



Delhi Policy Group

Advancing India's Rise as a Leading Power



DPG POLICY BRIEF

India Leads Maritime Security Discussion at the UNSC

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Cover Photograph:

Prime Minister Shri Narendra Modi Chairing the UNSC High-Level Open Debate on "Enhancing Maritime Security: A Case for International Cooperation" on August 09, 2021. Source: PIB

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By
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Introduction

Briefing the media on August 01, 2021, India's Permanent Representative (PR) to the UN in New York identified three major focal areas for its first Presidency of the United Nations Security Council (UNSC) since November 2012: maritime security, peacekeeping and counterterrorism¹. Disclosing plans for a high level virtual discussion, he observed, "While maritime security has been discussed in the Security Council in the past and a few resolutions have been adopted ... we feel that it is time that the various dimensions of maritime security and crime are discussed in a holistic manner and addressed through international cooperation". On August 09, 2021, Prime Minister Narendra Modi became India's first Prime Minister to chair an open debate in the UNSC, marking not only the continuing evolution of India's maritime thought, but also the development of a forward-looking vision so necessary for India's aspirations as a permanent member of the UNSC.

The Discussion

The discussion witnessed President Putin's personal participation for only the third time ever, a measure of India's significance to Russia. Other notable participants were Kenya's President Uhuru Kenyatta, Vietnam's Prime Minister Pham Minh Chinh, US Secretary of State Antony J. Blinken, French Foreign Minister Jean-Yves Le Drian, Estonia's Foreign Minister Eva-Maria Liimets, Norwegian Foreign Minister Ine Eriksen Søreide, Mexico's Foreign Minister Marcelo Ebrard Casaubon, the UK's Secretary of State for Defence Ben Wallace, Niger's Deputy Prime Minister Hassoumi Massoudou and Deputy Prime Minister Christophe Lutundula Apala Pen'apala of the Democratic Republic of the Congo, speaking on behalf of President Felix-Antoine Tshisekedi Tshilombo, the Chairperson of the African Union. Only Tunisia and China participated at below the ministerial level: the former through its Permanent Representative Tarek Ladeb, and the latter through its Deputy Permanent Representative Dai Bing.

Initiating the discussion², Prime Minister Modi welcomed the positive message from the Secretary General, the briefing by the Executive Director of the UN

¹ Media Briefing on the Occasion of India Assuming UNSC Presidency for August 2021, August 2, 2021, <https://www.pminewyork.gov.in/IndiaatUNSC?id=NDMxNw>

² English Translation of Prime Minister's Remarks at the UNSC High-Level Open Debate on "Enhancing Maritime Security: A Case for International Cooperation" (August 9, 2021), <https://mea.gov.in/Speeches->

Office on Drugs and Crime, and the message from the President of the African Union. Describing the oceans as the world's joint heritage and sea routes as lifelines of global trade and prosperity, he observed that both faced challenges due to their misuse by pirates and terrorists, maritime disputes between countries, and natural disasters (governance, coercive and humanitarian challenges, as described by this author separately³). He proposed five principles on which maritime security could be built: free trade, peaceful settlement of maritime disputes in accordance with international law, cooperative action to tackle natural disasters and the threats created by non-state actors, cooperation to preserve the ocean environment, and encouraging responsible maritime connectivity. He concluded by calling for a road map for maritime security cooperation and the setting of global norms and standards based on these principles.

All participants welcomed India's initiative to convene this discussion, while their interventions reflected the respective concerns of their countries. President Putin⁴ prioritised the need for substantive cooperation to prevent transnational crime. He called on participants to agree that UN principles were mandatory for peaceful and responsible usage and exploitation of the seas and proposed the establishment of a special structure within the UN to directly address maritime crime. On the coercive challenges posed by nation states, he called attention to the UN principles of sovereignty, non-interference in internal affairs and peaceful resolution of disputes.

Secretary Blinken⁵, on the other hand, prioritised concerns about provocative and unlawful advancement of maritime claims by states, citing China's actions in the South and East China Seas, Russia's actions in the Black Sea and Iran's in the Persian Gulf and North Arabian Sea. On the criminal challenges from non-state actors such as pirates, terrorists, drug traffickers and armed robbers, he said nations working together could be effective, as had been shown by mechanisms off Somalia, in the Gulf of Guinea and the Caribbean. He called for similar coordination in tackling illegal, unreported and unregulated fishing as well as dealing with environmental disasters.

