



**TENTH REPORT FROM THE FOREIGN AFFAIRS COMMITTEE
OF SESSION
2010-12**

PIRACY OFF THE COAST OF SOMALIA

**RESPONSE OF THE SECRETARY OF STATE FOR FOREIGN
AND
COMMONWEALTH AFFAIRS**

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty*

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PIRACY OFF THE COAST OF SOMALIA

RESPONSE OF THE SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

The Government welcomes the Foreign Affairs Committee's inquiry into "Piracy off the coast of Somalia" and the findings set out in the Committee's report published on 5 February 2012.

Since the Committee's report was published, the UK has hosted the London Conference on Somalia, on 23 February 2012. Under the Prime Minister's leadership, the Conference was a further demonstration of the UK's leading international role in focusing the international community on how we can promote peace and stability in Somalia to address the underlying causes of terrorism, piracy, famine and conflict. The Conference agreed a comprehensive programme of action (see Annex B). Particular progress was made in counter-piracy, where further agreements to improve the regional criminal justice system were put in place to enable pirates captured by naval forces to be prosecuted and imprisoned in the region. The Conference also gave a clear commitment to target all elements of the piracy business model, including a focus on the kingpins of piracy, and the strength of the commitment between industry and Governments in tackling the scourge of piracy.

Before the Conference, the Government hosted an industry event on piracy on 21 February and co-sponsored a counter-piracy messaging workshop on 15/16 February. Each of these events made important contributions towards the Government's efforts in tackling the scourge of piracy, and supported our ultimate objective to bring an end to piracy off the coast of Somalia.

The Government welcomes the detailed work which the Committee has undertaken. This Command Paper sets out our response to each contribution. The Committee's recommendations are in bold and the Government's response is in plain text. Headlines and paragraph numbers refer to those in the 'Conclusions and Recommendations' section of the Committee's Report.

Impact of piracy off the coast of Somalia

- 1. Piracy off the coast of Somalia has escalated over the last four years and is a major concern for the UK. The threat is not primarily to UK ships as very few have been captured. Rather, the threat is to the UK's economy and security. Piracy affects the UK's banking, insurance and shipping industries, and threatens the large volume of goods which are transported to the UK by sea. In**

light of these concerns, and as a state whose strengths and vulnerabilities are distinctly maritime, the UK should play a leading role in the international response to piracy. (Paragraph 20)

We agree with the Committee's assessment that piracy remains a threat to UK economic and security interests; that up to 30% of the world's oil supply passes through the Suez Canal every day demonstrates the potential that piracy holds for disruption. Although it is true that few UK ships have been captured thus far, we judge that it is necessary to remember the potential risks of piracy to the UK shipping industry. The Report's recommendation that the UK should play a leading role in the international response to piracy is a fair reflection of the UK's current efforts in this field, and the Government welcomes the Committee's endorsement of our resolve.

Response from Industry: self defence

- 2. We commend the maritime industry's work on Best Management Practices and note their success in reducing ships' vulnerability to attack. (Paragraph 24)**
- 3. We conclude that the Government should engage with the shipping industry to explore options for the industry to pay for vessel protection detachments of British naval or military personnel on board commercial shipping. (Paragraph 25)**

The Government echoes the Committee's commendation to industry in reducing ships' vulnerability to attack. The importance of implementing Best Management Practices for each and every voyage through the high risk area cannot be overstated, and the Government is proud of the very high level of compliance amongst UK shipping.

We do not agree with the Committee's recommendation that there is an operational need to provide Vessel Protection Detachments (VPDs). The current military effort combined with Best Management Practices (BMP) self-protection measures by the merchant shipping community has proven to be successful in reducing the number of ships hijacked despite an increase in the number of attacks. It should also be noted that BMP advises ships transiting the high risk area to register with the appropriate military authorities so that military forces are best able to protect vessels as they transit the high risk area.

We acknowledge that other nations are providing VPDs, but the Government considers that a more effective response is to continue to focus Royal Navy assets' efforts on strategic deter and disrupt activities. This approach must be considered against the backdrop of wide ranging extant and enduring UK military commitments. Unless we find significant additional reason to do so, the MOD will not be providing military vessel protection detachments to commercial shipping in addition to those already provided to cargos of strategic national interest such as material destined for Op Herrick.

Additionally, the Government has recently changed its policy on allowing the use of private armed guards on UK-flagged vessels in exceptional circumstances when transiting the high risk area off the coast of Somalia: no ship with private armed security guards has ever been successfully pirated. The current military effort combined with BMP compliance by industry has reduced piracy's success rate significantly and continued effort will be required to maintain this position.

Private armed security guards

- 4. We recommend that the Government provide in its response to this report any assessment it has made of the likelihood of smaller vessels transiting the area, and to comment upon fears that pirates will increasingly focus attacks on smaller and less well-defended vessels and vessels carrying inflammable materials. (Paragraph 28)**

We note the Committee's request that we provide an assessment of the likelihood of smaller vessels transiting the high risk area. As highlighted in the report, the change in the Government's policy on private armed security guards is explicitly for the exceptional circumstances defined in DfT's interim guidance and for merchant vessels over 500 gross tonnes. We advise that smaller vessels should avoid this region for pleasure or sporting purposes. The UK Maritime Trade Operations has clear guidance available on its website for yachts wishing to enter the area, and the guidance is supported by the International Sailing Federation (ISAF). A Warning Notice, which is a joint production of the Maritime Security Centre (Horn of Africa) and ISAF, is available and has been distributed through UK and international sailing bodies. No UK fishing vessels are currently expected to enter the high risk area but the Government will consider the need for specific advice to be issued to UK fishing vessels to ensure they are aware of the extra precautions they should take in the region. Small vessels transiting the region could, where appropriate, also be considered for inclusion in international convoys through the International Recommended Transit Corridor.

The Committee also requested that the Government comment on fears of a "displacement" effect for less well-defended vessels or vessels carrying inflammable material. We have not, to date, seen evidence that our change in policy has resulted in such a "displacement" effect, and it is too soon to form a judgement about the potential level of such a risk. However, the Government will continue to monitor this situation as it develops.

- 5. We conclude that for too long the Government failed to respond to the urgent need for armed protection. However, we welcome the Prime Minister's recent announcement that the Government's position would be reversed and that private armed guards will be permitted on UK-flagged vessels. We agree that the evidence in support of using private armed security guards is compelling and, within legal limits and according to guidance, shipowners should be allowed to protect their ships and crew by employing private armed security guards if they wish to do so. (Paragraph 31)**

We welcome the Committee's comments, and agree that the change in policy on the use of private armed guards on UK-flagged vessels is both necessary and beneficial.

- 6. The Government should in its response to this report assess the risk that private armed security guards, and possibly the masters of ships on which they operate, might face extradition to another state following an incident involving the use of weapons, particularly where that state may not be able to assure a fair trial. The Government should set out the steps it intends to take to minimise this risk. (Paragraph 36)**

We agree with the Committee that, due to agreements with other States, it is in principle possible that private armed security guards and the masters of ships on which they operate might, through their actions, face the possibility of extradition to another State. However, any potential extradition request would need to satisfy the relevant safeguards in UK extradition legislation. The UK would not extradite any individual to another State if it would breach their human rights (including the right to a fair trial) under the European Convention.

- 7. We conclude that the guidance on the use of force, particularly lethal force, is very limited and there is little to help a master make a judgement on where force can be used. The Government must provide clearer direction on what is permissible and what is not. Guidance over the use of potentially lethal force should not be left to private companies to agree upon. We recommend that the change of policy be accompanied by clear, detailed and unambiguous guidance on the legal use of force for private armed guards defending a vessel under attack. This guidance should be consistent with the rules that would govern the use of force by members of the UK armed forces in similar circumstances, and should include:**

- **the circumstances in which private armed security guards faced with a clear threat of violence may respond with force, including lethal force, where proportionate and necessary, and**
- **examples of a "graduated response" to an attack, including confirmation that nothing in UK law or the CPS guidance requires a victim of pirate attack to await an aggressor's first blow before acting in self-defence.**

We recommend that the Government take this forward as a matter of urgency, as we understand that private armed guards are already being deployed on some UK-flagged vessels. (Paragraph 37)

Following the change in Government policy to allow the use of privately contracted armed guards on board UK flagged vessels, the Department for Transport published *Interim guidance to UK flagged shipping on the use of armed guards to defend against the threat of*

piracy in exceptional circumstances (“*Interim Guidance*”). This guidance includes a section on the use of force in case of an attack.

The Government will aim to issue revised guidance by the end of April to clarify further what the UK law says on the use of force, but it remains for companies to seek independent legal advice as necessary when developing guidance on the use of force. However, we are not able to provide further specific guidance on the rules on the use of force to the extent recommended by the Committee.

