POLICING THE MARITIME DOMAIN

CIVIL POLICE OR MILITARY FUNCTION?

INTRODUCTION

Since the discovery of oil offshore Ghana, security of the maritime domain has featured prominently in the national discourse. During the Institute of Economic Affairs’ Presidential debate in Accra on 20 November 2012, the President stated that policing the maritime domain was not a naval function and that the Police were being equipped to take over from the Navy. In fact he revealed that the first patrol boat for the police had been ordered and that the Police were now training with the Navy to prepare them for the new role.

This must have come as a surprise to the naval authorities because the Navy has no role in the purported training the Police are undertaking. The issue of establishing a Marine Police Unit has also not been comprehensively discussed with the Navy and other stakeholders in order to determine the need for it and its possible roles to avoid wasteful duplication of roles. Nevertheless, the Marine Police Unit has since been inaugurated and they have commenced operations.

The Maritime Domain is defined as all areas and things of, on, under, relating to, adjacent to, or bordering on a sea, ocean, or other navigable waterway, including all maritime-related activities, infrastructure, people, cargo, and vessels and other conveyances. Due to its complex nature and immense size, the maritime domain is particularly susceptible to exploitation and disruption by individuals, organizations, and States.

The maritime domain also facilitates a unique freedom of movement and flow of goods while allowing people and cargo to transit with the anonymity that is not generally available by movement over land or by air. The widespread location of oil and gas and other installations several miles offshore also make them vulnerable to attacks, disruption or sabotage. Terrorists, pirates and other criminal elements have increasingly exploited such vulnerabilities to the detriment, particularly of coastal states.

Maritime Security relates to the prevention of unlawful and undesirable acts in the maritime domain of a country and should normally be a police function. However, its functions cut across disciplines which are the prerogative of different agencies and its unique environment also makes it a specialized area that demands specialized skills. The festering competition among stakeholders as to who is responsible for the maintenance of security and law enforcement at sea can only hurt the national interest. It is important, therefore for agencies with a stake in maritime security to work together to develop an overarching strategy that defines individual agency responsibilities and identify areas of cooperation and modalities for coordination. This would ensure an effective and efficient policing of Ghana’s maritime domain and remove unnecessary and wasteful duplication of roles.

This article will delve into the maritime interests of Ghana and identify threats to the maritime interests. It would also identify policing requirements in the maritime domain of Ghana, and the capacities of state agencies to carry out those functions. It would then make an argument for a multi-agency strategy before concluding and making recommendation.

The purpose of this article is to discuss the merits and demerits of the...
decision by government to establish a
marine police unit to take over some of the
roles of the Ghana Navy and to proffer a
way forward for effective policing of the
maritime domain of Ghana.

GHANA’S MARITIME DOMAIN AND
INTERESTS

The Maritime Domain of Ghana.
Ghana has a coastline of about 320
nautical miles (540 km). In accordance
with the UN Conventions on the Law of
the Sea 1982, the country has claimed a
territorial sea stretching 12 nautical miles
from the coast into the Atlantic Ocean. In
accordance with the Convention we
exercise full sovereignty within the zone
with some minor limitations. In addition to
the territorial sea, the country claims 24
nautical miles of Contiguous Zone in
which we can enforce our fiscal, immigra-
tion, customs and pollution laws. We also
claim 200 nautical miles of Exclusive
Economic Zone (EEZ).

This is a vast area of the sea,
approximately two-thirds of the land area,
in which we have exclusive rights of
exploitation of natural resources in the
area. In fact, the country has filed a claim
for an extended continental shelf, which
when approved would further extend the
area in which we enjoy exclusive rights of
exploitation of natural resources. These
claims have been given effect in our
domestic law by the Maritime Zones
Delimitation Act, 1986 (PNDC Law 159).
Even though the Act was passed in 1986,
the actual delimitation of the maritime
zones is yet to be carried out. It would be
impossible to delimit the zones without
first determining the maritime borders
with our neighbours. Ghana’s maritime
domain abound in natural resources
mainly fish, oil and gas. It also serves as a
medium of transport for maritime trade.

