

Confidence and Cooperation in South Asian Waters
6th Annual Symposium
Bangkok, Thailand, March, 2007

Introduction

As part of its ongoing work on maritime Confidence-building Measures (CBMs) around the world, the Centre for Foreign Policy Studies at Dalhousie University, Halifax, Canada coordinated the sixth annual symposium to foster confidence and cooperation in South Asian Waters. The symposium was sponsored by the Canadian Department of Foreign Affairs and International Trade.

The Symposium was attended by retired senior officers from the navies of India and Pakistan, including (in alphabetical order): Rear Admiral Hasan Ansari, Admiral Fasih Bokhari, Admiral T.K. Khan, Admiral J.G. Nadkarni, Commodore P.C.B. Nair, Rear Admiral I.H. Naqvi, Captain Naeem Sarfraz (MM), Admiral V.S. Shekhawat, and Rear-Admiral Ravi Vohra. Other participants were David Griffiths, Peter Jones and Nicole Waintraub from the Centre for Foreign Policy Studies at Dalhousie University.

Discussions were wide ranging and included: the agreement for the prevention of incidents at sea; the maritime boundary, including Sir Creek, and continental shelf issues; the plight of detained fishermen; the law of armed conflict and rules of engagement at sea; cooperative maritime compliance and enforcement; maritime emergency management; development of a joint search and rescue initiative; maritime environmental protection; facilitating maritime trade; and the way forward.

Looking to the future, the group felt that much of its effort between now and the next annual meeting should be in the areas of: ensuring the timely signature and implementation of several documents and agreements between the two sides; working to develop cooperative environmental management; and further promoting “people-to-people” and “service-to-service” contacts between the two sides. The group also discussed longer-term issues.

Review

The meeting began with a general review of progress achieved since the last meeting in Halifax in 2005. It was noted that the peace process is moving forward, which has benefited this initiative.

The group discussed whether or not we could expand this process, both horizontally and vertically. Horizontal expansion could include the introduction of new subjects for maritime co-operation and also the inclusion of other regional countries in discussions of mutual maritime interest. Vertical expansion could include exploration of whether this group could evolve to consider broader issues of India-Pakistan cooperation, beyond the maritime.

The group then turned to consideration of its ongoing agenda items.

INCSEA

The group reviewed the situation with respect to the draft text of the agreement for the prevention of incidents at sea (INCSEA). A draft text has been tabled by Pakistan and is now under consideration by India. It is expected that it will be signed by Ministers in the near future. The group expressed the view that it would be a useful step in developing “Navy-to-Navy” contacts if the two Naval Chiefs could be at the signing ceremony.

The group reviewed the question of whether it could play any useful role in assisting the two navies to implement the agreement. It was the general view that the two naval Headquarters will develop their own implementation protocols. The group did feel that it would be useful to provide the two naval Headquarters with documentation from other navies who have implemented such agreements in the past.

More generally, the group was pleased with progress on this agenda item and took the view that its work was nearly completed. It was agreed that group members should be prepared to welcome the signing of the agreement, when it happens, and to provide *op eds* to newspapers explaining the agreement and supporting it.

Maritime Boundary

The group noted that the joint survey of the Sir Creek area has been completed and discussion of seaward delimitation continues. Cooperation is also good at the working level between hydrographers. They encouraged this process to continue.

Continental Shelf Extension

The group noted that extension of jurisdiction over the continental shelf beyond the 200nm limit of the exclusive economic zone is independent of the establishment of an agreed maritime boundary. They further noted that progress had been made since the 2005 workshops organized by the group and urged that it continue. They urged their respective authorities to remember that the Commission will not accept claims which overlap and noted that members of the Commission are available to review claims before they are submitted, and to provide scientific and technical advice. The group members recommended that the countries avail themselves of this advice before submitting their claims.

