

Testimony
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Bureau of Political-Military Affairs
U.S. Department of State
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Sub-Committee on Coast Guard and Maritime Transportation
Hearing on "Assuring the Freedom of Americans on the High Seas:
The United States Response to Piracy"
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Mr. Chairman and Members of the Committee: thank you for inviting me to discuss the national security problem of piracy in the waters off the shores of Somalia. We strongly condemn the recent killing of four U.S. citizens, whose yacht, the QUEST, was seized by pirates off the coast of Oman, and we extend our deepest sympathy to the victims' families. This deplorable act emphasizes the need for more energetic international effort to respond to piracy in the Arabian Sea, Gulf of Aden, and the Indian Ocean region.

As I speak to you today, close to 600 mariners from around the world are being held hostage in the region, some for as long as six months. Pirates currently hold around 28 ships, most for ransom and a few for use as a mother ship – a ship that launches and re-supplies groups of pirates who use smaller, faster boats for attacks. In recent months the use of mother ships has extended the pirates' reach far beyond the Somali Basin, rendering them more difficult to interdict and more effective operating in seasonal monsoons that previously restricted their activities.

Somali piracy is an organized criminal enterprise that, if left unchecked, has the potential to more significantly impact global trade. Its root cause is state failure in Somalia, and cannot be resolved exclusively through military means. In 2010 we witnessed the highest number of successful pirate attacks and hostages

taken on record. Pirate attacks so far this year are significantly higher than 2010 levels. The ruthless killing of Americans on board the QUEST potentially represents a significant departure from the way pirates have conducted attacks in recent years and underscores the increasing risks to recreational and commercial mariners in the region. At the Secretary of State's direction, we have begun an intensive internal review of our approach to piracy, a process that should be finalized shortly. We will consult closely with Congress as we move forward to more effectively address this regional threat and its pernicious global consequences.

Well before the attempted seizure of the U.S.-flagged MAERSK ALABAMA in 2009, the U.S. Government emphasized the need for active international coordination on this complex problem. In January 2009, we helped to establish the Contact Group on Piracy off the Coast of Somalia, which now includes over 60 nations and international, and industry organizations that meet frequently to coordinate national and international counter-piracy actions. Through the Contact Group and in our bilateral relations, we have focused our efforts on five key areas to combat piracy: coordinating multi-national naval patrols off the Horn of Africa; implementing best management practices to prevent pirate boarding; pursuing means to prosecute suspected pirates and incarcerate those convicted; impeding the financial flows of pirate networks; and discouraging ransom payments.

The United States has a long tradition of opposing the payment of ransom and not making concessions to hostage-takers. We work hard to deny hostage takers the benefits of concessions through negotiation and we are working diligently to discourage other governments and private entities from paying the escalating ransoms that enable the pirates' predatory behavior. We are also

increasingly focused on finding methods to deny pirate instigators and financiers the means to benefit from ransom proceeds. The increase in attacks over the last year is a direct result of the enormous amounts now being paid to pirates. Every ransom paid, which now averages \$4 million per incident and has reached as much as \$9.2 million dollars, further institutionalizes the practice of hostage-taking for profit and funds its expansion as a criminal enterprise.

We are collaborating with the law enforcement and intelligence communities, as well as our international partners in an attempt to develop methods to detect, track, disrupt, and interdict illicit financial transactions connected to piracy and the criminal networks that finance piracy. Individuals involved in piracy typically operate outside the formal financial system, conducting their transactions in cash and through informal money transmitters. This makes tracking the financial flows within and between countries extremely challenging. With the cooperation of our international partners, we are beginning to improve our understanding of the trail of ransom payments and the interaction of ransom monies with our understanding of both formal and informal financial systems, such as the *hawala* system, that facilitate piracy.

In an effort to prevent attacks, the United States established Combined Task Force (CTF) 151 to conduct counter-piracy naval patrols in the region to secure freedom of navigation for the benefit of all nations. CTF 151 operates in the Gulf of Aden and off the eastern coast of Somalia, covering an area of over one million square miles. It is a multinational task force that has been commanded at different times by the U.S. Navy, the Korean Navy, and the Turkish Navy, and is currently led by Pakistan's Navy. In addition to CTF 151, NATO's Operation Ocean Shield, which the U.S. Navy also participates in, is conducting multinational counter-piracy patrols, as is the European Union, through Operation ATALANTA.

