

# Somali Piracy – Are we at the End Game?

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## Oceans Beyond Piracy, a project of the One Earth Future Foundation

The Oceans Beyond Piracy (OBP) program<sup>1</sup> was initiated at the absolute height of the Somali piracy crisis in the fall of 2010. At that time, nearly 700 hostages were being held in over 30 ships off the coast of Somalia. In order to understand the complex nature of the piracy attacks, and the equally complex response, OBP cultivated a relationship with multiple stakeholders across the international navies, maritime nations, industry, advocacy groups and academia.

After initial set-backs, where the pirates seemed able to adapt and effectively counter actions taken by the international community, the response at sea finally turned the tide against the Somali pirates. Through the combined efforts of industry and navies, pirate attacks were suppressed and pirate groups were mostly deterred from launching new assaults. Much of the coordination required to accomplish this can be credited to the efforts of the Contact Group on Piracy off the Coast of Somalia (CGPCS), the Shared Awareness and De-confliction (SHADE) coordination mechanism for navies, and industry efforts to coordinate ship self-defense through agreed Best Management Practices (BMP).

Throughout this three year process, OBP has remained engaged by close association with CGPCS activities and by convening meetings with relevant stakeholders. After the international community achieved a milestone of six consecutive months without a successful attack by the fall of 2012, OBP asked its partners to participate in a working group to develop expectations and define the desired end state to the Somali piracy threat. For the purposes of defining goals, the group was split between the shipping industry, and those representing nations and international organizations. The results from the two groups are as follows :

### Nations and International Organizations :

*To establish a safe and sustainable environment for merchant vessels and seafarers in the Red Sea, the Gulf of Aden, the Arabian Sea and the Indian Ocean. Security would be assured through continued adherence to applicable portions of Best Management Practices and a sustained international navy presence, facilitating a move towards regional leadership and development ashore.*

### Shipping Industry:

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<sup>1</sup> The Oceans Beyond Piracy Program is Oceans Beyond Piracy (OBP) is a project of the One Earth Future Foundation, a privately funded and independent non-profit organization located in Colorado, USA. OBP was launched in 2010 with the intent to develop a response to maritime piracy through: mobilizing stakeholders from the maritime community; developing public-private partnerships to promote long-term solutions at sea and ashore; and sustainable deterrence based on the rule of law

*The shipping industry desires to establish a set of conditions in the Red Sea, the Gulf of Aden, the Arabian Sea and the Indian Ocean whereby vessels can return to transit procedures and self-protection requirements in place before 2005 without undue risk to the crew.*

Over the course of this paper, I will attempt to put these definitions into context by: (1) assessing how close we have come to the “End Game” for Somali-based piracy, (2) taking a closer look at the current positive trends and statistics, (3) assessing the primary factors that must be considered in developing a long-term and sustainable solution at sea, and (4) addressing the importance of shore-based initiatives.

### **Are we ready to declare “End Game”**

With the dramatic drop in piracy attacks in the Gulf of Aden and Western Indian Ocean, some stakeholders are cautiously asking whether we have successfully ended Somali-based piracy. The fact that knowledgeable policy-makers are having this debate indicates that things are going much better than could have been hoped just eighteen months ago. On the surface, much of the evidence would support a conclusion that the problem has been solved. For example, reported attacks have dropped by more than eighty percent between 2011 and 2012 – and indications are that 2013 will see an even lower number of attacks. The number of hostages has dropped to less than 100 in 2013 – down from a high of around 700 being held at the beginning of 2011. Finally, as of May 2013, it had been more than a year since a ship had been hijacked and held by pirates.

In spite of the good news, the world has not yet reaped the benefits from this drop in attacks. The cost of suppressing piracy in terms of first order costs had only decreased by around twenty percent to around \$6 Billion according to the latest Economic Cost of Piracy report by Oceans Beyond Piracy.<sup>2</sup> The World Bank has also estimated that, even in a down year, piracy impacted the regional economies of the Indian Ocean to the tune of around \$18 Billion when the secondary impacts were considered.<sup>3</sup>

### **A closer look at attack reporting**

While reported attacks are down eighty percent, there are signs that some attacks may have only been reported amongst internal channels of owners and flag states –which means that they were not included in international databases and reporting. Earlier this year, two of the leading reporting agencies made the following appeals:

From the United Kingdom Maritime Trade Organization (UKMTO): “It has come to our attention that some private military security companies are reporting suspicious incidents through their

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<sup>2</sup> Bellish, Jonathan. *The Economic Cost of Piracy 2012*. Oceans Beyond Piracy, One Earth Future Foundation, Broomfield, Colorado, USA.