Fishermen

The general view of the group was that progress has been made at the political level in terms of securing high-level agreement that detained fishermen should be returned expeditiously, while boats would be impounded and their release pursued as per the law. They also noted with satisfaction that the two countries seem to be more amenable than previously to “chase” offending boats away rather than to arrest them, unless the

transgression is particularly flagrant. Of note, the total number of arrests being made has been reduced considerably. Furthermore, the DGs of the Maritime Security Agency of Pakistan (MSA) and the Indian Coast Guard (ICG) are now in regular communication.

One area where the group felt that more needs to be done is in improving each side's ability to comply with its obligations under Article 73 of United Nations Convention on Law of the Sea (UNCLOS), (to which both countries are signatories), to release fishermen promptly, not to imprison them and to inform the other state promptly of their detention. They agreed that they would examine with their respective authorities whether ways can be found to define the charges as fisheries violations under UNCLOS. Furthermore, in keeping with a broader discussion of humanitarian issues, concern was expressed over the difficult conditions to which the detained fishermen are subjected.

It was agreed that sensitizing local and state authorities to fisherman's issues would be useful. It was suggested that a conference, jointly hosted by the MSA and the ICG, and involving all stakeholders would be a good way to further this issue, and also to promote direct relationships more broadly and over a wide range of issues. One outcome of such a conference could be some sort of fisherman's version of "INCSEA"; a document spelling out how such cases would be dealt with, and setting up standing mechanisms to do so.

The group agreed that each side will work with its relevant authorities to promote the idea of such a conference, and the group members will keep in touch with each other as to progress made in this area, which has significant humanitarian implications.

Law of Armed Conflict and Rules of Engagement

Group members noted with satisfaction that the San Remo agreement is being taught at their respective institutions. The group felt that further quiet encouragement in their respective capitals could be useful in promoting some sort of joint workshop on this subject, perhaps to include other South Asian countries. Group members agreed to undertake this effort and to remain in close touch on progress.

Maritime Compliance and Enforcement

The group discussed this broad topic and agreed that it is an area for further work and cooperation. However, it was noted that: a) it is a very broad area and needs to be broken down into sub-issues to be investigated usefully; and b) some of the activities being undertaken by many navies in the context of the "war on terror" involve issues on this agenda.

The group agreed that they will work with each other between symposia to develop specific ideas that can be suggested to their respective maritime establishments as areas for study and cooperation. They also agreed that some of the issues on this agenda lend themselves well to multilateral work, involving other South Asian, and Indian Ocean countries. Areas that should be looked at for possible ideas are the broad set of issues

that fall under the rubric of “Integrated Maritime Compliance and Enforcement” (IMCE), environmental cooperation and disaster management.

Maritime Emergency Management

This agenda issue contains three sub-issues.

Search and Rescue

The group sees this as a logical area for cooperation between the two sides. The group agreed that members would seek to encourage the MSA and ICG to exchange SOPs at a future meeting of the two DGs of those services. The group will also encourage the two services to develop standard procedures for cooperation in this area – perhaps by means of a special meeting between the two services to develop such procedures. The group also agreed that it would be useful to pursue the idea of a SAR workshop for appropriate personnel in conjunction with Cape Breton University and the Canadian Coast Guard College. Finally, the group asked the facilitators to make available at the next meeting international experts in the development of cooperative approaches to search and rescue in order to permit a more in-depth analysis of this question.

Disaster Management

Citing case examples such as the December 2005 tsunami, the group emphasized the importance of addressing disaster management as both a bilateral and wider regional issue. It was suggested that one area for future work by the group lay in encouraging their respective maritime authorities to move beyond the ad hoc nature that currently characterizes response.

- It was suggested that both countries would benefit from participation in an impending academic conference at Dalhousie University entitled, “The Maritime Role in National Response to Emergency: Concept of Operations, Case Studies and Capabilities,” 14-16 June 2007.
- Discussion took place on the idea of encouraging the two sides to put in place a structure for use in future disasters.
- It was agreed by group members that they should encourage the planned “conclave” of regional service chiefs to consider this issue.
- Group members encourage the MSA and the ICG to send observers to the next meeting of the group in order to more fully explore this issue.

