves amounted to 1.6 billion barrels in 2015.[23] Its fisheries sector has been largely unmonitored but Belhabib et al note that in the period 1950-2010 'Reconstructed total catches from the Congo within its EEZ were on average 2.8 times the data supplied to the FAO'.[24] There are efforts to develop this sector. Democratic Republic of Congo has a short – 37km – coastline and most fisheries are onshore.[25] Oil reserves are situated both on- and offshore. The Coast basin offshore oil site produces 25000 barrels per day.[26] Angola is a major oil producer. The African Development Bank estimates this sector contributed 30.8 per cent to the state's GDP in 2015.[27] Low oil prices have raised calls to diversify the economy. Other industries in the maritime sector do contribute and provide employment for citizens: More than 150000 people are involved in fisheries.[28] São Tomé and Príncipe has agreed to a Joint Development Zone with Nigeria (see Chapter Five). Its economy has been land-based, focusing on cocoa production.

The profiles highlight the similarities and divergences in the economic focus of the Gulf of Guinea states. The below discussion of threats has been divided to highlight the breadth of threats. The threats are linked to one another, may be supporting or caused by one another. This connectivity limits states acting only where they perceive their economic interest to be affected.

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[21] World Wildlife Fund Gabon, 'Marine Programme' < http://www.wwf-congobasin.org/where_we_work/gabon/marine_programme/> accessed 25 June 2017.
[22] US Fish & Wildlife Service, 'Statement from Bryan Arroyo, Assistant Director for International Affairs, on the Expansion of Gabon's Marine Protected Area Network' (5 June 2017) <https://www.fws.gov/international/wildlife-without-borders/africa/statement-gabon-mpa-expansion.html> accessed 25 June 2017.
[23] The Oil & Gas Year, 'Republic of Congo Overview' < http://www.theoilandgasyear.com/market/republic-of-congo/> accessed 22 January 2018.
[24] Dyhia Belhabib and Daniel Pauly, 'The implications of misreporting on catch trends: a catch reconstruction for the People's Republic of the Congo' (Fisheries Centre The University of British Columbia Working Paper Series 2015 - 05) 7.
[25] Food and Agriculture Organization of the United Nations, 'Information on Fisheries Management in the Democratic Republic of the Congo' (January 2001).
[26] Export.gov, 'Congo, Democratic Republic - Oil and Gas' (20 July 2017) <https://www.export.gov/article?id=Congo-Democratic-Republic-Oil-and-Gas> accessed 20 January 2018.
[27] African Development Bank, 'Angola: Country Strategy Paper 2017-2021' (April 2017) VI.
[28] Food and Agriculture Organization of the United Nations Fisheries and Aquaculture Department, 'Fisheries and Aquaculture Country Profiles: Angola' <http://www.fao.org/fishery/facp/AGO/en#CountrySector-SectorSocioEcoContribution> accessed 01 January 2018.

4.2 Yaoundé Code of Conduct threats: focus areas

4.2.1 Piracy and armed robbery at sea

The United Nations Convention on the Law of the Sea (UNCLOS) Article 101 defines piracy:

> (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
> (b) (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).[29]

Chalk finds the fact that the definition excludes attacks that take place in territorial waters or attacks from a raft or from the dockside problematic:

> Piracy is an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in furtherance of that act.[30]

Chalk identifies three types of piracy: anchorage attacks against ships at harbour, secondly ransacking and robbery of vessels on the high seas or in territorial waters and most severe: the outright theft of ships and their subsequent conversion for the purposes of illegal trading.[31] This highlights the limitations of the UNCLOS definition but it is not an accepted expansion of the definition and states have sought to close the gap by introducing different crimes. Piracy is committed on the high seas. Armed robbery at sea may take place in territorial waters. The International Maritime Organisation (IMO) defines this in Annex Article 2.2:

> (a) any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea; (b) any act of inciting or of intentionally facilitating an act described above.[32]

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[29] UN General Assembly, Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 397.
[30] Peter Chalk, 'The maritime dimension of international security: Terrorism, piracy and challenges for the United States' (RAND Corporation 2008) 3.
[31] ibid 5-6.
[32] International Maritime Organization (IMO), Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships (Jan 18 2010) IMO Doc. A 26/Res.1025.

The wider scope of armed robbery at seas responds to changing threats. It is also properly reflective of the regional reality. Anyiam highlights International Maritime Organisation regional incident analysis for 1995 – 2014 where over 81 percent of incidents are argued to be properly classified as armed robbery at sea.[33] Domestic legislation is required but this is not widespread. The obvious solution is implementation of the Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation (SUA) convention. Limited implementation has been highlighted in Chapter Three. This is further undermined by limited maritime delimitation which '[…] renders the legal distinction between piracy and sea robbery tenuous.'[34]

Challenges are manifold. Pirates and armed robbers do not respect boundaries. There is universal jurisdiction for the crime of piracy[35] but legislation to prosecute piracy is not universal. Hot pursuit rights cease upon entry to flag state or third state territorial waters.[36] State recognition of this challenge has been primarily through information sharing. The functional zone system in operation in parts of the region is discussed in Chapter Seven. Examples of all such incidents manifest in the Gulf of Guinea. In recent analysis of the issue, *The State of Maritime Piracy 2014*, Oceans Beyond Piracy (OBP) also cite a serious lack of reporting and state capacity to meet challenges which piracy presents,[37] which only exacerbate the impact of the threat. This is confirmed in the reporting of the International Maritime Bureau which states that waters of several regional states are 'risky'. Off Lagos, Nigeria:

> Pirates/robbers are often well armed, violent and have attacked, hijacked and robbed vessels/kidnapped crews along the coast, rivers, anchorages, ports and surrounding waters. Attacks reported up to about 170nm from coast. In many incidents, pirates hijack the vessels for several days and stole ship and crew properties and part cargo usually gas oil.[38]

[33] Herbert Anyiam, 'The Legalities of Gulf of Guinea Maritime Crime with Suggested Solutions' (*Centre for International Maritime Security*, 17 July 2014) < http://cimsec.org/legalities-gulf-guinea-maritime-crime-suggested-solutions> accessed 24 March 2018.
[34] Clive Schofield and Kamal-Deen Ali, 'Combating Piracy and Armed Robbery at Sea: from Somalia to the Gulf of Guinea' in Robin Warner and Stuart Kaye (eds), *Routledge Handbook of Maritime Regulation and Enforcement* (Routledge 2015).
[35] Article 105.
[36] Article 111(3).
[37] Oceans Beyond Piracy, 'The State of Maritime Piracy 2014' (One Earth Future Foundation 2014) 37.
[38] ICC International Maritime Bureau, 'Piracy and Armed Robbery Against Ships: Report for the Period 1 January – 31 December 2014' (January 2015) 20.

The same organisation recorded a doubling of crew kidnappings by pirates in 2015, all of which occurred off the coast of Nigeria.[39] The 2015 OBP Report recorded the region as the most dangerous for seafarers;[40] the 2016 OBP Report highlights a rise of incidents in West Africa (a discussion which includes Central African states), underscoring that this is not a diminishing threat.[41] The economic impact is stark. OBP sets the total sum related to piracy and armed robbery in the Gulf of Guinea in 2016 at $793.7 million. This includes $636.1 million relating to deterrence measures.[42] These costs are compiled from available sources and are likely higher. Sources highlight the impact to trade: 'Piracy in the Gulf of Guinea alone endangers 40% of Europe's oil imports, nearly 30% of US petroleum imports, most of Nigeria's crude oil exports, and almost all of Angola's crude oil exports.'[43] The latest report finds that a slight rise was seen in the region from 95 to 97 attacks and a rise in the economic cost to $818.1 million.[44]

4.2.2 Illegal fishing

Fisheries[45] are a key regional industry, and a food security concern.[46] This resource is utilised by local small-scale fishers and distant water fleets. The terms illegal fishing and IUU are often used interchangeably. The FAO defines IUU fishing:[47]

> Illegal fishing refers to activities: conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations; conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organisation but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law; or in violation

[39] International Chamber of Commerce, 'International Maritime Bureau: Maritime piracy hotspots persist worldwide despite reductions in key areas' (2 February 2016) <https://www.icc-ccs.org/news/1154-imb-maritime-piracy-hotspots-persist-worldwide-despite-reductions-in-key-areas> accessed 20th February 2016.
[40] Oceans Beyond Piracy, 'The State of Maritime Piracy 2015' (One Earth Future Foundation 2015) 5.
[41] Oceans Beyond Piracy, 'The State of Maritime Piracy 2016' (One Earth Future Foundation 2016).
[42] ibid.
[43] Towergate Insurance, 'Troubled Waters: The Global Price of Piracy' <https://www.towergateinsurance.co.uk/boat-insurance/global-price-of-piracy> accessed 15 June 2017.
[44] Oceans Beyond Piracy, 'The State of Maritime Piracy 2017'<http://oceansbeyondpiracy.org/reports/sop/west-africa> accessed 23 May 2018.
[45] Crisis Group, *The Gulf of Guinea: The New Danger Zone* (Africa Report N°195, 12 December 2012) 3.
[46] Fish consumption averages 28kg per person per year – well above the world average of 16.3 kg, Moustapha Kébé and James Muir, 'The sustainable livelihoods approach: new directions in West and Central African small-scale fisheries' Chapter 1 in Lena Westlund, Katrien Holvoet and Moustapha Kébé (eds), *Achieving poverty reduction through responsible fisheries – Lessons from West and Central Africa* (FAO Technical Paper 513 FAO 2008) 47.
[47] Originally referenced in The Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR Convention) 1329 UNTS 48; the Commission for the Conservation of Antarctic Marine Living Resources has adopted specific measures such as Convention Measure 10-03 (2014).

> of national laws or international obligations, including those undertaken by co-operating States to a relevant regional fisheries management organisation.
>
> Unreported fishing refers to fishing activities: which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or undertaken in the area of competence of a relevant regional fisheries management organisation which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.
>
> Unregulated fishing refers to fishing activities: in the area of application of a relevant regional fisheries management organisation that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or in areas or for fish stocks in relation to which there are no applicable conservation or management measures.[48]

The FAO summarises the concern:

> IUU fishing undermines national and regional efforts to conserve and manage fish stocks and, as a consequence, inhibits progress towards achieving the goals of long-term sustainability and responsibility as set forth in, inter alia, Chapter 17 of Agenda 21 and the 1995 FAO Code of Conduct for Responsible Fisheries.[49]

The Environmental Justice Foundation estimates that IUU fishing in West Africa accounts for the loss of between 11 and 26 million tonnes of fish annually.[50] Exports represent a major income source across the region[51] and are a key concern for external partners such as the UK, which imports £50million of tuna annually from Ghana. £60million of tuna products originating in West Africa have been subject to regulatory interventions at the UK border due to IUU fishing concerns.[52] The EU holds fisheries economic partnership agreements with several countries in the region and so it is directly concerned.[53] This challenge cuts across social groups and national boundaries. Fishing vessels have multinational crews, may be flagged with a flag of convenience and practices such as reefer vessels and transhipment make illegal practice difficult for a single state to resolve alone. It continues to present

[48] United Nations Food and Agriculture Organisation, 'International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing' (Rome 2001) Part II.
[49] United Nations Food and Agriculture Organisation, 'Illegal, unreported and unregulated (IUU) fishing' <http://www.fao.org/fishery/iuu-fishing/en> accessed 2 June 2017.
[50] Environmental Justice Foundation, 'Pirate Fishing Exposed: The Fight Against Illegal Fishing in West Africa and the EU' (2012) 7.
[51] Africa Center for Strategic Studies, 'Maritime Security in the Gulf of Guinea' (20 May 2015) <http://africacenter.org/spotlight/maritime-security-in-the-gulf-of-guinea/> accessed 2 June 2017.
[52] UK Chamber of Shipping, 'How the Lack of Security in the Gulf of Guinea affects the UK Economy' (July 2014) <https://www.ukchamberofshipping.com/media/filer_public/ba/8f/ba8f4c5e-8490-4f65-a4ff-0cab717acdc0/uk_chamber_of_shipping_gulf_of_guinea_paper-july_2014.pdf.> accessed 2 June 2017.
[53] European Commission, 'Fisheries Agreements' <http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm> accessed 17 January 2015.

concerns for regional states.[54] The threshold at which distant water fleet states take action is also high. China's recent decision to cancel a fishing certificate for one company and end fuel subsidies for a further two, after the arrest of vessels from all three companies in West Africa, is welcome.[55] It comes a year after the event and affects three of the companies among over 500 industrial fleets reported to fish off West Africa.[56] Efforts such as Gabon's Marine Protected Area are limited.[57] Chapter Eight addresses definitional matters, legal instruments, and focuses on illegal fishing.

4.3 Further Yaoundé Code of Conduct threats

The following subsections address further threats that the Yaoundé Code of Conduct identifies. As with piracy and illegal fishing, these are not unique to any one state and they do not occur within the confines of a single state but rather across and affecting multiple states. They vary in the tangibility of their impact: for example, money laundering is a serious problem but one which day-to-day is less visible in comparison to pollution that affects fisheries and water supplies. There are crossovers. The opportunity to transgress with few consequences means that actors may engage in multiple offences. A link between oil theft and piracy has been established[58] and the author discussed links where fisheries vessels transiting Cameroonian and Nigerian waters to purchase fuel were attacked by pirate vessels to obtain cash being carried for this purpose.[59] Vessels carrying out illegal activities are not likely to be submit to monitoring to ensure compliance with environmental regulation. Transboundary impacts are clear. Pollution, as discussed below, will not be contained within a single state. Similarly trafficking and smuggling are recognised to involve multiple states. The identification of this factor in the threat picture supports both the argument put forward

[54] Moki Edwin Kindzeka, 'African Countries Call for China to Stop Illegal Fishing' <http://www.stopillegalfishing.com/news_article.php?ID=1811> accessed 18 January 2016.
[55] Greenpeace International, 'Chinese companies see subsidies cancelled and permits removed for illegal fishing in West Africa' (9 March 2018) <https://www.greenpeace.org/international/press/15209/chinese-companies-see-subsidies-cancelled-and-permits-removed-for-illegal-fishing-in-west-africa/> accessed 09 March 2018.
[56] Lily Kuo, 'A glimpse of life onboard the Chinese fishing boats dominating West Africa's seas' (*Quartz*, 23 November 2016) <https://qz.com/842381/photos-chinese-fishing-fleets-are-dominating-and-potentially-depleting-west-africas-seas/> accessed 03 January 2017.
[57] 53,000 square kilometres, just over 26 percent of the country's Territorial Sea and Exclusive Economic Zone, discussed in US Fish & Wildlife Service, 'Statement from Bryan Arroyo, Assistant Director for International Affairs, on the Expansion of Gabon's Marine Protected Area Network' (5 June 2017).
[58] Adeniyi Adejimi Osinowo, 'Combating Piracy in the Gulf of Guinea' (Africa Security Brief No. 30 February 2015) 3.
[59] Interview Cam-fmrMinepia-1016.

by Ali and Tsamenyi in Chapter One that boundaries are a central concern and as Chapter Five demonstrates, that they will likely not be resolved in the short to medium term.

4.3.1 Maritime terrorism

Terrorism has no agreed definition.[60] There is a confusion of its place in the maritime security picture and in particular with respect to piracy,[61] as it is a distinct crime. Vreÿ argues:

> Although often listed as a threat, no convincing evidence is on offer, t[h]ough terrorism remains a persistent high-risk, low-probability threat on the maritime threat agenda in the Gulf of Guinea.[62]

Maritime terrorism[63] remains an energy concern. The American Enterprise Institute finds:

> As bad as it is to have pirates and perhaps terrorists operating boats in the northern Indian Ocean and the Persian Gulf, it is quite another thing to have them control any ports or shipping in the Atlantic Ocean, far closer to the United States.[64]

Many Gulf of Guinea economies are heavily dependent on oil and gas. The SUA protocol on fixed platforms is an example of a response to a possible focus of terrorists. Chapter Three discussion of these protocols highlights low ratification and accession rates. It remains on the radar of states as demonstrated by a three day seminar convened in December 2017 in Abidjan attended by representatives of Benin, Mali, Cameroon, Djibouti, Togo, Niger, Ghana, Mauritania, Senegal, Gabon, Equatorial Guinea, Sierra-Léone, Liberia, Congo Brazzaville, Nigeria, Ethiopia, the United States and France. This Interregional Institute for Maritime Safety and Security seminar looked at risks posed by terrorism and the link between terrorism in the Sahel region and piracy and armed robbery at sea in the Gulf of Guinea.[65] Maritime terrorism remains a part of the threat picture and is an example of threats

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[60] Royal Institute of International Affairs, 'Piracy and Legal Issues: Reconciling Public and Private Interests' (Africa Programme and International Law Conference Report 1 October 2009).
[61] ibid 3.
[62] Francois Vreÿ, 'Maritime insecurity in the Gulf of Guinea: Threats, vulnerabilities and opportunities' article produced for Nanyang Business School, Singapore NTU-SBF Centre for African Studies available at < https://www.howwemadeitinafrica.com/maritime-insecurity-gulf-guinea-threats-vulnerabilities-opportunities/> accessed 01 March 2017.
[63] Jason Power discusses the overlap between piracy and terrorism and the development of maritime terrorism, 'Maritime Terrorism: A New Challenge for National and International Security' (2008) 10 Barry Law Review 111.
[64] Michael Rubin, 'The promise of the Gulf of Guinea' (25 October 2015) available at <http://www.aei.org/publication/the-promise-of-the-gulf-of-guinea/> accessed 01 March 2017.
[65] Ghana News Agency, 'ISMI tackles maritime terrorism in the Gulf of Guinea' (25 November 2017) <http://www.ghananewsagency.org/social/ismi-tackles-maritime-terrorism-in-the-gulf-of-guinea--125491> (accessed 07 December 2017).

that can prosper where space is poorly controlled. The presence of a number of states indicates common concern to prevent a rise in maritime terrorism. This prominence may be due to the land-sea nexus.

4.3.2 Hostage taking

The International Convention against the Taking of Hostages 1979 makes this an offence under international law.[66] Decisions to adopt a modus operandi that includes hostage taking may be more favoured in times of low oil prices or where security of offshore oil platforms and tankers make this form of activity less attractive. The 2016 State of Maritime Piracy Report found 'in total, 369 seafarers were affected by kidnap for ransom attacks, including 96 who were taken hostage'.[67] The finding follows a statement of the UN Security Council of 2016 that condemned this activity and called for greater combative action.[68] The latest OBP figures find: 'of the total of 100 seafarers held hostage in 2017, the release of 42 seafarers has yet to be confirmed.'[69]

Hostage taking has economic impacts in terms of cost of recovery, cost of insurance and the cost of lost business.[70] Costs often go unreported. It has a significant human impact on those persons and their families. The impact of hostage taking across states is tied to issues respecting mixed crew nationality, diverse vessel flagging and vessel ownership. Furthermore this is a real concern for companies transiting the region meaning that reputational damage may impact states by virtue of their proximity to a problem area.

4.3.3 Oil crimes

Gulf of Guinea proven oil reserves totalling 43 billion barrels[71] are a source of wealth and critical to global energy demand. The economic benefit and risk that states face is clear, even in a context of fluctuating oil prices. Oil theft is a land and maritime security threat. It is a notable challenge in the delta region of Nigeria.[72] Vandalisation of infrastructure occurs

[66] International Convention against the Taking of Hostages, 1979 1316 UNTS 205 discussed in Chapter Three.
[67] OBP Report 2016 (n38).
[68] United Nations Security Council, 'Statement by the President of the Security Council' (25 April 2016) S/PRST/2016/4.
[69] See data (n44).
[70] See discussion of these economic costs and others in One Earth Future Foundation 'The Economic Cost of Maritime Piracy' (Working Paper December 2010).
[71] Stuart E Johnson, Caroline Baxter, James T Bartis and Duncan Long, 'Promoting International Energy Security Volume 4: The Gulf of Guinea' (Rand Corporation 2012) 9.
[72] Cyril I Obi, 'Nigeria's foreign policy and transnational security challenges in West Africa' (2008) 26(2) Journal of Contemporary African Studies 183, 184.

offshore of several states in the region,[73] but is a noticeable element in the Nigerian threat picture where it affects both on- and offshore infrastructure.[74] The concern of oil crimes as pollution is also a common interest. Illicit bunkering, pipeline tapping and refining cause pollution beyond the bounds of single states. Vreÿ highlights one point of connectivity:

> Illegal oil bunkering and piracy are two different illegal activities, but it is difficult to argue that they never converge at some point in time as is illustrated by attacks upon vessels transporting illegally bunkered products. The products of illegal oil bunkering are also at times transferred to sea-going vessels in the Gulf of Guinea, but the piracy connection appears to stem from targeting crude carriers that legally bunker from the terminals.[75]

In their report on Nigerian illegal oil bunkering, Katsouris and Sayne offer three forms of practice; these are small-scale pilfering and illegal local refining, large-scale illegal bunkering in the field, and theft at export terminals.[76] This problem directly impacts the subset of oil-producer states, but has wider financial and energy implications[77] as the Gulf of Guinea is a key producer region and jobs and industry linked to the production of oil are crucial to the economy. Nigeria is estimated to lose between 40,000 and 100,000 barrels daily.[78] The US Department of Commerce states that the petroleum sector made up 10-12 per cent of Nigerian GDP in 2015.[79] Oil accounts for 75 per cent of Angolan government revenue.[80] As a major exporter, oil theft is a concern that has implications both within and beyond the region. The UN Assessment Mission on piracy in the region cite in their report that a majority of attacks of the coast of Benin for example target oil and chemical ships and are systematic in nature.[81] The Royal Danish Defence College highlights its systematic nature:

> It not only requires navigational knowledge to manoeuvre a merchant vessel around for days, but, since an oil tanker has a complicated pipe system, it also requires the knowledge

[73] Mikhail Kashubsky, 'A Chronology of Attacks on and Unlawful Interferences with, Offshore Oil and Gas Installations, 1975 – 2010' (2011) 5(5-6) Perspectives on Terrorism 139.
[74] Crisis Group (n45) 9 and Francois Vreÿ, 'Maritime aspects of illegal oil-bunkering in the Niger Delta' (2012) 4(4) Australian Journal of Maritime & Ocean Affairs 109.
[75] ibid (Vreÿ) 112.
[76] Christina Katsouris and Aaron Sayne, 'Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil' (The Royal Institute of International Affairs 2013) 2-3.
[77] ibid 38.
[78] Osinowo (n58) 1.
[79] Export.gov, 'Nigeria - Market Overview' (23 February 2017) < https://www.export.gov/article?id=Nigeria-Market-Overview> accessed 03 June 2017.
[80] US Energy Information Administration, 'Angola's Key Energy Statistics' <www.eia.gov/beta/international/country.cfm?iso=AGO> accessed 03 June 2017.
[81] United Nations Security Council, Report of the United Nations assessment mission on piracy in the Gulf of Guinea (7 to 24 November 2011) S/2012/45 4.

> of an engineer to understand where to open and close various pipes, how to start pumps etc. Finally, it also requires the requisite logistics and a good network to be able to sell oil illegally to refineries or to re-circulate it back into the market through an oil terminal in the region.[82]

This is complicated by states that permit transport and sale of stolen oil.[83] This links with the challenge of delimitation. Deposits do not always fall within state boundaries. Chapter Five argues that potential for hydrocarbon exploitation is a major reason why states are yet to delimit their boundaries. Criminals exploit jurisdictional uncertainty in undelimited space to commit oil crimes. Concerns around oil crimes will intensify as more states become oil producers.

4.3.4 Trafficking

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Article 3(a) defines Trafficking in Persons:

> […] the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.[84]

Human trafficking in the region[85] is tied to transnational groups. States may be source, transit or destination states for one or multiple forms of trafficking. UNODC highlights it as a challenge to West and Central African states.[86]

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[82] Katja Lindskov Jacobsen & Johannes Riber Nordby, Maritime Security in the Gulf of Guinea (Royal Danish Defence College 2015) 22.
[83] Osinowo (n58) 3.
[84] United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York 15 November 2000).
[85] UNODC, 'Transnational Trafficking and the Rule of Law in West Africa: A Threat Assessment' <http://www.unodc.org/toc/en/reports/TOCTAWestAfrica.html> accessed 02 December 2015 and a recent example: Dotsey Koblah Aklorbortu,'Human trafficking in Gulf of Guinea - Marine Police intercepts boat' (07 March 2018) <https://www.graphic.com.gh/news/general-news/human-trafficking-in-gulf-of-guinea-marine-police-intercepts-boat.html> accessed 07 March 2018.
[86] UNODC, 'Human trafficking and smuggling of migrants' <http://www.unodc.org/westandcentralafrica/en/newrosenwebsite/TIPSOM/Human-trafficking-and-smuggling-of-migrants.html> accessed 19 July 2016.

The issue of migrant smuggling is also increasing in prominence in the region, though this is currently primarily land based.[87] This is defined by Article 3(a) of the Smuggling of Migrants Protocol as 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.'[88]

The region has suffered drug trafficking[89] over an extended period but the contemporary challenge is linked to an increase in production in the region, and the waters are a staging post for movement of cocaine and heroin[90] where groups operate amongst inconsistent law enforcement. These are acknowledged concerns though trafficking is not limited to these alone. The UNODC highlighted eight 'flows' that are linked to the West Africa region. Oil, workers and victims of sexual exploitation are trafficked from the region. Cigarettes, counterfeit medicines, small arms and toxic waste are trafficked to the region.[91] The report highlights both the broad range of actors and geographical scope. The 2016 UNODC World Drug Report highlights that the region remains a major transit route for heroin, cocaine and methamphetamine trafficking.[92] In 2016 78 per cent of total cocaine seizures across Africa were in West Africa.[93] The 2017 World Drug Report finds that Benin, Ghana, Nigeria and Togo are among the West African transit states for two thirds of the cocaine smuggled from South America to Europe and Nigeria is also a state that has a high traffic rate for opiates from Afghanistan to Western states.[94]

Trafficking has been tied to illegal fishing, highlighting the complex interconnected nature of maritime security in the region.[95] Trafficking is by definition an international concern, and therefore one which even if improperly understood impacts across states. In 2009 the United Nations Office for West Africa and the Sahel together with INTERPOL and UN

[87] UNODC, 'The Role of Organised Crime in the Smuggling of migrants from West Africa to Europe' (2011); Wilfried Relwende Sawadogo, 'The Challenges of Transnational Human Trafficking in West Africa' (2012) 13(1-2) African Studies Quarterly 95.
[88] Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York 15 November 2000).
[89] Stephen Ellis, 'West Africa's International Drug Trade' [2009] 108 (431) African Affairs 171.
[90] Maritime Trade Information Sharing Centre Gulf of Guinea (MTISCGOG), Maritime Security Guidance: For Vessels and Mariners Operating off the Coast of West Africa, (Version 1.1 – March 2015) 10.
[91] UNODC, World Drug Report 2016 (United Nations 2016 United Nations publication, Sales No. E.16.XI.7) 12.
[92] ibid 39.
[93] UNODC (n91) 39.
[94] UNODC, World Drug Report 2017 (United Nations 2017).
[95] See for example: International Labour Office, Caught at Sea: Forced Labour and Trafficking in Fisheries (ILO Publications 2013).

bodies: UNODC, the Department of Political Affairs and Department of Peacekeeping Operations established the West Africa Coast Initiative. This was to support the *ECOWAS Action Plan to Address the Growing Problem of Illicit Drug Trafficking, Organized Crime and Drug Abuse in West Africa*.[96] This demonstrates a recognition of the common concern, though specific to West Africa and without a maritime focus.

4.3.5 Money laundering

Money laundering is the processing of criminal proceeds in order to disguise their illegal origin. It allows the criminal to enjoy the fruit of his ill-gotten gains without identifying their source.[97] Money laundering is a cross cutting issue.[98] Illegal fisheries, piracy, armed robbery, trafficking and oil crime are all linked to this threat. Money laundering is a recognised part of the widespread organised crime picture in the region.[99] The International Monetary Fund states: 'Money laundering requires an underlying, primary, profit-making crime (such as corruption, drug trafficking, market manipulation, fraud, tax evasion), along with the intent to conceal the proceeds of the crime or to further the criminal enterprise.'[100]

Money laundering is also recognised to cross the land-sea borders of the region, '[…] cybercrime and related money-laundering often take place in the interface between the porous land and sea borders in the Gulf of Guinea.'[101] Porous borders with limited enforcement are made more so were delimitation is unsettled and jurisdiction of law enforcement agencies is not clear. Legal reform is called for to deal with money laundering, with states recognised to have either inadequate laws in place, or laws that are poorly implemented.[102] However this is principally in the land context. Several states are party to The United Nations Convention on Transnational Organised Crime which Chapter Three discusses as an important organising tool. Intergovernmental operations have been established under the auspices of ECOWAS through the Intergovernmental Action Group

[96] UNODC, 'Transnational Crime Units (TCU)' < https://www.unodc.org/westandcentralafrica/en/west-africa-coast-initiative.html> accessed 19 December 2017.
[97] Financial Action Task Force, 'What is Money Laundering?' <http://www.fatf-gafi.org/faq/moneylaundering/#d.en.11223> accessed 17 December 2017.
[98] OECD, 'Illicit Financial Flows: The Economy of Illicit Trade in West Africa' (OECD Publishing 2018).
[99] European Union, 'Update on the EU Strategy & Action Plan for the Gulf Of Guinea (as of 1 February 2016)'.
[100] International Monetary Fund, 'Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT)' <http://www.imf.org/external/np/leg/amlcft/eng/> accessed 04 April 2017.
[101] Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Elements for the EU's Strategic Response to the Challenges in the Gulf of Guinea (18/12/2013).
[102] United Nations Security Council, Letter dated 18 January 2012 from the Secretary-General addressed to the President of the Security Council (19 January 2012) S/2012/45.

against Money Laundering in West Africa (GIABA).[103] The Task Force on Money Laundering in Central Africa undertakes similar activities in Central Africa. These groups do not focus on the land-sea nexus.

4.3.6 Pollution

Pollution is an environmental concern that is latterly being framed as a security concern. Similarly to the above discussed threats, it is a matter that states recognise may emanate from a single state but which cannot remain there: 'Pollution from land- and sea-based activities has contributed significantly to the deterioration of water quality […] and the decline of fisheries resources.'[104]

Gilpin includes in his threat assessment improper domestic and industrial waste disposal.[105] This is also referenced by Ukwe et al as the major land-based factor, together with destruction of coastal habitats.[106] These challenges are present in the region,[107] where the Brenthurst Foundation finds that 'the amount of fish in West African waters has diminished by up to 50 per cent over the past three decades'; it finds that coastal pollution has increased by forty percent in the same period.[108] This is in spite of major international agreements such as the Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment in the West and Central African Region (Abidjan Convention).[109] The Gulf of Guinea Commission is to provide a means to discuss the matter of pollution,[110] though this is of course limited to its relatively small membership. Miguel Trovoada, the Executive Secretary of the Gulf of Guinea Commission, stated that the scale of the problem requires a regional instead of national response.[111] Pollution is a case example used by Perrez in his calls for reframing sovereignty to include a responsibility to cooperate. Perrez

[103] GIABA <http://www.giaba.org/> accessed 08 March 2018.
[104] Chika N. Ukwe, Chidi A. Ibe, Kenneth Sherman, 'A sixteen-country mobilization for sustainable fisheries in the Guinea Current Large Marine Ecosystem' (2006) 49(7-8) Ocean & Coastal Management 385, 401.
[105] Raymond Gilpin, 'Enhancing Maritime Security in the Gulf of Guinea' (2007) VI(1) Strategic Insights 4.
[106] Ukwe et al (n104) 401.
[107] Marine Resources Assessment Group Ltd, 'Review of Impacts of Illegal, Unreported and Unregulated Fishing on Developing Countries: FINAL REPORT' (July 2005) 38.
[108] Brenthurst Foundation, Maritime Development In Africa: An Independent Specialists' Framework, (Discussion Paper 2010/03) 29.
[109] Convention for Co-operation in the Protection and Development of the Marine and Coastal environment of the West and Central African Region and protocol, Entry into force: 5 August 1984.
[110] Chatham House, 'Angola and the Gulf of Guinea: Towards an Integrated Maritime Strategy, Report of the Angola Forum Conference Aboard HMS Dauntless in Luanda, Angola, 29 June 2012' (The Royal Institute of International Affairs) 16.
[111] ibid 1.

identifies at a global level the interdependence of the environment that voids claims of independence to manage issues.[112]

4.3.7 Illegal dumping of toxic waste

The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972[113] and 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol)[114] address the subject of dumping of waste at sea. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal[115] is a critical international agreement in this area. The Basel Convention provides for broad grounds to define transboundary movement of hazardous or other wastes as illegal traffic of waste: '[…] without notification to the state to which the waste is to be taken, requesting consent of that state; on the basis of consent obtained through falsification, misrepresentation, or fraud; if it does not conform in a material way with the documentation; or if it results in deliberate improper disposal (such as dumping).'[116] States have concluded a regional agreement the Bamako Convention, discussed in Chapter Three.

Historically, states in the region have contracted with states from outside to provide space for dumping.[117] Illegal dumping of waste is recognised as a major concern for states in the region[118] who are concerned about the impact on the environment and fisheries resources.[119] The illegal dumping of toxic waste by a ship chartered by Trafigura led to a settlement between Trafigura executives and Côte d'Ivoire of approximately $200 million.[120] This did not reflect the true cost; the government acknowledged that they had not carried out a full impact assessment.[121] Toxic waste does not respect maritime boundaries. Illegal dumping

[112] Perrez (n2) Chapter 3.
[113] International Maritime Organisation, Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972.
[114] International Maritime Organisation, 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972.
[115] United Nations Environment Programme, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Basel, 22 March 1989.
[116] Amnesty International and Greenpeace Netherlands, 'The Toxic Truth about a Company Called Trafigura, a Ship called the Probo Koala, and the Dumping of Toxic Waste in Cote d'Ivoire' (25 September 2012, Index number: AFR 31/008/2012).
[117] New York Times, 'Waste Dumpers Turning to West Africa' (7 July 1988) <http://www.nytimes.com/1988/07/17/world/waste-dumpers-turning-to-west-africa.html?pagewanted=all>.
[118] Chatham House (n110) 1.
[119] Serge Rinkel, 'Piracy and Maritime Crime in the Gulf of Guinea: Experience-based Analyses of the Situation and Policy Recommendations' (Kieler Analysen zur Sicherheitspolitik Nr 41 August 2015) 13.
[120] Amnesty International and Greenpeace Netherlands (n116) 7.
[121] ibid 11.

of toxic waste is an economic issue. It is also more widely a social and ecological issue for states in the region.

4.4 Evidence that states act interregionally on maritime security threats

Many closed door meetings take place and therefore this section does not purport to be comprehensive but is a snapshot to demonstrate ongoing activity. The Yaoundé Process of 2013 was a significant milestone in the recognition of the common threats to states from the maritime domain. It was the first interregional process that explicitly detailed the commonality of threats. The Yaoundé Code of Conduct urges cooperation. In its preamble is repeated reference to the importance of cooperation. In Article 2(1) 'the Signatories intend to co-operate to the fullest possible extent […]'. However Article 2(3) calls on Signatories to act consistent with 'the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States'. Article 2(4) furthers this limitation, reiterating that actions to combat maritime security threats that occur 'in and over the territorial sea of a Signatory are the responsibility of, and subject to the sovereign authority of that Signatory.'

This recognition of the sovereignty of states and which extends to decreasing degrees from its coastline is deliberately included here but does not clearly indicate what balance should be struck. The intention to create effective cooperation can be read into the Code. Embarked officers[122] and harmonised information sharing[123] and incident reporting[124] are all envisaged. The lack of enforcement mechanisms and the focus on ensuring respect for state sovereignty suggests limits.

This process has continued with the launch of the Interregional Coordination Centre (ICC) based in Yaoundé to coordinate the maritime security activities of the two Regional Economic Communities with the Additional Protocol on the Organization and Functioning of the ICC.[125] In 2016 the ICC made further steps towards operationalisation with a five-day meeting convened in Yaoundé signed final versions of documents: Organizational chart of key positions; Terms of reference of said positions; Statute of the staff; 2016 budget; 2016

[122] Code of Conduct (n1) Article 9.
[123] Code of Conduct (n1) Article 11.
[124] Code of Conduct (n1) Article 12.
[125] Additional Protocol to the Memorandum of Understanding among ECCAS, ECOWAS and the GGC on Safety and Security in the Central and West Africa Maritime Space relating to the Organization and Functioning of the Inter-regional Coordination Center for the Implementation of Regional Strategy for Maritime Safety and security in Central and West Africa (Yaoundé 5 June 2014).

activities and program; Detailed schedule of activities for 2016.[126] It has produced a four-year programme[127] that details four objectives: Building the legal and judicial capacities of member States on maritime safety;[128] Improving the professional skills and aptitudes of agents in charge of enforcing the law in the maritime sector;[129] Contributing to information sharing on ways to secure the maritime space;[130] Contributing to determining, delimiting and demarcating maritime borders and peaceful dispute resolution.[131]

The Yaoundé Code evaluation[132] and continued interregional engagement is indicative of the building strength of this cooperation. As Chapter Two acknowledged, there is an existing division by organisation. Though the Yaoundé Process has somewhat shifted the balance towards more interregional activity it alone would be insufficient to foster real activity or demonstrate that maritime security is viewed as a common concern and inclusive interest by states. Key moments of interregional recognition of the commonality of maritime security threats with either a broad or threat-specific focus that have taken place since 2013 show there is a recognition of common concerns but also that the high point of interregional action is not consistently maintained. The following section summarises meetings and events held since 2013 that some or all of the states have participated in and about which information is available.

Major Meetings

The Heads of State and Government of ECOWAS met in Nigeria, 18-18 July 2013.[133] They reaffirmed their commitment to the earlier Yaoundé Summit Political Declaration[134] and directed 'the Commission to facilitate the urgent adoption of the ECOWAS Integrated

[126] Interregional Coordination Centre For the Implementation of Regional Strategy for Maritime Safety and Security in Central and West Africa (ICC), 'Operationalization of the Interregional Coordination Centre (ICC)' < http://cicyaounde.org/extraordinary-meeting-of-senior-officials/> accessed 31 December 2017.
[127] Interregional Coordination Centre's Four-Year Program 2017-2021 (Non-Budgeted Version) <http://cicyaounde.org/wp-content/uploads/2017/07/PROGRAMME-QUADRIENNAL-SANS-COUTS_ENG.pdf> accessed 31 December 2017.
[128] ibid page 4.
[129] ICC (n127) page 8.
[130] ICC (n127) page 11.
[131] ICC (n127) page 16.
[132] Interregional Coordination Centre For the Implementation of Regional Strategy for Maritime Safety and Security in Central and West Africa, 'Communique Final Réunion sur L'évaluation de la Mise en Oeuvre du Code de Conduite (du 17 Août 2017 Yaoundé) <http://cicyaounde.org/communique-final-reunion-sur-levaluation-de-la-mise-en-oeuvre-du-code-de-conduite/> accessed 03 March 2018.
[133] ECOWAS, Forty third Ordinary Session of the ECOWAS Authority of Heads of State and Government, Abuja, Nigeria, 17-18 July 2013.
[134] ECOWAS, Final Communique, Forty third Ordinary Session of the ECOWAS Authority of Heads of State and Government, Abuja, Nigeria, 17-18 July 2013 para 38.

Maritime Strategy and the establishment of Pilot Model Zone E within the framework of the Strategy.'[135]

In 2014 the Friedrich Ebert Foundation and Nigeria's National Defense College co-organised a conference: 'African Approaches to Maritime Security: The West and Central African Perspectives' This was the most significant maritime security focused effort since Yaoundé and resulted in the *Abuja Declaration: Towards a Comprehensive Maritime Security Regime in the Gulf of Guinea*. Ukeje finds[136] 'the Abuja conference outcomes represented a major attempt to rethink and re-define the key strands around which the debate on maritime security in West and Central Africa should be framed.'[137] The Declaration is recommendatory, which continues the absence of enforceable commitments. It is limited in its efforts to ECOWAS states to whom it makes calls for naval integration.[138] Questions of sovereignty are not addressed. A call for expansion of the GGC[139] does not align with the interregional focus.

An international conference on maritime and energy security was held in Angola in October 2015.[140] The resulting Luanda Declaration[141] has many interesting points. It makes similar calls as elsewhere to protection of sovereignty.[142] It calls for states to support the establishment, pursuant to the 2050 Africa's Integrated Maritime Strategy (AIMS 2050) Strategy[143] of a Department for Maritime Affairs at the AU level. This is an important initiative, but highlights the continued tension between the regional and continental levels. With limited resources it is unrealistic to expect states' political will to support multilevel bureaucracy. What is most interesting for the purposes of this work is the engagement with zonal concepts, which case study chapters focus on. Points 2.4 and 2.5 respectively call on states to recognise the value of the MOWCA zones to maritime security planning (this is despite an inconsistency with latter zonal concepts) and to move forward based on the zonal concepts developed under the Yaoundé Code of Conduct. The reference and credit afforded

[135] ibid para 39.
[136] Charles Ukeje, 'Abuja Declaration and Meeting: The Abuja Declaration and the challenge of implementing a maritime security strategy in the Gulf of Guinea and the South Atlantic' (2015) 11(2) Journal of the Indian Ocean Region 220.
[137] ibid 221.
[138] Ukeje (n136) 228.
[139] Ukeje (n136) 228.
[140] AllAfrica.com, 'Angola: Conference On Maritime, Energy Security Starts Thursday' (7 October 2015) <http://allafrica.com/stories/201510080283.html> accessed 01 December 2015.
[141] Luanda Declaration on Maritime and Energy Security (Adopted Luanda 9 October 2015).
[142] Luanda Declaration points 1.4, 4.1.
[143] African Union, 2050 Africa's Integrated Maritime (AIM) Strategy (2014).

by this later Declaration indicates continued political will to engage on initiatives developed at Yaoundé.

States have continued to engage at the continental level. An African Union meeting at Yaoundé in 2015 focused on threats of illegal fishing.[144] The major demonstration on the continued awareness of maritime security was the Extraordinary Summit of the African Union on Maritime Security, Safety and Development that was driven from within the region and the Lomé Charter on African Maritime Security, Safety and Development that was adopted in October 2016.[145] This African Union Charter was intended to become a legally binding, continent-wide effort implemented through regional groups. The Charter itself was controversial; there are reports of states dissatisfied with its content[146] and the obligations on states may be seen as being too weak. Development of Annexes to the Charter[147] will potentially meet some of these concerns but the decision not to create a legally binding agreement undermines the aim of the African Union to build upon the work of regional groups.

Walker argues that the Lomé Charter represents a missed opportunity to deal with many aspects of maritime affairs and focus should be on developing the AIMS 2050.[148] AIMS 2050, adopted in 2014 by the African Union Assembly of Heads of State and Government[149] is:

> […] a tool to address Africa's maritime challenges for sustainable development and competitiveness. The Strategy aims to foster more wealth creation from Africa's oceans, seas and inland water ways by developing a thriving maritime economy and realizing the full potential of sea-based activities in an environmentally sustainable manner.[150]

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[144] FCWC, 'Cameroon: African Countries Call for China to Stop Illegal Fishing' (20 January 2016)<https://www.fcwc-fish.org/publications/news-from-the-region/778-cameroon-african-countries-call-for-china-to-stop-illegal-fishing.html> accessed 01 March 2018.
[145] Giulia Nicoloso, '2016 Lomé Summit: the AU adopts a new charter on maritime security' (Critical Maritime Routes, 17 October 2016) <https://criticalmaritimeroutes.eu/2016/10/17/2016-lome-summit-au-adopts-new-charter-maritime-security/> accessed 1 December 2016.
[146] Lisa Otto, 'Over-promise, Under-deliver: the disappointment of the Lomé Charter' Centre for Trust, Peace and Social Relations Maritime Security Briefings Issue 18.
[147] African Union, 'Press Release Expert workshop Meeting on Annex to the African Union Lomé Charter' (January 2017) <https://au.int/sites/default/files/pressreleases/32031-pr-martime_pr_2_1.pdf> accessed 02 July 2017.
[148] Timothy Walker, 'Reviving the AU´s Maritime Strategy' (Center for Security Studies March 2017).
[149] African Union, '22nd Ordinary Session of the African Union Assembly concludes: A summary of key decisions' (Press Release Nº37/Au Summit 31 January 2014) < https://au.int/en/newsevents/29224/22nd-ordinary-session-african-union-assembly-concludes-summary-key-decisions> accessed 10 July 2017.
[150] AIM Strategy (n143) s11.

It is a broad strategy that places the African Union at the centre of maritime strategy, with support from regional and national actors. This is an important document that allows the African continent to set the agenda for itself, however it is not legally binding and this is reflected in its language. In Articles 58 and 59 on delimitation:

> 58. Through the AU Border Programme, in accordance with the UN Convention on the Law of the Sea (UNCLOS), the AU shall *make an assertive call* to peacefully solve existing maritime boundary issues between Member States including within bays, estuaries, and inland waters (lakes and rivers).
>
> 59. Member States *shall be encouraged* to claim their respective maritime limits, including their extended continental shelf where applicable. Member States are further *urged to accept and fulfil* all those responsibilities that emanate from the establishment of maritime zones as foreseen by UNCLOS and the IMO SOLAS Convention.[151]

It clearly anticipates a regional lead in many matters.[152] Cooperation is expected across a range of areas.[153] The strategy does not address cooperation pending delimitation but does not preclude action. The absence of legally binding obligations that would stem from an international agreement nullifies the force of the work in so far as enforcement capacity. With political will it may be an effective harmonisation tool.

AIMS 2050 is part of the African Peace and Security Architecture (APSA). It could therefore be a major tool to harmonise and promote actions at the regional level through AU leadership. However Engel and Vines discuss respectively the lack of a link of maritime to the APSA and how REC/AU interaction is imperfect. Demonstrating a lack of integration between 2010 and 2014, Engel notes that maritime matters are not reported to the Continental Early Warning System (CEWS) or the African Standby Force.[154] The CEWS is one of the Pillars of the African Peace and Security Architecture, it has key peace and security functions 'an observation and monitoring centre, to be known as "the Situation Room'', which is located at the Conflict Management Division of the African Union and is responsible for data collection and analysis; and the observation and monitoring units of the Regional Mechanisms for Conflict Prevention, Management and Resolution, which shall be linked directly through appropriate means of communication to the Situation Room and which shall collect and process data at their level and transmit the same to the Situation

[151] ibid s58-9.
[152] AIM Strategy (n143) see for example sections 27, 31, 32, 33, 56, 60, 61, 63, 92, 100,106.
[153] AIM Strategy (n143) see for example sections 24, 31, 63, 70, 80, 86, 92, 93, 112.
[154] Ulf Engel, 'The African Union, the African Peace and Security Architecture, and Maritime Security' (Friedrich-Ebert-Stiftung 2014).

Room.'[155] The ASF is a force established in each of the 5 subregions (East, West, North, South and Central) designated by the AU pursuant to Article 13 of the Constitutive Act of the Peace and Security Council that permits a right of intervention in a member state in grave circumstances.[156] Not routeing maritime issues through this mechanism and including it as part of the ASF delinks it from the continental security framework and increases the resort to other, regional mechanisms. The tension between the two levels is noted by Vines who states '[a]t the AU there is a feeling that the Regional Economic Communities (RECs) are not always fully committed to AU leadership. Conversely, in the regions the AU is sometimes felt to be overstepping itself.'[157] Williams also addresses this dichotomy arguing that '[A]s more security challenges assume nonstate, multidimensional, and transnational forms, so the traditional focus on regional/REC units might need to shift to more functional networks and coalitions.'[158]

Maritime activity at the continental level was to be further formalised through a legally binding charter agreed at the Lomé Summit but this has not been achieved. The uncertainty of who leads on this issue has the effect of undermining efforts to move forward. Lack of coordination is identified by Engel[159] who argues this means that symptoms and not causes are addressed at the continental level. The APSA Roadmap 2016-2020 recognises the weak link of maritime security through AIMS 2050 to the APSA and cites three reasons for this:

> the absence of a Plan of Action for the Operationalization of the 2050 AIM Strategy; a lack of effective mainstreaming of maritime security into CEWS; and the non-alignment of RECs strategies on maritime security to AIMS 2050.[160]

This further undermines the scope for AIMS 2050, which does argue in favour of actions linking security and delimitation, and cooperation that need not depend on delimited space, to be the lead in harmonising maritime security efforts.

Efforts by Regional Institutions

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[155] African Union, 'The Continental Early Warning System (CEWS)' (African Union Peace and Security, 23 November 2015) <http://www.peaceau.org/en/page/28-continental-early-warning> accessed 12 June 2017.
[156] African Union Peace and Security 'The African Standby Force (ASF)' (28 May 2015) <http://www.peaceau.org/en/page/82-african-standby-force-asf-amani-africa-1> accessed 12 June 2017.
[157] Alex Vines 'A decade of African Peace and Security Architecture' (2013) 89(1) International Affairs 89, 101.
[158] Paul D Williams, 'Reflections on the Evolving African Peace and Security Architecture' (2014) 7(3) African Security 147, 159.
[159] Engel (n154) 18.
[160] African Union Commission Peace and Security Department, 'African Peace and Security Architecture. APSA Roadmap 2016–2020' (December 2015) 52.

The Gulf of Guinea Commission could have been expanded and given responsibility for the coordination of maritime security efforts, instead of creating the ICC.[161] It has not been adequately funded or engaged with, this has been most clearly demonstrated in the absence of heads of state from the most recent meeting.[162] The regional institutional overlap negatively impacts the operational space available to the Commission. The Commission may be best to reoriented to focus on specific issues such as cooperation for marine protected areas.[163] MOWCA has been similarly underwhelming. Its shift to maritime security is not unwelcome in view of its wide membership but this has not borne fruit at the time of writing. The Fisheries Committee of West Central Gulf of Guinea established the West Africa Task Force in 2015 to coordinate efforts to combat this threat.[164] This initiative is discussed in Chapter Seven. The most recent Abidjan Convention meeting called for the states to focus on the blue economy.[165]

The Regional Economic Communities ECOWAS and ECCAS have concluded maritime security strategies. The earlier strategy of ECCAS concluded in 2009 defines the relevant maritime space globally rather than defining the maritime space of constituent states. Within this Article 7 it groups states into three zones. This strategy took the decision to organise maritime security across resolved and unresolved boundaries. It does not speak to delimitation directly but demonstrates one means of circumventing the issue. The later ECOWAS maritime security strategy, concluded in 2014, speaks directly to the impact of maritime security threats as cross boundary and urges states to act to define and delimit their maritime space. There is reference to a need for cooperation, including specifically on matters of patrolling, information sharing and surveillance. It also establishes a zonal system for states within the Community, along broadly similar lines as that of ECCAS and enables action in undelimited space.[166] Crisis Group reports that ECOWAS needs to go further and

[161] Michel Luntumbue, 'The Long March of African Maritime Safety and Security in the Gulf of Guinea' (*Diplomatie magazine*, October 2016).
[162] Sani Takur, 'Buhari, other presidents absent as Gulf of Guinea Summit holds in Abuja' (*Premium Times*, 23 November 2017) < https://www.premiumtimesng.com/news/top-news/250355-buhari-presidents-absent-gulf-guinea-summit-holds-abuja.html> accessed 17 December 2017.
[163] HE Noël Nelson Messone, Minister of Foreign Affairs, Republic of Gabon Gabon's Foreign Policy: What Role in Regional Peace and Development? (Chatham House 26 October 2017).
[164] Chibuzor Emejor, 'Nigeria Partners Five Countries to Fight Illegal Fishing in the Gulf' (14 December 2017) <https://independent.ng/nigeria-partners-five-countries-fight-illegal-fishing-gulf/> accessed 23 December 2017.
[165] Abidjan Convention Secretariat, 'Time for blue economies in Africa, Abidjan Convention Executive Secretary says' (Press Release 28 March 2017).
[166] ECOWAS, ECOWAS Integrated Maritime Strategy (EIMS) (Yamoussoukro, Côte d'Ivoire 26th March, 2014).

create a special unit dedicated to organised crime in order to approach concerns appropriately.[167] Regional and continental level agreements and strategies reflect the changing level of engagement by states on maritime security. There is an exhortation to cooperate and to address the recognition of the need to resolve maritime boundaries that suggests a choice to remain within the UNCLOS framework.

Externally Driven Actions

States in the region have engaged and partnered with external partners. A recent example sees São Tomé and Príncipe and Angola discuss maritime security as part of the community of Portuguese speaking countries.[168] States have undertaken table-top exercises convened by the IMO.[169] The exercises have through identification of gaps and inconsistencies, and highlighting a need for integrated enforcement 'confirmed all the principles stipulated in the MOWCA MoU and the Code of Conduct.'[170] In some cases the IMO has proceeded with assistance to develop national maritime security strategies and implementation plans.[171] It has facilitated some states' participation at a NATO Maritime Interdiction Operational Training Centre course on maritime interdiction for piracy and armed robbery at sea: officials from Cameroon, Côte d'Ivoire, Democratic Republic of Congo, Liberia, Nigeria, São Tomé and Príncipe, and Togo participated.[172] In 2016 experts from Angola, Benin, Cameroon, Côte d'Ivoire, Equatorial Guinea, Ghana, Liberia, Nigeria, Senegal, São Tomé and Príncipe and Togo attended an IMO co-organised seminar on maritime situational awareness. Representatives from the Interregional Coordination Centre (ICC), Multinational Maritime Coordination Centres (MMCCs) Zones D and E and the Regional Coordination Centre for Maritime Security in Central Africa (CRESMAC) also attended.[173] These institutions' inclusion is important as the region begins to strengthen its cooperative institutions.

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[167] Crisis Group, 'Implementing Peace and Security Architecture (III): West Africa' (Crisis Group Africa Report N°234 14 April 2016) 27.
[168] AllAfrica.com 'São Tomé and Príncipe: Defense Minister Back Home from São Tomé and Príncipe' (27 May 2015) <http://allafrica.com/stories/201505271118.html> accessed 01 September 2017.
[169] For a detailed discussion of IMO contribution to maritime security see Felicity Attard, 'IMO's Contribution to International Law Regulating Maritime Security' (2014 45 Journal of Maritime Law & Commerce 479.
[170] International Maritime Organisation, 'Strengthening Maritime Security in West & Central Africa' (September 2017) 5.
[171] ibid.
[172] IMO (n170) 8.
[173] IMO (n170) 9.

The Maritime Trade Information Sharing Centre Gulf of Guinea (MTISC-GoG) piloted in Accra, Ghana during 2014-2016. It was established by the shipping industry and supported by the Oil Companies International Marine Forum (OCIMF). The project saw several successes and was an important capacity building programme however it was undermined by cross-industry concern over who accessed information – specifically national navies.[174] Following the conclusion of the pilot France and the UK established the Maritime Domain Awareness for Trade – Gulf of Guinea (MDAT-GoG).[175] This is run jointly from Portsmouth in the UK and Brest in France. It has a similar mandate: it provides advice and situational awareness to commercial ships transiting the region. The MTISC-GoG was an important body that could have been an addition to the arsenal that states develop to monitor the space. The decision to shift operations to Europe limits its impact for development of interregional cooperative institutional architecture.

The latest initiative was announced at the Lomé Summit in cooperation with the European Union as a successor to its CRIMGO project.[176] The Gulf of Guinea Interregional Network (GOGIN) includes the region's states in a 19-state four-year programme with a budget of approximately 9.3 million Euros that runs from Senegal to Angola.[177] Beginning work in June 2017, the GOGIN is to support states to develop joint planning, coordination, communication and IT infrastructure.[178] The GOGIN is a four year programme and this is likely to determine many of its planned outcomes. Ensuring its renewal would enable the programme to deal with long term development.

The last example is the G7 Friends of the Gulf of Guinea Group (G7++FOGG) whose members are Belgium, Brazil (observer), Canada, Denmark, France, Germany, Italy, Japan, Norway, the Netherlands, Portugal, Switzerland, Spain, South Korea, the United Kingdom, the United States, the European Union, UNODC and INTERPOL. The Group was focused on capacity building for a single threat: piracy. The second Annual Conference of the G7 + + FOGG took place in December 2017 in Lagos, Nigeria and saw a broadening of the

[174] Interview GoG-MCC-1016.
[175] Safety4Sea, 'New reporting centre for piracy in GoG launched' (21 June 2016) <https://safety4sea.com/new-reporting-centre-for-piracy-in-gog-launched/> accessed 21 June 2016.
[176] Giulia Nicoloso, 'GoGIN, un nouveau projet du CMR pour la sécurité maritime dans le Golfe de Guinée' (Critical Maritime Routes, 21 October 2016) <https://criticalmaritimeroutes.eu/2016/10/21/gogin-un-nouveau-projet-du-cmr-pour-la-securite-maritime-dans-le-gdg/> accessed 03 December 2016.
[177] Budd Group, 'GoGIN: Maritime Security in the Gulf of Guinea' (8 November 2016) <www.budd-pni.com/news-art-the-budd-group.asp?ID_A=1310> accessed 03 December 2016.
[178]Sam Chambers, 'Gulf of Guinea Interregional Network launches to fight crime at sea' (*Splash,* 8 June 2017) <Splash247.com/gulf-guinea-interregional-network-launches-fight-crime-sea/> accessed 10 June 2017.

mandate to wider maritime crime.[179] This is in reality a deconflicting mechanism for external states.[180]

4.5 Conclusion

This review reaches a number of conclusions. Threats are varied, both in their nature and in the way that states are affected by them. This variation increases the complexity of any required response and decreases the capacity of a single state to respond unilaterally. There is however a clear linkage between the many threats that states face. A blurring of actors, methods and motives for causing specific insecurity also complicates the possible response available to states. These threats do not respect maritime boundaries that states construct or claim. They are an example of the reality states face: that they are linked by common challenges to their security. This is economically damaging and has wider negative impacts. In addition to threats to livelihoods and increase resource allocations that states must make, they are affected by decisions of external actors who face increasing insurance and security costs that impact the decision to transit or use ports in the region. These impacts are evident, though imprecisely determined and can be used to engage states who may otherwise be unwilling to act in concert. The reality of interdependence created through connected threats supports the idea of understanding maritime security as inclusive interest. This is undermined by the review of post-2013 efforts.

The shift from sea blindness has not fallen away in the period since 2013. The region's states have been matching their increasing awareness of maritime security with efforts to see this as a common problem even if this has not consistently resulted in an interregional approach. There is an inconsistent grouping of countries as well as an overlap of mandate and message. This is in part due to the time period in establishing the interregional architecture and also pre-existing connections. The fact of remaining objectives is read as evidence of a continued acceptance of the common threat. It has been argued that sovereignty is both an implied and express curb to state activity despite a recognition of common concern. This has been indirectly shown through decisions after 2013 to adopt narrower working groups and decisions not to move forward with a number of initiatives that would require practical cooperation, notably a legally binding charter.

[179] Chiemelie Ezeobi, 'Nigeria: G7, Gulf of Guinea Nations Join Forces Against Maritime Crimes' (*This Day*, 12 December 2017) <http://allafrica.com/stories/201712120159.html> accessed 23 December 2017.
[180] Lindskov Jacobsen & Riber Nordby (n82) 31.

The following Chapter Five focuses on delimitation as further evidence supporting a reframing of sovereignty. It highlights the complexity of the delimitation process. It discusses efforts short of delimitation undertaken in the region. It concludes that though UNCLOS is the overarching legal framework for states and the law of the sea, cooperation on security matters in undelimited space is not effectively provided for. It argues that despite a strong case for boundaries being an effective basis for furthering state interest and establishing cooperation this has not occurred, even in the period post-Yaoundé code where this has been expressly acknowledged as a linked issue.

