



ATLANTIC
— CENTRE —

Atlantic Partnership Seminar

July 17-20, 2023

SYLLABUS



Atlantic Partnership Seminar

Lisbon, Portugal
July 17-20, 2023

SYLLABUS

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Overview

The Atlantic Basin faces pressing challenges including maritime domain awareness issues, piracy, armed robbery at sea, kidnapping of seafarers, illegal, unreported, and unregulated (IUU) fishing, and transnational organized crime – especially smuggling as well as drug and human trafficking – within a rapidly changing global environment increasingly defined by strategic competition. Thus far, responses to these challenges have been sought regionally. The North Atlantic has some of the strongest security arrangements in the international system while, in the South, collaborative approaches have also been gaining substantial traction. One such example is ZOPACAS, which Brazil has been looking to reinvigorate, with potential benefits for Atlantic maritime security challenges. In recent years, African states have made significant progress in developing collaborative frameworks like the Yaoundé Code of Conduct. This architecture, while yet not fully operationalized, has nevertheless enhanced maritime security in the Gulf of Guinea. Latin American and Caribbean states also have mechanisms to address increasing maritime threats and challenges.

While these collaborative efforts are encouraging, there is a need for improved pan-Atlantic dialogue and common initiatives to enhance the governance and security of this shared ocean. Given the scope and scale of the maritime threats and challenges in the Mid- and South Atlantic, Pan-Atlantic initiatives such as the Atlantic Centre and the various U.S. supported Atlantic collaboration initiatives seek to bring together the South, North, East and West Atlantic both to strengthen existing collaborative mechanisms and promote interregional dialogue, cooperation, and complementarity. As Atlantic states collaborate to identify common threats and challenges and cooperate to address them by pooling resources, overall maritime security is enhanced.

This seminar provides an opportunity for senior officials from across the Atlantic to initiate the process of building inclusive and collaborative intra- and inter-regional frameworks to address common maritime security challenges. It has three main

objectives: take stock of the key common threats and human security challenges facing Atlantic states, assess the current state of existing collaborative mechanisms in the Atlantic Basin, identify opportunities for better information sharing to deepen collaboration on maritime issues in Atlantic maritime areas of interest (e.g., GoG and the Caribbean Sea), explore concrete ways to cooperate in addressing common maritime threats and challenges in the Atlantic, and propose recommendations on the way forward.

Anticipated Outcomes

- Develop a common understanding of the common threats and challenges facing states on all sides of the Atlantic Ocean.
- Establish the groundwork for strengthening collaborative and sustainable strategic responses to counter maritime insecurity around the Atlantic Ocean.
- Identify opportunities for better information sharing to deepen collaboration on maritime issues in the Atlantic.

Seminar Structure

This seminar, spanning four days, will be comprised of both plenary sessions that draw on strategic, policy, academic, and operational expertise, and discussion sessions where participants are encouraged to share freely on the topics that arise. The plenary session presentations will be followed by a moderated question and answer period during which participants will be encouraged to share experiences, question assumptions, and think through creative approaches. The small group discussions will focus on problem solving. Participants will be encouraged to share perspectives and learn from each other. A team of experienced facilitators will work with participants to this end.

All Africa Center programs are conducted under a strict non-attribution policy. This allows participants to contribute and exchange views without reservation, thereby creating an effective and productive learning environment. Simultaneous interpretation

will be provided to allow the seminar to be conducted in English, French and Portuguese.
All seminar materials will be provided in these languages.

Session 1: The Atlantic Maritime Domain

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Explore the strategic importance of the Atlantic Ocean for global security and prosperity.
- Discuss maritime security challenges and identify opportunities for collaboration in and around the Atlantic Ocean.

