

CONFRONTING PIRACY OFF THE COAST OF SOMALIA

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

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CONFRONTING PIRACY OFF THE COAST OF SOMALIA

THURSDAY, APRIL 30, 2009

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 2:33 p.m., in room SD-419, Dirksen Senate Office Building, John Kerry (chairman of the committee) presiding.

Present: Senators Kerry, Lugar, Feingold, Webb, Shaheen, Corker, Risch, Wicker.

OPENING STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

The CHAIRMAN. Thank you very much. This hearing will come to order. Captain Phillips and Mr. Clancey, we're delighted to welcome you here today. We have a little complication in the schedule, which is that the Senate is going to have a vote at 2:45.

I'll make my opening statement. Senator Lugar will make his, and then we will recess for about 10 minutes only while we go over to vote and come back. And the minute we get back here, we'll pick up with your testimony. So I'd like to hold off on your testimony until we're able to get back here, if we can.

Just a few years ago, most Americans viewed piracy as a scourge of centuries past or as the focus of a Hollywood introduction. Many people were not even aware of modern piracy; they thought of it largely as being contained to Southeast Asia, and no longer a serious problem even there.

But recent events off the coast of Somalia have made piracy not just front-page news, but a major concern, once again, for shippers and for policymakers alike. Almost every day brings news of yet another attack on a cargo ship or a tanker carrying humanitarian aid, oil, or even weapons, as well as an attack on a usually defenseless crew.

Today, the committee is going to consider the threat of maritime piracy off the Horn of Africa and examine the solutions available to the United States, to foreign governments, and to shippers, in order to confront this growing challenge. These attacks have claimed innocent lives and they've imposed a very significant financial cost on companies engaged in shipping, not to mention on countries engaged in trying to deal with this problem.

Off the coast of Somalia last year, 42 vessels were taken. In 2008, pirates made an estimated \$30 million hijacking ships for ransom. Companies are paying additional millions of dollars on

additional insurance costs, on hiring private security, on retrofitting ships to make them more difficult to capture, and on taking vessels thousands of miles out of their way, sometimes all the way around the African Continent, just to avoid small bands of pirates.

And the threat is not geographically contained, either. It's true that even as incidents of piracy off the coast of East Africa have skyrocketed, they've actually plummeted just about everywhere else. But Somali pirates are now operating over a thousand miles from the shores of Somalia in an area of more than 1 million square miles, and in shipping lanes that were even recently considered safe.

To make matters worse, we know that pirates used much of the ransom money paid to them to buy heavier and larger caliber weapons and bigger engines for their skiffs to make it even easier for them to overtake larger vessels. They also used ransom money to arm and equip private militias. This is a dangerous and a vicious cycle and it needs to be addressed.

Piracy goes to the heart of national security and economic interests. America has always been a seafaring nation, and securing the world's sea-lanes has been a source and a symbol of our strength. In the face of instability and humanitarian crises around the world, our ability to project our naval power to help ensure the free passage of goods and humanitarian aid is as important as it's ever been.

Thriving on chaos and ungoverned spaces, perpetrated by small groups of nonstate actors, international piracy combines several of the great security challenges of our age.

It's noteworthy that while our battleships could level a city, it came down to the precise aim of three Navy snipers killing all three pirates in a single moment before any of them could harm Captain Phillips. It came down to that sort of microeffort, if you will, that ultimately proved effective in resolving this particular incident. But no one can count on that in any future incident.

We must also recognize that Somali piracy is in part a byproduct of the absence of the rule of law or a functioning government in Somalia. As chair of the Subcommittee on Africa, Senator Feingold is going to hold a hearing shortly that explores these critical questions in the broader context of American policy toward that country.

And like so many of today's challenges, the renewed threat of piracy demands a multifaceted, multinational effort, one that coordinates the world's naval powers, the United Nations, the international shipping community, and the nations that border Somalia.

At its core, piracy is a criminal act. International law is clear in its condemnation of piracy. This is an opportunity for all nations to come together and work in order to effectively respond. In fact, we have made significant process in marshaling an international enforcement effort. The men and women of Combined Task Force 151, which is expected to grow to 22 nations, work hard to patrol the Indian Ocean and the Gulf of Aden to keep it free of pirates and to assist vessels in distress or under attack.

The Contact Group on Piracy off the coast of Somalia has brought two dozen countries together to improve operational support to antipiracy operations, to strengthen judicial frameworks for

arrest and prosecution of pirates, and to track financial activities related to piracy.

I'm very confident that today's hearing will provide insight into some of the policy options available for addressing this immediate challenge and for laying the necessary groundwork for an effective long-term solution.

I might add that with criminal proceedings underway, we are not looking here for witness testimony with respect to the blow-by-blow of what occurred, though indirectly, there will be some reference to that, obviously. We are much more interested in the larger issues that Captain Phillips and others can examine with us and help shed light on with respect to the policy implications here.

We're very honored to have Captain Richard Phillips with us. As everybody knows, he was the captain of the merchant vessel *Maersk Alabama*, and he personally confronted pirates intent on holding him and his crew hostage, during which time they repeatedly threatened his life and the lives of crew members. Captain Phillips risked his own life to ensure the safety of his crew, knowing full well the potential consequences of his actions. And those actions, selfless and heroic, are an example for all of us. Captain, it's a great pleasure to have you with us today.

And joining Captain Phillips on our first panel is John Clancey, the chairman of Maersk, Inc. And on our second panel, we will have Ambassador Stephen Mull, the Senior Advisor to the Under Secretary of State for Political Affairs.

And I might mention we also have in the audience here—I had the pleasure of sitting with him and chatting with him for a little while—Shane Murphy, a resident of Massachusetts, who was the No. 2 officer on board the *Maersk Alabama*, and literally from the moment that Captain Phillips was a prisoner, a hostage, Shane took over and also operated the ship, I might add, in a most heroic manner. We're delighted to welcome you here, Shane, and we thank you for the way in which you acted in the greatest traditions of a seaman.

I welcome the insights that you bring us today because this is a matter of real concern for many of us and something we need to deal with. Senator Lugar.

**STATEMENT OF HON. RICHARD G. LUGAR, U.S. SENATOR
FROM INDIANA**

Senator LUGAR. Thank you, Mr. Chairman. And I join you in welcoming our first panel to the committee. Captain Phillips' leadership, his bravery during and after the pirate assault on his ship have been justifiably praised around the world. His dramatic rescue by the Navy has again demonstrated the skill and courage of our sailors, and he has frequently commended them.

This is the only committee, Mr. Chairman and the Senate, I believe, where both the chairman and the ranking member have served in the Navy. So we come to this topic with some understanding of the Navy's historic mission. But piracy is not a new issue for our country. Article I, section 8 of the Constitution gives Congress the power to "define and punish pirates and felonies committed on the high seas"; one of the few crimes named specifically in that document. What is new and vexing is the rapid increase in

piracy and extortion targeting shipping off the coast of Somalia. I look forward to the insights of our second panel, which will address our government's interagency antipiracy strategy.

These pirates, like all others before them, are motivated by profit. Their targets, in one of the most heavily trafficked seas of the world, are plentiful and soft. The payoffs are huge, running, as the chairman pointed out, to the millions of dollars in a region where the average per capita income is less than \$2 a day. So far, piracy in the Gulf of Aden and off the coast of Somalia has been largely a nonlethal activity. Ashore in lawless Somalia and its disputed territories of Somaliland and Puntland, pirates have sanctuaries from prosecution, and the tools of their trade, small arms, skiffs, and longer range fishing trawlers, are plentiful as is the supply of poor young men willing to become pirates. Many villagers in the region are sympathetic to the criminals, viewing them as modern-day Robin Hoods, who spread their loot and don't harm their hostages.

Ending piracy in the region will require multilateral cooperation. This cooperation must include the military coordination, but it also must involve the governments of proximate nations, and the shipping companies, who must change their practices and procedures. And while military means may be necessary, it is important to understand that the root cause of this problem is the breakdown of law and order in Somalia, which is what allows the pirates to operate from shore with impunity. This underscores the point that I and other members of this committee have long made. The existence of failed states directly threatens the national security interest of the United States. Failed states exist as potential safe havens for terrorism, drugs and arms trafficking, and piracy. Failed states can destabilize surrounding nations, spawn tribal or sectarian conflict, and intensify refugee flows.

President Obama and Secretary Clinton, like President Bush before them, have emphasized that development must be an important pillar of our foreign policy. The Senate this year, in agreeing to fully fund President Obama's budget request for international affairs, also recognizes that if we don't sustain the long-term investments necessary to prevent failing states and to reduce the poverty that can spawn instability and extremism, we run the risk of paying a far higher price down the road.

I look forward to the testimony of our distinguished witnesses. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Lugar. Let me note that the vote has started. So, Captain, we invite you and Mr. Clancey to come back here and wait in the back as you were before. And we will recess for about 10 minutes.

[Whereupon a recess was taken from 2:48 p.m. to 3:06 p.m.]

The CHAIRMAN. I was going to wait for Senator Lugar, but I thought if I waited any longer, you might be under further assault here, so I'll rescue you.

So, Captain, again we're delighted to welcome you here, and we look forward to hearing what you have to say.

**STATEMENT OF CAPT. RICHARD PHILLIPS, MASTER OF THE
MV "MAERSK ALABAMA," MAERSK LINE, LIMITED, BUR-
LINGTON, VT**

Captain PHILLIPS. Mr. Chairman and members of the committee, I am Capt. Richard Phillips. I'm a graduate of the Massachusetts Maritime Academy. I have been a member of the International Organization of Masters, Mates, & Pilots Union since 1979, and I'm a licensed American merchant mariner.

I was captain of the *Maersk Alabama* when it was attacked by pirates off the coast of Somalia on April 8. We've returned home safely, and for that, my entire crew and I greatly appreciate the actions taken by the administration, the Department of Defense, and most specifically, the U.S. Navy SEALs, the Navy SEALs and the crew aboard the USS *Bainbridge*. I want to thank the management of Maersk and Waterman Steamship Corp., who handled the situation, the crew, and our families with great care and concern.

And equally important, I want to publicly commend all the officers and crew aboard the *Maersk Alabama*, who responded with their typical professionalism in response to this incident; the licensed deck officers, who are members of the Masters, Mates, & Pilots Union; the licensed deck officer and licensed engineers, who are members of the Marine Engineers Beneficial Association; and the unlicensed crew, who belonged to the Seafarers International Union. They are dedicated merchant mariners, typical of America's merchant seamen who are well-trained and who are ready and able to respond when necessary to protect the interests of our country.

I need to make it clear at the outset that I am unable to discuss the incident itself because of the ongoing investigation and pending legal action against one of the pirates. But I've had a lot of time to think about the difficult and complex issues of protecting vessel, cargo, and crew in crime-ridden waters. So the focus of my comments will be my beliefs based on years of experiences at sea and what can or should be done to respond to piracy and to protect American vessels and crew.

I should also say at the outset that I realize my opinions may differ in some ways from other recommendations you've heard before and may hear today from others on the panel. Nevertheless, I do believe that all of us in the maritime industry understand that it is imperative that we work together to address this complex problem, and I believe we are in general agreement on the main principles of keeping crew, cargo, and vessels safe.

First, I believe it is the responsibility of the Government to protect the United States, including U.S.-flag vessels that are by definition an extension of the United States, their U.S. citizen crews and our Nation's worldwide commercial assets. So it follows, then, that the most desirable and appropriate response to piracy is for the U.S. Government to provide protection through military escorts and/or military detachments aboard U.S. vessels.

That said, I am well aware that some will argue that there's a limit to any government resources, even America's. In fact, due to the vastness of the area to be covered, and the areas of threat are continually growing larger, our Navy, and a coalition of other navies currently positioned in the Gulf of Aden region, may simply

not have the resources to provide all the protection necessary to prevent and stop the attacks.

So what other things can be done? In my opinion, the targets, the vessels, can be hardened, even beyond what's being done today, and made even more structurally resistant to pirates. In addition, more can be done in terms of developing specific antipiracy procedures, tools, and training for American crews. I do, however, want to emphasize that contrary to some reports I've heard recently, American mariners are highly trained and do receive up-to-date training and upgrading at the private educational training facilities jointly run by the maritime unions and their contracted shipping companies.

