U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

February 4, 2009

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Coast Guard and Maritime Transportation

FROM: Subcommittee on Coast Guard and Maritime Transportation Staff

SUBJECT: International Piracy on the High Seas

PURPOSE OF THE HEARING

The Subcommittee on Coast Guard and Maritime Transportation will convene at 2:00 p.m., on Wednesday, February 4, 2009, in Room 2167 of the Rayburn House Office Building to receive testimony regarding international piracy.

The purpose of this hearing is to gather information on the causes and extent of piracy and to understand its effect on international shipping. To date, no U.S.-flagged vessels have been attacked or seized by pirates. However, the expansion of international piracy – particularly in the Horn of Africa region – threatens to raise the costs of transporting goods through that highly traveled region at a time of significant distress in the world economy.

BACKGROUND

WHAT IS PIRACY?

The United Nations Convention on the Law of the Sea (UNCLOS) defines "Piracy" and:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Additionally, UNCLOS defines armed robbery against ships as "any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of 'piracy' directed against a ship or against persons or property on board such ship, within a State's jurisdiction over such offences."[1]

Though the United States is not a party to UNCLOS, the definition of piracy provided by UNCLOS is also used in the President's June 14, 2007 Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea, and the 1958 Convention on the High Seas, to which the United States is a party.

The International Maritime Bureau (IMB), a non-profit organization that is acting as a focal point in the fight against maritime crime, was established in 1981 by the International Chamber of Commerce. It defines "piracy" broadly as "an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in furtherance of that act."

HISTORY OF PIRACY

Pirates have been attacking ships at sea throughout history. Many pirates were at various times in their careers "privateers" who had been authorized by their national government to attack and pillage the ships of enemy nations. In some cases, merchant or naval seamen joined pirate vessels seeking a share of seized goods. There were, however, significant risks associated with the decision to become a pirate: the standard punishment for individuals caught engaging in acts of piracy was typically death.

Among the most famous pirates in history were the Barbary Corsairs, also known as the Barbary pirates, who conducted pirate operations from bases along the northern coast of Africa from the early 1500s through the early 1800s. These pirates typically held captured crews for ransom; however, they also sold some captured sailors into slavery.

After winning independence from Great Britain in the Revolutionary war, the United States began paying tribute to the Barbary states to protect U.S. shipping interests (as many other nations did at that time). Despite these payments, Barbary pirates began seizing U.S. ships and the U.S. eventually began paying cash and goods to ransom sailors. Some sources estimate that total U.S. payments to the Barbary pirates may have required nearly a quarter of total national revenues by 1800.

[1] 1982 United Nations Convention on the Law of the Sea

Upon becoming President of the United States in 1801, Thomas Jefferson refused to deal with the Barbary pirates, leading to the outbreak of the first of two wars between the United States and Barbary powers between 1801 and 1815. The Barbary pirates were not fully suppressed until after the 1830s, when northern Africa began to be colonized by foreign states.

Privateering was made an international crime in 1856 with the signing of the Declaration of Paris. Signatories to this Declaration agreed to ban letters of marque (which were essentially commissions issued by governments to private merchant vessels authorizing them to seize the ships of enemy nations)[2], outlaw privateering, and authorize the navies of each country to enforce the Declaration. Advances in maritime technology – including the introduction of steam and subsequent systems of propulsion – also served to limit the reach of pirates.

Nonetheless, as this hearing will examine, piracy has never been completely eliminated. At the present time, most acts of piracy occur in the Horn of Africa region (originating from Somalia) and, to a lesser extent, off the coast of Nigeria, and in the Straits of Malacca and the waters around Indonesia and Malaysia.

MODERN PIRACY

The International Chamber of Commerce's International Maritime Bureau's Piracy Reporting Center (IMB PRC) reported that a total of 293 incidents of piracy and armed robbery occurred worldwide in 2008. In that year, 49 vessels were hijacked, leaving 889 crewmembers hostage to pirates. The charts below detail recorded incidents of piracy between 2003 and 2008.

Actual and Attempted Pirate Attacks – 2003-2008

Location	2003	2004	2005	2006	2007	2008
SE Asia						
Indonesia	121	94	79	50	43	28
Malacca Straits	28	38	12	11	7	2
Malaysia	5	9	3	10	9	10

[2] Article 1, Section 8 of the United States Constitution authorizes the United States Congress to grant letters of marque and reprisal. It also authorizes the Congress to "define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations."

