

# INTERNATIONAL EFFORTS TO COMBAT MARITIME PIRACY

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## HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED ELEVENTH CONGRESS

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# INTERNATIONAL EFFORTS TO COMBAT MARITIME PIRACY

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THURSDAY, APRIL 30, 2009

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,  
HUMAN RIGHTS AND OVERSIGHT,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 1:07 p.m., in room 2172, Rayburn House Office Building, Hon. William D. Delahunt (chairman of the subcommittee) presiding.

Mr. DELAHUNT. The hearing will come to order.

It is my intention that this will be the first in a number of hearings that the subcommittee will hold on the issue of international maritime piracy, given its significance to our national security as well as its consequences for the global economy.

Earlier this month, our Nation watched as the Maersk Alabama was hijacked off the coast of Somalia and an American citizen, who is here in Washington today, by the way, Captain Richard Phillips—he is over on the other side, as we say—who happens also to be a graduate of the Massachusetts Maritime Academy, one of, I think, the finest maritime academies anywhere, happens to be in my district on Cape Cod. Well, as we all know, he was held hostage for a number of days in a lifeboat.

And shortly after his heroic rescue, another American vessel, the Liberty Sun, was also attacked by Somali pirates, making good on the pirates' threat to target and attack American ships. While the Liberty Sun avoided the Maersk Alabama's fate, the attack is only further evidence that international piracy is an ongoing threat and must be addressed and should be addressed quickly.

While today the focus of public attention is off the coast of Somalia, some 5 years ago, the hot spot, in terms of piracy, was in the Straits of Malacca. Five years from now, it will likely be elsewhere in the world. And that underscores that it is imperative that we work to devise, design, if you will, an international architecture, an infrastructure, a blueprint that can permanently be utilized to deal with the threat of piracy wherever and whenever it emerges.

As I have been reading on this issue, I have come to learn that there appears to be no silver bullet, no panacea, no easy answer. And it is important, I believe, for us to listen to all of the various parties, the stakeholders, and to educate ourselves on the array of international issues implicated in maritime piracy. Piracy presents a particularly difficult task; because, it is not only an American

problem but an international problem that will need a coordinated response from the global community.

Now, there are multiple opinions on how we can address this issue. Some, like General Petraeus, have suggested we place armed guards on merchant vessels. Others have claimed that this would only increase the danger to seafarers. While instinctually I am inclined to agree with General Petraeus, what I do know is that this will be a multifaceted problem that will require the full energy and engagement of the United States Congress. And if we fail to act now, piracy will continue to flourish and will have a political and economic and humanitarian impact around the world.

Now, this subcommittee is tasked with the duty of oversight, which is a responsibility that I and my friend and colleague and ranking member, Mr. Rohrabacher, take most seriously. It will fall to this subcommittee to ensure that appropriate actions are being taken to address this serious problem and that we are working in a way to protect our national security and, particularly, American citizens while at sea.

I am pleased to have learned that the State Department has moved very aggressively, under the direction of Secretary Clinton, to confront this challenge. The United Nations and our superb Navy and Coast Guard forces are also playing a key role in rising to the challenge. So this truly is an international problem that requires an international solution. We do not, nor should we, carry the burden alone.

Now let me just turn to my friend and colleague, the gentleman from California, Mr. Rohrabacher, for any statements he may care to make.

Dana?

[The prepared statement of Mr. Delahunt follows:]

**INTERNATIONAL EFFORTS TO COMBATE MARITIME PIRACY**

**Hearing before the House Foreign Affairs Subcommittee on  
International Organizations, Human Rights and Oversight**

**April 30, 2009**

**OPENING STATEMENT OF CHAIRMAN BILL DELAHUNT**

**This hearing will come to order.**

**At the outset, I want to note that one of our witnesses, Ambassador Mull, has to leave by 2:15. So I would request that only myself and our Ranking Member make brief opening statements, so that we can get to Ambassador Mull's testimony as quickly as possible.**

**This is the first of a series of hearings this Subcommittee will hold on the pressing issue of international maritime piracy. Earlier this month our nation watched as the MV Maersk Alabama was hijacked off the coast of Somalia and an American citizen, Captain Richard Phillips, was held hostage for days in a lifeboat. Shortly after Captain Phillips's heroic rescue, another American vessel, the MV Liberty Sun, was also attacked by Somali pirates making good on the pirates' threat to target and attack American ships. While the Liberty Sun avoided the Maersk Alabama's fate, the attack is only further evidence that international piracy is an ongoing threat that must be dealt with.**

**While today the focus is off the coast of Somalia, five years ago the hotspot for piracy was in the Straits of Malacca. Five years from now, it will likely be elsewhere**

in the world. Therefore it is imperative that we work to devise an international infrastructure that can handle the threat of piracy wherever it emerges.

I have come to learn that there will be no easy answers in the piracy debate. It will be important for us to listen to all interested parties and to educate ourselves on the array of international issues tied up in maritime piracy. Piracy will present a particularly difficult task because it is not only an American problem—but an international problem that will need a coordinated response from the world community.

I have found that opinions vary on how we can solve the piracy problem. Some, like General David Petraeus, have suggested we place armed guards on merchant vessels. Others have claimed that this would only increase the danger to seafarers. While I am initially inclined to agree with General Petraeus, what I do know is that this will be a multi-faceted problem that will require the full energy and engagement of the U.S. Congress. If we fail to act now, piracy will continue to flourish and will have a political, economic and humanitarian impact around the world.

This Subcommittee is tasked with the duty of oversight—which is a responsibility I take seriously. It will fall to this Subcommittee to ensure that appropriate actions are being taken to address the growing piracy problem and that we are working on ways to protect American citizens at sea. I was pleased to learn that the State Department has been moving aggressively under the direction of Secretary of State



Clinton to confront the piracy challenge. The United Nations and our superb Navy and Coast Guard forces are also playing a key role and rising to the challenge. This truly is an international problem that will require an international solution.

Let me now turn to my friend and colleague, Mr. Rohrabacher, for any statements he may care to make.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman, and thank you for holding this hearing. It has been an issue that has actually been around a lot longer than most Americans think. I can remember reading about this 20, 30 years ago in various parts of the world, including the part of the world that we have just recently been alerted to.

So I would like to remind the chairman that, as long as we have been on this committee, we have been hearing people who have come to us and have pointed out how U.S. development assistance is wasted, quite often, when it goes directly to a foreign government. And, quite often, the governments, especially in these developing countries, are corrupt or ineffective or incompetent. But sometimes we have learned, and quite often we have learned, that providing aid to these people and making things better in a given area requires not going directly to the government but, instead, directing resources toward the problem specifically. The more efficient use of our assistance quite often is going through private organizations or the private sector, rather than to affected governments.

For this reason, I believe that military assistance in the form of training or transferring used Coast Guard ships to various African nations makes no sense and will prove to be ineffective. I believe, instead, we must provide assistance that will make a difference, that is done through the private sector in some way, that will directly attack this problem.

For example, there are private-sector alternatives, such as Blackwater and other organizations, that are set up basically for such purposes as we are talking about. We have been using them most recently as guards and security details for our diplomats overseas, but they have the capability of actually going in and providing security details for ships who are transporting themselves through hostile waters.

These organizations, again, this is just—they are just like NGOs, and they have their specific purpose in mind. And they could and I believe provide an effective use of our resources to combat a problem while creating American jobs at the same time. Most people in these private organizations, like Blackwater, have people who know the language and the culture in order to get the job done and

have many, many years of experience as compared to simply training some people in a—for example, in this case, an African country, training people and expecting that 5 months of training or 3 months of training and some equipment supplies is going to make a large difference and enable them to meet a very serious challenge.

So my guess is that we shouldn't be wasting taxpayers' money in Africa by sending it to corrupt governments. But, instead, let's see if we can find a way, as we do in humanitarian efforts, to send Americans or the equivalent of NGOs, right at the problem by hiring these folks who can do the job. And by hiring private organizations, we will know exactly where the money is being spent and exactly what is being accomplished in a very measurable way rather than giving money to governments which, quite often, you never know what happens once the money is transferred into their bank account.

So, with that said, I am looking forward to being briefed on the nature of the problem and perhaps going over a few ideas for solutions, as I have just mentioned.

Thank you, Mr. Chairman.

Mr. DELAHUNT. Well, thank you, Dana. And it might come as a surprise to you, but I don't know if I disagree with you. This is remarkable.

Mr. ROHRBACHER. It is going to be a really boring hearing.

Mr. DELAHUNT. I would inform our witnesses that, during the course of the previous term, this subcommittee conducted some 52 hearings. This happens to be our first. Maybe we are just tired, Dana, at this point in time.

But this is a serious issue. And let me be very candid: I am coming to this to learn and to listen to all of the stakeholders, as I have said. I have some concerns, particularly about what I perceive to be a program that is more attuned to recreational or commercial fishermen, catch and release, but I am sure that will be addressed. By "catch and release," I mean while pirates have been apprehended, it would appear that in many, many cases that there is a practice of releasing them, if not forthwith, in a very short time frame.

But enough said. Let me introduce our witnesses.

You know, as I said, having served in the Coast Guard myself, it is a particular honor to welcome Admiral Baumgartner here today. I want you to know I was a radar man, third class, and it gives me great pleasure to look down on an admiral at this point in time.

He serves as the judge advocate general and general counsel of the United States Coast Guard. In this capacity, he is the Coast Guard's senior legal advisor and is responsible for all aspects of the Coast Guard's legal program.

He is a graduate of the U.S. Coast Guard Academy. Holds an MBA from the University of New Orleans and a law degree, magna cum laude, from Harvard Law School. I also understand he was an editor on the Law Review, a considerable achievement.

And next I am pleased to welcome Ambassador Stephen Mull, senior advisor to the Under Secretary for Political Affairs of the U.S. State Department. Ambassador Mull has oversight responsi-

bility for the Office of the Under Secretary of State for Arms Control and International Security Affairs and its related State Department bureaus.