Oil and Gas.
Since the discovery of oil in the offshore
areas of Ghana and the commencement
of production in December 2010, several
more discoveries have been made and are
in the process of being developed. Ghana
is set to become a major oil producer in
the near future. So far all the discoveries
are located in the deep seas far from the
coast. Protection of this vital national
resource would require a robust maritime
security arrangement.

Fish.
Fish is traditionally the resource that has
been exploited in the maritime domain of
Ghana for centuries now. Exploitation of
this resource is as old as when people first
settled along the coast. Ghanaians
depend on fish for their protein intake and
export. Data from the United Nations’
Food and Agricultural Organization (FAO)
indicates that fish accounts for 63% of the
protein intake in Ghana. Fishing alone is
reputed to provide employment to 10% of
the country’s population and rakes in 300
million dollars annually into the national
economy. The country’s EEZ abound,
particularly in tuna, crustaceans and
sardines.

Maritime Trade.
Another vital maritime interest is the
safety of navigation at sea. About 95% of
the country’s external trade passes
through the sea. The volume of our
maritime trade is set to grow exponen-
tially with the increased production of oil
and rapid economic growth.

THREATS IN THE MARITIME DOMAIN

National Security Threats.
Our maritime corridor is a wide entrance
into our sovereign territory. Our ability to
monitor and control activities in our
territorial waters is a matter of national
sovereignty and security. It is a vital
national security interest to know who is
coming in with what and who is leaving
with what. The long stretch of coastline
has been reputed to be porous allowing in
particular the trafficking and landing of
narcotic drugs from South America and
Asia on our porous beaches. Effective
surveillance both electronically and by
physical presence at sea are the pre-
requisites for deterring, detecting and
dealing with this threat.

The situation has greatly improved
with the increased number of ships and
maritime patrol aircraft delivered to the
Navy and Air Force respectively in the
recent past, which has enabled them to
increase patrols of the sea. The unre-
solved maritime border issues with our
neighbours are also a looming threat. The
simmering dispute with La Cote D’Ivoire
regarding some of Ghana’s offshore oil
fields presents the most credible threat
yet. While efforts are made to resolve it
diplomatically, it is important to maintain
a deterrent posture to prevent any surprise
incursions.

Economic Threats.
The inability to exercise full control over
our maritime domain has resulted in the
inability to fully exploit our fishery
resources. Illegal, Unregulated and
Unreported Fishing (IUU) has resulted in
the country, which was hitherto a net
exporter of fish, to be importing up to
$500 million dollars worth of fish annually.
Apart from the economic losses, there are
also human security losses with the
reduction in protein intake and impover-
ishing of fishing communities. This
situation can be arrested by effective
management of the fishing industry.

Poaching by foreign vessels,
illegal, unregulated and unreported
fishing and some policy choices of
government have led to a depletion of
stocks and raised concerns within fishing
communities. Though over 70 percent of
fish landings in Ghana are from artisinal
fishing, that sector remains largely
unregulated. Instead of instituting policies
to conserve stocks, governments choose
to rather invest in building more landing
sites, subsidize pre-mix fuel and assist the
fishermen to acquire outboard motors.
These would only lead to more depletion
of stocks since most artisanal fishing
takes place within the spawning grounds
of fish species, thereby harvesting the fish
before they reach maturity and reproduce.

Oil theft is also a major economic
threat in the maritime domain. This
phenomenon where criminal gangs
connive with officials to steal crude oil
from offshore oil installations is very
common in oil producing countries in the
Gulf of Guinea. It is said to cost the Region
about $1.2 billion a year with Ghana
having its fair share. Indeed there had
been several occasions where oil had
been stolen by tankers from the Saltpond
oil rig. If mechanisms are not put in place
to protect the oil in the Jubilee Field, this
criminal activity could be perpetrated on
a much larger scale. The jubilee Field is
located 60 nautical miles (100km)
offshore. Sustained presence as currently
maintained by the Navy is required to
deter any potential criminal activity in the
field.

