

有關「索馬利亞」海盜及 我海巡機關應對之省思

Reflections on Somali Pirates and Our Coast Guards' Responses.

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壹、序言

近年來「索馬利亞」的海盜大肆崛起，以武裝力量非法挾持、勒贖各國商漁船，行徑大膽，犯案地點甚至侵入他國領海並擴張至公海，完全漠視他國領海主權及相關國際法則，進而引爆另一項國際性話題，各國除大聲撻伐外並紛紛採取相關措施，《聯合國海洋法公約》及我國《刑法》對於海盜罪之逮捕扣押、犯罪構成及刑度均有律定，如右表：

依上開規定，本署「船艦」若於「公海」實施緝捕海盜，再依國內法踐行正當法律程序，怠無疑義，但以現今各國逮捕「索」國海盜份子後，多交予「肯亞」或「葉門」審理，綜其原因頗為複雜，在此不做論述，今欣逢本署成立屆滿十週年，能在此提出個人淺見與各先進共同研究探討，實感榮幸之至。

Part I. Preface

In recent years, "Somali pirates" raised abruptly and violently held merchant and fishing ships against their wills and demanded ransom. Their crime sites even pushed into other country's territorial waters and the high seas, totally ignoring their country's territorial waters sovereignty and related international laws, thus causing another international talking-point. Many countries, other than launching punitive condemnations, have taken related actions. The United Nations Convention on the Law of the Sea and our country's criminal law have defined about the piracy crimes on its arrests and detainment, constitutive elements of a crime and degrees of punishment. They are as followed.

According to the above regulations, this Administration's vessels, on the "high seas", executing the arrests of pirates and put them on trial according to our country's laws leave no dubious interpretation. However, presently many countries often hand the pirates they arrest over to "Kenya" or "Yemen" to put on trial. The reason behind this is quite complicated, which is not going to be illustrated here. At the ten year anniversary of the Administration, I am honored to provide my personal opinions for all elites to do joint discussions.

《聯合國海洋法公約》 《The United Nations Convention on the Law of the Sea》	
<p>第105條 海盜船舶或飛機的扣押 Article 105 Seizure of a pirate ship or aircraft</p>	<p>在公海上，或在任何國家管轄範圍以外的任何其他地方，每個國家均可扣押海盜船舶或飛機或為海盜所奪取並在海盜控制下的船舶或飛機，和逮捕船上或機上人員並扣押船上或機上財物。扣押國的法院可判定應處的刑罰，並可決定對船舶、飛機或財產所應採取的行動，但受善意第三者的權利的限制。</p> <p>On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalty to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.</p>
<p>第107條 由於發生海盜行為而有權進行扣押的船舶和飛機 Article 107 Ships and aircraft which are entitled to seize on account of piracy.</p>	<p>由於發生海盜行為而進行的扣押，只可由軍艦、軍用飛機或其他有清楚標誌可以識別的為政府服務並經授權扣押的船舶或飛機實施。</p> <p>A seizure may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.</p>
我國刑法 Our country's criminal laws	
<p>第333條 Article 333</p>	<p>未受交戰國之允准或不屬於各國之海軍，而駕駛船艦，意圖施強暴、脅迫於他船或他船之人或物者，為海盜罪，處死刑、無期徒刑或七年以上有期徒刑。</p> <p>船員或乘客意圖掠奪財物，施強暴、脅迫於其他船員或乘客，而駕駛或指揮船艦者，以海盜論。因而致人於死者，處死刑、無期徒刑或十二年以上有期徒刑；致重傷者，處死刑、無期徒刑或十年以上有期徒刑。</p> <p>Those, without the permissions of belligerents or not belonging to any country's navy and pilot vessels with the intention to impose violence and threaten other ships, people or products on board other ships with force, have committed piracy and can be sentenced to death, life imprisonment or imprisonment for more than 7 years.</p> <p>Crewmen or passengers, who intend to take property by force, impose violence and threaten other crewmen or passengers and pilot and lead ships have committed piracy.</p> <p>Those who cause deaths to others are sentenced to death, life imprisonment or imprisonment for more than 12 years. Those who cause severe injuries are sentenced to death, life imprisonment or imprisonment for more than 10 years.</p>
<p>第334條 Article 334</p>	<p>犯海盜罪而故意殺人者，處死刑或無期徒刑。</p> <p>犯海盜罪而有下列行為之一，處死刑、無期徒刑或十二年以上有期徒刑：</p> <p>一、放火者。</p> <p>二、強制性交者。</p> <p>三、擄人勒贖者。</p> <p>四、使人受重傷者。</p> <p>Those who commit piracy and intentionally cause deaths to others are sentenced to death or life imprisonment.</p> <p>Those who commit piracy and commit one of the crimes below are sentenced to death, life imprisonment or imprisonment for more than 12 years.</p> <p>a. Arsonists</p> <p>b. Those who force sexual intercourses.</p> <p>c. Kidnapers</p> <p>d. Those who cause severe injuries.</p>