I've also heard as a suggestion that all we have to do to counter piracy is just arm the crews. In my opinion, arming the crew cannot and should not be viewed as the best or ultimate solution to the problem. At most, arming the crew should be only one component of a comprehensive plan and approach to combat piracy.

To the extent we go forward in that direction, it would be my personal preference that only a limited number of individuals aboard the vessel have access to effective weaponry, that these individuals receive special training on a regular basis. I realize that even this limited approach to arming the crews opens up a very thorny set of issues. I'll let others sort out the legal and liability issues.

We all must understand that having weapons aboard a merchant vessel fundamentally changes the model of commercial shipping, and we must be very cautious about how it is done.

Nevertheless, I do believe that arming the crew as a part of an overall strategy could provide an effective deterrent under certain circumstances, and I believe that a measured capability in this respect should be part of the overall debate about how to defend ourselves against criminals on the sea.

As for armed security details put aboard vessels, I believe, as I indicated earlier, that this idea could certainly be developed into an effective deterrent. My preference would be government protection forces. However, as long as they are adequately trained, I would not be opposed to private security on board.

Of course, I realize that very clear protocols would have to be established and followed. For example, as a captain, I am responsible for the vessel, cargo, and crew at all times, but I am not comfortable giving up command authority to others, including the commander protection force. In the heat of an attack, there can only be one final decisionmaker. So command is only one of the many issues that would have to be worked out for security forces to operate effectively.

While there are many new ideas and much discussing going on about how to deal with piracy, I would respectfully ask the committee to be mindful that the seafarers I've met and worked with over my career are resourceful, hard-working, adventurous, courageous, patriotic, and independent. They want whatever help you can offer to make the sea-lanes more secure and their work environment safer.

But we realize that while preparation is absolutely critical, not every situation can be anticipated, and we accept that as part of

a seafarer's life. So I will just close with a request for you to please proceed carefully and to please continue to include us in your discussions and debates.

Thank you for this opportunity to speak, and I look forward to answering any questions you may have.

[The prepared statement of Captain Phillips follows:]

PREPARED STATEMENT OF CAPT. RICHARD PHILLIPS, MASTER, "MAERSK ALABAMA"
MAERSK LINE, LIMITED, BURLINGTON, VT

Mr. Chairman and members of the committee, I am Capt. Richard Phillips. I am a graduate of the Massachusetts Maritime Academy, I have been a member of the International Organization of Masters, Mates & Pilots Union since 1979, and I am a licensed American merchant mariner. I was the captain of the *Maersk Alabama* when it was attacked by pirates off the coast of Somalia on April 8. Thankfully, that episode ended with the successful return of the ship, its cargo of U.S. food aid for Africa and, most importantly, my crew. All of us have returned home safely and for that my entire crew and I are deeply appreciative of the actions taken by the administration, the Department of Defense and, most specifically, the U.S. Navy SEALS and the crew aboard the USS *Bainbridge*. All of the U.S. military and government personnel who were involved in this situation are clearly highly trained and motivated professionals and I want to use this opportunity to again say "thank you" to everyone involved in our safe return.

I want to thank the management of Maersk and Waterman Steamship Corp. who handled the situation, the crew and our families with great care and concern.

And equally important, I want to publicly commend all the officers and crew aboard the *Maersk Alabama* who responded with their typical professionalism in response to this incident. The Licensed Deck Officers who are members of the Masters, Mates & Pilots Union, the Licensed Deck Officer and Licensed Engineers who are members of the Marine Engineers' Beneficial Association, and the unlicensed crew who belong to the Seafarers International Union are dedicated merchant mariners, typical of America's merchant seamen who are well-trained and who are ready and able to respond when necessary to protect the interests of our country.

I am honored to come before this committee today to discuss my views on making commercial shipping safer, and worldwide sea-lanes more secure from the threat of piracy.

I need to make clear at the outset that I am unable to discuss the incident itself because of the ongoing investigation and pending legal action against one of the pirates. But I've had a lot of time to think about the difficult and complex issues of protecting vessel, cargo, and crew in crime-ridden waters. So instead of a recount of the *Maersk Alabama* incident, the focus of my comments will be my beliefs, based on my years of experience at sea, as to what can or should be done to respond to piracy and to protect American vessels and crews.

I should also say at the outset that I realize that my opinions may differ in some ways from other recommendations you have heard before and may hear today from others on the panel. Nevertheless, I do believe that all of us in the maritime industry understand that it is imperative that we work together to address this complex problem, and I believe we are in general agreement on the main principles of keeping crew, cargo, and vessel safe.

First, I believe it is the responsibility of our Government to protect the United States, including U.S.-flag vessels that are by definition an extension of the United States, their U.S. citizen crews, and our Nation's worldwide commercial assets. So, it follows then that the most desirable and appropriate solution to piracy is for the United States Government to provide protection, through military escorts and/or military detachments aboard U.S. vessels. That said, I am well aware that some will argue that there is a limit to any government's resources—even America's. In fact, due to the vastness of the area to be covered—and the areas of threat are continually growing larger—our Navy and the coalition of other navies currently positioned in the Gulf of Aden region may simply not have the resources to provide all the protection necessary to prevent and stop the attacks.

So what other things can be done?

In my opinion, the targets—the vessels—can be "hardened" even beyond what's being done today and made even more structurally resistant to pirates. In addition, more can be done in terms of developing specific antipiracy procedures, tools, and training for American crews. I do however want to emphasize that contrary to some reports that I've heard recently, American mariners are highly trained and do receive up-to-date training and upgrading at the private educational training facilities

jointly run by the maritime unions and their contracted shipping companies. I believe that discussions are underway now between the industry and government on the details of specific proposals to harden the vessels (the specifics of which should remain secret) and I am confident that we will soon have additional methods for protecting vessel and crew. And while they will be an improvement, there is no way they can be foolproof.

I've also heard the suggestion that all we have to do to counter piracy is "just arm the crews." In my opinion, arming the crew cannot and should not be viewed as the best or ultimate solution to the problem. At most, arming the crew should be only one component of a comprehensive plan and approach to combat piracy. To the extent we go forward in this direction, it would be my personal preference that only the four most senior ranking officers aboard the vessel have access to effective weaponry and that these individuals receive special training on a regular basis. I realize that even this limited approach to arming the crew opens up a very thorny set of issues. I'll let others sort out the legal and liability issues but we all must understand that having weapons on board merchant ships fundamentally changes the model of commercial shipping and we must be very cautious about how it is done. Nevertheless, I do believe that arming the crew, as part of an overall strategy, could provide an effective deterrent under certain circumstances and I believe that a measured capability in this respect should be part of the overall debate about how to defend ourselves against criminals on the sea.

As for armed security details put aboard vessels, I believe, as I indicated earlier, that this idea could certainly be developed into an effective deterrent. My preference would be government protection forces. However, as long as they are adequately trained I would not be opposed to private security on board. Of course, I realize that very clear protocols would have to be established and followed. For example, as a captain, I am responsible for the vessel, cargo, and crew at all times. And I am not comfortable giving up command authority to others—including the commander of a protection force. In the heat of an attack, there can be only one final decisionmaker. So command is only one of many issues that would have to be worked out for security forces to operate effectively.

While there are many new ideas and much discussion going on about how to deal with piracy, I would respectfully ask the committee to be mindful that the seafarers I've met and worked with over my career are resourceful, hardworking, adventurous, courageous, patriotic, and independent. They want whatever help you can offer to make the sea-lanes more secure and their work environment safer. But we realize that while preparation is absolutely critical, not every situation can be anticipated. And we accept that as a part of the seafarer's life. So, I will just close with a request for you to please proceed carefully and to please continue to include us in your discussions and debates.

The CHAIRMAN. Thank you, Captain. We look forward to having that exchange.

Mr. Clancey.

**STATEMENT OF JOHN CLANCEY, CHAIRMAN, MAERSK, INC.,
CHARLOTTE, NC**

Mr. CLANCEY. Thank you, Mr. Chairman, and members of the committee. I am John Clancey, chairman of Maersk, Inc., the parent of Maersk Client, Limited, whose ship, the *Maersk Alabama*, was attacked in the Indian Ocean on April 8. And I thank you for this opportunity to address this increasing problem of maritime policy.

And on behalf of our entire company, I would like to add my sincere appreciation to the Defense Department, the Navy, and the SEALs, and the entire team of people that brought Captain Phillips and his crew home safely. I also congratulate Captain Phillips and the crew of the *Maersk Alabama* for their courage and their resolve. They, like all seafarers that serve on our vessels, are highly valued members of our team. We are dedicated to making their jobs as safe as possible.

Today's focus is on the waters of the Horn of Africa and the Gulf of Aden and Indian Ocean, a size of geography equivalent to the

Mediterranean. Piracy has been with us for many years—the Malacca Strait, for example. And our Nation and the U.S. Navy has learned over 200 years that piracy is not easily eliminated.

Our industry is currently working diligently in conjunction with the Defense Department, though, in particular, regarding security of the high-risk areas for a U.S.-flag fleet.

In general, though, piracy is an issue that our country and our entire industry takes very seriously. As attacks in the Gulf of Aden have increased in the last few years in both numbers and level of sophistication, we have changed our response, as well, and it is continuing to evolve.

And we have been working within the industry and with effective governments to develop a more effective response. But an effective response to piracy must, as you said, Mr. Chairman, and as President Obama has said, has to be an international one.

Most of the vessels that face this threat do not fly the U.S. flag, and most of the naval vessels assigned to counter piracy off the Horn of Africa and the Gulf of Aden are those of other nations. The National Laws of Ports, at which vessels and international commerce call, control all of ours and our competitors' incoming ships, and most, if not all, prevent the introduction of arms and arm mariners in their territory.

The structure of maritime insurance is also an issue that has to be dealt with, because it also has concerns regarding this issue. Vested cooperation of all maritime nations and the international community is critical to any effective response. The limited number of vessels now deployed off the Horn of Africa and the Indian Ocean make it impossible to adequately protect the transportation in this area.

In our view, and that of many other shipping companies or seafarers and the maritime security experts, we believe that piracy not only threatens the lives of mariners, but the safety of major international shipping lanes and the national interests of the countries involved. It's important to note that 90 percent of the world's commerce is carried by water.

Let's begin what we believe is not helpful, an approach that applies only to the United States. Piracy is an international problem and requires an international response. The efforts of the United States must strengthen these international efforts on both legal and law enforcement fronts. There should be an international legal framework for the prosecution of captured pirates. Ships carry U.S. military and government—cargos may require unique protection, but cargo in general requires an international solution.

Arming the crews of merchant vessels, I know that captain and crew members may prefer an arm-capability for the crew on board, and I respectfully understand their perspective. But the IMO has pointed out, and we agree, that firearms are only useful in the hands of those who are properly trained, who practice regularly, and understand when and how to use the moment at that point of intersection.

Our belief is that arming merchant sailors may result in the acquisition of even more lethal weapons and tactics by the pirates, and a race that merchant sailors cannot win. In addition, most

ports of call will not permit the introduction of firearms into the national waters.

Now I'd make a separate point. As I mentioned earlier, we are currently in discussion with the Department of Defense as it applies to U.S.-flag vessels, and those discussions are ongoing, and hopefully we'll have a solution in the near term.

What would be helpful, on the other hand, is prompt and accurate reporting. This sounds very simplistic, but what is necessary is a single 911-like number so that our military and other militaries and governments currently examining the system today would work together to address this in full cooperation with these international navy forces charged with international shipping. There's many navies out there today, and I think it's critical to all of the maritime interests to ensure that they have a process to work together, to communicate together, so that when one navy spots a pirate or comes across an incident, everyone knows simultaneously.

In addition, there are emerging techniques to harden the vessels. These are evolving measures that may buy additional time for the Navy forces to respond while protecting ships' crews. These include certain additional protective measures on each vessel and give them an opportunity to resist the pirates while help is coming. These techniques will be developed and evaluated and approved, and we will work in concert with the Navy, the Coast Guard, and other experts and share with the industry.

