

Annex A
to Progress Report
dated 19 February 2001

**MIMA Workshop on
Confidence and Co-operation in South Asian Waters
Lumut, Malaysia
29-31 January 2001**

Report

Introduction

1. As part of its ongoing work to promote maritime Confidence-building Measures (CBMs) the Maritime Institute of Malaysia (MIMA) held a workshop to explore Confidence and Co-operation in South Asian waters. The workshop was held in Lumut, Malaysia from 29-31 January 2001. The objective was a focussed discussion, at the non-official level, of maritime safety, co-operation and related issues in South Asia.
2. The workshop was opened by Rear Admiral Dato Ilyas bin Hj. Din of the Royal Malaysian Navy and was attended by retired senior officers from the navies of India and Pakistan, including: Admiral Fasih Bokhari, Admiral T.K. Khan, Rear Admiral K.R. Menon, Admiral J.G. Nadkarni, Commodore P.C.B. Nair, Rear Admiral I.H. Naqvi, Lt. Commander N. Sarfraz, and Admiral V.S. Shekhawat. In addition, officers of the Royal Malaysian Navy and research experts from MIMA, the region and from the Centre for Foreign Policy Studies at Dalhousie University in Canada attended. The workshop was funded by MIMA and by Canada's Department of Foreign Affairs and International Trade.
3. The participants noted that several CBMs have been negotiated between India and Pakistan, including in the maritime sphere, and that the leaders of the two countries have called for further steps in this area, most recently in the agreed Memorandum of Understanding to the Lahore Declaration of 21 February 1999. They also noted with regret that previous CBM efforts have not been sustained and that their results have sometimes broken down in times of tension. They agreed that a need exists for more concerted efforts on the CBM front and expressed the hope that their efforts would contribute to the creation of an environment in which this would be possible.
4. Discussions proceeded in the following subject areas: fisheries issues; steps to prevent incidents at sea (as called for in paragraph 5 of the Lahore MOU of 21 February 1999); Hotlines and other communications measures; issues relating to co-operation between the Indian Coast Guard and Pakistan's Maritime Security Agency in such areas as environmental response and Search and Rescue; and the routing of pipelines.

Fisheries Issues

5. As fish do not recognise human boundaries, fishermen necessarily follow centuries-old practices, now disrupted by modern boundaries. However, fishing in the disputed maritime zone seaward of the Sir Creek has become a serious issue between India and Pakistan because of larger issues in overall relations. Meanwhile, fishermen on both sides are being caught in the middle.

6. The participants felt that fishermen accused of fishing in the other country's zone should not languish in prison for years or even months as is often the case today. Instead, the general international practice of "arresting the boat but not the crew" should be followed and crews should be repatriated as soon as possible, while the vessel is held pending a resolution of the case. The participants noted that Article 73 of the UN Convention on the Law of the Sea (UNCLOS) requires expeditious repatriation of a crew under such circumstances. They also noted that the Prime Ministers of India and Pakistan had agreed on the need to ensure expeditious repatriation, but further noted that a mechanism to ensure continuous repatriation has not yet been established. The participants agreed that the speedy repatriation of fishing crews is an issue of basic human decency and that ways and means should be found to render it above politics.

7. On the broader issue, the participants explored the international experience with the creation of Marine Sensitive Zones, as called for under UNCLOS and the Malaysian experience in creating Joint Development Areas. Such Zones and Areas can be interim arrangements to allow peaceful exploitation and preservation of resources to go forward without prejudice to larger maritime claims. The participants agreed that this is an idea and is worthy of further study.

Prevention of Incidents at Sea

8. The participants recalled that paragraph 5 of the MOU to the Lahore Declaration of 21 February 1999 states that:

"The two sides shall conclude an agreement on prevention of incidents at sea in order to ensure safety of navigation by naval vessels, and aircraft belonging to the two sides."

9. Unfortunately, political events have prevented movement towards such an agreement. Following on from this, the participants examined the prevention of incidents at sea concept (otherwise known as INCSEA). They explored the evolution of the concept and its application in regions such as the Middle East and Asia. They noted that the INCSEA concept has evolved from its initial Cold War beginning to play an important role in promoting maritime security and co-operation in several regions. They were particularly impressed by the adaptation which Malaysia and Indonesia have recently made of the INCSEA concept to suit their own circumstances.

10. The participants agreed that INCSEA is a concept which is potentially very relevant to the India-Pakistan situation and called for negotiations to begin on it as soon as possible. To that end, they agreed that efforts should be undertaken within their respective countries to promote

and explain the idea, and they agreed to do so as a matter of priority.

Hotlines and Other Communications Measures

11. The participants noted that Hotlines have been established by previous CBM agreements between the two countries. They also noted that paragraph 7 of the MOU to the Lahore Declaration of 21 February 1999 states that:

"The two sides shall undertake a review of the existing communications links (e.g. between the respective Directors-General, Military Operations) with a view to upgrading and improving these links, and to provide for fail-safe and secure communications."

12. The participants agreed that their respective governments should examine as a matter of priority how paragraph 7 of the MOU might be implemented. In the specifically maritime sphere, they proposed that consideration should be given to the establishment of appropriate communications links between their respective navies. They further proposed that consideration be given to the establishment of such links between the Indian Coast Guard and Pakistan's Maritime Security Agency, similar to those which exist between the Rangers and the Border Security Forces on land.

13. They proposed that these communications channels could be established at both the higher strategic and the operational levels as appropriate and that they should be used often. They particularly recommended that these communications channels should be used in times of tension, but that this can only be assured if they are also used extensively on a routine basis to facilitate safety at sea.

Co-operation Between the Indian Coast Guard and Pakistan's Maritime Security Agency

14. The participants noted that the Indian Coast Guard and Pakistan's Maritime Security Agency have a large role to play in promoting maritime confidence and security in the region as they are responsible for fisheries enforcement, search and rescue and environmental response. Regrettably, there is little history of co-operation between them. The participants agreed that this must change.

15. The challenges of Search and Rescue, the protection of marine resources and environmental protection and response are common humanitarian objectives which can only be enhanced by co-operation. The need for such co-operation is likely to increase as oil exploration, shipping and fishing increase in the region. Thus, with respect to the boundary dispute, the participants agreed that practical steps to promote co-operation can begin without prejudice to larger political positions.

16. In addition to the creation of communications links between the two services, the participants recommended examination of plans for co-operation in Search and Rescue and environmental response. Such planning would require meetings between the services and the participants advocated that this be given urgent consideration.

Routing of Pipelines

17. The participants noted that the feasibility of undersea pipelines is presently being examined in the region. There is presently no agreement as to whether an overland or undersea route should be used, but the participants agreed that the industrial development of the region will require greater access to energy resources than presently exists and that a pipeline will eventually have to be built for this purpose. The implications of this situation will require further and urgent examination.

Conclusion

18. The workshop was judged by all to have been an important step forward. The participants from India and Pakistan agreed that they will endeavour to promote the ideas generated by the workshop. They also agreed that further workshops of this kind would be extremely useful and that they will give further consideration to developing specific areas for discussion.

19. The participants from India and Pakistan expressed their appreciation to the Royal Malaysian Navy, MIMA, Dalhousie University and the Government of Canada for their sponsorship of and assistance to the workshop.