

STATEMENT OF PHILIP J. SHAPIRO
PRESIDENT AND CHIEF EXECUTIVE OFFICER
LIBERTY MARITIME CORPORATION

BEFORE THE

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Mr. Chairman, thank you for the opportunity to testify before this Subcommittee on the important and pressing issue of piracy. As you know, one of our vessels – the LIBERTY SUN – was attacked by pirates off the coast of Somalia on April 14, just two days after the incredible rescue of Captain Phillips of the MAERSK ALABAMA. Thankfully, no one on the crew of the LIBERTY SUN was injured, despite the vessel being hit by four rocket propelled grenades (RPGs) and automatic weapons fire, and the SUN arrived safely in Mombasa, Kenya on April 15.

I am also very pleased to be in the company of the other distinguished guests on this panel and most especially Capt. Phillips and Michael Perry, the master and chief engineer of the MAERSK ALABAMA. I look forward to their remarks as they and the other crew members of these ships are the true heroes in these incidents.

The LIBERTY SUN -- like many other U.S.-flag vessels which transit the pirate danger zone -- was on a mission of mercy – a mission to deliver much needed food aid to alleviate famine in East Africa. The LIBERTY SUN carried 47,000 metric tons of food as a gift from the American people

to be distributed by the UN World Food Programme and other relief agencies. The SUN's cargo alone is enough to feed more than 250,000 people for a year in several African countries including Somalia.

Our company has five other U.S.-flag vessels that were specifically built to transport U.S. government international food aid as efficiently and economically as possible. Without revealing operational details for fear of assisting the pirates, I can say that we almost always have one of our vessels in or near the danger area at any given time and so we take the threat of piracy very, very seriously.

In this whole incident, we are most proud of our U.S. citizen crew. In the case of the LIBERTY SUN, we had a typical geographically diverse crew with members hailing from Lynn, Massachusetts -- Tracy City, Tennessee -- Plano, Texas -- Denham Springs, Louisiana and many places in between. Capt. Don Grosse and Chief Mate Bill Kenneweg, whom you will see in a short video, are from Williamsburg, Virginia and Port Townsend, Washington, respectively.

These men and women are all trained to the highest levels of seamanship and technical skill by our country's service and maritime academies and by the continuing education systems of their unions – the

Marine Engineers Beneficial Association or MEBA and the Seafarers International Union or SIU. Our 20-member crew performed exceptionally during the incident and in the highest traditions of the long and illustrious history of the U.S. merchant marine.

Our company and our crew implemented enhanced precautions to make our vessels difficult pirate targets prior to the recent incidents. Indeed, Liberty went well beyond the best management practices recommended by a consensus group of international ship owners' associations representing virtually the entire world's fleet.

Captain Don Grosse and the rest of the crew followed the company's security plan and kept their cool under fire. We don't know if those actions deterred a boarding. But we do know that no boarding occurred and the crew did everything that could reasonably be asked of them before, during and after the attack.

We also wish to thank the U.S. Navy for their prompt and effective response to the incident. We are especially grateful to General Duncan McNabb and Vice Admiral Ann Rondeau of the U.S. Transportation Command as well as Deputy Secretary of Transportation, Adm. Tom Barrett, who have been very supportive throughout this incident and in its

aftermath. Many other leaders in government, like Adm. Thad Allen, the Commandant of the U.S. Coast Guard, have focused their time and attention to solving this serious problem and we thank them as well.

I could go on with many more thank you's and with my own description of what happened on the LIBERTY SUN. But a picture is worth a thousand words and video tells a tale that no words can tell. So, with your permission, Mr. Chairman, at this point I would like to introduce and show a short video of the attack on the LIBERTY SUN taken by the Chief Mate, Bill Kenneweg.

Initially, you will see one of the pirate skiffs from which rocket propelled grenades and automatic weapons were fired at the ship. And you will see the aftermath of one of the RPGs fired at the vessel. The voices you will hear in the video are those of Captain Don Gross, Chief Mate Bill Kenneweg and Lee Hall on the bridge or command center of the LIBERTY SUN.

You will note that Capt. Gross asks Kenneweg to join the rest of the crew in the designated safe area of the ship and that Bill tells the Capt. that he is staying by his side.

Then you will hear the two talking about maneuvering the vessel to make it more difficult for the pirates to board the vessel. Those instructions are in turn transmitted by phone to the engine room because control has been transferred there in accordance with the vessel's security plan.

I hope you will forgive some of the language – which I understand may have been bleeped out in any event – even our highly trained crews are after all, sailors. Please also forgive some of the camera pointing – its not easy for a crew member who is not a professional war photographer to get good camera angles when he is being shot at!

[show video]

As you can see, Mr. Chairman, pirate attacks can come suddenly and end just as suddenly. The consequences of that incident and the one aboard the MAERSK ALABAMA are, however, still with us.

