



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**

**James L. Oberstar**  
Chairman

Washington, DC 20515

**John L. Mica**  
Ranking Republican Member

David Heysfeld, Chief of Staff  
Ward W. McCarragher, Chief Counsel

James W. Coon II, Republican Chief of Staff

May 19, 2009

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Coast Guard and Maritime Transportation

**FROM:** Subcommittee on Coast Guard and Maritime Transportation Staff

**SUBJECT:** Hearing on "Piracy Against U.S.-Flagged Vessels: Lessons Learned"

**PURPOSE OF THE HEARING**

The Subcommittee on Coast Guard and Maritime Transportation will meet on Wednesday, May 20, 2009, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to receive testimony regarding recent acts of piracy against U.S.-flagged vessels and the lessons to be learned from these attacks. This is a follow-up to a hearing the Subcommittee held on February 4, 2009.

**BACKGROUND**

**RECENT INCIDENTS OF PIRACY**

In the first five months of 2009, there has been a dramatic increase in the activity of Somali pirates in the Gulf of Aden and along the east coast of Somalia. The current number of pirate attacks to date in 2009 already surpasses the total number of attacks in that area in all of calendar year 2008. In 2008, there were a total of 111 known actual and attempted Somali pirate attacks resulting in the hijacking of 42 vessels. As of May 12, 2009, there have already been 114 known actual and attempted attacks resulting in 29 successful hijackings.<sup>1</sup> The Gulf of Aden has been the scene of the majority of the attacks and hijackings. However, as vessels have rerouted to avoid pirate prone areas within that Gulf, there has also been a significant increase in the number of incidents off the east coast of Somalia; 43 attacks have occurred there as of May 12 compared to 19

<sup>1</sup> "Pirate Attacks Off Somalia Already Surpass 2008 Figures," International Maritime Bureau Press Release, May 12, 2009.

in all of 2008.<sup>2</sup> As of April 15, 2009, approximately 300 crewmembers (none of whom are U.S. citizens) and 18 vessels remained captives of Somali pirates. These statistics are illustrated in the chart below.

### Number of Somali Pirate Attacks in the Horn of Africa Region

|   | 2008       | Jan 1-May 12, 2009 |
|---|------------|--------------------|
| Crewmembers taken hostage               | 815        | 478                |
| Vessels Attacked, Gulf of Aden          | 92         | 71                 |
| Vessels Attacked, East Coast of Somalia | 19         | 43                 |
| <b>Total Vessels Attacked</b>           | <b>111</b> | <b>114</b>         |
| Vessels Hijacked, Gulf of Aden          | 32         | 17                 |
| Vessels Hijacked, East Coast of Somalia | 10         | 12                 |
| <b>Total Vessels Hijacked</b>           | <b>42</b>  | <b>29</b>          |

Source: International Maritime Bureau

Although the number of pirate attacks in the Horn of Africa region has increased, the presence of foreign naval forces has decreased the pirates' rate of success in hijacking vessels. In January 2009, one in every six vessels known to have been attacked by Somali pirates was successfully hijacked. As the number of foreign naval vessels patrolling the Horn of Africa region has increased, the ratio of successful attacks for every attack attempted has decreased to one in eight in February and to one in thirteen in March. By comparison, the rate was one in three in the last quarter of 2008.<sup>3</sup>

In response to the increase in pirate activity in the Horn of Africa region, the European Union Maritime Security Centre - Horn of Africa (MSCHOA), in cooperation with the European Union Naval Force (EU NAVFOR) Operation ATALANTA, the United Kingdom Maritime Trade Operations, and the Combined Maritime Forces, revised the Internationally Recognized Transit Corridor (IRTC) on February 3, 2009. The IRTC is the path that merchant vessels are recommended to transit within the Maritime Security Patrol Area (MSPA), which is an unmarked rectangular corridor between Yemen and Somalia established by Combined Task Force 150 in August 2008. The MSPA was created under the direction of the Commander, U.S. Naval Central Command, with the intention of creating an area on which naval forces could concentrate their efforts to protect merchant vessels as they transit the Gulf of Aden. The MSPA is patrolled by a coalition of forces comprised of foreign naval vessels and air assets that provide deterrence and protection to merchant vessels. Vessels transiting the Gulf of Aden area are advised to use the IRTC, as naval assets can provide the greatest level of protection and support against pirates in that area.

<sup>2</sup> Ibid.

