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UNITED
STATES
OF
AMERICA

COUNTERING PIRACY OFF THE HORN OF
AFRICA: PARTNERSHIP & ACTION PLAN



National Security Council

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Executive Summary

Maritime piracy is a universal crime under international law which places the lives of seafarers in jeopardy and affects the shared economic interest of all nations. The United States will not tolerate a haven where pirates can act with impunity; it is therefore in our national interests to work with all States to repress piracy off the Horn of Africa.

In addition to placing the lives and safety of seafarers in jeopardy, a single piratical attack affects the interests of numerous countries, including the flag State of the vessel, various States of nationality of the seafarers taken hostage, regional coastal States, owners' States, and cargo destination and transshipment States. In the case of Somalia-based piracy, increasingly brazen attacks in 2.5 million square miles of ocean from land-based enclaves along an under-governed and economically devastated 2,300-mile coast pose a threat to global shipping. This combination of illicit activity and non-existent rule of law offer a potential breeding ground for other transnational threats.

This *Plan* implements the *National Strategy for Maritime Security* (September 2005) and the *Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea* (June 2007) as applied to piracy off the Horn of Africa. The *Strategy* affirms the vital national interest of the United States in maritime security, and recognizes that nations have a common interest in achieving two complementary objectives: to facilitate the vibrant maritime commerce that underpins economic security, and to protect against ocean-related criminal and dangerous acts, including piracy. Our *Policy* provides that we shall “[c]ontinue to lead and support international efforts to repress piracy . . . and urge other states to take decisive action both individually and through international efforts.” Accordingly, this *Plan* seeks to involve all nations, international organizations, industry, and other entities that have an interest in maritime security to take steps to repress piracy off the Horn of Africa.

This *Plan's* objective is to repress piracy off the Horn of Africa in the interest of the global economy, freedom of navigation, Somalia, and the regional states. Accordingly, this *Plan* focuses on immediate operational measures to prevent, disrupt, and punish acts of Somali pirate organizations. We intend this *Plan* to respond to the growing threat and to be mutually supportive of longer-term initiatives aimed at establishing governance, rule of law, security, and economic development in Somalia.

Describing the case for urgent action, this *Plan* then provides an overview of the threat. Subsequently, the *Plan* sets forth three distinct lines of action with specific measures in furtherance of each: 1) prevent pirate attacks by reducing the vulnerability of the maritime domain to piracy; 2) disrupt acts of piracy consistent with international law and the rights and responsibilities of coastal and flag States; and 3) ensure that those who commit acts of piracy are

held accountable for their actions by facilitating the prosecution of suspected pirates by flag, victim and coastal States, and, in appropriate cases, the United States.

The Case for Action

For over 2,000 years, the nations of the world have considered pirates to be enemies of the human race (*hostes humani generis*). Accordingly, every nation has the legal authority to establish jurisdiction over piracy and punish the offenders, regardless of the nationality of the perpetrator or victim.

Piracy in the 21st century is a serious and growing problem. We live in an interdependent and interconnected global society supported by a global economy – and that economy simply cannot function if the world’s oceans are not safe and secure for maritime commerce. Accordingly, the nations of the world must work with international organizations and the shipping industry to confront and repress any persistent piracy threat to global shipping and the freedom of navigation upon which it depends.

Piratical attacks off the Horn of Africa constitute a threat to the lives and welfare of the citizens and seafarers of many nations. Nearly 12% of the world’s petroleum passes through the Gulf of Aden, which is one of the world’s most important waterways. A single piratical attack often affects the interests of numerous countries, including the flag State of the vessel, various States of nationality of the seafarers taken hostage, regional coastal States, owner States, and cargo owner, transshipment, and destination States. Further, such attacks undermine confidence in global sea lines of communication, weaken or undermine the legitimacy of States, threaten the legitimate revenue and resources essential to the building of Somalia, cause a rise in maritime insurance rates and cargo costs, increase the risk of environmental damage, and endanger the lives of seafarers who may be injured, killed, or taken hostage for ransoms.