Merchant ships can be subject to multiple jurisdictions. On board a UK flagged vessel, persons are subject to UK domestic laws. In addition they may also be subject to different domestic jurisdictions and equivalent laws depending on the offence committed, the nationality of the person taking action, the person whom action is taken against and whether such an action takes place in international or territorial waters. Laws already exist governing the use of force, and it is for a court of law in a State which has jurisdiction over the conduct to determine whether the force used in the unique circumstances of a case was lawful within the relevant jurisdiction(s).

The Government does not provide legal advice to private individuals or companies and attempting to do so would risk complicating this issue further. Furthermore, the introduction of government-prescribed rules on the use of force would blur the distinction between private maritime security personnel as civilians only acting in the context of self-defence, and military personnel who may be authorised to use force for other reasons.

It must remain for shipping companies and private security companies to agree between themselves upon the guidance of use of force within which armed guards are to operate. The criminal law will continue to apply regardless of the guidance given by shipping and security companies. Companies which have the expertise to offer armed security guards should have produced a coherent security plan which includes predetermined guidance on the use of force.

At the international level, during work to draft *International Interim Guidance for Private Maritime Security Companies* this issue has been considered in some detail. As a result, this concept of force only being justified in incidents of self-defence has been clarified with industry, international partners and legal colleagues. This guidance will be discussed by the IMO in May and will provide a framework for national guidance and accreditation processes.

8. We recommend that the Government work with the naval operations to issue clear guidance for private armed guards on what to do in the event of a naval intervention, and to provide the Committee with a copy of this guidance in its response to this report. (Paragraph 38)

We agree with the Committee that there is a need for private armed guards to be aware of how best to act in the event of a naval intervention. Existing Best Management Practices (BMP) for ships transiting the Gulf of Aden and off the coast of Somalia contains some

guidance on interaction with naval forces for ships' masters and crew which by extension covers private security personnel employed by a shipping company. In accordance with BMP reporting procedures, naval operations should be aware at all times of the location of ships carrying such teams and communication will remain open.

In addition to this, the Government will encourage the coalitions with whom we act (the EU's Op Atalanta, NATO's Op Ocean Shield and the US led Combined Maritime Force) to issue clear guidance for private armed guards on the appropriate actions in the event of a naval intervention.

The Government will inform the development by the Aerospace, Defence and Security Trade Association (ADS) of UK standards for maritime private security companies, which is covered in more detail under the next recommendation's response.

9. We conclude that it is vital to ensure that armed guards are properly trained and deployed in sufficient numbers. We urge the Government in its response to this report quickly to bring forward proposals for a national regulatory structure (whether governmental or industry based self-regulation) that would provide a measure of quality assurance. (Paragraph 40)

We agree that there is a need to ensure that appropriate regulatory structures are put in place for private maritime security firms. This is why, in a Written Ministerial Statement on 21 June 2011, we announced the appointment of ADS (Aerospace, Defence and Security) as our industry partner in developing and implementing UK national standards for private security companies working in complex or high risk areas. The ADS-initiated and industry-led Security in Complex Environments Group is currently drafting UK standards for these companies that will be used to audit and certify British companies' compliance with the principles of the International Code of Conduct for Private Security Service Providers. A public consultation exercise on the draft standards for both land-based and maritime companies will take place during summer. We intend that the Government should play a role in selecting independent certification bodies that can audit companies against the standards that the Group introduces. We hope that the process of agreeing standards and appointing independent certification bodies will be complete by the end of 2012.

10. We conclude that the Government should take a more proactive approach to facilitate an effective and safe legal regime for the carriage and use of weapons for the purposes of deterring piracy. We recommend that the Government actively engage with port and coastal states surrounding Somalia to establish an agreement on the carriage and transfer of weapons by private armed guards so that they can be securely removed from vessels once they have exited the high risk area. (Paragraph 43)

The Government has introduced an Open General Trade Control Licence which will make it easier for UK companies to move weapons from country to country to provide private armed

maritime security to ships off the coast of Somalia. This has been introduced with a view to making the licensing procedure less bureaucratic, whilst maintaining strict conditions to ensure the appropriate use of weapons; we are taking a rigorous approach to each instance where a company applies to export arms equipment. Indeed, the UK operates one of the most rigorous arms export control regimes in the world and each licence application is considered against the Consolidated EU and National Arms Export Licensing Criteria. Companies wanting to use this new Open Licence must register their intent and should the company fail to satisfy any of the conditions or requirements of the licence then the Government could suspend or withdraw permission to use the Open Licence. The conditions include a requirement that weapons may only be stored on land in designated secure armouries. A simpler, non-bureaucratic process should lead to better compliance rates and mean that we are able to increase our awareness of companies' actions. The UK's anti-money laundering legislation allows companies to seek consent from SOCA to ensure that they are not undertaking an act that could constitute a money-laundering offence.

Those companies operating under either a section 5 authority or an Open General Licence will be required to respect and operate within the laws of the coastal States, made in conformity with the provisions of the 1982 United Nations Convention on the Law of the Sea and other rules of international law, through whose territorial seas, internal waters or ports they are passing. We recognise the concerns of these States at the high number of weapons passing through their ports but also the operational burden this places on companies and are working closely with industry and coastal States through the IMO to address these issues.

Naval response: policing the Indian Ocean

- 11. We conclude that a unified command structure, while it may be the ideal, is of a lower priority than securing the widest possible international participation in counter-piracy operations in the Indian Ocean and the Gulf of Aden, and the maximum number of assets patrolling the waters. The Government should be rigorous, however, in eliminating any duplication between operations.
(Paragraph 47)**

We agree with this recommendation, and we continue to work with our international partners to ensure that participation in counter-piracy operations in the region is as wide as possible. As the Committee recognises, there is already strong coordination between military counter piracy forces. Cooperation with the merchant community and other nations (including China, Russia and Republic of Korea) that deploy independent forces to the Indian Ocean has also increased significantly. Through the Shared Awareness and De-confliction mechanism and the significant UK national commitments, the MOD is able to monitor the efforts of international counter-piracy operations to help ensure unity of effort and to avoid duplication wherever possible.

- 12. We conclude that naval forces have so far been unable to make the oceans safe from Somali piracy. Recognising that a substantial increase in conventional**

naval and air assets is unlikely, we urge the Government to think of novel ways of detecting skiffs and thus improving response times to incidents in Indian Ocean, by exploring technologies such as micro satellite surveillance and/or lighter than air persistent wide area surveillance, such as that being developed by US forces for Afghanistan. (Paragraph 52)

We agree that the presence of naval forces alone has not eliminated the scourge of piracy off the coast of Somalia. This demonstrates the need to pursue alternative, non-military counter-piracy strategies in parallel, though the international naval response has played an important role in reducing the threat of piracy in the region.

We also agree that it is important to consider all available means by which we can maintain situational awareness of all pirate activity at sea and in the littoral environment. The MOD has recently reviewed a comprehensive set of options for enhancing the UK's contingent Intelligence Surveillance Targeting and Reconnaissance (ISTAR) capability which should also be able to contribute to Counter Piracy missions. This initiative will offer greater surveillance agility across a wide spectrum of current and future military or cross government operations. We are aware of other "novel" technologies and understand what they could contribute to enhancing our layered ISTAR capability, but these will need to be considered alongside our current committed programme and future planning rounds.

13. We conclude that the cautious approach to military operations when hostages are involved is appropriate and agree that protecting the safety of hostages is paramount. However, if the use of violence against hostages continues to increase this may change the balance of risk in favour of military intervention in the future. (Paragraph 54)

We agree with this recommendation. It is sensible to retain our existing policy whereby all activities involving hostages are evaluated on a case by case basis, and undergo careful scrutiny before decisions are made. Where the lives of our nationals are threatened in any way we are prepared to respond appropriately and proportionately by whatever means necessary.

14. Implementation of the Strategic Defence and Security Review (SDSR) is not a matter for us, but we urge the Government to continue to provide at least one vessel to counter piracy operations at all times, and to host the European Union Naval Force Somalia (EUNAVFOR) and NATO HQs at Northwood for the life of those operations. We recommend that in its response to this report the Government comment upon concerns expressed by the UN Contact Group on Piracy off the Coast of Somalia that the provision of military forces is likely to fall short. (Paragraph 57)

We note the report's suggestion that the UK considers a long term substantial commitment to counter-piracy military operations. The UK's commitment to counter-piracy military

operations are considered within the global strategic context. Nevertheless, the UK does intend to provide two frigates or destroyers to Middle East maritime security operations on an enduring basis, one of which will be available for either counter terrorism or counter piracy duties dependent on relative threat levels, availability of other assets, intelligence and seasonal conditions. Our current intent is to continue to offer Northwood as the EU's Operational headquarters for at least the next phase of EUNAVFOR's mandate.