Last, remaining flexible and alert. This is evolving. Things are happening on a regular basis, and who knows what will happen today or tomorrow in the Gulf of Aden.

Mr. Chairman, all of us take a great deal of pride in our Navy's rescue of Captain Phillips, the safe return of the *Maersk Alabama*, and in the bravery of the crew. What we need to do now is to improve our antipiracy efforts, find solutions that work for maritime shipping on a global basis, and move forward. I thank you for your time, and I look forward to your questions.

[The prepared statement of Mr. Clancey follows:]

PREPARED STATEMENT OF JOHN P. CLANCEY, CHAIRMAN OF MAERSK INC.,
CHARLOTTE, NC

Mr. Chairman and members of the committee, I am John Clancey, chairman of Maersk Inc, the parent company of Maersk Line, Ltd., whose ship—the *Maersk Alabama* was attacked in the Indian Ocean on April 8. I thank you for this opportunity to address the increasing problem of maritime piracy. On behalf of our entire company, I would also like to add my sincere appreciation to the Department of Defense, the Navy, the SEALs and the entire team of people that brought Captain Phillips and his crew home safely. I also congratulate Captain Phillips and the crew of the *Maersk Alabama* for their courage and resolve. They—like all seafarers that serve on our vessels—are highly valued members of our team and we are dedicated to making their jobs as safe as possible.

Today's focus is the waters off the Horn of Africa, in the Gulf of Aden and in the Indian Ocean, but piracy has been a serious threat in the Strait of Malacca and around the world for many years. Our Nation, and the U.S. Navy, learned over 200 years ago that piracy is not easily eliminated. And our industry is currently working diligently in conjunction with the Department of Defense regarding immediate security in the high-risk areas and we are not at liberty today to discuss those potential strategies.

But the piracy problem is multifaceted and requires multidimensional solutions. At a minimum, any solution must deny pirates their safe haven and promises con-

sequences. In my remarks today I would like to present a few overarching principles that are necessary to effectively deal with modern piracy.

Piracy is an issue that our company—and our entire industry—takes very seriously, I can assure you. As the attacks in the Gulf of Aden have increased over the last couple of years in both numbers and level of sophistication, we have changed our response as well. And we have been working within the industry and with affected governments to develop a more effective response. An effective response to piracy must [as President Obama has said], be an international one. Most of the vessels that face this threat do not fly the U.S. flag, and most of the naval vessels assigned to counter piracy off the Horn of Africa and in the Gulf of Aden are those of other nations. The national laws of ports at which vessels in international commerce call control all incoming ships and most prevent the introduction of arms or armed mariners into their territory. The strictures of maritime insurance contracts also have global effect. Thus, the cooperation of all maritime nations and of the international community, is critical to any effective response. The limited number of naval vessels now deployed off the Horn of Africa, the Indian Ocean and the Gulf of Aden make it impossible to adequately protect maritime transportation in this area.

In our view, and that of many other shipping companies, our shipboard labor unions, and many maritime security experts, piracy threatens the lives of our mariners, the safety of major international shipping lanes, and the national interest of every country that relies on maritime transportation of goods. Antipiracy measures, to be viable, must address each of these concerns. The International Maritime Organization, the U.N. body that monitors pirate attacks and recommends policies to combat it, has identified measures—in place for 15 years—that are helpful as well as others that are not.

Let me begin with what is not helpful:

- *An approach that applies only to the United States.* Piracy is an international problem and requires an international response. The efforts of the United States must strengthen international efforts on both the legal and law enforcement fronts. There should be an international legal framework for prosecution of captured pirates. Ships carrying U.S. military and government-impelled cargoes may require unique protections, but piracy affects the global community and requires solutions that work for all stakeholders. And, of course, pirates generally don't check the flag and origin of a ship before attacking.
- *Arming the crews of merchant vessels.* I know Captain Phillips prefers an armed capability for the crew onboard and I respectfully understand his perspective. And Captain Phillips is in agreement with vessel operators, his labor union, and the IMO which points out that firearms are useful only in the hands of those who are properly trained, who regularly practice in their use, and who are fully capable of using them as required. Our belief is that arming merchant sailors may result in the acquisition of ever more lethal weapons and tactics by the pirates, a race that merchant sailors cannot win. In addition, most ports of call will not permit the introduction of firearms into their national waters. And I suspect others that you will hear from this afternoon will address this issue in more detail.

What would be helpful is:

- *Prompt and accurate reporting.* This sounds simplistic but in international waters, the ability to dial one 911-like number is critical and so far nonexistent. Our military and other governments are sorting out what is currently an incident-reporting scheme that is way too complex and uncertain. We look forward to progress on this front very soon.
- *Full cooperation with those international naval forces charged with protecting international shipping—e.g. the provision of accurate positioning information and course plots to international naval forces, the use of designated sea-lanes patrolled by international forces, the rapid reporting of attacks by merchant vessels, the availability of failsafe emergency communications protocols, expanded naval intelligence collection, and other cooperative measures.*
- *Emerging techniques to “harden” the vessels.* There are evolving measures that may buy additional time for naval forces to get into place to assist while protecting ships' crews. These include certain additional protective measures that each vessel can employ both to evade and to resist pirate attacks. In our view, the less said about this in public, the more effective they are likely to be. But over the past several years the industry has added procedures and tactics to make our crew and vessels less vulnerable. And more techniques are on the horizon. These techniques are generally developed, evaluated, and improved in

concert with the Navy, the Coast Guard and other experts—and then shared within the industry.

- *Last, remaining flexible and alert.* We at Maersk do not claim to know all the answers, but we do feel that the lessons of modern day antipiracy efforts are valuable and should be followed in ways that work for U.S. and foreign mariners equally.

Mr. Chairman, all of us take a great deal of pride in our Navy's rescue of Captain Phillips, in the safe return of the *Maersk Alabama*, and in the bravery of its crew. This is the right time to reexamine antipiracy policy, because we know that we may not always be as spectacularly successful next time. We have short-term tactical needs and, of course, the longer term policy and strategy requirement to deter piracy completely. What we need to do to improve antipiracy efforts is find solutions that work for maritime shipping across the board, that can be put into place now, that are sustainable, and, most critically, that will increase the safety and security of mariners and the ships they sail. If we stick to those criteria, we will have learned, not merely adapted to, the hard lessons of piracy.

The CHAIRMAN. Well, we thank you very much, Mr. Clancey. Captain Phillips, I want to just remark, I so noted a very pleasant mixture of Massachusetts, Maine, and New Hampshire in your accent, which may be why you live in Vermont, but—

Captain PHILLIPS. Mainly Massachusetts.

The CHAIRMAN. Mainly Massachusetts. Mr. Clancey, I'm having trouble with this arming issue a little bit, and I want you to help me as a layperson, just in terms of common sense, I guess.

On a lot of vessels, we put young men and women with less than a year's training, and sometimes very little time at sea, and they become the armed personnel on a particular vessel with responsibilities for protecting it. We arm guards who pick up money in an armored car. We have any number of different kinds of armed people in the course of our civil society who get the training, whether it's border guards or people involved in other professions.

I'm having trouble understanding why qualified seafarers, with all of the training they get and discipline they get, at the Merchant Marine Academy or elsewhere, who can perform as Shane Murphy did under great duress and risk of life, who feels that he might have been better off if he'd been able to take a shot at these guys, because they are not particularly well-trained or capable in many regards, are not given weapons training.

Why is that training not worthwhile? It seems to me that if the pirates upgrade their weapons to a level above 50-caliber and start destroying ships, they haven't got anything ransomable. So they've got to take the ship without destroying it or harming the hostages or taking the goods they want to hold for ransom. Therefore, they have some limitations. And it would seem to me you'd be significantly more advantaged if you were able to defend yourself.

Mr. CLANCEY. You make some very good points, Mr. Chairman. We have, international and United States, hundreds and hundreds of ships. Our crews on U.S.-flags rotate every 3 or 4 months with a different crew. It is true that usually the masters and maybe the first mate return to the same ship, but the balance of the crew might rotate out.

Training all of these people and ensuring that they're qualified, that they have the time to practice, which would be on land, which right now, no one has facilities to do so, and to ensure that they have the training necessary to know when and how to use the weapon, we think is a very difficult task. It's really complicated by the fact that most ports, if not 95, 80 percent of them, you can't

bring weapons into the port. You've got export licenses and requirements on weapons that just simply don't allow it.

We are also not a sovereign, and if something should happen, I mean, we put the company at risk. But I think that you focused on the training issue. We think the training is a very tall order. It's not something that we discount out of hand—

The CHAIRMAN. May I ask you—if I can interrupt you for a minute—how many ships do you have out at sea?

Mr. CLANCEY. At any given time, it could be 5 or 600.

The CHAIRMAN. Five or six hundred—

Mr. CLANCEY. U.S.-flags, it's far less. It's in the 30s, and one or two of them or three of them may be in port at any given time. But the issue on an international basis is we're not allowed to have the weapons on the ships.

The CHAIRMAN. Well, maybe that's something we have to think about in terms of international convention. That's why we have treaties and multilateral agreements. It seems to me if piracy is an increasing problem, the alternative is, as you've said, a far more expensive form of protection, which is to have the military diverted from other activities.

Mr. CLANCEY. And as we're doing today—4 years ago, we were 100 miles off the coast. Two months ago, we were 200 miles off the coast. Now we're 600 miles off the coast on a round trip, doubling the time and doubling the expense.

The CHAIRMAN. I understand. But that's what I'm getting at. Historically, we have deputized citizens to engage in certain law enforcement activities going way back to the time of posses.

Mr. CLANCEY. Correct.

The CHAIRMAN. Again, I get back to the training issue here. It costs somebody something for this protection, correct?

Mr. CLANCEY. Correct. Yes.

The CHAIRMAN. So the taxpayer is going to pay for it through tax dollars to the U.S. Government, and the taxpayer pays for it in the cost of the goods that are sold to them. One way or the other, the question is, What's the most feasible way to provide the protection?

The CHAIRMAN. Captain Phillips, what do you think? Let me ask you as a skipper. And I don't want to get you in trouble with the company, but what's your feeling about it?

Captain PHILLIPS. As I said, I believe there is not one silver bullet here. One solution is not going to solve this problem. But as part of a coordinated approach, I believe that there should be some arming of the crews. Training would have to go on. It's being done today. The training could be there. It is a cost increase.

I have been on ships in the last 18½ years as a captain where we did carry guns, and it's just another you have to declare when you go into a lot of these countries, bonded seal type thing. And some of the crew is capable and can be trained, but to just expect arming the crew to be the final solution is—

The CHAIRMAN. No, no, no, I'm not suggesting that.

Captain PHILLIPS. OK.

The CHAIRMAN. This is a conglomeration of things, and I want to get—

Captain PHILLIPS. A limited number of crew, I believe, could be trained. As I said, basically what I call the top four: Chief mate, chief engineer—

The CHAIRMAN. What are the other steps to harden a ship that you think might have an impact?

Captain PHILLIPS. Anything—basically what we've done in the past is fire hoses, but I think we can evolve beyond these items, and develop additional nonlethal items.

The CHAIRMAN. Some people have talked about concertina wire, razor wire on the rails, and/or electrified rails.

Captain PHILLIPS. I think that is impractical. I believe concertina wire or barbed wire is not going to stop them, because you can't put it around the whole ship. On my incident, we had fire hoses. The pirates just went to where the fire hoses weren't, and that's what they would do if there were concertina wire. Concertina wire is not going to stop someone climbing up with a ladder.

The CHAIRMAN. Now, again, speak—so for the average person sitting around, saying, "What do you mean, an American ship was taken by a bunch of guys in a little"—

Captain PHILLIPS. Well, if I could interrupt you, Senator.

The CHAIRMAN. Yes.

Captain PHILLIPS. The ship was never taken. Never taken.

The CHAIRMAN. Fair enough. I agree with that. I completely agree. Let me rephrase that. What do you mean by these guys got on the ship? How did they get on it? What happened? When people hear that, they're sort of saying, "Where's the shield? Where's the force of our overflight? Where's the early detection, and therefore, the summoning of somebody to check it out? Where's the protection, the joint effort of 22 countries that have joined together in a task force?"

