



MEETING OF THE STATES PARTIES TO THE UNITED NATIONS CONVENTION ON
THE LAW OF THE SEA

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Mr. President,

I am grateful to you and to the Meeting of States Parties to the United Nations Convention on the Law of the Sea for your warm welcome and for giving me the opportunity to speak at this year's meeting.

One of the main reasons for developing maritime law centuries ago, as well as for adopting the United Nations Convention on the Law of the Sea in 1982, was the necessity to ensure free flow of commerce by sea. Protecting the sea-lines of commerce is vitally important to all nations, whether they are coastal states or land-locked states, whether they are flag states or port states, because maritime commerce is vital to every nation's prosperity. Almost everything produced or consumed anywhere in the world depends on shipping. In today's global economy ships carry more than 90% of global trade.

Because the well-being of all of all the world's citizens relies on shipping, protecting the safe and efficient flow of commerce by sea must be a top priority of all nations. All nations benefit from shipping, therefore all nations must share in the responsibility for maintaining maritime security by countering threats to shipping.

One current threat to shipping has captured public attention and imagination like no other. It has also highlighted the importance of UNCLOS like no other. I am speaking of the threats that piracy off the coast of Somalia is creating for merchant shipping and for nations worldwide.

Pirates have attacked commerce for as long as goods have been transported on ships. In response, early rulers created an extraordinary legal theory unique to piracy. Because piracy was considered a particularly heinous crime, pirates were

deemed to be “*Hostis Humani Generis*,” or enemies of all humanity. Piracy became, as early as in Cicero’s time, a universal crime, meaning that any country, irrespective of their nationality or where the act of piracy occurred, can prosecute pirates. The customary maritime law principle of piracy is today codified in the United Nations Convention on the Law of the Sea in Articles 100 through 107.

The UNCLOS requires all states to co-operate to the fullest extent to repress piracy, and it provides authority for any state to arrest and prosecute pirates. International efforts to increase cooperation to arrest and prosecute pirates must be encouraged and advanced.

We hear allegations of actions such as polluting the seas and illegal fishing that jeopardize coastal states’ security and sovereignty. Such allegations must not be ignored. They are issues that are addressed in the UNCLOS, and the rule of law enshrined in the UNCLOS should be supported by all nations to respond to them. They do not, however, provide any justification for or defense to piracy.

Of course, prosecuting pirates will not alone stop the scourge of piracy. There has been considerable international cooperation directed at piracy off the coast of Somalia. During 2008, the United Nations Security Council adopted five resolutions addressing piracy off the coast of Somalia. A Contact Group on Piracy off the Coast of Somalia, comprised of twenty-four nations, several international organizations and maritime industry representatives, was established to facilitate and coordinate efforts implementing Security Council Resolution 1851. More than 25 countries have sent naval units to patrol waters off Somalia to protect shipping from pirates. The International Maritime Organization has updated its guidelines for flag states and ship operators on preventing and suppressing acts of piracy. The maritime industry has developed “Best Management Practices to Deter Piracy in the Gulf of Aden and Off the Coast of Somalia.”

Last year when I spoke to this meeting, I pointed out that almost all international efforts had been devoted to suppressing and preventing pirate attacks, but that virtually no attention had been given to providing for the seafarers who have suffered at the hands of pirates.

Of the five UN Security Council adopted in 2008 on piracy in Somalia, none cited protecting merchant mariners as a rationale for international efforts to suppress piracy. (The preamble of Res. 1816 mentioned the grave dangers that piracy poses to seafarers¹.)

¹ Although one Security Council Resolution, Res. 1816, did mention crews in a preamble paragraph “*Deploring* the recent incidents of attacks upon and hijacking of vessels in the territorial waters and on the high seas off the coast of Somalia including attacks upon and hijackings of vessels operated by the World Food Program and numerous commercial vessels and the serious adverse impact of these attacks on the prompt, safe and effective delivery of food aid and other humanitarian assistance to the people of Somalia, and the grave dangers they pose to vessels, crews, passengers, and cargo.”

