

# OPRF MARINT Monthly Report

## November 2009



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This monthly report is edited/ summarized by publisher and staff writers based on published news resources.

Each resource is referenced with bracket below each title and is displayed as link URL on the last page of this report.

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## Major Events in November 2009

**Security:** In November pirate activities in the Indian Ocean were noticeable. In particular, in the sea off Somali coast in Indian Ocean pirates attacked three very large crude oil carriers (VLCC's), of which one was hijacked. It was the seizure of VLCC's by Somali pirates since it was last noted in November 2008.

On the 10th, the Seychelles and the European Union signed a status agreement formally authorizing EU naval forces (EUNAVFOR) to hunt and detain suspected pirates in the territory of the Republic of Seychelles. Also the Indian Navy is deploying an offshore patrol vessel to combat pirates off the island nations of Seychelles and Mauritius. It will conduct surveillance of the exclusive economic zones of Seychelles and Mauritius from November-end till early January 2010.

On the 30th, the UN Security Council unanimously adopted the resolution 1897. The resolution 1897 renewed for another 12 months the authorization for States and regional organizations fighting piracy to enter the Somali territorial waters and undertake all necessary measures that are appropriate in Somalia provided they have the transitional government's consent.

Denmark's shipping company Clipper Group has announced it is carrying up to six Russian marines at a time onboard its vessels for transit through the Gulf of Aden. It appears to be the first publicly-acknowledged instance of a private sector ship-owner using military forces to protect vessels against piracy in the Gulf of Aden. Other governments are making armed forces personnel available, albeit on tight conditions and at high costs. Owners of vessels that are both Belgian-owned and Belgian-flagged can hire teams of eight men flown in from bases in Dubai, Djibouti and Mombasa, at a cost of € 115,000 (\$170,884). Nobody is yet known to have taken up the offer. France has adopted a similar policy, and some French owners may have availed themselves of the facility, albeit without seeking publicity.

The international conference on "Piracy and Legal Issues: Reconciling Public and Private Interests" under the sponsorship of British think-tank, Chatham House, was held in London on 1-2 October 2009. In this meeting Fellow of the OPRF Policy Research Group, Tetsuo Kotani participated. OPRF carried his conference report as a "topic" in this monthly report.

**Military:** The Singaporean newspaper, The Strait Times, dated 9 November, reports they are eyeing boom times for building naval platforms over the next 20 years.

Regarding the China's construction of the aircraft carrier, Tsai Te-sheng, head of Taiwan's National Security Bureau, told parliament recently that it has not been smooth and that the Chinese navy may struggle to put it into service by 2012 unless it makes a manufacturing breakthrough.

According to an estimate of U.S. Navy intelligence, China is close to fielding the world's first anti-ship ballistic missile. The missile, with a range of almost 1,500 kilometers, would be fired

from mobile, land-based launchers and is specifically designed to defeat U.S. carrier strike groups.

In the South China Sea no clue to the solution of disputes over territorial rights of the islands or jurisdiction over the maritime areas was in sight. In company with an increase of resources and energy demands, the conflicts over acquisition rights of the seabed resources are getting severe. Under these circumstances, protests over the submissions of the continental shelf among others between the related nations have been repeated. On the other hand, security environment is suddenly becoming unstable, as the capture of the fishing boats has frequently been repeated. In the intelligence assessment this month, Kazumine Akimoto, Senior Research Fellow of OPRF has tried to make an assessment on the unstable issues in the South China Sea over the territorial rights, resources and national security viewed from the military side with a title of "Military side views about the South China Issues," quoting from various sources, including the international conferences recently held and theses published.

**Diplomacy and International Relations:** On the 8th, Wen Jiabao, China's premier, pledged \$10 billion in new low-cost loans to Africa over the next three years at China-Africa summit Egypt. Wen defended his country's engagement on the continent against accusations that it was plundering the region's oil and minerals.

U.S. President Barack Obama made an address on Asian Policy in Tokyo on the 14th during his visit to Japan.

**Shipping, Resources, Environment and Miscellaneous:** On the 2nd, the Russian energy ministry released production figures for October, showing that Russia produced 10.04M barrels of crude (including gas condensate), up 0.4% on September and almost 2% ahead of the same month of 2008. On the other hand, Saudi Arabia (SA) lifted about 8M barrels per day in October, in line with limits agreed with the Organization of Petroleum Exporting Countries (OPEC). But with two 2M barrels, Russia is still ahead of SA.

According to a statement posted on its website of the China National Petroleum Corp (CNPC) dated November 3, the country's top oil producer kicked off construction of a pipeline across Myanmar.

The Chinese government has unveiled a package of concessionary measures to grow the country's cruise business at a summit held in Hainan province. It includes streamlining custom procedures for cruise travelers and legitimizing local cruise business in an effort to promote the industry.

# 1. Information Digest

## 1.1 Security

### **November 1 “CTF 151 Commander visits Chinese naval escort taskforce to Somalia” (PLA Daily Net Edition, Gulf of Aden, November 1, 2009)**

On the 1st, Rear Admiral (RADM) Scott Sander, commander of the Combined Task Force (CTF) 151 which is in charge of anti-piracy missions off Somalia under the leadership of the United States, visited People's Liberation Army (PLA) Navy destroyer, *Zhou Shan* at the invitation of RADM Wang Zhiguo, commander of the Chinese naval escort taskforce to Somalia. According to the PLA Daily, RADM Scott Sander said that a number of information such as the escort schedule and the escort plan offered by the Chinese Navy have become valuable references for the CTF 151 to prepare for the escort missions. Both sides expressed that they agreed to further continue the good co-operation in such fields as intelligence exchange on the basis of mutual trust, reciprocal benefit, and equality, and to maintain the security and stability of the Gulf of Aden and the waters off the Somali coast.

#### **【Related Story 1】**

### **“Commander of the Chinese naval escort taskforce to Somalia visits CTF-151” (PLA Daily Net Edition, Gulf of Aden, November 20, 2009)**

On the 19th, Rear Admiral (RADM) Wang Zhiguo, commander of the Chinese naval escort taskforce to Somalia visited the flagship of CTF-151-the US Navy's cruiser, USS *Chosin* (CG 65) at the invitation of RADM Scott Sander, commander, Combined Task Force (CTF) 151. It was a return call to RADM Sander's visit to the *Zhou Shan* on the 1st.

#### **【Related Story 2】**

### **“Commander of the Chinese naval escort task force to Somalia visits flag-ship of EU fleet” (PLA Daily Net Edition, Gulf of Aden, November 23, 2009)**

According to the PLA Daily, visiting the flag-ship of the EU fleet, Dutch Navy's frigate HMLNS *Evertsen*, on the 23rd, RADM Wang Zhiguo, commander of the Chinese naval escort taskforce to Somalia, had a talk with Commodore Pieter Bindt.

### **November 1 “British government fails to investigate relations with ransom payments and terrorist organizations: NATO adviser” (Shiptalk, November 1, 2009)**

A senior NATO adviser, Lord Jopling, has criticized the British government for failing to investigate adequately whether ransom payments to Somali pirates fund Islamist groups including al-Qaeda. Lord Jopling has also warned that paying off pirates could encourage terrorist groups into further acts of piracy. His comments come after the demand for \$7-million for the safe return of Paul and Rachel Chandler, the British couple taken hostage by Somali pirates

on October 23 as they traveled in a yacht off Seychelles on a round-the-world cruise. Existing British law allows ship-owners to pay ransoms for the release of hijacked vessels. But if the government established a link between the pirates and terrorist groups, the payment of ransoms would be considered as funding terrorism and be banned by law.

At present, the couple is being held on the MV *Kota Wajar* container ship, which is registered in Singapore, and seized by Somali pirates on October 15. A spokesperson for the Foreign Office confirmed it had employed a negotiator and said: "We are aware of reports that a ransom demand of \$7-million has been made. HMG's policy remains clear: We will not make substantive concessions to hostage takers, including the payment of ransoms."

In October, Lord Jopling wrote a report into money laundering and terrorism - The Growing Threat of Piracy – for the House of Lords.