It's difficult, and maybe you can explain so that people have a better understanding of that. Why is it so difficult for those response factors to cut in quicker and to have an impact?

Captain PHILLIPS. One thing we do, as I've instructed my crew all along, our biggest asset is what we do anyway, and that is to maintain a lookout navigation capability. And as this incident here, we first noticed them 3½ miles from our vessel. You do have visibility restrictions. You do have limitations on radar. So keeping an eye out the window is the No. 1 precursor to stopping these incidents.

But piracy is evolving, and I think what we're going to see next is a stealth type invasion, which would be the next step up. So that's why I say just arming the crews is not a final solution or silver bullet. We have to have a cohesive approach that will take into account the evolution of piracy.

Three months ago, we said that if a vessel had a speed of more than 15 knots and more than 12-foot freeboard that would keep you from being taken over. Yet the *Maersk Alabama* was doing 18.3 knots and had approximately 26 feet freeboard. So we can throw those parameters out the window. The pirates and their tactics are evolving—and we must stay with the curve and evolve with them to stop these incidents from happening.

The CHAIRMAN. Fair enough. Freeboard, for all the land lubbers, is the distance between the water and the rail, correct?

Captain PHILLIPS. Correct.

The CHAIRMAN. Can I ask one other question just before we do that? What did you wish you'd had, or what is the most significant intervention that you think could be the most effective at this point that you would recommend?

Captain PHILLIPS. Again, I just want to stress, there is no silver bullet. There's no one step. But I would say a force protection. And I don't mean a security guard. I don't mean a mall cop. I would—I mean, someone who's specifically trained, maybe retired Special Forces, GERKAS, SSA retired.

And I understand that this can cost a lot of money. But we don't need 8 or 10 or 12 individuals. We need perhaps two, maybe three, so they can be in a watch situation. If you had those type of caliber people, I would say that would be the most important aspect of a deterrent, but not the complete solution.

The CHAIRMAN. Well, I must say, that's one thing that struck me as being perhaps particularly potentially available. We have a lot of near-retired, newly retired ex-military folks, people who are well-trained and disciplined, some of whom want to work, and they're unemployed and might, in fact, be available for something like that.

Captain PHILLIPS. And again, I just want to stress, it's not a mall cop that I'm looking for. I don't want to denigrate anybody, but a little higher trained personnel is what we need, because these are high-caliber people. And with my experience, someone like the SEALs or Special Forces is what you're talking about, and you would not need 10, 12, 18 people. Three would be plenty. Plus, we also have limitations on the number of rooms on the ship and the capability of the ship to carry extra people.

The CHAIRMAN. Sure.

Captain PHILLIPS. So I just don't want it to be a Band-Aid. Specifically trained people would have to be vetted in the event they are hired from a private firm.

The CHAIRMAN. Fair enough.

Senator LUGAR. Thank you, sir.

Senator LUGAR. Well, just following through on Senator Kerry's questioning and your responses, Captain Phillips, obviously, there are private security firms now offering security in Iraq, for example, and through other phases of foreign policy. Some of these firms presumably are available, although maybe being on shipboard is so vastly different that they wouldn't qualify. But I gather you're not rejecting the idea of a private security firm. You're saying, however, that the costs of having more personnel, first of all, just to accommodate them aboard ship, but then beyond that, are the costs of these security people so great a percentage of whatever the commerce is worth that it is prohibitive? In other words, help me with the economics, either one of you, of why there has not been a thought of hiring a private security firm with people aboard each of your ships. Please.

Captain PHILLIPS. I would want to defer to Mr. Clancey there. I am only concerned with my ship, my crew, and my cargo.

Senator LUGAR. Very well.

Captain PHILLIPS. So I defer to Mr. Clancey.

Senator LUGAR. Mr. Clancey.

Mr. CLANCEY. As a percentage of the cost of operation, it would be small. As a percentage of revenues collected, it would be very small. I would only refer back to my earlier comments. If that was the course the United States wanted to take, we would need to ensure that our allies were in sync with us and the international community was in sync with us—

Senator LUGAR. Now, why would they need to be—

Mr. CLANCEY. [continuing]. Accept the practice.

Senator LUGAR. Why would they need to be in sync with that?

Mr. CLANCEY. Well, the IMO, which is a branch of the United Nations, strongly recommends against the arming of crews or providing security forces. They don't say "no," but they—all of their literature and their conferences, they keep on hinting on this theme.

And this is an evolving situation. The world is changing. It's becoming more dangerous. They would have to reconsider their stance so that the governments and the ports and the customs officials around the world who are in and out thousands of times a week understand that it is the position of the larger maritime nations of the world that this is necessary.

Senator LUGAR. Why wouldn't it be a good idea, perhaps, for our Nation, maybe our Secretary of State the next time she meets with the Russian Foreign Minister, suggest that the two of us, maybe as a starter, plus others that have large oil vessels, get together and establish a new understanding on this? Piracy off Somalia is a new challenge. It's a common threat to all of us. And whatever may have been the premonitions of disaster before in the literature, as a practical matter, we've all had ships that have been meeting pirates out there.

Mr. CLANCEY. I mean, I would leave that to the experts in international relations. But we do need an international solution. There may be a concern that this would take too long. If that's the belief of this committee and of the Senate, they may prescribe a different alternative, and we're open to any solution.

Senator LUGAR. Following through on the cost situation, try to describe what the insurance business is in relationship to your shipping. What kind of insurance do you buy? How is that affected by the piracy business?

Mr. CLANCEY. The premiums have gone up a percentage. Let's say it's between 10 and 25 percent. And that's just our case. I don't know what the situation with other companies are. And costs like that over the course of the year annualized are eventually passed through to the end user, which is the customer.

Senator LUGAR. Well, this—it gets back to—I posed the point that there are costs involved here, and it is important where they finally are paid. I assume that could be the case with the private security forces if they were aboard the ship. Your point with that was that other nations haven't either adopted such a principal or would reject it unless we all got together and indicated this is different.

And I think it's not unreasonable to think that there would be such successful negotiations, because rural shipping is being vilely affected by this.

Mr. CLANCEY. Right.

Senator LUGAR. And it's not going to go away. And unfortunately in this region, as I mentioned in my opening remarks, you have failed states, and other states are perhaps on the verge of failing. So this may be something that prompts an international situation that will not be interminable because of the interests of each of the countries involved.

Now, without trying to engage whether losses to United States shipping have been greater than that of the Russians or anybody else conveying oil shipments or other cargo, but my guess is that, as you say, our U.S. flags are a small portion of the international fleet that is affected that is now diverting course and being hit 200 miles out, 400, now 600, increasing costs for everybody, for, that is, the constituents of countries in the region, likewise.

Mr. CLANCEY. Correct. I mean, Senator, I don't understand why any country would be opposed to a solution that addressed the piracy issue. I don't.

Senator LUGAR. I think it's important, though—and this hearing is able to sort of pin down that there are costs to this.

Mr. CLANCEY. Yes, there are.

Senator LUGAR. And we're trying to define those, and then for the more diplomatic problems, in terms of international law, of which we need to be cognizant. Now, what about the ports that say, "Well, we don't want ships, whether they're yours or the Russians' or anybody else, coming into port if you have armed guards, whether they're a private security team or whoever they are." How do we deal with that?

Mr. CLANCEY. Well, I think if it was the position of all the major shipping nations, which relates to the companies, took a position, we are the customers of the ports. I think the ports would be willing to evaluate different alternatives. We pay their fees.

Senator LUGAR. I appreciate that, because you're in the business, and this is going to have to be a very technical matter, but one that's not beyond the principles of governance. And so we appreciate your testimony.

Mr. CLANCEY. Thank you.

Senator LUGAR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Lugar.

Senator Webb.

Senator WEBB. Thank you, Mr. Chairman. Again, I'd like to express my appreciation to you for holding this hearing. I think it's a very important issue for us to look at. I'm also in the Armed Services Committee. I think there's going to be a more militarily oriented hearing next week on this as well.

Mr. Clancey, in following the line of questioning, I clearly get the notion of liability issues with respect to arming crew members or putting weapons on board a ship and having some sort of incident that might not even be related to the defense of the ship and those sorts of things.

But at the same time, this is so clear, I think to everyone, that we all have an inherent right to self-defense in international waters, and the idea that there wouldn't be protection on board these vessels with these hugely expensive cargos and all the rest of it just doesn't seem to make a lot of sense.

I got in only when the questions began, but was there any discussion about this cruise ship that has Israeli security on it? Are you familiar with that incident?

Mr. CLANCEY. Correct.

Senator WEBB. What would be your observation of that?

Mr. CLANCEY. I'm familiar with the incident. I'm familiar with the company, and they chose to have an armed force protection on the cruise ship, which prevented the hijacking of the ship.

Senator WEBB. And they were not perceived as being in violation of any of these international agreements that you were talking about?

Mr. CLANCEY. Well, it wasn't in the water and it wasn't—they didn't injure anybody that has been reported or acknowledged. And I don't think they did. The pirates left. So there wasn't a reaction to that.

Senator WEBB. But the international agreement that you're talking about is essentially that those sorts of people shouldn't be on these kinds of ships?

Mr. CLANCEY. Well, I'm saying that if the international community could agree that the arming of commercial ships, whether it's by the crew, but more preferably, with armed guards, security firms, and it was an accepted practice that would change the set of circumstances. This is a situation that's evolving very quickly. I mean, this is not that old when Captain Phillips saved the *Alabama*. Six months ago, we weren't thinking or talking like this.

Senator WEBB. So you don't see any strong reaction in your business community to the notion that that cruise liner had armed security on board?

Mr. CLANCEY. No.

Senator WEBB. And I would—

Mr. CLANCEY. Because it wasn't an incident, nothing happened. But there has been—

Senator WEBB. But the capability—I mean, they are for the purpose of defending people on the ship.

Mr. CLANCEY. Exactly.

Senator WEBB. And whether the pirates got smart and left, you know, is not the relevant point in terms of whether these people were being employed. And to me, it makes a tremendous amount of sense to get small groups of highly trained people to work in a synergistic fashion with the military.

I take your point in your testimony when you were talking about full cooperation, sharing information so that if there are going to be periods, obviously, where you're going to be on more heightened alert with respect to these activities, and you can be coordinating in two different ways, really, with when you would be putting private security people on board a ship, but also, how you'd be coordinating with military forces.

Mr. CLANCEY. Correct. There have been incidences, though, where innocent bystanders were injured or killed, and they're the subject of fairly extensive legal cases today. So there is exposure, and maybe—again, I think the solution is one that I would hope that the international community could address. I mean, it's—everyone's at risk.

Senator WEBB. Right. Well, we're obviously concerned about that, but principally concerned about American shipping. And there may be a model, I would suggest, with respect to how independent contractors have been used in some of these combat theaters. I'm speaking contractually and in terms of liability, as well as to quality of people.

Mr. CLANCEY. Yes. Before you arrived, I did mention that we are in discussions with the Department of Defense about our U.S.-flag shipping operations. And hopefully, we'll come to a conclusion on that sometime in the next 10 days.

Senator WEBB. Good. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Webb.

Senator CORKER.

Senator CORKER. Thank you both for coming, and Captain Phillips, it's great to be in someone's presence who's so highly esteemed. All of us in the public sphere can use that from time to time. So thank you very much for being here and bringing so many colleagues with you.

Mr. Clancey, you mentioned that your company, which is a Danish company, I think—is that correct?

Mr. CLANCEY. Correct.

Senator CORKER. Has about 600 ships?

Mr. CLANCEY. Well, more than that, yes. But owned and chartered, order of 8 or 900.

Senator CORKER. So, just so that we're all educated as to how do you decide—you've got 30 or so that have a U.S. flag, I think you've said. Two or three might be in port right now. How is it that one decides, for those of us who don't do this on a daily basis, whether it's flagged U.S.-flag or some other country?

Mr. CLANCEY. We have contracts with the U.S. Government that require capacity and frequency in the oceans of the world. So we build a network around those requirements, the customer's requirements, the Department of Defense's requirements, food aid, et cetera. And those ships are purchased by our affiliate, Maersk Line, Limited, which is an independent subsidiary. And they fly the American flag and they serve, for the most part, the military.