Philippines	12	4	-	6	6	7
Vietnam	15	4	10	3	5	11
Bangladesh	58	17	21	47	15	12
Africa						
Gulf of Aden	18	8	10	10	13	92
Nigeria	39	28	16	12	42	40
Somalia	3	2	35	10	31	19
Ghana	3	5	3	3	1	7
South America						
Peru	7	5	6	9	6	5
Colombia	10	5	2	2	-	1
Jamaica	5	7	8	3	1	-
Venezuela	13	7	2	4	1	3
Worldwide Other	108	96	69	59	83	56
Total	445	329	276	239	263	293

Source: International Maritime Bureau

Types of Violence to Crewmembers in Pirate Incidents – 2003-2008

Types of violence	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**
Taken Hostage/ Kidnap/ransom	359	234	453	265	355	931
Crew threatened	65	34	14	17	6	9
Crew assaulted	40	12	6	2	29	7
Crew injured	88	59	24	15	35	32
Crew killed	21	32	-	15	5	11
Missing	71	30	12	3	3	21
Total	**644**	**401**	**509**	**317**	**433**	**1,011**

Source: International Maritime Bureau

The chart below shows the types of vessels that were attacked by pirates in 2008.

Types of Vessels Attacked by Pirates in 2008

Vessel Types	**Incidents**
Container	49
Bulk Carrier	48
Chemical Tanker	39
General Cargo	38

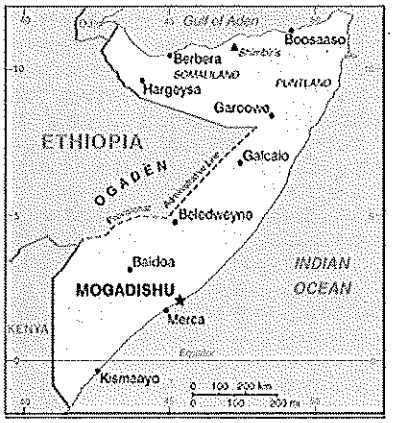
Tanker	30
Tug	16
Product Tanker	16
Fishing Vessel	9
Yacht	9
LPG Tanker	6
Passenger Ship	3
Roll-on/Roll-off	1
Offshore Support Vessel	1
Other	28
Total	293

Source: International Maritime Bureau

Importantly, pirate attacks affect many different parties, including the flag state of the vessel that is attacked, the states of nationality of the crew members aboard the attacked vessel, the state from which the pirates originate, the state in whose waters (if any) the attack occurs, the states of the ship and cargo owners, and the states for which cargo on attacked vessels is destined. In addition to their immediate impacts on the vessels, individuals, and cargo involved in an attack, sustained episodes of piracy can affect international shipping rates (by leading to the diversion of cargoes to other shipping lanes) and lead to increases in insurance rates. Further, they can isolate those states from which the piracy is originating if vessels refuse to make port calls in those nations.

Piracy in the Horn of Africa Region

The area currently experiencing the most sustained incidences of piratical activity is the Horn of Africa, where piracy originates predominantly from Somalia. Somalia's coast extends 2,300 miles in both the Gulf of Aden and the Indian Ocean; this coast opens pirates into an area of ocean that exceeds 2.5 million square miles.[3] In general terms, the number of piracy incidents in the Horn of Africa are increasing, the range of miles offshore in which the pirates attack is expanding, and attacks against ships and crewmembers appear to be increasingly aggressive.



[3] U.S. National Security Council, *Countering Piracy Off the Horn of Africa; Partnership & Action Plan,* December 2008.

Somalia is a country that has been plagued by decades of civil violence. Central government control of the country effectively ended in 1991, creating a humanitarian crisis. In late 1991, the United States became involved in delivering humanitarian aid to Somalia. In December 1992, as the situation on the ground continued to destabilize, the U.S. deployed military forces to Somalia as part of OPERATION RESTORE HOPE. In October 1993, U.S. forces became involved in an intense urban battle in Mogadishu after a U.S. Army Black Hawk helicopter was downed by forces loyal to a Somali warlord. By early 1994, U.S troops were withdrawn from the country.[4]

According to the Central Intelligence Agency's (CIA) World Fact Book, between 1994 and the present, local regions in Somalia have been controlled by a variety of clan factions and warlords. In 2006, an Islamist militia called the Somali Islamic Courts Council seized control of the south of the country. In response to the Council's advance, troops from Ethiopia invaded Somalia and pushed many of the Islamic Courts forces out of the country. Ethiopian troops remained in Somalia until January 2009, when the last Ethiopian troops were reported to have withdrawn from the country.[5]