[Statements.htm?dtl/34151/English_translation_of_Prime_Ministers_remarks_at_the_UNSC_HighLevel_Open_Debate_on_Enhancing_Maritime_Security_A_Case_For_International_Cooperation_A](#)

³ Lalit Kapur, "An Indian Ocean Agenda for Modi 2.0", <https://amti.csis.org/an-indian-ocean-agenda-for-modi-2-0/>

⁴ "UN Security Council High-Level Debate on Maritime Security", <http://en.kremlin.ru/events/president/news/66352>

⁵ Secretary Antony J. Blinken at the United Nations Security Council Meeting on Maintenance of International Peace and Security: Maritime Security", <https://www.state.gov/secretary-antony-j-blinken-at-the-united-nations-security-council-meeting-on-maintenance-of-international-peace-and-security-maritime-security/>

The UK's Defence Secretary Ben Wallace identified three steps to preserve the maritime rules-based order⁶: calling out hostile state activity and other unacceptable behaviour at sea and being ready to attribute, challenge, deter and penalise such behaviour; promoting the rights and freedoms enshrined in UNCLOS and not junking international law on a whim; and enhancing the commitment beyond traditional security to protecting the climate and safeguarding the maritime environment. French Foreign Minister Jean-Yves Le Drian echoed similar priorities: addressing revisionism by states followed by the constabulary and humanitarian challenges⁷. Representatives of other nations were united on the need to follow UNCLOS but prioritised transnational criminal and humanitarian challenges over those posed by coercive nation states⁸. Vietnam's Prime Minister, in fact, made a specific mention of his country working with ASEAN and China to seriously, fully and effectively implement the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC) and negotiating an effective and substantive Code of Conduct consistent with international law⁹, thereby implying that there was no need for UNSC involvement.



Prime Minister Shri Narendra Modi Chairing the UNSC High-Level Open Debate on "Enhancing Maritime Security: A Case for International Cooperation" on August 09, 2021. Source: PIB

⁶ "Promoting the Rights and Freedoms Enshrined by the UN Convention on the Law of the Sea", <https://www.gov.uk/government/speeches/promoting-the-rights-and-freedoms-enshrined-by-the-un-convention-on-the-law-of-the-sea>

⁷ "Issuing Presidential Statement, Security council Underlines Importance of Maritime Safety, Safeguarding Oceans for Legitimate Use", <https://www.un.org/press/en/2021/sc14598.doc.htm>

⁸ Ibid.

⁹ Ibid.

China's representative sounded the discordant note by opining, in an obvious reference to the Free and Open Indo-Pacific vision and the Quad, that countries were pursuing "exclusive" regional strategies in the Asia-Pacific against China's common maritime security approach¹⁰. He said that the international approach should uphold the "community with a shared future". He called upon Japan to revoke its wrong decision to release Fukushima's contaminated wastewater into the ocean. He proposed that cooperation (under UNSC auspices) should focus on combating piracy in West Africa and off Somalia, and said that China would work with the South East Asian Countries, the African Union and ECOWAS to respond to (regional) piracy.

The Presidential Statement released on behalf of the UNSC reflected the consensus view of participants¹¹. It focused on the peacetime security of all that is involved with the global maritime transportation system as well as safeguarding coastal and offshore infrastructure from terrorist threats. It reaffirmed that UNCLOS 1982 set out the legal framework applicable to all activities on the oceans. It noted the problem of transnational organised crime at sea, including illicit trafficking in narcotics, smuggling of migrants and illicit traffic in firearms, as well as the deplorable loss of life and adverse impact on trade stemming from such activities. It emphasised the importance of safeguarding the legitimate uses of the oceans, lives of people at sea and the security of coastal communities, and affirmed that international law provides the legal framework for combating these illicit activities. It called on UN member states to implement the International Ship and Port Facility Security (ISPS) Code and Chapter XI-2 of the International Convention for the Safety of Life at Sea, and to work with the International Maritime Organisation (IMO) to promote safe and secure shipping while ensuring freedom of navigation. It also called on member states to implement the UN Convention against Transnational Organised Crime and its Protocols, and designate authorities to take appropriate measures in accordance with these conventions. It was careful, however, to restrict its content to transnational criminal activity and measures to secure coastal and offshore infrastructure, without touching on divisive subjects such as the coercive nation state challenges prioritised by the US, UK and France, IUU fishing or the much-discussed International Convention on Terrorism.

Analysis

Three years after negotiations for UNCLOS 1982 were concluded, the MV Achille Lauro hijack, involving the murder of Leon Klinghoffer (a wheelchair-bound American businessman), subsequent negotiations and the forcing down of an Egyptian aircraft carrying the terrorists to Tunisia brought home

¹⁰ Ibid.

