

RED SEA TASK FORCE

Assessing the Legal Implications of the Military
Response to Houthi Attacks in the Red Sea





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The Yemen Accountability Project (“YAP”) is a student led-initiative based at Case Western Reserve University School of Law and affiliated with the Global Accountability Network (“GAN”). The opinions, conclusions, and recommendations contained in this report do not necessarily reflect the views of Case Western Reserve University or its School of Law.

GAN is a collective of international criminal prosecutors and practitioners who supervise and work with law students on specific atrocity projects for Syria, Yemen, Ukraine, and the African region. YAP’s student researchers and analysts gather open-source evidence of potential war crimes and crimes against humanity committed during the Yemen civil war to assist with future prosecutions under the relevant international legal standards. In the fall of 2023, YAP saw a need to document the events that have culminated in the Red Sea Crisis. This White Paper serves to document the events that have occurred from October 7, 2023, until the ceasefire agreement of January 19, 2025, and presents an analysis of the legality of the U.S./United Kingdom and Operation Prosperity Guardian’s response to Houthi-perpetrated attacks in the Red Sea.

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I. INTRODUCTION

The Red Sea Task Force (RSTF) is an initiative, evolved out of YAP, with an attempt to document the conflict in the Red Sea while the conflict unfolds in real-time. This is different from YAP's usual practice of documenting atrocities in Yemen "after-the-fact." The scope of this White Paper is very narrow. It is limited to Houthi-perpetrated actions against military and commercial objects in the Red Sea and the international response to such actions.

It will first discuss the background of the current conflict unfolding in the Red Sea and how YAP has chosen to document said conflict. This white paper will then explore Houthi-perpetrated event and Western-perpetrated event trends. After establishing the background of the situation and factual trends, it will then discuss the legality of the international response, provide conclusions, and recommendations for future RSTF white papers.

II. BACKGROUND

The RSTF researchers utilized YAP's investigatory methodology to create an internal Matrix ("RSTF Matrix") that lists events which have occurred in and around the Red Sea, related to Houthi-perpetrated attacks and Western responses following the October 7th attacks and subsequent conflict in Israel and Palestine. Matrix data is current until January 19, 2025, meaning that approximately 15 months of the conflict are documented. The Matrix lists each incident, the source, a short description, specific articles of the Rome Statute, Geneva Convention, and International Convention on the Law of the Sea implicated, and other relevant information, as well as a permalink to ensure the information is preserved if the article is removed at any point.

A. Houthi-Perpetrated Events

The Houthi forces have perpetrated a variety of attacks on commercial vessels and military objects in the Red Sea. The Houthis have been implicated in more than 50 violent events in the Red Sea between October of 2023 and the ceasefire of January 2025, ranging in severity from property damage to at least three confirmed civilian casualties.¹ Since November 19, 2023, the Houthis have claimed responsibility for targeting civilian vessels linked to Israel – and later vessels linked to the United States and the United Kingdom – in an effort to support the Palestinian cause against Israel.² This section will discuss the attacks by Houthi forces that resulted in death, injury, and significant damage to civilian property. These incidents will be important to contextualize the international response to these attacks and to assess its legal tenability.

The first Houthi attack on merchant vessels in the Red Sea occurred on November 19, 2023, when Houthi forces descended via helicopter upon the *Galaxy Leader*, a Bahamas-flagged and Japanese-operated commercial vehicles carrier vessel affiliated with an Israeli billionaire.³ 14 months later, Oman facilitated mediation with the Houthis, resulting in the release of the *Galaxy Leader*'s 25 crewmembers.⁴ The Houthis retained possession of the seized ship, and moored it at the port of Hodeidah.⁵

On February 22, 2024, a Houthi missile struck a cargo ship in the Gulf of Aden, setting it ablaze and injuring one crew member.⁶ The two anti-ballistic missiles were fired from southern Yemen, hitting the *MV Islander*, a U.K.-owned and Palau-flagged ship.⁷ The ship was coming from Thailand and bound for Egypt, and continued along its way after the fire was extinguished.⁸

¹ Luca Nevola, *Why Are Yemen's Houthis Attacking Ships in the Red Sea?*, ACLED (Jan. 5, 2024), <https://acleddata.com/2024/01/05/qa-why-are-yemens-houthis-attacking-ships-in-the-red-sea/>.

² Luca Nevola, *Why Are Yemen's Houthis Attacking Ships in the Red Sea?*, ACLED (Jan. 5, 2024), <https://acleddata.com/2024/01/05/qa-why-are-yemens-houthis-attacking-ships-in-the-red-sea/>; Reuters, *Attacks from Houthi-controlled Yemen hit two ships*, REUTERS (Dec. 15, 2023), <https://www.reuters.com/world/middle-east/uk-maritime-agency-probing-reports-further-incident-near-bab-al-mandab-strait-2023-12-15/>; Al Jazeera, *Rubymar, a UK-owned cargo ship hit by Yemen's Houthis, sinks in the Red Sea*, AL JAZEERA (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/rubymar-cargo-ship-earlier-hit-by-houthis-has-sunk-yemeni-government-says>.

³ Jon Gambrell, *Yemen's Houthi rebels release crew of commercial vessel seized in Red Sea in November 2023*, AP NEWS (Jan. 23, 2025), <https://apnews.com/article/yemen-houthi-rebels-galaxy-leader-crew-3638ab8e31c9c97b2ef5f9079dfbb6c0>.

⁴ Jonathan Josephs et al., *Yemen's Houthis release crew of seized cargo ship Galaxy Leader*, BBC NEWS (Jan. 22, 2025), <https://www.bbc.com/news/articles/c9d5q0jn067o>; Jon Gambrell, *Yemen's Houthi rebels release crew of commercial vessel seized in Red Sea in November 2023*, AP NEWS (Jan. 23, 2025), <https://apnews.com/article/yemen-houthi-rebels-galaxy-leader-crew-3638ab8e31c9c97b2ef5f9079dfbb6c0>.

⁵ Jon Gambrell, *Yemen's Houthi rebels release crew of commercial vessel seized in Red Sea in November 2023*, AP NEWS (Jan. 23, 2025), <https://apnews.com/article/yemen-houthi-rebels-galaxy-leader-crew-3638ab8e31c9c97b2ef5f9079dfbb6c0>.

⁶ CBS News, *Houthi missile hits ship in Gulf of Aden as Yemeni rebels continue attacks over Israel-Hamas war*, CBS NEWS (Feb. 22, 2024), <https://www.cbsnews.com/news/houthi-ship-attack-gulf-of-aden-red-sea-iran-yemen-rebels-israel-hamas-war/>.

⁷ CBS News, *Houthi missile hits ship in Gulf of Aden as Yemeni rebels continue attacks over Israel-Hamas war*, CBS NEWS (Feb. 22, 2024), <https://www.cbsnews.com/news/houthi-ship-attack-gulf-of-aden-red-sea-iran-yemen-rebels-israel-hamas-war/>.

⁸ CBS News, *Houthi missile hits ship in Gulf of Aden as Yemeni rebels continue attacks over Israel-Hamas war*, CBS NEWS (Feb. 22, 2024), <https://www.cbsnews.com/news/houthi-ship-attack-gulf-of-aden-red-sea-iran-yemen-rebels-israel-hamas-war/>.