The current political situation in Somalia is difficult to assess as numerous factions appear to be continuing on-going struggles for control of (different regions in) the country. On January 31, the *New York Times* reported that the Transitional Somali parliament, meeting in Djibouti, elected Sheik Sharif Sheik Ahmed as President. However, given that the paper reports that the Transitional Government controls "only a few city blocks in Somalia," it unclear how effective his leadership will be unless military factions are somehow united behind him.[6] The *Times* also reports that this is the Transitional Government's 14th attempt to form a formal governance structure.[7] Among the many forces aligned against the Transitional Government is an Islamist faction called Al-Shabaab, which is reportedly seizing parts of the country, including most recently the town of Baidoa.[8]

While social indicators are difficult to measure in Somalia with any precision, the CIA reports that approximately 40 percent of Somalis live in extreme poverty and that life expectancy in the country is less than 50. Agriculture is Somalia's most important (legitimate) economic sector, with the raising of livestock accounting for roughly 40 percent of the country's Gross Domestic Product.

Piracy originating in Somalia has increased in recent years as conditions on land have continued to deteriorate. In 2008, the IMB PRC reported a combined total of 111 pirate attacks in the Gulf of Aden and the Indian Ocean originating from Somalia – an increase of 200 percent above the number of incidents reported in 2007.

Most of the attacks conducted by Somali pirates are aimed at ships transiting the Gulf of Aden, which is the shortest route between Asia and Europe. It is estimated that between 16,000 and

---

[4] U.S. Army Center of Military History, *The United States Army in Somalia, 1992-1994*, CMH Publication 70-81-1.
[5] "Troop pull-out leaves government on brink," Steve Bloomfield, *Sunday Herald*, February 2, 2009. <http://www.sundayherald.com/international/shinternational/display.var.2459722.0.troop_pullout_leaves_government_on_brink.php>
[6] "Somalis Cheer Moderate President," Jeffrey Gettleman and Mohamed Ibrahim, *The New York Times*, January 31, 2009.
[7] Ibid.
[8] Ibid.

20,000 ships pass through the Gulf of Aden on an annual basis, including tanker ships moving approximately 12 percent of world petroleum shipments.[9]

The rise of piratical activity in the Gulf of Aden has significantly increased insurance premiums for ships transiting that region. "War risk" insurance premiums, which cover damages to ships resulting from such incidents as acts of war and insurrection and which have risen in cost tenfold in the past year, may eventually be required for ships transiting the Gulf. If the cost of insurance for transits of the Gulf of Aden becomes too expensive, or the danger of transiting the Gulf is perceived to be too great, shipping companies may avoid the Gulf and take the longer route to Europe and North America around the Cape of Good Hope – a route that extends travel times and increases fuel consumption, which would have the effect of increasing the cost of transporting goods during a time of economic slowdown.

Piracy in the Horn of Africa is having an effect on shipping prices. On January 1, 2009, CMA CGM, the world's third largest container shipping company, introduced a $23 per twenty-foot equivalency unit (TEU) "Aden Gulf Surcharge" on all containers it moves through the Gulf of Aden. The company indicates the surcharge is meant to offset increased insurance premiums and other costs associated with the prevailing risks of piracy in the area.[10]

How Somali Pirates Operate

To this point, the aim of Somali pirates has been to hijack vessels and hold crew members as hostages for ransom.[11] Somali pirates appear to have little interest in or opportunity to steal cargos or vessels for re-sale. Thus, of 49 vessel hijackings worldwide in 2008, 42 were hijacked by Somali pirates, who took a total of 815 crewmembers hostage. As of December 31, 2008, Somali pirates were presumed to be holding13 vessels and 242 crewmembers as hostages for ransom.[12] The National Security Council indicates that hostage ransoms paid to Somali pirates typically range from $500,000 to as much as $2 million, and that pirates may have received as much as $30 million in ransom proceeds in 2008.[13] According to the IMB, in 2008, four crew members died as a direct/indirect result of a Somali pirate attack, two crew members were injured, and 14 crew members are missing and presumed dead.[14] Those held hostage by Somali pirates often report that they are generally well-treated physically but experience significant psychological trauma.

