

HEARING TO RECEIVE TESTIMONY REGARDING ONGOING EFFORTS TO COMBAT PIRACY ON THE HIGH SEAS

TUESDAY, MAY 5, 2009

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:38 a.m. in room SR-325, Russell Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Lieberman, Reed, E. Benjamin Nelson, Webb, Hagan, Inhofe, Sessions, Thune, Martinez, Wicker, Burr, and Collins.

Committee staff members present: Richard D. DeBobes, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Creighton Greene, professional staff member; Michael J. Kuiken, professional staff member; Gerard J. Leeling, counsel; and Russell L. Shaffer, counsel.

Minority staff members present: David M. Morriss, minority counsel; and Dana W. White, professional staff member.

Staff assistants present: Mary C. Holloway, Jessica L. Kingston, Christine G. Lang, and Brian F. Sebold.

Committee members' assistants present: Jay Maroney, assistant to Senator Kennedy; Christopher Caple, assistant to Senator Bill Nelson; Jon Davey, assistant to Senator Bayh; Jennifer Stout, assistant to Senator Webb; Julie Holzhueter and Roger Pena, assistants to Senator Hagan; Anthony J. Lazarski, assistant to Senator Inhofe; Lenwood Landrum and Sandra Luff, assistants to Senator Sessions; Jason Van Beek, assistant to Senator Thune; Brian W. Walsh and Erskine W. Wells III, assistants to Senator Martinez; Chris Joyner, assistant to Senator Burr; and Rob Epplin and Chip Kenneth, assistants to Senator Collins.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good morning, everybody. Today we have four witnesses before the committee to discuss the government's efforts to combat piracy on the high seas. We're delighted to have with us: Under Secretary of Defense for Policy Michele Flournoy; Director of Strategic Plans and Policy on the Joint Staff Admiral Sandy Winnefeld; Senior Advisor to the Under Secretary of State for Political Affairs Ambassador Steve Mull; and Acting Deputy Administrator of the Maritime Administration James Caponiti.

The recent surge in piracy off the coast of Somalia—there's a hum here.

Thank you. I think you caught it.

The recent surge in piracy off the coast of Somalia and in the Gulf of Aden has moved the issue of piracy on the high seas out of the history books and off the movie screens and onto the front pages of the world's newspapers. Piracy must be an urgent part of our National security dialogue. The April pirate attack on the U.S. flag ship Maersk Alabama a few weeks ago and the ensuing rescue operation of ship Captain Richard Phillips, orchestrated by our Nation's military, and particularly our Navy and Navy SEALs, underscores the value of the armed forces in confronting and stopping piracy.

However, the success of that rescue mission has tended to form the public debate toward a military solution to the piracy problem. While it is widely agreed that the naval forces of the world do have a critical role to play in deterring and combating pirates, the problem is more complex and requires a holistic approach combining military efforts with deterrence, collaboration with allies, and ongoing diplomatic outreach, just as is the case in dealing with Iraq or Afghanistan.

Piracy, although generally considered a scourge of the world's oceans, has its origins on land and has usually been defeated on land as a result of political and economic changes that have evolved over time. Today policymakers are searching for solutions to combat piracy and, more broadly, to address the situation in Somalia, a failed state that lacks a functioning government capable of enforcing laws or policing and securing its territory.

It is imperative that the international community come together to confront and solve this growing problem. Ultimately, the solution resides ashore, not just through action on the open seas. The available responses from Washington and the international community include supporting the Somali Transitional Federal Government, building the capacity of Somali security forces, and creating a more robust African Union peacekeeping mission.

Discussions of how to proceed are inevitably complicated by the memory of the American people, who have not forgotten that the U.S. armed forces were sent to Somalia once before. While the long-term solution involves engaging broadly on Somalia's myriad issues ashore, we must consider near-term solutions to protect ships, cargoes, and, most importantly, seafarers from the proliferation of piracy in the region.

Currently the primary mechanism for military involvement in the issue is Combined Task Force 151, CTF-151, which has brought together naval forces of our allies and is sharing the water space with nations as diverse as Pakistan, Russia, India, and China. The task force has focused the attention of many nations in pursuit of our joint interests of enhancing the safety of commercial maritime routes and international navigation in the Gulf of Aden. Late last week NATO extended its contribution of as many as ten ships to the counter-piracy mission.

We cannot expect CTF-151 to do all the work in the maritime environment. The global commercial industry, to include the shipping companies and their insurers, must respond as well. Industry

needs to develop effective piracy countermeasures, including training and equipping of a ship's crew, rather than relying on ransom payments that enable pirates to build infrastructure and to bolster their efforts.

The venue to develop consensus for these efforts seems to be the contact group for piracy off the coast of Somalia, a U.S.-foreign group designed to internationalize the response. This group is scheduled to meet next week. Our committee hopes our witnesses will speak to the goal of these discussions.

Another aspect of the overall strategy involves the prosecution of suspected pirates. Earlier this year, the U.S. signed a bilateral agreement with the government of Kenya which established a mechanism by which alleged pirates could be held accountable through criminal prosecution. While this agreement may show some promise over time, we have in recent weeks seen our partner nations release pirates back to the very fishing towns in Somalia from which they came. The committee is interested to hear from our witnesses how the United States is working with other nations to address the criminal prosecution of suspected pirates.

Today the committee hopes to learn from our witnesses the current role of the U.S. armed forces and the details of the whole-of-the-government approach that is necessary in order adequately to combat the threat. Also, we hope our witnesses will speak to the appropriate role of the military in countering piracy, what works and what does not in terms of military tactics, techniques, and procedures, how our commanders assess the effectiveness of the CTF-151 mission thus far, whether the CTF-151 mission is sustainable over time, whether the necessary international and domestic authorities are in place to effectively combat piracy, and what adjustments need to be made to current strategies.

We'll also be interested in learning what plans are under consideration to address the situation inside Somalia, what role the United States may be asked to play, and what requests we are making of our partners.

Senator Inhofe.

STATEMENT OF SENATOR JAMES M. INHOFE

Senator INHOFE. Thank you, Mr. Chairman.

It's pretty remarkable that, in this first decade in the 21st century, that we should be have a hearing on the issue of piracy, particularly involving pirate attacks on the coast of Africa. We can almost look back in time 200 years to the first decade of the 19th century and ask our predecessors for their advice. Today we hear from representatives of the Obama Administration, while in their day, 200 years ago, pirate attacks off Africa were a problem for then the new Thomas Jefferson Administration.

So both now and then, our resolve is being tested. Our determination as a Nation not to pay ransom—keep in mind, this was 200 years ago—not to pay ransom to pirates and their sponsors ashore, the international terrorists of their day, helped establish the enduring character of America by demonstrating that we would not tolerate attacks on American property and citizens anywhere in the world, no matter how far from our shores. So that's still true today, hopefully.

The decision of the United States to fight the pirates was carefully considered, based on a keen appreciation as a seafaring nation that paying ransom to pirates or other terrorists simply emboldens them and increases the risk to our national security. That was 200 years ago and the same is true today.

I recently returned from a trip to Djibouti, where I had the opportunity to discuss the pirate situation in detail with Admiral Fitzgerald, the commander of the U.S. Navy force in Africa, and Rear Admiral Kurta, commander of the Combined Joint Task Force-Horn of Africa. So I come to this hearing with some background in working in that area in the Horn of Africa, as well as other parts of Africa.

The threat of pirate attacks in the Gulf of Aden and off Somalia's coast has been steadily growing since last August. However, the recent attacks on the U.S.-flagged vessel the Maersk Alabama and the dramatic and extraordinarily professional rescue of Captain Richard Phillips by Navy SEALs last month has sharpened the seriousness of this issue for the United States. I look forward to hearing details of this, as details as you are able to do so in an open meeting, as to the rescue of Captain Phillips.

I think the success of that operation is something that other countries have looked at and have admired us for. I understand that the Somali tribes have sworn revenge against the United States and other U.S. vessels. Let's just not forget what happened 200 years ago. We made a determination you can't negotiate with these people, and if there's a way that they could inflict harm on us they would be doing it anyway.

So I would like the witnesses to discuss the details of our new coalition task force off Somalia and how it coordinates with other navies, including those of the European Union, Russia, China, India, and Saudi Arabia, among others, and the challenges faced by these efforts at sea.

I'd also like to have someone—I've been concerned about a lot of the pirate activity off the west coast, in the Sea of Guinea, with the recent finds out there, which is also a problem. I notice no one right now is talking much about that, but it's one that needs to be a part of this debate and this discussion.

Thank you, Mr. Chairman.

[The prepared statement of Senator Inhofe follows:]

[COMMITTEE INSERT]

Chairman LEVIN. Thank you, Senator Inhofe.

So, Secretary Flournoy.

**STATEMENT OF HON. MICHELE A. FLOURNOY, UNDER
SECRETARY OF DEFENSE FOR POLICY**

Ms. Flournoy: Mr. Chairman, Senator Inhofe, and distinguished members of the committee: We very much appreciate this opportunity to testify today about the growing problem of piracy on the high seas. We are currently seeing a dramatic upswing in reported pirate attacks, particularly off the coast of Somalia. In the first quarter of 2009, 102 incidents of piracy were reported to the International Maritime Bureau, almost double the number during the same period in 2008. Reducing incidents of piracy is important both to the United States and to the international community. Freedom

of the seas is critical to our National security and international commerce. It's also a core principle of international law. Piracy endangers innocent mariners, disrupts commerce, and can cause severe economic damage to shipping companies and contribute to instability ashore.

From a DOD perspective, our strategy goals with regard to Somalia piracy include deterrence, disruption and interdiction, and prosecution. But achieving these goals will be challenging for several reasons. First, the geographic area affected is vast. The pirates operate in a total sea space of more than a million square nautical miles, making it difficult for naval or law enforcement assets to reach the scene of a pirate attack quickly enough to make a difference. In this vast expanse of ocean, tracking a few dozen low-tech pirate skiffs and intervening to stop attacks that can last only a few minutes is exceptionally difficult. When not actively engaged in piracy, pirate vessels often blend in easily with ordinary shipping, and when they return to land-based sanctuaries in Somalia pirates become even harder to locate.

Second, the root causes of Somali piracy lie in the poverty and instability that continue to plague that troubled country. In an environment where legitimate economic opportunities are scarce, piracy and other forms of criminal activity flourish. As you know, there is still no effective central government or law enforcement capacity in Somalia, and pirates consequently operate with relative impunity from coastal fishing villages. Pirates also operate in a cash economy, making their profits difficult to track and interdict.