The crew had sent messages saying “Syrian Crew on Board” – a practice used by many cargo ships crossing near Yemen – to associate themselves with Islamic nations supportive of Palestine/dissociate from Israel – to avoid being targeted in the Red Sea.⁹

In March of 2024, three crew members aboard Liberian-owned and Barbados-flagged bulk carrier, *True Confidence*, were the first civilian casualties of Houthi anti-ship ballistic missiles launched against merchant vessels.¹⁰ A Houthi military spokesperson stated they targeted the vessel because they believed it was “American.”¹¹ This claim was denied by the vessel's owners.¹² June 12, 2024, the Houthis struck and sank the Greek-owned bulk carrier, *Tutor*. One *Tutor* crew member was missing after the attack, and the White House released a statement confirming his death, however, the government of the Philippines has not confirmed this.^{13, 14}

Other incidents have caused damage to civilian property without loss of life, including commercial vessels and oil tankers. For example, on December 15, 2023, Houthi forces attacked two Liberian-flagged ships in the Bab-el Mandeb Strait in the Red Sea. *Al Jasrah*, a German-owned container ship, was struck by a drone, causing a container to fall overboard and a fire to start.¹⁵ The second vessel, Swiss-owned container ship *MSC Palatium III*, was hit by a ballistic missile, causing a fire.¹⁶ The Houthis claimed to have targeted the *MSC Palatium* and the *MSC Alanya* - which was not hit - and identified them as heading to Israel.¹⁷ Both ships were headed to Jeddah in Saudi Arabia, while the *Al Jasrah* was headed from Greece to Singapore.^{18, 19} On December 18, the Houthis targeted an oil tanker and a cargo ship in the Red Sea. The cargo ship was not hit, but the Norwegian-owned *Swan Atlantic* was struck by multiple projectiles fired

rebels-israel-hamas-war/; Tom Spender et al., *Three killed in Houthi missile attack on cargo ship in Gulf of Aden*, BBC NEWS (Mar. 7, 2024), <https://www.bbc.com/news/world-middle-east-68490695>.

⁹ CBS News, *Houthi missile hits ship in Gulf of Aden as Yemeni rebels continue attacks over Israel-Hamas war*, CBS NEWS (Feb. 22, 2024), <https://www.cbsnews.com/news/houthi-ship-attack-gulf-of-aden-red-sea-iran-yemen-rebels-israel-hamas-war/>.

¹⁰ Tom Spender et al., *Three killed in Houthi missile attack on cargo ship in Gulf of Aden*, BBC NEWS (Mar. 7, 2024), <https://www.bbc.com/news/world-middle-east-68490695>.

¹¹ Tom Spender et al., *Three killed in Houthi missile attack on cargo ship in Gulf of Aden*, BBC NEWS (Mar. 7, 2024), <https://www.bbc.com/news/world-middle-east-68490695>.

¹² Tom Spender et al., *Three killed in Houthi missile attack on cargo ship in Gulf of Aden*, BBC NEWS (Mar. 7, 2024), <https://www.bbc.com/news/world-middle-east-68490695>.

¹³ Yannis Souliotis et al., *Salvage firm confirms sinking of Greek-owned Tutor struck by Houthis*, REUTERS (June 19, 2024), <https://www.reuters.com/world/middle-east/salvage-firm-confirms-sinking-greek-owned-tutor-struck-by-houthis-2024-06-19/#:~:text=%22Therefore%20we%20abandoned%20the%20mission,Sign%20up%20here.>

¹⁴ David Gritten, *Cargo ship Tutor believed to have sunk in Red Sea after Houthi attack*, BBC NEWS (June 19, 2024), <https://www.bbc.com/news/articles/cqqqxx9lprpo>.

¹⁵ Reuters, *Attacks from Houthi-controlled Yemen hit two ships*, REUTERS (Dec. 15, 2023), <https://www.reuters.com/world/middle-east/uk-maritime-agency-probing-reports-further-incident-near-bab-al-mandab-strait-2023-12-15/>.

¹⁶ Reuters, *Attacks from Houthi-controlled Yemen hit two ships*, REUTERS (Dec. 15, 2023), <https://www.reuters.com/world/middle-east/uk-maritime-agency-probing-reports-further-incident-near-bab-al-mandab-strait-2023-12-15/>.

¹⁷ Reuters, *Attacks from Houthi-controlled Yemen hit two ships*, REUTERS (Dec. 15, 2023), <https://www.reuters.com/world/middle-east/uk-maritime-agency-probing-reports-further-incident-near-bab-al-mandab-strait-2023-12-15/>.

¹⁸ Reuters, *Attacks from Houthi-controlled Yemen hit two ships*, REUTERS (Dec. 15, 2023), <https://www.reuters.com/world/middle-east/uk-maritime-agency-probing-reports-further-incident-near-bab-al-mandab-strait-2023-12-15/>.

¹⁹ Francesca Gillett et al., *Yemen Houthi rebels claim attacks on two Red Sea cargo ships*, BBC NEWS (Dec. 15, 2023), <https://www.bbc.com/news/world-middle-east-67727601>.

from Houthi-controlled areas of Yemen.²⁰ Swan Atlantic U.S. officials reported the ship was struck by multiple projectiles that caused a fire and damaged a water tank.²¹ The ship, carrying vegetable oil, was brought under control by the crew and continued to Reunion Island.²² The ship had no Israeli ties.²³

Belize-flagged and U.K.-owned bulk carrier Rubymar was significantly damaged by an anti-ship ballistic missile on February 18, 2024.²⁴ The crew issued a distress call and abandoned ship to safety, assisted by other vessels.²⁵ The Rubymar sank on March 2, 2024, after days of taking on water.²⁶ The attack created an 18-mile long oil slick.²⁷ The ship was transporting 41,000 tons of ammonium phosphate sulfate fertilizer, which has the potential to create an environmental disaster affecting marine ecosystems and food resources for coastal communities in Yemen and neighboring countries.²⁸

²⁰ Ahmed Elimam et al., *Vessel attacked in Red Sea off Yemen coast, US blames Houthis*, REUTERS (Dec. 18, 2023), <https://www.reuters.com/world/middle-east/ukmto-ambrey-report-possible-explosion-south-yemens-port-mokha-2023-12-18/>.

²¹ Ahmed Elimam et al., *Vessel attacked in Red Sea off Yemen coast, US blames Houthis*, REUTERS (Dec. 18, 2023), <https://www.reuters.com/world/middle-east/ukmto-ambrey-report-possible-explosion-south-yemens-port-mokha-2023-12-18/>.

²² Ahmed Elimam et al., *Vessel attacked in Red Sea off Yemen coast, US blames Houthis*, REUTERS (Dec. 18, 2023), <https://www.reuters.com/world/middle-east/ukmto-ambrey-report-possible-explosion-south-yemens-port-mokha-2023-12-18/>.

²³ Ahmed Elimam et al., *Vessel attacked in Red Sea off Yemen coast, US blames Houthis*, REUTERS (Dec. 18, 2023), <https://www.reuters.com/world/middle-east/ukmto-ambrey-report-possible-explosion-south-yemens-port-mokha-2023-12-18/>.

²⁴ Al Jazeera, *Rubymar, a UK-owned cargo ship hit by Yemen's Houthis, sinks in the Red Sea*, AL JAZEERA (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/rubymar-cargo-ship-earlier-hit-by-houthis-has-sunk-yemeni-government-says>; U.S. CENTCOM, *Feb. 18 Summary of Red Sea Activities*, US CENTCOM (Feb. 19, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3680410/feb-18-summary-of-red-sea-activities/>; U.S. CENTCOM, *Sinking of Motor Vessel Rubymar Risks Environmental Damage*, US CENTCOM (Mar. 2, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3693370/sinking-of-motor-vessel-rubymar-risks-environmental-damage/>.

²⁵ Al Jazeera, *Rubymar, a UK-owned cargo ship hit by Yemen's Houthis, sinks in the Red Sea*, AL JAZEERA (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/rubymar-cargo-ship-earlier-hit-by-houthis-has-sunk-yemeni-government-says>; U.S. CENTCOM, *Feb. 18 Summary of Red Sea Activities*, US CENTCOM (Feb. 19, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3680410/feb-18-summary-of-red-sea-activities/>; U.S. CENTCOM, *Sinking of Motor Vessel Rubymar Risks Environmental Damage*, US CENTCOM (Mar. 2, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3693370/sinking-of-motor-vessel-rubymar-risks-environmental-damage/>.

²⁶ Al Jazeera, *Rubymar, a UK-owned cargo ship hit by Yemen's Houthis, sinks in the Red Sea*, AL JAZEERA (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/rubymar-cargo-ship-earlier-hit-by-houthis-has-sunk-yemeni-government-says>; U.S. CENTCOM, *Feb. 18 Summary of Red Sea Activities*, US CENTCOM (Feb. 19, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3680410/feb-18-summary-of-red-sea-activities/>; U.S. CENTCOM, *Sinking of Motor Vessel Rubymar Risks Environmental Damage*, US CENTCOM (Mar. 2, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3693370/sinking-of-motor-vessel-rubymar-risks-environmental-damage/>.

