United States Government Accountability Office

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Report to Congressional Requesters

September 2010

MARITIME SECURITY

Actions Needed to Assess and Update Plan and Enhance Collaboration among Partners Involved in Countering Piracy off the Horn of Africa

GAO-10-856

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Highlights

Highlights of GAO-10-856, a report to congressional requesters

Why GAO Did This Study

Somali pirates operating off the Horn of Africa have attacked more than 450 ships and taken nearly 2,400 hostages since 2007. A small number of U.S.-flagged vessels and ships have been among those affected. As Somalia lacks a functioning government and is unable to repress piracy in its waters, the National Security Council (NSC) developed the interagency *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*) in December 2008 to prevent, disrupt, and prosecute piracy off the Horn of Africa in collaboration with international and industry partners. GAO was asked to evaluate the extent to which U.S. agencies (1) have implemented the plan, and any challenges they face in doing so, and (2) have collaborated with partners in counterpiracy efforts. GAO examined counterpiracy plans, activities, collaborative practices, and data, and interviewed industry and international partners and officials at U.S. agencies and the Combined Maritime Forces in Bahrain.

What GAO Recommends

GAO recommends that the NSC reassess and update its *Action Plan*; identify metrics; assess the costs, benefits, and effectiveness of U.S. counterpiracy activities; and clarify agency roles and responsibilities. The NSC did not comment. The Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury provided comments to clarify facts in the report.

View GAO-10-856 or key components.
For more information, contact John Pendleton at (202) 512-3489 or pendletonj@gao.gov or Stephen L. Caldwell at (202) 512-9610 or caldwells@gao.gov.

What GAO Found

The U.S. government has made progress in implementing its *Action Plan*, in collaboration with international and industry partners, but pirates have adapted their tactics and expanded their area of operations, almost doubling the number of reported attacks from 2008 to 2009, and the U.S. government has yet to evaluate the costs, benefits, or effectiveness of its efforts or update its plan accordingly. The United States has advised industry partners on self-protection measures, contributed leadership and assets to an international coalition patrolling pirate-infested waters, and concluded prosecution arrangements with Kenya and the Seychelles. Officials credit collaborative efforts with reducing the pirates' rate of success in boarding ships and hijacking vessels in 2009. However, from 2007 to 2009, the most recent year for which complete data were available, the total number of hijackings reported to the International Maritime Bureau increased, ransoms paid by the shipping industry increased sharply, and attacks spread from the heavily patrolled Gulf of Aden—the focus of the *Action Plan*—to the vast Indian Ocean. The *Action Plan*'s objective is to repress piracy as effectively as possible, but the effectiveness of U.S. resources applied to counterpiracy is unclear because the interagency group responsible for monitoring the *Action Plan*'s implementation has not tracked the cost of U.S. activities—such as operating ships and aircraft and prosecuting suspected pirates—nor systematically evaluated the relative benefits or effectiveness of the *Action Plan*'s tasks. GAO's prior work has shown that federal agencies engaged in collaborative efforts need to evaluate their activities to identify areas for improvement. Moreover, as pirates have adapted their tactics, the *Action Plan* has not been revised. Without a plan that reflects new developments and assesses the costs, benefits, and effectiveness of U.S. efforts, decision makers will lack information that could be used to target limited resources to provide the greatest benefit, commensurate with U.S. interests in the region.

The U.S. government has collaborated with international and industry partners to counter piracy, but it has not implemented some key practices for enhancing and sustaining collaboration among U.S. agencies. According to U.S. and international stakeholders, the U.S. government has shared information with partners for military coordination. However, agencies have made less progress on several key efforts that involve multiple agencies—such as those to address piracy through strategic communications, disrupt pirate finances, and hold pirates accountable—in part because the *Action Plan* does not designate which agencies should lead or carry out 13 of the 14 tasks. For instance, the Departments of Defense, Justice, State, and the Treasury all collect information on pirate finances, but none has lead responsibility for analyzing that information to build a case against pirate leaders or financiers. The NSC, the President's principal arm for coordinating national security policy among government agencies, could bolster interagency collaboration and the U.S. contribution to counterpiracy efforts by clarifying agency roles and responsibilities and encouraging the agencies to develop joint guidance to implement their efforts.

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Abbreviations

Action Plan	*Countering Piracy off the Horn of Africa: Partnership and Action Plan*
BIMCO	Baltic and International Maritime Council
Contact Group	Contact Group on Piracy off the Coast of Somalia
CPCC	Counter-Piracy Coordination Center
FBI	Federal Bureau of Investigation
INTERCARGO	International Association of Dry Cargo Shipowners
INTERTANKO	International Association of Independent Tanker Owners
ISPS	International Ship and Port Facility Security Code
ITF	International Transportation Workers Federation
NSC	National Security Council
SIGTTO	Society of International Gas Tanker and Terminal Operators Limited
U.K.	United Kingdom

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Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

September 24, 2010

The Honorable John F. Tierney
Chairman
Subcommittee on National Security and Foreign Affairs
Committee on Oversight and Government Reform
House of Representatives

The Honorable John L. Mica
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Piracy off the Horn of Africa has been growing in frequency and severity over the past several years and threatens one of the world's busiest shipping lanes near key energy corridors and the route through the Suez Canal. Since 2007, more than 450 ships have reported pirate attacks in this area, and Somali pirates have taken nearly 2,400 hostages and received over $100 million in ransom payments.[1] Although only a few U.S.-flagged vessels—notably the MV *Maersk Alabama* in April 2009—have been attacked, pirates have attacked or attempted attacks on chemical and oil tankers, freighters, cruise ships, fishing vessels, and even warships. In addition to jeopardizing the lives and welfare of the citizens of many nations, piracy contributes to regional instability and creates challenges for shipping and freedom of navigation. With Somalia's lack of a functioning government, this illicit but profitable activity has raised concerns that piracy ransom proceeds may undermine regional security and contribute to other threats, including terrorism.

The international community has taken several steps to respond to the growing piracy problem. The United Nations Security Council has adopted several resolutions addressing an international response to piracy off the Horn of Africa.[2] In 2008, the United States, the North Atlantic Treaty

[1]According to the International Maritime Bureau, pirate attacks in the Gulf of Aden, Red Sea, Arabian Sea, Indian Ocean, and off the coast of Oman have been attributed to Somali pirates.

[2]For example, Resolution 1816 authorized governments to enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, but only with authorization from the Somali Transitional Federal Government. S.C. Res. 1816, U.N. Doc. S/RES/1816 (June 2, 2008).

Organization, the European Union, regional naval forces, and others began patrolling waters near Somalia. In January 2009, a multinational naval task force—Combined Task Force 151—was established under the U.S.-led Combined Maritime Forces with a specific mission to conduct counterpiracy operations. Additionally, in January 2009, a multilateral Contact Group on Piracy off the Coast of Somalia (Contact Group) was formed pursuant to United Nations Security Council Resolution 1851 to coordinate international counterpiracy efforts.[3]

Recognizing that vibrant maritime commerce underpins global economic security and is a vital national security issue, the United States has developed policies and plans to collaborate with its international and interagency partners to address piracy off the Horn of Africa and to mobilize an interagency U.S. response. In December 2008, the National Security Council (NSC) published the *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*).[4] 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. Consistent with the U.S. policy to continue to lead and support international efforts to repress piracy and to urge other states to take decisive action both individually and through international efforts, the *Action Plan* seeks to involve all nations, international organizations, industry, and other entities with an interest in maritime security to take steps to repress piracy off the Horn of Africa.[5] The interagency initiatives of the *Action Plan* are to be coordinated and undertaken by the U.S. Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury, and the Office of the Director of National Intelligence, subject to the availability of resources.

[3]S.C. Res. 1851, U.N. Doc. S/RES/1851 (Dec. 16, 2008).

[4]The White House NSC is the principal forum used by the President of the United States for considering national security and foreign policy matters with his senior national security advisors and cabinet officials and is part of the Executive Office of the President of the United States. The function of the Council is to advise and assist the president on national security and foreign policies. The Council also serves as the president's principal arm for coordinating these policies among various government agencies. On May 26, 2009, President Obama merged the White House staff supporting the Homeland Security Council (HSC) and the National Security Council into one National Security Staff (NSS). The HSC and NSC each continue to exist by statute as bodies supporting the president.

[5]In the context of this report, the term "states" refers to nations or countries involved in counterpiracy efforts.

Over the last few years, we have completed a number of reviews that examine issues related to piracy off the Horn of Africa. In December 2007, we reported that the vast areas at risk for piracy off the Horn of Africa combined with the small number of ships available for patrolling them make protecting energy tankers and other commercial vessels difficult.[6] In February 2008, we reported that several challenges limit U.S. and international stabilization, humanitarian, and development efforts in Somalia and recommended that the United States develop a more detailed strategy to address these challenges.[7] In June 2008, we evaluated the *National Strategy for Maritime Security* and its supporting plans and determined that the implementation status of the eight supporting plans varied.[8] In September 2009, we reported on the Department of the Treasury's collaboration with interagency partners to safeguard the financial system against illicit use and combat national security threats, and recommended mechanisms to improve interagency collaboration.[9] Also in September 2009, we reported on the key actions agencies need to take to enhance interagency collaboration on national security issues.[10] A list of our related GAO products is included at the end of this report.

Interested in U.S. efforts to respond to piracy, your offices asked us to review the extent to which the U.S. government agencies: (1) have made progress in implementing the *Action Plan* to counter piracy off the Horn of Africa and any challenges they face; and (2) are collaborating with each other, and with international and industry partners to counter piracy off the Horn of Africa.

[6]GAO, *Maritime Security: Federal Efforts Needed to Address Challenges in Preventing and Responding to Terrorist Attacks on Energy Commodity Tankers*, GAO-08-141 (Washington, D.C.: Dec. 10, 2007).

[7]GAO, *Somalia: Several Challenges Limit U.S. and International Stabilization, Humanitarian, and Development Efforts*, GAO-08-351 (Washington, D.C.: Feb.19, 2008).

[8]GAO, *Maritime Security: National Strategy and Supporting Plans Were Generally Well-Developed and Are Being Implemented*, GAO-08-672 (Washington, D.C.: June 20, 2008).

[9]GAO, *Combating Illicit Financing: Treasury's Office of Terrorism and Financial Intelligence Could Manage More Effectively to Achieve Its Mission*, GAO-09-794 (Washington, D.C.: Sept. 24, 2009).

[10]GAO, *Interagency Collaboration: Key Issues for Congressional Oversight of National Security Strategies, Organizations, Workforce, and Information Sharing*, GAO-09-904SP (Washington, D.C.: Sept. 25, 2009).

To assess U.S. government progress and challenges in implementing the *Action Plan* for countering piracy off the Horn of Africa, we reviewed the *Action Plan*, the 2007 *Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea*, relevant U.S. laws, and United Nations Security Council resolutions. We also reviewed program documents, analyzed data on the incidents of piracy off the Horn of Africa for the years 2007 through June 2010, and interviewed officials from the Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury, and the Office of the Director of National Intelligence as well as component agencies including the Federal Bureau of Investigation (FBI), Coast Guard, and National Maritime Intelligence Center to discuss implementation of the *Action Plan* and collaboration with partners in counterpiracy efforts. We selected these departments and agencies because the *Action Plan* states they shall contribute to, coordinate, and undertake initiatives in accordance with the plan. We also reviewed prior GAO work related to results-oriented government and evaluated the extent to which the interagency Counter-Piracy Steering Group followed select key practices for achieving results.[11] In addition, we met with international and industry partners involved in developing best practices for protecting ships from pirate attack, working with the international Contact Group, and participating in naval patrols off the Horn of Africa. We discussed data-collection methods, processes for data entry, and the steps taken to ensure reasonable accuracy of the data with both the International Maritime Bureau and the Combined Maritime Forces. We determined the data to be sufficiently reliable for the purposes of this report.

To identify the extent to which U.S. government agencies are collaborating with each other, and with international and industry partners, we evaluated the extent to which department and agency actions incorporate key practices for enhancing and sustaining collaboration on complex national security issues.[12] In addition, we observed information sharing forums; reviewed program documents; and interviewed agency, international, and industry officials about collaboration efforts. We conducted this performance audit from October 2009 to September 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and

[11]GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005).

[12]GAO-09-904SP.

conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The scope and methodology used in our review are described in further detail in appendix I.

Background

The 1958 Geneva Convention on the High Seas and the United Nations Convention on the Law of the Sea share the same definition of piracy, and, under that definition, piracy consists of any of several acts, including any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship and directed against another ship, aircraft, persons, or property onboard another ship on the high seas; or against a ship, persons or property in a place outside the jurisdiction of any state.[13] Additionally, according to both conventions, all states have the duty to cooperate to the fullest extent possible in the repression of piracy on the high seas or in any other place outside the jurisdiction of any state. Furthermore, both conventions authorize states to seize pirate ships or a ship under the control of pirates and arrest the persons and seize the property onboard, on the high seas or in any other place outside the jurisdiction of any state. In addition, 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

[13]The Convention on the High Seas, Apr. 29, 1958, 13 U.S.T. 2312, 84 U.N.T.S. 11, which has been ratified by the United States, attempted to codify the rules of international law relating to the high seas and contains provisions determined to be generally declaratory of established principles of international law by the United Nations Conference on the Law of the Sea. The United States has not ratified the United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 3. Both conventions define piracy as any of the following acts: (1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (*a*) on the high seas, against another ship or aircraft, or against persons or property onboard such ship or aircraft; (*b*) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (3) Any act of inciting or of intentionally facilitating an act described in subparagraph 1 or subparagraph 2.

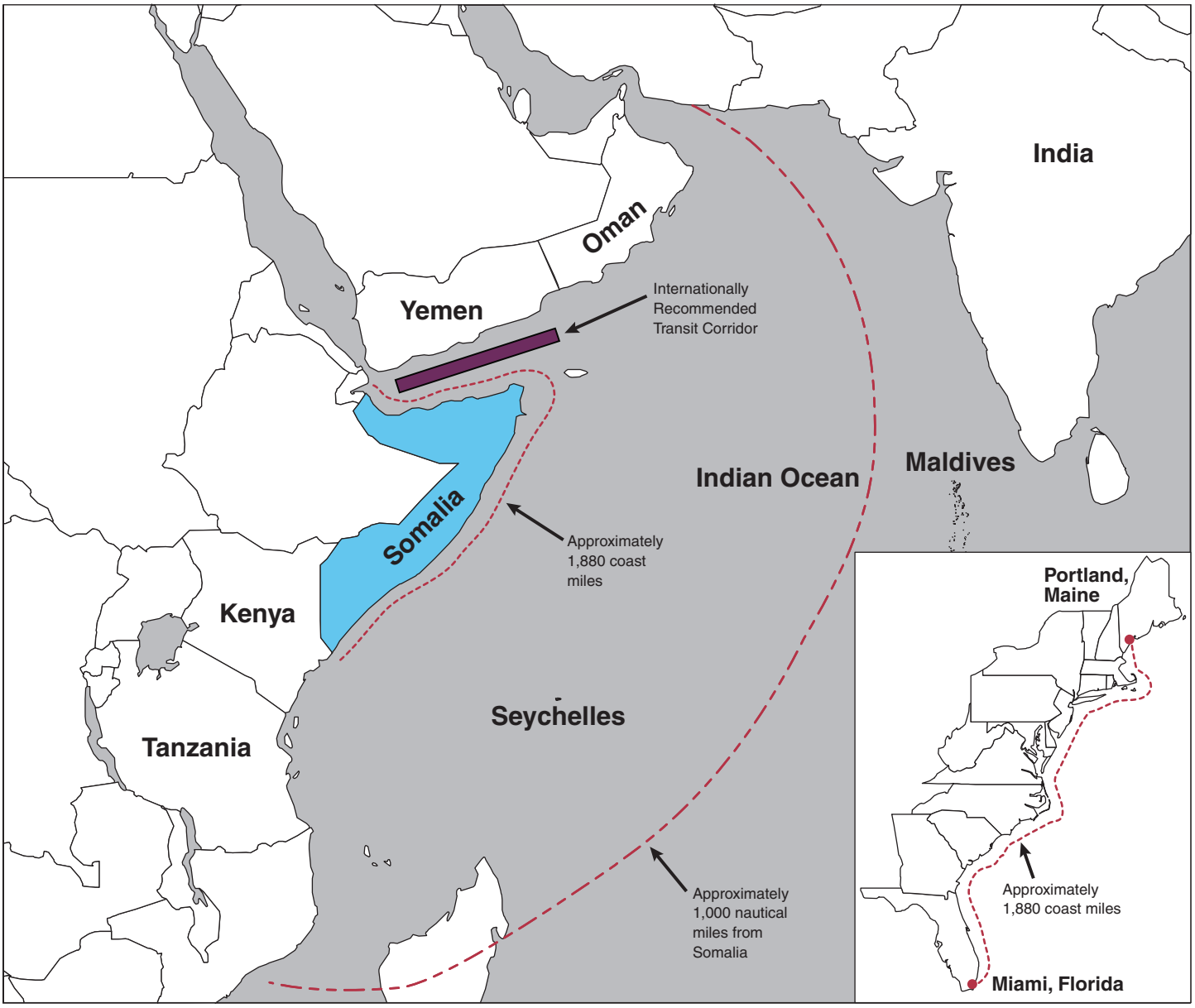
taken hostage, regional coastal states, owner states, and cargo owner, transshipment, and destination states.[14]

Somali pirates attack and harass vessels transiting the Indian Ocean and in the Gulf of Aden, a natural chokepoint that provides access to the Red Sea and the Suez Canal and through which over 33,000 ships transit each year.[15] Pirates operate from land-based enclaves along the 1,880-mile coastline of Somalia, which is roughly equivalent to the distance from Portland, Maine, to Miami, Florida. Figure 1 illustrates the vast area in which incidents of piracy are occurring, 1,000 nautical miles from Somalia's coast. Figure 1 also shows the location of the Internationally Recommended Transit Corridor in the Gulf of Aden, where coalition forces have established naval patrols to help ensure safe passage for transiting vessels.

[14]The flag state is the country in which the vessel is registered. In general, flag states have the authority to enforce their own as well as international regulations, such as those relating to security standards, with respect to such vessels. Most ships are not registered under the same flag as the nationality of the owner. As of 2008 only 422 of the 1154 U.S.-owned commercial ships were registered in the United States with the remaining 732, or 63 percent, registered in other countries. Panama and Liberia have the two largest registries and together register 23.5 percent of commercial vessels worldwide. Panama has 6,323 ships registered, 85 percent of which are foreign-owned; Liberia has 2,204 ships registered, 96 percent of which are foreign-owned. Coastal states are countries with a sea coast. Some regional coastal states include Kenya, Seychelles, Tanzania, and Yemen.

[15]According to the World Shipping Council, more than 7 percent of the world's total ocean trade transited the Suez Canal in 2007. The alternative to using the Suez Canal is to travel an additional 4,900 nautical miles around the African continent.

Figure 1: Somalia and a Comparison to the Eastern Coast of the United States



Source: GAO (data), Map Resources (map).

To conduct their attacks, Somali pirates generally use small skiffs, carrying between four and eight persons armed with AK-47 rifles or similar light arms and, at times, with rocket-propelled grenades. Once they target

a vessel, pirates typically coordinate a simultaneous two- or three-pronged attack from multiple directions. Depending on the characteristics and acquiescence of the victim vessel, pirates can board and commandeer a vessel in less than 20 minutes. Pirate vessels usually are equipped with grappling hooks, ladders, and other equipment to assist the boarding of a larger craft. Pirate vessels vary in sea-worthiness and speed with some able to travel at speeds between 25 and 30 knots and operate in high sea conditions, while others have more restricted capabilities. According to the Office of Naval Intelligence, Somali pirates do not typically target specific vessels for any reason other than how easily the vessel can be boarded. Pirates patrol an area and wait for a target of opportunity. Vessels that travel through the high-risk area at a speed of less than 15 knots and have access points close to the waterline are at higher risk of being boarded and hijacked. According to a June 2010 self-protection guide published by maritime industry organizations, there have been no reports of pirates boarding ships proceeding at speeds over 18 knots. Figure 2 shows U.S. authorities boarding a suspected pirate skiff.