<sup>3</sup> ICC International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report, January 1-March 31, 2009.

Working with participating vessels, MSCHOA now coordinates “group transits” through the IRTC that follow established timelines; vessels choose the appropriate transit based on their speed of travel. The group of vessels then transit through the corridor together, making it easier for naval assets to monitor the movements of the vessels.

To avoid pirate prone areas, many vessels have re-routed east of Madagascar to avoid areas near the northern end of the Mozambique Channel. However, pirates have begun to expand the areas in which they are attacking ships and are now targeting ships hundreds of miles off the east coast of Somalia, between South Africa and the Arabian Gulf/Indian sub-continent. Using mother ships, pirates have attacked vessels from 300 nautical miles to up to 900 nautical miles from the Somali coastline. There have also been a number of attacks in an area that is approximately 400 nautical miles from the Somali capital of Mogadishu.<sup>4</sup> MSCHOA now recommends that vessels that are not making scheduled port calls in Somalia or along the east coast of Africa should stay at least 600 nautical miles off the coastline of Somalia if possible.

The Congressional Research Service has estimated that given the size of the areas in which Somali pirates are now known to be active, more than 60 naval ships might be needed to suppress piracy in the Gulf of Aden alone.<sup>5</sup> Over the past few months, there have been approximately 12 to 20 naval ships operating within the region.

#### INCIDENTS INVOLVING U.S. FLAGGED VESSELS

On April 8, 2009, the U.S.-flagged container ship *MV Maersk Alabama* was attacked and seized by pirates approximately 250 nautical miles southeast of the Somalia coastline. The vessel, manned by 20 U.S. crewmembers, was carrying U.S. government food aid to the Kenyan port of Mombasa when it was attacked. Press reports suggest that the U.S. crew on board overtook their Somali captors some time after the ship was attacked and attempted unsuccessfully to free the ship’s captain, Richard Phillips, after he had been taken hostage by the pirates. In response, the U.S. Navy dispatched the *USS Bainbridge* and reconnaissance aircraft to the area to monitor the small boat in which Captain Phillips was held by the pirates. Federal Bureau of Investigation personnel worked in conjunction with naval personnel to conduct negotiations in an effort to secure the captain’s release. Four days into the hostage stand-off, U.S. authorities on the scene determined that Captain Phillips’ life was in immediate danger and, with the prior authorization of President Obama, U.S. Special Forces sharpshooters stationed on the *Bainbridge* killed the three pirates with three gunshots, securing Captain Phillips’ release. The remaining pirate among those holding Captain Phillips hostage is in U.S. custody and will be arraigned in the United States. He has been charged with piracy, conspiracy to seize a ship by force, conspiracy to commit hostage taking, discharging a firearm, and brandishing a firearm while committing hostage taking. He is awaiting trial in the U.S. District Court in the Southern District of New York.<sup>6</sup>

On April 14, 2009, the U.S.-flagged vessel, *MV Liberty Sun*, with 20 U.S. crewmembers, was attacked by pirates approximately 285 miles southeast of Mogadishu as it was on its way to deliver U.S. government food aid to destinations along the east coast of Africa. The vessel had unloaded

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<sup>4</sup> ICC International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report, January 1-March 31, 2009.

<sup>5</sup> Congressional Research Service, “Piracy off the Horn of Africa,” April 21, 2009.

<sup>6</sup> “Accused Somali Pirate to Be Tried As Adult,” MSNBC.com, April 21, 2009 .

part of its food aid cargo in Port Sudan and was en route to Mombasa, Kenya, at the time of the attack. Pirates fired on the vessel with rocket propelled grenades and AK-47s. The crewmembers successfully thwarted the attack, and the *Liberty Sun* continued on its voyage to Kenya.

After the attack on the *Liberty Sun*, a pirate named Abdi Garad told a news agency that Somali pirates had intended to destroy the vessel and its crew. He stated that the pirates attacking U.S.-flagged vessels were no longer after ransom but instead were seeking revenge for the deaths of those pirates who had held Captain Phillips.<sup>7</sup> There is now growing fear among the U.S. merchant fleet that the use of deadly force by the U.S. military against Somali pirates has the potential to cause any future piracy incidents against U.S.-flagged vessels to be associated with a level of pre-meditated and intentional violence that has not heretofore been typical of Somali pirate attacks. Increased use of force may also lead Somali pirates to increase the level of force they employ in their attacks on merchant vessels.<sup>8</sup>

### IMPACTS OF PIRACY

The increase in pirate attacks in the Horn of Africa region is occurring as shipping companies are facing plunging freight rates and reduced shipping volumes. The overall annual cost of piracy to the maritime industry has been estimated to be between \$1 billion and \$16 billion.<sup>9</sup> This figure includes ransom payments, increased insurance rates, increased training costs, costs associated with the installation of anti-piracy equipment and vessel “hardening” measures, costs associated with repairing vessels damaged by pirate attacks, and delays in cargo deliveries due to rerouting. International governments are also affected as they bear the monetary and opportunity costs of providing naval assets for anti-piracy patrols.