Somali pirates typically launch from onshore bases along Somalia's Indian Ocean coast and from the Puntland along the country's northeast coast in small skiffs powered by outboard engines. The pirates are usually armed with automatic weapons and rocket-propelled grenade launchers and generally attack vessels in multiple small bands from multiple directions. Once an attack begins, it can typically be completed in under 20 minutes, giving a vessel limited time to respond to an attack or to receive assistance from outside forces.

---

[9] U. S. National Security Council, *Countering Piracy Off the Horn of Africa: Partnership & Action Plan,* December 2008.
[10] CMA CGM Press Release on Aden Gulf Surcharge, December 17, 2008.
[11] ICC International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report, January 1-December 31, 2008.
[12] Ibid.
[13] U.S. National Security Council, *Countering Piracy Off the Horn of Africa; Partnership & Action Plan,* December 2008.
[14] ICC International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report, January 1-December 31, 2008.

Somali pirates have been increasing the range of their operations from the near shore area and now appear capable of operating up to 450 miles or further offshore.[15] The expanse in the range of piratical activity is attributed to the pirates' increasing use of "mother ships" from which activities can be coordinated.

Somali pirates typically target vessels that are traveling "low" and "slow" – meaning vessels that have less than 6 meters of freeboard (the distance from the water line to the deck of the ship) traveling under 15 nautical miles per hour. Somali pirates have never seized a vessel at night. Further, although the largest numbers of attacks have been directed against containerships, pirates are typically not successful in hijacking these vessels due to their high freeboards and high speeds. Product tankers and personal yachts – and those vessels with inadequate watch-keeping arrangements – are considered to be the most vulnerable to pirate attacks.

In one of the most highly publicized recent attacks, pirates seized the Saudi oil tanker *Sirius Star* on November 15, 2008. Many aspects of this attack differed from "ordinary" Somali pirate attacks. The *Sirius Star* is a large super tanker more than 300 meters long. It was fully loaded with an oil cargo estimated to be worth $100 million at the time it was seized some 450 miles off the coast of Kenya in the Indian Ocean; at the time of its seizure, the *Sirius Star* was headed south toward the Cape of Good Hope. The 25 members of the *Sirius Star's* crew were taken hostage and an initial demand for $25 million was made by the pirates. In January 2009, a ransom payment reported to have totaled approximately $3 million was paid for the release of the vessel and its crew; the ransom was parachuted onto the deck of the vessel. After receiving their ransom, the eight pirates holding the *Sirius Star* fled in a small boat and were subsequently chased by other pirates; during the chase, the pirates (and their ransom) capsized and at least five pirates drowned.[16]

More recently, on January 29, 2009, it was reported that pirates had seized the *Longchamp,* a German liquefied petroleum gas (LPG) carrier, in the Gulf of Aden even as it was being escorted by a naval convoy.

The best defense against pirate attacks in the Horn of Africa region appears to be the employment of relatively unsophisticated countermeasures, including the completion of transits at night, the use of fire hoses to spray water along the sides of vessels, the assembly of crews into secure safe areas, the use of barbed wire and other devices that make it difficult to scale the sides of a vessel, and frequent course changes. In some cases, vessels under imminent threat of attack have utilized evasive maneuvers to escape pirates.

The international maritime community has not reached clear consensus regarding whether private security guards should be carried on vessels transiting the Horn of Africa region. The IMB has stated "A private armed response does not solve the problem. All it does is displace it to the target not so well protected. It will certainly lead to an escalation in the arms carried by the pirates. The inevitable result will be security becoming the preserve of a few who can afford it whilst most

[15] Ibid.

[16] "Pirates on the Sirius Star drown with $3 million ransom," *The Herald Sun,* January 11, 2009, <http://www.news.com.au/heraldsun/story/0,21985,24898242-663,00.html>

other vessels go defenseless in the even more dangerous waters . . . there is little be gained and much to lose from having private armed security on board a few vessels transiting this high risk area".[17]

A number of non-lethal devices are available that ships can use to try to deter pirates, including satellite tracking equipment featuring silent alarms that can be used to notify external parties (such as ship owners) of an attack, systems that will electrify a hull, and long-range acoustic devices that can focus sound waves at decibels painful to humans toward specific targets. An acoustic device was used in November 2005 by the luxury cruise ship *Seabourn Spirit* to repel a pirate attack. Some shipping companies are concerned, however, that the use of non-lethal weapons to deter pirates provides inadequate protection for crew members who may be facing individuals armed with automatic weapons and rocket-propelled grenade launchers.