Figure 2: U.S. Visit, Board, Search, and Seizure Team Boards a Suspicious Boat in the Indian Ocean

Source: U.S. Navy.

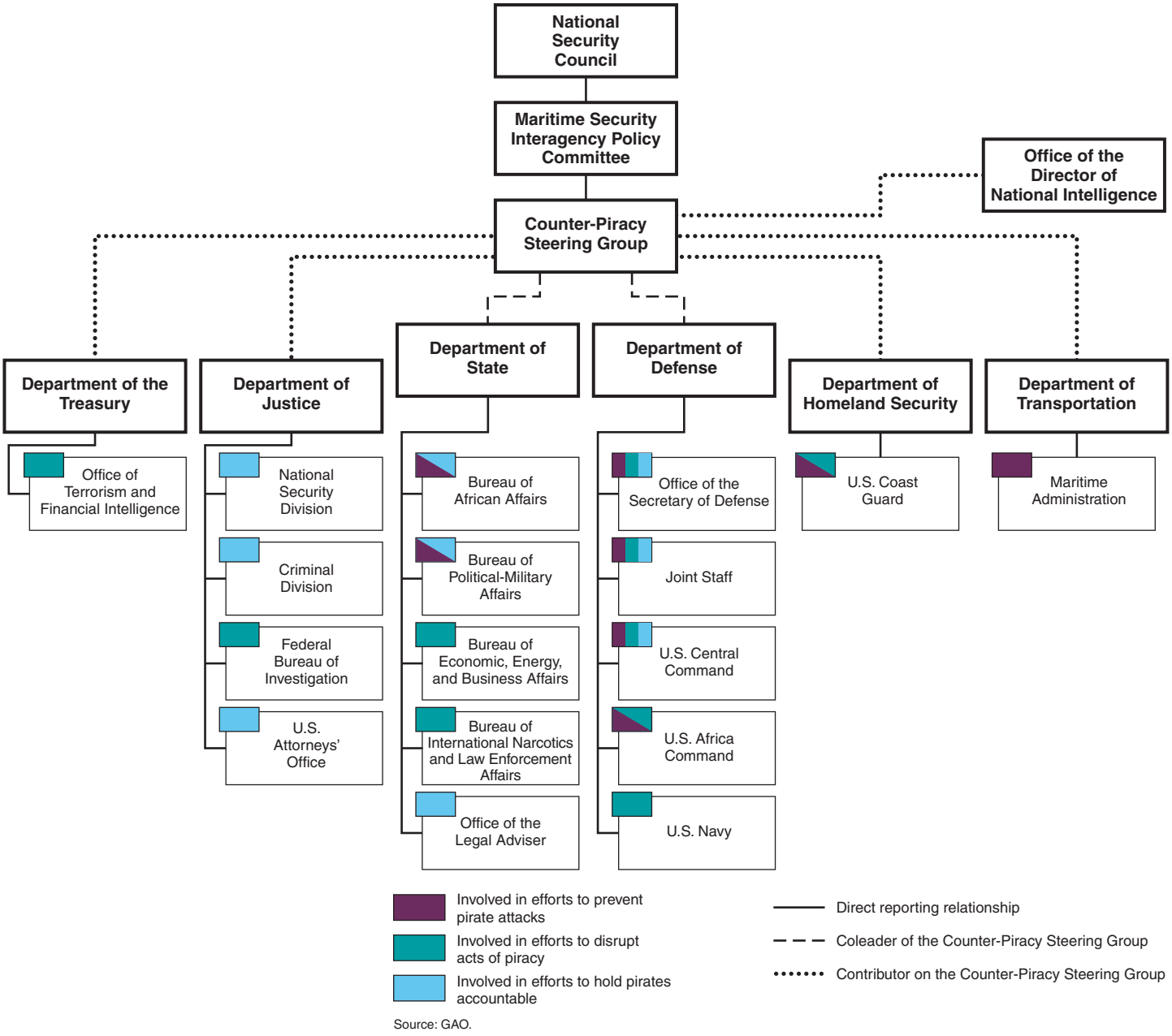
Unlike pirates in other parts of the world, Somali pirates kidnap hostages for ransom and, up to this point, have not tended to harm captives, steal cargo, or reuse pirated ships for purposes other than temporarily as mother ships. Mother ships are typically larger fishing vessels often acquired or commandeered by acts of piracy that pirates use to store fuel and supplies, and tow skiffs, which allow them to operate and launch attacks further off shore. This "hostage-for-ransom" business model is possible in part because the pirates have bases on land in ungoverned Somalia where they can bring seized vessels, cargoes, and crews and have access to food, water, weapons, ammunition, and other resources during ransom negotiations. In an ungoverned state with widespread poverty, the potential for high profits with low costs and relatively little risk of consequences has ensured that Somali pirate groups do not lack for recruits and support. Moreover, some U.S. and international officials suspect that Somali businessmen and international support networks may provide financing, supplies, and intelligence to pirate organizations in exchange for shares of ransom payments.

In addition to posing a threat to the lives and welfare of seafarers, piracy imposes a number of economic costs on shippers and on governments. Costs to shippers include ransom payments, damage to ships and cargoes, delays in delivering cargoes, increased maritime insurance rates, rerouting vessels, and hardening merchant ships against attack. According to officials at the Departments of State and Defense, governments incur costs by conducting naval patrols, as well as the costs of transporting, prosecuting, and incarcerating suspected and convicted pirates.

The United States' *National Strategy for Maritime Security*, issued in 2005, declares that the United States has a vital national interest in maritime security. The strategy recognizes that nations have a common interest in facilitating the vibrant maritime commerce that underpins economic security, and in protecting against ocean-related terrorist, hostile, criminal, and dangerous acts, including piracy. The *National Strategy for Maritime Security* also requires 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 2007 *Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea* states that it is the policy of the United States to "continue to lead and support international efforts to repress piracy and urge other states to take decisive action both individually and through international efforts."

In December 2008, the NSC developed the *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*) to implement the 2005 strategy and the 2007 policy as applied to piracy off the Horn of Africa. The *Action Plan* establishes three main lines of action for interagency stakeholders to take to repress piracy in collaboration with industry and international partners: (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 NSC—including the Maritime Security Interagency Policy Committee—develops policy for the U.S. response to piracy off the Horn of Africa. The *Action Plan* directed the Secretary of State and Secretary of Defense to establish a high-level interagency, operational task force—the Counter-Piracy Steering Group—to coordinate, implement, and monitor the actions centered in the *Action Plan*. In addition, the NSC directed that the Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury and the Office of the Director of National Intelligence contribute to, coordinate, and undertake initiatives in accordance with the *Action Plan*, subject to available resources. Figure 3 shows the U.S. departments and agencies involved in implementing the three lines of action contained in the *Action Plan*.

Figure 3: U.S. Agencies Involved in the Response to Piracy off the Horn of Africa



Source: GAO.

The Department of State (State) is involved in efforts to prevent acts of piracy and hold pirates accountable, primarily by leading U.S. interaction with international partners working through the Contact Group, building

regional judicial capacity to prosecute suspected pirates, and encouraging states to prosecute when their interests are involved. Additionally, State is involved in efforts to disrupt acts of piracy by tracking ransom payments and following financing issues related to piracy. Within Defense, U.S. Naval Forces Central Command is involved in prevention, interdiction, and prosecution efforts by contributing forces to the Combined Maritime Forces, an international maritime coalition. Within the Combined Maritime Forces, Combined Task Force 151 conducts counterpiracy operations in international waters, including the Red Sea, the Gulf of Aden, the Gulf of Oman, the Arabian Gulf and the waters off the Somali coast in the Indian Ocean. The Naval Criminal Investigative Service supports and assists interdiction and prosecution efforts by conducting incident investigations, supervising detention of suspected pirates, assisting U.S. and international prosecutions, debriefing released crews, and providing criminal intelligence information. U.S. Africa Command assists in preventing piracy through strategic communication efforts and building partner capacity in regional states and would plan and, if authorized, conduct any land-based military activities in Somalia to interrupt pirate operations. U.S. Africa Command also conducts counterpiracy naval patrols and interdiction efforts in its area of responsibility. Treasury is involved in disrupting pirates' revenue sources by examining pirate financial activity and implementing an executive order to block the assets of certain persons. Justice is involved in holding pirates accountable through prosecution as well as judicial capacity-building in African states. The Coast Guard, under Homeland Security, helps prevent piracy through its work with and regulation of the U.S. shipping industry and assists in interrupting piracy by providing law enforcement units and boarding teams on Navy vessels. Transportation's Maritime Administration assists with preventing piracy by working with the shipping industry to develop best practices for the industry to protect itself from piracy. In addition, within the intelligence community, the Office of Naval Intelligence–as part of the National Maritime Intelligence Center—provides maritime intelligence assistance.

The international community, shipping industry, and international military forces also have been involved in taking steps to prevent and disrupt acts of piracy off the Horn of Africa, and facilitate prosecutions of suspected pirates. Over the past few years, the United Nations adopted a number of United Nations Security Council resolutions related to countering piracy in the Horn of Africa region, including resolutions 1816 which authorizes states to enter the territorial waters of Somalia in coordination with the Somali Transitional Federal Government, for the purpose of repressing acts of piracy and armed robbery at sea, and to use all necessary and appropriate means to repress acts of piracy and armed robbery within

Somali territorial waters.[16] In January 2009, the Contact Group on Piracy off the Coast of Somalia (Contact Group) formed under the auspices of United Nations Security Council Resolution 1851, and facilitates discussion and coordination of actions among states and organizations to suppress piracy off the coast of Somalia. In addition, in February 2009 organizations representing the interests of ship owners, seafarers, and marine insurance companies worked to publish the first version of voluntary commercial vessel self-protection measures to avoid and respond to pirate attacks, referred to as "best management practices." In May and September 2009, 10 countries signed the New York Declaration, and committed to (1) promulgate the internationally recognized best management practices for self-protection to vessels on their registry and (2) ensure that vessels on their registry have adopted and documented appropriate self-protection measures in their ship security plans when carrying out their obligations under an existing international agreement.[17]

The United States also has provided forces and leadership to the Combined Maritime Forces, which is a coalition of 25 contributing nations that are working to conduct maritime security operations in the region. In January 2009, the Combined Maritime Forces established Combined Task Force 151, a multinational naval task force with the sole mission of conducting counterpiracy operations in the Gulf of Aden and the waters off the Somali coast in the Indian Ocean. That role previously had been filled by Combined Task Force 150, which continues to perform counterterrorism and other maritime security operations as it has since 2001. There are 11 nations that have participated and several others that have agreed to send ships or aircraft or both to participate in Combined Task Force 151. In addition, the United States has contributed assets to the North Atlantic Treaty Organization's counterpiracy effort since its inception. Its current effort, Operation Ocean Shield, focuses on at-sea counterpiracy operations and offers assistance to regional countries in developing their own capacity to combat piracy activities. Moreover, as

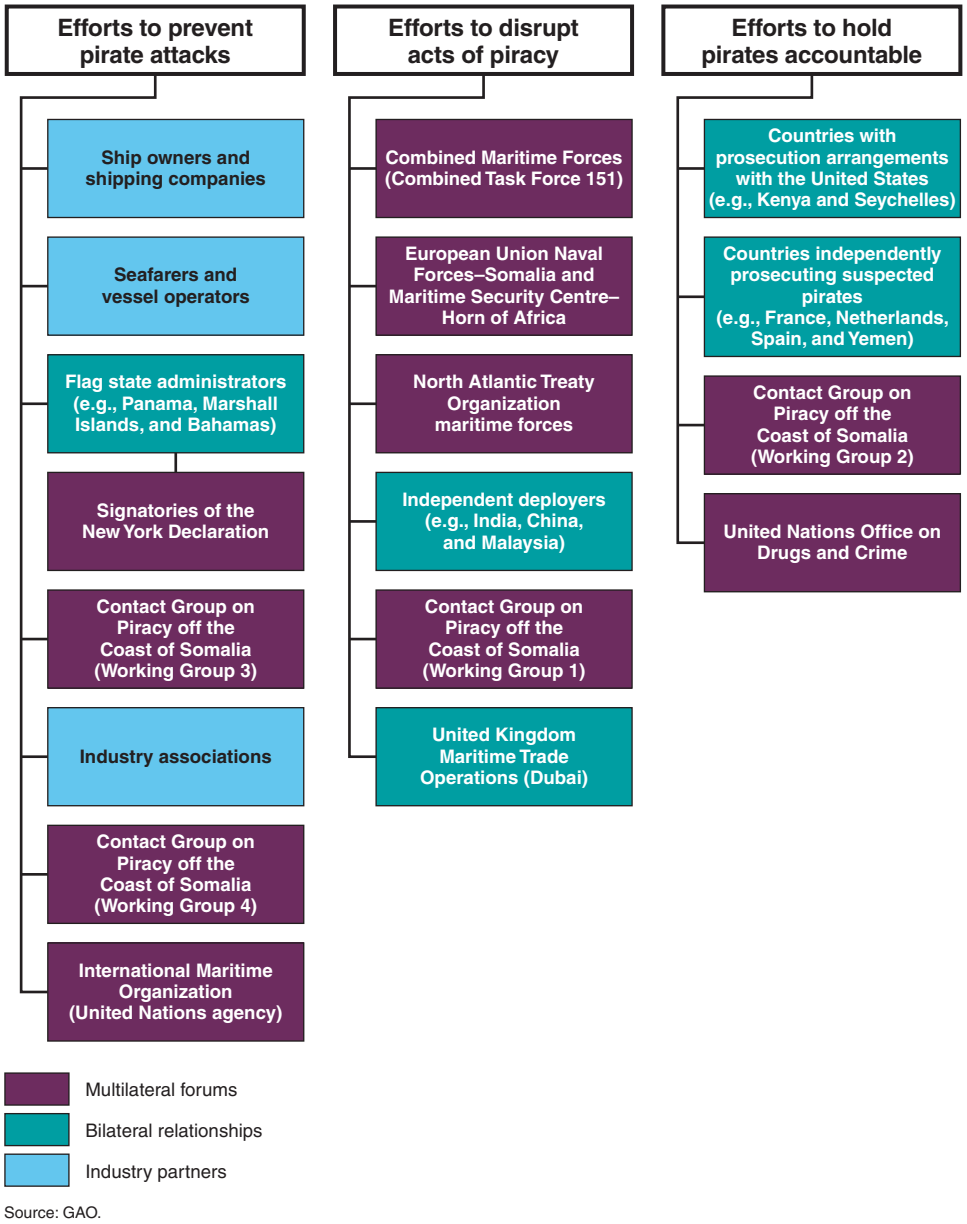
[16]S.C. Res. 1816, U.N. Doc. S/RES/1816 (June 2, 2008). The authorities provided by that resolution were renewed in 2009 with the adoption of United Nations Security Council Resolution 1897, U.N. Doc. S/RES/1897 (Nov. 30, 2009).

[17]According to the declaration, the signatory countries will ensure, when carrying out their obligations under the International Ship and Port Facility Security (ISPS) Code that vessels on their registry have adopted and documented appropriate self-protection measures in their ship security plans. The ISPS Code is a part of the International Convention for the Safety of Life at Sea, 32 U.S.T. 47, T.I.A.S. No. 9700. See app. III for complete listing of countries that have signed the New York Declaration.

part of the Combined Maritime Forces, the United States also works with the European Union, which conducts counterpiracy operations and escorts World Food Programme vessels delivering humanitarian aid to countries in the region, as well as independent deployers not part of the coalition that escort vessels and patrol area waters.

Figure 4 shows many of the key international and industry partners involved in the response to piracy off the Horn of Africa with whom the United States collaborates and coordinates. More information on international and shipping-industry partners is included in appendix III.

Figure 4: International and Industry Partners Involved in the Response to Piracy off the Horn of Africa



Source: GAO.

According to officials at State and Justice, the United States will consider prosecuting suspected pirates in appropriate cases when U.S. interests are directly affected, such as what occurred when suspected pirates attacked

the U.S.-flagged ships MV *Maersk Alabama*, USS *Nicholas*, and USS *Ashland*.[18] When suspected pirates are captured by U.S. forces and Justice determines not to prosecute the case in the United States, the United States works with the affected states and regional partners to find a suitable venue for prosecution. In January 2006, 10 suspected pirates were captured by U.S. forces after they hijacked the Indian-flagged dhow Safina al Bisarat and used it to attack the Greek-owned and Bahamian-flagged Delta Ranger.[19] This was the first incident where U.S. forces captured suspected pirates in the region and transferred them into the custody of Kenya. As of July 2010, the United States had formalized two arrangements with regional states—Kenya and the Seychelles—to facilitate the transfer and prosecution of suspected pirates.[20] The United Nations Office on Drugs and Crime, the International Maritime Organization, and individual governments have assisted in developing the judicial capacity of regional states.

[18]In April 2009, Somali pirates seized the MV *Maersk Alabama* approximately 250 nautical miles southeast of the Somali town of Eyl. The pirates held the captain hostage for five days. U.S. naval forces rescued the captain, killing three suspected pirates and taking one into custody. In March 2010 pirates attacked the USS *Nicholas* while it was operating west of the Seychelles in international waters. The USS *Nicholas* captured five suspected pirates after exchanging fire, sinking a skiff, and confiscating a suspected mother ship. In April 2010 pirates fired upon the USS *Ashland* about 330 nautical miles off the coast of Djibouti. The USS *Ashland* captured six suspected pirates after exchanging fire and sinking their skiff. The United States also has brought charges related to the November 2008 attack on the Danish-owned MV *CEC Future* that was carrying cargo belonging to a U.S. company against one of the suspected pirates involved in the attack on the USS *Ashland*.

[19]A dhow is a type of vessel used for coastal trading off the Horn of Africa.

[20]Although Kenya announced its intent to withdraw from its arrangement with the United States in April 2010, that decision was later reversed. The United States formalized its arrangement with the Seychelles in July 2010.

The United States Has Taken Steps to Implement Its Counterpiracy Plan, but Has Not Evaluated Its Efforts or Updated Its Plan

U.S. agencies have made progress implementing the NSC's *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*) to lead and support international efforts to counter piracy, but the effort faces several implementation challenges. The United States has made the most progress on working with partners to implement efforts to prevent attacks, such as by encouraging the shipping industry to transit in areas patrolled by international navies. However, the U.S. government has had less success in other areas. For example, the United States has not disrupted pirate bases on shore, and the international community has made only limited progress to disrupt pirates' revenue and prosecute suspected pirates. While many stakeholders credit international, industry, and U.S. government efforts with contributing to a decline in the percentage of successful attacks that resulted in a vessel boarding or hijacking, since 2007 pirates have increased their total number of attacks, become more organized, and greatly expanded their area of operations. Meanwhile, the *Action Plan* has not been updated to address these changes since it was published in December 2008, and the U.S. government has not evaluated the costs or effectiveness of its counterpiracy efforts or reported on the results of the interagency effort.

U.S. Government Has Taken Steps to Implement Planned Efforts to Prevent, Disrupt, and Prosecute Pirate Attacks but Faces Challenges

In collaboration with their international and industry partners, U.S. agencies have taken steps across the three lines of action established in the *Action Plan* to: (1) prevent attacks by reducing the vulnerability of the maritime domain, (2) disrupt acts of piracy in ways 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. The *Action Plan* establishes the U.S. role in countering piracy as a collaborative one, seeking to involve all countries and shipping-industry partners with an interest in maritime security. For U.S. agencies, the *Action Plan* states that, subject to available resources, the Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury, and the Office of the Director of National Intelligence will contribute to, coordinate, and undertake initiatives in accordance with the *Action Plan*. The NSC also establishes some limits to the scope of the plan by focusing on immediate measures to reduce the incidents of piracy, rather than longer-term stabilization of Somalia that the *Action Plan* asserts is needed to fully repress piracy.

Our review focused on the steps U.S. agencies have made to repress piracy off the Horn of Africa, but given the international nature of the issue, our analysis frequently refers to the related efforts of international and

industry partners. We found that, of the 14 total tasks established within the three lines of action in the *Action Plan*, substantial progress has been made in implementing 4 tasks, the majority of which are related to preventing piracy. The United States has made some progress toward implementing 8 other tasks, including all of the tasks involved in facilitating the prosecution of suspected pirates. Little or no progress has been made with regard to 1 task that relates to disrupting acts of piracy, and we did not assess 1 task because agencies decided it would duplicate the efforts of international partners and should not be implemented. Figure 5 summarizes the results of our assessment. For more detailed information about U.S. agencies' efforts to implement the *Action Plan* and our analysis of their progress, see appendix II.