A third challenge is that serious gaps remain in the international community's ability to create an effective legal deterrent by prosecuting pirates for their crimes. International law allows all states to exercise jurisdiction over pirates, but some states still lack appropriate domestic legislation or lack the prosecutorial or judicial capacity to prosecute pirates in their own courts.

Fourth and finally, many in the merchant shipping industry continue to assume unrealistically that military forces will always be present to intervene if pirates attack. As a result, many have so far been unwilling to invest adequately in basic security measures that would render their ships far less vulnerable.

Mr. Chairman, these varied and complex challenges mean that there will be no simple or single solution to the growing problem of piracy off the Somali coast. That said, a few statistics are important to help keep the problem in perspective. Consider piracy in the Gulf of Aden between Somalia and Yemen. Each year more than 33,000 vessels transit the Gulf of Aden and in 2008 there were 122 attempted pirate attacks, but only 42 of those were successful.

In other words, pirates attacked under one-half of 1 percent of shipping in the Gulf of Aden and their attacks succeeded only about a third of the time. This pattern appears to be similar throughout the region.

That doesn't mean that we can ignore the problem, of course. Pirate attacks are increasing in both number and in ambition and, although Somali piracy currently appears to be motivated solely by money, not ideology, and we see no meaningful links between Somali pirates and violent extremists, we must ensure that piracy does not evolve into a future funding source for terrorism.

But the relatively low incidence of pirate attacks does have implications for how we allocate military resources. As the members of this committee in particular know, DOD has urgent priorities around the globe. Many of the resources most in demand for counter-pirate activities, such as intelligence, surveillance, and reconnaissance, are the same assets that are also urgently required for regional counterterrorism activities as well as ongoing operations in Afghanistan and Iraq.

We must find more effective ways to address the growing problem of piracy, but we must also ensure that this does not come at the expense of other critical commitments. We believe this can be done. DOD is working closely with other agencies and departments in our government to develop a comprehensive regional counter-piracy strategy and we are effectively seeking engagement from other states, as you mentioned, particularly the creation of CTF-151.

28 states have already begun to assist and we are seeing concrete results. Since August of 2008, international efforts have led to the destruction or confiscation of 36 pirate vessels and the confiscation of numerous weapons. The international community has also turned over 146 pirates to law enforcement officials in various countries for prosecution.

We and our allies are also working directly with merchant shipping lines to undertake vulnerability assessments and disseminate best practices. Our goal is to encourage all vessels to take appropriate security measures to protect themselves from pirates.

Here again, some statistics are instructive. When we look at patterns in pirate attacks in the region, we see that unsuccessful attacks—of unsuccessful attacks, a full 78 percent were thwarted by actions taken by the crews of the ships under attack. Military or law enforcement interventions played a role in thwarting pirates in only 22 percent of unsuccessful attacks. This highlights the fact that the single most effective short-term response to piracy will be working with merchant shipping lines to ensure that the vessels in the region take appropriate security measures.

These include both passive and active defense measures. Passive measures include maintaining good communications with maritime security authorities, varying routes, avoiding high-risk areas, removal of external ladders, posting lookouts, limiting lighting, rigging barriers, and so forth. Active defense measures can range from rigging fire hoses to repel pirates to maintaining professional civilian armed security teams on board.

While there is some concern in the shipping industry with regard to security teams, we and other agencies are working with industry representatives to determine whether this might be a viable option for highly vulnerable ships, such as low freeboard and slow vessels.

As part of this effort, it may be useful for Congress to consider developing incentives to encourage merchant shipping to invest in security measures. These could range from tax credits to reduced insurance rates for ships with enhanced security. Ultimately, it may be appropriate to mandate some of these actions.

We will continue to respond when U.S.-flag vessels and U.S. citizens are attacked by pirates. But when ships have effective on-board security measures in place, the vast majority of attempted pirate attacks can be thwarted without any need for military inter-

vention. Most pirates are opportunistic criminals. Wherever possible, they will focus on the easy targets and avoid the difficult ones. Our main task is to help commercial carriers turn their ships into hard targets.

We will also continue longer-term efforts to prevent and punish piracy. We will work with allies and regional states to develop their capacity to patrol the seas and protect their own shipping, and we will encourage them to take any steps necessary to prosecute pirates in their own courts. And we will work, when possible, with Somali authorities to address the on-shore components of piracy, tracking pirate investors and safe havens.

Finally, we will work over the long term to address some of the root causes of piracy in the region, the ongoing poverty and instability in Somalia.

Many of these efforts dovetail with our existing development and counterterrorism goals in the region and, while there are no quick fixes, over the long term increasing local governance capacity and fostering sustainable economic development in Somalia are crucial both to reducing piracy and to countering the threat of violent extremism. We are confident that progress against piracy can be made through an enhanced public-private partnership with the shipping industry in the near term.

Thank you again for offering us this opportunity to testify and we look forward to your questions. Thank you.

[The prepared statement of Ms. Flournoy follows:]

Chairman LEVIN. Thank you very much, Secretary Flournoy.

Admiral Winnefeld, I think, is your statement a joint one with the Secretary's?

STATEMENT OF VICE ADMIRAL JAMES A. WINNEFELD, JR., U.S. NAVY, DIRECTOR FOR STRATEGIC PLANS AND POLICY, JOINT CHIEFS OF STAFF

Admiral Winnefeld: I have a few remarks I was going to make. Chairman LEVIN. Please.

Admiral Winnefeld: Good morning, sir, and good morning, Senator Inhofe. Thank you for the opportunity to speak before the committee on the subject of piracy in the coastal waters of Somalia, and I will try not to be redundant with Under Secretary Flournoy's statement.

But, building on that statement, I'd like to give you a sense of structure regarding how we synchronize our efforts along military, civilian, and industry and legal lines. Simply stated, we think of this problem in three layers, in increasing order of complexity. First would be anti-piracy, which would include deterrence and defense. Second would be counter-piracy, which would be disruption, interdiction, and prosecution. Then finally would be influencing the conditions ashore in Somalia that support piracy, to which Under Secretary Flournoy alluded very clearly.

Our efforts in anti-piracy include providing the best possible information exchange with vessels and industry entities before those vessels sail to the Gulf of Aden or to the Somali Basin, and also providing them the best possible information while they're there. We also encourage, as Under Secretary Flournoy mentioned, ships to employ both passive and active defenses, which are essentially

the most effective way of preventing this thing. We influence the information environment as best we can. We do what we can to provide a deterrent presence in a very large area with the ships that we have. And as a last resort, we sometimes provide direct support to individual ships.

The majority of ships, notably those with high access points and reasonable rates of speed, are able to defend themselves quite well without any kind of assistance using the relatively simple passive measures that we've discussed. For ships that are more vulnerable, steering well clear of the area is probably the best defense, but there are also other measures that those ships can take that would reduce their vulnerability.

Our efforts in counter-piracy involve hunting pirates wherever we can, being prepared to conduct hostage rescue when our interests, capabilities, and allowable risk intersect, and planning for potential operations ashore should they become necessary.

As Secretary Gates and Admiral Mullen have both stated, the challenges associated with hunting pirates in over a million square miles of ocean area, about four times the size of Texas, is extremely challenging. Moreover, as Secretary Flournoy has mentioned, some nation has to be willing to accept the pirates that we might apprehend in the course of hunting them. Our international partners, the State Department, and other members of the inter-agency have played an essential role in engaging Kenya and other nations in facilitating prosecution of pirates, which is absolutely essential to getting at the counter-piracy aspects of this. We do stand at risk of overwhelming Kenya's limited capacity in this regard and we do definitely seek other nations who are willing to help with the prosecutorial aspects of this.

I won't go into detail. At the moment I'm happy to answer questions regarding the challenges associated with forcibly regaining control of ships or with operations ashore, but these challenges are substantial and they include the potential for unintended consequences and the fact that anti-piracy, no matter how it is done, is very asset-intensive, including international, surveillance, and reconnaissance assets that are very much in demand in our other ongoing operations, including two wars.

Regarding the third dimension, changing conditions ashore in Somalia, I think we would all agree that this is the fundamental end state that would eliminate piracy in the region and I won't repeat Under Secretary Flournoy's clear remarks in that regard.

So while our instincts and our tradition as a maritime nation lead us to want to quickly eliminate this threat, piracy off the Horn of Africa is not a problem we will cure overnight. Nor is there a single solution. However, by exposing piracy to the broadest range of solutions, including the efforts of our many partner nations, our goal is to make continued progress towards reducing the number of ships that are willing to become pirated ships and reducing the number of Somalis who are willing to become pirates.

Thank you very much to the members of the committee and for your ongoing support to our men and women in uniform, and I look forward to your questions and comments on piracy.

[The prepared statement of Admiral Winnefeld follows:]

Chairman LEVIN. Thank you so much, Admiral.

Admiral Mull.

**STATEMENT OF HON. STEPHEN D. MULL, SENIOR ADVISOR TO
THE UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS**

Ambassador Mull: Thank you very much, Mr. Chairman and Senator Inhofe. I too share everything that Under Secretary Flournoy had to say. There's a broad range of consensus within the inter-agency of the administration on how we work together in approaching this problem.

In the interest of your time, I would ask that my testimony be submitted for the record and I'd be happy to summarize it very briefly.

As you mentioned and Senator Inhofe mentioned, the funny thing about piracy is it features a convergence of our really first foreign interest as a country at the very beginning of our Nation's history, of freedom of the seas, paired with—it's converging today with the very real 21st century threat of asymmetric security threats. This is all through the prism of needing to keep energy and humanitarian supplies flowing through simultaneously one of the most destitute, yet strategically important, corners of the world.

Our strategic goals in fighting this problem include restoring freedom of the seas to that area and doing that through stronger international cooperation, which is going to be absolutely essential to success; and then, longer term, building on the improved international cooperation to create a longer lasting maritime security regime in the region. We have approached these strategic goals with a number of tactics, all of which have been formulated within a whole-of-government approach within the administration and also very closely with our international partners.

First, we've worked very aggressively within the United Nations Security Council to pass a number of Security Council resolutions giving us additional authority to undertake military actions against pirates in the region. Most recently, in December we passed UN Security Council Resolution 1851 with a unanimous vote, giving us those authorities to do so.