Background:

Some of the most dynamic regions of the world are located around the 111,866-kilometer coastline that surround this 85.133 million square kilometers body of water. The Atlantic Ocean is the second largest of the world's five oceans and brings together the continents

of Africa, the Americas, and Europe. Its abundant natural resources are a source of livelihood for millions of people who depend on it for food security and employment. Atlantic fisheries account for more than a quarter of the global catch in 2020, making it the second most important region in the world. In addition to fisheries, its abundant hydrocarbon deposits that help to fuel the global economy. The sea lanes of communication it supports are critical trade links connecting these continents with other parts of the world. These trade relations are pivotal to global economic prosperity. Besides the trade superhighways, the Atlantic is also the site of the world's information superhighways. Transatlantic undersea cables carry over 95 percent of international data. The Atlantic basin faces significant challenges. Fisheries are under severe pressure because of illegal, unreported, and unregulated (IUU) fishing, especially in West Africa. In recent years, the presence of large non-Atlantic commercial fishing fleets in the region has pushed several West African fisheries to the brink of collapse. Since fish accounts for

a very high percentage of animal protein intake in the diets of coastal communities (sometimes as high as fifty percent), the collapse of African fisheries would likely cause a food security crisis – with negative implications for broader human security, state security, and the stability of entire societies. Parts of West Africa are already under considerable stress caused by other types of maritime insecurity including piracy; armed robbery at sea; illicit trafficking of people, drugs, and weapons as well as maritime pollution.

Ensuring that the Atlantic basin continues to play a key role in prosperity on both the countries that surround it – and the entire world – will require the redoubling of efforts to develop collaborate mechanisms to tackle current and future threats and challenges

facing the region. Atlantic states must ensure that the sources of food and livelihood for their citizens are protected and managed sustainably. They must work together to protect the maritime trade and information superhighways. In sum, they must work together to ensure that the Atlantic remains a zone of prosperity, security, and peace.

Further Readings:

Bruno L  t  . Addressing the Atlantic’s Emerging Security Challenges.

<https://www.gmfus.org/sites/default/files/1115->

[WP9_GMF_Addressing%20the%20Atlantic%E2%80%99s%20Emerging%20Security%20Challenges.pdf](https://www.gmfus.org/sites/default/files/1115-WP9_GMF_Addressing%20the%20Atlantic%E2%80%99s%20Emerging%20Security%20Challenges.pdf)

Anal  cia Danilevicz Pereira. The South Atlantic, Southern Africa and South America: Cooperation and Development.

https://ciaotest.cc.columbia.edu/journals/ufrgs%20%20/v2i4/f_0030200_24420.pdf

Session 2: Drivers of Maritime Insecurity

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Gain a better understanding of the nature and manifestations of maritime insecurity in the Atlantic region.
- Focus on the similarities and differences between maritime insecurity on both sides of the Atlantic.

Background:

Food security is central to human security. In most coastal communities, healthy fisheries have met the food needs of the people. This is no longer the case. The fisheries in many parts of the Atlantic are being rapidly depleted. IUU fishing has become one of the main drivers of maritime insecurity in the Atlantic basin. In some regions, the sheer numbers of local artisanal fishers and semi-industrial vessels have led to significant declines in fish catches for several decades. In regions like West Africa, the surge in the number of distant water fishing vessels from non-Atlantic countries has pushed fisheries to critically low levels.

Criminality at sea is another key driver of maritime insecurity. Maritime criminality takes many forms. Piracy and armed robbery at sea are prevalent in parts of the Atlantic, especially in the Gulf of Guinea. Both forms of criminality are important symptoms of land-based challenges. The parts of the Atlantic most affected by maritime are areas going through significant demographic, political, economic, and environmental challenges. Large pools of unemployed youth in coastal communities often provide a steady supply of recruits for groups of pirates and armed robbers at sea. They are also the ones most likely to take to the sea as irregular migrants in search of better opportunities elsewhere,

usually in Europe. Their dangerous journeys often end tragically at sea. The many irregular migrants' lives lost at sea as well as the equally large numbers of migrants rescued at sea or make it to their destination often represents the tail end of a long, complex, well organized, and highly lucrative trafficking network that transports human cargo from/through Africa to Europe. These same networks are often connected or run parallel with other criminal networks who smuggle illegal drugs from South America, through Africa, into Europe. Similar transnational networks specialize in the trafficking of weapons that contribute to instability and violence in some parts of the Atlantic basin. Finally, there are well established criminal networks involved in oil "bunkering" - the theft of crude oil from oil tankers or the siphoning of crude oil from pipelines - for distribution into the national, regional, or global black markets for crude oil. This criminal practice generates about between USD \$5 billion to USD \$12 billion annually.