貳、海盜之行為與定義

海盜—Pirate，拉丁文之意是：「到海上碰碰運氣」，希臘語—Peirates，則意指：「攻擊船舶之冒險者」，海盜是一項古老的『行業』，中西史上淵源流長，自人類開始發展海上航運後「海盜」便因運而生。

1958年聯合國第一次海洋法會議，86個國家代表參與制定的《聯合國公海公約》，其中已將海盜行為，明白地列為是一種犯罪行為，1982年近代海洋法大典《聯合國海洋法公約》中對於海盜行為等詳定如下：

Part II. The action and definition of pirate

Pirate, in Latin, means "trying your luck in sea." In Greek, Peirates, means the adventurers who attack ships. Pirating is an old profession with long history on both Chinese and Western histories. Since humans started shipping, pirating started.

In 1958, 86 countries sent representatives to the first meeting on law of sea of UN and set up Convention on the High Seas. Within it, the act of pirating is clearly defined as a crime. In 1982, Modern Dictionary on Law of Sea, using The United Nations Convention on the Law of the Sea, defines the actions of pirating as below.

<p>第101條 海盜行為的定義 Article 101 Definition of piracy</p>	<p>下列行為中的任何行為構成海盜行為：</p> <p>(a) 私人船舶或私人飛機的船員、機組成員或乘客為私人目的，對下列對象所從事的任何非法的暴力或扣留行為，或任何掠奪行為：</p> <p>(i) 在公海上對另一船舶或飛機，或對另一船舶或飛機上的人或財物。</p> <p>(ii) 在任何國家管轄範圍以外的地方對船舶、飛機、人或財物。</p> <p>(b) 明知船舶或飛機成為海盜船舶或飛機的事實，而自願參加其活動的任何行為。</p> <p>(c) 教唆或故意便利 (a) 或 (b) 項所述行為的任何行為。</p> <p>Piracy consists of any of the following acts:</p> <p>(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or passengers of a private ships or a private aircraft, and direct:</p> <p>(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;</p> <p>(ii) against a ship or aircraft, persons or property in a place outside the jurisdiction of any State;</p> <p>(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;</p> <p>(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b) .</p>
<p>第102條 軍艦、政府船舶或政府飛機由於其船員或機組成員發生叛變而從事的海盜行為 Article 102 Piracy by a warship, government ship or government aircraft whose crew has mutinied</p>	<p>軍艦、政府船舶或政府飛機由於其船員或機組成員發生叛變並控制該船舶或飛機而從事第101條所規定的海盜行為，視同私人船舶或飛機所從事的行為。</p> <p>The acts of piracy, as defined in article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft.</p>
<p>第103條 海盜船舶或飛機的定義 Article 103 Definition of a pirate ship or aircraft</p>	<p>如果處於主要控制地位的人員意圖利用船舶或飛機從事第101條所指的各項行為之一，該船舶或飛機視為海盜船舶或飛機。如果該船舶或飛機曾被用以從事任何這種行為，在該船舶或飛機仍在犯有該行為的人員的控制之下時，上述規定同樣適用。</p> <p>A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that fact.</p>

總部設於英國倫敦的「國際海事局」(International Maritime Bureau IMB) 將海盜行為定義為：「意圖涉嫌使用暴力已達竊盜或從事其他犯罪目的之任何行為」，其將所有在海上發生的登船搶劫或是暴力事件，皆歸納為海盜行為，而不論實施地點是否在公海或領海內¹。