These maritime forces also work with other national navies in the area such that on any given day an average of 25 naval vessels from among the 25 participating countries are engaged in counter-piracy operations in the region, including countries new to these kinds of effort like China and Japan. Their operations are coordinated through regular meeting in a forum called Shared Awareness and Deconfliction, which take place at the headquarters of the U.S. Naval Forces Central Command (USNAVCENT) in Bahrain. These meetings are a very successful model for operational coordination. USNAVCENT worked with partners to set up the Internationally Recommended Transit Corridor (IRTC) through the Gulf of Aden, a secure transit zone for commercial shipping that is heavily patrolled by naval forces. While this has been successful in reducing to a minimum the number of attacks occurring in that space, it has unfortunately pushed pirate activities outside that corridor.

Unfortunately, an insufficient number of ships, helicopters, and overhead surveillance assets limit the ability of naval forces to respond effectively to attacks beyond the IRTC. Some states are hindered by strict domestic law provisions that require them to release suspects if a prosecution venue is not identified in 24 hours. International naval cooperation will continue to be necessary for the foreseeable future to help protect shipping and interdict pirate attacks, but naval presence on its own likely will be insufficient to prevent or measurably deter piracy beyond the IRTC. There is simply too much open water to patrol.

Most important to our efforts has been the shipping industry's increasing implementation of industry-developed "best management practices" to prevent pirate boardings in the first place. These guidelines were developed to identify self-protection measures that have proven successful in preventing boarding and seizure, and rescues by naval forces when boarded. They include practical

measures, such as proceeding at full speed through high risk areas, ensuring additional lookouts are placed on watches, using closed circuit television to safely monitor vulnerable areas, employing physical barriers such as razor wire, reporting positions to military authorities, engaging in enhanced voyage planning, and mustering the crew inside the vessel. These measures, when properly implemented, remain the most effective manner to protect against pirate attacks. We are continuing to stress the importance of these measures, which have a proven ability to deter and thwart attacks.

When attacks do occur, however, the international community needs effective and appropriate ways of dealing with captured pirates. When pirates are captured, coalition naval forces often release them for lack of prosecutable evidence or a national venue for prosecution. Piracy is a crime of universal jurisdiction, so all states are authorized under international law to prosecute cases of piracy, whether or not that state has a direct link to the event. In practice the issue is not so simple, as the globalized, multinational nature of modern shipping significantly complicates the question of responsibility for prosecution. Many of the countries affected by piracy – for example, the state of registry of the ship or, alternatively, the state whose citizens may be a pirated ship's owner, operator, captain, or crew members – have proven unwilling or unable to prosecute cases, and as a result, too many suspected pirates are released without consequence, and often simply rearm and re-attack. Regional states that have accepted suspects for prosecution are becoming less willing to do so, citing limits to their judicial and prison capacities and meager financial support from the international community. Navies are increasingly frustrated with the unwillingness or inability of governments to prosecute suspected pirates they capture and are often forced to hold suspects for extended periods while diplomatic efforts are launched to identify

prosecution venues. The international community is currently studying alternative prosecution mechanisms that might be located in the region.

The United States encourages affected states to assume prosecution responsibility, and has actively prosecuted pirates involved in attacks on U.S. vessels where there has been sufficient evidence to support the case. To date, that totals 26 persons involved in 4 attacks: the April 2009 attack on the MAERSK ALABAMA, and attacks in April of last year on the USS NICHOLAS and the USS ASHLAND, and most recently, fourteen men from Somalia and Yemen have been indicted on federal criminal charges for their involvement in the attack that resulted in the killing of the four Americans on the QUEST. Still, one of our major efforts is to find creative ways to increase the ability and willingness of other states to undertake what should be a national responsibility to hold criminals accountable for attacks on national interests.

In spite of these efforts, piracy has grown worse, both in terms of frequency and of scope. In the coming weeks, we will work with other executive departments and agencies to develop new approaches that seek to overcome the ongoing challenges of piracy. As we move forward, we will be looking into several possible courses of action.