The National Strategy for Maritime Security (September 2005) (“the Strategy”) declares our vital national interest in maritime security, and recognizes that nations have a common interest in achieving two complementary objectives: to facilitate the vibrant maritime commerce that underpins economic security, and to protect against ocean-related terrorist, hostile, criminal, and dangerous acts, including piracy. In furtherance of this “common interest,” the Strategy mandates “full and complete national and international coordination, cooperation, and intelligence and information sharing among public and private entities ... to protect and secure the maritime domain.” The United States’ *Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea* (June 2007) (Annex 1, “the Policy”) provides that we shall “[c]ontinue to lead and support international efforts to repress piracy and other acts of violence against maritime navigation and urge other states to take decisive action both individually and through international efforts.”

This *Plan* implements the United States' national strategy and policy to foster international cooperation and integration among all nations, international organizations, industry and other entities that have an interest in maritime security to ensure the full range of lawful and timely actions necessary to repress piracy off the Horn of Africa.

Overview of the Threat

Piracy off the Horn of Africa is growing in frequency, range, aggression, and severity at an alarming rate. Somali pirates operate along a 2,300-mile coast and in 2.5 million square miles of ocean. Since late 2007, Somali pirates have attacked and harassed vessels transiting up to 450 miles offshore in the Indian Ocean and in the Gulf of Aden, a natural chokepoint providing access to the Red Sea and the Suez Canal. Somali-based piracy against chemical and oil tankers, freighters, cruise ships, yachts, and fishing vessels poses a threat to global shipping. This combination of illicit activity and non-existent rule of law offers a breeding ground for higher levels of instability, organized crime, and other transnational threats.

Somali pirates operate from well-equipped and well-armed bases ashore along the Indian Ocean coast of Central Somalia and Puntland, from the port towns of Caluula, Eyl, Hobyo, and Haradheere. They depart from these bases typically using four or five pirates in small, lightweight, fiberglass molded skiffs powered by one or more outboard motors and able to attain speeds in excess of 30 knots. These skiffs usually hunt for vulnerable vessels with a low freeboard traveling under 15 knots during daylight.

Once they target a vessel, pirates typically coordinate a two- or three-pronged simultaneous attack from multiple directions. Pirates are typically armed and fire upon their targets with small arms, automatic weapons, and rocket-propelled grenades, which they likely obtain through the constant and largely unimpeded stream of illegal weapons transiting through Somalia in violation of the 1992 United Nations embargo on arms into Somalia (U.N. Security Council Resolution 733 (1992)). Depending on the characteristics and compliance of the victim vessel, pirates can board and commandeer a vessel in less than 20 minutes from the initial attack. If the hijacked vessel is of low ransom value, such as a fishing vessel or cargo dhow, pirates may use it opportunistically as a "mother ship" to launch additional attacks on larger, more lucrative merchant vessels.

In many cases, merchant vessels have been able to fend off pirates or avoid attacks using relatively simple best practices - such as increased surveillance, transiting at night, charging fire hoses, speeding up and evasive maneuvering. In other cases, the pirated vessel has allowed itself to become a victim by stopping. Vessels with low power and low freeboard require additional measures to avoid capture - such as embarked security teams, employing boarding obstacles such as razor wire, and rehearsing lockdown procedures. Although pirates brandish weapons and have fired upon ships, it is contrary to their interest to intentionally harm the

hostages needed to leverage the maximum ransom, or actually disable the ship because they need it to bring their hostages to the coast near their safe havens ashore.

Ransom payments are the lifeblood of Somali pirates: each ransom paid further emboldens these pirates and perpetuates the threat. Somali pirates have yet to display an interest in stealing cargo or reusing pirated ships for other purposes (other than temporarily as mother ships). Instead, Somali pirates have created highly visible hostage-for-ransom situations. The pirates have brought seized vessels, cargoes, and crews from the high seas into Somali territorial waters near one of their main land bases of operation where they have access to food, water, khat, weapons, ammunition, and other resources during ransom negotiations. Pirates aboard the seized ship negotiate ransoms with the ship's owner or agent using the ship's communication equipment. Shipping interests typically pay ransoms in cash ranging from \$500,000 to \$2 million, with the overall income from piracy ransoms estimated to exceed \$30 million in 2008. High profits with low costs and little risk of consequences in a failed and starving State ensure that Somali pirate groups have almost unlimited human resources and do not lack for recruits and support.