海盜行為之構成最主要主體是「人」，進一步利用船艦或航空器，並以私人意圖、非法之手段強取他人財物為自己所用，準此，海盜行為可釋為：「基於私人目的，意圖為自己或第三人不法之所有，利用航空器或船艦於水上以非法等手段實施劫取、掠奪他人或以挾人方式間接自第三人取得財物（贖金）者，皆應為海盜。」，所謂「財物」，泛指一切不動產及動產，亦即原於他人實力監督支配之下所有物品等皆包含之，如今海盜之犯罪行為已被世人認為是一種「萬國公罪」，世界各國皆有對其實施所謂司法上「普遍管轄權」。

參、「索」國海盜「師出有名」

「索馬利亞」(Soomaaliya) 一東非國家之一，東瀕「印度洋」，西連「衣索比亞」、「吉布提」，南依「肯亞」，北隔「亞丁灣」與「葉門」遙遙相望。「亞丁灣」則是「印度洋」連接「紅海」達「蘇伊士運河」進入「地中海」往歐美國家必經之水道，由於「索」國目前正處於內戰狀態，年年戰亂，烽火連天，其經濟、社教等體系早已崩潰，再加上美國的「反恐行動」燃燒到該國，使得原已民不聊生的「索」國更是雪上加霜，人民苦不堪言。

「索馬利亞」擁有三千多公里長的海岸線，但沙漠地帶佔據了多數的土地面積，現今之過渡政府又無力保護所轄海域，以致常遭他國漁船入侵攫取當地漁業資源，各國商船亦囂張地於該國海域非法排放污水，使得海洋受到了污染，剛開始「索」國人民以保護該國漁業資源及環境為由，自命為「海岸警備隊」向他國漁船或過往商船索要「補償費」，事後發現此法獲利很可觀，逐漸演變至今大肆以海盜之作為，不分船舶大小及種類，將所挾持之船舶、船員視為肉票勒贖金錢，現今索取「補償費」亦是該國海盜出兵的藉口，海盜們終於「師出有名」了。

"International Maritime Bureau IMB", with its headquarter in London, UK, defines pirating acts as any violence with intentions to steal or perform any other crimes. IMB includes any robbery or violence on sea as pirating acts, whether the crime site is on high seas or territorial waters¹.

The main body that make up for pirating acts is "person" who use ships or airplanes, with personal purposes and use illegal means to forcefully obtain other people's property for their own use. Therefore, pirating acts can be explained as based on personal goals, with intentions to illegally obtain for self or third party, using airplanes or ships on water to illegally obtain or rob others or kidnap hostages to indirectly obtain property (ransom) from third party – all these are pirating acts. The so called property is a general term meaning all immovable property and movable property, that is, all items under the surveillance or control of others. Now, piracy is considered by all the countries as a crime against all and all countries have universal jurisdiction on piracy.

Part III. Somali pirates "with just causes"

"Somalia" (Soomaaliya) is one of East African countries, to its east – "Indian Ocean", to its west – "Ethiopia" and "République de Djibouti", to its south – "Kenya", to its north – overlooking "Gulf of Aden" to "Yemen". "Gulf of Aden" is where "Indian Ocean" connects with "Red Sea" to reach "Suez Canal". It then enters "Mediterranean" to go to Europe and America. Because Somalia is now under civil war that has been going on for years, its economy and social systems have collapsed and the anti-terrorism actions of USA made everything worse. Somalia, a country where its people can not live in peace is now facing more difficulties.

"Somalia" has more than 3,000 kilometers long seashore but dessert occupies most of its land and the Transitional Federal Government now is powerless in protecting its territorial waters so fishing ships from other countries often enter illegally to rob them off their marine resources. Merchant vessels from other countries also enter its territorial waters to arrogantly discharge waste water and pollute the ocean. In the beginning, Somali people, under the name of protecting of their marine resources and environment, called themselves seashore guards and got compensation from other countries' fishing ships or merchant vessels. They then realized this is a great way to profit and it slowly develops into the pirating acts now – regardless of the size or type of the ship, using ships or seamen as hostages to get ransom. Now, getting compensation is also the reason where Somali pirates send out troops. They now have the just causes.

