
RESEARCH BRIEF 7/2018

Security Institute for Governance and Leadership in Africa

SIGLA@Stellenbosch

Author: Doctor F.C. van Rooyen (SIGLA)

Series Editor: Professor F. Vrëy (SIGLA)

The imperative for Africa's maritime governance: To shift from prevarication to action

The year 2018 marks a decade since the watershed decision by the Somali Transnational Federal Government to formally request the international community's aid in combating maritime insurrection in its waters. This event is worth commemorating, as it marks the process to initiate and formalise the governance of Africa's maritime areas. This research brief highlights important steps followed since 2008 to show Africa's contemporary maritime governance, then outlines some of the critical complexities in managing the continental maritime effort; and formulates proposals for corrective courses towards achieving progress.

Africa's Integrated Maritime Strategy and the Lomé Charter

The consummation of Africa's continental maritime project that officially commenced in 2009 was heralded by the decision to incorporate [Africa's Integrated Maritime Strategy 2050](#) (2050 AIMS, here 'the Strategy'), accepted in January 2014. The Strategy was the outcome of an iterative and inclusive process that was widely acclaimed, yet quickly became enervated. In an effort to energise the Strategy, the Lomé Charter ('the Charter') was produced; a continental treaty that attempts to legally compel states to action the Strategy.

Both the Strategy and the Charter (inclusive of the 'blue economy') are considered important building blocks for the AU, spelt out in its [Agenda 2063](#). By February 2018, 35 African states had signed, and only one (Togo, the host nation for the event) had [ratified and acceded](#) to the Charter. Yet the fault may not lie in deficient strategy or charter architecture, as both appear to be qualitative documents: Often, in the management of such complexity, the fundamental problem is that initial attempts at success are not always achievable, which clearly is the case here.

Predating both documents in question, are two valid background observations and causalities. Firstly, although there have been exceptions, history shows that the Majority World – of which Africa axiomatically forms a significant part – has been uninvolved in maritime issues and have ignored the oceans and the continent's potential synergy with it. Second, security in Africa has traditionally had an association with the protection of regimes and not their people; and

the focal points have been landwards, and by exception seawards. This is described in contemporary terms as ‘maritime blindness’ – sheer ignorance with respect to the strategic role the oceans and maritime governance have in securing economic prosperity.

The coordination of unified, common tasks to attain the Strategy and its Charter’s goals from the great heterogeneity of Africa’s 55-member states — is itself a formidable task that calls for sustained and exceptional leadership. But the fundamental issues that the Strategy and the Charter are attempting to address will continue to exist and cannot be changed by bilateral or even (African) regional diplomacy or policy. The unilateralism inherent in realism does not sustain mutually agreeable results. Hence, there remain “indeed, significant responsibilities for generating the desirable political will for implementing the strategy” (the Strategy, Executive Summary).

The weaknesses of Treaty Law exposed

Important to note is that the Strategy and the Charter are documents, under the protection of [Treaty Law](#),¹ that requires state parties to perform certain actions in good faith, proscribes state parties from acts that would negate the Strategy and Charter’s object and purpose, while allowing a supervening impossibility of performance.

Both aforementioned pivotal maritime governance documents contain escape clauses that relate, firstly, to the sanctity of sovereignty of any AU member state; and secondly, actions that any state may consider exigencies of internal or external security issues. This means, in effect, that AU states need not apply the Strategy or the Charter, in fact the signatories are merely requested or encouraged to ensure maritime governance.

The Strategy (paragraph 12) makes two assumptions: firstly, that any lack of resources, “could be mitigated with a strong political leadership”; and secondly it “is further assumed that all related binding legal instruments are ratified (or under consideration for ratification) and domesticated”. Assumptions cannot form the basis for reliable and sustained growth models such as envisaged in the Strategy’s Vision Statement (Section IV) and Strategic End State (Section V), they represent strategic risks. At minimum, sustained political commitment, dedicated resource allocation and wide-ranging cooperation are required from Africa’s leadership and their multi-sectoral partnerships over the long-term for the Strategy to succeed.