²⁷ Al Jazeera, *Rubymar, a UK-owned cargo ship hit by Yemen's Houthis, sinks in the Red Sea*, AL JAZEERA (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/rubymar-cargo-ship-earlier-hit-by-houthis-has-sunk-yemeni-government-says>.

²⁸ Al Jazeera, *Rubymar, a UK-owned cargo ship hit by Yemen's Houthis, sinks in the Red Sea*, AL JAZEERA (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/rubymar-cargo-ship-earlier-hit-by-houthis-has-sunk-yemeni-government-says>; U.S. CENTCOM, *Feb. 18 Summary of Red Sea Activities*, US CENTCOM (Feb. 19, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3680410/feb-18-summary-of-red-sea-activities/>; U.S. CENTCOM, *Sinking of Motor Vessel Rubymar Risks Environmental Damage*, US

Since the January 2025 Hamas and Israel ceasefire agreement, the Houthis have stopped their attacks on vessels in the Red Sea.²⁹ The Houthis stipulated that they may fire upon Israeli-linked ships.³⁰ As a single commercial ship may have different states of ownership, registry, flag, operation, points of origin and destination, this complexity in affiliation makes it difficult to determine state linkages.³¹ The Houthis have indicated that as long as the truce holds, they will likely refrain from their attacks.³²

B. U.S., United Kingdom, and Operation Prosperity Guardian Responses

Other countries have begun to engage with Houthi forces in response to their attacks in the Red Sea. The U.S. has been a major player in the region, leading Operation Prosperity Guardian (“Operation”).³³ The Operation began in December 2023 as a U.S.-led multinational security operation under Bahrain-based Combined Maritime Forces’ (CMF) Combined Task Force (CTF) 153.³⁴ The Operation was tasked with degrading and disrupting Houthi capabilities that endanger mariners and impede the freedom of navigation in the Red Sea, Bab al Mandab, and the Gulf of Aden.³⁵ More than 20 countries provided ships, personnel, and information support to the maritime security Operation, including the U.S., United Kingdom, France, Italy, Canada, Bahrain, and Spain.³⁶ However, major “self-defense strikes” came from the U.S. and

CENTCOM (Mar. 2, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3693370/sinking-of-motor-vessel-rubymar-risks-environmental-damage/>.

²⁹ Greg Myer et al., *With Gaza ceasefire, Yemen's Houthi rebels halt attacks on ships in the Red Sea*, NPR (Jan. 29, 2025), <https://www.npr.org/2025/01/29/nx-s1-5270518/with-gaza-ceasefire-yemens-houthi-rebels-halt-attacks-on-ships-in-the-red-sea>.

³⁰ Greg Myer et al., *With Gaza ceasefire, Yemen's Houthi rebels halt attacks on ships in the Red Sea*, NPR (Jan. 29, 2025), <https://www.npr.org/2025/01/29/nx-s1-5270518/with-gaza-ceasefire-yemens-houthi-rebels-halt-attacks-on-ships-in-the-red-sea>.

³¹ Greg Myer et al., *With Gaza ceasefire, Yemen's Houthi rebels halt attacks on ships in the Red Sea*, NPR (Jan. 29, 2025), <https://www.npr.org/2025/01/29/nx-s1-5270518/with-gaza-ceasefire-yemens-houthi-rebels-halt-attacks-on-ships-in-the-red-sea>.

³² Greg Myer et al., *With Gaza ceasefire, Yemen's Houthi rebels halt attacks on ships in the Red Sea*, NPR (Jan. 29, 2025), <https://www.npr.org/2025/01/29/nx-s1-5270518/with-gaza-ceasefire-yemens-houthi-rebels-halt-attacks-on-ships-in-the-red-sea>.

³³ Jim Garamone, *Ryder Gives More Detail on How Operation Prosperity Guardian Will Work*, US DEPT. OF DEFENSE (Dec. 21, 2023), <https://www.defense.gov/News/News-Stories/Article/Article/3624836/ryder-gives-more-detail-on-how-operation-prosperity-guardian-will-work/>; <https://www.defense.gov/News/News-Stories/Article/Article/3644831/strikes-against-houthis-likely-effective-in-degrading-rebel-groups-capabilities/>.

³⁴ Jim Garamone, *Ryder Gives More Detail on How Operation Prosperity Guardian Will Work*, US DEPT. OF DEFENSE (Dec. 21, 2023), <https://www.defense.gov/News/News-Stories/Article/Article/3624836/ryder-gives-more-detail-on-how-operation-prosperity-guardian-will-work/>.

³⁵ Joseph Clark, *Strikes Against Houthis Likely Effective in Degrading Rebel Group's Capabilities*, US DEPT. OF DEFENSE (Jan. 12, 2024), <https://www.defense.gov/News/News-Stories/Article/Article/3644831/strikes-against-houthis-likely-effective-in-degrading-rebel-groups-capabilities/>; U.S. Department of Defense, *Statement from Secretary of Defense Lloyd J. Austin III on Ensuring Freedom of Navigation in the Red Sea*, US DEPT. OF DEFENSE (Dec. 18, 2023), <https://www.defense.gov/News/Releases/Release/Article/3621110/statement-from-secretary-of-defense-lloyd-j-austin-iii-on-ensuring-freedom-of-n/>.

³⁶ Joseph Clark, *Strikes Against Houthis Likely Effective in Degrading Rebel Group's Capabilities*, US DEPT. OF DEFENSE (Jan. 12, 2024), <https://www.defense.gov/News/News-Stories/Article/Article/3644831/strikes-against-houthis-likely-effective-in-degrading-rebel-groups-capabilities/>; U.S. Department of Defense, *Statement from Secretary of Defense Lloyd J. Austin III on Ensuring Freedom of Navigation in the Red Sea*, US DEPT. OF DEFENSE (Dec. 18, 2023), <https://www.defense.gov/News/Releases/Release/Article/3621110/statement-from-secretary-of-defense-lloyd-j-austin-iii-on-ensuring-freedom-of-n/>.

United Kingdom forces, with non-operational support from other coalition states. On February 1, 2025, responsibility for the Operation was passed to U.S. Navy surface warfare Destroyer Squadron (DESRON) 50, under U.S. Naval Forces Central Command (CENTCOM).³⁷

This section aims to highlight for legal analysis some of the military actions taken in the Red Sea by the Operation, the United States or United Kingdom. On December 31, 2023, U.S. forces responded to distress calls from Singapore-flagged and Danish-owned Maersk Hangzhou container ship that was under attack by four Houthi small boats.³⁸ The boats were firing crew served weapons and small arms.³⁹ The attackers came within 65 feet (20 meters) of the vessel and attempted to board it.⁴⁰ Maersk Hangzhou's embarked contract security team returned fire.⁴¹ U.S. Navy helicopters from the USS Eisenhower (CVN 69) and USS Gravelly (DDG 107) responded to the distress call.⁴² The USS Gravelly destroyed two anti-ship missiles fired from Houthi-controlled areas at the U.S. Navy ships.⁴³ After U.S. Navy helicopters were fired upon from the Houthi small boats, they returned fire in self-defense, sinking three of the four boats and killing at least 10 Houthi fighters.⁴⁴ The U.S. reported no damage to U.S. personnel or equipment.

On January 10, 2024, the UN Security Council adopted Resolution 2722 which, *inter alia*, demanded the Houthis cease their attacks and affirmed the freedom of navigation and the right of Member States to defend their vessels from attack.⁴⁵ On January 11, 2024, the United States and United Kingdom, with non-operational support from Australia, Bahrain, Canada and the Netherlands, launched more than 150 munitions against "precisely the capability that the Houthis have been employing against the Red Sea and the Bab al Mandab."⁴⁶ The U.S. also

³⁷ Combined Maritime Forces, *Destroyer Squadron 50 Assumes Operation Prosperity Guardian Mission*, COMBINED MARITIME FORCES (Feb. 4, 2025), <https://combinedmaritimeforces.com/2025/02/04/destroyer-squadron-50-assumes-operation-prosperity-guardian-mission/>.

