

**Confidence and Cooperation in South Asian Waters**  
**5th Annual Symposium**  
**Halifax & Washington, September 2005**

## **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 coordinated the fifth annual Symposium to explore confidence and cooperation in South Asian waters. The Symposium, held in collaboration with the Cooperative Monitoring Center (CMC) at Sandia National Laboratories in the USA, was conducted in Halifax, Nova Scotia from 6-10 September 2005. Co-sponsorship included Dalhousie and CMC. The objective of the Symposium was a focussed discussion, at the non-official level, of maritime safety, co-operation and related issues in South Asia.

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, Rear Admiral I.H. Naqvi, Captain Naeem Sarfraz (MM), Admiral V.S. Shekhawat, Vice Admiral R.B. Suri and Rear-Admiral Ravi Vohra. Other participants were from CMC and the Centre for Foreign Policy Studies.

Discussions were wide ranging and included: agreements for prevention of incidents at sea; maritime boundary and continental shelf issues; protection of fishermen; the law of armed conflict and rules of engagement at sea; cooperative maritime compliance and enforcement; maritime emergency management; facilitating maritime trade; and the way forward.

## **REVIEW**

The group is an independent academic forum conducting applied research into maritime challenges and developing options and proposals for policy and technical solutions. Its roles include the following.

- Forward-looking identification and analysis of ways to enhance confidence and cooperation at sea. It may be described as a sort of “bow wave” of action, introducing practical initiatives.
- Serving as a catalyst that brings these issues to the attention of the relevant authorities in their respective countries, and subsequently supports official efforts to address them.

The group commenced this year’s session by “taking stock” of its activities over the past five years. In assessing its work so far, the group agreed that its efforts are bearing fruit, due in part to retaining a clear focus on its area of competence, which is maritime. Since it is the only cooperative group working in the South Asian maritime sphere, recognizing its past achievements it remains committed to furthering the process.

## **PREVENTION OF INCIDENTS AT SEA (INCSEA)**

In 2003, the participants had jointly proposed a draft text of an agreement for prevention of incidents at sea (INCSEA). It drew upon the many and varied lessons offered by the negotiation and implementation of a number of similar agreements worldwide during the past thirty years. In the opinion of the participants, the resulting document, entitled “Agreement Between the Republic of India and the Islamic Republic of Pakistan Concerning the Prevention of Incidents On and Over the Sea”, would meet the mandate of paragraph 5 of the MOU to the Lahore Declaration of 21 February 1999, which stated 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.”

After the 2004 Symposium in Colombo, members of the group presented this proposed text to their respective Chiefs of Naval Staff. During the past year, informal indications have been given that the proposed text has been found useful by both sides and incorporated into the staffing process. There would, therefore, appear to be no impediment to implementation when the political decision to do so is made. Members of the group will, therefore, continue to monitor developments and, if necessary, use their influence to lobby for progress at the official level.

## **MARITIME BOUNDARY**

The maritime boundary issue has been discussed by the group over the past three years, and its complexities and linkages have been explored thoroughly. In particular, a detailed study was carried out in 2004 by Prof. Phillip Saunders and Dr. Galo Carrera, in cooperation with the Cooperative Monitoring Center. This study, using visualization techniques to illustrate scenarios, further brought out aspects of the various laws on the subject and precedents elsewhere.

It is acknowledged that any movement on this matter will have to be at the political level. Nevertheless, the group recommends that the impending promulgation of India’s baselines should be taken as an opportunity to initiate technical discussions between the parties.

The group recommends that, because the seaward maritime boundary between the two countries is interlinked with an agreed solution to the baselines, it is therefore crucial that the two countries give the utmost priority to the resolution of the baseline issue. As the baseline issue is likely to be influenced by the geographical location of the Sir Creek mouth, it may be beneficial for both sides to consider a joint survey to determine the exact geographical position of the Sir Creek mouth, without prejudice to the boundary claims by either side in the Sir Creek.

## **CONTINENTAL SHELF EXTENSION**

In July 2005, the group organized seminars in both countries resulting in heightened awareness among decision makers to the implications and urgency of claims to the extended continental shelf. These seminars were conducted by Dr. Galo Carrera, Member of the Commission on the Limits of the Continental Shelf, and Professor Phillip Saunders, Research Fellow, Centre for Foreign Policy Studies, Dalhousie University. The seminar topics included the technical and legal aspects of extended Continental Shelf jurisdiction and issues related to submission of extended Continental Shelf claims. The workshops were held in New Delhi, Karachi and Islamabad. A session had also been planned for Mumbai but had to be cancelled because of the monsoon flood crisis. Officials from both countries expressed their appreciation for this opportunity to draw on expert knowledge and examine this time-critical issue in detail. The discussions of the advantages of making a joint submission were particularly constructive.

