BIMCO

STATEMENT ON INTERNATIONAL PIRACY

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SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

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Good afternoon Chairman Cummings, and Members of the Subcommittee: I appreciate the opportunity to be here today and address BIMCO'S role in dealing with International Piracy

INTRODUCTION/BACKGROUND

1. Thank you for inviting BIMCO, the largest of the ship owners associations to testify in front of your committee. Last year 14 member's vessels were hijacked off the Horn of Africa (HOA) and Gulf of Aden (GOA) whilst many more were attacked there, in the Gulf of Guinea and in the Malacca Straights/South China Seas. Piracy is a global but not new phenomenon but has only come to the attention of the international community in the last few months. Ironically it has had a serious and growing effect on shipping over the last 10 years but is now growing exponentially off the HOA/GOA and Guinea coasts whilst regional and international action in the straights of Malacca has had a significant effect in reducing piracy.

2. This last highlights the international communities signal failure to identify with the economic consequences of the situation where piracy is rife. Indeed, it was the raising of insurance rates in the Malacca straights and the Japanese economies 100% reliance on

Middle East oil that acted as the catalyst. It is of grave concern to the industry that the same stimuli have not – until very recently effected efforts to counter International Piracy elsewhere to date.

3. It is commonly suggested that the solution to Piracy is always ashore and in the case of GOA/HOA this is clearly apparent but it is also apparent that this is a long term solution that will not meet the short term the immediacy of this situation. You will have heard the statistics from my colleague from the IMB. I propose to try and put some of what he has said and BIMCO's efforts in this field into perspective.

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3. My aim is to brief what the industry and particularly BIMCO is doing about Piracy and outline those areas of international piracy that remain of the gravest concern to BIMCO. I would like to focus on the three important messages that cover:

- Resources – the role of governments and navies to provide in sufficient numbers
- Judicial weaknesses in the international and national systems of law which fail to deter piracy because of the inability to arrest and try pirates even caught in the act.
- The jaundiced perception of industry and clear lack of understanding of the role of the shipping industry – initially by governments and now mainly by the military.

GLOBAL SECURITY AND COMPETING SECÙRITY RESOURCES

4. In short, the industry is concerned that governments and the world's navies have overlooked the fact that globalisation is fundamentally about trade – the physical movement of heavy goods and commodities by sea. Coalition"blue water" navies traditionally view the sea as the space to neutralise and defeat enemy sea power in order to project power ashore.

5. The Piracy debate has given industry the perception that there is only a limited understanding that the seas are a vital human and economic space that are often poorly secured. Recent statements at conferences and in the press have made it clear that the"defence of trade" appears archaic and dated to many.....
"Yet any navy that has lost its sight of its economic mission to protect the seaborne commerce of its own country or the trading system to which it belongs, has become detached from its roots and reality"
Dr Geoffrey Till – Navies and the New World Order – Proceedings Mar 2005

6. The Malacca problem took international efforts and regional focus to resolve it and to guarantee freedom of the seas for the global supply chain being challenged by local pirates. This supply chain is once again being held to ransom in the GOA/HOA area – a commercial strategic choke point with implications for many, from the Egyptian economy and the Suez Canal to Mediterranean Ports and Economies, industries and

consumers. For the shipping industry the economics of the business do no allow for extra burdens – particularly in a period of such economic downturn as currently experienced.

7. The cost of navies in order to mitigate the threat has to be balanced with the implications of the inability to maintain normal trade. Indeed, this has been seriously exacerbated only last week by the declaration of two large Container lines that they will now go around the Cape because it is more economic, and this when already many tanker and bulker operators have already declared this preference. The implications for the Suez Canal and regional economic stability and the rest of the Middle East's economy are significant.

8. It is against this background that the short term problem of deterring and defeating piracy needs to be addressed. The resources are limited and also expensive to deploy but many governments including the USA have strategic vital interests to protect in this region and indeed, in the Gulf of Guinea. Equally they have other competing commitments to address. What is sure already is that the failure to address them is forcing many components of the multifaceted shipping industry to avoid the area as it is economically more viable and safer for crews – to say nothing of the security of the hulls themselves. Indeed, the industry has forecast a severe shortage of officers and crews over the next decade and the safety of crews has become a major industry driver both for recruitment and retention.

JUDICIAL

9. The industry has to address these problems whilst faced with the scenario where, commendable efforts by coalition naval forces in arresting and detaining pirates, is proving a nugatory exercise. Arrest and trial of pirates is proving difficult as even those nations providing forces have not addressed their national law against piracy and the necessary legal statutes to arrest and try pirates - notwithstanding the existence of UNCLOS and SUA 1988 which directly address the problem. Feeble excuses are being made by nations who are committing resources and warships to counter piracy but fail to see that putting pirates back ashore is making a laughing stock of them and failing to deter the pirates from continuing their lucrative trade.