Note: Refer to Lord Joblin's report on the web below:

<http://www.nato-pa.int/Default.asp?SHORTCUT=1770>

## **November 2 “Somali pirates attack U.S.-flagged vessel” (Trade Winds, November 2, 2009)**

On the 2nd, a US flagged bulk-carrier, MV *Harriette* (25,951DWT) , came under fire in the Indian Ocean, 350 miles out to sea off the coast of Somalia. Pirates came within less than a meter of the *Harriette*, but the ship was able to maneuver to avert the boarding. According to the U. S. shipping company, the Sealift Inc, two small skiffs with 12 pirates on board approached the ship and the gang attempted to board using a metal ladder. But the captain maneuvered the ship to avert the skiffs and the pirates were unable to get onboard. The *Harriette* was continuing its voyage from Mombasa to Mumbai with its 21 all US crew.

### **【Related Story】**

## **“German warship frees 4 pirate suspects after questioning” (Maritime Security Centre, Horn of Africa, Press Release, November 4, 2009)**

European Union Naval Force (EU NAVFOR) German warship FGS *Karlsruhe* was tasked to investigate an area where two merchant vessels, US flagged Cargo vessel MV *Harriette* and Dutch flagged MV *Jo Cedar*, had been attacked on the 2nd. An EU NAVFOR Maritime Patrol Aircraft located the skiff and directed the helicopter of FGS *Karlsruhe* to the location. On arrival at the scene, FGS *Karlsruhe* launched a boarding team and, on approaching the skiff, persons on board were seen to throw objects into the water. The skiff's four man crew were questioned and claimed to be fishermen. No nets were found and any weapons they may have had had been disposed of. However, some items that could be used in pirate attacks were still onboard and this pirate related paraphernalia was seized. After further questioning, the individuals were eventually released.

**November 3 “Malaysia: MMEA to become the only Maritime Enforcement Agency” (Bernama, November 3, 2009)**

According to report of Malaysia's National Bernama dated November 3, the Malaysian Maritime Enforcement Agency (MMEA) will become the only maritime enforcement agency in the country by 2011. By then maritime enforcement functions and assets of other enforcement agencies will be turned over to the MMEA. Operations deputy director-general Rear Admiral Datuk Noor Aziz Yunan said at present the maritime enforcement functions are intermingled in eight agencies; the Marine Department, Fisheries Department, Immigration Department, Marine Police, Customs Department, Department of Environment, Royal Malaysian Navy and the Royal Malaysian Air Force. Such a situation has caused financial strain on the government, and restructuring has been regarded inevitable. Moves to takeover the assets of eight other maritime enforcement agencies had already started. When implemented, all acts under other maritime agencies would be enforced by MMEA and officers of other agencies would be given the option to join. Rear Admiral Datuk Noor Aziz Yunan also said, after turn-over, MMEA had to repair and refurbish old vessels and acquire new ones to make enforcement more effective. Moreover, Noor Aziz said it would also step up cooperation with the people to check pollution in Malaysian waters, particularly the Straits of Melaka. Already the MMEA's Bombardier C1415 aircraft was being equipped with sophisticated system to trace oil discharge and to arrest the suspects. MMEA has been placed under the Prime Minister's Department.

**November 5 “4th Chinese naval escort taskforce leaves for Gulf of Aden” (PLA Daily Net Edition, Destroyer ‘Ma’ anshan,’ November 4, 2009)**

On the 5th, the fourth Chinese naval escort taskforce set sail for the Gulf of Aden. The fourth Chinese naval escort taskforce is composed of two guide missile destroyers - Ma'anshan and Wenzhou. Commander of the task force is Qiu Yanpeng.

**【Related Story】****“China's 4th naval taskforce relieved 3rd naval taskforce in Gulf of Aden” (PLA Daily Net Edition, Gulf of Aden, November 30, 2009)**

On the 29th, completing the first independent escort mission, the fourth Chinese naval escort taskforce took over the duties from the third escort taskforce. The *Zhoushan* warship and *Xuzhou* warship of the third Chinese naval escort taskforce started escort duties on August 1, accomplished 53 escort missions and escorted 582 Chinese and foreign vessels. The third Chinese naval taskforce carried out the first missions for the PLA Navy, including escort by small craft carried on board the warships, transport of the special force by small craft during the night, joint escort with foreign naval vessels, and joint military exercises with foreign military forces among others. Both warships will pay a goodwill visit to Singapore and Malaysia respectively on their way home. In addition, they will stop in Hong Kong from 12 to 14 at the invitation of the Government of the Hong Kong Special Administrative Region, and conduct activities which include holding a press conference for reporters and opening the ships to the public.

**November 5 “Denmark's shipping company using Russian marines on its vessels” (Lloyd's List, November 5, 2009)**

Denmark's shipping company Clipper Group is carrying up to six Russian marines at a time onboard its vessels for transit through the Gulf of Aden. It appears to be the first publicly-acknowledged instance of a private sector ship-owner using military forces to protect vessels against piracy in the Gulf of Aden. Other governments are making armed forces personnel available, albeit on tight conditions and at high costs. Owners of vessels that are both Belgian-owned and Belgian-flagged can hire teams of eight men flown in from bases in Dubai, Djibouti and Mombasa, at a cost of €115,000 (\$170,884) . Nobody is yet known to have taken up the offer. France has adopted a similar policy, and some French owners may have availed themselves of the facility, albeit without seeking publicity.

According to Clipper Group, most of the ships Russian forces are protecting are crewed by Russian seafarers, although its vessels with other nationalities have also taken armed soldiers. The Russian navy is also placing soldiers onboard other company's vessels, although which ones, or how often, is as yet unclear.

Clipper general manager said: “This is based upon a request from the military commander on the spot and he has told us that he would like to place armed soldiers onboard for the transit and we of course said yes.” He said the Japanese, Chinese and Indian navies were also offering convoy services, though not the option of having a military presence on board. The Clipper managed cargo vessel MV *CEC Future* was taken by Somalia pirates in November 2008 and the crew held captive for over two months before a \$1.7m ransom was paid. Other Danish owners have confirmed they are using guards onboard, but insist they are unarmed. All applications for private armed guards on Danish vessels have to be approved by the country's Ministry of Justice. As all Clipper vessels are flagged outside Denmark, they are exempt from this restriction. A Britain's security consultant said, “If we are going to meet fire with fire, we are going to make the situation ten times worse. We're going to make it almost impossible for unarmed vessels to sail in the Indian Ocean region.”

**November 5 “Somali pirates hijacks Geek vessel” (Maritime Security Centre, Horn of Africa, Press Release, November 5, 2009)**

On the 5th, Somali pirates hijacked a Greek owned (Marshall Island flagged) Bulk Carrier named the MV *Delvina* (53,629 DWT) in the south Somali Basin. The Bulk Carrier has a crew of 21 consisting of 7 Ukrainian and 14 Filipino. The vessel was heading for Zanzibar.

**November 7 “Somali pirates hijack Spanish-flagged vessel” (Ecoterra International, November 10, 2009)**

On the 7th, Somali pirates captured a Panama-flagged cargo ship MV *Almezaan* (2,086GT) off the coast of Somalia. There were 18 crew-members of 15 Indians, two Pakistanis and a Somali on board. Although the cargo ship was reportedly carrying weapons, an officer concerned told it was carrying general business materials. Setting out from Dubai on October 24, it was expected to arrive at.



**November 9 “Somali pirates attack VLCC off NW of Seychelles” (Trade Winds, November 9, 2009)**

On the 9th, Somali pirates attacked a Hong Kong-flagged VLCC, MT *BW Lion* (298,600 DWT) , in the Indian Ocean, some 400 miles northeast of the Seychelles. The tanker was fired with automatic weapons and rocket propelled grenades. The attack was noted in the Indian Ocean around 1,000 miles east of Somalia, the longest range from the Somali coast ever. Although the tanker was attacked by pirates in two skiffs, the master managed to evade the attack with increasing speed and evasive maneuvers. An EU fleet (EU NAVFOR) Luxemburg Maritime Patrol Aircraft, operating from the Seychelles, was tasked to search for these pirates in the attack position. The EU NAVFOR French warship FS *Floreal* was the closest available warship.