So, Mr. Chairman, with the balance of my time I would like to address what I regard as the pressing issues facing U.S.-flag vessels with regard to piracy.

First, we have heard some suggestions since the incident that U.S.-flag ship owners have not done enough to protect their vessels. That view – with all due respect, Sir, – is flat wrong. Our company adopted every measure recommended by international organizations and required by the U.S. Coast Guard's approved security plan for making the vessel a difficult piracy target and more.

For example, the crew of the LIBERTY SUN had rigged fire hoses to cover the stern of the vessel where many boardings in fact occur to create a virtual flood wall of water coming off the vessel. When the BAINBRIDGE arrived, their crew informed Capt. Grosse that they had never seen so much water coming off of a vessel. For this and other reasons, Coast Guard Admiral Baumgartner praised our crew's execution of the security plan in testimony before a House Committee last week.

There has also been criticism in some quarters of the government to the effect that U.S.-flag vessels should carry fire arms for the crews or armed private security teams. Please let me address this issue directly.

Merchant vessels simply do not routinely carry fire arms in this day and age. Many key ports, like Singapore, bar weapons on board vessels as do many canals. The International Maritime Organization and ship owning

associations all actively discourage the carriage of arms for fear that they will escalate violence and put crews at increased risk of injury or death. The overwhelming weight of professional opinion has been, for better or worse, against arming crews or hiring private security detachments. Thus, given the threat as it existed before the MAERSK ALABAMA incident, the judgment of virtually all ship owners around the world was that carrying arms was counter productive because the risk of violent escalation far outweighed the deterrence or protective value of firearms.

In my view, however, the MAERSK ALABAMA incident constitutes a game changer in this regard. After the incident, self-proclaimed pirate leaders issued direct threats of violence against American merchant mariners. Indeed, the attack on the M/V LIBERTY SUN may very well have been an act of revenge for the killing of the three pirates in the ALABAMA incident.

Moreover, the U.S. Government has publicly announced that it will neither pay nor will it permit U.S. companies to pay ransoms. Although we understand and respect this policy, it may well mean that American merchant mariners face a greater risk of violence if they are seized as hostages as the MAERSK ALABAMA incident indicates.

Given these conditions, our company and other U.S.-flag companies, have renewed our focus on the issue of fire arms and the use of specially trained security personnel whether employed by the U.S. Government or by private contractors. Since the LIBERTY SUN incident, our company has been engaged in intense discussions with the U.S. Transportation Command, the Navy, DOT, the Coast Guard and other governmental agencies about how to achieve better protection for our crews from pirates. In that process, it has become obvious that prohibitions contained in U.S. and foreign laws and existing legal liability make arming crew members or having armed private security in the near term very difficult if we are to abide by current law.

I have also heard it said that there should be no issue because the vessel and its crew have an unquestioned right of self-defense. And, indeed, we agree. Vessels and crews have that right. However, the right of self defense cannot be exercised with the benefit of fire arms under existing law.

Today's U.S. legal framework actually prevents ship owners from arming their vessels for self-defense. While the maritime right of self defense is enshrined in U.S. law in a statute dating from 1817, more recently enacted State Department arms export regulations effectively prohibit the

arming of vessels. Additionally, ship owners risk being second-guessed in U.S. courts for self defensive measures that were common in 1817. Mr. Chairman, in light of the recent threats to U.S. merchant mariners, we respectfully request that Congress consider clearing the obstacles that block ship owners from arming our vessels in self-defense to protect our crews when it is appropriate.

Mr. Chairman, I believe that U.S. flag ship owners have done all they can within the law to protect their crews. The safety of our crews is paramount. We need to work together – private industry and government – to give those crews all of the protection they deserve.

I hope that we can work together with you, Sen. Rockefeller, Sen. Hutchison, Sen. Thune and the members of this Committee and other Congressional leaders to bring U.S. law up to date and give us the legal framework we need to be able to protect ourselves.

I also hope that we all can come to an understanding that private industry cannot switch from a no-firearms regime to an armed protection regime overnight. Our ships need protection now – not six or nine months from now. In the interim, we will need either naval vessel escorts or government security teams for U.S.-flag vessels on high risk transits. And in

that regard, we are very grateful to both DoD and NATO for the cooperation we have received with regard to protecting the LIBERTY SUN when it leaves Mombasa and for other Liberty vessels entering the region.

Mr. Chairman and members of the committee, we all have some work to do – but we can achieve much together. The piracy problem is, of course, much bigger than just protecting U.S. crews on the high seas. It has correctly been described as an international problem that needs an international solution. But we should not let the complexity of the international problem deter us from addressing what can be done in the United States right now to protect American merchant mariners on U.S.-flag vessels.

Thank you again for inviting me to appear here today. We greatly appreciate the opportunity to discuss these matters with you and I would be pleased to answer any questions you or your colleagues may have now or after the rest of the panel has made their statements.

