

GALLE DIALOGUE 2013 – MARITIME CONFERENCE
POTENTIAL FACTORS THAT COULD DESTABILIZE ‘FREEDOM OF
THE SEA’

INTRODUCTION

Honorable Minister for National Security & Urban Development, Chief of the Naval Staff Sri Lanka Navy, Senior Officers, Distinguished delegates, Gentlemen. Ayyo Bovan, Good Morning and Assalam-o-Alaikam.

It is indeed a distinct privilege for me to address this august forum on the subject of, “Potential Factors that could Destabilize Freedom of the Seas’. At the onset I must acknowledge the efforts of the government of Sri Lanka as much as the Sri Lankan Navy in providing a valuable forum for sharing views on significant issues afflicting the critical arena of Indian Ocean where much of the economic and strategic dynamics of the 21st century will be played out. Perhaps no other navy in the world has so resolutely and effectively countered the greatest challenge of this age than the Sri Lankan Navy. Its fight against maritime terrorism perpetrated by the now defunct LTTE remains a model for the smaller, and in no small measure, the larger navies to emulate.

Before formally addressing the topic of my discussion, I would like to dilate a little on the development of The notion of `Freedom of the Sea’.

FREEDOM OF THE SEA

The notion, 'Freedom of the Sea' is ideologically connected with the 19th century freedoms, and is now recognized to include freedom of navigation, fishing, laying of submarine cables and pipelines and over flying rights. The most important enactment governing freedom of high seas today is the UNCLOS-III of 1982 which is seen as an attempt to achieve a 'just and equitable' international order governing the ocean space. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, both for coastal and land-locked States:

- a. Freedom of navigation.
- b. Freedom of overflight.
- c. Freedom to lay submarine cables and pipelines.
- d. Freedom to construct artificial islands and other installations permitted under international law.
- e. Freedom of scientific research.

These freedoms are to be exercised by all States with due regard to the interests of other States in their exercise of the freedom of high seas.

I shall dilate on the various issues arising out of UNCLOS-III later in my discourse. Let me now review the dynamics of Indian Ocean region before moving on to factors that could destabilize the 'freedom of the sea'.

THE INDIAN OCEAN TODAY

The Indian Ocean is today perhaps the most discussed regions amongst the global maritime community. It draws international attention owing to numerous and disparate reasons. It is a reservoir of energy resources; there are security challenges and it is also the focal point of human, economic as well as environmental issues.

The states dotting the region and along its rim interact both, as neighbors and competitors at the same time. The outside powers wield influence here for their economic and strategic interests and the region is measured by the well known share of the global energy, wealth and commerce that crosses its highways. Stability of the IOR and potential factors that could impinge upon it therefore bear significance not only for the IOR littorals, but the entire world.

I have segregated my discourse in two parts, the first part deals with factors that are more traditional in nature while the other examines the non-traditional strands. I would like to point out that given the limited time, the discourse will be restricted only to a few prominent issues. What follows therefore may not be an exhaustive or full range of factors affecting the 'freedom of the seas'. The division of discussion is as flashed:

Traditional Factors

- Geopolitical rivalry
- Nuclearization

- US Asia Pivot and unilateral posturing of maritime Forces
- The UNCLOS Issues

Non-Traditional factors

- Piracy
- Maritime Terrorism
- Drug trafficking/Human Smuggling
- Climate Change
- Environmental Stresses
- Natural Calamities

Before alluding to the factors, I would first like to say a few words on the evolving international order since it casts deep shadows over the region.

The Emerging International Order

An American scholar, Fareed Zakaria recently posited that there have been three tectonic power shifts over the last five hundred years which triggered fundamental changes in the distribution of power and reshaped the international life, its politics, economics, and culture. The first was the rise of Western world, a process that began in the 15th century and dramatically accelerated in the late 18th Century. The second shift, which took place in the closing years of the 19th century, was the rise of the United States. We are now living through the third great power shift of the modern era. It could be called 'the rise of the rest'. Indeed while the global economic 'centre of gravity' has shifted from Atlantic to Asia Pacific, the traditional ideas of international relations and security are undergoing significant revision.

In the emerging era, the strategic logic and language emanating from many governments is highlighting the enduring importance of the sea in the growth of the global economy and in sustaining this growth through partnership in a time of austerity. The maritime trade has spawned the process of globalization and today drives world economic growth. Commercial shipping, maritime trade and wider globalization are today part of growing political focus on the importance of the maritime economy. What kind of international order and balance of power will eventually shape is difficult to forecast. Distinguished modern day geo-political analysts like Robert Kaplan nonetheless continue to remind us that, *“it has been the planet’s geophysical configurations, i.e. geography as much as the flow of competing religions and ideologies that have shaped human conflicts, past and present.”* One therefore wonders if *geography* will overshadow *globalization* in coming years to shape the next cycle of global conflicts. Regardless, right now we are in transition from the uni-polar world to a multi-polar world.