**November 9 “NATO relieves expeditionary groups for counter piracy mission off Somalia” (Standing NATO Maritime Group 1 (SNMG1) News Release, November 9, 2009)**

November 9 saw an exchange of maritime command between Standing NATO Maritime Group 2 (SNMG2) to SNMG1 for Operations Ocean Shield – the code name for NATO's counter piracy mission. The four ships comprising SNMG1 are: Portuguese frigate NRP *Álvares Cabral* (flagship; Portuguese Navy) , USS *Donald Cook* (United States of America) , USS *Stephen W Groves* (United States of America) , and ITS *Libeccio* (Italy) .

**November 10 “The Seychelles, EU sign status agreement” (Shiptalk, November 11, 2009)**

On the 10th, the Seychelles and the European Union signed a status agreement formally authorizing EU naval forces (EUNAVFOR) to hunt and detain suspected pirates in the territory of the Republic of Seychelles. The Seychelles had already signed similar agreements with France and the United States.

**November 11 “Somali pirates seize Greek vessels” (Trade Winds, November 11, 2009)**

On the 11th, Somali pirates hijacked a Greek bulk carrier (Marshall Islands-flagged) - MV *Filitsa* (23,700DWT) - 400 nautical miles northeast of Seychelles. Comprised of the crew of three Greek officers and 19 Filipinos, the ship was heading from Kuwait to Durban, South Africa. Following the MV *Delvina* which was hijacked on December 5, the *Filitsa* is the second Greek ship to be hijacked by Somali pirates in under a week. Somali pirates are still keeping in custody the Greek ship (Malta-flagged) , MV *Ariana* (69,000DWT) which they hijacked on November 5. In the same area a 298,600DWT VLCC, MT *BW Lion*, came under attack by pirates around 1,000 miles east of Mogadishu on the 9th. Although pirates fired bullets and grenades at the vessel, the ship escaped after the two-hour ordeal.

**November 12 “French navy captures 12 pirate suspects” (AP, November 13, 2009)**

The French Defense Ministry said in a statement on the 13th that the French frigate FS *Floreal*, backed by a Luxembourg maritime surveillance plane, intercepted a pirate ship and two skiffs in the Indian Ocean, 650 nautical miles east of Somalia. The French sailors seized assault rifles, rocket launchers and other weaponry as well as detained 12 suspected pirates.

**November 13 “IBM warns: Somali pirates hijacking success rate surges in IO” (Lloyd's List, November 13, 2009)**

According to the International Maritime Bureau (IMB), it received reports of 17 pirate attacks with eight successful hijackings in the seas off the east coast of Somalia and around Seychelles and Madagascar within two weeks since the end of the monsoon season. In the first nine months of the 2009, 148 attacks were attributed to Somali pirates with 32 hijackings, equal to a success rate of 22%. According to the IMB, the sharp increase in the pirates' success rate is attributed to their move to attacking ships in the Indian Ocean (IO) beyond 600 miles from the Somali coast and up to 1,000 miles out. The pirates are particularly targeting vessels trading into ports in Kenya, Tanzania and the Seychelles as these ships have little choice but to turn into toward the coast to reach their destinations. The IMB already warns ships transiting the area to stay 600 miles from east coast of Somalia, and it is imperative that ships maintain a strict anti-piracy watch to spot the pirates promptly and get away from them as far as possible.

**November 16 “Somali pirates hijack chemical tanker off Seychelles” (Maritime Security Centre, Horn of Africa, Press Release, November 17, 2009)**

On the 16th, Somali pirates hijacked a Virgin Islands owned Chemical Tanker named the MT *Theresa VIII* (22,294 DWT) in the waters, 180 nautical miles North West of the Seychelles. Operated from Singapore, *Theresa VIII* has a crew of 28 North Koreans. The vessel was heading for Mombasa, Kenya.

Hijacked tanker master is believed to have died of his wounds after being shot when it was hijacked. (Maritime Global Net, November 18, 2009)

**November 17 “Somali pirates free Spanish fishing boat” (Bloomberg, November 17, 2009)**

Somali pirates holding a Spanish fishing trawler, FV *Alakrana*, have received a \$4 million ransom to free the boat and all its crew members, according to one of a group who seized the vessel. On the other hand, the Spanish government also agreed to free two pirates who were said to be detained on October 3 after being involved in the hijacking of the tuna trawler.

**November 18 “Somali pirates attack US-flagged vessel again” (The New York Times, November 18, 2009)**

According to the United States (US) Navy Central command, four suspected pirates in a skiff came within 300 yards of U.S.-flagged container ship, MV *Maersk Alabama* (17,525DWT) some

600 miles off the north-east coast of Somalia as it headed for the Kenyan port of Mombasa, Kenya on the 18th. But a security team on board the Maersk Alabama responded with small arms fire, long-range acoustical devices painful to the human ear and evasive maneuvers to thwart the attack.

[The ship was temporarily commandeered by pirates on April 8, and holding the ship's captain on a lifeboat of the vessel, the pirates took him as a hostage. On the evening of the 12th, U.S. Navy Seal snipers conducted an operation to rescue a cargo ship captain unharmed and killed three Somali pirates. (As to this incident, refer to see OPRF MARINT Monthly report, April, 1.) ]

### **November 23 “India deploys warship off Seychelles” (Xinhua, November 23, 2009)**

According to the report of the Indo-Asian News Service dated November 23, the Indian Navy is deploying an offshore patrol vessel, INS *Savitri*, to combat pirates off the island nations of Seychelles and Mauritius. INS *Savitri*, with a Chetak helicopter and marine commandos on board, will conduct surveillance of the exclusive economic zones of Seychelles and Mauritius from November-end till early January 2010.

### **November 24 “Somali pirates attack VLCC in IO” (Trade Winds, November 26, 2009)**

On the 24th, Somali pirates attacked an Indian-registered very large crude oil carrier (VLCC) , MT *Smiti* (281,400DWT) , approximately 1,100 nautical miles east of Mogadishu. Taking evasive action by maneuvers and an increased speed, the tanker made her narrow escape. But the vessel sustained some damage to the starboard side of the wheelhouse window. All the persons on the ship are safe.

### **November 29 “Somali pirates hijacks Greek –registered VLCC” (BBC News, November 30, 2009)**

On the 29th, Somali pirates hijacked a Greek-registered VLCC, MT *Maran Centaurus* (300,264DWT) , in the Indian Ocean about 800 nautical miles northeast of Seychelles. The tanker was carrying oil equivalent to 20 million US dollars. When attacked, it was sailing to New Orleans in the US from Saudi Arabia slowly - between 11 and 15 knots. Its crew is made up of 16 Filipinos, nine Greeks, two Ukrainians and one Romanian. It is the second time that the VLCC was hijacked since MT *Sirius Star* (318,000DWT) was ever seized by pirates on November 15, 2008. (The vessel was released on November 15, 2009 after a ransom of 3 million US dollars was paid.)

### **November 30 “UNSC mandates action against Somali pirates for another year” (UN News Center, November 30, 2009)**

On the 30th, the UN Security Council unanimously adopted the resolution 1897. It aims principally at renewing the resolution 1846 which was adopted on December 2, 2008 for another year. The resolution 1897 renewed for another 12 months the authorization for States and regional organizations fighting piracy to enter the Somali territorial waters and undertake all

necessary measures that are appropriate in Somalia provided they have the transitional government's consent.

Note: Refer to the full text of the UN Security Council resolution on the website below;

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/624/65/PDF/N0962465.pdf?OpenElement>

 **Hot topic** **Report of an International Conference**

The Chatham House hosted an international conference “Piracy and Legal Issues: Reconciling Public and Private Interests” in London on October 1 and 2, 2009. One of the OPRF research fellows, Tetsuo Kotani, participated in this conference.

“Are pirates terrorists?”—that was the main question asked frequently during the conference. The conference concluded that piracy is an ordinary crime rather than terrorism. On the other hand, besides escort of merchant ships by warships, there are a lot of legal challenges, including apprehension, custody, prosecution, and asset recovering, and those legal challenges are derived from the lack of appropriate domestic law rather than the flaw in international law. Japan is one of the first countries that introduced an antipiracy law but no judicial power has been exercised. Since a lot of challenges are expected in its actual implementation, further study is necessary. In this regard, this conference was full of valuable suggestions.

Below is the summary of each session.