We recognise the concerns of the Contact Group on Piracy off the Coast of Somalia, which is why we are using our leading role as the chair of the Working Group responsible for military operational coordination to work with our international partners to ensure that the provision of counter-piracy military forces in the region does not fall short.

15. We recommend that the Foreign Office provide in its response to this report an update on the Italian prosecution against the pirates captured by UK forces following their successful boarding of the hijacked ship the Monte Cristo. (Paragraph 62)

Fifteen people were detained by UK forces following the Monte Cristo incident, of which two were Pakistani citizens not involved in the hijacking and four were juveniles referred to the competent juvenile justice authorities in Italy. The 9 remaining Somali citizens are being prosecuted by the authorities in Rome. The judge has granted a "giudizio immediato" procedure: a quicker trial procedure which does not involve a preliminary hearing and effectively means that the defendants go straight to trial. The first trial hearing will take place on 23 March in front of the first instance jury court ("Corte di Assise") in Rome; this is the court that deals with the most serious criminal cases. One of the suspects has requested an abbreviated trial procedure which would be based on written evidence with no witnesses called. The judge has not yet ruled on whether or not to grant this request.

We expect that the trials will take place over a number of hearings. This will probably last a number of months as trials do not normally take place on consecutive days in Italy.

16. We conclude that simply returning suspected pirates to their boats or to land, while it may temporarily disrupt their activities, provides little long term deterrence and has demonstrably failed to prevent an annual increases in both the number of pirates going to sea and in the number of attacks. We urge the Government to keep naval forces' Rules of Engagement under regular review to ensure that they can respond flexibly to changes in the pirates' tactics. (Paragraph 63)

The Government agrees that, whilst it has a significant disruption effect, "catch and release" is an unsatisfactory outcome. Therefore, we have focused on addressing the challenges of evidence collection and of regional prosecution in our counter-piracy approach. It has been UK's consistent position that securing robust evidence is an important step to securing successful prosecutions. We are supportive of and will be contributing to an assessment (with

the assistance of naval coalitions, States in the region and the Contact Group on Piracy off the Coast of Somalia's Working Group 2) to help determine the number of piracy incidents in which suspected pirates are apprehended but released, and the reasons underlying the releases. We envisage this work contributing to an update on the guidance concerning evidence collection to the naval forces.

The CPS is working with regional States to develop more consistent and attainable rules on the evidence required for a piracy prosecution. Training is provided to officers on EUNAVFOR vessels regarding the evidential rules and requirements of Seychelles law, the local practices and procedures of Seychellois courts and how they relate to piracy offences. The CPS has also provided training on best practice in prosecutions and investigations of piracy offences to members of the judiciary in Mauritius on piracy trials, Mauritian police on piracy investigations and prisoner transfers and also to anti-piracy police officers from Kenya, Tanzania, Madagascar and Mauritius. They have also advised the Mauritian Attorney General on proposed legislative reform to enable the prosecution of acts of piracy committed outside their Exclusive Economic Zone, which is an essential pre-requisite to enable them to prosecute piracy offences. Witness testimony via video link is used wherever possible but this option is not always available to prosecutors because of logistical or legal problems.

Over the course of the London Conference on Somalia, we made significant progress on regional prosecution, with a new agreement between the UK and Tanzania to transfer suspected pirates for prosecution, and a commitment from Mauritius to finalise negotiations on a similar agreement by June. Also, the Seychelles and Somaliland recently agreed to finalise the first transfer of prisoners back to Somaliland under their existing prisoner-transfer agreement. Prison capacity is a key concern of states accepting suspected pirates for prosecution, and the Government has taken a leading role in helping to develop capacity in that area, by providing almost £9 million to the UN Office on Drugs and Crime in 2011 for prison and judicial capacity building in the region. The agreement to allow the first transfer of prosecuted pirates back to Somaliland is vital to facilitate other regional states to accept more cases for prosecution. This latest progress brings us a step closer to establishing a network of prosecution centres that create a conveyor belt from detention at sea to prosecution in the region to imprisonment in Somalia.

We agree that the effectiveness of our counter-piracy tactics requires on-going review, which the MOD does regularly. As the UK operates with a number of international partners on counter-piracy operations, operational tactics are regularly discussed with our international partners. The EU is in the final stages of agreeing to extend mandate of its Operation Atalanta to December 2014, and is reviewing its area of operations in order to respond effectively to the threat of pirate activity. Subject to the agreement of Parliament scrutiny, we expect this to be agreed by EU Agricultural Ministers on Monday 19 March. This marks a significant development in the international community's ability to respond to the changing nature of the pirates' tactics.

International Coordination

- 17. We conclude that the profile of international efforts needs to be raised further. We welcome the Prime Minister's announcement that the UK will host an international conference and recommend that in its response to this report, the Government provide further information on the conference, including details of who will be invited and what it expects to achieve. (Paragraph 69)**

We agree with the Committee's assessment that the profile of international efforts needs to be raised further, and it was for exactly this reason that the Prime Minister called the London Conference on Somalia on 23 February. The Conference brought together 55 delegations representing over 40 countries, with international organisations and Somali leaders. It agreed a new action-oriented international approach to Somalia and injected important momentum into the political process. It also agreed: to help develop Somali security and justice structures; measures to bring pirates to justice and target pirate financiers; to step up action against terrorists; to increase support to local areas of stability to build legitimate and peaceful authorities, and improve services to people living in those areas; to sustain efforts to end famine; and to improve international coordination on Somalia. In addition, the UN Security Council on 22 February agreed an increased support package for AMISOM to enable it to move outside Mogadishu. Following the Conference, the UK will continue to galvanise international action on Somalia and ensure that Conference commitments are implemented.

The Conference marked a number of achievements in counter-piracy. There was international support for the UK initiative to establish a Regional Anti-Piracy Prosecutions Intelligence Coordination Centre in the Seychelles, which will benefit from contributions from the Netherlands and other international partners. Somaliland agreed to accept pirate transfers from the Seychelles, and the UK signed a Memorandum of Understanding with Tanzania to allow for the transfer of suspected pirates for prosecution. The UK, alongside four countries in the region – the Seychelles, Mauritius, Tanzania and Kenya – signed a Statement of Principles on regional burden sharing, demonstrating the strength of the collective regional desire to contribute to counter piracy efforts. The International Maritime Organisation agreed to enhance its information provision on the welfare of seafarers, and the Contact Group on Piracy off the Coast of Somalia has committed to providing further guidance on the use of private armed guards. There was also agreement from the shipping industry to contribute towards the funding of the UN Development Programme's coastal community projects in Puntland.

Prior to the Conference the Minister for Africa, Henry Bellingham MP, wrote to the Foreign Affairs Committee to provide information on the Conference. This was because he was keen to ensure that the FCO responded to the Committee's request for more information on the Conference as per this recommendation. Following the Conference, the Foreign Secretary

provided a Written Ministerial Statement to both Houses of Parliament on the 27 February. This Statement set out in more detail what was achieved over the course of the Conference, and is annexed to this response.

The UK's comprehensive response: cross-departmental coordination

- 18. We conclude that the Government's comprehensive approach to tackling the problem of Somali piracy aimed at solutions on land and at sea is the correct one. However, we recommend that the FCO provide in its response to this report a statement clarifying which department is responsible for each aspect of the Government's response to Somali piracy, and which department has the overall lead on the UK's response to piracy off the coast of Somalia. (Paragraph 73)**

The Government welcomes the Committee's endorsement of our comprehensive approach to tackling the problem of piracy.

The Committee also asked for a clarification as to the division of responsibilities within Government. The overall lead for coordinating UK Government action on piracy off the coast of Somalia lies with the FCO. Leads on different policy areas within this are shared between government departments. Principally, these are as follows: the Department for Transport leads on engagement with the shipping industry, compliance of UK flagged vessels with Best Management Practices and the guidance to shipping companies on the use of private armed guards for counter piracy purposes; the Home Office leads on the issuing of section 5 authorities under the Firearms Act; the Ministry of Defence leads on the military response to piracy; the FCO leads on international coordination, regional capacity building (including prosecutions), work to undermine the piracy business model, ransom payments linked to piracy, the provision of travel advice and UK consular cases; and the Department for International Development leads on longer term development, such as employment creation .

