

LOSS PREVENTION GUIDANCE ON ANTI-NARCOTIC SMUGGLING MEASURES

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INTRODUCTION

The global shipping industry remains a prime target for transnational criminal syndicates in the illicit transportation of narcotics. There has been a noticeable increase in drug trafficking incidents along Nigeria's coastline in recent years, positioning it as a significant transit hub for drug trafficking within the Gulf of Guinea¹. The recent uptick in the illicit trade by sea would seem to coincide with the COVID 19 pandemic when international airports were shut. Prior to this period, the illicit trade found air transportation more popular. As alluded to by officials of the anti-smuggling agency in the course of investigating one of the drug cases we are handling, they have recorded a drastic reduction in the volume of narcotics coming in through the airports. This growing trend has fostered closer ties between Nigerian drug trafficking networks and other international syndicates. According to the World Drug Report published by the United Nations Office on Drugs and Crime (UNODC) 2024, maritime routes remain the primary means for smuggling illicit substances.

GLOBAL LANDSCAPE OF DRUG (NARCOTICS) SMUGGLING IN MARITIME TRADE

Drug trafficking via sea routes is a well-known and well-documented global issue, given that routes originating from major narcotic producing regions leverage on the large size and complex structures vessels provide, for the covert transportation of narcotics and other illicit drugs and substances. Regardless of the type or size of the vessel, there are potential hiding spots for narcotics using various concealment techniques and mechanisms which include:

- i. The Rip-on/Rip-off techniques where the drugs are placed inside or around legitimate cargo/containers, the container structures themselves, or within the areas of the ship designed to secure them.
- ii. Narcotics may be hidden in vehicles transported on vehicle carriers or within legitimate bulk cargoes such as grain, coal, ore, and sugar.

¹ The Gulf of Guinea borders 19 countries (including Nigeria) in West Africa. It is a strategic area that is rich in natural resources, including oil, gas, diamonds, tin, bauxite, manganese, and cobalt and many more.

- iii. Ballast tanks, void spaces, storerooms, accommodation areas, machinery and equipment spaces.
- iv. In some instances, drug packages have even been discovered welded or affixed to underwater parts of the ship, such as sea chests or the hull.

The Gulf of Guinea being a porous channel for transnational trade has become a key transit route for narcotics and other illicit substances particularly cocaine from Latin America (port of Santos) destined for European and some North American markets.

KEY RISK FACTORS MAKING NIGERIA'S MARITIME SECTOR PRONE TO DRUG TRANSSHIPMENT.

- a. **High Cargo volume and limited screening time:** Nigeria has six major ports which are constantly under the pressure to the Nigerian ports process tremendous consignments of cargo daily usually overwhelming the available manpower and facilities to inspect and detect any infractions.
- b. **Dearth in inter-agency coordination:** Cooperation between security agencies remains very inconsistent despite the presence of the National Drug Law Enforcement Agency (NDLEA), the Nigeria Customs Service, the Marine Police, INTERPOL, etc, at various ports in Nigeria.
- c. **Use of Secondary ports:** Shipments are being diverted to smaller, less monitored ports and coastal landing points by criminal entities.
- d. **Corrupt practices and insider dealings:** Some port officials, customs officers and other personnel have over the years been implicated in various smuggling operations.

RIPPLE EFFECT OF LOCAL REGULATORY BODIES DISCOVERING NARCOTICS ON BOARD A VESSEL AT PORT

The discovery of contraband parcels aboard a vessel results in significant legal and operational repercussions for the shipowners, crew and other maritime stakeholders. Once any contraband substance is found on a vessel, the ship, its Captain and the crew are typically detained for investigation, leading to various consequences, including:

- 1. **Operational Delays arising from vessel detention:** Cargo operations are significantly hindered due to extended detention periods for investigation purposes. For this purpose, insurance claims related to the vessel are always denied, especially if the crew have been suspected to be complicit.

2. **Detention of Key Personnel:** Principal officers aboard the vessel may be detained by local authorities, which restricts their access to personal belongings and families during the investigation and/or prosecution.
3. **Prolonged Legal Proceedings:** The case may experience delays in the criminal justice system, leading to extended trials. If the principal officers are found guilty, they could face lengthy imprisonment terms or substantial fines imposed by the courts.
4. **Vessel Forfeiture:** In some cases, the ship may be seized and permanently forfeited to the government where the Act prescribes such penalty as part of the legal process.
5. **Financial Strain:** Ship owners may incur significant financial costs, including legal fees, bail bonds, heavy fines, provisions for accommodation and the welfare of detained officers and the potential loss of the vessel.
6. **Reputational Damage & Discouragement:** Such incidents can severely damage the reputation of the affected shipowners and crew in the shipping industry. Relatedly, it could discourage more individuals from pursuing a seafaring career.

LOSS PREVENTION MEASURES

Under Nigerian Law, particularly by section 25 of the Nigerian Drug Enforcement Agency (NDLEA) Act, 1989; Ship owners or owners of commercial carriers are required to do all things necessary to prevent the use of their vessels as a means for committing a crime and to comply with appropriate security measures at points of entry and exit in Nigeria and other customs control areas; and to prevent unauthorised cargo from being introduced into the vessel.