<sup>3</sup> Do, Quy-Toan. 2013. *The pirates of Somalia : ending the threat, rebuilding a nation*. Washington DC ; World Bank. <http://documents.worldbank.org/curated/en/2013/01/17672066/pirates-somalia-ending-threat-rebuilding-nation>

internal communication channels and then to their customers. It is in all seafarers' interest that any concerns are reported immediately by phone to UKMTO in accordance with BMP4.”<sup>4</sup>

Additionally, the NATO Shipping Center also issued a call for more timely and accurate reporting in a weekly report from February 2013, saying that “It has been observed that some Masters are choosing to phone their Company Security Officer (CSO) first in the event of a piracy incident. However, one of the fundamental requirements of BMP4 is that UKMTO is the primary point of contact for merchant vessels during piracy incidents in the HRA. This aims to avoid unnecessary delay and prevent inaccurate or incomplete information from reaching military commanders.”<sup>5</sup>

In addition to calls for more accurate reporting by information centers serving the Indian Ocean, there was circumstantial evidence that would indicate that all attacks were not being reported. First, and based on military statistics, the end of 2011 and the start of 2012 was a particularly active time for Pirate Action Groups (PAGs). Many of these groups were observed operating in critical areas in the Indian Ocean – but this high number of potential attackers was not consistent with the low number of attacks actually reported based on historic rates. Second, the success rate for attacks (based on successful attacks as a percentage of total attacks) actually increased in 2012 after showing downward trend over the previous two years. This runs counter to the widely held belief that ships were less vulnerable after implementing BMP and other measures. Finally, there is ample antidotal evidence from both Somali sources and from private companies themselves that attacks are not all reported and that many encounters have occurred where neither party (the private security team or the pirates) had motive to report the incident.

#### **A closer look at the shipping industry’s continued commitment.**

At the height of the piracy crisis in 2010 – 2011, the shipping industry made enormous commitments to protecting their vessels. As documented in the Economic Cost of Piracy reports by Oceans Beyond Piracy, measures adopted by the shipping industry amounted to around \$5 billion over the course of 2012 which represented around eighty-five percent of the total direct costs of piracy to the international community. The measures taken by industry were encapsulated in an industry-generated self-governing mechanism called the “Best Management Practices (BMP) for Protection against Somalia Based Piracy.” Recommended measures included ship hardening techniques, suggestions for increased vigilance, increased transit speeds and re-routing procedures. Also incorporated by most of the industry was the practice of developing a safe room, or “citadel,” where the crew could safely retreat in the event of a piracy attack until a naval response could be summoned.

At the height of the crisis, it was estimated that up to eighty percent of industry was practicing this expensive set of recommendations. This was in spite of the economic downturn of the shipping industry that had created very slim profit margins. However, the fact that so many companies were participating created a “level playing field” that ensured that no company could reap an economic

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<sup>4</sup> Hurlburt, Kaija and Seyle, Conor. *The Human Cost of Maritime Piracy 2012*. Oceans Beyond Piracy, One Earth Future Foundation, Broomfield, Colorado, USA. Page 33.

<sup>5</sup> Hurlburt and Seyle, 33.

advantage. This system was sustainable until the perceived lack of threat began to allow some companies to unilaterally stop participation by slowing down their vessels, “cutting the corner” by Somalia, and disregarding other ship-hardening recommendations in the BMP.

Another factor that industry has reluctantly agreed to undertake is the embarkation of Privately Contracted Armed Security Personnel (PCASP). These teams, which cost an average of \$40-60,000 per transit, are expensive, logistically challenging to embark, and leave industry vulnerable to liability issues. It should be noted that the use of armed security is not a part of BMP procedures, but were understood to be a supplement for vulnerable vessels. Instead, it is estimated that up to sixty percent of the ships transiting the high risk areas of the Indian Ocean routinely embark these teams and many use them as a replacement for implementing other BMP recommendations.