Further Readings:

Pierre Morcos. A Transatlantic Approach to Address Growing Maritime Insecurity in the Gulf of Guinea. <https://www.csis.org/analysis/transatlantic-approach-address-growing-maritime-insecurity-gulf-guinea>

Érico Duarte and Manuel Correia de Barros (eds.). Maritime Security Challenges in the South Atlantic. New York: Springer Publishing, 2019

Session 3: IUU Fishing

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Emphasize the link between maritime security and food security.
- Explore practical ways to address IUU fishing in the Atlantic Ocean.

Background:

Fisheries provide livelihoods to more than 800 million people around the world. Fish accounts for a sixth of the global population's intake of animal protein. In some West African countries this figure is more than half. Global fisheries are under severe stress. According to the United Nations' Food and Agricultural Organization, over 90 percent of marine fish stocks are fully exploited, overexploited, or depleted. Although legal overexploitation of fisheries is a serious global problem, an even greater threat is posed by illegal, unreported and unregulated (IUU) fishing.

IUU fishing refers to the negative practices carried out by national or foreign vessels within a state's territorial waters and exclusive economic zones. By their nature, IUU activities are carried out without permission of the state and are facilitated by many states' inability to fully exercise their sovereignty over their maritime domains. This allows IUU fishing vessels to operate with impunity, with little respect for a state's laws and regulations. The reality in some parts of the Atlantic is that states are not always able to deliver consequences to those who break their maritime laws. Because of this lack of state capacity at sea, national and foreign fishing vessels – even when holding a valid fishing license – routinely provide inaccurate information about their activities to the appropriate authorities. In West Africa, for example, total catches are estimated to be 40 percent higher than reported catches. Often, fishing activities are conducted without regard for conservation or management measures – e.g., keeping undersized/protected

fish or fishing out of season – put in place by coastal states to protect certain fishing areas or fish stocks.

IUU fishing is a global problem which defies full quantification due to its nature. By some estimates, up to a third of annual global seafood catch – about 56 billion pounds – is associated with IUU fishing. It has significant negative effects on ocean health, human security, and national security. Overfishing is threatening some species with extinction while pushing fisheries toward collapse and destroying marine ecosystems. The relationship between fisheries, food security, and human security is clear and straightforward. Because millions of people rely on fish for a significant percentage of their animal protein intake, the collapse of fisheries may lead to high levels of malnutrition and food insecurity in some Atlantic regions. Conditions of food insecurity can quickly destabilize states and regions – some of which are already facing significant destabilizing factors.

The financial losses associated with IUU fishing are equally difficult to quantify. The estimated annual losses vary between USD \$10 billion to USD \$23.5 billion. Overall economic losses estimated to be as high as USD \$50 billion per year. West Africa, the global epicenter of IUU fishing – accounting for 40 percent of the global figures – loses more than USD \$9 billion per year.

Climate change adds another layer of urgency to this issue. Rising ocean temperatures will affect fish populations migration patterns, away from the tropics, further depressing fish catches in these areas and compounding security challenges at all levels: human, state, regional, and global.

Further Readings:

Financial Transparency Coalition. Fishy networks: Uncovering the companies and individuals behind illegal fishing globally.

<https://financialtransparency.org/wp-content/uploads/2022/10/FTC-fishy-Network-OCT-2022-Final.pdf>

Lauren Young, Cathy Haenlein and Grace Evans. Future Illegal, Unreported and Unregulated Fishing Trends in a Warming World: A Global Horizon Scan. London: RUSI 2023. <https://static.rusi.org/future-iuu-fishing-in-a-warming-world-a-global-horizon-scan.pdf>

Session 4: Maritime Threats, Crimes, and Vulnerabilities

Format: Plenary presentation & moderated question-and-answer session

Objectives:

- Take stock of the major maritime threats, challenges, and vulnerabilities in the Atlantic basin.
- Assess the impact of maritime crime on security and development in the Atlantic region.