Chapter Five: Cooperative Sovereignty Necessitated by Limited Maritime Delimitation and Provisional Arrangements

The real key would come if there was a particular incident in a particular area as to who exercises jurisdiction and law enforcement authority […] the problem would be if another state might find that as a violation of its rights in its claimed waters […].[1]

5.1 Introduction

Cooperation could potentially be organised more consistently with a traditional conception of sovereignty were boundaries settled through delimitation. This could lessen reliance on arguments for reframing the concept of sovereignty because clearer rules would be able to be followed to tackle many maritime security threats. However much of the Gulf of Guinea is undelimited. Townsend-Gault observes that at a global level:

> Some parties to disputes claim that they are prepared to wait for centuries for their claims to be recognised. But where the marine environment is under threat, and illegal acts at sea are rife, time is not on their side.[2]

Klein highlights maritime delimitation as a major security risk because of conflict potential and the block to inclusive interest.[3] Ali and Tsamenyi highlight three difficulties that unresolved maritime boundaries may create: cooperative challenges; jurisdictional uncertainties; and conflicts and instability, particularly due to resource access.[4] Schofield finds:

> […] the jurisdictional uncertainty inherent in areas of overlapping claims has the potential to undermine maritime security as, where jurisdiction is contested, it follows that coastal State rights with regard to surveillance and enforcement will remain similarly uncertain. Additionally, such a scenario tends to place rival naval vessels in close proximity to one another providing the potential for incidents and even confrontation between them as each side exerts its enforcement rights in what they regard as rightfully 'their' maritime space.[5]

[1] Interview UK-Gov-Legal -0716.
[2] Ian Townsend-Gault, 'Zones of Cooperation in the Oceans – Legal Rationales and Imperatives' in Myron H Nordquist (ed), *Maritime Border Diplomacy* (Brill 2012) 123.
[3] Natalie Klein, 'Maritime Security' in Donald Rothwell, Alex Oude Elferink, Karen Scott and Tim Stephens (eds), *The Oxford Handbook of the Law of the Sea* (OUP 2015).
[4] Kamal-Deen Ali and Martin Tsamenyi, 'Fault lines in maritime security' (2013) 22(3) African Security Review 95, 102-3.
[5] Clive Schofield, 'No Panacea? Challenges in the Application of Provisional Arrangements of a Practical Nature' in Myron H. Nordquist (ed), *Maritime Border Diplomacy* (Brill 2012) 158.

This chapter addresses Research Question Six: Could cooperation occur across settled maritime boundaries or pursuant to clear obligations pending delimitation? In undelimited space sovereignty and sovereign rights are uncertain. Uncertainty may increase the competences that states retain to themselves and this may frustrate cooperation. Speaking about security claims in the Exclusive Economic Zone (EEZ) Kraska highlights that 'the root of the phenomenon is the fact that current maritime boundaries are more commonly linked with the concept of global security than in the past.'[6] Linkage between delimitation, sovereignty and security cooperation emerges in the region. The case study discussed in Chapter Seven is a possible means of promoting maritime security through cooperative sovereignty. However delimitation continues to impact: unsettled delimitation in the Central African sector of the Gulf of Guinea caused a revision to the zonal framework to avoid any possible misinterpretation.[7] The following chart details the current status of delimitation in the region at the time of writing. It is at once a succinct demonstration of the argument of this chapter that reliance upon exclusive action based on jurisdiction defined through the UNCLOS regime is unrealistic. Large areas of undelimited space in the region prevent states adopting this approach.

[6] James Kraska, *Maritime Power and the Law of the Sea* (OUP 2011) 302.
[7] Kamal-Deen Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges,* (Publications on Ocean Development; volume 79 Brill | Nijhoff 2015) 237.

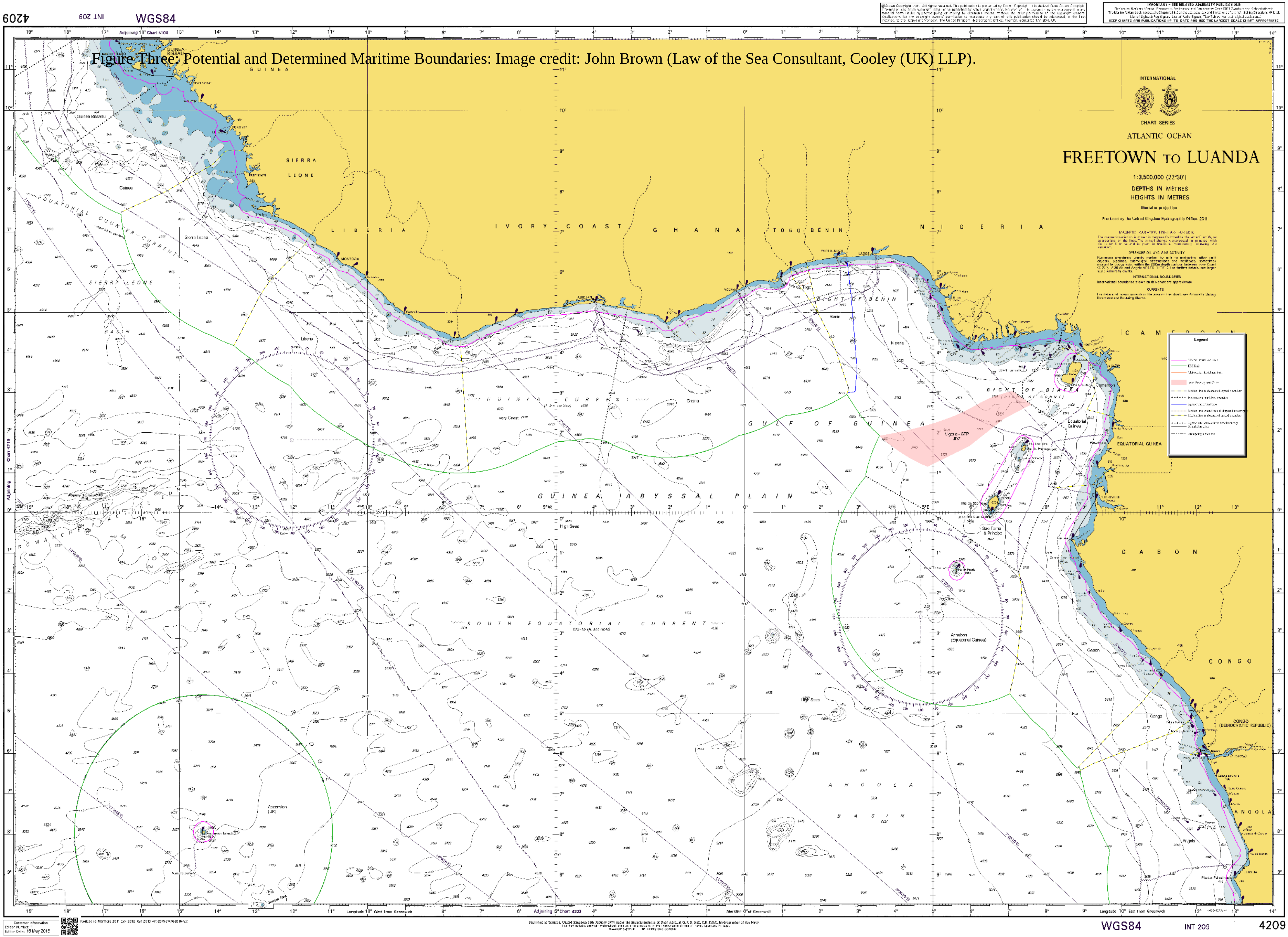

Figure Three: Potential and Determined Maritime Boundaries: Image credit: John Brown (Law of the Sea Consultant, Cooley (UK) LLP).

This chapter first discusses the law of the sea system, a system that privileges states and through the United Nations Convention on the Law of the Sea (UNCLOS) organises state rights and duties according to a zonal system that presumes delimitation.[8] Secondly the chapter discusses delimitation. In contrast with the land, 'the maritime political map of the world is in its infancy, and it will probably take several decades before any accurate world map of offshore boundaries can be drawn.'[9] Globally fewer than half the over 400 potential boundaries have been agreed.[10] In Africa, this is true of 68 of 100 identified maritime boundaries.[11] The role of delimitation in defining jurisdiction between states means that universally delimited space would have been an important support for action based on traditional sovereignty.

This chapter then addresses the issue of obligations for states pending delimitation, drawing from a British Institute for International and Comparative Law (BIICL) report and state practice. Clear obligations pending delimitation would be a basis for existing obligations to be imposed upon states rather than relying upon an inherent responsibility and authority to cooperate forming part of sovereignty.

The chapter concludes that regional delimitation will not be achieved in the short to medium term and that the limited scope of obligations pending delimitation support the idea of a shift to cooperative sovereignty.

5.2 Conceptualising the maritime space

'[…]for most of human history, the high seas were seen as vast, dangerous, uncharted regions filled with demons and dragons'[12] however states remained aware of their potential and for centuries concerned themselves with the maritime space. The following works

[8] UN General Assembly, Convention on the Law of the Sea, 10 December 1982 1833 UNTS 397 Articles 15, 74, 83.
[9] Gerald Blake, *World maritime boundary delimitation: the state of play in Maritime Boundaries and Ocean Resources* (Croom Helm 1987) 1.
[10] Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World* (2nd ed, Martinus Nijhoff 2005) 1, referencing JI Charney and LM Alexander (eds), *International Maritime Boundaries* (American Society of International Law | Nijhoff 1993 and 1998).
[11] IBRU: Centre for Borders Research, 'Report predicts rise in African maritime boundary disputes' (3 December 2014) <https://www.dur.ac.uk/ibru/news/boundary_news/?itemno=23080> accessed 29 October 2016.
[12] Bruce A Elleman, Andrew Forbes, and David Rosenberg, 'Piracy and Maritime Crime Historical and Modern Case Studies' (Naval War College Newport Papers 35) 3.

highlight that the role of the state in claiming space and resources is not novel. Hugo Grotius produced *Mare Liberum* in 1609.[13] Grotius draws from Cicero to establish that:

> […] those things which cannot be occupied or were never occupied can be proper to none because all propriety hath his beginning from occupation. The other is that all those things which are so ordained by nature that anyone using them may nevertheless suffice others whomsoever for the common use are at this day (and perpetually ought to be) of the same condition whereof they were when nature first discovered them.[14]

Welwood[15], and Selden[16] challenged this. Welwood contested that the sea and its resources were inexhaustible:

> For whereas aforetime the white fishes daily abounded even into all the shores of the eastern coast of Scotland, now forsooth by the near and daily approaching of the buss-fishers the shoals of fishes are broken and so far scattered away from our shores and coasts that no fish now can be found worthy of any pains and travails, to the impoverishing of all the sort of our home fishers and to the great damage of all the nation.[17]

Welwood imposes a caveat to Grotius's *Mare Liberum*, the sea 'is far removed from the just and due bounds above mentioned properly pertaining to the nearest lands of every nation.'[18] In *Mare Clausum* (1618) Selden 'tried to prove that the sea was not everywhere common and had in fact been appropriated in many cases.'[19] The sea is capable of appropriation and 'that the King of Great Britain is Lord of the Sea flowing about it, as an inseparable and perpetual Appendant of the British Empire.'[20] Anand has highlighted that this work, in common with many of the period must not be read with modern standards as to the facts and findings of state practice.[21] They are included to demonstrate long-established tensions.

Van Bijnkershoek[22] proposed the 'cannon-shot rule' which refers to the range of a contemporary cannon shot: 3nm.[23] This rule balanced the freedom of the seas with coastal

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[13] Hugo Grotius *Mare Liberum* 1609 (Hakluyt translation) <http://scholar.harvard.edu/files/armitage/files/free_sea_ebook.pdf> accessed 01 October 2016.
[14] ibid Chapter 5 (page 24 of Hakluyt translation).
[15] William Welwood, *An Abridgement of All Sea Lawes* (1613) (Digital Edition Colin Mackenzie 2011).
[16] John Selden, *Mare Clausum* (1618).
[17] William Welwood, 'Of the Community and Propriety of the Seas' in Hugo Grotius, *The Free Sea,* trans. Richard Hakluyt, with William Welwood's Critique and Grotius's Reply (ed) David Armitage (Liberty Fund 2004) 74.
[18] ibid.
[19] RP Anand, *Origin and Development of the Law of the Sea* (Brill 1983) 105.
[20] Selden (n16) Preface.
[21] Anand (n19) 106-7.
[22] Cornelis van Bijnkershoek, *De dominio maris* (The Hague, 1703).
[23] This was not universally applied however. See RR Churchill and AV Lowe, *The Law of the Sea* (Manchester University Press 1999) 78.

state jurisdiction. This broadly persisted until the twentieth century when improving technological and naval capacity promoted change.

The Hague Conference of 1930 sought to codify the law of the sea concerning territorial waters. Draft articles were provisionally agreed.[24] The 1945 Truman Declaration[25] claimed United States jurisdiction over seabed resources adjacent to the coast. Similar declarations followed, notably by Chile, Ecuador and Peru, out to 200nm.[26] Such actions provoked calls to establish rules. This became the focus of the newly created International Law Commission (ILC).The ILC began with the regime of the high seas in 1949, and later added the regime of the territorial sea to its work. [27] In 1956 draft articles and commentary were produced.[28] This work formed the basis for a UN conference on the law of the sea that resulted in the four Geneva Conventions of 1958.[29]

The Second Conference became entrenched in discussions regarding territorial sea breadth.[30] This risked leaving the codification of the law of the sea unresolved at a time when states were increasingly able and eager to exploit the space. Ambassador Pardo's statement to the United Nations General Assembly discussing the use of the area beyond national jurisdiction as the 'common heritage of mankind'[31] came 'at a time when the international society was ready to hear it […]'.[32] This statement and UNGA Resolution 2340[33] pushed the debate onward.

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[24] International Law Commission, 'League of Nations Codification Conference' <http://legal.un.org/ilc/league.shtml> accessed 31 December 2016.
[25] Harry S Truman: "Proclamation 2667—Policy of the United States With Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf," September 28, 1945 discussed in Churchill and Lowe (n22) 7.
[26] Scott G Borgerson, 'The National Interest and the Law of the Sea' (Council on Foreign Relations, Council Special Report No. 46 May 2009) 7.
[27] Recommendation to the International Law Commission to include the regime of territorial waters in its list of topics to be given priority (6th December 1949) UNGA A/RES/374(IV).
[28] Yearbook of the International Law Commission, 1956, vol. II, document A/3159.
[29] Convention on the High Seas, United Nations, Treaty Series, vol. 450, 82; Convention on the Continental Shelf 15 United Nations, Treaty Series, vol. 499, 311; Convention on the Territorial Sea and the Contiguous Zone 16 United Nations, Treaty Series, vol. 516, 205; Convention on Fishing and Conservation of the Living Resources of the High Seas United Nations, Treaty Series, vol 559, 285.
[30] Yoshifumi Tanaka, *The International Law of the Sea* (2nd ed, CUP 2015) 24.
[31]Arvid Pardo, Address to the 22nd session of the General Assembly of the United Nations, U.N. GAOR, 22nd sess., U.N. Doc. A/6695 (18 August 1967).
[32] René Jean Dupuy and Daniel Vignes (eds), *A Handbook on the New Law of the Sea* (Martinus Nijhoff 1991) 142.
[33] A/RES/22/2340 Resolution adopted by the General Assembly 2340 (XXII). Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interest of mankind (18 December 1967).

5.2.1 UNCLOS III and the 1982 Convention

Many African states that had obtained independence during the period before UNCLOS I until UNCLOS III were not invited to attend either UNCLOS I or II.[34] Ex-colonial powers and other states continued to organise the maritime space. In the period leading to UNCLOS III many African states moved from objects to subjects of international law[35] and contributed to the third conference and the Convention.

Preceding UNCLOS III these states had been part of a movement to establish a moratorium on seabed exploration pending the outcome of the third conference.[36] At the conference developing states, including many African states, addressed matters that they felt failed to reflect the New International Economic Order and which particularly affected their interests. This included the argument for a twelve nautical mile territorial sea. Rembe writing during UNCLOS III notes that views on the subject of the twelve nautical mile sea was not uniform, and more than half of African coastal states had established zones greater than 12nm.[37] African state participation broadened the debate both on this issue and others[38] including: a two hundred nautical mile EEZ, which departed from the *mare liberum* standard; the common heritage of mankind (a crucial issue for states who did not yet possess the technology to exploit the seabed); and the sea access for landlocked states. These issues were not high on the agenda of the developed maritime states who for centuries had accessed the sea and possessed better capacity to exploit its resources.[39] It was clear that the African states individually, within the 'Group of 77' and within the Non-Aligned Movement exercised influence on UNCLOS III and UNCLOS.

UNCLOS established a zonal regime, outward projection of which begins from baselines. Basepoint and line choice is critical in the Gulf of Guinea context where coastal concavity, islands, and straight baseline claims can significantly affect delimitation. States may determine their baselines using a combination of methods[40] set out in the convention: normal

[34] Tayo O Akintoba, *African States and Contemporary International Law: A Case Study of the 1982 Law of the Sea Convention and the Exclusive Economic Zone* (Kluwer Law International 1996) 41.
[35] ibid 27.
[36] 'Question of the Reservation Exclusively for Peaceful Purposes of the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, Underlying the High Seas beyond the Limits of Present National Jurisdiction, and the Use of their Resources in the Interests of Mankind' (UNGA Res. 24/2574 15 December 1969). This had a slim majority, of sixty – two developing states voting in favour as against twenty-eight developed states and twenty-eight abstentions.
[37] Nasila S Rembe, *Africa and the International Law of the Sea* (Sijthoff Publications on Ocean Development 1980) 94.
[38] ibid 142.
[39] Akintoba (n34) 42.
[40] Article 14.

baselines by reference to the low water line (Article 5), and in the case of atolls and islands with fringing reefs, by reference to the seaward low-water line (Article 6); straight baselines constructed where there are deeply indented coastlines or fringing islands (Article 7); straight baselines constructed across the mouth of rivers (Article 9); bay closing lines (Article 10); and, archipelagic baselines constructed by straight baselines joining the outermost points of the outermost islands and drying reefs of an archipelago (Articles 46 and 47).

Article 8 defines internal waters. They are the waters on the landward side of the baseline used to measure the territorial sea. Article 8(2) provides for innocent passage rights where the zone includes waters not previously considered internal waters. Internal waters are important for security because this area is the closest to the land territory of a state. Specific innocent passage is a necessary caveat but otherwise this zone reflects state security concerns.

The territorial sea (Article 3) extends 12nm from the baseline. The state exercises sovereignty in this zone, subject to innocent passage.[41] Though undelimited, the seas of Cameroon and Equatorial Guinea are reportedly less than 24nm apart at certain points meaning that this zone will not be able to be held in full by both states.

Archipelagic waters are the waters of an archipelagic state as defined by Article 46. This area may include routes previously used for navigation. As such relevant states are required by Article 52 and 53 respectively to allow innocent and archipelagic sea lanes passage. It is potentially a large area and represents a particular capacity challenge. The archipelagic state São Tomé et Principe does not have maritime infrastructure to effectively control its space.[42]

The contiguous zone (Article 33) extends 24nm from the baseline. A coastal state may apply laws to prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea and punish infringement of such laws committed within its territory or territorial sea. This crucial zone must be claimed and there are a number of states who have not done so.[43] The contiguous zone also raises capacity questions. Infringement of laws and regulations in four separate categories means that multiple national agencies are potentially involved in enforcement. Results of research in

[41] Articles 17 – 26.
[42] This is reflected most recently in its efforts in Zone D where it is the only member country not to provide a vessel.
[43] Ali (n7) 173.

Cameroon demonstrate this challenge. A Ministry of Defence-led initiative being developed to conclude inter-agency agreements for embarked officers will enable non-military officials to conduct inspections relevant to their field of operations aboard military vessels.[44] DOALOS records however show Cameroon has not claimed a contiguous zone.[45]

UNCLOS introduced the Exclusive Economic Zone (EEZ) (Part V), an area adjacent to the territorial sea out to 200nm from the baselines.[46] The coastal State enjoys sovereign rights relating to the exploration, exploitation, conservation and management of the natural living and non-living resources of the water column, seabed and subsoil. Coastal State jurisdiction in the exclusive economic zone covers the establishment and use of artificial islands, installations and structures, marine scientific research, the protection and preservation of the marine environment.[47] The Gulf of Guinea has an approximate combined estimated EEZ of 2,129,215 km^2.[48]

Entitlement to a Continental Shelf (Article 76 and 77) is automatic. Entitlement beyond 200nm is possible where it can be demonstrated by reference to specific rules and criteria.[49] Efforts to establish a single maritime boundary[50] may mean that a failure to establish a continental shelf boundary impacts other negotiations. Specific threats to structures installed on the continental shelf are a concern. The Gulf of Guinea like elsewhere is increasingly interconnected. Risk of hacking or breakage to submarine cables and pipelines are a major concern.[51] The high seas are:

> […] all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.[52]

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[44] Interview Cam-Gov-MOD-0916 and detailed in Chapter Six.
[45] United Nations, Table of claims to maritime jurisdiction (as at 15 July 2011) <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/table_summary_of_claims.pdf> accessed 01 November 2016.
[46] Article 74.
[47] Article 56.
[48] This number is arrived at by calculating the combined EEZ claims by the states in the region as defined. Data does not indicate that the state has legislated for an EEZ or has complied with due publicity obligations as established in Article 75(2) UNCLOS. Data was derived from tables produced in Charles Perrings, *Our Uncommon Heritage: Biodiversity Change, Ecosystem Services, and Human Wellbeing* (CUP 2014) 418-9.
[49] Article 76.
[50] Donald R Rothwell and Tim Stephens, *The International Law of the Sea* (Hart Publishing 2010) 407.
[51] Robert Meyer and Nicole Starolsielski, 'Managing Risks for the World's Undersea Cable Network' (2 November 2015) <http://knowledge.wharton.upenn.edu/article/managing-risks-for-the-worlds-undersea-cable-network/> accessed 31 October 2016.
[52] Article 86.

Seabed beyond national jurisdiction, the 'Area', is administered by the International Seabed Authority.[53] Subject to the rights of the coastal states in the EEZ, high seas freedoms are:

> (a) freedom of navigation; (b) freedom of overflight; (c) freedom to lay submarine cables and pipelines, subject to Part VI; (d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI; (e) freedom of fishing, subject to the conditions laid down in section 2; (f) freedom of scientific research, subject to Parts VI and XIII.[54]

The claims published by states and identifiable through UN DOALOS data are set out below.

Maritime Claim / State	Straight Baselines / Archipelagic Baselines	Territorial Sea	Contiguous Zone	EEZ	Continental Shelf	Outer Continental Shelf Prelim Info / Claim Submitted
Liberia		✓	✓	✓	✓	
Cote d'Ivoire		✓		✓	✓	✓
Ghana		✓	✓	✓	✓	✓
Togo		✓ (30nm)		✓		✓
Benin		✓(200nm)				✓
Nigeria		✓		✓	✓	✓
Cameroon		✓		✓	✓	✓
Equatorial Guinea		✓		✓		✓
Gabon	✓ (partial)	✓	✓	✓		✓
Republic of Congo		✓	✓	✓		✓
Democratic Republic of Congo		✓	✓	✓	✓	✓
Angola	✓	✓	✓	✓	✓	✓
São Tomé and Príncipe	✓	✓		✓		✓

Source: United Nations, 'Table of Claims to Maritime Jurisdiction' <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/table_summary_of_claims.pdf>. Table Two: Maritime Claims

The table shows compliance with the UNCLOS framework in the majority of cases. Claims to jurisdictional rights have not been taken up across the region. The outer continental shelf is a looming delimitation challenge. All states have submitted at least preliminary information, and this is a further potential threat to security and to cooperation efforts. This possible extent of claimed space in the region is demonstrated below in image form and highlights the broad expanse over which states' rights and duties extend:

[53] Part XI.
[54] Article 87.

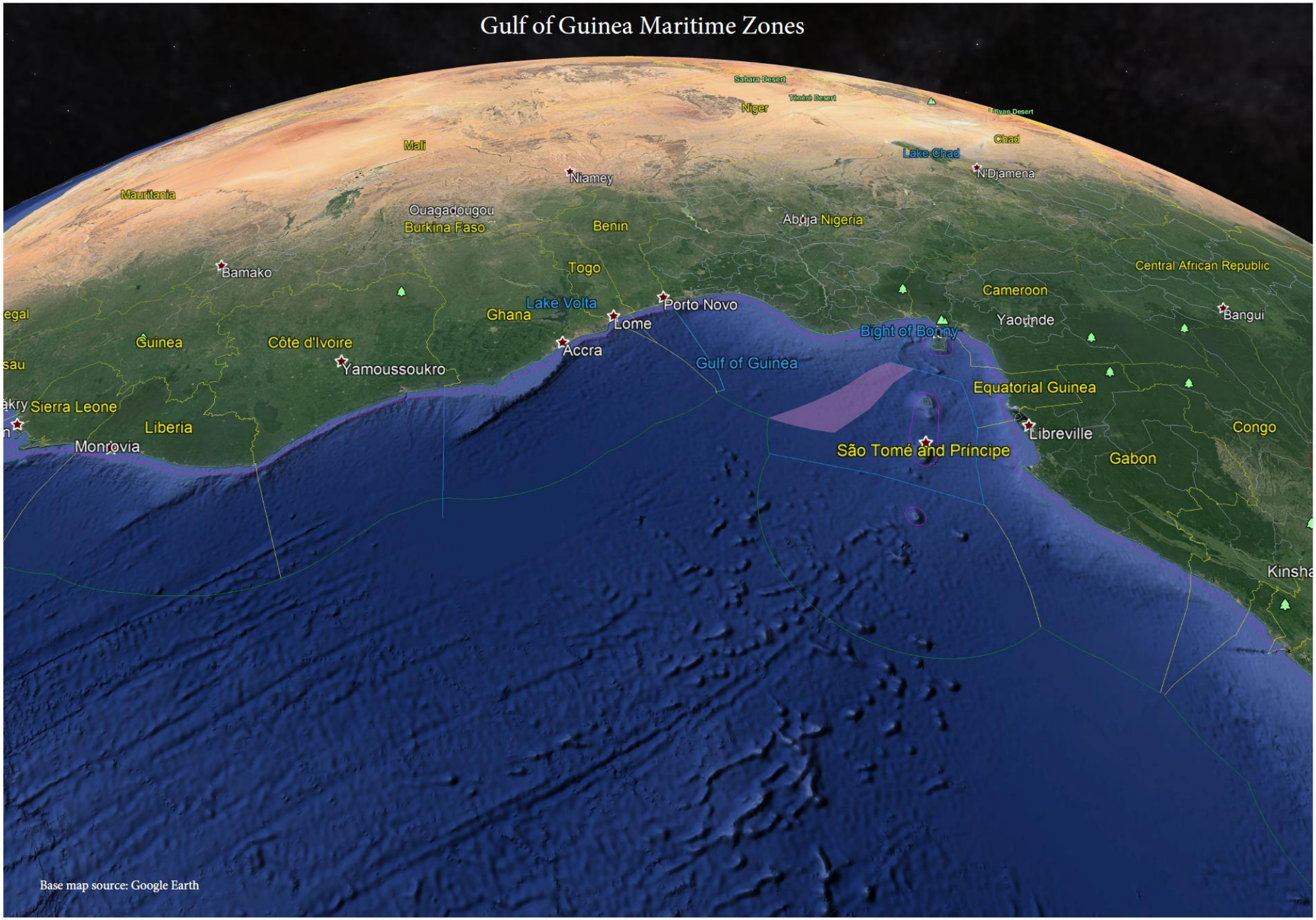

Figure Four: Image Credit: John Brown (Law of the Sea Consultant (Cooley UK LLP))

States are the actors claiming maritime space. The changing international space after the Second World War, which brought new technologies, practices and an increasing number of states to direct the development of the law of the sea did not alter this. Tanaka states '[…] the definition of the spatial extent of coastal State jurisdiction is at the heart of the international law of the sea.'[55] Coastal states are to cooperate with flag states and port states. Consideration is given to landlocked and geographically disadvantaged states. Special measures are imposed for archipelagic and strait states. The next section considers delimitation between states, detailing the process and specific issues, cases and state practice.

5.3 Delimitation

The introduction to this chapter and Figure Three demonstrate the limited settled boundaries in the region. Limited delimitation makes relevant the consideration of motivation for delimitation, whether the delimitation process can be viewed as clear and attractive to states, and what state practice indicates for delimitation practice.

5.3.1 Why delimit?

No state has the luxury of the full extent of maritime space without interfering with the potential claim of another. The reasons delimitation may be concluded between states help understand why universal delimitation is outstanding. Oxman states three grounds for a decision to enter into delimitation negotiations:

> […] substantial activities subject to coastal state jurisdiction are being conducted or are likely to be conducted in an area of actual or potential dispute; one or both states wish to stimulate uses, particularly fixed uses, of the area in question; there is no significant activity or interest in the area requiring a boundary.[56]

The first ground is explicable on the understanding that any delay due to a failure to conclude a delimitation has obvious economic, political and security risks to a state. Oxman provides the example of fisheries[57] over which states have greater control following the conclusion of UNCLOS. The second ground may be understood by looking at the example of non-living resource exploitation. Oxman refers to oil and gas exploitation[58] and there are examples of

[55] Yoshifumi Tanaka, *Predictability and Flexibility in the Law of Maritime Delimitation* (Hart Publishing 2006) 2.
[56] Bernard H Oxman 'Political, Strategic and Historical Considerations' I in JI Charney and LM Alexander (eds), *International Maritime Boundaries* (American Society of International Law and Brill | Nijhoff) 3.
[57] ibid.
[58] Oxman (n56) 4.

delimitation being undertaken following encouragement by the oil and gas industry.[59] The third is suggested by Oxman to correspond to a desire to act pre-emptively to avoid disputes[60] or perhaps to a political factor that it implies the right of a state 'to conclude the agreement on behalf of the land territory from which the maritime jurisdiction extends'.[61] Oxman's bases for entering into negotiations are broad and, post UNCLOS, where a swathe of resources may come within state jurisdiction, more evident to be in a state's interest.

5.3.2 Reasons against delimiting

All Gulf of Guinea states have one or multiple delimitations outstanding. They have either not concluded an agreement or have put in place measures to manage resources pending delimitation. Why may states not delimit? This is both where states do not begin, and where having begun they do not reach a resolution.

Matters may include where political relations are not conducive, or decline during the process due to events such as change of government or internal matters. Internal official capacity to form negotiation teams may be absent or inadequate and a decision may be reached to defer until this is available.[62] A state may wish to first conclude boundary resolution elsewhere. States may have entered reservations to international agreements that prevent use of particular dispute settlement bodies. Equatorial Guinea has entered a reservation under UNCLOS.[63] Status quo may be preferable to resolving a boundary. Potential hydrocarbon deposits may make a state fear loss of potential revenue. Lastly, a means to utilise living and non-living resources which may straddle a border, as has been seen with Republic of Congo and the Democratic Republic of Congo, are discussed below. Reasons for not beginning or concluding delimitation may be secretive and very likely far in excess of those highlighted.

[59] David Anderson, 'Introduction: Methods of Resolving Maritime Boundary Disputes', (International Law Discussion Group Meeting Chatham House 14th February 2006).
[60] Oxman (n56) 7.
[61] Oxman (n56) 8.
[62] Internal agency capacity at the national level is being developed in states in the region. Evidence from Cameroon is one example of the level of capacity currently available.
[63] Declaration made after ratification (20 February 2002): Declaration under article 298 The Government of the Republic of Equatorial Guinea hereby enters a reservation and declares that, under article 298, paragraph 1, of the United Nations Convention of 1982 on the Law of the Sea, it does not recognize as mandatory ipso facto with respect to any other State any of the procedures provided for in part XV, section 2, of the Convention as regards the categories of disputes set forth in article 298, paragraph 1 (a).

5.3.3 Delimitation under UNCLOS

The zonal system necessitated delimitation between states who previously had not been maritime neighbours in a real sense. Tanja remarks that the solidarity seen amongst African states at UNCLOS III 'is virtually absent now that boundaries have to be determined which divide maritime spaces to which two states have equally valid claims […]'.[64] Having established a baseline using basepoints, a state may define and where required delimit its maritime space. Delimitation of the territorial sea is set out in Article 15 and closely follows Article 12 of the Convention on the Territorial Sea and the Contiguous Zone:[65]

> Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.

Delimitation rules for the EEZ and continental shelf were new developments.[66] They are identical save for the title of the zone:

> 1. The delimitation of the [exclusive economic zone (Article 74)/continental shelf (Article 83)] between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution. 2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV. […] 4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the [exclusive economic zone (Article 74)/continental shelf (Article 83)] shall be determined in accordance with the provisions of that agreement.

This differs from the rule established for territorial sea delimitation. The UNCLOS III conference was undermined in its work in this context by a clear division between states wishing delimitation to be based on equitable principles and those wishing to utilise the method of equidistance with an exception for special circumstances.[67] Equitable principles make for individualised results because 'what is reasonable and equitable in any given case

[64] Gerard J Tanja, 'The Contribution of West African States to the Legal Development of Maritime Delimitation Law' (1991) 4 Leiden Journal of International Law 21, 24.
[65] Territorial Sea Convention (n29).
[66] S Fietta and R Cleverly, *A Practitioner's Guide to Maritime Boundary Delimitation* (OUP 2016) 25.
[67] Churchill and Lowe (n23) 191.

must depend on particular circumstances.'[68] Judges have greater latitude to determine a result. Equidistance on the other hand is a precise geometric method but it has been found that in some cases it does not produce an equitable solution.[69] An equidistant line is a line 'every point of which is equidistant from the nearest points on the territorial sea baselines' of the relevant states.[70] The language chosen to represent the process of EEZ and continental shelf delimitation is understood as a compromise. Kim finds them '[…] simply the result of a compromise, avoiding any clear reference either to the principle of equidistance or principle of equity.'[71]

This compromise is reflected in case law. The following subsections discusses particular cases that have come before international courts and tribunals. Its relevance to the thesis is threefold: firstly it demonstrates the current three-stage method that states considering delimitation may adopt in negotiation or expect before international dispute bodies. Secondly, it highlights how cases in the region have been treated. Thirdly it demonstrates the increasing scope of bodies able to consider delimitation questions.

5.3.4 Methods of delimitation demonstrated in case law

The 2009 *Black Sea (Romania v Ukraine) case*[72] sets out the current method.[73] It outlines three defined stages.[74] The first stage is the construction of the provisional equidistance line. The second is an assessment of any relevant circumstances that may necessitate an adjustment to that line. The final stage is a (dis)proportionality test, which considers whether the proposed resulting line disproportionately favours one party over another. The third stage, the concept of proportionality is subjective and its role in determining the delimitation line is one that has varied across cases.[75] This unsatisfactory case-by-case test follows from the absence of information about the nature of the test. It has not been invoked to alter the result. The International Court of Justice (ICJ) in the *Black Sea Case* describes the test:

[68] See *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* [1982] ICJ Reports 18, 72.
[69] DC Kapoor and Adam J Kerr, *A Guide to Maritime Boundaries* (Carswell 1986) X.
[70] Article 15.
[71] Sun Pyo Kim, *Maritime Delimitation and Interim Arrangements in North East Asia* (Martinus Nijhoff Publishers 2004) 9.
[72] *Maritime Delimitation in the Black Sea (Romania v. Ukraine)* Judgment 2009 ICJ Reports 61.
[73] BIICL, *Report on the Obligations of States under Articles 74(3) and 83(3) of UNCLOS in respect of Undelimited Maritime Areas* (BIICL 2016) 9.
[74] *Romania v. Ukraine* (n 72) para 115-122.
[75] Yoshifumi Tanaka, 'Reflections on the Concept of Proportionality in the Law of Maritime Delimitation' (2001) 16(3) International Journal of Marine and Coastal Law 432, 458.

> The Court now turns to check that the result thus far arrived at, so far as the envisaged delimitation line is concerned, does not lead to any significant disproportionality by reference to the respective coastal lengths and the apportionment of areas that ensue.[76]

This alteration of language to 'disproportionality' is a fair judgment on the scope for its use in delimitation. This was considered in the *Bangladesh / India* arbitration.[77] Bangladesh argued for the application of the angle bisector method on the basis of coastal concavity and instability.[78] India argued for the application of the equidistance method.[79] The Tribunal found that Bangladesh had not demonstrated that the circumstances met the standard established in *Nicaragua v. Honduras*, that there are 'factors which make the application of the equidistance method inappropriate'.[80]

The Tribunal then examined whether either instability or concavity were relevant circumstances meriting an adjustment to the provisional line. Coastal instability was rejected as a relevant circumstance, however the cut-off effect produced by the coastal concavity was accepted as a relevant circumstance necessitating an adjustment of the provisional equidistance line. Applying the disproportionality test, the Tribunal concluded in view of coastal length that the result achieved through the adjusted equidistance line was not disproportionate despite major challenges raised. Concavity is also relevant in the Gulf of Guinea. When examining the effect of concavity on the seaward projection of the State, the cut-off effect identified justified an adjustment to the provisional equidistance line. That this was to be achieved without encroaching with significant effect on the Indian entitlements may present a challenge in any negotiation or third party dispute settlement, particularly with respect to Cameroon and Equatorial Guinea.

The three-stage approach has been explicitly referenced in cases since 2009, including in *Nicaragua v Honduras*[81] where coastal instability necessitated the use of an angle-bisector approach. Fidelity by dispute settlement bodies to the three-stage approach post the *Black Sea Case* has been questioned by Evans[82] who questions whether it is instead used as cover

[76] *Romania v. Ukraine* (n72) para 210.
[77] *Bay of Bengal Maritime Boundary Arbitration (Bangladesh v India)*, Award (July 7, 2014).
[78] ibid para 323.
[79] *Bangladesh v India* (n77) para 319.
[80] *Bangladesh v India* (n77) para 345.
[81] *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)* [2007] ICJ Rep 659.
[82] See views of Malcolm Evans, 'Maritime Boundary Delimitation: Whatever Next?' in J Barrett and R Barnes (eds), *Law of the Sea: UNCLOS: A Living Treaty* (BIICL 2016).

for individual approaches. In his review of the *Bay of Bengal* cases,[83] and also of *Peru v. Chile*[84] the author argues that though the cases refer to and appear to uphold the three-stage approach:

> […] time and time again the focus of the judgment is not on the application of the method and an analysis of objectively determined relevant circumstances upon it, but on the circumstances of the final outcome within the overall geographic circumstances of the case. As a result, its adherence to the spirit of the three-stage approach appears at best wafer-thin.[85]

Fietta and Cleverly argue that the determination and impact of relevant circumstances is subjective and inconsistent.[86] They argue that for example the influence of cut-off as a factor should be clearly explained, something which failed to occur in either the *Bangladesh / India* or *Bangladesh / Myanmar* decisions.[87] It is disappointing to consider that courts and tribunals chip away at the 2009 high point. This does not detract from the inherent idea of the approach. In the Gulf of Guinea Nigeria and Cameroon, and Ghana and Côte d'Ivoire have submitted to third party dispute resolution and other states negotiate bilaterally. Best practice would see a continued use and improvement of the standard arrived at in 2009 or clarification of the deviation from the approach, whilst precedent remains valuable.

5.3.5 West and Central African cases

Cases that have occurred amongst neighbouring states are of particular interest and relevance, not least because they may discuss similar maritime space, features and pronounce on issues that may be repeated in negotiation and dispute settlement. Three cases in the West Africa / Central Africa regions bring forward specific challenges. In the first case this is the approach adopted by the Tribunal. The case is outside the defined Gulf of Guinea but is included because it raises several interesting and important factors. In the second, the impact of third party states and also the role of oil concessions are relevant, something central to the third case example.

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[83] International Tribunal for the Law of the Sea Case No. 16 *Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)* Judgment 14 March 2012.
[84] *Maritime Dispute (Peru v. Chile)* [2014] ICJ 3 discussed at Evans (n82) 54.
[85] Evans (n82) 56.
[86] Fietta and Cleverly (n66) 593.
[87] Fietta and Cleverly (n66) 590.

The Arbitral Tribunal in the *Guinea/Guinea Bissau Maritime Delimitation Case*[88] had the opportunity to address uti possidetis,[89] existing agreements, islands and concave coastlines. The Tribunal found that the 1886 Convention between Portugal and France did not fix a boundary and it could not interpret intention from the travaux preparatoires.[90] This led to consideration of the course of the boundary and relevant circumstances that may be influential in the region.[91] The Tribunal considered the concavity of the coastline and rejected the use of equidistance because of the potential cut-off effect.[92] It used the entire West African coastline to create a convex coastline. This approach was justified on the basis that there were likely to be future negotiations with third states.[93] It also addressed economic factors.[94] The Tribunal simultaneously recognised that this was not an area that could be considered and urged the parties to reflect on this.[95] Evans' review of this decision is instructive.[96] Similar to ideas of process proposed by Wood,[97] Evans highlights the *Gulf of Maine,*[98] *Libya/Malta*[99] and *Guinea /Guinea-Bissau* cases finding 'None of these cases, then, gives a guide to what process may be adopted in other cases so as to enable the parties themselves to arrive at an equitable result.'[100]

The *Cameroon v. Nigeria* proceedings before the ICJ[101] as with the *Guinea/Guinea Bissau* decision required an assessment of colonial-period agreements. The situation between the two states was complicated by the fact that Cameroon had been a German, French and British colony and Nigeria a British colony. The evidence before the court included pre-independence agreements. The ICJ focused on five agreements signed by / for the parties: the 1911 Anglo-German Agreement; the 1913 Anglo-German Agreement; the Yaoundé I

[88] *Guinea/Guinea-Bissau Maritime Delimitation case*, Award of the Court of Arbitration, February 14, 1985, (1986) 25 ILM 252.
[89] The discussion of Uti Possidetis as a concept, see particularly the work of Lolande who considers its peculiar relevance to African states (Lolande, S. *Determining Boundaries in a Conflicted World: The Role of Uti Possidetis* (McGill-Queen's University Press 2003).
[90] *Guinea/Guinea-Bissau* [82].
[91] *Guinea/Guinea Bissau* [86].
[92] Fietta and Cleverly (n66) 278.
[93] *Guinea/Guinea Bissau* [109].
[94] *Guinea/Guinea Bissau* [121].
[95] *Guinea/Guinea Bissau* [123].
[96] Malcolm D Evans, 'Maritime Delimitation and Expanding Categories of Relevant Circumstances' (1991) 40 International & Comparative Law Quarterly 1.
[97] Michael Wood in *UNCLOS: A Living Treaty* (n82) lxxi.
[98] *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, Judgment (1984) ICJ Reports 246.
[99] *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Judgment (1985) ICJ Reports 1985 13.
[100] Evans (n96) 27.
[101] *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria: Equatorial Guinea intervening)* Judgment (2002) ICJ Reports 303.

Declaration 1970; the Yaoundé II Declaration 1971; and the Maroua Declaration 1975.[102] The conclusion of the three post-independence agreements presumed Cameroonian sovereignty over the Bakassi Peninsula.[103] This was also reflected in oil practice, which while not evidence of a 'cession of territory' cohered with other evidence.[104]

The court determined the Maroua Declaration to be an international agreement binding on Nigeria and that together with the Anglo-German Agreement of 11 March 1913, the Yaoundé II Declaration of 4 April 1971 it specified the boundary as far as Point G.[105] Beyond Point G the court was required to establish a maritime boundary. This necessitated a discussion of relevant circumstances. The court rejected the issue raised by Cameroon concerning concavity of its coastline on the ground that such concavity did not occur in the relevant area.[106] It rejected arguments that Bioko Island was a relevant circumstance[107] and regarding coastline length.[108]

The final potential relevant circumstance addressed was the subject of oil concessions that Nigeria had argued could not be redistributed by the court through a delimitation.[109] The court found that existing precedent provided for inclusion of oil concession practice as a relevant circumstance only where there was express or tacit agreement between parties and that this had not been proven in this case.[110] In delimiting the boundary the court reflected that it could not impose a ruling that prejudiced third party states – in this case Equatorial Guinea – and therefore it indicated a general direction for a boundary after Point X.[111]

The case is fascinating both for its findings but also for the insight into the previous and current relations between Gulf of Guinea states. Although not party to this case Equatorial Guinea and São Tomé et Principe have been impacted, as has been seen in the decision of Nigeria to negotiate with these states in advance of the ICJ ruling.[112] The judgment also adds

[102] ibid [38].
[103] *Cameroon v Nigeria* (n101) [214].
[104] *Cameroon v Nigeria* (n101) [215].
[105] *Cameroon v Nigeria* (n101) [268].
[106] *Cameroon v Nigeria* (n101) [297].
[107] *Cameroon v Nigeria* (n101) [299].
[108] *Cameroon v Nigeria* (n101) [301].
[109] *Cameroon v Nigeria* (n101) [303].
[110] *Cameroon v Nigeria* (n101) [304].
[111] *Cameroon v Nigeria* (n101) [307].
[112] Copies of Nigeria São Tomé et Principe agreement and Nigeria and Equatorial Guinea agreement texts are available at: <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/NGA.htm>.

to an understanding of source hierarchy for delimitation documents.[113] This case demonstrates the ongoing importance attached to delimitation and perhaps one reason why many boundaries remain to be delimited. Presence of resources may make the status quo preferable.

Ghana / Côte d'Ivoire[114] continues many of these themes. More space is dedicated to discussion of this case because of its timeliness. Here as elsewhere oil discoveries exacerbated tensions. The case also enables analysis of many of the ongoing complicating factors affecting the region. This dispute was submitted to a Special Chamber of the ITLOS pursuant to Article 15 (2) of the statute of the Tribunal[115] and acceded to in Order 2015/1 of 12 January 2015;[116] the ruling on provisional measures is an important intervention by the Tribunal.[117] It demonstrates the efforts to balance the needs and wishes of the parties. While recognising that the continued drilling by Ghana risked prejudicing the area under dispute by continued drilling[118] the Special Chamber acknowledged that to cease drilling risked causing financial and environmental harm.[119] In forging a compromise it ordered all new drilling in the disputed area to be postponed.[120] The case demonstrates an issue that is increasing across the region with states discovering and having the capacity to exploit natural resources. This increases the relevance of *Ghana / Côte d'Ivoire* and could create situations where delimitation is rejected or deferred because of the potential economic value at stake.

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[113] *Cameroon v Nigeria* (n101) para 101 as discussed by Joel H Samuels, Redrawing the Map: Lessons of Post-Colonial Boundary Dispute Resolution in Africa, Chapter 8 in Jeremy I Levitt (ed), *Africa: Mapping New Boundaries in International Law* (Hart Publishing 2008) 236.
[114] ITLOS Case No. 23 *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)* Judgment 23 September 2017.
[115] Special Agreement and Notification 3 December 2014, available at <https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.23_merits/X001_special_agreement.pdf> accessed 16 November 2016.
[116] ITLOS Case No. 23 Order 2015/1 available at <https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.23/C23_Ord_202015-1_12.01.15.pdf> accessed 16 November 2016.
[117] Special Chamber of the International Tribunal for the Law of the Sea 25 April 2015 Case No. 23 *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)* Request for the prescription of provisional measures Order.
[118] ibid paras 89-91.
[119] *Ghana*/*Côte d'Ivoire* (n116) paras 99-101.
[120] *Ghana*/*Côte d'Ivoire* (n116) para 102.

Judgment on the merits was delivered in 2017. The Ghanaian argument of a tacit boundary agreement, based on long standing oil practice was rejected.[121] Ghanaian argument that Côte d'Ivoire was estopped from objecting to the tacit boundary was rejected.[122]

The Special Chamber elected a provisional equidistance / relevant circumstances methodology on the basis of international jurisprudence.[123] This decision was a rejection of the arguments by Côte d'Ivoire in favour of the angle bisector method. The predominance of a resort to equidistance-relevant circumstances approach (whether this is uniformly applied or as Fietta and Cleverly and Evans discern it) has been continued in this case. The decision also meant a rejection of arguments that cognisance be taken of the 'macro-environment' of the region.[124] Such an exercise would be controversial in the largely undelimited space in the region.

Several aspects of delimitation relevant to the parties and delimitation practice in the region were at issue. As was seen in *Cameroon v Nigeria*, the relevant coastline is foundational to determining base points. The relevant coast of Côte d'Ivoire was a disputed issue in *Ghana / Côte d'Ivoire* though the Ghanaian coastline was accepted by both parties.[125] The Special Chamber limited the westerly projection of the Ivoirian proposed relevant area because the submitted sketch map did not reflect the 'geographic reality'.[126] This highlights that foundational delimitation considerations continue to be controversial.

Base points and baselines were at issue. Case law on this area concerns the issue of straight baselines and the method for selecting basepoints for delimitation.[127] Both these matters are relevant to the Gulf of Guinea region. As an archipelagic state São Tomé et Principe is entitled to construct straight archipelagic baselines. This can alter the maritime space to which it is potentially entitled to a great degree. As has been seen in the *Cameroon v Nigeria* case the choice of basepoints on relevant coasts is a matter the court takes serious account of[128] and which may continue to be a controversial issue in a region where states may rely on islands to extend their claim. In *Ghana / Côte d'Ivoire* the Special Chamber dealt with

[121] *Case No 23* (n114) para 228.
[122] *Case No 23* (n114) para 246.
[123] *Case No 23* (n114) para 289.
[124] *Case No 23* (n114) para 283.
[125] *Case No 23* (n114) para 375.
[126] *Case No 23* (n114) para 378.
[127] See cases including: *Fisheries Case (United Kingdom v Norway)* [1951] ICJ Reports 116 and *Maritime Delimitation and Territorial Questions between Qatar and Bahrain, Merits* Judgment [2001] ICJ Reports 40.
[128] *Cameroon v Nigeria* (n101) [291].

basepoints in two situations. In the first, the arguments of Côte d'Ivoire against the use of Jomoro, a strip of Ghanaian land for basepoints or the delimitation was rejected by the Special Chamber, who stated that it: 'cannot accordingly be treated like an island or a protruding peninsula which distorts the general direction of the coast or its seaward projection.'[129] The Special Chamber also concluded that the use of Jomoro as a location for base point was not inappropriate.[130]

In determining the basepoints for the drawing of a provisional equidistance line, the Special Chamber's decision to reject all parties' proposed points[131] and instead create its own is consistent with its mandate. However the decision to reject the later chart in favour of a 19th Century chart and 'redigitising' the coastline[132] highlights that this matter is also contentious.

The Tribunal looked at relevant circumstances. Both parties called for adjustment to an equidistance line based on relevant circumstances.[133]

The configuration of a coast, particularly convexity or concavity, will have a significant impact on delimitation, principally through a cut-off effect. There are a cluster of states in the Gulf of Guinea region that may benefit or lose by configuration of a regional coastline. The issue of concavity was recognised in the case of *Guinea / Guinea Bissau* which discussed the matter of a state being enclaved where three states are adjacent along a concave coastline.[134] In the context of the Gulf of Guinea this has been argued by Cameroon in its case against Nigeria.[135] Cameroon had sought to rely on the *Guinea / Guinea Bissau* precedent; the court found that this could be a relevant circumstance but only where it lay within the area to be delimited.[136] Coastal configuration was at issue in the Bay of Bengal cases. The B*angladesh v Myanmar* judgement recognised that concavity is not necessarily a relevant circumstance *per se*.[137] *Bangladesh / India* addressed:

> First, the line must prevent a coastal State from extending its maritime boundary as far seaward as international law permits. Second, the line must be such that—if not

[129] *Case No 23* (n114) para 309.
[130] *Case No 23* (n114) para 310.
[131] *Case No 23* (n114) para 394.
[132] *Case No 23* (n114) para 399.
[133] *Case No 23* (n114) para 408.
[134] *Guinea/Guinea-Bissau Maritime Delimitation case*, Award of the Court of Arbitration para 104.
[135] *Cameroon v Nigeria* (n101) [296].
[136] *Cameroon v Nigeria* (n101) [297].
[137] *Bangladesh/Myanmar* (n83) para 293.

> adjusted—it would fail to achieve the equitable solution required by articles 74 and 83 of the Convention.[138]

Any adjustment must avoid any encroachment upon the rights of third states and the rights of the other party.[139] Balance means that any adjustment must not shift the issue to another party.

Referring to these precedents, the Special Chamber in *Ghana / Côte d'Ivoire* found that the cut-off effect contended by Côte d'Ivoire was not so severe as to justify an adjustment on the Bangladesh / India criteria.[140] It dismissed the argument of cut off of access to the port of Abidjan.[141] It recognised that to adjust for this would cause cut-off for the other party.[142] What emerges from this decision is the balance that a court or tribunal navigate because of a real risk of causing imbalance to an opposing party or third state(s).

The Special Chamber found that oil practice and location of offshore resources were not a relevant circumstance.[143] This argument about the relevance of the conduct of parties[144] suggests that the courts and tribunals will not depart from their stance on the relevance of oil practice and other economic factors. This is consistent with *Cameroon v Nigeria* that:

> Overall, it follows from the jurisprudence that, although the existence of an express or tacit agreement between the parties on the siting of their respective oil concessions may indicate a consensus on the maritime areas to which they are entitled, oil concessions and oil wells are not in themselves to be considered as relevant circumstances justifying the adjustment or shifting of the provisional delimitation line.[145]

The Special Chamber in the case noted that argument of conduct put forward by Ghana was on the basis of documentation used to support the tacit boundary agreement claim.[146] Of particular relevance to the parties and the Special Chamber was the case of *Continental Shelf (Tunisia/Libyan Arab Jamahiriya).*[147] The Special Chamber distinguished the case, finding that unlike *Tunisia / Libya* the Parties had not continued a *de facto* maritime boundary through subsequent oil practice and a 'de facto line or modus vivendi related to oil practice

[138] *Bangladesh v India* (n77) para 417.
[139] *Bangladesh v India* (n77) para 417.
[140] *Case No 23* (n114) para 425.
[141] *Case No 23* (n114) para 426.
[142] *Case No 23* (n114) para 425.
[143] *Case No 23* (n114) para 479.
[144] *Case No 23* (n114) para 469.
[145] *Cameroon v Nigeria* (n101) [304].
[146] *Case No 23* (n114) para 467.
[147] *Tunisia/Libya* (n68) discussed in *Case No 23* (n114) para 469.

cannot per se be a relevant circumstance in the delimitation of an all-purpose maritime boundary with respect to superjacent water as well as the seabed and subsoil.'[148] The final argument against the conduct as a relevant circumstance was the consequence of reviving in effect the tacit boundary line argument rejected by the Special Chamber.

The decision not to give relevance to substantial evidence of oil practice is not unexpected. The decision also suggests a limit to other states in the region who are oil producers or commencing exploration. In a region where this is a major revenue source for many states it is argued that a finding by the Special Chamber that oil practice conduct was determinative as a relevant circumstance could have quickly been used as precedent causing increasing conflict potential.

The resulting line delivered by the Special Chamber follows equidistance. The line slightly favours Ghana. This spotlight on a delimitation offers some guidance to states on factors that are relevant in their own particular circumstances, most notably oil practice. The ruling has been accepted by parties, who have met to discuss implementation.[149] The ruling may enable these states to cooperate more fully on other areas. It is more generally an addition to maritime delimitation case law that may cause states to consider delimitation through these avenues or to utilise alternative methods to conclude boundary agreements.

There are other considerations that the region must contend with; one major delimitation matter globally, and in the region, concerns islands. Article 121 of UNCLOS defines islands. Islands continue to be highly relevant to this region where an island archipelago,[150] states that comprise a mainland and an island[151] and disputed islands[152] are present. There remains controversy with Equatorial Guinea's northern neighbour Cameroon. Circumstances including the size of the island of Bioko, the location (until recently) as the capital and its important role vis a vis the continental Equatorial Guinea have caused this matter to continue after decades of negotiation. Demonstrating continued uncertainty, in 2017 the Corisco Bay Islands which have been a controversial issue for Equatorial Guinea and Gabon has been submitted to the ICJ.

[148] *Case No 23* (n114) para 477.
[149] J Nyabor, 'Akufo-Addo to meet Ivorian diplomats over ITLOS judgment' (*citifm,* 25 September 2017) <http://citifmonline.com/2017/09/25/akufo-addo-to-meet-ivorian-diplomats-over-itlos-judgment/> accessed 28 September 2017.
[150] São Tomé et Principe.
[151] Equatorial Guinea.
[152] For example Corisco Bay islands Mbanie, Cocotiers and Conga.

5.3.6 State practice in delimitation

Limited publicly available information exists concerning state practice in the region[153] and therefore relevant information from adjacent states is included in this section to demonstrate possible positions. State practice identified by this publication is considered here in respect of these three categories set out by Oxman: the understanding that any delay that a failure to conclude a delimitation has obvious economic, political and security risks; non-living resource exploitation; and a desire to act pre-emptively to avoid disputes or perhaps a political factor.[154] Arguably many of the agreements could be understood as falling into more than one of Oxman's categories. Where delimitation can be seen as a strategic decision, timing was critical; lastly, non-living resources rather than living resources trigger negotiation in a greater number of delimitations. There is no identifiable uniform approach and the division made below recognises that multiple factors may influence state action but for the purpose of discussion a division is made based upon a primarily identifiable factor.

a) A failure to conclude a delimitation has obvious economic, political and security risks

The 2002 *Cameroon v Nigeria* case focused on agreements concluded between colonising countries and the states themselves post-independence. The Maroua Declaration extended a previously agreed boundary out to a point entitled 'Point G' that was marked on Admiralty Chart 3433. The ICJ in the 2002 judgment affirmed the Cameroonian argument that this Declaration was a binding international agreement.[155] The text of the Declaration gives little insight into the basis for a decision to extend the existing maritime boundary. The only non-technical language in the Declaration itself is the final line, a reaffirmation of a commitment: '[…] to freedom and security of navigation in the Calabar/Cross River channel of ships of the two countries as defined by International Treaties and Conventions.'[156] Adede[157] recognises the Maroua Declaration to be an agreement concluded in part following the discovery of oil and the need to address ongoing conflict between groups concerning fisheries and which takes such matters into account.

[153] International Maritime Boundaries (Volumes I-VII) (Brill | Nijhoff 1993-2016).
[154] Oxman (n56).
[155] *Cameroon v Nigeria* (n101) [263-8].
[156] The Maroua Declaration (1 June 1975) <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/CMR-NGA1975MD.PDF> accessed 20 November 2016.
[157] Andronico O Adede 'Report Number 4-1' in JI Charney and LM Alexander (eds), *International Maritime Boundaries* (American Society of International Law | Nijhoff 1993) 841- 848.

As discoveries are made and exploitation of known resources becomes viable, cases where grounds for entering into negotiation for delimitation are for the purpose of non-living resource exploitation are in evidence. In the period surrounding the *Cameroon v Nigeria* proceedings, Nigeria signed agreements with two neighbouring states. Its agreement with São Tomé et Principe will be discussed further below. Nigeria concluded an agreement with Equatorial Guinea in 2000.[158] The delimitation line largely coincided with oil concessions of the parties, and did not follow equidistance.[159] Daniel, writing in 2001, argues that:

> Whether by reason of the existence of the Nigeria/Cameroon case or the pressure being brought to bear by the oil companies or simply the right combination of leaders, the bilateral negotiations between Nigeria and Equatorial Guinea started making real progress about three years ago.[160]

It is possible that this activity was a strategic decision to address matters that may otherwise require international adjudication. However, Colson finds that Nigeria-Equatorial Guinea negotiations were inhibited in the early stages of *Cameroon v Nigeria* by uncertainty caused by the case.[161] The break in the deadlock came from a decision to focus on established economic interests: non-living resources.[162] This suggests that the conclusion of an agreement overrode any hold out for a more favourable division and that economic, political or security risks may be a basis for delimitation.

b) Agreements concluded where hydrocarbons are a motivating factor

Nigeria concluded an agreement with Benin in 2006. Negotiations to resolve their boundary had begun in 1968.[163] This delimitation demonstrates the scope of results possible in delimitation; Benin negotiated to avoid a cut-off in the southern sector of the boundary line and Nigeria negotiated a commensurate gain in the northern sector.[164] This is not at the time

[158] Treaty between the Federal Republic of Nigeria and the Republic of Equatorial Guinea Concerning Their Maritime Boundary 23 September 2000 <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/NGA.htm> accessed 20 November 2016.
[159] David A Colson 'Report Number 4-9' in JI Charney, LM Alexander, RW Smith *International Maritime Boundaries Vol. 4* (American Society of International Law | Martinus Nijhoff Publishers 2002) 2661.
[160] Tim Daniel, 'Maritime Boundaries in the Gulf of Guinea' presentation given at 2001 ABLOS Conference "Accuracies and Uncertainties in Maritime Boundaries and Outer Limits", Monaco, at the International Hydrographic Bureau, Principality of Monaco, 18-19 October 2001 2.
[161] Colson (n159) 2658.
[162] Colson (n159) 2659.
[163] Tim Daniel (asst. Robin Cleverly), 'Report 4-14' in David A Colson and Robert W Smith (eds), *International Maritime Boundaries* volume VI (Martinus Nijhoff 2011) 4257.
[164] ibid 4261.

of writing in force and a report suggests that Benin has rejected ratification.[165] A critical obstacle in this case is the fact that Benin waters are enclosed in the South and the East by Nigeria.