Figure 5: Interagency Progress in Implementing the National Security Council's (NSC) *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*)

Tasks	GAO assessment[a]	Status
Prevent pirate attacks by reducing the vulnerability of the maritime domain to piracy		
Establish and maintain a Contact Group	●	U.S. government helped establish in January 2009; Coast Guard and Maritime Administration lead working group on industry self-protection.
Strengthen and encourage the use of the Maritime Security Patrol Area	●	U.S. government has made progress working with international and industry partners, but has limited influence on commercial vessels that are not flagged with the United States.
Updating ships' security plans	●	Coast Guard has approved piracy annexes to ship security plans for 100 percent of U.S.-flagged vessels identified as transiting high-risk waters, including those in the Horn of Africa.
Strategic communication	◐	U.S. government has issued counterpiracy statements and supported international efforts; however, governmentwide plan not finalized and lack of U.S. presence on land in Somalia inhibits full implementation.
Disrupt acts of piracy consistent with international law and the rights and responsibilities of coastal and flag states		
Support a regionally based Counter-Piracy Coordination Center (CPCC)	Not applicable[b]	U.S. government has no plans to support the establishment of a CPCC since it would duplicate the reporting and monitoring functions performed by other organizations.
Seize and destroy pirate vessels and related equipment, and deliver suspected pirates to prosecuting states	◐	U.S. and international forces have seized nearly 100 pirate vessels and their related equipment but released 57 percent of captured suspects for reasons including difficulties in meeting evidence standards and/or securing prosecution venues.[c]
Provide interdiction-capable presence	●	U.S. Navy and Coast Guard contribute assets and leadership to coalition forces patrolling off the Horn of Africa with an average of 4-5 ships in the region each day.
Support shiprider programs and other agreements	◐	The United States has supported an arrangement to bolster regional capabilities to counter piracy, but U.S. agencies have not established shiprider programs because they question the benefits to facilitating prosecutions.
Disrupt and dismantle pirate bases ashore	○	Action not authorized by the President at this time; lack of U.S. presence in Somalia hinders implementation.
Disrupt pirate revenue	◐	In April 2010, President Obama signed an executive order that blocks assets of certain designated individuals, including two suspected pirates.[d] But, U.S. efforts to track financial assets or transactions are hampered by a lack of government and financial institutions in Somalia.
Facilitate the prosecution of suspected pirates by flag, victim, and coastal states, and, in appropriate cases, the United States to ensure that those who commit acts of piracy are held accountable for their actions		
Conclude prosecution agreements	◐	U.S. government concluded arrangements with Kenya and the Seychelles and is attempting to conclude others; but faces challenges in finding additional regional partners that are willing and able to prosecute.
Support the exercise of jurisdiction under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	◐	The United States exercised jurisdiction under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation to prosecute one pirate in the United States.
Support the use of other applicable international conventions and laws	◐	The United States is using other laws to exercise jurisdiction and prosecute 11 suspected pirates for attacks on the USS *Nicholas* and USS *Ashland*.
Enhance regional states' capacity to prosecute	◐	U.S. agencies provide assistance to countries in the region for law enforcement and judicial capacity building and reform, the focus of which includes, but is not limited to, piracy. Naval Criminal Investigative Service special agents have testified in Kenyan courts, and provided training and operational support to officials in the Seychelles.

● Substantial progress

◐ Some progress

○ Little or no progress

Source: GAO.

[a]We assessed "substantial progress" for those tasks where all components specified by the NSC were implemented; "some progress" for tasks where components were partially implemented or agencies had taken steps toward implementation; and "little or no progress" where agencies had made minimal or no effort toward implementing the components of the task.

[b]We did not rate U.S. government progress on this task because, according to Defense officials, there are no plans to establish a Counter-Piracy Coordination Center since it would duplicate existing international efforts.

[c]According to the Department of Defense's May 2010 report to Congress entitled "Piracy off the Somali Coast and within Somalia" U.S. forces have transferred 24 suspected pirates to Kenya for prosecution.

[d]Executive Order 13536 blocks all property and property interests within U.S. jurisdiction of persons listed in the Annex to the order and provides the authority for the Secretary of the Treasury, in consultation with the Secretary of State, to designate additional persons that threaten the peace, security, or stability of Somalia, including those who support or engage in acts of piracy off the coast of Somalia. Property and property interests within U.S. jurisdiction include property in the possession or control of any United States person in the United States or overseas. United States person is defined as "any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States." As of July 2010 this order listed two individuals connected to pirate activity.

U.S. Agency Efforts to Prevent Acts of Piracy

In collaboration with its international and industry partners, the U.S. government has made substantial progress overall toward implementing *Action Plan* tasks aimed at preventing acts of piracy. First, the United States has been a key contributor among the 49 countries participating in the Contact Group, including leading a working group on industry self-protection.[21] Second, State, Defense, Coast Guard, and the Maritime Administration, in collaboration with international and industry partners, also have made substantial progress on the second task to encourage commercial vessels to transit high-risk waters through the Maritime Security Patrol Area, which includes the Internationally Recommended Transit Corridor patrolled by international naval forces. Third, the U.S. government has made substantial progress to ensure shippers update U.S.-flagged vessels' ship security plans to address the pirate threat, and in encouraging the crews of commercial vessels to use industry-developed self-protection measures to prevent piracy, often referred to as "best management practices." These practices include adding physical barriers

[21]As of June 2010, 49 countries, 7 international organizations, and 3 industry observers were participating in the Contact Group on Piracy off the Coast of Somalia. For a list of participating countries, see app. III.

to obstruct pirates from boarding a vessel and taking evasive maneuvers to fend off attack.[22]

Despite these and other actions to prevent attacks, U.S. government and shipping industry officials stated that ensuring all vessels transiting the area implement best management practices remains a challenge. The Coast Guard has developed regulations mandating self-protection measures, but these regulations only apply to U.S.-flagged vessels, which comprise a small portion of the total shipping traffic transiting the region.[23] The shipping industry has developed a document outlining self-protection measures, but implementation is voluntary. While government and shipping industry officials lack data on the extent to which best management practices are used, they estimate that about a quarter of the vessels are not using one of the easiest and least costly of the best practices, registering their passage with a naval coordination center in the region, which raises questions about the extent of their implementation of the other practices. Coast Guard, the Maritime Administration, and shipping industry officials stated it may be challenging to find additional ways to encourage the remaining vessels to self-protect from attack.

Regarding the *Action Plan*'s fourth task aimed at preventing piracy, we determined that U.S. agencies have made some progress on strategic communication, described in the *Action Plan* as a global information campaign to highlight the destructive elements of piracy and the international efforts to coordinate a response to the problem. While U.S. agencies have taken steps in this area, State has yet to finalize a strategic communication plan to coordinate interagency communications efforts to counter piracy. Defense officials stated that the lack of a U.S. presence in Somalia presents additional challenges to efforts to communicate with the Somali population to discourage piracy and for measuring the effectiveness of U.S. communication efforts.

[22]The Coast Guard and Maritime Administration facilitated an industry-led effort to develop measures to protect ships from pirate attack, first published as "Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia" in 2009 and most recently updated in June 2010. According to Coast Guard and shipping industry officials, registering a vessel's transit through the region with the Maritime Security Centre–Horn of Africa provides an indication of whether the vessel owner or operator is likely to be following other best management practices. Additional information on U.S. agency efforts to help prevent acts of piracy can be found in app. II.

[23]The Coast Guard reports that, at any given time, there are about six to eight U.S.-flagged vessels operating in the region. More information about Coast Guard's regulations and guidance regarding piracy is provided in app. II.

U.S. Agency Efforts to Disrupt Acts of Piracy

While the United States and its international partners have made substantial progress overall on the task of providing forces and assets capable of interdicting pirates off the Horn of Africa and have made some progress on the tasks related to seizing and destroying pirate vessels, supporting regional arrangements to counter piracy, and disrupting pirate revenue, U.S. agencies have made little or no progress toward implementing the task related to disrupting and dismantling pirate bases. We found that the U.S. Navy and Coast Guard have made substantial progress contributing assets and leadership to coalition forces patrolling the Gulf of Aden and Indian Ocean. According to Defense officials, typically, more than 30 ships from coalition, European Union, North Atlantic Treaty Organization, and independent forces patrol the region at any given time, with the United States contributing between 4 and 5 ships per day on average. In addition, consistent with the *Action Plan*, U.S. forces have responded to and successfully interdicted pirate attacks. For example, in April 2009, U.S. forces successfully terminated the hostage situation that occurred when pirates attacked the U.S.-flagged MV *Maersk Alabama* and kidnapped the vessel's captain. U.S. forces intervened and freed the captain after killing all but one of the pirates conducting the attack.

However, as pirate activity has expanded to the larger Indian Ocean, U.S. and international military officials stated that providing an interdiction capable force similar to that provided in the Gulf of Aden is not feasible. Though coalition forces developed guidance for improving coordination of forces in the Indian Ocean, Defense officials emphasized that there are not enough naval vessels among all of the combined navies in the world to adequately patrol this expansive area for pirates. Moreover, Defense officials acknowledged that there are other competing U.S. national interests in the region, such as the ongoing wars in Iraq and Afghanistan as well as counterterrorism missions that require the use of the limited naval and air assets that are used to monitor and gather intelligence for counterpiracy operations.

In addition, the U.S. government has made some progress to seize and destroy pirate vessels and equipment, and deliver suspected pirates for prosecution. For example, U.S. forces have contributed to coalition forces that confiscated or destroyed almost 100 pirate vessels. However, U.S. forces have encountered more difficulty in delivering captured suspected pirates to states willing and able to ensure they are considered for prosecution. From August 2008 to June 2010, international forces subsequently released 638 of 1,129 suspected pirates, almost 57 percent of those captured, in part because of the difficulty finding countries that

were willing or able to prosecute them. Further, the United States has made some progress on the task to disrupt pirate revenue. In April 2010, President Obama signed an executive order[24] that blocks assets of certain persons, including two suspected pirates, who have engaged in acts that threatened the peace, security or stability of Somalia.[25] However, according to officials at Treasury, the department charged with implementation, the executive order applies only to assets subject to U.S. jurisdiction, and U.S. efforts to track and block pirates' finances in Somalia are hampered by the lack of government and formal banking institutions there and resulting gaps in intelligence.

The U.S. government has made some progress on the task to support "shiprider" programs and other agreements. The United States has supported some bilateral and regional counterpiracy arrangements, most notably the International Maritime Organization's effort to conclude a regional arrangement, generally referred to as the Djibouti Code of Conduct.[26] This arrangement contains provisions related to information sharing regarding pirate activity among the signatories, reviews of national legislation related to piracy, and provision of assistance between signatories.[27] However, U.S. agencies have made little progress on the second part of this task to develop shiprider programs, in which regional law enforcement officials accompany naval patrols to collect evidence to support successful prosecutions. Justice officials explained that the potential benefits do not warrant the resource investment the programs would require. Specifically, the presence of shipriders would not

[24]Executive Order 13536, Blocking Property of Certain Persons Contributing to the Conflict in Somalia (Apr. 12, 2010), blocks all property and property interests within U.S. jurisdiction of persons listed in the Annex to the Order, including two individuals determined to be principal organizers and financiers of pirate activities. The order provides authority for the Secretary of the Treasury, in consultation with the Secretary of State, to designate other persons determined to have engaged in acts that threaten the peace, security, or stability of Somalia, including those who support or engage in acts of piracy.

[25]Representatives of the shipping industry have raised concerns that the executive order could be used to block ransom payments to secure the release of captive crews, and the U.S. government has engaged with the shipping industry to address their concerns and questions regarding the executive order. See app. II for additional information on Executive Order 13536.

[26]International Maritime Organization, Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden, IMO Doc. C 102/14, Annex at 5 (Apr. 3, 2009). This is generally referred to as the Djibouti Code of Conduct.

[27]See app. III for more information about the Djibouti Code of Conduct.

significantly enhance the ability of regional countries to prosecute suspected pirates.

State and Defense officials report that no steps have been made to disrupt and dismantle pirate bases ashore in part because the President has not authorized this action, the United States has other interests in the region that compete for resources, and long-standing concerns about security hinder the presence of U.S. military and government officials in Somalia. While the United States has not supported the creation of a Counter-Piracy Coordination Center, as called for in the *Action Plan*, we did not provide a progress assessment for this task since government and industry officials have stated that existing organizations and coordination centers[28] currently fulfill the incident reporting and monitoring functions, and that establishing a new center would duplicate those efforts.

U.S. Agency Efforts to Facilitate Prosecution of Suspected Pirates

While the United States has made some progress on implementing the tasks established in the *Action Plan* to hold pirates accountable, the United States and its international partners have only prosecuted a small number of pirates overall for a variety of reasons. As of July 2010, Kenya and the Seychelles were the only regional partners that accepted transfers of suspected pirates from U.S. forces for purposes of prosecution. According to officials from State, the reluctance of affected states to prosecute and limited judicial capacity in the region are barriers to the ability of the U.S. government to make substantial progress on the task of concluding prosecution arrangements. Officials also noted that the facts and circumstances of each encounter differ, with not all cases eliciting evidence that could be brought to court. As already described, these factors contributed to the release of almost 57 percent of the suspected Somali pirates that international forces encountered from August 2008 to June 2010. The United States has made some progress on the task to support and encourage the exercise of jurisdiction under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation as a framework to prosecute suspected pirates. For example, the United States has used the convention while prosecuting one pirate in

[28]The shipping industry is encouraged to share vessel transit information through the Horn of Africa with naval organizations. Specifically, the United Kingdom Maritime Trade Operations is the first point of contact for ships in the region and provides the daily interface between vessel captains and naval forces. The Maritime Security Centre–Horn of Africa is the planning and coordination authority for European Union forces in the Gulf of Aden and Somali Basin. The Maritime Liaison Office exchanges information between the Combined Maritime Forces and industry within the region.

the United States.[29] The U.S. government has also supported and encouraged the use of other applicable conventions and laws by exercising jurisdiction over 11 suspected pirates who attempted an attack on U.S. warships.[30] However, Defense, State, and Justice officials reported that the United States and its international partners have faced significant challenges in encouraging countries to prosecute pirates, due to a lack of political will or judicial capacity, such as an inadequate number of attorneys to prosecute the cases. Lastly, on the task to enhance the capabilities of regional states to accept suspected pirates for prosecution, the U.S. government has provided assistance to several regional states, and the United States has contributed to international efforts to build regional judicial capacity. For example, according to State officials, the United States has worked with the government of Tanzania to allow pirates to be prosecuted there even when cases lack a domestic connection. However, regional states continue to have a limited capacity to prosecute suspected pirates and incarcerate convicted pirates.

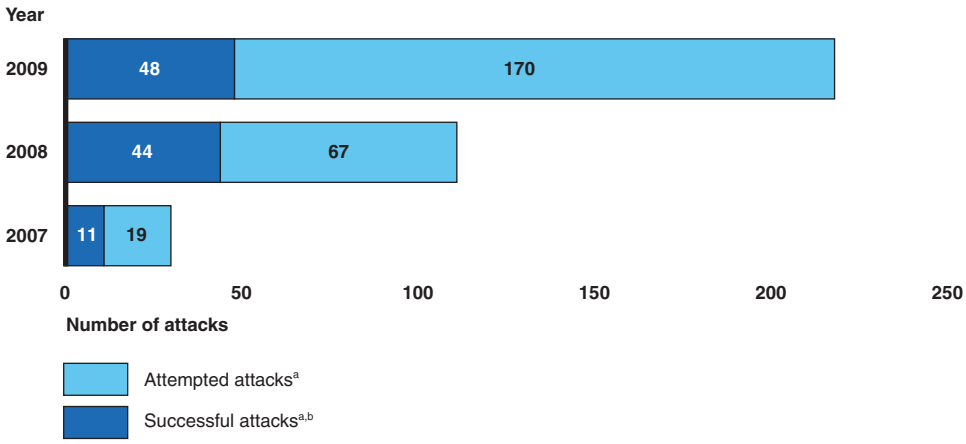
Pirates Have Increased the Number of Attacks, Expanded Their Area of Operations, and Become More Organized

While many stakeholders anecdotally credit international, industry, and U.S. government efforts with preventing and disrupting piracy off the Horn of Africa, from 2007 through the first half of 2010 piracy has evolved in many ways—pirates increased their attacks, claimed more hostages and revenue from shipping industry's ransom payments, expanded their area of operations, and became more organized. As figure 6 illustrates, the total number of reported pirate attacks increased from 30 in 2007 to 218 in 2009. These reported attacks include four attempts on U.S.-flagged vessels in 2009, one of which was successful—the attack on the MV *Maersk Alabama*.

[29]The United States used the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation while prosecuting Abduwali Abdukhadir Muse. As of June 25, 2010, Muse pled guilty to charges associated with an April 2009 pirate attack on the U.S.-flagged MV *Maersk Alabama*, a commercial container vessel, and sentencing is scheduled for October 2010.

[30]Since the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation does not apply to attacks on warships, the United States is using other authorities to exercise jurisdiction and prosecute 11 suspected pirates for attacks on the USS *Nicholas* and USS *Ashland*.

Figure 6: Successful and Attempted Pirate Attacks off the Horn of Africa, 2007-2009

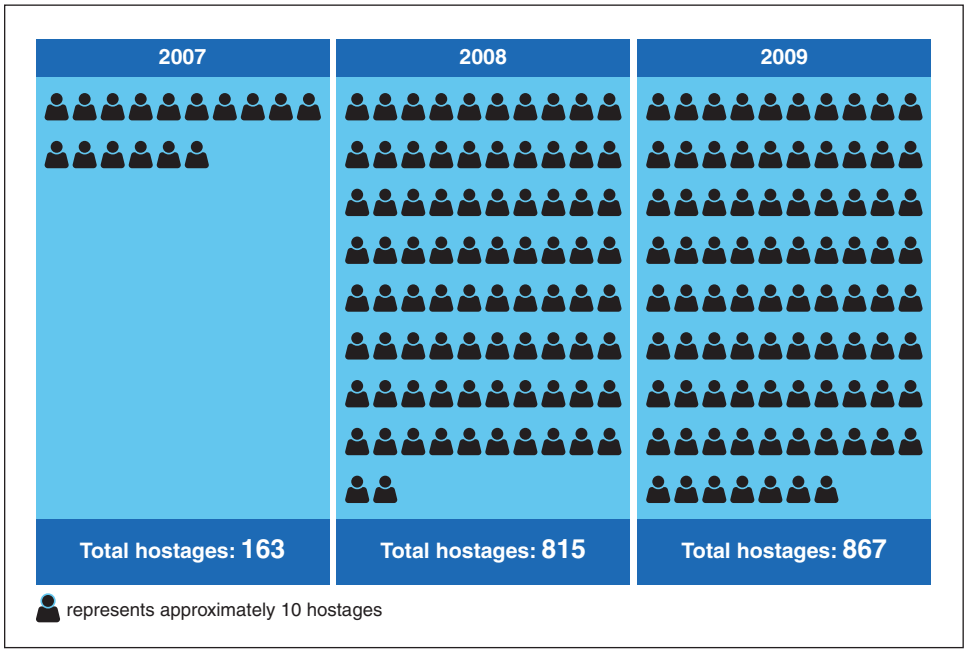


Source: GAO analysis of International Maritime Bureau data.

Note: Successful attacks include those that resulted in vessel boardings or hijackings. The types of vessels attacked included: bulk carriers, container ships, fishing vessels, passenger ships, research vessels, roll-on roll-off ships, supply ships, tankers, tugs, and yachts.

However, the rate of successful attacks, or the proportion of total reported attacks that resulted in vessel boardings or hijackings, decreased from around 40 percent in 2008 to 22 percent in 2009. U.S. and international officials interpret this as a sign that the efforts of the shipping industry, governments, and the international naval patrols to prevent or disrupt attacks are having a positive effect on the situation. In addition, in the first 6 months of 2010, reports of total attacks declined to about 100 attacks, as compared with 149 attacks during the first half of 2009. However, other data show that piracy remains a persistent problem. For example, as figure 7 shows, the number of hostages of various nationalities captured by Somali pirates from 2007 to 2009 more than quintupled. The total number of hostages includes 21 hostages from the U.S.-flagged MV *Maersk Alabama* in 2009. Furthermore, in the first half of 2010, pirates took 529 hostages compared to 510 in the first half of 2009.