Among other positions, he previously served as Acting Assistant Secretary for Political Military Affairs from January 2007 until August 2008 and as U.N. Ambassador to Lithuania from 2003 until 2006. He is a career member of the Senior Foreign Service in the class of Minister Counselor.

And I don't know if my colleague is aware, but our friend and colleague from California, Ellen Tauscher, has been nominated by the President to be Ambassador Mull's boss. I know that you will find it a great experience working with the Congresswoman, soon-to-be Secretary Tauscher.

But let's proceed. And this is a very informal process that we have in this subcommittee. It is really, as Dana Rohrabacher has said, it is the committee without rules, which means that you can take as much time as you want, given the fact there is only two of you. And we will attempt to conclude this hearing in time for you, Ambassador Mull, to make your 2:15 p.m. appointment.

Why don't we begin with Ambassador Mull.

**STATEMENT OF THE HONORABLE STEPHEN D. MULL, SENIOR ADVISER TO THE UNDER SECRETARY FOR POLITICAL AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. MULL. Well, thank you very much, Mr. Chairman and Mr. Ranking Member, for the opportunity to come and meet with you and, in fact, in an informal setting, discuss this really important challenge.

I think, in the interest of your time and in the interest of moving toward a more free-flowing exchange of ideas back and forth, because we are very eager to hear your ideas, I would ask that my formal testimony be entered into the record, and I will just provide a quick overview of what is in it.

Mr. DELAHUNT. Without objection.

Mr. MULL. It is a very interesting problem of piracy in Somalia because it features a convergence of, really, the very first national interest of the United States from our very founding, very important to Massachusetts, of ensuring freedom of the seas, and it converges with this very 21st-century phenomenon of asymmetric threats to our security interests. And this convergence is all through the prism of the need to keep energy flowing and keep humanitarian supplies flowing to one of the simultaneously most destitute and most strategically important corners of the globe.

Our approach, within the administration, we have basically one strategic goal: We want to protect America's right and the world's right to freedom of the seas through enhanced international cooperation in stopping these pirate attacks and building a lasting maritime security regime that we think will serve all of our interests in the end.

Now, we have adopted a number of tactics in pursuit of that goal. We have worked very closely in the United Nations to pass a series of U.N. Security Council Resolutions, most recently on December 16th, U.N. Security Council Resolution 1851, which, in fact, grant-

ed significant authority to the international community to intervene to stop pirate attacks.

We have also, right on the heels of that, took the lead in creating an international contact group on the threat of piracy off the coast of Somalia. That has grown to include 28 states and six international organizations, which has met regularly since the beginning of the year.

We have encouraged increased ship deployments, both through our own example and our own U.S. Navy and Coast Guard presence there in the region but also working with other states, to the point where we have recently had as many as 40 ships patrolling this area.

We have established a maritime security protective area through which ships can transit under greater security conditions.

A big problem, as we can talk about later, is figuring out what to do with the pirates once we apprehend them. And so we have worked to secure an agreement with Kenya that Kenya will gladly take the pirates that we apprehend and prosecute them. We also have a number of other discussions going on with other states in the region to do the same thing. And, of course, as in the case of Captain Phillips, we are going to be prosecuting the pirate that survived the rescue attempt.

The Coast Guard and the Maritime Administration, as the admiral will mention, have done an exemplary job of working with the industry, because they have to play a very important role in their own defense against these attacks. And I think we have achieved quite a bit there, especially under the Coast Guard's leadership.

We also can't lose sight of the fact that piracy is really a symptom of a much broader problem in Somalia that is going to take a lot of international attention and resources to fix. And so we have enhanced our activism on that basket of issues, as well.

I think the combination of these tactics has produced some success already. Just since January 1st, all the various ships participating in this effort have succeeded in 15 interdictions of pirate vessels. This is in contrast to only eight in all of 2008. So already we have just about doubled—we are not even halfway through the year yet, and we have doubled successful interdictions. And we have apprehended a number of pirates; 52 of them are now awaiting trial in Kenya.

But in spite of the successes, there are a lot of challenges. This is a wide swath of sea, 1.5 million square nautical miles, depending on where you draw the boundaries. And so, no amount of ships is ever going to prevent every attack of piracy.

We also, as you alluded to, Mr. Chairman, have problems with all of the countries—there is a broad consensus in participating in this common effort to deter pirate attacks, but each country has their own set and their own understanding of what their national legal authorities are. And so, we feel very comfortable, as Americans, apprehending pirates on the high seas and bringing them to trial; other countries do not. And so we are working to try and fill those gaps to make sure that catch and release won't happen in the future.

Since the attack on the Alabama, Secretary Clinton and President Obama have asked that we work much harder in a number

of directions. And so what we are in the process of looking forward to now in the next couple of weeks is we are going to convene an emergency session of the contact group that I mentioned earlier, and we will meet in New York in a few weeks' time.

And, at that meeting, we are going to press contributors for even more forces in the region, to the extent that they can contribute. We are going to identify those gaps that I talked about to eliminate catch and release so that when pirates are caught they are delivered swiftly to justice. We are going to press very hard that victims have a responsibility in pursuing prosecutions, that if a country's vessel is attacked, we believe that that flag state of that vessel has a responsibility to pursue justice against those pirates so we are not funneling all of the pirates to places like Kenya; in other words, share the responsibility a little bit more broadly.

We are also exploring very preliminarily with our colleagues in the Treasury Department what we might be able to do to track and freeze assets of pirates. This, of course, is very difficult because asset flows to pirates are typically contained in suitcases stuffed with \$100 bills or euros flung onto the decks of ships from helicopters as a part of ransom payments. But, nevertheless, we believe that there are some directions that we can work. Probably not appropriate to discuss in this setting, but we are looking at it very carefully.

And then, finally, you may ask, despite all these efforts, why are the number of attacks going up? Well, the point is people have been paying ransom and enabling pirates to buy more sophisticated weapons to organize themselves better. We are redoubling our efforts, with particularly our European allies, to say there should be no concessions to pirates. There is significant opposition to this because some believe it is an acceptable business cost, others believe you don't want to put human lives in jeopardy. And, in fact, pirates have not really been taking lives up until now. So it is something that we are going to keep discussing. It is a difficult problem.

It is difficult and complex, as we talked about, Mr. Chairman, at the beginning, but the truth is, we have something really strong going for us, and that is a strong international consensus that this is something that threatens all of us. And we really hope that we can build on that consensus to overcome some of these practical difficulties and make a real impact in shutting down this threat not only to us and our citizens but, really, to the world shipping community, as well as the states in the region.

So I will stop there, and look very much forward to hearing your ideas and answering your questions.

[The prepared statement of Mr. Mull follows:]

Testimony of Ambassador Mull before the  
House Committee on Foreign Affairs Sub-Committee on International  
Organizations, Human Rights, and Oversight  
on Combating Piracy on the High Seas  
April 30, 2009 at 1:00 p.m.  
Rayburn House Office Building, Room 2172

Chairman Delahunt, Ranking Member Rohrabacher, and Members of the Committee: Thank you for inviting me today to provide an overview of our initiative to suppress piracy off the coast of Somalia.

Over the past year, concern has grown over the threat that piracy poses to international security, to the global economy, and as we have seen recently, to United States citizens and commercial interests. In addition to the Maersk Alabama incident, attacks on ships in this region have disrupted both U.S.- and U.S.-supported United Nations World Food Program transports delivering aid to some of the world's most vulnerable populations; placed innocent mariners from countries across the globe in immediate danger; posed environmental threats as pirated ships may be damaged or run aground; and jeopardized commercial shipping interests. The vast majority of Somali pirates are motivated by money, not ideology, and the continued payment of ransoms fuels this affront to human security and dignity.

Fighting piracy is an important element of our strategic objectives in Somalia, which focus on helping Somalia regain political and economic stability, eliminating the threat of terrorism, and responding to the humanitarian needs of the Somali people. American leadership in efforts to combat piracy off the coast of Somalia is entirely consistent with our

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traditional interest in ensuring freedom of navigation and safety of the seas, which have long been cornerstones of U.S. foreign policy and which is now an urgent priority for Secretary of State Clinton. Furthermore, beyond protecting our citizens and ensuring the security of maritime trade and access to the critical energy resources upon which our national and the global economies depend, collaboration with both traditional and non-traditional partners on counter-piracy efforts in this region offers strategic opportunities to strengthen existing alliances and coalitions and to create new ones. We hope to be able to leverage our collaborative counter-piracy efforts into increased security cooperation in the maritime domain with non-traditional partners such as China, India, and Russia, and bring added focus to regional capacity-building programs.

The United States has a multifaceted strategy to suppress piracy that many Departments and agencies are working hard to implement, and the Department of State is working with interagency partners to integrate our maritime and land-based efforts in Somalia into a comprehensive strategy. Our strategic goals are to protect shipping, particularly Americans and U.S.-linked ships; capitalize on international awareness and mobilize cooperation to address the problem; and create a more permanent maritime security arrangement in the region. Significant factors affect our pursuit of these goals, including the enormous difficulties inherent in patrolling, or even monitoring through technical means, such a huge expanse of open sea; and, of course, the broader problem of Somalia itself. Legal challenges also exist, including inadequate domestic legal authorities in some states as well as a lack of willingness on the part of some to prosecute suspected pirates.

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In light of these complexities, we seek to use every means at our disposal to pursue our goals. We have worked effectively with the United Nations to obtain Security Council resolutions that maximize our ability to take appropriate action. We created and will continue to work through the Contact Group for Piracy off the Coast of Somalia (Contact Group) to internationalize the problem and its solutions. We actively support the NATO and European Union counter-piracy missions, and the U.S. Navy created Combined Task Force 151 to focus U.S. naval forces on counter-piracy efforts. We secured a formal arrangement with Kenya to accept pirates for prosecution, and our Department of Justice has demonstrated America's willingness to prosecute when our people and interests have been attacked. We continue to work with and through our interagency partners to improve U.S. and international commercial shipping self-protection capability. And we are working with United Nations agencies like the International Maritime Organization and the U.N. Office on Drugs and Crime, as well as partners in the region, to support the capacity development of their coastal security forces.