**Session I**

discussed international law and frameworks relevant to piracy. International legal frameworks that have relevance to counterpiracy include the U.N. Convention on the Law of the Sea (UNCLOS), the Convention on the High Seas, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), International Convention Against the Taking of Hostages, International Convention for the Suppression of the Financing of Terrorism, the U.N. Convention Against Transnational Organized Crime (UNTOCR), and a series of U.S. Security Council resolutions (UNSCRs). UNCLOS defines an act of piracy and, coupled with the High Seas Convention, requires all the member states to suppress and prosecute pirates. SUA Convention is applicable for hijacking on the high seas and enables transfer of suspects to a third country, while requiring the member states to introduce appropriate domestic law. Hostage Taking, Terrorist Financing Conventions and UNTOCR oblige international cooperation in prosecution.

UNSCRs 1816 and 1846 enable operations in the territorial waters of Somalia and UNSCR 1851 enables operations in the territory of Somalia and calls for shipriders agreements, cooperative mechanism, information sharing center, and capacity building. These UNSCRs were a product of special situation of Somalia and have provisions which states those measures are not applicable to other countries or regions.

Key challenges include the lack of appropriate domestic legal framework in member states. Others include motive problem (definition of piracy only as privately-motivated action), developing judicial procedure, and transfer of suspects (transportation costs, translation, etc.).

## Session II

discussed issues relevant to the private sector. Relevant private sector includes ship owners, cargo masters, crew, charters, and insurers (war, hull, P&I, ransom). The priority in the private sector is sharing the Best Management Practices (BMP), which requires studies on why the victim ships were attacked.\*

Negotiations for hostages take 50-60 days on average, and the problems of translation, payer of the ransom and its amount persist. Average ransom is USD two to three million, and questions are always raised regarding the adoption of insurance and the distinction between piracy and terrorism. From the crew's point of view, the problem is the flag of convenience is designed to limit responsibilities of ship owners and nations of the crew, although they are required to investigate piracy acts and provide adequate training and are to crew and their families under IMO resolutions. Armed escort is not desirable because it will escalate the risk.

Note: BMP is a check list for avoiding piracy attacks that include measures taken during preparation, transit, encountering attacks, and post incident actions and reporting.

BMP is available at:

[http://www.marad.dot.gov/documents/HOA\\_OCIMF\\_piracy\\_web.pdf](http://www.marad.dot.gov/documents/HOA_OCIMF_piracy_web.pdf)

A revised version (August 21, 2009) is also available at:

<http://www.ukpandi.com/UKPandI/Infopool.nsf/html/BMPPiracy>

## Session III

discussed the use of force against pirates. U.S. warships have standing rules of engagement and are allowed to use force for self-defense and mission accomplishment. American merchant ships can use minimum force for self-defense, defense of vessels and defense of others only when the situation is imminent. Non-deadly force that commercial ships can use includes maneuvers, LRAD (sonic), and fire hoses. The use of those non-deadly force and waning shots are not recognized as the use of force. Regarding firearms on board, Title 18 standards are applied to U.S. citizens and foreigners have to meet requirements of all port states visited. Also, both U.S. citizens and foreigners are required to take designated training, carry Transportation Worker Identification Credential (TWIC), and be fluent in English. There are pros and cons regarding armed escort of commercial ships, but armed escort has not attack record. The necessity of armed escort increases due to the growing number of piracy attacks, growing capabilities such as satellites, and the fact that passive measures cannot stop attacks. Armed escort begins with passive protection using non-lethal weapons such as LRAD and fire hoses, and only if those measures are insufficient, active measures are taken. Even if firearms are used, warnings shots are made before firing against boats, engines and specific human targets. It is not clear how long the navies can concentrate on counterpiracy operations and the needs for armed escort will continue to grow.

On the other hand, shipping industries are reluctant about armed escort. Pirates cannot tell armed vessels and may not be able to understand warnings due to language barrier. Armed escort might escalate violence, and flag state control matters. The primal responsibilities of shipping

industries include selection of safe routes, implementation of BMP and close contact with littoral states. The situation off Somalia is not being stabilized and the navies of the world conduct only limited operations because of their limited ROE. The release of pirates resulted from the lack of appropriate domestic law encourages pirates.

#### **Session IV**

discussed the apprehension, custody and prosecution of pirate suspects. The use of force to apprehend pirate suspects should not exceed reasonably required measures, and accountability is required for death and serious injuries. In UK, when a suspect is dead or seriously injured, a Shooting Incident Review Committee will be set up to investigate the case and determine if it is a murder or not. After the apprehension, it takes several days to transfer suspects to warship pending consent from all the states concerned. Regarding the seizure of evidence, it is very difficult to seize evidence from mother ships. Another problem is the lack of legal framework for armed robbery in Somali territorial waters. Warships are not designed for capture of pirate suspects and proper treatment of suspects is a problem. Human rights protection of suspects is important. There is a debate whether or not the European Convention on Human Rights can be applied to the high seas. In prosecution, challenges include identification of suspects, evidence/scene management, finding witnesses and interpretation.

#### **Session V**

discussed the reality of trials in the region. In Kenya, 10 were convicted and 100 on remand. In Seychelles, 23 were discontinued and deported. In Kenya, courts completed refurbishment and introduced witness protection arrangements, video link facilities and transcription services. On the other hand, jails still need to be upgraded.

#### **Session VI**

discussed the definition of pirates. International law does not define terrorism because it is difficult to tell freedom fighters from terrorists. On the other hand, pirates are not terrorists. In 2006, the Gulf of Guinea became the third largest piracy hot spot in attacks and the number one in hijacking. The pirates in Nigeria are fishermen suffered from environmental destruction in the Gulf of Guinea caused by energy development of multi-national oil companies, and they are not terrorists. The solution of this problem requires capacity building of law enforcement bodies and job creation. It is possible that illegal fishing, not piracy, provide money to terrorism.

#### **Session VII**

was about the trace and recovery of stolen assets. The International Center for Asset Recovery (ICAR) was established in 2006 to provide assistance to improve capacity to trace stolen assets by corruption and crime. The ransom paid to pirates is shared by planners, boss, foot soldiers, and warlords. Some money is spent on investment and some is paid to government officials as bribe. Regarding piracy, it is difficult to trace assets because of the lack of identification of suspects and

the informal money transfer. Money laundering is conducted in Kenya, UAE, US, UK and Ethiopia. Aircraft and bank transfer are the primary ways for cash delivery. The keys to recovering ransom are debriefing of suspects and mediators.

Note: The official report of this conference is available at;

<http://www.chathamhouse.org.uk/events/view/-/id/1259/>

(By Tetsuo Kotani, Reserch Fellow of OPRF)



## 1.2 Military

### **November 2 “China's East Sea Fleet Composite ocean research vessel: Be ready for war at sea in future” (PLA Daily Net Edition, November 2, 2009)**

PLA Daily Net Edition dated November 2 is introducing the oceanographic research activities of the composite ocean research vessel of the PLA Navy's East Sea Fleet, *Zhukezhen*. According to the report, the *Zhukezhen* of the operation support squadron of the East Sea Fleet is in charge of making charts of the areas southeast along the shore and offshore, and is providing information of the oceanic environment for the naval operations and the training. Regarding the purpose of the oceanographic research activities, Huang Xinjian, assistant commander of a support squadron of the East Sea Fleet, told the main points, as follows.

(1) Although conducting oceanographic surveys and making charts provide information on oceanic environment and meteorology among others necessary for the training of the surface combatants and submarines, it will be one the keys to taking initiative in the war at sea in the future. (2) Changing the navy into an organization fit to remote ocean defense from close area defense and improving long-range, mobile, operational capabilities under the information-environment are the inevitable requirements of historical missions of the navy in the new age, which indicates a direction of strategic change of oceanographic survey and chart-making of the PLA Navy. A collection of information on the ocean-depth, waves, gravitation and magnetic force, and geological features and configuration of the ocean-bottom among others is a mission that must be accomplished entirely at present and in the future.

### **November 5 “Taiwan's view on China's first aircraft carrier construction” (AFP, November 5, 2009)**

Regarding the China's construction of the aircraft carrier, Tsai Te-sheng, head of Taiwan's National Security Bureau, told parliament recently that it has not been smooth and that the Chinese navy may struggle to put it into service by 2012 unless it makes a manufacturing breakthrough. Tsai told it was the result of an evaluation not only from Taiwan's National Security Bureau but also from the Chinese communists. Wung Ming-hsien, professor at Taipei's Tamkang University, expects the People's Liberation Army will take at least 10 years to have its first operating carrier group complete with carrier-based fighters and other warships. “Once they complete the ambitious project, it will have a serious and far-fetched military impact on the region,” said Wung Ming-hsien. He stressed, “And by that time, the United States, Japan, and Taiwan will need to overhaul their military strategies.” He said a carrier group would potentially double the military threat posed to Taiwan by Chinaby allowing the Chinese to approach from directions other than across the Strait.