Bringing Pirates to Justice

- 19. We conclude that gathering evidence to secure a successful prosecution for piracy is challenging. However, not all claims made by the Government about the difficulty in securing evidence were wholly convincing: when pirates are observed in boats with guns, ladders and even hostages, it beggars belief that they cannot be prosecuted, assuming that states have the necessary laws in place and the will to do so. We urge the Government to pursue alternative means of securing suitable evidence (such as photos or video recordings of pirates with equipment, and supplying witness testimony by videolink). We urge the Government to engage with regional states to agree consistent and attainable rules on evidence required for a piracy prosecution. (Paragraph 81)**

The Government agrees that we should be pursuing smart evidence-gathering methodologies. The issue, however, is not simply a matter of securing sufficient evidence; more important is ensuring that there is sufficient ability and willingness in the region to act upon prosecutable evidence. This is why the Government made this a key objective for the London Conference on Somalia, and the Government signed a Statement of Principles on Regional Burden Sharing with Kenya, Mauritius, Seychelles and Tanzania, a stated aim of which is to increase prosecution capacity in the region. The agreement paves the way for work the UK has been undertaking with international partners to look at the standards of evidence needed for prosecution in the region by engaging with regional directors of public prosecutions. It is also why this Government, alongside international partners, is establishing a Regional Anti-Piracy Prosecutions Intelligence Coordination Centre in the Seychelles. This centre will actively seek to gather actionable evidence for use in the prosecutions of piracy's leaders, financiers and enablers. Furthermore, the centre will work closely with the relevant regional and international authorities to ensure that, where possible, evidence is properly handled.

We also agree that there is a need to engage with regional States. The CPS is working with regional States to develop more consistent and attainable rules on the evidence required for a piracy prosecution. Training is provided to officers on EUNAVFOR vessels regarding the evidential rules and requirements of Seychelles law, the local practices and procedures of Seychellois courts and how they relate to piracy offences. The CPS has also provided training on best practice in prosecutions and investigations of piracy offences to members of the judiciary in Mauritius on piracy trials, Mauritian police on piracy investigations and prisoner transfers and also to anti-piracy police officers from Kenya, Tanzania, Madagascar and Mauritius. They have also advised the Mauritian Attorney General on proposed legislative reform to enable the prosecution of acts of piracy committed outside their Exclusive Economic Zone, which is an essential pre-requisite to enable them to prosecute piracy offences. Witness testimony via video link is used wherever possible but this option is not always available to prosecutors because of logistical or legal problems.

20. We recommend that the Government take steps to ensure that all aspects of international piracy are adequately covered by UK law. (Paragraph 84)

The Government takes the view that the offence of piracy is adequately covered in the law of England and Wales. The Government acknowledges that it is unusual to incorporate the offence of piracy through the common law rather than directly in statute. However the courts have accepted that piracy, due to its long history, is an exceptional case, and was recognised by the House of Lords in *R v Jones & others* [2006] UKHL 16.

The language of section 26 of and Schedule 5 to the Merchant Shipping and Maritime Security Act 1997 demonstrates that Parliament accepts that the common law offence is part of domestic law, and has built upon it, by incorporating the UN Convention on the Law of the Sea definition of piracy. The approach has the benefit of ensuring that the elements of the offence in international law are directly reflected in the domestic offence. Those elements would be sufficiently certain to cover the types of piratical activity on the high seas that we

are aware of off the coast of Somalia. In addition, there are a number of other offences which complement the offence of piracy, such as hijacking and hostage-taking over which the courts have extra-territorial jurisdiction.

21. We conclude that the Government was right to oppose the establishment of an extra-territorial Somali court as proposed in the Jack Lang report to try Somali pirates in a third country. We recommend that the Government set out in its response to this report its views on the more recent proposals for specialised anti-piracy courts established within regional states under ordinary national law. (Paragraph 92)

The Government agrees with this recommendation. We welcomed the January 2012 report of the UN Secretary General on specialized anti-piracy courts in Somalia and other States in the region, noting the report's finding that Somali authorities continue not to favour the establishment of a Somali court outside the territory of Somalia, and the preference for new courts to be implemented within Somalia. The Government will continue to support regional prosecution, and supports in principle the report's proposals to increase capacity in specialized anti-piracy courts in the region, with strong support in the first instance for an assessment (with the assistance of naval coalitions, States in the region and the Contact Group on Piracy off the Coast of Somalia's Working Group 2) to help determine the number of piracy incidents in which suspected pirates are apprehended but released, and the reasons underlying the releases. We remain of the view, however, that the most pressing need is to increase the availability of suitable prison facilities in Somalia, and we therefore seek in particular to encourage agreements with prosecuting States for the transfer of prosecuted pirates back to Somalia. The strength of the Government's commitment in this area is demonstrated by the provision of almost £9 million to the UN Office on Drugs and Crime in 2011 for capacity building in the region.

22. We recommend that the FCO take more concerted action to re-establish the transfer arrangement with Kenya, and should be prepared to exert more pressure on other states in the region to accept piracy suspects for prosecution. We recommend that the Government provide to the Committee in its response to this report a list of current transfer agreements and those under negotiation, and with an update on its efforts to re-establish the Kenyan Memorandum of Understanding. (Paragraph 99)

23. We recommend that the FCO include in its future agreements with Kenya and other states a right to monitor the status of detainees it transfers from its control to those states to prosecute for piracy. (Paragraph 101)

We agree with this recommendation. We used the London Conference on Somalia to re-invigorate the UK's regional transfer agreements. We have now agreed a Memorandum of Understanding with Tanzania, and are in the process of negotiating with Mauritius to establish a similar agreement; we have secured a commitment from Mauritius to have concluded negotiations on a transfer agreement by 1st June 2012. Following intense

engagement with Kenya, we have also succeeded in gaining informal commitment from the Kenyan Government to work to re-establish the transfer arrangement with the UK.

In addition to these agreements, UK naval units are able to benefit from the EU-Seychelles and transfer agreement through the EU Naval Operation Atalanta.

We agree that such agreements need to include provisions which allow for the right to monitor the status of detainees. The Memorandum of Understanding with Tanzania contained such a provision, creating a mechanism through which representatives of the UK would have access to detained pirate suspects. It is our intention that provisions to a similar effect will be included in all future agreements where possible.

24. We recommend that in its response to this report the Government provide the Committee with an explanation of why jurisdictional issues were seen as an obstacle to the UK prosecuting pirates for their role in the Chandlers' case. (Paragraph 106)

We do not agree with the Committee's assessment that jurisdictional issues were seen as an obstacle to the UK prosecuting pirates for their role in the Chandlers' case. The UK is able to assume extra-territorial jurisdiction for piracy offences under its domestic law.

The Metropolitan Police and the Kenya Police are jointly investigating the case involving Mr and Mrs Chandler, and a file of evidence has been submitted to the CPS. In this case, more than one state may have jurisdiction to prosecute. As with all cases where the UK is considering assuming extra-territorial jurisdiction and more than one state could prosecute, the CPS will take into account conflicts of jurisdiction with the other states and any decision to prosecute will be taken in accordance with the Code for Crown Prosecutors. At this stage, we are not able to offer further explanation or comment in relation to the Chandler case because that may have adverse consequences if there is a future prosecution in any jurisdiction.

25. We conclude that prosecuting pirates in local courts should remain the preferred option. However, we also conclude that there is no legal reason for the UK not to assert jurisdiction and try pirates in our national courts, and we urge the Government to consider this as an option if no other country will take suspected pirates captured by UK ships. (Paragraph 107)

We agree with the Committee's conclusion that prosecuting pirates in local courts should remain the preferred option. We also agree with the assessment of the Committee that there is no legal reason for the UK not to assert jurisdiction in piracy cases where there is a strong UK nexus. The UK is able to assume extra-territorial jurisdiction for piracy offences under its domestic law. The CPS is responsible for deciding whether or not to prosecute piracy cases in England or Wales but can only consider cases following a police investigation and referral for a decision to prosecute. Any decision is taken in accordance with the Code for

Crown Prosecutors and must satisfy the requirements of the Code before a prosecution can be commenced. Where another State or States also have jurisdiction for the offences the prosecutor must consult with prosecutors in the other jurisdiction to agree where the case should be prosecuted. A number of factors are taken into consideration in deciding the best forum for prosecution and this will depend on the circumstances of each case. Prosecutors balance all of these factors carefully and fairly, including considering whether there is enough evidence to prosecute in the UK and whether it would be in the public interest to do so.

26. We conclude that pre- and post-sentencing transfer agreements are a pragmatic approach but there are too few of them. We recommend that the Government pursue more vigorously its efforts to increase prison capacity in the region and in Somalia itself. We also recommend that the Government investigate whether it would be feasible to transfer pirates from the UK back to Somalia to serve their sentences after prosecution in the UK. (Paragraph 110)

We agree that the most sustainable solution is to build the capacity of the regional judicial and penal sectors. To this end, the UK provided almost £9 million to the UNODC in 2011 for capacity building in the region, and the Government has also seconded two CPS lawyers to the Seychelles to help process piracy prosecutions. The Government notes the importance of transfer agreements from prosecuting States, whether the UK or other States, to Somalia. To that end, we have supported the reinstating of the prisoner-transfer agreement between Somaliland and the Seychelles. The Government sees such regional agreements as of a higher priority than similar agreements with the UK.