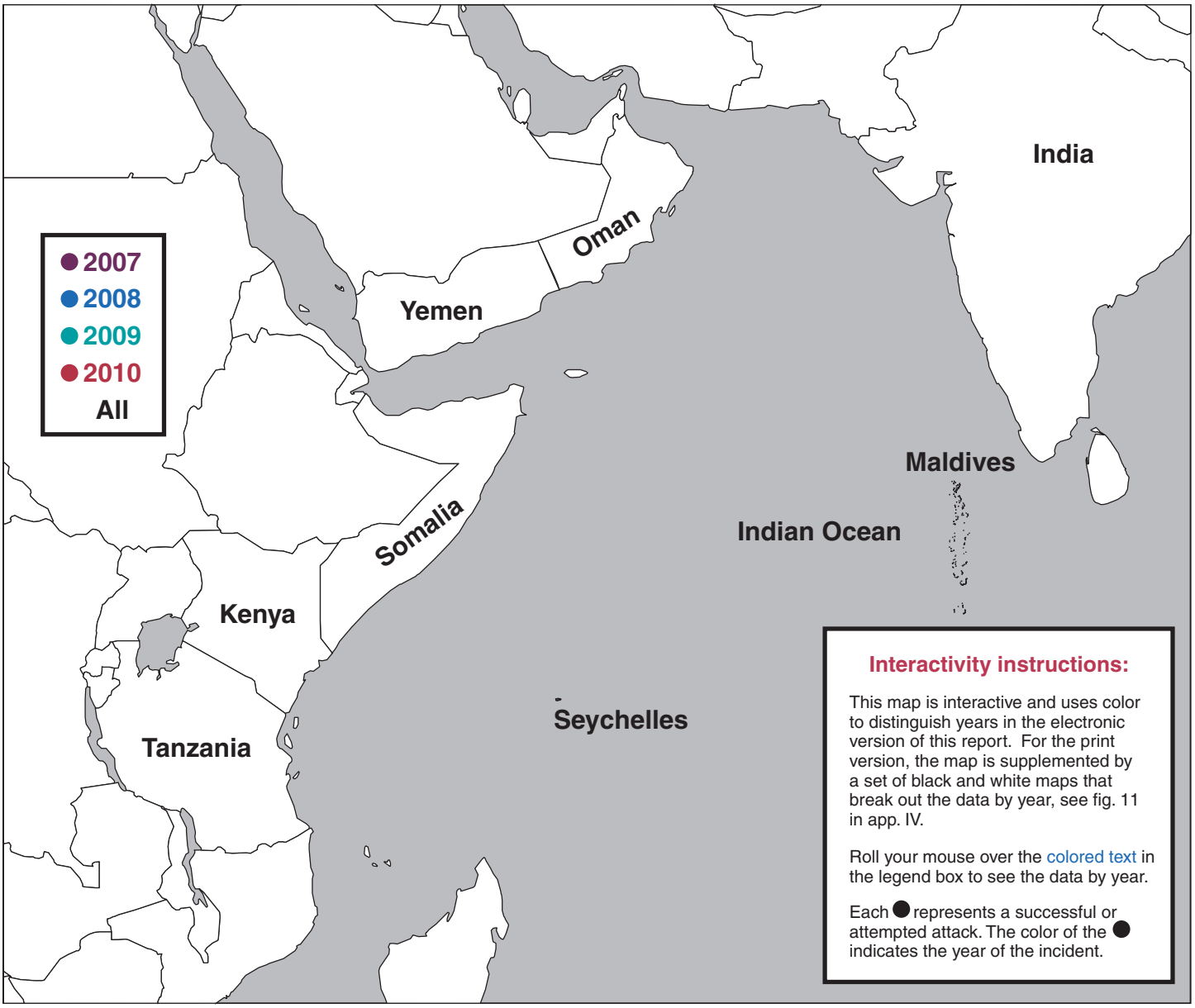
Figure 7: Total Hostages Captured by Somali Pirates, 2007-2009



Source: GAO analysis of International Maritime Bureau data.

In addition, pirates have expanded their area of operations with an increasing number of attacks occurring in the Indian Ocean, an area much larger to patrol than the Gulf of Aden. By the end of 2008, when the NSC issued its *Action Plan*, approximately 83 percent of the 111 reported pirate attacks off the Horn of Africa that year took place in the Gulf of Aden, an area just over 100,000 square miles, with the remainder off the coast of Somalia. However, just a year later in 2009, only 53 percent of the 218 total attacks occurred in the Gulf of Aden as Somali pirates expanded their area of operations to the broader Indian Ocean. Pirates now threaten an area of nearly 2 million square nautical miles in the Somali Basin, Gulf of Aden, and Northern Arabian Sea. Figure 8 shows the number and location of pirate attacks off the Horn of Africa reported to the International Maritime Bureau in 2007, 2008, 2009, and the first half of 2010.

Figure 8: Successful and Attempted Pirate Attacks off the Coast of Somalia, January 2007 to June 2010



Source: GAO analysis of International Maritime Bureau data (data); Map Resources (map).

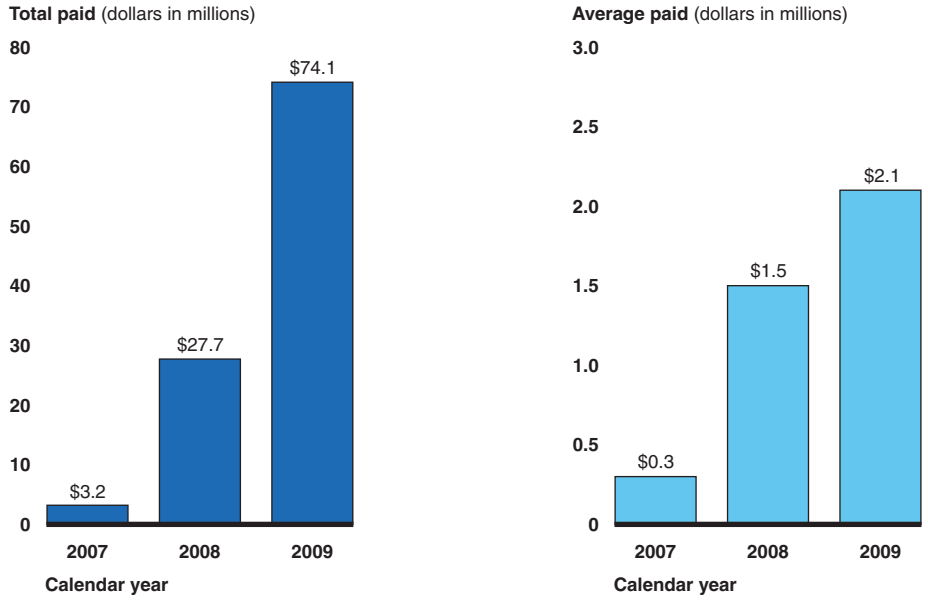
While the *Action Plan* cites attacks as far as 450 miles from Somalia's coast, in April 2010 the International Maritime Bureau reported that pirates had increased their capability to attack and hijack vessels to more than 1,000 nautical miles from Somalia using mother ships, from which they launch smaller boats to conduct the attacks.[31] International officials stated that piracy in the Indian Ocean is more challenging due to the great expanse of water, and requires a different approach than that used in the Gulf of Aden. One U.S. Navy analysis estimated that 1,000 ships equipped with helicopters would be required to provide the same level of coverage in the Indian Ocean that is currently provided in the Gulf of Aden—an approach that is clearly infeasible.

Although U.S. and international officials have expressed concern that international support networks may be providing pirate groups with financing, supplies, and intelligence in return for shares of ransom payments, as of March 2010 the intelligence community assessed that Somali pirates are not receiving funding or coordination from non-U.S. foreign sources outside Somalia, aside from ransom payments. Defense supports FBI and Treasury efforts to monitor whether there is U.S.-based support for piracy. Figure 9 shows that from 2007 to 2009 the estimated amount of total ransom payments paid to pirates by the shipping industry increased from about $3 million to $74 million, with the average amount of ransoms paid per vessel increasing from $300,000 to more than $2 million.[32]

[31]For example, in March 2010, pirates hijacked a bulk carrier about 1,350 nautical miles east of Somalia, taking 21 crew members hostage. In May 2010, pirates hijacked a fishing vessel about 1,350 nautical miles east of Somalia, taking 28 crew members hostage.

[32]According to officials from Lloyds Market Association, the vessels' owner typically negotiates and pays the ransom to the pirates and then declares a "general average." General average refers to certain extraordinary sacrifices made or expenses incurred to avert a peril that threatens the entire voyage. In such a case, the party sustaining the loss confers a common benefit on all the parties to the maritime adventure, and, as a result, has a right to claim contribution from all who participate in the venture. A general average adjuster determines which entities had a share in the voyage and their proportional interest. The insurance companies that cover the ship, crew and cargo reimburse the owner for their share of the cost. If the parties had kidnap and ransom coverage, the cost of delivery and ransom may be covered by the kidnap and ransom insurer.

Figure 9: Total and Average Ransom Payments to Somali Pirates, 2007-2009



Source: GAO analysis of Office of Naval Intelligence data.

A December 2008 United Nations report revealed characteristics of structural organization in piracy operations, including evidence of pirate leaders and financiers who supply the equipment and provisions for other pirates to carry out the attacks, and that ransom payments are distributed according to organizational roles. In addition, State, Defense, and FBI officials observed that piracy off the Horn of Africa has become more organized, and Defense officials said that gathering more information about pirate organizations that could be used to identify pirate leaders would be beneficial. FBI officials noted that pirate organizations lack the sophistication associated with other types of organized crime, such as the American mafia. These officials stated that the FBI continues to investigate potential ties Somali pirates may have to individuals outside of Somalia. Moreover, U.S. officials have expressed repeated concerns that funds generated by piracy have the potential to attract extremists or terrorists located in the region to become involved in piracy. Treasury, Justice, State, and Defense are monitoring piracy on an ongoing basis to determine if there is a link between pirates and extremist organizations, but as of July 2010 had found no credible link.

The U.S. Government Has Not Evaluated the Costs, Benefits, or Effectiveness of Its Counterpiracy Efforts, Reported Results, or Updated Its *Action Plan* Accordingly

The *Action Plan*'s objective is to repress piracy in the interest of the global economy, among other things, but the effectiveness of U.S. resources applied to counterpiracy is unclear because the interagency group responsible for monitoring the *Action Plan*'s implementation was not specifically charged with tracking the cost of U.S. activities or systematically evaluating the relative benefits or effectiveness of the *Action Plan*'s tasks and neither the interagency steering group nor the federal agencies involved have performed these tasks. Our prior work has shown that federal agencies engaged in collaborative efforts need to evaluate activities to identify areas for improvement. Moreover, as pirates have adapted their tactics, the *Action Plan* has not been revised.

The U.S. government is not systematically tracking the costs or the benefits and effectiveness of its counterpiracy activities to determine whether its investment has achieved the desired results or should be revised. According to officials at State and Defense, the interagency Counter-Piracy Steering Group, which is jointly led by these two agencies and charged with monitoring implementation of the *Action Plan*, has not been systematically monitoring the cost or evaluating the benefits or effectiveness of U.S. counterpiracy efforts. In commenting on a draft of this report, Defense stated that the interagency group was not performing these functions because it was not specifically charged to do so in the *Action Plan*. Instead, State officials told us the group primarily provides a forum for U.S. agencies to coordinate efforts before multilateral Contact Group meetings or discuss ongoing initiatives such as the development of the April 2010 executive order on Somalia. Officials from Justice, Treasury, Coast Guard, and State reported that the NSC's Maritime Security Interagency Policy Committee, a high-level interagency group that is focused on maritime issues, generally tracks U.S. progress toward implementing the *Action Plan* and discusses status updates on piracy provided from the various agencies. However, the officials were not aware of systematic efforts to track the costs, or evaluate the benefits or effectiveness of U.S. counterpiracy activities. Table 1 describes selected costs we identified that may be incurred by U.S. agencies for counterpiracy efforts.

Table 1: Selected Types of Costs Incurred by the U.S. Government to Counter Piracy

Costs	Departments or agencies bearing costs
General costs	
Personnel	Defense, Homeland Security, Coast Guard, Justice, FBI, State, Transportation, Maritime Administration, Treasury
Information technology	
Training	
Efforts to prevent piracy	
Contact Group meeting logistics and coordination	Coast Guard, Maritime Administration, State
Military coordination (e.g., Shared Awareness and Deconfliction meetings)	Defense
Outreach to industry	Coast Guard, Defense, Maritime Administration, State, Treasury
Anti-Piracy Assistance Teams	Defense, Maritime Administration
Review of ship security plans	Coast Guard
Efforts to disrupt acts of piracy	
Operational costs of maritime assets	Coast Guard, Defense
Industry liaison	Defense
Flying hours for maritime patrol and reconnaissance aircraft	Defense
Law enforcement support	Coast Guard, Defense, Naval Criminal Investigative Service
Holding pirates on board naval vessels	Defense
Personnel costs for intelligence gathering and analysis (including implementation of the piracy aspects of Executive Order 13536)	Defense, Justice, State, Treasury, Naval Criminal Investigative Service
Interagency coordination (Global Maritime Operational Threat Response process)	Homeland Security
Efforts to prosecute pirates	
Bilateral efforts to secure prosecution venues	State
Transportation of suspected pirates for prosecution	Defense, Justice
Evidence collection and case development	Coast Guard, Defense, Justice, Naval Criminal Investigative Service
Prosecution of suspected pirates	Justice
Judicial capacity-building (direct and indirect)	Justice, State, Naval Criminal Investigative Service
Incarceration of pirates prosecuted by the United States	Justice

Source: GAO analysis of information provided by U.S. agencies.

While most of the agencies involved had not systematically tracked the cost of their counterpiracy efforts, Defense developed a partial estimate. Defense officials estimated that U.S. Central Command's counterpiracy operations for fiscal year 2009 totaled approximately $64 million for costs associated with 773 U.S. Navy ship steaming days, flight hours to support ships operating in the area, port costs, and those related to detaining and delivering suspected pirates to proper authorities.[33] However, officials said this estimate does not include estimates for costs incurred for counterpiracy operations by other combatant commands such as U.S. Africa Command. In addition, Defense officials noted the deployment of naval forces in support of the counterpiracy operations takes the ships, crew, aircraft, intelligence assets, and other forces away from other global missions such as counterterrorism and counternarcotics efforts.

In addition to not tracking the costs of U.S. counterpiracy efforts, U.S. agencies also are not evaluating the benefits of U.S. counterpiracy efforts to U.S. interests. While the *Action Plan* discusses the United States' national security interest in maintaining freedom of navigation of the seas in order to facilitate vibrant maritime commerce, the extent to which counterpiracy benefits U.S. interests and maritime commerce has not been evaluated. The Maritime Administration reports that piracy may pose costs to the maritime industry for protecting vessels from being attacked or hijacked. For example, industry may incur costs for rerouting ships to avoid pirate-infested waters, higher insurance premiums, or enhancing vessel security by hiring private security guards or installing nonlethal deterrent equipment. Ultimately, according to the Maritime Administration, any costs incurred would be passed along to the taxpayer and the consumer. However, agencies are not systematically evaluating the extent to which the U.S. investment in counterpiracy operations is benefiting maritime commerce or weighing these benefits against the costs incurred to conduct counterpiracy operations. In addition, data show that the number of U.S. ships operating in the region is low. The Coast Guard reports that, at any given time, there are about six to eight U.S.-flagged vessels operating in the region and the chance of a commercial vessel being attacked by pirates in the Gulf of Aden is estimated to be less than 1 percent. Furthermore, according to the Maritime Administration, vessels carrying commerce to the United States are less susceptible to piracy

[33]This figure does not reflect a number of other costs including, but not limited to life-cycle costs for the applicable ships and aircraft, as well as lost opportunity costs for other maritime security missions. We did not independently verify the data that support Defense's $64 million estimate.

given their high speed. Moreover, in 2009, the Congressional Research Service reported that despite the increased threats and estimates of rising costs associated with piracy off the Horn of Africa, the effect on the insurance industry appeared negligible and U.S. insurance rates had not changed.[34]

The *Action Plan* also establishes objectives related to repressing piracy and reducing incidents of piracy, but it does not define measures of effectiveness that can be used to evaluate progress toward reaching those objectives, or assess the relative benefits or effectiveness of the *Action Plan*'s tasks to prevent, disrupt, and prosecute acts of piracy. Further, the *Action Plan* does not specify what information the NSC or other designated interagency groups should use to monitor or evaluate to determine progress, or assess benefits or effectiveness. Agency officials have cited several challenges associated with measuring the effectiveness of U.S. efforts, including the complexity of the piracy problem, difficulty in establishing a desired end-state for counterpiracy efforts, and difficulty in distinguishing the effect of U.S. efforts from those of its international and industry partners. Nevertheless, U.S., international, and industry officials we spoke with attributed the decrease in the pirates' rate of successful attacks in 2009 and shift to the Indian Ocean to U.S. and international prevention and interdiction efforts. We previously have reported that performance information is essential to the ability of decision makers to make informed decisions, and that specifying performance metrics can be one tool in evaluating the effectiveness of government efforts in a changing environment.[35] Identifying measures of effectiveness and systematically evaluating the effectiveness of agency efforts could assist the U.S. government in determining the costs and benefits of their activities to ensure that resources devoted to counterpiracy efforts are being targeted most effectively, and whether adjustments to plans are required.

Without information on the magnitude of U.S. resources devoted to counterpiracy operations, or the benefits or effectiveness of its actions, the U.S. government is limited in its ability to weigh its investment of resources to counter piracy off the Horn of Africa against its other

[34]Congressional Research Service, *Ocean Piracy and Its Impact on Insurance*, R40081 (Washington, D.C.: Feb. 6, 2009).

[35]GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1996).

interests in the region. The lack of systematic evaluation of costs, benefits, and effectiveness also makes it difficult for agencies to target and prioritize their activities to achieve the greatest benefits. We have previously reported that agencies should identify the human, information technology, physical, and financial resources needed to initiate or sustain a joint effort among multiple agencies, as one means of enhancing interagency collaboration.[36] In addition, a discussion of resources, investments, and risk management is an important characteristic of national strategies that can enhance their usefulness to resource and policy decision makers and resource managers.[37]

Moreover, despite the expansion of pirate attacks over a vastly larger geographic area, increased ransom demands and payments, and better organized pirate activities since the *Action Plan* was written, according to U.S. government officials, there are no plans to reassess the *Action Plan* in order to determine whether it should be revised. Currently, the *Action Plan* does not specifically address how to counter pirates in the broader Indian Ocean or what methods to use to meet its objective of apprehending leaders of pirate organizations and their financiers. U.S. agencies have reported taking some steps to respond to the changing methods and location of pirate attacks. For example, the Navy issues weekly updates on piracy incidents to inform mariners and naval forces, which in 2010 have cautioned that pirates are operating at considerable distances off the coast of Somalia. Defense officials also have worked with coalition partners to develop a coordination guide for operations in the Somali Basin and have described measures they have taken to interdict and destroy pirate mother ships. However, according to Coast Guard, Treasury, and Justice officials, as of April 2010, the Maritime Security Interagency Policy Committee affirmed the overall course of U.S. counterpiracy efforts and did not identify a need to modify the current approach to countering piracy. Furthermore, the *Action Plan* contains tasks such as those to create a Counter-Piracy Coordination Center and support shiprider programs that are no longer being pursued by U.S. agencies because they have determined that these tasks are not needed or would not be beneficial. We have established in prior work that federal efforts are implemented in dynamic environments in which needs must be

[36]GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005).

[37]GAO, *Combating Terrorism: Evaluation of Selected Characteristics in National Strategies Related to Terrorism*, GAO-04-408T (Washington, D.C.: Feb. 3, 2004).

constantly reassessed, and that agencies can enhance and sustain collaborative efforts by, among other things, developing mechanisms to report on results.[38] By continually evaluating its approach to countering piracy off the Horn of Africa and reporting on results of its counterpiracy efforts to key stakeholders, the United States may be in a better position to hold agencies accountable for results and achieve its ultimate goal of repressing piracy.