Background:

Narcotics: Drug trafficking is the largest crime industry in the world, generating between USD\$ 426 billion to USD\$ 652 billion annually, according to Global Financial Integrity (GFI). The sea provides the main routes for the transportation of cocaine from its production areas in South America to various destination points and consumption markets around the world, of which the United States and Western Europe are the most important. About 90% of cocaine from the Andean region is transported via maritime routes. Much of the drugs flowing into Western Europe are carried through the Atlantic Ocean.

The political, economic, and security implications of the illegal drug trade have become starkly apparent since the 1980s. Drug trafficking organizations have used the vast financial resources derived from the sale of illegal drugs to establish complex production and distribution networks. To facilitate the distribution of their product, drug cartels use those financial resources to corrupt state officials in countries where both the social contract and governance structures are weak. The result is often a further weakening of the state's legitimacy. The sheer quantities of cash infused into weak economies via corrupt government officials and common citizens can also further distort normal economic activity. In some cases, it has the effect of creating small enclave economic areas where very high prices are offered for goods and services – not only making them

inaccessible to much of the population but also putting upward inflationary pressure on the economy with negative impact for all consumers. The security implications are equally severe. Drug cartels normally create powerful armed groups to protect their production and distribution networks. These armed groups, in turn, seriously challenge the legitimate state monopoly on the means of violence.

Human Trafficking and Irregular Migration: The United Nations Office on Drugs and Crime (UNODC) defines human trafficking as “the recruitment, transportation, transfer, harboring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit.” This is a highly lucrative criminal activity generating about USD \$150 billion per year, according to according to GFI. According to the Pew Research Center, more than a million people migrated irregularly from Sub-Saharan Africa to Europe during the last decade. There is little indication that the flow of irregular migrants – many from the Atlantic Coast of Africa – will be reduced any time soon. Although pull factors are undeniable, there are also important push factors at play. A combination of political, security, economic, and environmental issues in Africa continue to force many of its citizens to take to the sea in search of a better future elsewhere.

Arms Trafficking: Many Africans are leaving the continent because of deteriorating security environments. One of the factors causing insecurity on the continent is the proliferation of small arms and light weapons (SALW). The trafficking SALW should be viewed as part of a larger vicious cycle in that insecurity in Africa leads several actors to procure and stockpile weapons which, in turn, not only increase the likelihood of conflict and once started, prolongs it. There are an estimated 100 million SALWs circulating in Africa. Of these, 8 million are in the hands of non-state actors. These weapons are the key factor in sustaining many of the conflict dynamics in Africa are responsible for most of the conflict-related deaths on the continent. Many of these weapons are smuggled via the maritime domain.

Piracy. The world's maritime piracy hotspot is in the Atlantic. A recent UN Security Council Resolution – UNSCR 2634 (2022) – expressed “deep concern about the grave and persistent threat that piracy, armed robbery and transnational organized crime at sea in the Gulf of Guinea pose to international navigation, security, and sustainable development of States in the region, including the effect on littoral countries, their hinterland areas and landlocked countries”. Although Atlantic states in Africa have taken important steps to collaborate and coordinate their responses against maritime criminality, piracy in the Gulf of Guinea persists. 130 of the 135 kidnappings of ships' crews worldwide in 2020 took place in the Gulf of Guinea. Another dimension of maritime crime is armed robbery at sea. Because this falls under national jurisdiction, armed robbery at sea is often underreported. The persistence of piracy incidents in the Atlantic Ocean and the significant levels of armed robbery at sea in territorial waters of Atlantic states speak to the need to redouble efforts at all levels to combat maritime crime.

Maritime Pollution: Ocean health is critical for human existence. For example, oceans play a key role in the fight against climate change because they absorb and store about 30% of global carbon emissions. Also importantly, there is a direct connection between ocean health and food security as billions of people around the world – especially in the Global South – depend on fish as their main source of food and income. It is critical, therefore, to ensure that the world's oceans are free from pollution. The dumping of garbage and other waste materials from factories, tankers and ships in the ocean is especially harmful to marine health, especially when they contain radioactive materials. Pollution from fertilizers, pesticides, and insecticides, oil spills, toxic industrial waste and sewage, and deep-sea mining is also very harmful to the oceans. Currently, the maritime domain is under considerable environmental pressures because of an estimated 8 million tons of plastic waste entering the oceans annually. About 80% of marine pollution is attributed to plastics. At current rates of plastic ocean dumping, it is estimated that there will be more plastic than fish in the ocean by 2050.

