

# Confidence and Cooperation in South Asian Waters

## 11th Symposium

### *Bangkok, Thailand, October 2014*

#### **Introduction**

The eleventh symposium on Confidence and Cooperation in South Asian Waters was held in Bangkok between 31 October and 2 November, 2014. The meeting was hosted jointly by the University of Ottawa and Dalhousie University, sponsored by the Near East and South Asia (NESAs) Center for Strategic Studies at the National Defense University in Washington, D.C.

The session was attended by retired senior officers from the navies of India and Pakistan (in alphabetical order): Rear Admiral Hasan Ansari, Rear Admiral Javed Iftikhar, Admiral T.K. Khan, Admiral J.G. Nadkarni, Rear Admiral I.H. Naqvi, Vice Admiral B.R. Rao, Captain Naeem Sarfraz, Admiral V.S. Shekhawat, and Rear-Admiral Ravi Vohra, along with Mr. David Griffiths from Dalhousie University.

#### **Marine Pollution**

The group was advised that, as promised at the 2013 meeting, Dr. Kenneth Lee, Director of the Wealth from Oceans Flagship program at Australia's Commonwealth Scientific and Industrial Research Organization (CSIRO), has been successful in arranging funding for an international meeting on emergency/oil spill response in the Indian Ocean. It will be held in May 2015 at Perth, Australia, hopefully providing an opportunity to address some of the marine pollution management issues which this group has been raising for some years.

As noted during the 2013 meeting, the South Asia Cooperative Environment Programme (SACEP) has yet to implement the *Regional Oil and Chemical Pollution Spill Contingency Plan* and associated MoU, or other environmental initiatives such as the *Framework for Marine Litter Management* and the *Regional Strategy and Action Plan on Ballast Water Management and Control*. Members of the group will continue to advocate with appropriate authorities the importance of accelerating the implementation of such measures.

Adequate legislation, regulations and plans governing marine pollution management are in place in both India and Pakistan, but the challenge lies in achieving implementation and compliance. Addressing this will require leadership from the top and broad support from concerned citizens. The coastal and marine element is a vital and integral part of the national and regional environment, therefore members of the group undertake to advocate the importance of incorporating effective coastal and marine environmental management into existing national environmental policies.

The group noted that while pollution from ships is an important issue, eighty percent of contaminants in the ocean originate from the land. Large coastal cities like Karachi and Mumbai present particular challenges. In 2006, for example, sewage treatment access was available to about 15 per cent of the population of Mumbai and about 6 percent in Karachi. As a result, waste water from cities and factories is turning the waters of the Arabian Sea hypoxic (low on oxygen), resulting in plankton blooms which are stifling the nutrients essential to fish. Other examples of environmental degradation include the destruction of the mangroves so essential to the stability and environmental health of the coast. These developments can have significant negative impact on the maritime

economies of the region. Consequently, coastal cities in both countries have a particular responsibility and common interest in addressing the considerable challenges. The group will therefore explore prospects for initiatives that might assist port cities and coastal communities in jointly enhancing their capabilities in effective management of marine pollution.

### **Detained Fishermen**

The problem of fishermen being detained in the vicinity of the undelimited maritime boundary continues, although improvements in managing the issue are progressing slowly. At the time of meeting there are reportedly 241 Pakistani fishermen detained in India and 400 Indians in Pakistan.

On the legal level, as this group has been emphasizing for some years, both countries are obliged to comply with the provisions of the UN Convention on Law of the Sea (UNCLOS) Article 73 ("*Enforcement of laws and regulations of the coastal State*") which is clear on obligations regarding treatment and repatriation of fishermen. In Pakistan this issue is now being brought before the Supreme Court. Compliance by both States would provide a solid framework for managing the issue.

Operationally, communication between the Indian Coast Guard (ICG) and the Pakistan Maritime Security Agency (PMSA) continues to improve, although it is still dependent more on goodwill than on robust formal mechanisms. Nonetheless, these are not the only agencies involved. For example, although PMSA and ICG make the arrests at sea, charges against detainees brought ashore are laid by police. A comprehensive approach by all relevant authorities is required.

Conditions of detention have improved in both countries, but are still less than ideal. Detainees now benefit from better consular access than in the past, and receive charitable support from their counterparts in local organizations devoted to the welfare of fishermen and their families. The average duration of detention, though reduced, is still excessive. Charges extraneous to illegal fishing should not be considered without reasonable cause and detainees should be released promptly "upon the posting of reasonable bond or other security" as required by UNCLOS Article 73.