On the diplomatic front we will seek to increase our cooperation and coordination with international partners. We will continue to discourage the payment of ransoms; stress compliance by shipping industry with self-protection best management practices; encourage the prosecution of suspected pirates in national courts; encourage contributions of military forces and basing rights for counter-piracy operations; and seek financial contributions to the Contact Group's Trust Fund to Support Initiatives of States Countering Piracy off the Coast of

Somalia to defray the expenses associated with prosecution and incarceration of pirates.

At the same time we will continue to pursue our diplomatic dual-track approach in Somalia to support the most important approaches for countering piracy: building governance, security, and economic livelihoods on land in Somalia. On track one, we continue to support the Transitional Federal Government (TFG) and the Djibouti Peace Process, as well as the African Union Mission in Somalia (AMISOM). On track two, we are expanding engagement with partners outside the Djibouti Peace Process who seek stability in Somalia, including those in Somaliland, Puntland, and parts of South Central Somalia. In coordination with international partners, we will evaluate the utility of increased partnerships with regional governments of Somaliland and Puntland, as well as with local and regional administrative units throughout South Central Somalia, who are opposed to and are willing to address piracy and governance concerns. We will seek to leverage the influence of Somali women and the wider Somali diaspora community in discouraging this criminal enterprise that is interfering with political reconciliation and economic recovery from decades of civil war in Somalia.

Achieving the necessary governance improvement throughout Somalia will be the work of generations, but this cannot deter us from supporting every improvement we can for the sake of greater stability in Somalia and, in the process, combat piracy. We are examining appropriate counter-piracy assistance, enhancing youth employment programs, and engaging directly with local leaders on the need to stem piracy from Somalia's shores.

We will continue to work with port states to articulate and publish guidelines for the transit of armed security teams on U.S. commercial ships, and with industry to help them develop and implement creative ways to protect their ships and seamen and develop post-incident care for hostages released from pirate captivity.

We are looking closely at the suggestions contained in the January 20 report of Jack Lang, the Special Adviser to the UN Secretary General on Legal Issues Related to Piracy, including whether there should be a specialized prosecution mechanism in the region, and if so, how to deal with the lack of related capacity for pre-trial detention and post-conviction incarceration.

We are actively consulting with our colleagues from the Department of Defense and other countries to explore options to actively disrupt or dismantle pirate operations, both at sea and ashore. It is important, however, that any efforts against piracy be considered in conjunction with our political and counterterrorism efforts and objectives in East Africa.

We also plan to intensify our counter-piracy public affairs/public diplomacy efforts and will undertake an aggressive public information campaign to discredit piracy inside Somalia and Yemen and beyond by emphasizing the economic and human damage it causes.

One of our most important goals is the disruption of piracy-related financial flows. On March 1st, the Departments of State, Transportation, and Homeland Security convened an Ad Hoc meeting of the Contact Group to develop a strategy and process to undertake coordinated international efforts in intelligence, financial, and law enforcement communities to identify, track, and remove from operation pirate leaders, organizers, and financiers. We will explore options to disrupt these facilitators in coordination with our partners in the Contact Group. We are pleased

that the Government of Italy and Government of the Republic of Korea agreed to help orchestrate this effort under the umbrella of the Contact Group, and the United States will lend our strong support and assistance to this important work.

We firmly believe that the U.S. must intensify counter-piracy intelligence efforts. We need to elevate the priority of collection, analysis, and exploitation of human and signals intelligence related to piracy operations, financial flows, and logistical support, both inside and outside Somalia. And we need to find ways to share piracy-related intelligence with law enforcement organizations, both domestic and international.

In rethinking our approach to piracy, we are mindful that piracy to a great extent should be seen as a symptom of the more intractable problem of state failure in Somalia. Until good governance, stability, and a measure of economic development prevail on land, which will take years, piracy will continue to threaten shipping and recreational sailing in the region. Pirates – of which there does not appear to be any shortage – will continue to compensate for naval operations and ship operators' reliance on best management practices. Some nations will likely continue to fail to prosecute or incarcerate suspected pirates in their national courts and prisons, owing to a lack of judicial capacity, domestic legislation, or political will. Still, as Secretary Clinton said during her testimony to the Senate appropriations committee two weeks ago, we need to do more to combat the scourge of piracy, and we are committed to doing so.

Thank you very much. I will be pleased to take your questions.