I shall now begin examining some of the traditional factors:

Geopolitical Rivalry

Notwithstanding relegation of inter-state conflicts, the Indian Ocean region remains a hotbed of geo-political competition for influence and commerce, being home to the world energy outlets, choke points and sea-lines of communications that act as the arteries of globalization.

However, *'it would be premature to judge that war among states, including the major powers, has been eliminated as a feature of the international system and that show of force by rising powers are likely to become more common as their military capabilities expand'*. The concerns are borne out of the emerging competition for influence and resources between the two principal actors i.e. United States and China as manifested in the concepts like US New Silk Route Initiative and Asia-Pacific pivot, and China's growing economic footprint in Africa and littorals of the IOR. These emerging narratives of *'enlarging security perimeter'* in tandem with *'widening regional economic and strategic links'* and the resultant surge in tension shall continue to constitute a challenge to *the stability and good order in the IOR*.

Furthermore, there are countries in the region, which have conflict of interests, competition for influence, rivalry for trade and territorial disputes. Hence any inter state conflict played out between the regional states or regional and extra regional state would most seriously jeopardize the 'freedom of the seas' and also have a significant impact on global and regional maritime economy.

In order to maintain peace and stability, it is vital that no country or party is marginalized. This can be achieved by maintaining balance of power amongst the states through international support and by dissuading hegemonic ambitions/ designs and hence promoting collaborative security, which is the need of the hour.

Nuclearization of the Indian Ocean

No ocean is in need of strategic stability more than the Indian Ocean, which is arguably the most nuclearized of the seven seas. Among the nuclear powers whose navies ply the Indian Ocean are the United States, the United Kingdom, France, Russia, China, India, Pakistan and Israel. However, it was lately that the Indian Ocean saw regional navies introduce nuclear submarines of SSBN and SSNs versions on its waters. While greatly increasing range and scope of sub-surface warfare, the added covertness and greater operational reach has changed the security landscape in the Indian Ocean. Such capabilities in times of crisis could severely hamper if not completely curtail the 'freedom of navigation at sea'. There are other inherent dangers as well. Any accidental damage or radiation leakage from nuclear propulsion plants will not only critically jeopardize the 'freedom of the seas' but could have far reaching consequences for the region as well.

The US Asia Pivot and Posturing of Maritime Forces

In January 2012, US DoD unveiled a new policy titled, "*Sustaining U.S. Global Leadership: Priorities for 21st Century Defense*", commonly referred to as the Defense Strategic Guidance or "DSG".

The document places an enhanced emphasis on naval and air forces, especially those oriented towards the protection and control of energy and commercial networks. It gives major importance to reinforce U.S power through reconstitution and repositioning of naval and marine forces in an

arc extending from the Western Pacific and East Asia to the Indian Ocean and South Asia. DSG is also explicit in assigning roles like *'regional economic anchor and provider of security in the broader Indian Ocean region'*. This was in sync with US Department of State's formulation of a pivot to the Asia-Pacific which ruffled many a feathers in the strategic community.

This change in direction or strategic rethinking appears to be in response to a geopolitical context. On the face, the US policy may be a riposte to the changes in the global security environment and the end of the decade of warfare that followed the terrorist attacks of September 11, 2001. However the repositioning and strengthening of US forces in the region and with it their power of dissuasion could imperil the stability and 'freedom of seas' in times of crisis and provoke reaction from other stakeholders, mainly the Eastern powers.

This brings me to UNCLOS issues.

THE UNCLOS ISSUES

UNCLOS III made it possible for all the coastal states to claim sovereign rights over seas, especially EEZ. It established the means by which the coastal nations could extend their sovereignty over adjacent marine resources and enjoy immediate benefits of tangible fishing and navigational rights. However, forms of ocean governance have also been rendered more complex by the increased number of coastal nation states and the differing interpretations of the UN Law of the Sea. Intended as a balance

between a coastal state's abilities to manage and protect ocean resources and maritime user rights to freedom of navigation, the EEZ has been manipulated to regulate various maritime activities. This has affected 'freedom of the seas' in a manner which was not observed prior to recognition of UNCLOS.

Though UNCLOS III Article 87 ensures 'freedom of the seas', yet the legislation has been used in a manner to curtail such freedom. In addition to defining the rules of appropriate behaviour in other areas of maritime commons (air, cyber, and space domains), there is perhaps a need to revisit and develop shared consensus on some articles of the UNCLOS.