But they're in commercial loops, so that—it's economically viable to combine the commercial cargo and the military cargo, run a system that supports both customers' needs, and that it is economically viable. That's how the decision is made.

Senator CORKER. So you would, from time to time, be carrying cargo that's of benefit to the U.S. military?

Mr. CLANCEY. Correct.

Senator CORKER. OK. But not all the time?

Mr. CLANCEY. Correct. For example, if we go to Asia with military cargo, we're not coming back with military cargo. We're coming back with what you find in Wal-Mart and Penney's.

Senator CORKER. But you still have a U.S. flag on the—

Mr. CLANCEY. Correct.

Senator CORKER. Yes. OK. And so you're a company that deals with, obviously, flags throughout the world or different countries, and you're carrying military cargo for Russia and for China and other places, too; would that be correct?

Mr. CLANCEY. Very, very small.

Senator CORKER. But you would have the Chinese flag—

Mr. CLANCEY. 99 percent of our cargo would be U.S. military cargo, for the use of our military forces on a—

Senator CORKER. Well, then, how do you determine only 30 of your ships, if the majority of it is U.S. military cargo, only 30 of your ships are flagged with U.S. flags. How do you determine the flags for the other ships?

Mr. CLANCEY. In some cases, where they're built. In some cases, where they're operated. And in many cases, they fly the Danish flag and the U.K. flag and Singapore. It's historical. A company goes—and it goes back to 1907. And once the vessel is flagged in the country, it's expensive to reverse it. So they left that.

Senator CORKER. Is there anything about that whole process that you think would be informative for us to know?

Mr. CLANCEY. No; and you don't have the time for me to explain it to you.

Senator CORKER. OK. So let me move on to the next issue.

Mr. CLANCEY. It's long and complex.

Senator CORKER. So for each of those different flags, it's my understanding that you would buy insurance from different companies. It's my understanding that—

Mr. CLANCEY. Right.

Senator CORKER. [continuing]. For instance, if you're buying insurance for a U.S.-flagged ship, then there's no proceeds for hostage-taking or anything like that. But if you were doing it with a London-based entity, they would maybe supply up to \$20 million or some amount of money to actually pay those who take hostages, pirates; is that correct?

Mr. CLANCEY. The insurance premium structure is based on your activity and your history and your experience, your loss experience.

Senator CORKER. But I'm not talking about the premium. I'm talking about the—

Mr. CLANCEY. Policy?

Senator CORKER. [continuing]. The actual payments. It would be my understanding, if you have 600 ships with 30 in the United States, that you'd probably have some that actually have policies that pay when pirates demand money for the hostages; is that correct?

Mr. CLANCEY. I don't have the insurance policies in front of me. I would think most of them, the only way they pay is through negotiations, and hard-pressed negotiations. They would say that was a decision you made. But it's not something that we have learned to deal with. This is a brand new world.

Senator CORKER. Well, maybe I'm—well, let me ask you this. Is it a fact that in the industry, that there are many companies who do buy that kind of coverage, and that, in some ways, encourages some of the activity we saw off of the Somalian coast?

Mr. CLANCEY. I couldn't answer that question and give you a factual answer. I'm not sure what other companies negotiate with their insurance companies and whether they are able to buy a surcharge for hostages. I just don't know.

Senator CORKER. Would that be interesting for you to know after what just happened?

Mr. CLANCEY. Well, our insurance people are working on that and they were briefing me this morning. So yes, it—they're looking at it right now. They're—it's—the insurance companies are thinking about it.

Senator CORKER. Would you mind sharing that with us once they have—

Mr. CLANCEY. Not at all, sir. We'll provide that.

Senator CORKER. So if I heard the line of thinking, questioning from Senator Lugar and Senator Webb and beginning with Senator Kerry, it seems to me that actually, there is no law whatsoever that would prevent—and it sounds like it's a very minimal expense based on what you said, based on the overall cost of a shipment.

It doesn't sound like to me there is actually any international law that would keep you from having the kinds of folks on board that Captain Phillips alluded to. It sounded like, to me, it's a—you're free to do that, and there isn't anything that actually keeps you from being able to do that.

Mr. CLANCEY. It's the entry and departure from certain ports, where if you have weapons, the Captain alludes that if you put them in bond, which they come and take them or hold them or you lock them up. But there are countries that I have been told and briefed upon that they say you will not bring—you will not have armed mariners on your ship.

Senator CORKER. Well, let me ask you this. On this last trip, are those that typically originate on the other side of Somalia and end up here in the United States, are those two ports—are they ports that allow you, in those specific cases, to have people—or Captain Phillips may want to jump in here—that would be trained to the extent we're talking about, that would be able to protect their crew?

Mr. CLANCEY. That's a new world. We've just been dealing with this now for a very short period of time, but that issue has been raised by numerous people in numerous areas. But we don't have a definitive answer today as to what countries around the world would say to our request to have an armed security unit on the vessel.

I think at some geographies, we would meet resistance, from my experience living and working overseas. If it was something that our Department of State could find a way to convince others, they may open the door. Right now, I think that it's subject to questioning.

Senator CORKER. Well, listen, we thank you for coming to testify today. My guess is that Captain Phillips and some of the folks like him that serve within your company might ask those questions before the next particular trip again.

Mr. CLANCEY. They're asking those questions right now.

Senator CORKER. OK.

Captain PHILLIPS. Yes, and I'd like to add that I have been sailing for 18½ years as captain and I've been to those two ports. I have had an asset there. I don't want to say what I have. It wouldn't have helped, I don't believe, in the situation I was just in on the *Maersk Alabama*, but in all the countries I've been, it's just another formality that you have to go through, but that being a smaller asset than what I think is needed on—

Senator CORKER. Which is two or three.

Captain PHILLIPS. And Mr. Clancey may be right that a larger asset may be a problem.

Mr. CLANCEY. An automatic weapon.

Senator CORKER. Yes. Well, listen, thank you both for educating us. Again, Captain Phillips and all those who have served with you, thanks for your extreme professionalism and the way all of you conducted yourself. It's been an inspiration. Thank you.

The CHAIRMAN. Thank you very much, Senator.

Senator Risch.

Senator RISCH. Mr. Clancey, if there's an issue as far as armed people in the ports, as I look at this, it would seem to me that we have a fair number of warships there that they could put a few U.S. marines on each ship as it—American flagships as it entered the area, and have another ship take them off at the other end. That way, you wouldn't have armed people going into the ports. Has there been any discussion given to that?

Mr. CLANCEY. Yes, there are, and those discussions are taking place today in this town.

Senator RISCH. OK, good. Because it seems to me—I agree with you. With three people, and you're up 30 feet, from a small boat attacking it, it would seem to me three of our marines could probably do the job from the fantail or from any other place that they—

Mr. CLANCEY. I think they could do the job from 200 yards away, yes.

Senator RISCH. Yes. The other question I had was—is I heard the description of the difficulty because there's so many square miles to patrol. Has any thought been given to creating a lane using a GPS-type system, and then having them—have everybody stay in the lane so that the military could patrol that lane, and they wouldn't have all the square mileage to patrol?

Mr. CLANCEY. At this time, there is the GOA lane, the Gulf of Aden, that has been established, and there are military ships there. That's the Gulf of Aden on that chart there. They're still being attacked, and that's with the military there.

I think one situation we're seeing—we talk about evolution. Originally, it was down south where I was, a little closer to land, where the problem started. Then the pirates evolved and the target-rich environment are all the ships coming from the Suez Canal out the Red Sea. It's a target-rich environment. There are less miles to get back to Puntland and Somalia, where they do have havens. So you saw them go up there and actually, the activity slowed down back where I was and where I was taking.

Now you see—and the policeman is in town, and now the bullies are going back down 600 miles off Somalia, which is the Satchells, and they are actually out there. So you're seeing the deterrent that started in the Gulf of Aden, I think, has sent a lot of the business back down to where it started because the policeman is in town.

Senator RISCH. I think that if these talks are successful and they can put a few people on each of those ships, and they took aggressive action in the case of an attack, I would suspect that's going to slow them down, particularly if they see a ship with an American flag on it and they know we've got—that there is a substantial

possibility that they're going to be looking at three marines on the deck of that, it would seem to me that that's going to give them pause as to whether or not they're going to want to do this anymore.

Captain PHILLIPS. I don't want to disagree with you, but the pirates have attacked the grey ships, what I call the grey ships, or U.S. Navy ships, the—I'm not going to mention the name. They were attacked by pirates. The pirates will evolve and learn to recognize that the grey ships are the ones they want to stay away from. And the pirates do not read the stern, and we don't fly a flag at sea. So as far as the flag the ship sails under, it is irrelevant because piracy is just a crime of opportunity, and that is what's going on here.

Senator RISCH. Thank you very much.

The CHAIRMAN. Thank you very much, Senator Risch.

Senator WICKER.

Senator WICKER. Captain, I didn't understand what you meant about the grey ships.

Captain PHILLIPS. The grey ships are the U.S. Navy ships, I mean, I think most of us here would recognize a Navy ship, and if we were pirates, we would stay away from them. But the pirates have actually attacked, not just U.S. Navy, but other countries' navy ships. But the pirates and their tactics are evolving and they are learning not to do that.

Senator WICKER. I see.

Captain PHILLIPS. My point was, they aren't picking out a flag. It's a crime of opportunity, and that's what they're going for.

Senator WICKER. OK. Did I just understand you to say that you don't fly a flag?

Captain PHILLIPS. At sea, we do not fly a flag. In port, we're required to fly a flag of the port we're in and the flag we have. But at sea, no, we do not fly a flag. You would end up spending thousands of dollars on flags if we did that.

Senator WICKER. Well, it might be worth it.

Captain PHILLIPS. That may be part of the comprehensive plan, but a very small part of it.

Senator WICKER. So when Mr. Clancey says of course pirates generally don't check the flag and origin of a ship before attacking, there's a reason for that because you can't tell the—

Captain PHILLIPS. I don't want to discount the evolution of piracy. We talk about evolving. I think there is going to be inside information made available to pirates from various people in ports, and certain ships could be targeted. I believe that will be the evolution of these pirates as they increase their abilities and intelligence.

Senator WICKER. Well, do you think they're less likely—if they could figure out which one is the American ship—do you think they're now less likely to attack that American ship?

Captain PHILLIPS. I think that the only thing that will stop them from attacking a ship is showing them that the ship is a hard target, and that's it.

Senator WICKER. Did the pirates speak English?

Captain PHILLIPS. They spoke a manner of English, yes.

Senator WICKER. Were you able to have a conversation with them about what their goals were?

Captain PHILLIPS. This is a pending investigation, so I can't divulge, but we had many conversations, yes.

Senator WICKER. I see. Well, would I be fair in making the assumption that they were hoping somebody would come along and pay them a bunch of money to release you?

Captain PHILLIPS. Yes; you would be. Yes. It's a business plan for them. It's a crime of opportunity. As the gentleman spoke up here—I think it was Senator Lugar—they can support towns. If you can feed people in that area of the world, you have an army.

Senator WICKER. So let me ask both of you—no, I think I'll ask Mr. Clancey.

Maersk has a bunch of ships?

Mr. CLANCEY. Yes, sir.

Senator WICKER. What percentage of the traffic does your company control worldwide?

Mr. CLANCEY. It's actually by segment. In the container shipping business, which is the largest part, we have about 13, 14 percent.

Senator WICKER. I see. How many companies, including major companies, are there like Maersk?

Mr. CLANCEY. Ten.

Senator WICKER. Ten? OK. I've had to come in and out, so I'm not sure that this has been addressed, but I don't think it has. Has anyone asked you your opinion yet today about the payment of ransoms and what effect that might have had over time in encouraging this practice?

Mr. CLANCEY. I think that the payment of ransoms has led to the sophistication of the pirates, probably increased the number of the pirates and their willingness to take larger risks.

Senator WICKER. What is the policy of Maersk in that regard?

Mr. CLANCEY. There was one instance with a tugboat where they captured a crew and guests, and they had it in Somalia. And we couldn't get it by land, and the only way to get the people back was to pay a ransom, and they did.