U.S. Agencies Have Worked Collaboratively with Partners but Could Take Key Steps to Enhance and Sustain Collaboration in Counterpiracy Efforts

U.S. agencies have generally collaborated well with international and industry partners to counter piracy, but they could implement other key collaborative practices for enhancing and sustaining collaboration among U.S. interagency partners. According to U.S., international, and industry stakeholders, U.S. agencies have collaborated effectively with international and industry partners through mechanisms and organizations to counter piracy off the Horn of Africa. The United States also has collaborated well with international military partners and industry groups. Within the U.S. government, while agencies have implemented some collaborative practices, other practices could be implemented to further enhance collaboration. The U.S. government has not made substantial progress on those *Action Plan* tasks that involve multiple agencies and those in which the NSC has not clearly identified roles and responsibilities or coordinated with U.S. agencies to develop joint guidance.

U.S. Agencies Have Collaborated Effectively with International and Industry Partners

U.S. agencies, primarily State and Defense, have collaborated with international partners through two new organizations established to counter piracy off the Horn of Africa: the Contact Group on Piracy off the Coast of Somalia (Contact Group) and the Shared Awareness and Deconfliction meetings. As previously discussed, the *Action Plan* directed U.S. agencies to establish and maintain a Contact Group, which serves as an international forum for countries contributing to the counterpiracy effort to share information. State orchestrates U.S. participation in the Contact Group, coordinating with officials from Defense, Justice, Homeland Security, Transportation, and Treasury. As part of the Contact Group, the United States has participated in six plenary meetings with international partners in counter piracy efforts since January 2009. These

[38]GAO, *Agency Performance Plans: Examples of Practices That Can Improve Usefulness to Decisionmakers*, GAO/GGD/AIMD-99-69 (Washington, D.C.: Feb. 26, 1999) and GAO-06-15.

meetings have facilitated international military coordination, provided guidance to international efforts, and established a trust fund to support counterpiracy efforts. As part of the Contact Group's efforts, the Coast Guard and the Maritime Administration cochair a working group focusing on coordinating with the shipping industry, which has reviewed and updated best management practices for industry self-protection, encouraged continued communication between industry and government organizations such as the Maritime Security Centre–Horn of Africa, and is developing guidance for seafarer training regarding pirate attacks. In addition, officials told us that State has participated in the working group on strategic communication and assisted in developing draft strategic communication documents considered by the group.

The United States also has worked to establish collaborative organizations, share information, and develop joint guidance for international military partners working to counter piracy. As the leader of the Combined Maritime Forces, in 2008 the U.S. Navy, along with other international partners, established the Shared Awareness and Deconfliction meetings that are intended to provide a mechanism for militaries active in the region to share information on their movements and make efficient use of the limited naval assets patrolling pirate-infested waters. We observed one of these meetings that occur every 4 to 6 weeks with representatives from the European Union, North Atlantic Treaty Organization, and the shipping industry, as well as with nontraditional partners from countries such as Russia and China. According to U.S. and international officials, these meetings have improved coordination and led to the creation of the Internationally Recommended Transit Corridor within the Maritime Security Patrol Area as well as coordination guides for military operations in the Gulf of Aden and the Somali Basin. The coordination guides provide joint guidance to participating international forces intended to ensure the most effective use of the military assets in the region by outlining shared practices and procedures.

The United States has also worked to support information sharing efforts on investigative and prosecutorial techniques. In July, 2010, the Naval Criminal Investigative Service hosted a workshop on counterpiracy investigations that was attended by over 50 representatives from the United States, international military, law enforcement, and industry organizations. According to Defense officials, this workshop facilitated development of a draft investigators manual designed to help standardize counterpiracy operations.

U.S. agencies, primarily the Coast Guard and the Maritime Administration, have worked with industry partners to facilitate collaborative forums, share information, and develop joint guidance for implementing counterpiracy efforts. Industry partners play an important role in preventing and deterring pirate attacks since they are responsible for implementing self -protection measures on commercial vessels. According to officials, in late 2008 the Coast Guard and the Maritime Administration encouraged industry groups to develop best practices for industry to counter piracy and hosted several meetings with U.S. and international industry groups. According to U.S. and shipping industry officials, these meetings resulted in the industry-published best management practices guide.[39] This document has provided critical guidance to ship owners and operators on how to protect themselves from pirate attacks. In addition, for those ship owners who choose or are required to carry armed security teams, the Coast Guard and State have worked to identify viable methods for doing so in accordance with applicable U.S., international, and port-state laws.[40] The Coast Guard has communicated methods for taking arms on ships and the responses from international partners to the shipping industry through two port security advisories. As the U.S. agency responsible for implementing national and international maritime security regulations on U.S.-flagged vessels, the Coast Guard also has hosted four collaborative forums with industry partners to address piracy issues since April 2009. These meetings have provided a forum to discuss changes required to ship security plans to address the piracy threat, the evolving piracy situation, and U.S. efforts to assist in protecting U.S.-flagged vessels. For example, the Coast Guard facilitated a meeting with industry representatives and officials from State and Treasury in April 2010 to discuss the executive order on Somalia, which has implications for the shipping industry's ability to pay ransoms to secure the release of captive crews. Further, the Maritime Administration developed training courses to

[39]The document provides guidance including actions to take before transiting the region, such as installing razor wire and planning for additional watch duty, and actions to take in the event of a pirate attack, such as reporting to authorities and using evasive maneuvers. "Best Management Practices to Deter Piracy off the Coast of Somalia and in the Arabian Sea Area," version 3, June 2010, http://www.marad.dot.gov/documents/Piracy_Best_Management_Practices_3.pdf (downloaded July 13, 2010).

[40]According to Maritime Administration officials and shipping industry representatives, challenges remain that have made it difficult for U.S.-vessels to transit the area with security teams carrying weapons onboard, including restrictions in national or port-state laws in the region.

inform vessel crews about how to help prevent piracy and steps to take if taken hostage.

In addition, the Maritime Administration and the Military Sealift Command have created a new collaborative mechanism for working with industry in the form of Anti-Piracy Assistance Teams. When requested by the owner of a U.S.-flagged vessel, a team consisting of the Maritime Administration and the Naval Criminal Investigative Service personnel will assess a ship's security and offer advice on ways to improve. When the teams visit a vessel, Maritime Administration officials meet with company officials to discuss their security efforts and document these efforts so they can be shared with other ship operators. Lastly, U.S. Central Command has used the Maritime Liaison Office based in Bahrain as an additional mechanism to exchange information between naval forces and industry. This office serves as a conduit for information focused on safety of shipping and conducts outreach with the shipping industry, such as through newsletters to encourage the use of self-protection measures.

U.S. Agencies Have Implemented Some Collaborative Practices but Could Enhance Efforts by Incorporating Others

U.S. government agencies have implemented some collaborative practices in working with interagency partners to counter piracy but could enhance efforts where less progress has been made by incorporating other key practices. Several key practices than can enhance interagency collaboration include developing an overarching strategy, establishing collaborative mechanisms to share information with partners, assigning roles and responsibilities, and developing joint guidance to implement interagency efforts. Consistent with key practices, the NSC established its *Action Plan*, which serves an overarching strategy to guide U.S. interagency efforts and provides a framework for interagency collaboration.[41] The *Action Plan* creates an interagency task force that is intended to coordinate, implement, and monitor the actions contained in the plan.

In addition, the U.S. departments and multiple component agencies involved in counterpiracy efforts have also implemented another key practice—using collaborative organizations to share information. Collaborative organizations that provide adequate coordination mechanisms to facilitate interagency collaboration and achieve an integrated approach are particularly important when differences exist

[41] GAO-09-904SP.

between agencies that can impede collaboration and progress toward shared goals by potentially wasting scarce resources and limiting effectiveness.[42] Within the NSC, which includes committees with agency secretaries, deputy secretaries, and assistant secretaries, are existing forums for discussing and coordinating interagency efforts that officials have reported discuss counterpiracy efforts. Additionally, as called for in the *Action Plan*, State and Defense established the Counter-Piracy Steering Group, which includes representatives from the U.S. departments and component agencies involved in counterpiracy efforts.

Furthermore, in certain circumstances, such as a pirate attack on a U.S.-flagged vessel, the U.S. government uses the existing Maritime Operational Threat Response process to facilitate a discussion among U.S. agencies and decide on courses of action, which is outlined in an October 2006 plan that is part of the *National Strategy for Maritime Security*.[43] For example, when the MV *Maersk Alabama* was attacked in April 2009, facilitators utilized established protocols to activate the process and bring together the appropriate government officials. Figure 10 shows U.S. authorities responding to the MV *Maersk Alabama* incident in 2009. According to U.S. and Maersk officials involved, over the course of several meetings—some of which included Maersk representatives—U.S. officials decided on actions to take in response to the attack, resulting in the release of a U.S. merchant marine captain that had been taken hostage by pirates.[44] U.S. and Maersk officials considered the outcome of the *Alabama* incident to be a success. Officials from Defense, State, Coast Guard, the Maritime Administration, and Justice have reported that this process has been an effective tool in responding to this and other piracy incidents. In addition, the Coast Guard established a new collaboration mechanism—a weekly interagency conference call—to coordinate operational efforts among the

[42]GAO-09-904SP.

[43]The Maritime Operational Threat Response is an interagency process used during maritime security incidents. The response is coordinated by a newly established Global Maritime Operational Threat Response Coordination Cell, a Department of Homeland Security office located at the U.S. Coast Guard headquarters, and follows documented protocols that, among other things, provide guidance on conducting coordination activities.

[44]According to a facilitator of the process, under normal circumstances, Coast Guard officials liaise with industry representatives during an incident and the Maritime Operational Threat Response meetings are restricted to U.S. government officials. Due to the unique circumstances of the *Alabama* incident, Maersk representatives were allowed to participate in some of the meetings.

agency partners working to counter piracy, which we observed during this review.

Figure 10: U.S. Personnel Respond to the MV *Maersk Alabama* Incident in 2009

Source: U.S. Navy.

U.S. officials used the Maritime Operational Threat Response process to coordinate the response to the kidnaping of a U.S. merchant marine captain, who was held hostage by pirates for 5 days in the Indian Ocean aboard the lifeboat pictured above.

Although the NSC and U.S. agencies have taken these collaborative steps, the NSC could incorporate two other key practices—assigning roles and responsibilities and developing joint implementation guidance—to further enhance interagency collaboration in counterpiracy efforts. As of July 2010, the NSC had only assigned roles and responsibilities for implementing 1 of the 14 *Action Plan* tasks. The *Action Plan* recognizes that, consistent with other U.S. mission requirements, the U.S. Navy and the Coast Guard provide persistent interdiction through their presence and can conduct maritime counterpiracy operations. In addition, the *Action Plan* states that those forces shall coordinate counterpiracy activities with other forces operating in the region to the extent practicable and sets out a number of specific actions to be taken in various piracy situations. Although the *Action Plan* states that the Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury, and the Office of the Director of National Intelligence shall contribute to,

coordinate, and undertake initiatives in accordance with the *Action Plan*, the NSC did not clearly identify roles and responsibilities for specific agencies that will ensure the implementation of the other 13 tasks in the *Action Plan*. Establishing roles and responsibilities can help agencies clarify which agencies will lead or participate in activities, help organize their joint and individual efforts, and facilitate decision making.[45]

Agencies could enhance collaboration by developing joint guidance to implement and coordinate actions on several *Action Plan* tasks. Joint guidance helps ensure that agencies involved in collaborative efforts work together efficiently and effectively by establishing policies, procedures, information-sharing mechanisms, and other means to operate across agency boundaries.[46] Effective joint guidance also addresses how agency activities and resources will be aligned to achieve goals.

Implementing Key Practices Could Enhance Efforts Involving Multiple Agencies Where Less Progress Has Been Made

In the absence of clearly identified roles and responsibilities and joint implementation strategies, agencies involved in countering piracy have made comparatively more progress in implementing those *Action Plan* tasks that fall firmly within one agency's area of expertise, such as those to establish a Contact Group, update ship security plans, and provide an interdiction-capable presence, than they have on those tasks for which multiple agencies may be involved. For example, State, which has the authority and capability to work with international partners in establishing the Contact Group, has made substantial progress toward implementing that task. Furthermore, the *Action Plan* calls for commercial vessels to review and update their ship security plans in order to prevent and deter pirate attacks. Officials explained that because the Coast Guard has responsibility for enforcing U.S.-regulated commercial-vessel compliance with maritime security requirements, the agency took the lead on implementing this task and has made substantial progress. Similarly, Defense has primary responsibility for providing a persistent interdiction-capable presence in the region and has made substantial progress as lead on that task.

In contrast, there are several tasks in the *Action Plan* for which multiple agencies have relevant authorities, capabilities, or interests, and on which less progress has been made. The NSC did not identify roles and

[45] GAO-06-15.

[46] GAO-06-15 and GAO-09-904SP.

responsibilities for implementing these tasks and officials have acknowledged that the agencies have not developed joint guidance to ensure their efforts work together efficiently and effectively. For example, the NSC included efforts related to developing a strategic communications strategy, disrupting pirate revenue, and holding pirates accountable as essential to implementing the *Action Plan*.

- Strategic communication: The *Action Plan* calls for the United States to lead and support a global public information and diplomatic campaign to highlight, among other things, the international cooperation undertaken to repress piracy off the Horn of Africa, as well as piracy's destructive effects on trade, human and maritime security, and the rule of law. In addition, according to the *Action Plan*, any strategic communication strategy must also convey concerns about the risks associated with paying ransoms demands. Multiple agencies are involved in communicating with various audiences about piracy. State communicates with international partners about international cooperation; Defense communicates with military partners about international military cooperation and with African audiences to discourage piracy; the Naval Criminal Investigative Service communicates with U.S. and international law enforcement partners about law enforcement, investigative, and analytical cooperation; and the Coast Guard and the Maritime Administration communicate with the shipping industry about self-protection measures and ransom concerns. However, there is no governmentwide strategic communication plan in place to guide agency efforts, optimize effects, and enhance the achievement of goals. According to State officials, State has drafted a governmentwide counterpiracy strategic communication plan for interagency review but as of July 2010, the department was still awaiting comments from interagency partners and did not have an estimated date for when the plan would be finalized, though Treasury officials had provided comments. Meanwhile agencies have taken varying approaches to strategic communication. Defense has developed a classified plan for its activities, and according to Coast Guard officials, the Coast Guard suspended its effort to develop a plan upon learning that State was drafting a governmentwide plan. As a result, U.S. agencies have not implemented all the strategic communication efforts called for by the *Action Plan*, and it is not clear that the agencies' efforts are coordinated or as effective as possible in communicating the intended messages about piracy.

- Disrupting pirate revenue: According to the *Action Plan*, the goal for disrupting pirate revenue is to trace ransom payments and apprehend

leaders of pirate organizations and their enablers. Multiple agencies are involved in collecting information on pirate finances. Justice collects information on financial assets entering the United States related to piracy. According to officials, Treasury examines financial activities and reviews intelligence, law enforcement, and publicly available information, to map illicit financial networks and to determine appropriate action, including potential designation of an individual or entity pursuant to the April 2010 executive order on Somalia. State officials described their work with international partners to gather information on illicit financial networks, while Defense officials told us they collect intelligence on pirate financial activities by questioning captured pirate suspects. However, the NSC did not clearly identify any agency with specific responsibility for disrupting pirate revenue. As a result, officials at Justice, State, and Defense agree that information their agencies gather on pirate finances is not being systematically analyzed, and it is unclear if any agency is using it to identify and apprehend pirate leaders or financiers. In addition, though Justice, State, and Defense officials reported that Somali piracy exhibits characteristics of international organized crime, currently pirate attacks prosecuted by the United States are not investigated by the FBI's Organized Crime Section but instead by the Violent Crimes Section. In the absence of clearly identified roles and responsibilities, and with competing priorities, officials indicated agencies have not taken initiative to develop joint guidance to ensure these disparate efforts work together efficiently and effectively. Similarly, officials acknowledged there is no supporting plan or joint guidance to direct U.S. interagency efforts to collect and analyze criminal intelligence on pirates. However, State is in the process of creating a Counter-piracy Finance Working Group intended to facilitate closer interagency coordination of efforts to combat the financial flows and support networks of piracy off Somalia. According to Justice officials, as of July 2010, the United States has not apprehended or prosecuted the leaders of any pirate organizations or their enablers as called for in the *Action Plan*.

- Facilitating prosecution of suspected pirates: The *Action Plan* contains several tasks related to facilitating the prosecution of suspected pirates by parties with an interest in prosecution, but it does not identify clear roles and responsibilities for U.S. agencies needed to ensure implementation of these tasks. In some cases, U.S. officials said roles are apparent where an agency's mission aligns with the *Action Plan*'s tasks, such as State's diplomatic work with regional partners to conclude prosecution arrangements. However, a lack of defined roles and joint guidance to implement U.S. efforts to facilitate prosecutions

poses challenges for prosecuting suspected pirates when each agency's role is less clear. For example, absent defined roles and responsibilities and interagency guidance, U.S. officials explained that they had to dedicate time during a high-level interagency meeting of the Maritime Security Interagency Policy Committee to arrange details, including cost sharing, for the transportation of suspects after the spring 2010 pirate attacks on the USS *Ashland* and USS *Nicholas*. State officials told us that prior to these attacks the U.S. government had limited experience being involved with the prosecution of Somali pirates and had not established the necessary interagency procedures for transferring suspects and sharing costs among the agencies involved.

By enhancing interagency collaboration, the NSC can reduce the risk of leaving gaps in its counterpiracy efforts or the risk that agency efforts may overlap, which could waste resources that could be applied to combat other threats to national security, such as terrorism. Clarifying roles and responsibilities and developing joint implementing guidance could also help agency officials—who must balance their time and resources among many competing priorities—more fully and effectively carry out their roles in helping to repress piracy and avoid duplication of effort.

Conclusions

Given that the President identified piracy as a threat to U.S. national security interests and that it is a complex problem that affects a variety of stakeholders, the U.S. government has taken a collaborative approach in its counterpiracy plans. The U.S. government has taken many steps to implement the *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*), but still faces a number of challenges to meeting the *Action Plan*'s objective of repressing piracy, including inherent limits on its ability to influence industry and international partners and persuade other states to consider prosecuting suspected pirates. In addition, the United States must address the problem of piracy in an environment in which counterpiracy efforts compete with other high-priority U.S. interests in the region, and the NSC acknowledges that longer-term efforts to stabilize Somalia are needed to fully address the root causes of piracy. In the face of such challenges, the NSC's *Action Plan* provides a roadmap for federal departments and agencies to follow in implementing efforts to counter piracy. However, the U.S. government is not tracking the costs, benefits, or effectiveness of its counterpiracy activities and thus lacks information needed to weigh resource investments. In addition, without a systematic evaluation of interagency efforts to compare the relative effectiveness of various *Action Plan* tasks, key stakeholders lack a clear picture of what effect, if any, its efforts have

had. Establishing performance measures or other mechanisms to judge progress and evaluating performance information could provide U.S. government stakeholders with more specific information to update the *Action Plan* and better direct the course of U.S. government plans and activities to repress piracy. Without updating U.S. government plans and efforts to reflect performance information and the dynamic nature of piracy, the U.S. government is limited in its ability to ensure that efforts and resources are being targeted toward the areas of greatest national interest.

Federal agencies have made great strides to collaborate with each other and with international and shipping-industry partners, but could benefit from greater specificity in the *Action Plan* about their roles and responsibilities and development of joint implementing guidance, especially with regard to those *Action Plan* tasks that require a variety of stakeholders to implement. Without specific roles and responsibilities for essential aspects of its *Action Plan*—including developing a U.S. government strategic communication plan, disrupting pirate revenue, or facilitating prosecution of suspected pirates—U.S. agencies have either developed their own approaches to these tasks or developed no approach at all. In addition, developing joint implementing guidance could help agencies work together more effectively and potentially improve progress toward U.S. goals.