Undersea cables: Data play an indispensable role in the lives of most people around the world. 99 per cent of the intercontinental data are transported by undersea cables. An email sent from London to New York across one of these undersea cables can travel in under 70 milliseconds (0.07 seconds). It is estimated that more than USD \$10 trillion worth of financial transactions are transmitted via undersea cables every day. By contrast, satellites carry far less data and are less cost effective in terms of launching and operating them. In other words, protecting underwater sea cables in the Atlantic Ocean and elsewhere is of critical importance for global security and prosperity.

Further Readings:

Global Financial Integrity. Transnational Crime.

<https://gfintegrity.org/issue/transnational-crime/>

Pew Research Center. "At Least a Million Sub-Saharan Africans Moved to Europe Since 2010." <https://www.pewresearch.org/global/2018/03/22/at-least-a-million-sub-saharan-africans-moved-to-europe-since-2010/>

UNODC. Human Trafficking. <https://www.unodc.org/unodc/en/human-Trafficking/Human-Trafficking.html>

US Department of State, Trafficking in Persons Report June 2023.

<https://www.state.gov/wp-content/uploads/2023/06/2023-TIP-Report.pdf>

Francis Langumba Keili. "Small arms and light weapons transfer in West Africa: a stock-taking."

ISS. An ocean of weapons: arms smuggling to Somalia. <https://issafrica.org/iss-today/an-ocean-of-weapons-arms-smuggling-to-somalia>

Session 5: Continental and Regional Responses -- Africa

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Discuss continental efforts to develop an integrated continental maritime strategy.
- Review the maritime security strategies of the Economic Community of Central African States (ECCAS) and the Economic Community of West African States (ECOWAS).

Background:

Escalating insecurity in the waters surrounding the continent has triggered responses at various levels. At the continental level, the African Union adopted Africa's Integrated Maritime Strategy (AIMS 2050) in 2014. The Strategy provides a framework for the protection and sustainable exploitation of the continent's maritime domain to promote prosperity. AIMS 2050 serves as a continental umbrella for all the maritime security strategic activity in Africa and helps to guide national, regional, and inter-regional efforts on maritime security enhancement and cooperation. The strategy builds on previous continental frameworks, including the African Maritime Transport Charter and Plan of Action of 1994 and the Durban Resolution on Maritime Safety, Maritime Security and Protection of the Maritime Environment of 2009. It highlights Africa's maritime domains "vast potential for wealth creation" and captures the vision of how the resources contained in Africa's inland waters, oceans and seas can play an important role in furthering sustainable development on the continent. Equally important, it focuses on ways to ensure maritime safety and security as well as the protection of the marine environment.

At the regional levels, the regional economic communities (RECs) have taken important steps in developing maritime security strategies. The Economic Community of Central

African States (ECCAS) adopted its maritime safety and security strategy in 2008. The key aim of the strategy is to protect oil resources as well as fisheries and sea routes. Similarly, in 2013, the Economic Community of West African States (ECOWAS) developed an integrated maritime strategy (EIMS) that links security at sea with economic development for member countries.

In addition to the work being done at within each region to achieve better maritime security, ECCAS and ECOWAS have established a framework for inter-REC cooperation. Faced with mounting maritime security affecting all countries in the Gulf of Guinea region, ECCAS and ECOWAS heads of state meeting in Yaoundé, Cameroon in June 2013 adopted three important documents: (1) Declaration of the Heads of State and Government of Central and West African States on Maritime Safety and Security in Their Common Maritime Domain, (2) Memorandum of Understanding Among ECCAS, ECOWAS, and the GCC on Maritime Safety and Security in Central and West Africa, and (3) Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships, and Illicit Maritime Activities in Central and West Africa. The first document commits the signatories to mobilize adequate resources to promote peace, security, and stability in the ECCAS and ECOWAS maritime area. Furthermore, it affirms the desire on the part of the heads of state to achieve higher levels of cooperation, coordination, pooling of resources and interoperability. The Memorandum of Understanding, the second document adopted by the African heads of state and government, facilitates the implementation and coordination of joint activities aimed at achieving better maritime security. In addition, it establishes the bases for information sharing as well as the harmonization of laws and procedures. The document also calls for the establishment of an inter-regional coordination center on maritime safety and security. The Code of Conduct commits the signatories to cooperate in repressing illicit activities at sea.