Senator WICKER. So one instance is the only one that you're aware of?

Mr. CLANCEY. Right.

Senator WICKER. Do other companies have a more liberal policy, or other countries have a more liberal policy?

Mr. CLANCEY. I don't think it's that specific. I think it's a case-by-case basis, and it's been all over the globe, in terms of who's paying and who's not. A lot of times, it's the case of the owner. Is the owner willing?

Senator WICKER. Is the owner of the cargo, or the owner of the shipping company?

Mr. CLANCEY. Owner of the ship.

Senator WICKER. Of the ship.

Mr. CLANCEY. That's who they negotiate with.

Senator WICKER. I see. So in your case, that would be your corporation.

Mr. CLANCEY. Correct.

Senator WICKER. So have there been—so there's only this one instance—

Mr. CLANCEY. A small, small boat.

Senator WICKER. [continuing]. In which Maersk has paid. And so in other instances where—I would have to assume this is not the first instance of piracy involving Maersk—what happened in those other instances?

Mr. CLANCEY. We evaded the pirates. There's only three other incidents.

Senator WICKER. I see. OK. And—and so really, you've only had to face that decision the one time?

Mr. CLANCEY. Once, and it was in the very beginning of this. It was, bingo, the ship was in port.

Senator WICKER. Yes. Well, I think you—I think, Mr. Chairman, the questions today sort of reflect a view on both sides of this table, on both sides of the aisle. There's got to be a solution out there, and the status quo is unacceptable to this panel. So to the extent that you've enlightened us with some information that might get us going in the right direction and show us some of the pitfalls in trying to address it, you've been very helpful to us. I, too, want to join the other Senators in thanking both of you, and also thanking the chairman for calling the hearing.

The CHAIRMAN. Thank you very much, Senator. Let me follow up with a few questions if I can.

The CHAIRMAN. On the issue of flying the flag, this area is apparently the single biggest pirating area on the planet; is that correct?

Mr. CLANCEY. Correct.

The CHAIRMAN. And while it covers a million square miles, it's really in the area here as you're approaching the Gulf of Aden, correct?

Mr. CLANCEY. Correct.

The CHAIRMAN. There are only three approaches to that fundamentally. You come up from Madagascar, the southern part of Africa, or you come up from Australia, straight over like that, or you come in out of the Mumbai/Karachi area, or around the cape here, the Persian Gulf, and come around, go up into the canal, ultimately.

Let me come back to the sea-lanes issue for a minute here. Isn't it possible to have a rendezvous spot outside of the reach of those small skiffs where you could come up with military cover, perhaps even in convoy? Has that been considered?

Mr. CLANCEY. There is a great deal of discussion about a corridor, like they have now, coming out of the Red Sea into the Gulf of Aden. And I think that there's a lot of promise in the idea of a corridor.

The CHAIRMAN. And it seems that we could cover that pretty effectively.

Mr. CLANCEY. Yes. And I think that our other maritime nations' navies would be willing to respond, but that's just my personal opinion. I have not certainly spoken to them.

The CHAIRMAN. Well, I think there ought to be some urgency to the effort internationally to pull people together. I know there's the task force, but, Captain, I know you're a brave soul, and maybe you're willing just to go at it again the same way, but are you going to be comfortable going out there again? Is this your wife here that I see behind you?

Captain PHILLIPS. This is my wife, Andrea.

The CHAIRMAN. She wants you to go out there again, exactly the way things were before?

Captain PHILLIPS. She's a good wife. She supports whatever my decision is.

The CHAIRMAN. And what's your decision?

Captain PHILLIPS. What's that?

The CHAIRMAN. You didn't even turn to consult with her. I couldn't get away with that.

Captain PHILLIPS. I will be going back to sea, yes. That's what I do.

The CHAIRMAN. OK. And with or without some changes that you want put in place?

Captain PHILLIPS. I expect and anticipate changes will be in place. I've received some information that they are working on it, as Mr. Clancey has talked about. And it behooves them and us to take the measures.

As I said, there's not one single aspect of this. It's got to be a cohesive, comprehensive plan with multiple facets. And to develop that plan, I think your job, and the job of the gentlemen here today, is to hear from other people, and not just myself.

As I've mentioned to a few committee aides, I have some names of much more articulate people than me that have more ideas. I've also received many ideas from other people in my mail and by telephone in the last few weeks, and although many of them have to be thrown out, we have to do things that are practical, capable, and truly efficient. But it can't be one solution. There's going to be a comprehensive—a multiple-faceted plan.

The CHAIRMAN. Well, I respect that enormously, and I couldn't agree with you more. And we welcome that input and those ideas, and we will follow up on it, because we want to exhaust the remedies here.

But it seems to me that if this is a concentrated area and you were coming through some shipping lanes, how many nights and how many days are we talking about once you enter the danger zone until you're through?

Captain PHILLIPS. Pretty much in the *Maersk Alabama*, we were in the zone the whole time of our transit. But as I said earlier, even in the GOA, the Gulf of Aden transit zone, which is already in place, and a convoy type situation is set up, they are still being attacked. Just not as much as before they set up the lanes. Because, again, the Suez Canal is at the end of the Red Sea.

The CHAIRMAN. I understand. But as of this moment—

Captain PHILLIPS. Yes.

The CHAIRMAN. [continuing]. They believe they can attack with relative impunity, if they get onto the ship or get in there.

Captain PHILLIPS. I think part of their business plan assumes that once they get on a ship, nobody's going to do anything.

The CHAIRMAN. Correct. And I think personally, that has to change. And my judgment is that for the period of time you're in that zone, it seems to me flying a flag, you're not going to go through all that many flags that it's so prohibitive that it isn't of value, particularly if they know that that particular flag carries with it a certain risk if they attempt to board.

It seems to me that we have it within our power and within our faculties of reasoning to be able to fairly rapidly come up with a means of safeguarding the ship's interests with respect to weapons at the same time that we safeguard these ships and their cargos and the vast expenditures of the military. That's a big expense too and it also carries risks.

With respect to the weapons, it seems to me that you are, as a captain, entrusted with a vessel's worth? How much is a vessel worth?

Mr. CLANCEY. Oh, anywhere from \$20 to \$60 million.

The CHAIRMAN. That's what I thought; \$20 to \$60 million, and how many members of the crew are there?

Captain PHILLIPS. On the *Maersk Alabama*, 20, and it varies on different ships.

The CHAIRMAN. Twenty members of the crew, and you're carrying how many millions of dollars of cargo on a particular vessel worth \$20 to \$60 million? In the multimillions?

Captain PHILLIPS. Yes.

The CHAIRMAN. So it seems to me that if you have one person as a skipper in charge of that ship, that value and the value of those lives, you can trust that captain with a key and a lock and an armory, which is what ships have. They have an armory. We keep weapons under lock and key, and it's the captain's order that breaks those weapons out when they are under attack or at risk.

It seems to me that that ought to be possible. A certain level of training ought to be possible. Obviously maybe your preference to have it be military people loaded on to an American-flag vessel before they go into the zone and they're taken off when they get out of it. That's one way to handle it. Another is you have a crew that goes through the whole way. But I certainly hope you will take our thoughts to that discussion that you're going to have, and we will weigh in with appropriate people accordingly.

But besides that particular issue, did your insurance company pay the ransom?

Captain PHILLIPS. I'm not familiar with it, because it was an affiliate. It was a tug-assist vessel that was helping in the oil fields. But I would take a guess that no, the insurance company did not.

The CHAIRMAN. OK. Is there anything else, Mr. Clancey, that you need from the government that would make a difference in this, in your judgment?

Mr. CLANCEY. I do think, because of the scope of the geography and just deterioration of certain economies around the world, that we do need an international resolution or an international agreement that deals with piracy. The prosecution, the penalties, the crime, what you can do and what you can't do. And I would think with the threat level increasing, that hopefully, that is doable. And that would be of great benefit to all the shipping—

The CHAIRMAN. Well, one of the things we're going to be considering here at some point in time is the Law of the Sea Convention, and the Law of the Sea Convention states that all states shall cooperate to the fullest possible extent in the repression of piracy on the High Seas or any other place outside the jurisdiction of any state.

It's my understanding that the U.S. Navy is currently operating in a manner consistent with the Law of the Sea Convention, even though we are not a party to it. Is that accurate, do you know?

Mr. CLANCEY. Yes, that is accurate, and we think that it would be a great benefit if we were a party to it.

The CHAIRMAN. Well, the two of us sitting here both believe that, and we hope before long that the Senate will deal with that issue.

Captain Phillips, again, you have our admiration and respect. We're, needless to say, thrilled that you're in good health, as is your crew, and your ship was protected, and we admire so much the way in which you conducted yourself. We hope you never have to go through that again, and we hope we can get some policies in place that ensure that.

Captain PHILLIPS. Well, I hope that's what this day started, and we'll soon end up with comprehensive and coordinated policies. And I just want to mention again, it wasn't just me on my ship. It was my crew, my chief mate, my chief engineer, first engineer, who were integral in the outcome of this.

And again, I can't say enough about the military. We need to support them. And they are at the point of the spear. We need to support them.

The CHAIRMAN. We all respect what they did enormously. And Shane Murphy, thank you again for being with us. Everything I said about the captain goes to you too. And we thank you for the way you conducted yourself.

So we're going to recess for 2 minutes while we switch the panel. And again, thank you very much, Captain, and Mr. Clancey. Thank you. It's very helpful.

Captain PHILLIPS. Thank you.

The CHAIRMAN. If we could bring in the next panel, that'd be terrific.

[Whereupon a recess was taken from 4:12 p.m. to 4:14 p.m.]

The CHAIRMAN. The hearing will come to order. Ambassador Mull, thank you very much for being here with us. We appreciate it. If you could summarize your testimony, then we'll follow up. Thanks.

**STATEMENT OF HON. STEPHEN D. MULL, SENIOR ADVISER TO
THE UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS
WITH OVERSIGHT RESPONSIBILITY FOR THE OFFICE OF
THE UNDER SECRETARY OF STATE FOR ARMS CONTROL
AND INTERNATIONAL SECURITY AFFAIRS AND ITS RELATED
STATE DEPARTMENT BUREAUS**

Mr. MULL. Absolutely. Thank you very much, Mr. Chairman and Senator Lugar. It's a pleasure to be here today to talk about this very urgent issue of national security.

It's an interesting thing about the problem of piracy. It's really linked to the preeminent and really the oldest interests, foreign interest that the United States has, that of freedom of the seas, and converges with the very real 21st century threat of—a very typical, asymmetric threat to our national security that the pirates pose.

Our goal on behalf of the government in approaching this problem is to reclaim the freedom of the seas from the pirates and to

build on that what we hope will be a permanent maritime security arrangement in the region so that this problem will be permanently dealt with. And we've adopted a number of tactics over the course of the past 6 months in pursuit of that goal.

We've worked very closely within the United Nations to pass a number of new U.N. Security Council resolutions with authorities, giving national states the right to take military action on the seas and on smaller territory, if necessary.

We've worked with our partners to substantially increase the number of ships that are deployed to the region, and we've worked with those ships to establish a maritime safety protective area, the so-called corridor that the last panel discussed. We've also simultaneously engaged with the problem of what do you do when you catch the pirates? And here, we've run into a problem of a patchwork of various national legal authorities and intents and policies on what to do with these pirates once you catch them.

Very early on in January, we signed an agreement with the Government of Kenya, at which they agreed to take pirates that we apprehend. They signed a similar agreement with the British Government and with the European Union. So now there are 52 pirates that are apprehended awaiting trial. They're in Kenya. We're in various stages of negotiation with other countries in the region, as well, to play a similar role.

We've also worked to engage with the industry, working through the Coast Guard and the Maritime Administration, to get more adherence to best practices that we've learned in these lessons that we've had over the past few months about some of the measures, both passive and active, that they can take for self-defense.

And, of course, this is all part of the much broader issue of Somalia. This is a symptom of the problem in Somalia that really requires urgent attention to be fixed. Now, in pursuing these tactics, we've achieved a number of successes. The number of interdictions—successful interdictions of pirates since January 1 of this year has been 15. In all of 2008, there were only eight, so we've almost doubled the number of successful interdictions.