Insufficient access to data and information on progress with respect to the Strategy and the Charter: Two specific issues

Somewhat confusingly, the Strategy notes that the AU Commission remains the main facilitation medium for implementing the plan of action, but it also states that a [2050 AIM Strategy Task Force](#) was set up in June 2011 that a stand-alone Department of Maritime Affairs (DMA) will be established as soon as possible; and that the plan of action will be updated every three years. However, in the absence of any credible information, it appears that as yet no maritime governance nodal point for the AU exists, nor have any scheduled reviews taken place. This creates a dire state of affairs and tends to render the entire continental maritime governance effort moot.

Then, Article 46 of the Charter makes references to Annexes that “complement” the

¹ Vienna Convention on the Law of Treaties, that came into effect on 27 February 1980.

document. Yet, there appears to be no information available in the public domain to indicate the number of e substance of these Annexes. It appears these appendices are treading water in 'technical committees'.² The issue of the Charter's Annexes needs to be aired and resolved.

A further issue that strikes one during analyses of the Strategy and the Charter is that the concept '(in)security' is conflated with that of 'governance'. Governance "consists of the overarching, concerted and coherent long-term multi-layered plans of actions that will achieve the objectives of the AU to enhance maritime viability for a prosperous Africa" (the Strategy, Article III), and includes management across a range of endeavours to enhance African human security levels. These terms and associated concepts, when used interchangeably, cause confused actions and priorities.

PLOTTING CORRECTIVE COURSES

What follows is *an* option that seeks to review, renew and re-negotiate both pivotal documents while still adhering to the 2050 target date, and comprises two mutually-dependent actions.

First action – restore the paths of the Strategy and the Charter. The critical priority would be to establish the Department of Maritime Affairs. Its leader and the directing cadre (see below) need to be exemplary, for the tasks ahead could be daunting. This DMA team needs to be appointed before the end of 2018. Its first task would be to appoint *only five* maritime/inland waters nodal points in the [five main economic regions of Africa](#). This would ensure a more directed, focused approach; while working towards the achievement of the African Economic Community (as envisaged in the [1991 Abuja Treaty](#), Article 1(d)).

Second action – the DMA as treaty negotiators. The main task of the DMA team will be to negotiate the Charter with state parties at all regional levels and at the same pace, thereafter work towards its implementation. In essence, each country at present wants to minimise the expenditure on resources and obtain the maximum yield, yet each realises that the overall result would be detrimental to the treaty as such. The challenge for the AU DMA team is to ensure that unilateralism becomes self-executing for each state party. For auto-enforcement to succeed, three conditions must be satisfied:

First, the Charter treaty needs to be rational for each individual state party, where even land-locked states can see the value of the accord through its hinterland logistics-economic linkages. No party should gain an advantage by withdrawing from the treaty, and any non-signatory should not benefit from not signing/acceding.

Second, the Charter treaty must of necessity be collaboratively rational. The risks, challenges and opportunities derived from the Charter must be credible to the extent that countries desire to collectively participate in cooperative endeavours.

Third, the Charter treaty must satisfy the criterion of being impartial and equitable. This requirement is interwoven with and reinforces the individual and collaborative rationale of the preceding two elements.

² The 5th International Conference on Strategic Theory. "Africa's Security Triad: From Leadership to Landward and Maritime Security Governance", co-presented by the Royal Danish Defence College (RDDC) and the Security Institute for Governance and Leadership in Africa (SIGLA) Stellenbosch University. Held at the Ethiopian Peace Support Training Centre, Addis Ababa, Ethiopia 28-30 September 2017. The Chatham House Rule applies.

For the DMA, these tasks may be arduous, but are nevertheless critical; and must commence sooner than later.

Further Reading

Barrett, S., 2005. *Environment and Statecraft: The Strategy of Environmental Treaty-Making*. Oxford: Oxford University Press, pp. xii - xiv. I am indebted to some of this author's ideas in respect of this research brief.

Stavridis, J. (Admiral, United States Navy, Retired), 2017, Chapter 9. *Sea Power. The History and Geopolitics of the World's Oceans*. New York: Penguin.

Dr Frank van Rooyen is a Research Fellow of SIGLA. He can be contacted on frankvroy@sun.ac.za.