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

1979 Marcus Avenue
Suite 200
Lake Success NY 11042
(516) 488-8800

BEFORE THE

COAST GUARD AND MARITIME TRANSPORTATION
SUBCOMMITTEE

HOUSE COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE

MAY 20, 2009

STATEMENT OF PHILIP J. SHAPIRO
LIBERTY MARITIME CORPORATION

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

The LIBERTY SUN was on a mission of mercy to deliver much needed U.S. government food aid to East Africa -- 47,000 metric tons of food as a gift from the American people. The SUN's cargo alone is enough to feed more than 250,000 people for a year in several African countries including Somalia. Without revealing operational details for fear of assisting the pirates, I can say that one of our vessels is almost always in or near the danger area at any given time and so we take the threat of piracy very, very seriously.

Our company and our crew implemented enhanced precautions to make our vessels difficult pirate targets prior to the recent incidents. Captain Don Grosse and the rest of the crew followed the company's security plan and kept their cool under fire. No boarding occurred and the crew did everything that could reasonably be asked of them.

We also wish to thank the U.S. Navy for their prompt and effective response to the incident. We are especially grateful to General Duncan McNabb and Admiral Ann Rondeau for their help in the LIBERTY SUN incident.

Mr. Chairman, I know you would like us to focus on lessons learned.

We believe the first lesson is to acknowledge the excellent foresight of Congress in enacting the Maritime Transportation and Security Act of 2002 or MTSA. Under that act, ship owners were required to conduct vulnerability assessments and adopt vessel security plans.

In the case of our company, we adopted stringent vessel security plans containing every measure recommended by international organizations to make our vessels difficult piracy targets.

For example, the crew of the SUN had rigged fire hoses to cover the stern of the vessel to create a virtual flood wall of water coming off the ship.

When the BAINBRIDGE arrived, their crew informed Capt. Grosse that they had never seen so much water coming off of a vessel.

The second lesson is that we should all recognize and deal with the limitations of vessel-only passive security measures. It is unwise to assume that such security measures will be sufficient in and of themselves to protect American lives. The MAERSK ALABAMA incident constitutes a game changer in this regard. After the incident, self-proclaimed pirate leaders issued direct threats of violence against American merchant mariners.

Therefore, Mr. Chairman, I urge our Government to adopt more active protective measures for U.S.-flag vessels. We greatly appreciate the response of the Navy to the LIBERTY SUN incident, and we are very grateful to both DoD and the EU for the cooperation we have received to date. But responding after the fact is not, in our view, the most effective means of protecting the very few U.S.-flag vessels transiting the pirate danger zone.

We strongly urge the Government to consider embarking a small number of U.S. Government security personnel on the very few U.S.-flag vessels that transit high-risk transit areas at any one time. In our view, small embarked security teams are a more effective deterrent than patrolling large

ocean areas with vessels. Also, using small security teams is a much more cost effective response than attempting to protect millions of square miles of ocean or in dealing with a hostage situation after the fact.

I am also reminded of a bit of history on this point of dealing with pirates. The first federal naval force, which became the U.S. Navy, was authorized in the Naval Act of 1794 for the express purpose of dealing with pirates. In the words of the law, it had become necessary to have a Navy to provide for the "protection" against "depredations committed by the Algerine corsairs on the commerce of the United States." We would hope that these roots run deep and that the Navy continues to provide protections against modern piratical acts.

The third lesson is that we should consider the possibility of arming U.S.-flag vessels and making the legal changes necessary for this to occur.

Heretofore, merchant vessels simply have not routinely carried fire arms. It is true that U.S.-flag vessels and their crews have an unquestioned right of self-defense under a U.S. statute dating back to 1819. However, more recently enacted State Department arms export regulations make it very difficult to arm vessels. Additionally, ship owners risk being second-guessed in U.S. and foreign courts for self defensive measures that were

common in 1819. In light of the recent threats to U.S. merchant mariners, we respectfully request that Congress consider clearing the legal obstacles that currently block ship owners from arming our vessels in self-defense to protect our crews when it is appropriate.

I believe that U.S. flag ship owners are doing all they can within the law to protect their crews. I look forward to working together with you, Congressman Oberstar and the other members of this Subcommittee and other Congressional leaders to bring U.S. law up to date and give us the legal framework we need to be able to protect ourselves.

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

The piracy problem has correctly been described as an international problem that needs an international solution. But we should not let the complexity of the international problem deter us from addressing what can be done in the United States right now to protect American merchant

mariners on U.S.-flag vessels – and most especially those on missions for the U.S. government.

Thank you again for inviting me to appear here today and I would be pleased to answer any questions you or your colleagues may have.