Objectives

This *Plan* implements the *Strategy* and the *Policy* as applied to piracy off the Horn of Africa. The *Policy* recognizes that responses to piracy will vary according to geographic, political, and legal environments, as well as available U.S. and international resources, and that the scope of the mission and the defined nature of the threat will affect the choice of response. This *Plan* describes a tailored response to piracy off the Horn of Africa.

The U.S. objective is to repress this piracy as effectively as possible in the interests of the global economy, freedom of navigation, Somalia, and the regional states. Accordingly, this *Plan* focuses on immediate operational counter-measures to prevent, disrupt, and punish acts of Somali pirate organizations. Achieving this objective will ultimately require action on land to reinforce measures taken at sea and to deprive the pirates of ransom proceeds. Moreover, achieving this objective will require cooperation, coordination, and integration among military, law enforcement, judicial, diplomatic, and commercial interests in and beyond the affected region.

This *Plan* recognizes that piracy off the Somali coast is only one manifestation of the tragic events Somalia has experienced for almost 20 years. Consequently, long-term actions to establish governance, rule of law, security, and economic development in Somalia are necessary to repress piracy fully and sustainably in the region. We intend for this *Plan* -- consistent with international law and with full respect for the sovereignty, territorial integrity, political independence and unity of Somalia -- to reduce the incidents of piracy, thereby decreasing the impact on global commerce, and preventing the lack of security in Somalia from reaching out beyond its shores.

Global Partnership

A guiding principle of the *Strategy* is that success in securing the maritime domain will not come from the United States acting alone, but through a powerful coalition of nations maintaining a strong, united front. The need for coordinated multilateral cooperation stems from the fact that most of the world's maritime domain is under no single nation's sovereignty or jurisdiction. Thus, effective management and policing of the domain require international cooperation of all interested States. Moreover, Somali territorial waters and the adjacent shore are largely ungoverned, allowing piracy to flourish and spill out into the international maritime domain.

Globalization and its attendant economic interdependency made possible largely by maritime shipping make imperative the coordinated efforts and actions of States, international organizations, and industry to repress piracy off the Horn of Africa. Maritime patrol forces alone cannot provide a complete response to this particular threat.

In the short term, *an effective global partnership must:*

- Implement a consequence delivery system aimed at Somali pirates;
- Improve and share counter-piracy best practices with industry;
- Support and assist those States willing to repress piracy at sea and/or deliver or facilitate the delivery of consequences ashore; and
- Enhance the legal and political framework necessary to disrupt and dismantle piratical organizations ashore.

Lines of Action

Consistent with the President's *Policy*, this *Plan* directs three distinct lines of action. Nested in these lines of action are five essential implementation pillars - improving operational and intelligence support to counter-piracy operations; strengthening judicial frameworks for detention and prosecution of pirates; disrupting pirate financial operations; strengthening commercial shipping self-defense capabilities; and pursuing diplomatic and public information efforts to discourage piracy.

1. Prevent pirate attacks by reducing the vulnerability of the maritime domain to piracy

Preventing pirate attacks is both safer and more cost effective than interrupting attacks in progress or rescuing hostages after an attack has occurred. Further, the massive maritime operating area coupled with the short time necessary for pirates to conduct attacks reduces the opportunities for timely response by patrol forces. U.N. Security

Council Resolution 1846 specifically “[c]alls upon States, in cooperation with the shipping industry, the insurance industry and the IMO [International Maritime Organization], to issue to ships ... advice and guidance on avoidance, evasion, and defensive techniques and measures to take if under the threat of attack or attack when sailing in the waters off the coast of Somalia[.]” We will lead and support the following prevention and precautionary measures:

- a. **Establish and Maintain a Contact Group** – We will immediately establish a Contact Group of countries that have the political will, operational capability, and/or other resources to devote to combating piracy off the Horn of Africa. The Contact Group will meet as necessary and at appropriate levels to develop and coordinate international policy initiatives, share and disseminate information, provide national forces to engage in, support, or help build the capacity of regional partners to undertake counter-piracy operations, and advocate for other mechanisms to repress piracy. The Contact Group will coordinate with other similar groups, international organizations, and industry to strengthen our collective international ability to prevent, interdict, prosecute, and eventually eradicate piracy. As a priority, the Contact Group should establish a single contact point for ships operating in the Horn of Africa.
- b. **Strengthen and Encourage the Use of the Maritime Security Patrol Area (MSPA) in the Gulf of Aden** – In August 2008, Commander, U.S. Naval Central Command, established an MSPA in the Gulf of Aden to focus efforts to counter destabilizing activities and improve security in the region while long-term initiatives mature. Combined Maritime Forces (CMF) warships and aircraft patrol this area and preliminary data indicates that the pirate success rate for hijacking is only slightly lower inside the MSPA than outside. The United States will encourage other nations to assign more forces, such as law enforcement and naval air and surface assets, in order to increase coverage within the MSPA; in return, the United States, within legal constraints, will share information and coordinate with non-CMF member navies that are acting to repress piracy. The United States will also encourage the maritime industry to increase its use of the MSPA, in order to enhance its effectiveness.
- c. **Updating Ships’ Security Assessment and Security Plans** – The International Ship and Port Facility Security Code (ISPS) requires ships security assessments (SSA) and ships security plans (SSP) to be periodically reviewed, audited, and amended in response to experience or changing circumstances. Recognizing that it is essential that all civilian and commercial vessels operating off the Horn of Africa take immediate and continued risk-based measures to mitigate the threat of pirate attacks and boardings, we urge all Contracting Governments to ensure

that vessels flying their flag and operating within 500 nautical miles of Somalia or in the Gulf of Aden review and amend their SSPs as needed. The United States supports the integration of the full spectrum of appropriate passive and active security measures into vessel SSPs. Accordingly, for the Gulf of Aden, we:

- Encourage vessels to operate at fastest speed (those operating under 16 knots with a low freeboard (less than six meters) should consider themselves at extremely high risk).
- Encourage vessels that are unable to out run pirate vessels to change course repeatedly (consistent with safe navigation) and conduct nighttime transits.
- Encourage vessels to take measures including, where necessary, changing their operational procedures to make it more difficult for pirates to board their vessels while underway near the Horn of Africa.
- Encourage the design and modification of vessel structure to prevent or delay gaining vessel control in the event that pirates board the vessel. Examples may include safe-areas for crews to muster and physical barriers to control areas.
- Encourage all vessels to use appropriate non-lethal measures such as netting, wire, electric fencing, long-range acoustical devices, and fire hoses to prevent boarding.
- Support the establishment of international standards of training and certification for professional shipboard security consultants and third party security providers.
- Encourage the embarkation of properly certified unarmed security consultants on vessels transiting the region. Such consultants should be encouraged to provide security measures, including intelligence reports for vessels in transit, onboard training and non-lethal use of force capabilities, and night vision equipment.
- Recognize that in appropriate circumstances properly screened and certified third-party security providers with firearms, operating in compliance with applicable coastal, port, and flag State laws may be an effective deterrent to pirate attacks off the Horn of Africa.

- Encourage all vessels transiting the Gulf of Aden and the waters off the Somali coast to identify themselves and, if applicable, their escorts, before entering the Gulf of Aden region, by contacting the designated coordination center without making this information subject to interception by persons supporting the pirates.
 - Reiterate the warnings and recommendations provided to mariners in recent Maritime Advisories, including the distress calling procedures, and encourage mariners to heed all similar future communications.
- d. **Strategic Communication** - We will lead and support a global public information and diplomatic campaign to highlight the international cooperation, coordination, and integration undertaken to repress piracy off the Horn of Africa, while emphasizing its destructive effects on trade, human and maritime security, and the rule of law. Part of our message will be that the Contact Group will help the Transitional Federal Government of Somalia develop strategies and capacity to protect Somali fishing rights in its territorial waters.