Concerned by the recent upsurge in pirate activity, Secretary Clinton has directed us to do more. We are seeking emergency consultations with Contact Group partners and are finding notable receptivity to our outreach. Through this venue, we will intensify our efforts to persuade victim states to prosecute pirates. We are working both internally and with other countries to develop the ability to deny pirates the benefits of concessions, including tracking and freezing of their ill-gotten gains. We are working to expand the regional capacity to prosecute and incarcerate pirates, both by helping to fund multilateral programs to build judicial capacity and by direct unilateral



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assistance to countries who have expressed a willingness to adapt their laws and processes to accommodate prosecution and detention. We will continue to press the importance of a No Concessions policy when dealing with pirates. We are working in political-military channels to ensure that military counter-piracy operations are as robust and well-coordinated as possible, and we are intensifying our efforts to support Somali assistance processes. We are also exploring strategies to actively seek the release of captive ships and hostages, some of whom have been held for months.

We've had some success. Naval patrol interventions are increasingly active; international naval forces have intervened to stop dozens of attempted piratical attacks in the past nine months, and we're seeing a significant upswing in the number of countries willing to commit assets to the effort. On the other hand, we face political and legal obstacles to a shared understanding of the imperative for prosecution in and by victim states, and significant logistical issues in prosecution by countries who actually have the will to prosecute pirates. Regional states face challenges with regard to detention and prosecution. Tracking and freezing pirate ransoms is even harder than tracking terrorist finances, given that pirates are most often paid off in the form of air-dropped bags of cash. And the shipping industry - as well as some of our partners - has vigorous objections to, and few incentives for, arming their ships and crews. We need to make progress in these areas.

Fortunately, we sense a growing international consensus to do more, and we'll keep working at it. Ultimately, we hope these cooperative efforts will result in a new maritime security regime that will feature enhanced regional

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capacity and cooperation. We are considering now what such a regime would include, but anticipate that it would entail voluntary multilateral cooperation and collaboration. For instance, we envision a maritime security sector assistance framework building on programs already in place to provide, among other capacity building efforts, training and equipment to regional coast guards, supported by a consortium of donor and regional states; international coastal and naval exercises to improve interoperability; and pooling of surveillance assets and information sharing to develop a shared maritime security picture. The regional approach was highly successful in combating piracy in straits of Malacca, and although the situation off the coast of Somalia is quite different because of the incapacity of the Somali government, the need for a coordinated regional approach is apparent. In fact, it is urgent, and we would like to see such an approach applied to other maritime security challenges, including smuggling, trafficking in persons, and disaster response.

As Secretary Clinton emphasized in her recent public statement, we recognize that there will be no long-term solution to piracy in the region unless progress is made in addressing the larger political, security and governance challenges facing Somalia, its government and its people. We also recognize that sustainable change in Somalia requires a political solution that is authored and implemented by Somalis themselves and not by outsiders. In this regard, the United States continues to support the UN-led Djibouti peace process, which has facilitated important progress on the political and security fronts in recent months, and to work with a broad international group of donors. The United States also remains committed to supporting the Somali security sector and the African Union Mission in

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Somalia (AMISOM). Secretary Clinton dispatched a high-level envoy, Acting Assistant Secretary Phillip Carter, to the Donors' Conference on Somalia in Support to the Somali Security Institutions and AMISOM, where we will reaffirm our commitment to building security and governance in Somalia.

We are also working directly with the Transitional Federal Government of Somalia and regional authorities to develop both incentives to actively suppress pirate activities and disincentives to support for this malignant enterprise that threatens Somali and regional security and sustainable development. We are exploring the feasibility of tracking and freezing pirates' assets, and encouraging implementation of the UN sanctions already in place. None of this is easy, but it is all worth doing for the sake of the security and prosperity of Americans and the international community.

Mr. Chairman, Ranking Member Rohrabacher, and Members of the Committee: I want to thank you for this opportunity to provide an overview of our efforts. I am happy to answer any questions you may have.

Mr. DELAHUNT. Thank you, Ambassador.  
Admiral Baumgartner?

**STATEMENT OF REAR ADMIRAL WILLIAM D. BAUMGARTNER,  
JUDGE ADVOCATE GENERAL AND CHIEF COUNSEL, UNITED  
STATES COAST GUARD**

Admiral BAUMGARTNER. Mr. Chairman and Representative Rohrabacher, before I begin, I want to assure the chairman that any good admiral understands and knows in his soul that the third-class petty officers do the real work of the Coast Guard, not the admirals. So you have my admiration for your service in doing the actual, real work of the Coast Guard.

I do appreciate the opportunity to appear before the subcommittee to discuss piracy and the Coast Guard's role in addressing this threat to freedom of navigation, the safety of international shipping, and, I think most importantly, the lives of the seafarers who are so crucial to our international economy.

And I do ask that my written statement be included in the record.

Mr. DELAHUNT. Without objection.

And, Admiral, I just want to recognize the presence of our colleague from New Jersey, who happens to chair the Africa Subcommittee—not happens to, but has really made a significant contribution over time to Congress's understanding of issues implicated in the continent of Africa. And that is Mr. Don Payne.

Admiral BAUMGARTNER. Good afternoon, sir.

Mr. DELAHUNT. Please proceed.

Admiral BAUMGARTNER. Piracy is one of the oldest universal crimes. And, under international law, every nation has the legal authority to bring pirates to justice. This authority, however, does not guarantee success in coordinated international action, as the Ambassador mentioned is essential.

The national strategy for countering piracy off the Horn of Africa acknowledges that lasting solutions require significant improvements in the governance, rule of law—that is critical—security and economic development of Somalia. However, there are a lot of steps that can be taken in the near term, and the national strategy lays out these steps in three basic lines of action.

The first entails preventative and precautionary measures to render piracy less attractive; most importantly, measures to make commercial vessels more difficult targets for pirates. In this regard, the United States and the Coast Guard have worked closely with our Government and industry partners via the International Maritime Organization, ad hoc consultations, the international Contact Group on Piracy Off the Coast of Somalia. We are doing this to produce practical and effective solutions.

Nothing illustrates the inextricable link between safety and security like the issue of piracy. And I would stress that this is critically important because, once the pirates are onboard the vessel, as we all know, the dynamic on the water changes considerably. And the dangers to the crew of the vessel and the vessel itself go up dramatically once the pirates are on board and in control.

The second line of action focuses on operations to interrupt and terminate piracy. Toward this end, as we all know, Central Com-

mand has established Combined Task Force 151 to deter, disrupt and suppress piracy in this region. For several months, Coast Guard law enforcement detachments have been operating under this combined task force, augmenting and training U.S. naval vessel boarding search and seizure teams and various maritime interdiction operations mission areas. Currently, the Coast Guard 378-foot high-endurance cutter Boutwell is operating under Combined Task Force 151 and will be conducting counterpiracy operations in this area.

The third line of action focuses on effective prosecution of pirates. Specific measures include the development of regional anti-piracy agreements; promotion of existing international agreements, such as the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation—that is a mouthful, but we call it SUA for short; and also the enhancement of regional partner capabilities.

These efforts are well under way. In January, as the Ambassador mentioned, the United States signed an MOU with Kenya, onto which Kenya will accept custody of suspects and seized property for either trial in their country or transfer to another. Kenya has already agreed to prosecute several pirates captured by joint U.S. Coast Guard-Navy teams. Under similar arrangements, the United Kingdom, European Union countries have also turned pirates over to Kenya to be tried in their courts. The SUA convention I mentioned before is a valuable tool in these efforts.

Earlier this year, at a meeting convened by the International Maritime Organization in Djibouti, 21 regional nations adopted an agreement for cooperation in the interdiction, investigation and prosecution of pirates, as well as the establishment of information and training centers. Although not eligible to be a party to this instrument, the U.S. delegation, led by the Coast Guard, played an important supporting role in the effort. We sincerely hope that there will be other nations that step up, as Kenya has done, and provide additional support in the region.

As the Nation's primary maritime safety and law enforcement agency and a branch of the Armed Forces, the Coast Guard has a unique and significant role in responding to piracy. The Coast Guard leads U.S. anti-piracy efforts at the International Maritime Organization. The service establishes and enforces requirements for vessel security plans under the Maritime Transportation Security Act and the International Ship and Port Facility Code.

In the recent incidents with the Maersk Alabama and the Liberty Sun, the plans that those vessels and those companies developed pursuant to the Maritime Transportation Security Act were critical in their successful responses to those pirate attacks. And one of the things that has been highlighted many times and I just would want to stress again is that those masters of those vessels practiced those plans over and over again, drilled their crews. And I am most familiar with the Maersk Alabama, but the crew executed the plan exactly as they were supposed to, and that was absolutely critical to the positive result in that case.

Both the International Maritime Organization and the Coast Guard are currently revising our directives on piracy-specific security measures. Just Monday, we presented a proposal for revised

measures to a group of industry leaders, and we are awaiting their feedback on those specific new security measures.

In addition, we engage in international training to enhance the capacity of other nations to take action against pirates, both in their waters and in their courts. Significantly, the Coast Guard has just published a revised Model Maritime Service Code that developing nations may use as a template to establish the laws and institutions necessary to counter piracy.

This is particularly important, as the Ambassador noted. The international law regime is very robust in the area of piracy; however, where it falls down or may fall down on occasion is whether individual nations have adopted the domestic law that they need to do their role in suppressing piracy. The Model Maritime Service Code, one of its goals is to give a template to those countries so that they can establish the right domestic laws, with the right jurisdiction, the right agencies and so forth, to take action on piracy and other similar types of crimes at sea.

As I conclude, I want to emphasize that piracy is a multifaceted threat. The response requires a broad array of legal authorities, operational capabilities, skills and competencies, as well as the participation of numerous U.S. Government, international, and commercial entities. The Coast Guard, as an armed force, our principal maritime law enforcement agency and our principal regulatory agency for maritime safety and security, has a unique role to play and remains committed to this effort.

Thank you for the opportunity to address the committee, and I look forward to questions and dialogue.