In general, most vessel flag states do not allow arms to be carried on board their merchant vessels. Merchant vessels traditionally have the right to innocent passage through the territorial waters of a coastal state based on the premise that they are unarmed and pose no threat to the coastal states or to other vessels in the area.

International Response to Piracy in the Horn of Africa

The international community has undertaken several coordinated efforts to combat piracy in the Horn of Africa.

ATALANTA

The UNCLOS adopted on December 10, 1982, sets the legal framework that governs the effort to combat piracy, armed robbery at sea, and other criminal activity in the maritime domain. The United Nations has also released a number of recent resolutions concerning the situation in Somalia, including Resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1844 (2008), and 1846 (2008).

On December 16, 2008, the Council adopted the United States-led resolution 1851 (2008), which calls on those states and organizations that are able to do so to actively participate in defeating piracy and armed robbery off Somalia's coast by deploying naval vessels and military aircraft. The resolution authorizes nations to attack pirates on land within Somalia and to "take all necessary measures that are appropriate in Somalia" to suppress "acts of piracy and armed robbery at sea."

On September 12, 2008, the European Union established a Naval Force (EUNAVFOR) Anti Piracy Operation off the coast of Somalia named Operation ATALANTA, which reached its initial operational capability on December 13, 2008. The operation was established to support the United Nations Security Council (UNSC) Resolutions 1814, 1816, 1838, and 1846, among others.

ATALANTA is headquartered in Northwood, United Kingdom, and commanded by Rear Admiral Phillip Jones of the United Kingdom. Its operational capability is to be provided by a force of up to six ships and three maritime patrol aircraft from various participating countries; during its first four months of operation, the participating countries are to include the United Kingdom, France, Greece, Spain, and Germany.

---

[17] ICC International Maritime Bureau Piracy and Armed Robbery Against Ships Annual Report January 1-December 31, 2008.

Among its specific missions, ATALANTA is protecting the vessels of the World Food Programme (WFP) that deliver food aid to Somalia; protecting vulnerable vessels cruising off the Somali coast; and acting to deter, prevent and repress acts of piracy and armed robbery off the Somali coast as needed. As of January 16, 2009, ATALANTA had escorted five WFP ships and it is expected that by the end of January, it will have escorted up to 10 vessels, which will have delivered enough food aid to feed one million people.[18]

Two weeks after Operation ATALANTA was initiated, it undertook its first action to interrupt an act of piracy. As a member of ATALANTA, the German frigate *FDS Karlsruhe* assisted the Egyptian bulk carrier *M/V Wadi Al-Arab* when that vessel made an emergency call for assistance after coming under attack. The *FDS Karlsruhe* launched a helicopter that fired warning shots to deter the attack and the attack was abandoned, albeit a crewmember on board the *Wadi Al-Arab* was injured by gunfire. The *Karlsruhe* then succeeded in capturing and disarming six pirates, who were subsequently released following orders from the German government.

Combined Task Force 151 (CTF-151)

There are more than 20 nations – including the United States, United Kingdom, France, the Netherlands, Pakistan, Canada and Denmark – that have naval forces in the broader Horn of Africa/Arabian Gulf/Indian Ocean region. The forces, known as the Combined Maritime Forces (CMF), patrol the region to combat terrorism, interdict illegal drugs and migrants, and ensure maritime security.

The CMF has created several task forces directed to carry out specific types of missions. For example, task force CTF 150, created at the beginning of OPERATION ENDURING FREEDOM in Iraq, has as its mission the deterrence of drug and weapons trafficking in the Gulf of Aden, Gulf of Oman, the Arbian Sea, the Red Sea, and the Indian Ocean. In August 2008, CMF created a Maritime Security Patrol Area (MSPA) in the Gulf of Aden intended to thwart piracy. As forces from CTF 150 became increasingly engaged in combating piracy, the CMF created task force CTF 151 in January 2009 and assigned the task force to fight piracy.

U.S. Navy Rear Admiral Terence McKnight has been named the commander of CTF 151 and the *USS San Antonio* (LPD-17), an amphibious transport dock, was designated as the flagship of the task force. Members of Coast Guard Law Enforcement Detachment (LEDET) 405 are currently deployed on board the *San Antonio* to serve as boarding forces and to provide training on law enforcement activities, including the preparation of evidence packages and the handling of suspects taken into custody.

