



SHIPPING | MAY 2022

PIRACY IN THE GULF OF GUINEA - NEW LEGISLATION IN NIGERIA

New Terrorism Prevention Act in Nigeria

The scourge of piracy in the Gulf of Guinea (**GoG**) and along the West African coastline is well known. Until last week, pirates who kidnapped vessels and crew for ransom would likely have been charged with terrorism offences by the Nigerian authorities. A new law, which came into force on 12 May 2022, may change the Nigerian government's approach.

The Background

Formerly, Nigeria's principal anti-terrorism law¹, along with other laws², categorised kidnap and ransom activities, regardless of the intention, as terrorism. The Terrorism (Prevention) Act, 2011 has now been repealed and replaced by a new law, the Terrorism (Prevention and Prohibition) Act, 2022.

The New Law and its Implications

One of the key objectives of the new law is to provide effective measures to assist Nigeria in its fight against terrorism and the financing of terrorism.

There has been a recent lull in the frequency of GoG pirate boardings and kidnaps. Nigerians and the international trading community alike hope that this let-up lasts long into the future.

However, in the unfortunate event that ship crews are kidnapped in the future, owners and their insurers will need to carefully consider the implications of the new law in relation to any negotiations with pirates and any ransom payments, or risk violating Nigerian law, which has extra territorial application.

In particular, the parties must consider specifically the identities of the pirates and their intentions (expressed or implied) in boarding the ship and kidnapping the crew.

The Nigerian government aims to send a clear message to terrorists and their financiers by introducing harsher penalties for those found guilty. The penalty for individuals found guilty of financing terrorism has been increased from 10 years to life imprisonment. The fine payable by corporates for financing terrorism has also been doubled from NGN 100 million (about USD 240,000) to NGN 200 million (about USD 480,000, in addition to other penalties).

Commentary

Nigerian legislators' intention to eradicate terrorism in Nigeria and its territorial waters must be applauded. Nigerians welcome the harsher penalties for perpetrators of terrorism and their financiers.

In implementing the new law, however, government agencies and courts should apply the law, as intended by the legislators, to target the activities of terrorists. In going about their duties, they must be careful that they do not exacerbate the plight of the innocent victims of kidnapping and those seeking to lawfully pay ransoms to obtain their safe release.

Shipowners and their insurers should ensure that they consider with their legal representatives the implications of the new law. In particular, they must be diligent in their attempts to ascertain the identities and intentions of those holding the crew. They must also, where feasible and appropriate, provide information, assistance and cooperation to the Nigerian authorities, as the law requires.

¹ The Terrorism (Prevention) Act, 2011 as amended by the Terrorism (Prevention) (Amendment) Act, 2013

² Principally, the Suppression of Piracy and Other Maritime Offences Act, 2019

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