[The prepared statement of Admiral Baumgartner follows:]

U. S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: CG-0921  
Phone: (202) 372-3500  
FAX: (202) 372-2311

**DEPARTMENT OF HOMELAND SECURITY**

**U. S. COAST GUARD**

**STATEMENT OF**

**RADM WILLIAM BAUMGARTNER**

**ON**

**INTERNATIONAL EFFORTS TO COMBAT MARITIME PIRACY**

**BEFORE THE**

**SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN  
RIGHTS, AND OVERSIGHT**

**COMMITTEE ON FOREIGN AFFAIRS**

**U. S. HOUSE OF REPRESENTATIVES**

**APRIL 30, 2009**

*RADM Baumgartner appears before the Committee on behalf the Commandant to testify on Coast Guard policy and programs relevant to international piracy. He does not appear or offer testimony in his capacity as the Judge Advocate General of the Coast Guard.*

Good afternoon Chairman Delahunt and distinguished Members of the Subcommittee. I am Rear Admiral William Baumgartner appearing today on behalf of the U.S. Coast Guard. I welcome the opportunity to appear before you to discuss the significant expansion of piratical acts off the coast of Somalia, and the Coast Guard contribution to ongoing efforts to address this threat to freedom of navigation, and the safety of international shipping and those seafarers who are the lifeblood of our international economy.

Piracy is as old as society itself, dating back more than 2,000 years. The struggle against piracy was a constant concern of merchant countries, which very early led to the adoption of the first example in human history of an extraterritorial law and a universal crime. Indeed, pirates have been declared *hostes humani generis* ("enemies of the human race").<sup>1</sup> Acts of piracy have always placed the lives of seafarers in jeopardy and affected the shared economic interest of all nations. Even a single piratical act affects the interests of many nations, including the flag State of the victim vessel, the various countries of nationality of each of the seafarers held hostage, regional and coastal States, and the States of the vessel and cargo owners as well as destination and trans-shipment States.

In the case of Somalia-based piracy, increasingly brazen attacks in 2.5 million square miles of ocean from land-based enclaves located all along an under-governed and economically devastated 2,300 mile coast pose a serious threat to global shipping. Eliminating piracy and other transnational threats requires stronger law enforcement capacity and rule of law in Somalia.

The Straits of Malacca and the Gulf of Aden present very different challenges and potential solutions when it comes to the problem of countering piracy threats.

Regional States in and about the Straits of Malacca have the capability, capacity and operational expertise to respond to acts of piracy and legal regimes to effectively deliver legal consequences to pirates when they are apprehended. Coordinated patrols by the maritime forces of Indonesia, Malaysia, Singapore, land-based actions taken by these countries, and increased security on vessels transiting the Straits of Malacca have resulted in a significant reduction in piratical acts in that vector. Indeed, when acts of piracy were on the rise in the Straits of Malacca, nations in that area expressed their intent to respond to the threat through locally coordinated responses without the need for international assistance from outside the region.

Unlike the Straits of Malacca, States in the area of the Gulf of Aden and Horn of Africa largely lack the maritime capabilities and capacity to respond to acts of piracy on the high seas and in their territorial seas. Somali authorities do not yet have the judicial or law enforcement capabilities to address piracy.

Because piracy is a universal crime under international law, every nation has the legal authority to establish jurisdiction over piracy and punish the offenders, regardless of nationality of the perpetrator or the victims, or of the vessels involved.<sup>2</sup> This has been a basic tenet of customary international law for centuries, and is also enshrined in treaties such as the 1958 Geneva Convention on the High Seas and the 1982 United Nations Convention on Law of the Sea. United Nations Security Council Resolutions 1816 and 1846 effectively extended this international law to Somali territorial waters and, authorized states that are cooperating with the Somali Transitional Federal

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<sup>1</sup> Piracy off the Coast of Somalia, International Expert Group on Piracy off the Somali Coast, 21 Nov 2008

<sup>2</sup> See 1982 United Nations Convention on the Law of the Sea, arts. 100-107.



Government (TFG) to conduct counter-piracy operations there. Resolution 1851 further expanded authorities for counterpiracy operations in Somalia.

However, legal authority alone does not ensure success. Combating this threat requires well-coordinated interagency and international use of that lawful authority in operations that account for the unique problems presented by the logistics and geography of the region, as well as the vast expanse of ocean on which pirate attacks have taken place. The coordinated application of legal authorities must also address the complex challenges of evidence collection and potential prosecutions under differing legal regimes, and the dangers to innocent seafarers and hostages inherent in any response actions intended to wrest control of a victim ship from pirates.

Additionally, response to such incidents must take into account the ability of pirates in the region to be supported from and flee to friendly enclaves ashore, as well as the interests of various stakeholders in the outcome of any piracy incident, from the flag State of the victim vessel and States of nationality of the innocent seafarers to regional partners whose security is directly threatened by these brazen attacks.

-Ultimately, piracy can only be successfully eliminated through an integrated maritime and land-based approach to increase security, stability, and economic development in Somalia.

Military efforts to deter, counter, and punish acts of piracy can be successful only as part of a multi-national effort bolstered by the support and assistance of international institutions, the commercial shipping industry, and other non-governmental organizations. In particular, I would like to commend the International Maritime Organization (IMO) for its leadership in responding to this and other threats to commercial shipping and seafarers. Following the 9-11 terrorist attacks, the IMO rapidly developed the International Ship and Port Facility Security or "ISPS" code to better safeguard international shipping from acts of terrorists and others who would threaten commercial shipping and the safety of innocent seafarers. The purpose of the ISPS code is to provide a standard, consistent framework for evaluating risk. It enables governments to offset changes in threats to shipping with changes in vulnerability for ships and port facilities through determination of appropriate security levels and corresponding security measures. The ISPS code provides a valuable and time-tested mechanism for industry, in cooperation with the IMO, to harden targets against pirate attacks.

Additionally, the IMO has been addressing piracy in its Maritime Safety Committee and other forums as the Somalia situation has intensified. I will speak to some of those efforts, in which the Coast Guard and other U.S. government agencies have been active participants, shortly.

Through the millennium, maritime trade has been critical to the economic vitality and security of nations. That is even more evident today. The unimpeded flow of maritime commerce is the lifeblood of the global economy. As of 2008, seaborne trade accounted for approximately 80 percent of global trade in terms of volume and 70 percent in terms of value. The Gulf of Aden, which spans the Horn of Africa and Somalia's north coast, is a vital shipping lane connecting the Middle East, Europe, Asia, and North and South America. More than 20,000 ships and nearly 12 percent of the world's petroleum transit the Gulf of Aden each year. These ships present valuable prey to pirates. Since the end of 2007, piracy activity has shifted away from the Mogadishu port

area and into the Gulf of Aden.<sup>3</sup> Actual and attempted hijackings and piratical acts by Somali pirates more than doubled in 2008, with more than 60 incidents recorded through October 2008, as compared to 25 cases in all of 2007.<sup>4</sup>

Pirate attacks are not only increasing in number, they are also extending farther out to sea. Since late 2007, pirates using small arms and rocket-propelled grenades have attacked vessels up to 450 miles from the Somali coast, further highlighting the increasing risk to commercial shipping interests in the region. High profile hijackings—like those conducted against the U.S. container ship **MS Maersk Alabama**, the oil-laden Saudi supertanker, and a Ukrainian ship carrying tanks, small arms, and ammunition—have demonstrated just how vulnerable even the biggest ships are to piracy.

In 2008, an estimated \$30 million in ransoms were paid to pirates for vessels hijacked off the coast of Somalia and in the Gulf of Aden, emboldening their activity and perpetuating the threat. Most often, the pirates literally "get away" with their illegal conduct. Cases in which pirates have been apprehended and actually brought to justice for their crimes are the exception rather than the rule—the decision to try Abdul Wali-i-Musi notwithstanding. Most often, even in cases in which pirate attacks have been thwarted or the pirates apprehended, the pirates escape prosecution and eventually return to their criminal, but successful, business model: pirating vessels and demanding huge ransoms. Left unchecked, high profits, low costs, and little risk of legal or other consequences ensure continued growth in piratical activity in the Horn of Africa.

In response to this threat, the National Security Council has released the *National Strategy for Countering Piracy off the Horn of Africa: Partnership and Action Plan*. The Coast Guard was actively involved with interagency partners in developing this important national strategy document. The National Strategy is realistic and acknowledges that lasting solutions to the piracy problem require significant improvements in governance, rule of law, security and economic development in Somalia. However, in light of the current threat, there are steps that can be taken in the near term to deter, counter, and reduce the risk of attacks by pirates in the Horn of Africa. The National Strategy lays out operational objectives in three lines of action. The Coast Guard has a meaningful role to play across each line of action as I will briefly summarize.

The first line of action focuses on preventing pirate attacks by reducing the vulnerability of the maritime domain to piracy. It is supported by four preventative and precautionary measures that include: (1) establishing a senior level Contact Group of nations that have the political will, operational capability, and resources to combat piracy off the Horn of Africa; (2) strengthening and encouraging the use of the Maritime Security Patrol Area (MSPA) in the Gulf of Aden; (3) updating Ship's Security Assessment and Security Plans to harden commercial shipping against pirate attacks; and (4) establishing strategic communications plans to emphasize the destructive effects of piracy on trade, human and maritime security, and to encourage the rule of law.

Within this first line of action, the Coast Guard, in close cooperation with the IMO as well as our sister agencies, is leading efforts to enhance and update counter-piracy guidance to industry; requiring U.S. vessels and encouraging all vessels to address the piracy safety and security threat via

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<sup>3</sup> Piracy in Somalia – Threatening Global Trade, Feeding Local Wars – Chatham House, October 2008

<sup>4</sup> Somalia: Piracy and the Policy Vacuum. Africa Focus Bulletin, November 22, 2008.