Arrests are now being made less indiscriminately by both countries. Ideally potential violators should be intercepted and turned back before arrest becomes necessary. Ultimately, the most effective means of reducing the problem would be to address the root causes of fishing in unauthorized areas in the first place. In the long term, delimitation of the maritime boundary will help by clarifying exactly where authorized fishing can take place. Addressing the marine pollution issue may also help by reducing the motivation to seek fish in non-traditional fishing grounds. The group also explored prospects for economic approaches in addressing the problem; a topic which will be explored in future meetings.

Members of the group will continue to remain actively engaged with their respective authorities on this humanitarian issue of the detention of fishers.

## **Marine Piracy**

Thanks to the intensive international enforcement effort, piracy against merchant ships off the coast of Somalia has been much reduced in the past year. Nonetheless, largely unreported attacks are still occurring on fishing vessels, at least 15 of which have been captured and had their cargoes and fuel stolen in the past year. Not all such attacks are reported because some victim vessels are themselves engaged in illicit activity. Despite the reduction in Somali piracy, attacks are on the increase elsewhere, particularly in the Gulf of Guinea and in Southeast Asian waters, so seafarers from South Asia continue to be at risk. The group will continue to monitor the developments, including progress in implementation of initiatives discussed at the previous meeting.

## **Sir Creek and the Maritime Boundary**

After examining recent developments in maritime boundary resolution elsewhere, particularly the results of the 2014 Bay of Bengal Maritime Boundary Arbitration, the group again turned its attention to the India-Pakistan situation, reviewing the respective national positions and interpretations. The group concluded that an independent academic study by experts in maritime law and policy would be a useful resource to assist in deciding on a mutually acceptable approach. Members of the group will collaborate on exploring the prospects for such an initiative.

## **Extension of Continental Shelf Jurisdiction**

With the respective claims of both governments submitted to the Commission on the Limits of the Continental Shelf (CLCS) the group continues to monitor progress.

## **Incidents at Sea**

Discussions on an agreement to prevent incidents at sea (INCSEA) are ongoing at the official level. The group is of the view that its applicability should expand to include ICG and MSA platforms since they interact frequently. The group also recommends that the INCSEA agreement incorporate the provisions of Annex A of the 1991 *Agreement Between Pakistan and India on Advanced Notice of Military Exercises, Manoeuvres and Troops Movement* with respect to separation distances between naval ships, submarines and aircraft. Members of the group will continue to follow developments and make international expertise in these issues available to the appropriate authorities if requested.

## **Communication**

Direct communication “hotlines” exist between the respective Directorates General of Military Operations, and between the ICG and PMSA. It is therefore an anomaly that no similar channel is available between the navies to address urgent matters occurring at sea. The group recommends that this prudent and straightforward step be taken at the earliest opportunity.

## **Confidence Building Steps**

At the previous meeting the group undertook to explore the feasibility of reciprocal visits by sail training ships (PNS *Rahnaward* and INS *Tarangini* or *Sudarshini*) but has concluded that such events would be impracticable in the immediate future, other than in the context of simultaneous participation in “Tall Ship” events overseas. At the moment, although there are civilian school, cultural and sports exchanges between the two

countries, there is no interaction between the naval leaders of the future. The group suggests that consideration should be given to initiatives such as exchanges between cadets and guest lectures at staff colleges.

### **Safety and Risk Reduction**

Generally speaking, cooperation in marine search and rescue (SAR) is working well. Less effective is cooperation on preventing, mitigating, responding to and recovering from other disasters, as discussion in previous years of the 2003 *Tasman Spirit* case demonstrated. The necessary mechanisms to respond to *Tasman Spirit* could have been in place if the SACEP arrangements mentioned earlier were being implemented. The group discussed the potential value of holding tabletop exercises for relevant emergency management professionals, recalling that in 2003 and 2007 it had been arranging for a SAR workshop to be conducted at the Canadian Coast Guard College in conjunction with the emergency management program of Cape Breton University in Nova Scotia. The feasibility of that idea will be revisited in a wider context of maritime disaster response generally.

### **Acknowledgement**

The group acknowledged with thanks the generous ongoing sponsorship by the Near East and South Asia (NESAs) Center. It also expressed its appreciation to Ms. Caroline Dunton from University of Ottawa for her administrative support.

### **Next Meeting**

The next meeting will be planned for the second half of 2015 at a venue to be determined.