Ransoms

27. We conclude that the fact that ransom payments in 2011 have already totalled \$135m, another all-time record, should be a matter of deep concern to the British Government and to the entire international maritime community. We conclude that the Government should not pay or assist in the payment of ransoms but nor should it make it more difficult for companies to secure the safe release of their crew by criminalising the payment of ransoms. (Paragraph 115)

We agree with the Report's comments that escalating ransom payments are a cause for concern. The London Conference on Somalia underlined the importance of taking decisive action to tackle piracy, in particular on the financial flows that support it. Ransom payments are the key driver in pirate business models and thus encourage further piracy activity. If we are to tackle piracy at its root, then it is important that we develop a greater understanding of ransom payments and explore what action can be taken to curtail ransoms and, ultimately, shut them off.

The Prime Minister announced at the Conference that the UK would be establishing an international task force on ransom payments. This task force will bring together experts from

a number of countries and will formulate recommendations to be put forward to the international community. The views of industry will be considered during this process.

The Government's policy is not to make, facilitate or encourage substantive concessions to hostage-takers, including by payment of ransoms. The UK's anti-money laundering legislation allows companies to seek consent from SOCA to ensure that they are not undertaking an act that could constitute a money laundering offence. Granting consent does not imply Government approval; rather, consent is granted or withheld only according to the requirements of the legislation. Whether a transaction is carried out is ultimately a decision for the person or organisation who reports the potential transaction.

Financial Tracking

28. We conclude that the Government has been disappointingly slow to take action on financial flows relating to ransom payments, particularly given the information available from British companies involved. (Paragraph 118)

29. The Serious Organised Crime Agency (SOCA) should make it a priority to address rumours of ransom money making its way into the UK's financial system. (Paragraph 118)

We agree with the Committee's recommendation that it is important to take action, where possible, on tackling the financial flows related to ransom payments. With the announcement of the UK-led Regional Anti-Piracy Prosecutions Intelligence Coordination Centre, the UK is taking a leading role in international efforts to undermine piracy's business model, and the centre will work closely with the British maritime industry to ensure that all available information is properly used to ensure the centre's success. The Committee outlined some of the difficulties present in tracking financial flows in a country without a formal financial system. There are significant limitations to what is realistically achievable in this field due to Somalia's extremely under-developed financial system. Nevertheless the Government remains committed to tackling the financial flows of piracy where possible.

The UK continues to be an active participant in Working Group 5 of the Contact Group on Piracy off the Coast of Somalia, and hosted a meeting with representatives of UK industry on 13 January at the request of the Working Group. We are also fully committed to the work of the Financial Action Task Force (FATF), including the regional FATF body, the Eastern and Southern Africa Anti-Money Laundering Group. Through FATF, the UK is able to work with countries in the region to establish effective legislative regimes against money laundering and the financing of terrorism. This approach will lead to the most sustainable long-term solution.

SOCA has considered whether the proceeds of piracy are making their way into the UK financial system and has found no evidence that this is occurring. The issue will continue to be monitored and should this assessment change the Government will consider the appropriate channels for communicating this to partners.

30. We conclude that the Government's laudable principle not to become involved in ransom payments should not extend to the point of failing to collect, analyse, and act upon information concerning ransom payments made by British companies or private individuals. We recommend that the Government establish a mechanism through which intelligence and information about ransom payments and pirate groups and negotiations can be communicated to the Government by those involved. (Paragraph 119)

31. We recommend that the FCO publish details on the new maritime intelligence and information co-ordination centre, including its mandate, funding, and when it is expected to begin operations. (Paragraph 120)

We agree with the Committee's recommendations. On 21 February, the Foreign Secretary announced that the Government would be providing £550,000 towards the construction of a UK-led Regional Anti-Piracy Prosecutions Intelligence Coordination Centre (RAPPICC) in the Seychelles. SOCA will provide its first Director. The Netherlands announced at the London Conference on Somalia that it would be contributing €300,000 and two seconded officers to the RAPPICC. Construction on the centre should begin in the next few weeks, and we expect it to be operational by the autumn.

The RAPPICC will enable the international community to target the king-pins of piracy and ensure that piracy does not pay. To this end, it will coordinate and analyse intelligence to inform tactical law enforcement options, including the turning of intelligence into useable evidence for prosecutions both in the region and further afield.

The RAPPICC will also profit from the support of an intelligence cell based in London. One of the primary benefits of this will be the links that can be drawn with industry and, through the cell, it is expected that the RAPPICC will become an effective mechanism through which information on pirates and piracy incidents held by the London-based maritime industry can be communicated to the relevant authorities.

International Response to the crisis in Somalia

32. The UK should be very wary of international claims to deliver a solution on land in Somalia. International capacity to rebuild a Somali state is extremely limited. We conclude that the UK should continue to act through the United Nations and European Union programmes to pursue peace and stability in Somalia. We urge the Government to push for a concerted international effort to capitalise on the African Union Mission in Somalia's (AMISOM) recent military gains against al-Shabab by supporting the Transitional Federal Government (TFG) in its efforts to extend its control, build the rule of law combat corruption and encourage development. (Paragraph 132)

The Government agrees with the Committee's recommendations. It was significant that a UN Security Council resolution agreeing support for more sustainable funding and increased numbers of AMISOM troops was adopted the day before the London Conference on Somalia. The Conference capitalised on this, as well as recent gains made by AMISOM, to make good progress on securing more coherent international support for peace-building and stability in Somalia. The UK agreed an approach with international partners which will focus support on areas of relative stability - building legitimate authorities which can provide services such as security, justice and healthcare, for the people. By shoring up those areas of stability we aim to reduce space where insecurity prevails. The Government believes we should implement programmes through partners best able to provide value for money and deliver results. Currently the UN is an important implementing partner in Somalia. The UK also strongly supports EU efforts in this area, in line with the new EU Strategic Framework for the Horn of Africa.

It was also agreed at the London Conference that a joint Somali/ donor financial management board will be established with oversight of public finances and aid, which will help to combat corruption, and that support for the rule of law will be better coordinated. A concerted, unified effort will be made to support Somalia to agree peacefully political arrangements to follow the Transitional Federal Institutions, whose mandate ends in August 2012.

UK Response

- 33. We recommend that the Government develop its engagement with civil society organisations in Somalia to strengthen local responsibility and involvement in international efforts to counter piracy off the coast of Somalia. We recommend that in its response to this report, the Government provide more details of the community engagement projects which it announced in October 2011.
(Paragraph 141)**

The Government agrees with this recommendation. It is important to develop engagement with civil society organisations in Somalia, although as the report notes there are real difficulties in operating within Somalia due to the security situation there. Despite this, the Foreign Secretary announced, during a trip to Mogadishu on 2 February, that Matt Baugh will be the first UK Ambassador to Somalia in 21 years, demonstrating the level of commitment of this Government to strengthening local engagement with Somalia. The Government is also committed to ensuring strong links with the diaspora as an important means of engaging with the Somali community. The Prime Minister hosted an event on the 20 February for the Somali diaspora, to hear the views of Somalis in advance of the Conference.

The importance of engagement with civil society organisations is why the Government announced £2m funding in October 2011 for community development projects delivered by UN agencies in Somalia. We are supporting two projects in particular:

- a. £500,000 to help fund phase 1 of the UN Office on Drugs and Crime's *Somalia Beyond Piracy: Anti-Piracy Advocacy Campaign*, the goal of which is to make piracy unappealing to Somalis and to offer an alternative vision and strategy for a future Somalia beyond piracy by working with community elders, government leaders, religious leaders, media outlets, locals and members of the Somali diaspora; and
- b. £1.5m to help fund the UN Development Programme Somalia's *Alternative Livelihoods to Piracy* project, to strengthen community resilience against piracy through stimulating local economic growth, creating jobs and improving productive assets and capabilities, with a particular focus on coastal and rural communities and on poor and marginalised groups, youth and women, and where unemployment is highest and the potential for growth is also at its best.

FCO support for victims and families

- 34. We recommend that the Government review the medium in which information on piracy such as travel warnings is released, in order to ensure that it is accessible to different users, including yachtsmen. We further recommend that the Government intensifies its efforts to draw to the attention of seafarers the information that is available on the Maritime Security Centre Horn of Africa (MSCHOA) and NATO websites about specific sea areas at risk of pirate attack. (Paragraph 146)**

Internet access at sea is sporadic and not currently readily available or affordable for all seafarers. The Government has been reviewing with the UK Hydrographic Office (UKHO), EUNAVFOR, NATO and regional partners how best to use existing maritime information mechanisms which the mariner is obliged to use for safety information, such as Navigation Warnings, Notice to Mariners and charting, to increase the awareness of seafarers (including yachtsmen) to the areas most at risk of pirate attack. We expect to conclude the review shortly, with a view to making improvements to existing instruments by the end of April 2012, with solutions in other geographical areas coming into effect in 2012 and 2013.