³⁸ U.S. CENTCOM, *Iranian-backed Houthi small boats attack merchant vessel and U.S. Navy helicopters in Southern Red Sea*, US CENTCOM (Dec. 31, 2023), <https://www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/3644468/iranian-backed-houthi-small-boats-attack-merchant-vessel-and-us-navy-helicopter/>; Al Jazeera, *US army attacks three Houthi boats in Red Sea, killing at least 10 fighters*, AL JAZEERA (Dec. 31, 2023), <https://www.aljazeera.com/news/2023/12/31/us-forces-sink-houthi-boats-in-red-sea-after-attack-on-maersk-vessel>.

³⁹ U.S. CENTCOM, *Iranian-backed Houthi small boats attack merchant vessel and U.S. Navy helicopters in Southern Red Sea*, US CENTCOM (Dec. 31, 2023), <https://www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/3644468/iranian-backed-houthi-small-boats-attack-merchant-vessel-and-us-navy-helicopter/>.

⁴⁰ U.S. CENTCOM, *Iranian-backed Houthi small boats attack merchant vessel and U.S. Navy helicopters in Southern Red Sea*, US CENTCOM (Dec. 31, 2023), <https://www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/3644468/iranian-backed-houthi-small-boats-attack-merchant-vessel-and-us-navy-helicopter/>.

⁴¹ U.S. CENTCOM, *Iranian-backed Houthi small boats attack merchant vessel and U.S. Navy helicopters in Southern Red Sea*, US CENTCOM (Dec. 31, 2023), <https://www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/3644468/iranian-backed-houthi-small-boats-attack-merchant-vessel-and-us-navy-helicopter/>.

⁴² U.S. CENTCOM, *Iranian-backed Houthi small boats attack merchant vessel and U.S. Navy helicopters in Southern Red Sea*, US CENTCOM (Dec. 31, 2023), <https://www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/3644468/iranian-backed-houthi-small-boats-attack-merchant-vessel-and-us-navy-helicopter/>.

⁴³ Adam Durbin, *US Navy helicopters destroy Houthi boats in Red Sea after attempted hijack*, BBC NEWS (Dec. 31, 2023), <https://www.bbc.com/news/world-middle-east-67851897>.

⁴⁴ One boat escaped. Al Jazeera, *US army attacks three Houthi boats in Red Sea, killing at least 10 fighters*, AL JAZEERA (Dec. 31, 2023), <https://www.aljazeera.com/news/2023/12/31/us-forces-sink-houthi-boats-in-red-sea-after-attack-on-maersk-vessel>.

⁴⁵ Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁴⁶ Quote from Army Lt. Gen. Douglas A. Sims II, Director for Operations, J-3, Joint Staff, Washington, DC. Joseph Clark, *Strikes Against Houthis Likely Effective in Degrading Rebel Group's Capabilities*, US DEPT. OF DEFENSE

conducted independent strikes on the same day.⁴⁷ The precision strikes targeted approximately 16 locations identified as munitions depots, command and control nodes, production facilities, launching systems, and air defense radar systems.⁴⁸ The Pentagon emphasized that the U.S. sought to avoid civilian casualties during precision strikes.⁴⁹ A Houthi military spokesman reported there were 72 strikes in total and that five fighters were killed, and six others injured.⁵⁰ All strikes were justified as lawful acts of self-defense, and the U.S. and United Kingdom each submitted Article 51 notification letters to the UN Security Council on January 12, 2024.⁵¹ The U.S. letter discussed previous attacks on commercial shipping, attacks on U.S. Navy ships and aircraft, and recalled Resolution 2722 and the inherent right to self-defense under Article 51.⁵² Accordingly the U.S. undertook “discrete strikes against Houthi facilities in Yemen in response to a series of armed attacks by Houthi militants” in the Red Sea.⁵³ On January 13, U.S. forces carried out a strike against a radar site in Yemen, with CENTCOM claiming the strike was “designed to degrade the Houthis ability to attack maritime vessels, including commercial vessels.”⁵⁴ This strike was a solo-mission of the U.S., and not associated with the Operation. Houthi officials reported no casualties or damage.⁵⁵ Making the determination that Houthi military weapons aimed at the Red Sea area “presented an imminent threat to merchant vessels and to the U.S. Navy ships in the region,” the U.S. conducted a series of precision “self-defense strikes” against Houthi military capabilities “protect freedom of navigation and make international waters safer and more secure for U.S. Navy and merchant vessels.”⁵⁶

(Jan. 12, 2024), <https://www.defense.gov/News/News-Stories/Article/Article/3644831/strikes-against-houthis-likely-effective-in-degrading-rebel-groups-capabilities/>.

⁴⁷ Quote from Army Lt. Gen. Douglas A. Sims II, Director for Operations, J-3, Joint Staff, Washington, DC. Joseph Clark, *Strikes Against Houthis Likely Effective in Degrading Rebel Group's Capabilities*, US DEPT. OF DEFENSE (Jan. 12, 2024), <https://www.defense.gov/News/News-Stories/Article/Article/3644831/strikes-against-houthis-likely-effective-in-degrading-rebel-groups-capabilities/>.

⁴⁸ Joseph Clark, *Strikes Against Houthis Likely Effective in Degrading Rebel Group's Capabilities*, US DEPT. OF DEFENSE (Jan. 12, 2024), <https://www.defense.gov/News/News-Stories/Article/Article/3644831/strikes-against-houthis-likely-effective-in-degrading-rebel-groups-capabilities/>.

⁴⁹ Jonathan Beale et al., *What we know about strikes on Houthis and strategy behind them*, BBC NEWS (Jan. 12, 2024), <https://www.bbc.com/news/world-middle-east-67955727>.

⁵⁰ Jonathan Beale et al., *What we know about strikes on Houthis and strategy behind them*, BBC NEWS (Jan. 12, 2024), <https://www.bbc.com/news/world-middle-east-67955727>.

⁵¹ U.N. Charter art. 51; *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>; Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁵² U.N. Charter art. 51; *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>; Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁵³ Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁵⁴ U.S. CENTCOM, *U.S. Forces Strike Houthi Radar Site*, US CENTCOM (Jan. 13, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3644980/us-forces-strike-houthi-radar-site/>.

⁵⁵ Al Jazeera, *US launches new strikes on Yemen's Houthis as conflict escalates*, AL JAZEERA (Jan. 13, 2024), <https://www.aljazeera.com/news/2024/1/13/us-launches-fresh-strikes-on-yemens-houthi-as-conflict-escalates>.

⁵⁶ See for example, protect freedom of navigation and make international waters safer and more secure for U.S. Navy and merchant vessels.

On January 18, the U.S. and United Kingdom carried out the fifth strike intended to degrade Houthi military capabilities.⁵⁷ The Biden Administration acknowledged the strikes would not wipe out the Houthi's capabilities to continue their offensives, rather it emphasized that the strikes were done to deter them from their continued harassment of commercial and military ships.⁵⁸ The next day, the White House announced the U.S. had carried out additional "self-defense strikes" against three anti-ship missiles that "presented an imminent threat to merchant vessels and the U.S. Navy ships in the region," as the missiles were "aimed into the Southern Red Sea and were prepared to launch."⁵⁹

On February 9, the U.S. conducted strikes on Houthi targets, destroying seven anti-ship cruise missile launchers and four explosive-loaded drone boats.⁶⁰ CENTCOM stated these sites "presented an imminent threat to U.S. Navy ships and merchant vessels in the region... These actions will protect freedom of navigation and make international waters safer and more secure for U.S. Navy and merchant vessels."⁶¹ On February 24, the U.S. and United Kingdom carried out strikes targeting 18 Houthi sites including underground weapons and missile storage facilities, radar systems, helicopters, and air defense systems.⁶² On February 26, CENTCOM reported the U.S. attacked three Houthi-controlled unmanned surface vessels and two anti-ship missiles were struck in Yemen as they were being prepared to launch into the Red Sea.⁶³ On February 29, CENTCOM forces shot down an unmanned aerial vehicle in self-defense, and later that evening CENTCOM forces conducted "two self-defense strikes against six mobile anti-ship cruise missiles that were prepared to launch towards the Red Sea."⁶⁴ In all cases, CENTCOM reaffirmed the strikes were made in self-defense, in preservation of the freedom of navigation of international waters, and for the security of naval and merchant vessels.