Second, the United States took the lead in forming an international contact group to combat piracy, composed of key states in the region, as well as key international contributors to this effort. This group has now grown to feature more than 30 nations that participate in this and 6 international organizations which also contribute. Working with our military partners, we've established a zone, a maritime security protective area, which can be more systematically patrolled by contributing militaries. We have persuaded our international partners to contribute and to vote more military assets to this undertaking. We have worked with the government of Kenya and are currently working with other governments in the region to take on more responsibility for prosecuting the pirates that we apprehend. And of course, we ourselves have shouldered our share of the burden by bringing to New York the surviving pirate from the attack on the Alabama to prosecute him.

As Under Secretary Flournoy and Admiral Winnefeld mentioned, we are also working very closely with industry and insurers to make sure that they are full partners in adopting the kind of self-

defense measures that are going to be absolutely necessary for our efforts to succeed. More broadly, as the Senators have mentioned we continue our efforts to work for a resolution of the political crisis in Somalia, which of course is the root cause for all of this.

Now, we've had some success in our efforts in adopting these measures. There have been so far 15 successful—I'm sorry—make that 17 successful interdictions of pirates in the region so far in 2009. That's compared to only six interdictions in all of 2008. There's been a significant drop in the success rate of piracy attacks, as Under Secretary Flournoy mentioned.

But there are obvious challenges: the wide swath of sea that needs to be patrolled, the differing standards and levels of prosecution that all of the participating states in these efforts apply to the question of arresting and prosecuting pirates.

Nevertheless, despite these successes, there has been an uptick in the gross number of piracy attacks. Secretary Clinton a few weeks ago asked that we do more in response to this upsurge, and next week—or rather, this week—we are convening a meeting of all the major military contributors to this effort in London. That will be followed by a full meeting of the contact group later this month at the UN in New York.

At these meetings we're pursuing a number of goals. First, we'd like to get more forces on the sea there to help pick up patrolling duties. We want a more unified approach in terms of what to do with pirates once we apprehend them and to get more of a commitment of victim states to take their share of the responsibility for prosecuting the pirates and bringing them to justice, so that the burden of this is not just on countries like Kenya, which have already stepped up to the plate.

We are also working very closely with the Treasury Department to examine what we might do to stop the flow of pirate assets. We will address this, we will have a proposal for our partners in the contact group, later this month.

We will also press our partners in the contact group to play a more aggressive role in stopping the payment of ransoms and otherwise facilitating the flow of money to pirates, because that in fact is what is enabling the pirates to get more arms and take these on—to take on even greater levels of attack.

At the same time we are engaging, we are intensifying our efforts to support international efforts to enable the African Union peacekeeping forces to step up to the plate and play a stronger role in stabilizing the situation in Somalia, even as we work with our international partners to increase the amount of aid to the struggling government there.

It's a difficult problem, but with the clear international authorities that we already have and the consensus that's already there in the international community to do something, I'm optimistic that we're going to continue to make progress. But it's going to be a difficult row that we're going to be working on very carefully in the weeks ahead.

I'll stop there. Thank you very much and I look forward to taking your questions.

[The prepared statement of Ambassador Mull follows:]

Chairman LEVIN. Thank you very much, Ambassador. All the statements will be made part of the record.

Mr. Caponiti.

STATEMENT OF JAMES A. CAPONITI, ACTING DEPUTY ADMINISTRATOR/ASSISTANT ADMINISTRATOR, MARITIME ADMINISTRATION

Mr. Caponiti: Good morning. Thank you, Mr. Chairman, Mr. Inhofe, and members of the committee. I'm pleased to have the opportunity to appear before you today to discuss contract in the waters off of Somalia, and I've submitted a more detailed statement for the record.

Throughout 2008 and continuing into 2009, the global contract situation has grown substantially worse, particularly in an ever-expanding area off of the coast of Somalia, where more than 20,000 vessels transit the region each year. Although the impact of contract is significant, the American public has only recently become more aware of the situation with the attacks on the two American vessels, the Maersk Alabama and the Liberty Sun, both of which were carrying food aid for Somalia.

Acts of piracy threaten freedom of navigation, the flow of commerce off the Horn of Africa—and off the Horn of Africa, piracy disrupts the flow of critical humanitarian supplies. The vessels most vulnerable to piracy attacks are those traveling slowly, with limited speed capabilities, and with low freeboard—that is to say, there is not much height between the water and the deck level—what we call “low and slow.”

Currently, 18 commercial ships are being held for ransom by pirates in Somalia along with more than 300 crew members. Those are estimates, sir.

The Gulf of Aden, which links the Mediterranean Sea and the Suez Canal with the Indian Ocean, is one of the busiest choking points in the world. An average of more than 50 commercial vessels transit the Gulf daily and this includes on average about one U.S. commercial vessel transit. Also, due to a worldwide crewing shortage and the weak dollar, U.S. citizen mariners have been serving on foreign flag ships at an increasing rate, though we don't have accurate visibility on numbers.

Many U.S. flag vessels transiting the region carry Department of Defense cargo bound for Operations Iraqi and Enduring Freedom, and U.S. flag vessels transiting the region also carry humanitarian cargoes destined for Somalia. This is a particular issue because the food aid cargoes themselves are in the low and slow variety in most instances, so they are very vulnerable.

It has been our Nation's longstanding policy to support freedom of the seas and the United States has been a leader in promoting international action to combat the current piracy crisis. Secretary Flournoy went through a lot of detail on the government's initiatives on this, including the standing up of the contact group. The contact group itself is established with four working groups, which are providing recommendations on a variety of issues. The United States has the lead for working group number 3, which focuses on shipping self-awareness and interaction with industry, and the

Maritime Administration has been co-leading that effort of this working group in close collaboration with the U.S. Coast Guard.

The Maritime Administration is uniquely qualified to assist with working group 3 because of the agency's specialized knowledge, such as operations—that we get through the operation of our own mobility sealift vessels. We have established relationships with U.S. and international shipping, the maritime unions, the marine insurance community, the global maritime industry associations, and we have oversight over government cargoes transiting the Somali region under our preference cargo programs.

MARAD also plays a key role in the training of merchant mariners through the development of International Maritime Organization maritime security courses and workforce development. Efforts are also being made to include anti-piracy and security training in the academic programs at the U.S. Merchant Marine Academy, which we operate, and the State maritime schools, which we assist.

In addition, MARAD provides operational advice to U.S. flag owners and operators, including counter-piracy measures and awareness, on a regular basis through MARAD advisories, a comprehensive and frequently updated web site, and MARAD's electronic MARVIEW system, which is available to registered users.

Since the fall of 2008, MARAD has been at the forefront of outreach and interaction with the industry and other Federal agencies by hosting more than a dozen meetings in both national and international forums to help shape best management practices and to counter piracy and to share industry concerns. In early 2008, MARAD continued to intensify its efforts in the fight against piracy and to further improve coordination between industry and the various navies participating in the Gulf of Aden, and to provide voluntary assessments of security on U.S. vessels through a cooperative program that we have with the Military Sealift Command, which is assisted by the NCIS; and to further establish best management practices to prevent piracy and to bring industry's perspectives and ideas to the inter-agency.

Also this year, the Maritime Administration led the U.S. delegation of working group number 3 at the plenary of the contact group on piracy off the coast of Somalia, and we presented the international industry development best management practices to counter piracy. MARAD also supported the dissemination of counter-piracy guidance and remains engaged with international organizations and experts as the development and implementation of BMPs continues to evolve.

We've made enhancements to our electronic information system that I mentioned before, MARVIEW, and we've contributed to the maritime safety and security information system for the purpose of providing more efficient piracy-related data and vessel tracking to the National Maritime Intelligence Center.

Given limited military resources available to fully protect commercial shipping in the waters off Somalia, there is an increasing focus on the issue of shipping companies hiring private armed security personnel to protect their vessels while transiting the waters off Somalia. This may be a solution that all ships need to look at—all vulnerable ships. The high and fast ships probably don't need to worry as much about this.

But there are many complicated factors which must be addressed before the industry as a whole can adopt this recommendation about armed security teams. The issues to be considered are: the development of appropriate rules, regulations, and standards for armed security providers; the existence of port state restrictions on arms aboard merchant vessels entering many ports in the world; potential escalation of violence due to the presence of arms on board commercial vessels; issues of safety for the crew and for the vessel; rules on the use of force; design constraints of vessels to carry additional personnel; union contract issues; insurance and liability, and legal constraints, as well as many other factors.

It is clear that combatting international piracy is no small effort, evidenced by its long history. Much work has already taken place, as you've heard from all the witnesses today, but much remains to be done before international piracy can be eliminated. Due to its unique and positive relationship with U.S. flag and international vessel owners, MARAD has maintained a vital role in the development of U.S. anti-piracy policy.

Mr. Chairman, the Department of Transportation and the Maritime Administration stand ready to assist in any way possible to address piracy and any other issue that threatens the National and economic security of the United States and our allies.

I want to thank the members of this committee and Chairman Levin for your leadership in holding this hearing today. I will be happy to answer any questions you might have. Thank you.

[The prepared statement of Mr. Caponiti follows:]

Chairman LEVIN. Thank you, Mr. Caponiti.

Let's try a 7-minute first round. There's still a vote scheduled for 10:50 and we'll try to work through that.

Secretary Flournoy, there's been reference to armed security personnel being on board. I guess that's still under consideration as to whether or not we make recommendation of that kind to the commercial shippers, particularly those who have vulnerable ships. Mr. Caponiti just laid out some of the issues that need to be resolved before I guess a recommendation is made to the shipping industry.

It seems like such a simple approach, just have some armed personnel aboard, some security personnel. They have them at shopping centers. Why not on ships? I know insurance rates probably go down on shopping centers if you have armed personnel there, security personnel, to protect a shopping center. But some of those same issues—insurance rates, liability, probably union contracts, God knows what—we also have police departments there, but we expect that folks will provide their own security.

Why should we not expect that ships that are vulnerable going into that area will provide their own security personnel? Why should that not now be an expectation, Secretary Flournoy?

Ms. Flournoy: I do believe that we should expect private industry to take the utmost care to ensure that all of their ships going through the area are as secure as possible. I think there are many measures short of private armed security that can be taken, that have proved very effective in many cases.

That said, if you have a particularly vulnerable ship, where you judge that other passive and active measures will not be enough

to protect it, then I think this option of armed security teams is being put on the table. There is at least one U.S. company that has used those teams with a good record of success in actually turning away attacks. I think there's debate in the industry, concern about some port restrictions. Some ports do not allow ships with armed security to go in, and I'm sure our colleague from the Department of Transportation may be able to elaborate on that.