**November 7 “U.S. Navy commissions amphibious transport dock ship USS New York” (Navy News Stand, November 7, 2009)**

On the 7th, USS *New York* (LPD 21), the fifth San Antonio-class amphibious transport dock, built with 7.5-ton steel salvaged from the World Trade Center, was commissioned in New York City. The ship's homeport will be in Norfolk, Virginia.

**November 9 “Boom time ahead over 20 years for building naval platforms in Asia-Pacific region” (The Straits Times, November 9, 2009)**

The Singaporean newspaper, The Strait Times, dated 9 November, reports they are eyeing boom times for building naval platforms over the next 20 years. The gist of the article is as follows.

- (1) According to an estimate of the United States-based naval consultancy, global spending on new construction of naval platforms over the next 20 years should top US\$ 640 billion, with the Asia-Pacific region accounting for a significant chunk.
- (2) There is another estimate that over the next 10 years, 80 - perhaps 100 - new submarines could be procured by Australia, China, India, Indonesia, Japan, Malaysia, Pakistan, Singapore, South Korea, Vietnam and, potentially, Taiwan. The Australian Strategic Policy Institute said in a report that Canberra's plan to replace its six *Collins* class submarines with a new fleet of 12 boats from 2025 could cost up to US\$ 33 billion.
- (3) The average age of Indonesian naval vessels by 2020 would be 41 years. Thailand's fleet [of major surface combatants] would average 33 years of service and Pakistan's 30 years, with Japan's and Taiwan's each at 27 years. Beyond these mean figures, particular classes of ships are growing more vulnerable to the rapid advances in technology. This natural superseding is augmented by the introduction of new types of vessels.
- (4) Platforms typifying such third-generation navies include multi-mission surface combatants, expeditionary and aviation-capable ships, submarines and unmanned subsurface, surface and airborne platforms tasked with the intelligence, surveillance and reconnaissance mission.

**November 17 “China is close to fielding anti-ship ballistic missile: U.S. Navy intelligence” (Bloomberg, November 17, 2009)**

According to an estimate of U.S. Navy intelligence, China is close to fielding the world's first anti-ship ballistic missile. The missile, with a range of almost 1,500 kilometers, would be fired from mobile, land-based launchers and is specifically designed to defeat U.S. carrier strike groups. Five of the U.S. Navy's 11 carriers are based in the Pacific. Their mission includes defending Taiwan. The missile could turn this region into a “no-go zone” for U.S. carriers, said Andrew Krepinevich, an expert in Washington. China also is developing an over-the-horizon radar network to spot U.S. ships at great distances from its mainland, and its navy since 2000 has tripled to 36 from 12 the number of vessels carrying anti-ship weapons, the Office of Naval Intelligence reported.

**November 20 “PLAN Yuan class submarine ‘Blue Whale’ completes sea trial” (PLA Daily Net Edition, November 20, 2009)**

According to PLA Daily dated November 20, completing series of tests and training evaluation for “submarine dive limit,” underwater high-speed navigation, and deep-sea torpedo-firing test among others recently, *Yuan* class submarine, “*Blue Whale*” is reported to have arrived in all the performance indicators to meet the design and operational requirements. This new type of submarine was said to be awarded the PLAN flag by the CPC Central Committee General Secretary and State President and CMC Chairman Hu Jintao himself in December 2006.

**November 25 “PLAN: Submarine exercises in past and present” (PLA Daily Net Edition, November 25, 2009)**

Carrying Hu Wubo, chief of staff of a submarine squadron in the East Sea Fleet, in a special article, The PLA Daily Net Edition dated November 25 is introducing the process of a settlement of the training program of the submarine force as well as the training manuals. (This is an interesting article for understanding a part of the current situation of the PLAN's submarine force.)

According to the article, training of the crew of a new type of the submarine for handling new equipment was conducted in April 2004. The purpose of this training was to make them familiar with operating the anti-ship missiles launched from the submarine. There were, however, only 20 hours in the “missile-combat procedures” course in the six-month training, and Hu Wubo who was in charge of captain of a submarine demanded to increase the course. It was the first time in the history of the Chinese Navy that the personnel who got the training requested to adjust the course. Consequently, “missile-combat procedures” course was increased to 100 hours. Moreover, in this training three volumes of the training manual of “submarine-launched missile-combat procedures” were completed.

In addition, when Hu Wubo was in charge of the first missile launching test, he found there was no manual of complete missile “firing procedures” except a few simple orders of command. Here Hu Wubo inaugurated a tactical team and completed a manual of “missile firing system procedures.” Moreover, when the live-firing exercise in the “complicated electromagnetic environment” was conducted in the East China Sea in July 2009, an anti-ship missile launched from the new type of a submarine (command ship) of which Hu Wubo was in charge as chief of staff accurately hit the target in the distance. Based on this experience, considering the construction of the mock-up training center for the modernized new type of submarines, Hu Wubo was successful in getting the support of the leader of the naval weapon department in Beijing in early 2009. “The major duty of the chief of staff is the training. Why did you come over the naval weapon department?” the leader asked Hu Wubo. Hu appealed for the situation on the spot, saying “Since the new type of a submarine was deployed, there were no training facilities, and all the training depends on the actual handling procedures, which causes serious abrasion of the machine, and the efficiency of the training is not high.” Responding Hu by saying immediately “I’ll surely help you,” the leader of the weapon department assisted Hu with “submarine mock-up

training system.” The crew gets intensive training for three months in this mock-up training system room. By this, not only were they familiar with the expertise but also educational period was shortened to six months, and the training cost was decreased by 50 percent.

### **November 28 “PLAN's hospital ship ‘Peace Ark’ accomplishes medical round” (PLA Daily Net Edition, Sanya, November 28, 2009)**

On the 28th, concluding the 39-day-long “medical service activity from October 20, the hospital ship of the People's Liberation Army Navy (PLAN) , *Peace Ark* returned to a military port in Sanya, Hainan Province. *Peace Ark* sailed out from Shanghai to make medical rounds from the Hainang Island, the “first sentry on the Yellow Sea,” in the north to 14 islands and islets on the Nansha Islands and the Xisha Islands as well as 4 ship berthing places in the south.

## **1.3 Diplomacy and International Relations**

### **November 8 “China pledges \$10 billion in low-cost loans to Africa” 1 (The Washington Post, November 9, 2009)**

On the 8th, Wen Jiabao, China's premier, pledged \$10 billion in new low-cost loans to Africa over the next three years at China-Africa summit Egypt. Wen defended his country's engagement on the continent against accusations that it was plundering the region's oil and minerals. The loan pledge for Africa was double a \$5 billion commitment made in 2006. At the summit, delegates on both sides stressed that their ties go beyond the Chinese acquisition of raw materials. Trade between China and Africa jumped to \$107 billion in 2008, 45 percent increase since 2000.

### **November 14 “President Obama speaks on Asian policy” (The White House, Office of the Press Secretary, November 14, 2009)**

On the 14th, during his visit to Japan U. S. President Barack Obama made his address on Asian policy, a gist of which he pointed out on Japan-U.S. Alliance and U.S. China policy is as follows.

(1) In two months, our alliance will mark its 50th anniversary. In the half-century since, that alliance has endured as a foundation for our security and prosperity.

Japan has made important contributions to stability around the world -- from reconstruction in Iraq, to combating piracy off the “Horn of Africa,” to assistance for the people of Afghanistan and Pakistan among others.

(2) The United States of America as a nation of the Pacific: For generations the United States of America has been a nation of the Pacific. Asia and the United States are not separated by this great ocean; we are bound by it. Today, the fortunes of America and the Asia Pacific have become more closely linked than ever before. So I want everyone to know, and I want

everybody in America to know, that we have a stake in the future of this region, because what happens here has a direct effect on our lives at home. To meet these common challenges, the United States looks to strengthen old alliances and build new partnerships with the nations of this region. Alliances are not historical documents from a bygone era, but abiding commitments to each other are fundamental to our shared security.