To mitigate the risk of drug smuggling, the Shipowners and maritime stakeholders should ensure that the following practical measures are adopted and implemented on board vessels at each stage of her operations:

PRIOR TO A SHIP'S ARRIVAL AT PORT OF LOADING:

1. Owners should assess the severity of the drug smuggling threats at the loading ports. A comprehensive update about the port's security conditions should be obtained by owners' local agent.
2. In high-risk areas, it is advisable for the vessel to consider hiring additional security personnel from approved shore suppliers. Where necessary, the Master should consider implementing the highest security level to forestall any possibility of drug smuggling, regardless of a lower level that the local port may have prescribed.

3. Shipowners, charterers should organize regular crew training sessions on the International Ship and Port Facility Security (ISPS) Code, the Ship's Security Plan (SSP), port operations, security responsibilities, and general security awareness. Crew members should be educated about the risks associated with drug trafficking and the severe consequences of any involvement in such activities. Prior to entering ports known for drug trafficking, the crew must be reminded that cooperating with traffickers not only violates company policies, but may also have serious legal repercussions. Crew members should also be trained to identify suspicious consignment or persons.
4. Owners should ensure that functional Closed-Circuit Television (CCTV) systems are installed throughout the vessel, ensuring no blind spots from the port of loading to the port of discharge.
5. Comprehensive due diligence should be conducted on all officers of the Ship prior to employment, as well as on charterers before entering into any Charter Party Agreement. This is to promote and ensure the integrity of their personnel.
6. Periodic evaluations of the vessel should be conducted to ensure ongoing security compliance and operational safety.
7. The adoption of non-intrusive inspection systems, X-rays and other specialized mechanisms for cargo screening, the implementation of surprise checks and the alternation of these check patterns and the ultimate compliance with (ISPS) codes
8. Utilize AI and data analytics to identify high-risk shipments by origin, routing, and cargo type, while implementing electronic seals with tamper-proof tracking systems to monitor container integrity.

WHILE AT PORTS OF LOADING

1. Any visitor wishing to board the vessel, along with the purpose of visit should be verified with the local agents. Strict access control measures should be implemented, including thorough entry checks (such as verifying photo IDs and work orders). This should not be limited to visitors, but should include any port staff and anyone who is not an officer of the vessel and stevedores. Individuals unwilling to cooperate or provide satisfactory identification should be denied entry. All visitor entries and exits should be properly recorded, and random checks should be conducted.
2. As is the standard practice, the vessel should maintain a meticulous log of all activities onboard, from arrival to departure. This log should be frequently reviewed by the watchmen and SSO to identify any irregularities.

3. Vigilance should be maintained throughout the vessel's stay in port or at anchor. Enhanced security patrols should be conducted on deck, and restricted areas should be monitored continuously, during loading and particularly during low-visibility conditions or night-time hours. Adequate lighting should be arranged to illuminate potential blind spots on exposed decks in the dark hours.
4. Any suspicious activities observed near the vessel, such as the presence of divers or small boats should be immediately reported to the master. The master should then notify his owners and the local authorities. In such instances, it is advisable to conduct an underwater hull inspection before departure. Some ports may require an official inspection of the hull for drugs before the ship sails.
5. A thorough search of all compartments should be carried out both before the ship's departure and prior to the commencement of the sea voyage. All findings, including any searches, should be documented in the ship's logbook and security log by the SSO.
6. Constantly monitor all loading operations particularly where the configuration of the vessel is such that during loading operations, the hatch covers are raised to cover the vessel's bridge.
7. All cargo holds must be under constant inspection before, during and after all loading operations particularly for bulk cargo carriers.
8. As much as is practicable, loading of each cargo hold once commenced should be concluded and cargo hold sealed in one continuous loading operation.
9. Cargoes/containers should also be thoroughly searched by the relevant officers of the vessel before departure.
10. There should be the use of tamper-resistant, individually verifiable seals on containers.
11. Owners, Charterers and the crew should submit cargo manifests to relevant authorities in advance.

WHEN DRUG IS FOUND ONBOARD THE VESSEL:

Despite due diligence and best efforts to prevent the transshipment of narcotics and illicit drugs aboard a vessel, this does not completely eradicate the possibilities of a successful contamination of such drugs by nefarious individuals or syndicates who are more determined. It is imperative that owners, charterers and/or crew members know what procedures or steps to take when illicit drugs are found onboard.

AT THE PORT OF LOADING:

If drugs are discovered on the vessel at the port of loading, the crew should not touch, smell, taste, handle or shift them, but should instead seal off the area, taking photographic and where possible, video evidence of the discovery and onboard actions.

The local relevant authorities should be immediately notified and crew members are advised to stay calm and cooperative with the authorities. The Master should immediately notify the owner's/charterer's or Protection & Indemnity (P&I) Club's local correspondents. A local qualified lawyer should be immediately notified and briefed.