The one thing I would say from a DOD perspective is that, given all of the full range of demands on DOD personnel in this area and for other missions, I think the Department would be reluctant to get into a standard practice of providing military security for private shipping. I think we are very concerned about both the personnel and operational tempo implications and the costs of doing so, except in extraordinary cases.

Chairman LEVIN. So I assume then that the Department is trying to press the commercial shipping industry to take actions to secure their own ships with private security measures; is that fair?

Ms. Flournoy: Yes, we are working with our inter-agency partners to press both our own shipping industry and others to take as many active and passive measures as possible to—and we believe that in most cases those will be adequate to deter or thwart successful attacks.

Chairman LEVIN. That would include, if it were necessary, to have private security?

Ms. Flournoy: At least to consider that as an option. I think we're deferring to industry to determine in what cases that makes sense and when it doesn't.

Chairman LEVIN. Well, when we say defer to industry, that's fine, but we've got ships, our own naval ships, that get involved in these efforts. And we've got to I think at least make a recommendation to industry. Just simply to defer to industry I don't think—

Ms. Flournoy: I think we are recommending that they take maximal security measures, particularly for the most vulnerable ships. I think exactly what that looks like will depend on the particulars of a given ship and its transit patterns and so forth.

Chairman LEVIN. Maximum security measures then, if necessary, would—

Ms. Flournoy: Possibly including armed security teams from the private sector.

Chairman LEVIN. Is there going to be a formal recommendation on that issue that's coming from the task force or from this contact group, on that specific issue, whether or not we recommend private security guards for vulnerable ships in that area? Can we expect that there will be a recommendation on that specific point, Mr. Caponiti?

Mr. Caponiti: Sir, this is one of the issues that is being discussed. It's the most controversial issue that we have right now.

Chairman LEVIN. When will we know what the outcome of that discussion is? Can we expect that within a month there will be a resolution yes or no, yea or nay?

Mr. Caponiti: I would doubt if we'll have it in a month. There's more opposition among the EU community than there is on the U.S. side. The issue of armed security is a very controversial one

and it splits down a couple—it splits a couple of different ways. The U.S. industry is itself split on this.

Chairman LEVIN. I want to move away from the industry just for a minute. I want to talk about the government.

Mr. Caponiti: Yes, sir.

Chairman LEVIN. Are we split?

Mr. Caponiti: I don't believe so. I think we're looking at the range of issues. Coast Guard in their maritime security directives is looking at this currently.

Chairman LEVIN. Can we expect from our government a recommendation? I know it's complicated, but we all deal with complicated issues.

Mr. Caponiti: I think there will be a recommendation from our government about the standards that perhaps should exist if a carrier chooses to use it.

Chairman LEVIN. "If a carrier chooses to use it" is not a recommendation. The question is whether or not we are going to recommend to commercial ships that—

Mr. Caponiti: I think we would recommend that low and slow ships in some waters use it.

Chairman LEVIN. Use private security?

Mr. Caponiti: We may get to that point where we recommend that certain ships of a certain size and speed use it in those waters. I think we will get to a point where we recommend it.

Chairman LEVIN. When can we expect that there will be a recommendation one way or the other, or something, whatever the recommendation is, without getting into this what it should be?

Mr. Caponiti: Sir, I would expect that we would probably be able to have that in a relatively short time. I don't want to speak for the Coast Guard. I know they are actively looking at this right now. This is a priority—

Chairman LEVIN. Do we expect that within a month we could get a recommendation from our government as to whether or not, whether or not commercial ships—

Mr. Caponiti: I think it might be possible within a month, sir.

Chairman LEVIN. Secretary Flournoy, are you going to be involved in that recommendation? Is the Department of Defense going to be involved in that recommendation?

Ms. Flournoy: We will certainly be represented in the inter-agency process that decides which way to go.

Chairman LEVIN. I'm not an expert on the subject and I'm not trying to tell you what the recommendation should be, even though it seems to me pretty obvious that if you're going to have ships that are going into dangerous waters—we've only got so many naval ships. We can't protect every ship, nor should it be expected that we will do that. So I would hope that we would have a recommendation that is clear. Whether it's mandatory or whether it's just a recommendation's a different issue. But at least a recommendation to the private shipping world that's going into that area as to whether they ought to have private security and, if so, under what conditions, what are the most vulnerable ships, what are the times of the year, whatever the criteria are, because I think our government, obviously working with the private shippers, getting their point of view—I'm not saying ignore the shipping indus-

try's point of view, but we can't just simply say, we leave it up to you, without a recommendation, when our naval ships get involved, as they have. That's a public resource, and it's limited, as you point out, Secretary Flournoy. We have limits on how much we can do in that area because we have other needs for our Navy.

Thank you very much.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

First of all, let me—in your written statement, Madam Secretary, you mention this, and then my staff just gave me the exact wording: Each year more than 33,000 vessels transit the Gulf of Aden and in 2008 there were 122 attempts, attempted pirate attacks, of which only 42 were successful. In other words, pirates attacked less than one-half of 1 percent.

Now, that makes it sound like that percentage is small enough we shouldn't be as concerned as we are today. I looked into the written statement of Mr. Caponiti and it says here that the International Maritime Bureau reported in 2008 globally 11 mariners were murdered by pirates and another 21 are missing and presumed dead. The IBM also reported—the IMB also reported that during this same period off the Horn of Africa four mariners were killed, and so forth.

I think the first thing we need to do is see if there's unanimity among all of us, the four of you and those of us here, that this is serious enough that the statistics will not minimize the concern that we should have. Do you agree with that?

Ms. Flournoy: Yes. I also went on to say that I do think this is an important problem that we need to pay attention to, but we have to put the—I was trying to put the frequency of attacks and the fact that most are unsuccessful into perspective. But we still—it's certainly a concern, a problem that we need to address.

Senator INHOFE. Well, Admiral, let me first of all say how much I enjoyed spending time with you on the USS STENNIS, the aircraft carrier. I always remember because of the coincidence in the young lady who was an airman, seaman—I can't remember the exact title. She was wrapped up in a refueling hose and pulled overboard and almost every bone in her body was broken. I saw her at Landstuhl, at the hospital, and she was saying all she wanted to do was get back to her ship.

Coincidentally, it was the Stennis, and her name was Stennis. So I want one of your staff people to tell me whatever happened to her and did she get back there?

Now, Admiral, you talked about a lot of the problems that are out there in terms—first of all, I really appreciate what the chairman is bringing out. This analogy with the shopping centers is something. My feeling is when I first saw this that we should just have a zero tolerance policy, the United States of America, for this type of behavior.

Now, I look at the bureaucracy that we're dealing with and just, I've never seen such a mess in my life. You've got the UN, you've got the AU, the EU. You've got everybody. It seems like everyone has to be in agreement on all these things. If we're going to sit around waiting for the UN to come to total agreement, although I

think they've already done this, then it's going to be a long time before we resolve the problem.

Now, I agree with the chairman that we should get something really specific as to what we could do both in the private sector—and the one thing that I had thought, mistakenly I guess, that was the inhibiting factor was that there are some many ports, most ports, that will not allow ships to come in if they are armed. Is this a problem or have we overcome this problem?

Ms. Flournoy: My impression is this is still very much a problem that limits us. But perhaps my colleague can comment.

Admiral Winnefeld: It is very much a problem. Mombasa, for example, with the embarked security that was on the Bainbridge carrying Captain Phillips in, they had to get off before they could go into Mombasa.

Senator INHOFE. Now, this is a policy by the individual ports? This is not some big authority that's dictating these standards.

Admiral Winnefeld: Yes.

Senator INHOFE. Well, I think one of the first things that should be done is to visit these ports and have the private sector that is using these ports to make sure that that particular problem is resolved if they want to continue with ships out there. Is there a problem with going to these ports to try to get that policy changed? How would you do it?

Admiral Winnefeld: Well, sir, these are sovereign states and this is their right as a sovereign state.

Senator INHOFE. So it would be the private carriers probably that would have to do this?

Admiral Winnefeld: They probably would be—could intervene. There could be—I don't know if there's a role for the State Department.

Ambassador Mull: I can jump in, Senator. From the State Department's perspective, were there a U.S. Government policy to promote the use of armed security guards—and, as other members of the panel said, that's an active idea very much under consideration, I hope close to resolution. Should that become the U.S. Government policy, you can bet that the State Department and our embassies in each of these countries would be engaging with the governments to make it possible for us to implement that policy.

Senator INHOFE. I think we should do that, if that is an inhibiting factor out there.

Now, getting back—well, Admiral, you talked in your statement—I copied these things down. You have these things: information exchange, assistance to ships in this area, stating that we're talking about more than a military square miles—and of course I know what a capacity problem that would be—counter-piracy, the asset-intensive actions that would take place.

I agree that we need to do something in terms of arming these, having them, for the private sector to arm themselves, and then having a policy where we are able to use the Federal Government, use the Navy. But now it becomes a capacity problem. Particularly, we now find out we're going to be reducing our number of ships to 300, and I think perhaps this might argue for a change in that policy.

But in terms of just assets that are available to you, if we were to say to you, we want you to intervene and take over and provide some of the services that the chairman was talking about, what is your capacity? Could you do it? How much could you do?

Admiral Winnefeld: You're talking about the embarked security teams?

Senator INHOFE. Yes, to provide security.

Admiral Winnefeld: That is a significant capacity issue. When you look in the theater on any given day, there are somewhere around three to six U.S. flag vessels in the area where you could be vulnerable to pirate attack. If we were to put embarked security teams on all of those ships, to include the teams themselves, moving them to some port of embarkation, which is normally not near that area, and then riding the ship essentially and then disembarking them in another area, and then you multiple that out to determine how many teams we would need—and we have not done that math, but it's a significant number of teams—that would be a large dent, and cost as well.

Senator INHOFE. Let me suggest—I understand that and understand the capacity problem and the cost problem. But if we were to establish that policy, to me it would appear just by having that, the policy of the United States of America or the United States Navy, that would have a deterring effect on the incidents that are out there, it would appear to me.

Admiral Winnefeld: No doubt having military embarked security teams would deter incidents. But we believe that it's a capacity issue and we believe that this is something that private industry needs to do for themselves. It would be conferring a significant benefit on a private industrial entity if we were to provide them basically the shopping mall security guards that they potentially would be providing themselves if that situation is reached.

Senator INHOFE. My time has expired, but I hope we have time for the second round. I want to get into the CTF-151 makeup and also the African Union. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Inhofe.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

Incidentally, in terms of the numbers that Senator Inhofe was talking about, one of you mentioned the number that I've seen in the press and it becomes part of the background, but it really is a stunning and shocking number, that the pirates still hold at least 18 ships and 300 people. I take it, Madam Secretary, that none of those are Americans to the best of our knowledge?