National and Trans-national

Crimes. Piracy and armed robbery at sea are a
major threat to the country’s maritime
domain. The International Maritime
Bureau ranks the Gulf of Guinea among
the top piracy hotspots in the world.
Ghana’s neighbours have experienced
increased attacks, particularly at the
anchorages of ports. The Ghana Navy has
so far managed to keep these activities
at bay by regular patrols at the anchorages,
however more efforts are required to
ensure that the increased sophistication
by these national and trans-national
criminal gangs do not penetrate our security layers. Maritime drug trafficking, which was rife in the country’s maritime domain also seems to have abated a bit. Nonetheless increased vigilance and adoption of more pro-active measures are required to keep the country’s waters safe from criminal activities.

**Environmental Degradation.**
Pollution and environmental degradation of Ghana’s maritime domain is widespread. Due to weak Port State Control by the appropriate agencies, all kinds of sub-standard ships are allowed into the country’s waters spilling all kinds of pollutants into the water. Major sources of pollution are from the oil industry, bunkering ships and improper industrial and domestic waste disposal. Lavender Hill where human excreta are poured into the sea is a case in point.

Tourism is becoming an important source of foreign exchange and employment in Ghana. In addition to the peace and tranquility, what attracts tourists to our country include the beautiful beaches where tourists go to relax. Deliberate efforts are required to keep the coastal environment clean and serene in order to attract more tourists in an ever increasing competitive market. Ghana has ratified the 1990 Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC), however she is yet to domesticate the Convention to give it a legal effect. The required structures have also not been put in place to enforce the provisions of the Convention. It is important that this Convention is given effect by enacting a domestic law and putting the necessary regulations and structures in place to protect the environment.

**POLICING REQUIREMENTS IN THE MARITIME DOMAIN**

There are three main functions that ought to be performed in effective policing of the maritime domain. These are surveillance, apprehending and prosecution of offenders.

**Surveillance.**
The first policing function of the maritime domain is surveillance. Because people do not live at sea, surveillance of the maritime domain ought to be a well orchestrated activity in order to have effective knowledge of what is happening out there. Rear Admiral Hill described surveillance as a sub-set of intelligence gathering involving the systematic observation of activities with the object of providing indicators of impending incidents. Surveillance can also deter wrong doing and Admiral Hill postulates that 10 percent coverage is enough to deter all but the most daring offenders.

Surveillance is carried out using both physical and electronic means. Physical means of surveillance involve maritime air patrols and patrols by ships. A system could be set up for neighbourhood watch particularly by local fishing vessels reporting observations to appropriate security agencies. The Ghana Air Force has acquired maritime patrol aircraft for patrols while the fleet of the Ghana Navy has been beefed up with the acquisition of more ships. Physical surveillance is inefficient and not very effective due to the vastness of the sea area required to be covered.

Electronic surveillance, if properly configured and set up could be very efficient and effective in monitoring activities at sea. With the revolution in information technology, affordable and effective means of electronic surveillance are increasingly available to developing countries like Ghana. Several efforts are underway to take advantage of various electronic surveillance modes in Ghana’s maritime domain. The Automatic Identification System (AIS) is currently being used by the Ghana Navy and port authorities on a limited scale to monitor vessel traffic in our territorial waters. This system which is cheap to install and currently available for free via the Internet has some limitations. It covers a limited distance and relies on active participation of the very ships whose activities are the target of the monitoring system. They can easily switch off the system when engaged in undesirable activities.

Radar surveillance is a more reliable monitoring system, however information provided is limited and need to be combined with information from other sources to provide actionable intelligence. All Ghana Navy ships carry Radars and the newer one also have AIS installed, however the most cost-effective means of Radar surveillance is those installed along the coast providing 24 hour surveillance. The advantage of the Radar is that unlike the AIS, it is an active system and does not depend on transmissions from the target vessel. It is however expensive to install and may require local monitoring stations to be established at each radar site. In Ghana, extensive feasibility studies were carried out for possible installation of coast radars, however actual installation is yet to materialize.