<http://www.africafocus.org/docs/08/som0811.php>

the existing domestic and international law architecture; carrying out a range of industry engagement activities; and directly contributing to regional capacity building and cooperation efforts. Precautionary measures include such simple tactics as:

- transiting the threat area at maximum safe speed (vessels traveling at less than 16 knots with low freeboard are known to be at heightened risk of attack);
- for vessels that are unable to outrun pirate vessels, changing course repeatedly, consistent with safe navigation, and conducting night-time transits through threat areas to reduce risks;
- incorporating vessel designs and modifications that prevent or delay pirates from gaining control of a vessel in the event that pirates are able to successfully board, such as safe-areas where crews can muster and effective physical barriers to vessel control areas;
- using non-lethal defensive measures such as netting, wire, electric fencing, long-range acoustical devices, and fire-hoses for deterrence when safe and feasible; and
- employing properly certified security consultants on vessels transiting the region to provide guidance on security measures, onboard training in non-lethal response techniques for vessel personnel, specialized equipment such as night vision equipment to better detect potential threats before an attack is imminent, and other response and prevention measures.

These and other relatively low-tech solutions have already proven effective at “hardening” merchant shipping targets. Even if such tactics cannot entirely prevent pirate attacks, they may prolong the time it takes for pirate groups operating from small craft to gain control of a target vessel long enough for naval or law enforcement response assets in the area to successfully intervene. Industry plays an important role here and must take responsibility for the safety and security of vessels and their crews through appropriate and well-conceived modifications to vessel designs, security plans, and operations in high threat areas.

The second line of action looks to interrupt and terminate acts of piracy consistent with international law and the rights and responsibilities of coastal and flag states. It is supported by six elements that include: (1) supporting and contributing to a regional counter-piracy coordination center that alerts shipping to pirate activity, gathers and analyzes information, and dispatches resources; (2) seizing and destroying vessels outfitted for piracy and related equipment; (3) providing persistent interdiction-capable presence to support counter-piracy operations; (4) supporting shiprider programs and other bilateral and regional counter-piracy agreements and arrangements; (5) disrupting and dismantling pirate bases ashore under the authority already granted by the United Nations Security Council and in cooperation with regional partners; and (6) disrupting pirate revenue through the development of national and international capabilities to gather, assess, and share financial investigation information on pirate financial operations, with the goal of tracing payments to pirate organizations and apprehending their leaders and enablers.

Counter-piracy operations are primarily a maritime law enforcement activity that the Coast Guard is trained and equipped to support. We are the competent authority for the U.S. government on more than 30 bilateral agreements with foreign partners. These agreements underpin a wide range of Coast Guard operations including counter-drug, migrant interdiction, fisheries enforcement, and Proliferation Security Initiative missions. The Coast Guard understands the domestic and international legal frameworks and the associated boarding and enforcement requirements necessary to implement the successful negotiation and implementation of agreements to facilitate counter-piracy operations on the water and the delivery of legal consequences to the pirates ashore. The Coast

Guard's international training teams and deployable law enforcement detachments offer tailored maritime law enforcement training that can be easily integrated in regional capacity building initiatives, and which is tied directly to at-sea operations.

The U.S. Central Command (CENTCOM) has stood up Combined Task Force (CTF) 151, whose mission is to deter, disrupt, and suppress piracy in order to support United Nations Security Council resolutions, protect global maritime commerce, prevent future attacks, enhance maritime security, and secure freedom of navigation for the benefit of all nations.

The role of Coast Guard law enforcement detachments is to augment and train U.S. Navy vessel boarding search and seizure teams in various Maritime Interdiction Operations mission areas, including maritime law, boarding policies and procedures, evidence collection and preparation, and tactical procedures.

Piracy boiled down to its most basic elements is criminal activity by armed thugs deployed from small boats and fishing vessels. Should the President direct the Secretary of Defense to undertake counter-piracy maritime law enforcement operations, the Coast Guard is ready to assess requirements and offer relevant capability to our partners. As both a military service and a service with broad law enforcement authority, the Coast Guard is uniquely capable of bridging defense and law enforcement functions. We train and operate with the Navy every day, which enables seamless integration into maritime contingency operations. Should the Joint Staff forward a request for Coast Guard forces, we will work closely with Secretary Napolitano to determine the appropriate contribution of capability while remaining ever cognizant of our domestic responsibilities.

With some notable exceptions, including cases in which authorities in Kenya agreed to prosecute pirates,<sup>5</sup> pirates operating off Somalia suffer few consequences, even when apprehended. Although some of our European partners are prosecuting some piracy cases domestically, all too frequently the navies or other forces that apprehended pirates have faced significant legal and logistical challenges in transporting pirates, evidence and witnesses to appear in their courts. In cases where their interests are not directly threatened, some of them lack the domestic legislation to even apprehend pirates caught in the act, leading to at-sea and on-shore releases of pirates. Many victim States have been unwilling to favorably consider prosecution, even when their domestic legislation permits it. At the same time, the vast majority of regional states, who should not bear the burden of prosecution for the international community, did not have the necessary arrangements in place to receive pirates, along with evidence and witnesses, for trial in their courts. Thus, pirates are often not held accountable for their crimes and quickly resume their piratical activities. The profits available from this criminal activity, coupled with the extremely low risk that apprehension will result in any meaningful consequences, further encourages pirates to keep plying their illegal trade.

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<sup>5</sup> Examples of cases in which pirates have been brought to justice include a 2006 case in which the U.S. Navy apprehended a group of 10 Somali pirates that had hijacked an Indian vessel, and a November 2008 case in which the Royal Navy captured 8 Somali pirates who had attacked a Danish ship. In both of these cases, authorities in Kenya agreed to prosecute the pirates. In the 2006 case, all ten of the pirates received seven year sentences. The prosecution against the 8 pirates who the Royal Navy apprehended in November 2008 was scheduled to resume in January 2009 [NOTE: no need to list them, but there are 4 other cases where Kenya has taken pirates for domestic prosecution. They've taken 52 by our count.].

To counter this problem, the third line of action in the Piracy Action Plan is intended to ensure that those who commit acts of piracy are held accountable for their actions by facilitating prosecution of the suspected pirates in a just forum. This is supported by four elements: (1) concluding agreements and arrangements to formalize custody and prosecution arrangements with regional and other partners; (2) supporting and encouraging the exercise of jurisdiction under the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and implementation of appropriate domestic legislation; (3) supporting and encouraging the use of other applicable international instruments and customary international law; and (4) enhancing capabilities of regional states to accept suspected pirates for prosecution, extradition, and incarceration.

The IMO has been a leading force within the United Nations to combat the piracy threat in the Horn of Africa. By delegation from the State Department, the Coast Guard provides the Head of the U.S. Delegation for IMO meetings and activities. The IMO works throughout the region to foster cooperation between stakeholder countries, and to create the legal and operational framework for regional States to combat piracy. IMO has passed resolutions establishing a framework for international cooperation; updated counter-piracy guidance to industry previously discussed; and, perhaps most importantly, promoted judicial consequence delivery mechanisms so that pirates, once caught, face meaningful and just punishment under the rule of law.

A component of the proposed consequence delivery system advocates application of the SUA Convention. The SUA Convention was adopted in 1988, in part as a direct response to the terrorist hijacking of the cruise ship *ACHILLE LAURO* and murder of the American citizen Leon Klinghoffer off the coast of Egypt in 1985. The SUA Convention is designed to ensure that appropriate action is taken against persons committing unlawful acts against ships, including, among other acts, the seizure of ships by force; acts of violence against persons onboard ships; and the placing of devices on board a ship which are likely to destroy or damage it.

Under international law an act of piracy is defined as a criminal act of violence, detention, or depredation committed for private ends by the crew or the passengers of a private ship in or over international waters against another ship or persons and property on board. The SUA Convention applies more broadly to acts of violence against ships regardless of the motive of the actor, but covers acts of piracy. The SUA Convention also establishes a framework whereby masters of ships may deliver suspected offenders to a coastal State that is party to the SUA Convention. The coastal State is then obliged under the SUA Convention, with few exceptions, to accept custody and either extradite the suspected offender or submit the case for the purpose of prosecution. The Coast Guard was instrumental in building broad support for using the existing SUA Convention to combat Somali-based piracy, and for ensuring that the SUA Convention was recognized in the two most recent United Nations Security Council Resolutions addressing piracy. All of the States within a 1,000 nautical mile radius of the Gulf of Aden are signatories to the SUA Convention, with the notable exceptions of Somalia, Eritrea, and Ethiopia.

Securing arrangements with regional partners to facilitate the expeditious investigation, prosecution and, as appropriate, punishment of apprehended pirates is an important part of our consequence delivery plan. On January 16, 2009, the United States and the Government of Kenya completed a Memorandum of Understanding concerning the conditions of transfer of suspected pirates, armed robbers, and seized property in the western Indian Ocean, the Gulf of Aden, and the Red Sea. This new arrangement is extremely encouraging and builds significantly on Kenya's past efforts to bring

pirates to justice. However, the primary responsibility for prosecuting suspected pirates rests with victim states, not states in the region.

Let me conclude by emphasizing that the threats that piracy poses to the United States, our international partners, global trade, the stability of the region, and the industry and seafarers who make their living on the last global commons are multi-faceted. The response to these threats requires a broad array of legal authorities, operational capabilities, skills and competencies, and the support and expertise of numerous U.S. Government, international, and commercial entities. The Coast Guard has a unique role to play, and remains committed to working with our military, government, and industry partners to bring these criminals to justice and forge long-term solutions for regional maritime safety and security.

Thank you for the opportunity to address you today and for your attention. I look forward to your questions.

Mr. DELAHUNT. Well, thank you very much, Admiral.

Like I say, we are very informal here, so this is more of a conversation. And if a question is posed to one and the other witness has a desire to interrupt, please feel free to do that.

You indicate that the problem is with the domestic legal authorities, in terms of the prosecution of those that are apprehended. It is my understanding that, even absent conventions—the SUA, the Geneva Convention—that it is customary international law that piracy, in and of itself, confers jurisdiction in the right to prosecute individual nation-states. But I guess what you are telling me is that other nations would require some sort of domestic legal authority and could not proceed just simply under customary international law to prosecute those that were apprehended.

Is that a correct statement? Or am I misstating it? Am I misunderstanding?