- (3) China: We look to rising powers with the view that in the 21st century, the national security and economic growth of one country need not come at the expense of another. I know there are many who question how the United States perceives China's emergence. Now, as with any nation, America will approach China with a focus on our interests. We welcome China's effort to play a greater role on the world stage -- a role in which their growing economy is joined by growing responsibility. So the United States does not seek to contain China, nor does a deeper relationship with China mean a weakening of our bilateral alliances. On the contrary, the rise of a strong, prosperous China can be a source of strength for the community of nations. And so in Beijing and beyond, we will work to deepen our strategic and economic dialogue, and improve communication between our militaries.

Note: Refer to full text of the address on the website below;

<http://www.whitehouse.gov/the-press-office/remarks-president-barack-obama-suntory-hall>

## **1.4 Shipping, Resources, Environment, and Miscellaneous**

### **November 2 “Russia ahead of Saudi Arabia in daily oil output” (Fairplay Daily News, November 3, 2009)**

On the 2nd, the Russian energy ministry released production figures for October, showing that Russia produced 10.04M barrels of crude (including gas condensate) , up 0.4% on September and almost 2% ahead of the same month of 2008. On the other hand, Saudi Arabia (SA) lifted about 8M barrels per day in October, in line with limits agreed with the Organization of Petroleum Exporting Countries (OPEC) . But with two 2M barrels, Russia is still ahead of SA. The growth driver in Russia was Rosneft's new Vankor field, in the Krasnoyarsk territory of eastern Siberia. Vankor lifted its monthly output to 160,000 barrels a day, up 8% on September. More oil from Vankor – it is expected to exceed 200,000bpd in December – will mean more export volumes moving by rail eastwards to the new Kozmino Bay tanker terminal on the Sea of Japan.

### **November 3 “China's CNPC starts building Myanmar oil pipeline” (AFP, November 4, 2009)**

According to a statement posted on its website of the China National Petroleum Corp (CNPC) dated November 3, the country's top oil producer kicked off construction of a pipeline across Myanmar. The CNPC began work on a loading dock and oil tanks on Maday Island in western Myanmar. The 771-kilometer pipeline will connect Maday Island and Ruili in the southwestern

Chinese province of Yunnan, the statement said. The pipeline is expected to carry 12 million tons of oil a year in the first phase, CNPC said without giving a timeframe for when it would become operational. The pipeline -- in the works for years -- would allow at least part of the Asian giant's crucial oil supplies to arrive without traveling through the strait. (It also would cut about 1,200 kilometers off the current maritime delivery route.) CNPC, which has made a total investment of around two billion dollars, would eventually be able to deliver 22 million tons of crude a year via the pipeline, Chinese media reports said. CNPC is also planning to build a pipeline with an annual transportation capacity of 12 billion cubic meters (420 billion cubic feet) to move natural gas to the Yunnan provincial capital Kunming, by 2012.

#### **November 4 “Coastal states continue stringent regime on oil spills” (Lloyd's List, November 4, 2009)**

Single-hull tankers are to be phased out by the end of 2010, following the incidents of the oil pollution from MT *Prestige* off the Atlantic coast of Spain in 2002 and that from MT *Hebei Spirit* off the Korean coast in 2007. In addition, the incident of MT *Hebei Spirit* offers a reminder that without international consensus on rules to combat oil pollution from ships, coastal states are likely to continue to apply stringent domestic criminal liability standards to owners and seafarers. Tanker owners and managers, especially of single-hull very large crude carriers, should beware the risks.

Among about 540 very large crude carriers (VLCCs) worldwide, some 90 are single-hull tankers and even though the intended deadline for phasing them out is the end of 2010, such vessels can continue trading until 2015 with flag state dispensation. In the current economic slump, many are rushing to scrap single-hull tankers but others, seeking to obtain exemption, intend to continue their operation beyond 2010, in the hope of market upturn and resulting competitive advantage on price.

#### **November 9 “China government acts to boost cruise sector” (Lloyd's List, November 9, 2009)**

The Chinese government has unveiled a package of concessionary measures to grow the country's cruise business at a summit held in Hainan province. It includes streamlining custom procedures for cruise travelers and legitimizing local cruise business in an effort to promote the industry. In addition, the Ministry of Transport and Communications said that the department would strictly control the safety and technical standards of local cruise operators. Moreover, the Ministry of Public Security said it would give a customs waiver procedure for foreign cruise passengers if they did not make a landing. Arrival and departure procedures would be simplified with the introduction of electronic documents for those passengers who entered the country.

Apart from the influx of foreign companies, domestic demand for cruise travel had been growing rapidly over the past few years. The number of cruise travelers visiting China would reach 350,000-380,000 in 2009. In addition to three international cruise ports in Sanya, Xiamen and Shanghai, the construction of a cruise port in Wusongkou was started on July 18 and it is due

to be operational before the opening of Shanghai Expo next year.

**November 17 “South Africa to build polar supply and research vessel” (Marine Log, November 17, 2009)**

The South African Department of Environmental Affairs has recently signed a contract for construction of a polar supply and research vessel with STX Finland Oy. Serving as a supply vessel, research vessel, icebreaker, expedition vessel, as well as a passenger ship, among other things, the multi-purpose vessel will be delivered in 2012. The vessel will be approximately 134 m long and it will have accommodations for a crew of some 45 and some 100 researchers or passengers.

**November 28 “NYK: Super Eco Ship 2030” (NYK HP, November 26, 2009)**

Japan-based Nippon Yusen KK (NYK) announced a concept of “NYK Super Eco Ship 2030”utilizing solar power, fuel cells and propulsive force by wind force gained by raising eight sails in April this year. Regarding this concept, the NYK said, “The ship is a transport mode which is the kindest to the environment. But, in accordance with an increase of international trade by the development of the world economy, the number of the ships in the world will increase. People are worried by the rise of increase of CO2 emissions. In order that the vessels continue to remain kind to the environment to which the vessels will contribute for the development of the world economy, JYK will draw the figure of the ship in 2030 and go ahead with technical development toward it.”

Note: For detail of “NYK Super Eco Ship 2030”, see NYK HP ;

<http://www.nyk.com/csr/envi/ecoship.htm>

## 2. Intelligence Assessment

### Military side views about the South China Issues

In the South China Sea no clue to a settlement of disputes over territorial rights of the islands or jurisdiction over the maritime areas is in sight. In company with increasing demands of resources and energy, the conflicts over acquisition rights of the seabed resources are getting severe. Under these circumstances, protests over the submissions of the continental shelf among others between the related nations have been repeated. On the other hand, security environment is suddenly becoming unstable, as the capture of the fishing boats has frequently been repeated. During this period, Chinese naval power has grown powerful enough to overwhelm other Southeast Asian countries. Not before long, the South China Sea will be the sea controlled by China. To say militarily, it is bearing misgiving of the international community about whether or not the South China Sea will eventually be under the sea-control of China. Also, as it was observed in the interrupting conduct to the oceanographic research vessel of the U.S. Navy, the USNS Impeccable, which occurred in March 2009, China is strengthening an exclusive claim on the South China Sea. As the Soviet Navy attempted to make the Sea of Okhotsk its sanctuary during the cold war era, there is a behavior to think that China intends to make the South China Sea as an exclusive military maritime zone.

#### Making the Sea of Okhotsk a sanctuary

During the cold war period, the Soviet Union made the Sea of Okhotsk a fortress with naval and air forces and aimed at establishing a strategy of having ballistic missile submarines which were able to attack the western bloc submerged there.

In this report, OPRF has attempted to do an analysis from the military side, quoting the results of international conferences held recently and the theses made public.

### 1. Anxieties of Southeast Asian nations over national security in South China Sea

On November 26-27, 2009 the International Workshop on “The South China Sea: Cooperation for Regional Security and Development” (Hereafter International Conference in Vietnam) was held in Hanoi, Vietnam. This conference was co-sponsored by Diplomatic Academy of Vietnam and Vietnam Lawyers Association.