¹¹ Statement by the President of the Security Council, <https://undocs.org/S/PRST/2021/15>

the multiple interests involved in crimes committed on the high seas. In that case, the ship's flag state was Italy, the perpetrators were Palestinian, the hijack occurred in Egyptian waters, the murder of Klinghoffer occurred in Syrian waters, negotiations for release of the hostages were conducted between the terrorists and Egypt, the airliner carrying them to safety was forced by a US aircraft to land at a NATO base in Sicily, and the terrorists were tried in an Italian court. Jurisdictional issues and the different interests involved prevented effective international cooperation to resolve the crisis. Despite multiple such experiences thereafter, cooperation among nations to dissuade, deter and combat such challenges on the high seas has been the exception rather than the norm. It is to India's credit that it was able to obtain the concurrence of great, middle and lesser powers to approve the Presidential Statement unanimously. Even China, which had reservations, went along when it found it was isolated. This reflects a level of diplomatic maturity, both in drafting the statement and obtaining concurrence of all participants that has been all too rare.

While unveiling his SAGAR vision in 2015¹², Prime Minister Modi had said "we will all prosper with the seas are safe, secure and free for all". His vision encompassed "a safe, secure and stable Indian Ocean Region that delivers us all to the shores of prosperity"; deepening economic and security cooperation with the region's nations, focusing on collective action and cooperation as the preferred approach to advance peace and security, an integrated and cooperative future that enhances prospects for sustainable development, and recognition that both regional and extra-regional stakeholders had to be engaged to ensure peace, stability and prosperity. The vision and principles enunciated in the Presidential Statement are an extension of SAGAR and the collective community-building approach adopted by India. Getting all UNSC members to acknowledge a common body of law and to prioritise cooperation on the relatively easier humanitarian and ocean governance challenges marks a big step towards building an integrated ocean community which will make the environment vastly more difficult for transnational crime.

This does not mean that coercive challenges will vanish or cannot be addressed. It merely acknowledges that multilateral bodies such as the UNSC (and, for that matter ASEAN and its associated forums) are inherently weak or incapable in dealing with them. The very structure of the UNSC, with the P-5 holding veto powers, prevents meaningful action to resolve issues where great power interests are at stake. Interventions from the US, UK and France, which prioritised the threat from nation-state coercion, and from China, which focused on imposing its own vision on the world and claiming an exclusive right to deal with issues in its near seas, were thus playing to the gallery,

¹² Text of the PM's Remarks on the Commissioning of Coast Ship Barracuda, 12 March 2015, <http://www.pib.gov.in/newsite/erecontent.aspx?relid=116881>

knowing full well that the UNSC structure prevents development of a common viewpoint in regard to traditional security challenges to the international rules based order. India did well to avoid being sidetracked by insisting on the inclusion of these concerns. Similarly, the statement did not touch on IUU fishing or call for early conclusion of the International Convention on Terrorism. These too, would have been divisive subjects that would have distracted from cooperation on security of the maritime transportation system and associated infrastructure.

A statement, however, will not be enough to overcome the multiple problems that were discussed. It only reflects a certain consensus and provides some guidance. Whether there will be meaningful follow-up action by the UNSC and member states remains open to question.

Conclusion

India's success in organising this open debate and consensus statement at the UNSC lies in convincing all participants to go along with its idea of bifurcating maritime security into the relatively easier governance and humanitarian components, in which multilateral cooperation will be relatively easier, while setting aside the more difficult coercive threats and traditional security component. The bifurcation having been formalised in a vision statement, it should become relatively easier to focus multilateral cooperation on addressing these challenges. Many of the mechanisms needed, including a comprehensive body of international law and oversight structures, already exist. President Putin's suggestion of creating a special UN body to directly address maritime crime merits consideration.

Maritime Security was the first of three focal areas India has planned for its Presidency. Further special sessions on technology and peacekeeping, as well as on counter-terrorism are scheduled for later in the month¹³. The ability to carry all sections of the UNSC along in these important but difficult areas will make a strong statement about India's role as a bridge between the developed and developing world, enabling effective multilateral action to deal with the many intractable issues that have tended to inhibit cooperation on issues of peace and security that confront the global community.

¹³ Media Briefing on the Occasion of India Assuming UNSC Presidency for August 2021, August 2, 2021, <https://www.pminewyork.gov.in/IndiaatUNSC?id=NDMxNw>



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