2. Interrupt and terminate acts of piracy consistent with international law and the rights and responsibilities of coastal and flag states

- a. **Support and Contribute to a Regionally Based Counter-Piracy Coordination Center (CPCC)** - In order to best mobilize and leverage all of the military, diplomatic, international, law enforcement, and industry stakeholders with persistent counter-piracy resources in the region, we will support and contribute to the operation and maintenance of a 24x7 CPCC in the region. We will work with all stakeholders to establish a single, centralized service to receive reports of piracy and suspicious vessels, alert maritime interests, gather and analyze information regarding piracy off the Horn of Africa, provide a secure common operating picture for stakeholder governments and the shipping industry, and, as appropriate, coordinate the dispatch of available response assets, taking into account existing capabilities.
- b. **Seize and Destroy Vessels Outfitted for Piracy and Related Equipment** - International law provides that a ship or aircraft is a pirate ship or aircraft if persons in dominant control intend to use it to commit an act of piracy. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons violating that act. Consistent with applicable U.N. Security Council resolutions and subject to the availability of

resources, we may conduct and urge others to conduct operations in international waters and in the territorial sea of Somalia targeting the interdiction of vessels intended to be used or that have been used to commit piratical acts, and also in the territory of Somalia to suppress piracy. Thus, apparently stateless (unregistered) skiffs and other vessels outfitted for piracy (e.g., possessing grappling hooks, rocket propelled grenades, automatic weapons, outboard engines over 50hp) are subject to boarding, search, and seizure under international law in the same manner as those that have completed piratical acts or that have themselves been seized by pirates. We will seize and destroy any implements of piracy and, in appropriate cases, seize and destroy vessels outfitted for piracy. In cases involving the seizure or destruction of pirate vessels, we will deliver those individuals to States willing and able to ensure they are prosecuted, including, as appropriate, to authorities ashore in Somalia, including in Puntland and Somaliland. We will seek, as necessary, agreements and arrangements with regional States to facilitate the expeditious disposition of such persons, and welcome recent arrangements between Kenya and the UK.

- c. **Persistent Interdiction-Capable Presence** - Consistent with other U.S. mission requirements, U.S. Navy and/or U.S. Coast Guard forces operating in the region provide persistent interdiction through presence, can conduct maritime counter-piracy operations, and shall coordinate counter-piracy activities with other forces operating in the region to the extent practicable. When in range, these forces will prevent suspected pirate vessels from operating, respond to reports of piratical attacks with the objective of disrupting such attacks by presence, and, in appropriate circumstances, terminate the act of piracy and any included hostage situation with intent to deliver any surviving pirates ashore for prosecution once appropriate mechanisms for consequence delivery are in place. Effective and prompt consequence delivery mechanisms are essential towards making this successful.
- d. **Support Shiprider Programs and Other Bilateral and Regional Counter-Piracy Agreements and Arrangements** - We will support and participate in the development of Shiprider programs and other bilateral and regional counter-piracy agreements and arrangements. In particular, we will fully support the effort of the IMO to conclude and implement a sub-regional arrangement concerning the repression of piracy and armed robbery at sea in the Western Indian Ocean, the Gulf of Aden, and the Red Sea. Once effective, the IMO-sponsored arrangement is expected to enhance the ability of participants to take measures to repress piracy and armed robbery at sea; embark law enforcement officials (shipriders) on patrol ships or aircraft of other participants; facilitate coordinated, timely, and effective information flow among the participants to

enhance operational coordination; collect, collate, and analyze incident information reported by participants; facilitate the provision of assistance between participants; and facilitate review of national legislation for the prosecution, conviction, and punishment of those involved in acts of piracy and armed robbery at sea.