There's also been—although there's been an increase in the number of attempted attacks, the number of successful attacks has actually dropped by nearly half in contrast to last year.

But we have to do more. The inflow of ransom very quickly translates into more sophisticated weapons, larger numbers of pirates who then only increase their attack. And in response to this growth in the threat, Secretary Clinton's identified a few more measures that we're taking in the process very urgently right now.

One, you may be familiar with the International Contact Group that we formed in January. The U.S. Government took the lead in forming that group. It's grown to now 28 governments and 6 international organizations that break into subgroups to look at all these different facets: The legal facet, the military coordination facet, the—and we hope soon the whole aspect of financial transfers of pirates.

We're going to be convening an emergency session of the contact group within a few weeks' time at New York. At that meeting, we're going to press for additional donations of military forces to the territory. We're going to work at redoubling our efforts right

now. Next week, there's going to be an effort—one of the subgroups that focuses on legal authorities is going to be meeting. We hope to build on that. Then at the contact group meeting later this month—

The CHAIRMAN. What's missing in the legal authorities?

Mr. MULL. Well, each country has—as you, Senator, pointed out earlier, the law of the sea, in fact, calls on all states to take action. But each state takes different policy decisions on how they're going to apply that. For example, let's say—there was one recent case in which one European Navy ship apprehended some pirates in the process of attacking a ship that was not flagged of that country and which had no nationals of that country on the ship.

The prosecutors in that country said, "Well, this wasn't in our waters. This isn't our nationals. This isn't our ship. Let's just let the pirates go." So we need to work with our partners to just convey just what you have said in your opening statements, that this is a problem requiring all of us to work together so that we aren't catching and releasing pirates, that we're delivering them either to Kenya or other countries, or to the victim states themselves. They have an obligation and a responsibility to take that—

The CHAIRMAN. Did that occur in international waters?

Mr. MULL. Pardon me?

The CHAIRMAN. Was that in international waters?

Mr. MULL. Yes, it was, sir.

The CHAIRMAN. Under international law, isn't an attack on a ship in international waters a crime?

Mr. MULL. Yes, it is. According to the Conventions, it is. But the decision to prosecute, to apprehend, is a national policy decision, much as the process we went through with the pirates that attacked the *Maersk Alabama*.

The CHAIRMAN. I interrupted you. I'm sorry.

Mr. MULL. Oh, no, sir. That leads me, actually, to my next point, that one of the challenges we face with the other members of this contact group is in convincing them that victim states really do have an important responsibility to carry out in bringing these pirates to justice.

Secretary Clinton also mentioned that we need to work harder to track the flow of assets that pirates get. There was more than \$30 million in ransoms paid to these pirates last year, and they're off to a mark—to exceed that mark this year if current trends continue. Of course, this is a hard thing to do. Most pirate assets are delivered in suitcases stuffed full of pounds or euros or dollars flung onto the decks of ships from helicopters, and then they go into the hawala system, and it gets very difficult to track.

But nevertheless, there are a number of measures that we're considering with the Treasury Department. I can't go into some of them in open session, but we're looking at it very carefully. And I think we'll have some practical measures that we can take with our partners.

And then finally, you discussed in the last session the whole problem—one of the root problems of this is the payment of ransoms. And we have to find a way to discourage the payment of ransoms. This isn't an easy question. When we first stood at the contact group and the diplomacy we were conducting in Europe, this

was very much at the top of our list with our European friends. The Europeans responded, "Look, for many of our businesses, this has become an acceptable business expense." And we're talking about human lives, and so none of the hostages had been executed by any pirates so far, and they're worried that by cutting off ransom, the pirates will respond by then taking action to kill hostages, which has not happened up until now.

Nevertheless, in the emergency contact group meeting, we're going to continue to press to see if we could at least put limits that all could voluntarily adhere to.

The CHAIRMAN. Mr. Mull, let me just give you a heads-up. We've got a vote that's begun, so we've got about 10 minutes.

Mr. MULL. All right. Why don't I just stop? That's really the end, the summary of my testimony.

[The prepared statement of Mr. Mull follows:]

PREPARED STATEMENT OF AMBASSADOR STEPHEN D. MULL, SENIOR ADVISER TO UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

Chairman Kerry, Ranking Member Senator Lugar, 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 U.S. 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 Programme, 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 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 nontraditional partners on counterpiracy 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 counterpiracy efforts into increased security cooperation in the maritime domain with nontraditional 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 American's 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.

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 counterpiracy missions, and the U.S. Navy created Combined Task Force 151 to focus U.S. naval forces on counterpiracy 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 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 counterpiracy 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 9 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 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 the Strait 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 U.N.-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 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 U.N. 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 Senator Lugar, 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.

The CHAIRMAN. Let me ask you this quickly, because I think we can get to the heart of this fairly quickly. First of all, when do we expect the impact of the changes that are currently being considered by the contact group? When would we expect those to take effect off the coast of Somalia?

Mr. MULL. Well, I think there's already been—and, in fact, in terms of reducing the number of successful attacks, in terms of the gross number of attacks, we hope—well, depending on how successful we are in getting more ships to agree to take these self-defense measures.

The CHAIRMAN. What about the recommendations you've heard us talking about? What's your reaction to the notion of either the sea-lanes or the convoys or the arming of the crews, the flying of the flag? What do you think about those?

Mr. MULL. Well, we believe the principle under girding all of that is this isn't just a problem for national or international militaries to solve. Individual shipping companies also have a responsibility for their own self-defense. That self-defense can consist of many different things. Passive sonic measures. It can consist of armed guards.

We're very persuaded by the arguments that many members of this committee have made, but there's a lot of opposition to it, as well, in the shipping industry. What we're in the process of doing right now between the Defense Department, the Transportation Department, and shipping industry is trying to forge a united U.S. position that we will then take to the contact group and try to get others to agree on the circumstances under which armed guards—

The CHAIRMAN. What's the most significant legal challenge that the United States and the international community face in terms of combating piracy?

Mr. MULL. The most significant legal challenge is convincing other countries to take the policy decision—the governments of victim states to take the policy decision to prosecute and if convicted, incarcerate pirates.

The CHAIRMAN. And are there particular countries that are more problematical than others on that list?

Mr. MULL. Yes. There are many countries in the region, for example—and Kenya, I mentioned, is a very positive example. They're willing to take all pirates that the world is willing to offer them. There are other countries in the region, however, who believe that this is a problem for the Western shipping industries, and they don't want to take responsibility for the expense of trying and

prosecuting pirates. We're working through our assistance programs with our partners—

The CHAIRMAN. How long do you think it'll take you to get something in place? The captain says he's going back to sea. You've got a lot of ships out there right now. What's the level of urgency that's being applied to this?

Mr. MULL. Well, it's very, very urgent, given the threat that this poses to all of us. So we did manage to conclude this agreement with Kenya within about 2 weeks. There are two other governments that we're in the process of negotiating with. I hope that we will have those concluded within the nearest future, but I can't predict when we'll succeed.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. You mentioned a moment ago that you believe that shipping companies have a responsibility, and we've discussed that with our first witness, of what kind of costs might be involved. And I gathered part of the reticence to adopt this still was the feeling that other countries would look amiss at this, ports of entry that know that there are armed persons on ships, or other countries that haven't adopted this.

But at the same time, is there a dialogue—I wouldn't say an argument—between owners of shipping companies and say the U.S. Government in terms of who is responsible and how the responsibility should be shared?

In other words, you've mentioned that they ought to take up certain responsibilities or costs, but at the same time, they're pushing back and indicating reticence to do this. Now, how do you perceive some resolution of this as a commonsense matter, to get back to the chairman's thought that we have ships at sea, the captain's about to go out again, and so forth?

Mr. MULL. Well, we are in the process, and this is being managed at a relatively senior level within the interagency of the government. We very firmly believe that we first and foremost must represent not only the U.S. Government's particular views, but U.S. industry, as well. And so we are in very intense consultations with industry. I believe those will be concluded within about a week. And then following that, we will take the united position. The government will decide the position based on the input and consultation, and we will take that to the contact group later in May and use that as a basis for persuading the other countries to agree.

Senator LUGAR. Well, that's a fairly tight timeframe that you point out.

Mr. MULL. Yes, sir.

Senator LUGAR. That's helpful to know. Now, the chairman also asked with regard to the Law of the Sea Treaty, is that helpful in terms of arriving at some type of international agreement or in any other definitions of the problem?

Mr. MULL. You mean U.S. ratification of it?

Senator LUGAR. Yes.

Mr. MULL. The Law of the Sea—in practice, we are—on these issues, we're already abiding by the Law of the Sea. And while the administration very supports as quick as possible ratification, whether it is ratified or not will probably not have an effect. The

biggest challenge for us is getting other victim states to shoulder their burden of prosecution.

Senator LUGAR. I see. Thank you, Mr. Chairman.

The CHAIRMAN. But we can't assert the Law of the Sea in any regard with respect to any country because we're not a party to it. So that is some handicap, is it not?

Mr. MULL. Yes, I would agree with that.

The CHAIRMAN. Even though we live by it. We live by it, but we can't assert it.

Mr. MULL. That's right. But we find that in our dealings with other governments, I mean, even though we have not ratified it, we all start from that operating assumption that it is in effect. But you're absolutely right. We cannot assert it from a legal point of view.

The CHAIRMAN. There is an Islamist group called al-Shabaab that is trying to exert control over Somalia and has been designated by the State Department as a terrorist group.

Mr. MULL. Yes.

The CHAIRMAN. Are there any signs of that group cooperating with al-Qaeda?

Mr. MULL. This is a question of vital interest to us that we monitor very closely with all of the available resources that we have. There have been some troubling rhetorical indications of possible elements within al-Shabaab trying to exploit pirate disaffection with the United States, in particular, since the rescue of Captain Phillips. However, we have not seen any information thus far indicating any operational coordination or any financial support between the two.

The CHAIRMAN. Do we know of any money from the ransoms going to al-Shabaab?

Mr. MULL. We have not seen any evidence of that. Many al-Shabaab leaders have, in fact, publicly criticized pirates as being un-Islamic.

The CHAIRMAN. OK. Well, we're not only going to leave the record open, we're going to let this hearing stay open for another 5, 10 minutes. I think Senator Feingold, who is the chairman of the subcommittee with jurisdiction in that area, is going to be here. So we're going to leave the hearing. If you don't mind sitting here, we'll just recess until Senator Feingold gets here. And if he doesn't get here, then we'll adjourn and close out in his absence. You could be here at 7 o'clock, right?

Mr. MULL. I'm at your disposal.

The CHAIRMAN. Say, "Well, I'm waiting for Senator Feingold." So if we could just recess momentarily. And I'll check when I go over the floor to vote. Thanks. I sure appreciate it. We stand in recess. [Whereupon a recess was taken from 4:30 p.m. to 4:41 p.m.]

Senator FEINGOLD [presiding]. Thank you, Mr. Mull, for being here. Sorry about the delay, but we did have a vote suddenly come up. And I just want to take an opportunity, obviously, to participate in this important hearing. Let me begin by saying how pleased I am that we're gathered here to discuss this important issue, and I want to thank our chairman for organizing the hearing.

For years, I've been expressing my concern about the growing problem of lawlessness in and around Somalia, and this problem finally hit home for all of us earlier this month with the attack of the *Maersk Alabama* and the capture of Capt. Richard Phillips after his courageous actions to ensure the safety of his crew.

I am grateful that our armed services, particularly members of the Navy and Navy SEAL teams, were able to rescue Captain Phillips, and that he came before the committee today to share his thoughts on how to make the ships on the high seas safer.

While the episode involving the *Maersk Alabama* was resolved, we're likely to see many more such episodes if we do not take immediate measures to address not only piracy, but the conditions on land that have made the waters off Somalia a haven for pirates.

A recent spike in piracy off the coast of Somalia is an outgrowth of the state collapse, lawlessness, and humanitarian crisis that have plagued the country for over a decade. Until we address those conditions, we will be relying on stopgap measures at best to stamp out piracy or stop the growing violent extremism in Somalia, which poses a direct threat to our own national security.