Agreements were signed by São Tomé et Principe respectively with Equatorial Guinea and Gabon. The first with Equatorial Guinea is provisionally in force.[166] Negotiations on a boundary were completed in less than six months based on adjustments to the similar equidistant lines published by the parties. While no strategic matters were clear motivating factors, Colson indicates that hydrocarbon development was relevant.[167]

São Tomé et Principe's agreement with Gabon was constructed on the basis of equidistance. This agreement was concluded within a year of the signing of the agreement with Equatorial Guinea[168] and it is suggested that hydrocarbons also played a role. This was concluded between a state with archipelagic baselines and a state utilising normal and straight baselines in a maritime space which is bordered on two sides by a third state (Equatorial Guinea). It demonstrates the importance of political relations to delimitation. This is reflected in the objections Equatorial Guinea submitted to the 1974 Convention demarcating the land and maritime frontiers of Equatorial Guinea and Gabon.[169]

c) Agreements concluded with an aim to pre-empt problems

[165] 'Le Parlement du Bénin rejette un traité sur la délimitation de frontière maritime avec le Nigeria' (16 December 2011) <http://french.peopledaily.com.cn/96852/7679175.html> accessed 20 November 2016.
[166] See DA Colson (with advice by Coalter Lathrop), 'Report Number 4-8' in JI Charney and RW Smith (eds), *International Maritime Boundaries* (American Society of International Law | Nijhoff 2002) 2647-2656.
[167] ibid 2648.
[168] Tim Daniel (with assistance of David Lerer), 'Report Number 4-11' in DA Colson and RW Smith (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2005) 3683-3693.
[169] Convention demarcating the land and maritime frontiers of Equatorial Guinea and Gabon, 12 September 1974 (entry into force: 12 September 1974; registration with the Secretariat of the United Nations: Gabon; registration # 40037; registration date: 2 March 2004.

An agreement concluded between the Gambia and the Republic of Senegal is unusual in its result because it is generous to the Gambia, by affording space designed to avoid a cut-off; it is worthwhile to include a chart here to demonstrate the very limited coastline that appertains to the Gambia. [170]

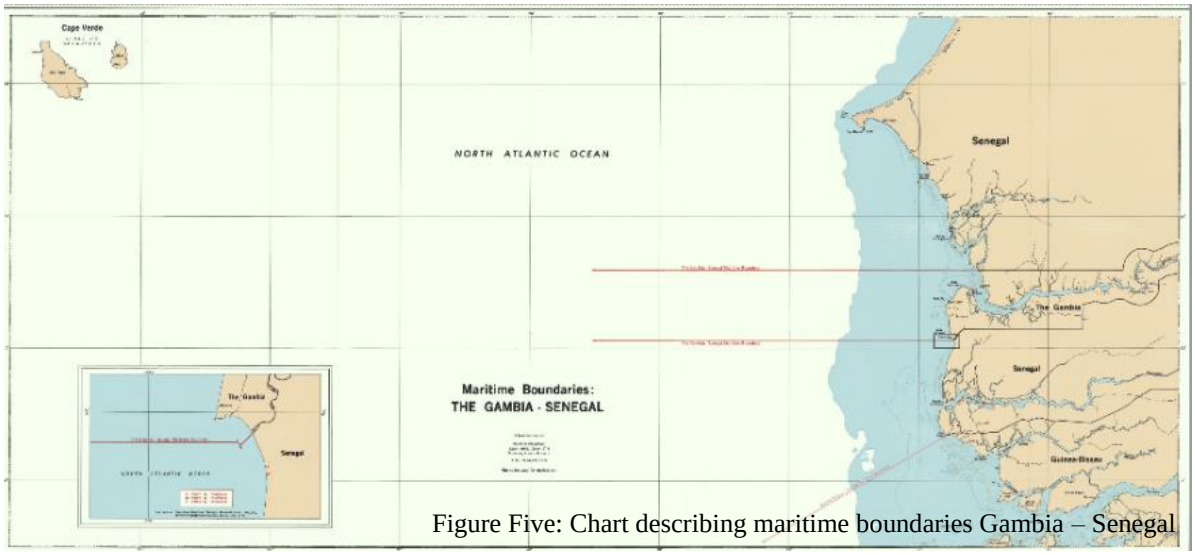

Figure Five: Chart describing maritime boundaries Gambia – Senegal

Adede highlights '[B]y agreeing to use the parallels of latitude, instead of an equidistance method, which could have resulted in a cut-off of the Gambia, the parties confirmed their aim of achieving an equitable delimitation.'[171] This agreement, concluded prior to UNCLOS is an example of a decision to act in advance of controversy. Indeed the preamble of the Agreement states the forward-looking basis for the Agreement:

> Considering the ties of friendship existing between their two nations; Being motivated by the principles of the Charter of the United Nations and the Charter of the Organisation of African Unity; Determined to establish and to maintain between them conditions favourable for the development of co-operation between the Republic of Senegal and the Republic of The Gambia; Desiring to settle peacefully the problem of the maritime boundaries between States […].[172]

The evidence from regional state practice offers multiple conclusions. Firstly concerning timing, the ongoing *Cameroon v Nigeria* case before the ICJ was a strong motivating factor for other agreements although the case impact varied by state.[173] This highlights the role of parallel processes to state decision making. Secondly, state practice indicates non-living

[170] Image Credit: US State Department Bureau of Intelligence and Research, 'No. 85 Maritime Boundaries: The Gambia – Senegal' (US State Department March 23 1979) 7.
[171] Andronico O Adede 'Report Number 4-2' in JI Charney and LM Alexander (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 1993) 849.
[172] Treaty Fixing the Maritime Boundaries between The Gambia and the Republic of Senegal (4 June 1975).
[173] Andronico O Adede 'Region IV: African Maritime Boundaries' in JI Charney and LM Alexander (eds), *International Maritime Boundaries* (The American Society of International Law 1993) 293.

resources as a stronger motivation for delimitation than living resources. The economic potential of oil and gas deposits is clearly understood and the engagement of external actors may drive states to delimit. Thirdly there is a divergence in method. States not submitting a case to an independent third party are able to conclude on any basis. This is in evidence most clearly in the Senegal – Gambia example. Finally negotiations do not necessarily result in a concluded boundary. This fact brings forth a need to consider obligations where delimitation has not occurred.

5.4 Obligations where delimitation has not occurred

The relevant UNCLOS Articles 74 and 83 comprise as identified above that delimitation shall be effected by agreement on the basis of international law to achieve an equitable solution[174] and that failing this states shall resort to Part XV procedures,[175] that pending delimitation provisional arrangements shall be agreed[176] and that any delimitation shall be in accordance with existing agreement.[177]

This section focuses on section 3 of the respective Articles: obligations to establish provisional arrangements. This follows from the finding above that delimitation remains largely unresolved. The content of the section 3 obligation and State practice in this area are outlined. Should the content of the obligation require a result and not effort alone, or should the obligation be applicable beyond resource management into the security context this would limit resort to ideas of cooperative sovereignty because there would be an existing external obligation that could be referred to.

5.4.1 UNCLOS provisional arrangements

Articles 74(3) and 83(3) establish provisional arrangements. Articles 74(3) and 83(3) apply to states who have not delimited their maritime space:

> Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

[174] Article 74(1) / 83(1).
[175] Article 74(2) / 83(2).
[176] Article 74(3) / 83(3).
[177] Article 74(4) / 83(4).

Provisional arrangements differ from provisional measures, which may be ordered by a court or tribunal.[178] Schofield argues that provisional arrangements should not be seen as a panacea to seemingly intractable disputes.[179] They are also a compromise of national interests and a potentially long-term arrangement requiring ongoing political will.[180]

The content and meaning of these Articles 74(3) and 83(3) has been the study of a recent publication by BIICL. This encompasses a review of a range of state practice in this area and of the meaning of the Articles. The BIICL report is utilised because it was a seminal project delving into the content of the provisions and a contemporary assessment of state practice. Major findings of the authors include that the scope / content of the obligation to make every effort to reach arrangements of a practical nature reflects the similar obligation to conduct negotiations for the delimitation, that is, in good faith.[181] There is no prescription as to form, though two main forms identified through review of state practice: a provisional boundary or a joint management area, tend to be the preferred method.[182]

The obligation to make every effort arises either as soon as delimitation negotiations commence or when it is clear that delimitation will not occur and it continues as determined by the arrangement.[183] The status of arrangements under Articles 74(3) and 83(3) is determined by any documentation and where this is unclear, status will be determined objectively by a tribunal; regarding its nature, most importantly it has no legal impact on the future negotiation.[184] The phrase in the articles in Articles 74 and 83: 'not to jeopardize or hamper the reaching of the final agreement' is ambiguous. Van Logchem finds no definition of this stemming from the travaux preparatoires.[185] He discusses the unilateral activities that may be conducted and concludes that the *Guyana v Suriname*[186] case, wherein Suriname deployed naval vessels to a disputed maritime region to remove a drilling rig that Guyana licenced, was very fact specific. There remains doubt regarding what actions are permissible pending delimitation.[187] Also on this point, Kim has concluded that there is no justification

[178] Natalie Klein, 'Provisional Measures and Provisional Arrangements in Maritime Boundary Disputes' (2006) 21 International Journal of Marine & Coastal Law 423, 445.
[179] Schofield (n5) 169.
[180] Schofield (n5) 169.
[181] BIICL (n73) para 48.
[182] BIICL (n73) paras 50-51.
[183] BIICL (n73) paras 59-60.
[184] BIICL (n73) paras 61-63.
[185] Y van Logchem 'The Scope for Unilateralism in Disputed Maritime Areas' in C Schofield, S Lee and M-S Kwon (eds), *The Limits of Maritime Jurisdiction* (Nijhoff 2014) 179-81, discussed at BIICL (n73) para 80.
[186] *Guyana v Suriname*, Award, ICGJ 370 (PCA 2007), 17th September 2007, Permanent Court of Arbitration.
[187] ibid 196.

for a unilaterally determined provisional line since the conclusion of UNCLOS which presumes state engagement.[188]

Key points from the BIICL review of case law, particularly *Guyana v Suriname* and *Ghana / Côte d'Ivoire* shows firstly that objectivity is attempted when attempting to determine whether the obligation not to jeopardise or hamper has been violated[189] and secondly that the determination that the obligation has been violated has a high threshold.[190] What is clear from the BIICL analysis and from other analyses of state practice, of which regional practice is outlined below, is that the focus of states efforts to enter into provisional arrangements is on economic exploitation. The BIICL report does not address instances of activity outside of resource exploitation.

Kim's work focuses on North East Asia but includes a useful review of state practice on arrangements that both precede and succeed UNCLOS and a categorisation of grounds for undelimited area agreements. Each of his case study arrangements can be categorised as being based on the need to determine economic matters, either hydrocarbons or fisheries. Indeed this is set out most clearly in the policy options that the author proposes: a Joint Development Zone;[191] a Joint Fisheries Zone;[192] fisheries arrangement on the basis of de facto boundaries;[193] comprehensive joint exploitation zones;[194] single provisional fisheries boundary.[195] It is difficult to see that activities outside of economic exploitation could be justified under the auspices of Articles 74(3) and 83(3) having reviewed case law. The below state practice draws the same conclusion.

In the regional context it is clear that the economic imperative has not been sufficient to drive provisional arrangements. This has been supported by fieldwork discussions that consistently state the basis for cooperation has been one of interest and economy and with a high entry point. Where there is a direct link between an economic interest and questions of maritime space states have been seen to make 'arrangements of a practical nature'. That insecurity affects the economy has been demonstrated in the preceding chapter but is not

[188] Kim (n71) 30.
[189] BIICL (n73) para 87.
[190] BIICL (n73) 89-90.
[191] Kim (n71) 96.
[192] Kim (n71) 107.
[193] Kim (n71) 128.
[194] Kim (n71) 132.
[195] Kim (n71) 140.

demonstrated in practice by states in the region as a direct link that justifies resort to Articles 74(3) and 83(3).

5.4.2 Regional practice regarding the obligations to enter into provisional arrangements.

The use of provisional arrangements in the Gulf of Guinea is limited and focuses on non-living resources. Nigeria and São Tomé et Principe established a joint development zone (JDZ). This decision to postpone delimitation came after two years of negotiation during which Nigeria had claimed a more favourable outcome based on coastal length and São Tomé et Principe had continued to argue in favour of a median line claim. The JDZ established in 2001 reflects the area of disputed claims.[196] Article 51 of the Agreement provides:

> 51.1 This Treaty shall be reviewed by the States Parties in year thirty (30), and unless otherwise agreed or terminated pursuant to article 52, shall remain in force for forty-five (45) years from the date of entry into force. 51.2 If the two States Parties agree, this Treaty shall be continued in force after the initial forty-five (45) year term.[197]

The postponement caused by the joint development agreement can be understood as a strategic decision. The respective claims of the states were so far apart that to continue negotiation would have conflicted with the Nigerian aim of concluding agreements before the outcome of the ICJ case. The JDZ has been criticised by organisations who question the balance of power between the two states,[198] however the states have met the aims of UNCLOS.

Angola has concluded treaties with the Republic of Congo and the Democratic Republic of Congo. The agreements both address efforts to exploit non-living resources. In neither case has Angola concluded delimitation agreements. This makes the 2001 unitisation agreement between Angola and the Republic of Congo[199] unusual as unitisation agreements normally succeed delimitation.[200] A further interesting point highlighted by the volume *International*

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[196] Tim Daniel, (asst. David Lerer), 'Nigeria-São Tomé and Príncipe Report 4-10' in DA Colson and RW Smith (eds), *International Maritime Boundaries*, (The American Society of International Law | Nijhoff 2005) 3462.

[197] Treaty between the Federal Republic of Nigeria and the Democratic Republic of São Tomé and Príncipe on the Joint Development of Petroleum and other Resources, in respect of Areas of the Exclusive Economic Zone of the Two States (21 February 2001).

[198] 'São Tomé e Príncipe An Uncertain Future: Oil Contracts and Stalled Reform in São Tomé e Príncipe' (Human Rights Watch 2010) 15-16 available at: <https://www.hrw.org/sites/default/files/reports/saotome0810webwcover.pdf > accessed 02 September 2016.

[199] Agreement Dated 10 September 2001 between The Republic of Congo and The Republic of Angola Approving Offshore Unitization Prospects 14K and A-IMI.

[200] Derek C Smith and Christopher Dolan, 'Report Number 4-16' in DA Colson and RW Smith (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2011) 4282.

Maritime Boundaries concerns the absence of a common legal and fiscal regime, therefore meaning the Angola – Republic of Congo agreement is: '[…] where the two States Party to a unitization agreement retain their respective rights in virtually all relevant areas save for how production is shared.'[201]

Angola's agreement with the Democratic Republic of the Congo[202] differs from that with the Republic of Congo as its Western end is not defined in the agreement[203] and the agreement has not had the effect of postponing delimitation questions.[204] This raises the question of the extent to which any such activity is realistic. As with the above example of Nigeria and São Tomé et Principe, states can be said to have attempted to comply with Article 83(3) in respect of making arrangements of a practical nature.

What this section 5.4 demonstrates is that where delimitation has not been concluded the content of the obligation to conclude provisional arrangements does not oblige states to reach a result. The obligation is general and relies on states' will to act. Evidence from regional practice corresponds to this finding. State action has centred on arrangements to ensure exploitation of non-living resources. There is neither evidence from the content of the provision itself or from state practice to indicate that Article 74(3) or 83(3) will be expanded to oblige cooperation in the maritime security context.

5.5 Conclusion

States remain the primary actors in the maritime space. The evolution of maritime delimitation up to the establishment of the UNCLOS regime demonstrates that the matter of delimitation has long been present and that states have held such diverse views on the best approach to manage this space that clear rules have been subordinated to ambiguous ones. This issue has pressed courts and tribunals in case law and impacted state practice.

Delimitation method has crystallised through case law. The application of the three step method of the *Romania v Ukraine* case has been referenced by subsequent decisions in international courts and tribunals but questions about the fidelity of its application by dispute

[201] ibid.
[202] Agreement on the Exploration and Production of Hydrocarbons in the Common Interest Maritime Zone between the Democratic Republic of the Congo and the Government of the Republic of Angola (2007; EIF 2008).
[203] Derek C Smith and Christopher Dolan, 'Report Number 4-15' in DA Colson and RW Smith (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2011) 4271.
[204] ibid 4274.

settlement bodies highlight the unique challenges facing states who attempt to delimit. A review of regional case law brought forward a specific range of complex issues that impact the region. Regional state practice highlighted the narrow band of concerns that have prompted states to delimit.

The situation is complicated further by limited obligations outside of delimited space. Article 74(3) and 83(3) obligations to make efforts to cooperate pending delimitation have been engaged with by states only with regard to resource exploitation. Security cannot be said to have spurred delimitation or resort to provisional arrangements. Security has not been used by states as a matter for which cooperation through Article 74(3) or 83(3) are applicable. States are pledged to cooperate regionally but provision for action outside a framework based on defined boundaries is limited.

Chapter Six continues the regional review, presenting evidence of states' efforts to develop domestic legislation or organise enforcement capacity to respond to threats acknowledged to be common concerns.

Chapter Six: Application of Cooperative Sovereignty Necessitated by Limited Reform of Legal Frameworks, Monitoring and Enforcement Capacity

6.1 Introduction

Chapter Four addressed the threats that are faced by Gulf of Guinea states. It identified the continuing focus on maritime security in the period since 2013. Although states have not maintained a consistent interregional approach, maritime security remains on the radar. Chapter Five argued that prospect of exclusive, national approaches to managing some areas of maritime security based upon UNCLOS division of responsibility is unrealistic because of the broad absence of concluded boundaries. Cooperation based on interest is the remaining option for cooperation based on ideas of traditional sovereign statehood.

This chapter addresses Research Question Seven: Does the idea of maritime security as an inclusive interest foster an effective environment for maritime security cooperation? It considers through a review of state practice whether this can be demonstrated through states' updating of domestic legislation to provide for prescriptive jurisdiction to combat piracy and armed robbery at sea and illegal fishing. It is necessary that legislation be applicable to action in undelimited space, whether expressly or operable regardless. It would be beneficial if notification and interdiction processes at sea were expressly simplified between states of the region through harmonised legislation. The United Nations Office on Drugs and Crime is currently conducting an assessment of relevant legal frameworks of states. No outputs have become available at the time of writing.

Resources to monitor and enforce at sea are also central to maritime security. Section Three analyses Maritime Domain Awareness (MDA) capacity through Monitoring, Control and Surveillance (MCS) technology, and naval fleet strength. These are two key elements of state capacity. This is a focus on a specific maritime security stakeholder: navies and the capacity of states to act *at* sea. This review concludes that sovereignty impacts on this area and that it is not possible to rely on inclusive interest.

6.2 National maritime security practice

6.2.1 Maritime security: emerging practice

Chapter Two highlighted that maritime security has been of relatively recent concern. In response to both national, regional and international developments, some states have

promulgated legislation, and are developing strategies. Côte d'Ivoire has developed *la Stratégie Nationale de l'Action de l'Etat en Mer* which under the authority of the Prime Minister promotes interministerial cooperation on maritime security.[1] Ghana's Maritime Security Act of 2004[2] gives effect to the SOLAS Convention, the ISPS Code and provides for enhanced maritime security and safety.[3]

ISS identifies one Togolese Decree[4] and two Decrees relevant to maritime security of Benin.[5] These are not publicly available but indicate an increased maritime security focus. Nigeria is in the process of developing a maritime security strategy. This is being led by the Nigerian Navy and Nigerian Maritime Administration and Safety Agency together with the Nigerian Shippers' Council, the Ministry of Foreign Affairs, which is the anchor agency, the Ministry of Agriculture for the issue of illegal fishing and the National Inland Waterways Authority.[6] Cameroon is being assisted by IMO to develop a strategy.[7] The international organisation has been assisting West and Central African states of Equatorial Guinea, Gabon, Congo, Côte d'Ivoire, Democratic Republic of Congo, São Tomé et Principe and Angola through programmes the outcome of which includes development of maritime security strategies.[8] The decision to dedicate resources to such development is encouraging and is important for harmonisation.

Addressing maritime security in an overarching manner is evidence of states continuing to view maritime security as a broad concern and potentially a conduit for greater harmonised

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[1] RSS, 'sécurité maritime L'action de L'Etat en Mer, un maillon fort de la RSS' (Issue 3 December 2014) <http://www.rssci.org/images/MAGAZINE_RSS_UPDATE2.pdf>.
[2] Republic of Ghana Act 675, Ghana Maritime Security Act 2004.
[3] ibid Chapeau.
[4] Decree N° 2014-113 of the President of the Republic on the national organisation of the state's action at sea.
[5] Decree number 2013-551 on the national maritime protection, security and safety strategy and Decree number 2014-785 on the creation, organisation, functions and operalisation of the national authority of state action at sea.
[6] Sam Ikeotuonye, 'Navy, NIMASA lead process to formulate maritime security strategy' (S*weet Crude Reports*, 06 April 2017) <http://sweetcrudereports.com/2017/04/06/navy-nimasa-lead-process-to-produce-maritime-security-strategy/> accessed 20 July 2017.
[7] Safety4Sea, 'IMO focuses on maritime security strategy in Cameroon' (14 July 2017) <https://www.safety4sea.com/imo-focuses-on-maritime-security-strategy-for-cameroon/> accessed 20 July 2017.
[8] See programme details at International Maritime Organisation, 'IMO Strategy for implementing sustainable maritime security measures in West and Central Africa' (26 April 2017) <http://www.imo.org/en/OurWork/Security/WestAfrica/Pages/WestAfrica.aspx>; International Maritime Organisation, 'Strengthening
Maritime Security in West and Central Africa'
<http://www.imo.org/en/MediaCentre/HotTopics/piracy/Documents/west%20africa%20Maritime%20Security.pdf> accessed 30 October 2017.

cooperation between agencies at the national and international level which builds upon the interlinked understanding of maritime security demonstrated in 2013.

6.2.2. Fisheries policies and legislation

In publicly available fisheries legislation there is limited evidence of securitisation. This is to be expected as fisheries and security have traditionally been discrete issues with fisheries an economic and regulatory matter. A difference in fines and penalties across the region is highlighted[9] and forms part of the legal framework assessment being undertaken by UNODC.[10] This review of publicly available legislation and policy documentation of the Gulf of Guinea states demonstrates limited evidence to date to support the idea that interdependence has resulted in reform of fisheries legislation to promote effective cooperation the basis of maritime security as an inclusive interest.

Liberia has relatively recent fisheries regulations. Fisheries regulations of 2010[11] refer frequently to jurisdiction and to international agreements. Fisheries waters are defined as'[…] the waters over which the Republic of Liberia exercises jurisdiction or sovereign rights as declared in relevant national laws'.[12] High seas are defined as 'the waters beyond areas under national jurisdiction of any State including the territorial sea, exclusive economic zone or other zone of extended fisheries jurisdiction, *to the extent that such area under national jurisdiction is recognised by the Republic of Liberia*' (emphasis added).[13] What does not follow is a contemplation of how fisheries will be handled where disputes to maritime claims exist, aside from a decision by the Republic of Liberia to treat the area as high seas and apply the regulations relevant to this area. The Republic undertakes to ensure compliance by its flagged vessels with law of other coastal states and with international agreements at the stage of licence renewal[14] and in Regulation 38(1)(c) provides for denial of port access to vessels where fish on board is clearly in contravention of the requirements of other states. The threshold for action is not clear. The use of 'clearly in contravention' is indicative of a high threshold. At face value, they indicate an effort to cooperate with other

[9] Interview Cam-fmrMinepia-1016.
[10] UNODC, 'Maritime Crime Programme - West Africa' <https://www.unodc.org/unodc/en/piracy/west-africa-division.html> accessed 20 June 2017.
[11] Regulations relating to Fisheries, Fishing and Related Activities, Regulations made by the Minister of Agriculture in the exercise of the powers conferred upon the office by section105 of Chapter 4, Subchapter C of Title 24 of the Laws of The Republic of Liberia (the Natural Resources Law, 1985) and approved as required by such Law and having effect from this 1st day of October A.D. 2010.
[12] ibid Part I Section 1.
[13] Regulations (n11) Regulation 1.
[14] Regulations (n11) Regulation 16(2).

states against illegal fishing. The clearest discussion of fisheries, security and delimitation is in the application of the Regulations: 'ii. areas beyond national jurisdiction: 1. following hot pursuit initiated in the Fisheries Waters and conducted in accordance with international law;' and the powers of fisheries inspectors to stop, board and search outside Liberian waters are defined in Regulation 47(2)(r):

> Following hot pursuit outside the Fisheries Waters in accordance with international law and commenced within the Fisheries Waters, stop board and search outside the Fisheries Waters any vessel which she/he has reasonable grounds to believe has been used in the commission of an offence under these Regulations or international agreement, exercise any powers conferred by these Regulations and bring such vessel and all persons and things aboard back into the Fisheries Waters;

This is encouraging except that hot pursuit relies upon knowledge of when a vessel is entering the territorial sea of another state's jurisdiction. Liberia is reforming its fisheries legal framework; challenges in this sector have led to its pre-identification by the European Union.[15]

The *Ghana / Côte d'Ivoire* case has been discussed in Chapter Five.[16] Day one of the oral hearings saw a question put to the Counsel for Ghana regarding fisheries cooperation. Counsel was unable to identify cooperation in this area.[17] This is reflected in the respective legislation.

Côte d'Ivoire Loi n° 2016-554 du 26 juillet 2016 relative à la pêche et à l'aquaculture makes progress on the issue of IUU fishing, providing for measures including a registry of fisheries licences[18] a prohibition on transhipment absent Ministerial permission[19] and monitoring, control and surveillance provision[20] shared by officers of six Ivorian agencies.[21] Specific reference to IUU fishing and delegation of responsibility to specific agencies is forward-looking. The application of the act is stated to include the areas within and beyond waters

[15] European External Action Service, 'Fight against illegal fishing: Commission lists Saint Vincent and the Grenadines and the Comoros as non-cooperating, and issues warning for Liberia' (24 April 2017) <https://eeas.europa.eu/delegations/liberia/26821/fight-against-illegal-fishing-commission-lists-saint-vincent-and-grenadines-and-comoros-non_en> accessed 20 June 2017.
[16] ITLOS Case No. 23 *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*.
[17] ibid Oral Proceedings Verbatim Records ITLOS/PV.17/C23/2/ 7 February 2017 a.m. page 2, lines 39-9.
[18] Republique de Côte d'Ivoire, Loi n° 2016-554 du 26 juillet 2016 relative à la pêche et à l'aquaculture Article 42.
[19] Loi 2016·554 (n18) Article 105.
[20] Loi 2016·554 (n18) Chapter II.
[21] Loi 2016·554 (n18) Article 69.

of Ivorian jurisdiction, and Ivorian ships,[22] but the issue of delimitation is not contemplated. This undermines efforts to effect sustainable practice aims respecting overfishing, straddling stocks and biodiversity[23] but is consistent with the context of an ongoing dispute.

Ghana has law and policy on fisheries.[24] The Fisheries Amendment Act 2014 inserts crucial provisions on IUU fishing and international cooperation. It inserts a definition of IUU fishing.[25] It stipulates the penalty for engaging in such practice.[26] It empowers the Minister to make regulations to combat IUU fishing;[27] in the amended Section 139(3):

> The Minister may, on the recommendations of the Commission, by legislative instrument, make Regulations for the purpose of promoting international cooperation to promote the effectiveness of international conservation and management measures adopted by a regional fisheries management organisation to which the Republic is a member and to combat Illegal, Unreported and Unregulated fishing.

The inserted Section 139(4) (j) enables regulations on 'the authorisation of the cooperation and exchange of information, including inspection results with other States and regional fisheries management organisations'. This establishment of the possibility of information exchange and active promotion of cooperation with other states is promising. No regulations have been identified. No reference is made to the delimitation of areas over which states will cooperate. This would have been a contentious question in the context of the state's dispute with Côte d'Ivoire. Two Ghanaian policy documents deal with IUU fishing and fisheries respectively. The Republic of Ghana National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of May 2014 specifically recognises that fisheries straddle maritime boundaries[28] and calls for cooperation.[29] Action points include the development of a Fisheries Management Plan. The Management Plan is an essential element but it is inward-focused, with only one reference to cooperation outside of

[22] Loi 2016·554 (n18) Article 3.
[23] Loi 2016·554 (n18) Article 4.
[24] The Six Hundred and Twenty Fifth Act of the Parliament of the Republic of Ghana Entitled Fisheries Act, 2002; The Eight Hundred and Eightieth Act of the Parliament of the Republic of Ghana Entitled Fisheries (Amendment) Act, 2014; Republic of Ghana National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing May 2014; Republic of Ghana Fisheries Management Plan of Ghana a National Policy for the Management of the Marine Fisheries Sector 2015-2019.
[25] The Eight Hundred and Eightieth Act of the Parliament of the Republic of Ghana Entitled Fisheries (Amendment) Act, 2014 Inserted Section 88A.
[26] ibid.
[27] Amendment Act (n25), Amended Section 139(3) and Inserted Section 139(4) and (5).
[28] Republic of Ghana National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing May 2014 Para 1.1.
[29] ibid Para 2.1.9.

the state.[30] The dispute between the two states can be said to have increased the focus on maritime but not to the degree that effective cooperation has been envisaged or established.

Togo has been a vocal proponent of regional maritime security action. Its fisheries legislation which entered into force in 1998[31] was under review in 2016. Loi N° 2016 -026 du 11 Octobre 2016 Portant Reglementation de la Peche et de l'Aquaculture au Togo comprises relevant provisions to establish national efforts and to cooperate against IUU;[32] there is explicit recognition of the need to act in cooperation at the national, sub-regional, regional and international level.[33] This is to be established by a national plan led by the Minister for Fisheries and Aquaculture.[34] This legislation has not to date resulted in clear cooperative measures.

Fisheries provide fifty per cent of animal protein consumption in Benin.[35] In its 2014 Fisheries Law the government acts to preserve and maintain fisheries stock; it provides for penalties for illegal, unregulated and unreported fishing activities.[36] It is also understood to have adopted a National Plan of Action.[37] These actions are part of an ongoing effort but do not include fisheries as part of an overarching maritime security picture or harmonise with the region.

Nigerian fisheries are organised through the Sea Fisheries Act of 1992[38] and the implementing regulations.[39] Fisheries are termed a food security issue in the state's 2008

[30] Republic of Ghana Fisheries Management Plan of Ghana a National Policy for the Management of the Marine Fisheries Sector 2015-2019, section 7.1.
[31] Atelier de lancement du TCP/RAF/3512 « Renforcer la collecte systématique de données sur les pêches en Afrique de l'Ouest : Benin, Côte d'Ivoire, Ghana, Liberia, Nigéria, Togo et CPCO » ACCRA, 5 et 6 MAI 2016
Informations de référence sur l'état actuel de l'informations de la pêche et la collecte de données statistiques au Togo La Direction des pêches et de l'aquaculture (DPA) 7.
[32] Loi N° 2016 -026 Section 4.
[33] ibid Article 16.
[34] Loi N° 2016 -026 Article 19.
[35] Republique du Benin Ministre De L'Environnement Charge de la Gestion des Changements Climatiques, du Reboisement et de la Protection des Resources Naturelles et Forestières Direction Generale des Forets et des Ressources Naturelles (DGFRN) Convention Sur La Diversité Biologique (CDB): Stratégie et Plan d'Action pour la Biodiversité 2011-2020, section 1.2.5.3. Pêche.
[36] Loi-cadre n° 2014-19 du 07 aout 2014 relative à la pêche et à l'aquaculture en République du Bénin Articles 110-115.
[37] Peter Manning, 'Final Technical Report: Support to the implementation of the FCWC regional plan of action on IUU fishing Region: West Central Gulf of Guinea Countries: Benin, Côte d'Ivoire, Ghana, Liberia, Nigeria and Togo' (30th May 2011 Project ref. N°CU/PE1/SN/11/011) 13.
[38] [1992 No. 71].
[39] Sea Fisheries (Fishing) Regulations [S.1. 19 of l992].

National Food Security Programme.[40] Specific legislation or policy on illegal fishing is not available, but the state's thinking on this issue is indicated in a Draft MoU obtained by the author (referenced in Chapter Eight). Reference to a recent Nigerian Trawlers Association Report of impact on jobs and infrastructure shows fishing continues to be a problematic matter.[41]

Prevailing Cameroon fisheries legislation (1995, amended 2001) does not address illegal fishing.[42] It has proposed national legislation to tackle the issue.[43] The key national legislation which could establish national profile on this issue and correct issues including a recognised discrepancy in fine limits between Cameroon and Equatorial Guinea[44] has not been produced and the time of writing. Equatorial Guinea's fisheries law of 2003[45] establishes penalties for illegal fishing, although the matter is characterised in regulatory not security terms. The seas of the state are referenced but not defined.

Gabonese fisheries legislation of 2005[46] outlines the need to establish a management plan for fisheries.[47] It does not securitise fisheries or discuss delimitation beyond defining that its waters comprise a territorial sea and exclusive economic zone.[48] Gabon's *Plan Stratégique Gabon Emergent: Vision 2025 et orientations stratégiques 2011-2016* securitises fisheries and calls for cooperation including on a programme of delimitation.[49] This strategic

[40] Federal Republic of Nigeria Federal Ministry of Agriculture and Water Resources: National Food Security Programme May 2008.
[41] Bayo Akomolafe, '600,000 jobs cut as $5.2bn fishing facilities rot away' (*New Telegraph*, 16 July 2018) referring to a recent Nigerian Trawler Owners Association report on the industry, <https://newtelegraphonline.com/2018/07/600000-jobs-cut-as-5-2bn-fishing-facilities-rot-away/> accessed 16 July 2018.
[42] Decree No. 2001/546 / PM amending and supplementing certain provisions of Decree No. 95/413 / PM of 20 June 1995 laying down detailed rules for the application of the fisheries regime. 2001-07-30.
[43] ENVIREP-CAM Overview of Management and Exploitation of the Fisheries Resources of Cameroon, Central West Africa (2011) Institut de recherche Agricole pour le Developpement, Yaoundé.
[44] Interview Cam-fmrMinepia-1016.
[45] Ley Num. 10/2.003, de fecha 17 de Noviembre, Reguladora de la Actividad Pesquera en la Republica de Guinea Ecuatorial.
[46] Republique Gabonaise Loi n° 015/2005 portant Code des pêches et de l'aquaculture en République Gabonaise.
[47] ibid Articles 12-15.
[48] Loi n° 015/2005 (n46) Article 5.
[49] Action 32. Maitrise de l'espace maritime : *Le Gabon dispose de 800 km de côtes (la plus longue côte des pays d'Afrique Centrale) et se situe dans le Golfe de Guinée, zone clé d'exploration pétrolière et bassin d'une diversité d'écosystèmes. Le Gabon doit donc définir une politique ambitieuse de la mer. Cette politique doit inclure la maîtrise de cet espace maritime en termes de sécurité globale adressant tous les facteurs de risques (sécurité de navigation avec le développement de la piraterie, sécurité environnementale et prévention des risques associés à l'exploitation pétrolière, gazière, voire minière, la protection des écosystèmes humides en zones lagunaires et des aires marines protégées…) et de leurs ressources (lutte contre la pêche illégale). La politique de la mer du Gabon adressera également la sécurité au sens géopolitique et géostratégique au regard de la place qu'occupera de plus en plus le golfe de Guinée dans le monde (notamment pour l'approvisionnement des Etats-Unis). Le Ministère des Affaires étrangères aura la*

programme does not establish this effort however it is a demonstration of an interlinking of issues.

The Republic of Congo's fisheries legislation[50] provides for a management plan[51] to be established as well as licensing[52] and penalties for infractions.[53] This legislation does not securitise the matter or call for cooperation. No publicly available information concerning management plans was identified.

The Democratic Republic of Congo does not include a major focus on coastal fisheries in its legislation. Its Plan of Action[54] discusses illegal fishing, specifically by foreign trawler vessels, placing it as one of the consequences of the absence of a domestic fishing industry.[55] To combat such activities the state puts forward proposals including the development of synergy between departments and the ratification of international conventions on protection of marine and coastal environments.[56] To combat illegal fishing the state prioritises surveillance and strengthening of enforcement measures[57] including a project to reinforce surveillance in its exclusive economic zone.[58] On available evidence, the plan has not resulted in legislation and management plans. Fishing in the state appears to be governed by the decree of 21 April 1937 on fishing and hunting. Focus has previously been on inland fisheries, including in a piece of legislation drafted with assistance of the FAO, which has not yet been recorded as in force.[59]

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charge de définir la politique de sécurisation du territoire côtier national dans le cadre d'une vision régionale couvrant l'ensemble du Golfe de Guinée. Ce travail nécessitera une coopération étroite avec l'ensemble des pays côtiers de la zone, la négociation de solutions pacifiques aux litiges, la mise en place de politiques de sécurité commune et la mutualisation des moyens par un programme de Délimitation des Espaces Maritimes Nationaux et de Préservation de l'environnement maritime.

[50] Loi no 2 - 2000 du 1er fevrier 2000 portant organisation de la pêche maritime en République du Congo.

[51] ibid Section 2.

[52] Loi no 2 - 2000 (n50) Articles 33-37.

[53] ibid Chapitre VI : De la Constatation et de la Poursuite des Infractions Section 1 : Des Compétences

[54] Ministère de l'Environnement, Conservation de la Nature et Tourisme, Plan d'Action National Pour la Gestion Durable des Ressources Environnementales Marines et Côtières de la Republique Démocratique du Congo Septembre 2010.

[55] ibid section 1.3.1.2.

[56] Plan d'Action National (n54) 1.5.1. Contraintes d'ordre institutionnel et légal.

[57] Plan d'Action National (n54) 2.3. Critères Utilises Pour la Priorisation des Actions: 2.3.3. Critère de pêche durable; PARTIE III. Les Actions Stratégiques du Pan : 3.1.1. 3.1.1. Action de prévention et protection de l'habitat.

[58] Plan d'Action National (n54) 110.

[59] FAO, 'Profils des pêches et de l'aquaculture par pays La République Démocratique Du Congo : Cadre Juridique' (2009) <http://www.fao.org/fishery/facp/COD/fr#CountrySector-LegalFrameworkOverview> accessed 01 June 2017.

One third of Angola's national protein consumption comes from fisheries. Its capacity to manage this resource is inadequate.[60] Its fisheries are regulated by Fisheries law N.6-A/04 of 8 October 2004 which provides for offences and sanctions. Articles[61] provide for the protection and sustainable management of marine resources and ecosystem and cover the preservation of resources and ecosystems[62] including protected areas.[63] Subsequent regulations are the General Fishing Regulations (Decree 41/05), Surveillance of Fishing Activities Regulation (Decree n.º 43/05), Granting of fishing rights and licences Regulation (Decree n.º 14/05). Policy is set out in the Fisheries Master Plan 2006-2010.[64] Further, the Plano Nacional de Desenvolvimento 2013-2017 specifically addresses illegal fishing, calling for action to combat this activity in line with FAO recommendations.[65] It also seeks to improve interagency cooperation at the national level, making fisheries an economic priority.[66] Its efforts have not yet translated into identifiable actions.

São Tomé et Principe's legislation of 2001 sets fines and penalties for industrial vessels fishing illegally.[67] The National Biodiversity Strategy and Action Plan[68] recognises this legislation, but highlights global compliance and enforcement issues.[69] It finds:

> The unregulated and unsustainable exploitation of fishery resources affects economically, directly on the population, by promoting on the one hand the reduction of their income, and on the other hand the increase in purchase prices. Despite the existence of a law on fishing, the lack of means to make the monitoring and inspection of fishing activities in STP EEZ, has resulted in the degradation of halieutic resources and an inadequate exploitation of marine biodiversity. It is therefore urgent to strengthen both regulatory and material means to enforce the law, in order to enabling that marine resources are exploited in a sustainable manner.[70]

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[60] Dyhia Belhabib and Esther Divovich, 'Rich fisheries and poor data: a catch reconstruction for Angola, 1950-2010' an update of Belhabib and Divovich In: Belhabib and Pauly (eds), (2014) 23(3) Fisheries catch reconstructions: West Africa, Part II (Fisheries Centre Research Reports) 115, 117.
[61] Articles 64(b), 64(d), 65(a), 65(e-f), 66(b-e), 66(g), 67(1)(a-b), 67(1)(e), 69-75, 95-116.
[62] Articles 65(c), 79-86, 89-90
[63] Lux-Development SA Landell Mills Ltd Altair Asesores SA Alpha, 'International and Regional Fisheries Agreements and Organisation in the SADC Region Legal Assessment and Review' (Marine Working Paper N.º 49 April 2006) 4.
[64] Fisheries Master Plan 2006-2010 referenced in Angola: Country Overview <http://acpfish2-eu.org/index.php?page=angola> accessed 09 July 2017.
[65] Plano Nacional de Desenvolvimento 2013-2017 93.
[66] ibid 98.
[67] República Democrática de São Tomé e Príncipe Assembleia Nacional LEI N.º09/2001 Lei de Pesca e Recurso Hauliêutico Artigos 59, 60.
[68] Ministry of Infrastructure, Natural Resources and Environment, National Biodiversity Strategy and Action Plan 2015-2020 (NBSAP II).
[69] ibid 15.
[70] National Biodiversity Strategy (n68) 58.

This statement directly links fisheries and economic and food security and underpins calls for information collection on EEZ resources[71] and elimination of illegal fishing.[72] Delimitation is not discussed but specific efforts to cooperate are referenced:

> Strengthening the participation of STP in regional and international meetings (CECAF(*Fishery Committee for the Eastern Central Atlantic*), ICCAT (*The International Commission for the Conservation of Atlantic Tunas*), IMO) to enhance communication and cooperation in the fight against Illegal, Not declared, Not regulated fishing (INN) and consider the joining of STP to other initiatives (International MCS Network).[73]

Summary

Legislation to regulate fisheries is apparent across the region. It has been developed in many cases prior to the evolution of fisheries in government agendas to a security as well as an economic and regulatory issue. Therefore it does not respond effectively to current security threats. States increasingly recognise this discrepancy. Later legislation has in some cases securitised the matter of fisheries, with reference to IUU (or INN) or illegal fishing, and cooperation. Reference to cooperation does not appear on the evidence to have caused states to adopt harmonised positions. The subject of delimitation, or the implication of unsettled boundaries is almost entirely absent. Gabon's strategic plan does acknowledge the relevance of delimitation but broadly this is an issue separated from fisheries policy and legislation. This absence supports the argument of Chapter Five regarding the challenge of relying upon the UNCLOS zonal regime. In many cases the development of specific plans to manage fisheries either alone or as a region remains outstanding. This limits the extent to which we can understand and link cooperation, delimitation, and securitising of fisheries in fisheries policy and legislation. It limits the degree to which interdependence and recognition of the security implications of illegal fishing can be argued to have caused states to adopt positions that reflect their understanding of maritime security as an inclusive interest.

6.2.3 Piracy legislation

Piracy legislation is in many cases outdated or absent. Several states have been acting to update their legislation, including with assistance from UNODC:

> Assessments and fact-finding missions by UNODC in the region determined that no State bordering the Gulf of Guinea possesses the necessary combination of jurisdictional

[71] National Biodiversity Strategy (n68) 67.
[72] National Biodiversity Strategy (n68) 70.
[73] National Biodiversity Strategy (n68) 70.

provisions, offence-creating legislation, and judicial capacity needed to undertake prosecutions against piracy.[74]

This section analyses available piracy legislation. The Oceans Beyond Piracy Database[75] and the UN Piracy Legislation Database[76] have collated much of the legislation discussed herein. The present analysis addresses the scope for cooperation anticipated by instruments. Instruments that reflected maritime security as an inclusive interest would establish clear mechanisms for cooperation across national and regional agencies. This might include measures to overcome limits imposed by jurisdiction in undelimited space or to counter inadequate capacity of any state in the region through joint patrols, embarked officers or cooperation through monitoring, control and surveillance. Previous chapters have raised the issue that traditional piracy as defined in the Convention[77] is applicable on the high seas and that instruments such as the SUA convention[78] are an important tool elsewhere. The effort to increase implementation of the SUA Convention forms part of the work of the IMO.[79] Efforts to address this lacunae may establish implementing legislation that develops jurisdiction to address armed robbery at sea. As noted in Chapter Four and demonstrated in Chapter Five, delimitation status means that proper jurisdiction is often difficult to determine. This section focuses on discussion of existing piracy legislation; this is what states have in place in various forms and what will be the starting point of reform efforts, although comprehensive solutions require legislation in place for both piracy and armed robbery at sea offences and where states reform their legislation it is preferable that they broaden the scope of proposed legislation.

Liberian Penal Code Section 15.31 criminalises piracy.[80] Liberian legislation was passed during the Third UNCLOS Conference and its language reflects the UNCLOS definition.

[74] United Nations Office on Drugs and Crime, Global Maritime Crime Programme Annual Report 2016, 22; UNODC, 'Updated Criminal Code in Gabon legislates against piracy and maritime crime'<https://www.unodc.org/westandcentralafrica/en/gabon-maritime-crime-legislation.html> accessed 01 June 2017.
[75] Oceans Beyond Piracy, 'Piracy Law Database' <http://oceansbeyondpiracy.org/piracy-law-database> accessed 10 May 2017.
[76] United Nations Division for Ocean Affairs and the Law of the Sea, 'National Legislation on Piracy' <http://www.un.org/depts/los/piracy/piracy_national_legislation.htm> accessed 10 May 2017.
[77] UN General Assembly, Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 397 Articles 15; 74; 83.
[78] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988, 1678 U.N.T.S. 22.
[79] International Maritime Organisation, *Implementing Sustainable Maritime Security Measures in West and Central Africa* (January 2014).
[80] Penal Law - Title 26 - Liberian Code of Laws Revised s. 15.31.

The text of this legislation does not contemplate piracy as a regional concern and does not deal with cooperation or delimitation.

Côte d'Ivoire criminalises piracy in the 1961 Merchant Marine Code.[81] This is not consistent with UNCLOS. There is a reference to the death penalty for this crime in the Code but the state abolished the death penalty for all crimes in 2000.[82]

Provisions in Ghana's 1960 Criminal Code[83] respecting piracy are outdated. Ghana, together with other Gulf of Guinea states is part of programmes aimed at creating more effective legislation that addresses these issues and also regional cooperation.[84] At the time of writing effective measures are not in place.

Togolese 2015 legislation defines piracy and penalties consistent with UNCLOS.[85] The legislation provides for universal jurisdiction.[86] Cooperation is not addressed. This is not aligned with Togolese statements and promotion of cooperation on maritime security.

Benin's Maritime Code was adopted in 2011.[87] The criminalisation of the offence contained therein does not expressly provide for universal jurisdiction or cooperation. Penalties are not outlined, but rather are contained in the older Penal Code instrument. This leaves matters unaddressed that are important to its participation in any regional framework.

Nigeria does not have specific piracy legislation. Elements are criminalised in other legislation.[88] Naval staff and government officials recognise issues surrounding this include inability to prosecute and conflict of jurisdiction across federal state and magistrate courts.

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[81] Le Code de la Marine Marchande (Loi Noº 61-349 du Novembre 1961, Relative a L'Institution d'un Code de la Marine Marchande) Articles 228-238.
[82] Amnesty International, 'Abolitionist and Retentionist Countries as of 19 December 2016' (ACT 50/3831/2016) 3.
[83] Criminal Code, 1960 (Act 29) Section 193.
[84] UNODC, Regional Programme for West Africa 2016-2020 in support of the Economic Community of West African States (ECOWAS) Action Plan to Address Illicit Drug Trafficking, Organized Crime and Drug Abuse in West Africa 2016-2020 (United Nations 2016) 66 states 'As part of its Global Maritime Crime Programme (GMCP), UNODC already performed five assessments on legal frameworks in the Gulf of Guinea, three major workshops on piracy and maritime crime and three international coordination meetings among Benin, Gabon, Nigeria and Togo. Togo changed its legislation on maritime crime and piracy introducing the provisions suggested by the GMCP. Gabon also reformed its criminal law, even though the reform remained only effective for a few months. Nigeria is currently drafting a new legislation on piracy with the direct support of the GMCP. Mentors are currently supporting Ghana and São Tomé and Principe's law enforcement agencies, while Benin, Cameroon, Côte d'Ivoire, Gabon, Ghana, Nigeria, São Tomé and Principe and Togo currently benefit from the GMCP's legal reform and legal awareness programme.'.
[85] LOI N° 2015-10 du 24 novembre 2015 Portant Nouveau Code Penal.
[86] ibid Article 1068.
[87] Loi n° 2010-11 portant code maritime en République du Bénin.
[88] Penal Code (Northern States) Federal Provisions Act (Northern Region No. 18 of 1959) and Criminal Code Act (1960 C38).

It is in the process of reforming its piracy legislation. Its Draft Bill of 2016 allocates jurisdiction exclusively to the federal high court and its definition of the crime of piracy is consistent with UNCLOS.[89] Legislation that provides for effective jurisdiction over this offence is vital to Nigeria playing a role in a cooperative framework. As will be outlined below, the state has the greatest fleet capacity in the region and therefore is crucial to cooperation but this must be underpinned by prescriptive jurisdiction.

Cameroon does not have modern piracy legislation. The prevailing legislation is the 1967 Penal Code.[90] This is inadequate to contribute to cooperative efforts and has led to the collapse of process on the grounds of lack of jurisdiction.[91]

Equatorial Guinea defines and criminalises piracy in its colonial-era 1963 Penal Code.[92] States in the region who retain a death penalty for such crimes risk reputational damage and practical obstacles, undermining mutual legal assistance and transfers important for cooperation on this area.

Gabon is currently drafting an update to its legal framework.[93] Pending this the framework for piracy is based on a 1963 Code inconsistent with UNCLOS.[94]

The Republic of Congo relies upon its Merchant Shipping Code of 1963. Under Article 271 of this Code, universal jurisdiction is not established[95] and questions of cooperation and possible challenges of delimitation are not considered.

Neither the Democratic Republic of Congo nor Angola possess any specific anti-piracy legislation.[96]

São Tomé et Principe 2012 legislation[97] piracy definition in Article 386 is consistent with UNCLOS but interestingly the final clause (translated from the original Portuguese) states '[I]n all cases in which Special Laws or International Conventions consider other facts as a crime of piracy, its provisions shall be observed.' This example could usefully reconcile the

[89] A Bill for an Act to Provide for the Suppression of Piracy and Other Maritime Offences (2016 Version).
[90] Code Penal n° 67/LF/1 12 Juin 1967.
[91] Interview GoG-MCC-1016
[92] (n90) 139.
[93] UNODC, 'Updated Criminal Code in Gabon legislates against piracy and maritime crime' <https://www.unodc.org/westandcentralafrica/en/gabon-maritime-crime-legislation.html> accessed 17 July 2017.
[94] Merchant Shipping Code of 1963, Articles 221-229.
[95] Loi 30-63 du 4 juillet 1963 portant Code de la Marine Marchande Article 271.
[96] Oceans Beyond Piracy, 'Piracy Law Database: Angola' <http://oceansbeyondpiracy.org/piracy-law-database/west-africa/angola>.
[97] Código Penal Aprovado pela Lei 6/2012 Artigo 386.

law with the facts of offences, provided implementation of other conventions has been achieved.

Summary

This assessment of available piracy legislation concurs with the finding of UNODC of inadequate provision for criminalisation of this as an offence in national legislation. Later texts are more consistent with the internationally established UNCLOS definition of piracy. However penalties are varied and in the case of death penalty provision represent a block to cooperation.[98] Cooperation in this field may be presumed on the basis of universal membership of UNCLOS, but the absence of plans available at the national level to carry this through undermines this aim. Whilst imperfect and absent legal frameworks for combatting piracy is not a success what is clear is that security has been at the forefront of national and regional conversation and this is largely driven by piracy concerns. Development of the law is an often slow and complex process but it remains integral to meeting the security threats. Recognised measures to ensure effective cooperation such as embarked officer programmes and joint patrols or information sharing have not been developed in legislation where they may have stronger impact on relevant agencies on the basis of their being a legal obligation. It is concluded that the idea of maritime security as an inclusive interest cannot be argued here as having promoted state action that takes a cooperative approach.

6.3 Monitoring and enforcement capacity

This section addresses monitoring and enforcement capacity, evidenced through state behaviour in very practical senses: acquisition of monitoring, control and surveillance capabilities, and naval resourcing through improving asset strength. It interrogates a view commonly stated that 'information sharing, maritime domain awareness, and maritime law enforcement capacities and capabilities vary sharply throughout the region, and are by and large wholly insufficient, although measurable progress has been made in all fields.'[99]

It demonstrates that maritime security as inclusive interest has not promoted or begun a joined-up approach of interoperable equipment and fleets that represent optimal regional forward-planning. The section further underscores the argument for states reframing how

[98] Interview Nig-GovA-1016.
[99] Dirk Steffen, 'Maritime Security in the Gulf of Guinea in 2016' (*CIMSEC*, 11 April 2017) <http://cimsec.org/gulf-guinea-maritime-security-2016/31716> accessed 09 May 2017.

they understand their sovereignty because of the reality of a disparity between their enforcement capacity and their need to control their domain. This coheres with Perrez's statement that cooperative sovereignty is also based on recognition of 'new realities'.[100]

6.3.1 Technology that 'speaks' across boundaries

It is essential that states are able to detect and monitor activity off their coastline. Without this, there is limited value in developing legislation to outlaw activities. It is a deterrent when operational because vessels are aware that they are not operating in a vacuum. This concerns Maritime Domain Awareness (MDA). The US Navy defines effective MDA: enables the early identification of potential threats and enhances appropriate responses; requires integrating all-source intelligence, law enforcement information, and open-source data from the public and private sectors; is heavily dependent on information sharing and requires unprecedented cooperation between public and private sectors, both nationally and internationally.[101] Within this, Monitoring, Control and Surveillance (MCS) is particularly critical for fisheries management. Maritime security as an inclusive interest should cause states to acquire interoperable technology and develop information and intelligence sharing agreements.

Automatic Identification Systems (AIS) and the Vessel Monitoring Systems (VMS) are critical to understanding what is happening offshore. AIS is mandatory under SOLAS for vessels of 300 gross tonnage and above. It is an open system that provides location information. AIS has limited range and can be switched off by vessels. Satellite AIS which could increase the range of AIS is relatively new and not widely in place.[102] AIS is often not used in combination with VMS. VMS is a closed system that provides location and speed information, enabling inferences to be made about a vessel's activity.[103] Limited uptake of VMS undermines what is already often low state capacity to act even where there is

[100] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000) Part II.
[101] Rear Admiral White, 'Advancing Maritime Domain Awareness (MDA) for the Fleet and the Nation' (16 January 2014) <http://navylive.dodlive.mil/2014/01/16/advancing-maritime-domain-awareness-mda-for-the-fleet-and-the-nation> accessed 09 September 2015.
[102] European Space Agency, 'Satellites- Automatic Identification System (SAT-AIS) (Last update: 3 January 2016) <http://www.esa.int/Our_Activities/Telecommunications_Integrated_Applications/Satellite_-_Automatic_Identification_System_SAT-AIS> accessed 8 March 2018.
[103] See discussion of VMS in UN Food and Agriculture Organization, 'FAO Technical Guidelines for Responsible Fisheries' No 1, Supplement 1 (1998).

legislation in place. The table identifies monitoring capability using *Jane's World Navies*[104] and other, identified sources.

State	**MCS Technology**
Liberia	VMS
Côte d'Ivoire[105]	VMS
Ghana	VTMIS and Radar
Togo	Unable to verify
Benin[106]	AIS and Radar
Nigeria	Falcon Eye and Radar (AIS and ground-based radar)
Cameroon	AIS; (VMS not currently functional)[107]
Equatorial Guinea	AIS
Gabon[108]	VMS (Argos System)
Republic of Congo	Unable to verify
Democratic Republic of Congo	Unable to verify; African Union – Inter-African Bureau for Animal Resources (AU-IBAR) states it is limited.[109]
Angola[110]	VMS
São Tomé et Principe	AIS

Table Three: Monitoring, Control and Surveillance Capacity

Cooperation would be best established through compatible systems. These systems would be able to 'speak' to each other thereby smoothing the process of MCS. It is possible that through the various regional seminars regional decisions could be reached. Alternatively a system developed in a single state that has been a proven success could be replicated through discussion at such regional meetings. Regional meetings have not resulted in common resourcing decisions. Regional agreement would avoid complication caused by states viewing the choices made by an individual state being imposed. This is a complication Ali

[104] Jane's: World Navies (IHS Markit 2017).
[105] Godfrey Baidoo-Tsibu, Fisheries Commission, Bright Yeboah, WARFP-Ghana, 'Fisheries sector transformation saves Ghana's oil & gas industry' (*Citifm,* 8 December 2017) <http://citifmonline.com/2017/12/18/fisheries-sector-transformation-saves-ghanas-oil-gas-industry-article/> accessed 23 December 2017.
[106] Institute for Security Studies, 'West Africa Report: Benin's maritime security challenges in the Gulf of Guinea' (Issue 12 | May 2015) <https://issafrica.s3.amazonaws.com/site/uploads/ECOWAS12.pdf> accessed 01 June 2015.
[107] INTERPOL Environmental Security Sub-Directorate (ENS), 'Study on Fisheries Crime in the West African Region Coastal Region' (September 2014) 42.
[108] FAO, Fishery Country Profile: La République Gabonaise (December 2007) <http://www.fao.org/fishery/docs/DOCUMENT/fcp/fr/FI_CP_GA.pdf> accessed 01 June 2015.
[109] AU-IBAR, 'Status of Monitoring, Control and Surveillance Systems in Southern Africa - Strengthening National and Regional Capacities for Combating Illegal, Unreported and Unregulated Fishing' (AU-IBAR Reports2016) 47.
[110] FAO 'The Republic of Angola: County Brief' (FAO, April 2014) <http://www.fao.org/fishery/facp/AGO/en#CountrySector-LegalFrameworkOverview> accessed 01 June 2015.

identifies in his analysis of Ghanaian systems.[111] Ali considers the idea of mandating of application of a monitoring system to vessels. There is no controversy with application to vessels flagged in the state or which have acquired a licence to operate in the state's waters.[112] The application to vessels in innocent passage is a separate issue. Ali argues that it is consistent with Article 21 UNCLOS[113] to require installation of specific monitoring equipment. Such installation 'on board vessels is not an unusual requirement and does not impose undue inconvenience'[114] however failure to comply with requirements established in national legislation could not render passage non-innocent but could justify arrest and legal proceedings.[115] The obstacles this would entail lead Ali to conclude regional or international agreement are most effective.[116] This highlights circularity and the need for reframing states' conception of their role in the maritime space.

An interesting example of regional coordination is actually promoted and funded by the United States. The Regional Maritime Awareness Capability (RMAC) programme is funded through US defence funds; 'The RMAC system receives, integrates, displays, records and distributes data from sensors and systems including maritime and air surveillance radars, GPS, Automatic Identification System (AIS), cameras and automated dependent surveillance system-broadcast (ADS-B)'.[117] Nigeria and São Tomé et Principe have the system. Installation began in 2015 in Benin, Togo and Gabon. Côte d'Ivoire is awaiting

[111] Kamal-Deen Ali, 'Legal and Policy Dimensions of Coastal Zone Monitoring and Control: The Case in Ghana' (2004) 35 Ocean Development & International Law 179.
[112] ibid 187.
[113] Article 21 Laws and regulations of the coastal State relating to innocent passage 1. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following: (a) the safety of navigation and the regulation of maritime traffic; (b) the protection of navigational aids and facilities and other facilities or installations; (c) the protection of cables and pipelines; (d) the conservation of the living resources of the sea; (e) the prevention of infringement of the fisheries laws and regulations of the coastal State; (f) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof; (g) marine scientific research and hydrographic surveys; (h) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State. 2. Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards. 3. The coastal State shall give due publicity to all such laws and regulations. 4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.
[114] Ali (n111) 188.
[115] Ali (n111) 188.
[116] Ali (n111) 188.
[117] Guy Martin, 'Regional Maritime Awareness Capability (RMAC) programme rolling out across Africa' (*DefenceWeb*, 15 December 2016) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=46312&catid=74&Itemid=3> accessed 03 January 2017.

installation and Cameroon and Angola are under consideration.[118] This is a significant spread of a single technology. It does not provide the full suite of tools necessary to effect total surveillance and control of the space – RMAC at best provides sight to 35nm. The increased capacity to coordinate that this enables is important. What must be highlighted is that this has not been a regional request but a series of bilateral agreements between respective states and the United States. Therefore the outcome cannot be said to be consequent upon regional coordination. Another US-sponsored tool is SeaVision. This is a tool that plots AIS and radar data on a Google Map and therefore streamlines data for monitoring personnel.[119] The continued gap is best highlighted through results of interview at the MCC established in Douala, Cameroon:

> So talking about how our facilities as you see we have ECCAS MOCs and we work with national MOCs of the countries that make up the zone and we exchange with MOC of Gabon, we exchange with MOC of EG, we exchange with MOC of Cameroon and we exchange with MOC of STP and we also exchange with friendly forces of those countries and we have our task group at sea and in terms of equipment we have DHF [radio indicated] and HF radio, we have phone we have internet and we have some sametime chat, our African Partner Network also and we have NCE from the United States and we have SPRINT which is also a kind of exchange a kind of chatroom from the French. In terms of detection you have AIS you have Sea Vision and the means to procure that we are waiting, we are lacking INMARSAT.[120]

This indicates that efforts to develop complementary practice in parts of the region are undermined by lack of complementary technology. AIS through SeaVision is a step forward where it enables personnel to more easily use complementary systems, however INMARSAT has been recognised as a necessary tool that the region is lacking.