Admiral BAUMGARTNER. No, I think that that is pretty accurate.

Here in the United States, despite the fact that we would have authority under the 1958 Geneva Convention on the High Seas, for example, or the SUA convention, we would have international authority to take action here. If we did not have the actual sections in title 18 of the U.S. Code, we would not necessarily have a crime to prosecute in our court.

There are other specific procedural issues that come up from time to time with different nations. If the nation is not prepared to prosecute such, should I say, far-flung or crimes that are committed away from their shores, say, on the high seas or other places, they will find that there are sometimes procedural impediments in their own criminal processes where they simply haven't thought ahead or aren't prepared to deal with a delay between the arrest of an individual and the time they are brought in front of a court, and many other particular issues like that.

In the United States, I can speak to some things in particular. We do have these regimes in place, and for that I think we can thank the narcotics business. We have the Maritime Drug Law Enforcement Act, which has forward-leaning and forward-thinking jurisdictional provisions and does accommodate those kinds of difficult and unusual scenarios. That is the type of thing that is lacking from time to time in different countries' domestic laws.

Mr. DELAHUNT. Ambassador?

Mr. MULL. And I would add, in addition to agreeing with everything the Admiral said, there are often very discrete policy or political questions involved, as well. Some national prosecutors will decide, "Well, yes, we recognize that an attack on the high seas is something that we could prosecute, but our nationals weren't involved, none of our flagged ships were attacked in this. Even though we might have detained or somehow apprehended these pirates, we are not going to prosecute them because we don't have the resources to do it."

And then there are other political questions. There is an anecdote I like to tell about one of our own Navy ships that picked up a Somali pirate. He was kept onboard in the brig, and he started knocking and wanting to talk to somebody. And one of the officers of the ship went down and said, "Yes?" And the detainee said, "You

know, this brig is much nicer than where I live in Somalia. May my family please come and stay with me here?"

It is partly funny, but it also illustrates that, for many people, if you arrest them and then take them into custody, there may be national laws that prevent their return if they are found not guilty. They will say that they face persecution or terrible living conditions in Somalia, they would like asylum. Or they will just remain there in the country and then become a problem for that particular nation.

So all of these combinations of things really make many countries reluctant to play an activist role. But we think there is a responsibility that we have commonly to ensure freedom of the seas. And so we are going to keep working with our partners to show them the templates that the Admiral mentioned and to keep policy pressure on them to change their approach.

Mr. DELAHUNT. It would appear, you indicated that there is a—maybe I am, again, not describing it accurately, but a model legislation that is used in an effort to have other nation-states adopt, so that the proper domestic legal authority exists. And I didn't hear, has that been produced by the Coast Guard, or is it a product of the Office of Legal Counsel of the State Department, or is it—where was it generated?

I think you referenced it, Admiral.

Admiral BAUMGARTNER. Yes, sir. There may be many things, many products that help along those lines. What I was referring to was a product the Coast Guard produces that is called the Model Maritime Service Code. And it is designed to run the full gamut of what a country would need to set up their marine safety regime, their fisheries enforcement regime, the maritime law enforcement regime, maritime security, would extend to piracy, counterdrug operations. It would also have a template on what type of agency they might set up to do the same kind of thing, as well.

So it is actually a fairly robust document, but it does have the specific things in there that a country—

Mr. DELAHUNT. But it does not provide, if you will, a model law that could be emulated or replicated in other nation-states?

Admiral BAUMGARTNER. Oh, yes, sir, it does.

Mr. DELAHUNT. Oh, it does?

Admiral BAUMGARTNER. Yes, sir. Depending upon the legal structure in a particular country, they could take sections of it simply verbatim and enact it. It is designed that way.

Mr. DELAHUNT. You know what I found interesting is that—we are talking some Western democracies. I think I just read recently the Netherlands apprehended and then, in a relatively short period of time, released a number of these pirates. And it became an issue of, you know, public debate, political debate in the Netherlands.

And it is also my understanding that Russia has apprehended, again, a number of pirates, and a decision has not been made as to how their cases should be disposed of. I wonder if they have reached a decision.

You have that on the one hand, and then you have the French taking a much more aggressive approach than it would appear that the United States and the United Kingdom are. Am I describing that accurately?



And am I correct in stating that there is a lot of work to do to create a consistent legal regime, in terms of how these cases should be investigated and prosecuted and some sort of understanding as to an appropriate sanction? Which, from my perspective, should be very severe, simply to send a message that there is a significant consequence for this kind of behavior.

Mr. MULL. When we began our diplomacy in January to create this contact group of countries that were going to coordinate their efforts, we successfully persuaded our European partners that this was a major flaw in the world's response to piracy. And we persuaded them to agree to establish a legal working group that met in Copenhagen in March to start examining these discrepancies. And then we are going to be meeting again next week, again, in the same group, to see how far we have come and to identify these.

Mr. DELAHUNT. If I may, I think I read where there are four working groups.

Mr. MULL. Yes, that is right.

Mr. DELAHUNT. And I take it, this is one of them?

Mr. MULL. It is working group number two.

Mr. DELAHUNT. And who is the lead in that working group, the Danes?

Mr. MULL. The Danes have been the convener of this, but they are rotating. You know, every time it meets, there is a different host who organizes the meeting and pulls it together. And State Department—the U.S. Government is represented at these deliberations.

Mr. DELAHUNT. And who is representing the United States?

Mr. MULL. We have been sending an assistant legal advisor of the State Department, Sue Biniarz, to participate in those, with interagency participation.

Mr. DELAHUNT. Right.

I take it the Coast Guard is represented there, as well?

Admiral BAUMGARTNER. We have been heavily involved in the run-up in the preparations and so forth, so, yes.

Mr. DELAHUNT. Are we making progress, Ambassador, I guess is the question?

Mr. MULL. Well, as you might imagine, pulling together 28 countries and trying to get them to be more like us is always a challenge. It is slow progress, but I think there is progress in terms of identifying the gaps.

I will tell you what helps a lot is the high profile that this issue has gotten in the press. We have noticed, just since the Alabama case, in the meetings we have had, particularly with our European partners, there is much more readiness to talk with us about the dangers from ransom, about the dangers of catch and release.

And just after the incident with the Dutch that you described, sir, the Dutch foreign minister met with Secretary Clinton and told the press that the Netherlands is going to be doing better on questions like this in the future.

So I am optimistic.

Mr. DELAHUNT. Do you agree or disagree with this statement, that if we don't solve this particular problem, this might be the most significant problem in terms of dealing—and I am not saying that—you know, even if we do our best, in terms of best practices,

in terms of intervention, in terms of dealing with Somalia as a failed state, all of those issues, if we don't have a coherent legal regime that imposes substantial sanctions to serve as deterrents, we are going to continue to have problems. I mean, I would presume that, you know, a pirate who is released goes back to Somalia and is in the next skiff out.

And I think it is important—let me ask you this question: (A) do you agree with that? Both of you. And how can we, Congress, play a role?

I was musing that, you know, clearly, particularly this committee but other committees, too, often engage in interparliamentary exchanges. I know that Congressman Rohrabacher and I have been in Russia, we travel together, we have been in Germany, simply to raise this issue with our counterparts in the Duma or in the German Bundestag.

Does that aid or does that reinforce what you are attempting to do? And let me hear your responses.

Mr. MULL. Well, Mr. Chairman, I completely agree that this is an absolutely vital key to solving the problem. So I think you have perceived it exactly right.

And in terms of what the Congress can do, I think through your international engagement on the trips that you make overseas and the interparliamentary fora that you participate in, I think you could really help a lot by publicizing and drawing your counterparts' attention to the need to have a more harmonious legal approach.

Because this isn't the responsibility of the United States or of Russia or the Netherlands; it is really all of our responsibility. And we need a common set of tools and authorities and capabilities if we are going to succeed.

Mr. DELAHUNT. I would note that this particular committee has jurisdiction over multilateral organizations, including the United Nations, which obviously implicate the IMO. And I know Mr. Rohrabacher and I—and I am speaking for him here—would be more than willing to observe, participate and support the executive's efforts at the U.N., with the IMO or any other organization.

With that, let me yield to my friend, Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman.

How many people have lost their lives? Have we had these pirates killing some of the people that they have taken over, some of these ships, in the last year or so?

Mr. MULL. There have been a couple of sailors who have died, not because they were executed by the pirates, but because they were ill. And so, there have been no hostages, at least in the last 2 years, that have lost their lives because they were executed by pirates.

Mr. ROHRABACHER. Okay. So there has been ransom paid; and thus, the ransom was paid and the hostages weren't killed. Has there been anyone who hasn't paid the ransom and having the people released?

Mr. MULL. Well, certainly, we didn't pay ransom for the Maersk Alabama. And I don't think we ever would.

Beyond that, Bill, do you know?

Admiral BAUMGARTNER. Obviously, I mean, the French have launched some operations, as well, to take vessels but—

Mr. ROHRABACHER. But, I mean, not been released by us, by an act. But has there been a situation where the pirates have captured someone, asked for a ransom, they weren't given the ransom, but the pirates just gave up and let them go?

Admiral BAUMGARTNER. There is no incident that I am aware of at all. And some of the vessels have been held there quite some time. I am just looking here at a list. There are some that were captured in August and are still being held.

I think that, from an economic standpoint, the vessel owners, looking at the hostages there, paying the ransom is an expedient way to get their vessel back and to get their crew members released, get the cargo back on its way to its destination.

Mr. ROHRABACHER. Well, I am sure that they are very concerned, the pirates that were holding these hostages, with the legal working group in Copenhagen. I am sure they are just sitting on the edge of their chair, waiting for the report, before they make up their mind if they are going to take hostages.

Is there any relationship between these terrorists—between terrorist organizations, especially Islamic terrorist organizations, and these Somali pirates?

Mr. MULL. There has been no indication. It is a question that we examine very critically every single day. And, thus far, we have not seen any evidence of a link. The Al-Shabaab group in Somalia, in fact, has made pronouncements against the pirates.