Some insurance premiums for vessels transiting the Horn of Africa area have increased and some vessels are now carrying war risk insurance to cover damages to vessels resulting from incidents such as acts of war and insurrection. According to the U.S. Maritime Administration, the cost of war risk insurance premiums is estimated to be \$20,000 per ship, per voyage, compared to \$500 in 2007. This figure excludes injury, liability, and ransom coverage.<sup>10</sup> Importantly, however, although insurance rates for vessels from some countries have increased, according to the American Institute of Marine Underwriters, hull and cargo rates for vessels leaving the U.S. have not changed because U.S. ocean marine insurers have yet to pay a ransom arising from an act of piracy.<sup>11</sup>

### HUMANITARIAN ASSISTANCE

The provision of humanitarian assistance to the Horn of Africa region is also threatened by piracy. Both Somalia and neighboring Ethiopia are food insecure nations heavily dependent on food aid provided by the international community. According to the U.S. Agency for International Development (USAID), there are more than 7.2 million Ethiopians and 3.2 million Somalis

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<sup>7</sup> “French Warship Captures Pirates,” BBC, April, 15, 2009.

<sup>8</sup> ICC International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report, January 1-December 31, 2008.

<sup>9</sup> Testimony, Peter Falk, presented before the House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation on February 4, 2009.

<sup>10</sup> “The Long Way Around,” Lloyd’s List, November 26, 2008.

<sup>11</sup> Congressional Research Service, “Piracy off the Horn of Africa,” April 21, 2009.

(approximately 43 percent of the Somali population) who receive U.S. emergency humanitarian assistance. The U.S. provided more than \$600 million in humanitarian assistance to Ethiopia in fiscal year 2008 and more than \$111 million in fiscal year 2009 funding through April 2009.<sup>12</sup> The U.S. gave more than \$270 million in humanitarian assistance to Somalia in fiscal year 2008 and more than \$157 million in fiscal year 2009 through January 2009.<sup>13</sup>

The United Nations World Food Programme (WFP) has reported increased costs associated with the delivery of food aid to Somalia, Uganda, Kenya, southern Sudan, and the eastern Democratic Republic of the Congo, and reports that its ability to deliver relief has been hampered. The WFP has expressed growing concern that millions of people in the Horn of Africa region and east Africa will go hungry if the food assistance on which they rely cannot be delivered through Mombasa to Somalia, Uganda, Kenya, southern Sudan, and the eastern part of the Democratic Republic of the Congo.<sup>14</sup>

### Sea routes used by WFP to get food to Somalia



Source: World Food Programme

### CONDITIONS IN SOMALIA

Somalia is one of the poorest and most violent countries in the world. The country has suffered from extensive drought and has been racked by violence following the collapse and subsequent absence of a functioning government. The Final Report issued by the International Expert Group on Piracy off the Somali Coast in November 2008 asserts piracy will persist and will continue to increase due to the persistence of “poverty, lack of employment, environmental hardship, pitifully low incomes, reduction of pastoralist and maritime resources due to drought and illegal fishing, and a volatile security and political situation all contribute to the rise and continuance of piracy in Somalia.”<sup>15</sup> The Expert Group also stated that unless there is an alternate means of income available to Somalis to replace the pirate trade, criminal activity will continue to be an accepted method of generating income within Somalia.

<sup>12</sup> USAID, Complex Emergency – Ethiopia, Situation Report #6, April 9, 2009.

<sup>13</sup> USAID, Complex Emergency – Somalia, Situation Report #4, January 4, 2009.

<sup>14</sup> World Food Programme, “Two New Piracy Incidents Underline Threat to WFP Shipments,” April 15, 2009.

<sup>15</sup> International Expert Group on Piracy off the Somali Coast, “Piracy off the Somali Coast Final Report,” November 2008.