Over the last several months, there have been decreases in registered and reporting vessels, as well as documented evidence that ships are traveling closer to the coast and transiting at slower speeds. This un-leveling of the playing field has essentially jeopardized further industry support for following BMP since most companies will not continue to participate in procedures that leave them at a competitive disadvantage.

### **A closer look at the navy response**

The involvement of international navies has been a leading factor in reducing the incidence of piracy at sea. Since 2009, three international navy coalitions have been patrolling the Gulf of Aden and the Western Indian Ocean. These coalitions are in addition to several unaffiliated nations who have also contributed their efforts. These so-called “independent deployers” include China, Russia, South Korea and Japan and have also made significant contributions. The NATO and EU efforts are currently authorized by political mandate through the end of 2014, while the US-sponsored Combined Task Force 151 (CTF-151) has an undefined commitment to counter piracy. In addition to the vessels and aircraft patrolling the high risk areas, coordination mechanisms such as SHADE have been created to coordinate naval activity in the Indian Ocean.

While the aggressive navy actions have had a very positive impact on countering piracy, their ability to secure a mandate past 2014 is still in question. This has become especially concerning in light of the lower perceived threat. Even if this mandate is approved, nations still must volunteer forces as part of the NATO and EU Force Generation Process. As with other theaters where these organizations are involved, a political mandate does not guarantee adequate forces will be generated. In this age of military austerity and fiscal constraint, many nations may abstain from participation.

### **Is it possible to return to historic (pre-piracy) levels of maritime security?**

As indicated in the response from industry, there is a strong desire to return to shipping patterns and protections in place prior to the current outbreak of piracy. As we have also seen, the slow atrophy of those companies committing to continued use of the BMP has un-leveled the playing field, and may render it economically unfeasible for some shipping companies to continue. Therefore, a de facto abandonment of BMP might already be occurring. However, before the official change can be

made, it will be necessary to assess a number of factors to determine the minimum amount of protection that must remain in place in order to ensure safety for vessels at sea.

One important factor to consider is that the publicity generated from successful pirate attacks on both the east and west coasts of Africa has brought to light a demonstrated vulnerability of merchant vessels that can be exploited by criminal elements. Modern ships are meant to deliver goods in an efficient and cost effective manner. Consequently, these ships are manned with a minimum number of crewmembers – which means that a large tanker could be manned by as few as fifteen to eighteen crewmen. This leaves very few crewmen available for extra watch duties and to respond to attacks. (In contrast, navy frigates and destroyers can be manned by upwards of 200 people). Ships are also made to efficiently operate at relatively slow speeds in order to save on bunkering fuel and many have very low freeboards (low in the water) when loaded with product. The small number of crewmen, slow operating speeds and low deck height above the water make some categories of modern merchant vessels inherently vulnerable to the kinds of attacks that Somali pirates mastered by the mid-2000's.

In addition to the physical characteristics of the vessels, there have also been changes in the dynamics of the maritime sector that have altered traditional relationships between the vessel and the flag it carries. Whereas in the past, ships were registered with traditional nautical nations with large navies, the shift to Open Registries (sometimes called Flags of Convenience) means that this close connection no longer exists. In practice, this means that there is no direct obligation for the traditional naval powers to protect vessels flagged in other nations and has created a disconnect where the large flag states for merchant vessels are not associated with the large naval powers. Because of this shift in the traditional relationship between navies and merchant ships, a new model for protection of shipping must focus on cooperation amongst multiple stakeholders in the maritime sector.

### **Assumptions for Consideration**

Based on the above arguments, the following assumptions can be made regarding what a safe and sustainable End Game for countering piracy must take in to account:

1. Due to exposed vulnerabilities of modern shipping, ship-owners must commit to retain some parts of the BMP in order to ensure the safety of their vessels and cannot expect to go back to historical levels and methods of protection
2. Due to a lack of firm relationship between the flag and the ship-owner, large navies can no longer be relied on as the sole guarantors of protection from maritime crime. A multi-stakeholder solution must be implemented.