The process is being established and, with the UK as the lead, will enable short term threats, such as a piracy action group, to be promulgated by navigation warning; web based systems at sea don't have this capacity. Medium term guidance, based on changes in patterns and trends, can be issued using a new Security Notice to Mariners and charting process. These can be used in conjunction with the Anti Piracy Planning Chart prior and during transit, to prepare, plan and conduct the voyage by all ships. Such capabilities are being looked at to enable their utilisation in other parts of the world with other types of maritime security threat. The UKHO is also chairing the Northern Indian Ocean Hydrographic Conference in Sri Lanka in March 2012, which is a key forum for engaging regional stakeholders responsible for much of this maritime safety infrastructure.

35. We recommend that the Government review its handling of the Chandlers' case to ascertain whether improvements could be made for the future, and we request that the Government present its conclusions in its response to this report.

(Paragraph 149)

36. We are disappointed that Paul and Rachel Chandler did not feel that their family was adequately supported during their ordeal. We recommend that the FCO review its communication and other procedures to provide support to family members of British hostages abroad, and provide its conclusions to the Committee in response to this report. (Paragraph 150)

The Government is committed to providing the best possible support to the families of British hostages, including ensuring that they have the information and advice they need. The frequency and nature of the contact is dictated by the wishes of the family. The FCO has a dedicated team in Consular Directorate, who provide support to families during a kidnap.

We have reviewed the handling of the Chandlers' case to ascertain whether improvements could be made for the future. Mr and Mrs Chandler's criticism of the response focused around their desire for clearer advice from the FCO, including on handling the media and negotiating with the pirates. A detailed review of the Government's handling of the Chandler case and further comments regarding the support given to families is provided in an annex to this response (Annex A).

Conclusion

37. We conclude that for too long there has been a noticeable gap between the Government's rhetoric and its action. Despite nine UN Security Council resolutions and three multinational naval operations, the counter-piracy policy has had limited impact. The number of attacks, the costs to the industry and the price of the ransoms have all increased significantly since 2007. (Paragraph 154)

38. We conclude that decisive action is now required on a number of fronts to contain the problem in the short to medium term, so that long term solutions can be found. We recommend that the FCO gives high priority to the international conference on piracy to be hosted by the UK in February 2012 and provides the Committee with a full and detailed account of decisions taken and UK and international actions that arise from it. (Paragraph 155)

We welcomed the Committee's recognition that piracy is a serious threat to the interests of the UK and the international community more broadly. However, we would not agree with the assessment of the Committee that the UK's counter-piracy policy has had limited impact. We have seen a dramatic reduction in the number and rate of successful piracy attacks since last summer. This is largely due to increasingly successful counter-piracy operations at every level: from implementation of Best Management Practices on merchant navy vessels, to more effective military operations.

The recent London Conference on Somalia made substantial further progress in advancing the UK role and international commitment to counter piracy, as set out in this response. It has put in place a clear model to improve the regional criminal-justice cycle, enabling pirates captured by naval forces to be prosecuted and imprisoned in the region. It has taken steps against all elements of the piracy business model, including taking international action against the kingpins of piracy. And it showed the strength of the commitment between industry and Governments in tackling the scourge of piracy.

We are determined to maintain the international focus on Somalia and to reduce further the threat from piracy to UK security and interests. In that regard, the Report was particularly welcome in providing a detailed and high-quality analysis of current UK policy on piracy off the coast of Somalia. Our response outlines a number of areas in which the Government is actively seeking to meet the recommendations put forward by the Report.

ANNEX A: THE CHANDLERS' CASE

(i) FCO review of the handling of the Chandler case

1. Response

We have reviewed the handling of the Chandlers' case to ascertain whether improvements could be made for the future. Mr and Mrs Chandler suffered a terrible ordeal. Their criticism of the FCO's response focused around their desire for clearer advice from the FCO, including on handling the media and negotiating with the pirates. The following explains how we respond to kidnap cases and presents our conclusions in light of the assistance provided.

2. Initial stages

The FCO is alerted to a kidnap of a British national through a number of channels, including contact by family members, information received by our Embassies overseas and the media. Our immediate priority is to establish the facts.

Mr and Mrs Chandler were taken whilst sailing their yacht, the Lynn Rival, from the Seychelles to Tanzania on 23 October 2009. The first contact made to the FCO was a telephone call at 0745 on 23 October to the British High Commission in Seychelles from Mr Collett (Mrs Chandler's brother) to report that the Lynn Rival's emergency beacon had been activated. In the initial stages the couple were classed as missing persons. From 23 to 26 October Mr Collett was in contact with FCO officials in Seychelles and the Falmouth Coastguard while searches continued. On 26 October ITN informed the FCO that a British couple had been kidnapped near the Seychelles and were being taken back to Somalia. At that point the FCO kidnap response, led by the Counter Terrorism Department (CTD), was initiated. A cross-Whitehall meeting was held on 27 October. This was followed by the first COBR meeting on 28 October after further details of the kidnap were established. The family later alleged (February 2010) that the FCO had mishandled the case in the early stages, though without divulging what the issue was. Following a review at the time, the FCO concluded that the correct response was taken to alert the Seychellois coastguard, UKMTO, and EU Naval Force in the region when the yacht was reported missing.

Since Mr and Mrs Chandlers' abduction, the FCO has responded to a number of false alerts about vessels crewed by British nationals being hijacked in the Indian Ocean. **When the FCO receives a report that British nationals have been taken by pirates, we ensure that swift and comprehensive efforts are taken to verify or disprove the claim.**

3. HMG's Policy

We welcome the Report's conclusion that the Government should not pay or assist in the payment of ransoms. **The Government will make every effort to secure the swift and safe**

release of hostages within the terms of the longstanding British policy not to make substantive concessions, including the payment of ransoms. The Government considers that making concessions would increase the risk of further hostage taking.

The FCO aims to give the families of British hostages clear and frank advice about what we can do to secure the release of their loved ones, including how the longstanding British policy affects our response.

The family attended two meetings in the FCO at the start of the kidnap on 3 and 11 November 2009. FCO officials, including the British High Commissioner to Nairobi in the second meeting, explained that while the Government would make every effort to secure Mr and Mrs Chandlers' release, our options were very limited since the pirates wanted financial payment and we were unable to pay a ransom due to our policy, which the family said they understood. The family said they did not have the means to pay a ransom and asked that we attempt to secure the couple's release on humanitarian grounds although they recognised that these cases were normally resolved through a payment. The family were concerned about what level of support would remain in place should they decide to negotiate a ransom. We reassured them that consular and media support would continue throughout.

At the meeting on 11 November, we explained that there were Private Security Companies (PSCs) who could help support a ransom negotiation. The family said that they had had a lot of information from various private companies. (During the first few months of the case we were contacted by a number of PSCs offering to assist the family; each approach was passed to the family).

On 7 January 2010, Mr Collett informed the FCO that the family had decided to pay a ransom. Officials met the family on 8 January to discuss what this would mean in terms of our support. We reassured the family that we would continue to provide consular and media support. We would also exploit any opportunity to push for humanitarian release. We also confirmed that we would assist the family with release planning. However we informed them that negotiating advice from the Metropolitan Police would be withdrawn since the Government could not negotiate a ransom payment.

We recognise that the family found the second meeting on 11 November more informative and now offer families an early briefing with the Ambassador responsible for the overseas response wherever possible.

4. Diplomatic Support

In the event of the kidnap of a British national, the FCO will use its diplomatic network and reach out to political contacts in the region and the country in which the kidnap took place. Diplomatic efforts to identify and, where appropriate, lobby individuals and groups who could assist in effecting the safe release of hostages are pursued. Where the employer or family elect to lead the response because they chose to pay a ransom or prefer a non-

governmental profile, we pass on information that could affect their decisions. **During kidnaps, the FCO will talk to anyone who we judge might be able to help.**

In the case of the Chandlers, our High Commission in Nairobi spoke to political contacts in the region, including the Somali Government (Transitional Federal Government), regional authorities and contacts in relevant clans, to press for a humanitarian release. These efforts were unsuccessful because the pirates wanted to secure a ransom. The Chandlers were the first hostages held on land by Somali pirates and in subsequent kidnaps in Somalia we have drawn on the lessons from engaging political contacts during their captivity.

Throughout the case we passed the family information about approaches made to the FCO about the couple so that they were fully sighted on all information which may have been relevant to securing the couple's release. We believe that two of the approaches made to the FCO and passed to the family ultimately helped secure the couple's release. When the PSC advising the family on the negotiation assessed that individuals were undertaking unhelpful activity that could prolong the couple's captivity, we sought to persuade those individuals to desist where we judged that we were able to influence them.

5. Negotiation Support

The UK's longstanding policy means that we cannot negotiate ransom payments.

Handling contact with kidnappers is an important part of the response to every hostage crisis. The Hostage Crisis Negotiation Unit (HCNU) of the Metropolitan Police provides negotiation advice to COBR and supports families in handling contact with kidnappers. They are highly regarded internationally and provide training in negotiation nationally and internationally.