A Vessel Traffic Management and Intelligence System (VTMIS) is currently being installed at selected sites along the coast of Ghana. This satellite based system when completed would greatly improve monitoring and tracking of vessels in Ghanaian waters. The Ghana Maritime Authority is sponsoring the system and is collaborating with the Ghana Navy and other agencies for the management of the system. A similar system was installed by the Fisheries Commission a few years ago to monitor fishing vessels, however it was short-lived as the high operational cost became unsustainable. Hopefully some lessons have been learnt to ensure that the VTMIS being installed does not suffer a similar fate. Surveillance is a core military function and it is important that the Ghana Armed Forces is supported to play the lead role in maritime surveillance.

Detecting and Apprehending Offenders
Surveillance enables maritime security
agencies to detect infringements of the laws and regulations at sea. For effective detection and apprehending of offenders, the maritime domain may be divided into 3 zones. These are the Inland, Inshore and Offshore zones. The applicable laws and requirements for effective enforcement vary from zone to zone.

**Inland Zone** - The inland zone includes all waters landward of the coast. These include rivers, lakes, lagoons and other water bodies located within the land territory. Technically these are not part of the sea but are connected with it and therefore regarded as part of the maritime domain by the definition used in this article. Threats and infringements in these waters include use of illegal fishing methods, smuggling, unsafe transportation practices and pollution of water bodies. The Volta Lake and all the major rivers flowing into the sea are the main focus for this zone. Policing of this zone would be mainly by physical monitoring and inspections by personnel stationed along the banks.

This should be a core function of the Police since the areas concerned are within the land territory and part of internal security arrangements. The rampant boat accidents that lead to mass casualties on the Volta Lake and the activities of illegal small scale miners popularly referred to as ‘galamsey’ who pollute water bodies leading to the inadequate supply of treated water are matters of grave national concern. The Marine Police (Water Police would be more appropriate) must effectively deal with this problem before venturing into the sea. The types of boats required for this task are small boats and Gemini crafts, which the police can easily operate and maintain.

Currently the Navy has been compelled to station detachments along the banks of the Volta Lake and also conduct operations to dislodge the galamsey operators on the rivers due to inadequate Police presence in the area. The Navy is trained and equipped to operate at sea not in inland waters. Even within the Armed Forces, the riverine environment is considered part of land operations and units such as the Engineer Regiment are better equipped to operate on those waters than the Navy. The Navy obviously has many challenges and sustained many casualties operating in inland waters with personnel and equipment trained and configured to operate at sea. There is the need for clear division of labour to enable each agency concentrate in the environment they are meant to operate in.

**Inshore Zone** - The inshore zone includes the area of the sea from the coast up to 12 nautical miles seaward of the coast. The area encompasses Ghana’s territorial sea. The domestic laws of Ghana are generally applicable within the zone except that all ships have the right of innocent passage through the zone. The area also contains the ports and anchorages where attacks on ships are common. The Inshore Fishery Exclusion Zone, which runs along the 30
metre depth contour is also located within this zone. Industrial trawlers are forbidden from fishing within the Exclusion Zone. Artisanal fishing takes place within the zone. It is the spawning grounds of most species of fish.

The main infringements that normally occur within the zone include landing of narcotic drugs on the porous beaches, smuggling of goods to and from neighbouring countries, attacks on ships at anchorage, illegal fishing by industrial trawlers. This also encompasses the area where largely unregulated fishing by artisanal fishermen takes place. Sections of the West Africa Gas pipeline and the Ghana Gas pipeline from the Jubilee Oil Field traverse the zone. The country stands to lose massively if the territorial sea is not effectively policed.

Several State agencies have responsibilities in this zone. There are customs, immigration, drug trafficking, pollution, fishing and shipping laws to be enforced within the zone. In some countries the Navy provides the platform and embarks officials from all these agencies to enforce the different laws in the inshore zone. In other countries, the Navy or Coast Guard is given the mandate, training and equipment to enforce all these laws. This is the case with the US Coast Guard. Fairly robust patrol vessels are required for effective monitoring and control of activities in the area. Small boats, such as the type being acquired by the Police may only be operated within the ports, in the anchorages outside the ports and in close inshore waters.

