

# Who's Afraid of Somali Pirates?

■ Turns out there's not much we can do about piracy, and that may be OK.

By David Herbert

At three hearings since April 30, senators have interrogated a raft of mariners, shipowners, Defense and State department officials, and policy wonks about ways to combat Somali piracy. Arm the crews? Hire armed guards? Send in the Marines? Sen. Tom Udall, D-N.M., boiled down the confusion and frustration: "What is the solution here?" he asked. "How do we get our ships protected?"

No one was ready to supply the real answer: We don't.

Very simply, last month's dramatic rescue of Capt. Richard Phillips, in which Navy snipers took out his pirate captors, has given us an inflated view of what we can do to stop Somali pirates. Despite a multinational naval force, attacks off the Gulf of Aden and eastern coast of Somalia increased tenfold in the first quarter of 2009 over the same period last year. At its core, piracy is about economics, and neither private industry nor the world's governments are prepared to spend the necessary money or political capital to end the threat. Considering the minimal risk to U.S.-flagged ships and a host of potential silver linings in this brigandry, that just might be OK.

If you want to understand why pirates will continue to operate with impunity off the Somali coast, follow the money.

A growing consensus among military and industry figures says that putting security teams aboard ships can repel and deter pirate attacks—the successful defense of the Italian cruise liner *MSC Melody* last month by private Israeli guards reinforced that view. The trouble is finding someone to pay for them.

The shipping industry, hit hard by the economic downturn and already operating on razor-thin profit margins, can't afford to defend itself. Since May 2008, London-based maritime insurers have slapped shipowners with \$20,000-a-trip (or more) premiums

for sailing through pirate-infested waters off Somalia. But it's still cheaper for owners to pay those premiums and chip in for the occasional ransom than to hire armed guards, which industry sources and the Congressional Research Service estimate would cost \$40,000 to \$60,000 per transit.

Hiring private security guards also presents potential legal liabilities. Witness Blackwater in Iraq. "You would end up with some cowboys ... shooting some poor fisherman," said Per Gullestrup, CEO of Copenhagen-based Clipper Projects, who negotiated the release of his ship *CEC Future* and its 13 crew members after pirates captured it last fall. "That becomes the owner's problem."

Lawmakers are pushing shipowners to arm their crews, which might be a cheaper option. But even if legal issues could be resolved (many ports don't want weapons brought into harbor), the potential for an accidental death (and expensive lawsuit) and higher insurance rates have scared off most companies.

The relative non-violence of the Somali attacks—four mariners died in pirates' hands out of 815 hostages taken in 2008—has made living with piracy even more palatable to shipowners, explained Peter Leeson, author of *The Invisible Hook: The Hidden Economics of Pirates*. "The idea of arming crews or hiring guards has failed the market test," said Leeson, an economics professor at George Mason University. "The fact that [shipowners] are not doing it means it's not the cheapest thing to do."

If shippers had their way, navies from

around the world would be footing the bill for security, either by stationing marines on ships or sending more warships to patrol and shepherd convoys. But the U.S. Defense Department and lawmakers have balked.

There is "no doubt" that an increased military presence would help disrupt and deter attacks, Navy Vice Adm. James A. Winnefeld testified at a Senate Armed Services Committee hearing last week. But using the Navy to combat piracy would put a "large dent" in its operational capacity and detract from counter-terrorism operations and wars in Iraq and Afghanistan, to say nothing of the tremendous cost of these operations.

Pirates aren't the only ones profiting from this deadlock: Maritime insurance companies are raking in hundreds of mil-

## ■ Freed From Brigandry



■ Capt. Richard Phillips and his family in April after he was rescued by the U.S. Navy in waters off Somalia.

GETTY IMAGES/DARREN MCCOLESTER

lions of dollars from piracy premiums, explained J. Peter Pham, the director of the Nelson Institute for International and Public Affairs at James Madison University. Back-of-the-envelope calculations reveal just how much: 20,000 ships sailing through these waters every year paying \$20,000 or more each in premiums adds up to at least \$400 million a year. Insurers, who largely oppose arming crews or putting security teams aboard

ships, have paid out \$100 million in ransoms at most, Pham estimated. “As far as the London-based insurers are concerned, business as usual is good business,” he said. “They are not going to be the group lobbying for a crackdown on piracy.”