肆、危險但亦重要的「亞丁灣」（Gulf of Aden）

每年通過「亞丁灣」借道「蘇伊士運河」大大小小的船隻約計有18,000艘以上，是世界上最繁忙的航運水道之一，據統計2005至2008年「埃及」政府光是靠「蘇伊士運河」的通行費就賺進122億美金以上，日收入亦曾高達1,725萬美元，平均每月少說也有一千多艘的船舶航經「索」國外海，海盜們何愁沒有“生意”好做？以下即為2005~2009年「亞丁灣」海盜事件發生統計表²：

項次 Item number	年份 Year	全球共發生海盜襲擊事件 Total numbers of piracy worldwide	發生於亞丁灣或「索」國海域 Piracy in Gulf of Aden or Somali waters	備註 note
一	2005	276	35	
二	2006	239	—	教派武裝分子控制年度 The year that is controlled by armed force of a religious sect.
三	2007	263	41	
四	2008	293	111	
五	2009	406	214	

由上表得知，每年發生於「索」國海域或「亞丁灣」的海盜武裝攻擊事件年年增加，07至08年成長了2.7倍，08至09年又成長了1.9倍，06年「索」國因教派武裝份子控制了大部分地區，他們不允許海盜這行業的存在，違犯者必遭嚴厲處分，這種法規很有效，因此，根據國際海事局官員指出，在2006年的整個夏季幾乎沒有海盜襲船事件發生。然而「亞丁灣」終究還是全世界最重要的航運水域水道之一，是進入「蘇伊士運河」的咽喉，特別是對於波斯灣的石油，全球有11%的石油通過「亞丁灣」經「蘇伊士運河」到達當地的煉油廠，戰略地位相當重要。

Part IV. Dangerous but important "Gulf of Aden"

There are more than 18,000 ships of various sizes going to "Suez Canal" via "Gulf of Aden". It is one of the busiest canals. According to statistics, Egyptian government earned more than 12.2 billion USD on the toll fees on Suez Canal from 2005 to 2008. The amount received per day once reached 17,250,000 USD. On average, there are at least 1,000 ships sailing past the outer sea of Somalia. Pirates have more than enough ships to rob. Below is a list of piracy occurring in Gulf of Aden between 2005 and 2009².

From the above list, we can see that the piracy in Somali water and "Gulf of Aden" increased every year. From 2007 to 2008, it increased 2.7 folds and from 2008 to 2009, it increased 1.9 folds. In 2006, because armed force of a religious sect controlled most areas and they did not allow the existence of pirates and punished them severely. It worked really well. Therefore, according to IMB, there was nearly no piracy in the summer of 2006. However, "Gulf of Aden" is still one of the most important routes; it is the entry point to "Suez Canal", especially for petroleum from Persian Bay. 11% of the petroleum of the world goes through "Gulf of Aden" to enter "Suez Canal" to reach refinery so it is at a very important position.

伍、利之所趨 台船奔「索」海

據漁業界人士指出，「索」國附近海域盛產鯛類、梭魚、黃鰹鮪、長鰹鮪等，是我國遠洋漁船近年來新興的作業漁場，雖該海域盛產高經濟性魚類，但也盛產『海盜』，在利益吸引之下，台灣漁船仍甘冒風險前往作業，因此遭劫亦有所聞，以下則為2005~2009年我國遭劫漁船統計表³：

Part V. Taiwanese ships heading for sea around Somalia for the potential profits

According to fishing experts, there are sea breams, barracudas, yellow fin tuna and albacore and etc. It is the newest fishing ground for our fishing ships in recent years. Although the water has high economical value fish but there are also many pirates there. Under the attraction of profits, Taiwanese fishing ships still go there to fish, knowing the risks. Therefore, the news of robbery is often heard. Below is the list of our country's ships encountering robbery between 2005 and 2009³.

項次 Item	發生年份 Year occurred	遭劫船數/船名 Numbers of ships robbed and names	遭劫地點 Crime site	給付贖金（美元） Ransom paid（USD）	船舶種類 Type of ship
一	2005	3 「中義218號」 「新連發36號」 「承慶豐號」 「Zhongyi 218」 「Shinrenfa 36」 「Chenchenfong」	「索」國以東約547哩 547 nautical miles east of Somalia	{中}號為17萬 {新}號、{承}號為19萬5千 170,000, 195,000, 195,000 respectively	漁船 Fishing ship
二	2006	—	—	—	—
三	2007	1 「慶豐華168號」 「Chingfonghua」	「索」國東北方約220哩 220 nautical miles north east of Somalia	20萬 200,000	漁船 Fishing ship
四	2008	—	—	—	—
五	2009	1 「穩發161號」 「Wenfa 161」	塞席爾群島海域，「索」國以東，距離 沿岸約800哩。 Republic of Seychelles territorial water, 800 nautical miles east of Somalia	—	漁船 Fishing ship