## **FISHERMEN**

Progress resulting from the group's work is continuing to be made. Officials of the MSA and ICG have met directly to address the issue of fishermen and cooperation between the two agencies has become much closer. A Memorandum of Understanding to establish communications between the ICG and MSA was initialled by the two Foreign Secretaries on 29 August 2005. [Note: The MoU was subsequently signed by the Foreign Ministers in Islamabad on 3 October 2005.] This has established a formal process to address the issue, but the specific mechanisms to implement it are still being developed. During the past year, mechanisms for communication have improved significantly. Now, direct telephone and fax messages are being exchanged between fishermen's cooperatives and local authorities.

Several problems remain, however. First, the decision to release detained crews is still arbitrary, rather than being the result of an established legal process. Second, in the opinion of the group, many arrests could be avoided altogether if more boats could be intercepted before entering the area rather than being arrested after entering it. Third, the group continues to believe that if arrest is appropriate, then the focus should be on punishing those who stand to make the profit from ordering the illegal activity, rather than innocent members of the crew.

The group therefore recommends the following.

- (a) The MSA and ICG coordinate and cooperate in conducting fisheries patrols in the area. This would reduce the level of effort on both sides while improving the ability to intercept any boats before they enter the area rather than arresting them after they have.
- (b) Policies should be established to punish those responsible for incursions and not innocent crew members. If an arrest is warranted, masters and boats should be detained, but crews released. This would reduce both the administrative load and humanitarian problem. A mechanism should be created to expedite release of arrested fishermen and their boats

- (c) Initiatives should be pursued to install tracking technology on boats licenced to operate in the area.

## **LAW OF ARMED CONFLICT & RULES OF ENGAGEMENT**

In 2003, members of the group raised awareness in their respective Naval Headquarters of the “San Remo Manual on International Law Applicable to Armed Conflicts at Sea”. This year one of the authors, Mr. William Fenrick, briefed the group on the book and related legal issues. The group reviewed the texts of both the San Remo Manual and the Canadian Forces “Use of Force” manual, and decided to study the issue further with a view to arranging a future academic forum, possibly in cooperation with Dalhousie University, in which to examine ideas and exchange information on the law of armed conflict at sea.

## **MARITIME COMPLIANCE AND ENFORCEMENT**

For the first time, the group discussed enhancing cooperation in enforcement activities, especially in the vicinity of the un-delimited maritime boundary. In addition to fisheries management issues, this might include smuggling of drugs, weapons and people, enforcement of marine environmental protection policies, etc. There are resources for education and training in the subject on “Integrated Maritime Compliance and Enforcement” (IMCE) and the group will, therefore, investigate the prospects and suitability of such training for appropriate MSA/ICG personnel.

## **MARINE EMERGENCY MANAGEMENT**

### **Marine Environmental Protection:**

The north Arabian Sea and Indian Ocean have some of the world’s major shipping routes. The common practice of tank flushing at sea adds more than 50,000 tons per day of pollutants to the marine environment of this area. This, in addition to other environmental hazards such as accidental oil spills, highlights the urgency of mutual cooperation to address these hazards which do not recognize national boundaries.

The process of surveillance, patrol and response is costly and demanding. Both countries, therefore, will benefit from cooperation in marine environmental protection. This should be both operationally at sea and organizationally through harmonization of regulations and policies, and information sharing on policy and regulatory matters.

The group notes that the DG ICG and DG MSA during their last meeting in Islamabad had decided to approach their respective governments for enabling cooperation to contain oil pollution and help each other in Search & Rescue at sea. They also discussed the possibility of holding a bilateral SAR exercise. The group notes that there would also be value in holding technical seminars, particularly in India and Pakistan, regarding oil spill and tank flushing. Ideally such a workshop should be held within the year, given the importance and urgency of the issue.

The group strongly recommends that the ICG and MSA place high priority on developing cooperative arrangements for preserving the marine environment. One step that could be taken is to exchange information on respective organizations dealing with the subject to enable better understanding of the resources available to address the problem. To support that recommendation, the group undertakes to work with Cape Breton University to explore the issue further, with a view to organizing marine environmental protection workshops in both countries within the year.

### **Search and Rescue:**

The group notes that the SAR issue is now being addressed at the Track One level through the dialogue now established between the MSA and ICG. The group will monitor progress and be prepared to support and assist in if desired and appropriate.

## **FACILITATING MARITIME TRADE**

### **Trade Agreement**

At the 2003 and 2004 meetings, the Symposium participants recommended that trade, and specifically maritime trade, would be the engine that will drive the peace process. The participants noted with satisfaction that during the last few months there have been official meetings between the two countries to revive maritime trade and to amend the 1975 protocol on maritime trade and shipping between the two countries. These discussions and revisions are now active and on-going processes which may culminate in a revised agreement by January 2006. Participants also noted progress at Secretary-level talks on commerce to extend preferences, and increase the number of commodities on the India-Pakistan trade list. The expectation is that greater progress will be made over the next year on the expansion of maritime trade and shipping.

### **Port Security**

The Container Security Initiative (CSI) and Megaports programs are aimed at detecting and deterring the illicit movement of nuclear materials through global ports. The Symposium participants recommended at the 2003 and 2004 meetings that these programs be pursued as part of maintaining and increasing confidence in trade between the two countries and within the region. The implementation of these programs has been initiated in both India and Pakistan. Port visits and initial surveys and discussions have been conducted at major ports in both countries. Individual MOUs between the US and each respective country for these programs are currently in progress.