Recommendations for Executive Action

To improve U.S. government efforts to implement the *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*), enhance interagency collaboration, provide information to decision makers on results, and better target resources, we recommend that the Special Assistant to the President for National Security Affairs, in collaboration with the Secretaries of Defense, Homeland Security, Justice, State, Transportation, and the Treasury take the following four actions:

- reassess and revise the *Action Plan* to better address evolving conditions off the Horn of Africa and their effect on priorities and plans;
- identify measures of effectiveness to use in evaluating U.S. counterpiracy efforts;
- direct the Counter-Piracy Steering Group to (1) identify the costs of U.S. counterpiracy efforts including operational, support, and personnel costs; and (2) assess the benefits, and effectiveness of U.S. counterpiracy activities; and

- clarify agency roles and responsibilities and develop joint guidance, information-sharing mechanisms, and other means to operate across agency boundaries for implementing key efforts such as strategic communication, disrupting pirate revenue, and facilitating prosecution.

Agency Comments and Our Evaluation

We provided a draft of this report for review to the Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury; and the National Security Council (NSC). The NSC did not provide comments on the report or our recommendations. Defense provided written comments to clarify facts in the report which are reprinted in their entirety in appendix V. Defense, Homeland Security, Justice, State, Transportation, and Treasury provided technical comments which we incorporated as appropriate.

In written comments, Defense stated that the department does not agree that using percent of seized suspected pirates who were delivered for prosecution is an appropriate measure of program success. Defense also commented that the metric does not take into account that it is up to individual countries within the coalition to determine the validity of evidence and decide whether to prosecute. We did not state that the percent of suspects delivered for prosecution was an appropriate measure of program success. In the draft report, we stated that the *Action Plan* establishes objectives related to repressing piracy and reducing incidents of piracy, but does not define measures of effectiveness that can be used to evaluate progress toward reaching those objectives. In the absence of defined measures of effectiveness, we made qualitative assessments of U.S. government progress in implementing the *Action Plan* tasks by reviewing program documents, analyzing data, and interviewing agency officials. We determined that the U.S. government had made some progress on the *Action Plan* task to seize and destroy pirate vessels and related equipment and deliver captured suspected pirates for prosecution. In response to Defense's comments, we have modified the report to explicitly recommend that the NSC identify measures of effectiveness to use in evaluating U.S. counterpiracy efforts. We also revised the summary text contained in figure 5 for this line of action to better incorporate some of the prosecution challenges discussed in appendix II and more fully address the rationale for our assessment.

Defense also provided comments to better depict the contributions of the Naval Criminal Investigative Service to counterpiracy operations which we incorporated throughout the report. And finally, Defense stated that U.S. Special Operations Command does not conduct counterpiracy operations and stated in its technical comments that it is a force provider to other

combatant commands who are responsible for conducting counterpiracy operations. As a result, we modified the draft to eliminate reference to the U.S. Special Operations Command as incurring costs for counterpiracy operations.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 7 days from its date. At that time, we will send copies of this report to the Special Assistant to the President for National Security Affairs; the Attorney General; the Secretaries of Defense, Homeland Security, State, Transportation, and the Treasury; and interested congressional committees. In addition, this report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact either John H. Pendleton at (202) 512-3489 or pendletonj@gao.gov or Stephen L. Caldwell at (202) 512-9610 or caldwells@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix VI.

John H. Pendleton
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Appendix I: Scope and Methodology

To address our objectives, we analyzed data, reviewed documentation, and interviewed officials from the U.S. government agencies that the National Security Council (NSC) specifically tasked to contribute to, coordinate, and undertake initiatives in accordance with NSC's 2008 *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*). We met with and gathered information from officials representing the various agencies tasked with implementing the *Action Plan* and who participate on the committees within the NSC.[1] We also conducted work with international and industry partners involved in the response to piracy off the Horn of Africa.[2]

To assess the extent to which the U.S. government has made progress in countering piracy off the Horn of Africa and the challenges it faces, we reviewed the *Action Plan*, the 2007 *Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea*, the 2005 *National Strategy for Maritime Security*, relevant U.S. laws, United Nations Security Council resolutions on piracy off the Horn of Africa, as well as our prior work related to Somalia, maritime security, interagency collaboration, and combating illicit financing. To assess the implementation status of the actions called for in the *Action Plan*, we reviewed program documents, analyzed data, and interviewed agency officials. Our assessments are based on data from multiple sources, are qualitative in nature, and are derived from consensus judgments. We assessed "substantial progress" for those tasks where all components specified by the *Action Plan* were implemented; "some progress" for tasks where components were partially implemented or agencies had taken steps toward implementation; and "little or no progress" where agencies had made minimal or no effort toward implementing the components of the task. We provided a "not applicable" assessment for one task in the *Action Plan* that agency officials and our analysis revealed to have been overtaken by events and no longer relevant for U.S. counterpiracy efforts. We provided a summary of our progress assessments to the agencies and incorporated their comments as appropriate. We also reviewed our prior work related to results-oriented government[3] and evaluated the extent to which the

[1]During the course of our review, we made several requests to meet with staff from the NSC to discuss the *Action Plan* and its implementation but they did not respond to our requests.

[2]See below for a complete listing of agencies and partners we obtained information from during our review.

[3]GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005).

interagency Counter-Piracy Steering Group charged with coordinating, implementing, and monitoring the actions in the NSC plan followed select key practices for achieving results including monitoring and evaluating efforts, using performance information to improve efforts and revise plans as needed, and reporting on results. In addition, we met with international and industry partners involved in developing best practices for protecting ships from pirate attack, working with the international Contact Group, and participating in naval patrols off the Horn of Africa to gain their perspective on the challenges and progress in countering piracy, the effectiveness of counterpiracy actions, implementation of best management practices for protecting ships, and how conditions off the Horn of Africa are evolving. To gain insight on trends in pirate activity since the United States and coalition partners began counterpiracy operations, we obtained and analyzed data on the incidents of piracy off the Horn of Africa for the years 2007 through June 2010 from the International Chamber of Commerce's International Maritime Bureau. The International Maritime Bureau operates a Piracy Reporting Center that collects data on pirate attacks worldwide. According to its officials, there are some limitations with International Maritime Bureau data because they rely on ship officials to provide the information, which can vary, and some information is not provided due to sovereignty issues regarding investigations. However, we reviewed internal controls and measures used by the bureau to protect the reliability and accuracy of their data on pirate attacks and attempted attacks and discussed the reliability of the bureau's data with international, industry, and government subject-matter experts involved in counterpiracy operations and determined that the bureau's data were the best data available on pirate attacks and attempted attacks. Therefore, we determined the data were sufficiently reliable for the purpose of describing the context of piracy as a threat to seafarers and the geographical scope of pirate attacks off the Horn of Africa. To identify the results of interdiction efforts led and supported by the United States we obtained and reviewed data from the Combined Maritime Forces for the years 2008 to June 2010. There are some limitations with Combined Maritime Forces' data because these data are compiled from military and nonmilitary sources and reporting. Although efforts are made to correlate and confirm the accuracy of these data, Combined Maritime Forces cannot fully guarantee their accuracy. We discussed data-collection methods, processes for data entry, and the steps taken to ensure reasonable accuracy of the data with both the International Maritime Bureau and the Combined Maritime Forces. We determined the data to be sufficiently reliable for the purposes of this report. To identify the amount of ransoms being paid to Somali pirates we reviewed monthly ransom data from the Office of Naval Intelligence for 2007 through 2009. Due to the classified

nature of the sources and methods used to develop this data, we did not independently verify the reliability of this information.

To identify the extent to which U.S. government agencies are collaborating with each other and with international and industry partners, we synthesized key practices for enhancing and sustaining collaboration on complex national security issues from our prior work.[4] We then evaluated the extent to which department and agency actions incorporate select key practices including (1) developing overarching strategies and mutually reinforcing plans, (2) assigning roles and responsibilities, and (3) creating collaborative organizations that share and integrate information. To obtain information on the nature and extent of collaboration on counterpiracy efforts among agencies, international and industry partners, we reviewed the NSC's *Action Plan*, and department and agency program documents; and interviewed agency, international, and industry officials. To gain insight into new and existing coordination mechanisms applicable to piracy, we observed the weekly interagency conference calls on counterpiracy efforts, attended a Shared Awareness and Deconfliction meeting in Manama, Bahrain, and reviewed program documents.

U.S. Government Agencies

For both of our objectives, we interviewed and, where appropriate, obtained documentation from officials with the following U.S. government agencies:

Department of Defense

- Within the Office of the Under Secretary of Defense (Policy): the Assistant Secretary of Defense for Special Operations/Low-Intensity Conflict and Interdependent Capabilities (Counter-Narcotics and Global Threats), the Oceans Policy Advisor in the Office of the Assistant Secretary of Defense for Global Strategic Affairs (Countering Weapons of Mass Destruction), and the Office of the Assistant Secretary of Defense for International Security Affairs (African Affairs)
- Under the Joint Chiefs of Staff: J5 (Strategic Plans and Policy Directorate) for Oceans Policy / Counterpiracy, J3 (Operations Directorate), and J2 (Joint Staff Intelligence Directorate), Piracy Lead

[4]GAO, *Interagency Collaboration: Key Issues for Congressional Oversight of National Security Strategies, Organizations, Workforce, and Information Sharing*, GAO-09-904SP (Washington, D.C.: Sept. 25, 2009).

- Office of General Counsel
- Under United States Africa Command: the Strategy, Plans and Programs Directorate; the Intelligence and Knowledge Development Directorate; the Operations and Logistics Directorate, Information Operations Division; the Command, Control, Communications, and Computer Systems and Chief Info Officer Directorate; and the Outreach Directorate, Strategic Communications Division
- Under United States Central Command: the Maritime Liaison Office (Bahrain); and the Naval Forces Central Command's Maritime Operational Center (Bahrain), Chief of Staff, Judge Advocate General's Corps U.S. Naval Forces Central Command (Bahrain), and Naval Criminal Investigative Service (Bahrain)
- United States Special Operations Command
- Under the Department of the Navy: the Naval Criminal Investigative Service and the Office of Naval Intelligence

Department of Homeland Security

- United States Coast Guard's offices of Assessment, Integration, and Risk Management; Counterterrorism and Defense Operations; International Affairs and Foreign Policy Advisor; Public Affairs; Vessel Activities; Prevention Policy; Maritime and International Law; Policy Integration; Law Enforcement; Operations Law; and the Patrol Forces Southwest Asia (Bahrain)

Department of Justice

- National Security Division
- Criminal Division's Office of Overseas Prosecutorial Development Assistance Training and Narcotic and Dangerous Drug Section
- Federal Bureau of Investigation's Criminal Investigative Division, Violent Crimes Section and Organized Crime Section
- United States Attorneys' Office

Department of State

- Office of the Secretary of State
- Bureau of African Affairs' Office of East African Affairs and Office of Regional Security Affairs
- Bureau of Political-Military Affairs' Office of Plans, Policy and Analysis and Office of International Security Operations
- Office of the Legal Adviser for Law Enforcement and Intelligence; Oceans, International Environmental and Scientific Affairs; Attorney-

Adviser (specializing in law of the seas); and Attorney-Adviser (specializing in United Nations issues)
- Bureau of International Narcotics and Law Enforcement Affairs' Office of Anti-Crime Programs, Money Laundering/Terrorism Financing Unit
- Bureau of Democracy, Human Rights, and Labor's Office of Country Reports and Asylum Affairs and Office of Africa and Eurasia
- Bureau of Oceans and International Environmental and Scientific Affairs' Office of Ocean and Polar Affairs
- Bureau of Economic, Energy and Business Affairs' Office of Transportation Policy and Office of Terrorism Finance and Economics Sanctions Policy
- Foreign Policy Advisor from the Department of State to the U.S. Naval Forces Central Command (Manama, Bahrain), and the Permanent Representative to the International Maritime Organization from the Department of State / U.S. Embassy–London U.S.

Department of Transportation

- The Maritime Administration's Office's of the Chief Counsel, Office of International Activities, Associate Administrator for National Security, Associate Administrator for Environment and Compliance and its Office of Security, and the Office of Financial Approvals and Marine Insurance's Division of Marine Insurance

Department of the Treasury

- Office of Terrorism and Financial Intelligence's offices of Terrorist Financing and Financial Crimes, Foreign Assets Control, and Intelligence and Analysis

Office of the Director of National Intelligence

- National Maritime Intelligence Center

International, Industry, and Nongovernmental Organizations

We also interviewed and, where appropriate, obtained documentation from the following:

International Partners

- International Maritime Organization (London, U.K.)

- European Union Naval Forces (Northwood, U.K.), Maritime Security Centre–Horn Of Africa Industry Liaison, Chief of Staff, J4 Movements and Transport, and Industry Liaison
- Combined Maritime Forces (Manama, Bahrain), Coalition Forces' Chief Air Coordination Element and Shared Awareness and Deconfliction Meeting
- North Atlantic Treaty Organization (Northwood, U.K.), Maritime Air Operations, N2 Intelligence Division, N3 Operations Division, and North Atlantic Treaty Organization Shipping Centre
- United Kingdom Foreign & Commonwealth Office, Ministry of Defense, and Department for Transport

Industry Partners

- APL Maritime; Baltic and International Maritime Council (BIMCO); Chamber of Shipping of America; International Association of Dry Cargo Shipowners (INTERCARGO); International Association of Independent Tanker Owners (INTERTANKO); International Chamber of Shipping; International Group of P&I Clubs; International Maritime Bureau; International Transportation Workers Federation (ITF); Lloyd's Market Association; Maersk Line Limited; National Academy of Sciences, Transportation Research Board, Marine Board; Society of International Gas Tanker and Terminal Operators Limited (SIGTTO); and the World Shipping Council.

Maritime Experts

- Former Commander of the Combined Maritime Forces (Combined Task Force 151), former United States Navy Judge Advocate General, Royal United Services Institute for Defence and Security Studies, International Institute for Strategic Studies, and the Royal Institute of International Affairs (Chatham House).

We conducted this performance audit from October 2009 to September 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: U.S. Government Agency Progress in Implementing the National Security Council's *Action Plan*

In December 2008, the U.S. National Security Council (NSC) published its *Countering Piracy off the Horn of Africa: Partnership and Action Plan* (*Action Plan*), which laid out 14 tasks to implement three lines of action to prevent, disrupt, and prosecute acts of Somali piracy. We assessed the extent to which U.S. government agencies involved in countering piracy[1] have made progress implementing the *Action Plan*. In addition to the information provided earlier in this report, this appendix contains further details on the steps that those agencies have taken—or have yet to take—to implement various tasks called for under each of the plan's three lines of action: (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) facilitate the prosecution of suspected pirates by flag, victim, and coastal states, and, in appropriate cases, the United States to ensure that those who commit acts of piracy are held accountable for their actions.

We based our assessment on reviews of agency plans, status reports, and interviews with U.S. government, international, and industry officials involved in counterpiracy efforts.[2] The scope and methodology used in our review are described in further detail in appendix I.

[1]These include the Departments of Defense, Homeland Security, Justice, State, Transportation, and the Treasury, and the Office of the Director of National Intelligence as well as component agencies including the Federal Bureau of Investigation, Coast Guard, and National Maritime Intelligence Center.

[2]We provided an assessment of "substantial progress" for cases where all components under a task specified by the NSC were implemented; "some progress" for cases where components were at least partially implemented or agencies demonstrated effort had been made toward implementation; and "little or no progress" where there was minimal or no result or effort made toward implementing any components of that specific task.

Progress in Implementing Actions to Prevent Pirate Attacks by Reducing the Vulnerability of the Maritime Domain to Piracy

Substantial Progress Has Been Made to Establish and Maintain a Contact Group

In concert with the United Nations and international partners, the U.S. government has made substantial progress in helping to establish and maintain a Contact Group of countries willing and able to help combat piracy off the Horn of Africa. The *Action Plan* calls for the immediate establishment of a Contact Group to combat piracy off the Horn of Africa, which would meet as necessary to develop and coordinate international policy initiatives, share information, provide resources for building regional capacity to counter piracy, and advocate for other mechanisms to repress piracy. In January 2009, the Contact Group on Piracy off the Coast of Somalia (Contact Group) was formed in response to United Nations Security Council Resolution 1851, and, as of June 2010, it had 49 member nations as well as international organization partners. The Contact Group established a multidonor trust fund to help offset the cost of prosecuting suspected pirates, and in April 2010, members approved $2.1 million for programs in the Seychelles and Somalia.

The Department of State (State) orchestrates U.S. participation in the Contact Group, coordinating with officials from the Departments of Defense, Justice, Homeland Security, Transportation, and the Treasury. In addition, the Coast Guard and the Maritime Administration cochair the working group on industry self-protection, which facilitated development and adoption of best management practices for self-protection, in coordination with industry and the International Maritime Organization. Military, industry, and international officials credit these self-protection measures, in part, for the reduction in successful pirate attacks in the Gulf of Aden from 2008 to 2009. According to agency officials, the Department of Defense (Defense) and State have participated in various other working groups, including military coordination and judicial efforts.

Substantial Progress Has Been Made to Strengthen and Encourage the Use of the Maritime Security Patrol Area

The U.S. government has made substantial progress on strengthening the use of the Maritime Security Patrol Area in collaboration with its international partners, though there are limits to the reach of government influence on commercial vessels. The *Action Plan* calls for the United States to strengthen the use of the Maritime Security Patrol Area—the area patrolled by coalition Combined Maritime Forces and other navies—by encouraging other countries to assign naval forces and assets to the area, coordinating and sharing information with the other navies, and urging members of the shipping industry to use the Maritime Security Patrol Area.[3] State has encouraged multinational military coordination through bilateral channels and the Contact Group. The U.S. Navy has contributed to both to the Combined Maritime Forces and North Atlantic Treaty Organization patrols. In addition, the United States contributes to Shared Awareness and Deconfliction meetings, established to share information with and coordinate the counterpiracy patrols of coalition forces and independent countries. International officials also told us that Combined Maritime Forces, North Atlantic Treaty Organization, and European Union forces are coordinating surveillance and patrol of the Internationally Recommended Transit Corridor, the recommended route within the Maritime Security Patrol Area for commercial vessels transiting the Gulf of Aden.

Defense, Coast Guard, the Maritime Administration, and the Maritime Liaison Office have used a variety of methods to encourage commercial vessels to use the Maritime Security Patrol Area and coordinate with naval patrols, such as publishing advisories, maintaining informational Web sites, and sponsoring information-sharing meetings. The Coast Guard requires that U.S.-flagged vessels register their transit plans through the Horn of Africa region with the Maritime Security Centre–Horn of Africa and notify the United Kingdom Maritime Trade Operations office in Dubai, which both monitor the transit of vessels in the region. However, U.S.-flagged vessels comprise a small proportion of the ships that transit the high-risk waters off the Horn of Africa, and , and the Coast Guard regulations mandating self-protection measures only apply to U.S.-flagged vessels. While the U.S. government encourages commercial vessels from other flag states to take advantage of the monitoring provided by navies patrolling the Maritime Security Patrol Area, Defense, Maritime Administration, shipping industry, and international officials estimate that approximately 20 to 25 percent of the shipping traffic in the region does

[3]See app. III for international partners contributing to counterpiracy operations.

not register its transit with patrolling forces. These officials also told us that, as pirates have expanded their area of operations into the Indian Ocean, coalition forces faced increased challenges in disrupting attacks given the unfeasibility of establishing secured transit corridors in this area similar to that used in the Gulf of Aden.

Substantial Progress Has Been Made to Update Ships' Security Assessments and Plans

The Coast Guard has achieved substantial progress in ensuring that ship security plans for U.S.-flagged vessels have been updated with piracy annexes, and the United States is encouraging other countries to implement similar measures. The *Action Plan* calls for the United States to urge other nations to update their ship security plans and to encourage vessels in the Gulf of Aden to take specific protective measures. In May 2009, the Coast Guard promulgated the second revision of Maritime Security Directive 104-6, which requires that all U.S.-flagged vessels transiting high-risk areas have an approved security plan to prevent and defend against pirate attacks.[4] Furthermore, the Coast Guard and the Maritime Administration have taken steps to implement this task by issuing guidance to support industry efforts to prevent attacks.[5] For example, the Coast Guard's Port Security Advisories provide information on using armed security teams to protect vessels transiting high-risk waters.[6] As of July 2010, the Coast Guard had approved the additional security measures submitted by each of the 211 U.S.-flagged vessels identified as traveling through high-risk waters, 108 of which travel through the Horn of Africa region. The Coast Guard ensures those U.S.-flagged vessels transiting high-risk waters have an updated plan by monitoring the movement of U.S.-flagged vessels, checking for approved plans, and investigating compliance when vessels are at certain ports.