Ms. Flournoy: That's correct, Senator.

Senator LIEBERMAN. Are they widely dispersed nationals?

Ms. Flournoy: They are. There are multiple nationalities involved.

Admiral Winnefeld: I can tell you about half of them are Filipino.

Senator LIEBERMAN. Because they're working on the ships.

Admiral Winnefeld: Because there are so many Filipinos in the international work force.

Senator LIEBERMAN. Okay. Admiral, let me ask this question, and let me begin it from this point. We know on this committee that in the conduct of the wars we're involved in in Iraq and Af-

ghanistan there is now a competition or stress on certain categories of service people, particularly the so-called "enablers": intelligence, surveillance, reconnaissance, engineers, certain aviators.

To what extent is our increased presence in the Gulf of Aden to deter piracy intensifying the stress on those positions or on others that might otherwise be assigned to Iraq, Afghanistan, and some other theater of conflict? I suppose I should have asked you first, Madam Secretary, and then we can go to the Admiral. Either way, whichever you'd like.

Admiral Winnefeld: I would say, sir, that for the ships, that those ships have been drawn essentially from other missions that they would ordinarily be conducting in the theater, for example in the Arabian Gulf or elsewhere.

Senator LIEBERMAN. Right.

Admiral Winnefeld: In terms of a direct impact on the campaign in Iraq or the campaign in Afghanistan, there's not a huge detriment from those ships being there as opposed to our capacity to conduct operations in those two theaters. When you start getting into the additional intelligence, surveillance, and reconnaissance that you might need to more effectively hunt pirates, when you start getting into the additional Special Forces that might be required to conduct other piracy-related missions in the AOR, then there would be an impact, and it wouldn't necessarily stress the force more, but you'd have to make the balance between stressing the force or detracting from an ongoing counterterrorism mission or something like that.

So it's a balance. As far as the ships go, they're doing fewer of the normal missions they would do.

Senator LIEBERMAN. Right. But you're saying in terms of personnel and equipment maybe there might be that kind of stress, just exactly the way you stated it.

Admiral Winnefeld: Potentially, yes, sir.

Senator LIEBERMAN. Madam Secretary, do you want to add anything to that?

Ms. Flournoy: No, I would agree with that assessment.

Senator LIEBERMAN. The reason I ask, of course, is to make the point that insofar as the U.S. military has taken on an extra responsibility here, which the private shipping industry appears not to be taking on—not to say that either could take care of all of this—it does have costs. And that's important to say, and that's why I think the chairman and Senator Inhofe—and I agree with both of them. We have to find a way to increase the responsibility of the private shipping business to self-protect here.

I worry that they're making a calculation—I'm not suggesting evil at all, but from the statistics Secretary Flournoy gave, one-half of 1 percent of the ships traveling through these areas are intercepted by pirates. So if you're making a business judgment, the odds of having this problem are quite low, even though the financial consequences of a particular seizure may be high. But you start to balance that against the cost of putting you personnel on all your ships and maybe it's worth taking the risk.

But from a larger, if I can say, international citizenship point of view, a safety point of view, international safety, it's not the right decision. And it does have effects on our National security, based

on the fact that we have to put more forces to fight pirates and try to deter them.

So I just want to make the point, and backing up my colleagues, that I think we've got to find a way, perhaps through some of the inducements you mentioned, like tax credits for money spent on self-protection on the ships by the shipping industry, to make sure this happens.

Incidentally, I think the position—I presume the requirement that ships coming into various ports not have people carrying guns on them was done either to stop terrorism or lawlessness. As Chairman Levin and I discussed, ports want ships to come in, and surely there's a way to say that if the guns on board are being carried by security personnel then that shouldn't create the problem.

I want to go to a second point here, which is: To what extent does the instability of the government of Somalia create this problem? Maybe I want to ask a general question first, Secretary Flournoy, which is: Who are these pirates and why is this problem escalating so now, or for the last year or 2? In other words, I presume they're organized criminal gangs without political motive.

Ms. Flournoy: Our assessment is their primary motivation is economic. The resurgence of these groups is really because of the very dire situation in Somalia. These are young men, no prospects of any real legitimate employment. This is a very—when you look at the money they earn from participating in attack, it may take care of their family for a year or more.

It's a high risk, but high payoff, business proposition for most of them. So I think addressing the lawlessness, the economic situation, and just the sheer desperation and destitution of many in Somali society has got to be part of this problem. Obviously, that's something that's going to take a very long time and be a very complex challenge. But that is something we have to work on over time.

Senator LIEBERMAN. So you would say that the increase in piracy in the last couple of years is the result to a great degree of the instability in Somalia?

Ms. Flournoy: That and the fact that for the most part private industry has generally chosen to pay ransoms, and that has created a market.

Senator LIEBERMAN. That's the motivator.

Ms. Flournoy: Yes.

Senator LIEBERMAN. My time is up, but I'll be interested to hear as this goes on what the international community intends to do and what our government intends to do to try to make the government of Somalia more stable.

Chairman LEVIN. Thank you, Senator Lieberman.

Senator SESSIONS.

Senator SESSIONS. Thank you, Mr. Chairman.

I've got to say this has been a most disturbing panel. It's very depressing to me and I think your testimony is very depressing. Secretary Flournoy, you're Department of Defense policy, and I can tell you what the policy of the United States has been. We've had to—during certain periods of time we've not been able to adhere to it, but the policy of the United States is millions for defense, not one cent for tribute.

Flag ships of the United States of America have a right to sail in the high seas, and we have a governmental duty, do we not, Admiral, to protect American flag ships on the high seas? Isn't that a Navy responsibility?

Admiral Winnefeld: We have a responsibility to protect them where we can, with the assets that we have available, sir.

Senator SESSIONS. We have the responsibility to ensure that our ships have a right to traverse the high seas according to the laws and the historical rules of the high seas; isn't that right?

Ms. Flournoy: Sir, I would say that it's a shared responsibility. We certainly have a responsibility that we step up to, as was evidenced just a couple weeks ago, when they are in extremis, when they are attacked, we will protect them. We have ships out there every day seeking to deter the threat.

But they also have a responsibility to take the essential measures they can, the most effective measures, to protect themselves.

Senator SESSIONS. Well, I'm aware of that. We're not at every spot in the globe every minute. We can't guarantee immediate response to a danger. But should not try to give away or excuse away the responsibility we have to protect ships on the high seas.

I remember at a commissioning ceremony not long after the Cole was attacked not far away from there, this area, and one of the sailors screamed out, and it still sends chills in me, "Remember the Cole." This is a responsibility we have. I want to make that point.

I am probably the only member of the Senate, or the House for that matter, that's ever prosecuted a piracy case. Admiral, Ambassador, we have piracy laws. If somebody takes over one of our ships on the high seas, they are subject under existing law to be prosecuted, and the venue for that prosecution I believe is the first port to which they are brought within the United States. There's no problem about law.

And why we need the United Nations to pass some resolution is beyond me. I'm glad that they are concerned about it, but it's not necessary. We don't need treaties to defend our ships.

Now, one of the problems with the private security guards, the shipowners I understand suggest—and I think they should have them—is that, well, violence could occur, we could be sued and there could be liability. Has anyone thought about providing for a defense or an immunity for shipowners who are doing their best to defend the ships, who are subject to hijacking out on the high seas? Has that been discussed? Any of you involved in that?

Admiral Winnefeld: Sir, I would say that all of the things that have been raised regarding embarked security teams paid for by merchant mariners, which we would not disagree with doing, are all being studied. I know that they really are being looked at in terms of what are the barriers to doing that—

Senator SESSIONS. Well, have you come forward with any suggestions to fix some of these barriers? Maybe the Congress would be willing to accept your recommendation?

Admiral Winnefeld: And I think that the methods of getting at those barriers—

Senator SESSIONS. But all we're hearing is negotiations and talk, and no real action. There are 300 sailors being held, 20 or more

ships, and we I don't think have reached any clarity of action. What are we going to do is the question.

I would just also recall—I see, Secretary Flournoy, you quote the piracy of Roman times. Appenine's history, the ancient history of Rome, talks about that. What he talked about was how ships were being seized in the Mediterranean and they were raiding the Italian coast, had captured proconsuls of Rome. So, in his words—and I think I remember this quote directly: "When the Romans could stand the disgrace no longer," they got together, they formed a task force of hundreds of ships, I think. They issued orders to those around the Mediterranean to the Pillars of Hercules that no one should give comfort or aid to the pirates, and they went after them, thinking it would be about a 2-year process. Within 6 months they destroyed them.

Yes, they came back in the time of the early American Republic, captured our ships. President Jefferson and others were mortified that we had to pay tribute to these pirates, but they had no alternative. We had no Navy. Eventually we got the ships, and Stephen Decatur landed at the shores of Tripoli, and that broke the piracy. I would suggest you see Mr. Oren's book on "Faith, Power, and Politics" on the Middle East when he details that history.

So this is a question of will. I'm just telling you, you need to figure out how to do it and get busy, and this will stop. When we've taken strong action, we have broken the back of piracy. It is not something we've got to live with. I hope that you'll get busy about it. I just find this bureaucratic talk here is not very encouraging to me.

I think the Obama Administration needs to send a clear message that when the legitimate interests of this Nation are threatened we're prepared to defend our interests, and we're not going to pay tribute to pirates, and we're not going to allow Americans to be captured.

Maybe it's personal to me because of the Maersk Alabama and the connection to Alabama over this ship and the heroic actions of Captain Phillips and others on that crew. But I really expect more from you at this hearing, more progress, more concrete plans, and a determined will to break the back of this unacceptable activity.

We can do this. We have a Navy today and we can do it.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Sessions.

Senator Reed.

Senator REED. Thank you, Mr. Chairman.

Secretary Flournoy, you indicated to Senator Lieberman that this is primarily an issue of money, poverty, et cetera. It strikes me that the gunmen who've taken these ships on aren't exactly rolling in luxury, that there's a financial infrastructure which could be attacked, as well as a physical infrastructure of ships and pirates and self-defense of our ships. What are we doing to sort of disrupt the financial infrastructure?

Again, I don't—correct me if I'm wrong. I don't think any American ship has paid any tribute, and that's not the policy of the United States.

Ms. Flournoy: U.S. policy is not to pay ransom under any circumstances, and that is a policy that is very much in agreement with Senator Sessions' point.