總計近5年來我國籍漁船共遭劫5艘，前4艘已付出贖金超過45萬美元，去（98）年4月遭劫之「穩發161號」漁船，於今（99）年2月11日，由英國談判專家搭直升機海上丟包贖金獲釋，3月4日返抵高雄港，據傳，此次贖金為一百萬美元，但船東仍避談不願證實。

Over the last 5 years, the numbers of fishing ships from our country that were robbed was 5 and the first 4 boats already paid more than 450,000 USD in ransom. Last April, "Wenfa 161" that was robbed was released on February 11, 2010. British negotiator dropped ransom from helicopter to the water to gain the release of the boat. It returned to Kaohsiung Harbor on March 4. It was said that the ransom paid was 1 million USD but the owner would not confirm it.

陸、海盜組織、裝備及行事準則

「穆杜格」與「邦特蘭」分別位於「索」國中部及東北部，是目前該國兩個主要海盜基地，海盜們撥出部分比例之贖金購買如：AK47步槍、火箭彈、手提輕便反直升機飛彈，還有高科技設備GPS（全球定位系統）、衛星電話、雷達定位儀及高速快艇等現代化各式裝備，俾利快速且精準實施海上盜掠行為。

現今「索」國境內約有25至30個規模不等的海盜集團，總計約1,000多人，年齡層小至14歲，大至約35歲左右，身份有當地漁民、教派民兵等，但也有專家認為其中還包含有鄰近國家如：「葉門」及「吉布提」人民在內。各組織嚴謹複雜，人員半數以上都曾過軍事教育訓練，若遇事故各組織首領會相約一定點進行磋商，不但如此，海盜們還安插可信賴人士混進重點商港港務機關以佈建方式、間諜之行為，密傳有關各大商船貨輪出航紀錄及船舶各項資料，例如：船員多寡、船速航向、防禦方法等，據悉單是2008年，全球就付了三千萬美元贖金，平均每挾持一艘船，就可拿到一、二百萬美元⁴。

「索」國海盜組織雖多，但目的地確是一致，就是要錢，即使釋放一艘空船也要25,000美元⁵，遭擄人船就像是美金的化身一樣。貧窮與飢餓開啟了「索」國人民為盜的原動力，即便如此，亦秉持「盜亦有道」的精神，組織甚至還訂立「善行方針」：

- （一）絕不傷害人質。
- （二）不劫掠船上物品，違反規定將遭處罰或驅離。
- （三）若拿槍指著同夥，將來分到的獎金起碼少5%。
- （四）若射殺自己人者當場會被處死，屍體則丟進大海中餵魚。

海盜組織就靠這一套賞罰分明的紀律並嚴格執行，奠定了如此偌大事業，在「索」國陸地上甚至還有專門負責供應人質三餐的餐館。

Part VI. pirate organizations, equipment and rules of actions

"Mudug" and "Puntla" are located in the central and north east regions and are the two main pirate bases. Pirates use parts of the ransom to purchase items such as AK47 rifles, rockets, mobile light anti-helicopter missiles and GPS, satellite telephone and radar position locator and high speed boats so that they can speedily and accurately perform robbery on sea.

Now in "Somalia", there are about 25 to 30 pirate groups with various different sizes with a total of over 1,000 people. Their ages range from 14 to about 35 and they include fishermen and militia soldiers of religious sects. However, some professionals also believe that some people from "Yemen" and "République de Djibouti" are also included. Each organization has closed knitted system and half of the members received military training before. If there is an accident, each head of the organization will come together in a meeting. Not only so, pirates would also put trusted members into important harbor offices to spy and send in secret the information about all large merchant vessels sailing records and information about the ships such as the number of seamen, the speed of the ships, the direction of the ships and their defense systems. In 2008 alone, 30 million USD was paid in ransom and averagely 1 to 2 million USD is paid for each held ship⁴.

Although there are many pirate groups in Somalia, but they all have the same goal – getting money. Even the release of an empty boat would cost 25,000 USD⁵. Holding the ship and crew is like having real cash in USD. Poverty and hunger pave the way for Somali to turn into robbers. Even so, they have their rules in robbing. Organizations even have kind action rules such as

- I. Never harm hostages
- II. Never rob items on board. Those who break the rules will be punished or send into exile.
- III. If you point the gun at your colleagues, the rewards you get in the future will be 5% less or more.
- IV. If you kill your colleague, you will be executed right away and tossed into the ocean.