Taking in to account the assumptions above, several specific issue-areas should be examined to determine changes necessary to establish a sustainable solution to piracy over the longer term.

### **Factor One: Response Capability at Sea**

The traditional response capability for piracy incidents has been through intervention by naval forces. The initial area of the Somali threat, the Gulf of Aden, was small enough to expect a reasonable

navy response to the threat of attacks. However, the success of the navy forces in detecting and disrupting attacks caused the pirates to turn to the Somali Basin along the Eastern coast of Somalia and later across the whole of the Indian Ocean. This increase in range was made possible by the pirates' use of captured mother-ships to provide increased range. Once the High Risk Area (HRA) had expanded to this extent, the navies reached out to the industry to help provide better reporting, information sharing and increased use of citadels to allow more time for an effective response. Another demand on naval forces, particularly the EU Naval Forces, was the requirement to provide individual escort for humanitarian support vessels, World Food Program shipping, and other vulnerable vessels.

In light of increased demand on these assets, the navies have increasingly relied on embarked uniformed security teams to protect vulnerable shipping and to free up patrolling assets. (These are known as Vessel Protection Detachments (VPDs)). Another tactic to economize naval force is to focus on more intelligence-driven tactics to identify, track and disrupt pirate action groups. This pro-active response has better focused navy efforts, but relies heavily on expensive intelligence and surveillance assets which are in high demand in other theaters. Finally, in order to maximize the impact of the various naval forces in the Indian Ocean, the SHADE process was developed to better integrate the navy forces of the three larger coalitions (EU, NATO and CTF-151) as well as independent deployers. SHADE provides the forum for participating nations to de-conflict patrol areas, organize convoy protection along the Internationally Recognized Transit Corridor (IRTC), and coordinate the use of scarce assets such as surveillance platforms and re-fueling tankers.

In spite of all these efforts, navies still were unable to provide individual protection for all vessels. In response, the shipping industry adopted the practice of hiring private security teams to repel pirates at the point of attack. While many of these teams were deployed before they were officially sanctioned by flag states and coastal nations, there was eventual consensus across most stakeholders that the guards were necessary as an interim measure to protect vessels and crews. It should be noted, however, that the industry is strongly opposed to "institutionalizing" the use of armed guards, and would like to turn away from this requirement as soon as practicable.

Some have argued that the long-term solution to maintaining a response capability for piracy attacks is to build up regional forces, including a Somali coast guard. While some forces in the area, particularly the Seychelles and Kenya, have some capability for responding to attacks, the ability of regional forces to respond to piracy attacks on the high seas is considered to be many years away. This issue is compounded by the fact that the Somali coast, the longest in Africa, is not expected to have any organic capability for the foreseeable future.

#### Suggestions for Consideration:

- (Short Term) Continue international naval presence and coordination mechanisms, with increased emphasis on pro-active, intelligence based actions.
- (Short Term) Work with regional and coastal nations to facilitate private armed security teams and improve cooperation between the teams and the navy forces. These measures could include:

- More transparent and consistent laws on embarkation across coastal states.
- Consistent reporting and oversight of private teams based on internationally recognized processes (e.g. the International Code of Conduct, International Standards Organization processes.)
- (Longer Term) Building regional capacity to provide response to piracy incidents and increased regional leadership in coordination processes such as SHADE.

### **Factor Two: Maritime Situational Awareness/Reporting**

A key enabling capability required for an effective response at sea is a comprehensive understanding of where both friendly and merchant traffic is located, as well as an understanding of where suspect or threatening vessels are lurking. Collectively, this information is known as Maritime Situational Awareness (MSA). The wide range of factors that contribute to MSA include: position self-reporting by vessels, radar contacts, Automated Information System (AIS) transponder information, reports by naval vessels and coast watchers, Long Range Information and Tracking (LRIT) information provided by Flag States and information provided by other vessels at sea. The SHADE mechanism has also been used to ensure optimal employment of surveillance platforms and coordination of vessel information to ensure any gaps in coverage are addressed.

