

## **Summary: UN Security Council resolution 1851 (2008)**

December 16, 2008

On December 16, 2008, Secretary of State Condoleezza Rice and the Security Council Representatives unanimously voted to adopt resolution 1851, co-sponsored by the United States, France, Liberia, Greece, and Belgium.

Resolution 1851 authorizes states cooperating with the Somali Transitional Federal Government (TFG) to extend counter-piracy efforts to include potential operations in Somali territorial land and airspace, to suppress acts of piracy and armed robbery at sea. The resolution urges countries to establish an international cooperation mechanism as a common point of contact for counter-piracy activities near Somalia, and to efforts to enhance the judicial capacity of regional states to combat piracy, including the judicial capacity to prosecute pirates.

Key points of the 13 paragraphs of Resolution 1851 are as follows:

1. *Reiterates* that it condemns and deplores all acts of piracy and armed robbery against vessels in waters off the coast of Somalia;
2. *Calls* upon States and interested organizations to take part actively in the fight against piracy, in particular, consistent with this resolution, resolution 1846 (2008), and international law, by deploying naval vessels and military aircraft and through seizure and disposition of vessels, arms and other related equipment or for which there are reasonable grounds for suspecting such use;
3. *Invites* all States and regional organizations fighting piracy to conclude special agreements or arrangements with countries willing to take custody of pirates in order to embark law enforcement officials (“shipriders”), to facilitate the investigation and prosecution, provided that the advance consent of the TFG is obtained and that such arrangements do not prejudice the effective implementation of the SUA Convention;
4. *Encourages* all States and organizations to establish an international cooperation mechanism to act as a common point of contact; and *recalls* that future recommendations on ways to ensure the long-term security of international navigation off the coast of Somalia to be detailed in a report by the Secretary-General no later than three months after the adoption of resolution 1846;
5. *Further encourages* all states and regional organizations to consider creating a center in the region to coordinate information relevant to piracy and armed robbery at sea off the coast of Somalia, to increase regional capacity with assistance of UNODC to arrange effective shiprider agreements or arrangements consistent with UNCLOS and to implement the SUA Convention, the United Nations Convention against Transnational Organized Crime and other relevant instruments to which States in the region are party, in order to effectively investigate and prosecute piracy and armed robbery at sea offences;

6. In response to the letter from the TFG of 9 December 2008, *encourages* Member States to continue to cooperate with the TFG, *notes* the primary role of the TFG in rooting out piracy and armed robbery at sea, and *decides* that for a period of twelve months from the date of adoption of resolution 1846, States and regional organizations for which advance notification has been provided by the TFG to the Secretary-General may undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG, consistent with applicable international humanitarian and human rights law;
7. *Calls on* Member States to assist the TFG, at its request and with notification to the Secretary-General, to strengthen its operational capacity to bring to justice those who are using Somali territory to plan, facilitate or undertake criminal acts of piracy and armed robbery at sea, and *stresses* consistency with international human rights law;
8. *Welcomes* the communiqué issued by the International Conference on Piracy around Somalia held in Nairobi, Kenya, on 11 December 2008 and *encourages* Member States to work to enhance the capacity of relevant states in the region to combat piracy, including judicial capacity;
9. *Notes* with concern the findings contained in the 20 November 2008 report of the Monitoring Group on Somalia that escalating ransom payments are fuelling the growth of piracy, and that the lack of enforcement of the arms embargo established by resolution 733 (1992) has permitted ready access to the arms and ammunition used by the pirates and driven in part the phenomenal growth in piracy;
10. *Affirms* that the authorization in this resolution apply only to the situation in Somalia and shall not be considered as establishing customary international law, and *affirms further* that such authorizations have been provided only following the receipt of the 9 December 2008 letter conveying the consent of the TFG;
11. *Affirms* that the measures imposed by paragraph 5 of resolution 733 (1992) and further by paragraphs 1 and 2 of resolution 1425 (2002) shall not apply to weapons and military equipment destined for the sole use of Member States and regional organizations undertaking measures in accordance with paragraph 6 above;
12. *Urges* States in collaboration with the shipping and insurance industries, and the IMO to continue to develop avoidance, evasion, and defensive best practices and advisories, and *further urges* States to make their citizens and vessels available for forensic investigation at the first port of call immediately following an act or attempted act of piracy or armed robbery at sea or release from captivity;
13. *Decides* to remain seized of the matter.”