Pirate groups set up its huge operations with this clear-cut rules and strict executions. On shore, there are even restaurants responsible for providing meals for the hostages.

柒、多國軍艦護航 海盜擴大版圖宛如亂世梟雄

氣焰乖張的「索」國海盜對世界各國往來於「印度洋」及「亞丁灣」的商貿已造成莫大威脅與損失，聯合國遂於：

一、2008年6、10月通過了1816、1838號兩項決議案：

「授權各國在經「索」國同意後可逕行進入領海打擊海盜。」

二、2008年12月通過1851號決議案：

「籲請有能力的國家、區域組織和國際組織積極參與打擊索馬利亞沿岸的海盜和海上武裝搶劫行為。」

「索」國亦曾多次致信聯合國，希望藉由各國海軍力量協助保護並澈底瓦解海盜組織，但需保護之海域面積高達600萬平方公里之譜，常駐15~20艘的軍艦根本不足以涵蓋。

如今「索」國海盜們也開始玩起了『游擊戰術』，活動範圍從近海擴展到距岸幾近1千哩的公海海域，最遠甚至達到了東非南部的「莫桑比克海峽」。以98年10月19日在「索」國首都「摩加迪沙」東南980哩、「塞席爾群島」東北320哩處，遭劫之中國籍「德新海」貨輪為例即知。

海盜通常都以一艘「母船」為海上基地，進行海上補給、通訊聯絡等工作，待發現“目標”後立即鎖定並放下快艇前往攻擊，由於母船係偽裝成一般漁船，混雜於作業漁船中，多國軍艦難分善惡真假，實增加了緝捕的困難度，中共自2008年12月迄今已派遣四梯次船艦前往「亞丁灣」與多國軍艦共同護航各國商漁船，但事實證明「索」國海盜已然調整戰略，遠離軍艦巡邏區域。

Part VII. Military ships from many countries guarding the ships. Pirates charting large territory as if they are the heroes in a difficult time.

Arrogant Somali pirates now are a big treat and have caused a lot of damages to merchant vessels sailing on India Ocean and Gulf of Aden. United Nation has decided on the following :

I. Passing 1816 and 1838 two Acts in June and October of 2008 :

Allows the countries with permission from Somalia to enter its territorial water to combat pirates

II. Passing 1851 Act in December 2008 :

Call those countries, district organizations and international organizations actively join in combating pirates along the shore of Somalia and also the armed robbery on sea.

Somalia also wrote to UN many times, hoping to borrow the navy powers from other countries to help with protection and also break down the pirate groups. However, because the area that needed protection is as big as 6 million squared kilometers, the 15 to 20 military ships are less than enough.

Now, Somali pirates also start guerrilla warfare and their area expanded from coastal waters to the high seas that is nearly 1000 nautical miles from shore to as far as Mozambique Channel – south of East Africa. This can be seen with the robbery of the Chinese ship – "Dashinhai" at the location that is 980 nautical miles Southeast of the capital of Somalia, "Mogadishu" and 320 nautical miles Northeast of Seychelles on October 19, 2009.

Pirates also use a "mother ship" as their base on the water providing supply and communication. Once they find the target, they sent fast boats in to attack. Because the mother boat disguise itself as an average fishing boat, hiding itself in the many fishing boats, it is difficult for the military ships to detect and increase the difficulties to arrest. Since December 2008, China has sent ships to "Gulf of Aden" four times to help with the protection of merchant vessels and fishing ships with other countries. However, it was clear that Somali pirates also changed their strategy and stayed away from the area where military ships patrolled.