Senator REED. In fact, the latest demonstration of policy is that when pushed to the extreme we will use lethal force to protect Americans.

Ms. Flournoy: Right. When the Maersk Alabama was taken, for example, we were very clear that we did not want a ransom paid for a U.S. ship, and we eventually took military action to resolve that situation and save an American citizen.

With regard to the finances, this is something where we have asked the Treasury—not we the Department. The U.S. Government has asked the Treasury Department in particular to try to turn its attention to trying to understand the financing behind piracy and where possible identify and disrupt those who may be sponsoring investment in some of the infrastructure and so forth.

It is more difficult than in some other criminal areas of activity, in that the ransoms are usually paid in cash, they go to Somalia, where transactions are doing in cash. There's not a banking system to speak of. Couriers are taking cash to people elsewhere. So it's a very difficult problem to get a handle on.

That said, we are really focused on trying to understand the financial infrastructure and ways to interdict it. So that is an area of focus.

Senator REED. Let me—Admiral, do you have a comment?

Admiral Winnefeld: I was just going to pile on to Under Secretary Flournoy's point. The Treasury Department has the best people in the world really at doing this, and we are actively engaged with them. It's a very frustrating problem for them because of the cash payments that Ms. Flournoy alluded to. But there are other methods that they're looking at that hold some promise.

So we are on this. A little bit tough to talk about in a public hearing.

Senator REED. I understand that.

Let me ask—

Chairman LEVIN. Senator Reed, I'm wondering if I could just ask, just interrupt you. Forgive me.

The vote has just started. Senator Reed, if you could, when you're done with your questions, call on the next person in line. The staff will give you guidance on that. Then Senator Webb will be back at 11:00 to chair for about a half an hour, because I have to be gone. Thank you.

Senator Reed [presiding]: One of the aspects, I think, of the political structure of Somalia is it's dominated by tribal arrangements. To what extent are you working through or with these tribal groupings to try to counteract this issue on the ground? I notice that when the Maersk Alabama was seized actually there were some discussions with tribal leaders on the ground to release the captured captain, and the question was—again, it reflects our policy—we were not going to let the pirates go free. We were going to take them into custody, and that's where the negotiations broke down.

But, Ambassador Mull, you might want to comment.

Ambassador Mull: Yes, you're absolutely right, Senator, that throughout Somalia the clan structure is really the dominant force in governing the place or, one might say, misgoverning the place. The leadership, tribal leadership, in the Puntland area, which is the northernmost coast of Somalia, which has been the source of the vast majority of these pirate attacks, has begun exploring with us the possibility of our providing security assistance and additional resources to them to assist them to patrol their own people and to prevent acts of piracy before they begin.

We are engaging with the leadership through our embassy—as you know, we don't have an embassy in Somalia. We manage our relationship and activities in Somalia through the embassy in Kenya. We are reaching out to the leadership of Puntland to see how we might bring that kind of cooperation about.

The challenge, of course, is there's a great deal of corruption in Somalia. There's some at least anecdotal evidence that there is cooperation between some of the officials of the clan structure with some of the pirate rings that are operating out of Puntland. So we need to be very cautious that in assisting this government we're not in fact assisting the pirates and enabling even further attacks.

Senator REED. Thank you, Ambassador.

Admiral, CTF-151, could you just give me a rough idea of its composition and also to the extent that our allies are prepared to sustain this effort over the longer term?

Admiral Winnefeld: Yes, sir. CTF-151 was created by Central Command and Naval Forces Central Command specifically to counter piracy. It's growing day by day. I believe it has five current nations and around five or six that are going to—are exploring the notion of actually joining this command and control construct.

As you know, there are 28 total nations out there that are participating in the counter-piracy effort, and it's a complicated puzzle, if you will, of political arrangements. The EU has Operation Atalanta out there. NATO has Standing Naval Forces-Mediterranean that is out there. We have our partners in CTF-151. There are several independent partners out there—Republic of Korea, China is even out there, Russia has been out there.

It's a fairly loose compendium of nations that actually work very well together. There are several mechanisms that we have out there that coordinate efforts, that allocate space and communicate intelligence and other information. When you consider that the only overarching alternative you could get to would be a UN-led operation, which they're not really interested in doing, this is a very effective operation, and I would give Admiral Bill Gortney, who is the commander of Naval Forces-Central Command, a lot of credit for keeping this together and working closely with our partners.

Senator REED. Thank you very much, Admiral. And thank you, Madam Secretary, and gentlemen.

Senator Collins.

Senator COLLINS. Thank you.

Madam Secretary, I'm very troubled by your statement in your testimony saying that the root cause of Somali piracy lies in the poverty that continues to plague this troubled country. These are criminals and if we treat this criminal activity as being attributable to poverty, we're going to be ineffective in dealing with it.

Similarly, when you had your exchange with Senator Lieberman you said that for the pirates this is a high-risk activity. But it really isn't. Think what happens. If they're successful, in most cases the ransom is paid. They're rewarded for taking what I would argue is a low risk. In the cases that you cited, the vast majority of cases where the attacks are repelled, there are no consequences for launching the attack. They're not prosecuted. They're not harmed. They're not shot.

So essentially, from my perspective, this is a low-risk activity for them. What happened with the extraordinary activities of our naval SEALs, our Navy SEALs, was unusual, that the pirates were killed. In most cases, when they're repelled they just go on to attack another ship, until ultimately they're successful.

So from my perspective, our policy is going to be ineffective until we treat this harshly, until we treat this as the criminal activity that it is. So from my perspective there are two things we need to do. One, we need to put pressure on the London-based insurance companies to stop paying ransom. Second, we need to have a more effective process for bringing these pirates to justice.

So those are the two issues I want you to address.

Ms. Flournoy: Senator, you are right, this is criminal activity and we do treat it harshly. When we catch pirates in the act, we turn them over for prosecution. 146 have been turned over for prosecution.

Senator COLLINS. But how many of them have actually been prosecuted?

Ms. Flournoy: That I would have to get you, get back to you on the exact figures.

But the point is I think we are treating this seriously as criminal activity. What I was trying to say is when you look at the motivations of the pirates—and in most—in every case that we're able to identify where we have real data, it is economic in nature. I was trying to tie back to the fact that Somalia has virtually no functioning economy, which gives rise to a greater degree of criminality than we would expect if Somalia had a functioning economy and government and law enforcement capacity and judicial capacity, etcetera, etcetera.

So the economic situation, the lawlessness in Somalia, only exacerbates the criminal activity. But we do treat this as criminal activity. We do not pay ransoms. The U.S. Government does not condone the paying of ransom by anybody. We do seek prosecution in every case where we have evidence, and so forth. So we are treating this very seriously.

We are also working with allies to press them to create the domestic legal infrastructure they need to pursue prosecution consistent with international law, which provides for that sort of umbrella, if you will. And we are pressing more countries to be part of the coalition in terms of being willing to take pirates and prosecute them beyond just Kenya.

So I think we are very much in line with your desire to treat this seriously and to prosecute pirates when we are able to apprehend them.

Senator COLLINS. I look forward to getting the specific statistics from you, because it's my understanding that very few of these pi-

rates have actually been brought to justice. And as long as they're being paid off and there's little risk of being caught and prosecuted, this activity's going to continue.

Thank you, Mr. Chairman.

Senator Webb [presiding]: Thank you, Senator Collins.

I guess I'm next. Secretary Flournoy, let me begin by apologizing for having missed a portion of your responses, so I'm not sure whether you and other members of the panel have addressed some of the issues that I'm going to raise. But I'm going to go forward on those.

I would begin by first of all making a distinction with something that Senator Lieberman said, and then going on the record to agree with him on something else. I don't believe that this is any way an extra responsibility by the United States military. I think this is part of its historic role that's gone back for 200 years. It's a part of who we are as a nation.

At the same time, I'm going to ask a question in a minute about the role of the international carriers in their own self-defense, what their responsibilities might be, because I think that Senator Lieberman raised a very legitimate question in that respect, and I'm going to follow on from a conversation that I had in the Foreign Relations Committee last week with the chairman of Maersk on that issue.

But it seems to me that we, at least in the National security area, may be overthinking this question. The problem in some ways emanates perhaps from a failed state of Somalia, but it would seem to me that the problem has grown and become exacerbated by these huge ransoms that have been paid as a reward for this type of conduct, with almost no accountability on the other side. If you've got people sitting on the peripheral areas of Somalia who can't afford a pair of Adidas and they know if they pick up a weapon and go out in international waters they can—it's almost like the dog catching the fire truck. They can go out and point a weapon at one of these huge vessels and end up with millions of dollars, as it now turns out. They just continue to escalate the ransom and they continue to receive the ransom.

There are countries that would as a matter of policy be willing to continue to pay those ransoms. That's one thing that we have heard. But we in the United States I believe need a clearly stated policy with respect to these sorts of attacks on our flag vessels or in areas where United States citizens are involved. The rest of that goes into in many cases sovereignty issues that are beyond what we ourselves as a Nation may want to agree with, but the place to start on this is with our own national policy.

The second piece of this—and Admiral, you're very correct to talk about the requirements of maritime security. But it would seem to me if we're looking at this logically—and I've heard you say something to this effect at the hearing. If you're looking at it logically, we don't have to secure an area four times the size of Texas. The security begins at the target and emanates outward, not with the expanse of the ocean.

So really what we should be looking at are clear rules of engagement that everyone understands, including other countries, and to address this principally as a problem with the use of force, and to

refine those rules in two areas. One is the question of the use of force by non- military security personnel on board certain ships. Your own statistic, Secretary Flournoy, when you're talking about 78 percent of the foiled attacks came about because there was some sort of armed presence or some sort of resistance on a ship; is that correct?

Ms. Flournoy: Some defensive measure, not necessarily armed security.

Senator WEBB. Some sort of action—

Ms. Flournoy: Yes.

Senator WEBB. —from the ship.

Ms. Flournoy: Yes.

Mr. Caponiti: Mostly just speeding up and turning, evading, frankly. And on occasion, yes, sir, armed response or some other active measure, like a fire hose.

Senator WEBB. Well, a defensive action of some sort emanating from the target has an impact on the people trying to take the target. Even something as benign as speeding up and changing course can affect the ability of the people who are attempting to carry out these activities.

Mr. Caponiti: Sir, if I could add, one thing that hasn't been made clear yet—and somehow this got lost in the message because we got hung up on the armed security issue—there are a set of best management practices out there that are tested and real and they're being followed by the industry. It's not that these carriers are not hardening themselves. It's in their own self-interest to harden themselves and they're doing what they can do. I can't say that emphatically enough.