6.3.2 Naval capacity

Osinowo states that 'improving security is more about the strategic management of maritime space than it is about naval fleets and patrol craft'.[121] This is broadly true however in addition to legislation and policy, enforcement capacity is crucial to effective maritime security. It is arguable that having the capacity to enforce the law at sea in one's maritime space is the

[118] ibid.
[119] US Naval Forces Africa / US 6th Fleet, 'What is SeaVision? A Talk with the Creator of Saharan Express' Primary Maritime Domain Awareness Tool' (25 April 2015) < http://www.c6f.navy.mil/blog/what-seavision-talk-creator-saharan-express-primary-maritime-domain-awareness-tool> accessed 13 December 2017.
[120] Interview GoG-MCC-1016.
[121] Adeniyi Adejimi Osinowo, 'Combating Piracy in the Gulf of Guinea' (Africa Security Brief No 30 2015) 7.

corollary of a claim to maritime jurisdiction.[122] The discussion of naval capacity highlights a scarcity of resources. This reality bolsters a call to revise how cooperative action is understood. Data has been compiled from *Jane's: World Navies* 2018.[123] This is a respected resource for data in this area. The table does not address force designation as a navy or coastguard, except in the case of Nigeria where a specific designation was identified (in some cases force strength is a combination of both), the condition of vessels or state capacity to fuel, re-fit and man vessels.

State	**Personnel / Vessel Type**	**Number**
Liberia	Personnel	80
	Patrol Craft	12
Côte d'Ivoire	Personnel	1400
	Fishery Patrol Vessel	2
	Patrol Craft	4
	Patrol Craft - Inshore	3
	RHIB	2
Ghana	Personnel	2000
	Patrol Craft –Offshore	4
	Patrol Craft – Inshore	12
	Patrol Craft	2
	Fast Attack Craft	7
Togo	Personnel	200
	Patrol Craft	2
	Patrol Craft – Coastal	5
Benin	Personnel	500
	Patrol Craft – Offshore	1 (requiring refurbishment)
	Patrol Craft – Inshore	4
	Patrol Craft – Riverine	2
	Fast Patrol Boat	3
Nigeria	Personnel	15000
	Frigate	3
	Corvette	1
	Fast Attack Craft	15
	Patrol Craft Large and Offshore	4
	Patrol Craft	61
	Patrol Craft – Inshore	122
	Coastguard Patrol Craft	48
Cameroon	Personnel	3000

[122] Steven Haines, 'The Influence of Law on Maritime Strategy' Chapter 9 in Daniel Moran and James A. Russell (eds), *Maritime Strategy and Global Order: Markets, Resources, Security* (Georgetown University Press 2017) 254.
[123] Jane's: World Navies (IHS Markit 2018).

	Patrol Craft –Offshore	4
	Patrol Craft – Coastal	6
	Patrol Craft – Inshore	3
	Patrol Craft – Riverine	2
	Patrol Craft	16
	RHIB	12
Equatorial Guinea	Personnel	150
	Frigate	1
	Corvette	1
	Patrol Craft	6
	Patrol Craft –Offshore	2
	Patrol Craft – Coastal	1
	Patrol Craft – Inshore	2
Gabon	Personnel	600
	Patrol Craft Large	6
	Patrol Craft – Inshore	6
	Fast Attack Craft	1
	Response Boats	3
Republic of Congo	Personnel	800
	Patrol Craft	4
	Patrol Craft – Riverine	7
	RHIB	8
Democratic Republic of Congo	Personnel	6700
	Fast Attack Craft	1
Angola	Personnel	890
	Patrol Craft	7
	Patrol Craft – Coastal	9
	Patrol Craft – Inshore	2
São Tomé et Principe*	Personnel	60
	Patrol Craft	5
	Patrol Craft – Inshore	1

*This state is not included in the index. Data for this state was received separately from the company by the author through email and telephone correspondence.

Table Four: Fleet Capacity

This table highlights that some states are ill-equipped, with vessels improperly matched to the threat picture outlined in Chapter Four. Many vessels reported may require re-fit or refurbishment that means the data does not reflect the actual force states can project. Several states have few or no personnel or constitute their force through volunteer recruitment. A commonly used determination of maritime capacity is the ranking system which involves

placing navies in a hierarchy based on capability and reach.[124] This ranges from rank 1: major global force projection navies, to rank 8: token navies. The eight ranks are:

1. Major global force projection navies
2. Medium global force projection navies
3. Medium regional force projection navies
4. Adjacent force projection navies
5. Offshore territorial defence navies
6. Inshore territorial defence navies
7. Constabulary navies
8. Token navies[125]

The use of a ranking system is not uncontroversial,[126] particularly in the context of state capacity to deal with a broad threat spectrum. However they offer some insight into the standing capacity of states and highlight how states may be more effective in concert. Navies ranked in the top three tiers are able to conduct sea control / denial operations and act using appropriate type and level of force.[127] No navy in the region is a top three tier navy. The largest navies in the region – Ghana and Nigeria - are recognised to be Rank 7 navies and Benin is a Rank 8 navy.[128] The navies of Cameroon and Equatorial Guinea could be in Rank 7. Their vessel availability and force structure enables a greater presence. It is proposed that Liberia, Côte d'Ivoire, Togo, the Republic of Congo, the Democratic Republic of Congo, Angola, Gabon and São Tomé et Principe are all at various points within Rank 8.

The diversity of threats requires enforcement capacity beyond that held by many states. This is where states may seek outside assistance, or perhaps in light of maritime security as an inclusive interest, seek further cooperation. Two state case studies demonstrate how the data supports this conclusion. As above, it is recognised that serviceability of vessel or appropriateness of training for personnel cannot be interrogated on the data available. The neighbouring states Togo and Benin have been chosen for this exercise. Benin has a larger

[124] Steven Haines 'New Navies and Maritime Powers' in N.A.M. Rodger, *The Sea in History - The Modern World* (Boydell 2017) 88.
[125] Eric Grove, 'The Ranking of Smaller Navies Revisited' in Michael Mulqueen, Deborah Sanders and Ian Speller, *Small Navies: Strategy and Policy for Small Navies in War and Peace* (Routledge 2014) 15-21.
[126] Leon Engelbrecht 'Fact File: Ranking African Navies' (Defence Web, 21 January 2010) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=6229:fact-file-ranking-african-navies&catid=79:fact-files&Itemid=159> accessed 08 August 2017.
[127] Haines 'New Navies and Maritime Powers' (n124) 89.
[128] Grove (n125) 19.

maritime space. The states face similar types of security concerns. Their capacity varies in terms of vessel number, vessel age, vessel purpose and personnel number.

Togo has a coastline of 56km and a maritime space of 20,780 km^2.[129] It has seven patrol craft – two coastal patrol craft commissioned in 1976 manufactured by Chantiers Navals de L'Esterel, three coastal patrol craft donated by the US government in 2010 and 2014 that were manufactured by SAFE Boats International, and two patrol craft commissioned in 2014, manufactured by Raidco Marine.[130] Its force numbers two hundred personnel. The Raidco manufactured patrol craft, the RBB 33, are stated to have the capacity to remain for seven days at sea, accommodating seventeen crew and thus enabling some coverage of the EEZ.[131] It has a maximum speed of 28-33 knots[132] but is said to be capable of operating over a distance of 1,500nm, when sailing at a speed of 15knots.[133] The vessel's capability is set out as:

> The boats are suitable for a wide range of missions such as long patrols in the exclusive economic zone (EEZ), surveillance, intervention, inspection, counter-terrorism, policing, anti-piracy, and maritime security. The RPB 33 can also be deployed to combat illegal immigration, fishing, trafficking and smuggling.[134]

This conclusion is intended to suggest the range of purposes for which the vessel may be utilised, and not an assumption that two such vessels will attempt to undertake all such tasks.

The five coastal patrol vessels are manufactured by two different operators. The SAFE Boats International Defender vessels were donated by the United States in 2010 and 2014.[135] These vessels are described by the US military as coastguard vessels with a ten year service life.[136] Their maximum capacity is 13 crew.[137] Length of service preceding donation is unclear. No

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[129] Barthélémy Blédé and André Diouf, 'Togo's maritime challenges: Why security remains a major issue' (Institute for Security Studies West Africa Report: Issue 18 August 2016)1.
[130] Jane's: World Navies: Togo (IHS Markit 2017) 588.
[131] naval-technology.com, 'RPB 33 Offshore Patrol Boat, France' <http://www.naval-technology.com/projects/rpb-33-offshore-patrol-boat/> accessed 20 July 2017.
[132] Raidco, 'Patrol Boats' < http://uk.raidco.com/construction/vedettes/vedette_rpb33.php> accessed 20 July 2017.
[133] navaltechnology.com, 'RPB 33 Offshore Patrol Boat, France' <http://www.naval-technology.com/projects/rpb-33-offshore-patrol-boat/>.
[134] ibid.
[135] Defence Web, 'Togo receives Defender patrol boat from United States' (10 July 2014) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=35432:togo-receives-defender-patrol-boat-from-united-states&catid=51:Sea&Itemid=106> accessed 20 July 2017.
[136] United States Coast Guard 'Aircraft, Boats, and Cutters: Boats 25-Foot Defender Class Boat (RB-HS/RB-S/RB-S II)' <https://www.uscg.mil/datasheet/25rbs.asp> accessed 20 July 2017.
[137] Safe Boats International, 'Response Boat-Small (RB-S) information page' <http://www.safeboats.com/boats/full-cabin-25/> accessed 21 July 2017.

technical information is available regarding the two coastal patrol craft commissioned in 1976; an online source states the craft's purpose as intercepting possible enemy ships, prohibiting them from approaching the coast, or even deterring them from entering territorial waters.[138]

Coastal patrol vessels are not designed to endure long periods at sea. It is concluded that the purpose of five of the seven vessels is activity close to the coastline. The two vessels with offshore capacity are not exclusively for this purpose and were they utilised in this way, cannot be a constant presence across the Togolese EEZ.

Benin's maritime space is approximately 40 percent[139] of its total land area of 112,622 km^2, approximately 45048.8 km^2. The Institute for Security Studies notes the Merchant Marine is under equipped for its roles in securing maritime safety, security and transport, and protecting the marine environment but its navy is better equipped.[140] Jane's World Navies supports this conclusion that the naval capacity of the fleet is adequate for coastal concerns, stating that a patrol craft can cover the whole coast in just over two hours.[141] The manufacturers are not identified for the inshore, riverine or coastal patrol craft. The inshore patrol craft are identified as US government donations[142] and two ex-Chinese vessels were obtained in 2000.[143] As has been discussed in the case of Togo, such patrol craft are not equipped for endurance at sea either in terms of fuel capacity, crew accommodation or vessel strength. In 2013 Benin acquired three new patrol vessels.[144] These are French vessels with a top speed of 30 knots.[145] These increase the strength Benin is able to project. The number of donated vessels raises concerns around standard and service life.

For nearshore actions the Benin navy may be said to have adequate capacity. In Benin and also in Togo, navies operate 'secured anchorages'.[146] These are a positive security measure,

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[138] globalsecurity.org, 'Togolese Navy' <http://www.globalsecurity.org/military/world/africa/to-navy.htm> accessed 21 July 2017.
[139] Institute for Security Studies, 'Benin's maritime security challenges in the Gulf of Guinea' (West Africa Report Issue 12 May 2015) 1.
[140] ibid 2.
[141] Jane's: World Navies: Benin (IHS Markit 2017) 50.
[142] DefenceWeb, 'Benin Acquires three new coastal patrol craft' (03 April 2012) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=24743:benin-acquires-three-new-coastal-patrol-craft&catid=108:maritime-security&Itemid=233> accessed 22 July 2017.
[143] Janes: Benin (n141).
[144] DefenceWeb (n142).
[145] DefenceWeb, 'Benin receives US patrol boat' (04 July 2014) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=35357:benin-receives-us-patrol-boat&catid=51:Sea&Itemid=106> accessed 22 July 2017.
[146] Steffen (n99).

but cannot extend across the entirety of the maritime space. Identified threats occur both near-shore and offshore. As a neighbouring state to Nigeria, identified as the piracy hotspot in the region, Benin faces a recognised offshore threat. The decision of the Benin government in 2012 to partner with Nigeria in *Operation Prosperity* enabled their neighbour's greater naval capacity to enforce security in their maritime space. *Operation Prosperity's* conclusion raises questions of how the state will provide security.

Further study based upon time spent in each state's ports, government agencies and coastal zones is needed to further interrogate the actual capacity of states to meet maritime security threats but this insight supports the conclusion that states cannot continually project force across the entire claimed maritime space. The consequence of the state of affairs outlined by the data and case studies is threefold. Firstly, states do not have the capacity to endure long periods at sea; secondly the ability to establish a constant presence across the entire claimed maritime space is unrealistic. Most vessels are not designed to undertake long journeys and a constant presence across the maritime space would necessitate a greater number and variety of vessels than states possess. Thirdly the region faces a varied threat picture that requires multiple asset types. An example of this is the need to have serviceable riverine, coastal and offshore patrol vessels in order to counter oil-related crime in and offshore of Nigeria, or the need generally to have smaller vessels for inshore threats and larger vessels to combat illegal fishing that may occur further offshore.

This could be resolved by large allocation of funds but this is not feasible across the region as a whole and would not address the necessary training and capacity building elements of upscaling. Therefore a region-wide response is critical to avoid simply shifting the threat towards other states as was seen in the context of Operation Prosperity where it appears the piracy threat shifted westward during the period of the operation.[147] This is a reality that further demonstrates the need to cooperate and combine scarce resources.

Recent resourcing decisions

Resourcing decisions indicate priorities; prominent examples are Ghana and Nigeria. Ghana's case before the Special Chamber of the ITLOS has been a catalyst for the state to focus on its maritime space. In November 2017 the Ghana Maritime Authority announced acquisition of five million dollars of vessels and logistical equipment which a GMA official

[147] Kamal-Deen Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges,* (Publications on Ocean Development; volume 79 Brill | Nijhoff 2015) 141.

claimed means that 'GMA now has the jurisdiction and the logistics to enforce all laws in its bosom.'[148]

Nigeria has announced collaborations with Equatorial Guinea[149] and South Africa navies.[150] Significant purchase orders have been approved to acquire patrol vessels[151] which are to be used to combat illegal fishing, signalling an important shift from a narrow focus on piracy. In October 2017 the Federal Government announced a deal with an Israeli private security firm to provide vessels and training in the state for three years.[152] This deal has since been terminated amid fraud claims.[153] This example of a domestic decision by one state made alongside ongoing regional efforts is discussed in Chapter Seven.

6.3.3 Agency responsibility for maritime security

Agency responsibility is currently fragmented. National level harmonisation is essential to underpin interregional efforts. The Gulf of Guinea Maritime Security and Criminal Justice Primer[154] identifies agencies who are engaged in maritime security.[155] This has been collated below in Table Five.

State	**Agencies**
Liberia	Liberian Coast Guard and Bureau of National Fisheries with support from ground forces from Armed Forces of Liberia and Liberian National Police.

[148] Ghana News Agency, 'Ghana will vigorously enforce its mandate' (3 November 2017) <http://www.ghananewsagency.org/economics/gma-will-vigorously-enforce-its-mandate--124465> accessed 23 December 2017.
[149] Premium Times, 'Nigeria, Equatorial Guinea sign agreement on joint security patrols' (15 March 2016) <https://www.premiumtimesng.com/news/more-news/200208-nigeria-equatorial-guinea-sign-agreement-joint-security-patrols.html> accessed 23 December 2017.
[150] Ronald Mutum, 'Nigeria, South Africa Navies collaborate on maritime security' (*Daily Times,* 26 September 2017) <https://www.dailytrust.com.ng/nigeria-south-africa-navies-collaborate-on-maritime-security.html> accessed 23 December 2017.
[151] Kingsley Opurum, 'Nigeria: Buhari Approves Purchase of Patrol Vessels to Tackle Illegal Fishing' (*Leadership,* 20 December 2017) <http://allafrica.com/stories/201712200058.html> accessed 23 December 2017.
[152] Oluwakemi Dauda, 'Buhari hands over maritime security to Israel' (*The Nation,* 31 October 2017) <http://thenationonlineng.net/buhari-hands-maritime-security-israel/> accessed 23 December 2017.
[153] David Rider, 'Nigeria cancels marsec deal' (*Maritime Security Review,* 30 May 2018) <http://www.marsecreview.com/2018/05/nigeria-cancels-marsec-deal/> accessed 03 June 2018.
[154] United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs, United States Department of Homeland Security, United States Coast Guard United States Department of Defense, Africa Center for Strategic Studies, 'Gulf of Guinea Maritime Security and Criminal Justice Primer' (April 2015).
[155] ibid 31.

Côte d'Ivoire	Marine Police, Army, Gendarmerie
Ghana	Navy, Ghana Maritime Authority, Marine Police Unit, National Maritime Security Committee
Togo	Navy, Army, Gendarmerie, Private Maritime Security Companies
Benin	Navy, Army, Gendarmerie
Nigeria	Nigerian Navy, Maritime Police, and the Nigerian Army. Nigerian Maritime Administration and Safety Agency (NIMASA) cooperates with the Ministry of Labour, Ministry of Transport, and the Navy.
Cameroon	Navy, Army, Gendarmerie
Equatorial Guinea*	/
Gabon	Navy
Republic of Congo	Navy
Democratic Republic of Congo*	/
Angola	Navy; Policia Fiscal; Provincial Port authorities.
São Tomé et Principe	Coastguard

* Data not available in Maritime Security and Criminal Justice Primer or identifiable elsewhere.

Table Five: Agency Maritime Security Responsibility

There are interesting emerging examples of efforts to link different agencies. The Primer identifies that in 2012, Liberia established a National Maritime Security Committee to increase inter-ministerial coordination for maritime security.[156] A lapsed MoU between NIMASA and the Nigerian Navy was raised for review in 2016.[157] Research fieldwork show interagency engagement is being developed in Cameroon, with a lead from the Ministry of Defence.

[156] Criminal Justice Primer (n154) 35.
[157] Senator Iroegbu, 'Nigeria: NIMASA, Navy Joint Committee to Review MOU on Maritime Security' (27 April 2016) <http://allafrica.com/stories/201604270127.html> accessed 23 December 2017.

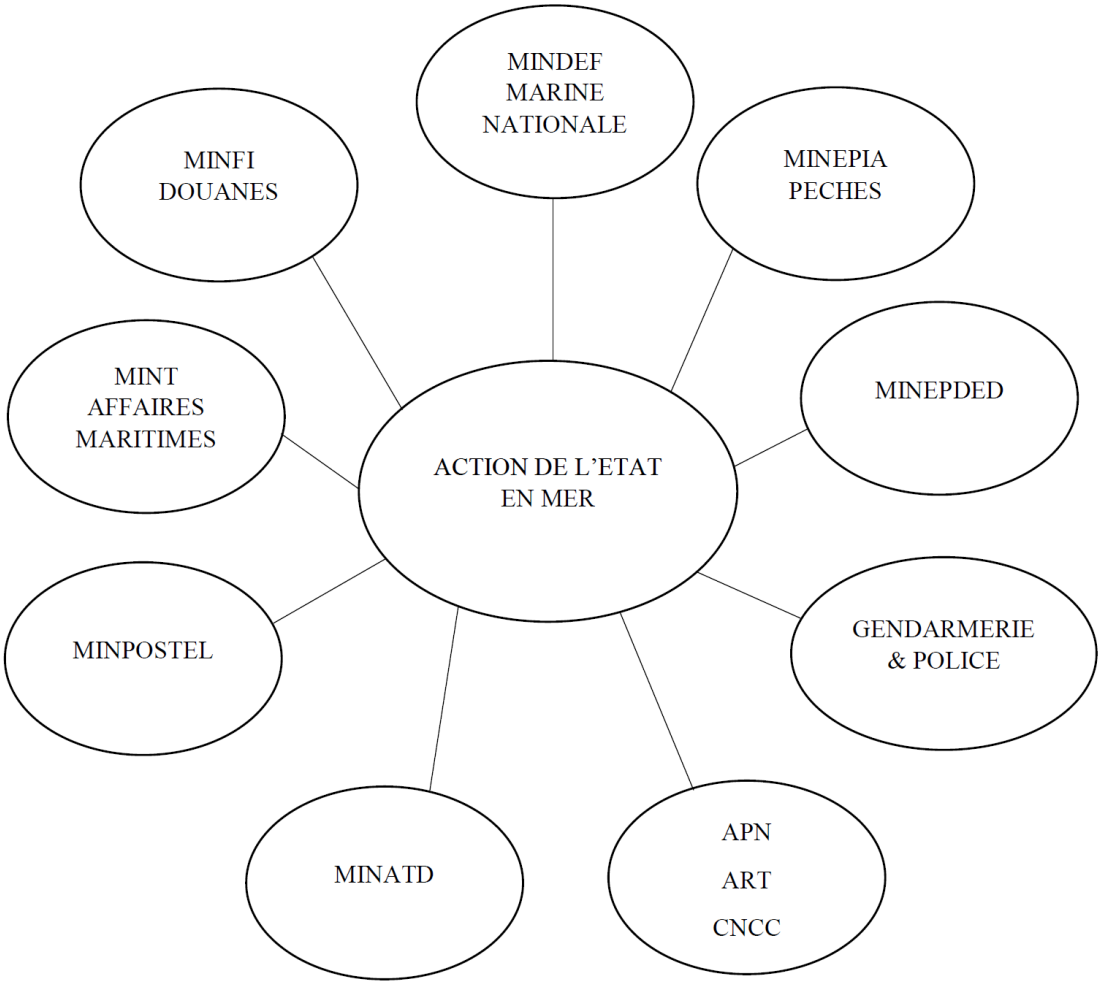

Figure Six: Inter Agency Architecture

This Figure is based on information provided by a Ministry of Defence official. It details the process towards national-level interagency working necessary to enable a state's various agencies to contribute to regional objectives. In Cameroon this is driven by the navy: 'as the navy has a new responsibility to build a new interaction system to make sure that administration can interact and work together at the sea for the benefit of the state'.[158]

> [A]t the moment every agency or ministry has their own rules. In Cameroon there are specific rules for customs, specific rules for fisheries, specific rules for environment, specific rules for maritime affairs and so on. Every ministry has its specific rules to work at sea. What I am doing now is just how to organise the joint work at the sea to make sure

[158] Interview Cam-Gov-MOD-0916.

that other ministries can use the logistic of the ministry in charge of defence to go to the sea.[159]

The Ministry of Defence agreements with other ministries enables fisheries, customs and other officials to exert presence at sea. This is likely to be an extensive process because after each ministry has concluded an agreement with the Ministry of Defence they will become part of a process towards a single, immediately operational, agreement.[160] This is a snapshot of the status of state action at sea in a Gulf of Guinea state that evidences the complex siloed institutional arrangements that must be harmonised.

6.4 What does this indicate for the impact of sovereignty?

Sovereignty has been a barrier to reform. In domestic legislation the development of cooperation with neighbouring states, and cooperation possible regardless of delimitation status is limited. This suggests that states are operating in a traditional framework of exclusivity despite their express recognition in high-level meetings of the need to work cooperatively. This is the case even in later legislation where regional cooperation has been acknowledged as necessary. At the time of writing regulations to give operational level detail are not available. Sovereignty is a barrier to maritime security as inclusive interest in enforcement decisions. Decisions concerning interoperable equipment have not been undertaken. This is despite states meeting and discussing these issues at a regional level as identified in Chapter Four. Common purchasing decisions or resourcing that takes wider practice into account is not in evidence and as Ali highlights national decisions face sovereignty barriers.

Decisions on asset buying also fail to demonstrate cooperative behaviour. Appropriate assets are not being purchased from a consensus position and that national actions are not likely to be more widely replicable. More coherent agency responsibility is being developed and there is evidence of such cohesion but differing distribution of responsibility is still in place. This division of responsibility represents sovereignty as a bar. The value of the maritime space has been identified by states but in many cases the divergent priorities of different agencies diminishes the capacity of a state to commit itself to cooperation. Examples such as Liberia and Cameroon remain guides.

[159] ibid.
[160] Interview (n158).

6.5 Conclusion

Throughout a wide range of the publicly available domestic legislation cooperation is absent or in a few cases generally aimed at. More recent policy documentation at the national, regional and international levels recognises that cooperation is key and in fewer cases that delimitation underpins secure seas. Efforts that have sought to address this matter have been driven through operational activity and are discussed in Chapters Seven and Eight. Maritime security as an inclusive interest, which had been indicated in Chapter Four has not resulted in development of domestic legislation and policy to enable cooperation in a tangible way. The idea of maritime security as an inclusive interest has not resulted in acquisition decisions that enable cooperation.

The idea of lone state actors meeting challenges is undermined by the fleet capacity assessment. Statistics indicate that states cannot guarantee capacity to operate across its maritime space to meet multiple threats to its security. States therefore stand to benefit from giving consideration to what is going on elsewhere and acting in harmony with this. Resourcing examples indicate that states have not completely operationalised the cooperative ideals that their meetings and declarations put forward.

The next chapter introduces the first case study. It considers whether cooperative sovereignty, argued to be a possible alternative and one supported on the evidence of this Part – could be understood in relation to the threat of piracy and armed robbery at sea.

Part IV

Chapter Seven: Cooperative sovereignty case study: piracy and armed robbery at sea

7.1 Introduction

This chapter focuses on piracy and armed robbery at sea to consider how efforts to combat this could be positively impacted by cooperative sovereignty underpinning any approach. Baltic and International Maritime Council Guidelines summarise this ongoing threat:

> Pirates in the Gulf of Guinea region are flexible in their operations so it is difficult to predict a precise area where a ship might fall victim to piracy. For the purpose of this guidance the area off the coasts of Ghana, Nigeria, Togo, Cameroon, and Benin can be regarded as an area in which the counter-piracy management practices should be considered. Attacks and armed robbery have occurred as far south as Angola and north as Sierra Leone.[1]

The threat continues to challenge states and agreements to cooperate are still to be drafted and accepted. This makes piracy and armed robbery at sea a valid focus for discussion of how cooperative sovereignty could be relevant.

Section 2 briefly reiterates the impact of this threat in the region. It confirms previously-submitted evidence regarding statements from states, and their reform and resourcing decisions. Section 3 argues that this has been a headline concern that has permeated consciousness beyond the region but that in real terms the region itself has been expected to lead on its resolution. It discusses 2017 / 2018 figures and reports to situate the modus operandi of this threat.

Section 4 analyses the benefit for shifting to tackle piracy and armed robbery as an area where cooperative sovereignty is applicable. This section draws on documentation and interviews that show that in many cases the actual decisions made by states following international discussion on this issue remains tied to ideas that undermine cooperation. Section 5 considers a sub-regional action that could be further developed in line with

[1] Baltic & International Maritime Council (BIMCO), International Chamber of Shipping (ICS), INTERTANKO and INTERCARGO, Guidelines for Owners, Operators and Masters for protection against piracy in the Gulf of Guinea region (Version 2, June 2016) to be read in conjunction with the 4th edition of the Best Management Practices for Protection against Somalia Based Piracy as amended (BMP4).

cooperative sovereignty, and which could be improved through a shift by states to view this area of national agendas as one to which cooperative sovereignty applies.

7.2 What is the relevance of this threat in the region?

This issue extends beyond the region and its resolution is crucial to safety of navigation, offshore infrastructure and trade.[2]

Piracy and armed robbery at sea have both tangible and intangible impacts. This has meant that all states are affected even where they are neither a state in whose waters vessels are attacked or from whose territory pirates or armed robbers launch attacks. Reputational damage to all states is consequent upon the understanding that piracy and armed robbery at sea affect a region and this is reflected in insurance costs and decisions of shipping lines to seek access to different ports or to transit different routes in the region where alternatives exist. Reputational damage also impacts cooperative efforts. Research fieldwork highlighted that the reputation of Nigeria has suffered as a consequence of its being the 'piracy hotspot'.[3]

States are developing a number of at-sea blue economy activities. Discovery of oil and development of licensing for its exploitation, eco-tourism and development of port infrastructure suggest a broad scope for states to benefit from their maritime space and an increasing recognition of the scope to do so. Securing the space from the threat of piracy and armed robbery is critical to this success. The Gabon case is interesting in this respect. The Gabonese government has been at the forefront of development of environmental concern in the region, having recently announced the expansion of its Marine Protected Area (MPA) network to twenty six per cent of its maritime space[4] the Gabonese government is developing a broader maritime economy, beyond its hydrocarbon sources. There is hope that this will boost tourism revenue but this is undermined by insecurity of the region's waters.

[2] See the discussion of risk in Charles Ukeje and Wullson Mvomo Ela, 'African Approaches to Maritime Security – The Gulf of Guinea' (Friedrich Ebert Stiftung 2013).
[3] African Union Extraordinary Summit Day 3.
[4] US Fish and Wildlife Service, 'Statement from Bryan Arroyo, Assistant Director for International Affairs, on the Expansion of Gabon's Marine Protected Area Network' (June 5, 2017) <https://www.fws.gov/international/wildlife-without-borders/africa/statement-gabon-mpa-expansion.html> accessed 1 July 2017.

The need to cooperate is recognised in key documents, particularly the Yaoundé Code of Conduct[5] and the Lomé Charter.[6] The counter-piracy effort has not been the beneficiary of an established security focused infrastructure. It has been necessary to incorporate this issue into existing security-focused bodies within The Economic Community of Central African States (ECCAS) and The Economic Community of West African States (ECOWAS) and the reliance on the ineffective Gulf of Guinea Commission (GGC)[7] as the maritime security body has meant that this matter was not dealt with cooperatively prior to the decision to establish the Interregional Coordination Centre (ICC) and related architecture. The most recent reports from the region indicate that piracy and armed robbery at sea remain a major threat. Details of their location and nature are in the below figure.

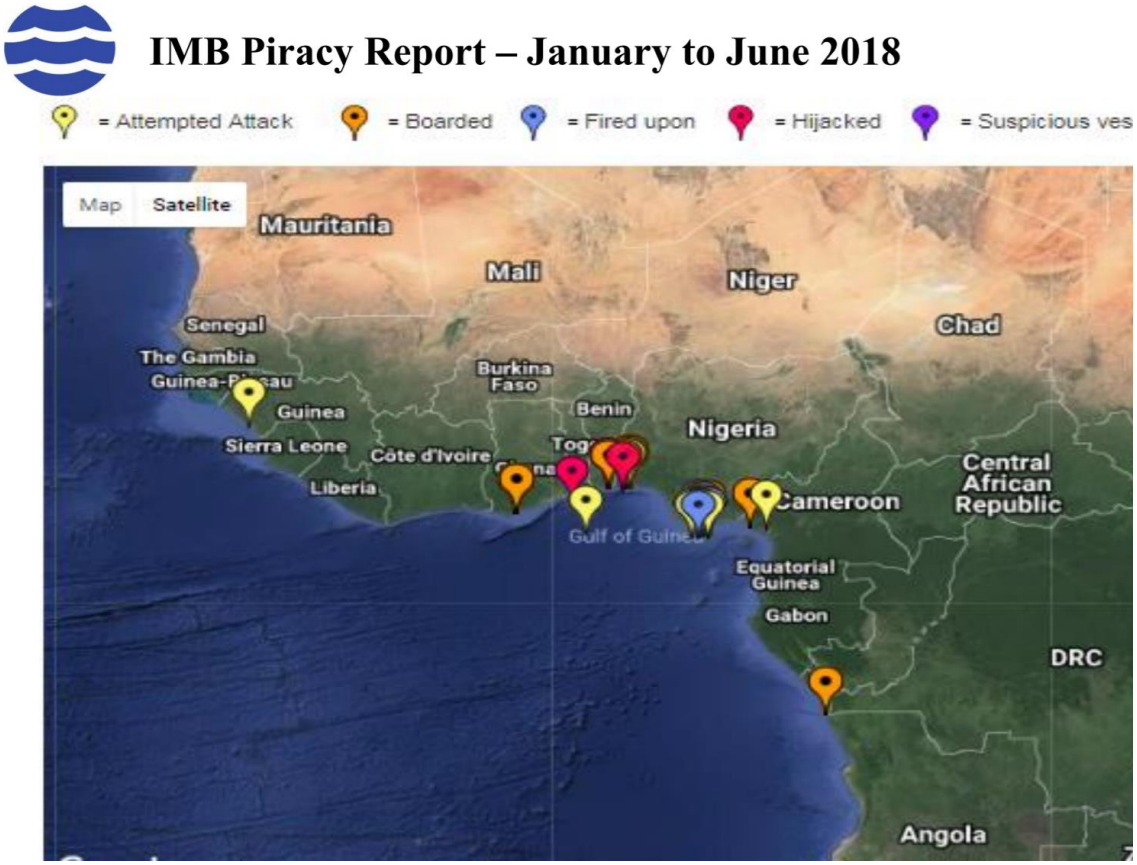

Figure Seven: IMB Chart of piracy attacks reported January – June 2018 (ICC-IMB Piracy and Armed Robbery Report Against Ships Report – 01 January – 30 June 2018).

[5] 'Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships and Illicit Activity in West and Central Africa', 25 June 2013.
[6] African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter) Date of Adoption: October 15, 2016.
[7] EIN News, 'Angola: President gets message from Botswana counterpart' (10 March 2018) <https://www.einnews.com/pr_news/436185291/angola-president-gets-message-from-botswana-counterpart> accessed 11 March 2018.

This continues in 2018. Seventeen attacks in the first two months of 2018[8] meant that the total reported cases has already reached half of the total reported for the entirety of 2017. 46 attacks were recorded between January and June 2018 and as has been noted underreporting is a recognised concern in the region, with a rating of 66 percent in this period.[9] There has also been a change in tactics. Shipping brokerage Asket reports that development of safe anchorages and development of coordinated responses has caused a shift to attacks on vessels underway.[10] There has been a rise in crew kidnap attributed by the Special Advisor to the IMO to a downturn in oil price.[11] Vessels being fired upon from pirates in speedboats is a rising concern.[12] There is also a shift to attacks in areas outside of the Nigerian 'hotspot'. A Luxembourg tanker was attacked off Cotonou in Benin,[13] the *Marine Express* was reported missing off the same coastline,[14] and this has been a concern off Ghana's coast.[15]

These examples highlight that despite the efforts to address maritime security cooperation, piracy and armed robbery at sea remain evolving and complex threats that states have not adequately countered. Ongoing challenges demonstrate the value of looking more deeply at the idea of cooperative sovereignty for maritime security.

7.3 Development of the issue: emphasis on regional action

Piracy and latterly armed robbery at sea have always been a criminal/security matter. Therefore it is not the case that recent events have been critical to the development of a new lens through which states are understanding the problem. Cooperation on this issue is expected in the governing United Nations Convention on the Law of the Sea (UNCLOS)

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[8] Anastassios Adamopoulos, 'Piracy activity in Gulf of Guinea soars' (*Lloyds List*, 27 February 2018) <https://lloydslist.maritimeintelligence.informa.com/LL1121582/Piracy-activity-in-Gulf-of-Guinea-soars> accessed 28 February 2018.

[9] ICC-IMB, Piracy and Armed Robbery Report Against Ships Report – 01 January – 30 June 2018 12.

[10] Jamey Bergman, 'Gulf of Guinea piracy evolving, crew on moving vessels 'easiest targets' (*Tanker Shipping*, 27 February 2018) <http://www.tankershipping.com/news/view,gulf-of-guinea-piracy-evolving-crew-on-moving-vessels-easiest-targets_50933.htm> accessed 28 February 2018.

[11] Australian Broadcasting Corporation, 'West African pirates taking hostages for ransom as oil prices tank' (20 February 2018) <http://home.nzcity.co.nz/news/article.aspx?id=264294&ref=rss> accessed 28 February 2018.

[12] PortTechnology, 'Cases of Nigerian Pirates Firing upon Ships Soar' (22 February 2018) <https://www.porttechnology.org/news/cases_of_nigerian_pirates_firing_upon_ships_soar> accessed 28 February 2018.

[13] Jess Bauldry, 'Pirates Attack Tanker Flying Lux Flag' (27 February 2018) <http://delano.lu/d/detail/news/pirates-attack-tanker-flying-lux-flag/171195> accessed 28 February 2018.

[14] Citifm, 'Oil tanker with 22 Indian crewmen missing off Benin' (4 February 2018) <http://citifmonline.com/2018/02/04/oil-tanker-22-indian-crewmen-missing-off-benin/> accessed 28 February 2018.

[15] OPS Global Risk Management, 'WAF Security Alert 012 - Cargo Vessel Approached off Ghana' (2 March 2018) <http://maritime-security.opsglobalriskmanagement.com/post/waf-security-alert-012-cargo-vessel-approached-off-ghana> accessed 03 March 2018.

framework. The definition of piracy in UNCLOS as outlined in Chapter Four is narrow. The later Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and its Protocols have been important in building on state capacity to tackle these threats.[16] Despite this, Chapter Three recognised the limited implementation of international instruments in the region. Chapter Six has highlighted limited development of domestic legislation that implements cooperation in real terms. Awareness of the threat and its impact is widespread and international instruments are available. These should be the building blocks of cooperative relationships among states. In this case, where cooperation is not prevalent as a matter of course, there is a clear value in considering what reframing of the underlying basis for cooperation could achieve.

The focus of this section concerns the fact that regional emphasis is emphasised. The two United Nations Security Resolutions on piracy in the Gulf of Guinea focus on piracy and armed robbery at sea in the Gulf of Guinea and emphasise the need for a role for states in the region. This contrasts with a series of resolutions on piracy off the coast of Somalia.[17] The Security Council on the matter of piracy in the Gulf of Guinea at Resolution S/RES/2039 (2012) point 3:

> Stresses the primary responsibility of the States of the Gulf of Guinea to counter piracy and armed robbery at sea in the Gulf of Guinea and in this context urges them through ECCAS, ECOWAS and the GGC to work towards the convening of the planned joint Summit of Gulf of Guinea States to develop a regional anti-piracy strategy, in cooperation with the African Union;[18]

This followed S/RES/2018 (2011) point 3 that:

> Encourages States of ECOWAS, ECCAS and the GGC, through concerted action, to counter piracy and armed robbery at sea in the Gulf of Guinea through the conduct of bilateral or regional maritime patrols consistent with relevant international law; and requests the States concerned to take appropriate steps to ensure that the activities they undertake pursuant to this resolution, do not have a practical effect of denying or

[16] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988, 1678 UNTS 22; 2005 Protocol to the SUA Convention (SUA 2005); (Adoption 14 October 2005 / Entered into Force 28 July 2010).
[17] United Nations Security Council, 'Unanimously Adopting Resolution 2383 (2017), Security Council Renews Authorization for International Naval Forces to Fight Piracy off Coast of Somalia' (SC/13058 7 November 2017) <https://www.un.org/press/en/2017/sc13058.doc.htm> accessed 03 January 2018.
[18] UN Security Council, *Security Council resolution 2039 (2012) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea]*, 24 May 2012, S/RES/2039(2012).

impairing freedom of navigation on the high seas or the right of innocent passage in the territorial sea to vessels of third States;[19]

The resolution encourages regional states to cooperate in prosecution.[20] A role for the international community is limited to encouragement to assist upon request.[21] The international community is involved in the region. The US navy and coastguard are active in technical assistance,[22] the French Navy is present, including organising *Operation Corymbe*.[23] Assistance is provided on the bilateral level between many external states[24] as well as the European Union.[25] And yet, the United Nation's statements on this issue foreground regional responsibility. The limited prior cooperation in the region on this issue is evident in the Resolutions. Resolution 2018 'Welcomes the intention to convene a summit of Gulf of Guinea Heads of State in order to consider a comprehensive response in the region […]'.[26]

This was reflected in point 5 of Resolution 2039 above.

Emphasis on regional action is not based upon its prior existence. The presence of functioning states in the Gulf of Guinea, in contrast to the Somali example limits the scope for intervention.[27] Treves notes that obtaining of consent from the Transitional Federal Government (TFG) before acting under Chapter VII UN Charter served three objectives. The second two reasons are that obtaining consent strengthened the position of the TFG, and

[19] UN Security Council, *Security Council resolution 2018(2011) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea]*, 31 October 2011, S/RES/2018(2011).
[20] ibid Point 5.
[21] *Resolution 2018* (n19) Point 6.
[22] United States Africa Command, '2018 Posture Statement' < http://www.africom.mil/about-the-command/2018-posture-statement-to-congress> accessed 07 March 2018.
[23] Operation Corymbe has been conducted in the region since 1990. A recent exercised is discussed by Vincent Groizeleau 'Africans take control of Gulf of Guinea security' (*meretmarine,* 02 October 2017) <https://www.meretmarine.com/fr/content/africans-take-control-gulf-guinea-security> accessed 03 January 2018.
[24] See for example the role of China in the region discussed at DefenceWeb, 'China to assist Gulf of Guinea fight piracy' (05 August 2016) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=44607:china-to-assist-gulf-of-guinea-fight-piracy&catid=108:maritime-security&Itemid=233> accessed 04 September 2016 and by Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges* Chapter 9.
[25] The EU launched its CRIMGO project in 2013. This was specific to piracy and for seven Gulf of Guinea states. Its GoGin project was announced at the Extraordinary Summit for Maritime Safety, Security and Development and launched in December 2016: <https://criticalmaritimeroutes.eu/projects/gogin/> this project is to run from 2016-2020 and focus on regional information sharing.
[26] *Resolution 2018* (n19) point 2.
[27] There is an interesting study of the validity of the argument concerning state capacity as a reason for piracy in the Somali context through a comparison of Somaliland and Puntland in the work of Justin V Hastings and Sarah G Phillips, 'Order beyond the state: explaining Somaliland's avoidance of maritime piracy' 2018 56(1) Journal of Modern African Studies 5.

secondly, limited the foreign fleets' able to be present in Somali waters. 'The first is to pay homage to state sovereignty, meeting the abovementioned concerns that through these resolutions new customary international law rules could be 'established.''[28] Thus the focus on regional action prized by the international community could be in part because it avoids sovereignty questions.

Regional leadership on piracy and armed robbery has not been solely discussed as a counterpoint to external actors. The narrative in the region has been highlighted in previous chapters. It was also evidenced in research fieldwork where the regional effort was discussed. One official stated concerning the position of the region: 'We have a common view and common political will but we have now to go do the job together for which we have been committed.'[29]

A second official focused on part of the reality that founds such regional focus, in discussion of the action of private companies:

> […] since two or three years they used to travel with private security forces. Instead to help the state to invest more in equipping the naval forces they prefer to travel with their own private security forces. So I think the main challenge is, the main responsibility, is for the states to search all that is required for this investment.[30]

Evidently, many actors present in the region for economic purposes are not building into regional efforts.

7.4 How traditional sovereignty and cooperative sovereignty operate on the field

As outlined in Chapter Two, even in its current form sovereignty is understood by states to be limited but still rooted in ideas of freedom and independence. This diminishes the areas over which states may be prepared to see their cooperation as stemming from responsibility or authority as part of sovereign statehood.

In this section the specific issue of piracy and armed robbery at sea will be used to demonstrate further that relying on states to cooperate based on traditional understanding of sovereignty is belied by the facts of the specific threat itself and also the tension between ideas of sovereignty in ways that states have attempted to deal with this to date. This section

[28] Tullio Treves, 'Piracy, Law of the Sea, and Use of Force: Developments off the Coast of Somalia' (2009) 20(2) European Journal of International Law 399, 407.
[29] Interview Cam-Gov-PolNatSec-0916.
[30] Interview Cam-CNSC-1016.

will make oppositional points. Tackling this issue is understood and implemented differently depending upon whether one approaches the idea from a standpoint of traditional sovereignty or cooperative sovereignty. The first point is that actions based upon traditional sovereignty may be understood as being independent and focused upon respect for territorial integrity above all, and that where based upon cooperative sovereignty would reflect the interdependent and transboundary nature of the issue. The second point considers that autonomous national efforts based on traditional sovereign statehood would be treated from a community perspective under a cooperative standpoint. The third point is that cooperative sovereignty would engender an active as opposed to a reserved approach.

Firstly to juxtapose independence and interdependence. Through independence states should be entitled to deal with threats in *their* waters as discrete matters. Issues of hot pursuit correspond to this idea of a series of separate independent states exercising their sovereignty. This has been discussed in Chapter Two as a challenge to MOWCA efforts. It is undermined by the regional context. The issue of delimitation discussed in Chapter Five highlights limited delimitation. Hot pursuit ending where territorial waters of a third state are entered requires that boundary to be determined. This fact does not defer from the idea that hot pursuit is based on the idea of independence however it queries the reliance upon this itself. The idea of independence is further challenged by the realities of the threat. It has been demonstrated above in section 3 that there remains at the time of writing what has been previously well-understood: Pirates and armed robbers reside in a state but their modus operandi does not confine them to the space claimed by a state, and their proceeds and the damage caused are likewise spread throughout the region. There is a clear interdependence through the absence of defined jurisdiction through delimitation to enable a discrete tackling of piracy and through the wide reach of the impact of piracy and armed robbery that supports the idea of interdependence as the logical conclusion. Therefore a cooperative sovereignty approach is supported by regional context, and also by statements on the issue within and outside the region.

Secondly, autonomy as opposed to a community approach. An autonomous approach could privilege national action. A community approach draws on the benefits to be derived from joined up action. It is argued that states are keen to draw from both approaches and this is a concern that would be linked to ideas of traditional sovereignty as states seek to draw on as many methods as possible to support their national interest. This can been seen in the

Nigerian example. Nigeria wished to join Zone D at its inception phase[31] but this was rejected, not least because it was seen as an ECCAS initiative and the Zone D predated interregional efforts. Nigeria has been part of the neighbouring Zone E initiative and was reported to be disappointed at the siting of the Multinational Coordination Centre (MCC) outside of Nigeria.[32] It has nonetheless been integral to the establishment of Zone E. It has also pursued national efforts, including concluding an agreement with an Israeli firm to provide security equipment, and training to Nigerian personnel.[33] This agreement is reported to be for three years following which a handover will be made to Nigeria. As Chapter Six noted, this deal was later cancelled however it still supports the relevant argument. Also in 2017 the Nigerian Maritime Administration and Safety Agency signed a renewable four-year Memorandum of Understanding with the Ghanaian Maritime Authority. This is an agreement with a state outside of the Zone E framework that encompasses a range of cooperation points including 'Joint Efforts to combat Piracy and Terrorism Initiative'.[34] This is a thread of both approaches. Whilst national approaches are not expressly privileged here, it is also clear from discussion in previous chapters that the pursuit of community approaches is not well-established. The need for a community approach could be seen through decisions taken at the national level but which correspond to regional ideas. This could be through common or complementary resourcing or asset purchase decisions, common penalties and procedures, or for example, expanding the circumstances in which hot pursuit is applicable. This will be discussed in a limited context in section 5.

Thirdly, that a traditional conception of sovereignty would promote decisions to refrain from acting unless a problem is a clear threat to a state's national interest, or passes above an internal threshold of concern. A cooperative approach would view matters as requiring responsibility and therefore engagement because of its function as a sovereign state. As the above map in section 2 demonstrates, the attempted and actual incidents are and have in the main been concentrated in a specific area. This explains cooperation such as *Operation*

[31] Interview GoG-MCC-1016.
[32] Interview UK-Gov-Defence A-1016.
[33]Shulammite Foyeku, 'FG signs N60bn contract with Israeli firm to secure waterways' (*Shipsandports,* 31 October 2017) <http://shipsandports.com.ng/fg-signs-n60bn-contract-israeli-firm-secure-waterways/> accessed 03 November 2017.
[34] NIMASA, 'Regional Collaboration: Nigeria-Ghana Sign MOU on Maritime Operations' (17 October 2017) <http://nimasa.gov.ng/press-center/post/regional-collaboration-nigeria-ghana-sign-mou-on-maritime-operations> Accessed 23 October 2017.

Prosperity[35] which can be understood as a decision by two states – Benin and Nigeria – to overcome obstacles to combatting the threat. This is a clear example of states reacting to a direct threat to national interest. Where this is the standard for action, tension could exist around information and intelligence sharing. This is potentially to be overcome by an interest of the ICC to see the regional information sharing centre – originally Maritime Trade Information Sharing Centre – Gulf of Guinea (MTISC-GoG) and latterly Maritime Domain Awareness for Trade – Gulf of Guinea (MDAT-GoG) – resituated in the region.[36] It is the idea underlying this that increased information and intelligence sharing could be developed between states outside of the piracy hotspots under the auspices of the ICC. The MDAT-GoG does not have the power to direct rescue operations by regional states' vessels and this is something that would be more plausible under an ICC initiative. The current provision for coordination at sea is found in Regional Maritime Rescue Coordination Centres (RMRCCs) located in Lagos, Nigeria[37] and Monrovia, Liberia.[38] The former covers nine countries (Benin, Cameroon, Republic of Congo, Democratic Republic of Congo, Equatorial Guinea, Gabon, Nigeria, São Tomé and Príncipe and Togo) and the latter covers five countries (Cote d'Ivoire, Guinea, Ghana, Liberia and Sierra Leone). These centres' purpose is search and rescue, therefore giving a wider mandate and not a specific focus for counter-piracy and armed robbery. The shift toward developing reporting and operations under a centre that ties into the work of the ICC would establish a purposive institution and be a further indication of efforts to cooperate beyond where national interest is directly affected.

The following section addresses an area which it is argued points a way forward. This draws on the matter of absence of delimitation conflicting with the need to respond to a clear maritime security threat and the idea of states recognising a duty to cooperate that enables them to go beyond the ideas linked to traditional conceptions of sovereignty.

7.5 Functional zonal systems

Functional zones are a term for a zone that is not tied to UNCLOS boundaries but is in place to serve a specific function, for example for search and rescue or for migration or for

[35] For discussion of Operation Prosperity see: Joana Ama Osei-Tutu, 'Lowering the Anchor on Maritime Insecurity along the Gulf of Guinea: Lessons from Operation Prosperity' Kofi Annan International Peacekeeping Training Centre Policy Brief 11/ 2013.
[36] Interview GoG-MCC-1016.
[37] Details of RMRCC Lagos are available at 'Regional Maritime Rescue Coordination Centre Lagos' <http://www.imrfafrica.org/homelagos> accessed 03 March 2018.
[38] Details of RMRCC Monrovia are available at 'Monrovia Regional Maritime Rescue and Coordination Centre' <http://maritimeliberia.com/?safety/mrcc.html> accessed 03 March 2018.

environmental purposes. They are a method through which states act upon a recognised common issue that requires a cooperative effort. This is the case of the system developed in the Gulf of Guinea which is displayed in the below figure. It demonstrates a series of zones which are multinational and do not correspond to claimed or agreed boundaries.

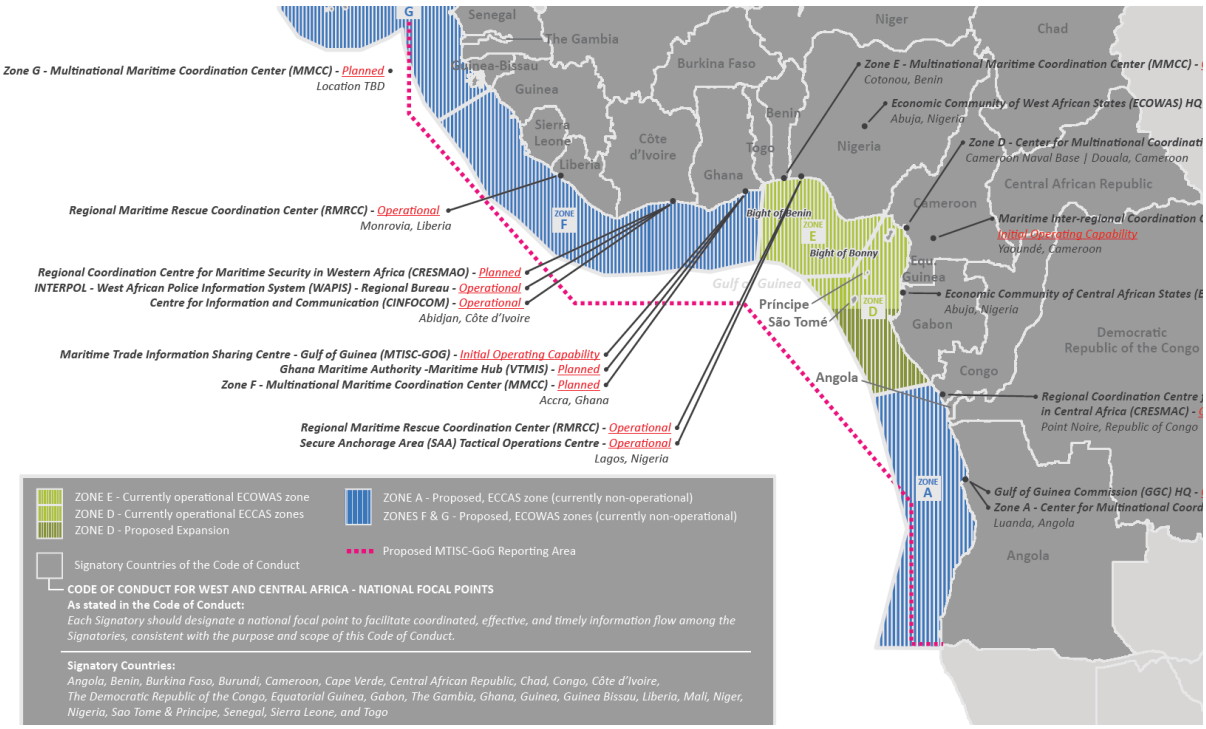

Figure Eight: interregional architecture (OBP). [39]

The founding purpose of this system was information sharing for combatting piracy and armed robbery. The zones are uniform in their architecture. This architecture was discussed with staff at the ICC. This centre is strategic, it coordinates the CRESMAC and CRESMAO (the operational level) which are situated in the two regions. At the tactical level the Multinational Coordination Centres coordinate the work of the various zones, each state of which is to develop a MOC or Maritime Operations Centre.[40]

In operational terms the different zones are not uniform and they are at varying stages of development. This section focuses on Zone D. Zone D, established in 2009, is a cooperation between Cameroon, Equatorial Guinea, Gabon and São Tomé and Príncipe. It predates the 2013 Yaoundé Process and was established in response to direct threats recognised by these

[39] Gregory Clough and Timothy Schommer, 'West Africa Information Sharing' (Oceans Beyond Piracy) <http://oceansbeyondpiracy.org/publications/west-africa-information-sharing> accessed 03 January 2018.
[40] Interview GoG-ICC-0916.

countries.[41] The combined coastline of Zone D covers approximately 1792 kilometres. The approximate Zone D combined EEZ is 654.153 km^2.[42]

The functional zone now covers what was previously Zone B. There is no Zone C. As Ali notes this is due to a decision not to risk conflict on issues of maritime space.[43] This pragmatism in the face of a need to combat a threat is also reflected in several of the founding decisions of the states and reflected in the agreements. The agreements for this Zone comprise an Accord Technique (hereafter 'Technical Accord')[44] and a Protocole d'Accord (hereafter 'Protocol').[45] In a departure from practice the Technical Accord was signed first, because of the emergency nature of the situation.[46] This was between the four Zone states. The Protocol was signed subsequently, by ECCAS states. The two documents respectively indicate the remit for Zone D and the scope of agreement for ECCAS as a whole. The agreements are not binding, but as will be demonstrated in this section the level of cooperation states have been prepared to undertake and maintain is supportive of a sense that their role as sovereign states includes an authority and responsibility to cooperate.

The Technical Accord was signed between ECCAS and the four states of Zone D on 06 May 2009. Its title is purposive: 'sur la mise en place d'un plan de surveillance pour la sécurisation maritime du Golfe de Guinée, <<Zone D>>'. The Accord notes in its Preamble the preceding efforts at ECCAS level, in particular Resolution nº193/12/03 of MOWCA regarding a subregional surveillance plan,[47] the recommendations to COPAX of 26 February 2008 that addressed the strategy to secure the vital maritime interests of ECCAS Gulf of Guinea States[48] and the efforts of COPAX agreed at a meeting of December 2008 to convene a meeting of Chief of Staff of the Armed Forces of Cameroon, Gabon, Equatorial Guinea and São Tomé and Príncipe to develop a plan to effectively secure Zone D.[49] This is

[41] Interview GoG-MCC-1016.
[42] The combined EEZ calculated approximate basis from data in Charles Perrings: Cameroon 16,457 km^2, São Tomé and Príncipe 131,397 km^2, Equatorial Guinea 303,509 km^2, Gabon 202,790 km^2.
[43] Kamal-Deen Ali, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges,* (Publications on Ocean Development; volume 79 Brill | Nijhoff 2015) 237.
[44] Economic Community of Central African States, 'Accord Technique entre La CEEAC et les etats du Cameroun, du Gabon, de la Guinee-Equatoriale et de São Tomé and Príncipe sur la mise en place d'un Plan de Surveillance pour la Securisation Maritime du Golfe de Guinee, <<Zone D>> (Yaoundé 6 May 2009).
[45] Economic Community of Central African States, 'Protocole d'Accord sur la gestion de la strategie de securisation des interets vitaux en mer articulee autour do COPAX et favorisant une synergie avec la Commission du Golfe de Guinee et la Communate Economique des Etats de L'Afrique Occidentale.
[46] Interview Cam-Gov-MOD-0916.
[47] MOWCA resolution n°193/12/03 on maritime safety in West and Central Africa (adopted Luanda 31 October 2003).
[48] 'Technical Accord' (n44) Preamble.
[49] ibid.

indicative of a continued regional recognition in ECCAS of a need to cooperate for maritime security. The Preamble also notes the parties' conviction that the Accord puts in place the legal and operational bases necessary to activate the strategy adopted to that effect.

The Technical Accord Article 3 defines the structure. Article 3(1) recognises that the establishment of a community structure is still to be implemented and empowers in the interim the MCC in Douala to develop the securitisation of Zone D. The MCC composition is explicitly multinational and is set out in Article 3(3), this decision to maintain diversity of personnel reflects the future intent to establish a community structure. The structure of national MOCs are set out in Article 3(7) and reflect the recognition that the state as a whole is affected by maritime insecurity. The MOC is to comprise as Chief a navy officer, and within the MOC representatives of the Gendarmerie, Customs, Marine Fisheries and in case of need: an official of the Ministry of Petroleum. This composition is also a forward-looking foundation for harmonised working practice and cooperation between states parties. Article 3(8) comprises the most progressive of the articles: that the naval units of the States Parties constitute an ECCAS naval group whose command is provided in a rotating manner between the States. This is a major progression that delivers naval assets to a regional level and enables operational command outside of a national level.

The emphasis on effective cooperation is reflected in Article 4 that states that Zone D consists of collection and exchange of information and observation, but it also provides for maritime and aerial surveillance and intervention. These are advanced cooperation methods. The reference to intervention is a notable step towards a community focus as discussed in section 4. The right of the state is not removed but rather the right of the community to act in the Zone D is predicated upon threat knowledge and severity and intervention is based upon graduation of the threat up to the multinational level.[50] This level of cooperation privileges the state level to a lesser extent. This is further reflected in Article 6(3) which provides that bilateral agreements to develop activities may be done *in case of need*. This reference to case of need indicates the priority is that actions be undertaken at the multinational level in the first instance and the bilateral level remain residual. The correspondence of activity at the same level as the recognised threat limits the prospect that other issues may be negotiated or impact agreement, which would be more able to enter into consideration at the bilateral level.

[50] Technical Accord (n44) Article 4(6).

Article 7 provides that identifying flags be both national and ECCAS, this suggests that though drawing from national assets the states parties recognise that effort requires that they move beyond that. Furthermore disputes are decided between ECCAS secretariat AND national parties. This is in place of a right of states to determine dispute procedure or to not bring a dispute forward for resolution.

States recognise that the structure remains to be worked out but this is to enable states to operationalise. The national and regional level are in focus here and the effort is to find a workable solution, but even so a vast deal is provided to a multinational initiative and removed from the preserve of individual states. The Technical Accord as a non-binding instrument signed at a time of recognised need to cooperate does not itself conclude the case for an argument of Zone D as an example of cooperative sovereignty in action. It is included here to demonstrate the establishment of the functional zone and to highlight that this has been in place since 2009 and whilst established on case of need, its maintenance and broadening could be indicative of a way in which cooperative sovereignty may be understood as effective and relevant.