In this kidnap, Metropolitan Police negotiators provided the family with advice on handling contacts with the pirates for the first three months before the family started ransom negotiations with the pro-bono assistance of a PSC.

6. Media Support

The FCO provides media advice to families from the first contact about a kidnap.

While the nature of our advice depends on the assessment of each case, where possible we give families advance warning of any press coverage we are aware of and where the media outlet agrees, we enable the families to view videos of hostages before they go public. We advise on press statements and when appropriate, we can contact editors to request restraint, particularly when families encounter media intrusion.

There was significant media interest throughout the Chandlers' kidnap. ITN News ran the exclusive breaking story in the evening news bulletin on 26 October. During a phone call earlier that evening, the FCO Global Response Centre (GRC) informed Mr Collett that the story would break and advised about media handling. The GRC officer told Mr Collett that

before speaking to the media he should consider how engaging with them may affect the case in the long term since it could make the operational response more complicated. If media organisations did track him down, he should not feel obliged or bounced into speaking to them or giving a quote. He could take their details, but not respond immediately. He could then come back to the FCO who could advise him on what he might want to say.

The first footage of Mr and Mrs Chandler filmed by a freelance journalist was released in November. The FCO was unable to persuade the media to refrain from broadcasting, but was successful in asking that the family be allowed to view the video before it was aired. Representatives from the FCO viewed the footage with the family on 20 November and advised them on a family statement, which was issued when the video was aired.

When news broke about videos of the hostages on 31 January, Consular staff spoke to the family to talk through the content that was likely to run and passed on photographs to the family. They also warned the family that a second video featuring Rachel Chandler was likely to be more distressing. The FCO urged restraint in reporting and throughout the case secured the agreement of a number of news outlets not to run stories that were subsequently proved to be untrue and had been released by the pirates to increase pressure on the family.

Two further videos emerged in May and July 2010. The FCO accompanied the family to view the first on 26 May before it was broadcast. They also accompanied the family on 16 July to view further footage and persuaded the media not to broadcast the video.

The family took out a media injunction in July 2010. The family asked for support in obtaining the injunction. While we advised it was not appropriate for the FCO to pay for or offer other support in obtaining the injunction, the FCO reminded the media about the terms of the injunction for the remaining months of the couple's captivity, and remained in close contact with the family's media adviser.

In this and other kidnaps, the FCO has issued letters to editors to reinforce our requests for restraint and provide guidance on the impact that media speculation and reporting could have on the safety of hostages.

(ii) FCO review of the support given to families – further comments relating to the Chandlers' case

On learning of a kidnap, the FCO makes initial contact with the Next of Kin (NoK) directly or via a Police Family Liaison Officer (FLO). In this instance the Global Response Centre telephoned Mr Collett on the evening of 26 October to warn him that ITN were planning to publicise Mr and Mrs Chandler's captivity. Prior to that Mr Collett was in contact with the British High Commission in Victoria. On initial contact with the FCO Mr Collett received advice that he should not feel required to talk to the press as this could have an effect on the operational response to the kidnap.

On the morning of 27 October the family was provided a single point of contact within Consular Directorate of the FCO. Mr Collett initially took on the role of being the main family contact before passing it to Paul Chandler's niece. Paul Chandler's niece was subsequently accompanied by a Consular Official to Kenya in June when we believed release was likely and again in November 2010 when the Mr and Mrs Chandler were freed. Consular support remained in place for the family 24/7 throughout the 388 day ordeal.

Repatriation plans for Mr and Mrs Chandler were in place in advance of their release in November 2010, the details of which were relayed to the family on 11 October. On arrival in Nairobi, Mr and Mrs Chandler were met by the British High Commissioner who provided accommodation at his residence. We assisted with media handling in Nairobi, including the release of a press statement in the wake of their return. Medical support and advice was also provided and the couple were then accompanied back to the UK by a Consular official on a commercial business class flight to the UK, funded by the FCO. We ensured a discreet arrival at Heathrow using the VIP facilities as well as providing accommodation in the UK at a private location in order for the family to be reunited. Shortly after their arrival in the UK, the FCO facilitated support from a trauma specialist to Mr and Mrs Chandler.

We have incorporated the lessons from this case into our response to other kidnaps. These lessons have included offering families an early briefing with the Ambassador responsible for the overseas response wherever possible. It is regrettable that the family in this case feel that they were not adequately supported. Having reviewed our procedures we have concluded that the support we offered to the Chandler family was appropriate. We will ensure that we continue to learn lessons from every kidnap. Families remain at the forefront of our response when a British National is kidnapped.

ANNEX B: WRITTEN MINISTERIAL STATEMENT ON LONDON SOMALIA CONFERENCE

On 23 February the UK hosted the London Conference on Somalia. The Conference brought together 55 delegations representing over 40 countries, the United Nations, African Union, Intergovernmental Authority on Development, Organisation of Islamic Cooperation and other international organisations to discuss how the international community could reinvigorate its approach towards Somalia. Somali leaders, including President Sheikh Sharif, Prime Minister Abdiweli, President Farole of Puntland and President Silanyo of Somaliland also took part. Instability in Somalia is an issue of significant concern to the international community.

Terrorism and piracy emanating from Somalia threaten international security. Though Somalia's famine – the first of the 21st century – is over, the humanitarian situation remains grave. However, as we approach the end of the transitional period in August, and building on security gains in Mogadishu and elsewhere in Somalia, we have an opportunity to change the trajectory in Somalia. The aim of the Conference was to reenergise the international community's approach to ensure that we make use of those opportunities.

The Conference succeeded in agreeing practical measures in six areas:

- **Political process** – agreement that the transition must end in August 2012, and that the political process must be broad-based and inclusive, building on agreement at the Garowe consultative meetings; the establishment of a Joint Financial Management Board to increase the transparency and accountability of transitional federal government, and future government, spending.
- **Security and justice** – agreement to create a framework for international support to develop Somali security and justice capacity.
- **Piracy** – agreement on the need to address the causes of piracy on land, and to build judicial and imprisonment capacity in the region; welcome for the establishment of a Regional Anti-Piracy Prosecutions Intelligence Co-ordination Centre in the Seychelles. Ministers also signed bilateral Memoranda of Understanding with Tanzania on transferring suspected pirates for prosecution, with the Netherlands and Seychelles on the Regional Anti-Piracy Prosecutions Intelligence Coordination Centre, and a regional burden-sharing Statement of Principles. My Right Honourable Friend the Prime Minister also announced the creation of an international task force on piracy ransoms and welcomed the announcement from the shipping industry of funding for UNDP coastal community projects in Puntland.
- **Terrorism** – agreement to build capacity to disrupt terrorism in the region, including disrupting terrorists' travel to and from Somalia and terrorist finances.

- **Humanitarian** - the Conference was preceded by a separate meeting on the humanitarian situation, chaired jointly by My Right Honourable Friend the International Development Secretary, Baroness Amos (United Nations Office for the Coordination of Humanitarian Affairs) and the United Arab Emirates Foreign Minister. Prominent themes included the continuing fragility of the humanitarian situation in Somalia and the need to create the conditions for voluntary return of refugees and Internally Displaced People.
- **Stability and recovery** – launch of a new Stability Fund to channel support to emerging areas of stability across Somalia. Founder members are the UK, the Netherlands, Norway, the United Arab Emirates and Denmark. Agreement to a set of principles for local support.
- **International co-ordination** – welcome for the International Contact Group on Somalia’s decision to consider restructuring to improve its effectiveness, and a recommendation to establish working groups on the political process, security and justice, and stability and development. The creation of a core group of engaged countries to drive progress in support of United Nations, African Union and Intergovernmental Authority on Development efforts.

I have placed copies of the Communiqué agreed by international partners at the Conference and the conclusions of the separate humanitarian meeting in the Libraries of both Houses.

Full text of the Communiqué from the London Conference on Somalia at Lancaster House on 23 February.

1. The London Conference on Somalia took place at Lancaster House on 23rd February 2012, attended by fifty-five delegations from Somalia and the international community.
2. We met at a key moment in Somalia’s history. Somalia is emerging from the worst humanitarian crisis in the world. African and Somali troops have pushed Al Shabaab out of Mogadishu and other areas. The transitional institutions come to an end in August 2012, and the people of Somalia want clarity on what will follow. The situation remains precarious, and in urgent need of support from the international community.
3. Decisions on Somalia’s future rest with the Somali people. The Somali political leadership must be accountable to the people. The international community’s role is to facilitate Somalia’s progress and development: our strength is in unity and coordinated support to Somalia. We noted the importance of listening to and working with Somalis inside and outside Somalia, and welcomed their engagement in the run-up to this Conference.
4. The Conference focussed on the underlying causes of instability, as well as the symptoms (famine, refugees, piracy, and terrorism). We, the international community, agreed: to inject new momentum into the political process; to strengthen AMISOM and help Somalia develop

its own security forces; to help build stability at local level; and to step up action to tackle pirates and terrorists.