[4]The Coast Guard issued a third revision of Maritime Security Directive 104-6 in May 2010.

[5]As of June 2010, the Coast Guard had issued eight Port Security Advisories related to piracy, and the Maritime Administration had issued four maritime security advisories on this topic.

[6]Port Security Advisories 4-09 and 8-09 provide information to those ship owners who choose or may be required to use armed security teams to protect vessels transiting high-risk waters off the Horn of Africa. While the Coast Guard requires that U.S.-flagged vessels transiting the Horn of Africa have a security team onboard, the decision about whether the security team will be armed is left to the ship owner. Many members of the shipping industry have raised concerns about having weapons onboard commercial vessels. While there is no consensus about whether or not to arm security teams, the United States has worked with partners to facilitate the arming of vessels when owners have chosen this approach as part of their security plan, but challenges remain.

However, U.S.-flagged vessels comprise only a small proportion of the ships that transit the area, and according to officials the influence of the U.S. government on international ships is limited.

To encourage international implementation of self-protection measures by commercial vessels, the United States has signed and promoted the nonbinding New York Declaration. According to the declaration, the signatory countries will ensure, when carrying out their obligations under the International Ship and Port Facility Security (ISPS) Code, that vessels on their registry have adopted and documented appropriate self-protection measures in their ship security plans.[7] These plans specify how each vessel will employ the applicable self-protection measures. While officials acknowledge that best management practices do not provide guaranteed protection against a hijacking, officials at the International Maritime Organization and the Maritime Security Centre–Horn of Africa, established by the European Union Naval Force, estimate that the majority of ships hijacked in the Gulf of Aden were not following one of the easiest and least costly of self-protection measures, registering their voyage through high-risk waters with the centre. Although U.S., international, and industry officials told us that no data are available on the extent to which ships transiting high-risk waters are following best practices, U.S., international military, and industry officials estimate that approximately 70 to 80 percent of ships are using best management practices to deter piracy. However, the United States and its international partners still face challenges urging compliance with these practices among the remaining 20 to 30 percent of vessels.

Some Progress Has Been Made in Strategic Communication to Counter Piracy

In collaboration with the Contact Group, U.S. departments and agencies involved in strategic communication efforts have made some progress in implementing actions called for in the *Action Plan*. The *Action Plan* calls for the U.S. government to 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 the destructive effects of piracy on trade, human and maritime security, and the rule of law. Agency officials have stated that the lack of a U.S. presence in Somalia presents challenges to efforts to communicate directly with the Somali population to discourage piracy and

[7]The ISPS Code is a part of the International Convention for the Safety of Life at Sea, 32 U.S.T. 47, T.I.A.S. No. 9700.

makes it difficult to measure the effectiveness of strategic communication efforts.

High-level U.S. government officials have warned of the threat of piracy in public statements, and the Coast Guard and the Maritime Administration have actively shared information with members of the shipping industry to encourage self-protection from attack. For example, in April 2009 the Secretary of State outlined four steps State was taking in the aftermath of the hijacking of the MV *Maersk Alabama*, primarily diplomatic engagement with international partners and Somali government officials, and work with the shipping and insurance industries. Further, the Coast Guard held a series of roundtable discussions with the shipping industry to address concerns about ransom payments following the issuance of an April 2010 executive order that prohibits persons under U.S. jurisdiction from making payments to persons designated under the Order, and State and the Department of the Treasury (Treasury) officials also told us they established guidance for and communicated with the shipping industry after the executive order was issued.

In addition, according to officials, Defense and State lead interagency meetings held, in part, to gain U.S. consensus on piracy-related strategic communication issues prior to meetings with international partners. State officials also reported contributing to interagency strategic communication efforts of the Contact Group and have created a publicly available maritime security Web page, which includes information on piracy.

The Department of Defense has developed a strategic communication plan, but it is a classified document for internal use. State officials told us they have drafted a plan to coordinate interagency strategic communication on counterpiracy efforts, including outreach to domestic and foreign audiences to inform them about U.S. and international efforts to combat piracy off the coast of Somalia, but at the time of this report, the draft was still undergoing review by interagency partners and had not been finalized.

Progress in Disrupting Acts of Piracy Consistent with International Law and the Rights and Responsibilities of Coastal and Flag States

Progress Assessment Is Not Applicable for Efforts to Support and Contribute to a Regionally Based Counter-Piracy Coordination Center

The United States has not worked to create a Counter-Piracy Coordination Center as called for in the *Action Plan*, but a progress assessment toward this task was considered not applicable given changing circumstances and the status of other ongoing counterpiracy efforts since the time of the plan's publication. The *Action Plan* calls for the creation of a Counter-Piracy Coordination Center 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. However, according to Defense officials, creating such a center would duplicate existing capabilities provided by international partners. Subsequent to the publication of the *Action Plan*, Defense officials determined that existing efforts were in place to meet the goals outlined for a coordination center. Three organizations are currently involved in carrying out the tasks outlined for a single coordination center, each of which covers the functions of a Counter-Piracy Coordination Center. The Maritime Security Centre–Horn of Africa is a coordination center for transiting ships to voluntarily record their ships' movements and to receive updated threat information. It also coordinates available response assets to provide support and protection to mariners. The United Kingdom's Maritime Trade Operations office in Dubai serves as the first point of contact for reporting an attack. The Maritime Liaison Office in Bahrain serves as the link between the commercial maritime community and U.S. and coalition military forces. Other mechanisms exist to coordinate stakeholder governments, such as the Contact Group and its associated working groups, and to coordinate military patrols, such as the Shared Awareness and Deconfliction meetings.

Some Progress Has Been Made in Seizing and Destroying Pirate Vessels and Equipment, and Delivering Suspects for Prosecution

The United States has made progress toward seizing and destroying pirate vessels and equipment but has had limited progress delivering suspected pirates for prosecution. The *Action Plan* calls for the seizing and destroying of vessels outfitted for piracy and related equipment, and states the U.S. government may conduct and urge others to conduct counterpiracy operations in international waters around Somalia. According to data from the U.S.-led Combined Maritime Forces, coalition and other international partners destroyed or confiscated nearly 100 pirate vessels and confiscated more than 380 weapons, including small arms and rocket propelled grenades between August 2008 and June 2010. Coalition forces also report that international partners confiscated approximately 140 items of pirate paraphernalia, including automatic weapons, grappling hooks, ladders, and global positioning system devices in that same time period.

According to military officials, interdicting forces determine a vessel to be potentially used for piracy upon sight, given the presence of certain gear and weaponry and the absence of typical fishing gear. Military officials also told us that, once piracy equipment is seized and destroyed, U.S. forces follow international protocols and, in the event suspects are not detained, release the vessel and those onboard with sufficient fuel and provisions to reach shore.[8] According to international military officials, European Union and North Atlantic Treaty Organization forces also are monitoring pirate bases on shore from warships, and then seizing and destroying pirate skiffs and equipment as they leave bases. However, military and international officials told us that the seizing of pirate paraphernalia provides only a temporary obstacle to pirate operations. U.S. efforts to deliver suspected pirates to states for prosecution are hampered by a lack of states that are willing and able to prosecute. The *Action Plan* states the U.S. government will deliver suspected pirates to states that are willing and able to prosecute in those cases where pirate vessels are seized or destroyed. As of June 2010, international forces had encountered more than 1,100 suspected Somali pirates since August 2008 but had delivered only approximately 40 percent to states for prosecution. According to a report issued by the Department of Defense in May 2010, U.S. military forces have transferred 24 suspected pirates for prosecution to Kenya, the only country with which the United States had an

[8]IMO, Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden, IMO Doc. C 102/14, Annex at 5 (Apr. 3, 2009).

arrangement to accept pirate transfers at the time. According to State and Department of Justice (Justice) officials, Kenya is only willing to accept cases with strong evidence, such as cases in which suspects are caught in the act of committing piracy. According to Combined Maritime Forces officials, when suspected pirates are interdicted at sea and are not engaged in an act of piracy, but are in possession of pirate equipment, interdicting forces typically will detain the suspected pirates, confiscate their equipment, and then release the suspects. Additionally, officials stated that because of evidence standards and the limited options for prosecution, interdicting forces are left with little choice but to catch and release the suspected pirates.

As of June 2010, approximately 57 percent of the suspects that international forces encountered were caught and released. Furthermore, military officials told us there have been cases of suspects being encountered multiple times at sea, so the practice of catching and releasing suspects could allow multiple attempts at piracy. Although Defense officials we spoke with had varied opinions on whether repeat offenders were a credible issue, since biometric data—such as fingerprints—are not systematically gathered to track such cases, U.S. and international forces cannot determine whether they are finding repeat offenders.

Although, as noted in the *Action Plan*, piracy is a universal crime that any state could potentially prosecute, most states, including the United States, in practice will consider prosecuting suspected pirates in appropriate cases when it is in their national interest to do so. However, according to State officials, some countries lack sufficient domestic law to support prosecution of suspected pirates. Others may have the domestic legal frameworks, but lack the resources or political will to take action. State officials also told us that logistical difficulties exist in prosecuting piracy cases such as evidence collection and preservation at sea, bringing in merchant mariners or naval personnel to provide testimony and difficulty proving intent in cases where suspects were not caught in the act. Finally, some countries that might otherwise provide a venue for prosecution may also have concerns that acquitted suspects or convicted pirates who are released after serving a prison sentence may seek asylum. Officials from State told us the U.S. government has prosecuted cases against every suspected pirate captured who attempted an attack on a U.S. vessel. Currently, a total of 12 suspects from attacks on the MV *Maersk Alabama* (April 2009), USS *Nicholas* (March 2010) and USS *Ashland* (April 2010) are being tried in the United States. The U.S. government will approach other affected states for prosecution in cases interdicted by U.S. forces where

there is no interest for the U.S. government to prosecute. According to officials at State, preference for prosecution is given to the flag state of a vessel. State officials also said they are encouraging regional countries to prosecute.

Substantial Progress Has Been Made to Provide Persistent Interdiction-Capable Presence

Since the *Action Plan* was issued, the U.S. military and Coast Guard have made substantial progress in providing an interdiction-capable presence by providing resources to a counterpiracy task force under the U.S.-led Combined Maritime Forces, and the U.S. Navy has contributed to North Atlantic Treaty Organization counterpiracy operations. According to the *Action Plan*, the U.S. Navy and Coast Guard forces operating in the region provide persistent interdiction through presence, can conduct maritime counterpiracy operations, and shall coordinate counterpiracy activities with other forces to prevent, respond to, and disrupt pirate attacks. Since the Combined Maritime Forces' counterpiracy task force was established in January 2009, the U.S. Navy has provided patrol ships, aircraft, surveillance assets, medical response units, as well as leadership for the international naval coalition conducting counter piracy operations in the Gulf of Aden and Indian Ocean. According to Defense officials, from June 2009 to June 2010, the U.S. Navy had an average of four to five ships present daily in the Horn of Africa, with two or three of those ships having embarked air assets. Defense officials told us as many as eight U.S. Navy ships could be present on any given day, with Navy ships supporting Combined Maritime Forces and North Atlantic Treaty Organization counterpiracy operations, and other maritime coalition and U.S. national efforts. For example, U.S. Marine Corps aviation units have provided support to counterpiracy operations during transits of the area and, according to agency officials, the Coast Guard has assigned deployable specialized forces and a cutter to the combatant commander to support counterpiracy operations. In addition, the Naval Criminal Investigative Service also supports maritime counterpiracy operations by providing special agents afloat to assist boarding teams and lead immediate investigations into piracy incidents on the high seas.

U.S., international, and industry officials credit the reduction in the rate of successful pirate attacks from approximately 40 percent in 2008 to 22 percent in 2009, in part, to international patrols in the Gulf of Aden. The U.S. military also initiated and contributes to tactical military coordination and information sharing with international partners through Shared Awareness and Deconfliction meetings that optimize patrol coverage of the transit corridor in the Gulf of Aden and aid with coordination of coalition and independently deployed counterpiracy forces. However,

coalition officials acknowledge U.S. and international forces face challenges in interdicting pirate incidents as pirates have adapted their tactics and expanded their area of activity to the much larger and harder-to-patrol Indian Ocean. Pirates have attacked several vessels more than 1,000 nautical miles from Somalia and now threaten an area of nearly 2 million square nautical miles. Analytic estimates from Defense officials show that full coverage of the area affected by piracy would require more than 1,000 ships equipped with helicopters—a level of support Defense officials say is beyond the means of the world's navies to provide. With current resources, Combined Maritime Forces officials estimate 25 to 30 international ships conduct counterpiracy patrols in the Horn of Africa at any given time. In addition, military officials noted it is hard to predict how long countries will sustain counterpiracy investments, since countries participate in Combined Maritime Forces patrols at will. The *Action Plan* also states that effective and prompt consequence-delivery mechanisms are critical to the success of interdiction efforts. However, challenges related to judicial capacity and securing prosecution venues may complicate interdiction efforts.

Some Progress Has Been Made in Supporting Shiprider Programs and Other Bilateral and Regional Counterpiracy Agreements and Arrangements

The U.S. government has discussed shiprider programs with several countries but no counterpiracy shiprider programs have been finalized for this region. The *Action Plan* calls for supporting and participating in the development of shiprider programs and other bilateral and regional counterpiracy agreements and arrangements. Shiprider arrangements would allow foreign law enforcement officials to operate from U.S. naval vessels and facilitate the prosecution of suspected pirates. For example, shipriders from the country that would prosecute suspected pirates would be able to arrest the suspects and collect evidence directly, thereby facilitating the prosecution of the suspected pirates.

According to officials at State, they determined, in discussion with Kenyan officals, that a shiprider program would not facilitate prosecution of suspected pirates in Kenya because Kenyan law requires suspects to be presented before a magistrate within 24 hours of being taken into custody by a Kenyan official, including a shiprider. This requirement would be challenging to meet when suspected pirates are interdicted far out in the Indian Ocean. A shiprider provision was therefore not included in the prosecution arrangement facilitating transfer of suspects between the United States and Kenya for prosecution. According to officials at State, the Seychelles has a similar law and therefore a shiprider provision was not included in its arrangement with the United States. While State and Justice officials told us there are ongoing discussions regarding arrangements with other countries, such as Mauritius and the Philippines,

the U.S. government faces challenges in finding willing partners for such programs. Officials acknowledged that shiprider programs may not be as beneficial for counterpiracy efforts as the authors of the *Action Plan* intended.

The U.S. government also has been involved in the International Maritime Organization's effort to conclude a regional arrangement, called the Djibouti Code of Conduct. This arrangement includes sections that address topics similar to those addressed in the *Action Plan*. For example, the code contains provisions related to information sharing regarding pirate activity, reviews of national legislation related to piracy, and the provision of assistance between the signatories. The code also includes a section addressing the possibility of using shipriders. Coast Guard and State officials were involved in the development of the code and have also expressed support for implementing elements of the code.

Little or No Progress Has Been Made to Disrupt and Dismantle Pirate Bases Ashore

The U.S. government has not taken any action toward disrupting and dismantling pirate bases ashore, for a number of reasons including that the President has not authorized this action, the United States has other interests in the region that compete for resources, and long-standing concerns about security hinder the presence of U.S. military and government officials in Somalia. The *Action Plan* states that piracy at sea can be abated only if pirate bases ashore are disrupted or dismantled. Additionally, the plan states that the appropriate authority to disrupt and dismantle pirate bases ashore has been obtained from the United Nations Security Council and Somali authorities, and states that the United States will work with concerned governments and international organizations to disrupt and dismantle pirate bases to the fullest extent permitted by national law. However, as of April 2010, such action had not been authorized by the President. In addition, Somalia has lacked a functioning central government since 1991. Further, the United States closed its embassy in Mogadishu in 1991, and there is currently no official U.S. military or civilian presence in that country. While the international community, including the United States, continues to provide humanitarian and development assistance to Somalia, challenges have limited efforts to establishing peace, security, stability, and an effective and functioning government. According to officials at State and Defense, U.S. agencies allow travel to Somalia; however, general practice has severely limited the U.S. presence in Somalia since 1994. Furthermore, State officials told us that there has been no recent travel to Somalia other than a short trip by a senior official made in February 2008. Defense and State officials said that the United States has a number of other higher

priority interests in Somalia and in the region, which compete for military and civilian resources and that may ultimately affect counterpiracy decisions.

Some Progress Has Been Made toward Disrupting Pirate Revenue

While Treasury, State, and Justice have each taken steps to achieve some progress toward disrupting pirate revenue, challenges inhibit further implementation of this task. The *Action Plan* states that the U.S. government will coordinate with all stakeholders to deprive pirates and their supporters 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. Treasury served as the lead agency for implementing an executive order signed by the President in April 2010 that blocks all property or interests in property within U.S. jurisdiction of any persons that are listed in the order and allows for designation of other persons that threaten the peace, security, or stability of Somalia, including those who support or engage in acts of piracy off the coast of Somalia. However, Treasury officials told us the order applies only to assets that pass through U.S. financial institutions or come into the possession or control of persons in the United States or U.S. citizens or permanent residents, which limits the potential effect of the executive order on piracy revenue. As a result, it is not clear the extent to which designating pirates in the executive order will achieve the goal of disrupting pirate revenue.

While officials told us the U.S. government has reserved the right to take enforcement action against private companies for paying ransoms to individuals designated in the executive order, only two pirates have been designated thus far. Representatives of the shipping industry have stated that ship owners have no viable option for rescuing crews being held hostage other than to pay ransoms, and they fear that a failure to pay ransoms could escalate pirates' violence against crew members. State and Treasury officials told us they have communicated to shipping industry representatives that Treasury and Justice have discretion to decide whether or not to take enforcement action for any violation of the order, and that a decision to take enforcement actions will depend on the facts of each case.

Treasury officials told us their efforts to disrupt pirate revenue also have been limited by the lack of sufficient information on pirate networks in Somalia and on the flows of pirate finances, including ransom payments. According to officials at State, the U.S. intelligence community has the

strongest understanding of pirate financing, but no U.S. agencies have dedicated resources toward the issue. Federal Bureau of Investigation (FBI) and State officials told us that information related to pirate organizations may be collected in the course of pursuing other U.S. interests in the area, but piracy is not among their top priorities and is unlikely to be assigned resources. As a result, according to FBI officials, the FBI Organized Crime Section is not working to build a case against pirate leaders and enablers. State officials described the need to better use intelligence to target efforts by the U.S. government and other stakeholders, but also acknowledged that the poor security situation in Somalia poses challenges for gathering the intelligence needed to disrupt pirate financing. Ultimately, officials from multiple agencies told us U.S. agencies face resource constraints in disrupting pirate financing given higher-priority concerns such as counterterrorism.

In addition, the absence of a formal financial sector in Somalia is a major challenge to filling intelligence gaps. Treasury officials stated that the lack of a formal financial sector in Somalia and the pirates' reliance on informal financial systems presents a challenge because many of the tools they normally would use to track financial activity are implemented through formalized financial systems.

State has taken several actions to raise the issue of pirate financing among international partners and to address misconceptions within the shipping industry about the U.S. position on ransoms. The U.S. government has helped elevate the issue of pirate financing within the Contact Group, including releasing a paper to participants. State and Justice also have worked with partner governments and international organizations, such as Interpol and the United Nations, to develop collaborative events linking experts on pirate financing, and sponsored a workshop in Kenya with the United Nations Office on Drugs and Crime that covered money laundering and organized crime.