A comprehensive MSA system enables faster navy reaction, better protection for vulnerable shipping and pro-active re-routing from emerging threats at sea. This system is largely in place, but is heavily reliant on international structures such as the EU's Maritime Security Center – Horn of Africa (MSC-HoA) and the UKMTO. These missions are based on crisis response mandates which must be renewed by political decisions of their parent organizations and cannot be relied on indefinitely.

Regional structures, such as the Information Sharing Centers (ISCs) in Sana'a, Dar Es Salam and Mombasa and the Regional Maritime Coordination Centers (RMCCs) throughout the Indian Ocean have so far had limited involvement in developing MSA. This is largely due to limited funding, training and equipment and their inability to coordinate a timely response to attacks. There is also a lack of trust from the shipping companies who are hesitant to provide them with sensitive information. However, because of their permanent mandate, they offer a logical and long-term solution to building permanent MSA once their current weaknesses can be overcome.

#### Suggestions for Consideration:

- (Short Term) Establish closer liaison and information-sharing between industry, private security teams, and navies with a focus on incentivizing cooperation.
- (Medium Term) Continue the SHADE mechanism as the means to integrate international and regional efforts.
- (Long Term) Transition reporting infrastructure and MSA to regional leadership.

### **Factor Three: Law Enforcement on the High Seas**

To successfully develop a sustainable solution to Somali-based piracy, a myriad of legal issues will need to be resolved and a framework in place for the prosecution and imprisonment of those convicted.

Although we have seen an improvement in the willingness of some nations to prosecute pirates, the high percentage of “catch and release” incidents, where pirates caught red-handed are released back on the beach, highlights the many legal issues which need to be resolved in order to develop a long-term solution. Much of the lack of clarity surrounding the legal side of piracy stems from the confusion surrounding overlapping jurisdictions. While historically the flag-states represented the owner, crew, and interest of the vessel, this is not true in present day; each incident of piracy affects numerous countries. This is because the ship-owner, crew, and flag can all hail from different nations consistent with the multinational nature of the incident. This creates a vacuum of accountability and has often allowed pirates to be released without standing trial or being held accountable for their crimes.

Prosecuting pirates is easy on paper, yet hard in practice. Although piracy is a crime of Universal Jurisdiction, a lack of both political will and evidence sharing creates difficulties. Some of the lack of political will stems from the economic cost of both prosecution and imprisonment, which cost the international community \$14.89 million in 2012. The high costs provide a deterrent not only for the international community, but also for Somalia, regional nations, seafaring nations, and flag states that do not have the economic capacity to finance the trial or the physical capacity to hold the pirates in their prisons. The United Nations Office on Drug and Crime has provided support to these nations by both financing the trial and imprisonment, as well as through the building of prisons in Garowe, Puntland, and Hargeisa and Bossaso in Somaliland. Additionally, Working Group Two of the CGPCS has spearheaded efforts to establish transfer agreements allowing arresting authorities to transfer suspects for trial, and prosecuting nations to transfer convicted pirates back to Somalia for incarceration.

Apart from the high cost of prosecuting and imprisoning pirates, the lack of standardization of evidence gathering and sharing makes it difficult to produce the full range of evidence in court. This has improved through the years with organizations such as INTERPOL launching initiatives aimed at improving evidence collection and dissemination, building regional capacity to arrest and investigate cases, and improving coordination and information-sharing among other organizations such as EUROPOL, NCIS, SOCA, and NATO. Although improvements have been made, a continued commitment is needed to ensure that the region and Somalia particularly, have the capacity to respond to piracy through a rule of law approach.

Another factor unique to Somalia is the lack of awareness and understanding of international legal procedures. Consequently, there is no system to notify communities and families that captured pirates have been prosecuted and incarcerated. Even though over 1,000 Somali pirates have been convicted or are awaiting trial, there is no system in place to exploit the messaging opportunities and build deterrence for piracy using the Rule of Law.

Suggestions for Consideration:



- (Short Term) Continue to support the building of regional prosecution capacity in line with UN Secretary General identified goals.
- (Short Term) Gain full cooperation of all maritime stakeholders to ensure 100% sharing of evidence required for prosecutions.
- (Short Term) Broaden the scope of nations that either contribute to regional prosecutions or prosecute, to include seafaring nations and major flag states.
- (Long Term) Build deterrence through rule of law by (1) ensured prosecution, (2) consistent sentencing and (3) coordinated messaging campaigns.