## ESTABLISHING ORDER IN SOMALIA

At an international conference organized by the European Union in April 2009, leaders from the United Nations and from African Union countries pledged \$213 million to increase security in Somalia and attempt to end piracy originating there. The European Union stated that assisting Somalia's new government in stabilizing the country is critical to eliminating the root causes of piracy.<sup>16</sup>

Recently, nine countries in the vicinity of the Indian Ocean and the Red Sea, including Djibouti, Ethiopia, Maldives, Madagascar, Seychelles, Yemen, Tanzania, Kenya, and Somalia signed a document pledging their support to seize, investigate, and prosecute pirates off the coast of Somalia. The document, called the Code, promotes shared operations and allows authorized officials to board patrol vessels or aircraft of another signatory.

## SOMALI COAST GUARD

The International Maritime Bureau (IMB) has suggested that a Somali Coast Guard should be established to protect its waters and to prevent toxic dumping and illegal fishing; this force could also assist in decreasing the number of pirate attacks on foreign merchant vessels. The Somali Coast Guard could be established under the sponsorship of the African Union.<sup>17</sup> The IMB suggests that the international shipping industry should use potential ransom money to maintain and operate such a Coast Guard.

## PROSECUTION OF PIRATES

Pirates have been prosecuted in countries outside Somalia using the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. Countries that are a party to the Agreement can prosecute pirates and individuals who are alleged to have taken hostages on the high seas in any country, regardless of the flag state of the vessel against which the acts are committed.

Under recent agreements with Kenya, the U.S., United Kingdom, and European Union countries can turn over suspected pirates to Kenya for prosecution. The United Kingdom and the U.S. signed their memoranda of understanding with Kenya in December 2008 and January 2009, respectively. More recently, the European Union and Kenya signed an agreement on March 6, 2009, under which suspected pirates can be transferred from EU NAVFOR Operation ATALANTA coalition forces vessels to Kenya for prosecution. Since the agreement was signed on March 6<sup>th</sup>, 2009, approximately 52 suspected pirates have been transferred to Kenya by the EU NAVFOR.<sup>18</sup> In return for turning suspects over to Kenya for prosecution, the U.K., U.S., and European Union have agreed to assist Kenya in improving and modernizing their judicial systems.<sup>19</sup>

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<sup>16</sup> "More Than \$200M Pledged to Beat Somali Pirates," CNN.com, April 24, 2009.

<sup>17</sup> Ibid.

<sup>18</sup> EU NAVFOR – ATLANTA Press Release, "Frigate Hands Over 13 Suspected Pirates to the Kenyan Authorities," May 16, 2009.

<sup>19</sup> "The West Turns to Kenya as Piracy Criminal Court," New York Times, April 24, 2009.

Relevant U.S. laws covering the prosecution of pirates in the United States include 18 U.S.C. Section 1653<sup>20</sup>, regarding Aliens as Pirates, and 18 U.S.C. Section 1203<sup>21</sup>, regarding Hostage taking.

#### ARMING U.S.-FLAGGED MERCHANT VESSELS

As pirate attacks in the Horn of Africa region have expanded, discussion of whether U.S.-flagged merchant vessels transiting the region should be armed has intensified. There appears to be no clear framework governing whether or how vessels should be armed or resolving the numerous questions of liability (including both civil and criminal liability) that the arming of merchant vessels could raise.

The United Nations Convention on the Law of the Seas (UNCLOS) (to which the United States is not a party) Article 17 states, “ships of all States . . . enjoy the right of innocent passage through the territorial sea.” Under Article 19, “passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State.” Among other conditions, however, passage becomes “prejudicial” if it involves “any exercise or practice with weapons of any kind.”

Under UNCLOS, the mere arming of a merchant vessel does not appear to make it a ship of war. Thus, under Article 29, a warship is defined as “a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.”

Articles 105 and 107 of UNCLOS authorize action against pirates – but reference only State actors. Thus, Article 105 states “on the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft . . . and arrest the persons and seize the property on board.” However, Article 107 states that “a seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.”

Nonetheless, U.S.-flagged vessels are authorized under U.S. law to resist pirates, pursuant to 33 U.S.C. 383, which states:

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<sup>20</sup> 18 USC Section 1653 states: Whoever, being a citizen or subject of any foreign state, is found and taken on the sea making war upon the United States, or cruising against the vessels and property thereof, or of the citizens of the same, contrary to the provisions of any treaty existing between the United States and the state of which the offender is a citizen or subject, when by such treaty such acts are declared to be piracy, is a pirate, and shall be imprisoned for life.