As Senator Kerry mentioned earlier, I plan to hold a hearing soon of the Africa Subcommittee that will look at the problem of piracy in the context of the broader challenges that we face in Somalia, such as the growth of al-Shabaab, a terrorist group, some of whose leaders have links to al-Qaeda.

In the long term, the best way to eliminate piracy and extremism in and around Somalia is to help establish stability, the rule of law, and functional inclusive governance there.

Nonetheless, there are intelligence capabilities, diplomatic measures, and security enhancements that can help us to combat piracy and protect maritime traffic and trade in the short term. And I'm glad that we have this opportunity to examine this today.

Ambassador, in Secretary Clinton's statement about steps that the State Department is taking to combat piracy off Somalia's coast, she mentioned exploring ways to track and freeze piracy assets. I want to ask how we might do this, but before I do so, I'd like to look at the larger question of whether we know who is behind the spike in piracy, who is benefiting, who is getting pay-offs, and how hostage ransoms are transferred.

Ambassador, obviously, we are in an unclassified setting. But in your assessment, do we have that intelligence? How critical is this type of information to enabling effective actions, whether sanctions or others, to combat piracy in the near term?

Mr. MULL. Thank you, Senator. In this setting, I can only go so far as to say that the picture is very murky indeed. The ransoms, which amounted to more than \$30 million in 2008 and if current trends continue this year, we're well on track to exceed that this year, and this, of course, is recycled back into the purchase of more sophisticated weaponry, building the pirate organizations to even more sophisticated organizations.

And part of the problem of tracking it is it's all paid in cash, in suitcases of euros and pounds and dollars dropped onto the decks of ships held hostage, and then very quickly are filtered through the cash handling systems, the hawala system that's popular in that part of the world, and it very quickly becomes difficult to track

where it goes. However, you can see the impact of it in the dramatic spike in attempted piracy attacks.

There are a number of measures that we can take. Again, I'm sorry, I can't go into it in this setting, but we'll be happy to work with our Treasury colleagues to brief you in another setting, on some of the measures that we think we will be able to take in terms of working with other financial centers in the region.

Senator FEINGOLD. I look forward to getting that opportunity. To determine which measures can be most effective in combating piracy, it's helpful to look at other regions where there has been success. As you know, just a few years ago, the combined forces of Malaysia and Indonesia and Singapore worked together to end a spike in piracy in the Malacca Strait. And when I was on a trip to Indonesia in 2006, I had a very good opportunity to discuss this issue in some detail with Admiral Fallon, who was then the Commander of Pacific Command.

While there are many differences between that case and the current situation in the Gulf of Aden, namely, stronger governments and a narrower waterway, in your view, what lessons can be drawn from successful efforts in the past to combat piracy, and is the ongoing interagency working group on piracy going to review those lessons?

Mr. MULL. The principal lesson is that as we experience every day in our diplomatic work on this, is that there is very broad consensus that this is a problem that challenges the whole world's security, and that on the basis of that consensus, we're able to accomplish a lot in terms of coming up with coordinated action.

The problem, however, is in capacity. And as you may have been briefed on your visits to Southeast Asia, those countries, especially Indonesia, which has come a long way in developing as a modern democracy in the past 10 years, has made important strides over the course of this decade in terms of developing the capacity to get the intelligence and surveillance assets in the region to work with Singapore and Malaysia and Brunei in monitoring the Malacca Strait.

Somalia, of course, fits the definition of most people as a failed state, does not have the capacity, and there it is, right at the crossroads of the whole problem. However, our long-term strategic goal—the contact group that we've pulled together to monitor this problem has 28 countries in it. It's probably going to grow to more than 30. There are six international organizations.

That's a lot of potential that we can work with with the countries in the region, as well as donor states. We have some unlikely partners, military partners, in this effort. China, very much interested in playing a broader role. And the interest of all of these normally competing states really offers a great opportunity to build a consortium that could systemize security assistance, capacity-building, and improving the capabilities of the coast guards of these states, and, of course, addressing the broader problem of Somalia that you mentioned yourself.

Senator FEINGOLD. In that spirit, from these past cases, it seems very clear that it was imperative to work with governments in the region to enhance their law enforcement and judicial capabilities. In our current efforts to combat piracy off Somalia's coast, in your

view, what opportunities exist for the building of Somalia's transitional government and regional Puntland government, and also, to what extent are we engaging with other governments in the region, including countries like Yemen and Djibouti?

Mr. MULL. Our engagement ranges across the whole number of spheres. First, in the legal area, one of the challenges that we were discussing earlier in the hearing is figuring out what to do with pirates when we catch them. With this growing naval force in the region, what to do with them? We've signed an agreement with Kenya. The European Union has, as well, and the European Union in particular is providing a lot of capacity-building to the Kenyan judicial sector so that they can play more and more of an active role in doing these prosecutions.

We are, of course, in discussions with other countries in the region to work out similar arrangements. I hope that we'll succeed on those very soon. In Yemen and in Djibouti, we believe that Yemen in particular has shown a real interest in playing a role. In fact, their coast guard was involved just in the past week in terms of stopping an attempt at piracy hijacking close to its territorial waters. But it needs a lot more assistance. And we're studying right now with the Defense Department ways that we can build the capacity of the Yemeni Coast Guard to make it a more effective partner.

Djibouti, of course, is the home of the Combined Joint Task Force, and we, I think, have made great progress with them, but it's a much smaller country with fewer forces to work with.

Senator FEINGOLD. And given the administration's stated commitment to combat piracy and the recent statements by national security leaders expressing concern that al-Qaeda is trying to gain new footholds in Somalia, don't we need a more serious and sustained diplomatic effort in the region? And to that end, do you think it makes sense to appoint a senior envoy for the Horn of Africa with full-time staff and adequate resources?

Mr. MULL. Well, I don't know what my personal view on that is. My competency isn't in African politics. I'll be happy to take that question back, and look forward to having the appropriate officials address that in your hearing on—

Senator FEINGOLD. Yes, sir. Thank you very much for your help, and thank all the panelists today. That concludes the hearing.

Mr. MULL. Thank you, sir.

[Whereupon, at 4:49 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF AMBASSADOR STEPHEN MULL TO QUESTIONS SUBMITTED FOR THE RECORD BY SENATOR RICHARD LUGAR

Question. I understand the Horn of Africa strategy is under review. When will it be completed? Does it promote new solutions to the challenges ashore in Somalia, including the regions of Puntland and Somaliland?

Answer. The Horn of Africa faces numerous and complex challenges, and the situation in the region is a significant priority for our national security. To achieve our foreign policy goals in the region, the Department believes that the United States must implement a comprehensive strategy that involves all elements of the United States Government. The National Security Council has brought together the Department of State, the Department of Defense, USAID, the intelligence community, and

a variety of other agencies to work to develop a Somalia strategy that is both comprehensive and sustainable, and this strategy review is being conducted within a regional framework, as Somalia's challenges are intertwined with other conflicts and issues throughout the Horn of Africa. This process is underway, and the Department will brief and consult with Congress as it unfolds.

In taking a comprehensive approach, we will ensure we work with governments in the region and the international community to address instability, terrorism, humanitarian, and governance challenges. In particular, we recognize that terror threats to U.S. interests are exacerbated by insecure, poorly governed areas. All of these goals are mutually reinforcing, and all must be simultaneously addressed. We will also look at how we can strengthen our engagement with those seeking to improve security and stability in Somalia, including regional authorities in Somaliland and Puntland.

Question. What international efforts ashore can we support that may help reduce the sanctuary ashore, establish viable livelihoods and establish the rule of law? What are the roadblocks? Are nations backing fully relevant UNSCRs? Are additional resolutions necessary?

Answer. The key to long-term peace and stability in Somalia lies in the establishment of effective governance based on a process of inclusive political dialogue and reconciliation between the Transitional Federal Government (TFG) and other moderates, and on achieving a successful conclusion to the transitional process through the drafting of a constitution and fair and transparent elections by the end of 2011. The United States is supporting these efforts through the Djibouti peace process and the provision of significant political, economic, development, and humanitarian assistance to Somalia. Security must improve in order for political stability to take hold, for large-scale economic development to become possible, and for the dire humanitarian situation to turn the corner to recovery. To this end, the United States is supporting the deployment of the African Union Mission in Somalia (AMISOM) and the development of the TFG's security institutions, including the National Security Force, Somalia Police Force and National Security Committee.

The international community is fully behind the relevant UNSCRs, as demonstrated by the unanimous adoption of four counterpiracy resolutions in the last year. At present, we believe we have all the authorities required to take the actions we deem necessary and prudent. However, in the future if we believe additional legal authorities are necessary or there is a need to renew existing authorities, we will not hesitate to seek new resolutions from the Security Council.

Question. Anyone familiar with Navy history has heard of the daring exploits of young Navy lieutenant, Stephen Decatur, in Tripoli Harbor in 1804. His bold mission, the Mediterranean squadron's vigorous prosecution of hostilities, and a shore invasion led to victory, restoration of peace and brought an end to tribute payments by the United States to the Barbary states. I bring this up because some may have suggested land attack at private sanctuaries ashore is needed to bring these activities under control. What is the administration's view of this suggestion?

Answer. While combating piracy on the Barbary Coast focused on the use of military force ashore and at sea, ending piracy off Somalia requires addressing stability issues ashore, including ensuring the establishment of state authority in Somalia. We sought and won in UNSCR 1851 the authority to take action in Somali territory, but given the political and military risks of such operations, we believe the current approach of enhanced and coordinated international military presence on the sea, along with improved self-defense measures by shipping, is our preferred method of dealing with the problem at present. If that changes in the future, we will have the authority to act as necessary. We are discussing piracy with national and regional leaders in Somalia and working with them to combat pirates operating from within their territory. We strongly believe that improving the security situation on land is the key to resolving piracy in this region.

Question. As the administration's spokesman here, what new consensus is being drawn on counterpiracy? Has the administration determined that halting piracy in this region is a national security priority? What cost-benefit analysis have you conducted on this problem set?

Answer. There is strong international consensus that piracy off the coast of Somalia is a shared threat that demands concerted and coordinated action. This administration strongly believes that halting piracy in this region is a priority and is seeking ways to apply attention and resources to the problem without detracting from equally urgent efforts in the region. From a political perspective, we are firmly committed to containing and eventually defeating piracy in this region. We will continue to encourage political support for a continued multinational naval presence in areas

off the coast of Somalia. The areas in which we most urgently require action are improving merchant ship self-protection, national policies that support pirate detention and prosecution, willingness of affected states to accept responsibility to prosecute piracy in their domestic courts, and the adoption of No Concessions policies. We are also pursuing the use of financial levers against the financiers of pirate operations and pirate leaders.

With respect to cost/benefit analysis, while we defer to DOD on accounting for costs of U.S. military operations in the region, it is probably not possible to calculate the costs of American inaction on this issue. The rising tide of ransoms will encourage even more piracy; shipping costs will rise as shipping moves to other less efficient routes; and insurance costs will continue to increase as shipping security is seen to diminish. The human costs of hostage taking will continue to mount. We risk the development of connections forming between pirates and terrorists. And not least, we risk damage to our standing as the world's leading maritime power, and therefore to other broader U.S. interests, if we do not assume a strong leadership role in combating piracy and lawlessness on the high seas.

Question. Are counterpiracy EXORDs up to date and sufficient for the current situation? What is the total cost of our participation in the Maritime operations in the Somalia region?

Answer. State will defer to DOD to respond to these questions.

Question. How are the trials in Kenya progressing? What would you estimate is the monetary cost of that evolution to the U.S. taxpayer (capture, transport, care, support, etc.)?

Answer. We understand that the trial of seven suspected pirates delivered by U.S. naval forces to Kenya on March 5 is scheduled to begin in July. However, with a total of seven cases and more than 60 suspected pirates in custody, including an appeal of a 2006 case, the Kenyan system is nearing its limits in prosecutorial capacity and infrastructure. It is critical that more affected states begin to step up and take responsibility to prosecute suspected pirates. The Government of Kenya is currently bearing the costs of detaining and caring for these suspects. We defer to DOD for estimates of the costs associated with capturing and transporting suspected pirates.