#### **Factor Four: Vessel Awareness/Protection**

In response to the crisis of Somali-based piracy, and as described above, the shipping industry developed a set of voluntary vessel protection measures known as the Best Management Practices (BMP). The initiatives developed by industry have been coordinated with other stakeholders in Working Group Three of the Contact Group on Piracy off the Coast of Somalia. The BMP are meant to decrease the likelihood of a successful attack as well as provide protection for the crew in the event of a pirate boarding. The first version of BMP was released in February 2009, with the most recent, version four, being released in 2011. BMP is built around three fundamental requirements: register with MSC-HoA, report to UKMTO, and implement ship protection measures. Ship protection measures vary from ship to ship, but often include: providing additional lookouts and enhancing their means of operation through better technology, using increased speeds in high risk areas, enhancing bridge protection, and using physical barriers such as razor wire and water spray.

While BMP has proven useful and greatly reduces the chances of successful attack, these measures are expensive, with re-routing and increased speeds alone costing the international community over \$1.82 billion in 2012. Due to these high costs and the perception that the threat of Somalia-based piracy has lessened, some in the shipping industry are slowly moving away from BMP measures. The movement of some ship-owners away from BMP creates an uneven playing field and thus encourages more ship-owners to stray from the BMP guidelines in order to garner a greater profit. Ultimately, the shipping industry would like to move away from the expensive BMP recommendations, return to pre-2005 security measures, and ensure an environment where they can travel at optimum efficiency without added risk to their crew and cargo.

Aside from BMP measures such as vessel hardening, private security teams have been a major factor in the decrease of successful pirate attacks since no commercial vessel with an armed team on board has been hijacked. Although the use of armed teams has been controversial in the past and is not mentioned in BMP, they are accepted as a necessary, although not ideal or permanent, measure. The presence of armed teams onboard vessels creates an added liability on the ship-owner and/or flag-state, which could be held accountable in the event of a tragedy. This has already occurred in the case of the *Enrica Lexie*, where Italian Marines misinterpreted the intent of an approaching vessel and shot and killed two Indian fishermen.

While BMP and privately security teams have reduced the number of successful pirate attacks, we cannot declare End Game to Somali-based piracy as long as we have defined High Risk and War Risk Areas. These defined areas are agreed upon by the shipping industry (High Risk Area) and the Joint War Committee (War Risk Area). As long as the Risk Areas remain in force, and there is a continued need for armed guards we cannot consider that we are at the End Game of the threat.

Suggestions for Consideration:

- (Short-to-Medium Term) Create more responsible use of private armed teams through internationally applied governance and consistent application of more transparent coastal state laws.
- (Medium Term) Consider the continued need for defined Risk Areas in the Indian Ocean.
- (Long Term) Work for conditions to obviate the need for private armed guards.

**Factor 5: Conditions of Seafarers**

While Somali-based piracy has dropped dramatically, seafarers are still affected on a daily basis. When transiting the High Risk Area they put themselves in harm's way, often without receiving the proper preparation or the benefits for which they are eligible. For seafarers, the actual piracy incident is often just the beginning of the traumatic situation in which they find themselves; hostages often deal with psychological, physical, and economic trauma from the time they are boarded to well after their release. In order to declare a sustainable End Game, to piracy, seafarer support should be made predictable and consistent and cover the aspects of their life that have been affected by the incident of piracy. (Much as other work-related incidents are handled in other industries.)

One of the larger problems in dealing with seafarer issues is their lack of representation. Seafarers hail predominately from poor nations and often lack the awareness and education about the dangers that they may face, the training that they require, and the benefits they are eligible to receive.<sup>6</sup> This lack of awareness leads to the exploitation of seafarers by manning agencies and other bodies. While many seafaring nations have a long way to go in regards to ensuring seafarer awareness and safety, gains have been made. For instance, seafaring nations such as the Philippines require counter-piracy training prior to embarking on their voyage. While the training does not prepare seafarers for all scenarios onboard, seafarers did report an increased feeling of safety due to pre-trip training sessions.<sup>7</sup> While nations such as India and the Philippines have made efforts to increase the awareness of seafarers, other stakeholders continue to exploit the lack of awareness by failing to notify seafarers of potential or imminent entry into the high risk area and their right to disembark. Although seafarers have a right to disembark, many will not choose this path out of fear of being blacklisted and being unable to find future work.