National Security Council Piracy Plan

In December 2008, the United States National Security Council published *Countering Piracy off the Horn of Africa: Partnership & Action Plan*, which outlines the strategies the U.S. will pursue to repress piracy. The *Plan* directs three "lines of action," which are summarized below.

---

[18] Website of the Council of the European Union;
<http://consilium.europa.eu/cms3_fo/showPage.asp?id=1567&lang=EN>

- **Prevent pirate attacks by reducing the vulnerability of the maritime domain:** The Commander, U.S. Naval Central Command established the Maritime Security Patrol Area in the Gulf of Aden in August 2008. This area will be patrolled by combined maritime forces, with whom, to the extent permitted, the U.S. will share relevant intelligence. The *Plan* also indicates that the U.S. will establish a "Contact Group" of countries willing to work together to coordinate responses to piracy. Further, the *Plan* encourages ships to update their Ships' Security Assessment and Security Plans in keeping with the International Ship and Port Facility Code (ISPS) to incorporate those actions (such as increasing speed, employing non-lethal measures, and engaging third-party security where appropriate) into their plans that will enable them to offer the best defense against pirate attacks.

- **Interrupt acts of piracy:** The *Plan* indicates that the U.S. and cooperating nations will conduct anti-piracy operations to interdict pirate vessels and, where possible, to intervene in acts of piracy. The *Plan* also supports the disruption of pirate bases in Somalia and, to the extent possible, the disruption of pirate revenue.

- **Hold pirates accountable by prosecuting them for their crimes:** The *Plan* notes that "Somali-based piracy is flourishing because it is currently highly profitable and nearly consequence-free." Thus, establishing the capacity to capture and prosecute pirates is essential to combating piracy; to that end, the *Plan* supports the development of agreements and arrangements with states in Africa and around the world that will allow pirates to be captured, held in custody, and prosecuted. The *Plan* anticipates that some actions will be conducted under the provisions of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), adopted in 1988, which provides a framework under which those suspected of piracy may be rendered to coastal states that are parties to the Convention.

Maritime Security Centre–Horn of Africa

In September 2008, the European Union established the Maritime Security Centre (Horn of Africa) (MSCHOA) in support of the UN Security Council's Resolutions 1814, 1816 and 1838 and as part of a European Security and Defense Policy directive. MSCHOA is a Coordination Center operated by the European Union Naval Force (EUNAVFOR) tasked with preventing and deterring acts of piracy against merchant shipping operating in the Horn of Africa region.

MSCHOA has a secure website through which ship owners, ship masters, and agents can register their vessel details, enter/update the positions of their vessels, and receive information and guidance designed to inform them about specific piracy risks. The Centre, which is manned by personnel from several countries, will use the information it gathers to create a comprehensive picture of the vulnerability of shipping in the Horn of Africa region and then to coordinate with a range of military forces operating in the region (notably EUNAVFOR) to provide support and protection to mariners.

International Maritime Bureau

Concerned about the growth in piracy then occurring in Southeast Asia, the IMB created the Piracy Reporting Centre (PRC) in Kuala Lumpur, Malaysia, in October 1992.

The PRC provides a number of services without charge to help inform the maritime community about piratical activity, including providing daily status reports and weekly updates on piracy; reporting acts of piracy and armed robbery at sea to law enforcement and the International Maritime Organization (IMO); publishing quarterly and annual statistical reports on piracy; and providing assistance when possible to crew members and ship owners whose vessels have been hijacked or attacked.

Contact Group on Piracy off the Coast of Somalia

On January 14, 2009, pursuant to United Nations Security Council Resolution 1851, the Contact Group on Piracy off the Coast of Somalia (CGPCS) was established. The CGPCS is comprised of 24 nations and is intended to enable members to coordinate actions to suppress piracy off the coast of Somalia. Participating nations include: Australia, China, Denmark, Djibouti, Egypt, France, Germany, Greece, India, Italy, Japan, Kenya, Republic of Korea, the Netherlands, Oman, Russia, Saudi Arabia, Somalia TFG, Spain, Turkey, United Arab Emirates, United Kingdom, United States, and Yemen as well as the African Union, The European Union, The North Atlantic Treaty Organization (NATO), the UN Secretariat, and the IMO. The CGPS will periodically report the progress of its activities to the United Nations Security Council.

