



*A bold voice for transportation workers*

## **THE U.S. MUST ACT NOW TO COMBAT MARITIME PIRACY**

The increasing threat posed by criminal acts of marine piracy requires an aggressive response from our government to protect the lives of American merchant mariners and maintain the stability and integrity of the U.S. maritime industry. The United States-flag fleet contributes to the economic, political and military security of our nation, and it is incumbent on our government to ensure that the industry and its workforce can continue to safely serve the nation. Meeting this demand will require federal government action to help repel and deter acts of piracy, respond quickly and forcefully when acts of piracy occur against U.S.-flag ships, and engage with the international community to address the long-term causes and consequences of pirate activity. A failure to act may imperil the U.S.-flag industry and jeopardize our overseas military and humanitarian aid operations.

For American mariners working aboard U.S.-flag vessels, and for mariners working aboard foreign flag vessels, the dangers of piracy have increased dramatically. Last April, two U.S.-flag ships, the LIBERTY SUN and the MAERSK ALABAMA, were attacked by heavily armed pirates off the coast of Somalia while transporting humanitarian aid on behalf of the U.S. government. These attacks against U.S.-flag vessels were not an anomaly. In fact, the intensity and frequency of pirate attacks significantly threaten the operation of the international maritime industry. According to the International Maritime Bureau (IMB) of the International Chamber of Commerce, pirate attacks increased 38 percent in 2009, setting a new record. Meanwhile, attacks are becoming more violent as pirates with heavy armaments and highly sophisticated equipment increasingly target crewmembers and their vessels.

Unfortunately, in the 10 months since the April 2009 attacks, not enough has been done to protect U.S. mariners operating in high-risk regions. The continuous and lethal nature of the threat demands a more aggressive and affirmative response by the U.S. government. Specifically, transportation labor believes the most effective means to prevent and repel acts of piracy is for our government to immediately provide U.S.-flag vessels operating in high risk waters with on-board armed force protection. Although the Administration has yet to agree to take such action, we remain convinced this represents the most effective course of action. More delay only increases the threat to mariners serving our nation.

Representative Elijah Cummings, chairman of the Coast Guard and Maritime Transportation Subcommittee, offered an amendment to H.R. 2647, the Department of Defense (DOD) authorization legislation, requiring the Secretary of Defense to provide embarked military personnel on board U.S.-flag vessels carrying government cargoes in regions at high risk of piracy. The amendment, which passed the House overwhelmingly, was subsequently stripped in the House-Senate Conference Committee. Although we acknowledge the incredible demands on

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and limited resources of our military forces, the Maritime Administration estimates that only a small number of the 54 U.S.-flag ships that operate in the Horn of Africa over the course of a year, around one per week, would require such assistance — suggesting a very workable and limited program that should not place an undue burden on our military. When a vessel flies the United States flag, it is an extension of our country.

Accordingly, it is appropriate for the U.S. government to assume primary responsibility for the security of U.S. merchant vessels and their American citizen crews. It is unrealistic to believe that private industry alone has the capability to effectively deter such well-armed and dangerous international criminals. However, in the absence of military support, a private security detachment comprised of a few highly qualified and trained personnel can be effective in providing protection from pirate attacks. We support the decision of the DOD to assist U.S.-flag operators carrying military cargo to contract with private security forces. It is imperative that all federal agencies follow the DOD's example to ensure all U.S.-flag ships transporting government cargoes are similarly protected if military personnel are not placed aboard. Otherwise, if the exclusive cost and responsibility of fighting piracy is placed on U.S.-flag operators, we will weaken the economic and strategic viability of the U.S.-flag maritime industry.

When force is used to repel or respond to a pirate attack, there are a number of issues, including concerns of command and liability that warrant further consideration. Specifically, the use of force may leave crewmembers potentially liable for actions taken in their self-defense during circumstances beyond their control. Consequently, Representative Frank LoBiondo, Ranking Member of the Coast Guard and Maritime Transportation Subcommittee, has introduced liability legislation to protect crewmembers for actions taken to defend themselves, their shipmates and their vessel from acts of piracy. Representative LoBiondo's legislation has been passed by the House of Representatives and we urge similar and immediate action by the Senate.

While embarked force protection will help U.S.-flag vessels and their crews respond to and repel acts of piracy, addressing piracy over the long-term will require a coordinated international effort. In addition to working to improve the political and economic instability at the root of piracy, the United States must work in concert with the international community, both strategically and financially, to prevent and deter illegal pirate activity. Accomplishing this will require a uniform approach to threat mitigation, incident response, vessel and crew protection and the prosecution of pirates. However, we categorically reject international calls to boycott the waters most at risk to pirate attacks. Such an effort sends the wrong signal to these international criminals and offers no guarantee or assurance that pirates will not simply follow vessels as they alter their routes. Moreover, refusing to carry military and non-military government cargoes into this region is inconsistent with the long-standing tradition of America's merchant mariners to deliver goods whenever and wherever needed. Instead, we believe that the same threat of severe prosecution that serves as a deterrent to land-based criminals should apply to seaborne pirates.

It is also important that any international agreement on piracy applies equally to all vessels and does not place the U.S.-flag at an economic disadvantage. It is clearly in the interest of all countries to combat pirate activity; however, shipping is a business, and the U.S. maritime

industry should not be at the economic mercy of vessel owners, operators and flag states who choose to sacrifice the health and safety of their mariners for the bottom line. Any framework that allows others to skirt the shared responsibilities of combating piracy must be rejected. This would hurt the U.S. maritime industry and place downward pressure on American jobs. Such an agreement would also result in a counterintuitive policy of placing American cargo on unsafe foreign ships that are even more susceptible to piracy. In short, if the ultimate long-term response to piracy is international, the costs of protecting vessels, cargo and crew must be borne equally and not disadvantage any one flag.

Finally, it is in our nation's strategic interest to recognize the very real costs of piracy and address the unique financial and liability concerns facing the U.S.-flag shipping industry. It is unfair to force U.S.-flag shipping companies to bear sole financial responsibility for the security costs of protecting their vessels and crews. These ships serve a significant strategic role for our nation, and the U.S. government should assume responsibility if we are to preserve the merchant marine's strategic capability. Additionally, the U.S. government should not look to retroactively penalize U.S.-flag ship owners who, as a last resort, pay ransom to secure the safe release of their American citizen crews as a sufficient response to piracy. It would be unconscionable and onerous for the United States government to penalize companies that, especially in the absence of U.S. government assistance, take whatever action that may be necessary to save the lives of American merchant mariners placed in harm's way while serving their country.

Transportation labor urges the U.S. government to prevent acts of piracy in the short-term through immediate military and other government assistance and over the long-term through international engagement. International piracy is a growing danger that threatens the lives of American workers and endangers the U.S.-flag fleet. We simply cannot allow pirates to force the U.S.-flag off the high seas or drive American citizens and companies out of the maritime industry. Such capitulation would ground the U.S. maritime industry to a halt and force our nation's armed forces to depend on the mercy of others.

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