The current IMO and Contact Group guidance for shipowners and flag states on responding to pirate attacks do contain some guidance on dealing with seafarers after an attack. But, this guidance is limited to gathering information for military intelligence or prosecutorial purposes, not for seafarers' well-being.

Since I spoke to you last year, there have been some developments that I bring to your attention.

The Seamen's Church Institute has initiated, in conjunction with the Disaster Psychiatry Outreach at the Mount Sinai School of Medicine and the New York Psychoanalytic Society and Institute, a ground-breaking clinical study to assess the effects of piracy on merchant mariners. Our study will go beyond examining how pirate attacks and hostage-taking affect seafarers. It will also look at the stress of simply traveling through high-risk pirate waters. The lessons learned from the study will help us develop advice for merchant mariners, shipowners, flag states, labor supplying states, chaplains, trade unions, first responders, and seafarers' families on dealing with piracy generated stress, how to cope with being held captive, and how to deal with trauma caused by a pirate attack. A critical element of the study will be our gaining access to seafarers affected by pirates or who have experienced a pirate attack – or have endured the stress of transiting pirate-infested waters. The study is being conducted at the highest ethical and scientific levels, scrupulously protecting seafarers' individual privacy. I ask your help in gaining access to seafarers for the study.

We have prepared preliminary guidelines for the post-piracy care of seafarers and provided them to the maritime industry and to Working Group 3 of the Contact Group. We are very pleased that Working Group 3 has placed preparing guidance to shipowners on caring for seafarers affected by piracy on its agenda. Several shipowner organizations are now working on guidelines on caring for seafarers. This is a very positive development. The International Maritime Organization has placed piracy's effects on seafarers on its work agenda, especially in the Maritime Safety Committee. Our guidelines are being considered in the IMO deliberations. These efforts focusing on addressing seafarers' issues are to be applauded and encouraged.

Why should we care about seafarers? Most of us will agree that is the right thing to do for humanitarian reasons. We must pay much more attention to addressing seafarers' needs in respect to piracy not only for humanitarian purposes, but also for security purposes.

As I mentioned earlier, since all nations depend on shipping for their prosperity, all nations share responsibility for maintaining maritime security. Piracy does not pose the biggest threat to maritime security, although it affects it. Many assume that terrorism the greatest threat to maritime security. It is not. The gravest threat to maritime security is the worldwide crisis of recruiting and retaining sufficient

numbers of skilled and responsible men and women for shipboard careers that is required to sustain maritime commerce.

All of us, governments, international organizations, non-governmental organizations, commercial interests, and ordinary citizens need to do what we can to make shipboard careers a more attractive career option for skilled and responsible men and women. The first step is to recognize seafarers' contributions to us and to raise their stature commensurate to their value to our lives and economies.

Unfortunately, perceptions of vulnerability to pirate attacks is just one of the many disincentives for those considering beginning or staying in seagoing careers.

Seafarers are vitally important to the world's commerce and prosperity. We depend upon them and we owe them the assurance that we will do everything we can to protect them from piracy – before, during, and long after an attack.

The international community of nations and the maritime industry has undertaken considerable efforts to prevent, detect, and suppress piracy. This work is very important and must continue.

Governments and the maritime industry must take an active role not only in preventing and suppressing pirate attacks, but also in ensuring that seafarers and the families affected by piracy receive proper care.

Mr. President, before I conclude, I wish to ask one more thing:

As we sit in this meeting of the States Parties to the United Nations Convention on the Law of the Sea, and after we leave this place, please keep in your thoughts and prayers the 371 seafarers from 17 merchant ships, and their families, who are, at this very moment, being held hostage by pirates in Somalia.