The recognised need for a community structure within ECCAS in the Technical Accord was remedied in the later Protocol. This non-binding agreement drafted a maritime security zonal structure for all ECCAS zones. Key elements of the Protocol that differ from the Technical Accord may be understood on the basis that this agreement was the product of a community-wide effort rather than an emergency situation between a smaller number of affected states.

Protocol strategy is set out in Article 3 and comprises six pillars: information exchange and management; community-level surveillance; harmonisation of state action at sea; institution of a community tax to support maritime security; acquisition and maintenance of equipment for operational capacity; and institution of a maritime conference.

The Mission is outlined in Article 4 and commits parties to specific goals: protection of natural resources and artisanal fishing zones; safety of navigation; fight against: illegal immigration, drug trafficking, small arms trafficking, piracy and hostage taking at sea, marine pollution, substandard shipping. It has a catch-all provision that provides for power for all other missions necessary to implement the strategy. Article 5 sets out the structure of the ECCAS maritime security infrastructure, and Article 6 outlines the rights and obligations of parties. Article 6(3) provides for important obligations that should make operations more realistic: that states provide the things necessary for vessels to be effective including

provision of water electricity and port assistance. Harmonisation of legislation is set out in Article 6(4). This is a move towards creating an environment to cooperate. Article 6(8) provides for exchange of personnel (embarked officers)[51] which is a key requirement for effective operations.

Article 7 defines 3 zones; these have since been amended to become 2 zones. Article 12 provides for dispute resolution. This is more traditional in that it provides for arbitration or pacific measures. This is perhaps reflective of the greater number of parties than were party to the Technical Accord.

There are a number of commitments in the Protocol that speak to a continued focus on cooperation. Harmonisation of legislation and implementation of international instruments seek to create a common baseline for cooperation. Financial commitments including a community tax, operational capacity guaranteed through acquisition of equipment and in Article 11 interregional cooperation is planned for. This is an early recognition of the need for efforts beyond and including ECCAS. Cooperative sovereignty can be seen as beginning and reflected in these documents as states make commitments in the name of maritime security even though other priorities may arise in future.

It has been acknowledged that the Zone D was established on the basis of national interest. It has now been operational for nine years. It is proposed that elements of the Zone D and what meaning can be drawn from its operation could be developed further based on a concept of cooperative sovereignty. The cooperative sovereignty elements will be discussed and contrasted with the neighbouring Zone E which was established later than Zone D, pursuant to a binding ECOWAS agreement in 2014.[52] This zone also comprises four states:

[51] Les Etats acceptent que les marins régulièrement en mission dans le cadre du présent dispositif embarquement comme personnel d'échange dans leurs unités a l'occasion des opérations de patrouilles maritimes et des contrôles en mer.

[52] The development of the Zone E multilateral agreement is summarised in the ECOWAS 2012 Annual Report which states at paragraph 282: In accordance with the 40th Ordinary Session of the ECOWAS Authority of Heads of State and Government held in Abuja, from 16 to 17 February 2012, which acknowledged the increasing threat posed by piracy and other forms of organized maritime crime in the Gulf of Guinea, and the United Nations Security Council (UNSC) resolutions 2018 of 31 October 2011 and 2039 of 29 February 2012 to address the threats posed by piracy, armed robbery at sea and other illicit transnational maritime crimes, the Commission conducted various activities as follows: (i) Familiarisation visit of an ECOWAS Commission delegation of Maritime Security facilities to the Community of Central Africa Member States, Libreville and Douala from 20 to 24 February 2012; (ii) Workshops ECCAS / ECOWAS on maritime security, the last one was from 28 to 29 March 2012, in Cotonou, Benin in order to review the MoU between ECCAS and ECOWAS and the Multilateral Agreement on maritime security in the Gulf of Guinea; (iii) Workshop for the preparation of the regional Summit between ECOWAS and ECCAS for the adoption of cooperation instruments (MoU and Multilateral Agreement), Abuja, 20-21 June, 2012; (iv) ECOWAS maritime experts workshop in collaboration with AFRICOM on the establishment of a

three coastal states (Nigeria, Benin and Togo) and a landlocked state (Niger). It is a useful comparator because of its geographical proximity and because it is established in response to similar concerns. Like the states of Zone D, maritime delimitation is unsettled and therefore mechanisms within the zone must address operational questions this raises. The neighbouring zones are a valid comparative exercise because their development and scope help to expose underlying ideas about the meaning of sovereign statehood. It is proposed that Zone D arrangements better reflect the reality of the situation and could be supportive of an idea of cooperative sovereignty for maritime security. Zone E arrangements understood from fieldwork interviews will be employed to highlight different approaches that in the main reflect a more traditional understanding of sovereign statehood. The Zone D arrangements are currently being reassessed to form a binding multilateral agreement[53] and the latter part of this section will consider how cooperative sovereignty may be relevant to the future of the agreement.

Decisions about asset allocation may concern vessel and personnel numbers, vessel type, and common procedures. Chapter Six demonstrated the current disparity between asset strength and capacity to react to maritime security through resourcing. Cooperative sovereignty could support measures to plug gaps and also ensure that states continue to contribute assets to the initiative and use resources to add to asset strength where it is indicted that this is necessary. The asset strength of Zone D comprises three vessels provided respectively by Cameroon, Equatorial Guinea and Gabon and an aeroplane provided by São Tomé and Príncipe.[54] This means that São Tomé and Príncipe does not have enforcement capacity at sea. The role of the MCC has been important here in enabling issues to be resolved. The vessels of other states on service under the auspices of the MCC are able to

Maritime Pilot model zone E, comprising of Nigeria, Benin, Togo and Niger, from 28 to 29 August 2012 in Lomé, Togo; (v) The Commission in collaboration with ICPO-INTERPOL organised the Annual General Assembly of the WAPCCO, from 12 to 15 September 2012 in Abidjan, Côte d'Ivoire; and (vi) Organised a pilot training of ECOWAS Member States law enforcement officers on the ECOWAS counterterrorism training manual, from 23 April to 11May 2012 in Dakar, Senegal, with the objective of reinforcing regional capacities to fight against the menace of terrorism (ECOWAS, 2012 Annual Report ″Integration and Political Stability in West Africa″ Abuja December 2012). The resultant agreement is understood to have been signed in 2013 (referenced in presentation by Commander Atonfack for Africa Center for Strategic Studies Inter-Regional Coordination for Maritime Security Multinational Coordination Center For "Zone D" Yaoundé (July 11 – 14, 2017). The agreement to establish a Multinational Coordination Centre for Zone E was signed in December 2016 and will be situated in Benin, see ECOWAS, 'Signing the Agreement on Centre Maritime Multinationale de Coordination de La Zone E in Abuja, 17th December 2016 between ECOWAS and the Republic of Benin' (19 December 2016) <http://www.ecowas.int/signing-the-agreement-on-centre-maritime-multinationale-de-coordination-de-la-zone-e-in-abuja-17th-december-2016-between-ecowas-and-the-republic-of-benin/> accessed 03 January 2018.

[53] Interview Cam-Gov-MOD-0916.

[54] Interview Cam-Gov-MOD-0916.

address concerns of this state. This is valuable, though limited. The MCC recognises disconnect between the aspiration of the Zone D to support the entire zone, and reality:

> And people must be likely to cooperate to really cooperate because we don't have the same means. We can have a problem in STP, they do not have assets and to move from Cameroon to STP is a long way. It is better to ask the ship that has that kind of capacity to last many many days at sea. And we know that EG they have those kind of ship. They have frigates who can last one month at sea. And it is easy for a frigate to go to STP and spend two, three days and come back than sending a small boat who needs to get refuelment when she will arrive in STP and who need to get refuelment to come back to Douala and who is not able to spend many many days at sea. So people must have in their mind that we are mutualising […].[55]

This challenge of implementation of objectives is one that is reflective of asset availability. It is important to qualify this negative finding because it comes from an earlier decision to, as the interviewee states 'mutualise'. The recognition of the role states have to cooperate has engendered this working practice. It is evident that this is not working perfectly however the reason for failure is complex and due in no small way to funding.

The above statement also reflects a concern that conflict with national interest would lead to states who do not conceive sovereignty as involving a responsibility and authority to cooperate withdrawing from this initiative in order to focus on national priorities. The same interviewee discussed a specific issue that reflects the balance that must be acknowledged by states about their role: for a period a state removed its vessel from MCC rotation.[56] This note was echoed by a maritime security official who stated that this state 'wants more than it has been putting in'.[57] This is a snapshot that states' will to cooperate varies and supports the idea that will to cooperate is insufficient and a responsibility and authority to cooperate would lead to more effective cooperation.

The final asset allocation point concerns direction of assets. Zone D's centralised management institution has been important to cooperation in another area which is reflected through comparison with Zone E. Zone D organises the rotation of vessels to ensure a maximum possible number of days of enforcement presence. The MCC for Zone E has not been fully operationalised and as such there remains a significant national-level role in direction of assets. This means that in practice the few assets made available to Zone E are

[55] Interview GoG-MCC-1016.
[56] Interview GoG-MCC-1016.
[57] Interview Cam-Gov-PolNatSec-0916.

operating at the same time and reducing the total number of days at sea as a result.[58] Deference to the MCC direction of assets is a major cooperative step that parties have taken in Zone D. This has not been smoothly established, and there is progress to be made:

> It is mutualisation. You bring an asset where it is needed. That is what we are doing. So it is what I am saying, what I was raising in my presentation, we need people to really cooperate and to cooperate at the level not only in their waters but in the international waters … We made a great step because we are working together since 2009 but we need to reinforce it because there are many things to do here. There are some lapses, there are some inconveniences, that is what I am asking for, we need to focus on it and to try to break all those kind of sovereignties.[59]

This has been reflected in MCC interview responses about assets: 'We need countries to give us more assets […] with great capacity able to last more days at sea.'[60] Also in respect of the provision for the vessels by states to make them useful over longer periods:

> we need also each ship which comes in the Zone D comes with its logistics in terms of fuels in terms of resources in terms of food so if you have a ship who does not have enough fuel and you say that I want to go and spend three days at that place. And he says I won't have enough fuel, what are you going to do?

This summarises asset issues. The MCC since 2009 has tested the Technical Accord and Protocol, there is a need to develop this further so that the initiative becomes more effective where states do not require national leadership and control at all times but are prepared to cede control to the multinational level.

Zone D has been selected as a case study also for the reason that it addresses maritime boundary delimitation matters in an innovative way. Chapter Five noted the development of the zonal system for management of the maritime space and the challenges that this raises where delimitation is unsettled as the evidence from the region indicates. Maritime delimitation was not ignored by the region and is in fact proceeding in parallel:

> We cooperate on the scheme of Zone D that is ECCAS that has a regional architecture and have São Tomé and Príncipe, Gabon, Equatorial Guinea and Cameroon and we also have a bilateral cooperation between Cameroon and Gabon and Cameroon and Equatorial Guinea. There have been negotiations for maritime boundaries and these are still going on. So, while proceeding for delimitation both countries have had an idea about exploiting

[58] Interview UK-Gov-Defence B-1016.
[59] Interview GoG-MCC-1016.
[60] Interview GoG-MCC-1016.

> natural resources – this is a very big issue between especially Cameroon and Equatorial Guinea. And there are also negotiations are going on to exploit these together.[61]

The capacity of the Zonal system and Zone D to operate alongside maritime delimitation negotiations or following delimitation was emphasised by this official:

> […]even when you will have maritime boundaries it is in our interests to still have that multinational task force let me say that. It is the best way of combatting maritime insecurity. And now that you have CRESMAC in Pointe Noire and Zone A in Luanda is taking place you see that it is important for us to keep this architecture in place and make Zone D and Zone A interact and be supervised by CRESMAC in Pointe Noire while the ICC which is here in Yaoundé will be coordinating CRESMAC and CRESMAO which is in West Africa. So even if you have maritime boundaries it will be always important to have that multinational response.

This ability to separate out the matter of combatting maritime security from delimitation was reflected in the discussion with a defence official about the technical accord of Zone D:[62]

> The mission or the destiny of this agreement is not to solve the problem of maritime boundary it is to solve the problem of maritime security and safety only. But boundaries are not a problem it is not the mission of this agreement.

The decision to act, based on a recognised need as discussed above, has meant states of Zone D made a clear decision that could if expanded overcome the possible barrier that maritime delimitation poses to cooperation. The Zone D coordinates are displayed at the MCC:

[61] Interview Cam-Gov-MinExAfr-0916.
[62] Interview Cam-Gov-MOD-0916.

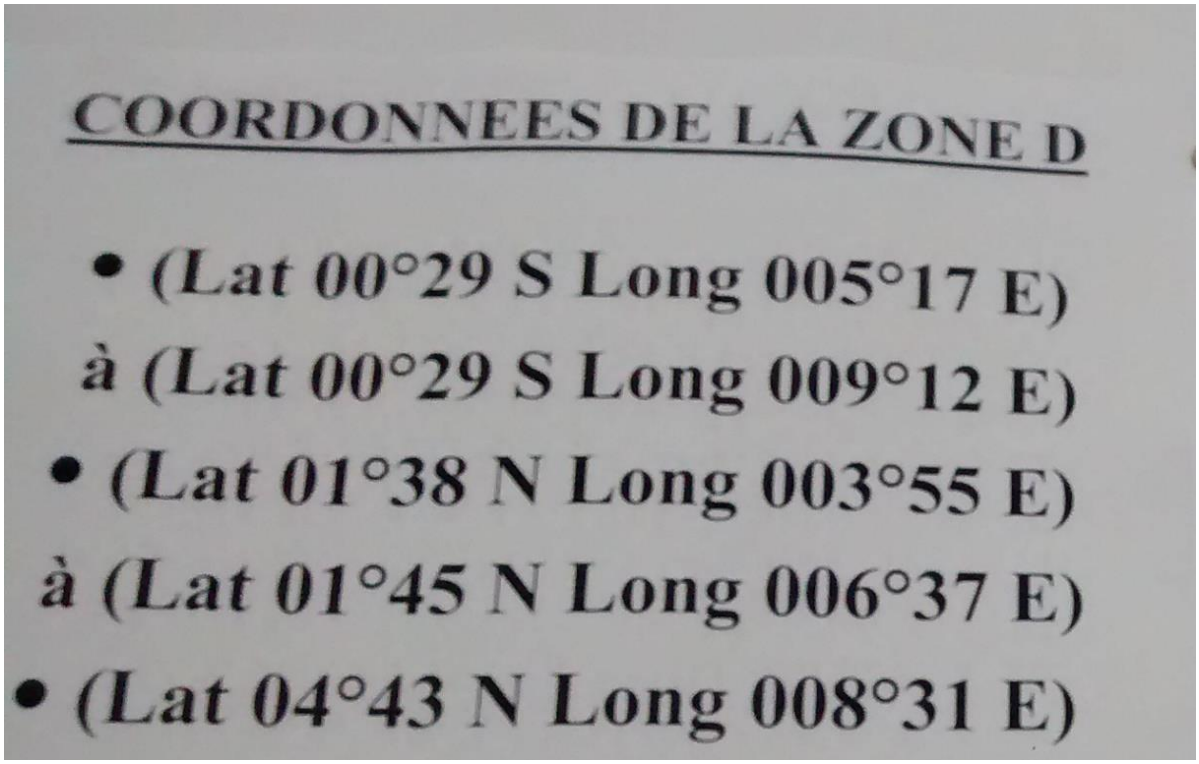

Figure Nine: Zone D Coordinates (Image: MCC Douala).

The potential conflict between delimitation matters and maritime security has been acknowledged. Cooperation has however been prioritised in Zone D. The Chief of the MCC sets out the agreed practice:

> So if I have a ship […] who is under my operational command, during the period under my operational control maritime boundary does not exist during that time in Zone D. but if that ship moves from Zone D it counts.

This is a major cooperative step. For the assets provided to Zone D states have ceded operational control to the MCC, enabling their personnel and vessels to be directed in service of a cooperative goal. In view of the fact that Chapter Six has demonstrated the limited asset strength of many states in the Gulf of Guinea this decision is argued to reflect recognition by states of their responsibility and authority to cooperate for maritime security.

There are clear limitations with this system as reflected in the MCC statement. Firstly, the vessel must be a nominated vessel. Secondly the nominated vessel must be under the operational control of the MCC at the relevant time, and thirdly the nominated vessel must be within the coordinates set out for Zone D. However this is a major progression from the more traditional cooperation between sovereign states that is established for Zone E. The Zone E agreement does not provide for nominated vessels to move freely within the zone,

instead parties must obtain permission to enter waters of a neighbouring state.[63] Chapter Five has indicated how absence of delimitation makes such action challenging. It has a further consequence. One interviewee indicated that a state with a large fleet – Nigeria – may nominate a vessel closest to the incident to take action.[64] This could be understood in two ways. One perspective is that the flexibility of this means that the states who have capacity can react quickly to a threat. However, the decision to do this is the opposite of the nominated vessel system established in Zone D, which was necessitated by a common area system. The capacity of larger neighbours to reassign a vessel does not promote confidence building and is indicative of traditional sovereign statehood because it places national level decision making above a common system. The decision to have flexible reassignment of nominated vessels is consequent upon a failure to act in common across a space. It is also a decision that is unlikely to lead states of Zone E to move towards a common space. It is argued that the common area with nominated vessels is more effective over a longer term, subject to continued and expanded investment by states in such cooperative efforts.

This indicates the move that must be undertaken at the next stage of development for the Zone and which cooperative sovereignty would assist. Zone D, as the following paragraphs demonstrate, has been functioning, and also deepening the role that it plays. Action flowing from an idea of a responsibility to cooperate would see states continue to develop Zone D through provision of effective assets and resources rather than attempt to plough two courses and retrench national level efforts that do not address the transnational nature of the threat. This follows from the discussion of asset allocation discussed above.

Another issue is the development of cooperation through training and capacity building. Cooperative sovereignty's focus on community will assist states to develop within a community, where sovereign statehood as traditionally understood may defer to the capacity of states as presented. This has been reflected in the Zone D mission:

> And our mission is to ensure the planning and coordination of operation of the security of the Zone D that you saw by developing a security plan that includes equipment and facilities and a monitoring plan, training plan with training roles and harmonising the operational procedures.[65]

[63] Interview UK-Gov-Defence B-1016.
[64] Interview UK-Gov-Defence B-1016.
[65] Interview GoG-MCC-1016.

Training of crew has taken place for vessel crew of Cameroon, Gabon and Equatorial Guinea.[66] MOC training has occurred throughout Zone D. A further positive aspect of the zone D has been its expansion and deepening of its role. Although wider aims are referenced in the Technical Accord, the founding motivation for action was piracy and armed robbery. The operations in Zone D have since its inception addressed a number of threats:

> They also cover illegal fishing, human trafficking, pollution maritime, all competence sur manifestation insécurité maritime.[67]

The potential flexibility of the mission is best demonstrated through the case study of the reported role of Zone D in assisting the apprehension of the *Thunder*, a vessel being targeted for illegal fishing operations and which was being pursued by the environmental group *Sea Shepherd* with assistance from INTERPOL which had issued a Purple Notice on the vessel.[68] An INTERPOL purple notice is issued 'To seek or provide information on modus operandi, objects, devices and concealment methods used by criminals'.[69] The vessel was pursued by *Sea Shepherd* for a period of four months from Antarctica through the Southern, Indian and Atlantic oceans before the vessel eventually sank off São Tomé and Príncipe.[70] The part of Zone D is highlighted.

The vessel entered waters off Ghana at which point MTISC-GoG (operational at this time) was notified by INTERPOL. The *Thunder* then travelled towards São Tomé and Príncipe which caused MTISC-GoG to contact the Regional Centre for African Maritime Security (Central Africa) (CRESMAC) – the regional operational centre responsible for Zones A and

[66] Interview GoG-MCC-1016.
[67] Interview Cam-Gov-MinExAfr-0916.
[68] Sea Shepherd, 'Interpol Takes Custody of Evidence against Thunder from Sea Shepherd' (05 March 2015) <https://www.seashepherd.org.uk/news-and-commentary/news/interpol-takes-custody-of-evidence-against-thunder-from-sea-shepherd.html> accessed 07 June 2015. Sea Shepherd, 'Spanish authorities levy massive fines on owner of notorious poacher 'F/V Thunder'' (03 August 2017) <https://www.seashepherdglobal.org/latest-news/spanish-authorities-fine-thunder/> accessed 07 November 2017. These articles address the conclusion and the background of the case, which was part of Operation Ice Fish <https://www.seashepherdglobal.org/our-campaigns/icefish/overview-icefish/> accessed 07 November 2017.
[69] INTERPOL, 'Notices' <https://www.interpol.int/INTERPOL-expertise/Notices> accessed 03 January 2018.
[70] Sea Shepherd, 'Poaching Vessel, Thunder, Sinks in Suspicious Circumstances' (06 April 2015) <https://www.seashepherd.org.uk/news-and-commentary/news/poaching-vessel-thunder-sinks-in-suspicious-circumstances.html> accessed 12 February 2018.

D. In turn CRESMAC provided information to Zone D MCC which directed its vessel to support the chase.[71]

This case was not led by Zone D but the regional infrastructure assisted. What this case demonstrates is the development of a multilateral cooperative effort presents an opportunity for the region to be a presence at sea and be in a position to cooperate. The development of the zone and the recognition that enforcement capacity could be directed through a regional body meant that the more complex linking of vessels in a manner where hot pursuit would be hampered by permission was avoided. Furthermore, the capacity of São Tomé and Príncipe to put forward an enforcement presence at sea has been discussed. In this regard, the state was able to play a role in combatting a major threat at sea; it later was the location of the trial and this played a part in developing a flow-through response to maritime illegality.

A further example of the role of Zone D is in the capture of the *Bibiana*. This was an interregional effort that led to the capture of a vessel suspected of supporting piracy. The *Bibiana* was a Nigerian flagged vessel captured off Kribi in Cameroon by a Zone D-flagged vessel. The Zone D MCC received information that had been transmitted to MTISC-GoG and acted on this information, working in partnership with American and French partners:

> But we had a good collective response facing the case of Bibiana proper coordination of a mission between French and American partners in the same time the patrol of CMC and the security forces of Cameroon, Equatorial Guinea, Gabon led to the arrest on 8th October at Kribi water the tanker *Bibiana* with a Nigerian flag that is suspected to support pirates and is involved in a number of maritime incidents in the Gulf of Guinea.

The effectiveness of the response was recognised by the MCC to have been lessened upon reaching land. The interviewee acknowledged: 'we were lacking some jurisdiction to prosecute them'.[72]

This is an important matter that Zone D must address as it formalises cooperation. It is argued that cooperative sovereignty would be the most effective basis for addressing the gaps in the process of cooperation. Chapter Six has demonstrated that the development of legislation to provide for jurisdiction is ongoing but at the time of writing inconsistent. A

[71] Interregional Coordination Centre, 'Gulf of Guinea Information Sharing Network Helps in chase of the Thunder' <http://cicYaoundé.org/gulf-of-guinea-information-sharing-network-helps-in-chase-of-the-thunder/> accessed 12 February 2018.
[72] Interview GoG-MCC-1016.

view that sovereignty includes a responsibility and authority to cooperate could be a tool to push for run-through capacity to combat maritime insecurity, from prevention to capture to conviction.

Finally, the cooperation has been successful in its continued existence. Established in 2009, in response to a specific concern, the Zone D infrastructure and operations continue at the time of writing. Statistics put forward by the MCC for 2009-2016 are shown in the following figure.

Year	# Attacks	# deaths	# injured	# hostages
2009	40	5	8	4
2010	16	6	5	15
2011	9	14	8	11
2012	2	0	0	0
2013	13	1	1	13
2014	4	0	0	3
2015	2	3	0	1

Table Six: Zone D Incident Numbers. [73]

This shows a relatively consistent decline; '[T]hat means that we can feel proud of what we are doing in the Zone D.'.[74] This decline has not however led states to redirect assets towards other national priorities. The challenges the MCC faces is not due to withdrawal but rather to the need for further commitment. It is this that would be assisted through the agreement being negotiated by states conceiving of maritime security as an area to which cooperative sovereignty is applicable. To conclude, Zone D has been a pioneering experiment in cooperation at sea. Though established in response to a direct need which can be explained through states acting as traditional sovereign statehood, the ongoing breadth and depth of effort despite a decline in attacks, reflects a deliberate decision to see cooperation as part of sovereign statehood. Zone D is set to become the subject of binding agreement. In light of the evidence of practice to date the development of binding agreement could be pursued by states from a position of cooperative sovereignty. It is proposed that as part of the binding agreement cooperative sovereignty could assist in putting forward effective commitments.

The first is that states recognise that cooperation cannot be piecemeal but must include the ability to be an effective presence. The issues cited by interviewees surrounding the equipping of vessels with sufficient fuel, and supplies to conduct patrols is a critical effort that could flow from a responsibility and authority to cooperate. This is something that could

[73] ibid.
[74] Interview GoG-MCC-1016.

be the responsibility of Zone D states or achieved through effective funding streams available to the MCC.

A further linked issue concerning funding is the concern of assets. The Zone D system is effective in terms of overcoming the barrier that delimitation could present in part because of the presence of nominated vessels. This is a compromise between the recognition of a need to cooperate and the traditional sovereignty reservation to national level. If the Zone D is to continue to be effective, it would be improved where the MCC has the capacity to recognise and direct an appropriate asset. In the Zone E example, flexible nomination is highlighted as a concern that risks damaging cooperation. It is argued that this is true and that sporadic re-nomination is unworkable in any case because the fleet strength does not support such a practice. Therefore the binding agreement would need to address how regional capacity can be ensured, recognising the need for effective vessels, and availability of air support.

A further concern comes from the *Bibiana* example. As a binding agreement is drawn up the full cycle of maritime security must be actualised through full commitment from sea to courtroom. The role of cooperative sovereignty here is to promote an understanding of the role of the state to have capacity to contribute to a common initiative in all areas.

Zone D is imperfect, this is something that documentation and interviews raise. It is argued that it is important and if assisted by a responsibility and authority to cooperate as part of sovereignty this initiative could continue to be pioneering. It has been used as an example of good practice in the region already, when asked about its potential replicability a Ministry of External Relations official stated:

> Yes, absolutely yes! That is what is being done now in Angola in Zone A. Because during our last meeting in Libreville when the leaders decided to make Zone A operational they took practice from Zone D. They then did the same thing in Zone E. all the best practices of Zone D are being replicated by les autres zones.[75]

The early establishment and continued operation of Zone D has been recognised across the region and it will also be a roadmap for how it transitions to a binding agreement. Many of the positive outcomes to date are argued to be important to retain as the cooperation is

[75] Interview Cam-Gov-MinExAfr-0916.

formalised and it is argued that the standpoint of cooperative sovereignty is something that is a means of continuing and building further effective cooperation.

7.6 Conclusion

This chapter has addressed the maritime threat of piracy and armed robbery at sea. It has highlighted the prominence of this issue and the ways in which it continues to present as a concern to states in the Gulf of Guinea. It has argued that despite the international concern surrounding this threat the emphasis remains on a regional solution. Contrast with the Somalia piracy situation indicates that there are sovereignty concerns for external actors that underpin their support for regional leadership.

The juxtaposition of the concerns following from traditional ideas of sovereign statehood and ideas based on cooperative sovereignty have been presented in the general context to highlight the benefits and disadvantages of courses of action. This has then been addressed in the specific context of functional zones, in particular Zone D, to consider how states have developed cooperative action and how this may be impacted in the future dependent upon the understanding of what sovereign statehood implies.

The cooperative effort exhibited in Zone D is instructive because of its early adoption and significant cooperation levels. The replicability of aspects of practice of Zone D is a possibility as the remaining zones operationalise and for zones such as Zone D this means that decisions about the basis for cooperation are important. To date, the progressive actions undertaken in Zone D concerning nominated vessels have helped overcome major territorial concerns that are the preserve of the state under a traditional conception of sovereign statehood. The broadening of cooperation and the positioning of the regional apparatus of the Zone as a conduit for operations has been demonstrated through case study. As the states parties move towards a formal arrangement and the emergency situation upon which the Zone was initially established can be said to have abated somewhat, it is proposed that the basis for cooperation be understood as flowing from the conception of sovereign statehood that embodies a responsibility and authority to cooperate.

This could be achieved by an agreement that develops outcomes focused on state responsibility and authority to cooperate, including harmonised resourcing, longer-term planning and broadening of mandate. This would reflect the interdependence of the states and the need to act as a community and also the inability to maintain an idea of autonomy.

The following chapter addresses the relevance of cooperative sovereignty in respect of a second threat to maritime security in the Gulf of Guinea: illegal fishing. It argues that in this context there is a further basis for arguing that cooperative sovereignty would be of relevance to the way states approach cooperation to deal with the threat and that it would enable the development of more effective cooperation.

Chapter Eight: Cooperative Sovereignty Case Study: Illegal Fishing

[…]the most threat that we are facing in the Zone D, I would say even in the Gulf of Guinea it is illegal fishing. It is not only piracy because people think it is only piracy. It is especially illegal fishing.[1]

8.1 Introduction

This chapter focuses on the maritime security threat of illegal fishing. Cooperative sovereignty could promote more effective maritime security cooperation. The chapter argues that illegal fishing is a multifaceted challenge. Section 2 highlights the importance of fishing to this region. It confirms that inclusive interest which has been discussed in Chapters Four and Six as understood and demonstrated in continued collaborative statements and meetings has not translated into concerted regional action. This section concludes that states who are not in a position to contain a threat, who would gain greater security through cooperation, should look to cooperative sovereignty as a means of managing such threats in their maritime space. Section 3 traces the development of the concept of illegal fishing. It argues that it has been traditionally seen as a regulatory matter but it is shifting to a security, and increasingly a criminal matter. The discussion of such fishing as a crime is ongoing and it is not a universally accepted idea in legislation – something that has been demonstrated in the legislative analysis undertaken in Chapter Six. This section concludes that illegal fishing is an age-old threat to states. Its recent manifestation – through a transnational crime lens – is evidence of this development.

Section 4 analyses how cooperative sovereignty can address illegal fishing, instead of continuing to address this through measures that rely upon a traditional conception of sovereignty. This section draws on documentation and interviews that show that in many cases the actual decisions made by states following international discussion on this issue can be seen as tied to the tenets of sovereignty that undermine cooperation.

Klein argues that '[R]ecognizing the common interest in quelling IUU fishing should mean states will continue to implement mechanisms and join treaty regimes to improve responses to this maritime security threat.[2] As has been argued, the idea of maritime security as an inclusive interest has not led to the development of inclusive action and this is in part due to

[1] Interview GoG-MCC-1016.
[2] Natalie Klein, *Maritime Security and the Law of the Sea* (OUP 2011) 318.

a barrier that sovereignty imposes. Cooperation could be strengthened in an environment states view the purpose of their sovereignty as one which includes a responsibility and authority to cooperate rather than as based on establishing independence as far as possible.[3] Section 5 looks at a sub-regional action that could be developed through cooperative sovereignty, or could be improved following a shift by states to view this area of national agendas as one which should be managed through cooperative sovereignty.

8.2 What is the relevance of illegal fishing in the region?

Illegal fishing affects all Gulf of Guinea states. It is as such a suitable area for discussion of a role for cooperative sovereignty. The potential role for cooperative sovereignty has been discussed in Chapter Three. Illegal fishing has been defined in Chapter Four. This section underscores the complex, transboundary and international impact and efforts to cooperate.

Illegal fishing damages economies. In general, among those negatively economically impacted are persons and organisations whose employment and income either directly or indirectly depend upon fisheries, whose incomes are reduced by declining stocks, or who are displaced by illegal vessels.[4] Fisheries also represent a major source of foreign exchange.[5] Illegal fishing also damages food security; states in West and Central Africa derive a high percentage of nutritional intake from fish products,[6] and managed fisheries are crucial both to avoidance of conflict with other sectors – which can create additional food security risks – and to continued sustainable development.[7] Illegal fishing has environmental impacts. It is associated with poor practice linked to pollution, dredging, and illegal gear and fishing practices, all of which negatively impact the environment and other space users.[8]

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[3] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000) 5.
[4] Mary Ann E Palma, Martin Tsamenyi, William R Edeson, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing* (BRILL 2010) 11.
[5] Republic of Ghana, 'National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing' (May 2014) 10.
[6] Moustapha Kébé and James Muir, 'The sustainable livelihoods approach: new directions in West and Central African small-scale fisheries' Chapter 1 in Lena Westlund, Katrien Holvoet and Moustapha Kébé (eds), 'Achieving poverty reduction through responsible fisheries – Lessons from West and Central Africa' (FAO Technical Paper 513 FAO 2008) 48; Alfonso Daniels, Miren Gutierrez, Gonzalo Fanjul, Arantxa Guereña, Ishbel Matheson and Kevin Watkins, 'Western Africa's missing fish: the impacts of illegal, unreported and unregulated fishing and under-reporting catches by foreign fleets' (ODI 2016) 27.
[7] Nordenfjeldske Development Services (NFDS), Gap Analysis of National and Regional Fisheries and Aquaculture Priorities and Initiatives in Western and Central Africa in Respect to Climate Change and Disasters (FAO Fisheries and Aquaculture Circular No. 1094 FAO 2014) 18.
[8] Adam Gertz, 'Deadliest Catch: Towards a Framework for Combating Illegal, Unreported, and Unregulated Fishing in Somali Territory' (2013) 19 Southwestern Journal of International Law 401, 408.

Seven digit IMO numbers unique to a vessel help states to monitor and track vessels. In 2016 the IMO expanded the scheme to include fishing vessels that weigh less than 100 gross tons and are a minimum of 12 metres long, and vessels with wood or fiberglass hulls if they weigh at least 100 gross tons.[9] This is a significant check on hidden parts of the industry, but mandating is not common practice. This is changing slowly with a lead taken by states including Nigeria.[10] Monitoring, discussed in Chapter Six, highlighted that low uptake of systems undermines what is already often limited capacity to act. Concerns about the value of reporting are also legitimate where transgressors know there is small likelihood of being investigated or prosecuted.[11]

There are multiple factors that enable illegal fishing to flourish. Among them: flags of convenience; fake licences; illegal equipment; forged catch records; discards; false labelling; laundering; and transhipment are identified by the organisation Black Fish as illegal fishing's connection with organised crime.[12] To counter illegal fishing requires a holistic approach that remains open to the many converging activities. States have recognised and indicated willingness to combat this threat through cooperative actions.

8.3 Development of the paradigm of illegal fishing: from community norms to IUU and transnational crime

Historically fisheries management was based on rules of community.[13] Numbers were sufficiently small and newcomers would cause slight adaptation to the rules of the community or lead to some form of conflict.[14] Fishing became widespread only in the period following the end of the Second World War.[15] 'From the mid-20th century it became

[9] Tony Long, 'New Eligibility Standards for Vessel ID Numbers Will Help Fight Illegal Fishing Smaller fishing vessels can now be given unique IMO numbers' (Pew Charitable Trusts, October 2016).
[10] Stop Illegal Fishing, 'Nigeria acts on IMO Numbers' (20 January 2017) <https://stopillegalfishing.com/news-articles/nigeria-acts-imo-numbers/?utm_source=SIF+Newsletter++Contacts&utm_campaign=6c851cc4c1-SIF+Newsletter+January+2017&utm_medium=email&utm_term=0_2332da6e79-6c851cc4c1-100759985> accessed 08 October 2017.
[11] Alastair Couper, Hance D Smith and Bruno Ciceri, *Fishers and Plunderers: Theft, Slavery and Violence at Sea* (Pluto Press 2015) 200.
[12] T Phelps Bondaroff, 'The Illegal Fishing and Organized Crime Nexus: Illegal Fishing as Transnational Organised Crime' (The Global Initiative against Transnational Organised Crime and the Black Fish April 2015) 26-9.
[13] Per Erik Bergh and Sandy Davis, 'Fishery Monitoring, Control and Surveillance' in Kevin L Cochrane (ed), *A fishery manager's guidebook: Management Measures and Their Application* (FAO Technical Papers 24 FAO 2002) 176.
[14] ibid.
[15] U Rashid Sumaila, Christophe Bellmann and Alice Tipping, 'Fishing for the future: An overview of challenges and opportunities' (2016) 69 Marine Policy 173, 174.

increasingly evident that much more comprehensive and binding agreements among states were required for sharing, harvesting and conserving the living resources of the sea.'[16] This means that until relatively recently fisheries management and conservation and notions of illegal or improper practice were not issues requiring major focus by states or forming a key part of a national agenda necessitating international engagement. The United Nations Convention on the Law of the Sea (UNCLOS) is the 'fundamental law guiding international fisheries management.'[17] UNCLOS brings some 90 per cent of global sea fish under state jurisdiction.[18]

UNCLOS provisions encourage states to cooperate on fisheries management and conservation.[19] However its focus on a zonal system, discussed in Chapter Five, differentiates roles for coastal states, flag states and port states. This limits the opportunity to view the maritime space as one over which states should act cooperatively. This approach has persisted throughout the discussion of actions to address challenges in the maritime space. It is a dynamic that acts against taking a broader, cooperative approach to challenges. It juxtaposes and highlights for states their respective powers and freedoms.

Coastal States have primary responsibility to conserve and manage living resources in the Exclusive Economic Zone (EEZ).[20] Coastal state jurisdiction in the EEZ determines the allowable catch (Article 61(1) UNCLOS). Responsibility for conservation and management measures to prevent over-exploitation is provided in Article 61(2) UNCLOS. This must be balanced against a duty - in Article 62 - to promote the optimum utilization of the living resources in the EEZ. Article 62(2) requires that other states be given access to surplus allowable catch. Nationals of other States must comply with the fishing laws and regulations of the coastal State in its EEZ pursuant to a state's sovereign rights established in Article 56(1)(a) and laws and regulations of the coastal state that relate to a non-exhaustive list set out in Article 62(4).

[16] Couper, Smith and Ciceri (n11) 43.
[17] Sumaila et al (n15) 177.
[18] Couper, Smith and Ciceri (n11) 46.
[19]Tafsir Malick Ndiaye, 'Illegal, Unreported and Unregulated Fishing: Responses in General and in West Africa' (2011) 10 Chinese Journal of International Law 373, 378.
[20] International Tribunal for the Law of the Sea (Case No 21) Request For an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC) (Request for Advisory Opinion submitted to the Tribunal)
Advisory Opinion (2 April 2015) para 124.

The acts in Article 62(4) do not cover all modern fishery practices. The International Tribunal for the Law of the Sea (ITLOS) in the *M/V Virginia G* case[21] recognised that this was non-exhaustive; the Tribunal looked at the important progress that bunkering made to fishery practice and founded its ruling on the 'direct connection' of an activity to fishing. This is both a demonstration of the importance of reading UNCLOS as a living instrument, and its links to its time of adoption. The Tribunal was 'guided' in its reasoning by later instruments, specifically the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2009). Article 63(1) provides:

> Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

Article 63(1) is an opportunity to cooperate in conservation and management. It presumes that waters are defined and does not speak directly to the issue of illegal fishing, though as an act that directly impacts efforts at conservation and management it can be read into this. However, regulation is the primary focus of this provision. Enforcement of coastal state law and regulation is provided for by Article 73 UNCLOS. Ndiaye identifies this as a giving 'wide discretionary powers to the coastal State.'[22] Indeed a coastal state is recognised to have powers of boarding, inspection, arrest and judicial proceedings.[23] This ties in Article 73 to prompt release proceedings of Article 292. The issue of prompt release[24] is contentious; illegal fishing is an economically driven offence. The capacity of fishing companies to count the penalty as a cost of doing business means that the strength of coastal state enforcement in Article 73 to create punitive sanction for illegal fishing may be limited.

Consistent with its zonal division, UNCLOS provides for duties of Flag States. Article 94 does not however provide for obligations to ensure compliance with fishery regulations. The EEZ regime can be understood as a driver of illegal fishing due to displacement of high seas fisheries by 200nm. Baird argues that 95 per cent of catch is within areas of coastal state jurisdiction and that this changed the focus and therefore the balance between states of

[21] The M/V "Virginia G" Case (Panama v. Guinea-Bissau) ITLOS Case No. 19, Merits, Judgment, 14 April 2014 para 215.
[22] Ndiaye (n19) 380.
[23] Article 73(1).
[24] *M/V Saiga (No 1) Saint Vincent and the Grenadines v Guinea) (Judgment)* (Prompt Release) [1997] 110 ILR 736.

enjoyment of resources.[25] The adoption of EEZs as a sui generis regime under UNCLOS that promised to improve fisheries conservation and management through coastal state-led action has largely failed to deliver.[26] UNCLOS envisaged a role for port states to cooperate with flag states. There is no provision for them to address illegal fishing though they are liberty to set national standards.[27] The focus on cooperation continues in the FAO Compliance Agreement of 1993; a second key instrument is the United Nations Fish Stocks Agreement (FSA) 1995. It is applicable in areas beyond national jurisdiction,[28] and duties of flag states are applicable to activities on the high seas except for Article 18(2)(iv) where flag states are obliged:'[T]o ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;'

The FSA addresses a gap. In the context of cooperation to manage illegal fishing across EEZs, states do not gain a great deal from this second major instrument. Klein highlights the fact that a request for a flag state to investigate or for a coastal state to board and inspect a vessel on the high seas suspected of unlawful fishing in the EEZ is clear but does not provide real further tools to the coastal state.[29]

These international instruments together represent the grounding framework for fisheries management. This framework is of course of its time in several respects. Since the adoption of UNCLOS 'remarkable scientific and technological progresses' make a wider range of marine living resources exploitable.[30] Reliance on UNCLOS as a mechanism to counter illegal fishing is impeded by the scaling up of vessels equipped to endure long periods at sea and assembly line processes that enable transhipment and resupply of workers, food and equipment meaning that the traditional monitoring by coastal states can be avoided. Fundamentally these founding instruments were not designed to address fisheries as a security or a criminal matter. The failure of the dual focus of an EEZ system to achieve conservation and management through coastal state-led regulation, and the failure of flag

[25] Rachel Baird, 'Illegal, Unreported and Unregulated Fishing: An Analysis of the Legal, Economic and Historical Factors Relevant to its Development and Persistence' (2004) 5(2) Melbourne Journal of International Law 299, 306.
[26] Jean Francois Pulvenis de Seligny, 'The marine living resources and the evolving law of the sea' (2010) 1 Aegean Review of the Law of the Sea 61, 65.
[27] Rose and Tsamenyi (n7) 70.
[28] UNFSA Article 3.
[29] Klein (n2) 92-3.
[30] Pulvenis de Seligny (n26) 62.

states to act to monitor and ensure compliance of their ships led to a shift towards enforcement that placed emphasis on port states.[31]

Fisheries mechanisms have also sought to address illegal fishing. The FAO through a series of measures acknowledged the role of fisheries in sustainable development and food security.[32] The FAO Code of Conduct for Responsible Fisheries established a series of actions: The International Plan of Action – IUU (IPOA-IUU) referenced in Chapter Three established a series of actions to treat the issue as a security and criminal matter rather than through a regulatory framework. While it is a non-binding instrument, it discusses fisheries as IUU fishing, and calls for: national legislation and plans of action; cooperation; coastal state measures; port state measures; market-related measures.[33]

The IPOA-IUU was followed by the 2005 Model Agreement which built further on the role of port states,[34] but which was deemed insufficient due to its voluntary nature.[35] The later instrument is the Port State Measures Agreement (PSMA) – uptake of which has been discussed in Chapter Three. The PSMA was designed to complement existing instruments dealing with fisheries. It was built upon with the 2013 Voluntary Guidelines for Flag State Performance[36] which introduce specific guidance for flag states.

The development of the concept of IUU fishing is an important political tool. It has created an environment where states can discuss a common concern. Even if this has not led to universal implementation of measures to deal with the issue, it has raised the profile on the region.[37]

The phrase IUU fishing summarises a complex matter of national, regional and international concern and one that could be even considered unhelpful[38]due to ambiguity. Though the

[31] Emma Witbooi, 'Illegal, Unreported and Unregulated Fishing on the High Seas: The Port State Measures Agreement in Context' (2014) 29(2) The International Journal of Marine and Coastal Law 290, 292.
[32] Maria Papaioannou, 'The EU-Africa Partnership in the Fight against IUU Fishing' (2016) 24 Africa Journal of International and Comparative Law 158, 160.
[33] Kevin W Riddle, 'Illegal, Unreported and Unregulated Fishing: Is International Cooperation Contagious?' (2006) 37 Ocean Development and International Law 265, 269.
[34] Shih-Ming Kao, 'International Actions against IUU Fishing and the Adoption of National Plans of Action' (2015) 46(1) Ocean Development and International Law 2, 4.
[35] Pulvenis de Seligny (n26) 79.
[36] Food and Agriculture Organisation of the United Nations, The Voluntary Guidelines for Flag State Performance, The 2009 FAO Agreement on Port State Measures and Other Instruments Combating IUU Fishing (9-13 June 2014) COFI/2014/4.2/Rev.1.
[37] Jade Lindley and Erika J Techera, 'Overcoming complexity in illegal, unregulated and unreported fishing to achieve effective regulatory pluralism' (2017) 81 Marine Policy 71, 75.
[38] Jens T Theilen, 'What's in a Name: The illegality of Illegal, Unreported and Unregulated Fishing' (2013) 23 International Journal of Marine and Coastal Law 533, 547.

constituent parts of this concept are not new, the term is relatively recent. As noted in Chapter Four, I U and U are distinguished as three distinct concepts. Only forms of fishing that transgress a state's national law will constitute illegal fishing in the sense of I in IUU.[39] Other actions such as misreporting or not reporting to a national authority or RFMO will be the first 'U' and the second 'U' comprises actions such as fishing in RFMO waters as a non-party state inconsistent with RFMO measures or in unregulated waters inconsistently with international state responsibilities.[40] Theilen finds that only the 'I' in 'IUU' is specifically crime-focused. However, the second two terms: the 'U' and 'U' can actually be understood to be subsets of 'I' if the text is read so as to infer that criminalisation was the object of the IPOA-IUU. This is an important point that highlights a division between the legal and political. The term IUU creates a broad framework to detail different transgressions by fishers but its lack of clarity – an acknowledgement that in fact the only things that can be acted upon are things that are illegal under national law or international law - limits the legal effectiveness of the term. It is important to focus on what is illegal and can therefore be countered. This is hampered further by a muddling of illegal fishing and IUU fishing to suggest they are two sides of the same coin. Theilen argues that for legal usage the term illegal fishing should be referred to as this is the part of the problem that states have created national criminal legislation to combat and where enforcement is focused.[41]

A relevant advisory opinion was delivered by the ITLOS in 2015.[42] Its application was limited to the states of the Sub-Regional Fisheries Commission, who are outside the scope of this study[43] although Ghana and Liberia are associate members. It addressed firstly flag state obligations where illegal, unreported and unregulated fishing is carried out in coastal state EEZs.[44] Critical to the Tribunal's engagement on this issue was the Minimal Access Conditions Convention that SRFC states had updated in 2012 and which harmonised their positions.[45] The Tribunal found that the coastal state bore primary responsibility for preventing, deterring and eliminating IUU fishing in its EEZ[46] but this did not release the

[39] Eve de Coning and Emma Witbooi, 'Towards a new 'fisheries crime' paradigm: South Africa as an illustrative example (2015) 60 Marine Policy 208, 209.
[40] ibid.
[41] Theilen (38) 546.
[42] Case No 21(n20).
[43] Cape Verde, Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone.
[44] Case No 21 (n20) para 85.
[45] Case No 21 (n20) para 63.
[46] Case No 21 (n20) para 106.

flag state from responsibility[47] to ensure compliance with measures to conserve living resources and to comply with coastal state legislation and regulation.[48] The obligation on flag states is one of due diligence.[49] This obligation of due diligence also applied to international organisations – in this context the European Union.[50] The Advisory Opinion jurisdiction was limited to the EEZs of the states concerned. The relevance of the SRFC Convention in this case highlights the importance of adopting legislation that addresses this subject.

Treating illegal fishing as transnational organised crime is an increasingly championed approach. Palma-Robles writes that '[T]he relationship between illegal fishing (and broadly illegal, unreported and unregulated fishing or IUU fishing) and transnational crime was first raised at the 9th meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) and at the meeting of the Conference of Parties to the UN Convention Against Transnational Organised Crime in 2008'[51] and the subsequent UN General Assembly Resolution 64/72 on sustainable fisheries[52] which:

> '[n]otes the concerns about possible connections between international organized crime and illegal fishing in certain regions of the world, and encourages States, including through the appropriate international forums and organizations, to study the causes and methods of and contributing factors to illegal fishing to increase knowledge and understanding of those possible connections, and to make the findings publicly available, bearing in mind the distinct legal regimes and remedies under international law applicable to illegal fishing and international organized crime'.[53]

[47] Case No 21 (n20) para 108.
[48] Case No 21 (n20) para 120-4.
[49] Case No 21 (n20) para 150.
[50] Case No 21 (n20) para 168.
[51] Mary Ann Palma-Robles, 'Fisheries Crime: Bridging the Conceptual Gap and Practical Response' (Center for International Maritime Security 2014) <http://cimsec.org/fisheries-crime-bridging-conceptual-gappractical-response/12338> discussing United Nations, Conference of Parties to the United Nations Convention Against Transnational Organised Crime, Report of the Conference of Parties to the United Nations Convention Against Transnational Organised Crime on its Fourth Session (Vienna 8-17 October 2008) CTOC/COP/2008/19, 1 December 2008 para 210.
[52] Ibid Discussing United Nations General Assembly, 'Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments' (UNGA, A/Res/64/72 4 December 2009).
[53] Ibid (UNGA, A/Res/64/72) para 61.

This joined up approach to illegal fishing has continued.[54] Rose and Tsamenyi have argued that the FAO is not the venue for MLR crime[55] and that UNODC is better focused to achieve this. As this is not a political body the matters needs to be arranged by states.[56] The authors argue that the United Nations Convention on Transnational Organised Crime (UNTOC) is the place to develop an international standard as it is the most appropriate lens through which to address the subject.[57] Telesetsky supports this proposal recognising '[W]hat is especially significant is that no additional international negotiations are necessary for states to incorporate criminal sanctions for IUU fishing.'[58] The UNTOC, discussed in Chapter Three and Four, is able to adopt a different focus to that of UNCLOS, it being established for criminal concerns.

The organisation Black Fish argues that this security threat may easily be understood as transnational organised crime. Their report recognises that illegal fishing is capable of being characterised using signifiers of transnational organised crime. These are:

1. Collaboration of more than 2 people
2. Each with own appointed tasks
3. For a prolonged or indefinite period of time
4. Using some form of disciple and control
5. Suspected of commission of serious criminal offences
6. Operating at international level
7. Using violence or other means suitable for intimidation
8. Using commercial or business like structures
9. Engaged in money laundering
10. Exerting influence on politics media, public administration, judicial authorities, economy
11. Determined for profit or power[59]

This characterisation of illegal fishing as transnational organised crime is attractive but would require sanctions in domestic fisheries legislation to be increased if IUU fishing is to meet the UNTOC threshold of a maximum punishment of four years or more.[60] This is

[54] See UN General Assembly, 'Resolution Adopted by the General Assembly on 8 December 2015: Sustainable Fisheries, Including Through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and Related Instruments' A/RES/70/75 22 February 2016.
[55] Rose and Tsamenyi (n6) 93.
[56] Rose and Tsamenyi (n6) 94.
[57] Rose and Tsamenyi (n6) 99.
[58] Anastasia Telesetsky, 'Laundering Fish in the Global Undercurrents: Illegal, Unreported and Unregulated Fishing and Transnational Organised Crime' (2014) 41 Ecology Law Quarterly 939, 983.
[59] Phelps Bondaroff (n12) 41-3.
[60] Phelps Bondaroff (n12) 67.

pertinent in the context of illegal fishing in the Gulf of Guinea where harmonisation of sentence structure and sanction is ongoing. UNODC have characterised fisheries crime as 'an ill-defined legal concept referring to a range of illegal activities in the fisheries sector. These activities - frequently transnational and organized in nature - include illegal fishing, document fraud, drug trafficking, and money laundering.'[61]

INTERPOL in a study of fisheries crime in West Africa – which they defined as states between Mauritania and Cameroon inclusive – looked at illegal fishing and 'at all types of illegality and criminality that facilitate or accompany illegal fishing activities but reach beyond the traditional definition of illegal fishing.'[62] This included other crime types which bear directly on the continued practice of illegal fishing: corruption,[63] customs and food hygiene regulations fraud,[64]human trafficking,[65] drug trafficking[66] and piracy.[67] The organisation concluded that the variety of forms of illegal fishing, and number of convergent crime types 'require extensive cooperation between law enforcement agencies within national governments and across national boundaries.'[68]

A RUSI paper contributes to this discussion through consideration of IUU fishing as a security concern.[69] This paper is relevant because it is an early effort to collate information on the nexus between fisheries and security. Its author acknowledges the idea of IUU fishing as transnational organised crime,[70] and also its links to broader criminality.[71] The issues of human, food and economic security and government stability ground the call for its greater recognition as a security threat.[72] The author concludes 'perhaps the greatest impediment to an effective response to large-scale IUU fishing has been a slow recognition of the impact, severity and complexity of the problem'[73] and echoes the call for recognition of the threat as transnational organised crime.[74] A Centre for Strategic and International Studies /

[61] UNODC, 'Fisheries Crime' <http://www.unodc.org/unodc/about-unodc/campaigns/fisheriescrime.html> accessed 01 November 2017.
[62] INTERPOL, 'Study on Fisheries Crime in the West African Coastal Region' (September 2014) 8.
[63] ibid 25.
[64] INTERPOL (n62) 26.
[65] INTERPOL (n62) 27.
[66] INTERPOL (n62) 29.
[67] INTERPOL (n62) 30.
[68] INTERPOL (n62) 57.
[69] Cathy Haenlein, 'Below the Surface How Illegal, Unreported and Unregulated Fishing Threatens our Security' (Royal United Services Institute 2017).
[70] ibid 13.
[71] Haenlein (n69) 19.
[72] Haenlein (n69) Chapter IV.
[73] Haenlein (n69) 31.
[74] Haenlein (n69) 41.

National Geographic report builds further on the discussion of a threat to security.[75] National security is affected by support of illicit networks of traffickers who commit convergent crimes, damaging local livelihoods, which then creates space for persons in affected communities to feel there is no alternative to crime. The economic impact on states means their capacity to meet the challenge is hampered.[76] Further illegal fishing is a security threat in terms of safety to life. Pew argues:

> Unscrupulous fishers may invest less in maintenance, repairs, and safety equipment to further boost their profits, making vessels unsafe and ill-equipped. Crews may be expected to work longer hours under higher pressure, leading to greater stress and fatigue, and operators may take more risks, such as fishing in dangerous weather.[77]

The Torremolinos International Convention for the Safety of Fishing Vessels[78] sought to achieve safety of fishing vessels but did not garner enough support. The current effort is to reach the required number of parties for this Cape Town Agreement to enter into force.[79]

A transnational crime of illegal fishing would correctly characterise the issue and would enable the development of sanctions. As demonstrated in Chapters Three and Six, there has been insufficient implementation of enforcement mechanisms. To summarise, the reframing of illegal fishing as a security and criminal threat is an important development, which enables states to draw on law enforcement and military resources to manage their maritime space. This creates an environment where cooperation amongst states can be centred on a specific point. Previously cooperation has been a light-touch approach to manage and conserve stocks and more recently to address criminal or regulatory transgressions. This continuing shift to find a means of framing the challenges presented by those who fish

[75] Gregory B Poling and Conor Cronin, 'Illegal, Unreported and Unregulated Fishing as a National Security Threat' (Centre for Strategic and International Studies in cooperation with National Geographic Pristine Seas November 2017).
[76] ibid 8.
[77] 'FACT SHEET: The Cape Town Agreement: 7 reasons to improve safety on fishing vessels' (The Pew Charitable Trusts, 16 October 2017).
[78] International Maritime Organisation, 'The Torremolinos International Convention for the Safety of Fishing Vessels' <http://www.imo.org/en/About/conventions/listofconventions/pages/the-torremolinos-international-convention-for-the-safety-of-fishing-vessels.aspx> accessed 01 September 2017, see discussion in Lindley and Techera (n37) 74.
[79] International Maritime Organisation, 'Cape Town Agreement on safety of fishing vessels adopted in South Africa Diplomatic Conference for the Adoption of an Agreement on the Implementation of the Provisions of Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.' (IMO Briefing 44 2012) <http://www.imo.org/en/MediaCentre/PressBriefings/Pages/44-SFV-conf-ends.aspx#.WgJNsGi0M2w> accessed 01 September 2017.

illegally is important but demonstrates that a fundamental response by states is needed to achieve the objective.

Responses to fishing concerns reflect the lens shift

At the regional level states act in forums specifically focused on this issue. Harmonisation is a stated objective of the Fisheries Committee for the West Central Gulf of Guinea (FCWC),[80] a body established in July 2006 by the governments of Benin, Côte d'Ivoire, Ghana, Liberia, Nigeria and Togo. The Committee aims to promote cooperation on fisheries and the security of fisheries through measures including capacity building, development of MCS capability and the harmonising of fisheries legislation and regulations; enhance cooperation in respect of relations with distant water fishing countries; strengthen sub-regional cooperation in monitoring, control, surveillance and enforcement, including the progressive development of common procedures; promote the development of fisheries research capabilities; promote the development of standards for the collection, exchange and reporting of fisheries data; develop and promote common policies and strategies, as appropriate, in the sub-region to enhance sub-regional standing in international meetings; and promote sub-regional cooperation in the marketing and trading of fish and fish products. The Fisheries Committee and its Task Force[81] will be discussed in greater detail in Section 4.

Its Central African counterpart is the Regional Fisheries Committee for the Gulf of Guinea (Comité Régional des Pêches du Golfe de Guinée) (COREP). COREP was established in 1984 by the Convention Concerning the Regional Development of Fisheries in the Gulf of Guinea. The Convention has not yet entered into force. The area of competence of the Committee is defined as the Central and Southern Gulf of Guinea. Its membership comprises Cameroon, Congo, Dem. Rep. of the Congo, Gabon, Sao Tome and Principe, with observer members: Equatorial Guinea and Angola. The 2009 Convention[82] sets out the form and aims of the Committee. Article 3 expressly situates harmonisation within respect for the sovereign rights of the member states.

[80] Fishery Committee for the West Central Gulf of Guinea <http://fcwc-fish.org>.
[81] Stop Illegal Fishing, 'West Africa Task Force' <https://stopillegalfishing.com/initiatives/watf/>.
[82] Commission Régionale des Pêches du Golfe de Guinée *Convention Relative au Développement Régional des Pêches dans le Golfe de Guinée* May 2009.

CECAF is the FAO regional body for the Eastern Central Atlantic. Its membership is broad[83] and it is established to promote sustainable resource utilisation[84] through advice and promotion of training and research. It does not have a mandate to press for cooperation.

The Gulf of Guinea Commission promotes the idea of acting in concert on fisheries. Its Treaty Article 5 states:

> In pursuit of the objectives stated above, the High Contracting Parties undertake to pool their efforts towards the harmonization of their respective policies in the areas of common interest. To this end, they pledge to identify areas of common interest in the geographical area of the Gulf and map out common policies, particularly in the areas of peace and security, exploitation of hydrocarbons, fishery and mineral resources, the environment, the movement of people and goods, development of communications, promotion of the economic development and integration of the Gulf region.[85]

The regional level in this area is still generally divided into the West and Central African membership. The Gulf of Guinea Commission which combines West and Central African states focuses on efforts towards common policy. These bodies do not have regulatory authority or the capacity to make binding obligations.

Summary

The issue of fisheries raises concerns around territorial integrity and control of resources. This hampers progress beyond discussion and agreement to develop plans. Later-established fora to respond to this area include a focus on illegal fishing in their mandate. This aligns with the argument of a shift in the lens through which fishing is viewed by authorities. The absence of enforcement power and deference to sovereignty continues to inhibit effectiveness and scope.

The following section addresses the specific role that sovereignty plays in tackling the threat of illegal fishing. It argues that a traditional understanding of sovereignty would focus on territorial integrity and control of resources. However, this traditional understanding of

[83] Membership comprises: Angola, Benin, Cameroon, Cape Verde, Democratic Republic of the Congo, Republic of the Congo, Côte d'Ivoire, Cuba, Equatorial Guinea, European Community, France, Gabon, Gambia, Ghana, Greece, Guinea, Guinea-Bissau, Italy, Japan, Korea, Liberia, Mauritania, Morocco, Netherlands, Nigeria, Norway, Poland, Romania, Sao Tome and Principe, Senegal, Sierra Leone, Spain, Togo, and the United States.
[84] Food and Agriculture Organization of the United Nations Fisheries and Aquaculture Department, 'Regional Fishery Bodies Summary Descriptions Fishery Committee for the Eastern Central Atlantic (CECAF)' <http://www.fao.org/fishery/rfb/cecaf/en#Org-LegalFoundation> accessed 20 July 2017.
[85] Treaty Establishing the Gulf of Guinea Commission 3 July 2001, Article 5.

sovereignty is inadequate to deal with illegal fishing. The next section looks at how cooperative sovereignty can impact illegal fishing.