Environmental Protection

The group noted that little has been done on this issue at the “Navy-to-Navy” level, though somewhat more has been accomplished at the MSA to ICG level. The group expressed concern over environmentally detrimental practices being carried out along the Indian and Pakistan coastlines as well as at sea. Unchecked bilge pumping and deballasting have seriously damaged local eco-systems. In response, the group

encouraged the generation of a more systematic deterrent by local authorities through regular patrols – which could perhaps enjoy some level of coordination. Another component of response would be the development of a reporting mechanism between countries. Finally, the group suggested that work be done to develop and share SOPs concerning this issue. The group agreed to suggest these ideas to their respective authorities.

Facilitating Maritime Trade

This agenda item has two sub-items.

Shipping Protocol

The group noted with satisfaction that the 1975 Shipping Protocol has been amended to remove several aspects that were hindering the development of bilateral shipping activities. They encouraged the speedy signature of the amended Protocol. It was noted that, due to wider international trends, the shipping industries of India and Pakistan face several issues in common, particularly with respect to issues concerning the crews.

Port Security

It was noted that both countries have Container Security Initiative procedures in place at designated ports. With the implementation of the amended Shipping Protocol it is expected that bilateral shipping activities will increase substantially. The group recommends that information sharing and data linkages be encouraged to enhance security at these ports. Group members agreed that they will work with their respective authorities to examine ways to facilitate this process and will remain in touch on this issue between symposia.

Project History

The Dalhousie facilitation team noted that the Canadian sponsor has asked for a history and analysis of this project, particularly with respect to its implications for wider South Asian Track Two. An outline of such a paper was distributed and discussed. Group members were supportive of this effort. The facilitation team will draft the article and distribute it to group members for their comments. A decision on the desirability of publication in a suitable academic journal will be made in discussion with group members.

The Future Agenda

Turning to consideration of the future agenda, in addition to the various specific action items identified throughout this report, the group considered both near and longer term issues.

On the longer term agenda, one group member made a presentation on future trends in deep water extraction of resources. It was agreed that technology is moving in ways that are making possible the extraction of resources from depths thought impossible just a short time ago. This will have a considerable impact on the wider region and on bilateral relations, particularly in the context of ensuring that the two sides' continental shelf extension claims are accepted and that a positive working relationship is established with respect to the undelimited maritime boundary. The group agreed to maintain a watching brief on this issue and to further consider its ramifications at future meetings. In particular, group members agreed to consider ways to use the trends in technology development as a spur to encouraging further cooperation between the two states, and on a wider regional level.

Also as a discussion item for future meetings the group felt that consideration of broader trends in maritime strategy in both countries and the region should be undertaken, with a view to exploring opportunities to develop complementary approaches to future maritime activities.

On the nearer term agenda, the group felt that some useful work in the next year could be on the level of further encouraging a much more systematic approach to "people-to-people" and "service-to-service" contacts between India and Pakistan to assist in changing the mindsets in the two countries. The agenda on this issue includes:

- a) preparatory work to develop ideas and papers for the conference noted above in the section on Fishermen;
- b) the development of a broader agenda of issues, and contacts, between maritime policy centres in the two countries;
- c) the continuation and intensification of contacts between the MSA and the ICG;
- d) the enhancement of contacts between the two Navies, including reciprocal ship visits and visits between institutions;
- e) the presence, if possible, of the two service Chiefs at the signing of the INCSEA agreement;
- f) the implementation of the points made earlier in this report on Search and Rescue; and
- g) the encouragement of wide-ranging and ongoing inter-service contacts in such areas as sports and culture.

Also as a near-term agenda issue, the group felt that it should give much more systematic and intensive consideration to the marine environment issue. The group asked the facilitator to examine the prospect of bringing to the next meeting noted international experts in the field of cooperative maritime environmental protection. They signalled their desire to develop a comprehensive agenda of activities for study and action in this area.

For each of these areas, the group agreed to remain in close touch with each other and work together on these issues.

Finally, the group agreed to meet next year, and that future meetings should be in either India or Pakistan, if possible. To that end, the director of India's National Maritime Foundation, New Delhi offered to host the next session.