- e. **Disrupt and Dismantle Pirate Bases Ashore** - Piracy at sea can only be abated if pirate bases ashore are disrupted or dismantled. We have obtained appropriate authority from the United Nations Security Council and agreement from Somali authorities to do so. We will work with concerned governments and international organizations to disrupt and dismantle pirate bases to the fullest extent permitted by national law.

 - f. **Disrupt Pirate Revenue** - We will coordinate with all stakeholders to deprive pirates and those supporting the pirates of any illicit revenue and the fruits of their crime, advocating the development of national capabilities to gather, assess, and share financial intelligence on pirate financial operations, with the goal of tracing payments to and apprehending the leaders of pirate organizations and their enablers. To this end, we will collaborate with governments and the shipping industry to develop a consistent response to the payment of ransom demands. There are substantial long-term risks in surrendering to the ransom demands of pirates. Paying ransoms puts other seafarers at increased risk, enables the pirates to apply the financial leverage to increasing capability and capacity, incentivizes piracy, and ultimately provides support to criminal organizations. Any strategic communications strategy must convey these concerns. We will improve our ability to collect and share intelligence on pirate financial operations, coordinating with other stakeholders to trace pirate revenues. We will consider taking action to apprehend, prosecute, and punish persons or entities that aid and abet or conspire with pirates in violation of national law.
- 3. Ensure that those who commit acts of piracy are held accountable for their actions by facilitating the prosecution of suspected pirates by flag, victim, and coastal states, and, in appropriate cases, the United States**

Somali-based piracy is flourishing because it is currently highly profitable and nearly consequence-free. Establishing an effective consequence delivery system is essential to

the success of any counter-piracy operations. Effective delivery of consequences must follow interdiction activities.

- a. **Conclude agreements and arrangements to formalize custody and prosecution arrangements** - We will seek agreements and arrangements with States in and beyond the region to facilitate expeditious investigation, prosecution, and punishment, as appropriate, for any captured, suspected pirates. We will also seek agreements and arrangements with States in the region to allow the use of their territory as a holding area before delivering captured pirates to other States that have an interest and willingness to prosecute the captured, suspected pirates. We welcome the willingness of Kenya to receive and prosecute pirates and will support and encourage other stakeholders to support Kenya in that endeavor.
- b. **Support and encourage the exercise of jurisdiction under the SUA Convention** - The United States will support and encourage the exercise of relevant and appropriate jurisdiction of flag, port, and coastal States, as well as States of the nationality of victims and perpetrators of piracy, through the prosecution of any persons having committed an act of piracy. We will urge other States Parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA), to use the Convention as a vehicle for the prosecution of such acts as violations of article 3 of the Convention. This model enables a framework under articles 7, 8 and 10 of the Convention whereby masters of ships may deliver suspected SUA offenders to a coastal State Party, which is obliged to accept custody unless it can articulate why the Convention is not applicable and extradite the offenders to an interested State or submit the case to its own authorities for the purpose of prosecution. We will also consider providing appropriate available investigative and logistical support and assistance to States that are willing to assist in holding suspected pirates, investigation of their offenses, and their removal to appropriate venues for prosecution. We will endeavor to assist any willing State in the development of legislation, regulations, procedures, and infrastructure necessary to meet SUA obligations in this context.
- c. **Support and encourage the use of other applicable international conventions and customary international law** - The United States will also support and encourage the exercise of relevant and appropriate jurisdiction through the framework of other applicable international conventions. For example, the 1979 Hostage Taking Convention, the 2000 Transnational Organized Crime Convention, and the 1999 Terrorist Financing Convention may apply to piracy cases in some circumstances. In cases of States that are not Parties to these

conventions or to the SUA Convention, we will fully support and encourage the exercise of relevant and appropriate jurisdiction over interdicted pirates in accordance with customary and treaty-based international law. We will also continue to discuss with other concerned and interested States the possibility of an international court or tribunal to prosecute captured pirates, if necessary.