8.4: How traditional sovereignty and cooperative sovereignty operate on the field

This section will follow the framework of section 7.4. Tackling this issue is understood and implemented differently depending upon whether one approaches the idea from a standpoint of traditional sovereignty or cooperative sovereignty. States' action to combat illegal fishing can be, and can be seen as being, positively affected by cooperative sovereignty. The first point is that actions based upon traditional sovereignty may be understood as being independent and focused upon respect for territorial integrity above all, and that where based upon cooperative sovereignty would reflect interdependence. The second point considers that autonomous national efforts based on traditional sovereign statehood would be treated from a community perspective under a cooperative standpoint. The third point is that cooperative sovereignty would engender an active as opposed to a reserved approach.

Firstly to juxtapose independence and interdependence. States have sovereign rights over exploration, exploitation, conservation and management of this resource in the EEZ. Therefore there is a case that each state could deal with *its* fish, in *its* EEZ as an independent state. However, this is contingent upon seeing a fish as a fixed resource. It is clear that a state cannot claim sovereignty over every individual fish but its sovereign right to exploit and corresponding duty to conserve and manage resources exists regardless of the status of boundary delimitation because it is contingent upon a claim as a sovereign state to a space. So as far as it is able to conceive of national space, a state could treat the matter independently.

Cooperative sovereignty is needed to tackle illegal fishing. Fish cross boundaries and management of this matter by single states has been recognised to be impossible by various declarations and meetings. However the tension between the two forms of sovereignty is clear. This area is within the mandate of several institutional agencies. However there is evidence to suggest institutional overlap is not working, with examples of those combatting illegal fishing withholding information. This is a particular issue with the threat of illegal fishing because it comes within the mandate of both security-focused and regulatory-focused organisations. These different organisations represent a potential obstacle to effective action. This continues in the work of the Interregional Coordination Centre whose mandate is consistent with the threats identified in the Yaoundé Code of Conduct and which will be part

of their work interregionally.[86] The need for a transboundary, cooperative approach to the issue indicates a reliance on states understanding their sovereignty as including responsibility and authority to cooperate. Concerns following from a traditional concept of sovereignty limit development of effective mechanisms.

A clear example is the Gulf of Guinea Commission that has illegal fishing within its mandate and calls for cooperation to tackle this.[87] However the treaty in Article 4 also prioritises the principles enshrined in the Charters of the United Nations and of the OAU/Constitutive Act of African Union that require respect for:

> a) Sovereign equality of all Member States; b) Non-interference in the internal affairs of Member States; c) Peaceful settlement of disputes; d) Inviolability of borders inherited from colonialism; e) Non-aggression; f) Non-utilisation of the territory of one State for activities directed against the sovereignty and territorial integrity of another Member State.

These are, similarly to earlier documents discussed, not extraordinary terms. However they focus the basis of action in a way which enables traditional sovereignty to act as a bar. The Commission has not been adjudged to be an effective institution,[88] and recent discussions have concerned a refocus on its mandate.[89] This is in part due to institutional overlap, notably by the Interregional Coordination Centre, but it is proposed that this is also because no meaningful joint activities have been established by the Commission. There are concerns regarding funding and the broad mandate of the Commission but its low impact is also due to the focus on traditional interstate relations demonstrated by explicit reference to sovereignty without caveats.

An autonomous approach would be more focused on exclusive national action where a community approach draws on the benefits to be derived from joined up action. An example of an autonomous approach is arguably that adjacent to the region, of the Gambia, which recently drew up a national response to illegal fishing. In autumn of 2017 the government announced a deal with three companies: a Dutch, an American and a Brazilian company to monitor the EEZ of the state.[90] Operations are to commence in 2018. What advantages are

[86] Interview GoG-ICC-0916.
[87] Treaty Establishing the Gulf of Guinea Commission Article 5.
[88] Interview Nig-GovB-1016.
[89] Response to author question at HE Noël Nelson Messone, Minister of Foreign Affairs, Republic of Gabon, 'Gabon's Foreign Policy: What Role in Regional Peace and Development?' (Chatham House Roundtable 26 October 2017).
[90] Lamin Jahateh, 'Gambia turns to private companies for maritime policing' (*Reuters*, 14 September 2017) <https://af.reuters.com/article/topNews/idAFKCN1BP0QB-OZATP> accessed 18 September 2017.

there to this approach? The state will travel from inadequate capacity to a position where it can provide monitor its maritime space. The contracts signed with these companies are not publicly available but should capacity building of national personnel be included this would contribute to upskilling to continue this work into the future. To a state with limited resources, provision through outsourcing may represent the most logical national level solution. But the concept of outsourcing fails to address the threat as a whole. Fish and illegal fishers do not follow boundaries and so this approach is sustainable only in the sense that it will provide this state with an increased presence at sea. Illegal fishers may shift their activities further along the coast and it is a decision that is perhaps not replicable across other states who hold different positions with respect to private company partnerships.

The need for a community approach is most appropriately demonstrated by the Guinea Current Large Marine Ecosystem that comprises the EEZs of sixteen member states.[91] This highlights fish migratory patterns. This was a project organised by the FAO and later handed over to states. A more community-oriented approach could be seen through decisions taken at the national level but which correspond to wider ideas. For example, the development of registries is a recognised objective of international organisations in the region. This has been undertaken as a priority and will promote a more transparent response across the region.

The third point is that a traditional conception of sovereignty would promote decisions to refrain from acting unless a problem is a clear threat to national interest, or passes above an internal threshold of concern. A cooperative sovereignty approach would require engagement on the part of the state because of its function as a sovereign state. The argument put forward in Chapter Four that states suffer the defined maritime security threats to differing extents is relevant here. This can be seen as a tension where following recognition of illegal fishing as a common concern states have not acted to deal with transgressors emanating from their territory, or to prevent import to and transit of illegal fish through their claimed space. The challenges between Cameroon and Nigeria give an insight into how this is being seen in practice. The challenges crossing the boundaries were summarised by a former fisheries official:

> Particularly in Cameroon and Gabon there is a dominance of non-national artisanal fishers. In Cameroon they are dominant because it is a tedious task and in fishing villages the conditions are difficult so Cameroonians do not want to work under these conditions.

[91] Angola, Benin, Cameroon, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Ghana, Guinea, Guinea Bissau, Liberia, Nigeria, Sao Tome and Principe, Sierra Leone and Togo.

> Instead it is 60% Nigerians, then Ghanaians then Togolese then Beninese. Most Cameroonians are involved in fish-related activities, not fisheries directly. Piracy is a major issue they do not attack fishing vessels for fish, they attack for money. There used to be subsidy for fuel but it has stopped. Since then with high fuel prices many industrial vessels prefer to fish and sell in Benin or Nigeria where they can sell fish then by fuel there at a cheaper price. So pirates know that fishing vessels have money on them because they are carrying it to get fuel at sea so this is a problem for industrial but not for artisanal who use contraband fuel from Nigeria.[92]

Illegal fishing is the subject of a draft Memorandum of Understanding between Nigeria and Cameroon from 2015. It commits the states to work together to address the problem of illegal fishing but is not implemented at this point. This is an important example of cooperation because numbers of Nigerian nationals fish in Cameroonian waters. This is argued to be an example of states seeing a need to cooperate even though it is not 'Nigerian fish' or 'Cameroonian fish' and the threats occur in Cameroonian waters.

A key international instrument is the Port State Measures Agreement. This instrument has been discussed as a mechanism that, though imperfect, would strengthen state efforts to tackle illegal fishing. This would signal that a state is prepared to cooperate because of its role in a community rather than simply because it sees a threat to 'its fish' or 'its waters'. It is valuable to contrast this with the membership of the FCWC which is discussed below in section 5. This group of six states – Liberia, Cote d'Ivoire, Ghana, Togo, Benin and Nigeria - is argued to be at the point where it could be seen as a possibly fledgling example of cooperative sovereignty. Statements from the group of states of action to tackle illegal fishing and transit of illegal-caught fish between their jurisdictions are community-minded. This is undermined by decisions of its membership to sign the PSMA. Ghana and Togo are parties to the Agreement, Benin is a signatory. Liberia, Cote d'Ivoire and Nigeria are not signatories. This is an issue which may damage efforts to develop the initiative of the FCWC, the West Africa Task Force.

8.5 Developing the West Africa Task Force through cooperative sovereignty

The West Africa Task Force is at the stage where upscaling activities is the next step in its evolution. This is an opportunity to consider how cooperative sovereignty could drive effective practice. The Task Force was formed by the Fisheries Committee for the West Central Gulf of Guinea (FCWC). Members do not have delimited boundaries with the exception of Ghana and Cote d'Ivoire whose boundary was determined by a Special

[92] Cam-fmrMinepia-1016.

Chamber of the ITLOS in September 2017.[93] The FCWC adopted a regional plan of action to combat illegal fishing in 2009. The regional plan of action is an important indication of the planned scope of cooperation under the FCWC. Key measures the FCWC proposes as critical are the right of hot pursuit, a regional register of fishing vessels, a training programme and harmonisation and strengthening of penalties.[94] The body recognises:

> Illegal fishing is a complex, global problem that is being conducted through fishing vessels flagged, owned and operated by a multitude of countries. Operations and illegalities occur across jurisdictions and take advantage of weak governance by coastal States and an incoherent patchwork of rules, regulations and laws at the international level. Stopping illegal fishing requires cooperation and collaboration at many levels […].[95]

The latest meeting of the WATF took place in June 2018. The funding provided through the EU 'The West African Regional Fisheries Governance Improvement Program (PESCAO)' was discussed by state representatives.[96] Further pooling of resources, including shared VMS data was spoken of as an objective.[97] The 2018 WATF report details progress on National Working Groups,[98] a shift to interagency cooperation that was discussed in respect of maritime security in Chapter Six. The Task Force to date has been concentrated around information sharing, although it does go beyond this because it looks at state capacity to use the information for inspections and prosecution.[99] To date, the matter of cooperation in enforcement, including across maritime boundaries has not a priority at the fore of the organisation however it is at a point where upscaling is needed. This will elevate it.[100] This is the next stage to build on cooperation to date to design a mechanism to operationalise joint patrols that as far as possible are not hindered by sovereignty concerns surrounding encroachment on a state's internally-set maritime boundaries. The least desirable step would be to fail to develop a mechanism. This would retain the exclusionary right of states, limiting cooperation to low-level efforts that do not resolve the issue. A series of bilateral agreements

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[93] ITLOS Case No. 23 *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*.
[94] Peter Manning, 'Final Technical Report: Support to the implementation of the FCWC regional plan of action on IUU fishing Region: West Central Gulf of Guinea Countries: Benin, Côte d'Ivoire, Ghana, Liberia, Nigeria and Togo (30th May 2011 Project ref. N°CU/PE1/SN/11/011) 22.
[95] West Africa Task Force, 'Cooperation. Collaboration. Communication.' (2017) 22.
[96] Stop Illegal Fishing, 'Progress and challenges in stopping illegal fishing in focus at West Africa Task Force meeting' (13th June 2018) <https://stopillegalfishing.com/news-articles/progress-and-challenges-in-stopping-illegal-fishing-in-focus-at-west-africa-task-force-meeting/> accessed 29 June 2018.
[97] ibid.
[98] West Africa Task Force, 'Interagency Cooperation in the FCWC Region' (June 2018) 18.
[99] Interview WA-WATF-1017.
[100] Interview WA-WATF-1017.

would be a patchwork approach with variation in the scope of agreements, their implementation date that will hamper the capacity of states to develop operational plans. This approach would also prioritise ideas of traditional sovereignty whereby a sovereign states interests in other aspects of its agenda could influence decision making and power differential could predominate.

A common agreement across the members is proposed as the solution for three reasons. Firstly clarity simplifies operations. Confusion of jurisdiction at different supposed boundary lines will pass the advantage to illegal fishing vessels who do not engage with this. Secondly this is a question of resources. States have insufficient capacity to enforce their laws across the maritime space. Enabling a common maritime space for a specific purpose where cooperation has developed over a period of years will enable states to make economical decisions. Thirdly, this builds upon the training programmes that member states have engaged with. It has been delivered by similar organisations such as Sea Shepherd and Greenpeace as well as in the context of *OBANGAME* and *Operation Corymbe*.

It is argued that this corresponds to ideas of cooperative sovereignty rather than traditional sovereignty. The Task Force has recognised interdependence because of illegal fishing[101] and the fact that states have a responsibility to address this.[102] This approach also focuses on the role of the state as a member of an impacted community, determined to step beyond traditional sovereign concerns by not enabling ideas of territorial integrity to be conflated with the possible efforts and become a barrier. It prioritises a community above an autonomous approach because it promotes decisions and actions as a group rather than focusing on a supremacy of a national order or sovereign state bilateral negotiations where traditional interests could predominate. It thirdly satisfies the criterion of action as opposed to reservation. Commitment to a common operation in space that is yet to be delimited is a demonstration of a state recognising its responsibility to cooperate as part of its statehood despite the uncertainty of the space.

This thesis does not set out an agreement. It calls for inclusion of key elements to render any agreement effective. It is argued that in developing an agreement a premise of cooperative sovereignty could influence the direction of an agreement towards greater community effort

[101] Stop Illegal Fishing, Trygg Mat Tracking, FCWC Secretariat and NFDS, 'The West Africa Task Force: Cooperation. Collaboration. Communication.' (Gaborone, Botswana. 2017) 14.
[102] ibid 18.

and effective measures. Evidence from a comparator is used to assist in demonstrating the relevant elements.

The comparator from South East Africa is not representative of cooperative sovereignty but is used for comparison because firstly, it is a stage ahead of the WATF. It has therefore tested many of the considerations that the WATF will be engaging on. Secondly it has a number of settled and unsettled boundaries and therefore the concerns relevant to the Gulf of Guinea operate here also. Thirdly, persons spoken to in research referred to the Regional Plan for Fisheries Surveillance in the South West Indian Ocean (RPFS) (Plan régional de surveillance des pêches dans le Sud-Ouest de l'océan Indien (PRSP)) supporting the idea of its role as a comparator. It is a reference point of relevant aspects.

The RPFS was established by the Indian Ocean Commission to respond to the issue of illegal fishing. It is a part of the Commission's strategy to provide greater surveillance. Its cooperation zone covers the EEZ of eight states – The Comoros, Reunion, Madagascar, Mauritius, Seychelles, Kenya, Tanzania and Mozambique. Governance is provided by a Regional Coordination Unit which has established harmonised procedures and is involved in oversight of missions and data management.

First, the decision to enter into an effective agreement in the first place. This concerns the role of states' own interest and the area over which community action is to be operational. In the case of the RPFS, the initiative is expressly complementary to national surveillance activities; however it identifies the Comoros and Seychelles as having inadequate national capacity.[103] Difference in surveillance capacity of Gulf of Guinea states has been identified in Chapter Six. Cooperative sovereignty here could remedy this different capacity as requiring greater regional engagement rather than expressly situating itself in a reserved role despite inadequate national capacity. In the RPFS, states are encouraged to 'align themselves with minimum MCS standards so as to be able to benefit from the regional patrol: this entails having an operational and effective VMS, an available Monitoring, Control, and Surveillance team (guarantee patrol monitoring in the national EEZ), and motivated patrol boat crews'.[104] Such objectives are focused on states feeding into a common activity. The

[103] Indian Ocean Commission, 'Smart Fiche 36: Regional Plan for Fisheries Surveillance in South West Indian Ocean (RPFS)' 1.
[104] ibid 2.

idea of a responsibility to cooperate is demonstrated in Article 5 of the Protocol d'Accord of the Indian Ocean Commission:

> Réciprocité: La base régionale de données sur les activités de pêche n'est accessible qu'aux Etats membres qui contribuent eux-mêmes au partage d'information, selon les principes fixés par ce protocole.[105]

This provision states that information from the regional database is only accessible to those states who contribute information. This is interpreted as an indication that all states to the agreement have a responsibility to cooperate to furnish information.

Interview evidence suggests some areas of the WATF area could become joint management areas.[106] This would be a compromise that reduces the overall effectiveness of the initiative. The area over which the RPFS acts is instructive. A decision to exclude territorial waters from operations avoids difficult sovereignty issues. The reality of illegal fishing in the West African context is that illegal fishing takes place as close as one kilometre offshore.[107] An optimal arrangement would enable vessels under a common agreement to be operational closer than 12 nm from shore. This would be enhanced by adoption of practice seen in the previous case example of functional zones where nominated vessels were given greater licence because they were identifiable as being on a common mission. This is likely to be one of the greatest tests of the balance between traditional and cooperative sovereignty but it is raised here because it goes to the heart of the basis for activity.

Second, decisions about asset allocation concern numbers, vessel type, and common procedures. Chapter Six has highlighted a vast disparity between asset strength of states and examples of resourcing decisions have further indicated this difference in capacity to operationalise. As a consequence, relative capacity is an aspect that an effort driven by cooperative sovereignty would engage with, both in terms of initial provision and efforts towards effective development of states with fewer or fewer appropriate assets. Conflict with other national level interests is expected. Whereas action based on traditional sovereignty and interest could lead to states temporary or permanent withdrawal from an initiative it is argued that this eventuality could be reduced where a responsibility to cooperate forms the

[105] Commission de l'Ocean Indien, 'Protocole d'accord entre les Etats membres de la commission de l'océan lndien, coopérants pour la création d'un système régional de suivi des activités de pêche et la confidentialité des échanges de données'.
[106] Interview WA-WATF-1017.
[107] World Ocean Review, 'The Future of Fish – The Fisheries of the Future' (2013) <https://worldoceanreview.com/en/wor-2/fisheries/illegal-fishing/> accessed 23 December 2017.

baseline. Furthermore, real cooperation based on a recognition of such responsibility would aim at developing true cooperation.

A linked concern surrounds vessel type. A non-military vessel may raise fewer concerns in a common venture because of a history of collaborative effort.[108] The RPFS patrols are staffed with civilian vessels.[109] In the WATF context, at a 2017 FCWC meeting Nigeria announced purchase of vessels specifically to fight illegal fishing.[110]

With a range of vessels and crew a move towards standard operating procedures is vital. The RPFS itself is constructed around common procedure. Documents provided electronically to all vessels include: international law of the sea regulations; regional regulations; national fisheries regulations; operational guidelines; daily guidelines; reports of inspections; common reports; observations sheets; frequently asked question sheets. Control to ensure documentation is on board and that the vessel is properly equipped is conducted according to common procedure.[111] The WATF is a community of Anglophone and Francophone states with diverse procedures. As it moves to scale up relevant considerations to minimise the impact of such divergence include those identified by the RPFS. They could draw from the effort of the functional cooperation zone concerning allocation of nominated vessels. This would enable both asset allocation and operating procedures to be determined at the outset promoting further confidence building between states.

Third, control of assets during operations. The challenge of illegal fishing can be dealt with in part at ports, for which implementation of the PSMA has been discussed. It is also necessary to establish as continuous as possible a presence at sea. This is a matter of personnel. The Indian Ocean initiative recognises the lack of capacity in some cases. The RPFS details how missions are staffed, with team selected according to availability, patrol zone and home port, piracy risk assessment, surprise element of deployment and technical capability. It has a control mechanism:

[108] Augustus Vogel, 'Navies versus Coast Guards: Defining the Roles of African Maritime Security Forces' (Africa Center for Strategic Studies Africa Security Brief) 2.
[109] Smart Fiche 36 (n103) 2.
[110] Kingsley Opurum, 'Nigeria: Buhari Approves Purchase of Patrol Vessels to Tackle Illegal Fishing' (20 December 2017) <http://allafrica.com/stories/201712200058.html> accessed 23 December 2017.
[111] Smart Fiche (n103) 3.

> The operational controller changes according to the patrol area. The State whose owns the vessel remains the operational controller but the State ensuring tactical control changes with the nationality of the area patrolled.[112]

This is a cooperative structure. It in effect allows a state's asset to be directed by a second state with control based on area of nationality. These two bases for control are uncontroversial in the sense that there are clear justifications for retaining operational control based on asset but tactical control being based on location. Actions such as a regional uniform help to distinguish regional personnel on regional missions aboard state-owned vessels from those on purely national missions. The WATF is diverse in asset strength and the suitability of assets for counter illegal fishing operations. It is not a space where handover of tactical control has been tested. Cooperative tools to obviate a need for this could be to develop multinational crews able to patrol on any nominated vessel specific to the task purchased at the regional level which remain the property of the WATF and not a specific state. Absent such an approach, indeed which is not currently envisaged, there is a need to develop such mechanisms to make best use of a vessel at sea. Funding for the work of the WATF being delivered by the EU will be a key milestone for states to determine the direction of the initiative and resourcing decisions will be a key indicator. It has been indicated that some EU funding will go toward vessel purchase, this will make enforcement considerations front and centre.[113] Issues of external influence discussed in Chapter Two are relevant here. Funding from WATF states would be preferable.

Fourth, notification procedures at assumed boundaries. Exemption from or simplified notification procedures may go toward eliminating the advantage held by transgressors who do not engage with boundaries. Two comparisons are relevant here. The first is that of the RPFS which has established notification procedures in advance. This differs based on whether states have settled or unsettled boundaries. The provision of surveillance to the Comoros – a state with no capacity - means that operational control cannot always be in the hands of the state. This is a fascinating consideration that brings cooperative sovereignty matters to the fore. The second is the functional zone system (discussed in Chapter Seven) which can comprise a defined group of vessels for whom notification is not required. Actions to combat threats beyond piracy and armed robbery have seen the vessels engage in counter-illegal fishing operations.

[112] Smart Fiche (n103).
[113] Interview WA-WATF-1017.

> Since we have launched our operation in 2009 we are facing these days a kind of stability of the security situation in the Zone D. The security of oil fields provided by the French force with us is a win and it is efficient and we have an effective maritime traffic in the Zone D. and we are facing a kind of regression of offences committed by trawlers that conform more to the fisheries regulations. And illegal immigration from the north to the south remains a challenge that is a big problem for us in the Zone D. and illegal fishing in some areas also remains a problem especially in Gabon and STP. But it is well controlled it is well addressed in Cameroon and in Equatorial Guinea.[114]

Evidence from Zone D indicates how the work of an initiative can broaden once operational and that the efficacy of free movement for specific nominated vessels is clear.

The fifth consideration pertains to boarding. This is a power available where universal jurisdiction applies, otherwise in the EEZ it is available to the coastal state for specific purposes or otherwise reserved to the flag state. In the EEZ Article 73 UNCLOS provides that the coastal state may board, inspect, and arrest foreign fishing vessels and take judicial proceedings to ensure compliance with the states' fisheries laws and regulations. This is a potentially broad scope because UNCLOS also leaves it each coastal State to define what constitutes fishing and fisheries offences in accordance with its fisheries laws and regulations, provided that the laws and regulations are in conformity with UNCLOS. The potential to use this was seen as an opportunity missed in the *M/V Saiga (No.2)* case where Guinea focused on customs rather than fisheries jurisdiction in its arguments for the arrest of a Vincentian vessel conducting bunkering in its EEZ.[115] Thus in the case of a coastal state operating in its own EEZ there is a route to manage the issue. But where common patrols are proposed two possible eventualities require resolution.

In the first case a vessel of state A operating in the waters of state B pursuant to a common agreement wishes to conduct a boarding or arrest. The suspect vessel may be flagged to state B, or a third state that is also party to the agreement. It is proposed that in such circumstance resolution can be achieved at the outset through development of simplified permission and notification procedures as part of the common agreement. This would be where cooperation is prioritised. Simplified permission could be developed such that a presumed consent is established for nominated vessels, or that once a request is made absence of a negative within a specific time frame enables interdiction to take place. These are high level cooperative

[114] Interview GoG-MCC-1016.
[115] See *M/V Saiga (No. 2)* case discussion in Louise de la Fayette, 'International Tribunal for the Law of the Sea - The M/V Saiga (No.2) Case, (St. Vincent and the Grenadines v. Guinea), Judgement' (2000) 49 International & Comparative Law Quarterly 467.

efforts. It is rare outside of the bilateral context for this to be in place, however the benefit of an international agreement is that anything may be included and so it is possible to moot positive initiatives.

In the event where such simplified permission or notification is not established or where a suspect vessel is flagged to a third state not part of the regional agreement, the only ground available to the WATF is to involve the state in whose EEZ the activity is occurring. An option which has been proven to work in the regional context has been cooperative boarding, 'embarked officer' or shiprider agreements. Such agreements concern the provision of a responsible national officer aboard a vessel to exercise a state's jurisdiction in its waters, thereby circumventing the issue of a vessel on enforcement operations being unable to execute a mission for lack of jurisdiction. UNODC notes the traditional role for shiprider agreements to tackle piracy and illegal fishing.[116] Sea Shepherd *Operation Sola Stella* is a partnership between Sea Shepherd and the Liberian government. Launched in 2017 the operation has involved training and patrolling. It has been continued into 2018. Speaking at RUSI in 2017, Sea Shepherd's Director of Campaigns raised an interesting outcome from this work has been involvement of Gabonese personnel, who had worked with the organisation from 2016.[117] The linking up of personnel from different countries is encouraging. It also occurred in *Operation Albacore* where São Tomé et Principe joined an operation convened in partnership between the government of Gabon and Sea Shepherd.[118] While this has not originated in a bilateral government-to-government context, it is evidence that where a good idea originates cooperation can occur. It is evidence of the capacity for good practice to flow across governments and for governments facing common challenges to be open to learning and engagement. This level of cooperative response best responds to the issue of jurisdiction to act on this area. It does not address investigative work to be undertaken afterwards. This has been recognised in Chapter Six to be a challenge states are beginning to address. Resolution through such an approach to enable shiprider agreements that enable relevant national jurisdiction to be exercised through common patrols is most

[116] UNODC, ''Ship riders': tackling Somali pirates at sea' (20 January 2009) <https://www.unodc.org/unodc/en/frontpage/ship-riders-tackling-somali-pirates-at-sea.html> accessed 20 February 2018.
[117] Sea Shepherd Director of Campaigns Peter Hammarstedt speaking at launch of Occasional Paper *'Below the Surface: How Illegal, Unreported and Unregulated Fishing Threatens Our Security'* (Royal United Services Institute 18 July 2017).
[118] Stop Illegal Fishing, 'Operation Albacore Our second campaign to stop illegal fishing in Gabon, West Africa' <https://www.seashepherdglobal.org/our-campaigns/operation-albacore/> accessed 21 February 2018.

likely achieved where the opportunity to settle matters at the outset is organised through a cooperative sovereignty approach. These are high levels of cooperation requiring compromises to be achieved in areas traditionally retained to the state under traditional sovereignty.

If where upscaling is being considered cooperative sovereignty is the baseline there is a greater chance of such elements being included. They are the logical means of giving effect to a genuine understanding of an authority and responsibility to cooperate. There are clearly a number of elements that any common agreement developed by the WATF will need to find agreement upon. The comparative examples of RPFS and Zone D are of assistance in seeing how such elements may operate in practice. It is recognised that neither are perfect and fit for purpose in the WATF context. The RPFS is supported by the EU means that an external interest is operating. External support in the WATF context is present and must be considered. The functional zone system requires further funding. However a functional zone concept is a means of cooperating in undelimited space that has been proven to be a partial success among states in the region. Lessons learned from this example could be of value to the WATF as it moves to scale up cooperation and develop a sustainable response to illegal fishing.

8.6 Conclusion

This Chapter has demonstrated the continuing relevance of fisheries to the region and the common threat that illegal fishing poses. It has discussed the different ways in which fishing has been framed. By juxtaposing the ways in which traditional sovereignty and cooperative sovereignty approach would impact efforts to tackle illegal fishing, it has been demonstrated that this common threat is more effectively addressed through an approach based on cooperative sovereignty.

The Chapter has proceeded to address this through a specific example of the West Africa Task Force, a six-state initiative at a stage of scaling up efforts to tackle illegal fishing. The possible concerns and ideas that the WATF may need to consider and the way in which cooperative sovereignty may act to support this has been used to show how the concept is beneficial to this maritime security issue. Together with Chapter Seven, this has been an attempt to situate the concept in context and demonstrate that there is a need, as states embark on a range of maritime security actions, to interrogate the basis for action.

The following Chapter Nine will conclude the thesis.

Part V

Chapter Nine: Conclusion

9.1 Introduction

This thesis has focused on maritime security cooperation in the Gulf of Guinea region. This region is strategically important across the world, particularly for trade, food and energy security. Maritime security threats manifesting in the Gulf of Guinea maritime space therefore impact locally and further afield. However interregional cooperation on this area is recent and infrastructure to achieve the aims of states in the region is still being established.

This thesis contributes to knowledge in proposing a solution to the question of how to achieve effective maritime security cooperation in the Gulf of Guinea. It has argued that declarations supportive of cooperation are often undermined at the point where action is required, this being when concerns arise that cooperation may impact upon sovereignty. Therefore this work focused on the foundation upon which cooperation is established. How states – who remain the primary actors competent to act within the law of the sea and maritime security – understand their role in the maritime space is critical to effective maritime security cooperation. It proposed that by reframing what state sovereignty encompasses maritime security cooperation can be better developed and delivered, with states responding more effectively to transgressors who do not comply with the rules of the international system. It has put forward and tested the concept of cooperative sovereignty in this context, drawing on international legal frameworks and regional realities. It has considered this in two case studies that applied cooperative sovereignty to maritime security threats.

This chapter summarises the major findings, which are presented in the following four sections: Section 2: There is limited security cooperation, which is further limited by sovereignty; Section 3: Cooperative sovereignty is justified and a shift in approach to the role of states is identifiable; Section 4: The Gulf of Guinea regional context underscores a role for cooperative sovereignty; Section 5: Evidence supports the applicability of the concept of cooperative security in the regional context of the Gulf of Guinea. The detailed presentation of these conclusions is followed by a section exploring ideas for further

research that while beyond the scope of this work have been identified as points which will build upon this work and contribute more generally.

9.2 Limited security cooperation and limitations on sovereignty

A traditional division of cooperative activities between ECOWAS and ECCAS has been consistent since their establishment. The maritime-focused organisations MOWCA and the GGC, which comprise different state groupings, have not at the time of writing taken a coordination lead. The idea that this may occur in the future has not been supported by expert writing. Indeed in the maritime domain cooperation outside of historic groupings has been of relatively recent origin and is not yet fully established either in the law or operationally. Importantly, the development of the architecture headed by the Interregional Coordination Centre supersedes a possible leadership role for these organisations. The limited literature specific to security in the Gulf of Guinea had noted a number of challenges to cooperation – hegemony and land-based concerns being clear issues. These challenges go some way to explain the reason that this issue area is limited in its visibility and the priority afforded it by governments. The literature review identified in some works on maritime security and in the key text on the Gulf of Guinea a foundational issue of sovereignty as a concern for cooperation.

Hegemony as a paralysing factor in security cooperation occurs both in land and maritime domains. It can be linked to sovereignty where it becomes a barrier to cooperation because it raises fears that cooperative activity may threaten the integrity of sovereign statehood.

Land-based concerns continue to be given greater priority. Seablindness is a recognised problem that while being addressed cannot be said to yet have been resolved. Security threats facing states on land are clearly identifiable as a prominent concern that states with limited capacity may be required, or use, to shift focus away from maritime security.

The research has focused on the issue of sovereignty. It is argued this poses a foundational challenge to maritime security cooperation. This separates it from other concerns because it links to whether states should be obliged or have responsibility to act simply because of sovereign statehood.

Sovereignty is a contested concept understood differently by states. It is a concept that has been fundamental to statehood ever since the Treaty of Westphalia founded the modern international state system. Sovereign statehood has been identified as a fundamental issue;

how it is understood by states impacts how they understand responsibility and authority to cooperate.

The literature review presented in Chapter Two traced arguments that sovereignty is limited and capable of being reframed. It concluded that the idea of sovereignty as a limited concept may be based on a review of the evolution of the concept itself. From its inception through the work of philosophers and state practice, evidence repeatedly demonstrates the evolutionary nature of the concept and its capacity to befit time or circumstance. Furthermore, in the law of the sea context, sovereignty is explicitly considered and limited. This coheres with the basic acknowledgement that the sea cannot be commanded in the way states exert sovereignty over the land that they claim.

Further support for the approach was identified in literature highlighting realities about the changing system and international legal order that support the idea that traditional conception of sovereignty is insufficient to promote effective maritime security cooperation. A means of overcoming sovereignty as a barrier could be to read the idea of sovereign statehood as including a responsibility and authority to cooperate. The work of Perrez[1] in the international environmental law context was identified as a model to draw upon and through which to test ideas of cooperative sovereignty in the maritime security context.

9.3 Cooperative sovereignty is a justified approach and a shift in approach to the role of states is identifiable

The reframing the concept to cooperative sovereignty was expressly justified. The concept of cooperative sovereignty was defined and distinguished from other ways of meeting this challenge. In particular the distinction was made of cooperative sovereignty from maritime security as inclusive interest, cooperative security and the ecosystem approach in Chapter Three. These approaches are well-known and potentially applicable. Cooperative sovereignty was distinguished respectively from maritime security as inclusive interest and cooperative security principally upon the ground that these approaches still begin from a traditional concept of sovereignty that it had been argued undermines effective maritime security cooperation. The ecosystem approach to maritime space management was

[1] Franz Xaver Perrez, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2000).

distinguished on the basis of its primarily environmental purpose which while important did not address the full range of issues. The primary ground consistent across much of the analysis was that other approaches do not address the fundamental role of the state and leave open the possibility that states utilise sovereignty as a means of refraining from effective maritime security cooperation.

Cooperative sovereignty being justified as an approach, analysis was then undertaken of the normative grounds upon which a legal duty of cooperation could possibly be read into what is understood as the concept of sovereign statehood. The findings on a normative basis were clear: there remains no general international law obligation to cooperate, although obligations are more prevalent in the maritime space. The idea of a normative basis for a legal duty of cooperation was not absent from relevant legal frameworks but this was not at the level of specific duties and does not establish the same level of cooperative duty as Perrez was able to identify in the environmental law context. However, the idea of a shift towards cooperation as part of sovereign statehood in the maritime security context can be argued for.

At the conclusion of Part II, the case had been made that maritime security cooperation was inadequate and that evidence from the literature supported the idea that sovereignty was a potential barrier to cooperation. A role for a concept of cooperative sovereignty – defined as a concept of sovereign statehood that includes a responsibility and authority to cooperate – was justifiable in the maritime security cooperation context. Cooperative sovereignty was further justified through distinction from other concepts. The existence of a duty of cooperation is not so well established as in the international environmental law context, but may be understood generally as a responsibility or authority forming part of sovereign statehood.

9.4 The regional context underscores a role for cooperative sovereignty

Part III considered the Gulf of Guinea regional context. It tested whether the regional context makes the application of cooperative sovereignty necessary. This concerned respectively the interdependence created by maritime security threats (Chapter Four), the issue of ongoing unresolved maritime delimitation (Chapter Five) and capacity of states to enforce their presence on- and offshore (Chapter Six).

Chapter Four demonstrated that although the maritime profiles of the states vary, the threats identified by the Yaoundé Code of Conduct can be argued to create interdependence. In many cases evidence from state engagement indicates that this has been acknowledged. The response to the differing threats has been inconsistent and not resulted in effective cooperative action. The reality of the threat situation undermines the adoption of a unilateral approach or for states to refrain from cooperation and hope to still achieve security. It supports an approach founded on cooperative sovereignty.

Maritime delimitation also blocks states from acting in an exclusionary manner. Where potential overlapping claims exist, states cannot claim certain areas as 'their space' within the bounds of international law so as to exert jurisdiction unless they conclude delimitation or establish provisional arrangements. Chapter Five addressed the current status of delimitation in the region, and the identifiable prospects for delimitation in the short to medium term. Its focus on the most recent case in the region, the *Ghana / Côte d'Ivoire* case before a special chamber of the International Tribunal for the Law of the Sea, highlighted a wide range of issues undermining arguments that delimitation is a realistic area of focus for states to organise their activities at sea in the short term. It cannot be said to be a realistic expectation that clarity on each state's jurisdiction to enforce law at sea will be achieved through universal delimitation. It found that the obligations absent delimitation are few, and focus on organisation for resource management and exploitation. This was consistent with the founding focus on UNCLOS and therefore the wider application of the rules in Articles 74(3) and 83(3) does not carry over to maritime security cooperation.

Even were universal delimitation achieved, state capacity to meet the threats as identified by Chapter Four, is inadequate. Chapter Six addressed this issue of capacity. Analysis of legal framework reform, fleet capacity and resourcing decisions indicated an absence of coherent, harmonised strategies or operational actions. Prescriptive or enforcement jurisdiction to manage maritime security alone or in regional groupings is not universally in place. The absence was linked to the absence of a responsibility or authority to cooperate within the meaning of what it is to be a sovereign state. This supports the findings in the preceding Part III chapters, states of the region cannot, in their current position, respond to the complex threat picture.

Together the three Part III chapters highlighted factual grounds supporting cooperative sovereignty for maritime security cooperation. They detract from the idea that sovereign

states acting based solely on coherence of interest can or has delivered effective maritime security cooperation. The argument put forward in Part II that sovereignty, the 'essentially contestable concept'[2], was capable of being reframed, was supported in Part III through evidence that it should be reframed.

9.5 Conclusions on the applicability of the concept in the regional context

One further means of developing this argument was to attempt to apply these ideas to specific cases. Part IV drew upon research fieldwork and documentation to apply cooperative sovereignty to specific threats to consider how this could assist states to develop meaningful maritime security cooperation.

This was undertaken in respect of piracy and armed robbery at sea (Chapter Seven), and in respect of illegal fishing (Chapter Eight). The intention of the exercise was to consider operational activities ongoing in the region through the lens of cooperative sovereignty in order to identify activities which could benefit from a shift in state perception of sovereign statehood to one which includes a responsibility or authority to cooperate. Ideas flowing from traditional and cooperative sovereignty approaches were juxtaposed and demonstrated the importance of reframing what sovereignty entails in the maritime security context. It was concluded on the evidence that there are specific initiatives to which cooperative sovereignty could be beneficial in developing stronger ties.

Chapter Seven considered functional zones. These were not tied to potential delimitation lines and have come in the case of Zone D[3] latterly under the auspices of the interregional architecture, making them a novel approach to maritime security cooperation in the Gulf of Guinea. It interrogated the framework and operational experience of Zone D, which predated the interregional architecture, and undertook a comparative assessment with the neighbouring Zone E, to highlight where cooperative sovereignty may be argued to promote more effective maritime security cooperation.

Chapter Eight undertook a case study exercise with respect to illegal fishing. It identified a group of states: the West Africa Task Force formed from member states of the Fisheries Committee for West Central Gulf of Guinea. This initiative has been approaching a juncture

[2] Samantha Besson, 'Sovereignty in Conflict' in Colin Warbrick and Stephen Tierney (eds), *Towards an International Legal Community: The Sovereignty of States and the Sovereignty of International Law* (BIICL 2006) 132.
[3] Zone D, a functional zone comprising Cameroon, Equatorial Guinea, Gabon and São Tomé and Príncipe.

where it will need to determine its future direction and how cooperation will be strengthened. Comparison was made between the WATF and an Indian Ocean initiative. This exercise highlighted how cooperative sovereignty could assist states as they develop the next stage of cooperation for this security issue.

9.6 Areas for further research

This work has benefitted from the opportunities afforded to the author to undertake detailed literature review, library research and to speak with persons in leading roles in this field. The decision to undertake this study stemmed from the author's background in international law and maritime delimitation and interest in how this connects with maritime security cooperation. The influence on law on maritime security is a field of research which continues to evolve with the emergence of new actors, new technologies and new threat scenarios. Maritime security cooperation is by extension required to constantly change and adapt. There will continue to be a great deal of study required to understand how this evolution is to be managed with respect to legal frameworks and international relations.

Identified areas for further research include the determination and categorisation of the different mandates of the various initiatives established in the name of maritime security. The overlap is a challenge for scarce resources and a symptom of states acting across each other. This is something that an approach grounded in cooperative sovereignty may also be of assistance in tackling.

A second area of further research that has been identified but which was also beyond the scope of this present work concerns interagency working practice. Evidence from research fieldwork brought to light the emerging work by key agencies to maximise their presence at sea through inter-agency agreements. The terms of such agreements and the identification of the agency best placed in each state to lead and deliver a whole-of-government approach to maritime security is an important task.

Finally the integration of maritime security with the blue economy narrative is a unique issue only latterly being pushed by states and international organisations. For example the adoption of the Blue Charter as a focus strand by the Commonwealth at its 2018

Commonwealth Heads of Government Meeting[4] indicates the recent uptake of this as a concern and it is something that states are not at present combining in a way that will enable their efforts at security to lead to economic prosperity. In this area, there is a great deal to be achieved in the harmonisation of laws pertaining in particular to fisheries, the environment and energy.

9.7 Conclusion

This thesis has argued for a reframing of what sovereignty entails as one possible way of promoting more effective maritime security cooperation. What it concludes is that sovereignty and sovereign statehood are not fixed concepts and that security cooperation in the Gulf of Guinea is at a juncture where to continue it needs to pursue effective cooperation. Momentum may otherwise fall away. These two premises require fresh thinking. A review of international law sources indicates a shift towards support for ideas of a responsibility and authority for cooperation within sovereignty.

The role of cooperative sovereignty in underpinning cooperation could be unnecessary where states interests align so closely and over an extended period that their activities coincide harmoniously. This thesis, and the areas identified for future research are put forward in evidence of the fact that this is not the case and that a revision to how states understand their responsibility in this area may be fundamental to progress.

The investigation and analysis carried out has found both challenges and successes. The continued recognition of the need to ensure maritime security is positive. Statements made to this effect are broadly positive. The practical implementation of measures to deal with this have not been absent but have not been at the same level and it is for this reason that the consideration of the potential for a reframing of what sovereign statehood entails has been pursued.

The threats posed to maritime security have been shown to be of clear and present importance to the states themselves, and to the wider world. The role of the state is it is argued to act to protect itself, its population and prevent itself posing a threat to the integrity

[4] Commonwealth Secretariat, The Commonwealth Blue Charter: Shared Values, Shared Ocean A Commonwealth Commitment to Work Together to Protect and Manage our Ocean (2018) <http://thecommonwealth.org/sites/default/files/inline/Blue_Charter_07062018.pdf> accessed 03 August 2018.

of other states; where cooperative sovereignty may make this more achievable it is worthy of consideration.

Annex 1: Interview Codes

Interview Code Place of Employment – Role – Date(MY)	Interview Description
EU-EEAS Adviser- 0915	Political Adviser for the Gulf of Guinea (Telephone)
UK-Gov-Legal -0716	Foreign Commonwealth Office Official
WA-UNODC-0816	UN Official Maritime Crime Programme (Skype)
Cam-Gov-PolNatSec-0916	Official, Ministry of Police and National Security
Cam-Gov-MinExAfr-0916	Official, Ministry of External Relations (Africa Department)
GoG-ICC-0916	Multiple: Head of ICC, staff of ICC
Cam-Gov-MinExEU-0916	Official, Ministry of External Relations (EU Department)
Cam-Gov-MinExLOS-0916	Official, Ministry of External Relations (Law of the Sea Department)
Cam-Gov-MOD-0916	Naval Official Ministry of Defence – A regional maritime security focal point
GoG-MCC-1016	Multiple: Chief, Multinational Coordination Centre, Zone D and Staff.
Cam-CNSC-1016	Official, Cameroon National Shippers Council
Cam-fmrMinepia-1016	Former Official, fisheries ministry
UK-Gov-Defence A-1016	Defence Official, foreign embassy
Nig-GovA-1016	Official, Ministry of Justice
Nig-GovB-1016	Official, International Law Office
Nig-GovC-1016	Official, NIMASA
Nig-GovD-1016	Official, NIMASA (Summit, Togo)
UK-Gov-Defence B-1016	Maritime Affairs Official (Summit, Togo)
UK-Gov-LE-1016	UK Law Enforcement, foreign embassy.
Nig-GovE-1016	Official, Att. Gen Office (Summit, Togo)
Cam-AcaA-0916	Cameroonian International Law Academic
Cam-AcaB-0916	Cameroonian International Law Academic
Fra-Nav-0416	Naval Officer, French Navy
WA-WATF-1017	Technical partner to West Africa Task Force
WA-EU- 0816	EU Official, EU Embassy West Africa

Bibliography

International Instruments

Multilateral

Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea (18 December 1997)

Agreement on Port State measures to prevent, deter, and eliminate Illegal, Unreported and Unregulated fishing (2009)

Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (1991 EIF 1998)

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989 EIF 1992)

Convention for the Conservation of Antarctic Marine Living Resources 1329 UNTS 48

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 1678 UNTS 22

Convention on the Continental Shelf 1958 499 UNTS 311

Convention on Fishing and Conservation of the Living Resources of the High Seas 1958 559 UNTS 285

Convention on the High Seas 1958 450 UNTS 82

Convention on the International Maritime Satellite Organization (INMARSAT) 1143 UNTS 105 and Operating Agreement on the International Maritime Satellite Organization (INMARSAT) (EIF 16 07 1979)

Convention on the Rights and Duties of States [Montevideo Convention] December 26 1933 165 LNTS 19

Convention on the Territorial Sea and the Contiguous Zone 1958 516 UNTS 205

Declaration on Permanent Sovereignty over Natural Resources in General Assembly Resolution 1803 (XVII)

International Convention against the Taking of Hostages 1979 1316 UNTS 206

International Convention for the Safety of Life at Sea 1974 1184 UNTS 2, Chapter V Regulation 10.

International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) 1990

International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1

International Maritime Organisation, Convention on Facilitation of International Maritime Traffic (FAL), 1965

International Maritime Organization, The International Convention for the Prevention of Pollution from Ships (MARPOL) (2 November 1973)

International Maritime Organization, International Convention on Maritime Search and Rescue, 27 April 1979, 1403 UNTS 119

International Maritime Organisation 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972

International Maritime Organisation Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972

International Maritime Organization (IMO), Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 14 October 2005

International Maritime Organization (IMO), Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships (Jan. 22, 2009) IMO Doc. A 22/Res.922

Proliferation Security Initiative (2003)

Protocol on Barcelona Convention concerning Specially Protected Areas and Biological Diversity in the Mediterranean (June 1995)

Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)

Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London 14 October 2005)

Protocol to the SUA Convention (SUA 2005); (Adoption 14 October 2005 / Entered into force 28 July 2010)

Rio Declaration on Environment and Development, Report of the United Nations Conference on Environment and Development, Aug. 10, 1992, UN Doc. A/CONF.151/26 (Vol. I)

Statute of the International Tribunal for the Law of the Sea (Annex VI of the United Nations Convention on the Law of the Sea 1982)

Stockholm Declaration of the United Nations Conference on the Human Environment, UN Doc. A/CONF. 48/14 (1972)

Treaty of Peace between France and the Empire, signed at Münster, known as Treaty of Münster, reprinted in The Consolidated Treaty Series Vol 1 at 271

United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 2167 UNTS 3

United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 19 December 1988 1582 UNTS 95

United Nations Environment Programme, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Basel, 22 March 1989.

United Nations Food and Agriculture Organisation, 'International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing' (Rome 2001)

UN General Assembly, 'Resolution Adopted by the General Assembly on 8 December 2015: Sustainable Fisheries, Including Through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and Related Instruments', A/RES/70/75, 22 February 2016

UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV)

UN General Assembly, Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 10 March 1988, UNTS 1678

UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000; UN General Assembly, Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000; UN General Assembly, Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime, 31 May 2001 A/RES/55/255

UN General Assembly, United Nations Convention against Transnational Organized Crime: resolution / adopted by the General Assembly, 8 January 2001 A/RES/55/25

UN General Assembly, United Nations Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 397

UN General Assembly Resolution, Law of the Sea A/RES/50/23 (5 December 1995)

UN General Assembly Resolution, Law of the Sea A/RES/51/34 (9 December 1996)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/52/26 (6 November 1997)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/53/32 (6 January 1999)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/54/31 (24 November 1999)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/55/7 (30 October 2000)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/56/12 (28 November 2001)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/57/141 (12 December 2002)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/58/240 (23 December 2003)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/59/24 (17 November 2004)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/60/30 (29 November 2005)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/61/222 (20 December 2006)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/62/215 (22 December 2007)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/63/111 (5 December 2008)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/64/71 (4 December 2009)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/65/37 (7 December 2010)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/65/37 B (4 April 2011)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/66/231 (24 December 2011)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/67/5 (11 December 2012)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/68/70 (9 December 2013)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/69/245* (29 December 2014)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/70/235* (23 December 2015)

UN General Assembly Resolution, Oceans and the law of the sea Statement of financial implications (A/71/714) A/RES/71/257 (23 December 2016)

UN General Assembly Resolution, Oceans and the law of the sea A/RES/72/73 (5 December 2017)

UN Security Council, Security Council resolution 2018(2011) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea], 31 October 2011, S/RES/2018(2011) and UN Security Council, Security Council resolution 2039 (2012) [on

acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea], 24 May 2012, S/RES/2039(2012)

United Nations General Assembly Resolution, Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments UNGA/RES/64/72 (4 December 2009)

United Nations General Assembly, Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (UNGA Res 34/68)

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York 15 November 2000)

United Nations Security Council, 'Unanimously Adopting Resolution 2383 (2017), Security Council Renews Authorization for International Naval Forces to Fight Piracy off Coast of Somalia' (SC/13058 7 November 2017

United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI

Regional

Additional Protocol to the Memorandum of Understanding among ECCAS, ECOWAS and the GGC on Safety and Security in the Central and West Africa Maritime Space relating to the Organization and Functioning of the Inter-regional Coordination Center for the Implementation of Regional Strategy for Maritime Safety and security in Central and West Africa (Yaoundé 5 June 2014)

African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter). Date of Adoption: October 15, 2016

African Union, 2050 Africa's Integrated Maritime (AIM) Strategy (2014)

Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships and Illicit Activity in West and Central Africa' (Yaoundé 25 June 2013)

Convention for Co-operation in the Protection and Development of the Marine and Coastal environment of the West and Central African Region and protocol, Entry into force: 5 August 1984

ECCAS Protocol on Maritime Security (French), available
Economic Community of Central African States, 'Accord Technique entre La CEEAC et les etats du Cameroun, du Gabon, de la Guinee-Equatoriale et de Sao Tome et Principe sur la mise en place d'un Plan de Surveillance pour la Securisation Maritime du Golfe de Guinee, <<Zone D>> (Yaoundé 6 May 2009)

Economic Community of Central African States, 'Protocole d'Accord sur la gestion de la strategie de securisation des interets vitaux en mer articulee autour do COPAX et favorisant une synergie avec la Commission du Golfe de Guinee et la Communate Economique des Etats de L'Afrique Occidentale. <http://www.africa-union.org/root/ua/conferences/2010/avril/psc/07avril/African_Union_Member_States_06-

07_April_2010_Experts_Meeting_on_Maritime_Security_and_Safety_Strategy-Documentation/ECCAS_Protocol.PDF.>

ECOWAS, ECOWAS Integrated Maritime Strategy (EIMS) (Yamoussoukro, Côte d'Ivoire 26th March, 2014)

Luanda Declaration on Maritime and Energy Security (Adopted Luanda 9 October 2015)

Memorandum of Understanding on the Establishment of a Sub-Regional Integrated Coast Guard Network in West and Central Africa,13th Sess., July 29-31, 2008, MOWCA, MOWCA Doc. MOWCA/XIII GA.08/8

MOWCA resolution n°193/12/03 on maritime safety in West and Central Africa (adopted Luanda 31 October 2003)

Treaty on the Gulf of Guinea Commission (http://library.fes.de/pdf-files/iez/02115/appendix.pdf)

Bilateral

Agreement Dated 10 September 2001 between The Republic of Congo and The Republic of Angola Approving Offshore Unitization Prospects 14K and A-IMI

Agreement on the Exploration and Production of Hydrocarbons in the Common Interest Maritime Zone between the Democratic Republic of the Congo and the Government of the Republic of Angola (2007; EIF 2008)

Convention demarcating the land and maritime frontiers of Equatorial Guinea and Gabon, 12 September 1974 (entry into force: 12 September 1974; registration with the Secretariat of the United Nations: Gabon; registration # 40037; registration date: 2 March 2004

The Maroua Declaration (1 June 1975)

Treaty between the Federal Republic of Nigeria and the Democratic Republic of São Tomé and Príncipe on the Joint Development of Petroleum and other Resources, in respect of Areas of the Exclusive Economic Zone of the Two States 21 February 2001

Treaty between the Federal Republic of Nigeria and the Republic of Equatorial Guinea Concerning Their Maritime Boundary 23 September 2000

Treaty Fixing the Maritime Boundaries between The Gambia and the Republic of Senegal 4 June 1975

National Legislation

Liberia

Regulations relating to Fisheries, Fishing and Related Activities, Regulations made by the Minister of Agriculture in the exercise of the powers conferred upon the office by section105 of Chapter 4, Subchapter C of Title 24 of the Laws of The Republic of Liberia (the Natural Resources Law, 1985) and approved as required by such Law and having effect from this 1st day of October A.D. 2010

Penal Law - Title 26 - Liberian Code of Laws Revised s. 15.31

Cote d'Ivoire

Republique de Cote d'Ivoire Loi W 2016·554 ou 26 Juillet 2016 Relative à La Pèche et a L'aquaculture

Ghana

The Six Hundred and Twenty Fifth Act of the Parliament of the Republic of Ghana Entitled Fisheries Act, 2002; The Eight Hundred and Eightieth Act of the Parliament of the Republic of Ghana Entitled Fisheries (Amendment) Act, 2014; Republic of Ghana National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing May 2014; Republic of Ghana Fisheries Management Plan of Ghana a National Policy for the Management of the Marine Fisheries Sector 2015-2019

The Eight Hundred and Eightieth Act of the Parliament of the Republic of Ghana Entitled Fisheries (Amendment) Act, 2014

Republic of Ghana Act 675, Ghana Maritime Security Act 2004

Criminal Code, 1960 (Act 29) Section 193

Togo

Decree N° 2014-113 of the President of the Republic on the national organisation of the state's action at sea

LOI N° 2015-10 du 24 novembre 2015 Portant Nouveau Code Penal

Benin

Decree number 2013-551 on the national maritime protection, security and safety strategy and Decree number 2014-785 on the creation, organisation, functions and operalisation of the national authority of state action at sea

Loi-cadre n° 2014-19 du 07 aout 2014 relative à la pêche et à l'aquaculture en République du Bénin

Loi n° 2010-11 portant code maritime en République du Bénin

Nigeria

Sea Fisheries (Fishing) Regulations [S.1. 19 of l992]

Cameroon

Decree No. 2001/546 / PM amending and supplementing certain provisions of Decree No. 95/413 / PM of 20 June 1995 laying down detailed rules for the application of the fisheries regime. 2001-07-30

Code Penal n° 67/LF/1 12 Juin 1967

Equatorial Guinea

Ley Num. 10/2.003, de fecha 17 de Noviembre, Reguladora de la Actividad Pesquera en la Republica de Guinea Ecuatorial

Equatorial Guinea Penal Code 8 April 1963

Gabon

Republique Gabonaise Loi n° 015/2005 portant Code des pêches et de l'aquaculture en République Gabonaise

Merchant Shipping Code of 1963

Republic of Congo

Loi no 2 - 2000 du 1er fevrier 2000 portant organisation de la pêche maritime en République du Congo

Loi 30-63 du 4 juillet 1963 portant Code de la Marine Marchande

Sao Tome et Principe

República Democrática de São Tomé e Príncipe Assembleia Nacional LEI N.º09/2001 Lei de Pesca e Recurso Hauliêutico

Código Penal Aprovado pela Lei 6/2012

Cases

Accordance with international law of the unilateral Declaration of Independence of Kosovo, Advisory Opinion (2010) ICJ Reports 437

Bay of Bengal Maritime Boundary Arbitration (Bangladesh v India), Award (July 7, 2014)

Continental Shelf (Libyan Arab Jamahiriya/Malta), Judgment (1985) ICJ Reports 1985 13

Continental Shelf (Tunisia/Libyan Arab Jamahiriya) [1982] ICJ Reports 18

Delimitation of the Maritime Boundary in the Gulf of Maine Area, Judgment, (1984) ICJ Reports 246

Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar) Case No. 16 Judgment 14 March 2012

Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire). Case No. 23 (Provisional Measures Order of 25 April 2015)

Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire). Case No. 23 (Judgment of 23 September 2017)

Fisheries Case (United Kingdom v Norway) [1951] ICJ Reports 116

Guinea/Guinea-Bissau Maritime Delimitation case, Award of the Court of Arbitration, February 14, 1985, (1986) 25 ILM 252

Guyana v Suriname, Award, ICGJ 370 (PCA 2007), 17th September 2007

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria: Equatorial Guinea intervening) Judgment (2002) ICJ Reports 303

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 ICJ Reports 16

M/V Saiga (No 1) Saint Vincent and the Grenadines v Guinea) (Judgment) (Prompt Release) [1997] 110 ILR 736

Maritime Delimitation and Territorial Questions between Qatar and Bahrain, Merits Judgment [2001] ICJ Reports 40

Maritime Delimitation in the Black Sea (Romania v. Ukraine) Judgment 2009 ICJ Reports 61

Maritime Dispute (Peru v. Chile) [2014] ICJ 3

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) Merits, Judgment 1986 ICJ Reports 14

M/V "SAIGA" (No. 2) (Saint Vincent and the Grenadines v. Guinea), Judgment, ITLOS Reports 1999, p.I0

Prosecutor v. Dusko Tadić a/k/a "Dule", Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction Judgment (2 October 1995)

Prosecutor v. Dusko Tadić (Appeal Judgement), IT-94-1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 15 July 1999

Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC) (Case No 21) Advisory Opinion (2 April 2015)

SS Wimbledon, PCIJ Series A no 1, 17 August 1923, 25

Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras) [2007] ICJ Rep 659

The M/V "Virginia G" Case (Panama v. Guinea-Bissau), ITLOS, Case No. 19, Merits, Judgment, 14 April 2014

Trail Smelter Arbitration Case (United States v Canada) 1941, U.N. Reports of International Arbitral Awards 1905

Books

Abass A, *Regional Organisations and the Development of Collective Security: Beyond Chapter VIII of the UN Charter* (Hart 2004)

Acharya A and Johnston A (eds), *Crafting Cooperation: Regional International Institutions in Comparative Perspective* (Cambridge University Press 2007)

Adebajo A and Ismail R (eds), *West Africa's Security Challenges: Building Peace in a Troubled Region* (Lynne Reinner Publishers Inc 2004)

Adler E and Barnett M, *Security Communities* (Cambridge University Press 1998)

Akintoba T, *African States and Contemporary International Law : A Case Study of the 1982 Law of the Sea Convention and the Exclusive Economic Zone* (Martinus Nijhoff Publishers 1996)

Ali K-D, *Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges* (Brill Nijhoff 2015)

Amoah M, *Nationalism, Globalisation and Africa* (Palgrave Macmillan 2011)

Anand RP, *Origin and Development of the Law of the Sea* (Brill 1983)

Armstrong D, Farrell T and Lambert H, *International Law and International Relations* (2nd ed Cambridge University Press 2012)

Asiwaju AI, *The Nigeria - Benin Transborder Cooperation: Proceeding of the Bilateral Workshop at the Administrative Staff College of Nigeria, Topo, Badagry, May 8-13, 1988* (University of Lagos Press 1991)

Ayua IA, Yagba TAT and Odiase-Alegimenlen OA (eds), *The New Law of the Sea and the Nigerian Maritime Sector* (Nigerian Institute of Advanced Legal Studies 1998)

Barrett J and Barnes R (eds), *Law of the Sea: UNCLOS: A Living Treaty* (BIICL 2016)

Bassey C and Oshita O (eds), *Governance and Border Security in Africa* (Malthouse Press Limited 2010)

Bellamy A, *Security Communities and Their Neighbours : Regional Fortresses or Global Integrators?* (Palgrave Macmillan 2004)

Blake G, *World maritime boundary delimitation: the state of play in Maritime Boundaries and Ocean Resources* (Croom Helm 1987)

Blake G (ed), *World Boundaries Volume 5: Maritime Boundaries* (Routledge 1994)