Further Readings:

Africa Union, 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy), Addis Ababa: AU, 2012.

Asha Sekomo, "African Approaches to Maritime Security," Workshop Report. Maputo: Friedrich Ebert Stiftung, 2013.

Ian Ralby, "A Human Security Approach to Maritime Security in the Gulf of Guinea," *Comparative Jurist*, 31 Aug. 2016, <https://comparativejurist.org/2016/08/31/a-human-security-approach-to-maritime-security-in-the-gulf-of-guinea/>

Session 6: Continental and Regional Responses - Latin America and the Caribbean

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Learn about maritime security cooperation regimes in Latin America and the Caribbean.
- Identify key elements of Atlantic maritime security cooperation that have worked.
- Emphasize the growing global recognition of maritime security cooperation as vital for protecting the maritime domain *against* security and environmental threats, as well as protecting the maritime domain *for* the enrichment of states and the improvement of life on land.

Background:

Latin American and Caribbean countries have taken important steps toward developing collaborative frameworks for the maritime domain. The South Atlantic Peace and Cooperation Zone (ZOPACAS) and the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area are important examples of such efforts. ZOPACAS is a Brazilian initiative established in 1986 by the United Nations General Assembly (UNGA) Resolution 41/11 and comprises 24 countries bordering the South Atlantic: Angola, Argentina, Benin, Brazil, Cape Verde, Cameroon, Congo, Côte d'Ivoire, Democratic Republic of Congo, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Guinea Equatorial, Liberia, Namibia, Nigeria, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Togo, and Uruguay. Created in the final decade of the Cold War, its original aim was to prevent the proliferation of nuclear weapons and discourage non-member states from establishing a military presence in the region. In other words, the original intent was to turn the South Atlantic into a nuclear weapons free zone. In recent years,

ZOPACAS has sought to promote greater regional political, economic, and environmental collaboration. There are significant opportunities to further expand areas of collaboration to include greater transparency and accountability in fisheries management, combat IUU fishing and well as the trafficking of humans, weapons, and drugs.

In 2003, the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, also known as the Treaty of San José, created a new regime for maritime security cooperation in the Caribbean on the issue of trafficking. The 2008 CARICOM Maritime and Airspace Security Cooperation Agreement expanded that regime to a broader maritime security focus. In both cases, the agreements provide for the states parties to share maritime law enforcement responsibilities, even entering each other's territorial waters to achieve the aims and objectives of collective maritime security as agreed.

Further Readings:

Treaty of San José, <https://www.state.gov/s/1/2005/87198.htm>.

Edmund Dillon, "Security Cooperation in the Caribbean," Notre Dame,

<http://www3.nd.edu/~ggoertz/rei/reidevon.dtBase2/Files.noindex/pdf/0/dillonpaper.pdf>.

Aleeza Mosley, "The Implementation of International Maritime Security Instruments in CARICOM States," UN, 2010,

http://www.un.org/depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/moseley_0910_barbados.pdf.

Session 7: Consequence Delivery - Legal Authorities and Jurisdictions

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Highlight the importance of legal support/advice at all phases of the maritime response spectrum.
- Provide concrete examples of collaboration to address criminality at sea.

Background:

The law is a key element of the maritime response spectrum. The law provides the basis for agency action as well as the response a government may take regarding a maritime threat or event. Accordingly, it is essential that the legal authorities be the starting point for collaborative discussions. Moreover, the inclusion of agency counsel is a critical enabler to effective collaboration.

Policy guidance complements legal authorities in the maritime response spectrum. Awareness of legal requirements/obligations *and* policy guidance is crucial to information sharing, timely decision-making, and aligned responses. Importantly, however, just because a potential action is consistent with an agency's policy does not mean that the proposed action is legally appropriate in all instances. For example, it may be consistent with a department's policy to publish information, but in some cases, for a variety of reasons, doing so might be either inappropriate or potentially illegal. When operating, an agency should always ask "what is our authority?" and "do we have jurisdiction?" Both must exist to take action.