捌、面對海盜我海巡如何因應

本署自成立以來所屬艦艇未曾有與海盜正面交鋒之案例，直至今日於台灣海域週遭亦未有如「索」國海盜一般之行徑發生，然本署除職司海域執法等重責外，並駐立於維護國家安全之第一海防線上，接觸鄰國關於海上之一切事務，必將隨時代潮流之發展相對增多，假以時日不難保證不會遇上海盜甚至與其短兵相接，爰此，僅概略提出下列幾點淺見供做參考：

一、教育與訓練：

利用各種場合如勤前教育等，講授有關國際法及國內法對海盜罪行之規範，強化所屬相關基本觀念及如何與海盜做初步對話進而化解若干情勢。

二、強化當值守望勤務：

船艦航巡中，當值人員應注意雷達反應有無其他船隻接近，深植巡邏即備戰之觀念。

三、研擬相關應變勤務作為：

除遵行署頒「海盜案件偵辦流程」（如附表1）外，可研擬於海上遭遇海盜時之應變作為如：

- （一）各船艦應明定戰鬥部署圖表及攜行裝備，避免遭遇狀況時混亂無章，人員無所適從。
- （二）各單位不定期於常、海訓課程中實施對海盜如何自我防護，並實施攻擊、登檢、逮捕扣押等勤務演練。
- （三）傷患救治基本常識訓練。

四、落實勤前政令宣導及任務部署：

艦艇出港前應對所屬宣達重要政令，航巡區域若達海盜出沒之海域時等，應加強任務部署及提高警戒，強化危機意識。

五、注意武器及艦艇保養工作：

本署艦艇皆配備有各類輕型武器及防護裝備，平時應依規定保養，保持最佳堪用狀態，以備不時之需。

Part VIII. How our coast guards respond to pirates

Since the inception of the Administration, our fleet never went face to face against pirates and we did not have situations similar to those of Somali pirates till now in Taiwan territorial water. However, the Administration, other than enforcing law on sea, we are also responsible for protecting the safety of this country at the first line. With the developments of the era, affairs in contacts with other countries would increase relatively for sure. We might encounter pirates in time and even to have close fights. With this in mind, I provide the following suggestions :

I. Education and training :

Use all occasions such as pre-job education to teach about international laws and local laws about piracy and strength the basic beliefs and how to initiate first contact with the pirates to easy the situations.

II. Strength the watch keeping duty :

When patrolling, on duty personnel should watch the radars to see if other ships are approaching to strengthening the belief as to patrol is to prepare for war.

III. Simulate responsive actions :

Other than following "the flow chart when working on piracy" (See list 1) , we can simulate responsive actions when encountering pirates on sea such as :

- (I) Each ship should institute the battling layout and their equipment to prevent chaos when encountering the situation and the crewmen are indecisive.
- (II) Each unit should irregularly perform how to protect themselves against pirates during their regular and marine training and also perform on the job training on attack, boarding and arrests.
- (III) Basic knowledge training on helping those injured

IV. Practically inform orders and work assignments :

Before the ships leave port, important policy should be announced. When patrol to the area where piracy often occur, disposition should be enhanced, alert be promoted and crisis sensitivity be strengthened.

V. Watch out for the maintenances for the weapons and ships :

All ships of Administration are equipped with mobile weapons and protection gears. They should be maintained regularly to stay in best usable shapes.

六、強化大型艦武裝力量：

加強大艦火力配置，他日若遇海盜武力侵犯，期能有效反制。

七、持續注意有關各國海盜事件之各項統計並建立資料庫，俾利研析。

《聯合國海洋法公約》第100條所定，合作制止海盜行為的義務：「所有國家應盡最大可能進行合作，以制止在公海上或在任何國家管轄範圍以外的任何其他地方的海盜行為」。我國四面環海是個不折不扣的海島國家，不可能斷絕走出海洋，海上航運及貿易關係到國家經濟發展，欲以海洋立國、走進世界舞台，勢必遵循國際上各項海洋公約及協定，是以，本署平時除負責海上一切事務外，對於海盜相關預防及應對工作等，似可未雨綢繆。

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VI.Enhance weaponry on large ships：

Enhance weaponry on large ships so that it is possible to subdue the pirates when encountered.

VII.Continually watch out for the piracy statistics in other countries and create database for analysis.

Article 100 of "The United Nations Convention" on the Law of the Sea states the obligation to jointly stop piracy –All States shall cooperate to the fullest possible extent in the repression of piracy on the high sea or in any other place outside the jurisdiction of any State. We are a country that is surrounded by water. Shipping and trade are closely related to economic development of our country. In order to build this country using the ocean and moving to the stage of the world, we must follow the international marine convention and agreements. Therefore, the Administration, other than being responsible for the day to day marine affairs, should also work ahead on the prevention and responses to piracy.

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附表1：署領海盜案件偵辦流程
List 1: The flow chart when working on piracy