Blake G, Chia LS, Grundy-Warr C, Pratt M and Schofield C (eds), *International Boundaries and Environmental Security: Frameworks for Regional Cooperation* (Kluwer Law International 1997)

Brownlie I, *Boundary Problems and the Formation of New States* (The Josephine Onoh Memorial Lecture) (University of Hull 1996)

Bryman A, *Social Research Methods* (4th ed Oxford University Press 2012)

Buzan B, *People, States and Fear* (2nd ed Lynne Reinner Publishers 1991)

———. *Seabed Politics* (Praeger 1976)

Buzan B and Hansen L, *The Evolution of International Security Studies* (Cambridge University Press 2009)

Buzan B and Waever O, *Regions and Powers: The Structure of International Security* (Cambridge University Press 2003)

Cali B (ed), *International Law for International Relations* (Oxford University Press 2010)

Chipman J, *French Power in Africa* (Basil Blackwell Ltd 1989)

Clapham C, *Africa and the International System* (Cambridge University Press 1996)

Couper A, Smith H and Ciceri B, *Fishers and Plunderers* (Pluto Press 2015)

Crawford J, *Brownlie's Principles of Public International Law* (8th ed, Oxford University Press 2012)

Crowder M, *West Africa: An Introduction to Its History* (1st ed Longman Publishing Group 1977)

Elleman B, Forbes A and Rosenberg D (eds), *Naval War College Newport Papers: Piracy and Maritime Crime: Historical and Modern Case Studies* (Naval War College Press 2010)
Fenrich J, Galizzi P and Higgins T (eds), *The Future of African Customary Law* (Cambridge University Press 2011)
Fietta S and Cleverly R, *A Practitioner's Guide to Maritime Boundary Delimitation* (Oxford University Press 2016)
Francis D, *Uniting Africa: Building Regional Peace and Security* (Ashgate Publishing Ltd 2006)
Francke B, *Security Cooperation in Africa: A Reappraisal* (First Forum Press 2009)
Franklin J, *On Sovereignty: Four Chapters from "The Six Books of the Commonwealth"* (Cambridge University Press 1992)
Gavouneli M, *Functional Jurisdiction and the Law of the Sea* (Martinus Nijhoff Publishers 2007)
Goldblat J, *Maritime Security: The Building of Confidence* (United Nations Institute for Disarmament Research 1992)
Goldsmith J and Posner E, *The Limits of International Law* (Oxford University Press 2005)
Goldstein J and Pevehouse J, *International Relations* (Pearson Higher Education 2007)
Grotius H, *Mare Liberum (1609) (Hakluyt Translation)* (Liberty Fund 2004)
Guilfoyle D (ed), *Modern Piracy: Legal Challenges and Responses* (Edward Elgar Publishing Limited 2013)
Guilfoyle D, *Shipping Interdiction and the Law of the Sea* (Cambridge University Press 2009)
Hinsley FH, *Sovereignty* (C A Watts & Co Ltd 1966)
Ibidapo-Obe A, *A Synthesis of African Law* (Concept Publications Limited 2010)
Johnston D, *The Theory and History of Ocean Boundary - Making* (McGill-Queen's University Press 1988)
Kapoor DC and Kerr A, *A Guide to Maritime Boundary Delimitation* (The Carswell Company Ltd 1986)
Keohane R, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press 1984)
———. *Power and Governance in a Partially Globalized World* (Routledge 2002)
Keohane R and Nye J, *Power and Interdependence* (3rd ed Longman Publishing Group 2000)
Kim S, *Maritime Delimitation and Interim Arrangements in North East Asia* (Martinus Nijhoff Publishers 2004)
Klein N, *Dispute Settlement in the UN Convention on the Law of the Sea* (Cambridge University Press 2005)
———. *Maritime Security and the Law of the Sea* (Oxford University Press 2011)
Klein N, Mossop J, and Rothwell D (eds), *Maritime Security: International Law and Policy Perspectives from Australia and New Zealand* (Routledge 2010)
Kraska J, *Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy at Sea* (Praeger 2011)
Kraska J and Pedrozo R, *International Maritime Security Law* (Brill 2013)
Krasner S, *Organised Hypocrisy* (Princeton University Press 1999)
———. (ed) *Problematic Sovereignty: Contested Rules and Political Possibilities* (Columbia University Press 2001)
Krause K, and Williams M, *Critical Security Studies: Concepts and Cases* (Routledge 1997)
Lagoni R and Vignes D (eds), *Maritime Delimitation* (Martinus Nijhoff Publishers 2006)
Lake D, and Morgan P (eds), *Regional Orders : Building Security in a New World* (Pennsylvania State University Press 1997)
Leb C, *Cooperation in the Law of Transboundary Water Resources* (Cambridge University Press 2013)
Locke J, *Second Treatise of Civil Government and A Letter Concerning Toleration* (1714) (Blackwell Publishing 1946)

Lolande S, *Determining Boundaries in a Conflicted World: The Role of Uti Possidetis* (McGill-Queen's University Press 2003)
Lowe V, *International Law* (Oxford University Press 2007)
Mallia P, *Migrant Smuggling by Sea: Combating a Current Threat to Maritime Security through the Creation of a Cooperative Framework* (Martinus Nijhoff Publishers 2009)
Mangala J (ed), *Africa and the European Union: A Strategic Partnership* (Palgrave Macmillan 2013)
May T, *Social Research: Issues, Methods and Process* (3rd ed Open University Press 2001)
McNicholas M, *Maritime Security: An Introduction* (Elsevier Inc 2008)
Missner M (ed), Hobbes T, *Leviathan* (Routledge 2008)
Moser C and Kalton G, *Survey Methods in Social Investigation* (2nd ed Heinemann 1983)
Nollkaemper A and Plakokefalos I eds, *The Practice of Shared Responsibility in International Law* (Cambridge University Press 2017)
O'Connell DP, *The International Law of the Sea, Volume 1* (Oxford University Press 1984)
———. *The International Law of the Sea, Volume 2* (Oxford University Press 1984)
Oduntan G, *International Law and Boundary Disputes in Africa* (Routledge 2015)
Palma M, Tsamenyi M and Edeson W, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing* (Brill 2010)
Perrez F, *Cooperative Sovereignty: From Independence to Interdependence in the Structure of International Environmental Law* (Kluwer Law International 2001)
Porteous T, *Britain in Africa* (Zed Books 2008)
Prescott V and Schofield C, *The Maritime Political Boundaries of the World* (2nd ed Martinus Nijhoff Publishers 2005)
Rembe NS, *Africa and the International Law of the Sea* (Sijthoff and Nordhoff 1980)
Rothwell D and Stephens T, *The International Law of the Sea* (Hart Publishing 2010)
Rousseau J-J, *The Social Contract* (1762) (Penguin 1968)
Sarooshi D, *The United Nations and the Development of Collective Security: The Delegation by the UN Security Council of Its Chapter VII Powers* (Clarendon Press 1999)
Shaw M, *International Law* (5th ed Cambridge University Press 2003)
Shaw M, *International Law* (7th ed Cambridge University Press 2014)
Sheehan M, *International Security: An Analytical Survey* (Lynne Reinner Publishers 2005)
Shemella P (ed), *Global Responses to Maritime Violence: Cooperation and Collective Action* (Stanford University Press 2016)
Sicurelli D, *The European Union's Africa Policies: Norms, Interests and Impact* (Ashgate Publishing Ltd 2010)
Sloggett D, *The Anarchic Sea: Maritime Security in the Twenty-First Century* (Hurst & Company 2013)
Soderbaum F and Tavares R (eds), *Regional Organizations in African Security* (Routledge 2013)
Tanaka Y, *Predictability and Flexibility in the Law of Maritime Delimitation* (1st ed Hart 2006)
Tavares R, *Regional Security: The Capacity of International Organizations* (Routledge 2009)
Vignes D and Dupuy R (eds), *A Handbook on the New Law of the Sea* (Martinus Nijhoff Publishers 1991)
Wallace R and Martin-Ortega O, *International Law* (Sweet and Maxwell 2016)
Weil P, The Law of Maritime Delimitation - Reflections (Grotius Publications Limited 1989)
Wendt A, *Social Theory of International Politics* (Cambridge University Press 1999)
Wenger E, Communities of Practice: Learning, Meaning and Identity (Cambridge University Press 1998)
Widstrand C (ed), *African Boundary Problems* (The Scandinavian Institute of African Studies 1969)
Williams P (ed), *Security Studies* (Routledge 2008)

Book Chapters

Adede A O, 'Region IV: African Maritime Boundaries' in Charney JI and Alexander LM (eds), *International Maritime Boundaries* (The American Society of International Law 1993)

———. 'Report Number 4-1'in Charney JI and Alexander LM (eds), *International Maritime Boundaries* (American Society of International Law | Nijhoff 1993)

———. 'Report Number 4-2' in Charney JI and Alexander LM (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 1993)

Ali K-D, 'Anti-Piracy Responses in the Gulf of Guinea: Addressing the Legal Deficit' in Espósito C, Kraska J, Scheiber H and Kwon M-S (eds), *Ocean Law and Policy: Twenty Years of Development Under the UNCLOS Regime* (Brill Nijhoff 2016

Anderson D, 'Freedoms of the High Seas in the Modern Law of the Sea' in Freestone D, Barnes R and Ong D (eds), *Law of the Sea: Progress and Prospects* (Oxford University Press 2006)

Anderson D and van Logchem Y, 'Rights and Obligations in Areas of Overlapping Maritime Claims' in Jayakumar S, Koh T and Beckman R (eds), *The South China Sea Disputes and Law of the Sea* (NUS Centre for International Law Series 2014)

Bateman S, 'Regional Efforts for Maritime Security Cooperation' in Dalchoong K (ed), *Maritime Security and Cooperation in the Asia-Pacific towards the 21st Century* (Institute for East and West Studies 2000)

Beckman R and Sim C, 'Maritime Boundary Disputes and Compulsory Dispute Settlement: Recent Developments and Unresolved Issues', in Nordquist M, Norton Moore J and Long R (eds), *Legal Order in the World's Oceans: UN Convention on the Law of the Sea* (Brill Nijhoff 2018)

Besson S, 'Sovereignty in Conflict', in Warbrick C and Tierney S (eds), *Towards an International Community: The Sovereignty of States and the Sovereignty of International Law* (BIICL 2006)

Bigo D, Kelstrup M and Williams M, 'When Two Become One: Internal and External Securitisations in Europe' in Kelstrup M and Williams M (eds), *International Relations Theory and the Politics of European Integration* (Routledge 2000)

Boggs SW, 'Chapter II: Classification and Terminology of Boundaries' and 'Chapter IX: African Boundaries' in Boggs SW, *International Boundaries. A Study of Boundary Functions* (Columbia University Press 1940)

Bourmand D, 'From Unilateralism to Multilateralism: The Decline of French Power in Africa' in Chafer T and Cumming G (eds), *From Rivalry to Partnership: New Approaches to the Challenges in Africa* (Ashgate Publishing Ltd 2011)

Brownlie I, 'Introduction', 'Part II' and 'Part III' in Brownlie I, *African Boundaries: A Legal and Diplomatic Encyclopaedia* (Royal Institute of International Affairs 1979)

Carleton C, 'State Maritime Boundaries' in Smith H, Suárez de Vivero J and Agardy T (eds), *Routledge Handbook of Ocean Resources and Management* (Routledge 2015)

Chafer T, 'Anglo-French Security Cooperation in Africa since Saint-Malo' and 'Anglo-French Cooperation vis-a-vis the African Union' in Chafer T and Cumming G (eds), *From Rivalry to Partnership: New Approaches to the Challenges in Africa* (Ashgate Publishing Ltd 2011)

Cheng B, 'Chapter 4: Good Faith in the Exercise of Rights' in Cheng B, *General Principles of Law as Applied by International Courts and Tribunals* (Stevens & Sons 1953)

Churchill R and Lowe AV 'Delimitation of Maritime Boundaries' in Churchill R and Lowe AV, *The Law of the Sea* (3rd ed Juris Publishing and Manchester University Press 1999)

Clapham A, 'National action challenged: sovereignty, immunity and universal jurisdiction before the International Court of Justice' in Mark Lattimer and Philippe Sands (eds), *Justice for Crimes against Humanity* (Hart Publishing 2003)

Colson D, ‘Report Number 4-9’ in Charney JI, Alexander LM and Smith RW (eds), *International Maritime Boundaries Vol 4* (American Society of International Law | Martinus Nijhoff Publishers 2002)

Colson DA (with advice by Lathrop C), ‘Report Number 4-8’ in Charney JI and Smith RW (eds), *International Maritime Boundaries* (American Society of International Law | Nijhoff 2002)

Cottier T, ‘Approaches to delimitation’ in Cottier T, *Equitable Principles of Maritime Boundary Delimitation: The Quest for Distributive Justice in International Law* (Cambridge University Press 2015)

Cumming G, 'Britain and France in Africa since Saint-Malo: Towards an Uneasy Partnership?' in Chafer T and Cumming G (eds), *From Rivalry to Partnership: New Approaches to the Challenges in Africa* (Ashgate Publishing Ltd 2011)

Daniel T, ‘African Boundaries: New Order, Historic Tensions’ in Pratt M and Brown JA (eds), *Borderlands Under Stress* (Kluwer Law International 2000)

———. ‘Nigeria-São Tomé and Príncipe Report 4-10’ in Colson D and Smith RW (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2005)

———. ‘Report Number 4-11’ in Colson D and Smith RW (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2005)

Donaldson JW, ‘Perceptions of Legal and Geographic Clarity: Definition International Land Boundaries in Africa’ in Home R (eds), *Essays in African Land Law* (Pretoria University Law Press 2011)

Fassbender B, ‘Sovereignty and Constitutionalism in International Law’ in Walker N (ed), *Sovereignty in Transition* (Hart Publishing 2003)

Fassbender B, ‘Ch.I Purposes and Principles, Article 2 (1)’ in Simma B, Khan D, Nolte G, Paulus A (eds), Wessendorf N(Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed Oxford University Press 2012)

Franckx E, ‘Maritime Boundaries and Regional Co-Operation’ in Freestone D and Ijlstra T (eds), *The North Sea: Perspectives on Regional Environmental Co- Operation* (Graham and Trotman 1990)

Gibert M, 'The New European Security Architecture: An Example of 'Messy Multilateralism'?' in Chafer T and Cumming G (eds), *From Rivalry to Partnership: New Approaches to the Challenges in Africa* (Ashgate Publishing Ltd 2011)

Gjerde K, ‘High Seas Fisheries Management under the Convention on the Law of the Sea’ in Freestone D, Barnes R and Ong D (eds), *Law of the Sea: Progress and Prospects* (Oxford University Press 2006)

Greenwood C, ‘Sovereignty: A View from the International Bench’ in Rawlings R, Leyland P and Young A (eds), *Sovereignty and the Law: Domestic, European and International Perspectives* (Oxford University Press 2013)

Griggs R, ‘Designing Boundaries for a Continent: The Geopolitics of an African Renaissance’ in Pratt M and Brown JA, *Borderlands Under Stress* (Kluwer Law International 2000)

Hugo Grotius, The Free Sea, trans. Richard Hakluyt, with William Welwod’s Critique and Grotius’s Reply, Armitage D (ed) (Liberty Fund 2004)

Grove E, ‘The Ranking of Smaller Navies Revisited’ in Mulqueen M, Sanders D and Speller I (eds), *Small Navies: Strategy and Policy for Small Navies in War and Peace* (Routledge 2014)

Gullett W and Shi YB, ‘Cooperative Maritime Surveillance and Enforcement’ in Warner R and Kaye S (eds), *Routledge Handbook of Maritime Regulation and Enforcement* (Routledge 2015)

Haines S, ‘New Navies and Maritime Powers’ in Rodger N (ed), *The Sea in History - The Modern World* (Boydell 2017)

———. ‘Sea Power’ in Smith H, Suárez de Vivero J and Agardy T (eds), *Routledge Handbook of Ocean Resources and Management* (Routledge 2015)
———. ‘The Influence of Law on Maritime Strategy’ in Moran D and Russell J (eds), *Maritime Strategy and Global Order: Markets, Resources, Security* (Georgetown University Press 2017)
Higgins R, ‘The Nature and Function of International Law’ and ‘Sources of International Law: Provenance and Problems’ in Higgins R, *Problems and Process: International Law and How We Use It* (Clarendon Press 1994)
Hoffman M and Rumsey M, Chapter 7 in Hoffman M and Rumsey M, *International and Foreign Legal Research: A Coursebook* (Martinus Nijhoff Publishers 2008)
Jacobsson M, ‘Sovereignty at Sea – Illusion or Reality’ in Herr R (ed), *Sovereignty at Sea: From Westphalia to* Madrid (University of Wollongong 2000)
Jennings R, ‘Sovereignty and International Law’ in Kreijen G, Brus M, Duursma J, de Vos E an Dugard J (eds), *State, Sovereignty and International Governance* (Oxford University Press 2002)
Kaye S, ‘Freedom of Navigation in a Post 9/11 World: Security and Creeping Jurisdiction’ in Freestone D, Barnes R and Ong D (eds), *The Law of the Sea: Progress and Prospects* (OUP 2006)
Keller H, ‘Friendly Relations Declaration (1970)’ in *Max Planck Encyclopedia of Public International Law* (Oxford University Press 2009)
King M, ‘Fisheries Management’ in King M (ed), *Fisheries Biology, Assessment and Management* (2nd ed Blackwell Publishing 1997)
Klein N, ‘Maritime Security’ in Rothwell D, Oude Elferink A, Scott K and Stephens T (eds), *The Oxford Handbook of the Law of the Sea* (Oxford University Press 2015)
Koskenniemi M, ‘History of International Law, World War I to World War II’ in *Max Planck Encyclopaedia of Public International Law* (Oxford University Press 2011).
Kraska J, ‘4. Littoral Seas - Epicenter of World Politics’ in Kraska J *Maritime Power and the Law of the Sea: Expeditionary Operations in World Politics* (Oxford University Press 2011)
Van Logchem Y, ‘The Scope for Unilateralism in Disputed Maritime Areas’ in Schofield C, Lee S and Kwon MS (eds), *The Limits of Maritime Jurisdiction* (Martinus Nijhoff Publishers 2014)
Loughlin M, ‘Ten Tenets of Sovereignty’ in Walker N (ed), *Sovereignty in Transition* (Hart Publishing 2003)
———. ‘Why Sovereignty?’ in Rawlings R, Leyland P and Young A (eds), *Sovereignty and the Law: Domestic, European and International Perspectives* (Oxford University Press 2013)
Lowe AV and Staker C, ‘Jurisdiction’ in Evans M (ed), *International Law* (3rd ed Oxford University Press 2010)
MacCormick N, ‘On Sovereignty and Post Sovereignty’ in MacCormick N, *Questioning Sovereignty* (Oxford University Press 1999)
Mann FA, ‘Legislative Jurisdiction’ in Mann FA, *The Doctrine of International Jurisdiction Revisited after Twenty Years* (1984) III Recueil de Cours Academie de Droit International (Martinus Nijhoff Publishers 1985)
Mason D, ‘Sovereignty in a World of Treaties: The Significance of the United Nations Law of the Sea Convention’ in Herr R (ed), *Sovereignty at Sea: From Westphalia to Madrid* (University of Wollongong 2000)
Matz-Lück N, ‘The Concept Of The Common Heritage Of Mankind: Its Viability as a Management Tool For Deep-Sea Genetic Resources’ in Molenaar E and Oude Elferink A (eds), *The International Legal Regime of Areas beyond National Jurisdiction Current and Future Developments* (Brill 2010)

McCorquodale R, 'International Community and State Sovereignty: An Uneasy Symbiotic Relationship' in Warbrick C and Tierney S (eds), *Towards an International Community: The Sovereignty of States and the Sovereignty of International Law* (BIICL 2006)

Michel C and Herman S, 'Achieving Global Maritime Compliance through Regional Cooperation', in Nordquist M, Norton Moore J and Long R (eds), *Legal Order in the World's Oceans: UN Convention on the Law of the Sea* (Brill Nijhoff 2018)

Miyoshi M, 'Some Thoughts on Maritime Boundary Delimitation' Hong S-Y and Van Dyke J (eds), *Maritime Boundary Disputes, Settlement Processes and the Law of the Sea* (Martinus Nijhoff Publishers 2009)

Murphy MN, 'Piracy and UNCLOS: Does International Law Help Regional States Combat Piracy?' in Peter Lehr (ed), *Violence at Sea: piracy in the age of global terrorism* (Routledge 2007)

Nolte G, 'Ch.I Purposes and Principles, Article 2 (7)' in Simma B, Khan D, Nolte G, Paulus A (eds), Wessendorf N(Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed Oxford University Press 2012)

Obi C, 'Economic Community of West African States on the Ground: Comparing Peacekeeping in Liberia, Sierra Leone, Guinea Bissau, and Côte d'Ivoire' in Soderbaum F and Tavares R (eds), *Regional Organizations in African Security* (Routledge 2013)

Odendaal F, Zvikomborero T, McLean B and November J, 'Africa Coastal Policies, Maritime Strategies and Development' in Smith H, Suárez de Vivero J and Agardy T (eds), *Routledge Handbook of Ocean Resources and Management* (Routledge 2015)

Oxman B, 'Political, Strategic and Historical Considerations' in Charney JI and Alexander LM (eds), *International Maritime Boundaries* (The American Society of International Law 1993)

Paulus A, 'Ch.I Purposes and Principles, Article 2' in Simma B, Khan D, Nolte G, Paulus A (eds), Wessendorf N(Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed Oxford University Press 2012)

le Pere G, 'AU-EU Security and Governance Cooperation' in Adebajo A and Whiteman K (eds), *The EU and Africa: From Eurafrique to Afro-Europa* (Hurst & Co 2012)

Perrings C, 'Strengthening the biodiversity-related multilateral Agreements' in Perrings C, *Our Uncommon Heritage: Biodiversity Change, Ecosystem Services, and Human Wellbeing* (Cambridge University Press 2014)

Reis J and Mitroussi K, 'Shipping and Navigation' in Smith H, Suárez de Vivero J and Agardy T (eds), *Routledge Handbook of Ocean Resources and Management* (Routledge 2015)

Rensmann T, 'Reform' in Simma B, Khan D, Nolte G, Paulus A (eds), Wessendorf N(Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed Oxford University Press 2012)

Samuels J, 'Redrawing the Map: Lessons of Post-Colonial Boundary Dispute Resolution in Africa' in Levitt J (ed), *Africa: Mapping New Boundaries in International Law* (Hart Publishing 2008)

Sarooshi D, 'International Organizations as a Forum for the Contestation of Sovereignty' in Sarooshi D, *International Organizations and Their Exercise of Sovereign Powers* (Oxford University Press 2007)

Saunders P, 'Regional Maritime Cooperation: Theory and Principles' in Valencia MJ, *Maritime Regime Building: Lessons Learned and Their Relevance for North East Asia* (Martinus Nijhoff Publishers 2001)

Schofield C, 'No Panacea? Challenges in the Application of Provisional Arrangements of a Practical Nature' in Nordquist M (ed), *Maritime Border Diplomacy* (Brill 2012)

Scholtz W, 'Greening Permanent Sovereignty through the Common Concern in the Climate Change Regime: Awake Custodial Sovereignty!' in Ruppel O, Roschmann C and Ruppel-

Schlichting K (eds), *Climate Change: International Law and Global Governance Volume II: Policy, Diplomacy and Governance in a Changing Environment* (NOMOS 2013)
Scovazzi T, 'The Assumption That the United Nations Convention on the Law of the Sea Is the Legal Framework for All Activities Taking Place in the Sea' in Salvatore A (ed), *Ocean Sustainability in the 21st Century* (Cambridge University Press 2015)
Simpson G, 'The Globalization of International Law' in Reus-Smit C and Dunne T (eds), *The Globalization of International Society* (Oxford University Press 2017)
Smith D and Dolan C, 'Report Number 4-15' in Colson D and Smith R (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2011)
———. 'Report Number 4-16' in *International Maritime Boundaries* in Colson D and Smith R (eds), *International Maritime Boundaries* (The American Society of International Law | Nijhoff 2011)
Staker C, 'Jurisdiction' in Evans M, *International Law* (Oxford University Press 2018)
Suárez de Vivero J and Rodriguez Mateos J, 'Maritime Boundaries' in Smith H, Suárez de Vivero J and Agardy T (eds), *Routledge Handbook of Ocean Resources and Management* (Routledge 2015)
Sumser-Lupson K, 'Implementing an Integrated Coast Guard Network in West and Central Africa to Combat the Rise of Armed Robbery in Territorial Waters' in Bossé E, Shahbazian E, and Rogova G (eds), *Prediction and Recognition of Piracy Efforts Using Collaborative Human-Centric Information Systems* (IOS Press 2013)
Tanaka Y, 'Maritime Delimitation' in Tanaka Y, *The International Law of the Sea* (2nd ed Cambridge University Press 2015)
Thomas B, 'International Boundaries: Lines in the Sand (and the Sea)' in Demko G and Wood W (eds), *Reordering the World: Geopolitical Perspectives on the 21st Century* (2nd ed Westview Press 1999)
Thomas MA, 'The Changing Nature of Sovereignty and International Law since Westphalia' in Herr R (ed), *Sovereignty at Sea: From Westphalia to Madrid* (University of Wollongong 2000)
Townsend-Gault, Ian 'Zones of Cooperation in the Oceans – Legal Rationales and Imperatives' in Nordquist M, *Maritime Border Diplomacy* (Brill 2012)
Vaughan-Williams N and Peoples C, Part I in Vaughan-Williams N and Peoples C, *Critical Security Studies: An Introduction* (2nd ed Routledge 2015)
Vashakmadze M, 'Responsibility to Protect' in Simma B, Khan D, Nolte G, Paulus A (eds), Wessendorf N(Asst ed), *The Charter of the United Nations: A Commentary, Volume I* (3rd ed Oxford University Press 2012)
de Vitoria F, 'Refleciones (1557)' in Brown Scott J, *The Spanish Origins of International Law* (Clarendon Press 1934)
Vines A, 'Africa and the United Kingdom: Labour's Legacy, May 1997-May 2010 in Chafer T and Cumming G (eds), *From Rivalry to Partnership: New Approaches to the Challenges in Africa* (Ashgate Publishing Ltd 2011)
Wardin K and Duda D, 'Effectiveness of Measures Undertaken in the Gulf of Guinea Region to Fight Maritime Piracy' in Weintrit A and Neumann T (eds), *Safety of Marine Transport: Marine Navigation and Safety of Sea Transportation* (CRC Press 2015)
Welch Jr C, *Dream of Unity: Pan-Africanism and Political Unification in West Africa* (Cornell University Press 1966)
Welwood, *An Abridgement of All Sea Lawes* (1613) (Digital Edition Colin Mackenzie 2011)
———. 'Of the Community and Propriety of the Seas' in Hugo Grotius, The Free Sea, trans. Richard Hakluyt, with William Welwod's Critique and Grotius's Reply, Armitage D (ed) (Liberty Fund 2004)

Williams P, ‘Britain, the EU, and Africa’ in Adebajo A and Whiteman K (eds), *The EU and Africa: From Eurafrique to Afro-Europa* (Hurst & Co 2012)
Wolfrum R, ‘Cooperation, International Law of’ in Wolfrum (ed), *The Max Planck Encyclopaedia of Public International Law* (OUP April 2010)
Yates D, 'France, the EU, and Africa' in Adebajo A and Whiteman K (eds), *The EU and Africa: From Eurafrique to Afro-Europa* (Hurst & Co 2012)
Ye Y, ‘Shipping and Navigation’ in Smith H, Suárez de Vivero J and Agardy T (eds), *Routledge Handbook of Ocean Resources and Management* (Routledge 2015)
Zimmerman C, ‘A Revision of the Concept of Monetary Sovereignty’ in Zimmerman C, *A Contemporary Concept of Monetary Sovereignty* (Oxford University Press 2013)

Articles and Papers

Aalberts TE and Gammeltoft-Hansen T, ‘Sovereignty at Sea: The Law and Politics of Saving Lives in Mare Liberum’ (2014) 17 Journal of International Relations and Development 439
Abbott K and Snidal D, ‘Hard and Soft Law in International Governance’ (2000) 54 International Organization 421
Abeyratne R, ‘New and Emerging Threats to Maritime Security’ (2010) 18 Asia Pacific Law Rev 171
Abraham G, ‘“Lines upon Maps”: Africa and the Sanctity of African Boundaries’ (2007) 15 African Journal of International and Comparative Law 61
Abrahamsen R, ‘Africa and International Relations: Assembling Africa, Studying the World’ (2016) 116(432) African Affairs 125
Adler E, ‘The Spread of Security Communities: Communities of Practice, Self-Restraint, and NATO’s Post-Cold War Transformation’ (2008) 14 European Journal of International Relations 195
African Development Bank, ‘Angola: Country Strategy Paper 2017-2021’ (April 2017)
African Union Commission, Peace and Security Department, ‘African Peace and Security Architecture. APSA Roadmap 2016–2020’ (December 2015)
Agbedahin K, ‘From Control to Parasitism’ (2014) 23 African Security Review 370
Agnew D, Pearce J, Pramod G, Peatman T, Watson R, Beddington J and Pitcher T, ‘Estimating the Worldwide Extent of Illegal Fishing’ (2009) 4(2) PLoS One
Akweenda S, ‘“Territorial Integrity”: A Brief Analysis of a Complex Concept’ (1989) 1 African Journal of International and Comparative Law 500
Alexander LM, ‘Baseline Delimitations and Maritime Boundaries’ (1983) 23 Virginia Journal of International Law 503
Ali K-D, ‘Legal and Policy Dimensions of Coastal Zone Monitoring and Control: The Case in Ghana’. (2004) 35 Ocean Development and International Law 179
———. ‘The Anatomy of Gulf of Guinea Piracy’ (2015) 68(1) Naval War College Review 93
Ali K-D and Tsamenyi T, ‘African States and the Law of the Sea Convention: Have the Benefits Been Realized?’ (2012) 26(1) Ocean Yearbook Online 113–60
———. ‘Fault Lines in Maritime Security’ (2013) 22(3) African Security Review 95
Alli WO, ‘The Role of Nigeria in Regional Security Policy’ (Friedrich Ebert-Stiftung 2012)
Amaechi CR, ‘Nigeria’s Role in Responding to Maritime Insecurity in the Gulf of Guinea’ (The Royal Institute of International Affairs 2018) Africa Programme Meeting Transcript
AMI International Inc, ‘African Nations to Develop Joint Continental Coast Guard’ (2006) 49(8) Sea Power 59
Amnesty International and Greenpeace Netherlands, ‘The Toxic Truth about a Company Called Trafigura, a Ship Called the Probo Koala, and the Dumping of Toxic Waste in Cote d’Ivoire’ (25 September 2012)

Anderson D, 'Methods of Resolving Maritime Boundary Disputes' (Meeting of the International Law Discussion Group at Chatham House, Royal Institute for International Affairs 14 February 2006)

Andersen N, Bekker P, Bishopp D, Nassif T, Nordentoft-Lauridsen S and van de Poll R, 'International Boundary Disputes: An Unfinished Tale of Geology, Technology, Money, Law, History, Politics and Diplomacy' (OTC-25306-MS)

Andrew E, '"Jean Bodin on Sovereignty."' (2011) 2(2) Republics of Letters: A Journal for the Study of Knowledge, Politics, and the Arts 75

Anele KK, 'A Study of the Role of Seafarers in Combating Piracy off the Coast of Nigeria' (2017) 16 WMU Journal of Maritime Affairs 313

Anyimadu A, 'Maritime Security in the Gulf of Guinea: Lessons Learned from the Indian Ocean' (Chatham House Paper July 2013)

Aquarone M, 'The 1985 Guinea/Guinea-Bissau Maritime Boundary Case and Its Implications' (1995) 26 Ocean Development and International Law 413

Atta-Mills J, Alder J and Rashid Sumaila U, 'The Decline of a Regional Fishing Nation: The Case of Ghana and West Africa' (2004) 28 Natural Resources Forum 13

Atonfack C, 'Inter-Regional Coordination for Maritime Security Multinational Coordination Center for "Zone D"' (Africa Center for Strategic Studies 11 July 2017)

AU-IBAR, 'Status of Monitoring, Control and Surveillance Systems in Southern Africa - Strengthening National and Regional Capacities for Combating Illegal, Unreported and Unregulated Fishing' (AU-IBAR 2016)

AUBP 'From Barriers to Bridges Collection of Official Texts on African Borders from 1963 to 2012' (The Commission of the African Union/Department of Peace and Security (African Union Border Programme) 2013)

Azaria D, 'The Scope and Content of Sovereign Rights in Relation to Non-Living Resources in the Continental Shelf and the Exclusive Economic Zone' (2016) 3(2) Journal of Territorial and Maritime Studies 5

Bailey J, 'The Unanticipated Effects of Boundaries: The Exclusive Economic Zone and Geographically Disadvantaged States under UNCLOS III' (1997) IBRU Boundary and Security Bulletin 87

Baird R, 'Illegal, Unreported and Unregulated Fishing: An Analysis of the Legal, Economic and Historical Factors Relevant to Its Development and Persistence' (2004) 4(2) Melbourne Journal of International Law 299

Baker M, 'Toward and African Maritime Economy: Empowering the African Union to Revolutionize the African Maritime Sector' (2011) 64(2) Naval War College Review 39

Banchani, J 'The Relevance of the Gulf of Guinea in Global Energy Politics' (2016) 25(4) African Security Review 420

Bateman S, 'Maritime Cooperation in the Asia-Pacific Region: Current Situation and Prospects' (Canberra Papers on Strategy and Defence No 132)

———. 'Solving the "Wicked Problems" of Maritime Security: Are Regional Forums up to the Task?' (2011) 33(1) Contemporary Southeast Asia 1

Baumuller H, 'Caught with the Catch' *The World Today* (London October 2009) 14

Beauchamp K, 'The Management Function of Ocean Boundaries' (1986) 23 San Diego Law Review 611

Beckman R and Davenport T, 'The EEZ Regime: Reflections after 30 Years' (LOSI Conference Papers 2012)

Belhabib D and Divovich E, 'Rich fisheries and poor data: a catch reconstruction for Angola, 1950-2010 an update of Belhabib D and Divovich E (2014)' 115-128 in Belhabib, D and Pauly D (eds), Fisheries catch reconstructions: West Africa, Part II (Fisheries Centre Research Reports 23(3) Fisheries Centre University of British Columbia)

Belhabib D and Pauly D, 'The Implications of Misreporting on Catch Trends: A Catch Reconstruction for the People's Republic of the Congo' (Working Paper Series 2015 - 05 Fisheries Centre the University of British Columbia)
Belhabib D, Rashid Sumaila U, Lam V, Zeller D, Le Billon P, Abou Kane E and Pauly D, 'Euros vs. Yuan: Comparing European and Chinese Fishing Access in West Africa' (2015) 10(3) PLoS One
Bergh PE and Davis S, 'Fishery Monitoring, Control and Surveillance' in Kevin Cochrane (ed), *A Fishery Manager's Guidebook: Management Measures and Their Application* (FAO Technical Papers 24 United Nations 2002)
BIICL, 'The Obligations of States under Articles 74(3) and 83(3) of UNCLOS in respect of Undelimited Maritime Areas' (BIICL 2016)
BIMCO, INTERTANKO, INTERCARGO and ICS, 'Guidelines for Owners, Operators and Masters for Protection against Piracy in the Gulf of Guinea Region (V2)' (2016)
Biziouras N, 'Piracy, State Capacity and Root Causes' (2013) 22(3) African Security Review 111
Blede B, 'Fighting Rising Piracy in the Gulf of Guinea' (Institute for Security Studies 28 February 2017)
Blede B and Diouf A, 'West Africa Report: Togo's Maritime Challenges: Why Security Remains a Major Issue' (Institute for Security Studies August 2016)
Bolarinwa J, 'Africa's Regional Powers, Priorities and the New Geopolitical Realities' (2010) 2 Africa Review 175
Borgerson S, 'The National Interest and the Law of the Sea' (Council on Foreign Relations May 2009)
Brenthurst Foundation, 'Maritime Development in Africa: An Independent Specialists' Framework (Discussion Paper 2010/03 Brenthurst Foundation)
Brosig M, 'Introduction: The African Security Regime Complex—Exploring Converging Actors and Policies' (2013) 6(3-4) African Security 171
Browning C and Macdonald M, 'The Future of Critical Security Studies: Ethics and the Politics of Security' (2011) 19(2) European Journal of International Relations 235
Bruhns S and Haqq-Misra J, 'A Pragmatic Approach to Sovereignty on Mars' (2016) 38 Space Policy 57
Bueger C, 'Communities of Security Practice at Work? The Emerging African Maritime Security Regime'. (2013) 6 African Security 297
———. 'Piracy Studies: Academic Responses to the Return of an Ancient Menace' (2014) 49 Cooperation and Conflict 406
———. 'Learning from Piracy: Future Challenges of Maritime Security Governance' (2015) 1(1) Global Affairs 33
———. 'What Is Maritime Security' (2015) 53 Marine Policy 159
Buzan B, 'New Patterns of Global Security in the Twenty-First Century' (1991) 67(3) International Affairs 431
Buzan B and Waever O, 'Macrosecuritisation and Security Constellations: Reconsidering Scale in Securitisation Theory' (2009) 35 Review of International Studies 253
Cassese A, 'The Nicaragua and Tadić Tests Revisited in Light of the ICJ Judgment on Genocide in Bosnia (2007) 18(4) The European Journal of International Law 649
Chafer T and Cumming G, 'Beyond Fashoda: Anglo-French Security Cooperation in Africa since Saint-Malo' (2010) 86(5) International Affairs 1129
Chalfin B, 'Governing Offshore Oil: Mapping Maritime Political Space in Ghana and the Western Gulf of Guinea' (2015) 114(1) The South Atlantic Quarterly 101
Chalk P, 'The Maritime Dimension of International Security Terrorism, Piracy, and Challenges for the United States' (Rand Corporation 2008)

Chatham House (The Royal Institute of International Affairs), 'Piracy and Legal Issues: Reconciling Public and Private Interests' Conference Report (Royal Institute of International Affairs, Africa Programme and International Law Programme 1 October 2009)
———. 'Maritime Security in the Gulf of Guinea' (March 2013)
———. 'Angola and the Gulf of Guinea: Towards an Integrated Maritime Strategy, Report of the Angola Forum Conference aboard HMS Dauntless in Luanda, Angola, 29 June 2012' (November 2012)
Cheeseman N, Death C and Whitfield L, 'Notes on Researching Africa' (2017) African Affairs 1
Chintoan-Uta M and Ramos Silva J, 'Global Maritime Domain Awareness: A Sustainable Development Perspective' (2017) 16 WMU Journal of Maritime Affairs 37
Chircop A, Dziddornu D and Oguamanam C, 'Ocean Law Reform: A Multi-Level Comparative Law Analysis of Nigerian Maritime Zone Legislation' (2016) 67 Marine Policy 60
de Coning E and Witbooi E, 'Towards a New "Fisheries Crime" Paradigm: South Africa as an Illustrative Example' (2015) 60 Marine Policy 208
Cornwell R, 'Nigeria and Cameroon: Diplomacy in the Delta' (2006) 15(4) African Security Review 48
Cullis-Suzuki S and Pauly D, 'Failing the High Seas: A Global Evaluation of Regional Fisheries Management Organisations' (2010) 34(5) Marine Policy 1036
Daniel T, 'Maritime Boundaries in the Gulf of Guinea' (2001 ABLOS Conference, International Hydrographic Bureau 18 October 2001)
Daniels A, Gutierrez M, Fanjul G, Guerena A, Matheson I and Watkins K, 'Western Africa's Missing Fish: The Impacts of Illegal and Unregulated Fishing and under-Reporting Catches by Foreign Fleets' (ODI June 2016)
Daxecker U and Prins B, 'Insurgents of the Sea: Institutional and Economic Opportunities for Maritime Piracy' (2012) 57(6) Journal of Conflict Resolution 940
———. 'Searching for Sanctuary: Government Power and the Location of Maritime Piracy' (2015) 41 International Interactions 699
de Nevers R, 'Sovereignty at Sea: States and Security in the Maritime Domain' (2015) 24 Security Studies 597
de Wet E, 'The Evolving Role of ECOWAS and the SADC in Peace Operations: A Challenge to the Primacy of the United Nations Security Council in Matters of Peace and Security?' (2014) 27(2) Leiden Journal of International Law 353
de Wijk R, Anderson DM and Haines S, 'Forum: The New Piracy: Three Contexts' (2010) 52 Survival 39
Delano K, 'The Gulf of Guinea and Its Strategic Center Point: How Nigeria Will Bridge American and African Cooperation' (Air Command and Staff College Air University 2009)
Dewar B, 'On African Coastlines, Prosperity and Security Go Together' (Chatham House 13 October 2016)
Dewitt D, 'Common, Comprehensive, and Cooperative Security' (1997) 7(1) The Pacific Review 2
Diallo M, 'Regional Integration in West Africa (1960-2015): Balance and Perspectives' (2016) The Brazilian Journal of African Studies 234
Dupuy P-M, 'International Law: Torn between Coexistence, Cooperation and Globalization. General Conclusions' (1998) 9 European Journal of International Law 278
Dutton Y, 'Gunslingers on the High Seas: A Call for Regulation' (2013) 24 Duke Journal of Comparative & International Law 107
Dzurek D, 'Gulf of Guinea Boundary Disputes' (1999) IBRU Boundary and Security Bulletin 98

Edeson W, 'The International Plan of Action on Illegal Unreported and Unregulated Fishing: The Legal Context of a Non-Legally Binding Instrument' (2001) 16(4) International Journal of Marine and Coastal Law 603
Egede E, 'The Nigerian Territorial Waters Legislation and the 1982 Law of the Sea Convention' (2004) 19 International Journal of Marine and Coastal Law 151
El-Affendi A, 'The Perils of Regionalism: Regional Integration as a Source of Instability in the Horn of Africa?' (2009) 3(1) Journal of Intervention and Statebuilding 1
Ellis S, 'West Africa's International Drug Trade' (2009) 108(431) African Affairs 171
Engel U, 'The African Union, the African Peace and Security Architecture, and Maritime Security' (2014) 7(3) African Security 207
Engel U and Porto J, 'Imagining, Implementing, and Integrating the African Peace and Security Architecture: The African Union's Challenges' (2014) 7(3) African Security 135
Engle E, 'Beyond Sovereignty? The State after the Failure of Sovereignty' (2008) 15(1) ILSA Journal of International & Comparative Law 33
ENVIREP-CAM, 'Overview of Management and Exploitation of the Fisheries Resources of Cameroon, Central West Africa' (Institut de recherche Agricole pour le Developpement 2011)
Environmental Justice Foundation, 'Pirate Fishing Exposed: The Fight against Illegal Fishing in West Africa and the EU' (EJF 2012)
Erceg D, 'Deterring IUU Fishing through State Control over Nationals' (2006) 30 Marine Policy 173
Evans M, 'Maritime Delimitation and Expanding Categories of Relevant Circumstances' (1991) 40 International & Comparative Law Quarterly 1
Fabris D, 'crimes committed at sea and criminal jurisdiction: current issues of international law of the sea awaiting the 'Enrica Lexie' decision' (2017) 9(2) Amsterdam Law Forum 5
Fiorelli M, 'Piracy in Africa: The Case of the Gulf of Guinea' (KAIPTC Occasional Paper No 37 August 2014)
Folkestad B, 'Analysing Interview Data: Possibilities and Challenges' (Eurosphere Online Working Paper Series Working Paper No 13 December 2008)
Fonkoua Mbah S, 'Information Sharing in the Gulf of Guinea' (presentation Maritime Security Regimes Roundtable April 2016)
Food and Agriculture Organization of the United Nations, 'Fishing Operations 1. Vessel Monitoring Systems' (FAO Technical Guidelines for Responsible Fisheries 1998)
———. 'Report of the Expert Consultation on Ecosystem- Based Fisheries Management' (Food and Agriculture Organisation 2002)
———. 'The Living Marine Resources of the Eastern Central Atlantic: Vol. 1 Introduction, Crustaceans, Chitons and Cephalopods' (FAO Species Identification Guide for Fishery Purposes 2014)
Farrell M, 'A Triumph of Realism over Idealism? Cooperation between the European Union and Africa' (2005) 27(3) Journal of European Integration 263
Farrell T, 'Constructivist Security Studies: Portrait of a Research Program' (2002) 4(1) International Studies Review 49
Ferreira – Snyman M, 'the Evolution of State Sovereignty: A Historical Overview' (2006) 2 Fundamina 1
Fisheries Committee for the West Central Gulf of Guinea, 'Nigeria Fishery Statistics - 2016 Summary Report' (17 June 2016)
Fisheries Committee for West and Central Gulf of Guinea, 'West Africa Task Force: Cooperation. Collaboration. Communication' (Fisheries Committee for West and Central Gulf of Guinea, 2017)

Floyd R, ‘When Foucault Met Security Studies: A Critique of the “Paris School” of Security Studies’ (Paper University of Cork 2006)
Fouche H and Meyer J, ‘Investigating Sea Piracy: Crime Scene Challenges’ (2012) 11 WMU Journal of Maritime Affairs 33
Francis D, ‘Peacekeeping in a Bad Neighbourhood: The Economic Community of West African States (ECOWAS) in Peace and Security in West Africa’ (2009) 9(3) African Journal on Conflict Resolution 87
Franck T, ‘Theme Panel III: Multiple Tiers of Sovereignty: The Future of International Governance’ (The American Society of International Law Proceedings of the 88th Annual Meeting 6 April 1994)
Franckx E, ‘Maritime Boundaries and Regional Cooperation in the Baltic’ (1992) 20 International Journal of Legal Information 18
Frenk J, Gomez-Dantes O and Moon S, ‘From Sovereignty to Solidarity: a Renewed Concept of Global Health for an Era of Complex Interdependence’ (2014) 383 The Lancet 94
Friedmann W, ‘National Sovereignty, International Cooperation, and the Reality of International Law’ (1962-3) 10 UCLA Law Review 739
Roll M and Sperling S (eds) ‘Fuelling the World – Failing the Region? Oil Governance and Development in Africa’s Gulf of Guinea’ (Friedrich-Ebert-Stiftung August 2011)
Gathi J, ‘Kenya’s Piracy Prosecutions’ (2010) 104 American Journal of International Law 416
Gebrewold B, ‘Legitmate Regional Powers? A Failed Test for Ethiopia, Nigeria and South Africa’ (2014) 7(1) African Security 1
Germond B, ‘The EU’s Security and the Sea: Defining a Maritime Security Strategy’ (2011) 20(4) European Security 563
Ghana Statistical Service, ‘Provisional 2016 Annual Gross Domestic Product’ (Ghana Statistical Service April 2017)
Gibson J, ‘Maritime Security and International Law in Africa’ (2009) 18(3) African Security Review 60
Gilpin R, ‘Enhancing Maritime Security in the Gulf of Guinea’ (2007) VI(1) Strategic Insights 1
Goodman C, ‘Striking the Right Balance? Applying the Jurisprudence of International Tribunals to Coastal State Innovations in International Fisheries Governance’ (2017) 84 Marine Policy 293
Gottlieb Y, ‘The Security Council’s Maritime Piracy Resolutions: A Critical Assessment’ (2015) 24 Minnesota Journal of International Law 1
Grieco J, ‘Anarchy and Limits of Cooperation: A Realist Critique of Liberal Institutionalism’ (1988) 42(3) International Organization 485
Guilfoyle D, ‘Interdicting Vessels to Enforce the Common Interest: Maritime Countermeasures and the Use of Force’ (2007) 56 International and Comparative Law Quarterly 69
———. ‘Piracy off Somalia: The Challenges for International Law’ (2009) 103 American Society of International Law Proceedings 89
———. ‘Somali Pirates as Agents of Change in International Law–making and Organisation’ (2012) 1(3) Cambridge Journal of International and Comparative Law 81
———. ‘Prosecuting Pirates: The Contact Group on Piracy off the Coast of Somalia, Governance and International Law’ (2013) 4(1) Global Policy 73
Haenlein C, ‘Below the Surface How Illegal, Unreported and Unregulated Fishing Threatens Our Security’ (Royal United Services Institute 2017)
Hassan D and Hasan S, ‘Effectiveness of the Current Regimes to Combat Piracy in the Gulf of Guinea: An Evaluation’ (2017) 10 African Journal of Legal Studies 35
Hastings J and Phillips S, ‘Order beyond the State: Explaining Somaliland’s Avoidance of Maritime Piracy’ (2018) 56(1) Journal of Modern African Studies 5

He R, ‘Coast Guards and Maritime Piracy? Sailing Past the Impediments to Cooperation in Asia’ (2009) 22(5) The Pacific Review 667
Helmick J, ‘Port and Maritime Security: A Research Perspective’ (2008) 1 Journal of Transport Security 15
Hewish T, ‘The Commonwealth’s Call to Duty: Advancing Modern Commonwealth Defence Connections’ (Commonwealth Exchange 2015)
Heyl P, ‘West and Central African Leaders Unite Against Piracy in the Gulf of Guinea’ (3rd UAE Counter Piracy Conference | Briefing Paper)
Human Rights Watch, ‘São Tomé E Príncipe an Uncertain Future: Oil Contracts and Stalled Reform in São Tomé e Príncipe’ (Human Rights Watch 2010)
Ibrahim O, ‘To Patrol Is to Control: Ensuring Situational Awareness in Africa’s Maritime Exclusive Economic Zones’ (2009) 18(3) African Security Review 45
Ibrahim S, Othman Z and Idris N, ‘The Decay and Withering Away of ECOWAS’s Role in West African Regional Security’ (2014) 10(3) Malaysian Journal of Society and Space 188
IBRU Centre for Borders Research, ‘Report Predicts Rise in African Maritime Boundary Disputes’ (3 December 2014)
ICC International Maritime Bureau. ‘Piracy and Armed Robbery Against Ships: Report for the Period 1 January – 31 December 2014’ (ICC International Maritime Bureau January 2015)
———. Piracy and Armed Robbery against Ships – Report for the period 1 January – 31 December 2015’ (International Maritime Bureau 2016)
———. Piracy and Armed Robbery against Ships – Report for the period 1 January – 31 December 2016’ (International Maritime Bureau 2017)
———. ‘Piracy and Armed Robbery against Ships – Report for the period 1 January – 31 December 2017’ (International Maritime Bureau 2018)
Ifedayo T, ‘Nigeria’s Security Interest in West Africa: A Critical Analysis’ (2013) 1(6) Journal of Research and Development 41
IHS, Jane's: World Navies (IHS Markit 2017)Ikome F, ‘Africa’s International Borders as Potential Sources of Conflict and Future Threats to Peace and Security’ (Institute for Security Studies Paper May 2012)
Indian Ocean Commission. ‘Smart Fiche 36: Regional Plan for Fisheries Surveillance in South West Indian Ocean (RPFS)’
Institute for Security Studies, ‘Benin’s Maritime Security Challenges in the Gulf of Guinea’ (Issue 12 West Africa Report May 2015)
International Crisis Group, Report N°181 ‘Implementing Peace and Security Architecture (I): Central Africa’ (International Crisis Group 7 November 2011)
———. Report N°188 ‘Black Gold in the Congo: Threat to Stability or Development Opportunity?’ (International Crisis Group 11 July 2012)
———. Report N°195, *The Gulf of Guinea: The New Danger Zone* (International Crisis Group 12 December 2012)
———. Report N°234 ‘Implementing Peace and Security Architecture (III): West Africa’ (International Crisis Group 14 April 2016)
———. Report N°255 ‘Time to Reset African Union - European Union Relations’ (International Crisis Group 17 October 2017)
Interim Guinea Current Commission, ‘State of the Coastal and Marine Ecosystems in the Guinea Current Large Marine Ecosystem Region’ (Interim Guinea Current Commission August 2010)
International Law Commission, ‘Yearbook of the International Law Commission’ (Document A/3159 II 1956)
International Labour Office, ‘Caught at Sea: Forced Labour and Trafficking in Fisheries’ (International Labour Office May 2013)

International Maritime Organisation, 'Implementing Sustainable Maritime Security Measures in West and Central Africa' (International Maritime Organisation 2014)
INTERPOL, 'Study on Fisheries Crime in the West African Coastal Region' (INTERPOL Environmental Security Sub-Directorate September 2014)
Jackson J, 'Sovereignty - Modern: A New Approach to an Outdated Concept' (2003) 97 American Journal of International Law 782
Jakab A, 'Neutralizing the Sovereignty Question Compromise Strategies in Constitutional Argumentation before European Integration and since' (2006) 2 European Constitutional Law Review 375
Jayakumar S, 'The Issue of the Rights of Landlocked and Geographically Disadvantaged States in the Living Resources of the Economic Zone' (1978) 18 Virginia Journal of International Law 69
Jeong K, 'Diverse Patterns of World and Regional Piracy: Implications of the Recurrent Characteristics' [2018] 10(2) Australian Journal of Maritime & Ocean Affairs 118
Jesus J, 'Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects' (2003) 18 International Journal of Marine & Coastal Law 363
Jimenez-Kwast P, 'Maritime Policing: A Sea of Change? From the Exercise of Sovereignty over Maritime Space towards the Enforcement of the Global Oceans Legal Framework' (The State of Sovereignty Conference Durham 2009)
Jiuyong S, 'The Wang Tieya Lecture in Public International Law: Maritime Delimitation in the Jurisprudence of the International Court of Justice' (2010) Chinese Journal of International Law 271
Johnson S, Baxter C, Bartis J and Long D, 'Promoting International Energy Security Volume 4, The Gulf of Guinea' (Rand Corporation 2012)
Junshik H, 'Challenges on the Ocean and the Future of the Law of the Sea: Environment, Security and Human Rights' (2016) 3(2) Journal of Territorial and Maritime Studies 53
Kao S, 'International Actions against IUU Fishing and the Adoption of National Plans of Action' (2015) 46(1) Ocean Development & International Law 2
Kapil R, 'On the Conflict Potential of Inherited Boundaries in Africa' (1966) 18(4) World Politics 656
Karim S, 'Flag State Responsibility for Maritime Terrorism' (summer-fall 2013) XXXIII (2) SAIS Review 127
Kashubsky M, 'A Chronology of Attacks Onn and Unlawful Interferences With, Offshore Oil and Gas Installations, 1975 – 2010' (2011) 5(5-6) Perspectives on Terrorism 139
Katsouris C and Sayne A, 'Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil' (The Royal Institute of International Affairs 2013)
Kaye S, 'The Use of Multiple Boundaries in Maritime Boundary Delimitation: Law and Practice' (1998) 19 Australian Yearbook of International Law 49
Kébé M and Muir J, 'Achieving Poverty Reduction through Responsible Fisheries – Lessons from West and Central Africa, Fisheries and Aquaculture' (Food and Agriculture Organisation 2008)
Khadiagala GM, 'Global and Regional Mechanisms for Governing the Resource Curse in Africa' (2015) 42 South African Journal of Political Studies 23
Kim S, 'Maritime Security Initiatives in East Asia: Assessment and the Way Forward' (2011) 42(3) Ocean Development & International Law 227
Kinsella S, 'Problems and Process: International Law and How We Use It' (1995) Reason Papers 147
Klein N, 'Provisional Measures and Provisional Arrangements in Maritime Boundary Disputes' (2006) 21 International Journal of Marine & Coastal Law 423

Koh T, ‘A Constitution for the Oceans’: Remarks by Tommy B. Koh, of Singapore President of the Third United Nations Conference on the Law of the Sea’ (6 and 11 December1982 Montego Bay Conference)
Koko S, ‘Warning Whom, for Which Response?’ (2013) 22(2) African Security Review 54
König D, ‘The Enforcement of the International Law of the Sea by Coastal and Port States’ (Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht 2002)
Konings P, ‘The Anglophone Cameroon - Nigeria Boundary: Opportunities and Conflicts’ (2005) 104(415) African Affairs 275
Kopela S, ‘Port-State Jurisdiction, Extraterritoriality, and the Protection of Global Commons’ (2016) 47(2) Ocean Development and International Law 89
Kornprobst M, ‘The Management of Border Disputes in African Regional Sub-Systems: Comparing West Africa and the Horn of Africa’ (2002) 40(3) Journal of Modern African Studies 369
Kontorovich E and Art S, ‘An Empirical Examination of Universal Jurisdiction for Piracy’ (2010) 104 AJIL 436
Koskenniemi M, ‘What Use for Sovereignty Today?’ (2011) 1 Asian Journal of International Law 61
Kraska J, ‘Sovereignty at Sea’ (2009) 51 Survival 13
———. ‘Tyrants, Terrorists, and Traffickers in the Ungoverned Oceans’ (2016) 36 SAIS Review 87
Krasner S, ‘The Hole in the Whole: Sovereignty, Shared Sovereignty, and International Law’ (2004) 25(4) Michigan Journal of International Law 1075
———. ‘The Case for Shared Sovereignty’ (2005) 16(1) Journal of Democracy 69
Kwiatkowska B, ‘Marine Affairs Institutional Cooperation in Africa-Prospects for Change’ (1991) 3 African Journal of International and Comparative Law 445
de la Lafayette L, ‘International Tribunal for the Law of the Sea - The M/V Saiga (No.2) Case, (St. Vincent and the Grenadines v. Guinea), Judgement’ (2000) 49 International & Comparative Law Quarterly 467
Le Gallic B and Cox A, ‘An Economic Analysis of Illegal, Unreported and Unregulated (IUU) Fishing: Key Drivers and Possible Solutions’ (2006) 30 Marine Policy 689
Le Manach F, Chaboud C, Copeland D, Cury P, Gascuel D, Kleisner K, Standing A, Rashid Sumaila U, Zeller D and Pauly D, ‘European Union’s Public Fishing Access Agreements in Developing Countries’ (2013) 8 (11) PLoS One
Le Sage A, ‘Africa’s Irregular Security Threats: Challenges for U.S. Engagement’ (Strategic Forum No 255 Institute for National Strategic Studies, National Defense University, May 2010)
Leijenaar A, ‘Africa Should Wake up to the Importance of an Integrated Maritime Strategy’ (Institute for Security Studies 2012)
Lindley J and Techera E, ‘Overcoming Complexity in Illegal, Unregulated and Unreported Fishing to Achieve Effective Regulatory Pluralism’ (2017) 81 Marine Policy 71
Lindskov Jacobsen K and Nordby J, ‘Maritime Security in the Gulf of Guinea’ (Royal Danish Defence College Publishing House 2015)
Linos K, ‘How to Select and Develop International Law Case Studies: Lessons from Comparative Law and Comparative Politics’ (2015) 109 American Journal of International Law 475
Lipson C, ‘International Cooperation in Economic and Security Affairs’ (1984) 37(1) World Politics 1
Lizstwan J, ‘Stability of Maritime Boundary Agreements’ (2012) 37(1) The Yale Journal of International Law 153
Liwång H, ‘Piracy off West Africa from 2010 to 2014: An Analysis’ (2017) 16 WMU Journal of Maritime Affairs 385

Lorca B, 'Harmonisation of National Criminal Laws on Maritime Piracy: A Regulatory Proposal for the Crime of Piracy and Its Penalties' (2017) 23(2) European Journal on Criminal Policy and Research 115
Luntumbue M, 'The Long March of African Maritime Safety and Security in the Gulf of Guinea' (Diplomatie Magazine October 2016)
Lux-Development SA Landell Mills Ltd Altair Asesores SA Alpha Marine, 'International and Regional Fisheries Agreements and Organisation in the SADC Region Legal Assessment and Review' (Working Paper No 49 April 2006)
Macdonald M, 'Securitisation and the Construction of Security' (2008) 14(4) European Journal of International Relations 563
Magsig B, 'From State Centrism to Cooperative Sovereignty: Water Security and the Future of International Law' (Global Water Forum Discussion Paper 1347 December 2013)
Mañe D, 'Emergence of the Gulf of Guinea in the Global Economy: Prospects and Challenges' (IMF Working Paper WP/05/235 2005)
Manning P, 'Final Technical Report: Support to the Implementation of the FCWC Regional Plan of Action on IUU Fishing Region: West Central Gulf of Guinea Countries: Benin, Côte d'Ivoire, Ghana, Liberia, Nigeria and Togo' (ACP Fish II and European Union 30 May 2011)
Marcella G, 'The International Community and Haiti: A Proposal for Cooperative Sovereignty' (Future of Democracy and Development in Haiti national/international symposium 2005)
Marine Resources Assessment Group Ltd, 'Review of Impacts of Illegal, Unreported and Unregulated Fishing on Developing Countries: Final Report' (July 2005)
Maritime Trade Information Sharing Centre Gulf of Guinea (MTISCGOG), 'Maritime Security Guidance: For Vessels and Mariners Operating off the Coast of West Africa' (March 2015)
McCorquodale R and Pangalangan R, 'Pushing Back the Limitations of Territorial Boundaries' (2001) 12(5) European Journal of International Law 867
McDonald M, 'Securitisation and the Construction of Security' (2008) 14(4) European Journal of International Relations 563
McCue J and Pratt M, 'Evaluation of Commonwealth Secretariat Programme of Technical Assistance on Maritime Boundary Delimitation 2003/04 - 2008/09' (Evaluation Series No 87 Commonwealth Secretariat June 2010)
Mendelson M, 'The Curious Case of Qatar v. Bahrain in the International Court of Justice' (2002) 72(1) British Yearbook of International Law 183
Meron T, 'Common Rights of Mankind in Gentili, Grotius and Suarez' (1991) 85 American Journal of International Law 110
Meyer A, 'Regional Conflict Management in Central Africa: From FOMUC to MICOPAX' (2009) 29(2-3) African Security 158
Meyer T, 'Shifting Sands: Power, Uncertainty and the Form of International Legal Cooperation' (ESIL Conference Paper 14/2014)
Middleton R, 'Pirates and How to Deal With Them' [2009] Africa Programme/International Law Briefing Note: AFP/IL BN 2009/01
Miles E and Burke W, 'Pressures on the United Nations Convention on the Law of the Sea of 1982 Arising from New Fisheries Conflicts: The Problem of Straddling Stocks' (1989) 20 Ocean Development and International Law 343
Miller D and Rashid Sumaila U, 'Flag Use Behavior and IUU Activity within the International Fishing Fleet: Refining Definitions and Identifying Areas of Concern' (2014) 44 Marine Policy 204
Ministry of Foreign Affairs, 'Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines' (7 December 2014)