PROSECUTING MARITIME CRIME Part of the point of law is to constrain behavior that is antithetical to a safe, secure, stable and prosperous society. But if the law on paper is not

enforced in practice, the written words do little to successfully constrain conduct. A major aim of law enforcement is to deter people from engaging in illicit activity. Catch and release is never successful as a deterrent. And if the consequences of a prosecution are negligible, criminals will continue to see greater reward than risk in committing crime. These realities are perhaps even truer on the water than on land.

Prosecution in the maritime space is a bit different than on land. When people are involved in illicit activity on land, they are arrested and the materials that are used in the illicit conduct are confiscated. In the maritime domain, however, the people and the vessel itself can both be arrested. Additionally, the maritime law enforcement agency may not have the power to arrest – they may have to detain and then hand over to authorities on land to conduct the arrests. These nuances, as well as the possibility for *in rem* actions against the vessel must be fully understood, however, to maximize the deterrent potential of the prosecution. Furthermore, maritime prosecutors must be aware of all the vagaries and oddities of maritime law to be as effective as possible.

MARITIME INTERDICTION OPERATIONS. A key element of maritime security is successfully interdicting illicit activity in the maritime space. But stopping crime on the water comes with an array of challenges, even beyond the obvious. If the goal is merely to interfere with “bad” conduct, then it requires a vessel being in the right place when the activity is underway. That is difficult, often requires either intelligence or good surveillance, and even in the best of situations can go wrong. Furthermore, a pursuit of a vessel can be dangerous, and can lead to jurisdictional problems if the fleeing vessels crosses a maritime boundary into a neighboring state. Hot pursuit tends to cause states a lot of tension. Stopping bad activity on the water, therefore, is not simple. If the goal, however, is to lawfully arrest the individuals and/or the vessel involved in illicit activity, then a lot more is required. Ensuring that the stop; boarding; detention; evidence collection, preservation and chain of custody; and handover of the case to authorities for administrative, civil or criminal prosecution all happens and happens smoothly and legally is vital to allowing for strong legal finish. In other words, if any of the points in

the interdiction process are problematic, the deterrent effect of the legal finish will be negated.

One important development regarding hot pursuit in particular is the model of ECCAS Zone D. The four states of Cameroon, Equatorial Guinea, Gabon and São Tomé and Príncipe have, since 2009, worked collectively to resolve the issue of hot pursuit through developing a combined approach to maritime security. Through initially a technical accord and subsequently a legal agreement, Zone D has pre-resolved issues like hot pursuit so that they do not arise when engaged in maritime interdiction operations. This notion of pre-agreeing how certain matters should be considered is becoming a trend world-wide. It is a remarkably powerful tool in improving maritime interdiction and thus maritime security.

It is worth noting that technology has begun to change where maritime interdiction can occur. Traditionally, it has been necessary to intervene in ongoing illicit activity and arrest or detain individuals and vessels at sea. This has required that the coastal state have the vessels to be able to get to the illicit conduct, stop it, and perform the arrest or detention. Increasingly, however, technology is allowing not just for maritime domain awareness, but the collection of evidence that can be used to arrest and prosecute criminals when they return to shore. In other words, technology is allowing for pier side interdiction – a particularly important development for states that lack blue water interdiction capacity. Importantly, however, legal systems must be adjusted to allow for this kind of technological data in both criminal and civil matters.

Recommended Readings:

Herbert Anyiam, The Legalities of Gulf of Guinea Maritime Crime with Suggested Solutions, CRIMSEC 2014, <http://cimsec.org/legalities-gulf-guinea-maritime-crime-suggested-solutions/11783>.

Michael Scharf, Michael Newton, Milena Sterio, Prosecuting Maritime Piracy,
Cambridge (2015).

Maritime Interdiction Operations: A View Through International Law Lens, NMIOTC
Journal, 2010,
https://www.researchgate.net/publication/208845949_Maritime_Interdiction_Operations_A_View_Through_International_Law_Lens.

