

# COMBATING PIRACY AND MARITIME OFFENCES:

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Suppression Of Piracy And Other  
Maritime Offences Act 2019

## Introduction

Piracy attacks in Nigeria have featured long since the Civil war. This has affected the Nigerian Economic system in no small measure as people's means of livelihood are dependent on the safety of the sea, and a high percentage of Nigeria's international cargo trade is facilitated by sea carriage. In June 2019, the President signed into law an anti-piracy bill named Suppression of Piracy and other Maritime Offences Act, 2019 ("SPOMO Act" or the "Act") with the objective of preventing and suppressing piracy, armed robbery, and any other unlawful act against ship, aircraft, floating platform and any other maritime craft navigating within the territorial and internal waters of Nigeria or on or above international waters. The SPOMO Act gives effect to the provision of the United Nations Convention of the Law of Sea (UNCLOS) 1982, and the International Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 1988 and its Protocols. Prior to its enactment, there was no local legislation making provisions as to what Constitutes Piracy and other Maritime offences, punishments, jurisdiction, regulatory agency in charge of such matters in Nigeria, etc. Thus, although there were applicable international treaties, there was a lot of ambiguity. This Article aims to equip its readers with an understanding of what constitutes piracy and other maritime offences, the punishment for the different crimes/offences, the regulatory body with authority over such matters and its powers, the Court with jurisdiction, a brief outline of the framework for the Act, implications of certain provisions, and recommendations.

## Offences Under SPOMO Act

### Piracy

Piracy has been defined simply as an act of robbery especially on the high seas. The Act specifies actions that can amount to Piracy such as illegal act of violence, detention, depredation committed for private ends by the crew or any passenger of a private ship or aircraft and the voluntary participation in the operation of a pirate ship which is directed in international waters against another ship.

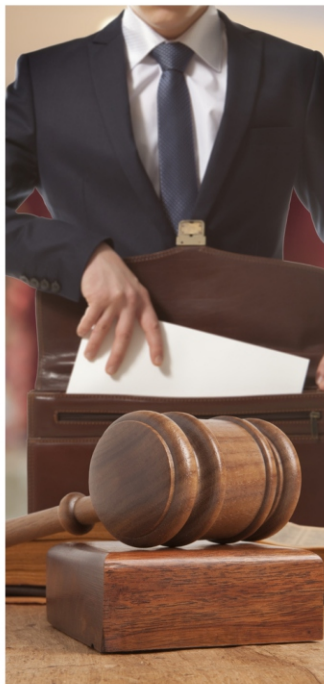
### Maritime Offences

Maritime offences on the other hand ranges from armed robbery at sea, destroying or damaging any maritime navigational facility, demanding ransom, to transporting explosive or radioactive material to be used as a threat for the purpose of intimidating an entity to do or abstain from an act or transporting a person to evade criminal prosecution.



## Jurisdiction

The Federal High Court of Nigeria has been vested with Exclusive jurisdiction to hear and determine any matter under the SPOMO Act. The Act provides instances whereby the Court will have the jurisdiction to try an offence. It must be committed against or onboard a ship registered in Nigeria or bearing the Nigerian flag at the time the offence was committed, against or onboard a fixed or floating platform located on the continental shelf against a citizen of Nigeria, in Nigerian territorial waters or by a Nigerian Citizen. Other instances where the court can assume jurisdiction is if the ship is in international sea and has SUA Convention element such as the ship bearing the flag of a State party to the SUA or the offender is a national of a State party to the SUA.



## Prosecuting Authority

In line with the Constitution of the Federal Republic of Nigeria 1999 ("CFRN 1999"), and the Administration of the Criminal Justice Act ("ACJA"), the prosecution of all offences under the SPOMO Act shall be undertaken by the Attorney General of the Federation ("AG Federation"), any law officer so designated from the office of the AG Federation, or NIMASA with the Consent of the AG Federation.

## Relevant Authority

The relevant authority with regard to the coordination of Maritime activities under the SPOMO Act is the Nigerian Maritime Administration and Safety Agency ("NIMASA"). Its responsibilities include ensuring the effective formulation and implementation of a comprehensive maritime strategy, collaborating with the Navy to build capacity for the effective discharge of all relevant security, intelligence, and law enforcement under the SPOMO Act or other law on Maritime offences in Nigeria, and to do any other Act as may be necessary for the implementation of the Act. The Act also empowers NIMASA to seize vessels or aircrafts that are pirate-controlled or used for maritime crimes anywhere in Nigeria or in international waters. They also have the right to arrest and prosecute persons found onboard seized aircrafts or vessels. However, this right is subject to the right of third parties acting in good faith, and must be undertaken by a ship or aircraft of NIMASA clearly marked and identifiable as being on Government service and authorized to that effect. Furthermore, the law gives guidance on the arrest and punishment upon conviction of a person who is suspected of committing an offence under this act. A suspect can be detained for a reasonable period of Ninety (90) days which is subject to renewal until the conclusion of investigation. Upon conviction, the offender is subject to punishments laid down by the Act which can include imprisonment, fines and restitution to the owner or forfeiture to the Federal Government the proceeds of piracy or maritime offences.

## Piracy And Maritime Offences Fund

Another significant provision of the SPOMO Act is the establishment and maintenance of a "Fund" which will be used for implementation of the Act. The act lists the sources of the fund which includes money from the government, gifts by beneficiaries of maritime law enforcement, and 35% of the proceedings from the sale of any property seized or forfeited under the Act.



## Conclusion And Recommendations

The SPOMO Act fulfills the international requirement for standalone legislation on piracy and serves as a means of addressing the maritime insecurity rife in West African waters which will alleviate the fears of investors and the international maritime community. Finally, according to the ICC International Maritime Bureau ("ICC IMB"), the SPOMO Act has led to a significant reduction in piracy and armed robbery attacks by about 77% on Nigerian waterways especially in the Gulf of Guinea. The ICC IMB latest piracy report for the first half of 2022 (July 2022 report), details 58 incidents of Piracy and Armed robbery against 2022 ships- the lowest since 1994, which is down from 68 incidents during the same period last year 2021. The impact of the Suppression of Piracy Act will however be better felt if other countries especially in the West Africa Region follow the example of Nigeria, and implement similar laws in order to improve the combat piracy and such other related offences.

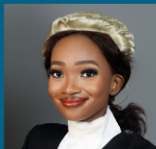
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