Thank you

POST-PIRACY CARE FOR SEAFARERS

PRELIMINARY GUIDELINES

CENTER FOR SEAFARERS' RIGHTS
THE SEAMEN'S CHURCH INSTITUTE

MAY 26, 2010 | VERSION 1.3

PREAMBLE The following guidelines are meant to provide a general structure for the care of seafarers following an incident of piracy. These guidelines are preliminary to an ongoing study designed to develop more specific recommendations forthcoming in the second half of 2010. What follows is culled from a variety of sources in the professional mental health literature. The Seamen's Church Institute (SCI) does not assume any responsibility for the recommendations listed below but welcomes comments from interested parties in our ongoing efforts to develop specific guidelines to address the mental health impact of piracy on seafarers.

1. AT THE FIRST NEWS OF A PIRACY INCIDENT

The news that a vessel has interacted with pirates creates a number of exigencies:

1.1 PROTECTION OF THE CARGO AND VESSEL

This is outside of the purview of this document – relevant guidelines can be found in these documents: IMO Resolution A.1025(26), A.1026(26), MSC.1/Circ.1333, MSC.1/Circ.1334, MSC.1/Circ.1335.

1.2 THE WELFARE OF THE CREW

Primarily, how to ensure their access to basic needs

How to protect them from further harm

How to help them react appropriately from the first moment of a piracy incident

How to ensure regular communication between the vessel and its stakeholders including the shipowner, cargo owners, insurance companies, government bodies, and relatives of the besieged crew

2. WHEN A CREW IS BEING HELD

When a vessel is in captivity by pirates, there is often little that can be done to directly address the needs of the crew. However, during this critical time when negotiations are underway, several procedures can begin.

2.1 PREPARING FOR THE CREW'S RELEASE It is important that each crewmember's needs be identified before release. This information should be solicited from the crewmember's corporate medical chart, as well as from family members. It is most important to discern whether the crewmember has a pre-existing condition that may be worsened under captivity. This may include:

A condition that requires medication, which may run out during captivity

A condition that is known to worsen under stress (While most medical and psychiatric conditions worsen under stress, here is a partial list of diagnoses of greater concern: cardiac problems, including histories of arrhythmias, heart attacks [myocardial infarctions]; stroke; asthma, emphysema, or chronic bronchitis; an anxiety disorder; post-traumatic

stress disorder)

Anticipating possible reactions among crewmembers based on knowledge of their medical history will facilitate preparations for their release

2.2 PROVIDING TIMELY INFORMATION TO THE CREW'S FAMILIES

Much like the owners of hijacked vessels and others with vested interests, the families of crewmembers will most likely feel powerless and afraid. However, unlike those who may be involved in negotiating, families have no means to access current information. Further, families are often targeted by pirates through harassing telephone calls in order to pressure negotiations. Because of these reasons, contact and coordination with family members is essential.

Since the crewmember will return to his family post-capture, the family plays an integral role in assisting with any recovery needed, including:

- Providing a supportive home environment

- Identifying lingering symptoms of captivity

- Assisting in linking the crewmember with appropriate caregivers (medical centers, behavioral health clinics).

Family members should be updated with information at least once per week and more frequently where possible.

- Family members should be contacted even if no new information is available.

- Families will be helped if they understand the complexity of the negotiation process.

 - Explaining the unpredictability of negotiating with pirates will help them make sense of the difficulties involved in producing specific timetables for release.

 - Families should be required to maintain the confidentiality of all information shared with them (i.e. they should not disclose this information to the media).

- Families should be encouraged to report any attempts at communication they receive from pirates and should be encouraged not to respond to these attempts.

Identifying resources to help crewmembers after release

- Upon release, crewmembers will need to be assessed medically and psychologically.

- In anticipation of release, appropriate resources should be located in both the location where the crew will disembark and where they will return (typically their home country).

 - This can include establishing contact with practitioners in the home country and keeping them "on call," and

 - linking practitioners to family members in anticipation of hostage release.

3. WHEN RELEASE IS IMMINENT

3.1 FAMILIES SHOULD BE CONTACTED FREQUENTLY (at least weekly) to update them with a timetable that includes information about approximately when their family member will be released.

Families should be encouraged to respect the confidentiality of negotiations and should be prepared for the possibility of modifications to the provided timetable.