## **THE WAY FORWARD**

### **Formalizing dialogue**

Regular meetings of maritime authorities could do much to develop institutional and people-to-people contact which can, in turn, contribute to positively transforming the relationship. Just as the proposed INCSEA agreement requires annual consultations, there is value in formalizing agreements to also meet in other areas. There are excellent examples throughout history which have shown the value of mandating regular meetings so that contact becomes regular and routine. The group therefore recommends that the maritime authorities of both countries seek to formalize regular meetings of maritime-related officials which could, in turn, lead to such concrete activities as reciprocal staff college lectures and visits, port visits by coast guard and training vessels, followed by port visits by naval vessels and exchange visits by high-level defence officials, etc. A building block or incremental approach between the two navies is an effective way forward. The group notes with satisfaction that exchanges between defence colleges have already been proposed.

### **Conference**

There was considerable interest in a proposed conference at Dalhousie University on the maritime strategic implications of the evolving relationship between India and Pakistan, both for the two countries themselves and for the South Asian region as a whole. The Centre for Foreign Policy Studies has an existing format which it has used for other regional studies which addresses the following topics.

- Political and Military Security, including political issues, potential sources of intra- and inter-state conflict, terrorism, security concerns of non-state actors, political security alliances, trends in cooperative/collective security, the regional roles played by major external states and issues of confidence building and arms control.
- The Military and Naval Balance, including net assessments, proliferation concerns regarding naval arms build-ups or weapons of mass destruction, and national maritime security strategies and doctrines.
- The Marine Environment, including issues such as shore- and ship-originated marine pollution, the implications of high usage of specific bodies of water and ports, dumping, climate change, and responses and management mechanisms.
- Resources & Boundaries, including disputes over renewable and non-renewable resources or maritime boundaries, issues of non-sustainable development and resource management mechanisms.
- Trade & Economics, including ports, regional shipping trends, issues of protectionism vs. globalism, implications of new trade patterns, piracy, barratry, the roles of major multinational corporations, and the relevant management mechanisms.
- Good Governance & Human Security, including culture, politics, good governance, human rights, illegal migration, criminal activities at sea, marine safety, the impact of development on coastal communities, oceans governance, maritime enforcement and maritime safety.

The group expressed substantial interest in pursuing this idea further.

## **HALIFAX WRAP-UP**

The participants will remain in active contact and continue to monitor the progress of the issues discussed and described in this summary. The Cooperative Monitoring Center and Centre for Foreign Policy Studies offered to continue their engagement with the forum on Confidence and Cooperation in South Asian Waters. The members of the forum expressed their appreciation and gratitude to the representatives of the CMC and CFPS for their commitment, hard work and support in making this year's event a success.

## **WASHINGTON SEMINARS**

A sub-group of the Symposium was invited by the Department of Energy to travel to Washington DC to conduct seminars on maritime confidence and cooperation issues in South Asian waters. Sessions were arranged at the Henry L. Stimson Centre on September 13th, and the US Department of State on September 14th. The stated aim of each was to present "a discussion of South Asian maritime issues, conducted by a panel of regional and North American experts".

For reasons of availability and economy, a team of four people, two each from India and Pakistan, were selected by consensus among their peers to represent the entire group in Washington: Admiral Nadkarni and Admiral Shekhawat from India, and Admiral Bokhari and Rear Admiral Naqvi from Pakistan. They were accompanied by Dr. Betsill from CMC and Mr. Griffiths from CFPS. Participants in the Stimson Centre session included government, academic and private interests, and participants at the State Department session were primarily from government.

The background information introduced the group to those invited as follows: "The Symposium is a forum in which retired senior naval officials from India and Pakistan collaborate with American and Canadian colleagues in an effort to build confidence and cooperation in South Asia. It is the only forum in which the strategic maritime issues of the India-Pakistan relationship are mutually addressed. Since 2001, this independent academic group has transformed applied research into policy options and technical solutions for regional maritime challenges. The core of the Symposium consists of former Chiefs of Naval Staff and other retired flag officers of the Indian and Pakistani navies. Their current non-regional partners are the Cooperative Monitoring Center (CMC) at Sandia National Laboratory in the United States, and the Centre for Foreign Policy Studies at Dalhousie University in Canada. Over the past five years, the Symposium has successfully incorporated a number of specific maritime confidence-building measures in official talks between India and Pakistan."

Both sessions followed a similar, informal, round-table format. After initial introductions by Dr. Betsill, Mr. Griffiths provided a brief history of the process and then turned the session over to Admiral Nadkarni and Rear Admiral Naqvi who led discussions of cooperative activities and achievements to date, and plans for the future, using the group's report on the Halifax discussions as a framework. All speakers encouraged interactive discussion throughout the seminars. Because of the informational nature of the seminars no formal

conclusions were presented, although individual expressions of interest in follow-up with the group were made.