In the opening session of the International Conference in Vietnam, Duong Van Quang, the head of Vietnam's Diplomatic Academy, said, “The tension in the South China has been produced by the assertion of the nations concerned on territorial sovereignty and by the activities for virtual control of the islands.” Moreover, Duong said, “Recently, China has established a local



self-governing body in the Woddy island, the largest one in the Spratlys. China had these islands snatched away from former South Vietnam in 1974, so Hanoi has sovereignty over them.” There were no counterargument against this remark from Chinese side at the conference. But Liu Na Lai, International law professor of China's Academy for Social Science, who was participating in the meeting, objected to the Vietnamese remark at the press interview after the opening session. “From 1950s through 1960s, no nation except China claimed its sovereignty over the Spratlys Islands,” Liu said. “There is a misunderstanding that China robbed other nations of the Islands.” At each session in the International Conference in Vietnam many participants expressed their opinions regarding the judicial position of the U-shaped maritime area which China is drawing, adding “No position shall be approved.”

**U-shaped maritime area with which China encloses the South China Sea**

China claims its (territorial) rights by establishing the U-shaped maritime areas in the South China Sea which are enclosed with nine dots of the location. (For further details, see “OPRF MARINT Monthly Report, August 2009.”)

For example, Professor Ji Guoxing, School of International and Public Affairs, Shanghai Jiaotong University, said, “Historically, China has long relations with the islands and rocks in the U-shaped maritime area.” But Dr. Tran Cong Truc, former chief of the Government’s Border Commission refuted this claim by saying, “Vietnam itself has historical and judicial evidence that gives it the territorial rights of the Paracel and Spratlys Islands, and Chinese claim has no foundation.”

Disputes over the territorial rights are the biggest problems in the South China Sea. At the International Conference in Vietnam historical facts and others on which the claims of territorial rights over the islands in the South China Sea are based were repeatedly introduced. Also how they should be tackled by the regional countries concerned for the settlement of the problems was suggested. But most participants seemed to be aware that the disputes over the territorial rights would be “the problems of a long period which last for several generations.” Nazery Khalid, Senior Fellow of the Maritime Institute of Malaysia said, “(Even if such an international conference was held,) it does not mean that the dispute is settled by our generation.” He said we should understand it, suggesting each regional nation should concentrate its efforts on “seeking not disputes themselves but the area in which each nation can get to the agreement.” Participants and observers expressed their opinions, saying, “Even while disputes over the territorial rights are at a dead lock, disputes about the sovereign rights over the maritime resources are growing more intense.” Additionally, apprehensions that “high-handed postures by China are endangering the sovereignty of the coastal states” were revealed one by one. It is necessary for each nation that claims territorial rights over the small islands in the South China Sea to take realistic responses among the nations in the area for the prevention of armed conflicts and maritime development.

Above all, there is a common understanding that it is necessary to deal with China to prevent it from exerting sovereignty over the entire areas in the South China Sea “one after another.” It was certain that the purpose of the International Conference in Vietnam was there.

Participating in this conference, Kazumine Akimoto, Chief Fellow of the OPRF, expressed his opinions at the session concerning the “Global significance of the South China Sea in the changing international environment.”

## 2. Shadow of Chinese navy spreading over the South China Sea

As mentioned previously, as to the Paracel Islands, China has been preparing for the posture of effective control over the islands since 1974, but Taiwan and Vietnam continue to claim the sovereignty them. Regarding the Spratlys Islands, China, Taiwan, and Vietnam are claiming territorial rights over the entire islands, while the Philippines, Malaysia, and Brunei are claiming territorial right over part of the entire islands. Details are as discussed in the OPRF MARINT Monthly report (August 2009). In the International Conference in Vietnam Prof. Rommel C. Banlaoi, Head, Center for Intelligence and National Security Studies introduced the effective control of the Spratlys Islands with a viewgraph below. Each nation except Brunei deploys its armed forces, the number of which is 900 – some 1,000 for China and Vietnam respectively.

Country & Areas	Number of islands occupied	Army deployed (Number)
Brunei	0	0
China	7	900-1,000
Malaysia	5	230-330
Philippines	9	60-70
Taiwan	1	500-700
Vietnam	21	900-1,000

Source: PIPVTR Center for Intelligence and National Security Studies, Philippines, 2009

These are armed forces deployed in the islands. Apart from them, remarkably increasing Chinese naval power is giving a great impact on the effective control of the South China Sea.

In November 2009, the U. S.-based Jamestown Foundation issued a book entitled, “The South China Sea Dispute: Increasing Stakes and Rising Tensions.” The book says, “The tension in the South China Sea which began to surface in 1990s was moderate, as China, along with its diplomatic policy of ‘charm offensive,’ was taking controlled, flexible postures until the first part of the 2000s. In these several years, however, turning to high-handed postures, China, with the background of military power, has come to threaten the other nations.”

The author of the book mentions the historical process of the Chinese posture. The gist of it is as follows:

- (1) In 1990s, having been released from the threat of the former Soviet Union, China began to take strong policy against the issue of territorial rights in the South China Sea. In 1992

China passed legislation called “Law of the People’s Republic of China on the Territorial Sea and the Contiguous Zone.” While indicating clearly its sovereignty and jurisdiction over the areas around China, including the South China Sea, China showed aggressive postures, including the construction of fortifications on Reef over which the Philippines claims its sovereignty and protests against Vietnam’s development of offshore energy field between 1985 - 1997.

- (2) During this period, insisting that disputes over the territorial rights are bilateral issues, China has refused to continue negotiations under the multilateral framework with ASEAN. In the end-1990s, however, turning to take a flexible posture, China agreed with ASEAN to sign the Declaration on the Conduct of Parties in the South China Sea (hereafter DoC). It was part of Chinese foreign policy to mitigate the Chinese threat theory. The DoC in 2002 was regarded as if it would be relaxing Chinese threat theory, and in 2005 the joint development of natural resources in the conflict area between China and the Philippines and Vietnam was concluded.
- (3) Since 2007, however, China returned to high-handed postures for the South China issues. Increasing patrols by the naval vessels in the South China Sea, China lodged a strong note of protest against the Philippines Archipelagic Baselines Law in March 2009, Vietnamese independent submission on the extension of the outer limits of the continental shelf between Vietnam and Malaysia as well as the joint submission on the extension of the outer limits of the continental shelf.
- (4) In the background of this kind of Chinese change of postures is the expanded Chinese naval power. Deployment of submarine forces consisting of *Kilo*-class submarines, *Jin*-class strategic nuclear missile submarines, *Shang* class nuclear attack submarines among others and surface combatants with anti-carrier attack capabilities led by *Sovremenny* class destroyers, build-up plan of indigenous aircraft carriers, and construction of a large naval base in Hainan island to operate them among others enable them to implement gunboat diplomacy. Some specialists point out these Chinese high-handed postures to the South China Sea as “creeping assertiveness” or “growing assertiveness.” In the beginning the DoC was expected as promoting the confidence-building measures, but since 2007 many experts point out it has been losing the effectiveness.

### 3. Geo-strategic significance of South China Sea and Chinese Sea-power

If China makes the South China Sea into an exclusive maritime area with military predominance, Beijing would exert a great influence on the national security in Asia and the world in the following two points. One is the threat to sea-lane passing through the South China Sea, and the other is an obstruction to access to the East Asian region by the U.S. Navy.

In the South China Sea the sea-lane connecting the Indian Ocean and Northeast Asia is running, which is a lifeline of supporting the national economy and peoples’ living for the Northeast Asian nations. The entrance of south side in the South China Sea is the Malacca Strait only. No passage in the South China Sea in an emergency equals to a situation in which the

Malacca Strait is blocked. If a situation in which China controls the South China Sea by military power arises, the sea-lane defense in an emergency by the Northeast Asian nations, including Japan at first, would be extremely difficult. Another obstruction to an access for the U.S. Navy would bring about a more serious situation for the national security.

#### **(1) Information on development of anti-ship ballistic missiles by China**

According to U.S. Net information delivery-company, Bloomberg.com, reported on November 17, 2009 that, as information from the U. S. Office of Naval Intelligence, China has been developing the ground-launched anti-ship ballistic missile with a range of 1,500 kilometers for the first time in the world. The range of 1,500 kilometers has a great significance. If we draw a circle with a radius of 1,500 kilometer round a given center of Hainan Island where the Chinese naval base is located, circumference of a circle will reach the Malacca Strait along the outer ridge of the U-shaped area from the Taiwan Strait.