Much like the legal issues discussed earlier, the numerous stakeholders involved in each incident of piracy create a void of accountability regarding the treatment and support of seafarers. As previously

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<sup>6</sup> Hurlburt and Seyle, 1.

<sup>7</sup> Hurlburt and Seyle, 10.

mentioned, seafarers often do not receive the benefits to which they are entitled prior to, during, and after a voyage. Economic benefits such as double wages for the days spent in the HRA, which are stipulated in the International Bargaining Forum-High Risk Area Agreement, are often disregarded. This omission impacts not only the seafarer himself, but also his family at home, which relies on his wage. After a hostage situation has been resolved and the seafarers released, seafarers require a multitude of services including repatriation and long-term physical and psychological care. Post-treatment support is rarely provided for seafarers, and many continue to suffer and are unable to return to work years after the incident. Much of the issue surrounding payment to seafarers stems from a lack of a tracking system and body to administer and ensure that seafarers receive the necessary support throughout their voyage as well as after their release.<sup>8</sup>

Although information channels and reporting mechanisms have improved as a result of the efforts of Working Group Three of the Contact Group on Piracy off the Coast of Somalia, seafarer advocacy groups, flag state commitments, and other initiatives, more work must be done to ensure their awareness and safety. Until all hostages are released and seafarers can confidently travel through the high risk areas, piracy is not over.

#### Suggestions for Consideration:

- (Short Term) Solidify stakeholder expectations for seafarer welfare before, during and after attacks through on-going Working Group Three efforts.
- (Long Term) Institutionalize gains in seafarer welfare.

#### **Governance Ashore – the Real End Game for Somali Piracy**

The international community has successfully mitigated the crisis of Somali-based piracy at sea. However, now that the crisis mitigation phase is over, we must begin to assess and develop the End Game, which requires a more sustainable level of effort and commitment over the long term.

While this paper mostly addresses the response at sea, an increased commitment there must be supported by better governance on shore, security, and economic development, to ensure a sustainable solution. The piracy business model has its foundation in poverty, lack of opportunity onshore and a lack of governance to keep criminal elements in check. Only by changing these conditions will piracy be over for good. Breaking the piracy business model must occur on three different levels: the recruiting pool must decrease, pirate groups must be disbanded, and the financiers must no longer be willing and/or able to fund pirate action groups.

The pirate foot soldiers comprise the largest workforce in the piracy business model, and require special attention for the End Game to be successful. In February 2013, the President of the Federal Government of Somalia, Hassan Sheikh Mohamud offered amnesty to the pirate foot soldiers with them aim of providing them with the opportunity for alternative means of earning a living. The

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<sup>8</sup> Hurlburt and Seyle, 22.

concept of reintegrating these pirates into the community is controversial as many argue that they are common criminals and should be imprisoned rather than given a second chance among the community. Regardless of stance on the issue of reintegration, a framework should be put in place for how to deal with the large number of now out-of-work pirates; as long as the pirate groups are still intact it is difficult to argue that piracy is over.

The most influential tier of the Somalia-based piracy business model is the financiers. These individuals are responsible for providing the money to pirate action groups. Up to this point the international community has not been successful in bringing these people to justice, and unfortunately their presence signals that action groups still have the ability to be quickly financed and sent to sea.

Although the piracy business model has yet to be fully dismantled, the immediate crisis of Somali-based piracy has been successfully mitigated. However, while the crisis has been mitigated, the situation on the ground has not improved enough to declare piracy over and the End Game reached. While this paper focuses on ensuring a long-term commitment at sea through the continuation of naval operations, Best Management Practices, and private security, the conditions that bred piracy still remain in place. For the international community to truly establish its End Game we must see a continued dedication to better governance systems, the building of regional and Somali capacity, and a strengthening of the security sector.