Currently the Ghana Navy patrols the inshore Zone and when arrests are made they are handed over to the appropriate agency for processing and prosecution. The agencies normally work with the police and Attorney-General’s Department to prosecute offenders. Naval Units that effect arrest do not normally go to court to present evidence. This presents a challenge as detectives who work on the case are unable to conduct investigation directly at the crime scene and have to rely on evidence presented to them by the Naval Unit which effected the arrest. While the current system presents some challenges, the solution is not for the police to unilaterally establish a marine unit to conduct their own patrols without recourse to what the Navy is already doing. There is clearly a need for the stakeholders to come together to fashion a way out instead of the current situation where each agency seems to be acting unilaterally.

Offshore Zone - The offshore zone includes the sea area beyond 12 nautical miles from the coast up to the limit of the country’s Exclusive Economic Zone of 200 nautical miles. Most of the oil and gas installations are currently located in this area. The Jubilee Oil Field and the Tweneboa-Enyera-Ntomo (TEN) project, which is expected to come on stream by 2015 are both located within this zone. There are several other installations within the zone including Mobile Offshore Drilling Units (MODUs), sub-sea pipelines as well as oil service vessels and tankers. There is also a steady flow of shipping transiting the waters of Ghana to our ports or to other countries. It has been observed that ships waiting to enter ports in neighbouring countries including Benin and Nigeria prefer to wait in Ghanaian waters, which they consider safer because of the level of presence of naval patrols and the minimum number of attacks reported in our waters.

The Offshore Zone is a vast expanse of sea far from the coast. Offences and criminal activities rampant in the zone normally include poaching by foreign registered fishing vessels, crude oil theft, drug trafficking and piracy. These are all trans-national crimes perpetrated by highly organized and well-equipped criminal gangs. It would take more than the effort of the Police to deal with these crimes. Pirates operating in African waters, including the Indian Ocean and Gulf of Guinea are well armed and sometimes exchange fire with well-equipped and well-armed warships of international naval forces established to counter their operations. Those kinds of operations are normally within the domain of naval forces with air support either from integrated air assets or provided by the Air Force.

Effective operations in the Offshore Zone require Offshore Patrol

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**THE WAY FORWARD**

Cabinet for approval and issue of an instrument for the Marine Police and to establish a Marine Unit whose mandate was limited to safety of navigation. The Authority evolved from the Shipping Division of the Ministry of Transport, which was split into three (3) main divisions: the Shipping Division, which manages the Green-Sea in Hamburg ruled that the action was permissible within the limits of international law. When completed would be referred to as the Bassa Docks. However it is apparent that not much has changed in the maritime domain. The Presidential Directive would spell out the President’s vision for fully developing the maritime security domain. The Presidential Directive would also be used as a point of departure to work together to develop an overarching national maritime security program. It is necessary that broad consultations are brought together to start acting now.

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Having developed a comprehensive national maritime security program, which will form the basis for the development of the Ghana Offshore Patrol Vessels (OPVs) with helicopter landing platforms, the Ghana Navy is well positioned to operate such ships. The President’s directive would require the Ministry of Defence to work with the Ministry of Finance, the Ministry of Maritime Affairs and the Ministry of Defence to establish a coordinating centre and the necessary structures and mechanisms. It would also delineate the roles and responsibilities of the stakeholders in the judicial system and set the objectives to be achieved and the activities required to achieve those objectives.

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**18 | THE SAILOR | NEWS MAGAZINES FOR THE GHANAIAN NAVY**
Vessels (OPVs) with helicopter landing platform that can stay at sea for prolonged periods. Persistent presence at sea by such ships would serve as deterrence to most organized criminal gangs as postulated by Admiral Hill. The Navy is well positioned to operate such vessels having put in place adequate shore support facilities. The Naval Dockyard with its Test Bench and Slipway recently commissioned by the President is one of its kind on the West Coast of Africa. This multi-million dollar facility has positioned the Ghana Navy to be able to operate robust and modern warships that are required to deal with emerging maritime security threats occasioned by the nascent oil industry. With the acquisition of maritime patrol aircraft for the Ghana Air Force, the Ghana Armed Forces are ready and able to effectively protect the territorial domain of Ghana.