Of 11 aircraft carriers of the U. S. Navy, five are deployed in the Pacific. One of the projected missions of the aircraft carrier is to deal effectively with an emergency in East Asia. But if China were to deploy anti-ship ballistic missiles with a range of 1,500-kilometer in Hainan Island, they would be the greatest threat to the carrier battle groups when they enter the South China Sea. Gary Roughead, CNO, says, "The development plan of China's anti-ship ballistic missiles is one of the reasons why the U.S. Navy has cut down the program of DDG-1000 (Littoral Combat Ship Program) which lacks anti-missile defense capabilities from eight to three." Instead, the U. S. Navy has decided to increase seven DDG-51 Aegis vessels.

China is said to have commenced research of ground-launched anti-ship missiles after the Taiwan Strait crisis in 1996. The U.S. naval digest, *Proceedings* (May 2009), pointed out "Chinese anti-ship missiles would change the rule in the Pacific and expose the U. S. carrier battle groups into danger." Additionally, in the edition of December 2009, carrying an article entitled "Mahan's Lingering Ghost" in the *Proceedings*, December 2009, Vol.135/12/, James R. Holmes and Toshi Yoshihara comment in it about Chinese development plan of anti-ship ballistic missiles. The authors say, "Taking the opportunity of the Taiwan Crisis in 1995 – 1996, China pursued construction of anti-access strategy. The United States Navy is under pressure to have necessity of thinking about the strategy to stand against the Chinese access denial strategy effectively by military and non-military responses in the South China Sea."

If China strengthen the deployment of submarine fleet and surface combatants with anti-carrier operational capabilities, and conduct access denial operations additionally by combining the aircraft carrier which is said to be under development with the anti-ship ballistic missiles, it would be a great obstacle to the access to East Asia by the U. S. Navy.

#### **(2) South China is Caribbean Sea for China**

Comparing the Chinese advances into the ocean with Alfred T. Mahan's theory, the thesis entitled "China's Caribbean in the South China Sea" carried in the *SAIS Review* of the School of Advanced International Studies, John Hopkins University in 2006 reports "For China, the South China Sea is the Caribbean Sea for the United States, and China will expand the sea power by having a strong foothold in the South China Sea." Although Mahan advocated the necessity of sea

power for the United States as a maritime nation, at first he stressed the necessity of preparing for the defense posture of the Caribbean Sea to deter the intervention from the Old World. By and by, for the United States the Caribbean Sea became not only the sea for defense against the Old World but also the beachhead to embark in the seas of the world simultaneously. Controlling the Caribbean Sea, the United States opened the Panama Canal to secure an outlet for the Pacific. The Caribbean Sea was a starting point of the U. S. global power.

Looking back upon the history, a newly emerging sea power first controls the sea that becomes the beachhead for embarking the seas of the world, as seen in case of the Eastern Mediterranean for Ancient Rome, the Western Mediterranean for Spain, Sea areas stretching from the English Channel to the Strait of Gibraltar for Britain, and the Caribbean Sea for the United States.

For China, there are the East China Sea and the South China Sea as an outlet to the ocean. In case of Mahan, he would embark to control the South China Sea from the geo-strategic point of view. It is because the East China Sea has its outlet blocked by the southwest islands and the U. S. forces are deployed in Okinawa. In the Chinese Navy the studies of Mahan have been prevalent since 1950s. China advanced into the Paracel Islands in 1974, the Seychelles Island in 1988, and the Mischief Reef in 1995 after the U.S. forces withdrew from the Philippines. They occupied them. China is regarded to have steadily established the strategic postures to make the South China Sea a beachhead by these deployments. Mahan pleaded to build the Panama Canal to make it a condition for the United States to advance into the sea-lane. If so, the Malacca Strait may become another Panama Canal for China.

#### **4. Influence of Chinese Naval Power in the South China Sea on the Security in the World**

The rapid rise of emerging sea powers will change the maritime power balance as well as the environment of security in the world. For instance, a thesis entitled "NATO'S New Strategic Concept and US Commitment in the ASIA-PACIFIC" was carried in the *RUSI Journal*, October 2009 (Vol.154 No 5.) published by Royal United Services Institute (RUSI). In this thesis there is an interesting point that "the rise of China will give a challenge to the North Atlantic Alliance." The challenge the thesis points out is summarized as "when the situation of national security in East Asia is worsened by the Chinese military rise, the U, S. military forces deployed in Europe is necessarily shifted to East Asia, and changes of deployment and organization of NATO become necessary. In company with this, a change of burden sharing within NATO, including dispatching of military forces to Afghanistan is obligated." "If the U. S. military presence in Europe is decreased, it will give great influence upon the strategic balance in Europe." The thesis says, "Present task for NATO is how to carry out the operations in Afghanistan which are overburdened, and another one is how to make a consensus on new strategic concept which will decide the future direction of NATO." If the armed conflict occurs in East Asia, countermeasures to two tasks will be overturned from the basis, says the article. Going further, the thesis mentions, "Many European nations proposed strongly to lift the embargo on the export of arms, but after that they have come to recognize that it is necessary to include the issues on East Asia

as an element of building the national security of Europe.” It also writes, “France recognizes in its *Defense White Paper 2008* that the center of gravity of the world strategy is shifting to Asia, and prevention of armed conflicts in Asia is the central objective. Also in Germany, the Christian Democrats call Asia a strategic challenge of German diplomacy and national security policy.”

Thus, regarding the influence that the rise of China gives as an emerging sea power, serious discussions are coming out in Europe, which is a situation that cannot be ignored when we consider the influence given to the national security of the world by the Chinese naval power.

## **5. Stabilization of security environment in South China Sea required**

As was viewed above, the South China Sea issue has begun to give a great influence on the security in the world. From this point, the stabilization of the security environment of the South China Sea is the issue of the security of the world. For the stabilization of the security environment of the South China Sea, approaches from the following three directions would become necessary.

### **(1) Establishment of “Code of Conduct (CoC)” and expediting the Incidents at Sea Agreement required**

In 2002 ASEAN and China formulated ASEAN-China regional Declaration of Conduct (DoC) and agreed to implement the DoC. As there is no legal binding in this declaration, and the tackling between the related nations does not go beyond the framework of the confidence-building measures, it seems to be too comprehensive and lacks the concrete measures. The South China Sea nations should establish as soon as possible the CoC which is binding during the operations of the development of the natural resources, navigation, judicial activities, scientific research activities, and military exercises among others. In addition, by reminding the activities of the naval vessels and others in the areas where the disputes over territorial rights and control rights occur, it would be also necessary to conclude the Incidents at Sea Agreement at an early stage.

### **(2) Confirmation of “Freedom of Navigation” in the South China Sea**

As shown in “OPRF MARINT Monthly Report, August 2009,” regarding the military activities in the Exclusive Economic Zone (EEZ), there are differences in interpretation of the United Nations Convention on the Law of the Sea (UNCLOS). China asserts “The naval vessels operating in the exclusive zone of other countries should observe the law of the coastal states” and “the activities are limited to peaceful ones and the military activities and intelligence collection activities are limited.” In this assertion it is considered that there is an intention of limiting the activities of the United States Navy in the western Pacific. The defense of the sea-lane is vitally important for China, and, in future, the need for securing the freedom of navigation for their naval vessels in the Indian Ocean will arise. In order to maintain the sea power securing the “freedom of navigation” is the big principle which China and regional nations need to recognize again.

### **(3) Efforts of stabilization of balance of power in the South China Sea**

If one country encloses the maritime area around its coasts for its national defense or national

interests, the other nations draw the defense lines outside the enclosure-line of other nations. This is a natural reciprocal action of defense strategy which is produced among the nations of territorial sovereignty, and is a universal operation in the maritime warfare. If China makes the South China Sea as an exclusive zone with military power, the United States may counter it and strengthen the deployment of naval power in the outside areas including the Malacca Strait. Such situation will not be beneficial to China which is increasing further its reliance on the sea-lane in future and China itself should understand it. The nations surrounding the South China Sea and the United States should continue to maintain the naval forces that could jointly surround the South China as the need arises. This does not mean the hedge-strategy against China. It is the responsibility of the concerned nations not to destabilize the regional strategic balance.

(By Kazumine Akimoto, Senior Research Fellow of the OPRF)

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