Insurance companies typically encourage owners to pay ransoms rather than forcibly take back ships (which could put an insurer on the line for damage to a ship worth far more money than any ransom). Gullestrup’s insurer persuaded him to let it pay a ransom between \$1 million and \$2 million to recover his hijacked ship (he won’t release the exact figure, to avoid jeopardizing negotiations for other owners). Meanwhile, ransom payments are edging higher.

Senators talked tough at a string of recent hearings, repeatedly citing the line in the Marine Corps hymn about “the shores of Tripoli”—a reference to the First Barbary War—as a historical precedent for military action. That war, however, was fought against the sultanate of Tripoli and resulted in an official peace treaty. It was not at all like today’s piracy by criminal syndicates in a failed state.

The seafaring nations don’t have much of a plan for prosecuting brigands. The U.S. and Europe, worried that creative legal defenses and prosecutors’ unfamiliarity with maritime law might result in not-guilty verdicts or short prison terms, have been generally reluctant to try pirates at home; acquitted pirates would also have strong cases to ask for asylum. The U.S., the European Union, and the United Kingdom have inked agreements with Kenya to prosecute pirates locally, but the Kenyan courts lack the capacity (and sometimes the will) to prosecute hundreds of cases.

Conventional wisdom holds that the only long-term solution is shoring up the transitional government in Somalia and helping it develop a coast guard. That may not be

## ■ Deadly Waters



SIPA/MINISTÈRE DE LA DÉFENSE

■ A Somali pirate on April 11 holds a gun on hostages on a sailboat that was later stormed by the French navy. One hostage was killed.

possible in the short term, however. Leeson questioned whether the kind of tenuous stability the transitional government is offering is the answer. The town of Eyl in the Somali province of Puntland has something closer to a genuine government, he pointed out, but is also the base for many pirate attacks in the Gulf of Aden.

Equipping Somalis to patrol the coast could just as easily turn into a training program for future pirates, argued a report released last week by Enough, the anti-genocide project of the Center for American Progress. “There is a well-established tradition of shifting militia membership in Somalia,” said John Prendergast, a Clinton White House Africa adviser who co-wrote the report. “Our view is that with a little training and a small, subsidized salary, that training would be quickly targeted by pirate recruiters.”

So what should Washington do? Maybe nothing.

American-flagged ships make up just a fraction of the maritime traffic in the Gulf of Aden. As few as one out of the 70 to 80 ships in the Gulf of Aden on any given day flies the Stars and Stripes, and only two American-flagged ships have been attacked—Capt. Phillips’s *MV Maersk Alabama* and, a few days after Phillips was freed, the *MV Liberty Sun*, which outran its attackers.

Piracy may even have a silver lining.

The marauding is already drawing attention to the humanitarian crisis and political unrest onshore, which the U.S. has largely steered clear of since pulling out of Somalia in the early 1990s after 19 American soldiers were killed there. In recent years, U.S. interest in Somalia has been largely related to terrorism. The pirate attacks began spiking after the U.S.-backed invasion of Somalia by Ethiopia in 2006, which was intended to unseat an Islamist government.

Prendergast and Enough hope that piracy will help drive a more nuanced American policy toward Somalia. “There has to be action on

both levels,” he said. “We’ve seen a huge response in respect to naval armadas being sent to the Gulf of Aden and the Red Sea, but we have not seen a remotely corresponding investment in state reconstruction.”

In the immediate term, piracy is giving new urgency to U.S. adoption of the United Nations Convention on the Law of the Sea, which clarifies international maritime laws and formalizes rules for interdicting pirates. The agreement has bipartisan support in Congress and the backing of the military, environmentalists, deep-sea drillers, and just about everyone else, but it has languished in committee for years, partly because of inattention and partly because of stiff opposition from some conservative senators. (*For a Q&A with Coast Guard Commandant Thad Allen, see this issue, p. 41.*)

The other good news is that piracy doesn’t last forever. The heyday of marauding in the 18th-century Caribbean, immortalized today in Disney rides and Hollywood blockbusters, lasted only a decade, Leeson explained, before the toll on shipping forced the British navy to clear out pirate enclaves. Until today’s shipping industry and governments reach that economic tipping point: ahoy. ■

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