III. LEGAL ANALYSIS

This section aims to discuss the legality, or illegality, of the U.S., United Kingdom, and other states' military actions against the Houthis in the Red Sea, under three legal frameworks: 1)

⁵⁷ Al Jazeera, *US launches new strikes on Houthi targets in Yemen*, AL JAZEERA (Jan. 18, 2024), <https://www.aljazeera.com/news/2024/1/18/us-launches-new-strikes-on-houthi-targets-in-yemen>.

⁵⁸ Zeke Miller et al., *US forces strike Houthi sites in Yemen as Biden says allied action hasn't yet stopped ship attacks*, AP NEWS (Jan. 19, 2024), <https://apnews.com/article/biden-houthis-yemen-shipping-attacks-fc5c1ed40f4e370bed81670bfdda0899>.

⁵⁹ U.S. CENTCOM, *USCENTCOM Destroys Three Houthi Terrorists' Anti-Ship Missiles*, US CENTCOM (Jan. 19, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3651182/uscentcom-destroys-three-houthi-terrorists-anti-ship-missiles/>.

⁶⁰ AP News, *US conducts new airstrikes targeting Yemen's Houthi rebels*, AP NEWS (Feb. 8, 2024), <https://apnews.com/article/U.S.-airstrikes-yemen-houthi-rebels-cd92d4a9f9f514dc58db6b3bd722e006>.

⁶¹ AP News, *US conducts new airstrikes targeting Yemen's Houthi rebels*, AP NEWS (Feb. 8, 2024), <https://apnews.com/article/U.S.-airstrikes-yemen-houthi-rebels-cd92d4a9f9f514dc58db6b3bd722e006>.

⁶² Al Jazeera, *US, UK bomb Houthi sites in Yemen amid surge in Red Sea ship attacks*, AL JAZEERA (Feb. 25, 2024), <https://www.aljazeera.com/news/2024/2/25/us-uk-bomb-houthi-sites-in-yemen-amid-surge-in-red-sea-ship-attacks>

⁶³ U.S. CENTCOM, *Feb. 26 Red Sea Update*, US CENTCOM (Feb 26, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3687554/feb-26-red-sea-update/>.

⁶⁴ U.S. CENTCOM, *Feb. 29 Red Sea Update*, US CENTCOM (Feb 29, 2024), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3691742/feb-29-red-sea-update/>.

self-defense in response to a non-state actor, 2) use of force to respond to international terrorism, and 3) the classification of Houthi attacks as piracy, and available responses.

A. Are the United Kingdom's and U.S.'s responses to the Houthis legally justifiable under self-defense?

Under the UN Charter, Member States retain the inherent right to self-defense in response to an armed attack. The right of self-defense extends to military actions against the aggressor that are necessary and proportionate to repel the armed attack. This section will examine if the U.S. and United Kingdom were a) subject to an armed attack and b) whether their military responses were both necessary and proportionate.

1. Article 51 and Armed Attacks

Article 51 of the UN Charter states:

“Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the UN, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”⁶⁵

On January 10, 2024, the UN Security Council adopted Resolution 2722 (“Resolution”) concerning the Red Sea attacks perpetrated by the Houthis.⁶⁶ While the Resolution did not authorize the use of force under Chapter VII of the Charter, it did reaffirm the respect for navigational rights and freedoms for commercial and merchant ships and the rights of member states to defend their ships from attacks, namely those that threaten the aforementioned rights.⁶⁷

⁶⁵ U.N. Charter art. 51; *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>.

⁶⁶ Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁶⁷ Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

Pursuant to Article 51, the U.S. submitted a letter of notification to the UN Security Council on January 12, 2024, where it detailed its counteroffensive's purpose to disrupt Houthi attacks: the threat to safety of U.S. ships and other vessels in the region, and deterrence of future attacks.⁶⁸ U.S. CENTCOM has issued various statements detailing their specific justifications for self-defense: deterrence of future Houthi attacks in the region, the protection of the freedom of navigation, commitment to international trade, and to quash the imminent threat against U.S. ships and military personnel.⁶⁹ The United Kingdom submitted a similar Article 51 letter on January 12, claiming self-defense and the upholding of the freedom of navigation as the legal justifications for its action against Houthis.⁷⁰

The U.S. and United Kingdom have offered nuanced justifications to the UN for their engagement in self-defense. The U.S. has arguably conflated self-defense and the protection of state security interests (freedom of navigation) as the justifications for its wave of military attacks on Houthi strongholds in January and February of 2024.⁷¹ While safety of the seas is a beneficial military, political, and commercial goal, it is necessary to determine whether the U.S. and United Kingdom's attacks on Houthi capabilities were legitimate acts of self-defense, or otherwise authorized under international law.

2. Necessity

The UN Charter regulates the lawful initiation of hostilities by a Member State and promotes the settlement of international disputes through peaceful means. While the UN Charter regulates states, Art 2(4) requires Member States to refrain from the use of force against another state, "or in any other manner inconsistent with the Purposes of the United Nations."⁷² Presumably, this prohibition would encompass the use of force against non-state organized armed groups such as Houthi forces. U.N. Charter Art. 51 prohibits states from using force unless authorized by the UN Security Council, or in self-defense against armed attack. Peaceful resolution of international disputes necessitates diplomacy.⁷³ Where diplomatic appeasement has

⁶⁸ U.N. Charter art. 51; *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>; Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁶⁹ *Joint Statement from the Governments of Australia, Bahrain, Canada, Denmark, Germany, Netherlands, New Zealand, Republic of Korea, United Kingdom, and the United States, Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, WHITE HOUSE (Jan. 12, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/11/joint-statement-from-the-governments-of-australia-bahrain-canada-denmark-germany-netherlands-new-zealand-republic-of-korea-united-kingdom-and-the-united-states/>.

⁷⁰ Russell Buchan, *Law of Self-Defense and the U.S. and UK Strikes against the Houthis*, LIEBER INST. (Jan. 31, 2024), <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>.

⁷¹ The U.S. Navy's Freedom of Navigation program is founded upon the defense of U.S. commercial vessels from piracy and maritime threats. U.S. Department of Defense, Freedom of Navigation (FON) Program, US DEPT. OF DEFENSE (Feb. 28, 2017), <https://policy.defense.gov/Portals/11/DoD%20FON%20Program%20Summary%2016.pdf?ver=2017-03-03-141350-380>.

⁷² U.N. Charter art. 2(4); *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>.

⁷³ Dapo Akande & Thomas Liefländer, Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense, 107 AM. J. INT'L. L. 563-70 (2013); U.S. DEPARTMENT OF DEFENSE, LAW OF WAR MANUAL ¶ 1.11.1.3 (2015) <https://media.defense.gov/2023/Jul/31/2003271432/-1/-1/0/DOD-LAW-OF-WAR-MANUAL-JUNE-2015-UPDATED-JULY%202023.PDF#page=42>.

been attempted and no reasonable prospect of preventing future attacks, the *jus ad bellum* right to self-defense is activated.⁷⁴ The U.S., United Kingdom, and the international community have attempted diplomatic appeasement to no avail, including a UN Security Council Resolution, UN Member State appeals, negotiations with the Houthis, appeals to end the attacks, and state sanctions regimes.⁷⁵

Immediately in response to another state's attack or ongoing campaign, a state may use self-defense even where alternative means may be available. However, when a nonstate actor is the perpetrator of the armed attack, an analysis of the temporal scope of the non-state actor's attack, including the imminence of a potential future attack, is imperative.⁷⁶ Imminence requires an analysis of the threat a state is facing, including its type, likelihood, gravity, and timing.⁷⁷ Balancing probability and gravity are the two most significant considerations in this analysis: for example, a temporally remote but very probable and severe threat would satisfy the necessity requirement.⁷⁸ Based upon the history of attacks in the Red Sea, a very probable non-severe threat of force from a small boat in the Bab-el Mandeb Strait that could occur at any moment would also amount to necessity. However, a threat that is improbable, remote, and non-severe, would be difficult to justify necessity in the absence of resolution through peaceful means.⁷⁹

The U.S., United Kingdom, and other state owned and operated vessels in the Red Sea and Gulf of Aden were subjected to armed attacks by Houthi forces. The threat of Houthi-perpetrated armed attacks must be evaluated under the imminence framework. This is a special situation since the armed attacks launched by the Houthis are relatively indiscriminate, but with the intention of targeting certain states' commercial activity, and most importantly, the attacks are part of a "concerted pattern of continuing armed activity."⁸⁰ This provides a strong argument that the imminence of a threatened attack against vessels in the Red Sea is very likely to materialize.