10. UNCLOS does not explicitly require states to enact legislation but it does obligate states "to cooperate to the fullest extent possible in repression of piracy on the high seas" (Article 100). Notwithstanding the obligation under UNCLOS to cooperate to the fullest extent the vast majority have not implemented the requirements of SUA1988 – signed by 149 nations. Article 5 of SUA 1988 - requires states to enact legislation and article 6 and its sub clauses defines the requirements in detail.

11. The excuse in the main, of many, is that SUA is an inappropriate instrument to legislate against piracy as it was prepared in a counter terror context. This is nonsense and indeed, the articles make no reference to terrorism and the acts proscribed by SUA include all those acts committed by pirates off the GOA/HOA. BIMCO is aware that the USCG is a strong advocate of implementing this proposal swiftly, as reaffirmed by the

UN in UNSCR 1851. BIMCO will support all efforts to see a speedy implementation , including lobbying for its cognizance with the UN Contact Group Working Group tasked to address jurisdictional issues and by inviting it's members to lobby their national governments.

PERCEPTIONS & UNDERSTANDING

12. The industry, with IMO has been at great pains to defend itself against piracy for some considerable time as evidenced in:

- MSC Circulars – originally drafted some 10 years ago
- Pamphlets and Booklets dating back some 10 years, to more recently including:
    - Bimco Shipmasters Security Manual
    - The International Chamber of Shipping Booklet on Piracy
    - The BIMCO Pamphlet "Tips on avoiding Piracy and Armed Robbery" in conjunction with the IMB and ReCAAP.
    - The OCIMF Piracy Booklet just released.
- Lobbying of the UN, IMO and Governments throughout 2008.
- The development of the BIMCO Voyage Risk Planning (VRP) service with the IMB

13. Over the last 6 months or so however the industry has been continually invited to improve it's own defences against piracy – mainly by the military - ranging from preparations to using armed guards (this latter which it resolutely opposes because of the risks, implications and dangerous precedents involved in accepting such measures). It has taken until now and a fact finding mission by MARAD and the Assistant Secretary of State Pol/Mil of the State Department to industry – to convince otherwise. i.e. that the industry has been addressing the issue of international piracy for some considerable time but its observations and cries have fallen on deaf ears. Indeed only last week the commander of the new TF151 alluded to increased efforts by merchantmen – at least the military are no longer demanding merchantmen use armed guards for self protection.

14. The industry in a short space of time has created it's own "contact group" of all stakeholders involved to assist the military both in education about it and liaison with the commendably growing number of assets being provided under the banner of EUNAVFOR, NATO, TF 151 or independently. Having educated many of the navies on the various financial implications of time and voyage charter parties, insurance costs – both hull and P& I the industry is also better placed to understand the complications of coordinating and controlling vessels from the four different groupings from 14 nations with 20 ships. The industry perception however is that whilst this is clearly working and having an effect it remains concerned as to whether the capacity of these forces is being maximized to best effect and indeed, whether there are still enough ships.

15. The attack and capture of the MV Longchamp - a LPG carrier - last Thursday confirms the pirates are resourceful and cunning. By deploying decoys they led coalition warships away from the actual target and succeeded in boarding what is recognized as the most vulnerable type of vessel – a slow moving and low freeboard bulker. Equally the

attack occurred before dawn for the first time and will have required good planning and execution.

16. The industry understands that it is impossible to find sufficient warships from navies to run escorted convoys but it is clear that there are still not enough assets to make the current "area protection system" work. It is clearly having an effect as has continued communication and enhanced information sharing but whilst attacks such as the Longchamp can take place then more assets will be needed. It should be noted also that some of the current success can be put down to recent and predictable bad weather. An alternative risk mitigator is already taking place – transits via the Cape – as discussed above - but with the concomitant implications. At a time when the weather is improving and the volume of hijacked vessels reducing after ransom payments then the next four weeks will truly identify the scale of the effectiveness of current counter piracy activities.

SUMMARY

16. It is accepted by most that it is naïve to hope to defeat piracy totally but the volume of successful attacks remains unacceptable and there is a requirement for a paradigm change in how navies and governments view the industry. There is a requirement for this paradigm change in order to:

- Appreciate the importance of shipping in the maintenance of the global economic system and recognize its vulnerabilities.
- Make piracy less attractive by arresting and trying captured pirates
- Reduce numbers taken and held and to gain the initiative to break the back of the problem.

17. BIMCO would also suggest that there is a greater need to understand the role of IMO as the pre-eminent maritime body and that vehicles already exist to examine methods of deterring and defeating Piracy. The work of the Piracy contact group that has fallen out of UNSCR 1851 will need to be co-coordinated through IMO where work is already in hand to revise MSC Circulars (advisories to Governments and Shipping Lines) on countering piracy. The ISPS codes for example do not address Piracy but could be very easily utilized to cover the exigencies of Piracy in the future.

Chairman Cummings and members of the Subcommittee, thank you again for the opportunity to testify today. BIMCO is committed to working tirelessly with our industry partners and all stakeholders involved in protecting seafarers and ships from international piracy.

I am happy to answer any questions you may have.