There's a suspicion that perhaps 30 percent—and we don't, obviously, have an accurate number, but perhaps 30 percent—of the international community is not following best practices. But most of the responsible carriers are.

What we are trying to do as an international body is further disseminate, further make known, put pressure on everybody to do what's right.

Senator WEBB. Right, but the definition of best practices is those practices that have been agreed upon in this international business community.

Mr. Caponiti: Yes.

Senator WEBB. It's not necessarily best practices that we would define if we were looking at this from a different viewpoint in terms of putting armed security people on these ships.

Mr. Caponiti: It's both benign and armed. We have—there's a variety of mechanisms that are in place. The armed security is a real issue. For certain vessels in certain waters, it's probably a reality where we are, and we're getting hung up on the debate of that because there are issues—the insurance carriers themselves say very clearly that they are more comfortable with embarked security, embarked military security, because there are—

Senator WEBB. I'm not talking about military security.

Mr. Caponiti: But they're more comfortable because there are rules of engagement. I think there is a concern until we establish standards—

Senator WEBB. I understand that, but you're not going to the point that I'm trying to make.

Mr. Caponiti: Okay.

Senator WEBB. I understand that if we were to put embarked military security on ships at certain points that there's a wider group of international associations that would be comfortable with that, but that's not what I'm talking about.

What I'm saying is that, if you look at that issue and why it hasn't been agreed upon, and particularly from the testimony that we had last week on the Foreign Relations Committee, it's, number one, that there is not an agreement on that with respect to international shipping—in fact, they disagree with that; that from the companies' perspective, they're concerned about liability issues on board the ship if you're allowing crew members who are not, say, properly trained, or if you're going to have an incident on the ship where somebody goes into the weapons locker and gets a weapon, what's the liability for the shipping company itself; and then this issue of port visits.

I would suggest that all of those are eminently solvable and that it makes sense that if you have the option of the shipping companies to put security people on board ships at certain transit points if they decide that they are at risk, that it would be their obligation to do so. When the chairman of Maersk was testifying before us, he said it would have a minimal increase in terms of the cost of doing business.

The second area that I think we should be examining is the difference in our legal and military perspective between international waterways and conducting any sort of activities inside the territorial waterways or actually the shore in places like Somalia. What is the policy of DOD, Secretary Flournoy, on issues such as hot pursuit or preemptive strikes or considering these people as enemy combatants once they have engaged our forces and going to where they operate from?

Ms. Flournoy: Senator, the UN Security Council resolutions on the books actually include pursuit into Somali territorial waters. But we are treating—if I could, I would like to try to clarify U.S. policy in context because I think there have been a lot of questions.

First of all, we as a government do not condone the paying of ransom. We seek to end the paying of ransom.

Second, we will respond to U.S. ships in extremis.

Third, we will prosecute pirates as criminals whenever we catch them in the act, have the evidence to prosecute them. We do not catch and release pirates that we've caught in the act.

We will also interdict and try to confiscate any guns, any material, from those who we suspect will be—may be pirates.

Senator WEBB. How about their boats? How about their boats? Is it our policy that we will confiscate their boats?

Ambassador Mull: We are confiscating their boats and sometimes destroying their boats. I've even got the numbers on how many we have done that.

Ms. Flournoy: And sinking weaponry and that kind of thing.

We also have a policy of pressing the shipping industry to adopt best practices, passive and active defense measures, to increase their security and reduce their vulnerability to attack. So I think

there are a number of very clear and I would argue tough policies in place. But we are treating this as an act of criminality at this point, not—we do not see these people as enemy combatants per se.

Senator WEBB. Thank you.

Senator Wicker.

Senator WICKER. Thank you, and thank you to the panel.

We're having this hearing because of the Maersk Alabama and the incident that got so much publicity. Of course, we learned that there were over 100 attacks last year and more than 70 this year, but it was the Maersk Alabama, involving Americans and an American being held captive, that has captured the imagination of the American people and caused us to be here.

So I think one of the things that we should do, Mr. Chairman, is talk about lessons learned so far. What lessons did we learn from the Maersk Alabama? What lessons did we learn from the experience of the international community in the Strait of Malacca, where apparently several years back we had upwards of almost 100 attacks and now we only had 2 last year. Was that a matter of extreme poverty along the area of the Straits of Malacca, and has that poverty been eradicated? Is that—would anyone suggest that that's why things got a little better there? Or is it the fact that the countries involved got together in an organized way and decided to put a stop to it?

I wonder if we could assess what lessons the pirates may have learned. Now, I know they're disorganized and I know this is not part of some international terrorist group. They're criminals. But they do listen to the media and they do know what is happening. And it seems to me that one lesson they may have learned, one lesson I hope they learned, is don't mess with the United States; you may take a head shot if you take an American pilot, an American captain, prisoner.

So if I'm a pirate today off the Horn of Africa, I may be thinking: If I know that's an American ship, then I want to stay away from that.

I was interested to learn last week that we don't fly our flags on the open seas. Actually, when we mentioned that in a bipartisan manner before the Foreign Relations Committee, there was some resistance by Captain Phillips himself and an executive from the Maersk corporation to the concept of actually flying our flag or putting a replica of the flag on the side of the ship. I wonder if you would comment about that.

But is there a way that we can make sure that a pirate when he's thinking, when these folks in desperate financial straits from a failed country are thinking about embarking on such a course, that they look out there and say: Ah, that's an American ship; maybe we ought to wait for the next one to come along.

Ms. Flournoy: If I could just say a word, and I'm going to let the Admiral address the operational lessons learned from the specific issue with the Maersk Alabama. But if I could address your broader point, a couple things. I do think that, although some of the pirate rhetoric after the Maersk Alabama was, oh, we're going to seek revenge, I actually do think the fact that we conducted a successful operation and there were very high costs to be paid, pirates

were killed, will have some deterrent effect on pirates seeking out American ships in the future.

But I think the most effective deterrent again is a clear set of active and passive measures that make the pirates believe that a particular ship is not an easy target, but a difficult target.

Second, to your point about the Straits of Malacca, what happened there was a group of regional countries getting together to increase their coordination with regard to surveillance, reconnaissance, communications, interdiction, and so forth. Unfortunately, given that Somalia is a failed state without an effective government and without any real capacity, that kind of solution is not as readily available in the Somali Basin at this time.

Admiral Winnefeld: I just want to reinforce what Secretary Flournoy said about, first of all, I wouldn't want to offer any good lessons to the pirates that they could use on their next attack. But I think one of the most important ones is ship self-defense. As we look at the risk assessment criteria that we would apply to a U.S. flag ship going through that area, at the time she went through she was in about the highest risk category you could possibly ask a U.S. ship to be in: low freeboard, as Jim said; relatively slow; and the amount of time she would be spending in the area, and the like.

It's interesting to note that when she went into Mombasa after the piracy event was over that she added—and I won't go into detail in the public hearing—about six or seven of the industry best practices to that ship that are aimed at preventing piracy. Not just the speed and maneuver, but other things you can do aboard your ship that will make you more defensible. And she's done that now, so I think there's a lesson there that was learned and capitalized on. So I think it's a positive message that that occurred, and we'd like to see all ships, especially U.S. flag ships, capitalizing on those lessons and doing the relatively simple things that they need to do to protect themselves, that would make most of this go away.

Again to reinforce Secretary Flournoy's point on the Strait of Malacca, it's a very good example of a relatively small and narrow body of water that's easier to police than the large Somali Basin and the Gulf of Aden, with nations that are on the littorals of that area that are willing and able to take steps, and they did, partly at our State Department and our own encouragement, and they've been very, very effective, and it's a great example.

We'd like to see that happen in other parts of the world, particularly the Gulf of Guinea, as was mentioned by one of the other members. So excellent questions, lots of good lessons. There are plenty of tactical lessons learned at the Special Forces level. It was a very well run operation. But you always want to draw the lessons out of something like that, and our guys are doing that.

Senator WICKER. Admiral—and I know my time is expired. It seems to me if you try to put yourself in the place of these young economically driven criminals that are taking these ships, if we could fly the flag on our boats I think they might be reluctant, given the response that the United States brought to this instance, I think they might be reluctant to attack a ship flying the American flag again.

Admiral Winnefeld: I'd like to respond to that. I agree with you, sir. We would love to see them flying the American flag. I think, believe it or not, when we've asked sometimes it's an economic decision. On my own ships that I've commanded, you have to replace the flag about once every 2 weeks because there's so much wind out there it gets tattered. But we fly it all the time, and we'd love to see the merchants fly it all the time.

In terms of painting it on the side of the ship, I'm not sure that that's wise for a counterterrorism purpose. But out there on the high seas, particularly in that part of the world, we'd love to see them flying it, although I'm not certain that your average Somali pirate would understand what it means. I don't know if they recognize it, to be quite honest.

Senator WICKER. Well, thank you very much. And there are other considerations which, Mr. Chairman, we should take into consideration. It just does seem to me if you've got one set of folks willing to write a big check to get out of this and another country with the best trained sharpshooters in the world ready to take a head shot, it might be a reason for these young opportunistic criminals to think long and hard before attacking Americans.

Senator WEBB. Thank you, Senator Wicker.

I've been handed a note saying that Ambassador Mull has to leave at a certain point. I just wanted to note that for the record. You're welcome to stay as long as you wish.

Senator Ben Nelson.

Senator BEN NELSON. Thank you, Mr. Chairman.

Well, if we got the Maersk to put on some of the best practices on their ship, does that mean we have 32,999 more to go? Probably not. That's just a rhetorical question.

I know trying to coordinate action on a broad basis with the EU and other nations makes a great deal of sense, and there is a time for diplomacy. But it seems to me there's also a time for action, and I hope we don't overanalyze this situation with the liability issues and all the other issues that have come up, because really the questions boil down to who takes the risk and who pays for the risk.

Thus far, that's been decided by certain commercial interests one way and perhaps by others the other way. But when the cost of the risk shifts to our government, almost entirely because of the inability or because we're not requiring in some way the American interests, the ships of American interests, to take care of as much security as they possibly can, including having armed security on board, then that shift to the American Government is a shift to the American taxpayer.

We all watched the Maersk incident, and I fully concur with the plan, fully support and applaud the result, because I think that we took the right kind of action in as short a time as possible, given the circumstances. But do we know what the cost is to our budget? That's a question: Do we know what our costs? When you add up all the costs of the military taking the action and having to come in to do that, do we know the cost?