Progress to 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

Some Progress Has Been Made toward Concluding Arrangements to Formalize Custody and Prosecution

The U.S. government has made some progress in concluding prosecution arrangements for Somali piracy cases, by securing prosecution arrangements with Kenya and the Seychelles, and is working toward similar arrangements with other countries. The *Action Plan* calls for the U.S. government to conclude agreements and arrangements to formalize custody and prosecution arrangements both in and outside the region. In January 2009, the U.S. government formalized an arrangement with Kenya to facilitate transfers of piracy cases from U.S. forces. The United States has transferred 24 suspected pirates to Kenya for prosecution, and Defense officials told us one conviction has been secured thus far. In July 2010, the U.S. government also concluded an arrangement with the Seychelles for transfers of piracy cases from U.S. forces. In addition, State officials said that discussions are ongoing with countries that have a regional or commercial interest in countering piracy, such as Mauritius, the Philippines, and Tanzania, and it is taking steps to conclude further arrangements. As of May 2010, according to agency officials, State had encouraged 17 countries to consider prosecution of suspected pirates. However, State officials told us that the lack of prosecution venues is a primary challenge to prosecuting pirates, which may undermine interdiction efforts. According to State and Justice officials, challenges to establishing prosecution arrangements include limited regional capacity and interest of states outside the region to prosecute suspected pirates.

In addition the relatively low rate of prosecutions contributes to the perception that pirates operate with relative impunity. As of June 2010, international forces had encountered more than 1,100 suspected Somali pirates since August 2008 but had delivered only approximately 40 percent to states for prosecution. Although Kenya announced its intent to withdraw from its arrangement with the United States in April 2010, that decision was later reversed, and more than 100 piracy cases were being processed through the Kenyan criminal justice system as of June 2010.

Some Progress Has Been Made to Support and Encourage the Exercise of Jurisdiction under the Convention for the Suppression of Unlawful Acts

The United States has made some progress in using the United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation[9] to exercise jurisdiction to prosecute suspected pirates, but this effort involves several challenges. The *Action Plan* calls for the United States to use—and encourage other countries to use—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, and states that the United States will urge other states party to the convention to use it as a vehicle for the prosecution of acts violating the convention. For example, the United States has exercised jurisdiction under the convention to prosecute one pirate in the United States. U.S. officials told us that State, Justice, Defense, and the Coast Guard have been involved in efforts, through the Contact Group and the International Maritime Organization, to encourage use of the Convention to prosecute suspects. However, U.S. agency officials cited hurdles to prosecuting pirates, such as limits to affected countries' willingness and capacity to prosecute pirates, and difficulties associated with collecting evidence in the maritime environment.

Some Progress Has Been Made to Support and Encourage the Use of Other Applicable International Conventions and Customary International Law

The United States has taken some steps to support and encourage the use of other applicable international conventions and customary international law as they relate to prosecuting piracy. The *Action Plan* calls for the U.S. government to support and encourage the use of relevant and appropriate jurisdiction through the framework of applicable international conventions, in addition to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, such as the 1979 Hostage Taking Convention, the 2000 Transnational Organized Crime

[9]Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1678 U.N.T.S. 221 (Mar. 10, 1988).

Convention, and the 1999 Terrorist Financing Convention, and customary international law. For example, the U.S. government has exercised jurisdiction over 11 suspected pirates who attempted attacks on the USS *Nicholas* in March 2010 and the USS *Ashland* in April 2010.

The *Action Plan* also anticipates ongoing discussion with other states on the possibility of an international court to prosecute suspected pirates, if necessary. However, the U.S. government does not support creation of a dedicated piracy court because of the amount of time, resources, and infrastructure that would be required. State officials said that the U.S. government is interested in solutions for challenges to prosecution, including the possibility of a hybrid court combining a piracy chamber within a national system. However, they said despite interest expressed by members of the Contact Group and other nations, no countries have offered their prosecutors or territories for use in establishing a dedicated international court.

Some Progress Has Been Made toward Enhancing Regional States' Capabilities to Accept Suspected Pirates for Prosecution, Extradition, and Incarceration

The Departments of Justice and State have achieved some progress in providing assistance to several regional countries, and the United States is contributing to international efforts to develop regional judicial capacity. The *Action Plan* calls for the United States to work with interested parties to identify the nature and scope of international assistance needed to enhance the capacities of regional states in connection with the arrest, detention, prosecution, and fair trial of persons accused of involvement in piracy, and to pursue bilateral programs to provide judicial capacity-building efforts. State has created an assessment tool to identify gaps in regional states' maritime capabilities including judicial capacity. The U.S. government provides support to regional partners for building judicial capacity. For example, the resident legal advisor at the U.S. Embassy in Nairobi has provided assistance to Kenya, Tanzania, and the Seychelles. This advisor, a position within Justice's Office of Overseas Prosecutorial Development, Assistance and Training but supported by State, told us he provided assistance in developing piracy cases, and helped develop guidance for U.S. forces on evidence collection and transferring piracy cases to Kenya. Naval Criminal Investigative Service special agents have testified in Kenyan courts, and provided counter-piracy training and operational support to officials in the Seychelles. In addition, the U.S. government, in conjunction with the United Nations Office on Drugs and Crime, has sponsored conferences focused on piracy for law enforcement and judges from countries in the Horn of Africa region.

Further, the United States has contributed $250,000 to the United Nations counterpiracy effort for regional capacity-building. In April 2010, the Contact Group board that administers a trust fund for prosecution issues, which includes the United States, approved $2.1 million for five projects primarily to support the prosecution of suspected pirates in Somalia and the Seychelles. However, Justice and State officials told us that regional states continue to have a limited capacity to prosecute suspected pirates and incarcerate convicted pirates. Although State officials said that they were attempting to include a funding request for future operations, in the current budget cycle, counterpiracy operations at State have no dedicated budget.

Appendix III: International and Shipping-Industry Partners Involved in Counterpiracy Efforts

Table 2: International Partners Involved in Counterpiracy Efforts

	Contact Group on Piracy off the Coast of Somalia	New York Declaration signatories[a]	Djibouti Code of Conduct signatories[b]	Combined Task Force 151	North Atlantic Treaty Organization—Operation Ocean Shield	European Union Naval Force Somalia—Operation Atalanta	Independent deployers	Countries prosecuting suspected pirates
Australia	✓			✓				
Austria	✓							
Bahamas	✓	✓						
Bahrain				✓				
Belgium	✓					✓		
Canada	✓							
China	✓						✓	
Comoros			✓					
Cyprus	✓	✓				✓		
Czech Republic	✓							
Denmark	✓			✓				
Djibouti	✓		✓					
Egypt	✓		✓					
Ethiopia	✓		✓					
Finland	✓					✓		
France	✓					✓		✓
Germany	✓				✓	✓		
Greece	✓				✓	✓		
India	✓						✓	
Indonesia	✓							
Iran							✓	
Ireland						✓		
Italy	✓				✓	✓		
Japan	✓	✓					✓	
Jordan				✓				
Kenya	✓		✓					✓
Republic of Korea	✓	✓		✓				
Liberia	✓	✓						
Lithuania	✓							
Luxemburg						✓		

	Contact Group on Piracy off the Coast of Somalia	New York Declaration signatories[a]	Djibouti Code of Conduct signatories[b]	Combined Task Force 151	North Atlantic Treaty Organization—Operation Ocean Shield	European Union Naval Force Somalia—Operation Atalanta	Independent deployers	Countries prosecuting suspected pirates
Madagascar			✓					
Malaysia	✓						✓	
Maldives			✓					✓
Malta						✓		
Marshall Islands	✓	✓						
Mauritius	✓							
Mexico	✓							
Morocco	✓							
Netherlands	✓				✓	✓		✓
Nigeria	✓							
Norway	✓					✓		
Oman	✓							
Pakistan	✓			✓				
Panama	✓	✓						
Portugal	✓							
Russia	✓						✓	
Saudi Arabia	✓		✓				✓	
Seychelles	✓		✓				✓	✓
Singapore	✓	✓		✓				
Somalia TFG	✓		✓					✓
Spain	✓				✓	✓		✓
Sudan			✓					
Sweden	✓					✓		
Tanzania			✓					
Thailand				✓				
Turkey	✓			✓	✓			
Ukraine	✓							
United Arab Emirates	✓							
United Kingdom	✓	✓		✓	✓	✓		

	Contact Group on Piracy off the Coast of Somalia	New York Declaration signatories[a]	Djibouti Code of Conduct signatories[b]	Combined Task Force 151	North Atlantic Treaty Organization—Operation Ocean Shield	European Union Naval Force Somalia—Operation Atalanta	Independent deployers	Countries prosecuting suspected pirates
United States	✓	✓		✓	✓			✓
Yemen	✓		✓				✓	✓

Source: GAO.

[a]Other countries occasionally contribute to Standing North Atlantic Treaty Organization Maritime Group 2, the North Atlantic Treaty Organization group implementing Operation Ocean Shield.

[b]The Djibouti Code of Conduct is open for signature by the 21 countries in the region. As of March 2010, 13 countries had signed the Code of Conduct.

Contact Group on Piracy off the Coast of Somalia

In January 2009, the Contact Group on Piracy off the Coast of Somalia (Contact Group) was formed in response to United Nations Security Council Resolution 1851 to facilitate discussion and coordination of actions among countries and organizations working to suppress piracy off the coast of Somalia. The participating countries established four working groups in which all Contact Group parties may participate. Working Group 1 addresses activities related to military and operational coordination and information sharing and the establishment of the regional coordination center, and is chaired by the United Kingdom with the support of the International Maritime Organization. Denmark chairs Working Group 2, which addresses judicial aspects of piracy with the support of United Nations Office on Drugs and Crime. The United States chairs Working Group 3 to strengthen shipping self-awareness and other capabilities, with the support of the International Maritime Organization. Egypt chairs Working Group 4 which focuses on improving diplomatic and public-information efforts on all aspects of piracy. As of June 2010, 49 countries, 7 international organizations, and 3 industry observers participate in the Contact Group.

New York Declaration

First open for signature in May 2009, the New York Declaration is a commitment by countries to promulgate the internationally recognized best management practices for self-protection to vessels on their registry and ensure that vessels on their registry have adopted and documented appropriate self-protection measures. As of July 2010, 10 countries had signed the declaration.

Djibouti Code of Conduct

The Djibouti Code of Conduct recognizes the problem of piracy and armed robbery against ships in the Horn of Africa region. Signatories declare their intention to cooperate to the fullest extent possible, consistent with their available resources and related priorities, their respective national laws and regulations, and international law in the repression of piracy and armed robbery against ships. Among other things, under the code, participants should set up national focal points to facilitate coordinated, timely, and effective flow of information about piracy and armed robbery against ships. Additionally, according to the code, each participant intends to review its national legislation to ensure it has laws in place to criminalize piracy and armed robbery against ships and adequate provisions for the exercise of jurisdiction, conduct of investigations, and prosecution of alleged offenders. The code is open for signature by the 21 countries in the region and, as of March 2010, 13 of the 21 countries had signed.

Combined Maritime Forces and Combined Task Force 151

Under the leadership of the commander of the U.S. Naval Forces Central Command and U.S. 5th Fleet, the Combined Maritime Forces is a 25-nation coalition that is focused on countering terrorism, preventing piracy, reducing illegal trafficking of people and drugs, and promoting safety of the maritime environment. Established in 2002, the Combined Maritime Forces patrol more than 2.5 million square miles of international waters to conduct both integrated and coordinated operations. Additionally, the Combined Maritime Forces conducts maritime security operations in the Arabian Gulf, Red Sea, Gulf of Oman, and parts of the Indian Ocean. This expanse includes three critical points in high-risk waters at the Strait of Hormuz, the Suez Canal, and the Strait of Bab al Mandeb at the southern tip of Yemen.

In January 2009, the Combined Maritime Forces established Combined Task Force 151 with the sole mission of conducting counterpiracy operations in the Gulf of Aden and the waters off the Somali coast in the Indian Ocean. This is a multinational naval task force made up of countries willing and able to participate in counterpiracy operations. So far, 11 countries have contributed forces to Combined Task Force 151 and several others that have agreed to send ships or aircraft or both to participate in counterpiracy operations.

North Atlantic Treaty Organization—Operation Ocean Shield

Operation Ocean Shield is the North Atlantic Treaty Organization's contribution to international efforts to combat piracy off the Horn of Africa. This operation builds on the North Atlantic Treaty Organization's previous counterpiracy operations which began in late 2008 when the North Atlantic Treaty Organization began providing escorts to United Nations World Food Programme vessels transiting the high-risk waters off the Horn of Africa. The North Atlantic Council approved Operation Ocean Shield in August 2009. This operation focuses on at-sea counterpiracy operations, support to the maritime community to take actions to reduce incidents of piracy, as well as regional-state counterpiracy capacity building. This operation is designed to complement the efforts of existing international organizations and forces operating in the area. This operation is being implemented by the Standing North Atlantic Treaty Organization Maritime Group 2, made up of vessels from eight different member countries that routinely contribute to the group and other countries that occasionally contribute.

European Union Naval Force Somalia—Operation Atalanta

The European Union is conducting Operation Atalanta to help deter, prevent, and repress acts of piracy and armed robbery off the coast of Somalia. This operation began in late 2008 following the adoption of Resolutions 1814, 1816, 1838, and 1846 by the United Nations Security Council. The operation's objectives are to protect World Food Programme vessels, humanitarian aid, and African Union Military Mission in Somalia shipping; help deter, prevent, and repress acts of piracy and armed robbery; protect vulnerable shipping; and monitor fishing activities off the coast of Somalia. This operation is being implemented by 14 countries with operational support provided by a team at the Northwood Operation Headquarters. Operation Atalanta has been extended by the European Council until December 2012.

Independent Deployers

Independent deployers are countries that are not part of the coalition forces. These countries deploy naval forces to the region under national auspices to escort their ships through high-risk waters and to monitor counterpiracy operations, and may coordinate with coalition patrols.

Countries Prosecuting Suspected Pirates

Although the *Action Plan* considers piracy to be a universal crime that any country can prosecute, in practice, most countries, including the United States, will consider prosecuting suspected pirates in appropriate cases when it is in their national interest to do so. A single piratical attack often affects the interests of numerous countries, including the country in which the vessel is flagged, the various countries of nationality of the seafarers taken hostage, regional coastal countries, the country of the vessel or cargo owner, and transshipment and destination countries.

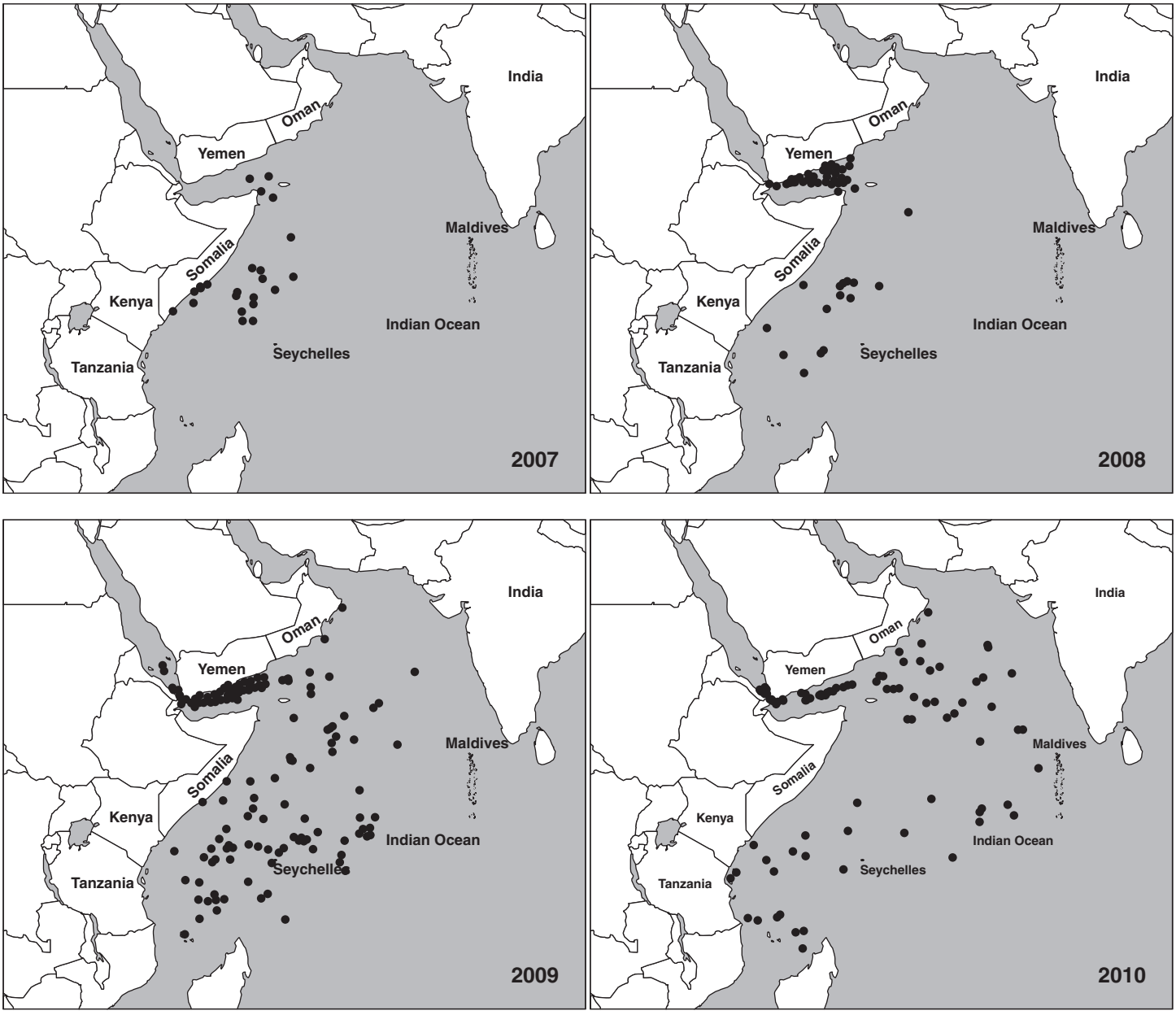
Shipping-Industry Partners

Various organizations representing interests of the shipping industry have been involved in efforts to prevent or respond to piracy off the Horn of Africa. For example, the 12 shipping industry organizations actively involved in the development of the "Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia" represent the interests of ship owners, seafarers, marine insurance companies, and others, and included: the International Association of Independent Tanker Owners, International Chamber of Shipping, Oil Companies International Marine Forum, Baltic and International Maritime Council, Society of International Gas Tanker and Terminal Operators, International Association of Dry Cargo Shipowners, International Group of Protection and Indemnity Clubs, Cruise Lines International Association, International Union of Marine Insurers, Joint War Committee & Joint Hull Committee, International Maritime Bureau, and International Transport Workers Federation.

Appendix IV: Successful and Attempted Pirate Attacks off the Coast of Somalia, January 2007 to June 2010

Pirates have expanded their area of operations with an increasing number of attacks occurring in the Indian Ocean, an area much larger than the Gulf of Aden. Defense officials report that pirates now threaten an area of nearly 2 million square nautical miles in the Somali Basin and Gulf of Aden. Figure 11 shows the number and location of pirate attacks off the Horn of Africa reported to the International Maritime Bureau in 2007, 2008, 2009, and the first half of 2010.

Figure 11: Successful and Attempted Pirate Attacks off the Coast of Somalia, January 2007 to June 2010



Source: GAO analysis of International Maritime Bureau data (data); Map Resources (map).

Appendix V: Comments from the Department of Defense

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SPECIAL OPERATIONS/
LOW-INTENSITY CONFLICT
& INTERDEPENDENT CAPABILITIES

SEP -9 2010

Mr. John Pendleton
Director
Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Pendleton:

Thank you for the opportunity to review the U.S. Government Accountability Office (GAO) draft report GAO-10-856, "Maritime Security: Actions Needed to Assess and Update Plan and Enhance Collaboration among Partners Involved in Countering Piracy off the Horn of Africa," dated September 2010.

We noted in our technical comments several areas whereby the significant contributions of the Naval Criminal Investigative Service (NCIS) to our counter-piracy efforts could be depicted more accurately. The Department does not agree that using percent of seized suspected pirates who were delivered for prosecution is an appropriate measure of program success. The metric does not take into account that fact that it is up to individual countries within the coalition to determine the validity of the evidence to determine whether to prosecute. Additionally, it should be noted that U.S. Special Operations Command does not conduct counter-piracy operations.

Your consideration of these comments is appreciated.

Sincerely,

William F. Wechsler
Deputy Assistant Secretary of Defense
Counternarcotics and Global Threats

Appendix VI: GAO Contacts and Staff Acknowledgments

GAO Contacts

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