Session 8: Coordination, Collaboration, and Information Sharing

Format: Plenary presentation and moderated question-and-answer session

Objectives:

- Develop an understanding of the importance, value, and impact of interagency coordination.
- Highlight the critical role of coordination, collaboration, and information sharing among governments.

Background:

The maritime environment involves interrelated government efforts that advance national objectives, including development, safety, and security issues. Given the array of activities involved, their interconnectedness and level of complexity, countries must develop collaborative mechanisms both within their respective governments – to enhance effectiveness and minimize duplication of efforts – as well as with other countries to address common threats and challenges. Collaborative frameworks rest on interagency and intergovernmental coordination, cooperative mechanisms between state institutions to share information, integrate multiple agencies, and take coordinated actions.

Full-Spectrum Coordination: Maritime security requires effective interdiction and prosecution of criminal activity that unfolds on the water. This, in turn, requires that all the elements of the criminal justice system are prepared to work to detect, interdict, arrest, prosecute and penalize maritime crime. A variety of options exist, including a criminal prosecution, seizing cargo, seizing a ship, and imposing civil penalties. In addition, partner nation cooperation or support may be appropriate. Each result contains different legal considerations as does the location of the vessel, the suspected illicit activity, and flag of the ship involved in the suspected activity.

Information and Resource Sharing: There are multiple governance benefits to sharing information and resources. Information, when shared, can help all relevant stakeholders execute their mission more accurately, effectively, and efficiently. And when resources are scarce, the ability to share assets, as appropriate, provides an important capability to achieve objectives. But when it comes to implementing such sharing and cooperation in practice, tensions often arise. Perceived imbalances between agencies lead to competitive and often protectionist stances, slowing the flow of information and limiting the extent to which any real sharing takes place. With an agreed upon framework, agencies can more productively work together to achieve shared aims, providing each other with necessary information and resources, as appropriate, in the process. To enable cooperative efforts, however, there must be national-level policy guidance. Furthermore, lines of communication must be transparent, points of contact identified, and formal processes documented.

Information sharing is routinely discussed in maritime security circles. Because threats in the maritime space ignore national borders and operate transnationally, the response to such threats must also overcome the challenges posed by national sovereignty. Information sharing is often seen as the key cooperative mechanism for doing so. One aspect worth noting, that does not come into the picture as much as it should, is that cooperation is also incredibly important for maritime safety. More people die from maritime safety issues each year than maritime security incidents. The same channels of information sharing and operational cooperation can be helpfully deployed to save lives and protect the marine environment as they are to guard against security threats. Thus, the benefits to cooperation must be viewed more expansively than merely a matter of security.

Given the opportunities presented by maritime cooperation, contrasted against the potential legal and political challenges that could arise, one lesson to draw from many of the successful regimes is to seek to pre-resolve legal disputes and to clarify likely points

of contention. It is far preferable to address controversial topics like hot pursuit, vessel identification procedures, ship rider agreements, asset forfeiture, jurisdiction and authority and other such matters on land in advance of when they arise on the water amid an emergency.

Information Sharing in Practice - The Yaoundé Maritime Architecture: No region of the world has seen a more rapid and extensive build-up in maritime security architecture over the last ten years than the Gulf of Guinea. With a cascading set of instruments and institutions, the 26 states of the Yaoundé Code of Conduct are grouped into 5 maritime zones, each backed by regional coordination centers - one for ECOWAS (CREMAO), one for ECCAS (CRESMAC)- and served at the apex by an Inter-Regional Coordination Center (CIC) overseen by three regional bodies - ECOWAS, ECCAS and the Gulf of Guinea Commission (GGC). The Yaoundé Architecture for Maritime Safety and Security (YAMSS) is increasingly well-developed construct for information sharing to address common maritime security issues in the Gulf of Guinea.

Further Readings:

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<http://www.safety4sea.com/new-reporting-centre-for-piracy-in-gog-launched/>.

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Gulf of Guinea Code of Conduct (Yaoundé Code of Conduct), June 2013,

http://www.imo.org/en/OurWork/Security/WestAfrica/Documents/code_of_conduct%20signed%20from%20ECOWAS%20site.pdf.