- d. **Enhance capabilities of regional States to accept suspected pirates for prosecution, extradition, and incarceration** - We will work with interested parties to identify the nature and scope of international assistance needed to enhance the capacities of relevant States in the region, in particular in connection with the arrest, detention, prosecution and fair trial of persons accused of being involved in piracy. We will also pursue bilateral assistance programs for judicial capacity building efforts, including through the establishment of hybrid systems in which international experts could assist national courts in the region.

Monitoring and Review

We will monitor progress towards our objective under this *Plan* and will encourage our global partners to share their results and experiences with us. The Secretary of State and Secretary of Defense shall establish a high-level inter-agency, operational task force to coordinate, implement, and monitor the actions centered in this *Plan*.. Subject to the availability of resources, the Departments of State, Defense, Homeland Security, Justice, Transportation, Treasury, and the Director of National Intelligence shall contribute to, coordinate, and undertake initiatives in accordance this *Plan*.

Annex 1: United States Maritime Security (Piracy) Policy



For Immediate Release
Office of the Press Secretary
June 14, 2007

Memorandum from the President

MEMORANDUM FOR THE VICE PRESIDENT

THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF COMMERCE
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
THE SECRETARY OF HOMELAND SECURITY
ASSISTANT TO THE PRESIDENT AND CHIEF OF STAFF
DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
DIRECTOR OF NATIONAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
COUNSEL TO THE PRESIDENT
ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY AND COUNTERTERRORISM
DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION
DIRECTOR, NATIONAL COUNTERTERRORISM CENTER

SUBJECT: Maritime Security (Piracy) Policy

The attached Policy for the Repression of Piracy and Other Criminal Acts of Violence at Sea (Piracy Policy) is approved for immediate implementation, consistent with applicable law and subject to the availability of appropriations. The policy shall be appended to the National Strategy for Maritime Security as Annex B.

This policy responds to the emergence of high-risk maritime areas that threaten U.S. interests. Recent instances of piracy have highlighted the need for this policy in order to coordinate U.S. Government response and to promote international solutions. This policy advances our commitment to cooperate with other states, regional and international organizations, and the maritime industry in order to counter this threat. The United States has long been a leader in the protection of navigational rights and freedoms. Our objectives consistently have been to promote and facilitate peaceful international uses of the oceans. We recognize that all nations have an interest and responsibility in protecting those rights and freedoms.

GEORGE W. BUSH

###

Attachment Tab 1 Policy for the Repression of Piracy and Other Criminal Acts of Violence at Sea

Annex B

Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea

I. PURPOSE

This document establishes United States Government policy and implementation actions to cooperate with other states and international and regional organizations in the repression of piracy and other criminal acts of violence against maritime navigation.^[1]

II. BACKGROUND

Piracy is any illegal act of violence, detention, or depredation committed for private ends by the crew, or the passengers, of a private ship and directed against a ship, aircraft, persons, or property on the high seas or in any other place outside the jurisdiction of any state. Piracy also includes inciting or facilitating an act of piracy, and any act of voluntary participation in the operation of a ship with knowledge of facts making it a pirate ship. Piracy is a universal crime, and all states are obligated to cooperate to the fullest possible extent in the repression of piracy.^[2]

Piracy threatens U.S. national security interests and the freedom and safety of maritime navigation throughout the world, undermines economic security, and contributes to the destabilization of weak or failed state governance. The combination of illicit activity and violence at sea might also be associated with other maritime challenges, including illegal, unlawful, and unregulated fishing, international smuggling, and terrorism.

Criminal and terrorist activities not defined as piracy also occur at sea and similarly threaten U.S. economic and national security interests. These acts of violence endanger the safety of maritime navigation and may involve weapons of mass destruction. The prevention, interdiction, and punishment of those acts occurring in territorial seas are generally the responsibility of the coastal state. Prevention and punishment of acts occurring in international waters likely will require international cooperation and adequate domestic legal systems, most recently reflected in the 2005 Protocols to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

The policy set forth in this annex fosters both increased interagency coordination and international cooperation and is consistent with, supports, and builds upon existing maritime security efforts for piracy repression.