The CGPS has established four working groups to address six inter-related focus areas, including:

- Working Group One: Convened by the United Kingdom with the support of the IMO to improve the coordination of anti-piracy activities and support the establishment of a regional coordination center;
- Working Group Two: Convened by Denmark with the support of United Nations Office on Drugs and Crime (UNODC) to strengthen avenues for prosecuting pirates;
- Working Group Three: Convened by the United States with the support of the IMO to improve the awareness of the international maritime community of the extent and threats of piracy; and
- Working Group Four: Convened by Egypt to expand diplomatic and public information efforts on all aspects of piracy.

The CGPCS will meet again in March 2009 to review the organization and progress of the four working groups and to examine recent developments pertaining to piracy.

Prosecution of Pirates

The absence of clear procedures for handling captured pirates had been an obstacle to the international effort to combat piracy. Given the collapse of the Somali criminal justice system, and the extent to which the proceeds from piracy may be flowing through the Somali economy, the prosecution of pirates in Somalia is impractical (if not impossible). Other options for prosecuting

pirates include sending them to the flag state of the vessel that they have attacked – although in some cases, flag states also have limited capacity to prosecute pirates.

Additionally, many countries that could potentially seize pirates are uncertain how to handle them and are reticent to become involved in the complexities of prosecuting such suspects. In some instances, detaining pirates on coalition naval vessels has proven to be complicated given uncertainty regarding how pirates should be handled and where they will be confined until tried.

In December 2008, the governments of the United Kingdom and Kenya signed a memorandum of understanding (MoU) covering the arrest, transfer, and prosecution of Somali pirates detained by British naval vessels. The agreement will provide legal support to enable Britain to transfer to Kenya suspected pirates detained by the British naval fleet during its operations in the Gulf of Aden and Indian Ocean. In January 2009, the United States and Kenya signed a similar MoU that will allow Somali pirates captured by the United States to be tried in Kenyan courts.

In December 2008, the United Nations Office on Drugs and Crime (UNODC) proposed measures to deter, arrest, and prosecute pirates in the Horn of Africa which were endorsed by United Nations Security Council in Resolution 1851. These measures include the establishment of international agreements that will allow enforcement agents from the Horn of Africa region to join warships as 'ship riders,' which would enable these agents to arrest individuals who conduct acts of piracy against the vessels on which they ride and try them under the national laws of their country of citizenship. Subject to a special agreement, a ship rider arrangement would allow law enforcement officers from countries like Kenya, Djibouti, Tanzania, or Yemen to join a warship off the Somali coast, arrest the pirate in the name of their country, and have them sent to their national court for trial.

On January 26, 2009, the IMO convened an international meeting in Djibouti attended by representatives from countries throughout Africa and from those nations that have stationed naval ships in the Horn of Africa region (including the United States) to discuss the formation of an agreement intended to strengthen the ability of regional nations to combat piracy. It is expected that the final agreement will call on signatories to cooperate to arrest and prosecute pirates, to seize pirate vessels and assets, and to assist mariners affected by piracy. The agreement is also likely to call upon signatories to ensure that their own national laws are adequate to allow the prosecution of pirates and/or to allow the extradition of pirates.

Future Implications of Piracy Originating from Somalia

At the present time, piracy in Somalia constitutes a growing threat to international shipping. If it continues to expand, it will increase the rates of maritime insurance and may even lead to the diversion of ships around the Cape of Good Hope. Further, the U.S. and other authorities are closely examining the possibility that if Islamist factions expand their control of Somalia, piracy could begin to be intertwined with terrorist agendas. Finally, if pirates continue to target product tankers and to attack them with rocket-propelled grenades, there is a risk that a ship carrying oil or another hazardous product could be severely damaged or even set alight, which could cause significant environmental damage in the Horn of Africa region.

While the international community has moved to place naval forces in the Horn of Africa region with the specific mission of combating piracy, the sheer size of the area that these forces must patrol makes it highly unlikely that these patrols will ever be successful in thwarting all attempted pirate attacks – particularly given that those committing these acts are often poor and desperate and have easy access to weapons. The key to eliminating the threat that piracy poses at sea is to improve the situation on the ground in Somalia. Thus, the National Security Council writes in its piracy *Plan* that "piracy off the Somali coast is only one manifestation of the tragic events Somalia has experienced for almost 20 years. Consequently, long-term actions to establish governance, rule of law, security, and economic development in Somalia are necessary to repress piracy fully and sustainable in the region."