It would be wasteful at this stage to start equipping the Police to do what the Navy and Air Force are already well positioned to do. The core capability of the Ghana Navy, in particular is maritime policing and this is what it has been doing for the past fifty years. If that responsibility is ceded to the Police or any other agency, the Navy would be left with very little to do with the massive investments it has received in the recent past. Some state agencies, including the Police had in the past acquired boats to police the sea but failed woefully with resulting financial loss to the State. Massive shore support facilities are required in addition to highly specialized skills to successfully operate a maritime force. These capabilities need to be a core function like that of the Navy, not an appendage of an already unwieldy institution.

Prosecution of Offenders

Another important function of maritime policing is the prosecution of offenders. After arresting suspects, effective prosecution based on the laws of Ghana are required to serve as deterrent to offenders. First of all the laws need to be adequate to be able to prosecute. Successful prosecution would also depend on effective investigation of offences and a clear understanding of the laws and procedures.

Most applicable laws in the maritime domain, particularly in the offshore zone are based on international laws that need to be domesticated. Being a Dualist State, Treaties and Conventions that Ghana enters into do not automatically become law in Ghana after they are acceded to by the Government. There is always the need to pass them into domestic law. This has not always been the case. Fortunately there are enough domestic laws to deal with emerging threats in the maritime domain.

The judicial system in Ghana is not well in tune with maritime laws and some judges have in the past delivered ridiculous judgments with regard to maritime offences. The recent case where an Argentine warship was seized by a court in Ghana in a civil dispute clearly in contravention of international maritime law was an embarrassment to the country and could have led to a serious international dispute.

The court’s judgment was reversed by the Supreme Court only after the International Tribunal for the Law of the Sea in Hamburg ruled that the action of the Ghanaian court was in contravention of international maritime law. There is the need for general education of all stakeholders in the judicial system and also the need to have specially trained investigators, State attorneys and judges to adjudicate offences committed at sea.

THE WAY FORWARD

Presidential Directive. The nature of maritime policing makes it quite different from traditional policing on land. It involves many highly skilled issues that are the domain of many MDAs as well as private entities. Collaboration and coordination among these MDAs and private entities are the cardinal principles for effectively policing the domain. There is therefore the need for a Maritime Security Directive to be issued by the President which will compel the agencies to work together to develop an overarching strategy for policing the maritime domain. The Presidential Directive would spell out the President’s vision for fully coordinated effort to protect Ghana’s interests in the maritime domain. It would state the President’s commitment to maritime security and aim to integrate and align all government maritime security programs and initiatives into a comprehensive and cohesive national effort involving appropriate MDAs, local governments and private sector entities.

National Strategy for Maritime Security. Based on the Presidential Directive, all stakeholders would then come together to draft a National Strategy for Maritime Security which when completed would be referred to Cabinet for approval and issue of an Executive Instrument to give it the necessary authority. The strategy would set the objectives to be achieved and actions required to achieve those objectives. It would also delineate responsibilities and establish coordination mechanisms.

Joint Maritime Security Coordinating Centre. Having developed the strategy, the next step would be to establish a coordinating centre and appoint a National Maritime Security Coordinator. It would be the responsibility of the Centre to coordinate all maritime security activities in the country. The Ghana maritime Authority currently has the mandate, through the Ghana Maritime Security Act to coordinate maritime security in Ghana. The Authority has so far not demonstrated the capacity to discharge this onerous responsibility. The Authority evolved from the Shipping Division of the Ministry of Transport, whose mandate was limited to safety of maritime transportation. Maritime security goes well beyond that and the Authority ought to realize their expanded mandate.

CONCLUSION

The establishment of the Marine Unit of the Ghana Police may be well intended. However it is apparent that not much consultation was held with the various stakeholders, particularly the Ghana Armed Forces who currently perform the policing role at sea. In order not to dissipate already scarce resources, it is necessary that broad consultations are held taking into account what is already available in order to determine the need for the Marine Police and to establish a clear mandate for them.

Policing the maritime domain is the business of many stakeholders including the Police and the military. What is important is to develop an over-arching strategy based on a common goal of a safe, secure and unpolluted maritime domain. The strategy would determine the role of each stakeholder and establish collaboration and coordination mechanisms. The Ghana Maritime Authority has the mandate to bring the stakeholders together to start acting now.

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