III. POLICY

The United States strongly supports efforts to repress piracy and other criminal acts of violence against maritime navigation. The physical and economic security of the United States -- a major global trading nation with interests across the maritime spectrum -- relies heavily on the secure navigation of the world's oceans for unhindered legitimate commerce by its citizens and its partners. Piracy and other acts of violence against maritime navigation endanger sea lines of communication, interfere with freedom of navigation and the free flow of commerce, and undermine regional stability.

Piracy endangers maritime interests on a global scale, and the responsibility for countering this threat does not belong exclusively to the United States. Consequently, the United States will engage states and international and regional organizations to develop greater resources, capacity, and authorities to repress piracy and maximize inclusion of coalition assets in piracy repression operations.

Piracy repression should include diplomatic, military, intelligence, economic, law enforcement, and judicial actions. Effectively responding to piracy and criminal activity sends an important deterrent message and requires coordination by all departments and agencies of the U.S. Government in order to ensure that those responsible are brought to justice in a timely manner.

It is the policy of the United States to repress piracy, consistent with U.S. law and international obligations, and to cooperate with other nations in repressing piracy through the following actions:

- Prevent pirate attacks and other criminal acts of violence against U.S. vessels, persons, and interests;
- Interrupt and terminate acts of piracy consistent with international law and the rights and responsibilities of coastal and flag states;
- Reduce the vulnerability of the maritime domain to such acts and exploitation when U.S. interests are directly affected;
- Ensure that those who commit acts of piracy are held accountable for their actions by facilitating the prosecution of suspected pirates and ensure that persons suspected of committing acts of violence against maritime navigation are similarly held accountable by flag and littoral states and, in appropriate cases, the United States;
- Preserve the freedom of the seas, including high seas freedoms;
- Protect sea lines of communication; and
- Continue to lead and support international efforts to repress piracy and other acts of violence against maritime navigation and urge other states to take decisive action both individually and through international efforts.

Responses to these threats will vary according to geographic, political, and legal environments. The scope of the mission and the defined nature of the threat also will affect the choice of response.

IV. IMPLEMENTATION

The Assistant to the President for National Security Affairs and the Assistant to the President for Homeland Security and Counterterrorism shall lead an interagency process to accomplish the following tasks:

- Incorporate this policy into the Maritime Operational Threat Response Plan (Protocols), as appropriate;
- Oversee the development of specific guidance and protocols for the prevention of and response by the United States Government to piracy and other acts of violence against the safety of maritime navigation;
- Review existing U.S. laws against or relating to piracy and prepare for consideration such amendments as may be necessary to enhance our ability to prosecute pirates in U.S. courts;^[3] and
- Seek international cooperation, consistent with the International Outreach and Coordination Strategy of the National Strategy for Maritime Security, to enhance the ability of other states to repress piracy and other criminal acts of violence against maritime navigation and to support U.S. anti-piracy actions.

^[1] The National Security Strategy (2006) and the National Strategy for Maritime Security identify these maritime threats.

^[2] Articles 14-15, Convention on the High Seas (1958), and Articles 100-101, Law of the Sea Convention (1982).

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[3] U.S. Constitution, Article I, Section 8; 18 USC 7(1) (Special Maritime and Territorial Jurisdiction of the United States); 18 USC 111 (Assault on Federal Officials); 18 USC 113 (Assault on the high seas); 18 USC 371 (Conspiracy); 18 USC 844(i) (Use of explosive against property used in foreign commerce of the United States or against any property used in an activity affecting foreign commerce of the United States); 18 USC 1651 (Piracy on the high seas); 18 USC 1659 (plundering a ship); 18 USC 2111 (Robbery on high seas); 18 USC 2280(a)(1)(A),(B), and/or (H) (Maritime violence/hijacking of a ship); 18 USC 2232 (Assaults on U.S. nationals overseas); 18 USC 2232a (Use of WMD against U.S. nationals outside of the U.S.)