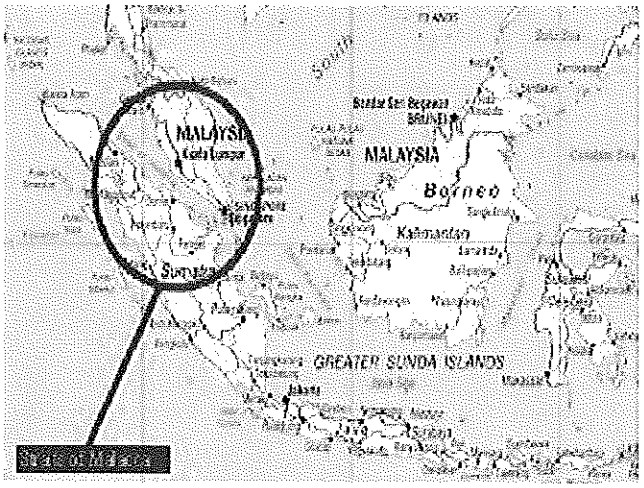
Piracy in Regions Other than the Horn of Africa

Southeast Asia and Indian Sub Continent

Several areas in Southeast Asia have been considered piracy "hotspots" for many decades, particularly the Straits of Malacca, which are a narrow channel that extends for more than 500 miles between Indonesia and Malaysia and which have historically been the site of many violent pirate attacks.

In the Straits of Malacca, pirate attacks have typically been directed against ships at anchor – though attacks of ships underway have also occurred. All reported acts of piracy involve intruders who board the vessel and typically threaten crew members; attacks also typically involve the theft of personal items and items from a ship's safe. Pirates in Southeast Asian waters, who are often members of highly organized crime syndicates, are typically heavily armed. They generally have knowledge of the many island passes in the areas around Indonesia and Malaysia and can avoid detection as well as hide captured ships.

According to the Center for Maritime Security and Diplomacy, the typical pirate attack in the Straits of Malacca early in this century involved the holding of crewmembers for ransom – albeit attacks in that region sometimes involved significant violence and even the seizing and eventual re-selling of cargoes and vessels. The IMB's 2004 piracy survey reported that of 86 crewmembers kidnapped for ransom in pirate attacks in that year, 36 were captured in the Straits of Malacca. However, in that same year, 30 crew members were killed in the Straits, and 21 crew members were killed in the Straits in 2003.



Piracy in the Straits of Malacca has declined in recent years following the initiation of concerted action by Indonesia, Malaysia, Singapore, and India to combat piracy and to assert the rule of law in the Straits and in the waters around Indonesia and Malaysia. Ships have also become more accustomed to taking precautionary measures in this area. According to the IMB, pirate attacks in the Straits fell in 2008 to just two – the fourth straight year of declines. Pirate attacks in Indonesia are also on the decline; 28 attacks occurred in Indonesia in 2008 – a decline from 43 in 2007.

Piracy in Water's Off the Coast of Nigeria

The waters off the coast of Nigeria are currently experiencing the second highest number of serious pirate attacks in the world; for that reason, this region is viewed as a high-risk area. While attacks along the East Coast of Africa and the Gulf of Aden typically occur on the high seas, the attacks in the vicinity of Nigeria are conducted within the territorial seas of Nigeria. There were 40 confirmed piracy incidents in Nigeria in 2008, in which 27 vessels were boarded and five were hijacked.[19] Pirates frequently target oil industry platforms in this area with 17 tankers being attacked and seven attacks were directed against support and supply ships. The remaining incidents were directed against bulk carriers, general cargo ships, and container ships.[20] Nigerian incidents are typically violent and crew members are frequently injured or kidnapped.

PREVIOUS COMMITTEE ACTION

The Subcommittee on Coast Guard and Maritime Transportation has not previously held a hearing on international piracy.

[19] Ibid.

[20] ICC International Maritime Bureau, Piracy and Armed Robbery Against Ships Annual Report, January 1-December 31, 2008.

WITNESSES

Panel I

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

Rear Admiral Ted Branch
Director of Information, Plans and Security
Office of the Chief of Naval Operations

Mr. James Caponiti
Acting Administrator
Maritime Administration

Panel II

Mr. Peter Chalk
Senior Political Scientist
RAND Corporation

Captain Phil M. Davies
Director
Oil Companies International Marine Forum

Mr. Peter Swift
Managing Director
Intertanko

Mr. Giles Noakes
Chief Maritime Security Officer
Baltic International Maritime Council