The Convention has also caused some inter-state maritime boundary disputes resulting in naval ships deployment and patrolling of controversial zones. Navigation/movement of ships in such areas remains a concern. The claim of 'continental shelf' extended to 290 NM from the coastline has brought in new claimants. This in due course is bound to make the 'sovereign claims' even larger. The increasing focus and inclination of Asian states towards 'sea' lends further credence to this fact. The problem has seeds that could complicate the 'freedom of the seas' in future.

I will now briefly touch on some of the non-traditional factors that impinge on the stability and 'freedom of the seas'.

Piracy

There are typically 35-45 warships and auxiliaries deployed in the Indian Ocean on counter-piracy operations drawn from some 28 states, and there remain three dedicated counter-piracy coalition forces — the EU's counter-piracy task force EU NAVAL FORCE (otherwise referred to as EU NAVFOR or Operation Atlanta), NATO's Standing Naval Maritime Group (SNMG) 1 and 2, and Combined Task Force 151 (CTF-151). Due to the operational necessity of concentrating these clearly limited resources in the most vital areas, the great majority of naval assets are deployed in the Gulf of Aden and off the eastern Somali coast. Nevertheless, the area affected by Somali piracy remains vast approximately 2.5 million square miles, encompassing all parts of the Arabian Sea, Gulf of Aden, Gulf of Oman, and the southern Red Sea.

The Combined Task Force 151 has been prosecuting the menace of Piracy since 2009 in order to protect the freedom of navigation around the Horn of Africa. Pakistan Navy has spearheaded Task Force 151 four times since joining in 2009. PN ships have participated 17 times in this coalition and PN officers have also commanded this task force four times in last four years. Apart from this, PN Ships regularly undertake counter piracy operations in our EEZ due to which this area has been safe from any untoward incident.

There are numerous attendant problems to Piracy as well. These include intercepting the pirates vessels, capturing, detaining and prosecuting to which no easy solutions have since been found. While detaining and prosecuting the pirates successfully is one thing, a possible repatriation to

Somalia is another. The underlying idea is to take the burden off the prosecuting states in the long run, which is reflected in the United Nations counter-piracy strategy. It is now almost universally acknowledged that for piracy to end it must be encountered where it starts: Somalia.

Maritime Terrorism

After 9/11, there has been a mounting international concern related to the possibility of terrorists using relatively unguarded and vulnerable sea routes and ports to undertake acts of Maritime Terrorism. Although the world's oceans so far have not been a major focus of sustained terrorist activities, maritime domain is by design conducive to these types of threat. The attacks on USS COLE in 2000 and the French tanker LIMBURG in 2002, both off Yemen, the suicide attack on Iraqi oil platforms in April 2004 and attack on MV STAR in 2010 off the Straits of Hormuz clearly demonstrate that the threat of terrorism at sea is a reality. Being located in close proximity to the strategic Straits of Hormuz, the sea area South of Pakistan's coast is vital for world's energy security and can be a potential target of maritime terrorism.

The terrorists enjoy two advantages i.e. asymmetric means and time of their choosing. Therefore, effective and considerable efforts are required to counter this threat. While naval or maritime combat capability of terrorists is not clearly apparent, the threat cannot be ruled out or given lower priority. The trans-national terrorists inspired by Al Qaeda can use 'maritime highways' for their logistics i.e. movement of personnel, weapons and finances from within regional states with relative impunity, if not

properly monitored. This threat is speculated to become more significant in the context of post 2014 US/ISAF drawdown and existing weak security apparatus in the war-torn Afghanistan.

Like other responsible states, Pakistan supports the traditional freedom of navigation on high seas and would not like to see the international law undermined. Prevention of terrorism at sea and curbing its linkages with trans-national crimes are high on our agenda. Considering Pakistan's reliance on sea trade and its compulsion to import its entire POL requirement through the sea route, the most significant maritime challenge for Pakistan Navy is to oversee peace and stability on high seas, in our region.

To counter the threat of maritime terrorism PN joined Task Force 150 under Coalition Maritime Campaign Plan (CMCP) in April 2004. Since then PN has remained the most prolific regional participant and has successfully completed five command tenures of TF-150, while current 6th tenure of PN Command is in progress. I may highlight here that the Command of Combined Task Force - 150 by Pakistan has brought synergy in coalition operations and helped in shaping maritime environment for enhanced interoperability and in leveraging influence for expanding regional participation. Interaction of PN officers Commanding CTF-150 with leadership of regional navies helped them in developing clear understanding about the coalition operations and paved the way for some regional navies to join the Combined Task Force

Drugs and Arms Trafficking

An important adjunct to maritime terrorism is drugs and arms trafficking. With huge profit margins, drug trafficking is by far the most lucrative means of making quick money, which may be used to finance terrorist networks and arms trafficking. The unabated production of drugs and narcotics in Afghanistan makes it imperative for the international community to deny its trafficking to outside world. Since Afghanistan is a land-locked country, its drug trade passes through many routes, including the North Arabian Sea. Therefore, guarding this part of the sea is vital to blocking this nefarious activity in the best interest of the world community.