3. Proportionality

Where necessity considers the temporal scope and gravity of an armed attack or threat of future attack, proportionality considers the appropriateness of action taken in response to the attack or imminent use of force. Any force taken in self-defense must only be that required to

⁷⁴ U.S. DEPARTMENT OF DEFENSE, LAW OF WAR MANUAL ¶ 1.11.2 (2015) <https://media.defense.gov/2023/Jul/31/2003271432/-1/-1/0/DOD-LAW-OF-WAR-MANUAL-JUNE-2015-UPDATED-JULY%202023.PDF#page=42>.

⁷⁵ James Kraska, *Attacks on U.S. Warships Justify Self-Defense Against Houthi Forces Ashore*, LAWFARE MEDIA (Jan. 2, 2024), <https://www.lawfaremedia.org/article/attacks-on-u.s.-warships-justify-self-defense-against-houthi-forces-ashore>.

⁷⁶ Dapo Akande & Thomas Liefländer, Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense, 107 AM. J. INT'L L. 563-70 (2013).

⁷⁷ Dapo Akande & Thomas Liefländer, Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense, 107 AM. J. INT'L L. 563-70 (2013).

⁷⁸ Dapo Akande & Thomas Liefländer, Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense, 107 AM. J. INT'L L. 563-70 (2013).

⁷⁹ Dapo Akande & Thomas Liefländer, Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense, 107 AM. J. INT'L L. 563-70 (2013).

⁸⁰ Dapo Akande & Thomas Liefländer, Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense, 107 AM. J. INT'L L. 563-70 (2013).

repel an armed attack and restore the security of the threatened party.⁸¹ In the context of ongoing armed attacks, the force must be that which “is reasonably necessary to discourage future armed attacks or threats thereof.”⁸² As noted in the *Oil Platforms* case, the proportionality of measures taken in self-defense, properly assessed, will consider not only the immediately preceding armed attack, rather the entire series of attacks, the likelihood of future attacks, and the appropriateness of the force in responding to attacks and preventing future attacks.⁸³

In this context, the U.S. and United Kingdom are facing ongoing attacks that occur at such a frequency that the threat of future attacks is highly probable and may be severe. The U.S. has responded by precisely targeting Houthi military installations, bases, and overwhelmingly have avoided targeting areas where civilian casualties could result.⁸⁴ In 1993 the U.S. attacked an Iraqi military and intelligence target, citing the hope that “such limited and proportionate targets may frustrate future unlawful actions . . . or preempt such activities.” Some may argue that proportionality must not exceed the harm inflicted by the initial armed attack and must be specifically constrained to what will immediately “halt and repel” an armed attack.⁸⁵ This argument is unconvincing in the present context, because the Houthi forces have launched several armed attacks, often indiscriminate, that eventually resulted in damage to American military vessels and the deaths of civilians. The U.S. and United Kingdom have not incidentally killed civilians in response and have only targeted military installations responsible for armed attacks or capable of launching future armed attacks, meaning that the current response is likely proportionate to the harm suffered by the Houthi attacks. Should the U.S. and United Kingdom, or other actors within Operation Prosperity Guardian, destroy civilian infrastructure or kill and injure civilians, a more robust proportionality discussion will be warranted to consider the harms suffered by the actors claiming self-defense against the civilian harms suffered in Yemen.

4. Anticipatory Self-Defense

The requirements of necessity and proportionality feed directly into temporal considerations of the armed attack. For attacks that have not occurred, states may engage in anticipatory self-defense where a victim state “must immediately act to defend itself in a meaningful way and if the potential aggressor has irrevocably committed itself to attack,”⁸⁶ which relates directly back to the main principle of the appropriateness of self-defense: that all

⁸¹ U.S. DEPARTMENT OF DEFENSE, LAW OF WAR MANUAL ¶ 1.11.1.2 (2015) <https://media.defense.gov/2023/Jul/31/2003271432/-1/-1/0/DOD-LAW-OF-WAR-MANUAL-JUNE-2015-UPDATED-JULY%202023.PDF#page=41>.

⁸² U.S. DEPARTMENT OF DEFENSE, LAW OF WAR MANUAL ¶ 1.11.1.2 (2015) <https://media.defense.gov/2023/Jul/31/2003271432/-1/-1/0/DOD-LAW-OF-WAR-MANUAL-JUNE-2015-UPDATED-JULY%202023.PDF#page=41>.

⁸³ James Kraska, *Attacks on U.S. Warships Justify Self-Defense Against Houthi Forces Ashore*, LAWFARE MEDIA (Jan. 2, 2024), <https://www.lawfaremedia.org/article/attacks-on-u.s.-warships-justify-self-defense-against-houthi-forces-ashore>.

⁸⁴ James Kraska, *Attacks on U.S. Warships Justify Self-Defense Against Houthi Forces Ashore*, LAWFARE MEDIA (Jan. 2, 2024), <https://www.lawfaremedia.org/article/attacks-on-u.s.-warships-justify-self-defense-against-houthi-forces-ashore>.

⁸⁵ Dapo Akande & Thomas Liefländer, *Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense*, 107 AM. J. INT’L L. 563-70 (2013).

⁸⁶ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

peaceful alternative measures must have been considered before the use of force was authorized.⁸⁷ Taking into account the nature of the continuing Houthi attacks in the Red Sea, it could be argued that not every military action taken by the U.S. and United Kingdom against the Houthis temporally fit within an immediate response to an armed attack; rather, some actions were taken to preemptively eliminate Houthi military capabilities that were consistently used to launch attacks on the Red Sea. For these actions taken in anticipatory self-defense, it should be reiterated that the U.S./United Kingdom attempted to peacefully resolve the conflict with the Houthi forces, who were unwilling to relent except for the ceasefire deal [see Background, Houthi-Perpetrated Events]. Further, the Houthi committed frequent attacks on military and civilian objects in the Red Sea.

B. Terrorism

While the Houthi are a non-state actor under the self-defense analysis, it is also essential to analyze their role as a recognized terrorist organization (Ansar Allah).⁸⁸ The U.S. War on Terror has resulted in a vast body of international law considering the appropriate responses to terrorist sects that threaten national security and international peace. Much of the body of law on use of force in response to terrorist attacks, especially in the U.S.-United Kingdom context; developed following the September 11, 2001 attacks, and included coalitions of states joining together to counter terrorist forces by providing financial, military, or intelligence aids, similar to the current framework of Operation Prosperity Guardian.

1. Terrorism and Self-Defense

The initial response to the September 11 attacks by the U.S. and United Kingdom were robust and swift, and both states reported to the Security Council, noting the use of self-defense against the “Al Qaeda terrorist organization and the Taliban regime that is supporting it,” also emphasizing that the responses were necessary to prevent future attacks.⁸⁹ The international response was supportive of the United States, and the Security Council passed several resolutions that re-emphasized every nation’s “inherent right to self-defense” as established in the UN Charter. NATO also responded to these attacks, declaring that if the attacks “originated from outside the United States” it would be considered an action falling under Article 5 of the Washington Treaty (which is based upon the self-defense, Article 51 of the UN Charter), allowing retaliation taken as collective self-defense if any state party suffers an armed attack.⁹⁰

⁸⁷ James Kraska, *Attacks on U.S. Warships Justify Self-Defense Against Houthi Forces Ashore*, LAWFARE MEDIA (Jan. 2, 2024), <https://www.lawfaremedia.org/article/attacks-on-u.s.-warships-justify-self-defense-against-houthi-forces-ashore>.