Since the incident with the Maersk Alabama, there were threats from some of the pirates who said that they would now ensure retaliation, violent retaliation, against American interests. Whether or not terrorist groups could perceive of that as an opportunity to get themselves involved in piracy is a very real concern that we continue to watch, but we haven't seen that link yet.

Mr. ROHRABACHER. So is your testimony that the Al-Shabaab group is not—you do not have evidence of them being engaged with the Somali pirates?

Mr. MULL. No.

Mr. ROHRABACHER. Okay.

Mr. DELAHUNT. Would the gentleman yield for a minute?

Mr. ROHRABACHER. Certainly.

Mr. DELAHUNT. I think I read somewhere that there was criticism from that particular group, or possibly another, that condemned the piracy attacks as being un-Islamic. Is that correct?

Mr. MULL. Yes, sir.

Mr. DELAHUNT. I yield back.

Mr. ROHRABACHER. There is a quote from Sheikh Hassan Abdullah Hersi al-Turki, the leader of the Al-Shabaab link to—whatever they call this group. It is a group—I cannot pronounce it, but it has been designated by the State Department as a terrorist organization. And this sheikh says, “I can say the pirates are part of the mujahideen”—religious fighters—“because they are in a war with Christians and Christian countries who want to misuse the Somali coast.”

Is there anything else that—it sounds like there is a link there.

Mr. MULL. No, we have heard sentiments like that expressed, but we have not seen any evidence of formal funding or operational planning or encouragement in targeting as of yet. But it is because of statements like that that we watch this very closely.

Mr. ROHRABACHER. Okay. Kenya, once it takes these prisoners, what is the punishment if found guilty?

Mr. MULL. Well, none of these trials—there have been preliminary hearings. None of them, of the 52 suspects now there, have come to conclusion yet. So I don't know what their sentences, if convicted, will be.

I am sorry, there were some convictions in 2006, for which 7-year sentences were given.

Mr. ROHRABACHER. Seven-year sentences. So, I don't know what the situation is with time off for good behavior or anything in that country. I have no idea. Maybe not. Who knows? But 7 years for piracy, which is the equivalent of kidnapping, I would think it would be very similar. What is the punishment in the United States for someone who would be convicted of a similar crime?

Admiral BAUMGARTNER. Piracy in the United States could include life imprisonment.

Mr. ROHRABACHER. Right. Okay. It would seem to me that that would have more of an impact than 7 years in prison. Of course, 7 years in a Kenyan prison may be the equivalent of a lifetime in the United States.

Let me just get back to one point about—rather than looking at the pirates as, sort of, independent players. The Puntland government, is it profiting from these pirates? Or the Ethiopian Government? Because I understand that that is where they are operating out of, under that auspices.

Mr. MULL. Yes, our information indicates that the vast majority of pirate attacks are launched from organizations that are located within the Puntland area.

The governor of Puntland has, just in the past month, expressed his eagerness for some of the security assistance you were mentioning earlier, Mr. Rohrabacher, in your opening statement, volunteering to take on a more activist role to undertake law enforcement in the area.

But, at the same time, I think it is indisputable that the relatively vast sums that are now flowing in and out of that area as a result of ransom payments does benefit not just the pirates but also the people that live there.

Mr. ROHRABACHER. Would you write off the possibility that the head of the Puntland government and maybe some high officials there are actually confederates, meaning they are just sort of letting this happen and benefiting from it?

Mr. MULL. In this open session, I could neither rule it in or out.

Mr. ROHRABACHER. All right, I get you. Okay. So let's find out, how did the Puntland government become the Puntland government? Was this based on a free election, or were these the people who were put into power by the Ethiopian intervention?

Mr. MULL. I am not, unfortunately, an expert on internal Somali politics. But I understand that this leadership emerged from a pre-existing clan structure that the leadership has chosen through clan counsels who live in that autonomous region of the country.

Mr. ROHRABACHER. Right. Who are allied with either certain Somali interests or are allied with certain Ethiopian interests.

It is my understanding that the current government was actually allied with the Ethiopian efforts there. And has there been any indication of the Somali Government in exile, which is now in Eritrea, which has been cataloged by us as a radical Islamic group—you say we don't have any evidence of Islamic extremism being part of this. But does that mean that the Somali Government in exile has not been tied to this?

Mr. MULL. Are you referring to the Transitional Federal Government or the—

Mr. ROHRABACHER. Yes, the Somali Government in Eritrea, that is in exile in Eritrea.

Mr. MULL. I think that is another organization. I will have to check into that further, sir. I am not familiar with that particular organization. Because the Transitional Federal Government, the TFG, is now set up again in Mogadishu. And I will have to check into that and get back to you.

Mr. ROHRABACHER. Yeah, I guess what I am getting to is that, perhaps, the United States sided with the government in Ethiopia after the current—if you want to call it the Government of Ethiopia. Those people who lost the elections in Ethiopia were embraced by our own Government. And the next thing we know we are carrying our water by invading Somalia. And the next thing we know is the area in which a government was placed in power by that government, Ethiopian occupation, ends up overseeing an area in which piracy is being conducted on international vessels.

It seems to me that, if you look back far enough, that really calls into question our relationship with Ethiopia, as well as what is going on in Somalia. And that is just a thought.

Now, back to my one point, and then I will yield back my time, and that is the possible use of—you say there have been 40 vessels out there from various countries in order to thwart this piracy. Now, it seems to me that what we are talking about is a very easy—I mean, I know whatever challenge it is we have to have European lawyers working in Copenhagen and the working group. I understand how important that is to defeating this enemy.

But in terms of the actual military confrontation that is going on, or I should say armed confrontation that is going on, couldn't these people be deterred by just having private security guards on the ships or having someone hired by the shipping companies to keep a protective cover in that part of the world?

Admiral BAUMGARTNER. Well, sir, you are right that security on the vessels does have an impact. However, it is a very complex thing as to how you put security on there, armed or unarmed security.

Armed security is something that—we are spending a lot of time right now in our Government reviewing all of the ins and outs of armed security teams onboard vessels. It raises a whole host of questions. It is being done by different companies right now, and in some of them it is being done successfully to deter attacks.

It does require an awful lot of coordination, a lot of forethought, a lot of training. Having normal merchant seamen pick up weapons and then expect them to fight off pirates with rocket-propelled gre-

nades and AK-47s is not necessarily going to work very well. On the other hand, well-trained independent security teams that have practiced together, understand fields of fire, understand the basic rules for self-defense, when they can fire and when they can't fire at pirates that are approaching them—all of those things could definitely help.

There are many other problems, though. The cargo on many vessels is totally incompatible with having a firefight. Obviously, petroleum products, other hazardous chemicals, and so forth—a very difficult thing and could be very dangerous. There are other nations that have very different views on this issue, and there are many nations and many interests that think that this raises the danger to the crews and to the vessel and will take this whole thing to a different level.

Mr. ROHRABACHER. Those are the European allies who want to send the lawyers in.

Admiral BAUMGARTNER. Well, there are many of them, sir. And there are also insurance interests that have a tremendous influence in what companies do in this area.

Mr. ROHRABACHER. Yeah, I understand the insurance interest and our European friends that think that we can hug people and be nice with them and then they won't hurt us. If we can just set everything down legally, they will disappear.

Well, that is not going to happen. There are people in this world like those pirates. And I will tell you, pirates throughout our history have been the scum of the sea. And they are willing to—and historically have been willing to murder and kill. And these pirates, I believe, have the same willingness to do that.

And I think it is up to us to have courage—if we can't face down this type of threat and take care of it, God help us for anything much more substantial. I would suggest that we could even do that through the private sector. I would recommend that we actually have a policy of encouraging ships that are going in this area to hire private security protection. And I think that it would disappear, the problem would disappear.

Admiral BAUMGARTNER. Yes, sir. As I mentioned, this is actively being discussed and engaged. And what exact position and many of the things that you just said are right on the top of our plate and actively being worked with all of the government agencies and industry and all of those interests involved right now, particularly with U.S. vessels.

Mr. ROHRABACHER. Thank you.

Mr. DELAHUNT. Let me go now to the gentleman from New Jersey, Mr. Payne.

But before I do, in the event that any of our European friends, either in the audience or observing, you know, through C-SPAN or whatever, I think it should be noted that the French, for example, who I know are admired by my friend from California, are probably the most aggressive in terms of militarily and by force dealing with this issue.

And, in fact, maybe this is inaccurate, but I understand the French have actually offered military escorts to the various vessels transiting through the Red Sea and the Gulf of Aden and the Cape of Good Hope, at a price obviously.

But is that a misstatement, or are the French actually willing to provide military escorts on private ships for a price? Have either one of you heard of that?

Mr. MULL. That the French Government would pay for a private security firm to—

Mr. DELAHUNT. No. In other words, the French Government would—

Mr. MULL. Would ride on the ships, the military.

Mr. DELAHUNT [continuing]. Would place on private vessels French military, presumably special operation teams, that would be paid for by private vessels.

Admiral BAUMGARTNER. I am not personally familiar with this, but I have been informed that there has been some discussion from the French and perhaps the Belgians on that issue. But I don't really have any more.

Mr. DELAHUNT. If you could follow up, I would be interested, given, you know.

Mr. Payne?

Mr. PAYNE. Thank you, Mr. Chairman. And I commend you for having this hearing. It is a pretty complicated issue that they are dealing with.

You know, for my colleague from California, the old pirates who were, you know, the scum of the earth and all that stuff, they don't stay on the water like the old pirates used to do. You know, pirates used to just live on ships and roam around the world. These pirates don't live on boats. They try to, I guess, get the booty and go back to land. So there is a difference in the lifestyle. You know, they are not the way it used to be.

And, actually, from what I have been able to understand, it is really some kind of cartels, criminal cartels, that are—believe me, the last thing on the mind of these hijackers is some ideology of some Islamic, you know—it has absolutely nothing to do with Islamists and anti-West and al-Qaeda-linked and all that.