I must mention here that Pakistan Navy has been proactively making efforts to check these activities and has developed maritime and coastal surveillance set up which augments and synergizes with the capabilities of Pakistan Maritime Security Agency and Pakistan Coast Guards. Moreover, Pakistan Navy's proactive engagement with the international coalition has made it possible to effectively monitor and control drugs and arms smuggling in the North Arabian Sea. PN ships in conjunction with the coalition forces have successfully created deterrence amongst nefarious elements and curtailed their liberty of action. We have been able to achieve this because of being a local player and having our support infrastructure in close proximity.

Climate Change

Climate change and environmental degradation pose considerable threat to the stability and 'freedom of the seas'. The change has been responsible

for the movement of people in the Indian Ocean region. Environmental problems such as sea level rise, desertification and the submergence of Islands have contributed to the environmentally driven migration of 50 to 200 million creating what are called “environmental refugees”. With this trend rising, additional problems like social and ethnic tensions, scarce resource competition, health issues will surface to cause friction and thus impinge on ‘freedom of the seas’.

Governments of the Indian Ocean region have taken steps under the UN Framework Convention on Climate Change to address the issues of climate change, but there is little real national scale action. A study on the climate threat to low-lying coastal settlements recently assessed six of the 10 most vulnerable states worldwide to be located on the shores of the Indian Ocean. A previous study by the World Bank meanwhile suggests that five of the 10 countries with the greatest percentage of coastal population at risk, four of the 10 countries with the highest percentage of coastal GDP at risk, and six of the 10 countries with the highest proportion of coastal urban areas at risk are located around the Indian Ocean Basin.

Climate change and ensuing rise in sea level will bring higher frequency of natural disasters, more complicated maritime boundary disputes and health issues to the coastal populations. The region’s flood and tsunami warning system is also wanting which is considered exceedingly necessary given the number of overly populated coastal urban centers.

Environmental Stresses

Environmental stresses including pollution increasingly threaten Indian Ocean biodiversity and marine life. By one estimate, some 40-trillion litres of sewage and 4 trillion litres of industrial effluents enter the region's coastal waters each year. It has also been alleged that several foreign companies taking advantage of the lawlessness in Somalia, dumped their radioactive and toxic waste containers along the country's troubled coast. These later broke following the 2004 tsunami to spill and wash the contents ashore. To top, in 2012 a record breaking number of 365 toxic laden ships were sent for breaking by European ship-owners to the beaches of South Asia and included Pakistan and India¹.

Leaving these issues unaddressed will not only cut through the region's economy in future but may trigger widespread security problems leading to impairment of 'freedom of the seas'. It needs no recall that seeds of modern day Somalian piracy are embedded in the overthrow of government of Islamic Court Union and subsequent lawlessness which led to poaching off the country's long coast rich in fishery and other resources.

Natural Calamities

Towards the end, I must also highlight that Indian Ocean, particularly the North Arabian Sea, remains vulnerable to the devastating effects of natural disasters like Cyclones and Tsunamis etc, especially during the monsoons

¹ 'European owners dumped 365 toxic laden ships on South Asian Beaches Last Year', Basel Action Network 5 February 2013. www.ban.org

season. Cyclones in 2007, 2010 and 2011 are significant to mention in this regard. There is also a need to develop cooperative strategies to deal with this challenge.

Pakistan Navy has actively contributed in disaster relief operations both in-country and abroad. To mention a few, PN ships and helicopters contributed significantly to rescue and relief efforts in Maldives, Sri Lanka and Indonesia during and after the Asian Tsunami in 2004. PN also makes significant contributions to the flood relief operations within Pakistan especially along the coastal belt.

Conclusion

The Indian Ocean region will continue to play a crucial role in the global and regional politics well into the 21st century. It is now a considered opinion that the only way to ensure the 'freedom of navigation' on its highways and equitable use of its resources and counter future challenges is through a 'cooperative' approach. Detachment from the ingrained national narratives and entrenched obsessions accompanied by some bold steps holds promise for the region and world at large. Apart from conventional threat, the emergence of new challenges to maritime security, especially the asymmetric dimension of maritime terrorism are daunting, which makes our task even more challenging. Towards this end, forums like Galle Dialogue are pivotal in enhancing awareness and forging consensus on maritime issue.

Like other responsible states, Pakistan supports the traditional freedom of navigation on high seas and would not like to see the international law

undermined. Prevention of terrorism at sea and curbing its linkages with trans-national crimes are high on our agenda.

High Seas (Article 86). The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.

Freedom of the High Seas (Article 87). The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, inter alia, both for coastal and land-locked States.