⁸⁸ U.S. Department of State Bureau of Counterterrorism, *Foreign Terrorist Organizations*, DEPT. OF STATE (2025), <https://www.state.gov/foreign-terrorist-organizations/>.

⁸⁹ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

⁹⁰ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

NATO made the finding that the September 11 attacks did originate outside the U.S. based on clear and convincing evidence and thus was legally justified in its self-defense actions.⁹¹

The seeming overlap between a state's inherent right to self-defense and a state's counterterrorism operations raises the question of whether a response to non-state actor terrorist groups actually differs in a legal context from the response authorized in response to an armed attack by a state. The first issue is whether or not the armed attack is of sufficient gravity to endanger "international peace and security," the threshold employed by Article 51's language- and if so, a state would be permitted to take actions in self-defense without the authorization of the Security Council.⁹² The Security Council had taken the position that terrorist activity does tend to threaten international peace and security, by referring to the destabilization of international peace following the Pan-Am attacks of the late 1980s, and the 1998 U.S. Embassy bombings in Nairobi and Dar Es Salaam, and reminding that state sponsors of terrorism work to destabilize this peace.⁹³ In fact, the Security Council authorized the use of force in response to the Taliban's occupation of areas of Afghanistan before September 2001, and in response to September 11th, condemned "such acts, like any act of international terrorism, as a threat to international peace and security."⁹⁴ Here, Security Council Resolutions 1368⁹⁵ and 1373⁹⁶ specifically authorized the use of force against international terrorism. Another important development was an expansion to the traditional view of the armed attack: in the context of terrorism, the international community recognized terrorism as a global threat to international peace and security, notoriously difficult to control at a law enforcement level, and difficult to identify where & when terrorist activity would occur.⁹⁷

2. Use of Force Against Terrorism and State Territorial Integrity

In the body of law that developed regarding the use of force against terrorism following September 11, the conflict between Article 2(4) and Article 51 came to a forefront. Article 2(4) prohibits the use of force against the "territorial integrity" of any state,⁹⁸ however, the international community, Security Council, and NATO have all accepted that states have a right

⁹¹ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

⁹² Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

⁹³ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

⁹⁴ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

⁹⁵ S.C. Res. 1368, U.N. Doc. S/RES/1368 (2001), <https://digitallibrary.un.org/record/448051?ln=en&v=pdf>.

⁹⁶ S.C. Res. 1373, U.N. Doc. S/RES/1373 (2001), https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf.

⁹⁷ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

⁹⁸ U.N. Charter art. 2(4); *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>.

to self-defense against international terrorism.⁹⁹ The issue became whether or not a state's right to self-defense against a terrorist group could extend into the territory of another state, where the terrorist group was operating, without violating the territorial integrity of such other state. As the international community condemned global terrorism, the Security Council also ordered states where terrorist organizations were located to control and eliminate these groups.¹⁰⁰ These orders unfortunately lacked an enforcement mechanism, which resulted in states that were unwilling or unable to comply with the obligation forfeiting their Article 2(4) right to territorial integrity, albeit for the limited scope of the victim state response to terrorist actions originating within the noncompliant state's borders.¹⁰¹

In practice, however, not all actions against terrorist groups were authorized or supported by the international community. For instance, in 1985, Israel conducted airstrikes on PLO facilities in Tunisia under the argument that the PLO was using such facilities to conduct airstrikes against Israel, but the international community, along with the Security Council, condemned this attack as a "flagrant violation" of Tunisian territory.¹⁰² Israel failed to prove that the PLO in Tunisia posed an adequate threat, and the Security Council denounced these attacks as part of an ongoing Zionist campaign against the Palestinian people and the Maghreb.¹⁰³ Similarly, the international community was also unsupportive of Turkey's military actions into northern Iraq against Kurdish terrorists in the 1990s.¹⁰⁴ However, in this case, territorial integrity was not the source of international criticism, as the Iraqi government and military forces were already excluded from the area.¹⁰⁵ Rather, Turkey continuously interfered with relief operations in the no-fly zone and violated humanitarian principles against the Kurdish population.¹⁰⁶ It seems that when the state has been excluded from certain areas within its territory, the argument that a state has violated the territorial integrity of another (e.g. following insufficient allegations of a terrorist threat; Israel-Tunisia) would not hold up when the integrity of the territory itself could be called into question.

⁹⁹ U.N. Charter art. 51; *United Nations Charter (full text)*, U.N. <https://www.un.org/en/about-us/un-charter/full-text#:~:text=Article%2051,maintain%20international%20peace%20and%20security>.

¹⁰⁰ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹⁰¹ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹⁰² U.N. Security Council, *Security Council Official Records, 2611th Meeting*, U.N. <https://www.un.org/unispal/document/auto-insert-186241/>.

¹⁰³ U.N. Security Council, *Security Council Official Records, 2611th Meeting*, U.N. <https://www.un.org/unispal/document/auto-insert-186241/>.

¹⁰⁴ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹⁰⁵ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹⁰⁶ Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

In the context of operations against Al-Qaeda in Afghanistan, the U.S. and the Security Council both demanded the Taliban comply and the handover of Osama Bin Laden.¹⁰⁷ When the Taliban failed to sufficiently suppress Al-Qaeda and was unwilling or unable, respectively, to surrender Bin Laden, the U.S. cited these factors as a good-faith basis for conducting operations within Afghan Territory.¹⁰⁸ It must be assessed on a contextual basis whether or not the state which the terrorist group operates within has responded to the threat, complied with international demands, and has suppressed targets, or if they are unable or unwilling to do so.¹⁰⁹

The Red Sea Crisis stemmed from the larger context of the Yemen civil war, and the territorial integrity of Yemen has been unstable for years. The Houthi control large portions of Yemeni territory, including the capital city of Sana'a, but are not the internationally recognized government, and are not recognized as such.¹¹⁰ Thus, the current situation mirrors the Turkish operations in Kurdistan, rather than the Israeli actions in Tunisia. Ships were fired upon from the Houthi-controlled areas of Yemen, and states responding with force fired upon Houthi capabilities within those Houthi-controlled areas. The international community likely could not protest the violation of Yemen's territorial integrity by the U.S./United Kingdom use of force against Houthi forces within Houthi-controlled areas. Additionally, it is undisputed that the Houthi have been attacking international commercial vessels and military vessels, and the Security Council has condemned these as acts of terrorism and threats to international peace, while reemphasizing the Article 51 right of self-defense. This further separates the situation from the Israel-Tunisia case, where Israel's ulterior motives were evident while the terrorist threat remained unclear.

C. Piracy

The Houthis and, particularly, their actions in the Red Sea have minimally been analyzed within the framework of piracy, namely because it is unlikely these attacks constitute piracy under international law. The UN Convention on the Law of the Sea (UNCLOS) article 101 defines piracy as:¹¹¹

- a. Any illegal acts of violence or detention, or any act of depredation
 - i. **committed for private ends;**
 - ii. **by the crew or the passengers of a private ship or a private aircraft, and directed**
 - 1. on the high seas, against another ship or aircraft, or against persons or property on board such ship or craft;

¹⁰⁷ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹⁰⁸ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹⁰⁹ Michael N. Schmitt, Counter-Terrorism and the Use of Force in International Law, 005 MARSHALL CTR. PAPER (2002), <https://www.marshallcenter.org/en/publications/marshall-center-papers/counter-terrorism-and-use-force-international-law/counter-terrorism-and-use-force-international-law>.

¹¹⁰ European Council on Foreign Relations, Mapping the Yemen Conflict, ECFR.EU (2015), [https://ecfr.eu/archive/page/-/Mapping_Yemen_\(1\).pdf](https://ecfr.eu/archive/page/-/Mapping_Yemen_(1).pdf).

¹¹¹ United Nations Convention on the Law of the Sea, art. 101, Dec. 10, 1982, 1833 U.N.T.S. 397.