As a matter of fact, as has been indicated, there is absolutely no one in Somalia, other than the criminal cartels that are doing it, that appreciate that it is happening. The current government of Sheikh Sharif Ahmed, the government up in Puntland and in Somaliland and in Mogadishu, Sheikh Sharif Ahmed—none of them want it. The only people, like I said, who are benefiting is this group of criminals who have found a way to make some money. They are not giving to the Red Cross. I mean, you know, it is not assisting Somalis in general. It is making some criminals, maybe some of the old warlords, you know, wealthy.

But I guess time is running out and a vote is coming on. But I did have an opportunity to speak with a broad group of people in Mogadishu, a day or two after the ship was released. And, actually, I mentioned very clearly at a press conference with the Prime Minister that I thought that the actions of President Obama and the Navy SEALs was appropriate and that criminality cannot be tolerated and there has to be assertive action to end it. If there is no deterrent to ending this, it will just continue. And there was absolutely no dissent from about 25 media people.

So the government, in particular, doesn't see piracy—as a matter of fact, they say that, you know, it is just wasting a lot of time and

effort to try to get the pirates out in the ocean. He says, You have to deal with them on the ground, period. That is the way that you can eliminate it before they go. And they have a plan, which they feel they could handle it.

As a matter of fact, you know, Sheikh Sharif and the Islamic Courts Union ended the piracy during the 6 months they were in charge. But the United States backed Ethiopia to go in and dislodge the ICU, and they left, and that is when the piracy became emboldened.

So I think it can be dealt with if the new government is—you know, they are interested in having some training of their militia. It may be in Kenya somewhere or Uganda. And they are very assured that they can eliminate it on the ground. And I think that would make a lot more sense.

You know, the three groups in Somalia: You have the government, you have the pirates and you have Al-Shabaab. Now, Al-Shabaab is allegedly trying to get a foothold linked to al Qaeda. The hijackers are criminals that have cartels, and they are, you know—so those two groups have money. The only group that has no money is the government. And they are the ones that want to end piracy, and we can't get the West to engage with the government. They say, "We can handle this. Believe me, we will have no problem. And, as a matter of fact, if we even got some intelligence from, you know, the West to even assist us in locating them or seeing when they are planning to leave land, we could wipe them right out." But the only ones that have no resources is the government.

So we could spend a lot of money trying to go over all these oceans to try to run these guys down. And I am not so sure the insurance companies care very much anyway. They are not hurting. As a matter of fact, I think we ought to investigate the increased profits that the insurance companies are making with this new surcharge that they are charging. And, of course, the shipping companies just put a surcharge on each container.

Mr. DELAHUNT. Would the gentleman yield?

Mr. PAYNE. Yeah.

Mr. DELAHUNT. I think that suggestion is one that we will pursue. And as I indicated before you arrived, Mr. Payne, what I anticipate is just a thoughtful but thorough review of all these issues, because it is somewhat complex. And I don't disagree with the plausible theory that maybe insurance carriers are a part of the problem and, therefore, a part of the solution here.

Mr. PAYNE. Oh, yeah, no question about it. And, you know, contrary to what I think the gentleman from California—there has been no—you know, the relationship between the pirates and the crew, I mean, they are all sitting there waiting, when the insurance company—when are they going to pay the ransom so I can go back to land and the other guys can get on with their business, drop their crew and go on. And so the holdup is not with the—and, as you mentioned, there have been no reports of mistreatment on the parts of the crews of the ships from the hijackers.

Mr. ROHRABACHER. Would the gentleman yield for one moment?

Mr. PAYNE. Yeah.

Mr. ROHRABACHER. Just to note—and I think it is a very important point that you are bringing up about insurance—has the in-



insurance gone up dramatically on these ships, to insure these ships from this?

Mr. MULL. My information suggests that the surcharge that Congressman Payne referred to has primarily been imposed by European insurers. American insurers have not yet taken that measure yet. But then that is also because American insurance policies typically don't cover ransom payments the way European—

Mr. ROHRABACHER. Of course, if insurance rates are going to go up, maybe there is your source of revenue for paying for private protection. There you go.

Mr. PAYNE. Oh, absolutely. And also, you know, the flags of convenience. You don't really know who the ship really belongs to, to be honest, because they fly under the flags of convenience, of either Panama or Liberia or Guam. And so it is very difficult to know who is—you know, of course it was clear with the Maersk line. But I am sure that some of those other ships out there are owned by American businesses, it is just that they have international crews.

Which also may be another thing that the insurance companies really don't care that much necessarily about. You know, some of the treatment of these seamen are not the best either, many of them from Third World countries with no rights. And they are not going to complain, you know; it is the best thing they got. At least they have a meal going. They get a little something when the ship goes somewhere and they can get home.

So I don't see whether there is necessarily, you know, a tremendous amount of concern, really, for the crew. I mean, the crew is about the easiest thing those ships can get. You know, I mean, people are waiting in the Philippines or in other countries around the world to be seamen. And that is why the ILO and the flags of convenience have been a debate over in Geneva for decades, about even the safety of the ships and the conditions. Because when they fly under the flag of convenience, there is no jurisdiction from the countries that are doing the business.

So, just concluding, we are running out of time, I think that the leadership of Puntland, Somaliland, Somalia really want to see this end, because it does absolutely nothing for the country, which are in terrible straits in the first place. I mean, Somalia has been abandoned for 15 years, and they are certainly not going to get anybody investing in Somalia with these gangsters doing what they are doing.

And so, I think that if—and getting, you know, the Department of Defense and the Navy and all that in your discussions—like I said, I have been talking to these fellows up in Eritrea in August and Mogadishu, as you know, a couple of weeks ago. They really want this thing to end, because they really are trying to see if they can—you know, all the fish are gone after, allegedly, overfishing from Asian trollers that just depleted the fishing.

It is alleged that there has been dumping of toxic, you know—if you got no government, you got no one to say, “Stop dumping that.” You got no Coast Guard, so there has allegedly been dumping of toxics and all kinds of things off the coast of Somalia. So it certainly doesn't condone criminal behavior. However, there needs to be some kind of a—if you got a failed state, you know, you have

to deal with it. We are trying to deal with Afghanistan, which is a lot worse than Somalia, believe me, and Iraq.

So I would hope that in the thinking we would kind of figure out if we do something on the ground, we might be able to save a lot of increased insurance rates and our ships riding all around. The ocean is pretty big, you know.

Mr. DELAHUNT. Would the gentleman yield?

Mr. PAYNE. Yeah, I will yield back.

Mr. DELAHUNT. Thank you. And I think your point is well-taken. I mean, I would agree, there has to be a comprehensive approach here. But I think what we need is to understand the various pieces, so that some time in the future we are able to have a more well-informed discussion with the agencies in the executive branch. I know that this is a learning curve, really, for all of us.

But I think something that you said, Mr. Payne, really has to be underscored, is that those who dismiss an increasing reality, which is that there are failed states that exist, there is extreme danger. And despite the fact that Somalia is on a different continent thousands of miles away from the United States, we are impacted. And we have states that are failed or near failure right here in our own backyard. I am just thinking of Haiti, for example.

And that is why it is important, I think, to create an architecture, a blueprint, if you will, or a plan that can be utilized in any situation where piracy emerges as a significant problem. And we ought to take the time, given the high profile that this issue has now developed, to really understand the problem, discuss it with all of the stakeholders, and proceed in a very thoughtful manner.

And let me conclude with that. And thank you for your participation, Mr. Payne, and to thank our witnesses. I can assure you we are going to ask you to return. We are not going to impose a burden on you, but bear with us as you guide us to a more full and ample understanding of how we address this problem, which has severe consequences for our national security and for our economy.

I also, before I take the gavel, I want to thank some interns that have really done us well. And if they could stand: Carla, Carla Rojas; and Leanne, Leanne Blanchette. They have worked here assiduously. This is their first hearing, and it is also their last day. But I want to thank them publicly for the good work that they have done.

And, with that, we are adjourned. Thank you.

[Whereupon, at 2:25 p.m., the subcommittee was adjourned.]

# A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

**SUBCOMMITTEE HEARING NOTICE**  
**COMMITTEE ON FOREIGN AFFAIRS**  
*U.S. HOUSE OF REPRESENTATIVES*  
*WASHINGTON, D.C. 20515*

**SUBCOMMITTEE ON**  
**INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS, AND OVERSIGHT**

**William D. Delahunt (D-MA), Chairman**

April 28, 2009

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend the following OPEN hearing of the Subcommittee on International Organizations, Human Rights, and Oversight to be held in Room 2172 of the Rayburn House Office Building:

**DATE:** Thursday, April 30, 2009

**TIME:** 1:00 p.m.

**SUBJECT:** International Efforts to Combat Maritime Piracy

**WITNESSES:** The Honorable Stephen D. Mull  
Senior Adviser to the Under Secretary for Political Affairs  
U.S. Department of State

Rear Admiral William D. Baumgartner  
Judge Advocate General and Chief Counsel  
United States Coast Guard

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee as noted above.*

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COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON \_\_\_\_\_ MEETING

Day Thursday Date 4-30-2009 Room 2172

Starting Time 12:00 p.m. Ending Time 1:25 p.m.

Recesses \_\_\_\_\_ ( \_\_\_\_\_ to \_\_\_\_\_ )

Presiding Member(s) Bill Delahunt

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session  Electronically Recorded (taped)   
Executive (closed) Session  Stenographic Record   
Televised

TITLE OF HEARING or BILLS FOR MARKUP: (Include bill number(s) and title(s) of legislation.)  
International Efforts to Combat Maritime Piracy

SUBCOMMITTEE MEMBERS PRESENT:  
Delahunt, Rohrabacher, Payne

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an \* if they are not Members of HIRC.)

HEARING WITNESSES: Same as meeting notice attached? Yes  No   
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

ACTIONS TAKEN DURING THE MARKUP: (Attach copies of legislation and amendments.)

RECORDED VOTES TAKEN (FOR MARKUP): (Attach final vote tally sheet listing each member.)

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE \_\_\_\_\_  
or  
TIME ADJOURNED 1:25 p.m.

  
\_\_\_\_\_  
Subcommittee Staff Director