Miyoshi M, ‘Sovereignty and International Law’ (20th anniversary of the founding of the International Boundaries Research Unit Conference, 1-3 April 2009, Durham 2009)
Molenaar E, ‘The Concept of “Real Interest” and Other Aspects of Co-Operation through Regional Fisheries Management Mechanisms’ (2000) 15 International Journal of Marine and Coastal Law 475
———. ‘Non-Participation in the Fish Stocks Agreement: Status and Reasons’ (2011) 26 International Journal of Marine and Coastal Law 195
Morgan AL, ‘The new law of the sea: Rethinking the implications for sovereign jurisdiction and freedom of action’ (1996) 27(1-2) Ocean Development and International Law 5
Mukherjee PK, ‘The ISM Code and the ISPS Code: A Critical Legal Analysis of Two SOLAS Regimes’ (2007) 6 WMU Journal of Maritime Affairs 147
Mugridge D, ‘Malaise or Farce - The International Failure of Maritime Security’ (2009) 25(3) Defense & Security Analysis 305
Munya M, ‘The International Court of Justice and Peaceful Settlement of African Disputes: Problems, Challenges and Prospects’ (1998) 7 Journal of International Law and Practice 159
Murphy M, ‘Petro-Piracy: Oil and Troubled Waters’ (Foreign Policy Research Institute 2013)
———. ‘The Troubled Waters of Africa: Piracy in the African Littoral’ (2011) 2(1) The Journal of the Middle East and Africa 65
———. ‘International Cooperation against Piracy: China’s Role, Problems, and Prospects’ (2012) 11 WMU Journal of Maritime Affairs 71
Musah A, ‘West Africa: Governance and Security in a Changing Region’ (Africa Program Working Paper Series International Peace Institute February 2009)
Nagan W, ‘The Crisis of the Existing Global Paradigm of Governance and Political Economy’ (2014) 2(2) CADMUS 52
Nanda V, ‘Maritime Piracy: How Can International Law and Policy Address This Growing Global Menace’ (2009) 39 Denver Journal of International Law & Policy 177
Ncube M and Baker M, ‘Beyond Pirates and Drugs: Unlocking Africa’s Maritime Potential and Economic Development’ (2011) 20(1) African Security Review 60
Ndiaye T, ‘Illegal, Unreported and Unregulated Fishing: Responses in General and in West Africa’ (2011) 10 Chinese Journal of International Law 373
NEPAD and Fish for All, ‘The NEPAD Action Plan for the Development of African Fisheries and Aquaculture’ (NEPAD - Fish For All Summit 23 August 2005)
Nordenfjeldske Development Services, ‘Gap Analysis of National and Regional Fisheries and Aquaculture Priorities and Initiatives in Western and Central Africa in Respect to Climate Change and Disasters’ (Fisheries and Aquaculture Circular No. 1094 Food and Agriculture Organisation 2014)
Norheim-Martinsen P, ‘Our Work Here Is Done: European Union Peacekeeping in Africa’ (2011) 20(2) African Security Review 17
Noyes J, ‘The Common Heritage of Mankind: Past, Present, and Future’ (2012) 40 Denver Journal of International Law and Policy 447
Nting RT, ‘The Scramble for Mineral Resources in Cameroon: How Can the Government Learn from Previous Conflicts and Social Responsibility Failures?’ (2009) 18 African Security Studies 107
Nwokedi E, ‘Sub-Regional Security and Nigerian Foreign Policy’ (1985) 84 (335) African Affairs 195
Obi C, ‘Nigeria’s Foreign Policy and Transnational Security Challenges in West Africa’ (2008) 26(2) Journal of Contemporary African Studies 183
Oceans Beyond Piracy, ‘The State of Maritime Piracy 2014’ (One Earth Future Foundation 2014)
———. ‘The State of Maritime Piracy 2015’ (One Earth Future Foundation 2015)
———. ‘The State of Maritime Piracy 2016’ (One Earth Future Foundation 2016)

Oduntan G, ‘How International Courts Underdeveloped International Law: Political, Economic and Structural Failings of International Adjudication in Relation to Developing States’ (2005) 13(2) African Journal of International and Comparative Law 262
———. ‘Repartitioning of Africa: Imperatives of the African Union Boundary Programme within Contemporary International Law and Practice’ (2011) 1(1) African Journal of Law and Criminology 140
———. ‘The Emergent Legal Regime for Exploration of Hydrocarbons in the Gulf of Guinea: Imperative Considerations for Participating States and Multinationals’ (2008) 57 International & Comparative Law Quarterly 253
The Organisation for Economic Co-operation and Development, ‘Illicit Financial Flows: The Economy of Illicit Trade in West Africa’ (OECD 2018)
Ogunnubi O and Okeke-Uzodike U, ‘Can Nigeria Be Africa’s Hegemon?’ (2016) 25(2) African Security Review 110
Oliveira G, ‘New Wars’ at Sea : A Critical Transformative Approach to the Political Economy of Somali Piracy’ (2013) 44 (1) Security Dialogue 3
Olsen G, ‘The EU and Military Conflict Management in Africa: For the Good of Africa or Europe’ (2009) 16(2) International Peacekeeping 245
One Earth Future Foundation, ‘The Economic Cost of Maritime Piracy’ (One Earth Future Foundation December 2010)
Onuoha F, ‘Oil Pipeline Sabotage in Nigeria: Dimensions, Actors and Implications for National Security’ (2008) 17(3) African Security Review 99
———. ‘The Geo-Strategy of Oil in the Gulf of Guinea: Implications for Regional Stability’ (2010) 45(3) Journal of Asian and African Studies 369
———. ‘Piracy and Maritime Security in the Gulf of Guinea: Nigeria as a Microcosm’ (Al Jazeera Centre for Studies 2012)
Osei-Tutu J, ‘Lowering the Anchor on Maritime Insecurity along the Gulf of Guinea: Lessons from Operation Prosperity’ (Policy Brief 11/2013 Kofi Annan International Peacekeeping Training Centre 2013)
Osinowo A, ‘Combating Piracy in the Gulf of Guinea’ (Africa Security Brief No 30 February 2015)
Otto L, ‘Over-Promise, Under-Deliver: The Disappointment of the Lomé Charter’ (Centre for Trust, Peace & Social Relations 14 November 2016)
Oude Elferink A, ‘The Influence of Provisional Arrangements on Negotiations on the Delimitation of Maritime Boundaries’ (1993) IBRU Boundary and Security Bulletin 92
Ovchar A, ‘Estoppel in the Jurisprudence of the ICJ A Principle Promoting Stability Threatens to Undermine It’ (2009) 21(1) Bond Law Review Article 5
Oyewole S, ‘Suppressing Maritime Piracy in the Gulf of Guinea: The Prospects and Challenges of the Regional Players’ (2016) 8 Australian Journal of Maritime & Ocean Affairs 132
Papaioannou M, ‘The EU-Africa Partnership in the Fight against IUU Fishing’ (2016) 24 African Journal of International and Comparative Law 158
Pardo A, ‘Address to the 22nd Session of the General Assembly of the United Nations’ (U.N. GAOR, 22nd sess., U.N. Doc. A/6695 18 August 1967)
Paterson P, ‘Maritime Security in the Gulf of Guinea’ (2007) 45 Joint Forces Quarterly 1
Patton M, ‘Enhancing the Quality and Credibility of Qualitative Analysis’ (1999) 34(5) Health Services Research 1189
Peppetti J, ‘Building the Global Maritime Security Network: A Multinational Legal Structure to Combat Transnational Threats’ (2008) 55 Naval Law Review 73
Percy S, ‘Maritime Crime and Naval Response’ (2016) 58 Survival 155
Percy S and Shortland A, ‘The Business of Piracy in Somalia’ 2013 36(4) Journal of Strategic Studies 541

Phelps Bondaroff T, 'The Illegal Fishing and Organized Crime Nexus: Illegal Fishing as Transnational Organised Crime' (The Global Initiative against Transnational Organised Crime and The Black Fish April 2015)
Poling G and Cronin C, 'Illegal, Unreported and Unregulated Fishing as a National Security Threat' (Centre for Strategic and International Studies in cooperation with National Geographic Pristine Seas November 2017)
Pomeroy R, Parks J, Mrakovcich K and Lamonica C, 'Drivers and Impacts of Fisheries Scarcity, Competition, and Conflict on Maritime Security' (2016) 67 Marine Policy 94
Posner E and Sykes A, 'Economic Foundations of the Law of the Sea' (2010) 104 American Journal of International Law 569
Power J, 'Maritime Terrorism: A New Challenge for National and International Security' (2008) 10 Barry Law Review 111
Puller A, 'Fisheries, Forests and the Common Heritage of Mankind' (2013) NZ Public International Law Journal 2
Rahman C, 'Concepts of Maritime Security: A Strategic Perspective on Alternative Visions for Good Order and Security at Sea, with Policy Implications for New Zealand' (Centre for Strategic Studies: New Zealand Victoria University of Wellington 2009)
Raidt J and Smith K, 'Advancing U.S., African, and Global Interests: Security and Stability in the West African Maritime Domain' (Atlantic Council 2010)
Rao P, 'Managing Africa's Maritime Domain: Issues and Challenges' (2014) 10(1) Journal of the Indian Ocean Region 113
Rashid Sumaila U, Bellman C and Tipping A, 'Fishing for the Future: An Overview of Challenges and Opportunities' (2016) 69 Marine Policy 173
Riddle K, 'Illegal, Unreported and Unregulated Fishing: Is International Cooperation Contagious?' (2006) 37 Ocean Development & International Law 265
Rider F, 'Gulf of Guinea Reporting Procedures & the Maritime Trade Information Sharing Centre' (SAMI Conference presentation, London 31 March 2015)
Rinkel S, 'Piracy and Maritime Crime in the Gulf of Guinea: Experience-Based Analyses of the Situation and Policy Recommendations' (2015) Kieler Analysen Zur Sicherheitspolitik Nr 41
Roach A, 'Countering Piracy off Somalia: International Law and International Institutions' (2010) 104 American Journal of International Law 397
Robert P, 'Evaluation of the Conflict Prevention Pools Strengthening the United Nations' (Department for International Development 2004)
Rochette J, Billé R, Molenaar E, Drankier P and Chabason L, 'Regional Oceans Governance Mechanisms: A Review' (2015) 60 Marine Policy 9
van Rooyen F, 'Africa's Maritime Dimension: Unlocking and Securing the Potential of Its Seas – Interventions and Opportunities' (2007) 16(2) African Security Review 109
Rose G and Tsamenyi M, 'Universalising Jurisdiction over Marine Living Resources Crime' (University of Wollongong Australian Centre for Ocean Resources and Security October 2013)
Rosello M, 'Cooperation and unregulated fishing: interactions between customary international law, and the European Union IUU fishing regulation' (2017) 84 Marine Policy 306
Rothwell D, 'Legal Challenges for Maritime Operations in the Southern Ocean' (2014) 28 Ocean Yearbook 423
Rubin M, 'The Promise of the Gulf of Guinea' (AEI 25 October 2015)
SAMI, 'Briefing: Maritime Trade Information Sharing Centre - Gulf of Guinea, May 2014' (The Security Association for the Maritime Industry 2014)
Samuelson P, 'Good Legal Writing: Of Orwell and Window Panes' (1984) 46 University of Pittsburgh Law Review 149

Sand PH, ‘Sovereignty Bounded: Public Trusteeship for Common Pool Resources?’ (2004) 4 Global Environmental Politics 47
Sarkin J, ‘The Role of the United Nations, the African Union and Africa’s Sub-Regional Organizations in Dealing with Africa’s Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect’ (2009) 53(1) Journal of African Law 1
Sartre P, ‘Responding to Insecurity in the Gulf of Guinea’ (International Peace Institute 2014)
Sawadogo W, ‘The Challenges of Transnational Human Trafficking in West Africa’ (2012) 13(1-2) African Studies Quarterly 95
Schatz V, ‘The Contribution of Fisheries Access Agreements to Flag State Responsibility’ (2017) 84 Marine Policy 313
Schofield C, ‘Parting the Waves: Claims to Maritime Jurisdiction and the Division of Ocean Space’ (2012) 1(1) Penn State Journal of Law and International Affairs 40
Schofield C, Tsamenyi M and Palma M, ‘Securing Maritime Australia: Developments in Maritime Surveillance and Security’ (2008) 39 Ocean Development & International Law 94
Schrijver N, ‘Self-Determination of Peoples and Sovereignty over Natural Wealth and Resources’ in United Nations Office of the High Commissioner for Human Rights, *Realizing The Right to Development* (United Nations 2013)
Secretary General of the United Nations, ‘Report of the Secretary-General on Oceans and the Law of the Sea’ (United Nations 10 March 2008)
Seligny J, ‘The Marine Living Resources and the Evolving Law of the Sea’ (2010) 1 Aegean Review of the Law of the Sea 61
Shaffer G and Pollack M, ‘Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance’ (2010) 94 Minnesota Law Review 706
Slaughter A, Tulumello A and Wood S, ‘International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship’ (1998) 92 American Journal of International Law 367
Sohn K, ‘The Global Fleet Station A Powerful Tool for Preventing Conflict’ (2009) 62 (1) Naval War College Review Article 5
Standing A, ‘Africa Security Brief: Criminality in Africa’s Fishing Industry: A Threat to Human Security’ (Africa Center for Strategic Studies June 2017)
Steinbach A, ‘Cooperation in Maritime Security and the Sovereignty Implications’ (2008) 14 The Journal of International Maritime Law 339
Steinberg R, ‘Who Is Sovereign’ (2004) 40(2) Stanford Journal of International Law 329
Stephens T and Rothwell D, ‘The LOSC Framework for Maritime Jurisdiction and Enforcement 30 Years on’ (2012) 27 International Journal of Marine & Coastal Law 701
Sterio M, ‘A Grotian Moment: Changes in the Legal Theory of Statehood’ (2011) 39 Denver Journal of International Law & Policy 209
Stevenson D, ‘Piracy in West Africa’ Maritime Security Review (10 October 2014)
Stop Illegal Fishing, Trygg Mat Tracking, FCWC Secretariat and NFDS, ‘The West Africa Task Force: Cooperation. Collaboration. Communication’ (Stop Illegal Fishing Botswana 2017)
Styan D, ‘All at Sea? Maritime Dimensions of Europe’s Relations with Africa’ (2016) 8(2) Insight on Africa 112
Swanepoel E, ‘The Nexus between Prosperity in the African Maritime Domain and Maritime Security’ (South African Institute of International Affairs June 2017)
Tanaka Y, ‘Zonal and Integrated Management Approaches to Ocean Governance: Reflections on a Dual Approach in International Law of the Sea’ (2004) 14(4) International Journal of Marine and Coastal Law 483
———. ‘The Changing Approaches to Conservation of Marine Living Resources in International Law’ (2011) 71 ZaoRV 291

———. ‘Reflections on Arctic Maritime Delimitations: A Comparative Analysis between the Case Law and State Practice’ (2011) 80 Nordic Journal of International Law 459
Tanja G, ‘The Contribution of West African States to the Legal Development of Maritime Delimitation Law’ (1991) 4(1) Leiden Journal of International Law 21
Tavares R, ‘Regional Clustering of Peace and Security’ (2009) 21(2) Global Change, Peace & Security: Formerly Pacifica Review: Peace, Security & Global Change 153
Telesetsky A, ‘Laundering Fish in the Global Undercurrents: Illegal, Unreported and Unregulated Fishing and Transnational Organised Crime’ (2014) 41 Ecology Law Quarterly 939
Tella O, ‘AFRICOM: Hard or Soft Power Initiative’ (2016) 25(4) African Security Review 393
The Royal Institute of International Affairs, ‘Maritime Security in the Gulf of Guinea: Report of the Conference Held at Chatham House, London’ (The Royal Institute of International Affairs March 2013)
The Stanley Foundation, ‘Capturing the 21st Century Security Agenda : Prospects for Collective Responses’ (Muscatine: The Stanley Foundation 2004)
Theilen J, ‘What’s in a Name? The Illegality of Illegal, Unreported and Unregulated Fishing’ (2013) 28 The International Journal of Marine and Coastal Law 533
Thompson W, ‘The Regional Subsystem: A Conceptual Explication and a Propositional Inventory’ (1973) 17(1) International Studies Quarterly 89
Trelawny C, ‘The Naval Contribution to Sustainable Development in West and Central Africa’ (2007) 152(5) The RUSI Journal 70
———. ‘Maritime Security Beyond Military Operations’ (2013) 158 The RUSI Journal 48
Treves T, ‘The Legal Nature of Coastal States’ Rights in the Maritime Areas under UNCLOS’ (Tokyo Ministry of Foreign Affairs 2015)
———. 1958 Geneva Conventions on the Law of the Sea’ (United Nations Audiovisual Library of International Law)
———. ‘Piracy, Law of the Sea, and Use of Force: Developments off the Coast of Somalia’ (2009) 20 (2) European Journal of International Law 399
Trouillet, B, Guineberteau T, Bernardon M, and Le Roux S, ‘Key Challenges for Maritime Governance in West Africa: Fishery-Based Lessons from Guinea and Mauritania’ (2011) 35 Marine Policy 155
Tsamenyi M, Palma M, Milligan B and Mfodwo K, ‘Development Impact of the Council Regulation Establishing a European Community System to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing on Commonwealth ACP Member Countries’ (Commonwealth Secretariat November 2008)
Tuerk H, ‘Combating Terrorism at Sea -- The Suppression of Unlawful Acts against the Safety of Maritime Navigation’ (2008) 15 University of Miami International & Comparative Law Review 337
Ugwuanyi C, ‘Does the Use of Joint Development Agreements Bar International Maritime Boundaries Delimitation?’ (2011) 1 Dublin Legal Review Quarterly 28
Ukeje C, ‘The Abuja Declaration and the Challenge of Implementing a Maritime Security Strategy in the Gulf of Guinea and the South Atlantic’ (2015) 11(2) Journal of the Indian Ocean Region 220
Ukeje C and Mvomo Ela W, ‘African Approaches to Maritime Security - The Gulf of Guinea’ (Freidrich-Ebert-Stiftung 2013)
Ukwe C, Ibe C and Sherman K, ‘A Sixteen-Country Mobilization for Sustainable Fisheries in the Guinea Current Large Marine Ecosystem’ (2009) 49(7-8) Ocean & Coastal Management 385
United Nations, Workshop on the Role of Border Problems in African Peace and Security: A Research Project (United Nations 1993)

United Nations General Assembly, 'Recommendation to the International Law Commission to Include the Regime of Territorial Waters in Its List of Topics to Be given Priority' (United Nations 6 December 1949)
United Nations Office on Drugs and Crime, 'Global Maritime Crime Programme: Annual Report 2015'. (United Nations 2015)
———. 'Global Maritime Crime Programme Annual Report 2016' (United Nations 2016)
———. 'World Drug Report 2016' (United Nations 2016)
———. 'World Drug Report 2017' (United Nations 2017)
———. 'Regional Programme for West Africa 2016-2020 In Support of the Economic Community of West African States (ECOWAS) Action Plan to Address Illicit Drug Trafficking, Organized Crime and Drug Abuse in West Africa 2016-2020' (United Nations 2016)
———. 'The Role of Organised Crime in the Smuggling of Migrants from West Africa to Europe' (United Nations 2011)
———. 'Transnational Trafficking and the Rule of Law in West Africa: A Threat Assessment' (United Nations Office on Drugs and Crime February 2013)
United Nations Security Council. 'Report of the United Nations Assessment Mission on Piracy in the Gulf of Guinea (7 to 24 November 2011)' (S/2012/45 19 January 2012)
United States Bureau of International Narcotics and Law Department of State, Enforcement, Department of Defense's Africa Center for Strategic Studies, and U.S. Africa Command, 'Gulf of Guinea Maritime Security and Criminal Justice Primer' (United Nations 2015)
Ventura V, 'Tackling Illegal, Unregulated and Unreported Fishing: The ITLOS Advisory Opinion on Flag State Responsibility for IUU Fishing and the Principle of Due Diligence' (2015) 12 Brazilian Journal of International Law 50
Vines A, 'A Decade of African Peace and Security Architecture' (2013) 89(1) International Affairs 89
Vines A, 'The Scramble for Resources: African Case Studies' (2013) 13 South African Journal of International Affairs 63
Vinuales J, 'The Contribution of the International Court of Justice to the Development of International Environmental Law: A Contemporary Assessment' (2009) 32(1) Fordham International Law Review 232
Vogel A, 'Navies versus Coast Guards: Defining the Roles of African Maritime Security Forces' (Africa Security Brief 2 December 2009)
Voyer M and others, 'Maritime Security and the Blue Economy: Intersections and Interdependencies in the Indian Ocean' (2018) 14 Journal of the Indian Ocean Region 28
Vreÿ F, 'Securitising Piracy' (2011) 20 African Security Review 54
———. 'Turning the Tide: Revisiting African Maritime Security' (2013) 41(2) Scientia Militaria, South African Journal of Military Studies 1
———. 'Maritime Insecurity in the Gulf of Guinea: Threats, Vulnerabilities and Opportunities' (How we made it in Africa 28 September 2016)
———. 'Maritime Aspects of Illegal Oil-Bunkering in the Niger Delta' (2012) 4(4) Australian Journal of Maritime & Ocean Affairs 109
Walker T, 'Maritime security in West Africa: aiming for long term solutions' (2013) 22(2) African Security Review 85
———. 'Fewer Pirates, Different Risks: Africa Needs to Rethink Its Approach to Maritime Security' (Institute for Security Studies 10 March 2014)
———. 'Why Africa Must Resolve Its Maritime Boundary Disputes' (Institute for Security Studies October 2015)
———. 'Reviving the AU's Maritime Strategy' (ISS Policy Brief 96 February 2017)
Walt S, 'The Renaissance of Security Studies' (1991) 35(2) International Studies Quarterly 211

Wambua P, ‘Enhancing Regional Maritime Cooperation in Africa: The Planned End State’ (2009) 18(3) African Security Review 45
Wannenburg G, ‘Organised Crime in West Africa’ (2005) 14(4) African Security Review 5
Warner R, ‘Jurisdictional Issues for Navies Involved in Enforcing Multilateral Regimes Beyond National Jurisdiction’ (1999) 14 The International Journal of Marine and Coastal Law 321
Williams P, ‘Reflections on the Evolving African Peace and Security Architecture’ (2014) 7(3) African Security 147
Williams P and Haacke J, ‘Security Culture, Transnational Challenges and the Economic Community of West African States’ (2008) 26(2) Journal of Contemporary African Studies 119
Williams P and Pressly L, ‘Maritime Piracy: A Sustainable Global Solution’ (2013) 46 Case Western Reserve Journal of International Law 177
Witbooi E, ‘Illegal, Unreported and Unregulated Fishing on the High Seas: The Port State Measures Agreement in Context’ (2014) 29 International Journal of Marine & Coastal Law 290
Woldeyesa Y, ‘An East African Perspective for Paradigm Shift on Maritime Security in the Indian Ocean Region’ (2015) 11(1) Journal of the Indian Ocean Region 121
World Bank, ‘The Journey from Arusha to Seychelles: Successes and Failures of Integrated Coastal Zone Management in Eastern Africa and Island States, Proceedings of the Second Policy Conference on Integrated Coastal Zone Management in Eastern Africa and Island States, Seychelles, 23-25 October, 1996’ (World Bank Land, Water and Natural Habitats Division Environmental Department 1996)
Yates D, ‘The Scramble for African Oil’ (2006) 13 South African Journal of International Affairs 11
Yakovenko M, ‘The Challenge of Stability and Security in West Africa’ (2016) 25(1) African Security Review 25 104
Yohannes O, ‘America’s New Frontier: Oil in the Gulf of Guinea’ (2003) 33 The Black Scholar 2
Zems M, ‘The Challenges of Deploying Criminal Intelligence in Maritime Security in the Gulf of Guinea’ (2015) 20(4) IOSR Journal of Humanities and Social Science 49
Zumbasen P, ‘Defining the Space of Transnational Law: Legal Theory, Global Governance & Legal Pluralism’ (2012) 21(2) Transnational Law and Contemporary Problems 305
Zwolski K, ‘The EU as an International Security Actor after Lisbon: Finally a Green Light for a Holistic Approach?’ (2012) 47(1) Cooperation and Conflict 68

Theses

Bessing G, ‘Analysis of Regional and Multinational Security Cooperation to Address the Maritime Security Challenges in the Gulf of Guinea’ (University of Ghana 2016)
Iheme C, ‘Security Challenges in the Gulf Of Guinea Sub-Region: Strategy for Nigeria’ (Naval Postgraduate School 2008
Metogo G, ‘Security and Stability in the Gulf of Guinea’ (U.S. Army War College 2006)
Moseley A, ‘The Implementation of International Maritime Security Instruments in CARICOM States’ (Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, the United Nations New York 2009)
Shafa B, ‘Maritime Security in the Gulf of Guinea Subregion: Threats, Challenges and Solutions’ (US Army War College 2011)
Sullivan J, ‘Maritime Piracy in the Gulf of Guinea, Regional Challenges and Solutions’ (Naval War College 2012)

Witbooi E, ‘A Legal Critique of the European Union’s Bilateral Fisheries Agreements with Developing Countries in West Africa with Particular Reference to Sustainability’ University College London 2008)

Other Sources

Abidjan Convention Secretariat, ‘Time for Blue Economies in Africa, Abidjan Convention Executive Secretary Says’ (Press Release 28 March 2017) <https://www.abidjanconvention.org/index.php?option=com_content&view=article&id=298%3Atime-for-blue-economies-in-africa-abidjan-convention-executive-secretary-says&catid=39%3Apress-releases-and-speeches&Itemid=209&lang=en> accessed 18 July 2017

Adamopoulos A, ‘Piracy Activity in Gulf of Guinea Soars’ (27 February 2018) <https://lloydslist.maritimeintelligence.informa.com/LL1121582/Piracy-activity-in-Gulf-of-Guinea-soars> accessed 28 February 2018

Africa Oil + Gas Report, ‘Ghana, Exxon Mobil Sign Petroleum Agreement Tomorrow’ (16 January 2018) <http://africaoilgasreport.com/2018/01/farm-in-farm-out/ghana-exxonmobil-sign-petroleum-agreement-tomorrow/> accessed 22 January 2018

African Maritime Safety and Security Agency, ‘Maritime Organisation for West and Central Africa’. http://www.amssa.net/framework/MOWCA.aspx (Accessed 19 December 2017)

‘African Security Summit’ https://afsec.iqpc.co.uk/ (Accessed 8 March 2018)

African Union, ‘22nd Ordinary Session of the African Union Assembly Concludes: A Summary of Key Decisions. PRESS RELEASE Nº37/AU SUMMIT 31 January 2014’ <https://au.int/en/newsevents/29224/22nd-ordinary-session-african-union-assembly-concludes-summary-key-decisions> accessed 10 July 2017

———. ‘Press Release Expert Workshop Meeting on Annex to the African Union Lomé Charter’ (20 January 2017) <https://au.int/sites/default/files/pressreleases/32031-pr-martime_pr_2_1.pdf> accessed 02 July 2017

———. ‘The African Standby Force (ASF)’ (28 May 2015) <http://www.peaceau.org/en/page/82-african-standby-force-asf-amani-africa-1> accessed 12 June 2017

———. ‘The Continental Early Warning System (CEWS)’ <http://www.peaceau.org/en/page/28-continental-early-warning> accessed 12 June 2017

Aklorbortu D,’Human trafficking in Gulf of Guinea - Marine Police intercepts boat’ (07 March 2018) <https://www.graphic.com.gh/news/general-news/human-trafficking-in-gulf-of-guinea-marine-police-intercepts-boat.html> accessed 07 March 2018

‘Angola: Conference On Maritime, Energy Security Starts Thursday’ (7 October 2015) <http://allafrica.com/stories/201510080283.html> accessed 01 December 2015

Australian Broadcasting Corporation, ‘West African Pirates Taking Hostages for Ransom as Oil Prices Tank’ (20 February 2018) <http://home.nzcity.co.nz/news/article.aspx?id=264294&ref=rss> accessed 28 February 2018

Baidoo-Tsibu G, ‘Fisheries Sector Transformation Saves Ghana’s Oil & Gas Industry’ (8 December 2017) <http://citifmonline.com/2017/12/18/fisheries-sector-transformation-saves-ghanas-oil-gas-industry-article> accessed 23 December 2017

Bauldry J, ‘Pirates Attack Tanker Flying Lux Flag’ (27 February 2018) <http://delano.lu/d/detail/news/pirates-attack-tanker-flying-lux-flag/171195> accessed 28 February 2018

Bergman J, ‘Gulf of Guinea Piracy Evolving, Crew on Moving Vessels ‘easiest Targets’’ (27 February 2018) <http://www.tankershipping.com/news/view,gulf-of-guinea-piracy-evolving-crew-on-moving-vessels-easiest-targets_50933.htm> accessed 28 February 2018

Brooke J, ‘Waste Dumpers Turning to West Africa’ *New York Times* (New York, 17 July 1988) <http://www.nytimes.com/1988/07/17/world/waste-dumpers-turning-to-west-africa.html?pagewanted=all> accessed 01 March 2015

Budd Group, ‘GoGIN: Maritime Security in the Gulf of Guinea’ (8 November 2016) <www.budd-pni.com/news-art-the-budd-group.asp?ID_A=1310> accessed 03 December 2016

‘Cameroon: African Countries Call for China to Stop Illegal Fishing’ (20 January 2016) <https://www.fcwc-fish.org/publications/news-from-the-region/778-cameroon-african-countries-call-for-china-to-stop-illegal-fishing.html> accessed 01 March 2018

Centre for International Maritime Security, ‘What is International Maritime Security?’ (8 September 2012) <http://cimsec.org/what-is-international-maritime-security/2698> accessed 20 October 2014

Central Intelligence Agency, ‘The World Factbook: Equatorial Guinea’ https://www.cia.gov/library/publications/the-world-factbook/geos/print_ek.html (Accessed 18 January 2018)

Chambers S, ‘Gulf of Guinea Interregional Network launches to fight crime at sea’ (8 June 2017) <Splash247.com/gulf-guinea-interregional-network-launches-fight-crime-sea/> accessed 10 June 2017

Cham K, ‘Sierra Leone, Guinea Strike Crucial Maritime Boundary Deal’ (*Africa Review* March 2012) <http://www.africareview.com/business-finance/979184-1375812-cmtubhz/index.html> accessed 01 March 2015

DefenceWeb, ‘China to assist Gulf of Guinea fight piracy’ (05 August 2016) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=44607:china-to-assist-gulf-of-guinea-fight-piracy&catid=108:maritime-security&Itemid=233> accessed 04 September 2016

Citifmonline, ‘Oil tanker with 22 Indian crewmen missing off Benin’ (4 February 2018) <http://citifmonline.com/2018/02/04/oil-tanker-22-indian-crewmen-missing-off-benin/> accessed 28 February 2018

Clough G and Schommer T, ‘West Africa Information Sharing’ <http://oceansbeyondpiracy.org/publications/west-africa-information-sharin/> Accessed 18 January 2018

Commission on Crime Prevention and Criminal Justice, ‘Outcome of the 2nd International Symposium on Fisheries Crime, 10-11 October 2016, Yogyakarta, Indonesia’ (2017) E/CN.15/2017/CRP.3

Council of the European Union, ‘EU Strategy on the Gulf of Guinea’ Foreign Affairs Council meeting Brussels (17 March 2014) <www.consilium.europa.eu/media/28730/141590.pdf>

———. ‘Council Conclusions on the Gulf of Guinea Action Plan 2015-2020’, (16 March 2015) < http://www.consilium.europa.eu/en/press/press-releases/2015/03/16/council-conclusions-gulf-guinea-action-plan-2015-2020/>

Dahir A, ‘West Africa Loses over $2 Billion to Illegal Fishing Because Governments Don’t Talk to Eachother’ (*Quartz Africa*, 8 May 2017) < https://qz.com/978203/illegal-fishing-costs-west-africa-2-3-billion-annually-and-collaboration-between-governments-is-the-only-way-to-stop-it/> accessed 10 May 2017

Dauda O, ‘Buhari hands over maritime security to Israel’ (31 October 2017) <http://thenationonlineng.net/buhari-hands-maritime-security-israel/> accessed 23 December 2017

DefenceWeb, 'Benin Acquires three new coastal patrol craft' accessed 03 April 2012 <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=24743:benin-acquires-three-new-coastal-patrol-craft&catid=108:maritime-security&Itemid=233> accessed 22 July 2017

———. 'Benin receives US patrol boat' (04 July 2014) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=35357:benin-receives-us-patrol-boat&catid=51:Sea&Itemid=106> accessed 22 July 2017

———. 'Togo receives Defender patrol boat from United States' (10 July 2014) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=35432:togo-receives-defender-patrol-boat-from-united-states&catid=51:Sea&Itemid=106> accessed 20 July 2017

Division for Ocean Affairs and the Law of the Sea, 'Declarations and Statements: São Tomé and Príncipe' <http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#Sao%20Tome%20and%20Principe%20Upon%20signature> accessed 01 May 2018.

EIA, 'Angola's Key Energy Statistics' <www.eia.gov/beta/international/country.cfm?iso=AGO> accessed 3 June 2017

EIN News, 'Angola: President gets message from Botswana counterpart' <https://www.einnews.com/pr_news/436185291/angola-president-gets-message-from-botswana-counterpart> accessed 11 March 2018

Emejor C, 'Nigeria Partners Five Countries to Fight Illegal Fishing in the Gulf' (14 December 2017) <https://independent.ng/nigeria-partners-five-countries-fight-illegal-fishing-gulf/> accessed 23 December 2017

Engelbrecht L, 'Fact File: Ranking African Navies' (Defence Web 21 January 2010) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=6229:fact-file-ranking-african-navies&catid=79:fact-files&Itemid=159> accessed 08 August 2017

European Commission, 'Fisheries Agreements' <http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm> accessed 18 January 2018

European Space Agency, 'Satellites- Automatic Identification System (SAT-AIS)' <http://www.esa.int/Our_Activities/Telecommunications_Integrated_Applications/Satellite_-_Automatic_Identification_System_SAT-AIS> accessed 8 March 2018

European External Action Service, 'Fight against illegal fishing: Commission lists Saint Vincent and the Grenadines and the Comoros as non-cooperating, and issues warning for Liberia' (24 April 2017) <https://eeas.europa.eu/delegations/liberia/26821/fight-against-illegal-fishing-commission-lists-saint-vincent-and-grenadines-and-comoros-non_en> accessed 20 June 2017

Export.gov, 'Nigeria-Market Overview' (23 February 2017) <https://www.export.gov/article?id=Nigeria-Market-Overview> accessed 03 June 2017

———. 'Congo, Democratic Republic - Oil and Gas' (20 July 2017) <https://www.export.gov/article?id=Congo-Democratic-Republic-Oil-and-Gas> accessed 20 January 2018

———. 'Liberia-Oil and Gas' (12 July 2017) <https://www.export.gov/article?id=Liberia-Petroleum> accessed 04 January 2018

Ezeobi C, 'Nigeria: G7, Gulf of Guinea Nations Join Forces Against Maritime Crimes' (12 December 2017) <http://allafrica.com/stories/201712120159.html> accessed 23 December 2017

Financial Action Task Force (FATF), 'What Is Money Laundering?' <http://www.fatf-gafi.org/faq/moneylaundering/#d.en.11223> accessed 19 March 2018

'Fishery Committee for the West Central Gulf of Guinea'

<http://fcwc-fish.org> accessed 01 September 2016

Food and Agriculture Organization of the United Nations Fisheries and Aquaculture Department, 'Regional Fishery Bodies Summary Descriptions Fishery Committee for the Eastern Central Atlantic (CECAF)' <http://www.fao.org/fishery/rfb/cecaf/en#Org-LegalFoundation> accessed 20 July 2017

Food and Agriculture Organisation Regional Office for Africa, 'Equatorial Guinea-FAO partner for sustainable fishery resources' (1 September 2014) <http://www.fao.org/africa/news/detail-news/en/c/242211/> accessed 18 January 2018

Fokeyu S, 'FG Signs N60bn Contract with Israeli Firm to Secure Waterways' (shipsandports.com 31 October 2017) <http://shipsandports.com.ng/fg-signs-n60bn-contract-israeli-firm-secure-waterways/> accessed 22 November 2017

Food and Agriculture Organization of the United Nations, 'Port State Measures Agreement: The Benefits of Ratifying and Implementing the 2009 FAO Port State Measures Agreement' <http://www.fao.org/fishery/psm/agreement/en#Efforts> accessed 1 July 2017

———. 'Challenges to Coastal Fisheries Communities in Abidjan, Côte d'Ivoire' <http://www.fao.org/blogs/blue-growth-blog/challenges-to-coastal-fisheries-communities-in-abidjan-cote-divoire/en/> accessed 4 January 2018

Front Page Africa Online 'Liberia International Shipping Registry remains Second Largest' (25 March 2017) <http://www.frontpageafricaonline.com/index.php/business/3706-liberia-international-shipping-registry-remains-second-largest-registry> accessed 04 January 2018

Ghana News Agency, 'Ghana will vigorously enforce its mandate' (3 November 2017) <http://www.ghananewsagency.org/economics/gma-will-vigorously-enforce-its-mandate--124465> accessed 23 December 2017

GIABA, 'GIABA' <http://www.giaba.org/> accessed 8 March 2018

globalsecurity.org, 'Togolese Navy' <http://www.globalsecurity.org/military/world/africa/to-navy.htm> accessed 21 July 2017

Greenpeace International, 'Chinese companies see subsidies cancelled and permits removed for illegal fishing in West Africa' (9 March 2018) <https://www.greenpeace.org/international/press/15209/chinese-companies-see-subsidies-cancelled-and-permits-removed-for-illegal-fishing-in-west-africa/> accessed 09 March 2018

Groizeleau V, 'Africans take control of Gulf of Guinea security' (02 October 2017) <https://www.meretmarine.com/fr/content/africans-take-control-gulf-guinea-security> accessed 03 January 2018

Guilfoyle D, 'An Introduction to Zones of Maritime Jurisdiction' (Prezi Presentation 28 August 2015) < https://prezi.com/sxdqxuka4w39/an-introduction-to-zones-of-maritime-jurisdiction-2-of-3/>

Ikeotuonye S, 'Navy, NIMASA lead process to formulate maritime security strategy' (06 April 2017) <http://sweetcrudereports.com/2017/04/06/navy-nimasa-lead-process-to-produce-maritime-security-strategy/> accessed 20 July 2017

International Law Commission, 'Analytical Guide to the Work of the International Law Commission: Identification of Customary International Law' <http://legal.un.org/ilc/guide/1_13.shtml> accessed 8 January 2018

———. 'League of Nations Codification Conference' <http://legal.un.org/ilc/league.shtml> accessed 31 December 2016

International Maritime Bureau: Maritime piracy hotspots persist worldwide despite reductions in key areas' <https://www.icc-ccs.org/news/1154-imb-maritime-piracy-hotspots-persist-worldwide-despite-reductions-in-key-areas> accessed 20 February 2016

International Monetary Fund, 'Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT)' <http://www.imf.org/external/np/leg/amlcft/eng/> accessed 04 April 2017

Index Mundi, 'Country Comparison: Oil Production' <http://www.indexmundi.com/g/r.aspx?c=gb&v=88> accessed 27 July 2017

International Maritime Organisation 'Strengthening Maritime Security in West and Central Africa' (2013) <http://www.imo.org/MediaCentre/HotTopics/piracy/Documents/west%20africa%20Maritime%20Security.pdf> accessed 28 November 2016

———. 'Other Conventions Relating to Maritime Safety and Security and Ship/port Interface' <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/Default.aspx> accessed 28 November 2016

———. 'SOLAS 1974: Brief History - List of Amendments to Date and Where to Find Them' <http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/HistoryofSOLAS/Documents/SOLAS%201974%20-%20Brief%20History%20-%20List%20of%20amendments%20to%20date%20and%20how%20to%20find%20them.html> accessed 28 November 2016

———. 'IMO / MOWCA Meeting to Progress the Implementation of an Integrated Coast Guard Function Network for West and Central African Countries' (Ghana 2010) <http://www.imo.org/OurWork/Security/WestAfrica/Documents/Accra%20report%20-%20final%20English%20rev%202014.pdf> accessed 20 April 2016

INTERPOL, 'Notices' <https://www.interpol.int/INTERPOL-expertise/Notices> accessed 3 January 2018

Interregional Coordination Centre For the Implementation of Regional Strategy for Maritime Safety and Security in Central and West Africa, 'Communique Final Réunion sur L'évaluation de la Mise en Oeuvre du Code de Conduite (du 17 Août 2017 Yaoundé) <http://cicYaoundé.org/communique-final-reunion-sur-levaluation-de-la-mise-en-oeuvre-du-code-de-conduite/> accessed 03 March 2018

———. 'Gulf of Guinea Information Sharing Network Helps in chase of the Thunder' <http://cicYaoundé.org/gulf-of-guinea-information-sharing-network-helps-in-chase-of-the-thunder/> accessed 12 February 2018

———. 'Operationalization of the Interregional Coordination Centre (ICC)' < http://cicYaoundé.org/extraordinary-meeting-of-senior-officials/> accessed 31 December 2017

Iroegbu S, 'Nigeria: NIMASA, Navy Joint Committee to Review MOU On Maritime Security' (27 April 2016) <http://allafrica.com/stories/201604270127.html> accessed 23 December 2017

Jahateh L, 'Gambia turns to private companies for maritime policing' (Reuters 14 September 2017) <https://af.reuters.com/article/topNews/idAFKCN1BP0QB-OZATP> accessed 18 September 2017

Johnson M, 'Developing blue economy through Nigeria's maritime industry' (17 October 2017) <http://www.businessdayonline.com/developing-blue-economy-nigerias-maritime-industry/> accessed 13 December 2017

'Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Elements for the EU's Strategic Response to the Challenges in the Gulf of Guinea' (18 December 2013) <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52013JC0031> accessed 03 January 2015

Katona V, ‘Ghana Looks To Ramp Oil Production’ (oilprice.com 11 November 2017) <https://oilprice.com/Energy/Crude-Oil/Ghana-Looks-To-Ramp-Oil-Production.html> accessed 22 January 2018

Kindzeka M, ‘African Countries Call for China to Stop Illegal Fishing’ <http://www.stopillegalfishing.com/news_article.php?ID=1811> accessed 18 January 2016

Kuo L, ‘A glimpse of life onboard the Chinese fishing boats dominating West Africa’s seas’ (23 November 2016) <https://qz.com/842381/photos-chinese-fishing-fleets-are-dominating-and-potentially-depleting-west-africas-seas/> accessed 03 January 2017

Long T, ‘New Eligibility Standards for Vessel ID Numbers Will Help Fight Illegal Fishing Smaller Fishing Vessels Can Now Be given Unique IMO Numbers’ (October 2016) <http://www.pewtrusts.org/en/research-and-analysis/analysis/2016/10/18/new-eligibility-standards-for-vessel-id-numbers-will-help-fight-illegal-fishing> accessed 13 June 2017

Maritime Liberia, ‘Monrovia Regional Maritime Rescue and Coordination Centre’ <http://maritimeliberia.com/?safety/mrcc.html> accessed 3 March 2018

Martin G, ‘Regional Maritime Awareness Capability (RMAC) programme rolling out across Africa’ (DefenceWeb 15 December 2016) <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=46312&catid=74&Itemid=3> accessed 03 January 2017

Meyer R and Starolsielski N, ‘Managing Risks for the World’s Undersea Cable Network’ (2 November 2015) <http://knowledge.wharton.upenn.edu/article/managing-risks-for-the-worlds-undersea-cable-network/> accessed 31 October 2016

Ministère des Armées, ‘Corymbe’ <http://www.defense.gouv.fr/english/operations/operations/corymbe> accessed 8 March 2018

Mutum R, ‘Nigeria, South Africa Navies collaborate on maritime security’ (26 September 2017) <https://www.dailytrust.com.ng/nigeria-south-africa-navies-collaborate-on-maritime-security.html> accessed 23 December 2017

National Daily, ‘ECOWAS to deploy 250 observers for Nigeria’s election’ <http://nationaldailyng.com/test/index.php/news/politics/2862-ecowas-to-deploy-250-observers-for-nigeria-s-election> accessed 27 January 2016

naval-technology.com, ‘RPB 33 Offshore Patrol Boat, France’ <http://www.naval-technology.com/projects/rpb-33-offshore-patrol-boat/> accessed 20 July 2017

Newsdiaryonline, ‘Nigeria Emerges as New Chair of Gulf of Guinea Commission’ (23 November 2017) <http://nigeriafarmersgroup.org/nigeria-emerges-as-new-chair-of-gulf-of-guinea-commission/> accessed 29 December 2017

Nicoloso G, ‘2016 Lomé Summit: the AU adopts a new charter on maritime security’ (17 October 2016) <https://criticalmaritimeroutes.eu/2016/10/17/2016-lome-summit-au-adopts-new-charter-maritime-security/> accessed 1 December 2016

———. ‘GoGIN, un nouveau projet du CMR pour la sécurité maritime dans le Golfe de Guinée’ (21 October 2016) <https://criticalmaritimeroutes.eu/2016/10/21/gogin-un-nouveau-projet-du-cmr-pour-la-securite-maritime-dans-le-gdg/> accessed 03 December 2016

‘Nigeria, Equatorial Guinea sign agreement on joint security patrols’ (15 March 2016) <https://www.premiumtimesng.com/news/more-news/200208-nigeria-equatorial-guinea-sign-agreement-joint-security-patrols.html> accessed 23 December 2017

NIMASA, ‘Regional Collaboration: Nigeria-Ghana Sign MOU on Maritime Operations’ (17 October 2017) <http://nimasa.gov.ng/press-center/post/regional-collaboration-nigeria-ghana-sign-mou-on-maritime-operations> accessed 23 October 2017

‘Norwegian Assistance for Negotiations on African Maritime Boundary’ <http://www.norway.cn/News_and_events/Press-Release/Press-releases-from-Norwegian-government/Norwegian-assistance-for-negotiations-on-African-maritime-boundary/#.WDN3ofmLQ2w> accessed 16 November 2016

Nyabor J, ‘Akufo-Addo to meet Ivorian diplomats over ITLOS judgment’ (25 September 2017) <http://citifmonline.com/2017/09/25/akufo-addo-to-meet-ivorian-diplomats-over-itlos-judgment/> accessed 28 September 2017

Oceans Beyond Piracy, ‘Piracy Law Database’ <http://oceansbeyondpiracy.org/piracy-law-database> accessed 10 May 2017

Oil and Gas Year, ‘Gabon Overview’ <http://www.theoilandgasyear.com/market/gabon/> accessed 28 July 2017

OPS Global Risk Management, ‘WAF Security Alert 012 - Cargo Vessel Approached off Ghana’ (2 March 2018) <http://maritime-security.opsglobalriskmanagement.com/post/waf-security-alert-012-cargo-vessel-approached-off-ghana> accessed 03 March 2018

Opurum K, ‘Nigeria: Buhari Approves Purchase of Patrol Vessels to Tackle Illegal Fishing’ (20 December 2017) <http://allafrica.com/stories/201712200058.html> accessed 23 December 2017

IQPC, ‘OPV Africa’ <https://opvafrica.iqpc.ae/> accessed 15 April 2015

Oude Elferink A, ‘Maritime Boundaries and Limits & Transboundary Cooperation’ <uit.no/Content/382543/Maritime%20Boundaries.pdf> accessed 20 July 2017

Oxford Dictionaries, ‘Cooperation’ <https://en.oxforddictionaries.com/definition/cooperation> accessed 29 August 2017

Oxford English Dictionary, ‘Maritime Domain’ <http://www.oxforddictionaries.com/definition/english/domain> accessed 20 February 2016

Palma-Robles M, ‘Fisheries Crime: Bridging the Conceptual Gap and Practical Response’ (CIMSEC 2014) <http://cimsec.org/fisheries-crime-bridging-conceptual-gappractical-response/12338> accessed 13 December 2017

Petrov S, ‘Product Tanker Sochima Attacked by Pirates in Gulf of Guinea’ (*Maritime Herald* 10 December 2016) <http://www.maritimeherald.com/2016/product-tanker-sochima-attacked-by-pirates-in-gulf-of-guinea/> accessed 31 January 2017

Pew Charitable Trusts, ‘FACT SHEET: The Cape Town Agreement: 7 Reasons to Improve Safety on Fishing Vessels’ (16 October 2017)

PortTechnology.org, ‘Cases of Nigerian Pirates Firing upon Ships Soar’ 22 February 2018 <https://www.porttechnology.org/news/cases_of_nigerian_pirates_firing_upon_ships_soar> accessed 28 February 2018

Raidco, ‘Patrol Boats’ < http://uk.raidco.com/construction/vedettes/vedette_rpb33.php> accessed 20 July 2017

Ralby I, ‘From Sea Blindness to Wealth Blindness’ (8 February 2017) <https://medium.com/natural-security-forum/from-sea-blindness-to-wealth-blindness-2251dd804bf5> accessed 1 January 2018

‘Regional Maritime Rescue Coordination Centre Lagos’, <http://www.imrfafrica.org/homelagos> accessed 3 March 2018

RSS, ‘sécurité maritime L’action de L’Etat en Mer, un maillon fort de la RSS’ (December 2014) <http://www.rssci.org/images/MAGAZINE_RSS_UPDATE2.pdf> accessed 13 December 2016

Safe Boats International, 'Response Boat-Small (RB-S) information page' <http://www.safeboats.com/boats/full-cabin-25/> accessed 21 July 2017

Safety4Sea, 'IMO focuses on maritime security strategy in Cameroon' (14 July 2017) <https://www.safety4sea.com/imo-focuses-on-maritime-security-strategy-for-cameroon/> accessed 20 July 2017

———. 'New reporting centre for piracy in GoG launched' (21 June 2016) <https://safety4sea.com/new-reporting-centre-for-piracy-in-gog-launched/> accessed 21 June 2016

'São Tomé and Príncipe: Defense Minister Back Home from Sao Tome and Principe' (27 May 2015) <http://allafrica.com/stories/201505271118.html> accessed 01 September 2017

Sea Shepherd, 'Interpol Takes Custody of Evidence against Thunder from Sea Shepherd' (05 March 2015) <https://www.seashepherd.org.uk/news-and-commentary/news/interpol-takes-custody-of-evidence-against-thunder-from-sea-shepherd.html> accessed 07 June 2015

———. 'Operation Ice Fish' <https://www.seashepherdglobal.org/our-campaigns/icefish/overview-icefish/> accessed 07 November 2017

———. Sea Shepherd, 'Spanish authorities levy massive fines on owner of notorious poacher 'F/V Thunder'' (03 August 2017) <https://www.seashepherdglobal.org/latest-news/spanish-authorities-fine-thunder/> accessed 07 November 2017

———. Sea Shepherd, 'Poaching Vessel, Thunder, Sinks in Suspicious Circumstances' (06 April 2015) <https://www.seashepherd.org.uk/news-and-commentary/news/poaching-vessel-thunder-sinks-in-suspicious-circumstances.html> accessed 12 February 2018

———. 'Operation Albacore Our Second Campaign to Stop Illegal Fishing in Gabon, West Africa' <https://www.seashepherdglobal.org/our-campaigns/operation-albacore/> accessed 21 February 2018

Steffen D, 'Maritime Security in the Gulf of Guinea in 2016' (CIMSEC 11 April 2017) <http://cimsec.org/gulf-guinea-maritime-security-2016/31716> accessed 09 May 2017

Stop Illegal Fishing, 'Nigeria acts on IMO Numbers' (Stop Illegal Fishing 20 January 2017) <https://stopillegalfishing.com/news-articles/nigeria-acts-imo-numbers/?utm_source=SIF+Newsletter++Contacts&utm_campaign=6c851cc4c1-SIF+Newsletter+January+2017&utm_medium=email&utm_term=0_2332da6e79-6c851cc4c1-100759985> accessed 08 October 2017

Takur S 'Buhari, other presidents absent as Gulf of Guinea Summit holds in Abuja' (Premium Times 23 November 2017) < https://www.premiumtimesng.com/news/top-news/250355-buhari-presidents-absent-gulf-guinea-summit-holds-abuja.html> accessed 17 December 2017

The Gulf of Guinea Commission, 'The Gulf of Guinea Commission' <http://cggrps.org/en/the-gulf-of-guinea-commission> accessed 1 September 2017

The Oil & Gas Year, 'Republic of Congo Overview' <http://www.theoilandgasyear.com/market/republic-of-congo/> accessed 22 January 2018

Towergate Insurance, 'Troubled Waters: The Global Price of Piracy' <https://www.towergateinsurance.co.uk/boat-insurance/global-price-of-piracy> accessed 15 June 2017

UK Chamber of Shipping, 'How the Lack of Security in the Gulf of Guinea affects the UK Economy' (July 2014) <https://www.ukchamberofshipping.com/media/filer_public/ba/8f/ba8f4c5e-8490-4f65-a4ff-0cab717acdc0/uk_chamber_of_shipping_gulf_of_guinea_paper-july_2014.pdf.> accessed 2 June 2017

United Nations Division for Ocean Affairs and the Law of the Sea, 'Maritime Space: Maritime Zones and Maritime Delimitation' <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/claims.htm> accessed 10 September 2015

———. 'National Legislation on Piracy' <http://www.un.org/depts/los/piracy/piracy_national_legislation.htm> accessed 10 May 2017

United Nations Food and Agriculture Organisation

———. 'Profils Des Pêches et de L'aquaculture Par Pays La République Démocratique Du Congo : Cadre Juridique' <http://www.fao.org/fishery/facp/COD/fr#CountrySector-LegalFrameworkOverview> accessed 1 June 2017

———. 'Fisheries and Aquaculture Country Profiles: Angola' <http://www.fao.org/fishery/facp/AGO/en#CountrySector-SectorSocioEcoContribution> accessed 1 January 2018

———. 'Fishery Country Profile: La République Gabonaise' (December 2007) <http://www.fao.org/fishery/docs/DOCUMENT/fcp/fr/FI_CP_GA.pdf> accessed 01 June 2015

———. 'Information on Fisheries Management in the Democratic Republic of the Congo' (January 2001) <http://www.fao.org/fi/oldsite/FCP/en/COD/BODY.HTM> accessed 01 June 2015

———. 'Profils Des Pêches et de L'aquaculture Par Pays La République Démocratique Du Congo : Cadre Juridique' <http://www.fao.org/fishery/facp/COD/fr#CountrySector-LegalFrameworkOverview> Accessed 1 June 2017

———. 'The Republic of Angola: County Brief' (April 2014) <http://www.fao.org/fishery/facp/AGO/en#CountrySector-LegalFrameworkOverview> accessed 01 June 2015

United Nations Office on Drugs and Crime 'Maritime Crime Programme - West Africa' <https://www.unodc.org/unodc/en/piracy/west-africa-division.html> accessed 20 June 2017

———. 'Updated Criminal Code in Gabon Legislates against Piracy and Maritime Crime' <https://www.unodc.org/westandcentralafrica/en/gabon-maritime-crime-legislation.html> Accessed 17 July 2017

———. 'Human trafficking and smuggling of migrants' <http://www.unodc.org/westandcentralafrica/en/newrosenwebsite/TIPSOM/Human-trafficking-and-smuggling-of-migrants.html> accessed 19 July 2016

———. 'Fisheries Crime' <http://www.unodc.org/unodc/about-unodc/campaigns/fisheriescrime.html> accessed 1 November 2017

———. 'Ship Riders': Tackling Somali Pirates at Sea' (20 January 2009) <https://www.unodc.org/unodc/en/frontpage/ship-riders-tackling-somali-pirates-at-sea.html> accessed 20 February 2018

———. 'Transnational Crime Units (TCU)' <https://www.unodc.org/westandcentralafrica/en/west-africa-coast-initiative.html> accessed 19 December 2017

United Nations Security Council 'Statement by the President of the Security Council', 25 April 2016 (United Nations Security Council S/PRST/2016/4)

———. 'United Nations Security Council S/2012/45, Letter Dated 18 January 2012 from the Secretary-General Addressed to the President of the Security Council' (United Nations 19 January 2012)

———. ‘Unanimously Adopting Resolution 2383 (2017), Security Council Renews Authorization for International Naval Forces to Fight Piracy off Coast of Somalia’ (Press Release 7 November 2017)

———. ‘United Nations Security Council S/2012/45, Letter Dated 18 January 2012 from the Secretary-General Addressed to the President of the Security Council’ (United Nations 19 January 2012)

US Africa Command, ‘2018 Posture Statement’ <http://www.africom.mil/about-the-command/2018-posture-statement-to-congress> accessed 7 March 2018

US Africa Command, ‘Obangame Express’ <http://www.africom.mil/what-we-do/exercises/obangame-express> accessed 8 March 2018

United States Coast Guard, ‘Aircraft, Boats, and Cutters: Boats 25-Foot Defender Class Boat (RB-HS/RB-S/RB-S II)’ <https://www.uscg.mil/datasheet/25rbs.asp> accessed 20 July 2017

US Department of State, ‘Statement of Interdiction Principles’ <http://www.state.gov/t/isn/c27726.htm> accessed 28 November 2016

US Energy Information Administration, ‘Gabon’ <https://www.eia.gov/beta/international/country.cfm?iso=GAB> accessed 28 July 2017

US Fish and Wildlife Service, ‘Statement from Bryan Arroyo, Assistant Director for International Affairs, on the Expansion of Gabon's Marine Protected Area Network’ (5 June 2017) <https://www.fws.gov/international/wildlife-without-borders/africa/statement-gabon-mpa-expansion.html> accessed 1 July 2017

US Naval Forces Africa / US 6th Fleet, ‘What is SeaVision? A Talk with the Creator of Saharan Express’ Primary Maritime Domain Awareness Tool’ (25 April 2015) < http://www.c6f.navy.mil/blog/what-seavision-talk-creator-saharan-express-primary-maritime-domain-awareness-tool> accessed 13 December 2017

Vircoulon T and Tournier V, ‘Gulf of Guinea: A Regional Solution to Piracy?’ (4 September 2014) <http://blog.crisisgroup.org/africa/nigeria/2014/09/04/gulf-of-guinea-a-regional-solution-to-piracy/> accessed 01 February 2016

West Africa Task Force, ‘The Problem of Illegal Fishing in West Africa’ <https://stopillegalfishing.com/wp-content/uploads/2016/07/10016_WATF_ENGLISH_WEB_FINAL.pdf> accessed 3 November 2017

White J, ‘Advancing Maritime Domain Awareness (MDA) for the Fleet and the Nation’ (16 January 2014) <http://navylive.dodlive.mil/2014/01/16/advancing-maritime-domain-awareness-mda-for-the-fleet-and-the-nation> accessed 09 September 2015

World Ocean Review, ‘The Future of Fish – The Fisheries of the Future’ (2013) <https://worldoceanreview.com/en/wor-2/fisheries/illegal-fishing/> accessed 23 December 2017

World Wide Fund Gabon, ‘Marine Programme’ <http://www.wwf-congobasin.org/where_we_work/gabon/marine_programme/> accessed 25 June 2017