<sup>21</sup> 18 USC Section 1203 states: (a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained, or attempts or conspires to do so, shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment. (b) (1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless— (A) the offender or the person seized or detained is a national of the United States; (B) the offender is found in the United States; or (C) the governmental organization sought to be compelled is the Government of the United States. (2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

The commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel so owned, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States, and may subdue and capture the same; and may also retake any vessel so owned which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.

However, this statute is silent on whether the crew of U.S. merchant vessels may employ arms when resisting pirates, what arms they may employ, or when force (including deadly force) may be used.

Under 10 U.S.C. 351, the President is empowered to arm merchant vessels during war or threat to national security.<sup>22</sup> However, even this statute contemplates threats posed by “any foreign government or agency.”

A memo developed for the National Defense Transportation Association by the law firm of Winston and Strawn has argued that “there is no legal or policy framework to guide private ship owners and insurance interests thus potentially leaving the ship owner responsible for ill defined and unknowable risks.”<sup>23</sup>

Further, U.S. law appears to present significant practical impediments to the arming of merchant ships’ crews, given the prohibition against exporting weapons out of the U.S. The Arms Export Control Act (Chapter 39 of Title 22, United States Code) controls the transfer of “defense articles” (defined under 22 C.F.R. 121.1 to include firearms, which are further defined to include “non-automatic, semi-automatic and fully automatic firearms to caliber .50 inclusive, and all components and parts for such firearms”) out of the United States. Specifically, 22 C.F.R. 127.1 states that it is unlawful “to export or attempt to export from the United States any defense article.” The term “export” is broadly defined under 22 C.F.R. 120.17 to mean “sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data.”

Under 22 C.F.R. 123.1, “any person who intends to export or to import temporarily a defense article must obtain the approval of the Office of Defense Trade Controls prior to the export or temporary import, unless the export or temporary import qualifies for an exemption.”

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<sup>22</sup> 10 U.S.C. 351 states: (a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States. (b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests. (c) Section 16 of the Act of March 4, 1909 (22 U.S.C. 463) does not apply to vessels armed under this section.

<sup>23</sup> “Legal Issues Relating to the Carriage of Private Armed Security Personnel on U.S. Flag Merchant Vessels,” Constantine G. Papavizas and H. Allen Black III, Winston and Strawn, LLP, April 24, 2009, page 2.



Among other exemptions, under 22 C.F.R. 123.17(a), Port Directors of U.S. Customs and Border Protection shall permit the export of firearms “except barrels, cylinders, receivers (frames) or complete breech mechanisms when the total value does not exceed \$100 wholesale in any transaction.” Under 22 C.F.R. 123.17(b), the export of “non-automatic firearms” without a license is permissible “if they were manufactured in or before 1898, or are replicas of such firearms.” Further, 22 C.F.R. 123.17(c) states:

Port Directors of U.S. Customs and Border Protection shall permit U.S. persons to export temporarily from the United States without a license not more than three non-automatic firearms . . . and not more than 1,000 cartridges therefore, provided that:

- (1) A declaration by the U.S. person and an inspection by a customs officer is made;
- (2) The firearms and accompanying ammunition must be with the U.S. person’s baggage or effects, whether accompanied or unaccompanied (but not mailed); and
- (3) They must be for that person’s exclusive use and not for re-export or other transfer of ownership. The foregoing exemption is not applicable to a crew-member of a vessel or aircraft unless the crew-member declares the firearms to a Customs officer upon each departure from the United States, and declares that it is his or her intention to return the article(s) on each return to the United States.

However, many nations have laws prohibiting the import of weapons or the carrying of weapons into their ports – restrictions which appear to make it difficult or impossible for ships’ crews either to get a weapons export license or even to make the declaration required under 22 C.F.R. 123.17(c)(3).

Liability considerations for ship owners and all other parties are not clear for a variety of potential scenarios – including crew members shooting each other and the use of force against potential pirate attacks (including when deadly force may be used). Ship owners may be held liable in the event of the death of a crew member. Further, the legal analysis by Winston and Strawn has found that the Protection and Indemnity Clubs that insure vessels “may deny coverage for claims arising out of the use of arms against piracy attacks if they determine that such use was imprudent or unreasonable.”<sup>24</sup>

Further, 22 U.S.C. 463 requires that armed vessels leaving US ports must provide bonds. Given these and other legal considerations, it appears that it may be difficult to arm a vessel’s crew members or even potentially to engage armed security guards while maintaining compliance with U.S. law, not to mention the various laws of the ports of call which the vessel may visit.