2. against a ship, aircraft, persons or property in a place outside the jurisdiction of any state...

Here, two elements raise questions as applied to Houthi attacks in the Red Sea: 1) whether the attacks are for “private ends” and 2) whether they are conducted “by the crew or the passengers of a private ship or aircraft.” While the private ship/aircraft element of UNCLOS Article 101 is a clearly understood legal principle, the “private ends” element has not received the same universal consensus among international legal practitioners.

1. Private Ends

In some conventional understandings of piracy – both historical and contemporary – piratical attacks were understood to be pursued exclusively for private enrichment (plundering). The preposition “for” in the clause “for private ends” thus perhaps indicates that the group or individual committing the act of piracy must benefit from the piratical act. Yet it is questionable whether the Houthis themselves, and more specifically those perpetrating the Red Sea attacks, are in some way privately benefiting from these attacks. This will likely depend on how the Houthis are classified in the context of international law and state/non-state actors.

One legal scholar, Douglas Guilfoyle, would argue that the Houthi attacks in the Red Sea are clear-cut piracy and easily satisfy the “private ends” element. Guilfoyle argued that the test lies not in the offenders’ subjective motivations, rather in whether the offenders represent a state.¹¹² In Guilfoyle’s interpretation, a public act is one conducted in reference to or on behalf of a state; conversely, a private act is one conducted without sanction or authority of a state. As Guilfoyle stated: “[a]ll acts of violence that lack state sanction are acts undertaken ‘for private ends.’”¹¹³ Guilfoyle therefore would likely argue that the Houthi attacks constitute piracy because they are done without official state authority, in other words, “for private ends;” because the Houthi are still widely considered non-state actors within Yemen, even though they control a considerable amount of territory, including the capital city of Sana’a.

Another legal scholar, Magne Frostad, highlights that the drafters of two key conventions, the 1958 Convention on the High Seas and the 1988 Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, concluded that private individuals may evade the definition of piracy if they act on political, or perhaps philosophical or religious, grounds, regardless of state/non-state actor status. Frostad reinforces that, according to the Conventions, even if the actors themselves are non-state actors, their conduct cannot satisfy the “private ends” element if their conduct is political. Under this interpretation, because the Houthis are pursuing political private ends, their conduct should not be considered piracy.¹¹⁴

Some recent case law, however, might be used to buttress the classification of Houthi attacks as piracy. In *Institute of Cetacean Research v. Sea Shepherd Conservation Society*, the

¹¹² Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea*, Cambridge Studies in International and Comparative Law (Cambridge and New York: Cambridge University Press, 2009), 32.

¹¹³ Guilfoyle, 37. Elsewhere, Guilfoyle has argued: “All acts of violence lacking State sanction are acts undertaken ‘for private ends.’ Pirates are criminals not because of their subjective motives but because their acts impinge upon States’ monopoly on legitimate violence and their interests in freedom of navigation.” See Douglas Guilfoyle, “II. Piracy off Somalia: UN Security Council Resolution 1816 and IMO Regional Counter-Piracy Efforts,” *International and Comparative Law Quarterly* 57, no. 3 (2008): 693.

¹¹⁴ Magne Frostad, “Houthi Attacks on Merchant Vessels in the Red Sea,” *Articles of War* (Lieber Institute at West Point, June 10, 2024), <https://lieber.westpoint.edu/houthi-attacks-merchant-vessels-red-sea/>.

United States Ninth Circuit Court of Appeals ruled that strictly political acts by private persons or groups conducted for no pecuniary benefit may be deemed “private ends” and thus constitute piracy.¹¹⁵ The Court also held that “private ends” may encompass acts which are solely political, moral, or religious, and not strictly those for “financial enrichment.”¹¹⁶ The Court drew upon a “rich history of piracy law” which it equated actions “private ends” as “those not taken on behalf of a state.”¹¹⁷ There is some evidence that the Houthi may be charging ships a fee for a guaranteed “safe passage,” resulting in an income of \$180 million per month, however this has not been substantiated and may remain within an informal economic network.¹¹⁸ As more evidence emerges of this practice, it should be considered within the framework of Article 101 and whether there has been an “attack, detention, or any act of depredation” accompanying the fee.¹¹⁹

2. By the Crew...of a Private Ship or Aircraft

While much of the piracy debate, outlined above, centers around disagreement of the meaning of “private ends,” the second element - that the illegal action(s) be committed by the crew or passengers of a private ship or private aircraft - is more straightforward to satisfy. A private ship or aircraft is simply one that is not acting under state authority. As discussed prior, the Houthi are widely categorized as non-state actors, most definitely not acting under the state authority of the official Yemeni government. Thus, generally, the Houthis are likely to satisfy this element of the UNCLOS piracy analysis. YAP emphasizes the need for each event in the Red Sea to be analyzed under this framework individually.

IV. CONCLUSIONS

In conclusion, from the beginning of the Houthi-perpetrated attacks in the Red Sea until the ceasefire of January 2025, the international response and use of force against the Houthi has been wholly compliant with current international legal norms. The Article 51 right to self-

¹¹⁵ *Institute of Cetacean Research v. Sea Shepherd Conservation Society*, F.3d 725 940 (United States Court of Appeals for the Ninth Circuit 2013). The Sea Shepherd Conservation Society (Sea Shepherd) is an Oregon-based environmental non-profit organization that seeks to protect marine wildlife. The Institute of Cetacean Research (Cetacean) is a group of Japanese researchers who hunt whales in the Southern Ocean. Cetacean’s whale hunting was conducted in compliance with necessary laws. The Sea Shepherds regularly attacked Cetacean’s vessels, ramming their ships, hurling glass containers of acid, dragging metal-reinforced ropes in the water to damage Cetacean’s ships, launching smoke bombs and flares with hooks, and using high-powered lasers. Cetacean alleged that Sea Shepherd’s attacks were piracy, and thus violated the law of nations. The district court dismissed the case on the grounds that Sea Shepherd’s actions, not for pecuniary gain, did not satisfy the private ends element. The Appeals court overturned, holding that private ends may encompass acts that are solely political, moral, or religious, and not strictly those for “financial enrichment.”

¹¹⁶ *Cetacean*, F.3d 725 at 943.

¹¹⁷ *Cetacean*, F.3d 725 at 943–44. In justifying their definition of private, the court cited a U.S. Supreme Court case from 1844 involving the brig *Malek Adhel*, which held that piracy could be interpreted broadly as an “act of hostility not commissioned and engaged in lawful warfare (*Harmony v. United States*, 43 U.S. 210, 232 (Supreme Court of the United States 1844)).

¹¹⁸ Cathrin Schaer, *Are Houthis blackmailing shipping companies for millions?*, DW (Nov. 12, 2024), <https://www.dw.com/en/are-houthis-blackmailing-shipping-companies-for-millions/a-70766332>.

¹¹⁹ United Nations Convention on the Law of the Sea, art. 101, Dec. 10, 1982, 1833 U.N.T.S. 397.

defense is largely recognized as applying to situations where the perpetrator of an armed attack may be a non-state actor: the right applies to *states that are victims* of an armed attack. The evolution of law regarding the use of force against international terrorism has solidified this point – there has been explicit authorization by the Security Council, NATO, and the international community at large recognizing the right of self-defense applies when the perpetrator is an international terrorist organization. An important consideration when analyzing self-defense under a terrorist framework is state sovereignty. Houthi forces are using Yemen’s land and sea to launch attacks on military and civilian vessels, but the military response against them is limited to Houthi-controlled areas. The U.S. and United Kingdom’s precision strikes against Houthi capabilities have been necessary and proportionate to Houthi attacks, and the strikes have not resulted in civilian deaths or damage to civilian infrastructure. Finally, piracy is likely not a suitable framework under which to analyze Houthi actions because there are no clear “private ends” being sought by the Houthi forces – though some argue that the political motivation for attacking Israeli-linked ships in the Red Sea may count as an objective taken “for private ends.” In any case, there are more suitable legal frameworks to seek accountability for Houthi attacks and to analyze the appropriateness of the military response.