Ms. Flournoy: I knew you were going to ask that question, sir. I don't have the figure yet, but we have our Comptroller working on trying to assess the cost of that operation, so we can appreciate

to weigh that against the costs of investing up front in better security measures.

Senator BEN NELSON. And I don't want to diminish the importance of saving the captain and taking the action that we did. But it does have a financial impact and we need to know that, because we need to multiple that if we're not going to take the right kind of action with respect to the rest of the American commercial fleet.

Ms. Flournoy: The truth is, sir, many of the most effective defensive measures, passive and active, that we can take or that the shipping industry can take are relatively low cost. Again, if we could think, if the Congress could think about ways to incentivize that investment up front, that would be a very helpful development.

Senator BEN NELSON. Some of that \$34 million that was spent in ransom somewhere along the line would have gone a long way to pay for it as well. So I think the commercial interests have to assume a lot of the costs. I don't like to have that shifted back to the taxpayer with incentives if we can just simply pursue the commercial interests. They're the ones that stand to gain either risk or reward getting through that area.

If the Maersk had been an asset of a foreign country, not of the American commercial fleet, let's say, and the circumstances were the same, would our military have intervened? Admiral?

Admiral Winnefeld: The circumstances, as you know, were quite unique, weren't they, with the captain adrift in a lifeboat with pirates. I believe that you would find we would be willing to assist our partners as much as we could, but—

Senator BEN NELSON. Well, excuse me. Would we be the junior partner? In other words, if it was one of the EU ships, would we expect to EU to take the primary responsibility and we would assist? Or would we assist by taking primary responsibility?

Admiral Winnefeld: The situation evolved slowly enough that we would have time to consult with our partners and come to an agreement on that, and it would be likely that if we were the first people on the scene in that case we would have done whatever we could to, for example, prevent the lifeboat from being reinforced from the shore and to prevent the lifeboat from making it to shore. But in terms of the actual action that was taken to rescue Captain Phillips in this case, we would consult closely with our partners to see what they wanted to do.

Senator BEN NELSON. Let's reverse it now. Let's say that we hadn't arrived first with the Maersk and the EU-based military operation arrived first. What would they have done?

Admiral Winnefeld: I believe they would have done the same thing, sir. I think they would have prevented the lifeboat from proceeding ashore and would have prevented it from being reinforced.

Senator BEN NELSON. Well, and if enough time went by then we would arrive on the scene and we would have taken the action we took. But what if it had been—what if it called for action faster than we were able to arrive? What might they have done?

Admiral Winnefeld: Without overscenario-izing it—and it's always difficult to get into hypotheticals—

Senator BEN NELSON. I mean, would they have taken the same kind of action? Would they have been bold enough to fire upon the pirates in the lifeboat?

Admiral Winnefeld: I think it really depends on the situation. They've demonstrated in several cases, several of our allies, that they're willing to use force out there, just like we've been willing to use force when it directly impacts our own people or our own interests. So it varies from nation to nation, and I believe that we've got a good relationship with our partners out there that we can get the job done when it needs to be done.

Senator BEN NELSON. Well, is part of what we're attempting to do with developing this partnership with the other nations is to bring everybody up to the same standard? I hope it's not to bring us down to the lowest standard.

Admiral Winnefeld: Certainly not, no, sir. I would tell you, and Admiral Gortney would I believe say the same thing, that there's a continual effort. There are hosts of discussions, meetings that are held, consultation among the various players that are out there, to talk about who's going to take which part of the water space, the intelligence that's shared, and the like. It's a good cooperative relationship.

Senator BEN NELSON. I think it's important to do that. But as long as there are some prepared to go ahead and pay the ransom, we all still remain at a greater risk than we would otherwise, and I think it's important to press that upon those that are unlikely and perhaps even unwilling to step up and provide the same level of security and force that we are and others are.

Thank you, Mr. Chairman.

Thank you.

Senator WEBB. Thank you, Senator Nelson.

I thought—for the record, I thought that Senator Nelson's round of questioning was pretty illuminating, and your response as well, Admiral. If you look out at what's been going on in the past few months, there are a lot of surprises. I think there are probably military judgments that are a little bit different than longer ranging political judgments from governments on the use of force and these sorts of things.

It's been frequently noted that the Chinese navy is operating in this region. But I think one of the most interesting stories came this morning when the South Koreans freed up a North Korean vessel. That's got to be a first in the last 50 years or so. So this issue is full of surprises.

Senator Inhofe, do you have any further questions?

Senator INHOFE. Well, I really don't. I thought we had other Republican members coming back, but apparently not.

Let me just mention one thing. I was coming back in when, Senator Webb, you used the word "combatants." I know that one of the problems is to set up something where you know what you can do with these guys. Could they be—I'm just asking for information. Could they be considered to be combatants, as opposed to just the normal criminal activity? Has anyone looked into that, Madam Secretary?

Ms. Flournoy: Sir, we think it's actually clearer and cleaner to treat them as criminals. There are international laws, domestic

laws. We have available all the authorities we need to hold them accountable, prosecute them, etcetera. I think it would actually create some—muddy the waters to treat them as enemy combatants.

Senator INHOFE. I'm not suggesting it. I'm just only thinking that these do have some things in common, these people do. They don't really represent a country.

One of you—I think it was—I'm not sure which one because we went to vote and I forgot which one; I had written it down—talked about the African Union and what their attitude and activity is in this. Would any of you like to enlighten me as to what that is?

Ambassador Mull: Yes, sir. In our exchanges with the African Union as a whole, their collective approach to this has really been to focus more on what they viewed as the root causes of piracy in fixing Somalia, and they are very eager for as much international assistance as they can get from us and our partners around the world in helping their peacekeeping force in Somalia, helping their meager assistance programs in building up.

That said, individual members of the African Union, most notably Kenya and also to an extent Djibouti, have been extremely forward-leaning in terms of accommodating us in trying to approach other dimensions of the problem, such as prosecuting pirates in their courts.

Senator INHOFE. With the problems in Africa that are demanding attention from African countries, such as they're always talking about Darfur, and of course I'm more concerned, frankly, about the problems that exist in the eastern Congo, and then the LRA and then the problems down in Zimbabwe—it's been my experience, and I say this affectionately because I like pirate Kikwete, who has been very active, as well as some of the others, that they don't really provide direct assistance. Instead of that, it's more of a clearing-house for other African countries to do it.

So is it—are they really a player in this, in terms of actively becoming involved in trying to stop some of the violence and the attacks?

Ambassador Mull: As an organization, sir, I'd say no, they are not particularly engaged in the piracy specific problem.

Senator INHOFE. On the Combined Task Force 151, I'm not sure—anyone want to go into a little bit of detail on that as to what their successes are and what the problems they're having right now?

Ms. Flournoy: I'll defer that to the Admiral.

Admiral Winnefeld: 151 is a growing entity, sir. We have about I think five or six nations involved directly in that right now, with five or six additional nations that have considered joining CTF-151. It is one of many in the mosaic of organizations that are out there which cooperate with each other.

As you're well aware, I'm sure, the different political reasons why a nation would align itself with a different entity out there are fairly obvious. EU nations with Operation Atalanta; NATO is out there with some of its assets, including one of our ships; CTF-151, a collection of nations that have agreed to counter piracy under that CTF designation; and then the individual nations that are out there who chose to note affiliate themselves with any particular

collective out there, if you will, the Russians, the Chinese, and the like.

I don't want to call it one big happy family, but they do work very well together and there are coordination meetings that are effective, in which shared awareness, shared intelligence, shared tactics, techniques, and procedures are active, and it's working well. Again, as I mentioned, I think while you were out voting, Admiral Bill Gortney gets a lot of credit in my view for helping keep this together as well coordinated as it is.

Senator INHOFE. Well, I find it really interesting, particularly as Senator Webb was talking about North and South Korea and what's it going to take to bring people together, and maybe this is it.

Ms. Flournoy: Senator, may I add a comment on this issue?

Senator INHOFE. Yes, of course.

Ms. Flournoy: I think this is a mission where we've had success, and it really is due to a pretty incredible level of international cooperation. While we as a nation have had a long history with piracy and have as a result of that a very developed legal structure for dealing with this and having it in our mind set as part of our National security paradigm to deal with this and so forth, other countries do not.

There were some negative comments about the UN made before. I would just say that the UN resolutions that—the UN Security Council has been very willing to take action on this, put the resolutions in place that enable some of these other critical partners to come in despite the absence of developed legal authorities in their domestic context. That UN framework has enabled others to step in, act alongside us, be very effective contributors to a coalition operation. I think we should recognize them for stepping up and helping.

Senator INHOFE. Okay. Now, the only other thing I'd mention, in my opening remarks I talked about all this discussion has been in East Africa, and of course we know there is a growing problem now in West Africa. Has anyone said anything about that? I'm talking about the Sea of Guinea, I'm talking about the countries of Benin, Togo, Cote d'Ivoire, and Ghana and some of those countries that are now saying that they're having problems with piracy, they need help. They have talked about some of the 1206, 1207 train and equip programs that might help them. Has anyone commented about that?

Admiral Winnefeld: We haven't commented on it yet, sir, but it's a good time to do it. As you know, it is a very difficult problem in the Gulf of Guinea, particularly going against oil rig servicing craft and the like. Until the recent surge in piracy off of Somalia, as you know, the Gulf of Guinea was the most active area of the world for piracy in terms of numbers of incidents.

Senator INHOFE. Yes.

Admiral Winnefeld: We have a very active program using 1206, using something we call the Africa Partnership Station, that is doing its newspaper route, if you will, around as many nations, doing a lot of training with our partners. It's an international effort where we are recurring and revisiting each year, and it's proving to be very effective in bringing some of these young African navies

and coast guards up by their bootstraps to help them with the capacity and capability to counter piracy.

I would hasten to add that the number one target of that, the Nation of Nigeria, is a little bit more difficult to work with in that regard. They are very protective of their sovereignty and the like, although we have had experience with them. They've been aboard the Africa Partnership Station and the like.

But it is an area we need to watch closely and to continue our efforts. I would say that the 1206 is essential to our ability to contribute to their capacity.

Senator INHOFE. Good. Nigeria has always, all the way back to Sani Abacha and Obisanjo, that's always been a problem. I think it's more of a leadership problem than anything else.

Nobody else on my side, Mr. Chairman, is interested in pursuing this.

Senator WEBB. Thank you very

Senator WICKER. Thank you very much, Senator Inhofe.

We appreciate the testimony of all the witnesses today and the hearing stands adjourned.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]