#### DEPARTMENT OF STATE ANNOUNCEMENT ON COUNTER-PIRACY INITIATIVES

On April 15, 2009, Secretary of State Hillary Rodham Clinton announced a number of anti-piracy initiatives in a statement she made during a press availability following the attack on the

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<sup>24</sup> Legal Issues Relating to the Carriage of Private Armed Security Personnel on U.S. Flag Merchant Vessels,” Constantine G. Papavizas and H. Allen Black III, Winston and Strawn, LLP, April 24, 2009, page 15.

*Liberty Sun*. Secretary Clinton stated that “The United States does not make concessions or ransom payments to pirates.” She announced the intention of the U.S. to send an envoy to an international meeting regarding peacekeeping in Somalia who would “work with other partners to help the Somalis assist us in cracking down on pirate bases and in decreasing incentives for young Somali men to engage in piracy.” She also announced that the U.S. and its partners would work to free ships currently being held for ransom and would “explore tracking and freezing pirate assets.” She indicated that she had “tasked a diplomatic team to engage with Somali Government officials from the Transitional Federal Government as well as regional leaders in the Puntland” and “press these leaders to take action against pirates operating from bases within their territories.” Further, she indicated that she had directed staff to “work with shippers and the insurance industry to address gaps in their self-defense measures.”

#### COAST GUARD MARITIME SECURITY DIRECTIVE 104-6

On May 12, 2009, the Coast Guard issue Maritime Security Directive 104-6, which “provides the maritime industry with specific, risk-based measures to take to deter, detect or disrupt piracy.”<sup>25</sup> The Directive requires U.S.-flagged vessels to adopt an anti-piracy plan before entering high risk waters and to use those measures known to help prevent pirate attacks, including transiting through established transit lanes, utilizing erratic course changes, and traveling at the highest possible speeds. Additionally, ships transiting areas of pirate activity must include anti-pirate protocols in their vessel security plans. The Directive states that “During transit through high-risk areas, it is the ship’s responsibility to maintain a vigilant anti-piracy watch and ensure all shipboard anti-piracy precautions are in force.”<sup>26</sup>

#### U.S. FUNDS TO COMBAT PIRACY

On May 12, 2009, the House of Representatives passed H.R. 2346, the “Supplemental Appropriations Act, 2009”. This legislation included \$8.5 million to support expanded diplomatic activities which include, among other programs, the development of meetings and activities to support the International Contact Group on Piracy. H.R. 2346 also appropriated \$70 million to support the African Union Mission to Somalia (ANISOM) mission and \$10 million for the Economic Support Fund to assist Somalia with economic growth and governance programs. The Committee also directed the Department of State to provide a report on the feasibility of creating U.S. maritime capabilities to combat piracy in the Gulf of Aden and Indian Ocean.

#### PREVIOUS COMMITTEE ACTION

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on February 4, 2009, on international piracy.

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<sup>25</sup> U.S. Coast Guard, Press Release, “Coast Guard Issues Maritime Security Directive 104-6,” May 12, 2009.

<sup>26</sup> *Ibid.*

WITNESSES

Panel I

**Rear Admiral Brian Salerno**

Assistant Commandant for Marine Safety, Security, and Stewardship  
United States Coast Guard

**Mr. Ed Frothingham**

Principal Director, Office of the Deputy Assistant Secretary of Defense for  
Counternarcotics and Global Threats  
Department of Defense

**Mr. James Caponiti**

Acting Administrator  
Maritime Administration

Panel II

**Arthur J. Volkle, Jr.,**

Vice-President  
American Cargo Transport

**Philip J. Shapiro**

President and CEO  
Liberty Maritime Corporation

**Erik L. Johnsen**

President  
Waterman Steamship Corp

**Bill Van Loo**

Secretary-Treasurer  
Marine Engineers' Beneficial Association

*Accompanied by*

**Michael Rodriguez**

Executive Assistant to the President  
Masters, Mates, and Pilots

**Paul Doell**

Director of Legislative Affairs  
American Maritime Officers

**Augustin Tellez**

Executive Vice President  
Seafarers International Union