Further, where drugs are found at the load port, owners and/or charterers must cooperate with the security agents and ensure that the entire vessel is thoroughly searched to be sure that she is free of drugs before sailing to any port in Nigeria. Where it is impracticable to ascertain or guarantee that there are no more drugs onboard the vessel, the owners should consider the option of cancelling the applicable C/P and deal with the attendant commercial consequences, rather than getting entangled in a protracted drug case in the likely event that more drugs are found on the vessel at the Disport.

DURING VOYAGE

If drugs are discovered on the vessel during voyage, crew members should immediately inform owners/charterers and/or the P & I club for direction. It is advisable for the vessel to proceed to a friendlier port and more accommodating than the port of discharge, i.e., a port with authorities more sympathetic to crew members and ship owners. Owners/Charterers may also consider transshipment of cargoes to another vessel bound for the port of discharge, where possible and practicable. It is more economical in the long run to ensure that the drug is not transported into Nigeria aboard the vessel.

Another possible option is for the Master to immediately contact the owners and seek instructions as to how best the situation can be handled. Proceeding to a Nigerian port with drugs onboard the vessel is certainly not an option.

AT THE PORT OF DISCHARGE:

If illegal substances are suspected or discovered on board while at the Disport or during voyage, it is essential for the ship's crew to remain calm and implement the following measures.

1. Follow the company's established procedures as outlined in the International Safety Management (ISM) Code and the company's Safety Management System (SMS). Immediate action should be taken in accordance with the Ship's Security Plan (SSP).

2. Any suspicious objects should not be touched. The affected area should be cordoned off and restricted by the SSO, and photographic evidence should be collected for documentation purposes.
3. Immediate notification should be made to the Owners/ Charterers, Protection & Indemnity (P&I) club, local correspondents, a locally qualified shipping lawyer in the jurisdiction and local authorities at the port of loading or discharge depending on the time of discovery.

CRIMES THAT MAY BE INFERRED/CHARGED FROM THE DISCOVERY OF DRUGS ONBOARD A SHIP.

By the NDLEA Act, ship owners or Charterers may be charged with the following offences on discovery of illicit drugs onboard a vessel:

1. Importation, transportation and/or trafficking of narcotics or illicit drugs which all carry a life sentence upon conviction.
2. Crew members may be charged for knowingly possessing narcotics and liable on conviction to imprisonment for a term not less than fifteen years but not exceeding 25 years.
3. Crew members may be charged with conspiracy to import, transport, traffic narcotics and liable on conviction to be sentenced to imprisonment for a term not less than fifteen years and not exceeding 25 years.
4. The ship owners and/or charterers may be charged for negligence on their part to prevent the vessel from being used as a means of an offence. They may be proceeded against and liable on conviction to a fine not exceeding NGN 100,000.00 (One Hundred Thousand Naira).
5. Although a vessel, it can be argued that a vessel has no capacity of committing an offence on her own under the NDLEA Act,, it however does not totally exculpate or exclude the vessel from liabilities. There have been cases where a vessel has been charged and convicted in Nigeria pursuant to other legislations. A vessel may be forfeited under Nigerian laws if it has been established to have been used or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of narcotics without authorisation. It should be noted that the NDLEA Act requires that the owners or charterers must have consented or been privy to the illegal operation. Hence, the need for owners to carry out proper due diligence.

CALL TO ACTION:

In tackling infiltration of narcotics and other illicit drugs into maritime trade; both locally and internationally, robust coordination amongst the relevant government authorities, shipping companies, regulatory agencies, seafarers and other maritime stakeholders is essential.

1. **Legal Protection for seafarers:** There should be formulation and adoption of industry wide protocols for the treatment of crew members on board any vessel where any narcotics have been discovered.
2. **Industry reporting mechanisms:** Shipping companies should actively share intelligence on smuggling attempts with regulatory agencies.
3. **Accountability for port Authorities:** Nigerian ports must enhance security frameworks and eliminate corruption-related vulnerabilities.
4. **Policy reforms for drug interdiction:** Governments and maritime regulators must update laws to reflect evolving smuggling methods and enforce stricter penalties for collusion.
5. **Building international inter-agency collaboration:** Encourage public-private partnerships, enhance regional intelligence sharing, and establish dedicated anti-smuggling task forces to disrupt narcotics trafficking in maritime trade.

CONCLUSION

It is crucial that ship owners and maritime stakeholders take all necessary precautions to combat maritime drug trafficking and minimize its impact on the lives of seafarers and their families as the fight against narcotics smuggling is not just about protecting commercial interest, it is a matter of global security and economic stability. Hence, collective efforts are essential to reduce significantly or ultimately eliminate drug trafficking at sea. Vessels operating in high-risk areas are strongly advised to reference the IMO Revised Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances, and Precursor Chemicals on Ships Engaged in International Maritime Traffic (Resolution MSC.228(82)) and Resolution FAL.9(34). Fostering the culture of vigilance, cooperation and accountability can help reduce vulnerabilities as well as uphold the integrity of global shipping operations.