Political

5. We agreed that the Transitional Federal Institutions' mandate ends in August 2012. There must be no further extensions. We welcomed the agreements that chart the way towards more representative government: the Transitional Federal Charter, the Djibouti Agreement, the Kampala Accord, and the Roadmap. We welcomed the progress represented by the Garowe Principles, endorsed the priority of convening a Constituent Assembly, and emphasised that the Assembly must be representative of the views of the Somali people of all regions and constituencies, and that women must be part of the political process. In line with Garowe II, we agreed to incentivise progress and act against spoilers to the peace process, and that we would consider proposals in this regard before the Istanbul Conference in June.

6. The Conference recognised the need for the international community to support any dialogue that Somaliland and the TFG or its replacement may agree to establish in order to clarify their future relations.

7. We condemned terrorism and violent extremism, whether perpetrated by Somalis or foreigners. We called on all those willing to reject violence to join the Djibouti peace process. We agreed to develop a defectors' programme to support those who leave armed groups.

8. We emphasised the urgency of Somalia funding its own public services, and using its assets for the benefit of the people, as well as tackling corruption. We welcomed the progress that has been made in establishing a Joint Financial Management Board to increase transparency and accountability in the collection and efficient use of public revenues, as well as international development aid, and which will help strengthen Somali public financial management institutions. A declaration by the initial members of the JFMB is at Annex A [N.B. this annex is available at <http://www.fco.gov.uk/en/news/latest-news/?id=727627582&view=PressS>].

9. Respect for human rights must be at the heart of the peace process. We called for action to address in particular the grave human rights violations and abuses that women and children face. We emphasised that journalists must be able to operate freely and without fear. Civilians must be protected. We called on the Somali authorities to take measures to uphold human rights and end the culture of impunity. We agreed to step up international efforts including through the UN human rights architecture.

Security and Justice

10. We agreed that security and justice were essential both to a successful political process and to development. Better security could only be achieved sustainably in parallel with better justice and the rule of law.

11. We expressed gratitude to those countries whose troops had served as peacekeepers and paid tribute to the achievements and sacrifices of AMISOM and other forces. We welcomed joint planning by the UN and African Union and reiterated the importance of effective command and control. We welcomed the adoption of UN Security Council Resolution 2036, which expands AMISOM's mandate and raises the troop ceiling. We encouraged AMISOM to ensure the protection of civilians. We encouraged partners, especially new donors, to contribute to funding for AMISOM, including through the EU.

12. We agreed that, over time, Somalis should take over responsibility for providing their own security and develop their own justice systems to deal with the threats to their security and improve access to justice. We noted that Somalis themselves must decide what security and justice arrangements they need.

13. We acknowledged the good work underway in supporting the Somali security and justice sectors. We agreed that we would build an international framework of partners in order to bring much needed coordination and focus to those efforts, underpinned by a set of principles at annex B [N.B. this annex is available at <http://www.fco.gov.uk/en/news/latest-news/?id=727627582&view=PressS>], and working closely with the UN's Joint Security Committee.

Piracy

14. We reiterated our determination to eradicate piracy, noting that the problem requires a comprehensive approach on land as well as at sea. We expressed our concern that hostages in Somalia are being held longer and with more use of violence. We welcomed the work of the Contact Group on Piracy off the Coast of Somalia. We also welcomed the success of international military efforts, and remain committed to such efforts with robust rules of engagement and sufficient force generation. We agreed that piracy cannot be solved by military means alone, and reiterated the importance of supporting communities to tackle the underlying causes of piracy, and improving the effective use of Somali coastal waters through regional maritime capacity-building measures. We welcomed those initiatives underway and agreed to coordinate and support such initiatives better. We called for full implementation of the Djibouti Code of Conduct and the adoption of an Exclusive Economic Zone. We look forward to reviewing progress including at the Piracy Conference in the UAE in June.

15. We welcomed the efforts of partners in industry against piracy, and called for greater take-up of Best Management Practice on ships. We welcomed current work on international guidance on the use of private armed security companies.

16. There will be no impunity for piracy. We called for greater development of judicial capacity to prosecute and detain those behind piracy both in Somalia and in the wider region and recognised the need to strengthen capacity in regional states. We welcomed new arrangements, which enable some states and naval operations to transfer suspected pirates captured at sea for trial by partners across the Indian Ocean region, and if convicted, to

transfer them to prisons in Puntland and Somaliland which meet international standards. We noted the intention to consider further the possibility of creating courts in Somalia specialised in dealing with piracy.

17. We reiterated our determination to prosecute the kingpins of piracy. Recognising work already undertaken, we agreed to enhance coordination on illegal financial flows and to coordinate intelligence gathering and investigations. We noted the establishment of a Regional Anti-Piracy Prosecutions Intelligence Coordination Centre in the Seychelles.

Terrorism

18. Terrorism poses a serious threat to security in Somalia itself, to the region, and internationally. It has inflicted great suffering on the Somali population. We agreed to work together with greater determination, and with full respect for the rule of law, human rights, and international humanitarian law, to build capacity to disrupt terrorism in the region, and to address the root causes of terrorism. We agreed on the importance of disrupting terrorists' travel to and from Somalia, and on the importance of disrupting terrorist finances, and called on countries in the region to implement the Financial Action Task Force's recommendations on combating money laundering and the financing of terrorism. We noted that effective intelligence gathering and investigation, and support to the Somali criminal justice system, were critical to the fight against terrorism. We agreed to work with the Global Counter Terrorism Forum and other international and regional bodies to deliver this important work.

Stability and Recovery

19. We welcomed the success in some areas of Somalia in establishing local areas of stability, and agreed to increase support to build legitimate and peaceful authorities, and improve services to people living in these areas. We acknowledged the importance of creating the conditions inside Somalia for durable solutions for the displaced, that respect international laws. We agreed that such efforts should promote local and regional cohesion, and converge with the national political process.

20. We considered the implementation of the Mogadishu Recovery and Stabilisation Plan important. We agreed to expand programmes to newly-recovered areas. We would focus support on enabling the delivery of immediate and sustainable benefits to ordinary Somali people: safety and security, economic opportunities and basic services. We would promote effective and accountable local administrations, and support the resolution of disputes.

21. We agreed that all support to local areas of stability should be in accordance with the New Deal for engagement in fragile states recently adopted in Busan, and build on the stabilisation strategies prepared by both IGAD and the Transitional Federal Government. We endorsed a set of principles to guide international support to local areas of stability in Somalia (Annex C [N.B. this annex is available at <http://www.fco.gov.uk/en/news/latest-news/?id=727627582&view=PressS>]). We agreed to continue funding local stability through

existing programmes, and noted the establishment of a new Stability Fund to which a number of us will contribute .

22. We agreed that Somalia's long-term reconstruction and economic development depended on a vibrant private sector, and that both aid and diaspora finance could develop Somalia's considerable potential in livestock, fisheries and other sectors. We noted that stability was a prerequisite for most sustainable investments in infrastructure such as electricity, roads and water systems. We looked forward to further discussion on all these issues at the Istanbul Conference.

Humanitarian

23. The Conference was preceded by a separate meeting on humanitarian issues co-chaired by the United Nations and the United Arab Emirates. Notwithstanding the end of the famine, participants expressed concern at the ongoing humanitarian crisis, and committed to providing humanitarian aid based solely on need. They agreed a set of conclusions on humanitarian issues and linking relief with longer-term recovery.

International coordination

24. We agreed to carry forward work agreed at London through the International Contact Group on Somalia (ICG), and welcomed the ICG's decision in Djibouti to look at restructuring to become more effective. We recommended that the ICG establish working groups on the political process, security and justice, and stability and development. We noted that, within the ICG, a core group of engaged countries would drive progress in support of UN, AU and IGAD efforts.

25. We welcomed the efforts of the Special Representative of the Secretary-General and the United Nations Political Office for Somalia (UNPOS) in facilitating progress in Somalia. We also welcomed the role of IGAD and the African Union, and the support of the League of Arab States, the European Union, and the Organisation of Islamic Cooperation. We encouraged effective coordination between UN entities working on Somalia. While recognising the still challenging security situation in Somalia, we welcomed UNPOS' relocation to Mogadishu and agreed that we would aim to spend more time on the ground in Somalia in order to work more closely with Somalis on the challenging tasks ahead.

Conclusion

26. We expressed the hope that a new era of Somali politics, supported by the international community, will bring peace to Somalia. We are determined to place the interests of the Somali people at the heart of all our actions. We looked forward to the day when the situation in Somalia would have made sufficient progress for an international conference to be held there. In the meantime, we will redouble our efforts to support the people of Somalia in their search for a better future for their country.



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