Preparations should be made for crewmembers to be provided with telephones as close to release as possible to talk with their loved ones.

3.2 FINAL CHECKS SHOULD BE MADE at this point on medical/mental health resources available at the point of disembarkation.

Doctors at port should be notified.

Doctors in home countries should be notified, and appointments for initial screenings should be established.

4. WHEN THE CREW HAS BEEN RELEASED

4.1 A MEDICAL ASSESSMENT SHOULD BE MADE AS SOON AS POSSIBLE.

When possible, this should precede any debriefing. The information that government/military personnel will receive from a detainee will be less accurate if made in the setting of significant medical or psychological distress.

A complete medical assessment should be made to assess whether urgent care is required.

The assessment should be made by a person who is a licensed medical doctor (M.D.) who is skilled in a full-systems check, including a psychiatric assessment.

The assessment should be summarized in a written document, translated by those competent in medical translations, and given to the crewmember to bring home to his local medical team.

4.2 ONCE THE CREW HAS BEEN CLEARED TO TRAVEL, THE CREW SHOULD BE REPATRIATED with their families or friends following the debriefing period of no more than several days. When crewmembers are unable to leave the point of disembarkation for a period of more than three days, efforts should be made to facilitate family travel to that point to expedite reunification.

Families should be briefed about the status of their family crewmember in a manner that is culturally-appropriate.

Families and crewmembers should be equipped with a list of symptoms of post-traumatic stress disorder.

Two appointments should be scheduled for each crewmember in his home country: an initial appointment upon return to his native country and a follow-up appointment for sixty days post-release.

The professional who sees the crewmember must have training in psychiatric assessment.

A report should be generated and this report should be the property of the seafarer alone to be used to coordinate further treatment.

The employer should only be granted access to the report with the seafarer's written permission.

5. WHEN THE CREW IS TO RETURN TO DUTY

5.1 WHAT IS MOST IMPORTANT IS THAT THE CREW BE CLEARED BEFORE RETURNING.

Clearance includes a full physical examination, but should also include a psychological assessment.

It would benefit crewmembers and reduce liability to insurers to engage clinical psychologists to conduct assessments. In areas of the world where psychologists and psychiatrists are more difficult to consult with, a form will be prepared that any physician can complete that will ensure that a basic assessment has been completed (e.g. the Mini International Neuropsychiatric Interview, which has been translated into 40 languages).

5.2 IT IS VERY IMPORTANT TO MONITOR A SEAFARER on his first voyage post-piracy because post-traumatic and other psychiatric symptoms can present themselves when an individual returns to a setting similar to the original incident.

The officer responsible for the medical care of the crew while at sea should be asked to maintain contact with those who are serving for the first time since a piracy incident.

These crewmembers should be asked to report to the officer on their mood, sleep habits, and eating patterns, and also to report anything deemed to be extraordinary.

If the officer hears of symptoms of stress from the crewmember, he should request an assessment when the vessel next calls at a port.

Ship owners, in consultation with P&I Clubs, should maintain a list of qualified individuals to make assessments in each port.

Where possible, assessments should be conducted by a psychologist with a PhD in Clinical Psychology and/or a psychiatrist with an MD or equivalent medical degree.

Disposition of a crew member designated for reassessment will be made by the professional who evaluates him.

ADDENDUM

When a crew is not held, but there has been contact with pirates

Simply traveling through a zone of piracy can be stressful for seafarers, especially when there is awareness among crew that a pirate vessel is close by.

Seafarers transiting a zone of piracy may experience clinically-significant symptoms.

Adapting the aforementioned procedure may prove helpful in working with a crewmember who has exhibited distress following transit through a piracy zone.

Professional contact with a psychologist or psychiatrist is advised to arrange an assessment.

CONCLUDING REMARKS

As stated above, this is a preliminary document. As our research continues, the Center for Seafarers' Rights at SCI will update guidelines where appropriate. If you have any questions about this preliminary guide or are in need of consultation, refer to the contact information below.

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